UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS, TEXAS 75202-2733

JUN 12 2013

CERTIFIED MAIL-RETURN RECEIPT REQUESTED: 7011 3500 0000 0359 9700

Ms. Kristin Hennelly, Owner
Blue Heron Brewery
P.O. Box 263
Dixon, NM 87527

Re: Administrative Order, Docket Number: CWA-06-2013-1759
NPDES Facility Number: NMU001829

Dear Ms. Hennelly:

Enclosed is an Administrative Order (AO) issued to Blue Heron Brewery for violation of the Clean Water Act (CWA) 33 U.S.C. § 1387. Violations were identified during a December 13, 2012, inspection of your beverages manufacturing facility, conducted by the New Mexico Environment Department on behalf of the Environmental Protection Agency (EPA). These violations were discussed with you at the time of the inspection. The violations alleged include, but are not limited to, the following:

a) Failure to install best management practices to control off-site storm water discharges;

b) failure to develop and implement an adequate and complete Storm Water Pollution Prevention Plan; and

c) failure to submit a Notice of Intent prior to March of 2012 for coverage under the Storm Water Multi-Sector General Permit.

In addition, between August 1, 2011 and December, 2012, there were ten (10) rain events of one-half inch or greater at the facility, which resulted in a discharge of pollutants from the site into waters of the United States in violation of Section 301 of the CWA.

The 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 the AO. The AO also contains other compliance deadlines and information demands. The 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-06-2013-1759 and NPDES Facility Number NMU001829 on your response.

Also enclosed is an "Information Sheet" relating to the Small Business Regulatory Enforcement Fairness Act and a "Notice of Registrant's Duty to Disclose" relating to the disclosure of environmental legal proceedings to the Securities and Exchange Commission.

If you have any questions, please contact Mrs. Linda Smith, of my staff, at (214) 665-6641.

Sincerely,

John Blevins
Director
Compliance Assurance and
Enforcement Division

Enclosure

cc: Mr. James Hogan
Acting 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
Docket Number: CWA-06-2013-1759, NPDES Facility Number: NMU001829
FINDINGS OF VIOLATION, COMPLIANCE ORDER, AND INFORMATION DEMAND

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 ("the Act"), 33 U.S.C. §§ 1318 and 1319(a). The Administrator has delegated the authority to issue this Order to the Regional Administrator of EPA Region 6, who further delegated this authority to the Director of the Compliance Assurance and Enforcement Division.

FINDINGS

1. Blue Heron Brewery ("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 violations alleged herein, Respondent owned or operated Blue Heron Brewery, a beverages manufacturing facility, located at New Mexico State Road 68 in Embudo, Rio Arriba County, New Mexico ("facility") and was, therefore, an "owner or operator." The mailing address for the Respondent is P.O. Box 263, Dixon, NM 87527.

3. At all times relevant to this Order, the facility acted as a "point source" of a "discharge" of "pollutant[s]" as defined by Section 502(12) & (14), 33 U.S.C. § 1362(12) & (14), into the receiving waters of the Rio Grande, which is considered a "water of the United States," as defined by 40 C.F.R. § 122.2. As a result, Respondent and facility were subject to the Act and the National Pollutant Discharge Elimination System ("NPDES") program.

4. The facility is an industry identified under 40 C.F.R. § 122.26(b)(14)(xi) operating in Sector U, under Standard Industrial Classification (SIC) Code 2082, and is subject to the General Permit for Storm Water Discharges Associated with Industrial Activity issued by the EPA on September 29, 2008.

5. The facility began operations defined as industrial activity in 2009, which continued throughout the time period relevant to this action.

6. On December 13, 2012, the facility was inspected by New Mexico Environment Department storm water inspectors 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.

7. According to the EPA Storm Water Processing Center 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. During the time period of August 1, 2011 through December 30, 2012.

8. At all times relevant to this Order, there were ten (10) rain events of one-half (½) inch or greater at the facility resulting in unauthorized discharges of pollutants from the facility. Each unauthorized discharge from the facility 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 hereby orders the Respondent to take the following actions:

A. Within thirty (30) days of the effective date of this Order, Respondent shall 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 or 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/npdesnoi.cfm

For a status update on your NOI, call the NOI Center at (866) 352-7755.

B. Within thirty (30) days of the effective date of this Order, Respondent shall submit to EPA a certified copy of the NOI for coverage under the Permit submitted to the EPA NOI Processing Center.

C. Within thirty (30) days of the effective date of this Order, the Respondent shall develop and implement site-specific best management practices ("BMPs") to prevent additional discharges of pollutants to the Rio Grande.

D. Within thirty (30) days of the effective date of this Order, Respondent shall develop and implement an adequate and complete Storm Water Pollution Prevention Plan ("SWPPP") tailored specifically for the site located at New Mexico State Road 68 in Embudo, New Mexico. The SWPPP should detail BMPs, inspections, benchmark sampling and analysis, and other measures taken to reduce or eliminate the discharge of pollutants. Respondent shall submit a copy of the SWPPP to EPA for review. Guidance in developing the SWPPP may be found via the internet at:

www.epa.gov/npdes/stormwater/swppp.

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, the Respondent shall submit a written certification of compliance with this Order to EPA, Region 6. All correspondence should be addressed to:

Mrs. Linda Smith
Water Enforcement Branch (6EN-WM)
U.S. EPA, Region 6
1445 Ross Ave., Suite 1200
Dallas, TX 75202-2733

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. Section 706, which is set forth at http://uscode.house.gov/download/pls/05C7.txt, states the scope of such review.

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 or 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, or the Section 308 Information Demand, or the Act can result in further administrative action, or a civil judicial action initiated by the U.S. Department of Justice.

Compliance with the terms and conditions of this Order does not relieve the Respondent of its obligation to comply with all applicable federal, state, or local laws or regulations.

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

6·12·13
Date

John Blevins
Director
Compliance Assurance and
Enforcement Division