

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

U.S. ENVIRONMENTAL  
PROTECTION AGENCY-REG. II  
2009 NOV 17 PM 4: 34  
REGIONAL HEARING  
CLERK

**IN THE MATTER OF**

**PRADERAS DEL MAR, INC.  
AGUADA, PUERTO RICO**

**Proceeding pursuant to §309(g) of the  
Clean Water Act, 33 USC §1319(g)**

Proceeding to Assess Class I  
Civil Penalty Under Section  
309(g) of the Clean Water Act  
Docket No. CWA-02-2009-3602

**ANSWER TO COMPLAINT**

**TO THE AGENCY:**

Comes now, Respondent, Praderas del Mar, Inc. ("hereinafter referred to as "Praderas") through the undersigned attorney, and very respectfully states and prays:

1. The allegations contained in Paragraph 1 of the Findings of Violations are admitted.
2. The allegations contained in Paragraph 2 of the Findings of Violations are admitted.
3. The allegations contained in Paragraph 3 of the Findings of Violations are admitted.
4. From Paragraph 4 of the Findings of Violations it is admitted that Respondent owned and operated a parcel of land at PR-115, Km.

24.0 Interior, Asomante Ward, Aguada, Puerto Rico. It is denied that construction activities were performed.

5. The allegations contained in Paragraph 5 of the Findings of Violations are admitted.

6. The allegations contained in Paragraph 6 of the Findings of Violations are admitted.

7. The allegations contained in Paragraph 7 of the Findings of Violations are admitted.

8. The allegations contained in Paragraph 8 of the Findings of Violations are admitted.

9. Paragraph 9 of the Findings of Violations is denied because of lack of sufficient information to form a belief as to the truth of the allegations.

10. Paragraph 10 of the Findings of Violations is denied.

11. Paragraph 11 of the Findings of Violations is denied.

12. From Paragraph 12 of the Findings of Violations it is admitted that a Notice of Violation to Respondent was issued. The rest of the paragraph is denied because of lack of knowledge of the exact date when it was issued.

13. The allegations in Paragraph 13 of the Findings of Violation are not addressed to Respondent and as such do not require a response. If one is required, Paragraph 13 is denied.

14. The allegations contained in Paragraph 14 of the Findings of Violation are matters of law that do not require a response from the appearing party. If a response is required, Paragraph 14 is denied.

15. The allegations contained in Paragraph 15 of the Findings of Violation are matters of law that do not require a response from the appearing party. If a response is required, Paragraph 15 is denied.

16. The allegations contained in Paragraph 16 of the Findings of Violation are matters of law that do not require a response from the appearing party. If a response is required, Paragraph 16 is denied.

17. The allegations contained in Paragraph 14 of the Findings of Violation are matters of law that do not require a response from the appearing party. If a response is required, Paragraph 17 is denied.

18. The allegations contained in Paragraph 18 of the Findings of Violation are matters of law that do not require a response from the appearing party. If a response is required, Paragraph 18 is denied.

19. The allegations contained in Paragraph 19 of the Findings of Violation are matters of law that do not require a response from the appearing party. If a response is required, Paragraph 19 is denied.

20. The allegations contained in Paragraph 20 of the Findings of Violation are matters of law that do not require a response from the appearing party. If a response is required, Paragraph 20 is denied.

21. The allegations contained in Paragraph 21 of the Findings of Violation are denied.

22. The allegations contained in Paragraph 22 of the Findings of Violation are denied.

23. From Paragraph 23 of the Findings of Violation it is admitted that a Request for Information was sent to Respondent. It is denied that a discharge of fill material was purposely done by Respondent. The rest of the paragraph contains matters of law that do not require a response from the appearing party, if one is required, they are denied.

24. From Paragraph 24 of the Findings of Violation it is accepted that a Request was sent. Because of lack of knowledge and/or information of the date that it was received said date is denied. Respondent states that the reply of the Request for Information has been prepared.

25. From Paragraph 25 of the Findings of Violation it is admitted that a Request for Information was sent to Respondent. It is denied that a discharge of fill material was purposely done by Respondent. The rest of the paragraph contains matters of law that do not require a response from the appearing party, if one is required, they are denied.

26. From Paragraph 26 of the Findings of Violation it is accepted that a Request was sent. Because of lack of knowledge and/or information of the date that it was received said date is denied. Respondent states that the reply of the Request for Information has been prepared.

27. The allegations of Paragraph 27 of the Findings of Violation are denied.

28. The allegations of Paragraph 28 of the Findings of Violation are denied.

29. The allegations of Paragraph 29 of the Findings of Violation are not addressed to Respondent and as such do not require a response. If one is required, Paragraph 29 is denied.

30. The allegations of Paragraph 30 of the Findings of Violation are not addressed to Respondent and as such do not require a response. If one is required, Paragraph 30 is denied.

#### **AFFIRMATIVE DEFENSES**

1. The Complaint fails to state a claim upon which a relief may be granted.

2. Respondent did not perform any filling operations. The only work done by Respondent was related to the clearing of vegetation.

3. If any soil got access to the wetland area, said amount must be minimum and as a consequence of rain precipitation.

4. Respondent took all necessary security measures during the cleaning of vegetation, including the establishment of a CES Plan, the establishment of a silt-fence and bails to protect any wet land and Tinaja Creek.

5. Respondent has been in constant contact with this agency and the U.S Army Corps of Engineers regarding the present matter and

providing information. If any information has not been provided or any term not complied with, it maybe due to an inadvertence of Respondent but not because of any intention by Respondent to purposely not comply with any order of this agency or any other related to the present matter.

6. Respondent reserves the right to set forth any additional defenses which may arise during the proceedings of the case.

### **REQUEST FOR HEARING**

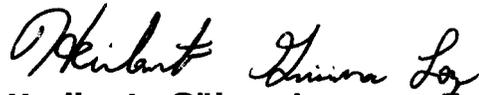
1. Respondent contests the factual allegations against it contained in the Complaint and the imposition of the proposed civil penalty of \$32,500.00.

2. In accordance, Respondent respectfully requests a hearing on the proposed civil penalty assessment and also to contest the factual allegations set forth in the Findings of Violation.

WHEREFORE, Respondent respectfully request that this Honorable Agency take notice of the above; dismiss the Complaint against Respondent, or in the alternative set a Hearing in order for Respondent to contest the factual allegations against it contained in the Complaint and the imposition of the proposed civil penalty of \$32,500.00.

I CERTIFY that a copy of the present document has been sent to all parties involved.

In Aguada, Puerto Rico, this 11<sup>th</sup> day of November, 2009.



**Heriberto Güivas-Lorenzo, Esq.**

Attorneys for Respondent

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