

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
BEFORE THE ADMINISTRATOR

IN THE MATTER OF: )  
 )  
MUNICIPALITY OF CAYEY, ) Docket No. CWA-02-2009-3454  
 )  
Respondent )

**ORDER ON JOINT MOTION FOR CONTINUANCE**

In response to the Complaint filed in this matter, Respondent, acting *pro se*, filed an Answer which failed to respond to each allegation in the Complaint as required by 40 C.F.R. § 22.15. Respondent was ordered to file on or before July 10, 2009, an amended answer to the Complaint if the parties do not reach a settlement beforehand. On July 9, Respondent submitted a request for an extension of time to file on the basis of a high probability of reaching a settlement of this case which could render an answer unnecessary and/or might modify any possible answers. The request was granted, and Respondent's amended answer was ordered to be filed on or before August 14, 2009. Respondent sought a second extension of time to file, which was supported by Complainant, and an extension until October 6, 2009 was granted to file the amended answer. On October 2, 2009, Respondent submitted a third Request for an Extension to File an Amended Answer to the Complaint and Submitting Additional Information, granting Respondent until December 7, 2009 to file an amended answer. On November 20, 2009, the parties filed a Joint Motion for Continuance, requesting a stay of this proceeding for ninety (90) days.

The Motion states that the Respondent submitted a proposed Supplemental Environmental Project (SEP), which was rejected, and then submitted a new SEP proposal. The Motion indicates that the new SEP proposal does not qualify under the SEP Policy as submitted, but that the parties seek to explore changes to the SEP so that it may qualify, or Respondent may propose another SEP.

Respondent is a municipality and has submitted two SEP proposals, indicating good faith efforts to negotiate a settlement, and the parties are jointly requesting the stay. However, a ninety day stay, particularly after extensions of time spanning *five months*, is an unusually lengthy period of time. The stay requested is in essence an extension of time to file an amended answer, which is not extremely time consuming to prepare. If the amended answer is not filed and the parties are unable to reach a settlement in the next couple of months, this proceeding will be unduly delayed by the need to allow time for the prehearing exchanges and any motions, prior to any hearing in this case.

The request for a ninety day stay is **DENIED**. However, Respondent is granted a sixty

(60) day extension of time to file an amended answer. Accordingly, if the parties have not filed the fully executed Consent Agreement and Final Order beforehand, Respondent shall file an amended answer to the Complaint **on or before February 5, 2010.**

Complainant shall file status reports on the progress of settlement on **December 18, 2009, January 8, 2010, and January 29, 2010.**



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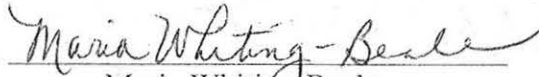
Susan L. Biro  
Chief Administrative Law Judge

Date: December 1, 2009  
Washington, D.C.

In the Matter of Municipality of Cayey, Respondent  
Docket No. CWA-02-2009-3454

CERTIFICATE OF SERVICE

I certify that the foregoing **Order On Joint Motion For Continuance**, dated December 1, 2009, was sent this day in the following manner to the addressees listed below:

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

Dated: December 1, 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 Regular Mail To:

Roberto M. Durango, Esquire  
Assistant Regional Counsel  
Office of Regional Counsel  
U.S. EPA  
Centro Europa Building, Suite 407  
1492 Ponce de Leon Avenue  
San Juan, PR 00907-1417

Copy By Regular Mail To:

Nancy A. Soto Lleras, Esquire  
Director Legal Affairs  
Victoria Nunez Sierra, Esquire  
Municipality of Cayey  
P.O. Box 371330  
Cayey, PR 00737-1330