



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1201 ELM STREET, SUITE 500
DALLAS, TEXAS 75270-2102

July 21, 2023

TRANSMITTED VIA EMAIL

The Honorable Roger Sweet, Mayor
Village of Jemez Springs
P.O. Box 269
Jemez Springs, NM 87025
mayor@jemezsprings-nm.gov

Re: Administrative Order; Docket Number: CWA-06-2023-1777
NPDES Permit Number: NM0028011

Dear Mayor Sweet:

Enclosed is an Administrative Order (AO) issued to the Village of Jemez Springs Wastewater Treatment Plant for violations of the Clean Water Act (CWA), (33 U.S.C. § 1251 et seq.). Violations were identified during a review of the permit. The violations alleged are for failure to submit the proposed Boron Sanitary Sewer Study.

This AO does not assess a monetary penalty; however, it does require compliance with applicable federal regulations. The first compliance deadline is thirty days from the effective date of this letter. The Environmental Protection Agency Region 6 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-06-2023-1777 and NPDES Permit Number NM0028011 on your response.

If you have any questions, please contact Ms. Rachel Matthews, of my staff, at (214) 665-8589 or at matthews.rachel@epa.gov.

Sincerely,

A handwritten signature in blue ink that reads "Cheryl T. Seager".

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Cheryl T. Seager, Director
Enforcement and
Compliance Assurance Division

Enclosure

e.c. Ms. Shelly Lemon
NMED Water Bureau Chief
shelly.lemon@state.nm.us

Ms. Susan LucasKamat
NMED Surface Water Quality Bureau
susan.lucaskamat@state.nm.us



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-06-2023-1777; Permit Number: NM0028011

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), by Section 309(a) of the Clean Water Act (herein “the Act”), 33 U.S.C. § 1319(a). The Administrator of EPA has delegated the authority to issue this Order to the Regional Administrator of EPA Region 6, who has further delegated this authority to the Director of the Enforcement and Compliance Assurance Division.

FINDINGS

1. Village of Jemez Springs (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), the Respondent was authorized to discharge from its wastewater treatment plant (WWTP), located at 14609 Highway 4, Sandoval County, NM 87025, New Mexico (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 wastewater to the receiving water of the Jemez River, 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 is a point source of discharges of pollutants to waters of the U.S., 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. Respondent applied for and was issued NPDES Permit No. NM0028011 (permit) under Section 402 of the Act, 33 U.S.C. § 1342, which became effective on June 1, 2021. 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.

8. Part I.B. of the permit includes a “Schedule of Compliance” that requires Respondent to Conduct a sanitary sewer survey to identify sources of dissolved boron.

9. Respondent failed to complete all requirements of the Schedule of Compliance within the timeframes of the permit:

“Conduct a sanitary sewer survey to identify sources of dissolved boron being contributed to the collection system. The survey must include sample collection at representative locations throughout the sewer collection system, including specific industrial/commercial users with higher potential for elevated levels of boron and of treated drinking water supplied to customers of the public water supply (as a baseline of contributions from domestic wastewater sources). Samples must be analyzed for boron using 40 CFR 136 sufficiently sensitive test methods with a ML at or below the New Mexico Water Quality Standard.

- a. Within three (3) months of the effective date of the permit, submit a proposed study plan to EPA and NMED containing: monitoring of raw and treated drinking water provided to Village customers (Jemez Springs Domestic Water Association); monitoring of major segments of the collection system; monitoring of effluent from select commercial and industrial users with potential to have higher levels of boron (e.g., those with effluent containing waters from other sources than the treated public water supply system; those with industrial or commercial processes that would add boron to the waste stream; etc.); collecting at least three (3) grab samples from each monitoring location; and procedures for collection of samples to ensure batch or intermittent discharges into the collection system are captured in addition to continuous flows.

b. Within twelve (12) months of the effective date of the permit, complete collection of samples.

c. Within fifteen (15) months of the effective date of the permit, submit report with results of the study and conclusions to EPA and NMED.

d. Submit quarterly progress reports from the effective date of this permit until completion of the study and submission of the final report.

10. A “proposed study plan” was not officially submitted. This is a violation of the permit.

11. Collection of samples were completed on July 6th and July 7th of 2022, past the due date of June 1, 2022. This is a violation of the permit.

12. A report with results of the study, and conclusions, were submitted on July 7, 2023, past the due date of September 1, 2022. This is a violation of the permit.

13. No quarterly progress reports have been submitted. This is a violation of the permit.

14. Each violation of the conditions of this permit or regulations described above is a violation of 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, EPA hereby orders the Respondent to take the following actions:

A. Immediately take all measures as necessary to comply with permit conditions.

B. By August 1, 2023, Respondent shall submit a Quarterly Progress Report for the previous months of April, May, and June.

C. If Respondent would like to arrange a meeting with EPA to discuss the allegations in Section 309 (a)(3) Compliance Order, Respondent should contact EPA within thirty (30) days of the effective date of this Order. The meeting will be held at the Region 6 offices, 1201 Elm St., Dallas, Texas, or through a virtual platform, as appropriate, and the Respondent can provide any information it believes is relevant to this Order. Respondent shall submit to EPA all information or materials it considers relevant to EPA at least ten (10) days prior to the meeting.

D. To arrange a meeting, or to ask questions or comment on this matter, contact Rachel Matthews at (214) 665-8589.

E. All information, and/or correspondence, shall be electronically submitted to:

Ms. Nancy Williams
Williams.Nancy@epa.gov
and

Ms. Rachel Matthews
Matthew.Rachel@epa.gov

GENERAL PROVISIONS

Respondent may seek federal judicial review of this 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 the Respondent.

July 21, 2023

Date

Cheryl T. Seager

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Cheryl T. Seager, Director
Enforcement and
Compliance Assurance Division