



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-11-06-2012-1746, NPDES Permit No. NM0020168

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 delegated the authority to issue this Order to the Regional Administrator of EPA Region 6, who delegated this authority to the Director of the Compliance Assurance and Enforcement Division.

Findings

1. The City of Aztec ("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 owned or operated a wastewater treatment plant, located at 900 South Oliver Street in Aztec, San Juan 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 201 W. Chaco, NM 87410.
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 Animas River in Segment 20.6.4.403 of the San Juan River 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 NM0020168 ("permit") under Section 402 of the Act, 33 U.S.C. § 1342, which became effective on September 1, 2009. 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. 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.
9. Part I.A of the permit places certain limitations on the quality and quantity of effluent discharged by the Permittee. The relevant discharge limitations are listed in "Attachment A" and "Attachment B."
10. Certified DMRs from September 2009, to August 2011, 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 "Attachment C."
11. Pursuant to Part I.A.1 of the permit, the Respondent is authorized to discharge treated municipal wastewater from Outfall 001 within the limitations specified. Part I.A.1 was violated in that the Respondent failed to meet the effluent limitations for Total Phosphorus and Total Nitrogen.
12. On June 10, 2010, the facility was inspected by a representative of the New Mexico Environment Department ("NMED"). As a result of this inspection, the facility was given an "unsatisfactory" rating in the area of Effluent/Receiving Waters. The new plant came online in September 2009, but had to be taken offline again while repairs and modifications were being made to the treatment works. The new plant came online again on April 21, 2010, though not all treatment units were in operation. The Advanced Nutrient Removal System ("ANR") was still under construction at the time of the NMED inspection. The inspector noted that there were forty (40) effluent violations for Total Phosphorous and Total Nitrogen during the time period of October 2009, until May 2010.

13. On May 10, 2011, the facility was inspected by a representative of the EPA. As a result of this inspection, the facility was given an "unsatisfactory" rating in the area of Operations and Maintenance and in the area of Flow Measurement. The inspector noted that the new plant had a functioning ANR System; however, the plant personnel had failed to "fine tune" their operations and were having ongoing issues with meeting Total Phosphorous and Total Nitrogen permit limits. It was noted that there were nineteen (19) effluent violations for Total Phosphorous and Total Nitrogen during the time period of March 2010, through the date of the EPA inspection. Additionally, the alarm system for power or equipment failures was inadequate. The inspector further noted that the flow meter did not meet permit requirements, because it had not been calibrated since 2009, and could not be read under bright sunlight. No comparison between the facility's primary and secondary flow measurement device could be performed during the inspection.

14. Pursuant to Part III.B.3.a of the permit, the Respondent 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 Permittee 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. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of backup or auxiliary facilities or similar systems which are installed by the Respondent only when the operation is necessary to achieve compliance with the conditions of this permit. Part III.B.3.a of the permit was violated in that the Respondent had no power backup in case of an emergency or an alarm system for notification of power failures or other problems at the facility.

15. 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, 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 certify compliance with permit

effluent limitations for Total Phosphorus (30-Day Average and Daily Maximum) and Total Nitrogen (30-Day Average and Daily Maximum). The Respondent shall also supply adequate backup power and calibrate the flow measurement device.

B. Within thirty (30) days of the effective date of this Order, the Respondent shall also provide the EPA with a written report detailing the specific actions taken to correct the violations cited for Total Phosphorus (30-Day Average and Daily Maximum), Total Nitrogen (30-Day Average and Daily Maximum), flow measurement and operations and maintenance.

C. In the event it will take the Respondent longer than thirty (30) days to achieve compliance, a listing of all non-compliance-related deficiencies and a schedule for repair/correction for each deficiency shall be submitted to the EPA for review and approval.

D. Any approved compliance schedule will be incorporated and re-issued in a future administrative order.

E. To ask questions or comment on this matter, please contact Ms. Sonia Hall at (214) 665-7490 or Ms. Mona Tate 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. Sonia Hall  
Water Enforcement Branch (6EN-WC)  
EPA, Region 6  
1445 Ross Ave., Suite 1200  
Dallas, TX 75202-2733

#### General Provisions

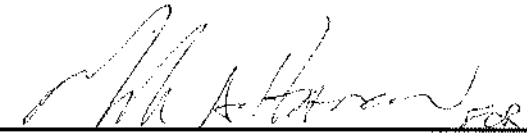
Issuance of this Order shall not be deemed an election by EPA to forego any administrative or judicial, civil or criminal action to seek penalties, fines, or any other relief appropriate under the Act for the violations cited herein, or other violations that become known. EPA reserves the right to seek 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 regulation.

11-25-11

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Date



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John Blevins  
Director  
Compliance Assurance and  
Enforcement Division