

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
BEFORE THE ADMINISTRATOR

In the Matter of:  Kent Hoggan, Frostwood 6, LLC, and David Jacobsen,  Respondents	Docket No. CWA-08-2107-0026
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RESPONDENT KENT HOGGAN'S MOTION FOR LATE FILING OF RESPONDENT'S  
INITIAL PREHEARING EXCHANGE

Respondent, Kent Hoggan ("Hoggan") respectfully submits his Motion for Late Filing of Respondent's Initial Prehearing Exchange.

The deadline for filing was September 7, 2018. Respondent filed his Initial Prehearing Exchange on September 20, 2018. Good cause exists for granting the Motion for Late Filing for the following reasons:

1. Respondent has throughout this process claimed an inability to pay more than nominal amount to resolve this matter. The reason for that inability to pay arises from his difficulties in moving his development business forward after the real estate market crash of 2006 and his personal bankruptcy filing in 2010. Notwithstanding his personal bankruptcy, the IRS continued to assert personal liability for pre-bankruptcy income taxes which resulted in a Judgment being entered against Mr. Hoggan earlier this year for over \$5 million (See Doc 49). Mr. Hoggan has another judgment against him for another \$5 million (See Doc. 50).

2. In the last four years, Mr. Hoggan started five real estate development projects, all of which have gone bad. Those projects are: Two Creeks spec home, Tavaci spec home, the Fairway Springs townhome project, the subject Frostwood townhome project, and the Rocklin, CA residential project. While Mr. Hoggan has told the EPA of these projects gone bad, the EPA continues to not believe it. Hence, Mr. Hoggan needed to get the 2017 tax returns done for the project LLCs for these projects for his Initial Pretrial Exchange Submittal. Despite diligent efforts by Mr. Hoggan and his cpa, Hal Rosen, those tax returns for the project LLCs were not completed until the extended filing deadline, September 17, 2018 and copies were given to his counsel on September 19, 2018. With those tax returns in hand, Respondent submitted his Initial Pretrial Exchange promptly thereafter, on September 20, 2018.

3. The tax returns for those project LLCs show 2017 losses for the projects as follows:

Doc. 20: Frostwood 6, LLC (Frostwood Project):	-1,071,613
Doc 27: Fairway 20, LLC (Fairway Project):	-601,336
Doc 32: Tavaci 3, LLC (Tavaci & Two Creek):	-2,056,823
Doc 33: House I, LLC (Rockin):	-835,926

That is in excess of \$4 million in 2017 losses on those projects.

4. The prior year tax returns for those project LLCs all show losses as well.


5. Not surprisingly, Mr. Hoggan is in default on his project loans for all of these projects. Doc 45 is a letter summarizing the defaults on project loans with Sundance Debt Partners, LLC (for Frostwood and Rocklin). Mr. Hoggan was also

diligently seeking a letter from PCG, the lender on the Fairway Springs, Two Creek and Tavaci projects, and it took until September 20, 2018 to get that letter in hand (Doc. 47).

6. Mr. Hoggan simply cannot absorb these losses and also pay any meaningful amount to resolve the EPA matter.

7. Because the inability to pay defense is a critical part of Mr. Hoggan's defense in this matter, principles of fairness dictate that Mr. Hoggan's inability to pay defense be heard on the merits and that no default be entered against him for a mere 2 week delay in filing in order to get tax returns critical for his defense.

Dated this 20<sup>th</sup> day of September, 2018.



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David W. Steffensen,  
Law Office of David W. Steffensen, P.C.  
Counsel for Respondent  
801-263-1122  
4873 South State Street  
Salt Lake City, Utah 84107

#### VERIFICATION

I, Kent Hoggan, hereby verify under penalties of perjury, that I have read the foregoing statements and that the same are true and correct to the best of my knowledge and belief.

Dated this 20<sup>th</sup> day of September, 2018.



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Kent Hoggan

CERTIFICATE OF SERVICE

I certify that the foregoing Respondent's Motion for Late Filing in the Matter of Kent Hoggan, Frostwood 6, LLC, and David Jacobsen, Respondents, Docket No. CWA-08-2017-0026, dated September 26, 2018, was send this day in the following manner to the addresses listed below:

Copy by FedEx:


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.  
Washington, DC 20460

Copy by FedEx:

Attorney for EPA: Matthew Castelli  
U.S. Environmental Protection Agency,  
Region 8  
Legal Enforcement Program  
1595 Wynkoop Street  
Denver, CO 80202

Dated: September 26, 2018

  
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David W. Steffensen  
Law Office of David W. Steffensen, P.C.  
4873 South State Street  
Salt Lake City, Utah 84107  
801-263-1122  
dave.dwslaw@me.com

AMENDED CERTIFICATE OF SERVICE

I certify that the foregoing Respondent's Motion for Late Filing in the Matter of Kent Hoggan, Frostwood 6, LLC, and David Jacobsen, Respondents, Docket No. CWA-08-2017-0026, dated September 26, 2018, was sent on September 26, 2018 in the following manner to the addresses listed below:

Copy by FedEx:

Headquarters Hearing Clerk: Mary Angeles  
U.S. Environmental Protection Agency  
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Presiding Officer: The Honorable Susan L. Biro  
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Copy by FedEx:

Attorney for EPA: Matthew Castelli  
U.S. Environmental Protection Agency,  
Region 8  
Legal Enforcement Program  
1595 Wynkoop Street  
Denver, CO 80202

AMENDMENT:

However, on October 10, 2018, we were informed that the address to which the FedEx packet was sent to the Office of Administrative Law Judges in Washington DC was actually the postal mailing address for the EPA and not the correct address for receiving FedEx packets. Hence, we are e-filing this document through the OALJ system.

Dated: October 10, 2018



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