

ERIN BREWER
Assistant Regional Counsel
United States Environmental Protection Agency, Region 9
75 Hawthorne Street
San Francisco, California 94105
(415) 972-3362

KIMBERLY WELLS
Acting Manager, Clean Water Act Section, Office of Regional Counsel
United States Environmental Protection Agency, Region 9
75 Hawthorne Street
San Francisco, California 94105
(415) 972-3056

Attorneys for Complainant

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 9**

I. INTRODUCTION

The Director of the United States Environmental Protection Agency (EPA), Region 9
Enforcement and Compliance Assurance Division (Complainant) filed a complaint against Henry
Simpson d/b/a Buena Vista Subdivision (Respondent) on November 3, 2025. The Complaint

**In re: Henry Simpson
Docket No. CWA-09-2026-0016**

alleged violations of the Clean Water Act (CWA) related to unauthorized discharges of stormwater containing pollutants from construction activities which occurred at a property owned by the Respondent, referred to as Buena Vista Subdivision. The Complaint was served on November 10, 2025. Respondent filed an Answer to the complaint on December 11, 2025. In his Answer, Respondent denied several factual allegations in the Complaint, and in doing so, contradicted information previously provided to Complainant by Respondent. Pursuant to 40 CFR 22.14(c), Complainant now requests leave to amend the Complaint to (1) add clarifying information to the Complaint in light of new information provided by the Respondent, and (2) add additional claims to the Complaint.

II. MOTION TO AMEND THE COMPLAINT

40 CFR 22.14(c) allows a complainant to amend the complaint after the answer has been filed “upon motion granted by the presiding officer.” The respondent then has 20 days to file an amended answer. *Id.* Under 40 CFR 22.14(c), the presiding officer has discretion when deciding whether to grant a motion to amend the complaint.

Complainant seeks to amend the Complaint to add additional claims for violation of an Administrative Order on Consent (AOC). In 2022, Respondent entered into an AOC with Complainant, wherein Complainant alleged additional CWA stormwater violations and Respondent agreed to take several remedial actions to come into compliance with the CWA. To date, 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. Complainant seeks to amend the Complaint and add claims related to these ongoing violations.

Complainant also seeks to amend the Complaint to clarify the allegations regarding the property at issue, in light of new information provided by the Respondent. In his Answer, Respondent denied several allegations in the Complaint on the grounds that the address listed for the Buena Vista Subdivision is his personal address and not the property address. However, Respondent signed an AOC with EPA in 2022 that listed the address for Buena Vista Subdivision as the same address used in the Complaint. Further, the only physical address Respondent ever provided to EPA for the property was an “operator” address which is also the same as the address included in the Complaint. Elsewhere, when prompted for an address, Respondent provided EPA with only rough descriptions of the property’s location in relation to other major roads, or latitude and longitude coordinates. Respondent also denies several allegations in the Complaint on the grounds that “Buena Vista Subdivision” is not the correct name or the property at issue or his d/b/a. However, Respondent signed the 2022 AOC as “Henry Simpson, Owner, Buena Vista Subdivision”, and the AOC was captioned “In re: Henry Simpson d/b/a Buena Vista Subdivision.” Likewise, in communications with EPA, Respondent has used several names interchangeably for the property at issue, including “Buena Vista Subdivision,” “Buena Vista Estates Development,” and “Buena Vista Estates Subdivision”.

Complainant used the information it had available through prior proceedings and correspondence with the Respondent when drafting the Complaint. Complainant now 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.

III. CONCLUSION

For the reasons laid out above, Complainant respectfully moves the Presiding Officer to GRANT its Motion to Amend the Complaint. If this Motion to Amend the Complaint is granted, Complainant further requests an extension of the deadlines in the January 6, 2026 Prehearing Order.

Respectfully submitted,

Erin Brewer
Assistant Regional Counsel
Office of Regional Counsel, EPA Region 9
75 Hawthorne Street
San Francisco, CA 94105
Phone: (415) 972-3362
Email: brewer.erin@epa.gov

CERTIFICATE OF SERVICE

In the matter of Henry Simpson d/b/a Buena Vista Subdivision

EPA Docket No. CWA-09-2026-0016

I certify that the foregoing Motion to Amend the Complaint was served pursuant to the *Standing Order Authorizing Electronic Filing in Proceedings Before the Administrative Law Judges Division, Order Urging Electronic Filing and Service*, and the Order of Designation to the following parties in the manner indicated below:

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

Copy by Electronic Mail to:

Delia Lujan Wolff
dslwolff@lawguam.com
Lujan & Wolff LLP
238 Archbishop Flores St.
Suite 300, DNA Bldg.
Hagatna, Guam 96910
Telephone: (671) 477-8064

Erin Brewer
Assistant Regional Counsel
Office of Regional Counsel, EPA Region 9
75 Hawthorne Street
San Francisco, CA 94105
Phone: (415) 972-3362
Email: brewer.erin@epa.gov