



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2
290 BROADWAY
NEW YORK, NY 10007-1866

VIA EMAIL

Rincon Blue Water, LLC
Attn: Lonnie J. Fuller
Luis Venegas Num. 3 Sur
Guayama, Puerto Rico 00784

Re: Clearing and filling for commercial building work, Municipality of Rincon, Puerto Rico,
Information Request Pursuant to Section 308 of the Clean Water Act, 33 U.S.C. Section 1318(a)

Dear Mr. Fuller:

Through review of publicly available aerial imagery, the U.S. Environmental Protection Agency (“EPA”), Region 2, has observed land clearing and filling of wetlands with earthen material which constitutes an apparent unauthorized discharge of fill material into Waters of the U.S on parcel number 095-000-88-000 in the Municipality of Rincon, Puerto Rico (“the Site”) (Exhibit No. 1). The wetlands are adjacent to an unnamed tributary of the Caribbean Sea, a traditional navigable water of the United States. EPA is investigating this matter as a possible violation of Section 301(a) of the Clean Water Act which requires prior authorization through a Department of Army permit for discharges of dredged or fill material into waters of the United States.

It is our understanding that your company is, or was, the owner and/or operator of the Site and that your company may be engaged in conversion of the property to a hotel operation. You are receiving this letter under the presumption that your company is engaged in the observed activities.

EPA is requesting information from Rincon Blue Water, LLC, pursuant to the authority granted to it under Section 308 of the Clean Water Act, 33 U.S.C. § 1318 (“CWA”) and the regulations promulgated thereunder. Section 308(a) of the CWA provides that whenever required to carry out the objectives of the CWA, including determining whether or not a person is in violation of the CWA, the Administrator of EPA shall require that person to provide such information as may reasonably be required to make such a determination. EPA therefore requests responses to the questions set forth in the enclosed Attachment.

For this request, if you have reason to believe that there may be a person(s) who may be able to provide a more detailed or complete response to such request or may be able to provide additional responsive documents, then, as a part of your response to such request, identify each such person and the additional information or documents which such person may be able to provide. Furthermore, for each and every response, if information or documents responsive to such request are not in your possession, custody, or control, then as part of your response to such request, identify each person from whom such information or documents may be obtained.

Because this is a formal Information Request issued to you pursuant to CWA Section 308(a), you are legally required to respond within a reasonable time frame. We request that you fully respond to the

requested information within **thirty (30) days** of receipt of this letter. Please forward a copy of the requested information as set forth in Appendix A. Failure to respond to this information request may subject you to enforcement action pursuant to Section 309 of the CWA, 33 U.S.C. §1319, in which injunctive relief and penalties may be sought.

This request is of an ongoing nature. Should any additional information or documentation become available after provision of the responsive documents, then you are under an obligation to provide such additional information or documentation to EPA.

The requested information should be sent to:

Seika E. Robinson
Watershed Management Branch
U.S. Environmental Protection Agency, Region 2
290 Broadway, 24th floor
New York, NY 10007

Should you have any questions regarding this request, please contact Ms. Seika E. Robinson, Life Scientist, at (212) 637-3822, or your legal counsel may contact Phyllis Feinmark, Chief, Water and General Law Branch, Office of Regional Counsel, at (212) 637-3232. Thank you for your attention to this matter.

Sincerely,

Carmen R. Guerrero-Pérez
Director
Caribbean Environmental Protection Division

Enclosures

Cc: Robert J. Halbert
Chief of Enforcement, Regulatory Branch,
U.S. Army Corps of Engineers, Jacksonville District
701 San Marco Blvd
Jacksonville, FL 32207

ATTACHMENT

Clean Water Act Section 308 Information Request for Mr. Fuller regarding property located on tax parcels 095-000-88-000, Municipality of Rincon, Puerto Rico.

In the questions below, “you” means Rincon Blue Water, LLC. “The Site” means the property located on tax parcels 095-000-88-000, Municipality of Rincon, Puerto Rico. “Work” means activities, including but not limited to, earthmoving, dumping, excavation, mechanized and/or manual vegetation-clearing activities, logging and tree removal, roadway construction, stockpiling, and placing fill or dredged material.

Please provide the following related to the Work at the Site:

1. A description of current ownership of the Site, specifically ownership information for each of the two parcels where filling activity has occurred, and recent (past five years) ownership history.
2. A description and any documentation of site leasing to you.
3. A description of the nature and the purpose of the Work at the Site.
4. A list of the dates on which the Work was performed.
5. A list of the names and titles of persons who conducted and/or gave orders for, or had oversight over the Work, and describe each person’s role in the Work, including the names of contractors and/or construction companies who conducted and/or gave orders for, or had oversight over, the Work.
6. Copies of any survey, construction, or engineering plans for the Work or for portions thereof.
7. A copy of any construction/engineering plans submitted to the Municipality of Rincon, Puerto Rico Department of Natural and Environmental Resources, Puerto Rico Land Authority, and any other local or commonwealth agencies, for permits or other authorizations for the Work.
8. A copy of any documents related to approvals or requests for work.
9. A description of the type, volume, and source of any fill material used in the Work.
10. A description of the locations and depths of fill at the Site.
11. A description of the manner in which the Work was conducted, including the type of equipment used in conducting the Work.
12. Copies of any correspondence or information which you have with or from any

Federal, Commonwealth, local, or other agencies relating to the status of portions of the Site as wetlands, streams, or as areas of environmental or ecological significance.

13. Copies of any aerial photographs, surveys, reports, maps or plans depicting the pre-existing vs. current conditions, topography, soils, and hydrology at the Site which you may have, beyond that which is generally, publicly available.
14. If the Work is related to farming, ranching, silviculture, or any other activities, please describe to the best of your knowledge the nature and locations of on-going agricultural activities prior to commencement of the Work, and during the prior twenty years.
15. Please inform us whether or not the Work has included any modifications to the depths and/or widths of any ditches on the Site, and if yes, please provide descriptions of the locations and the modifications.