



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

December 13, 2022

**VIA ELECTRONIC MAIL**

Mr. Alex González Cortés  
President  
Board of Directors  
Casa Castañer, Inc.  
P.O. Box 1026  
Lares, Puerto Rico 00631  
Email: [gonzalez.alexg@gmail.com](mailto:gonzalez.alexg@gmail.com)

**Re: Administrative Compliance Order  
Casa Castañer Wastewater Treatment Plant  
Docket Number CWA-02-2023-3103  
NPDES Permit Number PR0024333**

Dear Mr. González Cortés:

The United States Environmental Protection Agency (“EPA”), Region 2, has made findings that Casa Castañer, Inc. (“Casa Castañer”) is in violation of the Clean Water Act (the “Act”), 33 U.S.C. § 1251 et seq. Enclosed please find an electronic copy of the Administrative Compliance Order (“Order”), Docket Number CWA-02-2023-3103, issued pursuant to Sections 309(a) of the Act, 33 U.S.C. §1319(a), which details these findings of violation. Please return the Attachment 2 of the Order via electronic mail at [maclay.yolianne@epa.gov](mailto:maclay.yolianne@epa.gov) to acknowledge receipt of this Order.

Failure to comply with this Order may subject Casa Castañer to civil and/or criminal penalties pursuant to Section 309 of the Act. Failure to comply with this Order may also subject Casa Castañer to ineligibility for participation in work associated with Federal contracts, grants, or loans.

If you have any questions regarding this matter, please contact Mrs. Yolianne Maclay, P.E., Senior Environmental Engineer, Clean Water Act Team, at (787) 977-5849, or by email at [maclay.yolianne@epa.gov](mailto:maclay.yolianne@epa.gov).

Sincerely,

**CARMEN**

**GUERRERO PEREZ**

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Carmen R. Guerrero Pérez

Director

Caribbean Environmental Protection Division

#### Enclosures

cc: Ángel Meléndez, DNER/WQA (via email at [angel.melendez@drna.pr.gov](mailto:angel.melendez@drna.pr.gov) w/ enclosure)  
Maribel González, Administrator (via email at [castaner-adm@hpi-pr.com](mailto:castaner-adm@hpi-pr.com) w/ enclosure)  
Miguel A. Maldonado García (via email at [mmaldonado@hpi-pr.com](mailto:mmaldonado@hpi-pr.com) w/ enclosure)

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 2**

**IN THE MATTER OF:**

**CASA CASTAÑER, INC.**  
P. O. Box 1026  
Lares, Puerto Rico 00631

**CASA CASTAÑER WASTEWATER TREATMENT PLANT**  
PR-135 Road, Km. 63.4, Castañer Ward  
Lares, Puerto Rico

NPDES Permit PR0024333

**RESPONDENT**

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

**ADMINISTRATIVE  
COMPLIANCE ORDER**

**DOCKET NUMBER  
CWA-02-2023-3103**

**I. STATUTORY AUTHORITY**

1. This Administrative Compliance (“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 has delegated the authority to take these actions to the Regional Administrator of Region 2, who in turn, has delegated such authority to the Director of the Caribbean Environmental Protection Division.
3. Section 301(a) of the CWA, 33 U.S.C. § 1311(a), provides in part that “[e]xcept as in compliance with [CWA Section 402], the discharge of any pollutant by any person shall be unlawful.”
4. Section 402 of the CWA, 33 U.S.C. § 1342, defines the National Pollutant Discharge Elimination System (“NPDES”) as the national program for, among other things, issuing and enforcing discharge permits.
5. Section 402 of the CWA authorizes the Administrator to promulgate regulations for the implementation of the NPDES requirements.

6. Section 402(a)(1) of the CWA, 33 U.S.C. § 1342(a)(1), provides that “the Administrator may, after opportunity for public hearing, issue a permit for the discharge of any pollutant upon condition that such discharge will meet such requirements as the Administrator determines are necessary to carry out the provisions of the [CWA].”
7. Pursuant to the CWA, EPA promulgated regulations known as “EPA Administered Permit Programs: the National Pollutant Discharge Elimination System,” which was codified at 40 C.F.R. Part 122, as amended.
8. Pursuant to the NPDES regulations at 40 C.F.R. § 122.1(b)(1), the NPDES Permit Program requires permits for the discharge of any pollutant from any point source into waters of the United States.
9. The CWA and applicable implementing regulations contain the following relevant definitions and requirements implementing NPDES regulations:
  - a. “average monthly discharge limitation” means the highest allowable average of “daily discharges” over a calendar month, calculated as the sum of all “daily discharges” measured during a calendar month divided by the number of “daily discharges” measured during that month. 40 C.F.R. § 122.2;
  - b. “average weekly discharge limitation” means the highest allowable average of “daily discharges” over a calendar week, calculated as the sum of all “daily discharges” measured during a calendar week divided by the number of “daily discharges” measured during that week. 40 C.F.R. § 122.2;
  - c. “Director” means the Regional Administrator or the State Director, as the context requires, or an authorized representative. 40 C.F.R. § 122.2;
  - d. “Discharge Monitoring Report” (“DMR”) means the EPA uniform national form, including any subsequent additions, revisions, or modifications for the reporting of self-monitoring results by permittees. DMRs must be used by “approved States” as well as by EPA. EPA will supply DMRs to any approved State upon request. The EPA national forms may be modified to substitute the State Agency name, address, logo, and other similar information, as appropriate, in place of EPA's. 40 C.F.R. § 122.2;
  - e. “discharge of a pollutant” means any addition of any “pollutant” or combination of pollutants to navigable waters and/or “water of the United States” from any “point source”. Section 502(12) of the CWA, 33 U.S.C. § 1362(12), and 40 C.F.R. § 122.2;
  - f. “effluent limitation” means any restriction imposed by the Director on quantities, discharge rates, and concentrations of “pollutants” which are “discharged” from “point sources” into “waters of the United States,” the waters of the “contiguous zone,” or the ocean. 40 C.F.R. § 122.2;

- g. “facility” means any NPDES “point source” or any other facility or activity (including land or appurtenances thereto) that is subject to the regulations of the NPDES program. 40 C.F.R. § 122.2;
  - h. “maximum daily discharge limitation” means the highest allowable “daily discharge;”
  - i. “navigable waters” means the waters of the United States, including the territorial seas. Section 502(7) of the CWA, 33 U.S.C. § 1362(7);
  - j. “owner” or “operator” means the owner or operator of any “facility or activity” subject to regulation under the NPDES program. 40 C.F.R. § 122.2;
  - k. “person” means an individual, corporation, partnership, association, State, municipality, commission, or political subdivision of a State, or any interstate body. Section 502(5) of the CWA, 33 U.S.C. § 1362(5), and 40 C.F.R. § 122.2;
  - l. “point source” means any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged. Section 502(14) of the CWA, 33 U.S.C. § 1362(14), and 40 C.F.R. § 122.2;
  - m. “pollutant” means, among others, solid waste, dredged spoil, rock, sand, cellar dirt, sewage, sewage sludge and industrial, municipal and agricultural waste discharged into water. Section 502(6) of the CWA, 33 U.S.C. § 1362(6), and 40 C.F.R. § 122.2; and
  - n. “waters of the United States” means the territorial seas, waters which are currently used, were used or may be susceptible to use in interstate or foreign commerce, including waters which are subject to the ebb and flow of the tide, tributaries, lakes, ponds, impoundments of jurisdictional waters and wetlands. 40 C.F.R. §§ 120.2 and 122.
10. Pursuant to NPDES regulations at 40 C.F.R. § 122.41(e), the permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also include adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit.

11. Section 309(a)(3) of the CWA provides that “[w]henver on the basis of any information available . . . the Administrator finds that any person is in violation of [CWA Sections 301] or is in violation of any permit condition or limitation implementing any of such sections in a permit issued under [Section 402 of the Act, the Administrator] shall issue an order requiring such person to comply with such section....”
12. Section 309(a)(5)(A) of the CWA provides that “[a]ny order issued under [CWA Section 309] shall state with reasonable specificity the nature of the violation and shall specify a time for compliance . . . taking into account the seriousness of the violation and any good faith efforts to comply with applicable requirements.”
13. EPA is the agency within the Commonwealth of Puerto Rico with authority to administer the federal NPDES program. EPA maintains enforcement authority for violations of the Act and its implementing regulations under Section 309 of the Act.

## **II. FACTUAL FINDINGS**

14. Casa Castañer, Incorporated (“Respondent” or “Permittee”) is a non-profit community-based organization that owns Casa Castañer Housing Services (“Casa Castañer”).
15. Casa Castañer is located at PR-135 Road, Km. 63.4, Castañer Ward, Lares, Puerto Rico.
16. Casa Castañer is comprised of an eight-story apartment building that has laundry facilities, a storage area, an activity center, administrative offices, and a Wastewater Treatment Plant (“WWTP”).
17. Casa Castañer’s building is administrated by Housing Promoters, Inc.
18. The Casa Castañer WWTP treats sanitary wastewater generated at Casa Castañer.
19. On September 11, 2019, EPA issued to Respondent the NPDES permit number PR0024333 pursuant to Section 402 of the CWA, 33 U.S.C. §1342 (the “Permit”).
20. The Permit became effective on December 1, 2019.
21. The Permit expires on November 30, 2024.
22. The Permit authorizes the discharge of pollutants from the WWTP through outfall serial number 001 into Guayo River.
23. The Permit requirements include, but are not limited to, compliance with effluent limitations, monitoring and reporting requirements.
24. Part II.A of the Permit establishes final effluent characteristics, discharge limitations and monitoring requirements.

25. Part III.A.2 of the Permit requires Respondent to submit to EPA monitoring data, known as Discharge Monitoring Reports (“DMR”), in hard copy form or electronically using NeTDMR<sup>1</sup>.
26. Attachment B.1 of the Permit (Standard Conditions) requires Respondent to comply with all conditions of the permit. Any permit non-compliance constitutes a violation of the CWA and is grounds for enforcement action.
27. Attachment B.5 of the Permit (Standard Conditions) requires Respondent to at all times, properly operate and maintain (“O&M”) all treatment facilities and systems of treatment and control (and related appurtenances) which are installed or used by the Permittee to achieve compliance with the conditions of the Permit.
28. On August 31, 2022, an EPA Inspector performed an on-site NPDES Compliance Evaluation Inspection (the “Inspection”) of the WWTP.
29. The findings of the Inspection were included in the Inspection Report, dated September 21, 2022. On September 26, 2022, a copy of the Inspection Report was sent to Respondent via electronic mail by cover letter dated September 22, 2022.
30. On October 26, 2022, Mr. Miguel A. Maldonado, Housing Promoters, Inc.’s Vice-president, sent an email to an EPA official providing Respondent’s response to the findings of the Inspection Report (the “Response”).
31. An EPA official reviewed the Response and monitoring data submitted by Respondent to NeTDMR between September 2019 and June 2022 (the “Review”). The Review revealed that Respondent submitted monitoring data to EPA which exceeded effluent discharge limitations established in Part II.A of the Permit. **Attachment 1** of this Order contains the Inspection Report which includes a summary of the effluent limitation’s exceedances that Respondent exceeded during the time searched.

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

32. Respondent is subject to the provisions of the CWA, 33 U.S.C. § 1251, *et seq.*, the applicable NPDES regulations found at 40 C.F.R. § 122, and the Permit issued under Section 402 of the CWA, 33 U.S.C. § 1342.
33. Respondent is a “person” pursuant to Section 502(5) of the CWA, 33 U.S.C. § 1362(5), and 40 C.F.R. 122.2.
34. At relevant times to this Order, Respondent was and is the “owner and operator” of the WWTP, as defined in 40 C.F.R. § 122.2.

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<sup>1</sup> Refer to the following link <https://www.epa.gov/compliance/npdes-ereporting>.

35. The WWTP is a “facility”, as defined in 40 C.F.R. § 122.2.
36. The WWTP is a “point source” pursuant to Section 502(14) of the CWA, 33 U.S.C. § 1362(14), and 40 C.F.R. § 122.2.
37. At relevant times to this Order, Respondent discharged and continues to discharge “pollutants” from the WWTP into the Guayo River.
38. The Guayo River is a “water of the United States” pursuant to Section 502(7) of the Act, 33 U.S.C. § 1362(7), and 40 C.F.R. §§ 120.2 and 122.
39. Based upon paragraphs 14 to 38, above, Respondent violated Sections 301(a) and 402 of the CWA, 33 U.S.C. §§ 1311(a) and 1342, for its failure to comply with the final effluent limitations established in the Permit; therefore, Respondent is subject to an enforcement action under Section 309 of the CWA, 33 U.S.C. § 1319.

#### IV. **ORDERED PROVISIONS**

In consideration of the Findings of Fact and Conclusions of Law above, EPA has determined compliance with the following ordered provisions is consistent with the authority in Section 309 of the CWA, 33 U.S.C. § 1319. The Ordered Provisions contained in the Administrative Compliance Order, Docket Number CWA-02-2019-3108, are superseded by the Ordered Provisions contained hereinafter.

#### **IT IS HEREBY ORDERED:**

40. **Immediately upon receipt of the originals of this Order**, Respondent shall comply with all the requirements and conditions of the Permit.
41. **That within five (5) calendar days upon receipt of the originals of this Order by email** (“email”), an authorized representative of Respondent shall complete the acknowledgment of receipt included as **Attachment 2** of this Order and return it via email to Ms. Yolianne Maclay, P.E., Senior Environmental Engineer, Clean Water Act Team, Multimedia Permits and Compliance Branch, Caribbean Environmental Protection Division, U.S. Environmental Protection Agency, Region 2, at [maclay.yolianne@epa.gov](mailto:maclay.yolianne@epa.gov). Also, Respondent shall mail, by certified mail (or its equivalent), the signed acknowledgement of receipt to Ms. Maclay to the address specified in paragraph 45, below.
42. **That within forty-five (45) calendar days upon receipt of the originals of this Order by email**, Respondent shall develop and submit to EPA a detailed Plan of Action (“POA”) to bring the discharges from the WWTP into compliance with the final effluent limits established in the Permit. The Compliance Plan shall include an implementation schedule, and estimated costs.

43. **Until Termination of this Order**, Respondent shall prepare and submit Compliance Progress Reports (“Progress Reports”) describing the status and progress of Respondent’s actions taken to comply with the Ordered Provisions of this Order. Respondent shall:
- a. Submit the first Progress Report on February 15, 2023, and thereafter every two months (e.g., April 15, 2023).
  - b. Each Progress Reports shall include, at a minimum, the following:
    - i. The actions taken during the reporting period.
    - ii. Description of any non-compliance with this Order, including a statement describing the non-compliance, its underlying causes, and a proposed new date(s) to comply with this Order.
    - iii. A cost report detailing the expenses incurred during the reporting period.

**V. GENERAL PROVISIONS**

44. Any questions concerning this Order should be directed to Yolianne Maclay, P.E., Senior Environmental Engineer, Clean Water Act Team, Multimedia Permits and Compliance Branch, Caribbean Environmental Protection Division, at (787) 977-5849, or by email at [maclay.yolianne@epa.gov](mailto:maclay.yolianne@epa.gov).
45. Any documents to be submitted by Respondent as part of this Order shall be sent by certified mail or its equivalent, and shall be signed by an authorized representative (see 40 C.F.R. § 122.22), 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.”

46. All information required to be submitted under this Order shall be sent by email and certified mail (or its equivalent) to the following contacts and their addresses:

Mr. Ángel Meléndez  
Manager  
Water Quality Area  
Puerto Rico Department of Natural and Environmental Resources  
P. O. Box 11488  
San Juan, Puerto Rico 00910

Email: [angel.melendez@drna.pr.gov](mailto:angel.melendez@drna.pr.gov)

and

Yolianne Maclay, P.E.  
Senior Environmental Manager  
Clean Water Act Team  
Multimedia Permits and Compliance Branch  
Caribbean Environmental Protection Division  
U.S. Environmental Protection Agency, Region 2  
City View Plaza II, Suite 7000  
48 RD. 165 Km. 1.2  
Guaynabo, Puerto Rico 00968-8069  
Email: [maclay.yolianne@epa.gov](mailto:maclay.yolianne@epa.gov).

47. Respondent shall have the opportunity, for a period of twenty (20) days from the effective date of this Order, to confer, regarding the requested information and the Ordered Provisions, with the following designated Agency representatives:

José A. Rivera, BSCE  
Team Leader  
Clean Water Act Team  
Multimedia Permits and Compliance Branch  
Caribbean Environmental Protection Division  
U.S. Environmental Protection Agency, Region 2  
City View Plaza II, Suite 7000  
48 RD. 165 Km. 1.2  
Guaynabo, Puerto Rico 00968-8069  
Email: [rivera.jose@epa.gov](mailto:rivera.jose@epa.gov)  
Telephone: (787) 977-5842

and/or

Yolianne Maclay, P.E.  
Senior Environmental Manager  
Clean Water Act Team  
Multimedia Permits and Compliance Branch  
Caribbean Environmental Protection Division  
U.S. Environmental Protection Agency, Region 2  
City View Plaza II, Suite 7000  
48 RD. 165 Km. 1.2  
Guaynabo, Puerto Rico 00968-8069  
Email: [maclay.yolianne@epa.gov](mailto:maclay.yolianne@epa.gov).  
Telephone: (787) 977-5849

48. Respondent has the right to seek immediate federal judicial review of the Order pursuant to Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-706. Section 706, which

is set forth at <http://uscode.house.gov/download/pls/05C7.txt>, and provides the grounds for such review.

49. This Order does not constitute a waiver from compliance with, or a modification of, the effective terms and conditions of the CWA, the NPDES implementing regulations, or the 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.
50. Notice is hereby given that failure to comply with the terms of the CWA Section 309(a)(3) Compliance Order may result in Respondent's liability for civil penalties for each violation of up to \$59,973 per day under Section 309(d) of the CWA, 33 U.S.C. § 1319(d), as modified by 40 C.F.R. Part 19. Upon suit by EPA, the United States District Court may impose such penalties if the Court determines that Respondent has violated the CWA as described above and failed to comply with the terms of this Order. The District Court has the authority to impose separate civil penalties for any violations of the CWA and for any violations of this Order.
51. 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.
52. This Order shall become effective upon the date of execution by the Director, Caribbean Environmental Protection Division.

Dated: December 13, 2022

Signed: \_\_\_\_\_

**CARMEN  
GUERRERO  
PEREZ**

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**CARMEN R. GUERRERO PÉREZ**  
Director  
Caribbean Environmental Protection Division  
Environmental Protection Agency, Region 2