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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 9

IN THE MATTER OF:

Frank Coluccio Construction Co., and
Castle Family Limited Partnership,

Respondents.

Proceeding to Assess Class II
Administrative Penalty Under
Clean Water Act Section 309(c)

No. CWA-09-2007-0003

NOTICE OF APPEARANCE

YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE that Respondent, Frank Coluccio Construction Company, by and through its undersigned attorney, and without waiving any objections as to improper service, process, jurisdiction, venue, or any defense, hereby enters its appearance in the above entitled action, and hereby requests that all future papers and pleadings in said cause, except original process, be served upon said attorney at the address stated hereon.

DATED this 25th, day of October, 2007.

LAW OFFICES OF
CHRISTOPHER A. COLUCCIO PLLC

By 
Christopher A. Coluccio, WSBA 20929
Email: cac@colucciolaw.com

Attorney for, Respondent, Frank Coluccio
Construction Company

NOTICE OF APPEARANCE - 1
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ORIGINAL

LAW OFFICES OF
CHRISTOPHER A. COLUCCIO PLLC
14900 INTERURBAN AVE. S, SUITE 274
SEATTLE, WASHINGTON 98168
PHONE: 206-575-0123

1 Docket No. CWA-9-2007-0003

2 CERTIFICATE OF SERVICE

3 I certify that the foregoing document was mailed by 1ST Class Mail, postage pre-paid, on the
4 date below, to the following persons.

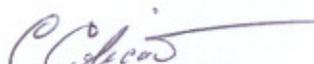
5 Original to: Danielle Carr, Regional Hearing Clerk
6 Office of Regional Counsel
7 U.S. Environmental Protection Agency
8 Region 9
9 75 Hawthorne Street
10 San Francisco, CA 94105

11 Copies to: Rich Campbell (*via mail and email*)
12 Assistant Regional Counsel
13 U.S. Environmental Protection Agency
14 Region 9
15 75 Hawthorne Street
16 San Francisco, CA 94105

17
18 Lisa Munger, Atty for Castle Family (*via mail and email*)
19 Goodsill Anderson Quinn & Stifel
20 1099 Alakea Street, Suite 1800
21 Honolulu, HI 96813

22 Alec Wong, Chief (*via mail*)
23 Clean Water Branch
24 Hawaii Dept. of Health
25 919 Ala Moana Blvd, 3rd Floor
26 Honolulu, HI 96814

Dated: 10/25/07


Christopher A. Coluccio

NOTICE OF APPEARANCE - 2

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LAW OFFICES OF
CHRISTOPHER A. COLUCCIO PLLC
14900 INTERURBAN AVE. S, SUITE 274
SEATTLE, WASHINGTON 98168
PHONE: 206-575-0123

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 9

IN THE MATTER OF:

Frank Coluccio Construction Co., and
Castle Family Limited Partnership,

Respondents.

No. CWA-09-2007-0003

MOTION TO EXTEND TIME
TO ANSWER COMPLAINT

Proceeding to Assess Class II
Administrative Penalty Under
Clean Water Act Section 309(c)

COMES NOW, Respondent, Frank Coluccio Construction Company by and through
its undersigned attorney, and moves as follows.

1. **Relief Requested.**

Respondent, Frank Coluccio Construction Company respectfully requests an order
extending the time for it to answer the complaint by a minimum of 60 calendar days, or no
sooner than January 11, 2008.

2. **Authority and Argument.**

This motion is made pursuant to 40 CFR §22.7(b) which provides that the "Presiding
Officer may grant an extension of time for filing any document; upon timely motion of a party
to the proceeding, for good cause shown...". This motion is submitted herein based on the
Declaration of Christopher A. Coluccio and the records and files herein.

MOTION TO EXTEND TIME
TO ANSWER COMPLAINT - 1
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CHRISTOPHER A. COLUCCIO PLLC
14900 INTERURBAN AVE. S, SUITE 274
SEATTLE, WASHINGTON 98168
PHONE: 206-575-0123

1 The matter involves the Environmental Protection Agency (EPA) complaint
2 assessing penalties against Respondents for alleged violations of the Clean Water Act, with
3 respect to certain amounts of fill dirt allegedly placed on Respondent's Castle Family's
4 property in Hawaii. The parties are in the process of settling this matter, and as such
5 Respondent, Frank Coluccio Construction seeks to avoid the need and expense of
6 answering the complaint and setting a hearing, while good faith settlement discussions are
7 on-going.

8 It is hoped that settlement documents will be prepared and presented by the EPA by
9 the end of October or early November, 2007. Respondent, Frank Coluccio Construction
10 Company has been waiting on said documents for several weeks. The delay has been
11 because of the Castle Family and EPA's investigation into a possible Supplemental
12 Environmental Project (SEP). This research has been going on for months and the process
13 is slow because of the many parties and agencies which could be involved. Nevertheless,
14 Respondent, Frank Coluccio Construction Company has been informed that the EPA is
15 close to getting management approval for a SEP option for Respondents to consider, in lieu
16 of an all cash penalty.

17
18 Respondent, Frank Coluccio Construction's Hawaii office received the EPA's
19 complaint on October 9, 2007, and therefore its time to answer the complaint would be on
20 Monday, November 12, 2007 (the 30th day, November 10 falls on a Saturday). A sixty day
21 extension should be adequate time for the SEP alternative to be researched and finalized,
22 and for the settlement documents to be drawn up for Respondents to review, discuss,
23 modify if necessary, and approve. Because the history of this matter reveals that this
24 settlement process is going slower than all parties would otherwise want, and because of
25
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MOTION TO EXTEND TIME
TO ANSWER COMPLAINT - 2

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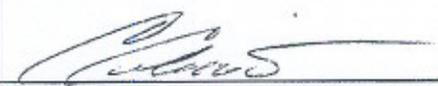
LAW OFFICES OF
CHRISTOPHER A. COLUCCIO PLLC
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SEATTLE, WASHINGTON 98168
PHONE: 206-575-0123

1 the upcoming holiday season, answering the complaint should be put off until after the first
2 of next year (or at a minimum 60 days – January 11, 2008).

3 Respondent, Frank Coluccio Construction has already agreed on a settlement
4 amount proposed by the EPA, and will consider any SEP option. Respondent, Frank
5 Coluccio Construction remains willing to settle this matter immediately, and waits patiently
6 for such settlement documents to be ready.

7 DATED this 25th, day of October, 2007.

8 LAW OFFICES OF
9 CHRISTOPHER A. COLUCCIO PLLC

10 By 
11 Christopher A. Coluccio, WSBA 20929
12 Email: cac@colucciolaw.com

13 Attorney for, Respondent, Frank Coluccio
14 Construction Company

14 Docket No. CWA-9-2007-0003

15 CERTIFICATE OF SERVICE

16 I certify that the foregoing document was mailed by 1ST Class Mail, postage pre-paid, on the date
17 below, to the following persons.

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19 Office of Regional Counsel
20 U.S. Environmental Protection Agency
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28 75 Hawthorne Street
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30 Lisa Munger, Atty for Castle Family (*via mail and email*)
31 Goodsill Anderson Quinn & Stifel
32 1099 Alakea Street, Suite 1800

33 MOTION TO EXTEND TIME
34 TO ANSWER COMPLAINT - 3

35 Hamskus-Mtn-Answer.doc

36 LAW OFFICES OF
37 CHRISTOPHER A. COLUCCIO PLLC
38 14900 INTERURBAN AVE. S, SUITE 274
39 SEATTLE, WASHINGTON 98168
40 PHONE: 206-575-0123

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Honolulu, HI 96813

Alec Wong, Chief (via mail)
Clean Water Branch
Hawaii Dept. of Health
919 Ala Moana Blvd, 3rd Floor
Honolulu, HI 96814

Dated: 10/25/07



Christopher A. Coluccio

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5 UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
6 REGION 9

7 IN THE MATTER OF:

8 Frank Coluccio Construction Co., and
9 Castle Family Limited Partnership,

10 Respondents.

11 Proceeding to Assess Class II
12 Administrative Penalty Under
13 Clean Water Act Section 309(c)

No. CWA-09-2007-0003

DECLARATION OF
CHRISTOPHER A. COLUCCIO
IN SUPPORT OF
MOTION TO EXTEND TIME
TO ANSWER COMPLAINT

14 I CHRISTOPHER A. COLUCCIO declare and state as follows:

- 15 1. I am an attorney representing Respondent, Frank Coluccio Construction Company
16 and make the following statements based on my personal knowledge.
- 17 2. Counsel for the Castle Family, Lisa Munger, counsel for the EPA, Rich Campbell,
18 and myself have been in discussions concerning the assessment of penalties against
19 Respondents for several months. During a conference call on August 28, 2007 and since
20 that time, Respondents indicated their acceptance to a proposed settlement amount for the
21 penalties sought by the EPA. Since that time, the parties have also been exploring various
22 Supplemental Environmental Projects (SEPs) to partially pay for the assessed penalty and
23 to put the money to work for an environmental cause in the State of Hawaii.
- 24 3. Counsel for the EPA has indicated to the undersigned that they are in the process of
25 drafting up settlement documents, but apparently the delay has been caused by
26 investigation into a possible SEP.
- 27 4. Respondent, Frank Coluccio Construction remains willing to settle this matter,
28 immediately, with or without a SEP, and seeks to avoid the need to answer the complaint
29 since settlement appears imminent.

Executed this 25th day of October, 2007, at Seattle Washington.

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Christopher A. Coluccio
DEC. OF C COLUCCIO FOR
MOTION TO EXTEND TIME
TO ANSWER COMPLAINT - 1

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LAW OFFICES OF
CHRISTOPHER A. COLUCCIO PLLC
14900 INTERURBAN AVE. S, SUITE 274
SEATTLE, WASHINGTON 98168
PHONE: 206-575-0123