

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 9
75 Hawthorne Street
San Francisco, California 94105



In the matter of:) DOCKET NO. CWA-09-2025-0119
)
Engineering/Remediation)
Resources Group, Inc.) **CONSENT AGREEMENT**
Aua Village, American Samoa) **AND FINAL ORDER**
)
Respondent.) *Class II Administrative Penalty Proceeding under
Section 309(g) of the Clean Water Act, 33 U.S.C.
§1319(g), and 40 C.F.R. §§ 22.13(b) and 22.18*

CONSENT AGREEMENT

I. AUTHORITY AND PARTIES

1. This is a Class II civil administrative penalty proceeding under Section 309(g)(1)(A) and (2)(B) of the Clean Water Act (CWA), 33 U.S.C. § 1319(g)(1)(A) and (2)(B), and 40 C.F.R. Part 22 (*Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits*).
2. Pursuant to Section 309(g) of the CWA, 33 U.S.C. § 1319(g), the Administrator of the United States Environmental Protection Agency (EPA) is authorized to assess administrative penalties against persons who violate, “any permit condition or limitation implementing any of such sections in a permit issued under Section 402 of the CWA, 33 U.S.C. § 1342”. The Administrator has delegated the authority to sign consent agreements between the EPA and the party against whom a penalty is proposed to be assessed pursuant to CWA Section 309(g), 33 U.S.C. § 1319(g), to the Regional Administrator of EPA Region 9, who has redelegated this authority to the Director of the Enforcement and Compliance Assurance Division, EPA Region 9 (Complainant).
3. Respondent is Engineering/Remediation Resources Group, Inc.

4. This Consent Agreement and Final Order (CA/FO), which contains the elements of a complaint required by 40 C.F.R. § 22.14(a), simultaneously commences and concludes this penalty proceeding, as authorized by 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3).
5. Pursuant to Section 309(g)(1) of the CWA, 33 U.S.C. § 1319(g)(1), the EPA has consulted with the American Samoa Government regarding this penalty action.
6. Complainant and Respondent agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their respective interest and in the public interest.

II. STATUTORY AND REGULATORY AUTHORITY

7. Section 301(a) of the CWA, 33 U.S.C. § 1311(a), makes it unlawful for a person to discharge pollutants from a point source into waters of the United States, including the territorial seas, except as authorized by a National Pollutant Discharge Elimination System (NPDES) permit issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342.
8. Section 502(5) of the CWA, 33 U.S.C. § 1362(5), defines “person” to include a corporation.
9. CWA Section 502(12), 33 U.S.C. § 1362(12), defines “discharge of a pollutant(s)” to mean any addition of any pollutant to navigable waters from any point source or any addition of any pollutant to the waters of the contiguous zone or the ocean from any point source other than a vessel or other floating craft.
10. CWA Section 502(7), 33 U.S.C. § 1362(7), defines “navigable waters” as waters of the United States, including the territorial seas. Under CWA Section 502(8), 33 U.S.C. § 1362(8), the term “territorial seas” means the belt of the seas measured from the line of ordinary low water along that portion of the coast which is in direct contact with the open sea and the line marking the seaward limit of inland waters and extending seaward a distance of three miles.
11. CWA Section 502(6), 33 U.S.C. § 1362(6), defines “pollutant” to include, among other things, “industrial waste.”

12. CWA Section 502(14), 33 U.S.C. § 1362(14), defines “point source” to include “any discernable, confined and discrete conveyance ... from which pollutants are or may be discharged.”
13. CWA Section 402, 33 U.S.C. § 1342, establishes the NPDES program and authorizes EPA and authorized states to issue permits governing the discharge of pollutants from point sources into waters of the United States.
14. The EPA retains authority to issue NPDES permits in American Samoa.
15. Pursuant to Section 309(g)(2)(B) of the CWA, 33 U.S.C. § 1319(g)(2)(B) and 40 C.F.R. Part 19.4, EPA may assess a Class II civil administrative penalty of up to \$27,378 per day of violation, not to exceed \$342,218 in total, against a person for violations of Section 301(a) of the CWA, 33 U.S.C. § 1311(a), or for violations of any permit condition or limitation in a permit issued under Section 402 of the CWA, 33 U.S.C. § 1342, that occurred after November 2, 2015 where penalties are assessed on or after January 8, 2025.

III. GENERAL ALLEGATIONS

16. Engineering/Remediation Resources Group, Inc. (Respondent or “ERRG”) is incorporated in California and is a “person” within the meaning of CWA Section 502(5), 33 U.S.C. 1362(5).
17. At all times relevant to this action, Respondent operated the Former Aua Fuel Farm Temporary Water Treatment System located in the Village of Aua, on the island of Tutuila in American Samoa, hereinafter the “Facility.”
18. The Facility was designed to treat petroleum-contaminated groundwater and included oil water separation, bag filtration, granular activated carbon filtration, and clay filtration. Respondent informed EPA on September 9, 2024 that it had removed the bag filters on August 22, 2024.
19. Respondent was under contract with the U.S. Army Corps of Engineers to operate the Facility to treat petroleum-contaminated groundwater pumped from the American Samoa Power Authority’s excavation trench to install a new sanitary sewer line.

20. Respondent's discharges to Pago Pago Harbor of pollutants from the Facility were regulated under NPDES Permit No. AS0020048 (the "Permit") issued on July 12, 2024, by EPA to both U.S. Army Corps of Engineers and Respondent. The Permit became effective immediately upon issuance.
21. The Permit identified both Respondent and the U.S. Army Corps of Engineers as dischargers under the Permit. U.S. Army Corps of Engineers contracted ERRG to provide labor, equipment, and materials to support management and disposal of petroleum-contaminated dewatering effluent and soil encountered during trenching operations associated with sewer installation work and fuel pipeline removal at the site of the former Aua Fuel Farm, located in the Village of Aua, on the island of Tutuila in American Samoa.
22. Respondent began operating the Facility on August 21, 2024 and discharged to Pago Pago Harbor between August 22, 2024 and August 28, 2024.
23. Respondent verbally reported to EPA within 24 hours that discharges to Pago Pago Harbor on August 26, 2024 and August 27, 2024 contained a visible sheen and submitted a written report to EPA on August 30, 2024.
24. The Permit includes the following terms, in relevant part:
 - a. Parts I.A and I.B of the Permit required Respondent to meet certain effluent limits and monitoring requirements for Outfall Number 001.
 - b. Part I.D.1 of the Permit required Respondent to use test methods with the lowest method detection limits and minimum levels and ensure that the laboratory utilized a standard calibration where the lowest standard point is equal to or less than the minimum level.
 - c. Part I.D.3 of the Permit required Respondent to develop a Quality Assurance Manual within 10 days of the effective date of the Permit that specifies the procedures for the collection and analysis of samples and explains data anomalies if they occur.
 - d. Parts I.D.5 and I.D.8 of the Permit required Respondent to report monitoring data in discharge monitoring reports by the 28th day of the month following the previous quarterly reporting period.

- e. Parts II.B.1.c and II.B.3 of the Permit required Respondent to provide notification within 24-hours and a written report within five days to EPA after becoming aware of a violation of a maximum daily discharge limit for multiple pollutant parameters, including total petroleum hydrocarbons - diesel (TPH-DRO) and total petroleum hydrocarbons - residual (TPH-RRO).
- f. Parts III.A and III.B of the Permit required Respondent to develop a Pollution Prevention Plan to identify potential sources of pollution that may affect the quality of effluent discharges from the Facility and describe pollution prevention measures and best management practices that it will implement to reduce the pollutants in effluent discharges from the Facility and assure compliance with the terms and conditions of the Permit.
- g. Parts III.A.2(1), III.A.3(4), and C.5 of the Permit, required Respondent to properly operate and maintain systems of treatment and control which were installed or used to achieve compliance with the conditions of the permit.

25. On August 14, 2024, a representative of EPA inspected the Facility before the Facility began operating.

26. EPA provided its inspection report to Respondent on November 14, 2024. The inspection report documented several Areas of Concern. Respondent responded to the inspection report on December 20, 2024.

27. Based on information gathered during and after the August 2024 inspection, Respondent failed to:

- a. Failed to meet effluent limitations and monitoring requirements, as required by Parts I.A and I.B of the Permit:
 - i. During the Facility's initial startup period between August 23, 2024 and August 28, 2024, Respondent failed to meet effluent limitations as required by Part I.A and Part I.B-Table 1 of the Permit for multiple pollutant parameters.

- ii. During the Facility's initial startup period between August 23, 2024 and August 28, 2024, Respondent failed to meet the sampling and monitoring requirements, as required by Part I.B of the Permit.
- b. Respondent failed to meet the general monitoring and reporting requirements as required by Part I.D. of the Permit.
- c. Respondent failed to provide EPA notice of noncompliance within 24 hours of becoming aware of exceedances of maximum daily discharge limits for TPH-DRO and TPH-RRO, and failed to provide EPA a written report of noncompliance within five days of it becoming aware as required by Parts II.B.1.c and II.B.3 of the Permit.
- d. Respondent failed to include or accurately describe in its Pollution Prevention Plan multiple minimum required pollution prevention measures, best management practices, and components as required by Parts III.A and III.B of the Permit.
- e. Respondent failed to properly operate and maintain bag filters which were installed or used to achieve compliance with the conditions of the permit as required by Parts III.A.2.(a), III.A.3.(4) and C.5 of the Permit.

28. Pago Pago Harbor is a navigable "waters of the United States" within the meaning of CWA § 502(7) 33 U.S.C. § 1362(7), and the CWA's implementing regulations.

29. The pollutants discharged from the facility included visible floating materials, turbidity, TPH-DRO, and TPH-RRO.

30. The Facility's Outfall Number 001 was a "point source" within the meaning of Section 502(14) of the CWA, 33 U.S.C. 1362(14), because it was a confined and discrete conveyance from which pollutants were discharged.

31. Respondent's discharge of pollutants from the Facility to waters of the United States constitutes a "discharge of pollutants" within the meaning of CWA § 502(12), 33 U.S.C. § 1362(12).

IV. ALLEGED VIOLATIONS

32. Respondent violated section 402 of the CWA, 33 U.S.C. § 1342 by discharging pollutants from a point source into waters of the United States in violation of the terms and conditions of the Permit.

V. ADMINISTRATIVE PENALTY

33. In consideration of the penalty factors of Section 309(g) of the CWA, 33 U.S.C. § 1319(g), Respondent agrees to pay a civil penalty in the amount of thirty-five thousand dollars (\$35,000) ("Assessed Penalty") within thirty (30) days after the date the Final Order ratifying this Consent Agreement is filed with the Regional Hearing Clerk ("Filing Date").

34. Respondent 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>.

35. When making a payment, Respondent shall:

- a. Identify every payment with Respondent's name and the docket number of this Consent Agreement, **Docket No. CWA-09-2025-0119**.
- b. Concurrently with any payment or within 24 hours of any payment, Respondent shall serve via electronic mail proof of such payment to the following persons:

Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 9
R9HearingClerk@epa.gov

and

Daniel Kostek
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency - Region 9
Kostek.daniel@epa.gov

and

U.S. Environmental Protection Agency
Cincinnati Finance Division
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.

36. Interest, Charges, and Penalties on Late Payments. Pursuant to 33 U.S.C. § 1319(g)(9), 31 U.S.C. § 3717, 31 C.F.R. § 901.9, and 40 C.F.R. § 13.11, if Respondent fails to timely pay any portion of the Assessed Penalty, interest, or other charges and penalties per this Consent Agreement, the entire unpaid balance of the Assessed Penalty and all accrued interest shall become immediately due and owing, and EPA is authorized to recover the following amounts.

- a. Interest. Interest begins to accrue from the Effective 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 the unpaid portion of the Assessed Penalty as well as any interest, penalties, and other charges are paid in full. Interest will be assessed at prevailing rates, per 33 U.S.C. § 1319(g)(9). The rate of interest is the IRS standard underpayment rate.
- b. Handling Charges. The United States’ enforcement expenses including, but not limited to, attorneys’ fees and costs of collection proceedings.
- c. Late Payment Penalty. A twenty percent (20%) quarterly non-payment penalty.

37. Late Penalty Actions. 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 Consent 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's licenses or other privileges, or suspend or disqualify Respondent from doing business with EPA or engaging in programs EPA sponsors or funds, per 40 C.F.R. § 13.17.
- d. Request that the Attorney General bring a civil action in the appropriate district court to recover the full remaining balance of the Assessed Penalty, in addition to interest and the amounts described above, pursuant to 33 U.S.C. § 1319(g)(9). In any such action, the validity, amount, and appropriateness of the Assessed Penalty shall not be subject to review.

38. Allocation of Payments. 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.

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

VI. APPLICABILITY

40. This CA/FO shall apply to and be binding on Respondent, Respondent's officers, directors, partners, trustees, authorized representatives, agents, employees, contractors, successors and assigns. Action or inaction of any persons, firms, contractors, employees, agents or corporations acting under, through, or for Respondent shall not excuse any failure of Respondent to fully perform its obligations under this CA/FO. Changes in ownership, real property interest, or transfer of personal assets shall not alter Respondent's obligations under this CA/FO.

VII. RESPONDENT'S ADMISSIONS AND WAIVERS

41. In accordance with 40 C.F.R. § 22.18(b)(2), for the purpose of this proceeding, Respondent:

- a. admits the jurisdictional allegations of this CA/FO;

- b. neither admits nor denies specific factual allegations contained in this CA/FO;
- c. consents to all conditions specified in this CA/FO and to the assessment of the civil administrative penalty set forth in Section V above; and
- d. waives any right to contest the allegations set forth in this CA/FO and waives its right to appeal this CA/FO.

42. Respondent also waives the right to a hearing under CWA section 309(g)(2)(B) and to any appeal of the Final Order under CWA section 309(g)(8)(B), 33 U.S.C. §§ 1319(g)(2)(B) and 1319(g)(8)(B).

43. By signing this Consent Agreement, Respondent waives any rights or defenses that Respondent has or may have for this matter to be resolved in federal court, including but not limited to any right to a jury trial, and waives any right to challenge the lawfulness of the Final Order accompanying the Consent Agreement.

VIII. RESERVATION OF RIGHTS

44. In accordance with 40 C.F.R. § 22.18(c), compliance with this CA/FO only resolves Respondent's CWA civil penalty liabilities for the violations specifically alleged herein and does not in any case affect the right of the EPA to pursue injunctive or other equitable relief or criminal sanctions for any violations of law.

45. This CA/FO is not a permit or modification of any existing permit issued pursuant to any federal, state, or local laws or regulations, and shall in no way relieve or affect Respondent's obligations under any applicable federal, state or local laws, regulations, or permits.

IX. ADDITIONAL TERMS

46. Each party shall bear its own attorney's fees and costs.

47. This CA/FO can be signed in counterparts.

48. The headings in this CA/FO are for convenience of reference only and shall not affect interpretation of this CA/FO.

49. The undersigned representative of Respondent certifies they have authority to bind Respondent to this Agreement.

In re:
Engineering/Remediation
Resources Group, Inc.
Docket No. CWA-09-2025-0119

50. By signing this CA/FO, Respondent acknowledges that this CA/FO does not contain any confidential business information (CBI) or waives any claim of CBI.

X. PUBLIC NOTICE

51. As required by section 309(g)(4), 33 U.S.C. §§ 1319(g)(4), and 40 C.F.R. § 22.45, prior to submitting this Agreement to the Regional Judicial Officer or Regional Administrator for approval, Complainant will provide public notice of this Agreement and a reasonable opportunity to comment on the matter. Complainant may modify or withdraw its consent to this Consent Agreement if comments received disclose facts or considerations indicating this Consent Agreement is inappropriate, improper, or inadequate, or if a hearing is requested under section 309(g)(4)(C), 33 U.S.C. § 1319(g)(4)(C).

XI. EFFECTIVE DATE

52. In accordance with 40 C.F.R. §§ 22.18(b)(3) and 22.31(b), the Effective Date of this CA/FO is the date that the Final Order, having been signed by the Regional Judicial Officer, is filed with the Regional Hearing Clerk.

IT IS SO AGREED.

In re:
Engineering/Remediation
Resources Group, Inc.
Docket No. CWA-09-2025-0119

For Complainant the U.S. Environmental Protection Agency, Region 9:

AMY MILLER-
BOWEN

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AMY MILLER-BOWEN
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Amy C. Miller-Bowen, Director
Enforcement and Compliance Assurance Division

In re:
Engineering/Remediation
Resources Group, Inc.
Docket No. CWA-09-2025-0119

For Respondent Engineering/Remediation Resources Group, Inc.:



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2025.001.20937

Cynthia Liu, P.E.
President and CEO

8 December 2025

Date

In re:
Engineering/Remediation
Resources Group, Inc.
Docket No. CWA-09-2025-0119

FINAL ORDER

IT IS HEREBY ORDERED that this Consent Agreement and Final Order (U.S. EPA Docket No. CWA-09-2025-0119) be entered, and that Respondent shall pay a civil penalty in the amount of thirty-five thousand dollars (\$35,000) in accordance with the terms of this Consent Agreement and Final Order.

Beatrice Wong 
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Beatrice Wong
Regional Judicial Officer
U.S. Environmental Protection Agency, Region 9

CERTIFICATE OF SERVICE

I certify that the original of the foregoing Consent Agreement and Final Order in the matter of Engineering/Remediation Resources Group, Inc. (Docket No. CWA-09-2025-0119) has been filed with the Regional Hearing Clerk, and a copy was served on Respondent and Counsel for Complainant by email, as indicated below:

COMPLAINANT: Janet A. Magnuson, Assistant Regional Counsel
U.S. Environmental Protection Agency, Region 9
75 Hawthorne Street
San Francisco, CA 94105
Magnuson.Janet@epa.gov

RESPONDENT: Cynthia Liu, P.E., President and CEO
Engineering/Remediation Resources Group, Inc.
4585 Pacheco Blvd., Suite 200
Martinez, CA 94553
Cindy.Liu@errg.com

RESPONDENT'S COUNSEL: Hanson Bridgett, LLP
c/o Sean Herman, Esq.
425 Market Street, 26 Floor San
Francisco, CA 94105
SHerman@hansonbridgett.com

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Regional Hearing Clerk
U.S. EPA - Region IX