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U.S. ENVIRONMENTAL PROTECTION AGENCY
REGION 6

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 6

In the Matter of § Docket No. CWA-06-2015-1717
Evangeline Enterprises, L.L.C. §
Respondent § Proceeding to Assess a Class II
Facility Number: LAU004016 § Civil Penalty under Section 309(g)
§ of the Clean Water Act
§ 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 II Complaint is issued in accordance with 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 Procedure Act, 40 C.F.R. §§ 22.50 through 22.52.

Based on the following Findings, Complainant finds that Respondent has violated the Act and the regulations promulgated under the Act and should be ordered to pay a civil penalty.

II. Findings of Fact and Conclusions of Law

1. Evangeline Enterprises, L.L.C., doing business as Evangeline Training Center (“Respondent”), is a company incorporated under the laws of the State of Louisiana, and is

therefore, a “person,” as that term is defined at Section 502(5) of the Act, 33 U.S.C. § 1362(5), and 40 C.F.R. § 122.2.

2. At all relevant times, Respondent owned or operated a horse stabling facility located at 3620 N.E. Evangeline Thruway, in Carenero, Lafayette Parish, Louisiana (“facility”), and was therefore an “owner or operator” within the meaning of 40 C.F.R. § 122.2. The facility is a Concentrated Animal Feeding Operation (“CAFO”) as defined by Section 502(14) of the Act, 33 U.S.C. § 1362(14), and 40 C.F.R. § 122.23(b) and is assigned Facility Number LAU004016 by the Louisiana Department of Environmental Quality (“LDEQ”).

3. At all relevant times, the facility acted as a “point source” of a “discharge” of “pollutants” with its process wastewater and storm water runoff to the receiving waters of Vermilion River, which is considered a “water of the United States” within the meaning of Section 502 of the Act, 33 U.S.C. § 1362, and 40 C.F.R. § 122.2.

4. Because Respondent owned or operated a facility that acted as a point source of discharges of pollutants to waters of the United States, Respondent and the facility were subject to the Act and the National Pollutant Discharge Elimination System (“NPDES”) program.

5. Under Section 301 of the Act, 33 U.S.C. § 1311, it is unlawful for any person to discharge any pollutant from a point source to waters of the United States, except with the authorization of, and in compliance with, an NPDES permit issued pursuant to Section 402 of the Act, 33 U.S.C. § 1342.

6. On June 26, 2013, EPA inspected this facility and determined that the facility was illegally discharging process wastewater from horse wash racks through a system of bar ditches,

drainage ways, and unnamed streams that ultimately discharge into the Vermilion River, a water of the U.S., as defined by 40 C.F.R. § 122.2.

7. On July 29, 2013, EPA issued a Cease and Desist Order requiring the facility to (a) “immediately cease and desist all discharges of pollutants from the facility’s production area” into waters of the U.S.; and (b) submit a report to EPA and LDEQ, within thirty (30) days from the issuance of the Order, documenting the actions taken to stop the discharge. At the request of the facility, during a conference call held on August 27, 2013, EPA waived the thirty (30)-day requirement for submitting a report to EPA documenting the actions taken to stop the discharge. Respondent requested and was granted a deadline extension of September 30, 2013, to submit “a plan of action” to eliminate the discharge.

8. On September 11, 2013, Respondent submitted a plan of action to eliminate the discharge. The proposed activities to eliminate the discharge included the following:

- a. Immediately begin sampling the discharges weekly and during rainfall events to determine reductions in pollutants resulting from operational changes, such as removal of washing machines from the barns and installation of tarpaulins at manure storage bins to prevent leaching of pollutants from these bins during rainfall events; and
- b. Submit a final report to EPA by December 31, 2013, describing (1) the effectiveness of the injunctive relief activities implemented, and (2) any additional steps and actions needed to further reduce process wastewater coming into contact with storm water runoff that leaves the facility.

9. During a conference call held on August 12, 2014, EPA informed the facility that no final report was submitted to EPA by the December 31, 2013, deadline to document that the

discharges from the facility had been eliminated. EPA informed the facility that the ongoing discharges from the facility are in violation of the Act and the CAFO regulations specified at 40 C.F.R. § 412.13. According to 40 C.F.R. § 412.13(b), process wastewater may be discharged from a horse CAFO to navigable waters only during rainfall events, either chronic or catastrophic, that cause an overflow of process wastewater from a wastewater retention control structure designed, constructed and operated to contain all process generated wastewaters plus the runoff from a 25-year, 24-hour rainfall event for the location of the CAFO.

10. Under Section 309(g)(2)(B) of the Act, 33 U.S.C. § 1319(g)(2)(B), 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 \$187,500.

11. EPA has notified LDEQ 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).

12. 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

13. 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 (g)(2)(B), EPA Region 6 hereby proposes

to assess against Respondent a penalty of one hundred and thirty-five thousand dollars (\$135,000.00).

14. 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 violation(s), economic benefits, if any, prior history of such violations, if any, degree of culpability, and such matters as justice may require.

15. Complainant has specified that the administrative procedures specified in 40 C.F.R. Part 22, Subpart I, shall apply to this case, and the administrative proceedings shall not be governed by Section 554 of the Administrative Practice Act. However, pursuant to 40 C.F.R. § 22.42(b), Respondent has a right to elect a hearing on the record in accordance with 5 U.S.C. § 554, and Respondent waives this right unless Respondent in its answer requests a hearing in accordance with 5 U.S.C. § 554.

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 (copy enclosed). Failure to file an Answer to this Complaint within thirty (30) days of 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 thirty (30) 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

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

Ms. Ellen Chang-Vaughan (6RC-EW)
U.S. EPA, Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

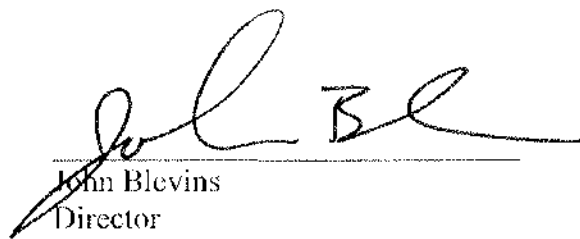
20. The Answer must be signed by Respondent, Respondent's counsel, or other representative on behalf of Respondent and must contain all information required by 40 C.F.R. §§ 22.05 and 22.15, including the name, address, and telephone number of Respondent and Respondent's counsel. All other pleadings must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

conference on the matters described in this Complaint, please contact Dr. Abu Senkayi, of my staff, at (214) 665-8403.

25. 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 Respondent’s right to a hearing on any matter stipulated to 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 petitioner’s comment was material and was not considered by EPA in the issuance of the CAFO.

26. 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.

2/9/15
Date


John Blevins
Director
Compliance Assurance and
Enforcement Division

CERTIFICATE OF SERVICE

I certify that the foregoing Class II 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. Carrol Castille, Owner
Evangeline Enterprises, L.L.C.
3411 Mills Street
Carencro, LA 70520

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

Dated:
FEB 19 2015

