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BEFORE THE  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:	§	
Kachina Contractor Solutions, LLC,	§	<b>DOCKET NO. TSCA-10-2012-0188</b>
	§	
	§	<b>RESPONDENT'S ANSWER</b>
	§	<b>TO COMPLAINT</b>
Respondent,	§	

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COMES NOW Respondent Kachina Contractor Solutions, LLC, by and through its counsel, and in Answer to the Complaint states as follows:

**I. AUTHORITIES**

1.1 Paragraph 1.1 calls for a legal conclusion to which no response is required. To the extent that it might be deemed to allege facts, those allegations are denied.

1.2 Paragraph 1.2 calls for a legal conclusion to which no response is required. To the extent that it might be deemed to allege facts, those allegations are denied.

**II. STATUTORY AND REGULATORY BACKGROUND**

2.1 Paragraph 2.1 calls for a legal conclusion to which no response is required. To the extent that it might be deemed to allege facts, those allegations are denied.

2.2 Paragraph 2.2 calls for a legal conclusion to which no response is required. To the extent that it might be deemed to allege facts, those allegations are denied.

2.3 Paragraph 2.3 calls for a legal conclusion to which no response is required. To the extent that it might be deemed to allege facts, those allegations are denied.

2.4 Paragraph 2.4 calls for a legal conclusion to which no response is required. To the extent that it might be deemed to allege facts, those allegations are denied.

2.5 In responding to Paragraph 2.5, Respondent states that 40 C.F.R. §745.223 is its own best evidence as to the definition of *person*.

2.6 In responding to Paragraph 2.6, Respondent states that 40 C.F.R. §745.223 is its own best evidence as to the definition of *training provider*.

2.7 In responding to Paragraph 2.7, Respondent states that 40 C.F.R. §745.223 is its own best evidence as to the definition of *training manager*.

2.8 In responding to Paragraph 2.8, Respondent states that 40 C.F.R. §745.223 is its own best evidence as to the definition of *accredited training program*.

2.9 In responding to Paragraph 2.9, Respondent states that 40 C.F.R. §745.223 is its own best evidence as to the definition of *training hour*.

### III. ALLEGATIONS

3.1 Admitted.

3.2 In responding to Paragraph 3.2, Respondent states that 40 C.F.R. §745.223 is its own best evidence as to the definition of *person*.

3.3 Admitted.

3.4 Paragraph 3.4 calls for a legal conclusion to which no response is required. To the extent that it might be deemed to allege facts, those allegations are denied.

3.5 Admitted.

#### **Failure to Adequately Teach Work Practice Standards**

3.6 In responding to Paragraph 3.6, Respondent states that 40 C.F.R. §745.225(c)(10) is its own best evidence as to its requirements.

3.7 In responding to Paragraph 3.7, Respondent states that *40 C.F.R. §745.225(c)(6)(vi)* is its own best evidence as to its requirements.

3.8 In responding to Paragraph 3.8, Respondent states that *40 C.F.R. §745.225(d)(6)(vi)* is its own best evidence as to its requirements.

**Count 1**

3.9 Denied.

3.10 Denied.

3.11 Denied.

3.12 Paragraph 3.12 calls for a legal conclusion to which no response is required. To the extent that it might be deemed to allege facts, those allegations are denied.

**Count 2**

3.13 Denied.

3.14 Denied.

3.15 Paragraph 3.15 calls for a legal conclusion to which no response is required. To the extent that it might be deemed to allege facts, those allegations are denied.

**Failure to Provide Timely Post-Training Notification**

3.16 In responding to Paragraph 3.16, Respondent states that *40 C.F.R. 745.225(c)(14)* is its own best evidence as to its requirements.

**Count 3**

3.17 Denied.

3.18 Paragraph 3.18 calls for a legal conclusion to which no response is required. To the extent that it might be deemed to allege facts, those allegations are denied.

#### **Count 4**

3.19 Denied.

3.20 Paragraph 3.20 calls for a legal conclusion to which no response is required. To the extent that it might be deemed to allege facts, those allegations are denied.

#### **IV. PENALTY**

4.1 Paragraph 4.1 calls for a legal conclusion to which no response is required. To the extent that it might be deemed to allege facts, those allegations are denied.

4.2 Paragraph 4.2 calls for a legal conclusion to which no response is required. To the extent that it might be deemed to allege facts, those allegations are denied.

4.3 Paragraph 4.3 calls for a legal conclusion to which no response is required. To the extent that it might be deemed to allege facts, those allegations are denied.

#### **V. OPPORTUNITY TO REQUEST HEARING**

5.1 Paragraph 5.1 calls for a legal conclusion to which no response is required. To the extent that it might be deemed to allege facts, those allegations are denied.

5.2 Paragraph 5.2 calls for a legal conclusion to which no response is required. To the extent that it might be deemed to allege facts, those allegations are denied.

#### **VI. FAILURE TO FILE ANSWER**

6.1 Paragraph 6.1 calls for a legal conclusion to which no response is required. To the extent that it might be deemed to allege facts, those allegations are denied.

6.2 Paragraph 6.2 calls for a legal conclusion to which no response is required. To the extent that it might be deemed to allege facts, those allegations are denied.

## **VII. INFORMAL SETTLEMENT CONFERENCE**

7.1 Respondent hereby requests a hearing on this matter and shall contact the Environmental Protection Agency as provided for in Paragraph 7.1.

7.2 Paragraph 7.2 calls for a legal conclusion to which no response is required. To the extent that it might be deemed to allege facts, those allegations are denied.

7.3 Paragraph 7.3 calls for a legal conclusion to which no response is required. To the extent that it might be deemed to allege facts, those allegations are denied.

## **VIII. RESERVATIONS**

8.1 No response is required to Paragraph 8.1.

## **AFFIRMATIVE DEFENSES**

Respondent states the following affirmative defenses, and expressly reserves the right to amend this Amended Answer to raise additional affirmative defenses as may arise during the course of discovery and information exchange in this matter:

### **Affirmative Defense No. 1**

Complainant is barred by the doctrine of laches.

### **Affirmative Defense No. 2**

Complainant has no right to relief. *40 C.F.R. §22.20(a)*.

## Request for Hearing

Respondent hereby requests a hearing on this matter.

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Respectfully submitted for  
Kachina Contractor Solutions, LLC

By: 

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**CERTIFICATE OF SERVICE**

I hereby certify that on October ~~12~~ 2012, the original and a true copy of the foregoing Respondent's Answer to Complaint was served on the following person(s) via overnight FedEx:

Regional Hearing Clerk  
United States Environmental Protection Agency, Region 10  
1200 Sixth Avenue  
Suite 900 (Mail Stop ORC-158)  
Seattle, Washington 98101

a true copy of the foregoing was mailed via overnight FedEx::

Robert Hartman  
Assistant Regional Counsel  
EPA Region 10 (ORC-158)  
1200 Sixth Ave.  
Seattle, Washington 98101



Kevin M. Tierney, Esq.