



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

October 7, 2022

VIA EMAIL

Mr. Orlando R. Ortiz Baez
Salinas Waterfront Investment Corporation
P.O. Box 16072
San Juan, Puerto Rico, 00908
Email: orlando24us@yahoo.com

**Re: Information Request Pursuant to Section 308 of the Clean Water Act
Tax Parcel 417-000-006-04-998 located in Salinas, Puerto Rico
RFI ID: CEPD-CWA-02-IR-2023-001**

Dear Mr. Ortiz Baez:

The United States Environmental Protection Agency (“EPA” or “Agency”) is charged with the protection of human health and the environment under the Clean Water Act (“CWA” or “Act”), 33 U.S.C. §§ 1251 *et seq.* Section 301(a) of the CWA, 33 U.S.C. § 1311(a), provides in part that except as in compliance with Sections 402 and 404 of the CWA, 33 U.S.C. §§ 1342 and 1344, the discharge of any pollutant and/or discharge of dredged or fill material by any person shall be unlawful.

Through review of publicly available aerial imagery, EPA has found that land clearing and grubbing activities and filling of wetlands with earthen material, may have been conducted and resulted in unpermitted discharge of pollutants and fill material into waters of the United States.¹ These activities concern a property identified as Tax Parcel 417-000-006-04-998, located in the municipality of Salinas, Puerto Rico (the “Site” or “Property”). The wetlands on the Property are adjacent to the Río Nigua, a water of the United States. Refer to **Exhibit 1** and **Exhibit 2** of this request for information (“RFI”) for copy of aerial images of the Property.

EPA believes that Salinas Waterfront Investment Corporation (“SWI”) owns the Site and may have conducted such activities. Therefore, EPA is investigating this matter, as possible violations of Sections 301(a) and 404 of the CWA, and implementing regulations, which require prior authorization through a Department of the Army permit for discharges of dredged or fill material into waters of the United States. Also, EPA has reason to believe the land clearing and grubbing activities conducted at the Site require coverage under a National Pollutant Discharge Elimination System (“NPDES”) permit pursuant to Sections 301(a) and 402(p) of the CWA, 33 U.S.C. § 1311(a) and 1342(p), for storm water discharges associated with construction activity or small construction activity.²

¹ Refer to 40 C.F.R. 122.2 for the definition of waters of the United States.

² Refer to 40 C.F.R. §§ 122.26(b)(14)(x) and 122.26(b)(15) for the definition of storm water discharges associated with

Section 308(a) of the CWA, 33 U.S.C. § 1318, provides that whenever required to carry out the objectives of the CWA, including determining whether a person is in violation of the CWA, EPA shall require that person to provide such information as may reasonably be required to make such a determination. EPA therefore requests from SWI responses to the questions set forth in the enclosed “**Attachment A**” and “**Attachment B**.”

In your response to this RFI, if SWI has reason to believe that there may be a person (or persons) who may be able to provide a more detailed or complete response to a specific request or may be able to provide additional responsive documents, as a part of your response to that request, identify each such person and the additional information or documents which such person may be able to provide. Furthermore, for each and every response to a specific request, if information or documents responsive to the request are not in your possession, custody, or control, as part of your response to that request, identify each person from whom the information or documents may be obtained.

Because this is a formal RFI issued to SWI pursuant to Section 308(a) of the CWA, SWI is legally required to respond and submit the information requested within a reasonable time frame. EPA requests that SWI fully respond and submit the requested information within **thirty (30) calendar days** of receipt of this letter by email. To the extent possible, any documents to be submitted should be in Portable Document Format (“PDF”).

Please forward the response and the requested information as set forth in Attachment A and Attachment B. The requested information should be sent to:

Ms. Seika E. Robinson
Physical Scientist
Wetlands Protection Section
Watershed Management Branch
Tel: (212) 637-3822
Email: robinson.seika@epa.gov

and

Ms. Yolianne Maclay, P.E.
Senior Environmental Engineer
Clean Water Act Team
Multimedia Permits and Compliance Branch
Caribbean Environmental Protection Division
Tel: (787) 977-5849
Email: maclay.yolianne@epa.gov

SWI’s obligation to respond to this request is ongoing. Therefore, should any additional responsive information or documentation become available after SWI has provided responsive documents, SWI is under continuing obligation to provide such information or documentation to EPA.

Failure to respond to this RFI may subject SWI to enforcement pursuant to Section 309 of the CWA, 33

construction activity or small construction activity, respectively

U.S.C. §1319, as part of which EPA may seek injunctive relief and penalties.

Should you have any questions regarding this request, please contact Ms. Robinson at (212) 637-3822, robinson.seika@epa.gov or Ms. Maclay at (787) 977-5849, maclay.yolianne@epa.gov.

Thank you for your prompt attention to this matter.

Sincerely,

CARMEN

GUERRERO PEREZ

Carmen R. Guerrero Pérez

Director

Caribbean Environmental Protection Division

Digitally signed by CARMEN
GUERRERO PEREZ

Date: 2022.10.07 14:35:30
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Enclosures: Exhibit 1
Exhibit 2
Attachment A
Attachment B

ATTACHMENT A

The RFI is issued to Salinas Waterfront Investment Corporation (“SWI”) regarding a site located on tax parcel number 417-000-006-04-998 located in the Municipality of Salinas, Puerto Rico.

In the questions below, “you” means SWI. “The Site” means the site located on tax parcel number 417-000-006-04 in the municipality of Salinas, Puerto Rico. “Work” means activities, including but not limited to, earthmoving, dumping, excavation, mechanized and/or manual vegetation-clearing activities, logging and tree removal, roadway construction, stockpiling, and placing fill or dredged material.

Please provide the following related to the Work at the Site:

1. A description of current and recent (past five years) ownership of the Site, specifically ownership information for each of the above identified parcels. Please include any documentation (e.g., deeds) supporting the description of ownership, as applicable.
2. A description and any documentation of leasing of the Site within the last 10 years.
3. A description of the nature and the purpose of the Work at the Site.
4. A list of the dates on which the Work at the Site was performed.
5. A list of the names and titles of persons who conducted and/or gave orders for, or had oversight or supervision over, the Work at the Site. For each such person, describe each person’s role in the Work at the Site, including the names of contractors and/or construction companies who conducted and/or gave orders for, or had oversight or supervision over, the Work at the Site.
6. Copies of any land survey, construction, or engineering plans for the Work at the Site or for any portion thereof.
7. A copy of each construction and/or engineering plan SWI submitted to any federal regulatory agency, Municipality of Salinas, Permits Management Office (“OGPe”), Puerto Rico Department of Natural and Environmental Resources, Puerto Rico Land Authority, and any other local or commonwealth agency, for permits or other authorizations for the Work at the Site.
8. A copy of any and all documents related to governmental approvals and requests for the Work at the Site.
9. A description of the type, volume, and source of any fill material used in the Work at the Site.
10. A description of the locations and depths of fill at the Site.
11. A description of the manner in which the Work at the Site was conducted, including the type of equipment used in conducting the Work at the Site.

12. Copies of any correspondence or communication you have exchanged with or information you have received from any Federal, Commonwealth, local, or other agencies relating to the status of any portion of the Site as wetlands, streams, or as areas of environmental or ecological significance.
13. Copies of any aerial photographs, surveys, reports, maps or plans depicting the pre-existing and current conditions relating to topography, soils, and hydrology at the Site.
14. If the Work at the Site is related to farming, ranching, silviculture, or any other activities, please describe to the best of your knowledge the nature and locations of ongoing agricultural activities prior to commencement of the Work and any such activity during the twenty years prior to initiation of the Work.
15. Information relating to whether the Work at the Site included any modification to the depths and/or widths of any ditches on the Site, and if so, please provide descriptions of the locations and the specific modifications made.

ATTACHMENT B

This Request for Information concerns all Salinas Waterfront Investment Corporation's ("SWI") earth movement activities, including clearing, grading and excavation, at the site located on tax parcel number 417-000-006-04-998 located in the municipality of Salinas, Puerto Rico.

Please use the RFI ID Number (CEPD-CWA-02-IR-2023-001) when referring to this Request for Information. Some petitions on this Request for Information refer to the 2022 NPDES General Permit for Construction Activities ("CGP"), which is available at <https://www.epa.gov/npdes/2022-construction-general-permit-cgp>.

1. Submit the name(s) of the owner(s) of the Site being developed. Submit their addresses, emails, and contact telephone numbers.
2. Indicate the date when the current owner(s) acquired the Site.
3. If SWI is the owner of the Site, submit a copy of the deed(s) for all parcels being developed.
4. The names of the developers of the Site. Submit their addresses, emails, and contact telephone numbers.
5. Submit a description of the development and nature of the construction activities at the Site. Refer to Part 7.2.3 of the CGP.
6. A copy of the construction contracts between the owners of the Site and SWI. If there was an oral agreement to conduct earth movement activities, please explain the terms of such agreement and the names of the persons involved.
7. A copy the NPDES permit applications that SWI submitted to EPA for the Site.
8. A copy of the Stormwater Pollution Prevention Plan ("SWPPP") that SWI prepared for the Site, including all attachment thereto.
9. A copy of any written plans and drawings developed concerning erosion and sediment controls and soil stabilization practices for the Site, including those developed under the Puerto Rico Department of Environmental and Natural Resources' Regulation for the Control of Erosion and Prevention of Sedimentation.³
10. A copy the "Permiso General Consolidado" from OGPe/Puerto Rico Department of Natural and Environmental Resources and all of the documents related to this permit, including but not limited to a copy of the "Plan de Control de Erosión y Sedimentación" ("Plan CES").
11. The date when SWI mobilized to the Site. Refer to the Appendix A of the CGP.
12. The date when SWI began earth movement activities at the Site. Refer to the information requested

³ <http://app.estado.gobierno.pr/ReglamentosOnLine/Reglamentos/5754ING.pdf>

for completion of the electronic Notice of Intent (“eNOI”) form under Part 1.4 of the CGP.

13. Periods of time when SWI cease earth movement activities at the Site. Refer to Part 2.2.14 of the CGP.
14. The total area of surface soil (in acres) that SWI has disturbed at the Site as of the date of this letter. Refer to Part 7.2.3 of the CGP.
15. The total area of surface soil (in acres) that SWI will disturb at the Site at the completion of the construction activities at the Site. Refer to Part 7.2.3 of the CGP.
16. The expected date when SWI will be completing construction activities at the Site. Refer to the information requested for completion of the eNOI under Part 1.4 of the CGP.
17. A legible copy of any land surveys, soil studies, and hydrologic/hydraulic studies that SWI had prepared and/or obtained for the Site. Include any legible picture depicting the areas in the Site where SWI had conducted earth movement activities as of the date of this letter. Refer to Part 7.2 of the CGP.
18. A color copy of all available aerial photographs taken by SWI for the Site for the last year.
19. A detailed description of the erosion and sediment controls and soil stabilization practices that SWI had applied at the Site since prior to the initiation of earth movement activities to the date of this letter. Refer to Parts 2 and 7 of the CGP.
20. A copy of any as-built legible map showing the features of the Site. Indicate in the legible map, the areas of the Site that SWI impacted by conducting earth movement activities and the areas in which SWI had applied soil stabilization. Refer to Part 2.2.14 of the CGP.
21. A copy of the inspection reports prepared by SWI from the initiation of the earth movement activities up to the date of this letter. Indicate the names of the individuals that performed the site inspections and their qualifications to conduct the inspections. Refer to Part 4 of the CGP.
22. A copy of all corrective action reports prepared by SWI from the initiation of the earth movement activities up to the date of this letter. Refer to Part 5 of the CGP.
23. A copy of the most recent construction schedule for the Site. Refer to Part 7.2.3.f. of the CGP.
24. A detailed description of how SWI had managed storm water runoff at the Site since the initiation of the earth movement activities to the date of this letter. Refer to Part 7.2.6 of the CGP.
25. A copy of all staff training documentation for the Site. Refer to Part 7.2.8 of the CGP.
26. A picture depicting any rain gauge that SWI had installed and retained at the Site since it began earth movement activities to the date of this letter.
27. A copy of any logs that SWI used and uses to record rain precipitation data collected at the Site since the initiation of the earth movement activities to the date of this letter.

28. Describe method of collection, treatment and disposal of sanitary wastes that will be generated at the Site.