

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) INITIAL JOINT
) PREHEARING STIPULATIONS
Respondents)
_____)

In response to the Presiding Officer's April 10, 2018 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:

With the exception of RX 2 (Gerald Hentges Statement of Opinion), Complainant EPA hereby stipulates to admit into evidence at hearing all exhibits included in Respondents'

Prehearing Exchange (dated February 24, 2017).

With the exception of CX 18, CX 20, CX 20.1, and CX 20.2 (The Expert Report of Dr. Steven Wang and addendums) and CX 53, Respondents hereby stipulate to admit into evidence at hearing all exhibits included in Complainant's Prehearing Exchanges (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, and Complainant's Unopposed Motion to Supplement Prehearing Exchanges, dated May 2, 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 18nd day of May, 2018.

Howard Bunch

Howard Bunch, Counsel for Complainant
Sr. Assistant Regional Counsel
U.S. Environmental Protection Agency
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Eldon McAfee

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CERTIFICATE OF SERVICE

I hereby certify that on this 18th day of May, 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.

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