



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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

AUG 04 2011

CERTIFIED MAIL - RETURN RECEIPT REQUESTED: 7011 0110 0001 3590 6896

Mr. Juan Lopez, President
Village of Abiquiu
P.O. Box 133
Abiquiu, NM 87510

Re: Administrative Order Docket Number: CWA-06-2011-1818
Notice of Proposed Assessment of Class I Civil Penalty
Docket Number: CWA-06-2011-1853
NPDES Permit Number: NM0024830

Dear Mr. Lopez:

Enclosed are an Administrative Order (AO) and an Administrative Complaint (Complaint) issued to the Village of Abiquiu for violation of Section 301(a) of the Clean Water Act, 33 U.S.C. § 1311(a). Violations were identified based on our review of the permit file and an inspection of your Abiquiu wastewater treatment facility, conducted by the New Mexico Environmental Department on April 28, 2011. The results were discussed with your representative at the time of the inspection. The violations alleged include, but are not limited to, the following:

1. Failure to meet effluent limitations for E. Coli (30 Day Average), Total Residual Chlorine (Instant Maximum), and Total Suspended Solids (30 Day and 7 Day Averages);
2. failure to submit Discharge Monitoring Reports from January 2007 to January 2008; and
3. failure to properly operate and maintain the facility and the sludge handling/disposal system.

This AO requires certification of compliance with applicable federal regulations within thirty (30) days of receipt of the AO.

The Complaint assesses a monetary penalty for the violations. If it can be demonstrated that the violations cited in the AO have been corrected in a timely manner, the Environmental Protection Agency (EPA) has the right to negotiate the penalty amount down or perhaps mitigate the penalty amount partially by way of a Supplemental Environmental Project (SEP). The SEP must benefit the environment in the watershed where the violations occurred and must not be required by the permit or other laws.

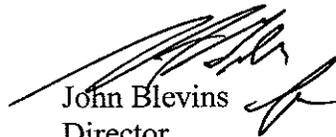
Re: Administrative Order
Village of Abiquiu

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You, as the representative of the Village of Abiquiu, have the right to request a hearing regarding the violations alleged in the Complaint and the proposed administrative civil penalty. Please refer to the enclosed Part 22, "Consolidated Rules of Practice," for information regarding hearing and settlement procedures. Note that should you fail to request a hearing within thirty (30) days of your receipt of the Complaint, you will waive your right to such a hearing, and the proposed civil penalty of \$3,600.00 may be assessed against you without further proceedings. Whether or not you request a hearing, we invite you to confer informally with the EPA.

The EPA is committed to ensuring compliance with the requirements of the NPDES program, and my staff will assist you in any way possible. If you have any questions, or wish to discuss the possibility of a settlement of this matter, please contact Ms. Sonia Hall at (214) 665-7490 or Mr. Anthony Loston at (214) 665-3109.

Sincerely,



John Blevins
Director
Compliance Assurance and
Enforcement Division

Enclosures

cc: w/Complaint Regional Hearing Clerk (6RC-D)

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



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region 6 • 1445 Ross Avenue, Suite 1200 • Dallas, TX 75202-2733
FINDINGS OF VIOLATIONS and ORDER FOR COMPLIANCE
Docket Number: CWA-06-2011-1818, NPDES Permit Number: NM0024830

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

FINDINGS

1. The Village of Abiquiu ("Respondent") is a municipality 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.
2. At all times relevant to this Order, the Respondent owned or operated the Abiquiu wastewater treatment plant, located approximately 1 mile east of the Village of Abiquiu, in Rio Arriba 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 Village of Abiquiu, P.O. Box 133, Abiquiu, NM 87510.
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 Chama in Segment 20.6.4.116 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, the 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. NM0024830 ("permit") under Section 402 of the Act, 33 U.S.C. § 1342, which became effective on January 1, 2006, and expires December 31, 2011. 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 the 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 the Respondent to file with EPA certified Discharge Monitoring Reports ("DMRs") of the results of monitoring, and Noncompliance Reports when appropriate. The Respondent failed to submit DMRs from January 2007 to January 2008.
9. Part I.A of the permit places certain limitations on the quality and quantity of effluent discharged by the Respondent. The relevant discharge limitations are specified in the enclosed Attachment A.
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 violations are specified in the enclosed Attachment B.
11. On April 28, 2011, the facility was inspected by the New Mexico Environment Department. As a result, unsatisfactory findings were specified in the inspection report; violations and/or deficiencies for the evaluated areas include the following: Operations and Maintenance and Sludge Handling/Disposal. The entire report of the April 28, 2011, inspection is hereby incorporated into this Order by reference.
12. Pursuant to Part III.B.3.a of the permit, the Respondent shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the Respondent as efficiently as possible and in a manner which will minimize upsets and discharges of excessive pollutants and will achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of backup or auxiliary facilities or similar systems which are installed by the Respondent only when the operation is necessary to achieve compliance with the

conditions of this permit. Part III.B.3.a of the permit was violated in that the Respondent has no power backup in case of an emergency or an alarm system for notification of power failures or other problems at the facility.

13. Pursuant to Part III.B.3.b of the permit, the Respondent shall provide an adequate operating staff which is duly qualified to carry out operation, maintenance and testing functions required to insure compliance with the conditions of this permit. Part III.B.3.b of the permit was violated in that the Respondent is operating the facility without a state certified operator.

14. Pursuant to Part IV, Element 1, Section 1.A.1 of the permit, the Respondent shall handle and dispose of sewage sludge in accordance with Section 405 of the Act and all other applicable Federal Regulations to protect public health and the environment from any reasonably anticipated effects due to any toxic pollutants which may be present in the sludge. Part IV, Element 1, Section 1.A.1 of the permit was violated in that the two sludge beds on site are full and there is a large pile of sludge sitting on an unlined, uncontained area of the facility.

15. 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.

ORDER

Based on the foregoing Findings and pursuant to the authority of Section 309 of the Act, EPA hereby orders the Respondent to take the following actions:

A. Within thirty (30) days of the effective date of this Order, the Respondent shall certify compliance with permit effluent limitations for E. Coli (30 Day Average), Total Residual Chlorine (Instant Maximum), and Total Suspended Solids (30 Day and 7 Day Averages).

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 (30 Day Average), Total Residual Chlorine (Instant Maximum), and Total Suspended Solids (30 Day and 7 Day Averages).

C. In the event it will take the Respondent longer than thirty (30) days to provide an explanation as to why effluent limitation

non-compliance cannot be corrected, a schedule for repair/correction shall be submitted to the EPA for review and approval. The schedule shall be submitted to the EPA within thirty (30) days of the effective date of this Order.

D. Any approved compliance schedule will be incorporated and reissued in a future administrative order.

E. Within ninety (90) days of the effective date of this Order, the Respondent shall provide adequate back-up power to the facility, provide a state certified operator, and properly dispose of sludge.

F. Within thirty (30) days of the effective date of this Order, the Respondent shall also submit to the EPA DMRs from January 2007, to January 2008.

G. To ask questions or comment on this matter, please contact Ms. Sonia Hall at (214) 665-7490 or Mr. Anthony Loston at (214) 665-3109.

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

Ms. Sonia Hall
Water Enforcement Branch (6EN-WC)
EPA, Region 6
1445 Ross Ave., Suite 1200
Dallas, TX 75202-2733

GENERAL PROVISIONS

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 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.

AUG 04 2011

Date



John Blevins
Director
Compliance Assurance and
Enforcement Division

Attachment A
Permit Effluent Limits NM0024830

Final Effluent Limits- 0.04 MGD Design Flow

Effluent Characteristics	Discharge Limitations for Outfall 001A				
	Loading		Concentration		
	30 Day Avg.	7 Day Avg.	30 Day Avg.	7 Day Avg.	Daily Max.
Biochemical Oxygen Demand	10 lbs./day	15 lbs./day	30 mg/L	45 mg/L	****
Total suspended solids	10 lbs./day	15 lbs./day	30 mg/L	45 mg/L	****
Fecal Coliform Bacteria	****	****	500 cfu/100ml	****	500 cfu/100ml
E. Coli	****	****	548 cfu/100ml	****	2507 cfu/100ml
Total Residual Chlorine	****	****	****	****	19 µg/L
pH (Standard Units)	****	****	6.0 Minimum	9.0 Maximum	****

Attachment B
Permit Effluent Violations NM0024830

Date	Outfall	Parameter	Violation	Permit Limit
February 2008	001A	Total Residual Chlorine, Instant Maximum	100 µg/L	19 µg/L
March 2008	001A	Total Residual Chlorine, Instant Maximum	130 µg/L	19 µg/L
May 2008	001A	Total Suspended Solids, 30 Day Average	37 mg/L	30 mg/L
May 2008	001A	Total Residual Chlorine, Instant Maximum	270 µg/L	19 µg/L
May 2008	001A	E. Coli, 30 Day Average	2,419.6 cfu/100ml	548 cfu/100ml
June 2008	001A	Total Residual Chlorine, Instant Maximum	470 µg/L	19 µg/L
June 2008	001A	E. Coli, 30 Day Average	2419.6 cfu/100ml	548 cfu/100ml
July 2008	001A	Total Residual Chlorine, Instant Maximum	450 µg/L	19 µg/L
August 2008	001A	E. Coli, 30 Day Average	2,419.6 cfu/100ml	548 cfu/100ml
September 2008	001A	Total Residual Chlorine, Instant Maximum	1,350 µg/L	19 µg/L
October 2008	001A	Total Suspended Solids, 30 Day Average	12.26 lbs./day	10 lbs./day
October 2008	001A	Total Suspended Solids, 30 Day Average	88 mg/L	30 mg/L
October 2008	001A	Total Suspended Solids, 7 Day Average	88 mg/L	45 mg/L
October 2008	001A	Total Residual Chlorine, Instant Maximum	1660 µg/L	19 µg/L
November 2008	001A	Total Suspended Solids, 30 Day Average	10.83 lbs./day	10 lbs./day
November 2008	001A	Total Suspended Solids, 30 Day Average	54.8 mg/L	30 mg/L
November 2008	001A	Total Suspended Solids, 7 Day Average	54.8 mg/L	45 mg/L
November 2008	001A	Total Residual Chlorine, Instant Maximum	2,200 µg/L	19 µg/L

Attachment B
Permit Effluent Violations NM0024830

Date	Outfall	Parameter	Violation	Permit Limit
December 2008	001A	Total Residual Chlorine, Instant Maximum	1,720 µg/L	19 µg/L
January 2009	001A	Total Suspended Solids, 30 Day Average	72 mg/L	30 mg/L
January 2009	001A	Total Suspended Solids, 7 Day Average	72 mg/L	45 mg/L
January 2009	001A	Total Residual Chlorine, Instant Maximum	2,200 µg/L	19 µg/L
February 2009	001A	Total Residual Chlorine, Instant Maximum	80 µg/L	19 µg/L
March 2009	001A	Total Residual Chlorine, Instant Maximum	40 µg/L	19 µg/L
April 2009	001A	Total Suspended Solids, 30 Day Average	35.8 mg/L	30 mg/L
April 2009	001A	Total Residual Chlorine, Instant Maximum	30 µg/L	19 µg/L
May 2009	001A	Total Suspended Solids, 30 Day Average	36.2 mg/L	30 mg/L
May 2009	001A	Total Residual Chlorine, Instant Maximum	990 µg/L	19 µg/L
June 2009	001A	Total Suspended Solids, 30 Day Average	36.5 mg/L	30 mg/L
July 2009	001A	Total Suspended Solids, 30 Day Average	13.15 lbs./day	10 lbs./day
July 2009	001A	Total Suspended Solids, 30 Day Average	31.6 mg/L	30 mg/L
July 2009	001A	Total Residual Chlorine, Instant Maximum	1,090 µg/L	19 µg/L
August 2009	001A	Total Suspended Solids, 30 Day Average	37.3 mg/L	30 mg/L
September 2009	001A	Total Suspended Solids, 30 Day Average	37.3 mg/L	30 mg/L
September 2009	001A	Total Residual Chlorine, Instant Maximum	120 µg/L	19 µg/L
December 2009	001A	Total Suspended Solids, 30 Day Average	39 mg/L	30 mg/L

Attachment B
Permit Effluent Violations NM0024830

Date	Outfall	Parameter	Violation	Permit Limit
January 2010	001A	Total Suspended Solids, 30 Day Average	51 mg/L	30 mg/L
January 2010	001A	Total Suspended Solids, 7 Day Average	51 mg/L	45 mg/L
July 2010	001A	Total Residual Chlorine, Instant Maximum	20 µg/L	19 µg/L
August 2010	001A	Total Residual Chlorine, Instant Maximum	460 µg/L	19 µg/L
October 2010	001A	Total Residual Chlorine, Instant Maximum	>160 µg/L	19 µg/L

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 6

In the Matter of	§ Docket No. CWA-06-2011-1853
	§
Village of Abiquiu, New Mexico	§ Proceeding to Assess a Class I
	§ Civil Penalty under Section 309(g)
	§ of the Clean Water Act
Respondent	§
	§ ADMINISTRATIVE COMPLAINT
NPDES No. NM0024830	§

I. Statutory Authority

This Complaint is issued under the authority vested in the Administrator of the United States Environmental Protection Agency ("EPA") by Section 309(g) of the Clean Water Act ("the Act"), 33 U.S.C. § 1319(g). The Administrator of EPA delegated the authority to issue this Complaint to the Regional Administrator of EPA Region 6, who delegated this authority to the Director of the Compliance Assurance and Enforcement Division of EPA Region 6 ("Complainant"). This Class I Administrative Complaint is issued in accordance with, and this action will be conducted under, "the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits," including rules related to administrative proceedings not governed by Section 554 of the Administrative Procedures Act, 40 C.F.R. §§ 22.50 through 22.52.

Based on the following Findings, Complainant finds that the Respondent has violated the Act and the regulations promulgated under the Act and should be ordered to pay a civil penalty.

II. Findings of Fact and Conclusions of Law

1. Respondent is a municipality chartered under the laws of the State of New Mexico, and as such, the Respondent 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 relevant times, the Respondent owned or operated the Abiquiu wastewater treatment plant located approximately 1 mile east of the Village of Abiquiu, in Rio Arriba County, New Mexico (“facility”), and was therefore an “owner or operator” within the meaning of 40 C.F.R. § 122.2.

3. At all relevant times, the facility was a “point source” of a “discharge” of “pollutants” with its municipal wastewater to the receiving waters of the Rio Chama in Segment 20.6.4.116 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, the 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. NM0024830 (“permit”) under Section 402 of the Act, 33 U.S.C. § 1342, which became effective on January 1, 2006, and expires December 31, 2011. At all relevant times, 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 the 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 non-compliance with the permit and applicable regulations. They also require the Respondent to file with EPA certified Discharge Monitoring Reports (“DMRs”) of the results of monitoring, and Non-Compliance Reports when appropriate. Part III.D of the permit was violated in that the Respondent failed to submit DMRs from January 2007 to January 2008.

9. Part I.A. of the permit places certain limitations on the quality and quantity of effluent discharged by the Respondent.

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.

11. On April 28, 2011, the facility was inspected by the New Mexico Environmental Department. As a result, unsatisfactory findings were specified in the inspection report; violations and/or deficiencies for the evaluated areas include the following: Operations and Maintenance; and Sludge Handling/Disposal. The entire report of the April 28, 2011, inspection is hereby incorporated into this Order by reference.

12. Pursuant to Part III.B.3.a of the permit, the Respondent shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the Respondent as efficiently as possible and in a manner which will minimize upsets and discharges of excessive pollutants and will achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of backup or auxiliary facilities or similar systems which are installed by the Respondent only when the operation is necessary to achieve compliance with the conditions of this permit.

13. Part III.B.3.a of the permit was violated in that the Respondent has no power backup in case of an emergency or an alarm system for notification of power failures or other problems at the facility.

14. Pursuant to Part III.B.3.b of the permit, the Respondent shall provide an adequate operating staff which is duly qualified to carry out operation, maintenance and testing functions required to insure compliance with the conditions of this permit.

15. Part III.B.3.b of the permit was violated in that the Respondent is operating the facility without a state certified operator.

16. Pursuant to Part IV, Element 1, Section 1.A.1 of the permit, the Respondent shall handle and dispose of sewage sludge in accordance with Section 405 of the Act, 33 U.S.C. § 1345, and all other applicable Federal Regulations to protect public health and the environment from any reasonably anticipated effects due to any toxic pollutants which may be present in the sludge.

17. Part IV, Element 1, Section 1.A.1 of the permit was violated in that the two sludge beds on-site are full and there is a large pile of sludge sitting on an unlined, uncontained area of the facility.

18. 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.

19. Under Section 309(g)(2)(A) of the Act, 33 U.S.C. § 1319(g)(2)(A), the Respondent is liable for a civil penalty in an amount not to exceed \$16,000 per day for each day during which a violation continues, up to a maximum of \$37,500.

20. EPA has notified the New Mexico Environment Department of the issuance of this Complaint and has afforded the State an opportunity to consult with EPA regarding the assessment of an administrative penalty against the Respondent as required by Section 309(g)(1) of the Act, 33 U.S.C. § 1319(g)(1).

21. EPA has notified the public of the filing of this Complaint and has afforded the public thirty (30) days in which to comment on the Complaint and on the proposed penalty as required by Section 309(g)(4)(A) of the Act, 33 U.S.C. § 1319(g)(4)(A). At the expiration of the notice period, EPA will consider any comments filed by the public.

III. Proposed Penalty

22. Based on the foregoing Findings, and pursuant to the authority of Section 309(g)(1) and Section(g)(2)(A) of the Act, 33 U.S.C. §§ 1319(g)(1) and (g)(2)(A), EPA Region 6 hereby proposes to assess against the Respondent a civil penalty of three thousand six hundred dollars (\$3,600.00).

23. The proposed penalty amount was determined based on the statutory factors specified in Section 309(g)(3) of the Act, 33 U.S.C. § 1319(g)(3), which includes such factors as

the nature, circumstances, extent and gravity of the violation(s), economic benefits, if any, prior history of such violations, if any, degree of culpability, and such matters as justice may require.

24. Complainant has specified that the administrative procedures specified in 40 C.F.R. Part 22, Subpart I, shall apply to this case, and the administrative proceedings shall not be governed by Section 554 of the Administrative Practice Act. However, pursuant to 40 C.F.R. § 22.42(b), Respondent has a right to elect a hearing on the record in accordance with 5 U.S.C. § 554, and Respondent waives this right unless Respondent in its answer requests a hearing in accordance with 5 U.S.C. § 554.

IV. Failure to File an Answer

25. If the Respondent wishes to deny or explain any material allegation listed in the above Findings or to contest the amount of the penalty proposed, the Respondent must file an answer to this complaint within thirty (30) days after service of this complaint whether or not the Respondent requests a hearing as discussed below.

26. The requirements for such an Answer are set forth at 40 C.F.R. § 22.15 (copy enclosed). Failure to file an Answer to this Complaint within thirty (30) days of service of the Complaint shall constitute an admission of all facts alleged in the Complaint and a waiver of the right to hearing. Failure to deny or contest any individual material allegation contained in the Complaint will constitute an admission as to that finding or conclusion under 40 C.F.R. § 22.15(d).

27. If the Respondent does not file an answer to this complaint within thirty (30) days after service of this complaint, a Default Order may be issued against the Respondent pursuant to 40 C.F.R. § 22.17. A Default Order, if issued, would constitute a finding of liability, and could make the full amount of the penalty proposed in this Complaint due and payable by the Respondent without further proceedings thirty (30) days after a Final Default Order is issued.

28. The Respondent must send its Answer to this Complaint, including any request for hearing, and all other pleadings to:

Regional Hearing Clerk (6RC-D)
U.S. EPA Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

The Respondent shall also send a copy of its Answer to this Complaint to the following EPA attorney assigned to this case:

Mr. Russell Murdock (6RC-EW)
Water Enforcement Legal Branch
U.S. EPA, Region 6
1445 Ross Avenue
Dallas, TX 75202-2733

29. The Answer must be signed by the Respondent, the Respondent's counsel, or other representative on behalf of the Respondent and must contain all information required by 40 C.F.R. §§ 22.05 and 22.15, including the name, address, and telephone number of the Respondent and the Respondent's counsel. All other pleadings must be similarly signed and filed.

V. Notice of Opportunity to Request a Hearing

30. The Respondent may request a hearing to contest any material allegation contained in this Complaint, or to contest the appropriateness of the amount of the proposed penalty, pursuant to Section 309(g) of the Act, 33 U.S.C. § 1319(g). The procedures for hearings are set out at 40 C.F.R. Part 22, including 40 C.F.R. § 22.50 through § 22.52.

31. Any request for hearing should be included in the Respondent's Answer to this Complaint; however, as discussed above, the Respondent must file an Answer meeting the requirements of 40 C.F.R. § 22.15 in order to preserve the right to a hearing or to pursue other relief.

32. Should a hearing be requested, members of the public who commented on the issuance of the Complaint during the public comment period will have a right to be heard and to present evidence at such hearing under Section 309(g)(4)(B) of the Act, 33 U.S.C.

§ 1319(g)(4)(B).

VI. Settlement

33. EPA encourages all parties against whom civil penalties are proposed to pursue the possibility of settlement through informal meetings with EPA. Regardless of whether a formal hearing is requested, the Respondent may confer informally with EPA about the alleged violations or the amount of the proposed penalty. The Respondent may wish to appear at any informal conference or formal hearing personally, by counsel or other representative, or both.

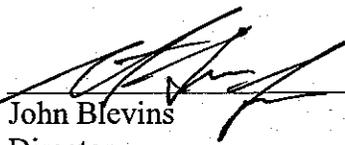
To request an informal conference on the matters described in this Complaint, please contact Ms. Sonia Hall at (214) 665-7490 or Mr. Anthony Loston at (214) 665-3109.

34. If this action is settled without a formal hearing and issuance of an opinion by the Presiding Officer pursuant to 40 C.F.R. § 22.27, this action will be concluded by issuance of a Consent Agreement and Final Order ("CAFO") pursuant to 40 C.F.R. § 22.18(b). The issuance of a CAFO would waive the Respondent's right to a hearing on any matter stipulated therein or alleged in the Complaint. Any person who commented on this Complaint would be notified and given an additional thirty (30) days to petition EPA to set aside any such CAFO and to hold a hearing on the issues raised in the Complaint. Such a petition would be granted and a hearing held only if the evidence presented by the petitioner's comment was material and was not considered by EPA in the issuance of the CAFO.

35. Neither assessment nor payment of a penalty in resolution of this action will affect the Respondent's continuing obligation to comply with all requirements of the Act, the applicable regulations and permits, and any separate Compliance Order issued under Section 309(a) of the Act, 33 U.S.C. § 1319(a), including one relating to the violations alleged herein.

AUG 04 2011

Date



John Blevins
Director
Compliance Assurance and
Enforcement Division

CERTIFICATE OF SERVICE

I certify that the foregoing Class I Administrative Complaint was sent to the following persons, in the manner specified, on the date below:

Original hand-delivered: Regional Hearing Clerk (6RC-D)
U.S. EPA Region 6
1445 Ross Ave., Suite 1200
Dallas, TX 75202-2733

Copy by certified mail,
return receipt requested: Mr. Juan Lopez, President
Village of Abiquiu
P.O. Box 133
Abiquiu, NM 87510

Copy: Mr. James Bearzi
Bureau Chief
Surface Water Quality Bureau
New Mexico Environmental Department
P.O. Box 5469
Santa Fe, NM 87502-5469

Copy hand-delivered: Mr. Russell Murdock (6RC-EW)
Water Enforcement Legal Branch
U.S. EPA, Region 6
1445 Ross Ave., Suite 1200
Dallas, TX 75202-2733

Dated: _____