

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

09/23/09 2:18 PM

BEFORE THE ADMINISTRATOR

ENVIRONMENTAL PROTECTION
AGENCY-REGION VII
REGIONAL HEARING CLERK

<p>IN THE MATTER OF LOWELL VOS d/b/a LOWELL VOS FEEDLOT WOODBURY COUNTY, IOWA Respondent.</p>	<p>Docket No. CWA-07-2007-0078 APPLICATION FOR ATTORNEY FEES AND COSTS UNDER THE EQUAL ACCESS TO JUSTICE ACT</p>
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I. Statement of the Nature of the Matter

This is an application by Respondent, Lowell Vos d/b/a Lowell Vos Feedlot (hereinafter “Vos”), for attorney fees and costs under the Equal Access to Justice Act (EAJA), 28 U.S.C. §2412 (a), (d).

II. Statement of the Facts

On August 14, 2007, the United States Environmental Protection Agency (EPA) filed a Complaint against Vos alleging violations of the Clean Water Act including discharge into a water of the United States without a National Pollutant Discharge Elimination System (NPDES) permit and failure to apply for a NPDES permit. On June 8, 2009 United States Administrative Law Judge William B. Moran issued an Initial Decision dismissing EPA’s Complaint against Vos. Judge Moran concluded that EPA failed to prove an actual discharge of pollutants from Vos’ feedlot to waters of the United States. Initial Decision p. 25.

III. Argument

A. Respondent is a Prevailing Party

Vos is a prevailing party by virtue of the Initial Decision on June 8, 2009 dismissing all complaints filed by the EPA against Vos. The June 8, 2009 Initial Decision became final on July 23, 2009.

B. Respondent is an Eligible Party

Vos, as the owner of an unincorporated business with a net worth of less than \$7,000,000.00 and fewer than 500 employees, is an eligible party for an award of attorney fees under the EAJA. 28 U.S.C. §2412(d)(2)(B). Vos has attached net worth statements as Exhibit A, showing his net worth at the time this adversary adjudication was initiated.

C. The Administrator's Position Was Not Substantially Justified

Vos is entitled to attorney fees under the EAJA if the Administrator's "position" was "not substantially justified." 28 U.S.C. §2412 (d)(1)(B). The United States Supreme Court has placed the burden on the Government to show that its position was substantially justified.¹ See *Scarborough v. Principi*, 541 U.S. 401, 414 (2004); *Segers v. Astrue*, 2009 WL 2230212, page 3 (citing *Morgan v. Perry*, 142 F.3d 670, 684 (3d Cir. 1998)). To be substantially justified, the Administrator's position must have had a reasonable basis in law and fact. *Pierce v. Underwood*, 487 U.S. 552, 566 n.2 (1988).

Vos alleges that there was no reasonable basis in law or fact for EPA's position that there had been an actual discharge of pollutants from Vos' feedlot to a water of the United States. EPA had no direct evidence of an actual discharge in that it had no samples or visual evidence of a discharge. Initial Decision pp. 7–15. Further, EPA's inferential evidence of a discharge was clearly deficient. As noted by the Court:

"Again, it is the Court's conclusion that EPA failed, both through direct evidence and by inference to show that pollutants from Respondent's feedlot made their way to U.S. waters. Showing that an area receives 'a lot of rain' does not show that pollutants were present in any discharges from the feedlot, nor that any assumed pollutants would migrate sufficiently to reach the UNT. EPA knew there was a deficiency in its evidence on this subject and plainly that is why it attempted to develop the models to show that pollutants would reach that destination. In the end EPA itself knew that its own models were fatally

¹ Because the burden of proving substantial justification is on the EPA, Vos will, if necessary, more fully brief any argument EPA offers on the issue of substantial justification.

flawed and upon consideration of all of the evidence it presented at the hearing, the Agency concluded that it could not establish Count I.” Initial Decision p. 16.

EPA filed the Complaint against Vos knowing they had no direct evidence of a discharge, instead relying entirely on inferential evidence. This sole reliance on inferential evidence was not substantial justification to bring an action and force Vos to defend himself, let alone the fact that the inferential evidence was “fatally flawed.”

D. Respondent Requests Reasonable Attorney Fees

For civil actions commenced on or after March 29, 1996, \$125.00 per hour is the EAJA’s standard rate for attorney fees. 28 U.S.C. §2412(d)(2)(A). An increase in the cost of living since 1996 justifies an increase in the statutory hourly rate. The hourly rate for 2007 was \$166.25, the hourly rate in 2008 was \$172.50 and the hourly rate for 2009 is \$173.75.ⁱ These hourly rates are below the market rate for the same kind and quality of legal services performed in this case.

Vos seeks an EAJA award for 327.9 hours of attorney time and 14.7 hours of law clerk time reasonably incurred in this civil action by attorneys and law clerks at the Beving, Swanson & Forrest, P.C. law firm. The time record for attorneys and law clerks at Beving, Swanson & Forrest, P.C. is attached as Exhibit B. These records show Vos incurred actual legal fees of \$60,561.27 in this action. Using the adjusted EAJA standard rate for attorney fees, Vos requests \$54,918.64 in attorney fees under the EAJA.ⁱⁱ

Pre-Filing Legal Fees (Prior to August 14, 2007)

<u>Attorney Hours</u>	<u>Hourly Rate (\$)</u>	<u>Total(\$)</u>
36.5	166.25 (2007)	6,068.13
<u>Law Clerk Hours</u>	<u>Hourly Rate(\$)</u>	<u>Total(\$)</u>
2.0	55.00	110.00

Post-Filing Legal Fees

<u>Attorney Hours</u>	<u>Hourly Rate (\$)</u>	<u>Total(\$)</u>
14.7	166.25 (2007)	2,443.88
193.5	172.50 (2008)	33,378.75
68.5	173.75 (2009)	11,901.88

<u>Law Clerk Hours</u>	<u>Hourly Rate (\$)</u>	<u>Total(\$)</u>
5.8	80.00 (2008)	464.00
6.9	80.00 (2009)	552.00

E. Respondent Requests Actual Costs

In addition to legal fees, Vos incurred additional costs allowed under EAJA. 28 U.S.C. §2412 (a), (d). The additional expenses are delineated as additional expenses within the time record attached as Exhibit B. Vos thus requests \$1071.77 for costs incurred in this action.

F. Respondent Requests Reasonable Expert Witness Fees

EAJA standards dictate that rates for expert witnesses shall be based on the prevailing market rates for the kind and quality of services provided, except that no expert witnesses will be compensated at a higher rate than the highest paid expert witness hired by the agency. Vos retained two expert witnesses in this matter, Gerald Hentges and Bradley Woerner. Vos seeks an EAJA award for 52.5 hours of expert witness time reasonably incurred in this civil action by Gerald Hentges and 24.25 hours of expert witness time reasonably incurred in this civil action by Bradley Woerner. Time and expense records for Gerald Hentges and Bradley Woerner are attached at Exhibit C and D, respectively.

Vos thus requests \$10,746.45 in expert witness fees under the EAJA.

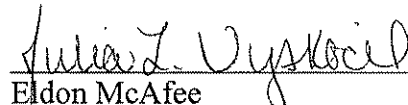
IV. Conclusion

Vos respectfully requests that the Court find that he meets the statutory requirements for an award of attorney fees and costs under the EAJA and that the Administrator's position was

not substantially justified. Respondent further requests this court to award \$54,918.64 in attorney fees and \$1,071.77 in costs under 28 U.S.C. §2412(d) and \$10,746.45 in expert witness fees under 28 U.S.C. §2412(a).

Dated this 20th day of August, 2009.

BEVING, SWANSON & FORREST


Eldon McAfee AT0004987
Julia L. Vyskocil AT0009711
321 E. Walnut Street, Suite 200
Des Moines, Iowa 50309
Telephone: (515) 237-1188
Facsimile: (515) 288-9409
Email: emcafee@bevinglaw.com

ⁱ In March 1996, the CPI-All Items Index was 155.7. Available at <http://www.bls.gov/data/>. The increase in the cost of living for 2007 is 1.33 (207.342/155.7). Therefore, the hourly rate is \$166.25. The increase in the cost of living in 2008 is 1.38 (215.303/155.7) Therefore, the hourly rate for 2008 is \$172.50 (\$125 x 1.38). The increase in the cost of living until June 2009 is 1.39 (215.696/155.7). Therefore, the hourly rate for 2009 is \$173.75 (\$125 x 1.39).

ⁱⁱ Vos will file a supplemental fee petition for any attorney time reasonably incurred replying to any response by the Administrator to Respondent's EAJA application.

Original and one copy by UPS overnight mail to:

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

and

A copy by UPS overnight mail to:

Judge William B. Moran
U.S. Environmental Protection Agency
Office of Administrative Law Judges
1200 Pennsylvania Ave., N.W.
Mail Code 1900L
Washington, DC 20005

A copy by regular U.S. mail to:

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

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing instrument was served upon all parties to the above cause to each of the attorneys of record herein at their respective addresses disclosed on the pleadings on August 20 2009

By: U.S. Mail FAX
 Hand Delivered Overnight Courier
 Certified Mail Other:

Signature Nancy Franklin

AGRICULTURAL BALANCE SHEET

Borrower: LOWELL & JUDY VOE
Address: 33923 340TH STREET
 KINGSLEY, IOWA 51028

SS # of Tax ID
SS # of Tax ID

Individuals
 Partnership
 Corporation

Phone No.: 712-844-9110

County: WOODBURY

Date of Balance Sheet: 13-Dec-07

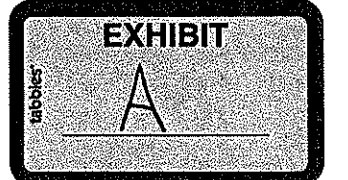
ASSETS					LIABILITIES				
CURRENT ASSETS Checking ANB -3315 Savings JUDY KING (SEC. NAT) 400 Accounts Receivable COMMODITY ACCT Other OWEGO DAIRY 100,000 Market Livestock Kind Description No Weight Price Value HOLSTEIN STEERS 206 1415 85.00 178,930 HOLSTEIN STEERS 373 1374 85.00 309,427 HOLSTEIN STEERS 106 1276 85.00 226,236 1 0 0 3 0 0 1 0 0 1 0 0 1 0.03 0 1 8.00 0 1 0.00 0 1 0.00 0 1 0 0 Total Market Livestock \$18,483 Crops and Feed Kind Description Amount Units Price Value CORN 120,000 Bushels 4.17 500,400 Soybeans 0 Bushels 5.72 0 Hay 0 TONS 0 0 STALK BALE 300 BALE 39 11,700 HAY 1300 TON 35 45,500 0 TON 36.20 0 TON 330.00 0 TON 169.00 PROTEIN, CYRAM, HST SUPPLEMENTS 18,000 Prepaid Expenses 877,000					LIABILITIES Accounts Payable FARM SUPPLY 6,389 FED CROP 20,473 MILLER VOGUE MEAT 10,100 SFA FINE 10,100 SFA ATTY 1205 /HRI 537 16,000 SANDER ROBT 19,120 EAM FARM 3,536 KORAWICK MEAT 12,100 KINGDALE COOP - COMM 37,609 AMERICAN NATIONAL BANK Notes Payable C/L NOTES '06, '07, '08, '09 417,203 INT 20,577 A/R OF 100 @ 10 400,000 INT 17,628 A/R 100 @ 12 150,000 INT 7,983 CREDIT CARDS 2,289 A/R 500 EQUINE SUPPLY 6-28 2,645 INT 5,773 A/R 500 INT 66,123 A/R 1000 INT 6,251 INT 1,489 CASE CREDIT COMINT 22,073 A/R TRACTOR PART 9-11 8,873 INT 719 A/R 500 ACCUM INT 279				
CURRENT ASSETS					LIABILITIES				
1,182,817					1,401,354				
INTERMEDIATE ASSETS Land and other fixed assets Description Acres Price Value 1/2 INT 1 1/2 SECTION 32 LESS TRACT 21800W TRKSH, 91' 300 3,000 900,000 UNDIVIDED 1/2 INTEREST 0 0 0 NW 1/4 & W 1/2 OF THE SW 1/4 & SW 1/2 NW 1/4 350 4,400 1,540,000 SECTION 2- 80N -45 W (DANKEN) 0 0 0 0 0 0 0 0 0 0 MOSE FROM MARK 30,975					INTERMEDIATE LIABILITIES A/R AND LOANER 430 49,833 A/R 1000 INT 23,409 CASE (3 COMINT) 104,933				
1,871,669					1,478,175				
LONG TERM ASSETS Land and other fixed assets Description Acres Price Value 1/2 INT 1 1/2 SECTION 32 LESS TRACT 21800W TRKSH, 91' 300 3,000 900,000 UNDIVIDED 1/2 INTEREST 0 0 0 NW 1/4 & W 1/2 OF THE SW 1/4 & SW 1/2 NW 1/4 350 4,400 1,540,000 SECTION 2- 80N -45 W (DANKEN) 0 0 0 0 0 0 0 0 0 0 MOSE FROM MARK 30,975					LONG TERM LIABILITIES A/R 1000 INT 145,044 A/R 500 1,212,533				
1,871,669					1,490,228				
TOTAL ASSETS					TOTAL LIABILITIES				
4,588,331					2,971,466				
					o/a \$6,149 o/w 189,349 LT equity 122,679 OE 35,618 NET WORTH 1,221,146				

For the purpose of obtaining credit from the above bank, I (we), the undersigned, make the above statement of all assets and liabilities. I (we) certify the above statement is correct to the best of my (our) knowledge. By signing below I (we) authorize you to check my (our) credit and employment history, verify loan balances, and to answer questions others may ask you about my (our) credit record with you.

Lowell Voe
 APPLICANT SIGNATURE
 AG: _____ LIFE INSURANCE: _____ INCOME: _____ DEPENDENTS: _____

IF MORE THAN ONE INDIVIDUAL HAS SIGNED, THEN THOSE INDIVIDUALS ACKNOWLEDGE THAT THEY ARE APPLYING FOR JOINT CREDIT.

AG: _____ LIFE INSURANCE: _____ INCOME: _____ DEPENDENTS: _____



Beving, Swanson & Forrest, P.C.
321 E. Walnut, Suite 200
Des Moines, IA 50309-2048
(515) 288-6572

Fed. ID #42-1139417

Invoice submitted to:

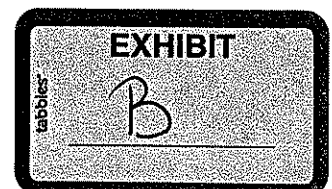
Lowell Vos
Lowell Vos Feedlot
33823 340th Street
Kingsley IA 51028

Current bill date: May 03, 2007
In Reference To: E8936
Invoice # 13493

Professional Services

		<u>Hours</u>	<u>Amount</u>
<u>EPA Enforcement</u>			
1/23/2007	EM Telephone conference with Lowell regarding letter from EPA; Analysis of EPA requirements for resolution	0.30	55.50
1/26/2007	EM Telephone conference with EPA attorney; Analysis of letter from EPA; Telephone conference with Lowell regarding steps to take with EPA	0.30	55.50
1/27/2007	EM Telephone conference with Lowell regarding EPA actions and steps to defend	0.40	74.00
1/29/2007	EM Review and analysis of EPA order regarding deadlines; Telephone conference with EPA attorney; Telephone conference with Brad Woerner; Telephone conference with Lowell	0.90	166.50
	TL Pull GIS images of feedlots. Review EPA rules regarding appeal of order.	0.30	36.00
1/30/2007	EM Telephone conference with Dan Breedlove regarding meeting and compliance with proposed order; preparation for meetings (1/4 of total)	0.60	111.00

Services through April 30, 2007



			<u>Hours</u>	<u>Amount</u>
1/31/2007	EM	Review and analysis of Order and status of permits; prepared for meetings; Telephone messages to and from EPA attorney; Telephone conferences with attorney from D.C. regarding modeling; scheduled meetings (1/4 of total)	0.60	111.00
2/1/2007	EM	Prepared for EPA meeting (1/4 of total)	0.30	55.50
2/5/2007	EM	Telephone conference with Lowell and Brad regarding EPA meeting; reviewed information from Lowell	0.90	166.50
	EM	Prepared for EPA meeting (1/4 of total)	0.70	129.50
2/6/2007	EM	Prepared for meeting with EPA (1/4 of total)	0.70	129.50
2/7/2007	EM	Meeting with Lowell, Judy and Brad Woerner	2.00	370.00
	EM	Discussions with EPA regarding meeting; Telephone conference with IFBF regarding meetings with EPA and modeling (1/4 of total)	0.30	55.50
2/8/2007	EM	Prepared for meeting with EPA; meeting with EPA	3.00	555.00
	EM	Discussions with EPA following meeting regarding timelines for submission of information; Telephone conference with client regarding EPA timelines for information (1/4 of total)	0.40	74.00
2/9/2007	EM	Telephone conference with Lowell regarding statute of limitations for DNR permit and consideration by EPA for settlement	0.30	55.50
2/12/2007	EM	Prepared information for EPA (1/4 of total)	0.30	55.50
2/13/2007	EM	Analysis of DNR database on construction permit and NPDES permit applications; prepared information for EPA (1/4 of total)	0.30	55.50
2/14/2007	EM	Research and analysis of DNR and EPA regulations for construction and NPDES permits (1/4 of total)	0.30	55.50
2/15/2007	EM	Review and analysis of information from EPA; prepared letter	0.40	74.00
	EM	Received and reviewed file from EPA (1/4 of total)	0.50	92.50
	TL	Review Farm Bureau permit list. Notes to Eldon (1/4 of total)	0.10	12.00
2/16/2007	AT	Research administrative hearing rules regarding whether evidence of construction permit is admissible.	2.00	110.00
	EM	Analysis of defenses to penalty action (1/4 of total)	0.20	37.00
2/17/2007	EM	Review and analysis of EPA file; Analysis regarding defenses to penalty	0.90	166.50
2/18/2007	EM	Drafted reply to EPA's letter regarding compliance order and settlement negotiations (1/4 of total)	0.20	37.00

			<u>Hours</u>	<u>Amount</u>
2/19/2007	EM	Prepared response to Compliance Order (1/4 of total)	0.10	18.50
2/20/2007	EM	Letter to EPA regarding the Compliance Order; Analysis regarding reply to penalty action	0.90	166.50
2/21/2007	EM	Telephone conference with Ivan Droessler, engineer	0.50	92.50
	TL	Prepare timeline of events/spreadsheet	0.50	60.00
2/22/2007	EM	Finalized letter to EPA regarding the Compliance Order; prepared letter for reply to penalty (1/4 of total)	0.30	55.50
2/24/2007	EM	Research and analysis of defenses to penalty action (1/4 of total)	0.20	37.00
2/25/2007	EM	Review and analysis of Waterkeeper court decision (1/4 of total)	0.30	55.50
	EM	Email to Brad Woerner regarding reply to EPA; Researched and drafted reply Letter to EPA regarding penalty action; Analysis of Administrative Law Judge decision relied on by EPA to support model	0.70	129.50
2/26/2007	EM	Analysis of EPA's approval of Iowa Plan; Review and analysis of DNR files (1/4 of total)	0.30	55.50
2/27/2007	EM	Telephone conference with Tamara Thies of National Cattlemen's Beef Association regarding defenses to EPA action; Review and analysis of EPA correspondence regarding Iowa Plan; Review and analysis of DNR files at state office (1/4 of total)	0.50	92.50
3/1/2007	EM	Prepared reply to EPA; Telephone conference with Dan Breedlove regarding status of replies and ALJ opinions; Telephone conferences with Sterling Liddell at Iowa Farm Bureau regarding modeling (1/4 of total)	0.40	74.00
	EM	Telephone conference with Brad Woerner regarding information from EPA	0.20	37.00
3/2/2007	EM	Analysis regarding computer model (1/4 of total)	0.20	37.00
3/4/2007	EM	Researched background on EPA and DNR rules (1/4 of total)	0.60	111.00
3/5/2007	EM	Prepared reply to EPA (1/4 of total)	0.20	37.00
3/6/2007	EM	Prepared reply letter to EPA (1/4 of total)	0.40	74.00
3/7/2007	EM	Letter to EPA	2.10	388.50
3/8/2007	EM	Revisions to letter to EPA (1/4 of total)	0.20	37.00
	EM	Telephone conference with Lowell regarding revisions to letter to EPA and filing status report with EPA	0.30	55.50
3/10/2007	EM	Research and analysis regarding background on EPA rules for letter to EPA (1/4 of total)	0.10	18.50
3/11/2007	EM	Prepared letter to EPA (1/4 of total)	0.80	148.00

		<u>Hours</u>	<u>Amount</u>
3/11/2007	TL	0.30	36.00
3/12/2007	EM	0.50	92.50
4/3/2007	EM	0.40	74.00
4/6/2007	EM	0.10	18.50
4/10/2007	EM	0.10	18.50
4/17/2007	EM	0.90	166.50
4/18/2007	EM	0.20	37.00
4/19/2007	EM	0.20	37.00
4/20/2007	EM	0.10	18.50
4/24/2007	EM	0.20	37.00
4/26/2007	EM	0.20	37.00
SUBTOTAL:		[30.20	5,249.00]
For professional services rendered		30.20	\$5,249.00
Balance due			\$5,249.00

Beving, Swanson & Forrest, P.C.
321 E. Walnut, Suite 200
Des Moines, IA 50309-2048
(515) 288-6572

Fed. ID #42-1139417

Invoice submitted to:

Lowell Vos
Lowell Vos Feedlot
33823 340th Street
Kingsley IA 51028

Current bill date: July 27, 2007

In Reference To: E8936

Invoice # 13872

Professional Services

		<u>Hours</u>	<u>Amount</u>
<u>EPA Enforcement</u>			
5/3/2007	EM Telephone conferences with Senator Grassley's office and Congressman King's office (1/4 of total)	0.20	37.00
5/4/2007	EM Email to and from EPA regarding extension of time to reply; Conference call with Iowa Farm Bureau Federation and American Farm Bureau Federation regarding EPA enforcement actions; Telephone conference with client regarding extension and notice of site visit from EPA; summary of cases to Congressman King's office (1/4 of total)	0.90	166.50
5/7/2007	EM Email to EPA regarding construction update	0.10	18.50
5/15/2007	EM Telephone conference with Tamara Thies regarding meeting with EPA; analysis of regulations on appeal; Telephone conference regarding meeting to discuss settlement (1/4 of total)	0.30	55.50
5/16/2007	EM Received and reviewed email from EPA; Analysis regarding settlement options (1/4 of total)	0.20	37.00
5/17/2007	EM Telephone conference with Lowell regarding settlement offer	0.30	55.50
	EM Telephone conference with Dan Breedlove regarding procedures for hearing; Analysis of EPA rules (1/4 of total)	0.50	92.50

Services through June 30, 2007

	<u>Hours</u>	<u>Amount</u>
5/18/2007 EM Telephone conferences with Lowell; prepared settlement offer to EPA	0.50	92.50
6/7/2007 EM Construction update to EPA	0.20	37.00
	<hr/>	<hr/>
SUBTOTAL:	[3.20	592.00]
	<hr/>	<hr/>
For professional services rendered	3.20	\$592.00
Previous balance		\$5,249.00
6/18/2007 Payment - thank you		(\$5,249.00)
		<hr/>
Total payments and adjustments		(\$5,249.00)
		<hr/>
Balance due		\$592.00
		<hr/>

Beving, Swanson & Forrest, P.C.
321 E. Walnut, Suite 200
Des Moines, IA 50309-2048
(515) 288-6572

Fed. ID #42-1139417

Invoice submitted to:

Lowell Vos
Lowell Vos Feedlot
33823 340th Street
Kingsley IA 51028

Current bill date: August 27, 2007

In Reference To: E8936

Invoice # 14010

Professional Services

			<u>Hours</u>	<u>Amount</u>
<u>EPA Enforcement</u>				
7/9/2007	EM	Received and reviewed letter from EPA; Analysis regarding options (1/4 of total)	0.40	74.00
7/11/2007	EM	Analysis regarding options for reply to EPA letter (1/4 of total)	0.20	37.00
7/16/2007	EM	Telephone conference Karey Claghorn of Secretary of Ag Bill Northey's office; emailed information (1/4 of total)	0.20	37.00
7/20/2007	EM	Telephone conference with Secretary of Ag's office regarding meeting with John Askew; Telephone conference with Wayne Brincks; preparation for meeting (1/4 of total)	0.30	55.50
7/23/2007	EM	Preparation for meeting in Kansas City (1/4 of total)	0.20	37.00
7/26/2007	EM	Prepared information for meeting in Kansas City (1/4 of total)	0.30	55.50
7/27/2007	EM	Prepared for meeting with EPA; meeting with EPA in Kansas City (1/4 of total)	0.80	148.00
7/31/2007	EM	Review and analysis of EPA settlement agreements with other feedlots and businesses (1/4 of total)	0.20	37.00
SUBTOTAL:			[2.60	481.00]

Services through July 31, 2007

Lowell Vos

Page 2

	<u>Hours</u>	<u>Amount</u>
For professional services rendered	2.60	\$481.00
Previous balance		\$592.00
Balance due		<u>\$1,073.00</u>

Services through July 31, 2007

Beving, Swanson & Forrest, P.C.
321 E. Walnut, Suite 200
Des Moines, IA 50309-2048
(515) 288-6572

Fed. ID #42-1139417

Invoice submitted to:

Lowell Vos
Lowell Vos Feedlot
33823 340th Street
Kingsley IA 51028

Current bill date: September 19, 2007

In Reference To: E8936

Invoice # 14152

Professional Services

		<u>Hours</u>	<u>Amount</u>
<u>EPA Enforcement</u>			
8/1/2007	EM	Review and analysis of settlement options; Telephone conference with Dan Breedlove (1/4 of total)	0.20 37.00
8/3/2007	EM	Analysis regarding settlement offer and SEP (1/4 of total)	0.30 55.50
8/6/2007	EM	Review and analysis of EPA orders for settlement offer; Telephone conference with Duane Gangwish of Nebraska Cattlemen's Association and Jason Brumm, Nebraska attorney representing several Nebraska feedlots who settled with EPA (1/4 of total)	0.60 111.00
8/7/2007	EM	Submitted construction status report to EPA	0.20 37.00
	EM	Analysis regarding settlement options and procedure for appeal (1/4 of total)	0.20 37.00
8/8/2007	EM	Telephone conferences with EPA regarding settlement options; Analysis of EPA orders (1/4 of total)	0.30 55.50
8/9/2007	EM	Telephone conference with EPA regarding SEP's and settlement; Analysis of settlement options (1/4 of total)	0.20 37.00
8/10/2007	EM	Telephone conference with Dan Breedlove regarding settlement offers; Analysis of options (1/4 of total)	0.20 37.00
8/13/2007	EM	Research and analysis of recent ALJ decision on computer modeling and settlement options (1/2 of total)	0.30 55.50

Services through August 31, 2007

	<u>Hours</u>	<u>Amount</u>
8/14/2007 EM Telephone conference with Dan regarding rejection of offers; Analysis regarding options (1/4 of total)	0.20	37.00
8/15/2007 EM Analysis regarding settlement offers (1/4 of total)	0.30	55.50
8/24/2007 EM Telephone conference with Dan Breedlove of EPA regarding potential settlement offer and public notice of case proceeds	0.20	37.00
8/28/2007 EM Telephone conference with Dan Breedlove regarding potential penalties if cases go to hearing (1/4 of total)	0.10	18.50
8/29/2007 EM Telephone conference with Lowell regarding hearing procedure and settlement options	0.60	111.00
8/30/2007 EM Prepared settlement offer and emailed to EPA	0.30	55.50
	<hr/>	<hr/>
SUBTOTAL:	[4.20	777.00]
	<hr/>	<hr/>
For professional services rendered	4.20	\$777.00
Previous balance		\$1,073.00
9/17/2007 Payment - thank you		(\$1,073.00)
		<hr/>
Total payments and adjustments		(\$1,073.00)
		<hr/>
Balance due		\$777.00
		<hr/>

Beving, Swanson & Forrest, P.C.
321 E. Walnut, Suite 200
Des Moines, IA 50309-2048
(515) 288-6572

Fed. ID #42-1139417

Invoice submitted to:

Lowell Vos
Lowell Vos Feedlot
33823 340th Street
Kingsley IA 51028

Current bill date: November 12, 2007
In Reference To: E8936
Invoice # 14473

Professional Services

			<u>Hours</u>	<u>Amount</u>
	<u>EPA Enforcement</u>			
9/5/2007	EM	Telephone conference with Lowell regarding settlement options	0.20	37.00
9/10/2007	EM	Telephone conference with EPA regarding counter offer; Telephone conference with Lowell	0.30	55.50
9/12/2007	EM	Discussed settlement with EPA; Telephone conference with Lowell; settlement offer to EPA; received settlement offer from EPA; Telephone conference with Lowell; Prepared answers to EPA complaint	0.90	166.50
9/17/2007	EM	Telephone conference with Lowell regarding settlement and status of case; Prepared answer	1.60	296.00
9/27/2007	EM	Analysis regarding settlement; Telephone conference with Lowell	0.30	55.50
10/1/2007	EM	Telephone conference with Lowell regarding mediation and settlement; Telephone conference with attorney from North Dakota regarding appeal	0.50	92.50
10/3/2007	EM	Submitted mediation request	0.30	55.50
10/4/2007	EM	Telephone conference with EPA regarding settlement and mediation	0.30	55.50
10/30/2007	EM	Prepared for and conducted conference call with mediator and EPA; Telephone conference with Lowell	1.30	240.50

Services through October 31, 2007

Lowell Vos

Page 2

	<u>Hours</u>	<u>Amount</u>
SUBTOTAL:	[5.70	1,054.50]
For professional services rendered	5.70	\$1,054.50
Previous balance		\$777.00
Balance due		\$1,831.50

Services through October 31, 2007

Beving, Swanson & Forrest, P.C.
321 E. Walnut, Suite 200
Des Moines, IA 50309-2048
(515) 288-6572

Fed. ID #42-1139417

Invoice submitted to:

Lowell Vos
Lowell Vos Feedlot
33823 340th Street
Kingsley IA 51028

Current bill date: December 10, 2007
In Reference To: E8936
Invoice # 14567

Professional Services

		<u>Hours</u>	<u>Amount</u>
<u>EPA Enforcement</u>			
11/14/2007	EM	2.60	481.00
			Prepared for mediation conference call; office conference with clients; mediation conference call; analysis of options
11/16/2007	EM	0.30	55.50
			Telephone message from EPA regarding settlement; Analysis of EPA's position
11/20/2007	EM	1.20	222.00
			Telephone conference with Lowell regarding mediation and settlement offer to EPA; emailed offer
11/21/2007	EM	0.30	55.50
			Telephone message from and Telephone conference with EPA regarding settlement offers and mediation
11/28/2007	EM	0.30	55.50
			Emails with EPA regarding settlement and mediation; Telephone conference with Lowell
11/29/2007	EM	0.30	55.50
			Analysis of settlement options; Telephone conferences with EPA and Lowell
11/30/2007	EM	0.60	111.00
			Telephone conference with EPA regarding settlement; Telephone conference with Lowell; prepared for hearing
SUBTOTAL:		[5.60	1,036.00]

Services through November 30,
2007

Lowell Vos

Page 2

	<u>Hours</u>	<u>Amount</u>
For professional services rendered	5.60	\$1,036.00
Previous balance		\$1,831.50
12/10/2007 Payment - thank you		<u>(\$1,831.50)</u>
Total payments and adjustments		(\$1,831.50)
 Balance due		 <u>\$1,036.00</u>

Services through November 30,
2007

Beving, Swanson & Forrest, P.C.
321 E. Walnut, Suite 200
Des Moines, IA 50309-2048
(515) 288-6572

Fed. ID #42-1139417

Invoice submitted to:

Lowell Vos
Lowell Vos Feedlot
33823 340th Street
Kingsley IA 51028

Current bill date: January 28, 2008
In Reference To: E8936
Invoice # 14750

Professional Services

	<u>Hours</u>	<u>Amount</u>
<u>EPA Enforcement</u>		
12/11/2007 EM Prepared for designation of experts for hearing	0.30	55.50
12/20/2007 EM Analysis regarding expert witness testimony; Telephone conference with mediator	1.00	185.00
12/24/2007 EM Analysis of expert witness information regarding computer model; Telephone conference with Lowell	0.40	74.00
SUBTOTAL:	[1.70	314.50]
For professional services rendered	1.70	\$314.50
Previous balance		\$1,036.00
12/20/2007 Payment - thank you		(\$1,036.00)
Total payments and adjustments		(\$1,036.00)
Balance due		<u>\$314.50</u>

Services through December 31,
2007

Services through December 31,
2007

Beving, Swanson & Forrest, P.C.
321 E. Walnut, Suite 200
Des Moines, IA 50309-2048
(515) 288-6572

Fed. ID #42-1139417

Invoice submitted to:

Lowell Vos
Lowell Vos Feedlot
33823 340th Street
Kingsley IA 51028

Current bill date: February 20, 2008
In Reference To: E8936
Invoice # 14888

Professional Services

		<u>Hours</u>	<u>Amount</u>
	<u>EPA Enforcement</u>		
1/25/2008	EM Mediation conference call; analysis of reports and information for hearing	2.30	437.00
	SUBTOTAL:	[2.30	437.00]
	For professional services rendered	2.30	\$437.00
	Previous balance		\$314.50
	Balance due		\$751.50

Services through January 31, 2008

Beving, Swanson & Forrest, P.C.
321 E. Walnut, Suite 200
Des Moines, IA 50309-2048
(515) 288-6572

Fed. ID #42-1139417

Invoice submitted to:

Lowell Vos
Lowell Vos Feedlot
33823 340th Street
Kingsley IA 51028

Current bill date: March 31, 2008
In Reference To: E8936
Invoice # 15010

Professional Services

	<u>Hours</u>	<u>Amount</u>
<u>EPA Enforcement</u>		
2/20/2008 EM Prepared information for hearing	0.40	76.00
2/22/2008 EM Telephone conference with EPA regarding expert reports and modeling	0.30	57.00
SUBTOTAL:	[0.70	133.00]
For professional services rendered	0.70	\$133.00
Previous balance		\$751.50
3/14/2008 Payment - thank you		(\$751.50)
Total payments and adjustments		(\$751.50)
Balance due		\$133.00

Services through February 29, 2008

Beving, Swanson & Forrest, P.C.
321 E. Walnut, Suite 200
Des Moines, IA 50309-2048
(515) 288-6572

Fed. ID #42-1139417

Invoice submitted to:

Lowell Vos
Lowell Vos Feedlot
33823 340th Street
Kingsley IA 51028

Current bill date: May 01, 2008
In Reference To: E8936
Invoice # 15199

Professional Services

			<u>Hours</u>	<u>Amount</u>
<u>EPA Enforcement</u>				
3/4/2008	EM	Telephone conference with Lowell regarding preparations for hearing; Telephone conference with EPA	0.30	57.00
3/12/2008	EM	Preparation for hearing	0.50	95.00
3/13/2008	EM	Feedlot site visit; Analysis of defenses to EPA action	3.30	627.00
3/14/2008	EM	Analysis of defenses to EPA action in preparation for hearing	0.40	76.00
3/17/2008	EM	Prepared for hearing	1.00	190.00
3/26/2008	EM	Analysis regarding experts; Prepared Initial Prehearing Exchange	1.30	247.00
3/30/2008	EM	Analysis regarding expert witnesses	0.50	95.00
3/31/2008	EM	Meeting with Chris Gruenhagen of IFBF; Analysis of defenses and preparation of initial pre-hearing exchange	2.20	418.00
SUBTOTAL:			[9.50	1,805.00]
For professional services rendered			9.50	\$1,805.00
Previous balance				\$133.00

Services through March 31, 2008

Lowell Vos

Page 2

Amount

4/10/2008 Payment - thank you

(\$133.00)

Total payments and adjustments

(\$133.00)

Balance due

\$1,805.00

Beving, Swanson & Forrest, P.C.
321 E. Walnut, Suite 200
Des Moines, IA 50309-2048
(515) 288-6572

Fed. ID #42-1139417

Invoice submitted to:

Lowell Vos
Lowell Vos Feedlot
33823 340th Street
Kingsley IA 51028

Current bill date: May 19, 2008
In Reference To: E8936
Invoice # 15327

Professional Services

		<u>Hours</u>	<u>Amount</u>
<u>EPA Enforcement</u>			
4/2/2008	EM	Prepared prehearing exchange documents	0.70 133.00
4/3/2008	EM	Prepared prehearing exchanges	0.30 57.00
4/4/2008	EM	Telephone conference with Dan Breedlove; prepared initial pre-hearing exchanges	0.40 76.00
4/6/2008	EM	Prepared initial pre-hearing exchanges	1.80 342.00
4/7/2008	EM	Completed initial prehearing exchange; Telephone conferences with expert witnesses	1.00 190.00
4/10/2008	EM	Review and analysis of EPA initial prehearing exchange	1.00 190.00
SUBTOTAL:		[5.20	988.00]
For professional services rendered		5.20	\$988.00

Services through April 30, 2008

Additional Charges :

	<u>Price</u>	<u>Amount</u>
<u>EPA Enforcement</u>		
4/16/2008 Postmaster - Mail EPA Notebook to Lowell	9.15	9.15
4/17/2008 Action Reprographics - Photocopies	286.87	286.87
		<hr/>
SUBTOTAL:		[296.02]
		<hr/>
Total costs		\$296.02
		<hr/>
Total amount of this bill		\$1,284.02
		<hr/>
Previous balance		\$1,805.00
		<hr/>
Balance due		\$3,089.02
		<hr/>

Beving, Swanson & Forrest, P.C.
321 E. Walnut, Suite 200
Des Moines, IA 50309-2048
(515) 288-6572

Fed. ID #42-1139417

Invoice submitted to:

Lowell Vos
Lowell Vos Feedlot
33823 340th Street
Kingsley IA 51028

Current bill date: June 23, 2008
In Reference To: E8936
Invoice # 15465

Professional Services

	<u>Hours</u>	<u>Amount</u>
<u>EPA Enforcement</u>		
5/7/2008 EM Telephone conference call with Judge and EPA; preparation for hearing and expert witness report	2.10	399.00
5/9/2008 EM Review and analysis of EPA information for hearing	0.50	95.00
5/19/2008 EM Telephone conference with computer modeling expert witness; Analysis of defenses	0.60	114.00
	<hr/>	<hr/>
SUBTOTAL:	[3.20	608.00]
	<hr/>	<hr/>
For professional services rendered	3.20	\$608.00
Previous balance		\$3,089.02
6/5/2008 Payment - thank you		(\$3,089.02)
		<hr/>
Total payments and adjustments		(\$3,089.02)
		<hr/>
Balance due		\$608.00
		<hr/>

Services through May 31, 2008

Beving, Swanson & Forrest, P.C.
321 E. Walnut, Suite 200
Des Moines, IA 50309-2048
(515) 288-6572

Fed. ID #42-1139417

Invoice submitted to:

Lowell Vos
Lowell Vos Feedlot
33823 340th Street
Kingsley IA 51028

Current bill date: July 14, 2008
In Reference To: E8936
Invoice # 15551

Professional Services

			<u>Hours</u>	<u>Amount</u>
	<u>EPA Enforcement</u>			
6/21/2008	EM	Analysis regarding expert testimony on computer model	0.70	133.00
6/24/2008	EM	Analysis regarding expert witness report on computer model	0.60	114.00
6/30/2008	EM	Telephone conference with Dan Breedlove of EPA and Lowell regarding site visit and status of case	0.70	133.00
	SUBTOTAL:		[2.00	380.00]
	For professional services rendered		2.00	\$380.00
	Previous balance			\$608.00
7/7/2008	Payment - thank you			(\$608.00)
	Total payments and adjustments			(\$608.00)

Services through June 30, 2008

Lowell Vos

Amount

Balance due

\$380.00

Beving, Swanson & Forrest, P.C.
321 E. Walnut, Suite 200
Des Moines, IA 50309-2048
(515) 288-6572

Fed. ID #42-1139417

Invoice submitted to:

Lowell Vos
 Lowell Vos Feedlot
 33823 340th Street
 Kingsley IA 51028

Current bill date: August 25, 2008
 In Reference To: E8936
 Invoice # 15757

Professional Services

			<u>Hours</u>	<u>Amount</u>
<u>EPA Enforcement</u>				
7/9/2008	EM	Meeting with IFBF regarding computer modeling and EPA's photo proof	2.30	437.00
7/16/2008	EM	Analysis regarding EPA computer model	0.50	95.00
7/17/2008	EM	Telephone conference with expert witness regarding computer model	0.50	95.00
7/24/2008	EM	Telephone conference with expert witness regarding report; Telephone conference with Lowell; Analysis of reply to ALJ	0.70	133.00
7/28/2008	EM	Prepared supplement to prehearing exchange; Analysis regarding defenses for hearing	0.80	152.00
7/29/2008	EM	Prepared Supplemental Response regarding expert witness report	0.40	76.00
SUBTOTAL:			5.20	988.00]
For professional services rendered			5.20	\$988.00
Previous balance				\$380.00
8/18/2008 Payment - thank you				(\$380.00)

Services through July 31, 2008

Lowell Vos

Page 2

	<u>Amount</u>
Total payments and adjustments	(\$380.00)
Balance due	<u>\$988.00</u>

Beving, Swanson & Forrest, P.C.
321 E. Walnut, Suite 200
Des Moines, IA 50309-2048
(515) 288-6572

Fed. ID #42-1139417

Invoice submitted to:

Lowell Vos
Lowell Vos Feedlot
33823 340th Street
Kingsley, IA 51028

Current bill date: October 20, 2008
In Reference To: E8936
Invoice # 16102

Professional Services

			<u>Hours</u>	<u>Amount</u>
	<u>EPA Enforcement</u>			
8/6/2008	EM	Telephone conference with Jerry Hentges as expert witness on computer modeling; Review and analysis of EPA's expert report	0.80	152.00
8/7/2008	EM	Prepared supplement to prehearing exchange and prepared for hearing	0.80	152.00
8/8/2008	EM	Telephone conference with Lowell regarding hearing preparation; Telephone conference with Dan Breedlove; Telephone conference with Brad Woerner	0.70	133.00
8/13/2008	EM	Office conference with client to prepare Supplemental Prehearing Exchanges and to prepare for hearing; prepared Supplemental Prehearing Exchange	2.60	494.00
8/14/2008	EM	Prepared Supplemental Prehearing exchange; Telephone conference with Mike Beavers	1.00	190.00
8/15/2008	EM	Prepared information for Supplemental Prehearing exchange; prepared for hearing	1.30	247.00
8/18/2008	EM	Prepared and filed Supplemental Prehearing exchange	2.40	456.00
8/20/2008	EM	Review and analysis of EPA's supplemental prehearing exchange; Telephone conference with Dan Breedlove regarding settlement	1.30	247.00
8/27/2008	EM	Prepared for hearing: analysis of potential fact witness testimony	0.40	76.00

Services through September 30,
2008

			<u>Hours</u>	<u>Amount</u>
8/29/2008	EM	Analysis regarding DNR witnesses in preparation for hearing	0.60	114.00
9/1/2008	EM	Prepared for cross examination of EPA modeling expert	1.20	228.00
9/2/2008	EM	Prepared for hearing: testimony of Carol and Evan	1.20	228.00
9/3/2008	EM	Prepared for hearing: testimony of Jerry Hentges, cross exam of economic benefit expert	2.70	513.00
9/4/2008	EM	Prehearing telephone conference with ALJ; prepared for hearing; Review and analysis of DNR photo from 2003	2.20	418.00
9/5/2008	EM	Review and analysis of EPA motion to introduce DNR photos of discharge; Telephone conference with Evan Vermeer in preparation for hearing; Telephone conference with Lowell	1.30	247.00
9/6/2008	EM	Preparation for hearing: analysis of Iowa Plan	0.50	95.00
9/8/2008	EM	Analysis regarding EPA motion to submit photos as evidence; preparation for hearing; Telephone conference with Lowell; prepared resistance to EPA's motion and motion for postponement of hearing	3.50	665.00
9/9/2008	EM	Completed and filed resistance to EPA's motion and motion for hearing postponement; prepared for hearing; Telephone conferences with Bruce Berven and Carol Balvanz regarding information and testimony	2.70	513.00
9/10/2008	EM	Prepared witness testimony for hearing: Mike Beavers, Mike Vos and Lowell	2.40	456.00
9/11/2008	EM	Prepared for cross examination of EPA witnesses; prepared joint stipulation with EPA on exhibits; prepared witness testimony outlines	3.60	684.00
	JM	Research amnesty period regarding Iowa Plan	2.80	224.00
9/12/2008	EM	Prepared for hearing: Telephone conferences with Carol Balvanz, Evan Vermeer, Brad Woerner, and office conference with Jerry Hentges; completed joint exhibit stipulation with EPA	3.80	722.00
	JM	Research amnesty period	1.30	104.00
9/13/2008	EM	Review and analysis of computer modeling report in preparation for hearing; Prepared witness testimony for hearing	3.20	608.00
9/14/2008	EM	Prepared for cross examination of Pollard, Sena, Doty and Sheffeltz	2.80	532.00

			<u>Hours</u>	<u>Amount</u>
9/15/2008	EM	EPA hearing and preparation	10.40	1,976.00
9/16/2008	EM	EPA hearing and preparation	12.00	2,280.00
9/17/2008	EM	EPA hearing and preparation	12.30	2,337.00
9/18/2008	EM	EPA hearing and preparation	13.30	2,527.00
9/19/2008	EM	EPA hearing and preparation	11.70	2,223.00
9/20/2008	EM	EPA hearing preparation: redirect examination of Hentges	2.30	437.00
9/21/2008	EM	EPA hearing preparation: Hentges, Balvanz, Vermeer and Lowell	6.80	1,292.00
9/22/2008	EM	EPA hearing and preparation	10.40	1,976.00
9/23/2008	EM	Recap of EPA hearing in preparation for brief; Analysis regarding brief defenses	4.30	817.00
9/24/2008	EM	Analysis regarding brief arguments	1.30	247.00
9/30/2008	EM	Research and analysis in preparation of brief; Telephone conference with DNR regarding permit extension	0.80	152.00
	JM	Copies	0.30	24.00
SUBTOTAL:			[133.00	24,786.00]
For professional services rendered			133.00	\$24,786.00

Additional Charges :

			<u>Price</u>
<u>EPA Enforcement</u>			
8/28/2008	UPS to Judge Wm. B. Mora on 8-20-08		24.48
SUBTOTAL:			[24.48]
Total costs			\$24.48
Total amount of this bill			\$24,810.48
Previous balance			\$988.00

Lowell Vos

Page 4

Amount

10/6/2008 Payment - thank you

(\$988.00)

Total payments and adjustments

(\$988.00)

Balance due

\$24,810.48

Beving, Swanson & Forrest, P.C.
321 E. Walnut, Suite 200
Des Moines, IA 50309-2048
(515) 288-6572

Fed. ID #42-1139417

Invoice submitted to:

Lowell Vos
Lowell Vos Feedlot
33823 340th Street
Kingsley, IA 51028

Current bill date: December 05, 2008
In Reference To: E8936
Invoice # 16402

Professional Services

			<u>Hours</u>	<u>Amount</u>
	<u>EPA Enforcement</u>			
10/1/2008	EM	Analysis regarding brief issues and transcript; Research and analysis regarding Equal Access to Justice Act	2.00	380.00
10/7/2008	EM	Meeting with IFBF regarding hearing and assistance with brief	2.30	437.00
10/8/2008	EM	Prepared brief	0.40	76.00
10/17/2008	EM	Telephone message from EPA regarding dismissal of discharge claims; Review and analysis of EPA Complaint; Telephone conference with Lowell	1.00	190.00
10/20/2008	EM	Telephone conference with Lowell; Analysis regarding EPA proposal to amend Complaint; Telephone conference with Dan Breedlove of EPA	1.20	228.00
10/22/2008	EM	Email to EPA regarding withdrawal of discharge claims; meeting with IFBF regarding modeling research	3.00	570.00
10/31/2008	EM	Analysis regarding reply to EPA motion to withdraw Count I	0.40	76.00
			<hr/>	<hr/>
		SUBTOTAL:	[10.30	1,957.00]

Services through October 31, 2008

	<u>Hours</u>	<u>Amount</u>
For professional services rendered	10.30	\$1,957.00

Additional Charges :

	<u>Price</u>	
<u>EPA Enforcement</u>		
10/2/2008 Postmaster - Mail notebook to Judge Moran	8.75	8.75
10/9/2008 Petersen Court Reporters	100.00	100.00
10/16/2008 U.S. EPA - Copy of Court Reporter transcript	220.95	220.95
10/18/2008 Action Reprographics - Scanning; digital reprints	421.57	421.57
SUBTOTAL:		[751.27]
Total costs		\$751.27
Total amount of this bill		\$2,708.27
Previous balance		\$24,810.48
Balance due		\$27,518.75

Beving, Swanson & Forrest, P.C.
321 E. Walnut, Suite 200
Des Moines, IA 50309-2048
(515) 288-6572

Fed. ID #42-1139417

Invoice submitted to:

Lowell Vos
Lowell Vos Feedlot
33823 340th Street
Kingsley, IA 51028

Current bill date: December 05, 2008
In Reference To: E8936
Invoice # 16456

Professional Services

	<u>Hours</u>	<u>Amount</u>
<u>EPA Enforcement</u>		
11/6/2008 EM Analysis regarding reply to EPA motion and preparation of brief	1.20	228.00
11/7/2008 EM Prepared reply to motion to withdraw and research for brief	1.30	247.00
11/10/2008 EM Completed and filed reply to motion withdraw portion of complaint	0.50	95.00
SUBTOTAL:	[3.00	570.00]
For professional services rendered	3.00	\$570.00
Previous balance		\$27,518.75
Balance due		\$28,088.75

Services through November 30,
2008

Beving, Swanson & Forrest, P.C.
321 E. Walnut, Suite 200
Des Moines, IA 50309-2048
(515) 288-6572

Fed. ID #42-1139417

Invoice submitted to:

Lowell Vos
Lowell Vos Feedlot
33823 340th Street
Kingsley, IA 51028

Current bill date: January 26, 2009
In Reference To: E8936
Invoice # 16715

Professional Services

			<u>Hours</u>	<u>Amount</u>
<u>EPA Enforcement</u>				
12/2/2008	EM	Review and analysis of Order from Judge Moran on EPA's Motion to Withdraw Count I; prepared brief	0.60	114.00
12/3/2008	EM	Analysis of Judge's Order regarding effect on brief; Research and analysis for brief	0.60	114.00
12/9/2008	EM	Analysis regarding settlement offer to EPA	0.50	95.00
12/11/2008	EM	Telephone conference with Lowell regarding settlement and brief preparation; Analysis regarding attorneys fees	0.60	114.00
12/12/2008	EM	Analysis regarding settlement proposal; emails to and from EPA regarding settlement; prepared brief	0.80	152.00
12/15/2008	EM	Prepared brief; prepared request for permit variance to DNR	0.60	114.00
12/17/2008	EM	Letter to DNR regarding permit variance and prepared brief	0.40	76.00
12/22/2008	EM	Research and analysis for brief	1.20	228.00
12/24/2008	EM	Prepared brief	1.40	266.00
12/26/2008	EM	Research in preparation of brief	1.00	190.00
12/27/2008	EM	Researched and prepared brief	2.30	437.00
12/28/2008	EM	Research for brief	0.50	95.00
12/29/2008	EM	Research for brief	2.50	475.00

Services through December 31,
2008

		<u>Hours</u>	<u>Amount</u>
12/30/2008	EM Review and analysis of transcript in preparation of brief	4.30	817.00
12/31/2008	EM Prepared and submitted request for variance for construction permit to DNR; Review and analysis of testimony for brief	6.20	1,178.00
	SUBTOTAL:	[23.50	4,465.00]
	For professional services rendered	23.50	\$4,465.00
	Previous balance		\$28,088.75
1/2/2009	Payment - thank you		(\$10,000.00)
	Total payments and adjustments		(\$10,000.00)
	Balance due		<u><u>\$22,553.75</u></u>

Beving, Swanson & Forrest, P.C.
321 E. Walnut, Suite 200
Des Moines, IA 50309-2048
(515) 288-6572

Fed. ID #42-1139417

Invoice submitted to:

Lowell Vos
Lowell Vos Feedlot
33823 340th Street
Kingsley, IA 51028

Current bill date: February 24, 2009
In Reference To: E8936
Invoice # 16888

Professional Services

			<u>Hours</u>	<u>Amount</u>
<u>EPA Enforcement</u>				
12/29/2008	LM	Research and analysis regarding NPDES requirements due to subsequent compliance	0.40	32.00
12/30/2008	LM	Research and analysis regarding NPDES requirements due to subsequent compliance	0.50	40.00
12/31/2008	LM	Research and analysis regarding NPDES requirements due to subsequent compliance	0.50	40.00
1/1/2009	EM	Review and analysis of transcript in preparation of brief	6.80	1,394.00
	LM	Research and analysis regarding NPDES requirements due to subsequent compliance	2.50	200.00
1/2/2009	EM	Researched and drafted brief	8.20	1,681.00
	LM	Research and analysis regarding NPDES requirements due to subsequent compliance	0.50	40.00
1/3/2009	EM	Prepared brief	5.20	1,066.00
	LM	Drafted brief section	2.00	160.00
1/4/2009	EM	Researched, drafted and edited brief	3.80	779.00
1/5/2009	EM	Prepared brief	1.00	205.00
1/6/2009	EM	Drafted and edited brief	0.50	102.50
1/7/2009	EM	Drafted and revised brief	1.00	205.00
1/8/2009	EM	Revised brief	2.30	471.50

Services through January 31, 2009

	<u>Hours</u>	<u>Amount</u>
1/9/2009 EM Completed brief	3.00	615.00
1/10/2009 EM Research and analysis for reply brief	0.30	61.50
	<hr/>	<hr/>
SUBTOTAL:	[38.50	7,092.50]
	<hr/>	<hr/>
For professional services rendered	38.50	\$7,092.50

Additional Charges :

	<u>Price</u>
<u>EPA Enforcement</u>	
1/5/2009 Legal Research Services - <i>Excluded from claim</i>	1,410.00 1,410.00
	<hr/>
SUBTOTAL:	[1,410.00]
	<hr/>
Total costs	\$1,410.00
	<hr/>
Total amount of this bill	\$8,502.50
Previous balance	\$22,553.75
	<hr/>
Balance due	\$31,056.25
	<hr/> <hr/>

Beving, Swanson & Forrest, P.C.
321 E. Walnut, Suite 200
Des Moines, IA 50309-2048
(515) 288-6572
 Fed. ID #42-1139417

Invoice submitted to:

Lowell Vos
 Lowell Vos Feedlot
 33823 340th Street
 Kingsley, IA 51028

Current bill date: April 13, 2009
 In Reference To: E8936
 Invoice # 17255

Professional Services

		<u>Hours</u>	<u>Amount</u>
<u>EPA Enforcement</u>			
2/19/2009	EM	Researched and prepared reply brief	0.80 164.00
	JV	Review briefs, research cases cited by EPA	3.40 476.00
2/22/2009	JV	Research cases cited by EPA; Finish reading and reviewing EPA brief and cases, statutes and regulations cited	2.90 NO CHARGE
2/23/2009	EM	Prepared reply brief	0.60 123.00
	JV	Researched cases cited by EPA in brief	0.70 98.00
2/24/2009	EM	Analysis regarding draft of reply brief	0.60 123.00
	JV	Researched EAB decisions for Clean Water Act Penalties and Violations	2.00 280.00
2/25/2009	JV	Finished drafting response brief	2.80 NO CHARGE
2/27/2009	EM	Research and analysis for reply brief	1.00 205.00
2/28/2009	EM	Researched and prepared reply brief	3.60 738.00
3/1/2009	EM	Prepared reply brief	3.60 738.00
	JV	Revised Penalty Portion of Response Brief	0.70 98.00
3/2/2009	EM	Prepared reply brief	3.30 676.50
	JV	Reviewed Response Brief; Revised case citations	1.30 182.00
3/4/2009	JM	Research and analysis for brief.	1.90 152.00
3/5/2009	EM	Review and analysis of EPA reply brief	0.30 61.50

Services through March 31, 2009

	<u>Hours</u>	<u>Amount</u>
3/26/2009 EM Telephone conference with Lowell regarding closing the feedlot and DNR rules and NPDES permit - <i>Excluded from claim</i>	0.40	82.00
<hr/>		
SUBTOTAL:	[29.90	4,197.00]
<hr/>		
For professional services rendered	29.90	\$4,197.00
Previous balance		\$31,056.25
<hr/>		
Balance due		\$35,253.25
<hr/> <hr/>		

Beving, Swanson & Forrest, P.C.
321 E. Walnut, Suite 200
Des Moines, IA 50309-2048
(515) 288-6572

Fed. ID #42-1139417

Invoice submitted to:

Lowell Vos
Lowell Vos Feedlot
33823 340th Street
Kingsley, IA 51028

Current bill date: May 19, 2009
In Reference To: E8936
Invoice # 17539

	<u>Amount</u>
Previous balance	\$35,253.25
Balance due	<u>\$35,253.25</u>

Services through April 30, 2009

Beving, Swanson & Forrest, P.C.
321 E. Walnut, Suite 200
Des Moines, IA 50309-2048
(515) 288-6572

Fed. ID #42-1139417

Invoice submitted to:

Lowell Vos
 Lowell Vos Feedlot
 33823 340th Street
 Kingsley, IA 51028

Current bill date: July 17, 2009
 In Reference To: E8936
 Invoice # 17937

Professional Services

	<u>Hours</u>	<u>Amount</u>
6/1/2009 EM Telephone conference with Marv Richardson regarding farm purchase and basin - <i>Excluded from claim</i>	0.30	61.50
SUBTOTAL:	[0.30	61.50]
<u>EPA Enforcement</u>		
6/8/2009 EM Review and analysis of ALJ's decision	1.20	246.00
6/9/2009 EM Review and analysis of ALJ's decision and potential appeal	1.20	246.00
6/12/2009 JV Reviewed EPA decision regarding claim for attorney's fees	0.90	126.00
6/29/2009 JV Researched when a judgment is final for purposes of Equal Access to Justice Act	0.30	42.00
SUBTOTAL:	[3.60	660.00]
For professional services rendered	3.90	\$721.50
Previous balance		\$35,253.25
5/21/2009 Payment - thank you		(\$35,253.25)

Services through June 30, 2009

Lowell Vos

Page 2

	<u>Amount</u>
Total payments and adjustments	(\$35,253.25)
Balance due	<u>\$721.50</u>

Beving, Swanson & Forrest, P.C.
321 E. Walnut, Suite 200
Des Moines, IA 50309-2048
(515) 288-6572

Fed. ID #42-1139417

Invoice submitted to:

Lowell Vos
 Lowell Vos Feedlot
 33823 340th Street
 Kingsley, IA 51028

Current bill date: August 10, 2009
 In Reference To: E8936
 Invoice # 18141

Professional Services

	<u>Hours</u>	<u>Amount</u>
<u>EPA Enforcement</u>		
7/17/2009 EM Analysis of claim for attorneys fees	0.80	164.00
7/24/2009 EM Analysis regarding claim for attorneys fees	0.70	143.50
7/28/2009 EM Analysis of status of Environmental Appeals Board action; Analysis regarding claim for attorneys fees; email to Des Moines Register regarding editorial	1.50	307.50
JV Prepared claim for attorneys fees	1.00	140.00
7/29/2009 EM Research and analysis regarding claim for attorneys fees; prepared summary of the ALJ decision	1.20	246.00
SUBTOTAL:	[5.20	1,001.00]
For professional services rendered	5.20	\$1,001.00
Previous balance		\$721.50
7/30/2009 Payment - thank you		(\$721.50)
Total payments and adjustments		(\$721.50)

Services through July 31, 2009

Lowell Vos

Page 2

Amount

Balance due

\$1,001.00

INVOICE

Terracon

Terracon Consultants, Inc.
600 SW 7th Street, Suite M
Des Moines, IA 50309
515-244-3184

Lowell Vos
Lowell Vos Farm Feed
33823 340th St
Kingsley IA 51028-8707

RE: Expert Testimony USEPA vs. Lowell Vos
33823 340th St
Kingsley IA

REMIT TO:

Invoice Number: 0889753

Terracon Consultants, Inc.
PO Box 931277
Kansas City MO 64193-1277

Federal E.I.N. 42-1249917

Project Number: 08087073

Invoice Date: 9/5/2008

Customer PO:

Project Manager: Hentges, Gerald T.

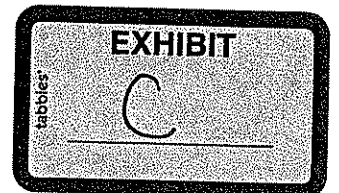
For Period: From 8/10/2008 to 8/23/2008

For services in conjunction with file review for the above-referenced project in Kingsley, Iowa.

Quantity	Description	Unit Price	Total
9.00	Senior Project Manager	\$125.00 / Hour	\$1,125.00
		Total	\$1,125.00

Handwritten notes:
 ✓ 9/30/08
 CR # 10927

We accept MasterCard, VISA and Discover. Please call (800) 593-7777, option 12, with your credit card information.
TERMS: DUE UPON PRESENTATION OF INVOICE



Terracon

INVOICE

Terracon Consultants, Inc.
 600 SW 7th Street, Suite M
 Des Moines, IA 50309
 515-244-3184

Lowell Vos
 Lowell Vos Farm Feed
 33823 340th St
 Kingsley IA 51028-8707

RE: Expert Testimony USEPA vs. Lowell Vos
 33823 340th St
 Kingsley IA

REMIT TO:

Invoice Number: **0889836**

Terracon Consultants, Inc.
 PO Box 931277
 Kansas City MO 64193-1277

Federal E.I.N. 42-1249917

Project Number: **08087073**

Invoice Date: **10/20/2008**

Customer PO:

Project Manager: **Hentges, Gerald T.**

For Period: **From 8/24/2008 to 10/11/2008**

For services in conjunction with review of USEPA Compliant for the Lowell Vos facility, travel and expenses to visit the facility, and preparation for and expert testimony in court.

Quantity	Description	Unit Price	Total
	Site Visit & Report Preparation		
20.00	Senior Project Manager	\$125.00 / Hour	\$2,500.00
0.25	Draftsperson	\$68.00 / Hour	\$17.00
0.25	Clerical / Administrative Staff	\$51.00 / Hour	\$12.75
	Miscellaneous Expenses	Cost + 20%	\$10.80
421.00	Mileage	\$0.59 / Mile	\$248.39
	<i>Subtotal</i>		\$2,788.94
	Preparation for Court & Expert Testimony		
23.00	Senior Project Manager	\$150.00 / Hour	\$3,450.00
11.00	Mileage	\$0.59 / Mile	\$6.49
	<i>Subtotal</i>		\$3,456.49
	Total		\$6,245.43

We accept MasterCard, VISA and Discover. Please call (800) 593-7777, option 12, with your credit card information.
 TERMS: DUE UPON PRESENTATION OF INVOICE

746739

Eisenbraun & Associates
Professional Engineers & Surveyors

215 Walnut Street, Yankton, SD 57078 (605) 665-8092

Mr. Lowell Vos
33823 340th Street
Kingsley, IA 51028

September 30, 2008
Invoice No: 21774
Project No: Y04122.X05

Re: Lowell Vos Feedlot

For the period from August 24, 2008 to September 20, 2008.
Project Manager: Bradley S. Woerner

FOR PROFESSIONAL SERVICES provided during the period noted for expert witness testimony at EPA hearings and subsequent correspondence with client's attorney.

Description	Hours	Amount
Engineering Project Drafting	1.25	\$118.75
Court Preparation	11.00	\$1,375.00
Expert Witness Testimony	11.50	\$1,437.50
Client Consultation	0.50	\$62.50
Total Fee Charges	24.25	\$2,993.75

Mileage	\$191.16
Subsistence: Food & Lodging	191.11
Total Reimbursable Expenses	\$382.27

Current Invoice Total

\$3,376.02

Total Balance Now Due

\$3,376.02

9/29/30/1

10924

Payment for our services is now due and will become Past Due after 30 days at which time a late charge of 1.5% per month may be applied to any Past Due balance. If you detect any problem with any of the work we have done for you or with our ability to maintain schedule and budget, please contact the Project Manager listed above immediately. Otherwise, we look forward to your prompt payment. Thank you!

