

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2

IN THE MATTER OF:

H & D Development Corporation

P.O. Box 4315

Bayamón, Puerto Rico 00958

Campo Real Development's Pump Station

NPDES Tracking Number PRU002776

RESPONDENT

DOCKET NUMBER CWA-02-2013-3356

Proceeding pursuant to Sections 309(g) of the
Clean Water Act, 33 U.S.C. § 319(g) to assess
Class I Civil Penalty

REGIONAL HEARING
CLERK

2016 MAY 12 AM 10:44

U.S. Environmental
Protection Agency-Region 2

**MOTION FOR EPA TO BE ALLOWED TO WITHDRAW THE INSTANT
COMPLAINT WITHOUT PREJUDICE**

Complainant files this motion pursuant to 40 C.F.R. § 22.14(d) for permission to withdraw the instant Complaint against H & D Development Corp., without prejudice, based upon the following information:

1. On February 2, 2013, a duly authorized enforcement officer performed an inspection (the "Inspection") at Campo Real Development Pump Station (the "Project").
2. The purpose of the Inspection was to determine H & D Development Corporation's ("Respondent") compliance with the Clean Water Act (the "Act" or "CWA") and the applicable National Pollutant Discharge Elimination System ("NPDES") regulations at 40 C.F.R. Part 122.
3. The findings of the Inspection were included in the NPDES Water Compliance Inspection Report, dated April 12, 2013. Among other things, the Inspection revealed that Respondent discharged pollutants from the Project to waters of the United States without a NPDES Permit.
4. On April 15, 2013, Complainant issued an Administrative Compliance Order ("ACO"), Docket NO. CWA-02-2013-313, against Respondent requiring it to cease the discharge of pollutants from the Project to waters of the United States without a NPDES Permit, and to make the necessary permanent repairs to the pump station to have it fully operational.
5. In a letter dated July 7, 2013, Respondent submitted to Complainant a certification stating that as of such date, the discharges of pollutants from the Project into waters of the United States had ceased.

6. On September 26, 2013, Complainant issued an Administrative Complaint, Findings of Violation, Notice of Proposed Assessment of an Administrative Penalty, and Notice of Opportunity to Request a Hearing (the "Complaint"), Docket number CWA-02-2013-3356, against Respondent. Complainant alleged that Respondent discharged pollutants from the Project to waters of the United States without a NPDES Permit.
7. Complainant's records show that on October 3, 2013, a individual named Luis Velez received the Complaint on behalf of Respondent. (see Attachment I for a copy of the Certified Mail Receipt)
8. Respondent did not file an answer to the Complaint as required by Section 22.15 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 C.F.R. Part 22, which govern proceedings of this kind.
9. On March 11, 2014, the Presiding Officer granted a motion for substitution of legal representation of Complainant dated February 10, 2014.
10. After the issuance of the Complaint in September 2013, Complainant attempted to contact Respondent with no success.
11. In its continuous efforts to contact Respondent to settle the case, on or about June 2015, Complainant learned that the Complaint was never filed with the Regional Hearing Clerk as required by Part 22.5(a) of the CROP; therefore, the proceeding against Respondent was never initiated pursuant to Part 22.13 of the CROP.
12. On July 10, 2015, a new Notice of Proposed Assessment of a Civil Penalty, with a copy of the Complaint issued on September 26, 2013, was mailed to Respondent to comply with the service requirements pursuant to Part 22.5(b) of the CROP.
13. A Public Notice for the proposed administrative penalty assessment for the alleged violations of the CWA was published by the Complainant on July 17, 2015. The comment period ended on August 27, 2015. No comments were received by the Complainant. (see Attachment II for a printout of the Public Notice on the Complainant's Public Notices website)
14. On August 26, 2015, Complainant reviewed the United States Postal Service ("USPS") electronic tracking system for information regarding the receipt by Respondent of the Notice of Proposed Assessment of a Civil Penalty.
15. The aforementioned review revealed that the Notice of Proposed Assessment of a Civil Penalty mailed by the Complainant on July 10, 2015, was delivered to the Respondent on July 13, 2015. (see Attachment III for a printout of the USPS website showing delivery of the certified mail)

16. Notwithstanding that the USPS website indicated that the Notice of Proposed Assessment of a Civil Penalty was delivered to the Respondent, the Regional Hearing Clerk did not receive the certified mail receipt of delivery.
17. Respondent did not file an answer to the Complaint.
18. After July 10, 2015, Complainant attempted to contact the Respondent on several occasions with no success.
19. On or about October 3, 2015, Complainant performed a review of the Registry of Corporations and Entities of the Department of State of the Commonwealth of Puerto Rico to verify whether Respondent was active as a corporation under the laws of the Commonwealth of Puerto Rico.
20. As a result of the aforementioned review, Complainant learned that on February 14, 2014, the Puerto Rico Department of State notified Respondent of its failure to comply with its annual obligation to file reports and/or pay annual dues, as applicable, for a number of years, and that the Commonwealth of Puerto Rico Secretary of State had the legal authority to cancel in full Respondent certificate of incorporation if no action was taken within sixty (60) days from the date on such notification, without any further notification. (see Attachment IV for a copy of the notice of revocation letter)
21. As of April 16, 2014, the Puerto Rico Department of State removed Respondent's Certificate of Incorporation from its Corporations and Entities Registry. (see Attachment V for a copy of the Certificate of Revocation of the Certificate of Incorporation)
22. On or about December 3, 2015, Complainant performed a review of the Registry of Corporations and Entities of the Department of State of the Commonwealth of Puerto. As a result of the review, Complainant confirmed the cancellation of Respondent's Certificate of Incorporation. (see Attachment VI for a printout of Respondent's general information)
23. On December 15, 2015, Eng. Hector Ortiz, the Enforcement Officer in the case, attempted to personally serve the Complaint on the Respondent. Mr. Ortiz visited Respondent's two principal asset locations to find that both sites were abandoned. (see Attachment VII for a copy of the sworn statement signed by Eng. Ortiz indicating the result of his attempt to do a personal service of the Complaint)
24. After Complainant learned that Respondent's principal asset locations were abandoned, Complainant has not made any additional attempt to contact Respondent.
25. To the best of Complainant's knowledge, there has not been any discharge of pollutants to waters of the United States from the Project since the issuance of the Complaint in September 2013.

26. On the basis of the facts described in paragraphs 6 through 25, above, Complainant seeks permission of this Regional Judicial Officer (RJO) to withdraw the instant Complaint against H & D Development Corp.

THEREFORE, the Complainant, prays this RJO to grant its motion to withdraw its claims against Respondent from the instant Complaint without prejudice.

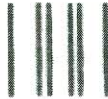
Respectfully submitted today February 16, 2016.

For Complainant US EPA Region 2



Evelyn Rivera-Ocasio, Esq.
Assistant Regional Counsel
Office of Regional Counsel for Caribbean Programs
US Environmental Protection Agency - Region 2
City View Plaza II, Suite 7000
#48 RD. 165 km 1.2
Guaynabo, PR 00968-8069

UNITED STATES POSTAL SERVICE



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U.S. ENVIRONMENTAL PROTECTION AGENCY
CARIBBEAN ENVIRONMENTAL PROTECTION DIVISION
CITY VIEW PLAZA II - SUITE 7000
48 RD. 165 KM. 1.2
GUAYNABO, PUERTO RICO 00968-8069

ATTN: Miguel Batista
Notice of Proposed Assessment of a Civil Penalty Docket
No. CWA-02-2013-3356 Campo Real Development Pump
Station

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits. 	<p>A. Signature  <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) <u>Lisbeth</u> C. Date of Delivery <u>10-3-13</u></p>
<p>1. Article Addressed to:</p> <p>Ms. Lisbeth Fernández H & D Development Corporation P.O. Box 4315 Bayamón, Puerto Rico 00958</p>	<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes if YES, enter delivery address below: <input type="checkbox"/> No</p> <p>3. Service Type <input type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>

2. Article Number (Transfer from service label) **7008 1140 0004 1564 6041**

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Date	Case No.	Agency/Case Name	Location	Order Type	Amount
09/14/2015			Located at 4141 Bales Road in Medina New York 14103	ORDER	
15-20	08/10/2015 - 09/10/2015	Docket No. CWA-02-2015-3359 NPDES Storm Water Construction General Permit PRR124558 Bayamon Towne Center, Inc. Bayamon Towne Center, Inc. P.O. P.O. Box 3014 Caguas, Puerto Rico 00726		CLASS I ADMINISTRATIVE PENALTY ORDER, Expedited Settlement Offer	\$5,850
15-19	08/10/2015 - 09/10/2015	CWA-02-2015-3404 Mack Studios, Inc. and Peter Maculewicz 5502 Technology Park Blvd Auburn, NY 13021		CLASS I ADMINISTRATIVE PENALTY ORDER	\$65,000
15-18	09/10/2015 - 09/10/2015	CWA-02-2015-3304 County Road 24 Grove, New York 14884		CLASS I ADMINISTRATIVE PENALTY ORDER, Expedited Settlement Offer	\$14,900
15-16	07/17/2015 - 08/27/2015	CWA-02-2015-3302 Bel Metal Beverage Container Corporation 95 Ballard Road Middletown, New York 10941		Notice of Proposed Administrative Penalty Assessment And Opportunity to comment	\$26,760
15-15	07/17/2015 - 08/27/2015	CWA-02-2015-3350 System 3, Inc. 5945 Palm Drive, Carmichael, California 95608		Clean Water Act Class I Administrative Penalty, Storm Water Expedited Settlement Offer	\$10,550
15-14	07/17/2015 - 08/27/2015	CWA-02-2013-3356 H & D Development Corporation P O Box 4315, Bayamon, Puerto Rico 00958		Notice of Proposed Administrative Penalty Assessment And Opportunity to comment	\$38,663
15-13	07/17/2015 - 08/03/2015	CWA-02-2015-3351 Becton Dickinson Caribe Ltd P. O. Box 372866 Cayey, Puerto Rico 00737-2860		Clean Water Act Class I Administrative Penalty Assessments	\$31,500
		CWA-02-2015-3352			\$31,000
		CWA-02-2015-3353			\$14,000
		CWA-02-2015-3354			\$22,500
15-12	07/02/2015 - 08/03/2015	CWA-02-2015-3357 Caribbean Petroleum, Inc. P O Box 305300 Saint Thomas, Virgin Islands 00803		Clean Water Act Class I Administrative Penalty Assessment	\$14,150
15-06	05/15/2015 - 06/15/2015	NYU119601 Hessman Petroleum Corp., 90 Watson Road, Raville, NY 14877		Notice of Formulation of Draft Modified UIC Permit and Notice of Public Comment Period of Draft Modified Permit	N/A

100%

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, REGION 2
CARIBBEAN ENVIRONMENTAL PROTECTION DIVISION
REGION 2
290 Broadway
New York, New York 10007-1866

DATE OF NOTICE: July 17, 2015

PUBLIC NOTICE NUMBER: 2015-14

COMMENT PERIOD: Thirty (30) days after issuance of this Public Notice

ACTION: Notice of Proposed Assessment of a Clean Water Act Section 309(g) Class I Administrative Penalty, and Opportunity to Comment

SUMMARY: EPA is providing notice of proposed administrative penalty assessment for alleged violations of the Clean Water Act (the "Act"). EPA is also providing notice of opportunity to comment on the proposed penalty assessment.

Under 33 U.S.C. §1319(g) of the Act, EPA is authorized to issue an order assessing a civil penalty for violations of the Act. EPA may issue such order after the commencement of a Class I penalty proceeding. EPA provides public notice of the proposed assessment pursuant to 33 U.S.C. §1319(g)(4)(a) of the Act.

Class I proceedings are conducted under EPA's Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties or the

Revocation and Suspension of Permits (CROP), pursuant to 40 CFR Part 22.

The procedures through which the public may submit written comments on a proposed Class I order or participate in a Class I proceeding, and the procedures by which a Respondent may request a hearing, are set forth in the CROP. The deadline for submitting public comment on a proposed Class I order is thirty (30) days after issuance of public notice.

On the date identified below, EPA commenced the following Class I proceedings for the assessment of penalties:

Case name: In the matter of H & D Development Corporation
Docket No.: Docket No. CWA-02-2013-3356
Facility Name: Campo Real Development Pump Station
Facility Location: State Road # 9917 Int., Km. 1.9, Las Piedras, Puerto Rico 00771
Proposed Penalty: \$36,663.00 (For violations to Section 301 of the Clean Water Act ("Act"), by discharging pollutants (raw sewage) into waters of the United States without a National Pollutant Discharge Elimination System ("NPDES") Permit.

FOR FURTHER INFORMATION: persons wishing to receive a copy of the CROP, 40 CFR Part 22, review the Complaint or other documents filed in the proceedings, comment upon a proposed assessment, or otherwise participate in any of the proceedings, should contact the Regional Hearing Clerk at:

Regional Hearing Clerk

United States Environmental Protection Agency, Region 2

290 Broadway, 16th Floor

New York, New York 10007-1866

Unless otherwise noted, the administrative records for the proceedings are located in the EPA Regional Office identified above, and the files will be open for public inspection during normal business hours. All information submitted by the Respondent is available as part of the administrative records, subject to provisions of law restricting public disclosure of confidential information. In order to provide opportunity for public comments, EPA will issue no final order assessing penalties in this proceeding prior to 30 days from the date specified below.

Dated: August 17, 2015

José C. Font, Director

Caribbean Environmental Protection Division

English

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Tracking Number: 7009225000091635843

Updated Delivery Day: Saturday, July 11, 2015

Product & Tracking Information

Postal Product:

Features:
Certified Mail™

DATE & TIME	STATUS OF ITEM	LOCATION
July 13, 2015 , 11:45 am	Delivered	BAYAMON, PR 00957

Your item was delivered at 11:45 am on July 13, 2015 in BAYAMON, PR 00957.

July 11, 2015 , 7:50 am	Available for Pickup	BAYAMON, PR 00958
July 11, 2015 , 7:41 am	Available for Pickup	BAYAMON, PR 00958
July 11, 2015 , 7:37 am	Arrived at Unit	BAYAMON, PR 00957
July 11, 2015 , 12:14 am	Departed USPS Facility	SAN JUAN, PR 00936
July 10, 2015 , 10:24 pm	Arrived at USPS Facility	SAN JUAN, PR 00936

Available Actions

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Tracking (or receipt) number

Track It

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Commonwealth of Puerto Rico
DEPARTMENT OF STATE
San Juan, Puerto Rico

14-Feb-2014

Lizbeth Fernandez
PO Box 4315
Bayamon, PR 00958

Ref. Register Number: 115124 H & D DEVELOPMENT CORP.

The General Corporation Law of Puerto Rico, Act No. 164-2009, provides that, if an entity fails to comply with its annual obligation to file reports or pay annual dues, as applicable, for certain consecutive years, the Secretary of State is authorized to cancel in full its certificate of incorporation or organization, respectively.

To this date, **14-Feb-2014**, the entity **H & D DEVELOPMENT CORP.** has not complied with its obligations for the following years: **2008, 2009, 2010, 2012.**

The entity shall be in compliance within sixty (60) days after the date of this notice. **If the entity does not correct the identified deficiencies, the Secretary of State will administratively cancel the entity without any further notification.**

The Department of State, Corporations Division, must receive the missing documentation for the years listed above or the correction of the deficiencies noted, within the specified period of sixty (60) days. Missing reports or dues must be filed or paid at the Department of State.

If you have questions regarding this notice, you may contact us by email at support@estado.gobierno.pr or by phone (787) 722-2121 ext. 4348.

A handwritten signature in black ink, appearing to read 'F. J. Bernier'.

FRANCISCO J. RODRIGUEZ BERNIER, ESQ
UNDER SECRETARY OF STATE



Commonwealth of Puerto Rico
DEPARTMENT OF STATE
San Juan, Puerto Rico

**CERTIFICATE OF REVOCATION OF THE
CERTIFICATE OF INCORPORATION**

I, **DAVID E. BERNIER RIVERA**, Secretary of State of the Commonwealth of Puerto Rico,

CERTIFY: That, "**H & D DEVELOPMENT CORP.**", registry number **115124**, has been cancelled in accordance to the Puerto Rico General Corporations Act, on **April 16, 2014** at **12:01 AM**.



IN WITNESS WHEREOF, I hereby sign this certificate, in the City of San Juan, Puerto Rico, today, **May 03, 2014**.

A handwritten signature in black ink, appearing to read "David E. Bernier Rivera".

DAVID E. BERNIER RIVERA
Secretary of State



Registro de Corporaciones y Entidades

Anuncio

El contenido presentado en este registro es información pública y los servicios en línea están destinados a participación interactiva. Nos reservamos el derecho para bloquear el acceso al portal si detectamos herramientas de recopilación de datos a granel. Para necesidades de negocio de fuentes de datos estructurados, por favor póngase en contacto con support@estado.pr.gov (<mailto:support@estado.pr.gov>).

Corporaciones y Entidades

INFORMACIÓN DE CORPORACIÓN

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H & D DEVELOPMENT CORP.

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[\(/NameReservation/Prep.aspx\)](#)

Detalles				Transacciones		Radicaciones Anuales		Certificados	
Información General									
Nombre	H & D DEVELOPMENT CORP.								
Núm. Registro	115124	Status	CANCELADA						
Clase	Corporación								
Tipo	Con Fines de Lucro	Jurisdicción	Doméstica						
Agente Residente									
Nombre	Fernandez, Lizbeth								
Dirección Física	PO Box 4315	Dirección Postal	PO Box 4315 Bayamon, PR 00958						

Radicaciones Anuales

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[\(/Validate/Default.aspx\)](#)

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2**

IN THE MATTER OF:

H & D Development Corporation
P.O. Box 4315
Bayamón, Puerto Rico 00958

Campo Real Development's Pump Station
NPDES Tracking Number PRU002776

DOCKET NUMBER CWA-02-2013-3356

RESPONDENT

SWORN STATEMENT

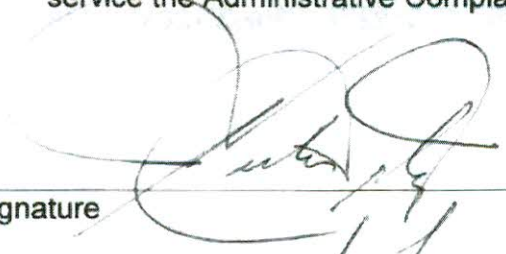
I, Héctor Ortiz, of legal age and resident of Toa Alta, Puerto Rico, pursuant to the provision of 28 U.S.C. § 1746, under penalty of perjury and to the best of my knowledge and recollection state as follows:

1. That I hold the position of Environmental Engineer at the United States Environmental Protection Agency Caribbean Environmental Protection Division (EPA-CEPD) since 2003.
2. That Evelyn Rivera-Ocasio, Assistant Regional Counsel, requested my assistance in performing a personal service to a representative of H & D Development Corporation ("Respondent") of a true copy of the *Administrative Complaint* and 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").
3. That in the afternoon of December 15, 2015, I visited the following addresses to personally serve the Administrative Complaint and the CROP to a representative of H & D Development Corporation ("Respondent").
 - Ceramica, Azulejos, Terrazos, Inc. (dba Losetas el Italiano)
State Road 1, Km 21.1, La Muda Ward, Guaynabo, PR.
 - Ceramica, Azulejos, Terrazos, Inc (dba Losetas el Italiano)
State Road 167, Km 15.7, Buena Vista Ward, Bayamón, PR.

4. That to the best of my knowledge the aforementioned sites are Respondent's principal assets locations.
5. That at the time of visit, the afternoon of December 15, 2015, both sites were abandoned and I couldn't find any representative of Respondent to personally service the Administrative Complaint and the CROP.

Signature

Date


12/15/2015

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION II

IN THE MATTER OF:

H & D Development Corporation

P.O. Box 4315
Bayamón, Puerto Rico 00958

Campo Real Development's Pump Station
NPDES Tracking Number PRU002776

DOCKET NUMBER CWA-02-2013-3356

Proceeding pursuant to Sections 309(g) of
the Clean Water Act, 33 U.S.C. § 319(g) to
assess Class I Civil Penalty

RESPONDENT

CERTIFICATE OF SERVICE

I certify that I have on this day caused to be sent the foregoing *Motion to withdraw Complaint without Prejudice*, dated February 16, 2016, and bearing the above-referenced docket number, in the following manner to the respective addressees below:

Original and copy by Overnight Mail to:

Karen Maples

Regional Hearing Clerk
U.S. Environmental Protection Agency, Region2
290 Broadway, 16th Floor
New York, NY 10007-1866

Copy by Overnight Mail to:

Helen S. Ferrara


Presiding Officer
U.S. Environmental Protection Agency, Region2
290 Broadway, 16th Floor
New York, NY 10007-1866

Copy by Certified Mail/Return Receipt to:

Ms. Lisbeth Fernández

Representative
H & D Development Corporation
P.O. Box 4315
Bayamón, Puerto Rico 00958

5/11/16
Date


Name