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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2

290 Broadway
New York, NY 10007

700 OCT -1 AM 10:14

ENVIR. APPEALS BOARD

IN THE MATTER OF:

**Iris Reyes
Las Delicias Community
Ciales, Puerto Rico 00729**

Respondent.

Docket No. **SDWA-02-2003-8265**

Proceeding Pursuant to §1414(g)(3)(B)
of the Safe Drinking Water Act, 42
U.S.C. §300g-3(g)(3)(B)

DEFAULT ORDER AND INITIAL DECISION

By Motion for Default, the Complainant, the Director of the Caribbean Environmental Protection Division for Region 2 of the United States Environmental Protection Agency ("EPA"), has moved for a Default Order finding the Respondent, the Las Delicias Community, by way of one of its community members and representative, Iris Reyes, liable for the violation of an Administrative Order issued pursuant to Section 1414(g) of the Safe Drinking Water Act ("SDWA" or "Act"), 42 U.S.C. § 300g-3(g) and the Surface Water Treatment Rule, promulgated under the SDWA. The Complainant requests assessment of a civil penalty in the amount of Five Hundred Dollars (\$500), as proposed in the Complaint.

Pursuant to the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties ("Consolidated Rules"), 40 CFR Part 22, and based upon the record in this matter and the following Findings of Fact, Discussion, Conclusions of Law, and Determination of Penalty, Complainant's Motion for Entry of Default is hereby GRANTED. The Respondent is hereby found in default and a civil penalty is assessed against it in the amount of \$500.

BACKGROUND

This is a proceeding under Section 1414(g)(3)(B) of the Safe Drinking Water Act, 42 U.S.C. § 300g-3(g)(3)(B) governed by the Consolidated Rules. Complainant initiated this proceeding by issuing a Complaint, Findings of Violation, Notice of Proposed Assessment of a Civil Penalty, and Notice of Opportunity to Request a Hearing ("Complaint") on July 11, 2003, against Respondent. In its Complaint, the Complainant alleged that Respondent violated an Administrative Order issued pursuant to Section 1414(g) of the SDWA, 42 U.S.C. § 300g-3(g), requiring compliance with the applicable requirements of the SDWA and the regulations promulgated there under, including the filtration requirements specified in 40 CFR Part 141 Subpart H.

The Complaint explicitly stated on page 9¹, in the section entitled *Failure to Answer*, that

If Respondent fails in its Answer to admit, deny, or explain any material factual allegation contained in the Complaint, such failure constitutes an admission of the allegation. 40 CFR § 22.15(d). If Respondent fails to file a timely [i.e. in accordance with the 30-day period set forth in 40 CFR § 22.15(a)] Answer to the Complaint, Respondent may be found in default upon motion. 40 CFR § 22.17(a). Default by Respondent constitutes, for purposes of the pending proceeding only, an admission of all of the facts alleged in the Complaint and a waiver of Respondent's right to contest such factual allegations. 40 CFR § 22.17(a). Following a default by Respondent for failure to timely file an Answer to the Complaint, any order issued therefore shall be issued pursuant to 40 CFR § 22.17(c).

Any penalty assessed in the default order shall become due and payable by Respondent without further proceedings thirty (30) days after the Default Order becomes final pursuant to 40 CFR § 22.27(c). 40 CFR § 22.17(d). If necessary, EPA may then seek to enforce such

¹ Although the pages of the Complaint were improperly numbered as 1 and 6-13, the undersigned has established that the Complaint as numbered and served upon all the parties was complete.

Final Order of Default against Respondent, and to collect the assessed penalty amount, in federal court.

Service of the Complaint via certified mail return receipt requested was completed on August 1, 2003 with a return receipt card signed by an individual named Lydia Collazo.² To date, an Answer has not been filed by the Respondent.

On March 8, 2007, Complainant issued a Motion for Entry of Default. It was served on Respondent via certified mail return receipt requested. To date, the Respondent has not filed a response to the Motion for Entry of Default.

FINDINGS OF FACT

Pursuant to 40 CFR § 22.17(c) and based upon the entire record, I make the following findings:

1. Respondent is a “person” as defined in Section 1401(12) and (13)(A) of the SDWA, 42 U.S.C. § 300(f)(12) and (13)(A) and 40 CFR § 141.2.
2. Respondent is a “supplier of water” which is the owner and/or operator of the “public water system” of the Las Delicias Community, located in Ciales, Puerto Rico, within the meaning of Section 1401(4) and (5) of the SDWA, 42 U.S.C. § 300f(4) and (5), and 40 CFR § 141.2. The Las Delicias Community, composed of those community members served by the Las Delicias Public Water System, is represented by Iris Reyes.
3. Respondent is a “person” subject to an Administrative Order issued under Section 1414(g)(1) of the SDWA, 42 U.S.C. § 300g-3(g)(1).
4. The Las Delicias Public Water System is supplied by a surface water source, and

² Service of the Complaint upon Respondent is discussed in more detail in the Discussion section, below.

provides piped water for human consumption and regularly serves at least 15 service connections used by year-round residents and/or a population of at least 25 individuals, and is, therefore, a "community water system" within the meaning of Section 1401(15) of the SDWA, 42 U.S.C. § 300f(15), and 40 CFR § 141.2.

5. On June 29, 1989, EPA promulgated the Surface Water Treatment Rule (SWTR) as required by Section 1412(b)(7)(C) of the SDWA, 42 U.S.C. § 300g-1(b)(7)(C) and regulated by 40 CFR Part 141 Subpart H. The SWTR is intended to reduce the risk of waterborne disease outbreaks in public water systems utilizing a surface water source.
6. 40 CFR Part 141 Subpart H requires public water systems using a surface water source, and currently not filtering, to filter their water in accordance with 40 CFR § 141.73 by June 29, 1993, or within 18 months of the State's determination that the system must filter, whichever is later, unless the system can meet certain avoidance criteria as outlined in 40 CFR § 141.71(a) and (b) and the disinfection criteria in 40 CFR § 141.72(a).
7. On June 30, 1994, EPA issued an Administrative Order ("AO"), Docket No. PWS-PR-AO-287F, to Honorable Angel M. Otero, former mayor of Ciales and previous owner and/or operator of the Las Delicias Public Water System, under the authority of Section 1414(g) of the SDWA, 42 U.S.C. § 300g-3(g), addressing violations of the SDWA and the regulations promulgated there under.
8. On August 3, 1999, EPA issued an Amended Administrative order, Docket No. PWS-PR-AO-287A, to Respondent. The Amended Administrative Order granted the community an additional two (2) years to achieve compliance.
9. Respondent failed to provide filtration to the Las Delicias Public Water System by the

August 3, 2001 deadline set forth in the 1999 Amended Administrative Order.

10. Respondent continues to be in non-compliance by failing to comply with the filtration requirements specified in 40 CFR Part 141 Subpart H and Section 12 of the Amended Administrative Order.
11. As set forth above, Complainant found that Respondent has violated the Administrative Orders issued pursuant to Section 1414(g) of the SDWA, 42 U.S.C. § 300g-3(g), and the SWTR, promulgated pursuant to Section 1412(b)(7)(C) of the SDWA, 42 U.S.C. § 300g-1(b)(7)(C), and regulated by 40 CFR Part 141 Subpart H. For these violations, Complainant filed a Complaint against Respondent, appended to the Motion for Entry of Default as Exhibit 1, pursuant to Section 1414(g)(3)(B) of the SDWA, 42 U.S.C. § 300g-3(g)(3)(B), seeking an administrative penalty of Five Hundred Dollars (\$500).
12. Respondent was served with a copy of the original Complaint and Administrative Order SDWA 02-2003-8043 by certified mail return receipt requested. The Complaint and other documents, issued on July 11, 2003, were sent to Ms. Reyes' known address, "HC 01 Box 5715, Ciales, Puerto Rico 00638." As discussed in the following section of this Default Order and Initial Decision, the United States Postal Service ("USPS") Domestic Return Receipt ("return receipt") was returned to EPA signed by an individual identifying herself as Lydia Collazo on August 1, 2003.
13. Respondent has failed to answer the Complaint.
14. On March 8, 2007, Complainant issued a Motion for Entry of Default. It was served on Respondent via certified mail return receipt requested on March 12, 2007. Complainant received a return receipt card for the Motion for Default signed by Lydia Collazo.

15. To date, the Respondent has failed to respond to the Motion for Entry of Default.

DISCUSSION

Before proceeding to the findings of a violation and appropriate penalty, it is necessary to determine whether service of process was proper and effectual, for if service was invalid then default cannot enter. I note that there has been no challenge by the Respondent to service of process of the Complaint in this matter. However, default judgments are not favored by modern procedure (*See In the Matter of Rod Bruner and Century 21 Country North*, EPA Docket No. TSCA-05-2003-0009, May 19, 2003), and an entry of default may be set aside for good cause shown (40 CFR § 22.17(c)). Therefore, I will briefly consider the fact an individual named Lydia Collazo, rather than the named representative, Iris Reyes, signed for the Respondent. The relevant facts and applicable regulatory requirements are summarized herein.

Rule 4(d) of the Federal Rules of Civil Procedure (“FRCP”) appears to require personal delivery of a Complaint, but the FRCP are not binding on administrative agencies. *See Hess & Clark, Division of Rhodia, Inc. v. FDA*, 495 F.2d 975, 984 (D.C.Cir. 1974). Administrative agencies are free to fashion their own rules for service of process so long as these rules satisfy the fundamental guarantees of fairness and notice. *See Katzson Bros., Inc. v. United States Environmental Protection Agency*, 839 F.2d 1396, 1399 (10th Cir. 1988).³ The court in the *Katzson Brothers* decision concluded that the Consolidated Rules and the requirements of due process alone determine whether EPA's service of process is proper. *See In the Matter of C.W.*

³ Although *Katzson Brothers* analyzed the former version of the Consolidated Rules, the minor differences between the applicable sections of the Consolidated Rules and the former version is insignificant for purposes of the current analysis.

Smith, Grady Smith, & Smith's Lake Corporation, Docket No. CWA-04-2001-1501, 2002 EPA ALJ LEXIS 7 (ALJ, February 6, 2002). EPA has established its own rules of procedure in its Consolidated Rules.

The Consolidated Rules, 40 CFR Part 22, provide that:

Complainant shall serve on respondent, or a representative authorized to receive service on respondent's behalf, a copy of the signed original of the complaint, together with a copy of these Consolidated Rules of Practice. Service shall be made personally, by certified mail with return receipt requested, or by any reliable commercial delivery service that provides written verification of delivery. 40 CFR § 22.5(b)(1).

In the instant case, Respondent is a community of members served by the Las Delicias public water system, and is therefore an unincorporated association. As to such unincorporated associations, the Consolidated Rules provide:

Where respondent is ... an unincorporated association which is subject to suit under a common name, complainant shall serve an officer, partner, a managing or general agent, or any other person authorized by appointment or by Federal or state law to receive service of process. 40 CFR § 22.5(b)(1)(ii)(A).

The term "representative" as used in section 22.5(b)(1) of the Consolidated Rules, as cited above, is to be construed broadly and with flexibility, and is not limited to an officer, partner, agent or comparable relationship when serving a corporation or an association. *See Katzson Bros., Inc. v. United States. Environmental Protection Agency*, 839 F.2d 1396, 1399 (10th Cir.1988). Rather, a "representative" may be someone who routinely receives and/or signs for mail, such as a personal secretary or a person who signs a certified mail receipt card and picks up mail at Respondent's post office box. *In the Matter of Herman Roberts*, Docket No. OPA 99-512, 2000 EPA RJO Lexis 211, 2000 WL 1660913 (April 4, 2000).

As mentioned above, an issue as to the adequacy of service arises because the person signing the return receipt, Lydia Collazo, was not the designated representative of the Respondent, and did not indicate her relationship either to the designated representative, Iris Reyes, or the Respondent, the Las Delicias Community, when signing the return receipt. While one could assume that Ms. Collazo was authorized to receive service on behalf of the named representative at the representative's designated address, and hence, authorized to receive service on behalf of the Respondent, the undersigned believes that it is preferable to inquire further into the adequacy of service in order that the record supporting a Default Order and Initial Decision be as complete and conclusive as possible.

Therefore, an Order to Supplement the Record, directing the parties to provide any information to clarify the service issue, including information addressing the relationship between Ms. Reyes and Ms. Collazo, the relationship between Ms. Collazo and the Las Delicias Community, and any other information which the parties believe would have a bearing on the question of whether service in this case complied with the applicable regulations, was issued on August 20, 2008.

While the Respondent did not respond, the Complainant's response to that Order, its Motion to Supplement the Record issued on September 11, 2008, set forth the following: that to the best of EPA's knowledge, both Ms. Reyes and Ms. Collazo are members of the Las Delicias Community; that Ms. Reyes sent a letter dated January 25, 2005 to Ms. Cristina Maldonado, an EPA Enforcement Officer, regarding the Administrative Order that was included with the Complaint, and that this letter was signed by numerous community members, including Ms. Reyes and Ms. Collazo; that EPA was notified by an April 17, 2007 letter from the Municipality

of Ciales that the Municipal Assembly wished to discuss the enforcement action against the Respondent through its representative, Ms. Reyes; that on or about April 18, 2007, EPA, by Complainant's Counsel and Ms. Maldonado, voluntarily visited the Municipality of Ciales to attend a meeting being held by the Municipal Assembly to discuss EPA's enforcement action against the Respondent..

The significance of this information is twofold. First, based on this information, it appears that the Complainant is correct in asserting that they have demonstrated that service of the Complaint was proper. Under the regulations and precedents discussed above, it would be reasonable to assume that by addressing the Complaint to the Respondent by a named representative at that representative's designated address, and leaving that Complaint with another community member of Respondent, an unincorporated association, at that address, the Complainant took actions reasonably calculated to give the Respondent notice. It also appears reasonable that Ms. Collazo be presumed, as a community member receiving mail, including both the Complaint and the subsequent Motion for Entry of Default, at Ms. Reyes' address, to be authorized to receive service on behalf of the Las Delicias Community.

Moreover, based on additional information provided by Complainant's Attorney in its motion supplementing the record, the undersigned need not rely on this presumption in determining whether service of the Complaint was adequate under Part 22 and the requirements of due process, as actual service was obviously achieved. As stated in Complainant's Attorney's motion, Ms. Maldonado received a letter from Ms. Reyes which among other things, acknowledged receipt of the package including the Complaint, establishing that Respondent, through its named representative, had actual notice of the Complaint no later than the date of this

letter, January 25, 2005. The conclusion that Respondent was served with the Complaint is also supported by the fact that subsequently, Complainant's Attorney received a letter indicating that the Municipal Assembly of Ciales, the town where Respondent was located, wanted to discuss the enforcement action with Complainant. Finally, Complaint's Attorney states that EPA representatives, including Complainant's Attorney, met personally with the Municipal Assembly to discuss EPA's enforcement action against the Respondent, further establishing that Respondent and its designated representative were aware of the Complaint.

More importantly, if the fact of the receipt of the Complaint by Respondent's representative in August of 2003 was ever put in doubt, the fact that Respondent's named representative corresponded with Complainant regarding the enforcement action established actual notice of the Complaint as of the date of that correspondence, January 25, 2005, at the latest. Respondent has had over three years since that date to respond to the Complaint, and more than two years has passed between the date of that letter and the filing of the Motion for Entry of Default in this matter.

In the Matter of C.W. Smith, Grady Smith, & Smith's Lake Corporation, Respondent, Docket No. CWA-04-2001-1501, 2002 EPA ALJ LEXIS 7 (ALJ, February 6, 2002), the Court, considering a case in which Respondents challenged service of process after entering into settlement negotiations with the Complainant EPA and otherwise acknowledging receipt of the Complaint, discussed actual, as opposed to sufficient, service of process, stating:

Considering the facts in the light most favorable to respondents, the Court find that actual service of process of the Complaint was achieved on both respondents... The achievement of actual service of process obviates the failure of Complainant to strictly comply with the service of process procedures of the Rules

of Practice.

As stated above, applicable legal precedents and the fundamental guarantees of fairness and notice mandate that the undersigned establishes that service of process upon the Respondent was sufficient under the controlling regulations, ensuring that jurisdiction over the Respondent is clear, before a default order can be issued. Upon review of the facts, the regulations and the applicable legal precedents, I conclude that service of the Complaint is in compliance with the Consolidated Rules and satisfies due process concerns.

CONCLUSIONS OF LAW

1. Jurisdiction is conferred by Section 1414 of the SDWA, 42 U.S.C. § 300g-3.
2. Section 1414(g)(3)(A) of the Act, 42 U.S.C. § 300g-3(g)(3)(A), as amended by the Debt Collection Act of 1996, implemented by the Civil Monetary Penalty Inflation Adjustment Rule, 40 CFR Part 19, in effect as of December 31, 1991, provides that any person who violates, or fails or refuses to comply with, an Administrative Order issued pursuant to the SDWA shall be liable to the United States for a civil penalty up to \$27,500 per day of violation.
3. The Complaint in this action was served upon Respondent in accordance with 40 CFR § 22.5(b)(1).
4. Respondent's failure to file an Answer to the Complaint, or otherwise respond to the Complaint, constitutes a default by Respondent pursuant to 40 CFR § 22.17(a).
5. Respondent's default constitutes an admission of the allegations set forth in the Complaint and a waiver of the Respondent's right to a hearing on such factual

allegations. 40 CFR §§ 22.17(a) and 22.15(d).

6. Respondent has failed to comply with the provisions of Administrative Orders issued pursuant to Section 1414(g) of the Act.
7. Pursuant to 40 CFR § 22.17(a), Respondent's failure to file a timely Answer or otherwise respond to the Complaint is grounds for the entry of an Order on Default against the Respondent assessing a civil penalty for the aforementioned violations.
8. As described in the penalty calculation below, I find that the Complainant's proposed civil penalty of \$500 is properly based on the statutory requirements of Section 1414(g) of the SDWA, 42 U.S.C. § 300g-3(g).

DETERMINATION OF PENALTY

As set forth above, Section 1414(g)(3)(A) of the SDWA, U.S.C. § 300g-3(g)(3)(A), as amended by the Debt Collection Act of 1996, provides that any person who violates, or fails or refuses to comply with, an Administrative Order issued pursuant to the SDWA shall be liable to the United States for a civil penalty up to \$27,500 per day of violation.

In both its Complaint and its Motion for Entry of Default, the Complainant seeks a civil penalty of \$500, based upon the statutory factors in Section 1414(b) of the SDWA, U.S.C. § 300g-3(b)⁴ and in accordance with the Agency's Policy on Civil Penalties (#GM-21),⁵ as outlined

⁴ Section 1414(b) of the SDWA, U.S.C. § 300g-3(b) specifically provides statutory guidelines for a Federal district court to consider when determining an appropriate civil penalty. While there are no equivalent statutory criteria for consideration in an administrative matter, EPA has followed the statutory guidelines set forth for courts, as well as written penalty policies, when calculating an appropriate penalty amount. *See In the Matter of Harold Gallagher, Manager, Mansard Apartments*, EPA Docket No. SDWA-02-2001-8293; *In the Matter of Apple Blossom Court*, EPA Docket No. SDWA-10-2001-0147.

⁵ Complainant does not have a written penalty policy for calculating the penalty amount it would seek in an

in the Motion for Entry of Default and Exhibit 3 thereto, an undated memorandum to file entitled *Issuance of Penalty Order to Non-PRASA System SDWA-02-2003-8265*. The statutory factors under Section 1414(b) of the SDWA include the seriousness of the violation, the population at risk, and other appropriate factors, including the prior history of such violations, the degree of willfulness or negligence, the economic benefit accrued to the Respondent through failure to comply, and the ability of the Respondent to pay.

In concluding that the proposed penalty is reasonable, the undersigned took the following findings into consideration:

1. The risk to public health in this case is known and could have easily been avoided. EPA's main concern is the risk of waterborne diseases and pathogens, and the construction of a filtration system is necessary to protect the users of the system from these risks. Therefore, Respondent's failure to comply with the Act and the Administrative Orders has placed a significant number of individuals at risk of infectious diseases over a significant period of time.
2. Respondent has violated the Act and the SWTR by failing to install filtration by June 29, 1993. EPA issued to the Respondent a 1994 Administrative Order and a 1999 Amended Administrative Order requiring compliance with the filtration and disinfection requirements of the SWTR by August 3, 2001. Respondent never complied with the ordered provisions of the above referenced Administrative Orders. Furthermore, from 1994 through 2001, inspections to the system were performed and compliance letters

administrative or judicial action for violations of the Public Water Supply section of the Safe Drinking Water Act, as it does under other environmental statutes.

were sent to the Respondent to follow up in the Respondent's efforts to achieve compliance. All efforts were unsuccessful and as of this date Respondent continues to be in non-compliance.

3. Respondent was made aware its duty to comply with the Act and the SWTR, as well as the deadlines contained in the Administrative Orders. Respondent had been unresponsive up to the date of the issuance of the Complaint.
4. The Las Delicias Community, served by the Las Delicias Public Water System, is a non-profit organization. The EPA's enforcement officer determined that Respondent realized no economic benefit from its non-compliance.
5. The Las Delicias Public Water System serves a community that is not organized. At the time of the issuance of the complaint, the enforcement officer did not know if the users of the system collect a monthly fee to defray maintenance and operation costs of the system. Therefore, the \$500 penalty is a reasonable amount in light of the pattern of non-compliance and the health risks involved.
6. In summary, the Complainant did not propose the maximum penalty (\$27,500) allowed under the SDWA for violation of the Administrative Order. Nevertheless, Complainant makes clear that it takes violations of its Administrative Orders and the SWTR seriously. The penalty sought in the amount of \$500 is fully supported by the application of the statutory factors for determining a civil penalty in Section 1414(b) of the SDWA and the Agency Policy on Civil Penalties. Further, the record supports this penalty. Therefore, a penalty of \$500 is hereby imposed against Respondent.

DEFAULT ORDER

Pursuant to the Consolidated Rules at 40 CFR Part 22, including 40 CFR § 22.17, a Default Order and Initial Decision is hereby ISSUED and Respondent is ordered to comply with all the terms of this Order:

(1) Respondent is assessed and ordered to pay a civil penalty in the amount of Five Hundred Dollars (\$500.00).

(2) Respondent shall pay the civil penalty by certified or cashier's check payable to the "Treasurer of the United States of America" within thirty (30) days after this default order has become a final order pursuant to 40 CFR § 22.27(c). The check shall be identified with a notation of the name and docket number of this case, set forth in the caption on the first page of this document. Such payment shall be remitted to:

US Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
PO Box 979077
St. Louis, MO 63197-9000

A copy of the payment shall be mailed to:

Regional Hearing Clerk
EPA Region 2
290 Broadway, 16th Floor
New York, New York 10007

(3) This Default Order constitutes an Initial Decision pursuant to 40 CFR § 22.17(c).

Pursuant to 40 CFR § 22.27(c), this Initial Decision shall become a final order forty-five

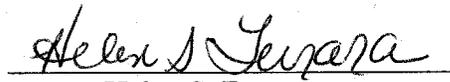
(45) days after its service upon the parties unless (1) a party moves to reopen the hearing,

(2) a party appeals the initial decision to the Environmental Appeals Board, (3) a party

moves to set aside the default order, or (4) the Environmental Appeals Board chooses to review the initial decision sua sponte.

IT IS SO ORDERED.

Dated: September 29, 2008

A handwritten signature in cursive script, reading "Helen S. Ferrara", is written over a horizontal line.

Helen S. Ferrara
Presiding Officer

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CERTIFICATE OF SERVICE

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ENVIR. APPEALS BOARD

I hear by certify that the **Default Order and Initial Decision** by Regional Judicial Officer Helen Ferrara in the matter of **Las Delicias Community, Docket No. SDWA-02-2003-8265** is being served on the parties because the respondent's mail was returned unclaimed by the post office. This order is being reserved on the parties as indicated below:

Certified Mail
Return Receipt
and Regular Mail

Iris Reys
Las Delicias Community
HC 01 Buzon 5715
Ciales, Puerto Rico 00638-9622

Overnight Mail -

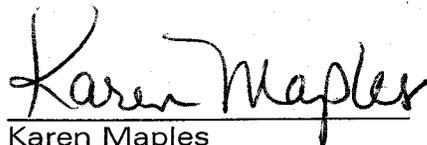
Environmental Appeals Board
U.S. Environmental Protection Agency
Colorado Building, Suite 600
1341 G. Street, N.W.
Washington, D.C. 20005
(w/copy of official file)

Pouch Mail -

Assistant Administrator for
Enforcement & Compliance Assurance
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W. (2201A)
Washington, D.C. 20460

Regular Mail -

Lourdes del Carmen Rodriguez, Esq.
Office of Regional Counsel
USEPA - Region II
Caribbean Field Division
Centro Europa Bldg.
1492 Ponce de Leon Avenue, Suite 417
San Juan, Puerto Rico 00907



Karen Maples
Regional Hearing Clerk
USEPA - Region II

Dated: September 30, 2008