



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

REPLY TO THE ATTENTION OF:

(C-14J)

July 25, 2012

Judge M. Lisa Buschmann
Administrative Law Judge
Office of Administrative Law Judges
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W., Mail Code 1900L
Washington, D.C. 20460

Re: In the Matter of: Dessie L. Brumfield, d/b/a/ Brumfield Properties, L.L.C.
Docket No. TSCA-05-2010-0014.

Dear Judge Buschmann:

Enclosed, please find a copy of COMPLAINANT RESPONSE TO RESPONDENT MOTION TO SUPPLEMENT PREHEARING EXCHANGE, Which I filed with the Regional Hearing Clerk today for this civil administrative action. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Trevino".

Jeffery M. Trevino
Associate Regional Counsel

Enclosure

cc: LaDawn Whitehead
Regional Hearing Clerk
Region 5
U.S. Environmental Protection Agency
77 W. Jackson Boulevard (E-19J)
Chicago IL 60604-3590

Thomas J. McClure
15 Crossroads Court
Delafield WI 53018-2035

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY

RECEIVED
REGIONAL HEARING CLERK
U.S. EPA-REGION 5
2012 JUL 25 PM 4: 28

BEFORE THE ADMINISTRATOR

In the Matter of:

Ms. Dessie L. Brumfield,
d/b/a Brumfield Properties, LLC,

Respondent.

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) Docket No. TSCA-05-2010-0014

COMPLAINANT RESPONSE
TO RESPONDENT MOTION TO SUPPLEMENT PREHEARING EXCHANGE

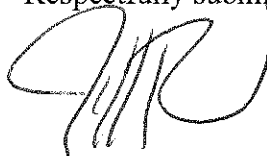
Pursuant to 40 C.F.R. § 22.16(b) Complainant responds to Respondent Motion to Supplement Prehearing Exchange, dated July 20, 2012, requests the Court strike Respondent's untimely "inability to pay" claim, and deny its Motion, due to the following facts.

1. On or about December 16, 2009, Respondent received Complainant's Prefiling Letter, dated December 14, 2009, which provided Respondent an "opportunity to present any information" that Respondent believed EPA should consider prior to the filing of the subject action, including any "financial information" bearing on Respondent's ability to pay the proposed civil penalty.
2. Respondent failed to claim she was unable to pay the proposed civil penalty or provide any financial information.
3. Respondent's Answer, dated September 25, 2011, filed September 29, 2011, failed to provide the Court or Complainant with the basis for opposing any proposed relief, including any inability to pay the proposed civil penalty, in violation of 40 C.F.R. § 22.15(b).

4. On March 5, 2012, Respondent filed its Response to Order to Show Cause, attached its two-page Prehearing Exchange, but failed to state Respondent was unable to pay the proposed civil penalty, in violation 40 C.F.R. § 22.19(a)(4), and the clear instructions of the Court's Prehearing Order, dated November 18, 2011. (Prehearing Order, dated November 18, 2011, p. 3, par. 3(C).
5. On March 6, 2012, the Court issued its Order on Showing of Good Cause and advised Respondent's counsel "... to familiarize himself with the Rules of Practice at 40 C.F.R. Part 22 and Practice Manual which are available on the website of the Office of Administrative Law Judges, www.epa.gov/oalj. Respondent may not be granted leniency on any future untimely filings."
6. On April 20, 2102, Complainant provided Respondent financial analysis forms to complete and return to Complainant to encourage and simplify her submission of any relevant financial information should she wish to allege she was unable to pay the proposed civil penalty.
7. Respondent failed to do either.
8. On May 18, 2012, Complainant again provided Respondent the same financial analysis forms to complete and return to EPA should she wish to allege she was unable to pay the proposed civil penalty.
9. Respondent again failed to do either.
10. On July 20, 2012, Respondent filed her Motion to Supplement Prehearing Exchange, which failed to allege she ever claimed she was unable to pay the proposed civil penalty, and admitted "[R]espondent did not believe it was necessary to file any financial documentation . . ."

WHEREFORE, Complainant responds to Respondent Motion to Supplement Prehearing Exchange, dated July 20, 2012, and requests the Court strike Respondent's untimely "inability to pay" claim, and deny its Motion.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'JMT', is written over a large, faint circular stamp or watermark.

Jeffery M. Trevino
Associate Regional Counsel
Office of Regional Counsel
Region 5
U.S. Environmental Protection Agency
77 West Jackson Boulevard (C-14J)
Chicago, Illinois 60604-3590
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Fac. No. (312) 692-2987

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY

BEFORE THE ADMINISTRATOR

In the Matter of:

Ms. Dessie L. Brumfield,
d/b/a Brumfield Properties, LLC,

Respondent.

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Certificate of Service

I hereby certify that today I filed with LaDawn Whitehead, Regional Hearing Clerk, Region 5, United States Environmental Protection Agency, 77 West Jackson Boulevard (E-19J), Chicago, Illinois, 60604-3590, the original document entitled COMPLAINANT RESPONSE TO RESPONDENT MOTION TO SUPPLEMENT PREHEARING EXCHANGE for this civil administrative action and I issued to the Court and Respondent by first class mail a copy of the original document:

M. Lisa Buschmann
Administrative Law Judge
Office of Administrative Law Judges
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.,
Mail Code 1900L
Washington, D.C. 20460

Thomas J. McClure
15 Crossroads Court
Delafield, WI 53018-2035



Jeffery M. Trevino
Associate Regional Counsel

25 July 2012
Dated