

**BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029**

In the Matter of:

Docket No. CWA-03-2020-0008DN

**Roubin and Janeiro, Inc.
4901 Shepherd Parkway SW
Washington, DC 20032**

Respondent

ADMINISTRATIVE COMPLIANCE ORDER ON CONSENT

I. PRELIMINARY STATEMENT AND JURISDICTION

1. The United States Environmental Protection Agency, Region III (“EPA”) has made the following findings of fact and issues this Administrative Compliance Order on Consent (“Order”) pursuant to the authority vested in the Administrator of EPA under Section 309(a) of the Clean Water Act (“CWA” or “Act”), 33 U.S.C. § 1319(a). This authority has been delegated by the Administrator to the Regional Administrator of EPA Region III, and further delegated to the Director, Enforcement & Compliance Assurance Division, Region III.
2. Section 309(a) of the Act, 33 U.S.C. § 1319(a), provides, inter alia, that whenever on the basis of any information available to him the Administrator finds that any person is in violation of any condition or limitation implementing certain sections of the Act, including Section 307, 33 U.S.C. § 1317, he shall issue an order requiring such person to comply with such section or requirement.
3. EPA has jurisdiction over the above-captioned matter, as described in Paragraphs 1 and 2, above.
4. EPA has consulted with the District of Columbia Department of Energy and Environment (“DC DOEE”) regarding this action and, subsequent to the Effective Date (as defined in Section X (Effective Date), below), EPA will mail a copy of this fully executed Order to the appropriate DC DOEE official.

II. GENERAL PROVISIONS

5. For the purpose of this proceeding only, Respondent admits each jurisdictional allegation set forth in this Order.
6. Except as provided in Paragraph 5, above, Respondent neither admits nor denies the specific factual allegations, conclusions of law, and alleged violations set forth in Section III (FINDINGS OF FACT AND CONCLUSIONS OF LAW) of this Order, below.
7. Respondent agrees not to contest the jurisdiction of EPA with respect to the execution or enforcement of this Order.
8. For purposes of this proceeding only, Respondent agrees to the terms and issuance of this Order and hereby expressly waives its right to contest the allegations set forth in this Order.
9. Respondent shall bear its own costs and attorney's fees in connection with this proceeding and associated with the implementation or enforcement of this Order, including any costs related to resolution of any dispute arising regarding this Order.
10. Issuance of this Order is intended to address the violations described herein. EPA reserves the right to commence action against any person, including Respondent, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. Further, EPA reserves any existing rights and remedies available to it under the CWA, 33 U.S.C. §1311, et seq., the regulations promulgated thereunder, and any other federal laws or regulations for which EPA has jurisdiction. Further, EPA reserves any rights and remedies available to it under the CWA, the regulations promulgated thereunder, and any other federal laws or regulations for which EPA has jurisdiction, to enforce the provisions of this Order, following its Effective Date (as defined below).
11. This Order does not constitute a waiver or modification of the terms or conditions of any NPDES Multi-Sector General Permit for Stormwater Discharges Associated with Industrial Activity or any other permit issued to Respondent
12. Respondent waives any and all remedies, claims for relief and otherwise available rights to judicial or administrative review that Respondent may have with respect to any issue of fact or law set forth in this Order, including any right of judicial review pursuant to Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-706.
13. EPA reserves all existing inspection authority otherwise available to EPA pursuant to Section 308 of the CWA, 33 U.S.C. § 1318, or pursuant to any other statute or law.
14. The undersigned representative of Respondent certifies that he or she is fully authorized by the party represented to enter into the terms and conditions of this Order and to execute and legally bind the party.

15. By signing this Order, Respondent acknowledges that this Order may be available to the public and represents that, to the best of Respondent's knowledge and belief, this Order does not contain any confidential business information or personally identifiable information from Respondent.
16. Respondent certifies that any information or representation it has supplied or made to EPA concerning this matter was, at the time of submission was true, accurate, and complete and that there has been no material change regarding the truthfulness, accuracy or completeness of such information or representation. EPA shall have the right to institute further actions to recover appropriate relief if EPA obtains evidence that any information provided and/or representations made by Respondent to the EPA regarding matters relevant to this Order are false or, in any material respect, inaccurate. This right shall be in addition to all other rights and causes of action that EPA may have, civil or criminal, under law or equity in such event. Respondent and its officers, directors and agents are aware that the submission of false or misleading information to the United States government may subject a person to separate civil and/or criminal liability.
17. Respondent may assert a business confidentiality claim covering part or all of the information which this Order requires it to submit to EPA, but only to the extent and only in the manner described in Part 2 Subpart B of Title 40 of the C.F.R. The EPA will disclose information submitted under a confidentiality claim only as provided in Part 2 Subpart B of Title 40 of the C.F.R. If Respondent does not assert a confidentiality claim, EPA may make the submitted information available to the public without further notice to Respondent.

III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

18. Section 502(5) of the Act, 33 U.S.C. §1362, provides: "The term 'person' means an individual, corporation, partnership, association, State, municipality, commission, or political subdivision of a State or any interstate body."
19. Respondent is a corporation and is a "person" within the meaning of Section 502(5) of the Act, 33 U.S.C. § 1362(5).
20. At all times relevant to this Order, Respondent was the owner and operator of an asphalt manufacturing facility located at 4901 Shepherd Parkway SW, Washington, DC, 20032 (Facility).
21. 40 C.F.R. § 122.2 defines "point source" as: "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, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharged."
22. Section 402(p) of the Act, 33 U.S.C. §1342(p) and 40 C.F.R. §§ 122.2 and 122.26 provide that certain storm water discharges are subject to NPDES permitting requirements under Section 402(a) of the CWA, 33 U.S.C. § 1342(a).

23. Each conveyance from the Facility is a “point source” as that term is defined in 40 C.F.R. § 122.2.
24. Section 301(a) of the Act, 33 U.S.C. § 1311(a), prohibits the discharge of any pollutant (other than dredged or fill material) from a point source into waters of the United States except in compliance with a permit issued pursuant to the NPDES program under Section 402 of the Act, 33 U.S.C. § 1342.
25. 40 C.F.R. § 122.26(b)(13) defines “Storm water” as “storm water runoff, snow melt runoff and surface runoff and drainage.”
26. At all times relevant to this Order, storm water from the Facility discharged to the “municipal separate storm sewer system” or “MS4”, as that term is defined at 40 C.F.R. § 122.26(b)(8)(i), located in the District of Columbia (DC MS4). The DC MS4 discharges to the Anacostia River and the Potomac River.
27. The Anacostia River and the Potomac River are each a “navigable water”, as that term is defined in Section 502(7) of the Act, 33 U.S.C. § 1362(7), and are, thus, waters of the United States.
28. Section 402(a) of the Act, 33 U.S.C. § 1342(a), provides that the Administrator of EPA may issue permits under the NPDES program for the discharge of any pollutant from a point source to the waters of the United States. The discharges are subject to specific terms and conditions as prescribed in the permit. Section 402(b) of the Act, 33 U.S.C. § 1342(b) provides that the Administrator may authorize a state to issue NPDES permit.
29. 40 C.F.R. § 122.2 states, in relevant part: “Discharge of a pollutant means: a) any addition of any ‘pollutant’ or combination of pollutants to waters of the United States from any point source... This definition includes additions of pollutants into waters of the United States from: surface runoff which is collected or channelled by man; discharges through pipes, sewers, or other conveyances owned by a State, municipality, or other person which do not lead to a treatment works; and discharges through pipes, sewers, or other conveyances, leading into privately owned treatment works...”
30. In accordance with Section 402(a) of the Act, 33 U.S.C. § 1342(a), EPA issued a NPDES Multi-Sector General Permit for Stormwater Discharges Associated with Industrial Activity (the Permit), which, for industrial activities in the District of Columbia, became effective on June 4, 2015 and will expire on June 4, 2020. The Permit authorizes discharges of storm water associated with certain industrial activities in certain areas only in accordance with the conditions of the Permit.
31. Appendix A of the Permit defines “Operator” as: “any entity with a stormwater discharge associated with industrial activity that meets either of the following two criteria:
 1. The entity has operational control over industrial activities, including the ability to make modifications to those activities; or

2. 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).”
32. At all times relevant to this Order, Respondent was, and continues to be, an “operator” of the Facility, as that term is defined in Appendix A of the Permit.
33. Appendix A of the Permit defines “Primary Industrial Activity” in relevant part to include: “any activities performed on-site which are (1) identified by the facility’s primary SIC code and included in the descriptions of 122.26(b)(14)(ii), (iii), (vi), or (viii); or (2) included in the narrative descriptions of 122.26(b)(14)(i), (iv), (v), (vii), or (ix).”
34. 40 C.F.R. § 122.26(b)(14) states in relevant part: “... The following categories of facilities are considered to be engaging in “industrial activity” for purposes of paragraph (b)(14):
- (i) Facilities subject to storm water effluent limitations guidelines, new source performance standards, or toxic pollutant effluent standards under 40 CFR subchapter N (except facilities with toxic pollutant effluent standards which are exempted under category (xi) in paragraph (b)(14) of this section).”
35. At all times relevant to this Order, activities performed at the Facility are identified by the Facility’s Standard Industrial Classification (SIC) code of 2951, Asphalt Paving Mixtures and Blocks, and are included in the description of 40 C.F.R. § 122.26(b)(14)(i) as a Facility subject to: a) storm water effluent guidelines set forth at 40 C.F.R. Part 443 (Effluent Limitations Guideline for Existing Sources and Standards of Performance and Pretreatment Standards for New Sources For the Paving and Roofing Materials (Tars and Asphalt) Point Source), Subpart A (Asphalt Emulsion Subcategory) and b) new source performance standards set forth at 40 C.F.R. Part 60 (Standards of Performance for New Stationary Sources), Subpart I (Standards of Performance for Hot Mix Asphalt Facilities).
36. Part 1.2 of the Permit sets forth the following requirements to obtain authorization under the Permit:
- “To obtain authorization under this permit, you must:
- Be an operator of a primary industrial activity in a sector covered by this permit (see Appendix D);
 - Be located in a state, territory, or Indian country, or be a federal operator identified in Appendix C where EPA is the permitting authority;
 - Meet the Part 1.1 eligibility requirements;
 - Select, design, install, and implement control measures in accordance with Part 2.1 and Part 8 to meet numeric and non-numeric effluent limits;
 - Develop a SWPPP (Stormwater Pollution Prevention Plan) per Part 5 of this permit or update your existing SWPPP consistent with Part 5 prior to submitting your NOI (Notice of Intent) for coverage under this permit; and
 - Submit a complete and accurate NOI in accordance with this Part.”
37. At all times relevant to this Order, Respondent was, and continues to be, an operator of the following primary industrial activity in a sector covered by the Permit, as identified in

Appendix D of the Permit: Standard Industrial Classification (SIC) Code 2951, 2952 and Asphalt Paving and Roofing Materials Represented Activity.

38. The Facility is located in the District of Columbia, which is identified in Appendix C of the Permit as an area of coverage where EPA is the permitting authority and is defined as a "State" pursuant to Section 1362 of the Act, 33 U.S.C. § 1362.
39. On or about August 8, 2017, Respondent submitted a NOI for coverage under the Permit for discharges of pollutants resulting from industrial activities at the Facility.
40. Respondent's NOI states that a current copy of Respondent's SWPPP is maintained on an Internet page and, therefore, Respondent certified that, as of August 8, 2017, Respondent had developed a SWPPP for the Facility (the SWPPP).
41. On September 7, 2017, EPA determined that the Facility was eligible for coverage under the Permit and permitted point source discharges of pollutants from the Facility during September 7, 2017 through June 3, 2020 under NPDES Permit Number DCR053047.
42. In accordance with Section 1.1.2 (Allowable Stormwater Discharges) of the Permit, at all times relevant to this Order, the following discharges from the Facility were eligible for coverage under the Permit: a) stormwater discharges associated with industrial activity for any primary industrial activities and co-located industrial activities, as defined in Appendix A, except for any stormwater discharges specifically prohibited in Part 8 of the Permit and b) Stormwater discharges from facilities subject to any of the national stormwater-specific effluent limitations guidelines listed in Table 1-1, including Runoff from asphalt emulsion facilities as also regulated pursuant to 40 C.F.R. Part 443, Subpart A.
43. At all times relevant to this Order, there were storm water discharges associated with industrial activity from the primary industrial activity at the Facility and subject to the Permit.
44. At all times relevant this Order, Respondent was subject to the requirements of the Permit at the Facility.
45. On March 14, 2018, representatives of EPA (EPA Inspectors) and DOEE conducted an industrial stormwater inspection at the Facility to evaluate Respondent's compliance with certain portions of the Permit (the Inspection).
46. By email, dated May 24, 2018, EPA submitted a report of the Inspection to Respondent (the Inspection Report).

Count I

Failure to Prepare SWPPP Site Map in Accordance With Permit Requirements

47. The allegations of Paragraphs 1 through 46 of this Order are incorporated herein by reference.
48. Part 5.2.2 (Site Description) of the Permit states, in relevant part:

49. “Your SWPPP must include the following: ... Site map. Provide a map showing: ... (l)ocations of potential pollutant sources identified under Part 5.2.3.2; ... (l)ocations of all stormwater monitoring points; ... (l)ocations of stormwater inlets and outfalls, with a unique identification code for each outfall (e.g., Outfall 001, 002), indicating if you are treating one or more outfalls as “substantially identical” under Parts 3.2.3, 5.2.5.3, and 6.1.1, and an approximate outline of the areas draining to each outfall; ... (and) ... (l)ocations of the following activities where such activities are exposed to precipitation: ... locations used for the treatment, storage, or disposal of wastes and liquid storage tanks.”
50. During the Inspection, EPA Inspectors reviewed the site map portion of the SWPPP and identified that the following required information was not provided on the map:
- location of each area of potential pollutant sources identified under Part 5.2.3.2. of the Permit,
 - location of each stormwater monitoring point,
 - location of each stormwater outfall with a unique identification code for each outfall,
 - location of each area used for disposal of wastes where such waste disposal activities are exposed to precipitation, or
 - location of each area used for liquid storage tanks where such waste disposal activities are exposed to precipitation.
51. During at least August 8, 2017 through March 14, 2018, Respondent’s SWPPP did not include a site map illustrating the locations of the following activities or areas in violation of Part 5.2.2. of the Permit:
- location of each area of potential pollutant sources identified under Part 5.2.3.2. of the Permit,
 - location of each stormwater monitoring point,
 - location of each stormwater outfall with a unique identification code for each outfall,
 - location of each area used for disposal of wastes where such waste disposal activities are exposed to precipitation, or
 - location of each area used for liquid storage tanks where such waste disposal activities are exposed to precipitation.
52. During at least August 8, 2017 through March 14, 2018, Respondent’s failure to have a SWPPP, which included a site map meeting the requirements of Part 5.2.2. of the Permit constitutes a violation of the Permit and Sections 301 and 402 of the Act, 33 U.S.C. §§ 1311 and 1342.

Count II

Failure to Perform Good Housekeeping Measures to Minimize Pollutant Discharges

53. The allegations of Paragraphs 1 through 52 of this Order are incorporated herein by reference.
54. Part 2.1.2.2. (Good Housekeeping) of the Permit provides in relevant part: “You must keep clean all exposed areas that are potential sources of pollutants. You must perform good housekeeping measures in order to minimize pollutant discharges, including but not limited to, the following: ...
- Store materials in appropriate containers;

- Keep all dumpster lids closed when not in use. For dumpsters and roll off boxes that do not have lids and could leak, ensure that discharges have a control (e.g., secondary containment, treatment). Consistent with Part 1.1.3 above, this permit does not authorize dry weather discharges from dumpsters or roll off boxes;
 - Minimize the potential for waste, garbage and floatable debris to be discharged by keeping exposed areas free of such materials, or by intercepting them before they are discharged...”
55. During the Inspection, EPA Inspectors observed, on the south side of the Facility, an open dumpster (the open dumpster) containing discarded solid waste debris, with an attached lid hanging on the side, located adjacent to a storm drain inlet.
56. During the Inspection, EPA Inspectors observed that the waste or other material was not being added to or removed from the open dumpster.
57. During the Inspection, EPA Inspectors observed, discarded solid waste debris, including scrap metal, piled on the ground exposed to the elements of nature, including precipitation, along the Facility’s northern perimeter.
58. On March 14, 2018, Respondent violated Part 2.1.2.2. (Good Housekeeping) of the Permit by failing to keep all dumpster lids closed when not in use, store materials in appropriate containers and minimize the potential for waste, garbage and floatable debris to be discharged by keeping exposed areas free of such materials.
59. On March 14, 2018, Respondent’s failures to keep all dumpster lids closed when not in use, store materials in appropriate containers and minimize the potential for waste, garbage and floatable debris to be discharged by keeping exposed areas free of such materials constituted violations of the Permit and Sections 301 and 402 of the Act, 33 U.S.C. §§ 1311 and 1342.

Count III

Failure to Minimize Exposure of Material Storage Areas to Precipitation

60. The allegations of Paragraphs 1 through 59 of this Order are incorporated herein by reference.
61. Part 2.1.2.1. (Minimize Exposure) of the Permit states, in relevant part: “You must minimize the exposure of manufacturing, processing, and material storage areas (including loading and unloading, storage, disposal, cleaning, maintenance, and fueling operations) to rain, snow, snowmelt, and runoff in order to minimize pollutant discharges by either locating these industrial materials and activities inside or protecting them with storm resistant coverings. Unless infeasible, you must also:
- Use grading, berming or curbing to prevent runoff of contaminated flows and divert run-on away from these areas;
 - Locate materials, equipment, and activities so that potential leaks and spills are contained or able to be contained or diverted before discharge; ...
 - Use spill/overflow protection equipment; ...”

62. During the Inspection, EPA Inspectors observed construction aggregate particulate material (aggregate), used or processed at the Facility, in large piles in more than one area of the Facility, including piled adjacent to and partially on top of a storm drain inlet on the south side of the Facility's south entrance.
63. During the Inspection, EPA Inspectors observed asphalt waste debris on top of the storm drain inlet along the Facility's west perimeter and standing water in the same storm drain (west perimeter storm drain).
64. During the Inspection, EPA Inspectors observed that the standing water inside the west perimeter storm drain had a dark, turbid appearance.
65. During the Inspection, EPA Inspectors observed uncovered aggregate and reclaimed asphalt pavement (RAP) stockpiles which had spilled beyond the confines of their designated storage bins.
66. During the Inspection, EPA Inspectors observed, in the southwest corner of the Facility, sand which had spilled beyond the confines of the designated stockpile storage bin and come into contact with water flowing underneath a portion of the Facility's perimeter fence.
67. During the Inspection, EPA Inspectors observed, in the central area of the Facility, a materials storage area (Material Storage Area) containing rusted pieces of scrap metal, petroleum product containers, and open containers of tack coat, all stored without cover or secondary containment.
68. During the Inspection, EPA Inspectors observed a storm drain inlet, located downgradient of the Material Storage Area, and observed fine particulate matter on the surface of standing water in the catch basin inside such storm drain.
69. On March 14, 2018, Respondent violated Part 2.1.2.1. (Minimize Exposure) of the Permit by failing to minimize the exposure of manufacturing, processing, or material storage areas (including loading and unloading, storage, disposal, cleaning, maintenance, and fueling operations) to rain, snow, snowmelt, and runoff in order to minimize pollutant discharges by either locating these industrial materials and activities inside or protecting them with storm resistant coverings.
70. On March 14, 2018, Respondent's failure to minimize the exposure of manufacturing, processing, or material storage areas (including loading and unloading, storage, disposal, cleaning, maintenance, and fueling operations) to rain, snow, snowmelt, and runoff in order to minimize pollutant discharges by either locating these industrial materials and activities inside or protecting them with storm resistant coverings constituted violations of the Permit and Sections 301 and 402 of the Act, 33 U.S.C. §§ 1311 and 1342.

Count IV
Failure to Minimize Potential for Leaks, Spills And Other Releases
That May be Exposed to Stormwater

71. The allegations of Paragraphs 1 through 70 of this Order are incorporated herein by reference.
72. Part 2.1.2.4 (Spill Prevention and Response) of the Permit states in relevant part: “You [the Permittee] must minimize the potential for leaks, spills and other releases that may be exposed to stormwater and develop plans for effective response to such spills if or when they occur in order to minimize pollutant discharges. You must conduct spill prevention and response measures, including but not limited to, the following: ...
- Implement procedures for material storage and handling, including the use of secondary containment and barriers between material storage and traffic areas, or a similarly effective means designed to prevent the discharge of pollutants from these areas;
 - Develop training on the procedures for expeditiously stopping, containing, and cleaning up leaks, spills, and other releases. As appropriate, execute such procedures as soon as possible;
 - Keep spill kits on-site, located near areas where spills may occur or where a rapid response can be made; and
 - Notify appropriate facility personnel when a leak, spill, or other release occurs.”
73. During the inspection, EPA Inspectors observed petroleum products stored without cover or secondary containment in multiple areas of the Facility.
74. During the inspection, EPA Inspectors observed:
- a. in the southeast area of the Facility, a 55-gallon drum containing motor oil stored without cover or containment on the impervious surface and petroleum product staining on the impervious surface adjacent to the drum,
 - b. in the southeast area of the Facility, two 55-gallon drums containing hydraulic oil stored without cover or secondary containment and petroleum product staining on the ground surface adjacent to the drums,
 - c. in the central area of the Facility, two 16-gallon drums containing industrial lubricant stored without cover or secondary containment in the materials storage area;
 - d. in the central area of the Facility, an open 5-gallon bucket containing asphalt release agent stored without cover or secondary containment adjacent to certain liquid asphalt tanks,
 - e. in the central area of the Facility, petroleum product staining on the side of the secondary containment structure for certain liquid asphalt tanks, and
 - f. in the Asphalt Release Application Area of the Facility, two 250-gallon totes containing asphalt release agent stored without cover or secondary containment and petroleum product staining on the ground surface adjacent to the totes.
75. At the time of the inspection, there were no secondary containments or barriers to effectively control potential releases and prevent the discharge of pollutants from the Asphalt Release Application Area of the Facility. See Inspection Report at Appendix B, Photographs 1, 3, 4, and 26.

76. On March 14, 2018, Respondent violated Part 2.1.2.4. (Spill Prevention and Response) of the Permit by failing to: minimize the potential for leaks, spills and other releases that may be exposed to stormwater, develop plans for effective response to such spills if or when they occur in order to minimize pollutant discharges and implement procedures for material storage and handling, including the use of secondary containment and barriers between material storage and traffic areas, or a similarly effective means designed to prevent the discharge of pollutants from these areas.
77. On March 14, 2018, Respondent's failure to minimize the potential for leaks, spills and other releases that may be exposed to stormwater, develop plans for effective response to such spills if or when they occur in order to minimize pollutant discharges and implement procedures for material storage and handling, including the use of secondary containment and barriers between material storage and traffic areas, or a similarly effective means designed to prevent the discharge of pollutants from these areas constituted violations of the Permit and Sections 301 and 402 of the Act, 33 U.S.C. §§ 1311 and 1342.

Count V

Failure to Minimize Off-Site Tracking of Raw, Final or Waste Materials

78. The allegations of Paragraphs 1 through 77 of this Order are incorporated herein by reference.
79. Part 2.1.2.10 (Dust Generation and Vehicle Tracking of Industrial Materials) of the Permit states: "You [the Permittee] must minimize generation of dust and off-site tracking of raw, final, or waste materials in order to minimize pollutant discharges"
80. During the inspection, the EPA Inspectors observed sediment track-out from the Facility's central entrance onto Shepherd Parkway.
81. On March 14, 2018, Respondent violated Part 2.1.2.10 (Dust Generation and Vehicle Tracking of Industrial Materials) of the Permit by failing to minimize off-site tracking of raw, final, or waste materials.
82. On March 14, 2018, Respondent's failure to minimize off-site tracking of raw, final, or waste materials constituted violations of the Permit and Sections 301 and 402 of the Act, 33 U.S.C. §§ 1311 and 1342.

IV. COMPLIANCE TASKS REQUIREMENTS

83. Pursuant to section 309(a) of the Act, 33 U.S.C. § 1319(a), having taken into account the seriousness of the violations and good faith efforts by Respondent to comply with section 301(a) of the Act, Respondent is hereby ORDERED to complete the compliance requirements, or compliance tasks, set forth below within the time frames set forth below.

- a. Prior to the sixtieth (60th) calendar day following the Effective Date of this Order, develop and submit for EPA's review, in accordance with Paragraph 86 of this Order, a SWPPP site map meeting the requirements of Permit Condition 5.2.2. (Site Description). Such map shall include, but not be limited to, illustrations of the locations of the following activities or areas at the Facility:
 - i. location of each area of potential pollutant sources identified under Part 5.2.3.2. of the Permit,
 - ii. location of each stormwater monitoring point,
 - iii. location of each stormwater outfall with a unique identification code for each outfall,
 - iv. location of each area used for disposal of wastes where such waste disposal activities are exposed to precipitation, and
 - v. location of each area used for liquid storage tanks where such waste disposal activities are exposed to precipitation.
- b. Prior to the sixtieth (60th) calendar day following the Effective Date of this Order, develop and submit for EPA's review, in accordance with Paragraph 86 of this Order, a Good Housekeeping Standard Operating Procedures (SOP), in accordance with the Permit, and upon EPA's approval ensure that such approved Good Housekeeping SOP is incorporated into the SWPPP.
- c. Prior to the sixtieth (60th) calendar day following the Effective Date of this Order, develop and submit for EPA's review, in accordance with Paragraph 86 of this Order, a detailed SWPPP Training Standard Operating Procedures (SWPPP Training SOP) that includes, at a minimum:
 - i. a detailed training protocol that accurately reflects and provides instruction regarding the requirements of: 1) the Permit and 2) the SWPPP, including any EPA approved Good Housekeeping SOP, the Pollution Prevention SOP and any other standard operating procedure and
 - ii. a detailed schedule for implementing such training, on a semi-annual basis, for all employees, supervisors, managers or operators at the Facility.
- d. Prior to the sixtieth (60th) calendar day following the Effective Date of this Order, develop and submit for EPA's review, in accordance with Paragraph 86 of this Order, a detailed Aggregate Containment Plan (Aggregate Containment Plan).
 - i. For each area of the Facility where an aggregate (sand, gravel, RAP, etc.) stockpile is, or is planned to be located, the Aggregate Containment Plan shall provide a detailed process for one of the following options to be implemented to ensure that each aggregate stockpile is surrounded by a containment structure designed to adequately prevent stockpiled or spilled aggregate from coming into contact with stormwater runoff:
 - a) the construction of a new aggregate containment structure,
 - b) modification or expansion of a currently existing aggregate containment structure, or
 - c) submission of information described in Paragraph 86.d.iii., below, for any existing aggregate containment structure which Respondent seeks

- EPA's review of to determine whether such existing structure adequately prevents stockpiled, or spilled, aggregate from coming into contact with stormwater runoff.
- ii. For each new or modified aggregate containment structure, the Aggregate Containment Plan shall require that each such new, or modified, structure shall be constructed, or modified, as necessary to ensure that no spillage of aggregate comes in contact with stormwater runoff or any storm drain inlet, including ensuring that the specifications of each containment structure are of an adequate height to contain any aggregate stockpile or spillage therefrom. For each modified or newly constructed structure, the Aggregate Containment Plan shall include:
 - a) detailed drawings depicting the location and dimensions of each containment structure and the aggregate stockpile to be contained by such structure,
 - b) the location of each nearby storm water drain inlet, and
 - c) a detailed description of the construction components and specifications of each structure.
 - iii. For each existing aggregate containment structure for which Respondent seeks EPA's review to determine whether such existing structure adequately prevents stockpiled or spilled aggregate from coming into contact with stormwater runoff, the Aggregate Containment Plan shall include, but not be limited to:
 - a) Pictures of the existing containment structure in relation to the aggregate pile and each storm water drain inlet,
 - b) detailed drawings depicting the location, construction material and dimensions of the current aggregate containment structure, which Respondent seeks to inspect and maintain as is with no modification, and
 - c) any additional information relevant to a determination that such structure adequately prevents stockpiled or spilled aggregate from coming into contact with stormwater runoff.
 - iv. The Aggregate Containment Plan shall include a detailed Aggregate Containment Construction and Modification Schedule. Such document shall include a specific schedule for each containment structure that is subject to modification or construction. Each containment structure specific schedule shall require that modification or construction of such containment structure shall be completed within sixty (60) calendar days of EPA's approval of such Aggregate Containment Plan, or approval of the portion of such plan relevant to the specific containment structure, whichever occurs sooner.
 - e. Prior to the sixtieth (60th) calendar day following the Effective Date of this Order, develop and submit for EPA's review, in accordance with Paragraph 86 of this Order, a detailed Vehicle Pollutants Containment Plan to construct a containment structure (Vehicle Pollutants (VP) Containment Structure) in the Asphalt Release Application

Area and in each additional area of the Facility used for rinsing or cleaning vehicles. Each such VP Containment Plan shall include:

- i. detailed drawings or photographs depicting the location and dimensions of each area used to apply Asphalt Release Agent or for cleaning or rinsing vehicles,
- ii. detailed drawings depicting the location and dimensions of each containment structure to be constructed to contain and prevent releases of Asphalt Release Agent, cleaning agents, rinse water or any other pollutants to stormwater or any stormwater inlet,
- iii. the location of each nearby storm drain inlet, and
- iv. a detailed description of the components and specifications of each structure and iv) a detailed schedule for completion of construction for each structure (VP Containment Construction Schedule).

Each VP Containment Plan shall require that each new, or modified, structure shall be designed and constructed, or modified, as necessary to contain and prevent releases of Asphalt Release Agent, cleaning agents, rinse water or any other pollutants to stormwater or any stormwater inlet. Each VP Containment Construction Schedule shall require that modification, or construction, of each such containment structure shall be completed within sixty (60) calendar days of EPA's approval of such VP Containment Plan, or approval of the portion of such plan relevant to the specific containment structure, whichever occurs sooner.

- f. Prior to the sixtieth (60th) calendar day following the Effective Date of this Order, develop and submit for EPA's review, in accordance with Paragraph 88 of this Order, a detailed inspection schedule and maintenance plan (Containment Structures Inspection and Maintenance Plan), which requires, at a minimum, quarterly inspection of each Aggregate Containment and VP Containment Structure at the Facility, documentation of each inspection and inspection findings, documentation of repairs made to any such structure, and names and contact information for each Facility personnel responsible for ensuring inspection and maintenance of such structures.
- g. Respondent shall take all actions necessary to comply with the Permit, including:
 - i. Update the SWPPP in accordance with the permit conditions and good engineering practices,
 - ii. Perform good housekeeping measures in order to minimize pollutant discharges from dumpsters and discarded waste and scrap metal,
 - iii. Minimize the exposure of industrial materials to stormwater runoff at aggregate and sand piles, RAP stockpiles, scrap metal, petroleum products, and other chemicals,
 - iv. Implement procedures to minimize the contribution of pollutants to stormwater runoff, including cleanup procedures and use of secondary containment,
 - v. Implement an enhanced plan to reduce the tracking of sediment off site,

- vi. Install erosion and sediment controls to minimize pollutants and protect water quality in the receiving waters, and
- vii. Properly maintain installed control measures, including but not limited to, facility entrances, storm drain inlet protection, and aggregate pile stabilization measures.

V. PROCEDURES FOR SUBMISSIONS

84. All documents required to be submitted by this Order and any Request for Termination shall be accompanied by a certification signed by a responsible officer, as defined in 40 CFR § 122.22(d), that reads as follows:

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 gather and evaluate 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.

Signed _____
Title _____

85. Any submission or communication relating to this Order shall be submitted (either via mail or electronic transmission) to:

Michael Greenwald (3ED32)
Enforcement and Compliance Assurance Division
U.S. EPA, Region III
1650 Arch Street
Philadelphia, PA 19103-2029
Greenwald.michael@epa.gov

And

Robert Burnett
Inspection and Enforcement Division
Department of Energy & Environment
Government of the District of Columbia
1200 First Street, NE, 5th floor
Washington, DC 20002
robert.burnett@dc.gov

86. Review of Submissions:

- a. For each submission required pursuant to this Order, except for any Quarterly Status Report, EPA will in writing: (i) approve the submission in whole or in part; (ii) approve the submission upon specified conditions; (ii) modify the submission to cure

any deficiencies; (iii) disapprove the submission, in whole or in part, or (iv) any combination of the above.

- b. If the submission is approved, Defendant shall take all actions required by the approved submission, in accordance with the schedules and requirements set forth in such approved submission or EPA's written notification of approval. If the submission is conditionally approved or approved only in part, Defendant shall, upon written direction from EPA, take all actions required by any approved portion of the submission that EPA determines is technically severable from any disapproved portion.
 - c. If the submission is disapproved in whole or in part, Respondent shall, within thirty (30) calendar days or such other time as EPA determines appropriate, correct all deficiencies and resubmit the disapproved portion of such submission for approval, in accordance with this Order.
 - d. After review of any document resubmitted in accordance with Paragraph 88.c., above EPA will notify Respondent in writing that such resubmission is approved, disapproved or revised in whole or part. If the resubmission is approved, in whole or in part, Respondent shall proceed in accordance with Paragraph 88.b., above. If any portion of such resubmission is disapproved, EPA may again require Respondent to correct any deficiencies, in accordance with Paragraph 88.c., above, or EPA may revise such document and correct any deficiencies and notify Respondent to take all actions required by such revised resubmission.
87. Subsequent to EPA approval of any plan, schedule or other document required to be submitted to EPA, pursuant to the Section IV (Compliance Task Requirements) of this Order, Respondent may seek EPA's review of revisions to such previously approved document. The provisions of this Section shall apply to any request for any revision of any EPA approved document.

VI. CERTIFICATION OF COMPLIANCE AND REQUEST FOR TERMINATION OF ORDER

88. Upon completion of all compliance task requirements set forth in Paragraph 83, above, including completion of all tasks required pursuant to the EPA-approved Aggregate Containment Plan and VP Containment Plan, Respondent shall submit to EPA a Certification of Compliance and Request for Termination of this Order. Such certification and request shall include:
- a. employee training agendas and sign-in sheets documenting SWPPP Training,
 - b. copies of all SWPPP amendments,
 - c. detailed description of all corrective actions taken pursuant to this Order,

- d. documentation describing all self-inspections performed, including accompanying photographs,
 - e. a certification that Respondent has maintained compliance with this Order
 - f. all necessary documentation, including photo documentation as appropriate, to support a finding that Respondent has complied with any additional the tasks required pursuant to Paragraph 86, above, and
 - g. a detailed schedule documenting submission and implementation of each SOP required pursuant to Paragraph 86, above.
89. If following review of any Certification of Compliance and Request for Termination of this Order, EPA agrees that Respondent has adequately complied with all requirements of this Order, EPA shall provide written notification of termination of this Order.

VII. OTHER APPLICABLE LAWS

90. Nothing in this Order shall relieve Respondent of its obligation to comply with all applicable provisions of federal, state, or local laws and regulations, nor shall it restrict EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on the validity of any federal, state or local permit. This Order does not constitute a waiver, suspension or modification of the requirements of the Act, 33 U.S.C. §§ 1251 et seq., or any regulations promulgated thereunder.

VIII. RESERVATION OF RIGHTS

91. EPA reserves the right to commence action against any person, including Respondent, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. EPA reserves any rights and remedies available to it under the Act, 33 U.S.C. §§ 1251 et seq., the regulations promulgated thereunder and any other federal law or regulation to enforce the terms of this Order after its Effective Date.

IX. PARTIES BOUND

92. This Order shall apply to and be binding upon the Respondent and the officers, directors, employees, contractors, successors, agents and assigns of Respondent. By his or her signature below, the person who signs this Order on behalf of Respondent is acknowledging that he or she is fully authorized by the Respondent to execute this Order and to legally bind Respondent to the terms and conditions of this Order.

X. EFFECTIVE DATE

93. This ORDER is effective after receipt by Respondent of a fully executed document.

In the Matter of: Roubin & Janeiro, Inc.

EPA Docket No.: CWA-03-2020-0008DN

SO ORDERED:

Date: 03/25/2020

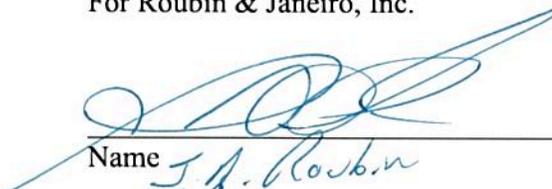
Karen Melvin

Karen Melvin
Director, Enforcement
& Compliance Assurance Division
U.S. EPA Region III

AGREED TO:

For Roubin & Janeiro, Inc.

Date: 3/10/20



Name *J.P. Roubin*

Title