

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2

IN THE MATTER OF:

INMOBILIARIA UNIBÓN, INC.
P.O. Box 9065983, San Juan,
Puerto Rico 00906

RESPONDENT

DOCKET NUMBER CWA-02-2008-3457

PROCEEDING PURSUANT TO SECTION
309(G) OF THE CLEAN WATER ACT
33 U.S.C. § 1319(G), TO ASSESS
CLASS II CIVIL PENALTY

REGIONAL HEARING
APR 1 11:04 AM '09
ENVIRONMENTAL
PROTECTION AGENCY-REGION 2

**Informative Motion Regarding Progress Made in Filing an Executed
Consent Agreement and Final Order and
Request for Extension of Time to File**

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

In February 2009, the Administrative Law Judge in this case, Honorable Barbara A. Gunning, granted to Inmobiliaria Unibón, Inc. (Respondent) and Complainant (together, the "Parties") until March 26, 2009, to file the fully executed Consent Agreement and Final Order (CA/FO) settling all matters asserted in the Administrative Complaint, including a penalty.

As informed previously, the CA/FO's concurrence process involves the approval of several EPA officers in Region 2's San Juan and New York offices for their review, concurrence and signatures. The concurrence process has finalized in the San Juan and New York offices and is pending the approval and signature of the Regional Administrator

(see **Attachments 1 and 2**). Once the Regional Administrator signs the CA/FO it will be immediately filed.

This Motion has been filed today in order to have the Administrative Law Judge, Honorable Barbara A. Gunning, take notice of the progress made in the approval process to file a fully executed CA/FO.

In light of the above, the Parties request the Honorable Administrative Law Judge twenty (20) additional days, until April 15, 2009, in order to file the duly executed CA/FO and notify its execution to the Presiding Officer.

This Motion was discussed today, March 20, 2009, with Roberto Passalacqua, Esq., Respondent, who agreed to the filing of this motion.

Respectfully submitted, in San Juan, Puerto Rico, this 20th day of March, 2009.



Héctor U. Vélez Cruz
Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency, Region II
Centro Europa Bldg., Suite 207
1492 Ponce de León Ave.
San Juan, PR 00907-4127
(787) 977-5850 (office)
(787) 729-7748 (fax)
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**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region 2**

IN THE MATTER OF:

INMOBILIARIA UNIBÓN, INC.
P.O. Box 9065983, San Juan,
Puerto Rico 00906

RESPONDENT

DOCKET NUMBER CWA-02-2008-3457

MOTION

Certificate of Service

I certify that I have this day caused to be sent the foregoing ***Informative Motion Regarding Progress Made in Filing an Executed Consent Agreement and Final Order and Request for Extension of Time to File***, dated March 20, 2009, and bearing the above-referenced docket number, in the following manner to the respective addressees below:

Original and copy by facsimile, **Overnight Mail** to:

Karen Maples
Regional Hearing Clerk
Region II
U.S. Environmental Protection Agency
290 Broadway, 16th Floor
New York, NY 10007-1866
Fax (212) 637-3202.

Copy by **Regular Mail** to:

Attorney for Respondent:
Roberto Passalacqua, Esq.
President Inmobiliaria Unibón, Inc.
P.O. Box 9065983
San Juan, P.R. 00906
Tel: (787) 462-5040
Fax: (787) 758-6967.

Copy by facsimile, **Overnight Mail** to:

Administrative Law Judge:
Honorable Barbara A. Gunning
Office of Administrative Law Judges
U.S. Environmental Protection Agency
1099 14th Street, N.W., Suite 350
Washington, D.C. 20005
Fax (202) 565-0044.

Date

3/20/09

Name



**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
Region 2**



IN THE MATTER OF:

INMOBILIARIA UNIBÓN, INC.
P.O. Box 9065983, San Juan,
Puerto Rico 00906

RESPONDENT

**CONSENT AGREEMENT
AND
FINAL ORDER**

DOCKET NUMBER CWA-02-2008-3457

NPDES TRACKING NO. PRR10BC80

CONSENT AGREEMENT AND FINAL ORDER

Complainant, the United States Environmental Protection Agency (EPA), having issued the Complaint herein on May 12, 2008, against Respondent Inmobiliaria Unibón, Inc. (Respondent), and

Complainant and Respondent (together "the Parties") having agreed that settlement of this matter is in the public interest, and that entry of this Consent Agreement and Final Order (CA/FO) without further litigation is the most appropriate means of resolving this matter;

NOW, THEREFORE, before the taking of any testimony, upon the pleadings, without adjudication of any issue of fact or law, and upon consent and agreement of the Parties, it is hereby agreed, and ordered as follows:

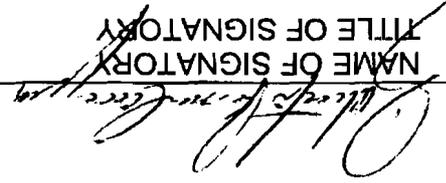
I. PRELIMINARY STATEMENT

1. EPA initiated this proceeding for the assessment of a civil penalty, pursuant to Section 309 of the Clean Water Act, 33 U.S.C. § 1319.
2. The Complaint alleges that Respondent:
 - a. did not submit an individual National Pollutant Discharge Elimination System (NPDES) permit application as required by 40 C.F.R. § 122.21, nor did it file a complete and accurate Notice of Intent form prior to commencement of construction activities as required by Part 2 of EPA's July 1, 2003 NPDES General Permit for Discharges from Large and Small Construction Activities" (the "Construction Permit"); and
 - b. discharged pollutants into waters of the United States without authorization of an NPDES permit.

CONCURRENCES

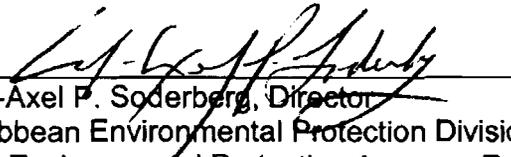
Name: H Vélez	Init: HV	Date: 02/11/2009	Filename:				
Symbol	CEPD/MPCB	CEPD/MPCB	ORC - CT	ORC - CT	CEPD - D	ORC	A-RA
Surname	H. Ortiz	Rodriguez	H. Ortiz	S. Carreño	C. Soderberg	E. Schaaf	G. Pavlou
Date	02/11/09	2/17/09	2/11/09	2/12/09	02/17/09	5/28/09	

RESPONDENT:

BY:  _____
NAME OF SIGNATORY
TITLE OF SIGNATORY

DATE: _____

COMPLAINANT:

BY: 
Carl-Axel P. Soderberg, Director
Caribbean Environmental Protection Division
U.S. Environmental Protection Agency - Region 2
Centra Europa Building, Suite 417
1492 Ponce de León Avenue
San Juan, Puerto Rico 00907-4127

DATE: 02-17-09

III. FINAL ORDER

The Regional Administrator of the U.S. Environmental Protection Agency Region 2, ratifies the foregoing Consent Agreement. The Agreement entered into by the parties is hereby approved, incorporated herein, and issued as an Order. The effective date of this Order shall be the date of filing with the Regional Hearing Clerk, U.S. EPA Region 2, New York, NY.

Date

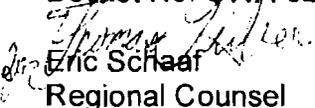
George Pavlou
Acting Regional Administrator
United States Environmental
Protection Agency-Region 2
290 Broadway
New York, NY 10007-1866



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2**

DATE: February 11, 2009

SUBJECT: In the Matter of Inmobiliaria Unibón, Inc.
Docket No. CWA-02-2008-3457

FROM: 
Eric Schaaf
Regional Counsel


Carl Axel P. Soderberg, Director
Caribbean Environmental Protection
Division

TO: George Pavlou
Acting Regional Administrator

Attached, please find a Consent Agreement and Final Order (CA/FO), for your review and signature. This CA/FO will settle the above referenced Administrative Complaint filed under Section 309(g) of the Clean Water Act (the "Act"), 33 U.S.C. § 1319(g).

Highlights

- On May 12, 2008, EPA Region 2 issued a penalty complaint against Inmobiliaria Unibón, Inc. (Respondent), for violations of Section 301(a) of the Act, 33 U.S.C. § 1311(a).
- The Complaint proposed a civil penalty of \$157,500.00. On June 13, 2008, Respondent answered the Complaint and requested a hearing.
- During settlement negotiations Respondent presented evidence that demonstrated compliance with certain requirements of the Act which EPA had alleged as violations in the Complaint. EPA considered this evidence, along with Respondent's cooperation throughout settlement negotiations and accordingly, proceeded to adjust the final penalty to appropriately reflect such mitigating factors.
- The proposed CA/FO includes a cash settlement of \$87,000.00.

Background

Respondent owns and operates a housing construction project known as the Riberas de Unibón Residential Development (the "Project"), located at State Road 159, Km. 5.8, Unibón Ward, Morovis, Puerto Rico, on a site of approximately 16.67 acres of land. Respondent began construction activities at the Project on April 30, 2004.

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2**

DATE: February 11, 2009

SUBJECT: In the Matter of Inmobiliaria Unibón, Inc.
Docket No. CWA-02-2008-3457

FROM: Eric Schaaf
Regional Counsel

Carl-Axel P. Soderberg, Director
Caribbean Environmental Protection
Division

TO: George Pavlou
Acting Regional Administrator

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