

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 6

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REGIONAL HEARING CLERK
EPA REGION VI

In the Matter of	§ DOCKET NO. CWA-06-2016-1761
	§
Plaquemines Parish Government, a Louisiana Municipality,	§
	§ Proceeding to Assess a Class 1
Respondent	§ Civil Penalty under Section 309(g)
	§ of the Clean Water Act
	§
NPDES Permit No. LAL044032	§ ADMINISTRATIVE COMPLAINT

I. Statutory Authority

This Administrative Complaint (“Complaint”) is issued under the authority vested in the Administrator of the United States Environmental Protection Agency (“EPA”) by Section 309(g) of the Clean Water Act (“the Act”), 33 U.S.C. § 1319(g). The Administrator of EPA delegated the authority to issue this Complaint to the Regional Administrator of EPA Region 6, who delegated this authority to the Director of the Compliance Assurance and Enforcement Division of EPA Region 6 (“Complainant”). This Class I Complaint is issued in accordance with, and this action will be conducted under, the “Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits,” including rules related to administrative proceedings not governed by Section 554 of the Administrative Procedures Act, 40 C.F.R. § 22.50 through 22.52.

Based on the following findings, Complainant finds that Plaquemines Parish Government (“Respondent”) has violated the Act and the regulations and should be ordered to pay a civil penalty.

II. Findings of Fact and Conclusions of Law

1. “Respondent” is a municipality, chartered under the laws of the State of Louisiana, and as such, Respondent is a “person,” as that term is defined at Section 502(5) of the Act, 33 U.S.C. § 1362 and 40 C.F.R. § 503.9.

2. At all times relevant to this Order (“all relevant times”), Respondent owned or operated a wastewater treatment plant located at 126 Sewer Plant Road in Belle Chase, Plaquemines Parish, Louisiana (“facility”).

3. At all relevant times, the facility was a “treatment works,” a “treatment works treating domestic sewage,” and a “publicly owned treatment works” (“POTW”) within the meaning of Section 212(2) of the Act, U.S.C. § 1292(2) and 40 C.F.R. §§ 403.3, 501.2 and 503.9. As a result, Respondent and the facility were subject to the Act and federal regulations governing the use and disposal of domestic sewage sludge set forth at 40 C.F.R. Part 503.

4. Pursuant to the authority of Section 405(d) of the Act, 33 U.S.C. § 1345(d), EPA promulgated federal regulations for the use and disposal of sewage sludge, which became effective on February 19, 1994. These regulations are specified at 40 C.F.R. Part 503 and consist of general requirements, pollutant limits, management practices, and operational standards for the final use or disposal of sewage sludge generated during the treatment of domestic sewage in a treatment works.

5. Pursuant to Section 405(e) of the Act, 33 U.S.C. § 1345(e), it is unlawful for any person to dispose of sludge from a POTW or any other type of treatment works treating domestic sewage for any use for which regulations have been established under Section 405(d) of the Act, 33 U.S.C. § 1345(d), except in accordance with such regulations.

6. Pursuant to 40 C.F.R. § 503.18(a), Class I Sludge management facilities, POTWs with a design flow rate equal to or greater than one million gallons per day and POTWs that serve 10,000 people or more, shall submit to EPA an annual sludge monitoring report on February 19th of each year regarding the sludge operations conducted during the previous calendar year, in accordance with 40 C.F.R. § 503.17(a).

7. At all relevant times, Respondent was a POTW serving 10,000 people or more.

8. A review of the EPA official files and records which track submittals required under 40 C.F.R. § 503.18(a) established that Respondent failed to submit an annual sludge monitoring report for calendar years 2014 and 2015 to EPA by February 19, 2015 and February 19, 2016, respectively.

9. On July 21, 2014, EPA issued to Respondent Administrative Order Docket Number CWA-06-2014-1823, under the authority of Section 309(1) of the Act, 33 U.S.C. § 1319(a), citing violations for failure to submit annual sludge monitoring reports for calendar year 2013 that Respondent was required to submit to EPA by February 19, 2014.

10. By failing to submit to EPA annual sludge monitoring reports, Respondent has violated 40 C.F.R. § 503.18(a) and is therefore in violation of Section 405(d) of the Act, 33 U.S.C. § 1345(d).

11. Under Section 309(g)(2)(A) of the Act, 33 U.S.C. § 1319(g)(2)(A), Respondent is liable for a civil penalty in an amount not to exceed \$16,000 per day for each day during which a violation continues, up to a maximum of \$37,500.00.

12. EPA has notified the Louisiana Department of Environmental Quality of the issuance of this Complaint and has afforded the State an opportunity to consult with EPA regarding the assessment of an administrative penalty against Respondent as required by Section 309(g)(1) of the Act, 33 U.S.C. § 1319(g)(1).

13. EPA has notified the public of the filing of this Complaint and has afforded the public thirty (30) days in which to comment on the Complaint and on the proposed penalty as required by Section 309(g)(4)(A) of the Act, 33 U.S.C. § 1319(g)(4)(A). At the expiration of the notice period, EPA will consider any comments filed by the public.

III. Proposed Penalty

14. Based on the foregoing Findings, and pursuant to the Authority of Sections 309(g)(1) and (g)(2)(B) of the Act, 33 U.S.C. § 1319(g)(1) and Section (g)(2)(B), EPA Region 6 hereby purposes to assess against Respondent a penalty of one thousand dollars (\$1,000.00).

15. The proposed penalty amount was determined based on the statutory factors specified in Section 309(g)(3), 33 U.S.C. § 1319(g)(3), which includes such factors as the nature, circumstances, extent and gravity of the violations(s), economic benefits, if any, prior history of such violations, if any, degree of culpability, and such matters as justice may require.

IV. Failure to File an Answer

16. If Respondent wishes to deny or explain any material allegation listed in the above Findings or to contest the amount of the penalty proposed, Respondent must file an Answer to this Complaint within thirty (30) days after service of this Complaint whether or not Respondent requests a hearing as discussed below.

17. The requirements for such an Answer are set forth at 40 C.F.R. § 22.15. Failure to file an Answer to this Complaint within thirty (30) days after service of the Complaint shall constitute an admission of all facts alleged in the Complaint and a waiver of the right to hearing. Failure to deny or contest any individual material allegation contained in the Complaint will constitute an admission as to that finding or conclusion under 40 C.F.R. § 22.15(d).

18. If Respondent does not file an Answer to this Complaint within thirty (30) days after Service of this Complaint, a Default Order may be issued against Respondent pursuant to 40 C.F.R § 22.17. A Default Order, if issued, would constitute a finding of liability, and could make the full amount of the penalty proposed in this Complaint due and payable by Respondent without further proceedings sixty (60) days after a final Default Order is issued.

19. Respondent must send its Answer to this Complaint, including any request for hearing, and all other pleadings to:

Regional Hearing Clerk (6RC-D)
U.S. EPA, Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

20. Respondent shall also send a copy of its Answer to this Complaint to the following EPA attorney assigned to this case:

Mr. Tucker Henson (RC-EW)
U.S. EPA, Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

21. The Answer must be signed by Respondent, Respondent's counsel, or other Representative on behalf of Respondent and must contain all information required by 40 C.F.R. § 22.05 and 22.15, including the name, address, and telephone number of Respondent and Respondent's counsel. All other pleadings must be similarly signed and filed.

V. Notice of Opportunity to Request a Hearing

22. Respondent may request a hearing to contest any material allegation contained in this Complaint, or to contest the appropriateness of the amount of the proposed penalty, pursuant to Section 309(g) of the Act, 33 U.S.C. § 1319(g). The procedures for hearings are set out at 40 C.F.R. Part 22, including 40 C.F.R. § 22.50 through 22.52.

23. Any request for hearing should be included in Respondent's Answer to this Complaint; however, as discussed above, Respondent must file an Answer meeting the requirements of 40 C.F.R. § 22.15 in order to preserve the right to a hearing or to pursue other relief.

24. Should a hearing be requested, members of the public who commented on the issuance of the Complaint during the public comment period will have a right to be heard and to

present evidence at such hearing under Section 309(g)(4)(B) of the Act, 33 U.S.C. § 1319(g)(4)(B).

VI. Settlement

25. EPA encourages all parties against whom civil penalties are proposed to pursue the Possibility of settlement through informal meetings with EPA. Regardless of whether a formal hearing is requested, Respondent may confer informally with EPA about the alleged violations or the amount of the proposed penalty. Respondent may wish to appear at any informal conference or formal hearing personally, by counsel or other representative, or both. To request an informal conference on the matters described in this Complaint, please contact Ms. Nancy Williams, of my staff, at (214) 665-7179.

26. If this action is settled without a formal hearing and issuance of an opinion by the Presiding officer pursuant to 40 C.F.R. § 22.27, this action will be concluded by issuance of a Consent Agreement and Final Order (“CAFO”) pursuant to 40 C.F.R. § 22.18(b). The issuance of a CAFO would waive the Respondent’s right to a hearing on any matter stipulated therein or alleged in the Complaint. Any person who commented on this Complaint would be notified and given an additional thirty (30) days to petition EPA to set aside any such CAFO and to hold a hearing on the issues raised in the Complaint. Such a petition would be granted and a hearing held only if the evidence presented by the Respondent’s comment was material and was not considered by EPA in the issuance of the CAFO.

27. Neither assessment nor payment of a penalty in resolution of this action will affect Respondent’s continuing obligation to comply with all requirements of the Act, the applicable regulations and permits, and any separate Compliance Order issued under Section 309(a) of the Act, 33 U.S.C. § 1319(a), including one relating to the violations alleged herein.

SEP 28 2016

Date



John Blevins

Director

Compliance Assurance and
Enforcement Division

CERTIFICATE OF SERVICE

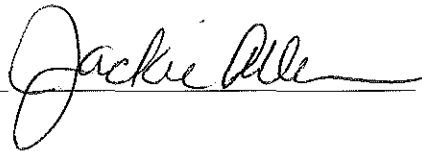
I certify that the foregoing Class I Administrative Complaint was sent to the following persons, in the manner specified, on the date below:

Original hand-delivered: Regional Hearing Clerk (6RC-D)
U.S. EPA, Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

Copy by certified mail,
Return receipt requested: Mr. Phil Gioia
Plaquemines Parish Government
126 Sewer Plant Road
Belle Chasse, LA 70037

Copy hand-delivered: Mr. Tucker Henson (6RC-EW)
U.S. EPA, Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

28 SEP 2016

A handwritten signature in black ink, appearing to read "Jackie Allen", is written over a horizontal line.