



UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY

BEFORE THE ADMINISTRATOR

In The Matter of:)
)
MID-AMERICAN COACHES, INC.,) Docket Nos. CWA-07-2009-0073
)
Respondent.)

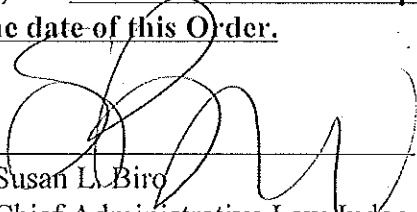
ORDER GRANTING MOTION TO AMEND ADMINISTRATIVE COMPLAINT

On January 22, 2010, this Tribunal received Complainant's Unopposed Motion To Amend Complaint and accompanying First Amended Complaint.¹ The stated purpose of the Motion is to amend the Complaint filed on May 31, 2009 to indicate that EPA is "no longer pursuing" Count V thereof consistent with an agreement reached by the parties to resolve the matter. The Motion indicates that the Respondent does not oppose the relief sought.

Section 22.14(c) of the Rules of Practice (40 C.F.R. § 22.14(c)) provides that once an answer has been filed, the Complainant may amend the Complaint only upon motion granted by the Presiding Officer. However, the Rules of Practice provide no standard for determining when leave to amend should be granted. Rule 15(a) of the Federal Rules of Civil Procedure concerning amended pleadings provides that "leave [to amend] shall be freely given when justice so requires." The United States Supreme Court has interpreted this Rule to mean that there should be a "strong liberality...in allowing amendments" to pleadings. *Forman v. Davis*, 371 U.S. 178 (1962). Leave to amend pleadings under Rule 15(a) should be given freely in the absence of any apparent or declared reason, such as undue delay, bad faith, or dilatory motive on the movant's part, repeated failure to cure deficiencies by previous amendment, undue prejudice, or futility of amendment. *Id.*

¹ The Motion is undated as is its accompanying Certificate of Service, which does not indicate that the original and one copy thereof was filed with the Regional Hearing Clerk and/or that a copy was served on the Presiding Officer or that the copy sent to the Respondent was served by "first-class mail." The First Amended Complaint and the separate Certificate of Service accompanying it, however, is signed and dated January 19, 2010. It indicates that the original and one copy of it was delivered to the "Regional Hearing Clerk" (RHC) in Kansas. However, currently there is no RHC in Kansas, and therefore pursuant to agreement, the Headquarters Hearing Clerk in Washington, D.C. is serving as Region 7's RHC.

Therefore, the Motion is hereby, **GRANTED**, and the First Amended Complaint submitted with the Motion is deemed filed as of the date of this Order.




Susan L. Biro
Chief Administrative Law Judge

Date: February 2, 2010
Washington, D.C.

In the Matter of Mid-American Coaches, Inc., Respondent
Docket No. CWA-07-2009-0073

CERTIFICATE OF SERVICE

I certify that the foregoing **Order Granting Motion To Amend Administrative Complaint**, dated February 2, 2010, was sent this day in the following manner to the addressees listed below:



Maria Whiting Beale
Staff Assistant

Dated: February 2, 2010

Original And One Copy To:

Sybil Anderson
Headquarters Hearing Clerk
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Copy By Pouch Mail To:

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