

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG. 11
2012 FEB 26 P 12:53
REGIONAL HEARING
CLERK

In Re:

Condado Palm, LLC

GB Project Management, LLC

Respondents

In a proceeding under Section 113(d)
of the Clean Air Act, 42 U.S.C. § 7413(d)

**CONSENT AGREEMENT
AND
FINAL ORDER**

CAA-02-2012-1224

Preliminary Statement

This Consent Agreement and Final Order (CAFO) resolves an administrative penalty proceeding brought by the Complainant, the Director of the Caribbean Environmental Protection Division for the United States Environmental Protection Agency (EPA) Region 2, against Condado Palm, LLC and GB Project Management, LLC (hereinafter "Respondents"), pursuant to Section 113(d) of the Clean Air Act ("CAA" or "Act"), 42 U.S.C. § 7413(d), and EPA's Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (CROP), 40 C.F.R. Part 22. The proceeding was commenced by the filing of a Complaint and Notice of Opportunity to Request a Hearing (Complaint) on September 28, 2012.

The Consent Agreement portion of this CAFO is signed by Complainant and Respondents, while the Final Order portion is to be executed by the EPA Region 2 Regional Judicial Officer. Pursuant to EPA Region 2 Delegation of Authority 7-6-A, the Complainant is delegated the authority, in Region 2, to issue CAA Section 113(d) administrative penalty complaints, and to agree to settlements and sign consent agreements memorializing those

settlements. Pursuant to EPA Delegation of Authority 7-6-C, the Regional Administrator of EPA Region 2 has redelegated to the EPA Region 2 Regional Judicial Officer the authority, in Region 2, to execute CAA Section 113(d) Final Orders.

Consent Agreement

General Provisions

1. The Complainant and Respondents enter into this Consent Agreement and propose the attached Final Order to resolve an administrative civil penalty proceeding that was commenced by EPA's Complaint, dated September 28, 2012.

2. Consistent with CROP 22.18(c), this Consent Agreement and the attached Final Order only resolve Respondents' liability for Federal civil penalties for the violations and facts alleged in the Complaint.

3. As required by CROP 22.18(b), for the purposes of this administrative civil penalty proceeding, and to avoid the expense of protracted litigation, Respondents:

- a. admit the jurisdictional allegations of the Complaint (namely, the allegations found in Paragraphs 1-4 of the Complaint);
- b. neither admit nor deny the factual allegations found in Paragraphs 24-35 of the Complaint;
- c. consent to the payment of the civil penalty specified below in the "Settlement" section of this Consent Agreement, on the terms specified in that section;
- d. consent to the issuance of the attached Final Order; and
- e. waive any right to contest the Complaint's allegations and any right to appeal the attached Final Order.

Settlement

4. Pursuant to Section 113(d) of the Act, Respondents shall pay a civil penalty of **\$12,000.00**. Respondents shall pay the entire amount in three equal payments of \$4,000.00 as

follows: the first payment within thirty (30) days from the effective date of the attached Final Order (the date of filing with the Regional Hearing Clerk); the second payment within sixty (60) days from the effective date of the attached Final Order; and a third and final payment within ninety (90) days from the effective date of the attached Final Order. Respondents have the choice of paying by corporate, cashiers' or certified check. Respondents shall: (1) clearly type or write the docket number (CAA-02-2012-1224) on the check to ensure proper payment; (2) make the check payable to the order of "Treasurer, United States of America;" and (3) send the check to:

U.S. Environmental Protection Agency
 Cincinnati Finance Center
 P.O. Box 979077
 St. Louis, MO 63197-9000.

Respondents shall send notice of payment to the following:

Edna Villanueva, Acting Chief
 Multimedia, Permits and Compliance Branch
 Caribbean Environmental Protection Agency
 U.S. Environmental Protection Agency Region 2
 City View Plaza II, Suite 7000
 #48 RD. 165 km 1.2
 Guaynabo, PR 00968-8069,

and

Héctor L. Vélez Cruz, Esq.
 Team Leader
 Office of Regional Counsel, Caribbean Team
 US Environmental Protection Agency, Region 2
 City View Plaza II, Suite 7000
 #48 RD. 165 km 1.2
 Guaynabo, PR 00968-8069.

5. If Respondents fail to make full and complete payment of the civil penalty that it is required to pay by this CAFO, this case may be referred by EPA to the United States Department of Justice and/or the United States Department of the Treasury for collection. In

such an action, pursuant to Section 113(d)(5) of the CAA, 42 U.S.C. § 7413(d)(5) and 31 U.S.C. § 3717, Respondents shall pay the following amounts:

- a. Interest. If Respondents fail to make payment, or make partial payment, any unpaid portion of the assessed penalty shall bear interest at the rate established pursuant to 31 U.S.C. § 3717 and 26 U.S.C. § 6621 from the payment Due Date.
- b. Handling Charges. Pursuant to 31 U.S.C. § 3717(e)(1), a monthly handling charge of fifteen dollars (\$15.00) shall be paid if any portion of the assessed penalty is more than thirty (30) days past the payment Due Date.
- c. Attorney Fees, Collection Costs, Nonpayment of Penalty. If Respondents fail to pay the amount of an assessed penalty on time, pursuant to 42 U.S.C. § 7413(d)(5), in addition to such assessed penalty and interest and handling assessments, Respondents shall also pay the United States' enforcement expenses, including but not limited to attorney fees and costs incurred by the United States for collection proceedings, and a quarterly nonpayment penalty for each quarter during which such a failure to pay persists. Such nonpayment penalty shall be ten percent of the aggregate amount of Respondents' outstanding penalties and nonpayment penalties accrued from the beginning of such quarter.

6. This Consent Agreement is being entered into voluntarily and knowingly by the parties in full settlement of Respondents' alleged violations of the Act set forth in the Complaint.

7. Nothing in this Consent Agreement and attached Final Order shall relieve Respondents of their duty to comply with all applicable provisions of the Act and other environmental laws and it is the responsibility of the Respondents to comply with such laws and regulations.

8. This Consent Agreement and attached Final Order shall not affect the right of the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.

9. This Consent Agreement, attached Final Order, and any provision herein is not intended to be an admission of liability in any adjudicatory or administrative proceeding, except in an action, suit, or proceeding to enforce this CAFO or any of its terms and conditions.

10. Respondents explicitly waive any right to request a hearing and/or contest allegations in this Consent Agreement and explicitly waive any right to appeal the attached Final Order.

11. Respondents waive any right they may have pursuant to 40 C.F.R. § 22.08 to be present during discussions with, or to be served with and to reply to any memorandum or communication addressed to, the Regional Administrator or the Deputy Regional Administrator where the purpose of such discussion, memorandum, or communication is to recommend that such official accept this Consent Agreement and issue the attached Final Order.


12. Each party to this Consent Agreement shall bear its own costs and attorneys' fees in this action resolved by this Consent Agreement and attached Final Order.

13. The Consent Agreement and attached Final Order shall be binding on Respondents and their successors and assignees.

14. Each of the undersigned representative(s) to this Consent Agreement certifies that he or she is duly authorized by the party whom he or she represents to enter into the terms and conditions of this Consent Agreement and bind that party to it.

Signatures


For Complainant:


for

José C. Font, Acting Director
Caribbean Environmental Protection Division
U.S. Environmental Protection Agency - Region 2
City View Plaza II, Suite 7000
#48 RD. 165 km 1.2
Guaynabo, PR 00968-8062

Date February 19, 2013

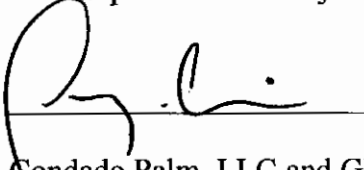
For Respondent Condado Palm, LLC



Date February 4, 2013

Eduardo Ferrer
Condado Palm, LLC and GB Project Management, LLC
CAA-02-2012-1224

For Respondent GB Project Management, LLC

A handwritten signature in black ink, appearing to be 'P. Li', written over a horizontal line.

Date 2/4/13

Condado Palm, LLC and GB Project Management, LLC
CAA-02-2012-1224

FINAL ORDER

The Regional Judicial Officer of EPA, Region 2, concurs in the foregoing Consent Agreement, in the matter of *Condado Palm, LLC* and *GB Project Management, LLC CAA-02-2012-1224*. The Consent Agreement, entered into by Complainant and Respondents Condado Palm, LLC and GB Project Management, LLC, is hereby approved and issued, as a Final Order, effective upon filing with the Regional Hearing Clerk.

DATE: February 26, 2013

Helen S Ferrara

Helen S. Ferrara
Regional Judicial Officer
United States Environmental
Protection Agency, Region 2

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CERTIFICATE OF SERVICE

I certify that I have this day caused to be sent the foregoing **Consent Agreement and Final Order**, dated February 26, 2013, and bearing the above-referenced docket number, in the following manner to the respective addressees below:

Original and copy by **hand delivered** to:

Karen Maples
Regional Hearing Clerk
Region 2
U.S. Environmental Protection Agency
290 Broadway, 16th Floor
New York, NY 10007-1866
Fax (212) 637-3202.

Copy by **Overnight Mail** to:

Attorney for Respondents Condado Palm, LLC and GB Project Management, LLC
Carlos J. Grovas-Porrata, Esq.
BELK & GROVAS
LAW OFFICES
239 Arterial Hostos Ave.
Capital Center Building
South Tower, Suite 604
T. 787-754-2424
F. 787-754-2454
E. belkgrovas@gmail.com

Copy by **hand delivered** to:

Helen Ferrara
Regional Judicial Officer
U. S. Environmental Protection Agency
Region 2
290 Broadway, 16th Floor
New York, NY 10007-1866

Date

2/26/13

Name

