



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2  
290 BROADWAY  
NEW YORK, NEW YORK 10007-1866

U.S. ENVIRONMENTAL  
PROTECTION AGENCY-REG.31  
2009 SEP 11 AM 10:54  
REGIONAL HEARING  
CLERK

September 10, 2009

BY ELECTRONIC MAIL  
FOLLOWED BY CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Puerto Rico Aqueduct and Sewer Authority  
P.O. Box 7066  
San Juan, PR 00916-9990  
Attn: Jorge Marrero, Esq.

Re: In the Matter of Puerto Rico Aqueduct and Sewer Authority, Ponce Regional Wastewater Treatment Plant, Docket No. CAA-02-2008-1216

Dear Mr. Marrero:

Enclosed please find a copy of the fully-executed Consent Agreement and Final Order ("CAFO") for the above-referenced case. The Final Order was signed on September 10, 2009. Please note that pursuant to Paragraph 8 of the CAFO, payment of the penalty is due on or before 45 calendar days after the date of signature of the Final Order.

If you have any questions, please call me at (212) 637-3164. Thank you for your cooperation and assistance in this matter.

Sincerely yours,

A handwritten signature in cursive script that reads "Jean H. Regna".

Jean H. Regna  
Assistant Regional Counsel  
Office of Regional Counsel

Enclosure

cc: Regional Hearing Clerk, Region 2 (with Original CAFO)

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY ENVIRONMENTAL  
REGION 2 PROTECTION AGENCY-REG. II**

2009 SEP 11 AM 10:54

-----X	)	
In the Matter of:	)	Docket No. CAA-02-2008-1216
	)	<b>REGIONAL HEARING</b>
Puerto Rico Aqueduct and Sewer Authority,	)	<b>PLEA?</b>
	)	<u>CONSENT AGREEMENT AND</u>
	)	<u>FINAL ORDER</u>
Ponce Regional Wastewater Treatment Plant	)	
Ponce, Puerto Rico	)	Under Section 113(d) of the Clean Air Act,
	)	42 U.S.C. § 7413(d)
Respondent.	)	
-----X	)	

**I. PRELIMINARY STATEMENT**

Complainant, the United States Environmental Protection Agency ("EPA"), Region 2, and Respondent, Puerto Rico Aqueduct and Sewer Authority, by their undersigned representatives, hereby consent and agree as follows:

1. EPA initiated this proceeding for the assessment of civil penalties pursuant to Section 113(d) of the Clean Air Act (the "Act"), 42 U.S.C. § 7413(d), by issuing an Administrative Complaint, Docket No. CAA-02-2008-1216 (hereinafter, "Complaint"), against Respondent on September 26, 2008.
2. Respondent is the owner and/or operator of the Ponce Regional Wastewater Treatment Plant, located at PR Road 2, Km. 259.3, Ponce, Puerto Rico (the "Facility").
3. The Complaint charged Respondent with one count for violation of Section 112(r)(7) of the Act, 42 U.S.C. § 7412(r)(7), and the regulations promulgated thereunder at 40 C.F.R. Part 68, for failure to timely submit an updated risk management plan to EPA for the Facility.
4. Respondent hereby certifies that it has fulfilled all reporting obligations for the violations cited in the Complaint.
5. Respondent admits the jurisdictional allegations set forth in the Complaint.
6. Pursuant to Section 113(d) of the Act, and taking into consideration the nature of the violations and other relevant factors, EPA has determined that an appropriate civil penalty to settle this action is twelve thousand seven hundred and twenty one dollars (\$12,721.00).

7. Respondent consents to the issuance of this Consent Agreement and Final Order and consents for the purposes of settlement to the assessment of the civil penalty cited in the foregoing paragraph.
8. Respondent agrees to pay twelve thousand seven hundred and twenty one dollars (\$12,721.00) as a civil penalty for the count alleged in the Complaint and set forth in paragraph 3, above, by cashier's or certified check payable to the "Treasurer, United States of America." The check shall be identified with a notation of the name and docket number of this case (set forth in the caption on the first page of this document) and shall be sent to:

U.S. Environmental Protection Agency  
Fines and Penalties  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, MO 63197-9000

A copy of the check and the transmittal letter shall be sent to each of the following:

Jean H. Regna  
Assistant Regional Counsel  
U.S. Environmental Protection Agency  
290 Broadway, 17th Floor  
New York, New York 10007

and

Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 2  
290 Broadway, 16th Floor  
New York, New York 10007.

Respondent agrees to make such payment on or before forty-five (45) calendar days after the date of signature of the Final Order at the end of this document (the date by which payment must be received shall be referred to as the "due date").

- a) Failure to pay the penalty in full according to the above provisions will result in the referral of this matter to the U.S. Department of Justice or the U.S. Department of the Treasury for appropriate enforcement, including collection of the amount set forth in this Paragraph, plus allowable interest and such other penalties as provided for in this Consent Agreement.
- b) Further, if payment is not received on or before the due date, Respondent agrees to the assessment of interest, at the annual rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717, on the overdue amount from the due date through the date of payment. In addition, Respondent agrees to pay a late payment handling charge of \$15 for each

thirty (30) day period (or any portion thereof) following the due date in which the balance remains unpaid.

- c) Respondent also agrees to pay a quarterly non-payment penalty for each calendar quarter during which such nonpayment persists, pursuant to Section 113(d)(5) of the Clean Air Act, 42 U.S.C. § 7413(d)(5). This quarterly non-payment penalty will be imposed for each calendar quarter during which such non-payment persists. The quarterly nonpayment penalty is 10% of the aggregate amount of all such penalties (including quarterly non-payment penalties) which are unpaid as of the beginning of such quarter.
9. The penalties and interest specified in Paragraph 8, above, shall represent civil penalties assessed by EPA and shall not be deductible for purposes of State or federal taxes.

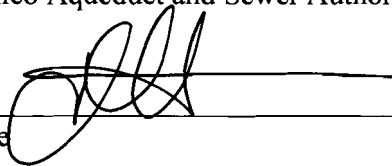
## II. GENERAL PROVISIONS

10. Respondent neither admits nor denies the factual allegations contained in the Complaint. Respondent waives any right to contest the allegations contained in the Complaint and/or to appeal the Final Order accompanying this Consent Agreement.
11. Respondent waives any right it may have pursuant to 40 C.F.R. § 22.8 to be present during discussions between EPA staff and the Regional Judicial Officer of EPA Region 2, and further waives the right to be served with and to reply to any memorandum or communication addressed by EPA staff to the Regional Judicial Officer, where the purpose of such discussion, memorandum, or communication is to discuss a proposed settlement of this matter or to recommend that such official accept this Consent Agreement and issue the attached Final Order.
12. This Consent Agreement and Final Order shall not relieve Respondent of its obligation to comply with all applicable provisions of federal, State, or local law, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, State or local permit.
13. This Consent Agreement and Final Order constitutes a settlement by EPA of all claims for civil penalties pursuant to Section 113(d) of the Act, 42 U.S.C. § 7413(d), for the violations alleged in the Complaint. Nothing in this Consent Agreement and Final Order is intended to nor shall be construed to operate in any way to resolve any criminal liability of Respondent. Compliance with this Consent Agreement and Final Order shall not be a defense to any actions subsequently commenced pursuant to federal laws and regulations administered by EPA, and it is the responsibility of Respondent to comply with such laws and regulations.
14. Each party to this action shall bear its own costs and attorney fees.

15. The person signing below on behalf of Respondent hereby certifies that he or she is fully authorized by Respondent to execute this Consent Agreement on behalf of Respondent and to legally bind Respondent to this Consent Agreement in accordance with all of the terms and conditions contained herein.
16. The Director of the Caribbean Environmental Protection Division of EPA Region 2 has been delegated the authority to sign the Consent Agreement in this action, and the Regional Judicial Officer of EPA Region 2 has been delegated the authority to sign the Final Order in this action.
17. Respondent consents to service upon Respondent of a copy of this Consent Agreement and Final Order by any EPA employee, in lieu of service made by the EPA Region 2 Regional Hearing Clerk.

Consent Agreement In the Matter of Puerto Rico Aqueduct and Sewer Authority, Ponce Regional  
Wastewater Treatment Plant  
Docket No. CAA-02-2008-1216

For Respondent  
Puerto Rico Aqueduct and Sewer Authority:

  
\_\_\_\_\_  
Signature

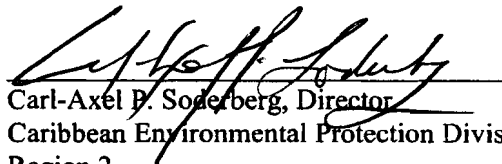
Date: July 29, 2009

José F. Ortiz  
Name (Printed or Typed)

Executive President  
Title (Printed or Typed)

Consent Agreement In the Matter of Puerto Rico Aqueduct and Sewer Authority, Ponce Regional  
Wastewater Treatment Plant  
Docket No. CAA-02-2008-1216

For Complainant  
U.S. Environmental Protection Agency:

  
\_\_\_\_\_  
Carl-Axel P. Soderberg, Director  
Caribbean Environmental Protection Division  
Region 2

Date: 08-20-09

In the Matter of Puerto Rico Aqueduct and Sewer Authority, Ponce Regional Wastewater Treatment Plant, Docket No. CAA-02-2008-1216

**FINAL ORDER**

The Consent Agreement In the Matter of Puerto Rico Aqueduct and Sewer Authority, Ponce Regional Wastewater Treatment Plant, Docket No. CAA-02-2008-1216, signed on behalf of Respondent Puerto Rico Aqueduct and Sewer Authority and the Environmental Protection Agency, is hereby approved, incorporated herein, and issued by U.S. EPA, as a Final Order. The effective date of this Final Order shall be the date of filing with the Regional Hearing Clerk, U.S. EPA, Region 2, New York, New York.

September 10, 2009

Date

Helen Ferrara

Helen Ferrara  
Regional Judicial Officer  
U.S. EPA, Region 2



In the Matter of Puerto Rico Aqueduct and Sewer Authority, Ponce Regional Wastewater Treatment Plant, Docket No. CAA-02-2008-1216

**Certificate of Service**

I certify that the foregoing Letter enclosing a fully-executed copy of the Consent Agreement and Final Order, was sent this day in the following manner to the addressees below:

**Original and one copy by hand-delivery to:**

Office of Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 2  
290 Broadway, 16<sup>th</sup> floor  
New York, New York 10007-1866

**Copy by Certified Mail,  
Return Receipt Requested to:**

Puerto Rico Aqueduct and Sewer Authority  
P.O. Box 7066  
San Juan, PR 00916-9990  
Attn: Jorge Marrero, Esq.

Date: 9/11/09  
Name: Brenda Hadley  
Title: Branch Secretary  
Address: 290 Broadway - NYC

U.S. ENVIRONMENTAL  
PROTECTION AGENCY-REG. 2  
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