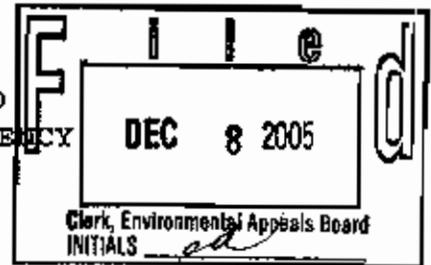


BEFORE THE ENVIRONMENTAL APPEALS BOARD  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C.



In re: )  
Consent Agreements and Proposed ) Consent Agreement and  
Final Orders for Animal Feeding ) Final Order  
Operations ) CAA-HQ-2005-xx  
 ) CERCLA-HQ-2005-xx  
 ) EPCRA-HQ-2005-xx  
 )

ORDER GRANTING OPPORTUNITY TO PARTICIPATE AT HEARING  
AND ALLOCATING TIME

On November 18, 2005, the Environmental Appeals Board ("Board") issued an order scheduling hearing on the above-captioned matter and asking the Office of Enforcement and Compliance Assurance ("OECA") to participate in the hearing and to file a supplemental brief addressing various questions. See Order Scheduling Hearing and Requesting Supplemental Information (EAB, Nov. 18, 2005). The order also informed Respondents of the upcoming hearing and extended an invitation to any Respondent interested in submitting a filing and/or participating in the hearing. Respondents interested in submitting a filing and/or participating in the hearing were to submit such filing and/or notify the Clerk of the Board of their interest by no later than December 6, 2005.

On December 6, 2005, the Board received a filing from Crowell & Moring LLP, counsel for Respondents Center Fresh Egg Farm, LLP, E&S Swine, Inc., Fairway Farms, Greg B. Nelson, Roe Farm, Inc., and James A. Zoltenko, expressing interest in participating at the hearing. This request is hereby granted.

Also, on December 6, 2005, the Board received a joint request from various community and environmental groups,<sup>1</sup> collectively referred to as "AIR", asking to participate at the hearing and asking leave to file a memorandum to respond to OECA's supplemental brief. By this Order, the Board grants AIR the opportunity to participate at the hearing.<sup>2</sup> See Order Denying Motion for Leave to Intervene (EAB, Dec. 8, 2005).

As noted in our November 18 Order, the hearing is scheduled for Tuesday, December 13, 2005, at 10:00 A.M. EST in the Administrative Courtroom, U.S. EPA, EPA East Building, Room 1152,

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<sup>1</sup>The community and environmental groups interested in participating at the hearing are: the Association of Irrigated Residents, Clean Water Action Alliance of Minnesota, Community Association for Restoration of the Environment, Environmental Integrity Project, Iowa Citizens for Community Improvement, and Sierra Club.

<sup>2</sup>AIR's request to file a response brief has been granted in a separate but contemporaneous order. See Order Denying Motion for Leave to Intervene (EAB, Dec. 8, 2005). On December 6, 2005, the Board received a motion for leave to intervene from AIR. While the order denies AIR's request to intervene, it allows AIR to file a non-party brief under 40 C.F.R. § 22.11(b). See *id.*

1201 Constitution Avenue, N.W., Washington, D.C. The Board has allocated sixty (60) minutes total for the hearing.

OECA will present its views and responses to the Board's November 18 Order first and will have ten (10) minutes for its presentation. OECA then will be asked to respond to questions from the Board. Crowell & Moring LLP will follow and will have (5) minutes to present its views, again followed by an opportunity for questions from the Board. AIR will present its views after Crowell & Moring LLP and will have ten (10) minutes for its presentation, followed by Board questioning. Finally, OECA may then, if it so desires, use another five (5) minutes for rebuttal, or may be asked by the Board to respond to further questions at that time.

So ordered.

ENVIRONMENTAL APPEALS BOARD

Dated:

12/8/05

By: Kathie A. Steinhilber Edward E. Reich  
Edward E. Reich  
Environmental Appeals Judge E. Reich

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Order Granting Opportunity to Participate at Hearing and Allocating Time in the matter of Consent Agreements and Proposed Final Orders for Animal Feeding Operations, were sent to the following persons in the manner indicated:

By Interoffice Mail  
(and copy by facsimile):

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Dated: DEC 8 2005

  
Annette Duncan  
Secretary