

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 7
11201 RENNER BOULEVARD
LENEXA, KANSAS 66219**

Received by
EPA Region 7
Hearing Clerk

In the Matter of
CBD AMERICAN SHAMAN, LLC

Docket No. CAA-07-2022-0142

**ANSWER TO COMPLAINT, AFFIRMATIVE DEFENSES,
AND REQUEST FOR HEARING**

Respondent CBD American Shaman, LLC (referred to herein as “Respondent”), by and through the undersigned attorney, presents its Answer to the Complaint (the “Complaint”) issued by the United States Environmental Protection Agency Region 7 (the “EPA”), and respectfully states, alleges, and answers as follows:

**Section I
Jurisdiction**

1. This paragraph sets forth legal conclusions to which no response is required. To the extent further response is required, denied.
2. This paragraph sets forth legal conclusions to which no response is required. To the extent further response is required, denied.

**Section II
Parties**

3. This paragraph sets forth legal conclusions to which no response is required. To the extent further response is required, denied.
4. Admitted.

Section III
Statutory & Regulatory Background

5. This paragraph sets forth legal conclusions to which no response is required. To the extent further response is required, denied.
6. This paragraph sets forth legal conclusions to which no response is required. To the extent further response is required, denied.
7. This paragraph sets forth legal conclusions to which no response is required. To the extent further response is required, denied.
8. This paragraph sets forth legal conclusions to which no response is required. To the extent further response is required, denied.
9. This paragraph sets forth legal conclusions to which no response is required. To the extent further response is required, denied.
10. This paragraph sets forth legal conclusions to which no response is required. To the extent further response is required, denied.
11. This paragraph sets forth legal conclusions to which no response is required. To the extent further response is required, denied.
12. This paragraph sets forth legal conclusions to which no response is required. To the extent further response is required, denied.

Section IV
General Factual Allegations

13. This paragraph sets forth legal conclusions to which no response is required. To the extent further response is required, denied.
14. This paragraph sets forth legal conclusions to which no response is required. To the extent further response is required, denied.

15. This paragraph sets forth legal conclusions to which no response is required. To the extent further response is required, denied.
16. This paragraph sets forth legal conclusions to which no response is required. To the extent further response is required, denied.
17. This paragraph sets forth legal conclusions to which no response is required. To the extent further response is required, denied.
18. This paragraph sets forth legal conclusions to which no response is required. To the extent further response is required, denied.
19. This paragraph sets forth legal conclusions to which no response is required. To the extent further response is required, denied.
20. This paragraph sets forth legal conclusions to which no response is required. To the extent further response is required, denied.
21. This paragraph sets forth legal conclusions to which no response is required. To the extent further response is required, denied.

Section V
Violations

22. This paragraph sets forth legal conclusions to which no response is required. To the extent further response is required, denied.

Count 1

23. Respondent incorporates each of the foregoing paragraphs as if fully restated herein.
24. This paragraph sets forth legal conclusions to which no response is required. To the extent further response is required, denied.
25. This paragraph sets forth legal conclusions to which no response is required. To the extent further response is required, denied.

26. This paragraph sets forth legal conclusions to which no response is required. To the extent further response is required, denied.

27. This paragraph sets forth legal conclusions to which no response is required. To the extent further response is required, denied.

Count 2

28. Respondent incorporates each of the foregoing paragraphs as if fully restated herein.

29. This paragraph sets forth legal conclusions to which no response is required. To the extent further response is required, denied.

30. This paragraph sets forth legal conclusions to which no response is required. To the extent further response is required, denied.

31. This paragraph sets forth legal conclusions to which no response is required. To the extent further response is required, denied.

32. This paragraph sets forth legal conclusions to which no response is required. To the extent further response is required, denied.

Count 3

33. Respondent incorporates each of the foregoing paragraphs as if fully restated herein.

34. This paragraph sets forth legal conclusions to which no response is required. To the extent further response is required, denied.

35. This paragraph sets forth legal conclusions to which no response is required. To the extent further response is required, denied.

36. This paragraph sets forth legal conclusions to which no response is required. To the extent further response is required, denied.

37. This paragraph sets forth legal conclusions to which no response is required. To the extent further response is required, denied.

Count 4

38. Respondent incorporates each of the foregoing paragraphs as if fully restated herein.

39. This paragraph sets forth legal conclusions to which no response is required. To the extent further response is required, denied.

40. This paragraph sets forth legal conclusions to which no response is required. To the extent further response is required, denied.

41. This paragraph sets forth legal conclusions to which no response is required. To the extent further response is required, denied.

42. This paragraph sets forth legal conclusions to which no response is required. To the extent further response is required, denied.

Count 5

43. Respondent incorporates each of the foregoing paragraphs as if fully restated herein.

44. This paragraph sets forth legal conclusions to which no response is required. To the extent further response is required, denied.

45. This paragraph sets forth legal conclusions to which no response is required. To the extent further response is required, denied.

46. This paragraph sets forth legal conclusions to which no response is required. To the extent further response is required, denied.

47. This paragraph sets forth legal conclusions to which no response is required. To the extent further response is required, denied.

Count 6

48. Respondent incorporates each of the foregoing paragraphs as if fully restated herein.
49. This paragraph sets forth legal conclusions to which no response is required. To the extent further response is required, denied.
50. This paragraph sets forth legal conclusions to which no response is required. To the extent further response is required, denied.
51. This paragraph sets forth legal conclusions to which no response is required. To the extent further response is required, denied.
52. This paragraph sets forth legal conclusions to which no response is required. To the extent further response is required, denied.

Section VI **Relief Sought**

53. This paragraph sets forth legal conclusions to which no response is required. To the extent further response is required, Respondent states that it contests the allegations in the Complaint, requests that the same be dismissed without prejudice, and denies any liability in this matter.

Appropriateness of Proposed Penalty

54. This paragraph sets forth legal conclusions to which no response is required. To the extent further response is required, Respondent states that it contests the allegations in the Complaint, requests that the same be dismissed without prejudice, and denies any liability in this matter.
55. This paragraph sets forth legal conclusions to which no response is required. To the extent further response is required, Respondent states that it contests the allegations in the

Complaint, requests that the same be dismissed without prejudice, and denies any liability in this matter.

56. This paragraph sets forth legal conclusions to which no response is required. To the extent further response is required, Respondent states that it contests the allegations in the Complaint, requests that the same be dismissed without prejudice, and denies any liability in this matter.

57. This paragraph sets forth legal conclusions to which no response is required. To the extent further response is required, Respondent states that it contests the allegations in the Complaint, requests that the same be dismissed without prejudice, and denies any liability in this matter.

58. This paragraph sets forth legal conclusions to which no response is required. To the extent further response is required, Respondent states that it contests the allegations in the Complaint, requests that the same be dismissed without prejudice, and denies any liability in this matter.

59. This paragraph sets forth legal conclusions to which no response is required. To the extent further response is required, Respondent states that it contests the allegations in the Complaint, requests that the same be dismissed without prejudice, and denies any liability in this matter.

60. This paragraph sets forth legal conclusions to which no response is required. To the extent further response is required, Respondent states that it contests the allegations in the Complaint, requests that the same be dismissed without prejudice, and denies any liability in this matter.

NOTICE OF OPPORTUNITY FOR HEARING

Section VII Answer and Request for Hearing

61. This paragraph sets forth legal conclusions to which no response is required. To the extent further response is required, Respondent hereby requests an Administrative Hearing on the issues raised by the Complaint and this Answer.
62. This paragraph sets forth legal conclusions to which no response is required. To the extent further response is required, Respondent hereby requests an Administrative Hearing on the issues raised by the Complaint and this Answer.
63. This paragraph sets forth legal conclusions to which no response is required. To the extent further response is required, Respondent hereby requests an Administrative Hearing on the issues raised by the Complaint and this Answer.
64. This paragraph sets forth legal conclusions to which no response is required. To the extent further response is required, Respondent hereby requests an Administrative Hearing on the issues raised by the Complaint and this Answer.

Section VIII Settlement Conference

65. This paragraph sets forth legal conclusions to which no response is required. To the extent further response is required, Respondent hereby requests an informal settlement conference.
66. This paragraph sets forth legal conclusions to which no response is required. To the extent further response is required, Respondent hereby requests an informal settlement conference.

67. This paragraph sets forth legal conclusions to which no response is required. To the extent further response is required, Respondent hereby requests an informal settlement conference.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the Complaint, Respondent states:

1. Respondent denies each and every allegation not specifically admitted herein.
2. The Complaint fails, in whole or in part, to state a claim on which relief can be granted.
3. The proposed penalty is excessive, inappropriate, and unwarranted, and the EPA has not provided adequate explanation as to how the proposed penalty was calculated.
4. The Complaint's allegations are not supported by adequate evidence.
5. Discovery is ongoing and Respondent reserves the right to assert any additional affirmative defenses that it discovers in the course of these proceedings.

REQUEST FOR A HEARING

1. Respondent requests a hearing pursuant to 40 CFR Part 22.

WHEREFORE, having fully answered the Complaint, Respondent prays that this Complaint is dismissed, and for such other relief as may be appropriate.

Respectfully submitted,

THE PORTO LAW FIRM

/s/ Nicholas J. Porto

Nicholas J. Porto

Ks. Bar 21984/Mo. Bar. 56938

The Porto Law Firm

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Kansas City, Missouri 64111

816-463-2311 (phone)

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Certificate of Service

I certify that on the 9th day of May, 2023, I sent by electronic mail Respondent's Answer to Complaint, Affirmative Defenses and Request for Hearing to the Regional Hearing Clerk, at [R7 Hearing Clerk Filings@epa.gov](mailto:R7_Hearing_Clerk_Filings@epa.gov) with a copy to kacsur.katherine@epa.gov.

/s/ Nicholas J. Porto

