



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

U.S. ENVIRONMENTAL
 PROTECTION AGENCY-REG. 2
 2009 AUG -3 PM 2:12
 REGIONAL HEARING

EXPEDITED STORM WATER SETTLEMENT AGREEMENT

Desarrolladora Ciento Dos Inc., Docket Number: CWA-02-2009-3308, NPDES No. PR100009

Desarrolladora Ciento Dos, Inc. ("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.

This Agreement settles EPA's civil penalty claims against Respondent for the CWA violation(s) specified in this Agreement

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.

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.


Respondent had an unauthorized discharge of storm water and permit violation in violation of Sections 301(a) and 402 of the Clean Water Act, 33 U.S.C. § 1311 and § 1442, respectively as described in the attached table.

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.

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.

APPROVED BY EPA:

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 \$5,375. 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).


 _____ Date: 6/1/09
 Dore LaPosta, Director
 Division of Enforcement and Compliance Assistance

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

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.

Name: Mr. Luis Garate
 Title: President, Desarrolladora Ciento dos, Inc.
 (Owner/Operator)

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:

Signature:  Date: May 28, 09

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.

Regional Hearing Clerk
 U.S. EPA, Region 2
 In the Matter of : Desarrolladora Ciento Dos, Inc.
 Docket No.: CWA-02-2009-3308
 Cincinnati Finance Center
 PO Box 979077
 St. Louis, MO 63197-9000

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

IT IS SO ORDERED:
 _____ Date: 7/21/09
 Dore LaPosta, Director
 Division of Enforcement and Compliance Assistance

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 2

IN THE MATTER OF:

Mr. Luis Garate, President
Desarrolladora Ciento Dos, Inc.
P. O. Box 849
Saint Just, Puerto Rico 00978

Docket No.CWA-02-2009-3308

NPDES Unpermitted: PRR10BC09

Respondent

Proceeding to Assess Civil Penalty
Pursuant to Section § 309 (g) of the
Clean Water Act, 33 U.S.C. § 1319 (g)

CERTIFICATE OF SERVICE


I certify that, on the date noted below, I caused to be mailed a copy of this "CONSENT AGREEMENT AND FINAL ORDER" to the following person at the address listed below:

Mr. Luis Garate, President
Desarrolladora Ciento Dos, Inc.
P. O.Box 849
Saint Just, Puerto Rico 00978

I [hand carried/mailed] the original and a copy of this "CONSENT AGREEMENT AND FINAL ORDER" to the following person at the address listed below:

U.S. Environmental Protection Agency
Regional Hearing Clerk (16th Floor)
290 Broadway
New York, N.Y. 10007-1866

Date: August 3, 2009
New York, New York


[Signature of Sender]



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

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG.II
2009 AUG -3 PM 2:12
REGIONAL HEARING
CLERK

JUL 31 2009

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Article Number: 7005 3110 0000 5943 0491

Mr. Luis Garate, President
Desarrolladora Ciento Dos, Inc.
P.O. Box 849
Saint Just, Puerto Rico 00978

Re: Docket No. CWA-02-2009-3308
Mirador Del Sol, Desarrolladora Ciento Dos, Miradero Ward, Cabo Rojo, Puerto Rico
NPDES Storm Water Construction General Permit Tracking No. PRR10BC09

Dear Mr. Garate:

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 (\$5,375.00) 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 : Desarrolladora Ciento Dos, Inc.
Docket No.: CWA-02-2009-3308
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000


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, express mail or equivalent to Henry Mazzucca, P.E. Chief, Compliance Section, Water Compliance Branch, 290 Broadway, 20th 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. Murray Lantner, P.E., Environmental Engineer at (212) 637-3976.

Sincerely,


Dore LaPosta Director
Division of Enforcement and Compliance Assistance

Enclosure

If you have any questions concerning the above, please contact Mr. Murray Lantner, P.E., Environmental Engineer at (212) 637-3976.

Sincerely,

Original signed by
Patrick Durack

Dore LaPosta, Director
Division of Enforcement and Compliance Assistance

Enclosure

bcc: Henry Mazzucca, DECA-WCB (w/enclosure)
John Ciorciari, OPM-FMB (w/enclosure)
Patrick Harvey, DECA-CAPS (w/enclosure)
Karen Maples, Regional Hearing Clerk (w/enclosure)
Blake Edwards, Specialist, Cincinnati Finance Center