



REGION 6

DALLAS, TX 75270

September 11, 2024

TRANSMITTED VIA EMAIL

The Honorable Denny Herrera
Mayor, Village of Cuba
P.O. Box 426
Cuba, NM 87013
mayorherrera63@gmail.com

Re: Administrative Order; Docket Number: CWA-06-2024-1792
NPDES Permit Number: NM0024848

Dear Mayor Herrera:

Enclosed is an Administrative Order (AO) issued to the Village of Cuba Wastewater Treatment Facility (WWTF) for violations of the Clean Water Act (CWA) (33 U.S.C. § 1251 et seq.). This Order requires the Village of Cuba to comply with the provisions set forth in the attached Order.

This AO does not assess a monetary penalty; however, it does require compliance with applicable federal regulations. The first compliance deadline is within thirty days of receipt of the AO. 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-06-2024-1792 and NPDES Permit Number NM0024848 on your response.

If you have any questions, please contact Mrs. Destinee Agwuna, of my staff, at (214) 665-2750 or at agwuna.destinee@epa.gov.

Sincerely,

Digitally signed by
CHERYL SEAGER
Date: 2024.09.11 11:02:20
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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@env.nm.gov

Ms. Susan LucasKamat
NMED Surface Water Quality Bureau
susan.lucasKamat@env.nm.gov



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Region 6

FINDINGS OF VIOLATION AND COMPLIANCE ORDER

Docket Number: CWA-06-2024-1792; Permit Number: NM0024848

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. The Village of Cuba (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 a wastewater treatment plant located at Mile Marker 2 on NMSR 197, Cuba, Sandoval County, 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 discharging to the receiving waters named the Rio Puerco in Segment 20.6.4.131 of the Rio Grande Basin, which is considered 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. NM0024848 (permit) under Section 402 of the Act, 33 U.S.C. § 1342. The permit became effective on August 1, 2021, and expires on July 31, 2026. 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.C of the permit requires the 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. It also requires the Respondent to file with EPA certified Discharge Monitoring Reports (DMRs) of the results of monitoring, and Noncompliance Reports when appropriate.

9. Respondent failed to timely submit DMRs, as specified in Attachment A, in violation of Part I.C of the permit and Section 301 of the Act, 33 U.S.C. § 1311.

10. 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

11. 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. Within thirty (30) days of the effective date of this Order, Respondent shall submit the missing DMRs, as specified in Attachment A.

B. Within thirty (30) days of the effective date of this Order, Respondent shall provide written certification to EPA, Region 6 that the violations cited herein have been corrected and that the facility is in compliance with the requirements of the permit.

C. In the event that Respondent believes complete correction of the violations cited herein is not possible within thirty (30) days of the effective date of this Order, Respondent shall, within thirty (30) days of the effective date of this Order, submit a comprehensive written plan for the elimination of the cited violations within the shortest possible time for EPA review. Such plan shall describe in detail the specific corrective actions to be taken and why such actions are sufficient to correct the violations. The plan shall include a detailed schedule for the elimination of the violations within the shortest possible time, as well as measures to prevent these or similar violations from recurring.

D. 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.

E. To arrange a meeting, or to ask questions or comment on this matter, please contact Destinee Agwuna, of my staff, at (214) 665-2750 or agwuna.destinee@epa.gov.

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

Mrs. Destinee Agwuna
agwuna.destinee@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.

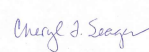
Failure to comply with this Section 309(a)(3) Compliance Order or the Act may result in further administrative action, or a civil judicial action initiated by the United States Department of Justice.

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.

September 11, 2024

Date



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SEAGER
Date: 2024.09.11 11:00:47
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Cheryl T. Seager, Director
Enforcement and
Compliance Assurance Division

TABLE A

PERMIT NUMBER NM0024848

OUTFALL	MONITORING PERIOD END DATE
001-A	April 2023
001-A	May 2023
001-A	June 2023
TX1	July 2023
001-A	November 2023
001-A	December 2023
001-A	January 2024
001-A	February 2024
001-A	March 2024
001-A	April 2024
001-A	May 2024
001-A	June 2024