



REGION 6

DALLAS, TX 75270

March 6, 2025

TRANSMITTED VIA E-MAIL

Dr. Jae Brimhall
Farnsworth Family Orthodontics
701 N. Canyon St.
Carlsbad, New Mexico 88220
carlsbadfd@farnsworthorthodontics.com

Re: Administrative Order, Docket Number: CWA-06-2025-1730
Dental Practitioner: Dr. Jae Brimhall, Farnsworth Family Orthodontics (NMU002209)

Dear Dr. Brimhall:

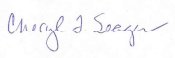
Enclosed is an Administrative Order (Order) issued by the United States Environmental Protection Agency, Region 6 (EPA) concerning the National Effluent Limitation Guidelines for the Dental Office Point Source Category at 40 C.F.R. § 441 which was promulgated July 14, 2017. The Order requires Dr. Jae Brimhall (Respondent) to comply with the provisions set forth in the attached Order. EPA requests that Respondent immediately confirm receipt of this email and attached Order by a response email to David Montoya Jr. at montoya.david01@epa.gov.

The Order is being issued to Respondent for violations of the Clean Water Act (CWA) 33 U.S.C. §§ 1251-1387. EPA finds that Respondent has not submitted a One-Time Compliance Report (OTCR) as required by 40 C.F.R. § 441.50(a)(1).

The Order does not assess a monetary penalty; however, it does require compliance with applicable federal regulations. The first compliance deadline is within thirty (30) days of receipt of the Order. EPA is committed to ensuring compliance with the requirements of the national effluent limitation guidelines program, and my staff will assist you in any way possible. Please reference the Administrative Order Docket Number CWA-06-2025-1730 in your response.

If you need assistance, or have questions regarding the Order, please contact David Montoya Jr., of my staff, at 214-665-6478 or montoya.david01@epa.gov.

Sincerely,

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Cheryl T. Seager, Director
Enforcement and
Compliance Assurance Division

Enclosure

cc: Ms. Shelly Lemon
Bureau Chief
Surface Water Quality Bureau
New Mexico Environment Department
shelly.lemon@env.nm.gov

Susan Lucas-Kamat
Program Manager
Point Source Regulation Section
Surface Water Quality Bureau
New Mexico Environment Department
susan.lucaskamat@env.nm.gov



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region 6
FINDINGS OF VIOLATION AND COMPLIANCE ORDER
Docket Number: CWA-06-2025-1730;
Farnsworth Family Orthodontics – NMU002209

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 (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 further delegated such authority to the Director of the Enforcement and Compliance Assurance Division.

FINDINGS

1. Dr. Jae Brimhall (Respondent) is a "person," as that term is defined at Section 502(5) of the Act, 33 U.S.C. § 1362(5).
2. At all times relevant to the violation alleged herein, Respondent owned or operated Farnsworth Family Orthodontics (facility) located at 701 N. Canyon St., Carlsbad, Eddy County, New Mexico 88220, which discharged wastewater into a publicly owned treatment works, and was, therefore, a Dental Discharger as defined at 40 C.F.R. § 441.20(e).
3. At all times relevant to this Order, the facility acted as a Dental Discharger and as a result, Respondent and the facility were subject to Section 307(d) of the Act and National Effluent Limitation Guidelines (ELG) for the Dental Office Point Source Category at 40 C.F.R. § 441. The Dental Office ELG was promulgated July 14, 2017, and required pretreatment standards compliance by July 14, 2020.
4. 40 C.F.R. § 441.50(a)(1) requires all existing Dental Dischargers to submit a One-Time Compliance Report (OTCR) to EPA by October 12, 2020.
5. The OTCR must be signed and certified by a responsible corporate officer, a general partner or proprietor if the dental discharger is a partnership or sole proprietorship, or a duly authorized representative in accordance with the requirements of 40 C.F.R. § 403.12(l).

6. As of the date of this Order, Respondent has failed to submit the OTCR to EPA in violation of 40 C.F.R. § 441.50(a)(1).

SECTION 309(a)(3) COMPLIANCE ORDER

7. Based on the foregoing Findings and pursuant to the authority of Section 309(a)(3) of the Act, EPA hereby orders Respondent to take the following action:

A. Within thirty (30) days of the effective date of this Order, Respondent shall submit a OTCR to EPA in accordance with 40 C.F.R. § 441.50(a)(1). See EPA's OTCR form, included as Attachment A. Respondent shall submit the OTCR to the following EPA representative: David Montoya Jr., as listed below. The OTCR may be submitted via email.

B. To ask questions, comment on this matter, or submit the OTCR via email, please contact Mr. David Montoya Jr., of my staff, at 214-907-0638 or montoya.david01@epa.gov.

C. The OTCR and any information or correspondence submitted by Respondent to EPA under this Order shall be addressed to the following:

David Montoya Jr
U.S. Environmental Protection Agency, Region 6
Water Enforcement Branch (ECD-WM)
1201 Elm Street, Suite 500
Dallas, TX 75270
montoya.david01@epa.gov

GENERAL PROVISIONS

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

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

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.

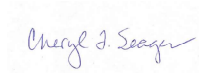
For purposes of the identification requirement in Section 162(f)(2)(A)(ii) of the Internal Revenue Code, 26 U.S.C. § 162(f)(2)(A)(ii), and 26 C.F.R. § 1.162-21(b)(2), performance of Paragraph 7 is restitution, remediation, or satisfaction of requirements to come into compliance with the law.

Compliance with the terms and conditions of this Order does not relieve Respondent of its obligations 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.

March 6, 2025

Date



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Cheryl T. Seager, Director
Enforcement and
Compliance Assurance Division