

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2

In the Matter of:

Florida Municipal Solid Waste
Landfill, Florida,
Puerto Rico.

Municipality of Florida,
Puerto Rico,

Respondent.

Proceeding Under Section 7003
of the Solid Waste Disposal
Act, as amended.

ADMINISTRATIVE ORDER
ON CONSENT

Docket No.
RCRA-02-2007-7305

I. JURISDICTION

1. This Administrative Order (the "Order") is issued on consent to the Municipality of Florida, Puerto Rico, hereinafter referred to as Florida or Respondent. Respondent is the owner and operator of the Municipal Solid Waste Landfill (the "MSWLF Facility" or the "Facility"), located in Florida in the Commonwealth of Puerto Rico. The Order is issued by the United States Environmental Protection Agency ("EPA") pursuant to the authorities vested in the Administrator of EPA by Section 7003 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act and the Hazardous and Solid Waste Amendments of 1984, 42 U.S.C. § 6901 et seq. (collectively hereinafter referred to as "RCRA" or "the Act"), which authorities have been duly delegated to the Regional Administrator of EPA, Region 2. Notice of this Order has been provided to the Government of Puerto Rico, pursuant to Section 7003 of RCRA, 42 U.S.C. § 6973.
2. Respondent agrees to undertake all actions required by the terms and conditions of this Order, consent to and will not contest EPA's jurisdiction to issue and, if necessary,

enforce this Order, and will not contest the terms of this Order.

II. PARTIES BOUND

3. a This Order shall apply to and be binding upon the Respondent and each and every agent of Respondent. Respondent shall supply any person or entity who is under the direct or indirect control of the Respondent (including but not limited to any contractor or independent agent retained to perform work related to this Order) with a complete copy of the Order. Respondent shall nonetheless be responsible for ensuring that its contractors, subcontractors and agents comply with the requirements of this Order and perform work in accordance with this Order.

b. Respondent is responsible for carrying out the requirements of this Order, and, as set forth in XIV. STIPULATED PENALTIES, Respondent is liable for stipulated penalties for non-performance of any of the Order's requirements.

c. Respondent's obligations under this Order shall be binding on any successor, whether such successor is created by merger, expansion or otherwise, pursuant to the laws of the Commonwealth of Puerto Rico.

III. EPA FINDINGS OF FACT AND CONCLUSIONS OF LAW

4. The Facility has been used continuously as a municipal solid waste landfill ("MSWLF"), as that term is defined at 40 Code of Federal Regulations, ("C.F.R.") Section 258.2, since at least the early 1970s.

5. According to a report prepared for the Puerto Rico Solid Waste Management Authority ("SWMA") in 2005, the overall MSWLF Facility site comprises approximately 24 acres.

6. The MSWLF Facility is located at Carr. 642-Km 9.7, Barrio Yanes, Municipality of Florida, Puerto Rico. The approximate geographic coordinates are Latitude: 18 Degrees, 21.996 Minutes; Longitude: 66 Degrees, 33.167 Minutes.

7. Respondent, a Municipality of the Commonwealth of Puerto Rico, owns the MSWLF Facility.

8. Respondent is the owner of the MSWLF Facility. Respondent has contributed in the past and is currently contributing to the management and disposal of solid waste at the MSWLF Facility.

9. Formerly part of nearby Barceloneta, Florida became a municipality in 1971. Its population as recorded in the 2000 Census was 12,367, approximately 50 percent higher than its 1990 population.
10. Respondent estimates that the MSWLF Facility currently accepts approximately 20,000-25,000 tons of solid waste each year for disposal, approximately fifty percent of which is generated by Florida itself. The solid waste is primarily household waste (which by definition may include household hazardous waste), although commercial solid waste is also deposited at the Facility.
11. Waste Disposal Management, Inc., ("WDM") a corporation doing business in Puerto Rico, is an operator of the MSWLF Facility. WDM since 2003 has been responsible for the operation of the MSWLF Facility, acting under a contractual arrangement with Respondent.
12. Respondent is a "person" as that term is defined in Section 1004(15) of the Act, 42 U.S.C. § 6903(15).
13. As an existing MSWLF, the Facility is subject to the federal regulations promulgated at 40 C.F.R. Part 258, entitled Criteria for Municipal Solid Waste Landfills.
14. Since the 1970s, the MSWLF waste deposition area has grown and expanded. The MSWLF was not originally designed with a leachate collection system and/or a liner and does not contain either.
15. EPA estimates that the MSWLF Facility waste deposition area has expanded laterally since 1994.
16. Leachate is liquid that has passed through or emerged from solid waste and contains soluble, suspended or miscible materials removed from such waste. Leachate from MSWLF Facilities may be contaminated.
17. Increased area of a landfill may increase the area subject to direct precipitation and storm water run-on. Leachate may enter the subsurface soils and groundwater or be discharged to nearby surface waters and wetlands from groundwater or seeps. Storm water runoff may also contribute to surface and groundwater contamination.
18. Pursuant to Federal landfill regulations, any MSWLF Facility to be located or expanded in unstable areas, including

karst terrane or seismic impact areas, must demonstrate that special engineering measures have been taken to ensure that the structural integrity of the MSWLF is protected. EPA has determined that the MSWLF is located in karst terrane and is in the Caribbean seismic zone.

19. The MSWLF Facility is also subject to the Non-Hazardous Solid Waste Management Regulations of Puerto Rico, administered by the Puerto Rico Environmental Quality Board ("EQB"). The MSWLF has an operating permit issued by EQB.

20. Based on its inspections in 2001-2002, the EQB at that time rated the condition of the MSWLF Facility as poor.

21. EQB determined that there had been numerous deficiencies at the MSWLF Facility, including lack of an operating log, insufficient security, lack of leachate and storm water runoff controls, lack of a Closure Plan and lack of a required ground water monitoring system to detect migration of contaminants from the landfill. The MSWLF Facility also was found to lack an explosive gas monitoring system. In addition, EQB found that the MSWLF Facility in the past did not properly apply daily cover or properly backfill to cover areas that had once been covered but had subsequently become exposed due to erosion.

22. Authorized representatives of EPA, accompanied by an EQB official, inspected the MSWLF Facility on or about March 4, 2004 (the "EPA inspection"). EPA subsequently obtained additional information concerning waste disposal practices at the Facility.

23. The EPA inspection confirmed the deficiencies enumerated by EQB. The EPA inspection also revealed that automotive fluids, used tires, scrap metal, used oil cans, calks, paint buckets, appliances and other wastes had been disposed at the MSWLF Facility. During its inspection, the EPA representatives observed black and oily seepage from the operating face of the MSWLF Facility. Observed flow was toward a water-containing sinkhole.

24. EPA representatives again conducted a compliance evaluation of the MSWLF on or about April 4, 2006. At this time, EPA representatives observed that vegetative and green wastes were being segregated for recycling and daily cover operations were improved. However, the EPA representatives observed evidence of some leachate seepage. Since that time, Respondent's representatives have informed EPA that a comprehensive waste recycling program has been established by Respondent.

25. Leachate releases from a MSWLF Facility containing hazardous constituents may directly threaten human health through contamination of drinking water that may be drawn from the underlying aquifer.
26. Landfill gas is generated during the natural process of anaerobic decomposition of refuse contained in a MSWLF. Landfill gas is predominantly methane and carbon dioxide, and small amounts of non-methane organic compounds ("NMOCs") such as ethane, toluene and benzene. Methane gas is odorless and combustible. The accumulation of methane gas within a MSWLF or through subsurface migration off-site can potentially cause fires and/or explosions.
27. Carbon dioxide and methane are greenhouse gases that can contribute to climate change, and NMOCs contribute to ozone formation.
28. Contaminated runoff and ground water from the MSWLF Facility have the potential to adversely impact the local karst sinkhole ecosystems down gradient from the Facility.
29. The karst region harbors the richest biodiversity in Puerto Rico. More than 1,300 species of plants and animals are present in the karst, and Neotropical migratory birds utilize karst as wintering habitat. The karst region is prime habitat for most of the native and endemic wildlife species, including 30 federally listed threatened and endangered species. Many of these species are only known from karst ecosystems. Most of the endangered species present at the karst belt are plants with a restricted distribution that are vulnerable to habitat alteration and destruction by improper land use practices.
30. The MSWLF Facility is located on a slope up gradient of nearby residential neighborhoods. Drinking water for Florida residents is drawn from the underlying karst aquifer.
31. The Florida area receives an average of approximately sixty-six(66) inches of rainfall annually.
32. Leachate releases from the MSWLF Facility may reach the underlying karst aquifer.
33. The MSWLF Facility is located in a karst terrane geologic region. Karst characteristically is a limestone region marked by sinks and interspersed with abrupt ridges, irregular protuberant rocks, caverns and underground streams.

34. The irregularity and inherent instability of the limestone karst makes it difficult over time to consistently monitor groundwater flows that may reach sinkholes and any connected underlying aquifer.

35. An EPA technical study, "Ground-Water Monitoring in Karst Terranes," (U.S. EPA, EPA/600/X-89/050) concluded that waste disposal facilities should not be located within a karst terrane.

36. The foregoing EPA Findings of Fact describe conditions at the MSWLF Facility that may present an imminent and substantial endangerment to human health and the environment.

37. The foregoing EPA Findings of Fact and Conclusions of Law demonstrate that Respondent is a person under RCRA and that Respondent as owner and operator of the MSWLF Facility has in the past contributed to and is now contributing to the handling and disposal of solid waste at the Facility and that the Facility may pose an imminent and substantial threat to human health and the environment.

IV. DETERMINATION

38. Based on the foregoing EPA FINDINGS OF FACT AND CONCLUSIONS OF LAW and the full Administrative Record, the Regional Administrator of EPA Region 2, upon receipt of evidence and information that the past and present handling and disposal of solid wastes at the Facility may present an imminent and substantial endangerment to health and/or the environment, has determined that issuance of this Order is necessary to protect public health and the environment.

V. ORDER

39. Based on the foregoing EPA FINDINGS OF FACT AND CONCLUSIONS OF LAW, the foregoing DETERMINATION, and the full administrative record, IT IS HEREBY ORDERED that Respondent shall perform all actions required by this Order and comply with all its provisions. Respondent shall fully cooperate with EPA representatives in carrying out the provisions of this Order.

VI. ORDER WORK REQUIREMENTS

40. REPORTS, NOTICES AND DOCUMENT SUBMISSIONS

All submissions to EPA by Respondent pursuant to this Order shall be in English. This includes progress reports, notices, letters, plans and specifications, certifications and other such submissions required by the terms of this Order.

41. INTERIM MEASURES

a. No later than twenty (20) calendar days after the effective date of this Order, Respondent shall cause the following NOTICE to be posted in Spanish and English at the MSWLF Facility entrance in large lettering on a mounted sign at least four feet by four feet in size. Respondent shall confirm in writing to EPA that the Notice has been posted, and shall send EPA one or more photographs either in digital form or clearly developed of the Notice sign.

NOTICE

**THIS LANDFILL FACILITY IS
SUBJECT TO A UNITED STATES
ENVIRONMENTAL PROTECTION
AGENCY ORDER ON CONSENT WITH
THE MUNICIPALITY OF FLORIDA**

b. Respondent shall continue to provide security at the Facility, including any necessary fencing and a gate or gates that are to be locked when the Facility is not operating.

c. Respondent shall continue to inspect all incoming loads of waste to be deposited at the MSWLF Facility so as to prevent the disposal of prohibited wastes at the Facility, and to ensure that the MSWLF Facility complies with the prohibition on disposal of certain liquid wastes, as set forth in 40 C.F.R. § 258.28. Respondent shall continue to maintain a log of all incoming waste loads. The log shall contain the delivery date, name of the hauler or carter, a brief description of each load's contents and an estimate of its volume.

d. Until the MSWLF Facility stops receiving waste for disposal, Respondent shall continue to provide daily cover for the waste disposal area at the MSWLF Facility, in accordance with the provisions of 40 C.F.R. § 258.21.

e. Respondent shall file a written report with EPA within forty-five (45) calendar days of the effective date of this Order documenting compliance with these INTERIM MEASURES. The report shall be accompanied by the certification set forth in VIII. CERTIFICATIONS, herein.

42. SCHEDULE FOR CEASING RECEIPT OF WASTE AT THE LANDFILL

a. Notices To Landfill Users: At least thirty (30) calendar days before the date Respondent ceases to receive all waste for disposal at the landfill, pursuant to subparagraph "b.", below, Respondent shall give written notice to carters serving customers outside of Florida and to municipalities outside Florida that dispose of waste at the MSWLF Facility specifying the date after which the MSWLF Facility will no longer accept waste from such carters and municipalities. Respondent shall send copies of the notices to the Puerto Rico Solid Waste Management Authority ("SWMA") and the Puerto Rico Environmental Quality Board ("EQB"). Respondent shall send EPA copies of the notices.

b. Cessation of Waste Receipt: Respondent shall permanently cease receiving all waste for disposal at the MSWLF Facility no later than December 31, 2009, unless a different date is agreed to by the parties in writing. The sign posted pursuant to paragraph "41. a.", herein, shall be removed and a sign at least four feet by four feet shall be posted at the Facility notifying the public that the former landfill is permanently closed.

c. Intermediate Cover: After the Facility ceases to receive waste deposits at subareas of the landfill in each phase of the Closure Plan, Respondent shall provide and maintain intermediate cover of at least twelve (12) inches of compacted earthen material for each subarea at the MSWLF Facility, so as to prevent exposure of any wastes and to control vectors, fires, odors, blowing litter and scavengers until a final landfill cover is installed.

d. Report To EPA That Waste Receipt Has Ceased: Within twenty (20) calendar days after the MSWLF Facility ceases receiving all waste, Respondent shall submit a written report to EPA documenting that Respondent no longer permits the disposal of

any solid wastes at the Facility and that such disposal has ceased, and that the intermediate cover requirement set forth is sub-paragraph "c.", immediately above, has been met. The report shall be accompanied by a certification signed by a senior official of Respondent in the form set forth in VIII.

CERTIFICATIONS, herein.

43. PERMANENT CLOSURE AND POST-CLOSURE

a. Professional Engineer; Preparation Of Closure and Post-Closure Plans: As soon as practicable after the effective date of this Order, but no later than sixty (60) calendar days after the effective date, Respondent to the extent it has not already done so, shall retain the services of a professional engineer, experienced in landfill design, development and closure, and licensed by the Commonwealth of Puerto Rico or permitted to practice engineering in Puerto Rico, to prepare final Closure and Post-Closure Plans for the MSWLF Facility. These plans must at a minimum meet the closure and post-closure criteria set forth in 40 C.F.R. §§ 258.60 and 258.61. The Closure and Post-Closure Plans also shall incorporate measures to meet any applicable requirements of the Clean Water Act, 42 U.S.C. § 1252 et seq. ("CWA") relating to storm water discharges and its implementing regulations, including permit requirements set forth in 40 C.F.R. Part 122, Subpart B, Section 122.26.

b. Implementation Timetables: The Closure and Post Closure Plans shall include timetables for their implementation. The timetables shall take into account any measures that may be required under this Order to comply with Landfill Gas Control Requirements, pursuant to paragraph "44.", herein, and to install groundwater monitoring. The Closure Plan implementation timetable shall provide that closure must be completed no later than April 1, 2010.

c. Submittal Of Closure and Post-Closure Plans To EPA; Review and Comments By EPA; Revision and Resubmittal Of Plans: After their preparation by the professional engineer and acceptance by Respondent, the final Closure and Post Closure Plans shall be submitted to EPA for review. The Plans shall include an engineering report and associated plans and specifications for permanent closure of the MSWLF Facility, including a detailed closure construction schedule, and necessary measures, procedures and information for post-closure care. The plans shall be submitted within three hundred sixty (360) calendar days after the effective date of the Order, unless EPA approves a later date in writing. EPA will review the Plans and within

thirty (30) calendar days of their receipt will notify Respondent in writing of EPA's acceptance or non-acceptance of the Plans. In the event of non-acceptance, EPA will specify deficiencies in the Plans in writing and outline necessary revisions or modifications. Thereafter, Respondent shall within thirty (30) calendar days of receipt of EPA's notice of non-acceptance of the Plans, modify/revise the Plans and resubmit them to EPA for final review. This process shall be repeated in the event of EPA's non-acceptance of the resubmitted Plans, but if the repeated process does not produce acceptable revised Plans, EPA may in its discretion determine that it is necessary to invoke the procedures set forth in subparagraph "d.", immediately below. Throughout the process, EPA and Respondent shall confer as necessary and appropriate in order to clarify and resolve any outstanding issues. EPA will notify Respondent in writing of its final acceptance or non-acceptance of the Closure and Post-Closure Plans.

d. Final Notice Of Deficiencies: When EPA determines in its sole discretion that it is necessary to invoke the procedures in this subparagraph in order to achieve acceptable Closure and/or Post Closure Plans, it will notify Respondent in writing setting forth a final date for Respondent's submission of acceptable Plan(s) to EPA. The written notice will specify the corrections, amendments and/or changes that Respondent needs to make to previously submitted Plan(s) to achieve EPA acceptance, and the reasons why such corrections, amendments and/or changes are necessary. The notification letter will carry the caption: FINAL NOTIFICATION OF DEFICIENCIES across the top of the page and will specify the date by which the Plan(s), signed by the professional engineer and approved by Respondent, must be submitted to EPA. If the professional engineer believes in his best professional judgement that certain proposed corrections, amendments and/or changes described in the NOTIFICATION cannot or should not be complied with, Respondent may provide notice to EPA that the matter is subject to the XXIV. DISPUTE RESOLUTION provisions set forth herein. After a decision on any matter or matters submitted for dispute resolution, EPA will, if necessary, submit a SECOND FINAL NOTICE OF DEFICIENCIES letter specifying the date by which the Plan(s) must be resubmitted to EPA. Thereafter, EPA will promptly notify Respondent in writing of its final acceptance or non-acceptance of the Closure and/or Post Closure Plans. Respondent's failure to submit acceptable Closure and/or Post Closure Plans by the date specified in the FINAL NOTIFICATION OF DEFICIENCIES, or in the event of a dispute resolution, by the date specified in the SECOND FINAL NOTIFICATION OF DEFICIENCIES, shall constitute Respondent's failure to comply with a requirement of this Order, and

Respondent shall be subject to stipulated penalties for such failure, in accordance with XIV. STIPULATED PENALTIES, herein.

e. Submittals To Puerto Rico Environmental Quality Board: Respondent shall submit the final Closure and Post-Closure Plans to EQB for its review and comments prior to or simultaneously with their submittal to EPA. Respondent shall obtain any required approvals from EQB for such plans.

f. Start Of Closure Plan Work: Within thirty (30) calendar days after receipt of EPA's written acceptance of the Closure Plan, pursuant to subparagraphs "d." or "e.", above, or within thirty (30) calendar days of any required EQB approval of the Closure Plan, whichever comes later, Respondent shall proceed to carry out the Closure Plan, in accordance with its timetable.

g. Quarterly Reports: During the implementation of the approved Closure Plan, Respondent shall submit quarterly reports to EPA on the status of implementation activities. The reports shall be submitted no later than twenty (20) calendar days after the end of each quarter.

h. Notice To EPA and Certification Of Completion Of Closure Plan Work: Respondent shall notify EPA in writing within thirty (30) calendar days after completion of the Closure Plan work, and shall certify that the work has been performed in accordance with the provisions of the Closure Plan accepted by EPA, its associated plans and specifications, and any permits or other forms of prior approval Respondent obtained for the Closure Plan. The notification shall be accompanied by a Certification signed by a professional engineer that the Closure Plan work has been completed in accordance with the Closure Plan, its associated plans and its specifications, and any permits or other forms of prior approval. A senior official of Respondent shall also certify that the work has been completed, in accordance with VIII. CERTIFICATIONS, herein.

i. Carrying Out The Post-Closure Plan: Respondent shall carry out the provisions of the Post-Closure Plan. If monitoring discloses that repairs or alterations must be made to the landfill cap, the explosive gas monitoring system (40 C.F.R. § 258.23), the ground water monitoring system, or any other component, Respondent shall timely make such repairs.

j. Post-Closure Plan; Ground Water Monitoring: Ground water monitoring will be conducted pursuant to the Post-Closure Plan. If information obtained through ground water monitoring or otherwise indicates that measures and procedures are necessary to

conduct a corrective action assessment and/or a corrective action remedy, as those terms are described in 40 C.F.R. §§ 258.56, 258.57 and 258.58, Respondent shall undertake such measures and procedures.

k. Annual Post-Closure Report: Respondent shall submit a report to EPA annually that fully describes post-closure activities during the preceding year. The report shall include information on the results of ground water and gas monitoring and the status of the permanent landfill cap, operating and maintenance activities, financial assurance, and other relevant information. The annual report shall be submitted on or before September 30 of each calendar year beginning after the Closure Plan work has been completed. The annual post-closure report shall be signed by a senior official of Respondent, in accordance with VIII. CERTIFICATIONS, herein.

l. Special Program Development: Within two hundred seventy (270) calendar days after the effective date of this Order, Respondent shall develop a special public education and awareness program relating to the management of household hazardous waste by Florida residents. The program shall also include a public education and awareness component relating to waste generated by conditionally exempt small quantity generators. Respondent shall submit the program to EPA for its review and comments prior to its adoption.

44. LANDFILL GAS CONTROL REQUIREMENTS

a. Within thirty (30) calendar days of the effective date of this Order, Respondent shall submit to EPA a design capacity report for the calendar year 2005 which meets the substantive requirements of the New Source Performance Standards ("NSPS") for municipal solid waste landfills, 40 C.F.R. Part 60, Subpart WWW (NSPS Subpart WWW) or the Puerto Rico Regulations for the Control of Atmospheric Pollution ("PRRCAP"), Part VII, Rule 701 et seq (Puerto Rico 111(d) Plan), collectively hereinafter called the Landfill Regulations.

b. Within thirty (30) calendar days of the effective date of this Order, Respondent shall submit a report which describes any modifications, as defined by 40 C.F.R. 60.751, made to the facility since May 30, 1991.

c. If the calendar year 2005 design capacity report does not reflect the initial design capacity, please submit previous design capacity calculations and/or reports.

d. With any design capacity submitted pursuant to "a." or "c." of this paragraph, a non-methane organic compound ("NMOC") emission rate report that reflects the emission rate calculation for the year(s) of that design capacity report(s) was developed.

e. If a design capacity report and/or NMOC emission rate calculation does not meet the specifications of the Landfill Regulations, EPA will provide the Respondent with a written notification indicating that the report or calculation is incomplete and/or inaccurate and specify the reasons for its determination.

f. Within fifteen (15) calendar days of receipt of an EPA notification provided pursuant to paragraph "e." above, Respondent shall modify the report and/or calculation in response to EPA's notification and resubmit the report to EPA.

g. If a design capacity report, submitted pursuant to "a.", "c.", or "f." of this paragraph, indicates that the landfill's design capacity is equal to or greater than 2.5 million megagrams ("Mg") and 2.5 million cubic meters and an NMOC report, submitted pursuant to "d." or "f." of this paragraph, indicates that the landfill's NMOC emission rate is greater than 50 Mg/yr, within sixty (60) calendar days of the effective date of this Order, Respondent shall submit to EPA in writing a notification of intent to 1) submit a design plan for a gas collection and control system ("GCCS"); or 2) submit a Tier II NMOC emission rate calculation; or 3) submit Tier II and Tier III NMOC emission rate calculations simultaneously. All calculations and plans submitted must meet the substantive requirements of the Landfill Regulations.

h. If Respondent's notification of intent, submitted pursuant to "g." of this paragraph, indicates that it shall submit only a Tier II emission rate calculation, Respondent shall submit that calculation within thirty (30) days of submission of the notification of intent.

i. If Respondent's notification of intent, submitted pursuant to "g" of this paragraph, indicates that it shall submit Tier II and Tier III emission rate calculations, Respondent shall submit that calculation within sixty (60) days of submission of the notification of intent.

j. If a NMOC emission rate calculation, submitted pursuant to "h." or "i." of this paragraph, does not meet the specifications of the Landfill Regulations, EPA will provide

Respondent with a written notification indicating that the report or calculation is incomplete and/or inaccurate and specify the reasons for its determination.

k. Within twenty-one (21) calendar days of receipt of an EPA notification provided pursuant to "j." of this paragraph, Respondent shall revise its emission rate calculation in response to EPA's notification and resubmit the calculation to EPA.

l. Respondent shall submit to EPA a design plan for a GCCS that meets the substantive requirements of the Landfill Regulations in the following circumstances:

i. if Respondent's notification of intent, submitted pursuant to "g." of this paragraph, indicates that it shall submit a design plan for a GCCS;

ii. Respondent's Tier II calculation, submitted pursuant to "h.", "i." or "k." of this paragraph, indicates that the landfill's NMOC rate is greater than 50 Mg/yr;

iii. if Respondent's Tier III calculation, submitted pursuant to "i." or "k." of this paragraph, indicates that the landfill's NMOC rate is greater than 50 Mg/yr; or

iv. if EPA makes a determination that Respondent's reports and/or calculations, submitted pursuant to this Order, have not satisfactorily demonstrated that the landfill's design capacity is less than 2.5 Mg or 2.5 million cubic meters and/or have not satisfactorily demonstrated that the NMOC rate calculations have not satisfactorily demonstrated that the NMOC rate is less than 50 Mg/yr.

m. Respondent shall submit the design plan required pursuant to "l." of this paragraph, within one hundred eighty (180) days of the submission of the report and/or calculation referenced in paragraph "l."

n. If Respondent submits a design plan in accordance with this Order, Respondent shall submit to EPA, together with its design plan for the GCCS, a start-up, shut-down, malfunction plan ("SSM") that contains the information specified in 40 C.F.R., Part 63, Subpart AAAA.

o. Within ninety (90) calendar days of submission of the design plan pursuant to this Order, in accordance with the Landfill Regulations, Respondent shall submit to EPA and EQB, an

application for an operating permit under 40 C.F.R. Part 70 (Title V).

p. Within one (1) year of submission of the design plan, Respondent shall install and commence operation of the GCCS, in accordance with the design plan and thereafter operate the GCCS in accordance with the Landfill Regulations.

q. Within one hundred twenty (120) days after initial start-up of the GCCS, Respondent shall conduct performance testing and submit notifications and reports in accordance with the substantive requirements of 40 C.F.R. § 60.8 and the Landfill Regulations.

r. Respondent shall submit protocol for performance testing to EPA for approval no later than sixty days after initial start-up of the GCCS.

s. Every calendar quarter after Respondent begins operation of the GCCS, Respondent shall monitor the surface concentrations of methane in accordance with the instrument specifications and procedures provided in the Landfill Regulations.

t. Within thirty (30) calendar days of each calendar quarter after Respondent begins operation of the GCCS, Respondent shall submit quarterly monitoring reports to EPA that contain the data specified in "s." of this paragraph, in accordance with the reporting requirements of the Landfill regulations.

VII FINANCIAL ASSURANCE

45. a. Compliance Submittal: Respondent by no later than February 1, 2010 shall submit to EPA evidence of its compliance with the financial assurance requirements for post-closure care set forth in 40 C.F.R. §§ 258.72 and 258.74.

b. Requirement To Maintain Compliance: Respondent shall thereafter maintain compliance with the financial assurance requirements for post-closure care set forth in 40 C.F.R. §§ 258.72 and 258.74, and shall report on such compliance in each annual post-closure report submitted pursuant to paragraph "43. k.", above.

c. Financial Assurance For Corrective Action: In the event that corrective measures are required pursuant to information obtained during the post-closure period, Respondent

shall come into compliance with the financial assurance requirements for corrective action as set forth in 40 C.F.R. § 258.73 by the time of submission of its next annual post-closure report after the estimated cost of corrective measures has been established. Respondent shall include evidence of the maintenance of the required financial assurance for corrective action in such annual post-closure report and succeeding annual reports filed pursuant to paragraph "43. k.", above.

VIII. CERTIFICATIONS

46. Wherever this Order requires that a "Certification" be submitted to accompany written reports or documents, the following Certification form shall be submitted, and shall be dated and signed by a senior official of Respondent.

"I certify under penalty of law that this document [Identify Document] and all attachments being submitted were prepared under my direction or supervision in order to ensure that qualified personnel properly gathered, evaluated and prepared this submission. Based on my review, including my inquiry of the person or persons who prepared the submission, the information contained in this submission is to the best of my knowledge, true, accurate and complete. I am aware that there are significant potential penalties for submitting false information."

IX. RETENTION OF RECORDS

47. Respondent shall maintain business records pertaining to the operations of the facility and shall make such records available to EPA and its representatives for inspection upon request. Respondent shall also maintain business records pertaining to the work being performed pursuant to this Order and shall make such records available to EPA and its representatives for inspection upon request.

X. PROJECT COORDINATORS

48. By no later than ten (10) calendar days after the effective date of this Order, EPA and Respondent each shall designate a Project Coordinator ("PC") and the name of at least one alternate who may function in the absence of the designated Project Coordinator. The Project Coordinator shall be responsible for overseeing implementation of this Order. EPA and Respondent shall each have the right to change the PC and shall

inform the other party should such change occur. The EPA has designated Carl Plössl, Environmental Engineer, as Project Coordinator and Leonard Grossman, Environmental Scientist, as Alternate Project Coordinator.

49. All communications between Respondent and EPA, and all documents, reports, approvals, and other correspondence concerning the activities performed pursuant to the terms and conditions of this Order, shall be directed to and through the respective Project Coordinators.

XI. NOTICES

50. For purposes of this Order, all written communications, notices or submissions required by this Order shall be directed to a person specified by each party. EPA and Respondent with written advance notice shall each have the right to change the person(s) who are to receive documents. The EPA has designated the EPA Project Coordinator as recipient, at the following address:

Carl Plössl, Environmental Engineer
U.S. Environmental Protection Agency, Region 2
RCRA Compliance Branch, 21st Floor
Division of Enforcement and Compliance Assistance
290 Broadway
New York, New York 10007-1866

51. By no later than ten (10) calendar days after the effective date of this Order, Respondent each shall designate a person or persons to receive such written communications, notices or response to submissions required by this Order and shall provide a mailing address for such person(s).

XII. EMERGENCY PROVISIONS

52. a. In the event Respondent identifies a current or immediate threat to human health or the environment at the MSWLF Facility, other than those identified in Section III herein, Respondent shall immediately notify EPA orally and in writing within forty-eight (48) hours summarizing the immediacy and magnitude of the potential threat to human health or the environment. Respondent shall thereafter submit to EPA for approval, as soon as possible, a plan to mitigate this threat. EPA will approve or modify this plan, and Respondent shall implement this plan as approved or modified by EPA. In the case of an extreme emergency, Respondent may act as it deems appropriate at its own risk.

b. In the event Respondent identifies the need for corrective action due to conditions at the MSWLF Facility, or off-site, caused by contamination released from the MSWLF Facility, other than those conditions identified in Section III herein or identified by ground water monitoring carried out pursuant to the Post-Closure Plan, Respondent shall notify EPA within ten (10) calendar days of such identification. After review of available information, EPA may, after consultation with Respondent, require Respondent to prepare and implement a corrective action assessment and/or corrective action remedy. The corrective action assessment and/or corrective action remedy shall be implemented by Respondent subject to EPA oversight.

53. a. If EPA determines that activities in compliance or non-compliance with this Order, have caused or may cause a release of a hazardous waste or hazardous constituent, or may pose a threat to human health or the environment, EPA may direct Respondent to stop further implementation of this Order, or a portion of this Order, for such period of time as EPA determines may be needed to abate any such release or threat, and/or to undertake any action authorized by law, which EPA determines to be necessary.

b. If EPA determines the need for corrective action due to conditions at the MSWLF Facility, or off-site, caused by contamination released from the MSWLF Facility, other than those conditions identified in Section III herein or identified by ground water monitoring pursuant to the Post-Closure Plan, EPA will notify Respondent and may, after consultation with Respondent, require Respondent to prepare and implement a corrective action assessment and/or corrective action remedy, which shall be implemented subject to EPA oversight.

XIII. RESERVATION OF RIGHTS

54. EPA expressly reserves, without limitation, all of its statutory and regulatory powers, authorities, rights, remedies and defenses, both legal and equitable, including the right to seek injunctive relief, cost recovery, monetary penalties, or punitive damages. EPA may exercise its authority under CERCLA to undertake removal or remedial actions.

55. This Order shall not be construed as a covenant not to sue, or as a release, waiver or limitation of any claim, rights, remedies, defenses, powers and or authorities which EPA has under RCRA, the Comprehensive Environmental Response Compensation and Liability Act (CERCLA), or any other statutory, regulatory or common law authority of the United States.

56. This Order shall not limit or otherwise preclude EPA from taking any additional legal action against Respondent should EPA determine that any such additional legal action is necessary or warranted.

57. Notwithstanding compliance with the terms of this Order, Respondent is not released from liability for the costs of any response actions taken by EPA. EPA reserves the right to seek reimbursement from Respondent for any response costs incurred by the United States.

XIV. STIPULATED PENALTIES

58. Unless Respondent is excused under the "Force Majeure and Excusable Delay" provision of the Order, Respondent shall pay a stipulated penalty for failure to comply with any requirement, term, or condition set forth in or required by this Order. The stipulated penalty for each non-complying act is as follows:

<u>Period of Failure to Comply</u>	<u>Penalty for Non-compliance per Calendar Day</u>
1st through 15 th day	<u>\$100.00</u>
16 th through 60 th day	<u>\$200.00</u>
61 st through 120 th day	<u>\$750.00</u>
121 st day through 180 th day	<u>\$1500.00</u>
181 st day and thereafter	<u>\$3000.00</u>

a. Stipulated penalties shall be paid by cashier's or certified check, payable to the Treasurer, United States of America, and mailed to the EPA - Region 2 (Regional Hearing Clerk), P.O. Box 360188M, Pittsburgh, Pennsylvania. Said payment(s) shall be identified as **Florida Municipal Solid Waste Landfill, Florida, Puerto Rico** and must reference the **Docket Number, RCRA-02-2007-7305.**

b. All stipulated penalties begin to accrue on the day each act of noncompliance with any requirement, term, or condition set forth in or required by this Order first takes place. Said stipulated penalties shall continue to accrue through, and including, the day on which any failure to comply with such requirement, term, or condition is remedied. Nothing herein shall preclude, or is intended to preclude, the simultaneous accrual of separate stipulated penalties for each separate act of noncompliance with this Order. Penalties shall accrue regardless of whether EPA has notified Respondent of the act or acts of non-compliance, but need only be paid upon demand.

c. After receipt of a demand from EPA for stipulated penalties pursuant to this Section of the Order, Respondent may within thirty (30) calendar days of such demand, provide EPA with a written explanation of why it believes the stipulated penalties are not appropriate for the act(s) of non-compliance cited by EPA. If Respondent elects not to file such explanation, the stipulated penalties shall be paid within sixty (60) calendar days after receipt of the penalty demand.

d. The Director of the Division of Enforcement and Compliance Assistance may, in his or her sole discretion, reduce or eliminate such stipulated penalties based on Respondent's written explanation as specified in "c.", immediately above. If Respondent makes a submittal as specified in "c", above, and the Division Director does not eliminate the stipulated penalties, then EPA will again notify Respondent in writing that the original or reduced penalties must be paid. Respondent shall pay the stipulated penalties as set forth in EPA's notice pursuant to this sub-section within thirty (30) calendar days of its receipt of the notice.

e. At any time prior to Respondent's payment of stipulated penalties, the Director of the Division of Enforcement and Compliance Assistance may, for good cause as independently determined by him or her, reduce or eliminate the stipulated penalties. If the Director makes such determination, EPA will notify Respondent in writing of the change.

f. Except as provided in "c.", above, all penalties owed to EPA under this Section XIV. STIPULATED PENALTIES, shall be due and owing within thirty-five (35) calendar days of the date of EPA's written notice to Respondent, described in "d." or "e.", above. Interest shall also accrue on any amount not paid when due at the rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717.

g. If Respondent fails to pay stipulated penalties as required under this Order, EPA may refer this matter to the U. S. Department of the Treasury or the Department of Justice for collection under applicable law. Nothing in this section, however, limits, or shall be construed as limiting, any rights or remedies available to EPA to enforce this Order and to seek compliance with the terms and conditions of this Order or any other applicable law or regulation.

XV. NON-RELEASE OF OTHER CLAIMS AND PARTIES

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59. Nothing in this Order shall constitute, or be construed to constitute, a release from any claim, cause of action or demand in law or equity brought by EPA against any person, firm, partnership, or corporation for any liability it may have arising out of, or relating in any way to, the generation, storage, treatment, handling, transportation, release, or disposal of any hazardous constituent, hazardous substance, solid waste, hazardous waste, pollutant, or contaminant found at, taken to, taken from, or emanating from the Facility.

XVI. INDEMNIFICATION OF THE UNITED STATES GOVERNMENT

60. Respondent shall indemnify, save and hold harmless the United States Government, its agencies, departments, agents, and/or employees, from any and all claims or causes of action arising from or on account of acts or omissions of Respondent or its agents, independent contractors, receivers, trustees, subcontractors or successors and/or assigns in carrying out activities required by this Order. This indemnification shall not be construed as in any way affecting or limiting the rights or obligations of Respondent or the United States under various contracts or statutes.

XVII. OTHER APPLICABLE LAWS

61. Nothing herein shall relieve Respondent of its obligations to undertake all actions required by this Order in accordance with local, Commonwealth and federal laws and regulations. Respondent shall obtain all permits or approvals necessary to perform the work required by this Order.

XVIII. SEVERABILITY

62. If any provision or authority of this Order or the application of this Order to any party or circumstance is found to be invalid, or is temporarily stayed, the remainder of this Order shall remain in force and shall not be affected thereby.

XIX. FORCE MAJEURE AND EXCUSABLE DELAY

63. Respondent shall perform all the requirements of this Order within the time limits set forth, approved, or established herein, unless the performance is prevented or delayed solely by events which constitute a force majeure. A force majeure is defined as any event arising from causes not reasonably foreseeable and beyond the control of the Respondent which could not be overcome by due diligence and which delays or prevents performance by a date required by this Order. Such events do not

include unanticipated or increased costs of performance, normal precipitation events, difficulty in arranging a suitable alternative means of disposing of solid waste generated by Respondent, or failure to obtain federal, Commonwealth, or local permits. Nothing herein shall be read to prevent Respondent from requesting a change in the scheduling of events or modification of the Order.

64. Respondent shall notify the EPA Project Coordinator in writing within five (5) days after becoming aware of any event, which it knows or should know, constitutes a force majeure. Such notice shall detail the estimated length of delay, including necessary demobilization and remobilization, its causes, measures taken or to be taken to minimize the delay, and an estimated timetable for implementation of these measures. Respondent shall adopt all reasonable measures to avoid and minimize the delay. Failure to comply with the notice provision of this section shall constitute a waiver of Respondent's right to assert a force majeure and may be grounds for EPA to deny Respondent an extension of time for performance.

65. After receiving notice from Respondent that Respondent is invoking the force majeure provisions of this Order, EPA will respond in writing indicating either EPA's agreement that the event constitutes a force majeure or its disagreement and the reasons therefore.

66. If the Parties agree that a force majeure has occurred, the time for performance may be extended, upon EPA approval, for a period equal to the delay resulting from such circumstances. This shall be accomplished through written amendment to this Order, or modifying the schedule in a previously approved plan. Such an extension or modification will not alter the schedule for performance or completion of any other tasks required by this Order unless these are also specifically altered in accordance with XXII. MODIFICATION, herein.

67. In the event the parties cannot agree that any delay or failure has been or will be caused by a force majeure, or if there is no agreement on the length of the extension, the dispute will be resolved in accordance with the Dispute Resolution provisions contained in this Order.

XX. ON-SITE AND OFF-SITE ACCESS

68. Until this Order is terminated, Respondent shall permit EPA representatives, including authorized designees, employees, agents, contractors, subcontractors, or consultants to enter and

freely move about the Facility for, but not limited to, the following purpose(s): observing conditions and/or activities at the Facility, including work performed pursuant to this Order, interviewing personnel, conducting sampling or monitoring, taking photographs and verifying information or data that have been submitted.

69. Respondent shall make available to EPA for inspection, copying, or photographing, all records, files, photographs, documents, or any other writing, including monitoring and sampling data that pertain to any work undertaken pursuant to this Order.

70. To the extent that work required by this Order must be performed on property not owned or controlled by it, Respondent shall use best efforts to obtain "Site Access Agreements" to perform such work within thirty (30) days of the date Respondent becomes aware or should be aware of the need to perform such work. Any such access agreement shall provide for reasonable access by EPA. In the event that Site Access Agreements are not obtained within the thirty (30) day period, Respondent shall notify EPA, in writing, documenting its best efforts to obtain such agreements.

71. Nothing in this Order shall be construed to limit or otherwise affect EPA's right of access and entry pursuant to any applicable laws and regulations, including the Act and the Comprehensive Environmental Response Compensation and Liability Act of 1980 "CERCLA", as amended, 42 U.S.C. § 9601 et seq.

72. Nothing in this Order shall be construed to limit or otherwise affect either Respondent's liabilities and obligations to perform corrective action, including corrective action beyond the MSWLF Facility property boundary, notwithstanding any lack of access. EPA may determine that additional on-site measures must be taken to address releases beyond the MSWLF Facility boundary if access to off-site areas cannot be obtained.

XXI. NO FINAL AGENCY ACTION

73. Notwithstanding any other provision of this Order, no action or decision by EPA pursuant to this Order, including without limitation, decisions of the Regional Administrator, Region 2, or any authorized representative of EPA, shall constitute final agency action giving rise to any rights of judicial review prior to EPA's initiation of a judicial action for a violation of this Order, which may include an action for penalties, an action to compel Respondent's compliance with the

terms and conditions of this Order, or such other relief as may be available at law.

74. In any action brought by EPA for a violation of this Order, Respondent shall bear the burden of proving that EPA's action was arbitrary and/or capricious and not in accordance with law, or this Order. In any such action, EPA shall bear the burden of proving that Respondent has violated a term or terms of this Order.

XXII. MODIFICATION

75. This Order may be amended by Respondent and EPA. Such amendment(s) shall be in writing, shall first be signed by Respondent, and shall have as their effective date the date on which they are signed by the Regional Administrator.

76. Notwithstanding the above, EPA's and Respondent's coordinators may agree to changes in the scheduling of events. Any such changes shall normally be requested in writing by the Respondent and be approved in writing by the EPA Project Coordinator.

77. No informal advice, guidance, suggestions, or comments by EPA regarding reports, plans, specifications, schedules, and any other writing submitted by Respondent will be construed as an amendment or modification to this Order.

XXIII. TRANSFER OF OBLIGATIONS

78. Respondent shall give notice, and a copy, of this Order to any successor in interest prior to any transfer of ownership or responsibility for the MSWLF Facility. Respondent shall give notice to EPA at least sixty (60) days prior to any such transfer. No such transfer shall in any way alter, extinguish or otherwise affect Respondent's responsibility to meet all the terms and obligations of this Order. Respondent may, however, transfer the responsibility for unperformed obligations imposed by this Order to a new owner/operator of the MSWLF Facility, provided there is a demonstration provided to EPA's satisfaction that the new owner/operator is capable of undertaking these obligations and has expressly agreed to do so in writing, and provided further that EPA has given its approval in writing to any such transfer of obligations, and provided finally that this Order has been modified to reflect the transfer. Any stipulated penalties which may have accrued pursuant to the terms of this Order shall remain the responsibility of Respondent. The Order Modification reflecting the transfer of obligations to a

successor party or parties may, if appropriate, establish modified schedules for continuing obligations under the Order.

XXIV. DISPUTE RESOLUTION

79. The parties shall use their best efforts to informally and in good faith resolve all disputes and differences of opinion, which may arise concerning provisions of this Order. Notwithstanding the above, if Respondent disagrees, in whole or in part, with any disapproval or modification or other decision or directive made by EPA pursuant to this Order, Respondent shall notify EPA in writing of its objections and the basis (bases) therefore within twenty (20) calendar days of receipt of EPA's disapproval, modification, decision, or directive. The notice shall set forth the specific points of the dispute, the position Respondent maintains, the basis (bases) for Respondent's position, and any matters Respondent considers necessary for EPA's determination. Within thirty (30) days of EPA's receipt of such written notice, or by such other date as may be agreed upon by the parties, EPA will provide Respondent with its decision on the pending dispute, which decision shall be binding. The parties may continue to confer and to use informal efforts to resolve the dispute during the period that EPA's final determination is pending.

80. The existence of a dispute as defined herein, and EPA's consideration of such matters as placed into dispute shall excuse, toll, or suspend during the pendency of the dispute resolution process the compliance obligation or deadline which is in dispute and any other obligation or deadline which is demonstrably dependent on the matters in dispute, and EPA shall not seek to assess a penalty for noncompliance with the obligation or deadline for the period of time during which the obligation or deadline was excused, tolled, or suspended, regardless of the final decision on the dispute. No obligation or deadline shall be excused, tolled, or suspended, unless Respondent's dispute is in good faith and Respondent exercises due diligence to resolve the dispute.

XXV. TERMINATION

81. a. This Order and all of its terms and provisions shall remain in effect until all of the activities called for by the Order are completed and Respondent is so notified in writing by the EPA. Such notice shall be signed by the Regional Administrator, EPA Region 2. Respondent may request that EPA Region 2 provide Respondent with such notice, and shall supply EPA with such information, including certifications, as EPA may

specify. Upon Respondent's request, EPA also will notify Respondent in writing confirming the appropriate completion of discrete tasks under the Order. In each instance, such confirmation by EPA will be based on the information then available to EPA, including reports and Certifications submitted by Respondent pursuant to the terms of the Order.

b. After five (5) years of Post-Closure Monitoring, Respondent may request that EPA terminate its post-closure obligations under this Order. In any such request, Respondent should state its reasons for the request and include documentation that EQB will continue to monitor post-closure care of the Facility. EPA will consider any such request and notify Respondent within ninety (90) calendar days of its decision in the matter.

XXVI. ENFORCEMENT

82. The failure of Respondent to comply with any provision of this Order may be considered a violation of this Order. Such violation may give rise to an enforcement action pursuant to Section 7003(b) of the Act, 42 U.S.C. § 6973(b), as amended by the Debt Collection Improvement Act of 1996, 31 U.S.C. Section 3701 et seq.

83. Nothing herein shall preclude EPA from taking any additional enforcement actions, and/or such other actions as it may deem necessary for the abatement or prevention of an imminent threat to public health or the environment arising from conditions at the Facility. Nor shall EPA be precluded from taking any such other enforcement actions under the Act or other laws as EPA may deem necessary based on additional information about conditions at the MSWLF Facility.

XVII. GENERAL PROVISIONS

84. Nothing in this Order constitutes a satisfaction or release from liability with respect to any conditions or claims arising as a result of past, current or future operation, ownership or use of the MSWLF Facility by the Respondent, its agents, officials, successors or assigns.

85. Nothing in this Order affects any right, claim, interest, defense or cause of action of EPA with respect to the Respondent or any third parties.

XXVIII. CONSENT

86. Respondent consents to and agrees not to contest EPA's jurisdiction to issue this Order. In addition, whether brought in an administrative or judicial proceeding, Respondent consents to and agrees not to contest EPA's jurisdiction to enforce or compel compliance with any term of this Order.

87. a. Finding this Order to be accurate and reasonable, Respondent consents to its issuance and its terms, and agrees to undertake all actions required by the terms and conditions of this Order. Respondent consents to the issuance of this Order, as an Order, pursuant to Section 7003 of RCRA, 42 U.S.C. § 6973, and explicitly waives any rights it may have to request a hearing on this matter.

b. Respondent neither admits nor denies the EPA Findings of Fact and Conclusions of Law stated herein. Respondent enters into this Order On Consent in good faith and the execution of this Order On Consent is not intended and shall not be construed as an admission relating to violations of any law or regulations or an assumption of liability beyond that expressly stated herein.

88. Respondent agrees not to contest the validity of this Order, or any particular provision contained herein.

89. Each signatory to this Order certifies that he or she is fully authorized to sign this Order without reservation.

XXIX. EFFECTIVE DATE

90. The effective date of this Order shall be fifteen (15) days after the date the Order is signed by the Regional Administrator, EPA Region 2.

Administrative Order On Consent
Florida Municipal Solid Waste
Landfill, Florida, Puerto Rico
Docket No. RCRA-02-2007-7305

Respondent Municipality of Florida

By: *[Signature]*

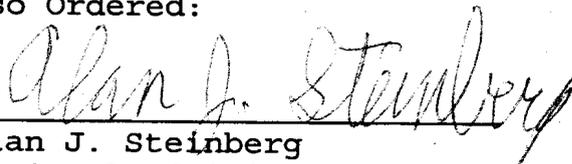
Name: Jose A. Pargas
(PRINT)

Title: Mayor

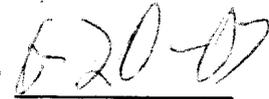
Date: May 9, 2007

Administrative Order On Consent
Florida Municipal Solid Waste
Landfill, Florida, Puerto Rico
Docket No. RCRA-02-2007-7305

It is so Ordered:



Date:



Alan J. Steinberg
Regional Administrator
U.S. Environmental Protection Agency, Region 2
290 Broadway
New York, New York 10007-1866