

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 7

IN THE MATTER OF)
)
)
C & S ENTERPRISE, L.L.C.,) DOCKET NO. CWA-07-2018-0095
)
)
Respondent)
) COMPLAINANT’S UNOPPOSED
) MOTION TO SUPPLEMENT
) PREHEARING EXCHANGE
)
_____)

Pursuant to 40 C.F.R. § 22.19(f) of the “Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties,” 40 C.F.R. Part 22 and the Presiding Officer's Order of August 1, 2018, Complainant United States Environmental Protection Agency submits this unopposed Motion to Supplement its prior Prehearing Exchange.

1. Complainant submitted its Prehearing Exchange on June 1, 2018, which identified Peter Stokely, EPA Office of Enforcement and Compliance Assurance, as an expert witness.
2. In the interim, Mr. Stokely prepared an expert report summarizing his findings, which has been marked Exhibit AX-31.
3. Complainant submitted the expert report to Respondent’s counsel on September 5, 2018 to determine if Respondent had any objections to the supplementation of the expert report.
4. On September 11, 2018, Respondent’s counsel advised Complainant that Respondent had no objection to Complainant supplementing its Prehearing Exchange with Mr. Stokely’s expert report.
5. The inclusion of Mr. Stokely’s expert report in Complainant’s Prehearing Exchange will not prejudice the Respondent, will streamline Mr. Stokely’s testimony, and otherwise will assist the Court in evaluating the evidence.
6. In their September 7, 2018 Joint Motion to Stipulate, the parties agreed to allow Dr. Delia Garcia to testify as an expert witness as to stream ecology.

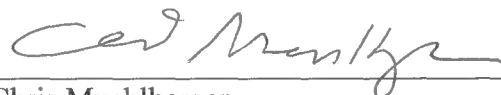
7. Complainant submits Dr. Garcia's Curriculum Vitae, which has been marked as Exhibit AX-32..
8. The inclusion of Dr. Garcia's Curriculum Vitae in Complainant's Prehearing Exchange will not prejudice the Respondent and will assist the Court in evaluating the evidence.
9. For purposes of the list of documents below, "Agency's Exhibit" is abbreviated as "AX_." Complainant proposes the following exhibits be allowed as a supplement to Complainant's May 31, 2018 Prehearing Exchange:

AX31 Expert Report from Peter Stokely, EPA Office of Enforcement and Compliance Assurance

AX32 Dr. Delia Garcia Curriculum Vitae

Based on the foregoing, Complainant respectfully request the Court to grant its Unopposed Motion to Supplement its Prehearing Exchange, and for any other relief the Court deems just and proper.

RESPECTFULLY SUBMITTED this 13th day of September, 2018.

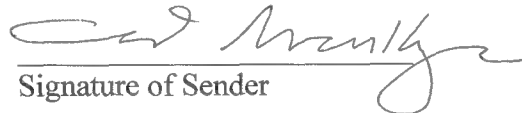


Chris Muehlberger
Assistant Regional Counsel
Region 7

CERTIFICATE OF SERVICE

I hereby certify that on this 13th day of September, 2018, I sent via the OALJ E-filing system the original and one copy of this Unopposed Motion to Supplement Prehearing Exchange, to the EPA Headquarters Hearing Clerk, and sent one true and correct copy via email to Mr. Eldon McAfee, Esq. at eldon.mcafee@brickgentrylaw.com.

Chris Muehlberger
Assistant Regional Counsel
U.S. Environmental Protection Agency, Region 7
11201 Renner Boulevard
Lenexa, Kansas 66209
(913) 551-7623
muehlberger.christopher@epa.gov


Signature of Sender

