



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

2019 MAY 21 AM 9:39

1595 WYNKOOP STREET
DENVER, CO 80202-1129
Phone 800-227-8917
<http://www.epa.gov/region08>

FILED
EPA REGION VIII
HEARING CLERK

DOCKET NO.: CWA-08-2017-0026

IN THE MATTER OF:

KENT HOGGAN AND
FROSTWOOD 6 LLC

RESPONDENT

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FINAL ORDER

Pursuant to 40 C.F.R. § 22.13(b) and §§ 22.18(b)(2) and (3) of EPA’s Consolidated Rules of Practice, the Consent Agreement resolving this matter is hereby approved and incorporated by reference into this Final Order.

The Respondent is hereby **ORDERED** to comply with all of the terms of the Consent Agreement, effective immediately upon filing this Consent Agreement and Final Order.

SO ORDERED THIS 21st DAY OF May, 2019.

Katherin E. Hall
Katherin E. Hall
Regional Judicial Officer

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE ADMINISTRATOR

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FILED
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In the Matter of:)
)
Kent Hoggan and Frostwood 6 LLC,)
)
 Respondents.)

Docket No. CWA-08-2017-0026

CONSENT AGREEMENT

Region 8 of the United States Environmental Protection Agency (EPA) and Frostwood 6 LLC and Kent Hoggan (together, Respondents), by their undersigned representatives, agree as follows:

1. On September 27, 2017, the EPA issued a Complaint and Notice of Opportunity for Hearing (Complaint) alleging that Frostwood 6 LLC, Kent Hoggan, David Jacobsen, and CBM Leasing, L.L.C. violated section 301(a) of the Clean Water Act (Act), 33 U.S.C. § 1311(a), by discharging storm water from a construction site in Summit County, Utah, into waters of the United States without a permit, as well as violating conditions of a discharge permit. In the Complaint, the EPA proposed that Frostwood 6 LLC, Kent Hoggan, David Jacobsen, and CBM Leasing, L.L.C. pay a civil administrative penalty for their violations, pursuant to section 309(g) of the Act, 33 U.S.C. § 1319(g).

2. On February 5, 2018, Complainant filed a Partial Motion for Withdrawal of Complaint Against Respondent CBM Leasing, L.L.C., which the Presiding Officer granted on February 15, 2018.

3. On March 28, 2019, the Regional Judicial Officer in Region 8 approved a Partial Consent Agreement as to Respondent David Jacobsen, served it on the Presiding Officer, and filed it in this case.

4. Respondents admit the jurisdictional allegations of the Complaint and neither admit nor deny the specific factual allegations of the Complaint.

5. Respondents consent to the assessment of the penalties referenced in paragraph 5, below. Respondents waive their rights to contest the allegations in the Complaint and to appeal any final order (Final Order) that an EPA Regional Judicial Officer may issue to ratify this consent agreement

(Agreement). Respondents consent to the conditions specified in this Agreement.

6. This Agreement, upon incorporation into a Final Order, is binding upon the EPA; Respondents; and Respondents' agents, heirs, successors, and assigns.

7. Respondent Frostwood 6 LLC agrees to pay, and agrees to the EPA's assessment of, an administrative civil penalty in the amount of \$70,000 as described below. Respondent Kent Hoggan agrees to pay, and agrees to the EPA's assessment of, an administrative civil penalty in the amount of \$5,000 as described below.

- a. Payment shall be due no later than 30 calendar days after the date of the Final Order;
- b. Payment shall be made using any method provided on the following website: <https://www.epa.gov/financial/makepayment>;
- c. The check or other means of payment shall indicate the name and docket number of this matter (see first page); and
- d. Within 24 hours of payment, a copy of the check or other proof of payment shall be sent by U.S. mail or email to each of the following:

Akash Johnson, NPDES and Wetlands Enforcement Section
U.S. EPA Region 8 (8ENF-W-NW)
1595 Wynkoop Street
Denver, CO 80202-1129
Email: johnson.akash@epa.gov

and

Melissa Haniewicz, Regional Hearing Clerk
U.S. EPA Region 8 (8ORC-IO)
1595 Wynkoop Street
Denver, CO 80202-1129
Email: haniewicz.melissa@epa.gov

8. If the EPA does not receive the payments referenced in the preceding paragraph by the specified due date, interest will accrue from the date of the Final Order, not the due date, at a rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717, and will continue to accrue

until payments in full are received (*e.g.*, on the first late day, 30 days of interest will have accrued).

A handling charge of fifteen dollars (\$15) shall be assessed the 31st day from the date of the Final Order, and for each subsequent 30-day period that the debt, or any portion thereof, remains unpaid. In addition, a 6% per annum penalty shall be assessed on any unpaid principal amount if payment is not received within 90 days of the due date. Payments are first applied to outstanding handling charges, second to accrued interest, and then to the outstanding principal amount.

9. Consistent with section 162(f)(1) of the Internal Revenue Code, 26 U.S.C. § 162(f)(1), Respondents will not deduct penalties paid under this Agreement for federal tax purposes.

10. Nothing in this Agreement shall relieve Respondents of the duty to comply with the Act and any regulation, order, or permit issued pursuant to the Act.

11. Any failure by Respondents to comply with this Agreement shall constitute a breach of this Agreement and may result in referral to the United States Department of Justice for enforcement of this Agreement and such other relief as may be appropriate.

12. Nothing in this Agreement shall be construed as a waiver by the EPA or any other federal entity of its authority to seek costs or any appropriate penalty associated with any collection action instituted as a result of any failure by Respondents to comply with this Agreement.

13. The EPA and Respondents shall bear their own respective costs and attorney's fees in connection with this matter.

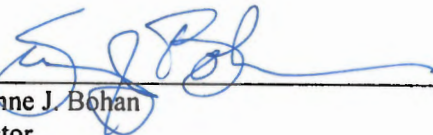
14. This Agreement, upon incorporation into a Final Order and full satisfaction by Respondent Frostwood 6 LLC, shall be a complete and full resolution of Respondent Frostwood 6 LLC's liability for federal civil penalties for the violations and facts alleged in the Complaint.

15. This Agreement, upon incorporation into a Final Order and full satisfaction by Respondent Kent Hoggan, shall be a complete and full resolution of Respondent Kent Hoggan's


liability for federal civil penalties for the violations and facts alleged in the Complaint.

**UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY REGION 8,
Complainant.**

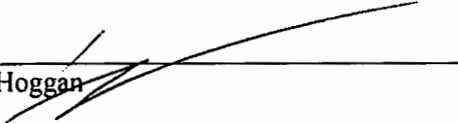
Date: May 20, 2019

By: 
Suzanne J. Bohan
Director
Enforcement and Compliance Assurance Division
U.S. EPA Region 8
1595 Wynkoop Street
Denver, Colorado 80202-1129

**FROSTWOOD 6 LLC,
Respondent.**

Date: May 20 2019 By: 

**KENT HOGGAN,
Respondent.**

Date: May 20 2019 By: 
Kent Hoggan

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **CONSENT AGREEMENT and FINAL ORDER** in the matter of **KENT HOGGAN AND FROSTWOOD 6 LLC; DOCKET NO.: CWA-08-2017-0026** was filed with the Regional Hearing Clerk on May 21, 2019.

Further, the undersigned certifies that a true and correct copy of the documents were emailed to, Matthew Castelli, Enforcement Attorney. True and correct copies of the aforementioned documents were placed in the United States mail certified/return receipt on May 21, 2019, to:

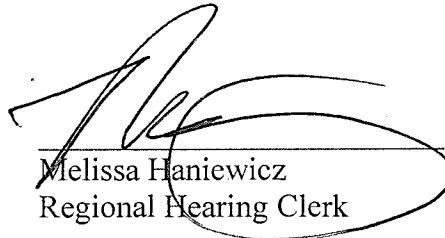
Respondent

Kent Hoggan & Frostwood 6 LLC
c/o David W. Steffensen
4873 South State Street
Salt Lake City, Utah 84107

And emailed to:

Jessica Chalifoux
U. S. Environmental Protection Agency
Cincinnati Finance Center
26 W. Martin Luther King Drive (MS-0002)
Cincinnati, Ohio 45268

May 21, 2019


Melissa Haniewicz
Regional Hearing Clerk