

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

**MOTION FOR STAY OF PREHEARING
EXCHANGE SCHEDULE**

COMES NOW, the United States Environmental Protection Agency Region 10 (“Complainant”), by and through its undersigned counsel and pursuant to 40 C.F.R. § 22.7(b), to respectfully request that this Tribunal stay the deadlines for the prehearing exchanges set forth in the June 3, 2025, Order.¹ Complainant has conferred with Respondent, and Respondent states that it opposes Complainant’s Motion to Amend the Complaint and has no comments on this Motion.

While the 40 C.F.R. Part 22 rules do not expressly authorize a stay of deadlines, 40 C.F.R. Part 22 allows this Tribunal to “grant an extension of time for filing any document: upon timely motion of a party to the proceeding, for good cause shown, and after consideration of prejudice to other parties.”²

The current prehearing exchange schedule is:

September 8, 2025 Complainant’s Initial Prehearing Exchange

September 29, 2025 Respondent’s Prehearing Exchange

October 14, 2025 Complainant’s Rebuttal Prehearing Exchange³

¹ Order on Complainant’s Unopposed Motion for Additional Extension of Time at 2, *Jackson & Son Distrib., Inc.*, Docket No. CWA-10-2025-0023 (June 3, 2025).

² 40 C.F.R. § 22.7(b).

³ Order on Complainant’s Unopposed Motion for Additional Extension of Time, *supra* note 1, at 2.

On August 15, 2025, Complainant filed a Motion to Amend the Complaint, which Respondent opposes. Absent an adjustment to the deadlines set forth in 40 C.F.R. Part 22, Complainant calculates that Respondent's opposition is due on September 2, 2025, and that Complainant's reply is due on September 12, 2025.⁴

Complainant asserts that it is in the interest of justice for its Motion to Amend the Complaint to be resolved before the parties file prehearing exchanges. If the Tribunal denies Complainant's Motion to Amend the Complaint, Complainant respectfully requests that the Tribunal set a schedule for the prehearing exchanges at that time. If the Tribunal grants Complainant's Motion either in full or in part, Complainant respectfully requests that the Tribunal set a schedule for the prehearing exchanges when Respondent files its Answer. This proposal allows the parties to understand what issues are before the Tribunal and are actually contested, and Respondent's affirmative defenses.

In *In re McNamara Realty*, 2018 EPA ALJ LEXIS 46, the tribunal granted an extension of the prehearing exchange schedule where a motion to amend the complaint had been granted but Respondent had not yet filed an answer. The extension was sought by the Complainant to avoid "unnecessary complexity and obfuscation."⁵ In granting the motion for an extension, the tribunal noted that the "extension will not prejudice Respondent, who benefits equally."⁶

Here, Complainant asserts that it is more appropriate to stay the prehearing exchange schedule pending resolution of its Motion to Amend the Complaint because it is not yet known how the Motion will be resolved and therefore, Complainant cannot propose new deadlines for

⁴ 40 C.F.R. §§ 22.16(b), 22.7(a).

⁵ *Id.* at *1-2.

⁶ *Id.* at *2. See also *In re Town of North Providence, Dept. of Public Works*, 2009 EPA Admin. Enforce. LEXIS 40729 (granting extension of time for prehearing exchange to allow Respondent to file an answer after granting motion to amend the complaint).

the prehearing exchange.⁷ While indefinite extensions of time are not appropriate,⁸ Complainant's request is time-limited and based on resolution of its Motion to Amend the Complaint.

While Complainant has previously stated that it did not anticipate requesting a further extension absent unforeseen circumstances,⁹ the EPA respectfully believes a stay is warranted and supported. As in *In re McNamara Realty*, the EPA also does not think that a short stay prejudices Respondent, who benefits equally.

Respectfully submitted,

U.S. ENVIRONMENTAL PROTECTION
AGENCY, REGION 10:

DATE

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⁷ See *In re U.S. Dept. of the Army Walter Reed Army Med. Ctr.*, 1999 EPA ALJ LEXIS 115 (granting a stay of the prehearing exchange deadlines where Respondent intended to file a motion to amend the complaint).

⁸ *In re Johnson*, 2004 EPA ALJ LEXIS 15.

⁹ Complainant's Unopposed Motion for Additional Extension of Time at 3-4, *Jackson & Son Distrib., Inc.*, Docket No. CWA-10-2025-0023 (June 2, 2025).

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 **Motion for Stay of Prehearing Exchange Schedule**, dated August 25, 2025, was sent this day to the following parties in the manner indicated below.

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Dated: August 25, 2025