

**UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
BEFORE THE ADMINISTRATOR**

<b>In the Matter of:</b>	)	
	)	<b>Docket No. CWA-08-2017-0026</b>
<b>Kent Hoggan, Frostwood 6 LLC, and</b>	)	
<b>David Jacobsen,</b>	)	
<b>Respondents.</b>	)	

**COMPLAINANT’S SUPPLEMENTAL PREHEARING EXCHANGE**

**I. INTRODUCTION**

The United States Environmental Protection Agency, Region 8 (“Complainant”) files this Supplemental Prehearing Exchange in accordance with the Presiding Officer’s December 28, 2018 Order, 40 C.F.R. § 22.19(f), and 40 C.F.R. §22.22(a)(1). The December 28, 2018 Order permitted the filing of supplements to a prehearing exchange by February 15, 2019 without a motion and without the need to demonstrate good cause. OALJ Index Document 38<sup>1</sup> at 1.

**II. COMPLAINANT’S SUPPLEMENTAL EXHIBITS**

Complainant submits the following exhibits as supplements to Complainant’s Initial Prehearing Exchange and Complainant’s Rebuttal Prehearing Exchange:

<b>Complainant’s Exhibit No.</b>	<b>Document</b>	<b>Number of Pages</b>
75.	USACE Wetland Delineation Manual, prepared by the USACE, dated January 1987	143
76.	U.S. EPA Approval of Utah’s Application to Administer the National Pollutant Discharge Elimination System (NPDES) Program (52 Fed. Reg. 27578), dated July 22, 1987	3
77.	U.S. EPA Final Rule – 40 C.F.R. Parts 122, 123, and 124: National Pollutant Discharge Elimination System Permit	152

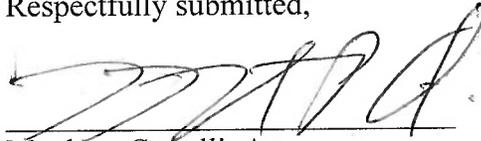
<sup>1</sup> After conferring with the Hearing Clerk, Complainant believes this document to be #38 in the OALJ docket for this case. However, Complainant is unable to view any document #38 in the docket due to technical difficulties, which Complainant is working with the Hearing Clerk to address.

	Application Regulations for Storm Water Discharges (55 Fed. Reg. 47990), dated Nov. 16, 1990	
78.	Wetland Delineation Report for 8 acres located at 4501 North Highway 224 in Park City, Utah, prepared by IHI Environmental, dated July 9, 2002	34
79.	USACE Delineation Concurrence and Violation Letter for the Park City Community Church, dated July 7, 2003	4
80.	USACE Guide to Ordinary High Water Mark Delineation for Non-Perennial Streams in the Western Mountains, Valleys, and Coast Region, of the United States, prepared by the USACE ERDC, dated August 2014	61
81.	Connectivity of Streams and Wetlands to Downstream Waters: A review and Synthesis of the Scientific Evidence, prepared by the EPA, dated January 2015	408
82.	Utah's Final 2016 Integrated Report, prepared by the UDEQ, DWQ, dated December 7, 2016	294
83.	USGS National Hydrography Dataset map of the Snyderville Basin area, accessed December 10, 2018	1
84.	Email from Matthew P. Castelli, Esq. to David W. Steffensen, Esq. regarding Incomplete Documentation of Ability to Pay Claim with Letter Attachment, dated January 30, 2019 2:08 PM	4
85.	USGS StreamStats Report for the gage at the confluence of MIT6 and East Canyon Creek, accessed February 7, 2019	10
86.	USGS stream gage data for Spring Creek near Kimball Junction from September 1994 through September 1995, accessed February 7, 2019	1
87.	Email from Matthew P. Castelli, Esq. to David W. Steffensen, Esq. regarding Incomplete Documentation of Ability to Pay Claim, dated February 11, 2019 7:55PM	2
88.	UGS/NWI Map of MIT2, accessed February 14, 2019	1
89.	UGS/NWI Map of MIT3, accessed February 14, 2019	1
90.	Google Earth Aerial imagery of the area of analysis reviewed by Julia McCarthy, accessed February 15, 2019	19
91.	Declaration of Expert Julia McCarthy, dated February 15, 2019	7

2/15/19

Date

Respectfully submitted,



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**CERTIFICATE OF SERVICE**

I certify that the foregoing Complainant's Supplemental Prehearing Exchange in In the Matter of Kent Hoggan, Frostwood 6 LLC, and David Jacobsen, Respondents, Docket No. CWA-08-2017-0026, dated February 15, 2019, was sent this day in the following manner to the addressees listed below:

Copy by OALJ E-Filing System to:

Headquarters Hearing Clerk    Mary Angeles  
U.S. Environmental Protection Agency  
Office of Administrative Law Judges  
1200 Pennsylvania Avenue, N.W.  
Washington, DC 20460

Presiding Officer                The Honorable Susan L. Biro  
U.S. Environmental Protection Agency  
Office of Administrative Law Judges  
1200 Pennsylvania Avenue, N.W.  
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Copy by email to:

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Dated: February 15, 2019