



UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
BEFORE THE ADMINISTRATOR

In the Matter of: )

MUNICIPALITY OF HATILLO, )

Respondent )

) Docket No. CWA-02-2009-3455  
)  
)

**ORDER REGARDING INSUFFICIENT ANSWER**

On April 1, 2009, the Environmental Protection Agency, Region 2 (EPA), initiated this action by filing a Complaint charging Respondent with violating Sections 308 and 402 of the Clean Water Act, 33 U.S.C. § 1318 and 1342 due to its alleged failure to apply for a National Pollution Discharge Elimination System permit for its separate storm water sewer system. For these alleged violations, EPA proposes a penalty of \$48,071. In the Complaint, EPA advised Respondent of its opportunity to file an Answer requesting a hearing before an Administrative Law Judge to contest any material fact as to liability and oppose any proposed penalty amount. The Complaint further advised that if Respondent failed to timely file an Answer, it could be found in default. (Complaint at pages 6-8).

The Complaint, as mentioned above, and EPA's rules on Answers to Complaints (Section 22.15(b) of EPA's Rules of Practice, 40 C.F.R. § 22.15(b)) clearly state that a Respondent, must in its Answer, "clearly and directly admit, deny or explain *each of the factual allegations contained in the complaint* . . ., [t]he circumstances or arguments which are alleged to constitute the grounds for any defense; the facts which respondent disputes; the basis for opposing any proposed relief and whether a hearing is requested." A review of the documents submitted on or about June 5, 2009 by Respondent apparently in reply to the Complaint fail to meet the requirements of Rule 22.15(b) regarding responding to each and every allegation in the Complaint and do not contain any specific request for a hearing.

Accordingly, Respondent is directed to file an Amended Answer to the Complaint consistent with the requirements of Rule 22.15(b) on or before November 30, 2009. Respondent is advised that it is not required to be represented by an attorney in this process; it may represent itself. However, Respondent should be aware that, should it decide to represent itself in this process, it will be required to comply with the procedures involved in this case and be familiar with the relevant law and rules of practice and procedure to the same extent as if it were represented by counsel. Therefore, Respondent should carefully consider whether it has the ability to adequately represent itself before choosing to do so.

**FURTHERMORE, RESPONDENT IS HEREBY ADVISED THAT IF IT FAILS TO PROPERLY RESPOND TO THIS ORDER BY NOVEMBER 30, 2009, A DEFAULT JUDGMENT MAY BE ENTERED AGAINST IT WITHOUT FURTHER NOTICE.**

Respondent's Amended Answer, **due on or before November 30, 2009**, should be sent to the Presiding Judge, addressed as follows:

The Honorable Susan L. Biro  
Chief Administrative Law Judge  
Office of Administrative Law Judges  
U.S. Environmental Protection Agency  
Mail Code 1900L  
1200 Pennsylvania Ave. N.W.  
Washington, D.C. 20460

Copies should also be sent to the EPA counsel who filed the Complaint and to the Region 2 Hearing Clerk. For those addresses, see the Certificate of Service attached hereto.



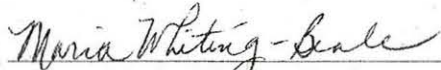
\_\_\_\_\_  
Susan L. Biro  
Chief Administrative Law Judge

Dated: November 5, 2009  
Washington, D.C.

In the Matter of Municipality of Hatillo, Respondent  
Docket No. CWA-02-2009-3455

CERTIFICATE OF SERVICE

I certify that the foregoing **Order Regarding Insufficient Answer**, dated November 5, 2009, was sent this day in the following manner to the addressees listed below:

  
\_\_\_\_\_  
Maria Whiting-Beale  
Staff Assistant

Dated: November 5, 2009

Original And One Copy By Pouch Mail To:

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

Copy By First Class Mail To:

Roberto Durango, Esquire  
Office of Regional Counsel  
U.S. EPA  
Centro Europa Building, Suite 417  
1492 Ponce de Leon Avenue  
San Juan, PR 00907-1417

Alberto E. Folch-Diez, Esquire  
Lcdo. Alberto E. Foich Diez  
Abogado - Notario  
525 Avenida Jose A. Cedeno, Suite 202  
Arecibo, PR 00612-4004