

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 9**

75 Hawthorne Street
San Francisco, California 94105

IN THE MATTER OF:)	DOCKET NO. CWA-09-2025-0038
)	
Nevada Tri Partners, LLC, and)	
Liberty Dogs, LLC)	CONSENT AGREEMENT AND FINAL ORDER
)	
Reno, Nevada,)	<i>Class II Administrative Penalty Proceeding under</i>
)	<i>Section 309(g) of the Clean Water Act, 33 U.S.C. §</i>
<u>Respondents.</u>)	<i>1319(g), and 40 C.F.R. §§ 22.13(b) and 22.18.</i>

I. INTRODUCTION AND JURISDICTION

1. This is a Class II civil administrative penalty proceeding under Sections 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, *inter alia*, violate Section 301(a) of the CWA, 33 U.S.C. § 1311(a). The Administrator has delegated this authority to the Regional Administrator of the EPA Region 9, who in turn has delegated this authority to the Director of the Enforcement and Compliance Assurance Division, hereinafter "Complainant."
3. 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).
4. Pursuant to Section 309(g)(1) of the CWA, 33 U.S.C. § 1319(g)(1), the EPA has consulted with the State of Nevada regarding this penalty action.
5. Complainant and Respondents agree that settling this action without the filing of a complaint or the adjudication or admission of any issue of fact or law is in their respective interest and in the public interest.

II. STATUTORY AND REGULATORY FRAMEWORK

6. Section 301(a) of the CWA, 33 U.S.C. § 1311(a), makes it unlawful for a person to discharge pollutants, including dredged or fill material, from a point source into waters of the United States, except as authorized by a CWA permit. Under Section 404 of the CWA, 33 U.S.C. § 1344,

the U.S. Army Corps of Engineers (Corps) issues permits for the discharge of dredged or fill material into waters of the United States.

7. Section 502(5) of the CWA, 33 U.S.C. § 1362(5), defines “person” to include, *inter alia*, a “corporation,” “partnership,” or “association.”
8. Section 502(6) of the CWA, 33 U.S.C. § 1362(6), defines “pollutant” to include, *inter alia*, “dredged spoil,” “biological materials,” “rock,” and “sand.”
9. 40 C.F.R. § 232.2 and 33 C.F.R. § 323.2(e)(1) define “fill material” as “material placed in waters of the United States where the material has the effect of: (i) Replacing any portion of a water of the United States with dry land; or (ii) Changing the bottom elevation of any portion of a water of the United States.”
10. 33 C.F.R. § 323.2(f) defines “discharge of fill material” as “the addition of fill material into waters of the United States,” and includes, *inter alia*, “placement of fill that is necessary for the construction of any structure or infrastructure in a water of the United States.”
11. Section 502(14) of the CWA, 33 U.S.C. § 1362(14), defines “point source” to include “any discernible, confined and discrete conveyance . . . from which pollutants are or may be discharged.”
12. Section 502(12) of the CWA, 33 U.S.C. § 1362(12), defines “discharge of a pollutant” to include “any addition of any pollutant to navigable waters from any point source.”
13. Section 502(7) of the CWA, 33 U.S.C. § 1362(7), defines “navigable waters” as “waters of the United States, including the territorial seas.” See also implementing regulations.
14. Pursuant to Section 309(g) of the CWA, 33 U.S.C. § 1319(g), and 40 C.F.R. Part 19, 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), 33 U.S.C. § 1311(a), which occurred after November 2, 2015, where penalties are assessed on or after January 8, 2025.

III. COMPLAINANT’S FINDINGS OF FACT AND DETERMINATIONS OF LAW

15. Respondents are Nevada Tri Partners, LLC (“NTP”), located at 985 Damonte Ranch Parkway in Reno, Nevada, and Liberty Dogs LLC, located at P.O. Box 6714, Incline Village, Nevada. Both Respondents are limited liability companies organized under the laws of Nevada and each is a “person” within the meaning of Section 502(5) of the CWA, 33 U.S.C. § 1362(5).
16. This proceeding involves the Damonte Ranch master-planned community development located in Reno, Nevada, which includes the “Damonte West Site.”
17. The Damonte West Site is located within Section 16, Township 20 North, Range 20 East, Mount Diablo Meridian, and is bordered by Third Branch White’s Creek (aka the Nevada Department of Transportation (NDOT) flood control channel) on the north, by Damonte Ranch Parkway on the east, by ranchland on the south, and by Interstate 580 on the west. A 2005 wetland delineation

of the Damonte West Site identified seasonal palustrine emergent wetlands (“DW#1”) located on the northwest corner of the Site.

18. At all times relevant to this matter, DW#1 had a continuous surface connection to Third Branch White’s Creek, which is a relatively permanent tributary to Steamboat Creek, which is a relatively permanent tributary to the Truckee River, a traditionally navigable water (*see* map, Exhibit 1).
19. On June 28, 2005, the Corps issued CWA Section 404 permit number 199400866 (“Section 404 Permit”) to Respondent NTP. The Section 404 Permit authorized impacts to 39.91 acres of potential waters of the United States that had been identified within the Damonte Ranch project, including within the Damonte West Site. The Section 404 Permit authorized NTP to complete authorized work through December 31, 2006, with the potential for extensions. The Section 404 Permit also required Respondent NTP to complete and implement 41.93 acres of compensatory mitigation in perpetuity for the authorized impacts.
20. On February 16, 2011, the Corps determined that Respondent NTP completed the 41.93 acres of compensatory mitigation required by the Section 404 Permit, including compensatory mitigation required for the Damonte West Site. NTP also created an additional 39.56 acres of advanced permittee-responsible mitigation wetlands and 16.89 acres of advance permittee-responsible mitigation stream restoration/reestablishment. The Corps acknowledged Respondent NTP’s request that it be awarded proactive mitigation credits for these additional efforts through a mitigation banking process at some future date.
21. On January 19, 2022, Respondent Liberty Dogs LLC obtained ownership of the Damonte West Site.
22. Beginning on or around June 2022, Respondents NTP and/or Liberty Dogs LLC engaged in earthmoving activities as part of the development of the Damonte West Site.
23. On April 17, 2024, EPA and the Corps inspected the Damonte West Site and observed that Respondents NTP and/or Liberty Dogs LLC had used earthmoving equipment such as dump trucks and graders to discharge fill to DW#1.
24. As a result of their earthmoving activities at the Damonte West Site, Respondents discharged earthen materials that constituted “pollutants” under Section 502(6) of the CWA, 33 U.S.C. § 1362(6), and “fill material” as defined at C.F.R. § 232.2 and 33 C.F.R. § 323.2(e)(1).
25. Respondents’ discharge of dredged and/or fill material into waters of the United States constitutes a “discharge of pollutants” within the meaning of Section 502(12) of the CWA, 33 U.S.C. § 1362(12), and a “discharge of fill material” as defined at 33 C.F.R. § 323.2(f).
26. The earthmoving equipment used by Respondents to discharge fill material to waters of the United States within the Damonte West Site were “point source[s]” within the meaning of Section 502(14) of the CWA, 33 U.S.C. § 1362(14).

27. The Truckee River, Steamboat Creek, Third Branch White's Creek, and adjacent wetlands DW#1 are all "waters of the United States" within the meaning of Section 502(7) of the CWA, 33 U.S.C. § 1362(7) and its implementing regulations.
28. On February 24, 2025, Respondents provided EPA with calculations showing Respondents' earthmoving activities resulted in the discharge of fill material to 6.13 acres of DW#1.
29. Respondents did not have a currently effective permit authorization under Section 404 of the CWA, 33 U.S.C. § 1344, for their discharges of fill material to 6.13 acres of waters of the United States located on the Damonte West Site.

IV. ALLEGED VIOLATIONS

30. As a result of the alleged earthmoving activities at the Damonte West Site that commenced in June 2022, on dates best known to Respondents, Respondents discharged or caused to be discharged dredged and/or fill material into 6.13 acres of waters of the United States without authorization under Section 404 of the CWA, 33 U.S.C. § 1344, in violation of Section 301(a) of the CWA, 33 U.S.C. § 1311(a).

V. ADMINISTRATIVE PENALTY

31. In consideration of the penalty factors of Section 309(g) of the CWA, 33 U.S.C. § 1319(g), Respondents agree to pay a civil administrative penalty in the amount of Eighty-Three Thousand and One Hundred and Thirty-Three Dollars (\$83,133.00) ("Assessed Penalty") within thirty (30) calendar days after the date the Final Order ratifying this Agreement is filed with the Regional Hearing Clerk ("Filing Date").
32. 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>.
33. When making a payment, Respondents shall:
 - a. Identify every payment with Respondents' names and the docket number of this Agreement, Docket No. CWA-09-2025-0038.
 - b. Concurrently with any payment or within 24 hours of any payment, Respondents 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

Scott McWhorter
Enforcement and Compliance Assurance Division

U.S. Environmental Protection Agency - Region 9
mcwhorter.scott@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 Respondents’ name.

34. 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 Respondents fail to timely pay any portion of the Assessed Penalty, interest, or other charges and penalties per this 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 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 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 large corporate underpayment rate applicable to penalties over \$100,000.
 - 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.
35. 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 per this 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 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. 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.
36. 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.
37. Tax Treatment of Penalties. Penalties, interest, and other charges paid pursuant to this Agreement shall not be deductible for purposes of federal taxes.

VI. APPLICABILITY

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

VII. RESPONDENTS' ADMISSIONS AND WAIVERS

39. In accordance with 40 C.F.R. § 22.18(b), solely for the purpose of this proceeding, Respondents:
- a. admit the jurisdictional allegations of this CA/FO;
 - b. neither admit nor deny the specific factual allegations contained in this CA/FO;
 - c. consent to the assessment of the administrative penalty set forth in Section V above and to all conditions specified in the CA/FO; and
 - d. waive any right to contest the allegations and their right to appeal this CA/FO.
40. Respondents waive the right to a hearing under Section 309(g)(2)(B) of the CWA and to any appeal of the Final Order under Section 309(g)(8)(B) of the CWA, 33 U.S.C. §§ 1319(g)(2)(B) and 1319(g)(8)(B).
41. By signing this Consent Agreement, 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 consent agreement.

42. Nothing in this CA/FO waives, limits, or otherwise affects Respondents' defenses to or arguments against any future enforcement actions brought by any entity for any claimed violations not specifically alleged herein.

VIII. RESERVATION OF RIGHTS

43. In accordance with 40 C.F.R. § 22.18(c), compliance with this CA/FO only resolves Respondents' 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 or in response to conditions that may present an imminent and substantial endangerment to the public health, welfare, or the environment.
44. 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

45. Each party shall bear its own attorney's fees and costs.
46. This CA/FO can be signed in counterparts.
47. The undersigned representative of Respondents certifies they have authority to bind Respondents to this Agreement.
48. By signing this CA/FO, Respondents acknowledges that this CA/FO does not contain any confidential business information (CBI) or waives any claim of CBI.
49. Pursuant to 26 U.S.C. § 6050X and 26 C.F.R. § 1.6050X-1, EPA is required to annually send to the Internal Revenue Service ("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). 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. In order to provide EPA with sufficient information to enable it to fulfill these obligations, EPA herein requires, and Respondents herein agrees, that:

- 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/irs-pdf/fw9.pdf>;
- b. Respondents shall therein certify that their completed IRS Form W-9 includes Respondents’ correct TINs 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 Center at sherrer.dana@epa.gov on or before the date that Respondents’ initial penalty payment is due, pursuant to Paragraph 31 of the CA/FO, and EPA recommends encrypting IRS Form W-9 email correspondence; and
- d. In the event that Respondent has certified in its completed IRS Form W-9 that it does not yet have a TIN but has applied for a TIN, Respondent shall provide EPA’s Cincinnati Finance Division with Respondent’s TIN, via email, within five (5) days of Respondent’s receipt of a TIN issued by the IRS.

X. EFFECTIVE DATE

- 50. In accordance with 40 C.F.R. §§ 22.18(b)(3) and 22.31(b), this CA/FO shall take effect on the date that the Final Order, having been signed by the Regional Judicial Officer, is filed with the Regional Hearing Clerk (the “Effective Date”), and shall terminate when Respondent has complied with this CA/FO in full.

XI. 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, the EPA will provide public notice of this Agreement and a reasonable opportunity to comment on the matter. The EPA may modify or withdraw its consent to this Agreement if comments received disclose facts or considerations indicating this 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).

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

Amy C. Miller-Bowen

May 14, 2025

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

Date

Of counsel:

Richard Campbell
Attorney-Advisor
Office of Regional Counsel

For Respondent Nevada Tri Partners, LLC

Perry Di Loreto

May 13, 2025

Date

For Respondent Liberty Dogs, LLC

Sean O'Connell

May 14, 2025

Date

DOCKET NO. CWA-09-2025-0038
CONSENT AGREEMENT AND FINAL ORDER
EXHIBIT 1



FINAL ORDER

It is Hereby Ordered that this Consent Agreement and Final Order (U.S. EPA Docket No. CWA-09-2025-0038) be entered and that Respondents shall pay a civil penalty in the amount of Eighty-Three Thousand and One Hundred and Thirty-Three Dollars (\$83,133.00) in accordance with the terms of this Consent Agreement and Final Order.

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

CERTIFICATE OF SERVICE

I certify that the original of the foregoing Complaint/Consent Agreement and Final Order in the matter of *Nevada Tri Partners, LLC, and Liberty Dogs, LLC* (CWA-09-2025-0038) has been filed with the Regional Hearing Clerk, and a copy was served on Counsel for Respondents by email as indicated below:

COMPLAINANT:

Rich Campbell
U.S. Environmental Protection Agency
Region 9
75 Hawthorne Street
San Francisco, California 94105
Email: campbell.rich@epa.gov

RESPONDENTS:

Peggy Otum
Wilmer Cutler Pickering Hale and Dorr LLP
50 California Street, Suite 3600
San Francisco, CA 94111
Email: peggy.otum@wilmerhale.com

Ponly Tu
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 9