UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE ADMINISTRATOR

In the Matter of:	)	
	)	
Kent Hoggan and Frostwood 6 LLC,	)	**Docket No. CWA-08-2017-0026**
	)	
Respondents.	)	

ORDER ON RESPONDENT KENT HOGGAN'S MOTION TO SUPPLEMENT PRETRIAL EXCHANGE AND COMPLAINANT'S MOTION FOR ACCELERATED DECISION ON LIABILITY

I. RELEVANT PROCEDURAL HISTORY

The Acting Assistant Regional Administrator, Office of Enforcement, Compliance and Environmental Justice, of the United States Environmental Protection Agency ("EPA" or "Agency"), Region 8 ("Complainant"), initiated this proceeding on September 27, 2017, by filing a Complaint and Notice of Opportunity for Hearing ("Complaint") against Kent Hoggan, Frostwood 6 LLC, David Jacobsen, and CBM Leasing, L.L.C ("Respondents"), pursuant to Section 309(g)(1)(A) of the Clean Water Act ("Act" or "CWA"), 33 U.S.C. § 1319(g)(1)(A). The Complaint makes three claims based upon allegations concerning the construction of a housing development in Park City, Utah, and the flow of storm water from the construction site into area waterways via a municipal separate storm sewer system ("MS4"):

1. that on at least 15 days between January 7, 2016, and April 27, 2017, Respondents Jacobsen and Frostwood 6 LLC unlawfully discharged pollutants without authorization under a National Pollutant Discharge Elimination System permit, in violation of Section 301(a) of the Act, 33 U.S.C. § 1311(a), and are subject to the assessment of penalties pursuant to Section 309(g) of the Act, 33 U.S.C. § 1319(g);
2. that on at least 9 days between November 18, 2016, and April 27, 2017, Respondents Hoggan and CBM Leasing, L.L.C., unlawfully discharged pollutants without authorization under a National Pollutant Discharge Elimination System permit, in violation of Section 301(a) of the Act, 33 U.S.C. § 1311(a), and are subject to the assessment of penalties pursuant to Section 309(g) of the Act, 33 U.S.C. § 1319(g); and
3. that during the times that their construction activities were covered under a National Pollutant Discharge Elimination System permit, Respondents Hoggan, Frostwood 6 LLC, Jacobsen, and CBM Leasing, L.L.C., violated the conditions and limitations of that permit and 40 C.F.R. § 122.41(a), and are subject to the assessment of penalties pursuant to Section 309(g) of the Act, 33 U.S.C. § 1319(g).

On December 15, 2017, Respondents Hoggan, Frostwood 6 LLC, and Jacobsen jointly filed an Answer of Kent Hoggan, Frostwood 6 LLC and David Jacobsen and Request for Hearing ("Answer"). Thereafter, Complainant moved to withdraw its claims against Respondent CBM Leasing, L.L.C., from the Complaint, and I granted that request by Order dated February

15, 2018. The parties proceeded to engage in the prehearing exchange of information process outlined in my Prehearing Order of July 5, 2018, with Complainant filing its Initial Prehearing Exchange on August 17, 2018; Respondent Hoggan filing his Initial Prehearing Exchange on October 11, 2018[1]; and Complainant filing its Rebuttal Prehearing Exchange on December 14, 2018. I subsequently set deadlines for certain prehearing procedures and scheduled the hearing in this matter to commence on June 11, 2019.

On March 1, 2019, Complainant filed a Motion for Accelerated Decision on Liability ("Complainant's AD Motion"), to which Complainant attached a memorandum in support ("Memo"). Respondents Hoggan and Frostwood 6 LLC filed an Opposition to Complainant's Motion for Accelerated Decision on Liability ("Respondents' Opposition") on March 21, 2019, along with the affidavits of Respondents Hoggan and Jacobsen, and Complainant filed its Reply to Respondents' Opposition to Complainant's Motion for Accelerated Decision on Liability ("Complainant's Reply") on April 4, 2019. Meanwhile, Complainant filed a Partial Consent Agreement as to Respondent David Jacobsen and Final Order, thereby resolving the claims against Respondent Jacobsen set forth in the Complaint.

Finally, on April 15, 2019, Respondent Hoggan filed a Motion to Supplement Pretrial Exchange ("Motion to Supplement"), wherein he seeks leave to supplement his Initial Prehearing Exchange with "his engineer's expert report as to storm-water runoff on the subject project in rebuttal to the expert report submitted by the EPA." Complainant subsequently filed a Response in Opposition to Respondent Kent Hoggan's Motion to Supplement Pretrial Exchange ("Complainant's Response") on April 19, 2019. To date, Respondent Hoggan has not filed a reply.[2]

II. SUBSTANTIVE LAW

Codified at 33 U.S.C. §§ 1251-1388, the Act was enacted by Congress to "restore and maintain the chemical, physical, and biological integrity of the Nation's waters." 33 U.S.C. § 1251(a). In furtherance of this objective, Section 301(a) of the Act provides, that "[e]xcept as in compliance with this section and sections 302, 306, 307, 318, 402, and 404 of this Act [33 U.S.C. §§ 1312, 1316, 1317, 1328, 1342, 1344], the discharge of any pollutant by any person shall be unlawful." 33 U.S.C. § 1311(a). Of particular relevance to this proceeding, Section 402 of the CWA establishes the National Pollutant Discharge Elimination System ("NPDES") permit program, which allows EPA and states qualified by EPA to issue permits for the discharge of pollutants, notwithstanding the prohibition set forth in Section 301(a) of the CWA. 33 U.S.C. § 1342(a)-(b).

[1] Respondents Frostwood 6 LLC and Jacobsen did not file prehearing exchanges.

[2] This proceeding is governed by the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Rules of Practice"), set forth at 40 C.F.R. Part 22. The Rules of Practice require a moving party's reply to a written response to be filed within 10 days after service of such response. Thus, the filing deadline for Respondent Hoggan's reply was April 29, 2019.

For purposes of the relevant provisions of the CWA, the phrase "discharge of a pollutant" is defined by the CWA to include "any addition of any pollutant to navigable waters from any point source." 33 U.S.C. § 1362(12). The CWA proceeds to define the term "pollutant" as including, among other meanings, dredged spoil, rock, and sand discharged into water. 33 U.S.C. § 1362(6). In turn, the term "navigable waters" is defined as "waters of the United States." 33 U.S.C. § 1362(7). The term "point source" is defined as "any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged." 33 U.S.C. § 1362(14). The term "person" is defined to include "an individual, corporation, partnership, [and] association." 33 U.S.C. § 1362(5).

III. RESPONDENT HOGGAN'S MOTION TO SUPPLEMENT PRETRIAL EXCHANGE

A. Background

The Rules of Practice establish the requirement that parties file prehearing exchanges of information in accordance with an order issued by the Presiding Officer. 40 C.F.R. § 22.19(a)(1). With respect to the contents of a party's prehearing exchange, the Rules of Practice provide, in pertinent part:

> Each party's prehearing information exchange shall contain: (i) The names of any expert or other witnesses it intends to call at the hearing, together with a brief narrative summary of their expected testimony . . .; and (ii) Copies of all documents and exhibits which it intends to introduce into evidence at the hearing.

40 C.F.R. § 22.19(a)(2). The Rules of Practice also describe the circumstances under which a party is required to supplement its prehearing exchange, as follows:

> A party who has made an information exchange under paragraph (a) of this section . . . shall promptly supplement or correct the exchange when the party learns that the information exchanged or response provided is incomplete, inaccurate or outdated, and the additional or corrective information has not otherwise been disclosed to the other party pursuant to this section.

40 C.F.R. § 22.19(f).

If a party fails to provide information within its control as required in its prehearing exchange or in a supplement to its prehearing exchange promptly upon learning that the contents of the prehearing exchange are incomplete, outdated, or inaccurate, the Rules of Practice authorize the Presiding Officer, in her discretion, to infer that the information would be adverse to the party failing to provide it, exclude the information from evidence, or issue a default order. 40 C.F.R. § 22.19(g). The Rules of Practice also provide that if a party fails to provide any document, exhibit, witness name, or summary of expected testimony required to be exchanged under 40 C.F.R. §§ 22.19(a) or (f) to all parties at least 15 days prior to the hearing, "the

Presiding Officer shall not admit the document, exhibit or testimony into evidence," unless the party had good cause for its failure to do so. 40 C.F.R. § 22.22(a)(1).

By Order dated December 28, 2018, I scheduled the hearing in this matter to commence on June 11, 2019, and established deadlines for a number of prehearing procedures, including any supplements to the parties' prehearing exchanges. Specifically, the Order states:

> Notwithstanding the deadline set forth in 40 C.F.R. § 22.22(a)(1), if a party fails to supplement their prehearing exchange by **February 15, 2019**, the document, exhibit, or testimony shall not be admitted into evidence unless the non-exchanging party had good cause for failing to exchange the required information and provided the required information to all other parties as soon as it had control of the information, or had good cause for not doing so. Motions to supplement the prehearing exchange filed after **April 15, 2019**, will not be considered absent extraordinary circumstances.

Order on Complainant's Unopposed Motion to Postpone Hearing at 1.

B. Arguments of the Parties

On April 15, Respondent Hoggan filed his Motion to Supplement, wherein he seeks leave to supplement his Initial Prehearing Exchange with a report concerning the storm water runoff at issue in this proceeding in rebuttal to an expert report "only recently filed as a supplement by the EPA to its pretrial exchanges." Motion to Supplement at physical page 1. Specifically, Respondent Hoggan represents that he has shown "EPA's expert report to his engineers and they do not believe that storm water runoff from the subject project comes anywhere near any US Waterway." *Id.* Respondent Hoggan further represents that "[t]he engineer is in the process of preparing its report and it should be completed in the next couple of weeks." *Id.*

In opposition to the Motion to Supplement, Complainant argues that Respondents have been aware of the allegation that storm water from the site entered navigable waters since the filing of the Complaint on September 27, 2017, and that Complainant has supported it through the submission of multiple exhibits and summaries of expected testimony, beginning with the filing of its Initial Prehearing Exchange on August 17, 2018. Complainant's Response at 1-2, 6. While Respondents have denied the allegation, Complainant contends, they have failed to put forth any proposed evidence to substantiate the denial, and Respondent Hoggan "only now, on the last day of a lengthy prehearing discovery period, seeks . . . leave to supplement the prehearing exchange with an unnamed expert's yet-to-be-finished report" addressing the issue. *Id.* at 1-2, 6. Urging that the requested leave be denied, Complainant argues that Respondent Hoggan has not made any attempt to explain his failure to submit the report earlier, let alone shown good cause or extraordinary circumstances warranting acceptance of the report, and that the lack of any explanation demonstrates bad faith. *Id.* at 1, 5-7 (citing various cases). Complainant further contends that it would be prejudiced by the acceptance of the report at this late stage of the proceeding and that it would be unable to assess the credibility and expertise of the authors of the report as Respondents have not sought to add them as witnesses. *Id.* at 1, 7.

C. Discussion and Conclusion

In accordance with the Rules of Practice, a motion for leave to supplement a party's prehearing exchange may be denied where the motion is not prompt or where the existing prehearing exchange is not incomplete, inaccurate, or outdated. Further, as this Tribunal has previously explained, evidence of bad faith, delay tactics, or undue prejudice may also warrant the denial of a supplement to a prehearing exchange. *See, e.g.*, *99 Cents Only Stores*, 2009 WL 1900069, at *4-5. A party may otherwise attempt to unfairly disadvantage its opponent by holding back significant information until shortly before the hearing, when the opposing party may not have sufficient opportunity to review it, respond, and prepare rebuttal testimony and exhibits. *Id.* In an effort to prevent such conduct, I established the requirement that the parties show good cause for supplementing their prehearing exchange between February 15 and April 15, 2019, and show extraordinary circumstances thereafter.

Here, Respondent Hoggan asserts that he seeks to provide the subject report in rebuttal to an expert report "only recently filed" by Complainant. Presumably, the expert report to which Respondent Hoggan refers is the Declaration of Julia McCarthy, who Complainant identified as a proposed expert witness in its Rebuttal Prehearing Exchange on December 14, 2018, and whose declaration was filed as a supplement to Complainant's prehearing exchange on February 15, 2019, two months prior to the filing of the Motion to Supplement. Complainant urges that Respondent Hoggan's assertion fails to show good cause on the basis that the allegation at issue is a central element of the Complaint and Respondent Hoggan need not have waited for Complainant to introduce a related expert, their expected testimony, or their report before doing so himself. Upon consideration, I find that Respondent Hoggan has shown good cause, if only just barely, for the timing of his Motion to Supplement. I further find that good cause exists to the extent that acceptance of the subject report will provide Respondents the fullest opportunity to contest this matter on the merits. Accordingly, the Motion to Supplement is granted. As noted by Complainant, the hearing in this matter is approaching. In order to avoid prejudice to Complainant, Respondent Hoggan shall file and serve a copy of the report **no later than Friday, May 10, 2019**. This deadline is approximately one month prior to the hearing and 15 days prior to the deadline set forth in the Rules of Practice for admission of evidence without a showing of good cause. Thus, it is expected to afford Complainant a meaningful opportunity to review and respond to the report in advance of the hearing.

IV. COMPLAINANT'S MOTION FOR ACCELERATED DECISION ON LIABILITY

A. Standard for Adjudicating a Motion for Accelerated Decision

Section 22.20(a) of the Rules of Practice authorizes Administrative Law Judges to:

> render an accelerated decision in favor of a party as to any or all parts of the proceeding, without further hearing or upon such limited additional evidence, such as affidavits, as he may require, if no genuine issue of material fact exists and a party is entitled to judgment as a matter of law.

40 C.F.R. § 22.20(a). This standard is analogous to the standard governing motions for summary judgment prescribed by Rule 56 of the Federal Rules of Civil Procedure ("FRCP"), and while the FRCP do not apply here, the Environmental Appeals Board ("EAB") has consistently looked to Rule 56 and its jurisprudence for guidance in adjudicating motions for accelerated decision filed under Section 22.20(a) of the Rules of Practice. *See, e.g.*, *Consumers Scrap Recycling, Inc.*, 11 E.A.D. 269, 285 (EAB 2004); *BWX Techs., Inc.*, 9 E.A.D. 61, 74-75 (EAB 2000); *Clarksburg Casket Co.*, 8 E.A.D. 496, 501-02 (EAB 1999). Federal courts have endorsed this approach. For example, the United States Court of Appeals for the First Circuit described Rule 56 as "the prototype for administrative summary judgment procedures" and the jurisprudence surrounding it as "the most fertile source of information about administrative summary judgment." *Puerto Rico Aqueduct & Sewer Auth. v. EPA*, 35 F.3d 600, 607 (1st Cir. 1994), *cert. denied*, 513 U.S. 1148 (1995) (rejecting the argument that federal court rulings on motions for summary judgment are "inapposite" to administrative proceedings).

As for the particular standard set forth in Rule 56, it directs a federal court to grant summary judgment upon motion by a party "if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(a). In construing this standard, the U.S. Supreme Court has held that a factual dispute is material where, under the governing substantive law, it might affect the outcome of the proceeding. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1985). In turn, a factual dispute is genuine if a fact finder could reasonably resolve the dispute in favor of the non-moving party under the evidentiary standards applicable to the particular proceeding. *Id.* at 248, 250-52.

The Supreme Court has held that the party moving for summary judgment bears the burden of showing an absence of a genuine dispute as to any material fact. *Adickes v. S. H. Kress & Co.*, 398 U.S. 144, 157 (1970). This burden consists of two components: an initial burden of production, which shifts to the non-moving party once it is satisfied by the moving party, and the ultimate burden of persuasion, which always remains with the moving party. *Celotex Corp. v. Catrett*, 477 U.S. 317, 330 (1986) (Brennan, J., dissenting) (citing 10A C. Wright, A. Miller, & M. Kane, Federal Practice and Procedure § 2727 (2d ed. 1983)). To discharge its initial burden of production, the moving party is required to support its assertion that a material fact cannot be genuinely disputed either by "citing to particular parts of materials in the record, including depositions, documents, electronically stored information, affidavits or declarations, stipulations (including those made for purposes of the motion only), admissions, interrogatory answers, or other materials," or by "showing that the materials cited do not establish the . . . presence of a genuine dispute, or that an adverse party cannot produce admissible evidence to support the fact." Fed. R. Civ. P. 56(c)(1). Once the moving party satisfies its initial burden of production, the burden shifts to the non-moving party to show that a genuine dispute of material fact exists by similarly "citing to particular parts of materials in the record" or by "showing that the materials cited do not establish the absence . . . of a genuine dispute, or that an adverse party cannot produce admissible evidence to support the fact." *Id.*

In determining whether a genuine issue of material fact exists for trial, a federal court is required to construe the evidentiary material and reasonable inferences drawn therefrom in a light most favorable to the non-moving party. *See Anderson*, 477 U.S. at 255 ("The evidence of the nonmovant is to be believed, and all justifiable inferences are to be drawn in his favor.");

United States v. Diebold, Inc., 369 U.S. 654, 655 (1962) ("On summary judgment the inferences to be drawn from the underlying facts contained in [the moving party's] materials must be viewed in the light most favorable to the party opposing the motion."). The court is then required to consider whether a fact finder could reasonably find in favor of the non-moving party under the applicable evidentiary standards. *Anderson*, 477 U.S. at 252-55. Where the evidence viewed in the light most favorable to the non-moving party is such that the fact finder could not reasonably find in favor of the non-moving party, summary judgment is appropriate. *See Adickes*, 398 U.S. at 158-59. Conversely, where conflicting inferences may be drawn from the evidence and a choice among those inferences would amount to fact-finding, summary judgment is inappropriate. *Rogers Corp. v. EPA*, 275 F.3d 1096, 1105 (D.C. Cir. 2002). Even where summary judgment appears technically proper, sound judicial policy and the exercise of judicial discretion may support denial of the motion in order for the case to be more fully developed at hearing. *Roberts v. Browning*, 610 F.2d 528, 536 (8th Cir. 1979).

The EAB has applied the foregoing principles in adjudicating motions for accelerated decision under Section 22.20(a) of the Rules of Practice, holding that the moving party "assumes the initial burden of production on a claim, and must make out a case for presumptive entitlement to summary judgment in his favor." *BWX Techs.*, 9 E.A.D. at 76. Where the moving party bears the burden of persuasion on an issue, it is entitled to an accelerated decision only if it presents "evidence that is so strong and persuasive that no reasonable [fact finder] is free to disregard it." *Id.* Where the moving party does not bear the burden of persuasion, it has the "lesser burden of 'showing' or 'pointing out' to the reviewing tribunal that there is an absence of evidence in the record to support the nonmoving party's case on that issue." *Id.* Once the moving party has discharged this burden, the burden of production shifts to the non-moving party bearing the burden of persuasion on the issue to identify specific facts from which a finder of fact could reasonably find in its favor on each element of the claim. *Id.*

As noted by the EAB, "neither party can meet its burden of production by resting on mere allegations, assertions, or conclusions of evidence." *BWX Techs.*, 9 E.A.D. at 75. Likewise, a party opposing a properly supported motion for accelerated decision is required to "provide more than a *scintilla* of evidence on a disputed factual issue to show their entitlement to a[n] . . . evidentiary hearing: the evidence must be substantial and probative in light of the appropriate evidentiary standard of the case." *Id.* at 76.

Consistent with the jurisprudence of Rule 56, the EAB has held that a tribunal adjudicating a motion for accelerated decision is required to consider whether the parties have met their respective burdens in the context of the applicable evidentiary standard. *BWX Techs.*, 9 E.A.D. at 75. As prescribed by Section 22.24(b) of the Rules of Practice, 40 C.F.R. § 22.24(b), the evidentiary standard that applies here is proof by a preponderance of the evidence. Section 22.24(a) provides that the complainant bears the burdens of presentation and persuasion that a violation occurred as set forth in the complaint and that the relief sought is appropriate, while the respondent bears the burdens of presentation and persuasion for any affirmative defenses.

B. Discussion and Conclusion

Complainant seeks entry of an accelerated decision on liability as to certain allegations against Respondent Frostwood 6 LLC as the owner of the construction site at issue.[3] Specifically, Complainant seeks accelerated decision that (A) Respondent Frostwood 6 LLC unlawfully discharged pollutants without authorization under a National Pollutant Discharge Elimination System permit, in violation of Section 301(a) of the Act, 33 U.S.C. § 1311(a), between November 19, 2016, and April 26, 2017; and (B) Respondent Frostwood 6 LLC violated terms and conditions of a National Pollutant Discharge Elimination System permit between November 18, 2015, and November 18, 2016, and again between April 27, 2017, and the present. Complainant urges that no genuine issue of material fact exists and that it is entitled to judgment as a matter of law as to these particular claims. In their opposition, Respondents Hoggan and Frostwood 6 LLC raise a number of objections, most notably that they dispute the allegation that storm water flowed from the site into navigable waters.

Undoubtedly, that allegation is material to the outcome of this proceeding. In order to prove a violation of Section 301(a) of the Act, a complainant is required to demonstrate by a preponderance of the evidence that the alleged violator is a "person" who engaged in the "discharge of a pollutant" from a "point source" into a "navigable water" without authorization under any NPDES permit. Thus, as observed by Complainant in the course of responding to Respondent Hoggan's Motion to Supplement, the allegation that storm water left the site and entered navigable waters is a "central element of the Complaint." Complainant's Response at 7. Beginning with their Answer, Respondents Hoggan and Frostwood 6 LLC have consistently denied the allegation. *See, e.g.*, Answer ¶ 43; Respondent Kent Hoggan's Initial Prehearing Exchange at 4 ("Respondent . . . challenges . . . any factual basis for contending that water discharge from the site entered into any US waterway."). While Respondents Hoggan and Frostwood 6 LLC have thus far supported their position merely with the affidavits of Respondent Hoggan and David Jacobsen attached to their Opposition, I have now granted leave to Respondent Hoggan to supplement his prehearing exchange with proposed evidence relating to this issue. While that proposed evidence is outstanding, I am unable to determine whether the

[3] Complainant originally sought entry of an accelerated decision against both Respondent Frostwood 6 LLC and Respondent Hoggan. *See* Complainant's AD Motion at physical page 1. In particular, Complainant sought accelerated decision that Respondents Frostwood 6 LLC and Hoggan unlawfully discharged pollutants without authorization under a National Pollutant Discharge Elimination System permit, in violation of Section 301(a) of the Act, 33 U.S.C. § 1311(a), between November 19, 2016, and April 26, 2017. *See id.* Complainant further sought accelerated decision that Respondent Hoggan violated terms and conditions of a National Pollutant Discharge Elimination System permit between November 18, 2015, and November 18, 2016, and that Frostwood 6 LLC violated terms and conditions of a National Pollutant Discharge Elimination System permit between April 27, 2017, and the present. *See id.* Complainant subsequently revised its request in its Reply, asserting that it "now seeks accelerated decision against only Frostwood 6 LLC for all claims in Complainant's [AD] Motion" because of newly discovered evidence relating to ownership of the site, namely, that it was owned not by Respondent Hoggan but by Frostwood 6 LLC for the entire period relevant to the AD Motion. Complainant's Reply at 7; *see also* Complainant's Reply at 2.

parties' dispute on this issue is genuine. Accordingly, at this stage of the proceeding, entry of accelerated decision is inappropriate, and Complainant's AD Motion is denied.

VI. ORDER

1. Respondent Kent Hoggan's Motion to Supplement Pretrial Exchange is hereby **GRANTED**. Respondent Hoggan shall file the report with which he is seeking to supplement his Initial Prehearing Exchange no later than **Friday, May 10, 2019**.

2. Complainant's Motion for Accelerated Decision on Liability is hereby **DENIED**.

Susan L. Biro
Chief Administrative Law Judge

Dated: May 8, 2019
Washington, D.C.

In the Matter of *Kent Hoggan and Frostwood 6 LLC*, Respondents.
Docket No. CWA-08-2017-0026

CERTIFICATE OF SERVICE

I hereby certify that the foregoing **Order on Respondent Kent Hoggan's Motion to Supplement Pretrial Exchange and Complainant's Motion for Accelerated Decision on Liability**, dated May 8, 2019, 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 by Hand 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 Mail to:
Matthew Castelli, Esq.
Charles Figur, Esq.
US EPA – Region 8 (8ENF-L)
1595 Wynkoop Street
Denver, CO 80202-1129
Email: castelli.matthew@epa.gov
Email: figur.charles@epa.gov
Counsel for Complainant

Copies by Electronic Mail to:
David W. Steffensen, Esq.
Law Office of David W. Steffensen, P.C.
4873 South State Street
Salt Lake City, UT 84107
Email: dave.dwslaw@me.com
Counsel for Respondents Kent Hoggan and dFrostwood 6 LLC

Dated: May 8, 2019
Washington, D.C.