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BEFORE THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

JACKSON & SON DISTRIBUTORS, INC.,
Dba JACKSON AND SON OIL,

Seaside, Oregon,

Respondent.

DOCKET NO. CWA-10-2025-0023

RESPONDENT'S ANSWER TO
AMENDED COMPLAINT,
AFFIRMATIVE DEFENSES, AND
REQUEST FOR HEARING

ANSWER TO AMENDED COMPLAINT

Respondent, Jackson & Son Distributors, Inc., dba Jackson and Son Oil ("Jackson" or "Respondent"), through the undersigned attorneys, presents its Answer to the Amended Complaint ("Amended Complaint") issued by the United States Environmental Protection Agency Region 10 ("EPA" or "Complainant"), and respectfully states, alleges and prays as follows:

I. STATUTORY AUTHORITY

RESPONDENT'S ANSWER TO
AMENDED COMPLAINT,
AFFIRMATIVE DEFENSES AND
REQUEST FOR HEARING - 1

BAKALIAN & ASSOCIATES P.S.
8201 164th Ave NE, Suite 200
Redmond, WA 98052
T: (425) 985-6527

1.1 This paragraph sets forth statutory language. To the extent further response is required, Respondent is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in this paragraph, and the allegations are therefore denied.

1.2 This paragraph sets forth legal conclusions to which no response is required. To the extent further response is required, Respondent is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in this paragraph, and the allegations are therefore denied.

II. STATUTORY AND REGULATORY BACKGROUND

2.1 This paragraph sets forth legal conclusions to which no response is required. To the extent further response is required, Respondent is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in this paragraph, and the allegations are therefore denied.

2.2 This paragraph sets forth legal conclusions to which no response is required. To the extent further response is required, Respondent is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in this paragraph, and the allegations are therefore denied.

2.3 This paragraph sets forth legal conclusions to which no response is required. To the extent further response is required, Respondent is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in this paragraph, and the allegations are therefore denied.

1 2.4 This paragraph sets forth legal conclusions to which no response is required. To the
2 extent further response is required, Respondent is without knowledge or information
3 sufficient to form a belief as to the truth or falsity of the allegations stated in this paragraph,
4 and the allegations are therefore denied.

5 2.5 This paragraph sets forth legal conclusions to which no response is required. To the
6 extent further response is required, Respondent is without knowledge or information
7 sufficient to form a belief as to the truth or falsity of the allegations stated in this paragraph,
8 and the allegations are therefore denied.

9 2.6 This paragraph sets forth legal conclusions to which no response is required. To the
10 extent further response is required, Respondent is without knowledge or information
11 sufficient to form a belief as to the truth or falsity of the allegations stated in this paragraph,
12 and the allegations are therefore denied.

13 2.7 This paragraph sets forth legal conclusions to which no response is required. To the
14 extent further response is required, Respondent is without knowledge or information
15 sufficient to form a belief as to the truth or falsity of the allegations stated in this paragraph,
16 and the allegations are therefore denied.

17 2.8 This paragraph sets forth legal conclusions to which no response is required. To the
18 extent further response is required, Respondent is without knowledge or information
19 sufficient to form a belief as to the truth or falsity of the allegations stated in this paragraph,
20 and the allegations are therefore denied.

21 2.9 This paragraph sets forth legal conclusions to which no response is required. To the
22 extent further response is required, Respondent is without knowledge or information

1 sufficient to form a belief as to the truth or falsity of the allegations stated in this paragraph,
2 and the allegations are therefore denied.

3 2.10 This paragraph sets forth legal conclusions to which no response is required. To the
4 extent further response is required, Respondent is without knowledge or information
5 sufficient to form a belief as to the truth or falsity of the allegations stated in this paragraph,
6 and the allegations are therefore denied.

7 2.11 This paragraph sets forth legal conclusions to which no response is required. To the
8 extent further response is required, Respondent is without knowledge or information
9 sufficient to form a belief as to the truth or falsity of the allegations stated in this paragraph,
10 and the allegations are therefore denied.

11 2.12 This paragraph sets forth legal conclusions to which no response is required. To the
12 extent further response is required, Respondent is without knowledge or information
13 sufficient to form a belief as to the truth or falsity of the allegations stated in this paragraph,
14 and the allegations are therefore denied.

15 2.13 This paragraph sets forth legal conclusions to which no response is required. To the
16 extent further response is required, Respondent is without knowledge or information
17 sufficient to form a belief as to the truth or falsity of the allegations stated in this paragraph,
18 and the allegations are therefore denied.

19 2.14 This paragraph sets forth legal conclusions to which no response is required. To the
20 extent further response is required, Respondent is without knowledge or information
21 sufficient to form a belief as to the truth or falsity of the allegations stated in this paragraph,
22 and the allegations are therefore denied.

1 2.15 This paragraph sets forth legal conclusions to which no response is required. To the
2 extent further response is required, Respondent is without knowledge or information
3 sufficient to form a belief as to the truth or falsity of the allegations stated in this paragraph,
4 and the allegations are therefore denied.

5 2.16 This paragraph sets forth legal conclusions to which no response is required. To the
6 extent further response is required, Respondent is without knowledge or information
7 sufficient to form a belief as to the truth or falsity of the allegations stated in this paragraph,
8 and the allegations are therefore denied.

9 **III. ALLEGATIONS**

10 3.1 Respondent, upon information and belief, admits the allegations contained in this
11 paragraph.

12 3.2 Respondent, upon information and belief, admits it owns the property located at
13 84721 Happel Lane, Seaside, Oregon. Respondent denies the remainder of the allegations
14 contained in this paragraph.

15 3.3 This paragraph sets forth legal conclusions to which no response is required. To the
16 extent further response is required, Respondent is without knowledge or information
17 sufficient to form a belief as to the truth or falsity of the allegations stated in this paragraph,
18 and the allegations are therefore denied.

19 3.4 This paragraph sets forth legal conclusions to which no response is required. To the
20 extent further response is required, Respondent denies the “Facility” located at 84721
21 Happel Lane, Seaside, Oregon, is a “non-transportation-related” facility within the
22 meaning of 40 CFR 112.2, 40 CRR Pt. 112, App A.

1 3.5 Respondent is without knowledge or information sufficient to form a belief as to
2 the truth or falsity of the allegations stated in this paragraph, and the allegations are
3 therefore denied.

4 3.6 Respondent, upon information and belief, admits that an inspection was performed
5 by EPA and/or its representatives on or about September 21, 2021. Respondent lacks
6 knowledge or information sufficient to form a belief as to whether the person that
7 performed the inspection was, as alleged, “an authorized EPA representative” and,
8 likewise, as to whether the purpose of the inspector was “to determine compliance with
9 Section 311(j) of the CWA and the requirements of 40 C.F.R. part 112” and therefor denies
10 the same.

11 3.7 This paragraph sets forth legal conclusions to which no response is required. To the
12 extent further response is required, Respondent is without knowledge or information
13 sufficient to form a belief as to the truth or falsity of the allegations stated in this paragraph,
14 and the allegations are therefore denied.

15 3.8 This first sentence of this paragraph sets forth legal conclusions to which no
16 response is required. Respondent denies the allegations in the remainder of this paragraph.

17 3.9 Respondent admits that Powers Engineering and Inspection, Inc. conducted certain
18 work at Respondent’s property on or about April 5, 2023. Respondent denies the remainder
19 of this paragraph as it calls for a legal conclusion.

20 3.10 Respondent denies the allegations stated in this paragraph.

21 3.11 Respondent denies the allegations stated in this paragraph.

22 3.12 Respondent denies the allegations stated in this paragraph.

1 3.13 Respondent denies the allegations stated in this paragraph.

2 3.14 Respondent denies the allegations stated in this paragraph.

3 **Violations**

4 **Count 1: Failure to Prepare and Implement SPCC Plan**

5 3.15 This paragraph describes, in general terms, regulatory requirements appearing in
6 40 C.F.R. §112.7, to which no response is required and is therefore denied.

7 3.16 Respondent denies the allegations stated in this paragraph.

8 3.17 Respondent denies the allegations stated in this paragraph.

9 3.18 Respondent denies the allegations stated in this paragraph.

10 **Counts 2-3: Failure to Provide Adequate Secondary Containment**

11 3.19 This paragraph sets forth legal conclusions to which no response is required. To the
12 extent further response is required, Respondent is without knowledge or information
13 sufficient to form a belief as to the truth or falsity of the allegations stated in this paragraph,
14 and the allegations are therefore denied.

15 3.20 This paragraph describes, in general terms, regulatory requirements appearing in
16 40 C.F.R. §112.8(c)(2), to which no response is required and is therefore denied.

17 3.21 Respondent denies the allegations stated in this paragraph.

18 3.22 Respondent denies the allegations stated in this paragraph.

19 3.23 Respondent denies the allegations stated in this paragraph.

20 **Counts 4-5: Failure to Properly Design Facility Discharge Systems from Transfer**

21 **Areas**

22 3.24 This paragraph describes, in general terms, regulatory requirements appearing in
40 C.F.R. §112.8(b)(3), to which no response is required and is therefore denied.

RESPONDENT'S ANSWER TO
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1 3.25 This paragraph describes, in general terms, regulatory requirements appearing in
2 40 C.F.R. §112.8(b)(3) and 112.8(b)(4), to which no response is required and is therefore
3 denied.

4 3.26 Respondent admits there are diesel and gasoline storage tanks at its property
5 located at 84721 Happel Lane, Seaside, Oregon, but denies the remainder of the
6 allegations stated in this paragraph.

7 3.27 Respondent denies the allegations stated in this paragraph.

8 3.28 Respondent denies the allegations stated in this paragraph.

9 3.29 Respondent denies the allegations stated in this paragraph.

10 3.30 Respondent denies the allegations stated in this paragraph.

11 **Count 6: Failure to Provide Sufficient Containment at Loading/Unloading Rack**

12 3.31 This paragraph describes, in general terms, regulatory requirements appearing in
13 40 C.F.R. §112.7(h)(1) but it's applicability to this case is denied.

14 3.32 Respondent denies the allegations stated in this paragraph.

15 3.33 Respondent denies the allegations stated in this paragraph.

16 3.34 Respondent denies the allegations stated in this paragraph.

17 3.35 Respondent denies the allegations stated in this paragraph.

18 3.36 Respondent denies the allegations stated in this paragraph.

19 3.37 Respondent denies the allegations stated in this paragraph.

20 **Counts 7-16: Failure to Conduct and Maintain a Procedure and Schedule for**

21 **Integrity Testing**

1 3.38 This paragraph describes, in general terms, regulatory requirements appearing in
2 40 C.F.R. §112.8(c)(6), to which no response is required and is therefore denied.

3 3.39 Respondent denies the allegations stated in this paragraph.

4 3.40 Respondent denies the allegations stated in this paragraph.

5 3.41 Respondent denies the allegations stated in this paragraph.

6 3.42 Respondent denies the allegations stated in this paragraph.

7 3.43 Respondent denies the allegations stated in this paragraph.

8 **Counts 17-18: Failure to Conduct and Maintain Records of Inspections and Tests**

9 3.44 This paragraph describes, in general terms, regulatory requirements appearing in
10 40 C.F.R. §112.7(e), to which no response is required and is therefore denied.

11 3.45 Respondent denies the allegations stated in this paragraph.

12 3.46 Respondent denies the allegations stated in this paragraph.

13 3.47 Respondent denies the allegations stated in this paragraph.

14 3.48 Respondent denies the allegations stated in this paragraph.

15 3.49 Respondent denies the allegations stated in this paragraph.

16 **Count 19: Failure to Provide Warning Lights or Barrier System at Loading/**

17 **Unloading Rack**

18 3.50 This paragraph describes, in general terms, regulatory requirements appearing in
19 40 C.F.R. §112.7(h)(2), to which no response is required and is therefore denied.

20 3.51 Respondent denies the allegations stated in this paragraph.

21 3.52 Respondent denies the allegations stated in this paragraph.

22 3.53 Respondent denies the allegations stated in this paragraph.

1 **Counts 20-28: Failure to Employ Devices to Avoid Discharges**

2 3.54 This paragraph describes, in general terms, regulatory requirements appearing in
3 40 C.F.R. §112.8(c)(8), to which no response is required and is therefore denied.

4 3.55 Respondent denies the allegations stated in this paragraph.

5 3.56 Respondent denies the allegations stated in this paragraph.

6 3.57 Respondent denies the allegations stated in this paragraph.

7 **IV. PROPOSED PENALTY**

8 4.1 Respondent denies there is any basis in law or fact for the proposed penalty
9 calculations and penalty assessments and for issuance of a Final Order assessing
10 Respondent an administrative penalty up to \$23,647 per day and up to a maximum penalty
11 of \$295,564. Respondent denies the remaining allegations and conclusions in this
12 paragraph.

13 In addition, the proposed penalty assessment is excessive, unwarranted and
14 burdensome.

15 **V. OPPORTUNITY TO REQUEST A HEARING**

16 Respondent's Answer meets the requirements of 40 C.F.R. 22.15, as described in
17 paragraphs 5.1-5.5. To the extent further response is required, it is contained in this
18 Answer, Affirmative Defenses and Request for Hearing.

19 **VI. FAILURE TO FILE AN ANSWER**

20 Paragraphs 6.1-6.3 contain legal conclusions and procedures. To the extent further
21 response is required, it is contained in this Answer, Affirmative Defenses and Request for
22 Hearing.

RESPONDENT'S ANSWER TO
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1 **VII. INFORMAL SETTLEMENT CONFERENCE**

2 Paragraphs 7.1-7.2 contain legal conclusions and procedures. To the extent further
3 response is required, it is contained in this Answer, Affirmative Defenses and Request for
4 Hearing.

5 **VIII. RESERVATIONS**

6 Paragraph 8.1 contains legal conclusions and procedures. To the extent further response is
7 required, it is contained in this Answer, Affirmative Defenses and Request for Hearing.

8 **IX. PUBLIC NOTICE**

9 Paragraph 9.1 contains legal conclusions and procedures. To the extent further response is
10 required, it is contained in this Answer, Affirmative Defenses and Request for Hearing.

11 **X. AFFIRMATIVE DEFENSES**

12 1. The Amended Complaint fails to state a claim upon which relief can be granted
13 against Respondent.

14 2. EPA lacks jurisdiction over Respondent pursuant to Section 311 of the Clean
15 Water Act, 33 U.S.C. 311(j)(1)(C) and the Spill Prevention Control and Countermeasures
16 (SPCC) Plan requirements at 40 C.F.R. 112.(a)(1).

17 3. Respondent asserts that EPA's Amended Complaint exceeds the scope of EPA's
18 regulatory jurisdiction to implement the Clean Water Act, is ultra vires and an abuse of
19 discretion, insofar as Respondent previously documented its compliance with all relevant
20 statutory and regulatory references and requirements alleged in the Amended Complaint.

21 4. The Amended Complaint and/or the alleged penalty assessments, are barred in
22 whole or in part by the doctrines of waiver, laches and/or estoppel; Respondent relied upon
23 oral and written advice from EPA and its representatives at all times prior to the Amended
24 Complaint including all previous written and oral communications with EPA

representatives from its Seattle and Portland offices, which it reasonably relied upon at all times prior to this Amended Complaint.

5. The Amended Complaint and underlying action by EPA violations Respondent's Constitutional right of due process, including but not limited to acting as a judge in its own proceeding and requiring different evidentiary and procedural rules.

6. The proposed penalty set forth in the Amended Complaint is excessive, inappropriate and an abuse of discretion.

7. The Amended Complaint and underlying action against Respondent, which seeks to restrict Respondent's business and private rights, is unconstitutional under the Appointments Clause, Article III, and the Constitution's guarantees of fair process through an Article III court, not an administrative adjudication.

8. Complainant's alleged administrative civil penalties violates Respondent's Constitutional right to a jury trial.

9. The Amended Complaint is barred by the statute of limitations.

10. Complainant's allegations are not supported by substantial evidence.

11. The Amended Complaint and entire administrative proceeding constitutes an unlawful delegation of authority to the EPA Region X office and personnel.

12. There has been an improper appointment of an Administrative Law Judge in this matter.

XI. RESERVATION OF RIGHT TO AMEND ANSWER AND ADD AFFIRMATIVE DEFENSES

1 13. Respondent reserves the right to amend this answer and to add further affirmative
2 defenses, including those which may become apparent through discovery and development
3 of this case.

4 **XII. REQUEST FOR HEARING**

5 14. Respondent, Jackson & Son Distributors, Inc., dba Jackson and Son Oil hereby
6 requests an Administrative Hearing on the issues raised by the Amended Complaint and
7 this Answer.

8
9 DATED this 27th day of October 2025.

10
11 BAKALIAN & ASSOCIATES P.S.

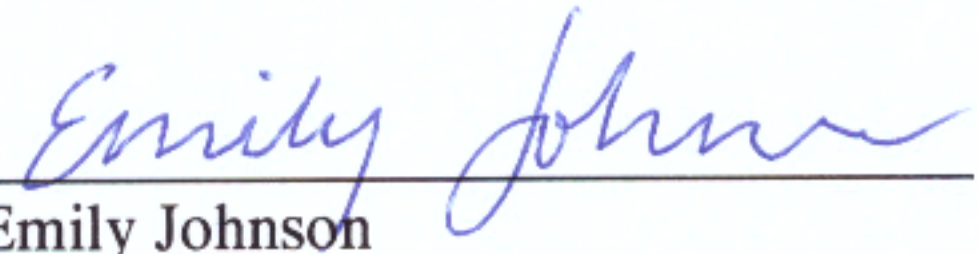
12 *Allan Bakalian*

13 Allan Bakalian, WSBA# 14255
14 Bakalian & Associates P.S.
15 8201 164th Avenue NE, Suite 200
16 Redmond, WA 98052
17 allan@bakalianlaw.com
18 Attorneys for Respondent
19
20
21
22

In the Matter of *Jackson & Son Distributors, Inc., d/b/a Jackson and Son Oil*, Respondent.
Docket No. CWA-10-2025-0023

CERTIFICATE OF SERVICE

I hereby certify that the foregoing **RESPONDENT'S ANSWER TO AMENDED COMPLAINT, AFFIRMATIVE DEFENSES AND REQUEST FOR HEARING**, dated October 27, 2025, was sent this day to the following parties in the manner indicated below.



Emily Johnson
Legal Assistant

Copy by OALJ E-Filing System to:

U.S. Environmental Protection Agency
Office of Administrative Law Judges
https://yosemite.epa.gov/OA/EAB/EAB-ALJ_Upload.nsf

Copy by Electronic Mail to:

Ashley Bruner
Assistant Regional Counsel
U.S. EPA, Region 10
1200 Sixth Avenue
Suite 155, M/S 11-C07
Seattle, WA 98101
Email: bruner.ashley@epa.gov
Counsel for Complainant

Dated: October 27, 2025