

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
309(G) of the Clean Water Act
Respondent 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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PROTECTION AGENCY-REG. II
2008 JUN 17 PM 2:10
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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

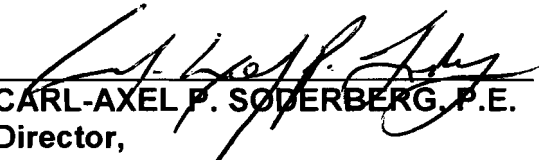
2. A copy of the Answer, any Hearing Request and all subsequent documents filed in this action shall be sent to:

Héctor L. Vélez Cruz, Esq.
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
1492 Ponce de León Ave., Suite 417
San Juan, Puerto Rico 00907-4127
Telephone: (787) 977-5850
Fax: (787) 729-7748.

IX. General Provisions

1. Respondent have 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 thereunder, 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 12th DAY OF May, 2008.

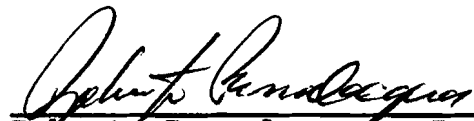

CARL-AXEL P. SODERBERG, P.E.
Director,
Caribbean Environmental Protection Division
United States Environmental Protection Agency - Region 2
1492 Ponce de León Ave., Suite 417
San Juan, Puerto Rico 00907-4127

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
Inmobiliaria Unibón, Inc.
Box 9065983
San Juan, P.R. 00906
Tel. 758-6967

June 9, 2008

Carl-Axel P. Soderberg
Director
Environmental Protection Agency
Caribbean Environmental Protection Division
San Juan, Puerto Rico

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG.11
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**RE: CEPD-CWA-02-2006-3054
RIBERAS DE UNIBON
MOROVIS, PUERTO RICO**

The intention of this letter is to clarify several items required by the Agency regarding the project. The Storm Water Pollution Prevention Plan (SWPPP) was required by Eng. Hector Ortiz and submitted in October 18, 2006 accompanied by additional information requested. The Notice of Intent was submitted on November 22, 2006 and a communication was received dated December 4, 2006 that acknowledges such communication. Also several communications were submitted to Eng. Ortiz regarding his various information requests. Copies of some of these documents are included with this letter.

We would like to request a meeting to speak about the Administrative Order and the proposed settlement. If you have any question, please feel free to contact us at 787-462-5040 or 787-396-8689.

Cordially,



Roberto Passalaqua, Esq.
President

Inmobiliaria Unibón, Inc.



Andrew G. Bonilla, PG, REM
Environmental Consultant



GEC/AGB Corporation

Geological and Environmental Consultants

COPY

Box 193851
San Juan, Puerto Rico
00919-3851
Phone: 787-396-8689
Fax: 787-296-2622
e-mail: gecagb@coqui.net

October 10, 2006

Tere Rodriguez, Chief
Multi media permits and Compliance Branch
United States Environmental Protection Agency, Region 2
Caribbean Environmental Protection Division
Centro Europa Building, Suite 417
1492 Ponce de León Avenue

Attention: Eng. Hector Ortiz
Environmental Engineer

***COMPLIANCE REPORT LETTER
RIBERAS DE UNIBON RESIDENTIAL DEVELOPMENT
MOROVIS, PUERTO RICO***

2006 OCT 18 AM 11:11
DIRECTOR OF PHS

In pursuant to Administrative Compliance Order Docket Num. CEPD-CWA-02-2006-3054, Riberas de Unibón, a residential project, is submitting response as requested for the mentioned Order. This specific letter responds to the EPA communication "Deficiencies to Address the Provision of the Order..."

Information requested by the agency is included in the accompanied SWPPP and mentioned below:

a. Detail description of the property:

The site consists of a total area of 16.67 acres. It is divided into 134 lots for the construction of housing units with a base area of 350 square meters each. Also access streets, recreational areas, green and vegetated areas as well as common areas are part of the project. Site coordinates are latitude 18°19'37.42"N and Longitude 66°24'08.89"W. The project is bounded to the north by state road PR-159, to the south by Río Unibón, to the east by an existing road, Puerto Rico Aqueduct and Sewer Authority (PRASA) and other landlords and to the west by Escuela José Barreras Martinez. The site has access via state road PR-159 at kilometer 5.8 in Unibón Ward in the municipality of Morovis (Figure 1). Areas surrounding the site are part of the suburban area of the municipality.

b. Copy of the Property deed is included in this report.

c. Name of developers:

Inmobiliaria Unibón, Inc. ("IUF")
Torremolinos, F-1 Ave. Crisálida



**U.S. ENVIRONMENTAL PROTECTION AGENCY (EPA)
NATIONAL POLLUTANT DISCHARGE ELIMINATION
SYSTEM (NPDES)
STORMWATER NOTICE OF INTENT PROCESSING CENTER**



12/04/2006

OPERATOR:

**INMOBILIARIA UNIBON, INC.
ATTN: ROBERTO PASALACQUA
PO BOX 9065983
SAN JUAN, PR 00906**

FACILITY:

**RIBERAS DE UNIBON
PR-149, KM 5.8 UNIBON WARD
MOROVIS, PR 00687**

TRACKING NUMBER: PRR10BC80

This letter acknowledges that you have submitted a complete Notice of Intent form to be covered under EPA's NPDES Stormwater Construction General Permit (CGP). Coverage under this permit began at the conclusion of your seven-day waiting period on 12/04/2006.

As stated above, this letter acknowledges receipt of a complete Notice of Intent. However, it is not an EPA determination of the validity of the information you provided. Your eligibility for coverage under the Permit is based on the validity of the certification you provided. Your signature on the Notice of Intent certifies that you have read, understood, and are implementing all of the applicable requirements. An important aspect of this certification requires that you correctly determine whether you are eligible for coverage under this permit.

As you know, the Construction General Permit requires you to have developed and begun implementing a Stormwater Pollution Prevention Plan (SWPPP) and outlines important inspection and record keeping requirements. You must also comply with any additional location-specific requirements applicable to your state or tribal area. A copy of the Construction General Permit must be kept with your SWPPP.

An electronic copy of the Construction General Permit and additional guidance materials can be viewed and downloaded at www.epa.gov/npdes/stormwater/cgp.

If you have general questions regarding the stormwater program or your responsibilities under the Construction General Permit, please call:

**Region 2 Sergio Bosques (787) 977-5838
Region 2 Stephen Venezia (212) 637-3856**

Next time, please use the EPA's electronic Notice of Intent (eNOI) system (<http://www.epa.gov/npdes/enoi>). It is easy to use and faster than submitting a paper form. You can terminate (NOT) this NOI by using the eNOI system.

If you have questions about your form, please call the EPA NOI Processing Center at 1-866-352-7755 (toll free) or send an inquiry via the online form at <http://www.epa.gov/npdes/noicontact>.

EPA NOI Processing Center
Operated by Avantl Corporation
1200 Pennsylvania Ave., NW
Mail Code: 4203M
Washington, DC 20460
1-866-352-7755

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Springwater Dome Center
Mail Code 4203M
USEPA
1200 Penn. Ave. NW
Wash. DC, 20460

COMPLETE THIS SECTION ON DELIVERY

A. Signature

[Handwritten Signature] Address

B. Received by (Printed Name)

C. Date of Delivery

1/22/06

D. Is delivery address different from item 1? Yes
If YES, enter delivery address below: No

3. Service Type

- Certified Mail Express Mail
- Registered Return Receipt for Merchandise
- Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee)

2. Article Number **9082 AOM AT**
(Transfer from service label)

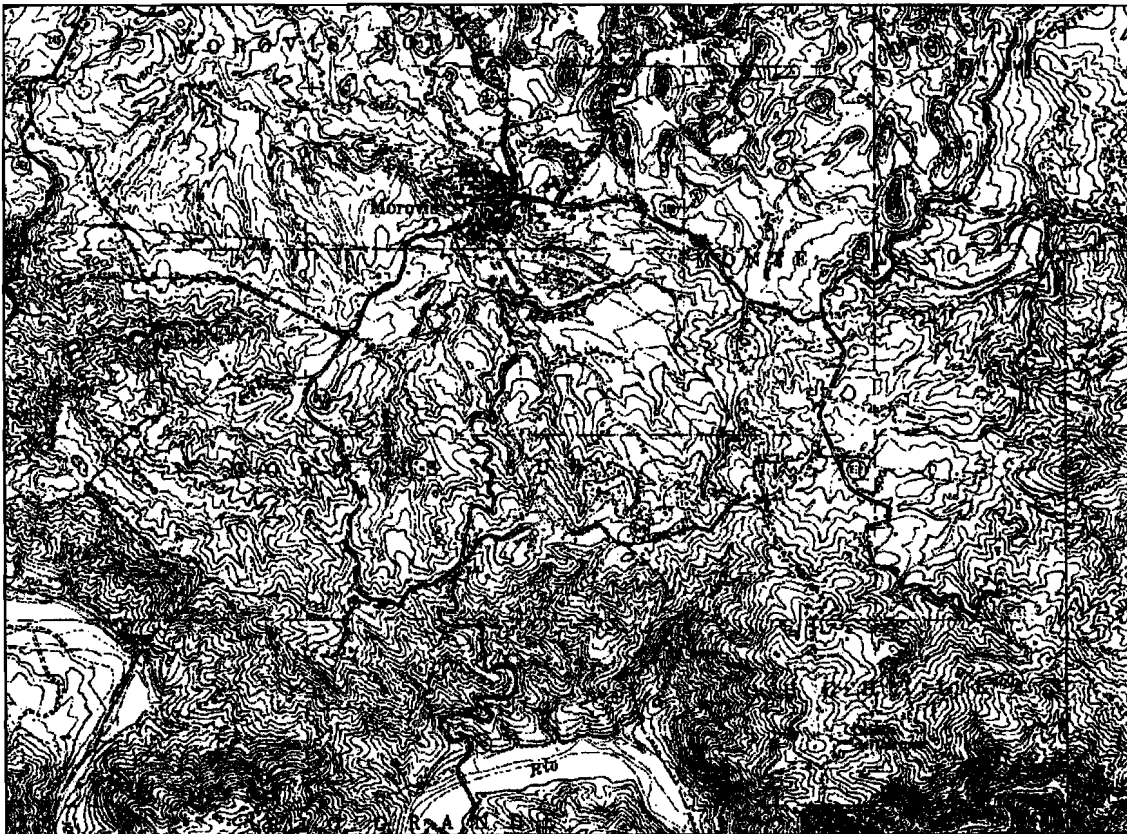


GEC/AGB Corporation

Geological and Environmental Consultants

Box 193851
San Juan, Puerto Rico
00919-3851
Phone: 787-396-8689
Fax: 787-296-2622
e-mail: gecagb@cox.net

STORM WATER POLLUTION PREVENTION PLAN



**RIBERAS DE UNIBON
State Road PR-159 Km. 5.8
Unibón Ward
Morovis, Puerto Rico**

SEPTEMBER 2006