

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2**

IN THE MATTER OF:

DESARROLLADORA YAHIR, INC.

and

A & M GROUP, INC.

Respondents

Proceeding pursuant to Section 309(g) of the
Clean Water Act, 33 U.S.C. § 1319(g)

**CONSENT AGREEMENT AND FINAL
ORDER**

Docket No. CWA-02-2025-3451

I. PRELIMINARY STATEMENT

The Complainant, the Director of the Caribbean Environmental Division, Region 2, United States Environmental Protection Agency ("EPA" or "Complainant"), issued an "Administrative Complaint, Findings of Violation, Notice of Proposed Assessment of an Administrative Penalty, and Notice of Opportunity to Request a Hearing" (the "Complaint") on September 30, 2025, 2024, to Desarrolladora Yahir, Inc. ("DYI") and A & M Group, Inc. ("A&M") (collectively, the "Respondents"); and

Complainant and Respondents (collectively, the "Parties") having agreed that settlement of this matter is in the public interest and consistent with the provisions and objectives of the Clean Water Act ("CWA") and applicable regulations, and that entry of this Consent Agreement and Final Order ("Consent Agreement" or "CAFO") without further litigation is an appropriate means of resolving this matter.

NOW, THEREFORE, before taking of any testimony, upon the pleadings, without adjudication of any issue of fact or law, and upon consent and agreement of the Parties, it is hereby agreed, and ordered as follows:

II. PROCEDURAL AND FACTUAL FINDINGS

1. The following Procedural and Factual Findings are made pursuant to the authority vested in the Administrator of the EPA by the CWA, which authority has been duly

delegated to the Regional Administrator of EPA Region 2, and since further re-delegated to the Director of the Caribbean Environmental Protection Division, Region 2.

2. EPA initiated this proceeding for the assessment of a civil penalty pursuant to Section 309(g)(2)(B) of the CWA, 33 U.S.C. § 1319(g)(2)(B).
3. The Complaint alleges violations of Sections 301(a) and 402(p) of the CWA, 33 U.S.C. §§ 1311(a) and 1342(p), for A&M's failure to apply for and obtain National Pollutant Discharge Elimination System ("NPDES") permit coverage for the discharge of pollutants (storm water runoff associated with construction activity) from the Tres Palmas Sunset View Residential Development (the "Project") located in Rincón, Puerto Rico; for A&M's discharges of pollutants from the Project into waters of the United States (i.e. Piletas Creek and Caribbean Sea) without permit coverage; for DYI's failure to submit an accurate Notice of Intent; for Respondents' failure to modify the Storm Water Pollution Prevention Plan; and for Respondents' failure to install and maintain erosion and sediment controls.
4. EPA published a Public Notice between October 7, 2025, and November 7, 2025, providing the public thirty (30) days to comment on the proposed administrative penalty assessment pursuant to 40 C.F.R. § 22.45.
5. EPA received twenty-one (21) public comments, mostly requesting an increase in the penalty and expressing concerns about the discharges from the Project into the Piletas Creek, the Caribbean Sea, and the Tres Palmas Marine Reserve.
6. By letter dated October 1st, 2025, EPA notified the Commonwealth of Puerto Rico about the Complaint and offered an opportunity to confer with EPA on the proposed administrative penalty assessment pursuant to 40 C.F.R. § 22.38. The Commonwealth of Puerto Rico did not submit any comments.
7. On April 2, 2026, the Parties entered into an Administrative Order on Consent ("AOC"), Docket Number CWA-02-2026-3102, which establishes actions for Respondents to achieve compliance with the alleged violations. Respondents certify by the signing of this CAFO that to the best of their knowledge, Respondents are implementing the correction actions they agreed to perform according to the AOC.
8. The Parties engaged in good faith settlement negotiations during which Respondents presented additional information for EPA's consideration. These negotiations led to this CAFO.
9. Respondents stipulate that EPA has jurisdiction over the subject matter alleged in the Complaint.

10. Respondents waive any defenses they might have as to jurisdiction and venue, and, without admitting or denying the factual allegations contained in the Complaint, consent to the terms of this CAFO.

III. CONSENT AGREEMENT

11. The paragraphs above are re-alleged and incorporated herein by reference.
12. The Parties agree, by entering this CAFO, that settlement of the claims alleged in the Complaint, upon the terms set forth in this CAFO, is an appropriate means of resolving this case without further litigation.
13. Based on the foregoing, and pursuant to Section 309(g) of the CWA, 33 U.S.C. § 1319(g), and 40 C.F.R. § 22.18 (b), the nature of the violations and other relevant factors, it is hereby agreed by and between EPA and Respondents, and Respondents voluntarily and knowingly agree as follows:

A. Settlement Terms

14. For the purpose of this proceeding, Respondents admit the jurisdictional allegations of this CAFO, and neither admit nor deny the factual allegations contained herein.
15. Respondents waive any rights or defenses that Respondents have or may have for this matter to be resolved in federal court, including but not limited to any right to a jury trial, and waive any right to challenge the lawfulness of the Final Order accompanying the CAFO.
16. Respondents consent to the payment of the civil penalty in the amount of **forty-five thousand dollars (\$45,000)**, as stated in the Payment of Civil Penalty Section below.

B. Payment of Civil Penalty

17. Respondents agree to pay a civil penalty in the amount of **\$45,000** ("Assessed Penalty"). Based on Respondents' documented inability to pay claim, and in accordance with applicable laws, EPA conducted an analysis of Respondents' financial documentation (i.e. signed certified statement submitted by Respondents, dated April 15, 2026, in which Respondents certify their inability to pay the full civil penalty within thirty (30) days of the Effective Date without experiencing an undue financial hardship) and determined that the Assessed Penalty is an appropriate amount to settle this action, which Respondents consent to pay as follows:
 - a. The Assessed Penalty will be paid in three equal installments, in order to complete payment of the entire Assessed Penalty and interest, which is

assessed at paragraph 20.a. Including the Assessed Penalty and interest, the total amount that will be paid upon completion of all payments will be forty-five thousand, five hundred twenty-five dollars (\$45,525). The first payment is due within thirty (30) days after the date the Final Order ratifying this Agreement is filed with the "Regional Hearing Clerk" ("Filing Date"). Respondents' subsequent payments shall thereafter be due in sixty (60) and ninety (90) days from said Filing Date.

- b. Respondents shall make payments in accordance with the following schedule:

Payment Number	Payment shall be made <i>no later than</i>	Principal Amount	Interest Amount	Total Payment Amount
1	30 days after the Filing Date	\$15,000.00	\$0.00	\$15,000.00
2	60 days after the Filing Date	\$15,000.00	\$450.00	\$15,450.00
3	90 days after the Filing Date	\$15,000.00	\$75.00	\$15,075.00
Total		\$45,000.00	\$525.00	\$45,525.00

- c. Notwithstanding Respondents' agreement to pay the Assessed Penalty in accordance with the installment schedule set forth above, Respondents may pay the entire Assessed Penalty of \$45,000 within thirty (30) days of the Filing Date and, thereby, avoid the payment of interest pursuant to 40 C.F.R. § 13.11(a). In addition, Respondents may, at any time after commencement of payments under the installment schedule, elect to pay the entire principal balance remaining, together with any interest and other charges accrued up to date of such full payment.
18. Respondents 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>.
19. When making a payment, Respondents shall:

- a. identify every payment with Respondents' name and the docket number of this CAFO, **CWA-02-2025-3451**; and
- b. concurrently with any payment or within twenty-four (24) hours of any payment, Respondents shall serve proof of such payment to the following person(s):

Karen Maples
Regional Hearing Clerk
region2_regionalhearingclerk@epa.gov

and

Yolianne Maclay
Clean Water Act Team
maclay.yolianne@epa.gov

and

U.S. Environmental Protection Agency
Cincinnati Finance Center
CINWD_AcctsReceivable@epa.gov

“Proof of payment” means, as applicable, 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 Respondents' names.

20. Interest, Charges, and Penalties on Late Payments. Pursuant to 31 U.S.C. § 3717, 31 C.F.R. § 901.9, and 40 C.F.R. § 13.11, if Respondents fail to timely pay the full amount of the Assessed Penalty as provided in this CAFO, EPA is authorized to recover, in addition to the amount of the unpaid Assessed Penalty, the following amounts.
 - a. Interest. Interest begins to accrue from the Filing 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 any unpaid portion of the Assessed Penalty as well as any interest, penalties, and other charges are paid in full. To protect the interests of the United States the rate of interest is set at the Internal Revenue Service (“IRS”) standard underpayment rate; any lower rate would fail to provide Respondents adequate incentive for timely payment.

- b. Handling Charges. Respondents will be assessed monthly a charge to cover EPA's costs of processing and handling overdue debts. If Respondent fails to pay the Assessed Penalty in accordance with this CAFO, EPA will assess a charge to cover the costs of handling any unpaid amounts for the first thirty (30) day period after the Filing Date. Additional handling charges will be assessed every thirty (30) days, or any portion thereof, until the unpaid portion of the Assessed Penalty as well as any accrued interest, penalties, and other charges are paid in full.
 - c. Late Payment Penalty. A late payment penalty of six percent (6%) per annum, will be assessed monthly on all debts, including any unpaid portion of the Assessed Penalty, interest, penalties, and other charges, that remain delinquent more than ninety (90) days. Any such amount will accrue from the Filing Date.
21. Late Penalty Actions. In addition to the amounts described in the prior Paragraph, if Respondents fail to timely pay any portion of the Assessed Penalty, interest, or other charges and penalties as provided in this CA/FO, EPA may take additional actions. Such actions may 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 ("IRS") for offset against income tax refunds, per 40 C.F.R. Part 13, Subparts C and H.
 - c. Suspend or revoke Respondents' licenses or other privileges, or suspend or disqualify Respondents from doing business with EPA or engaging in programs EPA sponsors or funds, per 40 C.F.R. § 13.17.
 - d. Refer this matter to the United States Department of Justice ("USDOJ") for litigation and collection, per 40 C.F.R. § 13.33.
22. 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 administrative costs, second to penalty assessments, third to accrued interest, and last to the principal, that is the outstanding Assessed Penalty amount.

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

C. General Provisions

24. Pursuant to 26 U.S.C. § 6050X and 26 C.F.R. § 1.6050X-1, EPA is required to annually send to the IRS a completed IRS Form 1098-F (“Fines, Penalties, and Other Amounts”) with respect to any court order or settlement agreement (including administrative settlements) that require a payor to pay an aggregate amount that EPA reasonably believes will be equal to, or in excess of, \$50,000 for the payor’s violation of any law or the investigation or inquiry into the payor’s potential violation of any law, including amounts paid for “restitution or remediation of property” or to come “into compliance with a law.” EPA is further required to furnish a written statement, which provides the same information provided to the IRS, to each payor (i.e., a copy of IRS Form 1098-F). Respondents’ failure to comply with providing IRS Form W-9 or Tax Identification Number (“TIN”), as described below, may subject Respondents to a penalty, per 26 U.S.C. § 6723, 26 U.S.C. § 6724(d)(3), and 26 C.F.R. § 301.6723-1. To provide EPA with sufficient information to enable it to fulfill these obligations, Respondents shall complete the following actions as applicable:
- a. Respondents shall complete an IRS Form W-9 (“Request for Taxpayer Identification Number and Certification”), which is available at <https://www.irs.gov/pub/irspdf/fw9.pdf>.
 - b. Respondents shall therein certify that their completed IRS Form W-9 includes Respondents correct TIN or that Respondents have applied and are waiting for issuance of a TIN.
 - c. Respondents shall email their completed Form W-9 to EPA’s Cincinnati Finance Division at Mr. Milton Wise, wise.milton@epa.gov, on or before the date that Respondents’ penalty payment is due, pursuant to paragraph 17 of this CAFO, or within 7 days should the order become effective between December 15 and December 31 of the calendar year. EPA recommends encrypting IRS Form W-9 email correspondence.
 - d. In the event that Respondents have certified in their completed IRS Form W-9 that they do not yet have a TIN but have applied for a TIN, Respondents shall provide EPA’s Cincinnati Finance Division with Respondents’ TIN, via email, within five (5) days of Respondents’ receipt of a TIN issued by the IRS.
25. The provisions of this CAFO shall be binding upon Respondents, their officers, directors, agents, authorized representatives and successors or assigns, including but not limited to, subsequent purchasers. No transfer of ownership or operation

shall relieve Respondents of their obligation to comply with this CAFO.

26. Respondents waive any right they may have pursuant to 40 C.F.R. § 22.8 to be present during discussions with or to be served with and to reply to any memorandum or communication addressed to the Director of the EPA Region 2 Caribbean Environmental Protection Division or the EPA Region 2 Regional Administrator, or any other EPA employee where the purpose of such discussion, memorandum, or communication is to discuss a proposed settlement of this matter or to recommend that this CAFO be approved and signed and that the accompanying Final Order be issued.
27. Nothing in this CAFO shall be construed as prohibiting, altering or in any way limiting the ability of EPA to seek any other remedies or sanctions available by virtue of Respondents' violation of this CAFO or of the statutes and regulations upon which this CAFO is based, or for Respondents' violation of any applicable provision of law.
28. This CAFO shall not relieve Respondents of their obligation to comply with all applicable provisions of the CWA and the regulations implementing it, nor shall it be construed as the issuance of a permit or a ruling on, or determination of, any issues related to any federal, state or local law, regulation or permit.
29. Full payment of the civil penalty shall only resolve Respondents' liability for federal civil penalties for the violations and facts alleged in the Complaint, as amended. Full payment of this penalty shall not in any case affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.
30. Each undersigned representative of the Parties to this CAFO certifies that he or she is fully authorized by the party represented to enter into the terms and conditions of this CAFO and to execute and legally bind that party to it.
31. Each party shall bear its own costs and attorney's fees in connection with the action resolved by this CAFO.
32. Pursuant to Part V of this Consent Agreement, the Effective Date of the Final Order shall be the date of filing with the Regional Hearing Clerk, U.S. EPA Region 2, New York, New York.

FOR DESARROLLADORA YAHIR, INC.:

BY:

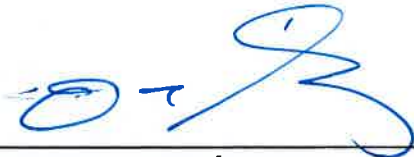


ALEXIS MEDINA SOTO
President

DATE: 5-7-2026

[remainder of the page intentionally left blank]

FOR A & M GROUP, INC.:

BY:  _____

OMAYRA TORRES SÁNCHEZ
President

DATE: 5-7-2026

[remainder of the page intentionally left blank]

FOR COMPLAINANT UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

BY: *Carmen R. Guerrero Perez*

DATE: May 8, 2026

CARMEN R. GUERRERO PÉREZ

Director

Caribbean Environmental Protection Division

United States Environmental Protection Agency, Region 2

City View Plaza II

48 CARR 165 STE 7000

Guaynabo, Puerto Rico 00968-8073

D. Final Order

The Regional Judicial Officer of the United States Environmental Protection Agency, Region 2, ratifies the foregoing Consent Agreement. The Consent Agreement entered by the Parties is hereby approved, incorporated herein, and issued as an Order. The Effective Date of this Order shall be the date of filing with the Regional Hearing Clerk, United States Environmental Protection Agency, Region 2.

BY: _____

DATE: 5-12-2026

DANA P. FRIEDMAN

Regional Judicial Officer

United States Environmental Protection Agency, Region 2