



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 2  
290 BROADWAY  
NEW YORK, NY 10007-1866

JUL 29 2008

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

**Article Number: 7005 3110 0000 5928 9716**

Mr. Ariel Gutierrez, Operator  
Los Altos de Ciudad Jardin (Gurabo)  
P.O. Box 71385  
San Juan, Puerto Rico 00936

Re: **Docket No. CWA-02-2008-3322**  
Los Altos de Ciudad Jardin, PR 189, Km 10.1, Mamey Ward, Gurabo, Puerto Rico  
NPDES Storm Water Construction General Permit tracking No. PRU201891

Dear Mr. Gutierrez:

Enclosed is a copy of the signed Expedited Settlement Offer ("ESO") Agreement entered into as part of the Consent Agreement and Final Order ("CAFO").

As you agreed to in this Expedited Storm Water Settlement Agreement, you must pay the settlement penalty amount (\$15,000.00) within ten (10) days from the date of receipt of this letter, which contains the agreement which has been "So Ordered" and is effective. You must send your original check and a copy of the Agreement, via certified mail, to:

Regional Hearing Clerk  
U.S. EPA, Region 2  
In the Matter of: Ariel Gutierrez.  
Docket No.: CWA-02-2008-3322  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, MO 63197-9000

The payment for the penalty amount must be in the form of a bank, cashiers or certified check payable to the "Treasurer, United States of America" with EPA and the Docket Number of the Expedited Settlement Agreement written on the check.

A copy of the check payment of the penalty amount must also be sent via certified mail, express mail or equivalent to Henry Mazzucca, P.E. Chief, Compliance Section, Water Compliance Branch, 290 Broadway, 20<sup>th</sup> Floor, New York, NY 10007 for our records.

Please note that once full payment is made this settles all civil penalties claims against you for the Clean Water Act violations issued in the CAFO.

U.S. ENVIRONMENTAL PROTECTION AGENCY  
REGIONAL HEARING CLERK  
2008 JUL 29 PM 1:02

If you have any questions concerning the above, please contact Mr. Jerry Ciotola, Environmental Engineer at (212) 637-4223.

Sincerely,

A handwritten signature in black ink, appearing to read 'D. LaPosta', with a long horizontal flourish extending to the right.

Dore LaPosta, Director

Division of Enforcement and Compliance Assistance

Enclosure

cc: Wanda E. García Hernández, Director, PREQB (w/enclosure)



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY – REGION 2  
 Division of Enforcement and Compliance Assistance  
 290 Broadway  
 New York, New York 10007-1866

U.S. ENVIRONMENTAL PROTECTION AGENCY  
 REGIONAL HEARING CLERK  
 2008 JUL 30 PM 4:01

**EXPEDITED STORM WATER SETTLEMENT AGREEMENT**  
 Los Altos de Ciudad Jardin, Docket Number: CWA-02-2008-3322, NPDES No. PRU201891

Ariel Gutierrez (“Respondent”) is a “person,” within the meaning of Section 502(5) of the Clean Water Act (“Act”), 33 U.S.C. §1362(5), and 40 C.F.R. §122.2.

Attached is an “Expedited Settlement Offer Deficiencies Form” (herein the “Form”), which is incorporated by reference. By its signature, Complainant (“EPA”) finds that Respondent is responsible for the deficiencies specified in the Form.

Respondent had an unauthorized discharge of storm water and failed to comply with its Permit in violation of Section 301(a) and 402 of the Clean Water Act, 33 U.S.C. §1311 and §1342, as described in the attached table.

EPA finds, and Respondent admits, that Respondent is subject to Section 301(a) of the Act, 33 U.S.C. §1311, and that EPA has jurisdiction over the allegations and any “person” who “discharges pollutants” from a “point source” to “waters of the United States.” Respondent neither admits nor denies the allegation(s) specified in the Form.

EPA is authorized to enter into this Consent Agreement and Final Order (“Agreement”) under the authority vested in the Administrator of EPA by Section 309(g)(2)(A) of the Act, 33 U.S.C. §1319(g)(2)(A), and by 40 C.F.R. §22.13(b). The parties enter into this Agreement in order to settle the civil violation(s) alleged in this Agreement for a penalty of **\$15,000**. Respondent consents to the assessment of this penalty, and waives the right to: (1) contest the finding(s); (2) a hearing pursuant to Section 309(g)(2) of the Act, 33 U.S.C. §1319(g)(2); and (3) appeal pursuant to Section 309(g)(8), 33 U.S.C. §1319(g)(8).

Additionally, Respondent certifies, subject to civil and criminal penalties for making a false statement to the United States Government, that it has corrected any deficiencies identified in the Form, and to the best of its knowledge, is in compliance with the NPDES permitting program.

Respondent certifies that, within ten (10) days of receiving notice from EPA that the Agreement is effective (“So Ordered”) it will send a bank, cashiers or certified check for the amount specified above payable to the “Treasurer, United States of America,” via certified mail, to:

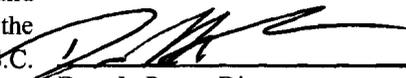
Regional Hearing Clerk  
 U.S. EPA, Region 2

In the Matter of: Ariel Gutierrez, Los Altos de Ciudad Jardin  
 Docket No.: CWA-02-2008-3322  
 Cincinnati Finance Center  
 PO Box 979077  
 St. Louis, MO 63197-9000

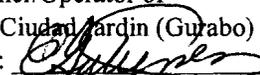
This Agreement settles EPA’s civil penalty claims against Respondent for the CWA violation(s) specified in this Agreement. However, EPA does not waive its rights to take any enforcement action against Respondent for any other past, present, or future civil or criminal violation of the Act or of any other federal statute or regulation. EPA does not waive its right to issue a compliance order for any uncorrected deficiencies or violation(s) described in the Form. EPA has determined this Agreement to be appropriate.

This Agreement is binding on the parties signing below and effective thirty (30) days from the date it is signed (“Approved”) by the Director of the Division of Enforcement and Compliance Assistance unless a petition to set aside the Order is filed by a commenter pursuant to Section 309(g)(4)(C) of the Act, 33 U.S.C. §1319(g)(4)(C), and Part 22.

APPROVED BY EPA:

  
 Dore LaPosta, Director  
 Division of Enforcement and Compliance Assistance  
 Date: 6/6/08

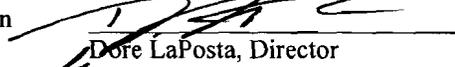
APPROVED BY RESPONDENT in accordance with 40 C.F.R. §122.22:

Name: Ariel Gutierrez  
 Title: Owner/Operator of  
 Lagos de Ciudad Jardin (Gurabo)  
 Signature:   
 Date: 06/02/08

*Duly authorized representative*  
 More than 40 days have elapsed since the issuance of public notice pursuant to Section 309(g)(4)(A) of the Act, 33 U.S.C. §1319(g)(4)(A), and EPA has received no comments concerning this matter.

Having determined that this CAFO is authorized by law and is in the public interest,

IT IS SO ORDERED:

  
 Dore LaPosta, Director  
 Division of Enforcement and Compliance Assistance  
 Date: 7/29/08

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 2

**IN THE MATTER OF:**

Mr. Ariel Gutierrez, Operator  
Los Altos de Ciudad Jardin (Gurabo)  
P.O. Box 71385  
San Juan, Puerto Rico 00936

Docket No.CWA-02-2008-3322

NPDES Unpermitted: PRU20189

Respondent

Proceeding to Assess Civil Penalty  
Pursuant to Section § 309 (g) of the  
Clean Water Act, 33 U.S.C. § 1319 (g)

**CERTIFICATE OF SERVICE**

I certify that, on the date noted below, I caused to be mailed a copy of this "CONSENT AGREEMENT AND FINAL ORDER" to the following person at the address listed below:

Mr. Ariel Gutierrez, Operator  
Los Altos de Ciudad Jardin (Gurabo)  
P.O. Box 71385  
San Juan, Puerto Rico 00936

I [hand carried/mailed] the original and a copy of this "CONSENT AGREEMENT AND FINAL ORDER" to the following person at the address listed below:

U.S. Environmental Protection Agency  
Regional Hearing Clerk (16<sup>th</sup> Floor)  
290 Broadway  
New York, N.Y. 10007-1866

Date: 7/29/08  
New York, New York

  
[Signature of Sender]