



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 2  
CARIBBEAN ENVIRONMENTAL PROTECTION DIVISION  
CITY VIEW PLAZA II BUILDING, 7<sup>TH</sup> FLOOR  
ROUTE 165 GUAYNABO, PUERTO RICO 00968

February 10, 2023

**Via Email & Certified Mail - Return Receipt Requested**

USPS Number 7015 0920 0000 4438

Ms. Andrea M. Cordero  
Compliance Manager  
DCN Administrative & Recycling Corp.  
Ciudad Jardín 1  
81 Verdolaga Street  
Gurabo, Puerto Rico 00778  
Email: [acordero@dncorporation.com](mailto:acordero@dncorporation.com)

**Re: Administrative Compliance Order  
DCN Administrative & Recycling Corp.'s Recycling Facility in Carolina, Puerto Rico  
Docket Number CWA-02-2023-3103  
NPDES ID: PRR05J026**

Dear Ms. Cordero:

The United States Environmental Protection Agency ("EPA"), Region 2, has made findings that DCN Administrative & Recycling Corp. ("Respondent") is in violation of Sections 301(a) and 402 of the Clean Water Act ("Act"), 33 U.S.C. §§ 1311(a) and 1342. Enclosed are two (2) originals of the Administrative Compliance Order ("Order"), Docket Number CWA-02-2023-3102, issued pursuant to Section 309(a) of the Act, 33 U.S.C. §1319(a). Please return Attachment 2 of the Order via electronic mail and certified mail (or its equivalent) to acknowledge receipt of this Order. The acknowledgement of receipt and any other documents to be submitted to EPA as part of this Order shall be sent to the following designated EPA official:

Jaime López  
Senior Physical Scientist  
Clean Water Act Team  
Multimedia Permits and Compliance Branch  
Caribbean Environmental Protection Division  
City View Plaza II, Suite 7000  
48 RD. 165 Km. 1.2  
Guaynabo, Puerto Rico 00968-8069  
Email: [lopez.jaime@epa.gov](mailto:lopez.jaime@epa.gov)  
Telephone: (787) 977-5851

Failure to comply with the enclosed Order may subject Respondent to civil and/or criminal penalties pursuant to Section 309 of the CWA. Further, failure to comply with this Order may also subject Respondent to ineligibility for participation in work associated with Federal contracts, grants, or loans.

If you have any questions regarding this matter, please contact Mr. López at (787) 977-5851, or via email at [lopez.jaime@epa.gov](mailto:lopez.jaime@epa.gov).

Sincerely,

**CARMEN**

**GUERRERO PEREZ**

Carmen R. Guerrero Pérez

Director

Caribbean Environmental Protection Division

Digitally signed by CARMEN  
GUERRERO PEREZ

Date: 2023.02.10 13:14:32  
-04'00'

Enclosure

cc: Ángel Meléndez, DNER/WQA (via email w/ enclosure)

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 2**

**IN THE MATTER OF:**

**DCN ADMINISTRATIVE & RECYCLING CORP.**

Ciudad Jardín 1  
81 Verdolaga Street  
Gurabo, Puerto Rico 00778

**Facility Name**

**DCN RECYCLING**

PR-887 Road, Km. 1.3, Sector La Palmita  
Martín González Ward  
Carolina, Puerto Rico 00987

NPDES Tracking Number: PRR05J026

**RESPONDENT**

Proceeding pursuant to Section 309(a) of the Clean Water Act, 33 U.S.C. § 1319(a)

**ADMINISTRATIVE COMPLIANCE  
ORDER**

**DOCKET NUMBER  
CWA-02-2023-3102**

**I. STATUTORY AUHTORITY**

1. This Administrative Compliance Order (“Order”) is issued pursuant to the authority vested in the Administrator of the United States Environmental Protection Agency (“EPA”) pursuant to Section 309(a) of the Clean Water Act (“CWA” or the “Act”), 33 U.S.C. § 1319(a).
2. The Administrator has delegated the authority to take these actions to the Regional Administrator of Region 2, who in turn, has delegated such authority to the Director of the Caribbean Environmental Protection Division.
3. Section 301(a) of the CWA, 33 U.S.C. § 1311(a), provides in part that “[e]xcept as in compliance with [CWA Section 402], the discharge of any pollutant by any person shall be unlawful.”
4. Section 402 of the CWA, 33 U.S.C. § 1342, defines the National Pollutant Discharge Elimination System (“NPDES”) as the national program for, among other things, issuing and enforcing discharge permits.

5. Section 402 of the CWA authorizes the Administrator to promulgate regulations for the implementation of the NPDES requirements.
6. Section 402(a)(1) of the CWA, 33 U.S.C. § 1342(a)(1), provides that “the Administrator may, after opportunity for public hearing, issue a permit for the discharge of any pollutant upon condition that such discharge will meet such requirements as the Administrator determines are necessary to carry out the provisions of the [CWA].”
7. Section 402(p)(2)(B) of the CWA authorizes the Administrator of EPA to issue NPDES permits to storm water discharges associated with industrial activity.
8. Pursuant to Section 402(p)(3)(A) of the Act, 33 U.S.C. § 1342(p)(3)(A), permits for discharges associated with industrial activity shall meet all applicable provisions of Sections 301 and 402 and of the CWA, 33 U.S.C. §§ 1311 and 1342.
9. Pursuant to the CWA, EPA promulgated regulations known as “EPA Administered Permit Programs: the National Pollutant Discharge Elimination System,” which was codified at 40 C.F.R. Part 122, as amended.
10. Pursuant to the NPDES regulations at 40 C.F.R. § 122.1(b)(1), the NPDES Permit Program requires permits for the discharge of any pollutant from any point source into waters of the United States.
11. Pursuant to 40 C.F.R. § 122.21(a)(1), any person who discharges or proposes to discharge pollutants, and who does not have an effective permit, must submit a complete NPDES permit application to EPA.
12. Pursuant to 40 C.F.R. § 122.21(a)(2)(i), all applicants for EPA-issued NPDES permits must submit applications on EPA permit application forms. More than one application form may be required from a facility depending on the number and types of discharges or outfalls found there.
13. Pursuant to 40 C.F.R. § 122.21(c)(1), facilities proposing a new discharge of storm water associated with industrial activity shall submit an application 180 days before that facility commences industrial activity which may result in a discharge of storm water associated with that industrial activity. Different submittal dates may be required under the terms of applicable general permits.
14. Pursuant to the CWA, EPA promulgated NPDES regulations defining the term “storm water discharge associated with industrial activity.” 40 C.F.R. § 122.26(b)(14).
15. Pursuant to the NPDES regulations at 40 C.F.R. §§ 122.26(a)(1)(v) and 122.26(b)(14), certain categories of facility operators are required to obtain an NPDES permit for storm water discharge associated with industrial activity.

16. Facility operators involved in recycling of materials, including metal scrapyards, and automotive salvage yards are considered to be engaging in industrial activity for purposes of the definition of “storm water discharge associated with industrial activity.” 40 C.F.R. § 122.26(b)(14)(vi).
17. The CWA and its implementing NPDES regulations contain the following definitions:
  - a. “Administrator” means the Administrator of EPA, or an authorized representative. 40 C.F.R. § 122.2;
  - b. “Best Management Practices” or “BMPs” mean schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of “waters of the United States.” BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage. 40 C.F.R. § 122.2;
  - c. "discharge of a pollutant" means any addition of any pollutant to navigable waters and/or waters of the United States from any point source. Section 502(12) of the CWA, 33 U.S.C. § 1362(12), and 40 C.F.R. § 122.2;
  - d. “facility” means any NPDES point source or any other facility or activity (including land or appurtenances thereto) that is subject to the regulations of the NPDES program. 40 C.F.R. § 122.2;
  - e. “industrial activity” means the categories of facilities included as part of the definition of “storm water discharge associated with industrial activity”. 40 C.F.R. §§ 122.26(b)(14)(i)-(xi);
  - f. "navigable waters" means the waters of the United States, including the territorial seas. Section 502(7) of the CWA, 33 U.S.C. § 1362(7);
  - g. “owner” or “operator” means the owner or operator of any facility or activity subject to regulation under the NPDES program. 40 C.F.R. § 122.2;
  - h. “permit” means an authorization, license, or equivalent control document issued by EPA or an “approved State” to implement the requirements of 40 C.F.R. Parts 122, 123 and 124. The term “permit” does not include any permit which has not yet been the subject of final agency action, such as a “draft permit” or a “proposed permit.” 40 C.F.R. § 122.2;
  - i. "person" means an individual, corporation, partnership or association. Section 502(5) of the CWA, 33 U.S.C. § 1362(5), and 40 C.F.R. § 122.2;
  - j. "point source" means any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which

pollutants are or may be discharged. Section 502(14) of the CWA, 33 U.S.C. § 1362(14), and 40 C.F.R. § 122.2;

- k. "pollutant" includes solid waste, dredged spoil, rock, sand, cellar dirt, sewage, sewage sludge and industrial, municipal and agricultural waste discharged into water. Section 502(6) of the CWA, 33 U.S.C. § 1362(6), and 40 C.F.R. § 122.2;
- l. "territorial seas" means the belt of the seas measured from the line of ordinary low water along that portion of the coast which is in direct contact with the open sea and the line marking the seaward limit of inland waters, and extending seaward a distance of three miles. Section 502(8) of the CWA, 33 U.S.C. § 1362(6);
- m. "site" means the land or water area where any "facility" or "activity" is physically located or conducted, including adjacent land used in connection with the facility or activity. 40 C.F.R. § 122.2;
- n. "storm water discharge associated with industrial activity" means the discharge from any conveyance that is used for collecting and conveying storm water that is directly related to manufacturing, processing or raw materials storage areas at an industrial plant. 40 C.F.R. §§ 122.2 and 122.26(b)(14); and
- o. "waters of the United States" means the territorial seas, waters which are currently used, were used or may be susceptible to use in interstate or foreign commerce, including waters which are subject to the ebb and flow of the tide, tributaries, lakes, ponds, impoundments of jurisdictional waters and wetlands. 40 C.F.R. §§ 120.2 and 122.2.

18. The following "definitions" and "terms" apply in this Order:

- a. "Non-structural BMP" means best management practices that generally consist of processes, prohibitions, procedures, and schedules of activities that prevent pollutants associated with industrial activity from contacting with storm water discharges and authorized non-stormwater discharges. They are considered low technology, cost-effective measures, and do not involve construction and installation, and usually work by changing behavior, persuasion and/or economic instruments;
- b. "Standard Operating Procedure(s)" or "SOP(s)" means the established or prescribed method(s) to be followed routinely for the performance of designated environmental compliance activities, operations, or in designated situations; and
- c. "Structural BMP" means the fixed, permanent physical structures and equipment requiring planning, design construction and maintenance that are designed to remove pollutants from storm water runoff, reduce downstream erosion, provide flood control and promote groundwater recharge.

19. On September 29, 2021, EPA signed and issued the 2021 Multi-Sector General Permit for Stormwater Discharges Associated with Industrial Activity in the Commonwealth of Puerto Rico (the “2021 MSGP” or the “Permit”) under the provisions of the CWA.
20. The 2021 MSGP became effective on September 29, 2021, and expires on February 28, 2026.
21. Part 1.2. of the 2021 MSGP establishes the eligibility and Notice of Intent (“NOI”) filing requirements for operators of industrial activities covered under the 2021 MSGP. Specifically, Table 1-2 of Part 1.2.1.3 of the 2021 MSGP required operators of industrial activities that were authorized for coverage under the 2021 MSGP, to file an electronic NOI no later than May 18, 2021. Upon submittal of the electronic NOI, the 2021 MSGP becomes effective thirty (30) days after EPA notifies the applicant that it has received a complete electronic NOI, unless EPA notifies the applicant that the authorization to discharge has been denied or delayed.
22. Additionally, Part 1.2.1 and Part 5 of the 2021 MSGP required operators of industrial activities covered under a previous version of the permit [2015 MSGP] to update the existing SWPPP to include all provision included in the permit prior to submitting the electronic NOI for coverage under the 2021 MSGP.
23. Upon the electronic NOI submittal, the discharge authorization under the 2021 MSGP becomes effective thirty (30) days after EPA notifies the applicant that it has received a complete electronic NOI, unless EPA notifies the applicant that the authorization to discharge has been denied or delayed.
24. Section 8 of the 2021 MSGP includes Sector-Specific Requirements for Industrial Activity. Specifically, Sections 8.M and Section 8.N of the Permit details the requirements for Automotive Salvage Yards facilities, and Scrap Recycling and Waste Recycling facilities, respectively.
25. Requirements under Section 8.M of the 2021 MSGP apply to any industrial activity for which its Standard Industrial Classification (“SIC”) Code is 5015.
26. Requirements under Section 8.N of the 2021 MSGP apply to any industrial activity for which its SIC Code is 5093.
27. Appendix A of the 2021 MSGP contains the following definitions:
  - a. “measurable storm event” - a precipitation event that results in a measurable amount of precipitation (i.e., a storm event that results in an actual discharge) and that follows the preceding storm event by at least 72 hours (3-days). The 72-hour storm interval does not apply if you document that less than a 72-hour interval is representative for local storm events;
  - b. “Municipal Separate Storm Sewer (MS4)” - defined at 40 C.F.R. § 122.26(b)(8) as a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains):

- i. owned or operated by a state, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, stormwater, or other wastes, including special districts under state law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under section 208 of the CWA that discharges to waters of the United States;
  - ii. designed or used for collecting or conveying stormwater;
  - iii. which is not a combined sewer; and
  - iv. which is not part of a Publicly Owned Treatment Works (“POTW”) as defined at 40 C.F.R. § 122.2. See 40 C.F.R. §§ 122.26(b)(4) and (b)(7).
- c. “non-stormwater discharges” - discharges that do not originate from storm events. They can include, but are not limited to, discharges of process water, air conditioner condensate, non-contact cooling water, pavement wash water, external building wash-down, irrigation water, or uncontaminated ground water or spring water;
- d. “operator” - any entity with a storm water discharge associated with industrial activity that meets either of the following two (2) criteria:
- i. the entity has operational control over industrial activities, including the ability to modify those activities; or
  - ii. the entity has day-to-day operational control of activities at a facility necessary to ensure compliance with the permit (e.g., the entity is authorized to direct workers at a facility to carry out activities required by the permit).
- e. “qualified personnel” - those individuals who are knowledgeable in the principles and practices of industrial storm water controls and pollution prevention, and who possess the education and ability to assess conditions at the industrial facility that could impact storm water quality, and the education and ability to assess the effectiveness of storm water controls selected and installed to meet the requirements of the permit;
- f. “significant materials” - include, but is not limited to: raw materials; fuels; materials such as solvents, detergents, and plastic pellets; finished materials such as metallic products; raw materials used in food processing or production; hazardous substances designated under section 101(14) of CERCLA; any chemical the facility is required to report pursuant to section 313 of Title III of SARA; fertilizers; pesticides; and waste products such as ashes, slag and sludge that have the potential to be released with storm water discharges; and

- g. “storm event” - a precipitation event that results in a measurable amount of precipitation.
28. Part B.1 (Duty to Comply) of Appendix B of the 2021 MSGP required the permittee to comply with all conditions of the 2021 MSGP. Any permit noncompliance constitutes a violation of the CWA and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application.
29. Part B.2 (Duty to Reapply) of Appendix B of the 2021 MSGP indicated that if the permittee wished to continue an activity regulated by the permit after its expiration date, the permittee must apply for and obtain authorization as required by the new permit once issued by EPA.
30. Section 309(a)(3) of the CWA, 33 U.S.C. § 1319(a)(3), provides that “[w]henver on the basis of any information available . . . the Administrator finds that any person is in violation of [CWA Sections 301 and 308], or is in violation of any permit condition or limitation implementing any of such sections in a permit issued under [Section 402 of the Act, the Administrator] shall issue an Order requiring such person to comply with such section. . . .”
31. Section 309(a)(5)(A) of the CWA, 33 U.S.C. § 1319(a)(5)(A), provides that “[a]ny Order issued under [CWA Section 309] shall be by personal service, shall state with reasonable specificity the nature of the violation, and shall specify a time for compliance . . . taking into account the seriousness of the violation and any good faith efforts to comply with applicable requirements.”
32. EPA is the agency within the Commonwealth of Puerto Rico with authority to administer the federal NPDES program. EPA maintains enforcement authority for violations of the CWA and its implementing regulations.

## II. FACTUAL FINDINGS

33. DCN Administrative & Recycling, Corp. (“Respondent”) is a for-profit corporation organized under the laws of the Commonwealth of Puerto Rico. Respondent was established on November 3, 2016 and is registered in the Puerto Rico Department of State under registration number 386313.
34. Respondent is the owner and/or operator of a facility, known as DCN Recycling Plant Facility (the “Recycling Plant”). The Recycling Plant is located at PR-887 Road, Km. 1.3, Sector La Palmita, Martín González Ward, Carolina, P.R. 00987
35. On August 16, 2022, an EPA official reviewed several EPA’s enforcement and compliance databases to determine Respondent’s compliance with Act and the NPDES stormwater permit application regulations (the “Record Review”).
36. The Record Review revealed that on June 25, 2021, Respondent submitted an electronic NOI form to EPA to seek coverage for storm water discharges associated with industrial activities under the 2021 MSGP. Respondent’s coverage under the 2021 MSGP became effective on August 24, 2021, under NPDES tracking number PRR05J026.

37. According to the NOI filed by Respondent, the industrial activities at the Recycling Plant mainly consist of the operating and managing scrap materials, waste materials and automotive salvage yards. The industrial activities at the Recycling Plant are best described by the primary and secondary SIC codes of 5093 (automobile salvage yards) and 5015 (scrap recycling facilities), respectively.
38. On August 16, 2022, an EPA official conducted a NPDES Stormwater Reconnaissance Inspection (“Reconnaissance Inspection”) of the Recycling Plant.
39. On August 31, 2022, an EPA official conducted an off-site walkthrough of the nearby areas surrounding the Recycling Plant.
40. The purpose of the Reconnaissance Inspection and the off-site visit walkthrough was to evaluate Respondent’s compliance with the Act, the NPDES stormwater permit regulations and the 2021 MSGP.
41. The observations and findings of the Reconnaissance Inspection and the off-site visit walkthrough were summarized in the NPDES Stormwater Reconnaissance Inspection Report (“Inspection Report”), dated November 1, 2022, and transmitted to Respondent. See Attachment 1 of this Order for a copy of the EPA’s letter of transmittal and Inspection Report.
42. The August 16, 2022, Reconnaissance Inspection of the Recycling Plant revealed, among other things, the following:
  - a. Respondent has not minimized the contact of stormwater with stockpiled materials, processed materials, and nonrecyclable wastes through implementation of control measures such as the following: permanent or semi-permanent covers; sediment traps, and sand filters to facilitate settling or filtering of pollutants; dikes, berms, containment trenches, culverts, and surface grading to divert stormwater from storage areas; and dry absorbents for areas where potential sources of residual fluids are stockpiled (e.g., automobile engine storage). Refer to Part 8.N.3.1.2 of the 2021 MSGP (Scrap and Waste Material Stockpiles and Storage Outdoor);
  - b. Respondent has not minimized the potential for leaks, spills and other releases from sources (automotive salvage vehicles) that may be exposed to stormwater and develop plans for effective response to such spills if or when they occur in order to minimize pollutant discharges. Respondent has not implemented spill prevention and response measures. Refer to Part 2.1.2.4 and 8.N.3.1.7 of the 2021 MSGP;
  - c. Respondent has not implemented stormwater runoff management control measures to minimize discharges of pollutants in stormwater such as the following: berms or drainage ditches on the property line (to help prevent run-on from neighboring properties); berms for uncovered outdoor storage of oily parts, engine blocks, and above-ground liquid storage; installation of detention ponds; and installation of filtering devices and functional oil and water separators which were not designed, operated or maintained at the Recycling Plant . Refer to Part 2.1.2.6 and 8.M.2.3 of the 2021 MSGP;

- d. Respondent has not kept clean all exposed areas that are potential sources of pollutants. Lack of good housekeeping measures in order to minimize pollutant discharges was not observed. Refer to Part 2.1.2. of the 2021 MSGP (Good Housekeeping);
  - e. Facility has not implemented storm water runoff management control measures to minimize discharges of pollutants in storm water such as the following: berms or drainage ditches on the property line (to help prevent run-on from neighboring properties); berms for uncovered outdoor storage of oily parts, engine blocks, and above-ground liquid storage; installation of detention ponds; and installation of filtering devices and functional oil and water separators which were not designed, operated or maintained at the Facility; Refer to Part 2.1.2.6 and 8.M.2.3 of the MSGP; and
  - f. Outfall 001 sampling point structure is not adequate to collect representative samples.
43. During the August 31, 2022, off-site visit walkthrough, the EPA official observed, among other things, the following:
- a. stormwater flow was observed discharging from inside of the Recycling Plant to the Municipality of Carolina (“MOC”) MS4 sidewalk caused by the overflow of the oil/water separator and storm water accumulated at other industrial areas bypassing the system; and
  - b. evidence of oil and grease in a stagnant water pond that is located at the other side of Palmita Street across from the Outfall 001 location. This pond receives stormwater from MOC MS4 and the Recycling Plant which overflows discharges into the ditch and had presence of oil and grease accumulation.
44. A review of the in EPA NetDMR database performed on August 11, 2022, revealed that Respondent has not submitted any required monitoring data to EPA for the Recycling Plant as required by the 2021 MSGP.

### **III. CONCLUSION OF LAW AND FINDINGS OF VIOLATIONS**

- 45. Respondent is subject to the provisions of the CWA, 33 U.S.C. § 1251, *et seq.*, and the applicable NPDES permit application regulations found at 40 C.F.R. § 122.
- 46. Respondent is a “person” pursuant to Section 502(5) of the CWA, 33 U.S.C. § 1362(5).
- 47. At all relevant times to this Order, Respondent was and is the owner/operator of the Recycling Plant.
- 48. The Recycling Plant is a “facility” as defined in 40 C.F.R. § 122.2.
- 49. The Recycling Plant is a “point source” pursuant to Section 502(14) of the CWA, 33 U.S.C. § 1362(14).

50. Stormwater runoff containing “pollutants” associated with industrial activities conducted at the Recycling Plant is collected in the facility stormwater collection system, which in turn discharges into the MOC MS4.
51. The MOC MS4 is hydrologic connected to an underground pipe that conveys the stormwater to a small impoundment area located at the other side of the Palmata Street discharging into an unnamed creek that is tributary to the Quebrada Blasina, which in turn flows into Río Grande de Loíza and eventually discharges into the Atlantic Ocean, a territorial sea and water of the United States.
52. The unnamed creek, the Quebrada Blasina, the Río Grande de Loíza, and the Atlantic Ocean are waters of the United States pursuant to Section 502(7) of the CWA, 33 U.S.C. § 1362(7), and 40 C.F.R. § 122.2.
53. Respondent violated Sections 301(a) and 402(p) of the Act, 33 U.S.C. §§ 1311(a) and 1342(p), respectively, for its failure to comply with conditions and requirements of the 2021 MSGP; therefore, Respondent is subject to an enforcement action under Section 309(a) of the Act, 33 U.S.C. § 1319(a).

#### **IV. ORDERED PROVISION**

In consideration of the Findings of Fact and Conclusions of Law and Findings of Violation above, and pursuant to the authority of Section 309(a) of the CWA, 33 U.S.C. § 1319(a), it is hereby ORDERED that:

54. **Except as otherwise indicated in this Order**, at all times Respondent shall comply with the CWA, its NPDES implementing regulations, and the 2021 MSGP.
55. **Within five (5) days upon receipt of this Order by certified mail**, an authorized representative of the Respondent shall complete the acknowledgement of receipt included as **Attachment 2** of this Order and return it via electronic mail to Jaime López, Senior Physical Scientist, at [lopez.jaime@epa.gov](mailto:lopez.jaime@epa.gov). Also, Respondent shall mail, by certified mail (or its equivalent), the original of the signed acknowledgement of receipt to Jaime Lopez to the address specified in paragraph 62, below.
56. **That immediately upon receipt of this Order by certified mail** and pursuant to Section 301(a) of the Act, 33 U.S.C. § 1311(a), Respondent shall cease and desist the discharge of any waste stream not authorized under Part 1.2.2.1 of the 2021 MSGP (authorized non-stormwater discharges) from the Facility into waters of the United States, except with authorization and in compliance with the requirements and conditions under another NPDES permit for which Respondent applies for and obtains coverage.
57. **Within one hundred and twenty (30) calendar days of receipt of this Order by certified mail**, Respondent shall perform an Engineering Evaluation, or revise any existing Engineering Evaluation, on the management of storm water to include a Hydrology and Hydraulic Study related to stormwater run-on, and runoff collection and discharge system from the Recycling Plant

including a schedule with the expected completion date of each task. The study should provide at a minimum, for the following:

- a. assess the capacities of stormwater runoff collection and discharge units of the storm water management system of the Recycling Plant;
- b. assess the functional state of the stormwater runoff collection and discharge and management systems in place (that is; the effectiveness of management of storm water coming into, flowing through, and being discharged out of the Recycling Plant;
- c. identify existing point sources of storm water run-on, and character of these point sources contributing to problems being experienced at the Recycling Plant;
- d. propose potential technical solutions or remedies to identify BMPs that addresses the pollutants (e.g., oil and grease) in the discharge through Outfall 001;
- e. evaluate the expected amount, frequency, intensity, and duration of precipitation; the nature of storm water runoff and run-on at the site, including factors such as expected flow from impervious surfaces, slopes, and site drainage features. Respondent must design storm water controls to control storm water volume, velocity, and peak flow rates to minimize discharges of pollutants in storm water; and the soil type and range of soil particle sizes expected to be present on the Recycling Plant; and
- f. erosion and Sediment Controls to minimize pollutant discharges. Respondent must also evaluate the use of structural and non-structural control measures to minimize the discharge of sediment.

The potential technical solutions selected in the Engineering Evaluation shall be included as one of the milestones and schedules of the Work Plan to be developed and submitted in accordance to paragraph 58, below.

58. **Within thirty (60) days of receipt of this Order by certified mail,** Respondent shall prepare and submit a Work Plan, for EPA's review, to achieve compliance with the 2021 MSGP. The Work Plan shall describe the specific tasks to be performed, including a schedule with the expected completion date of each task. All activities included in the Work Plan shall be completed within hundred and twenty (120) calendar days from the receipt date of this Order and shall contemplate dates for the Monthly Progress Reports submittal, as indicated in paragraph 59 below.

The Work Plan shall address the findings in the Inspection Report, and, at a minimum, include the following:

- a. a description of the planned improvements, and maintenance and/or replacement of the existing BMPs, as required in Parts 2 and 5 of the 2021 MSGP;

- b. revision of the SWPPP dated August 2021, to comply with the requirements of Parts 4 and 5 of the 2021 MSGP;
- c. implementation of corrective actions pursuant to Part 4 of the 2021 MSGP in order to comply with the benchmarks and impaired waters established in Part 5.5.2 of the 2021 MSGP;
- d. monitoring of benchmarks and impaired waters at Outfall 001, as required in Part 4 4.2; Indicator monitoring (Part 4.2.1); Benchmark monitoring (Part 4.2.2); and Impaired waters monitoring (Part 4.2.5); and of the 2021 MSGP;
- e. preparation and implementation of a rainfall data collection, management, and record-keeping Standard Operating Procedure at the Recycling Plant;
- f. preparation and implementation of a storm water sampling Standard Operating Procedure at the Recycling Plant;
- g. fixed-date schedules for the implementation of BMPs to achieve compliance, as required in Parts 2 and 6.2.5 of the 2021 MSGP; and
- h. estimated costs of achieving compliance, including capital costs of the proposed BMPs, including the operations and maintenance (“O&M”) costs associated with any future plan developed as part of the Work Plan. The estimated cost shall include, at a minimum, but not limited to, monitoring equipment, labor, and laboratory analysis cost, training of personnel, etc., which will be required to implement the plan and correct the findings of violations.

59. **Until Termination of this Order**, Respondent shall prepare and submit Monthly Progress Reports (“MPR”) on the 1<sup>st</sup> day of the month describing the status and progress of the actions taken to comply with the provisions of this Order. Respondents shall:

- a. Submit the first MPR on April 1, 2023, and every 30 days thereafter (e.g., May 1, 2023).
- b. MPR shall include, at a minimum, the following:
  - i. The actions taken during the reporting period.
  - ii. Description of any non-compliance with this Order, including a statement describing the non-compliance, its underlying causes, and a proposed new date(s) to rectify non-compliance with this Order.
  - iii. A cost report detailing the expenses incurred during the reporting period.

## V. GENERAL PROVISIONS

60. Any questions concerning this Order should be directed to Jaime López, Senior Physical Scientist, Clean Water Act Team, Multimedia Permits and Compliance Branch, Caribbean Environmental Protection Division, at (787) 977-5851, or by email at [lopez.jaime@epa.gov](mailto:lopez.jaime@epa.gov). For information about the stormwater program, Respondent may review EPA's web site at <https://www.epa.gov/npdes/stormwater-discharges-industrial-activities-epas-2021-msgp>.
61. Any documents to be submitted by Respondent as part of this Order shall be sent by electronic mail and by certified mail (or its equivalent), and shall be signed by an authorized representative of Respondent (see 40 C.F.R. § 122.22), and shall include the following certification:
- "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."
62. All information required to be submitted under this Order shall be sent by electronic mail and by certified mail (or its equivalent) to the following contacts and their addresses:

Ángel Meléndez  
Director  
Water Quality Area  
Department of Natural and Environmental Resources  
P. O. Box 11488  
San Juan, Puerto Rico 00910  
Email: [angel.melendez@drna.pr.gov](mailto:angel.melendez@drna.pr.gov)

and

Jaime López  
Senior Physical Scientist  
Clean Water Act Team  
Multimedia Permits and Compliance Branch  
Caribbean Environmental Protection Division  
U.S. Environmental Protection Agency, Region 2  
City View Plaza II, Suite 7000  
48 RD. 165 Km. 1.2  
Guaynabo, Puerto Rico 00968-8069  
Email: [lopez.jaime@epa.gov](mailto:lopez.jaime@epa.gov).

63. Within twenty (20) calendar days from the effective date of this Order, Respondent shall have the opportunity to confer regarding Part IV of this Order (Ordered Provisions), with the following designated EPA representatives:

José A. Rivera, BSCE  
Team Leader  
Clean Water Act Team  
Multimedia Permits and Compliance Branch  
Caribbean Environmental Protection Division  
U.S. Environmental Protection Agency, Region 2  
City View Plaza II, Suite 7000  
48 RD. 165 Km. 1.2  
Guaynabo, Puerto Rico 00968-8069  
Email: [rivera.jose@epa.gov](mailto:rivera.jose@epa.gov)  
Telephone: (787) 977-5842

and/or

Jaime López  
Senior Physical Scientist  
Clean Water Act Team  
Multimedia Permits and Compliance Branch  
Caribbean Environmental Protection Division  
U.S. Environmental Protection Agency, Region 2  
City View Plaza II, Suite 7000  
48 RD. 165 Km. 1.2  
Guaynabo, Puerto Rico 00968-8069  
Email: [lopez.jaime@epa.gov](mailto:lopez.jaime@epa.gov)  
Telephone: (787) 977-5851

64. Respondent has the right to seek immediate federal judicial review of the Order pursuant to Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-706. Section 706, which is set forth at <http://uscode.house.gov/download/pls/05C7.txt>, provides the grounds for such review.
65. This Order does not constitute a waiver from compliance with, or a modification of, the effective terms and conditions of the CWA, the TPDES implementing regulations, or the Permit, which remain in full force and effect. This Order is an enforcement action taken by EPA to ensure swift compliance with the CWA. Issuance of this Order shall not be deemed an election by EPA to forego any civil or criminal actions for penalties, fines, imprisonment, or other appropriate relief under the CWA.
66. Notice is hereby given that failure to comply with the terms of the CWA Section 309(a)(3) Compliance Order may result in Respondent's liability for civil penalties for each violation of up to \$64,618 per day under Section 309(d) of the CWA, 33 U.S.C. § 1319(d), as modified by 40 C.F.R. Part 19. Upon suit by EPA, the United States District Court may impose such penalties if

the Court determines that Respondent has violated the CWA as described above and failed to comply with the terms of this Order. The District Court has the authority to impose separate civil penalties for any violations of the CWA and for any violations of this Order.

- 67. If any provision of this Order is held by a court of competent jurisdiction to be invalid, any surviving provisions shall remain in full force and effect.
- 68. This Order shall become effective upon the date of execution by the Director, Caribbean Environmental Protection Division.

Dated: February 10, 2023

Signed: \_\_\_\_\_

**CARMEN  
GUERRERO  
PEREZ**

Digitally signed by CARMEN  
GUERRERO PEREZ  
Date: 2023.02.10 13:19:29  
-04'00'

**CARMEN R. GUERRERO PÉREZ**  
Director  
Caribbean Environmental Protection Division

Attachment 1 – November 1, 2022, NPDES Stormwater Reconnaissance Inspection Report  
Attachment 2 – Acknowledgement of Receipt of Order

cc: Director, Water Quality Area  
Puerto Rico Department of Natural and Environmental Resources