

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY

BEFORE THE ADMINISTRATOR

In the Matter of:

Pepsi Cola Puerto Rico Bottling
Company LLC,

Respondent.

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Docket No. CWA-02-2010-3463

U.S. ENVIRONMENTAL
PROTECTION AGENCY
2011 JUL 20 A 11:26
REGIONAL HEARINGS
CLERK

**ORDER SETTING DEADLINE FOR
CONSENT AGREEMENT AND FINAL ORDER**

On June 1, 2011, the Administrative Law Judge serving as a neutral during the Alternative Dispute Resolution (“ADR”) process in this matter issued an Order Terminating ADR Process and Returning Proceeding to Chief Judge. The Order of June 1, 2011, relates that, according to the parties, the United States Environmental Protection Agency (“EPA” or “Agency”) had rejected a Supplemental Environmental Project (“SEP”) proposed by Respondent and that the parties were currently preparing a second proposed SEP. Because the parties appeared to have “adopted a casual attitude toward time deadlines in the ADR process” and “it appeared unlikely that a settlement would be reached within the ADR period,” the Administrative Law Judge terminated the ADR process.

The undersigned was designated to preside in this matter on June 2, 2011. By Order dated June 8, 2011, the undersigned directed Complainant to file a Status Report regarding the status of settlement on or before July 8, 2011. The undersigned advised the parties that, if the Status Report stated that the second proposed SEP had been presented to and accepted by EPA, the undersigned would issue an Order setting a deadline for the parties to file a fully executed Consent Agreement and Final Order (“CAFO”) in this matter.

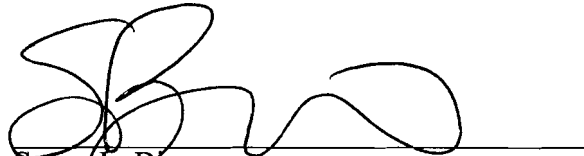
On July 8, 2011, Complainant submitted its Status Report, in which Complainant represents that EPA has accepted Respondent’s latest settlement proposal, which includes a revised SEP and cash penalty. Complainant further represents that the parties are currently negotiating the final language and terms of the CAFO memorializing their settlement agreement, and due to the complexity of the review and concurrence process within the Agency and between the parties, Complainant requests 60 days, or until September 6, 2011, in order to file the CAFO and notify the undersigned of its execution. Complainant relates that Respondent agrees with this request.

Upon consideration, Complainant’s request is hereby **GRANTED**. Sixty days is a reasonable period of time for the parties to finalize and execute a CAFO in this matter. Accordingly, the parties are **ORDERED** to file a fully executed CAFO no later than **September 6, 2011**, with a copy contemporaneously sent to the undersigned by facsimile or mail.¹

¹ As noted in the Order of June 8, 2011, the parties have asserted in various filings that Pepsi Cola Puerto Rico Distributing LLC is Respondent’s successor, but Complainant has not filed a motion to amend the Complaint in this matter in order to modify the caption to reflect any
(continued...)

FAILURE TO FILE THE CAFO IN A TIMELY MANNER MAY RESULT IN ENTRY OF AN ORDER OF DISMISSAL OR DEFAULT, AS APPROPRIATE, WITHOUT FURTHER NOTICE.

SO ORDERED.



Susan L. Biro
Chief Administrative Law Judge

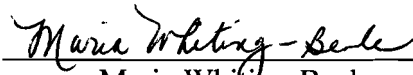
Dated: July 19, 2011
Washington, DC

¹(...continued)
change in the named respondent. The parties are advised that a CAFO must reflect the named respondent only.

In the Matter of Pepsi Cola Puerto Rico Bottling Co., Respondent
Docket No. CWA-02-2010-3463

CERTIFICATE OF SERVICE

I certify that the foregoing **Order Setting Deadline for Consent Agreement And Final Order**, dated July 19, 2011, was sent this day in the following manner to the addressees listed below:



Maria Whiting-Beale
Staff Assistant

Dated: July 19, 2011

Original And One Copy By Pouch Mail To:

Karen Maples
Regional Hearing Clerk
U.S. EPA
290 Broadway, 16th Floor
New York, NY 10007-1866

Copy By Regular Mail To:

Hector Velez Cruz, Esquire
Assistant Regional Counsel
U.S. EPA
Centro Europa Building, Suite 417
1492 Ponce de Leon Avenue
San Juan, PR 00907-4127

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