

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG. II
2013 JAN 17 P 2:28
REGIONAL HEARING
CLERK

IN THE MATTER OF:

DOCKET NO. CAA-02-2012-1213

Puerto Rico Aqueducts and Sewer
Authority,

Respondent.

Administrative Complaint
under Section 113 of the
Clean Air Act, 42 U.S.C.
§7413

ANSWER TO COMPLAINT AND HEARING REQUEST

COMES NOW, Puerto Rico Aqueduct and Sewer Authority ("PRASA" or "Respondent"), through the undersigned attorneys, and presents its Answer to the Complaint ("Complaint") issued by the Environmental Protection Agency ("EPA") on September 20, 2012, and respectfully states, alleges and prays as follows:

I. JURISDICTION

1. The first sentence of Paragraph 1 of the Complaint is a statement of law that requires no admission, denial or explanation and, in the alternative, is denied. Respondent is without knowledge or information sufficient to form a belief as to the truth of the allegations of the second sentence of Paragraph 1 of the Complaint and, on that basis, denies the allegations of the same.

2. Paragraph 2 of the Complaint is a statement of law and procedure, or of the application of law and procedure to facts, which requires no admission, denial or explanation and, in the alternative, is denied.

II. APPLICABLE STATUTES AND REGULATIONS

3. Paragraphs 3 through 8 of the Complaint contain statements of law, of law and procedure or of the application of law and procedure to facts that, in general terms, describe the contents of the statutory and regulatory enactments therein cited, and that require no admission, denial or explanation and, in the alternative, are denied.

III. DEFINITIONS

4. Paragraphs 9 through 13 of the Complaint contain definitions of certain terms that appear in 40 C.F.R. Part 68, and that require no admission, denial or explanation and that, in the alternative, are denied.

IV. FINDINGS OF VIOLATION

5. Paragraph 15 of the Complaint contains a conclusion of law that requires no admission, denial or explanation and, in the alternative, is denied.

6. Paragraph 15 of the Complaint contains a conclusion of law that requires no admission, denial or explanation and, in the alternative, is denied.

7. Paragraph 16 of the Complaint contains a conclusion of law that requires no admission, denial or explanation and, in the alternative, is denied.

Facility 1 - Ponce Regional Wastewater Treatment Plant

8. Respondent Admits Paragraph 17 of the Complaint.

9. With respect to Paragraph 18 of the Complaint, Respondent admits using chlorine at the Ponce Facility. The remaining allegation consists of a conclusion of law or of the application of law to facts that requires no admission, denial or explanation and, in the alternative, is denied.

10. Respondent Admits the first sentence of Paragraph 19 of the Complaint. With respect to the second sentence Respondent admits having submitted an updated RMP on the date therein stated and denies, for lack of specificity, the remaining allegation.

11. With respect to Paragraph 20 of the Complaint, Respondent admits that an inspection was conducted at the Ponce Facility on or about the date therein indicated, but is without knowledge or information sufficient to form a belief as to

whether the inspection was actually conducted by EPA and the purpose of the inspection and, thus, denies the remaining part of the allegation.

12. With respect to Paragraph 21 of the Complaint, Respondent is without knowledge or information sufficient to form a belief as to the information obtained by EPA during the December 8, 2010 inspection. The paragraph, furthermore, contains allegations consistent of conclusions of law or of the application of law to facts that require no admission, denial or explanation and, in the alternative, is denied.

13. With respect to the first sentence of Paragraph 22 of the Complaint, Respondent is without knowledge or information sufficient to form a belief as to the information obtained by EPA during the December 8, 2010 inspection. Respondent Admits that an updated offsite consequences analysis was not available on December 8, 2010, but avers that an updated off-site consequences analysis was notified to EPA on September 2011. The second sentence contains allegations consistent of conclusions of law or of the application of law to facts that require no admission, denial or explanation and, in the alternative, is denied.

14. With respect to the first sentence of Paragraph 23 of the Complaint, Respondent is without knowledge or information sufficient to form a belief as to the information obtained by EPA during the December 8, 2010 inspection and clarifies that Alternate Case distance-to-endpoints were available for review by EPA during the December 8, 2010 inspection. The second sentence contains allegations consistent of conclusions of law or of the application of law to facts that require no admission, denial or explanation and, in the alternative, is denied.

15. With respect to the first sentence of Paragraph 24 of the Complaint, Respondent is without knowledge or information sufficient to form a belief as to the information obtained by EPA during the December 8, 2010 inspection and clarifies that adequate process piping and instrument diagrams ("P&ID's") were available for review by EPA during the December 8, 2010 inspection. The second sentence contains allegations consistent of conclusions of law or of the application of law to facts that require no admission, denial or explanation and, in the alternative, is denied.

16. Paragraph 25 of the Complaint contains allegations consistent of conclusions of law or of the application of law to

facts that require no admission, denial or explanation and, in the alternative, is denied.

17. With respect to the first sentence of Paragraph 26 of the Complaint, Respondent is without knowledge or information sufficient to form a belief as to the information obtained by EPA during the December 8, 2010 inspection and clarifies that a process hazard analysis ("PHA") that addressed facility siting was available for review by EPA during the December 8, 2010 inspection. The second sentence contains allegations consistent of conclusions of law or of the application of law to facts that require no admission, denial or explanation and, in the alternative, is denied.

18. With respect to the first sentence of Paragraph 27 of the Complaint, Respondent is without knowledge or information sufficient to form a belief as to the information obtained by EPA during the December 8, 2010 inspection. The second sentence contains allegations consistent of conclusions of law or of the application of law to facts that require no admission, denial or explanation and, in the alternative, is denied.

19. With respect to the first sentence of Paragraph 28 of the Complaint, Respondent is without knowledge or information sufficient to form a belief as to the information obtained by

EPA during the December 8, 2010 inspection but Admits that a system to address PHA findings and recommendations was not in place. The second sentence contains allegations consistent of conclusions of law or of the application of law to facts that require no admission, denial or explanation and, in the alternative, is denied.

20. With respect to the first sentence of Paragraph 29 of the Complaint, Respondent is without knowledge or information sufficient to form a belief as to the information obtained by EPA during the December 8, 2010 inspection and clarifies that PHAs were available for review by EPA during the December 8, 2010 inspection. The second sentence contains allegations consistent of conclusions of law or of the application of law to facts that require no admission, denial or explanation and, in the alternative, is denied.

21. With respect to the first sentence of Paragraph 30 of the Complaint, Respondent is without knowledge or information sufficient to form a belief as to the information obtained by EPA during the December 8, 2010 inspection. The second sentence contains allegations consistent of conclusions of law or of the application of law to facts that require no admission, denial or explanation and, in the alternative, is denied.

22. With respect to the first two sentences of Paragraph 31 of the Complaint, Respondent is without knowledge or information sufficient to form a belief as to the information obtained by EPA during the December 8, 2010 inspection. The third sentence contains allegations consistent of conclusions of law or of the application of law to facts that require no admission, denial or explanation and, in the alternative, is denied.

23. With respect to the first sentence of Paragraph 32 of the Complaint, Respondent is without knowledge or information sufficient to form a belief as to the information obtained by EPA during the December 8, 2010 inspection and clarifies that a mechanical integrity testing program, with written procedures for equipment, including safety equipment, was available for review by EPA during the December 8, 2010 inspection. The second sentence contains allegations consistent of conclusions of law or of the application of law to facts that require no admission, denial or explanation and, in the alternative, is denied.

24. With respect to the first sentence of Paragraph 33 of the Complaint, Respondent is without knowledge or information sufficient to form a belief as to the information obtained by EPA during the December 8, 2010 inspection. The second sentence

contains allegations consistent of conclusions of law or of the application of law to facts that require no admission, denial or explanation and, in the alternative, is denied.

25. With respect to the first sentence of Paragraph 34 of the Complaint, Respondent is without knowledge or information sufficient to form a belief as to the information obtained by EPA during the December 8, 2010 inspection and clarifies that equipment specific documentation of completed inspections and tests was available for review by EPA during the December 8, 2010 inspection. The second sentence contains allegations consistent of conclusions of law or of the application of law to facts that require no admission, denial or explanation and, in the alternative, is denied.

26. With respect to the first sentence of Paragraph 35 of the Complaint, Respondent is without knowledge or information sufficient to form a belief as to the information obtained by EPA during the December 8, 2010 inspection and clarifies that management of change ("MOC") documentation regarding a new chlorine detector installed in November 2010 was not available for review by EPA during the December 8, 2010 inspection. The second sentence contains allegations consistent of conclusions of law or of the application of law to facts that require no

admission, denial or explanation and, in the alternative, is denied.

27. With respect to the first two sentences of Paragraph 36 of the Complaint, Respondent is without knowledge or information sufficient to form a belief as to the information provided to EPA by facility personnel during the December 8, 2010 inspection and clarifies that an investigation report of the incident described as part of the October 19, 2006 inspection was not available for review by EPA during the December 8, 2010 inspection. The third sentence contains allegations consistent of conclusions of law or of the application of law to facts that require no admission, denial or explanation and, in the alternative, is denied.

28. With respect to the first three sentences of Paragraph 37 of the Complaint, Respondent is without knowledge or information sufficient to form a belief as to the information obtained by EPA during the December 8, 2010 inspection. The second sentence contains allegations consistent of conclusions of law or of the application of law to facts that require no admission, denial or explanation and, in the alternative, is denied.

Facility 2 - Mayagüez Regional Wastewater Treatment Plant

29. Respondent Admits Paragraph 38 of the Complaint.

30. With respect to Paragraph 39 of the Complaint, Respondent admits using chlorine at the Mayagüez Facility. The remaining allegation consists of a conclusion of law or of the application of law to facts that requires no admission, denial or explanation and, in the alternative, is denied.

31. Respondent Admits the first sentence of Paragraph 40 of the Complaint. With respect to the second sentence, Respondent admits having submitted an updated RMP on the date therein stated and denies, for lack of specificity, the remaining allegation.

32. With respect to Paragraph 41 of the Complaint, Respondent admits that an inspection was conducted at the Puerto Nuevo Facility, on or about the date therein indicated, but is without knowledge or information sufficient to form a belief as to whether the inspection was actually conducted by EPA and the purpose of the inspection and, thus, denies the remaining part of the allegation.

33. With respect to the first sentence of Paragraph 42 of the Complaint, Respondent is without knowledge or information sufficient to form a belief as to the information obtained by EPA during the December 7, 2010 inspection and clarifies that a

Hazard Assessment (HA) re-validation was performed by PRASA in February 2009; thus, a review and update is not required until 2014. The second sentence contains allegations consistent of conclusions of law or of the application of law to facts that require no admission, denial or explanation and, in the alternative, is denied.

34. With respect to the first sentence of Paragraph 43 of the Complaint, Respondent is without knowledge or information sufficient to form a belief as to the information obtained by EPA during the December 7, 2010 inspection and clarifies that a P&ID had been prepared by PRASA and were available for review by EPA during the December 7, 2010 inspection. PRASA further avers that allegations that P&ID was "deficient in that it did not include sufficient detail" is ambiguous and lacks specificity sufficient to make an adequate response and, for said reason, is also Denied. The second sentence contains allegations consistent of conclusions of law or of the application of law to facts that require no admission, denial or explanation and, in the alternative, is denied.

35. Paragraph 44 of the Complaint contains allegations consistent of conclusions of law or of the application of law to

facts that require no admission, denial or explanation and, in the alternative, is denied.

36. With respect to the first sentence of Paragraph 45 of the Complaint, Respondent is without knowledge or information sufficient to form a belief as to the information obtained by EPA during the December 7, 2010 inspection and clarifies that a process hazard analysis ("PHA") that addressed facility siting was available for review by EPA during the December 7, 2010 inspection. The second sentence contains allegations consistent of conclusions of law or of the application of law to facts that require no admission, denial or explanation and, in the alternative, is denied.

37. With respect to the first sentence of Paragraph 46 of the Complaint, Respondent is without knowledge or information sufficient to form a belief as to the information obtained by EPA during the December 7, 2010 inspection. The second sentence contains allegations consistent of conclusions of law or of the application of law to facts that require no admission, denial or explanation and, in the alternative, is denied.

38. With respect to the first sentence of Paragraph 47 of the Complaint, Respondent is without knowledge or information sufficient to form a belief as to the information obtained by

EPA during the December 7, 2010 inspection but Admits that complete documentation on the resolution of certain recommendations identified during the August 14, 2008 PHA was not available for review by EPA during the December 7, 2010 inspection. The second sentence contains allegations consistent of conclusions of law or of the application of law to facts that require no admission, denial or explanation and, in the alternative, is denied.

39. With respect to the first sentence of Paragraph 48 of the Complaint, Respondent is without knowledge or information sufficient to form a belief as to the information obtained by EPA during the December 7, 2010 inspection and clarifies that PHAs were available for review by EPA during the December 8, 2010 inspection. The second sentence contains allegations consistent of conclusions of law or of the application of law to facts that require no admission, denial or explanation and, in the alternative, is denied.

40. With respect to the first sentence of Paragraph 49 of the Complaint, Respondent is without knowledge or information sufficient to form a belief as to the information obtained by EPA during the December 7, 2010 inspection and clarifies that training documentation or records were available for review by

EPA at the PRASA Human Resources Training Department. The second sentence contains allegations consistent of conclusions of law or of the application of law to facts.

41. With respect to the first sentence of Paragraph 50 of the Complaint, Respondent is without knowledge or information sufficient to form a belief as to the information obtained by EPA during the December 7, 2010 inspection and clarifies that written procedures for chlorine handling operations, including the receipt and movement of full and empty 1-ton chlorine containers was available for review by EPA during the December 7, 2010 inspection. The second sentence contains allegations consistent of conclusions of law or of the application of law to facts that require no admission, denial or explanation and, in the alternative, is denied.

42. With respect to the first sentence of Paragraph 51 of the Complaint, Respondent is without knowledge or information sufficient to form a belief as to the information obtained by EPA during the December 7, 2010 inspection and clarifies that written procedures for chlorine handling operations, including the receipt and movement of full and empty 1-ton chlorine containers was available for review by EPA during the December 7, 2010 inspection. The second sentence contains allegations

consistent of conclusions of law or of the application of law to facts that require no admission, denial or explanation and, in the alternative, is denied.

43. Paragraph 52 of the Complaint contains allegations consistent of conclusions of law or of the application of law to facts that require no admission, denial or explanation and, in the alternative, is denied.

44. With respect to the first sentence of Paragraph 53 of the Complaint, Respondent is without knowledge or information sufficient to form a belief as to the information obtained by EPA during the December 7, 2010 inspection. The second sentence contains allegations consistent of conclusions of law or of the application of law to facts that require no admission, denial or explanation and, in the alternative, is denied.

45. With respect to the first sentence of Paragraph 54 of the Complaint, Respondent is without knowledge or information sufficient to form a belief as to the information obtained by EPA during the December 7, 2010 inspection and clarifies that equipment inspection documentation that satisfies applicable regulatory requirements was available for review by EPA during the December 7, 2010 inspection. The second sentence contains allegations consistent of conclusions of law or of the

application of law to facts that require no admission, denial or explanation and, in the alternative, is denied.

46. With respect to the first sentence of Paragraph 55 of the Complaint, Respondent is without knowledge or information sufficient to form a belief as to the information obtained by EPA during the December 7, 2010 inspection. The second sentence contains allegations consistent of conclusions of law or of the application of law to facts that require no admission, denial or explanation and, in the alternative, is denied.

47. With respect to the first sentence of Paragraph 56 of the Complaint, Respondent is without knowledge or information sufficient to form a belief as to the information obtained by EPA during the December 7, 2010 inspection and clarifies that procedures for the use of emergency response equipment and for its inspection, testing, and maintenance were in place during the December 7, 2010 inspection by EPA. The second sentence contains allegations consistent of conclusions of law or of the application of law to facts that require no admission, denial or explanation and, in the alternative, is denied.

48. With respect to the first sentence of Paragraph 57 of the Complaint, Respondent is without knowledge or information sufficient to form a belief as to the information provided to

EPA by facility personnel during the December 7, 2010 inspection and clarifies that emergency response drills are not a regulatory requirement. The second sentence contains allegations consistent of conclusions of law or of the application of law to facts that require no admission, denial or explanation and, in the alternative, is denied.

Facility 3 - Puerto Nuevo Regional Wastewater Treatment Plant

49. Respondent Admits Paragraph 58 of the Complaint.

50. With respect to Paragraph 59 of the Complaint, Respondent admits using chlorine at the Puerto Nuevo Facility.

51. Respondent Admits the first sentence of Paragraph 60 of the Complaint. With respect to the second sentence, Respondent admits having submitted an updated RMP on the date therein stated and denies, for lack of specificity, the remaining allegation.

52. With respect to Paragraph 61 of the Complaint, Respondent admits that an inspection was conducted at the Mayagüez Facility on or about the date therein indicated but is without knowledge or information sufficient to form a belief as to whether the inspection was actually conducted by EPA and the purpose of the inspection and, thus, denies the remaining part of the allegation.

53. With respect to the first sentence of Paragraph 62 of the Complaint, Respondent is without knowledge or information sufficient to form a belief as to the information obtained by EPA during the December 9, 2010 inspection. Respondent Admits that an updated offsite consequences analysis was not available on December 9, 2010, but avers that an updated off-site consequences analysis was notified to EPA on September 2011. The second sentence contains allegations consistent of conclusions of law or of the application of law to facts that require no admission, denial or explanation and, in the alternative, is denied.

54. With respect to the first sentence of Paragraph 63 of the Complaint, Respondent is without knowledge or information sufficient to form a belief as to the information obtained by EPA during the December 9, 2010 inspection and clarifies that Alternate Case distance-to-endpoints were available for review by EPA during the December 9, 2010 inspection. The second sentence contains allegations consistent of conclusions of law or of the application of law to facts that require no admission, denial or explanation and, in the alternative, is denied.

55. With respect to the first two sentences of Paragraph 64 of the Complaint, Respondent is without knowledge or

information sufficient to form a belief as to what EPA noted during the December 9, 2010 inspection and clarifies, upon information and belief, that P&ID's may have reflected discrepancies with actual "as-built" conditions, and further clarifies that P&ID details, upon information and belief, satisfied applicable regulatory requirements. The third sentence contains allegations consistent of conclusions of law or of the application of law to facts that require no admission, denial or explanation and, in the alternative, is denied.

56. Paragraph 65 of the Complaint contains allegations consistent of conclusions of law or of the application of law to facts that require no admission, denial or explanation and, in the alternative, is denied.

57. Paragraph 66 of the Complaint contains allegations consistent of conclusions of law or of the application of law to facts that require no admission, denial or explanation and, in the alternative, is denied.

58. With respect to the first sentence of Paragraph 67 of the Complaint, Respondent is without knowledge or information sufficient to form a belief as to the information obtained by EPA during the December 9, 2010 inspection and clarifies that a process hazard analysis ("PHA") that addressed facility siting

was available for review by EPA during the December 9, 2010 inspection. The second sentence contains allegations consistent of conclusions of law or of the application of law to facts that require no admission, denial or explanation and, in the alternative, is denied.

59. With respect to the first sentence of Paragraph 68 of the Complaint, Respondent is without knowledge or information sufficient to form a belief as to the information obtained by EPA during the December 9, 2010 inspection. The second sentence contains allegations consistent of conclusions of law or of the application of law to facts that require no admission, denial or explanation and, in the alternative, is denied.

60. With respect to the first sentence of Paragraph 69 of the Complaint, Respondent is without knowledge or information sufficient to form a belief as to the information obtained by EPA during the December 9, 2010 inspection and clarifies that PHAs were available for review by EPA during the December 9, 2010 inspection. The second sentence contains allegations consistent of conclusions of law or of the application of law to facts that require no admission, denial or explanation and, in the alternative, is denied.

61. With respect to the first sentence of Paragraph 70 of the Complaint, Respondent is without knowledge or information sufficient to form a belief as to the information obtained by EPA during the December 9, 2010 inspection and clarifies that written procedures for chlorine handling operations, including the receipt and movement of full and empty 1-ton chlorine containers was available for review by EPA during the December 9, 2010 inspection. The second sentence contains allegations consistent of conclusions of law or of the application of law to facts that require no admission, denial or explanation and, in the alternative, is denied.

62. Paragraph 71 of the Complaint consists of a conclusion of law or of the application of law to facts that requires no admission, denial or explanation and, in the alternative, is denied.

63. Paragraph 72 of the Complaint consists of a conclusion of law or of the application of law to facts that requires no admission, denial or explanation and, in the alternative, is denied.

64. With respect to the first sentence of Paragraph 73 of the Complaint, Respondent is without knowledge or information sufficient to form a belief as to the information obtained by

EPA during the December 9, 2010 inspection. The second sentence contains allegations consistent of conclusions of law or of the application of law to facts that require no admission, denial or explanation and, in the alternative, is denied.

65. With respect to the first two sentences of Paragraph 74 of the Complaint, Respondent is without knowledge or information sufficient to form a belief as to the information obtained by EPA during the December 9, 2010 inspection. The third sentence contains allegations consistent of conclusions of law or of the application of law to facts that require no admission, denial or explanation and, in the alternative, is denied.

66. With respect to the first sentence of Paragraph 75 of the Complaint, Respondent is without knowledge or information sufficient to form a belief as to the information obtained by EPA during the December 9, 2010 inspection. The second sentence contains allegations consistent of conclusions of law or of the application of law to facts that require no admission, denial or explanation and, in the alternative, is denied.

67. Paragraph 76 of the Complaint consists of a conclusion of law or of the application of law to facts that requires no

admission, denial or explanation and, in the alternative, is denied.

68. With respect to the first two sentences of Paragraph 77 of the Complaint, Respondent is without knowledge or information sufficient to form a belief as to the information obtained by EPA during the December 9, 2010 inspection. The third sentence contains allegations consistent of conclusions of law or of the application of law to facts that require no admission, denial or explanation and, in the alternative, is denied.

RESPONSE TO COUNT 1

69. Respondent incorporates its responses to Paragraphs 1 through 77, inclusive, of the Complaint as thought set forth fully herein.

70. Paragraph 79 of the Complaint consists of a conclusion of law that requires no admission, denial or explanation and, in the alternative, is denied.

71. Paragraph 80 of the Complaint consists of a conclusion of law or of the application of law to facts that requires no admission, denial or explanation and, in the alternative, is denied.

V. NOTICE OF PROPOSED ORDER ASSESSING A CIVIL PENALTY

In response to this section, Respondent alleges that the proposed final order assessing administrative penalties in the amount of \$147,300, is excessive and unwarranted, the result of improper consideration and application of Clean Air Act Section 113(e), 42 U.S.C. §7413(e), penalty amount criteria.

In addition, the proposed penalty assessment fails to take into account: Respondent's good faith efforts towards compliance; the actual minor nature of the alleged violations, none of which relate to the release or risk of release of a regulated substance; the primarily record keeping and management aspect of the alleged violations; and, the exercise of valid professional judgment in certain aspects of RMP development or management, amongst others.

Except as specifically admitted, all factual allegations contained in Part IV of the Complaint are denied.

VI. PROCEDURES GOVERNING THIS ADMINISTRATIVE LITIGATION

No response to the allegations of Part VI is requested and, thus, none is proffered.

Respondent requests a hearing to contest the findings of the Complaint and proposed penalty.

VII. INFORMAL SETTLEMENT CONFERENCE

No response to the allegations of Part VII is requested and, thus, none is proffered.

Respondent requests that the parties sustain an informal settlement conference to explore possible case settlement.

VIII. RESOLUTION OF THIS PROCEEDING WITHOUT HEARING OR CONFERENCE

No response to the allegations of Part VIII is requested and, thus, none is proffered.

AFFIRMATIVE DEFENSES

In the form of Affirmative Defenses, Respondent states and avers as follows:

1. The Complaint fails to state a claim upon which relief can be granted.
2. The violations described in the Complaint are of the type considered by EPA as "minor and easily correctable".
3. The violations described in the Complaint are of the type considered by EPA as not posing an "imminent and substantial endangerment to human health and/or the environment".

4. Respondent activities at the Mayagüez, Ponce and Puerto Nuevo facilities did not result in the emission of hazardous air pollutants or air pollutants to the ambient air.
5. At all times herein relevant, any violation to Section 112(R)(7), of the Clean Air Act, 42 U.S.C. §7413(R)(7), requirements which may have, without either so admitting or denying occurred, did not have more than a minor impact, if any, upon Respondent regulated substance release prevention, detection and correction capability and accident release prevention capacity at Respondent's Mayagüez, Ponce and Puerto Nuevo facilities described in the Complaint.
6. To the extent that Respondents acts or omissions may, without either so admitting or denying, be in non compliance with Section 112(r)(7) of the Clean Air Act, 42 U.S.C. §7412(r)(7) requirements, those failures are de minimis in nature, have created no danger to health and public safety or human welfare, or a danger to the environment at Respondent's Mayagüez, Ponce and Puerto Nuevo facilities described in the Complaint.

7. Any and all actions or omissions concerning compliance with Section 112(r)(7) of the Clean Air Act, 42 U.S.C. §7412(r)(7), requirements have resulted in minimal, if any, economic benefit to Respondent.
8. Respondent has, at all times, acted in good faith.
9. Inspections described in the Complaint were performed upon information and belief, by persons that are not "authorized representatives" of EPA pursuant to Section 114 (a)(2) of the Clean Air Act, 42 §7414(a)(2), and, as a result, their entry to Respondent's properties were without due authorization, and resulted in an illegal search of Respondent operations and records.
10. The Complaint was instituted without proper and adequate justification since Respondent was at all times willing and interested in reaching a non-adversarial settlement of EPA claims, provided extensive documentation informing EPA of its compliance efforts and became involved in a process to that end which EPA abruptly and without justification or explanation, one year later, aborted.

11. Respondent reserves the right to amend these pleadings and to add such further affirmative defenses as discovery and development of the case should disclose.

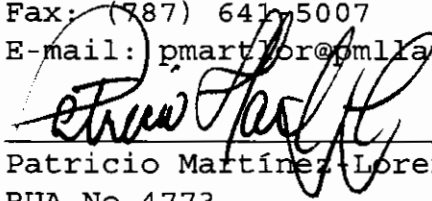
WHEREFORE, it is respectfully requested that the Administrative Complaint in the instant case be dismissed.

In San Juan, Puerto Rico this 16 day of January, 2013.

Respectfully submitted.

MARTINEZ-LORENZO LAW OFFICES
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By:



Patricio Martínez-Lorenzo
RUA No.4773

CERTIFICATE OF SERVICE

This Answer to Administrative Complaint has been notified by FedEx, original and copy, to **Regional Hearing Clerk**, U.S. EPA, Region II, 290 Broadway - 16th Floor, New York, New York 10007; copies, return receipt requested, were notified to:

Jocelyn Scott, Esq.
Assistant Regional Counsel
Office of Regional Counsel
US Environmental Protection Agency, Region 2
290 Broadway
New York, NY 10007-1866

By:


Mitza I. Roman