

DAVID W. STEFFENSEN (A4677)
LAW OFFICE OF DAVID W. STEFFENSEN, P.C.
4873 South State Street
Salt Lake City, Utah 84107
Telephone: (801) 263-1122
Facsimile: (801) 207-1755

2017 DEC 15 AM 9:19

FILED
EPA REGION VIII
HEARING CLERK

Attorney for Kent Hoggan, Frostwood 6, LLC and David Jacobsen.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY REGION 8	
IN THE MATTER OF: KENT HOGGAN 3799 East Catamount Ridge Way Sandy, Utah 84092-6044 FROSTWOOD 6, LLC 5911 South Fashion Blvd., Suite 200 Salt Lake City, Utah 84107-7210 DAVID JACOBSEN 14106 North Council Fire Drail Kamas, Utah 84036 CBM LEASING, L.L.C. 165 North 1330 West, Sutie B1 Orem, Utah 84057-5113 Respondents.	ANSWER OF KENT HOGGAN, FROSTWOOD 6, LLC and DAVID JACOBSEN REQUEST FOR HEARING Docket No. CWA-08-2107-0026

Kent Hoggan, Frostwood 6, LLC and David Jacobsen (“Respondents”), through counsel, hereby answer the allegations of the United States Environmental Protection Agency, as follows:

ANSWER TO COMPLAINT ALLEGATIONS

1. Paragraph 1 requires no response. However, to the extent that a response is required, paragraph 1 is denied.

2. Paragraph 2 calls for a legal conclusion. To the extent, however, that Paragraph 2 requires a response, Paragraph 2 is admitted.
3. Paragraph 3 calls for a legal conclusion. To the extent, however, that Paragraph 3 requires a response, Paragraph 3 is admitted.
4. Paragraph 4 calls for a legal conclusion. To the extent, however, that Paragraph 4 requires a response, Paragraph 4 is admitted.
5. Paragraph 5 calls for a legal conclusion. To the extent, however, that Paragraph 5 requires a response, Paragraph 5 is admitted.
6. Paragraph 6 calls for a legal conclusion. To the extent, however, that Paragraph 6 requires a response, Paragraph 6 is admitted.
7. Paragraph 7 calls for a legal conclusion. To the extent, however, that Paragraph 7 requires a response, Paragraph 7 is admitted.
8. Paragraph 8 calls for a legal conclusion. To the extent, however, that Paragraph 8 requires a response, Paragraph 8 is admitted.
9. Paragraph 9 calls for a legal conclusion. To the extent, however, that Paragraph 9 requires a response, Paragraph 9 is admitted.
10. Paragraph 10 calls for a legal conclusion. To the extent, however, that Paragraph 10 requires a response, Paragraph 10 is admitted.
11. Paragraph 11 calls for a legal conclusion. To the extent, however, that Paragraph 11 requires a response, Paragraph 11 is admitted.
12. Paragraph 12 calls for a legal conclusion. To the extent, however, that Paragraph 12 requires a response, Paragraph 12 is admitted.

13. Paragraph 13 calls for a legal conclusion. To the extent, however, that Paragraph 13 requires a response, Paragraph 13 is admitted.

14. Paragraph 14 calls for a legal conclusion. To the extent, however, that Paragraph 14 requires a response, Paragraph 14 is admitted.

15. Paragraph 15 calls for a legal conclusion. To the extent, however, that Paragraph 15 requires a response, Paragraph 15 is admitted.

16. Paragraph 16 calls for a legal conclusion. To the extent, however, that Paragraph 16 requires a response, Paragraph 16 is admitted.

17. Paragraph 17 calls for a legal conclusion. To the extent, however, that Paragraph 17 requires a response, Paragraph 17 is admitted.

18. Paragraph 18 calls for a legal conclusion. To the extent, however, that Paragraph 18 requires a response, Paragraph 18 is admitted.

19. Paragraph 19 calls for a legal conclusion. To the extent, however, that Paragraph 19 requires a response, Paragraph 19 is admitted.

20. Paragraph 20 calls for a legal conclusion. To the extent, however, that Paragraph 20 requires a response, Paragraph 20 is admitted.

21. Paragraph 21 calls for a legal conclusion. To the extent, however, that Paragraph 21 requires a response, Paragraph 21 is admitted.

22. Paragraph 22 calls for a legal conclusion. To the extent, however, that Paragraph 22 requires a response, Paragraph 22 is admitted.

23. Paragraph 23 calls for a legal conclusion. To the extent, however, that Paragraph 23 requires a response, Paragraph 23 is admitted.

24. Paragraph 24 calls for a legal conclusion. To the extent, however, that Paragraph 24 requires a response, Paragraph 24 is admitted.

25. Paragraph 25 calls for a legal conclusion. To the extent, however, that Paragraph 25 requires a response, Paragraph 25 is admitted.

26. Paragraph 26 calls for a legal conclusion. To the extent, however, that Paragraph 26 requires a response, Paragraph 26 is admitted.

27. Paragraph 27 calls for a legal conclusion. To the extent, however, that Paragraph 27 requires a response, Paragraph 27 is admitted.

28. Paragraph 28 is admitted.

29. Paragraph 29 is admitted.

30. Answering Paragraph 30 only as to Frostwood 6, LLC, Respondents admit that Frostwood 6, LLC is a limited liability company duly formed in the State of Utah with its principal office of business in Utah and is a “person” as defined in section 502(5) of the Act, 33 U.S.C. § 1362(5) and 40 C.F.R. 122.2.

31. Answering Paragraph 31, Repondents only admit that Mr. Hoggan owns Frostwood 6, LLC, and that Frostwood 6 LLC is engaged in constructing a housing development known as “Frostwood F6 Townhomes” located at 4285 North Cooper Lane, Park City, Utah (the “Site”). All other allegations of paragraph 31 are denied.

32. Paragraph 32 is denied.

33. Paragraph 33 is admitted.

34. Paragraph 34 is admitted.

35. Paragraph 35 is admitted.

36. Paragraph 36 is admitted.

37. Paragraph 37 is admitted.
38. Paragraph 38 is admitted.
39. Paragraph 39 is admitted.
40. Paragraph 40 is admitted.
41. Paragraph 41 calls for a legal conclusion. To the extent, however, that Paragraph 41 requires a response, Paragraph 41 is denied.
42. Paragraph 42 calls for a legal conclusion. To the extent, however, that Paragraph 42 requires a response, Paragraph 42 is denied.
43. Paragraph 43 calls for a legal conclusion. To the extent, however, that Paragraph 43 requires a response, Paragraph 43 is denied.
44. Paragraph 44 calls for a legal conclusion. To the extent, however, that Paragraph 44 requires a response, Paragraph 44 is admitted.
45. Paragraph 45 calls for a legal conclusion. To the extent, however, that Paragraph 45 requires a response, Paragraph 45 is denied.
46. Paragraph 46 calls for a legal conclusion. To the extent, however, that Paragraph 46 requires a response, Paragraph 46 is denied.
47. Answering Paragraph 47, Respondents state that the November 18, 2015 NOI to DWQ speaks for itself, therefore, the allegations of Paragraph 47 are denied.
48. Answering Paragraph 48, Respondents state that the January 2, 2016 Site SWPPP speaks for itself, therefore, the allegations of Paragraph 48 are denied.
49. Paragraph 49 is admitted.
50. Paragraph 50 is denied.

51. Answering Paragraph 51, Respondents state that the September 28, 2016 Summary of Findings and Corrective Actions and Notice of Proposed Expedited Settlement Agreement document speaks for itself, and Respondents state that they dispute the purported findings therein, therefore, the allegations of Paragraph 51 are denied.

52. Answering paragraph 52, Respondents admit that Mr. Jacobsen timely responded to the September 28, 2016 document. All other allegations of paragraph 52 not specifically admitted are denied.

53. Answering Paragraph 53, Respondents state that the November 15, 2016 revised Summary of Findings and Corrective Actions and Notice of Proposed Expedited Settlement Agreement document speaks for itself, and Respondents state that they dispute the purported findings therein, therefore, the allegations of Paragraph 53 are denied.

54. Answering paragraph 54, Respondents admit that Mr. Hoggan and Mr. Jacobsen accepted the EPA's offer for an Expedited Settlement Agreement, and further state that they had no legal duty or obligation to do so, and that the basis for the EPA's offer was unfounded.

55. Paragraph 55 is denied.

56. Answering paragraph 56, Respondents state that the EPA's March 7, 2017 filing (Docket No. CWA-08-2017-0007) speaks for itself, therefore, Respondents deny Paragraph 56.

57. Paragraph 57 is admitted.

58. Paragraph 58 is admitted.

59. Paragraph 59 is admitted.

60. Paragraph 60 is denied.

61. Paragraph 61 is denied.
62. Paragraph 62 is denied.
63. Paragraph 63 is admitted.
64. Paragraph 64 is admitted.
65. Paragraph 65 is admitted.
66. Paragraph 66 is denied.
67. Paragraph 67 is denied.
68. Paragraph 68 is admitted.
69. Paragraph 69 is admitted.
70. Paragraph 70 is denied.
71. Answering paragraph 71, said paragraph calls for a legal conclusion. To the extent that paragraph 71 requires an answer, paragraph 71 is denied.
72. Paragraph 72 is denied as to Mr. Hoggan.
73. Paragraph 73 is denied as to Mr. Hoggan.
74. Paragraph 74 is admitted.
75. Paragraph 75 is denied as to Mr. Hoggan.
76. Paragraph 76 is denied as to Mr. Hoggan.
77. Paragraph 77 is admitted as to Mr. Hoggan.
78. Paragraph 78 is denied.
79. Answering paragraph 79, said paragraph calls for a legal conclusion. To the extent that paragraph 79 requires an answer, paragraph 79 is denied.
80. Paragraph 80 is denied.
81. Paragraph 81 is admitted.

82. Paragraph 82, including subparts a through g are denied.

83. Answering paragraph 83, said paragraph calls for a legal conclusion. To the extent that paragraph 83 requires an answer, paragraph 83 is denied.

84. Paragraph 84 is denied.

85. Answering paragraph 85, said paragraph calls for a legal conclusion. To the extent that paragraph 85 requires an answer, paragraph 85 is denied.

86. Answering paragraph 86, Respondent disputes the alleged “findings” of the inspectors on the alleged August 31, 2016 Site visit, including alleged findings 86.a through 86.i, and therefore, paragraph 86 and all subparts are denied.

87. Answering paragraph 87, said paragraph calls for a legal conclusion. To the extent that paragraph 87 requires an answer, paragraph 87 is denied.

88. Answering paragraph 88, Respondents admit that Complainant is seeking administrative penalties, but deny that imposing such administrative penalties is proper in the circumstances, therefore, paragraph 88 is denied.

89. Answering paragraph 89, Respondents admit that Complainant is seeking administrative penalties in an unspecified amount, but deny that imposing such administrative penalties is proper in the circumstances, therefore, paragraph 89 is denied.

90. Answering paragraph 90, the statute and regulation cited speak for themselves, therefore, paragraph 90 is denied.

91. Paragraph 91 requires no answer. To the extent an answer is required, paragraph 91 is denied.

92. Answering paragraph 92, the statute cited speaks for itself, therefore, paragraph 92 is denied.

93. Answering paragraph 93, said paragraph is in the nature of legal argument and requires no answer. To the extent an answer is required, paragraph 93 is denied.

94. Paragraphs 94 through 112 are in the nature of argument and information sharing, and require no answer.

95. Any allegations not admitted are denied.

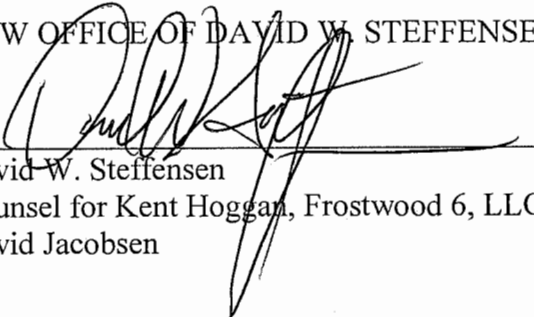
WHEREFORE, Defendant, having fully answered the allegations of Complainant's Complaint, prays for judgment in favor of Respondents and against Complainant, no cause.

REQUEST FOR HEARING

Respondents respectfully request a hearing in this matter.

DATED this 12th day of December, 2017.

LAW OFFICE OF DAVID W. STEFFENSEN, P.C.



David W. Steffensen
Counsel for Kent Hoggan, Frostwood 6, LLC and
David Jacobsen

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was delivered to the following this 12th day of December, 2017 via Federal Express, Next Day Delivery, to:

Lauren Hammond
Legal Enforcement Program, 8ENF-L
U.S. Environmental Protection Agency, Region 8
1595 Wynkoop Street
Denver, Colorado 80202-1129

