



REGION 6
DALLAS, TX 75270

May 13, 2025

TRANSMITTED VIA EMAIL

Mr. Gary Whitehead
City Manager
City of Truth or Consequences
505 Sims Street
City of Truth or Consequences, NM 87901
gwhitehead@torcnm.org

Re: Administrative Order; Docket Number: CWA-06-2025-1746
NPDES Permit Number: NM0020681

Dear Mr. Whitehead:

Enclosed is an Administrative Order (AO) issued to the City of Truth or Consequences Wastewater Treatment Plant (WWTP) for violations of the Clean Water Act (CWA), 33 U.S.C. § 1251 et seq. The violations are for failure to meet permit effluent limits and to properly maintain the WWTP. This AO also incorporates a corrective action plan submitted to EPA on March 31, 2025. The United States Environmental Protection Agency (EPA) requests that you immediately confirm receipt of this e-mail and the attached order by a response e-mail to matthews.rachel@epa.gov.

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 EPA 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-06-2025-1746 and NPDES Permit Number NM0020681 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,

Cheryl T. Seager, Director
Enforcement and
Compliance Assurance Division

Truth or Consequences
Docket Number: CWA-06-2025-1746

Enclosure

e.c. Jamie Foreman
Regulatory and Compliance Specialist Water/ Wastewater
City of Truth or Consequences
jforeman@torcnm.org

Ms. Johanna Munoz
Executive Assistant
City of Truth or Consequences
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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Region 6

FINDINGS OF VIOLATION AND COMPLIANCE ORDER

Docket Number: CWA-06-2025-1746; Permit Number: NM0020681

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 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. The City of Truth or Consequences (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 a wastewater treatment plant (facility) located at 1595 Animal Shelter Road, in the City of Truth or Consequences, Sierra 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 wastewater discharge to Rio Grande River in Segment 20.6.4.103 of the Middle Rio Grande 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. Respondent applied for and was issued NPDES Permit No. NM0020681 (permit) under Section 402 of the Act, 33 U.S.C. § 1342, which became effective on April 1, 2022, with an expiration date of March 31, 2027. 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.A. of the permit places certain limitations on the quality and quantity of effluent discharged by Respondent established in the permit, as specified in Attachment A, which is incorporated herein by reference.

9. The permit also 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.

10. The permit requires Respondent to file certified Discharge Monitoring Reports (DMRs) of the results of monitoring. DMRs filed by Respondent show discharges of pollutants from the facility that exceed the permitted effluent limitations established in the permit.

11. Pursuant to Part III.B. of the permit, Respondent is required 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.

12. On January 12, 2023, an inspection of the facility was conducted by NMED inspectors, on behalf of EPA. As a result of the inspection, it was found that Part III.B. of the permit was violated in that Respondent failed to properly maintain all facility systems of treatment and control (and related appurtenances).

13. On January 17, 2025, EPA issued Administrative Order (AO) Docket Number CWA-06-2025-1712, which cited the effluent limits, the inspection, and relevant violations of the permit. The AO required Respondent to eliminate cited violations or submit a plan to eliminate violations.

14. Respondent submitted a response, with a basic plan of action to begin bringing the facility into compliance. See Attachment B, which is incorporated herein by reference.

15. On April 14, 2025, Respondent submitted further information regarding the plan, which has been incorporated into this Administrative Order.

16. Each violation of the conditions of the permit described above was a violation of Section 301 of the Act, 33 U.S.C. § 1311.

SECTION 309(a)(3) COMPLIANCE ORDER

17. 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 actions:

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

B. Respondent shall accomplish the following tasks and comply with the following schedule of activities:

TASK	DUE DATE
1. Evaluate current rates to ensure ability to self-finance projects to address critical problems and/or to be utilized as a match component when seeking funding for larger capital projects. Submit draft evaluation.	June 2, 2025
2. Submit copy of original construction design plans of the current weirs.	July 1, 2025
3. Submit detailed plans for temporary repairs of existing clarifier weirs, ensuring proper mounting, positioning.	July 1, 2025
4. Submit detailed plans and timeline for weir replacement.	August 1, 2025
5. Submit a detailed timeline for the rehabilitation, or replacement, of the headworks, including dates for the 30/60/90% completion construction and final construction design plans, provided by consultants.	August 1, 2025

6.	Submit updated draft (or final) evaluation of rates with estimates (or actual) increases.	October 1, 2025
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C. If Respondent would like to arrange a meeting with EPA to discuss the violations alleged in this 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 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, please contact Rachel Matthews, of my staff, 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 Respondent.

May 13, 2025

Date

Cheryl T. Seager

Cheryl T. Seager, Director
Enforcement and
Compliance Assurance Division

Attachment A

Administrative Order, Docket Number:

CWA-06-2025-1746

PART I – REQUIREMENTS FOR NPDES PERMITS

A. LIMITATIONS AND MONITORING REQUIREMENTS

1. OUTFALL 001 - FINAL Effluent Limits – 1.06 MGD Design Flow

During the period beginning the effective date of the permit and lasting through the expiration date of the permit (unless otherwise noted), the permittee is authorized to discharge treated domestic wastewater from Outfall 001 to Rio Grande River. Such discharges shall be limited and monitored by the permittee and reported as specified below:

POLLUTANT	DISCHARGE LIMITATIONS MINIMUM	DISCHARGE LIMITATIONS MAXIMUM	MEASUREMENT FREQUENCY	SAMPLE TYPE
pH	6.6 s.u.	9.0 s.u.	Daily	Instantaneous Grab (*3)
DO (*6)	6 mg/L	N/A	Weekly	Instantaneous Grab (*3)

POLLUTANT	30-DAY AVG, lbs/day, unless noted	7-DAY AVG lbs/day, unless noted	30-DAY AVG mg/l, unless noted (*1)	7-DAY AVG mg/l, unless noted (*1)	DAILY MAX mg/l, unless noted (*1)	MEASUREMENT FREQUENCY	SAMPLE TYPE
Flow	Report MGD	Report MGD	N/A	N/A	N/A	Daily	Totalized meter
BOD ₅	176	265	20	30	N/A	Weekly	6-hr Composite
TSS	265	398	30	45	N/A	Weekly	6-hr Composite
BOD ₅ % removal, minimum	≥85 (*2)	N/A	N/A	N/A	N/A	Monthly	Calculation
TSS % removal, minimum	≥85 (*2)	N/A	N/A	N/A	N/A	Monthly	Calculation
TRC	N/A	N/A	N/A	N/A	11 ug/l (*4)	Daily	Instantaneous Grab (*3)
E. coli bacteria	NA	N/A	548 cfu (or MPN)/100 ml (*5)	N/A	2,507 cfu (or MPN)/100 ml	Weekly	Grab
Hexachlorobenzene, interim limit (*7, *8)	5.48E-02	N/A	6.2 ug/l	N/A	NA	Weekly	Grab
Hexachlorobenzene, final limit (*8, *9)	5.43E-05	8.15E-05 daily max	6.14E-03 ug/l	N/A	9.21E-03 ug/l	3/Week	Grab
Cadmium, Total	0.01	0.02	1.55 ug/L	N/A	2.32 ug/L	3/Week	Grab
Acrylonitrile	0.1	0.15	11.65 ug/L	N/A	17.48 ug/L	Weekly	Grab
Total Phosphorus	N/A	N/A	N/A	N/A	Report	Quarterly	6-hr Composite
Total Nitrogen	N/A	N/A	N/A	N/A	Report	Quarterly	6-hr Composite

WHOLE EFFLUENT TOXICITY TESTING 7-DAY CHRONIC NOEC FRESHWATER (*10)	VALUE	MEASUREMENT FREQUENCY	SAMPLE TYPE
Ceriodaphnia dubia	Report	Quarterly	24-hr Composite
Pimephales promelas	Report	Quarterly	24-hr Composite

Footnotes:

*1 See **Appendix A of Part II** of the permit for minimum quantification limits.

*2 Percent removal is calculated using the following equation:

$$\text{Percent removal} = \frac{\text{average monthly influent concentration } \left(\frac{\text{mg}}{\text{L}}\right) - \text{average monthly effluent concentration } \left(\frac{\text{mg}}{\text{L}}\right)}{\text{average monthly influent concentration } \left(\frac{\text{mg}}{\text{L}}\right)} \times 100$$

*3 Analyzed within 15 minutes of collection.

*4 The effluent limitation for TRC is the instantaneous maximum and cannot be averaged for reporting purposes.

*5 The geometric mean of E. coli bacteria shall be used for reporting the 30-day average values.

*6 Field kit (probe) can be used to measure.

*7 Interim limitations are expired on first day of 4th year from the permit effective date.

*8 EPA Method 612 (or approved method under 40 CFR 136.3 with MDL/ML of 0.05 ug/L or lower) shall be used for analysis.

*9 Limitations shall be effective beginning first day of 4th year from the permit effective date.

*10 Monitoring and reporting requirements begin on the effective date of this permit. See Part II of the permit for WET testing requirements for additional WET monitoring and reporting conditions. Grab samples are allowed per method, if needed.

Attachment B

Administrative Order, Docket Number:

CWA-06-2025-1746

Rolf Hechler
Mayor

Amanda Forrister
Mayor Pro-Tem

Merry Jo Fahl
Commissioner



Destiny Mitchell
Commissioner

Ingo Hoeppner
Commissioner

Gary Whitehead
City Manager

505 Sims St.
Truth or Consequences, New Mexico 87901
P: 575-894-6673 ♦ F: 575-894-7767
www.torcnm.org

March 31, 2025

Cheryl T. Seager, Director
Enforcement and
Compliance Assurance Division

Subject: Response to Compliance Letter Re: Administrative Order; Docket Number: CWA-06-2025-1712 NPDES Permit Number: NM0020681

Dear Ms. Cheryl,

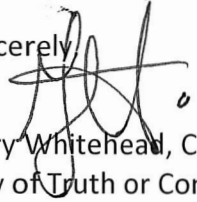
I am writing to update you on our progress regarding the compliance letter related to the Administrative Order mentioned above. We have received the compliance letter and have diligently worked to address the outlined requirements.

We have successfully completed Task 1 and 2 of the mandated under the order. Today, we are submitting Task #3 as per the administrative compliance order. This plan outlines our inspection findings, strategies, timelines, and the measures we will implement to rectify the violations detailed in the order. We believe this plan will address the compliance issues effectively and prevent any future occurrences.

We appreciate your collaboration and support throughout this process and remain dedicated to achieving full compliance with the terms of the NPDES permit. If you have any questions or require further information regarding our progress, please do not hesitate to reach out.

Thank you for your attention to this matter.

Sincerely,


Gary Whitehead, City Manager
City of Truth or Consequences

CITY OF TRUTH OR CONSEQUENCES

DOCKET #CWA-06-2025-1712

NPDES NM0020681

INSPECTION FINDINGS AND RESPONSES

Inspection Findings, Responses, Corrective Action and Estimated Timeline

- i. The bar screen was non-operational.
 - a) Response- The bar screen as a critical part of the WW system has been in service for over 40 years. It has been obsolete since 2000 and parts on the shelves have finally been used up. We were able to make it last for 15-25 years longer than its expected life. This is a milestone to the care and attention of mechanical components at our facility by our operators. Since we discovered that we would no longer be able to make repairs to it, we have been looking for funding and design, which shows it to be a very expensive part due to the following items.
 - 1) Depth of the channel due to the gravity flow distance.
 - 2) Torque required to lift heavy loads up an incline of the same distance.
 - 3) Flow diversion for new construction.
 - b) Corrective Action- We are working with Wilson Engineering and Stantec engineering to best design and implement funds towards this project. The following steps are or already have been taken to advance the project.
 - 1) Engineering and design. Money has been awarded by Colonias funding for this portion of the project.
 - 2) Bidding. Once the design is done and approved by Mr. Steven Deal, we will advance to the bidding phase of the project.
 - 3) Bypass and Construction. We will award a contractor and begin the process of the bypass and building a new modernized bar screen
 - c) Timeline- We expect this project to move forward quickly and estimate a 1 fiscal year timeline. By July 1, 2026, we should be able to have this item completed.

- ii. The grit chamber was non-operational.
 - a) Response- The grit chamber has been another obsolete "obstacle" in the system for many years. Nobody knows exactly when it worked correctly. I have reports of sewage overflows, sewage mist, sewage spraying and employee contact and contamination on a regular basis when it was being attempted to operate. It was deemed a hazard and taken out of operation due to the ongoing issues of contamination and sewage spills.
 - 1) It was taken out of operation due to incidents and design flaws.
 - b) Corrective Action- We will not be utilizing an independent grit chamber once the new bar screen is built. The following is a list of reasons why a grit chamber will not be necessary.

- 1) A modern bar screen has a much narrower slot that collects much more grit and rags than the older style bar screen making it an unnecessary expense.
 - 2) Once the new bar screen is built, we anticipate also removing the existing grit chamber to prevent any further issues.
- c) Timeline- Since this project goes hand in hand with the bar screen, we also anticipate a 1 fiscal year timeline. By July 1, 2026, we anticipate this should be completely taken out of the system.
- iii. The clarifier weirs were damaged.
- a) Response- The clarifier weirs were installed in 2019 during the construction of the facility upgrades. It was determined that the fiberglass and plastic weirs would be more cost effective and would work as well as the stainless-steel versions. This proved to not be an effective substitute in the New Mexico heat, dry conditions and UV exposure. Within the first 2 years we saw the materials begin to break down and also lose shape and begin to show cracks at the seams. Even after having the contractor returned and attempting to fix these issues it was a short-lived fix. Within another year of this we began to see issues again. These weirs were also supposed to be adjustable when properly installed. We found out much later that installation instructions were not followed, rendering them nonadjustable. This is due to holes being drilled for support beams instead of utilizing the existing "sliding" holes that were intended to be used to adjust the weirs levelness. We are looking at the project being brought back to the table to allow for the stainless-steel weirs to replace these existing fiberglass and plastic ones. Before this can be accommodated the following items must be achieved.
 - 1) Re-design using proper materials and attachment techniques.
 - 2) Apply and be granted funding to move project forward.
 - 3) Bidding of project.
 - 4) Take out of service and construction.
 - b) Corrective Action- We will again be working with Wilson and or Stantec Engineering services to properly design and acquire funding to replace the weirs. This project will have a huge overhead cost on the city and will likely slow down the construction of the new weirs. In the meantime, we will attempt the following.
 - 1) Remediation of existing weirs using epoxy and attempt to level the weirs.
 - 2) We already have fixed several of the wall brackets that were broken during the visit.
 - c) Timeline- A new weir will be part of the bigger upgrades to the facility that have yet to be designed or funded. We estimate that the timeline for this due to the cost will be in the 5–10-year range. Again, temporary fixes will be made as necessary to maintain the most integrity of the system as is possible with what is existing.
- iv. Polymer pump for the belt press was non-operational.
- a) Response- The polymer pump has many consumable parts that require regular maintenance and replacement. The day of the visit was not normal due to the replacement of parts. The polymer tubing was bad and needed to be replaced as recommended by manufacturer. We were waiting for the arrival of the parts during this visit.
 - b) Corrective Action- Keep a larger number of consumable parts on hand to prevent downtimes of equipment.
 - c) Timeline- Completed.