

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2

In the Matter of:

A.B.E.F. Development Corporation

PMB 363/200 Ave. Rafael Cordero, Suite 140
Caguas, Puerto Rico 00725-3757

Herminio Cotto Construction Corporation

P.O. Box 1600, Suite 1008
Cidra, Puerto Rico 00739

Respondents

Proceeding pursuant to Section 309(g)(2)(A) of the
Clean Water Act, 33 U.S.C. § 1319(g)

DOCKET NUMBER
CWA-02-2010-3465

Motion in Compliance with Order to Submit Modified Penalty Calculation

COMES NOW Complainant, the U.S. Environmental Protection Agency (“EPA” or “Complainant”) through the undersigned attorney, and respectfully alleges, prays and requests as follows:

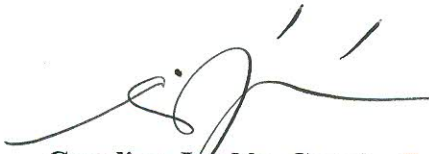
1. On May 3, 2017, this Honorable Court issued an *Order directing Complainant to Clarify its Memorandum and calculations of the Proposed Penalty* (the Order).
2. Complainant filed a Motion on July 6, 2017, addressing the requests for clarification in the Order, and requesting additional time to submit the modified penalty calculations and sworn statement.
3. On April 17, 2018, this Honorable Court issued an *Order Extending Complainant’s Time to Clarify Calculations of the Proposed Penalties*.

4. Pursuant to the *Order Extending Complainant's Time to Clarify Calculations of the Proposed Penalties*, Complainant herein submits the requested information. (See attached.)

Certificate of Service

I hereby certify that a true copy of this Status Report was served to: Herminio Cotto Construction, Inc., P.O. Box 1600, Suite 1008, Cidra, Puerto Rico, 00739; and Louis Rosado-Viana, Metro Office Park #7, Suite 204, Metro Parque 7, Guaynabo, Puerto Rico 00968.

Respectfully submitted, in Guaynabo, Puerto Rico, this 1st day of June, 2018.



Carolina Jordán-García, Esq.

U.S. Environmental Protection Agency, Region 2

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**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, REGION 2
CARIBBEAN ENVIRONMENTAL PROTECTION DIVISION
MULTIMEDIA PERMITS AND COMPLIANCE BRANCH**

MEMORANDUM

SUBJECT: Recommendation to Propose a Clean Water Act Administrative Penalty against A.B.E.F. Development Corp. (ABEF) and Herminio Cotto Construction, Inc. (HCC).
Case Name: "Extensión Praderas de Ceiba Norte"
NPDES Permit Number: PRR10BO92 (ABEF) and PRR10BN72 (HCC)
Docket Number: CWA-02-2010-3465

FROM: Yolianne Maclay, Environmental Engineer
Multi-Media Permits and Compliance Branch

TO: Case File

This memorandum describes the revision of the administrative penalty Class II calculated on September 21, 2010 (2010 Memorandum), pursuant to Section 309(g)(2)(B) of the Clean Water Act (the "Act"), 33 U.S.C. § 309(g)(2)(B), against A.B.E.F. Development Corp. (ABEF) and Herminio Cotto Construction, Inc ("HCC") (hereinafter, the "Respondents"), for violations of the Clean Water Act. The purpose of the revised penalty calculation is to assign individual penalties to each Respondent.

A. Final Proposed Penalty

The Final Proposed Penalty calculated in this document for Respondent ABEF and Respondent HCC was based on the 2010 Memorandum, which describes how the final proposed penalty was calculated as one sum. This memorandum explains how that quantity was divided into two individual penalties for the two Respondents, ABEF who is the owner of the construction project and HCC who is the operator of the construction project.

The Final Proposed Penalty as of the 2010 Memorandum was calculated adding the Proposed Gravity Component plus the Economic Benefit plus the Adjustment Factors and resulted in a Penalty of \$58,765.00.

B. Proposed Gravity Component

