

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 2

Filed September 15, 2020 @ 2:09pm  
USEPA – Region II  
Regional Hearing Clerk

IN THE MATTER OF:

**PUERTO BAHÍA, INC.**  
P. O. Box 781  
Hormigueros, Puerto Rico 00676

and

**KARIMAR CONSTRUCTION, INC.**  
P. O. Box 8000  
Aguada, Puerto Rico 00602

**PUERTO BAHÍA RESIDENTIAL  
CONSTRUCTION PROJECT**  
Road PR-413, Km. 1  
Rincón, Puerto Rico 00677

**RESPONDENTS**

**CONSENT AGREEMENT AND  
FINAL ORDER DOCKET NUMBER  
CWA-02-2019-3451**

**CONSENT AGREEMENT AND FINAL ORDER**

*EdC*  
*MM*  
Complainant, the United States Environmental Protection Agency (“EPA”), having issued the Complaint referenced herein on September 6, 2019, 2016, against Puerto Bahia, Inc. (“Respondent Puerto Bahia”) and Karimar Construction, Inc. (“Respondent Karimar”) (hereinafter referred collectively as “Respondents”), and

*CEG*  
Complainant and Respondents having agreed that settlement of this matter is in the public interest, and that entry of this Consent Agreement and Final Order (“Consent Agreement”) without further litigation is the most appropriate means of resolving this matter;

NOW, THEREFORE, before the taking of any testimony, upon the pleadings, without adjudication of any issue of fact or law, and upon consent and agreement of the Parties, it is hereby agreed, and ordered as follows:

**I. Preliminary Statement**

1. EPA initiated this proceeding for the assessment of a civil penalty pursuant to Section 309(g) of the Clean Water Act (“CWA” or “the Act”), 33 U.S.C. § 1319(g).
2. In the Complaint, EPA alleges that Respondents violated Sections 301(a) and 402(p) of

the Clean Water Act, 33 U.S.C. §§ 1311(a) and 1342(p), for failure to apply for and obtain National Pollutant Discharge Elimination System (“NPDES”) permit coverage for the discharge of pollutants (stormwater runoff associated with construction activities) from the Puerto Bahia Residential Project (“Project”) located in Rincon, Puerto Rico, and for the discharges of pollutants (stormwater runoff associated with construction activities) from the Project into waters of the United States without NPDES permit coverage.

3. On September 16, 2019, EPA provided a public notice and notice of opportunity to comment on the proposed administrative penalty assessment. No public comment was received.
4. On September 18, 2019, EPA notified the Commonwealth of Puerto Rico about this action and offered an opportunity to confer with EPA on the proposed administrative penalty assessment, pursuant to 40 C.F.R. Part 22.
5. Respondents filed a Motion for Extension of Time and Notification of Informal Conference, dated October 7, 2019, requesting a 30-day extension to file an answer to the Complaint. Subsequently, the Parties engaged in settlement negotiations to address the violations alleged in the Complaint.
6. Respondents admit the jurisdictional allegations of the Complaint.
7. Respondents neither admits nor denies specific factual allegations contained in the Complaint.
8. Respondents waive any right to contest the allegations and its right to appeal the proposed final order accompanying the Consent Agreement.

## II. Terms of Settlement

9. Pursuant to Section 309(g) of the Clean Water Act, 33 U.S.C. § 1319(g), the nature of the violations and other relevant factors, EPA and Respondents have agreed to settle this action for **\$52,847**.
10. For purposes of settlement, Respondents consent to the issuance of this Consent Agreement and consent to the payment of the civil penalty cited in Paragraph 9.

## III. Payment of Civil Penalty

11. Respondents shall pay the amount of **\$52,847** within thirty (30) calendar days after the Effective Date of the Final Order.
12. Pursuant to Part V of this Consent Agreement, the Effective Date of this Order shall be the date of filing with the Regional Hearing Clerk, U.S. EPA Region 2, New York, NY.
13. Respondents shall pay the amount cited in Paragraph 11 by cashier’s or certified check

payable to the *Treasurer of the United States of America*, by electronic transfer (i.e. wire or automated clearinghouse), or online payment:

- a. If Respondents choose to pay the civil penalty by cashiers' or certified check, the check shall be mailed to:

**BY U.S. POSTAL SERVICE**

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

**BY OVERNIGHT MAIL**

U.S. Bank  
1005 Convention Plaza  
Mail Station SL-MO-C2GL  
ATTN Box 979077  
St. Louis, MO 63101  
Contact: Natalie Pearson  
Tel.: (314) 418-4087.

- b. If Respondents choose to pay the civil penalty, the transfer shall be made to:

**BY WIRE TRANSFER:**

Federal Reserve Bank of New York  
ABA = 021030004  
Account = 68010727  
SWIFT address = FRNYUS33  
33 Liberty Street  
New York, NY 10045.

Field Tag 4200 of the Fedwire message should read "D 68010727 Environmental Protection Agency."

**BY AUTOMATED CLEARINGHOUSE (ACH) (also known as REX or remittance express):**

ACH for receiving US currency  
PNC Bank  
808 17<sup>th</sup> Street, NW  
Washington, DC 20074  
ABA = 051036706  
Transaction Code 22 - checking  
Environmental Protection Agency  
Account 310006—CTX Format  
Contact: Jesse White  
Tel.: (301) 887-6548.

- c. Online Payment Option is available through the U.S. Department of Treasury. This payment option can be accessed through WWW.PAY.GOV. Enter sfo 1.1 in the search field. Open form and complete required fields.

- d. Respondents shall clearly identify, regardless of the form of payment, the name and docket number of the case:

**In the Matter of:**      **In the Matter of Puerto Bahia, Inc. and Karimar Construction, Inc.**

**Docket Number:**      **CWA-02-2019-3451**

14. Respondents shall send proof of payment to each of the following:

José A. Rivera, BSCE  
Lead Environmental Engineer, Clean Water Act Team  
Multimedia Permits and Compliance Branch  
Caribbean Environmental Protection Agency  
United States Environmental Protection Agency Region 2  
[rivera.jose@epa.gov](mailto:rivera.jose@epa.gov)

Suzette M. Mélen-dez-Colón, Esq.  
Assistant Regional Counsel  
Office of Regional Counsel  
United States Environmental Protection Agency, Region 2  
[melendez-colon.suzette@epa.gov](mailto:melendez-colon.suzette@epa.gov)

and

Karen Maples  
Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 2  
[maples.karen@epa.gov](mailto:maples.karen@epa.gov)

15. Failure to pay the penalty in full according to the above provisions may result in referral of this matter to the United States Department of Justice or the United States Department of the Treasury for collection.
16. Further, if the payment is not received on or before the due date, interest will be assessed at the annual rate established by the Secretary of Treasury pursuant to the Debt Collection Act, 31 U.S.C. § 3717, on the overdue amount from the due date through the date of payment. In addition, a late payment handling charge of \$15.00 will be assessed for each 30-day period (or any portion thereof) following the due date in which the balance remains unpaid. A 6% per annum penalty also will be applied on any principal amount not paid within 90 days of the due date.
17. In addition, pursuant to Section 309(g)(9) of the CWA, 33 U.S.C. § 1319(g)(9), if payment is not received by the due date, a quarterly nonpayment penalty will be imposed for each calendar quarter during which such nonpayment persists. The quarterly

nonpayment penalty is 20% of the aggregate amount of penalties and quarterly nonpayment penalties, which are unpaid as of the beginning of such quarter. Respondents may also be required to pay attorney's fees and costs for collection proceedings in connection with nonpayment.

18. The penalty to be paid is a civil penalty assessed by the EPA and shall not be deductible from Respondents' federal or Commonwealth of Puerto Rico taxes.

#### IV. General Provisions

19. The provisions of this Consent Agreement shall be binding upon Respondents, their officers, directors, agents, servants, authorized representatives and successors or assigns, including but not limited to, subsequent purchasers. No transfer of ownership or operation shall relieve Respondents of their obligation to comply with this Consent Agreement.

20. Respondents waive any right it may have pursuant to 40 C.F.R. § 22.8 to be present during discussions with or to be served with and to reply to any memorandum or communication addressed to the Director or the Regional Administrator 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 accompanying Final Order.

- CRG*
21. Nothing in this agreement shall be construed as prohibiting, altering or in any way limiting the ability of EPA to seek any other remedies or sanctions available by virtue of Respondents' violation of this agreement or of the statutes and regulations upon which this agreement is based, or for Respondents' violation of any applicable provision of law.

- CRG*
22. This Consent Agreement shall not relieve Respondents of their obligation to comply with all applicable provisions of the CWA and the regulations implementing it, nor shall it be construed as the issuance of a permit or a ruling on, or determination of, any issues related to any federal, state or local law, regulation or permit.

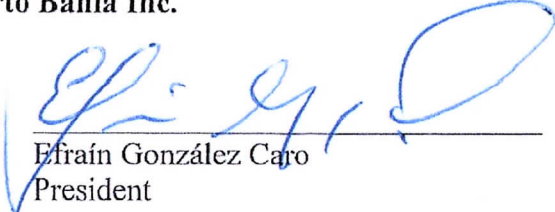
23. Full payment of the civil penalty shall only resolve Respondents' liability for federal civil penalties for the violations and facts alleged in the Complaint. Full payment of this penalty shall not in any case affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.

24. Each undersigned representative of the parties to this Consent Agreement certifies that he or she is fully authorized by the party represented to enter into the terms and conditions of this Consent Agreement and to execute and legally bind that party to it.

25. Each party shall bear its own costs and attorney's fees in connection with the action resolved by this Consent Agreement.

**RESPONDENTS:**

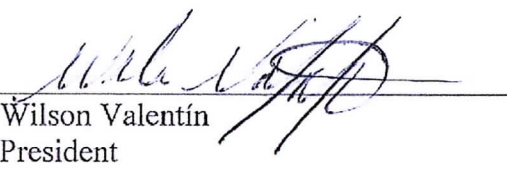
**Puerto Bahia Inc.**

BY:   
Efraín González Caro  
President  
Puerto Bahía Inc.  
P.O. Box 781  
Hormigueros, PR 00660

DATE: 07/20/20

**Karimar Construction, Inc.**

*WLV*  
*WLV*

BY:   
Wilson Valentín  
President  
Karimar Construction, Inc.  
P.O. Box 8000  
Aguada, PR 00602

DATE: 07/20/2020

*CRG*

**COMPLAINANT: United States Environmental Protection Agency**

BY: CARMEN GUERRERO PEREZ  
Digitally signed by  
CARMEN GUERRERO PEREZ  
Date: 2020.09.11 12:02:49  
-04'00'  
Carmen R. Guerrero Pérez  
Director  
Caribbean Environmental Protection Division  
United States Environmental Protection Agency, Region 2  
City View Plaza II  
48 CARR 165 STE 7000  
Guaynabo, PR 00968-8073

DATE: \_\_\_\_\_

**V. Final Order**

The Regional Judicial Officer of the United States Environmental Protection Agency, Region 2, ratifies the foregoing Consent Agreement. The Agreement entered into by the parties is hereby approved, incorporated herein, and issued as an Order. The effective date of this Order shall be the date of filing with the Regional Hearing Clerk, United States Environmental Protection Agency, Region 2.

**HELEN  
FERRARA**

Digitally signed by HELEN  
FERRARA  
Date: 2020.09.14 09:20:51  
-04'00'

BY:

DATE: \_\_\_\_\_

**HELEN FERRARA**

Regional Judicial Officer

United States Environmental Protection Agency, Region 2

mm  
OKG

**CERTIFICATE OF SERVICE**

I hereby certify that on this date I served by electronic service a true and correct copy of the Consent Agreement and Final Order entered in In the matter of Puerto Bahía, Inc. and Karimar Construction Inc., Docket Number: CWA-02-2019-3451 by the following matter:

**BY EMAIL WITH DELIVERY RECEIPT**

RESPONDENTS PUERTO BAHIA, INC. AND KARIMAR CONSTRUCTION, INC.

Guillermo Fulcar Beriguete, Esq.

Attorney for Respondents

Tel. (787) 550-8126

Email: [gfulcar@yahoo.com](mailto:gfulcar@yahoo.com)

Mailing address: Urb. Puerto Nuevo, 1210 Calle Canarias, San Juan, PR 00920

**BY EMAIL WITH DELIVERY RECEIPT:**

Karen Maples

Regional Hearing Clerk

U.S. EPA – Region 2

[maples.karen@epa.gov](mailto:maples.karen@epa.gov)

Helen Ferrara

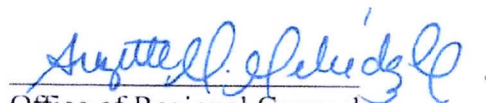
Regional Judicial Officer

U.S. EPA – Region 2

[ferrara.helen@epa.gov](mailto:ferrara.helen@epa.gov)

Date: September 15, 2020

By:



Office of Regional Counsel

Caribbean Team, Region 2

Location: Guaynabo, Puerto Rico