

BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2 – CARIBBEAN ENVIRONMENTAL PROTECTION DIVISION

In the Matter of:

Desarrolladora Yahir, Inc. and A&M Group, Inc.

Respondents

Docket No. CWA-02-2025-3451

ANSWER TO ADMINISTRATIVE COMPLAINT

Submitted Electronically

Date: October XX, 2025

I. PRELIMINARY STATEMENT

Respondent Desarrolladora Yahir, Inc. ("DYI"), by and through its President, Mr. Alexis Medina, respectfully submits this Answer to the Administrative Complaint issued by the United States Environmental Protection Agency ("EPA"), Region 2, Docket No. CWA-02-2025-3451, pursuant to Sections 301(a) and 402 of the Clean Water Act (33 U.S.C. §§ 1311(a) and 1342).

A&M Group, Inc. ("AM") is a separate corporate entity owned by Mr. Medina but was not involved in any capacity—developer, contractor, or subcontractor—in the project subject to this enforcement action. Accordingly, AM should not be considered a proper respondent to this proceeding.

DYI was the sole developer, operator, and permittee for the project and obtained NPDES coverage under the 2022 Construction General Permit (CGP).

Respondent DYI denies each and every material allegation in the Complaint except as expressly admitted herein. Nothing in this Answer shall be construed as an admission of fact or liability beyond what is specifically stated.

II. GENERAL AND SPECIFIC RESPONSES

1. Permit Coverage: DYI admits submitting a Notice of Intent (NOI) under the 2022 Construction General Permit on April 30, 2024, and receiving coverage on May 14, 2024. DYI denies any implication of noncompliance, as the NOI was prepared and submitted in good faith based on available information.
2. Inspection: DYI admits that an inspection was conducted by EPA on May 20, 2025. At the time of inspection, no active discharges or flows to the ocean or any surface waters were observed, as site conditions were dry. Subsequent corrective actions were undertaken promptly following the inspection, as documented in the September 12, 2025 response

letter (Exhibit A).

3. Site Controls: DYI acknowledges that certain erosion and sediment control measures required maintenance or reinforcement at the time of inspection, which has since been completed. DYI implemented silt fences, berms, sediment traps, and vegetative stabilization as corrective measures to prevent off-site transport of sediment.

4. Outfalls: DYI denies that Outfalls 002 and 004 constituted discrete discharge points. These were temporary features resulting from grading operations, not point sources as defined under 40 C.F.R. § 122.2. Both areas have been stabilized and are now managed under Outfall 001 as indicated in the updated Stormwater Pollution Prevention Plan (SWPPP).

5. SWPPP: DYI further states that a Stormwater Pollution Prevention Plan dated April 15, 2024, was in effect at the time of inspection and has since been revised and supplemented in compliance with EPA's Administrative Compliance Order and the findings of the July 9, 2025 Inspection Report.

III. RESPONSES TO CLAIMS

Claim 1 – Failure to Apply for NPDES Permit Coverage by A&M Group, Inc.: DYI denies this claim and states that A&M Group, Inc. was not a developer, contractor, or subcontractor for this project. DYI was the sole developer and permittee and obtained coverage under NPDES Permit No. PRR1000JG as required.

Claim 2 – Inaccurate NOI by DYI: DYI denies this claim. The NOI was accurate to the best of available knowledge at the time of submission. Minor revisions were addressed through the Corrective Action Plan and September 12, 2025 submission.

Claim 3 – Unauthorized Discharge: DYI denies that unauthorized discharges occurred. Any observed stormwater was sheet flow, not through defined point sources, and no discharges to the ocean were observed or documented. DYI implemented Best Management Practices (BMPs) consistent with CGP requirements.

Claim 4 – Failure to Modify the SWPPP: DYI denies this claim. A revised SWPPP was prepared and implemented following EPA's Order and inspection findings, as documented in Exhibit A.

Claim 5 – Failure to Maintain Erosion and Sediment Controls: DYI admits that limited maintenance was necessary in some areas but denies any ongoing violation. Corrective measures were promptly implemented and verified by EPA in subsequent correspondence.

IV. AFFIRMATIVE DEFENSES AND MITIGATING FACTORS

1. Substantial Compliance – DYI has acted in good faith and substantially complied with the requirements of the 2022 CGP and EPA's Administrative Order, implementing corrective actions promptly upon notice.

2. Absence of Willful Violation – Any deficiencies identified were unintentional, promptly corrected, and did not result in material harm to receiving waters.

3. Temporary Nonpoint Features – The areas identified as additional "outfalls" were temporary drainage features not meeting the regulatory definition of point sources under 40 C.F.R. §122.2.

4. Good-Faith Cooperation – DYI has fully cooperated with EPA by submitting the

September 12, 2025 corrective action report, implementing additional BMPs, and revising the SWPPP to ensure ongoing compliance.

5. Mitigation of Penalty – The nature, duration, and extent of any alleged violations are mitigated by DYI's immediate corrective actions, lack of willfulness, and the absence of any environmental harm or discharges to the ocean.

V. REQUEST FOR RELIEF

WHEREFORE, Respondent respectfully requests that EPA:

- a. Dismiss all allegations against A&M Group, Inc. as improperly named;
- b. Dismiss or reduce the alleged violations against DYI based on substantial compliance and corrective actions taken;
- c. Consider DYI's good-faith efforts in mitigation of any proposed penalty;
- d. Acknowledge that no ongoing violation exists and no discharges to the ocean occurred; and
- e. Grant such other and further relief as may be just and proper.

VI. PROCEDURAL ELECTION AND REQUEST FOR INFORMAL CONFERENCE

Pursuant to 40 C.F.R. §§ 22.15(b) and 22.18(b), DYI hereby:

1. Contests certain factual allegations and the proposed civil penalty set forth in the Administrative Complaint, on the grounds that substantial corrective measures were implemented promptly after EPA's inspection, as documented in the letter dated September 12, 2025 (attached as Exhibit A).
2. Requests an informal settlement conference with EPA Region 2 to discuss the information contained in this Answer and explore resolution consistent with Section 309(g) of the Clean Water Act and applicable regulations.
3. Preserves the right to a formal hearing should the informal process not result in a mutually acceptable resolution.

DYI submits this Answer in good faith and in compliance with the 30-day filing deadline established under 40 C.F.R. § 22.15(a).

VII. RESPONSE TO PROPOSED CIVIL PENALTY

1. Corrective Actions and Compliance: DYI has implemented all corrective actions as documented in the letter dated September 12, 2025, including stabilization of disturbed soils, repair of silt fences, installation of erosion controls, proper management of stockpiles and concrete washout, and improvement of stormwater management practices. These actions demonstrate DYI's good faith efforts to comply with the NPDES Construction General Permit and the Clean Water Act.
2. Mitigation Factors: DYI respectfully requests that the Agency consider the following mitigating circumstances:
 - Immediate and voluntary corrective actions taken after the May 20, 2025, inspection.
 - DYI acted as the sole responsible developer; A&M Group, Inc. was not involved in the project.
 - Absence of evidence of intentional or repeated noncompliance; all observed deficiencies

were promptly addressed once identified.

- No discharges to the ocean or receiving waters occurred.
- The proposed penalty would represent a disproportionate burden in light of these mitigating circumstances.

3. Request for Informal Settlement Conference: DYI requests an informal settlement conference pursuant to 40 C.F.R. § 22.18(b) to discuss an appropriate adjustment of the proposed penalty and to resolve this matter efficiently.

4. Reservation of Rights: DYI reserves the right to request a formal hearing should the informal settlement not result in a mutually acceptable resolution.

VIII. CERTIFICATION OF ELECTRONIC FILING

I certify that the foregoing Answer to Administrative Complaint has been submitted electronically on October XX, 2025, to the United States Environmental Protection Agency, Region 2, Caribbean Environmental Protection Division, via email to Ms. Yolianne Maclay (maclay.yolianne@epa.gov).

Respectfully submitted,



Mr. Alexis Medina
President
Desarrolladora Yahir, Inc.
On behalf of Desarrolladora Yahir, Inc.
P.O. Box 2133
San Sebastián, PR 00685
Email:
Phone: