

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

BEFORE THE ADMINISTRATOR

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ENVIRONMENTAL PROTECTION
AGENCY-REGION VII
REGIONAL HEARING CLERK

<p>IN THE MATTER OF LOWELL VOS</p> <p>d/b/a LOWELL VOS FEEDLOT</p> <p>WOODBURY COUNTY, IOWA</p> <p>Respondent.</p>	<p>Docket No. CWA-07-2007-0078</p> <p>LOWELL VOS' RESPONSE TO COMPLAINANT'S MOTION TO TOLL TIME TO FILE ANSWER, MOTION TO COMPEL, AND MOTION TO DISMISS</p>
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COMES NOW the Respondent, Lowell Vos, and in response to the Complainant's Motion To Toll Time To File Answer, Motion To Compel, And Motion To Dismiss states:

RESPONSE TO MOTION TO TOLLTIME FOR EPA TO FILE ANSWER

Vos does not object to Complainant's motion to toll the time to file its answer to allow it three weeks after receiving the information requested in Complainant's Motion To Toll Time To File Answer, Motion To Compel, And Motion To Dismiss to file its answer.

RESPONSE TO MOTION TO COMPEL PROVISION OF ADDITIONAL INFORMATION

In responding to the Order dated September 16, 2009 granting Complainant's Motion to Toll Time and for Additional Information, Vos has not failed or refused to disclose payments to him from a third party related to the above mentioned adjudication as there are no such payments and therefore nothing to disclose. However, Vos unintentionally but mistakenly omitted from his previously filed affidavit a statement that no payments or monetary assistance has been received. Vos has no objections to the additional information requested by Complainant's in the Motion to Toll Time to File Answer, Motion to Compel, and Motion to Dismiss and in response to that request, Vos submits the following affidavits:

1. Affidavit of Lowell Vos

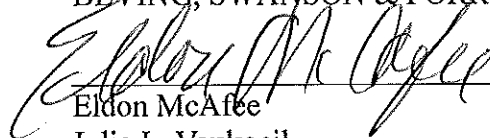
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2. Affidavit of Bruce Berven, Executive Vice President of the Iowa Cattlemen's Association

RESPONSE TO MOTION TO DISMISS APPLICATION

Vos objects to Complainant's Motion to Dismiss his EAJA application. The United States Supreme Court has ruled that an application for attorney fees under EAJA can be amended after the thirty day filing deadline in order to cure a deficiency, stating that an amendment would not prejudice the Government. *Scarborough v. Principi*, 541 U.S. 401 (2004). The additional information requested by Complainant and supplied by Vos after the thirty day filing deadline does not prejudice EPA and therefore Vos' EAJA Application for Attorney Fees and Costs should not be dismissed.

BEVING, SWANSON & FORREST



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CERTIFICATE OF SERVICE

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 27 day of NOVEMBER, 2007.

By: U.S. Mail FAX
 Hand Delivered Overnight Courier
 Federal Express Other: _____

Signature: *Sandra K. Hendy*

Original and one copy by first class U.S. Mail to:

Sybil Anderson
Headquarters Hearing Clerk
Office of Administrative Law Judges
U.S. Environmental Protection Agency
1099 14th Street, N.W., Suite 350
Washington, D.C. 20005

A copy by first class U.S. Mail and Facsimile to:

Judge William B. Moran
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 first class U.S. mail and electronic mail to:

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

UNITED STATES ENVIRONMENTAL PROTECTIVE AGENCY
BEFORE THE ADMINISTRATOR

IN THE MATTER OF LOWELL VOS d/b/a LOWELL VOS FEEDLOT WOODBURY COUNTY, IOWA Respondent.	Docket No. CWA-07-2007-0078 AFFIDAVIT OF LOWELL VOS
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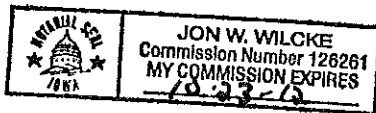
STATE OF IOWA)
)ss:
COUNTY OF WOODBURY)

I, Lowell Vos, being first duly sworn upon oath, do hereby depose and state that I have not receive any payments or monetary assistance from any third parties, including but not limited to the Iowa Cattlemen's Association, relating to the adjudication of the above referenced matter.

Dated this 26 day of October, 2009.

Lowell Vos
Lowell Vos

Subscribed and sworn to before me this 26th day of October, 2009.



Jon W. Wilcke
NOTARY PUBLIC IN AND FOR
THE STATE OF IOWA

