



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

SEP 24 2008

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG. II
2008 SEP 25 PM 11:09
REGIONAL HEARING
CLEVER

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Article Number: 7005 3110 0000 5931 4258

Mrs. Leila Hernandez-UnPierre
Executive Director
Puerto Rico Public Building Authority
P.O. Box 41029
San Juan, PR 00940

RE: Notice of Proposed Assessment of a Civil Penalty Class I
Puerto Rico Public Building Authority-Comandancia de la Policia/Comandancia de
Ponce
Docket No. CWA-02-2008-3309
Synergy Group, SE
NPDES Permit Tracking Numbers: PRR10BC39, PRR10BC07, and PRU201370

Dear Mrs. Hernandez-UnPierre:

Enclosed is a document entitled "Administrative Complaint, Findings of Violation, Notice of Proposed Assessment of an Administrative Penalty, and Notice of Opportunity to Request a Hearing" (Complaint).

The United States Environmental Protection Agency (EPA) has issued this Complaint against the Puerto Rico Public Building Authority (PRPBA, Respondent or you) as a result of our determination that the Respondent has violated Sections 301, 308 and 402 of the Clean Water Act (Act), 33 U.S.C. §1311, §1318 and §1342 and/or EPA's National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges From Construction Activities (CGP or Construction General Permit). EPA initially pursued Respondent's contractor, Synergy Group S.E. (Synergy) for violations of the Act. However, on September 6, 2007, Synergy converted its bankruptcy filing to Chapter 7 status so EPA is barred from filing a case against Synergy. Since Respondent is the owner of the Site and since Respondent is ultimately responsible for its contractor's actions, EPA is issuing this Complaint to the Respondent. This Complaint is filed pursuant to the authority contained in §309(g) of the Act, 33 U.S.C. §1319(g). The Complaint proposes that a penalty of **\$32,500.00** be assessed against the Respondent for the violations.

The Respondent has the right to a hearing to contest the factual allegations in the Complaint. If you admit the allegations, or they are found to be true after you have had an opportunity for a hearing on them, you have the right to contest the penalty proposed in the Complaint. I have enclosed a copy of the Consolidated Rules of Practice ("CROP"), found at 40 Code of Federal Regulations Part 22, which the EPA follows in cases of this kind. Please note the requirements for an Answer at §22.15 of the CROP. **Should a Respondent wish to contest the allegations**

in the Complaint or the penalty proposed in the Complaint, you must file an Answer within thirty (30) days of your receipt of the enclosed Complaint to the EPA Regional Hearing Clerk at the following address:

Regional Hearing Clerk
U.S. Environmental Protection Agency
290 Broadway, 16th Floor
New York, New York 10007-1866

If you do not file an Answer within thirty (30) days of receipt of this Complaint, you may be judged to have defaulted (See, §22.17 of the CROP). If a default order is entered, the entire proposed penalty may be assessed without further proceedings.

Whether or not you request a formal hearing, you may informally confer with EPA concerning the alleged violations and the amount of the proposed penalty. EPA encourages all parties against whom it files a Complaint to pursue the possibility of settlement as a result of such informal conference with the Agency. The Agency also encourages the use of Supplemental Environmental Projects, where appropriate, as part of the settlement. Enclosed is a copy of the Final EPA Supplemental Environmental Projects Policy (May 1, 1998) for your consideration. Respondents may represent themselves or be represented by an attorney at any stage of the proceedings, including any informal discussions, whether in person or by telephone. Please note that a request for an informal conference does not substitute for a written Answer or affect what you may choose to say in an Answer, nor does it extend the thirty (30) days by which you must file an Answer requesting a hearing. Any hearing held in this matter will be conducted in accordance with the CROP.

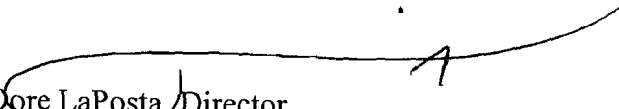
If you have any questions or wish to discuss a settlement of this matter with the EPA by an informal conference, please immediately contact:

Nadine Orrell, Esq.
Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th Floor
New York, NY 10007-1866
Telephone (212) 637-3244
Fax: (212) 637-3202

For your information, I am enclosing an Information Sheet which may be helpful if you are a small business as defined at 13 C.F.R. §121.201, in obtaining compliance assistance or if you wish to comment on this action to the Small Business and Agriculture Regulatory Enforcement Ombudsman and Regional Fairness Board.

Should you have any questions concerning this matter, please feel free to contact Nadine Orrell at (212) 637-3244.

Sincerely,



Dore LaPosta, Director
Division of Enforcement and Compliance Assistance

Enclosures

1. Complaint
2. Consolidated Rules of Practice
3. Supplemental Environmental Projects
4. Information for Small Business

cc: Wanda E. Garcia Hernández, Director, Water Quality Area, EQB

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 2**

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG. II
2008 SEP 25 PM 1: 09
REGIONAL HEARING
CLERK

IN THE MATTER OF:

Puerto Rico Public Building Authority
P.O. Box 41029
San Juan, PR 00940

NPDES Permit Number PRR10BC39

Respondent

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

**PROCEEDING TO ASSESS A CLASS I
CIVIL PENALTY**

DOCKET NO. CWA-02-2008-3309

**ADMINISTRATIVE COMPLAINT
FINDINGS OF VIOLATION, NOTICE OF PROPOSED
ASSESSMENT OF AN ADMINISTRATIVE PENALTY, AND
NOTICE OF OPPORTUNITY TO REQUEST A HEARING**

I. STATUTORY AND REGULATORY AUTHORITIES

1. This Administrative Complaint, Findings of Violation, Notice of Proposed Assessment of an Administrative Penalty, and Notice of Opportunity to Request a Hearing ("Complaint") is issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency ("EPA") by Section 309(g)(2)(A) of the Clean Water Act ("Act" or "CWA"), 33 U.S.C. §1319(g)(2)(A). The Administrator has delegated this authority to the Regional Administrator of EPA, Region 2, who in turn has delegated it to the Director, Division of Enforcement and Compliance Assistance ("DECA") of EPA, Region 2 ("Complainant").
2. Pursuant to Section 309(g)(2)(A) of the Act, and in accordance with the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits ("CROP"), 40 CFR Part 22 (2001), a copy of which is attached, Complainant hereby requests that the Regional Administrator assess a civil penalty against the Puerto Rico Public Building Authority (PRPBA) ("Respondent"), as a result of Complainant's determination that the Respondent is in violation of Sections 301 and 402 of the Act, 33 U.S.C. §1311 and §1342, respectively, for the unlawful discharge of pollutants into navigable waters without authorization by a National Pollutant Discharge Elimination System ("NPDES) permit.

3. Section 301(a) of the Act, 33 U.S.C. §1311(a), provides in part that "except as in compliance with this section and sections ... 1342, and 1344 of [the Act], the discharge of any pollutant by any person shall be unlawful."
4. Section 308 of the Act, 33 U.S.C. §1318, provides, in relevant part, that the Administrator of EPA may require the owner or operator of any point source to, among other things: maintain such records; make such reports; install, use and monitor such equipment; sample such effluents; and provide such other information as may reasonably be required in order to carry out Section 402 of the Act, 33 U.S.C. §1342.
5. Section 402 of the Act, 33 U.S.C. §1342, authorizes the Administrator to issue a NPDES permit for the discharge of any pollutant, or combination of pollutants, subject to certain requirements of the Act and such conditions as the Administrator determines are necessary.
6. Section 402 (p) of the Act, 33 U.S.C. §1342(p), requires a permit with respect to a discharge of storm water associated with industrial activity.
7. The Administrator of EPA has promulgated regulations at 40 CFR §122.26(a)(1)(ii) and §122.26(b)(14), which require operators to obtain a NPDES permit for storm water discharges associated with industrial activity, including construction activity.
8. The regulations at 40 CFR §122.26(b)(14)(x) and 40 CFR §122.26(b)(15)(i) regulate storm water discharges associated with construction sites which include clearing, grading and excavation activities that result in the disturbance of one (1) or more acres of total land area.
9. Construction sites that are less than one acre, but are part of a common plan that is greater or equal to one acre are required to apply for coverage under the Construction General Permit. See 40 CFR §122.26(a)(1)(ii) and §122.26(b)(14)(x) and §122.26(b)(15)(i).
10. The Act and its implementing regulations (and applicable NPDES permit in this case, if any), contain the following definitions:
 - a) "Navigable waters" means the waters of the United States and territorial seas, pursuant to Section 502(7) of the Act, 33 U.S.C. §1362(7). "Waters of the United States" means, but are not limited to, waters which are currently used or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide and including wetlands, rivers, streams (including intermittent streams) (40 CFR §122.2).
 - b) "Pollutant" means, but is not limited to, solid waste, dredged spoil, rock, sand, cellar dirt, sewage, sewage sludge, and industrial, municipal and agricultural waste discharged into water, pursuant to Section 502(6) of the Act, 33 U.S.C. §1362(6).

- c) "Point source" means "any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged, ..." pursuant to Section 502(14) of the Act, 33 U.S.C. §1362(14).
- d) "Discharge of a pollutant" means any addition of any pollutant to navigable waters from any point source, pursuant to Section 502(12) of the Act, 33 U.S.C. §1362(12).
- e) "Person" means, but is not limited to, an individual, corporation, partnership or association, pursuant to Section 502(5) of the Act, 33 U.S.C. §1362(5).
- f) "Operator" for the purpose of the NPDES storm water general permit for construction activities and in the context of storm water associated with construction activity, is defined at Appendix A of the CGP to mean any party associated with a construction project that meets either of the following two (2) criteria:
 - i. The party has operational control over construction plans and specifications including the ability to make modifications to those plans and specifications; or
 - ii. The party has day-to-day operational control of those activities at a project which are necessary to ensure compliance with a storm water pollution prevention plan for the site or other permit conditions. See Appendix A of the CGP.
- g) "Owner or operator" means the owner or operator of any "facility or activity" subject to regulation under the NPDES program.

11. EPA issued the "NPDES General Permit for Discharges from large and Small Construction Activities", Permit No. PRR100000 on July 1, 2003 ("CGP"). This permit was published in the Federal Register (68 FR 39087). It became effective on July 1, 2003 and it expired on July 1, 2008. Part 2.3 of the CGP requires that a Notice of Intent (NOI) be submitted and Permit coverage obtained prior to commencement of construction activities.

II. JURISDICTIONAL FINDINGS

- 12. PRPBA ("Respondent") is a person within the meaning of Section 502(5) of the CWA, 33 U.S.C. §1362(5).
- 13. The Comandancia de la Policia (Comandancia de Ponce) is located at PR-1, Km. 124 and

Los Caobos Ave. (Desvio Aeropuerto Merceditas) Ponce, Puerto Rico 00730.

14. At all relevant times, Respondent was the owner/operator of the Comandancia de la Policia construction site (Site).
15. The Site contains approximately 7.73 acres of disturbed land.
16. Storm water from the Site enters the Municipal Separate Storm Sewer System (MS4) serving the municipality of Ponce, Puerto Rico.
17. The MS4 discharges to the Bucana River.
18. The Bucana River is a navigable water of the United States.
19. The Comandancia de la Policia construction site was, at all relevant times, a point source.

III. FINDINGS OF VIOLATION

20. Complainant re-alleges Paragraphs 12 – 19 above.
21. By letter dated August 31, 2005, sent in response to Administrative Order CWA-02-2005-3218 (issued on June 3, 2005), the PRPBA stated that the Comandancia de la Policia construction site was 1.929 acres, and the construction site began in December 2003 without submittal of an NOI.
22. On March 30, 2006, EPA issued Administrative Order CWA-02-2006-3047 to PRPBA's contractor, Synergy Group, S.E. (Synergy or operator) and required the respondent to cease and desist operations, submit an NOI, obtain permit coverage, submit a Storm Water Pollution Prevention Plan (SWPPP) and provide additional information. All responses to this Order were due on or before May 26, 2006. Because Synergy failed to submit an NOI, the SWPPP and obtain permit coverage in a timely manner, EPA transmitted an overdue notice dated July 11, 2006 to Synergy. Synergy submitted an incomplete NOI on July 26, 2006.
23. An EPA representative inspected the Site, on August 30, 2006, and prepared a Compliance Evaluation Inspection report. The report noted that storm water discharges from the Site were ongoing but that the facility still did not have permit coverage nor were they complying with CGP provisions.
24. Based on EPA's NOI database, permit coverage was obtained for the Comandancia de la Policia construction site on September 21, 2006, under NPDES Tracking No. PRR10BC07 and again for the Comandancia de Ponce construction site on October 25, 2006, under NPDES Tracking No. PRR10BC39. Both NOIs indicated that the Site was 7.73 acres.

25. Construction activity, according to the NOIs, began on or about December 1, 2003. The rainfall records obtained from the Southeast Regional Climate Center for Ponce indicated that large rainfall events, each over 1 inch, occurred on December 6th, December 7th and December 8th 2003. Such rainfall events would cause storm water discharges from the site via the MS4 to the Bucana River.
26. Based on the Findings in Paragraph 20 – 25 above, Respondent violated Sections 301 and 402 of the Act, 33 U.S.C. §1311 and §1342, on one thousand and twenty (1020) days, by failing to obtain coverage under the CGP as required.

IV. NOTICE OF PROPOSED ORDER ASSESSING A CIVIL PENALTY

Based on the foregoing Findings of Violation, and pursuant to the authority of Section 309(g) of the Act, 33 U.S.C. §1319(g), and the Debt Collection Improvement Act of 1996, EPA, Region 2 hereby proposes to issue a Final Order Assessing Administrative Penalties (“Final Order”) to Respondent assessing a penalty of **\$32,500**. EPA determined the proposed penalty after taking into account the applicable factors identified at Section 309(g)(3) of the Act, 33 U.S.C. §1319(g)(3). EPA has taken account of the nature, circumstances, extent and gravity of the violation (or violations), and Respondent’s prior compliance history, degree of culpability, economic benefit or savings accruing to Respondent by virtue of the violations, and Respondent’s ability to pay the proposed penalty. Based on the Findings set forth above, the Respondent has been found to have violated the Act. EPA may issue the Final Order Assessing Administrative Penalties thirty (30) days after Respondent’s receipt of this Notice, unless within that time Respondent files an Answer to the Complaint and requests a Hearing on this Notice pursuant to the following section.

V. PROCEDURES GOVERNING THIS ADMINISTRATIVE ACTION

The rules of procedure governing this civil administrative litigation have been set forth in the CROP, 40 CFR Part 22. A copy of these rules accompanies this Complaint.

A. Answering The Complaint

Where Respondent intends to contest any material fact upon which the Complaint is based, to contend that the proposed penalty is inappropriate or to contend that Respondent is entitled to judgment as a matter of law, Respondent must file with the Regional Hearing Clerk of EPA, Region 2, both an original and one copy of a written Answer to the Complaint, and such Answer must be filed within thirty (30) days after service of the Complaint. 40 CFR § 22.15(a). The address of the Regional Hearing Clerk of EPA, Region 2, is:

**Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th floor
New York, New York 10007-1866**

Respondent shall also then serve one copy of the Answer to the Complaint upon Complainant and any other party to the action. 40 CFR §22.15(a). Respondent's Answer to the Complaint must clearly and directly admit, deny, or explain each of the factual allegations that are contained in the Complaint and with regard to which the Respondent has any knowledge. 40 CFR §22.15(b). Where Respondent lacks knowledge of a particular factual allegation and so states in the Answer, the allegation is deemed denied. 40 CFR §22.15(b). The Answer shall also set forth: (1) the circumstances or arguments that are alleged to constitute the grounds of defense, (2) the facts that Respondent disputes (and thus intend to place at issue in the proceeding), (3) the basis for opposing the proposed relief and (4) whether Respondent requests a Hearing. 40 CFR §22.15(b).

Respondent's failure affirmatively to raise in the Answer facts that constitute or that might constitute the grounds of a defense may preclude Respondent, at a subsequent stage in this proceeding, from raising such facts and/or from having such facts admitted into evidence at a Hearing.

B. Opportunity To Request A Hearing

If requested by Respondent in its Answer, a Hearing upon the issues raised by the Complaint and Answer may be held. 40 CFR §22.15(c). If, however, Respondent does not request a Hearing, the Presiding Officer (as defined in 40 CFR §22.3) may hold a Hearing if the Answer raises issues appropriate for adjudication. 40 CFR §22.15(c).

Any Hearing in this proceeding will be held at a location determined in accordance with 40 CFR §22.21(d). A Hearing of this matter will be conducted in accordance with the applicable provisions of the Administrative Procedure Act, 5 U.S.C. §§551-59, and the procedures set forth in Subpart D of 40 CFR Part 22.

Should Respondent request a Hearing on this proposed penalty assessment, members of the public to whom EPA is obligated to give notice of this proposed action, will have a right under Section 309(g)(4)(B) of the Act, 33 U.S.C. §1319(g)(4)(B), to be heard and to present evidence on the appropriateness of the penalty assessment. Should Respondent not request a Hearing, EPA will issue a Final Order, and only members of the public who submit timely comment on this proposal will have an additional thirty (30) days to petition EPA to set aside the Final Order and to hold a Hearing thereon. EPA will grant the petition and will hold a Hearing only if the petitioner's evidence is material and was not considered by EPA in the issuance of the Final Order.

C. Failure To Answer

If Respondent fails in any Answer to admit, deny, or explain any material factual allegation contained in the Complaint, such failure constitutes an admission of the allegation. 40 CFR §22.15(d). If Respondent fails to file a timely Answer to the Complaint [*i.e.* not in accordance with the 30-day period set forth in 40 CFR §22.15(a)], Respondent may be found in default upon motion. 40 CFR §22.17(a). Default by Respondent constitutes, for purposes of the pending

proceeding only, an admission of all facts alleged in the Complaint and a waiver of Respondent's right to contest such factual allegations. 40 CFR §22.17(a). Following a default by Respondent for a failure to timely file an Answer to the Complaint, any order issued therefore shall be issued pursuant to 40 CFR §22.17(c).

Any penalty assessed in the default order shall become due and payable by Respondent without further proceedings thirty (30) days after the Default Order becomes final pursuant to 40 CFR §22.27(c). 40 CFR §22.17(d). If necessary, EPA may then seek to enforce such Final Order of Default against Respondent, and to collect the assessed penalty amount, in Federal court.

VI. INFORMAL SETTLEMENT CONFERENCE

Whether or not Respondent requests a formal Hearing, EPA encourages settlement of this proceeding consistent with the provisions of the Act and its applicable regulations. 40 CFR §22.18(b). At an informal conference with a representative(s) of Complainant, Respondent may comment on the charges made in this Complaint and Respondent may also provide whatever additional information is believed to be relevant to the disposition of this matter, including: (1) actions Respondent has taken to correct any or all of the violations herein alleged, (2) any information relevant to Complainant's calculation of the proposed penalty, (3) the effect the proposed penalty would have on Respondent's ability to continue in business and/or (4) any other special facts or circumstances Respondent wishes to raise.

Complainant has the authority to modify the amount of the proposed penalty, where appropriate, to reflect any settlement agreement reached with Respondent, to reflect any relevant information previously not known to Complainant or to dismiss any or all of the charges, if Respondent can demonstrate that the relevant allegations are without merit and that no cause of action as herein alleged exists. Respondent is referred to 40 CFR §22.18.

Any request for an informal conference or any questions that Respondent may have regarding this Complaint should be directed to:

Nadine Orrell, Esq.
Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th Floor
New York, NY 10007-1866
Telephone (212) 637-3244
Fax: (212) 637-3202

The parties may engage in settlement discussions regardless of whether Respondent has requested a Hearing. 40 CFR §22.18(b)(1). Respondent's requesting a formal Hearing does not prevent Respondent from also requesting an informal settlement conference; the informal conference procedure may be pursued simultaneously with the formal adjudicatory hearing procedure. A request for an informal settlement conference constitutes neither an admission nor a denial of any of the matters alleged in the Complaint. Complainant does not deem a request for

an informal settlement conference as a request for a Hearing as specified in 40 CFR §22.15(c).

A request for an informal settlement conference does not affect Respondent's obligation to file a timely Answer to the Complaint pursuant to 40 CFR §22.15. No penalty reduction, however, will be made simply because an informal settlement conference is held.

Any settlement that may be reached as a result of an informal settlement conference shall be embodied in a written Consent Agreement. 40 CFR §22.18(b)(2). In accepting the Consent Agreement, Respondent waives any right to contest the allegations in the Complaint and waive any right to appeal the Final Order that is to accompany the Consent Agreement. 40 CFR §22.18(b)(2). In order to conclude the proceeding, a Final Order ratifying the parties' agreement to settle will be executed. 40 CFR §22.18(b)(3).

Entering into a settlement through the signing of such Consent Agreement and complying with the terms and conditions set forth in such Consent Agreement and Final Order terminates this administrative litigation and these civil proceedings against Respondent (note that a new enforcement action may be initiated based on continued non-compliance). Entering into a settlement agreement does not extinguish, waive, satisfy or otherwise affect Respondent's obligation and responsibility to comply with all applicable statutory and regulatory requirements, and to maintain such compliance.

VII. RESOLUTION OF THIS PROCEEDING WITHOUT HEARING OR CONFERENCE

Instead of filing an Answer, Respondent may choose to pay the total amount of the proposed penalty (\$32,500) within 30 days after receipt of the Complaint, provided that Respondent files with the Regional Hearing Clerk, Region 2 (at the address noted above), a copy of the check or other instrument of payment. 40 CFR §22.18(a). A copy of the check or other instrument of payment should be provided to the EPA Attorney identified in Section VI above. Payment of the penalty assessed should be made by sending a cashier's or certified check payable to the "Treasurer, United States of America", in the full amount of the penalty assessed in this complaint to the following addressee:

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

Pursuant to 40 CFR §22.18(a)(3), if Respondent elects to pay the full amount of the penalty proposed in the Complaint within thirty (30) days of receiving the Complaint, then, upon EPA's receipt of such payment, the Regional Administrator of EPA, Region 2 (or, if designated, the Regional Judicial Officer), shall issue a Final Order in accordance with 40 CFR §22.18(a)(3). In accordance with 40 CFR §22.45(c)(3), no Final Order shall be issued until at least ten (10) days after the close of the comment period on this Complaint. Issuance of a Final Order terminates

this administrative litigation and the civil proceedings arising out of the allegations made in the Complaint (note that a new enforcement action may be initiated based on continued non-compliance). Further, pursuant to 40 CFR §22.18(a)(3), the making of such payment by Respondent shall constitute a waiver of Respondent's right both to contest the allegations made in the Complaint and to appeal said Final Order to Federal court. Such payment does not extinguish, waive, satisfy or otherwise affect Respondent's obligation and responsibility to comply with all applicable statutory and regulatory requirements, and to maintain such compliance.

VIII. FILING OF DOCUMENTS

The Answer and any Hearing Request and all subsequent documents filed in this action should be sent to:

Regional Hearing Clerk
U.S. Environmental Protection Agency
290 Broadway, 16th Floor
New York, New York 10007-1866

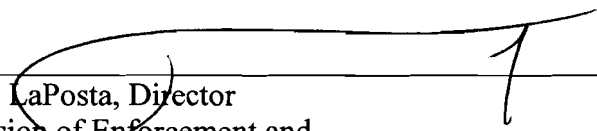
A copy of the Answer, any Hearing Request and all subsequent documents filed in this action shall be sent to:

Nadine Orrell, Esq.
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th Floor
New York, NY 10007-1866
Telephone (212) 637-3244

IX. GENERAL PROVISIONS

1. Respondent has a right to be represented by an attorney at any stage of these proceedings.
2. This Complaint does not constitute a waiver, suspension or modification of the requirements of the Act, regulations promulgated there under, or any applicable permit.
3. Neither assessment nor payment of an administrative civil penalty pursuant to Section 309(g) of the Act will affect Respondent's continuing obligation to comply with the Act, and with any separate Compliance Order issued under Section 309(a) of the Act, 33 U.S.C. §1319(a), for the violations alleged herein.

ISSUED THIS 24th DAY OF SEPTEMBER, 2008.



Dore LaPosta, Director
Division of Enforcement and
Compliance Assistance
U. S. Environmental Protection Agency - Region 2
290 Broadway
New York, New York 10007

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 2

PROCEEDING TO ASSESS A CLASS I CIVIL PENALTY

IN THE MATTER OF:

Puerto Rico Public Building Authority
P.O. Box 41029
San Juan, Puerto Rico 00940

NPDES Permit Number PRR10BC39

Respondent

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

DOCKET NO.
CWA-02-2008-3309

I certify that on SEP 25 2008, I served the foregoing fully executed Administrative Complaint, Findings of Violation, Notice of Proposed Assessment of an Administrative Penalty, and Notice of Opportunity to Request a Hearing, bearing the above referenced docket number, on the persons listed below, in the following manner:


Original and One Copy
By Hand: Office of Regional Hearing Clerk
U.S. Environmental Protection Agency - Region 2
290 Broadway, 16th floor
New York, New York 10007-1866

Copy by Certified Mail
PRPBA
P.O. Box 16197 41029 San Juan, Puerto Rico 00795

Return Receipt Requested:

Copy by Certified Mail
Return Receipt Requested: Mrs. Leila Hernandez-UnPierre
Executive Director
Puerto Rico Public Building Authority
P.O. Box 41029
San Juan, PR 00940

Dated: 9/25/2008



Secretary
New York, New York



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

SEP 24 2008

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

ITEM NUMBER: 7005 3110 0000 5931 4234

Wanda E. Garcia Hernández, Director
Water Quality Area
Environmental Quality Board
P.O. Box 11488
Santurce, Puerto Rico 00910

Re: Notice of Proposed Assessment of a Civil Penalty Class I
Puerto Rico Public Building Authority-Comandancia de la Policia/Comandancia de
Ponce
Docket No. CWA-02-2008-3309
Synergy Group, SE
NPDES Permit Number PRR10BC39, PRR10BC07, and PRU201370

Dear Mrs. Garcia:

Enclosed is a copy of the Complaint and Proposed Assessment of a Civil Penalty, which the United States Environmental Protection Agency (EPA) has issued to the Puerto Rico Public Building Authority pursuant to §309(g) of the Clean Water Act (Act), 33 U.S.C. §1319(g). EPA has issued the Complaint to begin the process to administratively assess a civil penalty of **\$32,500** against Respondent for violations of the Act. Because the violations have occurred in the Commonwealth of Puerto Rico, EPA is offering an opportunity for you to confer with us regarding the proposed assessment.

You may confer with me at (212) 637-4000. A copy of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits”) (40 C.F.R. Part 22), is enclosed for your reference.

Sincerely,

Original signed by
Patrick Durack

Dore LaPosta, Director
Division of Enforcement and Compliance Assistance

Enclosures

bcc: Karen Maples, Regional Hearing Clerk (w/o enclosures) ✓
Teresita Rodriguez, CEPD/ESB (w/o enclosures)
Caribbean Sect File (w/o enclosures)
Nadine Orrell, ORC (w/o enclosures)
Murray Lantner (w/o enclosures)

Internet Address (URL) • <http://www.epa.gov>