



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

BEFORE THE ADMINISTRATOR

In the Matter of: )
City of Polson, ) Docket No. CWA-08-2012-0035
Respondent. )

ORDER GRANTING MOTION TO FILE AMENDED COMPLAINT

By Motion dated November 27, 2012, Complainant moved for leave to amend the Complaint. The stated purpose of the Motion is primarily to revise certain counts of the Complaint filed on September 25, 2012 to add allegations of additional violations which allegedly occurred during May-August 2012. The Motion indicates that the Respondent has no opposition to 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.

Therefore, the Motion is hereby, GRANTED, and Complainant shall file its Amended Complaint within 10 days from the date of this Order. Further, the case is hereby REMANDED back to Judge M. Lisa Buschmann for continuation of the alternative dispute resolution process previously initiated.

[Handwritten signature]
Susan L. Biro
Chief Administrative Law Judge

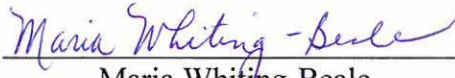
Date: February 12, 2013
Washington, D.C.

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In the Matter of City Of Polson, Respondent  
Docket No. CWA-08-2012-0035

CERTIFICATE OF SERVICE

I certify that the foregoing **Order Granting Motion To File Amended Complaint**, dated February 12, 2013, was sent this day in the following manner to the addressees listed below:

  
\_\_\_\_\_  
Maria Whiting-Beale  
Staff Assistant

Dated: February 12, 2013

Original And One Copy To:

Sybil Anderson  
Headquarters Hearing Clerk  
U.S. EPA  
Mail Code 1900L  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460-2001

Copy By Regular Mail To:

Margaret "Peggy" Livingston, Esquire  
Enforcement Counsel (8ENF-L)  
U.S. EPA  
1595 Wynkoop Street  
Denver, CO 80202-1129

James Raymond, Esquire  
Raymond Law Office, PLLC  
407 First Street West  
Polson, MT 59860