

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 2

U.S. ENVIRONMENTAL  
PROTECTION AGENCY-REG. II  
2008 JUL - 8 PM 3: 05  
REGIONAL HEARING  
CLERK

IN THE MATTER OF:

Palmas Lakes, Inc.  
P.O. Box 191334  
San Juan, Puerto Rico 00919

and

F&R Construction Corporation  
P.O. Box 9932  
San Juan, Puerto Rico 00908

Respondents

Docket No. CWA-02-2007-34-05  
Proceeding Pursuant to  
Section 309(g) of the Clean  
Water Act, 33 U.S.C. §1319(g)  
to Assess Class II Civil  
Penalties

Harbour Lakes Residential  
Development  
NPDES GCP Number PRR10B567

**NOTICE OF APPEARANCE AND REQUEST FOR BRIEF EXTENSION  
TO FILE RESPONDENT'S INITIAL EXCHANGES**

COMES NOW Respondent F&R Contractors Corp. (erroneously named "F&R Construction Corporation" and hereinafter, "F&R") through its undersigned representative and respectfully alleges, states and prays as follows:

1. On May 14, 2007, F&R filed its "Answer to the Complaint and Request for Hearing" through Mr. Rafael Toro-Ramírez, P.E., Esq.

2. On June 18, 2007, Mr. Toro-Ramírez appeared in the captioned case as counsel for co-Respondent Palmas Lakes, Inc.

3. On March 14, 2008, EPA issued a "Pre-Hearing Order", which, among other items, set forth the calendar in the case.

4. On May 27, 2008, Mr. Toro-Ramírez filed a "Motion for Withdrawal of Legal Representation," wherein he asked to be allowed to withdraw as counsel of record for both Respondents in the captioned case.

5. Accordingly, on June 5, 2008, EPA issued its "Order on Respondents' Counsel's Motion for Withdrawal", accepting Mr. Toro-Ramírez's withdrawal, instructing the undersigned attorney, who had been informally announced as F&R's new counsel in this case, to file an appearance in the case, and restating the

previously established case calendar, including the deadlines for filing prehearing exchanges.

6. The undersigned attorney hereby files notice of appearance in the captioned case, asking to be notified of all subsequent orders, resolutions, pleadings and other notices filed or issued hereunder.

7. F&R hereby requests a brief extension to file its prehearing exchanges, which are currently due on July 21, 2008. This request is made for good cause.

8. First, the undersigned received Complainant's prehearing exchanges, including all attachments, on June 30, 2008, that is, ten (10) days after they were due under the Prehearing Order. F&R is currently reviewing the attached documents.

9. Second, during the past weeks F&R has contacted several potential expert witnesses who have declined to participate in this case due to conflicts. One potential expert has stated he would only participate in the case if he was allowed additional time to examine the facts, the allegations and the docket. F&R has the right to defend itself against Complainant's allegations through direct evidence, including expert testimony, and will be unable to do so by July 21, 2008.

10. Finally, F&R would like to explore settlement options with counsel for Complainant. In fact, Ms. Carreño and the undersigned agreed to talk next week (after sister-counsel finishes a trial she is currently litigating) to coordinate a settlement meeting, hopefully with the participation of Palmas Lakes' new counsel, which the party is required to announce by July 7, 2008.

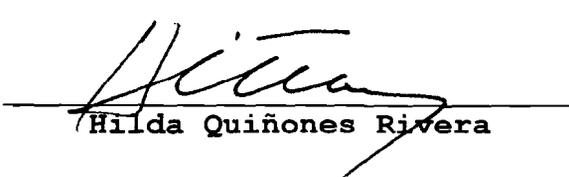
11. For these reasons, F&R requests a 20-day extension to file its prehearing exchanges, to expire on August 11, 2008. F&R requests that this 20-day extension also be applied to the deadline for Complainant's filing of its Rebuttal Prehearing exchange.

12. This request is timely filed, is made for good cause and will not cause prejudice to any party hereto. 40 C.F.R. § 22.7.

In San Juan, Puerto Rico, this July 3<sup>rd</sup>, 2008.

WE HEREBY CERTIFY that on this same date copy of this Notice of Appearance has been mailed by certified mail to: **Silvia Carreño, Esq.**, Assistant Regional Counsel, Office of Regional Counsel, U.S. Environmental Protection Agency, Region 2, Centro Europa Suite 417, 1492 Ponce de León Ave., San Juan, PR 00907-4127; **Mrs. Karen Maples**, Regional Hearing Clerk, U.S. EPA / Regional II, 290 Broadway, 16<sup>th</sup> Floor, New York, NY 10007-1866; **Rafael A. Toro-Ramírez, Esq.**, Toro & Arsuaga, PO Box 11064, San Juan, Puerto Rico 00922-1064; and to **Palmas Lakes, Inc.**, PO Box 191334, San Juan, Puerto Rico 00919.

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