



REGION 6
DALLAS, TX 75270

May 15, 2024

TRANSMITTED VIA EMAIL

The Honorable John Ramon Vigil
Mayor, City of Espanola
405 N. Paseo de Oñate
Española, NM 87532
etrujillo@espanolanm.gov

Re: Administrative Order; Docket Number: CWA-06-2024-1763
NPDES Permit Number: NM0029351

Dear Mayor Vigil:

Enclosed is an Administrative Order (AO) issued to the City of Espanola Wastewater Treatment Plant (WWTP) for violations of the Clean Water Act (CWA) (33 U.S.C. § 1251 et seq.). This Order requires the City of Espanola 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-06-2024-1763 and NPDES Permit Number NM0029351 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 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

Mr. Elijah Mares, Public Works Director
City of Espanola
emares@espanolanm.gov



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Region 6

FINDINGS OF VIOLATION AND COMPLIANCE ORDER

Docket Number: CWA-06-2024-1763; Permit Number: NM0029351

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 City of Espanola Wastewater Treatment Plant (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 308 Lower San Pedro Road, Espanola, in Rio Arriba 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 Grande, within the exterior boundaries of the Pueblo of Santa Clara and downstream from that portion of the river also designated as Segment No. 20.6.4.114 of the Rio Grande, 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. NM0029351 (permit) under Section 402 of the Act, 33 U.S.C. § 1342. The previous permit became effective on November 1, 2017, expired on October 1, 2022, but was administratively continued until the current permit became effective on March 1, 2023. 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. 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.

9. Pursuant to Part III.A of the permit, Respondent is required to furnish, within a reasonable time, any information to determine compliance with the permit.

10. Pursuant to Part III.B of the permit, Respondent is prohibited from allowing a bypass except under specific circumstances as well as required properly operate and maintain all facilities and systems of treatment and control. This also includes adequate laboratory controls and appropriate quality assurance procedures.

11. Pursuant to Part III.C of the permit, Respondent is required to conduct monitoring according to specified test procedures, calibrate and perform maintenance procedures on all monitoring and analytical instruments, and have an adequate analytical quality control program. Part III.C also requires Respondent to retain records for a period of three (3) years.

12. On July 13 and August 16, 2023, a combined inspection of the facility's wastewater treatment plant and laboratory were conducted by EPA. A compliance review determined that the Respondent has violated the permit in multiple areas.

13. On February 14, 2024, EPA issued Administrative Order (AO) Docket Number CWA-06-2024-1742 (Original AO), which cited the violations of the permit. The Original AO required Respondent to eliminate cited violations or submit a schedule to correct deficiencies. The Original AO is incorporated herein by reference as Attachment A.

14. Respondent submitted a response on April 19, 2024, which included a list of deficiencies corrected and a schedule to correct deficiencies that could not be eliminated immediately. The response is incorporated herein by reference as Attachment B.

15. On May 1, 2024, Respondent agreed to a long-term schedule to correct continued deficiencies, which is incorporated into this AO under paragraph 17.B.

16. 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

17. 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 all measures as necessary to comply with permit conditions.

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

<u>TASK</u>	<u>DUE DATE</u>
1. Apply for technical assistance, with the Southwest Environmental Finance Center (SWEFC), for a rate analysis, asset management, capital improvement planning, and other assistance where needed.	Within 30 days of this order
2. Apply for NM Clean Water State Revolving Fund (CWSRF) assistance, or other available source, to help fund repairs as allowed.	Within 30 days of this order
3. Submit a copy of the finalized Quality Assurance Plan.	November 1, 2024

4.	Submit draft Preliminary Engineering Report (PER) for WWTP headworks.	November 1, 2024
5.	Submit a draft 5-year Capital Improvement Plan (CIP) for all estimated WWTP repairs.	December 1, 2024
6.	Submit draft Preliminary Engineering Report (PER) for all other WWTP repairs necessary.	January 1, 2025
7.	Submit the finalized 5-year CIP for all expected WWTP repairs.	March 1, 2025
8.	Submit final PER(s) for WWTP headworks and all other WWTP repairs necessary.	March 1, 2025
9.	Secure, and submit a copy of, a contract for the completion of construction design engineering plans for the WWTP improvements based on the PER(s).	March 1, 2025
10.	Finalize, and implement, a comprehensive Asset Management Program to pursue and achieve sustainable infrastructure and to efficiently manage capital assets for long-term performance for the WWTP and the collection system.	January 1, 2027

C. Respondent shall submit Quarterly Progress Reports that are due on the first day of the months of January, April, July, and October. The first Quarterly Progress Report is due on July 1, 2024. Each report shall provide the following information from the previous (3) months of each Activity in paragraph A above:

- i. A detailed description of the project tasks as implemented;
- ii. A description of any operating problems encountered, and the solutions thereto;
- iii. Documented and itemized costs of the project tasks (including but not limited to labor, equipment rentals/purchased, materials purchased, etc.);
- iv. Photographs of construction project activities;
- v. Estimated percent completion of each activity.

D. In the Quarterly Progress Reports, Respondent shall sign and certify under penalty of law, that the information contained in such report is true, accurate, and not misleading by signing the following statement:

I certify under penalty of law that I have examined and am familiar with the information submitted in this document and all its attachments, and that based on my inquiry of those individuals immediately responsible for obtaining information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment.

E. 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.

F. To arrange a meeting, or to ask questions or comment on this matter, please contact Rachel Matthews, of my staff, at (214) 665-8589.

G. 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.

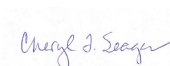
Failure to comply with this Section 309(a)(3) Compliance Order or the Act may result in further administrative action, or a civil judicial action initiated by the United States Department of Justice.

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.

May 15, 2024

Date



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Cheryl T. Seager, Director
Enforcement and
Compliance Assurance Division