

United States Environmental Protection Agency

Region 7

Office of Regional Counsel

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Date: 07/23/09

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Subject: Appeal Nos. NPDES 09-02

NPDES 09-03

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**BEFORE THE ENVIRONMENTAL APPEALS BOARD
U.S. ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON D.C.**

ENVIRONMENTAL PROTECTION AGENCY
REGION VII
CLERK

In re:

NPDES Permits:

Circle T Feedlot, Inc. – No. NE0134481

Morgan Feedlot LLC – No. NE0134767

Sebade Feedyard No. NE0135712

Stanek Brothers – No. NE034775

Appeal Nos. NPDES 09-02

NPDES 09-03

MOTION TO FILE SURREPLY TO PETITIONERS' ADDENDUM

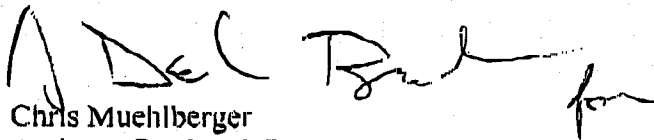
I. INTRODUCTION

On June 17, 2009, the Environmental Appeals Board ("Board") granted a motion filed by Petitioners Joel Lamplot and Teri Lamplot ("Petitioners") to file an addendum to their petitions for review of four final National Pollutant Discharge Elimination System ("NPDES") permits issued by the United States Environmental Protection Agency, Region 7 ("EPA"). A subsequent filing by the Board on June 25, 2009 granted Petitioners' request to extend the filing of Petitioners' addendum until July 20, 2009.

After review of Petitioners' addendum, EPA wishes to respond to Petitioners' assertions that the 2009 Supreme Court decision, *Hawaii v. Office of Hawaiian Affairs*, 129 S. Ct. 1436 (2009), applies to Petitioners' request for review of the four NPDES permits in the present case. Accordingly, EPA respectfully requests that the Board grant EPA 30 days to file a surreply to Petitioners' addendum.

Dated: July 23, 2009

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Chris Muehlberger", with a stylized flourish at the end.

Chris Muehlberger
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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Motion to File Surreply to Petitioners' Addendum in the Matter of Circle T Feedlot, Inc., et al., NPDES Appeal Nos. 09-02 & 09-03 were sent to the following persons in the matter indicated:

By Pouch Mail and Facsimile:

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Dated: *Jul 23, 2009*

