

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2**

May 6, 2024 @ 1:38 pm
USEPA – Region II
Regional Hearing Clerk

In the Matter of:

HÉCTOR RODRÍGUEZ VALLE
P.O. Box 1239
Hormigueros, Puerto Rico 00660

and

TRANSPORTE RODRÍGUEZ ASFALTO,
INC. (“TRA”)
P. O. Box 1239
Hormigueros, Puerto Rico 00660

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

RESPONDENTS

DOCKET NUMBER CWA-02-2024-3451

Proceeding pursuant to Section 309(g)(2)(B)
of the Clean Water Act, 33 U.S.C. §
1319(g)(2)(B), to assess a Class II Civil
Penalty

MOTION FOR DISMISS OF THE CO-RESPONDENT HÉCTOR RODRÍGUEZ VALLE

TO THE HONORABLE REGIONAL JUDICIAL OFFICER:

COMES NOW Co-Respondent, Héctor Rodríguez Valle, through the undersigned counsel, and respectfully sets forth and prays as follows:

1. The following proceeding has been filed against Mr. Héctor Rodríguez Valle, Transporte Rodríguez Asfalto, Inc. y TRA Recycling Plant Construction Project.
2. In a very respectful manner, we ask that the proceeding against, Mr. Héctor Rodríguez, be dismissed. Since the defendant is not a liable person nor in any way or form responsible in relationship with the arising facts that give rise to the matter to the Complainant.

3. Since, **October 25, 2021**, Mr. Héctor Rodríguez Valle and his wife Mrs. Rivera López, executed a lease contract in which the Property subject to the cause of action is under the exclusive responsibility of co-respondents, Transporte Rodríguez Asfalto, Inc.
4. The leasing contract that was signed by Mr. Rodríguez and his wife, in October 25 of 2021, makes a specific remark towards the fact that TRA has relieved the defendant from the type of legal responsibility that the plaintiff is trying to lay upon the defendant.
5. Specifically, the leasing contract clause identified as number eight (8), indicates:

“DAÑOS A LAS PERSONAS O A LA PROPIEDAD Y RELEVO TOTAL DE RESPONSABILIDAD: La Arrendadora no será responsable de manera alguna de los usos y/o acciones que realice el arrendatario sobre las Propiedades, así como tampoco de los daños a la persona o a la propiedad, incluyendo la propiedad objeto de este contrato, que ocurra como resultado de la operación negligente realizada en la propiedad por parte de la Arrendataria, sus agentes o empleados.¹

La Arrendataria mediante el presente contrato acuerda que responderá, defenderá y mantendrá indemne a la Arrendadora, sus dueños en su carácter personal, de cualquier demanda, reclamación o multa que surja en contra de estos como resultado de cualquier movimiento de terreno, construcción, instalación, y/o resultante del uso y/o operación de la Planta por parte de la Arrendataria, incluyendo pero no limitándose a multas, daños, y costas por cualquier accidente, daño a la propiedad o a la persona, contaminación o derrame, violación a las leyes y reglamentos ambientales, así como a las condiciones y requisitos contenidos en los permisos de las agencia gubernamentales y cualquier otro tipo de daño o situación previsible o no que ocurra en o a la propiedad arrendada mediante este Contrato de Arrendamiento. Las partes acuerdan que la Arrendadora releva de toda responsabilidad a la Arrendataria de toda reclamación judicial, extrajudicial, administrativa, etc. sobre toda ocurrencia previo y posterior a la vigencia del presente contrato.²”

¹ The lessor will not be responsible in any way, shape or form of the daily uses and actions that the lessee performs on the property. Nor it will be responsible of the damages done to the person or the property including the property which is subject to the lease, which occurs from the result of negligent operational practices that might arise from the lessee, its agents, or/and employees.

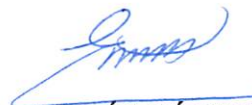
² The lessee through this contract is committing to answer, defend, and maintain the lessor unharmed against any reclamation, or fine that arises as a direct result of any land movement, construction, installation, and/or result that arises from the operations of the plant by the lessee including and not limited to fines, damages, and lawyer fees arising from any accident, property damage, bodily damage, contamination, spill, legal environmental violations, and not limiting itself to the permits requirements implemented by government agencies and any other type of damage or preventable situation. The individuals in this contract come to the agreement that the lessee will discharge the lessor of any responsibility not limiting itself to any legal lawsuit, extrajudicial claim, administrative claim, or of any occurrence prior and after the signing of this contract.

6. We attach to the following writing a trustworthy copy of the after mentioned contract.
7. The contract wording expresses the position of the parts about the responsibility for administrative complaints like this matter.
8. Based on the contract, we ask for the dismissal of the action against Mr. Rodríguez Valle, this part is not responsible in any way to the EPA, for the allegations in this complaint.
9. This dismissal motion promotes procedural economy, avoiding the delays and costs resulting from the corresponding administrative proceedings, in the interest of both parties. Know on the complaint is going to be into the correct parts, without delays.
10. The undersigned counsel has already shared the contract with the other parts in the administrative complaint, and we hope has no objection currently to the present request.

WHEREFORE, Co-Respondent, Mr. Héctor Rodríguez Valle, respectfully requests the dismissal of this Administrative Complaint in the present action.

RESPECTFULLY SUBMITTED.

In Hormigueros, Puerto Rico, this 6 day of May, 2024.



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AND ATTORNEYS AT LAW
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