



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 6  
1445 ROSS AVENUE, SUITE 1200  
DALLAS, TEXAS 75202-2733

February 14, 2013

CERTIFIED MAIL – RETURN RECEIPT REQUESTED: 7007 3020 0002 5102 0908

Mr. Efren Yturralde  
Superintendent  
Gadsden Independent School District #16  
P.O. Box Drawer 70  
Anthony, NM 88021

Re: Administrative Order, Docket Number: CWA-06-2013-1737  
NPDES Permit Number: NM0028487

Dear Mr. Yturralde:

Enclosed is an Administrative Order (AO) issued to Gadsden Independent School District #16 for violation of the Clean Water Act (CWA) (33 U.S.C. § 1251 *et seq.*). The violations alleged were identified during our review of your facility's permit file and most recent inspection report, for the Gadsden Central and High School Waste Water Treatment Plant. The violations were discussed with you at the time of the inspection. The violations alleged include, but are not limited to, the following:

- a) Failure to meet effluent limitations for pH, Total Residual Chlorine, and E. coli at Outfall 001;
- b) failure to meet effluent limitations for Total Suspended Solids at Outfalls 01A and 01B; and
- c) failure to comply with proper Operations and Maintenance requirements.

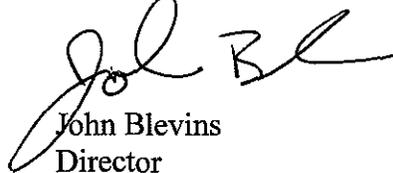
This AO does not assess a monetary penalty; however, it does require compliance with applicable federal regulations. The first compliance deadline is within thirty days of receipt of the AO. The AO also contains other compliance deadlines and information demands. The Environmental Protection Agency is 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-06-2013-1737 and NPDES Permit Number NM0028487 on your response.

Re: Administrative Order  
Gadsden Independent School District #16

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If you have any questions, please contact Mr. Josh Waldmeier, of my staff,  
at (214) 665-8064.

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. 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  
FINDINGS OF VIOLATION, COMPLIANCE ORDER, AND  
INFORMATION DEMAND

Docket Number: CWA-06-2013-1737, NPDES Permit Number: NM0028487

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. Gadsden Independent School District #16 ("Respondent") is a school district chartered under the laws of the State of New Mexico, and as such, 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, and as such, 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 Order ("all times relevant"), the Respondent owned or operated a wastewater treatment plant ("WWTP"), located at 1325 West Washington, Anthony, Doña Ana 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 the Respondent is P.O. Box Drawer 70, Anthony, NM 88021.

3. At all times relevant, the facility was a "point source" of a "discharge" of "pollutants" with its municipal wastewater to the receiving waters of the Rio Grande in Segment 20.6.4.101 of the Rio Grande Basin, 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 the 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. The Respondent applied for and was issued NPDES Permit No. NM0028487 ("permit") under Section 402 of the Act, 33 U.S.C. § 1342, which became effective on July 1, 2008. At all times relevant, the Respondent was authorized to discharge pollutants from the facility to waters of the United States only in compliance with the specific terms and conditions of the permit.

8. Parts III.C and III.D of the permit require Respondent to sample and test its effluent and monitor its compliance with permit conditions according to specific procedures, in order to determine the facility's compliance or noncompliance with the permit and applicable regulations. They also require Respondent to file with EPA certified Discharge Monitoring Reports ("DMRs") of the results of monitoring, and Noncompliance Reports when appropriate.

9. Part I.A of the permit places certain limitations on the quality and quantity of effluent discharged by Respondent. The relevant discharge limitations are specified in Attachment A, which is incorporated herein by reference.

10. Certified DMRs filed by the Respondent with EPA in compliance with the permit show discharges of pollutants from the facility that exceed the permitted effluent limitations established in Part I.A of the permit. The effluent limitation exceedances are listed in Attachment B, which is incorporated herein by reference.

11. The most recent inspection conducted by the New Mexico Environment Department ("NMED") provided Effluent/Receiving Waters, Flow Measurement, Self-Monitoring Program, Laboratory, and Operations and Maintenance (unsatisfactory for violations and/or deficiencies in Records/Reports).

12. Part III.B.3 of the permit was violated in that the facility does not have an adequate operating staff or back-up in case of leave. Public wastewater facilities using physical and chemical treatment processes with populations between 501 to 5,000 are required to have an operator with a Level 3 wastewater certification.

13. Part III.B.3 of the permit was violated in that the Respondent needs to perform maintenance to eliminate epoxy bubbling at the High School WWTP chlorine contact chamber.

In addition, the Respondent will need to fix the leak beneath the chlorine tablet tube feeder as referenced in the NMED's Compliance Evaluation Inspection Report.

14. Part II.D of the permit was violated in that written standard operating procedures ("SOPs") had not been prepared; specifically, there were no written SOPs for emergency treatment, or spill response and reporting.

15. Part I.A.1 of the permit was violated in that grab samples, as required by the permit, were not obtained for pH, TRC, and E. coli bacteria effluent monitoring for Outfall 001.

16. 40 C.F.R. Part 136.3 of the permit was violated in that pH results reported on DMRs did not conform to sample holding times; in this case, within fifteen (15) minutes of sample collection.

17. Part III.C.5 of the permit was violated as follows:

- a) Additional on-site pH analyses had been conducted, but it was not documented that any of this additional monitoring would have been representative of effluent from Outfall 001, since the exact place of sampling was not always recorded;
- b) the analytical method used was not recorded to verify that results were valid for effluent monitoring and reporting purposes;
- c) sample holding times for the additional analyses did not always conform to 40 C.F.R. Part 136.3 of the permit;
- d) recorded TRC test result units and detection limits are needed to support reporting a value of "zero" on DMRs;
- e) for the April 2010 DMR, the de-chlorination of bacteria samples described in 40 C.F.R. Part 136.3 of the permit was not documented;
- f) laboratory results for both Total Suspended Solids ("TSS") and Carbonaceous Biochemical Oxygen Demand ("CBOD") refer to standard Methods 21<sup>st</sup> Edition, but this edition is not approved in 40 C.F.R. Part 136.3; and
- g) the monthly average flow is incorrectly used to calculate CBOD and TSS mass loading for reporting purposes.

18. Part III.C.6 of the permit was violated in the following ways:

- a) analytical methods used and information on calibration buffer expiration dates and buffer clarity were missing from the pH worksheets. Quality control/quality assurance duplicate analyses for pH were not documented in the reviewed records. Ten percent (10%) of the samples should be duplicated;

- b) the facility has neither a measurement device nor a record-keeping procedure to obtain an instantaneous representation of flow for Outfall 001. A daily maximum flow measurement for Outfall 001 required by the permit was not reported on DMRs; and
- c) the flow measurement devices had not been calibrated in over a year.

19. Part III.C.2 of the permit was violated in that, based on reviewed daily maintenance and process control sheets with chlorine monitoring information, chlorine monitoring and analyses had been conducted, but the monitoring was not representative of effluent from Outfall 001.

20. Part III.D.4 of the permit was violated as follows:

- a) No records were provided for TRC monitoring in June 2010;
- b) On the May 2009, December 2009, and April 2010 DMRs, the frequency analyses were not reported on the DMRs for E. coli;
- c) On the May 2009 DMR, E. coli Daily Maximum was not reported in the correct box;
- d) On the April 2010 DMR, a calculated 30-Day Geometric Average was not correctly reported;
- e) the calculated TSS 30-day average and the 7-day average were not correctly reported on the April and May DMRs; and
- f) the frequency analysis for TSS was not reported correctly for the April and May 2010 DMRs.

21. Part III.C.4 of the permit was violated in that the facility's record-keeping sheets did not include the exact place of sampling and the analytical method used. The time of both sampling and analysis would be needed to verify that sample holding times; in this case within fifteen (15) minutes of sample collection, conform to 40 C.F.R. Part 136.3 of the permit. Part III.C.4 was violated in that, on the day of the inspection, only expired DPD Total Chlorine Reagent was observed. Documentation of reagent expiration dates on benchmark sheets or other record-keeping is required.

22. Part I.A.1 of the permit was violated in that fecal coliform bacteria results were incorrectly reported as E. coli results on revised DMRs for the July through December 2008 DMRs.

23. Each instance in which the Respondent discharged pollutants to waters of the United States in amounts exceeding the effluent limitations contained in the permit was a violation of the permit and Section 301 of the Act, 33 U.S.C. § 1311. Each violation of the conditions of the permit or regulations described above is a violation of Section 301 of the Act, 33 U.S.C. § 1311.

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 certify compliance with permit effluent limitations for E. coli (Daily Maximum and 30-Day Averages); pH (minimum and maximum); and TSS (30-Day Average).

B. Within thirty (30) days of the effective date of this Order, the Respondent shall also provide the EPA with a list of all mechanical and operational deficiencies and a narrative describing the specific actions taken to correct violations for E. coli (Daily Max and 30 Day Averages); pH (minimum and maximum); and TSS (30 Day Average).

C. In the event it will take the Respondent longer than thirty (30) days to provide an explanation as to why effluent exceedances cannot be corrected, a schedule for repair/correction shall be submitted to the EPA for review and approval. The schedule shall be submitted to EPA within thirty (30) days of the effective date of this Order.

D. Any approved compliance schedule will be incorporated and re-issued in a future administrative order.

E. Within thirty (30) days of the effective date of this Order, the Respondent shall submit the names of employees that hold a level 3 certification.

F. Within thirty (30) days of the effective date of this Order, the Respondent shall submit photographs indicating where maintenance was performed on the chlorine contact chamber to eliminate epoxy bubbling at the WWTP and on the chlorine tube feeder to stop the leakage.

G. Within thirty (30) days of the effective date of this Order, the Respondent shall provide a copy of their written SOPs, including written procedures for emergency treatment.

H. If Respondent would like to arrange a meeting with EPA to discuss the allegations in this Section 309(a)(3) Compliance Order or the Section 308 Information Demand, it should contact EPA within forty-five (45) days of the effective date of this Order. The meeting will be held at the Region 6 offices, 1445 Ross Ave., Dallas, Texas, and Respondent can provide any information it believes is relevant to this Order. Respondent shall submit to EPA all information or materials it considers relevant to EPA at least ten (10) days prior to the meeting.

I. To arrange a meeting, or to ask questions or comment on this matter, please contact Mr. Josh Waldmeier, of my staff, at (214) 665-8064.

J. Any information or correspondence submitted by Respondent to EPA under this Order shall be addressed to the following:

Ms. Hannah Branning  
Water Enforcement Branch (6EN-WC)  
U.S. 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 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. 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, 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.

This Order does not constitute a waiver or modification of the terms or conditions of the Respondent's NPDES permit, which remain 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 law or regulation.

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

2.14.13

Date



John Blevins, Director  
Compliance Assurance and  
Enforcement Division

ATTACHMENT A

DISCHARGE LIMITATIONS FOR OUTFALLS 001A & 01B  
 PERMIT NUMBER: NM0028487

Effluent Characteristics	Discharge Limitations for Outfall 01A			
	Loading	Concentration		
	kg/day (lbs./day) 30 Day Avg.	30 Day Avg.	7 Day Avg.	Daily Max.
Total Residual Chlorine (TRC)	N/A	19 µg/L (Instantaneous Max.)		N/A
E. coli	N/A	126 CFU/100ml	410 CFU/100ml	N/A
pH	N/A	6.6 su (Min.)	9.0 su (Max.)	N/A

Effluent Characteristics	Discharge Limitations for Internal Outfalls 01A and 01B			
	Loading	Concentration		
	kg/day (lbs./day) 30 Day Avg.	30 Day Avg.	7 Day Avg.	Daily Max.
Total Suspended Solids (TSS)	22.5	30 mg/L	45 mg/L	N/A