



RE: Prehearing Exchange: CWA-06-2011-2709 - Stevenson & Parkwood Land Co. ☐

Russell Murdock to: Chuck Kibler  
Cc: Barbara Aldridge, Lorena Vaughn, Patrick Rankin

11/01/2012 07:41 AM

From: Russell Murdock/R6/USEPA/US  
To: "Chuck Kibler" <chuck@kiblerlaw.com>  
Cc: Barbara Aldridge/R6/USEPA/US@EPA, Lorena Vaughn/R6/USEPA/US@EPA, Patrick Rankin/R6/USEPA/US@EPA

For purposes of clarification, I will point out that all three witnesses included in my supplemental prehearing exchange were included in the initial prehearing exchange as well. The sole difference is that Mr. Davidson is now properly classified as an "expert" to address the nature of the vegetation at the relevant site.

The additional documents are added to address: 1) The new contention by Respondents concerning Nationwide Permit 3 (and the inherent challenge regarding the nature of the vegetation on the site); and 2) To better clarify the Respondents' past history with the Corps (which the Regional Judicial Officer referenced in his prior Order was insufficient).

I would be happy to discuss the extent and nature of the documents (particularly Exhibit 46, which itself contains the majority of the pages) in a conference call, if the Regional Judicial Officer deems it appropriate. There is no certainly no intent of ambush here, but merely an attempt to cover the relevant bases.

Russell Murdock  
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FILED  
 2012 NOV -1 AM 9:24  
 REGIONAL JUDICIAL OFFICER  
 EPA REGION VI

"Chuck Kibler" Mr. Murdock,

10/31/2012 05:22:01 PM

From: "Chuck Kibler" <chuck@kiblerlaw.com>  
To: Russell Murdock/R6/USEPA/US@EPA  
Cc: Barbara Aldridge/R6/USEPA/US@EPA, Lorena Vaughn/R6/USEPA/US@EPA, Patrick Rankin/R6/USEPA/US@EPA  
Date: 10/31/2012 05:22 PM  
Subject: RE: Prehearing Exchange: CWA-06-2011-2709 - Stevenson & Parkwood Land Co.

Mr. Murdock,

I am in receipt of your Supplemented Hearing Exchange materials. I am responding to all in this email to include Mr. Rankin.

I object to what appears to be nearly 200 pages of supplemented material and the addition of two witnesses less than two weeks before the hearing. I will be in trial on another matter from November 5<sup>th</sup> until completed (probably November 8<sup>th</sup>). To allow the mass supplementation and addition of expert

and fact witnesses which my client had no indication of prior to this date is simply "trial by ambush."

I will draft a formal objection tomorrow.

Thank You,

Charles (Chuck) Kibler, Jr.  
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**From:** Murdock.Russell@epamail.epa.gov [mailto:Murdock.Russell@epamail.epa.gov]  
**Sent:** Wednesday, October 31, 2012 2:41 PM  
**To:** Chuck Kibler  
**Cc:** Aldridge.Barbara@epamail.epa.gov; Vaughn.Lorena@epamail.epa.gov;  
Rankin.Patrick@epamail.epa.gov  
**Subject:** Prehearing Exchange: CWA-06-2011-2709 - Stevenson & Parkwood Land Co.

Mr. Kibler,

Please find attached the Second Supplement to Complainant's Initial Prehearing Exchange. As requested, I am directing this your way by e-mail rather than by traditional United States Mail. As the Certificate of Service notes, I delivered a hard copy of this supplemental Prehearing Exchange as well as all Exhibits to the Regional Hearing Clerk this afternoon.

Please note that EPA's e-mail client prevents me from sending attachments greater than a certain size. As a result, I am having to split up Exhibit 46 into nine parts. All other exhibits as well as a copy of the Filed Prehearing Exchange will be attached to this e-mail. At the Regional Hearing Clerk's request, I am CC'ing both her and the Regional Judicial Officer on this e-mail, but will not be copying them on the following e-mails containing portions of exhibit 46. Should either the Regional Hearing Clerk or Regional Judicial Officer like to receive digital copies of Exhibit 46, I will of course be happy to provide them.

Thank you.

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