

UNITED STATES DISTRICT COURT  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 8  
Docket No. CAA-08-2008-0016

2008 JUL -7 04:10:07

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IN THE MATTER OF:

Wasatch Metal Recycling  
401 West 900 South  
Salt Lake City, Utah 84101,

Respondent.

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**WASATCH METAL RECYCLING'S  
ANSWER TO COMPLAINT**

Wasatch Metal Recycling ("Wasatch Metal"), by and through its undersigned counsel, hereby answers the U.S. Environmental Protection Agency's ("EPA") complaint filed on May 9, 2008 ("Complaint").

**FIRST DEFENSE**

In response to the numbered paragraphs of EPA's Complaint, Wasatch Metal answers as follows:

1. The allegations contained in this paragraph do not call for a response, and therefore, no response is given. To the extent the allegations contained in this paragraph do call for a response, Wasatch Metal denies the allegations.

2. Wasatch Metal states that the allegation contained in this paragraph is a conclusion of law to which no response is required, and to the extent that such allegation requires a response, Wasatch Metal lacks knowledge or information sufficient to form a belief as to the truthfulness or accuracy of the allegation.

3. Wasatch Metal denies the allegations contained in this paragraph.

4. The allegations contained in paragraph do not call for a response, and therefore, no response is given. To the extent the allegations contained in this paragraph do call for a response, Wasatch Metal denies the allegations.

5. The allegations contained in paragraph do not call for a response, and therefore, no response is given. To the extent the allegations contained in this paragraph do call for a response, Wasatch Metal denies the allegations.

6. The allegations contained in paragraph do not call for a response, and therefore, no response is given. To the extent the allegations contained in this paragraph do call for a response, Wasatch Metal denies the allegations.

7. The allegations contained in paragraph do not call for a response, and therefore, no response is given. To the extent the allegations contained in this paragraph do call for a response, Wasatch Metal denies the allegations.

8. The allegation contained in this paragraph is a conclusion of law to which no response is required, and to the extent that such allegation requires a response, such allegation is denied.

9. The allegations contained in this paragraph are conclusions of law to which no responses are required, and to the extent that such allegations requires responses, such allegations are denied.

10. Wasatch Metal admits that on December 17, 2008, two individuals representing themselves to be EPA inspectors requested authorization to conduct an inspection of Wasatch Metal's facility, and that such consent was granted. Wasatch Metal lacks knowledge or

information sufficient to form a belief as to the truthfulness or accuracy of the remaining allegations, and therefore denies the same at this time.

11. Wasatch Metal lacks knowledge or information sufficient to form a belief as to the truthfulness or accuracy of the allegations contained in this paragraph, and therefore denies the same at this time.

12. Wasatch Metal lacks knowledge or information sufficient to form a belief as to the truthfulness or accuracy of the allegations contained in this paragraph, and therefore denies the same at this time.

13. Wasatch Metal lacks knowledge or information sufficient to form a belief as to the truthfulness or accuracy of the allegations contained in this paragraph, and therefore denies the same at this time.

14. Wasatch Metal states that the allegation contained in this paragraph is a conclusion of law to which no response is required, and to the extent that such allegation requires a response, Wasatch Metal denies the same at this time.

15. Wasatch Metal lacks knowledge or information sufficient to form a belief as to the truthfulness or accuracy of the allegations contained in this paragraph, and therefore denies the same at this time.

16. Wasatch Metal lacks knowledge or information sufficient to form a belief as to the truthfulness or accuracy of the allegations contained in this paragraph, and therefore denies the same at this time.

17. Wasatch Metal lacks knowledge or information sufficient to form a belief as to the truthfulness or accuracy of the allegations contained in this paragraph, and therefore denies the same at this time.

18. Wasatch Metal states that the allegation contained in this paragraph is a conclusion of law to which no response is required, and to the extent that such allegation requires a response, Wasatch Metal denies the same at this time.

19. Wasatch Metal lacks knowledge or information sufficient to form a belief as to the truthfulness or accuracy of the allegations contained in this paragraph, and therefore denies the same at this time.

20. Wasatch Metal states that the allegation contained in this paragraph is a conclusion of law to which no response is required, and to the extent that such allegation requires a response, Wasatch Metal denies the same at this time.

21. Wasatch Metal states that the allegation contained in this paragraph is a conclusion of law to which no response is required, and to the extent that such allegation requires a response, Wasatch Metal denies the same at this time.

22. The allegations contained in paragraph do not call for a response, and therefore, no response is given. To the extent the allegations contained in this paragraph do call for a response, Wasatch Metal denies the allegations.

23. Wasatch Metal denies each and every other allegation in the Complaint which is not expressly admitted herein.

#### **SECOND DEFENSE**

The Complaint fails to state a claim against Wasatch Metal upon which relief can be granted.

#### **THIRD DEFENSE**

24. Wasatch Metal incorporates herein by reference the responses and defenses previously set forth in its correspondence dated June 11 and June 17, 2008, to EPA.

**FOURTH DEFENSE**

EPA's claims are barred, in whole or in part, by the doctrines of waiver and estoppel.

**FIFTH DEFENSE**

At all times alleged in the Complaint, Wasatch Metal has acted in good faith.

**SIXTH DEFENSE**

Wasatch Metal reserves the right to set forth additional affirmative defenses, or to delete affirmative defenses already pled, as they become known during the course of discovery.

WHEREFORE, Wasatch Metal respectfully requests that the Complaint be dismissed with prejudice, and requests a conference and a hearing.

DATED:

June 30, 2008

Respectfully submitted,

STOEL RIVES LLP

By: Martin K. Banks  
Martin K. Banks  
(801) 578-6975

Attorneys for Respondent  
Wasatch Metal Recycling

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the original and one copy of Wasatch Metal Recycling's Answer to Complaint, was sent via Certified Mail, Postage Pre-Paid, to the Regional Hearing Clerk, EPA Region 8, 1595 Wynkoop Street, Denver, Colorado 80202-1129, and that a true copy of the same was sent via Certified Mail, Postage Pre-Paid, to:

Dana Stotsky (8ENF-L)  
Senior Enforcement Attorney  
U.S. EPA – Region 8  
1595 Wynkoop Street  
Denver, CO 80202-1129  
(303) 312-6905

June 30, 2008  
Date

Josie Walsh  
Josie Walsh