

**PUBLIC NOTICE: 2016-32**

**Date: August 12, 2016**

**NOTICE OF PROPOSED ADMINISTRATIVE PENALTY ASSESSMENT AND OPPORTUNITY TO COMMENT**

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

**ACTION:** Notice of Proposed Administrative Penalty Assessment and Opportunity to Comment

**COMMENT PERIOD:** Thirty (30) days after issuance of this Public Notice

**SUMMARY:** The U.S. Environmental Protection Agency (EPA) is authorized under Section 309(g) of the Clean Water Act (CWA), 33 U.S.C. §1319(g), to assess a civil penalty after providing the person subject to the penalty with notice of the proposed penalty and the opportunity for a hearing, and after providing interested members of the public with notice of the proposed penalty and a reasonable opportunity to comment on its issuance. Under Section 309(g) of the CWA, any person who violates Section 301 of the CWA, may be assessed a Class II civil penalty of up to \$177,500 by EPA. Class II proceedings for Section 309(g) of the CWA are conducted in accordance with the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination, or Suspension of Permits" (CROP), which have been codified in the Code of Federal Regulations as Title 40, Part 22. The Code of Federal Regulations and the Federal Register are available at most libraries and the EPA internet site [www.epa.gov](http://www.epa.gov).

Section 22.13(b) of the CROP sets forth procedures for simultaneous commencement and conclusion of administrative civil penalty assessment proceedings where the parties agree

to settlement of one or more causes of action. This is accomplished through issuance of a Consent Agreement and Final Order pursuant to Sections 22.18(b)(2) and 22.18(b)(3) of the CROP. The subject penalty assessments noticed herein follows the procedures set forth in Section 22.13(b) of the CROP.

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

Pursuant to Section 309(g)(4) of the CWA, 33 U.S.C. § 1319(g)(4), EPA is hereby providing notice to the public of the following proposed Class II administrative penalty assessments:

Respondent has reached agreement with EPA on the terms of a proposed Consent Agreement/Final Order which would resolve this matter. The Respondent will transfer ownership of approximately 24 acres (approximately 25 “cuerdas”) of land (“SEP Parcel”), including an additional access easement of approximately 2 acres (approximately 2.0675 “cuerdas”) to allow for access to the SEP Parcel, to the Puerto Rico Department of Natural and Environmental Resources (PRDNER). The SEP Parcel has direct ecological value as buffer zone to support the Joyuda Lagoon Natural Reserve, located in the southwest coast of Puerto Rico, in the municipality of Cabo Rojo.

Under the proposed Consent Agreement/Final Order, Respondent will pay a civil penalty of \$45,000 in cash, and the remainder of the civil penalty will be mitigated through performance by Respondent of a Supplemental Environmental Project (SEP). The SEP requires Respondent to spend no less than \$210,000 to execute a transfer by means of deed of donation or deed of

transfer to PRDNER for conservation purpose to perpetually protect approximately 24 acres of land adjacent to the Joyuda Lagoon and Mango Creek, a tributary of Joyuda Lagoon. Final approval of the proposed Consent Agreement/Final Order is subject to the requirements of 40 C.F.R. § 22.45.

DESCRIPTION OF PENALTY ASSESSMENT	
Case Name	In the Matter of P.D.C.M. Associates, S.E.
Docket Number	CWA-02-2016-3452
Proposed Penalty Cash Payment	\$45,000.00
Facility Location	Plaza Aquarium Shopping Center Wastewater Treatment Plant, Intersection Road PR-159 and Road PR-165, Cruz Ward, Toa Alta, Puerto Rico 00953
Nature of Alleged Violation	Discharge of pollutants without a National Pollutant Discharge Elimination System permit in violation of Section 301(a) of the Clean Water Act, 33 U.S.C. § 1311(a).

**FOR FURTHER INFORMATION:** Persons wishing to receive a copy of the proposed Consent Agreement and Final Order, or review the public records for this proceeding or other documents related to this proceeding, should contact the enforcement case environmental engineer, Héctor D. Ortiz, at USEPA, Multimedia Permits and Compliance Branch, Caribbean Environmental Protection Division, City View Plaza II – Suite 7000, #48 165 Road Km. 1.2, Guaynabo, Puerto Rico 00968, Tel.: (787) 977-5883, and e-mail: ortiz.hector@epa.gov. The public records for this proceeding is at the address given above, and is available for public inspection during business hours.

**TO COMMENT:** Persons wishing to comment upon the proposed penalty assessments should direct comments to Ms. Karen Maples, Regional Hearing Clerk, U.S. EPA, Region 2, 290 Broadway, 16<sup>th</sup> Floor, New York, New York 10007-1866, with a copy of such correspondence to Mr. Héctor D. Ortiz, at the address given above.

In order to provide opportunity for public comment, EPA will not take final action in this proceedings prior to forty (40) days after issuance of this notice.

Dated: August 12, 2016

José C. Font, Acting Director  
Caribbean Environmental Protection Division