



UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE ADMINISTRATOR

In the Matter of:)
)
Henry Simpson,) Docket No. CWA-09-2026-0016
d/b/a Buena Vista Subdivision)
Santa Rita, Guam,)
)
Respondent.)

**ORDER GRANTING COMPLAINANT'S MOTION TO AMEND COMPLAINT
AND JOINT MOTION FOR EXTENSION**

I am in receipt of Complainant's January 6, 2026, Motion to Amend Complaint ("Motion to Amend"), and the parties' January 22, 2026, Joint Motion for Extension of Deadlines in Prehearing Order ("Motion to Extend," and with the Motion to Amend the "Motions"). For the reasons that follow, the Motions are **GRANTED**.

I. Motion to Amend

A. Background

Through its Motion to Amend, Complainant requests leave to amend the Complaint to add claims and allegations related to a 2022 Administrative Order on Consent (“AOC”) between Complainant and Respondent. Mot. to Amend 1–2; *see* Administrative Complaint (Nov. 3, 2025). Complainant seeks to make two sets of revisions. First, Complainant seeks leave to add claims and allegations related to Respondent’s purported violations of the 2022 AOC, representing that Respondent “has failed to take the remedial actions outlined in the 2022 AOC, and has therefore violated, and continues to violate the terms of the AOC.” Mot. to Amend 2. Second, Complainant notes that Respondent’s Answer to the Complaint denied several factual allegations related to the nature and location of the property at issue in this matter. Mot. to Amend 3; Answer to Administrative Complaint, Request for Hearing (Dec. 10, 2025) (“Answer”). Complainant asserts that the contested allegations were based on representations made or adopted by Respondent in the 2022 AOC and other communications with Complainant, and “requests leave to amend the Complaint to refer more accurately to the property at issue in light of the information provided in Respondent’s Answer.” Mot. to Amend 2–3.

This matter is governed by the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (“Rules of Practice”) set forth at 40 C.F.R. Part 22. Pursuant to the Rules of Practice,

Respondent was required to file any response in opposition to the Motion to Amend within 15 days of service of that Motion, or else waive any objections thereto. 40 C.F.R. § 22.16(b). Complainant filed and served the Motion to Amend on January 6, 2026, making Respondent's response deadline January 21, 2026. That deadline has now passed, and the Tribunal has received no responsive filing from Respondent.

B. Discussion

The Rules of Practice provide that after an answer has been filed, "the complainant may amend the complaint only upon motion granted by the Presiding Officer." 40 C.F.R. § 22.14(c). As the Environmental Appeals Board ("EAB") has observed, the Rules do not set a standard by which to evaluate such a motion to amend. *Carroll Oil Co.*, 10 E.A.D. 635, 649 (EAB 2002). "In the absence of administrative rules on this subject," the EAB has found it "helpful to consult the Federal Rules of Civil Procedure as they apply in analogous situations." *Id.*

Federal Rule of Civil Procedure 15 states that "a party may amend its pleading only with the opposing party's written consent or the court's leave. The court should freely give leave when justice so requires." Fed. R. Civ. P. 15(a)(2). The Supreme Court has interpreted this language as encouraging a liberal approach to the amendment of pleadings. *Foman v. Davis*, 371 U.S. 178, 181–82 (1962) ("Rule 15(a) declares that leave to amend 'shall be freely given when justice so requires'; this mandate is to be heeded."). In turn, the EAB "has on several occasions followed the liberal pleading policy enunciated by the Federal Rules and *Foman*." *Carroll Oil Co.*, 10 E.A.D. at 649. However, the Board has also reiterated *Foman*'s caution that "the decision whether to grant or deny a motion to amend is 'of course . . . within the discretion of the [court]'." *Id.* (citing *Foman*, 371 U.S. at 182). And the Board has recognized the constraints, delineated in *Foman*, that counsel against freely permitting amendments: undue delay by the movant; bad faith or dilatory motive; repeated failure to cure deficiencies through prior amendments; undue prejudice to the nonmoving party; or futility of the amendment. *Id.* at 649–50.

Here, Respondent failed to file a timely response to the Motion to Amend and thereby "waive[d] any objection to the granting of the motion." 40 C.F.R. § 22.16(b). In addition, there is no evidence in the record of any undue delay, bad faith, or other basis for denying the Motion. Therefore, the Motion to Amend is hereby **GRANTED**. Complainant shall file and serve its Amended Complaint no later than **January 30, 2026**. Upon filing, the Amended Complaint will become the governing complaint in this matter. Consistent with the Rules of Practice, Respondent may file an answer to the Amended Complaint within 20 days of the date of service. See 40 C.F.R. § 22.14(c). If Respondent elects not to file an answer to the Amended Complaint within this timeframe, the "Answer to Administrative Complaint; Request for Hearing" filed by Respondent on December 10, 2025, will be deemed to be the governing answer to the Amended Complaint.

II. Motion to Extend

The parties' Motion to Extend requests a 30-day extension of all deadlines set by the

Prehearing Order in this matter or, alternatively, a stay of those deadlines while the parties prepare and file their Amended Complaint and Amended Answer. Mot. to Extend 3; Prehr'g Order (Jan. 6, 2026). The parties represent that the extreme time difference between their locations in California and Guam renders it unusually difficult to coordinate meeting schedules, and that counsel therefore require additional time to arrange and conduct the initial settlement conference required by the Prehearing Order. Mot. to Extend 2-3; see Prehr'g Order 1 (requiring the parties to hold a settlement conference no later than January 23, 2026).

The Rules of Practice provide that I "may 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; or upon [my] own initiative." 40 C.F.R. § 22.7(b). Here, the parties' Motion was timely and shows good cause. As reflected in the Rules, Agency policy supports settlement of a proceeding without the necessity of a formal hearing. 40 C.F.R. § 22.18(b)(1). The interests of the parties and judicial economy will be well served by permitting the parties the opportunity to resolve this matter informally and expeditiously. The requested 30-day extension will suffice to promote this purpose, while also allowing the parties to file their amended pleadings as discussed above. The Motion to Extend is therefore hereby **GRANTED**. The parties shall comply with the following revised prehearing deadlines:

- Settlement Conference: **February 23, 2026**
- Complainant's Settlement Status Report: **March 2, 2026**
- Complainant's and Respondent's Preliminary Statements: **March 2, 2026**
- Complainant's Initial Prehearing Exchange or Consent Agreement and Final Order: **March 23, 2026.**
- Respondent's Prehearing Exchange: **April 13, 2026.**
- Complainant's Rebuttal Prehearing Exchange: **April 27, 2026.**

SO ORDERED.



Michael B. Wright
Chief Administrative Law Judge

Dated: January 22, 2026
Washington, D.C.

In the Matter of *Henry Simpson, d/b/a Buena Vista Subdivision, Santa Rita, Guam*, Respondent.
Docket No. CWA-09-2026-0016

CERTIFICATE OF SERVICE

I hereby certify that the foregoing **Order Granting Complainant's Motion to Amend Complaint and Joint Motion for Extension**, dated January 22, 2026, and issued by Chief Administrative Law Judge Michael B. Wright, was sent this day to the following parties in the manner indicated below.



Stefanie Neale
Attorney Advisor

Original by ALJD E-Filing System to:

Mary Angeles, Headquarters Hearing Clerk
Administrative Law Judges Division
U.S. Environmental Protection Agency
https://yosemite.epa.gov/OA/EAB/EAB-ALJ_Upload.nsf

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Dated: January 22, 2026
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