

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 2

In the Matter of:

**TRANSPORTE RODRÍGUEZ ASFALTO, INC.**

TRA RECYCLING PLANT CONSTRUCTION PROJECT  
PR-419 Road, Km. 11.05  
Intersection with Road PR-2, Km. 139.7  
Cerro Gordo Ward, Aguada, Puerto Rico

**RESPONDENT**

**CONSENT AGREEMENT AND  
FINAL ORDER**

**DOCKET NUMBER  
CWA-02-2024-3451**

**CONSENT AGREEMENT AND FINAL ORDER**

Complainant, the United States Environmental Protection Agency (“EPA” or “Complainant”), having issued the Complaint referenced herein on February 15, 2024, against Héctor Rodríguez Valle and Transporte Rodríguez Asfalto, Inc. and

Complainant having filed an unopposed motion to amend the Complaint to remove Héctor Rodríguez Valle as Respondent in this administrative proceeding and per Order granting such motion, and

Complainant and Transporte Rodríguez Asfalto, Inc. (“TRA” or “Respondent TRA”) having agreed that settlement of this matter is in the public interest, and that entry of this Consent Agreement and Final Order (“Consent Agreement” or “Agreement”) without further litigation is the most appropriate means of resolving this matter.

NOW, THEREFORE, before the taking of any testimony, upon the pleadings, without adjudication of any issue of fact or law, and upon consent and agreement of the Parties, it is hereby agreed, and ordered as follows:

**I. Preliminary Statement**

1. EPA initiated this proceeding for the assessment of a civil penalty pursuant to Section 309(g)(2)(B) of the Clean Water Act (“CWA” or the “Act”), 33 U.S.C. § 1319(g)(2)(B).
2. In the Complaint, EPA alleged that Héctor Rodríguez Valle and TRA violated Sections 301(a) and

402(p) of the Act, 33 U.S.C. §§ 1311(a) and 1342(p), for failure to apply for and obtain National Pollutant Discharge Elimination System (“NPDES”) permit coverage for the discharge of pollutants (stormwater runoff associated with construction activity) from the TRA Recycling Plant Construction Project (the “Project”) site located in Aguada, Puerto Rico (the “Site”), and for the discharges of pollutants (stormwater runoff from construction activities) from such Site into waters of the United States without NPDES permit coverage.

3. On March 8, 2024, and May 3, 2024, EPA published 30-day public comment period notices providing opportunities to comment on the proposed administrative penalty assessment. EPA did not receive public comments.
4. By letter dated February 15, 2024, EPA notified the Commonwealth of Puerto Rico about the Complaint and offered an opportunity to confer with EPA on the proposed administrative penalty assessment pursuant to 40 C.F.R. Part 22. The Commonwealth of Puerto Rico did not submit any comments.
5. Complainant, Héctor Rodríguez Valle and TRA engaged in settlement negotiations during which Mr. Rodríguez Valle presented new information which altered EPA’s view on the joinder of Mr. Héctor Rodríguez Valle as Respondent. These negotiations led to this agreement and the amendment of the Complaint. As result, the provisions of this agreement shall be binding only upon TRA, its officers, directors, agents, authorized representatives and successors or assigns.
6. Complainant and Respondent TRA agree, by entering into this Consent Agreement, that settlement of the claims alleged in the Complaint, as amended, upon the terms set forth in this Consent Agreement is an appropriate means of resolving this case without further litigation.
7. Respondent TRA admits the jurisdictional allegations of the Complaint, as amended.
8. Respondent TRA neither admits nor denies the factual allegations and allegations of violations contained in the Complaint, as amended.
9. Respondent TRA waives any right to contest the allegations and their right to appeal the proposed Final Order accompanying this Consent Agreement.

## II. Terms of Settlement

10. Pursuant to Section 309(g) of the Act, 33 U.S.C. § 1319(g), the nature of the violations and other relevant factors, EPA and Respondent TRA agreed to settle this action for **eighty thousand dollars (\$80,000)**.
11. For purposes of settlement, Respondent TRA consents to the issuance of this Consent Agreement and consent to the payment of the civil penalty cited in Paragraph 10, above.

### III. Payment of Civil Penalty

12. Respondent TRA agrees to pay a civil penalty in the amount of **\$80,000** ("Assessed Penalty") in one payment, within thirty (30) days of Respondent TRA's receipt via electronic mail of this Final Order duly executed by the undersigned Regional Judicial Officer.
13. Respondent TRA shall pay the Assessed Penalty and any interest, fees, and other charges due using any method, or combination of appropriate methods, as provided on the EPA website: <https://www.epa.gov/financial/makepayment>. For additional instructions see: <https://www.epa.gov/financial/additional-instructions-making-payments-epa>.
14. When making a payment, Respondent TRA shall:
  - a. Identify every payment with Respondent TRA's name and the docket number of this Agreement (i.e. In Re: Transporte Rodríguez Asfalto, Inc., CWA-02-2024-3451).
  - b. Concurrently with any payment or within 24 hours of any payment, Respondent TRA shall serve proof of such payment to the following person(s):

Karen Maples  
Regional Hearing Clerk  
[maples.karen@epa.gov](mailto:maples.karen@epa.gov)

José Rivera  
[rivera.jose@epa.gov](mailto:rivera.jose@epa.gov)

and

U.S. Environmental Protection Agency  
Cincinnati Finance Center  
[CINWD\\_AcctsReceivable@epa.gov](mailto:CINWD_AcctsReceivable@epa.gov)

"Proof of payment" means, as applicable, a copy of the check, confirmation of credit card or debit card payment, or confirmation of wire or automated clearinghouse transfer, and any other information required to demonstrate that payment has been made according to EPA requirements, in the amount due, and identified with the appropriate docket number and Respondent's name.

15. Pursuant to 31 U.S.C. § 3717, 31 C.F.R. § 901.9, and 40 C.F.R. § 13.11, if Respondent TRA fails to timely pay the full amount of the Assessed Penalty per this Agreement, EPA is authorized to recover, in addition to the amount of the unpaid Assessed Penalty, the following amounts.
  - a. Interest. Interest begins to accrue from the Filing Date. If the Assessed Penalty is paid in full within thirty (30) days, interest accrued is waived. If the Assessed Penalty is not paid

in full within thirty (30) days, interest will continue to accrue until any unpaid portion of the Assessed Penalty as well as any interest, penalties, and other charges are paid in full. To protect the interests of the United States the rate of interest is set at the Internal Revenue Service standard underpayment rate, any lower rate would fail to provide Respondent adequate incentive for timely payment.

- b. Handling Charges. Respondent TRA will be assessed monthly a charge to cover EPA's costs of processing and handling overdue debts. If Respondent TRA fails to pay the Assessed Penalty in accordance with this Agreement, EPA will assess a charge to cover the costs of handling any unpaid amounts for the first thirty (30) day period after the Filing Date. Additional handling charges will be assessed every thirty (30) days, or any portion thereof, until the unpaid portion of the Assessed Penalty as well as any accrued interest, penalties, and other charges are paid in full.
  - c. Late Payment Penalty. A late payment penalty of six percent (6%) per annum, will be assessed monthly on all debts, including any unpaid portion of the Assessed Penalty, interest, penalties, and other charges, that remain delinquent more than ninety (90) days. Any such amounts will accrue from the Filing Date.
16. In addition to the amounts described in the prior Paragraph, if Respondent fails to timely pay any portion of the Assessed Penalty, interest, or other charges and penalties per this Agreement, EPA may take additional actions. Such actions EPA may take include, but are not limited to, the following.
- a. Refer the debt to a credit reporting agency or a collection agency, per 40 C.F.R. §§ 13.13 and 13.14.
  - b. Collect the debt by administrative offset (i.e., the withholding of money payable by the United States government to, or held by the United States government for, a person to satisfy the debt the person owes the United States government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds, per 40 C.F.R. Part 13, Subparts C and H.
  - c. Suspend or revoke Respondent TRA's licenses or other privileges or suspend or disqualify Respondent TRA from doing business with EPA or engaging in programs EPA sponsors or funds, per 40 C.F.R. § 13.17.
  - d. Refer this matter to the United States Department of Justice for litigation and collection, per 40 C.F.R. § 13.33.
17. Pursuant to 31 C.F.R. § 901.9(f) and 40 C.F.R. § 13.11(d), a partial payment of debt will be applied first to outstanding handling charges, second to late penalty charges, third to accrued interest, and last to the principal that is the outstanding Assessed Penalty amount.

18. Penalties, interest, and other charges paid pursuant to this Agreement shall not be deductible for purposes of federal taxes.

#### IV. General Provisions

19. Pursuant to 26 U.S.C. § 6050X and 26 C.F.R. § 1.6050X-1, EPA is required to send to the Internal Revenue Service (“IRS”) annually, a completed IRS Form 1098-F (“Fines, Penalties, and Other Amounts”) with respect to any court order or settlement agreement (including administrative settlements), that requires a payor to pay an aggregate amount that EPA reasonably believes will be equal to, or in excess of, \$50,000 for the payor’s violation of any law or the investigation or inquiry into the payor’s potential violation of any law, including amounts paid for “restitution or remediation of property” or to come “into compliance with a law.” EPA is further required to furnish a written statement, which provides the same information provided to the IRS, to each payor (i.e., a copy of IRS Form 1098-F). Failure to comply with providing IRS Form W-9 or Tax Identification Number (“TIN”), as described below, may subject Respondent TRA to a penalty, per 26 U.S.C. § 6723, 26 U.S.C. § 6724(d)(3), and 26 C.F.R. § 301.6723-1. In order to provide EPA with sufficient information to enable it to fulfill these obligations, EPA herein requires, and Respondent TRA herein agree, that:
- a. Respondent TRA shall complete an IRS Form W-9 (“Request for Taxpayer Identification Number and Certification”), which is available at <https://www.irs.gov/pub/irs-pdf/fw9.pdf>
  - b. Respondent TRA shall therein certify that its completed IRS Form W-9 includes Respondent TRA’s correct TIN or that Respondent TRA has applied and is waiting for issuance of a TIN;
  - c. Respondent TRA shall email its completed Form W-9 to EPA’s Cincinnati Finance Center at [wise.milton@epa.gov](mailto:wise.milton@epa.gov), within thirty (30) calendar days after the Final Order ratifying this Agreement is filed with the Regional Hearing Clerk, and EPA recommends encrypting IRS Form W-9 email correspondence; and
  - d. In the event that Respondent TRA has certified in its completed IRS Form W-9 that it has applied for a TIN and that TIN has not been issued to Respondent TRA within thirty (30) days after the Effective Date, then Respondent TRA, using the same email address identified in the preceding sub-paragraph, shall further:
    - (1) notify EPA’s Cincinnati Finance Center of this fact, via email, within thirty (30) days after the Effective Date of the Final Order located at the end of this CAFO; and
    - (2) provide EPA’s Cincinnati Finance Center with Respondent TRA’s TIN, via email, within five (5) days of Respondent TRA’s issuance and receipt of the TIN.
20. The provisions of this Consent Agreement shall be binding upon Respondent TRA, its officers,

directors, agents, authorized representatives and successors or assigns, including but not limited to, subsequent purchasers. No transfer of ownership or operation shall relieve Respondent TRA of its obligation to comply with this Consent Agreement.

21. Respondent TRA waives any right it may have pursuant to 40 C.F.R. § 22.8 to be present during discussions with or to be served with and to reply to any memorandum or communication addressed to the Director of the EPA Region 2 Caribbean Environmental Protection Division or the EPA Region 2 Regional Administrator, or any other EPA employee where the purpose of such discussion, memorandum, or communication is to discuss a proposed settlement of this matter or to recommend that this Consent Agreement be approved and signed and that the accompanying Final Order be issued.
22. Nothing in this Consent Agreement shall be construed as prohibiting, altering or in any way limiting the ability of EPA to seek any other remedies or sanctions available by virtue of Respondent TRA's violation of this Consent Agreement or of the statutes and regulations upon which this Consent Agreement is based, or for Respondent TRA's violation of any applicable provision of law.
23. This Consent Agreement shall not relieve Respondent TRA of its obligation to comply with all applicable provisions of the CWA and the regulations implementing it, nor shall it be construed as the issuance of a permit or a ruling on, or determination of, any issues related to any federal, state or local law, regulation or permit.
24. Full payment of the civil penalty shall only resolve Respondent TRA's liability for federal civil penalties for the violations and facts alleged in the Complaint, as amended. Full payment of this penalty shall not in any case affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.
25. This Consent Agreement may be executed in multiple counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.
26. Each undersigned representative of the parties to this Consent Agreement certifies that he or she is fully authorized by the party represented to enter into the terms and conditions of this Consent Agreement and to execute and legally bind that party to it.
27. Each party shall bear its own costs and attorney's fees in connection with the action resolved by this Consent Agreement.
28. Pursuant to Part V of this Consent Agreement, the Effective Date of the Final Order shall be the date of filing with the Regional Hearing Clerk, U.S. EPA Region 2, New York, New York.

FOR TRANSPORTE RODRÍGUEZ ASFALTO, INC.:

BY: Héctor Rodríguez Valle  
HECTOR RODRÍGUEZ VALLE

President  
Transporte Rodríguez Asfalto, Inc.  
PO Box 1239  
Hormigueros, Puerto Rico 00660

DATE: 9/25/2024

FOR COMPLAINANT UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

BY: \_\_\_\_\_

DATE: October 11, 2024

CARMEN R. GUERRERO PÉREZ  
Director  
Caribbean Environmental Protection Division  
United States Environmental Protection Agency, Region 2  
City View Plaza II  
48 CARR 165 STE 7000  
Guaynabo, Puerto Rico 00968-8073



V. Final Order

The Regional Judicial Officer of the United States Environmental Protection Agency, Region 2, ratifies the foregoing Consent Agreement. The Consent Agreement entered into by the parties is hereby approved, incorporated herein, and issued as an Order. The Effective Date of this Order shall be the date of filing with the Regional Hearing Clerk, United States Environmental Protection Agency, Region 2.

BY: \_\_\_\_\_

DATE: \_\_\_\_\_

**HELEN FERRARA**

Regional Judicial Officer

United States Environmental Protection Agency, Region 2

290 Broadway

New York, New York 10007