**IN THE UNITED STATES DISTRICT COURT**
**FOR THE DISTRICT OF PUERTO RICO**

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| UNITED STATES OF AMERICA,<br><br>Plaintiff,<br><br>v.<br><br>PUERTO RICO AQUEDUCT AND SEWER AUTHORITY, THE COMMONWEALTH OF PUERTO RICO, and COMPAÑIA DE AGUAS DE PUERTO RICO, INC.,<br><br>Defendants. | ) | CIVIL ACTION NO. |

## COMPLAINT

1. The United States of America, by the authority of the Attorney General of the United States and through the undersigned attorneys, acting at the request of the Administrator of the United States Environmental Protection Agency ("EPA"), files this Complaint and alleges as follows:

## NATURE OF ACTION

2. This is a civil action brought pursuant to Sections 309(b) and (d) of the Clean Water Act (the "Act"), 33 U.S.C. §§ 1319(b) and (d), for injunctive relief and civil penalties against the Puerto Rico Aqueduct and Sewer Authority ("PRASA"), the Commonwealth of Puerto Rico, and Compañia de Aguas de Puerto Rico ( "Compañia de Aguas") (collectively, "defendants"). Specifically, the defendants discharged pollutants in violation of Section 301(a) of the Act, 33 U.S.C. §1311(a), and has violated and continues to

violate certain terms and conditions of National Pollutant Discharge Elimination System ("NPDES") permits issued to PRASA by EPA pursuant to Section 402 of the Act, 33 U.S.C. §1342, for at least 14 of PRASA's waste water treatment plants ("WWTPs"), the terms of which apply to the pump stations and collection systems appurtenant to these 14 WWTPs.

## JURISDICTION AND VENUE

3. This Court has jurisdiction over the subject matter of this action and the parties pursuant to Section 309(b) of the Act, 33 U.S.C. §1319(b), and 28 U.S.C. §§1331, 1345 and 1355. This Court has personal jurisdiction over both the Commonwealth of Puerto Rico and PRASA because PRASA is a government agency or commission established by the Commonwealth of Puerto Rico. The Court also has personal jurisdiction over Compañia de Aguas because it is a duly organized corporation, conducting business in the Commonwealth of Puerto Rico.

4. Venue is proper in this judicial district pursuant to Section 309(b) of the Act, 33 U.S.C. §1319(b), and 28 U.S.C. §§1391(b) and 1395 because PRASA is located, and the alleged violations occurred, in this judicial district, and Compañia de Aguas, as an operator of PRASA's facilities, does business in this judicial district.

## PARTIES

5. Plaintiff is the United of America, acting by the authority of the Attorney General and on behalf of the Administrator of the EPA.

6. Defendant PRASA is a public corporation and an autonomous governmental instrumentality of the Commonwealth of Puerto Rico, organized and existing under the Laws of Puerto Rico, P.R. Ann., title XXII, §144, 1983, and is a "municipality" within

the meaning of Section 502(4) of the Act, 33 U.S.C. §1362(4). PRASA is also "person" within the meaning of the Section 502(5) of the Act. PRASA owns and operates the WWTPs and pump station and collection system facilities appurtenant thereto at which the Clean Water Act violations alleged in this Complaint occurred and continue to occur.

7. The Commonwealth of Puerto Rico is defined as a "State" pursuant to Section 502(3) of the Act, 33 U.S.C. §1362(3), and is joined as a defendant in this action pursuant to Section 309(e) of the Act, 33 U.S.C. §1319(e). Notice of the commencement of this action has been provided to the Commonwealth of Puerto Rico pursuant to Section 309 of the Act, 33 U.S.C. §1319.

8. Compañia de Aguas, formerly known as PS Group of Puerto Rico ("PSG"), is a corporation organized under the laws of the Commonwealth of Puerto Rico, and is an operator of PRASA's facilities. Compañia de Aguas is also "person" within the meaning of the Section 502(5) of the Act.

9. Pursuant to a contract dated May 26, 1995, PRASA and PSG entered into an Agreement for the Operation, Management, Repair and Maintenance of an Aqueduct, Sewer, and Customer Services System.

10. Puerto Rico Law No. 328 of December 28, 1998, amended PRASA's Enabling Act, and granted PRASA's Governing Board the authority to delegate to one or more private operators the management, operation, repair and maintenance of all PRASA systems, including the management of the employees of PRASA, and to delegate to a Director of Operations named by the private operator, all of the functions and duties of PRASA's Executive Director.

11. Pursuant to Law No. 328, PRASA and Compañia de Aguas (formerly PSG) amended its contract effective on March 1, 1999, to extend until August 31, 2001. The amendment provided for the delegation to Compañia de Aguas of the operation, management, repair, and maintenance of the systems which were not then under contract and to delegate to Compañia de Aguas' Director of Operations all of the functions and duties of PRASA's Executive Director, and to provide "uninterrupted operation, management, repair and maintenance of the Systems in accordance with this Agreement, Applicable Law, and all Permits," as set forth in the Second Amended and Restated Contract at Art. IV, § 4.1.1(a).

12. Pursuant to the Second Amended and Restated Contract at Art. IV, § 4.3, the Director of Operations to whom the duties and functions of PRASA's Executive Director are delegated shall be an employee of Compagnie Generale des Eaux-SAHIDE, a French corporation, or Aqua Alliance, a Delaware corporation, grandparent and parent corporations of Compañia de Aguas, respectively. It is further provided in said Contract that "[t]he Director of Operations shall be the chief executive officer of PRASA, shall be responsible for carrying out the general policies of PRASA's Governing Board and for the general supervision of the operations of the Systems, and shall owe a fiduciary duty to PRASA's Governing Board."

13. PRASA is the named permittee for each of the NPDES permits governing the WWTPs and appurtenances at which the violations herein are alleged; however Compañia de Aguas is a person whose joinder will not deprive the court of jurisdiction over the subject matter of the action and who, pursuant to Federal Rule of Civil Procedure 19(a), must be joined as a defendant in this action in order to provide complete relief to the plaintiff.

14. At all times relevant to the violations alleged in this Complaint, Compañia

de Aguas and/or PRASA operated the facilities at which the violations alleged herein occurred and are occurring.

15. PRASA divides the island of Puerto Rico into four regions: Metro, East, North, and Southwest. The allegations in this complaint are organized by region.

## STATUTORY AND REGULATORY BACKGROUND

16. Section 301(a) of the Act, 33 U.S.C. §1311(a), prohibits the discharge of any pollutants except in compliance with the requirements of that section and as authorized by, and in compliance with, a NPDES permit issued pursuant to the permit issuing authority provided for in Section 402 of the Act, 33 U.S.C. §1342.

17. Section 502 of the Act, 33 U.S.C. § 1362, defines the term "discharge of a pollutant" as: "[A]ny addition of any pollutant to navigable waters from any point source . . . ."

18. Section 502 of the Act, 33 U.S.C. § 1362, defines the term "pollutant" to include sewage, biological materials, and municipal waste.

19. Section 502 of the Act, 33 U.S.C. § 1362, defines the term "navigable waters" as the waters of the United States, including its territorial seas.

20. Part 122 of the Code of Federal Regulations, promulgated under the Act to regulate the NPDES Permit program, defines "waters of the United States," in relevant part, to include "[a]ll waters which are currently used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide," and tributaries to such waters. 40 CFR § 122.2(a) & (e).

21. Section 502 of the Act, 33 U.S.C. § 1362, defines the term "point source" as any discernible, confined and discrete conveyance, including, but not limited to, any ditch,

channel, tunnel, conduit, well, or discrete fissure from which pollutants may be discharged.

22. Under Section 402(a) of the Act, 33 U.S.C. § 1342(a), the Administrator of the EPA ("Administrator") may issue a NPDES permit that authorizes the discharge of pollutants into waters of the United States, provided that all discharges meet the applicable requirements of Section 301 of the Act, 33 U.S.C. § 1311, or such other conditions as the Administrator determines are necessary to carry out the provisions of the Act. Typically such permits include effluent limitations, monitoring and reporting requirements, as well as operating and maintenance requirements.

23. Pursuant to 40 C.F.R. § 122.41(e), a standard condition in all NPDES permits, including each NPDES permit governing each facility at which a violation is alleged herein, states that 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 the permit.

24. Sections 309(a)(3), (b) and (d) of the Act, 33 U.S.C. §§ 1319(a)(3), (b) and (d), authorize the Administrator to commence a civil action for injunctive relief and for civil penalties for each violation of Section 301 of the Act, 33 U.S.C. § 1311, or any permit condition or limitation implementing, *inter alia*, Section 301 of the Act, 33 U.S.C. § 1311, and contained in a permit issued under Section 402 of the Act, 33 U.S.C. § 1342.

## CLEAN WATER ACT AND NPDES PERMIT VIOLATIONS

### Violations in the Metro Region

#### *Lourdes Pneumatic Ejector Station*

25. PRASA owns and the defendants operate the Lourdes Pneumatic Ejector Station ("Lourdes PES"), located at the end of Calle Frontera, in the Villa Andalucia Development, Rio Piedras, Puerto Rico.

26. The Lourdes PES is an appurtenance to the Carolina Regional WWTP, which is required to be operated in accordance with NPDES Permit No. PR0023752.

27. Based on EPA inspections and/or reports to EPA by PRASA, at all relevant times, the Lourdes PES discharged and may continue to discharge raw sewage, including but not limited to fecal coliform, oil and grease, metals and other "pollutants" within the meaning of Section 502(6) of the Act, 33 U.S.C. § 1362 (6), at locations other than those authorized by the applicable NPDES Permit for this facility, into waters of the United States, in violation of Sections 301(a) and 402 of the Act, 33 U.S.C. §§ 1311(a) and 1342.

28. Based on EPA inspections and/or reports to EPA by PRASA, the discharges of pollutants alleged herein result from the defendants' failure properly to operate and maintain the Lourdes PES facility so as to achieve compliance with the applicable NPDES permit, in violation of Sections 301(a) and 402 of the Act, 33 U.S.C. §§ 1311(a) and 1342.

#### *El Conquistador II Pump Station*

29. PRASA owns and the defendants operate the El Conquistador II Pump Station ("El Conquistador II PS"), located at Carretera 175 Km. 11.6, Trujillo Alto, Puerto Rico.

30. The El Conquistador II PS is an appurtenance to the Carolina Regional

WWTP, which is required to be operated in accordance with NPDES Permit No. PR0023752.

31. Based on EPA inspections and/or reports to EPA by PRASA, at all relevant times, the El Conquistador II PS discharged and may continue to discharge raw sewage, including but not limited to fecal coliform, oil and grease, metals and other "pollutants" within the meaning of Section 502(6) of the Act, 33 U.S.C. § 1362 (6), at locations other than those authorized by the applicable NPDES Permit for this facility, into waters of the United States, in violation of Sections 301(a) and 402 of the Act, 33 U.S.C. §§ 1311(a) and 1342.

32. Based on EPA inspections and/or reports to EPA by PRASA, the discharges of pollutants alleged herein result from the defendants' failure properly to operate and maintain the El Conquistador II PS facility so as to achieve compliance with the applicable NPDES permit, in violation of Sections 301(a) and 402 of the Act, 33 U.S.C. §§ 1311(a) and 1342.

***Colinas de Monte Carlo Pump Station***

33. PRASA owns and the defendants operate the Colinas de Monte Carlo Pump Station ("Colinas de Monte Carlo PS"), located at the end of Calle 43, in the Colinas de Monte Carlo Development, Rio Piedras, Puerto Rico.

34. The Colinas de Monte Carlo PS is an appurtenance to the Carolina Regional WWTP, which is required to be operated in accordance with NPDES Permit No. PR0023752.

35. Based on EPA inspections and/or reports to EPA by PRASA, at all relevant times, the Colinas de Monte Carlo PS discharged and may continue to discharge raw sewage, including but not limited to fecal coliform, oil and grease, metals and other "pollutants"

within the meaning of Section 502(6) of the Act, 33 U.S.C. § 1362 (6), at locations other than those authorized by the applicable NPDES Permit for this facility, into waters of the United States, in violation of Sections 301(a) and 402 of the Act, 33 U.S.C. §§ 1311(a) and 1342.

36. Based on EPA inspections and/or reports to EPA by PRASA, the discharges of pollutants alleged herein result from the defendants' failure properly to operate and maintain the Colinas de Monte Carlo PS facility so as to achieve compliance with the applicable NPDES permit, in violation of Sections 301(a) and 402 of the Act, 33 U.S.C. §§ 1311(a) and 1342.

***Villa Andalucia Pump Station***

37. PRASA owns and the defendants operate the Villa Andalucia Pump Station ("Villa Andalucia PS"), located at Carretera 887, next to Colegio Nuestra Señora del Carmen, Rio Piedras, Puerto Rico.

38. The Villa Andalucia PS is an appurtenance to the Puerto Nuevo Regional WWTP, which is required to be operated in accordance with NPDES Permit No. PR0021555.

39. Based on EPA inspections and/or reports to EPA by PRASA, at all relevant times, the Villa Andalucia PS discharged and may continue to discharge raw sewage, including but not limited to fecal coliform, oil and grease, metals and other "pollutants" within the meaning of Section 502(6) of the Act, 33 U.S.C. § 1362 (6), at locations other than those authorized by the applicable NPDES Permit for this facility, into waters of the United States, in violation of Sections 301(a) and 402 of the Act, 33 U.S.C. §§ 1311(a) and 1342.

40. Based on EPA inspections and/or reports to EPA by PRASA, the discharges of pollutants alleged herein result from the defendants' failure properly to operate and

maintain the Villa Andalucia PS facility so as to achieve compliance with the applicable NPDES permit, in violation of Sections 301(a) and 402 of the Act, 33 U.S.C. §§ 1311(a) and 1342.

***Los Laureles Pneumatic Ejector Station***

41. PRASA owns and the defendants operate the Los Laureles Pneumatic Ejector Station ("Los Laureles PES"), located at the Los Laureles Public Development, Rio Piedras, Puerto Rico.

42. The Los Laureles PES is an appurtenance to the Puerto Nuevo Regional WWTP, which is required to be operated in accordance with NPDES Permit No. PR0021555.

43. Based on EPA inspections and/or reports to EPA by PRASA, at all relevant times, the Los Laureles PES discharged and may continue to discharge raw sewage, including but not limited to fecal coliform, oil and grease, metals and other "pollutants" within the meaning of Section 502(6) of the Act, 33 U.S.C. § 1362 (6), at locations other than those authorized by the applicable NPDES Permit for this facility, into waters of the United States, in violation of Sections 301(a) and 402 of the Act, 33 U.S.C. §§ 1311(a) and 1342.

44. Based on EPA inspections and/or reports to EPA by PRASA, the discharges of pollutants alleged herein result from the defendants' failure properly to operate and maintain the Los Laureles PES facility so as to achieve compliance with the applicable NPDES permit, in violation of Sections 301(a) and 402 of the Act, 33 U.S.C. §§ 1311(a) and 1342.

***Colinas de Cupey Pump Station***

45. PRASA owns and the defendants operate the Colinas de Cupey Pump Station ("Colinas de Cupey PS"), located at Road #199, in front of the Los Paseos Development, Rio Piedras, Puerto Rico.

46. The Colinas de Cupey PS is an appurtenance to the Puerto Nuevo Regional WWTP, which is required to be operated in accordance with NPDES Permit No. PR0021555.

47. Based on EPA inspections and/or reports to EPA by PRASA, at all relevant times, the Colinas de Cupey PS discharged and may continue to discharge raw sewage, including but not limited to fecal coliform, oil and grease, metals and other "pollutants" within the meaning of Section 502(6) of the Act, 33 U.S.C. § 1362 (6), at locations other than those authorized by the applicable NPDES Permit for this facility, into waters of the United States, in violation of Sections 301(a) and 402 of the Act, 33 U.S.C. §§ 1311(a) and 1342.

48. Based on EPA inspections and/or reports to EPA by PRASA, the discharges of pollutants alleged herein result from the defendants' failure properly to operate and maintain the Colinas de Cupey PS facility so as to achieve compliance with the applicable NPDES permit, in violation of Sections 301(a) and 402 of the Act, 33 U.S.C. §§ 1311(a) and 1342.

***Puerto Nuevo Pneumatic Ejector Station***

49. PRASA owns and the defendants operate the Puerto Nuevo Pneumatic Ejector Station ("Puerto Nuevo PES"), located at Calle Alesia #409, Hato Rey, Puerto Rico.

50. The Puerto Nuevo PES is an appurtenance to the Puerto Nuevo Regional WWTP, which is required to be operated in accordance with NPDES Permit No. PR0021555.

51. Based on EPA inspections and/or reports to EPA by PRASA, at all relevant times, the Puerto Nuevo PES discharged and may continue to discharge raw sewage, including but not limited to fecal coliform, oil and grease, metals and other "pollutants" within

the meaning of Section 502(6) of the Act, 33 U.S.C. § 1362 (6), at locations other than those authorized by the applicable NPDES Permit for this facility, into waters of the United States, in violation of Sections 301(a) and 402 of the Act, 33 U.S.C. §§ 1311(a) and 1342.

52. Based on EPA inspections and/or reports to EPA by PRASA, the discharges of pollutants alleged herein result from the defendants' failure properly to operate and maintain the Puerto Nuevo PES facility so as to achieve compliance with the applicable NPDES permit, in violation of Sections 301(a) and 402 of the Act, 33 U.S.C. §§ 1311(a) and 1342.

**Violations in the East Region**

***Tropical Comerio Pump Station***

53. PRASA owns and the defendants operate the Tropical Comerio Pump Station (a/k/a Truncal Comerio Pump Station) ("Tropical Comerio PS"), located at Carretera 156 Km. 35.5, Comerio, Puerto Rico.

54. The Tropical Comerio PS is an appurtenance to the Comerio WWTP, which is required to be operated in accordance with NPDES Permit No. PR0025658.

55. Based on EPA inspections and/or reports to EPA by PRASA, at all relevant times, the Tropical Comerio PS discharged and may continue to discharge raw sewage, including but not limited to fecal coliform, oil and grease, metals and other "pollutants" within the meaning of Section 502(6) of the Act, 33 U.S.C. § 1362 (6), at locations other than those authorized by the applicable NPDES Permit for this facility, into waters of the United States, in violation of Sections 301(a) and 402 of the Act, 33 U.S.C. §§ 1311(a) and 1342.

56. Based on EPA inspections and/or reports to EPA by PRASA, the discharges of pollutants alleged herein result from the defendants' failure properly to operate and

maintain the Tropical Comerio PS facility so as to achieve compliance with the applicable NPDES permit, in violation of Sections 301(a) and 402 of the Act, 33 U.S.C. §§ 1311(a) and 1342.

***La Vega Pump Station***

57. PRASA owns and the defendants operate the La Vega Pump Station ("La Vega PS"), located at Carretera 156 Km. 11.5, Barranquitas, Puerto Rico.

58. The La Vega PS is an appurtenance to the Barranquitas WWTP, which is required to be operated in accordance with NPDES Permit No. PR0025861.

59. Based on EPA inspections and/or reports to EPA by PRASA, at all relevant times, the La Vega PS discharged and may continue to discharge raw sewage, including but not limited to fecal coliform, oil and grease, metals and other "pollutants" within the meaning of Section 502(6) of the Act, 33 U.S.C. § 1362 (6), at locations other than those authorized by the applicable NPDES Permit for this facility, into waters of the United States, in violation of Sections 301(a) and 402 of the Act, 33 U.S.C. §§ 1311(a) and 1342.

60. Based on EPA inspections and/or reports to EPA by PRASA, the discharges of pollutants alleged herein result from the defendants' failure properly to operate and maintain the La Vega PS facility so as to achieve compliance with the applicable NPDES permit, in violation of Sections 301(a) and 402 of the Act, 33 U.S.C. §§ 1311(a) and 1342.

***San Cristobal Pump Station***

61. PRASA owns and the defendants operate the San Cristobal Pump Station ("San Cristobal PS"), located at Calle Matias Soto, in front of Garage Tomasin, Cayey, Puerto Rico.

62. The San Cristobal PS is an appurtenance to the Cayey WWTP, which is required to be operated in accordance with NPDES Permit No. PR0025356.

63. Based on EPA inspections and/or reports to EPA by PRASA, at all relevant times, the San Cristobal PS discharged and may continue to discharge raw sewage, including but not limited to fecal coliform, oil and grease, metals and other "pollutants" within the meaning of Section 502(6) of the Act, 33 U.S.C. § 1362 (6), at locations other than those authorized by the applicable NPDES Permit for this facility, into waters of the United States, in violation of Sections 301(a) and 402 of the Act, 33 U.S.C. §§ 1311(a) and 1342.

64. Based on EPA inspections and/or reports to EPA by PRASA, the discharges of pollutants alleged herein result from the defendants' failure properly to operate and maintain the San Cristobal PS facility so as to achieve compliance with the applicable NPDES permit, in violation of Sections 301(a) and 402 of the Act, 33 U.S.C. §§ 1311(a) and 1342.

***Fomento Pump Station***

65. PRASA owns and the defendants operate the Fomento Pump Station ("Fomento PS"), located at Carretera 735 Km. 2.32, Cayey, Puerto Rico.

66. The Fomento PS is an appurtenance to the Cayey WWTP, which is required to be operated in accordance with NPDES Permit No. PR0025356.

67. Based on EPA inspections and/or reports to EPA by PRASA, at all relevant times, the Fomento PS discharged and may continue to discharge raw sewage, including but not limited to fecal coliform, oil and grease, metals and other "pollutants" within the meaning of Section 502(6) of the Act, 33 U.S.C. § 1362 (6), at locations other than those authorized by the applicable NPDES Permit for this facility, into waters of the United States, in violation of

Sections 301(a) and 402 of the Act, 33 U.S.C. §§ 1311(a) and 1342.

68. Based on EPA inspections and/or reports to EPA by PRASA, the discharges of pollutants alleged herein result from the defendants' failure properly to operate and maintain the Fomento PS facility so as to achieve compliance with the applicable NPDES permit, in violation of Sections 301(a) and 402 of the Act, 33 U.S.C. §§ 1311(a) and 1342.

***Cayey Main Pump Station***

69. PRASA owns and the defendants operate the Cayey Main Pump Station ("Cayey Main PS"), located at Carretera 171 Km. 6.0, Rincon Ward, Cayey, Puerto Rico.

70. The Cayey Main PS is an appurtenance to the Cayey WWTP, which is required to be operated in accordance with NPDES Permit No. PR0025356.

71. Based on EPA inspections and/or reports to EPA by PRASA, at all relevant times, the Cayey Main PS discharged and may continue to discharge raw sewage, including but not limited to fecal coliform, oil and grease, metals and other "pollutants" within the meaning of Section 502(6) of the Act, 33 U.S.C. § 1362 (6), at locations other than those authorized by the applicable NPDES Permit for this facility, into waters of the United States, in violation of Sections 301(a) and 402 of the Act, 33 U.S.C. §§ 1311(a) and 1342.

72. Based on EPA inspections and/or reports to EPA by PRASA, the discharges of pollutants alleged herein result from the defendants' failure properly to operate and maintain the Cayey Main PS facility so as to achieve compliance with the applicable NPDES permit, in violation of Sections 301(a) and 402 of the Act, 33 U.S.C. §§ 1311(a) and 1342.

***Green Hills Pump Station***

73. PRASA owns and the defendants operate the Green Hills Pump Station

("Green Hills PS"), located at the Green Hills Development, Calle 1, Guayama, Puerto Rico.

74. The Green Hills PS is an appurtenance to Guayama Regional WWTP, which is required to be operated in accordance with NPDES Permit No. PR0025445.

75. Based on EPA inspections and/or reports to EPA by PRASA, at all relevant times, the Green Hills PS discharged and may continue to discharge raw sewage, including but not limited to fecal coliform, oil and grease, metals and other "pollutants" within the meaning of Section 502(6) of the Act, 33 U.S.C. § 1362 (6), at locations other than those authorized by the applicable NPDES Permit for this facility, into waters of the United States, in violation of Sections 301(a) and 402 of the Act, 33 U.S.C. §§ 1311(a) and 1342.

76. Based on EPA inspections and/or reports to EPA by PRASA, the discharges of pollutants alleged herein result from the defendants' failure properly to operate and maintain the Green Hills PS facility so as to achieve compliance with the applicable NPDES permit, in violation of Sections 301(a) and 402 of the Act, 33 U.S.C. §§ 1311(a) and 1342.

***El Terminal Publico Pump Station***

77. PRASA owns and the defendants operate the El Terminal Publico Pump Station ("El Terminal Publico PS"), located on Calle Muñoz Rivera, Juncos, Puerto Rico.

78. The El Terminal Publico PS is an appurtenance to the Juncos WWTP, which is required to be operated in accordance with NPDES Permit No. PR0020567.

79. Based on EPA inspections and/or reports to EPA by PRASA, at all relevant times, the El Terminal Publico PS discharged and may continue to discharge raw sewage, including but not limited to fecal coliform, oil and grease, metals and other "pollutants" within the meaning of Section 502(6) of the Act, 33 U.S.C. § 1362 (6), at locations other than

those authorized by the applicable NPDES Permit for this facility, into waters of the United States, in violation of Sections 301(a) and 402 of the Act, 33 U.S.C. §§ 1311(a) and 1342.

80. Based on EPA inspections and/or reports to EPA by PRASA, the discharges of pollutants alleged herein result from the defendants' failure properly to operate and maintain the El Terminal Publico PS facility so as to achieve compliance with the applicable NPDES permit, in violation of Sections 301(a) and 402 of the Act, 33 U.S.C. §§ 1311(a) and 1342.

## Violations in the North Region

### *Montellanos Pump Station*

81. PRASA owns and the defendants operate the Montellanos Pump Station ("Montellanos PS"), located at Carretera 617 Km. 3.7, Morovis, Puerto Rico.

82. The Montellanos PS is an appurtenance to the Morovis WWTP, which is required to be operated in accordance with NPDES Permit No. PR0020711.

83. Based on EPA inspections and/or reports to EPA by PRASA, at all relevant times, the Montellanos PS discharged and may continue to discharge raw sewage, including but not limited to fecal coliform, oil and grease, metals and other "pollutants" within the meaning of Section 502(6) of the Act, 33 U.S.C. § 1362 (6), at locations other than those authorized by the applicable NPDES Permit for this facility, into waters of the United States, in violation of Sections 301(a) and 402 of the Act, 33 U.S.C. §§ 1311(a) and 1342.

84. Based on EPA inspections and/or reports to EPA by PRASA, the discharges of pollutants alleged herein result from the defendants' failure properly to operate and maintain the Montellanos PS facility so as to achieve compliance with the applicable NPDES

permit, in violation of Sections 301(a) and 402 of the Act, 33 U.S.C. §§ 1311(a) and 1342.

***Palmas del Sur Pump Station***

85. PRASA owns and the defendants operate the Palmas del Sur Pump Station ("Palmas del Sur PS"), located on Road 155, Morovis Sur Ward, Sector Jobos, in the Palmas del Sur Development, Puerto Rico.

86. The Palmas del Sur PS is an appurtenance to the Morovis WWTP, which is required to be operated in accordance with NPDES Permit No. PR0020711.

87. Based on EPA inspections and/or reports to EPA by PRASA, at all relevant times, the Palmas del Sur PS discharged and may continue to discharge raw sewage, including but not limited to fecal coliform, oil and grease, metals and other "pollutants" within the meaning of Section 502(6) of the Act, 33 U.S.C. § 1362 (6), at locations other than those authorized by the applicable NPDES Permit for this facility, into waters of the United States, in violation of Sections 301(a) and 402 of the Act, 33 U.S.C. §§ 1311(a) and 1342.

88. Based on EPA inspections and/or reports to EPA by PRASA, the discharges of pollutants alleged herein result from the defendants' failure properly to operate and maintain the Palmas del Sur PS facility so as to achieve compliance with the applicable NPDES permit, in violation of Sections 301(a) and 402 of the Act, 33 U.S.C. §§ 1311(a) and 1342.

***Cruz Rosario Pump Station***

89. PRASA owns and the defendants operate the Cruz Roasario Pump Station ("Cruz Rosario PS"), located at Carretera 155 Km. 50.2, Morovis, Puerto Rico.

90. The Cruz Rosario PS is an appurtenance to the Morovis WWTP, which is required to be operated in accordance with NPDES Permit No. PR0020711.

91. Based on EPA inspections and/or reports to EPA by PRASA, at all relevant times, the Cruz Rosario PS discharged and may continue to discharge raw sewage, including but not limited to fecal coliform, oil and grease, metals and other "pollutants" within the meaning of Section 502(6) of the Act, 33 U.S.C. § 1362 (6), at locations other than those authorized by the applicable NPDES Permit for this facility, into waters of the United States, in violation of Sections 301(a) and 402 of the Act, 33 U.S.C. §§ 1311(a) and 1342.

92. Based on EPA inspections and/or reports to EPA by PRASA, the discharges of pollutants alleged herein result from the defendants' failure properly to operate and maintain the Cruz Rosario PS facility so as to achieve compliance with the applicable NPDES permit, in violation of Sections 301(a) and 402 of the Act, 33 U.S.C. §§ 1311(a) and 1342.

***Buena Vista Pump Station***

93. PRASA owns and the defendants operate the Buena Vista Pump Station ("Buena Vista PS"), located at Road 6634 Km. 0.5, Las Cumbres Development, Buean Vista Ward, Morovis, Puerto Rico.

94. The Buena Vista PS is an appurtenance to the Morovis WWTP, which is required to be operated in accordance with NPDES Permit No. PR0020711.

95. Based on EPA inspections and/or reports to EPA by PRASA, at all relevant times, the Buena Vista PS discharged and may continue to discharge raw sewage, including but not limited to fecal coliform, oil and grease, metals and other "pollutants" within the meaning of Section 502(6) of the Act, 33 U.S.C. § 1362 (6), at locations other than those authorized by the applicable NPDES Permit for this facility, into waters of the United States, in violation of Sections 301(a) and 402 of the Act, 33 U.S.C. §§ 1311(a) and 1342.

96. Based on EPA inspections and/or reports to EPA by PRASA, the discharges of pollutants alleged herein result from the defendants' failure properly to operate and maintain the Buena Vista PS facility so as to achieve compliance with the applicable NPDES permit, in violation of Sections 301(a) and 402 of the Act, 33 U.S.C. §§ 1311(a) and 1342.

***Cerromonte Pump Station***

97. PRASA owns and the defendants operate the Cerromonte Pump Station ("Cerromonte PS"), located at Cerromonte Development in Corozal, Puerto Rico.

98. The Cerromonte PS is an appurtenance to the Corozal WWTP, which is required to be operated in accordance with NPDES Permit No. PR0020451.

99. Based on EPA inspections and/or reports to EPA by PRASA, at all relevant times, the Cerromonte PS discharged and may continue to discharge raw sewage, including but not limited to fecal coliform, oil and grease, metals and other "pollutants" within the meaning of Section 502(6) of the Act, 33 U.S.C. § 1362 (6), at locations other than those authorized by the applicable NPDES Permit for this facility, into waters of the United States, in violation of Sections 301(a) and 402 of the Act, 33 U.S.C. §§ 1311(a) and 1342.

100. Based on EPA inspections and/or reports to EPA by PRASA, the discharges of pollutants alleged herein result from the defendants' failure properly to operate and maintain the Cerromonte PS facility so as to achieve compliance with the applicable NPDES permit, in violation of Sections 301(a) and 402 of the Act, 33 U.S.C. §§ 1311(a) and 1342.

***Las Guabas Pump Station***

101. PRASA owns and the defendants operate the Las Guabas Pump Station ("Las Guabas PS"), located at the end of Calle 1, in Ciales, Puerto Rico

102. The Las Guabas PS is an appurtenance to the Ciales WWTP, which is required to be operated in accordance with NPDES Permit No. PR0020427.

103. Based on EPA inspections and/or reports to EPA by PRASA, at all relevant times, the Las Guabas PS discharged and may continue to discharge raw sewage, including but not limited to fecal coliform, oil and grease, metals and other "pollutants" within the meaning of Section 502(6) of the Act, 33 U.S.C. § 1362 (6), at locations other than those authorized by the applicable NPDES Permit for this facility, into waters of the United States, in violation of Sections 301(a) and 402 of the Act, 33 U.S.C. §§ 1311(a) and 1342.

104. Based on EPA inspections and/or reports to EPA by PRASA, the discharges of pollutants alleged herein result from the defendants' failure properly to operate and maintain the Las Guabas PS facility so as to achieve compliance with the applicable NPDES permit, in violation of Sections 301(a) and 402 of the Act, 33 U.S.C. §§ 1311(a) and 1342.

***Caliche Pump Station***

105. PRASA owns and the defendants operate the Caliche Pump Station ("Caliche PS"), located at Carretera 633 Km. 2.0, in Ciales, Puerto Rico

106. The Caliche PS is an appurtenance to the Ciales WWTP, which is required to be operated in accordance with NPDES Permit No. PR0020427.

107. Based on EPA inspections and/or reports to EPA by PRASA, at all relevant times, the Caliche PS discharged and may continue to discharge raw sewage, including but not limited to fecal coliform, oil and grease, metals and other "pollutants" within the meaning of Section 502(6) of the Act, 33 U.S.C. § 1362 (6), at locations other than those authorized by the applicable NPDES Permit for this facility, into waters of the United States, in violation of

Sections 301(a) and 402 of the Act, 33 U.S.C. §§ 1311(a) and 1342.

108. Based on EPA inspections and/or reports to EPA by PRASA, the discharges of pollutants alleged herein result from the defendants' failure properly to operate and maintain the Caliche PS facility so as to achieve compliance with the applicable NPDES permit, in violation of Sections 301(a) and 402 of the Act, 33 U.S.C. §§ 1311(a) and 1342.

***Villa Matilde Pump Station***

109. PRASA owns and the defendants operate the Villa Matilde Pump Station ("Villa Matilde PS"), located at the end of Calle 1, in the Villa Matilde Development, Toa Alta, Puerto Rico.

110. The Villa Matilde PS is an appurtenance to the Toa Alta WWTP, which is required to be operated in accordance with NPDES Permit No. PR0020869.

111. Based on EPA inspections and/or reports to EPA by PRASA, at all relevant times, the Villa Matilde PS discharged and may continue to discharge raw sewage, including but not limited to fecal coliform, oil and grease, metals and other "pollutants" within the meaning of Section 502(6) of the Act, 33 U.S.C. § 1362 (6), at locations other than those authorized by the applicable NPDES Permit for this facility, into waters of the United States, in violation of Sections 301(a) and 402 of the Act, 33 U.S.C. §§ 1311(a) and 1342.

112. Based on EPA inspections and/or reports to EPA by PRASA, the discharges of pollutants alleged herein result from the defendants' failure properly to operate and maintain the Villa Matilde PS facility so as to achieve compliance with the applicable NPDES permit, in violation of Sections 301(a) and 402 of the Act, 33 U.S.C. §§ 1311(a) and 1342.

### *Barrio Piñas Pump Station*

113. PRASA owns and the defendants operate the Barrio Piñas Pump Station ("Barrio Piñas PS"), located at Carretera 861 Km. 10.6, Toa Alta, Puerto Rico.

114. The Barrio Piñas PS is an appurtenance to the Toa Alta Heights WWTP, which is required to be operated in accordance with NPDES Permit No. PR0022144.

115. Based on EPA inspections and/or reports to EPA by PRASA, at all relevant times, the Barrio Piñas PS discharged and may continue to discharge raw sewage, including but not limited to fecal coliform, oil and grease, metals and other "pollutants" within the meaning of Section 502(6) of the Act, 33 U.S.C. § 1362 (6), at locations other than those authorized by the applicable NPDES Permit for this facility, into waters of the United States, in violation of Sections 301(a) and 402 of the Act, 33 U.S.C. §§ 1311(a) and 1342.

116. Based on EPA inspections and/or reports to EPA by PRASA, the discharges of pollutants alleged herein result from the defendants' failure properly to operate and maintain the Barrio Piñas PS facility so as to achieve compliance with the applicable NPDES permit, in violation of Sections 301(a) and 402 of the Act, 33 U.S.C. §§ 1311(a) and 1342.

## Violations in the Southwest Region

### *Confresi Pump Station*

117. PRASA owns and the defendants operate the Confresi Pump Station (a/k/a Cabo Rojo Pump Station) ("Confresi PS"), located at PR-102 Km. 18.8, in Cabo Rojo, Puerto Rico.

118. The Confresi PS is an appurtenance to the Mayaguez Regional WWTP, which is required to be operated in accordance with NPDES Permit No. PR0023795.

119. Based on EPA inspections and/or reports to EPA by PRASA, at all relevant times, the Confresi PS discharged and may continue to discharge raw sewage, including but not limited to fecal coliform, oil and grease, metals and other "pollutants" within the meaning of Section 502(6) of the Act, 33 U.S.C. § 1362 (6), at locations other than those authorized by the applicable NPDES Permit for this facility, into waters of the United States, in violation of Sections 301(a) and 402 of the Act, 33 U.S.C. §§ 1311(a) and 1342.

120. Based on EPA inspections and/or reports to EPA by PRASA, the discharges of pollutants alleged herein result from the defendants' failure properly to operate and maintain the Confresi PS facility so as to achieve compliance with the applicable NPDES permit, in violation of Sections 301(a) and 402 of the Act, 33 U.S.C. §§ 1311(a) and 1342.

***Puerto Real Pump Station***

121. PRASA owns and the defendants operate the Puerto Real Pump Station ("Puerto Real PS"), located at PR-308, in Puerto Real Ward, Cabo Rojo, Puerto Rico.

122. The Puerto Real PS is an appurtenance to the Mayaguez Regional WWTP, which is required to be operated in accordance with NPDES Permit No. PR0023795.

123. Based on EPA inspections and/or reports to EPA by PRASA, at all relevant times, the Puerto Real PS discharged and may continue to discharge raw sewage, including but not limited to fecal coliform, oil and grease, metals and other "pollutants" within the meaning of Section 502(6) of the Act, 33 U.S.C. § 1362 (6), at locations other than those authorized by the applicable NPDES Permit for this facility, into waters of the United States, in violation of Sections 301(a) and 402 of the Act, 33 U.S.C. §§ 1311(a) and 1342.

124. Based on EPA inspections and/or reports to EPA by PRASA, the

discharges of pollutants alleged herein result from the defendants' failure properly to operate and maintain the Puerto Real PS facility so as to achieve compliance with the applicable NPDES permit, in violation of Sections 301(a) and 402 of the Act, 33 U.S.C. §§ 1311(a) and 1342.

***Cabo Rojo Main Pump Station***

125. PRASA owns and the defendants operate the Cabo Rojo Main Pump Station ("Cabo Rojo Main PS"), located in the Anna Maria Development (Obras Publicas), in Cabo Rojo, Puerto Rico.

126. The Cabo Rojo Main PS is an appurtenance to the Mayaguez Regional WWTP, which is required to be operated in accordance with NPDES Permit No. PR0023795.

127. Based on EPA inspections and/or reports to EPA by PRASA, at all relevant times, the Cabo Rojo Main PS discharged and may continue to discharge raw sewage, including but not limited to fecal coliform, oil and grease, metals and other "pollutants" within the meaning of Section 502(6) of the Act, 33 U.S.C. § 1362 (6), at locations other than those authorized by the applicable NPDES Permit for this facility, into waters of the United States, in violation of Sections 301(a) and 402 of the Act, 33 U.S.C. §§ 1311(a) and 1342.

128. Based on EPA inspections and/or reports to EPA by PRASA, the discharges of pollutants alleged herein result from the defendants' failure properly to operate and maintain the Cabo Rojo Main PS facility so as to achieve compliance with the applicable NPDES permit, in violation of Sections 301(a) and 402 of the Act, 33 U.S.C. §§ 1311(a) and 1342.

***El Poly Pump Station***

129. PRASA owns and the defendants operate the El Poly Pump Station ("El Poly PS"), located at PR-103 Km. 30.8, in San German, Puerto Rico.

130. The El Poly PS is an appurtenance to the San German WWTP, which is required to be operated in accordance with NPDES Permit No. PR0020818.

131. Based on EPA inspections and/or reports to EPA by PRASA, at all relevant times, the El Poly PS discharged and may continue to discharge raw sewage, including but not limited to fecal coliform, oil and grease, metals and other "pollutants" within the meaning of Section 502(6) of the Act, 33 U.S.C. § 1362 (6), at locations other than those authorized by the applicable NPDES Permit for this facility, into waters of the United States, in violation of Sections 301(a) and 402 of the Act, 33 U.S.C. §§ 1311(a) and 1342.

132. Based on EPA inspections and/or reports to EPA by PRASA, the discharges of pollutants alleged herein result from the defendants' failure properly to operate and maintain the El Poly PS facility so as to achieve compliance with the applicable NPDES permit, in violation of Sections 301(a) and 402 of the Act, 33 U.S.C. §§ 1311(a) and 1342.

***Reparto Universidad Pump Station***

133. PRASA owns and the defendants operate the Reparto Universidad Pump Station ("Reparto Universidad PS"), located at PR-102 Km. 30.2, in San German, Puerto Rico.

134. The Reparto Universidad PS is an appurtenance to the San German WWTP, which is required to be operated in accordance with NPDES Permit No. PR0020818.

135. Based on EPA inspections and/or reports to EPA by PRASA, at all relevant times, the Reparto Universidad PS discharged and may continue to discharge raw sewage, including but not limited to fecal coliform, oil and grease, metals and other "pollutants" within the meaning of Section 502(6) of the Act, 33 U.S.C. § 1362 (6), at locations other than those authorized by the applicable NPDES Permit for this facility, into waters of the United

States, in violation of Sections 301(a) and 402 of the Act, 33 U.S.C. §§ 1311(a) and 1342.

136. Based on EPA inspections and/or reports to EPA by PRASA, the discharges of pollutants alleged herein result from the defendants' failure properly to operate and maintain the Reparto Universidad PS facility so as to achieve compliance with the applicable NPDES permit, in violation of Sections 301(a) and 402 of the Act, 33 U.S.C. §§ 1311(a) and 1342.

***Santa Marta Pump Station***

137. PRASA owns and the defendants operate the Santa Marta Pump Station ("Santa Marta PS"), located at Calle Riverside G-1, in San German, Puerto Rico.

138. The Santa Marta PS is an appurtenance to the San German WWTP, which is required to be operated in accordance with NPDES Permit No. PR0020818.

139. Based on EPA inspections and/or reports to EPA by PRASA, at all relevant times, the Santa Marta PS discharged and may continue to discharge raw sewage, including but not limited to fecal coliform, oil and grease, metals and other "pollutants" within the meaning of Section 502(6) of the Act, 33 U.S.C. § 1362 (6), at locations other than those authorized by the applicable NPDES Permit for this facility, into waters of the United States, in violation of Sections 301(a) and 402 of the Act, 33 U.S.C. §§ 1311(a) and 1342.

140. Based on EPA inspections and/or reports to EPA by PRASA, the discharges of pollutants alleged herein result from the defendants' failure properly to operate and maintain the Santa Marta PS facility so as to achieve compliance with the applicable NPDES permit, in violation of Sections 301(a) and 402 of the Act, 33 U.S.C. §§ 1311(a) and 1342.

### *El Submarino Pump Station*

141. PRASA owns and the defendants operate the El Submarino Pump Station ("El Submarino PS"), located at PR-101 Km. 5.8, in Lajas, Puerto Rico.

142. The El Submarino PS is an appurtenance to the Lajas WWTP, which is required to be operated in accordance with NPDES Permit No. PR0020575.

143. Based on EPA inspections and/or reports to EPA by PRASA, at all relevant times, the El Submarino PS discharged and may continue to discharge raw sewage, including but not limited to fecal coliform, oil and grease, metals and other "pollutants" within the meaning of Section 502(6) of the Act, 33 U.S.C. § 1362 (6), at locations other than those authorized by the applicable NPDES Permit for this facility, into waters of the United States, in violation of Sections 301(a) and 402 of the Act, 33 U.S.C. §§ 1311(a) and 1342.

144. Based on EPA inspections and/or reports to EPA by PRASA, the discharges of pollutants alleged herein result from the defendants' failure properly to operate and maintain the El Submarino PS facility so as to achieve compliance with the applicable NPDES permit, in violation of Sections 301(a) and 402 of the Act, 33 U.S.C. §§ 1311(a) and 1342.

## FIRST CLAIM FOR RELIEF

145. Paragraphs 1 through 144 are realleged and incorporated herein.

146. The discharges of a pollutant into waters of the United States from the 30 pump stations as alleged in paragraphs 25 through 144 of this Complaint violate Section 301(a) the Act, 33 U.S.C. § 1311(a). Pursuant to Section 309(d) of the Act, 33 U.S.C. § 1319(d), the defendants are liable for the assessment of civil penalties not to exceed twenty-five thousand dollars ($25,000) per day for each such violation occurring on or before January 30, 1997 and,

pursuant to the Debt Collection Improvement Act of 1996 and 40 C.F.R. Part 19, twenty-seven thousand five hundred dollars ($27,500) per day for each such violation occurring after January 30, 1997.

## SECOND CLAIM FOR RELIEF

147. Paragraphs 1 through 144 are realleged and incorporated herein.

148. Each discharge of a pollutant into waters of the United States from the 30 pump stations as alleged in paragraphs 25 through 144 of this Complaint results from the defendants' failure properly to operate and maintain the facilities so as to achieve compliance with the applicable NPDES permit, in violation of Sections 301(a) and 402 of the Act, 33 U.S.C. §§ 1311(a) and 1342. Pursuant to Section 309(d) of the Act, 33 U.S.C. § 1319(d), the defendants are liable for the assessment of civil penalties not to exceed twenty-five thousand dollars ($25,000) per day for each such violation occurring on or before January 30, 1997 and, pursuant to the Debt Collection Improvement Act of 1996 and 40 C.F.R. Part 19, twenty-seven thousand five hundred dollars ($27,500) per day for each such violation occurring after January 30, 1997.

## THIRD CLAIM FOR RELIEF

149. Upon information and belief, the defendants will continue to discharge pollutants from PRASA's pump station facilities into the waters of the United States at locations other than those authorized by the applicable NPDES permit for each such facility in violation of Section 301(a) of the Act, 33 U.S.C. § 1311(a), and will continue to fail properly to operate and maintain said facilities so as to achieve compliance with the applicable NPDES permit for said facilities in violation of Sections 301(a) and 402 of the Act, 33 U.S.C. §§ 1311(a) and 1342. Pursuant to Section 309(b) of the Act 33 U.S.C. § 1319(b), the Administrator is entitled to seek

injunctive relief to secure the defendant' compliance with the Act.

## PRAYER FOR RELIEF

WHEREFORE, the United States of America prays that:

1. The defendants be assessed, pursuant to Section 309(d) of the Act, 33 U.S.C. § 1319 (d), for each unlawful discharge of a pollutant into waters of the United States as alleged in paragraphs 23 through 142 above, twenty-five thousand dollars ($25, 000) per day for each violation occurring on or before January 30, 1997 and, pursuant to the Debt Collection Improvement Act of 1996 and 40 C.F.R. Part 19, twenty-seven thousand five hundred dollars ($27,500) per day for each such violation occurring after January 30, 1997, up to the date of judgment herein.

2. The defendants be assessed, pursuant to Section 309(d) of the Act, 33 U.S.C. § 1319 (d), for each violation of the operation and maintenance provision of each NPDES Permit applicable to each of the 30 pump stations as alleged in paragraphs 25 through 144 above, twenty-five thousand dollars ($25, 000) per day for each violation occurring on or before January 30, 1997 and, pursuant to the Debt Collection Improvement Act of 1996 and 40 C.F.R. Part 19, twenty-seven thousand five hundred dollars ($27,500) per day for each such violation occurring after January 30, 1997, up to the date of judgment herein.

3. The defendants be permanently enjoined, pursuant to Section 309(b) of the Act, 33 U.S.C. § 1319 (b), from any and all future violations of the Act and from discharges of pollutants except as authorized by permit under Section 402 of the Act, 33 U.S.C. §1342.

4. The foregoing allegations being representative of a pervasive and systematic failure of the defendants to operate and maintain their pump stations properly in

accordance with the terms of PRASA's NPDES permits, the Clean Water Act and regulations promulgated thereunder, the defendants be ordered to immediately assess the operational status of each pump station facility in Puerto Rico to identify deficiencies in the system so that a comprehensive operation and maintenance plan to address such deficiencies and to bring each of PRASA's pump station facilities into immediate compliance with the terms and conditions of the NPDES permits, the Clean Water Act and regulations promulgated thereunder can be formulated and implemented.

5. The defendants be ordered to reimburse the United States for the costs and disbursements of this action.

6. This Court grant the United States such other and further relief as it deems just and proper.

Respectfully submitted,

Date: _____

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JOHN C. CRUDEN
Acting Assistant Attorney General
Environment and Natural Resources
Division

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JONATHAN A. MARKS
Attorney
Environmental Enforcement Section
Environment & Natural Resources
Division
U.S. Department of Justice
P.O. Box 7611
Ben Franklin Station
Washington, D.C. 20044-7611
(202) 514-4454

GUILLERMO GIL
United States Attorney
District of Puerto Rico

_____
ISABEL MUÑOS
Assistant United States Attorney
District of Puerto Rico
Federal Office Building, Room 101
Carlos E. Chardon Avenue
Hato Rey, Puerto Rico 00918
(787) 766-5656

Of Counsel:

EDUARDO J. GONZALEZ
Assistant Regional Counsel
Office of Regional Counsel
United States Environmental
Protection Agency
1492 Ponce de Leon Ave.
Suite 207
San Juan, PR 00907