

November 1, 2022

Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th floor
New York, New York 10007-1866
Email: maples.karen@epa.gov

**RE: Notice of Proposed Assessment of a Civil Penalty
In the Matter of Hacienda Miramar, Inc. and Karimar Construction, Inc.
Mirador del Sol Residential Development
Docket Number CWA-020202203452**

Regional Hearing Clerk:

On October 5, 2022, The Respondents, Hacienda Miramar, Inc. and Karimar Construction, Inc., received by mail the referred document dated September 30, 2022. After reviewing the full document and claims we the Respondents we understand there are few inconsistencies and errors, and that the proposed penalty is inappropriate.

Thus, respectfully we proceed to answer the complaint.

“Claim 1 – Respondents failed to timely apply for and obtain NPDES permit coverage for its discharges of pollutants (storm water runoff from construction activity) from the Project into a water of the United States.

- 1) Respondents did not submit an individual NPDES permit application, as required by 40 C.F.R. § 122.21, nor did they file a timely, complete accurate eNOI seeking coverage under the 2017 CGP.
- 2) For Respondent Hacienda Miramar, the period of violation for this claim is between October 1, 2017, and April 30, 2019 (day before when HMI 2nd eNOI was submitted to EPA to obtain coverage under the 2017 CGP for the Project), which are 576 days.
- 3) For Respondent Karimar, the period of violation for this claim is between October 1, 2017, and December 26, 2018 (day before when the Karimar 2nd eNOI was submitted to EPA to obtain coverage under the 2017 CGP for the Project), which are 451 days.”

Karimar dispute this claim based on the following facts:

- Karimar was not in violation since the dates on the Claim 1 do not coincide with construction activities at the project.
- Hurricane Maria devastated the whole Island on September 21, 2017. Therefore, the whole project was delayed, and construction scheduled project activities were postponed as an all-out recovery effort was a priority in Puerto Rico.
- Earth moving activities for conditioning construction at the specific site occurred years prior. This can be check by using an application such as Google Earth. In fact, the concerned development phase occurred in an area less than two (2) acres.
- This phase of the project met all permit requirements from Local and State Government.

Hacienda Miramar dispute this claim based on the following facts:

- Hacienda Miramar was not in violation since the dates on the Claim 1 do not coincide with construction activities at the project.
- Hurricane Maria devastated the whole Island on September 21, 2017. Therefore, the whole project was delayed, and construction scheduled project activities were postponed as an all-out recovery effort was a priority in Puerto Rico.
- Earth moving activities for conditioning construction at the specific site occurred years prior. This can be check by using an application such as Google Earth. In fact, the concerned development phase occurred in an area less than two (2) acres.
- This phase of the project met all permit requirements from Local and State Government.

“Claim 2 – Respondents illegally discharged pollutants (storm water runoff from construction activity) from the Project into a water of the United States without NPDES permit coverage


- 1) *Storm events of 0.50 inches or greater occurred on forty (40) instances during the period between October 1, 2017, and April 30, 2019.*
- 2) *The number of days that the Respondent Hacienda Miramar discharge pollutants from the Project into a water of the United States without NPDES permit coverage was forty (40).*
- 3) *Storm events of 0.50 inches or greater occurred on thirty-six (36) instances during the period between October 1, 2017, and December 27, 2018.*

4) *The number of days that Respondent Karimar discharge pollutants from the Project into a water of the United States without NPDES permit coverage was thirty-six (36)."*

Karimar disputes these facts based on:

- Karimar was not in violation since the dates on the Claim 2 do not match the dates of construction activities at the project. Therefore, the storm events on the claim did not coincide with the construction period.
- The number of days with storm events of 0.50 inches are excessive since it is an estimate for a period that doesn't match the period for construction activities at the project site.
- Constructions activities related to grading and earth movement at site for specific phase occurred years priors to the referred dates. This can be easily being observed using an application such as Google Earth.
- It is important to mention that there is a detention pond in the project, which was built in the initial phase of the project. Therefore, any sediment that could have crossed the mitigation measures did not impact any body of water owned by the government of the United States of North America.

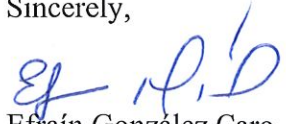
Hacienda Miramar disputes these facts base on:

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- Hacienda Miramar was not in violation since the dates on the Claim 2 do not match the dates of construction activities at the project. Therefore, the storm events on the claim did not coincide with the construction period.
 - There are inconsistencies in the dates presented in the claim that limit our ability to contest the claims. The number of storm events of 0.50 inches or greater which is set to forty (40) is inconsistent with the period of construction activities. These inconsistencies also showed in the claims against Karimar.
 - Constructions activities related to grading and earth movement at site for specific phase occurred years priors to the referred dates. This can be easily being observed by an application such as Google Earth.
 - It is important to mention that there is a detention pond in the project, which was built in the initial phase of the project. Therefore, any sediment that could have crossed the mitigation measures did not impact any body of water owned by the government of the United States of North America.

From our perspective the proposed amount of the fine is excessive and unfair and will like to exercise our right to contest the penalty proposed in the Complaint.

Meanwhile Respondents are receptive to have an informal conference with a representative(s) of EPA, and will make a formal request to Suzette M. Meléndez-Colón, Esq. At the informal conference, the Respondents will be in position to present and discuss information relevant to facts of this case.

Sincerely,



Efraín González Caro
Hacienda Miramar, Inc.



Wilson Valentín
Karimar Construction, Inc.

C/c Suzette M. Meléndez-Colón, Esq.