UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX

IN THE MATTER OF:	)	Docket No. CWA-309(a)-20-006
	)	
City of Lompoc California	)))	**ADMINISTRATIVE ORDER ON CONSENT**
	)	
	)))	Proceeding under Section 309(a) of the Clean Water Act
	)	
Respondent	)	

I. STATUTORY AUTHORITY

1. Section 309(a) of the Clean Water Act ("CWA" or "the Act"), 33 U.S.C. § 1319(a), provides that, whenever the U.S. Environmental Protection Agency ("EPA") finds that any person is in violation of any condition or limitation which implements, inter alia, Sections 301(a), 307 and 402 of the CWA, 33 U.S.C. §§ 1311(a), 1317 and 1342, the EPA may issue an order requiring such person to comply with such condition or limitation, and shall specify a time for compliance that the EPA determines to be reasonable.

2. The following Findings of Fact and Determinations of Law are made and this Administrative Compliance Order on Consent ("AOC") is issued pursuant to the authority vested in the EPA by Section 309(a) of the CWA, 33 U.S.C. § 1319(a), as amended. This authority has been delegated to the Regional Administrator of the EPA, Region IX, and further delegated by the Regional Administrator to the Director of the Enforcement and Compliance Assurance ("ECAD") Division of the EPA, Region IX.

3. This AOC is entered into voluntarily by the EPA and the City of Lompoc, California ("Lompoc" or "Respondent"). In this AOC, Lompoc agrees to undertake specified measures to cease the current violations and prevent additional violations.

II. STATUTORY AND REGULATORY FRAMEWORK

4. CWA Section 301(a), 33 U.S.C. § 1311(a), makes it unlawful for a person to discharge pollutants from a point source into waters of the United States, except as authorized by a National Pollutant Discharge Elimination System ("NPDES") permit issued pursuant to CWA Section 402, 33 U.S.C. § 1342.

5. CWA Section 402, 33 U.S.C. § 1342, establishes the NPDES program and authorizes the EPA and authorized states to issue permits governing the discharge of pollutants from point sources into waters of the United States.

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6. Pursuant to Section 307(b)(1) of the CWA, 33 U.S.C. § 1317(b), the EPA promulgated regulations codified at 40 C.F.R. Part 403, entitled General Pretreatment Regulations for Existing and New Sources of Pollution ("Pretreatment Regulations"), which establish pretreatment standards for introduction of pollutants into Publicly Owned Treatment Works ("POTWs") for those pollutants which are determined not to be susceptible to treatment by such POTWs or which would interfere with the operation of such POTWs.

7. Pursuant to Section 307(c) of the CWA, 33 U.S.C. § 1317(c), the Pretreatment Regulations shall prevent the discharge of any pollutant into a POTW that may interfere with, pass through, or otherwise be incompatible with the POTW.

8. Section 307(d) of the Act, 33 U.S.C. § 1317(d), prohibits any owner or operator of any source from introducing pollutants into a POTW in violation of any effluent standard or prohibition or pretreatment standard promulgated under Section 307 of the Act.

9. 40 C.F.R. § 403.5(b) of the pretreatment regulations prohibits the introduction of certain pollutants into POTWs including those that create fire hazard, are corrosive, will cause obstruction, in any way interfere with the POTW or cause a worker health and safety concern. E.g., 40 C.F.R. §§ 403.5(b)(1), (b)(2), (b)(3), (b)(4), and (b)(7).

10. 40 C.F.R. § 403.8(a) requires any POTW with a total design flow greater than 5 million gallons per day (mgd) and receiving from Industrial Users ("IUs") pollutants which Pass Through or Interfere with the operation of the POTW or are otherwise subject to Pretreatment Standards to establish a POTW Pretreatment Program.

11. 40 C.F.R. § 403.5(c), specifies, *inter alia*, that each POTW developing a POTW Pretreatment Program pursuant to § 403.8 shall develop and enforce specific limits to implement the prohibitions listed in §403.5(b). A POTW with an approved pretreatment program shall continue to develop these limits as necessary and effectively enforce such limits

12. 40 C.F.R. § 403.8(f), provides that an approved Pretreatment Program must be based on appropriate legal authority and include procedures that are fully and effectively exercised and implemented to regulate IUs, including:

a. 40 C.F.R. § 403.8(f)(1)(i), which requires that the POTW be able to deny or condition new or increased contributions of pollutants to the POTW by IUs where such contributions do not meet the applicable Pretreatment Regulations or Standards or where such contributions would cause the POTW to violate its NPDES permit;

b. 40 C.F.R. § 403.8(f)(1)(ii), which requires the POTW to be able to require compliance with applicable Pretreatment Standards and Requirements by IUs;

c. 40 C.F.R. § 403.8(f)(1)(iii), which requires the POTW to control the contribution to the POTW by each IU to ensure compliance with applicable Pretreatment Regulations and Standards

d. 40 C.F.R. § 403.8(f)(1)(iii)(B)(1), which requires that permits be enforceable and have a statement of duration that is no longer than five years;

e. 40 C.F.R. § 403.8(f)(1)(iii)(B)(6), which requires that control mechanisms be enforceable and contain requirements to control Slug Discharges, if determined by the POTW to be necessary;

f. 40 C.F.R. § 403.8(f)(1)(vi)(A), which requires the authority to obtain remedies for noncompliance by any IU with any Pretreatment Regulation or Standard.

g. 40 C.F.R. § 403.8(f)(2)(vi), which require the POTW to evaluate whether a Significant Industrial User ("SIU") needs a plan or other action to control Slug Discharges.

h. 40 C.F.R. § 403.8(f)(2)(viii) which requires the POTW to develop and implement procedures to ensure compliance with the requirements of a Pretreatment Program. At a minimum, these procedures shall comply with the public participation requirements of 40 C.F.R. part 25 in the enforcement of the Pretreatment Standards.

i. 40 C.F.R. § 403.8(f)(3) which requires that the POTW shall have sufficient resources and qualified personnel to carry out the authorities and procedures in § 403.8(f)(1) and (2);

j. 40 C.F.R. § 403.8(f)(5), which requires that the POTW shall develop and implement an Enforcement Response Plan ("ERP"). The plan shall, at a minimum:

   (i) Describe how the POTW will investigate instances of noncompliance;

   (ii) Describe the types of escalating enforcement responses the POTW will take in response to all anticipated types of IU violations and the time periods within which responses will take place;

   (iii) Identify (by title) the official(s) responsible for each type of response;

   (iv) Adequately reflect the POTW's primary responsibility to enforce all applicable Pretreatment Regulations and Standards, as detailed in 40 C.F.R. 403.8 (f)(1) and (f)(2).

k. 40 C.F.R. § 403.12(e)(1), which requires any IU subject to a categorical Pretreatment Standard to submit to the Control Authority, in June and December, a report indicating the nature and concentration of pollutants in the effluent limited by such categorical Pretreatment Standards.

l. 40 C.F.R. § 403.12(g)(2), which requires that, if sampling performed by an IU indicates a violation, the IU shall notify the Control Authority within 24 hours of becoming aware of the violation. The IU shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Control Authority within 30 days after becoming aware of the violation.

m. 40 C.F.R. § 403.12(g)(3), which requires that the reports required by 40 C.F.R. § 403.12(b), (d), (e) and (h) must be based upon data obtained through appropriate sampling and analysis performed during the period covered by the report, which data are representative of conditions occurring during the reporting period.

n. 40 C.F.R. § 403.12(h), which requires that IUs submit to the POTW at least once every six months a report describing the nature, concentration, and flow of the pollutants discharged from the IU's facility to the POTW.

o. 40 C.F.R. § 403.12(l), which requires that the reports required by § 403.12(b), (d), and (e) shall include the certification statement as set forth in § 403.6(a)(2)(ii).

III. FINDINGS OF FACT AND DETERMINATIONS OF LAW

The Director of the Enforcement and Compliance Assurance Division of EPA Region IX finds that Lompoc is in violation of Sections 301(a), 307, and 402 of the Act, 33 U.S.C. §§ 1311(a), 131 7(d), and 1342. This Finding is based on the following facts:

13. Respondent is a "municipality" within the meaning of Section 502(4) of the Act, 33 U.S.C. § 1362(4) and therefore a "person" within the meaning of Section 502(5) of the Act, 33 U.S.C. § 1362(5).

14. Respondent operates the City of Lompoc Regional Wastewater Reclamation Plant ("WRP"), located at 1801 West Central Avenue, Lompoc, CA 93436. The WRP is a Publicly Owned Treatment Works ("POTW") as defined at 40 C.F.R. 122.2 and 403.3.

15. The WRP is a "point source" that "discharges pollutants" in wastewater to San Miguelito Creek, which is a tributary to the Santa Ynez River, which are "navigable waters," as defined in Section 502(7) of the Act, 33 U.S.C. § 1362(7).

16. The State of California has an EPA-approved NPDES program and issues permits through its State Water Resources Control Board ("State Board") and nine Regional Water Quality Control Boards ("Regional Boards"). The Central Coast Region Regional Board issued Lompoc's WRP the NPDES permit that is currently effective, NPDES Permit No. CA0048127, Order No. R3-2011-0211, on December 1, 2011 with an effective date of January 13, 2012 ("NPDES Permit"). This NPDES Permit expired on January 13, 2017 but has been administratively extended.

17. The Lompoc Pretreatment Program was originally approved by the EPA and the Central Coast Regional Board on July 12, 1983.

18. Section IV.A.1. and Table 6 of the NPDES Permit establishes effluent limitations for Discharge Point No. 001 and requires effluent to be monitored and reported as provided by the Monitoring and Reporting Program ("MRP") in Attachment E. The pollutant parameters regulated include, but are not limited, to Settleable Solids, Oil and Grease, Nitrate (Total as N), Ammonia Un-ionized, Bis(2-ethylhexyl) Phthalate (also known as DEHP), and Chronic Toxicity.

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19. Section VI.C.5.b of the NPDES Permit sets forth the Pretreatment Program requirements and states:

> "the Discharger shall be responsible for the performance of all pretreatment requirements contained in 40 C.F.R. 403 . . . shall continue to implement and enforce its approved POTW pretreatment program … [which] is hereby made an enforceable condition of this permit … The Discharger shall enforce the requirements promulgated under Sections 307(b), 307(c), 307(d), and 402(b) of the CWA. The Discharger shall cause IUs subject to Federal Categorical Standards to achieve compliance no later than the date specified in those requirements or, in the case of a new industrial user, upon commencement of the discharge. The Discharger shall perform the pretreatment functions as required in 40 C.F.R. Part 403, including, but not limited to: (i) Implement the necessary authorities as provided in 40 C.F.R. § 403.8(f)(1); (ii) Enforce the pretreatment requirements under 40 C.F.R. § § 403.5 and 403.6; (iii) Implement the programmatic functions as provided in 40 C.F.R. § 403.8(f)(2); and (iv) Provide the requisite funding and personnel to implement the pretreatment program as provided in 40 C.F.R. § 403.8(f)(3)."

20. Lompoc's Sewer User Ordinance ("SUO"), also known as "Sewer System Ordinance of the City of Lompoc," applies to the discharge of all wastes to the City's sewerage system, and shall provide for regulation of wastewater discharge in accordance with 40 C.F.R. Part 403.2 Objectives of General Pretreatment Regulations. Title 13, Chapter 16, Article 1, General Provisions, Section13.16.020 Purpose and Policy. https://qcode.us/codes/lompoc/

21. Lompoc SUO Section 13.16.370. Traps/Interceptor states that "[t]raps/interceptors to capture grease, oil, lint, hair, and/or sand shall be provided when, in the opinion of the Director, they are necessary for the protection of the wastewater system from liquid wastes containing excessive amounts of grease, flammable wastes, sand, or other harmful ingredients. Such traps/interceptors may be required, for discharges from service stations, restaurants, automobile repair garages, wash racks, laundries, barbershops, beauty shops, and dry-cleaning establishments and other facilities as deemed necessary by the Director."

22. Section VI.C.6.b of the NPDES Permit states "Statewide General Waste Discharge Requirements for Sanitary Sewer Systems (State Water Board Order No. 2006-0003-DWQ). This General Permit, adopted on May 2, 2006, is applicable to all federal and State agencies, municipalities, counties, districts, and other public entities that own or operate sanitary sewer systems greater than one mile in length that collect and/or convey untreated or partially treated wastewater to a publicly owned treatment facility in the State of California. The purpose of the General Permit is to promote the proper and efficient management, operation, and maintenance of sanitary sewer systems and to minimize the occurrences and impacts of sanitary sewer overflows. If applicable, the Discharger shall seek coverage under the General Permit and comply with its requirements"

23. Pursuant to the requirements of the Statewide General Permit, Lompoc developed a Sewer System Management Plan ("SSMP") which was last revised September 19, 2014.

24. Attachment D Section I.D of the NPDES Permit, states "[t]he Discharger shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the Discharger to achieve compliance with the conditions of this Order."

25. On December 7, 2017, EPA's contractor PG Environmental, Inc. ("PG") performed a Pretreatment Compliance Audit ("PCA") of Respondent's Pretreatment Program implementation activities pursuant to the authority of Section 308(a) of the CWA, 33 U.S.C. § 1318(a). A copy of the PCA report was sent to Respondent by letter dated May 25, 2018 and is attached to this AOC. On November 14, 2018, Lompoc responded to the December 7, 2017 PCA report (received by Lompoc on May 25, 2018). A copy of the Lompoc response to the PCA report is attached to this AOC.

26. On April 25, 2019, EPA conducted an inspection of the WRF. A copy of the Inspection Report was sent to Respondent by letter dated June 28, 2019 and is attached to this AOC.

27. On August 1, 2019, Lompoc responded to the June 28, 2019 Inspection Report. A copy of the Lompoc response to the inspection report is attached to this AOC.

28. Based on the PCA, Inspection Report, and sampling results, EPA alleges that Lompoc has failed to comply with its NPDES Permit and has violated and continues to violate Sections 301(a), 307 and 402 of the CWA, 33 U.S.C. §§ 1311(a), 1317 and 1342. Specifically, EPA alleges the following violations:

Effluent Violations

29. Lompoc violated Section IV.A.1. and Table 6 of the NPDES Permit which establishes effluent limitations for Discharge Point No. 001 because it exceeded the following limitations (see Appendix 1 for additional information):

a. Bis(2-ethylhexyl) phthalate (DEHP) monthly average limit during the monitoring period ending December 31, 2017;

b. Oil and Grease monthly average limit during the monitoring periods ending March 31, 2017; June 30, 2018; September 30, 2019; December 31, 2019; and June 30, 2020;

c. Oil and Grease maximum daily limit during the monitoring periods ending September 30, 2019; and June 30, 2020;

d. Nitrate (total as N) maximum daily limit during the monitoring period ending February 28, 2017;

e. Ammonia Un-ionized average weekly limit during the monitoring periods ending November 30, 2017 and September 30, 2019; and

f. Chronic Toxicity (Static 4 Day Chronic Raphidocelis subcapitata) maximum daily limit during the monitoring periods ending June 30, 2015; September 30, 2015; December 31, 2015; March 31, 2016; June 30, 2016; December 31, 2016; March 31, 2017; June 30, 2017; September 30, 2017; December 31, 2017; March 31, 2018; June 30, 2018; September 30, 2018; December 31, 2018; March 31, 2019; September 30, 2019, December 31, 2019, and March 31, 2020.

Monitoring and Reporting Violations

30. Lompoc violated MRP Section IV.a.1. Table E-3 in that it failed to take a Dissolved Oxygen sample for the month of April, due on April 30, 2019 and failed to take a Dissolved Oxygen sample the week of May 10, 2019.

Operation and Maintenance Violations

31. Lompoc violated Attachment D Section I.D of its NPDES Permit, in that the Discharger failed to adequately operate and staff the POTW which seriously hinders a POTW's ability to effectively operate, as noted in the Inspection Report dated June 28, 2019. For instance, at the time of the April 25, 2019 inspection, the Lompoc WRP had 15 staff, even though the WRP's representatives stated that the facility needs 22 to run the facility properly.

32. Further evidence of this violation appears in WRF staff comments when reporting effluent violations in CIWQS due to inadequate operation and maintenance, such as proper calibration and repair.

Pretreatment Violations

33. Lompoc violated Section VI.C.5.b of its NPDES Permit, which requires the discharger to be responsible for the performance of all pretreatment requirements contained in 40 C.F.R. Part 403 and to continue to implement and enforce its approved POTW pretreatment program. Specifically, EPA alleges that Lompoc violated the following Pretreatment Regulations:

a. 40 C.F.R. § 403.5(c) because Lompoc has never enforced its local limits other than a telephone call or letter to the violating IU despite repeated violations by IUs, as noted in Pretreatment Program Quarterly and Annual Reports.

b. 40 C.F.R. § 403.8(f)(1)(i) because Lompoc's SUO does not provide the authority to deny or condition new or increased contributions to Lompoc's POTW.

c. 40 C.F.R. § 403.8(f)(1)(ii) because Lompoc's SUO does not include all specific prohibitions in 40 C.F.R. § 403.5(b).

d. 40 C.F.R. § 403.8(f)(1)(iii)(B)(6) because Lompoc's SUO does not provide legal authority to include Slug Discharge control plan requirements in Significant IU permits.

e. 40 C.F.R. § 403.8(f)(1)(vi)(A) because Lompoc has not been enforcing its SUO regarding the installation of grease traps/interceptors. As of June 1, 2020, 9 out of 106 food service establishments are out of compliance with FOG requirements while 6 are in the process of installing FOG control devices.

f. 40 C.F.R. § 403.8(f)(1)(vi)(A) because Lompoc's SUO and Enforcement Response Plan ("ERP") contain conflicting penalty amounts.

g. 40 C.F.R. § 403.8(f)(2)(vi) because IU permits do not include a requirement for notification of changes affecting potential for Slug Discharge, as noted in the PCA report dated May 25, 2018.

h. 40 C.F.R. § 403.8(f)(2)(vi) because Lompoc's SUO definition of "slug load" does not meet the minimum federal requirements.

i. 40 C.F.R. § 403.8(f)(2)(viii) because Lompoc's SUO definition of "significant noncompliance" does not meet the minimum federal requirements.

j. 40 C.F.R. § 403.8(f)(3) because Lompoc has deficient POTW resources (supplies, equipment, personnel) which seriously hinder its ability to implement an effective pretreatment program pursuant to 40 C.F.R. § 403.8(f)(l) and (2), as noted in the PCA report dated May 25, 2018.

k. 40 C.F.R. § 403.8(f)(5) because Lompoc's SUO does not provide the legal authority to enforce its ERP, its ERP doesn not contain all of the minimum elements, and Lompoc has not implemented its ERP.

l. 40 C.F.R. § 403.12(c)(3) because Lompoc's SUO does not require IUs to submit compliance schedule progress reports.

m. 40 C.F.R. § 403.12(e) because Lompoc's SUO does not require categorical IUs to submit periodic reports.

n. 40 C.F.R. § 403.12(g)(2) because Lompoc's SUO does not require IUs to notify Lompoc of a violation nor does it require resampling.

o. 40 C.F.R. § 403.12(g)(3) because Lompoc's SUO does not require sample to be representative of the discharge.

p. 40 C.F.R. § 403.12(h) because Lompoc's SUO does not require noncategorical SIUs to submit periodic reports.

q. 40 C.F.R. § 403.12(l)(1) because Lompoc's SUO does not require IUs to certify that the data submitted is accurate with a signature from an authorized representative.

Failure to Implement FOG Program

34. Lompoc violated Section VI.C.6.b of its NPDES Permit, which requires the discharger to comply with the requirements of Statewide General Waste Discharge Requirements for Sanitary Sewer Systems (State Water Board Order No. 2006-0003-DWQ). According to the State Water Board Order No. 2006-0003-DWQ, "each Enrollee must develop and implement a system-specific Sewer System Management Plan (SSMP)." Section 7.4 of the Lompoc SSMP (Second Revision: September 19, 2014) incorrectly states that as part of the FOG Control Program "the Wastewater Ordinance requires all Food and Service Establishments to install an approved FOG discharge control device." Lompoc plans to correct this statement and make it consistent with its Municipal Code, which requires traps/interceptors to capture grease, oil, lint, hair, and/or sand be provided when, in the opinion of the City's Utility Director, they are necessary for the protection of the wastewater system from liquid wastes containing excessive amounts of grease, flammable wastes, sand, or other harmful ingredients. Such traps/interceptors may be required for discharges from service stations, restaurants, automobile repair garages, wash racks, laundries, barbershops, beauty shops, and dry-cleaning establishments and other facilities as deemed necessary by the Utility Director. (Lompoc Municipal Code Section 13.16.370(A).) As of June 1, 2020, 9 out of 106 food service establishments are out of compliance with FOG requirements, while 6 others are in the process of installing FOG control devices.

IV. ORDER FOR COMPLIANCE ON CONSENT

35. Based on the foregoing Findings of Fact and Determinations of Law and pursuant to the authority of Section 309(a) of the CWA, 33 U.S.C. § 1319(a), IT IS HEREBY ORDERED and AGREED TO:

A. Work to Be Performed

36. **Within 90 days after the effective date of this Order**, Lompoc shall provide a description of all substantive changes it proposes to make to its Pretreatment Program, including, but not limited to, any substantive change in its Pretreatment SUO, program administration, program structure, monitoring requirements, and program funding. Lompoc shall seek and obtain written approval from EPA before making any such change(s).

37. **Within 60 days after U.S. EPA's written approval under Paragraph 36,** Lompoc shall submit to the EPA and the Central Coast Regional Board an updated proposed pretreatment SUO for review and written approval. Within 60 days after receiving approval of its revised SUO Lompoc shall adopt and implement its revised SUO.

38. **Within 60 days after the effective date of this Order,** Lompoc shall submit its proposed ERP to U.S. EPA and the Central Coast Regional Board for review and written approval. Lompoc shall update and implement an ERP describing how it will identify violations and respond to different types of IU noncompliance, including time frames within which informal and formal enforcement responses will be initiated. The ERP shall reflect the POTW's responsibility to enforce all applicable pretreatment standards and requirements. Within 60 days following U.S. EPA and RWQCB written approval of the ERP, Lompoc shall fully implement the ERP. At a minimum, the ERP shall include the following:

a. The legal authority to control the discharge of industrial wastewater into the collection system, including the ability to implement a permit and enforcement program for commercial and industrial sources;

b. Description of staffing (technical and legal), responsibilities, procedures, and equipment to ensure effective implementation of the ERP;

c. Description of procedures to identify and investigate instances of noncompliance;

d. Description of a range of enforcement responses that correspond to the magnitude of the violation, duration of the violation, effect on the receiving water, effect on the POTW, compliance history of the IU, and intent of the IU;

e. Description of time frames for enforcement actions and follow-up. Pursuant to the specifics contained in its ERP, Lompoc shall respond initially to each industrial user violation within 30 days from the date the violation is reported to Lompoc or identified by Lompoc;

f. Description of standard forms and guidelines for documenting compliance data in a manner that will enable the information to be used as evidence in administrative and judicial enforcement actions; and

g. Description of a procedure to evaluate and review the effectiveness of the ERP.

39. **Within 60 days of U.S. EPA's written approval under Paragraph 36,** Lompoc shall submit its proposed FOG Control Program to U.S. EPA and the Central Coast Regional Board for review and written approval. Lompoc shall update and implement the FOG Control Program as part of its SSMP. The FOG Control Program shall require restaurants and other food service establishments that discharge more than a de minimis amount of FOG to install grease removal devices (i.e. traps or interceptors). Restaurants and other food service establishments that discharge a de minimis amount of FOG are those engaged only in reheating, hot holding, assembly, or mixing of ready to eat food products. The FOG Control Program shall provide clear guidelines and include standards to ensure that grease removal devices are well maintained and serviced. The FOG Control Program shall control and prevent Oil and Grease from causing Pass Through or Interference with POTW treatment processes. At a minimum, the FOG Control Program shall include the following:

a. The legal authority to control the discharge of Oil and Grease into the wastewater collection system, including the ability to implement a permit and enforcement program for defined commercial and industrial sources, including food service establishments;

b. Specification of accepted devices to control the discharge of FOG into the wastewater collection and systems;

c. Description of FOG control device management, operations and maintenance standards, and best management practices, that address onsite record keeping requirements, cleaning frequency, cleaning standards, use of additives, and ultimate disposal;

d. Description of compliance inspection protocols, including scheduling, inspection report forms, and inspection record keeping requirements to assure that FOG control devices are being managed, operated and maintained in accordance with the established management, operation and maintenance standards or best management practices;

e. Description of a FOG compliance assistance and enforcement program, including specific enforcement mechanisms, to ensure compliance with the FOG Control Program;

f. Description of a comprehensive public education program directed at reducing the amount of FOG entering the collection system from residences;

g. Description of staffing (technical and legal) and equipment requirements to ensure effective implementation of the FOG Control Program; and

h. A regularly maintained list of current commercial establishment FOG generators including a description of their FOG generating processes and estimated average quantity of FOG generated daily.

40. **Within 90 days after the effective date of this Order**. Lompoc shall submit an updated budget, staffing and equipment needs of its pretreatment program and POTW This shall include a detailed description of how staff hours will be allocated to issue permits, conduct compliance monitoring activities on an ongoing basis, implement its ERP, implement its FOG Control Program, and properly operate and maintain the POTW.

41. **Within 120 days after a toxicity effluent violation,** Lompoc shall complete a Toxicity Identification Evaluation (TIE) to identify the specific chemical(s) responsible for the toxicity effluent violation for U.S. EPA and the Central Coast Regional Board review and written approval. The TIE procedures shall be performed in three phases: characterization, identification, and confirmation using aquatic organism toxicity tests.

42. Lompoc shall complete a Toxicity Reduction Evaluation (TRE) **within 120 days after written approval of the TIE**, for U.S. EPA and the Central Coast Regional Board review and written approval. The TRE shall identify the compounds causing effluent toxicity, evaluate the operation and performance of the POTW to identify and correct treatment deficiencies contributing to effluent toxicity, trace the effluent toxicants and/or toxicity to their sources, and evaluate reduction methods or technologies to control effluent toxicity, including pretreatment or plant control options.

43. **Within 120 days after written approval of the TRE**, Lompoc shall select and implement toxicity reduction methods or technologies identified from the TRE, including pretreatment or plant control options as appropriate, to eliminate all effluent toxicity violations.

44. For the submittals described in paragraphs 36 to 42, EPA may approve or disapprove the submittal in whole or in part in and require revisions to the submittal in writing. If EPA disapproves the submittal or any of its components, the City shall address all deficiencies identified by EPA and resubmit the submittal or relevant components for EPA's review within sixty (60) days of receipt of EPA's written disapproval.

B. Monitoring and Reporting Requirements

45. Lompoc shall submit the following reports:

a. By January 31st, April 30th, July 31st, and October 31st of each year after the effective date of this Order, until termination of this Order, Lompoc shall submit quarterly reports to provide a status of its Pretreatment Program. The status reports shall include all the requirements found at 40 C.F.R. § 403.12(i).

b. Each report shall include a description of any noncompliance with the requirements of this Order and an explanation of the violation's likely cause and of the remedial steps taken, or to be taken, to prevent or minimize such violation. If Lompoc violates, or has reason to believe that it may violate, any requirement of this Order, Lompoc shall notify the EPA and the Central Coast Regional Board of such violation and its likely duration, in writing, within ten business days of the date Lompoc first becomes aware of the violation, with an explanation of the violation's likely cause and of the remedial steps taken, or to be taken, to prevent or minimize such violation. If the cause of a violation cannot be fully explained at the time the report is due, Lompoc shall so state in the report. Lompoc shall investigate the cause of the violation and shall then submit an amendment to the report, including a full explanation of the cause of the violation, within 30 days of when Lompoc becomes aware of the cause of the violation.

C. Qualification for Work

46. All work described in Section IV shall be performed by and under the supervision of persons with sufficient education, experience, and expertise to perform the Work.

V. FINAL REPORT AND TERMINATION OF THE AOC

47. Within 60 days after Respondent has fully completed and implemented the actions required by Section IV of this AOC, Respondent shall submit for the EPA's review and approval a final report (Final Report) that includes a description and timeline of all of actions which have been taken toward achieving compliance with this AOC and the CWA.

48. If the EPA determines, after review of the Final Report, that all the requirements of this AOC have been completed and implemented in accordance with this AOC, the EPA will provide notice to Respondent.

49. If the EPA determines that any requirement has not been completed and implemented in accordance with this AOC, the EPA will notify Respondent, provide a list of deficiencies, and require Respondent to modify its actions as appropriate to correct such deficiencies. If so required, Respondent shall implement the modified requirement(s) and submit a modified Final Report.

VI. SUBMISSIONS AND RECORD RETENTION

50. Respondent shall submit all written communications, including progress reports, electronically. Respondent shall submit all required reports and plans to the EPA in an electronic format that allows them to be searchable by key word. Respondent shall send all submittals to the following e-mail addresses. Submissions will be deemed made on the date they are sent electronically.

As to EPA:

Michael Weiss, Environmental Engineer
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San Luis Obispo, CA 93401
peter.vonlangen@waterboards.ca.gov

51. All reports, notifications, documentation, and submittals required by this AOC shall be signed by a duly authorized representative of Respondent as specified by 40 C.F.R. § 122.22 and shall include the following statement:

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"I certify under the penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

52. Respondent shall preserve and retain all records and documents now in its possession or control, or which come into its possession or control, that relate in any manner to the performance of the tasks in this AOC, until five (5) years after termination of this AOC. Respondent shall also instruct its agents to preserve all documents, records, and information of whatever kind, nature or description relating to the performance of the tasks in this AOC.

VII. MODIFICATION

53. Any request for modification by Respondent shall include the reason(s) for the request and a timeline for completion. Modification of this AOC shall be in writing and shall take effect only upon approval by the EPA. Failure by Respondent to implement any modified requirement(s) shall be a violation of this AOC.

VIII. GENERAL PROVISIONS

54. This AOC is binding on Respondent and its officials, officers, directors, partners, agents, employees, attorneys, successors and assigns, and on all persons, independent contractors, consultants and contractors acting in concert with Respondent.

55. Respondent shall provide a copy of this AOC to any successor in interest to its control, operation, or any other interest in any portion of its POTW at least 30 days prior to the transfer, and shall simultaneously notify the EPA in writing, via e-mail, that such notice has been given. Within 14 days after the effective date of this AOC or the date of contracting, whichever is later, Respondent shall provide a copy of this AOC to all contractors and/or consultants to perform any of the work described in Section IV. Respondent shall condition the transfer of control, operation or any other interest in any portion of its Facility and any contract related to the performance of the work described in Section IV upon successful execution of this AOC.

56. This AOC is not and shall not be construed to be a permit under the CWA, nor shall it in any way relieve or affect Respondent's obligations under the CWA, or any other applicable federal or state laws, regulations, and/or permits. Compliance with this AOC shall be no defense to any actions commenced pursuant to such applicable laws, regulations, or permits, nor does it constitute a release.

57. This AOC shall in no way affect the rights of the EPA or the United States against any person not a party hereto.

58. This AOC shall in no way limit or affect the EPA's authority to obtain information, and to enter, inspect, sample or monitor compliance under any law, permit, court order or agreement.

59. The provisions of this AOC shall be severable. If any provision is declared by a court of competent jurisdiction to be unenforceable, then the remaining provisions shall remain in full force and effect.

60. Respondent neither admits nor denies the factual allegations and legal conclusions set forth in Section III of this Order, except to the extent that those allegations provide the EPA with a jurisdictional basis to enforce this AOC.

61. Respondent consents to and agrees not to contest the EPA's authority or jurisdiction to issue and enforce this Section 309(a) AOC. Respondent waives any and all remedies, claims for relief and otherwise available rights to judicial or administrative review that Respondent may have with respect to any issue of fact or law set forth in this Order, including any right of judicial review under Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-706.

62. Failure to comply with the terms of this AOC may result in liability for statutory civil penalties under CWA Section 309(d), 33 U.S.C. § 1319(d), as modified by 40 C.F.R. Part 19. Upon suit by the EPA, a United States District Court may impose such penalties if the court determines that Respondent has violated the CWA as described above and failed to comply with the terms of this AOC. In determining the amount of any penalty the court will consider the seriousness of the violations, the economic benefit (if any) resulting from the violations, any history that Respondent may have of such violations, any good faith efforts that Respondent has made to comply with legal requirements, the economic impact a penalty may have upon Respondent, and such other matters as justice may require.

63. Issuance of this AOC is not an election by the EPA to forego any remedies available to it under the law, including without limit any administrative, civil or criminal action to seek penalties, fines, or other appropriate relief under the CWA. The EPA reserves all available legal and equitable rights and remedies to enforce any violations cited in this AOC, and the right to seek recovery of any costs and attorney fees incurred by the EPA in any actions against Respondent for non-compliance with this AOC.

64. In accordance with CWA § 309(a)(4), 33 U.S.C. § 1319(a)(4), the EPA will provide notice and a copy of this AOC to the State of California upon execution.

65. The undersigned signatory for Respondent certifies that he or she is authorized to execute this AOC and legally bind the Respondent.

IX EFFECTIVE DATE

66. This AOC shall become effective on the date it is signed by the EPA.

IT IS SO AGREED AND ORDERED:

FOR RESPONDENT

James Throop, Lompoc City Manager

9/1/2020

ED_005963_00000681-00016

FOR U.S. ENVIRONMENTAL PROTECTION AGENCY
REGION 9

AMY MILLER-BOWEN

Digitally signed by AMY MILLER-BOWEN
Date: 2020.09.02 14:33:51 -07'00'

Amy C. Miller-Bowen
Director, Enforcement and Compliance Assurance Division

Date

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Appendix 1: Effluent Violation Table (June 1, 2015 to June 1, 2020)

Monitoring Period	Minimum Sampling Frequency	Parameter	Parameter Limit	Unit	Limit Type	DMR Value	Percent exceedance
6/30/2015	Quarterly	Static 4 Day Chronic Raphidocelis subcapitata	1	TUc	DAILY MAX	2	100%
9/30/2015	Quarterly	Static 4 Day Chronic Raphidocelis subcapitata	1	TUc	DAILY MAX	4	300%
12/31/2015	Quarterly	Static 4 Day Chronic Raphidocelis subcapitata	1	TUc	DAILY MAX	4	300%
3/31/2016	Quarterly	Static 4 Day Chronic Raphidocelis subcapitata	1	TUc	DAILY MAX	4	300%
6/30/2016	Quarterly	Static 4 Day Chronic Raphidocelis subcapitata	1	TUc	DAILY MAX	4	300%
12/31/2016	Quarterly	Static 4 Day Chronic Raphidocelis subcapitata	1	TUc	DAILY MAX	4	300%
2/28/2017	Weekly	Nitrogen, nitrate total [as N]	10	mg/L	DAILY MAX	10.61	6%
3/31/2017	Quarterly	Oil and grease	5	mg/L	MO AVG	8	60%
3/31/2017	Quarterly	Static 4 Day Chronic	1	TUc	DAILY MAX	4	300%

		Raphidocelis subcapitata					
6/30/2017	Quarterly	Static 4 Day Chronic Raphidocelis subcapitata	1	TUc	DAILY MAX	4	300%
9/30/2017	Quarterly	Static 4 Day Chronic Raphidocelis subcapitata	1	TUc	DAILY MAX	4	300%
11/30/2017	Weekly	Nitrogen, ammonia, tot unionized [as N]	0.025	mg/L	HI WK AVG	0.032	28%
12/31/2017	Continuous	pH	6.5	SU	MINIMUM	6.47	0%
12/31/2017	Semi-annual	Di[2-ethylhexyl] phthalate [DEHP]	1.8	ug/L	MO AVG	1.9	6%
12/31/2017	Quarterly	Static 4 Day Chronic Raphidocelis subcapitata	1	TUc	DAILY MAX	4	300%
3/31/2018	Quarterly	Static 4 Day Chronic Raphidocelis subcapitata	1	TUc	DAILY MAX	4	300%
6/30/2018	Quarterly	Oil and grease	5	mg/L	MO AVG	6	20%
6/30/2018	Quarterly	Static 4 Day Chronic Raphidocelis subcapitata	1	TUc	DAILY MAX	1.43	43%
9/30/2018	Quarterly	Static 4 Day Chronic	1	TUc	DAILY MAX	2	100%

		Raphidocelis subcapitata					
12/31/2018	Quarterly	Static 4 Day Chronic Raphidocelis subcapitata	1	TUc	DAILY MAX	1.43	43%
3/31/2019	Quarterly	Static 4 Day Chronic Raphidocelis subcapitata	1	TUc	DAILY MAX	4	300%
9/30/2019	Weekly	Nitrogen, ammonia, tot unionized [as N]	0.025	mg/L	HI WK AVG	0.033	32%
9/30/2019	Quarterly	Oil and grease	5	mg/L	MO AVG	5.21	4%
9/30/2019	Quarterly	Oil and grease	10	mg/L	DAILY MAX	11	10%
9/30/2019	Quarterly	Static 4 Day Chronic Raphidocelis subcapitata	1	TUc	DAILY MAX	4	300%
12/31/2019	Quarterly	Oil and grease	5	mg/L	MO AVG	5.65	13%
12/31/2019	Quarterly	Static 4 Day Chronic Raphidocelis subcapitata	1	TUc	DAILY MAX	4	300%
3/31/2020	Quarterly	Static 4 Day Chronic Raphidocelis subcapitata	1	TUc	DAILY MAX	1.3	30%
6/30/2020	Quarterly	Oil and grease	5	mg/L	MO AVG	19	280%

6/30/2020	Quarterly	Oil and grease	10	mg/L	DAILY MAX	19	90%