



REGION 6

DALLAS, TX 75270

November 20, 2023

TRANSMITTED VIA EMAIL

Mr. Francisco Espinoza
Public Works Director
Town of Taos Wastewater Treatment Facility
PO Box 250
Ranchos de Taos, NM 87557
fespinoza@taosnm.gov

Re: Administrative Order; Docket Number: CWA-06-2024-1702
NPDES Permit Number: NM0024066

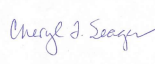
Dear Mr. Espinoza:

Enclosed is an Administrative Order (AO) issued to the Town of Taos Wastewater Treatment Facility for violations of the Clean Water Act (CWA) (33 U.S.C. § 1251 et seq.). The violations alleged are for failure to submit a completed application for new permit by the due date and failure to meet permit effluent limits.

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 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-06-2024-1702 and NPDES Permit Number NM0024066 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,


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CHERYL SEAGER
Date: 2023.11.20 12:38:40
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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-06-2024-1702; Permit Number: NM0024066

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 Town of Taos Wastewater Treatment Facility (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 182 Los Cordovas Road, Rancho de Taos, in Taos 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 to an Unnamed Arroyo in Waterbody Segment Code No. 20.6.4.98, thence to the Rio Pueblo de Taos, of the Rio Grande Basin in the Waterbody Segment Code No. 20.6.4.122, which are considered "waters 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. NM0024066 (permit) under Section 402 of the Act, 33 U.S.C. § 1342, which became effective on July 1, 2018, with an expiration date of June 30, 2023. At all relevant times of permit effectiveness, 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. Respondent did not submit a complete application within the required timeframe, therefore the permit expired. Respondent was not authorized to discharge pollutants from the facility to waters of the United States without permit coverage.

9. Part I.A. of the permit placed 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. The permit also includes "Monitoring and Reporting Requirements" that require Respondent to sample and test its effluent and monitor compliance with permit conditions according to specific procedures, in order to determine the facility's compliance or noncompliance with the permit and applicable regulations.

11. The permit requires Respondent to file certified Discharge Monitoring Reports (DMRs) of the results of monitoring. DMRs filed by Respondent show discharges of pollutants that exceed the effluent limitations as specified in Attachment B, incorporated herein by reference.

12. 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

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. Immediately take such measures as are necessary to comply with all permit conditions, including Effluent Limitations and Monitoring and Reporting Requirements.

B. Within thirty (30) days of the effective date of this Order, Respondent shall either:

- i. Provide written certification to EPA Region 6 that the violations cited herein have been corrected, how they were corrected, and that the facility is in compliance with the requirements of the permit, or
- ii. Provide a list of all noncompliance related deficiencies to EPA Region 6, and a schedule to correct each deficiency in the shortest time possible, for review and approval.

C. Any approved compliance schedule submitted under B above will be incorporated and re-issued in a future administrative order.

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 Rachel Matthews, of my staff, at (214) 665-8589.

F. 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.

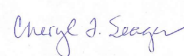
Failure to comply with this Section 309(a)(3) Compliance Order or the Act may result in further administrative action, or a civil judicial action initiated by the United States Department of Justice.

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 the Respondent.

November 20, 2023

Date



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Cheryl T. Seager, Director
Enforcement and
Compliance Assurance Division

PART I – REQUIREMENTS FOR NPDES PERMITS**SECTION A. LIMITATIONS AND MONITORING REQUIREMENTS****1. Final Effluent Limits – 2.0 MGD Design Flow**

During the period beginning the effective date of the permit and lasting until the expiration date of the permit, the permittee is authorized to discharge treated municipal wastewater to Unnamed Arroyo in Segment Number 20.6.4.99, thence to the Rio Pueblo de Taos, in Segment Number 20.6.4.122, from Outfall 001. Such discharges shall be limited and monitored by the permittee as specified below:

POLLUTANT (*1)	30-DAY AVG	DAILY MAX	7-DAY AVG	30-DAY AVG	DAILY MAX	7-DAY AVG	MEASUREMENT FREQUENCY	SAMPLE TYPE
Flow	Report MGD	Report MGD	Report MGD	N/A	N/A	N/A	Daily	Totalizing Meter
Biochemical Oxygen Demand, 5-day (BOD ₅)	283.73 lbs/day	N/A	350.49 lbs/day	17 mg/L	N/A	21 mg/L	Once/Week	6-Hour Composite
BOD ₅ , Percent removal (minimum)	≥ 85% (*2)	N/A	N/A	N/A	N/A	N/A	Once/Week	Calculation (*2)
Total Suspended Solids (TSS)	500 lbs/day	N/A	751 lbs/day	30 mg/L	N/A	45 mg/L	Once/Week	6-Hour Composite
TSS, Percent removal, (minimum)	≥ 85% (*2)	N/A	N/A	N/A	N/A	N/A	Once/Week	Calculation (*2)
E. coli Bacteria	N/A	N/A	N/A	126 (*3)	235 (*3)	N/A	Once/Week	Grab
Fecal Coliform Bacteria	N/A	N/A	N/A	200 (*3)	400 (*3)	N/A	Once/Week	Grab
Total Residual Chlorine	N/A	N/A	N/A	N/A	11 µg/l	N/A	Daily	Instantaneous Grab (*4)
Mercury, Total	0.00045 lbs/day	0.00068 lbs/day	N/A	0.027 ug/L	0.041 ug/L	N/A	Once/Month	Grab
Ammonia Total	63 lbs/day	94 lbs/day	N/A	3.75 mg/L	5.62 mg/L	N/A	Once/Week	Grab
Phosphorus, Total	Report	Report	N/A	Report	Report	N/A	Once/Month	6-Hour Composite
Nitrogen, Total (*7)	Report	Report	N/A	Report	Report	N/A	Once/Month	6-Hour Composite

POLLUTANT	DISCHARGE LIMITATIONS MINIMUM	DISCHARGE LIMITATIONS MAXIMUM	MEASUREMENT FREQUENCY	SAMPLE TYPE
pH	6.6	8.8	Daily	Grab

WHOLE EFFLUENT TOXICITY TESTING (7-Day Static Renewal) (*5)	NOEC	MEASUREMENT FREQUENCY	SAMPLE TYPE
<i>Ceriodaphnia dubia</i>	Report	Once/Quarter (*6)	24-Hr Composite
<i>Pimephales promelas</i>	Report	Once/Quarter	24-Hr Composite

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS	MEASUREMENT FREQUENCY	SAMPLE TYPE
Expanded Effluent Testing (*8)	Report	1 each in 2 nd , 3 rd , & 4 th years of the permit (*8)	24-Hr Composite (*9)

Footnotes:

- *1 See Part II, Section A, Minimum Quantification Level (MQL) of permit.
- *2 Percent removal is calculated using the following equation: [(average monthly influent concentration – average monthly effluent concentration) ÷ average monthly influent concentration] * 100.
- *3 E. coli bacteria and Fecal Coliform bacteria may be reported as either colony forming units (CFU) per 100 ml or Most Probable Number (MPN). The 30-day average for fecal coliform and E. coli bacteria is the geometric mean of the values for all effluent samples collected during a calendar month.
- *4 This facility uses Ultraviolet disinfection. Sampling and reporting are required when chlorine is used for either bacteria control and/or when chlorine is used to treat filamentous algae and/or used to disinfect process treatment equipment at the facility. The effluent limitation for TRC is the instantaneous maximum grab sample taken during periods of chlorine use and cannot be averaged for reporting purposes. Instantaneous maximum is defined in 40 CFR Part 136 as being measured within 15 minutes of sampling.
- *5 Monitoring and reporting requirements begin on the effective date of this permit. See PART II, Whole Effluent Toxicity Testing Requirements for additional WET monitoring and reporting conditions.
- *6 Once per quarter. If the first full year of testing, four (4) quarterly tests pass, then the frequency may be reduced to once per six (6) months for *Ceriodaphnia dubia* only. Any failure shall re-establish all tests for the *Ceriodaphnia dubia* test species to once per quarter for the remainder of the permit. The *Ceriodaphnia dubia* test species shall resume monitoring at a once per quarter frequency on the last day of the permit.
- *7 Total Nitrogen is defined as the sum of Total Kjeldahl Nitrogen (as N) and Nitrate-Nitrite (as N). See EPA methods 351 and 353.
- *8 In addition to Barium, Strontium-90 and Uranium, see NPDES Permit Application Form 2A; Tables A.12, B.6, and Part D for the list of pollutants to include in this testing if modified in the future. Samples are to be taken on the same day as the WET test event for that year. The permittee shall report the results as a separate attachment in tabular form sent to the Permits and Technical Assistance Section Chief of the Water Quality Protection Division within 60 days of receipt of the lab analysis.
- *9 Except for bacteria, pH, TRC, DO and sulfite, which are grab samples.

Appendix B									
Administrative Order Docket Number: CWA-06-2024-1702									
Town of Taos WWTF - Permit No. NM0024066									
Monitoring Period	Parameter	Qualifier	DMR Value	Sample Type	Sample Frequency	Limit Value	Statistical Base	Unit	Percent Exceedance
1/31/2023	BOD, 5-day, 20 deg. C	=	48	6 Hour Composite	Weekly	21	7 DA AVG	Milligrams per Liter	129
12/31/2022	BOD, 5-day, 20 deg. C	=	22	6 Hour Composite	Weekly	21	7 DA AVG	Milligrams per Liter	5
1/31/2023	BOD, 5-day, 20 deg. C	=	27	6 Hour Composite	Weekly	17	30DA AVG	Milligrams per Liter	59
1/31/2023	BOD, 5-day, 20 deg. C	=	373	6 Hour Composite	Weekly	350.49	7 DA AVG	Pounds per Day	6
1/31/2023	BOD, 5-day, percent removal	=	64	Calculated	Weekly	85	MO AV MN	Percent	140
2/28/2023	Chlorine, total residual	=	12	Grab	Daily	11	INST MAX	Micrograms per Liter	9
1/31/2023	Chlorine, total residual	=	12	Grab	Daily	11	INST MAX	Micrograms per Liter	9
1/31/2023	Coliform, fecal general	=	244	Grab	Weekly	200	30DAVGEO	Colony Forming Units per 100ml	22
2/28/2023	E. coli	=	320	Grab	Weekly	235	DAILY MX	Colony Forming Units per 100ml	36
12/31/2022	E. coli	=	141	Grab	Weekly	126	30DAVGEO	Colony Forming Units per 100ml	12
1/31/2023	E. coli	=	263	Grab	Weekly	126	30DAVGEO	Colony Forming Units per 100ml	109
2/28/2023	E. coli	=	153	Grab	Weekly	126	30DAVGEO	Colony Forming Units per 100ml	21
12/31/2022	E. coli	=	276	Grab	Weekly	235	DAILY MX	Colony Forming Units per 100ml	17
4/30/2023	E. coli	=	274	Grab	Weekly	235	DAILY MX	Colony Forming Units per 100ml	17
1/31/2023	E. coli	=	440	Grab	Weekly	235	DAILY MX	Colony Forming Units per 100ml	87
9/30/2021	Mercury, total [as Hg]	=	0.053	Grab	Monthly	0.041	DAILY MX	Micrograms per Liter	29
8/31/2021	Mercury, total [as Hg]	=	0.033	Grab	Monthly	0.027	30DA AVG	Micrograms per Liter	22

9/30/2021	Mercury, total [as Hg]	=	0.032	Grab	Monthly	0.027	30DA AVG	Micrograms per Liter	19
1/31/2023	Mercury, total [as Hg]	=	0.035	Grab	Monthly	0.027	30DA AVG	Micrograms per Liter	30
9/30/2021	Mercury, total [as Hg]	=	0.00084	Grab	Monthly	0.00068	DAILY MX	Pounds per Day	24
5/31/2023	Nitrogen, ammonia total [as N]	=	96	Grab	Weekly	63	30DA AVG	Pounds per Day	52
4/30/2023	Nitrogen, ammonia total [as N]	=	166	Grab	Weekly	94	DAILY MX	Pounds per Day	77
5/31/2023	Nitrogen, ammonia total [as N]	=	10	Grab	Weekly	5.62	DAILY MX	Milligrams per Liter	78
4/30/2023	Nitrogen, ammonia total [as N]	=	20	Grab	Weekly	3.75	30DA AVG	Milligrams per Liter	433
4/30/2023	Nitrogen, ammonia total [as N]	=	154	Grab	Weekly	63	30DA AVG	Pounds per Day	144
5/31/2023	Nitrogen, ammonia total [as N]	=	10	Grab	Weekly	3.75	30DA AVG	Milligrams per Liter	167
4/30/2023	Nitrogen, ammonia total [as N]	=	20	Grab	Weekly	5.62	DAILY MX	Milligrams per Liter	256
5/31/2023	Nitrogen, ammonia total [as N]	=	105	Grab	Weekly	94	DAILY MX	Pounds per Day	12
12/31/2022	Solids, suspended percent removal	=	71	Calculated	Weekly	85	MO AV MN	Percent	93
1/31/2023	Solids, suspended percent removal	=	41	Calculated	Weekly	85	MO AV MN	Percent	293
1/31/2023	Solids, total suspended	=	55	6 Hour Composite	Weekly	30	30DA AVG	Milligrams per Liter	83
1/31/2023	Solids, total suspended	=	77	6 Hour Composite	Weekly	45	7 DA AVG	Milligrams per Liter	71