

FILED

May 21, 2025

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**U.S. EPA REGION 7
HEARING CLERK**

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

BEFORE THE ADMINISTRATOR

IN THE MATTER OF

**Lake Burger Holdings, LLC
Respondent.**

Docket No. CWA-07-2025-0028

ANSWER TO COMPLAINT AND REQUEST FOR HEARING

COMES NOW Respondent Lake Burger Holdings, LLC, by and through its counsel of record, Zane G. Williams and The Williams Law Firm, and pursuant to 40 C.F.R. §22.15, for its Answer to the Complaint states as follows:

1. Respondent Lake Burger Holdings, LLC is without sufficient knowledge to admit or deny the allegations contained in Paragraph 1 of the Complaint; and therefore denies the same.
2. Respondent Lake Burger Holdings, LLC denies the allegations contained in Paragraph 2 of the Complaint.
3. Respondent Lake Burger Holdings, LLC admits the allegations of Paragraph 3.
4. Respondent Lake Burger Holdings, LLC admits the allegations contained in Paragraph 4 of the Complaint.
5. Respondent Lake Burger Holdings, LLC admits the allegations of Paragraph 5.
6. Respondent Lake Burger Holdings, LLC admits the allegations of Paragraph 6.
7. Respondent Lake Burger Holdings, LLC admits the allegations of Paragraph 7.

8. Respondent Lake Burger Holdings, LLC is without sufficient knowledge to admit or deny the allegations contained in Paragraph 8 of the Complaint; and therefore denies the same.

9. Respondent Lake Burger Holdings, LLC is without sufficient knowledge to admit or deny the allegations contained in Paragraph 9 of the Complaint; and therefore denies the same.

10. Respondent Lake Burger Holdings, LLC admits the allegations contained in Paragraph 10 of the Complaint.

11. Respondent Lake Burger Holdings, LLC admits the allegations contained in Paragraph 11 of the Complaint.

12. Respondent Lake Burger Holdings, LLC admits the allegations contained in Paragraph 12 of the Complaint.

13. Respondent Lake Burger Holdings, LLC is without sufficient knowledge to admit or deny the allegations contained in Paragraph 13 of the Complaint; and therefore denies the same.

14. Respondent Lake Burger Holdings, LLC is without sufficient knowledge to admit or deny the allegations contained in Paragraph 14 of the Complaint; and therefore denies the same.

15. Respondent Lake Burger Holdings, LLC denies the allegations contained in Paragraph 15 of the Complaint.

16. Respondent Lake Burger Holdings, LLC admits that the Lake of the Ozarks is an impoundment of the Osage River, but denies the remaining allegations of Paragraph 16 of the Complaint.

17. Respondent Lake Burger Holdings, LLC denies the allegations contained in Paragraph 17 of the Complaint.

18. Respondent Lake Burger Holdings, LLC denies the allegations contained in Paragraph 18 of the Complaint.

19. Respondent Lake Burger Holdings, LLC is without sufficient knowledge to admit or deny the allegations contained in Paragraph 19 of the Complaint; and therefore denies the same.

20. Respondent Lake Burger Holdings, LLC denies the allegations contained in Paragraph 20 of the Complaint.

21. Respondent Lake Burger Holdings, LLC is without sufficient knowledge to admit or deny the allegations contained in Paragraph 21 of the Complaint; and therefore denies the same.

22. Respondent Lake Burger Holdings, LLC denies the allegations contained in Paragraph 22 of the Complaint.

23. Respondent Lake Burger Holdings, LLC denies the allegations contained in Paragraph 23 of the Complaint.

24. Respondent Lake Burger Holdings, LLC denies the allegations contained in Paragraph 24 of the Complaint.

25. Respondent Lake Burger Holdings, LLC denies the allegations contained in Paragraph 25 of the Complaint.

26. Respondent Lake Burger Holdings, LLC incorporates the answers stated in Paragraphs 1 through 25 above herein verbatim.

27. Respondent Lake Burger Holdings, LLC is without sufficient knowledge to admit or deny the allegations contained in Paragraph 27 of the Complaint; and therefore denies the same.

28. Respondent Lake Burger Holdings, LLC denies the allegations contained in Paragraph 28 of the Complaint.

29. Respondent Lake Burger Holdings, LLC denies the allegations contained in Paragraph 29 of the Complaint.

30. Respondent Lake Burger Holdings, LLC is without sufficient knowledge to admit or deny the allegations contained in Paragraph 30 of the Complaint; and therefore denies the same.

31. Paragraph 31 of the Complaint states a request for relief and does not require an answer; and therefore Respondent Lake Burger Holdings, LLC shall deny the same.

32. Respondent Lake Burger Holdings, LLC denies the allegations contained in Paragraph 32 of the Complaint.

33. Respondent Lake Burger Holdings, LLC denies the allegations contained in Paragraph 33 of the Complaint.

34. Paragraph 34 of the Complaint does not allege facts and therefore does not require an answer. Respondent Lake Burger Holdings, LLC shall deny the same. Respondent does affirmatively request any hearing on the Complaint it is entitled to and asserts all of its rights to due process in this matter.

35. Paragraph 35 of the Complaint does not allege facts and therefore does not require an answer. Respondent Lake Burger Holdings, LLC shall deny the same.

36. Paragraph 36 of the Complaint does not allege facts and therefore does not require an answer. Respondent Lake Burger Holdings, LLC shall deny the same.

37. Paragraph 37 of the Complaint does not allege facts and therefore does not require an answer. Respondent Lake Burger Holdings, LLC shall deny the same.

38. Paragraph 38 of the Complaint does not allege facts and therefore does not require an answer. Respondent Lake Burger Holdings, LLC shall deny the same.

39. Paragraph 39 of the Complaint does not allege facts and therefore does not require an answer. Respondent Lake Burger Holdings, LLC shall deny the same.

40. Paragraph 40 of the Complaint does not allege facts and therefore does not require an answer. Respondent Lake Burger Holdings, LLC shall deny the same.

41. Paragraph 41 of the Complaint does not allege facts and therefore does not require an answer. Respondent Lake Burger Holdings, LLC shall deny the same.

42. Paragraph 42 of the Complaint does not allege facts and therefore does not require an answer. Respondent Lake Burger Holdings, LLC shall deny the same.

43. Paragraph 43, including subparts a-c, of the Complaint does not allege facts and therefore does not require an answer. Respondent Lake Burger Holdings, LLC shall deny the same.

44. Paragraph 44 of the Complaint does not allege facts and therefore does not require an answer. Respondent Lake Burger Holdings, LLC shall deny the same.

45. Paragraph 45 of the Complaint does not allege facts and therefore does not require an answer. Respondent Lake Burger Holdings, LLC shall deny the same.

46. Paragraph 46 of the Complaint does not allege facts and therefore does not require an answer. Respondent Lake Burger Holdings, LLC shall deny the same.

47. Paragraph 47 of the Complaint does not allege facts and therefore does not require an answer. Respondent Lake Burger Holdings, LLC shall deny the same.

48. Respondent Lake Burger Holdings, LLC is without sufficient knowledge to admit or deny the allegations contained in Paragraph 48 of the Complaint; and therefore denies the same.

DISPUTED FACTS

49. Respondent Lake Burger Holdings, LLC disputes that this Agency has jurisdiction over Respondent's facility.

50. Respondent Lake Burger Holdings, LLC disputes that the Agency has jurisdiction over the Lake of the Ozarks.

51. Respondent Lake Burger Holdings, LLC disputes that Lake of the Ozarks is a navigable waterway.

52. The 8th Circuit Court of Appeals has ruled in *Three Buoys Houseboat Vacations USA, Ltd. v. Morts*, 921 F.2d. 775 (8th Cir. 1990) that the Lake of the Ozarks is not a navigable waterway.

53. Respondent Lake Burger Holdings, LLC disputes that the Lake of the Ozarks is a “water of the United States” as defined by the Clean Water Act.

54. Respondent Lake Burger Holdings, LLC disputes that it is in violation of 40 C.F.R. §112.3.

55. Respondent Lake Burger Holdings, LLC disputes that it does not have a written SPCC Plan in accordance with 40 C.F.R. Part 112.

56. Upon information and belief, the Environmental Protection Agency has not historically exercised jurisdiction over the Lake of the Ozarks since the EPA was created.

OPPOSITION TO RELIEF

57. Respondent Lake Burger Holdings, LLC opposes the relief requested in the Complaint in that the Agency does not have jurisdiction to authorize a relief request.

58. Respondent Lake Burger Holdings, LLC opposes the requested relief in the Complaint in that it is not in violation of the Code of Federal Regulations.

59. Respondent Lake Burger Holdings, LLC opposes the requested relief in the Complaint in that the requested relief is excessive, unduly burdensome, and does not accurately reflect the alleged violations.

REQUEST FOR HEARING AND DEMAND FOR JURY TRIAL

60. Respondent Lake Burger Holdings, LLC shall hereby enforce its right to request a hearing in accordance with the Consolidated Rules of Practice, 40 C.F.R. Part 22.

61. Respondent Lake Burger Holdings, LLC further demands a trial by jury to determine if it is violation of any applicable law, and to determine the amount of any proposed penalty, as provided by the United States Constitution and the 7th Amendment.

62. In the alternative, Respondent demands a trial before a judge appointed under Article III of the United States Constitution and objects to any penalty or enforcement action by an administrative agency which deprives Respondent of its rights under the due process clause.

63. Respondent invokes the 7th Amendment to the Constitution of the United States of America and its right to a jury trial contained therein.

64. Respondent invokes the 5th Amendment of the Constitution of the United States of America and its right to due process and a hearing before it is deprived of its money and property under the color of law.

65. Respondent invokes all of its rights as set forth in *Securities & Exch. Comm'n v. Jarkesy*, No. 22-859, 2024 WL 3187811 (June 27, 2024) to a jury trial and to a fair and impartial hearing before an Article III judge.

66. Respondent specifically objects to this case proceeding before an administrative law judge or other employee of the Environmental Protection Agency.

67. Respondent reserves all of its other rights under the law.

AFFIRMATIVE DEFENSES

1. The Complaint fails to state a claim upon which relief may be granted.

2. The Environmental Protection Agency does not have jurisdiction over this Complaint in that the Lake of the Ozarks is not a navigable water and not a “water of the United States,” and therefore not subject to the control of this Agency.

WHEREFORE, having fully Answered, Respondent Lake Burger, LLC prays for the dismissal of the Complaint and this action, or in the alternative, for a Judgment and Order in its favor on all issues; for its attorneys fees and costs incurred herein; and for such other and further relief as the Administrator deems just, necessary, and proper.

Respectfully Submitted,
The Williams Law Firm

By: /s/Zane G. Williams
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Attorneys for Respondent

Certificate of Service

COMES NOW the undersigned and certifies that on May 21, 2025, the original and one copy of the foregoing document was placed in the first-class US Mail, postage pre-paid, addressed to:

Regional Hearing Clerk
EPA – Region 7
11201 Renner Boulevard
Lenexa, KS 66219
With a copy via email to: r7_Hearing_Clerk_Filings@epa.gov

And that further, an additional copy was placed in the US Mail, postage pre-paid, addressed

to:

Mr. David Cozad

Ms. Emily Quinn

US Environmental Protection Agency Region 7

11201 Renner Boulevard

Lenexa, KS 66219

With a copy via email to: quinn.emily@epa.gov

/s/Zane G. Williams