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Attorneys for Respondent

BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the matter of:

BRUNEAU CATTLE CO.,

Owyhee County, Idaho,

Respondent.

DOCKET NO. CWA-10-2007-0016

ANSWER TO COMPLAINT AND
REQUEST FOR HEARING

COMES NOW Respondent Bruneau Cattle Company (hereinafter "Respondent"), by and through its undersigned counsel and hereby answers the Complaint filed by Region 10 of the U.S. Environmental Protection Agency (hereinafter "EPA"), as follows:

Respondent hereby denies each and every allegation set forth in the Complaint not hereinafter expressly admitted.

1. Paragraphs 1 through 3 of EPA's Complaint set forth legal conclusions of which no response is necessary.
2. In response to paragraphs 4 through 7 of EPA's Complaint, Respondent admits the facts contained in those paragraphs of the Complaint.
3. Paragraph 8 sets forth a legal conclusion to which no response is required.

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4. Answering paragraph 9, Respondent previously had an NPDES Permit for its facility and Respondent sought permit coverage in 2003 with EPA. Respondent is unaware of the status of its application with EPA.

5. In response to paragraphs 10 and 11 of EPA's Complaint, Respondent admits the allegations contained in those paragraphs of the Complaint.

6. Paragraphs 12 and 13 set forth legal conclusions to which no response is required.

7. In response to paragraph 14, Respondent admits the South Side Canal flows through farm land owned by Respondent.

8. In response to paragraph 15, Respondent admits that the South Side Canal flows into the C.J. Strike Reservoir during certain times of the year.

9. Paragraph 16 sets forth a legal conclusion to which no response is required. To the extent paragraph 16 sets forth material facts Respondent denies that the South Side Canal is a navigable water or that it conveys "pollutants" from Respondent's Facility.

10. Answering paragraph 17, Respondent admits that during a significant precipitation event in December 2005 some runoff from the North Pens could have discharged into the South Side Canal through a low area at the far north end of the North Pens. Respondent believes that if such a discharge did occur, it occurred on one day. Respondent had conducted maintenance of the berm in that area in the fall of 2005. Respondent had not built up this area with a new berm at the time of the unexpected and significant storm events in late December 2005. Respondent has since built up the berm prior to the filing of EPA's Complaint so that no further discharges will occur. Respondent denies that 13 separate discharges occurred from the North Pens in the last five years.

11. Answering paragraph 18, Respondent denies the allegations herein. No discharge of process water from the South Pens has ever entered C.J. Strike Reservoir or any of its tributaries in the past five years.

12. Answering paragraph 19, Respondent denies the allegations herein. No discharges of process water from the Office Pens have occurred during the past five years.

13. Answering paragraph 20, Respondent admits that four horses kept in a corral have used the South Side Canal as a source of water. The horses had access to the South Side Canal from the horse corral. Despite numerous inspections of Respondent's Facility by state and federal agencies, including EPA, over the past thirty years, no agency had ever notified Respondent that the presence of the horses in the corral was violating the Clean Water Act. When that allegation was made by the state of Idaho and EPA in 2006, Respondent promptly fenced the corral prior to the filing of the Complaint in this matter.

14. Answering paragraph 21 sets forth a legal conclusion to which no response is required. To the extent paragraph 21 sets forth material facts, Respondent denies there have been discharges of process water from its facility.

15. Answering paragraph 22, Respondent restates its responses to paragraphs 17 through 20 and incorporates those responses by reference.

16. Answering paragraph 23, Respondent denies the allegations in paragraph 23 and incorporates its responses to paragraphs 17-20 in this response.

17. Answering paragraph 24, Respondent denies that the maximum penalty would be appropriate for any violations that EPA can prove at a hearing.

18. Answering paragraph 25, Respondent admits that this paragraph sets forth some of the factors the Presiding Officer can take into consideration in assessing penalties under the Clean Water Act.

19. Answering paragraph 26, Respondent denies that any violations EPA can prove at a hearing are "significant." On the day of the EPA inspection, EPA took samples of the South Side Canal above, within and below Respondent's facility. Those samples did not reveal any violation of applicable water quality standards or indeed did not demonstrate that Respondent's facility was having any impact on water quality in the South Side Canal or to the environment. Respondent is unaware of any facts that would indicate that its facility is having or has ever had any impact on current or past water quality conditions in C.J. Strike Reservoir. To the extent the Complaint alleges such an impact Respondent denies it. Respondent also restates and incorporates its denials set forth in other parts of this Answer in this response.

20. Answering paragraph 27, Respondent denies it has realized any economic benefit by reason of the condition of its Facility.

21. Answering paragraph 28, Respondent denies it is in a financial condition to pay penalties in the range suggested in the Complaint.

22. Answering paragraphs 29-36, these paragraphs appear to state legal conclusions or otherwise describe the administrative process and no answer is required.

Request for a Hearing. Respondent requests a hearing on EPA's Complaint as authorized under 40 CFR Part 22.

DATED: April 10, 2007.

STOEL RIVES LLP

A handwritten signature in blue ink, appearing to read "Kevin Beaton", written over a horizontal line.

Kevin J. Beaton
Attorneys for Respondent

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 10th day of April, 2007, I caused to be served a true copy of the foregoing ANSWER TO COMPLAINT AND REQUEST FOR HEARING, by the method indicated below, addressed to the following:

Michael A. Bussell, Director	<input checked="" type="checkbox"/>	Via U.S. Mail
Office of Compliance and Enforcement	<input type="checkbox"/>	Via Facsimile
U.S. Environmental Protection Agency	<input type="checkbox"/>	Via Overnight Mail
1200 Sixth Avenue	<input type="checkbox"/>	Via Hand Delivery
Seattle, WA 98101	<input type="checkbox"/>	Via Electronic Mail
Carol Kennedy, Regional Hearing Clerk	<input type="checkbox"/>	Via U.S. Mail
U.S. Environmental Protection Agency	<input type="checkbox"/>	Via Facsimile
1200 Sixth Avenue	<input checked="" type="checkbox"/>	Via Overnight Mail
Mail Stop ORC-158	<input type="checkbox"/>	Via Hand Delivery
Seattle, WA 98101	<input type="checkbox"/>	Via Electronic Mail
Mark A. Ryan	<input checked="" type="checkbox"/>	Via U.S. Mail
Assistant Regional Counsel	<input type="checkbox"/>	Via Facsimile
U.S. Environmental Protection Agency	<input type="checkbox"/>	Via Overnight Mail
1435 N Orchard Street	<input type="checkbox"/>	Via Hand Delivery
Boise, ID 83706	<input checked="" type="checkbox"/>	Via Electronic Mail



Kevin J. Beaton