

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

**DECLARATION OF RICHARD FRANKLIN**

I, Richard Franklin, declare that the following statements are true and correct to the best of my knowledge, and are based on my personal knowledge and knowledge I have gained from my review of documents that are specifically related to this matter.

1. I am the U.S. Environmental Protection Agency (“EPA”) Region 10 Oil Program Coordinator. I have over 30 years of experience across a wide variety of oil spill and hazardous material emergency responses and in Clean Water Act (“CWA”) Section 311 Spill Prevention, Control and Countermeasure (“SPCC”) Program and Facility Response Program (“FRP”) regulations, policy, and inspections.

2. As the EPA Region 10 Oil Program Coordinator, I work in all four states that EPA Region 10 serves: Alaska, Idaho, Oregon, and Washington, and our Tribal Nations. Currently, I coordinate oil spill prevention regulatory programs and support oil spill response for all of EPA Region 10. I also coordinate and conduct field inspections for the SPCC program to assure compliance with the Oil Pollution Prevention regulations in 40 C.F.R. Part 112. I first became involved in the CWA Section 311 program in 1993, which included conducting inspections for the EPA as a contractor. I transitioned to the EPA in 1997, and since that time, I

have been authorized to conduct CWA Section 311 inspections, both for compliance and in response to oil releases. In total, I have conducted approximately 350 CWA Section 311 inspections. I also work nationally to develop and implement oil regulatory policy and train staff throughout the EPA (as well as other federal, state, and local agencies), regarding hazardous materials and oil spill response and prevention. I have also conducted trainings and workshops for industry. I have received multiple EPA awards for oil pollution prevention and response work, and in 2024, I also received a national lifetime achievement award. My résumé can be found at CX 13.

3. Pursuant to 40 C.F.R. § 112.1(b), the SPCC requirements in 40 C.F.R. Part 112 apply to certain facilities that could, due to their location, be reasonably expected to discharge oil in quantities that may be harmful to navigable waters of the United States or adjoining shorelines. Pursuant to 40 C.F.R. § 112.1(d)(1)(i), determining a reasonable expectation of a discharge “must be based solely upon consideration of the geographical and location aspects of the facility (such as proximity to navigable waters or adjoining shorelines, land contour, drainage, etc.) and must exclude consideration of manmade features such as dikes, equipment or other structures, which may serve to restrain, hinder, contain, or otherwise prevent a discharge as described in paragraph (b) of this section.” The regulations do not state the volume of oil that should be considered for this analysis. In my over 30 years of professional experience with the SPCC Program, it is reasonable to consider the volume of the largest aboveground storage tank for this analysis.

4. As to whether there is a reasonable expectation of a discharge in harmful quantities, 40 C.F.R. § 110.3 states that discharges in quantities that may be harmful include discharges of oil that “cause a film or sheen upon or discoloration of the surface of the water...”.

In my professional experience based in part on my experience with oil spill response, very small quantities of oil, even a drop of oil, can cause a sheen on the surface of the water.

5. On September 21, 2021, I inspected the facility called Jackson & Son Distributors, Inc., with an assumed business name of Jackson and Son Oil, located at 84721 Happel Lane in Seaside, Oregon (“Facility”) (hereinafter referred to as the “Inspection”). During this Inspection, Casey Jackson was present and stated that the Facility had never developed an SPCC Plan.

6. During the Inspection, I observed several aboveground storage tanks at the Facility. As shown in photographs 6-9 of my Inspection Report (CX 01 at 33-36), the Facility had two 10,000-gallon single-walled aboveground storage tanks for diesel fuel that did not have adequate secondary containment sufficient to hold the capacity of one of the 10,000-gallon aboveground storage tanks plus sufficient freeboard to allow for precipitation, as required by 40 C.F.R. § 112.8(c)(2). These aboveground storage tanks were located on vegetated soil that was nearly at grade with the adjacent parking lot, and had no other visible structure that would provide adequate secondary containment. During the Inspection, Casey Jackson stated that there was not a liner under the tanks. Photo 6 from my Inspection Report (CX 01 at 33) is reproduced as Figure 1 below.

*Figure 1 - Photo of Two 10,000-Gallon Aboveground Storage Tanks*



7. At the time of the Inspection, the largest aboveground storage tanks at the Facility were four 20,000-gallon aboveground storage tanks. These aboveground storage tanks are listed in Table 2 of the Facility's December 2024 SPCC Plan (identified as tanks 1-4 in the bulk tank area) (CX 23 at 8). These aboveground storage tanks are shown within concrete secondary containment in photographs 15 and 16 of my Inspection Report (CX 01 at 42-43). Photograph 15 from my Inspection Report is reproduced as Figure 2 below. An aerial view of these four aboveground storage tanks can be seen in my Inspection Report (CX 01 at 60).

*Figure 2 - Four Aboveground Storage Tanks Within Secondary Containment*



8. On April 5, 2023, Powers Engineering and Inspection, Inc. conducted integrity testing of these four aboveground storage tanks, the results of which can be found at CX 04 through CX 07. Each report states the capacity and location of the respective aboveground storage tank and has a picture of the aboveground storage tank, which are the same aboveground storage tanks that I viewed during the Inspection, and are shown in Photograph 15 from my Inspection Report, which is reproduced as Figure 2 above.

9. For example, CX 04 is the integrity testing report for one of these four aboveground storage tanks. CX 04, page 2, states that the capacity of the aboveground storage tank is 20,000 gallons, that the aboveground storage tank stores gasoline, and that it is located on the west side of the Facility. A picture of the aboveground storage tank can be found at CX 04, page 5, which is reproduced as Figure 3 below.

*Figure 3 - Aboveground Storage Tank from CX 04*



10. Comparing this photograph with photograph 15 from my Inspection Report, reproduced as Figure 2 above, the aboveground storage tank is the same as the leftmost aboveground storage tank in Figure 2 above. The aboveground storage tanks are in the same position relative to the other tanks, have the same color, have the same number and appearance of tank shell courses<sup>1</sup> and manway at bottom right, have the same enclosed ladder in the same position on the left-hand side, the same configuration and end point of the walkway/catwalk on top, tan building in the background, and tree line to the left (south).

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<sup>1</sup> Tank shell courses are the metal plates welded together to form the structural sides of the tank.

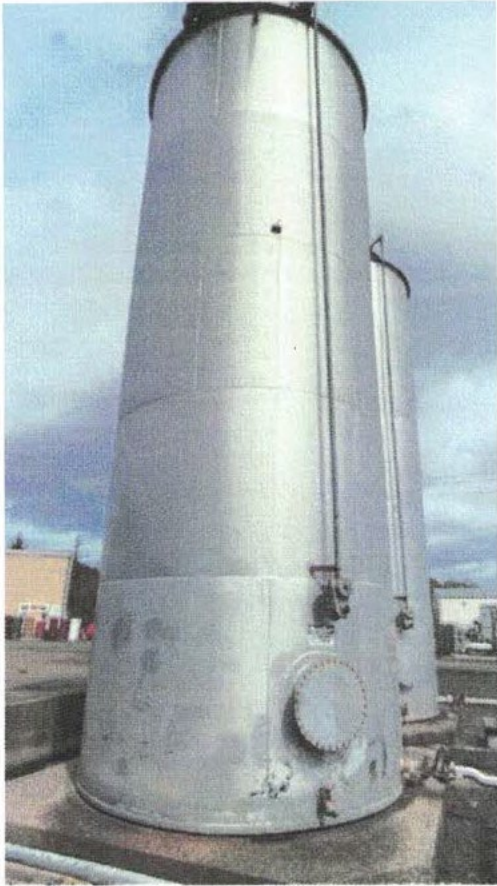
11. Moving to the adjacent tank to the right, CX 05, page 2, states that the capacity of the aboveground storage tank is 20,000 gallons, that the aboveground storage tank stores gasoline, and that it is located on the west side of the Facility. A picture of this aboveground storage tank can be found at CX 05, page 5, which is reproduced as Figure 4 below.

*Figure 4 - Aboveground Storage Tank from CX 05*



Moving again to the right, to the next adjacent aboveground storage tank, CX 06, page 2, states that the capacity of the aboveground storage tank is 20,000 gallons, that the aboveground storage tank stores diesel, and that it is located on the west side of the Facility. A picture of this aboveground storage tank can be found in the foreground of the picture at CX 06, page 5, which is reproduced as Figure 5 below.

*Figure 5 - Aboveground Storage Tank from CX 06*



12. The aboveground storage tank in Figure 4 and the aboveground storage tank that is in the foreground in Figure 5 above are the middle two aboveground storage tanks that I observed in my Inspection. As compared to Figure 2 from my Inspection above, they are in the same position relative to the other tanks, have the same color, have the same number and appearance of tank shell courses, the same walkway/catwalk on top, and tan building in the background. Figure 4 shows the aboveground storage tank that is center left as it shows the tree line to the left (south). Figure 5 shows the aboveground storage tank that is center right as the photograph was taken looking north.

13. The last aboveground storage tank within that concrete secondary containment area is evaluated in CX 07. CX 07, page 2, states that the capacity of the aboveground storage tank is 20,000 gallons, that the aboveground storage tank stores diesel, and that it is located on the west side of the Facility. A picture of this aboveground storage tank can be found at CX 07, page 5, which is reproduced as Figure 6 below.

*Figure 6 - Aboveground Storage Tank from CX 07*



This aboveground storage tank matches the rightmost (northern) aboveground storage tank shown in Figure 2 above from my Inspection. While the photograph is taken from the opposite direction, the aboveground storage tanks are the same. As compared to Figure 2 from my

Inspection above, they are in the same position relative to the other tanks, have the same color, have the same number and appearance of tank shell courses, the same walkway/catwalk on top, and yellow ladder on the side.

I declare under penalty of perjury that the foregoing is true and correct. Executed in Portland, Oregon on April 6, 2026.

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Richard Franklin