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March 6, 2017

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**RE: Comments Concerning the Final RUS EIS Related to Energy Answers Arecibo Incineration Project**

Dear Mr. Polacek:

The comments provided herein to the Final Environmental Impact Statement prepared by the Rural Utilities Services (RUS FEIS) are submitted by Ingrid M. Vila-Biaggi, P.E.<sup>1</sup> and Luis E. Rodríguez-Rivera, Esq.<sup>2</sup> as founding members of CAMBIO, a non-governmental organization whose mission is to promote sustainable and responsible development for Puerto Rico and the Caribbean Region. As part of this process, we requested you via email dated February 27, 2017, a 90-day extension on the comment period as 30 days is not enough time to evaluate and comment on a lengthy and complex document. Meaningful comments are an essential part of the National Environmental Policy Act (“NEPA”) process and federal agencies must encourage ample public participation. As RUS should have concluded from the hundreds of comments made during the public hearing held in Arecibo, and from the thousands of written public comments made to the draft EIS, this is a poorly planned project that causes much concern on the Island. Although we received an acknowledgment of receipt for this request, we did not get a response as to the determination on the extension requested. This does not surprise us given the flawed public participation process followed so far by the RUS for the Arecibo incinerator project.

We must begin by expressing our utter disappointment and outrage at what is clearly a biased process favoring the proponent, in clear violation of the NEPA, the Council on Environmental

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<sup>1</sup> Ingrid M. Vila-Biaggi is a licensed Environmental Engineer, co-founder of CAMBIO and has served as Chief of Staff, as well as, Advisor on Environmental and Permitting Issues to former governors of Puerto Rico. She co-chaired the Puerto Rico Recycling Association and serves as Urban Water Ambassador for the Caño Martín Peña Urban Water Partnership, sponsored by EPA, among others.

<sup>2</sup> Mr. Rodríguez-Rivera is a Professor of Law at the University of Puerto Rico School of Law, co-founder of CAMBIO, and has served as Secretary of Puerto Rico’s Department of Natural and Environmental Resources, Executive Director of the Puerto Rico Solid Waste Authority, Assistant Regional Counsel of the United States’ Environmental Protection Agency (Region 1), among others.



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Quality's regulations for implementing NEPA (40 CFR Parts 1500-1508), and RUS's Environmental Policies and Procedures (7 CFR Part 1794). Instead of upholding the legal framework by which RUS is to abide, RUS has decided to join the circle of irresponsibility, of looking the other way and of mediocrity that has plagued this project since its inception. The RUS FEIS is patently deceiving, presenting incorrect and outdated information; ignoring state law, as well as, rulings and determinations by state agencies; and, excluding vital elements on the social, economic, health and environmental impacts of this project. And we must state that it is not because of ignorance or lack of awareness from RUS as we, as well as, other parties who have actively participated in this process, have taken the time and effort to educate RUS on the historically troubled background upon which this project was evaluated in Puerto Rico, the rulings and legal framework for both solid waste management and energy in Puerto Rico which is contrary to what is presented in the FEIS, the current critical economic and fiscal crisis on the Island which this project would definitely aggravate, the current state of affairs for this incinerator which is far from the fictional picture that is described in the FEIS, and the economic, social, health and environmental impacts that will ensue if this project is developed. To sustain information presented, commenting parties have offered verifiable data, independent studies and evaluations by experts: information RUS has just decided to ignore. It is regrettable to see the federal government become party to this project's vulgar sneer of the truth.

We therefore reiterate and resubmit the comments made to RUS during the Scoping and Draft EIS process as none of them have been addressed in this RUS FEIS. (Attachment 1).

In the spirit of sharing with the people of Puerto Rico causes of action for initiating legal action against the USDA and RUS, we want to highlight and clarify once more some of the most appalling misrepresentations and falsehoods contained in the FEIS, which clearly prove the non-viability of the project, as well as, RUS' bias in favor of Energy Answers' incinerator:

1. The incinerator does not have access to the water it needs to operate. The Department of Natural and Environmental Resources (DNER) denied Energy Answers' request for the use of water in Caño Tiburones because, contrary to what Energy Answers states, there is no "excess" water in the Caño (Attachment 2). DNER conducted studies and made a final determination on this matter, yet RUS continues to state that the Caño Tiburones will be the source of 2.1 mgd of water the project needs. If RUS is to make an objective and unbiased evaluation, it cannot simply ignore the decision made by the agency with jurisdiction on the matter. Any representation made by Energy Answers regarding the possibility of using Caño Tiburones water for this project has no real ground, and worse, it



only could suggest proposed illegal intervention by the proponent to obtain a change in DNER's determination.

2. The incinerator does not have the guaranteed waste load it requires. As explained in prior instances in Puerto Rico waste collection and disposal fall within the authority and responsibility of municipalities; responsibility conferred to them by Public Law 81, August 30, 1991, as amended, the Autonomous Municipal Law. The Solid Waste Management Authority (SWMA) has no power to dictate where municipalities take the waste; SWMA can merely develop and promote public policy, but has no power to obligate municipalities. Therefore this project depends entirely on the support of municipalities in order to guarantee the waste flow; support that the project does not have. As expressed by both the Federation and Association of Mayors, as well as, the Municipality of Mayaguez in letters addressed to RUS (Attachment 3), and in conversations we have had with the Mayors of Isabela and San Juan, they all reiterate that municipalities will not take their waste to the incinerator and stand ready to take this matter to court. Again, RUS has firsthand knowledge and documentation of the position of the entities with jurisdiction (the municipalities), decides to ignore such determination and instead continues to wrongfully represent that the SWMA-Energy Answers waste flow contract serves as a guarantee for this project.
3. The RUS FEIS does not address the economic impact the incinerator will have on municipal governments. As mentioned above, municipalities are the entities responsible for waste collection and disposal in Puerto Rico, and therefore are the entities that will be economically impacted by the increased tipping fee this project represents. Just last week the government of Puerto Rico announced that it would reduce \$300 million in current subsidies to municipalities as a means to balance Puerto Rico's budget as mandated by the Fiscal Supervision Board appointed by the PROMESA Congressional Bill. Municipalities are alerting of the disastrous consequences of these reductions that could very well be approved by the Fiscal Supervision Board (<http://www.periodicolaperla.com/adverten-alcaldes-del-sur-lo-pide-la-junta-control-fiscal-seria-desastre-mayor-pais/>). These are subsidies currently used by municipalities precisely to handle responsibilities as waste management and disposal. RUS deliberately and irresponsibly excludes from the FEIS the required analysis on the economic and fiscal impact of this project on municipal governments.



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4. PREPA does not need and is not counting on the incinerator as a future energy source. PREPA's current levels of reserve energy exceed the capacity needed to meet demand levels as expressed recently in El Nuevo Día by PREPA's Executive Director, Javier Quintana. Maintaining a higher level of reserve would be wasteful as expressed by Luis Benítez, PREPA's Board of Director member. So contrary to what RUS indicates in the FEIS, PREPA does not need additional reserve as it maintains adequate levels.

Furthermore, RUS should be aware that in the Resolution adopted September 23, 2016 and ratified by the Energy Commission February 10, 2017 regarding PREPA's Integrated Resource Plan (which contains all planned infrastructure projects PREPA envisions for the next 20 years as required by Public Law 57 of 2014, <http://www.aeepr.com/Docs/DACO/Ley57.pdf>), the Commission states about the Energy Answers project: "PREPA did not, however, assume the project would become operational during the planning period. Neither the Energy Answers project nor any generic waste-to-energy project were included in the fleet generating units modeled in the IRP" (p. 17, Energy Commission Resolution on PREPA's IRP <http://energia.pr.gov/wp-content/uploads/2016/09/Final-Resolution-and-Order-IRP-CEPR-AP-2015-0002.pdf>). And if it is not in the IRP, PREPA just can't move forward with this project and this is established in Public Law 57 of 2014 and associated regulation adopted by the Energy Commission. This decision by the Energy Commission's is further bound by the PROMESA Congressional Bill as any project that is not contained in the IRP approved by the Commission cannot be designated as a critical project for development.

Furthermore, in a February 10, 2017 meeting between PREPA's Executive Director, Javier Quintana, community representatives, their legal counsel and CAMBIO representatives, Mr. Quintana acknowledged that the Energy Answer's incinerator was a risk laden project because of financial and regulatory uncertainties and environmental impacts, in particular as related to the generation and management of toxic ashes. He also stated they have not yet cancelled definitively this project as an attempt to minimize their legal exposure amidst the corporation's fiscal crisis.

Once again, the state agencies and entities with jurisdiction on this matter have determined this is a risky project that is not contemplated in Puerto Rico's future energy portfolio and yet RUS selectively decides to ignore this information.



5. This project would be a violation to Public Law 70 of 1992, Law for the Reduction and Recycling of Solid Waste in Puerto Rico (<https://www2.pr.gov/ogp/Bvirtual/leyesreferencia/PDF/Ambientales/70-1992/70-1992.pdf>) . Contrary to what RUS states in the FEIS, Public Law 70 of 1992 does not provide a mere listing of hierarchical value for waste management in Puerto Rico. By presenting Public Law 70 in this manner, RUS is deceiving the public and decision-makers. Public Law 70 of 1992 clearly states in Article 3: “(d) recovery of energy from waste **that cannot be reused or recycled** and as long as the energy recovery facility conserves the quality of air, water, soil and other natural resources” (translation and emphasis provided). In the description of project components contained in the RUS FEIS and all previous versions of the EIS, RUS presents there will be no sorting on plant site to remove reusable or recyclable materials, yet there is a legal mandate to remove all reusable and recyclable materials prior to combustion. Furthermore, in SWMA’s March 26, 2014 endorsement to this project, the agency reaffirms this legal requirement by indicating:  
“We reiterate that the public policy of the Commonwealth of Puerto Rico establishes that the hierarchical order for the adequate management of solid waste requires reduction, reuse and recycling as first options prior to any other alternative. To this effect, this recertification of endorsement is subject to compliance with this public policy and that **100% of recyclable materials are recovered before processing for energy recovery.**” (March 26, 2014 letter from Agustín F. Carbó Lugo, Executive Director SWMA to Mark J. Green, Energy Answers Arecibo (Attachment 4)). The design of this project has never contemplated removing reusable or recyclable materials prior to combustion. Promoting and educating communities on recycling, as presented in the RUS FEIS, does not constitute compliance with this legal requirement. Therefore, RUS would be participating in a project knowing *a priori* that its design violates state law.<sup>3</sup>

Furthermore, Law 70 also requires, that energy recovery facilities must “**conserve the quality of air, water, soil and other natural resources**”. Conservation is defined in the Merriam Webster dictionary as “a careful preservation and protection of something” (<https://www.merriam-webster.com/dictionary/conservation>) . What Public Law 70 of 1992 wants to ensure with this language is that waste-to-energy is not considered for Puerto Rico until technology is sufficiently advanced as to achieve conservation in the quality of resources. Such technology is clearly not yet available. This project will

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<sup>3</sup> For an in-depth analysis of the proposed Arecibo incineration project’s non-compliance with Law 70, see Luis E. Rodríguez-Rivera, *La incineración de basura en Puerto Rico: la máquina sigue patinando*, 85 Revista Jurídica Universidad de Puerto Rico 1 (2016).



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inherently pollute, hence the federal air permit is called “Prevention of Significant Deterioration” because it acknowledges that environmental deterioration will occur. Puerto Rico’s legal and constitutional framework has always been at the forefront in matters of resource conservation to the point that environmental resource conservation is contained as a pillar of our 1952 Constitution, element that is not present in the US Constitution. RUS evades this important analysis and context in the FEIS, thus acting defiantly at a Puerto Rico legal and constitutional mandate and, once again, offering a deceiving interpretation to the public and decision-makers.

6. The incinerator will produce toxic ash and it will not have a disposal site in Puerto Rico in which to discard it. During the past years, Puerto Rico has been the ground of an intense battle regarding the management of ash from a coal-fired power plant operated by AES Corporation and located in Guayama, Puerto Rico. The battle, initiated by communities, environmental groups and municipalities, has led to a ban in the use of coal ash in construction sites; a municipal prohibition on the use of coal ash for land cover or construction in 47 municipalities; and municipal prohibition on the disposal of coal ash in the Humacao and Peñuelas landfills, landfills that comply with RCRA Subtitle (D) requirements.

The issue on the Municipal Ordinances prohibiting the disposal of coal ash on RCRA Subtitle (D) landfills was taken all the way to Puerto Rico’s Supreme Court with a December 16, 2016 ruling that reconfirmed the legality and validity of the Municipal prohibition on coal ash disposal ([https://noticiasmicrojuris.files.wordpress.com/2016/12/opinic3b3n\\_del\\_tribunal\\_emitida\\_por\\_el\\_juez\\_asociado\\_coln\\_pc3a9rez\\_y\\_sentencia.pdf](https://noticiasmicrojuris.files.wordpress.com/2016/12/opinic3b3n_del_tribunal_emitida_por_el_juez_asociado_coln_pc3a9rez_y_sentencia.pdf) ). Currently, mountains and mountains of ashes are accumulating at the site of the coal fired plant without a place to dispose of, an issue that EPA has already raised flag upon indicating this practice is considered an open dump (December 22, 2016 letter from Barnes Johnson, EPA to Mr. Manuel Mata AES Puerto Rico (Attachment 5)). Moreover, the Puerto Rico legislature is presently considering several bills that would prohibit the disposal of coal ash anywhere in Puerto Rico. It is not difficult to assess that such legal ban would be made extensive to incinerator ash. This is a risk that is not assessed or acknowledged in the FEIS.

The fact that the Puerto Rico Supreme Court upheld the Peñuelas Municipal Ordinance prohibiting the disposal of coal ash in landfills has a direct effect on the ash to be produced by the incinerator given that Energy Answers has informed that it plans to dispose of their



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ash in the very same Peñuelas landfill (Ecosystems Landfill), a landfill banned from receiving coal ash (Attachment 6). The Mayor of Peñuelas has stated publicly that he will not allow for the disposal of the incinerator's ash any place within Peñuelas, including the landfill. We are including links to the news stories that cover Peñuelas' Mayors expressions regarding Energy Answer's incinerator ash:

<http://www.elnuevodia.com/noticias/locales/nota/alcaldenoquierelascenizasdeenergyanswers-2013278/>

<http://m.primerahora.com/noticias/gobierno-politica/nota/alcaldedepenuelasseoponealdepositodecenizasensuspueblo-1068030/>

[https://www.wapa.tv/noticias/locales/alcalde-de-penuelas-no-quiere-las-cenizas\\_20131122252663.html](https://www.wapa.tv/noticias/locales/alcalde-de-penuelas-no-quiere-las-cenizas_20131122252663.html)

The incinerator will produce over 150,000 tons/year of toxic ash and it will not have a place in Puerto Rico to dispose of it. Furthermore, the RUS FEIS does not evaluate the impact of transporting and disposing of this ash nor does it consider the environmental justice issues associated with the indicated disposal site which is near poor communities that have fought for years the disposal of toxic ashes from Guayama's coal plant.

How RUS decides to completely ignore this reality and falsely state that Energy Answers will dispose of the ash in a landfill, making no mention of existing disposal bans and the impending hazard this will present is utterly offensive and alarming!

7. Population estimates continue to undermine and misrepresent the population decline that Puerto Rico is experiencing. It is unclear where RUS is gathering population information from as source referencing is inadequate and prevents the public from corroborating the source of information. The RUS FEIS shows no reference of using US Census Data, Puerto Rico Planning Board Data, or the Puerto Rico Statistics Institute which are the sources of accurate population data and estimates for Puerto Rico.

Furthermore, if this is a new EIS, as RUS represented it was preparing, why is population information presented for year 2012? This information is absolutely irrelevant at this time. The first year of population information should be 2015. After all the US Census data is available for said year. The Puerto Rico Statistic Institute announced in December 2015 that the US Census Data for 2015 indicated that the population of Puerto Rico was



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3,474,182

([http://bibliotecavirtualut.suagm.edu/sites/default/files/publication\\_files/iepr22dic.pdf](http://bibliotecavirtualut.suagm.edu/sites/default/files/publication_files/iepr22dic.pdf)).

Population estimates for 2016 are also already available through the Census Bureau and indicate a population of 3,411,307 for said year

(<https://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?src=CF> ).

Both these numbers are already below RUS FEIS' population projection for 2020 and 2025 of 3,500,000. Furthermore, a study prepared by Puerto Rico's Economic Development Department in 2016 presents a population baseline scenario of 3,283,022 for 2020 and 3,161,742 for 2025 with the possibility of reaching 2,961,732 million in 2025

(<http://ddec.pr.gov/es/blog/wp-content/uploads/2016/12/Estudio-economico-2016-2030.pdf> ). Why RUS seeks to justify with incorrect/outdated information what is clearly an unviable project is simply puzzling. Particularly when up-to-date and reliable data is available and demonstrates this project is not sustainable. RUS is recklessly putting at risk millions of tax-payers' dollars in the process.

But even more alarming than the bogus population data is the representation of an increase in waste generation amidst decreasing population information. On what basis can RUS sustain that a decreasing population facing harsh and increasingly detrimental economic conditions will generate more waste? RUS is unfortunately using outdated information from the Solid Waste Authority (2008), and incorrect information presented by Energy Answers in the 2010 local EIS. As part of the requirements for preparing a new EIS, after discarding the preparation of a Supplemental EIS, RUS needed to obtain up to date and objective information from reliable sources.

8. The Human Health Risk Assessment (HHRA) referenced in the RUS FEIS is also the same as the one included in the flawed 2010 local EIS. This is outrageous since, as we have indicated in our previous comments to the draft RUS EIS, the study needs to be revised as it is based on incomplete information due to an absence of incorporating: an updated waste characterization study, a cumulative impact analysis, and local studies made by Colegio de Médicos de Puerto Rico and the Center for Disease Control (<http://www.cdc.gov/mmwr/preview/mmwrhtml/mm6147a4.htm>). Furthermore, the HHRA study evinces a clear bias towards favoring the project.

Moreover, the HHRA study is based on data collected at the SEMASS facility at West Wareham, Massachusetts, where the waste stream is considerably different from the Puerto Rico's waste stream. For instance, recycling rates from the municipalities that deliver waste



to SEMASS far exceed Puerto Rico recycling rate, attaining levels that are over 3 times the Island's rate. (See, for example, recycling rates for Cape Cod communities). Therefore, the base information and data used in the HHRA study is not pertinent to Puerto Rico making its conclusion on health risk not relevant to the Puerto Rico project.

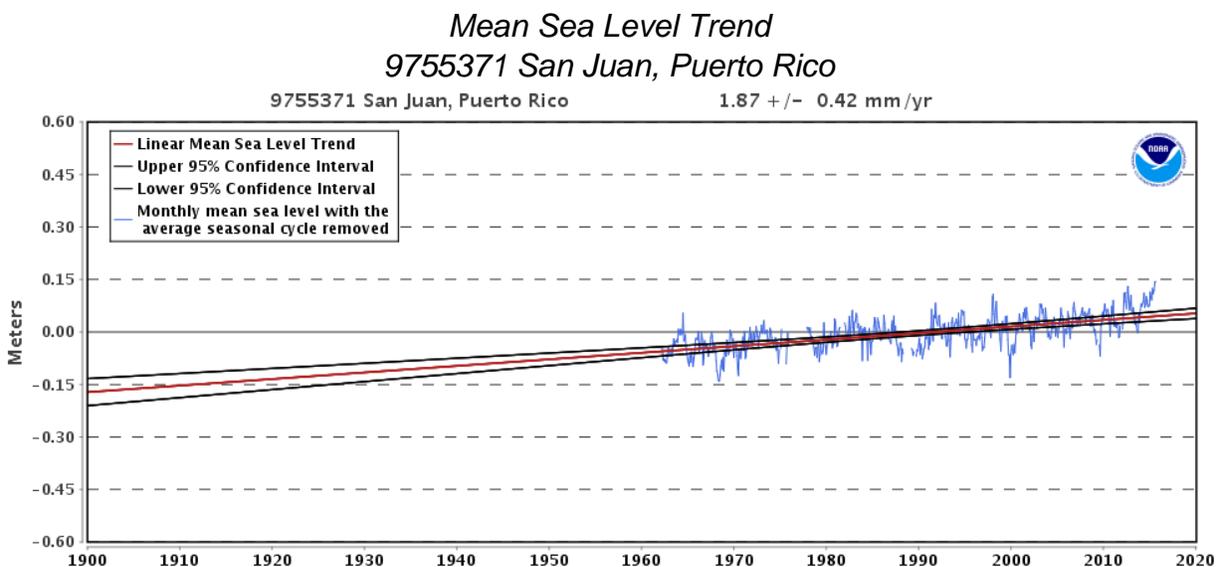
9. The RUS FEIS selectively ignores the fact that the PSD permit for this incinerator expires on April 10, 2017; in a little more than a month from now! EPA has indicated that Energy Answers will need to start anew the air permit process after this date (Attachment 7), which means initiating a process that will easily take 18-months to two years to complete. Furthermore, it would mean that if RUS were to finance this project it would do so for a project that will not have completed the required federal and local permitting process.
10. The EIS incorrectly states that this facility will displace oil-fired gas emissions, as well as, landfill gas emissions. The offset calculation presented in the RUS FEIS is based on so many assumptions and inaccuracies that it is simply unreliable. What is an undeniable fact is that the incinerator will contribute with almost one million tons/year of CO<sub>2</sub> and the effect of this contribution is what should be analyzed in the RUS FEIS.
11. RUS is in non-compliance with Executive Order 11988 on Floodplain Management and its requirement that RUS avoid to the extent possible the long and short-term adverse impacts associated with the occupancy and modification of flood plains and avoid direct and indirect support of floodplain development wherever there is a practicable alternative. According to the Order, "each agency shall provide leadership and shall take action to reduce the risk of flood loss, to minimize the impact of floods on human safety, health, and welfare, and to restore and preserve the natural and beneficial values served by flood plains in carrying out its responsibilities" for the following actions:
  - acquiring, managing, and disposing of federal lands and facilities;
  - providing federally-undertaken, financed, or assisted construction and improvements;
  - conducting federal activities and programs affecting land use, including but not limited to water and related land resources planning, regulation, and licensing activities.

Once again, RUS has relied entirely in the flawed site-selection information presented by Energy Answers in the 2010 local EIS. This is not how a new EIS is to be conducted. The RUS FEIS does not present an independent study to evaluate alternatives to the selection



of the Rio Grande de Arecibo floodplain as the site for the incinerator. Thus, RUS has not complied with the Executive Order or its guidelines which require avoiding the impacts of modifying the Rio Grande de Arecibo Floodplain.

Furthermore, there is no evaluation or consideration as to the potential effects of sea level rise on flooding levels. Documentation is available through the National Oceanic and Atmospheric Administration (NOAA) that evinces the rise in sea level already being experienced in Puerto Rico.



**The mean sea level trend is 1.87 millimeters/year with a 95% confidence interval of +/- 0.42 mm/yr based on monthly mean sea level data from 1962 to 2014 which is equivalent to a change of 0.62 feet in 100 years.**

Source: [http://tidesandcurrents.noaa.gov/sltrends/sltrends\\_station.shtml?stnid=9755371](http://tidesandcurrents.noaa.gov/sltrends/sltrends_station.shtml?stnid=9755371)

Energy Answers proposed that the project site be elevated to 6.3 meters above mean sea level to protect it from expected floods at the site. However, already floodwaters from Hurricane Georges in 1998 presented flooding at the site ranging from 5.2 to 7.3 meters above mean sea level. To this one must add the increase in the water table to be expected from rising sea levels (already occurring in Puerto Rico), and one must conclude that the modifications to be made by Energy Answers scarcely represent any protection against real potential flooding. What would be the impact to Puerto Rico and Arecibo of concentrating waste management for almost the entire island on a single facility prone to



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flooding and climate change effects such as rising sea levels? None of this is evaluated in the RUS FEIS. The site is clearly too sensitive and vulnerable and any investment there would be at risk.

Furthermore, it should be noted, that Energy Answers has not processed or obtained the required revision to the Flood Maps as required by the Puerto Rico Planning Board and FEMA. This information was confirmed to us by the Puerto Rico FEMA office and FEMA Map Exchange Program. This is a non-compliance issue that RUS is ignoring and which places RUS in violation of Executive Order 11988. RUS would thus be providing financing to a project in a floodplain without guarantee that the FEMA map modification would be obtained.

12. One of the best known axioms when studying NEPA is that the discussion of alternatives to a proposed project is the “heart of the environmental impact statement.” (Section 1502.14 of the Council on Environmental Quality Regulations, 40 C.F.R. sec. 1502.14). It is precisely while discussing alternatives to a proposed project, that a government agency can truly internalize environmental considerations into its decision-making process. Without an honest and effective discussion of alternatives, the agency is many times left with a situation in which it decides to continue with a project “by default,” even when faced by an accurate analysis of its significant environmental impact. This is why the Regulations of the Council on Environmental Quality (“CEQ regulations”) set very clear criteria for the adequate discussion of alternatives in an EIS document. More precisely, CEQ regulations clearly specify that an EIS document must:

“(a) Rigorously explore and objectively evaluate all reasonable alternatives, and for alternatives which were eliminated from detailed study, briefly discuss the reasons for their having been eliminated.

(b) Devote substantial treatment to each alternative considered in detail including the proposed action so that reviewers may evaluate their comparative merits.

(c) Include reasonable alternatives not within the jurisdiction of the lead agency.

(d) Include the alternative of no action. . .” (*Id.*).

Although the Energy Answers incineration project is primarily a solid waste management strategy, the RUS FEIS document does not evaluate well-known and available alternatives, such as the reduction, reuse and recycling of solid waste. This is particularly irresponsible in the context of Puerto Rico, where, as we have discussed above, the long-standing public



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policy on the matter is to favor the implementation of reduction, reuse and recycling/composting of solid waste, particularly over incineration and landfilling.

Instead, the RUS FEIS document presents a superficial discussion of alternatives, all within the waste to energy realm. Here, once again, it is evident that the RUS FEIS document is a biased and self-serving document aimed at justifying the Energy Answers incineration project.

13. The RUS FEIS ignores and does not consider the impact the project will have beyond the limited range defined. However, it is clear that the project will impact beyond the limits established due to:

- waste will be hauled from all parts of the Island, (as discussed in the ABC report submitted with our Draft EIS comments, the waste catchment area will need to be expanded beyond the 34 municipalities in order to comply with the waste volume required by the facility. The impact of and cost of transporting waste from all over the island is not even considered),
- toxic ash will be disposed of in the South and East of Puerto Rico,
- adverse effect on the milk industry and agricultural activity which could impact food security and costs to all Puerto Ricans on the island,
- negative effect of the project on recycling efforts all throughout the island,
- negative effect on the surrounding environmentally-sensitive, ecologically-rich and important natural resources that serve the entire Island.

In conclusion, just like in earlier versions, the RUS FEIS is plagued with incorrect and outdated information, thus its conclusions on the impacts and risks of the incinerator are simply wrong. **The RUS FEIS continues to incorporate the same incomplete, inaccurate and flawed information used in the 2010 local EIS.** The use of this information is irresponsible and misleading. RUS has just decided to ignore comments made by us and other parties as part of the Scoping and Draft EIS process which is why we resubmit them in their entirety as part of our RUS FEIS comments (Attachment 1).

Furthermore, **the RUS FEIS is ignoring current determinations and rulings by state agencies and entities as well as Puerto Rico Supreme Court decisions with direct impact over the viability of this project.** We would not like to think that through this FEIS and the consideration of financing, RUS is trying to force the hand of state and local agencies and entities so as to reverse current determinations that do not favor this project. As RUS has been made aware previously this



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is a project that has gotten this far because of irresponsible and illegal maneuvers. The Arecibo incinerator is a project that, if financed by RUS, will end up as an uncollectible loan because it is financially, environmentally and socially unsustainable.

Sincerely,

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Ingrid M. Vila Biaggi, MS, PE

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Luis E. Rodríguez Rivera, Esq.

/enclosures