



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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

October 5, 2012

CERTIFIED MAIL—RETURN RECEIPT REQUESTED: 7010 1060 0002 1872 6629

Mr. Mitch Murphy, Owner
American Metals Recycling
P.O. Box 2634
Gallup, NM 87305

Re: Administrative Order, Docket Number: CWA-06-2012-1849
NPDES Facility Number: NMU001785

Dear Mr. Murphy:

Enclosed is an Administrative Order (AO) issued to American Metals Recycling for violation of the Clean Water Act (CWA) (33 U.S.C. § 1251 et seq.). Violations alleged were identified during our review of a February 9, 2012 inspection of your metals recycling facility, conducted by the New Mexico Environment Department. 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 submit a Notice of Intent for coverage under the Storm Water Multi-Sector General Permit;
- b) failure to develop and implement a Storm Water Pollution Prevention Plan; and
- c) failure to install and properly maintain Best Management Practices to control off-site discharges.

In addition, from January 2010 to February 2012, there were twenty (20) rainfall events of one-half inch or greater at the facility that resulted in discharges of pollutants from the site and into waters of the United States.

This AO does not assess a monetary penalty; however, it does require compliance with applicable federal regulations. The first compliance deadline is within thirty (30) days of receipt of this 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-06-2012-1849 and NPDES Facility Number NMU001785 on your response.

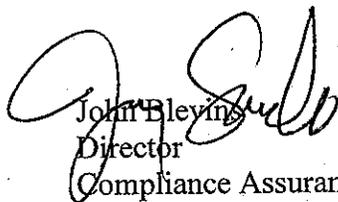
Re: Administrative Order
American Metals Recycling

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Also enclosed is an "Information Sheet" relating to the Small Business Regulatory Enforcement Fairness Act and a "Notice of Registrant's Duty to Disclose" relating to the disclosure of environmental legal proceedings to the Securities and Exchange Commission.

If you have any questions, please contact Mr. Everett H. Spencer, of my staff, at (214) 665-8060.

Sincerely,


John Eleying
Director
Compliance Assurance and
Enforcement Division

Enclosures

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
Docket Number: CWA-06-2012-1849, NPDES Permit Number: NMU001785
**FINDINGS OF VIOLATION, COMPLIANCE ORDER, AND
INFORMATION DEMAND**

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 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. American Metals Recycling ("Respondent") is a "person," as defined by Section 502(5) of the Act, 33 U.S.C. § 1362(5).

2. At all times relevant to the violations alleged herein, Respondent owned or operated American Metals Recycling, a scrap metal and waste recycling facility, located on J. Silva Road, in Gallup, McKinley 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 2634, Gallup, NM 87305.

3. At all times relevant to this Order, the facility acted as a "point source" subject to a "discharge" of "pollutants" as defined by Section 502(12) and (14), 33 U.S.C. § 1362(12) and (14), into the receiving waters of the Rio Puerco of the West, which is considered a "water of the United States" as defined by 40 C.F.R. § 122.2. As a result, Respondent and facility were subject to the Act and the National Pollutant Discharge Elimination System ("NPDES") program.

4. The facility is considered an industry by code, as identified under 40 C.F.R. § 122.26(b)(14)(vi), and as such, is subject to the General Permit for Storm Water Discharges Associated with Industrial Activity issued by the EPA on September 29, 2008.

5. Respondent applied for permit coverage in 2006 but was not issued a permit due to errors in the Notice of Intent ("NOP") submission that were not corrected until after the NPDES inspection in 2012. Therefore, the facility was without permit coverage and not authorized to discharge pollutants to waters of the United States.

6. The facility began operations defined as industrial activity in 1990, which continued throughout the time period relevant to this action.

7. On February 9, 2012, the facility was inspected by New Mexico Environment Department Storm Water Inspectors on behalf of EPA. As a result of this inspection, the facility was found to be in violation of Section 301 of the Act, 33 U.S.C. § 1311 by: a) failure to obtain permit coverage; b) failure to develop and implement a Storm Water Pollution Prevention Plan ("SWPPP"); and c) failure to install and maintain Best Management Practices ("BMPs") to control off-site discharges.

8. During the time period of January 2010 to February 2012, there were twenty (20) rainfall events of one-half (½) inch or greater at the facility. Each day of operation without NPDES permit coverage was a violation of Section 301 of the Act, 33 U.S.C. § 1311.

SECTION 309(a)(3) COMPLIANCE ORDER

Based on these findings and pursuant to the authority of Section 309(a)(3) of the Act, 33 U.S.C. § 1319(a)(3), EPA hereby orders the Respondent to take the following actions:

A. Within thirty (30) days of the effective date of this Order, Respondent shall submit an NOI to the EPA NOI processing center for coverage of the facility under the Storm Water Multi-Sector General Permit ("SWMSGP"). The NOI should be submitted by one of the following methods:

- 1) By regular mail to:
Storm Water Notice Processing Center
U.S. EPA, MC 4203M
1200 Pennsylvania Avenue, NW
Washington, DC 20460
- 2) By overnight/express mail to:
Storm Water Notice Processing Center
U.S. EPA, Room 7420
1201 Constitution Avenue, NW
Washington, DC 20004
- 3) Via the internet at:
<http://cfpub.epa.gov/npdes/stormwater/enoi>

For a status update on your NOI, call the NOI Center at (866) 352-7755.

B. Within thirty (30) days of the effective date of this Order, Respondent shall develop and implement a SWPPP for the American Metals Recycling site and implement appropriate BMPs to control discharge(s) of pollutants offsite. Also, the Respondent shall send a copy of the SWPPP (by e-mail to Mr. Everett H. Spencer at spencer.everett@epa.gov) and photos of any BMPs installed on the site.

C. Within thirty (30) days of the effective date of this Order, Respondent shall submit a certified copy of the NOI for coverage under the SWMSGP for Industrial Activities which was submitted to the EPA NOI Processing Center.

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 submit a written certification of compliance with this Order to EPA, Region 6. All correspondence should be addressed to:

Mr. Everett H. Spencer
Water Enforcement Branch (6EN-WM)
EPA, Region 6
1445 Ross Ave., Suite 1200
Dallas, TX 75202-2733

GENERAL PROVISIONS

You may seek immediate 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.

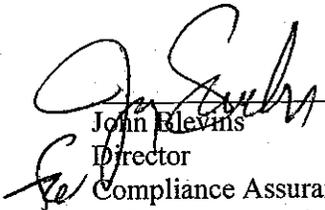
Issuance of this Section 309(a)(3) Compliance Order and the Section 308 Information Demand shall not be deemed an election by EPA to waive any administrative or judicial, civil or criminal action to seek penalties, fines, or other relief under the Act for the violations cited herein, or other violations that become known to EPA. 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, or the 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.

Compliance with the terms and conditions of this Order does not relieve the Respondent of its obligation to comply with all applicable federal, state, or local laws or regulations.

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

10-5-2012
Date


John E. Evans

Director

Compliance Assurance and
Enforcement Division