

US EPA ARCHIVE DOCUMENT



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street
San Francisco, CA 94105-3901

April 20, 2011

CERTIFIED MAIL 7003 2260 0007 5460 0945

Return Receipt Requested

Anthony J. Pack
General Manager
Eastern Municipal Water District
P.O. Box 8300
Perris, CA 92572-3000

Re: Finding of Violation and Order for Compliance under Sections 308 and 309(a) of the Clean Water Act, EPA Docket No. CWA 309(a)-11-008.

Dear Mr. Pack:

Based on information collected by the U.S. Environmental Protection Agency, Region 9 (EPA), Eastern Municipal Water District (EMWD) has violated EPA's Standards for Use or Disposal of Sewage Sludge, 40 CFR Part 503. From February 21 through March 26, 2010, sewage sludge from EMWD's Moreno Valley Regional Water Reclamation Facility which did not meet Class B pathogen reduction was applied to agricultural lands in Yuma County, Arizona. From December 8 through December 19, 2010, sewage sludge from EMWD's Temecula Valley Regional Water Reclamation Facility which did not meet Class B pathogen limits was also applied to agricultural lands in Yuma County, Arizona.

EPA issues the enclosed Findings of Violation and Order for Compliance pursuant to Sections 308 and 309(a) of the Clean Water Act. The Order requires EMWD to implement measures to monitor its digester operating parameters and switch to other treatment or disposal practices when these parameters approach the minimum limits for Class B pathogen reduction.

If you have any questions regarding the enclosed Finding of Violation and Order, please contact Jamie Marincola at 415-972-3520 or via email at Marincola.Jamespaul@epa.gov.

Sincerely,

//s// 4/20/11

Alexis Strauss
Director, Water Division

cc: Michael Fulton, Arizona Department of Environmental Quality
Kurt Berchtold, Santa Ana Regional Water Quality Control Board
Shaen Magan, Tule Ranch

Encl: Findings of Violation and Order for Compliance

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX

75 Hawthorne Street
San Francisco, CA 94105

IN THE MATTER OF:)	
)	Docket No. CWA 309(a)-11-008
EASTERN MUNICIPAL WATER DISTRICT)	
)	FINDINGS OF VIOLATION
Respondent)	AND
)	ORDER FOR COMPLIANCE
)	
Proceedings under Sections 308 and)	
309(a) of the Clean Water Act, as amended,)	
33 U.S.C. §§ 1318 and 1319(a))	
_____)	

STATUTORY AUTHORITY

The following findings are made and Order issued pursuant to the authorities vested in the Administrator of the U.S. Environmental Protection Agency (“EPA”) by Sections 308 and 309(a) of the Clean Water Act, as amended (“CWA” or “the Act”), 33 U.S.C. §1318 and §1319(a). The Administrator has delegated these authorities to the Regional Administrator of EPA, Region 9, who has in turn delegated them to the Director of the Water Division (“Director”), EPA, Region 9.

FINDINGS OF VIOLATION

1. Under CWA Section 405(e), 33 U.S.C. §1345(e), it is unlawful for any person to dispose of sewage sludge from a publicly owned treatment works or any other treatment works treating domestic sewage for any use for which regulations have been established pursuant to Section 405(d), except in accordance with such regulations.
2. Pursuant to Section 405(d)(1) of the Act, 33 U.S.C. §1345(d)(1), EPA promulgated regulations establishing the Standards for the Use or Disposal of Sewage Sludge, set forth at 40 CFR Part 503.

3. A “Person” is an individual, corporation, partnership, association, State, municipality, commission, or political subdivision of a State, or any interstate body. CWA section 502(5), 33 U.S.C. §1362(5). A “person who prepares sewage sludge” is either the person who generates sewage sludge during the treatment of domestic sewage in a treatment works or the person who derives a material from sewage sludge. 40 CFR 503.9(r). Eastern Municipal Water District (“EMWD”) is thus a “person who prepares sewage sludge”.
4. 40 CFR 503.7 places responsibility for compliance with the requirements in 40 CFR 503 upon the preparer of the sewage sludge.
5. 40 CFR 503.15 requires sewage sludge to meet Class A or Class B pathogen reduction requirements when sewage sludge is land applied.
6. 40 CFR 503.32(b) defines options for meeting Class B pathogen reduction. One option is to meet the “Process to Significantly Reduce Pathogens” in 503 Appendix B, number 3: “Anaerobic digestion - sewage sludge is treated in the absence of air for a specific mean cell residence time at a specific temperature. Values for the mean cell residence time and temperature shall be between 15 days at 35 to 55 degrees C and 60 days at 20 degrees C.”
7. In its annual biosolids report to EPA, required pursuant to 40 CFR 503.18 and submitted on February 15, 2011, EMWD reported that between February 21 and March 26, 2010, digester temperatures at the Moreno Valley Regional Water Reclamation Facility were less than 35 degrees C. Digester temperatures fell to as low as 30.2 degrees C during this time. Sewage sludge prepared during this time was land-applied by Tule Ranch to fields GPA-AZ-4 and GPA-AZ-10 in Yuma County, Arizona to grow alfalfa.
8. In its annual biosolids report to EPA, EMWD reported that between December 8 and December 19, 2010, hydraulic detention times in the digesters fell below the 15-day mean. Fifteen day average detention times fell as low as 13.3 days during this time. Sewage sludge prepared during this time was land applied by Tule Ranch to field RSL-AZ-N in Yuma County, Arizona to grow wheat.
9. EPA, therefore, finds EMWD in violation of Section 405(e) of the Act, 33 U.S.C. §1345(e), by allowing sewage sludge not meeting the minimum Class B pathogen reduction requirements for non-food crops to be land applied.

ADMINISTRATIVE ORDER

Based on the foregoing FINDINGS OF VIOLATION and pursuant to the authorities of CWA Sections 308 and 309(a) of the Act, 33 U.S.C. §§1318 and 1319(a), it is hereby ORDERED:

1. Immediately upon receipt of this Order, EMWD shall comply with 40 CFR 503,

“Standards for the Use or Disposal of Sewage Sludge” and cease shipment of biosolids for land application except in full compliance with 40 CFR 503.

2. By **MAY 1, 2011**, EMWD shall designate staff representatives and back-up representatives at the Moreno Valley RWRf and at the Temecula RWRf responsible for tracking and reviewing on a daily basis the temperatures and mean cell residence times in each digester and provide the names of the representatives to EPA.
3. By **MAY 20, 2011**, EMWD shall develop and submit to EPA a plan for identifying potential operational problems that could cause a failure to meet Class B pathogen reduction limits or vector attraction reduction requirements. The plan should include an alert system for instances where operational parameters approach the regulatory limits. The alert system shall activate when the digester temperature drops below 96 degrees F (35.6 degrees C) or when the mean cell residence time drops to below 16 days. The plan shall include procedures for diverting the sewage sludge from land application to landfilling or further treatment when operational parameters reach the thresholds above.
4. By **MAY 20, 2011**, EMWD shall develop and submit to EPA a procedure for notifying any contractors taking sewage sludge for land application when the alert system in item 3 is activated, and for having either the same contractor or another contractor divert the sludge to landfilling or further treatment. The procedure shall include mechanisms to verify that the contractors have received the notification and that the sewage sludge is being hauled to this alternate disposal or treatment until such time as EMWD notifies the contractor that the contractor may begin land application again.
5. EMWD shall notify EPA within 24 hours whenever the alert system becomes active and of EMWD’s procedures for diverting the sewage sludge to disposal or further treatment. EMWD shall notify EPA 48 hours prior to recommencing land application following any of these diversions.
6. All submissions required by this Order shall be mailed to:
Jamie Marincola
U.S. Environmental Protection Agency
CWA Compliance Office (WTR-7)
75 Hawthorne St.
San Francisco, CA 94105-3901
7. 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 under my direct supervision 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 under the Clean Water Act and 18 U.S.C. '1001.’’

- 8. 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.
- 9. EPA has promulgated regulations to protect the confidentiality of the business information it receives at 40 CFR Part 2, Subpart B. A claim of business confidentiality may be asserted in the manner specified by 40 CFR 2.203(b) for part or all of the information requested. EPA will disclose business information covered by such a claim only as authorized under 40 CFR Part 2, Subpart B. If no such 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.
- 10. This requirement of information is not subject to review by the Office of Management and Budget (“OMB”) 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 CFR 1320.4(a)(2).
- 11. This Order shall be binding upon Respondent, and Respondent’s officers, directors, agents, servants, employees, heirs, successors and assigns.
- 12. Issuance of this Order shall not be 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.
- 13. 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. Section 309(c) of the Act, 33 U.S.C. §1319(c), provides criminal sanctions for negligent or knowing violations of the CWA and for knowingly making false statements.
- 14. This Order shall become effective upon the date of receipt by Respondent.

//s//
Alexis Strauss
Director, Water Division

4/20/11
Date