



Permit

James
LANL

subornal

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

MAR 17 2005

REPLY TO: 6EN-WC

CERTIFIED MAIL: RETURN RECEIPT REQUESTED (7003 0500 0003 0870 7121)

Mr. Nathaniel P. Wardwell
Office of Laboratory Counsel
Los Alamos National Laboratory
University of California
PO Box 1663, Mail Stop A187
Los Alamos, NM 87545



Re: Administrative Order Docket No. CWA-06-2005-1734
NPDES No. NMR05A734

Dear Mr. Wardwell:

Violation of a National Pollutant Discharge Elimination System (NPDES) permit requires the Environmental Protection Agency (EPA) to take appropriate enforcement action to assure compliance. Pursuant to the Clean Water Act (33 U.S.C. § 1251 et seq.), the enclosed Administrative Order (AO) is hereby served on the University of California, for the violations described therein.

Compliance with the provisions of this Order is expected within the maximum time periods established by each part of the Order. Your cooperation and prompt attention will be appreciated. The violations cited in the referenced Order could result in the issuance of an EPA administrative penalty order or referral to the United States Department of Justice for judicial action with monetary fines. In response hereto, please reference your Docket and NPDES permit numbers, and send correspondence to the attention of Ms. Waudelle Strickley (6EN-WC).

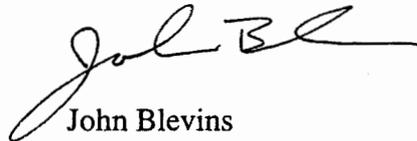
It is the policy of EPA to achieve full compliance with the NPDES permit program as rapidly as possible. If you have any questions, please contact Mr. Taylor Sharpe, Enforcement Officer, EPA, Dallas, Texas at (214) 665-7112. Please also find enclosed an "Information Sheet"



16259

relating to the Small Business Regulatory Enforcement Fairness Act (SBREFA) and a "Notice of Registrants Duty to Disclose" relating to the disclosure of environmental legal proceedings to the Securities and Exchange Commission (SEC).

Sincerely yours,



John Blevins
Director
Compliance Assurance and
Enforcement Division

Enclosures (3):

Administrative Order
SBREFA
SEC

cc: Ms. Marcy Leavitt
Chief
Surface Water Quality Bureau
New Mexico Environment Department
P.O. Box 26110
Santa Fe, NM 87502

Mr. Edwin L. Wilmot
Site Manager
Los Alamos Site Office
U.S. Department of Energy
528 35th Street
Los Alamos, NM 87544

Mr. Edwin L. Wilmot
Site Manager
Los Alamos Site Office
U.S. Department of Energy
528 35th Street
Los Alamos, NM 87544

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 6

In the Matter of	§ Docket No. CWA-06-2005-1734
	§
UNIVERSITY OF CALIFORNIA, a political	§
subdivision of the State of California,	§
	§ FINDINGS OF VIOLATION
Permittee	§ AND
	§ ORDER FOR COMPLIANCE
NPDES No. NMR05A734	§

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(a) and 309(a) of the Clean Water Act (herein "the Act"), 33 U.S.C. §§ 1318(a) and 1319(a). The Administrator of EPA has delegated the authority to issue this Order to the Regional Administrator of EPA Region 6, who has further delegated this authority to the Director of the Compliance Assurance and Enforcement Division.

Findings

1. The University of California (herein "Permittee") is a political subdivision of the State of California, and as such, the Permittee 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 Permittee operated the Los Alamos National Laboratory, on contract from the US Department of Energy, which is a large laboratory on approximately 43 square miles located in Los Alamos County, New Mexico (herein "the 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 storm water discharges to receiving waters primarily through several canyons which are tributaries to the Rio Grande river, which is a "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 the Permittee owned or operated a facility that is a point source of discharges of pollutants to waters of the U.S., the Permittee 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 Permittee applied for and was issued NPDES Storm Water Multi-Sector Permit [65 Fed. Reg. No. 210, p 64746, October 30, 2000] No. NMR05A734 (herein "the permit") under Section 402 of the Act, 33 U.S.C. § 1342, with effective coverage under this permit of December 12, 2000. At all relevant times, the Permittee 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. Section 5 of the permit requires the Permittee to sample and test its storm water discharges in accordance with MSGP Sector L for Solid Waste Management Units. They also require the Permittee to file with EPA certified Discharge Monitoring Reports (DMRs) of the results of monitoring, and Noncompliance Reports when appropriate.

9. Section 5 of the permit was violated in that the Permittee has not been sampling the discharges from all of the Solid Waste Management Units. In particular, the remotely located facilities have not been sampled.

10. 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 Sections 308 and 309 of the Act, EPA HEREBY ORDERS THE PERMITTEE to take the following action:

A. The Permittee shall comply with the Federal Facilities Compliance Agreement, Docket No. CWA-06-2005-1701, that EPA and the U.S. Department of Energy have agreed upon regarding the remotely located SWMUs. The Permittee shall apply for individual NPDES permit coverage in conjunction with the U.S. Department of Energy application.

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

Ms. Waudelle Strickley
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 U.S. Department of Justice. If the United States initiates a civil judicial action, Respondent will be subject to civil penalties of up to \$32,500 per day per violation.¹

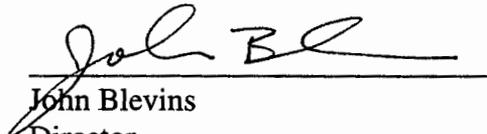
If a criminal action is initiated by U.S. Department of Justice, and Respondent is convicted of a criminal offense under Section 309(c) of the Act, the Respondent may become ineligible for certain contracts, grants, or loans under Section 508 of the Act.

¹The civil penalty amounts that can be assessed under Section 309 of the Clean Water Act were amended by the Civil Monetary Penalty Inflation Adjustment Rule (61 Fed. Reg. 69359, December 31, 1996, as corrected in 62 Fed. Reg. 13514, March 20, 1997), effective June 1, 1997, under the Debt Collections Improvement Act of 1996, 31 U.S.C. § 3701, et. seq., for all violations occurring or continuing after January 30, 1997.

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

3.14.05
Date



John Blevins
Director
Compliance Assurance and
Enforcement Division