

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2

In the Matter of:

**In the Matter of Caribbean All Metal
Recyclers Corp.**

P.O. Box 116, Saint Just Station
Carolina, Puerto Rico 00978

RESPONDENT

Docket No. RCRA-02-2016-7013

Proceeding Pursuant to Solid Waste
Disposal Act, as amended, 42 U.S.C. §
6901 *et seq.* to Assess Class I Civil Penalty

**ANSWER TO COMPLAINT, CONSENT ORDER, AND OPPORTUNITY FOR
HEARING**

TO THE REGIONAL HEARING CLERK:

COMES NOW, Caribbean All Metal Recyclers Corp. (“CAMR” or “Respondent”), hereby represented by the undersigned attorney and respectfully states, alleges, and prays:

This Answer (the “Answer”) is submitted by Respondent in response to the “Complaint, Compliance Order, and Opportunity for Hearing” (the “Complaint”) issued by the U.S. Environmental Protection Agency, Region 2 (“EPA” or the “Complainant”) on September 30, 2016, and received by CAMR on October 11, 2016.

For purposes of clarity, CAMR’s Answer follows, for the most part, the same paragraph numbering and order as the corresponding allegations of the Complaint. For those portions of the Answer that does not follow such order, Respondent shall clarify its response.

I. COMPLAINT (Answer)

Jurisdiction

1. Paragraph 1 contains conclusions of law, which do not require a response. To the extent that a response is required, the allegations contained in paragraph 1 are denied.

Respondent specifically denies EPA's allegation that Respondent failed to comply with the requirements mandated pursuant to RCRA.

2. Paragraph 2 contains conclusions of law, which do not require a response. To the extent that a response is required, the allegations contained in paragraph 2 are denied.

3. Paragraph 3 contains conclusions of law, which do not require a response. To the extent that a response is required, the allegations contained in paragraph 3 are denied.

4. Paragraph 4 contains an assertion as to the Director's delegation of authority to institute this action. Respondent has no knowledge of whether such factual allegation is true. In accordance with 40 CFR §22.15(b), the allegations should then deemed denied.

Applicable Legal Provisions, Generally

5. Paragraph 5 contains conclusions of law, which do not require a response. To the extent that a response is required, the allegations contained in paragraph 5 are denied.

6. Paragraph 6 contains conclusions of law, which do not require a response. To the extent that a response is required, the allegations contained in paragraph 6 are denied.

7. Paragraph 7 contains conclusions of law, which do not require a response. To the extent that a response is required, the allegations contained in paragraph 7 are denied.

8. Paragraph 8 contains conclusions of law, which do not require a response. To the extent that a response is required, the allegations contained in paragraph 8 are denied.

9. Paragraph 9 contains conclusions of law, which do not require a response. To the extent that a response is required, the allegations contained in paragraph 9 are denied.

10. Paragraph 10 contains conclusions of law, which do not require a response. To the extent that a response is required, the allegations contained in paragraph 10 are denied.

Respondent's Identity and Operations, Generally

11. CAMR admits that EPA has named CAMR as Respondent in this administrative proceeding. Paragraph 11 is denied in all other respects.

12. CAMR admits that it is a corporation organized under, and existing since 2008, under the laws of the Commonwealth of Puerto Rico. Paragraph 12 is denied in all other respects.

13. Paragraph 13 contains conclusions of law, which do not require a response. To the extent that a response is required, the allegations contained in paragraph 13 are denied.

14. Paragraph 14 is denied. CAMR qualifies that it is not the owner of the property located at or by Carr. 848, Km. 29, San Anton Ward, in Carolina Puerto Rico (zip code 00978).

15. CAMR admits that it has operated the facility described in paragraph 14 above. Paragraph 15 is denied in all other respects.

16. Paragraph 16 contains conclusions of law, which do not require a response. To the extent that a response is required, the allegations contained in paragraph 16 are denied.

17. Paragraph 17 contains conclusions of law, which do not require a response. To the extent that a response is required, the allegations contained in paragraph 17 are denied.

18. Paragraph 18 contains conclusions of law, which do not require a response. To the extent that a response is required, the allegations contained in paragraph 18 are denied.

Respondent's Business Operations

19. Paragraph 19 is admitted.

20. Paragraph 20 is admitted.

21. Paragraph 21 contains conclusions of law, which do not require a response. To the extent that a response is required, the allegations contained in paragraph 21 are denied.

22. Paragraph 22 contains conclusions of law, which do not require a response. To the extent that a response is required, the allegations contained in paragraph 22 are denied.

23. CAMR admits that it collects and stores the aforementioned (¶20, above) spent lead acid batteries. CAMR qualifies that it collects and stores the aforementioned spent lead acid batteries for resale to third parties for reclamation, and that some of these third parties may engage in the export of the aforementioned spent lead acid batteries for reclamation in such countries. CAMR further qualifies that it takes no part nor has any control over such export to foreign countries on the part of the third parties that acquire CARM's spent lead acid batteries.

24. Paragraph 24 contains conclusions of law, which do not require a response. To the extent that a response is required, the allegations contained in paragraph 24 are denied.

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Answer to Complaint

CAMR specifically denies any assertion that CARM engaged in the activity of exporting the aforementioned (§20, above) spent lead acid batteries, as well as any activity that would cause CAMR to be subject to the provisions of the cited rule.

Respondent's Interactions with EPA

25. Paragraph 25 contains an assertion as to certain activities conducted by EPA. Respondent has no knowledge of whether such factual allegation is true. In accordance with 40 CFR §22.15(b), the allegations should then deemed denied.
26. Paragraph 26 contains conclusions of law, which do not require a response. CAMR admits that on or about June 3, 2015 a representative of the EPA visited CAMR's offices. All other allegations contained in paragraph 26 are otherwise denied.
27. Paragraph 27 contains conclusions of law, which do not require a response. CAMR admits that on or about July 10, 2015 a representative of the EPA visited CAMR's offices. All other allegations contained in paragraph 27 are otherwise denied.
28. Paragraph 28 contains conclusions of law, which do not require a response. CAMR admits that on or about May 6, 2016 EPA sent a letter to Respondent requesting certain information. All other allegations contained in paragraph 28 are otherwise denied.
29. Paragraph 29 is admitted. CAMR further incorporates by reference the contents of its July 10, 2016 letter into this pleading.

COUNT 1: UNLAWFUL EXPORT OF HAZARDOUS WASTE TO CHINA

30. CAMR repeats and re-alleges each allegation contained in paragraphs "1" through "29" with the same force and effect as if fully set forth herein.
31. Paragraph 31 contains conclusions of law, which do not require a response. To the extent that a response is required, the allegations contained in paragraph 31 are denied. Respondent specifically denies any assertion that the cited rule applies to CAMR and that CAMR engaged in any activity that would make it subject to such rule.
32. Paragraph 32 contains conclusions of law, which do not require a response. To the extent that a response is required, the allegations contained in paragraph 32 are denied. Respondent specifically denies any assertion that the cited rule applies to CAMR and that CAMR engaged in any activity that would make it subject to such rule.

33. Paragraph 33 contains conclusions of law, which do not require a response. To the extent that a response is required, the allegations contained in paragraph 33 are denied. Respondent specifically denies any assertion that the cited rule applies to CAMR and that CAMR engaged in any activity that would make it subject to such rule.

34. Paragraph 34 contains conclusions of law, which do not require a response. To the extent that a response is required, the allegations contained in paragraph 34 are denied. Respondent specifically denies any assertion that the cited rule applies to CAMR and that CAMR engaged in any activity that would make it subject to such rule.

35. Paragraph 35 is denied.

36. Paragraph 36 contains conclusions of law, which do not require a response. To the extent that a response is required, the allegations contained in paragraph 36 are denied. Respondent specifically denies any assertion that the cited rule applies to CAMR and that CAMR engaged in any activity that would make it subject to such rule.

37. Paragraph 37 is denied.

38. Paragraph 38 contains conclusions of law, which do not require a response. To the extent that a response is required, the allegations contained in paragraph 38 are denied. Respondent specifically denies any assertion that the cited rule applies to CAMR and that CAMR engaged in any activity that would make it subject to such rule.

39. Paragraph 39 contains conclusions of law, which do not require a response. To the extent that a response is required, the allegations contained in paragraph 39 are denied. Respondent specifically denies any assertion that the cited rule applies to CAMR and that CAMR engaged in any activity that would make it subject to such rule.

40. Paragraph 40 contains conclusions of law, which do not require a response. To the extent that a response is required, the allegations contained in paragraph 40 are denied. Respondent specifically denies any assertion that the cited rule applies to CAMR and that CAMR engaged in any activity that would make it subject to such rule.

41. Paragraph 41 contains conclusions of law, which do not require a response. To the extent that a response is required, the allegations contained in paragraph 41 are denied. Respondent specifically denies any assertion that the cited rule applies to CAMR and that CAMR engaged in any activity that would make it subject to such rule.

42. Paragraph 42 contains conclusions of law, which do not require a response. To the extent that a response is required, the allegations contained in paragraph 42 are denied.

Respondent specifically denies any assertion that the cited rule applies to CAMR and that CAMR engaged in any activity that would make it subject to such rule.

43. Paragraph 43 contains conclusions of law, which do not require a response. To the extent that a response is required, the allegations contained in paragraph 43 are denied. Respondent specifically denies any assertion that the cited rule applies to CAMR and that CAMR engaged in any activity that would make it subject to such rule.

44. Paragraph 44 contains conclusions of law, which do not require a response. To the extent that a response is required, the allegations contained in paragraph 44 are denied. Respondent specifically denies any assertion that the cited rule applies to CAMR and that CAMR engaged in any activity that would make it subject to such rule. CAMR respectfully reiterates that it is not and did not act as a “primary exporter” within the meaning of the cited rule.

45. Paragraph 45 contains conclusions of law, which do not require a response. To the extent that a response is required, the allegations contained in paragraph 45 are denied. Respondent specifically denies any assertion that the cited rule applies to CAMR and that CAMR engaged in any activity that would make it subject to such rule.

46. Paragraph 46 contains conclusions of law, which do not require a response. To the extent that a response is required, the allegations contained in paragraph 46 are denied. Respondent specifically denies any assertion that the cited rule applies to CAMR and that CAMR engaged in any activity that would make it subject to such rule.

47. Paragraph 47 contains conclusions of law, which do not require a response. To the extent that a response is required, the allegations contained in paragraph 47 are denied. Respondent specifically denies any assertion that the cited rules apply to CAMR and that CAMR engaged in any activity that would make it subject to such rules.

48. Paragraph 48 contains conclusions of law, which do not require a response. To the extent that a response is required, the allegations contained in paragraph 48 are denied. Respondent specifically denies any assertion that the cited rules and statutes apply to CAMR and that CAMR engaged in any activity that would make it subject to such rules and statutes.

COUNT 2: UNLAWFUL EXPORT OF HAZARDOUS WASTE TO KOREA

49. CAMR repeats and re-alleges each allegation contained in paragraphs “1” through “29” with the same force and effect as if fully set forth herein.

50. Paragraph 50 contains conclusions of law, which do not require a response. To the extent that a response is required, the allegations contained in paragraph 50 are denied. Respondent specifically denies any assertion that the cited rules apply to CAMR and that CAMR engaged in any activity that would make it subject to such rules.

51. Paragraph 51 contains conclusions of law, which do not require a response. To the extent that a response is required, the allegations contained in paragraph 51 are denied. Respondent specifically denies any assertion that the cited rules apply to CAMR and that CAMR engaged in any activity that would make it subject to such rules.

52. Paragraph 52 contains conclusions of law, which do not require a response. To the extent that a response is required, the allegations contained in paragraph 52 are denied. Respondent specifically denies any assertion that the cited rules apply to CAMR and that CAMR engaged in any activity that would make it subject to such rules.

53. Paragraph 53 contains conclusions of law, which do not require a response. To the extent that a response is required, the allegations contained in paragraph 53 are denied. Respondent specifically denies any assertion that the cited rule applies to CAMR and that CAMR engaged in any activity that would make it subject to such rule.

54. Paragraph 54 contains conclusions of law, which do not require a response. To the extent that a response is required, the allegations contained in paragraph 54 are denied. Respondent specifically denies any assertion that the cited rule applies to CAMR and that CAMR engaged in any activity that would make it subject to such rule.

55. Paragraph 55 contains conclusions of law, which do not require a response. To the extent that a response is required, the allegations contained in paragraph 55 are denied. Respondent specifically denies any assertion that the cited rule applies to CAMR and that CAMR engaged in any activity that would make it subject to such rule.

56. Paragraph 56 is denied.

57. Paragraph 57 is denied.

58. Paragraph 58 contains conclusions of law, which do not require a response. To the extent that a response is required, the allegations contained in paragraph 58 are denied. Respondent specifically denies any assertion that the cited rule applies to CAMR and that CAMR engaged in any activity that would make it subject to such rule.

59. Paragraph 59 contains conclusions of law, which do not require a response. To the extent that a response is required, the allegations contained in paragraph 59 are denied.

Respondent specifically denies any assertion that the cited rule applies to CAMR and that CAMR engaged in any activity that would make it subject to such rule.

60. CAMR admits that it is domiciled in the United States. Paragraph 60 is denied in all other respects.

61. Paragraph 61 is denied. See paragraph 56 for qualification. Paragraph 61 also contains conclusions of law, which do not require a response. To the extent that a response is required, the allegations contained in paragraph 61 are denied. Respondent specifically denies any assertion that the cited rule applies to CAMR and that CAMR engaged in any activity that would make it subject to such rule.

62. Paragraph 62 contains conclusions of law, which do not require a response. To the extent that a response is required, the allegations contained in paragraph 62 are denied. Respondent specifically denies any assertion that the cited rule applies to CAMR and that CAMR engaged in any activity that would make it subject to such rule.

63. Paragraph 63 contains conclusions of law, which do not require a response. To the extent that a response is required, the allegations contained in paragraph 63 are denied. Respondent specifically denies any assertion that the cited rules apply to CAMR and that CAMR engaged in any activity that would make it subject to such rules.

64. Paragraph 64 contains conclusions of law, which do not require a response. To the extent that a response is required, the allegations contained in paragraph 64 are denied. Respondent specifically denies any assertion that the cited rules apply to CAMR and that CAMR engaged in any activity that would make it subject to such rules.

65. Paragraph 65 contains conclusions of law, which do not require a response. To the extent that a response is required, the allegations contained in paragraph 65 are denied. Respondent specifically denies any assertion that the cited rules and statutes apply to CAMR and that CAMR engaged in any activity that would make it subject to such rules and statutes.

II. PROPOSED CIVIL PENALTY

This entire section II is denied. CAMR hereby restates and incorporates by reference all applicable averments submitted in the answers provided in section I above. CAMR contends that the proposed penalty and/or the Compliance Order is inappropriate, as it is contrary to law and unwarranted. In the alternative, it is excessive and in violation of the criteria established in 42 U.S.C. § 6928(a) and RCRA Civil Penalty Policy, as well as in violation of CAMR's due process rights under Amendment V of the Constitution of the United States, and of section 558(b) of the Administrative Procedure Act, 5 U.S.C.

558(b). The factual analysis used to establish the proposed civil penalty for the alleged violations fails to take into consideration the nature, circumstances, degree of seriousness of the alleged violations, degree of actual threat to human health or the environment, as well as CAMR's good faith efforts to cooperate with EPA and size and previous compliance history. CAMR also contends that it is entitled to judgment as a matter of law.

Firstly, the proposed civil penalty and/or Compliance Order imposes a combined penalty of \$30,450.00 (\$14,111.00 for Count 1 and \$16,339.00 for Count 2), which CAMR is unable to pay. CAMR has not been informed or provided with any detail, supporting documentation or information on how EPA calculated the proposed penalty. Although the Complaint attached a Penalty Calculation Worksheet with Narrative Explanation, such attachment did not fully explain the assessment of the penalty, nor did it take into consideration several factors that would have justified a significantly lesser penalty were CAMR responsible for the facts alleged in the Complaint. CAMR disputes the EPA's basis for penalty computation under the factors of Potential for Harm and Extent for Deviation, as both should have been considered MINOR if CAMR were in any way responsible for the alleged non-compliance. CAMR also contends that EPA did not take into consideration any unique factors in the assessment of the penalty, such as the fact that CAMR is a small scrap metal recycling company that is relatively inexperienced in matters regarding shipping and exports (as it is not an exporter). The EPA did not take into consideration the fact that CAMR has no prior history of non-compliance with the exception of this matter, and that non-compliance in this matter is contested as a matter of law. Nor did the EPA take into consideration that CAMR: 1) has, since its very beginnings, acted in good faith to comply with all relevant regulations and permitting requirements; and 2) did not act with willfulness nor negligence with respect to the alleged non-compliance described in the Complaint, considering that said non-compliance in this matter is contested as a matter of law. CAMR firmly believes that EPA could have opted for the method of an Expedited Settlement process, for cases like this one, instead of issuing a formal Complaint to complicate the process and increase the costs incurred in the matter.

Secondly, as a matter of law, the regulations cited in the Complaint do not apply to CAMR, as CAMR is not a "primary exporter" within the meaning of the cited rules and statutes. Under both, Subpart E and H, the primary exporter of the spent lead acid batteries must comply with the notification requirements of the regulations. Under Subpart E, such exporters are "any person **who is required to originate the manifest for a shipment** of hazardous waste in accordance with 40 CFR part 262, subpart B, or equivalent State provision, which specifies a treatment, storage, or disposal facility **in a receiving country** as the facility to which the hazardous waste will be sent and any intermediary arranging for the export." (emphasis added). Under Subpart H, such exporters are "the person under the jurisdiction of the country of export who has, or will have **at the time the planned transboundary movement commences, possession or other forms of legal control of the wastes and who proposes transboundary movement of the hazardous wastes for**

the ultimate purpose of submitting them to recovery operations. When the United States (U.S.) is the country of export, exporter is interpreted to mean a person domiciled in the United States.” (emphasis added). Transboundary movement means “any movement of wastes from an area under the national jurisdiction of one OECD Member country to an area under the national jurisdiction of another OECD Member country.”

CAMR reiterates that it was not the person required to originate the manifest within the meaning of the cited rule. Moreover, CAMR reiterates that, at the time that the planned transboundary movement commenced, CAMR did not have possession or other form of legal control over the wastes, nor was CAMR the party that proposed the transboundary movement. Per CAMR’s June 10, 2016 letter, at the time the transboundary movement commenced, the legal ownership, control, and possession of the spent lead acid batteries rested in the hands of the third-party purchaser of said items. Likewise, it was this same third party purchaser who proposed the transboundary movement, and was thus the party responsible for compliance with the cited regulatory scheme.

III. COMPLIANCE ORDER

Section III does not require a response. To the extent that a response to section III is required, the entire section III is denied. CAMR restates and incorporates by reference all applicable averments submitted in the answers provided in sections I and II above. CAMR reiterates that it has not and is not engaging in the export of said spent lead acid batteries. CAMR denies that the cited rules and statutes apply to CAMR and that CAMR has engaged in any activity that would make it subject to such rules and statutes. CAMR reiterates that it is at the full disposition to assist the EPA in resolving this matter and obtaining the notifications and documentations it seeks from the appropriate parties. CAMR also timely requests a hearing pursuant to 40 C.F.R. § 22.15, which, by its own terms, prevents the Compliance Order from taking effect.

IV. NOTICE OF LIABILITY FOR ADDITIONAL CIVIL PENALTIES

Section VI does not require a response. To the extent that a response to section VI is required, the entire section VI is denied. CAMR restates and incorporates by reference all applicable averments submitted in the answers provided in sections I, II and III above. CAMR reiterates that it has not and is not engaging in the export of said spent lead acid batteries. CAMR denies that the cited rules and statutes apply to CAMR and that CAMR has engaged in any activity that would make it subject to such rules and statutes.

V. PROCEDURES GOVERNING THIS ADMINISTRATIVE LITIGATION

Section V does not require a response. To the extent that a response to section V is required, the entire section V is denied. CAMR restates and incorporates by reference all applicable averments submitted in the answers provided in sections I, II, III and VI above. CAMR reiterates that it has not and is not engaging in the export of said spent lead acid batteries. CAMR denies that the cited rules and statutes apply to CAMR and that CAMR has engaged in any activity that would make it subject to such rules and statutes.

Moreover, CAMR timely requests a hearing and administrative review in accordance with 40 C.F.R. §§ 22.15 and 22.37(b). CAMR affirmatively asserts its right to seek judicial review pursuant to 5 U.S.C. §§ 701-706, in due time should an adverse determination against it become final and reviewable.

A. Answering the Complaint

CAMR is hereby submitting its response to the Complaint with the intention of contending that the proposed penalty is inappropriate, excessive, and contrary to law. The response shall be filed by CAMR as instructed.

B. Opportunity to Request a Hearing

CAMR hereby requests a formal hearing before an Administrative Law Judge pursuant to 40 C.F.R. Part 22, and requests that every possible effort be made to have the hearing in Puerto Rico, since all the witnesses, documents, and the site in question are located in Puerto Rico. The purpose of the hearing is to contest the Complaint, the proposed penalty, and the matters of law and material facts that were not admitted above, and which were set forth in the Complaint. CAMR's legal grounds for contesting the Complaint, and the proposed penalty are set forth in all the sections of this Answer (specifically refer to sections I, II, and III above, as well as section X below). CAMR reserves the right to present additional factual circumstances, arguments, and Affirmative Defenses that constitute the grounds for defense of the claims made in the Complaint, if and when such circumstances or arguments become known to Respondent through discovery or other means. Additionally, it reserves the right to modify its responses if additional information is obtained that clarify any particular allegations of CAMR or the Complainant.

C. Failure to Answer

CAMR is hereby submitting its response to the Complaint in a timely manner. CAMR had timely filed a motion for extension of time to Answer this Complaint until December 12, 2016, and such motion was granted by the Regional Judicial Officer, Helen S. Ferrara, with an effective date of November 10, 2016.

D. Filing of Documents Filed After the Answer

No response is required by this subsection. CAMR takes note of this subsection D and shall comply with the same when filing documents after the Answer.

E. Exhaustion of Administrative Remedies

No response is required by this subsection. CAMR takes note of this subsection E and shall comply with the same. CAMR affirmatively asserts its right to appeal to the Agency's Environmental Appeals Board an adverse initial decision from the EPA, as well as its right to seek judicial review pursuant to 5 U.S.C. §§ 701-706, in due time should an adverse determination against it become final and reviewable.

VI. Informal Settlement Conference

CAMR requests the opportunity to hold an Informal Settlement Conference with Mr. Lee A. Spielmann, Esq, Assistant Regional Counsel, U.S. Environmental Protection Agency, Region 2, Caribbean Division, in order to comment on the charges made in the Complaint, and provide additional information relevant to the disposition of the matter, including: (1) actions CAMR has taken to correct any or all of the violations alleged if CAMR were to be subject to any of the cited rules; (2) any information relevant to the Complaint's calculation of the proposed penalty; (3) the effect the proposed penalty will have on CAMR's ability to continue business; and/or (4) any other special facts or circumstances CAMR wishes to raise. Therefore, CAMR hereby pursues, simultaneously with the request for a hearing, an informal conference procedure.

VII. Resolution of this Proceeding Without Hearing or Conference

CAMR has opted for submitting a response to the Complaint with the intention of contesting that the proposed penalty as inappropriate, excessive, and contrary to law. Thus CAMR and shall not pursue a resolution of this proceeding without exercising its right for a hearing and informal settlement conference.

VIII. Additional Affirmative Defenses

CAMR restates and incorporates by reference all applicable averments submitted in the answers provided in sections I, II, III, IV, V, VI, and VII above. CAMR also raises the following additional affirmative defenses, so as to not renounce them: 1) statute of limitations has expired; 2) waiver; 3) *res judicata*; 4) lack of subject matter jurisdiction; 5) lack of personal jurisdiction; 6) insufficient process; 7) insufficient service of process; 8) failure to join an indispensable party; 9) failure to state a claim upon which relief can be granted; 10) error or mistake (as to person and in law); 11) failure of consideration; 12) arbitration and award; 13) fraud; 14) CAMR's good faith; and 15) mistaken designation.

CAMR also states that the proposed penalty is excessive, unreasonable, arbitrary and capricious, and constitutes an abuse of discretion, unwarranted and contrary to law because the factual analysis used by Complainant to establish the proposed civil penalty for the alleged violations is erroneous and fails to take into consideration the nature, circumstances, degree of seriousness of the alleged violations, degree of actual threat to human health or the environment and, CAMR's good faith efforts to cooperate with EPA.

Lastly, CAMR affirmatively alleges that the filing of this Complaint was improper in light of the letter that CAMR sent to the EPA on June 10, 2016, which the EPA never responded to. Pursuant to CAMR's June 10, 2016 letter, the EPA should have investigated the matter further and communicated with CAMR to obtain a just, speedy, and inexpensive resolution to this matter. The filing of the Complaint has complicated the resolution of this matter subjected CAMR to high fees and costs which could have otherwise been avoided.

WHEREFORE, CAMR respectfully requests that EPA to opt for the use the Informal Settlement Conference, and dismiss this Complaint without prejudice including the consent order and proposed civil penalty, and, in the alternate, dismiss the Complaint. CAMR also respectfully requests a hearing before an Administrative Law Judge to 40 C.F.R. Part 22.

RESPECTFULLY SUBMITTED

In San Juan, Puerto Rico, today December 12, 2016.

CERTIFICATE OF SERVICE

I hereby certify that on this same day, a true and correct copy of this Answer was sent upon the Assistant Regional Counsel for EPA by e-mail, and regular mail to:

Lee A. Spielmann, Esq.
Assistant Regional Counsel
Office of Regional Counsel-Caribbean Team
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th floor
New York, N.Y. 10007-1866
spielmann.lee@epa.gov

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I further hereby certify that on this same day, a true and correct copy of this Answer was sent upon the Headquarters Hearing Clerk – Office of Administrative Law Judges for EPA by regular mail and to the Regional Hearing Clerk for the EPA Region 2 to:

Sybil Anderson
Headquarters Hearing Clerk
Office of Administrative Law Judges
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Mail Code 1900R
Washington DC 2046

Attention: Karen Maples
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 2
290 Broadway Ave., 16th Floor
New York, New York 10007-1866
E:mail: maples.karen@epa.gov

The original and a copy of this Answer was sent on this same date via e-mail to the EPA Region 2 Regional Judicial Officer, Attention: Helen Ferrara at ferrara.helen@epa.gov; and the Puerto Rico Environmental Quality Board Director of Land Pollution Control Division, Attention: Nilda del Mar Sánchez Santiago, Esq via regular mail to: P.O. Box 11488, San Juan, Puerto Rico 00910.

**TORO, COLÓN, MULLET,
RIVERA & SIFRE, P.S.C.**
*Attorneys for Caribbean All Metal
Recyclers Corp.*
PO Box 195383

San Juan, Puerto Rico 00919-5383
Unión Plaza Bldg., Suite 311
416 Ponce de León Ave.
San Juan, Puerto Rico 00918
Tel: (787) 751-8999
Fax: (787) 763-7760



CARLOS COLÓN-FRANCESCHI, ESQ.
E-mail: ccf@tcmrslaw.com

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