



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 9717

Mr. Mickey Polk
Polk Operating, LLC
P.O. Box 1271
Bowie, TX 76230

Re: Cease and Desist Administrative Order, Docket Number: CWA-06-2013-1825
Facility Number: OKU000778

Dear Mr. Polk:

Enclosed is an Administrative Order (AO) issued to Polk Operating, LLC, for violation of the Clean Water Act (CWA) (33 U.S.C. § 1251 *et seq.*). The violation was identified during a May 17, 2013 inspection, conducted by the Environmental Protection Agency, Region 6 (EPA), of your oil field waste recycling facility located in Jefferson County, Oklahoma. The violation alleged is for the unauthorized discharge of pollutants, specifically drilling fluid wastes, oil field brine, produced wastewater, and oil to waters of the United States.

Effective upon receipt of this AO, you shall immediately cease and desist all discharges of pollutants into the identified tributaries of Red Creek and Sam Suell Hollow Creek, and comply with all provisions set forth in the enclosed AO. This AO also requires responses to certain information demands. The EPA is committed to ensuring compliance with the requirements of the CWA, and my staff will assist you in any way possible.

If you have any questions, please contact Mr. Matt Rudolph, of my staff, at (214) 665-6434.

Sincerely,

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

John Blevins
Director
Compliance Assurance and
Enforcement Division

Enclosure

cc: Mr. Gayland Darity, District Manager
Oklahoma Corporation Commission, District III
P.O. Box 1525
Duncan, OK 73533

U.S. ENVIRONMENTAL PROTECTION AGENCY - REGION 6
FINDINGS OF VIOLATION AND COMPLIANCE ORDER AND INFORMATION DEMAND

In the Matter of Polk Operating, LLC (Respondent)
Docket No. CWA-06-2013-1825; Facility Number OKU000778

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

FINDINGS

1. Respondent, Polk Operating, LLC, is a "person," as defined by Section 502(5) of the Act, 33 U.S.C. § 1362(5).

2. At all times relevant to the violation alleged herein ("relevant time period"), Respondent owned and operated an oil field waste recycling facility located in Sections 28 and 34, Township 6 South, Range 6 West, Jefferson County, Oklahoma ("facility"), designated as Facility Number OKU000778.

3. On May 17, 2013, an EPA inspector observed that pollutants, specifically drilling fluid wastes, oil field brine, produced wastewater, and oil generated from road application activities, had been discharged from the facility to "waters of the United States," as that term is defined by 40 C.F.R. § 122.2. Pollutants were discharged to tributaries of Red Creek and Sam Suell Hollow Creek, which are considered "waters of the United States." The inspector determined that the water located at the discharge point of entry into the tributary of Red Creek was contaminated from brine discharges and measured 800 parts-per-million ("ppm") total soluble salts ("TSS"). The inspector also determined that the water located at the discharge point of entry into the tributary of Sam Suell Hollow Creek was contaminated from brine discharges and measured 7,000 ppm TSS.

4. Pumps, pipes, hoses, flow lines, production wells, and associated devices located at the facility acted as "point sources," as defined by Section 502(14) of the Act, 33 U.S.C. § 1362(14).

5. At no time during the relevant time period did Respondent have National Pollutant Discharge Elimination System permit coverage under the Act which authorized the discharge of a pollutant from the facility to waters of the United States.

6. During the relevant time period, it was unlawful under Section 301(a) of the Act, 33 U.S.C. § 1311(a), for any person to discharge a pollutant from a point source to waters of the United States without a permit issued under Section 402 of the Act, 33 U.S.C. § 1342.

7. On or before May 17, 2013, Respondent discharged or caused the discharge of pollutants from point sources within the facility to waters of the United States without permit coverage under the Act, in violation of Section 301(a) of the Act, 33 U.S.C. § 1311(a).

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 orders that Respondent take the following actions immediately upon receipt of this Order:

- a. cease all discharges of pollutants from the facility;
- b. remove all drilling fluid wastes, produced wastewater, and oil from the tributary of Red Creek, located at Latitude 34° 0.222' North and Longitude 97° 49.500' West; and
- c. remove all drilling fluid wastes, produced wastewater, and oil from the tributary of Sam Suell Hollow Creek, located at Latitude 33° 59.118' North and Longitude 97° 49.182' West.

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 provide a written certification including photographs, manifests, and/or receipts to document compliance with the requirements of this Order.
- b. Within thirty (30) days of the effective date of this Order, Respondent shall submit a Pollution Prevention Plan to prevent similar occurrences. All correspondence should be addressed to:

Ms. Mary Simmons (6EN-WR)
U.S. EPA, Region 6
1445 Ross Avenue, 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, judicial, civil, or criminal action to seek penalties, fines, or other relief under the Act for the violation alleged herein or other violations which may become known to EPA. EPA reserves the right to seek any remedy available under the law which it deems appropriate.

Failure to comply with this Section 309(a)(3) Compliance Order, Section 308 Information Demand, or the Act may result in the initiation of an administrative penalty action by EPA or a civil judicial penalty action by the U.S. Department of Justice.

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

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