

Via Certified Mail:
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Carlo M. Pilgrim, City Manager
City of Holbrook
P. O. Box 970
Holbrook, AZ 86025

Subject: Findings of Violations and Order for Compliance
EPA Docket No. CWA-309(a)-09-022

Dear Mr. Pilgrim:

On January 23, 2007, the City of Holbrook (City) was issued Permit No. AZ0025542 for the Painted Mesa Water Reclamation Facility in accordance with the provisions of the National Pollutant Discharge Elimination System (NPDES). The major requirements established by this permit include the following: 1) monitoring of any discharge from the facility to the Leroux Wash; 2) effluent characterization monitoring for the parameters and at the frequency identified in the permit; and 3) submittal of monthly discharge monitoring reports (DMRs) to the Arizona Department of Environmental Quality (AZDEQ). Submittal of the DMRs and effluent characterization monitoring is required whether or not the facility is discharging.

In the 23-month time period beginning with permit issuance through the end of December, 2008, the City failed to submit any DMRs or effluent characterization monitoring reports. On February 18, 2009, the AZDEQ issued a Notice of Violation (NOV) to the City requiring compliance with all provisions of the permit within 30 days of receiving the NOV. The City subsequently submitted only 10 of the 23 required DMRs and has not submitted any of the required monitoring reports.

Based on the length of time that the City has been in violation of their permit and the inadequate response to the NOV, EPA today issues the enclosed Findings of Violation and Order for Compliance requiring the City of Holbrook to take specific actions to bring the Facility into compliance with the Clean Water Act, including the following:

1. Submit a complete DMR for each month that the City failed to submit a DMR; and

2. For any month in which there was a discharge from Outfall 001, provide a record for each of the analyses required under Part I of the permit; and
3. Provide a record for all effluent characterization monitoring as required in Part I.D. of the permit; and
4. Achieve and maintain compliance with all monitoring and reporting requirements of the permit.

If you have any questions concerning this matter, please contact me at 415-972-3572, or Michelle Moustakas in the Clean Water Act Compliance Office at (415) 972-3584.

Sincerely yours,

Alexis Strauss, Director
Water Division

Enclosures

cc: Cynthia Campbell, Arizona Department of Environmental Quality

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX

IN THE MATTER OF:) Docket No. CWA 309(a)-09-021
)
CITY OF HOLBROOK)
Painted Mesa Water Reclamation Facility) **FINDING OF VIOLATION AND ORDER**
) **FOR COMPLIANCE**
)
Proceeding under Sections 308(a) and)
309(a) of the Clean Water Act, as)
amended.)
)

AUTHORITY

The following Findings are made and Order issued under authority vested in the Administrator of the United States Environmental Protection Agency (EPA) under Sections 308(a) and 309(a) of the Clean Water Act (CWA), as amended, 33 U.S.C. §§1318(a) and 1391(a). The Administrator has delegated these authorities to the Regional Administrator of EPA Region IX, who has in turn delegated them to the Director of the Water Division (“Director”) of EPA Region IX. Notice of this action has been given to the Arizona Department of Environmental Quality (AZDEQ).

FINDING OF VIOLATION

The Director finds:

1. The City of Holbrook is a municipality or political subdivision of the State of Arizona. Therefore, the City of Holbrook is a “person” as defined by Section 502(5) of the CWA, 33 USC §1362(5), and subject to CWA requirements.

2. The City of Holbrook is the owner and operator of the Painted Mesa Water Reclamation Facility (WRF), located at 300 Broadcast Lane, Holbrook, Arizona, a publicly-owned treatment works (POTW) as defined in CWA section 212 and 40 CFR § 403.3(o) [125.58(s)].
3. The Painted Mesa WRF receives and treats domestic wastewater from residential and commercial sources within the City of Holbrook through the sanitary sewer collection system owned and maintained by the City.
4. In routine operation, the treated effluent from the Painted Mesa WRF is reused as irrigation on farmland or on local golf courses. When the treated effluent volume exceeds reuse demand, the WRF discharges to Leroux Wash, a tributary to the Little Colorado River, which is a “navigable water” as defined by Section 502(7) of the CWA, 33 USC §1362(7), and a “water of the United States” as defined by EPA regulations in 40 CFR §122.2.
5. Section 301(a) of the CWA, 33 USC §1311(a), prohibits the discharge of pollutants by any person to waters of the United States except in compliance with certain sections of the CWA, including section 402, 33 USC §1342. Section 402 of the CWA authorizes EPA, or approved States, to issue National Pollutant Discharge Elimination System (NPDES) permits allowing for the discharge of pollutants into waters of the United States. Compliance with Section 301(a) of the CWA, 33 USC §1311(a), therefore, requires compliance with a valid NPDES permit, inter alia.
6. The State of Arizona administers an EPA-approved NPDES program in Arizona and issues NPDES permits through the Water Quality Division of the Arizona Department of Environmental Quality (AZDEQ).
7. AZDEQ adopted NPDES Permit No. AZ0025542 for the Painted Mesa WRF on January 16, 2007. The permit became effective on January 16, 2007 and expires on January 16, 2012.
8. NPDES Permit No. AZ0025542 establishes discharge limits, self-monitoring requirements, and reporting requirements.
 - a. Part I.A. through I.K. of NPDES Permit No. AZ0025542 requires the City of Holbrook to (1) self-monitor its discharges to the wash from Outfall 001 for the constituents and at the frequencies specified in Tables 1-4 of the Permit, (2) conduct influent monitoring for Biochemical Oxygen Demand (BOD) and for Total Suspended Solids (TSS) as specified in Table 1, and (3) conduct effluent characterization monitoring, whether discharging or not, for the constituents and at the frequencies specified in Tables 3.a-3.f.

- b. NPDES permit Part II.B.1. requires the City of Holbrook to (1) submit effluent discharge monitoring results on Discharge Monitoring Report (DMR) forms, (2) specify “No Discharge” on the DMR and submit as required during any period in which the facility does not discharge; (3) submit results of effluent characterization monitoring taken during periods of no discharge as an attachment to the DMR specifying “No Discharge”.
9. The City of Holbrook violated Section 301(a) of the Act [33 U.S.C. Section 1311(a)] in that:
 - a. Part I of NPDES Permit No.AZ0025542 requires the City of Holbrook to self monitor the discharges through Outfall 001 for the pollutants and for the frequencies specified in Tables 1 -4;
 - b. Part I.D. of NPDES Permit No.AZ0025542 requires the City of Holbrook to conduct effluent characterization monitoring whether discharging or not for the contaminants and for the frequencies specified in Tables 3.a. – 3.f.;
 - c. Part II.B.1. of NPDES Permit No.AZ0025542 requires the City of Holbrook to (1) report all self-monitoring results, including effluent characterization results, by the 28th day of the month following the end of the monitoring period; and (2) specify “No Discharge” on the DMR form during any period during which the facility did not discharge and submit the form by the 28th day of the month following the end of the monitoring period.
 - d. The City of Holbrook failed to submit DMRs on 13 occasions, including a failure to submit a DMR for the discharge known to have occurred in January, 2008, and submitted late DMRs on 10 occasions. There is no record that any effluent characterization sampling has been conducted. The failure to sample and report is summarized in Table 9(d) on the next page.

Table 9(d)City of Holbrook, Painted Mesa Water Reclamation Facility
Self Monitoring Records for February, 2007 through December, 2008

Sample Date	DMR	Effluent Characterization
February, 2007	Not Submitted	Not Submitted
March, 2007	Not Submitted	Not Submitted
April, 2007	Not Submitted	Not Submitted
May, 2007	Not Submitted	Not Submitted
June, 2007	Not Submitted	Not Submitted
July, 2007	Not Submitted	Not Submitted
August, 2007	Not Submitted	Not Submitted
September, 2007	Not Submitted	Not Submitted
October, 2007	Late	Not Submitted
November, 2007	Late	Not Submitted
December, 2007	Late	Not Submitted
January, 2008	Not Submitted	Not Submitted
February, 2008	Not Submitted	Not Submitted
March, 2008	Not Submitted	Not Submitted
April, 2008	Not Submitted	Not Submitted
May, 2008	Not Submitted	Not Submitted
June, 2008	Late	Not Submitted
July, 2008	Late	Not Submitted
August, 2008	Late	Not Submitted
September, 2008	Late	Not Submitted
October, 2008	Late	Not Submitted
November, 2008	Late	Not Submitted
December, 2008	Late	Not Submitted

ORDER FOR COMPLIANCE

Considering the foregoing Findings, EPA has determined that compliance in accordance with the following requirements is reasonable. Pursuant to the authority of sections 308(a) and 309(a) of the CWA, it is hereby ORDERED that the City of Holbrook comply with the following requirements:

I. REPORT

- A. Submittal of DMRs: Submit a completed DMR for each month that the City failed to submit a DMR as noted in Table 9(f). If a DMR is not available for a specific month, provide a written explanation for the failure to submit.
- B. Effluent Monitoring: For any month in which there was a discharge from Outfall 001, provide a record for each of the analyses required by Part I of NPDES Permit No.AZ0025542. If sample results are not available for any required monitoring period, provide a written explanation for the failure to monitor.
- C. Effluent Characterization Monitoring: Provide a record for each of the effluent characterization analyses required by Part I.D. of NPDES Permit No.AZ0025542. If sample results are not available for any required monitoring period, provide a written explanation for the failure to monitor.

II. COMPLIANCE DEADLINES:

- A. Within 30 days of the effective date of this Order, the City of Holbrook shall submit all records and reports as required in Section I, Items A, B, and D of this Order.
- B. Upon receipt of this Order, the City of Holbrook shall achieve and maintain continuous compliance with all monitoring and reporting requirements of the Permit.
- C. Within 60 days of receipt of this Order, the City of Holbrook shall submit a report to EPA on any costs associated with complying with this order.

III. INFORMATION SUBMITTAL

- A. All submittals made pursuant to this Order shall be mailed to the following addresses:

Michelle Moustakas
U.S. Environmental Protection Agency
Clean Water Act Compliance Office (WTR-7)
Water Division
75 Hawthorne Street
San Francisco, CA 94105

Matthew Hodge
Arizona Department of Environmental Quality
Water Quality Division
1110 West Washington Street
Phoenix, AZ 85007

- B. All submittals required under this Order shall include the following certification signed by Respondent or Respondent's duly authorized representative:

I certify under penalty of law that this document and all attachments were prepared by direct supervision or in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of those who manage the system or are directly responsible for gathering the information, I certify that the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

- C. EPA has promulgated regulations to protect the confidentiality of the business information it receives at 40 C.F.R. Part 2, Subpart B. A claim of business confidentiality may be asserted in the manner specified by 40 C.F.R. § 2.203(b) for all or part of the information requested. EPA will disclose business information covered by such a claim only as authorized under 40 C.F.R. Part 2, Subpart B. If no claim accompanies the business information at the time EPA receives it, EPA may make it available to the public without further notice. Respondent may not withhold from EPA any information on the grounds that it is confidential business information.

IV. GENERAL PROVISIONS

- A. This Order is not a permit under the CWA, and does not waive or modify Respondent's obligations and responsibility to ascertain and comply with all applicable federal, state or local laws, regulations, ordinances, permits or licenses.
- B. This requirement of information is not subject to review by the Office of Management and Budget under the Paperwork Reduction Act because it is not a "collection of information" within the meaning of 44 U.S.C. § 3502(3). It is directed to fewer than ten persons and is an exempt investigation under 44 U.S.C. § 3518(c) (1) and 5 C.F.R. § 1320.4(a) (2).
- C. This Order shall be binding upon Respondent, and Respondent's officers, directors, agents, servants, employees, heirs, successors and assigns.
- D. Issuance of this Order shall not be deemed an election by EPA to forego any remedies available to it under the law, including without limitation any administrative, civil, or criminal action to seek penalties, fines, or other appropriate relief under the Act. EPA reserves all rights and remedies, legal and equitable, available to enforce any violation cited in this Order and to enforce this Order.
- E. CWA Section 309(a), (b), (d) and (g), 33 U.S.C. § 1319(a), (b), (d) and (g), provides administrative and/or civil judicial relief for failure to comply with the CWA. In addition, CWA section 309(c), 33 U.S.C. § 1319(c), provides criminal sanctions for negligent or knowing violations of the CWA, and for knowingly making false statements.
- F. This Order shall become effective upon the date of receipt by Respondent.
- G. This Order remains in effect until terminated by the Director of the Water Division, EPA, Region 9.

Alexis Strauss, Director
Water Division

Date