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*Unofficial translation from the Spanish original*

**ANNEX 2**

June 21, 2013

# Confederación Hidrográfica del Guadiana

D. José Díaz Mora, presidente de la CHG.

Avda Sinforiano Madroño s/n  
06011 Badajoz

SUBJECT: Action of appeal against the alleged resolution by administrative silence

Mr. Félix Lorenzo Donoso , legal aged , with domicile with the object of notifications in 17 Guadalupe Street , 06200 Almendralejo ( Badajoz ) , DNI 9154113K , telephone 675 043 835 , as a representative of the Plataforma Contra Contamination de Almendralejo , registered in the record of Associations of the Local Ministry of Presidency of Autonomous Government of Extremadura with the number 3,829 , in front of You , is in attendance and , how best proceed in jure,

## EXPOSES:

1. This Association has to make good reminder those duties you contracted in this case. A duty to act as established in Articles 42 of the Law 30/1992 of 26 November (LRJPAC) 1.c and 10 of Law 27/2006. In establishing the obligation to dictate a resolution on as many requests are formulated by stakeholders and whose failure could result in the requirement for liability under paragraph 3 of Article 42 of Law 30/1992 of 26 November..
2. That, not being satisfied with the alleged resolution, based on the provisions of Articles 114 and 115 of Law 30/1992, of 26 November, on the Legal Regime of Public Administrations and the Common Administrative Procedure, as amended by Law 4/1999, lodged in time and legal form, Appeal of Appeals, which is based on the following

## FINDINGS OF FACT:

1. On April 29, 2013, our association sent a letter requesting information regarding various environmental issues on the Harnina and the Picadas streams. (Copy attached).).
2. We have not received a reply to the request referred to in paragraph 1.

## LEGAL ASSESSMENT

First: As set out in Law 30/1992 of 26 November on the Legal Regime of Public Administrations and the Common Administrative Procedure.

*“Article 42. Obligation to settle.*

*1. The Administration is required to make an express ruling on all procedures and notify whatever form of initiation.*

*Where limitation, renunciation of the right, revocation of proceedings or abandonment of the application, as well as the disappearance of the occurrence under consideration, the resolution shall be the statement of the circumstances in each case concurs, stating the facts produced and applicable standards. Exceptions to the obligation which the first paragraph refers to, the alleged termination of the proceeding by pact or agreement and the procedures for the exercise of rights subject only to the obligation of prior notification to the Administration.*

*2. The deadline to be notified on the specific resolution will be set by the relevant regulatory standard procedure. This period may not exceed six months unless a regulation having the force of law and set one or more expected to come in European Community law.*

*7. The personnel of public administrations having responsibility for the dispatch of business, as well as holders of the competent administrative bodies to instruct and resolve are directly responsible, in the scope of its authority, compliance with the legal obligation to make an express ruling on time.*

*Failure to comply with this requirement will result in disciplinary action requirement, subject to which they are entitled according to the regulations.”*

Second: Act 27/2006, of 18 July, by which the rights of access to information, public participation and access to justice in environmental matters are regulated (incorporates Directives 2003/4/EC and 2003 / 35/CE) provides:

*Article 10. Requests for environmental information.*

*2. Such procedures shall comply with at least the guarantees below:*

*c) The competent public authority to resolve facilitate environmental information requested or notify the applicant of the reasons for the refusal to provide it, considering the schedule specified by the applicant as soon as possible and no later than at the times listed below :*

*1.º Within a maximum period of one month from the receipt of the application in the register of the competent public authority to resolve it, in general.*

2.º *Within two months of receipt of the application in the register of the competent public authority to resolve, if the volume and complexity of the information is such that it is impossible to meet the deadline indicated above. In this case the applicant shall be informed, within a maximum period of one month, of any extension of the former, and the reasons for it.*

*For communicating a refusal to provide information, notification shall be in writing or electronically, if the application is made in writing or if the applicant so requests. The notice will also inform you about the procedure provided for in accordance with Article 20.*

Third: The Court of Justice of the European Communities (Second Chamber) on 21 April 2005 in Case C-186/04, which considers an implied refusal, is contrary to Directive 90/313/EEC. The Court reached this conclusion because the Directive requires that the refusal is motivated, which leads the Court to declare that the administrative silence is not valid as a form of denial of a request for environmental information..

For all these reasons,

I REQUEST: that this application be accepted and having been filed appeal against the said alleged decision, so that estimation can proceed and, consequently, to refer to our association environmental information requested.

Almendralejo, June 21, 2013

El presidente



Félix Lorenzo Donoso

*Plataforma Contra la Contaminación de Almendralejo*

*Unofficial translation from the Spanish original*