Mr. Hiram J. Torres-Montalvo
Puerto Rico Limpio
PMB 136 LaCumbre
273 Sierra Morena
San Juan, PR 00926-5542

Dear Mr. Torres:

This letter is in response to your September 1, 2016, letter to U.S. Environmental Protection Agency (EPA) Administrator Gina McCarthy regarding municipal solid waste disposal in the Commonwealth of Puerto Rico.

EPA continues to invest significant effort into ensuring the abatement of potential endangerments posed by municipal solid waste landfills in Puerto Rico. EPA has issued administrative orders and entered into a consent decree that together address twelve of the landfills, and we are overseeing the implementation of these requirements. The most recent of the orders were issued in September 2016 and dealt with the landfills in the Municipalities of Arroyo and Cayey. Copies of these orders and the consent decree are available at: https://www.epa.gov/pr/puerto-rico-landfill-consent-orders-and-consent-decrees.

In general, these orders and consent decree require substantive and comprehensive operational improvements at the landfills, the permanent cessation by a date certain of the receipt of waste at the landfills, preparation of proper landfill closure plans, and full implementation of those closure plans according to schedules approved by EPA. The latest closure is scheduled for 2020. The negotiated time period allowed for closure takes into account the financial constraints of the municipalities. Four of the twelve landfills (or waste cells) have already either permanently closed, achieved interim closure, or permanently ceased waste acceptance, and a fifth landfill is now accepting only limited amounts of waste. EPA continues to investigate the landfills on the island, and where necessary, will take legal action to protect human health and the environment. Thus, it is not correct to suggest that EPA has failed to act to protect public health and the environment from potential adverse impacts from the municipal solid waste landfills in Puerto Rico. A fact sheet summarizing EPA's work to address Puerto Rico landfills is enclosed.

Several of the administrative orders EPA has issued in recent years also provide that certain landfills may build new, compliant waste disposal cells to ensure that there is adequate space for future municipal solid waste disposal. There are now ten landfills operating fully-lined disposal cells in the Commonwealth, providing safe and affordable solid waste disposal capacity to many of the financially strapped municipalities. Further, all of EPA's recent orders require that the landfills develop and implement, if feasible, photovoltaic and gas-to-energy systems. While photovoltaic systems have been proposed, they have yet to be funded; however, gas-to-energy systems are now operational at two of the landfills covered by EPA orders. Further, all but one of EPA's orders requires the municipalities to implement comprehensive recycling and composting programs.

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EPA has also worked to get mosquito control plans in place for all Puerto Rico landfills. Beginning in April 2016, EPA sent letters to the landfills under EPA order, requiring them to submit and immediately implement mosquito control plans. EPA expects to include such a requirement in any future orders as well, relating to Puerto Rico landfills. These plans are especially important to help prevent Zika transmission on the island. To date, 15 landfills have already put such plans in place. More recently, letters requesting that plans be developed, submitted to the Puerto Rico Environmental Quality Board (EQB), and implemented, have been sent to all the operating landfills not under EPA order. EPA is also working to help EQB and the Puerto Rico Solid Waste Management Authority address scrap tire piles in the Commonwealth, which are not only a fire hazard, but also pose a risk of harboring mosquitoes that may transmit the Zika virus and other diseases.

With respect to your suggestion that EPA withdraw its approval of EQB's solid waste permitting program, two important facts should be kept in mind: 1) even if EPA did withdraw approval of the program, that would not result in EPA having the authority to issue municipal solid waste landfill permits in Puerto Rico and to run Puerto Rico's solid waste program. The Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6901, *et seq*., does not give EPA that authority. Rather, we would need EQB to continue to run a permit program for solid waste management facilities. This is the framework contemplated by RCRA. 2) Irrespective of whether solid waste program approval is withdrawn, EPA retains its authority under Section 7003 of RCRA to require the abatement of imminent and substantial endangerments, as we have done at many of the landfills in Puerto Rico.

In summary, EPA Region 2 has prioritized numerous actions to reduce threats to health and the environment posed by Puerto Rico landfills, improve their operations and require their proper closure, and we continue to do so.

If you have questions or would like to discuss this matter further, please contact Mr. Leonard Grossman of EPA Region 2 at (212) 637-4039 or grossman.lenny@epa.gov. Thank you.

Sincerely,

Judith A. Enck
Regional Administrator

Enclosure

CONCURRENCES								
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