



appropriate penalty shall be subject to subsequent actions.”

A Default Order that does not determine remedy along with liability is not an initial decision, unless it resolves “all issues and claims in the proceeding.” Based upon a reading of the regulation along with pertinent portions of the preamble, there is an expectation that a motion for default order on liability and Order granting same contemplates a second Motion for Penalty, to be filed by Complainant with the Administrative Law Judge assigned to this matter when this matter is forwarded to the Office of Administrative Law Judges in accordance with EPA regulations and practice.

However, the Undersigned was recently informed by the Complainant’s attorney that ABEF had never filed an Answer in this matter. When the Undersigned made further inquiries as to the status of this case, the Region 2 Regional Hearing Clerk confirmed that Respondent ABEF had not filed an Answer, and that this matter had therefore not been forwarded to the Office of Administrative Law Judge. Unbeknownst to the Undersigned, this case remained within her jurisdiction as Regional Judicial Officer because, although Cotto was found liable on default, ABEF had not yet filed an Answer.

### **ORDER**

**Based on the information set forth above, the Undersigned directs the parties to file a Joint Status Report in this matter no later than March 20, 2015 setting forth the status of this case. If the Complainant cannot reach Respondent’s attorney or other representative to prepare and file a Joint Status Report, Complainant’s attorney is directed to file a Status Report by March 20, 2015 which outlines the steps that Complainant will take in light of the fact that Respondent ABEF has failed to answer the Complaint for over four years.**

Date: March 2, 2015



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Helen Ferrara  
Presiding Officer

**CERTIFICATE OF SERVICE**

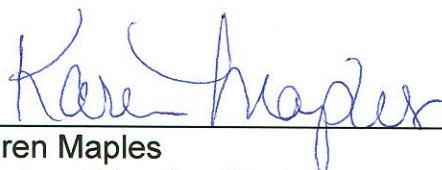
I hereby certify that the **Order Directing Parties To File A Status Report** by Regional Judicial Officer Helen Ferrara in the matter of **A.B.E.F. Development Corp. And Herminio Cotto Construction, Inc., Docket No. CWA-02-2010-3465**, was served on the parties as indicated below:

First Class Mail -

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Karen Maples  
Regional Hearing Clerk  
USEPA - Region II

Dated: March 3, 2015