



UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE ADMINISTRATOR

In the Matter of:)
)
Birds Eye Foods, Inc.,) **Docket Nos. MM-05-2018-0002**
) **CERCLA-05-2018-0005**
) **EPCRA-05-2018-0009**
)
Respondent.)

ORDER OF DESIGNATION

Administrative Law Judge Christine Donelian Coughlin, U.S. Environmental Protection Agency, Washington, D.C., is hereby designated as the Administrative Law Judge to preside in this proceeding under Section 109(b) of the Comprehensive Environmental Response, Compensation and Liability Act, as amended, 42 U.S.C. § 9609(b), and Section 325(b)(2) of the Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C. § 11045(b)(2), and in accordance with the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits, 40 C.F.R. Part 22.

Filing: As provided in 40 C.F.R. § 22.5(a), the original and one copy of each document intended to be part of the record of this proceeding shall be filed with the Headquarters Hearing Clerk. Electronic filing is strongly encouraged. To file a document electronically, the document shall be submitted to the Headquarters Hearing Clerk using the OALJ E-Filing System, a web-based tool that can be accessed by visiting the website for the Office of Administrative Law Judges (“OALJ”) at www.epa.gov/alj.¹ A document filed electronically is deemed to constitute both the original and one copy of the document.

Any party choosing to file electronically must first register to use the OALJ E-Filing System. Registration is not automated. There may be a delay of one to two business days between the time a party applies for registration and the time that party will be able to upload documents into the system.

A document submitted to the OALJ E-Filing System is considered “filed” at the time and date of electronic reception, as recorded by the OALJ E-Filing System immediately upon reception. To be considered timely, documents submitted through the OALJ E-Filing System must be received by 11:59 p.m. Eastern Time on the date the document is due, unless another time is specified by the presiding judge. Within an hour of a document being electronically filed,

¹ More information about electronic filing may be found in the Standing Order Authorizing Electronic Filing in Proceedings before the Office of Administrative Law Judges, available on the OALJ’s website at www.epa.gov/alj.

the OALJ E-Filing System will generate an electronic receipt of the submission that will be sent by email to both the party submitting the document and the Headquarters Hearing Clerk.

The OALJ E-Filing System will accept any type of digital file, but the file size is limited to 70 megabytes.² Electronically filed textual documents must be in Portable Document Format (“PDF”).

Alternatively, documents may be filed by U.S. mail, commercial delivery service, personal delivery, or facsimile (if fewer than 20 pages). To file a document using the U.S. Postal Service, the document shall be sent to the following mailing address:

Mary Angeles, Headquarters Hearing Clerk
U.S. Environmental Protection Agency
Office of Administrative Law Judges
1200 Pennsylvania Ave., NW
Mail Code 1900R
Washington, DC 20460

To file a document using a commercial delivery service, such as UPS and FedEx, or by delivering the document in person, the document shall be sent to the following physical address:

Mary Angeles, Headquarters Hearing Clerk
U.S. Environmental Protection Agency
Office of Administrative Law Judges
Ronald Reagan Building, Room M1200
1300 Pennsylvania Ave., NW
Washington, DC 20004

To file a document using facsimile, the document shall be sent to (202) 565-0044.

A document submitted by U.S. mail, commercial delivery service, personal delivery, or facsimile is considered “filed” when the Headquarters Hearing Clerk physically receives it, as reflected by the inked date stamp physically applied by the Headquarters Hearing Clerk to the paper copy of the document. The OALJ is open to receive such paper filings between 8:30 a.m. and 4:30 p.m. Eastern Time, Monday through Friday.

Regardless of the method of filing, the original of all filed documents must be signed in accordance with 40 C.F.R. § 22.5(c), and must contain a return name, mailing address, telephone number, and email address.

Service: A copy of each document filed in this proceeding shall be “served” by the filing party on the presiding judge and on all other parties. 40 C.F.R. § 22.5(b). Documents may be served by U.S. mail, commercial delivery service, or personal delivery, or by facsimile or email, if service by those electronic means is consented to in writing, in accordance with 40 C.F.R. §

² If your multimedia file exceeds 70 megabytes, you may submit the file on a compact disc or USB flash drive and mail it to one of the addresses listed herein or contact the main number for the Office of Administrative Law Judges at (202) 564-6255 for instructions on alternative electronic filing methods.

22.5(b)(2). Documents filed electronically through the OALJ E-Filing System are deemed to have also been served electronically on the presiding judge. If documents are served on the presiding judge by U.S. mail, commercial delivery service, or personal delivery, the respective addresses listed above shall be used. If documents are served on the presiding judge by facsimile, the facsimile number listed above shall be used. Service will be considered complete upon mailing, when placed in the custody of a commercial delivery service, upon personal delivery, or upon transmission by facsimile or email. 40 C.F.R. § 22.7(c).

Privacy Act Statement; Notice of Disclosure of Confidential and Personal Information; Waiver of Confidentiality and Consent to Public Disclosure: The parties are cautioned that, unless redacted, all information filed with this Tribunal will be made publicly available. Thus, the parties are hereby advised not to file, or to redact (i.e., remove or obscure) where filing is necessary, any Confidential Business Information (“CBI”) or Personally Identifiable Information (“PII”) pertaining to any person. This may include information that, if disclosed to the public, would constitute an unwarranted invasion of personal privacy, such as Social Security numbers, medical records, and personal financial information.

To the extent that any person files or submits any un-redacted Confidential Business Information (“CBI”) or Personally Identifiable Information (“PII”) pertaining to themselves or their client, that person thereby waives any claims to confidentiality and thereby consents to public disclosure by EPA, including posting on the Internet, of all such information they submit. To protect such information against public disclosure, parties must follow the procedures specified on the OALJ’s website at www.epa.gov/alj.



Susan L. Biro
Chief Administrative Law Judge

Dated: July 20, 2018
Washington, D.C.

In the Matter of *Birds Eye Foods, LLC*, Respondent.
Docket Nos. MM-05-2018-0002, CERCLA-05-2018-0005, EPCRA-05-2018-0009

CERTIFICATE OF SERVICE

I hereby certify that the foregoing **Order of Designation**, dated July 20, 2018, and issued by Chief Administrative Law Judge Susan L. Biro, was sent this day to the following parties in the manner indicated below.



Mary Angeles
Paralegal Specialist

Original and One Copy by Personal Delivery to:

Mary Angeles, Headquarters Hearing Clerk
U.S. Environmental Protection Agency
Office of Administrative Law Judges
Ronald Reagan Building, Room M1200
1300 Pennsylvania Ave., NW
Washington, DC 20004

Copy by Electronic and Regular Mail to:

Jeffery M. Trevino
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For Respondent

Dated: July 20, 2018
Washington, D.C.