



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6
1201 Elm St. Suite 500
DALLAS, TEXAS 75270-2102

August 20, 2020

TRANSMITTED VIA E-MAIL

Honorable John Fullen
Mayor of Henderson
400 West Main Street
Henderson, Texas 75652
e-mail: BFullen@Hendersontx.us

Re: Administrative Order; Docket Number: CWA-06-2020-1774
Southside Wastewater Treatment Facility
TPDES Permit Number: TX0052779

Dear Mayor Fullen:

Enclosed is an Administrative Order (AO) issued to the City of Henderson, for violation of the Clean Water Act (CWA) (33 U.S.C. §§ 1251-1387). Violations were identified during a review of the permit file and discharge monitoring reports submitted for the Southside Wastewater Treatment Facility. The violations alleged are for failure to meet permit effluent limitations.

This AO does not assess a monetary penalty; however, it does require compliance with applicable federal regulations. The first compliance deadline is within thirty days of the effective date of the AO. The Environmental Protection Agency is committed to ensuring compliance with the requirements of the National Pollutant Discharge Elimination System (NPDES) program and my staff will assist you in any way possible. Please reference AO Docket Number CWA-06-2020-1774 and TPDES Permit Number TX0052779 in your response.

The EPA acknowledges that the COVID-19 pandemic may impact your municipality. If that is the case, please contact us regarding any specific issues you need to discuss.

If you have any questions, please contact Judy Edelbrock of my staff, at (214) 665-8582, or edelbrock.judy@epa.gov.

Sincerely,

A handwritten signature in black ink, reading "Cheryl T. Seager", is positioned above the typed name.

Digitally signed by CHERYL SEAGER
DN: c=US, o=U.S. Government,
ou=Environmental Protection Agency,
cn=CHERYL SEAGER,
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Cheryl T. Seager, Director
Enforcement and
Compliance Assurance Division

ec: Ms. Laurie Eaves
laurie.eaves@TCEQ.Texas.gov



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Region 6 • 1201 Elm St. Suite 500 • Dallas, TX 75270-2102

FINDINGS OF VIOLATION AND COMPLIANCE ORDER

Docket Number: CWA-06-2020-1774; TPDES Permit Number: TX0052779

STATUTORY AUTHORITY

The following findings are made, and Order issued under the authority vested in the Administrator of the United States Environmental Protection Agency ("EPA"), Section 309(a) of the Clean Water Act ("the Act"), 33 U.S.C. § 1319(a). The Administrator of EPA delegated the authority to issue this Order to the Regional Administrator of EPA Region 6, who delegated this authority to the Director of the Enforcement and Compliance Assurance Division.

FINDINGS

1. The City of Henderson ("Respondent") is a "person," as that term is defined at Section 502(5) of the Act, 33 U.S.C. § 1362(5), and 40 C.F.R. § 122.2.
2. At all times relevant to this Order ("all relevant times"), Respondent owned or operated the Southside Wastewater Treatment Facility, located at 3492 Farm-to-Market Road 225 South Henderson, Rusk County, Texas 75645 ("facility"), and was, therefore, an "owner or operator" within the meaning of 40 C.F.R. § 122.2.
3. At all relevant times, the facility acted as a "point source" of a "discharge" of "pollutants" with its final wastewater discharge to Segment No. 0611 of the Neches River Basin which is a "water of the United States," within the meaning of Section 502 of the Act, 33 U.S.C. § 1362, and 40 C.F.R. § 122.2.
4. Because Respondent owned or operated a facility that acted as a point source of discharges of pollutants to waters of the United States, Respondent and the facility were subject to the Act and the National Pollutant Discharge Elimination System ("NPDES") program.
5. Under Section 301 of the Act, 33 U.S.C. § 1311, it is unlawful for any person to discharge any pollutant from a point source to waters of the United States, except with the authorization of, and in compliance with, an NPDES permit issued pursuant to Section 402 of the Act, 33 U.S.C. § 1342.
6. Section 402(a) of the Act, 33 U.S.C. § 1342(a), provides that the Administrator of EPA may issue permits under the NPDES program for the discharge of pollutants from point sources to waters of the United States. Any such discharge is subject to the specific terms and conditions prescribed in the applicable permit.
7. Section 402 of the Act, 33 U.S.C. § 1342, authorizes states to request approval from EPA to administer their own permit programs for discharges into navigable waters within their jurisdiction. Pursuant to this provision, the State of Texas requested approval from EPA to administer its own permit program for discharges into navigable waters within Texas, and such approval was granted by EPA on September 14, 1998. Therefore, pursuant to the State's permit program, the Texas Commission on Environmental Quality ("TCEQ") issued Texas Pollutant Discharge Elimination System ("TPDES") permits. Violation of a TPDES permit is a violation of Section 301(a) of the Act, 33 U.S.C. § 1311(a).
8. Respondent applied for and was issued TPDES Permit No. TX0052779 ("permit") under Section 402 of the Act, 33 U.S.C. § 1342, which was issued on August 9, 2017. At all relevant times, Respondent was authorized to discharge pollutants from the facility to waters of the United States only in compliance with the specific terms and conditions of the permit.
9. The permit includes "Monitoring and Reporting Requirements" that require Respondent to sample and test its effluent and monitor its compliance with permit conditions according to specific procedures, in order to determine the facility's compliance or noncompliance with the permit and applicable regulations. The permit also requires Respondent to file with TCEQ certified Discharge Monitoring Reports ("DMRs") of the results of monitoring, and Noncompliance Reports when appropriate.
10. The permit contains "Effluent Limitations and Monitoring Requirements" that place certain limitations on the quality and quantity of effluent discharged by Respondent. The relevant discharge limitations are specified in Attachment A, which is incorporated herein by reference.
11. Certified DMRs filed by Respondent with TCEQ in compliance with the permit show discharges of pollutants from the facility that exceed the permitted effluent limitations established in the permit, as specified in Attachment B, which is incorporated herein by reference.
12. Each instance in which Respondent discharged pollutants to waters of the United States in amounts exceeding the effluent limitations contained in the permit was a violation of the permit and Section 301 of the Act, 33 U.S.C. § 1311.

SECTION 309(a)(3) COMPLIANCE ORDER

Based on the foregoing Findings and pursuant to the authority of Section 309(a)(3) of the Act, 33 U.S.C. § 1319(a)(3), EPA hereby orders Respondent to take the following action:

A. Take such measures as are necessary to comply with all permit conditions, including “Effluent Limitations and Monitoring and Reporting Requirements,” no later than thirty (30) days from the effective date of the Order.

B. Within thirty (30) days of the effective date of this Order, Respondent shall submit a list of the specific actions taken to correct the Flow, E.coli and Total Dissolved Solids violations.

C. Within thirty (30) days of the effective date of this Order, Respondent shall provide written certification to EPA Region 6 that the violations cited herein have been corrected and the facility is compliant with the requirements of the permit.

D. In the event the Respondent believes complete correction of the violations cited herein is not possible within thirty (30) days of the effective date of this Order, Respondent shall, within thirty (30) days of the effective date of this Order, submit a comprehensive written plan for the elimination of the cited violations within the shortest possible time. Such plan shall describe in detail the specific corrective actions to be taken and why such actions are sufficient to correct the violations. The plan shall include a detailed schedule for the elimination of the violations within the shortest possible time, as well as measures to prevent these or similar violations from recurring.

E. Any information or correspondence submitted by Respondent to EPA under this Order shall be addressed to the following:

Ms. Judy Edelbrock
Water Enforcement Branch (ECDWA)
U.S. EPA, Region 6
1201 Elm St. Suite 500
Dallas, TX 75270-2102
And via e-mail to: edelbrock.judy@epa.gov

GENERAL PROVISIONS

Respondent may seek federal judicial review of the Order pursuant to Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-706.

Issuance of this Section 309(a)(3) Compliance Order shall not be deemed an election by EPA to waive any administrative, judicial, civil or criminal action to seek penalties, fines or other relief under the Act for the violations cited herein, or other violations that become known to EPA. EPA reserves the right to seek any remedy available under the law that it deems appropriate.

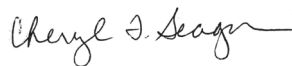
Failure to comply with this Section 309(a)(3) Compliance Order or the Act may result in further administrative action, or a civil judicial action initiated by the United States Department of Justice.

This Order does not constitute a waiver or modification of the terms or conditions of Respondent’s NPDES permit, which remain in full force and effect. Compliance with the terms and conditions of this Order does not relieve Respondent of its obligation to comply with any applicable federal, state, or local law or regulation.

The effective date of this Order is the date it is received by Respondent.

August 17, 2020

Date



Digitally signed by CHERYL SEAGER
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Protection Agency, cn=CHERYL SEAGER,
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Cheryl T. Seager, Director
Enforcement and
Compliance Assurance Division

Attachment A
TX0052779
Effluent Limits

Effluent Characteristics	Discharge Limitations	
Outfall 001	Daily Avg mg/L (lbs/day)	Daily Max mg/L
Total Dissolved Solids	453 (11,334)	959
E.coli	126 CFU/100 ml	399CFU/100 ml

The annual average flow of effluent shall not exceed 3.0 million gallons per day (MGD), nor shall the average discharge during any two-hour period (2-hour peak) exceed 4,200 gallons per minute (gpm).

Attachment B-Effluent Violations

TX0052779

HENDERSON CITY OF

Monitoring Period End Date	Outfall	Parameter	Monitoring	Unit	Limit Value
01/31/2018	001	Solids, total dissolved	DAILY AV	mg/L	453.
03/31/2018	001	Flow, in conduit or thru treatment plant	2HR PEAK	gal/min	4200.
07/31/2018	001	Solids, total dissolved	DAILY AV	mg/L	453.
08/31/2018	001	Solids, total dissolved	DAILY AV	mg/L	453.
09/30/2018	001	Solids, total dissolved	DAILY AV	mg/L	453.
11/30/2018	001	Flow, in conduit or thru treatment plant	2HR PEAK	gal/min	4200.
12/31/2018	001	Flow, in conduit or thru treatment plant	2HR PEAK	gal/min	4200.
01/31/2019	001	E. coli	DAILY AV	CFU/100mL	126.
01/31/2019	001	E. coli	DAILY MX	CFU/100mL	399.
04/30/2019	001	Flow, in conduit or thru treatment plant	2HR PEAK	gal/min	4200.
08/31/2019	001	Solids, total dissolved	DAILY AV	mg/L	453.
09/30/2019	001	Solids, total dissolved	DAILY AV	mg/L	453.
10/31/2019	001	Solids, total dissolved	DAILY AV	mg/L	453.
11/30/2019	001	Solids, total dissolved	DAILY AV	mg/L	453.
12/31/2019	001	Solids, total dissolved	DAILY AV	mg/L	453.
04/30/2020	001	Flow, in conduit or thru treatment plant	2HR PEAK	gal/min	4200.

DMR Value	
511.6	
4653.	
495.	
544.	
530.	
4536.	
5556.	
489.58	
2419.	
5530.	
462.	
471.	
459.2	
487.5	
458.	
5473.	