

**INTERNAL MAIL**

July 21, 2008

Karen Maples  
Regional Hearing Clerk  
U.S. EPA  
290 Broadway, 16<sup>th</sup> Floor  
New York, NY 10007-1866

U.S. ENVIRONMENTAL  
PROTECTION AGENCY-REG.II  
2008 JUL 22 AM 10:52  
REGIONAL HEARING  
CLERK

**RE: In the Matter of Puerto Rico Land Authority  
Docket No. CWA-02-2007-3601**

Dear Ms. Maples:

Enclosed is a Consent Agreement and Final Order (CA/FO) in the above-referenced matter. This CA/FO was memorialized and fully executed by all parties on July 18, 2008. Please note that there is an outstanding Pre-Hearing Exchange Order issued by the Administrative Law Judge with a deadline for July 25, 2008.

Please also note that the penalty of \$25,000.00 is required to be paid in full and received by EPA no later than September 1, 2008, and the SEP Completion Report is due on October 16, 2008.

Sincerely,



Kyu-ah Kang  
Legal Intern

Enclosure

cc: Susan L. Biro  
Chief Administrative Law Judge (w/enclosure)

Alberto L. Ramos Perez, Esq.  
Attorney for Respondent (w/enclosure)

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 2  
290 Broadway  
New York, New York 10007

U.S. ENVIRONMENTAL  
PROTECTION AGENCY-REG.11  
2008 JUL 22 AM 10:53  
REGIONAL HEARING  
CLERK

**In the matter of**

**Puerto Rico Land Authority**  
P.O. Box 9745  
Santurce, Puerto Rico 00908

**Respondent**

**Proceeding Pursuant to § 309(a) of the  
Clean Water Act, 33 U.S.C. § 1319(a)**

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

**Consent Agreement and Final Order**

for

Assessment of a Class II  
Civil Penalty Under Section 309(g)  
of the Clean Water Act

Docket No. CWA-02-2007-3601

**I. Preliminary Statement**

1. This administrative proceeding for the assessment of a civil penalty is instituted pursuant to Section 309(g) of the Clean Water Act ("the Act"), 33 U.S.C. § 1319(g).
2. The following Findings are made and Order issued pursuant to the authority vested in the Administrator of the United States Environmental Protection Agency ("EPA") by the Act, as amended, 33 U.S.C. § 1251 *et seq.*, and in particular Section 309(g) of the Act, 33 U.S.C. § 1319(g). This authority has been duly delegated by the Administrator to the Regional Administrator of Region 2 of EPA, which authority has been duly re-delegated to the undersigned Director of the Division of Environmental Planning and Protection of Region 2 of EPA.
3. The Complaint Findings of Violation, Notice of Proposed Assessment of a Civil Penalty, and Notice of Opportunity to Request a Hearing, Docket No. CWA-02-2007-3601 (hereinafter the "Complaint"), charges the Puerto Rico Land Authority with violating Section 301 of the Act, 33 U.S.C. § 1311, for the discharge of a pollutant consisting of fill material into waters of the United States without authorization by the Secretary of the Army as provided by Section 404 of the Act, 33 U.S.C. § 1344.

## **II. Findings of Fact and Conclusions of Law**

1. The Puerto Rico Land Authority ("Respondent") is a "person" as defined under Section 502 of the Act, 33 U.S.C. § 1362.
2. Respondent is the owner of a tract of land named *Finca Palmarejo* ("the Parcel"), which is located within the Canóvanas Ward of the Municipality of Canóvanas, Puerto Rico.
3. The Parcel contains areas of wetland within the flood plain of the Loiza River.
4. The areas of wetland within the flood plain of the Loiza River, situated on the Parcel, include two areas located east of San Isidro Channel and west of Route 188, one of which is an approximately circular area of herbaceous, emergent wetland, approximately three-quarters surrounded by limestone hills, with an opening on the western side to the greater portion of the flood plain wetlands along the Loiza River, and the other an approximately tongue-shaped area of herbaceous, emergent wetland, almost completely surrounded by limestone hills, with an opening to the northwest to the greater portion of the flood plain wetlands along the Loiza River. These two areas are hereinafter referred to as "the Wetlands."
5. The Wetlands are located directly adjacent to, and east of, San Isidro Channel. San Isidro Channel flows into Zequiera Channel and Norberto Channel, which flow into the Loiza River which flows into the tidal waters of the Atlantic Ocean.
6. The Wetlands are "navigable waters" within the meaning of 40 CFR § 122.2 and Section 502(7) of the Act, 33 U.S.C. § 1362(7).
7. The Wetlands are waters of the United States which came under the jurisdiction of the EPA and the United States Army Corps of Engineers ("Corps") effective September 1, 1976. The Act's jurisdiction encompasses "navigable waters" which are defined as "waters of the U.S." (33 U.S.C. § 1362(7)).
8. On August 8, 2005, EPA issued two complaints against Respondent pursuant to Section 309(g) of the CWA, 33 U.S.C. § 1319(g), seeking to assess penalties for violations of Section 301(a) of the CWA, 33 U.S.C. § 1311 consisting of the discharge of fill material in the Wetlands without authorization pursuant to Section 404 of the CWA, 33 U.S.C. § 1344. Complaint Docket No. CWA-02-2005-3605 sought the maximum statutory Class II penalty of \$137,500 for specific fill material discharged between the dates of November 18, 2000, and November 6, 2003, covering approximately 5 acres of the Wetlands. Complaint Docket No. CWA-02-2005-3606 sought the maximum statutory Class II penalty of \$157,500 for specific fill material discharged between the dates of November 6, 2003, and September 22, 2004, covering approximately 3.5 acres of the Wetlands.

9. On May 26, 2006, EPA issued two Consent Agreement and Final Orders against Respondent pursuant to Section 309(g) of the CWA, 33 U.S.C. § 1319(g), assessing penalties for the violations of Section 301(a) of the CWA, 33 U.S.C. § 1311 alleged in the two complaints.
10. An aerial photograph taken on January 26, 2007, reveals that, on that date, approximately 1.8 acres of the Wetlands were covered with additional fill material, including earthen fill, construction and demolition material, and other fill material, which was not present on or before September 22, 2004.
11. The various forms of fill material, referenced in paragraph 10, above, constitute "pollutants" within the meaning of Section 502(6) of the Act, U.S.C. § 1362(6).
12. The discharge of this fill into the Wetlands constitutes a "discharge of pollutants" as defined by Section 502(12) of the Act, 33 U.S.C. § 1362(12).
13. The fill material, referenced in paragraph 10. above, has been discharged into the Wetlands using mechanized construction equipment.
14. Mechanized construction equipment is a "point source" within the meaning of Section 502(14) of the Act, U.S.C. § 1362(14).
15. Section 301(a) of the Act, 33 U.S.C. § 1311(a), prohibits the discharge of pollutants from a point source into waters of the United States except as in compliance with Section 301, 306, 307, 318, 402 and 404 of the Act.
16. Section 404 of the Act, 33 U.S.C. § 1344, authorizes the Secretary of the Army to authorize discharges of fill into navigable waters of the United States.
17. The discharge of pollutants, consisting of fill, into navigable waters of the United States from a point source without authorization from the Secretary of the Army as provided by Section 404 of the Act is unlawful under Section 301(a) of the Act, 33 U.S.C. § 1311(a).
18. The Secretary of the Army has not issued authorization pursuant to Section 404 of the Act, 33 U.S.C. § 1344, for the discharges of fill material described in the paragraphs above.
19. Based on the above Findings, EPA finds Respondent to be in violation of Section 301 of the Act, 33 U.S.C. § 1311, for the discharge of pollutants consisting of fill material into waters of the United States from point sources without authorization by the Secretary of the Army as provided by Section 404 of the Act, 33 U.S.C. § 1344.
20. Further, based on the above Findings, EPA finds Respondent to be liable for the administrative assessment of civil penalties in an amount not to exceed \$11,000.00 per day for each day during which the violation continues, up to a maximum of \$157,500.00,

pursuant to Section 309(g)(2)(B) of the Act, 33 U.S.C. § 1319(g)(2)(B), for the discharge of pollutants consisting of fill material into waters of the United States from point sources without authorization by the Secretary of the Army as provided by Section 404 of the Act, 33 U.S.C. § 1344, which occurred during the period between September 22, 2004, and January 26, 2007.

21. Each day that the subject discharges remain unauthorized by the Corps pursuant to Section 404 of the Act, 33 U.S.C. § 1344, constitutes an additional day of violation of Section 301 of the Act, 33 U.S.C. § 1311.
22. EPA proposed to assess a penalty for these violations of \$157,500 after taking into account the applicable factors identified at Section 309(g)(3) of the Act, 33 U.S.C. §1319(g)(3).
23. EPA has consulted with the Commonwealth of Puerto Rico regarding this proposed action by, at least, mailing a copy of this Complaint and Notice to the appropriate Commonwealth officials, and offering an opportunity for the Commonwealth to consult further with EPA on the proposed penalty assessment.
24. EPA has notified the public of this proposed action by, at least, requesting publication of a Public Notice of this proposed action on the Region 2, water website.
25. The parties feel it is in the public interest to resolve EPA's Complaint and therefore, without further litigation and toward this end, the parties have agreed to the following settlement:

### **III. Consent Agreement**

Based upon the foregoing, and pursuant to Section 309(g) of the Act, 33 U.S.C. §1319(g), and the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits," 40 C.F.R. §22.18, it is hereby agreed by and between the parties and Respondents voluntarily and knowingly agrees as follows:

1. For the purpose of this proceeding, Respondent admits the jurisdictional allegations set forth in the Complaint.
2. Based upon the foregoing Findings of Fact and Conclusions of Law, and having taken into account the nature, circumstances, extent and gravity of the violations, Respondent's agreement to perform a Supplemental Environmental Project ("SEP"), Respondent's prior compliance history, degree of culpability and the economic benefit or savings accruing to Respondent by virtue of the violation, and Respondent's ability to pay the proposed penalty, and pursuant to Section 309(g) the Act, 33 U.S.C. §1319(g), EPA has determined that an appropriate civil penalty to settle this action is \$25,000.00.

3. Respondent consents for the purposes of this settlement to the payment of the civil penalty cited in the foregoing paragraph and to the performance of the SEP set forth hereinafter.

Payment of Civil Penalty

4. Respondents shall pay, by cashier's or certified check, a civil penalty in the amount of **twenty-five thousand dollars and zero cents (\$25,000.00)** payable to the "Treasurer, United States of America". The check shall be identified with a notation of the name and docket number of this case, set forth in the caption on the first page of this document. Such check shall be mailed to:

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

Respondent shall also send copies of such payment to:

Regional Hearing Clerk  
U.S. Environmental Protection Agency  
290 Broadway - 16th Floor  
New York, New York 10007

and to:

Eduardo J. Gonzalez, Esq.  
Assistant Regional Counsel  
Office of Regional Counsel  
U.S. Environmental Protection Agency  
290 Broadway, 16<sup>th</sup> Floor  
New York, New York 10007.

Payment must be received at the above address on or before forty-five (45) calendar days after the date of signature of the Final Order at the end of this document (the date by which payment must be received shall hereafter be referred to as the "due date").

- d. Failure to pay the penalty in full according to the above provisions will result in referral of this matter to the United States Department of Justice or the United States Department of the Treasury for collection of the assessed penalty as well as, but not limited to, interest and attorney's fees.
- e. 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.

- f. In addition, pursuant to Section 309(g)(9) of the Act, 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. Respondent also may be required to pay attorneys fees and costs for collection proceedings in connection with nonpayment.
5. The penalty specified in Paragraph 2, above, shall represent a civil penalty assessed by EPA and shall not be deductible from Respondent's federal or state taxes.

#### Description of the Supplemental Environmental Project

Respondent shall undertake the following SEP, which the parties agree is intended to secure significant environmental or public health protection and improvements. Within sixty (60) days of receiving a copy of this Consent Agreement and Final Order signed by or on behalf of the Regional Administrator or his designee, the Governor of the Commonwealth of Puerto Rico shall issue an executive order (hereinafter, "the Executive Order") mandating the creation of a Commonwealth task force (hereinafter, "the Task Force") composed of the agency heads of the following Commonwealth agencies: the Land Authority, the Department of Natural and Environmental Resources, the Department of Housing, and the Office of the Coordinator General for Socioeconomic Financing and Self-Management (hereinafter, "the Office of Special Communities"). The Executive Order shall state that the mission of the Task Force is to monitor, document, halt, and reverse, unlawful invasions which include filling or destruction of wetlands, flood plains, and other environmentally-sensitive areas, on property owned by the Commonwealth of Puerto Rico and agencies of the Commonwealth of Puerto Rico, including, but not limited to, the Land Authority and the Department of Natural and Environmental Resources. The Executive Order shall state that the mission of the Task Force shall apply to invasions which pre-exist the Task Force. The Executive Order shall permanently set aside one hundred thousand dollars (\$100,000.00) in an interest-bearing escrow account, which principle and the interest earned thereupon, shall be used solely for execution of the mission of the Task Force. The \$100,000.00 in funds shall be set aside concomitantly with issuance of the Executive Order.

6. The total expenditure for the SEP shall not be less than one hundred thousand dollars and zero cents (\$100,000.00), consisting of the funds which shall be set aside in escrow for execution of the mission of the Task Force. Respondent shall provide documentation to EPA of the expenditures made in connection with the SEP, including a copy of the

Executive Order and documentation of placement of the funds in escrow and the permanent dedication of these funds to the mission of the Task Force.

7. Respondent hereby certifies that, as of the date of this Consent Agreement: a) Respondent is not required to perform or develop the SEP by any Federal, State, or local law or regulation; and b) Respondent is not required to perform or develop the SEP by agreement, grant, or as injunctive relief in this or any other case or in compliance with state or local requirements. Respondent further certifies that it has not received, and is not presently negotiating to receive, credit in any other enforcement action for the SEP.

#### SEP Reports

8. Respondent shall submit a SEP Completion Report to EPA ninety (90) days from the date of the final order. The SEP Completion Report shall contain the following information:
  - (a) A detailed description of the SEP as implemented;
  - (b) A copy of the Executive Order and documentation of placement of the funds in escrow and the permanent dedication of these funds to the mission of the Task Force;
  - (c) Certification that the SEP has been fully implemented pursuant to the provisions of this Consent Agreement and Order; and
  - (d) A description of the environmental and public health benefits resulting from implementation of the SEP.
9. Respondent agrees that failure to submit the SEP Completion Report shall be deemed a violation of this Consent Agreement and Order and Respondent shall become liable for stipulated penalties pursuant to Paragraph 16, below.
10. Respondent shall submit all notices and reports required by this Consent Agreement and Order to David Pohle, U.S. Environmental Protection Agency, Region 2, 290 Broadway, New York, NY 10007, by first class mail.
11. In itemizing its costs in the SEP Completion Report, Respondent shall clearly identify and provide acceptable documentation for all eligible SEP costs. Where the SEP Completion Report includes costs not eligible for SEP credit, those costs must be clearly identified as such. For purposes of this Paragraph, "acceptable documentation" includes invoices, purchase orders, receipts, or other documentation that specifically identifies and itemizes the individual costs of the goods and/or services for which payment has been made. Canceled drafts do not constitute acceptable documentation unless such drafts specifically identify and itemize the individual costs of the goods and/or services for which payment is being made.
12. Under no circumstances shall Respondent use federal grants, low-interest federal loans, federal contracts or other forms of federal financial assistance or non-financial assistance to perform the SEP. Respondent agrees that use of prohibited assistance shall be deemed



a violation of this Consent Agreement and Order and Respondents shall become liable for stipulated penalties pursuant to Paragraph 16, below.

13. Respondents shall maintain legible copies of documentation of the underlying research and data for any and all documents or reports submitted to EPA pursuant to this Consent Agreement and shall provide the documentation for any such underlying research and data to EPA not more than seven days after a request for such information. In all documents or reports, including, without limitation, any SEP reports, submitted to EPA pursuant to this Consent Agreement, Respondent shall, by its officers, sign and certify under penalty of law that the information contained in such document or report is true, accurate, and not misleading by signing the following statement:

I certify under penalty of law that I have examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment.

14. EPA Acceptance of SEP Report

- a. After receipt of the SEP Completion Report described in Paragraph 9, above, EPA will notify Respondent, in writing, regarding:
  - (i) any deficiencies in the SEP Completion Report itself along with a grant of an additional thirty (30) days for Respondent to correct any deficiencies; or
  - (ii) EPA conclusions that the project has been completed satisfactorily; or,
  - (iii) EPA's determination that the project has not been completed satisfactorily and EPA's intent to seek stipulated penalties in accordance with Paragraph 16, below.
- b. If EPA elects to exercise option (i), above, i.e., if the SEP Completion Report is determined to be deficient but EPA has not yet made a final determination about the adequacy of the completion of the SEP itself, EPA shall permit Respondent the opportunity to object in writing to the notification of deficiency given pursuant to this paragraph within thirty (30) days of receipt of such notification. EPA and Respondent shall have an additional thirty (30) days from the receipt by EPA of the notification of objection to reach agreement on changes necessary to the SEP Report. If agreement cannot be reached on any such issue within this thirty (30) day period, EPA shall provide a written statement of its decision on adequacy of the completion of the SEP to Respondent, which decision shall be final and binding upon Respondent. Respondent agrees to comply with any requirements imposed by EPA as a result of any such deficiency or failure to comply with the terms of this Consent Agreement and Order. In the event the SEP is not completed as contemplated

herein, as determined by EPA, stipulated penalties shall be due and payable by Respondent to EPA in accordance with Paragraph 16, below.

16. Stipulated Penalties for Failure to Complete the SEP or Failure to Expend Sufficient Funds in Performance of the SEP.
- a. In the event that Respondent fails to comply with any of the terms or provisions of this Agreement relating to the performance of the SEP described in Paragraph 6, above, and/or to the extent that the actual expenditures for the SEP do not equal or exceed the cost of the SEP described in Paragraph 7, above, Respondents shall be liable for stipulated penalties according to the provisions set forth below:
- (i) For a SEP which has not been completed satisfactorily pursuant to this Consent Agreement and Order, Respondent shall pay a stipulated penalty to the United States in the amount of \$100,000.00.
- (ii) For a SEP which has been completed satisfactorily pursuant to this Consent Agreement and Order, except that the actual expenditures for the SEP do not equal or exceed the cost of the SEP described in Paragraph 7, above, Respondent shall pay a stipulated penalty to the United States in the amount of the balance between \$100,000 and the actual expenditure for the SEP.
- (iii) For failure to submit the SEP Completion Report or other reports as required by Paragraphs 9, above, or to submit a corrected SEP Completion Report pursuant to Paragraph 15, above, Respondent shall pay a stipulated penalty in the amount of \$100 for each day after the respective deadline set forth in Paragraphs 9 or 15, above, until the report, or the corrected report, is submitted.
- b. The determinations of whether Respondent has complied with the terms of this Consent Agreement and whether the SEP has been satisfactorily completed, and whether Respondent has made a good faith, timely effort to implement the SEP shall be in the sole discretion of EPA.
- c. Stipulated penalties for Subparagraph (v), above, shall begin to accrue on the day after performance is due, and shall continue to accrue through the final day of the completion of the activity.
- d. Respondent shall pay stipulated penalties within fifteen (15) days of receipt of written demand by EPA for such penalties. Payment of stipulated penalties shall be by cashier's or certified check payable to the "Treasurer, United States of America." The check shall be identified with a notation of the name and docket number of this case (set forth in the caption on the first page of this document) and shall be sent to:

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

A copy of the check and any transmittal letter shall be sent to:

Eduardo J. Gonzalez, Esq.  
Assistant Regional Counsel  
Office of Regional Counsel  
U.S. Environmental Protection Agency  
290 Broadway, 16<sup>th</sup> Floor  
New York, New York 10007.

- e. 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 Respondent's violation of this agreement or of the statutes and regulations upon which this agreement is based, or for Respondent's violation of any applicable provision of law.
17. Any public statement, oral or written, in print, film, or other media, made by Respondent making reference to the SEP shall include the following language, "This project was undertaken in connection with the settlement of an enforcement action taken by the U.S. Environmental Protection Agency for violations of Section 301 of the Clean Water Act, 33 U.S.C. § 1311."
18. Unexpected Circumstances Which Delay the Performance of a SEP.
- a. If any event occurs which causes or may cause delays in the completion of the SEP as required under this Agreement, Respondent shall notify EPA in writing not more than ten (10) days after the delay or Respondent's knowledge of the anticipated delay, whichever is earlier. The notice shall describe in detail the anticipated length of the delay, the precise cause or causes of the delay, the measures taken and to be taken by Respondent to prevent or minimize the delay, and the timetable by which those measures will be implemented. Respondent shall adopt all reasonable measures to avoid or minimize any such delay. Failure by Respondent to comply with the notice requirements of this paragraph shall render this paragraph void and of no effect as to the particular incident involved and shall constitute a waiver of Respondent's right to request an extension of its obligation under this Agreement based on such incident.

If the parties agree that the delay or anticipated delay in compliance with this Agreement has been or will be caused by circumstances entirely beyond the control of Respondent, the time for performance hereunder may be extended for a

period no longer than the delay resulting from such circumstances. In such event, the parties shall stipulate to such extension of time.

- c. In the event that EPA does not agree that a delay in achieving compliance with the requirements of this Consent Agreement and Order has been or will be caused by circumstances beyond the control of Respondent, EPA will notify Respondent in writing of its decision and any delays in the completion of the SEP shall not be excused.
  - d. The burden of proving that any delay is caused by circumstances entirely beyond the control of Respondent shall rest with Respondent. Increased costs or expenses associated with the implementation of actions called for by this Agreement shall not, in any event, be a basis for changes in this Agreement or extensions of time under section (b) of this paragraph. Delay in achievement of one interim step shall not necessarily justify or excuse delay in achievement of subsequent steps.
19. Respondent hereby agrees not to claim any funds expended in the performance of the SEP as a deductible business expense for purposes of Federal taxes. In addition, Respondent hereby agrees that, within thirty (30) days of the date it submits its Federal tax report for the calendar year in which the above-identified SEP is completed, it will submit to EPA certification that any funds expended in the performance of the SEP have not been deducted from Federal taxes.

#### **IV. General Provisions**

- 21. Respondent neither admits nor denies the foregoing Findings of Fact and Conclusions of Law.
- 22. This Consent Agreement is being voluntarily and knowingly entered into by the parties in full and final settlement of the civil liabilities that might have attached as a result of the allegations contained in the Findings of Fact, above. Respondent has read the Consent Agreement, understands its terms, finds it to be reasonable and consents to its issuance and its terms. Respondent consents to the issuance of the accompanying Final Order. Respondent agrees that all terms of settlement are set forth herein.
- 23. Respondent explicitly and knowingly consents to the assessment of the civil penalty and the performance of the SEP as set forth in this Consent Agreement and agree to pay the penalty and complete the SEP in accordance with the terms of this Consent Agreement. In any action, the validity, amount, and appropriateness of this penalty, including any stipulated penalty, and of this Consent Agreement shall not be subject to review.
- 24. This Consent Agreement and Order shall not relieve Respondent of its obligation to comply with all applicable provisions of federal, state, or local law, nor shall it be

construed to be a ruling on, or determination of, any issue related to any federal, state, or local permit.

25. Respondent voluntarily and knowingly waives its right to seek or obtain any hearing or other judicial proceeding on the Complaint or on any of the allegations therein made, on this Consent Agreement or any of the matters herein stated, and/or on the Final Order accompanying this Consent Agreement.
26. Respondent waives any right it may have pursuant to 40 C.F.R. § 22.8 to be present during discussions with the Regional Administrator of EPA Region II, or his designees, or to be served with and to reply to any memorandum or communication addressed to 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 Final Order accompanying this Consent Agreement.
27. Issuance of this Consent Agreement and Final Order does not constitute a waiver by EPA of its right to enforce the substantive legal requirements underlying this penalty assessment, either administratively or judicially, pursuant to Sections 309(a), (b), and (c) of the Act, 33 U.S.C. §§ 1319(a), (b) and (c). Pursuant to Section 309(g)(7) of the Act, 33 U.S.C. § 1319(g)(7), issuance or compliance with this Consent Agreement and Final Order does not waive, extinguish or otherwise affect Respondent's obligation to comply with all applicable requirements of the Act, of regulations promulgated thereunder and of any legal order or permit issued thereunder.
28. Each undersigned signatory to this Consent Agreement certifies that he or she is duly and fully authorized to enter into and ratify this Consent Agreement and all the terms and conditions set forth in this Consent Agreement.
29. The provisions of this Consent Agreement and Final Order shall be binding upon Respondent, its officers, directors, agents, servants, authorized representatives and successors or assigns.
30. Each party shall bear its own costs and attorneys fees in connection with the action resolved by this Consent Agreement and Final Order.
31. Respondent consents to service upon Respondent by a copy of this Consent Agreement and Final Order by an EPA employee other than the Regional Hearing Clerk.

Consent Agreement and Final Order for Assessment of a Class II Civil Penalty  
Proceeding pursuant to § 309(g) of the Clean Water, 33 U.S.C. § 1319(g)

In the Matter of Puerto Rico Land Authority  
Docket No. CWA-02-2007-3601

FOR RESPONDENT

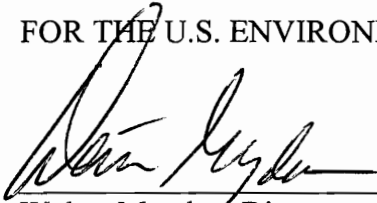
Puerto Rico Land Authority



Title

July 10, 2008.  
Date

FOR THE U.S. ENVIRONMENTAL PROTECTION AGENCY:



Walter Mugdan, Director  
Division of Environmental Planning  
and Protection  
U.S. Environmental Protection Agency,  
Region 2

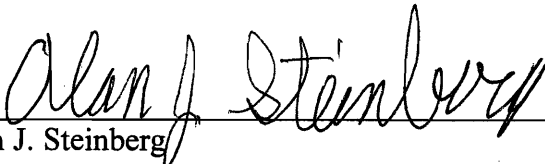
July 18, 2008  
Date

Final Order for Assessment of a Class II Civil Penalty  
Proceeding pursuant to § 309(g) of the Clean Water, 33 U.S.C. § 1319(g)

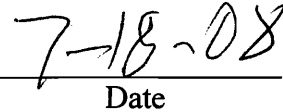
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**V. Final Order**

The Regional Administrator of the U.S. 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, U.S. EPA, Region 2, New York, New York.



Alan J. Steinberg  
Regional Administrator  
U.S. Environmental Protection Agency, Region 2



Date