



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

December 23, 2022

VIA ELECTRONIC MAIL

Mr. Scott Nieboer
Operations Manager
Bolongo Bay Beach Resort
7150 Estate Bolongo
St. Thomas, VI 00802
Email: snieboer@bolongobay.com

**Re: Bolongo Bay Beach Resort Wastewater Treatment Plant
Administrative Compliance Order
Docket Number CWA-02-2023-3101
TPDES Permit VI00802**

Dear Mr. Nieboer:

The United States Environmental Protection Agency (“EPA”) has made findings that Bolongo Bay Beach Resort (“Respondent”) is in violation of Sections 301(a) and 402 of the Clean Water Act (the “Act”), 33 U.S.C. §§ 1311(a) and 1342, respectively. Enclosed please find an electronic copy of an Administrative Compliance Order (the “Order”), Docket Number CWA-02-2023-3101, issued pursuant to Section 309(a) of the Act, 33 U.S.C. §309(a), which details the findings of violation. Please return the **Attachment 2** of the Order via electronic mail at maclay.yolianne@epa.gov to acknowledge receipt of the Order.

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.

EPA urges 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: 2022.12.23 08:44:26 -04'00'

Enclosure

cc: Austin F. Callwood, DPNR/DEP (via email at austin.callwood@vi.gov with enclosure)
Mary Stiehler, DPNR (via email at mary.stiehler@dpnr.vi.gov with enclosure)

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2**

IN THE MATTER OF:

BOLONGO BAY BEACH RESORT

7150 Estate Bolongo,
St. Thomas, Virgin Islands 00802

Bolongo Bay Beach Resort Wastewater Treatment Plant
50 Estate Bolongo,
St. Thomas, Virgin Islands 0080012

TPDES Permit VI0080012

RESPONDENT

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

**ADMINISTRATIVE
COMPLIANCE ORDER**

**DOCKET NUMBER
CWA-02-2023-3101**

I. STATUTORY AUTHORITY

1. This Administrative Compliance Order (“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. Section 402(b) of the CWA, 33 U.S.C. § 1342(b), provides that at any time after the promulgation of the guidelines required by Section 304(i)(2) of the CWA, 33 U.S.C. § 1314(i)(2), the Governor of each State desiring to administer its own permit program for discharges into navigable waters within its jurisdiction may submit to the Administrator a full and complete description of the program it proposes to establish and administer under State law or under an interstate compact.”
8. Section 502(3) of the CWA, 33 U.S.C. § 1362(3), defines the term “State” to include the United States Virgin Islands (“USVI”).
9. 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.
10. 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.
11. The NPDES regulations at 40 C.F.R. § 122.41(e) requires that permittees 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 permittees to achieve compliance with the conditions of the 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.
12. The CWA and applicable implementing regulations contain the following relevant definitions and requirements implementing NPDES regulations:
 - a. “Administrator” means the Administrator of EPA, or an authorized representative. 40 C.F.R. § 122.2;
 - b. “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;
 - c. “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;

- d. “Best Management Practices” or “BMPs” mean schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of “waters of the United States.” BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage. 40 C.F.R. § 122.2;
- e. “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;
- f. “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;
- g. “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;
- h. “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;
- i. “maximum daily discharge limitation” means the highest allowable “daily discharge;”
- j. “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);
- k. “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;
- l. “permit” means an authorization, license, or equivalent control document issued by EPA or an “approved State” to implement the requirements of 40 C.F.R. Parts 122, 123 and 124. The term “permit” does not include any permit which has not yet been the subject of final agency action, such as a “draft permit” or a “proposed permit.” 40 C.F.R. § 122.2;

- m. “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;
 - n. “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;
 - o. “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
 - p. “site” means the land or water area where any “facility” or “activity” is physically located or conducted, including adjacent land used in connection with the facility or activity. 40 C.F.R. § 122.2;
 - q. “Standard Operating Procedure(s)” or “SOP(s)” means the established or prescribed method(s) prepared by Respondents to be followed routinely for the performance of designated environmental compliance activities, operations, or in designated situations; and
 - r. “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.
13. In 1976, the Government of the USVI enacted the USVI Water Pollution Control Act (“VIWPCA”). The VIWPCA was codified in Chapter 7 of Title 12 of the USVI Code, 12 V.I.C. Ch. 7 §181, et seq.
14. On June 30, 1976, EPA approved the request of the Government of USVI to administer the NPDES Permit Program and delegated responsibility for the implementation of the NPDES program under the Territorial Pollutant Discharge Elimination System (“TPDES”) Permit Program, pursuant to Section 402(b) of the CWA, 33 U.S.C. § 1342(b). The approval of the TPDES Permit Program was documented on the Memorandum of Agreement (“MOA”) between EPA Region 2 and the Government of USVI, dated June 30, 1976.
15. Pursuant to Section 402(b) of the Act, 33 U.S.C. § 1342(b), the EPA granted authority to the Government of the USVI to administer the NPDES Permit Program and delegated responsibility for its implementation under the Territorial Pollutant Discharge Elimination System (“TPDES”) Permit Program.

16. The Virgin Islands Department of Conservation and Cultural Affairs, original signatory to the MOA, has since been reconstituted as the Department of Planning and Natural Resources (hereinafter the “Department” or “VIDPNR”) of the Government of USVI. EPA maintains oversight of the USVI TPDES Program governed under the MOA.
17. On December 26, 2007, EPA Region 2 and VIDPNR amended the MOA to provide the Government of USVI with the authority to issue general permits as part of its delegation under the TPDES Permit Program.
18. On June 20, 2007, the Government of USVI amended the TPDES Rules and Regulations (“TPDES Rules”), which were codified in Title 12, Chapter 7, Subchapter 184, pursuant to the Virgin Islands Water Pollution Control Act (“WPCA”), 3 V.I.C. § 936.
19. Subchapter 184-2.(99) of the TPDES Rules defines the term “Waters of the United States Virgin Islands” as all waters within the jurisdiction of the United States Virgin Islands including all harbors, streams, lakes, ponds, impounding reservoirs, marshes, water-courses, waterways, wells, springs, irrigation systems, drainage systems and all other bodies or accumulations of water, surface and underground, natural or artificial, public or private, situated wholly or partly within or bordering upon the United States Virgin Islands, including the Territorial seas, contiguous zone, and oceans.
20. Subchapter 184-21.(a) of the TPDES Rules indicates that “except as provided in section 184-22 of this division, a TPDES permit is required for any addition of any “pollutant” or combination of pollutants to “waters of the United States Virgin Islands.” No person shall discharge or cause a discharge of any pollutant without a TPDES permit having been issued to such person pursuant to this subchapter with respect to such discharge; and no person shall discharge or cause a discharge of any pollutant in a manner other than as prescribed by such permit.”
21. Subchapter 184-75(d) of the TPDES Rules allows for a change in ownership or operational control of a facility where the Director of VIDPNR determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittees has been submitted to the Director.
22. Section 309(a)(2) of the CWA provides that “[w]henever, on the basis of any information available to him, the Administrator finds that any person is in violation of any condition or limitation which implements section 301, 302, 306, 307, 308, 318, or 405 of this title in a permit issued by a State under an approved permit program under section 402 or 404 of this title he shall proceed under his authority in paragraph (3) of this subsection or he shall notify the person in alleged violation and such State of such finding. If beyond the thirtieth day after the Administrator's notification the State has not commenced appropriate enforcement action, the Administrator shall issue an order requiring such person to comply with such condition or limitation or shall bring a civil action in accordance with subsection (b) of this section.

23. Section 309(a)(2) of the CWA provides that “[w]henever, on the basis of information available to him, the Administrator finds that violations of permit conditions or limitations as set forth in paragraph (1) of this subsection are so widespread that such violations appear to result from a failure of the State to enforce such permit conditions or limitations effectively, he shall so notify the State. If the Administrator finds such failure extends beyond the thirtieth day after such notice, he shall give public notice of such finding. During the period beginning with such public notice and ending when such State satisfies the Administrator that it will enforce such conditions and limitations (hereafter referred to in this section as the period of "federally assumed enforcement"), except where an extension has been granted under paragraph (5)(B) of this subsection, the Administrator shall enforce any permit condition or limitation with respect to any person.”
24. Section 309(a)(3) of the CWA provides that “[w]henever on the basis of any information available . . . the Administrator finds that any person is in violation of [CWA Section 301], or is in violation of any permit condition or limitation implementing any of such sections in a permit issued under section 402 of this title by him or by a State or in a permit issued under section 404 of this title by a State, he shall issue an order requiring such person to comply with such section or requirement, or he shall bring a civil action in accordance with subsection (b) of this section.”
25. 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.”
26. Article VIII of the MOA does not preclude EPA from taking enforcement action in any case where it determines that a violation has occurred and federal enforcement proceedings are warranted; and, it does not limit the authority of EPA to take appropriate action pursuant to Sections 308 and 309 of the CWA, 33 U.S.C. §§ 1318 and 1319, either on its own motion or when requested to do so by the Commissioner of VIDPNR.
27. Pursuant to Section 309(a) of the CWA, 33 U.S.C. § 1319(a), and provisions of the MOA, EPA is hereby taking appropriate action to enforce against Respondent for violations of the TPDES Rules, the CWA and its implementing regulations.

II. FACTUAL FINDINGS

28. The Bolongo Bay Beach Resort (“Respondent” or the “Resort”) is a beach resort that owns and operates a wastewater treatment plant (“WWTP”) and a reverse osmosis plant (“RO Plant”).
29. The Resort is located along the southeastern coast at 50 Estate Bolongo, St. Thomas, VI 00802.
30. The Resort is comprised of a three-story building and other amenities, including, a swimming pool, a restaurant and beachside grill.

31. Respondent owns and operates a RO Plant for drinking water production and a private WWTP that treats the sanitary wastewater generated at the Resort.
32. On March 22, 2019, VIDPNR issued the individual TPDES Permit Number VI0080012 (“Permit”) to Respondent for discharge of pollutants. The Permit became effective on April 1, 2019 and will expire on September 30, 2024.
33. The Permit authorizes the discharge of pollutants from the WWTP through outfall serial number 001 into the irrigation system.
34. The Permit authorizes the discharge from the RO Plant through outfall serial number 002 into Nazareth Bay.
35. The Permit requirements include, but are not limited to, compliance with effluent limitations, monitoring and reporting requirements.
36. Part II.A of the Permit establishes final characteristics, limitations and monitoring requirements for the WWTP effluent.
37. Part II.B of the Permit establishes final characteristics, discharge limitations and monitoring requirements for the Reverse Osmosis Brine reject.
38. Part II.F.2 of the Permit requires Respondent to submit to EPA and the USVI monitoring data, known as Discharge Monitoring Reports (“DMR”) on quarterly basis. Also, this section requires Respondent to submit DMRs electronically through the USEPA NeTDMR website (<https://netdmr.epa.gov>) no later than the 28th day of the month following the completed reporting period.
39. Part II.F.3 of the Permit requires Respondent to submit Annual Reports, in which all process control data and an evaluation of the treatment process including use of process chemicals and back-up systems in the operation of the facility, among others, are summarized.
40. Part III.A of the Permit requires Respondent to develop and implement a Preventive Maintenance Plan (PMP) to prevent or minimize the generation and the potential for the release of pollutants from the facility to the waters of the United States through normal operations and ancillary activities.
41. Part IV.A.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.

42. Part IV.A.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.
43. On June 27, 2022, EPA Officials performed a Compliance Evaluation Inspection (“Inspection”) at the Resort to evaluate Respondent’s compliance with its Permit.
44. The findings of the Inspection were summarized in an Inspection Report issued on July 22, 2022. Refer to **Attachment 1** of this Order for a copy of the Inspection Report.
45. The Inspection Report identified findings of non-compliances with the Permit, which are violations of the regulations implementing the CWA and the WPCA, among other things include:
 - a. reported exceedances of the effluent limitations for Outfall 001, as established in Part II.A of the Permit;
 - b. no Annual Reports were submitted;
 - c. no PMP was developed; and
 - d. improper operations of the WWTP, evidenced by:
 - i. floatables and patches of sludge were observed at the surface of the clarifier and the effluent holding tank; and
 - ii. non-functional effluent flow meter.
46. EPA consulted with USVI before initiating this enforcement action.

III. CONCLUSIONS OF LAW AND FINDINGS OF VIOLATIONS

47. 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.
48. 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.
49. 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.
50. The WWTP and the RO are “facilities”, as defined in 40 C.F.R. § 122.2.

51. The WWTP and the RO are “point sources” pursuant to Section 502(14) of the CWA, 33 U.S.C. § 1362(14), and 40 C.F.R. § 122.2.
52. At relevant times to this Order, Respondent discharged and continues to discharge “pollutants” from the WWTP into an irrigation system.
53. At relevant times to this Order, Respondent discharged and continues to discharge “pollutants” from the RO into the Nazareth Bay.
54. Nazareth Bay 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.
55. The irrigation system discharges into a water of the USVI pursuant to the VIWPCA and Subchapter 184-2.(99) of the TPDES Rules.
56. Based upon paragraphs 28 through 55, above, Respondent violated Sections 301(a) and 402 of the CWA, 33 U.S.C. §§ 1311(a) and 1342, and implementing regulations, for its failure to comply with 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 under Section 309 of the CWA, 33 U.S.C. § 1319.

IT IS HEREBY ORDERED:

57. **Immediately upon receipt of the originals of this Order**, Respondent shall comply with all the requirements and conditions of the Permit.
58. **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 an **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.yolanne@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 64, below.
59. **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 effluent limits established in the Permit. The Compliance Plan shall include an implementation schedule, which shall

not exceed one hundred and eighty (180) days for the issuance of this Order, and estimated costs.

60. **That within ninety (90) calendar days upon receipt of the originals of this Order by email**, Respondent shall develop and submit to EPA a Preventive Maintenance Plan (PMP) according to Part III.A.1 of the Permit.
61. **Until Termination of this Order**, Respondent shall prepare and submit Compliance Progress Reports (“CPR”) 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 CPR on February 15, 2023, and thereafter every two months (e.g., April 15, 2023).
 - b. Each CPR shall include, at a minimum, the following:
 - i. The actions taken during the reporting period.
 - ii. Description of any non-compliance with identified provision of the Order, including a statement describing the non-compliance, its underlying causes, and a proposed new date(s) to comply with the given Ordered Provision.
 - iii. A cost report detailing the expenses incurred during the given reporting period.

V. **GENERAL PROVISIONS**

62. 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.
63. Any documents to be submitted by Respondent as part of this Order shall be sent by email and 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.”

64. 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:

Director, Division of Environmental Protection
Virgin Islands Department of Planning and Natural Resources
8100 Lindberg Bay, Suite 61
Cyril E. King Airport, Terminal Building, 2nd Floor
Saint Thomas, USVI 00802;

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

65. 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
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.
Telephone: (787) 977-5849

66. 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>, provides the grounds for such review.
67. This Order does not constitute a waiver from compliance with, or a modification of, the effective terms and conditions of the CWA, the TPDES 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.
68. 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.
69. 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.
70. This Order shall become effective upon the date of execution by the Director, Caribbean Environmental Protection Division.

Dated: December 23, 2022

Signed:

**CARMEN
GUERRERO PEREZ**

Digitally signed by
CARMEN GUERRERO PEREZ
Date: 2022.12.23 08:46:24
-04'00'

CARMEN R. GUERRERO PÉREZ

Director

Caribbean Environmental Protection Division
Environmental Protection Agency, Region 2