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UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ARIZONA

Don't Waste Arizona, Inc., a 501(c)(3) non-for-profit company organized under the laws of the State of Arizona, Plaintiff, v. Hickman's Egg Ranch, Inc., Defendant.	Case No. 2:16-CV-03319-JZB **ANSWER**

For its answer to plaintiff's Complaint, defendant Hickman's Egg Ranch admits, denies and affirmatively alleges as follows.

I.

Regarding the allegations of paragraph 1, admits only that plaintiff's Complaint purports to seek civil penalties and attorney's fees based on an alleged violation of EPCRA, affirmatively alleging that no basis for such liability exists on the merits.

. . .

. . .

II.

Denies the allegations of paragraph 2, affirmatively alleging that this court lacks jurisdiction over this complaint because plaintiff does not meet constitutionally-required standards for standing to prosecute this action.

III.

Denies the allegations of paragraph 3, affirmatively alleging that because this court lacks jurisdiction over this controversy venue is not appropriate in this District or in any other judicial District.

IV.

Lacks knowledge of, and therefore denies, the allegations of paragraph 4.

V.

Lacks knowledge of, and therefore denies, the allegations of paragraph 5.

VI.

Lacks knowledge of, and therefore denies, the allegations of paragraph 6.

VII.

Lacks knowledge of, and therefore denies, the allegations of paragraph 7.

VIII.

Admits the allegations of paragraph 8.

IX.

Incorporates by reference all previous answers in response to the allegations of paragraph 9.

X.

Regarding the allegations of paragraph 10, plaintiff there pleads issues of law rather than factual allegations which require answer by defendant. On this basis the allegations of paragraph 10 are denied.

XI.

Admits the allegations of paragraph 11.

. . .

XII.

Denies the allegations of paragraph 12.

XIII.

Admits the allegations of paragraph 13.

XIV.

Admits the allegations of the first sentence of paragraph 14. Denies all remaining allegations of paragraph 14.

XV.

Regarding the allegations of paragraph 15, plaintiff there pleads issues of law rather than factual allegations which require answer by defendant. On this basis the allegations of paragraph 15 are denied.

XVI.

Lacks knowledge of, and therefore denies, the allegations of paragraph 16.

XVII.

Lacks knowledge of, and therefore denies, the allegations of paragraph 17.

XVIII.

Lacks knowledge of, and therefore denies, the allegations of paragraph 18.

XIX.

Lacks knowledge of, and therefore denies, the allegations of paragraph 19.

XX.

Denies the allegations of paragraph 20.

XXI.

Incorporates by reference all previous answers in response to the allegations of paragraph 21.

XXII.

Regarding the allegations of paragraph 22, plaintiff there pleads issues of law rather than factual allegations which require answer by defendant. On this basis the allegations of paragraph 22 are denied.

XXIII.

Regarding the allegations of paragraph 23, plaintiff there pleads issues of law rather than factual allegations which require answer by defendant. On this basis the allegations of paragraph 23 are denied.

XXIV.

Regarding the allegations of paragraph 24, plaintiff there pleads issues of law rather than factual allegations which require answer by defendant. On this basis the allegations of paragraph 24 are denied.

XXV.

Regarding the allegations of paragraph 25, plaintiff there pleads issues of law rather than factual allegations which require answer by defendant. On this basis the allegations of paragraph 25 are denied.

XXVI.

Regarding the allegations of paragraph 26, admits that defendant is the owner of the property located at 41625 W. Indian School Road, Tonopah, Arizona. Denies all remaining allegations of paragraph 36.

XXVII.

Regarding the allegations of paragraph 27, admits upon information and belief that defendant has not submitted notification under Section 304 of EPCRA, affirmatively alleging that such notification is not legally required to the best of defendant's knowledge, information and belief and that there is no standard established regarding when notification is required.

XXVIII.

Lacks knowledge of, and therefore denies, the allegations of paragraph 28.

XXIX.

Regarding the allegations of paragraph 29, admits upon information and belief that defendant has not submitted follow-up notifications under Section 304 of EPCRA, affirmatively alleging that such notification is not legally required to the best of

defendant's knowledge, information and belief and that there is no standard established regarding when notification is required.

XXX.

Regarding the allegations of paragraph 30, plaintiff there pleads issues of law rather than factual allegations which require answer by defendant. On this basis the allegations of paragraph 30 are denied.

XXXI.

Denies the allegations of paragraph 31.

XXXII.

Incorporates by reference all previous answers in response to the allegations of paragraph 32.

XXXIII.

Regarding the allegations of paragraph 33, plaintiff there pleads issues of law rather than factual allegations which require answer by defendant. On this basis the allegations of paragraph 33 are denied.

XXXIV.

Regarding the allegations of paragraph 34, plaintiff there pleads issues of law rather than factual allegations which require answer by defendant. On this basis the allegations of paragraph 34 are denied.

XXXV.

Regarding the allegations of paragraph 35, plaintiff there pleads issues of law rather than factual allegations which require answer by defendant. On this basis the allegations of paragraph 35 are denied.

XXXVI.

Regarding the allegations of paragraph 36, admits that defendant is the owner of the property located at 32425 West Salome Highway, Arlington, Arizona. Denies all remaining allegations of paragraph 36.

. . .

XXXVII.

Regarding the allegations of paragraph 37, admits upon information and belief that defendant has not submitted notification under Section 304 of EPCRA, affirmatively alleging that such notification is not legally required to the best of defendant's knowledge, information and belief and that there is no standard established regarding when notification is required.

XXXVIII.

Lacks knowledge of, and therefore denies, the allegations of paragraph 38.

XXXIX.

Regarding the allegations of paragraph 39, admits upon information and belief that defendant has not submitted follow-up notifications under Section 304 of EPCRA, affirmatively alleging that such notification is not legally required to the best of defendant's knowledge, information and belief and that there is no standard established regarding when notification is required.

XL.

Regarding the allegations of paragraph 40, plaintiff there pleads issues of law rather than factual allegations which require answer by defendant. On this basis the allegations of paragraph 40 are denied.

XLI.

Lacks knowledge of, and therefore denies, the allegations of paragraph 41.

XLII.

Regarding the allegations of paragraph 42, admits upon information and belief that defendant has not reported releases of ammonia, affirmatively alleging that such notification is not legally required to the best of defendant's knowledge, information and belief and that there is no standard established regarding when notification is required. Denies all remaining allegations of paragraph 42.

. . .

. . .

XLIII.

Regarding the allegations of paragraph 43, plaintiff there pleads issues of law rather than factual allegations which require answer by defendant. On this basis the allegations of paragraph 43 are denied. To the extent paragraph 43 pleads that defendant is liable for a specific sum, those allegations are denied.

XLIV.

Denies all allegations of the Complaint not expressly admitted herein.

AFFIRMATIVE DEFENSES

For its first affirmative defense, defendant asserts that plaintiff's complaint fails to state a claim upon which relief may be granted.

For its second affirmative defense, defendant asserts that plaintiff lacks standing to prosecute this action.

For its third affirmative defense, defendant asserts that plaintiff's claims in whole or part are barred by the controlling statute of limitations.

For its fourth affirmative defense, defendant asserts that this court lacks jurisdiction to adjudicate this complaint under the case and controversy requirements of the U.S. Constitution.

DATED this 21st day of October, 2016.

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ORIGINAL of the foregoing e-filed
this 21st day of October, 2016, with the
Clerk of Court and a COPY was emailed to:

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