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UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 6

REGIONAL HEARING CLERK
EPA REGION 6

IN THE MATTER OF:

City of Las Vegas, NM
Respondent

Facility Number: NM0028827

§ DOCKET NO. CWA-06-2025-1740
§
§
§ COMPLAINT, CONSENT AGREEMENT
§ AND FINAL ORDER
§
§
§ *Class I 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 AND FINAL ORDER

I. PRELIMINARY STATEMENT

1. This Consent Agreement and Final Order (CAFO) is issued under the authority vested in the United States Environmental Protection Agency (EPA) pursuant to Section 309(g) of the Clean Water Act (the Act), 33 U.S.C. § 1319(g). This CAFO, which contains the elements of a complaint required by 40 C.F.R. § 22.14(a), is issued to simultaneously commence and conclude this proceeding to assess a Class I civil penalty in accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3), as described in the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits."

2. The EPA and Respondent (Parties) agree that settlement of the relevant matters without litigation will save time and resources, that it is in the public's interest, and that the entry of this CAFO is the most appropriate means of resolving such matters. Compliance with all the terms and conditions of this CAFO resolves only those violations alleged herein.

3. Respondent admits the jurisdictional allegations herein; however, Respondent neither admits nor denies the specific Findings of Fact and Conclusions of Law contained in this CAFO.

4. Respondent expressly waives any right to contest the factual allegations or conclusions of law contained in this CAFO and in this proceeding and waives its right to appeal the Final Order set forth herein. 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.

5. Before the taking of any testimony, and without adjudication of any issue of law or fact, the Parties agree to the terms of this CAFO and to its issuance. Respondent consents to the assessment and payment of a civil penalty in the amount and by the method stated below.

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

6. Respondent is a municipality chartered under the laws of the State of New Mexico, and as such, 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.

7. At all times relevant to this action (all relevant times), Respondent owned or operated a municipal wastewater treatment plant (WWTP) located at 905 12th Street, Las Vegas, NM 87701, and was therefore, an "owner or operator" within the meaning of 40 C.F.R. § 122.2.

8. At all relevant times, the facility acted as a "point source" of a "discharge" of "pollutants" with its final wastewater discharge directly to the Gallinas River, Segment No. 20.6.4.220, of the Pecos 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.

9. Because Respondent owned or operated a facility that acted as a point source of a discharge of pollutants to waters of the United States, Respondent and the facilities were subject to the Act and the National Pollutant Discharge Elimination System (NPDES) program.

10. 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, except as authorized and in compliance with an NPDES permit issued pursuant to CWA Section 402, 33 U.S.C. § 1342.

11. Respondent applied for and was issued NPDES Permit No. NM0028827 (permit) under Section 402 of the Act, 33 U.S.C. § 1342, with an effective date of December 1, 2022. 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.

12. Part I.A of the permit (Limitations and Monitoring Requirements) requires Respondent to sample and test its effluent and monitor its compliance with permit conditions according to specific procedures to determine the facility's compliance or noncompliance with the permit and applicable regulations. Parts I.C and I.D of the permit also require Respondent to file with EPA certified Discharge Monitoring Reports (DMRs) of the results of monitoring, and Overflow Reports when appropriate.

13. Part III.B.3 of the permit requires Respondent to properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by Respondent as efficiently as possible and in a manner which will minimize upsets and discharges of excessive pollutants and will achieve compliance with the conditions of the permit.

14. Part III.A.2 of the permit states that Respondent has a duty to comply with all conditions of the permit, and that any permit noncompliance constitutes a violation of the Act.

15. Certified DMRs filed by Respondent with EPA 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 A, which is incorporated herein by reference, in violation of Part I.A of the permit and Section 301 of the Act, 33 U.S.C. § 1311.

16. Non-compliance Reports filed by Respondent with EPA in compliance with the permit show that on eight occasions from December 2024 through May 2025, Respondent has released in total approximately 10,969,996 gallons of untreated or partially treated sewage from its wastewater treatment plant as specified in Attachment B, which is incorporated herein by reference. Such unauthorized discharges from the WWTP were the result of a hydraulic overload(s) that caused wastewater solids to overflow through the effluent discharge and into the Gallinas River.

17. Each day of each discharge that failed or fails to comply with any effluent limitation in Respondent's permit is a separate violation of the permit.

18. Each day of each unauthorized discharge caused by Respondent's failure to properly operate and maintain its facility constitutes a separate violation of Part III.B.3 of the permit.

19. Each unauthorized discharge referenced in Paragraph 17 is a violation section 301(a) of the CWA, 33 U.S.C. § 1311(a).

20. Under Section 309(g)(2)(A) of the Act, 33 U.S.C. § 1319(g)(2)(A), Respondent is liable for a Class I civil penalty in an amount not to exceed \$27,378 per violation up to a maximum of \$68,445.

21. Pursuant to Section 309(g)(4) of the CWA, 33 U.S.C. § 1319(g)(4), and 40 C.F.R. § 22.45(b), this Consent Agreement is subject to public notice and comment prior to issuance of the proposed Final Order. Complainant reserves the right to withhold or withdraw consent of this Consent Agreement if public comments disclose relevant and material information that was not considered by Complainant

in entering into this Consent Agreement. Respondent may withdraw from this Consent Agreement only upon receipt of written notice from EPA that it no longer supports entry of this Consent Agreement.

III. TERMS OF SETTLEMENT

PENALTY PROVISIONS

22. Based on the foregoing Findings of Fact and Conclusions of Law, EPA Region 6, considering the relevant criteria pursuant to Section 309(g)(3) of the Act, 33 U.S.C. § 1319(g)(3), and acting pursuant to the authority of Section 309(g) of the Act, 33 U.S.C. § 1319(g), hereby orders that Respondent shall pay to the United States a civil penalty in the amount of thirty three thousand six-hundred dollars (\$33,600) to settle the violations as alleged in this CAFO, in accordance with 40 C.F.R. § 22.18(c).

23. Respondent agrees to pay a civil penalty in the amount of \$33,600 (Assessed Penalty) within thirty (30) days after the date the Final Order ratifying this Agreement is filed with the Regional Hearing Clerk (Filing Date).

24. 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>. However, for any payments made after September 30, 2025, and in accordance with the March 25, 2025 Executive Order on Modernizing Payments To and From America's Bank Account, Respondent shall pay using one of the electronic payments methods listed on EPA's How to Make a Payment website and will not pay with a paper check.

25. When making a payment, Respondent shall:

- a. Identify every payment with Respondent's name and the docket number of this Agreement, Docket No. CWA-06-2025-1740,

b. Concurrently with any payment or within 24 hours of any payment, Respondent shall serve proof of such payment to the following person(s):

Lorena Vaughn
Regional Hearing Clerk (ORCD)
U.S. EPA, Region 6
1201 Elm Street, Suite 500
Dallas, TX 75270-2102
vaughn.loreana@epa.gov

Roberto Bernier
Section Chief, Municipal/Industrial Wastewater Section (ECDWM)
U.S. EPA, Region 6
1201 Elm Street, Suite 500
Dallas, TX 75270-2102
bernier.roberto@epa.gov

Kristine Talbot
Manager, Water Legal Branch (ORCEW)
U.S. EPA, Region 6
1201 Elm Street, Suite 500
Dallas, TX 75270-2102
talbot.kristine@epa.gov

and

U.S. Environmental Protection Agency
Cincinnati Finance Center
Via electronic mail to:
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.

26. 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 Agreement, the entire unpaid balance of the Assessed Penalty and all accrued interest shall become immediately due and owing, and the 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 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.

27. 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 Agreement, the EPA may take additional actions. Such actions the 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 the EPA or engaging in programs the 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.

28. 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.

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

IV. GENERAL PROVISIONS

30. The EPA and Respondent agree to the use of electronic signatures for this matter. EPA and Respondent further agree to electronic service of this CAFO by email to the following addresses:

To EPA: henson.tucker@epa.gov and mccabe.kerri@epa.gov
To Respondent: mayor@lasvegasnm.gov

31. Issuance of this CAFO does not relieve Respondent from responsibility to comply with all requirements of the Act and the requirements of any permits issued thereunder, as described in Section 309(g)(7) of the Act, 33 U.S.C. § 1319(g)(7), nor does it constitute a waiver by the EPA of its

right to enforce compliance with the requirements of Respondent's permits or other requirements of the Act by actions pursuant to Section 309 of the Act, 33 U.S.C. § 1319.

32. The provisions of this CAFO shall be binding upon Respondent, its officers or officials, managers, employees, and their successors or assigns, in their capacity on behalf of Respondent.

33. Each party agrees to bear its own costs and attorneys' fees in this matter, except to the extent that Respondent may be responsible for reasonable costs and expenses of enforcement and collection proceedings for failure to comply with the terms of this CAFO.

34. Each undersigned representative of the Parties to this agreement certifies that he or she is fully authorized by the party represented to enter into the terms and conditions of this agreement and to execute and legally bind that party to it.

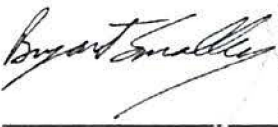
36. The effective date of this CAFO is the date when the CAFO is filed with the Regional Hearing Clerk.

In recognition and acceptance of the foregoing:



Honorable David Romero
Mayor, City of Las Vegas

9-29-25
Date



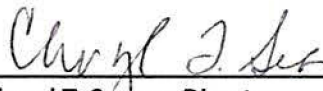
Digitally signed by
BRYANT SMALLEY
Date: 2025.11.21
09:27:49 -06'00'
Bryant Smalley
Chief
Water Enforcement Branch

11/21/2025
Date

FINAL ORDER

Pursuant to the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, 40 C.F.R. Part 22, the foregoing Consent Agreement is hereby ratified. This Final Order 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. This Final Order shall resolve only those causes of action alleged in the Complaint. Nothing in this Final Order shall be construed to waive, extinguish, or otherwise affect Respondent's (or its officers', agents', servants', employees', successors', or assigns') obligation to comply with all applicable federal, state, and local statutes and regulations, including the regulations that were the subject of this action. Respondent is ordered to comply with the terms of settlement and the civil penalty payment instructions as set forth in the Consent Agreement. Pursuant to 40 C.F.R. § 22.31(b), this Final Order shall become effective upon filing with the Regional Hearing Clerk.

Issuance Date: January 14, 2026


Cheryl T. Seager, Director
Enforcement and
Compliance Assurance Division

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Consent Agreement and Final Order was filed with the Regional Hearing Clerk, U.S. EPA - Region 6, 1201 Elm Street, Suite 500, Dallas, Texas 75270-2102, and that a true and correct copy was sent on this day in the following manner to the email addresses:

Copy via Email to Complainant – Delivery Receipt Requested

talbot.kristine@epa.gov

Copy via Email to Respondent – Delivery Receipt Requested

Honorable David Romero
Mayor, City of Las Vegas
1700 North Grand Avenue
Las Vegas, New Mexico 87701
mayor@lasvegasnm.gov

Dated: 1-14-2026

Karen Vau

Attachment A
City of Las Vegas WWTP
NPDES Permit ID No. NM0028827

Monitoring Period	Parameters	Monitoring	Permit Limit	DMR Value	% Exceed	Units
Jul-23	Aluminum	30DA AVG	66.37	96	45%	ug/L
Jul-23	Aluminum	DAILY MX	2.076	2.37	14%	lb/d
Jul-23	Aluminum	DAILY MX	99.55	150	51%	ug/L
Jul-23	Chlorine, total residual	INST MAX	11	50	355%	ug/L
Aug-23	Aluminum	30DA AVG	66.37	82.077	24%	ug/L
Aug-23	Aluminum	DAILY MX	99.55	130	31%	ug/L
Aug-23	Chlorine, total residual	INST MAX	11	40	264%	ug/L
Aug-23	Nitrogen, ammonia total [as N]	DAILY MX	6	7.8	30%	mg/L
Aug-23	Oxygen, dissolved [DO]	MO MIN	6	4.83	20%	mg/L
Sep-23	Chlorine, total residual	INST MAX	11	40	264%	ug/L
Oct-23	Aluminum	30DA AVG	66.37	135.33	104%	ug/L
Oct-23	Aluminum	DAILY MX	2.076	3.19	54%	lb/d
Oct-23	Aluminum	DAILY MX	99.55	260	161%	ug/L
Oct-23	Chlorine, total residual	INST MAX	11	30	173%	ug/L
Oct-23	Oxygen, dissolved [DO]	MO MIN	6	3.42	43%	mg/L
Oct-23	pH	MINIMUM	6.6	6.58	0%	SU
Nov-23	Aluminum	30DA AVG	66.37	95	43%	ug/L
Nov-23	Aluminum	DAILY MX	99.55	140	41%	ug/L
Nov-23	Chlorine, total residual	INST MAX	11	50	355%	ug/L
Dec-23	Aluminum	30DA AVG	1.38	2.136	55%	lb/d
Dec-23	Aluminum	30DA AVG	66.37	308.667	365%	ug/L
Dec-23	Aluminum	DAILY MX	2.076	14.598	603%	lb/d
Dec-23	Aluminum, total recoverable	DAILY MX	99.55	2300	2210%	ug/L
Dec-23	Chlorine, total residual	INST MAX	11	50	355%	ug/L
Dec-23	Oxygen, dissolved [DO]	MO MIN	6	2.16	178%	mg/L
Dec-23	pH	MINIMUM	6.6	6.45	2%	SU
Jan-24	Aluminum	30DA AVG	66.37	91.533	38%	ug/L
Jan-24	Aluminum	DAILY MX	2.076	2.208	6%	lb/d
Jan-24	Aluminum	DAILY MX	99.55	310	211%	ug/L
Jan-24	Chlorine, total residual	INST MAX	11	50	355%	ug/L

Monitoring Period	Parameters	Monitoring	Permit Limit	DMR Value	% Exceed	Units
Feb-24	Aluminum	30DA AVG	66.37	70.583	6%	ug/L
Feb-24	Aluminum	DAILY MX	99.55	150	51%	ug/L
Mar-24	Aluminum	30DA AVG	1.38	12.292	791%	lb/d
Mar-24	Aluminum	30DA AVG	66.37	1456.75	2095%	ug/L
Mar-24	Aluminum	DAILY MX	2.076	118.511	5609%	lb/d
Mar-24	Aluminum	DAILY MX	99.55	14000.	13963%	ug/L
Mar-24	Oxygen, dissolved [DO]	MO MIN	6	5.9	-2%	mg/L
Mar-24	pH	MINIMUM	6.6	6.3	-5%	SU
Apr-24	Aluminum	DAILY MX	99.55	120.	21%	ug/L
Apr-24	pH	MINIMUM	6.6	6.37	-3%	SU
May-24	Aluminum	30DA AVG	66.37	88.69	34%	ug/L
May-24	Aluminum	DAILY MX	2.076	2.491	20%	lb/d
May-24	Aluminum	DAILY MX	99.55	290	191%	ug/L
May-24	Oxygen, dissolved [DO]	MO MIN	6	5.86	2%	mg/L
May-24	Solids, total suspended	7 DA AVG	45	59.2	32%	mg/L
Jun-24	Aluminum	30DA AVG	1.38	3.95	186%	lb/d
Jun-24	Aluminum	30DA AVG	66.37	335.5	405%	ug/L
Jun-24	Aluminum	DAILY MX	2.076	33.643	1521%	lb/d
Jun-24	Aluminum	DAILY MX	99.55	2900.	2813%	ug/L
Jun-24	Chlorine, total residual	INST MAX	11	30	173%	ug/L
Jun-24	Oxygen, dissolved [DO]	MO MIN	6	1.66	72%	mg/L
Jun-24	pH	MINIMUM	6.6	6.51	1%	SU
Jun-24	Solids, total suspended	7 DA AVG	939	1672.4	78%	lb/d
Jun-24	Solids, total suspended	7 DA AVG	45	73	62%	mg/L
Oct-24	Chlorine, total residual	INST MAX	11	60	445%	ug/L
Nov-24	Chlorine, total residual	INST MAX	11	20	82%	ug/L
Dec-24	Chlorine, total residual	INST MAX	11	280	2445%	ug/L
Dec-24	Oxygen, dissolved [DO]	MO MIN	6	3.5	42%	mg/L
Jan-25	E. coli	DAILY MX	410	2400	485%	CFU/100mL
Jan-25	Solids, total suspended	7 DA AVG	45	53.3	18%	mg/L
Feb-25	Solids, suspended percent removal	MO AV MN	85	75	12%	%
Feb-25	Solids, total suspended	30DA AVG	30	50.6	69%	mg/L
Feb-25	Solids, total suspended	7 DA AVG	939	2214.5	136%	lb/d
Feb-25	Solids, total suspended	7 DA AVG	45	185.5	312%	mg/L

Monitoring Period	Parameters	Monitoring	Permit Limit	DMR Value	% Exceed	Units
Mar-25	Aluminum	DAILY MX	2.076	2.8	35%	lb/d
Mar-25	Aluminum	DAILY MX	99.55	290	191%	ug/L
Mar-25	E. coli	DAILY MX	410	577	41%	CFU/100mL
Mar-25	Oxygen, dissolved [DO]	MO MIN	6	3.92	35%	mg/L
Apr-25	Aluminum	DAILY MX	99.55	130	31%	ug/L
Apr-25	Oxygen, dissolved [DO]	MO MIN	6	2.8	53%	mg/L
Jun-25	BOD, 5-day, 20 deg. C	30DA AVG	417	443.2	6%	lb/d
Jun-25	BOD, 5-day, 20 deg. C	30DA AVG	20	47.5	138%	mg/L
Jun-25	BOD, 5-day, 20 deg. C	7 DA AVG	542	994.9	84%	lb/d
Jun-25	BOD, 5-day, 20 deg. C	7 DA AVG	26	100	285%	mg/L
Jun-25	BOD, 5-day, percent removal	MO AV MN	85	57	33%	%

Attachment B
City of Las Vegas WWTP
NPDES Permit ID No. NM0028827

Date	Overflow Volume (Gallons)	SSO Impact	Cause
12/3/2024	416,666	Gallinas River	Hydraulic overload caused solids to overflow through the effluent discharge and into the Gallinas River.
1/3/2025 to 1/6/2025	4,700,000	Gallinas River	
1/13/2025	520,000	Gallinas River	
1/17/2025	800,000	Gallinas River	
3/10/2025	500,000	Gallinas River	
3/29/2025	500,000	Gallinas River	
4/12/2025	333,330	Gallinas River	
5/6/2025 to 5/8/2025	3,200,000	Gallinas River	

Total volume = 10,969,996 gallons