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FILED  
Dec 11, 2025  
9:41 am  
U.S. EPA REGION IX  
HEARING CLERK

10  
11 *Attorneys for Respondent Henry Simpson*

12  
13 **UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**  
14 **REGION 9**

15 IN THE MATTER OF:

16 DOCKET NO. CWA-09-2026-0016

17 Henry Simpson,  
18 d/b/a Buena Vista Subdivision  
19 Santa Rita, Guam,

20 **ANSWER TO ADMINISTRATIVE  
21 COMPLAINT; REQUEST FOR  
22 HEARING**

23 Respondent.

24 Proceedings under Section 309(g) of the Clean  
25 Water Act, 33 U.S.C. § 1319(g).

26  
27 COMES NOW Respondent Henry Simpson (“Respondent”) and hereby answers the  
28 Administrative Complaint (“the Complaint”) as follows:

1. In response to paragraph 1, Respondent admits only that the Administrative  
2 Complaint seeks the assessment of civil penalties but denies that any civil penalties should be  
3 assessed against Respondent.

4. In response to paragraph 2, Respondent lacks sufficient information and belief to  
5 formulate responses to the allegations contained in said paragraph and, basing his denial thereon,  
6 denies generally and specifically each and every allegation contained in said paragraph.

1           3. In response to paragraph 4, Respondent denies each and every allegation  
2 contained in said paragraph, including that the Administrative Complaint conforms to the  
3 prehearing procedures at 40 C.F.R. § 22.14 governing administrative complaints.

4           4. In response to paragraph 5, Respondent admits only that 20 C.F.R. § 22.4  
5 provides that “[e]ach Regional Administrator shall delegate to one or more Regional Judicial  
6 Officers authority to act as Presiding Officer in proceedings under subpart of [Part 22], and to act  
7 as Presiding Officer until the respondent files an answer in proceedings under these Consolidated  
8 Rules of Practice to which subpart I of this part does not apply,” but lacks sufficient information  
9 and belief to formulate responses to the other allegations contained in said paragraph, and, basing  
10 his denials thereon, denies generally and specifically each and every allegation contained in said  
11 paragraph.

12           5. In response to paragraphs 16 and 17, Respondent denies generally and specifically  
13 each and every allegation contained in said paragraph since the cited permits speak for  
14 themselves.

15           6. In response to paragraph 19, Respondent admits only that he is an individual but  
16 Respondent denies generally and specifically each and every other allegation contained in said  
17 paragraph. Respondent denies that he does business as Buena Vista Subdivision.

18           7. In response to paragraph 20, Respondent admits only that, since at least February  
19 5, 2010, Respondent has owned the property located at 976-C Cross Island Route 17 in Santa  
20 Rita, Guam, but Respondent denies generally and specifically each and every other allegation  
21 contained in said paragraph. Respondent denies that the property located at 976-C Cross Island  
22 Route 17 in Santa Rita, Guam, is referred to as Buena Vista Subdivision or a part of any Buena  
23 Vista Subdivision. The property located at 976-C Cross Island Route 17 in Santa Rita, Guam, is  
24 Respondent’s residence; it is not a part of any “Buena Vista Subdivision.”

1       8. In response to paragraph 21, Respondent denies that between at least August 26,  
2 2021, and February 21, 2023, Respondent conducted construction activities at Buena Vista  
3 Subdivision including clearing and grading. The property located at 976-C Cross Island Route 17  
4 in Santa Rita, Guam, is Respondent's residence; it is not a part of any "Buena Vista Subdivision."  
5 During the specified timeframe, Respondent conducted no construction activities at his residence.  
6

7       9. In response to paragraph 22, Respondent admits only that precipitation events  
8 occurred sometime between August 26, 2021, and February 21, 2023, in the vicinity of "Buena  
9 Vista Subdivision," a term which the Complaint specifies as referring to the property located at  
10 976-C Cross Island Route 17 in Santa Rita, Guam, but Respondent lacks sufficient information  
11 and belief to formulate responses to each and every other allegation contained in said paragraph  
12 and, basing his denial thereon, denies generally and specifically each and every other allegation  
13 contained in said paragraph.  
14

15       10. In response to paragraph 23, Respondent lacks sufficient information and belief to  
16 formulate responses to the allegations contained in said paragraph and, basing his denial thereon,  
17 denies generally and specifically each and every allegation contained in said paragraph.  
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19       11. In response to paragraph 24, Respondent denies each and every allegation  
20 contained in said paragraph. The property located at 976-C Cross Island Route 17 in Santa Rita,  
21 Guam, is Respondent's residence; it is not a part of any "Buena Vista Subdivision." During the  
22 specified timeframe, Respondent conducted no construction activities, including clearing and  
23 grading, at his residence. Further, any construction activities at any Buena Vista Subdivision  
24 owned by Respondent, during the specified timeframe, did not lead to stormwater runoff in  
25 violation of the Clean Water Act.  
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27       12. In response to paragraph 25, Respondent can neither admit nor deny the allegation  
28 that stormwater runoff from construction sites include sediment, metals from exposed rebar,  
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1 phosphorous, pH from concrete debris, and other chemicals found in construction projects  
2 because said allegation is ambiguous as to which construction sites would generate such runoff,  
3 and, as such, Respondent denies generally and specifically said allegation. To the extent that the  
4 paragraph alleges that all construction sites generate such runoff, Respondent denies that all  
5 construction sites generate stormwater runoff of sediment, metals from exposed rebar,  
6 phosphorous, pH from concrete debris, and other chemicals found in construction products.  
7 Further, Respondent denies that his residence, referred to in the Complaint as "Buena Vista  
8 Subdivision," was a construction site, including during the specified timeframe of August 26,  
9 2021, and February 21, 2023, and that it led to stormwater runoff including sediment, metals from  
10 exposed rebar, phosphorous, pH from concrete debris, and other chemicals found in construction  
11 products. Further, to the extent that the allegations in said paragraph might be referring to an area  
12 other than Respondent's residence, Respondent can neither specifically admit or deny because the  
13 allegation is ambiguous as to which area in any Buena Vista Subdivision owned by Respondent.  
14 Further, any construction activities at any Buena Vista Subdivision owned by Respondent, during  
15 the specified timeframe, did not generate stormwater runoff in violation of the Clean Water Act,  
16 and specifically did not generate stormwater runoff of metals from exposed rebar, phosphorous,  
17 pH from concrete debris, and other chemicals found in construction products.  
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19       13. In response to paragraph 26, Respondent denies each and every allegation  
20 contained in said paragraph. The property located at 976-C Cross Island Route 17 in Santa Rita,  
21 Guam, is Respondent's residence; it is not a part of any "Buena Vista Subdivision." During the  
22 specified timeframe, Respondent conducted no construction activities, including clearing and  
23 grading, at his residence, and therefore no stormwater runoff carrying pollutants was generated.  
24 Further, there were no engineered conveyances at Respondent's residence that collected  
25 stormwater runoff carrying pollutants. Further, to the extent that the allegations in said paragraph  
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1 might be referring to an area other than Respondent's residence, Respondent can neither  
2 specifically admit or deny because the allegation is ambiguous as to which area in any Buena  
3 Vista Subdivision owned by Respondent. Further, any construction activities at any Buena Vista  
4 Subdivision owned by Respondent, during the specified timeframe, did not lead to stormwater  
5 runoff carrying pollutants in violation of the Clean Water Act.  
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7       14. In response to paragraph 27, Respondent denies each and every allegation  
8 contained in said paragraph. The property located at 976-C Cross Island Route 17 in Santa Rita,  
9 Guam, is Respondent's residence; it is not a part of any "Buena Vista Subdivision." During the  
10 specified timeframe, Respondent conducted no construction activities, including clearing and  
11 grading, at his residence and therefore no stormwater runoff carrying pollutants was generated.  
12 Further, there were no engineered conveyances at Respondent's residence that collected  
13 stormwater runoff carrying pollutants. Further, to the extent that the allegations in said paragraph  
14 might be referring to an area other than Respondent's residence, Respondent can neither  
15 specifically admit or deny because the allegation is ambiguous as to which area in any Buena  
16 Vista Subdivision owned by Respondent. Further, construction activities at any Buena Vista  
17 Subdivision owned by Respondent, during the specified timeframe, did not lead to stormwater  
18 runoff carrying pollutants in violation of the Clean Water Act and therefore no pollutants were  
19 discharged from any point sources. Further, to the extent that the paragraph refers to engineered  
20 conveyances at the waterline constructed during the specified timeframe, the alleged engineered  
21 conveyances at the waterline are not "point sources" as the term is defined in Section 502(14) of  
22 the Clean Water Act, 33 U.S.C. § 1362(14). Further, to the extent that the paragraph refers to  
23 engineered conveyances at the fire road constructed during the specified timeframe, the alleged  
24 engineered conveyances at the fire road are not "point sources" as the term is defined in Section  
25 502(14) of the Clean Water Act, 33 U.S.C. § 1362(14).  
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1       15. In response to paragraph 28, Respondent denies each and every allegation  
2 contained in said paragraph. The property located at 976-C Cross Island Route 17 in Santa Rita,  
3 Guam, is Respondent's residence; it is not a part of any "Buena Vista Subdivision." During the  
4 specified timeframe, Respondent conducted no construction activities, including clearing and  
5 grading, at his residence. Further, Respondent denies that his residence was a construction site,  
6 including during the specified timeframe of August 26, 2021, and February 21, 2023, and that it  
7 led to stormwater runoff carrying pollutants. Further, to the extent that said paragraph might be  
8 referring to an area other than Respondent's residence, Respondent can neither specifically admit  
9 or deny because the paragraph's reference to "the northwest portion of the Buena Vista  
10 Subdivision" is vague and ambiguous as to which specific area. Further, Respondent denies that  
11 any stormwater runoff from the northwest portion of any Buena Vista Subdivision owned by  
12 Respondent is discharged from engineered conveyances to tributaries that flow to the Atantano  
13 River, which flows to Apra Harbor and then to the Pacific Ocean. Respondent denies that any  
14 stormwater runoff from the northwest portion of any Buena Vista Subdivision owned by  
15 Respondent is discharged from engineered conveyances to flow to navigable waters including  
16 territorial seas or waters of the United States. To the extent that said paragraph might be referring  
17 to the waterline constructed by Respondent during the specified timeframe, Respondent denies  
18 that stormwater runoff carrying any pollutants from the waterline is discharged from engineered  
19 conveyances to, at most and if at all, tributaries that flow to the Atantano River, which flows to  
20 Apra Harbor and then to the Pacific Ocean; any runoff leaving this site will flow down Bishop  
21 Baumgartner Road toward Route 17 through a culvert beneath Route 17, along over 400+ feet of  
22 vegetated area between Route 17 and the headwater of the Tarzan River, and this flow path offers  
23 several ports of surface runoff treatment so that no pollutants would be discharged into navigable  
24 waters including territorial seas or waters of the United States.  
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1       16. In response to paragraph 29, Respondent denies each and every allegation  
2 contained in said paragraph. The property located at 976-C Cross Island Route 17 in Santa Rita,  
3 Guam, is Respondent's residence; it is not a part of any "Buena Vista Subdivision." During the  
4 specified timeframe, Respondent conducted no construction activities, including clearing and  
5 grading, at his residence. Further, Respondent denies that his residence was a construction site,  
6 including during the specified timeframe of August 26, 2021, and February 21, 2023, and that it  
7 led to stormwater runoff carrying pollutants. Further, to the extent that said paragraph might be  
8 referring to an area other than Respondent's residence, Respondent can neither specifically admit  
9 or deny because the paragraph's reference to "the southeast portion of the Buena Vista  
10 Subdivision" is vague and ambiguous as to which specific area. Respondent denies that any  
11 stormwater runoff from the southeast portion of any Buena Vista Subdivision owned by  
12 Respondent is discharged from engineered conveyances to flow to navigable waters including  
13 territorial seas or waters of the United States. To the extent that said paragraph might be referring  
14 to the fire road constructed by Respondent during the specified timeframe, Respondent denies  
15 that stormwater runoff carrying any pollutants from the fire road is discharged from engineered  
16 conveyances to, at most and if at all, tributaries that flow to the Talofofo River, which flows to  
17 the Talofofo Bay and then to the Pacific Ocean; any runoff leaving this recent road site (~1500ft )  
18 will flow southwestward along vegetated surface and swales over 600ft in length, and this flow  
19 path offers a means of natural treatment before meeting, if at all, the headwaters that lead to the  
20 Maemong River, and Respondent denies that any runoff associated with construction of the road  
21 would discharge to any navigable waters including territorial seas or waters of the United States.  
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23       17. In response to paragraph 30, Respondent denies each and every allegation  
24 contained in said paragraph. The property located at 976-C Cross Island Route 17 in Santa Rita,  
25 Guam, is Respondent's residence; it is not a part of any "Buena Vista Subdivision." During the  
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1 specified timeframe, Respondent conducted no construction activities, including clearing and  
2 grading, at his residence. Further, Respondent denies that his residence was a construction site,  
3 including during the specified timeframe of August 26, 2021, and February 21, 2023, and that it  
4 led to stormwater runoff carrying pollutants. Further, Respondent denies that any stormwater  
5 runoff from any Buena Vista Subdivision owned by Respondent discharges to navigable waters or  
6 waters of the United States. To the extent that said paragraph might be referring to an area other  
7 than Respondent's residence, Respondent adopts and fully incorporates herein his response to  
8 paragraphs 28 and 29.

10 18. In response to paragraph 31, Respondent can neither admit nor deny the allegation  
11 that Respondent had operational control over the construction plans and specifications or had day  
12 to day operational control of those activities necessary to ensure compliance with the 2017 and  
13 2022 Construction General Permit because said allegation's reference to "the construction plans  
14 and specifications" and "those activities" is vague and ambiguous and, as such, Respondent  
15 denies generally and specifically said allegation.

17 19. In response to paragraph 32, Respondent denies each and every allegation  
18 contained in said paragraph. The property located at 976-C Cross Island Route 17 in Santa Rita,  
19 Guam, is Respondent's residence; it is not a part of any "Buena Vista Subdivision." During the  
20 specified timeframe, Respondent conducted no construction activities and was associated with no  
21 construction project, including clearing and grading, at his residence. Further, Respondent denies  
22 that a construction project occurred at his residence during the specified timeframe of August 26,  
23 2021, and February 21, 2023.

25 20. In response to paragraph 33, Respondent denies each and every allegation  
26 contained in said paragraph. The property located at 976-C Cross Island Route 17 in Santa Rita,  
27 Guam, is Respondent's residence; it is not a part of any "Buena Vista Subdivision." During the  
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1 specified timeframe, Respondent conducted no construction activities, including clearing and  
2 grading, at his residence. Further, Respondent denies that his residence was a construction site,  
3 including during the specified timeframe of August 26, 2021, and February 21, 2023, and that it  
4 led to stormwater runoff carrying pollutants. Further, Respondent denies that any stormwater  
5 from any Buena Vista Subdivision owned by Respondent, including the sites of Respondent's  
6 construction of the waterline and fire road, was discharged in violation of 40 C.F.R. §  
7 122.26(c)(1). Further, Respondent denies that Respondent was required to obtain authorization  
8 under any NPDES permit for stormwater discharges associated with construction activities  
9 conducted at any Buena Vista Subdivision owned by Respondent during the specified timeframe.  
10 No industrial or construction activity disturbing one acre or more occurred at any Buena Vista  
11 Subdivision owned by Respondent during the specified timeframe. Any stormwater runoff  
12 associated with construction of the waterline and the fire road did not carry pollutants that were  
13 discharged into navigable waters or waters of the United States. Further, the waterline  
14 construction did not result in land disturbance of equal to or greater than one acre, and was not  
15 part of a larger common plan of development or sale. The 700-foot waterline constructed during  
16 the specified timeframe is located within a public right of way along Bishop Baumgartner Road  
17 and is not located within any existing or future planned development. Prior to the start of  
18 construction of the 700-foot waterline, a building permit was secured by the construction  
19 contractor. This new waterline construction impacted an area along the roadway at or about  
20 8,400 sq.ft./0.19 acres (700ft x 12ft), which is well under the one-acre threshold of disturbance  
21 required for a federal construction general permit or NPDES permit. Further, the fire road  
22 construction did not result in land disturbance of equal to or greater than one acre, and was not  
23 part of a larger common plan of development or sale. The 1500-foot fire road construction  
24 impacted an area at or about 18,000 sq.ft./0.41 acres (1500ft x 12ft), which is well under the one-  
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1 acre threshold of disturbance required for a federal construction general permit or NPDES permit.  
2 The fire road was constructed to protect rural land by allowing road access for a fire truck to fight  
3 fires, and not for development or sale of property. The plan to develop the property includes no  
4 roads that coincide with the fire road. Respondent was not required to obtain authorization under  
5 an NPDES permit or Construction General Permit for construction activity relating to the fire  
6 road between August 26, 2021, and February 21, 2023, because fire roads in rural areas do not  
7 require an NPDES permit or Construction General Permit for stormwater discharge as they are  
8 generally exempt as part of normal silviculture activities. Fire roads for forest management and  
9 fire control fall under exempt silviculture activities. While Respondent denies that he was  
10 required to obtain a federal NPDES permit or construction general permit, he also denies that he  
11 did not obtain any NPDES permit for stormwater discharges associated with construction  
12 activities conducted in connection with the fire road during the specified timeframe, in violation  
13 of 40 C.F.R. § 122.26(c)(1). Respondent submitted a Notice of Intent (NOI) to seek coverage  
14 under EPA's 2022 Construction General Permit in September 2022 for stormwater discharges  
15 associated with the construction of the fire road, and he did complete the permitting process and  
16 provided the documentation required to obtain authorization under the 2022 Construction General  
17 Permit. Respondent made a good faith effort to comply with EPA's requests to obtain a permit  
18 and submitted all documentation required to obtain authorization under the 2022 Construction  
19 General Permit. EPA has acknowledged Respondent's efforts and referred to NPDES ID  
20  
21 GUR10005C.  
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23  
24 21. In response to paragraph 34, Respondent denies each and every allegation  
25 contained in said paragraph. The property located at 976-C Cross Island Route 17 in Santa Rita,  
26 Guam, is Respondent's residence; it is not a part of any "Buena Vista Subdivision." During the  
27 specified timeframe, Respondent conducted no construction activities, including clearing and  
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1 grading, at his residence. Further, Respondent denies that his residence was a construction site,  
2 including during the specified timeframe of August 26, 2021, and February 21, 2023, and that it  
3 led to stormwater runoff carrying pollutants. Further, Respondent denies that any stormwater  
4 from any Buena Vista Subdivision owned by Respondent was discharged in violation of 40  
5 C.F.R. § 122.26(c)(1). Further, Respondent denies that Respondent was required to obtain  
6 authorization under any NPDES permit for stormwater discharges associated with construction  
7 activities conducted at any Buena Vista Subdivision owned by Respondent during the specified  
8 timeframe. No industrial or construction activity disturbing five acres or more, or even one acre  
9 or more, occurred at any Buena Vista Subdivision owned by Respondent during the specified  
10 timeframe. Further, Respondent adopts and fully incorporates herein his response to paragraph  
11 33.

12       22. In response to paragraph 35, Respondent admits only that Respondent submitted a  
13 Notice of Intent (NOI) to seek coverage under EPA's 2022 Construction General Permit in  
14 September 2022 for stormwater discharges associated with the construction of a fire road in  
15 Buena Vista Estates, but denies each and every other allegation contained in said paragraph. The  
16 property located at 976-C Cross Island Route 17 in Santa Rita, Guam, is Respondent's residence;  
17 it is not a part of any "Buena Vista Subdivision." During the specified timeframe, Respondent  
18 conducted no construction activities, including clearing and grading, at his residence. Further,  
19 Respondent denies that his residence was a construction site, including during the specified  
20 timeframe of August 26, 2021, and February 21, 2023, and that it led to stormwater runoff  
21 carrying pollutants. While Respondent did submit a Notice of Intent (NOI) to seek coverage  
22 under EPA's 2022 Construction General Permit in September 2022 for stormwater discharges  
23 associated with the construction of a fire road in Buena Vista Estates, which was part of a good  
24 faith effort to comply with US EPA requests, he denies that he was required to submit said NOI  
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1 or required to obtain a permit because any discharge of stormwater was associated with the  
2 construction of a fire road that disturbed less than one acre of land (and certainly less than five  
3 acres of land) and the fire road was not a part of any plan of development. The plan of  
4 development included roads that did not coincide with the fire road constructed during the  
5 specified timeframe. Further, Respondent adopts and fully incorporates herein his response to  
6 paragraphs 33 and 34.

8 23. In response to paragraph 36, Respondent denies each and every allegation  
9 contained in said paragraph, and adopts and fully incorporates herein his response to paragraphs  
10 33, 34, and 35. Respondent denies that he did not receive coverage for discharges of stormwater  
11 from construction activities related to the fire roads that occurred after September 2022, or for  
12 stormwater discharges associated with any other construction activities prior to or after  
13 September 2022, and denies that he was required to obtain coverage.

15 24. In response to paragraph 37, Respondent denies each and every allegation  
16 contained in said paragraph. Respondent did not cause unauthorized discharges of stormwater  
17 from construction activities conducted between August 26, 2021, and February 21, 2023, and did  
18 not violate Section 301(a) of the Clean Water Act, 33 U.S.C. § 1311(a). Respondent adopts and  
19 fully incorporates herein his response to paragraphs 33, 34, 35, and 36.

21 25. In response to paragraph 38, Respondent denies each and every allegation  
22 contained in said paragraph. Respondent denies that Complainant has established a *prima facie*  
23 case, or will prove any violations, to support assessment of an administrative penalty.

24 26. In response to paragraph 39, Respondent denies each and every allegation  
25 contained in said paragraph. Respondent denies that Complainant has established a *prima facie*  
26 case, or will prove any violations, to support assessment of an administrative penalty.  
27 Respondent denies that the requested administrative penalty is reasonable.

1        27. In response to paragraph 46, this is a statement interpreting the application of  
2 applicable rules, regulations, or other authority, and states no factual allegations to which a  
3 response to admit or deny is appropriate. To the extent that a response to admit or deny is  
4 necessary, Respondent denies generally and specifically each and every allegation contained in  
5 said paragraph since the applicable rules, regulations, or other authority speak for themselves.  
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7        28. In response to paragraph 47, this is a statement interpreting the application of  
8 applicable rules, regulations, or other authority, including 40 C.F.R. § 22.17(a), and states no  
9 factual allegations to which a response to admit or deny is appropriate. To the extent that a  
10 response to admit or deny is necessary, Respondent denies generally and specifically each and  
11 every allegation contained in said paragraph since the applicable rules, regulations, or other  
12 authority, including 40 C.F.R. § 22.17(a), speak for themselves. Further, Respondent denies that  
13 he should be assessed a penalty of up to \$342,218, and denies that such penalty is reasonable.  
14

15        29. In response to paragraph 48, this is a statement interpreting the application of  
16 applicable rules, regulations, or other authority, including 40 C.F.R. § 22.17(d), and states no  
17 factual allegations to which a response to admit or deny is appropriate. To the extent that a  
18 response to admit or deny is necessary, Respondent denies generally and specifically each and  
19 every allegation contained in said paragraph since the applicable rules, regulations, or other  
20 authority, including 40 C.F.R. § 22.17(a), speak for themselves. Further, Respondent denies that  
21 he should be assessed any penalty.  
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23        30. In response to paragraphs 3, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 18, 40, 41, 42, 43, 44,  
24 45, 49, 50, 51, and 52, to the extent that a response to admit or deny is necessary, Respondent  
25 denies generally and specifically each and every allegation contained in said paragraphs since the  
26 cited statutes, regulations, and rules speak for themselves.  
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31. In response to paragraph 53, this is a statement interpreting the application of applicable rules, regulations, or other authority, and states no factual allegations to which a response to admit or deny is appropriate. To the extent that a response to admit or deny is necessary, Respondent denies generally and specifically each and every allegation contained in said paragraph since the applicable rules, regulations, or other authority speak for themselves.

32. Respondent denies each and every allegation in the Complaint not expressly admitted herein.

## AFFIRMATIVE DEFENSES

1. The Complaint fails to state a claim upon which relief may be granted.
2. The proposed penalty of up to \$27,378 for each day, up to a maximum penalty of \$342,218, is inappropriate and unreasonable and unwarranted under the facts to be proven at the hearing in this matter.
3. Complainant lacks statutory authority, or other authority, to seek the relief it requests.
4. Complainant lacks standing to seek the relief it requests.
5. Lack of subject matter jurisdiction.
6. Complainant consented to the acts of which it now complains.
7. Estoppel.
8. Duress.
9. Waiver.
10. Respondent lacks the ability to pay the proposed penalty or should be excused from paying the proposed penalty.
11. Respondent conducted no construction activity, including clearing and grading, at 976-C Cross Island Route 17 in Santa Rita, Guam, referred to in the Complaint as "Buena Vista

1 Subdivision.” Therefore, there was no construction activity that led to the discharge of  
2 stormwater runoff carrying pollutants in violation of the Clean Water Act.

3 12. Respondent made good faith efforts to comply with the United States Environmental  
4 Protection Agency’s requests, including submitting a Notice of Intent to seek coverage under  
5 EPA’s 2022 Construction General Permit in September 2022 for stormwater discharges  
6 associated with construction activity and a Stormwater Prevention Plan, which Respondent began  
7 to implement by April 2022. Respondent complied with EPA’s requests and EPA acknowledged  
8 the NOI and the permit GUR10005C. Respondent submitted all documentation necessary to  
9 obtain an NPDES permit or Construction General Permit and completed the permitting process.  
10 EPA provided Respondent authorization under the 2022 Construction General Permit, including  
11 permit GUR10005C.

12 13. Respondent was not required to obtain authorization under an NPDES permit or  
14 Construction General Permit for construction activity relating to the waterline between August  
15 26, 2021, and February 21, 2023, because the construction activity did not result in land  
16 disturbance of equal to or greater than one acre and was not part of a larger common plan of  
17 development or sale.

18 14. Respondent was not required to obtain authorization under an NPDES permit or  
19 Construction General Permit for construction activity relating to the fire road between August 26,  
20 2021, and February 21, 2023, because fire roads in rural areas do not require an NPDES permit or  
21 Construction General Permit for stormwater discharge as they are generally exempt as part of  
22 normal silviculture activities. Fire roads for forest management and fire control fall under exempt  
23 silviculture activities.

24 15. Respondent was not required to obtain authorization under an NPDES permit or  
25 Construction General Permit for construction activity relating to the fire road between August 26,  
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1 2021, and February 21, 2023, because the fire road was constructed in a rural area to protect rural  
2 land and the construction activity did not result in land disturbance of equal to or greater than one  
3 acre and was not part of a larger common plan of development or sale.

4 16. Any construction activity, including construction of the waterline and fire road,  
5 between August 26, 2021, and February 21, 2023, did not generate stormwater discharge carrying  
6 pollutants that entered or flowed to navigable waters or waters of the United States.

7 17. Stormwater runoff from construction sites at any Buena Vista Subdivision owned by  
8 Respondent, between August 26, 2021, and February 21, 2023, did not generate stormwater  
9 runoff including metals from exposed rebar, phosphorous, pH from concrete debris, and other  
10 chemicals found in construction products.

11 18. The alleged engineered conveyances at the waterline are not “point sources” as the  
12 term is defined in Section 502(14) of the Clean Water Act, 33 U.S.C. § 1362(14).

13 19. The alleged engineered conveyances at the fire road are not “point sources” as the  
14 term is defined in Section 502(14) of the Clean Water Act, 33 U.S.C. § 1362(14).

15 20. Any sediment at the waterline or fire road is not a “pollutant” as the term is defined in  
16 Section 502(6) of the Clean Water Act, 33 U.S.C. § 1362(6).

17 21. Respondent’s actions did not cause a discharge of stormwater runoff carrying  
18 pollutants to flow into the navigable waters or waters of the United States.

19 22. Any stormwater runoff from the waterline or fire road did not flow into “navigable  
20 waters” as that term is defined in 33 U.S.C. 1362(7), including the territorial seas as that term is  
21 defined in 33 U.S.C. § 1362(8).

22 23. Respondent’s actions did not cause a “discharge of a pollutant” as that term is defined  
23 in 33 U.S.C. § 1362(12).

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**REQUEST FOR HEARING**

Respondent requests a hearing on the material facts alleged in the Complaint and the facts disputed by Respondent, and on the appropriateness of the proposed civil penalties.

Dated this 10<sup>th</sup> day of December, 2025.

Henry Simpson, Respondent

By His Attorneys,

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By:

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Attorneys for Respondent Henry Simpson

**CERTIFICATE OF FILING**

The undersigned hereby certifies that a true and correct copy of the foregoing was served via email on the 10<sup>th</sup> day of December, 2025, Pacific Time, for filing at the following:  
[r9HearingClerk@epa.gov](mailto:r9HearingClerk@epa.gov).

## LUJAN & WOLFF LLP

By:

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*Attorneys for Respondent Henry Simpson*

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing was served via email and U.S. Mail on the 10<sup>th</sup> day of December, 2025, Pacific Time, on the following named party or its attorney:

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