



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 2  
CARIBBEAN ENVIRONMENTAL PROTECTION DIVISION  
CITY VIEW PLAZA II BUILDING, 7<sup>TH</sup> FLOOR  
ROUTE 165 GUAYNABO, PUERTO RICO 00968

September 13, 2023

**VIA REGULAR MAIL**

[cromancapital@gmail.com](mailto:cromancapital@gmail.com)

Mr. Carlos R. Román González, President  
The Cliff Corp.  
P. O. Box 116  
Victoria Station  
Aguadilla, Puerto Rico 00605

Mr. Carlos R. Román González, President  
Grupo Caribe, LLC  
P. O. Box 367197  
San Juan, Puerto Rico 00936-7197

**Re: The Cliff Villas Hotel and Country Club Construction Project in Aguadilla, Puerto Rico  
Administrative Order on Consent  
Docket Number CWA-02-2023-3108  
NPDES Permit Numbers: PRR1000DV / PRR1000EP**

Dear Mr. Román González:

Enclosed please find a copy of the executed Administrative Order on Consent (AOC), Docket Number CWA-02-2023-3108, between The Cliff Corp., Grupo Caribe, LLC, and the U.S. Environmental Protection Agency.

For technical questions regarding the AOC, please contact Mr. José A. Rivera, Team Leader, Clean Water Act Team, at (787) 977-5842, or by email at [rivera.jose@epa.gov](mailto:rivera.jose@epa.gov). Any legal questions concerning this AOC should be directed to Ms. Suzette M. Meléndez-Colón, Office of Regional Counsel, Caribbean Team, at (787) 977-5822, or by email at [melendez-colon.suzette@epa.gov](mailto:melendez-colon.suzette@epa.gov).

Sincerely,

**CARMEN**

**GUERRERO PEREZ**

Carmen R. Guerrero Pérez

Director

Caribbean Environmental Protection Division

Digitally signed by CARMEN  
GUERRERO PEREZ  
Date: 2023.09.13 15:15:14 -04'00'

Enclosure

cc: Ángel Meléndez, DNER/WQA (via e-mail w/ enclosure)  
Miguel Torres, Esq., (via e-mail w/ enclosure)

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 2**

In the Matter of:

**THE CLIFF CORP.**

P. O. Box 116  
Victoria Station  
Aguadilla, Puerto Rico 00605

and

**GRUPO CARIBE, LLC**

P. O. Box 367197  
San Juan, Puerto Rico 00936-7197

**RESPONDENTS**

**THE CLIFF VILLAS HOTEL AND COUNTRY  
CLUB CONSTRUCTION PROJECT**

PR-4458 Road, Intersection with PR-111 Road  
Borinquen Ward  
Aguadilla, Puerto Rico

**NPDES Tracking Numbers: PRR1000DV /  
PRR1000EP**

Proceeding pursuant to Section 309(a) of the Clean  
Water Act, 33 U.S.C. § 1319(a).

**ADMINISTRATIVE  
ORDER ON CONSENT**

**DOCKET NUMBER  
CWA-02-2023-3108**

**I. PRELIMINARY STATEMENT**

1. This Administrative Order on Consent ("Order") is issued pursuant to the authority vested in the Administrator of the United States Environmental Protection Agency ("EPA") pursuant to Section 309(a) of the Clean Water Act ("CWA" or the "Act"), 33 U.S.C. § 1319(a).
2. The Administrator of EPA has delegated the authority to take this action to the Regional Administrator of Region 2, who in turn, has delegated such authority to the Director of the Caribbean Environmental Protection Division ("CEPD").

## **II. LEGAL AUTHORITY**

3. Section 301(a) of the CWA, 33 U.S.C. § 1311(a), makes it unlawful for any person to discharge any pollutant from a point source to waters of the United States, except, among other things, with the authorization of, and in compliance with, a National Pollutant Discharge Elimination System (“NPDES”) permit issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342.
4. Section 402 of the CWA, 33 U.S.C. § 1342, authorizes the Administrator of EPA to issue an NPDES permit for the discharge of any pollutant, or combination of pollutants, subject to certain requirements of the CWA and conditions which the Administrator determines are necessary.
5. EPA is the agency within the Commonwealth of Puerto Rico with authority to administer the NPDES program. EPA maintains enforcement authority for violations of the CWA and its implementing regulations pursuant to Section 309 of the CWA, 33 U.S.C. § 1319.
6. The Administrator of EPA has promulgated regulations, 40 C.F.R. §§ 122.26(a)(1)(ii) and 122.26(b)(14), which require operators to obtain a NPDES permit for storm water discharges associated with industrial activity. The regulations at 40 C.F.R. § 122.26(b)(14)(x) define construction activities, including clearing, grading and excavation, except operations that result in the disturbance of less than five acres of total land area. The term construction activity also includes the disturbance of less than five acres of total land area that is a part of a larger common plan of development or sale if the larger common plan will ultimately disturb five acres or more.
7. On January 18, 2022, pursuant to Section 402 of the CWA, 33 U.S.C. § 1342, EPA re-issued the National Pollutant Discharge Elimination System Construction General Permit for Stormwater Discharges from Construction Activities (“2022 CGP”). The 2022 CGP became effective on February 17, 2022, and expires on February 16, 2027.
8. The 2022 CGP established requirements and conditions, including among others, the development of a Storm Water Pollution Prevention Plan (“SWPPP”); submittal of electronic Notice of Intent (“eNOI”) forms; design, installation, and maintenance of storm water controls (i.e., “Best Management Practices”) and pollution prevention controls; performance and documentation of inspections; and implementation and documentation of corrective actions.
9. Section 309(a) of the CWA, 33 U.S.C. § 1319(a), authorizes the Administrator to issue an order requiring compliance or to commence a civil action when any person is found to be in violation of Sections 301 or 308 of the CWA, 33 U.S.C. §§ 1311 or 1318, or in violation of any permit condition or limitation in a permit issued under Section 402 of the CWA, 33 U.S.C. § 1342.

## **III. FINDINGS OF FACT**

10. The Cliff, Corp. (“The Cliff” or “Respondent The Cliff”) is a corporation organized under the laws of the Commonwealth of Puerto Rico.

11. The Cliff is the owner of a property identified with Puerto Rico Tax Parcel 023-055-165-35, at approximate coordinates 18.448184 N and 67.159583 W. The Cliff is also the Lessee of an adjacent property identified with Puerto Rico Tax Parcel 023-065-165-20-901 with approximate coordinates 18.446184 N and 67.158335 W, whose owner and Landlord is Aguadilla Pier Corp. by virtue of a private Lease Agreement (“Leased Property”). Both properties are adjoining to each other and share an access road from PR-4458 Road located in Aguadilla, Puerto Rico. The Leased Property has an area of approximately 4.6 acres.
12. The Cliff is the owner of an ongoing construction project at The Cliff Property known as “The Cliff Villas Hotel and Country Club Construction Project” (the “Project” or the “Construction Project”).
13. The construction activities at the Project include, among others, earth movement activities (i.e., grubbing, clearing, grading and excavation) at 9.5 acres, and the construction of 86 villas, a country club, two tennis courts, and internal roads with access roads from the Leased Property. Certain Project’s supporting construction activities are also conducted in the Leased Property.
14. The Project and Leased Property have outfalls, which are “point sources” within the meaning of Section 502(14) of the CWA, 33 U.S.C. § 1362(14), and 40 C.F.R. § 122.2.
15. Grupo Caribe, LLC (“Grupo Caribe” or “Respondent Grupo Caribe”) is a corporation organized under the laws of the Commonwealth of Puerto Rico.
16. The Cliff contracted Grupo Caribe to perform construction activities at the Project.
17. Grupo Caribe began construction activities at the Project on or about February 21, 2022.
18. Respondents are operators of the Project’s supporting construction activities at the Leased Property.
19. On April 29, 2022, The Cliff submitted an eNOI for the Project under the 2022 CGP to get coverage under the CWA. EPA put the eNOI on hold on May 2 and 3rd, 2022, to address concerns associated to National Marine Fisheries Service’s requirements.
20. On June 23, 2022, EPA granted The Cliff coverage under the 2022 CGP, tracking number PRR1000DV, which authorizes The Cliff to discharge stormwater containing pollutants from construction activities into the Atlantic Ocean.
21. Pursuant to Section 308(a) of the CWA, 33 U.S.C. 1318(a), on June 9, 2022, EPA performed a NPDES Stormwater Inspection (the “2022 Inspection”) of the Project. The findings of the 2022 Inspection were documented in the NPDES Stormwater Inspection Report, dated June 23, 2022 (the “June 2022 Inspection Report”).

22. On June 27, 2022, EPA issued an Administrative Compliance Order (“2022 ACO”), Docket Number CWA-02-2012-3108, against The Cliff and Grupo Caribe pursuant to Section 309(a) of the CWA, U.S.C. § 1319(a). A copy of the June 2022 Inspection Report was included in the 2022 ACO.
23. The 2022 ACO required The Cliff and Grupo Caribe to prepare a Plan of Action addressing, among others, the actions to be taken and an implementation schedule to modify and re-certify The Cliff SWPPP; to modify the eNOI submitted by The Cliff for the Project; Grupo Caribe’s submittal of a complete and accurate eNOI for the Project; and specific tasks to be performed for the design and installation of stormwater controls in accordance with good engineering practices, including applicable design specifications.
24. The 2022 ACO required The Cliff and Grupo Caribe to implement the Plan of Action at the Project as quickly as possible, but no later than August 28, 2022.
25. On June 28, 2022, officials from The Cliff and Grupo Caribe signed and certified an updated The Cliff SWPPP for the Project.
26. On June 30, 2022, Grupo Caribe submitted an eNOI for the Project under the 2022 CGP.
27. On July 14, 2022, EPA granted Grupo Caribe coverage under the 2022 CGP for the Project, tracking number PRR1000EP, which authorizes Grupo Caribe to discharge stormwater containing pollutants from construction activities into the Atlantic Ocean.
28. On July 1 and 19, 2022, counsel for The Cliff and Grupo Caribe notified EPA of their intention to confer with EPA.
29. On July 14, 2022, The Cliff submitted a “Change NOI” under the 2022 CGP.
30. On July 28, 2022, The Cliff and Grupo Caribe submitted the Plan of Action to EPA.
31. On August 17 and 18, 2022, Grupo Caribe sent to EPA a copy of weekly Inspection Reports prepared for the Project between June 20, 2022, and August 16, 2022.
32. On August 18, 2022, representatives from The Cliff, Grupo Caribe and EPA met to discuss The Cliff’s and Grupo Caribe’s actions to comply with the 2022 ACO and 2022 CGP. Per EPA’s request, The Cliff and Grupo Caribe agreed to amend the Plan of Action, the latest updated The Cliff SWPPP and site plans and drawings for the Project.
33. On September 1, 2022, The Cliff and Grupo Caribe submitted an amended Plan of Action, a Monthly Progress Report, an amended The Cliff SWPPP, and an updated site plan and erosion and sediment control plan for the Project.

34. Pursuant to Section 308(a) of the CWA, 33 U.S.C. § 1318(a), on February 23, 2023, EPA conducted a NPDES Stormwater Inspection of the Project (the “Project Inspection”) to determine The Cliff’s and Grupo Caribe’s compliance with the 2022 ACO and the 2022 CGP. Respondents state that contemporaneously with the Project Inspection citizen demonstrations against the Project were occurring.
35. The findings of the Project Inspection were documented in the NPDES Stormwater Inspection Report, dated April 21, 2023 (the “The Cliff Inspection Report”). A copy of The Cliff Inspection Report was sent to Respondents on April 28, 2023. Respondents acknowledged receipt of The Cliff Inspection Report on May 4, 2023.
36. On May 24, 2023, officials from Respondents and EPA conferred to discuss the 2022 ACO, the Cliff Inspection Report and Respondents’ proposed actions to address the findings of the inspection reports and compliance with the 2022 CGP.
37. On July 7, 2023, a consultant for Respondents submitted to EPA a document in response to The Cliff Inspection Report.
38. On July 13, 2023, officials from Respondents and EPA conferred again to discuss Respondents’ actions taken and to be taken to address compliance with the 2022 CPG.
39. On August 23, 2023, The Cliff submitted a Change eNOI for the Project.

#### **IV. CONCLUSIONS OF LAW AND FINDINGS OF VIOLATIONS**

40. Respondents are a “person” pursuant Section 502(5) of the Act, 33 U.S.C. § 1362(5), and 40 C.F.R. § 122.2.
41. The Project is a “facility” and a “construction activity”, as defined in 40 C.F.R. §§ 122.2 and 122.26(b)(14)(x), respectively.
42. The Project is a “point source” pursuant to Section 502(14) of the Act, 33 U.S.C. § 1362(14), and 40 C.F.R. § 122.2.
43. At all relevant times to this Order, Respondent The Cliff was and is the owner of the Project, and had and continues to have operational control over construction plans, site drawings and specifications, stormwater conveyances, and control designs, including the ability to make modifications to such at the Project.
44. Respondent The Cliff is an “operator”, as defined in 40 C.F.R. § 122.2, and Appendix A of the 2022 CGP.

45. At all relevant times to this Order, Respondent Grupo Caribe had and continues to have day-to-day control of activities at the Project that were and are necessary to ensure compliance with the 2022 CGP.
46. Respondent Grupo Caribe is an “operator”, as defined in 40 C.F.R. § 122.2 and Appendix A of the 2022 CGP.
47. The outfalls at the Project and the Leased Property are “point sources” within the meaning of Section 502(14) of the CWA, 33 U.S.C. § 1362(14), and 40 C.F.R. § 122.2.
48. Sediments from construction activities at the Project are “pollutants”, as defined under Section 502(6) of the Act, 33 U.S.C. § 1362(6), and 40 C.F.R. § 122.2.
49. Respondents discharge stormwater containing “pollutants” within the meaning of Section 502(6) of the CWA, 33 U.S.C. § 1362(c), and 40 C.F.R. § 122.2, from the Project into the Atlantic Ocean.
50. The Atlantic Ocean is a navigable water of the United States pursuant to Section 502(7) of the CWA, 33 U.S.C. § 1362(7), and 40 C.F.R. § 122.2.
51. Respondents are therefore subject to the provisions of the CWA, 33 U.S.C. § 1251, *et seq.*, and the applicable NPDES regulations found at 40 C.F.R. §§ 122 and 450.
52. Based upon Paragraphs 10 to 51 above, The Cliff and Grupo Caribe failed to comply with Sections 309 and 402 of the CWA, 33 U.S.C. §§ 1319 and 1342, and the applicable NPDES regulations, by not complying with certain conditions and requirements of the 2022 CGP at the Project.

## V. CONSENT

53. Respondents and EPA have negotiated this Order in good faith, which is fair, reasonable, and consistent with the goals of the CWA.
54. Respondents, without admitting liability for the findings of violations asserted in this Order or the factual allegations set forth therein, admit that EPA has authority under Section 309(a) of the CWA to issue this Order and agrees to be bound by this Order.
55. Respondents waive any rights to contest the allegations and its right to appeal this Order.
56. The Ordered Provisions (Part VI) of this Order shall be binding upon Respondents, their officers, directors, agents, servants, authorized representatives and successors and assigns.
57. The Ordered Provisions (Part VI) of this Order supersedes the Ordered Provisions in Part IV of the 2022 ACO.

**VI. ORDERED PROVISIONS**

58. In consideration of the Legal Authority, Findings of Fact, and Conclusions of Law and Findings of Violations, and pursuant to the authority in Section 309 of the CWA, 33 U.S.C. § 1319, EPA has determined that compliance with the following requirements is reasonable, and Respondents so agree.

**EPA HEREBY ORDERS AND RESPONDENTS HEREBY CONSENTS THAT:**

59. **Except as otherwise indicated in this Order**, Respondents shall comply with the CWA, its implementing regulations and the 2022 CGP.

*Notice of Intent<sup>1</sup>*

60. **No later than seven (7) calendar days after the Effective Date of this Order**, Grupo Caribe shall submit a complete and accurate “Change NOI” thru “Central Data Exchange” (“CDX”) tool “Net” pursuant to the 2022 CGP. The “Change NOI” shall identify all outfalls and areas at The Cliff Property and the Leased Property where construction activities and supporting construction activities are conducted and will be conducted until completion of the Project. The Change NOI shall also include the estimated completion date for the Project.

61. **No later than fifteen (15) calendar days after the Effective Date of this Order**, Respondents shall develop and submit for EPA’s review, Project-specific documentation concerning the initiation and conclusion, whether temporary or final, of the earth movement activities at the Project, and the initiation and completion of the temporary and final stabilization pursuant to Part 7.2.3.f.i through iii of the 2022 CGP, which shall be included of The Cliff SWPPP for the Project.

*Stormwater Pollution Prevention Plan*

62. **No later than fifteen (15) calendar days after the Effective Date of this Order**, Respondents shall modify and submit for EPA’s review, The Cliff SWPPP pursuant to the 2022 CGP. The modified SWPPP shall address the findings included in the April 21, 2023 Inspection Report, including:

- a. construction schedule;
- b. site map;
- c. grading and stabilization activities for all construction activities and construction support activities conducted and to be conducted at the Project and the Leased Property;

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<sup>1</sup> Part 1.4 of the 2022 CGP.

- d. Project-specific inspection procedure and site inspection documentation (pursuant to Part 7.2.7 of the 2022 CGP);<sup>2</sup> and
- e. detailed description of the dust suppression techniques to be implemented at the Project and supporting construction activities to control and minimize dust (including fugitive dust) on areas of exposed soil which shall provide for the appropriate application of water or other dust suppression techniques to control the generation of pollutants that could be discharged in stormwater from the Project and supporting construction activities.

63. **No later than thirty (30) calendar days after the Effective Date of this Order**, Respondents shall prepare and submit for EPA's review, the following:

- a. a detailed description and site drawings for the storm water run-on management system to be implemented at The Cliff Property and Leased Property;
- b. a detailed description of erosion and sediment controls to be installed and maintained for the west perimeter of The Cliff Property; and
- c. the storm sewer drawings approved by the Commonwealth of Puerto Rico's permitting authority.

Upon receiving EPA's written notification, Respondents shall amend the SWPPP to address the installation of stormwater run-on management controls and erosion and sediment controls at the east and west perimeters, respectively, not later than thirty (30) calendar days from EPA's notification.

64. **Until Termination of this Order**, Respondents shall maintain a daily rain gauge log at the Project.

*Reporting Requirements*

65. **Until Termination of this Order**, Respondents shall prepare and submit Monthly Compliance Progress Reports ("MCPR") that describe the current status and progress of the actions that Respondents have taken to comply with the provisions of this Order. Respondents shall:

- a. submit each MCPR to EPA no later than the fifteenth (15<sup>th</sup>) day of the month following the month that is the subject of the report; and
- b. indicate in the MCPR, at a minimum, the following:

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<sup>2</sup> Part 7 of the 2022 CGP.

- 1) the specific activities undertaken by Respondents relating to the completion of work required under this Order, including, but not limited to, the expected date for “substantial completion,” defined as the date when the project is sufficiently completed such that it can be used to accomplish the purposes for which it was intended, and identification of those requirements which have been accomplished since the previous MCPR, including the dates of substantial completion of any of the remedial actions, capital improvements, or any other actions identified in this Order;
- 2) any impediments Respondents encountered in meeting the compliance schedules, the steps that Respondents have taken to overcome such impediments, and the steps that Respondents will take to overcome such impediments, including the anticipated dates by which such steps will be taken;
- 3) a copy of the daily rain gauge log pursuant to Paragraph 64 of this Order, above;
- 4) a copy of the grading and stabilization activities documentation pursuant to the The Cliff SWPPP and Part 7.2.3 of the 2022 CGP;
- 5) a copy of all site inspection documentation prepared for the Project pursuant to Part 4.7 of the 2022 CGP and Paragraph 62.d of this Order, above; and
- 6) a copy of all corrective actions logs pursuant to Part 5.4 of the 2022 CGP.

If Respondents have already submitted a deliverable to EPA, Respondents shall reference that deliverable in the MCPR and its date of submission, instead of submitting another copy of that deliverable to EPA.

## **VII. REVIEW AND APPROVAL PROCEDURES**

66. Unless indicated otherwise in this Order, the review and approval procedures set forth in this Section shall apply to any deliverable that Respondents are required to submit for EPA’s review and approval pursuant to this Order.
67. After EPA’s receipt of the deliverable, EPA may: (i) approve the submission; (ii) approve the submission or portions of the submission with specified conditions; (iii) approve part of the submission and disapprove the remainder; or (iv) disapprove the submission and direct Respondents to modify the submission.
68. In the event of approval of the complete submission, Respondents shall proceed to take all actions required in accordance with the schedule contained therein, as approved in writing by EPA.
69. In the event of written partial approval of specified conditions, Respondents shall proceed to take the actions identified in the non-deficient portion.

70. Upon receipt of a notice of disapproval of all or part of the submission from EPA, Respondents shall, within ten (10) calendar days (or any other extended period authorized by EPA), correct the deficiencies as directed by EPA's written comments and resubmit for approval.
71. In the event that the resubmitted document or portion thereof is disapproved by EPA, EPA may again require Respondents to correct the deficiencies.
72. If Respondents timely submit or resubmit a document for review and approval, and if EPA fails to approve, provide comments or otherwise act on a submittal within thirty (3) calendar days of receipt of the submittal, Respondents shall be entitled to an extension of time as long as Respondents can demonstrate it will not be able to meet the deadline as a result of the length of the review process.
73. If Respondents submit or resubmit a document or other deliverable that fails to contain all of the required elements of this Order, Respondents shall be deemed to have failed to make the submission.

#### **VIII. GENERAL PROVISIONS**

74. Any technical questions concerning this Order should be directed to: Mr. José A. Rivera, Lead Environmental Engineer, Clean Water Act Team, Multimedia Permits and Compliance Branch, Caribbean Environmental Protection Division, at (787) 977-5842, or by email at [rivera.jose@epa.gov](mailto:rivera.jose@epa.gov). Any legal questions concerning this Order should be directed to: Mrs. Suzette M. Meléndez-Colón, Office of Regional Counsel, Caribbean Team, at (787) 977-5822, or by email at [melendez-colon.suzette@epa.gov](mailto:melendez-colon.suzette@epa.gov).
75. All documents to be submitted by Respondents as part of this Order shall be sent by electronic mail, as a PDF document, to Mr. José A. Rivera at [rivera.jose@epa.gov](mailto:rivera.jose@epa.gov).
76. Pursuant to 40 C.F.R. § 122.22, all information or documents required to be submitted by Respondents by electronic mail shall be signed by an authorized representative of Respondents, and shall include the following certification:

*"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated 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 fine and imprisonment for knowing violations."*

77. Respondents waive any and all claims for relief and otherwise available rights to administrative or judicial review of any issue of law or fact, or any other provision, set forth in this Order, including, but not limited to, any right of judicial review of this Order under the Administrative Procedure Act, 5 U.S.C. §§ 701-708.
78. Notwithstanding any other provision of this Order, Respondents reserve their right to contest liability in any subsequent action filed by EPA to seek penalties for a violation of this Order, and reserves their right to contest liability in any subsequent action for any violations EPA has alleged in this Order. Respondents reserve all defenses to any action asserted or taken by EPA under its reservations in this Order or otherwise.
79. This Order does not constitute a waiver from compliance with, or a modification of, the effective terms and conditions of the CWA, its implementing regulations, or any applicable permit, which remain in full force and effect. This Order is an enforcement action taken by EPA to ensure swift compliance with the CWA. Issuance of this Order shall not be deemed an election by EPA to forego any civil or criminal actions for penalties, fines, imprisonment, or other appropriate relief under the CWA.
80. Notice is hereby given that should EPA commence an action in a United States District Court for a violation of any Ordered Provision of this Order, Respondents may be subject to:
- a. civil penalties up to \$64,618 per day under Section 309(d) of the CWA, as modified by 40 C.F.R. Part 19, pursuant to Section 309(d) of the Act, 33 U.S.C. § 1319(d); and/or
  - b. injunctive relief, pursuant to Section 309(b) of the Act, 33 U.S.C. § 1319(b), as imposed by the Court.
81. If any provision of this Order is held by a court of competent jurisdiction to be invalid, any surviving provisions shall remain in full force and effect.

**IX. DELAY OF PERFORMANCE/FORCE MAJEURE**

82. "Force Majeure," for purposes of this Order, is any event entirely beyond the control of Respondent or any entity controlled by Respondents that delays or prevents performance of any obligation under this AOC, notwithstanding Respondents' best efforts to avoid the delay. The best efforts requirement includes using best efforts to anticipate any such event and to minimize the delay caused by any such event to the greatest extent practicable. Examples of events that are not force majeure events include, but are not limited to, increased costs or expenses of any work to be performed under this Order, Respondents' financial or business difficulties, and normal inclement weather.
83. Unless otherwise specified, if any event may occur or has occurred that may delay the performance of any obligation under this Order, whether or not caused by a force majeure, Respondent shall notify Mr. José A. Rivera, Lead Environmental Engineer, Clean Water Act Team, Multimedia

Permits and Compliance Branch, Caribbean Environmental Protection Division, by telephone at 787-977-5842, and by electronic mail ([rivera.jose@epa.gov](mailto:rivera.jose@epa.gov)), within four (4) business days of when Respondents knew or reasonably should have known that the event might cause a delay. Within ten (10) calendar days thereafter, Respondents shall provide in writing the reasons for the delay, the anticipated duration of the delay, the measures taken or to be taken to prevent or minimize the delay, and a timetable by which those measures will be implemented. Respondents shall exercise its best efforts to avoid or minimize any delay and any effects of a delay. Failure to comply with the notice requirement of this paragraph shall preclude Respondents from asserting any claim of force majeure.

84. If EPA agrees that an actual or anticipated delay is attributable to force majeure, the time for performance of the obligation shall be extended by written agreement of the parties. An extension of the time for performing an obligation directly affected by the force majeure event shall not, of itself, extend the time for performing a subsequent obligation. The time of performance of any subsequent obligation that is directly impacted by an extension of time granted for an obligation due to a force majeure event shall be extended at the request of the Respondents. EPA will review Respondents' request and will provide a new set of compliance date(s) in writing, if deemed necessary.
85. Respondents shall have the burden of demonstrating, by a preponderance of the evidence, that the actual or anticipated delay has been or will be caused by a force majeure event, that the duration of the delay was or will be warranted under the circumstances, that Respondents did exercise or is using its best efforts to avoid and mitigate the effects of the delay, and that Respondents complied with the requirements of this section.

#### **X. TERMINATION AND SATISFACTION**

86. After Respondents have complied with all the Ordered Provisions of this Order, Respondents may serve upon EPA a Request for Termination, stating that Respondents have satisfied those requirements, together with all necessary supporting documentation. The Request for Termination shall:
  - a. state the actions Respondents have taken to comply with this Order; and
  - b. be signed and certified in accordance with Paragraph 76, above.
87. Following receipt by EPA of Respondents' Request for Termination, within thirty (30) calendar days or at another mutually agreed upon time, EPA and Respondents shall confer informally concerning the Request and any disagreement that EPA and Respondents may have as to whether Respondent has satisfactorily complied with the requirements for termination of this Order. If EPA agrees, it will close-out this Order by informing Respondents in writing of such decision. However, the determination to close-out this Order shall be solely in the discretion of EPA.
88. Any violation of this Order may be grounds for EPA to terminate this Order in its sole discretion.

**XI. EFFECTIVE DATE AND EFFECT OF CONSENT**

89. This Order shall become effective upon the date of execution by the undersigned Director, Caribbean Environmental Protection Division, Region 2, EPA.
90. Each undersigned signatory to this Order certifies that he is duly and fully authorized to enter into or ratify this Order and all of the applicable terms and conditions set forth herein.
91. Respondents and EPA shall bear their own costs of this Order, including attorneys' fees.
92. Respondents hereby consents to the issuance of this Order and agrees to be bound thereby.
93. Nothing in this Order limits Respondents' obligations to comply with the requirements of all applicable federal and Commonwealth of Puerto Rico laws and regulations.

**FOR THE CLIFF CORP.:**



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**CARLOS R. ROMÁN GONZÁLEZ**  
President

Dated: 9-12-2023

**FOR THE GRUPO CARIBE, LLC:**



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**CARLOS R. ROMÁN GONZÁLEZ**  
President

Dated: 9-12-2023

**FOR UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, REGION 2:**

**CARMEN  
GUERRERO PEREZ**

Digitally signed by  
CARMEN GUERRERO PEREZ  
Date: 2023.09.13 15:20:13  
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**CARMEN R. GUERRERO PÉREZ**  
Director  
Caribbean Environmental Protection Division

Dated: September 13, 2023