



COMMONWEALTH OF PUERTO RICO
OFFICE OF THE GOVERNOR
ENVIRONMENTAL QUALITY BOARD

PUERTO RICO
VERDE 

CHAIRMAN'S OFFICE

March 25, 2011

Mr. Carl Axel Soderberg
Director
USEPA Region 2 - Caribbean Environmental
Protection Div. Centro Europa Building
1492 Ponce de Leon Avenue Suite 417
Santurce, PR 00907-4127

RE: New Permitting Process - Act No.161 of December 1, 2009, as amended

Dear Mr. Soderberg:

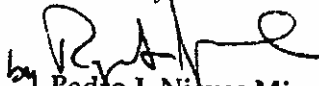
As discussed by phone last week, and further to your letter of January 24, 2011, the Puerto Rico Environmental Quality Board (EQB) is updating the State Environmental Review Process (SERP) documentation in order to address any consistency concerns between the SERP currently in force, and the revised environmental review process established under Act 161. We have been working along with your staff to complete this process as soon as possible and ensure that the clean water and drinking water state revolving funds continue to be disbursed in appropriate fashion.

As you know, updating the SERP provisions is a labor intensive process. In addition to addressing the applicable law requirements, we are working in translating local laws that have been amended. Thus, in attention to your recommendation, we determined to enter into a Memorandum of Understanding (MOU), in collaboration with the Puerto Rico Department of Health (DOH), while we finalize the SERP revision. The MOU will generally seek to establish the commitments of all parties now involved (i.e., EQB, Permit Management Office (PMO)) in the determination of environmental compliance.

Soon you will be receiving the draft MOU document for review. We expect to receive your comments and suggestions, if any, shortly afterwards in order to complete this process and allow for the clean water and drinking water state revolving funds projects to continue. We appreciate the priority that EPA continues to give to this matter so that projects that require the granting of funds will not be affected.

If you have any questions about and foregoing or other aspects related to the process, please contact us at your convenience.

Sincerely,


by Pedro J. Nieves Miranda, Esq.
Chairman

c: Judith Enck
Jaime Geliga
Edwin A. Irrizary



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2

January 24, 2011

Hon. Pedro J. Nieves Miranda
Chairman
P.R. Environmental Quality Board
PO Box 11488
San Juan Puerto Rico 00910

Re: New Permitting Process, Act No. 161 of December 1, 2009 (the Act).

Dear Mr. Nieves:

The purpose of this letter is to provide the Puerto Rico Environmental Quality Board (EQB). EPA's response to the November 23, 2010, letter regarding the above-referenced matter.

Pursuant to Title VI of the Clean Water Act (CWA), on September 26, 1991, EPA entered into the State Revolving Fund Operating Agreement with the Commonwealth of Puerto Rico (the Operating Agreement) authorizing PR-EQB to run the Revolving Fund. Under § II.B.2 of the Operating Agreement, PR-EQB is required to "implement and enforce a 'NEPA-like' review process for all Section 212 projects [and] to conduct [] activities as detailed in the Environmental Review Process[.]"

Although Section 2.5 of the Act states that "permit applications that fall under general regulation of the Environmental Quality Board, shall hereinafter be evaluated by the Management Office and the Authorized Professionals, as may apply, but only in those cases in which the permit sought does not affect an agreement, a delegation agreement or a Federal funding grant of the E[QB,]" it appears that Section 8 of the Act substantially limits EQB's role, by providing that the "Management Office may require recommendations from the . . . [EQB] as part of the evaluation process for the permit for

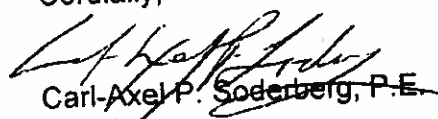
which the application was submitted . . . and the EQB shall issue its recommendations within thirty (30) days[.]"

Further, Rule 118 of EQB Regulation 7948 (Nov. 30, 2010) for the Evaluation and Transmittal of Environmental Documents also reveals that EQB's role has been substantially limited by stating that EQB fulfill the NEPA-like process required for federal funds by providing its recommendation to the Permits Management Office.

It is, therefore, EPA's understanding that EQB must at least submit, among others: (1) the Memorandum of Understanding between EQB and the Permits Management Office; and (2) the proposed amendments to the agreements in connection with the Clean Water State Revolving Fund, in order to properly evaluate the full impact of the New Permitting Process on the Clean Water State Revolving Fund, the State Environmental Review Process (SERP), and the Grant Capitalization Agreement, to ensure compliance with the Clean Water Act and the Operating Agreement.

If you need additional information or clarification, please contact Silvia Carreño at (787) 977-5818.

Cordially,



Carl-Axel P. Soderberg, P.E.
Director

Caribbean Environmental Protection Division



COMMONWEALTH OF PUERTO RICO
OFFICE OF THE GOVERNOR
ENVIRONMENTAL QUALITY BOARD

ACTION
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*Enck
Hawley
Plaza
cc: Soderberg
Fierro*

CHAIRMAN'S OFFICE

BY E-MAIL

November 23, 2010

Mrs. Judith Enck
Regional Administrator
Region 2, U.S. Environmental Protection Agency
290 Broadway
New York, NY 10007-1866

RE: New Permitting Process, Act No. 161 of December 1, 2009 (the Act).¹

Dear Judith:

The P.R. Environmental Quality Board (EQB) hereby follows up on its letters of May 11 and September 13, 2010.

Regarding the State Environmental Review Process (SERP), EQB approved the Regulation of the Assessment and Transmittal of Environmental Documents (Regulation) on November 18, 2010, which will become effective on December 1, 2010.² Recently, we have sustained preliminary discussions with local U.S. Environmental Protection Agency (EPA) representatives in order to streamline our upcoming submittal of certain amendments to our agreements in connection with the Clean Water State Revolving Fund.³ EQB is in the process of drafting of such amendments with EPA's assistance. Therefore, we hereby request EPA's approval starting on December 1, 2010 to: 1) use the Regulation in conjunction with the SERP; and 2) incorporate the Act 416 and Regulation into the SERP as Appendixes 1 and 2, respectively, per the provisions of the Capitalization Grant Agreement.

As to EQB General Permits (GP's), EQB and the Permits Management Office (OGPe, for its Spanish acronym) intend to execute a Memorandum of Understanding (MOU). The MOU will describe, among other things, the issuance of certain GP's through the OGPe computerized system from December 1, 2010.

Please contact me at your convenience if you have any questions about the foregoing.

Sincerely,


Pedro J. Nieves Miranda, Esq.
Chairman

c: Carl A. Soderberg

CONTROL OFFICE
CORRESPONDENCE
REGION 2

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¹ Note that the Act, also known as the Permit Process Reform Act, amended Act No. 416 of September 22, 2004, as amended, known as the P.R. Environmental Public Policy (Act 416), which in turn repealed and substituted Act No. 9 of June 18, 1970, the former P.R. Environmental Public Policy.

² The Spanish version of the approved Regulation will be available on our website (www.ica.gobierno.pr) shortly.

³ We have discussed these matters with Jaime Geliga and Yasmin Laguer.

