

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 7
11201 RENNER BOULEVARD
LENEXA, KS 66219

IN THE MATTER OF:)
)
Collis, Inc.)
)
)
EPA ID Number IAD047303771)
)
Respondent)
)
Proceeding under Section 3008 (a) and (g) of)
the Resource Conservation and Recovery Act)
as amended, 42 U.S.C. § 6928(a) and (g).)

RECEIVED BY OALJ
2012 NOV 16 AM 10:13

Docket No. RCRA-07-2012-0014

COMPLAINANT'S PREHEARING EXCHANGE

Comes now the Complainant and makes the following pre-hearing exchange as directed by the orders of the Presiding Officer dated September 10, 2012 and October 2, 2012.

I. Place of Hearing and Estimated Duration

Complainant requests that the hearing be held in Clinton, Iowa. Complainant estimates that it needs 2 days to present its case.

II. Intended Witnesses and Summary of Expected Testimony

- 1. Kevin Snowden
Environmental Scientist
U.S. Environmental Protection Agency
Region 7
1121 Renner Blvd.
Lenexa, KS 66219

Mr. Snowden will testify as to his review of the evidence compiled during multiple investigations of Respondent's facility in Clinton, Iowa, and the factual basis for the Agency's determination that the Respondent violated the RCRA statute and regulations as charged in the

Complaint. Mr. Snowden will also testify as to the published policy of the Agency in assessing penalties for such violations and the application of that policy to the instant case.

2. David Whiting
Environmental Engineer
U.S. Environmental Protection Agency
Region 7
1121 Renner Blvd.
Lenexa, KS 66219

Mr. Whiting will testify regarding his inspection of Respondent's facility in September of 2007. He will also testify regarding his communications with company officials and employees of Collis, Inc., as well as regarding documents received during the course of his investigation and the contents of the inspection report on this matter.

3. Heather K. Wood
Geologist/Contract Inspector
Tetra Tech EM, Inc
4901 W. 136th Street
Leawood, KS 66224

Ms. Wood will testify regarding her inspection of Respondent's facility in June of 2010. She will also testify regarding her communications with company officials and employees of Collis, Inc., as well as regarding documents received during the course of her investigation and the contents of the inspection report on this matter.

4. Donald Toensing
Chief
Waste Enforcement & Materials Management Branch
Air & Waste Management Division
U.S. Environmental Protection Agency
Region 7
1121 Renner Blvd.
Lenexa, KS 66219

Mr. Toensing will testify as to the published policy of the Agency in assessing penalties for the violations alleged in the Complaint.

5. Industrial Economics

The EPA will call Gail Coad, from EPA financial contractor Industrial Economics, to testify as to the underlying accounting assumptions of the BEN computer model utilized to calculate the economic benefit of noncompliance portion of the penalty assessed. Ms. Coad's resume is attached to this filing.

6. Mark Steele
EPA and OSHA Compliance Officer
Collis, Inc.
2005 S. 19th Street
Clinton, IA 52732

The EPA intends to call Mr. Steele to testify as to representations made to the EPA contract inspector in the 2010 inspection.

7. Hank Evans
General Manager
Collis, Inc.
2005 S. 19th Street
Clinton, IA 52732

The EPA intends to call Mr. Evans to testify as to representations made to the EPA contract inspector in the 2010 inspection, and as to the general operations of the facility.

III. Exhibits

1. Report of RCRA Compliance Evaluation Inspection, signed 9/28/2007
2. Report of RCRA Compliance Evaluation Inspection, signed 7/19/2010
3. RCRA Subtitle C Site Identification Form, signed 1/22/07
4. Multiple Uniform Hazardous Waste Manifests from 2006
5. Photo Log and Photographs #3 and 4, dated 9/7/2007
6. Notice of Violation dated 9/10/2007
7. Collis Letter dated September 21, 2007
8. Photographs #13-36 and descriptions from June 2, 2012 inspection
9. Notice of Preliminary Findings dated June 2, 2010
10. Table listing containers in filter building container storage area from 2010 CEI
11. Letter from SSW Holding dated June 14, 2010
12. Letter of Warning/Request for Information dated September 15, 2010
13. Collis Letter dated November 12, 2010

14. Collis Letter dated October 27, 2011
15. EPA Delegation 8-9-A
16. Regional Delegations Manual R7-8-009-A
17. RCRARep Permit Report

IV. Penalty Calculation Narrative

A penalty calculation narrative for the matter prepared by Kevin Snowden, EPA Environmental Scientist, is attached to this prehearing exchange.

V. Paperwork Reduction Act

After review, Complainant has ascertained that the Paperwork Reduction Act of 1990 (PRA), 44 U.S.C. §§ 3501 *et seq.*, does not apply to this proceeding, that there is not a current Office of Management and Budget control number involved herein, and the provisions of Section 3512 of the PRA are not applicable to this case.

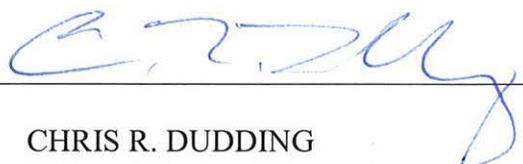
VI. Other Matters

In establishing its case, Complainant requests the right to call all witnesses called by Respondent and to use all documentary evidence submitted by Respondent.

Complainant requests that, after reasonable notice and opportunity for review, the Presiding Officer admit into evidence any additional testimonial or documentary evidence that is relevant or material to the case.

Respectfully submitted,

U.S. ENVIRONMENTAL PROTECTION AGENCY

BY: 

CHRIS R. DUDDING
Office of Regional Counsel
U.S. Environmental Protection Agency
11201 Renner Boulevard
Lenexa, KS 66219

ATTORNEY FOR COMPLAINANT

5 of 5

CERTIFICATE OF SERVICE

I hereby certify that on this 15th day of November, 2012, I sent via overnight delivery two copies of this Complainant's Prehearing Exchange to:

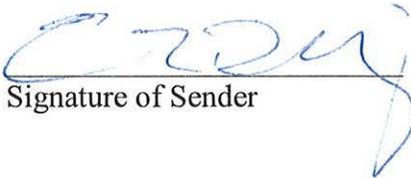
Office of the Hearing Clerk
U.S. Environmental Protection Agency
Office of Administrative Law Judges
1099 14th St. NW
Suite 350, Franklin Court
Washington, DC 20005

And sent one true and correct copy via First Class Mail to:

Charles M. Denton
Barnes & Thornburg LLP
171 Monroe Ave, N.W., Ste 1000
Grand Rapids, MI 49503

And

The Honorable Susan L. Biro
Chief Administrative Law Judge
U.S. Environmental Protection Agency
Office of Administrative Law Judges
1200 Pennsylvania Ave, N.W., Mail Code 1900L
Washington, D.C. 20460


Signature of Sender

RECEIVED BY OALJ
2012 NOV 16 AM 10:13