

CERTIFICATE OF SERVICE

I hereby certify that the Order To Set Aside Complainant's Motion For Entry of Default by Regional Judicial Officer Helen Ferrara in the matter of Felix Ayala and Silvette Ayala d/b/a Cantera El Roble, Docket No. CWA-02-2009-3451, was served on the parties as indicated below:

First Class Mail - Felix Ayala, Owner
Felix Ayala & Silvette Ayala
d/b/a Cantera El Roble
State Road PR-827, Km 2.0
Toa Alta, PR 00953

Carolina Jordan-Garcia, Esq.
USEPA - Region II
Caribbean Field Division
Centro Europa Building, Suite 417
1492 Ponce de Leon Avenue
San Juan, Puerto Rico 00907



Karen Maples
Regional Hearing Clerk
USEPA - Region II

Dated: March 30, 2010

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2
290 Broadway
New York, NY 10007**

IN THE MATTER OF:

**Félix Ayala and Silvette Ayala
d/b/a Cantera El Roble**

State Road 827, Km 2.0
Piñas Ward
Toa Alta, PR 00953

Respondents

Docket No. CWA-02-2009-3451

**ORDER TO SET ASIDE COMPLAINANT'S MOTION FOR ENTRY OF
DEFAULT**

On March 16, 2010, the Complainant's Attorney filed a Motion to Set Aside, requesting that the Undersigned set aside Complainant's Motion for Entry of Default filed on September 29, 2009. In the Motion to Set Aside, Complainant's Attorney summarized the status of this matter as follows:

- 1) In response to an Order to Supplement the Record, issued by the Undersigned on December 2, 2009, Complainant's Attorney filed a Motion in Compliance with Order on January 14, 2010, providing the clarifications and documents requested in the Motion to Supplement the Record.
- 2) In attempting to serve Respondent with its Motion in Compliance with Order, Complainant mailed a copy to an address for Respondent Felix Ayala that had been provided by Mr. Ayala's wife, Carmen Ayala.

- 3) When that mailed document was returned to Complainant, Complainant, by Enforcement Officer Hector Ortiz, delivered the document by hand to Mariam Ayala, daughter of Respondent Felix Ayala and sister of Respondent Silvette Ayala, at Felix Ayala's residence, and explained to both Mariam Ayala and Carmen Ayala the content of the document and the consequences of Respondents' failure to answer the Complaint.
- 4) Shortly thereafter, Respondent Silvette Ayala requested a conference with Complainant and the parties met on March 4, 2010.
- 5) At the conference, Complainant agreed to file a Motion to Set Aside its Motion for Entry of Default if Respondents would make a commitment to file their Answer to the Complaint within two weeks time of the conference.
- 6) On March 16, 2010, Respondents filed an Answer to the Complaint and an Answer to Motion of Entry of Default. The latter document offers Felix Ayala's medical condition as a possible explanation for Respondents' failure to answer the Complaint in a timely manner.
- 7) On March 16, 2010, Complainant's Attorney filed its Motion to Set Aside "with the intention to give this case the most sensible and prompt solution" (page 2 of Complainant's Motion).


Based upon the record in this matter, and in light of the considerations set forth herein, the Undersigned issues the following **ORDER**.

IT IS ORDERED:

The Complainant's Motion to Set Aside is hereby granted, and the Answer filed by Respondent on March 16, 2010 is accepted.

The Regional Hearing Clerk will be promptly forward this matter to the Office of Administrative Law Judges.

Dated: March 29, 2010



Helen S. Ferrara
Presiding Officer