



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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

MAY 26 2016

CERTIFIED MAIL-RETURN RECEIPT REQUESTED: 7005 1820 0003 7448 9279

Mr. Miguel Garcia, Organizer
M.A.G. Construction, LLC
106 Vista Del Monte
Santa Fe, NM 87507

Re: Administrative Order; Docket Number: CWA-06-2016-1775
NPDES Facility Number: NMU001909

Dear Mr. Garcia:

Enclosed is an Administrative Order (AO) issued to M.A.G. Construction, LLC for violation of the Clean Water Act (CWA) (33 U.S.C. §§ 1251-1387). The violation was identified during a February 25 & 26, 2016 inspection of your construction site located in Santa Fe, New Mexico. The inspection was conducted by the New Mexico Environment Department on behalf of the Environmental Protection Agency, Region 6 (EPA). The violation alleged is for failure to submit a Notice of Intent for coverage under the General Permit for Storm Water Discharges Associated with Construction Activity.

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 this 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-06-2016-1775 and NPDES Facility Number NMU001909 on your response.

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", is written over a horizontal line.

John Blevins
Director
Compliance Assurance and
Enforcement Division

Enclosure

Re: Administrative Order
M.A.G. Construction, LLC

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cc: Mr. James Hogan
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
FINDINGS OF VIOLATION AND COMPLIANCE ORDER AND
INFORMATION DEMAND

Docket Number: CWA-06-2016-1775; NPDES Facility Number: NMU001909

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 ("Act"), 33 U.S.C. §§ 1318 and 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. M.A.G. Construction, LLC ("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 violation alleged herein, Respondent owned or operated Lot 42 of the Las Lomas Subdivision, a 0.48 acre construction site that is part of a 43.19 acre larger common plan of development or sale, located at 106 Daybreak, Santa Fe, Santa Fe County, New Mexico ("facility") and was, therefore, an "owner or operator" within the meaning of 40 C.F.R. § 122.2.

3. At all times relevant to this Order, the facility acted as a "point source" of a "discharge" of "pollutants" to the receiving waters of the Santa Fe small Municipal Separate Storm Sewer System, thence to the Santa Fe River, which is a "water of the United States," as defined by 40 C.F.R. § 122.2. As a result, Respondent and the facility were subject to the Act and the National Pollutant Discharge Elimination System ("NPDES") program.

4. The facility is considered an industry by code, as identified under 40 C.F.R. § 122.26(b)(14)(x) and is subject to the General Permit for Storm Water Discharges Associated with Construction Activity issued by EPA on February 16, 2012.

5. On February 25 & 26, 2016, the facility was inspected by the New Mexico Environment Department 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. According to the EPA eNOI 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.

7. 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 orders that Respondent take the following actions upon receipt of this Order:

A. Within thirty (30) days of the effective date of this Order, Respondent shall develop and implement a site-specific Storm Water Pollution Prevention Plan ("SWPPP") and apply for NPDES permit coverage, either by filing an individual permit application or an NOI to be covered by an applicable NPDES general permit for discharges from the facility. Respondent shall 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 the SWPPP and eNOI application to EPA at the following address:

Mrs. Linda Smith
Water Enforcement Branch (6EN-WM)
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.

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

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 to EPA, Region 6.

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.

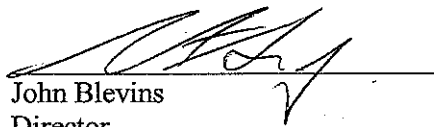
Issuance of this Section 309(a)(3) Compliance Order and the Section 308 Information Demand shall not be deemed an election by EPA to waive any administrative, judicial, civil, or criminal action to seek penalties, fines, or other relief under the Act for the violations cited herein, or other violations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

MAY 26 2016

Date


John Blevins
Director
Compliance Assurance and
Enforcement Division