



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

June 5, 2023

**Via Certified Mail – Return Receipt Requested**

Mr. Héctor Rodríguez Valle  
President  
Transporte Rodríguez Asfalto, Inc.  
P. O. Box 1239  
Hormigueros, Puerto Rico 00660

**Re: Information Request Pursuant to Section 308 of the Clean Water Act  
Construction Activities including Earth Movement Activities  
PR-2 Road, Km. 139.2, Cerro Gordo Ward, Aguada, Puerto Rico  
Request for Information ID: CEPD-CWA-02-IR-2023-006  
NPDES ID: PRU598765**

Dear Mr. Rodríguez Valle:

The United States Environmental Protection Agency (“EPA” or “Agency”) is charged with the protection of human health and the environment under the Clean Water Act (“CWA” or “Act”), 33 U.S.C. §§ 1251 *et seq.* Section 301(a) of the CWA, 33 U.S.C. § 1311(a), provides in part that except as in compliance with Section 402 of the CWA, 33 U.S.C. § 1342, the discharge of any pollutant by any person shall be unlawful. Please be advised that the CWA and implementing regulations require operators of construction activities and small construction activities to apply for and obtain coverage under a National Pollutant Discharge Elimination System (“NPDES”) permit pursuant to Sections 301(a) and 402(p) of the CWA, 33 U.S.C. § 1311(a) and 1342(p).<sup>1</sup>

On April 26, 2022, an EPA official observed earth movement activities at a site located approximately at PR-2 Road, Km. 139.2, Cerro Gordo Ward, Aguada, Puerto Rico (the “Site”). Based on information depicted on a sign located at the Site, Transporte Rodríguez Asfalto, Inc. (“TRA”) may have conducted such earth movement activities. Therefore, EPA is investigating this matter for possible non-compliance with Sections 301(a) and 402(p) of the CWA and implementing regulations.

**A. REQUEST FOR INFORMATION**

Section 308(a) of the CWA provides that whenever it is necessary to carry out the objectives of the CWA, including determining whether a person is in violation of Section 301 of the CWA, EPA shall require the submission of any information reasonably necessary to make such a

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<sup>1</sup> Refer to 40 C.F.R. §§ 122.26(b)(14)(x) and 122.26(b)(15) for the definition of storm water discharges associated with “construction activity” or “small construction activity”, respectively

determination. Under the authority of Section 308 of the CWA, EPA may require the submission of information necessary to assess the compliance status of any site and its related appurtenances.

EPA is hereby requesting information from TRA pursuant to the authority granted under Section 308(a) of the CWA concerning the Site.<sup>2</sup> This information will be used to determine TRA's compliance with Sections 301(a) and 402 of the CWA.

Please review and follow the instructions in Enclosure 1 (Instructions and Definitions); review the information being requested in Enclosure 2 and submit the information requested therein; and submit a signed and dated Statement of Certification (Enclosure 3), which is to be signed and dated by a TRA authorized officer pursuant to the signatory requirements in 40 C.F.R. § 122.22. This statement certifies that the response submitted to the EPA is complete and contains all documents and information responsive to this Request for Information ("RFI") that are known to you, following a complete and thorough review of all information and sources available to you.

**B. ACKNOWLEDGEMENT OF RECEIPT AND DELIVERY OF INFORMATION**

Please acknowledge receipt of this letter upon receipt by sending an electronic mail to José A. Rivera at [rivera.jose@epa.gov](mailto:rivera.jose@epa.gov). *EPA requests that TRA submits all the requested information within fifteen (15) calendar days of receipt of this letter.*

The electronic delivery of TRA's response to this Request for Information is strongly encouraged. To the extent possible, any documents to be submitted in response to this Request for Information should be in Portable Document Format ("PDF"). The requested information must be sent to the following EPA Region 2 designated official:

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, PR-165, Km 1.2  
Guaynabo, Puerto Rico 00968-8069  
Email: [rivera.jose@epa.gov](mailto:rivera.jose@epa.gov).

If you are without access to a computer and must submit the response by U.S. mail, TRA should notify Mr. José A. Rivera at (787) 977-5842, or by email at [rivera.jose@epa.gov](mailto:rivera.jose@epa.gov), when it sends a document in such a manner.

Please be advised that TRA is under a continuing obligation to supplement its response if information not known or not available to TRA as of the date of submission of its response should later become known or available to TRA. In this instance, TRA must supplement the response to EPA within ten (10) business days.

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<sup>2</sup> The approximate coordinates of the Site are: 18° 19' 35.61" N; 67° 8' 57.45" W.

If at any time in the future TRA becomes aware of additional information or find that any portion of the submitted information is false, misleading or misrepresents the truth, TRA must notify EPA of this fact immediately and provide a corrected response within ten (10) business days. If any part of the response is found to be untrue, TRA may be subject to criminal prosecution.

**C. RESPONSIBILITY TO RESPOND TO THIS REQUEST FOR INFORMATION**

Failure to comply in all respects with this Request for Information may result in the initiation of an enforcement action under Section 309 of the Act, 33 U.S.C. §1319, under which injunctive relief and penalties may be sought.

This Request for information is not subject to the approval requirements of the Paperwork Reduction Act of 1980, 44 U.S.C. §§ 3501-3520. TRA may, if so desire, assert a business confidentiality claim covering all or part of the information requested by this letter. A business confidentiality claim may be asserted by placing on (or attaching to) the information, at the time it is submitted, a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as “trade secret” or “proprietary” or “company confidential.” Information covered by such a claim will be disclosed by EPA only in accordance with and by means of procedures set forth in Sub-Part B, 40 C.F.R. Part 2.

If no such claim accompanies the information contained in the response to the Request for Information when it is received by EPA, it may be made available to the public by EPA without further notice to TRA. You should read the above-cited statutory and regulatory provisions carefully before asserting a business confidentiality claim, since certain categories of information are not properly the subject of such a claim. Allegedly confidential portions of otherwise non-confidential documents should be clearly identified. If TRA desires confidential treatment of information only until a certain date or until the occurrence of a certain event, TRA’s response should state so.

EPA encourages you and TRA personnel to become familiar with the Small Business Resource Information Sheet. This Information Sheet provides an array of resources, including workshops, training sessions, hotlines, websites and guides, to help small businesses understand and comply with federal and state environmental laws. In addition to helping small businesses understand their environmental obligations and improve compliance, these resources will also help such businesses find cost-effective ways to comply through pollution prevention techniques and innovative technologies. The Information Sheet is available at <https://www.epa.gov/sites/default/files/2017-06/documents/smallbusinessinfo.pdf>.

If you have any questions concerning this matter, please contact Mr. José A. Rivera, Team Leader, Clean Water Act Team, at (787) 977-5842, or through email at [rivera.jose@epa.gov](mailto:rivera.jose@epa.gov).

Sincerely,

CARMEN GUERRERO PEREZ

Digitally signed by CARMEN GUERRERO PEREZ  
Date: 2023.06.05 06:40:54 -04'00'

Carmen R. Guerrero-Pérez

Director

Caribbean Environmental Protection Division

Enclosures

# ENCLOSURE 1

## INSTRUCTIONS

In responding to this Request for Information, please apply the following instructions, definitions, and information:

- a. Please use the RFI ID Number CEPD-CWA-02-IR-2023-006 when referring to this Request for Information.
- b. The signatory should be an officer or agent who is authorized to respond on behalf of TRA pursuant to the National Pollutant Discharge Elimination System (“NPDES”) signatory requirements regulations codified at 40 C.F.R. § 122.22.
- c. A complete separate response must be made to each individual question in this RFI. Identify each answer with the number of the question to which it is addressed and precede each answer with the question to which it is addressed.
- d. Interpret “and” as well as “or” to include within the scope of the question as much information as possible. If two interpretations of a question are possible, use the one that provides more information.
- e. In preparing your response to each question, consult with all present and former employees, agents and/or contractors whom you have reason to believe may be familiar with the matter to which the question pertains, regardless of whether the source is in your immediate possession.
- f. In answering each question, identify all contributing sources of information.
- g. If you are unable to answer a question in a detailed and complete manner or if you are unable to provide any of the information or documents requested, indicate the reason for your inability to do so. If you have reason to believe that there is an individual who may be able to provide more detail or documentation in response to any question, state that person's name and last known address and phone number and the reasons for your belief.
- h. If anything is deleted from a document produced in response to this Request for Information, state the reason for and the subject matter of the deletion.
- i. For each document produced in response to this Request for Information, indicate on the document or in some other reasonable manner, the number of the question to which it applies. If a document is requested but is not available, state the reason for its unavailability.
- j. For terms referred in this Request for Information, you will find its meaning in Section 502(5) of the Act, 33 U.S.C. § 1362, and NPDES regulations at 40 C.F.R. § 122.2. When referring to the “construction activities” and small construction activities, TRA shall include all those activities that involved earth movement activities, as defined in Appendix A (Definitions and Acronyms) of the 2022 National Pollutant Discharge Elimination System (“NPDES”) Construction General Permit for

Stormwater Discharges from Construction activities (“2022 CGP”). The 2022 CGP is found at <https://www.epa.gov/npdes/2022-construction-general-permit-cgp>. 87 Fed. Reg. 3522 (January 24, 2022).

## **ENCLOSURE 2**

### **INFORMATION REQUESTED**

#### **Information about the Ownership of the Site**

1. Identify the owner(s) of the Site being developed and provide their addresses, emails and contact telephone numbers.
2. Indicate the date when the current owner(s) acquired the Site.

#### **Information related to the Site and Preparation for Construction Activity**

1. Submit copy of the property deed of the Site.
2. Submit a legible copy of any land surveys, soil studies, and hydrologic/hydraulic studies prepared for the Site during the last five (5) years.
3. Submit a description of the development and nature of the construction activities at the Site.
4. Submit a detailed description of the Site prior initiation of earth movement activities, including but not limited to the topography, type of soil, vegetative coverage, structures, roads, and storm water runoff path.
5. Submit a copy of a prepared schematic of the planned build-out of the Site, featuring existing and proposed installations, Best Management Practices implemented and planned, access roads, landing scaping, and green spaces, etc.
6. Submit a copy of any NPDES permit application that TRA prepared and submitted to EPA (e.g., Notice of Intent under the 2022 CGP) for the Site.
7. Submit a copy a Storm Water Pollution Prevention Plans (“SWPPP”) that TRA prepared for the Site, including all attachments thereto.
8. Submit a copy of any written plans and drawings developed concerning erosion and sediment controls and soil stabilization practices for the Site, including those developed under the Puerto Rico Department of Environmental and Natural Resources’ (“DNER”) Regulation for the Control of Erosion and Prevention of Sedimentation (known as “CES Regulations”).<sup>3</sup>
9. Submit a copy of any permit and authorization issued by the Puerto Rico Permit Administration Office (known as “OGPe”) and DNER and all of the documents related to these permits, including but not limited to the “Plan de Control de Erosión y Sedimentación” (“Plan CES”).

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<sup>3</sup> <http://app.estado.gobierno.pr/ReglamentosOnLine/Reglamentos/5754ING.pdf>

**Information about Construction Activities at the Site**

10. Submit the names of all contractors, past and present, that engaged in clearing, grading and/or excavation activities at the Site during the past three (3) years. Include a description of their activities at the Site, and their addresses, phone numbers, emails, and names of officers.
11. Submit a copy of the construction-related contracts for the construction companies that have been engaged, and presently engaged in the development of the Site.
12. A copy of the most recent construction schedule for the Site.
13. Provide documents and reports required to be prepared and submitted to either Federal and/or Commonwealth of Puerto Rico's agencies involved in the review and approval processes regarding development of the Site, including clearance for earth movement and broader construction activities. Such documents should include prepared environmental impact statements and environmental assessment reports. Also, submit copies of the approval correspondences received from the respective approval agencies.

**Information about Clearing, Grubbing and Grading at the Site**

14. Submit the date when TRA mobilized to the Site.
15. Submit the date when TRA began earth movement activities at the Site.
16. Submit the periods of time when TRA ceased earth movement activities at the Site.
17. Submit the total area of surface soil (in acres) that TRA has disturbed at the Site as of the date of this letter.
18. Submit a detailed description of the existing conditions of the Site, including but not limited to the topography, type of soil, vegetative coverage, structures, roads, and stormwater runoff path at this time.
19. Submit the total area of surface soil (in acres) that TRA will disturb at the Site at the completion of the construction activities at the Site.
20. Submit the expected date when TRA will be completing construction activities at the Site.
21. Submit suitable aerial photographs taken following phases of work that have been completed at the Site.

**Information about Erosion and Sediment Controls and Soil Stabilization**

22. Submit a description of the erosion and sediment controls and soil stabilization practices implemented in those areas in which clearing, grubbing and grading were conducted from the time construction started at the Site.

23. Submit the dates when these erosion and sediment controls and soil stabilization practices were implemented at the Site. Submit any records that documents these activities.
24. Provide a copy of any written plans and drawings developed concerning erosion and sediment controls and soil stabilization practices for the Site over the last five (5) years.
25. Submit legible pictures depicting the slopes resulting from earth movement activities.

**Information about Stormwater Collection, Management and Conveyance**

26. Submit a description of the storm water collection, management, and conveyance systems (both temporary and permanent installations) in the areas in which clearing, grubbing and grading were conducted at the Site.
27. Submit a copy of any written plans and drawings developed concerning storm water collection, and management practices, and conveyance of such from the Site (e.g., storm sewers drawings).
28. Indicate whether earth movement and construction activities were ever suspended or ceased at the Site due to rain/precipitation events. Submit the dates when any such incidents occurred.

**Information about Outfalls and Receiving Waters**

29. Submit a map depicting the location each outfall at the Site, including locations where stormwater runoff from the Site enters a municipal separate storm sewer system (e.g., Road PR-2 storm water collection system near the Site).
30. Submit the names of the surface water bodies in the immediate or closest vicinity of the Site.

**Information about Conduct of Commercial Business Activities at the Site**

31. Provide a description all business activities that are conducted at the Site. Provide the dates when each identified business activity began.
32. Provide a description of any construction support activity being conducted and staged on the Site.

**Information about Management and Disposal of Generated Sanitary Wastewater**

33. Submit a description of the wastes generated from the construction activities and related construction support activities at the Site. Submit a description of the practices for proper management of all such generated wastes from the Site. Submit any documentation, including, receipts for waste management equipment purchased, and for proper disposal of generated wastes.
34. Submit a description of the method of collection, treatment and disposal of sanitary wastes that is generated from all activities presently conducted and proposed to be developed at the Site.

**ATTACHMENT 3**

**STATEMENT OF CERTIFICATION**

I certify that I have examined and am familiar with the information in the enclosed documents, including all attachments. Based on my personal inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are, to the best of my knowledge and belief, true and complete. I am aware that there are significant penalties for knowingly submitting false statements and information, including the possibility of fines or imprisonment pursuant to Section 309 of the CWA, 33 U.S.C. § 1319, and 18 U.S.C. §§ 1001, 1341 and 1505.

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(Signature)

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(Printed Name)

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(Title)

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(Date)