



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

March 23, 2021

VIA ELECTRONIC MAIL

Ms. Nisha Aubain
Island Manager
Tropical Shipping Company
4 Crown Bay / P.O. Box 305077
St. Thomas, Virgin Islands 00803

**Re: Request for Information Pursuant to Section 308 of the Clean Water Act
Tropical Shipping – Crown Bay Seaport and Container Port
Crown Bay Seaport: RFI ID No. CEPD-CWA-02-IR-2021-002
Container Port: RFI ID No. CEPD-CWA-02-IR-2021-003**

Dear Ms. Aubain:

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.¹ The Agency promulgated National Pollutant Discharge Elimination System (“NPDES”) regulations defining the term storm water discharge associated with industrial activity. The definition of storm water discharge associated with industrial activity includes maritime transportation facilities.²

Through review of publicly available information, including satellite imagery received, EPA understands that the Tropical Shipping Company (“Tropical”) is engaged in maritime shipping operations, that entail receiving and transfer of inbound commercial cargo from ships, and loading of outbound cargo onto ships scheduled for departure, at facilities located at No. 4 Crown Bay in St. Thomas (“Crown Bay Seaport”), and at No. 8 Estate Hope, Christiansted, St. Croix (“Container Port”) (hereinafter together referred as the “Maritime Facilities”), United States Virgin Islands (“USVI”). Please refer to the figures below, which feature aerial images depicting the approximate locations of Tropical’s Maritime Facilities.

¹ The term “person” means individual, corporation, partnership, association, State, municipality, commission, or political subdivision of a State, or any interstate body. Section 502(5) of the Act, 33 U.S.C. § 1362(5), and 40 C.F.R. § 122.2.

² The regulations included transportation facilities classified as Standard Industrial Classifications (“SIC”) Codes 40, 41, 42 (except 4221-25), 43, 44, 45, and 5171 which have vehicle maintenance shops, equipment cleaning operations, or airport deicing operations. Only those portions of the facility that are either involved in vehicle maintenance (including vehicle rehabilitation, mechanical repairs, painting, fueling, and lubrication), equipment cleaning operations, airport deicing operations, or which are otherwise identified under 40 C.F.R. § 122.26(b)(14) (i)-(vii) or (ix)-(xi) are associated with industrial activity.

Figure 1
Crown Bay Seaport³

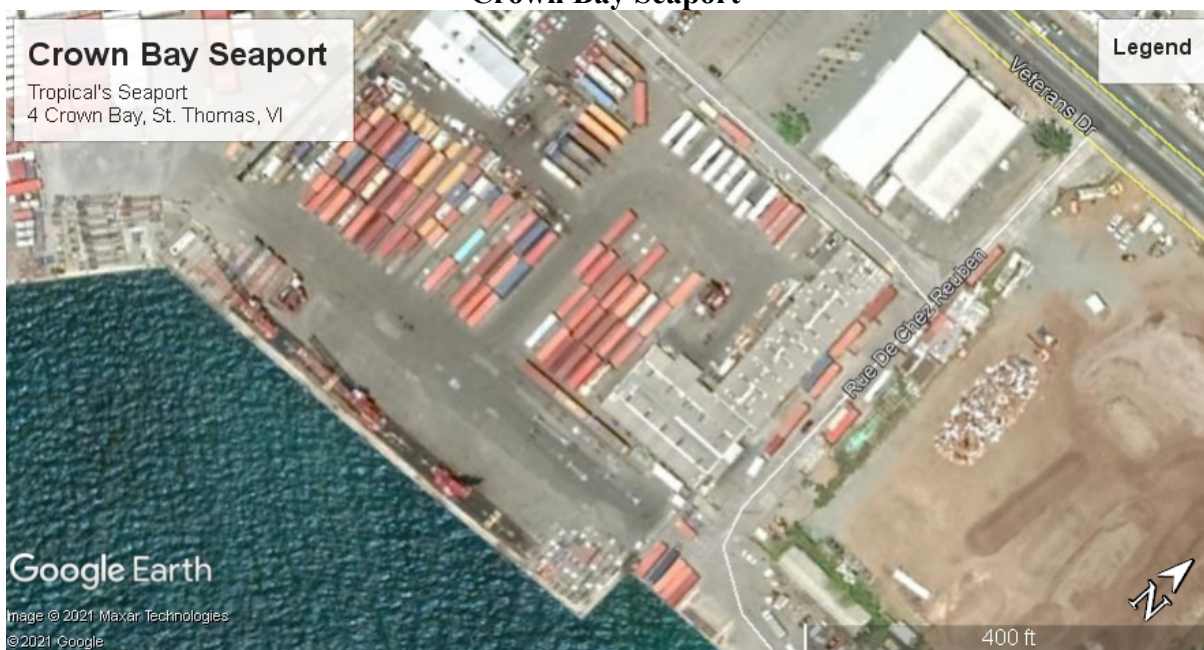


Figure 2
Container Port⁴



Based on preliminary information obtained, EPA believes that Tropical's industrial activities at the Maritime Facilities typify the operations of a category of facilities that are required to obtain a NPDES permit for stormwater discharges associated with industrial activity pursuant to 40 C.F.R. §

³ The approximate coordinates for Tropical's facility at Crown Bay Seaport are: 18° 20'11.90" N; 64° 56'58.98" W.

⁴ The approximate coordinates for Tropical's facility at Container Port are: 17° 41'46.79" N; 64° 45'17.57" W.

122.26(b)(14)(viii). Specifically, if the operations at the Maritime Facilities include, but are not limited to the industrial activities described below, then they may be subject to the Territorial Pollutant Discharge Elimination System (“TPDES”) regulations, and would require TPDES permit coverage⁵:

- a. Maritime shipping operation – receiving and transfer of inbound commercial bulk cargo and cargo containers from shipside in a designated holding area, loading of commercial bulk cargo and cargo containers (either filled with goods or empty) on ships at the marine docks, intra-facility transport of and storage of cargo containers, transportation trailers, and vehicles.
- b. Vehicle and general mechanical repair shop and vehicle fueling terminal – maintenance of and fueling of the operator’s vehicle fleet and operations support equipment.

On January 20, 2021, an EPA official performed a review of the NPDES permits databases (<https://permitsearch.epa.gov/epermit-search/ui/search> and <https://echo.epa.gov/>) related to the identified Maritime Facilities. The review revealed that the Maritime Facilities have not been issued TPDES permit coverage for the discharge of pollutants through storm water associated with industrial activity.

You are receiving this letter under the presumption that Tropical has been and is presently engaged or has directed/directs or has allowed/allows another “person” to perform the above referenced maritime transportation activities at the Maritime Facilities.

Section 308(a) of the CWA, 33 U.S.C. § 1318(a), provides that whenever it is necessary to carry out the objectives of the CWA, including the determination whether or not 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 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 facility and its related appurtenances.

EPA is hereby requesting information from Tropical pursuant to the authority granted under Section 308(a) of the CWA. EPA therefore requests responses to the questions set forth in Enclosure 2. Please review and follow the instructions in and, where required, complete the following enclosures: Instructions and Definitions (Enclosure 1), Information Request (Enclosure 2), and Statement of Certification (Enclosure 3). Because this is a formal information request issued to Tropical pursuant to CWA’s Section 308(a), Tropical is legally required to respond within a reasonable time frame. EPA requests that Tropical fully respond to the requested information within **thirty (30) calendar days** of receipt of this letter by electronic mail.

Because of the ongoing COVID-19 pandemic, electronic delivery of Tropical’s response is strongly encouraged.⁶ To the extent possible, any documents to be submitted in response to this Request for Information (“RFI”) should be in Portable Document Format (“PDF”). The requested information must be sent to:

⁵ This permit refers to the Virgin Islands TPDES Multi-Sector General Permit (“MSGP”) for Stormwater Discharges from Industrial Activity issued by the Virgin Islands Department of Planning and Natural Resources (“VIDPNR”), which became effective on January 1, 2012. VIDPNR re-issued the MSGP on March 1, 2017 (“2017 MSGP”). The 2017 MSGP will expire on February 28, 2022.

⁶ Currently, EPA’s office in St. Thomas, USVI, is not accessible to the public and is unable to accept filings or correspondence by personal delivery.

Jim C. Casey
Senior Environmental Engineer
Clean Water Act Team
Multimedia Permits and Compliance Branch
Caribbean Environmental Protection Division
U.S. Environmental Protection Agency, Region 2
1336 Beltjen Road, Suite 102
St. Thomas, U.S. Virgin Islands 00802
Tel.: (787) 671-8023 (cell) or (340) 714-2333 (office)
Email: casey.jim@epa.gov.

In addition to recipient identified above, please provide the requested information to VIDPNR's Division of Environmental Protection ("DEP") to the attention of the person identified below:

Mr. Austin Callwood
Director
Division of Environmental Protection
V.I. Department of Planning and Natural Resources
Charles Wesley Turnbull Regional Library
St. Thomas, Virgin Islands 00802
Email: austin.callwood@dpr.vi.gov.

If you are without access to a computer and must submit response by U.S. mail, Tropical should notify Mr. Jim C. Casey at (787) 671-8023, or by email at casey.jim@epa.gov, when it sends a document in such a manner.

The response to the information requested must be accompanied by Enclosure 3, Statement of Certification, which is to be signed and dated by Tropical's USVI Manager, or their authorized designee. This statement certifies that the response submitted to the EPA is complete and contains all documents and information responsive to this request for information that are known to you, following a complete and thorough review of all information and sources available to you.

The EPA acknowledges that the COVID-19 pandemic may be impacting Tropical's operations. If that is the case, EPA will consider, at its sole discretion, Tropical's specific circumstances that could affect a timely response to this RFI, while ensuring that the EPA receives the relevant information it needs to effectively evaluate the Authority's compliance with Sections 301(a), 308(a) and 402(p) of the CWA. Therefore, Tropical should contact the designated EPA official in a timely manner for further instructions.

Failure to comply in all respects with this RFI 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. Such an enforcement action may include the assessment of penalties of up to \$56,460 per day for each day of continued non-compliance.

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

If at any time in the future that Tropical becomes aware of additional information or find that any portion of the submitted information is false, misleading or misrepresents the truth, Tropical 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, you may be subject to criminal prosecution.

This RFI is not subject to the approval requirements of the Paperwork Reduction Act of 1980, 44 U.S.C. §§ 3501-3520. Tropical 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 RFI when it is received by EPA, it may be made available to the public by EPA without further notice to Tropical. 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 by you. If Tropical desires confidential treatment of information only until a certain date or until the occurrence of a certain event, the Authority’s response should state so.

EPA encourages Tropical to become familiar with the Small Business Resource Information Sheet which is available at <https://www.epa.gov/compliance/small-business-resources-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.

If you have any questions concerning this RFI Letter, please contact Mr. Jim C. Casey, Senior Environmental Engineer, Clean Water Act Team, at (787) 671-8023, or through email at casey.jim@epa.gov.

Sincerely,

CARMEN

GUERRERO PEREZ

Carmen R. Guerrero Pérez

Director

Caribbean Environmental Protection Division

Digitally signed by
CARMEN GUERRERO PEREZ
Date: 2021.03.23 13:37:35
-04'00'

Enclosures

cc: Austin Callwood, DPNR/DEP (via e/mail)
Mary Stiehler, DPNR/DEP (via e/mail)

ENCLOSURE 1

INSTRUCTIONS

In responding to this RFI, please apply the following instructions, definitions and information:

- a. The signatory should be an officer or agent who is authorized to respond on behalf of Tropical pursuant to the National Pollutant Discharge Elimination System (“NPDES”) signatory requirements regulations codified at 40 C.F.R. § 122.22.
- b. 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.
- c. 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.
- d. 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.
- e. In answering each question, identify all contributing sources of information.
- f. 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.
- g. If anything is deleted from a document produced in response to this RFI, state the reason for and the subject matter of the deletion.
- h. For each document produced in response to this RFI, 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.
- i. For terms referred in this RFI, you will find its meaning in Section 502(5) of the Act, 33 U.S.C. § 1362, and 40 C.F.R. § 122.2.
- j. For more information about NPDES permitting requirements for maritime facilities, review the Fact Sheet developed by EPA which is found at: https://www.epa.gov/sites/production/files/2015-10/documents/sector_q_watertransportation.pdf.

ENCLOSURE 2

INFORMATION REQUEST

Please provide the following pursuant to the instructions and definitions contained in Enclosure 1:

Information about the Ownership of the Industrial Operations at the Maritime Facilities

1. Provide confirmation that Tropical is the owner of the industrial operations being conducted at the Maritime Facilities. If the operations are not owned by or if they are co-owned with Tropical, provide the names of the entities and their officers, corporate office locations and e-mails addresses, and contact telephone numbers for each identified owner.
2. Indicate the dates when Tropical began its industrial operations at the Maritime Facilities.
3. Identify the surface water bodies in the immediate vicinity of the Maritime Facilities.

Information about the Maritime Facilities

1. Provide a copy of the property deeds for the Maritime Facilities, or a copy of all current lease agreements entered between Tropical and the owner of properties in the Crown Bay and Kings Hill areas, respectively.
2. Provide a legible copy of any soil studies, and hydrologic/hydraulic studies prepared for the Maritime Facilities during the last five (5) years.
3. Provide a copy of the most recently prepared schematic of the footprint of the Maritime Facilities, featuring lay-out of physical structures, access roads, stormwater runoff path and management system, and green spaces, etc.
4. Provide the copy of most recent property survey featuring total land area and defined boundaries of the Maritime Facilities.
5. Provide a copy of any permit application submitted to any government agency of the USVI, including but not limited to TPDES permit applications, copy of the signed Storm Water Pollution Prevention Plan (“SWPPP”) and Notice of Intent (“NOI”), along with any associated permits secured for operations at the Maritime Facilities.
6. Provide documents and reports required to be prepared and submitted to either Federal, USVI, and/or both Agencies, involved in the review and approval processes regarding development of the Maritime Facilities, including clearance for earth movement and broader construction activities. Such documents should include prepared environmental impact statements and environmental assessment reports. Provide copies of the approval correspondences received from the respective approval agencies.

Information about Industrial Activities at the Maritime Facilities

7. Provide a detailed description of the daily normal, and periodic special activities that represent Tropical's industrial operation at the Maritime Facilities.
8. Provide the names of all contractors that are engaged in conducted of the industrial operations at the Maritime Facilities. Describe their activities and provide their contact information including mailing and e-mails addresses, phone numbers, and the names of officers.

Information about Erosion and Sediment Controls and Soil Stabilization at the Maritime Facilities

9. Describe any erosion and sediment controls and soil stabilization practices implemented in areas of industrial activities that are exposed to precipitation, and resultant storm water runoff flow through the Maritime Facilities. Provide the dates when there have been occasions for installation of erosion and sediment controls and soil stabilization practices implemented at the Maritime Facilities.

Information about Management and Disposal of Generated Process and Sanitary Wastewaters at the Maritime Facilities

10. Describe method of collection, treatment and disposal of process wastewater that will be generated from the operations at the Maritime Facilities.
11. Describe method of collection, treatment and disposal of sanitary wastes that will be generated from the operations at the Maritime Facilities.

ENCLOSURE 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 113(c)(2) of the Act, 42 U.S.C. § 7413(c)(2), and 18 U.S.C. §§ 1001, 1341 and 1505.

(Signature)

(Printed Name)

(Title)

(Date)