



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

September 14, 2022

CERTIFIED MAIL - RETURN RECEIPT REQUESTED:

Honorable Mayor Julius Alsandor
City of Opelousas
PO Box 1879
Opelousas, LA 70571

Re: Notice of Proposed Assessment of a Class I Civil Penalty
Docket Number: CWA-06-2022-1761
NPDES Facility Number: LA0036404

Dear Mayor Alsandor:

Enclosed is an Administrative Complaint (Complaint) issued to the City of Opelousas, Candy Street Wastewater Treatment Facility (WWTF) for violations of Section 301(a) of the Clean Water Act (33 U.S.C. §§ 1251–1387). The violations alleged are for failure to submit non-compliance reports for sanitary sewer overflows from the WWTF collection system.

You have the right to request a hearing regarding the violations alleged in the Complaint and the proposed administrative civil penalty. Please refer to the enclosed Part 22, "Consolidated Rules of Practice," for information regarding hearing and settlement procedures. Should you fail to request a hearing within thirty days of receipt of the Complaint, you will waive your right to such a hearing, and the proposed civil penalty of \$12,000 may be assessed against you without further proceedings.

Whether or not you request a hearing, we invite you to confer informally with EPA. You may represent yourself, or be represented by an attorney at any conference, whether in person or by telephone. EPA encourages all parties against whom it files a Complaint proposing assessment of a penalty to pursue the possibility of settlement through an informal conference.

EPA is committed to ensuring compliance with the requirements of the National Pollutant Discharge Elimination System (NPDES) program. My staff will assist you in any way possible. If you have any questions or wish to discuss the possibility of a settlement of this matter, please contact Ms. Rachel Matthews, of my staff, at (214) 665-8589.

Sincerely,

A handwritten signature in blue ink that reads "Cheryl T. Seager".

Digitally signed by
CHERYL SEAGER
Date: 2022.09.14
13:47:52 -05'00'

Cheryl T. Seager, Director
Enforcement and
Compliance Assurance Division

Enclosures

Re: Administrative Penalty Order
City of Opelousas

cc: EPA Regional Hearing Clerk

Ms. Naz Zanjani-Bachar
Enforcement, LDEQ
Naz.Zanjani-Bachar@la.gov

FILED

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UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 6

REGIONAL HEARING CLERK
EPA REGION VI

In the Matter of	§	DOCKET NO. CWA-06-2022-1761
	§	
City of Opelousas, a Louisiana Municipality,	§	
	§	Proceeding to Assess a Class I
	§	Civil Penalty under Section 309(g)
	§	of the Clean Water Act
Respondent	§	
	§	
LPDES Permit No. LA0036404	§	ADMINISTRATIVE COMPLAINT

I. Statutory Authority

This Administrative Complaint (Complaint) is issued under the authority vested in the Administrator of the United States Environmental Protection Agency (EPA) by Section 309(g) of the Clean Water Act (the Act), 33 U.S.C. § 1319(g). The Administrator of EPA delegated the authority to issue this Complaint to the Regional Administrator of EPA Region 6, who delegated this authority to the Director of the Enforcement and Compliance Assurance Division of EPA Region 6 (Complainant). This Class I Administrative Complaint is issued in accordance with and this action will be conducted under the “Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits,” including rules related to administrative proceedings not governed by Section 554 of the Administrative Procedure Act, 40 C.F.R. §§ 22.50 through 22.52.

Based on the following findings, the Complainant finds that the City of Opelousas, (Respondent) violated the Act and the regulations promulgated under the Act and should be ordered to pay a civil penalty.

II. Findings of Fact and Conclusions of Law

1. Respondent is a municipality, chartered under the laws of the State of Louisiana, 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.
2. At all times relevant to this action (all relevant times), Respondent owned or operated the City of Opelousas, Candy Street Wastewater Treatment Facility located at 2284 Candy Street, in Opelousas, St. Landry Parish, Louisiana (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 “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.
4. At all relevant times, the facility acted as a “point source” of a “discharge” of “pollutants” with its wastewater discharging into the Bayou Yarbore; thence into Bayou Callahan; thence into the Vermilion River (Subsegment 060801), 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.
5. 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 Act and the National Pollutant Discharge Elimination System (NPDES) program.
6. 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.
7. Section 402 of the Act, 33 U.S.C. § 1342, authorizes states to request approval from EPA to administer their own permit programs for discharges into navigable waters within their jurisdiction. Pursuant to this provision, the State of Louisiana requested approval from EPA to

administer its own permit program for discharges into navigable waters within Louisiana, and such approval was granted by EPA on August 27, 1996. Therefore, pursuant to the State's permit program, the Louisiana Department of Environmental Quality (LDEQ) issues Louisiana Pollutant Discharge Elimination System (LPDES) permits. Violation of an LPDES permit is a violation of Section 301(a) of the Act, 33 U.S.C. § 1311(a).

8. Respondent applied for and was issued a State of Louisiana LPDES Permit No. LA0036404 for Candy Street Wastewater Treatment Facility (herein after referred to as "permit") under Section 402 of the Act, 33 U.S.C. § 1342, with the most recent effective date of July 1, 2020. 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 respective permit.

9. The permit establishes the discharge point (i.e., outfall) at the facility from which discharges are authorized. The facility has only one outfall designated as Outfall 001. Any discharge from a point other than the permitted outfall is a violation of the permit conditions and a violation of Section 301 of the Act.

10. A "Sanitary Sewer Overflow" (SSO) is an unpermitted discharge from the "Wastewater Collection and Transmission System" (WCTS) and is a violation of the respective permit because the discharge is not from an outfall authorized by the permit and is an unauthorized discharge pursuant to Section 301 of the Act. SSOs are therefore a violation of Section 301 of the Act.

11. EPA issued an Administrative Order (AO), Docket Number CWA-06-2018-1815, on August 23, 2018, which cited violations of the permit for SSOs and failure to ensure proper operation and maintenance of the WCTS.

12. The permit also requires Respondent to report to LDEQ any non-compliance with permit conditions, including SSOs.

13. It is a violation when SSOs are not reported to LDEQ. A list of known unreported SSOs, during the period from May 2019 through January 2022, is contained in Attachment A and is incorporated herein by reference. For each entry listed on Attachment A, an EPA and/or LDEQ inspector observed active discharges from different points in the collection system that were not authorized to discharge under the permit. Prior to the filing of this action, LDEQ conducted a review to determine whether these incidents were reported by Respondent and confirmed that none were reported.

14. Under Section 309(g)(2)(A) of the Act, 33 U.S.C. § 1319(g)(2)(A), as modified by 40 C.F.R. Part 19, Respondent is liable for a civil penalty in an amount not to exceed \$23,989 per day for each day during which a violation continues, up to a maximum of \$59,973.

15. EPA has notified LDEQ of the issuance of this Complaint and has afforded LDEQ an opportunity to consult with EPA regarding the assessment of an administrative penalty against Respondent as required by Section 309(g)(1) of the Act, 33 U.S.C. § 1319(g)(1).

16. EPA has notified the public of the filing of this Complaint and has afforded the public thirty (30) days in which to comment on the Complaint and on the proposed penalty as required by Section 309(g)(4)(A) of the Act, 33 U.S.C. § 1319(g)(4)(A). At the expiration of the notice period, EPA will consider any comments filed by the public.

III. Proposed Penalty

17. Based on the foregoing Findings, and pursuant to the Authority of Sections 309(g)(1) and (g)(2)(A) of the Act, 33 U.S.C. §§ 1319(g)(1) and (g)(2)(A), EPA hereby proposes to assess against Respondent a penalty of twelve thousand dollars (\$12,000.00).

18. The proposed penalty amount was determined based on the statutory factors specified in Section 309(g)(3) of the Act, 33 U.S.C. § 1319(g)(3), which includes such factors as the nature, circumstances, extent and gravity of the violations, economic benefits, if any, prior history of such

violations, if any, degree of culpability, and such matters as justice may require. Complainant has specified that the administrative procedures specified in 40 C.F.R. Part 22, Subpart I, shall apply to this matter, and the administrative proceedings shall not be governed by Section 554 of the Administrative Procedure Act.

IV. Failure to File an Answer

19. If Respondent wishes to deny or explain any material allegation listed in the above Findings or to contest the amount of the penalty proposed, Respondent must file an Answer to this Complaint within thirty (30) days after service of this Complaint whether or not Respondent requests a hearing as discussed below.

20. The requirements for such an Answer are set forth at 40 C.F.R. § 22.15. Failure to file an Answer to this Complaint within thirty (30) days after service of the Complaint shall constitute an admission of all facts alleged in the Complaint and a waiver of the right to hearing. Failure to deny or contest any individual material allegation contained in the Complaint will constitute an admission as to that finding or conclusion under 40 C.F.R. § 22.15(d).

21. If Respondent does not file an Answer to this Complaint within thirty (30) days after service of this Complaint, a Default Order may be issued against Respondent pursuant to 40 C.F.R. § 22.17. A Default Order, if issued, would constitute a finding of liability, and could make the full amount of the penalty proposed in this Complaint due and payable by Respondent without further proceedings thirty (30) days after a final Default Order is issued.

22. Respondent must send its Answer to this Complaint, including any request for hearing, and all other pleadings to:

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

23. Respondent shall also send a copy of its Answer to this Complaint to the following EPA attorney assigned to this case:

Mr. Tucker Henson (6ORCEW)
U.S. EPA, Region 6
1201 Elm Street, Suite 500
Dallas, TX 75270-2102
henson.tucker@epa.gov

24. The Answer must be signed by Respondent, Respondent's counsel, or other Representative on behalf of Respondent and must contain all information required by 40 C.F.R. §§ 22.5 and 22.15, including the name, address, and telephone number of Respondent and Respondent's counsel. All other pleadings must be similarly signed and filed.

V. Notice of Opportunity to Request a Hearing

25. Respondent may request a hearing to contest any material allegation contained in this Complaint, or to contest the appropriateness of the amount of the proposed penalty, pursuant to Section 309(g) of the Act, 33 U.S.C. § 1319(g). The procedures for hearings are set out at 40 C.F.R. Part 22, including 40 C.F.R. §§ 22.50 through 22.52.

26. Any request for hearing should be included in the Respondent's Answer to this Complaint; however, as discussed above, Respondent must file an Answer to this Complaint meeting the requirements of 40 C.F.R. § 22.15 to preserve the right to a hearing or to pursue other relief.

27. Should a hearing be requested, members of the public who commented on the issuance of the Complaint during the public comment period will have a right to be heard and to present evidence at such hearing under Section 309(g)(4)(B) of the Act, 33 U.S.C. § 1319(g)(4)(B).

VI. Settlement

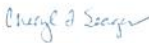
28. EPA encourages all parties against whom civil penalties are proposed to pursue the possibility of settlement through informal meetings with EPA. Regardless of whether a formal

hearing is requested, Respondent may confer informally with EPA about the alleged violations or the amount of the proposed penalty. Respondent may wish to appear at any informal conference or formal hearing personally, by counsel or other representative, or both. To request an informal conference on the matters described in this Complaint, please contact Ms. Rachel Matthews, of my staff, at (214) 665-8589.

29. If this action is settled without a formal hearing and issuance of an opinion by the Presiding Officer pursuant to 40 C.F.R. § 22.27, this action will be concluded by issuance of a Consent Agreement and Final Order (CAFO) pursuant to 40 C.F.R. § 22.18(b). The issuance of a CAFO would waive Respondent's right to a hearing on any matter stipulated therein or alleged in the Complaint. Any person who commented on this Complaint would be notified and given an additional thirty (30) days to petition EPA to set aside any such CAFO and to hold a hearing on the issues raised in the Complaint. Such a petition would be granted and a hearing held only if the evidence presented by petitioner's comment was material and was not considered by EPA in the issuance of the CAFO.

30. Neither assessment nor payment of a penalty in resolution of this action will affect Respondent's continuing obligation to comply with all requirements of the Act, the applicable regulations and permits, and any separate Compliance Order issued under Section 309(a) of the Act, 33 U.S.C. § 1319(a), including one relating to the violations alleged herein.

September 14, 2022
Date


Digitally signed by
CHERYL SEAGER
Date: 2022.09.14
13:00:09 -05'00'

Cheryl T. Seager, Director
Enforcement and
Compliance Assurance Division

CERTIFICATE OF SERVICE

I certify that the foregoing Class I Administrative Complaint was sent to the following persons, in the manner specified, on the date below:

Original hand-delivered: Regional Hearing Clerk (ORC)
 U.S. EPA, Region 6
 1201 Elm Street, Suite 500
 Dallas, TX 75270-2102

Copy by certified mail,
Return receipt requested: Honorable Mayor Julius Alsandor
 City of Opelousas
 PO Box 1879
 Opelousas, LA 70571

Copy by email: Ms. Naz Zanjani-Bachar
 Enforcement, LDEQ
 naz.zanjani-bachar@la.gov

Copy by email: Mr. Tucker Henson
 U.S. EPA, Region 6
 henson.tucker@epa.gov

Dated: _____

Appendix A

(Docket Number: CWA-06-2022-1761)

<u>Date</u>	<u>Incident Number</u>	<u>Location</u>	<u>EDMS Link</u>
1/8/2020	T194914	2424 Vista Drive	https://edms.deq.louisiana.gov/app/doc/view?doc=12042560
11/19/2021	T205873	2424 Vista Drive	https://edms.deq.louisiana.gov/app/doc/view?doc=13049541
11/22/2021	T206011	South City Park	https://edms.deq.louisiana.gov/app/doc/view?doc=13083738
12/3/2021	T206073	2424 Vista Drive	https://edms.deq.louisiana.gov/app/doc/view?doc=13049541
5/13/2022	T208616	2424 Vista Drive & Redbud Lane	https://edms.deq.louisiana.gov/app/doc/view?doc=13321836
6/6/2022	T208912	South City Park lift station.	https://edms.deq.louisiana.gov/app/doc/view?doc=13388814