

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

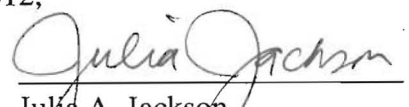
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2012 JUN 27 AM 10:49  
 ENVIR. APPEALS BOARD

IN RE: ) ) SAN PEDRO FORKLIFT, ) ) RESPONDENT. ) ) ) ) _____ )	DOCKET NO. CWA-9-2009-006 COMPLAINANT'S REPLY TO RESPONDENT'S BRIEF
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On April 27, 2012 Complainant filed a Notice of Appeal and accompanying Brief (“Appellant’s Brief”) in the above-entitled action. Appellee filed its brief (“Appellee’s Brief”) in response on June 18, 2012. Appellant’s Brief was limited to the narrow issue of whether or not the Presiding Officer erred in dismissing the Complaint for lack of subject matter jurisdiction based on an interpretation of the phrase “associated with industrial activity.” Appellee’s Brief, however, is almost entirely focused on issues outside the scope of Appellant’s Brief. None of these issues was raised in Appellant’s Brief nor were they ruled upon by the Presiding Officer in her Initial Decision since the dismissal on jurisdictional grounds precluded their evaluation. As such, discussion of these issues is premature given the narrow scope of the appeal and the nature of the relief requested. Upon remand, the Presiding Officer can address these issues, which Appellant fully briefed below.

Respectfully submitted on this 26<sup>th</sup> day of June 2012,

  
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 Julia A. Jackson  
 Assistant Regional Counsel

CERTIFICATE OF SERVICE

I certify that the original and five copies of the foregoing Complainant's Reply To Appellee's

Brief was sent by inter-office pouch to:

U.S. Environmental Protection Agency  
Clerk of the Board, Environmental Appeals Board (MC 1103B)  
Ariel Rios Building  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460-0001

and that a true and correct copy of the said document was sent by First Class United States Mail,  
addressed to the following:

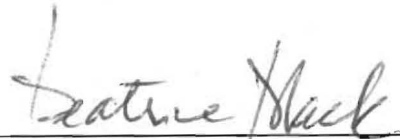
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Dated:

6-26-2012

By:



Office of Regional Counsel  
USEPA, Region IX