



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 2  
290 BROADWAY  
NEW YORK, NY 10007-1866

APR 27 2007

U.S. ENVIRONMENTAL  
PROTECTION AGENCY-REG. II  
2007 APR 27 AM 9:56  
REGIONAL HEARING  
CLERK

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Article Number: 7005 3110 0000 5972 8376 - 7005 3110 0000 5930 7496

The Honorable Manuel Ortega  
Mayor of Municipality of Naranjito  
Apartado 53  
Naranjito, Puerto Rico 00719

Mr. Frankie E. Cuadrado  
Municipality of Naranjito  
Apartado 53  
Naranjito, Puerto Rico 00719

Re: **Docket No. CWA-02-2007-3323**  
**Naranjito Coliseum**  
**PRR10B931**

Dear Mayor Ortega and Mr. Cuadrado:

Enclosed is a copy of the signed Expedited Settlement Offer ("ESO") Agreement entered into as part of the Consent Agreement and Final Order ("CAFO").

As you agreed to in this Expedited Storm Water Settlement Agreement, you must pay the settlement penalty amount **(\$15,000)** within ten (10) days from the date of receipt of this letter, which contains the agreement which has been "So Ordered" and is effective. You must send your original check and a copy of the Agreement, via certified mail, to:

Regional Hearing Clerk  
U.S. EPA, Region 2  
In the Matter of Municipality of Naranjito  
Docket No.: CWA-02-2007-3323  
P.O. Box 360188M  
Pittsburgh, PA 15251

The payment for the penalty amount must be in the form of a bank, cashiers or certified check payable to the "Treasurer, United States of America" with EPA and the Docket Number of the Expedited Settlement Agreement written on the check.

A copy of the check payment of the penalty amount must also be sent via certified mail to Henry Mazzucca, P.E., Chief, Compliance Section, Water Compliance Branch, 290 Broadway, 20<sup>th</sup> Floor, New York, NY 10007 for our records.

Please note that once full payment is made this settles all civil penalties claims against you for the Clean Water Act violations issued in the CAFO.

If you have any questions concerning the above, please contact Mr. Douglas McKenna at (212) 637-4244.

Sincerely,

  
Dore LaPosta, Director  
Division of Environmental Compliance and Assistance

cc: Wanda E. Garcia Hernandez, Director, Water Quality Area, PREQB



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY – REGION 2**  
**Division of Enforcement and Compliance Assistance**  
**290 Broadway**  
**New York, New York 10007-1866**

**EXPEDITED STORM WATER SETTLEMENT AGREEMENT**  
**Docket Number: CWA-02-2007-3323, NPDES No. PRR10B931**

**Municipality of Naranjito** (“Respondent”) is a “person,” within the meaning of Section 502(5) of the Clean Water Act (“Act”), 33 U.S.C. §1362(5), and 40 C.F.R. §122.2.

Attached is an “Expedited Settlement Offer Deficiencies Form” (herein the “Form”), which is incorporated by reference. By its signature, Complainant (“EPA”) finds that Respondent is responsible for the deficiencies specified in the Form.

Respondent had an unauthorized discharge of storm water in violation of Section 301(a) of the Clean Water Act, 33 U.S.C. § 1311, and/or failed to obtain a National Pollutant Discharge Elimination System (“NPDES”) storm water permit issued under Section 402 of the Act, 33 U.S.C. § 1342, as described in the attached worksheet.

EPA finds, and Respondent admits, that Respondent is subject to Section 301(a) of the Act, 33 U.S.C. §1311, and that EPA has jurisdiction over the allegations and any “person” who “discharges pollutants” from a “point source” to “waters of the United States.” Respondent neither admits nor denies the allegation(s) specified in the Form.

EPA is authorized to enter into this Consent Agreement and Final Order (“Agreement”) under the authority vested in the Administrator of EPA by Section 309(g)(2)(A) of the Act, 33 U.S.C. §1319(g)(2)(A), and by 40 C.F.R. §22.13(b). The parties enter into this Agreement in order to settle the civil violation(s) alleged in this Agreement for a penalty of **\$15,000**. Respondent consents to the assessment of this penalty, and waives the right to: (1) contest the finding(s); (2) a hearing pursuant to Section 309(g)(2) of the Act, 33 U.S.C. §1319(g)(2); and (3) appeal pursuant to Section 309(g)(8), 33 U.S.C. §1319(g)(8).

Additionally, Respondent certifies, subject to civil and criminal penalties for making a false statement to the United States Government, that it has corrected any deficiencies identified in the Form, and to the best of its knowledge, is in compliance with the NPDES permitting program.

Respondent certifies that, within ten (10) days of receiving notice from EPA that the Agreement is effective (“So Ordered”) it will send a bank, cashiers or certified check for the amount specified above payable to the “Treasurer, United States of America,” via certified mail, to:


Regional Hearing Clerk  
 U.S. EPA, Region 2  
 In the Matter of Municipality of Naranjito  
 Docket No.: CWA-02-2007-3323  
 P.O. Box 360188M, Pittsburgh, PA 15251

Late payment submittals will be penalized and accrue interest.

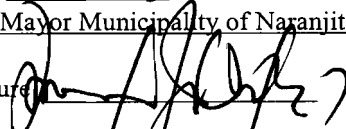
This Agreement settles EPA’s civil penalty claims against Respondent for the CWA violation(s) specified in this Agreement. However, EPA does not waive its rights to take any enforcement action against Respondent for any other past, present, or future civil or criminal violation of the Act or of any other federal statute or regulation. EPA does not waive its right to issue a compliance order for any uncorrected deficiencies or violation(s) described in the Form. EPA has determined this Agreement to be appropriate.

This Agreement is binding on the parties signing below and effective thirty (30) days from the date it is signed (“Approved”) by the Director of the Division of Enforcement and Compliance Assistance unless a petition to set aside the Order is filed by a commenter pursuant to Section 309(g)(4)(C) of the Act, 33 U.S.C. §1319(g)(4)(C), and Part 22.

APPROVED BY EPA:

  
 \_\_\_\_\_ Date: 3/8/07  
 Dore LaPosta, Director  
 Division of Enforcement and Compliance Assistance

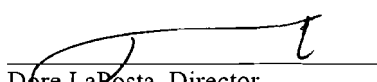
APPROVED BY RESPONDENT in accordance with 40 C.F.R. §122.22:

Name: Manuel Ortega  
 Title: Mayor Municipality of Naranjito (Owner/Operator)  
 Signature:  Date: 2/23/07

More than 40 days have elapsed since the issuance of public notice pursuant to Section 309(g)(4)(A) of the Act, 33 U.S.C. §1319(g)(4)(A), and EPA has received no comments concerning this matter.

Having determined that this CAFO is authorized by law and is in the public interest,

IT IS SO ORDERED:

  
 \_\_\_\_\_ Date: 4/27/07  
 Dore LaPosta, Director  
 Division of Enforcement and Compliance Assistance

# Expedited Settlement Offer Worksheet Deficiencies Form

*Consult instructions regarding eligibility criteria  
and procedures prior to use*

version 10.3.4



LEGAL NAME AND MAILING ADDRESS OF OPERATOR		Telephone Number	NPDES Permit Number
1	Municipality of Naranjito Apartado Postal 53 Naranjito, Puerto Rico 00719		PRR10B931
		Inspector Name:	Ciotola
		Inspector Agency:	US EPA
		Entrance Interview Conducted:	
		Exit Interview Conducted:	Yes
		Exit Interview given to:	Pablo Melendez, Project Manager
		Exit Interview time:	Date: 04/11/2005
LOCATION AND ADDRESS OF SITE			
2	Naranjito Municipal Coliseum PR-147, Km 5.8 Naranjito, Puerto Rico 00719		

FACILITY DESCRIPTION / CONTACT NAMES	
	Name of Site Contact (ESO Worksheet recipient): Rene Acosta Colon
	Name of Authorized Official (40 CFR 122.22): Mayor Manuel de Ortega
	Inspection Date: 04/11/2005
	Start Construction Date: 03/15/2004
	Estimated Completion Construction Date: 06/30/2005
	If Unpermitted, Number of Months Unpermitted: 21
	Name of Receiving Water Body (Indicate whether 303(d) listed): Guadiana river
	Acres Currently Disturbed   Acres to be Disturbed in Whole Common Plan: 6.30
	Has Operator Requested Rainfall Erosivity or TMDL Waiver per 44 CFR 122.26(b)(15)? No

PERMIT COVERAGE	Findings	Citation Reference**	R	C	No. of Deficiencies	A*	Dollar Amount	Total
3	Operator unpermitted for _____ months (# months unpermitted equals number of violations)	NOI Submitted December 13, 2005 constructed started 3/15/04	CWA 301		21	X	\$500.00 =	\$10,500
SWPPP REVIEW								
4	SWPPP not prepared (If no SWPPP, leave elements 5 - 30 blank)	CGP 3.1.A			1		\$4,500.00 =	\$4,500
5	SWPPP prepared but prepared after construction start (# of months = # of violations)	CGP 3.1.A				X	\$75.00 =	
6	SWPPP does not identify all potential sources of pollution to include: porta-pottys, fuel tanks, staging areas, waste containers, chemical storage areas, concrete cure, paints, solvents, etc...	CGP 3.1.B					\$250.00 =	
7	SWPPP does not identify all operators for the project site and the areas of the site over which each operator has control	CGP 3.3.A					\$500.00 =	
8	SWPPP does not have site description, as follows:							
	A Nature of activity in description	CGP 3.3.B.1					\$100.00 =	
	B Intended sequence of major activities	CGP 3.3.B.2					\$100.00 =	
	C Total disturbed acreage	CGP 3.3.B.3					\$100.00 =	
	D General location map	CGP 3.3.B.4					\$100.00 =	
	E Site map	CGP 3.3.C					\$500.00 =	
	F Site map does not show drainage patterns, slopes, areas of disturbance, locations of major controls, structural practices shown, stabilization practices, offsite materials, waste, borrow or equipment storage areas, surface waters, discharge points, areas of final stabilization (count each omission under BF as 1 violation)	CGP 3.3.C.1-8				X	\$50.00 =	
	G Location/description industrial activities, like concrete or asphalt batch plants	CGP 3.3.D					\$500.00 =	
9	SWPPP does not:							
	A Describe all pollution control measures (e.g. BMPs)	CGP 3.4.A					\$750.00 =	

	B Describe sequence for implementation		CGP 3.4.A			\$250.00	=	
	C Detail operator(s) responsible for implementation		CGP 3.4.A			\$250.00	=	
10	SWPPP does not describe interim stabilization practices		CGP 3.4.B			\$250.00	=	
11	SWPPP does not describe permanent stabilization practices		CGP 3.4.B			\$250.00	=	
12	SWPPP does not describe a schedule to implement stabilization practices		CGP 3.4.B			\$250.00	=	
13	Following dates are not recorded: major grading activities; construction temporarily or permanently ceased; stabilization measures initiated (count each omission under 13 as 1 violation)		CGP 3.4.C.1-3		X	\$250.00	=	
14	SWPPP does not have description of structural practices to divert flows from exposed soils, retain flows, or limit runoff from exposed areas		CGP 3.4.D			\$500.00	=	
15	SWPPP does not have a description of measures that will be installed during the construction process to control pollutants in storm water discharges that will occur AFTER construction operations have been completed		CGP 3.4.E			\$500.00	=	
16	SWPPP does not describe measures to prevent discharge of solid materials to waters of the US, except as authorized by 404 permit		CGP 3.4.F			\$500.00	=	
17	SWPPP does not describe measures to minimize off-site vehicle tracking and generation of dust.		CGP 3.4.G			\$500.00	=	
18	SWPPP does not include description of construction or waste materials expected to be stored on site w/updates re: controls used to reduce pollutants from these materials		CGP 3.4.H			\$250.00	=	
19	SWPPP does not have description of pollutant sources from areas other than construction (asphalt or concrete plants) w/ updates re: controls to reduce pollutants from these materials		CGP 3.4.I			\$500.00	=	
20	SWPPP does not identify allowable sources of non-storm water discharges listed in subpart 1.3.B of the CGP		CGP 3.5			\$500.00	=	
21	SWPPP does not identify/ensure implementation of pollution prevention measures for non-storm water discharges		CGP 3.5			\$500.00	=	
22	Endangered Species Act documentation is not in SWPPP		CGP 3.7			\$500.00	=	
23	Historic Properties (Reserved)							
24	Copy of permit and/or NOI not in SWPPP (count each omission under 24 as 1 violation)		CGP 3.8		X	\$250.00	=	
25	SWPPP is not consistent with requirements specified in applicable sediment and erosion site plans or site permits, or storm water management plans or site permits approved by State, Tribal or local officials (e.g., MS4 requirements)		CGP 3.9			\$750.00	=	
26	SWPPP has not been updated to remain consistent with changes applicable to protecting surface waters in State, Tribal or local erosion plans		CGP 3.9			\$250.00	=	
27	Copies of inspection reports have not been retained as part of the SWPPP for 3 years from date permit coverage terminates		CGP 3.10.G			\$500.00	=	
28	SWPPP has not been updated/modified to reflect change at site effecting discharge, or where inspections identify SWPPP/BMPs as ineffective, updates to SWPPP regarding modifications to BMPs not made within 7 days of such inspection (count each omission under under 28 as 1 violation)		CGP 3.11.C		X	\$50.00	=	
29	Copy of SWPPP not retained on site		CGP 3.12.A			\$500.00	=	
	A SWPPP not made available upon request		CGP 3.12.C			\$500.00	=	
30	SWPPP not signed/certified		CGP 3.12.D			\$500.00	=	
Subtotal SWPPP Deficiencies								\$4,500

<b>INSPECTIONS</b>									
31	Inspections not performed and documented either once every 7 days, or once every 14 days and within 24 hours after storm event greater than 0.5 inches or greater (not required if: temp stabilization; runoff unlikely due to winter conditions; construction during arid periods in arid areas) (Count each failure to inspect and document as one violation).		CGP 3.10.A, 3.10.B			X	\$250.00	=	
	No inspections conducted and documented (if True, then leave elements 32-39 blank)						True or False	=	
	Number of Inspections expected if performed every 7 days:	56						=	
	Number of Inspections expected if performed bi-weekly:	28						=	
	If known, number of days of rainfall of >0.5"							=	
32	Inspections not conducted by qualified personnel		CGP 3.10.D				\$50.00	=	
33	All areas disturbed by construction activity or used for storage of materials and which exposed to precipitation not inspected		CGP 3.10.E.				\$50.00	=	
34	All pollution control measures not inspected to ensure proper operation		CGP 3.10.E.				\$50.00	=	
35	Discharge locations are not observed and inspected		CGP 3.10.E.				\$50.00	=	
36	For discharge locations that are not accessible, nearby locations are not inspected		CGP 3.10.E.				\$50.00	=	
37	Entrance/exit not inspected for off-site tracking		CGP 3.10.E.				\$50.00	=	
38	Site inspection report does not include: date, name and qualifications of inspector, weather information, location of sediment/pollutant discharge, BMP(s) requiring maintenance, BMP(s) that have failed, BMP(s) that are needed, corrective action required including changes/updates to SWPPP and schedule/dates (count each omission under 38 as 1 violation)		CGP 3.10.G			X	\$50.00	=	
39	inspection reports not properly signed/certified (count each failure to to sign/certify as 1 violation)		CGP 3.10.G			X	\$50.00	=	
<b>Subtotal Inspections Deficiencies</b>									<b>\$0</b>
<b>AVAILABILITY OF RECORDS</b>									
40	Sign/notice not posted		CGP 3.12.B				\$250.00	=	
	A Does not contain copy of complete NOI		CGP 3.12.B				\$50.00	=	
	B Location of SWPPP or contact person for scheduling viewing times where on-site location for SWPPP unavailable not noted on sign		CGP 3.12.B				\$50.00	=	
<b>Subtotal Records Deficiencies</b>									<b>\$0</b>
<b>BEST MANAGEMENT PRACTICES</b>									
41	No velocity dissipation devices located at discharge locations or outfall channels to ensure non-erosive flow to receiving water		CGP 3.13.F				\$500.00	=	
42	Control measures are not properly:							=	
	A Selected, installed and maintained		CGP 3.13.A				\$500.00	=	
	B Maintenance not performed prior to next anticipated storm event		CGP 3.6.B				\$250.00	=	
	(count each failure to select, install, maintain each BMP as one violation)							=	
43	When sediment escapes the site, it is not removed at a frequency necessary to minimize off-site impacts		CGP 3.13.B				\$500.00	=	
44	Litter, construction debris, and construction chemicals exposed to storm water are not prevented from becoming a pollutant source (e.g. screening outfalls, pickup daily, etc.)		CGP 3.13.C				\$500.00	=	

45	Stabilization measures are not initiated as soon as practicable on portions of the site where construction activities have temporarily or permanently ceased within 14 days after such cessation		CGP 3.13.D			\$500.00	=		
	*Exceptions:								
	(a) Snow or frozen ground conditions								
	(b) Activities will be resumed within 14 days								
	(c) Arid or Semi-arid areas (<20 inches per								
46	Common Drainage of 10+ acres does not have a sedimentation basin for the 2 year, 24 hour storm, or 3600 cubic ft. storage per acre drained		CGP 3.13.E.1			\$1,000.00	=		
A	Where sedimentation basin not attainable, smaller sediment basins, sediment traps, or erosion controls not implemented for downslope		CGP 3.13.E.2			\$1,000.00	=		
B	Sediment not removed from sediment basin or traps when design capacity reduced by 50% or more		CGP 3.6.C			\$500.00	=		
47	Common Drainage less than 10 acres does not have sediment traps, silt fences, vegetative buffer strips, or equivalent sediment controls for all down slope boundaries (not required if sedimentation sediment basin meeting criteria in 46 above)		CGP 3.13.E.3			\$500.00	=		
A	Sediment not removed from sediment trap when design capacity reduced by 50% or more		CGP 3.6.C		X	\$500.00	=		
<b>Subtotal BMP Deficiencies</b>									<b>\$0</b>
<b>SMALL BUSINESS EVALUATION</b>									
48	Is the Owner/Operator a Small Business?								
	A <i>small business</i> is defined by EPA's Small Business Compliance Policy as: "a person, corporation, partnership, or other entity that employs 100 or fewer individuals (across all facilities and operations owned by the small business)." The number of employees should be considered as full-time equivalents on an annual basis, including contract employees (see 40 CFR 372.3). A full time employee unit is 2000 hours worked per year.								
<b>Total Expedited Settlement:</b>									<b>\$15,000</b>
<p>* Requires Corrective Action</p> <p>** NPDES General Permit, 68 FR 39087, issued by EPA on July 1, 2003, <a href="http://cfpub.epa.gov/npdes/stormwater/cgp.cfm">http://cfpub.epa.gov/npdes/stormwater/cgp.cfm</a></p>									

In the Matter of: Municipality of Naranjito  
**Docket No. CWA-02-2007-3323**

**CERTIFICATE OF SERVICE**

I certify that I have this day caused to be sent the foregoing fully executed signed Expedited Settlement Offer (ESO) Agreement entered into as part of the CONSENT AGREEMENT and FINAL ORDER, bearing the above-referenced docket number, in the following manner to the respective addresses below:

Original and One Copy  
**BY Hand:**

Office of Regional Hearing Clerk  
U.S. Environmental Protection  
Agency - Region 2  
290 Broadway, 16th Floor  
New York, New York 10007-1866

Copy by Certified Mail,  
**Return Receipt Requested:**

Mr. Frankie E. Cuadrado  
Municipality of Naranjito  
Apartado 53  
Naranjito, Puerto Rico 00719

Copy by Certified Mail,  
**Return Receipt Requested:**

The Honorable Manuel Ortega  
Mayor of Municipality of Naranjito  
Apartado 53  
Naranjito, Puerto Rico 00719

Dated: 4/30/07  
New York, New York

Maria St. Germain  
Secretary