

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

UNITED STATES OF AMERICA,

Plaintiff,

Civ. No. 3:21-01087 (SCC)

v.

MUNICIPALITY OF TOA ALTA,
PUERTO RICO,

**UNITED STATES' MOTION TO ENTER
PROPOSED SECOND STIPULATION
AND FINAL ORDER**

Defendant.

The United States of America, on behalf of the U.S. Environmental Protection Agency (EPA), respectfully moves for approval and entry of the proposed “Second Stipulation and Final Order” lodged with the Court on February 13, 2024. Docket. No. (DN) 177-1. In support of this motion, the United States submits an accompanying memorandum of law and states as follows:

In the complaint it filed in this matter, DN 1, the United States alleged, under Section 7003(a) of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6973(a), that the Defendant, Municipality of Toa Alta (MTA), operated a landfill in a manner that presented various imminent and substantial endangerments to public health and the environment.

The United States and MTA have resolved some of the United States’ claims under a partial settlement, entitled “Stipulation and Preliminary Injunction Order” (First Stipulation), which the Court approved on August 12, 2022. DN 127-1.

The United States and MTA now seek to resolve the United States’ remaining claims in the complaint. To that end, the United States lodged a proposed “Second Stipulation and Final Order” (Second Stipulation) with the Court on February 13, 2024. DN 177-1. The Second

Stipulation provides for MTA to implement injunctive relief regarding the Southeast cell leachate pumping system and to pay a \$50,000 civil penalty.

The United States submits that the Second Stipulation is fair, reasonable, and consistent with the goals of the statutory scheme. The United States respectfully requests, for the reasons set forth in the accompanying memorandum, that the Court approve and enter the proposed Second Stipulation.

As provided in Paragraph 9 of the Second Stipulation, MTA consents to the entry of the Second Stipulation.

Respectfully submitted,

/s/ Mark Gallagher

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FOR THE DISTRICT OF PUERTO RICO

UNITED STATES OF AMERICA,

Civ. No. 3:21-01087 (SCC)

Plaintiff,

v.

MUNICIPALITY OF TOA ALTA,
PUERTO RICO,

**UNITED STATES’ MEMORANDUM IN
SUPPORT OF MOTION TO ENTER
SECOND STIPULATION AND FINAL
ORDER**

Defendant.

The United States, on behalf of the U.S. Environmental Protection Agency (EPA), respectfully requests that the Court approve and enter the proposed “Second Stipulation and Final Order” (Second Stipulation) lodged with the Court on February 13, 2024. Docket. No. (DN) 177-1.

I. BACKGROUND

The United States filed a complaint against the Municipality of Toa Alta (MTA) in February 2021 alleging that MTA’s 31-acre municipal solid waste (MSW) landfill presented various imminent and substantial endangerments (ISEs) under Section 7003(a) of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. section 6973(a). The complaint alleged the following ISEs: (i) uncovered waste provided a habitat for rats and mosquitoes which spread disease; (ii) leachate was migrating onto neighbors’ properties, into streams, and into the groundwater; (iii) uncontrolled stormwater runoff was enhancing the spread of leachate and, via erosion, was exposing waste, creating habitat for disease vectors; and (iv) steep landfill slopes presented a danger of potential collapse endangering landfill workers and visitors.

The complaint also sought civil penalties under RCRA Section 7003(b) for MTA's failure to comply with an EPA 2017 unilateral administrative order (UAO) regarding the landfill. The 2017 UAO required MTA to install stormwater controls, cover active and inactive waste disposal areas, manage leachate, install fencing and cease disposing of waste at the landfill by December 2017.

A. The First Settlement and Stipulation

In November 2021 the United States completed the negotiation of a tentative draft of a first stipulation – referred to as the “Stipulation and Injunctive Order” (First Stipulation) -- requiring MTA to address most of the ISEs. The United States subsequently conducted an extensive community engagement effort, including holding a public meeting in February 2022 in Toa Alta, at which it solicited and obtained input from the local community regarding plans for MTA's compliance. The United States subsequently revised the First Stipulation based on community members' input. As revised, the First Stipulation addressed almost all of the community members' concerns. The United States then filed the First Stipulation with the Court. The Court entered the First Stipulation in August 2022. DN 127-1.

The First Stipulation requires MTA to, among other things:

- Cease accepting waste at the landfill by April 2022;
- Apply “daily” (six inches) and “intermediate” (12 inches) soil cover to the landfill;
- Install various controls to increase slope stability;
- Submit and implement plans to reduce leachate generation and stormwater infiltration and runoff; and
- Remove and dispose of contaminated water from two ponds at the landfill. *See* First Stipulation, ¶¶ 3-10.

The First Stipulation required completion of these measures on a schedule that was rapid as possible taking into consideration logistical and planning requirements. *See* Motion to Enter First Stipulation, DN 122, at 7.

The First Stipulation also included provisions that took into consideration the authority of the Commonwealth's regulator, the Department of Natural and Environmental Resources (DNER). *See* Motion to Enter First Stipulation (DN 122-1) at n. 2. In Puerto Rico only the Commonwealth and DNER is authorized to enforce the regulations applicable to MSW landfills. DNER is authorized, for example, to require final closure of landfills. On the other hand, EPA's sole authority under RCRA regarding MSW landfills is to address ISE situations under Section 7003(a). In this case, there is overlap between EPA's Section 7003(a) authority and DNER's authority; both authorities can involve the application of soil cover and the proper management of stormwater and leachate. *See* Motion to Enter First Stipulation (DN 122-1) at 10. The First Stipulation reflects an effort to integrate EPA's ISE authority and the DNER's landfill regulatory authority by requiring that MTA install soil cover and prepare and implement plans for stormwater and leachate controls. *See* First Stipulation, ¶¶ 6, 9-10. But once DNER approves a final closure plan for MTA, the schedule for implementing these measures that is in the final closure plan will supersede the First Stipulation's schedule. First Stipulation, ¶¶ 6.a, 12.

B. The Proposed Second Stipulation

The First Stipulation left three issues unresolved: As an initial matter, the First Stipulation is only a preliminary injunction and so it does not end the litigation in this case. Second, the First Stipulation does not address the leachate that is accumulating above the liner in the landfill's "Southeast Cell" (the only lined portion of the landfill), but rather reserved this issue.¹ First Stipulation ¶ 17.e. Third, the First Stipulation did not address the amount of civil

¹ The United States alleges that this pooled leachate in this area of the landfill poses a threat because of the risk of leakage through the liner to groundwater below. The parties had not determined, by mid-2022, when they were negotiating the SPIO, how to address this pooled leachate.

penalty that MTA should pay for allegedly violating EPA's 2017 UAO. The proposed Second Stipulation addresses all three of these remaining issues.

As an initial matter, the Second Stipulation converts the First Stipulation into a permanent injunction. Second Stipulation ¶ 2. Thus, it will conclude the United States' case against MTA and end all litigation (other than any disputes regarding MTA's compliance with the First Stipulation and Second Stipulation).

Secondly, the Second Stipulation addresses the "Southeast Cell leachate problem" by requiring MTA to remove and dispose of the leachate under DNER oversight when and if certain pre-conditions are met. *See* Second Stipulation ¶ 3. Specifically, the Second Stipulation requires that, once MTA's former contractor, referred to as the "LandTech Companies," certifies to EPA that they have tested the leachate pumping system at the Southeast Cell and the system is operational, MTA must attempt to operate that system and dispose of any resulting leachate. These obligations are conditional because the functionality of the system is unknown until LandTech tests the system. *See* Second Stipulation ¶ 3.a-d. Operation of the pumping system, if it proves to be functional, likely would continue during DNER's oversight of MTA's closure of the landfill.

If the leachate pumping system cannot be made to operate properly, then DNER can determine that additional or alternative measures regarding removing and disposing of the Southeast Cell leachate are needed, and the Second Stipulation requires MTA to implement those measures. Second Stipulation ¶¶ 3.e and 3.f. Accordingly, the Second Stipulation provides that the leachate removal and disposal measures by MTA, in whichever manner these are accomplished, will be implemented under DNER, not EPA, oversight. Second Stipulation ¶ 3.f.

Finally, the Second Stipulation requires MTA to pay a \$50,000 civil penalty. Second Stipulation ¶ 4. The United States employed a financial analyst to conduct an analysis of MTA's ability to pay a civil penalty. The analyst concluded that MTA had no ability to pay more than a nominal civil penalty in this case without a major restructuring of planned municipal expenditures.

The Second Stipulation resolves the claims alleged in the complaint. Second Stipulation ¶ 6.a. As the First Stipulation and Second Stipulation set forth all of the injunctive relief that EPA sought in its 2017 UAO, the Second Stipulation both resolves the United States' claims based on violations of the 2017 UAO and it supersedes the 2017 UAO as to MTA. Second Stipulation ¶ 6.a, 6.b. The Second Stipulation includes reservations for any ISEs that exist after the lodging date and for the United States to seek orders enforcing MTA's compliance with the First Stipulation and Second Stipulation. Second Stipulation ¶ 6.c, 6.d.

C. The United States' Community Engagement Process

After lodging the Second Stipulation with the Court, the United States published a notice in the Federal Register notifying the public it was seeking comment on the proposed settlement. 89 Fed. Reg. 13091 (February 21, 2024). Consistent with the provision of Section 7003(d) of RCRA, 42 U.S.C. 6973 (d), the notice also informed the public that they could request a public meeting regarding the Second Stipulation. One commentor, with support from other signatories, submitted comments and requested a public meeting. *See* Exh. 1 at 35. Accordingly, the United States scheduled the public meeting to occur on April 30, 2024. To inform the public in advance about the public meeting EPA representatives: (i) contacted people on the list of approximately 100 persons who had participated in the February 2022 public meeting regarding the First Stipulation, and (ii) left flyers at households in the neighborhoods near the landfill. Exh 1

at 18-19 (Guerrero, EPA). About 50 persons attended the public meeting, Exh 1 at 22, and a number of them made comments. The commentor who requested the meeting did not attend but sent an email with questions. Exh 1 at 38. Finally, the third-party defendants in this matter, Landfill Technologies L.L.C. (LT) and Landfill Technologies of Toa Alta (LTA) filed a pleading arguing that the Second Stipulation was inappropriate because it would adversely affect their defenses to MTA's third-party action against them. DN 183 at ¶ 4-10. Thus, the United States received comments regarding the Second Stipulation from four sources. Seven of the comments related to the issue of whether the provisions of the Second Stipulation are appropriate and the remainder did not. As explained *infra* at 9-12, none of the seven comments warrants disapproval of the Second Stipulation.

II. ARGUMENT

A. Standard of Review for Court Approval of Settlements

A district court reviews a consent decree to ensure that it is “fair, reasonable, and faithful to the objectives of the governing statute.” *United States v. Cannons Eng'g Corp.*, 899 F.2d 79, 84 (1st Cir. 1990). Generally, public policy strongly favors settlement of disputes without litigation. *Puerto Rico Dairy Farmers Ass'n v. Pagan*, 748 F.3d 13, 20 (1st Cir. 2014). Although district courts exercise independent judgment when reviewing proposed settlements, they defer heavily to the parties' agreement and EPA's expertise. *United States v. Charles George Trucking, Inc.*, 34 F.3d 1081, 1085 (1st Cir. 1994). The policy of encouraging settlements carries even greater significance where a “government actor ‘committed to the protection of the public interest’ and specially trained and oriented in this field” has developed the consent decree. *United States v. Comunidades Unidas Contra La Contaminacion*, 204 F.3d 275, 280 (1st Cir. 2000) (quoting *Cannons*, 899 F.2d at 84). Evidentiary hearings are typically unnecessary to

determine whether to approve environmental settlements entered into by the United States. *See Comunidades*, 204 F.3d at 278–79. As demonstrated below, the proposed Second Stipulation meets the three-part test for district court approval of a settlement: it is fair, reasonable, and consistent with the goals of RCRA.

B. The Second Stipulation is Fair, Reasonable and Consistent with RCRA

a. The Second Stipulation is Fair

To determine whether a proposed settlement is fair, courts examine both procedural fairness and substantive fairness. *Cannons*, 899 F.2d at 86–87. In reviewing a settlement for procedural fairness, the district court should determine whether the negotiating process occurred in good faith by informed, well-represented parties by measuring “candor, openness, and bargaining balance.” *City of Bangor v. Citizens Commc’ns Co.*, 532 F.3d 70, 96 (1st Cir. 2008) (quoting *Cannons*, 899 F.2d at 85). In this case, the settlement embodied in the Second Stipulation is the result of good-faith, arms-length bargaining between the United States and MTA. During negotiations that spanned many months, the parties were represented by experienced counsel, and a variety of personnel with technical experience were involved. Counsel for both the United States and MTA conducted good-faith, arms-length negotiations.

The United States also informed the public regarding the settlement, conducted a public meeting, consistent with RCRA Section 7003(d), which was attended by about 50 community members, and solicited and obtained written and oral comments regarding the settlement. *See, e.g., United States v. E.I. DuPont De Nemours & Co.*, No. 13-CV-810S, 2014 WL 3548965, at *2 (W.D.N.Y. July 17, 2014) (publication of a notice soliciting public comment is an element of procedural fairness). Therefore, the Second Stipulation is procedurally fair.

To determine substantive fairness, courts apply the “concepts of corrective justice and accountability: a party should bear the cost of the harm for which it is legally responsible.” *Comunidades*, 204 F.3d at 281 (quoting *Cannons*, 899 F.2d at 87). Because these concepts are not easily quantified in environmental cases, courts regularly defer to the expertise of EPA. *Comunidades*, 204 F.3d at 281 (citing *Cannons*, 899 F.2d at 88). This Second Stipulation is substantively fair because it imposes responsibility on MTA in two ways. First, MTA must pay a civil penalty of \$50,000. Second Stipulation ¶ 4. Second, MTA must undertake an injunctive relief measure to address the last urgent threat alleged by the United States, the Southeast Cell leachate problem, and must bear the associated costs. Second Stipulation ¶ 3. Therefore, the Second Stipulation is substantively fair because it holds MTA accountable for the alleged violations and will help deter future violations of RCRA.

b. The Second Stipulation is Reasonable

A settlement is reasonable if it is technically adequate, fully compensates the public for the alleged violations, and takes into consideration the risks of litigation. *See City of Bangor*, 532 F.3d at 86; *Cannons*, 899 F.2d at 89–90. As described above, the Second Stipulation requires a specific, tailored corrective action to address the last urgent problem alleged by the United States in its complaint. Second Stipulation ¶ 3. This measure will be implemented in a far shorter time period than if the parties had continued to litigate this matter. The Second Stipulation also requires payment of a significant civil penalty, thereby vindicating the public interest in connection with the alleged violations. Therefore, the Second Stipulation is reasonable because it is technically adequate, sufficiently compensates the public, and accounts for litigation risk.

c. The Second Stipulation is Consistent with the Goals of RCRA.

The Second Stipulation advances a chief objective of RCRA, which is to prevent and mitigate endangerments to public health and the environment. *See, e.g., Maine People's Alliance and Natural Resources Defense Council v. Mallinckrodt, Inc.*, 471 F.3d 277 (1st Cir. 2006). (construing RCRA's citizen's suit provision with similar wording to Section 7003(a)). As described above, the Second Stipulation includes requirements specifically designed to address and mitigate the last alleged endangerment associated with MTA's landfill.

C. None of the Comments Received Warrant Disapproval of the Second Stipulation

The United States received seven comments relating to the issue of whether the Second Stipulation is appropriate and should or should not be approved.

Recycling. One commentor objected that EPA should require MTA to implement recycling rather than requiring it to pay a \$50,000 civil penalty. Exh. 1 at 20 (Collazo). Section 7003(a) only authorizes the United States to address ISEs. In Puerto Rico, only DNER has been authorized to administer the municipal solid waste landfill regulatory program, and such authority includes decisions concerning recycling by municipalities. *See* Section 4005(c) of RCRA, 42 U.S.C. 6945; Notice of Final Determination of Adequacy to Fully Approve the Commonwealth of Puerto Rico's Municipal Solid Waste Permit Program, 59 Fed. Reg. 44144-02 (August 26, 1994) (EPA grant of authority to DNER to administer its municipal solid waste permit program). DNER's statutes and regulations address this issue. *See* 12 L.P.R.A. §§ 1320-1320s (2009) (recycling). Accordingly, the Second Stipulation is not deficient for lacking provisions regarding recycling.

Civil Penalty Amount. Three commentors expressed concerns about the amount of the civil penalty, as follows:

- The civil penalty should be higher. “Our lives and health are not worth \$50,000.” Exh. 1 at 26 (Santiago).
- The penalty should be lower because it will just end up being paid by the residents or by truckers hauling MTA’s waste. Exh. 1 at 15 (Rosario).
- The civil penalty is symbolic and ignores the broader environmental concerns that have affected the communities around the landfill. Exh. 1 at 35 (López Letter). Why has EPA negotiated a \$50,000 agreement for an instance of environmental and social damage running into millions of dollars? Exh. 1 at 38 (López email).

The \$50,000 civil penalty required under the Second Stipulation for MTA’s failure to comply with the 2017 UAO is fair and reasonable. EPA issued the 2017 UAO under its authority under Section 7003 of RCRA. *See* DN 18-1, at 3. RCRA Section 7003(b), 42 U.S.C. § 6973(b), provides that “[a]ny person who willfully violates, or fails or refuses to comply with, any order of the Administrator under subsection (a) may, in an action brought in the appropriate United States district court to enforce such order, be fined not more than \$5,000 for each day in which such violation occurs or such failure to comply continues.”² EPA’s 2003 RCRA Penalty Policy³ provides that EPA “generally will not assess penalties that are clearly beyond the means of the violator. Therefore, EPA should consider the ability of a violator to pay a penalty.” *Id.* at 38. To that end, the United States retained a qualified financial analyst who determined that MTA has a limited ability to pay a civil penalty. Exh 3 Leistra-Jones Dec., ¶ 7. The analyst concluded that MTA could not pay more than a nominal civil penalty without a major restructuring of planned municipal expenses. *Id.*, ¶ 15-16. *See U.S. v. District of Columbia*, 933 F. Supp. 42, 47 (D.D.C. 1996) (finding a decree was reasonable, even though the United States sought no civil penalties

² The \$5,000 amount has been increased subsequently with inflation adjustments. *See* 88 Fed. Reg. 89309 (Dec. 27, 2023).

³ EPA’s 2003 RCRA Penalty Policy is available at: <https://www.epa.gov/enforcement/resource-conservation-and-recovery-act-rcra-civil-penalty-policy>.

because defendant was in financial crisis). Accordingly, the three objections to the civil penalty are not a basis for disapproving the proposed Second Stipulation.

Failure of Pumping System. Two commentors asked what the provisions will be if the Southeast Cell leachate pumping system does not work. Exh. 1 at 13, 15 (Rosado), Exh. 1 at 16 (Rosario). The Second Stipulation addresses this issue. It requires that, if after testing the system proves to be non-functional, then MTA must cooperate with DNER in implementing other measures to address the leachate pooling on the Southeast Cell’s liner. Second Stipulation ¶ 3.f.

LT and LTA Objections. Third Party Defendants LT and LTA filed a pleading, DN 183, arguing that the Second Stipulation is inappropriate for three reasons related to the MTA’s third-party claims against them:

- First, LT and LTA argue that the Second Stipulation assumes that LT is a successor in interest to LTA. DN 183 at ¶ 5. In fact, the Second Stipulation assumes the opposite. It expressly defines “LandTech Companies” to include Landfill Technologies LLC as the *alleged* successor to Landfill Technologies of Toa Alta. Second Stipulation ¶ 1.f.
- Next, they argue that the Second Stipulation’s Paragraph 3.a mischaracterizes LT’s remaining obligations under EPA’s 2017 UAO. DN 183 at ¶ 9. Paragraph 3.a provides:

“MTA shall cooperate with the LandTech Companies regarding the completion of *any* of their remaining obligations under the 2017 Administrative Order, including, upon MTA achieving a means to dispose of leachate in accordance with Paragraph 9.b of the [First Stipulation], disposing of leachate in connection with the testing of the SE Cell leachate pumping system.”

(Emphasis added). By use of the term “any” the sentence does not assert that LT and LTA have obligations under the 2017 UAO. It also does not describe any such obligations. It simply states that, *if* LT and LTA have any obligations under the 2017 UAO, then MTA shall cooperate with them in completing their obligations.⁴

⁴ The Second Stipulation, ¶ 3.b, provides that “the [2017 UAO] provides for the LandTech Companies to submit a certification to EPA regarding the completion of their obligations under the [2017 UAO] and for EPA to confirm, if appropriate, the LandTech Companies’ completion of such obligations.” LT and LTA do not object to this sentence. Regardless, its accuracy can be

- Finally, they argue that if the Court were to enter the proposed Second Stipulation, it would be essentially ruling on key adjudicative facts prematurely and effectively rendering moot their affirmative defenses and the reliefs sought in pending motions for summary judgment. DN 183 at ¶ 10. This also is incorrect. Specifically, the Second Stipulation states “nothing in the [First Stipulation or Second Stipulation] affects MTA’s third-party claims against the LandTech Companies regarding responsibilities for the leachate collection and liner system for the SE Cell or the resolution of the SE Cell leachate problem.” Second Stipulation ¶ 6.e.

The text of the Second Stipulation shows that counsel for the United States and for MTA anticipated LT’s and LTA’s concerns, and carefully drafted the Second Stipulation so that it would have no effect on the third-party claims. Thus, none of LT’s and LTA’s expressed concerns warrants disapproval of the Second Stipulation.

There also were a substantial number of comments that did not relate to the issue of whether the Second Stipulation is appropriate. Those comments are summarized in Exhibit 2, hereto, along with EPA’s responses to those comments.

CONCLUSION

For the reasons set forth above, the proposed Second Stipulation is fair, reasonable, and consistent with the purposes of RCRA. Therefore, the United States respectfully requests that the Court approve, sign (on page 12), and enter the Second Stipulation.

verified from a review of the provisions of the 2017 UAO, found at DN 18-1, at 39 (“All reports to EPA by LandTech must comply with the requirements of the ... Certifications paragraph of this order.”) and 28 (“Upon request, EPA will notify Respondents either individually or jointly as appropriate, in writing confirming the appropriate completion of discrete tasks under the Order.”).

Respectfully submitted,

/s/ Mark Gallagher

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CERTIFICATE OF TRANSLATION

I, Charles “Matt” Whitney, certify that I am competent to translate this document and that the translation is true and accurate, to the best of my abilities. All archival seals, stamps, and certifications have been translated here.

Spanish Title:

E Lopez email 4-30-24

E Lopez Letter 3-12-24

Transcripción rev Final_Vista Pública Toa Alta 30abr2024

English Title:

E Lopez email 4-30-24-ENGL

E Lopez Letter 3-12-24-ENGL

Transcripción rev Final_Vista Pública Toa Alta 30abr2024-ENGL

I certify under penalty of perjury, pursuant to 28 U.S.C. 1746, that the attached translation is true and correct.

Executed this 28th day of May 2024.



Signature

Transcript of Toa Alta Public Hearing
April 30, 2024

COMMUNITY MEETING

The Federal Government adopts measures on the Toa Alta Landfill

Date: April 30, 2024

Time: 6:30pm–8:45pm

The record opens at 6:30pm

Arshley Rey:

Good evening everybody. It's 6:30. We're going to start in a few minutes. We'll begin at 6:45pm. From now on we'll be making announcements every 5 minutes. This is your first call.

Arshley Rey:

Good evening. Thanks to everyone for coming. This is the second call. Truly, thanks to everyone for coming. We'll start shortly.

Transcriber's Note:

It officially opens at 6:45pm. We move to slide #2 of the presentation on screen.

Carmen Guerrero:

Good evening everyone. My name is Carmen Guerrero Pérez. Pérez of the Pérezes of Toa Alta, so I do so with great pride. I'll be helping to facilitate this meeting, accompanied by several colleagues, both from the Federal Environmental Protection Agency and from the Natural Resources Department. But above all and to begin with we want to thank each and every one of you for being here on a Tuesday night to participate in this community meeting on the second agreement and the proposed final order by the Federal Environmental Protection Agency, by the EPA, and by the Federal Department of Justice in regard to the Toa Alta landfill. We also want to thank the Municipality of Toa Alta, its mayor, Clemente "Chito" Agosto, and Rafael Giusti who's running these operations here. Also, the Director of Public Works, who's here with us, José Rivera, and all his work team for lending us the facilities of the Coliseo to hold this meeting. The facilities are incredible. The fans, the new arrangements. The truth is that it's a very suitable place to be able to hold this dialogue and this conversation. And at the same time, I'd like to thank you for the entire negotiation process we've been having for several years now. Before officially opening the meeting, I'd like to let you know how we're going to address the meeting agenda and introduce to you the key persons who are going to be participating. After my intervention we're going to have a presentation from our technical specialist on the RCRA Law. You're probably going to hear this term. RCRA in English is the Resource Conservation and Recovery Act, which is essentially what regulates everything to do with solid, toxic, and non-toxic waste, via various federal criteria, including everything to do with managing landfills and sanitary landfill systems. So, here with us tonight is specialist Eduardo González. Thank you, Eduardo. We're

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April 30, 2024

grateful that Eduardo is going to be delivering this presentation. If you let him complete his presentation and then we're going to take all your questions and comments. He's going to make a presentation here using the PowerPoint system and then we can go to each of those different slides he's going to be presenting to be able to address all those comments and questions. Also here with us are other colleagues from the Federal Environmental Protection Agency, and it's important for me that you should be introduced to them. Arshley Rey Torres is here to my left. Over there at the welcome table is Maria Elena García. They represent a new division that has been created by the agency among its 10 regions. The EPA has 10 regions throughout the United States. We belong to New York, New Jersey, Puerto Rico and the Virgin Islands and 10 indigenous nations. And specifically, part of this division focuses on the issue of environmental justice and outreach to communities. Why do I underscore this? Because they're going to be some very important contacts for you in the future as part of these efforts we're making here in Toa Alta. Also here with us is Lilliana Alemán, who you can see here in the middle taking photos. She's our Public and Community Affairs and Press coordinator for the Caribbean Division, which is the division I represent for the Federal Environmental Protection Agency.

Transcriber's Note:

We move to slide #3 of the presentation on screen.

Carmen Guerrero:

After Eduardo's presentation, we're also going to have a few words and a summary on behalf of the Natural and Environmental Resources Department by María Victoria Rodríguez, who I have here on my right. Thanks, Vicky, for being here. Vicky is the director of the land pollution division of the Natural and Environmental Resources Department. She's accompanied by several colleagues from the department who I'd be grateful if they could raise their hand. We have Tony Ríos, we have Augusto Márquez, we have Amarilys Rosario and Peggy from the Department's Air Division. Augusto is from the land pollution division. Tony is from the division of the office of the secretary of the National Resources Department. All these resources are available to answer any question you may have. After these presentations and messages on behalf of the EPA and the Department, we're going to move on to the public comment and question-and-answer session.

Transcriber's Note:

We move to slide #4 of the presentation on screen.

Carmen Guerrero:

Transcript of Toa Alta Public Hearing
April 30, 2024

We're going to be here with you until every question and comment has been addressed. If there's any question we're unable to answer today, we'll be answering your question at a later date. You can depend on that as part of the public comment process. We'll collect these comments and each one of them must be addressed and you'll see that as part of the documentation that's part of this entire process. At the same time, we want to assure you that everyone here will be listened to, so we ask that, if you want to speak, make a statement, give us your comments and recommendations, that you make sure that your name is on the list taken by María Elena at the entrance and whether you indicated your interest in talking or making a statement to ensure we have you here as part of this agenda. If not, you can please step up here to the microphone later to make those questions and comments. If you don't want to speak publicly and prefer to put your question on a card in writing, you can also do so at the table with María Elena, where we have what are known in English as index cards, those little white cards. You can write your question, you can bring it to us and we will then read it and put the question to the various resources we have here. It's very important to us that everyone signs this list of attendees or participants so that, in the future, we can also keep you informed about everything to do with this court case and the stipulated order. So, your contact information, telephone numbers, emails are really important. We also want to underscore, and Eduardo will also mention this in his presentation, but you should know that you still have time to submit your comments. The Department of Justice has given those of you who have additional comments until Friday, May 3, to submit them, both in writing and via email, and we'll be receiving them. There's a website that's available that you'll see over there using the QR code, and that contains all the information in connection with this case, fact sheets that can serve you as a reference. And once the meeting ends we'll also be available to answer all questions and concerns you want to put to us. There are some logistical issues I'm going to cover really quickly. Here to my right we have Widy. Widy is taking the transcript, so the audio of this meeting is being recorded and the public will later be able to have a transcript both in Spanish and English of what was discussed tonight. We're going to have this transcript available on this website that I mentioned to you we have available on everything to do with the Toa Alta landfill. The mikes, you can see that I have one up at the front here. We would appreciate it if, when you come up to make your questions or comments, that you approach the mike, state your first and last name, the neighborhood where you live or the entity you represent. The restrooms, perhaps you already know the Coliseo here, but the men's and women's restrooms are located to my left, on your right side. I also understand that there are water fountains over there and there's also a vending machine over here. Important: in the event of any emergency, the emergency exit is over here. I understand there are several doors, but you need to check because there are some with grilles. So, we're going to head mainly toward this one over here. And with no further introductions, we're going to start this meeting to update you on the second agreement and final order proposed by the Federal Environmental Protection Agency and the Department of Justice for the Toa Alta landfill. So now I'm going to leave you with specialist Eduardo González. Thanks, Eduardo.

Eduardo González:

Many thanks, Carmen. A very good evening to everyone. It's a pleasure for me to have you here tonight. Among the most important components of the phase in which we're working in this legal process is that of

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receiving your comments, suggestions and any other concern that we may want to incorporate, that we may want to address, before the final order, which is the second one, that can be described as the second agreement, that is for submission to the Federal Court for it to be final and enforceable.

Transcriber's Note:

We move to slide #5 of the presentation on screen.

Eduardo González:

Therefore, today, tonight, everyone knows how far away the landfill is. I think it's on highway 165, Contorno Barrio. I've already seen it as a citizen of Toa Alta. I've already come here so many times and I've visited all the communities. I've greeted so many people. It really is very charming.

Transcriber's Note:

We move to slide #6 of the presentation on screen.

Eduardo González:

I therefore want to produce a simple diagram for you. The yellow line represents the area that has been impacted over the years. This landfill historically began in 1966. This is also the area where, that's currently pretty well controlled at the moment, areas that were of concern to the previous EPA, that was presented about two years ago, in a similar meeting to this one, because we were reaching the end of the first stipulation agreement for the final order. There was this blue area, that consists of the northern part of the landfill, which is an area on quite a significant slope and the concern of the Federal Agency was the fear of collapse, due to percolation of the water or any other seismic system or any land instability. There's another area that, if you can see it, is indicated in red. This area is called the cell. The cell is the location where trash has been deposited. Consequently, this area is known as the southeast area, the southeast cell, and which, before the disposal of garbage, was designed and built with what is known as a polyethylene lining, a liner, like the sole of a shoe, that you lay before depositing the trash, the purpose of which is to collect the water, let's say, that percolates from rain, that comes into the contact with the trash or the mass of the trash. This is what we describe with the word leachate, because it impacts everything that's been deposited in the cell over time. So, we're frequently going to refer to the southwest cell and the northwest cell. Aside from the diagram you can see two pools, what we call the North Lake and also what we call the South Lake. This second stipulation or agreement between the parties for a second order addresses those areas that are not addressed in the first order. Where the history is concerned, things are pretty straightforward and clear. The area of interest to us is the area of the southwest pool, that needs to be attended to. In addition to certain penalties imposed on the municipality for breach. And noncompliance with the order initially issued by the EPA in 2017. Here's the diagram of the landfill in its current state.

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Transcriber's Note:

We move to slide #7 of the presentation on screen.

Eduardo González:

We have what's known as the Federal Regulation Code, part 258, of the Resource Conservation and Recovery Act. This is the law that, if you go to Google and type it in just like that, will list all the requirements for you: location requirements, requirements on how to operate a landfill, on how a landfill is designed, what the monitoring requirements are, the financial side, the part about the reports they have to submit, and I forgot the location part. So, this is what we're regulated by. This is what we evaluate before looking at the operating conditions of a landfill. We also have the water management part, that's a matter of great concern because the water that enters the landfill, from rain in this entire area, and that consists of the same thing, needs to be controlled. It comes into contact, frequently percolates, frequently it takes on a surface form and it often needs a retaining pool in which this water, once it crosses the surface, can be monitored, certain analyses are carried out, and it's allowed to discharge to its final point. Many of the requirements that are also included in this law have to do with the daily covering, collection and gathering of leachate, the monitoring of rainwater, as well as the monitoring of gases from the landfill. It also requires a closure plan. It's assumed that a landfill, when it begins operation and is planned and designed, will also include requirements in that package as to how it will close and when it will close. And also the post-closure part. We find that in 1993 all of those landfills that are not in compliance with the legal regulations had to close at that point in Puerto Rico. And to give you a simple statistic, at that time we had over 68 landfills in Puerto Rico, of which 38 or 36 were closed because they could not comply with those new requirements. And obviously the rest had either to close their old cell, that was not in compliance, and create new cells.

Transcriber's Note:

We move to slide #8 of the presentation on screen.

Eduardo González:

Here's something really important: in 1994 the Federal Government gave authorization for the jurisdiction of the Regulatory Management that governs the operation of landfills. So, who's responsible for opening a new cell, operating a new landfill, closing a landfill, a transfer station? It's the Natural and Environmental Resources Department. So, we only step in when we believe that an area of the landfill is regarded as being at high risk or as representing an imminent or significant danger to human health and the environment. Those are the legal mechanisms we use so long as we establish that an imminent and significant danger exists. Toa Alta was included in these EPA orders, that is a legal mechanism known as order 7003.

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Transcriber's Note:

We move to slide #9 of the presentation on screen.

Eduardo González:

A brief history of the landfill. It began operating in 1966. The owner is the Municipality of Toa Alta. At different times it has been operated by operating contractors and also by the municipality itself. It has given service to the entire community for many decades and years. It covers approximately 30 acres. In fact, based on the most recent topographical survey it covered 36.7 acres of which 26 are those that are impacted and those that we're working on with a view to final closure. We also have what I explained to you, the two cells. The northwest one doesn't have a liner. So, water that falls as rain, water that percolates, water that comes into contact with the mass of trash, directly enters this aquifer that's part of the northern aquifer or in surface waters. And the southwest part, that does have the lining, but the pumping system that was installed during the construction of the cell isn't functional. Several attempts have been made to repair it, to replace the pumps, among many other things, but it has never been fully operational.

Transcriber's Note:

We move to slide #10 of the presentation on screen.

Eduardo González:

This is our concern. We're always discovering what is a significant imminent danger. It's to do with rain that comes into contact with the trash that's been deposited over the years that contains soluble, suspended or miscible materials that are extracted from that waste. It contains contaminants. That's all. Imagine a battery you've left there and the water comes into contact with the lead and obviously that liquid escapes, escapes from the landfill, escapes with all those contaminants. Together with much other waste that has previously been discarded. Based on our estimates, the landfill generates between 28 and 46 million gallons of water, gallons of leachate per year. Those are the mathematical models we use. What you really need to look at is the area of the landfill, the amount of rain and there you have the volume. That's how we arrive at that number of 26 to 48 million.

Transcriber's Note:

We move to slide #11 of the presentation on screen.

Eduardo González:

In legal terms, the EPA issued an administrative order in 2017. That legal order included everything the municipality had to do to close this landfill. And when I mean close, that doesn't mean closing the door of

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the landfill; it means closing this cell that's a matter of serious concern and risk to the EPA. And the fact is that this order was never complied with. We proceeded to refer it to the Department of Justice, that represents the Federal Environmental Protection Agency, and they filed a suit before the Federal Court, once again declaring the imminent significant danger presented by this landfill. There were some negotiations over what's referred to as a stipulation and preliminary court order that contained a huge number of things the municipality had to put right and comply with in order to be able to proceed to the final stage of closing the landfill and eliminating the risk associated with past operations and also from the current conditions we have. Recently in 2022 some public participation processes were carried out, and we're in the same place today as we were two years ago. This public participation is to receive your comments and any other suggestion you may have for inclusion in the final order to be delivered to the Federal Court. That is the final order. It's really important for you to give us your input because it will be given serious consideration and included, and it will also be managed as part of the final order process. That's the importance of this meeting.

Transcriber's Note:

We move to slide #12 of the presentation on screen.

Eduardo González:

Examples of articles that have previously been published in the media.

Transcriber's Note:

We move to slide #13 of the presentation on screen.

Eduardo González:

We also have the stipulation I'm talking to you about, which was the first one, that was filed by the Department of Justice and approved by the Federal Government in August 2022, that established that they would address the imminent and significant dangers of the landfill. It included the placing of daily and immediate covering. All that trash that was exposed had to be covered. An intermediate covering had to be placed over the entire area that was susceptible to water percolation and access due to rain events. As of today, and also at the request of the community, they had to look into the status of the landfill. A covering has been put over approximately five Spanish acres and the intermediate cover is a compacted covering 12 inches thick to help prevent percolation and also to control runoff. There's a proposal in place under which steps will be taken to continue with a further 4.5 acres, on which this covering will be laid and this relates to the final and permanent closure of the landfill, that is being managed, that is being evaluated and negotiated by the Natural and Environmental Resources Department. We also have a cessation on receiving [new trash]. You'll have seen that the landfill has not received trash since April 2022, and this has been one of the requests, one of the conditions of that first order or first agreement. The cover also receives maintenance so that if there's a rain event they'll be checking to see that everything's stable within two

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weeks or in two weeks. So, if there's a rupture in that intermediary covering, it will be repaired and refurbished so as not to allow water to continue entering and to avoid percolation of rainwater. Application of stability controls on the slope. This north slope is currently full of vegetation, and that helps stabilize any landslide that may occur. But stabilizing that slope is among the conditions of the first order or agreement. This slope is frequently — well, I'm not going to get into the technical side of this, but the gradient is more than two to one, and that presents a danger of collapse. And that's on the north side of the landfill. Management plans were also developed for the collection of the leachate and that's for the north section. We need to look at some sort of interceptor, a means of collecting, a means of disposing of those leachates that are not being controlled by rainwater. And also the part of the rainwater or runoff water, that's rainfall, that needs to be redirected to another point where you can collect and dispose of it, so long as you don't have any type of pollutant. We're discussing the earlier preliminary order we received two years ago now.

Transcriber's Note:

We move to slide #14 of the presentation on screen.

Eduardo González:

On that subject there were several alternatives and I'm going to cover this pretty quickly. The alternatives were to continue receiving trash in order to be able to stabilize the north part of the slope of the landfill. The second alternative was simply that of closing the landfill, not accepting more trash and awaiting the final closure plan that's being prepared jointly with the Natural and Environmental Resources Department. And the third alternative was to excavate the landfill itself, utilize internal material, although that would mean exposing trash that had biodegraded, among smells and other hazards to workers, and stabilizing that north slope. In your comments, you decided that you did not want more trash and that it was necessary to wait until the final closure plan had been approved. And that was the direction we included in the final order. But your comments were so important that this was the consequence of having changed these three alternatives to option two, and that was due to your comments.

Transcriber's Note:

We move to slide #15 of the presentation on screen.

Eduardo González:

Here's a summary of the terms to be addressed in this second order: the southwest cell. The southwest cell was not included in the first order. It's therefore important for us to include the southwest cell to be able to manage and minimize this risk presented by the landfill. They're going to try to rehabilitate the leachate pumping system with collection in the tanks. The municipality has already secured a permit from the Acueductos y Alcantarillados [Water Mains and Sewage Authority] so that if they collect these leachates

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they can bring them to the used water treatment plant. This also includes a \$50,000-dollar penalty. This \$50,000-dollar penalty is for breach of the administrative order issued by the EPA in 2017.

Transcriber's Note:

We move to slides #16 and #17 of the presentation on screen.

Eduardo González:

Here we have some of the details of the proposed terms for the southeast cell. As I said, this is with the cooperation of the operators, the previous contractors. They're going to do everything they can to be able to resolve this collection problem using this pumping station and the leachate collection. If it doesn't work we're going to have to look and see what other short- and long-term alternatives there are, that would be discussed or implemented as part of the closing plan in order to be able to address this southwest pool. Am I missing anything else? No, everything's here.

Transcriber's Note:

We move to slide #18 of the presentation on screen.

Eduardo González:

That's it. There are other details on the terms of the second proposal, which is for Natural Resources, whose director is present here along with other members of that agency, who are going to be monitoring it and be on top of implementation on a day-to-day basis as well as the manner in which this southwest cell will be addressed, and also the pool that's located in it.

Transcriber's Note:

We move to slides #19, 20 and 21 of the presentation on screen to bring it to a close.

Eduardo González:

And here we are. How are we doing on the second... We haven't finished the second order. We're waiting for it and the purpose of this meeting is to receive comments from you. All that you tell us, all you provide us, all you comment on, your suggestions, will be properly addressed and considered in order to be able to complete the second final order or the second agreement and submit it to the Federal Court. That's all. Many thanks. What we now want from you is for you to feel free to comment, to share your suggestions, concerns or comments with us. And this is the comments period that belongs to you. We have a mike here, we can bring the mike to where you are and also some little cards

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Carmen Guerrero:

A thousand thanks for the presentation and all of that information, Eduardo, that helps put where we are at this time into context and the update we want to share with you tonight. Before starting on the comment section we'd also like to give María Victoria Rodríguez of the Department of Natural Resources an opportunity to share some updates with you on where they are in the process with the landfill. Many thanks, Vicky.

María Victoria Rodríguez:

Many thanks, Carmen. Good evening and welcome. As Eduardo already mentioned, and he's basically told you everything, all the activities relating to the closure of this facility are being supervised by our staff. As you can see, all these activities are construction projects, engineering design, that are very expensive. These are studies that need to be completed in order for them to be carried out. Geophysical studies, designs, plans. We're currently meeting with the municipality to see what stage all of the activities are at. We're constantly in meetings. We have meetings with the EPA every month. We're implementing this closure together, everyone pulling in the same direction. This is very important for me, as for the first time we have the novelty of the governor who has allocated money to carry out all the landfill closure activities in Puerto Rico. And in this situation, Toa Alta in particular has been one of those selected to receive this subsidy to be able to complete this closure, as so long requested by the community. So as far as we're concerned, we're very grateful and as always we're at your disposal. Thanks.

Carmen Guerrero:

A thousand thanks, Vicky. Well, that's all. As we mentioned to you, we're going to start the comments process now, recommendations, questions. We moved the mike over there because I was worried the line would be here and that someone would trip over it. So, we have the mike here, so you can speak both to the public and to us as part of the question process. So, the mike is open. As we told you before, if you could please state your name, your community, the sector where you live, the entity you represent, to ensure that we collect it properly as part of the transcript. So, the mike is all yours. We're going to go by the list we have of people who signed stating that they were interested in talking.

Arshley Rey:

In the first place, I have Ivette.

Ivette Calise Cintrón:

Good evening. I'm Ivette Calise Cintrón. From the Contorno Sector, directly to the north. I'm directly affected. We're in the north. We have one, two properties that have been forgotten, three that are directly affected and other relatives who are directly in this landfill. It's sad for me that I sometimes can't have my

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family in the same place due to the smells, the rats, the snakes that emerge from the pools. We're directly affected, and I have photos showing the animals feeding there. We continue smelling it. They haven't done anything. No one's done anything. When I say no one's done anything I mean it. I live there. All the smells and the vermin and all those animals are there every day. We're directly affected. I don't know what they're trying to do. I don't know what the mayor of Toa Alta is doing. I don't know what the EPA is doing. I don't get it. Because I've never seen so many units that aren't unified. If you walk with me, I can show you that I walk on a trail of trash that's still there. They haven't closed it. What you're seeing I can't see. I'm right there and every day I have to encounter things that aren't there. I don't see it there. I don't understand how so much time has passed and you're still saying it's closed and that you're giving it money. I don't see any of that. It's really painful. How can I explain it to you? That you're active in other sectors but sector 00758 has been forgotten. Not even for roads. You say you're going to fix the roads, but you don't fix them. It's like a sector that's been forgotten. There's no power. You have lights directly in the landfill, but I see the trash coming at seven in the morning while I'm working. So how can you tell me you're working? The cancer keeps happening. Everything's the same, everything's the same for us. I have some land on which I was born, that my grandfather built a road on, not just in Contorno, in the Rodríguez, that joins up with all these pools [sense unclear]. We're all affected. I don't know if you want to walk with me, with shoes, without shoes, with horses, without horses, so you can tell me if you're doing anything. When I go to the municipality to request some help, they don't help us because we're fighting with them over the landfill. My sister fought with them, my dad fought with them. They're no longer alive. A lot of people have cancer and people are still dying. There are a ton of people here who aren't here because they're really sick. I've visited the sick and I can't tell them: "Look, this will happen tomorrow." They want to say that, in the north, that these waters are part of the river. We know the land. We truly are the ones who are affected, who are suffering every day, because we have to live with this and with the cancers and with everything else. So, I'd be grateful for what they would want to be done, but it's very late and it's still late and people are still dying. So, what are we doing? What are the people of Toa Alta or New Jersey or New York doing? I understand how something can take so long when you yourselves still don't know what the affected areas are. So how is it that Toa Alta is present here but not the mayor? I don't understand. As I say, I'd like you to declare: "So, Contorno is affected." Let's go look at those waters that you describe, those waters that are pure, that are behind everything you've broken. Environmental Quality doesn't look at those sites. It doesn't look at the Charco Largo, it doesn't look at those sites that are directly affected because they can't even get down there. So, there are cemeteries you've got covered, but there are still communities there and they're doing things they shouldn't be doing in the rivers. So, how can Puerto Rico be telling me they're working with the United States? We're the ones there who are affected and we're the ones who are badly affected and no one notices. She greets me, but I've spoken with her directly asking that this be closed up. And I don't understand. Because I'm badly affected. Because my grandfather gave those roads. Why am I affected? Because they still don't respect the fact that he did give the roads. They have roads, but they leave us the garbage from everything they do in the landfill. So, who's responsible? Not the EPA, not you, nobody here. This is like continuing to fight without justice, without anything. Because they want to close up for good. I've been present at seven in the morning. I have relatives nearby. My property runs down to the landfill and I see the garbage and I see the people and I have pictures if you want to see them. It's very hard for me to say that you're doing something. Two years ago, my sister since 2017, since before then [sense unclear]. This isn't just since they changed the plan of what they were doing with the landfill. That's the problem. The

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waters joined up. They say they're leachates. True, but there are other things. But the people in the vicinity have already died, two or three more and they continue dying. But we remain affected. Thanks. Forgive me, but I'm very emotional because this has affected me and my friends directly. The reason I don't see all the people who are truly affected is not because they're not affected, but because they can't be here. But I'm willing to walk with you if you really want to close the Contorno part of this landfill. I'm present. You have lights for the landfill but all that is only there. Kids are running around in those landfills. There are many things you aren't aware of. You people need to go see it. I'm prepared to walk with you whenever you like. And the other sectors I've taken you to, because it isn't just Contorno, Quebrada Arena. There are other sectors. This also extends to Río de la Plata and we're all still drinking. Those who live in Toa Alta are affected. And those who don't live in Toa Alta are also affected. Those who work in Toa Alta.

Ivette Calise Cintrón:

Everyone in New York, those who are in New Jersey, this is for everybody. Something needs to be done quickly. It isn't just about one sector or another, but about those who are directly affected. It isn't about closing one part and the others will follow. I think it's too late now for many people here, because they're not present here. That's all I have to say. Many thanks to the mayor, who I don't see, but thanks to everybody.

Arshley Rey:

Many thanks for your comments. Carlos Rosado is up next.

Carlos Rosado:

Good evening everybody. I have a concern. I'm from Las Acerolas, on the other side of the town, but for many years I've driven all-terrain vehicles and specifically in this part of Cielito, which is where we usually drove our 4WD, so to speak. We could see there were some areas in the rivers that have been notorious in Toa Alta for many years, such as the Azul, the Solapa. But recently, I don't know if it's Natural Resources or one of the agencies that are here, have come to check the waters of those rivers. Because specifically there's a stream that's near the landfill, that isn't in the landfill, that I don't think even the caimans want to get themselves in there. So, my concern goes a little further. Just now you mentioned that we had millions of gallons of water. I understand that there are around 48 million gallons per year that drain from the landfill there. The leachates. I'd call it foul water, because that really is our concern as people who live here in Toa Alta. What does the agency do when the pumping system in the landfill isn't working? That's my first question. Second, what do we do when it doesn't work? But it must be a constant concern for those living closest to this area, like this lady who just got up here and spoke very emotionally, and all the other people who aren't here, so that they can be more confident that these runoff waters aren't so polluted. Because it's impossible to avoid 100% of the pollution, but it is possible to work with a high volume of pollution. So, my concern is that you said that, at a given moment, the pumps sometimes don't work adequately to manage the landfill. What is done at such moments? How do we work this out? In addition, I think this type of meeting should be announced to the people of Toa Alta by all available means, not just by Facebook.

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The vast majority of the people who live in Cielito are seniors. In this area, specifically, they are seniors. And I think the genuine concern of these people is that they weren't being represented here because they weren't informed by Facebook, because many of them don't have Facebook. So, I can tell looking at the people who are here, leaving aside the 10 or 12 people you brought from the agencies, and I would say that not 0.0005% of the residents of the Cielito area and the outlying areas of Toa Alta are present. I think there should be an even greater sense of responsibility on your part, on the part of the agencies, on the part of the municipality of Toa Alta, so that everyone is informed of a hearing like this one. I know this is an orientation hearing, but the truth is that having only four or five people here from Cielito is for me, as a resident of Toa Alta, an embarrassment. And it's a major concern. Because believe me there are a lot of people living there. I think that from here, from Hacienda del Caribe, is there anyone here from Hacienda del Caribe?

Transcriber's Note:

No one raises their hand.

Carlos Rosado:

And there you have the result. An urban development that lies completely inside or in the outlying areas of the waters I've mentioned to you, and there isn't a single person here. Where are the people from Marzán?

Transcriber's Note:

No one raises their hand.

Carlos Rosado:

Counting me, who currently lives up there. But I'm going to make my concerns known to you right now, because this hearing should go beyond where it is. And believe me, I know that the trend now is for everything to be done via social networks and via the website on which you said you were going to post the comments or suggestions that are made today. But I don't think this is going to reach the residents who actually live here, because they're seniors. I think that if they don't have power, if she's telling you that the landfill is illuminated at night while the community doesn't have power for lighting, you can imagine whether or not they'll have the Internet. I think you need to put yourselves in the residents' shoes to have that concern. And I know you're genuinely working very hard to try to analyze and verify everything that's being done in accordance with the rules as they're established in the laws we have here in Puerto Rico and at the federal level. But we need to go a little further. Thanks, and good night.

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Arshley Rey:

The next person is Sary Nitza Rosario.

Eduardo González:

Nothing, just a brief response to our companion. With respect to the pumps, the pumping station is the reason why we elevated this to Federal Court level. Because if it doesn't work, in trying to repair it and doing absolutely nothing, it won't collect all of this leachate. And this is the reason for this second order, so that the generation and collection of all this leachate, which is foul water, as you call it, that's in the southeast part of the landfill, can be attended to once and for all.

Carlos Rosado:

I'd be grateful, Mr. Specialist, if you could answer my question. But where the concern really lies is, for example, if of the 365 days there are in a year, we have a pump that may be inoperative one week per month, so to speak, then we'd be talking about 24 weeks per year. So, I'd like to know what the agency will do in that case, or how you'd handle the situation, because this is an emergency situation, and I don't see how that emergency could be handled as it should be. It's like saying: "The pumps got damaged. Well, they're damaged." The municipality has to fulfill its responsibility to repair them because it is the manager, but what is the agency doing beyond that? Because right now, if, for example, I didn't want to mention that entity, we're going to have to utilize Water Mains. If Water Mains stops supplying water to La Plata, there needs to be some other way by which the water will reach people. In that case I've seen the municipality fill the tanks with water. For example, in my community in Marzán, they fill the tanks with water, and they bring us water. Now, I'd like to know what the agency will do when it sees that a pump isn't operational in a landfill, for around 24 weeks per year which is a hell of a lot of days, and then what do we do? Do we sit here waiting to see if someone can resolve the issue of the pump or whether they repair it at some point, etc.? I don't see anyone taking responsibility. Responsibility isn't apportioned here like it should be. What is a \$50,000-peso fine going to do to the municipality? The fact is that we the residents wind up paying ourselves. This isn't paid by the municipality. And apart from that I think this is a business that can't lose. In other words, you tell me that they slap a \$50,000-peso fine on any municipal administration, but that can be paid off with a little cookie bought from any bakery. Because it's simply a matter of managing the trash that goes in there. I'm going to charge every truck another five cents, I'm saying just five cents. You know it's going to be much more than that, and that's how the fine gets paid. It's not going to hurt me any. Even so, I don't know if the Natural Resources Department has people there every day watching the landfill or monitoring it, because if the situation is that we've got kids there, as this lady just mentioned, who has evidence that there are kids there searching through the trash, that's even more concerning. What this therefore means is that no one at Natural Resources is monitoring it or is aware of how things are being moved in the landfill. As we say, this is a free-for-all.

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Eduardo González:

Thanks for the comment.

Sary Rosario:

May God bless you. Good evening. My name is Sary Rosario. I had the privilege and the honor of being the pastor of the Iglesia Cristiana Discípulos de Cristo [Disciples of Christ Christian Church] in Toa Alta Pueblo. And some of you go there, right? Please raise your little hand and stand up. I'm saying this because I'm not here alone. I'm here as part of the Disciples of Christ Christian Church in Puerto Rico. And from 2012 — there's now another pastor here in Toa Alta Pueblo — but from 2012 to 2022, for almost 10 years, God allowed me to accompany the people of Toa Alta. I've seen the pain. I've seen the suffering. At one time we had around 10 people, 10 members of our Church, simultaneously with cancer, in just one year. Some died, others lived. The first visit I made was to the house of Brother Rafael, who now rests with the Lord, and when I arrived at that house the stink of trash invaded everything. And I visited them, and he had recurrent sickness in his airways. And I left that house saying: "My God, I'm leaving here but they have to stay with the stink of the trash." So, I'm here, more to ask questions about the process. I read the agenda you sent us, and I'd be grateful if you could give us some assurances, because we still have contacts with some residents of the community who've told us: "Pastor, perhaps they aren't dumping trash in my area, but we hear trucks and we see things." So, of all the questions I could ask, one of the most important is: What guarantee do we have that this closure process and all these recommendations will be carried out? Because we know that our agency, the Natural Resources Department, it's well-known that it doesn't have sufficient staff thanks to what's happened with the governments. It's gotten smaller. The Environmental Quality Board no longer exists, or exists as a shadow of itself, under the Department of Natural Resources. And this is a genuine concern, because we hear of cases, and we give thanks to God for the members of Natural Resources who are here, in other agencies, but we frequently hear in the press of cases throughout the island in which the same person who heads Natural Resources, the Secretary, says this may have happened because we have a shortage of staff. This is repeated among the vigilant, it's repeated. And we know that you who are here are not to blame for this, but it's a genuine concern. How will the Department of Natural Resources monitor this and ensure that these processes can be carried out? What mechanisms, what strategies have you, the Department of Natural Resources, adopted in addition to the funding, concerning the money the lady just mentioned, that came as news to us — what mechanisms and what strategies do we as part of the community have to know that this will be done, that it's being done? Because as our companions say, people keep suffering. And we understand that this isn't a silver bullet. The landfill closed, the pollution ended. We know it isn't like that. We know that there are certain processes, that we as a community need to be certain that we won't be abandoned. We need to be certain that this will be complied with. And the other area I also had concerns about was on page 6, where it speaks of the wastewater treatment process, that if it isn't resolved in some other place it will be resolved on the same site. This is like a legitimate concern, right? On this site? Is that here? What are you going to do? Are you going to repair those pumps? Are you not going to repair them? And another thing is that we know that, with climate change, rain events are going to continue becoming more frequent. So, perhaps the process of addressing the leachate issue is an uphill one, but we need to be given assurances that this will be complied with, because the community can't take more suffering. And another question is that, I think it was

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Eduardo who mentioned a moment ago about the covering that was laid in one area. My question is, why was this not put on the entire landfill if it's closed? When I was a pastor, I visited a sister who sold alcapurrias [fritters] on the road. You know her, Nilda. And Nilda had cancer. She is a cancer survivor. And Nilda told me: "Pastor, come into my house." And when I went to Nilda's house, Nilda had a bottle of kerosene at the entrance to her home. And I said: "Nilda, what is this?" And Nilda told me: "Pastor, look." It was so full of flies, and flies and flies and flies that this lady had to put down kerosene to be able to enter her house. In other words, that's the level we're at in this situation in Toa Alta. In fact, one time a swarm of flies arrived in the church. I think they were from the landfill, because we used to dump our trash there. And we would tell each other these stories. Another thing that concerns us all is the methane emissions and the air pollution, because a lot has been said about the leachate pollution, that we understand is key, because there are still residents whose yards get filled with ooze from the trash, and that isn't easy either. But what about the air pollution? With so much respiratory illness around, what of the people who need to be acknowledged on this subject and need help in regard to what we're suffering? Also, how are we going to keep being informed of the process and this monitoring of vectors, that may be the other challenge to public health? So, although I no longer live in Toa Alta, I did live here for a time. But I love this town. I was a pastor here for 18 years and in some way God has allowed me to feel and see the pain. And I wouldn't want things to stay the same despite the shortage of so many things in our country. We want it to be closed once and for all, but we also need remedies, and we need the alternatives and for you to assure us, for you to show us not only the closure plan but also the strategies, the manner in which this plan will be carried out. How will it be carried out? The timeline. In other words, because all of us know that we need to make working plans if we want to do something. Because for the time being the community needs to see this so it can continue raising its hopes, so that at least we don't lose hope, right? That's the last thing that's lost. But we're trusting in good faith and we want to remain united, because regardless of your church or whether or not you believe in God, we are people who need sanitation and we need to work so this doesn't continue happening. May God bless you.

Eduardo González:

Many thanks.

María Victoria Rodríguez:

I'd like to make this clear. We at the agency, the DRNA, amalgamated four agencies: ADS [Autoridad de Desperdicios Sólidos — Solid Waste Authority], Parks and ourselves, who were formally the JCA [Junta de Calidad Ambiental — Environmental Quality Board]. In other words, we're four agencies. When it's said that there's no staff, that must refer to another office. We in our program have all the staff and we carry out all of the monitoring follow-up inspections. We do them every three months, which is what we're required to do. We do the inspections and we come and carry them out. In other words, we have no shortage of staff in my program, which is the department I lead. And it's important that you know that all these processes, all these activities will be carried out. All of this is a process and we're going to carry it out so that you're satisfied with everything you've been requesting, both the collection of gas and the leachate, and the water, all of that will be carried out. We understand that there's no silver bullet, that it's not something that can be

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done from one day to the next. I've always said it: these are engineering projects. They need time and we're performing these evaluations together with the municipality so this can be carried out. And for our part, for ourselves at least, we want you to know that we're confident and you should be confident that this will be carried out.

Sary Rosario:

Very quickly and thank you. I say this because when I was a pastor in Toa Alta we completed a dissertation research project on the Toa Alta landfill situation and during that time I did not obtain monitoring information from Natural Resources. I had to take part in an investigation by another young woman who was at the Universidad del Turabo, Dr. Betancourt, to find monitoring data for the leachate components, because I could not find data either at the municipality or at the agencies that were operating the municipality. I had to take part in an external investigation to establish the pollutant levels that were there. That's why I made the comment, but I'm delighted that there are people from the Environmental Quality Board who we know report to Natural Resources, but we know that they're going to do their work, and we trust in that.

Eduardo González:

I want to add that once the agenda is completed with all of these comments, that have been excellent and widely accepted, the Federal Court constitutes an obligatory mandate for the municipality that has to monitor these runoff waters and these leachate waters. It's mandatory and it's the same Federal Court. So, they need to comply one way or another, regardless of whether or not the pumps work.

Carmen Guerrero:

I wanted to add to the comments made by Sary, because this is a question several residents have asked us and Sary underscores it, and that is that you can hear trucks. And, just a minute, I think it's important to say this, that the closing process involves work being carried out. In other words, it's not a matter of putting a padlock on. You're going to hear this traffic, these activities, because the closing process is being carried out. Another topic you bring up, Sary, that's really important, is how we keep you informed moving forward. That's why these attendance lists are really important. Mr. Carlos mentioned that not all the sectors, all the communities, are represented here. Our work team visited several sectors, but we probably didn't reach them all. So, thank you for the information to be able to... We don't rely solely on social networks because we know that it's really important to walk and visit the communities and locations, and to visit the communities and the municipality more in order to provide that information, and that's why this list of attendees is very important. We also had recourse to the list of attendees at the February 2022 meeting, when over 100 people turned up and it was well attended due to the interest that the landfill would be closed, and that was the main message we heard from residents, and that led to the stipulation and preliminary order decision. So, that's why we encourage you, if you know other people who want to know more, that we, our team, are available to have follow-up meetings, other follow-up community meetings as

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part of this entire process. And as Vicky said, the Department, also as part of the closing process, will be continuing this process of keeping the people informed.

Arshley Rey:

My moving over here was so as not to turn my back on you, Sary. Is there any other comment? Ivette had another comment on this same topic and will then continue with the list.

Ivette Calise Cintrón:

Once again, Ivette Calise Cintrón. My problem is that every Sunday or any day of the week I see kids who have no idea, getting dirty in cars in those landfills. So, how can you tell me that these people have no idea about these waters like we do who live here...? I see people who can give guidance and people who can't... They play in these waters, and I can't do anything, so I tell them: "Look, don't get in there because the Charco Largo, because the other rivers, the Azul... I used to bathe in the Azul, I used to bathe in the Charco Largo. I know. I tried to bring an engineer. I brought an engineer, and we brought him down here. But these waters are so infected that no one has gone there, because they're now building something like a community there. And how do you build a community? How can the government of Puerto Rico build a community like Quintana or sell land in a place that isn't clean? I don't understand this stuff in Puerto Rico. In New York they don't permit this any longer. There's recycling, they clean the waters. So, why is this happening in Toa Alta? Dorado gets cleaned. Corozal is beautiful. And Toa Alta, 60 years ago, is the same way, with the mayors buying what they're buying. But no, the whole world helps them, and they continue passing this on. I'm an example. My grandparents have been in Río Lajas de Toa Alta since 1867, where these waters have not been polluted. Yes, they built the freeway, but those sectors cross those lands, and you haven't been to any of them. I myself took you to certain sectors, to certain sectors that you, that I myself didn't even know, as you were about to cross the street, weren't [sic] polluted. When I hear the waters, when I'm doing the checks, I find that all these waters are polluted. There are a few patches of water that aren't. There are many things you have no idea about. And where are you working? Where are those four people you say you have helping you with all this walking? This isn't a place to walk. When you go out for a walk, you need to protect yourself, because the truth is that there are so many people who continue being affected because they don't understand that these pools are joined up, and I've got a problem here in my Contorno because my grandfather owned all this land. They can dump stuff. The waters are joining up, but that doesn't mean they're falling. They don't want to fix it. They don't want to put dirt on it. Why don't you fix this type of...? If this is the sector that was the first landfill, that's what you have to focus on as regards what you're going to do with the two pools. It's not only the pool where I live, because I've walked there, I've been on both sides. I never thought the rivulet was a rivulet that was flowing into all these waters. That's why you say that if there's water, there's leachate. That's the problem I have, that these waters are all polluted and no one sees it. So, how have we reached the situation in which I know there are people who can't be here? I have some aunts who live right by the landfill. They can't be there for a day, two days. The cables, the car fittings, are eaten by the rats. And you say you're fixing it. I'm out walking here at seven in the morning to see if it's true that you're only fixing the things you say you're working on. There's trash there like everything else. So, she can answer me. Someone is still dumping

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trash there. You have it clean, you've cleaned it, but there's always trash. They're wrecking more in other sectors. So, what that young lady, Nilda, describes is now another gap. They've continued wrecking and they continue undermining these things that are there. Because I myself have walked there to be certain about where we are, because my property borders on the landfill. So, it's really hard for all these people to come here and those who aren't here to say you're going to do something, that you're doing things, because you haven't closed it. Because nobody [except someone] who lives there knows anything else about this. And they're moving, everyone. They can't be in their homes all the time. But the one who sees everything directly is me because I'm there. This is my mom's house, this is my aunt's house, this is my other aunt's house. I see it because I'm present. And how can you tell me that all these people aren't infected? Because there are kids who come from all over the place to mess with those cars. So, all these kids are infected. You see them dirty, covered in mud and there are places for recreation, but they're infected. This is the problem I have. How can you let it go on harming and killing people? When are you going to do something? Closure is all anyone wants. Right now! This isn't acceptable. If you want to walk with me, I'm happy to do that, with the mayor. But you shouldn't get your feet dirty either, because you've got to go where you've got to go. That's all.

Eduardo González:

Many thanks.

Arshley Rey:

Continuing with the agenda, Héctor Collazo.

Héctor Collazo:

Good evening everybody. For the record, my name is Héctor Jun Collazo. I'm from the Galateo barrio of Toa Alta. Born and raised in Toa Alta, I've been living in Toa Alta for 48 years. I would like to thank each and every one of the people who are here today, who took the time to be here. I would also like to thank those companions who are showing up here. This is important. But there's something I want to bring up and that I want to talk about. I was here in 2022. In 2022 I was here. The same concerns as in 2022 are here today. The same ones. The same people with the same concerns. This is a credibility issue. The people are concerned, and we have an agency that has some credibility, but the people aren't seeing that what's being proposed is actually being done. I believe that, listening to what has been said here, and from what I read, "in June 2017 the EPA issued an administrative order to demand corrective steps toward compliance by the landfill." The EPA concluded that the landfill was now at or had exceeded its capacity. However, Toa Alta continued disposing of waste in the areas without a lower layer (open landfill). The municipality did not consistently apply the daily covering. It didn't have a leachate collection or rainwater control system and had created significant slopes. As of today, has that been corrected? My question is: Didn't the governor give so many millions of dollars for this landfill? Where is that money? He corrected himself. The pastor spoke of the timeline just now. Those of us who know a little about this, or who understand a little about it, know there's a schedule. We know there's a project. We know that there are

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certain expectations. How far along are we percentage-wise? That is what people want to know. That is what our community wants to understand. People already understand and the whole world knows that there are people who are sick, that there are people who have rats, that there are flies, but they also need to understand something. Where is the trash being disposed of now? I want someone to answer this question for me. If trash isn't being received at the landfill, there are 78,000 of us residents in Toa Alta, 31,700 homes. So, where is their trash being deposited? This is a question you need to answer for all of us, right? Isn't it true that we need this answered? So, these are the questions that someone needs to answer for us. Because if it's necessary to remediate the landfill, and there's an order and \$50,000 dollars were paid, that's easy. We have a situation. We pay \$50,000 and on we go. So, I can understand, where are we going to put all the trash from all the residents of Toa Alta? We also recognize that the landfill serves the needs of several communities. But we also have certain communities that have been at the mercy of the needs of other communities for the last 30 years or 40 years. The question we ask ourselves is this: instead of the \$50,000, why don't we demand that the municipality carry out recycling, that it educate people, that it seek other alternatives, that it explain itself to us, that it tell us what we're going to do? When I was here in 2022, you were here too and you said there was a very pronounced gradient in the north, two to one. A moment ago, he said the vegetation helped. The question is, I recall that it was stated at that point that it would be fixed, that filler would be brought from the other side or that material would be brought from the other side so that that gradient would not be so severe, four to one, three to one. Was this corrected? If it was corrected, where are they? Where are the photos? Who is in charge of this? The municipality is responsible for the closure. The reality is this: this was done in 2017 so that the municipality could control all it had to control. Did anyone follow up on this? Did the municipality do it? In 2023 the municipality declared it didn't have any money. The governor gave millions of dollars. What's happening? These are the questions my companions and my community have, not any other. We all want to resolve the situation. We all understand that everyone's trash needs to be taken somewhere. Because if we close the landfill it's not a matter of putting a padlock on it. That we put a padlock on the landfill and no more trash is deposited. What's going to happen with everyone else's trash? Because we're creating a bigger problem. Is the public being educated about this? Has anyone said anything? The municipality's communication has not been effective. That's a fact. And the same questions from 2017, from 2022, are here today in 2024. This problem wouldn't exist if there had been communication. So, I think both the EPA and Natural Resources and the municipality need to try to produce some communications so that the mental health of our communities isn't affected so much. Because we see people here who are still dealing with the situation in 2024. Were the corrective measures taken? Who needs to take them? Who is responsible? We're going to assume that the person who didn't act should take the consequences. If the decision to close has already been made. Because this is very important for the community. Had the corrective steps been taken in time, the useful life of the landfill would probably have been different. But we continue dumping trash, because that's the easiest thing, and now we have this situation. This is the question we have to ask ourselves, and I would like to thank you for being here. And I would like to thank the people from the municipality who are here. These are the questions. You need to answer them. This is very simple. Is the money for the closure? Who is taking care of it? Because the question is, who is responsible for the landfill closing? We're going to put this question to you: Who is responsible for the landfill being closed and for Toa Alta finding itself in this situation? So, who is to blame? If someone needs to take responsibility, no problem. We already have one. Let's assume someone is responsible. We're going to work so this gets fixed because what we want is for it to be fixed.

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Those to blame have already left. We're going to find solutions. So, what's happening? What I'm noticing here, and I say it with great respect, is that we're back to where we were in 2022. I can see that there's an organization, I can see that there's a very well organized work plan, a stipulation, but that's the implementation. Now here's the problem. So, we have a plan that's now been structured, that's now been established, that you're the ones who established it, because you're the ones with the parameter. Who is going to implement it? Because the person implementing it, if they don't implement it the way it is, then they'll have to take the consequences for that. So, I understand that the sanitation system our community needs to be there because there are real issues. But I want this question to be answered. If, as this provision states, as you stated, I can't dump trash, where is the trash from the 31,700 homes in Toa Alta being dumped? That is my question. And where is it being fixed? And who and how are the fixes you propose here being carried out? Where are these fixes? Where are these evaluations? Show it to us so we can say: "Okay, that's true. It's being corrected, it's being worked on, there's no other problem." "Ah, it's now being dumped on the other side." Well, that's great. Because if it isn't like that then something's going on and we therefore need to see who is responsible for all this. I know that, like all the communities, and I speak for all of them, we don't want to create an issue about what was done, about what was not done, about who's responsible, about who isn't responsible. No one wants this here. What we want here is for what is being discussed to be implemented and for the majority of our people, the good and humble people of our community — and by the way, I want you to know that there are only 50 out of 70,000 people here, that's not even 0.005% of our population — who do not represent what is happening here. I came here [expecting] this meeting to be filled to capacity, so that people were aware and could show empathy with the people of Cielito, with Contorno, with Quebrada Arena. That's the truth. Because if I don't get affected by the stench in Toa Alta High, it doesn't bother me. But, yes, this must be a source of concern to each and every one of us residents of Toa Alta. I want my questions to be answered. Is that okay? Many thanks and thanks for listening.

Eduardo González:

Many thanks for those comments that are well received and very accurate as well. I can't speak for the municipality, but I understand that the trash is being deposited in the Vega Baja landfill. With respect to the carriage and collection of the components, this is more expensive. What part does the operation of the solid waste program play in this? The responsibility is shared. For the answer. Both Natural Resources and our administrative order, under which action has had to be taken on this landfill since 2017, when all of the activities that needed to be carried out in that location were delineated so we wouldn't be where we are today. But they didn't comply. What did the EPA do? It had to go and appeal to the authorities of the Federal Department of Justice which, as they say, is the hammer, it's the last recourse we have so that someone complies with what we've been asking them to do. And the first agreement in the preliminary stipulation contained certain points under which they were required to start with an agenda, that they did not comply with. But I think this was linked to the fact that there was no budget. You correctly mentioned that there are now some funds available, some funds that were allocated for planning and design, and there are now

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more funds that are being managed under other federal mechanisms that will be available for the physical construction of the closure of the landfill.

Eduardo González:

Responsibility for that, under the jurisdiction of the regulations and law of Puerto Rico, is held by Natural Resources. They are the people responsible for the closure of this landfill, as also ordered or included in a plan issued by the governor in October 2021. And honestly, this is fully transparent, with shared responsibilities. There have been no funds available to carry out the activities that were requested in the first agreement. But now there are funds available. It's being worked on. Some activities have been carried out at the landfill. I'm not going to say that things haven't been done. Certain things have been partially completed. Some requests for proposals have been issued to contractors. We have the contractors and steps are being taken as money becomes available and also based on contractor availability. We have monthly progress reports available on the activities that are being carried out in the landfill. This is a matter of the first importance. I think they're available on the EPA's website that you can access, showing all that's done on a monthly basis. This is so you can see how intensively this is being carried out, and I know that you don't see the results, but we have weekly meetings and we have ongoing meetings with the municipality with a common purpose, which is to close this landfill.

Transcriber's Note:

Ms. Ivette Calise is talking away from the mike and she is asked to come up to the mike so that her comments can be included in the transcript for the record. Arshley Rey addresses Mr. Héctor Collazo to ask him if he has any other comment to follow up on the answer given by specialist Eduardo González.

Arshley Rey:

I'll go with Ivette and I'd then like to know if you have any other questions in connection with this.

Transcriber's Note: Mr. Collazo confirms that he has an additional comment.

Ivette Calise Cintrón:

So why am I still seeing the same thing? The landfill operating at seven in the morning, waking up the entire community, what's left of the community of Contorno, because they can be counted. Nothing is being done there, not even a road, that was the first proposal for the landfill. This land was bought for another purpose, and they put in the landfill. So why do we have to suffer so much? Why? If you say that something's being done, the municipality, why is it that our roads don't have lights? No, they don't have lights. I've counted 84 lampposts, one, two, three, there are four, five, six in the traffic circle. Why do we have to suffer at your pleasure, or the pleasure of the Government of Puerto Rico or the Federal Government, for this part of Contorno to be fixed? If you're saying you're fixing it, why don't I see any movement, only trucks organizing the trash and the trash staying there? And you greet me while laughing in my face. Saying that we're going

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to solve this problem. This is the solution. This is the problem I have. Why is it that we still have the same situation in 2024? My family couldn't live with those smells. Those of them who are still alive, because 3 have died. So, I also have to look at the same thing when I access the property. I see trash. They tell me they're going to fix it. I see it getting even bigger, a continuation of what you're saying. That isn't what's happening there in Contorno. I have a house in Cielito belonging to my sister, who was one of the people who forced the closure in 2017. All this land continues to form part of the landfill. Why do we have the same situation? Nothing. I don't see that anything's been done here, aside from construction to one side of the long pools, the mansions that are there, some villas of some sort. Where is this being fixed? Selling more land close to the rivers? I don't understand.

Eduardo González:

Many thanks. For general information, for the purposes of this closure an acre of land could cost between \$250,000 and \$300,000 dollars per acre and involve a ton of engineering, hydrology and also topographical studies among many others that are required for this closure to be completed. But due to lack of funds the steps have not been taken as they were planned, but certain steps have been partially completed within the limited funds held by the municipality. That's all. The monthly reports are there describing all the steps that are being carried out in the landfill at all times. And they'll continue like that.

Arshley Rey:

We have two more people on the list, but do you have any further comments or questions in connection with this, Héctor?

Héctor Collazo:

Yes, I wanted to expand on something very simple. Yes, for the record, as Héctor, Héctor Jun Collazo, Galateo Barrio, said. It's very simple, and it's concerning. Perhaps Toa Alta is already set up for future events. I say to myself, I can understand that the municipality doesn't have the funds. I can understand that. This is part of the process. So, if it doesn't have the funds will nothing happen? In other words, this is a priority. You give certain recommendations. Natural Resources needs to implement them. The municipality needs to find the money to be able to manage it, but it doesn't have it. This could happen. We're in troubled times. So, what happens? Because we're talking about lives here. We're talking about a situation that's been going on for years, and all I would ask leaders to do is provide effective communication. I know we're experiencing a difficult year, and no one wants to know that the landfill will be closing, but it needs to be said. The people need to be told this and what it will cost the people of Toa Alta. I think this is important, that it should be very clear, and that people should be clear throughout this entire process. As you say, the responsibility is shared, but I think the first responder with respect to the citizens of our community is the administration. And I think we need to be very careful about that. We need to be efficient in communication. It's necessary to communicate the good and it's necessary to communicate the bad, but the communities' issues need to be resolved. And I think this is really important because what is the point of you coming here every two years, describing your work plan and there's no implementation. We didn't

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do anything. We didn't do anything. We didn't do anything. So, I think this is the appeal I would make to you. And as several people mentioned, I also think it's important that there should be a larger number of people here, a greater representation of what is happening, because this affects all of us here. Because if the landfill closes, real alternatives need to be found to be able to resolve a lifelong problem, and that will remain so, which is solid waste. It's not a matter of putting on a padlock and a tarp and closing the landfill. It's what this closure represents. Many thanks.

Eduardo González:

Many thanks.

Arshley Rey:

We have a question via Index Card.

María Elena García:

This question is from Zoraida Rosado, who did not have a voice today. What are you going to do with the cesspool located on highway 165? It's polluted and it affects several residents in the Winche sector, Vereda housing development, etc. We've filed complaints and nothing has ever happened.

Eduardo González:

Yes, we need to see where the complaint was filed, to which agency and its specific location. I didn't know about this cesspool because it isn't in the landfill. I understand that it's in the vicinity of the landfill. Right?

Ivette Calise Cintrón:

Everything flows through those rivers. That's what I've been trying to say. I used to gather guayabas in that landfill, from Quebrada Arena, when I was a little girl. Those guayabas, it was an irrigated guayaba orchard and the guayabas grew there. It drained into Quebrada Arena, to the entire area I've taken you to. But you don't see them because they aren't there now. The landfill is there and the landfills and the cesspools. Those two pools were a guayaba orchard. They join up with the rivers and the springs. We enjoyed them but my children will not enjoy them, nor their children nor those of any other, nor those of the mayor, nor those of the federal agents, because they're killing them. These waters [are] all polluted. They need to clean those waters, that's what I think. I don't hear anyone here mentioning that. In New York they want to fix the water, so they do it, they prepare the budget to be able to do that. That's what I want to hear. I don't want to hear that they're going to fix Quebrada Arena and leave me just the same in Contorno. What I want is that, if Contorno is the one that's affected, they'll do it in sections. But nothing has been done in Contorno. Yes, you said that something has been done in the landfill. They made it pretty and they installed lights so they could work there day and light. Of course. But then when I walk over the property I see it completely full of trash there. So don't tell me you're fixing that part of Contorno, because they aren't on my property... In other words, the properties that border that landfill are just the same. In other words, they look clean

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when you come at 8:00, but then they're working at times they aren't supposed to. Why do I have to continue with this? You know, pain and watching people get infected, my friends dying? Why do I have to try to understand those who are present here and those who aren't here? Try to understand that if you don't start from where you began, you'll never be able to fix these waters. Because for me this is water. I have clear water, I have a spring, but I don't want a spring. I want it to be at the place I was born, and that's Contorno.

Eduardo González:

Many thanks.

Carmen Guerrero:

Yes, we're grateful for the information and obviously this is one of the areas we need to analyze and look at as part of the landfill, and we have an invitation to walk over it again.

Arshley Rey:

The last person on the list who has said they want to speak is Jerica Santiago. I have a question symbol. If the person is interested in commenting, they should also step up after Jerica.

Carmen Guerrero:

And if there are other additional people, guests, they are please invited to step up here to put their questions, make comments.

Jerica Santiago:

Good evening, Jerica Santiago, from Galateo. To begin with I'd like to say, because you're talking about the fine that was imposed on the municipality for failure to comply with the order, and I want to underscore that our life and health, that of the residents, doesn't cost \$50,000 dollars. So, I'm going to read an article because I know [who is] the only person wanting to continue with the landfill operations and with a transfer station, because I can also give notice right now that I don't agree with that. I understand that the trash is a problem, but if we've been able to resolve it by taking trash to the Vega Baja landfill, I don't think that's a problem, because Naranjito doesn't have a landfill, Corozal doesn't have a landfill, and so there are many towns that don't have a landfill and they're looking for a solution for the trash. We need to find solutions here. This isn't to oversimplify, because last time the mayor said the landfill is largest source of revenue. No price can be put on human health and life. And so, as he's the only person interested in continuing with that, I want to read an article that appeared in the Metro newspaper on April 26. And it reads as follows: "The mayor reports the trash bins in the public schools of Toa Alta, but the Department of Education declares this is not the case. The mayor of Toa Alta, Clemente Agosto, this Friday asked the Department of Education of Puerto Rico to collect the trash that he declared has been accumulating for days in every public school in the municipality, presenting a severe threat to the health of students, teachers, and the school community." Doesn't the landfill represent the same problem and the same risk for all residents of

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Toa Alta? I think so! It reads: "For several days the municipality's school facilities have faced a worrying accumulation of trash due to a failure to collect waste by the Department of Education, resulting in a proliferation of foul odors and various pests that put the health and welfare of our students, teachers and the entire community in jeopardy. Agosto said a tour of the facilities has revealed large quantities of trash that were overflowing the containers provided for that purpose. We urge the Department of Education to act promptly as is unacceptable for our children and educators to have to share an environment that is not only unpleasant but also hazardous." These are the conditions under which we have to live on a daily basis, and no one does anything to avoid it and make it so we can live in an environment in which all people deserve to live, in a dignified and healthy environment where we're raising kids. Right now, I'm here defending my family's safe home. I think this is what we're all doing here. Why aren't there more people? Because they're tired of the process, because it's absurd and abusive for us to be back here demanding the same thing. In other words, this is obvious. So, the only person who opposes the closure because he thought it was necessary has just stated in an article dated April 26 that it's unacceptable to have to live that way in schools. But it's acceptable that we have to live in this. So, I have plenty more things to say because I think we've been involved in this for years. I just ask the agencies, I ask the municipality, to take us into consideration for the first time, to be fair, to forget about the money generated by the landfill, and to employ other methods. He can do other things over there. Toa Alta has a lot to do, but it's much easier to stay with what's comfortable and with what we already have than to reinvent ourselves, doing new things that can allow the municipality to develop. And I think that that's where we need to start. Here's the article. I'm going to share it with you. And I hope that we please don't have to come back here again to demand the same things that have already been demanded. And with respect to the transfer station, I reiterate that we don't agree with trash being handled in any way in the municipality of Toa Alta, because the reasons are more than obvious. How many years have we been here? If they didn't manage a landfill correctly, they won't manage a transfer station. And, as for the transfer station, they'll take the trash, but the air will remain polluted. This doesn't end with pollution. It simply means that they won't bury it with dirt. But we have to continue with the smells, we have to continue with the noise from the trucks. So, I think we need to go a little bit further. Thanks, and may you have a good evening.

Eduardo González:

Many thanks for the comments and the article.

Carmen Guerrero:

Is there anyone else? Remember to state your name, sector...

Samuel Torres Marrero:

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Good evening, Samuel Torres Marrero, from the Río Lajas Barrio of Toa Alta. I'd like to know if anyone can give me an estimate as to when all these critical projects will be completed. Should a retaining wall fall, management of leachate. Do we have an estimate in years? Because we're talking about 2017, seven years later, we're in position and critical projects have been identified, work is being done, critical steps are being discussed, chiefly about money for the implementation of these projects. What I can see is a cycle. Project management occurs, but do we have a time estimate? How long will we have to wait? Another five years, ten years more to complete all we want to do? Thanks.

Eduardo González:

Many thanks for the comment. There are two components I want to consider. First the design and planning phase and time, with several conceptual components having now been completed. As for the closure plan, a conceptual plan has already been delivered that has been discussed. And a leachate interception plan also. In other words, something has now been prepared, is in negotiation, is in the comments phase. When the closure plan has been completed, that is when it will be decided exactly how much time it will take to complete the closure plan or construction activity.

Ian Pagán:

Good, my name is Ian Pagán. I'm an agronomist and a farmer from here on a farm in the Bucarabones Barrio. Based on what I understand from the agreements and the role of each agency, you have come to intervene with the aim of mitigating some imminent damage that needs to be addressed one way or another. And that raises questions for me. For example, who decides how and what conditions will be imposed on the municipality? And what must the landfill space look like for it to be fully closed? What's going to happen with that space? For example, thinking of proportions and scale. Last night, over the last 24 hours, nearly an inch of rain fell on Toa Alta, at least on our farm where we keep the records. And that over an area of 30 acres, which I believe is more or less the area of the landfill, that equivalent to nearly 28 million gallons of water that was received by the surface of the landfill or that percolated or moved as runoff. So, it seems to me that an exorbitant amount of water is arriving someplace. And I can't stop thinking about the system from a broader perspective. Well, it's great that you're addressing certain imminent dangers that are affecting the communities, including deadly ones. But thinking of the municipality as a citizen, as a resident of Toa Alta, as a Puerto Rican, as a human being, if there's a municipal closure of the landfill, I don't know if the agency is, if the EPA, if Natural Resources will intervene in what will happen with the trash once the municipal [landfill] closes. And the problem could move to another municipality and cause... And the pollution that's being suffered by the communities of Toa Alta will move to the communities of Vega Baja. And judging by the outlook, since more and more landfill sites are being closed on the island, or I believe all landfills or a large proportion of them have a closure order, what are we going to do with the trash that's generated? So, I don't know if there's a broader perspective or whether things are just being addressed on a case-by-case basis. Because trash will apparently continue being generated. So, I don't know if there should be some intervention to find ways to reduce the basic problem that is the absurd generation of trash that occurs in this country, in this society. We as ecological farmers, for example, work with issues of the recycling of organic waste, one that depends on the place and depends on the estimates. Up to 50% of

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what reaches the landfill is potentially compostable organic material, which is precisely what generates the methane, that's one of the most powerful greenhouse-effect gases in existence, that in turn causes the problems of global warming, of climate change. So, what I'm perhaps seeing here is the absence of a systemic, holistic perspective on this matter. We're going to continue having these problems so long as trash keeps being generated. Perhaps not in Toa Alta, but in Vega Baja. And if the trash is exported to someplace else in the world, well, they'll continue having those problems in that other part of the world. We've had conversations with the municipality to establish an organic waste recycling program for the production of compost. Because a problem could be converted into a super resource, such as compost, that's a super fertilizer, that could be converted into food, into production, into the economy. But everywhere we've gone with this proposal it has basically... It has not been received, or it hasn't been well received. And we have the team, we have the know-how to be able to divert several thousand tons of organic waste each year that's currently arriving at the landfill. So, to summarize, I can't stop thinking about addressing this from a more systemic perspective, beyond that of avoiding a source of pollution specific to Toa Alta, in these Toa Alta communities, that is certainly something that needs to be done. But if trash continues being generated, I'm not sure that it's within the jurisdiction of the agency or of whichever agency or whether it lies within the prerogative of the municipality, of any of the municipalities, of the state government, but the basic malign germ here is trash and we'll continue having these problems to the extent trash continues being generated. And we'll have these problems to the extent we continue handling trash in the way in which trash is handled, which is burying it in the earth, which from the standpoint of the planet is absurd. So, I'd like to see what the final design for this space is. We know of other cases, of other projects in other countries, in other parts of the world, where old sanitary landfill systems have been converted into recycling centers, into compost production centers. So, this is to give you a total 180-degree look at what's happening today, at what could be and at what this space could represent, which today is toxicity, which today is death, which today is pollution, but that could be converted into a space full of hope and well-being for the communities. That's all, a call to perhaps look into this a little more from a holistic standpoint and I don't know if the scope of the agency or in what way this could have an impact and result in this being converted into something more prosperous and more hopeful for the community.

Carmen Guerrero:

Ian, many thanks for that very sensible proposal. I think it's very important as part of the closure of this conversation. We share your concerns and proposals. Obviously, the Department of Natural Resources is the agency that manages and develops public policies for the management of solid waste here in Puerto Rico. The municipalities implement and execute them. We at the federal level have certain minimum requirements for the handling of waste. But after Hurricane María, the impact of the amount of debris, vegetation, trash, waste, ended up taking up what is generated in more than a year and a half in all the landfills, further limiting the capacity of the landfills across the island. And this systemic viewpoint is necessary. That's why the Department of Natural Resources, the EPA is being allocated some 40 million by Congress to address the challenge of solid waste in Puerto Rico after Hurricane María, and right now the Department is carrying out a series of planning exercises to be able to see how this can be addressed and to have a plan at the island level, not only to address the Toa Alta landfill, but the whole issue of waste management across the entire island. A trash characterization study was recently completed to see how

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much we generate. And as you underscore, Puerto Rico generates more than 30%, nearly 40% of vegetable matter, organic matter, that should not be occupying the limited land resources we have on an island. So, how can we maximize this? What can be utilized for compost, can be utilized for woodchips? So, this is part of the plan that's being carried out by the Integrated Solid Waste Management Department. This plan is now starting development and there's also an inventory of recycling and reuse markets for those materials that are generated throughout the entire island to close the recycling circle in Puerto Rico itself, so these materials don't have to be removed from the island, but so that markets can be found and created across the island. Back there is Tony Ríos, from whom we've learned a lot on these topics of recycling and reuse and composting. So, there are many opportunities. The other thing he brings is what that future design vision should look like, so the municipality can submit a closure plan to the Department. There are many additional options today apart from just closing it; converting it into a recreational space, an area for the generation of renewable energy with solar panels. What you mentioned, a recycling center, a compost management center. We have to look into it, and I think that participation is really important in this closing plan process, with all of these ideas you're bringing to the table, about what the space could be in the future. Because it's a space that would remain as wasteland unless steps were taken in connection with it. But yes, it's important to understand the systemic problem we have at island level. We have few land resources. We don't want to keep living with the sole option of burying trash. When trash isn't trash, waste is an asset for which there's a market, if we know how to identify and create it. That's why these planning exercises are important, but we hope they won't simply remain at the planning stage but be implemented as well. I don't know if the Department... Okay. But many thanks. This perspective is very important. Do we have any additional comments?

Carlos Rosado:

I have a recommendation. Carlos Rosado. I heard the young woman speaking just now and she has almost the same concern as I had, which is the number of people we have here. This was also brought up by Mr. Héctor Jun. What if we meet up within the next 90 days? Because we've informed you of practically all our concerns here. And I know that you have given most, in most cases you have given replies to them. What if we meet within the next 90 days? And those of us who are here can help you share this with the rest of the community, let them know what's going to happen soon with our landfill. In that way everyone will be informed. Because believe me, this group is so small that, even were we to take responsibility for sharing the message, there are very few of us. But if we promise to have some answers within the next 90 days, I can guarantee you that we'll fill this field here in Toa Alta. I'll bring a vehicle-mounted PA system here. Thanks.

Eduardo González:

Many thanks.

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Carmen Guerrero:

We heard the recommendation. Obviously we need to liaise with individuals at the municipality etc., because I know that many questions are directed at the municipality.

Arshley Rey:

For me it's important to make sure that your emails are correct so we can contact you.

Transcriber's Note: This comment by Arshley Rey was directed at Mr. Rosado who subsequently came forward to check the email address written in the register and who corrected a number. In addition, he provided his telephone number for the record.

Carmen Guerrero:

And Arshley, if you don't mind, with respect to the nature of these recommendations, there's an ongoing judicial proceeding and for that reason there's a certain need to complete the agreement. Much of what you're requesting are steps that have already been taken and are what is going to be done. And this I think is a component in how to produce a communication and coordination plan with the community that's implemented over the long term. I know that Héctor also mentioned this, and I think that this need for improved communication about what is happening is necessary, and we accept it as a really important recommendation.

Emmanuel Rivera:

Good evening, my name is Emmanuel Rivera, from the Galateo Parcela barrio. I come here like all citizens of Toa Alta. Once again, good evening everybody. No trash was thrown out over a three-week period in the Galateo Barrio. What's more, my mom lives in Villa María. In some houses they discard trash, in others not. I need to bring my personal van or my work van to collect this trash because they don't collect it. And neighbors' trash in addition to this. They're elderly people. Right now, today, they took somebody away in an ambulance because they were sick. I voluntarily help them with those trash bins with nothing expected in return. And I have to take that trash, I have to take it to San Juan, I have to pay \$20 dollars to that person to effectively hand it over there. The municipality was notified. If you go to Villa María right now, where my van is located, a gray Transit, you'll see that the trash is still there. I've been calling since Thursday, Friday and up to this morning, two weeks and they haven't taken my trash. I took out the neighbors' trash, and now it's the turn for my own. I don't have a problem with this, but how can we improve this? In addition to this, if you're in the area of Cielito, as our friend Carlos said, these elderly people have different things. As for the website of the Autonomous City of Toa Alta, why can't they state what's being improved, what they can improve? And it would have been important for the present incumbent to have actually been present to hear our complaints as citizens of Toa Alta. Good night.

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Carmen Guerrero:

Many thanks. Many thanks indeed. Mario, could you please state those sectors from which no trash has been collected. Just a moment so I can...

Eduardo González:

Easy. Villa María. It's here to one side. They put up a sign behind the town hall. Yes. And Galateo, going down Posada de la Victoria, that's also been turned into a landfill, with people just leaving their waste on the field I would play on or what used to be a field. There's nothing there now. I urge you to meet on any matter with different people, different leaders who have a commitment to bringing Toa Alta forward. Good night. Thanks.

Arshley Rey:

We have one additional comment.

Angélica Muñoz:

Good evening everybody. My name is Angélica. I'm Angélica Muñoz. It's sad that you don't know about the cesspool they covered. My mom is here and my neighbor, who is one of those affected. This cesspool is completely covered because they covered this cesspool when they changed the entrance to the landfill and the water tank. And now we're paying the consequences, because if you come to my house, you'll see that my mommy has a beautiful pool there, and you can imagine what the vermin's like. But above all, my daddy died three years ago, and I've inherited this. What I inherited is having constantly to remove water three, four, five times per day, because the water I have there, that my mom has there, doesn't leave if it isn't pumped out. And the fact is that you can imagine that with all the rain, with all of the water that's in my mom's house, that it's on the verge of reaching the basement. Over the last few days, I've had to get into that sewage to switch on the pump so the water can leave. And I don't think it's fair that we should be going through this situation, when you could also help us by simply cleaning the sewers that are full of mud, and the water will perhaps continue coming down, but perhaps a little less. Aside from which it's expensive. That water doesn't leave for free. This is until God helps us. That's all.

Carmen Guerrero:

Many thanks, Angélica. Is there anybody else? If there are no further questions or comments, it's now past eight thirty. We would like to thank all of you for giving your time to be here, to sharing your concerns, worries, recommendations. We take them very seriously, and we'll be contacting you. I think the main message is how to ensure that we stay in touch with you in an effective way and that you know what's happening and what the next steps are, and that the various requirements in the court order are being complied with. So, I'd like to thank the Natural Resources Department and its entire team, the municipality of Toa Alta and its representatives and advisors, and at the same time my entire team at the EPA for helping to arrange this meeting and to each one of you for your time. We're here if you have any further questions,

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and you can contact us in confidence. I wish you a very good night and may you reach your homes safely.
A thousand thanks.

Transcriber's Note: We move to slides 22 and 23 to conclude the community meeting.

For the record the meeting closes at 8:45pm.

TRANSCRIBER'S CERTIFICATE

I, Aledawi Figueroa Martínez, transcriber of Smile Again Learning Center, Corp. HEREBY CERTIFY:
That the foregoing constitutes the transcript of the recording made during the meeting held at the place and
on the date indicated on page one of this transcript.
I also certify that I have no interest in the outcome of this matter and that I have no relationship to any
degree of consanguinity with the parties involved in it.

At Isabela, Puerto Rico, May 16, 2024.

Aledawi Figueroa Martínez
Smile Again Learning Center, Corp.
787-872-5151 / 787-225-6332
widy.figueroa@smileagainpr.com
www.smileagainpr.com

March 12, 2024

Re: Letter regarding the agreement in the Federal District Court between the EPA and the Municipality of Toa Alta

To:

Mr. Eduardo González, EPA San Juan

W. Stephen Muldrow, United States Attorney, District of Puerto Rico

Ms. Elizabeth Yu, Attorney for the Department of Justice

Mr. José Rivera EPA San Juan

Mr. Mark Gallagher, Attorney for the Department of Justice

Mr. Clemente Agosto, Mayor of the Municipality of Toa Alta

Mark Gallagher (Indra)

Ms. Angela McFadden, United States Department of Justice

Mr. Michael Reagan, EPA

Mr. Matthew Tejada, EPA

Ms. Chitra Kuman, EPA

Mr. Walter Mugdan, EPA

Ms. Carmen Guerrero, EPA

Mr. Carl Plossl, EPA

Mr. William Sawyer, EPA

Greetings

I have carefully read the information on the website of the Environmental Protection Agency (EPA) with respect to an agreement between the EPA and the Municipality of Toa Alta (MTA). As reported, this agreement, that addresses violations in federal law relating to the MTA's landfill, was signed on February 13, 2024. Included among the signatory parties are the EPA, the Federal Department of Justice and the Municipality of Toa Alta. As described in the agreement, the MTA is obligated to pay a civil penalty of \$50,000 for damage associated with the MTA's landfill. This payment settles the civil suits under this specific case. However, it is essential to bear in mind that the agreement explicitly establishes that the parties have not resolved all of the charges relating to the environmental questions that led to this case.

Given the gravity of this environmental justice matter, it surprises me that the federal authorities should have resolved it via a symbolic civil penalty, apparently ignoring the broader environmental concerns that have affected the communities around the MTA's landfill. The Municipality of Toa Alta Landfill has been a threat to the health of the communities living in its vicinity. The MTA's Landfill has included among its health hazards the environmental degradation of the air, and those surface and subterranean waters that are necessary for the life and health of existing and future communities around the Landfill. This has been documented by the public news outlet in Puerto Rico since 2003, and by the Contorno Barrio Community in Toa Alta.

I therefore respectfully request that, in accordance with the agreement, the EPA and other relevant authorities call a public meeting, as stipulated in the agreement and as reiterated by the EPA (press release of February 13, 2024). The agreement specifies the inclusion of an opportunity for a public meeting pursuant to section 7003(d) of RCRA, 42 U.S.C.

I, the undersigned, and acting on behalf of my client, Ms. Evelyn Lugo, a resident negatively affected by all the damage resulting from the construction of a new entrance to the Toa Alta Municipal Landfill, that has caused damage to property and has resulted in the seizure of her property without fair compensation, hereby request that this public meeting be scheduled promptly. The meeting must address questions relating to the agreement and ensure the public safety of those communities in the vicinity of the MTA's Landfill.

Taking account of my schedule, I politely request that the meeting be held on a Tuesday, Thursday or Friday evening to facilitate my attendance and to allow the many people affected in the community to participate and seek clarifications on this agreement.

For coordination and communication purposes, please contact me in advance at my email: Edibertolopez@gmail.com.

Sincerely

Signed Mr. Ediberto López Rodríguez, Ph.D. (Atty.)
edibertolopez@gmail.com
787-460-1086

Signatures of members of the community

Signature: [Signature]
Name: Marilyn Rivera
Email: marilynrf1977@gmail.com

Signature: [Signature]
Name: [Aixamari Baéz Calderón](#)
Email: aixabaez2016@gmail.com

Signature: [Signature]
Name: [Evelyn Lugo](#)
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Signature: [Signature]
Name: [Mariluz Torres](#)
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Signature: [Signature]
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Name: Angélica Muñoz Lugo
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Signature: [Signature]
Name: Jadiel A. Alvarez Pérez
Email: jadielalvarez11@gmail.com

From: Ediberto Lopez <edibertolopez@gmail.com>

Sent: Tuesday, April 30, 2024 5:51 PM

To: Rey Torres, Arshley <ReyTorres.Arshley@epa.gov>

Subject: Questions for the EPA

Questions for the EPA

April 30, 2024

To whom it may concern,

I request that you answer the following questions for me:

1. Why did the EPA not take the circumstances of the residents on highway 165 kilometer 8.3 into account, who have their yards flooded with water from the Aaa slipway and tank?
2. Don't you think that the permanent flooding of this area is a matter of environmental justice?
3. Why has the EPA not forced the MTA [municipality of Toa Alta] to comply with the regulation of the Planning Board on monitoring erosion on this property?
4. Why has the EPA permitted the destruction of this cesspool without imposing obligations to protect it?
5. Why has the EPA not obliged the municipality of Toa Alta and Landfield to implement an efficient runoff control system in the MTA's cesspool?
6. Why has the EPA not required the MTA to officially expropriate the properties that are flooded, from whom the right of ownership has been removed without due process of law?
7. Why has the MTA not complied with its responsibility to submit a monthly report on what is being done to close the landfill?
8. Why has the EPA negotiated a 50,000-thousand dollar agreement for an [instance of] environmental and social damage running into millions of dollars?

Sincerely,

Signed Mr. Ediberto López Rodríguez, Ph. D. (Atty.)

U.S. v. MUNICIPALITY OF TOA ALTA, Civ. No. 3:21-cv-01087**Motion to Enter Second Stipulation and Final Order (SSFO)****EXHIBIT 2****EPA Responses to Public Comments Not Related to SSFO****Definitions:**

"DNER" means Puerto Rico Department of Natural and Environmental Resources

"DOJ" means U.S. Department of Justice

"EPA" means U.S. Environmental Protection Agency

"ISE" means imminent and substantial endangerment.

"MTA" means the Municipality of Toa Alta.

"SPIO" means the Stipulation and Preliminary Injunction Order" entered by the Court on August 12, 2022 (Dkt. No. 127-1).

"SSFO" means the proposed "Second Stipulation and Final Order" lodged with the Court on February 13, 2024 (Dkt. No. 177-1).

"Exh. 1" means Exhibit 1 to the "Motion to Enter Proposed Second Stipulation and Final Order" filed with the Court on the date shown above in the matter described above.

Public Comment	EPA Response
COMMENTS ABOUT CURRENT CONDITIONS	
Children have been seen in the waste areas. Exh. 1 at 20 (Calise).	Landfill access is limited and regulated under Puerto Rico regulations. DNER has primacy regarding ensuring proper control of access is in place at municipal solid waste landfills. EPA has referred this issue to DNER to investigate and address it.
There are vermin (i.e., rats and snakes) at the landfill and in its pools. Exh. 1 at 12 (Calise).	MTA is required to cover the landfill with intermediate cover. <i>See</i> SPIO ¶ 6. Intermediate cover (and, to a greater extent, final cover) serves as vector control. MTA is also required, as part of its stormwater measures, to implement mosquito control at the landfill's two ponds. <i>See</i> SPIO ¶ 10.c.5. Once the SPIO was filed and approved by the Court, MTA has been working on its implementation and providing monthly reports to the federal government.

<p>Some of the residents have family members who have lived near the landfill and became sick and have died. Exh. 1 at 12-13, 24 (Calise).</p> <p>People are getting sick from exposure to the landfill. Exh. 1 at 20 (Calise).</p>	<p>MTA has been operating its solid waste landfill since 1966. In February 2021, the Federal Government filed a complaint in the Federal Court against MTA claiming that the conditions at the landfill constitute an “imminent and substantial endangerment.” MTA is required under the first settlement in that action, the SPIO, to cover the landfill with intermediate cover. See SPIO ¶ 6. Intermediate cover interrupts the exposure of people to the waste at the landfill and reduces the risk of contracting disease as a result. Additionally, MTA will, as part of permanent closure, be required by DNER to install a landfill gas collection and control system.</p>
<p>There is a problem of odors from the landfill and the odors are so bad that it is hard to be in any home that is near the landfill. Exh. 1 at 16 (Rosario); Exh. 1, at 12, 20, 24 (Calise)</p>	<p>DOJ on behalf of EPA filed this case under Section 7003(a) of RCRA, which authorizes court action to address certain “imminent and substantial endangerments” (ISEs). EPA and DOJ did not assert that odors was one of the ISEs to be addressed in the complaint. Nonetheless, the application of intermediate cover, which is required under the SPIO, should reduce odors emanating from the landfill. A final cover and landfill gas collection and control system will be required by DNER as part of the projected permanent closure of the landfill and should further reduce landfill odors to residences nearby landfill perimeter.</p>
<p>There is pollution of groundwater and surface waters from leachate from the landfill. Exh. 1 at 13 (Rosado).</p>	<p>The landfill is located at the north karstic area in Puerto Rico. The facility’s northwest cell is an “open dump” since it does not have a bottom liner. The southeast cell was developed in 2006 with bottom liner engineering controls. MTA is required to develop and implement a plan to address leachate generated within the landfill. See SPIO ¶ 9. The SSFO agreement requires the municipality to address leachate releases from the lined southeast portion of the landfill. The pollution of groundwater and surface waters with leachate generated by the landfill will be reduced upon MTA’s implementation of the leachate plan and the permanent closure of the landfill. The closure process of the landfill would be under DNER oversight.</p>

<p>We still hear trucks going to the landfill. Exh. 1 at 16 (Rosario).</p>	<p>The closing process involves work being carried out which includes the use of trucks. Exh. 1 at 18 (González, EPA). The landfill also is being used to manage recyclable materials which also involves the use of trucks.</p>
<p>There is still exposed trash at the landfill. Exh. 1 at 20 (Calise).</p>	<p>MTA is late in applying intermediate cover, although progress is being made. MTA has indicated that it will start a new section on the South slope comprising about 4.5 acres by July 1, 2024. The SPIO requires that the entire landfill be covered with intermediate cover, subject to a narrow potential exception requiring a technical demonstration and EPA approval. See SPIO ¶ 6. Monthly reports have been submitted by MTA with SPIO implementation updates since September 2022.</p>
<p>Floodings have increased at sinkholes beyond the landfill due to construction of facility entrance, and other site operations. Exh. 1 at 32 (Muñoz).</p> <p>Construction of landfill entry and the PRASA water tank clogged the sinkhole. <i>Id.</i></p> <p>I inherited the habit of pumping water. I have had to go into the black water to turn on the pump so that the water can come out of the sinkhole. <i>Id.</i></p> <p>Help us by simply cleaning the drainage catch basin, which is full of mud, and the water will perhaps continue to go down, but maybe a little less. <i>Id.</i></p> <p>The construction of a new entrance to the landfill has caused damage to the property of a nearby resident. Exh. 1 at 35 (E. López Letter).</p>	<p>The SPIO requires MTA to submit and implement a plan to control stormwater runoff from the landfill. See SPIO ¶ 10. The plan, once implemented, is expected to improve the stormwater runoff situation affecting properties outside of the perimeter of the landfill. EPA has also referred this issue to DNER and MTA to investigate and address resident concern within and beyond landfill perimeter areas.</p>
<p>COMMENTS ABOUT COMPLIANCE WITH THE SPIO</p>	
<p>MTA should have closed the landfill by now. Exh. 1 at 12, 20 (Calise), Exh. 1 at 20 (Collazo).</p>	<p>The municipality reported cessation of waste disposal at the landfill as of April 2022. Final landfill closure requires implementation of a closure plan that includes multiple engineering projects for environmental protection and compliance. The work that MTA must do involves engineering projects, and they will take time. The permanent closure process of the landfill would be under DNER oversight. DNER is working with MTA to ensure that these projects are implemented. DNER will be responsible for overseeing that the collection of gas and leachate at the landfill is carried out. Exh. 1 at 18 (Rodríguez, DNER).</p>

<p>Soil cover should be applied to the entire landfill. Exh. 1 at 17 (Rosario).</p>	<p>The SPIO requires MTA to install intermediate cover over the entire landfill, subject to a narrow exception requiring a technical demonstration and EPA approval. <i>See</i> SPIO ¶ 6.</p>
<p>The Government should do something to address the leachate that is flowing into the two pools near the landfill. Exh. 1 at 19 (Calise).</p>	<p>The SPIO requires MTA to submit and implement plans to significantly control leachate, which includes leachate that flows into the two ponds. <i>See</i> SPIO ¶ 9. MTA has submitted a draft of one of these plans – the leachate plan -- to EPA. EPA, after reviewing this plan has requested that MTA perform a pilot study to test the efficacy of one of MTA’s proposed technologies for controlling leachate and then to submit a revised leachate plan taking into consideration the results of the pilot study. In May 2024 EPA reiterated its request that MTA expedite the pilot study in order to finalize the leachate plan. The SPIO requires MTA to submit and implement a plan to control stormwater runoff from the landfill. <i>See</i> SPIO ¶ 10. MTA has submitted a draft of the stormwater plan for EPA’s comments. After reviewing the plan EPA, on May 30, 2024, requested certain revisions and requested that MTA resubmit the plan within 30 days or if necessary request a later deadline for the revised plan. The stormwater plan is currently being revised by MTA. The two plans, once implemented, are expected to improve the stormwater runoff situation affecting properties outside of the perimeter of the landfill. EPA has also referred this issue to DNER and Municipality to investigate and address resident concern within and beyond landfill perimeter areas.</p>
<p>Nothing has been done in “Contorno” (<i>i.e.</i>, likely the south side of the landfill). Exh. 1 at 25 (Calise)</p>	<p>The landfill is located in the southwest side of Contorno Ward in Toa Alta. Within the landfill perimeter, MTA is applying intermediate cover in sections. MTA is expected to start a new section on the South side of the landfill comprising about 4.5 acres starting on July 1, 2024. Additional improvements will be made through implementation of a plan to control leachate. <i>See</i> SPIO ¶ 9. The plan is currently being revised by MTA. EPA has also referred this issue to the Municipality to investigate and address any further environmental health and safety concerns of community residents beyond landfill perimeter areas.</p>

QUESTIONS	
<p>How does the agency do when the leachate pumping system at the landfill is not working? Exh. 1 at 13 (Rosado)</p> <p>Out of 365 days of the year, we have a pump that may be inoperative one week a month, so to speak, we are talking about 24 weeks a year. So, I would like to know what the agency does in that case or how they work the situation, because it is an emergency situation and I do not see that emergency being worked as it should be. Exh 1 at 15 (Rosado)</p>	<p>The SSFO requires that MTA's former contractor certify to EPA that it has tested the leachate pumping system at the Southeast Cell and whether the system is operational. If the system is found to be operational, then MTA must dispose of any resulting leachate. Operation of the pumping system, if it proves to be functional, likely would continue before and during DNER's oversight of MTA's permanent closure of the landfill. If the leachate pumping system cannot be made to operate properly, then DNER can determine that additional or alternative measures for the removal and disposal of the Southeast Cell leachate are needed, and the SSFO requires MTA to cooperate in long term measures to address the SE Cell leachate problem.</p>
<p>What guarantee do residents have that closure and the provisions of the stipulation will be carried out? Exh. 1 at 16 (Rosario).</p>	<p>Closure plans are required for landfill operation and closure process. DNER will be responsible for making sure permanent closure of the landfill occurs. The provisions of the SSFO, once approved by the Court, will be embodied in a court order. Exh. 1 at 18 (González, EPA).</p>
<p>How will leachate be addressed at the landfill? Exh. 1 at 16 (Rosario).</p>	<p>The SPIO requires MTA to submit to EPA for review and approval and to implement a plan to control leachate, which includes leachate that flows into the two ponds. See SPIO ¶ 9. The plan is currently being revised by MTA. The SSFO requires the municipality to address leachate releases from the lined southeast portion of the landfill. Additionally, the ongoing application of intermediate cover will limit leachate generation, with further reductions after permanent closure.</p>
<p>How will DNER monitor and ensure that the closure of the landfill will be completed or that the other measures will be implemented? Exh. 1 at 16 (Rosario).</p>	<p>DNER regulates all activities regarding permanent closure of the landfill, and DNER meets with MTA to ensure that closure activities are carried out. DNER also updates EPA regularly on the situation at the landfill. In addition, the Governor has allocated money to carry out closure activities in Puerto Rico and has selected MTA as one of the municipalities to receive funding to complete the closure of its landfill. Exh. 1 at 11 (Rodríguez, DNER). These funds, which are referred to as "ARPA" funds, are available for planning and design activities. MTA may also soon be eligible to receive what are referred to as "INFRA-MIT" funds, which may be used for closure activities.</p>

There is not enough staff at DNER. Exh. 1 at 16 (Rosario).	DNER does not have a shortage of staff to carry out inspections. Exh. 1 at 17 (Rodríguez, DNER).
How will methane and air pollution be addressed at the landfill? Exh. 1 at 17 (Rosario).	Control of methane and other landfill gases will be addressed under MTA's permanent final closure plan that will be subject to DNER approval and oversight.
How come there are residents who are living directly near the landfill? Exh 1 at 19-20 (Calise)	EPA has no authority over land use and ownership issues beyond landfill perimeter. These concerns should be raised with MTA.
How are we going to continue to be informed about the closure process and vector control, which is perhaps another challenge to public health? (Rosario) What is the status of closure of the landfill? Exh. 1 at 21 (Collazo).	The municipality reported it had ceased waste disposal at the landfill in April 2022. Final landfill closure requires implementation of a closure plan that includes multiple engineering projects for environmental protection and compliance. MTA prepares monthly progress reports regarding the progress of its compliance with the provisions of the SPIO. These reports are available on EPA's website. Exh. 1 at 23, 24 (González, EPA). They can be found at the following website link: https://www.epa.gov/pr/toa-alta-municipal-landfill .
What is the status of efforts to address the steep north slope? Exh. 1 at 21 (Collazo).	Stabilization of the steep north slope will be addressed under MTA's permanent final closure plan. This plan is being revised by MTA based on comments from DNER.
Where is MTA's waste being disposed of now that the landfill has closed? Exh. 1 at 21, 22 (Collazo). What are we going to do with the waste that is generated? Exh 1 at 28 (Pagán).	MTA's solid waste is now being taken to an off-site landfill (Vega Baja). Exh. 1 at 22 (González, EPA).
What will it cost MTA's residents to close the landfill and continue to manage waste? Exh. 1 at 24 (Collazo).	MTA is the operator of the landfill and in charge of municipal waste management and its cost. The cost of final landfill closure will not be known until MTA completes, and DNER approves, a permanent final closure plan for the landfill, and MTA confirms whether funding from other sources will cover the cost.
What will happen if MTA does not have the funds to carry out the closure of the landfill? Exh. 1 at 24 (Collazo).	There appears to be funds available to pay the cost of work at the landfill and to retain consultants and contractors for this work. Exh. 1 at 23 (González, EPA). DNER has indicated that the governor has assigned funds for Toa Alta to use for work at the landfill.
What are the plans to address the sinkhole near highway 165. Exh. 1 at 25 (Rosado).	The SPIO requires MTA to submit and implement a plan to control stormwater runoff from the landfill. See SPIO ¶ 10. The plan, once implemented, is expected to improve the

<p>It is polluting and affects several residents in the Winche sector, Vereda community, etc. <i>Id.</i></p> <p>We have filed complaints, and nothing has happened. <i>Id.</i></p>	<p>stormwater runoff situation to the extent it is affecting any properties outside of the perimeter of the landfill. EPA has also referred this sinkhole issue to DNER and Municipality to investigate and address. Local regulations may apply for sinkhole protection and conservation of caves, caverns, and sinkholes in Puerto Rico.</p>
<p>Can anybody estimate how long it will take to complete the critical projects? Exh. 1 at 28 (Torres).</p>	<p>MTA needs to complete its plan for permanent final closure of the landfill which is being submitted to DNER. After that plan is completed and reviewed by DNER, we will have better timeframes and be able to provide community updates on how long it will take to complete the permanent final closure of the landfill. Exh. 1 at 28 (González, EPA).</p>
<p>Who decides what final closure of the landfill will look like and what conditions will be imposed. Exh. 1 at 28 (Pagán).</p>	<p>DNER has the responsibility to review and approve MTA's plans for permanent final closure of the landfill.</p>
<p>Why did the EPA not take the circumstances of the residents on highway 165 kilometer 8.3 into account, who have their yards flooded with water from the Puerto Rico Aqueduct and Sewer Authority (PRASA) slipway and tank? Exh. 1 at 38 (López email).</p> <p>Doesn't EPA think that the permanent flooding of this area is a matter of environmental justice? <i>Id.</i></p> <p>Why has the EPA not obligated MTA and contractor to implement an efficient runoff control system in the MTA? <i>Id.</i></p>	<p>EPA recognizes that there are concerns about landfill's potential contribution to flooding of off-site properties. The SPIO requires MTA to submit and implement a plan to control stormwater runoff from the landfill. See SPIO ¶ 10. The plan, once implemented, is expected to improve the stormwater runoff situation including any runoff that may be affecting properties beyond the landfill perimeter. EPA will also refer the issue to PRASA to investigate resident concerns of tank overflow and to address them.</p>
<p>Why has the EPA not forced MTA to comply with the regulation of the Planning Board on monitoring erosion on this property? Exh. 1 at 38 (López email).</p>	<p>Slope stabilization of site is addressed in the SPIO. However, EPA does not have any authority to enforce local regulations.</p>

<p>Why has the EPA permitted the destruction of this sinkhole without imposing obligations to protect it? Exh. 1 at 38 (López email).</p>	<p>EPA recognizes that there are community concerns about the landfill's potential contribution to flooding of off-site properties. There are complexities posed by the past siting of the landfill in the north karst area of Puerto Rico. Hills and sinkholes are common topographic characteristics of the Contorno Ward, the location in which the Toa Alta landfill is located. Sinkholes have been identified within landfill perimeter and areas beyond the site.</p> <p>Nonetheless, the SPIO requires MTA to submit and implement a plan to control stormwater runoff from the landfill to reduce potential risks to the environment and public health. See SPIO ¶ 10. The plan, once implemented, is expected to improve the stormwater runoff situation including any runoff that may be affecting properties beyond the landfill perimeter. Areas beyond landfill perimeter have been partially developed, and some are in proximity to sinkholes. Local regulations may apply for sinkhole protection and conservation of caves, caverns and sinkholes in PR.</p>
<p>Why has the EPA not required the MTA to officially expropriate the properties that are flooded, from whom the right of ownership has been removed without due process of law? Exh. 1 at 38 (López email).</p>	<p>The landfill and the adjacent residences are not identified as areas at risk of flooding per FEMA 2018 Advisory Based Flood Elevation Maps. The SPIO includes requirements to minimize risks of stormwater impacts that may be reaching areas beyond landfill site. Relocation due to local flooding is beyond the jurisdiction and authority of EPA in this case.</p>
<p>Why has MTA not complied with its responsibility to submit a monthly report on what is being done to close the landfill? Exh. 1 at 38 (López email).</p>	<p>MTA has prepared monthly reports regarding the progress of its compliance with the requirements of the SPIO since it was filed and approved by the Court in 2022. These reports are now available on EPA's website. Exh. 1 at 23, 24 (González, EPA). The reports can be found at the following website link: https://www.epa.gov/pr/toa-alta-municipal-landfill.</p>

<p>Why has the EPA negotiated a \$50,000 settlement for millions of dollars in environmental and social damage. Exh 1 at 38 (E. López)</p>	<p>The SSFO requires MTA to pay a \$50,000 civil penalty. SSFO ¶ 4. The United States employed a financial analyst to conduct an analysis of MTA's ability to pay a civil penalty. The analyst concluded that MTA had no ability to pay more than a nominal civil penalty in this case without a major restructuring of planned municipal expenditures. The SSFO includes reservations for the United States to act if any imminent and substantial endangerments exist after the date the SSFO was lodged with the court and for the United States to seek orders enforcing MTA's compliance with the terms of the SPIO and SSFO. SSFO ¶ 6.c, 6.d.</p>
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COMMENTS ABOUT ANCILLARY ISSUES	
The government is acting in other sectors, but sector 00758 is forgotten. Not even for roads. They say they are going to fix the roads, but they do not fix them. It is like a sector that is forgotten, there are no lights. (Calise).	EPA notes this community concern and will refer this to MTA.
EPA should do a better job promoting community meetings about the landfill. Exh. 1 at 13-14 (Rosado).	Outreach actions for the recent community meeting included distribution of 500 flyers in the neighborhoods of Contorno, Pueblo, and Galateo Ward, and publication of a news advertisement on April 19, 2024, in the Primera Hora News Paper. EPA's team visited several neighborhoods in person to make the residents there aware of the public meeting. The EPA team also contacted all of the approximately 100 people who had attended the February 2022 public meeting. The EPA team will continue its efforts to keep people informed. The EPA team also is available to have follow-up meetings with community members. Exh. 1 at 18-19 (Guerrero, EPA). EPA appreciates the public's input and strives to continuously improve its outreach efforts.
The Government should do a better job communicating to residents about actions being implemented at the landfill. Exh. 1 at 17 (Rosario).	MTA prepares monthly reports regarding the progress of its compliance with the SPIO. These reports are now available on EPA's website Exh. 1 at 23, 24 (González, EPA). EPA appreciates the public's input and strives to continuously improve its outreach efforts. See also prior response.
No government data found on the levels of the contaminants that were present at landfill leachate. Community member found data from academia research. (Rosario)	EPA notes this community feedback.
We do not trust MTA to properly operate a transfer station. Exh. 1 at 27 (Santiago).	The construction and operation of a transfer station is one option for MTA to efficiently transport waste to an off-site landfill. The operation of such a transfer station is beyond the ambit of the proposed SSFO and a matter subject to the oversight and regulatory authority of the Government of Puerto Rico and DNER.
We have discussed with the municipality to establish an organic waste recycling program to produce compost. Exh. 1 at 29 (Pagán).	EPA acknowledges community feedback and has relayed this concern to MTA.

<p>There is a shortage of capacity for disposal of solid waste in Puerto Rico. To mitigate that problem there should be an island-wide organic composting program. Exh. 1 at 29 (Pagán).</p> <p>In other parts of the world, where former landfill systems have been converted into recycling centers, composting centers. <i>Id.</i></p>	<p>EPA recognizes community concerns about island wide waste management. DNER is the agency that develops policies for the management of solid waste in Puerto Rico. With the debris and other waste generated during Hurricane Maria, this has further limited the capacity of the landfills in Puerto Rico. Reduction and reutilization of materials are an important component and first step at all levels. EPA and DNER are working together to identify possible island-wide solutions to address the waste management problem across the entire island including consideration of composting and recycling. Ultimately, these are matters under the authority of Commonwealth and local officials. Exh. 1 at 29-30 (Guerrero).</p>
<p>How about we get together within the next 90 days and we, those of us here, help you distribute to the rest of the town, let them know what's going to happen to our landfill next? (Rosado)</p>	<p>EPA acknowledges community feedback and will has relayed this concern to MTA.</p>
<p>There is a lack of municipal waste collection at some residential areas in the municipality. Exh. 1 at 31 (Rivera). In the Galateo neighborhood, for about three weeks, MTA did not throw out the garbage. In Villa Maria, MTA did collect waste and did not in others they don't. <i>Id.</i></p>	<p>EPA acknowledges community feedback and has relayed this concern to MTA.</p>

**UNITED STATES DISTRICT COURT
DISTRICT OF PUERTO RICO**

UNITED STATES OF AMERICA,

Plaintiff,

v.

Civ. No. 3:21-01087 (SCC)

MUNICIPALITY OF TOA ALTA,
PUERTO RICO,

Defendant.

DECLARATION OF DAN LEISTRA-JONES

I, Dan Leistra-Jones, pursuant to 28 U.S.C. § 1746, hereby declare under the penalty of perjury the following is true and correct:

Qualifications and Assignment

1. My name is Dan Leistra-Jones, and I am employed as a Principal at Industrial Economics, Inc., a consulting firm based in Cambridge, Massachusetts. I have been employed by Industrial Economics, Inc. since 2009.
2. I hold a Master of Business Administration degree from the Yale University School of Management, a Master of Environmental Management degree from the Yale University School of Forestry and Environmental Studies, and a Bachelor of Arts degree in Environmental Studies and Music, summa cum laude, from Amherst College. My education includes coursework in finance, accounting, economics, business operations, organizational management, and business strategy.

3. I have been retained by the United States as an expert in this case in the areas of financial analysis and ability to pay.
4. Through my work as a financial analyst, I regularly support governments and litigation teams on the financial aspects of cases involving environmental issues. I have analyzed more than three hundred companies, municipalities and other government agencies, and individuals, addressing their ability to pay proposed Superfund contributions, penalty payments, and injunctive relief; economic benefit of noncompliance; fraudulent conveyance; and assessing facts relevant to veil-piercing determinations, among other issues.
5. I have more than 15 years of professional experience as a financial analyst. As a result of my education, training, and work experience, I have developed specialized knowledge in financial analysis and ability to pay. I have been qualified and testified in federal and state court as an expert in financial analysis on multiple occasions, and have offered expert trial, hearing, and/or deposition testimony on each of the issues noted in Paragraph 4.
6. I was engaged by the United States in this matter to review financial information of the Municipality of Toa Alta (“the Municipality” or “Toa Alta”) and to develop and render opinions regarding its ability to pay a penalty payment for its alleged violations at the Toa Alta landfill under Section 7003(b) of the Resource Conservation and Recovery Act. The United States and the Municipality proposed a Consent Decree that includes a \$50,000 penalty payment from Toa Alta, along with injunctive relief, to resolve the alleged violations. During the public comment period on the proposed Consent Decree, multiple commenters addressed the penalty, with some expressing a belief that it was too

large, while others felt that it was too small. The United States therefore requested that I submit this Declaration to explain my analysis and my opinions regarding the Municipality's ability to pay a penalty.

Summary of Opinions

7. Based on my review, I determined that Toa Alta is financially constrained in its ability to pay a penalty without experiencing an undue financial hardship. To fund a penalty payment in this matter, the Municipality would need to divert money away from planned investments in infrastructure repair, commercial development, or other core priorities. It is my opinion that the \$50,000 proposed penalty is appropriate in light of Toa Alta's financial condition.

Methodology and Documents Reviewed

8. To conduct my analysis, I reviewed the financial documents produced by the Municipality during settlement negotiations with the United States. These documents included, among others, annual financial statements for fiscal years 2014-2021, budgets for fiscal years 2015-2023, and documents related to the Municipality's landfill operating costs and closure costs. The Municipality also provided additional information in response to specific questions on issues I identified during the course of my analysis. I also reviewed relevant publicly available information, including information from the U.S. Department of the Treasury on funds awarded to the Municipality under the American Rescue Plan Act (ARPA).

9. These documents were sufficient for me to develop an opinion regarding the Municipality's ability to pay. The number and type of documents Toa Alta provided are consistent with those I have relied on for other ability to pay analyses.
10. I performed my ability to pay analysis consistent with EPA guidance, including the Agency's 1984 "General Enforcement Policy, GM-21;" the 1986 "Guidance on Determining a Violator's Ability to Pay a Civil Penalty, GM-22;" the 1997 "General Policy on Superfund Ability to Pay Determinations," and its "2015 Guidance on Evaluating a Violator's Ability to Pay a Civil Penalty in an Administrative Enforcement Action." I used a well-established methodology that I have used in numerous prior ability to pay analyses.
11. Following this EPA guidance, I performed a two-phase analysis to assess the Municipality of Toa Alta's ability to pay a penalty. In the first phase, I examined Toa Alta's assets and liabilities to determine the Municipality's ability to pay a one-time penalty payment through excess cash on hand, the sale or conversion to cash of assets that are not ordinary and necessary, and additional debt capacity. In the second phase, I analyzed Toa Alta's revenues and expenses to estimate the future cash flow it will likely generate that could be paid in a penalty.
12. For the balance sheet phase, I focused primarily on the most recent available information at the time of my analysis. I also reviewed the Municipality's balance sheets from earlier years for additional context and to assess trends over time. In addition, I used public information to compare Toa Alta's fund balance (equal to total assets minus total liabilities and deferred inflows of resources, similar to shareholders' equity in a business) to a recommended benchmark from the Government Finance Officers Association. I

considered included cash on hand, non-cash assets that are not ordinary and necessary, and increased debt as potential means to fund a one-time penalty payment.

13. In the second phase of my analysis, I reviewed Toa Alta's income statements and budgets to develop an estimate of future cash flow that the Municipality could use to generate a stream of payments over time. To do so, I reviewed the Municipality's performance during the recent past to develop an estimate of its future performance. I also considered potential new or increased sources of revenue (such as ARPA funds and increased taxes), and opportunities to temporarily reduce expenditures, which could increase the Municipality's cash flow above its historical baseline.
14. Like most municipalities, Toa Alta utilizes fund accounting, in which certain resources can only be used for prescribed purposes (e.g., certain revenue streams are used to fund specific types of projects). For both phases of my analysis, I focused on Toa Alta's General Fund, which is the fund available for general-purpose expenditures and, in most cases, the fund that a municipality would use to finance a penalty payment. However, I also reviewed Toa Alta's other funds to assess their interrelationships with the General Fund and the extent to which they could be used to fund a penalty.
15. As noted above, in addition to Toa Alta's financial statements and budgets, I also consulted other information, including additional documents provided by the municipality in response to specific questions. This additional information allowed me to refine my understanding of the municipality's financial condition and, consequently, its ability to pay for a penalty in this matter.

Results

16. Based on my review of the available information, I determined that the Municipality of Toa Alta would be able to generate funds to support a penalty payment only by reducing planned expenditures in categories such as road repair or investment in local economic development. These represent core activities for a municipal government, and as such would generally not be considered “discretionary” or “not ordinary and necessary” expenditures that could be reduced to finance a penalty. The potential rationale for reductions in these areas in this case would be that Toa Alta has planned to increase its expenditures in future years above past levels. The monies for these efforts are held outside of the General Fund, and originate in part from grants received under ARPA, but based on my analysis, it would be possible in theory for the Municipality to transfer a portion of these funds into the General Fund to pay a penalty. However, doing so would require diverting money away from the other priorities noted above.
17. It is my opinion that, if one makes the judgement that Toa Alta’s planned expenditures in infrastructure and local economic development should take precedence over the payment of a substantial penalty, the proposed penalty amount of \$50,000 is appropriate based on the Municipality’s financial condition and available resources.

Executed this 14th day of June 2024, in Lancaster, Pennsylvania.


Dan Leistra-Jones

CERTIFICATE OF SERVICE

I certify that on this date, I filed the foregoing using the Court's CM/ECF system. Notice of this filing will be sent by the CM/ECF system to all registered participants.

/s/ Mark Gallagher
Mark Gallagher