

ENVIRONMENTAL PROTECTION AGENCY
ENVIRONMENTAL APPEALS BOARD
WASHINGTON, D.C.

_____))
IN RE:)
ENERGY ANSWERS ARECIBO, LLC)
Arecibo Puerto Rico Renewable)
TO 2013 09)
Energy Project)
_____))

PSD APPEAL 2013- 05

RESPONSE TO EPA REGION 2's MOTION FOR LIMITED VOLUNTARY REMAND

by

Aleida Centeno Rodriguez
(Petitioner)

December 2nd, 2013

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TABLE OF AUTHORITIES

Final Rule, Endangerment and Cause or Contribute Findings for Greenhouse Gases Under Section 202(a) of the Clean Air Act, 74 Fed. Reg. 66496, 66497 (December 15, 2009)

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ARGUMENT

On November 14, 2013, EPA, Region II, filed a Motion for a Limited Voluntary Remand, to allow revisions of the Prevention of Significant Deterioration Permit granted to Energy Answers on June 11, 2013. EPA's intention is to address the request of Dr. Osvaldo Rosario regarding CO₂, which EPA admits to have neglected to account for. The Motion was sent via ordinary mail to Petitioner Centeno.

Petitioner Aleida Centeno Rodriguez has argued that there are several industries in the same area proposed for the installation of Energy Answers' incinerator that EPA has neglected to account for. Four of them are incinerators. These incinerators, in operation are:

- a. Safetech Carolina Corporation (Lot 30 of the Santana Industrial Park, Arecibo, 2km from the proposed site);
- b. The Battery Recycling Company (a five units smelter defined as an incinerator by Rule 405 (C)(3)(iii); located less than 500 meters from Energy Answers);
- c. Safety Kleen (Barceloneta); and
- d. Merck Sharp and Dome (Barceloneta).

There are other industries in the vicinity. Caribe General Electric Co of Arecibo is in a mandatory construction to alleviate contamination in 2013.

In EPA's response to Petition, it stated at page that it had accounted for all of the incinerator's emissions, except for the emissions of Safety Kleen.

Very respectfully Centeno avers that Safetech Carolina Corporation, SCC, emissions are unknown. There has not been a public record for SCC until 2012, that its toxic emissions were recorded at the Toxic Release Inventory for that year. SCC burns biogenetic, pharmaceutical, biomedical and illegal drugs. It's CO₂ emissions are mandatory to be accounted for according to Final Rule, Endangerment and Cause or Contribute Findings for Greenhouse Gases Under Section 202(a) of the Clean Air Act, 74 Fed. Reg. 66496, 66497 (December 15, 2009), and its jurisprudence. As well, are the emissions of safety Kleen and Merck Sharp and Dome.

The numbers for carbon emissions, either biogenic, or inorganic, that EPA asserts in its Request for Voluntary Remand do not reflect the reality of emissions in the area of Arecibo. One example is that emissions of tail pipes that enter daily in an incinerator area have to be accounted for. SCC's emissions lack those, as well as the CO₂ emissions. The CO₂ emissions established by EPA for Energy Answers are irrational under the present circumstances of Arecibo.

Puerto Rico is a tiny island of 100 miles by 35. Arecibo is one of its towns, and there are 76 towns. According to TRI for 2012, for Arecibo, there are at least 9 industries in Arecibo. EPA did not clarify if the amount of CO₂ allowed for Arecibo is for every single industry, or for all of them together. Centeno avers that industries' emissions have to be accounted for CO₂ for every industry to truthfully comply with 40

CFR 52.21(b)(50) and EPA's issued monitoring and reporting regulations for CO₂ in 40 CFR part 75, promulgated pursuant to section 821 of the 1990 CAA Amendments.

If this is not the case, then SCC, The Battery Recycling Company, PREPA Cambalache, EATON, Cutler Hammer, Caribe GE of Arecibo, Thermo King, BFI, and Saint Jude will have their own emissions of CO₂, that will not be accounted for in the Energy Answers' permit. EPA's behavior is to create a vacuum of applicability of the CO₂ Rule for Arecibo as a whole. This is not the first time that EPA incurs in this behavior. In the past, EPA has ignored that Arecibo is the place where agent orange, and other chemical weapons, were developed, or processed, in the 60's and 70's of the last Century. In this behavior, EPA has not complied with its own laws and regulations and has permitted that Arecibo be contaminated, once more, during this decade with lead. In this regard, EPA fined The Battery Recycling Company in the case EPCRA-02-2011-4301 for managing the amount of 13,000,000 pounds of lead in 2007, 16,000,000 pounds of lead in 2008, and 19,000,000 pounds of lead in 2009 along with 605,000 pounds of antimony during the same period. This is outrageous when the first hearings for The Battery Recycling Company's permit will be held next December 12, 2013, in Arecibo. EPA's behavior accounts for illegal and almost criminal behavior against the people of Arecibo, Puerto Rico.

On the other hand, the Battery Recycling Company is using limestone to reduce its lead contamination. SCC is using limestone to reduce its contamination according to the documents submitted to EPA in 2010. Limestone is an extremely expensive material for Puerto Rico. It represents the island's karst zone's destruction in favor of a

few industries. Its destruction means the destruction of several ecosystems and damage and deterioration of our drinking water.

Energy Answers is planning to use limestone to reduce its contamination. If there is to be an accurate evaluation of CO₂, therefore, an assessment of the damage to the karst zone should be requested in order to have a real impact to the environment and the real value of the use of limestone to reduce CO₂ by Energy Answers. The karst zone produces our water, and it is a natural ecosystem that is fragile and subject to contamination in an easy way from different sources, such as the emissions of an incinerator. Limestone also has its own carbon footprint that has to be accounted for. EPA has not addressed the real damage to the karst zone to impose its limits of CO₂ in Arecibo. EPA has not coordinated the emissions of tailpipe to the evaluation of CO₂ in Arecibo for the trucks entering the other four incinerators, in operations, and neither for Energy Answers planned transit of trucks.

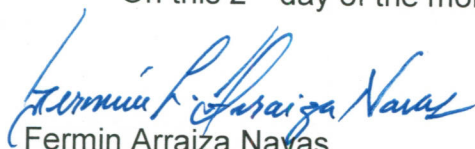
Therefore, Centeno requests that the permit be denied for lack of accurate information, lack of scientific base to impose such limits and the lack application of Rules and Regulations.

STATEMENT OF COMPLIANCE WITH WORD LIMITATION: Hereby I Certify that this Motion complies with the 7,000 word limitation of the rules of the Environmental Appeals Board.

I hereby certify that a true copy of this motion is being sent by email to Christopher D. Ahlers, Vermont Law School, P O Box 96, 164 Chelsea St. South Royalton, VT 05068, Martha G. Quinones Dominguez, P.O. Box 8054, Arecibo, Puerto Rico, 00613; Eliza Llenza, P.O.Box 9865, San Juan, Puerto Rico 00908; Cristina Galan Urb. Radioville # 121, Ave. Atlantico, Arecibo, Puerto Rico 00612; Henry C. Eisenberg, Skadden, Arps, Slete, Meagher & Flom, LLP, 1440 New York Ave, N.W. Washington, D. C.200005-2111; Joseph A. Siegel, Assistant Regional Counsel USEPA Region 2, 290

Broadway, New York, New York, 10007, and Waldemar Natalio Flores Flores, Forest Hills, B 20, Calle 4, Bayamon, Puerto Rico, 00959-5527.

On this 2nd day of the month of December, 2013



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