

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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ENVIRONMENTAL PROTECTION  
AGENCY REGIONAL  
REGIONAL HEARING CLERK

BEFORE THE ADMINISTRATOR

IN THE MATTER OF	)	
	)	Docket No. CWA-07-2007-0078
LOWELL VOS	)	
	)	
d/b/a LOWELL VOS FEEDLOT	)	
	)	
WOODBURY COUNTY, IOWA	)	<b>RESPONDENT'S</b>
Respondent.	)	<b>SUPPLEMENTAL</b>
	)	<b>PREHEARING EXCHANGE</b>

COMES NOW the Respondent, Lowell Vos d/b/a Lowell Vos Feedlot, by and through his attorney, Eldon L. McAfee, and for his Supplemental Prehearing Exchange states:

1. a. Respondent supplements its list of expert witnesses Respondent intends to call in Respondent's Initial Prehearing Exchange as follows:

(5) The curriculum vitas of previously identified expert witnesses Bradley Woerner and Stewart Melvin are attached. In addition, Mr. Woerner and Dr. Melvin may testify as to the applicability and reliability of computer modeling in general in feedlot and other real-life environmental situations.

(6) Previously identified expert witness Jerry Sindt may be called to testify as a fact witness but not as an expert witness.

(7) Previously identified expert witness Charles Slocum may be called to testify as a fact witness but not as an expert witness.

(8) Gerald T. Hentges, P.G., Senior Hydrologist, Terracon Companies, Inc. See attached curriculum vitae. Mr. Hentges will testify in reply to the testimony of

Complainant's witness or witnesses regarding whether any discharge from the Vos feedlot during the applicable time period to a water of the United States in violation of the Clean Water Act has occurred. See Mr. Hentges' opinion attached to this Supplemental Prehearing Exchange for the details of Mr. Hentges' expected testimony.

(9) Respondent reserves the right to call any expert witnesses listed by

(13) Mike Vos, son and employee of Respondent. Mike Vos will testify as to the management practices conducted at the Lowell Vos feedlot that impact environmental compliance under the Clean Water Act, including but not limited to solids scraping and the use of bedding materials in the feedlot.

(14) Michael Beavers, 1037 Franklin Avenue, Kingsley, Iowa. Mr. Beavers lives near the unnamed tributary of Elliot Creek down gradient from the Vos feedlot. Mr. Beavers is expected to testify as to his personal observations of the creek near his home, including but not limited to the fact that he catches minnows and chubs in the creek, has not observed manure or any other pollution from the Vos feedlot in the creek, and that he has observed the Vos feedlot to be well managed.

(15) Respondent reserves the right to call any other witnesses listed by Complainant.

c. Documents and exhibits Respondent intends to introduce into evidence:

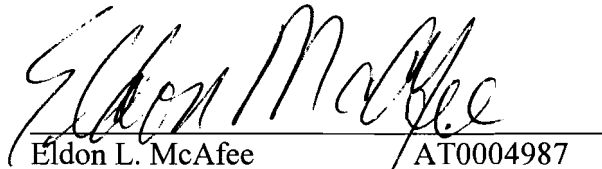
(5) Photograph taken on May 4, 2005 by Eisenbraun and Associates.

(6) Photograph taken on May 4, 2005 by Eisenbraun and Associates.

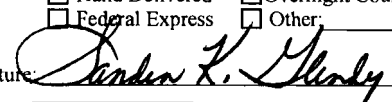
- (7) Photograph taken on May 4, 2005 by Eisenbraun and Associates.
- (8) Photograph taken on May 4, 2005 by Eisenbraun and Associates.
- (9) "Environmental Regulations and Guidelines for Animal Feeding Operations in Iowa", Iowa Department of Natural Resources, March 1992.
- (10) Respondent reserves the right to utilize any exhibit listed by Complainant.

Dated this 18th day of August, 2008.

BEVING, SWANSON & FORREST, P.C.



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 ATTORNEYS FOR RESPONDENT

<b>CERTIFICATE OF SERVICE</b>	
The undersigned certifies that the foregoing instrument was served upon each of the attorneys of record of all parties to the above-entitled cause herein at their respective addresses disclosed on the pleadings of record on the <u>18</u> day of <u>August</u> , 20 <u>08</u>	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX <input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier <input type="checkbox"/> Federal Express <input type="checkbox"/> Other: _____
Signature:	

Original and one copy to:

Kathy Robinson  
 Regional Hearing Clerk  
 U.S. EPA  
 901 North 5<sup>th</sup> Street  
 Kansas City, KS 66101

U.S. Environmental Protection Agency  
Office of Administrative Law Judges  
1200 Pennsylvania Ave., N.W.  
**Mail Code 1900L**  
Washington, D.C. 20005

A copy by regular U.S. mail to:

J. Daniel Breedlove  
Asst. Regional Counsel  
U.S. EPA  
Region VII  
901 North 5<sup>th</sup> Street  
Kansas City, KS 66101

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