PUBLIC NOTICE: 2023-7   Date: 01/30/2023

NOTICE OF PROPOSED ADMINISTRATIVE PENALTY ASSESSMENT AND OPPORTUNITY TO COMMENT

<u>**AGENCY:**</u>   United States Environmental Protection Agency (EPA), Region 2
                      Caribbean Environmental Protection Division
                      City View Plaza II, Suite 7000
                      48 RD. 165 Km. 1.2
                      Guaynabo, PR 00968-8069

<u>**ACTION:**</u>   Notice of Proposed Administrative Penalty Assessment and Opportunity to Comment

<u>**SUMMARY:**</u> EPA is providing notice of a proposed administrative penalty assessment for alleged violations of the Clean Water Act (CWA). EPA is also providing notice of opportunity to comment on the proposed penalty assessment.

Under Section 309(g) of the CWA, 33 U.S.C. §1319(g), EPA is authorized to assess a civil penalty after providing the person subject to the penalty with notice of the proposed penalty and the opportunity for a hearing, and after providing interested members of the public with notice of the proposed penalty and a reasonable opportunity to comment on its issuance. Under Section 309(g) of the CWA, any person who violates Section 301 of the CWA, may be assessed a Class I civil penalty of up to $59,973 by EPA. Class I proceedings for Section 309(g) of the CWA are conducted in accordance with the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination, or Suspension of Permits" (CROP), which have been codified in the Code of Federal Regulations as Title 40, Part 22. A copy of the CROP can be found at https://www.epa.gov/enforcement/consolidated-rules-practice-40-cfr-part-22-administrative-assessment-civil-penalties.

Section 22.13(b) of the CROP sets forth procedures for simultaneous commencement and conclusion of administrative civil penalty assessment proceedings where the parties agree to settlement of one or more causes of action. This is accomplished through issuance of a consent agreement and final order pursuant to Sections 22.18(b)(2) and 22.18(b)(3) of the CROP. The subject penalty assessment noticed herein follows the procedures set forth in Section 22.13(b) of the CROP.

The procedures by which the public may submit written comments on a proposed Class I penalty assessment or participate in a Class I penalty proceeding are set forth in Section 22.45(c) of the CROP. The deadline for submitting comments on a proposed Class I penalty assessment is thirty (30) calendar days after issuance of the public notice.

Pursuant to Section 309(g)(4) of the CWA, 33 U.S.C. § 1319(g)(4), EPA is hereby providing notice to the public of the following proposed Class I administrative penalty assessment: In the Matter of Luquillo Hotel Company, LLC, #120 PR-693 Road, Dorado, Puerto Rico 00646; Docket Number CWA-02-2023-3353; with a proposed penalty of **$4,800.00**; for discharges of storm water containing pollutants into waters of the United States without a National Pollutant Discharge Elimination System permit at the

Fairfield Inn & Suites Hotel by Marriott & Casino Construction Project in Luquillo, Puerto Rico, in violation of Sections 301(a) and 402(p) of the CWA.

FOR FURTHER INFORMATION: Persons wishing to receive a copy of the proposed Expedited Storm Water Settlement Agreement, or review the public record for this proceeding or other documents related to this proceeding, should contact the enforcement case manager, Mr. José A. Rivera, Team Leader, Clean Water Act Team, Multimedia Permits and Compliance Branch, at (787) 977-5842, and/or by e-mail at rivea.jose@epa.gov.

Due to the COVID-19 pandemic, EPA has instituted procedures for electronic filing of comments and service of documents in administrative proceedings governed by the procedural rules set forth in the CROP. Persons wishing to comment upon the proposed penalty assessment should direct comments to Ms. Karen Maples, Regional Hearing Clerk, at email: maples.karen@epa.gov, with a copy to Mr. José A. Rivera, at the email address given above.

Dated: **1/30/ 2023**   **Carmen R. Guerrero Pérez, Director**
                              Caribbean Environmental Protection Division