

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 7

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901 N. 5th Street

KANSAS CITY, KANSAS 66101

ENVIRONMENTAL PROTECTION
AGENCY-REGION VII
REGIONAL HEARING CLERK

IN THE MATTER OF:)
)
United States Department of Agriculture,)
Grain Inspection, Packers and)
Stockyards Administration,)
Federal Grain Inspection Service)
10383 North Ambassador Drive)
Kansas City, Missouri 64153)
)
)
EPA ID# MOD985796762)
)
)
Respondent.)
)

**SUPPLEMENTAL PREHEARING
INFORMATION EXCHANGE**

Docket No. RCRA-07-2006-0276

In accordance with Judge Moran's Prehearing Order dated April 6, 2007, and 40 C.F.R. §22.19, the Technical Services Division ("TSD") of the Grain Inspection, Packers and Stockyards Administration, United States Department of Agriculture ("Respondent") hereby supplements its initial prehearing information exchange as follows.

1. Exhibits. Additional document exhibits that Respondent intends to introduce into evidence are attached.

2. Reduction or Elimination of the Proposed Penalty. Having reviewed the penalty calculations included in Complainant's Initial Prehearing Information Exchange, Respondent submits that the proposed penalty should be substantially reduced or eliminated. The bases for Respondent's position include, but are not limited to: (i) Respondent's good-faith actions, (ii) the absence of harm to the environment, (iii) mistakes of fact made by Complainant, (iv) flawed regulatory interpretations made by Complainant, (v) Complainant's inability to demonstrate that Respondent had fair notice of key interpretations relied on by Complainant, and (vi) the severe financial impact of the proposed penalty on TSD's operations.

Respectfully submitted,



Gary Fremmerman, Attorney
United States Department of Agriculture

Dated: July 13, 2007

CERTIFICATE OF SERVICE

I hereby certify that the original and one true and correct copy of the foregoing Initial Prehearing Information Exchange were sent by Federal Express to the Regional Hearing Clerk, U.S. Environmental Protection Agency, Region 7, 901 N. 5th Street, Kansas City, Kansas 66101; and a true and correct copy was sent by Federal Express to:

Alex Chen, Esquire
Office of Regional Counsel
USEPA Region 7
901 N. 5th Street
Kansas City, Kansas 66101

and to

The Honorable William B. Moran
U.S. Environmental Protection Agency
Office of Administrative Law Judges
Franklin Court Building
1099 14th Street, N.W., Suite 350
Washington, D.C. 20460



Gary M. Fremerman
Attorney
USDA Office of the General Counsel

July 13, 2007