



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

APR 5 2018

CERTIFIED MAIL--RETURN RECEIPT REQUESTED: 7005 1820 0003 7458 3854

The Honorable Linda Calhoun
Mayor, Town of Red River
Town of Red River
P.O. Box 1020
Red River, NM 87558

Re: Administrative Order Docket Number: CWA-06-2018-1781
Town of Red River, NPDES Permit No. NM0024899

Dear Mayor Calhoun:

Enclosed is an Administrative Order (AO) issued to the Town of Red River for violation of the Clean Water Act (CWA), 33 U.S.C. §§ 1251–1387. The violations alleged were associated with a bulk caustic soda spill on January 5, 2018, and identified during our review of an inspection performed by New Mexico Environment Department at the Town of Red River wastewater treatment plant on January 8, 2018. These violations were discussed with you at the time of the inspection. The violations found include, but are not limited to, the following:

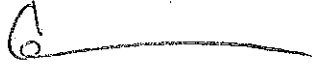
- a) A caustic soda release into the wastewater treatment plant caused an upset and pass through of wastewater treatment operations with an exceedance of permit limits for pH and E. coli and resulted in a fish kill downstream of the outfall;
- b) standard operating and emergency procedures for receipt of and bulk chemical delivery and tank filling were not adequate to prevent overflows or spills;
- c) record keeping for the additional pH sampling and analysis resulting from the caustic tank overflow and spill did not include times of sample collection; and
- d) failure to properly operate and maintain all facilities and systems of treatment and control.

This AO does not assess a monetary penalty; however, it does require compliance with applicable federal regulations. The first compliance deadline is within (30 days) of receipt of this AO. The AO also contains other compliance deadlines and specified information. The Environmental Protection Agency 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. Please reference AO Docket Number CWA-06-2018-1781 and NPDES Permit No. NM0024899 on your response.

Re: Administrative Order CWA-06-2018-1781
Town of Red River, NM 2

If you have any questions, please contact Mike Tillman of my staff, at
(214) 665-7531.

Sincerely,



Cheryl T. Seager
Director
Compliance Assurance and
Enforcement Division

Enclosure(s)

cc: Ms. Shelly Lemon
Bureau Chief
Surface Water Quality Bureau
New Mexico Environment Department
P.O. Box 5469
Santa Fe, NM 87502-5469

Ms. Sarah Holcomb
Program Manager
Point Source Regulation Section
New Mexico Environment Department



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

1445 Ross Avenue, Suite 1200, Dallas, TX 75202

FINDINGS OF VIOLATION AND COMPLIANCE ORDER

Docket Number: CWA-06-2018-1781, NPDES Facility or Permit Number: NM0024899

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 further delegated this authority to the Director of the Compliance Assurance and Enforcement Division.

Findings

The Town of Red River ("Respondent") is a municipality chartered under the laws of the State of New Mexico, and as such, 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.

1. At all times relevant to this Order, Respondent owned or operated the Town of Red River wastewater treatment plant and laboratory, located at Mile Marker 10 Highway 38, Red River, Taos 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 Respondent is P.O. Box 1020, Red River, New Mexico, 87558.

2. At all relevant times, the facility acted as a "point source" of a "discharge" of "pollutants" with its municipal wastewater to the receiving waters of the Red River, 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.

3. 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.

4. 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.

5. 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.

6. Respondent applied for and was issued NPDES permit No. NM0024899 ("permit") under Section 402 of the Act, 33 U.S.C. § 1342, which became effective on May 1, 2017. 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.

7. Part I.A.1 of the permit establishes effluent limitations and monitoring requirements for the final effluent at Outfall 001. Limitations for pH are set at a minimum of 6.6 and maximum of 8.8 standard units ("su"). Limitations for E. coli bacteria establish a daily maximum of 235 Colony Forming Units ("CFU")/100 ml or most probable number ("MPN") and a 30-day average of 126 cfu/100 ml.

8. Part I.F of the permit states that "the permittee shall institute a program within 12 months of the effective date of the permit (or continue an existing one) directed towards optimizing the efficiency and extending the useful life of the facility." Items listed in the program include preventative maintenance programs and equipment conditions, overall evaluation of conditions at the facility, operator certification, and training plans and status.

9. Part III.B.2-3 of the permit requires the permittee to properly operate and maintain all treatment facilities and systems at all times and to take all reasonable steps to minimize upsets and discharges in violation of the NPDES permit that have a reasonable likelihood of adversely affecting human health or the environment.

10. Part III.C.4-5 of the permit requires the permittee 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. Records of monitoring information shall include: date, exact place and time of sampling or measurements, and time(s) analyses were performed. Monitoring must be conducted according to test procedures approved under 40 C.F.R. Part 136.

11. Part III.D of the permit establishes reporting requirements for the permittee and states that if the permittee monitors any pollutant more frequently than required by the permit, using test procedures approved under 40 C.F.R. Part 136 or as specified in this permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the Discharge Monitoring Report ("DMR") and such increased monitoring frequency shall also be indicated on the DMR.

12. On January 8, 2018, the New Mexico Environment Department ("NMED") conducted a Reconnaissance Inspection at the Town of Red River wastewater treatment plant ("WWTP") and receiving stream on behalf of EPA. This inspection followed a verbal spill and non-compliance report by a representative to the NMED Surface Water Quality Bureau ("SWQB") of a caustic soda solution tank overflow and spill affecting treatment work operations and causing exceedance of the NPDES effluent limits at the plant on January 5, 2018. The volume spilled was estimated at 244 gallons of caustic soda (sodium hydroxide – NaOH). Based on Safety Data Sheet information, this material has a pH of 14.0 su. As a result of the Reconnaissance Inspection, Respondent was found to be in violation of Section 301 of the Act, 33 U.S.C. § 1311.

13. Violations noted as a result of the Reconnaissance Inspection include:

- A. The caustic soda release into the treatment plant caused an upset and pass through of wastewater operations with an exceedance of permit limits for pH and E. coli resulting in a fish kill downstream of the outfall;
- B. Standard operating procedures for receipt of and during chemical product delivery and tank filling were not adequate to prevent overflows or spills;
- C. Written emergency procedures did not adequately describe facility-specific emergency treatment controls should a caustic soda solution tank overflow occur (e.g., during delivery) spilling caustic soda into the treatment works;
- D. Written emergency procedures did not describe process control monitoring or inspection (condition and integrity) of the wastewater treatment system, bulk storage tank containment area sump and caustic soda solution tank system or other equipment following a tank overflow;
- E. Adequate, qualified operational staff were not on site during chemical delivery allowing for over-filling of the caustic soda solution tank, which further entered the treatment works resulting in the exceedance of effluent limitations and fish kill;
- F. Following the spill, additional and/or regularly scheduled process monitoring and maintenance was not adequate, as residues were observed on the caustic solution tank, tank system pipes and valves, and solids were observed on the clarifier weir;
- G. Record keeping for the additional pH sampling and analysis resulting from the caustic tank overflow and spill, did not include times of sample. The pH monitoring data in the non-compliance report submitted by Respondent to NMED appear to have estimated times for sample collection and/or analysis, causing concern for the validity of the sampling results. Analysis for pH must be performed within 15 minutes of sample collection;

H. All additional effluent monitoring results following the caustic soda solution tank overflow and spill shall be included in both the applicable daily max and average calculations for concentration and loading on the January 2018 DMR as required by the permit;

I. On January 8, 2018, NMED SWQB inspectors and Red River staff observed dead fish downstream of the treatment plant outfall;

J. New Mexico Department of Game and Fish ("NMDGF") performed a biological assessment of the receiving stream on January 9, 2018, identifying numerous dead fish;

K. Samples taken on the day of and following the caustic soda overflow by plant personnel, NMED and NMDGF staff indicate the following violations of NPDES permit limits:

Sampler / Date	Time	Outfall	Parameter	Violation	Permit Limit
Red River Staff					
01/05/18	13:20	001	pH	11.48 su	6.6-8.8 su
01/05/18	14:30	001	pH	11.67 su	6.6-8.8 su
01/05/18	15:00	001	pH	11.65 su	6.6-8.8 su
01/05/18	15:30	001	pH	11.67 su	6.6-8.8 su
01/05/18	16:00	001	pH	11.70 su	6.6-8.8 su
01/05/18	16:30	001	pH	11.69 su	6.6-8.8 su
01/05/18	19:00	001	pH	11.86 su	6.6-8.8 su
01/06/18	08:55	001	pH	9.90 su	6.6-8.8 su
01/06/18	12:15	001	pH	9.22 su	6.6-8.8 su
01/06/18	15:25	001	pH	8.89 su	6.6-8.8 su
NMED Inspectors					
01/08/18	12:00	001	E. coli	>2419.6 MPN	Daily Max 235 MPN
NMDGF Biologists					
01/09/18	N/A	Down-stream Survey	Brown Trout Fish Kill	52	0

SECTION 309(a)(3) COMPLIANCE ORDER

Based on the foregoing Findings and pursuant to the authority of Section 309(a)(3) of the Act, 33 U.S.C. § 1319(a)(3), EPA hereby orders Respondent is required to do the following:

A. Within thirty (30) days of the effective date of this Order, Respondent shall submit a list of specific actions with time frames to correct the following violations:

- 1) Provide EPA with a written response explaining how the Town of Red River will update and implement standard operating and emergency procedures, including all actions to be taken to prevent future incidents, such as in this case where a bulk caustic soda spill caused an upset and pass through at the treatment works allowing for an exceedance of permit limits resulting in a fish kill at the receiving stream;
- 2) revise standard operating and emergency procedures to require training and routine retraining of on-site personnel in order that they will be prepared in the event of an emergency such as a chemical spill;
- 3) revise standard operating and emergency procedures to require properly trained and qualified personnel to be on-site at all times during the delivery of bulk chemicals to prevent a similar occurrence in the future;
- 4) ensure that all sampling and analysis of treatment plant effluent is done in accordance with 40 C.F.R. Part 136 methods and that record keeping accurately reflects all pertinent information as required by the permit; and
- 5) the analytical results of the additional monitoring performed in accordance with 40 C.F.R. Part 136, are to be included in the calculation and reporting of the data submitted in the appropriate DMR and the reason for the increased monitoring frequency is to be provided in the comments.

B. In the event that Respondent believes complete correction of the violations cited herein is not possible within thirty (30) days of the effective date of this Order, Respondent shall, within thirty (30) days of the effective date of this Order, submit a comprehensive written plan for the elimination of the cited violations within the shortest possible time. Such plan shall describe in detail the specific corrective actions to be taken and why such actions are sufficient to correct the violations. The plan shall include a detailed schedule for the elimination of the violations within the shortest possible time, as well as measures to prevent these or similar violations from recurring.

C. 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 the 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.

D. To arrange a meeting, or to ask questions or comment on this matter, please contact Mike Tillman of my staff, at (214) 665-7531.

E. Any information or correspondence submitted by the Respondent to EPA under this Order shall be addressed to the following:

Nancy Williams
Water Enforcement Branch (6EN-WC)
EPA, Region 6
1445 Ross Ave., Suite 1200
Dallas, TX 75202-2733

General Provisions

Respondent may seek federal judicial review of the Order pursuant to Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-706.

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 to EPA. 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 U.S. 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.

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.

4/5/2018
Date

Cheryl T. Seager

Cheryl T. Seager
Director
Compliance Assurance and
Enforcement Division