



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Region 6

1445 Ross Avenue, Suite 1200

Dallas, TX 75202-2733

MAY - 7 2018

CERTIFIED MAIL—RETURN RECEIPT REQUESTED: 7005 1820 0003 7458 3632

Mr. Larry Dunway, Public Works Director
City of Nashville Wastewater Treatment Plant
426 North Main
Nashville, AR 71852

Re: Administrative Order; Docket Number: CWA-06-2018-1791
NPDES Facility Number: AR0021776

Dear Mr. Dunway:

Enclosed is an Administrative Order (AO) issued to City of Nashville (the City) for violation of the Clean Water Act (CWA) (33 U.S.C. § 1251 *et seq.*). Violations were identified during a December 6, 2017 inspection of your Wastewater Treatment Plant located at 743 Highway 27 South, Nashville, Arkansas 71852. The inspection was conducted by the Environmental Protection Agency (EPA), Region 6. The violation is for utilizing instrumentation that does not satisfy the calibration requirements under 40 C.F.R. § 136.

This 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 this AO. The AO also contains other compliance deadlines and specified information. EPA 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-06-2018-1791 and NPDES Permit Number AR0021776 on your response.

If you have any questions, please contact Ms. Magdeleine Dallemagne, of my staff, at (214) 665-7396.

Sincerely,

A handwritten signature in blue ink, appearing to be "Cheryl Seager".

Cheryl Seager
Director
Compliance Assurance and
Enforcement Division

Enclosure



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
1445 Ross Avenue, Suite 1200, Dallas, TX 75202
FINDINGS OF VIOLATION and COMPLIANCE ORDER
Docket Number: CWA-06-2018-1791; NPDES Permit Number: AR0021776

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 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. City of Nashville (Respondent), a municipality chartered under the laws of the State of Arkansas, 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 relevant times"), Respondent owned or operated the City of Nashville Waste Water Treatment Plant ("WWTP"), located at 743 Highway 27 South, Nashville, Arkansas 71852 ("facility"), and was, therefore, an "owner or operator" within the meaning of 40 C.F.R. § 122.2. The mailing address for Respondent is 426 North Main Street, Nashville, AR, 71852.

3. At all relevant times, the facility acted as a "point source" of a "discharge" of "pollutants" with its wastewater to receiving waters named the Red River, in Segment No.1C of the Red River Basin, which are considered "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.

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. Respondent applied for and was issued NPDES Permit Number AR0021776 ("permit") under Section 402 of the Act, 33 U.S.C. § 1342, which became effective on July 1, 2014.

7. Section 402 of the Act, 33 U.S.C. § 1342, authorizes states to request approval from EPA to administer their own permit programs for discharges into navigable waters within their jurisdiction. Pursuant to this provision, the State of Arkansas requested approval from EPA to administer its own permit program for discharges into navigable waters within Arkansas, and such approval was granted by EPA on October 31, 1986. Therefore, pursuant to the State's permit program, the Arkansas Department of Environmental Quality ("ADEQ") has issued Arkansas Pollutant Discharge Elimination System ("APDES") permits. Violation of an APDES permit is a violation of Section 301(a) of the Act, 33 U.S.C. § 1311(a).

8. At all relevant times, 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.

9. On December 6, 2017, the facility's laboratory, instrumentation and documentation were inspected by an EPA inspector. As a result, the findings specified in the following paragraphs were made:

10. Part II.4 of the permit ("Other Specified Monitoring Requirements") requires the Respondent to ensure any methods and instruments used in its monitoring operations are installed, calibrated, and maintained to ensure accuracy. Additionally, the instruments and methods must be in compliance with 40 C.F.R. Part 136.

11. Part III.B.1 of the permit ("Proper Operation and Maintenance") requires the Respondent to properly operate and maintain all facilities and systems which are used to achieve compliance with the conditions of the permit. This includes laboratory controls and appropriate quality control procedures.

12. Part III.C.3 of the permit ("Monitoring Procedures") requires the Respondent to conduct monitoring procedures according to test procedures approved under 40 C.F.R. Part 136, and calibrate and perform maintenance procedures on all monitoring and analytical instrumentation at intervals frequent enough to ensure accuracy of measurements.

13. Parts II.4, III.B.1, and III. C.3 of the permit were violated in that the Respondent was utilizing instrumentation that did not satisfy the calibration requirements under 40 C.F.R. § 136.7. The mass balance did not meet the basic requirements for regular calibration and operation as per the regulations. The Respondent failed to produce sufficient documentation to meet these requirements.

14. The documentation provided at the time of the inspection to support the calibration of the instrument identifies the calibration service as a "Basic Test Confirmation" and not as a National Institute of Standards and Technology traceable calibration. Additional documentation provided on February 15, 2018 states adjustments could not be made to the sensitivity of the instrument; the instrument is obsolete due to its age and a new instrument is recommended.

15. 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.

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), EPA hereby orders Respondent to take the following action upon receipt of this Order:

A. Within thirty (30) days of the effective date of this Order, the Respondent shall provide written certification to EPA, Region 6 that the violations cited herein have been corrected and the facility is in compliance with the requirements of the permit.

B. In the event that compliance cannot be achieved immediately, the Respondent shall submit a report to EPA within thirty days (30) citing specific actions taken to address the violations cited herein. This report shall also include descriptions of the work needed to achieve compliance, the estimated capital and operational costs, and projected completion dates of any construction needed to come into compliance with the violations cited herein.

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

Ms. Magda Dallemagne
Water Enforcement Branch (6EN-WS)
EPA, Region 6
1445 Ross Ave., Suite 1200
Dallas, TX 75202-2733

GENERAL PROVISIONS

Issuance of this Section 309(a)(3) Compliance Order shall not be deemed an election by EPA to forego any administrative, 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 to EPA. EPA reserves the right to seek any remedy available under the law that it deems appropriate.

Respondent may seek federal judicial review of the Order pursuant to Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-706.

Failure to comply with this Section 309(a)(3) Compliance Order or the Act may 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 remains 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.

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

May 7 2018
Date

[Signature]
Cheryl T. Seager
Director
Compliance Assurance and
Enforcement Division