

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)	AWA Docket No. 15-0058
)	AWA Docket No. 15-0059
Douglas Keith Terranova, an individual;)	AWA Docket No. 16-0037
and Terranova Enterprises, Inc.,)	AWA Docket No. 16-0038
)	
Respondents)	Remand Order

On September 26, 2016, Administrative Law Judge Erin M. Wirth issued a Decision and Order in the instant proceeding. On November 22, 2016, the Administrator, Animal and Plant Health Inspection Service, United States Department of Agriculture [Administrator], filed Complainant's Petition for Appeal, and, on January 9, 2017, Douglas Keith Terranova and Terranova Enterprises, Inc., filed Respondents' Response to Appeal Petition and Cross Appeal. On January 20, 2017, the Hearing Clerk transmitted the record to the Office of the Judicial Officer for consideration and decision.

On November 29, 2017, the Solicitor General, on behalf of the United States, submitted a brief in *Lucia v. SEC*, (No. 17-130), in which the Solicitor General took the position that administrative law judges of the Securities and Exchange Commission are inferior officers for purposes of the Appointments Clause, U.S. Const. Art. II, § 2, cl. 2. Chief Administrative Law Judge Bobbie J. McCartney informed me that the Secretary of Agriculture has not appointed Administrative Law Judge Wirth as an inferior officer in accordance with the Appointments Clause.

To put to rest any Appointments Clause claim that may arise in this proceeding, I remand this proceeding to Chief Administrative Law Judge Bobbie J. McCartney for

assignment to an administrative law judge who has been appointed by the Secretary of Agriculture as an inferior officer in accordance with the of the Appointments Clause. The administrative law judge assigned to this proceeding shall:

Issue an order giving the Administrator, Mr. Terranova, and Terranova Enterprises, Inc., an opportunity to submit new evidence;

Consider the record, including any newly submitted evidence which the administrative law judge finds relevant, material, and not unduly repetitious and all substantive and procedural actions taken by Administrative Law Judge Wirth;

Determine whether to ratify or revise in any respect all prior actions taken by Administrative Law Judge Wirth; and

Issue an order stating that the administrative law judge has completed consideration of the record and setting forth the determination regarding ratification.

Done at Washington, DC

December 18, 2017

A solid black rectangular redaction box covering the signature of the Judicial Officer.

William G. Jenson
Judicial Officer