

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 7

11201 RENNER BOULEVARD

LENEXA, KANSAS 66219

2014 MAY 28 AM 9:09

BEFORE THE ADMINISTRATOR

IN THE MATTER OF)

) Docket No. CWA-07-2014-0064

GAREN GOEBEL)

) FINDINGS OF VIOLATION AND
) ADMINISTRATIVE ORDER FOR
) COMPLIANCE ON CONSENT

Respondent,)

Proceedings under Section)
309(a)(3) of the Clean Water Act,)
33 U.S.C. §1319(a)(3))

I. Preliminary Statement

1. The FINDINGS OF VIOLATION are made and ORDER ON CONSENT (“Order”) is issued by the United States Environmental Protection Agency (“EPA”) to Garen Goebel pursuant to the authority vested in the Administrator of EPA by Section 309(a) of the Clean Water Act (“CWA”), 33 U.S.C. § and 1319(a), as amended. This authority has been delegated by the Administrator of EPA to the Regional Administrator of EPA, Region 7, and further delegated to the Director, Water, Wetlands and Pesticides Division of EPA, Region 7.

2. The Respondent in this case is Garen Goebel (“Respondent”). Respondent’s mailing address is 55865 703 Road, Mahaska, Kansas 66955.

3. EPA, together with the Respondent, enter into this Section 309(a)(3) Order for Compliance on Consent in order to carry out the goals of the CWA, 33 U.S.C. § 1251 *et seq.*, to “restore and maintain the chemical, physical, and biological integrity of the Nation’s waters.”

4. It is the parties’ intent through this Order to address Respondent’s discharge of pollutants from a point source into waters of the United States without a permit issued pursuant to Section 404 of the CWA, 33 U.S.C. § 1344, in violation of Section 301 of the CWA, 33 U.S.C. § 1311.

13. Section 309(a) of the CWA, 33 U.S.C. § 1319(a), authorizes the issuance of an order against any person who violates Section 301 of the CWA, 33 U.S.C. § 1311, requiring such person to comply.

Factual Allegations

14. Respondent is a “person” within the meaning of Section 502(5) of the CWA, 33 U.S.C. § 1362(5).

15. At all times relevant to this action, Respondent owned, operated, or otherwise controlled property located in the Southwest ¼ of Section 29, Township 2 South, Range 2 East, Washington County, Kansas (hereinafter the “Site”).

16. Sometime in 2012, Respondent and/or persons acting on his behalf and using earth moving equipment, authorized and/or directed the grading, excavation, and placement of fill material impacting approximately 704 linear feet of Iowa Creek, Stub Creek and a tributary of Stub Creek, resulting in the discharge of dredged and fill material including, but not limited to, dirt, spoil, rock, and sand.

17. On December 6, 2012, representatives from the Corps inspected the Site and documented the discharges of fill material and channeling activity described in Paragraph 16.

18. The dredged and/or fill materials discharged by Respondent into Iowa Creek, Stub Creek and a tributary to Stub Creek referenced in Paragraph 16 are “pollutants” within the meaning of Section 502(6) of the CWA, 33 U.S.C. § 1362(6).

19. The earth moving equipment referenced in Paragraph 16 constitutes a “point source” within the meaning of Section 502(14) of the CWA, 33 U.S.C. § 1362(14).

20. The discharge of the dredged and/or fill material into Iowa Creek, Stub Creek and a tributary to Stub Creek referenced in Paragraph 16 constitutes the “discharge of a pollutant” within the meaning of Section 501(12) of the CWA, 33 U.S.C. § 1362(12).

21. Iowa Creek, Stub Creek and a tributary to Stub Creek are “waters of the United States” within the meaning of Section 502(7) of the CWA, 33 U.S.C. § 1362(7), 40 C.F.R. § 232.2 and 33 C.F.R. Part 328.

22. Respondent’s discharge of pollutants from a point source into waters of the United States was performed without a permit issued pursuant to Section 404 of the CWA, 33 U.S.C. § 1344, and therefore, these discharges violated Section 301 of the CWA, 33 U.S.C. § 1311.

27. Once approved by EPA, the Work Plan identified in Paragraph 26 shall be incorporated by reference and fully enforceable under the terms of this Order.

28. Respondent shall submit a Work Plan Completion Report within 30 days of the complete and full implementation of the Work Plan identified in Paragraph 26, Respondent shall submit photographic evidence, copies of relevant documents, and a signed statement indicating that the work is complete.

29. Respondent shall submit annual reports to EPA, beginning on the first anniversary of the Work Plan Completion Report, for a period of five years. These reports shall include photos of the site, a description of the status of the site, and any corrective actions, if any, that will be taken to correct the deficiencies to maintain proper stream functions.

30. The submission of documents by Respondent, as identified in Paragraphs 28 and 29, shall include the following written statement, followed by signature of a duly authorized representative of Respondent:

I certify under penalty of law that 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.

31. All documents to be submitted to EPA under this Order shall be submitted by mail to:

Lantz Tipton
Water, Wetlands and Pesticides Division
U.S. Environmental Protection Agency, Region 7
11201 Renner Boulevard
Lenexa, Kansas 66219

32. In the event Respondent fails to comply with the terms of the Order, pursuant to Section 309 of the CWA, 33 U.S.C. § 1319, EPA may seek judicial enforcement of the terms of the Order against Respondent and/or seek additional penalties against Respondent for such noncompliance with the terms of the Order.

General Provisions

Effect of Compliance with the terms of this Order

33. This Order shall not constitute a permit under the CWA. Compliance with the terms of this Order shall not relieve Respondent of his responsibility to obtain any required local, state, and/or federal permits. The EPA may subsequently amend this Order in accordance with the authority of the CWA. For example, the EPA may amend this Order to address any non-compliance with the CWA, including, but not limited to, any non-compliance with the requirements of Section 402 of the CWA. In the event of any such subsequent amendment to


GAREN GOEBEL

5-7-14
DATE

CERTIFICATE OF SERVICE

I certify that on the date noted below I mailed the foregoing Findings of Violation and Order for Compliance by certified mail, return receipt requested, to:

Mr. Garen Goebel
55865 703 Road
Mahaska, Kansas 66955.

05-28-14
Date

John D. Boyle