

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE ADMINISTRATOR**

RECEIVED
FEB 18 2011

IN THE MATTER OF:)
Mr. Allen Barry, Mr. Tim Barry)
d/b/a Allen Barry Livestock)
Respondents)

CWA-05-2010-0008

**REGIONAL HEARING CLERK
USEPA
REGION 5**

DEFENDANTS' RESPONSE TO ORDER TO SHOW CAUSE

Allen Barry and Tim Barry (Respondents), by and through their attorney, James E. Meason, pursuant to the Order to Show Cause dated January 31, 2011, respectfully files this Defendants' Response to Order to Show Cause, stating as follows:

1. Attorney Meason, on behalf of Defendants, apologizes to the Administrator for his tardiness in responding to the November 30, 2010, Order. Defendants were not in any way responsible for this case not moving forward.
2. Attorney Meason is a member of the U.S. Navy Reserve, serving as an intelligence officer with the rank of Commander. Further, he is the Executive Officer of a unit based out of Suitland, Maryland located at the Office of Naval Intelligence, commonly known as ONI-0566.
3. Attorney Meason is on alert status with the Navy, having received involuntary mobilization to active duty orders on December 6, 2010, just days after the issuance of the Order in question. He will, on June 17, 2011, report for approximately one year of active duty with Joint Special Operations Command in Iraq. His estimated active duty detachment date is May 21, 2012.
4. Attorney Meason has had significant Navy responsibilities since being notified of his being placed on alert status and receiving involuntary mobilization orders. As a sole practitioner attorney, he has had to "juggle" the responsibilities of both his civilian and military careers with that of being a single parent of three school-aged children aged 15, 12, and 8.
5. Notwithstanding the above, Attorney Meason should have set a higher priority on this case, but he did not. Of note, during this time period Attorney Meason successfully handled scores of cases, including but not limited to several matters with the Illinois Attorney General's Office under the Illinois Environmental Protection Act and federal law, including several cases alleging violations of the Clean Water Act.
6. The delay in this case is one month, which neither unduly prejudices Plaintiff nor Defendants. Further, as previously plead, Defendants have meritorious defenses.
7. Therefore, Defendants respectfully request the Administrator to not find them in default and set a new expedited status/settlement conference schedule.

Respectfully submitted,

Allen Barry and Tim Barry

By: 
James E. Meason
Respondents' Attorney

Date: 18 FEB 11

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CERTIFICATE OF SERVICE


I certify that I deposited the enclosed Defendants' Response to Order to Show Cause in the mail, proper postage prepaid, in Rockton, Illinois, at 12:30 p.m., on February 18, 2011, sending them to the following persons:

Barbara A. Gunning and via fax ((202) 565-0044)
Administrative Law Judge
U.S. EPA
1200 Pennsylvania Ave. Mail Code 1900L
Washington, D.C. 20460-2001

Regional Hearing Clerk (L-13J) and via fax ((312) 692-2405)
U.S. EPA, Region 5
77 W. Jackson Blvd.
Chicago, IL 60604-3590

Luis Oviedo, Assistant Regional Counsel and via fax ((312) 886-7160)
Region 5, U.S. EPA
Office Regional Counsel, (C-14J)
77 West Jackson Blvd.
Chicago, IL 60604

Allan Barry and Tim Barry, Respondents

By: 
James E. Meason
Respondents' Attorney

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