

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region 2

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG. II
2012 FEB 29 P 2:57
REGIONAL HEARING
CLERK

In the Matter of:

Municipality of Moca

P.O. Box 1571
Moca, Puerto Rico 00676-1571

Respondent

In a proceeding under Section 113(a) of the Clean
Air Act, 42 U.S.C. § 7413(a)

**Complaint and Notice of
Opportunity to Request a
Hearing**

Index No.: CAA-02-2011-1216

COMPLAINANT'S INITIAL PREHEARING EXCHANGE

Pursuant to the request made by Hon. Susan L. Biro, Chief Administrative Law Judge, in the Prehearing Scheduling Order dated January 11, 2012, the Complainant in the above captioned matter hereby submits its Initial Pre-Hearing Exchange.

1.

(A) **a list of names of any witnesses intended to be called at hearing, identifying each as a fact witness or an expert witness, a brief narrative summary of each witness expected testimony, and a curriculum vitae or resume for each identified expert witness, or a statement that no witnesses will be called;**

- i. **Francisco Claudio**
Chemical Engineer
Multimedia Permits and Compliance Branch
Caribbean Environmental Protection Division
City View Plaza II – Suite 7000
#48 RD. 165 km 1.2
Guaynabo, PR 00968-8069

Mr. Francisco Claudio has been working with EPA, Region 2, since April 17, 1997, as an Environmental Engineer. Since April 1997, and at the time of the

inspections, and issuance of the present Complaint, Mr. Claudio had been handling Clean Air Act inspections in the former Enforcement and Superfund Branch and now under the Multimedia Permits and Compliance Branch. Prior to working at EPA, Mr. Claudio served from 1989 to 1997 as the Director of the Air Quality Area at the Puerto Rico Environmental Quality Board. Mr. Claudio has a Bachelor Degree in Chemical Engineering from the University of Puerto Rico.

Mr. Claudio will testify about the CAA regulations and how they apply to Respondent's facility. He will testify as to the Initial and Follow up inspections he conducted at Respondent's facility and the findings that lead to the issuance of the penalty complaint, including the violations alleged in the Complaint. He will also testify with regard to his knowledge and experience in calculating civil penalties and about the specific facts and circumstances in this case and how they were considered in supporting the calculation of the penalty assessed in the complaint (the reasoning behind the calculation of said assessed penalty and the appropriateness of the penalty according to the CAA statutory factors and applicable penalty policy). In his expected testimony, Mr. Claudio is expected to discuss and explain the significance of various exhibits Complainant intends to offer.

Complainant reserves the right, and nothing herein is intended or is to be construed to prejudice or waive any such right, to call or not to call any of the aforementioned potential witnesses, and to expand or otherwise modify the scope, extent and/or areas of the testimony of any of the above-named potential witnesses, where appropriate. In addition, Complainant reserves the right to list and to call additional potential hearing witnesses, including expert witnesses, to answer and/or rebut evidence (testimonial or documentary) listed by Respondent in its prehearing exchange or on matters arising as a consequence of such evidence.

- (B) copies of all documents, records, and other exhibits intended to be introduced into evidence. Each document, record, or other exhibit must be identified as "Complainant's" exhibit, and be numbered with Arabic numerals**

Complainant's Exhibit 1 – Complainant's Section 114 Letter

Complainant's Exhibit 2 – Report of USEPA Inspection of the Moca Landfill, date of Inspection April 1, 2009

Complainant's Exhibit 3 – Report of USEPA Follow up Inspection of the Moca Landfill, date of Inspection April 20, 2011

Complainant's Exhibit 4 - Respondent's Answer to the Section 114 Letter, with attachment, dated August 7, 2009

Complainant's Exhibit 5 – Respondent's letter requesting a meeting to discuss Complainant's Order, dated August 3, 2010

Complainant's Exhibit 6 – Complainant's signing sheet (meeting with Respondent), dated August 10, 2010

Complainant's Exhibit 7 – Respondent's letter dated August 10, 2010.

Complainant's Exhibit 8 – Respondent's letter dated March 4, 2011.

Complainant's Exhibit 9 – Complainant's letter dated March 8, 2011

Complainant's Exhibit 10 – "Complaint and Notice of Opportunity to Request a Hearing, CAA-02-2011-1216, dated September 30, 2011

Complainant's Exhibit 11 – Respondent's Answer to the Complaint, dated November 29, 2011

Complainant's Exhibit 12 - Civil Monetary Penalty Inflation Adjustment Rule; Final Rule, published on February 13, 2004, in the Federal Register (69 FR 7121)

- (C) **a statement explaining where the party wants the hearing to be held, and how long the party will need to present its case. The statement must also indicate whether translation services are necessary in regard to the testimony of any witness, and if so, state the language to be translated.**

Pursuant to 40 C.F.R. §§ 22.21(d) and 22.19(d), the hearing should be held in the county where the Respondent conducts business which the hearing concerns, in the city in which the relevant Environmental Protection Agency Regional office is located, or in Washington, D.C. Complainant requests that the hearing be held in San Juan, where the relevant Environmental Protection Agency Regional office is located. This location is convenient for both parties and witnesses, the Municipality of Moca is close to the metropolitan area and we foresee no problem for Respondent's witnesses to attend the hearing. The Complainant can assist by providing the Regional Hearing Clerk with information on facilities which may be available for purposes of holding the hearing.

Complainant estimates it will need one day to present its direct case.

Translation services will not be necessary.

2.

- (A) A brief narrative statement, and copies of any supporting documents, explaining in detail the factual and/or legal bases for the allegations in Paragraphs 15 and 16 of the Complaint, to the extent Respondent denied those allegations in its Answer;**

As stated in Paragraph 11 of the Complaint, in May 2009, EPA sent Respondent a "Request of Information under Section 114" ("114 Letter") regarding the compliance status of the Moca Landfill. On August 7, 2009, as stated in Paragraph 15 of the Complaint, Respondent submitted several documents. (See Complainant's Exhibit 1 and 2) However, it did not adequately respond to several items in the 114 Letter.

As it is concluded from a review of Complainant's Exhibit 2, Respondent's Answer, as a whole, is insufficient, even for the items in which an actual response is offered. Respondent completely failed to offer an adequate answer to seventeen (17) items requested in the 114 Letter. These items are identified in Paragraph 15 of the Complaint. Most of these were answered with the statement "Information is not available."

As stated in Paragraph 16 of the Complaint, in response to EPA's petition to expand on such answer, Respondent expressed several times that it would send the documents as soon as possible. Later on, upon EPA's insistence that the documents be produced, Respondent indicated to EPA that Moca would not be able to produce the documents because they did not exist, as expressed in Paragraph 21 of the Complaint.

- (B) a copy of any reports, notes, or other pertinent documentation produced as a result of the inspection referred to in Paragraph 10 of the Complaint;**

Please see **Complainant's Exhibit 1** – Complainant's Section 114 Letter; **Complainant's Exhibit 2** – Report of USEPA Inspection of the Moca Landfill, date of Inspection April 1, 2009; **Complainant's Exhibit 3** – Report of USEPA Follow up Inspection of the Moca Landfill, date of Inspection April 20, 2011; **Complainant's Exhibit 4** - Respondent's Answer to the Section 114 Letter, with attachment, dated August 7, 2009; **Complainant's Exhibit 5** – Respondent's letter requesting a meeting to discuss Complainant's Order, dated August 3,

2010; **Complainant's Exhibit 6** – Complainant's signing sheet (meeting with Respondent), dated August 10, 2010; **Complainant's Exhibit 7** – Respondent's letter dated August 10, 2010; **Complainant's Exhibit 8** – Respondent's letter dated March 4, 2011; **Complainant's Exhibit 9** – Complainant's letter dated March 8, 2011.

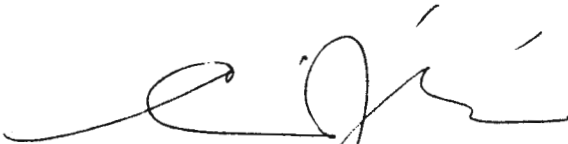
- (C) **a copy of each document referred to in Paragraphs 11, 15, 17, 19 and 20 of the Complaint; and**

Please see Complainant's Exhibit 2 (Report of USEPA Inspection of the Moca Landfill, date of Inspection April 1, 2009); and Complainant's Exhibit 3 (Report of USEPA Risk Management Program (RMP) Inspection of the TAPI Puerto Rico, Inc. facility, date of Inspection March 22, 2010).

- (D) **a copy, or a statement of the internet address (URL), of any policy or guidance relied on by Complainant in calculating the proposed penalty, or intended to be relied on if that penalty is adjusted.**

Civil Monetary Penalty Inflation Adjustment Rule; Final Rule, published on February 13, 2004, in the Federal Register (69 FR 7121).

Respectfully submitted, in Guaynabo, Puerto Rico, today, February 24, 2012.



Carolina Jordán-García
Assistant Regional Counsel
U.S. Environmental Protection Agency, Region 2
City View Plaza II – Suite 7000
#48 RD. 165 km 1.2
Guaynabo, PR 00968-8069
phone: (787) 977-5834
facsimile: (787) 729-7748

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region 2

In the Matter of:

Municipality of Moca

P.O. Box 1571
Moca, Puerto Rico 00676-1571

Respondent

In a proceeding under Section 113(a) of the Clean
Air Act, 42 U.S.C. § 7413(a)

**Complaint and Notice of
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Index No.: CAA-02-2011-1216

CERTIFICATE OF SERVICE

I certify that I have this day caused to be sent the foregoing **Complainant's Prehearing Exchange**, dated February 24, 2012, and bearing the above-referenced docket number, in the following manner to the respective addressees below:

Original and copy by **Overnight Mail** to:

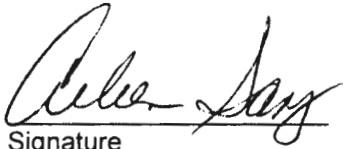
Karen Maples
Regional Hearing Clerk
Region II
U.S. Environmental Protection Agency
290 Broadway, 16th Floor
New York, NY 10007-1866

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

Attorney for Respondent:
Alberto L. Ramos, Esq.
Alberto L. Ramos Law Offices
PO Box 750
Mercedita, PR 00715-0750

Copy by **Overnight Mail** to:

The Honorable Lisa Buschmann
Administrative Law Judge
Office of Administrative Law Judges
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460



Signature

2/28/2012

Date

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

May 2009

Hon Jose Enrique Aviles Santiago
Major
Municipality of Moca
PO Box 1571
Moca, Puerto Rico 00676-1571

Re: MOCA Landfill
Section 114 Letter Ref. No. CAA-02-2009-

Dear Major Aviles:

Pursuant to the provisions of Section 110 of Title I of the Clean Air Act, 42 U.S.C. §7400 *et seq.* (the Act), the Administrator of the United States Environmental Protection Agency (EPA) has promulgated regulations for municipal solid waste for existing landfills under emission guidelines that has been delegated and adopted by states or territories such as the Commonwealth of Puerto Rico.

Section 114 of the Act authorizes the EPA to require the submittal of certain information by emission sources to enable EPA to carry out any provisions of the Act. Moca Landfill, located in PR Road 110, km. 16.5, Centro Ward in the Municipality of Moca, is a source of air pollutant emissions potentially subject to the regulatory requirements of 40 C.F.R. Part 60 Subpart WWW- New Source Performance Standards (NSPS) for Municipal Solid Waste Landfills, 40 CFR Part 63 Subpart AAAA- National Emission Standards for Hazardous Air Pollutants (NESHAPs): Municipal Solid Waste Landfills and the Puerto Rico Landfill State Plan set forth under Part VII of the Puerto Rico Regulations for the Control of Atmospheric Air Pollution (RCAP). These NSPS regulations stipulate, in part, standards of performance for municipal solid waste landfills that commenced construction, reconstruction or modification or began accepting waste on or after May 30, 1991. The NESHAPs regulations applies to new and existing municipal solid waste landfills. The Puerto Rico Landfill State Plan applies to each existing municipal Sanitary

Landfill System (SLS) for which construction, reconstruction or modification was commenced before May 30, 1991. As the owner/operator of Moca Landfill, you are hereby required, pursuant to the authority of Section 114 of the Act and subject to the sanctions set out in Section 113 of the Act (Attachment I), to submit the information called for in Attachment II.

Your response, in order to be complete, must be signed by you or another officer of the referenced company acknowledging that the signatory has read this letter. Failure to respond in full to this requirement is a violation of 42 U.S.C. §7414 and may result in a finding of violation and an order to comply, an order for administrative penalties or a civil action for penalties and injunction requiring compliance pursuant to EPA enforcement authorities at 42 U.S.C. §7413(a)(3) and (4). Pursuant to 42 U.S.C. §7413(c)(2)(A), any person who knowingly makes any false statement, representation, or certification in, or omits material information from or knowingly alters, conceals, or fails to file a response to this requirement is subject to criminal penalties.

A request for an extension of time to respond must be in writing and must include the reasons for the delay in responding and the date by which the response will be submitted to EPA. An extension of time will only be effective if granted by EPA in writing.

This is to inform you that you may, if you so desire, assert a business confidentiality claim covering all or part of the information being requested. The claim may be asserted by placing on (or attaching to) the information, at the time it is submitted to EPA, a cover sheet, stamped or typed legend or other suitable form of notice employing language such as "trade secret," "proprietary," or "company confidential." Allegedly confidential portions of otherwise non-confidential documents should be clearly identified by the business and may be submitted separately to facilitate identification and handling by EPA. If you desire confidential treatment only until a certain date or until the occurrence of a certain event, the notice should so state. Information covered by such claim will be disclosed by EPA only to the extent, and by such means of the procedures, set forth in Subpart B, Part 2, Chapter I of Title 40 of the Code of Federal Regulations (40 C.F.R. §2.201 et seq.). If no such claim accompanies the information when it is received by EPA, it may be made available to the public by EPA without further notice to you.

This information must be submitted in duplicate within twenty-eight (28) calendar days after the receipt of this letter to:

Mrs. Teresita Rodriguez, Chief
Multimedia Permits and Compliance Branch
U.S. Environmental Protection Agency
Caribbean Environmental Protection Division
1492 Ponce de León Ave.-Suite 417
San Juan, Puerto Rico 00907-4127

Please include the above-cited Reference No. **CAA-02-2009-** in your response(s) to this information request. In addition, any change in the information must be reported no later than 5 days after such change occurs. This continuing requirement to provide notification of changes in the information covered by this letter will remain in effect until expressly terminated in writing by this office.

You may address any questions concerning this matter to John Chiang, of my staff, at (212) 637-4048.

Sincerely,

Carl-Axel P. Soderberg, Director
Caribbean Environmental Protection Division

Enclosures

cc: Mr. Pedro Nieves
Chairman
Puerto Rico Environmental Quality Board

Mrs. Leimarys Delgado, Acting Director
Air Quality Area
Puerto Rico Environmental Quality Board

ATTACHMENT 2

The following questions seek information regarding Moca Landfill, located in PR Road 110, km. 16.5, Centro Ward in the Municipality of Moca. These questions are related to the New Source Performance Standards (NSPS) for Municipal Solid Waste Landfills set forth in 40 CFR Part 60, Subpart WWW (Standards for New, Modified, or Reconstructed Landfills), the 40 CFR Part 63 Subpart AAAA- National Emission Standards for Hazardous Air Pollutants (NESHAPs): Municipal Solid Waste Landfills and the Puerto Rico Landfill State Plan set forth under Part VII of the Puerto Rico Regulations for the Control of Atmospheric Air Pollution (RCAP). Additional definitions and clarifications can be found in 40 CFR Part 60, Subpart A. (See attachments). Please provide EPA with as much information as possible with respect to these questions, including documents which can verify your answers. For example, these verification documents may include manufacturer's specifications, EPA/state notifications, company records, or design plans.

I. Background

A. Company History

1. Provide the original date that Moca commenced accepting waste and the date(s) subsequent phases of the landfill commenced accepting waste.
2. Identify the legal owner of the facility and the name of the official (CEO, Executive Director, Administrator) primarily responsible for managing operations at the landfill.
3. For the landfill provide the following information:
 - a. The type of air pollution control device that is used to control emissions from the landfill, if any. If no controls have been installed, please explain the reasons for not constructing and operate a control device.
 - b. Submit copies of all solid waste and air permits issued by the PREQB for the landfill since the initial date of operation.

II. New Source Performance Standards (NSPS) 40 C.F.R. 60, Subpart A.

A. General Provisions

1. Please provide copies of any documentation sent to state or federal authorities regarding the applicability of Subparts WWW, AAAA and the Puerto Rico State Plan for the entire landfill. This should also include any documentation sent stating that the landfill is not subject to NSPS Subpart WWW.
2. Please provide copies of any documentation sent to state or federal authorities regarding the intended or actual construction of a gas collection and control system (GCCS) meeting the requirements of 40 C.F.R. 60.752(b)(2)(iii)(A), (B) or (C) and/

or PRRCAP Rule 702(f).

3. Please provide copies of any documentation sent to state or federal authorities regarding the actual start-up date of a GCCS at the facility.
4. Please provide copies of any documentation sent to state or federal authorities regarding any performance tests performed of a GCCS at the facility.

III. New Source Performance Standards (NSPS) 40 C.F.R. 60, Subpart WWW and Puerto Rico Landfill State Plan- Part VII of the PR RCAP.

A. Applicability

1. Provide the dates on which construction, reconstruction or modification of the landfill commenced (refer to 40 C.F.R. Part 60, Subpart A for definition of the terms). Provide copies of permits or permit applications for construction of the landfill. State whether the landfill is subject to the NSPS Subpart WWW (refer to the definition of "Municipal solid waste landfill or MSW landfill in 40 C.F.R. 60.751).
2. Identify any permitted landfill design capacity increases and landfill expansions that have occurred since the landfill initially began accepting waste. Documentation may include any construction contracts entered into prior to the modifications or reconstruction taking place. Provide details regarding each such design capacity increase or landfill expansion with specific dates.
3. State the design capacity of the entire landfill and each individual phase in megagrams or cubic meters? Provide a copy of the most recent operating permit or engineering design plan.
4. Provide a copy of the calculated non-methane organic compound (NMOC) emission rate (Mg/yr) for the previous 5 years. Submit calculations utilizing EPA approved methods to document the NMOC emission rate. If applicable, provide copies of any Tier 1, Tier 2, or Tier 3 test(s) performed at the facility.
5. If the NMOC emission rate is greater than 50 Mg/yr, provide information documenting the year the NMOC emissions first exceeded 50 Mg/yr. If the NMOC emission rate is less than 50 Mg/yr, provide information documenting any period during the life of the landfill when the NMOC emission rate is expected to exceed this threshold.
6. Provide detailed documentation demonstrating how landfill gas is collected. In addition, provide information, including performance tests, regarding the control device(s) this gas is routed to.
7. Provide the anticipated closure date of the landfill?

B. Standard for Gas Collection and Control Systems

1. If a GCCS is present at the facility, submit a copy of the GCCS design plan, required by 40 C.F.R. 60.752 (b)(1)(ii)(A) and/or PR RCAP Rule 702(f). If no GCCS is present, please provide a copy of any design plan prepared and submitted to PREQB for their approval.
2. Provide the date when construction of the GCCS began or will began, and the date when operation of the GCCS will commenced.
3. Provide information documenting the time that waste has been in place for each waste cell which is or will be connected to the GCCS. If known, provide the waste acceptance rates for the previous ten years.
4. Provide the negative pressure of the GCCS and how often it is monitored?, if applicable.
5. What is the interior landfill gas temperature, nitrogen concentration, and oxygen concentration? Submit monitoring or testing reports to verify this information.
6. Provide a copy of the landfill surface monitoring plan. Provide the last date surface monitoring was conducted or the date of initial monitoring. Submit a diagram of the area to be monitored. Document any surface monitoring readings greater than 500ppm.
7. Provide documentation of any expansions to the GCCS that have been completed or are planned.

C. Monitoring

1. Provide copies of monitoring records for the twelve month period prior to the receipt of this letter pertaining to pressure of the internal wellhead system of the GCCS and internal gas temperature. Indicate how often these parameters are monitored.
2. Provide the type of temperature monitor that is utilized on the control device and how often the temperature is monitored?
3. Submit records of gas flow rate to the control device for the twelve month period prior to the receipt of this letter. Provide documentation of any periods when gas was diverted from the control device.
4. Indicate how the facility monitors for the constant presence of a flame in the control device.

D. Reporting

1. Provide a copy of the initial design capacity report submitted either to EPA or the State.
2. Submit copies of annual NMOC emission rate reports for the previous five years.
3. Submit copies of reports required under 40 C.F.R 60.757(f) and/or PR RCAP Rule 707 for the previous five years, if applicable.
4. Submit copies of any additional applicable reports for the previous five years.
5. Submit copies of any landfill closure reports submitted to EPA or the State, if applicable.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION II

EXHIBIT
COMPLAINANTS

2

MEMORANDUM

DATE: May 3, 2009

SUBJECT: **Inspection at Moca Landfill**

FROM: Francisco Claudio Rios, Enforcement Engineer

TO: Mrs. Teresita Rodriguez
Chief,
Multimedia Permits and Compliance Branch

Purpose:

To determine if the Moca Landfill is in compliance with the State and federal regulations for municipal solid waste disposal facilities regulated under PR EQB Part VII and Subpart W of the Clean Air Act.

Findings:

On April 1, 2009, I conducted an air inspection at the Moca landfill located on PR Road 110, km. 16.5 in the Municipality of Moca. Once we arrived at the premises and after identifying myself as an enforcement officer and showing my EPA credentials, I met Mr. Juan Velez, Operations Supervisor. At the entrance I observed the operation of the landfill while a truck was been stop and records were taken from the driver. Mr. Velez informed me that 7 people work on site and that the landfill operates weekly from 6:00am to 2:45pm. Employees are assigned from the Public Work Department by Mr. Bienvenido Santiago, Head of the Department but presently the person in charge is Mr. Lugo, Acting Director and could be reach at (787) 644-2912. Mr. Juan Velez also told me that the Major of Moca is Mr. Jose Enrique Aviles Santiago.

I asked Mr. Juan Velez how they are calculating the waste that is been received since a weight balance was not been used at entrance. He told me that the weight balance was not available and the weight of the truck is estimated based on the size and volume of the truck or hauler. We asked Mr. Velez the municipalities getting disposal at Moca and he told me that initially was operating as a landfill over 40 years from Aguadilla. Once they closed, they continue from Moca.

Mr. Velez showed me a copy of the solid waste permit issued on November 14, 2008 for 5 years and will expire on November 14, 2013 under permit number IDF-51-0048. I asked about any wells on site and Mr. Velez told me that they do not have any exploring or monitoring wells. Also, Mr. Velez mentioned that he understood that a gas collection control system was discussed by the Municipality but none has been installed. Under special conditions, they are allowed to operate an area of 15 acres which is a permit condition.

Mr. Velez explained they have two (2) compactor but only one is in operation since the other is

broken. We review the solid waste permit and condition No. 18 requires that they measure the methane gas concentration but Mr. Velez confirmed that it is not conducted. Mr. Juan Velez explained to me that Moca provides services to the Municipality of Aguadilla, Aguada, Las Marias and private companies. We collect data from their own records of the truck disposal and it shows the following cu.yds.

Origin	August	September 2008
Aguadilla	10,104	9,778
Aguada	5,478	5,470
Moca	4,930	4,180
Las Marias	914	843
BFI	1,140	1,100
LM Waste	490	360
David Chin	311	142
Atlantic Waste	120	60
QWaste Disposal	942	1,196
Reciclaje del Oeste	40	unk
Moca Privado	216	114
Nereida Falto de Cole	84	40 central
Total	=24,732	=22,635

Records per month:

October	23,959
November	19,191
December	24,689
January 2009	21,506
February	21,413

Mr. Juan Velez showed me the entire landfill and he informed that the whole area as impacted is 80 acres. We told him that the permit restricts their operation to 15 acres but Mr. Velez informed that the legal issues should be answer by either Mr. Bienvenido Soto or Mr. Lugo. We informed Mr. Velez that a future follow-up inspection will be conducted to determine if the controls will be installed.

Conclusion and Recommendations:

- 1- The Municipality of Moca operates the landfill and continues to disposed waste in more that the permitted area of 15 acres.
- 2- The Municipality of Moca has not installed any gas collection control system (GCCS)

even though on their design capacity initial assessment the controls were required.

- 3- EPA should review the design capacity and if the size exceeds the 2.5 million mega grams and the potential emissions of NMOC exceeds 50 mega grams, and then EPA should enforce Part VII requirements for the landfill. We recommend a Compliance Order.

ICUS - 180061532

IRS - 72-099-0000

MOCB Landfill (Closed) (89) 877-1420
- Supervisor - Jim Viley -
PK Road 110 Km 16.5 - MOCB

Once we arrived at the premises and after identifying myself with EPA ID, I was informed that Mr. Julez is the supervisor.

We observed operations from the entrance gate. We were informed that 7 people work on site. The landfill operates weekly from 6:00 am to 8:45 pm.

Presently, the mayor - Jose Enrique Ambr. Stgo (Koko)

Employees are assigned to the Public Work Department
Head - Bienvenido Soto (Cel) 787-644-2912

Acting - Mr. Lugo
Volume of waste is generated by the type of hauler/truck. No weight balance

Mr. Jim informed that the landfill was operating over 46 yrs from Aguadilla.

He showed us a copy of the Solid Waste permit issued on Nov 14/2008 for 5 yrs until Nov 14/13 under IDF-51-0048

The landfill does not have any explosive wells

or monitoring wells.
Under special conditions, they are allowed to operate
an area of 15 acres.

- They have two(2) compactors, but one is operating
the other is broken

Cond 18 requires that they measure the methane gas
concentration. However, this is not conducted

Moca don't provide services to the municipality
of Aguadilla & Aguada, Las Moras, & private
companies.

- The municipality has their own trucks for disposal

Data collected from records kept by Mr. Jim Velez
below

Force Month	Month	Yds deposited	Mr Sept
Aguadilla	Aug	10,104	5477 91778
Aguada		5478	5470
Moca		4930	4180
Las Moras		914	843
BFI		1140	141100
LM Waste		490	360
David Chen		311	142
Atlantic Waste		120	60
Q Waste Dept		942	1096
Recycle the Waste		40	

Mesa Priada
Nevada Falls de Cole

216
84
24,732

114
40 Cental
22,635

Oct — 23,954
Nov — 19,191
Dec 24,689
Jan 09 21,506
Feb 09 21,413

Mr. Jim Veley informed that the land fell is
80 acres which is mostly imported

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION II



MEMORANDUM

DATE: June 14, 2011

SUBJECT: **Inspection at Moca Landfill- Moca, PR.**

FROM: 
Francisco Claudio Rios, Enforcement Engineer
Multimedia Permits and Compliance Branch

TO: Mrs. Teresita Rodriguez
Chief,
Multimedia Permits and Compliance Branch

Purpose:

To determine if the Moca Landfill is in compliance with the State and federal regulations for municipal solid waste disposal facilities regulated under PR EQB Part VII and Subpart WWW of the Clean Air Act.

Findings:

On April 20, 2011, I conducted a follow-up inspection at the Moca Landfill to determine if any changes were completed and whether the landfill conducted an assessment to determine the size of the disposal of waste and if it was consistent with their permit for 15 acres. Once we arrived and after showing our EPA credentials, we met Mr. Israel Morales, General Manager who indicated that the new operator was Eco Park Corporation and they started back in February 2011. We also met Mr. Gilberto Martinez-Administrator. We asked Mr. Morales to provide us a tour of the facility. Mr. Morales showed us the fence close to the former Aguadilla Landfill where they constructed a fence and a buffer zone which will separate the two landfills. Mr. Morales then showed us some of the locations of the sampling area taken by the contractor where they dig to determine the extent of the waste disposal. Mr. Morales could only show me two sampling areas since it was difficult to identify them.

We informed Mr. Morales that their Solid Waste Permit issued by PREQB and expire on 2013 was limited to 15 acres only. Mr. Morales indicated that their Corporation intends to operate the whole landfill which is estimated in 80 acres. During the site tour we observed a better operation of an area which is the present site where waste is disposed. Mr. Morales indicated that once they complete it they will move the shoot site. Mr. Morales also showed me the two (2) areas at the south east of the landfill close to the entrance where the landfill deposited waste in the past and were covered by grass. Mr. Morales indicated that they will talk to the Municipality to gather more information on their actual permit.

We completed the tour after taking several pictures of the areas.

Moca Landfill April 20, 2011

- Moca Exp. Park - Corp - new clients
Luis Hernandez - President
Israel Morales - General Manager
Gilberto Martinez - Administrator

Start operation - 1 Feb 2011 -

44711

~~San Antonio Guaymas, Sonora~~

We asked Mr. Morales to provide us with a tour of the landfill. He showed us the fence at the North West with the Aguadilla property which shows a buffer zone. Mr. Morales showed us also some of the location of the sampling conducted by their contractor to determine the extent of waste burned.

We informed Mr. Morales that their Solid Waste Permit from PREBB issued recently to Moca stated that they only generate 15 acres. Mr. Morales indicated that the location of Eco Park was to operate the whole landfill estimated in 80 acres.

We also were shown two (2) acres at the south east close to the entrance where they landfill deposited waste & were covered by grass. Mr. Morales indicated that they will talk to the Municipality to gather more information on the actual permit.

We completed the tour & inspection after taking photos

ALBERTO L. RAMOS LAW OFFICES

EXHIBIT
COMPLAINANTS

4

PO BOX 750
MERCEDITA, PUERTO RICO 00715-0750

3126 JULIO E. MONAGAS AVE.
CONSTANCIA DEVELOPMENT
PONCE, PUERTO RICO 00717-2400

TEL. (787) 284-2971
FAX. (787) 284-6292

alberto_ramosperez@yahoo.com

August 7, 2009

Ms. Tere Rodriguez, Chief
Multimedia Permits and Compliance Branch
US Environmental Protection Agency
Caribbean Environmental Protection Division
1492 Ponce de León Ave. Suite 417
San Juan, PR. 00907-4127

**RE: MOCA LANDFILL
CAA-SECTION 114 LETTER REF. NO. CAA-02-2009-1469**

Dear Ms. Rodriguez:

On behalf of the Municipality of Moca and its major Jose E. Aviles, our office is answering the section 114 letter sent by EPA and dated June 2, 2009

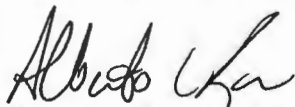
The hard copies of the supplemental information will be deliver to you office with the original of this response on Monday August 10, 2009.

Please apology the delay, but our office was close from July 15, to August 3, 2009.

If you have any question or need additional information, please contact me at (787) 284-2971.

Cordially;

ALBERTO L. RAMOS LAW OFFICES



Alberto L. Ramos, Esq.
Environmental Counsel

Xc: Mr. José E. Avilés, Major

**MOCA LANDFILL
ANSWER TO SECTION 114 REQUEST OF INFORMATION**

I. BACKGROUND

A. Company History

1. There is no record that shows the exact date that the Municipal Landfill start receiving waste. According to our records, there is a Planning consult submitted to the Puerto Rico Planning Board in 1972 for the first 60 cuerdas and other of 1980 for the last 20 cuerdas.
2. The legal owner of the facility is the Municipality of Moca, the name of the Major is Jose E. Aviles Santiago.
 - a. No air pollution control device is used to control the air emission in the landfill. The reason is because is not needed.
 - b. Enclosed you will find copy of the operational permit to manage and dispose of the solid waste.

II. NEW SOURCE PERFORMANCE STANDARD (NSPS) 40 CFR 60 SUBPART A

A. General Provision

1. Subpart WWW- Standard of Performance for Municipal Solid Waste Landfill applies to Landfill that commences construction, reconstruction or modifications on or after May 30, 1991.

Subpart AAAA- Standard of Performance for Small Municipal Waste Combustion units for which construction is commenced after August 30, 1999 or for which modification or reconstruction is commenced after June 6, 2001.

2. Enclosed you will find copy of the GCCS plans submitted to EQB for revision and approval.
3. GCCS is not approved by EQB yet.
4. No performance test is done.

III. NEW SOURCE PERFORMANCE STANDARD (NSPS) 40CFR 60 SUBPART WWW AND PUERTO RICO LANDFILL STATE PLAN-PART VII OF THE PRRCAP

A. Applicability

1. According to PR Planning Board approval, we can state that operation start during 1973. Enclosed you will find copy of Planning Board approval. We state that Subpart WWW does not apply to Moca Municipal Landfill.
2. As state before there is a consult for additional 20 cuerdas approved by the Planning Board in 1980. No design plans exist.
3. The requested information is not available.
4. The technical personnel from the Municipality of Moca does not have the expertise to prepare the require calculations. This part need to be contracted to outside consultant.
5. This information is not available.
6. Landfill gas is not collected because the GCCS Plan is not approved by EQB.
7. In relation with the closure date of the landfill the Municipality of Moca is evaluating a plan to close some areas of the landfill.

B. Standard for gas collection and control system

1. Plan is provided attached.
2. EQB approves the Plan on June 8, 2009 the Municipality is now working in the bid process.
3. Information requested is not available.
4. Information requested is not available.
5. Information is not available.
6. Information is not available.
7. Information is not available.

C. Monitoring

1. Information not available.
2. Information not available.
3. Information not available.
4. Information not available.

D. Reporting

1. Information not available.
2. Information will be submitted later.
3. Information not available.
4. Information not available.
5. Information not available.

ALBERTO L. RAMOS LAW OFFICES

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alberto_ramosperez@yahoo.com

August 3, 2010

Ms. Carolina Jordan
Assistance Regional Counsel
US EPA- Region 2
1492 Ponce de Leon Ave.
Centro Europa Building Suite 417
Santurce, Puerto Rico 00907-4127

**REQUEST OF CONFERENCE
IN THE MATTER OF MUNICIPALITY OF MOCA
INDEX NO. CAA-02-2010-1010**

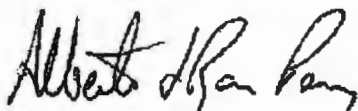
Dear Ms. Jordan:

On behalf of the Municipality of Moca and his Major Jose Aviles, I am requesting a meeting between EPA and our technical consultant to discuss the above-mentioned Order and the documents that EPA is requesting from the Municipality, in order to avoid any misleading or misunderstanding with the Order.

Please, let us know at least two dates when the meeting can be done.

Cordially,

ALBERTO L. RAMOS LAW OFFICES



Alberto L. Ramos

Xc: Mr. Jose E. Aviles, Major

In the Matter of
Moca Landfill
August 10, 2010

Name	Representing	Telephone	E-mail Address
Alberto L Ramos Pz.	Municipalidad de Moca	284-6290 (787) 284-2971	alberto_ramos_perez@yahoo.com
JOSÉ ENRIQUE AVILÉS SANTIAGO	MUN de MOCA	787 644-5246	kitoaviles10@hotmail.com
Jesús (Jay) Piñero	Mun de Moca	787-642-2007	Jaypinero@yahoo.com
Maria H. Terin	Muni de Moca	787-818-0075	-
JAMES RODRIGUEZ	Municipio de Moca	(787) 284-2971	jamesrodriguez_camacho@hotmail.com
Carolina Jordan Carraá	EPA-ORC	(787) 977-5874	jordan-garcia.carolina@epa.gov
Francisco Claudio	EPA-CEPD	(787) 977-5841	claudio.francisco@epa.gov

Mucado. (787) 473-3344

ALBERTO L. RAMOS LAW OFFICES

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August 10, 2010

Ms. Carolina Jordan
Assistance Regional Counsel
US EPA- Region 2
1492 Ponce de Leon Ave.
Centro Europa Building Suite 417
Santurce, Puerto Rico 00907-4127

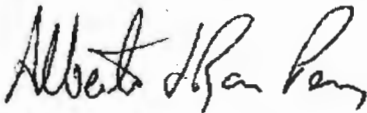
**ANSWER TO COMPLIANCE ORDER
IN THE MATTER OF MUNICIPALITY OF MOCA
INDEX NO. CAA-02-2010-1010**

Dear Ms. Jordan:

Confirming our meeting held today between the Municipality Technical Consultants and Mr. Francisco Claudio from EPA, the Municipality will revised the design capacity criteria submitted to EQB by our former consultants DMG on 2008. The information requested as part of the Compliance Order will be submitted within the 45 days granted by the Order.

Cordially,

ALBERTO L. RAMOS LAW OFFICES



Alberto L. Ramos

Xc: Mr. Jose E. Aviles, Major of Moca
Mr. Juan C. Mercado
Dr. Jay Piñero
Mr. Francisco Claudio, EPA

ALBERTO L. RAMOS LAW OFFICES

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March 4, 2011

Ms. Teresita Rodriguez, Chief
Multimedia Permits and Compliance Branch
Caribbean Environmental Protection Division
1492 Ponce de Leon Ave. Suite 417
San Juan, Puerto Rico 00907-4127

**Re: In the Matter of Municipality of Moca
Index No. CAA-02-2010-1010
Rationale and Proposed Approach for Re-Submittal of the Design Capacity
Report for the Moca Municipal Solid Waste Landfill to the US EPA**

Dear Ms. Rodriguez:

An initial design capacity report (Initial Report on Design Capacity – Moca Municipal Solid Waste Landfill) was prepared for the Moca Municipal Solid Waste Landfill (Site) in February 2008 by Development Management and Consulting Group. The results of the initial design capacity report suggested that a gas collection and control system (GCCS) would need to be installed at the Site. However, upon re-analysis of current and historical topographic information and additional pertinent information since the submittal of the initial design capacity report, the Municipality of Moca respectfully requests permission to re-submit the initial design capacity report for the Site. The purpose of this letter is to provide the US EPA with additional background information and the proposed approach for establishing the design capacity that will be used in a revised initial design capacity report.

Page 2

Ms. Teresita Rodríguez

March 4, 2011

The emission guidelines (EG) for MSW landfills, found in 40 CFR Part 60, Subpart Cc, requires MSW landfills that accepted waste after November 8, 1987 to submit an initial design capacity report to assess whether the design capacity exceeds 2.5 million m³ or 2.5 million Mg. If the initial design capacity report indicates that the capacity is less than the above-referenced threshold values, then the facility is not required to comply with gas collection and control system requirements of 40 CFR 60.752(b)(2) and is not required to calculate a non-methane organic compound (NMOC) emission rate.

The above-referenced regulations allow for a landfill's design capacity to be calculated on a volumetric basis or on a weight basis – if either number is found to be less than the regulatory threshold, then no further action is required by the facility unless the facility's design capacity increases in the future (e.g., as part of a regulatory-approved lateral or vertical expansion). At the time that a facility's design capacity exceeds 2.5 million m³ or 2.5 million Mg, then the facility is required to calculate the non-methane organic compound (NMOC) emission rate. If a facility's design capacity does not exceed the 2.5 million (m³ or Mg) threshold, then calculating the NMOC emissions is not required.

The initial design capacity report prepared for the Site in February 2008 calculated a volumetric "design capacity" of 2,143,588.33 m³ and a weight-based "design capacity" of 972,325.29 Mg. We place the words "design capacity" in quotations because the calculated numbers in this report were that of the in-place waste (i.e., the amount of waste that was present at the landfill at the time the report was prepared). The following is the definition of design capacity per the US EPA's New Source Performance Standards, 40 CFR 60 Subpart WWW (emphasis added):

*Design capacity means the **maximum amount of solid waste a landfill can accept**, as indicated in terms of volume or mass in the most recent permit issued by the State, local, or Tribal agency responsible for regulating the landfill, plus any in-place waste not accounted for in the most recent permit. If the owner or operator chooses to convert the design capacity from volume to mass or from mass to volume to demonstrate its design capacity is less than 2.5 million megagrams or 2.5 million cubic meters, the calculation must include a site specific density, which must be recalculated annually. Per the EG, the report should have ceased at that point and stated that, since the facility's design capacity does not exceed 2.5 million (m³ or Mg) that calculation of the NMOC emission rate is not required.*

Page 3

Ms. Teresita Rodríguez

March 4, 2011

We are not aware of any permit that has been issued for the Site that specifies a maximum volume or mass allowable for the facility. Absent this information, the best available approach would be to calculate the design capacity assuming a final grade configuration and bottom elevation for the current disposal footprint at the Site. Since the previous initial design capacity report suggested that a GCCS may be required, and given that the design capacity calculated in the previous report did not reflect the design capacity as defined in the US EPA regulations, we propose to re-calculate the design capacity (as defined by US EPA regulations) by assuming a final grade configuration for the landfill and calculating a volume or mass and re-submit the initial design capacity report for the Moca Landfill.

The Municipality of Moca has retained ITG Technical Group (Caguas, PR) and Innovative Waste Consulting Services, LLC (IWCS, Gainesville, FL) to prepare a revised initial design capacity report for the Site. The overall approach that is being proposed is to establish a final grade configuration, establish an approximate "limits of waste" at the site, and estimate a landfill bottom elevation, then calculate the volumetric design capacity using a computer-based drawing program such as AutoCAD.

Based on the experience of ITG and IWCS in MSW landfill designs at other facilities in Puerto Rico, it is expected that the maximum allowable final side slope configuration for the Site would be 3 horizontal to 1 vertical. In addition to identifying a final side slope configuration, the design capacity calculation will include establishing an approximate "limits of waste" which will be identified based on available historical information from Site operators as well as a limited field study that will involve advancing several test pits (minimum of 6) using mobile landfill equipment at the site. The purpose of the test pits will be to spot check the anticipated limits of waste so that a more defined waste boundary can be established for the purposes of calculating the design capacity. The approximate dimensions of each test pit will be 6 ft wide, 12 ft long, and 3 ft deep. The locations of each test pit will be surveyed in the field and each pit will be visually observed to identify the presence of buried MSW. If waste is encountered in a given test pit, an additional test pit will be advanced approximately 15 ft away until no waste is encountered.

Page 4

Ms. Teresita Rodríguez

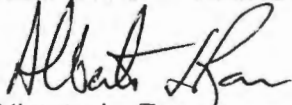
March 4, 2011

Lastly, a waste bottom grade elevation will be assumed as part of the revised design capacity report. Based on a United States Geological Survey (USGS) quadrangle map published in 1968 (which is earlier than 1984, when waste filling first began at the Site), we will assume that the pre-existing grades at the Site were at a uniform elevation of 225 m, which we expect will be a conservative (in favor of resulting in a larger design capacity) figure to use. Detailed bottom elevation data do not exist for the site and using the USGS quadrangle map represents the best available historical information that can be used to estimate a pre-landfilling bottom elevation for the Site. Figure 1 shows the 1968 USGS quadrangle map.

We respectfully request a meeting to provide our rationale in order that you consider our approach and provide us with an expedited response so that we may proceed with completing and submitting the initial design capacity report for the Moca Landfill as soon as possible. Once receiving the US EPA's approval of our approach, we propose to execute the test pit field effort and submit the revised design capacity report to the US EPA within 21 days.

Sincerely,

ALBERTO L. RAMOS LAW OFFICES



Alberto L. Ramos

Xc: Hon. Jose E. Aviles Santiago, Major
Eng. Juan Carlos Mercado, ITG
Ms. Carolina Jordan, Esq.
Mr. Francisco Claudio

ATTACHMENT

**1968 USGS QUADRANGLE MAP FOR MOCA,
PUERTO RICO**



Note: The red line shows the Moca Municipal Solid Waste Landfill's property boundary and the elevation contours suggest a minimum pre-landfilling grade of 225 m



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Centro Europa Building
1492 Ponce de León Avenue
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San Juan, Puerto Rico 00907-4127

FAX TRANSMISSION

To: *Alberto L. Ramos, Esq.*
Fax: *(787) 284-6292*

Page 1 of 3 pages

Date: *March 8, 2011*

From:
Carolina Jordán-García
Assistant Regional Counsel

Phone: *(787) 977-5803 / 5834*
Fax: *(787) 729-7748*

Comments:

TRANSMISSION VERIFICATION REPORT

TIME : 03/09/2011 13:04
NAME : USEPA
FAX : 7877297748
TEL : 7879775803
SER.# : BROF8J817527

DATE, TIME	03/09 13:03
FAX NO./NAME	917872846292
DURATION	00:00:38
PAGE(S)	03
RESULT	OK
MODE	STANDARD ECM



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Centro Europa Building
1492 Ponce de León Avenue
MEZZANINE
San Juan, Puerto Rico (00907)-4127

FAX TRANSMISSION

To: *Alberto L. Ramos, Esq.*
Fax: *(787) 284-6292*

Page 1 of 3 pages

Date: *March 8, 2011*

From:
Carolina Jordán-Barúa
Assistant Regional Counsel

Phone: *(787) 977-5803 / 5834*
Fax : *(787) 729-7748*



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF REGIONAL COUNSEL
CENTRO EUROPA BUILDING, SUITE 207
1492 PONCE DE LEON AVENUE, STOP 22
SAN JUAN, PR 00907-4127

Via: Overnight mail, facsimile and email

Alberto L. Ramos Pérez
Alberto L. Ramos Law Offices
PO Box 750
Mercedita, PR 00715-0750

**RE: In the Matter of Municipality of Moca
Docket No.: CAA-02-2010-1010**

Dear Mr. Ramos:

I am in receipt of your letter dated March 4, 2011, addressed to Ms. Teresita Rodríguez, in which you ask for permission to resubmit the initial design capacity report for the Moca Landfill. Your communication does not make any reference to the agreement reached by your client and EPA to have the topographical study and the information obtained from it on or before March 1st, 2011.

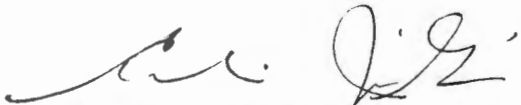
EPA has requested information from Respondent in order to determine if the Moca Landfill is subject to the PR State Plan Part VII of the RCAP or the Landfill NSPS, since May 2009. Respondent's lack of diligence to comply with the requirements of the 114 Letter, compelled the need for a Compliance Order. Unfortunately, the same unresponsiveness has tainted the process to comply with the Order. Finally, an alternate agreement is reached to try to further accommodate Respondent and still be able to obtain the minimum necessary information but its terms and deadline were disregarded.

Nonetheless, EPA accepts the proposed resubmission of the initial design capacity report but keeps the background to this petition in mind, and reminds Respondent of the consequences of incompliance with the Order: the issuance of an administrative penalty order, for penalties up to \$37,500 per day; and a civil action for injunctive relief and/or civil penalties.

If you need to meet with us, we are available next Monday; March 15, 2011. Unfortunately, our technical personnel for this case already have a full schedule for the following weeks and that is our only window to meet in person. Let us know as soon as possible if you would like to have a meeting on said date.

Shall you have any doubt, do not hesitate to contact me at (787) 977-5834 or email me at jordan-garcia.carolina@epa.gov.

Sincerely,

A handwritten signature in black ink, appearing to read 'Carolina J. García', written in a cursive style.

Carolina Jordán García
Assistant Regional Counsel

Cc: Teresita Rodríguez

TRANSMISSION VERIFICATION REPORT

TIME : 03/09/2011 13:13
NAME : USEPA
FAX : 7877297748
TEL : 7879775803
SER.# : BROF8J817527

DATE, TIME	03/09 13:13
FAX NO./NAME	912025650044
DURATION	00:00:00
PAGE(S)	00
RESULT	BUSY
MODE	STANDARD

BUSY: BUSY/NO RESPONSE

EPA REGION II / ORC
Centro Europa Building, Suite 207
1492 Ponce de León Ave.
San Juan, Puerto Rico 00907
Phone: 787-977-5818
Fax: 787-729-7748

FAX COVER SHEET

FAX NUMBER TRANSMITTED TO: 202-565-0044

To: Chief Administrative Law Judge:
The Honorable Susan L. Biro
Office of Administrative Law Judges
U.S. Environmental Protection Agency

From: **Héctor L. Vélez, Esq.**
Office of Regional Counsel - Caribbean Team

Re: **In the Matter of Dana Transport**
Docket Number Docket No. RCRA-02-2010-7112

Motion

Date: March 9, 2011.

Good afternoon.

Enclosed please find the *Motion Informing Agreement in Principle Reached by the*

TRANSMISSION VERIFICATION REPORT

TIME : 03/09/2011 12:53
NAME : USEPA
FAX : 7877297748
TEL : 7879775803
SER.# : BROF8J817527

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PAGE(S)	03
RESULT	OK
MODE	STANDARD ECM



Office of Regional Counsel
Centro Europa Building
1492 Ponce de León Avenue
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San Juan, Puerto Rico 00907-4127

FAX TRANSMISSION

To: *Alberto L. Ramos, Esq.*
Fax: *(787) 284-6292*

Page 1 of 3 pages

Date: *March 8, 2011*

From:
Carolina Jordán-García
1... 1 Regional Counsel

Phone: *(787) 977-5803 / 5834*
Fax : *(787) 729-7748*

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2

In the Matter of:

Municipality of Moca
P.O. Box 1571
Moca, Puerto Rico 00676-1571

**Complaint and Notice of
Opportunity to Request a
Hearing**

Respondent

Index No.: CAA-02-2011-1216

In a proceeding under Section 113(a) of the
Clean Air Act, 42 U.S.C. § 7413(a)

Complaint and Notice of Opportunity to Request a Hearing

PRELIMINARY STATEMENT

The United States Environmental Protection Agency (EPA), issues this Complaint and Notice of Opportunity to Request a Hearing (Complaint) to the Municipality of Moca (Moca or Respondent), for violations of the Clean Air Act (CAA or the Act), 42 U.S.C. § 7401 *et seq.*, and proposes the assessment of penalties in accordance with Section 113 of the CAA and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, 40 C.F.R. Part 22 (CROP). The authority to issue this Complaint has been delegated to the Director of the Caribbean Environmental Protection Division (CEPD) from the Administrator through the Regional Administrator.

In this Complaint, EPA alleges that Respondent violated the CAA by failing to respond adequately, and in a timely fashion, to a CAA Section 114 information request concerning Respondent's compliance with the CAA and its implementing regulations at the Moca Municipal Solid Waste Landfill (Moca Landfill or the Facility), located at PR

Road 110, km. 16.5, Centro Ward of Moca.

STATUTORY AND REGULATORY BACKGROUND

Sections 302, 113 and 114 of the Act

1. Section 302(e) of the CAA provides that whenever the term "person" is used in the Act, the term includes an individual, corporation, partnership, association, state, municipality, political subdivision of a State, and any agency, department, or instrumentality of the United States and any officer, agent, or employee thereof.

2. Sections 113(a)(3) and (d) of the Act authorize the Administrator of EPA to issue an administrative penalty order against any person that has violated or is in violation of the Act or regulations promulgated or approved pursuant to the Act.

3. Section 114(a) of the Act grants EPA the authority to require submission of information to enable it to assess any person's compliance with, among other things, any applicable standard of performance promulgated under Section 111 of the Act, and any applicable emission standard promulgated under Section 112 of the Act.

4. Failure to adequately respond to a Section 114 Request for Information is a violation of Section 114, and may result in a finding of violation and an order to comply, an order for administrative penalties or a civil action for penalties and an injunction requiring compliance, under the authority of 42 U.S.C. § 7413(a)(3).

Puerto Rico Section 111(d) State Plan

5. Pursuant to Section 111(d) of the CAA, EPA promulgated Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills, 40 C.F.R. Part 60, Subpart Cc, and the Puerto Rico Environmental Quality Board (EQB) submitted to EPA its "State Plan for implementation of 40 C.F.R. Part 60, Subpart Cc, Emission Guidelines and

Compliance Times for Municipal Solid Waste Landfills" (the Puerto Rico Section 111(d) State Plan).

6. EPA approved the Puerto Rico Section 111(d) State Plan on July 16, 2002, and it became effective and enforceable by EPA on August 15, 2002. 67 Fed. Reg. 46,598.

7. The Puerto Rico Section 111(d) State Plan, which is found in Part VII of the Puerto Rico Regulations for the Control of Atmospheric Pollution (PRRCAP), contains operating, monitoring, reporting and recordkeeping requirements that apply to the owners and operators of municipal sanitary landfill systems, such as the Facility, for which construction, reconstruction or modification was commenced before May 30, 1991.

FINDINGS OF FACT

Description of the Facility

8. The Moca Landfill, located at PR Road 110, km. 16.5, Centro Ward, in Moca, Puerto Rico, is an existing permanent disposal facility where household waste is placed in or on land.

9. The Moca Landfill was operated by its owner, the Municipality of Moca, from 1984, when it started operations, until February 1st, 2011; when Moca Eco-Park Corporation became the Facility's operator.

EPA's Section 114 Investigation

10. On April 1st, 2009, an EPA Enforcement Officer conducted a full compliance evaluation inspection of the Moca Landfill (the 2009 Inspection).

11. In May 2009, EPA sent Respondent a "Request of Information under Section 114," Letter Ref. No. CAA-02-2009-1469 ("114 Letter"), regarding the compliance status

of the Moca Landfill.

12. The 114 Letter, pursuant to the authority of Section 114 of the Act, and subject to the sanctions set out in Section 113 of the Act, required Respondent to submit the information requested by the 114 Letter in its Attachment II.

13. On June 30, 2009, Respondent requested an extension of time to submit the information and the data requested in the 114 Letter.

14. EPA approved an extension of time to answer the 114 Letter until August 7, 2009.

15. On August 7, 2009, Respondent submitted several documents to EPA, but did not adequately respond to several items required in the 114 Letter. Specifically, Respondent failed to provide an appropriate answer to the following questions in the 114 letter:

- a. Identify any permitted landfill design capacity increases and landfill expansions that have occurred since the landfill initially began accepting waste. Documentation may include any construction contracts entered into prior to the modifications or reconstruction taking place. Provide details regarding each such design capacity increase or landfill expansion with specific dates.
- b. State the design capacity of the entire landfill and each individual phase in megagrams or cubic meters. Provide a copy of the most recent operating permit or engineering design plan. Provide a copy of the calculated non-methane organic compound (NMOC) emission rate (Mg/yr) for the previous 5 years. Submit calculations using EPA approved methods to document the NMOC emission rate. If applicable, provide copies of any Tier1, Tier 2, or Tier 3 test(s) performed at the facility.
- c. If the NMOC emission rate is greater than 50 Mg/yr, provide information documenting the year the NMOC emissions first exceeded 50 Mg/yr. If the NMOC emission rate is less than 50 Mg/yr, provide information documenting any period during the life of the landfill when the NMOC emission rate is expected to exceed this threshold.
- d. Provide information documenting the period of time that waste has been

deposited in each waste cell which is or will be connected to the Gas Collection Control System (GCCS). If known, provide the waste acceptance rates for the previous ten years.

- e. Provide the negative pressure of the GCCS and how often it is monitored, if applicable.
- f. What is the interior landfill gas temperature, nitrogen concentration, and oxygen concentration? Submit monitoring or testing reports to support this information.
- g. Provide a copy of the landfill surface monitoring plan. Provide the last date surface monitoring was conducted or the date of initial monitoring. Submit a diagram of the area to be monitored. Document any surface monitoring readings greater than 500ppmv.
- h. Provide documentation of any expansions to the GCCS that have been completed or are planned.
- i. Provide copies of monitoring records for the twelve month period prior to the receipt of this letter pertaining to pressure of the internal wellhead system of the GCCS and internal gas temperature. Indicate how often these parameters are monitored.
- j. Provide the type of temperature monitor that is utilized on the control device and how often the temperature is monitored.
- k. Submit records of gas flow rate to the control device for the twelve month period prior to the receipt of this letter. Provide documentation of any periods when gas was diverted from the control device.
- l. Indicate how the facility monitors for the constant presence of flames in the control device.
- m. Provide a copy of the initial design capacity report submitted either to EPA or the State.
- n. Submit copies of annual NMOC emission rate reports for the previous five years.
- o. Submit copies of reports required under 40 C.F.R. 60.757(f) and/or PRRCAP Rule 707 for the previous five years, if applicable.
- p. Submit copies of any additional applicable reports for the previous five years.

- q. Submit copies of any landfill closure reports submitted to EPA or the State, if applicable.

16. In the months following Moca's August 2009 submission, EPA staff made repeated efforts to obtain the missing documents from Moca. In response to those attempts, Moca representatives consistently represented to EPA that Moca would produce the documents. However, Moca repeatedly failed to produce the documents. Thus, despite EPA's repeated attempts to obtain the documents, and despite Moca's repeated assurances, as of July 2010, Moca had still not produced the missing documents.

The Compliance Order

17. On July 20, 2010, EPA filed a Compliance Order (the Order) against Respondent for its failure to comply with Section 114 of the Act.

18. The Order directed Respondent to produce the information requested by the Section 114 letter and not produced previously, and further directed Respondent to produce additional materials, such as topographic maps of the landfill.

19. In December 2010, Moca sent EPA a series of topographic maps and aerial photographs, but failed to produce the other information covered by the July 2010 compliance order and originally requested in the May 2009 114 letter.

20. Following Moca's December 2010 submission, EPA again requested that Moca produce the missing documents.

21. In March 2011, Moca representatives indicated to EPA that Moca would not be able to produce the missing documents and information. Since it was explained that most of the documents requested had never been prepared, Moca proposed to hire a consultant and submit a new design capacity report. This new design capacity report

would provide the Agency with sufficient information to be able to make an assessment of Respondent's compliance status with standards of performance promulgated under Section 111 of the Act, and any emission standard promulgated under Section 112 of the Act.

CONCLUSIONS OF LAW

22. Respondent is a "person" within the meaning of Section 302(e) of the Act.
23. Respondent is subject to the assessment of administrative penalties, pursuant to Section 113(d) of the Act.
24. Respondent is the owner and was, until recently, the operator of the Moca Landfill.

Count 1

25. Paragraphs 1-24 are repeated and realleged as if set forth fully herein.
26. Respondent violated Section 114 of the CAA by failing to produce all of the information requested by EPA's May 2009 Section 114 information request.

Proposed Civil Penalty

Section 113(d) of the Act provides that the Administrator may assess a civil administrative penalty of up to \$25,000 per day for each violation of the Act. The Debt Collection Improvement Act of 1996 (DCIA) requires EPA to periodically adjust its civil monetary penalties for inflation. On December 31, 1996, February 13, 2004, and January 7, 2009, EPA adopted regulations entitled Civil Monetary Penalties Inflation Adjustment Rule, 40 C.F.R. Part 19 (Part 19). The DCIA provides that the maximum civil penalty per day should be adjusted up to \$27,500 for violations that occurred from January 30, 1997 through March 15, 2004, up to \$32,500 for violations that occurred

after March 15, 2004, through January 12, 2009, and up to \$37,500 for violations that occurred after January 12, 2009. Part 19 provides that the maximum civil penalty should be upwardly adjusted 10% for violations which occurred on or after January 30, 1997, further adjusted an additional 17.23% for violations which occurred March 15, 2004 through January 12, 2009, for a total of 28.95% and further adjusted an additional 9.83% for violations that occurred after January 12, 2009.

In determining the amount of penalty to be assessed, Section 113(e) of the Act requires that the Administrator consider the size of the business, the economic impact of the penalty on the business, the violator's full compliance history and good faith efforts to comply, the duration of the violation as established by any credible evidence, the payment by the violator of penalties previously assessed for the same violation, the economic benefit of noncompliance, the seriousness of the violation, and other factors as justice may require.

Respondent's violation resulted in it being subject to the assessment of administrative penalties pursuant to Section 113(d) of the Act. The proposed penalty has been prepared in accordance with the guidelines set forth in EPA's "Clean Air Act Stationary Source Civil Penalty Policy" (CAA Penalty Policy), which reflects EPA's application of the factors set forth in Section 113(e) of the Act.

EPA proposes a total penalty of \$62,317 for the Count alleged in this Complaint. Below is a brief narrative explaining the reasoning behind the penalty proposed, along with the reasoning behind various general penalty factors and adjustments that were used in the calculation of the total penalty amount.

Preliminary Deterrence Component of Proposed Penalty

The CAA Penalty Policy indicates that the preliminary deterrence amount is determined by combining the gravity component and the economic benefit component of the penalty calculated. The gravity component includes, as applicable, penalties for actual harm, importance to the regulatory scheme, size of violator and adjustments to the gravity component for degree of willfulness or negligence, degree of cooperation, prompt reporting, correction, history of non-compliance and environmental damage. Actual harm is calculated, where applicable, in accordance with the level of the violation, the toxicity of pollutant, the sensitivity of the environment, and the length of time of violation.

Gravity Component

Count 1: Violation of Section 114 of the Act

EPA proposes a penalty of \$5,000 for Respondent's incomplete and delayed answer to the 114 Letter. The purpose of the 114 Letter is to provide EPA with enough information to make a complete assessment of Respondent's compliance status with standards of performance promulgated under Section 111 of the Act, and any emission standard promulgated under Section 112 of the Act.

The CAA Penalty Policy directs that a penalty of \$5,000 be proposed for Reporting and Notification Violations when a person fails to submit a complete report. Respondent failed to respond in full to the requests for information, as required by the 114 Letter. Respondent did not offer an adequate or appropriate answer to each inquiry, and many documents requested were not provided to EPA. Respondent's failure to produce the documents significantly hindered and delayed EPA's attempts to

assess the Moca landfill's compliance with applicable CAA requirements.

The CAA Penalty Policy also directs that a penalty be assessed for the length of time of the violation, including a reporting requirement and a testing requirement. Moca received the 114 Letter on June 2, 2009. The information was required within twenty-eight (28) calendar days after the receipt of the 114 Letter. Respondent requested an extension of time until August 10, 2009, which EPA approved. The information submitted was deficient and incomplete and, after a year had elapsed, on July 20, 2010, EPA was forced to initiate an administrative action to request the information. The length of time was calculated from August 10, 2009, to July 20, 2010, or eleven (11) months of violation. The CAA Penalty Policy states that a penalty of \$15,000 should be assigned for a length of time of 11 months. Therefore, EPA proposes a penalty of \$20,000.

The Debt Collection Act and Part 19, direct EPA to adjust the gravity component a total of 28.95% for violations occurring on or after March 15, 2004, but before January 9, 2009, and an adjustment of 41.63% for violations occurring on or after January 9, 2009. The gravity component amount of \$ 20,000 was adjusted by \$8,326, resulting in a total proposed penalty of \$28,326.

Size of Violator

The CAA Penalty Policy directs that a penalty be proposed that takes into account the size of violator, determined by the violator's net worth. Respondent's net worth is estimated at \$12,000,000, based on the 2009 Municipal Budget Report. The CAA Penalty Policy states that the penalty assigned to the size of violator component cannot exceed 50% of the total gravity component. EPA has calculated a penalty of

\$20,000 for the size of violator component of the gravity penalty for violators with the 12 million net worth. The inflation adjustment for the size of violator amount is 41.63% which will corresponds to an amount of \$8,326. Therefore, EPA proposes \$28,326 for the size of violator component of the gravity penalty.

Inflation Adjustment

Pursuant to the Debt Collection Improvement Act (DCIA), 31 U.S.C. §§ 3701 *et seq.*, and 40 C.F.R. Part 19, the regulation promulgated pursuant to the DCIA, the CAA Penalty Policy "preliminary deterrence" amount should be adjusted 28.93% for inflation for all violations occurring after March 15, 2004, but before January 12, 2009, and further adjusted by 41.633% for all violations occurring after January 12, 2009. Respondent's violations began, as early as, April 2008 and continue to April 2011. Inflation adjustments for violations were done in accordance with the DCIA requirements, which resulted in a total inflation adjustment of \$16,652.

Adjustment of Gravity Component

The gravity component was adjusted to reflect Respondent's lack of diligence to provide EPA with the information requested in the 114 Letter. The degree of willfulness or negligence was assumed to be 10% due to the delays for submittal of the information requested by EPA. Therefore, EPA is increasing the penalty by \$5,665.

Economic Benefit Component

In this case, EPA determined the economic benefit of Moca's failure to comply with the Section 114 information request was *de minimis*. Therefore, EPA does not propose an economic benefit component as part of the total penalty.

Total Amount

In summary, EPA proposes a total penalty of \$62,317 for the violations alleged in this Complaint.

NOTICE OF OPPORTUNITY TO REQUEST A HEARING

The hearing in this matter is subject to the Administrative Procedure Act, 5 U.S.C. §§ 552 *et seq.* The procedures for this matter are found in the CROP, a copy of which is enclosed with the transmittal of this Complaint. References to specific procedures in this Complaint are intended to inform you of your right to contest the allegations of the Complaint and the proposed penalty and do not supersede any requirement of the Consolidated Rules of Practice.

You have a right to request a hearing: (1) to contest any material facts set forth in the Complaint; (2) to contend that the amount of the penalty proposed in the Complaint is inappropriate; or (3) to seek a judgment with respect to the law applicable to this matter. In order to request a hearing you must file a written Answer to this Complaint along with the request for a hearing with the EPA Regional Hearing Clerk within thirty (30) days of your receipt of this Complaint. The Answer and request for a hearing must be filed at the following address:

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

A copy of the Answer and the request for a hearing, as well as copies of all other papers filed in this matter, are to be served on EPA to the attention of EPA counsel at the following address:

Carolina Jordán-García
Assistant Regional Counsel
Caribbean Environmental Protection Division
U.S. Environmental Protection Agency - Region 2
Centro Europa Building, Suite 417
1492, Ponce de León Ave.
San Juan, PR 00907

Your Answer should, clearly and directly, admit, deny, or explain each factual allegation contained in this Complaint with regard to which you have any knowledge. If you have no knowledge of a particular factual allegation of the Complaint, you must so state and the allegation will be deemed to be denied. The Answer shall also state: (1) the circumstances or arguments which you allege constitute the grounds of a defense; (2) whether a hearing is requested; and (3) a concise statement of the facts which you intend to place at issue in the hearing.

If you fail to serve and file an Answer to this Complaint within thirty (30) days of its receipt, Complainant may file a motion for default. A finding of default constitutes an admission of the facts alleged in the Complaint and a waiver of your right to a hearing. The total proposed penalty becomes due and payable without further proceedings thirty (30) days after the issue date of a Default Order.

SETTLEMENT CONFERENCE

EPA encourages all parties against whom the assessment of civil penalties is proposed to pursue the possibilities of settlement by informal conferences. However, conferring informally with EPA in pursuit of settlement does not extend the time allowed to answer the Complaint and to request a hearing. Whether or not you intend to request a hearing, you may confer informally with the EPA concerning the alleged violations or the amount of the proposed penalty. If settlement is reached, it will be in the form of a

written Consent Agreement which will be forwarded to the Regional Administrator with a proposed Final Order. You may contact EPA counsel, Carolina Jordán-García at (787) 977-5834, jordan-garcia.carolina@epa.gov, or at the address listed above, to discuss settlement. If Respondent is represented by a legal counsel in this matter, Respondent's counsel should contact EPA.

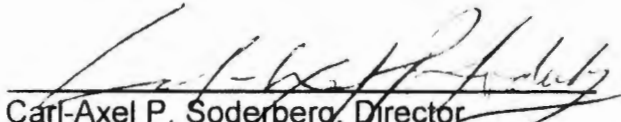
PAYMENT OF PENALTY IN LIEU OF ANSWER, HEARING AND/OR SETTLEMENT

Instead of filing an Answer, requesting a hearing, and/or requesting an informal settlement conference, you may choose to pay the full amount of the penalty proposed in the Complaint. Such payment should be made by a cashier's or certified check payable to the Treasurer, United States of America, marked with the docket number and the name of the Respondent(s) which appear on the first page of this Complaint. The check must be mailed to:

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

A copy of your letter transmitting the check and a copy of the check must be sent simultaneously to EPA counsel assigned to this case at the address provided under the section of this Complaint entitled Notice of Opportunity to Request a Hearing. Payment of the proposed penalty in this fashion does not relieve one of responsibility to comply with any and all requirements of the Clean Air Act.

Issued: Sept 30, 2011


Carl-Axel P. Soderberg, Director
Caribbean Environmental Protection Division
U.S. Environmental Protection Agency - Region 2

To: Hon. José Enrique Avilés Santiago
Mayor
Municipality of Moca
P.O. Box 1571
Moca, Puerto Rico 00676-1571

IN THE MATTER OF:

Municipality of Moca
P.O. Box 1571
Moca, Puerto Rico 00676-1571

Respondent

In a Proceeding under Section 113(a) of
the Clean Air Act, 42 U.S. C. §7413(a)

**Complaint and Notice of Opportunity to
Request a Hearing**

Index No. : CAA-02-2011-1216

CERTIFICATE OF SERVICE

I certify that the foregoing Complaint and Notice of Opportunity to Request a Hearing was sent to the following persons, in the manner specified, on the date below:

Original and Copy via UPS Mail to:

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

Copy by Certified Mail Return Receipt:

Hon. José Enrique Avilés Santiago
Municipality of Moca
P.O. Box 1571
Moca, Puerto Rico 00676-1571

Dated:

September 30, 2011



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2

<p>IN MATTER OF</p> <p>Municipality of Moca PO Box 1571 Moca, Puerto Rico 00676-1571</p> <p>RESPONDENT</p>	<p>COMPLAINT AND NOTICE OF OPPORTUNITY FOR HEARING</p> <p>INDEX No. CAA-02-2011-1216</p>
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ANSWER TO THE COMPLAINT

Here comes Respondent represent by the undersigned attorney who's **ALLEGED, PRAY** and **REQUEST** as follows,

1. Statement 1 of the Complaint does not request an answer by Respondent.
2. Statement 2 of the Complaint does not request an answer by Respondent.
3. Statement 3 of the Complaint does not request an answer by Respondent.
4. Statement 4 of the Complaint does not request an answer by Respondent.
5. Statement 5 of the Compliant does not request an answer by Responded.
6. Statement 6 of the Compliant does not request an answer by Respondent.
7. Statement 7 of the Compliant does not request an answer by Respondent.
8. Statement 8 of the Complaint is accepted.
9. Statement 9 of the Complaint is accepted.
10. Statement 10 of the Complaint is accepted.
11. Statement 11 of the Complaint is accepted.
12. Statement 12 of the Complaint does not request an answer by Respondent.
13. Statement 13 of the Complaint is accepted.
14. Statement 14 of the Complaint is accepted.
15. Statement 15 of the Complaint is not accepted. The answer to these questions (from 15a to 15q.) was information not available.
16. Statement 16 is not accepted by the way that is written.
17. Statement 17 of the Complaint is accepted.
18. Statement 18 of the Complaint is accepted.

19. Statement 19 of the Complaint is accepted. The other information was not available.
20. Statement 20 of the Complaint is not accepted. Meeting was conducted with EPA to look for an alternative way to reproduce the information requested doing a field work in the landfill.
21. Statement 21 of the Complaint is accepted.
22. Statement 22 of the Complaint does not request an answer by Respondent.
23. Statement 23 of the Complaint does not request an answer by Respondent.
24. Statement 24 of the Complaint does not request an answer by Respondent.
25. Statement 25 of the Complaint does not request an answer by Respondent.
26. Statement 26 of the Complaint is not accepted. Information was submitted to EPA and need approval from EQB about the approach used to submit the new Initial Design Capacity Report.

AFFIRMATIVE DEFENSES

1. Some of the material facts of the Complaint are not correct.
2. The amount of the penalty proposed is not appropriate.
3. The second Initial Design Capacity Report submitted to EPA by our consultant and approved by EQB shows that the requested information under section 114 of the CAA do not apply to the operations of the Municipality of Moca.
4. Most of the information request was not available due that the operation of the landfill was conducted for more the 20 year by the Municipality of Aguadilla.

THEREFORE Respondent respectfully submit the answer to the complaint and request the dismissal of this action.

I certify that copy of this motion was sent to Ms. Carolina Jordan-Garcia, Esq. Offices of Regional Counsel, US. EPA- Región 2, Centro Europa Building Suite 417, 1492 Ponce de León Ave., San Juan, Puerto Rico 00907-4127.

Respectfully submitted today November 29, 2011.



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