UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1201 ELM STREET, SUITE 500
DALLAS, TEXAS 75270-2102

SEP 26 2019

CERTIFIED MAIL–RETURN RECEIPT REQUESTED: 7005 1820 0003 7456 1029

Jarel LaPan Hill
Interim City Manager
City of Santa Fe
P.O. Box 909
Santa Fe, NM 87504-0909

Re: Administrative Order; Docket Number CWA-06-2019-1818
NPDES Permit Number: NM0022292

Dear Ms. Hill:

Enclosed is an Administrative Order (AO) issued to the City of Santa Fe for violations of the Clean Water Act (CWA) (33 U.S.C. § 1251 et seq.). The violations alleged were identified during a review of the Discharge Monitoring Report (DMR) records for the Wastewater Treatment Plant. These violations were brought to your attention via a telephone message on August 20, 2019. The violations alleged are for failure to meet permit effluent limits for Carbonaceous Biochemical Oxygen Demand, Total Suspended Solids and E. coli bacteria at outfall 001A.

On March 29, 2019 Administrative Order Docket Number CWA-06-2019-1773 was issued to the City for failure to meet the permit effluent limits for E. coli bacteria at outfall 001A from March 2017 – January 2019. The City certified compliance, by letter, dated May 30, 2019, in response to the Order. However, giving exclusion to the month of May 2019, a review of the certified DMRs, filed by the City, for the months February 2019 – June 2019, show that exceedances of the permit limit for E. coli bacteria have persisted.

This AO does not assess a monetary penalty; however, it does require compliance with applicable federal regulations. The first compliance deadline is within thirty (30) days of receipt of this AO. The Environmental Protection Agency 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-06-2019-1818 and NPDES Number NM0022292 on your response.

If you have any questions, please contact Ms. Mona Tates, of my staff, at (214) 665-7152.

Sincerely,

Cheryl T. Seager, Director
Enforcement and
Compliance Assurance Division

Enclosure(s)

cc: Ms. Shelly Lemon, Bureau Chief
New Mexico Environment Department
Surface Water Quality Bureau
P.O. Box 5469
Santa Fe, New Mexico 87502
Shelly.Lemon@state.nm.us

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region 6 • 1201 Elm Street, Suite 500 • Dallas, TX 75270-2102
FINDINGS OF VIOLATIONS and ORDER FOR COMPLIANCE
Docket Number: CWA-06-2019-1818, NPDES Facility/Permit No.: NM0022292

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 Enforcement and Compliance Assurance Division.

Findings

1. The City of Santa Fe ("Respondent") is a municipality chartered under the laws of the State of New Mexico, and as such, 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 municipal wastewater treatment facility located at Airport Road, Santa Fe, Santa Fe County, New Mexico, 87504 ("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 was a "point source" of a "discharge" of "pollutants" with its municipal wastewater to the receiving waters of Santa Fe River, which are 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 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 No. NM0022292 (herein "the permit") under Section 402 of the Act, 33 U.S.C. § 1342, which became effective on September 1, 2016 and expires on August 31, 2021. 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 as follows

Effluent Characteristics	Discharge Limitations for Outfall 001A			
	Loading (lbs/day)	Concentration (mg/l), unless noted		
	30 Day Avg.	30 Day Avg.	7 Day Avg.	Daily Max.
Carbonaceous Biochemical Oxygen Demand, CBOD (5-Day)	709	10	15	N/A
Total Suspended Solids, TSS	2127	30	45	N/A
E. coli Bacteria	N/A	126 cfu/100 ml	N/A	410 cfu/100 ml

9. Parts III.C and III.D of the permit require the Respondent to sample and test its effluent and monitor its compliance with permit conditions according to specific procedures, in order to determine the facility's compliance or noncompliance with the permit and applicable regulations. They also require the Respondent to file with EPA certified Discharge Monitoring Reports ("DMRs") of the results of monitoring, and Noncompliance Reports when appropriate.

10. Certified 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, as specified in Attachment A, which is incorporated herein by reference.

11. On March 29, 2019 the Respondent was issued Administrative Order Docket Number CWA-06-2019-1773 for failure to meet the permit effluent limits for E. Coli Bacteria at outfall 001A from March 2017 – January 2019. The Respondent was ordered to take steps to correct the effluent violations and certify the facility's compliance with the permit requirements or submit a written plan for the elimination of the cited violations within the shortest period of time.

12. The Respondent provided a letter of response to the Order, dated May 30, 2019, which stated "the City met all effective permit limits for E. coli Bacteria by April 14, 2019". However, the certified DMRs, filed by the Respondent, for the months February 2019 – June 2019, show exceedances of the permit limit for E. coli Bacteria.

13. 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.

SECTION (309) () (3) COMPLIANCE ORDER

Based on the foregoing Findings and pursuant to the authority of Section 309 of the Act, EPA hereby orders the Respondent to take the following actions:

A. Within thirty (30) days of the effective date of this Order, the Respondent shall submit a list of the specific actions taken to correct the effluent violations cited in this Order.

B. Within thirty (30) days of the effective date of this Order, the Permittee shall provide written certification to EPA, Region 6 that the violations cited herein have been corrected and that the facility is in compliance with the requirements of the permit.

C. In the event that the Respondent believes complete correction of the violations cited herein is not possible within thirty (30) days of the effective date of this Order, the 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.

D. If Respondent would like to arrange a meeting with EPA to discuss the allegations in this Order, it should contact EPA within forty-five (45) days of the effective date of this Order. The meeting will be held at the Region 6 offices, 1201 Elm Street, Dallas, Texas, 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 Ms. Mona Tates, of my staff, at (214) 665-7152.

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

Ms. Nancy Williams
Water Enforcement Branch (ECDWA)
EPA, Region 6
1201 Elm Street, Suite 500
Dallas, TX 75270-2102

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 regulation.

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

9-26-19
Date

Cheryl T. Seager, Director
Enforcement and
Compliance Assurance Division

City of Santa Fe
NPDES Permit # NM0022292
Administrative Order Docket Number: CWA-06-2019-1818

Attachment A

Date	Outfall	Parameter	Violation	Permit Limit
January 2019	001A	CBOD 30 Day Avg.	16 mg/l	10 mg/l
January 2019	001A	CBOD 7 Day Avg.	24 mg/l	15 mg/l
January 2019	001A	TSS 30 Day Avg.	2737 lbs./day	2127 lbs./day
January 2019	001A	TSS 30 Day Avg.	61 mg/l	30 mg/l
January 2019	001A	TSS 7 Day Avg.	79 mg/l	45 mg/l
January 2019	001A	E. Coli Bacteria Daily Max	880 cfu/100 ml	410 cfu/100 ml
February 2019	001A	CBOD 30 Day Avg.	15 mg/l	10 mg/l
February 2019	001A	CBOD 7 Day Avg.	46 mg/l	15 mg/l
February 2019	001A	TSS 30 Day Avg	3624 lbs/day	2127 lbs./day
February 2019	001A	TSS 30 Day Avg.	92 mg/l	30 mg/l
February 2019	001A	TSS 7 Day Avg.	281 mg/l	45 mg/l
February 2019	001A	E. Coli Bacteria Daily Max	680 cfu/100 ml	410 cfu/100 ml
March 2019	001A	CBOD 30 Day Avg	753 lbs/day	709 lbs./day
March 2019	001A	CBOD 30 Day Avg.	20 mg/l	10 mg/l

City of Santa Fe
NPDES Permit # NM0022292
Administrative Order Docket Number: CWA-06-2019-1818

Attachment A

Date	Outfall	Parameter	Violation	Permit Limit
March 2019	001A	CBOD 7 Day Avg.	32 mg/l	15 mg/l
March 2019	001A	TSS 30 Day Avg	2858 lbs/day	2127 lbs./day
March 2019	001A	TSS 30 Day Avg.	76 mg/l	30 mg/l
March 2019	001A	TSS 7 Day Avg.	149 mg/l	45 mg/l
March 2019	001A	E. Coli Bacteria 30 Day Avg	267 cfu/100 ml	126 cfu/100 ml
March 2019	001A	E. Coli Bacteria Daily Max	7700 cfu/100 ml	410 cfu/100 ml
April 2019	001A	E. Coli Bacteria Daily Max	807 cfu/100 ml	410 cfu/100 ml
May 2019	001A	TSS 30 Day Avg.	47 mg/l	30 mg/l
May 2019	001A	TSS 7 Day Avg.	97 mg/l	45 mg/l
June 2019	001A	CBOD 30 Day Avg.	11 mg/l	10 mg/l
June 2019	001A	CBOD 7 Day Avg.	29 mg/l	15 mg/l
June 2019	001A	TSS 30 Day Avg.	60 mg/l	30 mg/l
June 2019	001A	TSS 7 Day Avg.	127 mg/l	45 mg/l
June 2019	001A	E. Coli Bacteria 30 Day Avg	146 cfu/100 ml	126 cfu/100 ml

City of Santa Fe
NPDES Permit # NM0022292
Administrative Order Docket Number: CWA-06-2019-1818

Attachment A

Date	Outfall	Parameter	Violation	Permit Limit
June 2019	001A	E. Coli Bacteria Daily Max	8000 cfu/100 ml	410 cfu/100 ml