



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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

November 30, 2012

CERTIFIED MAIL - RETURN RECEIPT REQUESTED: 7007 3020 0002 5102 0984

Mr. Tom Phelps, CEO
ENMR Telephone Cooperative, Inc.
d/b/a ENMR-Plateau
7111 N. Prince Street
Clovis, NM 88101

Re: Administrative Order, Docket Number: CWA-06-2013-1703
NPDES Facility Number: NMU001794

Dear Mr. Phelps:

Enclosed is an Administrative Order (AO) issued to ENMR Telephone Cooperative, Inc., doing business as ENMR-Plateau, for violation of the Clean Water Act (CWA) (33 U.S.C. § 1251 et seq.). The violation was identified through our review of an inspection of your ENMR-Plateau Broadband Project, conducted by the New Mexico Environment Department (NMED) on May 14, 2012. The violation was discussed during the inspection with the project foremen, Mr. Brett Berry and Mr. Juan Baez, and was also discussed with Ms. Teresa Hurt from Parametrix, Inc., on May 14, 2012. The violation alleged is for failure to obtain permit coverage under the Storm Water Construction General Permit. NMED inspectors also noted that there were no Best Management Practices installed onsite to control the discharge of pollutants to waters of the United States.

In addition, during the time period of May 2012, there were four (4) rainfall 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 (30) 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-06-2013-1703 and NPDES Facility Number NMU001794 on your response.

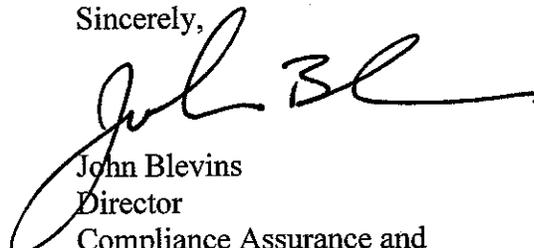
Re: Administrative Order
ENMR Telephone Cooperative, Inc.

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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. Diana McDonald, of my staff, at (214) 665-7495.

Sincerely,



John Blevins
Director
Compliance Assurance and
Enforcement Division

Enclosure

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

Mr. William Pauley
Vice President-Western Region
The Fishel Construction Company (FN)
1819 South 27th Avenue
Phoenix, AZ 85009

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
1445 Ross Avenue, Suite 1200, Dallas, TX 75202
FINDINGS OF VIOLATION, COMPLIANCE ORDER, AND INFORMATION DEMAND
In the Matter of ENMR Telephone Cooperative, Inc., Respondent
Docket Number: CWA-06-2013-1703, NPDES Facility Number: NMU001794

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 ("Act"), 33 U.S.C. § 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. ENMR Telephone Cooperative, Inc., doing business as ENMR-Plateau ("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 alleged herein, the Respondent owned or operated the ENMR-Plateau Broadband Project, a linear construction site of approximately 194 miles, comprising activity greater than five (5) acres, located along Hwy. 285, which becomes Bobcat Road, and then becomes Old Vegas Hwy., east of Santa Fe, New Mexico ("facility"). The mailing address for the Respondent is 7111 N. Prince Street, Clovis, NM 88101.

3. At all times relevant to this Order, the facility acted as a "point source" of a "discharge" of "pollutant[s]" to the receiving waters of the Canada de los Alamos and thence to Galisteo Creek (20.6.4.121 NMAC), which is considered a "water 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 an industry 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 14, 2012, the facility was inspected by the New Mexico Environment Department ("NMED"). As a result of this inspection, the facility was found to be in violation of Section 301 of the Act, 33 U.S.C. § 1311.

6. According to the EPA database that records all applications for storm water general permit coverage, Respondent did not submit a Notice of Intent ("NOI") for permit coverage for its activities at the facility, and was not covered by a NPDES permit at the relevant times for the relevant activities.

7. During May 2012, there were four (4) rainfall events of one-quarter ("1/4") inch or greater at the facility. There were no Best Management Practices ("BMPs") installed on-site resulting in pollutant discharge. Each day of operation without NPDES permit coverage was a violation of Section 301 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) of the Act, 33 U.S.C. § 1319(a), EPA orders that Respondent take the following action(s) upon receipt of this Order:

- a. Within thirty (30) days of the effective date of this Order, the Respondent shall submit to the EPA an NOI for the ENMR-Plateau Broadband Project.
- b. Within thirty-five (35) days of the effective date of this Order, the Respondent shall submit to the EPA a copy of the letter acknowledging NPDES permit coverage.
- c. Within thirty (30) days of the effective date of this Order, Respondent shall develop and implement a Storm Water Pollution Prevention Plan ("SWPPP") tailored specifically for the site referenced in paragraph 2 and submit a copy of the signature page (with certification statement) from the SWPPP.

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, the Respondent shall submit a written certification of compliance to the EPA, Region 6. All correspondence and submittals should be addressed to:

Ms. Darlene Whitten-Hill
Water Enforcement Branch (6EN-WC)
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 Procedures 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.

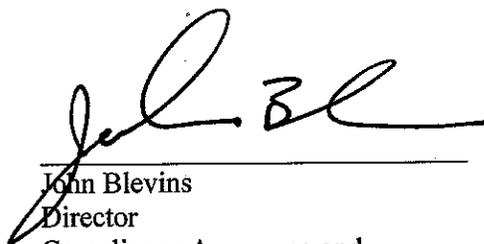
Issuance of this Order shall not be deemed an election by EPA to waive any administrative or judicial, civil or criminal action to seek penalties, fines, or other relief under the Act for the violations cited herein, or other violations that become known to EPA. EPA reserves the right to seek any remedy available under the law that it deems appropriate. Failure to comply with this Order 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 the 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 the Respondent.

11.30.12

Date



John Blevins
Director
Compliance Assurance and
Enforcement Division