



EPA REGION 2  
CARIBBEAN ENVIRONMENTAL PROTECTION DIVISION

October 31, 2024

**Via Email**

Mr. Javier J. Vázquez Bravo, Esq.  
Vicepresident  
Landfill Technologies of Arecibo, LLC  
P. O. Box 1322  
Gurabo, Puerto Rico 00778  
Email: [jvazquez@landfillpr.com](mailto:jvazquez@landfillpr.com)

**Re: Request for Information and Administrative Compliance Order  
Arecibo Municipal Solid Waste Landfill  
Docket Number CWA-02-2025-3100  
NPDES ID: PRR053153**

Dear Mr. Vázquez Bravo:

The United States Environmental Protection Agency ("EPA"), Region 2, has made findings that Landfill Technologies of Arecibo, LLC ("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 is the original of the Request for Information and Administrative Compliance Order ("Order"), Docket Number CWA-02-2025-3100, issued pursuant to Section 309(a) of the Act, 33 U.S.C. §1319(a).

Please return Attachment 1 of the Order via electronic mail 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:

José A. Rivera, BSCE  
Team Leader  
Clean Water Act Team  
Multimedia Permits and Compliance Branch  
Email: [rivera.jose@epa.gov](mailto:rivera.jose@epa.gov)

and

CITY VIEW PLAZA II BUILDING, 7<sup>TH</sup> FLOOR  
ROUTE 165 GUAYNABO, PR 00968

Jaime López  
Senior Physical Scientist  
Clean Water Act Team  
Multimedia Permits and Compliance Branch  
Email: [lopez.jaime@epa.gov](mailto:lopez.jaime@epa.gov)

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 R. Guerrero Pérez  
Director  
Caribbean Environmental Protection Division

Enclosure

cc: Ángel Meléndez, DNER/WQA (via email w/ enclosure)  
Sonia Feliciano Heredia, LTA (via email w/ enclosure)  
Jose C. Zayas Sepulveda, LTA (via email w/ enclosure)

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 2**

**IN THE MATTER OF:**

**LANDFILL TECHNOLOGIES OF ARECIBO, LLC**

P. O. Box 1322  
Gurabo, Puerto Rico 00778

**Facility**

**ARECIBO SOLID WASTE MUNICIPAL LANDFILL**

PR-682 Road, Garrochales Ward  
Arecibo, Puerto Rico

NPDES ID Number PRR053153

**RESPONDENT**

Proceeding pursuant to Sections 308(a) and 309(a) of the Clean Water Act, 33 U.S.C. §§ 1318(a) and 1319(a)

**REQUEST FOR INFORMATION  
AND ADMINISTRATIVE  
COMPLIANCE ORDER**

**DOCKET NUMBER  
CWA-02-2025-3100**

**I. STATUTORY AUTHORITY**

1. This Request for Information and Administrative Compliance Order (together, the “Order”) is issued to Landfill Technologies of Arecibo, LLC (“LTA”) pursuant to the authority vested in the Administrator of the United States Environmental Protection Agency (“EPA”) pursuant to Sections 308(a) and 309(a) of the Clean Water Act (“CWA” or the “Act”), 33 U.S.C. §§ 1318(a) and 1319(a), respectively.
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 (“CEPD”).

**II. LEGAL AUTHORITY**

3. Section 301(a) of the CWA, 33 U.S.C. § 1311(a), makes it unlawful for any person to discharge any pollutant from a point source to waters of the United States, except, among other things, with the authorization of, and in compliance with, a National Pollutant Discharge Elimination System (“NPDES”) permit issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342.
4. Section 402 of the CWA, 33 U.S.C. § 1342, defines the NPDES as the national program for, among other things, issuing and enforcing discharge permits.

5. Section 402 of the CWA, 33 U.S.C. § 1342, authorizes the Administrator to promulgate regulations for the implementation of the NPDES requirements.
6. Section 402 of the CWA, 33 U.S.C. § 1342, authorizes the Administrator of EPA to issue an NPDES permit for the discharge of any pollutant, or combination of pollutants, subject to certain requirements of the CWA and conditions which the Administrator determines are necessary.
7. Section 402(p)(2)(B) of the CWA, 33 U.S.C. § 1342(p)(2)(B), authorizes EPA to issue NPDES permits to stormwater discharges associated with industrial activity.
8. Pursuant to Section 402(p)(3)(A) of the CWA, 33 U.S.C. § 1342(p)(3)(A), permits for stormwater 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. EPA is the agency within the Commonwealth of Puerto Rico with authority to administer the NPDES program. EPA maintains enforcement authority for violations of the CWA and its implementing regulations pursuant to Section 309 of the CWA, 33 U.S.C. § 1319.
11. 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.
12. 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.
13. 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. “Director” means the Regional Administrator or the State Director, as the context requires, or an authorized representative. 40 C.F.R. § 122.2;
  - c. “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;
  - d. “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;
  - e. “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;

- f. "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);
  - 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, leachate, 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. "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;
  - m. "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
  - n. "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.
14. 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, except persons covered by general permits under 40 C.F.R. § 122.28, excluded under 40 C.F.R. § 122.3, or a user of a privately owned treatment works unless the Director requires otherwise under 40 C.F.R. § 122.44(m), must submit a complete application to the Director in accordance with this section and 40 C.F.R Part 124.
15. 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.

16. 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.
17. Pursuant to 40 C.F.R. § 445, Subpart B, non-hazardous waste landfills are subject to specific technology-based effluent limitations, including Biological Oxygen Demand, Total Suspended Solids, Total Nitrogen (as NH<sub>3</sub>),  $\alpha$ -Terpineol, Benzoic acid, *p*-Cresol, Phenol, Zinc, and pH.
18. Pursuant to the CWA, EPA promulgated NPDES regulations for storm water discharges associated with industrial activity.” 40 C.F.R. §§ 122.21 and 122.26(a)(1)(ii).
19. Pursuant to the NPDES regulations at 40 C.F.R. §§ 122.26(a)(1)(ii) and 122.26(b)(14), operators of certain facilities are required to obtain an NPDES permit for storm water discharge associated with industrial activity.
20. Operators of landfills, land application sites, and open dumps that receive or have received any industrial wastes 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)(v).
21. On January 15, 2021, EPA issued 2021 NPDES 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 and NPDES regulations. The 2021 MSGP became effective on March 1, 2021, and expires on February 28, 2026.<sup>1</sup> 86 Fed. Reg. 10269.
22. Pursuant to the NPDES regulations, on September 29, 2021, EPA issued a minor modification to the 2021 MSGP that became effective on September 29, 2021.<sup>2</sup> The expiration date of the modified MSGP remains February 28, 2026.
23. Part 1.2 of the 2021 MSGP describes the types of discharges authorized under the permit.
24. Part 1.3 of the 2021 MSGP includes the requirements for obtaining authorization to discharge under the permit, including Notice of Intent (“NOI”) filing requirements for operators of industrial activities covered under the Permit.
25. Table 1-2 of Part 1.3.3 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 30, 2021. Upon submittal of the electronic NOI, coverage 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.

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<sup>1</sup> The 2021 MSGP replaced the 2015 NPDES Multi-Sector General Permit for Stormwater Discharges Associated with Industrial Activity in the Commonwealth of Puerto Rico (“2015 MSGP”). 80 Fed. Reg. 34403.

<sup>2</sup> Refer to <https://www.epa.gov/system/files/documents/2021-07/2021-msgp-errata.pdf> and <https://www.epa.gov/system/files/documents/2021-07/2021-msgp-modification-memo-to-permittees.pdf>.

26. Parts 1.3.1 and 6 of the 2021 MSGP required operators of industrial activities covered under the 2015 MSGP to update the existing Storm Water Pollution Prevention Plan (“SWPPP”) to include all provision included in the Permit prior to submitting the electronic NOI for coverage under the 2021 MSGP.
27. Part 3.2 of the 2021 MSGP requires that once each quarter for your entire Permit coverage, the permittee must collect a stormwater sample from each discharge point (except as noted in Part 3.2.4) and conduct a visual assessment of each of these samples. These samples are not required to be collected consistent with 40 C.F.R. Part 136 procedures but must be collected in such a manner that the samples are representative of the stormwater discharge. Part 3.2.3 of the 2021 MSGP requires the permittee to document the results of the visual assessments and maintain this documentation onsite with the SWPPP, as required in Part 6.5 of the Permit.
28. Part 4 of the 2021 MSGP requires the permittee to collect and analyze stormwater samples and document monitoring activities consistent with the procedures described in Part 4 and Appendix B (Subsections B.10 – 12) of the Permit, and any additional sector-specific requirements in Part 8 of the Permit.
29. Part 4.2.6 of the 2021 MSGP indicates that EPA may notify a permittee of additional stormwater discharge monitoring requirements that EPA determines are necessary to meet the Permit’s effluent limitations. Any such notice will briefly state the reasons for the monitoring, locations, and parameters to be monitored, frequency and period of monitoring, sample types, and reporting requirements.
30. Part 5.1.1 of the 2021 MSGP requires the permittee, when any of the following conditions occur or are detected during an inspection, monitoring or other means, or EPA or the operator of the MS4 through which you discharge informs you that any of the following conditions have occurred, to review and revise, as appropriate, the SWPPP (e.g., sources of pollution; spill and leak procedures; non-stormwater discharges; the selection, design, installation and implementation of your stormwater control measures) so that the Permit’s effluent limits are met and pollutant discharges are minimized:
  - a. Part 5.1.1.1 - An unauthorized release or discharge (e.g., spill, leak, or discharge of non-stormwater not authorized by this or another NPDES permit to a water of the United States) occurs at your facility.
  - b. Part 5.1.1.2 - A discharge violates a numeric effluent limit listed in Table 2-1 and/or in your Part 8 sector-specific requirements.
  - c. Part 5.1.1.3 - Stormwater control measures are not stringent enough for your stormwater discharge to be controlled as necessary such that the receiving water of the United States will meet applicable water quality standards or to meet the non-numeric effluent limits in the Permit.
  - d. Part 5.1.1.4 - A required control measure was never installed, was installed incorrectly, or not in accordance with Parts 2 and/or 8, or is not being properly operated or maintained.
  - e. Part 5.1.1.5 - Whenever a visual assessment shows evidence of stormwater pollution (e.g., color, odor, floating solids, settled solids, suspended solids, foam).
31. Part 6.3 of the 2021 MSGP requires the permittee to modify the SWPPP based on any corrective actions and deadlines required under Part 5 of the Permit. Such part also requires the permittee to sign and date any SWPPP modifications in accordance with Appendix B, Subsection 11.

32. Section 8 of the 2021 MSGP includes Sector-Specific Requirements for Industrial Activity. Specifically, Sections 8.L of the 2021 MSGP details the requirements for Landfills, Land Application Sites, and Open Dumps facilities.
33. The requirements under Section 8.L of the 2021 MSGP apply to the industrial activities defined in 40 C.F.R. § 122.26(b)(14)(v).
34. 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. “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;
  - c. “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).
  - d. “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;
  - e. “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
  - f. “storm event”- a precipitation event that results in a measurable amount of precipitation.
35. Part B.1 (Duty to Comply) of Appendix B of the 2021 MSGP requires 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.

36. Part B.3 (Need to Halt or Reduce Activity Not a Defense) of Appendix B of the 2021 MSGP indicates that it shall not be a defense for you in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.
37. Part B.8 (Duty to Provide Information) of Appendix B of the 2021 MSGP requires the permittee to furnish to EPA or an authorized representative (including an authorized contractor acting as a representative of EPA), within a reasonable time, any information which EPA may request to determine whether cause exists for modifying, revoking and reissuing, or terminating the permit or to determine compliance with the permit. The permittee must also furnish to EPA or an authorized representative upon request, copies of records required to be kept by the permit.
38. Part B.8 (Monitoring and Records) of Appendix B of the 2021 MSGP indicates that samples and measurements taken for the purpose of monitoring must be representative of the volume and nature of the monitored activity.
39. 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.
40. Section 308(a)(A) of the CWA provides that “[w]henver required to carry out the objective of . . . [CWA Section 402] the Administrator shall require the owner or operator of any point source to (i) establish and maintain such records, (ii) make such reports, (iii) install, use, and maintain such monitoring equipment or methods (including where appropriate, biological monitoring methods), (iv) sample such effluents (in accordance with such methods, at such locations, at such intervals, and in such manner as the Administrator shall prescribe), and (v) provide such other information as [the Administrator] may reasonably require.”
41. 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...”

42. 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.”

### III. FACTUAL FINDINGS

43. The Municipality of Arecibo (“MOA”) is a municipality created under the laws of the Commonwealth of Puerto Rico.
44. MOA is the owner of the Arecibo Solid Waste Municipal Landfill (the “Landfill”) located at PR-682 Road, Garrochales Ward, Arecibo, Puerto Rico (the “Site”).
45. LTA is a for-profit corporation organized under the laws of the Commonwealth of Puerto Rico (“PR”). LTA was established on February 25, 1999, and is registered in the Puerto Rico Department of State under registration number 106176.
46. On or about July 12, 1999, MOA contracted with LTA for the operation of the Landfill.
47. At all relevant times, LTA has been the operator of the Landfill and other industrial activities at the Site and has had day-to-day operational control of activities at the Site.
48. On May 14, 2024, EPA issued a request for information (the “RFI Letter”) to LTA requesting information about the Landfill pursuant to Section 308(a) of the CWA, 33 U.S.C. § 1318(a).
49. On May 29, 2024, LTA submitted its response (the “RFI Response”) to the RFI Letter. EPA performed a preliminary review of the RFI Response (the “RFI Response Review”) and found that:
- a. LTA did not submit the inspection reports from July 2021 to December 2022;
  - b. LTA submitted a Visual Assessment of Stormwater Discharges documentation for the December 14, 2021, sampling event. This documentation included 15 outfalls assessments. However, LTA did not submit documentation for any additional Visual Assessment of Stormwater Discharges documentation;
  - c. LTA did not submit rain data from January 2023 up to the date of the RFI Letter;
  - d. LTA did not submit discharge monitoring reports (e.g., NetDMR) for the period after December 14, 2021, to the date of the RFI Letter; and
  - e. LTA indicated that a leachate collection system has not been established for the Landfill. LTA also indicated that a liner was not installed at the bottom of the Landfill.

50. Between June 10, 2024, and October 23, 2024, EPA officials reviewed EPA databases<sup>3</sup> to determine whether Respondent applied for and obtained NPDES permit coverage for the Site and complied with reporting requirements under the 2021 MSGP (the “Database Review”).
51. The Database Review revealed, among other things, that:
- a. on May 27, 2021, LTA submitted an electronic NOI form to EPA for the Landfill under the 2021 MSGP;
  - b. EPA granted LTA coverage under the 2021 MSGP, under NPDES identification number PRR053153;
  - c. on June 26, 2021, LTA’s coverage under the 2021 MSGP became effective;
  - d. LTA identified fifteen (15) discharge points in the electronic NOI;
  - e. LTA indicated that the Landfill is adjacent to PRNE7.1 water body, a tributary of the Caño Tiburones; and
  - f. LTA reported effluent limits monitoring exceedances for Total Suspended Solids, Total Nitrogen (as NH<sub>3</sub>), and Zinc for the period between July 1, 2021, and July 17, 2024.
52. On June 10, 2024, an EPA official conducted a NPDES Compliance Evaluation Inspection (“the Inspection”) of the Site.
53. The purpose of the Inspection was to evaluate LTA’s compliance with the 2021 MSGP.
54. The observations and findings of the Inspection were summarized in the NPDES Compliance Inspection Report (“Inspection Report”), dated August 6, 2024.
55. The Inspection of the Site revealed, among other things, the following:
- a. lack of stormwater erosion and sediment controls, stormwater runoff management measures, and BMPs (e.g., check dams, silt fences, velocity dissipation devices, retention ponds, soil stabilization measures). This finding resulted from observations at the closed cells located on the west and south sides of the Landfill, solid waste dumping site area, electro domestics waste debris staging areas, and access roads;<sup>4</sup>
  - b. lack of temporary soil stabilization (e.g., temporary seeding, mulching, and placing geotextiles on the inactive portions of the Landfill) for the following: materials stockpiled for daily cover; intermediate and final cover; inactive areas of the Landfill; slopes in cell areas; open dump areas that have gotten final covers but vegetation has not yet been established; and Landfill areas where waste application has been completed but final vegetation has not yet been established;
  - c. leachate seepage from the closed cell face slope located at the east, west and south sides of the Landfill was observed, reaching the access roads and drainage channels that eventually flow

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<sup>3</sup> Integrated Compliance Information System (“ICIS”); CDX/NeT; and NetDMR.

<sup>4</sup> The activities observed in these areas meet the definition of industrial activities found at 40 C.F.R. § 122.26(b)(14).

- towards Outfall 002, 004, 005, 006, 008, and Outfall 009, which in turn discharge into Caño Tiburones;
- d. accumulations of leachate residues, characterized by a light brown color, were observed in the ditches that channel stormwater runoff from the outfalls, specifically Outfalls 002, 004, 005, 006, 008, and 009, as well as the access roads situated to the south of the Landfill. These outfalls discharge into Caño Tiburones;
  - e. the stormwater runoff from the industrial areas of the Landfill will flow into corrugated pipeline down chutes and drainage ditches, which in turn convey stormwater runoff through Outfalls 004, 005, 006, 007, 009, 010, 011, and 012, and further discharge into Caño Tiburones;
  - f. the EPA Inspector identified 12 discharge points at the Site. The location of Outfall 13 could not be identified because of dense vegetation cover;
  - g. two unpermitted discharge points were observed along the Landfill main access road. One with active leachate flow was located near Outfall 004 and the other one in a ditch located adjacent to the Outfall 012;
  - h. two corrugated pipelines down chutes had been installed to collect runoff from the top of the Landfill and to convey such runoff downhill to two distinct outfalls (Outfall 004 and Outfall 009). It was observed that corrugated pipelines were detached / disconnected near those two outfalls; and
  - i. leachate flows were observed ponded at the access roads.
56. By letter dated August 7, 2024, EPA issued a Notice of Potential Violations of Sections 301 and 402 of the CWA (“the August 7 Letter”) to Respondent. On that same date, EPA sent a copy of the Inspection Report via electronic mail (“Email”) to LTA and the Water Quality Area of the Puerto Rico Department of Natural and Environmental Resources (“DNER”). The letter includes a description of areas of concern of the findings and observations EPA made during the Inspection.
57. On September 4, 2024, EPA and LTA officials met at the EPA office in Guaynabo, Puerto Rico, to discuss among other things, the findings of the Inspection, the August 7 letter, and LTA’s proposed actions to address the findings of the Inspection Report. During the meeting, LTA hand-delivered a letter dated September 3, 2024 (the September 3 Letter”), which included a partial response to the August 7 Letter. EPA requested LTA to submit a Corrective Action Plan (“CAP”), which was not included in the September 3 Letter.
58. On September 12, 2024, EPA and LTA officials met at the EPA office in Guaynabo, Puerto Rico. During the meeting, LTA presented its proposal to implement corrective actions at the Site and hand-delivered a Microsoft PowerPoint presentation entitled “Work Plan for Arcibo Landfill”/ SWPPP Corrective Action Plan” (the “September 2024 CAP”), which included an implementation schedule. The September 2024 CAP did not include corrective measures to address leachate seepage at the Landfill’s slopes and the leachate unpermitted discharges from the Site into PRNE7.1 water body.
59. By email dated September 30, 2024, LTA submitted a document entitled “Leachate Management Protocol” (“LMP”) to supplement the September 2024 CAP.

60. EPA performed a preliminary review of the September 2024 CAP, including the implementation schedule and the LMP to determine whether the proposed corrective actions and timelines comply with the requirements of the 2021 MSGP (the "September 2024 CAP Review"). EPA found that the implementation schedule for the September 2024 CAP does not comply with the required timetables in Part 5.1.3 of the 2021 MSGP.

#### IV. CONCLUSIONS OF LAW AND FINDINGS OF VIOLATION

61. Respondent is subject to the provisions of the CWA, 33 U.S.C. § 1251, *et seq.*, the applicable NPDES permit application regulations found at 40 C.F.R. §§ 122; and the requirements of the 2021 MSGP.
62. Respondent is a "person" pursuant to Section 502(5) of the CWA, 33 U.S.C. § 1362(5).
63. At all relevant times to this Order, Respondent was and is the operator of the industrial activities at the Site.
64. The Landfill is a "facility," as defined in 40 C.F.R. § 122.2.
65. The Site is a "point source" pursuant to Section 502(14) of the CWA, 33 U.S.C. § 1362(14).
66. Stormwater runoff containing "pollutants" associated with industrial activities conducted at the Site is collected in stormwater collection, conveyance and system, which in turn discharge into the Caño Tiburones. Caño Tiburones flows into the Atlantic Ocean.
67. The Caño Tiburones, 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.
68. Respondent violated Sections 301(a) of the CWA, 33 U.S.C. §§ 1311(a), for its discharges of pollutants (i.e., leachate, stormwater associated with industrial activity) into a water of the United States without an NPDES permit.
69. Respondent violated Sections 301(a) and 402 of the CWA, 33 U.S.C. §§ 1311(a) and 1342(p), respectively, for its failure to comply with conditions and requirements of the 2021 MSGP.
70. Therefore, Respondent is subject to an enforcement action under Section 309(a) of the Act, 33 U.S.C. § 1319(a).

#### V. ORDERED PROVISIONS

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:

71. **Except as otherwise indicated in this Order**, at all times Respondent shall comply with the CWA, and its NPDES implementing regulations, and the 2021 MSGP.
72. **Within five (5) days upon receipt of this Order by Email**, an authorized representative of the Respondent shall complete the acknowledgement of receipt included as **Attachment 1** of this Order and return it via

electronic mail to Jaime López, Senior Physical Scientist, Clean Water Act Team, 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. The signed acknowledgement of receipt of this Order shall be sent to Jaime López at the address specified in Paragraph 91, below.

#### ***Unpermitted Discharge of Pollutants / Leachate Management***

73. **That immediately upon receipt of this Order by Email** and pursuant to Section 301(a) of the CWA, 33 U.S.C. § 1311(a), Respondent shall cease and desist the discharge of any waste stream (i.e., leachate) not authorized under Part 1.2.2.1 of the 2021 MSGP from the Site 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.
74. **That immediately upon receipt of this Order by Email**, Respondent shall implement the Leachate Management Plan and include the corrective actions implemented and timelines to comply with the requirements of the 2021 MSGP as part of the Progress Report Provision in Paragraph 82.

#### ***Change eNOI***

75. **No later than seven (7) calendars days from receipt of this Order by Email**, Respondent shall submit a complete and accurate “Change NOI” thru “Central Data Exchange” (“CDX”) tool “Net” pursuant to the 2022 CGP. The “Change NOI” shall identify all outfalls at the Site.

#### ***SWPPP Modification***

76. **No later than thirty days (30) calendar days from receipt of this Order by Email**, Respondent shall amend the SWPPP to comply with the 2021 MSGP and submit the modified SWPPP (i.e., site map, corrective action implementation schedule).

#### ***September 2024 CAP***

77. **That immediately upon the of this Order by Email**, Respondent shall implement corrective action measures at the Site to comply with Parts 4.2.3.1, 8.L.11 (Effluent Limits) and 5.1 (Corrective Actions) of the 2021 MSGP. Such corrective actions shall be found in the September 2024 CAP. Respondent shall prioritize completion of the corrective actions for flow dissipation, perimeter controls, internal roads and slopes stabilization, and establishment of sampling locations for each outfall.

#### ***Rain Gauge Signage***

78. **No later than thirty (30) calendar days from receipt of this Order by Email**, Respondent shall post a copy of the Rain Gauge Flow Chart (in Spanish and English) at a suitable location where the rain gauges are located.

#### ***Stormwater Sampling SOP***

79. **No later than (30) calendar days from receipt of this Order by Email**, Respondent shall prepare and submit a Standard Operating Procedure (the “SW Sampling SOP”), for EPA review and written approval. This SW Sampling SOP is for the collection, analysis and reporting of storm water, and a flow chart

describing the key points of the SW Sampling SOP for all sampling points in accordance with the requirements of the 2021 MSGP and 40 C.F.R. § 136. The SW Sampling SOP shall feature the sampling points locations and shall incorporate the use and management of rain gauge data pursuant to the SW Sampling SOP, the use of sampling equipment, preservation of samples, approved laboratory methods, and training of employees responsible for supervision and performance of inspections (i.e., Visual Assessment of Stormwater Discharges) and monitoring activities for compliance with the 2021 MSGP. The SW Sampling SOP shall become part of the SWPPP. The SW Sampling SOP shall include a method and/or equipment for determining when a discharge begins for any discharge event required to be sample under the 2021 MSGP and this Order.

80. Respondent shall implement the SW Sampling SOP, **immediately upon EPA’s written approval of the SW Sampling SOP.**
81. **No later than thirty (30) calendar days from receipt of this ORDER by Email,** Respondent shall post a copy of the SW Sampling Flow Chart (in Spanish and English) at a suitable location nearby each sampling point.

#### ***Compliance Progress Reports***

82. **Until written notification by EPA,** Respondent shall prepare and submit Bi-Monthly Progress Reports (“BMPR”) on the 15<sup>th</sup> day of the month describing the status and progress of the actions taken to comply with the provisions of this Order. Respondent shall:
- a. Submit the first BMPR on January 15, 2025, and every sixty (60) calendar days thereafter (e.g., March 15, 2025).
  - b. BMPR shall include, at a minimum, the following:
    - i. The actions taken during the reporting period; and
    - 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.

#### **VI. REQUEST FOR INFORMATION**

Based on the above Finding of Facts, Conclusions of Law and Findings of Violation, and pursuant to Section 308(a) of the CWA, 33 U.S.C. § 1318(a), Respondent shall submit the following information to EPA by email to the attention of persons identified in Paragraph 91, below:

#### ***Rain Gauge***

83. **No later than thirty (30) calendar days of receipt of this ORDER by Email,** LTA shall develop, submit, and implement a standard operating procedure for rainfall data collection, management, and record-keeping (“Rain Gauge SOP”), and a flow chart describing the key points of the SOP (“Rain Gauge Flowchart”). The Rain Gauge SOP shall address, at a minimum, procedures for adequate operation, maintenance and calibration (per manufacturer’s specifications) of the rain gauges, description of precipitation data collection and management procedures (e.g., person(s) authorized to read and record data), Rain Gauge SOP employee training, and record-keeping and reporting requirements. A precipitation data log shall be

prepared monthly and shall include the certification language and authorized signature in accordance with Appendix B.11 of the 2021 MSGP.

### ***Stormwater Monitoring***

84. Beginning on January 1, 2025, Respondent shall, in addition to the monitoring requirements in Part 4 and 8.L of the 2021 MSGP, begin to perform monitoring of stormwater discharges, as described below:
- a. *Monitoring Locations* – Sampling points for Outfall 001 to Outfall 013.
  - b. *Measurable Storm Events and Monitoring Period* – Any storm event that results in a discharge between 6:00 a.m. to 6:00 p.m. This monitoring must be conducted until either at least six discharge monitoring events are completed or one year after the Effective Date of this Order, whichever is sooner. A 48-hour no discharge period must precede each stormwater discharge event to be sampled.
  - c. *Sample Type* – A grab sample every 10 minutes from the commencement of the discharge event to the end of the discharge event, or for the first 45 minutes of the discharge, whichever occurs first. In the event that the discharge lasts 30 minutes or less, such monitoring event shall be discarded and shall not be included as one of the additional monitoring activities required herein.
  - d. *Parameters to be Analyzed* – Laboratory analysis for the following pollutants: Biological Oxygen Demand (BOD<sub>5</sub>), Chemical Oxygen Demand (COD), Total Suspended Solids (TSS), Total Organic Carbons (TOC), Turbidity, Total Nitrogen (as NH<sub>3</sub>),  $\alpha$ -Terpineol, Benzoic acid, *p*-Cresol, Phenol, Zinc, and pH.
  - e. *Sampling and Analysis Procedures* – Respondent must take and analyze each grab sample in accordance with 40 C.F.R. § 136.
  - f. *Documentation* – For each stormwater monitoring event, Respondent shall prepare documentation indicating:
    - i. the time when the storm event began;
    - ii. the time when the discharge through the sampling point began;
    - iii. the time that the first grab sample was taken;
    - iv. the time when the discharge through the sampling point ended;
    - v. the time when the last grab sample was taken;
    - vi. the personnel participating in the sampling event;
    - vii. rain gauge data for the discharge event; and
    - viii. any other information, such as chain of custody records.

### ***Reporting***

85. Respondent shall include a cost report detailing the expenses incurred during the reporting period in each BMPR. See Paragraph 82, above.
86. Respondent shall submit a copy of the Visual Assessment of Stormwater Discharges documentation under Part 3.2.3 of the 2021 MSGP, including the rain data for the rain event used for each assessment. This documentation shall be submitted in the BMPR. See Paragraph 82, above.
87. Respondent shall submit a copy of the Routine Facility Inspection documentation under Part 3.1.5 of the 2021 MSGP. This documentation shall be submitted in the BMPR. See Paragraph 82, above.
88. Respondent shall submit a copy of the laboratory analysis and chain of custody records for the monitoring activities under Paragraph 84 of the Order. The laboratory analysis and chain of custody records shall be submitted in the BMPR. See Paragraph 82, above.

### **VII. GENERAL PROVISIONS**

89. 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>.
90. Any documents to be submitted by Respondent as part of this Order shall be sent by email and by certified mail (or its equivalent), 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."
91. All information required to be submitted under this Order shall be sent by email 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)

José A. Rivera  
Team Leader  
Clean Water Act Team  
Multimedia Permits and Compliance Branch  
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

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)

92. Within twenty (20) calendar days from the effective date of this Order, Respondent shall have the opportunity to confer regarding Part V (Ordered Provisions) and Part VI (Request for Information) of this Order, with the following designated EPA representatives:

José A. Rivera  
Team Leader  
Clean Water Act Team  
Multimedia Permits and Compliance Branch  
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  
Email: [lopez.jaime@epa.gov](mailto:lopez.jaime@epa.gov)  
Telephone: (787) 977-5851.

93. 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.

94. This Order does not constitute a waiver from compliance with, or a modification of, the effective terms and conditions of the CWA, the NPDES implementing regulations, or the 2021 MSGP, 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.
95. 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.
96. 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.
97. This Order shall become effective upon the date of execution by the Director, Caribbean Environmental Protection Division.

Dated: October 31, 2024

Signed:



**CARMEN R. GUERRERO PÉREZ**

Director

Caribbean Environmental Protection Division

Attachment 1 – Acknowledgement of Receipt of Order

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