



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2
290 BROADWAY
NEW YORK, NY 10007-1866

- 6 2015

Colonel Alan M. Dodd
District Commander
U.S. Army Corps of Engineers
Jacksonville District
P.O. Box 4970
Jacksonville, FL 32232-0019

Re: Unauthorized Discharges into Waters of the United States
San Isidro community, Canóvanas Ward, Municipality of Canóvanas, Puerto Rico
Corps of Engineers' File Number 200001961(CD-JR)

Dear Colonel Dodd:

On May 30, 2000, the U.S. Army Corps of Engineers issued to Mayor Jose "Chemo" Soto, of the Municipality of Canóvanas, Puerto Rico, a Cease and Desist Order for the filling of several acres of wetlands to develop parcels in the San Isidro community of the Canóvanas Ward of the Municipality of Canóvanas, without the necessary authorization from the Department of the Army under Section 404 of the Clean Water Act. The Corps' file number for this case is 200001961(CD-JR). The Corps subsequently transferred this case to the U.S. Environmental Protection Agency for further investigation and resolution. The Corps made this transfer by letter dated June 29, 2000, pursuant to the nationwide Memorandum of Agreement between the EPA and the Corps for designating lead agency status for enforcement of Section 404 of the Clean Water Act.

This letter is to inform you that, over the intervening fifteen years, the EPA has investigated this matter and undertaken a series of formal enforcement actions. The EPA considers this matter adequately resolved and we intend to take no further enforcement actions for the subject filling activity, including limited additional filling activities which may be continuing at the site. The Municipality has informed the EPA that it wishes to submit before-the-fact and possibly after-the-fact applications to the Corps for discharges intended to promote the welfare of the community. Please be aware that the EPA does not object to processing those applications, and, in fact, would consider the review of this matter in the permitting process appropriate at this time.

Background

The EPA inspected the site and met with Mayor Soto on July 20, 2000. We followed this initial meeting and inspection with eight years of formal enforcement orders and penalty proceedings against the Municipality of Canóvanas, the Puerto Rico Land Authority (which owns the property where the affected wetlands are located), and the Commonwealth of Puerto Rico Office of the Coordinator General for Socioeconomic Financing and Self-Management (hereinafter, "the Office of Special Communities"), which is a public assistance agency involved in the filling.

We made factual findings that the wetlands are waters of the United States; that beginning sometime between 1991 and 1995, residences were constructed in the wetlands; that the construction of residences

and access roadways to the residences involved discharge of fill material, including earthen fill, construction and demolition material, and other fill material, into the wetlands; that the Puerto Rico Land Authority was aware of the construction and expansion of residential development on its property, but failed to stop it; and that the Office of Special Communities and the Municipality of Canóvanas were acting as dischargers due to their assistance in construction and expansion of the community. As of the date of an aerial photograph taken on January 26, 2007, approximately 30.3 acres of the wetlands were covered with fill material, including earthen fill, construction and demolition material, and other fill material.

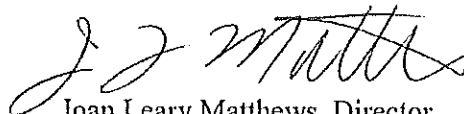
The EPA obtained significant injunctive relief and penalties for the discharges, including Supplemental Environmental Projects, through formal enforcement actions, including the following:

- Permanent preservation via deed restriction of one thousand acres of Puerto Rico Land Authority-owned herbaceous wetlands in a neighboring watershed.
- Permanent preservation via land transfer to the Puerto Rico Conservation Trust for 674 acres of Puerto Rico Land Authority-owned mangrove and herbaceous wetlands within the same watershed as the violations.
- Issuance of an executive order by the Governor of Puerto Rico establishing an interagency Puerto Rico Wetlands Protection Task Force, with a set aside of \$100,000 into a special account to fund the operations of the Task Force, with the mission of preventing future situations of illegal community construction in wetlands.
- Development and adoption by the Puerto Rico Land Authority of an internal agency Strategic Plan for the protection of wetlands on Puerto Rico Land Authority property.
- Commitments by the Puerto Rico Land Authority, Office of Special Communities, and Municipality of Canóvanas to not discharge dredged or fill material into wetlands without Department of the Army authorization.
- Total administrative cash penalties of \$128,000.

Despite the enforcement resolution described above, we are aware that further discharges in the wetlands may be continuing within the community, probably due to actions of the residents. However, the EPA believes this continued filling would be best addressed through a permit review.

If you would like to discuss this matter, please contact me directly at (212) 637-3724. For further information or to answer specific questions, please have your staff contact David Pohle, Wetlands Enforcement Coordinator, at (212) 637-3824.

Sincerely,



Joan Leary Matthews, Director
Clean Water Division