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February 7, 2012

Mr. John Blevins
Director, Compliance Assurance and Enforcement Div.
U.S. EPA Region 6
1445 Ross Ave., Suite 1200
Dallas, TX 75202-2733

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2012 FEB 13 PM 3:28
REGIONAL HEARING CLERK
EPA REGION VI

**RE: Answer to Complaint and Request for Hearing - Administrative Order CWA-06-2012-1746; Civil Penalty Docket Number CWA-06-2012-1747
NPDES Permit No: NM0020168**

Dear Mr. Blevins,

In response to Administrative Complaint CWA-06-2012-1747, The City of Aztec (City) is hereby requesting a hearing pursuant to Section 309(g) of the Clean Water Act (Act), U.S.C. §1319(g). The City is requesting a hearing to contest the appropriateness of the proposed penalty, based upon the following responses to the Findings of Fact:

Findings 1 through 9: Accepted as presented.

Finding 10, Finding 11, Finding 12, Finding 13: Explanation: The City of Aztec's current discharge limits for nitrogen and phosphorous are extremely low when compared to previous discharge limits and when compared to other NPDES permits in the State of New Mexico. These extremely low level requirements forced the City of Aztec to expend a tremendous amount of money over the last few years to rebuild our wastewater treatment process utilizing the best available technology for biological reduction of nitrogen and phosphorous. Approximately \$13,000,000 has been expended to date by the City to attempt to comply with the NPDES permit requirements. Since the technology employed to comply with the permit requirements is cutting edge, the City has struggled to get the technology to perform as designed and as what was promised by the equipment vendors and our engineers. When the advanced nutrient removal system was completed in September 2010, upon the advice of our engineers, the final phase of the project (chemical injection of ferric chloride for phosphorus control) was not installed. The engineers and consultants felt the City could manage phosphorous discharges (as well as nitrogen) utilizing purely biological processes. Indeed, by mid-2011, it appeared that the City was close to coming into compliance. Unfortunately, every time the operators would create

201 West Chaco + Aztec, New Mexico 87410 + (505) 334-7600 + Fax: (505)
334-7609

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biological conditions that would optimize phosphorous removal, the biological conditions would become unsuitable for nitrogen control, and vice versa. It is important to note that from April 2011 to November 2011, the City was in compliance for the allowable limits of nitrogen. Our City Engineer (hired in October 2010) came to the conclusion that the best solution to meet the discharge limits would be to optimize the plant for biological nitrogen control, and utilize chemical addition to provide for phosphorous control. The City has contracted to have an additional \$455,000 in improvements made to the plant to come in to compliance.

Finding 14, Finding 15, Finding 16: Unknown to the City of Aztec.

In response to Administrative Order (AO) CWA-06-2012-1746, the City offers the following:

Order, Action Item A, B, C:

As stated in the request for hearing, the City has committed an additional \$455,000 to bring the City of Aztec's wastewater plant into compliance with NPDES permit NM0020168. With the exception of the requirement in the AO to calibrate the flow meters (which was performed in July 2011), the City will not be able to return to compliance within the 30 days as required by the Administrative Order. Therefore, the City is proposing the following schedule to return to compliance:

Total Residual Chlorine Instantaneous Maximum:

Task	Scheduled Completion Date:
1) Installation of ferric chloride dosing and monitoring system for the control of phosphorous	April 2012
2) Installation of additional dissolved oxygen probes and systems for control of nitrogen	June 2012
3) Installation of: -Influent overflow detection and alarming systems -Clarifier level monitoring and alarming systems -Emergency diesel pump and connections to monitoring systems -PLC interfaces, monitoring and alarming systems for all major plant functions	August 2012
4) Shake down of system, adjustment of dosing systems, operational modifications	August 2012 – December 2012
5) FULL COMPLIANCE	December 31, 2012

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The City of Aztec would like to pursue a settlement and an issuance of a Consent Agreement and Final Order with the U.S. EPA regarding the alleged violations and the amount of the proposed penalty prior to a formal hearing and issuance of an opinion by the Presiding Officer. The City is hopeful that U.S. EPA will understand the ultra low levels of phosphorous required by the permit are a serious technological and operational challenge, and will work with the City to aid the City in returning to compliance. The City requests that EPA consider reducing or eliminating the proposed fine, as the City has acted in good faith in our attempts to return to compliance. Any technical assistance the U.S. EPA can provide to address compliance issues related to this NPDES permit would be greatly appreciated.

Sincerely,



Joshua W. Ray
City Manager, City of Aztec
201 West Chaco St.
Aztec, NM 87410
(505) 334-7661

cc:

Larry T. Thrower, Respondent's Counsel
411 North Auburn
Farmington, NM 87401
(505) 325-6810

Mr. James Bearzi, Bureau Chief
Surface Water Quality Bureau
New Mexico Environment Department
P.O. Box 5469
Santa Fe, NM 87502-5469

Regional Hearing Clerk (6RC-D)
U.S. EPA Region 6
1445 Ross Ave., Suite 1200
Dallas, TX 75202-2733

Ms. Sonia Hall
Water Enforcement Branch (6EN-WC)
EPA, Region 6

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1445 Ross Ave., Suite 1200
Dallas, TX 75202-2733

Mr. Earle A. "Rusty" Herbert (6RC-EW)
U.S. EPA Houston Lab
10625 Fallstone Road
Houston, TX 77099

Mike Huber, P.E.
Director, Public Works Department
City of Aztec