

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE ADMINISTRATOR**

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG.II
2011 JUN -9 P 6:25
ADMINISTRATIVE HEARING
CLERK

In the Matter of:)
)
Pepsi Cola Puerto Rico Bottling) **Docket No. CWA-02-2010-3463**
Company LLC,¹)
)
Respondent.)

ORDER DIRECTING STATUS REPORT

As you were previously notified, I have been designated to preside over the above-captioned matter. This proceeding will be governed by the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits, 40 C.F.R. §§ 22.1 *et seq.* (“Rules of Practice”). The parties are advised that an informal Practice Manual and recently updated Citizen’s Guide, which serve as aids to understanding the practices and procedures applicable to proceedings before the Administrative Law Judges from EPA’s Office of Administrative Law Judges (“OALJ”), are accessible at <http://www.epa.gov/oalj/rules.htm>.

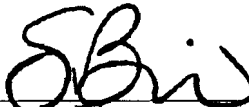
Prior to the designation of this case to the undersigned, the parties engaged in the Alternative Dispute Resolution (“ADR”) process offered by the OALJ in an effort to resolve this matter amicably. On June 1, 2011, the Administrative Law Judge serving as a neutral during the ADR process issued an Order Terminating ADR Process and Returning Proceeding to Chief Judge. The Order of June 1, 2011, states that the parties had requested a second 30-day extension of the ADR process by Joint Motion dated May 20, 2011, in which the parties represented that EPA had rejected a Supplemental Environmental Project (“SEP”) proposed by Respondent, that the parties were currently preparing a second proposed SEP, and that the parties would negotiate “the cash component of the proposed penalty” once this SEP was accepted by EPA. The Order further states that the Joint Motion was denied by Order dated May 25, 2011, on the grounds that the Joint Motion “made it appear that the parties had adopted a casual attitude toward time deadlines in the ADR process and it appeared unlikely that a settlement would be reached within the ADR period, as extended.” Accordingly, the Administrative Law Judge terminated the ADR process.

Complainant is hereby **ORDERED** to file a Status Report regarding the status of

¹ On October 12, 2010, the United States Environmental Protection Agency (“EPA” or “Agency”), Region 2, Caribbean Environmental Protection Division (“Complainant”), initiated this proceeding by filing an Administrative Complaint, Findings of Violation, Notice of Proposed Assessment of an Administrative Penalty, and Notice of Opportunity to Request a Hearing (“Complaint”) against Pepsi Cola Puerto Rico Bottling Company LLC (“Respondent”). The Answer to Complaint, Request for Hearing and Informal Settlement Conference (“Answer”), filed by Respondent on February 9, 2011, and subsequent filings by the parties have noted that Pepsi Cola Puerto Rico Distributing LLC is Respondent’s successor. However, Complainant has not filed a motion to amend the Complaint and modify the caption to reflect any change in the named respondent.

settlement on or before **July 8, 2011**. The parties are hereby advised that, if the Status Report relates that the second proposed SEP has been presented to and accepted by EPA, the undersigned will issue an Order setting a deadline for the parties to file a fully executed Consent Agreement and Final Order in this matter. If, on the other hand, the Status Report relates that the second proposed SEP has not yet been presented to and accepted by EPA, the undersigned will issue a Prehearing Order setting deadlines for the parties to conduct the prehearing exchange of information required by Section 22.19(a) of the Rules of Practice, 40 C.F.R. § 22.19(a).

SO ORDERED.



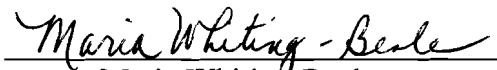
Susan L. Biro
Chief Administrative Law Judge

Dated: June 8, 2011
Washington, DC

In the Matter of Pepsi Cola Puerto Rico Bottling Co., Respondent
Docket No. CWA-02-2010-3463

CERTIFICATE OF SERVICE

I certify that the foregoing **Order Directing Status Report**, dated June 8, 2011, was sent this day in the following manner to the addressees listed below:



Maria Whiting-Beale
Staff Assistant

Dated: June 8, 2011

Original And One Copy By Pouch Mail To:

Karen Maples
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Copy By Regular Mail To:

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