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

June 18, 2012

Ms. Traci Wolf, CEO
The Downs at Albuquerque
P.O. Box 8510
Albuquerque, NM 87198

Mr. Dan Mourning, General Manager
EXPO New Mexico
P.O. Box 8546
Albuquerque, NM 87198

Re: Administrative Order, Docket Number: CWA-06-2012-1807
NPDES Facility Number: NMU001778

Dear Ms. Wolf and Mr. Mourning:

The Environmental Protection Agency, Region 6 (EPA) has received your report entitled: "Plan for Elimination of CAFO Waste Discharge to Municipal Storm Water Drain" submitted in response to the above-referenced Administrative Order (AO) issued to the Downs at Albuquerque, Inc., and EXPO New Mexico (Respondents). This AO was delivered to your office on April 4, 2012, which became the effective date of the AO. EPA received your response on May 15, 2012, after the 30-day deadline specified in the above-referenced AO had passed. However, EPA has reviewed and evaluated your submittal and, based on this review, has concluded that your submittal is incomplete for the reasons specified in the enclosure to this letter.

Therefore, Respondents are in violation of the above-referenced AO. Please review the enclosed information and schedule and make plans to attend a meeting with EPA staff, at the EPA offices in Dallas, Texas. We will work with you to schedule this meeting at your convenience, to discuss and resolve the issues and questions raised in the enclosure. This meeting should be attended by representatives of all the parties involved in this matter, including the EXPO New Mexico, the Downs at Albuquerque, and the City of Albuquerque (COA), since your submittal indicates that the COA is also involved in this matter.

To arrange the meeting, or to ask questions or comment on this matter, please contact Dr. Abu Senkayi, of my staff, at (214) 665-8403.

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

Mr. Michael J. Riordon, P.E.
Department of Municipal Development
City of Albuquerque
P.O. Box 1293
Albuquerque, NM 87103

Enclosure to EXPO New Mexico Response

1. The AO requires the Respondents (the Downs at Albuquerque and EXPO New Mexico) to submit to EPA a comprehensive plan for designing, constructing, operating and maintaining a system to eliminate the unauthorized discharge of Confined Animal Feeding Operations (CAFO) wastes to the City of Albuquerque MS4 system. The Respondents' submittal to EPA uses the Arid Land Hydrologic Modeling, lagoon-sizing procedure to estimate runoff and to determine pond size. However, the accepted model, recommended by the technical working group made up of New Mexico State University, New Mexico Environment Department (Ground Water and Surface Water Bureaus), Livestock Industry Groups, and the Natural Resources Conservation Service (NRCS) is the New Mexico Dairy Pond Sizing Software. Also, the New Mexico CAFO general permit requires that a storm water retention system be designed, constructed, operated, and maintained in accordance with the standards of the NRCS' Field Office Technical Guide. Specifically, NRCS recommends the use of the "New Mexico Dairy Pond Sizing Software" to estimate runoff and pond size at CAFOs (see enclosed copy of "Agronomy Tech Note 63, March 2012"). Although the NRCS pond-sizing procedure is targeted towards dairy CAFOs, the most predominant CAFOs in the State of New Mexico, it is possible that the procedure could be modified to suit the situation at the EXPO New Mexico CAFO. Please consult with the New Mexico NRCS and the New Mexico Environment Department to determine how the pond-sizing software can be applied to your specific situation.

2. The Respondents' submittal indicates that runoff from the CAFO area will be routed via overland and channelized drainage into the CAFO retention pond. However, there is no indication on how the contents of the pond will be handled. Will this pond be an evaporative pond or a storage pond? If it is an evaporative pond, then NRCS requires the use of the Soil-Plant-Air-Water Field and Pond Hydrology (SPAW) model, developed by the U.S. Department of Agriculture-Agricultural Research Service, to estimate the volume of water generated by the total evaporation system. If the pond is a storage pond, then the issue of dewatering the pond should be addressed. In other words, will the wastewater be land-applied? Where will it be land-applied?

3. The submittal indicates that the funds for the proposed improvements are dependent on the appropriation of funds by the State of New Mexico to EXPO New Mexico and the availability of funds to the City of Albuquerque for capital improvements. Compliance with federal regulations cannot be contingent upon funding. This implies that the proposed activities may never be implemented if the State of New Mexico fails to provide the needed funding. It is the responsibility of the Respondent to obtain necessary funding to meet the federal and state requirements.

4. The proposed timeline which extends into 2014 appears to be excessive and requires additional discussion and information for EPA to make a determination on the acceptability of this timeline.