

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 7

Tony L. Brown and)
Joshua A. Brown) Docket No. CWA-07-2016-0053
d/b/a Riverview Cattle)
Armstrong, Iowa) SECOND JOINT
) PREHEARING STIPULATIONS
Respondents)
_____)

In response to the Presiding Officer's July 17, 2018 Second Notice of Hearing Order, Complainant Environmental Protection Agency ("EPA") and Respondents Tony L. Brown and Joshua A. Brown (d/b/a Riverview Cattle) hereby submit the following stipulations regarding facts, exhibits, and written witness statements.

Jointly Stipulated Facts for all time periods applicable to the violations alleged in the Complaint:

1. Respondents' facility had greater than 300 head of cattle present for 45 days or more in any 12-month period.
2. The East Fork of the Des Moines River located to the south of Respondents' facility is a water of the United States, as defined by as defined by 40 C.F.R. Part 122.2.

Jointly Stipulated Facts for Riverview Cattle facility conditions at the time of EPA's June 2014

Inspection:

3. The subsurface drain tile referenced in the Complaint traveled from the location of the former inlet at Respondents' facility, beneath the ground surface to the south, to an outlet on the north bank of the East Fork of the Des Moines River.

Joint Stipulations Regarding Exhibits:

Complainant EPA hereby stipulates to admit into evidence at hearing all exhibits included in Respondents' Prehearing Exchange dated February 24, 2017 and Respondents'

Supplemental Prehearing Exchange dated October 12, 2018.

With the exception of CX 18, Respondents hereby stipulate to admit into evidence at hearing all exhibits included in Complainant's Prehearing Exchanges, including Complainant's Prehearing Exchange, dated January 6, 2017; Complainant's Rebuttal Prehearing Exchange, dated March 31, 2017; Complainant's First Supplemental Prehearing Exchange, dated April 10, 2018; Complainant's Unopposed Motion to Supplement Prehearing Exchanges, dated May 2, 2018; Complainant's Motion to Supplement Prehearing Exchanges, dated June 1, 2018, and Complainant's Supplement to Prehearing Exchanges, dated October 12, 2018.

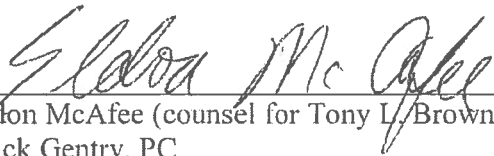
Stipulations regarding witness testimony:

At this time, the parties do not anticipate filing any additional written testimony before hearing. The parties will continue discussions regarding stipulations on witness testimony and the qualifications of identified expert witnesses.

RESPECTFULLY SUBMITTED this 16th day of November, 2018.



Shane E.C. McCain, Counsel for Complainant
Assistant Regional Counsel
U.S. Environmental Protection Agency
Region 7



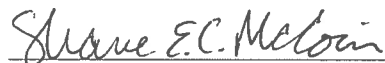
Eldon McAfee (counsel for Tony L. Brown and Joshua A. Brown, d/b/a Riverview Cattle)
Brick Gentry, PC
6701 Westown Parkway, Suite 100
West Des Moines, IA 50266-7703

CERTIFICATE OF SERVICE

I hereby certify that on this 16th day of November, 2018, I filed via the E-filing system the original of this Joint Prehearing Stipulations to the Office of Administrative Law Judges Hearing Clerk, and sent by email to Mr. Eldon McAfee, Esq, counsel for Respondents.

Eldon McAfee (counsel for Tony L. Brown and Joshua A. Brown, d/b/a Riverview Cattle)
Brick Gentry, PC
6701 Westown Parkway, Suite 100
West Des Moines, IA 50266-7703

Email: Eldon McAfee <Eldon.McAfee@brickgentrylaw.com>



Shane E.C. McCoin
Assistant Regional Counsel
U.S. Environmental Protection Agency, Region 7
11201 Renner Boulevard
Lenexa, Kansas 66219
(913) 551-7955
mccoin.shane@epa.gov