



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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

January 11, 2013

CERTIFIED MAIL – RETURN RECEIPT REQUESTED: 7007 3020 0002 5102 7822

Mr. Bob Horacek, City Manager
City of Grants
P.O. Box 879
Grants, NM 08020

Re: Cease and Desist Administrative Order
Docket Number: CWA-06-2013-1741; Facility Number: NMU001835

Dear Mr. Horacek:

Enclosed is an Administrative Order (AO) issued to the City of Grants for violation of the Clean Water Act (CWA) (33 U.S.C. § 1251 et seq.). The violation was identified during a January 7, 2013 inspection, conducted by the New Mexico Environment Department, of your wastewater treatment facility and collection system located in Grants, New Mexico. The inspection results were discussed with you during the inspection. The violation alleged is for an unauthorized discharge of a pollutant, specifically untreated municipal wastewater, to the Rio San Jose, a water of the United States.

Effective upon receipt of this AO, you shall immediately cease and desist all unauthorized discharges of pollutants into the Rio San Jose and comply with all provisions set forth in the enclosed AO. This AO also requires responses to certain information demands. The EPA is committed to ensuring compliance with the requirements of the CWA, and my staff will assist you in any way possible.

If you have any questions, please contact Mr. Josh Waldmeier, of my staff, at (214) 665-8064.

Sincerely,

A handwritten signature in black ink, appearing to read "John Blevins", is written over the typed name.

John Blevins
Director
Compliance Assurance and
Enforcement Division

Enclosure

cc: Mr. James Hogan, Acting Bureau Chief
Surface Water Quality Bureau
New Mexico Environment Department



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
1445 Ross Avenue, Suite 1200, Dallas, TX 75202
FINDINGS OF VIOLATION, COMPLIANCE ORDER, AND
INFORMATION DEMAND

Docket Number: CWA-06-2013-1741

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 Sections 308 and 309(a) of the Clean Water Act ("the Act"), 33 U.S.C. §§ 1318 and 1319(a). The Administrator of EPA has 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

1. The City of Grants ("Respondent") is a "person," as defined by Section 502(5) of the Act, 33 U.S.C. § 1362(5).

2. At all times relevant to this Order, Respondent owned or operated a wastewater collection system and wastewater treatment plant located in Grants, Cibola 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 P.O. Box 879, Grants, NM 87020.

3. At all times relevant to this Order, the facility acted as a "point source" of a "discharge" of "municipal wastewater" to the receiving waters of the Rio San Jose, which is considered a "water of the United States," as defined by 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 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 January 7, 2013, the facility was inspected by the New Mexico Environment Department.

8. As a result of this the inspection, it was found that the main sewage line conveying untreated municipal wastewater to the treatment facility failed, resulting in the discharge of municipal wastewater onto an area of land contained by a berm; the wastewater over-topped the berm and exited the containment area, resulting in a discharge of untreated municipal wastewater to the Rio San Jose, a water of the United States.

9. A review of the EPA database in which NPDES permit applications are recorded established that, as of January 9, 2013, Respondent had not applied for or obtained, NPDES permit coverage by filing an individual permit application or a Notice of Intent to be covered by a NPDES general permit for discharges from the facility.

10. The facility discharged pollutants to waters of the United States without authorization by an NPDES permit on December 25, 2012.

11. Each day of unauthorized discharge was a violation of Section 301 of the Act, 33 U.S.C. § 1311.

SECTION 309(a)(3) COMPLIANCE ORDER

Based on these findings and pursuant to the authority of Section 309(a)(3) of the Act, 33 U.S.C. § 1319(a)(3), EPA orders that Respondent take the following action upon receipt of this Order:

A. Immediately cease all unauthorized discharges of pollutants from the facility to the Rio San Jose.

B. Before the next rain event, but no later than January 18, 2013, remove the municipal wastewater and associated solids from the bermed area to prevent further discharge to the Rio San Jose.

C. Within thirty (30) days of the effective date of this Order, generate a plan to:

- 1) Properly report unauthorized discharges to the EPA.
- 2) In the event of future unauthorized discharges, properly sample wastewaters for E. coli, Biological Oxygen Demand, and Total Suspended Solids.
- 3) Address the implementation of protocols to prevent future unauthorized discharges.

D. Within thirty (30) days of the effective date of this order, ensure that there is an inventory of spare parts adequate to prevent future unauthorized discharges.

SECTION 308 INFORMATION DEMAND

Based on the foregoing Findings and pursuant to the authority of Section 308 of the Act, Respondent is required to do the following:

A. Within thirty (30) days of the effective date of this Order, the Respondent shall submit the following information concerning the discharge of pollutants from the facility to waters of the United States cited in this Order.

- 1) The date of failure of the sewer line;
- 2) The quantity of the discharge from the sewer line, if known, or the best estimate;
- 3) The quantity of the discharge contained in the Berm area, if known, or the best estimate;
- 4) The quantity of the discharge contained in the discharge that exited the bermed area and was subsequently discharged into the Rio San Jose;
- 5) The date(s) where discharges into the Rio San Jose occurred;
- 6) The quantity of material (municipal wastewater and associated solids) recovered from the bermed area, if known, or the best estimate;
- 7) Lab reports and chains of custody for all samples collected as a result of the unauthorized discharge; and
- 8) A timeline of initial internal and external notifications, and response actions.

B. To arrange a meeting, or to ask questions or comment on this matter, please contact Mr. Joshua Waldmeier, of my staff, at (214) 665-8064.

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

Mr. Joshua Waldmeier
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. Section 706, which is set forth at <http://uscode.house.gov/download/pls/05C7.txt>, states the scope of such review.

Issuance of this Section 309(a)(3) Compliance Order and the Section 308 Information Demand 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 may become known. EPA reserves the right to seek any remedy available under the law that it deems appropriate.

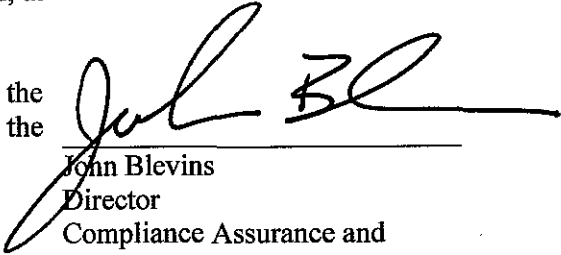
Failure to comply with this Section 309(a)(3) Compliance Order, or the Section 308 Information Demand, or the Act can result in further administrative action, or a civil judicial action initiated by the United States Department of Justice.

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.

1.11.13

Date


John Blevins
Director
Compliance Assurance and
Enforcement Division