

**FILED**

19 MAR 26 AM 10:09

**UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 6**

REGIONAL HEARING CLERK  
EPA REGION 6

IN THE MATTER OF:	§	DOCKET NO. CWA-06-2025-1737
	§	
City of Rio Rancho, New Mexico	§	
Respondent	§	COMPLAINT, CONSENT AGREEMENT
	§	AND FINAL ORDER
	§	
Facility Identification	§	<i>Class II Administrative Penalty Proceeding under</i>
No. NM0027987	§	<i>Section 309(g) of the Clean Water Act, 33 U.S.C.</i>
	§	<i>§ 1319(g), and 40 C.F.R. §§ 22.13(b) and 22.18</i>

**CONSENT AGREEMENT**

**I. AUTHORITY AND PARTIES**

1. This is a Class II civil administrative penalty proceeding under Section 309(g)(1)(A) and 2(B) of the Clean Water Act (CWA), 33 U.S.C. § 1319(g)(1)(A) and 2(B), and 40 C.F.R. Part 22 (Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits).

2. Pursuant to Section 309(g) of the CWA, 33 U.S.C. § 1319(g), the Administrator of the United States Environmental Protection Agency (EPA) is authorized to assess administrative penalties against any person who has violated, *inter alia*, Section 301(a) of the CWA, 33 U.S.C. § 1311(a), or who has violated any permit condition or limitation implementing any of such sections in a permit issued under Section 402 of the CWA, 33 U.S.C. § 1342. The Administrator of EPA delegated authority to issue this Complaint, Consent Agreement and Final Order to the Regional Administrator of EPA Region 6, who in turn has delegated this authority to the Director of the Enforcement and Compliance Assurance Division (Complainant).

3. Respondent is the City of Rio Rancho in the State of New Mexico.

4. This Consent Agreement and Final Order (CAFO), which contains the elements of a complaint required by 40 C.F.R. § 22.14(a), simultaneously commences and concludes this penalty proceeding, as authorized by 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3).

NOW THEREFORE, before the taking of any testimony, without adjudication of any issue of fact or law, and upon consent by EPA and Respondent, it is hereby STIPULATED, AGREED, AND ORDERED:

## **II. STATUTORY AND REGULATORY FRAMEWORK**

5. Section 301(a) of the CWA, 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 and in compliance with a National Pollutant Discharge Elimination System (NPDES) permit issued pursuant to CWA Section 402, 33 U.S.C. § 1342.

6. Section 402(a) of the CWA, 33 U.S.C. § 1342(a), 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. Any such discharge is subject to the specific terms and conditions prescribed in the applicable permit.

7. Pursuant to Section 309(g)(2)(B) of the CWA, 33 U.S.C. § 1319(g)(2)(B), and 40 C.F.R. Part 19.4, the EPA may assess a Class II civil administrative penalty of up to \$27,378 per day of violation, not to exceed \$342,218 in total, against any person that has violated Section 301(a) or has violated any permit condition or limitation of a permit issued under Section 402 of the CWA that occurred after November 2, 2015, where penalties are assessed on or after January 8, 2025.

## **III. JURISDICTIONAL ALLEGATIONS**

8. Respondent is a municipality chartered under the laws of the State of New Mexico, and as such, 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.

9. At all times relevant to this action (all relevant times), Respondent owned or operated a municipal wastewater treatment plant (WWTP) located at 101 Industrial Park Loop, Rio Rancho, Sandoval County, New Mexico (facility), and was, therefore, an "owner or operator" within the meaning of 40 C.F.R. § 122.2.

10. At all relevant times, the facility was a "publicly owned treatment works" (POTW) within the meaning of Section 212(2) of the Act, 33 U.S.C. § 1292(2) and 40 C.F.R. § 403.3.

## **IV. FACTUAL ALLEGATIONS**

11. At all relevant times, the facility acted as a "point source" of a "discharge" of "pollutants" with its wastewater discharging into the receiving waters named the Rio Grande River in Segment 20.6.4.106 of the Middle Rio Grande Basin, which is 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.

12. Because Respondent owned or operated a facility that acted as a point source of discharges of pollutants to waters of the United States, Respondent and the facility were subject to the CWA and the NPDES program.

13. Respondent applied for and was issued NPDES Permit No. NM0027987 (permit) under Section 402 of the Act, 33 U.S.C. § 1342, which became effective on August 1, 2021, and expires on July 31, 2026. 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.
14. Part I.A of the permit (Limitations and Monitoring Requirements) requires Respondent to sample and test its effluent and monitor its compliance with permit conditions according to specific procedures, to determine the facility's compliance or noncompliance with the permit and applicable regulations. Parts I.C and I.D of the permit also require Respondent to file with EPA certified Discharge Monitoring Reports (DMRs) of the results of monitoring, and Overflow Reports when appropriate.
15. Part III.A.2 of the permit states that Respondent has a duty to comply with all conditions of the permit, and that any permit noncompliance constitutes a violation of the Act.
16. Part III.B.2 of the permit requires the Respondent to take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.
17. Part III.B.3 of the permit requires Respondent to properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by Respondent as efficiently as possible and in a manner which will minimize upsets and discharges of excessive pollutants and will achieve compliance with the conditions of the permit.
18. Certified DMRs filed by Respondent with EPA in compliance with the permit show discharges of pollutants from the facility that exceed the permitted effluent limitations established in the permit, as specified in Attachment A, which is incorporated herein by reference, in violation of Part I.A of the permit.
19. Overflow Reports filed by Respondent with EPA in compliance with the permit show that on fifteen occasions from November 2022 through June 2025, Respondent released in total approximately 259,950 gallons of untreated sewage from its facility at locations other than the WWTP outfalls, as specified in Attachment B, which is incorporated herein by reference. Such releases from the collection system are known as "sanitary sewer overflows" or "SSOs." The SSOs were the result of blockages, structural defects, line breaks and other deficiencies in Respondent's facility arising from Respondent's failure to minimize/prevent discharges and properly operate and maintain its facility in violation of Parts III.B.2 and III.B.3 of the permit.
20. Each discharge that exceeded an effluent limitation in Respondent's permit is a violation of the permit.

21. Each unauthorized discharge is a violation of Section 301(a) of the CWA, 33 U.S.C. § 1311(a).

**V. ADMINISTRATIVE PENALTY**

22. In consideration of the penalty factors of Section 309(g) of the CWA, 33 U.S.C. § 1319(g), Respondent agrees to a civil penalty in the amount of one hundred and fifteen thousand dollars (\$115,000) (Assessed Penalty) within thirty (30) days after the date of the Final Order ratifying this Agreement is filed with the Regional Hearing Clerk.

23. Respondent shall pay the Assessed Penalty and any interest, fees, and other charges due using any method, or combination of appropriate methods, as provided on the EPA website: <https://www.epa.gov/financial/makepayment>. For additional instructions see: <https://www.epa.gov/financial/additional-instructions-making-payments-epa>.

24. When making a payment, Respondent shall:

- a. Identify every payment with Respondent's name and the docket number of this Agreement, CWA-06-2025-1737,
- b. Concurrently with any payment or within 24 hours of any payment, Respondent shall serve proof of such payment to the following person(s):

Regional Hearing Clerk (ORCD)  
U.S. EPA, Region 6  
1201 Elm Street, Suite 500  
Dallas, TX 75270-2102  
vaughn.lorena@epa.gov

Roberto Bernier  
Supervisor, Municipal & Industrial Wastewater Section (ECDWM)  
U.S. EPA, Region 6  
1201 Elm Street, Suite 500  
Dallas, TX 75270-2102  
bernier.roberto@epa.gov

Kristine Talbot  
Acting Manager, Water Legal Branch (ORCEW)  
U.S. EPA, Region 6  
1201 Street, Suite 500  
Dallas, TX 75270-2102  
talbot.kristine@epa.gov

and

U.S. Environmental Protection Agency  
Cincinnati Finance Center  
Via electronic mail to:  
cinwd\_acctsreceivable@epa.gov

“Proof of payment” means, as applicable, a copy of the check, confirmation of credit card or debit card payment, or confirmation of wire or automated clearinghouse transfer, and any other information required to demonstrate that payment has been made according to EPA requirements, in the amount due, and identified with the appropriate docket number and Respondent’s name.

- c. Interest, Charges, and Penalties on Late Payments. Pursuant to 31 U.S.C. § 3717, 31 C.F.R. § 901.9, and 40 C.F.R. § 13.11, if Respondent fails to timely pay the full amount of the Assessed Penalty per this Agreement, EPA is authorized to recover, in addition to the amount of the unpaid Assessed Penalty, the following amounts.
  - i. Interest. Interest begins to accrue from the Filing Date. If the Assessed Penalty is paid in full within thirty (30) days, interest accrued is waived. If the Assessed Penalty is not paid in full within thirty (30) days, interest will continue to accrue until any unpaid portion of the Assessed Penalty as well as any interest, penalties, and other charges are paid in full. To protect the interests of the United States the rate of interest is set at the IRS large corporate underpayment rate, any lower rate would fail to provide Respondent adequate incentive for timely payment.
  - ii. Handling Charges. Respondent will be assessed monthly a charge to cover EPA’s costs of processing and handling overdue debts. If Respondent fails to pay the Assessed Penalty in accordance with this Agreement, EPA will assess a charge to cover the costs of handling any unpaid amounts for the first thirty (30) day period after the Filing Date. Additional handling charges will be assessed every thirty (30) days, or any portion thereof, until the unpaid portion of the Assessed Penalty as well as any accrued interest, penalties, and other charges are paid in full.

- iii. **Late Payment Penalty.** A late payment penalty of six percent (6%) per annum, will be assessed monthly on all debts, including any unpaid portion of the Assessed Penalty, interest, penalties, and other charges, that remain delinquent more than ninety (90) days. Any such amounts will accrue from the Filing Date.
  - d. **Late Penalty Actions.** In addition to the amounts described in the prior Paragraph, if Respondent fails to timely pay any portion of the Assessed Penalty, interest, or other charges and penalties per this Agreement, EPA may take additional actions. Such actions EPA may take include, but are not limited to, the following.
    - i. Refer the debt to a credit reporting agency or a collection agency, per 40 C.F.R. §§ 13.13 and 13.14.
    - ii. Collect the debt by administrative offset (i.e., the withholding of money payable by the United States government to, or held by the United States government for, a person to satisfy the debt the person owes the United States government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds, per 40 C.F.R. Part 13, Subparts C and H.
    - iii. Suspend or revoke Respondent's licenses or other privileges or suspend or disqualify Respondent from doing business with EPA or engaging in programs EPA sponsors or funds, per 40 C.F.R. § 13.17.
    - iv. Refer this matter to the United States Department of Justice for litigation and collection, per 40 C.F.R. § 13.33.
  - e. **Allocation of Payments.** Pursuant to 31 C.F.R. § 901.9(f) and 40 C.F.R. § 13.11(d), a partial payment of debt will be applied first to outstanding handling charges, second to late penalty charges, third to accrued interest, and last to the principal that is the outstanding Assessed Penalty amount.
25. **Tax Treatment of Penalties.** Penalties, interest, and other charges paid pursuant to this Agreement shall not be deductible for purposes of federal taxes.
26. Respondent shall not allow any other person to deduct any penalties and interest paid under this CAFO from federal, state, or local taxes.
27. Pursuant to Section 309(g)(9) of the CWA, 33 U.S.C. § 1319(g)(9), if Respondent fails to pay the assessed penalty on time, the EPA may request the U.S. Department of Justice to bring a civil action to recover the overdue amount, plus interest at currently prevailing rates from the Effective Date of this CAFO. In such an action, the validity, amount, or appropriateness of the assessed penalty shall not be subject to review. In addition to any assessed penalty and interest, Respondent shall pay attorney fees, costs for collection proceedings, and a quarterly nonpayment penalty, which shall equal 20% of the aggregate amount of Respondent's penalties and nonpayment penalties that are unpaid as of the

beginning of such quarter, for each quarter during which such failure to pay persists. The EPA may also take other debt collection actions as authorized by law, including, but not limited to, the Debt Collection Act, 33 U.S.C. § 3711, and 33 C.F.R. Part 13.

**VI. APPLICABILITY**

28. This CAFO shall apply to and be binding on Respondent, Respondent's officers, directors, partners, agents, employees, contractors, successors, and assigns. Action or inaction of any persons, firms, contractors, employees, agents, or corporations acting under, though, or for Respondent shall not excuse any failure of Respondent to fully perform its obligations under this CAFO. Changes in ownership, real property interest, or transfer of personal assets shall not alter Respondent's obligations under this CAFO.

**VII. RESPONDENT'S ADMISSIONS AND WAIVERS**

29. In accordance with 40 C.F.R. § 22.18(b)(2), for the purpose of this proceeding only, Respondent:
- a. admits the jurisdictional allegations set forth in Section III of the CAFO;
  - b. neither admits nor denies specific factual allegations set forth in Section IV of the CAFO;
  - c. consents to all conditions specified in this CAFO and to the assessment of the civil administrative penalty set forth in Section V of the CAFO;
  - d. waives any right to contest the allegations set forth in Section III and IV of this CAFO; and
  - e. waives its right to appeal this proposed Final Order.

**VIII. RESERVATION OF RIGHTS**

30. In accordance with 40 C.F.R. § 22.18(c), full payment of the penalty set forth in this CAFO only resolves Respondent's CWA civil penalty liabilities for the violations specifically alleged herein and does not in any case affect the right of the EPA to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.

31. This CAFO is not a permit or modification of any existing permit issued pursuant to any federal, state, or local laws or regulations, and shall in no way relieve or affect Respondent's obligations under any applicable federal, state, or local laws, regulations, or permits.

**IX. ATTORNEYS FEES AND COSTS**

32. Unless otherwise specified, each party shall bear its own attorney's fees and costs.

**X. EFFECTIVE DATE AND TERMINATION**

33. In accordance with C.F.R. §§ 22.18(b)(3) and 22.31(b), the Effective Date of this CAFO is the date that the Final Order, having been signed by the Regional Judicial Officer, is filed with the Regional Hearing Clerk. This CAFO shall terminate when Respondent has complied with the requirements of this CAFO in full.

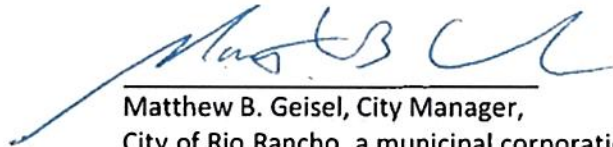
**XI. PUBLIC NOTICE**

34. Pursuant to Section 309(g)(4) of the CWA, 33 U.S.C. § 1319(g)(4), and 40 C.F.R. § 22.45(b), this Consent Agreement is subject to public notice and comment prior to issuance of the proposed Final Order. Complainant reserves the right to withhold or withdraw consent of this Consent Agreement if public comments disclose relevant and material information that was not considered by Complainant in entering into this Consent Agreement. Respondent may withdraw from this Consent Agreement only upon receipt of written notice from EPA that it no longer supports entry of this Consent Agreement.

35. Pursuant to Section 309(g)(1) of the CWA, 33 U.S.C. § 1319(g)(1), the EPA has consulted with the State of New Mexico regarding this penalty action.

For Respondent

20/Jan/2026  
Date

  
Matthew B. Geisel, City Manager,  
City of Rio Rancho, a municipal corporation

For Complainant the U.S. Environmental Protection Agency, Region 6

January 22, 2026  
Date

  
Digitally signed by CHERYL  
SEAGER  
Date: 2026.01.22 12:49:38  
-06'00'  
Cheryl T. Seager, Director  
Enforcement and  
Compliance Assurance Division

**FINAL ORDER**

IT IS HEREBY ORDERED that this Consent Agreement and Final Order (U.S. EPA Docket No. CWA- 06-2025-1737) be entered, and that Respondent shall pay a civil penalty in the amount of one hundred and fifteen thousand dollars (\$115,000) in accordance with the terms of this Consent Agreement and Final Order.

\_\_\_\_\_  
Date

  
Thomas Ruckl  
Regional Judicial Officer  
U.S. EPA, Region 6

  
Renee Ryland

CERTIFICATE OF SERVICE

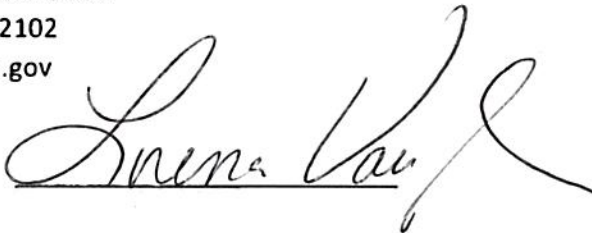
I certify that the foregoing Complaint, Consent Agreement and Final Order was delivered to the Regional Hearing Clerk, U.S. EPA, Region 6, 1201 Elm Street, Dallas, Texas 75270-2102 via email at vaughn.loreana@epa.gov, and that a true and correct copy was sent this day in the following manner to the addresses:

Copy by email: Honorable Gregory D. Hull  
Mayor, City of Rio Rancho  
c/o Matthew Geisel, City Manager  
3200 Civic Center Circle NE  
Rio Rancho, NM 87144  
ghull@rrnm.gov  
mgeisel@rrnm.gov

Shelly Lemon  
Surface Water Quality Bureau Chief  
New Mexico Environment  
Department Francis Drive, Suite  
N4050  
Santa Fe, New Mexico 87505  
shelly.lemon@env.nm.gov

Ellen Chang  
Regional Counsel  
U.S. EPA, Region 6  
1201 Elm Street, Suite 500  
Dallas, TX 75270-2102  
chang.ellen@epa.gov

Dated: 3/19/2026

  
Lorena Vaughn

**Attachment A**  
**City of Rio Rancho WWTP**  
**NPDES Permit ID No. NM0027987**

Date	Parameter	DMR Value	Limit Value	% Exceed	Unit
Nov-22	Oil & Grease	11	10	10%	mg/L
Nov-22	Oil & Grease	38	15	153%	mg/L
Jan-23	E. coli	108	88	23%	CFU/100mL
Feb-23	Chlorine, total residual	18	11	64%	ug/L
Feb-23	E. coli	579	88	558%	CFU/100mL
Jun-23	E. coli	115	88	31%	CFU/100mL
Jun-23	Chlorine, total residual	45	11	309%	ug/L
Sep-23	E. coli	114	88	30%	CFU/100mL
Oct-23	E. coli	110	88	25%	CFU/100mL
Jan-24	Chlorine, total residual	96	11	773%	ug/L
Mar-24	E. coli	137	88	56%	CFU/100mL
Apr-24	E. coli	135	88	53%	CFU/100mL
Jul-24	E. coli	2,076	88	2259%	CFU/100mL
Sep-24	E. coli	101	88	15%	CFU/100mL
Dec-24	E. coli	93	88	6%	CFU/100mL
Dec-24	Nitrogen, ammonia total [as N]	4	2	73%	mg/L
Jan-25	E. coli	1,046	88	1089%	CFU/100mL
Jan-25	Nitrogen, ammonia total [as N]	3	2	31%	mg/L
Feb-25	Chlorine, total residual	218	11	1882%	ug/L
Apr-25	E. coli	88	90	2%	CFU/100mL
Apr-25	Nitrogen, ammonia total [as N]	2	8	293%	mg/L
Apr-25	Nitrogen, ammonia total [as N]	146	421	188%	lb/d
May-25	BOD, 5-day, 20 deg. C	10	23	130%	mg/L
May-25	BOD, 5-day, 20 deg. C	15	63	320%	mg/L
May-25	E. coli	47	58	23%	CFU/100mL
May-25	E. coli	88	19,863	22472%	CFU/100mL
May-25	Nitrogen, ammonia total [as N]	2	24	1040%	mg/L
May-25	Solids, total suspended	15	21	40%	mg/L
May-25	Solids, total suspended	23	57	148%	mg/L
May-25	BOD, 5-day, 20 deg. C	684	998	46%	lb/d
May-25	BOD, 5-day, 20 deg. C	1,026	2,820	175%	lb/d
May-25	E. coli	9,800	11,330	16%	MCFU/d
May-25	Nitrogen, ammonia total [as N]	146	1,089	646%	lb/d
May-25	Solids, total suspended	1,573	2,548	62%	lb/d

**Attachment B**  
**City of Rio Rancho WWTP**  
**NPDES Permit ID No. NM0027987**

<b>ID</b>	<b>Date</b>	<b>Volume (Gal.)</b>	<b>Description</b>	<b>Location</b>
1	11/18/2022	400	Lift Station (LS) #20 pump failed due to blockage causing MH SSO.	Ground
2	2/25/2023	200	Lift Station #24 power failure caused MH SSO.	Unnamed arroyo
3	6/4/2023	200	SSO at Pinetree Street caused by tree roots (blockage).	Ground
4	7/6/2023	10,000	Lift Station #15 power failure caused SSO.	Venada arroyo
5	5/3/2024	10,000	Lift Station power failure caused SSO.	Ground
6	6/9/2024	1,000	Lift Station #28 failed caused MH SSO.	Ground
7	6/29/2024	3,000	SSO at Lift Station #22 caused by heavy rainfall and flooding.	Ground
8	10/26/2024	200	Lift Station #25 SSO caused by control panel failure	Ground
9	12/8/2024	168,000	Force Main to LS #21 leaking caused 168,000-gallon SSO with 72,000 gallons estimated to Rio Grand River.	Rio Grande (72K Gallons)
10	1/11/2025	150	Force Main leading to the lift station #8 was leaking caused SSO.	Ground
11	1/28/2025	100	SSO at Lift Station #21 due to the force main leaking.	Ground
12	6/7/2025	8,000	SSO at Lift Station #15 due to electrical failure.	Venada arroyo
13	6/19/2025	40,500	SSO at Lift Station #24 due to pump failure.	Ground and nearby arroyo
14	6/20/2025	18,000	SSO at Lift Station #24 due to pump failure.	Ground and nearby arroyo
15	6/29/2025	200	SSO at Lift Station #24 due to pump failure.	Ground

Total Volume = 259,950