

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2**

In the Matter of:

MUNICIPALITY OF LOÍZA
P. O. Box 508
Loíza, Puerto Rico 00772-0508

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-02-2009-3457**

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG. II
2010 NOV 12 A 11:43
REGIONAL HEARING
OFFICE

CONSENT AGREEMENT AND FINAL ORDER

Complainant, the United States Environmental Protection Agency (EPA), having issued the Complaint herein on March 30, 2009, against the Municipality of Loíza (Respondent), and

Complainant and Respondent (collectively, the Parties) having agreed that settlement of this matter is in the public interest, and that entry of this Consent Agreement and Final Order (CA/FO) without further litigation is the most appropriate means of resolving this matter;

NOW, THEREFORE, before the taking of any testimony, upon the pleadings, without adjudication of any issue of fact or law, and upon consent and agreement of the Parties, it is hereby agreed and ordered as follows:

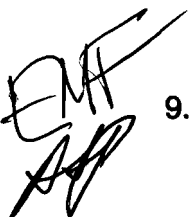

I. PRELIMINARY STATEMENT

1. EPA initiated this proceeding for the assessment of a civil penalty, pursuant to Section 309(g)(2)(B) of the Clean Water Act (the Act), 33 U.S.C. § 1319(g)(2)(B).
2. On March 30, 2009, EPA issued a Complaint against Respondent alleging violations of Sections 308 and 402 of the Act, 33 U.S.C. §§ 1318 and 1342, for its failure to submit a Notice of Intent (NOI) requesting permit coverage under the National Pollutant Discharge Elimination System General Permit for Discharges from Small Municipal Separate Storm Sewer Systems (NPDES Small MS4 General Permit) Respondent's Small MS4 into the Río Grande de Loíza, a water of the United States.

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3. The Complaint was based on Administrative Compliance Order (ACO), Docket Number CWA-02-2008-3119, which was issued on February 16, 2008, and required Respondent to, among others: (a) submit a NOI within ten (10) days from the receipt of the ACO; (b) develop, submit and implement a Storm Water Management Plan (SWMP) within ninety five (95) calendar days from the receipt of the ACO; and (c) submit a compliance cost report.
4. On August 26, 2009, Respondent submitted a NOI requesting coverage under the NPDES Small MS4 General Permit.
5. On December 14, 2009, EPA, Region 2, assigned NPDES Small MS4 General Permit tracking number PRR040051 to Respondent.
6. Since April 15, 2010, the Parties worked together in order reach a prompt, amicable resolution to this matter.
7. EPA notified the Commonwealth of Puerto Rico regarding this action and offered an opportunity for the Commonwealth of Puerto Rico to confer with EPA on the proposed penalty assessment, pursuant to 40 C.F.R. Part 22.
8. The Complaint was public noticed. No public comment was received.

II. TERMS OF THE SETTLEMENT

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9. This CA/FO shall apply to and be binding upon Respondent, its officers, directors, employees, successors and assigns, including, but not limited to, subsequent purchasers.
 10. Respondent stipulates that EPA has jurisdiction over the subject matter alleged in the Complaint and that the Complaint states a claim upon which relief can be granted against Respondent.
 11. Respondent waives any defenses it might have as to jurisdiction and venue, and, without admitting or denying the factual or legal allegations contained in the Complaint, consents to the terms of this CA/FO.
 12. Respondent hereby waives its right to a judicial or administrative hearing or appeal on any issue of law or fact set forth in the Complaint.

III. PAYMENT OF PENALTY

13. Pursuant to Section 309(g) of the Clean Water Act, 33 U.S.C. § 1319(g), based upon the nature of the violations, Respondent's agreement to perform a Supplemental Environmental Project (SEP) and other relevant factors, EPA has

determined that an appropriate civil penalty to settle this action is in the amount of SEVEN THOUSAND FIVE HUNDRED DOLLARS (\$7,500.00).

14. Respondent agrees to pay the above stated amount in *five payments*:
- a. an initial payment of ONE THOUSAND FIVE HUNDRED DOLLARS (\$1,500.00) shall be made within ninety (90) calendar days from the date that the attached Final Order is signed by the Regional Administrator of EPA Region 2;
 - b. a second payment of ONE THOUSAND FIVE HUNDRED DOLLARS (\$1,500.00) shall be made within one hundred and eighty (180) calendar days from the date that the attached Final Order is signed by the Regional Administrator of EPA Region 2;
 - c. a third payment of ONE THOUSAND FIVE HUNDRED DOLLARS (\$1,500.00) shall be made within two hundred and seventy (270) calendar days from the date that the attached Final Order is signed by the Regional Administrator of EPA Region 2;
 - d. a fourth payment of ONE THOUSAND FIVE HUNDRED DOLLARS (\$1,500.00) shall be made within three hundred and sixty (360) calendar days from the date that the attached Final Order is signed by the Regional Administrator of EPA Region 2; and
 - e. a fifth and final payment of ONE THOUSAND FIVE HUNDRED DOLLARS (\$1,500.00) shall be made within four hundred and fifty (450) calendar days from the date that the attached Final Order is signed by the Regional Administrator of EPA Region 2.

15. For purposes of settlement, Respondent consents to the issuance of this CA/FO, to the payment of the civil penalty cited in the foregoing paragraph, and to the performance of the SEP.

III. A. Penalty

16. Respondent shall pay the penalty, SEVEN THOUSAND FIVE HUNDRED DOLLARS (\$7,500.00), by cashier's or certified check, payable to the "Treasurer of the United States of America", identified with a notation of the name and docket number of this case, set forth in the caption on the first page of this document.

CHECK PAYMENTS:

US Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000.

WIRE TRANSFERS:

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

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

OVERNIGHT MAIL:

U.S. Bank
1005 Convention Plaza
Mail Station SL-MO-C2GL
ATTN Box 979077
St. Louis, MO 63101
Contact: Natalie Pearson
Telephone Number: (314) 418-4087

Respondent shall also send copies of this payment to each of the following:

Yolianne Maclay
Environmental Engineer
Multimedia Permits and Compliance Branch
Caribbean Environmental Protection Agency
U.S. Environmental Protection Agency, Region 2
Centro Europa Building, Suite 417
1492 Ponce de León Ave.
San Juan, PR 00907-4127
Fax number: (787) 289-7104;

Roberto M. Durango, Esq.
Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
Centro Europa Building, Suite 417
1492 Ponce de León Ave.
San Juan, PR 00907-4127
Fax number: (787) 729-7748; and

Karen Maples
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th Floor
New York, New York 10007.

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17. Payments must be received at the above address in accordance with the payment schedule established in paragraph 14. The date by which payment must be received shall hereafter be referred to as the "due date".
- a. Failure to pay the penalty in full according to the above provisions will result in a referral of this matter to the United States Department of Justice or the United States Department of the Treasury for collection;
 - b. Further, if the payments are not received on or before the due date, interest will be assessed at the annual rate established by the Secretary of Treasury pursuant to the Debt Collection Act, 31 U.S.C. § 3717, on the overdue amount from the due date through the date of payment. In addition, a late payment handling charge of \$15.00 will be assessed for each 30-day period (or any portion thereof) following the due date in which the balance remains unpaid. A 6% per annum penalty also will be applied on any principal amount not paid within 90 days of the due date;
 - c. In addition, pursuant to Section 309(g)(9) of the Act, 33 U.S.C. § 1319(g)(9), if payments are not received by the due date, a quarterly nonpayment penalty will be imposed for each calendar quarter during which such nonpayment persists. The quarterly nonpayment penalty is 20% of the aggregate amount of penalties and quarterly nonpayment penalties which are unpaid as of the beginning of such quarter;
 - d. Respondent may also be required to pay attorneys fees and costs for collection proceedings in connection with nonpayment.
18. The penalty to be paid is a civil penalty assessed by the EPA and shall not be deductible from the Respondent's federal or state taxes.
19. Except as provided in paragraph 16 above, in this section (and except as the parties may in writing agree to otherwise), all documentation, information, notices and reports required to be submitted in accordance with the terms and conditions of this CA/FO shall be sent by first class mail or its equivalent to each of the following:

FOR COMPLAINANT:

Yolianne Maclay
Environmental Engineer
Multimedia Permits and Compliance Branch
U.S. Environmental Protection Agency, Region 2
Caribbean Environmental Protection Division
Centro Europa Building, Suite 417
1492 Ponce de León Avenue
San Juan, PR 00907-4127; and

Roberto M. Durango, Esq.
Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
Office of Regional Counsel—Caribbean Team
Centro Europa Building, Suite 417
1492 Ponce de León Avenue
San Juan, PR 00907-4127.

FOR RESPONDENT:

Honorable Eddie M. Manzo Fuentes
Mayor
Municipality of Loiza
P. O. Box 508
Loiza, PR 00772-0508;

and

Raul Santiago Perez, Esq. and/or
Margarita Melendez, Esq.
Legal Representatives
RSP & Associates
Centro Internacional de Mercadeo
100 Carr. PR-165, Suite 409
Guaynabo, PR 00968-8048

IV. Supplemental Environmental Project

20. Respondent agrees to perform a SEP, which will consist of the purchase of a 2,300-gallon, Sewage Vacuum System Truck (Truck), and the collection, hauling and disposal of sewage from septic tanks at residential dwellings and commercial facilities located in the rural areas of the Municipality of Loiza.
21. The total expenditure for the SEP shall not be less than ONE HUNDRED AND EIGHTEEN THOUSAND, EIGHT HUNDRED AND NINETY FIVE DOLLARS (\$118,895.00).

22. Respondent shall implement the SEP in accordance with the following schedule and action items:

- a. Respondent shall place the purchase order within forty-five (45) calendar days after the date of signature of the Final Order at the end of this document.
- b. Respondent shall begin to procure all required permits to operate the Truck within seven (7) days of receipt of the Truck.
- c. Respondent shall certify that, as of the date of this CA/FO, it is not required to perform or develop the activities described in this SEP by any federal, state or local law or regulation; nor that is Respondent required to perform or develop the activities described in this SEP by any other agreement, grant or as injunctive relief in this or any other case.
- d. Respondent shall certify that it has not received, and is not presently negotiating to receive, credit in any other enforcement action for the SEP.
- e. Respondent shall acquire the Truck within one-hundred thirty five (135) calendar days after the date of signature of the Final Order at the end of this document.
- f. Respondent shall obtain all required permits, hire the personnel that will operate the Truck, and commence to provide for the collection, hauling and disposal of sewage from septic tanks in residential dwellings and commercial facilities located within in the Municipality of Loiza within sixty (60) days of receipt of the Truck.
- g. Respondent shall provide for the collection, hauling and disposal from septic tanks one hundred and fifty (150) times at residential dwellings and commercial facilities throughout the Municipality of Loiza. Such activities shall commence within thirty (30) days of receipt of the Truck and shall conclude no later than nine (9) months after receipt of the Truck. Respondent shall provide such service free from any cost to the residential dwellings and/or commercial facilities.
- h. Respondent shall develop and use a Collection, Hauling and Disposal Manifest Form (Form) to properly document each activity within sixty (60) calendar days after the date of signature of the Final Order at the end of this document. At a minimum, the Form shall include the following information:
 - i. manifest number;
 - ii. manifest date;
 - iii. name and location of service dwelling or commercial facility;
 - iv. signature of the person receiving the service;

Handwritten signature and initials in black ink, located on the left side of the page. The signature appears to be 'D. A. F.' followed by a cursive name, possibly 'D. A. F. [unclear]'. There are also some scribbles below the signature.

- v. name, date and signature of the Truck operator;
- vi. name and location of the entity which received the sewage;
- vii. name, date and signature of the authorized representative of place where the sewage was disposed of; and
- viii. amount of sewage (in gallons) collected and disposed of.

23. All materials to be developed and distributed as well as any public statement, oral or written, in print, film, or other media, made by Respondent describing this SEP, including any made at, during and/or in a compliance assistance meeting, lecture, presentation, seminar, mailing or other outreach effort, must display in a prominent manner the statement: **"This Project was funded by Respondent, the Municipality of Loiza, as part of its settlement of an enforcement action taken by the United States Environmental Protection Agency for violations of the Federal Clean Water Act."**

IV. A SEP Reports

24. Respondent shall submit Monthly Status Reports (Status Reports) by the 15th day of the following month providing general information about the progress of implementation of the SEP. The Status Reports shall continue to be submitted until the completion of the SEP. The first report is due within seventy-five (75) days of the date of signature of the Final Order at the end of this document.

25. The Final Status Report or "SEP Final Report" shall be submitted within thirty (30) calendar days after the completion of all activities that are part of the SEP. The SEP Final Report shall contain the following information:

- a. a detailed description of the SEP as implemented;
- b. copy of purchase order;
- c. copy of Truck specifications;
- d. color pictures of the each side of the Truck;
- e. a description of any operating problems encountered and the solutions thereto;
- f. documentation of the expenditures made in connection with the SEP as part of the SEP Final Report.
- g. certification that the SEP has been fully implemented pursuant to the provisions of this CAFO;
- h. a certification that no federal grants, low-interest federal loans, federal

contracts, or other forms of federal financial assistance or non-financial assistance (e.g., loan guarantees) were used, in whole or in part, to carry out the work required to implement or complete the SEP; and

- i. a description of the environmental and public health benefits resulting from implementation of the SEP.

IV. B Stipulated Penalties

26. In the event that Respondent fails to comply with any of the terms or provisions of this CA/FO, including those related to the performance of the SEP described in paragraph 22 above and/or to the extent that the actual expenditures for the SEP do not equal or exceed the cost of the SEP described in paragraph 21 above, Respondents shall be liable for stipulated penalties according to the provisions set forth below:

- a. Respondent shall pay a stipulated penalty of ten thousand dollars (\$10,000.00) for failure to purchase the Truck, no later than one hundred fifty (150) days of the date of signature of the Final Order at the end of this document.
- b. Respondent shall pay a stipulated penalty for failure to provide for the collection, hauling and disposal of sewage from septic tanks within nine months of the date of receipt of the Truck. The stipulated penalty schedule is defined below:

Number of residential dwellings and/or commercial facilities that Respondent failed to provide for collection, hauling and disposal of sewage	Stipulated Penalty
0-10	\$0.00
11-50	\$2,500.00
51-100	\$7,500.00
101-150	\$12,500.00

27. For failure to submit the Monthly Status Report required by paragraph 24 above, or to submit a SEP Final Report pursuant to paragraph 25, Respondent shall pay a stipulated penalty in the amount of two hundred and fifty dollars (\$250.00) for each day after the respective due dates established at paragraphs 24 and 25, until the report, or an amended report, is submitted.

28. Stipulated penalties for paragraph 26 above shall begin to accrue on the day after performance is due, and shall continue to accrue through the final day of the completion of the activity.

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29. Unless Respondent provides EPA with a written explanation pursuant to paragraph 35, below, Respondent shall pay stipulated penalties within thirty (30) calendar days after receipt of written demand by EPA for such penalties. Respondent agrees that such demand may be mailed to Respondent, through its representative, designated in paragraph 19, above. Payment of stipulated penalties shall be made payable to the **"Treasurer of the United States of America,"** and shall be mailed, as described in paragraph 16. The instrument of payment shall be identified with a notation thereon listing the following: *In the Matter of Municipality of Loiza, Docket Number CWA-02-2009-3457*: stipulated penalties. A copy of any payment of stipulated penalties shall be mailed to the EPA officials mentioned in paragraph 19, above.

Late charges on stipulated penalties shall be paid as stated in paragraph 17.b, above.

30. After receipt of a demand from EPA for stipulated penalties pursuant to the preceding paragraph, Respondent shall have twenty (20) calendar days in which to provide Complainant with a written explanation of why it believes that a stipulated penalty is not appropriate for the cited violation(s) of this Consent Agreement (including any technical, financial or other information that Respondents deem relevant). Where Respondent has submitted a written explanation to EPA pursuant to this paragraph and have disputed in good faith that it has failed to perform the obligation(s) cited by EPA in its demand for payment of stipulated penalties, the amount of the stipulated penalty to be paid to EPA for the cited violation(s) shall not continue to accrue during the period of time the Director (or delegate) reviews Respondent's explanation and responds in writing to Respondent pursuant to paragraph 31, below.

31. The Director of CEPD, Region 2 may, in his sole discretion, reduce or eliminate any stipulated penalty due if Respondent has, in writing, demonstrated to EPA's satisfaction good cause for such action by EPA. If, after review of Respondent's submission pursuant to the preceding paragraph, Complainant determines that Respondent has failed to comply with the provisions of this Consent Agreement, and Complainant does not, in its sole discretion, eliminate the stipulated penalties demanded by EPA, Complainant will notify Respondent, in writing, that either the full stipulated penalty or a reduced stipulated penalty must be paid by Respondent. Respondent shall pay the stipulated penalty amount indicated in EPA's notice within twenty (20) calendar days of their receipt of such written notice from EPA.

32. Failure of Respondent to pay any stipulated penalty demanded by EPA pursuant to this Consent Agreement may result in referral of this matter to the United States Department of Justice or the Department or the United States Department of the Treasury for collection.

33. Nothing in this CA/FO shall be construed as prohibiting, altering or in any way limiting the ability of EPA to seek any other remedies or sanctions available by

virtue of Respondent's violation of this CA/FO or of the statutes and regulations upon which this Agreement is based, or for Respondent's violation of any applicable provision of law.

34. This CA/FO shall not relieve Respondent of its obligation to comply with all applicable provisions of federal, state or local law, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state or local permit, nor shall it be construed to constitute EPA approval of the equipment or technology used by Respondent in connection with the SEP undertaken pursuant to this Agreement.

IV. C Delays in the Completion of the SEP

35. If any event occurs which causes or may cause delays in the completion of the SEP or submittal of reports or notices as required under this CA/FO, Respondent shall notify Complainant, in writing, not more than ten (10) calendar days after the delay or upon Respondent's knowledge of the anticipated delay, whichever is earlier. The notice shall describe in detail the anticipated length of the delay, the precise cause or causes of the delay, the measures taken and to be taken by Respondent to prevent or minimize the delay, and the timetable by which those measures will be implemented. Respondent shall adopt all reasonable measures to avoid or minimize any such delay. Failure by Respondent to comply with the notice requirements of this paragraph shall render this paragraph void and of no effect as to the particular incident involved and constitute a waiver of Respondent's right to request an extension of its obligation under this CA/FO based on such incident.

36. If EPA determines that the delay or anticipated delay identified by Respondent pursuant to paragraph 35 has been or will be caused by circumstances beyond the control of Respondent, or Respondent's consultants or contractors, the time for performance hereunder may be extended for a period no longer than the delay resulting from such circumstances. In such event, the parties shall stipulate to such extension of time.

37. In the event that the EPA does not determine that a reasonable delay in achieving compliance with the requirements of this CA/FO has been or will be caused by circumstances beyond the control of Respondent, EPA will notify Respondent in writing of its decision and any delays in the completion of the SEP shall not be excused.

38. The burden of proving that any delay is caused by circumstances beyond the control of Respondent shall rest with the Respondent. Increased costs or expenses associated with the implementation of actions called for by this CA/FO shall not, in any event, be a basis for changes in this CA/FO or extensions of time. Delay in achievement of one interim step shall not necessarily justify or excuse delay in achievement of subsequent steps.

IV. D General Provisions Regarding the SEP

39. Respondent agrees that EPA, or its duly authorized representative, may be present during the implementation of the SEP at any time in order to confirm that the SEP is being undertaken in conformity with the representations made herein.
40. Respondent shall maintain at their offices legible copies of documentation concerning the development, implementation and financing of the SEP, and documentation supporting information in reports submitted to EPA pursuant to this CA/FO for a term of three (3) years after the implementation of the SEP. Respondent shall grant EPA, and its authorized representatives, access to such documentation and shall provide copies of such documentation to EPA within ten (10) calendar days of Respondent's receipt of a request by EPA for such information or within such additional time as approved by EPA, in writing. In all documents or reports, including, without limitation, any SEP reports, submitted to EPA pursuant to this CA/FO, Respondent shall, by their officers, sign and certify under penalty of law that the information contained in such document or report is true, accurate, and complete by signing the following statement:

I certify that the information contained in this written notice and the accompanying documents is true, accurate and complete. As to the identified portions of this response for which I cannot personally verify their accuracy, I certify under penalty of law that this response and all attachments were prepared in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.

41. Respondent agrees that failure to submit any report required by this Consent Agreement in a timely manner shall be deemed a violation of this CA/FO and Respondent shall become liable for stipulated penalties for such violation pursuant to the provisions set forth above.
42. Nothing in this document is intended or construed to waive, prejudice or otherwise affect the right of EPA, or the United States, from pursuing any appropriate remedy, sanction or penalty prescribed by law against Respondent for Respondent having made any material misrepresentations or for providing materially false information in any document submitted in compliance with the terms and conditions of this Consent Agreement.

43. The SEP to be implemented by Respondent has been accepted by Complainant solely for purposes of settlement of this civil administrative proceeding. Nothing in this document is intended or shall be construed to be a ruling on or determination of any issue related to a federal, state or local permit.
44. Respondent hereby certifies that, as of the date of its signature on this Consent Agreement, it is not required to implement or complete the aforementioned SEP pursuant to any federal, state or local law, regulation or other requirement; that with the exception of this Consent Agreement, Respondent is not required to implement or complete the SEP described in this section by any agreement, grant, or as injunctive relief in this or any other case; and that Respondent has not planned before February 16, 2008, to perform any of the work that is part of the SEP.
45. Respondent further certifies that it has not received and is not presently negotiating to receive, credit in any other enforcement action for either of the aforementioned SEP, and that Respondent in good faith believes that the SEP is in accordance with EPA's 1998 Final Supplemental Environmental Projects policy set forth at 63 Fed. Reg. 24,796 (May 5, 1998).
- pp* 46. Respondent certifies that it will not deduct nor capitalize SEP costs for federal income tax purposes.
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DMF 47. If Respondent submits a request for extension, such request shall be accompanied by supporting documentation and shall be submitted to EPA no later than ten (10) calendar days prior to any due date set forth in this Consent Agreement, or other deadline established pursuant to this Consent Agreement. Such extension, if any, shall be approved in writing and shall not unreasonably be withheld.
48. The determination of whether the SEP has been satisfactorily completed, whether Respondent has made a good faith, timely effort to implement the SEP, whether the Respondent has complied with all the terms of the CA/FO and whether costs are creditable to the SEP shall be in the sole discretion of EPA. Should EPA have any concerns about the satisfactory completion of the SEP, EPA will communicate those concerns to Respondent and will provide it with an opportunity to respond. If EPA makes a determination that the SEP has been satisfactorily completed, it will provide Respondent with written confirmation of the determination within a reasonable amount of time. Such determination by EPA shall not be unreasonably withheld.

V. GENERAL PROVISIONS

49. This CA/FO is being voluntarily entered into by the parties in full and final settlement of Respondent's liability for federal civil penalties for the violations and facts alleged in the Complaint and this CA/FO.
50. Respondent has read the Consent Agreement, understands its terms, finds it to be reasonable and consents to its issuance and its terms. Respondent consents to the issuance of the accompanying Final Order. Respondent agrees that all terms of settlement are set forth herein.
51. Respondent explicitly and knowingly consents to the assessment of the civil penalty as set forth in this Consent Agreement and agrees to pay the penalty in accordance with the terms of this Consent Agreement.
52. In computing any period of time under this Consent Agreement, where the last day would fall on a Saturday, Sunday, federal or Commonwealth holiday, the period shall run until the close of business of the next working day.
53. The provisions of this Consent Agreement shall be binding upon Respondent, its officials, authorized representatives and successors or assigns, including but not limited to, subsequent purchasers.
54. Respondent knowingly and explicitly waives its right under Section 309(g)(2), (8) of the Act, 33 U.S.C. § 1319(g)(2), (8), to request or to seek any hearing on or judicial review of any of the allegations herein asserted, on this Consent Agreement or the Findings of Fact and Conclusions of Law herein, or on the accompanying Final Order.
55. Respondent waives any right it may have pursuant to 40 C.F.R. § 22.8 to be present during discussions with or to be served with and to reply to any memorandum or communication addressed to the Regional Administrator of EPA, or the Director of CEPD where the purpose of such discussion, memorandum, or communication is to discuss a proposed settlement of this matter or to recommend that such official accept this Consent Agreement and issue the accompanying Final Order.
56. Issuance of the CA/FO does not constitute a waiver by EPA of its right to enforce the substantive legal requirements underlying this penalty assessment, either administratively or judicially pursuant to Section 309(a)-(c) of the Act, 33 U.S.C. §§ 1319(a)-(c) for violations that occur subsequent to the date of this Final Order. Pursuant to Section 309(g)(7) of the Act, 33 U.S.C. § 1319(g)(7), issuance or compliance with this CA/FO does not waive, extinguish or otherwise affect Respondent's obligation to comply with all applicable requirements of the Act, of regulations promulgated thereunder, and of any legal order or permit issued thereunder.

57. Each undersigned signatory to this Consent Agreement certifies that he or she is duly and fully authorized to enter into and ratify this Consent Agreement and all the terms and conditions set forth in this Consent Agreement.
58. Each party hereto agrees to bear its own costs and fees in this matter.
59. Respondent consents to service upon Respondent by a copy of the CA/FO by an EPA employee other than the Regional Hearing Clerk.
60. In any collection action, the validity, amount, and appropriateness of the penalty and of this CA/FO shall not be subject to review.

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FOR RESPONDENT:

BY: 
Authorized Signature

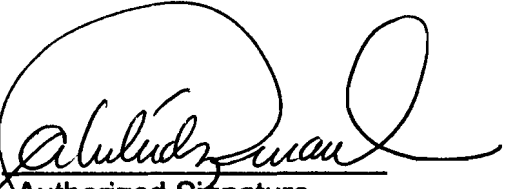
NAME: Honorable Eddie M. Manzo Fuentes
Mayor
Municipality of Loiza
P. O. Box 508
Loiza, PR 00772-0508

TITLE: Mayor
1 0 0 6 1 0

DATE: _____

RSP
EMF

BY: 
Authorized Signature

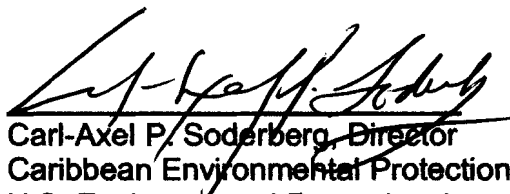
BY: 
Authorized Signature

NAME: Raul Santiago-Perez, Esq. and
Margarita Meléndez, Esq.
RSP & Associates, Law Offices
Counsel, Municipality of Loiza
100 Carretera PR 165, Suite 409
Guaynabo, PR 00968-8048
Tel:787.273.7625

TITLE: Attorneys for Respondent
1 0 0 6 1 0

DATE: _____

FOR COMPLAINANT:



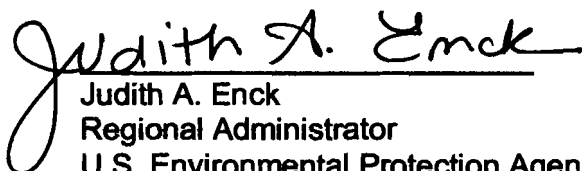
Carl-Axel P. Soderberg, Director
Caribbean Environmental Protection Division
U.S. Environmental Protection Agency,
Region 2
Centro Europa Building, Suite 417
1492 Ponce de León Avenue
San Juan, PR 00907-4127

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FINAL ORDER

The Regional Administrator of the U.S. Environmental Protection Agency, Region 2, ratifies the foregoing Consent Agreement. The Agreement entered into by the parties is hereby approved, incorporated herein, and issued as an Order. The effective date of this Order shall be the date of filing with the Regional Hearing Clerk, U.S. Environmental Protection Agency, Region 2, New York, New York.

DATED: 11/3/10


Judith A. Enck
Regional Administrator
U.S. Environmental Protection Agency
Region 2
290 Broadway, Floor 26
New York, NY 10007-1866



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2

In the Matter of:

MUNICIPALITY OF LOÍZA
RESPONDENT

DOCKET NUMBER
CWA-02-2009-3457

CERTIFICATE OF SERVICE

I certify that I have this day caused to be sent the foregoing **Consent Agreement and Final Order**, dated November 3, 2010, and bearing the above-referenced docket number, in the following manner to the respective addressees below:

Copy **Overnight** to:

Helen S. Ferrara
Regional Judicial Officer
U.S. EPA, Region 2
290 Broadway—Room 1626
New York, NY 10007-1866
Ph: 212-637-3233

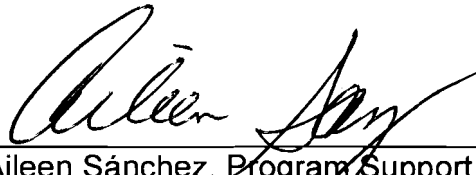
Original and copy by **Overnight** to:

Karen Maples
Regional Hearing Clerk
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New York, NY 10007-1866.

Copy by **Certified Mail** to:

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Dated: 11/10/2010


Aileen Sánchez, Program Support Assistant
EPA, Region 2, Office of Regional Counsel