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FILED

2011 JAN -3 PM 4: 24

U.S. ENVIRONMENTAL PROTECTION AGENCY  
REGIONAL HEARING CLERK

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 9

In the Matter of: )  
SUN LAND MATERIALS, LLC, )  
RESPONDENT. )

**Docket No. CAA-9-2010-0003**  
**RESPONDENT'S ANSWER TO COMPLAINT AND RESPONDENT'S REQUEST FOR A HEARING**

Pursuant to an order dated October 22, 2010 of the Regional Judicial Officer, the time for Sun Land Materials, LLC to respond to this complaint was extended to and including January 3, 2011.

Respondent, Sun Land Materials, LLC, an Arizona limited liability company ("Sun Land Materials") is in the business of providing sand and gravel from property owned near and adjacent to the Salt River, Phoenix, Arizona, near 59<sup>th</sup> Avenue and Southern, on the south side of the river, with an address in Laveen, Arizona. Sun Land Materials has three to four employees, operates only on an as needed basis (about two to four days a week on average), and the current owners have been in place since 2004. The facility and the grounds for the operation reflect a clean operation, with little or no accumulations of dirt, dust or other materials on the facilities themselves, the vegetation on the

1 surrounding grounds, as well as from the stockpile of materials. Because the  
2 materials are mined from ground so near the river, the moisture level of the  
3 mined materials generally exceeds 5%.

4 In the past two years Sun Land Materials has experienced numerous  
5 inspections from personnel at the Maricopa County Air Quality Department  
6 ("MCAQD"). MCAQD issued notices of violations, and Sun Land Materials has  
7 cured all those violations.

8 Within about six months after the last of the inspections by  
9 MCAQD, representatives of the United States Environmental Protection Agency,  
10 Region 9 ("EPA") then inspected and issued violations which are the subject of  
11 this complaint. Sun Land Materials promptly cured all of the those violations  
12 before the conference on August 31, 2010 with the EPA in Phoenix, Arizona.  
13 Promptly after that conference, Sun Land Materials supplied the EPA with  
14 photographic and documentary evidence establishing that the violations had  
15 been cured.

16 In all instances, whether the violations were issued by MCAQD or  
17 EPA, the violations were of a technical nature and did not involve any violation  
18 that affected the public health and welfare.

19 Sun Land Materials believes that the enforcement and regulations  
20 of MCAQD and the EPA are and have been inconsistent.

21 Respondent responds as follows to the complaint.

22 1. While Sun Land Materials admits the substance of the  
23 preliminary statement, and paragraphs 1 through 43 of the complaint, Sun Land  
24 Materials asserts that the Complainant has usurped the jurisdiction of MCAQD,  
25 and the Complainant's enforcement of the rules adopted by MCAQD has  
26 resulted in two separate agencies, the EPA and MCAQD enforcing the same



1 ORIGINAL overnight mailed this  
2 30th day of December, 2010 for  
filing with:

3 Regional Hearing Clerk  
4 United States Environmental Protection Agency  
Region 9  
5 75 Hawthorne Street  
San Francisco, California 94105

6 and a COPY emailed and mailed this  
7 same date to:

8 David Kim  
9 Assistant Regional Counsel  
United States Environmental Protection Agency  
Region 9  
10 75 Hawthorne Street  
San Francisco, California 94105

11 By Frances M. Shermc  
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