



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2
290 BROADWAY
NEW YORK, NY 10007-1866

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG. II

2007 JUN -6 PM 2: 54

REGIONAL HEARING
CLERK

JUN - 1 2007

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Article Number: 7005 3110 0000 5972 8390

Eng. Giancarlo Lugo Delgado
Del Valle Group
P.O. Box 2319
Toa Baja, Puerto Rico 00951-2319

RE: Notice of Proposed Assessment of a Civil Penalty Class II
Docket No. CWA-02-2007-3403
Del Valle Group
Permit Number PRR10B688

Dear Mr. Delgado:

Enclosed is a document entitled "Administrative Complaint, Findings of Violation, Notice of Proposed Assessment of an Administrative Penalty, and Notice of Opportunity to Request a Hearing" (Complaint).

The United States Environmental Protection Agency (EPA) has issued this Complaint against Del Valle Group (Respondent) as a result of our determination that the Respondent violated Section 308 of the Clean Water Act (Act), 33 U.S.C. §1318, for violations of EPA's National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges From Construction Activities (CGP or Construction General Permit). This Complaint is filed pursuant to the authority contained in §309(g) of the Act, 33 U.S.C. §1319(g). The Complaint proposes that a penalty of **\$130,000** be assessed against the Respondent for the violations.

The Respondent has the right to a hearing to contest the factual allegations of the Complaint. If the Respondent admits the allegations or they are found to be true after there has been an opportunity for a hearing on them, the Respondent has the right to contest the penalty proposed in the Complaint. I have enclosed a copy of the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits" (CROP), 40 CFR Part 22, which the Agency follows in cases of this kind. Please note the requirements for an Answer at §22.15 of the CROP. **Should a Respondent wish to contest the allegations in the Complaint or the penalty proposed in the Complaint, the Respondent must file an original and a copy of a written Answer within thirty (30) days of the Respondent's receipt of the enclosed Complaint to the EPA Regional Hearing Clerk at the following address:**

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

Internet Address (URL) • <http://www.epa.gov>

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If the Respondent does not file an Answer within thirty (30) days of receipt of this Complaint, the Respondent may be judged to have defaulted (see §22.17 of the CROP). If a default order is entered, the entire proposed penalty may be assessed without further proceedings.

Whether or not the Respondent requests a formal hearing, the Respondent may informally confer with EPA concerning the alleged violations and the amount of the proposed penalty. EPA encourages all parties against whom it files a Complaint to pursue the possibility of settlement as a result of such informal settlement conference with the Agency. The EPA also encourages the use of Supplemental Environmental Projects (SEPs), where appropriate, as part of the settlement. Enclosed is a copy of the Final EPA Supplemental Environmental Projects Policy (May 1, 1998) for your consideration.

A Respondent may represent themselves or be represented by an attorney at any stage of the proceedings, including any informal discussions, whether in person or by telephone. An attorney from the Agency's Office of Regional Counsel will normally be present at any informal conference. Please note that a request for an informal conference does not substitute for a written Answer or affect what a Respondent may choose to say in an Answer, nor does it extend the thirty (30) days by which a Respondent must file an Answer requesting a hearing. Any hearing held in this matter will be conducted in accordance with the CROP.

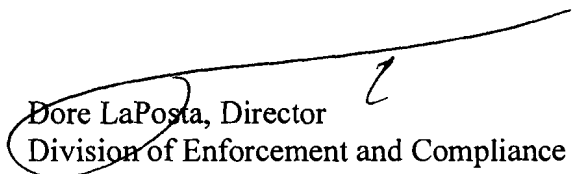
If you have any questions or wish to discuss a settlement of this matter with the EPA by an informal conference, please immediately contact:

Henry Mazzucca, P.E., Chief
Compliance Section
U.S. Environmental Protection Agency, Region 2
290 Broadway, 20th Floor
New York, NY 10007-1866
Telephone (212) 637-4229
Email: mazzucca.henry@epa.gov

For your information, I am enclosing an Information Sheet which may be helpful if you are a small business as defined at 13 C.F.R. 121.201, in obtaining compliance assistance or if you wish to comment on this action to the Small Business and Agriculture Regulatory Enforcement Ombudsman and Regional Fairness Board.

Should you have any questions concerning this matter, please feel free to contact Mr. Mazzucca, at (212) 637-4229.

Sincerely,


Dore LaPosta, Director
Division of Enforcement and Compliance Assistance

Enclosures

1. Complaint
2. Consolidated Rules of Practice
3. Supplemental Environmental Projects
4. Information for Small Business

cc: Wanda E. Garcia Hernández, Director, Water Quality Area, EQB

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 2

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG. II
2007 JUN -6 PM 2: 54
REGIONAL HEARING
CLERK

IN THE MATTER OF:

Del Valle Group
P.O. Box 2319
Toa Baja, PR 00951-2319

Respondent

NPDES Permit Number PRR10B688
ICIS No. 7826007

Proceeding to Assess a Class II Administrative
Penalty Pursuant to Section 309(g) of the Clean
Water Act, 33 U.S.C. §1319(g)

DOCKET NO.
CWA-02-2007-3403

**ADMINISTRATIVE COMPLAINT
FINDINGS OF VIOLATION, NOTICE OF PROPOSED
ASSESSMENT OF AN ADMINISTRATIVE PENALTY, AND
NOTICE OF OPPORTUNITY TO REQUEST A HEARING**

I. Statutory Authority and Jurisdiction

1. This Administrative Complaint, Findings of Violation, Notice of Proposed Assessment of an Administrative Penalty, and Notice of Opportunity to Request a Hearing ("Complaint") is issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency ("EPA") by Section 309(g)(2)(B) of the Clean Water Act ("Act" or "CWA"), 33 U.S.C. §1319(g)(2)(B). The Administrator has delegated this authority to the Regional Administrator of EPA, Region 2, who in turn has delegated it to the Director, Division of Enforcement and Compliance Assistance ("DECA") of EPA, Region 2 ("Complainant").
2. Pursuant to Section 309(g)(2)(B) of the Act, and in accordance with the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits" (CROP), 40 CFR Part 22 (2001), a copy of which is attached. Complainant hereby requests that the Regional Administrator assess a civil penalty against Del Valle Group, as a result of Complainant's determination that the Respondent has violated conditions of EPA's National Pollutant Discharge Elimination System-Construction General Permit, in violation of Sections 301 and 402 of the Act, 33 U.S.C. §1311 and §1342.
3. Section 301(a) of the Act, 33 U.S.C. §1311(a), provides in part that it is unlawful for any person to discharge any pollutant except as in compliance with, *inter alia*, Section 402 of the CWA, 33 U.S.C. §1342.

4. Section 402 of the Act, 33 U.S.C. §1342, provides that the Administrator may, after opportunity for public hearing, issue a permit for the discharge of any pollutant, or combination of pollutants, subject to certain requirements of the Act and such conditions as the Administrator determines are necessary.
5. "National Pollutant Discharge Elimination System" ("NPDES") under Section 402 of the Act, 33 U.S.C. §1342, means the national program for, among other things, issuing and enforcing permits. See 40 CFR §122.2.
6. The Administrator of EPA has promulgated regulations, 40 CFR §122.26(a)(1)(ii) and §122.26(b)(14), which require operators to obtain a NPDES permit for storm water discharges associated with industrial activity.
7. The regulations at 40 CFR §122.26(b)(14)(x) regulate industrial storm water discharges associated with construction activities including clearing, grading and excavation that result in land disturbance of five (5) or more acres.
8. EPA issued the "NPDES General Permit for Discharges from Large and Small Construction Activities" ("CGP") which became effective on July 1, 2003 and expires on July 1, 2008. The general permit number for this CGP in Puerto Rico is PRR100000.
9. Part 3.10 of CGP requires that inspections be conducted at least once every 7 calendar days, or at least once every 14 calendar days and within 24 hours of the end of a storm event of 0.5 inches or greater.
10. Part 3.1 of the CGP requires that a Storm Water Pollution Prevention Plan ("SWPPP") must be prepared prior to the submission of the Notice of Intent ("NOI").
11. Part 3.12 of the CGP requires that the SWPPP be retained at the construction site.
12. The Act and its implementing regulations and applicable NPDES permit contain the following definitions:
 - a. "Navigable waters" means the waters of the United States pursuant to Section 502(7) of the Act, 33 U.S.C. §1362(7). "Waters of the United States" means, but are not limited to, waters which are currently used or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide and including wetlands, rivers, streams (40 CFR §122.2).
 - b. "Pollutant" means, but is not limited to, solid waste, dredged spoil, rock, sand, cellar dirt, sewage, sewage sludge, and industrial, municipal and agricultural waste discharged into water, pursuant to Section 502(6) of the Act, 33 U.S.C. §1362(6).
 - c. "Point source" means any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete

fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged, [...] pursuant to Section 502(14) of the Act, 33 U.S.C. §1362(14).

- d. "Discharge of a pollutant" means any addition of any pollutant to navigable waters from any point source, pursuant to Section 502(12) of the Act, 33 U.S.C. §1362(12).
 - e. "Person" means, but is not limited to, an individual, corporation, partnership or association, pursuant to Section 502(5) of the Act, 33 U.S.C. §1362(5).
13. "Commencement of construction activities" means the initial disturbance of soils associated with clearing, grading, excavation activities or other construction activities. See Appendix A of the CGP.
14. "Operator," for the purpose of the NPDES storm water general permit for construction activities and in the context of storm water associated with construction activity, is defined at Appendix A of the CGP to mean any party associated with a construction project that meets either of the following two (2) criteria:
- a. The party has operational control over construction plans and specifications including the ability to make modifications to those plans and specifications; or
 - b. The party has day-to-day operational control of those activities at a project which are necessary to ensure compliance with a storm water pollution prevention plan for the site or other permit conditions. See Appendix A of the CGP.

II. Findings of Violation

15. At all relevant times, Del Valle Group ("Respondent") owned, operated and engaged in the construction activity of building a new structure to elevate Road 12 over Caribe Avenue.
16. Respondent's project described above is located at Int. Road 12 and Caribe Avenue, Road PR-12 STA 1+10 TO STA 13+29, Mercedita, Puerto Rico ("the Site").
17. Respondent's Site is comprised of approximately 20 acres of total land area.
18. At all relevant times, the construction activity at Respondent's Site included earth clearing, grading and excavation which resulted in the disturbance of no less than five acres of total land area.
19. Respondent is a person within the meaning of Section 502(5) of the CWA, 33 U.S.C. §1362(5).

20. Respondent's Site was and is, at all relevant times, a point source as defined in Section 502 (14) of the Act, 33 U.S.C. §1362(14).
21. Respondent filed an application with the EPA for coverage under the NPDES permit system with respect to its Site, by filing a Notice of Intent ("NOI") for Stormwater Discharges Associated with Construction Activity dated January 20, 2005.
22. On February 24, 2005, Respondent's coverage under EPA's CGP became effective and Respondent was issued NPDES Permit No. PRR10B688 ("Permit") for its industrial discharges of storm water associated with construction activity from its Site into a channel which led to the Caribbean Sea.
23. Respondent prepared a Storm Water Pollution Prevention Plan ("SWPPP") which was not dated.
24. Respondent's SWPPP failed to include the information described below:
 - a. a site map, showing the entire site;
 - b. documentation of permit eligibility related to endangered species;
 - c. dates when major grading activities occurred; dates when construction activities temporarily or permanently ceased on a portion of the site; and dates when stabilization measures were initiated; and
 - d. while the SWPPP was signed by Mr. Balzac as required, it was not dated nor was Mr. Balzac's title indicated as required.
25. On December 1, 2005, an EPA representative conducted a Compliance Evaluation Inspection (CEI) at the site, finding that:
 - a. Silt Fences - silt fences at the Site were not buried into the soil and were in a state of disrepair.
 - b. Construction Activity in Channel Adjacent to Site - operation of heavy equipment in the channel and lack of erosion controls along the Channel which leads to the Caribbean Sea.
 - c. SWPPP Unavailable During Inspection - a copy of the SWPPP was not available at the Site.
 - d. Site Inspections - Respondent's Site inspection records for February 2005 - November 2005 were deficient. Employees at the site stated that weather data would be entered into the inspection forms, but the storm water erosion controls were not physically inspected.

- e. Storm water Inlets - storm water inlets were not protected.
- f. Sign – a sign containing the NOI was not posted at the entrance of the Site.

COUNT ONE

FAILURE TO DEVELOP THE SWPPP IN ACCORDANCE WITH THE CGP

- 26. Paragraphs fifteen through twenty-five of the Findings of Violation are realleged and incorporated herein as though set forth in full.
- 27. Part 3.3.C of the CGP requires a legible site map, showing the entire site as part of the SWPPP.
- 28. Part 3.4.C of the CGP requires dates of when major grading activities occurred; dates when construction activities temporarily or permanently ceased on a portion of the site; and dates when stabilization measures were initiated.
- 29. Part 3.7 of the CGP requires documentation of permit eligibility related to endangered species.
- 30. From or about February 2005 to and including June 2006, Respondent failed to include in its SWPPP the information described in paragraphs 27 through 29, above, in violation of Parts 3.3.C, 3.4.C, and 3.7 of the CGP.

All in violation of Sections 301, 308, and 402 of the Act, Title 33, United States Code, Sections 1311, 1318, and 1342.

COUNT TWO

FAILURE TO RETAIN A COPY OF THE SWPPP AT THE CONSTRUCTION SITE

- 31. Paragraphs fifteen through twenty-five of the Findings of Violation are realleged and incorporated herein as though set forth in full.
- 32. Part 3.12 of the CGP requires that the SWPPP be retained at the construction site.
- 33. On or about December 1, 2005, Respondent failed to retain a copy of the SWPPP at the construction site, in violation of Part 3.12 of the CGP.

All in violation of Sections 301, 308, and 402 of the Act, Title 33, United States Code, Sections 1311, 1318, and 1342.

COUNT THREE

FAILURE TO IMPLEMENT THE SWPPP

- 34. Paragraphs fifteen through twenty-five of the Findings of Violation are realleged and incorporated herein as though set forth in full.

35. Part 3.1.D of the CGP requires that the SWPPP must be implemented as written.
36. Part 3.10.A of the CGP requires that the site be inspected at least once every 7 calendar days, or at least once every 14 calendar days and within 24 hours of the end of a storm event of 0.5 inches or greater.
37. Part 3.10.G of the CGP requires inspection records be maintained as part of the SWPPP for at least three years from the date that permit coverage expires or is terminated.
38. Part 3.12.B of the CGP requires that a sign containing the Notice of Intent be posted at the entrance of the construction site.
39. From or about February 2005 to and including December 2005, Respondent failed to:
 - a. conduct inspections at least once every 7 calendar days, or at least once every 14 calendar days and within 24 hours of the end of a storm event of 0.5 inches or greater, in violation of Part 3.10.A of the CGP;
 - b. maintain inspection records as part of the SWPPP, in violation of Part 3.10.G of the CGP;
41. On or about December 1, 2005, Respondent failed to:
 - a. Install and maintain silt fences at the Site as specified in the Respondent's SWPPP, in violation of Part 3.1.D of the CGP;
 - b. Install silt fences and/or hay bales around the limits of the working area of the Channel, in violation of Part 3.1.D of the CGP.
 - c. Install a sign containing the Notice of Intent posted at the entrance of the Site, in violation of Part 3.12.B of the CGP.

42. From or about February 2005 to and including June 2006, Respondent failed to implement as written the SWPPP as required by Part 3.1.D of the CGP.

All in violation of Sections 301, 308, and 402 of the Act, Title 33, United States Code, Sections 1311, 1318, and 1342.

43. Based on the above Findings of Violation, EPA finds that Respondent failed to comply with permit conditions of its NPDES Permit, Tracking No. PRR10B688, All in violation of Sections 301, 308, and 402 of the Act, Title 33, United States Code, Sections 1311, 1318, and 1342.

III. Notice of Proposed Order Assessing a Civil Penalty

Based on the foregoing Findings of Violation, and pursuant to the authority of Section 309(g) of the Act, 33 U.S.C. §1319(g), and the Debt Collection Improvement Act of 1996, EPA, Region 2 hereby proposes to issue a Final Order Assessing Administrative Penalties (Final Order) to Respondent assessing a penalty of \$130,000. EPA determined the proposed penalty after taking into account the applicable factors identified at Section 309(g)(3) of the Act, 33 U.S.C. §1319(g)(3). EPA has taken account of the nature, circumstances, extent and gravity of the violation (or violations), and Respondent's prior compliance history, degree of culpability, economic benefit or savings accruing to Respondent by virtue of the violations, and Respondent's ability to pay the proposed penalty. Based on the Findings set forth above, the Respondent has been found to have violated the Act in five hundred five (505) instances. EPA may issue the final Order Assessing Administrative Penalties thirty (30) days after Respondent's receipt of this Notice, unless Respondent files an Answer to the Complaint and requests a hearing on this notice pursuant to the following section.

IV. Procedures Governing This Administrative Litigation

The rules of procedure governing this civil administrative litigation have been set forth in the CROP, 40 CFR Part 22. A copy of these rules accompanies this Complaint.

A. Answering The Complaint

Where either Respondent intends to contest any material fact upon which the Complaint is based, to contend that the proposed penalty is inappropriate or to contend that Respondent is entitled to judgment as a matter of law, Respondent must file with the Regional Hearing Clerk of EPA, Region 2, both an original and one copy of a written Answer to the Complaint, and such Answer must be filed within thirty (30) days after service of the Complaint. 40 CFR §22.15(a). The address of the Regional Hearing Clerk of EPA, Region 2, is:

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

Respondent shall also then serve one copy of the Answer to the Complaint upon Complainant and any other party to the action. 40 CFR §22.15(a). Respondent's Answer to the Complaint must clearly and directly admit, deny, or explain each of the factual allegations that are contained in the Complaint and with regard to which the Respondent has any knowledge. 40 CFR §22.15(b). Where Respondent lacks knowledge of a particular factual allegation and so state in its answer, the allegation is deemed denied. 40 CFR §22.15(b). The Answer shall also set forth: (1) the circumstances or arguments that are alleged to constitute the grounds of defense, (2) the facts that Respondent disputes (and thus intend to place at issue in the proceeding), (3) the basis for opposing the proposed relief and (4) whether Respondent requests a hearing. 40 CFR §22.15(b).

Respondent's failure affirmatively to raise in the answer facts that constitute or that might constitute the grounds of their defense may preclude Respondent, at a subsequent stage in this proceeding, from raising such facts and/or from having such facts admitted into evidence at a hearing.

B. Opportunity To Request A Hearing

If requested by Respondent in its Answer, a Hearing upon the issues raised by the Complaint and Answer may be held. 40 CFR §22.15(c). If, however, Respondent does not request a hearing, the Presiding Officer (as defined in 40 CFR §22.3) may hold a Hearing if the Answer raises issues appropriate for adjudication. 40 CFR §22.15(c).

Any Hearing in this proceeding will be held at a location determined in accordance with 40 CFR §22.21(d). A Hearing of this matter will be conducted in accordance with the applicable provisions of the Administrative Procedure Act, 5 U.S.C. §§551-59, and the procedures set forth in Subpart D of 40 CFR Part 22.

Should Respondent request a Hearing on this proposed penalty assessment, members of the public, to whom EPA is obligated to give notice of this proposed action, will have a right under Section 309(g)(4)(B) of the Act, 33 U.S.C. §1319(g)(4)(B), to be heard and to present evidence on the appropriateness of the penalty assessment. Should Respondent not request a Hearing, EPA will issue a Final Order, and only members of the public who submit timely comment on this proposal will have an additional thirty (30) days to petition EPA to set aside the Final Order and to hold a Hearing thereon. EPA will grant the petition and will hold a Hearing only if the petitioner's evidence is material and was not considered by EPA in the issuance of the Final Order.

C. Failure To Answer

If Respondent fails in any Answer to admit, deny, or explain any material factual allegation contained in the Complaint, such failure constitutes an admission of the allegation. 40 CFR §22.15(d). If Respondent fails to file a timely [i.e. in accordance with the 30-day period set forth in 40 CFR §22.15(a)] Answer to the Complaint, Respondent may be found in default upon motion. 40 CFR §22.17(a). Default by Respondent constitutes, for purposes of the pending proceeding only, an admission of all facts alleged in the Complaint and a waiver of Respondent's right to contest such factual allegations. 40 CFR §22.17(a). Following a default by Respondent for a failure to timely file an Answer to the Complaint, any order issued therefore shall be issued pursuant to 40 CFR §22.17(c).

Any penalty assessed in the default order shall become due and payable by Respondent without further proceedings thirty (30) days after the Default Order becomes final pursuant to 40 CFR §22.17(d). If necessary, EPA may then seek to enforce such Final Order of Default against Respondent, and to collect the assessed penalty amount, in Federal court.

V. Informal Settlement Conference

Whether or not Respondent requests a formal Hearing, EPA encourages settlement of this proceeding consistent with the provisions of the Act and its applicable regulations. 40 CFR §22.18(b). At an informal conference with a representative(s) of Complainant, Respondent may comment on the charges made in this complaint, and Respondent may also provide whatever additional information that it believes is relevant to the disposition of this matter, including: (1) actions Respondent has taken to correct any or all of the violations herein alleged, (2) any information relevant to Complainant's calculation of the proposed penalty, (3) the effect the proposed penalty would have on Respondent's ability to continue in business and/or (4) any other special facts or circumstances Respondent wishes to raise.

Complainant has the authority to modify the amount of the proposed penalty, where appropriate, to reflect any settlement agreement reached with Respondent, to reflect any relevant information previously not known to Complainant or to dismiss any or all of the charges, if Respondent can demonstrate that the relevant allegations are without merit and that no cause of action as herein alleged exists. Respondent is referred to 40 CFR §22.18.

Any request for an informal conference or any questions that Respondent may have regarding this Complaint should be directed to:

Henry Mazzucca, P.E., Chief
Compliance Section
U.S. Environmental Protection Agency, Region 2
290 Broadway, 20th Floor
New York, NY 10007-1866
Telephone (212) 637-4229

The parties may engage in settlement discussions irrespective of whether Respondent has requested a Hearing. 40 CFR §22.18(b)(1). Respondent's requesting a formal hearing does not prevent them from also requesting an informal settlement conference; the informal conference procedure may be pursued simultaneously with the formal adjudicatory hearing procedure. A request for an informal settlement conference constitutes neither an admission nor a denial of any of the matters alleged in the Complaint. Complainant does not deem a request for an informal settlement conference as a request for a hearing as specified in 40 CFR §22.15(c).

A request for an informal settlement conference does not affect Respondent's obligation to file a timely Answer to the Complaint pursuant to 40 CFR §22.15. No penalty reduction, however, will be made simply because an informal settlement conference is held.

Any settlement that may be reached as a result of an informal settlement conference shall be embodied in a written Consent Agreement. 40 CFR §22.18(b)(2). In accepting the Consent Agreement, Respondent waives its right to contest the allegations in the Complaint and waives its right to appeal the Final Order that is to accompany the Consent Agreement. 40 CFR §22.18(b)(2). In order to conclude the proceeding, a Final Order ratifying the parties' agreement to settle will be executed. 40 CFR §22.18(b)(3).

Respondent entering into a settlement through the signing of such Consent Agreement and its complying with the terms and conditions set forth in such Consent Agreement and Final Order terminates this administrative litigation and the civil proceedings arising out of the allegations made in the Complaint. Respondent's entering into a settlement does not extinguish, waive, satisfy or otherwise affect its obligation and responsibility to comply with all applicable statutory and regulatory requirements, and to maintain such compliance.

VI. Resolution of this Proceeding Without Hearing or Conference

Instead of filing an Answer, Respondent may choose to pay the total amount of the proposed penalty (\$130,000) within 30 days after receipt the Complaint, provided that Respondent file with the Regional Hearing Clerk, Region 2 (at the address noted above), and a copy of the check or other instrument of payment. 40 CFR §22.18(a). A copy of the check or other instrument of payment should be provided to the Chief, Compliance Section, identified above. Payment of the penalty assessed should be made by sending a cashier's or certified check payable to the "Treasurer, United States of America", in the full amount of the penalty assessed in this complaint to the following addressee:

Regional Hearing Clerk
U. S. Environmental Protection Agency, Region 2
P.O. Box 360188M
Pittsburgh, Pennsylvania 15251

Pursuant to 40 CFR §22.18(a)(3), if Respondent elects to pay the full amount of the penalty proposed in the Complaint within thirty (30) days of receiving the Complaint, then, upon EPA's receipt of such payment, the Regional Administrator of EPA, Region 2 (or, if designated, the Regional Judicial Officer), shall issue a Final Order in accordance with 40 CFR §22.18(a)(3). In accordance with 40 CFR §22.45(c)(3), no Final Order shall issue until at least ten (10) days after the close of the comment period on this Complaint. Issuance of a Final Order terminates this administrative litigation and the civil proceedings arising out of the allegations made in the Complaint (note that a new enforcement action may be initiated based on continued non-compliance). Further, pursuant to 40 CFR §22.18(a)(3), the making of such payment by Respondent shall constitute a waiver of Respondent's right both to contest the allegations made in the Complaint and to appeal said Final Order to Federal court. Such payment does not extinguish, waive, satisfy or otherwise affect Respondent's obligation and responsibility to comply with all applicable statutory and regulatory requirements, and to maintain such compliance.

VII. Filing of Documents

The Answer and any Hearing Request and all subsequent documents filed in this action should be sent to:

Regional Hearing Clerk
U.S. Environmental Protection Agency
290 Broadway, 16th Floor
New York, New York 10007

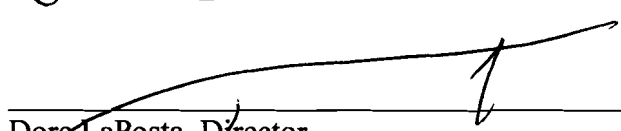
A copy of the Answer, any Hearing Request and all subsequent documents filed in this action shall be sent to:

Diane T. Gomes
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th Floor
New York, NY 10007-1866
Telephone (212) 637-3235
Fax: (212) 637-3202
Email: gomes.diane@epa.gov

VIII. General Provisions

1. Respondent has a right to be represented by an attorney at any stage of these proceedings.
2. This Complaint does not constitute a waiver, suspension or modification of the requirements of the Act, regulations promulgated thereunder, or any applicable permit.
3. Neither assessment nor payment of an administrative civil penalty pursuant to Section 309(g) of the Act will affect Respondent's continuing obligation to comply with the Act, or with any separate Compliance Order issued under Section 309(a) of the Act, 33 U.S.C. §1319(a), for the violations alleged herein.

ISSUED THIS 1st DAY OF JUNE, 2007.



Dore LaPosta, Director
Division of Enforcement and Compliance Assistance
U. S. Environmental Protection Agency - Region 2
290 Broadway
New York, New York 10007

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 2

IN THE MATTER OF:

Del Valle Group
P.O. Box 2319
Toa Baja, PR 00951-2319

Respondent

NPDES Permit Number PRR10B688
ICIS No. 7826007

Proceeding to Assess a Class II Administrative
Penalty Pursuant to Section 309(g) of the Clean
Water Act, 33 U.S.C. §1319(g)

DOCKET NO.
CWA-02-2007-3403

CERTIFICATE OF SERVICE

I certify that on JUN 5 2007, 2007, I served the foregoing fully executed
Administrative Complaint, Findings of Violation, Notice of Proposed Assessment of an Administrative
Penalty, and Notice of Opportunity to Request a Hearing, bearing the above referenced docket number, on
the persons listed below, in the following manner:

Original and One Copy
By Hand:

Office of Regional Hearing Clerk
U.S. Environmental Protection
Agency - Region 2
290 Broadway, 16th floor
New York, New York 10007-1866

Copy by Certified Mail
Return Receipt Requested:

Del Valle Group
P.O. Box 2319
Toa Baja, PR 00951-2319

Copy by Certified Mail
Return Receipt Requested:

Wanda E. García Hernández, Director
Environmental Quality Board
P.O. Box 11488
Santurce, Puerto Rico 00910

Dated: 6/05/07


Secretary
New York, New York