



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

August 16, 2023

**Via Electronic Mail**  
**& Certified Mail – Return Receipt Requested**

Mr. Héctor Rodríguez, President  
Cantera HR, Corp.  
P. O. Box 166  
Aguada, Puerto Rico 00602  
Email: [hector@empresasrodriguez.net](mailto:hector@empresasrodriguez.net)  
[lserrano@empresasrodriguez.com](mailto:lserrano@empresasrodriguez.com)

**Re: Administrative Compliance Order**  
**Cantera HR, Corp.'s Quarry Facility in Hormigueros, Puerto Rico**  
**Docket Number CWA-02-2023-3110**  
**NPDES ID: PRU005467**

Dear Mr. Rodríguez:

The United States Environmental Protection Agency (“EPA”), Region 2, has made findings that Cantera HR, Corp. (“Cantera HR”) is in violation of Sections 301(a) and 402 of the Clean Water Act (“Act”), 33 U.S.C. § 1251 *et seq.* Enclosed are two (2) originals of the Administrative Compliance Order (“Order”), Docket Number CWA-02-2023-3110, issued pursuant to Section 309(a) of the Act, 33 U.S.C. §1319(a). Please acknowledge receipt of the Order and return it by mail.

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

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

Sincerely,

**JOSE FONT**

Digitally signed by JOSE  
FONT  
Date: 2023.08.16 18:10:41  
-04'00'

Carmen R. Guerrero Pérez  
Director  
Caribbean Environmental Protection Division

Enclosures

cc: Angel Meléndez, DNER/WQA (via email w/ enclosure)  
Luis Serrano, Cantera HR (via email w/ enclosure)

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 2**

**IN THE MATTER OF:**

**Cantera HR, Corp.**

P.O. Box 166  
Aguada, Puerto Rico 00602

**Facility Name**

**Quarry Facility**

Road PR-345, Km. 5.8  
Lavadero Ward  
Hormigueros, Puerto Rico 00660

NPDES Tracking Number: PRU005467

**RESPONDENT**

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

**ADMINISTRATIVE  
COMPLIANCE ORDER**

**DOCKET NUMBER  
CWA-02-2023-3110**

**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 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 for 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 storm water 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(c)(1), the operator of a facility 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.
13. 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.
14. Facility operators engaged in active or inactive mining operations, including crushed and broken stones and rip rap stones, 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)(iii).
15. 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. “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; and
- 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).

16. 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 contact 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.
17. On January 15, 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. 86 Fed. Reg. 10269.
  18. The 2021 MSGP became effective on March 1, 2021 and expires on February 28, 2026.
  19. On September 29, 2021, EPA modified the 2021 MSGP. The 2021 MSGP modification became effective on September 29, 2021, and the expiration date of the 2021 MSGP remains as February 28, 2026.
  20. Part 1.2. of the 2021 MSGP establishes the eligibility and Notice of Intent (“NOI”) filing requirements for operators of industrial activities seeking coverage under the 2021 MSGP. Specifically, Table 1-2 of Part 1.2.1.3 of the 2021 MSGP includes NOI submittal deadlines and the discharge authorizations dates for certain categories of facilities and operators. For an operator of an existing facility without MSGP coverage, the NOI submission deadline is immediately.<sup>1</sup>
  21. Pursuant to Part 1.3.1 of the 2021 MSGP, operators of industrial activities that are eligible for coverage under the 2021 MSGP must prepare a Stormwater Pollution Prevention Plan (“SWPPP”) for their facility prior to filing an electronic NOI (“eNOI”) for coverage.
  22. Section 8 of the 2021 MSGP includes Sector-Specific Requirements for Industrial Activity. Specifically, Section 8.J of the 2021 MSGP details the requirements for mining operations, including crushed and broken stone, and rip rap stones.
  23. Requirements under Section 8.J of the 2021 MSGP apply to any industrial activity for which its Standard Industrial Classification (“SIC”) Code is 1429.

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<sup>1</sup> Refer to Footnote 1 of the 2021 MSGP that states the following: *“If you have missed the deadline to submit your NOI, any or all discharges from your industrial activities will continue to be unauthorized under the CWA until they are covered by this or a different NPDES Permit.”* Such footnote also indicated that *“EPA may take an enforcement action for any unpermitted discharge that occurs between the commencement of discharging and the discharge authorization.”*

24. 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.
- 25. 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.
  - 26. Section 309(a)(3) of the CWA, 33 U.S.C. § 1319(a)(3), provides that “[w]hen 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....”
  - 27. 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.”
  - 28. 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**

- 29. Cantera HR, Corp. is a for-profit corporation organized under the laws of the Commonwealth of Puerto Rico (“PR”). Cantera HR was registered in the PR Department of State (“DOS”) on May 10, 2009, under registration number 187361.
- 30. Respondent is the owner and/or operator of a facility known as Cantera HR Facility (the “Quarry”). The Quarry is located at Road PR-345, Km. 5.8, Lavadero Ward, Hormigueros, Puerto Rico.
- 31. Respondent’s main industrial activity involves the operation of a quarry of crushed and broken stone, including rip rap stone. This activity is best described by the SIC Code 1429 (Crushed and Broken Stone, Not Elsewhere Classified).
- 32. On March 23, 2022, an EPA official reviewed several EPA’s enforcement and compliance databases to determine Respondent’s compliance with the Act and the NPDES stormwater permit application regulations (the “Record Review”).

33. The Record Review revealed that Respondent:
- a. had not submitted an electronic NOI form to EPA to seek coverage for storm water discharges associated with industrial activities under the 2021 MSGP; and
  - b. had not submitted an individual NPDES permit application for its discharges of pollutants (storm water associated with industrial activity) from the Quarry into waters of the United States under 40 C.F.R. § 122.21.
34. On March 24, 2022, an EPA official conducted a NPDES Stormwater Reconnaissance Inspection (“Reconnaissance Inspection”) of the Quarry.
35. The purpose of the Reconnaissance Inspection was to evaluate Respondent’s compliance with the Act, the NPDES stormwater permit regulations and the 2021 MSGP.
36. The observations and findings of the Reconnaissance Inspection were summarized in the NPDES Stormwater Reconnaissance Inspection Report (“Inspection Report”), dated May 4, 2022, and transmitted to Respondent.
37. The Reconnaissance Inspection of the Quarry revealed, among other things, the following:
- a. lack of stormwater erosion and sediment controls, stormwater runoff management measures, and BMPs (i.e., dikes, vegetated swales, berms, check dams, silt fences, velocity dissipation devices, and retention ponds, stabilization measures etc.) implementation at rock extraction, processing, staging, storage, loading and unloading areas, and access roads (entrance/exit points where track-out of sediments occurs);
  - b. the stormwater runoff from the industrial areas of the Quarry flows into a drainage ditch along PR-345 Road;
  - c. the EPA Inspector identified three unpermitted discharge points, one of which is located at the east and the other two at the southeast boundary of the Quarry along Road PR-345; and the stormwater runoff collected in the drainage ditch along PR-345 Road flows into a concrete pipe under the PR-345 Road, which in turn is conveyed through a swale that flows into the Río Rosario;
  - d. Río Rosario flows into the Caribbean Sea;
  - e. the Quarry was engaged in active mining operations and trucks were observed loading and leaving the Quarry’s premises through the entrance area;
  - f. a sign or other notice was not observed at the Quarry depicting operator’s coverage under the 2021 MSGP;
  - g. there was no wheel washing control at the entrance to the Quarry area to minimize sediment track-out onto PR-345 Road;

- h. old tires and heavy equipment machinery parts in an open dump exposed to rain was observed; and
  - i. fuel storage area with scattered drums without labels and secondary containment was observed.
- 38. On May 12, 2022, EPA issued a Request for Information letter (the “2022 RFI Letter”) to Respondent pursuant to the authority vested in the Administrator of EPA by Section 308(a) of the CWA, 33 U.S.C. § 1318(a). EPA requested that Respondent submit the information related with the Quarry within thirty (30) calendar days from receipt of the letter.
- 39. Respondent failed to submit the information requested by EPA in the 2022 RFI Letter within thirty (30) calendar days (by June 12, 2022) nor did it request an extension of time to submit the information.
- 40. On January 27, 2023, EPA issued a Notice of Non-Compliance with Section 308(a) of the Clean Water Act (the “Notice of Non-compliance Letter”) to Respondent. EPA requested that Respondent submit the response to the 2022 RFI Letter within thirty (30) calendar days from receipt of the letter.
- 41. Respondent failed to submit to EPA the information requested in the Notice of Non-compliance Letter within thirty (30) calendar days (by February 6, 2023) nor did Respondent request an extension of time to submit the information.
- 42. On February 27, 2023, EPA received an email from the Respondent’s consultant containing an incomplete response which did not follow the instructions in Part B.1 of the 2022 RFI Letter, and also did not comply with the signatory requirements of Part B.3 of the 2022 RFI Letter (which states that all information required to be submitted shall be signed by an authorized representative of Cantera HR, and shall include the certification).
- 43. On June 15, 2023, an EPA official reviewed several of EPA’s enforcement and compliance databases to determine Respondent’s compliance with the Act and the NPDES stormwater permit application regulations (the “Second Record Review”).
- 44. The Second Record Review revealed that Respondent:
  - a. had not submitted an eNOI form to EPA to seek coverage for storm water discharges associated with industrial activities under the 2021 MSGP; and
  - b. did not file an individual NPDES permit application for its discharges of pollutants (storm water associate with industrial activity) from the Quarry into waters of the United States.
- 45. As of the date of issuance of this Order, Respondent has not submitted to EPA the information requested in the 2022 RFI Letter.
- 46. As of the date of issuance of this Order, Respondent has not submitted to EPA a NOI seeking coverage under the 2021 MSGP nor has Respondent submitted an individual NPDES permit

application for its discharges of pollutants from the Quarry through the PR-345 Road storm water runoff collection, conveyance, and discharge points into Río Rosario.

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

50. Respondent is a “person” pursuant to Section 502(5) of the CWA, 33 U.S.C. § 1362(5).
51. At all relevant times to this Order, Respondent was and is the owner/operator of the Quarry.
52. The Quarry is a “facility”, as defined in 40 C.F.R. § 122.2.
53. The Quarry’s three unpermitted discharge points are “point sources” pursuant to Section 502(14) of the CWA, 33 U.S.C. § 1362(14).
54. Discharges of storm water runoff containing “pollutants” associated with industrial activities from the Quarry reach a drainage ditch along Road PR-345 flowing into a concrete pipe under Road PR-345 that flows into the Río Rosario, which in turn discharges into the Caribbean Sea.
55. The Río Rosario and the Caribbean Sea are waters of the United States pursuant to Section 502(7) of the CWA, 33 U.S.C. § 1362(7).
56. 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.
57. Respondent’s discharges of storm water associated with industrial activities containing pollutants into waters of the United States without a NPDES permit or authorization under the 2021 MSGP, if applicable, constitute a violation of Sections 301(a) and 402 of the Act, 33 U.S.C. §§ 1311(a) and 1342, and the applicable NPDES regulations; therefore, Respondent is subject to an enforcement action under Section 309 of the Act, 33 U.S.C. § 1319.
58. Respondent’s failure to provide information to EPA, as requested in the 2018 RFI Letter, constitutes a violation of Section 308(a) of the CWA; 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:

59. **That within five (5) calendar days upon receipt of this Order by electronic mail (“email”),** Respondent shall complete the acknowledgment of receipt included as Attachment 1 of this Order and return it via email to Jaime López, Senior Enforcement Officer, Clean Water Act Team, Multimedia Permits and Compliance Branch, Caribbean Environmental Protection Division, at [lopez.jaime@epa.gov](mailto:lopez.jaime@epa.gov). Respondent shall also send the signed acknowledgement of receipt via certified mail (or its equivalent) to the address specified in Paragraph 69, below.

60. Pursuant to Section 301(a) of the Act, 33 U.S.C. § 1311(a), Respondent shall not discharge storm water associated with industrial activity from the Quarry into the Río Rosario, except with authorization under the 2021 MSGP or an NPDES individual permit issued pursuant to the provision of Section 402 of the Act, 33 U.S.C. § 1342.
61. **That within thirty (30) calendar days upon receipt of this Order by email**, Respondent shall submit:
- a. the information requested in the 2022 RFI Letter;
  - b. a detailed response to the Reconnaissance Inspection Report; and
  - c. a detailed description of the corrective actions implemented at the Quarry to address the findings included in the Reconnaissance Inspection Report.
62. **Within thirty (30) calendar days of receipt of this Order by email**, Respondent shall prepare and submit to EPA a Quarry-specific SWPPP in accordance with the requirements specified in Part 5 and 8.J of the 2021 MSGP.
63. **That within thirty (30) calendar days upon receipt of this Order by email**, in order to bring the Quarry into compliance with Sections 301(a) and 402(p) of the CWA, 33 U.S.C. §§ 1311(a) and 1342(p), while Respondent obtains coverage under the 2021 MSGP, Respondent shall, at a minimum, perform the following measures to prevent the discharge of pollutants into the Río Rosario:
- a. secure qualified personnel<sup>2</sup> for the performance of inspections, monitoring and record keeping activities at the Quarry;
  - b. identify, install, maintain, inspect and document stormwater erosion and sediment controls;
  - c. implement stormwater runoff management measures, including velocity dissipation at each of the three (3) discharge locations from the Quarry into PR-345 Road;
  - d. install and maintain structural BMPs at the crush stone staging, storage, loading and unloading areas;
  - e. establish sampling locations for each point source discharge location from the Quarry into PR-345 Road; and
  - f. install BMPs to address sediment track-out at the access roads entrance/exit points.
64. **Within forty-five (45) calendar days of receipt of this Order by email**, Respondent shall submit an eNOI seeking coverage under the 2021 MSGP for its discharges of pollutants (storm water discharges associated with industrial activity) from the Quarry into waters of the United States in accordance with Part 1.2 of the 2021 MSGP.

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<sup>2</sup> For the definition of “qualified personnel”, refer to paragraph 24.e, above.

65. **Within forty-five (45) calendar days of receipt of this Order by email,** Respondent shall prepare and submit to EPA for review, a Work Plan to achieve compliance with the 2021 MSGP. The Work Plan shall specify the earth movement activities and temporary and permanent stabilization practices Respondent plan to perform at the Quarry to prevent the discharge of pollutants into water of the United States from the sand and gravel mining site areas.

The Work Plan shall describe the specific tasks to be performed, including a schedule with the expected completion date of each task. The tasks in the proposed schedule shall be undertaken as quickly as possible, but in no case the completion date shall be beyond a hundred and twenty (120) calendar days from the receipt date of this Order by email. The schedule submitted shall contemplate dates for Monthly Progress Reports submittal, as indicated in Paragraph 66, below.

The Work Plan shall include, at a minimum, the following information:

- a. a description of planned improvements;
- b. fixed-date schedules for the implementation of compliance measures and effluent limits in accordance with Part 2, and Parts 8.J.4.1 and 8.J.4.2 of the 2021 MSGP, which require the selection, design, and construction/implementation of control measures, such as non-structural and structural BMPs, to meet the non-numeric effluent limits. The selection, design, installation, and implementation of the control measures must be in accordance with good engineering practices;
- c. a site map to comply with Parts 5.2.2 and 8.J.6.2 of the 2021 MSGP;
- d. performance of inspections and reporting and record keeping in accordance with Parts 3 and 7 of the 2021 MSGP, respectively;
- e. development of a Standard Operating Procedure for implementation and documentation of monitoring procedures to comply with Parts 3, 6 and 8.J.9 of the 2021 MSGP;
- f. implementation of other sector-specific requirements in accordance with Part 8.J. of the 2021 MSGP; and
- g. the estimated costs of achieving compliance, including capital costs of any proposed BMPs and facilities, and 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 Work Plan and address the findings of violations described hereinabove.

66. **Until Termination of this Order,** Respondent shall prepare and submit Monthly Progress Reports (“MPR”) 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 MPR on October 15, 2023, and every 30 days thereafter (e.g., November 15, 2023); and

- 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; and
  - iii. a cost report detailing the expenses incurred during the reporting period.

The first MPR may cover a period of more than thirty (30) calendar days. If Respondent submits a deliverable to EPA during the compliance filing dates of this Order, Respondent does not have to re-submit such deliverable in future MPRs.

## **V. GENERAL PROVISIONS**

- 67. 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, Respondents may review EPA's web site at <https://www.epa.gov/npdes/stormwater-discharges-industrial-activities-epas-2021-msgp>.
- 68. Any documents to be submitted by Respondent as part of this Order shall be sent by email 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."

- 69. 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)

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).

70. 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  
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.

71. 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.
72. 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.

- 73. Notice is hereby given that failure to comply with the terms of this 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.
- 74. 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.
- 75. This Order shall become effective upon the date of execution by the Director, Caribbean Environmental Protection Division.

Dated: \_\_\_\_\_ Signed: **JOSE FONT**  
**CARMEN R. GUERRERO-PÉREZ**  
Director  
Caribbean Environmental Protection Division

Digitally signed by  
JOSE FONT  
Date: 2023.08.16  
18:07:07 -04'00'

Attachment 1 – Acknowledgement of Receipt of Order

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