



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6

1445 ROSS AVENUE, SUITE 1200
DALLAS, TX 75202-2733

February 26, 2013

CERTIFIED MAIL—RETURN RECEIPT REQUESTED: 7010 2780 0002 4353 6327

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

Re: Administrative Order, Docket Number: CWA-06-2013-1748
NPDES Permit Number: NM0024830

Dear Mr. Lopez:

Enclosed is an Administrative Order (AO) issued to The City of Abiquiu for violation of the Clean Water Act (CWA), 33 U.S.C. § 1251 et seq. Violations were identified during our review of your facility's permit file and the most recent inspection report for your Abiquiu wastewater 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, E. coli, Total Suspended Solids, and Biochemical Oxygen Demand at Outfall 001;
- b) failure to report permit exceedances of Total Residual Chlorine, and E. coli at Outfall 001; and
- c) failure to comply with proper Operations and Maintenance requirements.

The 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.

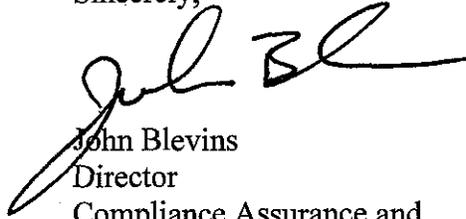
The Environmental Protection Agency is committed to ensuring compliance with the requirements of the National Pollutant Discharge Elimination System (NPDES) program, and my staff will assist you in any way possible. Please reference AO Docket Number CWA-06-2013-1748 and NPDES Permit Number NM0024830 on your response.

Re: Administrative Order
City of Abiquiu

2

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 fluid and cursive, 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-06-2013-1748, 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 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. City 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 ("all times relevant"), Respondent owned or operated a wastewater treatment plant ("WWTP"), located north of U.S. Highway 84 in Abiquiu, Rio Arriba County, New Mexico, and was, therefore, an "owner or operator" within the meaning of 40 C.F.R. § 122.2. The mailing address for Respondent is P.O. Box 133, Abiquiu, NM 87510.
3. At all times relevant, the facility acted as 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 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. 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 October 1, 2011. At all times relevant, 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 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. Each instance in which 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.
12. The most recent inspection of the facility, conducted by the New Mexico Environment Department ("NMED") on June 26, 2012, rated the following areas as unsatisfactory: Records/Reports and Operations and Maintenance.
13. Part III.D.7.b(3) of the permit was violated in that the facility did not report violations of daily maximum limitations for Total Residual Chlorine ("TRC") for July, October, November, and December, 2011 and January 2012, to EPA Region 6 and concurrently to NMED or to the Ohkay Owingeh Pueblo within twenty-four (24) hours from the time the permittee became aware of the violation. Respondent also failed to follow-up with a written report within five days of the oral report. In addition, the facility did not report violations of the daily maximum for E.coli for October 2011 and March 2012.

14. Part III.B.3(a) of the permit (*Proper Operation Procedures for the WWTP*) was violated in that the facility's preliminary treatment bar screen space was over 1" wide, allowing a high volume of solids to proceed into the treatment process. Respondent must ensure the preliminary treatment bar screen has an appropriate width to prevent solids from entering the treatment process.

15. Part III.B.3(a) of the permit (*Proper Operation Procedures for the WWTP*) was violated in that the facility's aeration unit was observed to contain 7.5 feet of solids, which is 68% of the volume which prevents proper operation.

16. Part III.B.3(a) of the permit (*Proper Operation Procedures for the WWTP*) was violated in that the aeration pump located within the clarifier is activated at the same time intervals as the aeration treatment unit which prevents proper operation. This aeration action remixes any settling that may have occurred. Additionally, when the aerator is activated in the clarifier, it produces waves that push floating material over the clarifier teeth.

17. Part III.B.3 of the permit (*Proper Operation Procedures for the WWTP*) was violated in that the sand filter, the final treatment phase, was not properly maintained. The sand filter was clogged and filled with standing water which caused it to be bypassed, resulting in improper operation of the facility.

18. Part III.C.2 of the permit was violated in that many prior samples of TRC were not representative of actual discharges. Facility records indicate that effluent immediately upstream of the designated sampling point was screened for TRC before taking samples for compliance.

Section 309(a)(3) Compliance Order

Based on the foregoing Findings and pursuant to the authority of Section 309(a)(3) of the Act, 33 U.S.C. § 1319(a)(3), Respondent is required to do the following:

A. Within thirty (30) days of the effective date of this Order, Respondent shall certify compliance with permit effluent limitations for E. coli (Daily Maximum and 30-Day Averages); pH (minimum and maximum); Total Suspended Solids ("TSS") (7-Day Average, 30-Day Average and % Removal); Biochemical Oxygen Demand ("BOD") (7-Day Average, 30-Day Average and % Removal); and TRC (Maximum).

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, Respondent shall provide EPA with a list of all mechanical and operational deficiencies at the facility including those noted in this administrative order and a narrative describing the specific actions taken to correct violations for E. coli (Daily Maximum and 30-Day Averages); pH (minimum and maximum); TSS (7-Day Average, 30-Day Average and % Removal Minimum); BOD (7-Day Average, 30-Day Average and % Removal Minimum); and TRC (Maximum).

B. In the event it will take 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.

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

D. 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.

E. 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.

F. 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 may become known. EPA reserves the right to seek any remedy available under the law that it deems appropriate.

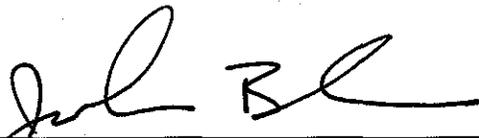
Failure to comply with this Section 309(a)(3) Compliance Order, Section 308 Information Demand, or the Act can result in further administrative action, or a civil judicial action initiated by the United States Department of Justice.

This Order does not constitute a waiver or modification of the terms or conditions of Respondent's NPDES permit, which remain in full force and effect. Compliance with the terms and conditions of this Order does not relieve 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 Respondent.

2.26.13

Date



John Blevins
Director
Compliance Assurance and
Enforcement Division