



REGION 3
PHILADELPHIA, PA 19103

FILED
Apr 30, 2024
10:46 am
U.S. EPA REGION 3
HEARING CLERK

In the Matter of:

City of Salem
P.O. Box 352
229 W. Main Street
Salem, WV 26426

Respondent

City of Salem Wastewater Treatment Plant
229 W. Main Street
Salem, WV 26426
NPDES Permit No. WV0020257

Facility

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: U.S. EPA Docket No. CWA-03-2024-0026DN
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: ADMINISTRATIVE ORDER ON CONSENT
: PURSUANT TO 33 U.S.C. § 1319(a)
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I. STATUTORY AUTHORITY AND JURISDICTION

1. This Administrative Order on Consent (“AOC” or “Order”) for compliance is issued to the City of Salem (“Respondent”), under the authority vested in the United States Environmental Protection Agency (“EPA”) by Section 309(a) of the Clean Water Act (“CWA” or “Act”), 33 U.S.C. § 1319(a). The Administrator delegated this authority to the Regional Administrator of EPA Region 3, who further delegated it to the Director of the Enforcement & Compliance Assurance Division, EPA Region 3.
2. Section 309(a) of the Act provides, *inter alia*, that: “Whenever, on the basis of information available to [EPA], [EPA] finds that any person is in violation of any condition or limitation [implementing section 301, 302, 306, 307, 308, 318, or 405 of this title] in a permit issued under section [402] ... of this title, ... [EPA] shall issue an order requiring such person to comply with such condition or limitation” See 33 U.S.C. § 1319(a)(3).

3. The EPA has jurisdiction over the above-captioned matter, as described in Paragraphs 1 and 2, above.
4. The EPA has consulted with the West Virginia Department of Environmental Protection (“WVDEP”) regarding this action and, subsequent to the Effective Date, EPA will provide a copy of this fully executed AOC to the appropriate WVDEP representative.

II. GENERAL PROVISIONS

5. For purposes of this proceeding, Respondent admits the jurisdiction allegations set forth in this AOC.
6. Except as provided in Paragraph 5, above, Respondent neither admits nor denies the specific factual allegations set forth in this AOC.
7. The provisions of this AOC shall apply to and be binding upon the Respondent and its officers, directors, employees, contractors, agents, trustees, successors and assigns of the Respondent.
8. Respondent shall bear its own costs and attorneys’ fees in connection with this proceeding and associated with the implementation or enforcement of this AOC, including any costs related to resolution of any dispute arising regarding this AOC.
9. Issuance of this AOC is intended to address the violations described herein. EPA reserves the right to commence action against any person, including Respondent, in response to any condition which the EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. The EPA also reserves any existing rights and remedies available to it under the CWA, 33 U.S.C. § 1251 – 1389, the regulations promulgated thereunder, and any other federal laws or regulations for which EPA has jurisdiction. Further, the EPA reserves any rights and remedies available to it under the CWA, the regulations promulgated thereunder, and any other federal laws or regulations for which the EPA has jurisdiction, to enforce the provisions of this AOC, following the Effective Date, as defined below.
10. This AOC does not constitute a waiver or modification of the terms or conditions of any permit issued to Respondent. Nothing in this Order shall relieve Respondent of its obligation to comply with all applicable provisions of federal, state, or local laws and regulations, nor shall it restrict the EPA’s authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on the validity of any federal, state, or local permit. This Order does not constitute a waiver, suspension, or modification of the requirements of the Act, 33 U.S.C. §§ 1251 – 1389, or any regulations promulgated thereunder.
11. Respondent waives any and all remedies, claims for relief and otherwise available rights to judicial or administrative review that Respondent may have with respect to any issue

of fact or law set forth in this AOC, including any right of judicial review pursuant to Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701 – 706.

12. The EPA reserves all existing inspection authority otherwise available to the EPA pursuant to Section 308 of the CWA, 33 U.S.C. § 1318, or pursuant to any other statute or law.
13. The undersigned representative of Respondent certifies that he or she is fully authorized by the Respondent to enter into the terms and conditions of this AOC and to execute and legally bind the Respondent.
14. By signing this AOC, Respondent acknowledges that this AOC may be available to the public and represents that, to the best of Respondent's knowledge and belief, this AOC does not contain any confidential business information or personally identifiable information from Respondent.
15. Respondent certifies that any information or representation it has supplied or made to the EPA concerning this matter was, at the time of submission, true, accurate, and complete and that there has been no material change regarding the truthfulness, accuracy or completeness of such information or representation. The EPA shall have the right to institute further actions to recover appropriate relief if the EPA obtains evidence that any information provided and/or representations made by Respondent to the EPA regarding matters relevant to this AOC are false or, in any material respect, inaccurate. This right shall be in addition to all other rights and causes of action that the EPA may have, civil or criminal, under law or equity in such event. Respondent and its officers, directors and agents are aware that the submission of false or misleading information to the United States government may subject a person to separate civil and/or criminal liability.
16. For purposes of the identification requirement in Section 162(f)(2)(A)(ii) of the Internal Revenue Code, 26 U.S.C. § 162(f)(2)(A)(ii), and 26 C.F.R. § 162-21(b)(2), performance of the tasks set forth in Section V of this AOC (Compliance Order) is deemed restitution, remediation, or required to come into compliance with the law.

III. STATUTORY AND REGULATORY BACKGROUND

17. Section 301(a) of the Act, 33 U.S.C. § 1311(a), prohibits the discharge of any pollutant by any person except in compliance with sections 301, 302, 306, 307, 318, 402, and 404 of the Act, 33 U.S.C. §§ 1311, 1312, 1316, 1317, 1328, 1342, and 1344.
18. Section 402(a) of the Act, 33 U.S.C. § 1342(a), provides that the Administrator of the EPA may issue permits under the National Pollutant Discharge Elimination System ("NPDES") program for the discharge of pollutants from point sources to waters of the United States. The discharges are subject to specific terms and conditions as prescribed in the permit.

Section 402(b) of the Act, 33 U.S.C. § 1342(b), provides for the authorization of state programs to issue NPDES permits.

19. “Discharge of a pollutant” means “[a]ny addition of any ‘pollutant’ or combination of pollutants to ‘waters of the United States’ from any ‘point source’.” 40 C.F.R. § 122.2. See also 33 U.S.C. § 1362(12).
20. Pursuant to Section 402(b) of the Act, 33 U.S.C. § 1342(b), the EPA authorized WVDEP to administer the NPDES program in the State of West Virginia.
21. Pursuant to Section 402(i) of the CWA, 33 U.S.C. §1342(i), the EPA retains its authority to take enforcement action within West Virginia for NPDES permit violations.

IV. FINDINGS OF FACT AND JURISDICTIONAL ALLEGATIONS

22. As a municipality, Respondent is a “person” within the meaning of Section 502(4) and (5) of the Act, 33 U.S.C. § 1362(4) and (5).
23. At all times relevant to this AOC, Respondent owned and operated the City of Salem Wastewater Treatment Plant (“WWTP” or “Facility”), a municipal wastewater treatment facility that treats domestic wastewater from the City of Salem, West Virginia. The WWTP discharges domestic wastewater into Salem Fork, a tributary to the Monongahela River.
24. At all times relevant to this AOC, the operation of the WWTP has been subject to West Virginia NPDES Discharge Permit No. WV0020257 (“Permit”), which was issued by WVDEP on February 11, 2019, became effective on April 1, 2019, and has an expiration date of February 10, 2024.
25. Respondent is authorized to discharge pollutants, in the form of wastewater from the WWTP, to waters of the United States only in accordance with the terms and conditions of the Permit.
26. At all times relevant to this AOC, the WWTP discharged wastewater into Salem Fork, a tributary to the Monongahela River, through a “point source,” as that term is defined at Section 502(14) of the Act, 33 U.S.C. § 1362(14).
27. The Salem Fork and Monongahela River are waters of the United States within the meaning of Section 502(7) of the Act, 33 U.S.C. § 1362(7).
28. On April 12, 2022, representatives of EPA representatives inspected the WWTP for purposes of determining compliance with the Permit (“Inspection”).

**Count 1
Effluent Exceedances**

29. Part I.A.1 of the Permit sets forth the effluent limits under the Permit.
30. There were a total of ninety-five (95) effluent exceedances from January 1, 2019 to August 31, 2023 that were reported in Respondent’s discharge monitoring reports (“DMRs”). The parameters exceeded include dissolved oxygen (“DO”), biological oxygen demand, 5-day (“BOD5”), total suspended solids (“TSS”), ammonia, copper, fecal coliform, BOD5 percent removal, and suspended solids percent removal. The repeated violations caused the Facility to be in significant non-compliance (“SNC”). A summary of those effluent exceedances is as follows:

City of Salem WWTP Permit Limit Exceedances

Monitoring Period End Date	Out fall	Parameter	Limit Type	DMR Value	DMR Value Unit	Permit Limit	Permit Limit Value
1/31/2019	1	Nitrogen, ammonia total (as N)	MO AVG	10.74	lb/d	6.68	lb/d
1/31/2019	1	Nitrogen, ammonia total (as N)	MO AVG	2.76	mg/L	2	mg/L
1/31/2019	1	Solids, suspended percent removal	MO AVG MN	79	%	85	%
2/28/2019	1	Oxygen, dissolved (DO)	INST MIN	7	mg/L	7.4	mg/L
2/28/2019	1	Nitrogen, ammonia total (as N)	MO AVG	2.44	mg/L	2	mg/L
2/28/2019	1	Copper, total recoverable	MO AVG	0.006	mg/L	0.0057	mg/L
2/28/2019	1	BOD, 5-day, percent removal	MO AVG MN	82	%	85	%
2/28/2019	1	Solids, suspended percent removal	MO AVG MN	78	%	85	%
3/31/2019	1	Copper, total recoverable	MO AVG	0.007	mg/L	0.0057	mg/L
3/31/2019	1	Solids, suspended percent removal	MO AVG MN	83	%	85	%
4/30/2019	1	Solids, suspended percent removal	MO AVG MN	84	%	85	%
6/30/2019	1	Solids, total suspended	MO AVG	35	mg/L	30	mg/L

6/30/2019	1	Solids, total suspended	MO AVG	139.68	lb/d	99.98	lb/d
6/30/2019	1	Solids, suspended percent removal	MO AVG MN	42	%	85	%
10/31/2019	1	BOD, 5-day, percent removal	MO AVG MN	0.00005	%	85	%
10/31/2019	1	Solids, suspended percent removal	MO AVG MN	0.00005	%	85	%
12/31/2019	1	Nitrogen, ammonia total (as N)	MO AVG	7.38	mg/L	2	mg/L
12/31/2019	1	Nitrogen, ammonia total (as N)	MO AVG	7.38	lb/d	6.70	lb/d
12/31/2019	1	Nitrogen, ammonia total (as N)	DAILY MX	7.38	mg/L	4	mg/L
2/29/2020	1	BOD, 5-day, percent removal	MO AVG MN	0.00005	%	85	%
3/31/2020	1	Solids, suspended percent removal	MO AVG MN	78	%	85	%
5/31/2020	1	Nitrogen, ammonia total (as N)	DAILY MX	6.82	lb/d	6.70	lb/d
5/31/2020	1	Nitrogen, ammonia total (as N)	MO AVG	6.82	lb/d	3.30	lb/d
5/31/2020	1	Nitrogen, ammonia total (as N)	MO AVG	1.05	mg/L	1	mg/L
6/30/2020	1	Solids, suspended percent removal	MO AVG MN	0.00005	%	85	%
7/31/2020	1	Nitrogen, ammonia total (as N)	MO AVG	1.24	mg/L	1	mg/L
7/31/2020	1	Nitrogen, ammonia total (as N)	MO AVG	3.98	lb/d	3.30	lb/d
7/31/2020	1	BOD, 5-day, percent removal	MO AVG MN	49	%	85	%
8/31/2020	1	Nitrogen, ammonia total (as N)	MO AVG	4.50	lb/d	3.30	lb/d
8/31/2020	1	Nitrogen, ammonia total (as N)	MO AVG	1.32	mg/L	1	mg/L
8/31/2020	1	BOD, 5-day, percent removal	MO AVG MN	48.5	%	85	%
9/30/2020	1	Nitrogen, ammonia total (as N)	MO AVG	9/75	lb/d	3.30	lb/d
9/30/2020	1	Nitrogen, ammonia total (as N)	MO AVG	2.96	mg/L	1	mg/L

9/30/2020	1	Nitrogen, ammonia total (as N)	DAILY MX	2.96	mg/L	2	mg/L
9/30/2020	1	Nitrogen, ammonia total (as N)	DAILY MX	9.75	lb/d	6.70	lb/d
10/31/2020	1	Solids, suspended percent removal	MO AVG MN	49.5	%	85	%
11/30/2020	1	BOD, 5-day, percent removal	MO AVG MN	48.5	%	85	%
12/31/2020	1	BOD, 5-day, percent removal	MO AVG MN	47	%	85	%
12/31/2020	1	Solids, suspended percent removal	MO AVG MN	74	%	85	%
1/31/2021	1	Solids, suspended percent removal	MO AVG MN	78	%	85	%
2/28/2021	1	BOD, 5-day, 20 deg. C	MO AVG	25.4	mg/L	13	mg/L
2/28/2021	1	Nitrogen, ammonia total (as N)	MO AVG	6.36	mg/L	2	mg/L
2/28/2021	1	Nitrogen, ammonia total (as N)	DAILY MX	6.36	mg/L	4	mg/L
2/28/2021	1	Coliform, fecal general	DAILY MX	4850	#/100 mL	400	#/100 mL
2/28/2021	1	Coliform, fecal general	MO GEOMN	4850	#/100 mL	200	#/100 mL
2/28/2021	1	BOD, 5-day, percent removal	MO AVG MN	61	%	85	%
2/28/2021	1	Solids, suspended percent removal	MO AVG MN	50	%	85	%
3/31/2021	1	Oxygen, dissolved (DO)	INST MIN	6.22	mg/L	7.4	mg/L
3/31/2021	1	BOD, 5-day, 20 deg. C	MO AVG	14.5	mg/L	13	mg/L
3/31/2021	1	Nitrogen, ammonia total (as N)	DAILY MX	29.59	lb/d	13.40	lb/d
3/31/2021	1	Nitrogen, ammonia total (as N)	MO AVG	29.59	lb/d	6.70	lb/d
3/31/2021	1	Nitrogen, ammonia total (as N)	DAILY MX	29.6	mg/L	4	mg/L
3/31/2021	1	Nitrogen, ammonia total (as N)	MO AVG	29.6	mg/L	2	mg/L
3/31/2021	1	BOD, 5-day, percent removal	MO AVG MN	74	%	85	%
4/30/2021	1	Nitrogen, ammonia total (as N)	MO AVG	8.30	lb/d	6.70	lb/d

4/30/2021	1	Nitrogen, ammonia total (as N)	DAILY MX	8.3	mg/L	4	mg/L
4/30/2021	1	Nitrogen, ammonia total (as N)	MO AVG	8.3	mg/L	2	mg/L
4/30/2021	1	Copper, total recoverable	DAILY MX	7.7	mg/L	0.013	mg/L
4/30/2021	1	Copper, total recoverable	MO AVG	7.7	mg/L	0.009	mg/L
4/30/2021	1	Coliform, fecal general	DAILY MX	24196	#/100 mL	400	#/100 mL
4/30/2021	1	Coliform, fecal general	MO GEOMN	24196	#/100 mL	200	#/100 mL
5/31/2021	1	Copper, total recoverable	DAILY MX	3	mg/L	0.013	mg/L
5/31/2021	1	Copper, total recoverable	MO AVG	3	mg/L	0.009	mg/L
5/31/2021	1	Coliform, fecal general	MO GEOMN	226	#/100 mL	200	#/100 mL
6/30/2021	1	Copper, total recoverable	DAILY MX	5.2	mg/L	0.013	mg/L
6/30/2021	1	Copper, total recoverable	MO AVG	5.2	mg/L	0.009	mg/L
7/31/2021	1	Oxygen, dissolved (DO)	INST MIN	7.32	mg/L	7.4	mg/L
8/31/2021	1	Oxygen, dissolved (DO)	INST MIN	6.87	mg/L	7.4	mg/L
2/28/2022	1	Solids, suspended percent removal	MO AVG MN	81	%	85	%
3/31/2022	1	Solids, suspended percent removal	MO AVG MN	73	%	85	%
6/30/2022	1	Solids, suspended percent removal	MO AVG MN	84	%	85	%
7/31/2022	1	Oxygen, dissolved (DO)	INST MIN	6.95	mg/L	7.4	mg/L
8/31/2022	1	Oxygen, dissolved (DO)	INST MIN	7.32	mg/L	7.4	mg/L
8/31/2022	1	Solids, suspended percent removal	MO AVG MN	63	%	85	%
9/30/2022	1	Oxygen, dissolved (DO)	INST MIN	7.13	mg/L	7.4	mg/L
9/30/2022	1	Solids, suspended percent removal	MO AVG MN	83	%	85	%

10/31/2022	1	Solids, suspended percent removal	MO AVG MN	74	%	85	%
12/31/2022	1	Nitrogen, ammonia total (as N)	MO AVG	7.52	lb/d	6.70	lb/d
1/31/2023	1	Nitrogen, ammonia total (as N)	MO AVG	8.79	lb/d	6.70	lb/d
1/31/2023	1	Solids, suspended percent removal	MO AVG MN	79	%	85	%
2/28/2023	1	Nitrogen, ammonia total (as N)	MO AVG	13.22	lb/d	6.70	lb/d
2/28/2023	1	Nitrogen, ammonia total (as N)	MO AVG	3.3	mg/L	2	mg/L
2/28/2023	1	Copper, total recoverable	DAILY MX	4.73	mg/L	0.013	mg/L
2/28/2023	1	Copper, total recoverable	MO AVG	4.73	mg/L	0.009	mg/L
2/28/2023	1	Solids, suspended percent removal	MO AVG MN	25	%	85	%
3/31/2023	1	Solids, total suspended	MO AVG	116.60	lb/d	99.98	lb/d
3/31/2023	1	Nitrogen, ammonia total (as N)	MO AVG	17.75	lb/d	6.70	lb/d
3/31/2023	1	Nitrogen, ammonia total (as N)	MO AVG	3.5	mg/L	2	mg/L
3/31/2023	1	Nitrogen, ammonia total (as N)	DAILY MX	17.75	lb/d	13.40	lb/d
4/30/2023	1	Solids, total suspended	MO AVG	32	mg/L	30	mg/L
4/30/2023	1	Solids, suspended percent removal	MO AVG MN	76	%	85	%
6/30/2023	1	Oxygen, dissolved (DO)	INST MIN	7.01	mg/L	7.4	mg/L
6/30/2023	1	Coliform, fecal general	DAILY MX	2420	#/100 mL	400	#/100 mL
7/31/2023	1	Oxygen, dissolved (DO)	INST MIN	6.95	mg/L	7.4	mg/L
8/31/2023	1	Oxygen, dissolved (DO)	INST MIN	7.05	mg/L	7.4	mg/L

31. Based on the above allegations, Respondent violated Part I.A.1 of the Permit by failing to comply with the effluent limitations contained in the Permit on ninety-five (95) occasions from January 21, 2019, through August 31, 2023.
32. In failing to comply with the effluent limitations contained in Part A of the Permit, Respondent has violated Section 301 of the CWA, 33 U.S.C. § 1311.

Count 2

Failure to Submit Inflow and Infiltration Reports

33. Part C.13 of the Permit states that the Respondent shall continue to implement a program to identify and eliminate sources of inflow and infiltration (“I/I”). A written report shall be provided on a quarterly basis, as an attachment to the DMR, detailing what has been performed in relation to the implementation and accomplishments of the I/I elimination program.
34. From at least April 1, 2019, until July 30, 2021, Respondent failed to submit, on a quarterly basis, a written report as an attachment to the DMR detailing what has been performed to identify and eliminate I/I.
35. Based on the above allegations, Respondent violated Part C.13. of the Permit by failing to provide a written report, on a quarterly basis, as an attachment to the DMR detailing what has been performed to identify and eliminate I/I.
36. In failing to comply with the reporting requirements in Part C.13 of the Permit, Respondent has violated Section 301 of the CWA, 33 U.S.C. § 1311.

Count 3

Failure to Follow Sewage Sludge Percent Solids Requirement

37. Part D.8 of the Permit requires, with exceptions not relevant hereto, that any sewage sludge disposed in a landfill cell shall be non-hazardous material and a minimum of 20 percent solids. If the sewage sludge is not 20 percent solids, then a bulking agent may be used to achieve 20 percent solids before the sewage sludge is weighed in at the landfill.
38. During the Inspection, EPA representatives observed that, according to the Sewage Sludge Management Forms submitted by Respondent to WVDEP, four (4) loads with less than 20 percent solids were sent to a landfill in 2019, four (4) loads with less than 20 percent solids were sent to a landfill in 2020, eleven (11) loads with less than 20 percent

solids were sent to a landfill in 2021, and two (2) loads with less than 20 percent solids were sent to a landfill in 2022.

- 39. Based on the above allegations, Respondent violated Part D.8. of the Permit by submitting sewage sludge to a landfill cell for disposal that was not a minimum of 20 percent solids.
- 40. In failing to comply with the requirements in Part D.8. of the Permit, Respondent has violated Section 301 of the CWA, 33 U.S.C. § 1311.

Count 4
Failure to Operate Facility as Designed

- 41. Part C.12 of the Permit states that the average daily design flow of the WWTP has been established at 0.4 million gallons per day (“MGD”).
- 42. During the record review phase of the Inspection, inspectors determined that, according to the Facility’s daily flow sheet that is kept onsite, the Respondent routinely treated more than 0.4 MGD as follows:

Monitoring Period End Date	Outfall	Flow Type	Reported Flow (mgd)
4/30/2019	001	MAX DAILY	0.997
4/30/2019	001	MO AVG	0.576
5/31/2019	001	MAX DAILY	0.8714
5/31/2019	001	MO AVG	0.4909
6/30/2019	001	MAX DAILY	0.8911
6/30/2019	001	MO AVG	0.5206
7/31/2019	001	MAX DAILY	0.8610
7/31/2019	001	MO AVG	0.5183
8/31/2019	001	MAX DAILY	0.9472
8/31/2019	001	MO AVG	0.4762
9/30/2019	001	MAX DAILY	0.5259
10/31/2019	001	MAX DAILY	0.7907
10/31/2019	001	MO AVG	0.4368
11/30/2019	001	MAX DAILY	0.888
11/30/2019	001	MO AVG	0.490
12/31/2019	001	MAX DAILY	0.986
12/31/2019	001	MO AVG	0.645

1/31/2020	001	MAX DAILY	1.041
1/31/2020	001	MO AVG	0.729
2/29/2020	001	MAX DAILY	0.868
2/29/2020	001	MO AVG	0.739
3/31/2020	001	MAX DAILY	0.905
3/31/2020	001	MO AVG	0.696
4/30/2020	001	MAX DAILY	1.027
4/30/2020	001	MO AVG	0.712
5/31/2020	001	MAX DAILY	1.0331
5/31/2020	001	MO AVG	0.7335
6/30/2020	001	MAX DAILY	1.0402
6/30/2020	001	MO AVG	0.5845
7/31/2020	001	MAX DAILY	0.8088
7/31/2020	001	MO AVG	0.4167
8/31/2020	001	MAX DAILY	0.9631
8/31/2020	001	MO AVG	0.5444
9/30/2020	001	MAX DAILY	1.0446
9/30/2020	001	MO AVG	0.4780
10/31/2020	001	MAX DAILY	1.1874
10/31/2020	001	MO AVG	0.4647
11/30/2020	001	MAX DAILY	0.943
11/30/2020	001	MO AVG	0.528
12/31/2020	001	MAX DAILY	1.034
12/31/2020	001	MO AVG	0.730
1/31/2021	001	MAX DAILY	0.923
1/31/2021	001	MO AVG	0.589
2/28/2021	001	MAX DAILY	1.035
2/28/2021	001	MO AVG	0.782
3/31/2021	001	MAX DAILY	0.956
3/31/2021	001	MO AVG	0.699
4/30/2021	001	MAX DAILY	0.948
4/30/2021	001	MO AVG	0.638
5/31/2021	001	MAX DAILY	1.0976
5/31/2021	001	MO AVG	0.6331
6/30/2021	001	MAX DAILY	0.9776
6/30/2021	001	MO AVG	0.5744
7/31/2021	001	MAX DAILY	0.9674
7/31/2021	001	MO AVG	0.4792
8/31/2021	001	MAX DAILY	1.0446
8/31/2021	001	MO AVG	0.4924
9/30/2021	001	MAX DAILY	1.0984
9/30/2021	001	MO AVG	0.5163

10/31/2021	001	MAX DAILY	0.9480
10/31/2021	001	MO AVG	0.4618
11/30/2021	001	MAX DAILY	0.957
11/30/2021	001	MO AVG	0.485
12/31/2021	001	MAX DAILY	1.333
12/31/2021	001	MO AVG	0.631
1/31/2022	001	MAX DAILY	0.914
1/31/2022	001	MO AVG	0.660
2/28/2022	001	MAX DAILY	0.992
2/28/2022	001	MO AVG	0.707
3/31/2022	001	MAX DAILY	0.877
3/31/2022	001	MO AVG	0.666
4/30/2022	001	MAX DAILY	0.948
4/30/2022	001	MO AVG	0.638
5/31/2022	001	MAX DAILY	1.0363
5/31/2022	001	MO AVG	0.5797
6/30/2022	001	MAX DAILY	0.9701
6/30/2022	001	MO AVG	0.4744
7/31/2022	001	MAX DAILY	0.8541
7/31/2022	001	MO AVG	0.4810
8/31/2022	001	MAX DAILY	1.0554
8/31/2022	001	MO AVG	0.5782
9/30/2022	001	MAX DAILY	0.8448
9/30/2022	001	MO AVG	0.5451
10/31/2022	001	MAX DAILY	0.8814
10/31/2022	001	MO AVG	0.4776
11/30/2022	001	MAX DAILY	1.064
11/30/2022	001	MO AVG	0.592
12/31/2022	001	MAX DAILY	0.952
12/31/2022	001	MO AVG	0.656
1/31/2023	001	MAX DAILY	0.914
1/31/2023	001	MO AVG	0.660
2/28/2023	001	MAX DAILY	0.969
2/28/2023	001	MO AVG	0.646
3/31/2023	001	MAX DAILY	0.632
3/31/2023	001	MO AVG	0.945
4/30/2023	001	MAX DAILY	1.344
4/30/2023	001	MO AVG	0.555
5/31/2023	001	MAX DAILY	0.8520
5/31/2023	001	MO AVG	0.5806
6/30/2023	001	MAX DAILY	0.7880
6/30/2023	001	MO AVG	0.4394

7/31/2023	001	MAX DAILY	1.0301
7/31/2023	001	MO AVG	0.5361
8/31/2023	001	MAX DAILY	1.3409
8/31/2023	001	MO AVG	0.6501
9/30/2023	001	MAX DAILY	0.7213
9/30/2023	001	MO AVG	0.4825
10/31/2023	001	MAX DAILY	0.9989
10/31/2023	001	MO AVG	0.4482
11/30/2023	001	MAX DAILY	0.945

43. Based on the above allegations, Respondent violated Part C.12.of the Permit by treating more flow than the average daily design flow of the POTW.
44. In failing to comply with the operating requirements in Part C.12. of the Permit, Respondent has violated Section 301 of the CWA, 33 U.S.C. § 1311.

V. COMPLIANCE ORDER

Therefore, Respondent is hereby ORDERED, pursuant to Section 309(a) of the CWA, 33 U.S.C. § 1319(a), to conduct, and consents to conduct, the following activities:

45. Within thirty (30) days of the Effective Date of the AOC, submit to EPA, on a quarterly basis, a written report detailing what has been performed to identify and eliminate I/I at the Facility.
46. Within forty-five (45) days of the Effective Date of the AOC, the Respondent shall develop and provide to the EPA an Operations and Maintenance (“O&M”) Manual. The O&M Manual shall include but is not limited to:
 - a. NPDES Permit Overview including monitoring requirements, location of sampling or monitoring sites, sampling/reporting forms, and instructions for reporting and recordkeeping.
 - b. Description of Wastewater Treatment and Associated Process Equipment.
 - c. Inventory List of property, service lines, equipment, tools, and instruments; include manufacturer, model, serial number, and condition.
 - d. Lists of daily, weekly, monthly, quarterly, and/or annual maintenance tasks to be performed. Log sheets for recording maintenance performed.
 - e. Plan for inspection, cleaning, and maintenance of equipment and outfall channels.

- f. Take-Away Emergency Response Plan: (1) Flow charts for operators to handle specific problems (main breaks, chlorine leaks, chemical spills); (2) Names and phone/fax numbers of state and local responders (police, fire, hazmat, county, etc.) (3) Names/numbers of county and state agencies to call if waterborne disease outbreak or other health emergency.
47. Within ninety (90) days of the Effective Date of the AOC, the Respondent shall provide to the EPA for review, a Preliminary Engineering Evaluation of the WWTP. The Engineering Evaluation must be completed by a certified Professional Engineer. This evaluation must include an analysis of the causes of effluent exceedances, and responsive recommendations, including repairs and upgrades to the WWTP, required for Respondent to comply with the Permit effluent limitations and monitoring requirements of the Permit.
48. Within one hundred twenty (120) days of the Effective Date of the AOC, the Respondent shall provide to the EPA for review a Corrective Action Plan (“CAP”) to address effluent exceedances at the Facility. The CAP shall include, at a minimum, a plan and a schedule to correct all effluent exceedances at the WWTP, to be completed within twelve months (12) months of the Effective Date of this AOC.
49. After review of the CAP:
 - a. The EPA will, in writing: (i) accept the submission; (ii) accept the submission upon specified conditions; (iii) accept part of the submission and request resubmission of the remainder; or (iv) request a new submission.
 - b. If the submission is accepted by EPA, Respondent shall take all actions required by the CAP, in accordance with the schedule and requirements of the CAP, as approved. If the CAP is conditionally accepted or accepted only in part by EPA, Respondent shall, upon written direction from EPA, take all actions required by the accepted CAP that EPA determines are technically severable from any unacceptable portions.
 - c. If the CAP is unacceptable in whole or in part, Respondent shall, within thirty (30) days, or such other time as the Parties agree to in writing, correct all deficiencies and resubmit the CAP, or any unacceptable portion thereof, for approval, in accordance with the preceding Paragraphs. If the resubmission is accepted in whole or in part, Respondent shall proceed in accordance with the preceding Paragraph.

- d. CAP Deadlines. No later than twenty (20) days from the EPA's acceptance of the CAP, Respondent shall submit to EPA for review a list of deadlines included in the CAP. The list shall be submitted in an electronic format (e.g., unlocked spreadsheet or similar format agreed to by the Parties). Within ten (10) days of modification of any deadline under the CAP, Respondent shall provide an updated list reflecting changes to the future schedule.
50. Respondent shall submit a notice to the EPA within thirty (30) days of completing a scheduled event in the CAP until all work as identified in and required by the CAP has been completed.

VI. PROCEDURES FOR SUBMISSIONS

51. All documents required to be submitted by this Order and any Request for Termination shall be accompanied by a certification signed by a responsible officer, as defined in 40 CFR 122.22(d), that reads as follows:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Signed: 

Title: Mayor - City of Salem NV

Date: 3-27-24

52. Respondent may assert a business confidentiality claim covering part of all of the information which this AOC requires it to submit to EPA, but only to the extent and only in the manner described in Part 2 Subpart B of Title 40 of the C.F.R. The EPA will disclose information submitted under a confidentiality claim only as provided in Part 2 Subpart B of Title 40 of the C.F.R. If, at the time any information is submitted to the EPA, Respondent does not assert a confidentiality claim, EPA may make the submitted information available to the public without further notice to Respondent.

53. Unless otherwise directed in writing, Respondent shall submit any submission or written communication, including any accompanying data, relating to this AOC via email to:

Email: Crosby.Monica@epa.gov
Ms. Monica Crosby
NPDES Enforcement Officer
Enforcement and Compliance Assurance Division
U.S. EPA, Region 3

Any information submitted electronically shall be submitted in a widely recognized electronic format.

VII. CERTIFICATION OF COMPLIANCE AND REQUEST FOR TERMINATION OF AOC

54. Upon completion of all items required by the CAP and a determination of completeness of each item, Respondent shall submit to EPA a Certification of Compliance and Request for Termination of this AOC. Such certification and request shall include:
- a. a certification that Respondent has maintained compliance with this AOC for the term of this AOC; and
 - b. all necessary documentation, including photo documentation as appropriate, to support a finding that Respondent has complied with Section V (Compliance Order) of this AOC.
55. If, following review of any Certification of Compliance and Request for Termination of this AOC, the EPA agrees that Respondent has adequately complied with all requirements of this AOC, then EPA may, in its unreviewable discretion, provide written notification of termination of this AOC.

VIII. AOC MODIFICATIONS

56. Any request to modify the terms of, or parties to, this AOC shall be submitted, in writing, by Respondent to the EPA and shall be subject to review and approval by the EPA, in its sole and unreviewable discretion. Respondent's submission of a written request for modification of this AOC shall not relieve Respondent of any obligation under this AOC and shall have no effect on EPA's statutory or regulatory authority to enforce the terms of this AOC, in its sole and unreviewable discretion.

IX. CHANGE OF OWNERSHIP OR OPERATION OF THE WWTP

57. Until or unless this AOC is modified or terminated, in accordance with the terms of this AOC, Respondent shall remain responsible for compliance with the terms of this AOC following any transfer of ownership or operation of the WWTP.
58. At least ninety (90) days prior to any transfer of ownership or operation of the WWTP, Respondent shall submit a written notification to the EPA of any such anticipated change in ownership or operation of the WWTP (Notification of Change of Ownership or Operation). Each such Notification of Change of Ownership or Operation shall include, at a minimum, a detailed summary of the anticipated change in ownership or operation, contact information for the proposed new owner or operator of the WWTP and a schedule for such anticipated change.
59. Respondent shall condition any sale or transfer of ownership or operation of the WWTP, in whole or in part, upon the execution by such Prospective Third-Party Purchaser, or Transferee, of an agreement, which creates an obligation that shall survive the closing of such sale or transfer, of the WWTP, whereby such Prospective Third-Party Purchaser or Transferee agrees to comply with and be bound by the terms of this AOC.

X. EFFECTIVE DATE

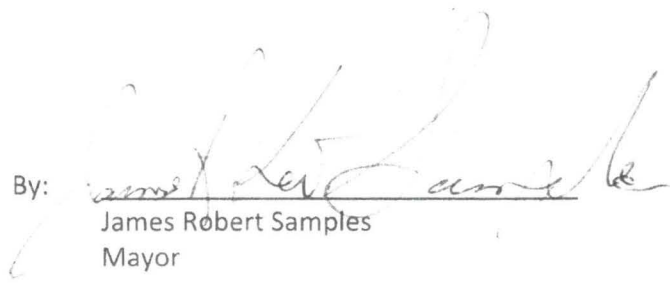
60. This AOC will become effective upon the Respondent's receipt of a fully-executed copy of this AOC.

In re: City of Salem

Docket No. CWA 03-2024-0026DN

CITY OF SALEM

Date: 5-27-2024

By: 
James Robert Samples
Mayor

In re: City of Salem

Docket No. CWA 03-2024-0026DN

SO ORDERED:

FOR U.S. ENVIRONMENTAL PROTECTION AGENCY

By:

[*Digital Signature and Date*]
Karen Melvin, Director

Enforcement & Compliance Assurance Division

U.S. Environmental Protection Agency, Region 3



REGION 3

PHILADELPHIA, PA 19103

In the Matter of:

U.S. EPA Docket No. CWA-03-2024-0026DN

City of Salem
P.O. Box 352
229 W. Main Street
Salem, WV 26426

**ADMINISTRATIVE ORDER ON CONSENT
PURSUANT TO 33 U.S.C. § 1319(a)**

Respondent

City of Salem Wastewater Treatment Plant
229 W. Main Street
Salem, WV 26426
NPDES Permit No. WV0020257

Facility

CERTIFICATE OF SERVICE

I certify that by the date of signature the foregoing Administrative Order on Consent, was filed with the EPA Region 3 Regional Hearing Clerk. I further certify that on the date set forth below, a true and correct copy of the foregoing to each of the following persons, in the manner specified below, at the following addresses:

Copies served via email to:

James Robert Samples
Mayor
City of Salem
salemwtp@frontier.com

Louis F. Ramalho
Senior Assistant Regional Counsel
U.S. EPA, Region 3
Ramalho.Louis@epa.gov

Monica Crosby
NPDES Enforcement – Water Branch, Enforcement and Compliance Assurance Division
U.S. EPA, Region 3
Crosby.Monica@epa.gov

[Digital Signature and Date]

Bevin Esposito
Regional Hearing Clerk
U.S. EPA, Region 3