

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY - REGION II
Caribbean Environmental Protection Division
Centro Europa Building - Suite 417
1492 Ponce de Leon Avenue
San Juan, Puerto Rico 00907

U.S. ENVIRONMENTAL PROTECTION AGENCY-REG.II
2007 JUN 15 PM 1:18
REGIONAL HEARING CLERK

EXPEDITED STORM WATER SETTLEMENT AGREEMENT
N & C DEVELOPMENT CORPORATION
Docket Number: CWA-02-2007-3328

N & C Development Corporation (herein the "Respondent") is a "person," within the meaning of § 502(5) of the Clean Water Act ("the Act" or "CWA"), 33 U.S.C. § 1362(5), and 40 C.F.R. § 122.2.

Attached is a "Expedited Settlement Offer Deficiencies Form" (herein the "Form"), which is hereby incorporated by reference. By its signature, Complainant ("EPA") finds that Respondent is responsible for the deficiencies specified in the Form.

Respondent did not implement properly erosion, sediment and storm water management controls at the Project, as required in Part 3 of the construction permit, and failed to comply with its National Pollutant Discharge Elimination System ("NPDES") storm water permit authorized under Section 402 of the Act, 33 U.S.C. § 1342, as noted on the attached Form.

EPA finds, and Respondent admits, that Respondent is subject to Section 301(a) of the Act, 33 U.S.C. § 1311, and that EPA has jurisdiction over the allegations and any "person" who "discharges pollutants" from a "point source" to "waters of the United States". Respondent neither admits nor denies the allegation(s) specified in the Form.

EPA is authorized to enter into this Consent Agreement and Final Order ("Agreement") under the authority vested in the Administrator of EPA by Section 309(g)(2)(A) of the Act, 33 U.S.C. § 1319(g)(2)(A), and by 40 C.F.R. § 22.13(b). The parties enter into this Agreement in order to settle the civil violation(s) specified in the Form for a penalty of \$15,000. Respondent consents to the assessment of this penalty, and waives the right to: (1) contest the finding(s); (2) a hearing pursuant to Section 309(g)(2) of the Act, 33 U.S.C. § 1319(g)(2); and (3) appeal pursuant to Section 309(g)(8) of the Act, 33 U.S.C. § 1319(g)(8).

Additionally, Respondent certifies, subject to civil and criminal penalties for making a false statement to the United States Government, that it has corrected any deficiencies identified in the Form, and to the best of its knowledge, is in compliance with the NPDES permitting program.

Respondent certifies that within 10 days of receiving notice from EPA that the Agreement is effective ("SO ORDERED") it will send a bank, cashiers or certified check for the amount specified above, payable to the "Treasurer, United States of America" to:

Regional Hearing Clerk
U.S. EPA, Region 2
In the Matter of N & C Development Corporation
Docket No.: CWA-02-2007-3328
P.O. Box 360188M
Pittsburgh, PA 15251

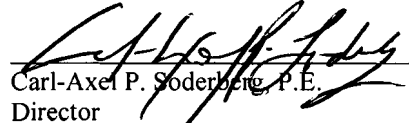
This Agreement settles EPA's civil penalty claims against Respondent for the CWA violation(s) specified in this Agreement.

However, EPA does not waive its rights to take any enforcement action against Respondent for any other past, present, or future civil or criminal violation of the Act or of any other federal statute or regulation. EPA does not waive its right to issue a compliance order for any uncorrected deficiencies or violation(s) described in the Form. EPA has determined this Agreement to be in the public interest.

This Agreement is binding on the parties signing below and effective thirty (30) days from the date it is signed ("APPROVE") by the Director of the Caribbean Environmental Protection Division unless a petition to set aside the Order is filed by a commenter pursuant to § 309(g)(4)(C) of the Act, 33 U.S.C. § 1319(g)(4)(C) and Part 22.

If Respondent does not sign and return this Agreement as presented within 30 days of the date of its receipt, the proposed Agreement is withdrawn without prejudice to EPA's ability to issue any order or file any enforcement action for the violation(s) identified in the Form.

APPROVED BY EPA:


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

Date: 04/11/07

APPROVED BY RESPONDENT in accordance with 40 C.F.R. § 122.22:

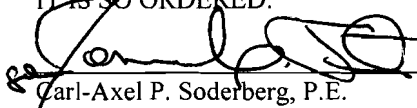
Name: Mr. Rafael Casanova
Title: President N & C Development Corporation

Signature:  Date: 04/27/07

More than 40 days have elapsed since the issuance of public notice pursuant to Section 309(g)(4)(A) of the Act, 33 U.S.C. § 1319(g)(4)(A), and EPA has received no comments concerning this matter.

Having determined that this CAFO is authorized by law and is in the public interest,

IT IS SO ORDERED:


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

Date: 6-11-07

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2

In the Matter of:

N & C Development Corporation
P.O. Box 86
Vega Alta, Puerto Rico 00694-0086

Respondent

**EXPEDITED SETTLEMENT
AGREEMENT**

**DOCKET NUMBER
CWA-02-2007-3328**

CERTIFICATE OF SERVICE

I certify that on the date noted below, I sent the original and one copy, by overnight mail, of the "Expedited Settlement Agreement" (the "Agreement"), bearing docket number CWA-02-2007-3328 to:


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

Also, I certify that on the date noted below, I sent a copy of the Agreement via certified mail - return receipt requested, to the following person:

Mr. Rafael Casanova
President
N & C Development Corporation
P.O. Box 86
Vega Alta, Puerto Rico 00694-0086

Dated: 06/13/07

Signed: _____


Edwin Marquez
Secretary
Multi-Media Permits and Compliance Branch