



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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

FEB 28 2019

CERTIFIED MAIL - RETURN RECEIPT REQUESTED: 7015 1520 0003 4072 7862

Mr. Mike Frisbie  
San Antonio Water System  
Senior Vice President & Chief Operating Officer  
2100 U.S. Highway 281 North  
San Antonio, TX 78212

Re: Administrative Order; Docket Number: CWA-06-2019-1753  
NPDES Permit Number: TX0065641

Dear Mr. Frisbie:

Enclosed is an Administrative Order (AO) issued to the San Antonio Water System (SAWS) for violation of Section 301 of the Clean Water Act (CWA) (33 U.S.C. §§ 1251-1387). Violations were identified during a review of the permit file and Discharge Monitoring Reports submitted to the Environmental Protection Agency, Region 6 (EPA). The violations alleged are for exceedances of permitted effluent limitations.

The enclosed AO, Docket Number: CWA-06-2019-1753, does not assess a monetary penalty; however, it does require compliance with applicable federal regulations and with the enclosed schedule. The first compliance deadline is within forty-five days of receipt of the AO. The AO also contains other compliance schedule deadlines and certain information. EPA is committed to ensuring compliance with the CWA requirements and my staff will assist you in any way possible. Please reference AO Docket Number CWA-06-2019-1753 and Facility Number TX0065641 on your response.

If you have any questions, please contact Mr. Damon McElroy, of my staff, at (214) 665-7159.

Sincerely,

A handwritten signature in black ink, appearing to be "C. Seager", with a long horizontal line extending to the right.

Cheryl T. Seager  
Director  
Compliance Assurance and  
Enforcement Division

Enclosure(s)

Re: Administrative Order  
San Antonio Water System

2

cc: Laurie Eaves  
Water Section Manager, Enforcement Division  
Office of Compliance & Enforcement  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, TX 78711-3087

Jeff Haby, P.E.  
San Antonio Water System  
2800 U.S. Hwy. 281 North  
San Antonio, TX 78212



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
1445 Ross Avenue, Suite 1200, Dallas, TX 75202  
FINDINGS OF VIOLATION AND COMPLIANCE ORDER  
Docket Number: CWA-06-2019-1753; Facility Number: TX0065641

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 ("the 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. San Antonio Water System ("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"), Respondent owned or operated the Mitchell Lake Site Wastewater Treatment Facility located south of the City of San Antonio, in Bexar County, Texas ("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 acted as a "point source" of a "discharge" of "pollutants" with its wastewater to the receiving waters of Cottonmouth Creek; thence to the Medina River below Medina Diversion Lake in Segment No. 1903 of the San Antonio River Basin, which is a "water of the United States," within the meaning of Section 502 of the Act, 33 U.S.C. § 1362, and 40 C.F.R. § 122.2.
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 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 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. Respondent applied for and was issued TPDES Permit Number TX0065641 ("permit") under Section 402 of the Act, 33 U.S.C. § 1342, which became effective on October 15, 2015. At all relevant times, Respondent was authorized to discharge pollutants from the facility to waters of the United States only in compliance with the specific terms and conditions of the permit.
8. On August 12, 2016 EPA issued an Administrative Order ("AO") Docket No. CWA-06-2016-1770. The AO cited violation(s) of Section 301 of the Clean Water Act ("CWA") (33 U.S.C. §§ 1251-1387). This AO (Docket No. CWA-06-2019-1753) supersedes the previous AO (Docket No. CWA-06-2016-1770).
9. "Effluent Limitations and Monitoring Requirements" for each permit place certain limitations on the quantity and quality of effluent discharged by Respondent. The relevant discharge violations are incorporated herein by reference in Attachment A.
10. "Monitoring and Reporting Requirements" of the permit require Respondent to sample and test its effluent and monitor its compliance with permit conditions according to specific procedures to determine the facility's compliance or noncompliance with the permit and regulations. They also require Respondent to file with EPA and the Texas Commission on Environmental Quality ("TCEQ") certified Discharge Monitoring Reports ("DMRs") of the results of monitoring, and noncompliance reports when appropriate.
11. Certified DMRs filed by Respondent with EPA and TCEQ in compliance with the permit show discharges of pollutants from the facility's that exceed permitted effluent limitations. The relevant discharge violations are incorporated herein by reference in Attachment B.
12. 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.

SECTION 309(a)(3) COMPLIANCE ORDER

Based on the foregoing Findings and pursuant to the authority of Section 309(a)(3) of the Act, EPA hereby orders Respondent to take the following actions:

A. Respondent shall complete the following tasks listed in the Schedule of Activities to achieve compliance with the requirements of the Act:

SCHEDULE OF ACTIVITIES	
Activity	Due Date
Phase 1 Projects	
Construct Pilot Wetland	June 6, 2019
Vegetation Grow-In and Start-Up	August 5, 2019
Operate Pilot Wetland for One Year	August 5, 2020
Pilot Wetland Performance Report	December 31, 2020
Phase 2 Projects	
Engage Phase 2 Consultants	March 31, 2021
Wetland Design (including surveys, geotechnical work, preliminary and detailed designs, and city permit procurement)	August 31, 2022
Advertise for Bid and Award Construction	November 30, 2022
Phase 2 Construction	May 31, 2024
Completion, Operation, and Contingencies	September 30, 2024

B. Within forty-five (45) days after the completion date for each task, Respondent shall submit to EPA a Project completion Report for each task listed in table "A" directly above. The Project Completion Report shall contain the following information:

- 1) A detailed description of the Project as implemented;
- 2) a description of any operating problems encountered and the solutions thereto;
- 3) certification that the Project has been fully implemented pursuant to the provisions of this Order;
- 4) photographs of the Project construction activities, equipment costs, and materials purchased; and
- 5) photographs of the Project construction activities from the issue date of this Order to conclusion of the Project.

C. In addition, Respondent shall submit an annual progress reports that describes in detail the specific actions taken and the progress made on compliance with the Schedule of Activities listed above. The annual progress reports are due on March 31 of each year and will cover the activities during the previous calendar year. The first annual progress report will be due on March 31, 2021.

D. In the Project Completion Report, submitted to EPA pursuant to this Administrative Order, Respondent shall, by its officers, sign and certify under penalty of law that the information contained in such report is true, accurate, and not misleading by signing the following statement:

*I certify under penalty of law that I have examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment.*

E. If Respondent would like to arrange a meeting with EPA to discuss the allegations in this Section 309(a)(3) Compliance Order, it should contact EPA within forty-five (45) days of the effective date of this Order. The meeting will be held at the Region 6 offices, 1445 Ross Ave., Dallas, Texas, and Respondent can provide any information it believes is relevant to this Order. Respondent shall submit to EPA all information or materials it considers relevant to EPA at least ten (10) days prior to the meeting.

F. To arrange a meeting, or to ask questions or comment on this matter, please contact Mr. Damon McElroy, of my staff, at (214)-665-7159.

G. Any information or correspondence submitted by Respondent to EPA shall be sent to the following address:

Ms. Judy Edelbrock  
 Water Enforcement Branch (6EN-WM)  
 U.S. EPA, Region 6  
 1445 Ross Ave., Suite 1200  
 Dallas, TX 75202-2733

GENERAL PROVISIONS

Issuance of this Section 309(a)(3) Compliance 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 to EPA. EPA reserves the right to seek any remedy available under the law that it deems appropriate.

Failure to comply with this Section 309(a)(3) Compliance 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.

The effective date of this Order is the date it is received by the Respondent.

2/28/19

Date



Cheryl T. Seager  
Director  
Compliance Assurance and  
Enforcement Division

**Attachment A**

**Permit Number: TX0065641**

**Outfall 001**

Effluent Characteristic	Discharge Limitations for Outfall 001 of the Permit Effective October 15, 2015			
	Daily Average mg/L (lbs./day)	7-Day Average mg/L	Daily Maximum mg/L	Daily Minimum mg/L
<b>Biochemical Oxygen Demand (5-day) or BOD<sub>5</sub></b>	30* (N/A)	45 mg/L	70 mg/L	N/A
<b>Total Suspended Solids (TSS)</b>	90* (N/A)	135	N/A	N/A
<b>Dissolved Oxygen, (DO)</b>	N/A	N/A	N/A	4.0
<b>pH, Standard Units</b>	N/A	N/A	9.0	6.0

\* Monitoring shall occur when discharging.

## Attachment B

Permit Number: TX0065641  
Outfall 001

Date	Parameter	Violation	Permit Limit
11/30/2016	BOD5, Daily Ave.	35.1 mg/L	30 mg/L
7/31/16	TSS, Daily Ave.	103 mg/L	90 mg/L
4/30/17	TSS, Daily Ave.	104.61 mg/L	90 mg/L
11/30/18	TSS, Daily Ave.	115.79 mg/L	90 mg/L
12/31/18	TSS, Daily Ave.	118.37 mg/L	90 mg/L
1/31/19	TSS, Daily Ave.	106.07 mg/L	90 mg/L
5/31/2016	Dissolved Oxygen, Daily Min.	3.2 mg/L	4.0 mg/L
6/30/2016	Dissolved Oxygen, Daily Min.	2.9 mg/L	4.0 mg/L
6/30/16	pH, Daily Max.	10	9.0
7/31/16	pH, Daily Max.	9.5	9.0
8/31/16	pH, Daily Max.	10	9.0
9/30/16	pH, Daily Max.	13.76	9.0
10/31/16	pH, Daily Max.	9.64	9.0
11/30/16	pH, Daily Max.	9.93	9.0
12/31/16	pH, Daily Max.	9.3	9.0
1/31/17	pH, Daily Max.	9.8	9.0
2/28/17	pH, Daily Max.	9.8	9.0
3/31/17	pH, Daily Max.	9.73	9.0
4/30/17	pH, Daily Max.	10	9.0
11/30/18	pH, Daily Max.	9.1	9.0