



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6
1201 ELM STREET, SUITE 500
DALLAS, TEXAS 75270-2102

August 24, 2023

TRANSMITTED VIA E-MAIL

Mark Hathcock
Water & Wastewater CIP Administrator
Farmington, NM 87401
mhathcock@fmrn.org

Re: Administrative Order; Docket Number: CWA-06-2023-1799
City of Farmington Wastewater Treatment Plant
NPDES Permit Number: NM0020583 (permit)

Dear Mr. Hathcock:

Enclosed is a Schedule Administrative Order (AO) issued to the City of Farmington Wastewater Treatment Plant (WWTP), for violations of the Clean Water Act (CWA), 33 U.S.C. §§ 1251-1387. Violations were identified during a review of the City of Farmington WWTP permit file and permit compliance project schedule. The violations alleged are for failure to complete permit stipulated project(s). The Environmental Protection Agency (EPA) requests that you immediately confirm receipt of this e-mail and the attached order by a response e-mail to mcelroy.damon@epa.gov.

This AO does not assess a monetary penalty; however, it does require compliance with applicable federal regulations. The Environmental Protection Agency is committed to ensuring compliance with the requirements of the NPDES program and my staff will assist you in any way possible. Please reference AO Docket Number CWA-06-2023-1799 and NPDES Permit Number NM0020583 on your response.

If you have any questions, please contact Mr. Damon McElroy, P.E. of my staff, at (214) 665-7159 or mcelroy.damon@epa.gov.

Sincerely,

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

Digitally signed by
Cheryl T. Seager
Date: 2023.08.24
08:12:43 -05'00'

Cheryl T. Seager, Director
Enforcement and
Compliance Assurance Division

Enclosure(s)

cc: shelly.lemon@env.nm.gov
susan.lucaskamat@env.nm.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-06-2023-1799; NPDES Permit Number: NM0020583

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 Farmington (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 City of Farmington Wastewater Treatment Plant (facility), located at 1395 South Lake Street, in the City of Farmington, in San Juan County, New Mexico., 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 receiving waters named San Juan River in the San Juan Basin, Waterbody Segment Code No. 20.6.4.401 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, a 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. NM0020583 (permit) under Section 402 of the Act, 33 U.S.C. § 1342, which become effective on December 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. The permit includes a “Schedule of Compliance” as described in the permit Part I Section B that requires Respondent to implement and conclude the design phase, bid phase, award contract, and start construction at the facility by June 2022 in order to achieve compliance with the TDS net increase effluent concentration limit of 449 mg/L.
9. As documented in a Respondent schedule compliance status letter to EPA dated July 31, 2023, Respondent failed to meet the June 2022 deadline specified in Paragraph 8, above.
10. Each instance in which Respondent fails to meet a schedule of compliance project activity 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. Respondent shall complete the following Schedule of Activities Table to achieve compliance with the requirements of the Act.

Schedule of Activities Table:

Project A. Improve City’s Drinking Water Treatment Plant (DWTP) #1 by removing waste discharge to City’s WWTP	
Project Activity	Due Date
Design phase, bid phase, award contract, and start construction	February 2024
Complete constructions and cease DWTP #1 discharge to WWTP	September 2026
Project B. Improve City’s DWTP #2 by removing waste discharge to City’s WWTP	
Project Activity	Due Date
Design phase, bid phase, award contract, and start construction	September 2026
Complete construction and cease DWTP#2 discharge to WWTP	December 2028

B. Within forty-five (45) days after the completion date for each Project Activity, Respondent shall submit a Project Completion Report to both EPA and NMED outlining the project status that shall contain the following information:

- 1) a detailed description of the Project as implemented;
- 2) certification that the Project has been fully implemented pursuant to the provisions of this Order;
- 3) explanation for delays, if applicable, and proposed remedial actions.

C. In the Project Completion Report submitted to EPA pursuant to this Order, Respondent shall, by its officers, sign and certify under penalty of law that the information contained in such report is true, accurate, and not misleading by signing the following statement:

I certify under penalty of law that I have examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment.

D. To arrange a meeting, or to ask questions or comment on this matter, please contact Mr. Damon McElroy, of my staff, at (214)-665-7159 or mcelroy.damon@epa.gov.

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

Mr. Damon McElroy, P.E.
mcelroy.damon@epa.gov

and

Ms. Nancy Williams
williams.nancy@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.

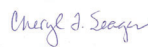
Failure to comply with this Section 309(a)(3) Compliance Order or the Act may result in further administrative action, or a civil judicial action initiated by the United States Department of Justice.

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 24, 2023

Date



Digitally signed by Cheryl
T. Seager
Date: 2023.08.24 08:11:25
-05'00'

Cheryl T. Seager, Director
Enforcement and
Compliance Assurance Division