UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY

BEFORE THE ADMINISTRATOR

IN THE MATTER OF	)	
MUNICIPALITY OF LAS PIEDRAS,	)	DOCKET NO. CWA-02-2009-3456
RESPONDENT	)	

ORDER ON RESPONDENT'S MOTION FOR EXTENSION

The Complaint in this matter was filed on April 1, 2009. An Answer was filed on August 17, 2009, which included a Storm Water Management Program prepared by Essayon Design and Management Solutions, Inc. and dated August 2009. On September 10, 2009, the undersigned was designated to preside over these proceedings by the Chief Administrative Law Judge. On September 30, 2009, the undersigned issued a Prehearing Order establishing a strict timeline for the exchange of information prior to hearing and delineating the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (the "Rules of Practice") that govern these proceedings. 40 C.F.R. §§ 22.1-32.

Complainant submitted its prehearing exchange on December 11, 2009, as directed. On January 11, 2010, the undersigned received a document from Essayon Design and Management Solutions, Inc., which was addressed to the Complainant. This document, dated December 2009, purports to be a Storm Water Management Plan for the Respondent. Although it was received on January 11, 2010, this submission cannot reasonably be characterized as Respondent's prehearing exchange as directed in the Prehearing Order.

Citing the lack of submission by the Respondent, Complainant filed a Motion for Remedies on January 25, 2010 requesting an extension of time to file its rebuttal prehearing exchange until fourteen (14) days after Respondent filed its initial prehearing exchange.

On February 4, 2010, the undersigned issued an Order to Show Cause advising Respondent that its Storm Water Management Plan submitted January 11, 2010 cannot reasonably be characterized as its prehearing exchange as stated in the Prehearing Order and giving Respondent until February 19, 2010 to show cause why it failed to meet the January 11, 2010 prehearing exchange deadline. Before issuing the Order to Show Cause, the undersigned's legal assistant made numerous attempts to contact Respondent's counsel and to advise Respondent that the January 11, 2010 submission was deemed not to constitute a prehearing exchange.

On February 24, 2010 Respondent submitted a "Motion to Show Cause," which ostensibly responds to the Order to Show Cause.[1/] In this response, Respondent's counsel states that his mother's illness and her death in September 2009, and his subsequent care of his elderly father, significantly affected his practice. Respondent states that an engineer's company, Essayon Design and Management Solutions, Inc., was hired by the Municipality of Las Piedras and that all documents received would be sent to engineer Roberto Soto, who represents Essayon Design and Management Solutions, Inc. Respondent asks for a release of liability and a final term of thirty (30) days to submit proper documentation.

After the undersigned's staff attorney made numerous attempts to contact Respondent's counsel, a conference call with both parties was scheduled for March 16, 2010. The purpose of the conference call was to advise Respondent that another engineering report from Essayon Design and Management Solutions, Inc. would not address the requirements laid out in the Prehearing Order and was not responsive to the Order to Show Cause. Although Respondent's counsel's excuse for missing the prehearing exchange filing date is considered lame, the undersigned grants Respondent's unopposed request to extend the deadline to March 24, 2010. Respondent's counsel did not appear for the telephone conference on March 16, 2010, which was specifically scheduled to accommodate him.

Again, Respondent is advised that the submission of another engineering report from Essayon Design and Management Solutions, Inc. will not address the requirements for a prehearing exchange set forth in the Prehearing Order. In addition, Respondent's counsel's repeated failure to participate and cooperate in these proceedings is unprofessional and, although the Rules of Practice do not provide for such authority, would warrant a contempt order.

[1/] Respondent's "Motion to Show Cause" is difficult to understand.

I hereby **GRANT** Respondent's request for a final thirty (30) day extension to file a prehearing exchange, but I **DENY** all other requests in the Motion to Show Cause. The prehearing exchange is therefore due by March 24, 2010. If Respondent's full prehearing exchange is not received by that date, Respondent will be in **default.**

Barbara A. Gunning
Administrative Law Judge

Dated: March 17, 2010
Washington, DC

In the ADR Matter of *Municipality of Las Piedras,* Respondent.
Docket No. CWA-02-2009-3456

CERTIFICATE OF SERVICE

I hereby certify that the foregoing **Order on Respondent's Motion for Extension**, dated March 17, 2010, was sent this day in the following manner to the addressees listed below.

Mary Angeles
Legal Staff Assistant

Original and One Copy by Pouch Mail to:

Karen Maples
Regional Hearing Clerk
US EPA, Region II
290 Broadway, 16th Floor
New York, NY 10007-1866

One Copy by Facsimile and Pouch Mail to:

Roberto M. Durango, Esq.
Assistant Regional Counsel
U.S. EPA, Region II
Caribbean Field Division
Centro Europa Building
1492 Ponce de Leon Ave., Ste. 417
San Juan, PR 00907-1417
Fx: 787.729.7748

One Copy by Facsimile and Regular Mail to:

Edgar Gonzalez, Esq.
Legal Representative
Municipality of Las Piedras
P.O. Box 2802
Guaynabo, PR 00970
Fx: 787.781.1210

and

Miguel A. Lopez Rivera, Mayor
Las Piedras Municipality
c/o Essayon Design & Management Solutions, Inc.
P.O. Box 1761
Juncos, PR 00777
Fx: 787.733.0165

Dated: March 17, 2010
Washington, D.C.