



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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

February 5, 2013

CERTIFIED MAIL-RETURN RECEIPT REQUESTED: 7007 3020 0002 5102 8362

The Honorable Mayson H. Foster
Mayor, City of Hammond
P.O. Box 2788
Hammond, LA 70404

Re: Administrative Order, Docket Number: CWA-06-2013-1721
NPDES/LPDES MS4 Permit Number: LAR041030

Dear Mayor Foster:

Enclosed is an Administrative Order (AO) issued to the City of Hammond for violation of the Clean Water Act (CWA) (33 U.S.C. § 1251 et seq.). Violations were identified based on our October 2, 2012 inspection of your Municipal Separate Storm Sewer System (MS4). The violations were discussed with Mr. Pete Panepinto, of your staff, on October 2, 2012. The violations alleged include, but are not limited to, the following:

- a) Failure to develop procedures for implementing the construction inspection program;
- b) failure to establish and put in place procedures for receiving and responding to information submitted by the public;
- c) failure to develop a strategy to achieve a fifty percent compliance rate for their construction sites as required in their Storm Water Management Program and incorporated into the MS4 permit;
- d) failure to develop a strategy to improve clarity and reduce sedimentation in discharges to the MS4's receiving streams;
- e) failure to develop procedures and strategies for post-construction structural and non-structural Best Management Practices; and
- f) failure to develop a strategy to reduce the percentage of impervious surfaces in the MS4.

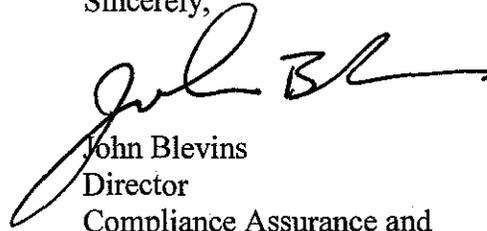
This AO does not assess a monetary penalty; however, it does require compliance with applicable federal regulations. The first compliance deadline is within sixty (60) days of receipt of this AO. The Environmental Protection Agency is committed to ensuring compliance with the requirements of the National Pollutant Discharge Elimination System (NPDES) program, and my staff will assist you in any way possible. Please reference AO Docket Number CWA-06-2013-1721 and NPDES/LPDES MS4 Permit Number LAR041030 on your response.

Re: City of Hammond
Administrative Order

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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", written over the typed name.

John Blevins
Director
Compliance Assurance and
Enforcement Division

Enclosure

cc: Ms. Celena Cage, Administrator
Enforcement Division
Louisiana Department of Environmental Quality
P.O. Box 4312
Baton Rouge, LA 70821-4312

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

In the Matter of City of Hammond, Respondent

Docket No. CWA-06-2013-1721

NPDES Permit No. LAR041030

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 Section 309(a) of the Clean Water Act ("the Act"), 33 U.S.C. § 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, City of Hammond, is a municipality chartered under the laws of the State of Louisiana, and as such, Respondent is a "person," within the meaning of Section 502(5) of the Clean Water Act ("the Act"), 33 U.S.C. § 1362(5), and 40 C.F.R. § 122.2.

2. At all times relevant to the violation alleged herein, Respondent owned or operated a small Municipal Separate Storm Sewer System ("sMS4") that acted as a point source of discharges of pollutants to "waters 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.

3. Section 402(a) of the Act, 33 U.S.C. § 1342(a), provides that the Administrator of EPA may issue permits under the National Pollutant discharge Elimination System ("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.

4. On March 10, 2003, EPA published regulations, the "Phase II Rule," requiring NPDES permit coverage for certain industrial, construction, and municipal sources of storm water runoff, thereby changing the way that storm water is regulated at the state and federal levels. Under the Phase II Rule, the Louisiana Department of Environmental Quality ("LDEQ") issued an MS4 Permit, Number LAR041030 ("permit"), to the City of Hammond on June 24, 2003, and re-issued the permit on November 27, 2007, which was effective until November 28, 2012. The permit required the Respondent to develop and implement a Storm Water Management Plan ("SWMP").

5. On October 1-2, 2012, EPA inspected two areas of the SWMP implemented by the Respondent to evaluate their compliance with the Permit.

6. The areas of the MS4 permit and the incorporated SWMP inspected by EPA are described by the SWMP as part of the Respondent's NOI submission signed and submitted to EPA on June 24, 2003.

Part D.4.a of the permit and the incorporated SWMP requires the city to do [the following]:

a. Develop, implement, and enforce a program to reduce pollutants in storm water runoff from construction sites to their storm sewer system through the following:

(1) Pass an ordinance requiring the implementation of proper erosion and sediment controls and controls for other wastes on applicable construction sites and provide for sanctions to ensure compliance.

(2) Establish procedures for site inspection and enforcement of control measures.

(3) Establish procedures for the receipt and consideration of information submitted by the public.

(4) Determine the appropriate best management practices ("BMPs") and measurable goals to insure compliance with the ordinance.

Part D.5a of the permit and the SWMP incorporated into the permit requires the city to do [the following]:

a. Develop, implement, and enforce a program to reduce pollutants in post-construction runoff to its storm sewer system from new development and redevelopment projects that result in the land disturbance of greater than or equal to 1 acre through the following:

(1) Develop and implement strategies which include a combination of structural and/or non-structural BMPs.

(2) Pass an ordinance requiring the implementation of post-construction runoff controls to the extent allowable under state or local law and provide appropriate enforcement procedures and actions to ensure long-term operation and maintenance of controls.

(3) Determine the appropriate BMPs and measurable goals for this minimum control measure.

7. Specific areas of the MS4 Permit and SWMP were violated as follows:

a. Part D.4.a(2) of the permit and the SWMP was violated in that procedures for implementing the site construction inspection program have been required by the Respondent's incorporated SWMP since 2003 and to date have not been implemented. The Respondent's latest annual report states that the "building department is currently working on implementing [them]." The EPA inspection revealed that the Respondent has no process or plan in place for construction inspections. The inspections are performed irregularly with no regard to part D.4.a(4) of the permit and SWMP, which requires "50 percent of construction operators [to be] in compliance."

b. Part D.4.a(3) of the permit and the incorporated SWMP was violated in that the Respondent failed to establish and put in place procedures for receiving and responding to information submitted by the public. This requirement has been in the Respondent's SWMP since its incorporation into the permit in 2003. Each year since 2003, the requirement has been moved to the next year and, in the Respondent's latest annual report, moved to 2012 for implementation.

c. Part D.4.a(4) of the permit and the incorporated SWMP was violated in that the Respondent failed to obtain the fifty percent (50%) compliance rate as promised in their permit and SWMP. Every year since 2004, this goal has been moved to the next year and the Respondent still has not developed a strategy for implementation of this goal or for developing an overall inspection strategy. Of the three sites inspected by EPA on October 2, 2012, none were compliant with the construction permit or Respondent's ordinances.

d. Part D.4.a(5) of the permit and incorporated SWMP was violated in that the Respondent has no plan or strategy in place to improve clarity and reduce sedimentation in storm water going to local bodies of water. This goal was set for 2005 and has been moved forward each year since 2005. It still is not accomplished.

e. Part D.5.a(1) of the permit and the incorporated SWMP was violated in that the Respondent has not developed strategies that included structural and/or non-structural BMPs. These goals were set for 2003 and have been moved forward each year. This goal is still not accomplished.

f. Part D.5.a(3) of the permit and the incorporated SWMP was violated in that the Respondent failed to develop a strategy to reduce the percentage of impervious surfaces in the MS4. This goal was set for 2005 implementation and has been moved forward each year since 2005. This goal is still not accomplished.

8. As a municipality that discharges its storm water to the MS4, thence to "waters of the United States," Respondent is subject to the regulations promulgated by EPA pursuant to 40 C.F.R. § 122.26(d)(2)(iv) and 40 C.F.R. § 122.42(c).

9. Pursuant to this Order, Respondent is required to comply with the Act and the Permit, as set forth in 40 C.F.R. § 122.26(d)(2)(iv) and 40 C.F.R. § 122.42(c) of the Act.

SECTION 309(a)(3) COMPLIANCE ORDER

Based on these findings and pursuant to the authority of Section 1414(g) of the Act, 42 U.S.C. § 300f *et seq.*, EPA orders that Respondent immediately take the following actions:

A. Within sixty (60) days of receipt of this Order, develop procedures for implementation of the site inspection and enforcement program as required by MS4 Permit No. LAR041030 and the incorporated SWMP.

B. Within sixty (60) days of receipt of this Order, develop and implement procedures for receiving and responding to information received from the public as required by MS4 Permit No. LAR041030 and the incorporated SWMP.

C. Within sixty (60) days of receipt of this Order, develop and implement a strategy to achieve a fifty percent (50%) compliance rate in construction areas as required in MS4 Permit No. LAR041030 and the incorporated SWMP.

D. Within sixty (60) days of receipt of this Order, develop and implement a strategy to improve clarity and reduce sedimentation in storm water discharging to the MS4 conveyance as required in MS4 Permit No. LAR041030 and the incorporated SWMP.

E. Within sixty (60) days of receipt of this Order, develop strategies and procedures for implementing structural and non-structural BMPs in the MS4 as required by MS4 Permit No. LAR041030 and the incorporated SWMP.

F. Within sixty (60) days of receipt of this Order, develop and implement strategies to reduce the percentage of impervious surfaces in the MS4 as required by MS4 Permit No. LAR041030 and the SWMP.

G. Respondent shall comply with the LDEQ requirements and standards set forth in the permit, the incorporated SWMP, and the Act.

SECTION 308 INFORMATION DEMAND

H. Within sixty (60) days of receipt of this Order, Respondent shall provide written certification to EPA, Region 6, that procedures and practices have been developed and implemented to correct the deficiencies listed in paragraph 7 above and prevent future occurrences of the violations cited herein. All correspondence should be addressed to:

Mr. Everett H. Spencer
Water Enforcement Branch (6EN-WM)
U.S. EPA, Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

I. To arrange a meeting or comment on this matter, please contact Mr. Spencer, of my staff, at (214) 665-8060.

GENERAL PROVISIONS

This Order is effective upon receipt by an authorized representative of the violating municipality.

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) 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 to EPA. EPA reserves the right to seek any remedy available under the law that it deems appropriate.

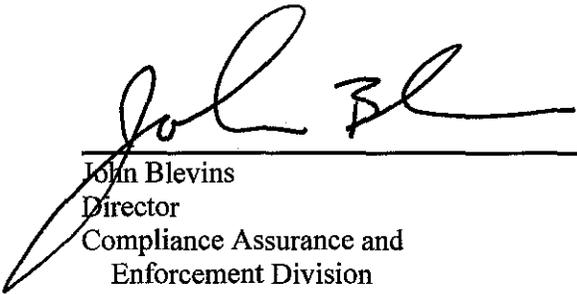
Failure to comply with this Section 309(a)(3) Compliance Order and the Section 308 Information Demand, or the Act can result in further administrative actions or a civil judicial action, initiated by the U.S. Department of Justice. This Order does not constitute a waiver, suspension, or modification of the terms or conditions of the Respondent's NPDES permit, which remains 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 laws or regulations.

This Order shall be binding on the municipality cited herein and all its heirs, successors, and assignees. No change in ownership of the MS4 shall alter the responsibility of the municipality under this Order.

2.5.13

Date


John Blevins
Director
Compliance Assurance and
Enforcement Division