

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 2

U.S. Environmental  
Protection Agency-Reg 2  
2015 JUN 26 AM 8:54  
REGIONAL HEARINGS  
CLERK

In the Matter of:

**CARIBBEAN PETROLEUM, INC.**  
P. O. Box 305300  
Saint Thomas, Virgin Islands 00803

**RESPONDENT**

Proceeding pursuant to Section 309(g)(2)(A) of the  
Clean Water Act, 33 U.S.C. § 1319(g)(2)(A)

**PROCEEDING TO ASSESS A  
CLASS I CIVIL PENALTY**

**DOCKET NUMBER  
CWA-02-2015-3357**

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

**I. STATUTORY AND REGULATORY AUTHORITIES**

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 United States Environmental Protection Agency ("EPA") by Section 309(g)(2)(A) of the Clean Water Act (the "Act" or "CWA"), 33 U.S.C. § 1319(g)(2)(A). The Administrator of EPA has delegated this authority to the Regional Administrator of EPA, Region 2, who in turn has delegated it to the Director, Caribbean Environmental Protection Division of EPA, Region 2 ("Complainant").
2. Pursuant to Section 309(g)(2)(A) of the CWA, 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 Code of Federal Regulations ("C.F.R.") Part 22, a copy of which is attached, Complainant hereby requests that the Regional Administrator assess a civil penalty against Caribbean Petroleum, Inc. ("Respondent"), as a result of Complainant's determination that the Respondent violated Section 301(a) of the CWA, 33 U.S.C. § 1311(a), for its unauthorized discharges of pollutants into a water of the United States.
3. Section 301(a) of the CWA, 33 U.S.C. § 1311(a), provides in part that "[e]xcept as in compliance with [CWA Section 402], the discharge of any pollutant by any person shall be unlawful."

4. Section 402 of the CWA, 33 U.S.C. § 1342, defines the National Pollutant Discharge Elimination System (“NPDES”) as the national program for, among other things, issuing and enforcing discharge permits.
5. Section 402 of the CWA authorizes the Administrator to promulgate regulations for the implementation of the NPDES requirements.
6. Section 402(a)(1) of the CWA, 33 U.S.C. § 1342(a)(1), provides that “the Administrator may, after opportunity for public hearing, issue a permit for the discharge of any pollutant. . . . upon condition that such discharge will meet . . . such requirements as the Administrator determines are necessary to carry out the provisions of the [CWA].”
7. Section 402(b) of the CWA, 33 U.S.C. § 1342(b), provides that at any time after the promulgation of the guidelines required by Section 304(i)(2) of the CWA, 33 U.S.C. § 1314(i)(2), the Governor of each State desiring to administer its own permit program for discharges into navigable waters within its jurisdiction may submit to the Administrator a full and complete description of the program it proposes to establish and administer under State law or under an interstate compact.”
8. Section 502(3) of the CWA, 33 U.S.C. § 1362(3), defines the term “State” to include the Virgin Islands (“VI”).
9. Pursuant to the CWA, EPA promulgated regulations known as “EPA Administered Permit Programs: the National Pollutant Discharge Elimination System,” which was codified at 40 C.F.R. Part 122, as amended.
10. Pursuant to the National Pollutant Discharge Elimination System (“NPDES”) regulations at 40 C.F.R. § 122.5(b), the NPDES Permit Program requires permits for the discharge of any pollutant from any point source into waters of the United States.
11. The CWA and its implementing NPDES regulations contain the following definitions:
  - a. “Administrator” means the Administrator of the United States Environmental Protection Agency, or an authorized representative. 40 C.F.R. § 122.2;
  - b. “Best Management Practices” or “BMPs” mean schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of “waters of the United States.” BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage. 40 C.F.R. § 122.2;

- c. "discharge of a pollutant" means any addition of any pollutant to navigable waters and/or waters of the United States from any point source. Section 502(12) of the CWA, 33 U.S.C. § 1362(12), and 40 C.F.R. § 122.2;
  - d. "facility" means any NPDES point source or any other facility or activity (including land or appurtenances thereto) that is subject to the regulations of the NPDES program. 40 C.F.R. § 122.2;
  - e. "navigable waters" means the waters of the United States, including the territorial seas. Section 502(7) of the CWA, 33 U.S.C. § 1362(7);
  - f. "owner" or "operator" means the owner or operator of any facility or activity subject to regulation under the NPDES program. 40 C.F.R. § 122.2;
  - g. "permit" means an authorization, license, or equivalent control document issued by EPA or an "approved State" to implement the requirements of 40 C.F.R. Parts 122, 123 and 124. The term "permit" does not include any permit which has not yet been the subject of final agency action, such as a "draft permit" or a "proposed permit." 40 C.F.R. § 122.2;
  - h. "person" means an individual, corporation, partnership or association. Section 502(5) of the CWA, 33 U.S.C. § 1362(5), and 40 C.F.R. § 122.2;
  - i. "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. Section 502(14) of the CWA, 33 U.S.C. § 1362(14), and 40 C.F.R. § 122.2;
  - j. "pollutant" includes solid waste, dredged spoil, rock, sand, cellar dirt, sewage, sewage sludge and industrial, municipal and agricultural waste discharged into water. Section 502(6) of the CWA, 33 U.S.C. § 1362(6), and 40 C.F.R. § 122.2;
  - k. "site" means the land or water area where any "facility" or "activity" is physically located or conducted, including adjacent land used in connection with the facility or activity. 40 C.F.R. § 122.2; and
  - l. "waters of the United States" means all waters such as lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, among others, and their tributaries. 40 C.F.R. § 122.2.
12. On June 30, 1976, EPA approved the request of the Government of Virgin Islands to administer the NPDES Permit Program and delegated responsibility for the implementation of the NPDES program under the Territorial Pollutant Discharge

Elimination System ("TPDES") Permit Program pursuant to Section 402(b) of the CWA, 33 U.S.C. § 1342(b). The approval of the TPDES Permit Program was documented on the Memorandum of Agreement ("MOA") between EPA Region 2 and the Government of the Virgin Islands, dated June 30, 1976.

13. The Virgin Islands Department of Conservation and Cultural Affairs, original signatory to the MOA, has since been reconstituted as the Department of Planning and Natural Resources (hereinafter the "Department" or "VIDPNR") of the Government of the Virgin Islands. EPA maintains oversight of conduct of the VI TPDES Program governed under the MOA.
14. On June 20, 2007, the Government of the VI amended the TPDES Rules and Regulations ("TPDES Rules"), which were codified in Title 12, Chapter 7, Subchapter 184, pursuant to the Virgin Islands Water Pollution Control Act, 3 V.I.C. § 936.
15. On December 26, 2007, EPA Region 2 and DPNR amended the MOA to provide the Government of the VI with the authority to issue general permits as part of its delegation under the TPDES Permit Program.
16. Article VIII of the MOA does not preclude EPA to take enforcement action in any case where it determines that a violation has occurred and federal enforcement proceedings are warranted; and, it does not limit the authority of EPA to take appropriate action pursuant to Sections 308 and 309 of the CWA, 33 U.S.C. §§ 1318 and 1319, either on its own motion or when requested to do so by the Commissioner of VIDPNR.
17. Subchapter 184-2.(99) of the TPDES Rules defines the term "Waters of the United States Virgin Islands" as all waters within the jurisdiction of the United States Virgin Islands including all harbors, streams, lakes, ponds, impounding reservoirs, marshes, water-courses, waterways, wells, springs, irrigation systems, drainage systems and all other bodies or accumulations of water, surface and underground, natural or artificial, public or private, situated wholly or partly within or bordering upon the United States Virgin Islands, including the Territorial seas, contiguous zone, and oceans.
18. Subchapter 184-21.(a) of the TPDES Rules indicates that "except as provided in section 184-22 of this division, a TPDES permit is required for any addition of any "pollutant" or combination of pollutants to "waters of the United States Virgin Islands." No person shall discharge or cause a discharge of any pollutant without a TPDES permit having been issued to such person pursuant to this subchapter with respect to such discharge; and no person shall discharge or cause a discharge of any pollutant in a manner other than as prescribed by such permit."
19. Section 309(g) of the CWA, 33 U.S.C. § 1319(g), authorizes the Administrator to assess a civil penalty for violations of Section 301 of the CWA, 33 U.S.C. § 1311,

or any permit condition or limitation implementing, inter alia, Section 301, and contained in a permit issued under Section 402 of the CWA, 33 U.S.C. § 1342.

## II. JURISDICTIONAL FINDINGS

20. Respondent is a for profit corporation operating under the laws of Virgin Islands.
21. Respondent is a person, as defined in Section 502(5) of the CWA, 33 U.S.C. § 1362(5), and 40 C.F.R. § 122.2.
22. Respondent owned and operated a petroleum and petroleum products wholesale facility located at 47B-1, 47B-2 Kronsprindsens Gade and 1A Gasverk Gade, Charlotte Amalie, Saint Thomas, Virgin Islands (the "Facility").
23. The primary operations at the Facility are best described by the Standard Industrial Classification code 5172 (Petroleum and Petroleum Products Wholesalers, Except Bulk Stations and Terminals).
24. Respondent's operations at the Facility included, but were not limited to, the transfer of petroleum products to tanker trucks for further distribution, warehousing and equipment and vehicles cleaning and maintenance.
25. The site where the Facility is located has several catch basins that collect runoff, which in turn is conveyed through a storm water collection and discharge system that discharges into the Charlotte Amalie Harbor.
26. The Facility is a "point source" pursuant to Section 502(14) of the CWA, 33 U.S.C. § 1362(14).
27. The Facility is a "facility" as defined in 40 C.F.R. § 122.2.
28. Respondent discharged "pollutants" from the Facility into the Charlotte Amalie Harbor.
29. Charlotte Amalie Harbor is a "navigable water" of the United States pursuant to Section 502(7) of the CWA, 33 U.S.C. § 1362(7), and 40 C.F.R. § 122.2.
30. Respondent was subject to the provisions of the CWA, 33 U.S.C. § 1251, et seq., the applicable NPDES permit application regulations found at 40 C.F.R. § 122, and the applicable TPDES Rules found at Title 12, Chapter 7, Subchapter 184.
31. Respondent was required to apply for and obtain TPDES permit coverage for the Facility's discharges of pollutants into waters of the United States pursuant to Sections 301(a) and 402(a)(1) of the CWA, 33 U.S.C. §§1311 (a) and 1342(a)(1), and the TPDES Rules found at Title 12, Chapter 7, Subchapter 184.

### III. FINDINGS OF VIOLATIONS

32. Complainant re-alleges Paragraphs 20 to 31 above.
33. On May 8 and May 10, 2012, an EPA official conducted a Compliance Evaluations Inspection (“Inspection”) of the Facility. Among others, the purpose of the Inspection was to evaluate Respondent’s compliance with the CWA, the applicable NPDES regulations, and the TPDES Rules. The findings of the Inspection were summarized in the Water Compliance Inspection Report, dated November 15, 2012.
34. During the May 8, 2012 Inspection, the EPA official learned and/or observed the following:
- a. the runoff from rain precipitation was collected storm drains located in the Facility;
  - b. the storm drains were part of a larger a storm water collection and discharge system that served the Facility and adjacent properties;
  - c. Respondent’s personnel were washing the exterior of a tanker truck staged on the concrete pavement yard area of the Facility. The resultant washwater was observed running down the inclined pavement and towards a storm water catch basin situated in a relative central location of the yard;
  - d. a company official indicated that all washing of Respondent’s tanker trucks are conducted in the manner described in sub-paragraph above, and that Respondent uses cleaning reagents and soaps for such washing operations; and
  - e. the Facility did not have structural BMPs (e.g., contained trucks and vessels washing station) and written non-structural BMPs (e.g., Standard Operating Procedures for washing operations, employee training) to conduct washing operations.
35. During the May 10, 2012 Inspection, the EPA official learned and/or observed the following:
- a. Respondent’s personnel were washing a tanker truck. The resultant washwater appeared to contain residual concentrations of chemicals that Respondent applies in the wash solution, and residual of greases, fuel and dirt washed off the truck;
  - b. washwater was entering a storm water catch basin situated in a relative central location of the yard. This storm water catch basin conveys runoff into the storm water collection and discharge system; and

- c. Respondent had not applied for a TPDES permit for the discharge pollutants into a Water of the United States.
36. On August 16, 2012, EPA issued to Respondent a request for information (the "RFI") pursuant to Section 308 of the CWA, 33 U.S.C. § 1318(a). The purpose of the RFI was to obtain information concerning Respondent's management of fuel truck cleaning activities, the designated areas for truck cleaning activities, and management of the resulting washwater.
  37. On September 10, 2012, Respondent provided a partial response to the RFI letter. Respondent, among other things, indicated that:
    - a. tank trucks were cleaned with soap and water inside a containment area;
    - b. water was allowed to evaporate or drain from the area through absorbent pads;
    - c. the drainage activity from the washing operations were observed and documented any time water was released from the containment area;
    - d. the truck washing area slopes into a containment drain that is periodically pumped out;
    - e. Respondent's personnel had been instructed to wash the tanker trucks in the containment area only; and
    - f. pad lock was installed in the containment area drain valve to prevent any accidental releases of accumulated wastes.
  38. On November 19, 2012, EPA sent a letter in response to Respondent's September 10, 2012 letter, in which EPA provided additional comments and requested further information and clarifications. Among other things, EPA requested a site-plan describing the Facility's storm water management system including the approximate point where the waste streams enters the nearest receiving water, and description and inventory of the chemical reagents used for the washing operations.
  39. On or about December 17, 2012, Respondent provided a response to EPA's November 19, 2012 letter, in which Respondent indicated and/or provided, among others things, the following:
    - a. a Google map and drawing depicting two (2) discharge points from the Facility into the Charlotte Amalie Harbor;
    - b. cleaning agents were discontinued, and replaced with dish soap and water;
    - c. tank trucks are cleaned in a containment area; and

- d. absorbent pads were used inside the containment area.
40. Respondent had wash trucking operations at the Facility, which generated washwater runoff containing pollutants that reached a storm water drain that is part of a larger storm water collection and discharge system, which in turn discharges into Charlotte Amalie Harbor.
41. Based on the findings on paragraphs 32-40 above, Respondent is liable for the violations of Section 301(a) of the Act, 33 U.S.C. § 1311(a), as specified below:

**Claim 1 - Illegal discharges of pollutant into waters of the United States without NPDES permit coverage.** Respondent discharged pollutants from the Facility into waters of the United States without TPDES permit coverage on at least May 8 and 10, 2012 (date of the two EPA inspections). The number of days that EPA alleges Respondent illegally discharged pollutants into waters of the United States are **2 days**.

42. EPA will notify VIDPNR regarding this proposed action by mailing a copy of this Complaint and Notice and offering an opportunity for the Department to confer with EPA on the proposed penalty assessment.

#### **IV. 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 CWA, 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 civil penalty of **\$14,190.00**. EPA determined the proposed penalty after taken into account the applicable factors under Section 309(g)(3) of the CWA, 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 of violation set forth above, Respondent has been found to have violated in two (2) occasions the TPDES Rules and the CWA. Respondent is culpable for the violations. EPA took into account the risk to the environment (Charlotte Amalie Harbor) posed by the untreated and unpermitted discharge of the pollutants contained in the washwater (e.g., dirt, cleaning reagents and soaps) into the surface waters.

The violations discussed in this Complaint are serious since Respondent's unauthorized discharges of pollutants caused indirect negative effects on the receiving water. Respondent does not have a prior history of violation. The proposed penalty will not place Respondent in a financial hardship.



EPA may issue the Final Order Assessing Administrative Penalties thirty (30) days after Respondent's receipt of this Notice, unless Respondent within that time files an Answer to the Complaint and requests a Hearing on this Notice pursuant to Section V, below.

**V. PROCEDURES GOVERNING THIS ADMINISTRATIVE ACTION**

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

**A. Answering the Complaint**

Where 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, per 40 C.F.R. § 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, 17th 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, per 40 C.F.R. § 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, per 40 C.F.R. § 22.15(b). Where Respondent lacks knowledge of a particular factual allegation and so states in the Answer, the allegation is deemed denied, per 40 C.F.R. § 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 C.F.R. § 22.15(b).

Respondent's failure to affirmatively raise in the Answer facts that constitute or that might constitute the grounds of a 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, per 40 C.F.R. § 22.15(c). If, however, Respondent does not request a Hearing, the Presiding Officer (as defined in 40 C.F.R. § 22.3) may hold a Hearing if the Answer raises issues appropriate for adjudication, per 40 C.F.R. § 22.15(c).

Any hearing in this proceeding will be held at a location determined in accordance with 40 C.F.R. § 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 C.F.R. 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, per 40 C.F.R. § 22.15(d). If Respondent fails to file a timely [i.e. in accordance with the 30-day period set forth in 40 C.F.R. § 22.15(a)] Answer to the Complaint, Respondent may be found in default upon motion, per 40 C.F.R. § 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, per 40 C.F.R. § 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 C.F.R. § 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 C.F.R. § 22.27(c), per 40 C.F.R. § 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.

## **VI. 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, per 40 C.F.R. § 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 is believed to be 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 C.F.R. § 22.18.

Any request for an informal conference or any questions that Respondent may have regarding this Complaint should be directed to the EPA attorney named in Section VIII, Paragraph 2, below.

The parties may engage in settlement discussions irrespective of whether Respondent has requested a Hearing, per 40 C.F.R. § 22.18(b)(1). Respondent's requesting a formal Hearing does not prevent Respondent 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 C.F.R. § 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 C.F.R. § 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, per 40 C.F.R. § 22.18(b)(2). In accepting the Consent Agreement, Respondent waives any right to contest the allegations in the Complaint and waive any right to appeal the Final Order that is to accompany the Consent Agreement, per 40 C.F.R. § 22.18(b)(2).

In order to conclude the proceeding, a Final Order ratifying the parties' agreement to settle will be executed, per 40 C.F.R. § 22.18(b)(3).

Respondent's entering into a settlement through the signing of such Consent Agreement and complying with the terms and conditions set forth in such Consent Agreement and Final Order terminates this administrative litigation and these civil proceedings against Respondent (note that a new enforcement action may be initiated based on continued non-compliance). Respondent's entering into a settlement agreement 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. 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 of **\$14,190.00** within thirty (30) days after receipt of the Complaint, provided that Respondent files with the Regional Hearing Clerk, Region 2 (at the address noted above), a copy of the check or other instrument of payment, per 40 C.F.R. § 22.18(a). A copy of the check or other instrument of payment should be provided to the EPA attorney named in Section VIII, Paragraph 2, below.

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:

U.S. Environmental Protection Agency  
Fines and Penalties  
Cincinnati Finance Center  
P. O. Box 979077  
St. Louis, MO 63197-9000  
Docket Number CWA-02-2015-3307.

Wire transfers should be directed to the Federal Reserve Bank of New York:

Federal Reserve Bank of New York  
ABA = 021030004  
Account = 68010727  
SWIFT address = FRNYUS33  
33 Liberty Street  
New York, New York 10045.

Field Tag 4200 of the Fedwire message should read "D 68010727 Environmental Protection Agency."

Pursuant to 40 C.F.R. § 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 C.F.R. § 22.18(a)(3). In accordance with 40 C.F.R. § 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 C.F.R. § 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.

#### **VIII. FILING OF DOCUMENTS**

1. 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 10007-1866.

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

Héctor L. Vélez Cruz, Esq.  
Office of Regional Counsel  
U.S. Environmental Protection Agency, Region 2  
City View Plaza II, Suite 7000  
48 RD. 165 Km. 1.2  
Guaynabo, Puerto Rico 00968-8069  
Telephone: (787) 977-5850.

#### **IX. 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, and 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 22<sup>nd</sup> DAY OF June, 2015.



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José C. Font  
Director  
Caribbean Environmental Protection Division  
U. S. Environmental Protection Agency, Region 2  
City View Plaza II, Suite 7000  
48 RD. 165 Km. 1.2  
Guaynabo, Puerto Rico 00968-8069

To: Daniel E. Tomlinson  
Chairman  
Caribbean Petroleum, Inc.  
P. O. Box 305300  
Saint Thomas, Virgin Islands 00803

cc: Director, Division of Environmental Protection  
Virgin Islands Department of Planning and Natural Resources  
8100 Lindberg Bay, Suite 61  
Cyril E. King Airport, Terminal Building, 2<sup>nd</sup> Floor  
Saint. Thomas, USVI 00802

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION II

In the Matter of:

**CARIBBEAN PETROLEUM, INC.**  
P. O. Box 305300  
Saint Thomas, Virgin Islands 00803

**RESPONDENT**

Proceeding pursuant to Section 309(g)(2)(A) of the  
Clean Water Act, 33 U.S.C. § 1319(g)(2)(A)

**PROCEEDING TO ASSESS A  
CLASS I CIVIL PENALTY**

**DOCKET NUMBER  
CWA-02-2015-3357**

**CERTIFICATE OF SERVICE**

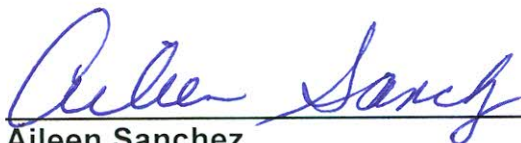
I certify that I have this day caused to be sent the foregoing **Complaint**, dated June 22, 2015, and bearing the above-reference docket number, in the following manner to the respective addressees below:

**Complaint sent via Pouch Mail to:**

**Karen Maples**  
**Regional hearing Clerk**  
**U.S. Environmental Protection Agency, Region 2**  
**290 Broadway, 16<sup>th</sup> Floor**  
**New York, New York 10007**

**Copy of Complaint and enclosures via United States Postal Service (certified mail) to:**

**Mr. Daniel E. Tomlinson**  
**Chairman**  
**Caribbean Petroleum, Inc.**  
**P. O. Box 305300**  
**Saint Thomas, Virgin Islands 00803**

  
Aileen Sanchez

  
Date

Secretary  
Multimedia Permits and Compliance Branch  
Caribbean Environmental Protection Division  
U.S. Environmental Protection Agency, Region 2  
City View Plaza II, Suite 7000  
#48 RD. 165 km 1.2  
Guaynabo, Puerto Rico 00968-8069  
phone: (787) 977-5803  
email: sanchez.aileen@epa.gov