



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6

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

MAY 11 2015

CERTIFIED MAIL—RETURN RECEIPT REQUESTED: 7005 1820 0003 7449 5317

Mr. Steven Brady, Manager
Horizon Ag-Products, Inc.
23 Cubita Road
Cuba, NM 87013

Re: Administrative Order; Docket Number: CWA-06-2015-1753
NPDES Facility Number: NMU001888

Dear Mr. Brady:

Enclosed is an Administrative Order (AO) issued to Horizon Ag-Products, Inc. for violation of the Clean Water Act (CWA) (33 U.S.C. § 1251 et seq.). Violations were identified during a March 4, 2015 inspection of your Horizon Ag-Products, Inc. facility located in Cuba, New Mexico. The inspection was conducted by the New Mexico Environment Department on behalf of the Environmental Protection Agency Region 6 (EPA). The violations were discussed with you at the time of the inspection. The violations alleged include, but are not limited to, the following:

- a) Failure to develop and implement a Storm Water Pollution Prevention Plan; and
- b) failure to obtain coverage under the EPA Multi-Sector General Permit for Storm Water Discharges Associated with Industrial Activities.

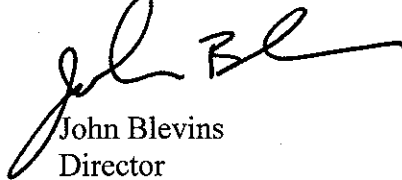
This AO does not assess a monetary penalty; however, it does require compliance with applicable federal regulations. The first compliance deadline is within thirty days of receipt of the AO. The AO also contains other compliance deadlines and information demands. EPA is committed to ensuring compliance with the requirements of the National Pollutant Discharge Elimination System (NPDES) program, and my staff will assist you in any way possible. Please reference AO Docket Number CWA-06-2015-1753 and NPDES Facility Number NMU001888 on your response.

Re: Administrative Order
Horizon Ag-Products, Inc.

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If you have any questions, please contact Mrs. Linda Smith, of my staff,
at (214) 665-6641.

Sincerely,

A handwritten signature in black ink, appearing to read "John Blevins". The signature is fluid and cursive, with a large initial "J" and a stylized "B".

John Blevins
Director
Compliance Assurance and
Enforcement Division

Enclosure

cc: Mr. Bruce Yurdin, Acting Bureau Chief
Surface Water Quality Bureau
New Mexico Environment Department
P.O. Box 5469
Santa Fe, NM 87502-5469

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
1445 Ross Avenue, Suite 1200, Dallas, TX 75202
Docket Number: CWA-06-2015-1753, NPDES Facility Number: NMU001888
FINDINGS OF VIOLATION AND COMPLIANCE ORDER AND
INFORMATION DEMAND

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 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. Horizon Ag-Products, Inc. ("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 the violations alleged herein ("all relevant times"), Respondent owned or operated Horizon Ag-Products, Inc., located at 23 Cubita Road, Cuba, Sandoval County, New Mexico ("facility") and was, therefore, an "owner or operator."

3. At all relevant times, the facility acted as a "point source" of a "discharge" of "pollutants" as defined by Section 502(12) & (14), 33 U.S.C. § 1362(12) & (14) into the receiving waters of the Rio Puerco tributary from the confluence of Arroyo Chijuilla upstream to the northern boundary of Cuba, Segment 20.6.4.131, which is considered a "water of the United States," as defined by 40 C.F.R. § 122.2. As a result, Respondent and facility were subject to the Act and the National Pollutant Discharge Elimination System ("NPDES") program.

4. The facility is an industry identified under 40 C.F.R. § Section 122.26(b)(14)(iii), operating in Sector C1 under Standard Industrial Classification (SIC) Code 2879, and is subject to the General Permit for Storm Water Discharges Associated with Industrial Activity issued by EPA on September 29, 2008.

5. On March 4, 2015, the facility was inspected by New Mexico Environment Department storm water inspectors on behalf of EPA. As a result of this inspection, the facility was found to be in violation of Section 301 of the Act, 33 U.S.C. § 1311.

6. The facility began operations defined as industrial activity on or about September 14, 2004, which continued throughout the time period relevant to this action.

7. According to the EPA database that records all applications for storm water general permit coverage, Respondent did not submit a Notice of Intent ("NOI") for permit coverage for its activities at the facility, and was not covered by an NPDES permit at the relevant times for the relevant activities. During the time period January, 2010 through February 2015, there were approximately fourteen rain events of one-half inch or greater at the facility. Each day of operation without NPDES permit coverage 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 hereby orders Respondent to take the following actions:

A. Within thirty (30) days of the effective date of this Order, Respondent shall apply for NPDES permit coverage, either by filing an individual permit application or a Notice of Intent ("NOI") to be covered by an applicable NPDES general permit, for discharges from the facility, or cease and prevent all unpermitted discharges from the facility. The NOI should be submitted by one of the following methods:

- 1) By regular mail to:
Storm water Notice Processing Center
U.S. EPA, MC 4203M
1200 Pennsylvania Avenue, NW
Washington, DC 20460
- 2) By overnight/express mail to:
Storm Water Notice Processing Center
U.S. EPA, Room 7420
1201 Constitution Ave., NW
Washington, DC 20004
- 3) Via the internet at:
<http://cfpub.epa.gov/npdes/stormwater/enoi>

For a status update on your NOI, call the NOI Center at (866) 352-7755.

B. Respondent shall simultaneously forward a certified copy of any permit application to EPA at the following address:

Mrs. Darlene Whitten-Hill
Water Enforcement Branch (6EN-WC)
EPA, Region 6
1445 Ross Ave., Suite 1200
Dallas, TX 75202-2733

C. Any other information or correspondence submitted by Respondent to EPA under this Order shall also be forwarded to the above address.

D. Within thirty (30) days of the effective date of this Order, Respondent shall develop and implement a Storm Water Pollution Prevention Plan tailored specifically for the site located at 23 Cubita Road, Cuba, NM.

SECTION 308 INFORMATION DEMAND

Based on the foregoing Findings and pursuant to the authority of Section 308 of the Act, 33 U.S.C. § 1318, Respondent is required to do the following:

A. Within thirty (30) days of the effective date of this Order, Respondent shall submit a written certification of compliance with this Order to the EPA, Region 6. All correspondence should be addressed to:

Mrs. Linda Smith
Water Enforcement Branch (6EN-WM)
EPA, Region 6
1445 Ross Ave., Suite 1200
Dallas, TX 75202-2733

GENERAL PROVISIONS

You have the right to seek immediate federal judicial review of the Order pursuant to chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-706.

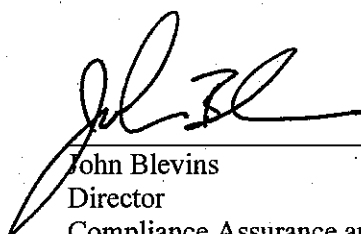
Issuance of this Section 309(a)(3) Compliance Order and the Section 308 Information Demand shall not be deemed an election by EPA to waive any administrative or judicial, civil, or criminal action to seek penalties, fines, or other relief under the Act for the violations cited herein, or other violations 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 Section 308 Information Demand, or the Act can result in further administrative action, or a civil judicial action initiated by the U.S. Department of Justice.

Compliance with the terms and conditions of this Order does not relieve Respondent of its obligation to comply with all applicable federal, state, or local laws or regulations.

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

5.11.15
Date


John Blevins
Director
Compliance Assurance and
Enforcement Division