UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS, TEXAS 75202-2733

June 8, 2012

CERTIFIED MAIL–RETURN RECEIPT REQUESTED: 7010 2780 0002 4356 5075

Mr. Joseph D. Chwirka
Albuquerque Bernalillo County
Water Utility Authority
Plant Operations Division Manager
P.O. Box 1471
Albuquerque, NM 87105

Re: Administrative Order, Docket Number: CWA-06-2012-1706
NPDES Permit Number: NM0022250

Dear Mr. Chwirka:

Enclosed is an Administrative Order (AO) issued to the Albuquerque Bernalillo County Water Utility Authority for violation of the Clean Water Act (CWA) (33 U.S.C. § 1251 et seq.). Violations were identified during a compliance review of your Wastewater Treatment Facility file. The violations alleged are for exceedance of permitted effluent limitations.

This AO does not assess a monetary penalty; however, it does require compliance with applicable federal regulations. The first compliance deadline is June 30, 2012. The AO also contains other compliance deadlines. The EPA 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-06-2012-1706 and NPDES Permit Number NM0022250 on your response.

If you have any questions, please contact Robert Houston, of my staff, at (214) 665-8565.

Sincerely,

John Blevins
Director
Compliance Assurance and
Enforcement Division

Enclosure

cc: Mr. Jeffrey Romanowski
Albuquerque Bernalillo County
Water Utility Authority
Plant Manager
P.O. Box 1471
Albuquerque, NM 87105

Mr. James Bearzi
Bureau Chief
Surface Water Quality Bureau
New Mexico Environment Department
P.O. Box 5469
Santa Fe, NM 87502-5469

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region 6 • 1445 Ross Avenue, Suite 1200 • Dallas, TX 75202-2733
FINDINGS OF VIOLATIONS and ORDER FOR COMPLIANCE
Docket Number: CWA-06-2012-1706, NPDES Permit Number: NM0022250

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 ("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 further delegated this authority to the Director of the Compliance Assurance and Enforcement Division.

Findings

1. Respondent, Albuquerque Bernalillo County Water Utility Authority, 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, the Respondent owned or operated a wastewater treatment plant ("WWTP"), located on Second Street in the City of Albuquerque, Bernalillo County, New Mexico ("facility"), and was, therefore, an "owner or operator" within the meaning of 40 C.F.R. § 122.2. The mailing address for the Respondent is Albuquerque Bernalillo County Water Utility Authority, P.O. Box 1471, Albuquerque, NM 87105.

3. At all relevant times, the facility was a "point source" of a "discharge" of "pollutants" with its wastewater to the receiving waters of the Rio Grande in Segment 20.6.4.105 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 the Respondent owned or operated a facility that acted as a point source of discharges of pollutants to waters of the United States, the 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. The Respondent applied for and was issued NPDES Permit Number NM0022250 ("permit") under Section 402 of the Act, 33 U.S.C. § 1342, which became effective on May 1, 2005. At all relevant times, the 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 the Respondent. The relevant discharge limitations are listed in the enclosed Attachment A.

9. Certified Discharge Monitoring Reports ("DMRs") filed by the Respondent with EPA in compliance with the permit show discharges of pollutants from the facility that exceed the permitted effluent limitations established in Part I.A of the permit. The discharge(s) of pollutants that exceed the permit limitations are specified in the enclosed Attachment B.

10. Each instance in which the 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. Each violation of the conditions of the permit or regulations described above is a violation of Section 301 of the Act, 33 U.S.C. § 1311.

Order

Based on the foregoing Findings and pursuant to the authority of Section 309 of the Act, 33 U.S.C. § 1319, EPA hereby orders the Respondent to take the following actions.

A. The Respondent shall complete the following tasks in accordance with the schedule of activities to achieve sustained compliance with permit effluent limitations.

SCHEDULE OF ACTIVITIES	
Construction and Improvement Compliance Schedule	
Activity	Due Date
Complete Southside Reuse Construction Project	June 30, 2012
Complete Supervisory Control And Data Acquisition System Improvements	December 31, 2012
Complete Aeration Basin and piping improvements	September 30, 2013
Complete Interim Blower Capacity Improvements	March 31, 2014
Complete Dewatering Complex Construction	May 31, 2015
Complete Preliminary Treatment Facility Construction	September 30, 2015
Complete Dissolved Air Floatation Thickening Improvements	December 31, 2015
Complete Existing Digester Improvements	March 31, 2017
Complete Final Blower Improvements	May 31, 2017
Complete primary clarifier Improvements	March 31, 2018
Complete New Digesters Construction	December 31, 2019

B. Respondent shall submit bi-annual progress reports to describe in detail the specific actions taken and the progress on complying with the schedule of activities listed above. The progress reports are due on January 15th and July 15th of each year. The first progress report is due July 15, 2012.

C. Respondent shall submit a Project Completion Report, based on the construction activities at the WWTP, to EPA within forty-five (45) days after the completion date for each Project Activity. The Project Completion Report shall contain the following information:

a. A detailed description of the Project as implemented;
b. a description of any operating problems encountered and the solutions thereto;
c. documented itemized costs of the Project, e.g., by copies of purchase orders and receipts or cancelled checks, and copies of monthly reports regarding labor costs, equipment costs, and materials purchased;
d. certification that the Project has been fully implemented pursuant to the provisions of this Order;
e. photographs of the Project construction activities from issue date of this Order to conclusion of Project; and
f. a description of the environmental and public health benefits resulting from implementation of this Project (with a quantification of the benefits and pollutant reductions).

D. In the Project Completion Report, submitted to EPA pursuant to this administrative order, Respondent shall, by its officers, 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 attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the 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. To ask questions or comment on this matter, please contact Mr. Robert Houston, of my staff, at (214) 665-8565.

F. Any information or correspondence submitted by the Respondent to EPA under this Order and the schedule portion of this administrative order shall be addressed to the following:

Ms. Hannah Branning
Water Enforcement Branch (6EN-WC)
EPA, Region 6
1445 Ross Ave., Suite 1200
Dallas, TX 75202-2733

General Provisions

Issuance of this Order shall not be deemed an election by EPA to forego any administrative or judicial, civil or criminal action to seek penalties, fines, or any other relief appropriate under the Act for the violations cited herein, or other violations that become known. EPA reserves the right to seek any remedy available under the law that it deems appropriate. Failure to comply with this Order or the Act can 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 the Respondent's NPDES permit, which remain in full force and effect. Compliance with the terms and conditions of this Order does not relieve the Respondent of its obligation to comply with any applicable federal, state, or local law or regulations.

The effective date of this Order is the date it is received by the Respondent.

JUN 08 2012

Date

John Blevins
Director
Compliance Assurance and
Enforcement Division