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

APR 03 2012

CERTIFIED MAIL–RETURN RECEIPT REQUESTED: 7005 1820 0003 7453 8533

Mr. David Sanchez, Chairman
New Mexico State Fair Commission
P.O. Box 8546
Albuquerque, NM 87198

Re: Administrative Order, Docket Number: CWA-06-2012-1823
NPDES Facility Number: NMU001786

Dear Mr. Sanchez:

Enclosed is an Administrative Order (AO) issued to the New Mexico State Fair Commission for violation of the Clean Water Act (CWA) (33 U.S.C. § 1251 *et seq.*). Violations were identified through our review of an inspection of EXPO New Mexico, conducted by the New Mexico Environment Department on November 15, 2011. The violations were discussed with Mr. John Jaramillo, Director of Special Projects, EXPO New Mexico; Mr. Wayne Epsteen, Director of Special Projects, The Downs; Ms. Karen Giles, Risk Management Director, EXPO New Mexico; and Mr. Raymond Hensley, P.E., Hensley Engineering Group, at the time of the inspection. The violations alleged include, but are not limited to, the following:

1. Failure to submit a Notice of Intent for permit coverage under the General Permit for Discharges from small Municipal Separate Storm Sewer Systems;

2. failure to develop and implement a Storm Water Management Plan; and

3. failure to install and maintain Best Management Practices.

This AO does not assess a monetary penalty; however, it does require compliance with applicable federal regulations. The first compliance deadline is immediately upon 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-06-2012-1823 and NPDES Facility Number NMU001786 on your response.

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

U. S. ENVIRONMENTAL PROTECTION AGENCY-REGION 6
FINDINGS OF VIOLATION AND COMPLIANCE ORDER
In the Matter of New Mexico State Fair Commission, Respondent
Docket No. CWA-06-2012-1823, Facility Number: NMU001786

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 has delegated the authority to issue this Order to the Regional Administrator of EPA Region 6 who has further delegated such authority to the Director of the Compliance Assurance and Enforcement Division.

FINDINGS

1. The New Mexico State Fair Commission ("also known as the EXPO New Mexico") ("Respondent") is a political subdivision of the State of New Mexico, and as such, Respondent is a "person," within the meaning of Section 502(5) of the Clean Water Act ("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") comprised of a conveyance or system of conveyances including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains that serve the New Mexico State Fairgrounds 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 February 7, 2000, EPA promulgated Phase II of the Storm Water program requiring NPDES permit coverage for regulated sMS4s of municipalities serving a population under 100,000. Under the Phase II Rule, EPA issued MS4 General Permit Number NMR040000 ("the permit") which became effective on July 1, 2007. This permit required the Respondent to develop a Storm Water Management Program ("SWMP") specific to the requirements of the permit and submit a Notice of Intent ("NOI") for coverage under the permit.

5. As the owner and/or operator of a sMS4 in which storm water discharges to/through it, 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).

6. 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.

7. On November 15, 2011, an inspection was conducted at the EXPO New Mexico/The Downs facility at Albuquerque, New Mexico by the New Mexico Environment Department. During the course of the inspection, it was determined that the EXPO New Mexico/The Downs facility had unpermitted discharges of pollutants with its storm water to the City of Albuquerque's MS4.

8. According to EPA records, Respondent has not submitted a SWMP nor submitted an NOI for coverage under NMR040000. Each day of discharge without permit coverage 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 immediately take the following actions:

A. Immediately cease and desist discharging pollutants to the Albuquerque MS4 and to waters of the United States.

B. Within thirty (30) days of the effective date of this Order, Respondent shall provide EPA with a Plan of Action to correct the violations cited in paragraph 4 and a Compliance Schedule.

C. Within thirty (30) days of the effective date of this Order, Respondent shall submit an NOI in accordance with Part 3.1 of the permit and a SWMP in accordance with Part 5 of the permit. The NOI and SWMP should be addressed to:

Ms. Suzanna Perea
U.S. EPA, Region 6 (6WQ-PP)
1445 Ross Avenue, Suite 1200
Dallas, TX 75202

D. Within sixty (60) days of the effective date of this Order, Respondent shall provide written certification to EPA, Region 6 that the violations cited herein have been addressed and the facility is in compliance with the requirements of the Act and the permit. The written certification of compliance should be addressed to:

Ms. Diana McDonald
U.S. EPA, Region 6 (6EN-WM)
1445 Ross Avenue, Suite 1200
Dallas, TX 75202

E. To arrange a meeting, or comment on this matter, please contact Ms. Diana McDonald, of my staff, at 214-665-7495.

GENERAL PROVISIONS

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

Issuance of this Order 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 Order 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 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.

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.

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

4·3·12
Date

John Blevins
Director
Compliance Assurance and
Enforcement Division