

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION VII

901 NORTH FIFTH STREET  
KANSAS CITY, KANSAS 66101

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ENVIRONMENTAL PROTECTION  
AGENCY-REGION VII  
REGIONAL HEARING CLERK

BEFORE THE ADMINISTRATOR

IN THE MATTER OF )

Gujarat Glass International )  
Flat River Glass Operations )  
1000 Taylor Avenue )  
Parkhills, Missouri 63601 )

Respondent )

Proceedings under Section 309(a) of the )  
Clean Water Act, 33 U.S.C. § 1319(a) )

) Docket No. CWA-07-2008-0013

) FINDINGS OF VIOLATION,  
) ORDER FOR COMPLIANCE

**I. Preliminary Statement**

1. The FINDINGS OF VIOLATION are made and the ORDER FOR COMPLIANCE is issued pursuant to the authority vested in the Administrator of the United States Environmental Protection Agency ("EPA"), by Section 309(a)(3) of the Clean Water Act ("CWA"), 33 U.S.C. § 1319(a)(3), as delegated by the Administrator to the Regional Administrator, EPA, Region 7, and further delegated to the Director, Water, Wetlands and Pesticides Division, EPA, Region 7.

2. Respondent is Gujarat Glass International, Inc., Flat River Glass Operations ("Flat River Glass"); a corporation incorporated under the laws of Delaware and authorized to conduct business in the State of Missouri.

3. The Missouri Department of Natural Resources ("MDNR") is the state agency with the authority to administer the federal NPDES program in Missouri pursuant to Section 402 of the CWA, 33 U.S.C. § 1342, implementing regulations, and a Memorandum of Understanding. EPA maintains concurrent enforcement authority with authorized states for violations of the CWA.

**II. Jurisdiction and Findings of Fact**

4. Section 301(a) of the CWA, 33 U.S.C. § 1311(a), prohibits the discharge of pollutants except in compliance with, inter alia, Section 402 of the CWA, 33 U.S.C. § 1342. Section 402 of the CWA, provides that pollutants may be discharged only in accordance with the terms of a National Pollutant Discharge Elimination System ("NPDES") permit issued pursuant to that Section.

5. Flat River Glass is a “person” as defined by Section 502(5) of the CWA, 33 U.S.C. § 1362(5).
6. Flat River Glass owns and operates a glass manufacturing facility that uses sand and soda ash to produce clear and colored glass containers.
7. The Flat River Glass facility discharges to an unnamed tributary of Flat River Creek, which thereafter flows to Flat River Creek.
8. The Flat River Glass facility is a “point source” that “discharges pollutants” into “navigable waters” of the United States, as these terms are defined by Section 502 of the CWA, 33 U.S.C. § 1362.
9. The Flat River Glass facility’s discharge of pollutants requires a permit issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342, and is subject to the effluent guidelines for glass manufacturing listed at 40 C.F.R. Part 426.
10. MDNR granted NPDES permit No. MO-0098647 (hereafter “NPDES permit”), to the Respondent for discharges from the facility to Flat River Creek, subject to compliance with conditions and limitations set forth in the NPDES permit. The NPDES permit has an expiration date of March 20, 2008.
11. Section C.2 of Respondent’s permit requires that all outfalls must be clearly marked in the field.
12. Section C.8 of Respondent’s permit requires that storm water is to be monitored once per year from each outfall during a rain event of 0.1 inch or greater causing a discharge from the outfall.
13. Section A of Respondent’s permit requires that discharge monitoring reports (“DMRs”) for outfalls #001, #002, and #006 shall be submitted monthly.
14. Section B of Respondent’s permit incorporates by reference Standard Conditions Parts I and III. Included within Part I of the Standard Conditions of Respondent’s NPDES permit are the following provisions:
  - a. Section A.4 requires that test procedures for the analysis of pollutants shall be in accordance with Missouri Clean Water Commission Effluent Regulations 10 C.S.R. 20-7.015, which references EPA’s *Standard Methods for the Examination of Waters and Wastewaters*.
  - b. Section A.5(a) requires the permittee to maintain a record of the date, exact place and time of sampling or measurements, the individual(s) who performed the sampling measurements, the date(s) analyses was performed; the individual(s) who performed the analyses, the analytical techniques or methods used; and the results of such analyses.

- c. Section A.7 requires the permittee to retain records of all monitoring information...copies of all reports required by the permit...for a period of at least three (3) years from the date of the sample, measurement, report, or application.

15. Section C.8 of Respondent's permit requires that Respondent prepare and implement a storm water pollution prevention plan to minimize or eliminate the pollutants in the storm water discharge.

16. On April 24-25, 2007, the EPA performed an inspection (hereafter "the EPA Inspection") of the Flat River Glass facility under the authority of Section 308(a) of the CWA, 33 U.S.C. § 1318(a), to evaluate Respondent's compliance with the NPDES permit and the CWA.

17. During the Inspection, the EPA inspector made observations and documented his findings regarding the Respondent's compliance with the NPDES permit, as follows:

- a. Respondent's outfalls #001 and #002 were unmarked;
- b. Respondent did not sample storm water at least once per year from outfalls #003, #004, and #005 in 2006.
- c. Respondent did not submit DMRs to MDNR for outfalls #001, #002, and #006 in September 2006.
- d. Respondent did not preserve samples at 4 degrees Celsius;
- e. Respondent exceeded the maximum holding time (15 minutes) for pH test samples;
- f. Respondent did not keep records including the dates of all sample analyses;
- g. Respondent did not maintain all NPDES records, including DMRs and lab results for the period from April 2005 and April 2007, for a minimum of three (3) years;
- h. Respondent failed to fully implement all provisions of its Storm Water Pollution Prevention Plan (SWPPP), including annual inspections and employee training.

### III. Findings of Violation

18. The facts stated in Paragraphs 4 through 17 above are herein incorporated.
19. Respondent violated Section C.2 of the NPDES permit by failing to mark outfalls #001 and #002 in the field.
20. Respondent violated Section C.8 of the NPDES permit by failing to sample storm water at least once per year from outfalls #003, #004, and #005 in 2006.
21. Respondent violated Section A of the NPDES permit by failing to submit monthly DMRs for outfalls #001, #002, and #006 in September 2006.
22. Respondent violated Section B, Part I, Subsection A.4 of the NPDES permit by failing to preserve samples at 4 degrees Celsius and by exceeding the maximum holding time for pH samples as required by 10 C.S.R. 20-7.015 and EPA's *Standard Methods for Examination of Water and Wastewater*.
23. Respondent violated Section B, Part I, Subsection A.5(a) of the NPDES permit by failing to maintain appropriate records, including dates, for sample analyses.
24. Respondent violated Section B, Part I, Subsection A.7 of the NPDES permit by failing to maintain all NPDES records, including DMRs and lab results for the period from April 2005 and April 2007, for a minimum of three (3) years.
25. Respondent violated Section C.8 of the NPDES permit by failing to fully implement all provisions of its Storm Water Pollution Prevention Plan (SWPPP), including annual inspections and employee training.
26. Respondent's violations of the terms and conditions of its NPDES permit, as described in Paragraphs 18 through 26, above, are violations of Sections 301(a) and 402 of the CWA, 33 U.S.C. §§ 1311(a) and 1342, and implementing regulations.

### IV. Order For Compliance

Based on the Findings of Fact and Findings of Violation set forth above, and pursuant to Section 309(a)(3) of the CWA, 33 U.S.C. § 1319(a)(3), Respondent is hereby ORDERED to take the actions described below.

27. *Sampling, Analysis, Recordkeeping, and Reporting.* Beginning immediately upon receipt of this Order, Respondent shall comply with all sampling, analysis, recordkeeping and reporting requirements of its NPDES permit, including but not limited to the following:
  - a. Mark all outfalls in the field in accordance with Section C.2 of the NPDES permit.

- b. Sample storm water at least once per year from outfalls #003, #004, and #005 in accordance with Section C.8 of the NPDES permit.
- c. Properly conduct sampling and analysis for all parameters specified in the NPDES permit, including but not limited to, proper holding times and preservation of samples in accordance with Section B, Part I, Section A.4 of the NPDES permit.
- d. Record all data required to be documented when sampling and analyzing samples, including but not limited to date, time and exact place of sampling or measurement, the individual(s) who performed the sampling measurement, the individual(s) who performed the analyses and the analytical techniques or methods used for all samples, in accordance with Section B, Part I, Subsection A.5(a) of the NPDES permit.
- e. Submit monthly discharge monitoring reports (DMRs) for outfalls #001, #002, and #006 in accordance with Section A of the NPDES permit.
- f. Maintain records of all monitoring information, including but not limited to, copies of all reports required by the permit for a period of at least three (3) years from the date of the sample, measurement, report, or application in accordance with Section B, Part I, Section A.7 of the NPDES permit.

28. *Storm Water Management.* Respondent shall take the following actions to satisfy the requirements of the NPDES permit and the storm water pollution prevention plan:

- a. Perform the annual inspection of the facility to review compliance with the terms of the SWPPP, as provided in Section 5.5 of the SWPPP; and
- b. Conduct training for spill response procedures and proper use of equipment, including procedures to minimize the potential for a spill during transfer operations, as provided in Section 4.3.3 of the SWPPP.
- c. Ensure that storm water discharge from the Eastern one-third of the site is properly permitted and managed in accordance with the requirements of the NPDES permit and the storm water pollution prevention plan.

29. Within thirty (30) days of receipt of this Order, Respondent shall provide a report to EPA demonstrating that it has taken actions and instituted practices necessary to operate and maintain its facility in a manner consistent with its NPDES permit, the CWA and its implementing regulations, and applicable state requirements. The report shall demonstrate that at least the following actions have been taken:

- a. Implementation of required sampling, analysis, recordkeeping and reporting practices, as identified in Paragraph 27 of this Order, above.

- b. Implementation of all requirements of the SWPPP, as identified in Paragraph 28 of this Order, above.

30. *Certification.* Each submittal to EPA pursuant to the requirements of this Order shall include a written statement by Respondent signed by a principal executive officer or a ranking elected official, or by a duly authorized representative of that person, that contain the following certification:

I also certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

#### V. Submissions

31. All documents required to be submitted to the EPA by this Order, shall be submitted by mail to:

Mr. Naji Ahmad  
Water Wetlands and Pesticides Division  
U.S. Environmental Protection Agency - Region VII  
901 North Fifth Street  
Kansas City, KS 66101

32. A copy of documents required to be submitted to the MDNR by this Order, shall be submitted by mail to:

Kevin Mohammadi  
Missouri Department of Natural Resources  
P.O. Box 176  
Jefferson City, Missouri 65102-0176

and

Gary Gaines, Director  
Southeast Regional Office  
Missouri Department of Natural Resources  
2155 N. Westwood Blvd.  
Poplar Bluff, MO 63901

## VI. General Provisions

### Effect of Compliance with the Terms of this Order for Compliance

33. Compliance with the terms of this Order shall not relieve Respondent of liability for, or preclude the EPA from, initiating an administrative or judicial enforcement action to correct the violations described above, including but not limited to actions to protect the health or welfare of persons or the environment, or to recover penalties for any violations of the CWA, or to seek additional injunctive relief, pursuant to Section 309 of the CWA, 33 U.S.C. § 1319.

34. This Order does not constitute a waiver or a modification of any requirements of the Clean Water Act, 33 U.S.C. § 1251 *et seq.*, all of which remain in full force and effect. The EPA retains the right to seek any and all remedies available under Sections 309(b), (c), (d) or (g) of the Act, 33 U.S.C. § 1319(b), (c), (d) or (g), for any violation cited in this Order. Issuance of this Order shall not be deemed an election by the EPA to forgo any civil or criminal action to seek penalties, fines, or other appropriate relief under the Act for any violation whatsoever.

### Access and Requests for Information

35. Nothing in this Order shall limit the EPA's right to obtain access to, and/or to inspect Respondent's facility, and/or to request additional information from Respondent, pursuant to the authority of Section 308 of the CWA, 33 U.S.C. § 1318 and/or any other authority.

### Severability

36. If any provision or authority of this Order, or the application of this Order to Respondent, is held by federal judicial authority to be invalid, the application to Respondent of the remainder of this Order shall remain in full force and effect and shall not be affected by such a holding.

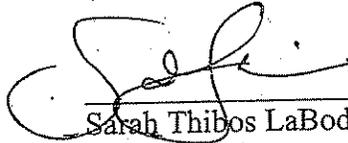
Effective Date

37. This Order shall be effective upon receipt by Respondent. All time periods herein shall be calculated therefrom unless otherwise provided in this Order.

Issued this 29 day of Nov, 2007.



William A. Spratlin, Director  
Water, Wetlands and Pesticides Division  
U.S. Environmental Protection Agency - Region VII  
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Kansas City, Kansas 66101



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