UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS, TEXAS 75202-2733

APR 06 2012

CERTIFIED MAIL–RETURN RECEIPT REQUESTED (7005 1820 0003 7453 8496)

Mr. Phillip Rios
Interim County Manager
Sandoval County Administrative Offices
1500 Idalia Road, Building D
Bernalillo, NM 87004

Re: Administrative Penalty Order
Docket Number: CWA-06-2012-1767
Proposed Consent Agreement and Final Order
Docket Number: CWA-06-2012-1767
NPDES Permit Number: NMR04A003

Dear Mr. Rios:

Enclosed is an Administrative Complaint ("Complaint") issued to Sandoval County for violation of Section 301(a) of the Clean Water Act, 33 U.S.C. § 1251–1387. Violations were identified through our review of the Sandoval County Storm Water Management Program. The violation alleged is for failure to provide a complete and adequate Storm Water Management Plan for Sandoval County.

You, as the representative of Sandoval County, New Mexico, have the right to request a hearing regarding the violation alleged in the Complaint and the proposed administrative civil penalty. Please refer to the enclosed 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," for information regarding hearing and settlement procedures. Note that should you fail to request a hearing within thirty (30) days of your receipt of the Complaint, you will waive your right to such a hearing, and the proposed civil penalty of $5,000.00 may be assessed against you without further proceedings. Sandoval County has the right to be represented by an attorney at any stage of these proceedings.

Whether or not you request a hearing, we invite you to confer informally with the Environmental Protection Agency (EPA) concerning the alleged violations and the amount of the proposed penalty. You may represent Sandoval County or be represented by an attorney at any conference, whether in person or by telephone. The EPA encourages all parties against whom it files a complaint proposing assessment of a penalty to pursue the possibility of settlement as a result of an informal conference.

Also enclosed for your review and signature is the Consent Agreement and Final Order (CAFO) that specifies a proposed settlement agreement between EPA and Sandoval County resolving the violations alleged in the Complaint. If you wish to enter into this settlement agreement, please sign, date, and return the CAFO to Mr. Tucker Henson at the address above.

If you agree to settle this matter by signing and returning the CAFO, EPA will solicit public comments, which may impact the settlement. After consideration of public comments, EPA will sign and issue the CAFO, which is effective upon filing with the Regional Hearing Clerk. Please do not send payment of the penalty until you receive the CAFO signed by EPA. By signing the CAFO and agreeing to settle the case, you waive your right to a hearing on, and to a judicial appeal of, the agreed civil penalty specified in the CAFO.

The EPA is committed to ensuring compliance with the requirements of the National Pollutant Discharge Elimination System (NPDES) program, and 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. Diana McDonald, of my staff, at (214) 665-7495.

Sincerely,

John Blevins
Director
Compliance Assurance and
Enforcement Division

Enclosures

cc: w/Complaint–Regional Hearing Clerk

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

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 6

In the Matter of	§	Docket No. CWA-06-2012-1767
	§	
Sandoval County,	§	Proceeding to Assess a Class I
a New Mexico political sub-division,	§	Civil Penalty under Section 309(g)
	§	of the Clean Water Act
Respondent	§	
	§	
NPDES Permit No. NMR04A003	§	ADMINISTRATIVE COMPLAINT

I. Statutory Authority

This 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 ("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 further delegated this authority to the Director of the Compliance Assurance and Enforcement Division of EPA Region 6 ("Complainant"). This Class I Administrative Complaint is issued in accordance with the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits," 40 C.F.R. §§ 22.1–22.52, including rules related to administrative proceedings not governed by Section 554 of the Administrative Procedure Act, 40 C.F.R. §§ 22.50–22.52.

Based on the following Findings of Fact and Conclusions of Law, Complainant finds that Sandoval County ("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 political sub-division 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.

2. At all times relevant to this action ("all relevant times"), Respondent owned or operated a Municipal Separate Storm Sewer System ("MS4") comprised of a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) ("facility") located within Sandoval County, New Mexico.

3. At all relevant times, the MS4 was a "point source" of a "discharge" of "pollutants" with its storm water to receiving waters including, but not limited to, the Rio Grande, which are considered "waters of 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 Respondent owned or operated a facility that acted as a point source of discharges of pollutants to waters of the United States, Respondent was 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. On February 7, 2000, EPA promulgated Phase II of the Storm Water program requiring NPDES permit coverage for small MS4s ("sMS4s") located in "urbanized areas" as determined by the latest census. Operators of regulated sMS4s were to apply for permit coverage by March 10, 2003.

8. Under the Phase II Rule, EPA issued NPDES General Permit for Discharges from sMS4s, Permit Number NMR040000 ("General Permit"), which became effective on July 1, 2007. The General Permit required operators of regulated sMS4s to develop a Storm Water Management Program ("SWMP") specific to the General Permit and submit a Notice of Intent ("NOI") for coverage under the General Permit by October 1, 2007.

9. Respondent's MS4 is an sMS4 within the meaning of 40 C.F.R. § 122.26(b)(16) and is located in an urbanized area; therefore, Respondent was required to seek NPDES permit coverage under the Phase II Rule.

10. On June 5, 2009, EPA issued an Administrative Order, Docket Number CWA-06-2009-1863, to Respondent. The Order required Respondent to 1) submit an NOI within thirty (30) days of the effective date of the Order; 2) submit an SWMP within thirty (30) days of the effective date of the Order; and 3) submit a written certification that the cited violations had been corrected and the facility is in compliance.

11. Respondent submitted an NOI and SWMP on February 26, 2010. The SWMP was missing specific areas that should have been addressed or expanded.

12. After reviewing Respondent's NOI and SWMP, EPA notified Respondent of deficiencies in the SWMP via letter dated June 18, 2010 and email dated July 27, 2010. This correspondence noted that EPA deemed the SWMP incomplete and requested a complete SWMP by October 1, 2010.

13. EPA received a response on October 1, 2010; however, the SWMP remained incomplete. EPA notified Respondent of outstanding deficiencies by email dated December 21, 2010.

14. EPA received an additional response on January 14, 2011; however, the SWMP remained incomplete. EPA notified Respondent of outstanding deficiencies by email dated March 4, 2011.

15. On July 1, 2011, Respondent submitted a revised NOI and SWMP; however, the SWMP remained incomplete. EPA notified Respondent of outstanding deficiencies by email dated August 29, 2011.

16. EPA received an additional response on October 5, 2011; however, the SWMP remained incomplete. EPA notified Respondent that one part of the SWMP remained deficient by email dated November 25, 2011.

17. As of the date of the filing of this Complaint, Respondent has failed to respond to EPA and address the remaining deficiency; therefore, the SWMP remains incomplete.

18. The terms of the Administrative Order were violated in that a complete and adequate SWMP was not submitted by July 6, 2009.

19. Each day that Respondent discharged storm water from the facility without NPDES permit coverage was a violation of Section 301 of the Act, 33 U.S.C. § 1311.

20. From July 15, 2009, to December 1, 2011, there were one or more rainfall events of greater than one-half (½) inch at the facility.

21. Under Section 309(g)(2)(A) of the Act, 33 U.S.C. § 1319(g)(2)(A), Respondent is liable for a civil penalty in an amount not to exceed $16,000 per day for each day during which a violation continues, up to a maximum of $37,500.

22. EPA has notified the New Mexico Environment Department of the issuance of this Complaint and has afforded the State 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).

23. 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

24. 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 Region 6 hereby proposes to assess against Respondent a penalty of five thousand dollars ($5,000.00).

25. The proposed penalty amount was determined based on the statutory factors specified in Section 309(g)(3), 33 U.S.C. § 1319(g)(3), which includes such factors as the nature,

circumstances, extent and gravity of the violation(s), economic benefits, if any, prior history of such violations, if any, degree of culpability, and such matters as justice may require.

IV. Failure to File an Answer

26. 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.

27. 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 of 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).

28. 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.

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

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

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

Mr. Tucker Henson (6RC-EW)
U.S. EPA, Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

30. 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. §§ 22.05 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

31. 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, with supplemental rules at 40 C.F.R. § 22.38.

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

33. 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

34. 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. Diana McDonald, of my staff, at (214) 665-7495.

35. 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 to 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 the petitioner's comment was material and was not considered by EPA in the issuance of the CAFO.

36. 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.

4.6.12
Date

John Blevins
Director
Compliance Assurance and
Enforcement 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 (6RC-D)
U.S. EPA, Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

Copy by certified mail,
return receipt requested:

Mr. Phillip Rios
Interim County Manager
Sandoval County Administrative Offices
1500 Idalia Rd, Building D
Bernalillo, NM 87004

Carbon copy hand-delivered:

Tucker Henson (6RC-EW)
U.S. EPA, Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

Signed & Dated: _____ _____

CAFO CONCURRENCE

Sandoval County, New Mexico
Docket No.: CWA-06-2012-1767
Permit No.: NMR04A003

John Blevins

4·6·12
Date

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 6

In the Matter of	§	Docket No. CWA-06-2012-1767
	§	
Sandoval County,	§	
a New Mexico political subdivision	§	
	§	
	§	CONSENT AGREEMENT AND
Respondent	§	FINAL ORDER
	§	
Permit No. NMR04A003	§	Pursuant to 40 C.F.R. § 22.18(b)

I. PRELIMINARY STATEMENT

1. This Consent Agreement and Final Order ("CAFO") is issued under the authority vested in the United States Environmental Protection Agency ("EPA") pursuant to Section 309(g) of the Clean Water Act ("Act"), 33 U.S.C. § 1319(g). This CAFO is issued in accordance with 40 C.F.R. § 22.18, as described in the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits," 40 C.F.R. §§ 22.1–22.52.

2. On _____, 2012, EPA Region 6 issued to Sandoval County ("Respondent") an Administrative Complaint ("Complaint") under Section 309(g) of the Act, 33 U.S.C. § 1319(g), which proposed to assess a civil penalty against the Respondent and gave notice of the Respondent's opportunity to request a hearing on the proposed administrative penalty assessment.

3. EPA and Respondent ("Parties") agree that settlement of the relevant matters without litigation will save time and resources, that it is in the public's interest, and that the entry of this CAFO is the most appropriate means of resolving such matters. Compliance with all the terms

and conditions of this CAFO resolves only those violations alleged by EPA in the administrative Complaint.

4. Respondent admits the jurisdictional allegations of the Complaint; however, the Respondent neither admits nor denies the specific factual allegations and conclusions of law contained in the Complaint or the Findings of Fact and Conclusions of Law contained in this CAFO. This CAFO states a claim upon which relief may be granted.

5. Respondent expressly waives any right to contest the factual allegations or Conclusions of Law contained in the Complaint and this CAFO and waives its right to appeal the Final Order set forth herein.

6. Before the taking of any testimony, and without adjudication of any issue of law or fact, the Parties agree to the terms of this CAFO and to its issuance. Respondent consents to the assessment and payment of a civil penalty in the amount and by the method stated below.

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

7. Respondent is a political sub-division of the State of New Mexico, and as such, the 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.

8. Respondent owned or operated a Municipal Separate Storm Sewer System ("MS4") comprised of a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains) ("facility") located within Sandoval County, New Mexico. Respondent's operation of the facility was the subject of the Complaint.

9. The Complaint specified Findings of Fact and Conclusions of Law that are hereby incorporated by reference and alleged, among other things, that at the relevant times: Respondent was a "person" that "owned or operated" a facility that was a "point source" subject to a "discharge" of "pollutants" to identified "waters 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; Respondent and the facility were subject to the provisions of the Act, 33 U.S.C. §§ 1251–1387, and the National Pollutant Discharge Elimination System ("NPDES") program; and Respondent violated Section 301 of the Act, 33 U.S.C. § 1311, by failing to provide a complete and adequate Storm Water Management Plan as required. With the issuance of the Complaint, the State of New Mexico was notified and given an opportunity to consult with EPA regarding the proposed assessment of an administrative penalty against the Respondent.

10. EPA notified the public of the complaint via the internet at www.epa.gov/region6/publicnotice and afforded the public thirty (30) days to comment on the complaint and proposed penalty. At the expiration of the notice period, EPA received no comments from the public.

III. TERMS OF SETTLEMENT

A. PENALTY PROVISIONS

11. Based on the foregoing Findings of Fact and Conclusions of Law, EPA Region 6, considering the relevant criteria pursuant to Section 309(g)(3) of the Act, 33 U.S.C. § 1319(g)(3), and acting pursuant to the authority of Section 309(g) of the Act, 33 U.S.C. § 1319(g), hereby orders that Respondent shall pay to the United States a civil penalty in the

amount of five thousand dollars ($5,000.00) to settle the violations as alleged in the Complaint, in accordance with 40 C.F.R. § 22.18(c).

12. Payment shall be made by one of the following methods within thirty (30) days of the effective date of this CAFO:

a. By mailing a bank check, a cashier's check or certified check, payable to "Treasurer of the United States," to the following address:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

b. By wire transfer to:

Federal Reserve Bank of New York
ABA: 021030004
Account Number: 68010727
SWIFT address: FRNYUS33
33 Liberty Street
New York, NY 10045
Field Tag 4200 of the Fedwire message should read:
"D 68010727 Environmental Protection Agency"

c. By overnight mail (Express, FedEx, DHL, etc.) to:

U.S. Bank
Government Lockbox 979077
U.S. EPA Fines & Penalties
1005 Convention Plaza
SL-MO-C2-GL
St. Louis, MO 63101
Phone: 314-418-1028

d. By credit card payments to: https://www.pay.gov/paygov

(enter sfo 1.1 in the search field)

"In the Matter of Sandoval County, NM, Docket No. CWA-06-2012-1767," should be clearly marked on the check to ensure credit for payment.

13. Respondent shall send simultaneous notices of payment, including a copy of the check, to each of the following:

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

(b) Chief, NPDES Compliance Section (6EN-WC)
U.S. EPA, Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

(c) Chief, Water Legal Branch (6RC-EW)
U.S. EPA, Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

Respondent's adherence to these procedures will ensure proper credit when payment is received by EPA.

14. Respondent agrees not to claim or attempt to claim a federal income tax deduction or credit covering all or any part of the civil penalty paid to the United States Treasurer.

15. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, unless otherwise prohibited by law, EPA will assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim. Interest on the civil penalty assessed in this CAFO will begin to accrue thirty (30) days after the effective date of the CAFO and will be recovered by EPA on any amount of the civil penalty that is not paid by the respective due date. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a). Moreover, the

costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period the debt is overdue. 40 C.F.R. § 13.11(b).

16. EPA will also assess a fifteen dollar ($15.00) administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional fifteen dollars ($15.00) for each subsequent thirty (30) day period that the penalty remains unpaid. In addition, a penalty charge of up to six percent (6%) per year will be assessed monthly on any portion of the debt which remains delinquent more than ninety (90) days. 40 C.F.R. § 13.11(c). Should a penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d). Other penalties for failure to make a payment may also apply.

17. Pursuant to Section 309(g)(9) of the Act, 33 U.S.C. § 1319(g)(9), any person who fails to pay on a timely basis a civil penalty ordered or assessed under this section shall be required to pay, in addition to such penalty and interest, the United States' enforcement expenses including, but not limited to, attorneys' fees and costs incurred by the United States for collection proceedings, and a quarterly nonpayment penalty for each quarter during which such failure to pay persists. Such nonpayment penalty shall be twenty percent (20%) of the aggregate amount of such person's outstanding penalties and nonpayment penalties accrued as of the beginning of each quarter.

18. Failure by Respondent to pay the penalty assessed according to the terms of this CAFO, in full, by its due date, may subject Respondent to a civil action to collect the assessed penalty and any accrued interest and penalties.

19. In the event a collection action is necessary, Respondent shall pay–in addition to any applicable penalty, fees, and interest described herein–all reasonable costs and expenses,

including legal expenses and court costs, incurred by the United States for enforcement and collection proceedings for nonpayment of the amounts agreed hereunder, pursuant to Section 309(g)(9) of the Act, 33 U.S.C. § 1319(g)(9). In any such collection action, the validity, amount, and appropriateness of the penalty, and the terms of this CAFO shall not be subject to review.

IV. GENERAL PROVISIONS

20. To execute this Agreement, Respondent shall sign and forward this copy of the CAFO, with original signature, to:

Mr. Tucker Henson
Water Legal Branch (6RC-EW)
U.S. EPA, Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

21. Issuance of this CAFO does not relieve Respondent from responsibility to comply with all requirements of the Act and the requirements of any permits issued thereunder, as described in Section 309(g)(7) of the Act, 33 U.S.C. § 1319(g)(7), nor does it constitute a waiver by EPA of its right to enforce compliance with the requirements of Respondent's permits or other requirements of the Act by actions pursuant to Section 309 of the Act, 33 U.S.C. § 1319.

22. The provisions of this CAFO shall be binding upon Respondent, its officers or officials, managers, employees, and their successors or assigns, in their capacity on behalf of Respondent.

23. Each party agrees to bear its own costs and attorneys' fees in this matter, except to the extent that Respondent may be responsible for reasonable costs and expenses of enforcement and collection proceedings for failure to comply with the terms of this CAFO.

24. Each undersigned representative of the parties to this agreement certifies that he or she is fully authorized by the party represented to enter into the terms and conditions of this agreement and to execute and legally bind that party to it.

In recognition and acceptance of the foregoing:

Phillip Rios Interim County Manager Sandoval County	Date
John Blevins Director Compliance Assurance and Enforcement Division	Date

FINAL ORDER

Pursuant to the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits, 40 C.F.R. §§ 22.1–22.52, the foregoing Consent Agreement is hereby ratified. This Final Order shall not in any case affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This Final Order shall resolve only those causes of action alleged in the Complaint. Nothing in this Final Order shall be construed to waive, extinguish, or otherwise affect the Respondent's (or its officers', agents', servants', employees', successors', or assigns') obligation to comply with all applicable federal, state, and local statutes and regulations, including the regulations that were the subject of this action. The Respondent is ordered to comply with the terms of settlement and the civil penalty payment instructions as set forth in the Consent Agreement. Pursuant to 40 C.F.R. § 22.31(b), this Final Order shall become effective upon filing with the Regional Hearing Clerk.

Issuance Date: _____

_____
Regional Judicial Officer
U.S. EPA, Region 6

CERTIFICATE OF SERVICE

I hereby certify that on the _____ day of _____, 2012, the original of the foregoing Consent Agreement and Final Order was hand-delivered to the Regional Hearing Clerk, U.S. EPA, Region 6 (6RC-D), 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733, and that a true and correct copy was placed in the United States mail, by certified mail, return receipt requested, addressed to the following:

Mr. Phillip Rios
Interim County Manager
Sandoval County Administrative Offices
1500 Idalia Road, Building D
Bernalillio, NM 87004

with a copy, first class postage prepaid, to:

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

Copy hand-delivered: Mr. Tucker Henson (6RC-EW)

Dated & Signed: _____ _____

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS, TEXAS 75202-2733

CERTIFIED MAIL–RETURN RECEIPT REQUESTED (7005 1820 0003 7453 8502)

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

Re: Notice of Proposed Assessment of Class I Civil Penalty
Docket Number: CWA-06-2012-1767
NPDES Permit Number: NMR04A003

Dear Mr. Bearzi:

Enclosed is a copy of the Administrative Complaint (Complaint) which the Environmental Protection Agency (EPA) is issuing to Sandoval County (Respondent), pursuant to Section 309(g) of the Clean Water Act (CWA), 33 U.S.C. § 1319(g). EPA is issuing the Complaint to administratively assess a Class I civil penalty of $5,000.00 against the Respondent for violation of the CWA. Because the violation has occurred in the State of New Mexico, I am offering you an opportunity to confer with us regarding the proposed penalty assessment.

You may request a conference within two weeks of receipt of this letter. The conference may be in person or by telephone and may cover any matters relevant to the proposed penalty assessment. If you wish to request a conference or if you have any comments or questions regarding the matter, please contact Ms. Diana McDonald, of my staff, at (214) 665-7495.

Sincerely,

John Blevins
Director
Compliance Assurance and
Enforcement Division

Enclosure