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UNITEK SOLVENT SERVICES, INC.

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE ADMINISTRATOR**

In the Matter of:

Unitek Solvent Services, Inc.

Respondent.

Docket No. RCRA-09-2025-0113

**RESPONDENT’S MOTION FOR LEAVE
TO AMEND ITS ANSWER;
CERTIFICATE OF SERVICE**

RESPONDENT’S MOTION FOR LEAVE TO AMEND ITS ANSWER

Respondent Unitek Solvent Services, Inc. (“Respondent”), by and through its above-named counsel, hereby moves to amend its Answer, filed on September 10, 2025 (“Answer”).

This motion is filed pursuant to 40 C.F.R. § 22.15(e). As required by the Prehearing Order, Respondent’s counsel informed Complainant’s counsel on November 3, 2025 that it would seek leave to amend its answer, and asked if Complainant had any objection. On November 4, 2025, Respondent’s counsel replied confirming that Respondent has no objection to Complainant’s filing of an amended answer.

On August 6, 2025, Complainant filed the Complaint in the above-captioned matter (“Complaint”). On August 11, 2025, the Complaint was served on Respondent. On September 10, 2025, while representing itself *Pro Se*, Respondent timely filed its Answer in the form of a letter dated September 2, 2025. 40 C.F.R. § 22.15(a). Respondent continued as a *Pro Se* litigant until present counsel was retained in October 2025.

On October 17, 2025, Complainant filed a Motion for a More Definite Statement and Extension of Time for Filing Prehearing Exchanges (“Motion for a More Definite Statement”) alleging that Respondent’s answer did not conform to the requirements of Rule 22.15(b) of the Consolidated Rules that require Respondent to “clearly and directly admit, deny or explain” each of the factual allegations in the Complaint. Paragraph 10 of Complainant’s Motion for a More Definite Statement requested the Tribunal to direct Respondent to complete a check-the-box table attached as Appendix 1, providing an opportunity for Respondent to admit, deny, or explain the allegations in the Complaint.

On November 3, 2025, Respondent, now represented by present Counsel, filed its response to Complainant’s Motion for a More Definite Statement, explaining that it would be filing this Motion to Amend its Answer and objecting to the check-the-box table.

40 C.F.R. § 22.15(e) provides that once an answer has been filed, the answer may be amended upon motion granted by the Presiding Officer. Rule 15(a) of the Federal Rules of Civil Procedure states that “leave [to amend] shall be freely given when justice so requires,” and this Tribunal should continue to rely on the persuasive interpretations of the federal rules.¹ The

¹ “The Federal Rules of Civil Procedure are not binding on administrative agencies but many times these rules provide useful and instructive guidance in applying the Consolidated Rules of Practice.” *Order Granting Motion to Amend Answer*, In re Dependable Towing & Recovery, Inc., Docket No. CWA-02-2011-3601 (Jul. 8, 2011).

United States Supreme Court explains that absent “undue delay, bad faith or dilatory motive on the part of the movant, repeated failure to cure deficiencies by amendments previously allowed, undue prejudice to the opposing party by virtue of allowance of the amendment, [or] futility of amendment[.]” leave to amend should be granted. *See Foman v. Davis*, 371 U.S. 178, 182 (1962).

As explained above, Respondent was operating *Pro Se* until October 2025 and Respondent made a good faith effort to answer the Complaint, not being familiar with the requirements of Rule 22.15(b). Granting this motion will allow Respondent to address each factual allegation in the Complaint, as it is entitled to do under Rule 22.15(b).

Recognizing the unusual circumstances presented by the current federal furloughs, and the likely present absence of a Presiding Officer to rule on EPA’s Motion, Respondent plans to serve its amended answer on EPA’s counsel on November 17, 2025 whether or not the motion is granted. The amended answer will not be filed until leave is granted by the Tribunal.

Accordingly, this Tribunal should grant Respondent leave to amend its Answer.

DATED: Honolulu, Hawai‘i, November 7, 2025.

A handwritten signature in black ink, appearing to read 'Lisa A. Bail', written in a cursive style.

LISA A. BAIL

Attorney for Respondent
UNITEK SOLVENT SERVICES, INC.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was filed with the EPA Office of Administrative Law Judges, and that a true and correct copy was served by email on counsel for Complainant, David Kim at kim.david@epa.gov.

DATED: Honolulu, Hawai'i, November 7, 2025.

A handwritten signature in black ink, appearing to read 'Lisa A. Bail', is written above a horizontal line.

LISA A. BAIL

Attorney for Respondent
UNITEK SOLVENT SERVICES, INC.