



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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

MAY 08 2013

CERTIFIED MAIL-RETURN RECEIPT REQUESTED: 7011 3500 0000 0359 9229

Mr. Brian Gutierrez, Owner  
Mr. G's Pro Tow, LLC  
7625 Baca Lane  
Santa Fe, NM 87507

Re: Administrative Order, Docket Number: CWA-06-2013-1779  
Notice of Proposed Assessment of Class I Civil Penalty  
Docket Number: CWA-06-2013-1793  
NPDES Facility Number: NMR05GG71

Dear Mr. Gutierrez:

Enclosed are an Administrative Order (AO) and an Administrative Complaint (Complaint) issued to Mr. G's Pro Tow, LLC, for violation of Section 402 of the Clean Water Act. Violations were identified based on our review of a July 2, 2009 inspection and a January 31, 2013 re-inspection of your facility, conducted by the New Mexico Environment Department. The results were discussed with your representative at the time of the inspection. The violations alleged are for continuing violations of your National Pollutant Discharge Elimination System ("NPDES") program permit as well as failure to comply with a previous AO, Docket Number CWA-06-2009-1889, issued on September 11, 2009.

This AO requires compliance with applicable federal regulations within thirty (30) days of receipt of the AO. The Complaint assesses a monetary penalty for the violation. If it can be demonstrated that the violation cited in the AO has been corrected in a timely manner, the Environmental Protection Agency (EPA) has the right to negotiate the penalty amount down or perhaps mitigate the penalty amount partially by way of a Supplemental Environmental Project (SEP). The SEP must benefit the environment in the watershed where the violation occurred and must not be required by the permit or other laws.

You have the right to request a hearing regarding the violations alleged in the Complaint and the proposed administrative civil penalty. Please refer to the enclosed Part 22, "Consolidated Rules of Practice," for information regarding hearing and settlement procedures. Note that should you fail to request a hearing within thirty (30) days of your receipt of the Complaint, you will waive your right to such a hearing, and the proposed civil penalty of eight thousand dollars (\$8,000.00) may be assessed against you without further proceedings. Whether or not you request a hearing, we invite you to confer informally with the EPA.

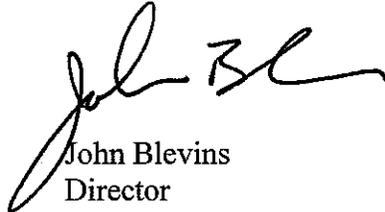
Please also find enclosed an "Information Sheet" relating to the Small Business Regulatory Enforcement Fairness Act and a "Notice of Registrant's Duty to Disclose" relating to the disclosure of environmental legal proceedings to the Securities and Exchange Commission.

Re: Administrative Order  
Mr. G's Pro Tow, LLC

—2

The EPA is committed to ensuring compliance with the requirements of the NPDES program, and my staff will assist you in any way possible. If you have any questions, or wish to discuss the possibility of a settlement of this matter, please contact Mr. Everett H. Spencer, of my staff, at (214) 665-8060.

Sincerely,



John Blevins  
Director  
Compliance Assurance and  
Enforcement Division

Enclosures

cc: IDENTICAL LETTER SENT TO:

Mr. Brian Gutierrez, Registered Agent  
Mr. G's Pro Tow, LLC  
818 Camino Sierra Vista  
Santa Fe, NM 87501

w/Complaint Regional Hearing Clerk

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

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

MAY 08 2013

CERTIFIED MAIL-RETURN RECEIPT REQUESTED: 7011 3500 0000 0359 9243

Mr. Brian Gutierrez, Registered Agent  
Mr. G's Pro Tow, LLC  
818 Camino Sierra Vista  
Santa Fe, NM 87501

Re: Administrative Order, Docket Number: CWA-06-2013-1779  
Notice of Proposed Assessment of Class I Civil Penalty  
Docket Number: CWA-06-2013-1793  
NPDES Facility Number: NMR05GG71

Dear Mr. Gutierrez:

Enclosed are an Administrative Order (AO) and an Administrative Complaint (Complaint) issued to Mr. G's Pro Tow, LLC, for violation of Section 402 of the Clean Water Act. Violations were identified based on our review of a July 2, 2009 inspection and a January 31, 2013 re-inspection of your facility, conducted by the New Mexico Environment Department. The results were discussed with your representative at the time of the inspection. The violations alleged are for continuing violations of your National Pollutant Discharge Elimination System (NPDES) program permit as well as failure to comply with a previous AO, Docket Number CWA-06-2009-1889, issued on September 11, 2009.

This AO requires compliance with applicable federal regulations within thirty (30) days of receipt of the AO. The Complaint assesses a monetary penalty for the violation. If it can be demonstrated that the violation cited in the AO has been corrected in a timely manner, the Environmental Protection Agency (EPA) has the right to negotiate the penalty amount down or perhaps mitigate the penalty amount partially by way of a Supplemental Environmental Project (SEP). The SEP must benefit the environment in the watershed where the violation occurred and must not be required by the permit or other laws.

You have the right to request a hearing regarding the violations alleged in the Complaint and the proposed administrative civil penalty. Please refer to the enclosed Part 22, "Consolidated Rules of Practice," for information regarding hearing and settlement procedures. Note that should you fail to request a hearing within thirty (30) days of your receipt of the Complaint, you will waive your right to such a hearing, and the proposed civil penalty of eight thousand dollars (\$8,000.00) may be assessed against you without further proceedings. Whether or not you request a hearing, we invite you to confer informally with the EPA.

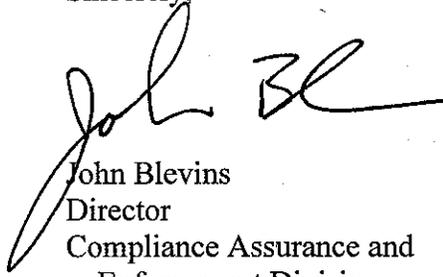
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Re: Administrative Order  
Mr. G's Pro Tow, LLC

2

The EPA is committed to ensuring compliance with the requirements of the NPDES program, and my staff will assist you in any way possible. If you have any questions, or wish to discuss the possibility of a settlement of this matter, please contact Mr. Everett H. Spencer, of my staff, at (214) 665-8060.

Sincerely,



John Blevins  
Director  
Compliance Assurance and  
Enforcement Division

Enclosures

cc: IDENTICAL LETTER SENT TO:

Mr. Brian Gutierrez, Owner  
Mr. G's Pro Tow, LLC  
7625 Baca Lane  
Santa Fe, NM 87507

w/Complaint Regional Hearing Clerk

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-06-2013-1779, NPDES Facility Number: NMR05GG71

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 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. Mr. G's Pro Tow, 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 violations alleged herein, Respondent owned or operated the auto salvage and metals recycling facility located at 7625 Baca Lane, Santa Fe, Santa Fe County, New Mexico ("facility") and was, therefore, an "owner or operator" as defined by 40 C.F.R. § 122.2.

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) and (14), 33 U.S.C. § 1362(12), (14), into the receiving waters of the Santa Fe River, 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)(vi) operating under Standard Industrial Classification Codes 5015 and 5093 (Sectors M and N) 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 2007, which continued throughout the time period relevant to this action.

6. On January 31, 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. § 1311.

7. 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 ("NOI") for permit coverage for its activities at the facility and was covered by NPDES Permit No. NMR05GG71 at the relevant times for the relevant activities. Each day of NPDES permit non-compliance was a violation of Section 402 of the Act, 33 U.S.C. § 1311. During the time period of January 1, 2011 through January 1, 2013, there were four (4) rain events of one-half (½) inch or greater at the facility.

8. Parts 4.1, 4.2 and 4.3 of the permit were violated in that Respondent failed to conduct and document routine facility inspections, quarterly visual assessments, and comprehensive site inspections.

9. Part 5 of the permit was violated in that the NOI was submitted on February 24, 2009, before the Storm Water Pollution Prevention Plan ("SWPPP") was completed on October 10, 2011.

10. Part 5.1.2 of the permit was violated in that Respondent failed to include the items listed below in the SWPPP:

- a. A site map showing the locations of all receiving waters in the immediate vicinity of the facility, with indications as to whether any of the waters are impaired (i.e., Santa Fe River in impaired segment 20.6.98 NMAC) and whether the waters have Total Maximum Daily Loads established;
- b. a site map containing the locations of all storm water conveyances including ditches, pipes, and swales;
- c. a site map containing locations and descriptions of all non-storm water discharges;
- d. a site map containing the locations of loading and unloading areas; and
- e. a site map containing locations and sources of run-on to the site from adjacent property that contains significant quantities of pollutants.

11. Part 5.1.3 of the permit was violated in that the SWPPP failed to document areas at the facility where industrial materials or activities are exposed to storm water and from which allowable non-storm water discharges are released.

12. Part 5.1.3.4 of the permit was violated in that the SWPPP did not include a list of actions taken or control measures for elimination of non-storm water discharges found at the facility (i.e., air conditioner and air compressor condensate).

13. Part 5.1.3.6 of the permit was violated in that the SWPPP did not include a summary of storm water sampling data for the previous permit term.

14. Part 5.1.5.1 of the permit was violated in that Respondent failed to include a schedule or plan for pick-up and disposal of wastes and routine inspections of tanks and drums. Also, the SWPPP failed to mention preventive maintenance procedures and procedures for labeling containers that could be susceptible to spillage or leakage.

15. Parts 5.1.6.1 and 5.1.6.2 of the permit were violated in that the Endangered Species Act and Historic Preservation Act documentation contained in the SWPPP was not accurate and did not meet the requirements in Parts 1.1.4.5 and 1.1.4.6 of the permit.

16. Part 5.4 of the permit was violated in that Respondent failed to keep copies of inspection reports and other documentation as part of the SWPPP for three successive years after the expiration date of the permit.

#### 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 Respondent to take the following actions:

A. Within thirty (30) days of the effective date of this Order, Respondent shall develop or revise their SWPPP and procedures in order to comply with the deficiencies noted in paragraphs 8 through 16 (above). The SWPPP should detail best management practices, inspections, benchmark sampling and analysis, and other measures taken to reduce or eliminate the discharge of pollutants. Guidance in developing the SWPPP may be found via the internet at: [www.epa.gov/npdes/stormwater/swppp](http://www.epa.gov/npdes/stormwater/swppp).

B. Within thirty (30) days of the effective date of this Order, Respondent shall submit to EPA a copy of the revised or new SWPPP and procedures for implementation to EPA for review. The SWPPP should be submitted electronically to Mr. Everett H. Spencer, of my staff, at [spencer.everett@epa.gov](mailto:spencer.everett@epa.gov) for review.

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

Mr. Everett H. Spencer  
Water Enforcement Branch (6EN-WM)  
U.S. EPA, Region 6  
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 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 Respondent.

5.8.13  
Date

  
John Blevins  
Director  
Compliance Assurance and  
Enforcement Division

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 6

|  |  |
|--|--|
| In the Matter of                                   | § Docket No. CWA-06-2013-1793  |
|  | §  |
| Mr. G's Pro Tow, LLC,<br>a New Mexico corporation, | § Proceeding to Assess a Class I<br>§ Civil Penalty under Section 309(g)<br>§ of the Clean Water Act |
| Respondent   | §  |
|  | §  |
| NPDES Permit No. NMR05GG71                         | § ADMINISTRATIVE COMPLAINT   |

I. Statutory Authority

This 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 further delegated this authority to the Director of the Compliance Assurance and Enforcement Division of EPA Region 6 ("Complainant"). This Class I Administrative 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," 40 C.F.R. Part 22, including the Administrative Proceedings not Governed by Section 554 of the Administrative Procedure Act, 40 C.F.R. §§ 22.50–22.52.

Based on the following Findings, Complainant finds that Mr. G's Pro Tow, LLC ("Respondent") 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. Respondent is a company incorporated under the laws of the State of New Mexico, and as such, Respondent 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 action (“all relevant times”), Respondent owned or operated Mr. G’s Pro Tow, LLC, an auto salvage and metals recycling facility located at 7625 Baca Lane, Santa Fe, New Mexico (“facility”), and was therefore an “owner or operator” within the meaning of 40 C.F.R. § 122.2.

3. At all relevant times, the facility was a “point source” of a “discharge” of “pollutants” with its industrial storm water to the receiving waters of the Santa Fe 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. 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. Pursuant to Section 402(a) of the Act, EPA issued the Storm Water Multi-Sector General Permit for Industrial Activities (“general permit”). 65 Fed. Reg. 64746 (Sept. 16, 2008). The general permit authorized “storm water discharges associated with industrial activity” to “waters of the United States” (including discharges to or through municipal separate storm sewer systems), but only in accordance with the conditions of the permit.

8. Section 402(p) of the Act, 33 U.S.C. § 1342(p), and 40 C.F.R. §§ 122.1 and 122.26 provide that facilities subject to “storm water discharges associated with industrial activity” are “point sources” subject to NPDES permitting requirements under Section 402(a) of the Act, 33 U.S.C. § 1342(a).

9. At all relevant times, the facility was a “point source,” as that term is defined at Section 502(14) of the Act, 33 U.S.C. 1362(14), and 40 C.F.R. § 122.2.

10. At all relevant times, Respondent was an “owner” or “operator” of a facility engaged in industrial activity that was a point source subject to discharges of pollutants to waters of the United States, within the meaning of 40 C.F.R. Part 122 and the permit, and Respondent was, therefore, required to obtain NPDES permit coverage at the effective date of the applicable permit and regulations, or upon commencing the subject activities thereafter.

11. The facility began the relevant operations defined as industrial activity in 2007, which continued throughout the time period relevant to this action.

12. According to the EPA database that records all applications for storm water general permit coverage, Respondent made application for permit coverage for its activities at the facility in February 2009, and was covered by NPDES Permit No. NMR05GG71 from March 2009 to the present.

13. On January 31, 2013, the facility was inspected by New Mexico Environment Department storm water inspectors. The facility had been previously inspected on July 2, 2009. Both inspections revealed that the facility was in non-compliance with their NPDES Permit No. NMR05GG71, in violation of Section 402 of the Act. Both inspections revealed the same violations: 1) failure to conduct and document inspections (routine, quarterly and comprehensive); 2) failure to develop a satisfactory Storm Water Pollution Prevention Plan ("SWPPP") before submission of the Notice of Intent; and 3) failure to retain copies of reports in the SWPPP (inspections, employee training, non-storm water sources, etc.). The facility was issued an Administrative Order for the violations found in the 2009 inspection on September 11, 2009. There is no response from the facility on file.

14. Rainfall data from the area indicates that from January 1, 2011 to January 1, 2013, there have been at least four (4) rain events of one-half ( ½ ) inch or greater that have caused discharge of pollutants from the facility to a waters of the United States.

15. Each day that Respondent conducted the relevant activities and operated the facility in violation of their NPDES Permit No. NMR05GG71 was a violation of Section 402 of the Act, 33 U.S.C. § 1311.

16. Under Section 309(g)(2)(A) of the Act, 33 U.S.C. § 1319(g)(2)(A), 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 \$37,500.

17. EPA notified the New Mexico Environment Department of the issuance of this Complaint and 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).

18. EPA 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

19. Based on the foregoing Findings, and pursuant to the authority of Sections 309(g)(1) and (g)(2)(A) of the Act, 33 U.S.C. §§ 1319(g)(1) and (g)(2)(A), EPA Region 6 hereby proposes to assess against Respondent a penalty of eight thousand dollars (\$8,000.00).

20. 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 violations, economic benefits, if any, prior history of such violations, if any, degree of culpability, and such matters as justice may require.

#### IV. Failure to File an Answer

21. 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.

22. The requirements for such an Answer are set forth at 40 C.F.R. § 22.15. 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).

23. 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.

24. 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:

Mr. Tucker Henson (6RC-EW)  
U.S. EPA, Region 6  
1445 Ross Avenue, Suite 1200  
Dallas, TX 75202-2733

25. 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.

V. Notice of Opportunity to Request a Hearing

26. Respondent may request a hearing to contest any material allegation contained in this Complaint, or to contest the appropriateness of the amount of the proposed penalty, pursuant to Section 309(g) of the Act, 33 U.S.C. § 1319(g). The procedures for hearings are set out at 40 C.F.R. Part 22, with supplemental rules at 40 C.F.R. § 22.38.

27. Any request for hearing should be included in Respondent's Answer to this Complaint; however, as discussed above, Respondent must file an Answer meeting the requirements of 40 C.F.R. § 22.15 in order to preserve the right to a hearing or to pursue other relief.

28. Should a hearing be requested, members of the public who commented on the issuance of the Complaint during the public comment period will have a right to be heard and to present evidence at such hearing under Section 309(g)(4)(B) of the Act, 33 U.S.C. § 1319(g)(4)(B).

#### VI. Settlement

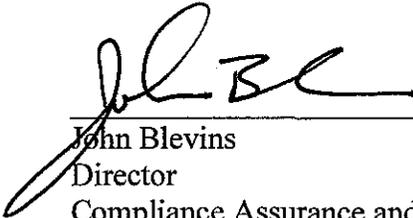
29. EPA encourages all parties against whom civil penalties are proposed to pursue the possibility of settlement through informal meetings with EPA. Regardless of whether a formal hearing is requested, Respondent may confer informally with EPA about the alleged violations or the amount of the proposed penalty. Respondent may wish to appear at any informal conference or formal hearing personally, by counsel or other representative, or both. To request an informal conference on the matters described in this Complaint, please contact Mr. Everett H. Spencer, of my staff, at (214) 665-8060.

30. 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.

31. 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.

5.8.13

Date



John Blevins

Director

Compliance Assurance and  
Enforcement Division

CERTIFICATE OF SERVICE

I certify that the foregoing Class I 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. Brian Gutierrez, Owner  
Mr. G's Pro Tow, LLC  
7625 Baca Lane  
Santa Fe, NM 87507

Mr. Brian Gutierrez, Registered Agent  
Mr. G's Pro Tow, LLC  
818 Camino Sierra Vista  
Santa Fe, NM 87501

Mr. James Hogan  
Acting Bureau Chief  
Surface water Quality Bureau  
New Mexico Environment Department  
P.O. Box 5469  
Santa Fe, NM 87502-5469

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

Dated: \_\_\_\_\_



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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

MAY 08 2013

CERTIFIED MAIL-RETURN RECEIPT REQUESTED: 7011 3500 0000 0359 9236

Mr. James Hogan  
Acting Bureau Chief  
Surface Water Quality Bureau  
New Mexico Environment Department  
P.O. Box 5469  
Santa Fe, NM 87502-5469

Re: Notice of Proposed Administrative Penalty Assessment  
Docket Number: CWA-06-2013-1793  
NPDES Facility Number: NMR05GG71

Dear Mr. Hogan:

Enclosed is a copy of the proposed Administrative Complaint (Complaint) that the Environmental Protection Agency (EPA) is proposing to issue to Mr. G's Pro Tow, LLC (Respondent) pursuant to Section 309(g) of the Clean Water Act (CWA), 33 U.S.C. § 1319(g). EPA is proposing the Complaint to administratively assess a Class I civil penalty of eight thousand dollars (\$8,000.00) against the Respondent for violation of the CWA. Because the violation has occurred in the State of New Mexico, I am offering you an opportunity to confer with us regarding the proposed penalty assessment.

You may request a conference within two weeks of receipt of this letter. The conference may be in person or by telephone and may cover any matters relevant to the proposed penalty assessment. If you wish to request a conference or if you have any comments or questions regarding the matter, 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", written over a horizontal line.

John Blevins  
Director  
Compliance Assurance and  
Enforcement Division

Enclosure