



UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE ADMINISTRATOR

In the Matter of:)
)
Tony L. Brown and Joshua A. Brown) **Docket No. CWA-07-2016-0053**
d/b/a/ Riverview Cattle,)
)
Respondents.)

**ORDER ON COMPLAINANT’S MOTION TO
SUPPLEMENT PREHEARING EXCHANGES**

On November 14, 2016, I issued a Prehearing Order in this matter, directing the parties to file and serve prehearing exchanges.¹ Consistent with the Prehearing Order, Complainant submitted an Initial Prehearing Exchange on January 6, 2017, and a Rebuttal Prehearing Exchange on March 31, 2017. Likewise, Respondents submitted their Prehearing Exchange on February 27, 2017. Subsequently, on April 10, 2018, Complainant filed a First Supplement to its Prehearing Exchange. By order dated April 10, 2018, I scheduled the hearing in this matter to commence on June 18, 2018.

Complainant filed an Unopposed Motion to Supplement Prehearing Exchanges (“Motion to Supplement”), along with additional proposed exhibits, on May 2, 2018. In the Motion to Supplement, Complainant seeks leave to supplement its prehearing exchange with the proposed exhibits contemporaneously filed, and represents that Respondents do not object to the proposed supplementation. In subsequent communication with the Office of Administrative Law Judges, counsel for Respondents confirmed that Respondents do not object to the supplementation proposed in the Motion to Supplement.

Pursuant to the procedural rules governing this proceeding (“Rules of Practice”), set forth at 40 C.F.R. Part 22, a party must promptly supplement or correct its prehearing exchange upon learning that the information exchanged is “incomplete, inaccurate or outdated,” and the additional or corrective information has not otherwise been disclosed to the other party through the prehearing exchange process. 40 C.F.R. § 22.19(f). Further, the Rules of Practice provide that if a party fails to provide any exhibit that must be exchanged through the prehearing exchange process to all parties at least 15 days before the hearing date, the Presiding Officer shall not admit that exhibit into evidence unless the proposing party “had good cause for failing to exchange the required information and provided the required information to all other parties as soon as it had control of the information, or had good cause for not doing so.” 40 C.F.R. § 22.22(a)(1). Additionally, the Prehearing Order in this matter further provided that

¹ The filing deadlines for the prehearing exchanges established by the Prehearing Order were extended by subsequent orders upon the request of the parties.

supplements to a prehearing exchange submitted pursuant to 40 C.F.R. 22.19(f) must be filed with an accompanying motion to supplement the prehearing exchange when supplementation is sought within 60 days of the scheduled hearing.

As the Motion to Supplement appropriately seeks leave for the supplementation to the prehearing exchange sought within 60 days of the scheduled hearing in this matter, provides justification for the supplementation sought, and is agreed upon by the parties, it is appropriate to grant the leave requested in the Motion to Supplement. Accordingly, the Motion to Supplement is **GRANTED**.

SO ORDERED.


Christine Donelian Coughlin
Administrative Law Judge

Dated:
May 4, 2018
Washington, D.C.

In the Matter of *Tony L. Brown and Joshua A. Brown, d/b/a Riverview Cattle*, Respondents.
Docket No. CWA-07-2016-0053

Certificate of Service

I hereby certify that copies of the foregoing Order on Complainant's Motion to Supplement Prehearing Exchanges, dated and issued by Administrative Law Judge Christine Donelian Coughlin on May 4, 2018, were sent this day to the following parties in the manner indicated below.



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Original and One Copy by Hand Delivery to:

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Dated: May 4, 2018
Washington, D.C.