



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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

AUG 06 2013

CERTIFIED MAIL-RETURN RECEIPT REQUESTED: 7005 1820 0003 7458 8361

Mr. Michael L. Smith, Member
Double B & S LLC
221 North Auburn Avenue
Farmington, NM 87401

Re: Administrative Order, Docket Number: CWA-06-2013-1862
NPDES Facility Number: NMR12A237

Dear Mr. Smith:

Enclosed is an Administrative Order (AO) issued to Double B & S LLC for violation of the Clean Water Act (CWA), 33 U.S.C. §§ 1251-1387. Violations were identified during a May 16, 2013, inspection of your Flora Vista Hillside Estates #2 facility, located near Flora Vista, San Juan County, New Mexico. The inspection was conducted by the New Mexico Environment Department on behalf of the Environmental Protection Agency (EPA). The violations were discussed with your staff at the time of the inspection. The violations alleged include, but are not limited to, the following:

- a) Failure to initiate stabilization of disturbed areas immediately after cessation of earth disturbing activities;
- b) failure to perform and document inspections from January 1, 2012, to December 5, 2012; and
- c) failure to update and revise the Storm Water Pollution Prevention Plan as permit requirements changed as a result of EPA's reissuance of the Storm Water Construction General Permit on February 16, 2012.

In addition, between January 1, 2012, and July 1, 2013, there were sixteen (16) rain events of one-quarter inch or greater at the facility, which resulted in a discharge of pollutants from the site into waters of the United States.

This 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-06-2013-1862 and NPDES Facility Number NMR12A237 on your response.

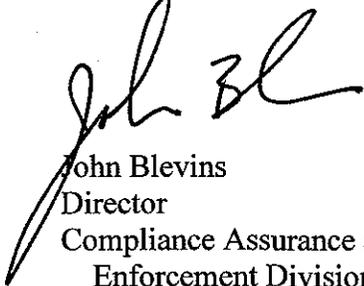
Re: Administrative Order
Double B & S, LLC

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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 Mr. Everett H. Spencer, of my staff, at (214) 665-8060.

Sincerely,

A handwritten signature in black ink, appearing to read "John Blevins". The signature is written in a cursive style with a large initial "J" and "B".

John Blevins
Director
Compliance Assurance and
Enforcement Division

Enclosure

cc: Mr. Bruce Yurdin
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
FINDINGS OF VIOLATION AND COMPLIANCE ORDER AND
INFORMATION DEMAND

Docket Number: CWA-06-2013-1862, NPDES Permit Number: NMR12A237

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 further delegated this authority to the Director of the Compliance Assurance and Enforcement Division.

FINDINGS

1. Double B & S LLC ("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 the violation(s) alleged herein, Respondent owned or operated the Flora Vista Hillside Estates #2, a five acre construction site, located off NM 516 near Flora Vista, San Juan County, New Mexico ("facility") and was, therefore, an "owner or operator within the meaning of 40 C.F.R. § 122.2. The mailing address for Respondent is 221 North Auburn, Farmington, NM 87401.

3. At all times relevant to this Order, the facility was 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 an unnamed tributary, then one (1) mile south to the Animas River, which are "waters of the United States" as defined by 40 C.F.R. § 122.2. As a result, Respondent and the facility were subject to the Act and the National Pollutant Discharge Elimination System ("NPDES") program.

4. The facility is considered an industry by code, as identified under 40 C.F.R. § 122.26(b)(14)(x) and is subject to the General Permit for Storm Water Discharges Associated with Construction Activity issued by the EPA on February 16, 2012.

5. On May 16, 2013, 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 402 of the Act, 33 U.S.C. § 1342.

6. According to the EPA Storm Water Processing Center database that records all applications for storm water general permit coverage, Respondent submitted a Notice of Intent for permit coverage for its activities at the facility and was covered by NPDES Permit No. NMR12A237 at the relevant times for the relevant activities. During the time period from January 1, 2012, to July 1, 2013, there were sixteen (16) rain events of one quarter (1/4) inch or greater at the facility. Each day of NPDES permit non-compliance was a violation of Section 402 of the Act, 33 U.S.C. § 1342.

7. Part 2.2.1 of the permit was violated in that Respondent failed to initiate stabilization of disturbed areas immediately after cessation of earth disturbing activities.

8. Part 4.1.1 of the permit was violated in that no inspections of the site were performed and documented from January 1, 2012, to December 5, 2012.

9. Parts 7.1.1 and 7.4 of the permit were violated in that Respondent failed to update and revise the Storm Water Pollution Prevention Plan ("SWPPP") as permit requirements changed due to reissuance of the EPA Storm Water Construction General Permit on February 16, 2012.

10. Part 7.2.15 and Appendix I, Part I.11 of the permit were violated in that Respondent failed to properly sign and certify the SWPPP as required in Appendix I. Part I.11.

11. Each violation of the conditions of the permit described above is a violation of Section 402 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 orders that Respondent take the following actions upon receipt of this Order:

A. Within thirty (30) days of the effective date of this Order, Respondent shall stabilize the areas of the site that were unstable at the time of the inspection.

B. Within thirty (30) days of the effective date of this Order, Respondent shall begin conducting and documenting storm water inspections of the entire construction site. become known to EPA. EPA reserves the right to seek any remedy available under the law that it deems appropriate.

C. Within thirty (30) days of the effective date of this Order, Respondent shall revise its SWPPP in accordance with the requirements of the EPA Storm Water Construction General Permit issued February 16, 2012, and properly sign and certify the SWPPP and all reports included in the SWPPP. 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 United States Department of Justice.

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

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

A. Within thirty (30) days of the effective date of this Order, Respondent shall submit a response to this Order detailing corrective actions taken and outlining a compliance plan for the site as construction proceeds.

8-6-13
Date



John Blevins
Director
Compliance Assurance and
Enforcement Division

B. Within thirty (30) days of the effective date of this Order, Respondent shall submit a written certification of compliance to the EPA, Region 6. All correspondence should be addressed to:

Mr. Everett H. Spencer
Water Enforcement Branch (6EN-WM)
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