



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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

FEB 16 2012

CERTIFIED MAIL—RETURN RECEIPT REQUESTED: 7005 1820 0003 7453 8854

Mr. Johnnie Raab
General Manager
Louisiana and North West Railroad Company, Inc.
304 West Main
Homer, LA 71040

Re: Administrative Order, Docket Number: CWA-06-2012-1792
LPDES Permit Number: LAR10H238

Dear Mr. Raab:

Enclosed is an Administrative Order (AO) issued to Louisiana & North West Railroad Company, Inc. (L&NW Railroad), for violation of the Clean Water Act (CWA), 33 U.S.C. § 1251 *et seq.* Violations were identified during an inspection of your construction site, located approximately two (2) miles north of Gibsland, Louisiana, conducted jointly by the Environmental Protection Agency (EPA) and the Louisiana Department of Environmental Quality (LDEQ) on January 27, 2012. Violations alleged include, but are not limited to:

- 1) Failure to obtain an LPDES permit for the adjacent 19-acre construction site;
- 2) failure to install adequate storm water controls; and
- 3) the discharge of a pollutant (sediment) to waters of the United States.

Effective upon receipt of this AO, you shall immediately address the requirement for site-appropriate Storm Water Pollution Prevention Plans, storm water controls, and the LDEQ permit. Additionally, cease and desist all discharges of pollutants into the unnamed tributaries that flow to both Black Lake and Leatherman Creeks, thence combining into Leatherman Creek, thence to Black Lake Bayou, and thence to the Red River, and comply with all provisions set forth in the enclosed AO. 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. Juan Ibarra, of my staff, at (214) 665-8493.

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

Re: Administrative Order 2
Louisiana and North West Railroad Company, Inc.

cc: Ms. Celena Cage
Administrator
Office of Environmental Compliance
LDEQ
P.O. Box 4312
Baton Rouge, LA 70821-4312



U.S. ENVIRONMENTAL PROTECTION AGENCY - REGION 6
FINDINGS OF VIOLATION AND COMPLIANCE ORDER
In the Matter of Louisiana and North West Railroad Company, Inc., Respondent
Docket No. CWA-06-2012-1792
NPDES Permit Number LAR10H238

STATUTORY AUTHORITY

The following findings are made and Order issued under the authority vested in the Administrator of the United States Environmental Protection Agency (to "EPA"), by Section 309(a) of the Clean Water Act ("Act"), 33 U.S.C. § 1319(a). The Administrator has 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. Louisiana and North West Railroad Company, Inc. ("L&NW Railroad") ("Respondent") is a company incorporated in the State of Louisiana, and is therefore considered a "person," as defined by 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 the violation alleged herein, Respondent operated a 59-acre construction site for the development of a multi-modal transload development, located approximately two (2) miles north of Gibsland, on the west side of Louisiana Hwy. 154, in Bienville Parish, Louisiana ("facility").
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 the unnamed tributaries of Black Lake Creek and Leatherman Creek, thence combining into Leatherman Creek, thence to Black Lake Bayou, thence to the Red River, 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 are subject to the Act and the Louisiana Pollutant Discharge Elimination System ("LPDES") program.
4. The Respondent 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 ("permit") issued by the LDEQ on October 1, 2009.
5. Respondent applied for and was issued coverage under the permit, and was assigned LPDES Permit No. LAR10H238 by the Louisiana Department of Environmental Quality ("LDEQ"). Beginning on May 25, 2011, Respondent was authorized to discharge pollutants to waters of the United States, but only in compliance with the specific terms and conditions of the permit for the 40-acre construction site.
6. On January 27, 2012, EPA and LDEQ inspectors conducted an on-site investigation of the facility and observed the following violations.
7. The Act was violated in that the Respondent conducted construction activities on an additional 19-acre site without obtaining permit coverage for the site. The 19-acre site was disturbed, under active construction, and lacked any storm water controls.
8. Each day of operation without LPDES permit coverage is a violation of Section 301 of the Act, 33 U.S.C. § 1311.
9. As required by Part IV.C and D of the LDEQ permit, the storm water controls on the permitted 40-acre site were ineffective in controlling the runoff of site sediment to the receiving streams, and the controls were not properly designed, managed or maintained.
10. Each violation of the conditions of the permit described above is a violation of Section 301 of the Act, 33 U.S.C. § 1311.

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 actions upon receipt of this Order:

- a) Immediately cease and desist discharges of pollutants to waters of the U.S.;
- b) within thirty (30) days of the effective date of this Order, develop a Storm water Pollution Prevention Plan ("SWPPP") specifically designed for the unpermitted 19-acres permit;
- c) within thirty (30) days of the effective date of this Order, submit a notice of intent for coverage of the 19-acre site under the LDEQ Construction General Permit;
- d) within thirty (#30) days of the effective date of this Order, provide properly designed, installed, and maintained storm water controls to minimize or eliminate the discharge of pollutants (sediment) off-site and into the receiving streams, and update the SWPPP to reflect changes;
- e) within thirty (30) days of the receipt of this Order, Respondent shall submit to EPA and LDEQ a certified summary, including photographs, to document that the violations have been addressed.

GENERAL PROVISIONS

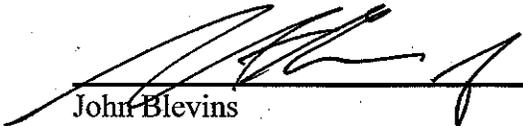
Issuance of this Order shall not be deemed an election by EPA to waive any administrative, judicial, civil, or criminal action to seek penalties, fines, or other relief under the Act for the violation alleged herein or other violations which may become known to EPA. EPA reserves the right to seek any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

Failure to comply with this Order 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.

FEB 16 2012

Date

John Blevins
Director
Compliance Assurance and
Enforcement Division