

Bradley R. Cahoon (8558)
Cole P. Crowther (*pro hac vice* application pending)
Tyler R. Cahoon (*pro hac vice* application pending)
DENTONS DURHAM JONES PINEGAR P.C.
111 South Main Street, Suite 2400
Salt Lake City, UT 84111
Telephone: (801) 415-3000
Facsimile: (801) 415-3500
brad.cahoon@dentons.com
cole.crowther@dentons.com
tyler.cahoon@dentons.com

Attorneys for Defendants

**IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LEMHI**

THE IDAHO DEPARTMENT OF
WATER RESOURCES,

Plaintiff,

v.

LAURENT COMTE, an individual; and
PANTHERC, LLC, an Idaho limited
liability company,

Defendants.

ANSWER

Case No. CV30-23-0191
Judge Stevan H. Thompson

ANSWER

Defendants Laurent Comte (“Comte”) and PantherC, LLC (“PantherC”), (collectively, the “Defendants”), hereby submit this Answer in response to Plaintiff the Idaho Department of Water Resources’ (the “Department” or “Plaintiff”) Complaint filed on August 17, 2023 (“Complaint”).

FIRST DEFENSE

The Complaint, or one of more of the causes of action set forth therein, fails to state a claim against the Defendants upon which relief may be granted.

SECOND DEFENSE

Defendants respond to each specific paragraph of Plaintiff's Complaint by admitting, denying, and alleging as follows:

"NATURE OF ACTION"

1. Denied.

"PARTIES"

2. Defendants lack sufficient information to admit or deny the allegations in paragraph 2 and, on that basis, deny the same.

3. Defendants lack sufficient information to admit or deny the allegations in paragraph 3 and, on that basis, deny the same.

4. Denied.

5. Admitted.

6. Defendants admit that PantherC owns land that includes Panther Creek but deny the remaining allegations in paragraph 6.

7. Denied.

"JURISDICTION AND VENUE"

8. Paragraph 8 is a statement regarding jurisdiction and calls for a legal conclusion and therefore a response is not required. To the extent a response is required, Defendants deny all allegations in paragraph 8.

9. Paragraph 9 is a statement regarding jurisdiction and calls for a legal conclusion and therefore a response is not required. To the extent a response is required, Defendants deny all allegations in paragraph 9.

10. Paragraph 10 is a statement regarding jurisdiction and calls for a legal conclusion and therefore a response is not required. To the extent a response is required, Defendants deny all allegations in paragraph 10.

“FACTS”

11. Paragraph 11 is not a factual allegation that requires a response, but to the extent a response is required, Defendants deny.

12. Denied.

13. Admitted.

14. Denied.

15. Defendants lack sufficient information to admit or deny the allegations in paragraph 15 and, on that basis, deny the same.

16. Admitted.

17. Denied.

18. Denied.

19. Denied.

20. Denied.

21. Admitted.

22. Defendants lack sufficient information to admit or deny the allegations in paragraph 22 and, on that basis, deny the same.

23. Denied.

24. Defendants lack sufficient information to admit or deny the allegations in paragraph 24 and, on that basis, deny the same.

25. Denied.

26. Denied.

“COUNT 1”

27. Defendants incorporate by reference their answers relating to the paragraphs incorporated by reference in paragraph 27.

28. Defendants deny the allegations in paragraph 28 on the ground Idaho Code § 42-3803 speaks for itself.

29. Defendants deny the allegations in paragraph 29 on the ground Idaho Code § 42-3802(b) speaks for itself.

30. Defendants deny the allegations in paragraph 29 on the ground Idaho Code § 42-3802(d) speaks for itself.

31. Denied.

32. Denied.

33. Denied.

34. Denied.

35. Denied.

36. Denied.

“PRAYER FOR RELIEF”

Defendants deny that Plaintiff is entitled to any of the relief prayed for, including but not limited to, the relief requested in paragraphs 38-40.

THIRD DEFENSE

Defendants deny each and every allegation in the Complaint not expressly admitted herein.

FOURTH DEFENSE

Plaintiff's claims are barred in whole or in part by the doctrines of estoppel, waiver, consent, release, ratification, and/or laches.

FIFTH DEFENSE

Plaintiff's claims are barred in whole or part by Plaintiff's improper actions and/or under the doctrine of unclean hands.

SIXTH DEFENSE

Plaintiff failed to mitigate its alleged damages.

SEVENTH DEFENSE

Defendants' alleged activity that allegedly altered a stream channel did not require a permit under Idaho law.

EIGHTH DEFENSE

Defendants' alleged activity did not require a permit because the alleged activity was undertaken to protect property, including growing crops.

NINTH DEFENSE

Defendants' alleged activity did not require a permit because the alleged activity was undertaken to clean, maintain, construct or repair a diversion ditch, canal, ditch and to remove obstructions from the stream channel that was interfering with the delivery of water under an existing water right or water right permit.

TENTH DEFENSE

All of Defendant Comte's activity alleged in the Complaint was done as an agent of Defendant PantherC, LLC, not in Defendant Comte's individual capacity.

RESERVATION OF AFFIRMATIVE DEFENSES

Defendants reserve the right to supplement and/or amend their Answer to assert additional affirmative defenses as they become known to them in the future.

RELIEF REQUESTED

WHEREFORE, Defendants pray that the Complaint be dismissed with prejudice and on the merits, that Plaintiff takes nothing thereby, that the Court award Defendants their costs and attorney fees incurred in connection with this action, as permitted by law, and that Defendants be granted such other and further relief as the Court deems just and equitable under the circumstances.

DATED this 14th day of September 2023.

DENTONS DURHAM JONES PINEGAR P.C.

/s/ Bradley R. Cahoon _____

Bradley R. Cahoon

Cole P. Crowther

Tyler R. Cahoon

Attorneys for Defendants

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing was served this 14th day of September 2023, via Idaho District Court electronic filing system upon the following people:

GARRICK L. BAXTER
MEGHAN M. CARTER
Deputy Attorneys General
Idaho Department of Water Resources
P.O. Box 83720
Boise, Idaho 83720-0098
garrick.baxter@idwr.idaho.gov
meghan.carter@idwr.idaho.gov

/s/ Carol S. MacKay