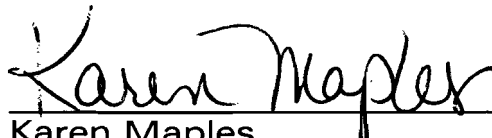


CERTIFICATE OF SERVICE

I hereby certify that the Order To Supplement The Record by
Regional Judicial Officer Helen Ferrara in the matter of Felix Ayala
and Silvette Ayala d/b/a Cantera El Roble, Docket No. CWA-02-2009-
3451, was served on the parties as indicated below:

First Class Mail - Felix Ayala, Owner
Felix Ayala & Silvette Ayala
d/b/a Cantera El Roble
State Road PR-827, Km 2.0
Toa Alta, PR 00953

Carolina Jordan-Garcia, Esq.
Office of Regional Counsel
USEPA - Region II
Caribbean Field Division
Centro Europa Building
1492 Ponce de Leon Ave, Suite 417
San Juan, Puerto Rico 00907-4127


Karen Maples
Regional Hearing Clerk
USEPA - Region II

Dated: December 4, 2009

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

IN THE MATTER OF:

Félix Ayala and Silvette Ayala
d/b/a Cantera El Roble

State Road 827, Km 2.0
Piñas Ward
Toa Alta, PR 00953

Respondents

Docket No. CWA-02-2009-3451

ORDER TO SUPPLEMENT THE RECORD

The Undersigned has reviewed the Motion for Entry of Default submitted in this matter, and hereby requests clarification of certain facts and dates, as well as additional documents. In order that the Undersigned can better evaluate and consider this Motion for Entry of Default, please provide the following:

- (1) A clear and complete copy of the Administrative Complaint (Complaint), Docket Number CWA-02-2009-3451, filed on February 11, 2008 and served on June 23, 2009 (according to pages 1 and pages 2 of the Motion for Entry of Default);
- (2) A clear and complete copy of the Administrative Compliance Order, Docket Number CWA-02-2008-3103, issued on June 23, 2008 (according to page 2 of the Memorandum dated January 27, 2009, Exhibit 2 to the Motion for Entry of Default).

- (3) A clearer copy of Acknowledgement of Receipt of Administrative Compliance Order, Exhibit 1 to the Motion for Entry of Default;
- (4) Please review the documents submitted and check the dates and dockets numbers, as the terms Administrative Compliance Order and Administrative Complaint appear to be used interchangeably, and three dockets numbers are referenced, CWA-02 -2009-3451 (in Motion for Entry of Default); CWA-02-2009-3453 (Acknowledgement of Receipt of Administrative Compliance Order); and CWA-02-2008-3103 (Administrative Compliance Order). The undersigned believes that the first two numbers refer to the same document in these proceedings.
- (5) Any information that the Complainant may have pertaining to service of the Complaint (referred to as Administrative Compliance Order, Docket Number CWA-02-2009-3453 in Exhibit 1 to the Motion for Entry of Default), as explained in more detail in the following section of this Order.

SERVICE OF THE COMPLAINT

Applicable legal precedents and the fundamental guarantees of fairness and notice mandate that the Undersigned establishes that service of process upon the Respondents was sufficient under the controlling regulations, ensuring that jurisdiction over the Respondents is clear, before a default order can be issued. Clarification

regarding the service of the Complaint is requested because the person signing the return receipt, Carmen M. Ayala Ortega, was not one of the named Respondents and did not indicate her relationship to Félix Ayala, Silvette Ayala or Cantera El Roble. In addition, it is unclear whether the address at which service was attempted was the Respondents' official place of business or a private residence. If service was attempted at the designated place of business of Cantera El Roble (if any), it may be reasonable to assume that an individual accepting service at that location was authorized to receive service on behalf of the Respondents. However, if the address was that of a private residence, additional information would be helpful to the Undersigned in ascertaining whether the person signing was authorized to receive service on behalf of Respondents.

The issue of proper service of the complaint upon the Respondents may be clarified by additional information, including information addressing the identity, age and competency of Ms. Ayala Ortega, the relationship between Ms. Ayala Ortega and Félix Ayala, Silvette Ayala or Cantera El Roble, whether the Respondents were served at offices specifically designated as the official place of business of Cantera El Roble, the nature of the entity Cantera El Roble, and any additional information which the parties believe would have a bearing on the question of whether service in this case complied with the applicable regulations.

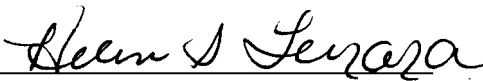
Based upon the record in this matter, and in light of the considerations set forth herein, the Undersigned issues the following **ORDER**.

IT IS ORDERED:

The Complainant is hereby directed to supplement the record to provide the requested information and documentation no later than January 15, 2010.

The Respondents are hereby directed to provide any information in response to any information submitted by Complainant no later than February 1, 2010.

Dated: December 2, 2009


Helen S. Ferrara
Presiding Officer