

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

IN THE MATTER OF:

New Prime, Inc.
3720 West 800 South
Salt Lake City, Utah

Respondent.

Proceedings under Section 3008(a) of the Solid Waste Disposal Act, as amended by, inter alia, the Resource Conservation and Recovery Act, 42 U.S.C. § 6928(a)

Docket No. RCRA-08-2020-0007

SECOND SUPPLEMENT TO
COMPLAINANT'S PREHEARING
EXCHANGE

Complainant, United States Environmental Protection Agency, Region 8 (EPA), by and through the undersigned, pursuant to section 22.19(f) of the Consolidated Rules of Practice (40 C.F.R. 40 C.F.R. § 22.19(f)), and the Prehearing Order of the Presiding Officer in this matter dated November 2, 2020, hereby supplements Complainant's Prehearing Exchange with the addition of Exhibit CX66.

Complainant filed a Motion for Accelerated Decision on Liability and Penalty and Memorandum in Support on February 22, 2021 ("Motion"). Respondent filed a Response to Motion for Accelerated Decision on March 9, 2021. In Complainant's Reply to Respondent's Response to Complainant's Motion for Accelerated Decision on Liability and Penalty filed on March 19, 2021, Complainant asserted that it would file a rebuttal expert report once completed, assuming the Presiding Officer has not ruled in Complainant's favor. *Id.* at 11, fn 4. This supplemental filing does not affect Complainant's position that potential for harm can be determined on consideration of the Motion. *Id.*

Complainant received Respondent's Expert Report (RX 20) on January 8, 2021, as part of Respondent's Prehearing Exchange. EPA prepared and filed Complainant's Rebuttal Prehearing Exchange on January 22, 2021, as required by the Prehearing Order of the Presiding Officer in this

matter dated November 2, 2020. Although EPA was able to identify and obtain authorization for two expert witnesses from EPA's National Enforcement Investigation Center to rebut the information in Respondent's Prehearing Exchange, Dr. Keteles needed additional time to review the prehearing exchange information in order to prepare a rebuttal expert report. For this reason, Complainant now supplements its Prehearing Exchange to include Dr. Keteles rebuttal expert report, entitled Expert Opinion Report, Prime, Inc., is identified as CX66.

Dated: July 16, 2021

Respectfully Submitted,

Laurianne Jackson
Senior Assistant Regional Counsel
U.S. Environmental Protection Agency,
Region 8

CERTIFICATE OF SERVICE

The undersigned certifies that on July 16, 2021, I filed electronically the foregoing **SECOND SUPPLEMENT TO COMPLAINANT’S PREHEARING EXCHANGE** with the Clerk of the Office of Administrative Law Judges using the OALJ E-Filing System and sent by electronic mail to Mark Ryan, attorney for Respondent, at mryanboise@msn.com and Scott McKay, attorney for Respondent, at smckay@nbmlaw.com.

July 16, 2021
Date

By: /s/ Kate Tribbett
Kate Tribbett
Paralegal