



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6  
1445 ROSS AVENUE, SUITE 1200  
DALLAS, TEXAS 75202-2733

NOV 25 2011

CERTIFIED MAIL - RETURN RECEIPT REQUESTED (7005 1820 0003 7453 9196)

Mr. Joshua W. Ray, City Manager  
City of Aztec  
201 W. Chaco  
Aztec, NM 87410

Re: Administrative Order Docket Number: CWA-06-2012-1746  
Notice of Proposed Assessment of Class I Civil Penalty  
Docket Number: CWA-06-2012-1747  
NPDES Permit Number: NM0020168

Dear Mr. Ray:

Enclosed are an Administrative Order (AO) and an Administrative Complaint (Compliant) issued to the City of Aztec for violation of Section 301(a) of the Clean Water Act, 33 U.S.C. § 1311. Violations were identified during a review of your facility's permit file and through two inspections of your Aztec wastewater treatment facility, conducted by the New Mexico Environment Department on June 10, 2010, and by the Environmental Protection Agency (EPA) on May 10, 2011. The inspection results were discussed with your representative at the time of each inspection. The violations alleged include, but are not limited to, the following:

1. Failure to meet effluent limitations for Total Phosphorus and Total Nitrogen; and
2. failure to properly operate and maintain the facility.

The AO requires compliance with applicable federal regulations within thirty (30) days of its receipt.

The Complaint assesses a monetary penalty for past violations. If it can be demonstrated that the violations cited in the AO have been corrected in a timely manner, the EPA has the right to negotiate the penalty amount down or perhaps mitigate the penalty amount partially by way of a Supplemental Environmental Project (SEP). The SEP must benefit the environment in the watershed where the violations occurred and must not be required by the permit or other laws.

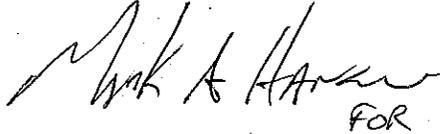
You, as the representative of the City of Aztec, have the right to request a hearing regarding the violations alleged in the Complaint and the proposed administrative civil penalty. Please refer to the enclosed Part 22, "Consolidated Rules of Practice," for information regarding hearing and settlement procedures. 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 \$30,000.00 may be assessed against you without further proceedings. Whether or not you request a hearing, we invite you to confer informally with the EPA.

Re: Administrative Order  
City of Aztec

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The EPA is committed to ensuring compliance with the requirements of the National Pollutant Discharge Elimination System 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. Mona Bates, of my staff, at (214) 665-7152.

Sincerely,



FOR

John Blevins  
Director  
Compliance Assurance and  
Enforcement Division

Enclosures

cc: w/Complaint-Regional Hearing Clerk (6RC-D)

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



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 Tates 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



Handwritten signature of John Blevins, with the initials "FOR" written at the end of the signature.

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John Blevins  
Director  
Compliance Assurance and  
Enforcement Division

**UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 6**

In the Matter of	§ Docket No. CWA-06-2012-1747
	§
City of Aztec,	§
a New Mexico Municipality,	§ Proceeding to Assess a Class I
	§ Civil Penalty under Section 309(g)
	§ of the Clean Water Act
Respondent	§
	§ ADMINISTRATIVE COMPLAINT
NPDES Permit No. NM0020168	§

**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 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, 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 Procedures Act, 40 C.F.R. §§ 22.50 through 22.52.

Based on the following Findings, Complainant finds that the City of Aztec (“Respondent”) has 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 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.

2. At all times relevant to this Order ("all relevant times"), the Respondent owned or operated the City of Aztec 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.

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 No. NM0020168 (“permit”) under Section 402 of the Act, 33 U.S.C. § 1342, which became effective on September 1, 2009 and expires on August 31, 2011. 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 non-compliance 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 Non-Compliance Reports when appropriate.

9. Part 1.A of the permit places certain limitations on the quality and quantity of effluent discharged by the Respondent.

10. Certified DMRs filed by the Respondent with EPA in compliance with the permit show discharge of pollutants from the facility that exceed the permitted effluent limitations established in Part 1.A of the permit.

11. 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 of Section 301 of the Act, 33 U.S.C. § 1311.

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. The inspector noted that the new plant had a functioning ANR System; however, the plant personnel failed to "fine tune" their operations and were having ongoing issues with meeting Total Phosphorous and Total Nitrogen permit limits. There were nineteen (19) effluent violations of Total Phosphorus and Total Nitrogen noted during the EPA inspection.

14. Under Section 309(g)(2)(A) of the Act, 33 U.S.C. § 1319(g)(2)(A), the 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.

15. EPA has notified the NMED 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 the 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 Region 6 hereby proposes to assess against the Respondent a civil penalty of thirty thousand dollars (\$30,000.00).

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

19. Complainant has specified that the administrative procedures specified in 40 C.F.R. Part 22, Subpart I, shall apply to this case, and the administrative proceedings shall not be governed by Section 554 of the Administrative Practice Act. However, pursuant to 40 C.F.R. § 22.42(b), Respondent has a right to elect a hearing on the record in accordance with 5 U.S.C. § 554, and Respondent waives this right unless Respondent in its Answer requests a hearing in accordance with 5 U.S.C. § 554.

#### IV. Failure to File an Answer

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

21. The requirements for such an Answer are set forth at 40 C.F.R. § 22.15 (copy enclosed). 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).

22. If the 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 the 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 the Respondent without further proceedings thirty (30) days after a Final Default Order is issued.

23. The Respondent must send it's 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

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

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

24. The Answer must be signed by the Respondent, the Respondent's counsel, or other representative on behalf of the 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 the Respondent and the Respondent's counsel. All other pleadings must be similarly signed and filed.

#### V. Notice of Opportunity to Request a Hearing

25. The 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, the 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.

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

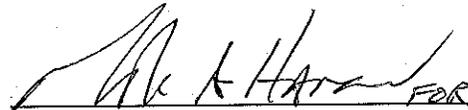
28. EPA encourages all parties against whom civil penalties are proposed to pursue the possibility of settlement through informal meetings with EPA. Regardless of whether a formal hearing is requested, the Respondent may confer informally with EPA about the alleged violations or the amount of the proposed penalty. The 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. Mona Bates at (214) 665-7152.

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 the 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 the 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 the 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.

11-25-11

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 Ave., Suite 1200  
Dallas, TX 75202-2733

Copy by certified mail,  
return receipt requested: Mr. Joshua Ray, City Manager  
City of Aztec  
201 W. Chaco  
Aztec, NM 87410

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

Copy hand-delivered: Mr. Rusty Herbert (6RC-EW)  
Office of Regional Counsel  
U.S. EPA, Region 6  
1445 Ross Ave., Suite 1200  
Dallas, TX 75202-2733

Dated: \_\_\_\_\_

Attachment A  
Effluent Limits NM0020168

**1. Interim Effluent Limits – 1.0 MGD Design Flow**

During the period beginning the effective date of the permit and lasting through the start-up of the new facility (unless otherwise noted), the permittee is authorized to discharge treated municipal wastewater from Outfall 001. Such discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS		DISCHARGE LIMITATIONS					MONITORING REQUIREMENTS	
		lbs/day, unless noted		mg/l, unless noted				
POLLUTANT	STORET CODE	30-DAY AVG	7-DAY AVG	30-DAY AVG	7-DAY AVG	DAILY MAX	MEASURE-MENT FREQUENCY	SAMPLE TYPE
Flow	50050	Report MGD	Report MGD	N/A	N/A	N/A	Continuous	Totalizing Meter
Biochemical Oxygen Demand, 5-day	00310	250	375	30	45	N/A	2/Week	24-Hr Composite
Total Suspended Solids	00530	250	375	30	45	N/A	2/Week	24-Hr Composite
E. Coli Bacteria (*1)	51040	4.78x10 <sup>7</sup>	N/A	N/A	N/A	126	2/Week	Grab
TDS, Water Plant Intake	70295	N/A	N/A	N/A	N/A	Report(*2)	1/Month	24-Hr Composite
TDS, Effluent	70295	N/A	N/A	N/A	N/A	Report(*2)	1/Month	24-Hr Composite
TDS, Increment	70295	N/A	N/A	N/A	N/A	Report(*2)	1/Month	Calculation
Total Phosphorous	00665	9.32 (*3)	N/A	1.12	N/A	1.12	1/Month	24-Hr Composite
Total Nitrogen	00600	25.3 (*3)	N/A	3.04	N/A	3.04	1/Month	24-Hr Composite
Total Residual Chlorine	50060	N/A	N/A	N/A	N/A	0.019	2/Week (*4)	Grab

**Footnotes:**

- \*1 Concentration unit: Colony forming units (cfu) per 100 ml. Mass daily load is  $4.78 \times 10^9$  cfu/day or  $4.78 \times 10^3$  Mcfu/day.  
Mass Load (cfu/day) = Conc (cfu/100 ml) x  $3.79 \times 10^7$
- \*2 Total dissolved solids. Report TDS from intake water to water treatment plant and effluent at wastewater treatment plant, and report:  
TDS, Increment = TDS, effluent – TDS, water plant intake.
- \*3 Daily Load.
- \*4 Only if chlorine product is used in the system for clean-up, algae control, or any other purpose, the permittee shall take a grab sample and analyze it within 15 minutes of collection. Report "0" if chlorine product is not used during the reporting period.
- \*5 Once per quarter. If the first full year of testing, four (4) quarterly tests pass, then the frequency for Dp could be reduced to 1/6-months and for Pp to 1/year. See Part II of the Permit for monitoring frequency reduction. If any test demonstrates significant toxic effects at the 100% critical dilution, testing for the affected species will continue at once/quarter until the expiration date of the permit. Additionally, for this failure, TRE requirements, as defined in Part II, Section D, Whole Effluent Toxicity Testing Requirements, will be conducted. At the expiration date of this permit, until a renewal permit is issued, biomonitoring frequency monitoring reverts to once per quarter until the permit is re-issued. See Part II, Section E of the permit.

Attachment B  
Effluent Limits NM0020168

**2. Final Effluent Limits – 1.2 MGD Design Flow**

During the Period beginning the start-up of the new facility and lasting through the expiration date of the permit (unless otherwise noted), the permittee is authorized to discharge treated municipal wastewater from Outfalls 001. Such discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS		DISCHARGE LIMITATIONS					MONITORING REQUIREMENTS	
		lbs/day, unless noted		mg/l, unless noted			MEASUREMENT FREQUENCY	SAMPLE TYPE
POLLUTANT	STORET CODE	30-DAY AVG	7-DAY AVG	30-DAY AVG	7-DAY AVG	DAILY MAX		
Flow	50050	Report MGD	Report MGD	***	***	***	Continuous	Totalizing Meter
Biochemical Oxygen Demand, 5-day	00310	300	450	30	45	N/A	2/Week	24-Hr Composite
Total Suspended Solids	00530	300	450	30	45	N/A	2/Week	24-Hr Composite
E. Coli Bacteria (*1)	51040	4.78x10 <sup>9</sup>	N/A	N/A	N/A	126	2/Week	Grab
TDS, Water Plant Intake	70295	N/A	N/A	N/A	N/A	Report(*2)	1/Month	24-Hr Composite
TDS, Effluent	70295	N/A	N/A	N/A	N/A	Report(*2)	1/Month	24-Hr Composite
TDS, Increment	70295	N/A	N/A	N/A	N/A	400 (*2)	1/Month	Calculation
Total Phosphorous	00665	9.32 (*3)	N/A	0.93	N/A	0.93	1/Month	24-Hr Composite
Total Nitrogen	00600	25.3 (*3)	N/A	2.53	N/A	2.53	1/Month	24-Hr Composite
Total Residual Chlorine	50060	N/A	N/A	N/A	N/A	0.019	2/Week (*4)	Grab

**Footnotes:**

- \*1 Concentration unit: Colony forming units (cfu) per 100 ml. Mass daily load is 4.78 x 10<sup>9</sup> cfu/day or 4.78 X 10<sup>3</sup> Mcfu/day.  
Mass Load (cfu/day) = Conc (cfu/100 ml) x 3.79 x 10<sup>7</sup>
- \*2 Total dissolved solids. Report TDS from intake water to water treatment plant and effluent at wastewater treatment plant, and report:  
TDS, Increment = TDS, effluent – TDS, water plant intake.
- \*3 Daily Load.
- \*4 Only if chlorine product is used in the system for clean-up, algae control, or any other purpose, the permittee shall take a grab sample and analyze it within 15 minutes of collection. Report "0" if chlorine product is not used during the reporting period.
- \*5 Once per quarter. If the first full year of testing, four (4) quarterly tests pass, then the frequency for Dp could be reduced to 1/6-months and for Pp to 1/year. See Part II of the Permit for monitoring frequency reduction. If any test demonstrates significant toxic effects at the 100% critical dilution, testing for the affected species will continue at once/quarter until the expiration date of the permit. Additionally, for this failure, TRE requirements, as defined in Part II, Section D, Whole Effluent Toxicity Testing Requirements, will be conducted. At the expiration date of this permit, until a renewal permit is issued, biomonitoring frequency monitoring reverts to once per quarter until the permit is re-issued. See Part II, Section E of the permit.

Attachment C  
Effluent Violations NM0020168

Date	Outfall	Parameter	Violation	Permit Limit
9/30/2009	001A	Total Nitrogen, 30 day average	43.9 lbs./day	25.3 lbs./day
9/30/2009	001A	Total Nitrogen, 30 day average	7.6 mg/L	3.04 mg/L
9/30/2009	001A	Total Nitrogen, daily maximum	7.6 mg/L	3.04 mg/L
9/30/2009	001A	Total Phosphorus, 30 day average	14.4 lbs./day	9.32 lbs./day
9/30/2009	001A	Total Phosphorus, 30 day average	2.5 mg/L	1.12 mg/L
9/30/2009	001A	Total Phosphorus, daily maximum	2.5 mg/L	1.12 mg/L
10/31/2009	001A	Total Nitrogen, 30 day average	74.7 lbs./day	25.3 lbs./day
10/31/2009	001A	Total Nitrogen, 30 day average	14 mg/L	3.04 mg/L
10/31/2009	001A	Total Nitrogen, daily maximum	14 mg/L	3.04 mg/L
10/31/2009	001A	Total Phosphorus, 30 day average	10.7 lbs./day	9.32 lbs./day
10/31/2009	001A	Total Phosphorus, 30 day average	2 mg/L	1.12 mg/L
10/31/2009	001A	Total Phosphorus, daily maximum	2 mg/L	1.12 mg/L
11/30/2009	001A	Total Nitrogen, 30 day average	67.8 lbs./day	25.3 lbs./day
11/30/2009	001A	Total Nitrogen, 30 day average	14 mg/L	3.04 mg/L
11/30/2009	001A	Total Nitrogen, daily maximum	14 mg/L	3.04 mg/L
11/30/2009	001A	Total Phosphorus, 30 day average	16.2 lbs./day	9.32 lbs./day
11/30/2009	001A	Total Phosphorus, 30 day average	3.35 mg/L	1.12 mg/L
11/30/2009	001A	Total Phosphorus, daily maximum	3.35 mg/L	1.12 mg/L
12/31/2009	001A	Total Nitrogen, 30 day average	101 lbs./day	25.3 lbs./day
12/31/2009	001A	Total Nitrogen, 30 day average	17 mg/L	3.04 mg/L
12/31/2009	001A	Total Nitrogen, daily maximum	17 mg/L	3.04 mg/L
12/31/2009	001A	Total Phosphorus, 30 day average	14.8 lbs./day	9.32 lbs./day
12/31/2009	001A	Total Phosphorus, 30 day average	2.49 mg/L	1.12 mg/L
12/31/2009	001A	Total Phosphorus, daily maximum	2.49 mg/L	1.12 mg/L
1/31/2010	001A	Total Nitrogen, 30 day average	54.5 lbs./day	25.3 lbs./day
1/31/2010	001A	Total Nitrogen, 30 day average	12 mg/L	3.04 mg/L
1/31/2010	001A	Total Nitrogen, daily maximum	12 mg/L	3.04 mg/L
1/31/2010	001A	Total Phosphorus, 30 day average	13.2 lbs./day	9.32 lbs./day
1/31/2010	001A	Total Phosphorus, 30 day average	2.9 mg/L	1.12 mg/L
1/31/2010	001A	Total Phosphorus, daily maximum	2.9 mg/L	1.12 mg/L
2/28/2010	001A	Total Nitrogen, 30 day average	55.5 lbs./day	25.3 lbs./day
2/28/2010	001A	Total Nitrogen, 30 day average	12 mg/L	3.04 mg/L
2/28/2010	001A	Total Nitrogen, daily maximum	12 mg/L	3.04 mg/L
2/28/2010	001A	Total Phosphorus, 30 day average	15.7 lbs./day	9.32 lbs./day
2/28/2010	001A	Total Phosphorus, 30 day average	3.4 mg/L	1.12 mg/L
2/28/2010	001A	Total Phosphorus, daily maximum	3.4 mg/L	1.12 mg/L
3/31/2010	001A	Total Nitrogen, 30 day average	4.9 mg/L	3.04 mg/L
3/31/2010	001A	Total Nitrogen, daily maximum	4.9 mg/L	3.04 mg/L

Attachment C  
Effluent Violations NM0020168

Date	Outfall	Parameter	Violation	Permit Limit
4/30/2010	001A	Total Phosphorus, 30 day average	21.9 lbs./day	9.32 lbs./day
4/30/2010	001A	Total Phosphorus, 30 day average	4.8 mg/L	1.12 mg/L
4/30/2010	001A	Total Phosphorus, daily maximum	4.8 mg/L	1.12 mg/L
4/30/2010	001A	Total Nitrogen, 30 day average	5.2 mg/L	3.04 mg/L
4/30/2010	001A	Total Nitrogen, daily maximum	5.2 mg/L	3.04 mg/L
5/31/2010	001A	Total Phosphorus, 30 day average	14.2 lbs./day	9.32 lbs./day
5/31/2010	001A	Total Phosphorus, 30 day average	3.1 mg/L	1.12 mg/L
5/31/2010	001A	Total Phosphorus, daily maximum	3.1 mg/L	1.12 mg/L
6/30/2010	001A	Total Nitrogen, 30 day average	4.8 mg/L	3.04 mg/L
6/30/2010	001A	Total Nitrogen, daily maximum	4.8 mg/L	3.04 mg/L
6/30/2010	001A	Total Phosphorus, 30 day average	31.2 lbs./day	9.32 lbs./day
6/30/2010	001A	Total Phosphorus, 30 day average	6.1 mg/L	1.12 mg/L
6/30/2010	001A	Total Phosphorus, daily maximum	6.1 mg/L	1.12 mg/L
7/31/2010	001A	Total Nitrogen, 30 day average	4.4 mg/L	3.04 mg/L
7/31/2010	001A	Total Nitrogen, daily maximum	4.4 mg/L	3.04 mg/L
7/31/201	001A	Total Phosphorus, 30 day average	24.2 lbs./day	9.32 lbs./day
7/31/2010	001A	Total Phosphorus, 30 day average	5.5 mg/L	1.12 mg/L
7/31/2010	001A	Total Phosphorus, daily maximum	5.5 mg/L	1.12 mg/L
8/31/2010	001A	Total Nitrogen, 30 day average	38.5 lbs./day	25.3 lbs./day
8/31/2010	001A	Total Nitrogen, 30 day average	6.2 mg/L	3.04 mg/L
8/31/2010	001A	Total Nitrogen, daily maximum	6.2 mg/L	3.04 mg/L
8/31/2010	001A	Total Phosphorus, 30 day average	27 lbs./day	9.32 lbs./day
8/31/2010	001A	Total Phosphorus, 30 day average	4.35 mg/L	1.12 mg/L
8/31/2010	001A	Total Phosphorus, daily maximum	4.35 mg/L	1.12 mg/L
9/30/2010	001A	Total Nitrogen, 30 day average	3.34 mg/L	3.04 mg/L
9/30/2010	001A	Total Nitrogen, daily maximum	3.34 mg/L	3.04 mg/L
*****	*****	<b>Final Limits Effective 10/1/2010</b>	*****	*****
10/31/2010	001A	Total Nitrogen, 30 day average	3.7 mg/L	2.53 mg/L
10/31/2010	001A	Total Nitrogen, daily maximum	3.7 mg/L	2.53 mg/L
11/30/2010	001A	Total Nitrogen, daily maximum	3.1 mg/L	2.53 mg/L
11/30/2010	001A	Total Phosphorus, 30 day average	16.9 lbs./day	9.32 lbs./day
11/30/2010	001A	Total Phosphorus, 30 day average	3.7 mg/L	0.93 mg/L
11/30/2010	001A	Total Nitrogen, 30 day average	3.1 mg/L	2.53 mg/L
12/31/2010	001A	Total Nitrogen, 30 day average	62.8 lbs./day	25.3 lbs./day
12/31/2010	001A	Total Nitrogen, 30 day average	12 mg/L	2.53 mg/L
12/31/2010	001A	Total Nitrogen, daily maximum	12 mg/L	2.53 mg/L
01/31/2011	001A	Total Nitrogen, 30 day average	4.6 mg/L	2.53 mg/L
01/31/2011	001A	Total Nitrogen, daily maximum	4.6 mg/L	2.53 mg/L

Attachment C  
Effluent Violations NM0020168

<b>Date</b>	<b>Outfall</b>	<b>Parameter</b>	<b>Violation</b>	<b>Permit Limit</b>
02/28/2011	001A	Total Nitrogen, 30 day average	5.2 mg/L	2.53 mg/L
02/15/2011	001A	Total Nitrogen, daily maximum	5.2 mg/L	2.53 mg/L
03/31/2011	001A	Total Nitrogen, 30 day average	9.4 mg/L	2.53 mg/L
03/31/2011	001A	Total Nitrogen, daily maximum	9.4 mg/L	2.53 mg/L
03/31/2011	001A	Total Phosphorus, 30 day average	1.50 mg/L	0.93 mg/L
03/31/2011	001A	Total Phosphorus, daily maximum	1.50 mg/L	0.93 mg/L
04/30/2011	001A	Total Nitrogen, 30 day average	2.90 mg/L	2.53 mg/L
04/30/2011	001A	Total Nitrogen, daily maximum	2.90 mg/L	2.53 mg/L
05/31/2011	001A	Total Phosphorus, 30 day average	0.95 mg/L	0.93 mg/L
05/31/2011	001A	Total Phosphorus, daily maximum	0.95 mg/L	0.93 mg/L
06/30/2011	001A	Total Phosphorus, 30 day average	1.46 mg/L	0.93 mg/L
06/30/2011	001A	Total Phosphorus, daily maximum	1.46 mg/L	0.93 mg/L
07/31/2011	001A	Total Phosphorus, 30 day average	25.9 lbs./day	9.32 lbs./day
07/31/2011	001A	Total Phosphorus, 30 day average	5.30 mg/L	0.93 mg/L
07/31/2011	001A	Total Phosphorus, daily maximum	5.30 mg/L	0.93 mg/L
08/31/2011	001A	Total Phosphorus, 30 day average	1.58 mg/L	0.93 mg/L
08/31/2011	001A	Total Phosphorus, daily maximum	1.58 mg/L	0.93 mg/L



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6  
1445 ROSS AVENUE, SUITE 1200  
DALLAS, TEXAS 75202-2733

NOV 25 2011

CERTIFIED MAIL - RETURN RECEIPT REQUESTED (7005 1820 0003 7453 9202)

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 Administrative Penalty Assessment  
Docket Number: CWA-06-2012-1747  
NPDES Permit Number: NM0020168

Dear Mr. Bearzi:

Enclosed is a copy of the Administrative Complaint (Complaint) which the Environmental Protection Agency (EPA) is issuing to the City of Aztec (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 \$30,000.00 against the Respondent for violation of the CWA. Because the violation has occurred in the State of New Mexico, EPA is 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. Sonia Hall, of my staff, at (214) 665-7490.

Sincerely,

A handwritten signature in black ink, appearing to read "John Blevins". Below the signature, the initials "Fok" are written in a smaller, less legible script.

John Blevins  
Director  
Compliance Assurance and  
Enforcement Division

Enclosure