

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)	AWA Docket No. 03-0023
)	
John F. Cuneo, Jr., an individual;)	
The Hawthorn Corporation, an)	
Illinois corporation; Thomas M.)	
Thompson, an individual;)	
James G. Zajicek, an individual;)	
John N. Caudill, III, an individual;)	
John N. Caudill, Jr., an individual;)	
Walker Brother's Circus, Inc., a)	Ruling Denying Complainant's Motion
Florida corporation; and David A.)	for Shortened Time for John F.
Creech, an individual,)	Cuneo, Jr., and The Hawthorn
)	Corporation to File a Response to
Respondents)	Complainant's Appeal Petition

On August 26, 2004, the Administrator, Animal and Plant Health Inspection Service, United States Department of Agriculture [hereinafter Complainant], filed "Complainant's Appeal Petition" and "Complainant's Motion for Shortened Time for Respondents to File Response to Appeal Petition." On August 27, 2004, John F. Cuneo, Jr., and The Hawthorn Corporation [hereinafter Respondents] filed "Hawthorn Respondents' Opposition to Complainant's Motion for Shortened Time for Respondents to File Response to Appeal Petition."

Section 1.145(b) of the rules of practice applicable to this proceeding¹ provides that a party may respond to an appeal petition within 20 days after the Hearing Clerk serves the party with the appeal petition, as follows:

§ 1.145 Appeal to Judicial Officer.

.....
 (b) *Response to appeal petition.* Within 20 days after the service of a copy of an appeal petition and any brief in support thereof, filed by a party to the proceeding, any other party may file with the Hearing Clerk a response in support of or in opposition to the appeal and in such response any relevant issue, not presented in the appeal petition, may be raised.

7 C.F.R. § 1.145(b).

Complainant requests that I shorten Respondents' time for filing a response to Complainant's Appeal Petition from 20 days after the Hearing Clerk serves Respondents with Complainant's Appeal Petition to 3 days after the Hearing Clerk serves Respondents with Complainant's Appeal Petition (Complainant's Motion for Shortened Time for Respondents to File Response to Appeal Petition at 7). I carefully reviewed Complainant's Motion for Shortened Time for Respondents to File Response to Appeal Petition, and I do not find good reason to shorten Respondents' time for filing a response to Complainant's Appeal Petition.

For the foregoing reasons, the following Ruling should be issued.

RULING

¹The rules of practice applicable to this proceeding are the "Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary Under Various Statutes" (7 C.F.R. §§ 1.130-.151).

Complainant's Motion for Shortened Time for Respondents to File Response to Appeal Petition, filed August 26, 2004, is denied.

Done at Washington, DC

August 31, 2004

William G. Jenson
Judicial Officer