

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 2

In the Matter of:

**MUNICIPALITY OF CATAÑO**  
P. O. Box 428  
CATAÑO, Puerto Rico 00963

**RESPONDENT**

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

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

**DOCKET NUMBER  
CWA-02-2010-3456**

U.S. ENVIRONMENTAL  
PROTECTION AGENCY-REG.II  
2010 SEP 30 A 8:59  
REGIONAL HEARING  
CLEAN

**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)(B) of the Clean Water Act (the "Act" or "CWA"), 33 U.S.C. § 1319(g)(2)(B). 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. Section 309(g)(1)(A) of the Act, 33 U.S.C. § 1319(g)(1)(A), provides in part that when the Administrator of EPA finds that any person has violated any permit condition or limitation implementing any of such sections in a permit issued under Section 402 of the Act, 33 U.S.C. § 1342, the Administrator of EPA, may, after consultation with the State in which the violation occurs, assess a class I civil penalty or a class II civil penalty.
3. Pursuant to Section 309(g)(2)(A) 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, a copy of which is attached, Complainant hereby requests that the Regional

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Administrator assess a civil penalty against the Municipality of Cataño (Respondent), as a result of Complainant's determination that the Respondent is in violation of Sections 301 and 402 of the Act, 33 U.S.C. §§ 1311 and 1342, respectively, for its failure to prepare, implement and enforce a Storm Water Management Program (SWMP) designed to reduce the discharge of pollutants from its small municipal separate storm sewer system and its failure to submit to EPA a hard and electronic copy of the SWMP pursuant to Part 4 of the National Pollutant Discharge Elimination System General Permit for Discharges from Small Municipal Separate Storm Sewer System for the Commonwealth of Puerto Rico.

4. Section 402 of the Act, 33 U.S.C. § 1342, defines the National Pollutant Discharge Elimination System (NPDES) as the national program for, among other things, issuing and enforcing permits.
5. Section 402 of the Act, 33 U.S.C. § 1342, authorizes the Administrator of EPA to issue a NPDES 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.
6. The Act and its implementing regulations contain the following definitions:
  - a. "Municipality" as including, among others, a city, town, borough, county, parish, district, association, or other public body created by or pursuant to State law and having jurisdiction over disposal of sewage, industrial wastes, or other wastes, or a designated and approved management agency under Section 208 of the Act. Section 502(4) of the Act, 33 U.S.C. § 1362(4), and 40 CFR § 122.2;
  - b. "Person" as an individual, corporation, partnership or association. Section 502(5) of the Act, 33 U.S.C. § 1362(5), and 40 CFR § 122.2;
  - c. "Pollutant" as including, among others, 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 Act, 33 U.S.C. § 1362(6), and 40 CFR § 122.2;
  - d. "Navigable waters" as the waters of the United States, including the territorial seas. Section 502(7) of the Act, 33 U.S.C. § 1362(7); "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 CFR § 122.2;
  - e. "Discharge of a pollutant" as any addition of any pollutant to navigable waters and/or waters of the United States from any point source. Section 502(12) of the Act, 33 U.S.C. § 1362(12), and 40 CFR § 122.2;

- f. "Point source" as 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 Act, 33 U.S.C. § 1362(14), and 40 CFR § 122.2;
- g. "Facility," as 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 CFR § 122.2;
- h. "Owner" or "operator" as the owner or operator of any facility or activity subject to regulation under the NPDES program. 40 CFR § 122.2; and
- i. "Municipal separate storm sewer" is defined by 40 CFR §§ 122.2 and 122.26(b)(8) as a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains):
  - i. Owned or operated by a State, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under section 208 of the CWA that discharges to waters of the United States;
  - ii. Designed or used for collecting or conveying storm water;
  - iii. Which is not a combined sewer; and
  - iv. Which is not part of a Publicly Owned Treatment Works (POTW) as defined at 40 CFR 122.2.
- j. "Small municipal separate storm sewer system" or "Small MS4" means all separate storm sewers, pursuant to 40 CFR § 122.26(b)(16), that are:
  - i. Owned or operated by the United States, a State, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity, or an

Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under Section 208 of the CWA that discharges to waters of the United States.

- ii. Not defined as “large” or “medium” municipal separate storm sewers pursuant to paragraphs 40 CFR §§ 122.26(b)(4) and (b)(7), or designated under paragraph 40 CFR § 122.26(a)(1)(v).
  - iii. This term includes systems similar to separate storm sewer systems in municipalities, such as systems at military bases, large hospital or prison complexes, and highways and other thoroughfares. The term does not include separate storm sewers in very discrete areas, such as individual buildings.
7. Section 402(p)(6) of the Act, 33 U.S.C. § 1342(p)(6), authorized EPA to issue storm water regulations and permits to Small MS4s.
  8. On December 8, 1999, EPA issued the NPDES Regulations for Revision of the Water Pollution Control Program Addressing Storm Water Discharges, Phase II. 64 Fed. Reg. 68,722 (Dec. 8, 1999), the NPDES storm water permit regulations for Small MS4s.
  9. On November 6, 2006, EPA issued and published the NPDES General Permit for Discharges from Small MS4s for systems located in the Commonwealth of Puerto Rico (the “Small MS4 Permit”).
  10. The Small MS4 Permit became effective on November 6, 2006, and will expire on November 6, 2011.
  11. Section 2 of the Small MS4 Permit establishes application requirements, through a Notice of Intent (NOI) filing process, and application deadlines.
  12. Regulated Small MS4s in Puerto Rico, who intended to obtain coverage under the Small MS4 Permit, should have submitted the NOI form on or before February 5, 2007.
  13. The Small MS4 Permit also established that permittees must prepare, implement, and enforce a SWMP and submit to EPA a hard and electronic copy of the SWMP by August 6, 2007.

## **II. Jurisdictional Findings**

14. Respondent is a municipality pursuant to Section 502(4) of the CWA, 33 U.S.C. § 1362(4).

15. Respondent owns and operates a Small MS4 in an urbanized area of town of Cataño, Puerto Rico
16. Respondent's Small MS4 is a point source within the meaning of Section 502(14) of the Act, 33 U.S.C. § 1362(14).
17. Respondent discharges storm water from its Small MS4 into the Canal de Bayamón, Canal de Río Hondo and the Atlantic Ocean.
18. The Canal de Bayamón, Canal de Río Hondo and the Atlantic Ocean are waters of the United States pursuant to Section 502(7) of the Act, 33 U.S.C. § 1362(7).

**III. Findings of Violations**

19. Complainant re-alleges and incorporates by reference paragraphs 1-18 above.
20. Pursuant to Section 308 of the Act, on July 6, 2007, EPA issued a request for information letter to Respondent requesting evidence demonstrating it had filed for an individual NPDES permit or a NOI form seeking coverage under the Small MS4 Permit for operation of its Small MS4.
21. EPA never received an answer to the July 6, 2007 request for information letter from Respondent.
22. On February 11, 2008, an EPA official conducted a review of EPA's NPDES files (EPA Review) in order to determine if Respondent had filed for NPDES permit coverage. The EPA Review revealed that as of such date Respondent had not filed a NOI form seeking coverage under the Small MS4 Permit nor had it filed an individual NPDES permit to obtain authorization to discharge storm water from its Small MS4 into waters of the United States.
23. Based on the findings of the EPA Review, Administrative Compliance Order CWA-02-2008-3115 ("Compliance Order" or "Order"), dated February 11, 2008, was issued against Respondent to address the violations mentioned above. The Compliance Order incorporated findings of violations, and ordered Respondent to:
  - a. prepare and file a NOI form seeking coverage under the Small MS4 Permit within ten (10) days from receipt of the Compliance Order;
  - b. prepare, implement and enforce a SWMP to reduce the discharge of pollutants from its Small MS4 to protect water quality and to submit to EPA a copy of the SWMP within ninety (95) days from receipt of the Compliance Order; and

- c. prepare a cost report detailing the amount of time and costs associated with the filing of the NOI form, the development and implementation of the SWMP (the "Compliance Cost Report") within one hundred twenty (120) days from receipt of the Compliance Order; among other..
24. Respondent received the Compliance Order on February 13, 2008, therefore, it had to: file a NOI form seeking coverage under the Small MS4 Permit by February 23, 2008; prepare, implement and enforce a SWMP and to submit a copy of it to EPA by May 18, 2008; and submit to EPA the Compliance Cost Report by June 12, 2008.
25. On April 1, 2008, EPA received Respondent's NOI form seeking coverage under the Small MS4 Permit.
26. EPA sent a letter to Respondent, dated September 5, 2008, acknowledging receipt of Respondent's NOI form. Respondent was issued with Permit Number PRR040033. In the letter EPA also reminded Respondent that pursuant to the Compliance Order it should have had prepared, implemented and enforced the SWMP and also submitted a copy of it to EPA by the May 18, 2008 deadline.
27. In a letter dated March 6, 2009, EPA informed the newly elected Mayor of the Municipality of Cataño, Honorable José Rosario, of the Municipality's violations of the Act, the Small MS4 Permit and the Compliance Order. EPA reiterated the importance of complying with the requirements of the Small MS4 Permit and ordered the Mayor to promptly address such matter.
28. In a letter dated January 8, 2010, EPA again ordered Respondent to immediately submit the SWMP and the Cost Report. Respondent received the letter on January 13, 2010.
29. As of the date of issuance of this Complaint, Respondent continues to be in violation of the Act, Small MS4 Permit and the Compliance Order for the violations cited above.
30. Based on the Findings in Paragraph 19-29 above, Respondent violated Sections 301 and 402 of the Act, 33 U.S.C. §§ 1311 and 1342, by failing to prepare, implement and enforce a SWMP and submit a copy of the plan to EPA by the May 18, 2008 deadline.
31. The period of violations alleged in this Complaint is from May 18, 2008 (deadline to prepare, implement, enforce and submit to EPA the SWMP as ordered in the Compliance Order) to September 23, 2010 (date of issuance of the Complaint), a total of 858 days.

32. The EPA will notify the Commonwealth of Puerto Rico regarding this proposed action by mailing a copy of this Complaint and Notice and offering an opportunity for the Commonwealth 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 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 Respondents assessing a penalty of **\$64,195.00**. 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 is required to take in consideration the nature, circumstances, extent and gravity of the violation (or violations), and Respondents' 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, Respondent has been found to have violated in numerous occasions the NPDES regulations and the Act. Respondent failed to prepare, implement and enforce a complete and adequate storm water management program and submit a hard and electronic copy of it to EPA as required by the Small MS4 Permit. Respondent is culpable for the violation. EPA took into account Respondent's knowledge of the NPDES regulations, the Small MS4 Permit, and the risks to human health and the environment posed by the uncontrolled discharges of storm water runoff from Respondent's Small MS4 into the Canal de Bayamón, Canal de Río Hondo and the Atlantic Ocean, all waters of the United States.

The violations discussed in this Complaint are serious since Respondent's failure to develop, implement and enforce a SWMP for its storm water discharges from its Small MS4 into waters of the United States caused a significant amount of pollutants to reach surface water that could cause direct and indirect negative effects on human health and the environment. Respondent knew of its obligation under the Act, the NPDES regulations and the Small MS4 Permit. Respondent does not have a prior history of violations under the NPDES program. EPA may issue a 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 the following section.

#### **V. Procedures Governing This Administrative Litigation**

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

### **A. Answering the Complaint**

Where Respondent intend 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 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, 16<sup>th</sup> 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 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 Respondents has any knowledge. 40 C.F.R. § 22.15(b). Where Respondent lacks knowledge of a particular factual allegation and so states in its Answer, the allegation is deemed denied. 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 intends 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 its 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 the Answer, a hearing upon the issues raised by the Complaint and Answer may be held. 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. 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 the Answer to admit, deny, or explain any material factual allegation contained in the Complaint, such failure constitutes an admission of the allegation. 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. 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. 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). 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. 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 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 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. 40 C.F.R. § 22.18(b)(1). Respondent's requesting a formal hearing does not prevent it 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. 40 C.F.R. § 22.18(b)(2). In accepting the Consent Agreement, Respondent waives its right to contest the allegations in the Complaint and waives any right to appeal the Final Order that is to accompany the Consent Agreement. 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. 40 C.F.R. § 22.18(b)(3).

Respondent's 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 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.

## **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 within 30 days after receipt of the Complaint, provided that Respondents file with the Regional Hearing Clerk, Region 2 (at the address noted above), a copy of the check or other instrument of payment. 40 C.F.R. § 22.18(a). A copy of the check or other instrument of payment should be provided to the EPA

Assistant Regional Counsel identified on Section VIII, paragraph 2. 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  
PO Box 360188  
Pittsburgh, Pennsylvania 15251.**

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. 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 Respondents' obligation and responsibility to comply with all applicable statutory and regulatory requirements, and to maintain such compliance.

**VIII. Filing of Documents**

1. The original and one copy of 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 - 16<sup>th</sup> Floor  
New York, New York 10007-1866.**

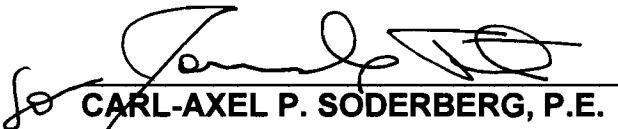
2. A copy of the Answer, any Hearing Request and all subsequent documents filed in this action shall be sent to:

**Héctor L. Vélez Cruz, Esq.  
Office of Regional Counsel  
U.S. Environmental Protection Agency, Region 2  
1492 Ponce de León Ave., Suite 417  
San Juan, Puerto Rico 00907-4127  
Telephone: (787) 977-5850 / Fax: (787) 729-7748.**

**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 24<sup>th</sup> DAY OF September, 2010.



**CARL-AXEL P. SODERBERG, P.E.**  
Director,  
Caribbean Environmental Protection Division  
United States Environmental Protection Agency - Region 2  
1492 Ponce de León Ave., Suite 417  
San Juan, Puerto Rico 00907-4127

To: **Hon. José Rosario**  
Mayor  
Municipality of Cataño  
P. O. Box 428  
Cataño, Puerto Rico 00963

cc: **Wanda García**  
Director  
Water Quality Area  
PR Environmental Quality Board  
P. O. Box 11488  
San Juan, PR 00910

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IN THE MATTER OF:

**MUNICIPALITY OF CATAÑO**  
P.O. Box 428  
Cataño, Puerto Rico 00963

**RESPONDENT**

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

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

**Docket Number CWA-02-2010-3456**

**CERTIFICATE OF SERVICE**

I certify that the foregoing Administrative Complaint was sent to the following persons, in the manner specified, on the date below:

Original & Copy UPS:

Karen Maples  
Regional Hearing Clerk  
U.S. Environmental Protection Agency  
290 Broadway-16<sup>th</sup> Floor  
New York, NY 10007-1866

Copy by Certified Mail  
Return Receipt

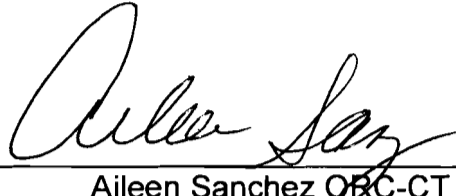
Honorable José Rosario  
Mayor  
Municipality of Cataño  
P.O. Box 428  
Cataño, Puerto Rico 00963

&

Roberto Ayala  
Director  
Water Quality Area  
PR Environmental Quality Board  
P.O. Box 11488  
San Juan, PR 00910

Dated:

9/27/10



Aileen Sanchez QRC-CT