

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG.II
2009 JUL 15 PM 2:24
REGIONAL HEARING
CLERK

In the Matter of:

SHELL CHEMICAL YABUCOA, INC.
State Road 901, Km. 2.7, Barrio Camino Nuevo
Yabucoa, Puerto Rico 00767

RESPONDENT

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

**PROCEEDING TO ASSESS A
CLASS II CIVIL PENALTY**

**DOCKET NUMBER
CWA-02-2009-3461**

**ADMINISTRATIVE COMPLAINT
FINDINGS OF VIOLATION, NOTICE OF PROPOSED
ASSESSMENT OF A CIVIL PENALTY, AND
NOTICE OF OPPORTUNITY TO REQUEST A HEARING**

I. STATUTORY AND REGULATORY AUTHORITIES

1. This Administrative Complaint, Findings of Violation, Notice of Proposed Assessment of an Administrative Penalty, and Notice of Opportunity to Request a Hearing (“Complaint”) is issued under the authority vested in the Administrator of the United States Environmental Protection Agency (“EPA”) by Section 309(g)(2)(B) of the Clean Water Act (the “Act” or “CWA”), 33 U.S.C. § 1319(g)(2)(B). The Administrator of EPA has delegated this authority to the Regional Administrator of EPA, Region 2, who in turn has delegated it to the Director, Caribbean Environmental Protection Division of EPA, Region 2 (“Complainant”).
2. Pursuant to Section 309(g)(2)(B) of the Act, and in accordance with the “Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits” (“CROP”), 40 CFR Part 22, a copy of which is attached, Complainant hereby requests that the Regional Administrator assess a civil penalty against Shell Chemical Yabucoa, Inc. (“Respondent” or “Permittee”), as a result of Complainant’s determination that the Respondent violated Section 301 of the Act, 33 U.S.C. § 1311, for the unlawful discharge of pollutants into navigable waters without authorization by a National Pollutant Discharge Elimination System (“NPDES”) permit

and for their failure to provide operation and maintenance to the discharge Outfall 001 deep seawater pipeline in violation of Respondent's NPDES permit.

3. Section 301(a) of the Act, 33 U.S.C. § 1311(a), provides in part that "except as in compliance with this Section and Sections . . . 402, and 404 of the Act, the discharge of any pollutant by any person shall be unlawful."
4. Section 308 of the Act, 33 U.S.C. § 1318, provides, in relevant part, that the Administrator of EPA may require the owner or operator of any point source to, among other things: maintain such records; make such reports; install, use and monitor such equipment; sample such effluents; and provide such other information as may reasonably be required in order to carry out Section 402 of the Act, 33 U.S.C. § 1342.
5. Section 402 of the Act, 33 U.S.C. § 1342, authorizes the Administrator of EPA to issue a NPDES permit for the discharge of any pollutant, or combination of pollutants, subject to certain requirements of the Act and such conditions as the Administrator determines are necessary.
6. The Act and its implementing regulations contain the following definitions:
 - a) "Navigable waters" means the waters of the United States and territorial seas, pursuant to Section 502(7) of the Act, 33 U.S.C. § 1362(7).
 - b) "Pollutant" means, but is not limited to, solid waste, dredged spoil, rock, sand, cellar dirt, sewage, sewage sludge, and industrial, municipal and agricultural waste discharged into water, pursuant to Section 502(6) of the Act, 33 U.S.C. § 1362(6).
 - c) "Point source" means "any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged, ..." pursuant to Section 502(14) of the Act, 33 U.S.C. § 1362(14).
 - d) "Discharge of a pollutant" means any addition of any pollutant to navigable waters from any point source, pursuant to Section 502(12) of the Act, 33 U.S.C. § 1362(12).
 - e) "Person" means, but is not limited to, an individual, corporation, partnership or association, pursuant to Section 502(5) of the Act, 33 U.S.C. § 1362(5).
 - f) "Owner or Operator" means the owner or operator of any facility or activity subject to regulation under the NPDES program.

7. EPA issued NPDES Permit No. PR0000400 on August 30, 2000. The permit became effective November 1, 2000.¹
8. Part I, Special Condition 26 of the NPDES Permit authorizes the discharge of treated wastewater from Outfall 001 into Mar Caribe through a multi-port diffuser, thereby creating a mixing zone in Mar Caribe.
9. Part I, Special Condition 4 of the NPDES Permit indicates that “The permittee shall at all times maintain in good working order and operate efficiently all facilities and systems for collection and treatment, which are installed or used by the permittee for water pollution control and abatement to achieve compliance with the terms and conditions of the permit.”
10. Part I, Special Condition 26.u of the NPDES Permit indicates that “The petitioner shall maintain in good operating conditions the discharge system (discharge tubing, ground and submarine, diffuser, ports, etc.). At least once a year, the discharge system shall be inspected to determine if some repairs, replacing, etc. on the discharges system is required.
11. Part I.B.2.b. of the NPDES Permit states that the “Monitoring results obtained during the previous month shall be summarized and reported in a Discharge Monitoring Report Form (EPA No. 3320-1), postmarked no later than the 28th day of the month following the completed reporting period.
12. Part II.B.1.a of the NPDES Permit states that “The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and is grounds for enforcement action; for permit termination, revocation and re-issuance, or modification; or for denial of a permit renewal application.”
13. Part II.B.3 of the NPDES Permit states that “It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.
14. Part II.B.4 of the NPDES Permit states that “The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.”

¹ On August 30, 2000, EPA issued NPDES Permit Number PR0000400 to Puerto Rico Sun Oil Company, which was Respondent’s predecessor in ownership. The Permit became effective on November 1, 2000. The Permit was modified on January 30, 2002, to reflect Respondent as the new owner of the facility. The permit was modified again on March 10, 2003. The permit expired on October 31, 2005, but remains in effect by operation of law pursuant to 40 CFR § 122.6.

15. Part II.B.5 of the NPDES Permit states that “The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems, installed by the permittee, when the operation is necessary to achieve compliance with the conditions of the permit.”

II. JURISDICTIONAL FINDINGS

16. Shell Chemical Yabucoa, Inc. (“Respondent”) is a person within the meaning of Section 502(5) of the CWA, 33 U.S.C. § 1362(5).
17. At all relevant times, Respondent was the owner of the facility.
18. The facility is located at State Road 901, Km. 2.7, Camino Nuevo Ward, Yabucoa, Puerto Rico 00767 (“the facility”).
19. The facility is a petrochemical plant.
20. At all relevant times, the facility was, and is, a point source pursuant to 502(14) of the Act, 33 U.S.C. § 1362(14).
21. On August 30, 2000, EPA issued NPDES Permit Number PR0000400 to Puerto Rico Sun Oil Company, which was Respondent’s predecessor in ownership. The Permit became effective on November 1, 2000 (“the Permit”).
22. The Permit was modified on January 30, 2002, to reflect Respondent as the new owner of the facility.
23. The Permit was modified again on March 10, 2003.
24. The Permit expired on October 31, 2005, but remains in effect by operation of law pursuant to 40 CFR § 122.6.
25. The facility is permitted to discharge pollutants from Outfall 001 into Mar Caribe.
26. Mar Caribe is a navigable water of the United States, as defined at Section 502(7) of the Act, 33 U.S.C. § 1362(7).
27. The facility is permitted to discharge pollutants from Outfall 002 into Quebrada Santiago.

28. Quebrada Santiago is a navigable water of the United States, as defined at Section 502(7) of the Act, 33 U.S.C. § 1362(7).

III. FINDINGS OF VIOLATION

CLAIM I - UNPERMITTED DISCHARGE

29. Complainant re-alleges Paragraphs 16 - 28, above.
30. On March 2, 2009, Mr. Hanz Rutzen, Facility's Terminal Manager, verbally reported to Mr. José A. Rivera of EPA Region 2 Caribbean Environmental Protection Division, that Respondent hired Commercial Divers, Inc. to begin an investigation of a potential leak in the Outfall 001 deep seawater pipeline near Quebrada Santiago.
31. On March 2, 2009, Mr. Hanz Rutzen, Facility's Terminal Manager, verbally reported to Mr. José A. Rivera of EPA Region 2 Caribbean Environmental Protection Division, that Respondent ceased its discharges through the Outfall 001 during the morning hours of March 2, 2009.
32. By letter dated March 6, 2009, Respondent submitted a follow-up notification letter to EPA reporting that Commercial Divers, Inc. confirmed the leak from the Outfall 001 deep seawater pipeline near Quebrada Santiago.
33. By letter dated March 6, 2009, Respondent admitted that the leak began on or about February 25, 2009.
34. On March 24, 2009, Respondent reported in a Discharge Monitoring Report that it discharged the following amounts, on the following days, through the seawater pipeline:
- a. February 27, 2009 – 330,000 gallons of treated wastewater
 - b. February 28, 2009 – 100,000 gallons of treated wastewater
35. On April 27, 2009, Respondent reported in a Discharge Monitoring Report that it discharged the following amounts on the following days, through the seawater pipeline:
- a. March 1, 2009 – 190,000 gallons of treated wastewater
 - b. March 2, 2009 – 150,000 gallons of treated wastewater
 - c. March 3, 2009 – 121,960 gallons of treated wastewater
 - d. March 4, 2009 – 90,000 gallons of treated wastewater
 - e. March 5, 2009 – 270 gallons of treated wastewater
 - f. March 11, 2009 – 19,000 gallons of treated wastewater
 - g. March 12, 2009 – 36,870 gallons of treated wastewater
 - h. March 13, 2009 – 120 gallons of treated wastewater
 - i. March 14, 2009 – 240 gallons of treated wastewater

- j. March 15, 2009 – 90 gallons of treated wastewater
- k. March 17, 2009 – 56,370 gallons of treated wastewater
- l. March 30, 2009 – 4,289 gallons of treated wastewater

CLAIM II - FAILURE TO OPERATE AND MAINTAIN OUTFALL 001 DEEP SEAWATER PIPELINE MULTI-PORT DIFFUSER

- 36. Complainant re-alleges Paragraphs 16 - 28, above.
- 37. On December 31, 2008, Shell's contractor, Commercial Divers, Inc. conducted a diving inspection and video-recorded portions of the Outfall 001 deep seawater pipeline. See Diving Report, December 31, 2008.
- 38. The December 31, 2008 Diving Report indicated that two or three ports were totally covered by sand.
- 39. On March 27, 2009, EPA issued an Administrative Compliance Order ("ACO"), Docket Number CWA-02-2009-3121, against Respondent, for its failure to provide adequate operation and maintenance of the Outfall 001 deep seawater pipeline and related appurtenances.
- 40. Paragraph 35 of the ACO required Respondent to submit a Compliance Plan (including estimated costs) to repair the Outfall 001 deep seawater pipeline leak near Quebrada Santiago and to operate all ports of the diffuser.
- 41. By letter dated April 2, 2009, Respondent certified that it ceased all discharges of pollutants through the Outfall 001 discharge pipeline beginning on March 2, 2009.
- 42. By letter dated April 15, 2009, Respondent submitted a Compliance Plan to bring the Facility into compliance with the Act.
- 43. On May 15, 2009, EPA issued a second Administrative Compliance Order requiring Respondent to implement its Compliance Plan in accordance with the ordered Compliance Schedule ("Second ACO"), Docket Number CWA-02-2009-3127, against Respondent.
- 44. Respondent failed to properly operate and maintain the multi-port diffuser from at least from December 31, 2008 to April 15, 2009.
- 45. Based on the above, Respondent violated Section 301 of the Act, 33 U.S.C. § 1311 by the facility's discharge from an unpermitted discharge point (a point other than Outfall 001 deep seawater pipeline multi-port diffuser) on at least 14 days. In addition, Respondent's failure to provide required operation and maintenance of the multi-port diffuser leading to

Outfall 001 constitutes at least 105 days of violation of Section 301 of the Act, 33 U.S.C. § 1311, and NPDES Permit Number PR0000400.

IV. NOTICE OF PROPOSED ORDER ASSESSING A CIVIL PENALTY

Based on the foregoing Findings of Violation, and pursuant to the authority of Section 309(g) of the Act, 33 U.S.C. §1319(g), and the Debt Collection Improvement Act of 1996, EPA, Region 2 hereby proposes to issue a Final Order Assessing Administrative Penalties (Final Order) to Respondent assessing a penalty of \$153,227. EPA determined the proposed penalty after taking into account the applicable factors identified at Section 309(g)(3) of the Act, 33 U.S.C. §1319(g)(3). EPA has taken account of the nature, circumstances, extent and gravity of the violation (or violations), and Respondent's prior compliance history, degree of culpability, economic benefit or savings accruing to Respondent by virtue of the violations, and Respondent's ability to pay the proposed penalty. Based on the Findings of Violation set forth above, the Respondent has been found to have violated the Act in one hundred nineteen (119) instances. EPA may issue the Final Order Assessing Administrative Penalties thirty (30) days after Respondent's receipt of this Notice, unless Respondent within that time files an Answer to the Complaint and requests a Hearing on this Notice pursuant to the following section.

V. PROCEDURES GOVERNING THIS ADMINISTRATIVE ACTION

The rules of procedure governing this civil administrative litigation have been set forth in the CROP, 40 CFR Part 22. A copy of these rules accompanies this Complaint.

A. Answering The Complaint

Where Respondent intends to contest any material fact upon which the Complaint is based, to contend that the proposed penalty is inappropriate or to contend that Respondent is entitled to judgment as a matter of law, Respondent must file with the Regional Hearing Clerk of EPA, Region 2, both an original and one copy of a written Answer to the Complaint, and such Answer must be filed within thirty (30) days after service of the Complaint. 40 CFR § 22.15(a). The address of the Regional Hearing Clerk of EPA, Region 2, is:

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

Respondent shall also then serve one copy of the Answer to the Complaint upon Complainant and any other party to the action. 40 CFR § 22.15(a). Respondent's Answer to the Complaint must clearly and directly admit, deny, or explain each of the factual allegations that are contained in the Complaint and with regard to which the Respondent has any knowledge. 40 CFR § 22.15(b). Where Respondent lacks knowledge of a particular factual allegation and so states in the Answer, the allegation is deemed denied. 40 CFR § 22.15(b). The Answer shall also set

forth: (1) the circumstances or arguments that are alleged to constitute the grounds of defense, (2) the facts that Respondent disputes (and thus intend to place at issue in the proceeding), (3) the basis for opposing the proposed relief and (4) whether Respondent requests a Hearing. 40 CFR § 22.15(b).

Respondent's failure affirmatively to raise in the Answer facts that constitute or that might constitute the grounds of a defense may preclude Respondent, at a subsequent stage in this proceeding, from raising such facts and/or from having such facts admitted into evidence at a Hearing.

B. Opportunity to Request A Hearing

If requested by Respondent in its Answer, a Hearing upon the issues raised by the Complaint and Answer may be held. 40 CFR § 22.15(c). If, however, Respondent does not request a Hearing, the Presiding Officer (as defined in 40 CFR §22.3) may hold a Hearing if the Answer raises issues appropriate for adjudication. 40 CFR § 22.15(c).

Any Hearing in this proceeding will be held at a location determined in accordance with 40 CFR §22.21(d). A Hearing of this matter will be conducted in accordance with the applicable provisions of the Administrative Procedure Act, 5 U.S.C. §§551-59, and the procedures set forth in Subpart D of 40 CFR Part 22.

Should Respondent request a Hearing on this proposed penalty assessment, members of the public, to whom EPA is obligated to give notice of this proposed action, will have a right under Section 309(g)(4)(B) of the Act, 33 U.S.C. §1319(g)(4)(B), to be heard and to present evidence on the appropriateness of the penalty assessment. Should Respondent not request a Hearing, EPA will issue a Final Order, and only members of the public who submit timely comment on this proposal will have an additional thirty (30) days to petition EPA to set aside the Final Order and to hold a Hearing thereon. EPA will grant the petition and will hold a Hearing only if the petitioner's evidence is material and was not considered by EPA in the issuance of the Final Order.

C. Failure to Answer

If Respondent fails in any 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)] an 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 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 a 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 Final Order of Default against Respondent, and to collect the assessed penalty amount, in Federal court.

VI. INFORMAL SETTLEMENT CONFERENCE

Whether or not Respondent requests a formal Hearing, EPA encourages settlement of this proceeding consistent with the provisions of the Act and its applicable regulations. 40 CFR § 22.18(b). At an informal conference with a representative(s) of Complainant, Respondent may comment on the charges made in this Complaint and Respondent may also provide whatever additional information is believed to be relevant to the disposition of this matter, including: (1) actions Respondent has taken to correct any or all of the violations herein alleged, (2) any information relevant to Complainant's calculation of the proposed penalty, (3) the effect the proposed penalty would have on Respondent's ability to continue in business and/or (4) any other special facts or circumstances Respondent wishes to raise.

Complainant has the authority to modify the amount of the proposed penalty, where appropriate, to reflect any settlement agreement reached with Respondent, to reflect any relevant information previously not known to Complainant or to dismiss any or all of the charges, if Respondent can demonstrate that the relevant allegations are without merit and that no cause of action as herein alleged exists. Respondent is referred to 40 CFR § 22.18.

Any request for an informal conference or any questions that Respondent may have regarding this Complaint should be directed to:

Mr. José A. Rivera
Caribbean Environmental Protection Division
U. S. Environmental Protection Agency - Region 2
Centro Europa Building, Suite 417
1492 Ponce de León Avenue
San Juan, Puerto Rico 00907
Telephone: (787) 977-5842
Facsimile: (787) 289-7982
e-mail: rivera.jose@epa.gov

The parties may engage in settlement discussions irrespective of whether Respondent has requested a Hearing. 40 CFR § 22.18(b)(1). Respondent's requesting a formal Hearing does not prevent Respondent from also requesting an informal settlement conference; the informal conference procedure may be pursued simultaneously with the formal adjudicatory hearing procedure. A request for an informal settlement conference constitutes neither an admission nor a denial of any of the matters alleged in the Complaint. Complainant does not deem a request for an informal settlement conference as a request for a Hearing as specified in 40 CFR § 22.15(c).

A request for an informal settlement conference does not affect Respondent's obligation to file a timely Answer to the Complaint pursuant to 40 CFR § 22.15. No penalty reduction, however, will be made simply because an informal settlement conference is held.

Any settlement that may be reached as a result of an informal settlement conference shall be embodied in a written Consent Agreement. 40 CFR § 22.18(b)(2). In accepting the Consent Agreement, Respondent waives any right to contest the allegations in the Complaint and waives any right to appeal the Final Order that is to accompany the Consent Agreement. 40 CFR § 22.18(b)(2). In order to conclude the proceeding, a Final Order ratifying the parties' agreement to settle will be executed. 40 CFR § 22.18(b)(3).

Entering into a settlement through the signing of such Consent Agreement and complying with the terms and conditions set forth in such Consent Agreement and Final Order terminates this administrative litigation and these civil proceedings against Respondent (note that a new enforcement action may be initiated based on continued non-compliance). Entering into a settlement agreement does not extinguish, waive, satisfy or otherwise affect Respondent's obligation and responsibility to comply with all applicable statutory and regulatory requirements, and to maintain such compliance.

VII. RESOLUTION OF THIS PROCEEDING WITHOUT HEARING OR CONFERENCE

Instead of filing an Answer, Respondent may choose to pay the total amount of the proposed penalty (\$153,277) within 30 days after receipt of the Complaint, provided that Respondent files with the Regional Hearing Clerk, Region 2 (at the address noted above), a copy of the check or other instrument of payment. 40 CFR § 22.18(a). A copy of the check or other instrument of payment should be provided to the EPA Attorney identified in Section VI above. Payment of the penalty assessed should be made by sending a cashier's or certified check payable to the "Treasurer, United States of America", in the full amount of the penalty assessed in this complaint to the following addressee:

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

Pursuant to 40 CFR § 22.18(a)(3), if Respondent elects to pay the full amount of the penalty proposed in the Complaint within thirty (30) days of receiving the Complaint, then, upon EPA's receipt of such payment, the Regional Administrator of EPA, Region 2 (or, if designated, the Regional Judicial Officer), shall issue a Final Order in accordance with 40 CFR § 22.18(a)(3). In accordance with 40 CFR § 22.45(c)(3), no Final Order shall issue until at least ten (10) days after the close of the comment period on this Complaint. Issuance of a Final Order terminates this administrative litigation and the civil proceedings arising out of the allegations made in the

Complaint (note that a new enforcement action may be initiated based on continued non-compliance). Further, pursuant to 40 CFR § 22.18(a)(3), the making of such payment by Respondent shall constitute a waiver of Respondent's right both to contest the allegations made in the Complaint and to appeal said Final Order to Federal court. Such payment does not extinguish, waive, satisfy or otherwise affect Respondent's obligation and responsibility to comply with all applicable statutory and regulatory requirements, and to maintain such compliance.

VII. FILING OF DOCUMENTS

The Answer and any Hearing Request and all subsequent documents filed in this action should be sent to:

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

A copy of the Answer, any Hearing Request and all subsequent documents filed in this action shall be sent to:

Nina Dale, Esq.
Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th Floor
New York, NY 10007-1866
Telephone (212) 637-3231
Fax: (212) 637-3202

and

Mr. José A. Rivera
Caribbean Environmental Protection Division
U. S. Environmental Protection Agency - Region 2
Centro Europa Building, Suite 417
1492 Ponce de León Avenue
San Juan, Puerto Rico 00907
Telephone: (787) 977-5842
Facsimile: (787) 289-7982

VIII. GENERAL PROVISIONS

1. Respondent has a right to be represented by an attorney at any stage of these proceedings.

2. This Complaint does not constitute a waiver, suspension or modification of the requirements of the Act, regulations promulgated thereunder, or any applicable permit.
3. Neither assessment nor payment of an administrative civil penalty pursuant to Section 309(g) of the Act will affect Respondent's continuing obligation to comply with the Act, and with any separate Compliance Order issued under Section 309(a) of the Act, 33 U.S.C. § 1319(a), for the violations alleged herein.

ISSUED THIS 10th DAY OF July, 2009.



Carl-Axel P. Soderberg
Director, Caribbean Environmental Protection Division
U. S. Environmental Protection Agency - Region 2
Centro Europa Building, Suite 417
1492 Ponce de León Avenue
San Juan, Puerto Rico 00907

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 2

In the Matter of:

SHELL CHEMICAL YABUCOA, INC.
State Road 901, Km. 2.7, Barrio Camino Nuevo
Yabucoa, Puerto Rico 00767

RESPONDENT

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

**PROCEEDING TO ASSESS A
CLASS II CIVIL PENALTY**

**DOCKET NUMBER
CWA-02-2009-3461**

I certify that on July 10, 2009, I served the foregoing Administrative Complaint, Findings of Violation, Notice of Proposed Assessment of an Administrative Penalty, and Notice of Opportunity to Request a Hearing, bearing the above referenced docket number, on the persons listed below, in the following manner:

Original and One Copy
By Internal/Pouch Mail:

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. Hans Rutzen
Terminal Manager
Shell Chemical Yabucoa, Inc.
P. O. Box 186
Yabucoa, Puerto Rico 00767-0186

Copy by Certified Mail
Return Receipt Requested:

Ms. Wanda García
Director
Water Quality Area
Environmental Quality Board
P.O. Box 11488
Santurce, Puerto Rico 00910

Dated: July 10, 2009



Secretary
San Juan, Puerto Rico