



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-06-2023-1725; NPDES Permit Number: NM0024988

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 Santa Rosa (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 Santa Rosa Wastewater Treatment Plant (facility), located on the south side of El Rito Creek, approximately 500 feet above the confluence with the Pecos River, 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 El Rito Creek in Segment No. 20.6.4.212; thence to the Pecos River in Segment No. 20.6.4.211 of the Pecos River 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, 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. NM0024988 (permit) under Section 402 of the Act, 33 U.S.C. § 1342, which was issued on September 30, 2016, and expired on September 30, 2021, and then reissued on April 14, 2022. 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 “Monitoring and Reporting Requirements” that require Respondent to sample and test its effluent and monitor its compliance with permit conditions according to specific procedures, to determine the facility’s compliance or noncompliance with the permit and applicable regulations. The permit also requires Respondent to file with TCEQ certified Discharge Monitoring Reports (DMRs) of the results of monitoring, and Noncompliance Reports when appropriate.

9. The permit contains “Effluent Limitations and Monitoring Requirements” that place certain limitations on the quality and quantity of effluent discharged by Respondent. The relevant discharge limitations are specified in Attachment A, which is incorporated herein by reference.

10. Certified DMRs filed by Respondent with EPA in compliance with the permit show discharges of pollutants from the facility that exceed the permitted effluent limitations established in the permit, as specified in Attachment B, which is incorporated herein by reference.

11. Each instance in which Respondent discharged pollutants to waters of the United States in amounts exceeding the effluent limitations 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. Take such measures as are necessary to comply with all permit conditions, including Effluent Limitations no later than thirty (30) days from the effective date of the Order.

B. Within thirty (30) days of the effective date of this Order, Respondent shall submit a list of the specific actions taken to correct the *E. coli* violations.

C. 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 the facility is compliant with the requirements of the permit.

D. In the event the 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. 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.

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

Mr. Damon McElroy
mcelroy.damon@epa.gov
Water Enforcement Branch (ECDWM)
U.S. EPA, Region 6
1201 Elm St. Suite 500
Dallas, TX 75270-2102

and

Ms. Nancy Williams
williams.nancy@epa.gov
Water Enforcement Branch (ECDWA)
U.S. EPA, Region 6
1201 Elm Street, Suite 500
Dallas, TX 75270-2102

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.

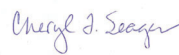
Failure to comply with this Section 309(a)(3) Compliance Order or the Act may result in further administrative action, or a civil judicial action initiated by the United States Department of Justice.

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.

January 12, 2023

Date



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Cheryl T. Seager, Director
Enforcement and
Compliance Assurance Division