



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

January 20, 2023

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Service Unlimiteds, LLC
Attn: George Phillip Rivera González
P. O. Box 360653
San Juan, Puerto Rico 00936

**Re: Information Request Pursuant to Section 308 of the
Clean Water Act, 33 U.S.C. Section 1318(a)**

Dear Mr. Rivera González:

The United States Environmental Protection Agency ("EPA"), Region 2, has received information regarding activity resulting in the alleged unauthorized discharge of fill material into waters of the United States on your property at parcel number 416-000-010-11-000 in the Municipality of Salinas, Puerto Rico (the "Site" or "Property"). The Site is identified in Attachment A.

EPA is requesting information, pursuant to the authority granted to it under Section 308(a) of the Clean Water Act ("CWA"), 33 U.S.C. § 1318(a), and the regulations promulgated thereunder, from Service Unlimiteds, LLC (hereinafter referred to as "Service Unlimiteds") as the owner and/or operator of the Site. The wetlands on the Property are adjacent to the Río Nigua, a water of the United States.

Section 308(a) of the CWA, 33 U.S.C. § 1318(a), provides that whenever required to carry out the objectives of the CWA, including determining whether a person is in violation of the CWA, the Administrator of the EPA may require that person to provide such information as may reasonably be required to make such a determination. Service Unlimiteds is a "person" within the meaning of Section 502(5) of the CWA, 33 U.S.C. § 1362(5). Therefore, Service Unlimiteds is hereby required to provide the information requested in the enclosed Appendices.

For each request, if Service Unlimiteds has reason to believe that there may be a person(s) who may be able to provide a more detailed or complete response to such request or may be able to provide additional responsive documents, then as a part of your response to such request, please identify each such person and the additional information or documents which such person may be able to provide. Furthermore, for each response, if information or documents responsive to such request are not in Service Unlimiteds's possession, custody, or control, then as part of Service Unlimiteds's response to such request, please identify each person from whom such information or documents may be obtained.

Because this is a formal request for information issued to Service Unlimiteds pursuant to Section 308(a) of the CWA, 33 U.S.C. § 1318(a) (hereinafter “Information Request”), Service Unlimiteds is legally required to respond within a reasonable time frame. We request that Service Unlimiteds fully respond to the Information Request within **thirty calendar (30) days** of receipt of this letter. Please forward a copy of the requested information as set forth in the enclosed Appendices by electronic mail to Ms. Seika Robinson at Robinson.Seika@epa.gov. Failure to respond to this Information Request may subject you to enforcement action pursuant to Section 309 of the CWA, 33 U.S.C. § 1319, in which injunctive relief and penalties may be sought.

This request is of an ongoing nature. Should any additional information or documentation become available for one year after submitting your responsive documents, then you are under an obligation to provide such additional information or documentation to the EPA.

Should you have any questions regarding this request, please contact Seika Robinson, or your legal counsel may contact Zoe Oldham, Assistant Regional Counsel, Water and General Law Branch, at (212) 637-3228. Thank you for your attention to this matter.

Sincerely,

**CARMEN
GUERRERO PEREZ**

Digitally signed by CARMEN
GUERRERO PEREZ
Date: 2023.01.20 11:25:08
-04'00'

Carmen R. Guerrero Pérez
Director
Caribbean Environmental Protection Division

Enclosure

cc: Jacksonville Corps District, Antilles Area Office

Puerto Rico Department of Natural and Environmental Resources, Puerto Rico Coastal Zone
Management Program

APPENDIX A

Unless otherwise specified, the following general instructions and definitions apply when providing the information requested in Appendix B.

General Instructions

1. Provide a separate narrative response to each question and subpart of a question set forth in the Information Request.
2. Each response shall identify the number of the question, and if relevant, any subpart to which a response is being provided.
3. Label each document submitted in response to this Information Request with the request number and subpart (if applicable) to which it corresponds. If anything is deleted or redacted from a document produced in response to this Information Request, state the reason for and the subject matter of the deleted or redacted information.
4. If a document you submit is responsive to more than one request, please provide one copy of the document and identify all the requests, by number and subpart, to which it responds.
5. For each response, organize the requested information or documents chronologically.
6. 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.
7. When documents or information necessary for a response are neither in your possession nor available to you, indicate in your response why such documents or information are not available or in your possession. Identify any source that you believe either possesses or is likely to possess such information. State the person's name and last known address and phone number and the reasons for your belief.
8. If any documents or information responsive to a request are not known or are not available to you at the time you submitted your response, but later become known or available to you, you should submit the new information as a supplement to your response. If at any time after submission of your response you learn that any portion is or becomes false, incomplete, or misrepresents the facts, you should notify the EPA of this fact as soon as possible and provide a corrected response. If any part of the response to this Information Request is found to be false, the signatory to the response and the company may be subject to criminal prosecution.
9. If you claim that an entire document responsive to this Information Request is withheld on the basis of a privilege, identify the document and provide the basis for asserting any privilege. For any portion of a document that you claim is withheld on the basis of a privilege, provide the portion of the document for which you are not asserting any privilege;

identify the portion of the document for which you are asserting any privilege; and provide the basis for such an assertion.

10. You should provide responsive documents or information even though you consider it confidential information or trade secrets. You may assert a business confidentiality claim for part or all of the information requested, as set forth in 40 C.F.R. Part 2, Subpart B. Information covered by such a claim will be disclosed by the EPA only to the extent and only by the procedures set forth in 40 C.F.R. Part 2, Subpart B. If no confidentiality claim accompanies the information when the EPA receives it, the information may be made available to the public by the EPA without further notice to you. This inquiry is not subject to review by the Office of Management and Budget under the Paperwork Reduction Act of 1980, 44 U.S.C. Chapter 35 (*see* 5 C.F.R. § 1320.3(c)).

If you would like the EPA to treat any information, document, or response as “confidential,” you must advise the EPA by placing on or attaching a cover sheet to any document or prefacing any response such language as “trade secret,” “proprietary,” or “confidential business information.” You must clearly identify allegedly confidential portions of otherwise non-confidential documents, and you may want to submit these separately to facilitate identification and handling by the EPA. Pursuant to 40 C.F.R. Part 2, Subpart B, the EPA may at any time send you a letter asking you to substantiate your confidentiality claim.

11. You or a responsible agent must submit all requested information under an authorized signature with the following certification:

I certify under the penalty of law that I have examined and am familiar with the information submitted in responding to this information request for production of documents. Based on my review of all relevant documents and inquiring of those individuals immediately responsible for providing all relevant information and documents, I believe that the information submitted is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

General Definitions

All terms used in this Information Request shall have their ordinary meaning unless such terms are defined in the CWA, 33 U.S.C. §§ 1251-1387, or the CWA’s implementing regulations. The following specific definitions shall apply to the Information Request:

1. “Or” shall mean and/or.
2. The singular form of a noun or pronoun shall be considered to include within its meaning the plural form of the noun or pronoun used, and vice versa; and in a similar fashion, the use of the masculine form of a pronoun shall be construed to also include within its meaning the feminine form of the pronoun, and vice versa; and in a similar fashion, the use of any tense of a verb shall be construed to also include within its meaning all other tenses of the verb so used.

3. "Document" is used in its broadest sense and shall mean and refer to all written or graphic matter of every kind and description however produced or reproduced, whether draft or final, original or reproduction.
4. "Work" means activities, including, but not limited to, earthmoving, dumping, excavation, mechanized and/or manual vegetation-clearing activities, construction debris disposal, solid waste disposal, logging and tree removal, roadway construction including earthwork, embankment cuts and fills, paving, piping, trenching, culvert placement, drag-lining, windrowing or stockpiling, grubbing, soil excavation or removal, installation of dams or other water control features, and placing fill or dredged material.

APPENDIX B

Unless otherwise specified, the period covered by these requests shall be from 2018 to the present.

- 1) State the name, address, telephone number, and title of each person providing responses, or contributing information to the responses of this Information Request. Identify your business form. If a corporation, please give the corporation's date and state of incorporation, the name and address of its agent for service of process, its address, and the nature of its business.
- 2) Provide all documents that reflect your past and present ownership interest in the Site or any portions thereof, including but not limited to, plats of surveys, titles, deeds, easements, and property or real estate tax bills. If you never held an ownership interest in the Site, provide a copy of the written agreements in place that permitted you to conduct all Work at the Site.
- 3) Provide the name, address, telephone number, email address, and any other contact information, for all additional owners, lessors or lessees of the Site, other than yourself. If the Site is comprised of more than one parcel of property, please provide this information for all parcels of property.
- 4) State whether you, individually, or as part of a business, partnership, or corporation, ever applied for or received a permit, including nationwide, regional, general, individual or after-the-fact permits, under Section 404 of the CWA, 33 U.S.C. § 1344, or had other prior knowledge of the CWA Section 404 Regulatory Program including previous enforcement actions or requests for Approved Jurisdictional Determinations. Provide a copy of all relevant documents, including but not limited to, permits, permit application materials, and correspondence, specifically mentioning the U.S. Army Corps of Engineers or the CWA Section 404 Program.
- 5) Provide the following information regarding Work at the Site:
 - a) A detailed description of the Work;
 - b) The specific purpose(s) of, or reason(s) for, the Work;
 - c) The timeline of the Work that occurred, including the dates Work commenced and concluded. Copies of official work logs or field notes should be provided;
 - d) The date dredged or fill material was first discharged into wetlands and/or streams;
 - e) The amount of material discharged into wetlands or streams;
 - f) The specific type and source of the material discharged, including, but not limited to: rock, sand, soil, clay, plastics, construction debris, wood chips, overburden from mining or other excavation activities, or materials not regulated under Section 404 of the CWA, such as trash or garbage, including, but not limited to, debris, junk cars, used tires, discarded kitchen appliances, and similar materials.

- g) The acreage of wetlands or linear feet of stream impacted by the material; and
 - h) The dates any material was removed from wetlands or streams.
- 6) State whether you, individually, or as part of a business, partnership, or corporation, applied for, or received, a permit issued by Puerto Rico Department of Natural and Environmental Resources or other local agencies, including the Permits Management Office (“OGPe”), or the Municipality of Salinas for Work you performed at the Site in response to Question 5, above. Provide copies of all relevant documents including, but not limited to, permits, permit application materials, and correspondence related to the processing of any permit.
- 7) Provide copy 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.
- 8) Provide a description of the type(s) of specific equipment and method(s) used to accomplish the Work referenced in Question 5, above.
- 9) Provide all documents that authorized you to discharge fill material at the Site, including, but not limited to, correspondence, contracts, agreements, purchase orders, work orders, requests for quotes, quotes, memoranda, invoices before or after the discharge was completed, letter agreements, receipts, proposals, statements, and any similar documents.
- 10) Provide copies of all documents and information which describe the Site’s physical attributes and the Site’s immediate surroundings, including, but not limited to:
 - a) Wetland delineations conducted using the 1987 Corps of Engineers Wetland Delineation Manual, Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Caribbean Islands Region (Version 2.0), or any relevant versions/updates. This includes delineations under atypical conditions described in Chapter 5 of the regional supplements;
 - b) Topographical (elevational) surveys, including any drawing(s) of vertical or horizontal elevations;
 - c) Soil borings or sample data;
 - d) Vegetation identifications, descriptions, or surveys;
 - e) Site hydrological surveys (e.g., data on ground water and surface water flows);
 - f) Any land survey of the Site;
 - g) Any engineering or Site plans or maps, including any used for construction; and
 - h) As-built site plans once grading/excavation work was completed depicting as-built site elevations/contours.
- 11) Provide copies of all aerial and ground photos of the Site, which may include digital photos, and/or marked-up aerial photos, in your possession. Include a narrative for each photo submitted, providing the date the photo was taken and description of the area depicted in the photo (e.g., directional and orientation references).

- 12) Provide copies of any document(s) that describe the length, area, or volume of dredged or fill material placement that you added to or rearranged in wetlands, streams, ditches, ponds, and lakes on the Site. If you have no documents recording the length, area, or volume of dredged and fill material placement, please provide a narrative response with an estimate of these figures.
- 13) Provide the name, title, employer, business address, and business telephone number of each person or company, including yourself, who was involved in any of the Work described in your answers above including the name, address, telephone number, email address and any other contact information, for all contractors and subcontractors who performed any of the construction activities at the Site, including but not limited to any of the Work listed above or any other discharges of dredged or fill material at the site. In addition, please provide copies of all contracts, agreements, purchase orders, work orders, memoranda, invoices before or after the discharge was completed, letter agreements, receipts, proposals, statements, and any other communications for any such Work performed.
- 14) Provide copies of all documentation (including, but not limited to, field notes, maps, photographs, video, aquatic resource assessments, and wetland delineations) of the efforts you made to determine whether the Site or any portion of it contained wetlands or other waters of the United States (e.g., streams, ditches, ponds, or lakes). Identify by name, title, employer, and business address, all persons involved in this determination.
- 14) Any other facts or information that you deem pertinent to this investigation.

APPENDIX C

This Request for Information concerns all earth movement activities, including clearing, grading and excavation, at the Site shown in Appendix A and located on tax parcel number 416-000-010-11-000 in the Municipality of Salinas, Puerto Rico.

Please use the RFI ID Number (CEPD-CWA-02-IR-2023-002) 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) The names of the operators of the Site. Submit their addresses, emails, and contact telephone numbers. Refer to Part 1.1.1 of the CGP.
- 4) A copy of the contracts between the owner(s) of the Site and the operator(s). 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.
- 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 NPDES permit applications submitted to the EPA for the Site.
- 7) A copy of the Stormwater Pollution Prevention Plan (“SWPPP”) that was prepared for the Site, including all attachments thereto.
- 8) 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 Sedimentation¹.
- 9) A copy of 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”).
- 10) The date when earth movement activities began at the Site.

¹Refer to <http://app.estado.gobierno.pr/ReglamentosOnLine/Reglamentos/5754ING.pdf>

- 11) The date when “construction activities” began at the Site. Refer to the Appendix A of the CGP.
- 12) Periods of time when earth movement activities ceased at the Site. Refer to Part 2.2.14 of the CGP.
- 13) The total area of surface soil (in acres) that has been disturbed at the Site as of the date of this letter.
- 14) The total area of surface soil (in acres) that will be disturbed at the Site at the completion of the construction activities at the Site.
- 15) The expected date of completion of construction activities at the Site.
- 16) A legible copy of any land surveys, soil studies, and hydrologic/hydraulic studies that has been prepared and/or obtained for the Site. Include any legible picture depicting the areas in the Site where earth movement activities have been conducted as of the date of this letter. Refer to Appendix A and Part 7.2 of the CGP.
- 17) A color copy of all available aerial photographs and the dates they were taken for the Site within the last year.
- 18) A detailed description of the erosion and sediment controls and soil stabilization practices that have been implemented at the Site since prior to the initiation of earth movement activities up to the date of this letter. Refer to Parts 2 and 7 of the CGP.
- 19) A copy of any as-built legible map showing the features of the Site. Indicate in the legible map, the areas of the Site impacted by conducting earth movement activities and the areas in which soil stabilization measures have been implemented. Refer to Part 2.2.14 of the CGP.
- 20) A copy of the inspection reports prepared 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.
- 21) A copy of all corrective action reports prepared from the initiation of the earth movement activities up to the date of this letter. Refer to Part 5 of the CGP.
- 22) A copy of the most recent construction schedule for the Site. Refer to Part 7.2.3.f. of the CGP.
- 23) A detailed description of how storm water runoff has been managed at the Site since the initiation of the earth movement activities up to the date of this letter. Refer to Part 7.2.6 of the CGP.

- 24) A copy of all staff training documentation for the Site. Refer to Parts 6.2 and 6.3 of the CGP.
- 25) A picture depicting any rain gauge installed and retained at the Site between the initiation of the earth movement activities and the date of this letter.
- 26) A copy of any logs used to record rain precipitation data collected at the Site between the initiation of the earth movement activities and the date of this letter.
- 27) Describe the method of collection, treatment and disposal of sanitary wastes that will be generated at the Site.