

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

IN THE MATTER OF:)	
)	
KENT HOGGAN)	Docket No. CWA-08-2017-0026
3799 East Catamount Ridge Way)	
Sandy, Utah 84092-6044)	
)	
and)	
)	
FROSTWOOD 6 LLC)	
5911 South Fashion Blvd, Suite 200)	
Salt Lake City, Utah 84107-7210)	
)	
and)	
)	
DAVID JACOBSEN)	
14106 North Council Fire Trail)	
Kamas, Utah 84036)	
)	
and)	
)	
CBM LEASING, L.L.C.)	
165 North 1330 West, Suite B1)	
Orem, Utah 84057-5113)	
)	
Respondents.)	PARTIAL MOTION FOR WITHDRAWAL OF COMPLAINT AGAINST RESPONDENT CBM LEASING, L.L.C.

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Complainant, the U.S. Environmental Protection Agency (EPA), through its undersigned counsel, hereby respectfully requests a partial withdrawal of claims within its Complaint, filed September 27, 2017, against Respondent, CBM Leasing, L.L.C. (CBM). The remaining claims against Mr. Hoggan, Frostwood 6 LLC, and Mr. Jacobsen are not the subject of this motion.

1. Pursuant to 40 C.F.R. part 22.5(b)(1), Complainant served each Respondent with a copy of the Complaint with a copy of the Consolidated Rules of Practice. Service was first attempted for each Respondent by certified mail and was successfully served to Frostwood 6 LLC on October 2, 2017. Subsequently, Complainant sought to serve each additional Respondent or Respondent's

registered agent by personal service. Proof of personal service was filed with the Region 8 Hearing Clerk.

2. CBM's registered agent with Utah's Division of Corporations and Commercial Code is Mr. Rick Mckell with a registered agent address of 1330 West 165 North, Suite B1, Orem, Utah 84057-5113. *See* Attachment 1. Complainant corrected the mailing address's cardinal direction for accuracy to: 165 N 1330 West, Suite B1, Orem, Utah 84057-5113. Both addresses deliver to the same property location.

3. The U.S. Postal Service attempted delivery on October 2, 2017; however, the delivery was returned as "Business Closed" on October 2, 2017. *See* Attachment 2.

4. Complainant also attempted personal service at CBM Leasing, L.L.C.'s registered agent address. However, the Utah County Sheriff could not deliver the complaint as Mr. McKell "was evicted from this address a few weeks ago." *See* Attachment 3.

5. According to the Utah Division of Corporations and Commercial Code, CBM's registered agent address remains as 1330 West 165 North, Suite B1, Orem, Utah 84057-5113. The registration became delinquent as of December 12, 2017. *See* Attachment 1.

6. Complainant has tried unsuccessfully since early December 2017 to locate an alternative, legitimate registered agent address.

7. On December 13, 2017, the Region 8 Hearing Clerk received an answer from Mr. Hoggan, Frostwood 6 LLC, and Mr. Jacobsen, the current owner(s) and operator of the construction site at issue in this case, Frostwood F6 Townhomes, as defined by 40 C.F.R. § 122.2.

8. Mr. Hoggan, Frostwood 6 LLC, and Mr. Jacobsen are also the current permittees of the construction site at issue in this case, Frostwood F6 Townhomes, as defined by Appendix A of the Utah Pollutant Discharge Elimination System General Permit for Discharges from Construction Activities No. UTRC0000.

9. As liable parties have answered the Complaint, Complainant respectfully requests to withdraw its claims in the Complaint against CBM, without prejudice, to conserve scarce Agency resources from further unsuccessful attempts to serve CBM and in order to expeditiously advance the administrative process.

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8, Office of Enforcement, Compliance
and Environmental Justice**

Date:

1/25/18

By:



Suzanne J. Bohan
Assistant Regional Administrator
Office of Enforcement, Compliance
and Environmental Justice

Complainant

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **Partial Motion for Withdrawal of Complaint Against Respondent CBM Leasing, L.L.C.** in docket number CWA-08-2017-0026 was placed in the United States mail to the Office of Administrative Law Office, certified/return receipt requested, on **01/25/2018**.

Further, the undersigned certifies that a true and correct copy of the documents were e-mailed to **Lauren Hammond and Akash Johnson**. True and correct copies of the aforementioned documents were placed in the United States mail, certified/return receipt requested, and mailed on **01/25/2018** to:

Mr. David W. Steffensen
Law Office of David W. Steffensen, P.C.
4873 South State Street
Salt Lake City, Utah 84107

Of Counsel for:
Mr. David Jacobsen
Frostwood 6 LLC
Mr. Kent Hoggan

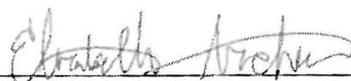
and

Mr. Rick Mckell, Registered Agent for
CBM Leasing, L.L.C.
165 N. 1330 West, Suite B1
Orem, Utah 84057-5111

And e-mailed to:

hammond.lauren@epa.gov

johnson.akash@epa.gov



Elizabeth Archer
Administrative Assistant