



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 14, 2021

VIA ELECTRONIC MAIL

Mr. Javier García, Managing Director
Northshore Management Corporation
#120 PR-693 Road
Dorado, Puerto Rico 00646
Email: jgarcia@prisagroup.com

**Re: Request for Information Pursuant to Section 308 of the Clean Water Act
Hotel Construction Project in Luquillo, Puerto Rico
2017 CGP NPDES ID: PRR1000CS
CEPD-CWA-02-IR-2022-006**

Dear Mr. García:

The United States Environmental Protection Agency ("EPA") is charged with the protection of human health and the environment under the Clean Water Act ("CWA" or the "Act"), 33 U.S.C. § 1251 *et seq.* Section 308(a) of the CWA, 33 U.S.C. § 1318(a), provides that whenever it is necessary to carry out the objectives of the CWA, including determining whether or not a person is in violation of Sections 301 and 402 of the CWA, 33 U.S.C. §§ 1311 and 1342, respectively, EPA shall require the submission of any information reasonably necessary to make such a determination. Under the authority of Section 308 of the CWA, EPA may require the submission of information necessary to assess the compliance status of any facility and its related appurtenances.

Through different news media and citizen complaints, EPA has preliminary assessed that earth movement activities had been conducted at a construction site without proper erosion and sediment controls. The construction site, where a Fairfield Inn & Suites hotel is to be built (the "Project"), is located at PR-3 Road, Km. 36, Luquillo, Puerto Rico (the "Site").

The EPA reviewed its National Pollutant Discharge Elimination System ("NPDES") storm water permit database to determine the permitting status of the Project. The EPA found that you submitted, on behalf of Northshore Management Corporation ("NMC"), an electronic Notice of Intent ("eNOI") on October 13, 2021, seeking coverage under the "2017 National Pollutant Discharge Elimination System General Permit for Discharges from Construction Activities" ("2017 CGP" or "CGP") for the Project. The review also revealed that on October 27, 2021, the EPA granted 2017 CGP coverage to NMC for the Project under NPDES tracking number PRR1000CS.¹

¹ By email dated October 27, 2021, NMC was notified that "...this email does not represent a determination by EPA regarding the validity of the information you provided in your NOI or LEW. Your eligibility for coverage under this permit is based on the validity of the certification you provided. Your electronic signature on the NOI or LEW form certifies that you have read, understood, and are implementing all of the applicable requirements. An important aspect of this certification requires that you have correctly determined whether you are eligible for coverage under this permit."

EPA is hereby requesting information from NMC pursuant to the authority granted under Section 308(a) of the CWA, and as provided in Part I.9 of the 2017 CGP.² Please review and follow the instructions in Enclosure 1 (Instructions and Definitions); review the information being requested in Enclosure 2 and submit the information requested therein; and submit a signed and dated Statement of Certification (Enclosure 3), which is to be signed and dated by NMC pursuant to the signatory requirements in 40 C.F.R. § 122.22. This statement certifies that the response submitted to the EPA is complete and contains all documents and information responsive to this Request for Information (“RFI”) that are known to you, following a complete and thorough review of all information and sources available to you.

Because of the ongoing COVID-19 pandemic, electronic delivery of NMC’s response is strongly encouraged.³ To the extent possible, any documents to be submitted in response to this RFI should be in Portable Document Format (“PDF”). The requested information must be sent to the following EPA Region 2 designated official:

Mr. 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, PR-165, Km 1.2
Guaynabo, Puerto Rico 00968-8069
Email: rivera.jose@epa.gov.

If you are without access to a computer and must submit the response by U.S. mail, NMC should notify Mr. Rivera at (787) 977-5842, or by email at rivera.jose@epa.gov, when it sends a document in such a manner.

Please be advised that you are under a continuing obligation to supplement your response if information not known or not available to you as of the date of submission of your response should later become known or available to you. In this instance, you must supplement the response to EPA within ten (10) business days.

If at any time in the future you become aware of additional information or find that any portion of the submitted information is false, misleading or misrepresents the truth, you must notify EPA of this fact immediately and provide a corrected response within ten (10) business days. If any part of the response is found to be untrue, you may be subject to criminal prosecution.

This RFI is not subject to the approval requirements of the Paperwork Reduction Act of 1980, 44 U.S.C. §§ 3501-3520. NMC may, if so desire, assert a business confidentiality claim covering all or part of the information requested by this letter. A business confidentiality claim may be asserted by placing on (or attaching to) the information, at the time it is submitted, a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as “trade secret” or “proprietary” or “company

² The permittee must also submit to EPA upon request, copies of records required to be kept by the 2017 CGP.

³ Currently, EPA’s office in Guaynabo, Puerto Rico, is not accessible to the public and is unable to accept filings or correspondence by personal delivery.

confidential.” Information covered by such a claim will be disclosed by EPA only in accordance with and by means of procedures set forth in Sub-Part B, 40 C.F.R. Part 2.

If no such claim accompanies the information contained in the response to the RFI when it is received by EPA, it may be made available to the public by EPA without further notice to you. You should read the above-cited statutory and regulatory provisions carefully before asserting a business confidentiality claim, since certain categories of information are not properly the subject of such a claim. Allegedly confidential portions of otherwise non-confidential documents should be clearly identified by you. If you desire confidential treatment of information only until a certain date or until the occurrence of a certain event, your response should state so.

Failure to comply in all respects with this request for information may result in the initiation of an enforcement action under Section 309 of the CWA, 33 U.S.C. §1319, under which injunctive relief and penalties may be sought. Such an enforcement action may include the assessment of penalties of up to \$56,460 per day for each day of continued non-compliance.

EPA encourages you and your staff to become familiar with the Small Business Resource Information Sheet which is available at <https://www.epa.gov/compliance/small-business-resources-information-sheet>. This Information Sheet provides an array of resources, including workshops, training sessions, hotlines, websites and guides, to help small businesses understand and comply with federal and state environmental laws. In addition to helping small businesses understand their environmental obligations and improve compliance, these resources will also help such businesses find cost-effective ways to comply through pollution prevention techniques and innovative technologies.

Because this is a formal information request issued to you pursuant to Section 308(a) of the CWA, you are legally required to respond within a reasonable time frame. **EPA requests that you fully respond to the requested information within twenty (20) calendar days of receipt of this letter by electronic mail.** However, the EPA acknowledges that the COVID-19 pandemic may be impacting NMC’s operations. If that is the case, EPA will consider, at its sole discretion, NMC’s specific circumstances that could affect a timely response to this RFI, while ensuring that the EPA receives the relevant information it needs to effectively evaluate NMC’s compliance with Sections 301(a), 308(a) and 402(p) of the CWA. Therefore, you or your authorized representative should contact the designated EPA official identified above in a timely manner for further instructions.

If you have any questions concerning this request for information, please contact the designated EPA official identified herein above.

Sincerely,



Carmen R. Guerrero Pérez
Director
Caribbean Environmental Protection Division

cc: Mr. Rafael Machargo, Secretary, PRDNER
Mr. Angel Meléndez, Manager, Water Division, PRDNER

ENCLOSURE 1

INSTRUCTIONS AND DEFINITIONS

In responding to this RFI, please apply the following instructions, definitions, and information:

- a. The signatory should be an officer or agent who is authorized to respond on behalf of NMC pursuant to the NPDES signatory requirements regulations codified at 40 C.F.R. § 122.22.
- b. A complete separate response must be made to each individual question in this RFI. Identify each answer with the number of the question to which it is addressed and precede each answer with the question to which it is addressed.
- c. Interpret “and” as well as “or” to include within the scope of the question as much information as possible. If two interpretations of a question are possible, use the one that provides more information.
- d. In preparing your response to each question, consult with all present and former employees, agents and/or contractors whom you have reason to believe may be familiar with the matter to which the question pertains, regardless of whether the source is in your immediate possession.
- e. In answering each question, identify all contributing sources of information.
- f. If you are unable to answer a question in a detailed and complete manner or if you are unable to provide any of the information or documents requested, indicate the reason for your inability to do so. If you have reason to believe that there is an individual who may be able to provide more detail or documentation in response to any question, state that person's name and last known address and phone number and the reasons for your belief.
- g. If anything is deleted from a document produced in response to this RFI, state the reason for and the subject matter of the deletion.
- h. For each document produced in response to this RFI, indicate on the document or in some other reasonable manner, the number of the question to which it applies. If a document is requested but is not available, state the reason for its unavailability.
- i. For terms referred in this RFI, you will find its meaning in Section 502(5) of the Act, 33 U.S.C. § 1362, and 40 C.F.R. § 122.2. When referring to the “construction activities”, NMC shall include all those activities that involved earth movement activities, as defined in Appendix A - Definitions and Acronyms of the 2017 CGP. The 2017 CGP is found at <https://www.epa.gov/npdes/2017-construction-general-permit-cgp>. 82 Fed. Reg. 6534 (Jan. 19, 2017).

ENCLOSURE 2

INFORMATION REQUESTED

NMC shall submit the following information pursuant to the instructions and definitions contained in Enclosure 1, above. Please use the RFI ID Number (CEPD-CWA-02-IR-2022-006) when referring to this Project:

1. The name(s) of the owner(s) of the Site being developed. Submit their addresses, emails, and contact telephone numbers.
2. The date when the current owner(s) acquired the Site.
3. A copy of the deed(s) for all parcels being developed at the Site.
4. The names of the developers of the Site, and their addresses, emails, and contact telephone numbers.
5. A copy of the construction contracts between the owners of the Project and NMC. 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.
6. The name of entity engaged in the performance of earth movement activities at the Site, and the name of its principal officer, email, address, and telephone number.
7. A copy of the construction contracts between the owners of the Project and the entity engaged in the performance of earth movement activities at the Site.
8. The date when NMC mobilized to the Site. Refer to the Appendix A of the CGP.
9. The date when NMC posted a notice of CGP's coverage for the Project. Submit a legible picture of such notice. Refer to Part 1.5 of the CGP.
10. The date when NMC began earth movement activities at the Site. Refer to the information requested for completion of the eNOI under Part 1.4 of the CGP.
11. Periods of time when NMC cease earth movement activities at the Site. Refer to Part 2.2.14 of the CGP.
12. The total area of surface soil (in acres) that NMC has disturbed at the Site as of the date of this letter. Refer to Part 7.2.3 of the CGP.
13. The total area of surface soil (in acres) that NMC will disturb at the Site at the completion of the construction activities at the Site. Refer to Part 7.2.3 of the CGP.
14. The expected date when NMC 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.
15. A legible copy of any land surveys, soil studies, and hydrologic/hydraulic studies that NMC had

prepared and/or obtained for the Site. Include any legible picture depicting the areas in the Site were NMC had conducted earth movement activities as of the date of this letter. Refer to Part 7.2 of the CGP.

16. A color copy of all available aerial photographs taken by NMC for the Site for the last year.
17. A detailed description of the erosion and sediment controls and soil stabilization practices that NMC 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.
18. 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 NMC impacted by conducting earth movement activities and the areas in which NMC had applied soil stabilization. Refer to Part 2.2.14 of the 2017 CGP.
19. A copy of the inspection reports prepared by NMC 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.
20. A copy of all corrective action reports prepared by NMC from the initiation of the earth movement activities up to the date of this letter. Refer to Part 5 of the 2017 CGP.
21. A copy of the Storm Water Pollution Prevention Plan (“SWPPP”), including amendments thereto, that NMC developed for the Project. Refer to Part 7 of the 2017 CGP.
22. A copy of the most recent construction schedule for the Project. Refer to Part 7.2.3.f. of the 2017 CGP.
23. A detailed description of how NMC 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 2017 CGP.
24. A copy of all staff training documentation for the Project. Refer to Part 7.2.8 of the 2017 CGP.
25. A picture depicting any rain gauge that NMC had installed and retained at the Site since it began earth movement activities to the date of this letter.
26. A copy of any logs that NMC 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.
27. Describe method of collection, treatment and disposal of sanitary wastes that will be generated at the Project.

ENCLOSURE 3

STATEMENT OF CERTIFICATION

I certify that I have examined and am familiar with the information in the enclosed documents, including all attachments. Based on my personal inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are, to the best of my knowledge and belief, true and complete. I am aware that there are significant penalties for knowingly submitting false statements and information, including the possibility of fines or imprisonment pursuant to Section 309 of the CWA, 33 U.S.C. § 1319, and 18 U.S.C. §§ 1001, 1341 and 1505.

(Signature)

(Printed Name)

(Title)

(Date)