

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2

In the Matter of: * Docket Number: CWA02-2008-3457
INMOBILIARIA UNIBON, Inc. * NPDES Permit: PRU-202005
Box 9065983
San Juan, P.R. 00906 * Proceeding Pursuant to Section
Respondent 309(G) of the Clean Water Act
* * * * * 33 U.S.C. §1319(G)-Civil Penalty
* * * * *

ANSWERS TO THE FINDINGS OF FACT

BEFORE this Honorable Forum:

Comes now the Respondent party, to allege, expose and urge:

- #12. This fact does not need a responsive allegation
- #13. This fact does not need a responsive allegation
- #14. This fact is admitted.
- #15. This fact is admitted.
- #16. This fact is admitted.
- #17. This fact is admitted because this is a single family housing construction for lower income people.
- #18. This fact is admitted.
- #19. This fact is admitted.
- #20. This fact is admitted.
- #21. This fact is admitted.
- #22. This fact is denied for lack of knowledge.
- #23. This fact is denied.
- #24. This fact is denied for lack of knowledge.
- #25. This fact is admitted. But at the time that EPA notify about the require permit, the Owners or Operators don't know this requirement. We understand that the professional contracted to obtain all the permits was suppose to know that.
- #26. This fact is admitted.

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- #27. This fact is admitted.
- #28. This fact is admitted.
- #29. This fact is denied for lack of knowledge.
- #30. This fact is denied for lack of knowledge.
- #31. This fact is admitted.
- #32. This fact is admitted.
- #33. This fact is admitted.
- #34. This fact is admitted.
- #35. (a) This fact is admitted.
- (b) This fact is admitted.
- (c) This fact is denied.
- (d) This fact is partially admitted, the storm water runoffs comes illegally from two sources out of the project. These two sources of discharge are responsibility, one from Transportation State Department and the other from Morovis Municipality. The project built a retention pond, installed rocks and silfence used like a filters to prevent that the runoff discharge directly to Unibón River.
- (e) This fact is denied.
- (f) This fact is denied. Sediment accumulation if any, was the result from the cleaning and maintaining of the retention pond which the sediments are accumulated until it is dry to the proper distribution in green areas.
- (g) This fact is denied. Waste material is collected by ARB company when the development has significant amount of debris.

- (h) This fact is admitted and was informed to EPA that municipality and state discharge illegally to the site.
- (i) If any unstable slopes were observed was because this slopes were in to the storm water construction areas and do not need permanent stabilization.
- (j) This fact is partially admitted, no sign was posted permanently. The sign announce the sale of houses and all the signs were posted several times and were vandalized by delinquents.

#36. This fact does not need a responsive allegation, other than accept the issue of the Order.

#37. This fact does not need a responsive allegation, other than accept submit the SWPPP.

#38. This fact does not need a responsive allegation, other than accept submit a complied SWPPP.

#39. This fact does not need a responsive allegation.

The party admit the inspection of Eng. Ortiz and Eng.

Villanueva.

- #40. (a) This fact is denied.
- (b) This fact is denied.
- (c) This fact is denied. See answer #35(d).
- (d) This fact is denied.
- (e) This fact is denied. See answer #35(f).
- (f) This fact is denied. See answer #35(g).
- (g) This fact is admitted. See answer #35(h).
- (h) This fact is denied. See answer #35(i).
- (i) This fact is admitted. See answer #35(j).

- #41. The allegation that EPA sent a letter on December 28, 2007 that required to submit NOI is admitted. But the NOI was submitted on October 18, 2006, prior to this letter. The certified return receipt from EPA was dated on November 2, 2006. (Enclose evidence).
- #42. This allegation is denied.
- #43. The Conclusions of Law do not require responsive allegation and any other fact is denied.

AFFIRMATIVE DEFENSES

- #1. In a residential development, the developer contract an engineer, who is the professional responsible to prepare all the documents to obtain the permits. The developer does not know the documentation to be submitted because does not have the expertise nor the license to do the work. For that reason the principal responsible to comply with the rules and regulations is the professional to whom the states confer the license. That's why the State (EPA) should require to compliance to the licensee (engineer) and does not penalize the developer.
- #2. The Storm Water Pollution Prevention Plan (SWPPP) was submitted on October 18, 2006.
- #3. The Notice of Intent was submitted on November 22, 2006.
- #4. The development was paralyzed since 2 years ago due to the EPA Order. That cost more than \$500,000.00 in interest to the bank. That is the main reason of the serious financial problem that confront Riberas de

Unibón.

- #5. The Development has a debt of \$3,000,000.00 to the bank and the investment of the owners is more than \$1,250,000.00. In this stage the penalty could be a difference between continue business or cease operations.
- #6. When Riberas de Unibón began the construction there was 5 sources of runoffs directly to the Unibon River made by prior owners of the site. Riberas de Unibón resolved this environmental problem developing a storm water system and a retention pond that avoid the problem.
- #7. Riberas de Unibón is installing a line of 24 inches to canalized the illegal runoffs made by Morovis Municipality at a cost more than \$60,000.00.
- #8. Riberas de Unibón is installing a line of 30 inches to canalized the illegal runoffs made by Public Transportation Department at a cost more than \$40,000.00.
- #9. Riberas de Unibón will install a sanitary line to benefit the school and the community to contribute with Sewer Authority (AAA) to enhance the efficiency of the sanitary plant required by EPA at a cost more than \$20,000.00.
- #10. Riberas de Unibón asphalted the road to the (AAA) community plant at the cost more than \$27,000.00.
- #11. Riberas de Unibón built a fence to the Sewer Authority (AAA) community plant at a cost more than \$5,000.00.
- #12. More than 40 employees depend of their employment from

Riberas de Unibón.

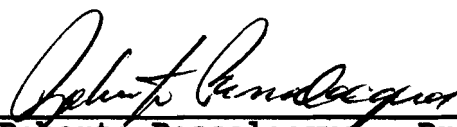
- #13. There are 18 families living in Riberas de Unibón since 2 years. For their safety and the value of the properties is necessary to finish the entire development.
- #14. The local government approved a Law that confer 20 percent (20%) credit of the sale price to the buyers that end on December 2008. There are many buyers who need this 20 percent to qualify for the purchase, if not they not qualify for a home.
Riberas de Unibón need to finish the project before December 2008.
- #15. Riberas de Unibón is the Low Income Development with houses subsidized by state and is the only one in this area.
- #16. At this time the development does not obtain economic benefit and finish the houses is more a social compromise than an economic benefit.
- #17. The Respondent does not have a prior history of violations.
- #18. The propose penalty is inappropriate and disproportionate.
- #19. Riberas de Unibón has taken action to correct any violation by implementing a storm water system, a retention pond, installing silfence, stabilized practices, built a velocity dissipation device among other storm water pollution prevention measures.
- #20. The Respondent request an informal settlement conference

prior to any hearing to resolve the controversy
RESPONDENT respectfully request the DISMISS of this
all charges.

RESPECTFULLY SUBMITTED.

CERTIFICATION: I certify that on this date a copy of
this document was send to EPA Regional Counsel: Héctor
L. Vélez Cruz, Esq. at his local office.

In San Juan, Puerto Rico, this 13 day of June, 2008.



Roberto Passalacqua - President
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