



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS, TEXAS 75202-2733

JUL 01 2013

CERTIFIED MAIL—RETURN RECEIPT REQUESTED: 7011 3500 0000 0359 9939

Mr. Steve Bradley, President
Verdant Industries LLC
6004 Highway 59 South
Lufkin, TX 75901

Re: Administrative Order, Docket Number: CWA-06-2013-1820
TPDES Permit: TX0001643

Dear Mr. Bradley:

Enclosed is an Administrative Order (AO) issued to Verdant Industries LLC for violation of the Clean Water Act (CWA) (33 U.S.C. § 1251 et seq.). The violations alleged are for exceedances of permitted effluent limitations.

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 Environmental Protection Agency 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-06-2013-1820 and TPDES Permit Number TX0001643 on your response.

Also enclosed is an "Information Sheet" related 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, that you may find useful.

If you have any questions, please contact Ms. Judy Edelbrock, of my staff, at (214) 665-8582.

Sincerely,

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

John Blevins
Director
Compliance Assurance and
Enforcement Division

Enclosures

Re: Administrative Order
Verdant Industries LLC

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cc: Ms. Susan Johnson (MC 169)
Manager, Enforcement Section I
TCEQ
P.O. Box 13087
Austin, TX 78711-3087



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
1445 Ross Avenue, Suite 1200, Dallas, TX 75202
FINDINGS OF VIOLATION AND COMPLIANCE ORDER AND
INFORMATION DEMAND

Docket Number: CWA-06-2013-1820; Permit Number: TX0001643

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 of EPA delegated the authority to issue this Order to the Regional Administrator of EPA Region 6, who delegated this authority to the Director of the Compliance Assurance and Enforcement Division.

Findings

1. Verdant Industries LLC ("Respondent") is a corporation which was incorporated under the laws of the State of Texas, and as such, is 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 times relevant to this Order, the Respondent owned or operated an integrated pulp and paper mill, located approximately 0.25 miles east of the intersection of State Highway 103 and Farm-to-Market Road 842, Lufkin, Angelina County, Texas ("facility"), and was, therefore, an "owner or operator" within the meaning of 40 C.F.R. § 122.2. The mailing address for the Respondent is 6004 Highway 59 South, Lufkin, TX 75901.

3. At all relevant times, the facility acted as a "point source" of a "discharge" of "pollutants" with its industrial wastewater to the receiving waters of the Angelina River, thence to the Sam Rayburn Reservoir, 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, the 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, a TPDES permit issued pursuant to Section 402 of the Act, 33 U.S.C. § 1342.

6. Section 402(a) of the Act, 33 U.S.C. § 1342(a), provides that the Administrator of EPA may issue permits under the NPDES program for the discharge of pollutants from point sources to waters of the United States. Any such discharge is subject to the specific terms and conditions prescribed in the applicable permit.

7. Respondent applied for and was issued TPDES Permit No. TX0001643 ("permit") under Section 402 of the Act, 33 U.S.C. § 1342, which became effective on December 9, 2005. At all relevant times, the Respondent was authorized to discharge pollutants from the facility to waters of the United States only in compliance with the specific terms and conditions of the permit.

8. Parts III.C and III.D of the permit ("Monitoring and Reporting Requirements") require the Respondent to sample and test its effluent and monitor its compliance with permit conditions according to specific procedures, in order to determine the facility's compliance or noncompliance with the permit and applicable regulations. They also require the Respondent to file with the Texas Commission on Environmental Quality ("TCEQ") certified Discharge Monitoring Reports ("DMRs") of the results of monitoring, and Noncompliance Reports when appropriate.

9. Part I.A of the permit ("Effluent Limitations and Monitoring Requirements") places certain limitations on the quality and quantity of effluent discharged by the Respondent. The relevant discharge limitations are specified in Attachment A, which is incorporated herein by reference.

10. Certified DMRs filed by the Respondent with TCEQ in compliance with the permit show discharges of pollutants from the facility that exceed the permitted effluent limitations for Chemical Oxygen Demand ("COD"). The effluent exceedances are specified in Attachment B, which is incorporated herein by reference.

11. Each instance in which the Respondent discharged pollutants to waters of the United States in amounts exceeding the effluent limitations contained in the permit was a violation of the permit and Section 301 of the Act, 33 U.S.C. § 1311. Each violation of the conditions of the permit or regulations described above is a violation of Section 301 of the Act, 33 U.S.C. § 1311.

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, Respondent shall submit a list of the specific actions taken to correct the COD (Daily Maximum) effluent violations.

B. Within thirty (30) days of the effective date of this Order, Respondent shall provide written certification to EPA, Region 6, that the violations cited herein have been corrected and the facility is in compliance with the requirements of the permit.

C. In the event that the Respondent believes complete correction of the violations cited herein is not possible within thirty (30) days of the effective date of this Order, the Respondent shall, within thirty (30) days of the effective date of this Order, submit a comprehensive written plan for the elimination of the cited violations within the shortest possible time. Such plan shall describe in detail the specific corrective actions to be taken and why such actions are sufficient to correct the violations. The plan shall include a detailed schedule for the elimination of the violations within the shortest possible time, as well as measures to prevent these or similar violations from recurring.

D. If Respondent would like to arrange a meeting with EPA to discuss the allegations in the Section 309(a)(3) Compliance Order or the Section 308 Information Demand, it should contact EPA within forty-five (45) days of the effective date of this Order. The meeting will be held at the Region 6 offices, 1445 Ross Ave., Dallas, Texas, and the Respondent can provide any information it believes is relevant to this Order. Respondent shall submit to EPA all information or materials it considers relevant to EPA at least ten (10) days prior to the meeting.

E. To arrange a meeting, or to ask questions or comment on this matter, please contact Ms. Judy Edelbrock, of my staff, at (214) 665-8582.

F. Any information or correspondence submitted by the Respondent to EPA under this Order shall be addressed to the following:

Ms. Judy Edelbrock
Water Enforcement Branch (6EN-WC)
EPA, Region 6
1445 Ross Ave., Suite 1200
Dallas, TX 75202-2733

Issuance of this Order shall not be deemed an election by EPA to forego any administrative or judicial, civil or criminal action to seek penalties, fines, or any other relief appropriate under the Act for the violations cited herein, or other violations that become known. EPA reserves the right to seek any remedy available under the law that it deems appropriate. Failure to comply with this Order or the Act can result in further administrative action, or a civil judicial action initiated by the U.S. Department of Justice.

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 forego any administrative or judicial, civil or criminal action to seek penalties, fines, or any other relief appropriate under the Act for the violations cited herein, or other violations that become known. 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, Section 308 Information Demand, or the Act can result in further administrative action, or a civil judicial action initiated by the United States Department of Justice.

This Order does not constitute a waiver or modification of the terms or conditions of the Respondent's NPDES permit, which remain in full force and effect. Compliance with the terms and conditions of this Order does not relieve the Respondent of its obligation to comply with any applicable federal, state, or local law or regulation.

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

7.1.13

Date



John Blevins
Director
Compliance Assurance and
Enforcement Division

ATTACHMENT A

Discharge Limitations for Permit Number TX0001643

Effluent Characteristics	Discharge Limitations for Outfall 002			
	Loading	Concentration		
	30 Day Avg.	30 Day Avg.	7 Day Avg.	Daily Max.
Chemical Oxygen Demand				200 mg/L

Attachment B

Permit Effluent Violations

Permit Number TX0001643

Date	Outfall	Parameter	Violation	Permit Limit
February 2012	002	Chemical Oxygen Demand	249 mg/L	200 mg/L
June 2012	002	Chemical Oxygen Demand	248 mg/L	200 mg/L
July 2012	002	Chemical Oxygen Demand	265 mg/L	200 mg/L
August 2012	002	Chemical Oxygen Demand	270 mg/L	200 mg/L
September 2012	002	Chemical Oxygen Demand	243 mg/L	200 mg/L
October 2012	002	Chemical Oxygen Demand	201 mg/L	200 mg/L
November 2012	002	Chemical Oxygen Demand	213 mg/L	200 mg/L
December 2012	002	Chemical Oxygen Demand	258 mg/L	200 mg/L
January 2013	002	Chemical Oxygen Demand	209 mg/L	200 mg/L