



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 2  
290 BROADWAY  
NEW YORK, NY 10007-1866

July 13, 2022 @ 4:52 pm  
USEPA – Region II  
Regional Hearing Clerk

**July 11, 2022**

**Via Email:** [marcan.tran.gina@gmail.com](mailto:marcan.tran.gina@gmail.com)

Gina Palmieri  
318 E. 3<sup>rd</sup> Street  
Mount Vernon, New York 10553

Re: **Expedited Storm Water Settlement Agreement  
Mar-Can Transportation Co., Inc.  
318 E. 3<sup>rd</sup> Street, Mount Vernon, New York  
Docket No. CWA-02-2022-3318  
EPA ICIS No. NYU054115**

Dear Ms. Palmieri:

Enclosed is the signed and effective Consent Agreement and Final Order (“CA/FO”) - Expedited Settlement Agreement (“ESA”). Please note that the Respondent – Gina Palmieri, must submit the payment for **\$1,250** in accordance with the attached CA/FO-ESA within 10 days of receipt.

If you have any questions concerning the above, please contact Ms. Justine Modigliani, P.E., Chief Compliance Section, at (212) 637-4268, [Modigliani.Justine@epa.gov](mailto:Modigliani.Justine@epa.gov) or Nicholas Ferreira, Life Scientist, [Ferreira.nicholas.k@epa.gov](mailto:Ferreira.nicholas.k@epa.gov), at (212) 637-4248.

Sincerely,

**For** Dore LaPosta, Director  
Enforcement and Compliance Assurance Division

Enclosure  
- Final CAFO-ESA

cc: Karen Maples, Office of Regional Hearing Clerk, USEPA R2, [maples.karen@epa.gov](mailto:maples.karen@epa.gov)  
Milton Wise, Cincinnati Finance Office, USEPA, [wise.milton@epa.gov](mailto:wise.milton@epa.gov)



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

**Region 2 – 290 Broadway, New York, NY 10007-1865**

**EXPEDITED SETTLEMENT AGREEMENT**

Docket Number: CWA-02-2022-3318, NPDES No. NYU054115

**Mar-Can Transportation Co., Inc.** (“Respondent”) is a “person,” within the meaning of Section 502(5) of the Clean Water Act (“Act”), 33 U.S.C. § 1362(5), and 40 C.F.R. § 122.2.

Attached is an “Industrial Non-filer Expedited Settlement Worksheet” (“Settlement Form”), which is incorporated by reference. By its signature, Complainant (“EPA”) finds that Respondent is responsible for the alleged violations specified in the Settlement Form.

Respondent had unauthorized discharge(s) of stormwater in violation of Section 301(a) of the Clean Water Act, 33 U.S.C. § 1311.

EPA finds, and Respondent admits, that Respondent is subject to Section 301 of the Act, 33 U.S.C. § 1311, and that EPA has jurisdiction over any “person” who “discharges pollutants” from a “point source” to “waters of the United States.” Respondent neither admits nor denies the specific alleged violations specified in the Settlement Form.

EPA is authorized to enter into this Consent Agreement and Final Order (“Agreement”) under the authority vested in the Administrator of EPA by Section 309(g)(2)(A) of the Act, 33 U.S.C. § 1319(g)(2)(A), and by 40 C.F.R. § 22.13(b). The parties enter into this Agreement to settle the civil violation(s) alleged in this Agreement for a penalty of **\$1,250**. Respondent consents to the assessment of this penalty and waives the right to: (1) contest the finding(s) specified in the Form; (2) a hearing pursuant to Section 309(g)(2) of the Act, 33 U.S.C. § 1319(g)(2); and (3) appeal pursuant to Section 309(g)(8), 33 U.S.C. § 1319(g)(8).

Additionally, Respondent certifies, subject to civil and criminal penalties for making a false statement to the United States Government, that the Respondent has addressed the alleged violations identified in the Settlement Form by either a) developing and implementing a Stormwater Pollution Prevention Plan and submitting to the permit authority a Notice of Intent to be covered by the applicable industrial stormwater permit; or b) acting to meet eligibility requirements for a waiver from industrial stormwater permit requirements as allowed by the permit authority and submitting the relevant forms (such as the No Exposure Certification form), to the permit authority.

Respondent certifies that, within ten (10) days after receipt of the Final Order, Respondent will submit a bank, cashiers, or certified check, with case name and docket number noted, for the amount specified above, payable to the “Treasurer, United States of America,” via certified mail, to:

**Regional Hearing Clerk**

**U.S. EPA, Region 2**

**Fines and Penalties, Cincinnati Finance Center**

**In the Matter of: Mar-Can Transportation Co., Inc.**

**Docket No.: CWA-02-2022-3318**

**P.O. Box 979077**

**St. Louis, MO 63197-9000**

This Agreement settles EPA’s civil penalty claims against Respondent for the alleged Clean Water Act violation(s) specified in this Agreement. EPA does not waive its rights to take any enforcement action against Respondent for any other past, present, or future civil or criminal violation of the Act or of any other federal statute or regulation. EPA does not waive its right to issue a compliance order for any uncorrected alleged violation(s) described in the Form. EPA has determined this Agreement to be appropriate.

This Agreement is binding on the parties signing below and effective upon filing with the Regional Hearing Clerk.

**APPROVED BY RESPONDENT:**

Name (print): DARRIN PIRO

Title (print): PRESIDENT

Signature: [Signature] Date: 3/29/22

**APPROVED BY EPA:**

**Anderson, K**

Digitally signed by Anderson, Kate

Date: 2022.03.29

16:13:37 -04'00'

Date: 3/29/2022

**Dore LaPosta, Director**  
Enforcement and Compliance Assurance Division

More than 40 days have elapsed since the issuance of public notice pursuant to Section 309(g)(4)(A) of the Act, 33 U.S.C. § 1319(g)(4)(A), and EPA has received no comments concerning this matter.

Having determined that this Agreement is authorized by law, **IT IS SO ORDERED:**

Date: 7/11/22  
**Dore LaPosta, Director**  
Enforcement and Compliance Assurance Division





**Department of Environmental Conservation**

**NO EXPOSURE CERTIFICATION**

**for Exclusion from SPDES Stormwater Permitting**

The completed No Exposure Certification should be submitted to:  
MSGP Coordinator,  
NYSDEC Division of Water,  
625 Broadway, 4th Floor  
Albany, New York 12233-3505

**I. Owner/Facility Information**

Owner/Operator Name: MAR-CAN TRANSPORTATION Co., Inc.

Mailing Address: 318 East 3<sup>rd</sup> Street City/State/Zip: Mount Vernon, NY 10553

Contact Name: GINA PALMIERI Phone No.: 914-668-3772

Facility Name: MAR-CAN TRANSPORTATION Co., Inc.

Street Address: 318 East 3<sup>rd</sup> Street City/State/Zip: Mount Vernon, NY 10553

County: Westchester Latitude: 40.9095 Longitude: -73.8229 SIC Code: 4151

Was the facility previously covered under a SPDES MSGP permit?  Yes  No If Yes to either question, enter SPDES ID: NYR

Is there a No Exposure Certification currently on file with the Department?  Yes  No **If Facility was previously covered under the MSGP, the completion of this section will serve as a termination of your MSGP coverage.**

**II. Exposure Checklist**

Are any of the following materials or activities exposed to precipitation, now or in the foreseeable future? (Please check either "Yes" or "No" in the appropriate box.) If you answer "Yes" to any of these questions (1) through (11), you are not eligible for the no exposure exclusion.		YES	NO
1	Using, storing or cleaning industrial machinery or equipment, and areas where residuals from using, storing or cleaning industrial machinery or equipment remain and are exposed to stormwater		X
2	Materials or residuals on the ground or in stormwater inlets from spills/leaks		X
3	Materials or products from past industrial activity		X
4	Material handling equipment (except adequately maintained vehicles)		X
5	Materials or products during loading/unloading or transporting activities		X
6	Materials or products stored outdoors (except final products intended for outside use [e.g., new cars] where exposure to stormwater does not result in the discharge of pollutants)		X
7	Materials contained in open, deteriorated or leaking storage drums, barrels, tanks, and similar containers		X
8	Materials or products handled/stored on roads or railways owned or maintained by the discharger		X
9	Waste material (except waste in covered, non-leaking containers [e.g., dumpster])		X
10	Application or disposal of process wastewater (unless otherwise permitted)		X
11	Particulate matter or visible deposits of residuals from roof stacks and/or vents not otherwise regulated (i.e., under an air quality control permit) and evident in the storm water outflow		X

**III. Certification**

I certify under penalty of law that I have read and understand the eligibility requirements for claiming a condition of "no exposure" and obtaining an exclusion from SPDES stormwater permitting. I certify under penalty of law that there are no discharges of storm water contaminated by exposure to industrial activities or materials from the industrial facility or site identified in this document (except as allowed under 40 CFR 122.26(g)(2)). I understand that I am obligated to submit a no exposure certification form once every five years to the NPDES permitting authority and, if requested, to the operator of the local municipal separate storm sewer system (MS4) into which the facility discharges (where applicable). I understand that I must allow the SPDES permitting authority, or MS4 operator where the discharge is into the local MS4, to perform inspections to confirm the condition of no exposure and to make such inspection reports publicly available upon request.

Printed Name: DARRIN PIRO Title/Position: PRESIDENT

Signature: [Signature] Date: 3/29/22

**Clear Form**