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²Delaware
³Illinois
⁴New York
⁵Ohio
⁶Wisconsin

February 19, 2010

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FEB 22 2010

**REGIONAL HEARING CLERK
USEPA
REGION 5**

Regional Hearing Clerk (E-19J)
United States Environmental Protection Agency
Region 5
77 West Jackson Blvd.
Chicago, IL 60604-3590

Re: John A. Biewer of Ohio, Inc.; RCRA-05-2008-0007

Dear Clerk:

Enclosed for filing you will find the original and one copy of the Respondent's Motion to Amend Prehearing Disclosure and Proof of Service.

Sincerely,



Douglas A. Donnell

Direct Dial/Fax: (616) 632-8035
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nli

Enclosures

By Overnight Mail

cc: Hon. William B. Moran (by Fed Ex and e-mail)
Richard R. Wagner (by Fed Ex and e-mail)
Douglas S. Touma, Sr. (by First Class Mail)

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

IN THE MATTER OF:

DOCKET NO: RCRA-05-2008-0007

John A. Biewer Company of Ohio, Inc.
300 Oak Street
St. Clair, Michigan 48079-0497
(Washington Courthouse Facility)

U.S. EPA ID #: OHD 081 281 412

Respondent
_____ /

RESPONDENT'S MOTION TO AMEND
PREHEARING DISCLOSURE

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REGIONAL HEARING CLERK
USEPA
REGION 5

On September 15, 2008, Respondents submitted its supplemental witness disclosure identifying Brian Biewer as a witness who might testify regarding the financial condition of the Respondent and Respondent's lack of financial resources as the reason for Respondent's inability to perform various environmental tasks requested by Ohio EPA and US EPA. At that time, Brian Biewer was employed by Respondent.

Counsel for Respondent has learned in this last week that as of sometime in January, 2010, Brian Biewer was no longer employed by Respondent and is unable to testify in this matter. For this reason, Respondent respectfully requests the Court's permission to utilize Gary Olmstead, who is also familiar with the matters set forth in Respondent's Supplemental Witness Disclosure, to testify regarding those very same facts as were outlined in Respondent's Supplemental Witness Disclosure. Mr. Olmstead will rely upon the same documents previously identified, and his testimony will cover exactly the same topics that were described for Brian Biewer's testimony.

Respectfully submitted,

MIKA MEYERS BECKETT & JONES PLC
Attorneys for Respondents

Dated: February 19, 2010

By: *D. Donnell*
Douglas A. Donnell (P33187)
900 Monroe Avenue, NW
Grand Rapids, MI 49503
(616) 632-8000

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Attorneys for Respondents

Dated: February 19, 2010

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CERTIFICATE OF SERVICE

U.S. EPA ID #: OHD 081 281 412

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Respondents
_____ /

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I, Nicole L. Infante, hereby state that I am an employee of Mika Meyers Beckett & Jones PLC, and that on February 19, 2010, I served a copy of:

Respondent's Motion to Amend Prehearing Disclosure

upon the following individual by email and Federal Express overnight mail:

Richard R. Wagner, Senior Attorney
Office of Regional Counsel (C-14J)
U. S. Environmental Protection Agency
77 West Jackson Blvd.
Chicago, IL 60604-3590

I declare that the statements above are true to the best of my information, knowledge and belief.

Dated: February 19, 2010



Nicole L. Infante