

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 2

IN THE MATTER OF:

**KARIMAR CONSTRUCTION, INC.**

P. O. Box 8000

Aguada, Puerto Rico 00602

**Aguada Sea Beach Apartments Development**

Road PR-441, Km. 1.2, Int. Carrizal Ward

Aguada, Puerto Rico

**RESPONDENT**

**CONSENT AGREEMENT AND  
FINAL ORDER**

**DOCKET NUMBER**

**CWA-02-2020-3352**

**CONSENT AGREEMENT AND FINAL ORDER**

*WV* Complainant, the United States Environmental Protection Agency (“EPA” or “Complainant”), having issued the Complaint referenced herein on September 30, 2020, against Karimar Construction, Inc. (“Respondent” or “Karimar”), and

Complainant and Respondent having agreed that settlement of this matter is in the public interest, and that entry of this Consent Agreement and Final Order (“Consent Agreement”) without further litigation is the most appropriate means of resolving this matter;

NOW, THEREFORE, before the taking of any testimony, upon the pleadings, without adjudication of any issue of fact or law, and upon consent and agreement of the Parties, it is hereby agreed, and ordered as follows:

**I. Preliminary Statement**

1. EPA initiated this proceeding for the assessment of a civil penalty pursuant to Section 309(g)(2)(A) of the Clean Water Act (“CWA” or “the Act”), 33 U.S.C. § 1319(g)(2)(A).
2. In the Complaint, EPA alleges that Respondent violated Sections 301(a) and 402(p) of the Act, 33 U.S.C. §§ 1311(a) and 1342(p), for failure to apply for and obtain National Pollutant Discharge Elimination System (“NPDES”) permit coverage for the discharge of pollutants (stormwater runoff associated with small construction activity) from the Aguada Sea Beach Apartments Development (the “Project”) located in Aguada, Puerto Rico, and for the discharges of pollutants (stormwater runoff associated with small construction activities) from such Project into waters of the United States without NPDES permit coverage.
3. On October 21, 2020, EPA notified the Commonwealth of Puerto Rico about this action and

offered an opportunity to confer with EPA on the proposed administrative penalty assessment, pursuant to 40 C.F.R. Part 22. The Commonwealth of Puerto Rico did not submit any comments to EPA.

4. Respondent filed an answer to the Complaint on November 4, 2020. Complainant and Respondent engaged in settlement negotiations that led to this Consent Agreement.
5. On October 16, 2020, EPA issued a public notice and provided notice of opportunity to comment on the proposed administrative penalty assessment. EPA did not receive public comments.
6. Complainant and Respondent agree, by entering into this Consent Agreement, that settlement of all allegations contained in the Complaint upon the terms set forth in this Consent Agreement is an appropriate means of resolving this case without further litigation.
7. Respondent admits the jurisdictional allegations of the Complaint.
8. Respondent neither admits nor denies specific factual allegations contained in the Complaint.
9. Respondent waives any right to contest the allegations and their right to appeal the proposed Final Order accompanying this Consent Agreement.

## II. Terms of Settlement

10. Pursuant to Section 309(g) of the Act, 33 U.S.C. § 1319(g), the nature of the violations and other relevant factors, EPA and Respondent agreed to settle this action for **twelve thousand dollars (\$12,000)**.
11. For purposes of settlement, Respondent consents to the issuance of this Consent Agreement and consents to the payment of the civil penalty cited in Paragraph 10, above.

## III. Payment of Civil Penalty

12. Respondent shall pay a civil penalty in the amount of **\$12,000** plus accrued interest, according to the following schedule:

Payment Number	Due Date	Payment	Principle	Interest
1	Within 30 Days of File Date	\$4,005.56	\$4,000	\$0.00
2	File Date + 60 Days	\$4,005.56	\$4,000	\$13.33
3	File Date + 90 Days	\$4,005.56	\$4,000	\$3.34
<b>Total</b>		<b>\$12,016.67</b>	<b>\$12,000</b>	<b>\$16.67</b>

13. The payment terms are based on the certified statement submitted by Respondent on March 25, 2021, in which Respondent certifies that COVID-19 has significantly impacted Respondent's financial health. Any false statement made in the certified statement may result in voiding the penalty portion of this Consent Agreement.


14. Pursuant to Part V of this Consent Agreement, the Effective Date of the Final Order shall be the date of filing with the Regional Hearing Clerk, U.S. EPA Region 2, New York, New York.
15. All payments shall be made by cashier's or certified check payable to the *Treasurer of the United States of America*, by electronic transfer (i.e. wire or automated clearinghouse), or online payment, as provided below:
- a. If Respondent chooses to pay the civil penalty by cashiers' or certified check, either type of check shall be mailed to:

**BY U.S. POSTAL SERVICE**

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

**BY OVERNIGHT MAIL**

U.S. Bank  
1005 Convention Plaza  
Mail Station SL-MO-C2GL  
ATTN Box 979077  
St. Louis, MO 63101  
Contact: Natalie Pearson  
Tel.: (314) 418-4087.

-  b. If Respondent chooses to pay the civil penalty by wire transfer, the transfer shall be made to:

**BY WIRE TRANSFER:**

Federal Reserve Bank of New York  
ABA = 021030004  
Account = 68010727  
SWIFT address = FRNYUS33  
33 Liberty Street  
New York, NY 10045.

Field Tag 4200 of the Fedwire message should read "D 68010727 Environmental Protection Agency."

**BY AUTOMATED CLEARINGHOUSE (ACH) (also known as REX or remittance express):**

ACH for receiving US currency  
PNC Bank  
808 17<sup>th</sup> Street, NW  
Washington, DC 20074  
ABA = 051036706  
Transaction Code 22 - checking  
Environmental Protection Agency  
Account 310006—CTX Format  
Contact: Jesse White  
Tel.: (301) 887-6548.

- c. An online payment option is available through the United States Department of Treasury. This payment option can be accessed through WWW.PAY.GOV. If Respondent chooses to pay the civil penalty using the online payment option, Respondent shall: enter sfo 1.1 in the search field; open the electronic form; and complete required fields.
- d. Respondent shall clearly identify, regardless of the form of payment, the name and docket number of the case, as follow:

**In the Matter of:**      **In the Matter of Karimar Construction, Inc.**  
   **Aguada Sea Beach Apartments**

**Docket Number:**      **CWA-02-2020-3352**

16. Respondent shall send proof of payment by electronic mail to each of the following EPA officials:

Jaime López  
Senior Physical Scientist  
Clean Water Act Team  
Multimedia Permits and Compliance Branch  
Caribbean Environmental Protection Agency  
United States Environmental Protection Agency Region 2  
[lopez.jaime@epa.gov](mailto:lopez.jaime@epa.gov)

Suzette M. Meléndez-Colón, Esq.  
Assistant Regional Counsel  
Office of Regional Counsel  
United States Environmental Protection Agency, Region 2  
[melendez-colon.suzette@epa.gov](mailto:melendez-colon.suzette@epa.gov)

and

Karen Maples  
Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 2  
[maples.karen@epa.gov](mailto:maples.karen@epa.gov)


17. Failure to pay the civil penalty in full according to the above provisions may result in referral of this matter to the United States Department of Justice or the United States Department of the Treasury for collection.
18. Further, if the payment is not received on or before the due date, interest will be assessed at the annual rate established by the Secretary of the United States Department of Treasury pursuant to the Debt Collection Act, 31 U.S.C. § 3717, on the overdue amount from the due date through the date of payment. In addition, a late payment handling charge of fifteen dollars (\$15.00) will be assessed for each 30-day period (or any portion thereof) following the due date in which the balance remains unpaid. A six percent (6%) per annum penalty also will be applied on any principal amount not paid within ninety (90) calendar days of the due date.

19. In addition, pursuant to Section 309(g)(9) of the CWA, 33 U.S.C. § 1319(g)(9), if payment is not received by the due date, a quarterly nonpayment penalty will be imposed for each calendar quarter during which such nonpayment persists. The quarterly nonpayment penalty is twenty percent (20%) of the aggregate amount of penalties and quarterly nonpayment penalties, which are unpaid as of the beginning of such quarter. Respondent may also be required to pay attorney's fees and costs for collection proceedings in connection with nonpayment.
20. The penalty to be paid is a civil penalty assessed by the EPA and shall not be deductible from Respondent's federal or Commonwealth of Puerto Rico taxes.

#### **IV. General Provisions**


21. The provisions of this Consent Agreement shall be binding upon Respondent, its officers, directors, agents, servants, authorized representatives and successors or assigns, including but not limited to, subsequent purchasers. No transfer of ownership or operation shall relieve Respondent of its obligation to comply with this Consent Agreement.
22. Respondent waives any right it may have pursuant to 40 C.F.R. § 22.8 to be present during discussions with or to be served with and to reply to any memorandum or communication addressed to the Director of the EPA Region 2 Caribbean Environmental Protection Division or the EPA Region 2 Regional Administrator where the purpose of such discussion, memorandum, or communication is to discuss a proposed settlement of this matter or to recommend that such official accept this Consent Agreement and issue the accompanying Final Order.
23. Nothing in this Consent Agreement shall be construed as prohibiting, altering or in any way limiting the ability of EPA to seek any other remedies or sanctions available by virtue of Respondent's violation of this Consent Agreement or of the statutes and regulations upon which this Consent Agreement is based, or for Respondent's violation of any applicable provision of law.
24. This Consent Agreement shall not relieve Respondent of its obligation to comply with all applicable provisions of the CWA and the regulations implementing it, nor shall it be construed as the issuance of a permit or a ruling on, or determination of, any issues related to any federal, state or local law, regulation or permit.
25. Full payment of the civil penalty shall only resolve Respondent's liability for federal civil penalties for the violations and facts alleged in the Complaint. Full payment of this penalty shall not in any case affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.
26. Each undersigned representative of the parties to this Consent Agreement certifies that he or she is fully authorized by the party represented to enter into the terms and conditions of this Consent Agreement and to execute and legally bind that party to it.
27. Each party shall bear its own costs and attorney's fees in connection with the action resolved by this Consent Agreement.

**FOR RESPONDENT KARIMAR CONSTRUCTION, INC.**

BY:   
Wilson Valentín  
President  
Karimar Construction, Inc.  
P.O. Box 8000  
Aguada, Puerto Rico 00602

DATE: 3-25-21

**FOR COMPLAINANT UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

BY:   
Carmen R. Guerrero Pérez  
Director  
Caribbean Environmental Protection Division  
United States Environmental Protection Agency, Region 2  
City View Plaza II  
48 CARR 165 STE 7000  
Guaynabo, Puerto Rico 00968-8073

DATE: \_\_\_\_\_

**V. Final Order**

The Regional Judicial Officer of the United States Environmental Protection Agency, Region 2, ratifies the foregoing Consent Agreement. The Consent Agreement entered into by the parties is hereby approved, incorporated herein, and issued as an Order. The effective date of this Order shall be the date of filing with the Regional Hearing Clerk, United States Environmental Protection Agency, Region 2.

BY: \_\_\_\_\_

DATE: \_\_\_\_\_

**HELEN FERRARA**

Regional Judicial Officer

United States Environmental Protection Agency, Region 2

290 Broadway

New York, New York 10007

*mw*

**CERTIFICATE OF SERVICE**

I hereby certify that on this date, I served filed served electronically a true and correct copy of the Consent Agreement and Final Order entered in **In the Matter of Karimar Construction Inc., Docket Number: CWA-02-2020-3352**, as follows:

Copy by Electronic Mail with Delivery Receipt:

Helen Ferrara  
Regional Judicial Officer  
U.S. Environmental Protection Agency, Region 2  
[ferrara.helen@epa.gov](mailto:ferrara.helen@epa.gov)

Karen Maples  
Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 2  
Email: [maples.karen@epa.gov](mailto:maples.karen@epa.gov)

 Reinaldo José Franqui-Escandón, Esq.  
Counsel for Respondent Karimar Construction, Inc.  
Email: [rfranqui@gmail.com](mailto:rfranqui@gmail.com)

Date:

Guaynabo, Puerto Rico

Suzette M. Meléndez-Colón, Esq.  
Assistant Regional Counsel  
U.S. Environmental Protection Agency, Region 2  
Tel: (787) 977-5822  
Email: [melendez-colon.suzette@epa.gov](mailto:melendez-colon.suzette@epa.gov)