UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

OCT 05 2017

CERTIFIED MAIL 7016 1970 0000 8992 3631
RETURN RECEIPT REQUESTED

Phoenix Chemical Company, Inc.
ATTN: Mr. John E. Bryant
Chief Executive Officer
202 Gee Road
Calhoun, Georgia 30701

Re: Notice of Violation and Opportunity to Show Cause Pursuant to Section 309 of the Clean Water Act (CWA), 33 U.S.C. § 1319, for Phoenix Chemical Company, Inc., Calhoun, Gordon County, Georgia, Permit No. 1 issued by the City of Calhoun

Dear Mr. Bryant:

On March 1, 2016, a contractor for the U.S. Environmental Protection Agency Region 4 performed an Industrial User Inspection of Phoenix Chemical Company, Inc.'s facility (Facility) located at 202 Gee Road in Calhoun, Gordon County, Georgia. The purpose of the inspection was to evaluate Phoenix Chemical Company Inc.'s compliance with the requirements of Section 307(d) of the Clean Water Act (CWA), 33 U.S.C. § 1317(d); and the regulations promulgated thereunder at 40 C.F.R. Parts 403 and 417.

The EPA sent you an Information Request pursuant to Section 308 of the CWA, 33 U.S.C. 1318, on January 20, 2017, to gather additional information about the Facility's operation, ownership, and environmental compliance history.[1] Phoenix Chemical Company, Inc. provided the EPA with its response to the Information Request on February 10, 2017. The EPA subsequently sent you a Supplemental Information Request on June 19, 2017, seeking additional information regarding specific chemicals used or potentially used at the Facility during its operational history. Phoenix Chemical Company, Inc. provided the EPA with its response to the Supplemental Information Request on July 11, 2017.

The EPA's inspection and subsequent investigative efforts, including our review of your Information Request and Supplemental Information Request responses, have revealed that Phoenix Chemical Company, Inc. failed to comply with Section 307 of the CWA, 33 U.S.C. § 1317(d), and its implementing pretreatment regulations at 40 C.F.R. Parts 403 and 417. Specifically, the EPA hereby notifies Phoenix Chemical Company, Inc., pursuant to Section 309(a) of the CWA, 33 U.S.C. § 1319(a), of the following findings of violations:

[1] A copy of the EPA's Industrial User Pretreatment Reconnaissance Inspection Report was attached to the January 20, 2017 Information Request, for your records.

1. Significant industrial user discharge without a valid permit.

   The Facility is a significant industrial user, as defined by 40 C.F.R. § 403.3(v). The Facility is therefore required to obtain a valid permit from the City of Calhoun prior to discharging to a publicly owned treatment works (POTW). See 40 C.F.R. § 403.8(f)(1)(iii). The Facility has discharged to the City of Calhoun Water Pollution Control Plant without a valid permit from June 1996 to November 1, 2016, when the City of Calhoun issued a permit to the Facility.

2. New Source failure to install and operate pretreatment equipment prior to discharge.

   Pursuant to 40 C.F.R. § 403.6(b), the Facility is subject to the federal categorical pretreatment standards in 40 C.F.R. Part 417. The Facility is a new source, as defined in 40 C.F.R. § 403.3(m), because it originated after the EPA published proposed standards for Part 417 on February 20, 1975. Phoenix Chemical Company, Inc. was thus required to install, and have in operating condition, all the pollution control equipment necessary to meet applicable pretreatment standards, including those in 40 C.F.R. Part 417, prior to beginning discharge to the POTW.

   The Facility did not install such necessary pollution control equipment prior to beginning discharge to the POTW, and to date has not installed such equipment. The Facility thus has continued to discharge to the POTW without the necessary pollution control equipment, in continuing violation of 40 C.F.R. § 403.6(b).

3. Dilution of regulated process wastewater.

   The regulated process wastewater that is produced at the Facility is diluted by both cooling water and on-site stormwater prior to being pumped into the storage tanks and monitored for pH. This is not in compliance with the prohibition of dilution provision of 40 C.F.R. § 403.6(d).

4. Failure to submit Baseline Monitoring Report

   Pursuant to 40 C.F.R. § 403.12(b), a New Source is required to report and maintain record of the self-monitoring information on its compliance with pretreatment standards at least 90 days prior to commencement of discharge to the POTW (commonly referred to as the "Baseline Monitoring Report"). The Baseline Monitoring Report is required to include: (1) the name and address of the Facility, and the name of the operators and owners; (2) a list of any environmental control permits held by the Facility; (3) a description of the operations; (4) the average and daily maximum flow rates from each process stream to the receiving POTW; (5) identification of pretreatment standards applicable to the Facility; and (6) results of sampling and analysis identifying the nature and concentration of pollutants to be discharged.

   The Facility failed to submit the required Baseline Monitoring Report to the City of Calhoun, Georgia of its pre-discharge compliance with the categorical pretreatment standards in 40 C.F.R. § 417.166 at least 90 days prior to commencing discharge to the POTW in June 1996. The Facility has also not maintained the required record demonstrating its compliance with these pretreatment standards.

5. Failure to submit 90-Day Report

Pursuant to 40 C.F.R. §§ 403.12(d), a New Source is required to report and maintain record of the self-monitoring information on its compliance with pretreatment standards within 90 days after commencement of discharge to the POTW (commonly referred to as the "90-Day Report").

The Facility failed to submit the required 90-Day Report to the City of Calhoun, Georgia of its compliance with the categorical pretreatment standards in 40 C.F.R. § 417.166 within 90 days after commencing discharge to the POTW in June 1996. The Facility has also not maintained the required record demonstrating its compliance with these pretreatment standards.

6. Failure to submit periodic reports on continued compliance with categorical standards.

Pursuant to 40 C.F.R. §§ 403.12(e), any industrial user subject to categorical pretreatment standards must submit to the City of Calhoun, and maintain its own records of, additional periodic compliance reports at least twice a year on its compliance with categorical standards and other information. From June 1996 until November 1, 2016, the Facility did not submit the required self-monitoring reports of compliance to the City of Calhoun, or maintain its own records thereof.

Until compliance with the CWA is achieved, the Phoenix Chemical Company, Inc. is considered to be in violation of the CWA and may be subject to enforcement action pursuant to Section 309 of the CWA, 33 U.S.C. § 1319. This Section provides for the issuance of administrative penalty and/or compliance orders and the initiation of civil and/or criminal actions.

The EPA requests that representatives of Phoenix Chemical Company, Inc. contact the EPA within seven (7) business days of receipt of this letter to arrange a meeting in this office to show cause why the EPA should not take formal civil enforcement action against Phoenix Chemical Company, Inc. for these violations and any other potential violations, including the assessment of appropriate civil penalties. In lieu of appearing in person, a telephone conference may be scheduled. Phoenix Chemical Company, Inc. should be prepared to provide all relevant information with supporting documentation pertaining to the violations, including but not limited to any financial information which may reflect an inability to pay a penalty. Phoenix Chemical Company, Inc. has the right to be represented by legal counsel.

The EPA requests that all information submitted in response to this information request and during the show cause meeting be accompanied by the following certification, signed by a responsible corporate officer, as defined by 40 C.F.R. § 403.12(l):

> "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, 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."

Please be aware that the EPA may use information provided during the meeting or telephone conference in any enforcement proceeding related to this matter. Failure to schedule a show cause meeting may result in a unilateral enforcement action against Phoenix Chemical Company, Inc. Notwithstanding the scheduling of a show cause meeting, the EPA retains the right to bring further enforcement action under Section 309 of the CWA, 33 U.S.C. § 1319, for the violations cited herein or for any other violation of the CWA.

Please contact Mr. Brad Ammons at (404) 562-9769 to arrange a show cause meeting or if you have any questions or concerns. Legal inquiries should be directed to Ms. Suzanne Armor, Associate Regional Counsel, at (404) 562-9701.

Sincerely,

Mary S. Walker
Director
Water Protection Division

cc: Mr. Bert Langley
Georgia Environmental Protection Division

Mr. Jerry Crawford
City of Calhoun Wastewater Department

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
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OCT 10 2017

CERTIFIED MAIL 7016 1970 0000 8992 3723
RETURN RECEIPT REQUESTED

R-Squared-Puckett, Inc.
c/o Matthew P. McLaughlin
McLaughlin, PC
Post Office Box 2719
Jackson, Mississippi 39207

Re: Supplemental Information Request to R-Squared Puckett, Inc., Pursuant to Section 308 of the Clean Water Act, 33 U.S.C. § 1318

Dear Mr. McLaughlin:

Thank you for your client's correspondence dated June 12, 2017, containing information responding to the May 30, 2017 request by the U.S. Environmental Protection Agency Region 4, pursuant to Section 308 of the Clean Water Act, 33 U.S.C. § 1318, regarding the R-Squared Puckett, Inc. (R-Squared) facility located at 6422 Highway 18, Puckett, Mississippi 39151 (Facility).

The purpose of this letter is to request, pursuant to Section 308 of the CWA, 33 U.S.C. § 1318, that R-Squared respond to the enclosed Supplemental Information Request to supplement the information it previously provided. The EPA requests that R-Squared provide the information set forth in Enclosure A within 21 calendar days of your receipt of this letter.

The response should be submitted to:

U.S. Environmental Protection Agency, Region 4
Water Protection Division - NPEB
Attn: Ms. Alenda Johnson
61 Forsyth Street, S.W., Mailcode 9T25
Atlanta, Georgia 30303-8960

All information submitted must be accompanied by the following certification signed by a duly authorized R-Squared official in accordance with 40 C.F.R. § 403.12(l):

> "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, 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."

Failure to provide a full and complete response to this information request or to adequately justify a failure to respond within the time frame specified above may result in an EPA enforcement action pursuant to federal law, including, but not limited to, 33 U.S.C. § 1319 and 18 U.S.C. § 1001.

If R-Squared believes that any of the requested information constitutes confidential business information, it may assert a confidentiality claim with respect to such information, except for effluent data. Please see Enclosure B for further details, including how to make a business confidentiality claim.

The EPA appreciates R-Squared's prompt attention to this matter. Should R-Squared have any technical questions regarding this letter, please contact Ms. Alenda Johnson at (404) 562-9761. All other inquiries should be directed to Mr. Nathan Stopper, Associate Regional Counsel, at (404) 562-9581.

Sincerely,

Molly P. Davis, Acting Chief
NPDES Permitting and Enforcement Branch
Water Protection Division

Enclosures

cc: Mr. Tim Aultman
Mississippi Department of Environmental Quality

ENCLOSURE A

INFORMATION REQUEST PURSUANT TO SECTION 308 OF THE CLEAN WATER ACT

Instructions

1. Identify the person(s) responding to this Information Request.

2. Please provide a separate narrative response to each and every Question and subpart of a Question set forth in this Information Request.

3. Precede each answer with the text and the number of the Question and its subpart to which the answer corresponds.

4. All documents submitted must contain a notation indicating the Question and subpart of the Question to which they are responsive.

5. In answering each Information Request Question and subpart thereto, identify all documents and persons consulted, examined or referred to in the preparation of each response, and provide true and accurate copies of all such documents.

6. If information not known or not available to you as of the date of submission of a response to this Information Request should later become known or available to you, you must supplement your response to the EPA. Should you find at any time after the submission of your response that any portion of the submitted information is false or misrepresents the truth, you must notify the EPA as soon as possible.

7. Where specific information has not been memorialized in a document, but is nonetheless responsive to a Question, you must respond to the Question with a written response.

8. If information responsive to this Information Request is not in your possession, custody or control, then identify the person from whom such information may be obtained.

9. If you have reason to believe that there may be persons able to provide a more detailed or complete response to any Question or who may be able to provide additional responsive documents, identify such persons and the additional information or documents that they may have.

10. The EPA requests that all documents provided in an electronic format be compatible with pdf.

11. The EPA requests that all spreadsheet information be in an electronic format and compatible with MS Excel.

12. If any Question relates to activities undertaken by entities other than the recipient of this Information Request, and to the extent that you have information pertaining to such activities, provide such information for each entity.

Definitions

1. All terms not defined herein shall have their ordinary meanings, unless such terms are defined in the Clean Water Act or its implementing regulations, in which case the statutory or regulatory definitions shall control.

2. Words in the masculine may be construed in the feminine if appropriate, and vice versa, and words in the singular may be construed in the plural if appropriate, and vice versa, in the context of a particular question or questions.

3. The terms "And" and "Or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of this Information Request any information which might otherwise be construed outside it scope.

4. The term "EPA" means the U.S. Environmental Protection Agency, Region 4.

5. The term "Facility" means the R-Squared Puckett, Inc. facility located at 6422 Highway 18, Puckett, Mississippi 39151.

6. The term "Identify" means, with respect to a natural person, to set forth the person's name, present or last known business address and business telephone number, present or last known home address and home telephone number, and present or last known job title, position or business.

7. The term "Identify" means, with respect to a document, to provide its customary business description; its date; its number, if any (invoice or purchase order number); the identity of the author, addressee and/or recipient; and substance of the subject matter.

8. The term "Identify" means, with respect to a corporation, partnership, business trust or other association or business entity (including a sole proprietorship), to set forth its full name, address, legal form (e.g., corporation, partnership, etc.), organization, if any, and a brief description of its business.

9. The term "Permit" means the National Pollutant Discharge Elimination System Permit No. MSP090525, issued by the Mississippi Department of Environmental Quality to R-Squared Puckett, Inc., effective July 1, 2011, with an expiration of June 30, 2016.

10. The terms "You", "Your" and "R-Squared" mean R-Squared Puckett, Inc.

11. The term "AOC" means the October 26, 2016 Administrative Order on Consent between the U.S. Environmental Protection Agency, Region 4 (EPA) and R-Squared regarding the Facility.

12. The term "R-Squared's Narrative" means R-Squared's August 30, 2016 narrative in response to the AOC.

Questions

1. The following questions relate to Question 1(i) in the NOV:

    a. Provide the dates when the below components of R-Squared's October 2004 Wastewater Treatment Plan Operating Procedures went out of service or were no longer used. If R-Squared resumed using such components, provide the date when it did so. If it did not, state so.

        i. pH adjustment tank T-6;

        ii. Clarifier #2; and

        iii. Tank mixers for T-2 and T-4.

        iv. Piccolo production process;

        v. Aluminum extrusion machine; and

        vi. Acid wash

    b. Provide the dates when R-Squared added three wastewater storage tanks and a storm-water storage tank that discharge to its wastewater treatment plant.

    c. State whether R-Squared updated its October 2004 Wastewater Treatment Plan Operating Procedures to include the changes referenced in Questions 1.a. and 1.b, above. If R-Squared did update its operating procedures, provide a copy of the updated Operating Procedures.

2. The following questions relate to Question 2 in the NOV:

    a. Provide the date when the Isco automatic sampler used for collecting effluent samples was damaged. If the sampler was replaced or repaired, provide the date of such replacement or repair.

    b. If R-Squared changed its collection procedures for the samples of oil and grease to comply with the sampling methodology found in 40 C.F.R. 136, state when such change was implemented and provide any supporting documentation showing when such change occurred and what the change consisted of. If no such change was made, state so.

    c. If R-Squared installed a totalizer device to continuously monitor effluent flow, state the date such device was installed. If no such device was installed, state so.

3. The following question relates to Questions 3 and 5 in the NOV:

    a. Provide any and all monitoring records and chain of custody forms for each measurement or sample required by condition R-1 the Permit, including oil and grease, pH log and calibration, and temperature, since March 2014. Where available, please include the following information:

        i. the exact place, date and time of sampling;

        ii. the dates the analyses of samples were performed

        iii. the names of the person(s) who performed the analyses

        iv. the analytical techniques, procedures or methods used; and

        v. the results of all required analyses.

4. The following question relates to Question 4 in the NOV:

    a. Provide any and all applications for a permit and/or notices of new or increased discharge submitted by R-Squared to the Mississippi Environmental Quality Permit Board since March 2014.

ENCLOSURE B

RIGHT TO ASSERT BUSINESS CONFIDENTIALITY CLAIMS

(40 C.F.R. Part 2)

Except for effluent data, you may, if you desire, assert a business confidentiality claim as to any or all of the information that the EPA is requesting from you. The EPA regulation relating to business confidentiality claims is found at 40 C.F.R. Part 2.

If you assert such a claim for the requested information, the EPA will only disclose the information to the extent and under the procedures set out in the cited regulations. If no business confidentiality claim accompanies the information, the EPA may make the information available to the public without any further notice to you.

40 C.F.R. § 2.203(b). **Method and time of asserting business confidentiality claim.** A business which is submitting information to the EPA may assert a business confidentiality claim covering the information by placing on (or attaching to) the information, at the time it is submitted to the EPA, a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as "trade secret," "proprietary," or "company confidential." Allegedly confidential portions of otherwise non-confidential documents should be clearly identified by the business, and may be submitted separately to facilitate identification and handling by the EPA. If the business desires confidential treatment only until a certain date or until the occurrence of a certain event, the notice should so state.

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OCT 16 2017

CERTIFIED MAIL 7016 1970 0000 8992 3662
RETURN RECEIPT REQUESTED

Haney Enterprises, LLC
ATTN: Mr. Matthew Haney
817 Broadway Street
Barlow, Kentucky 42024

Re: Notice of Violation and Opportunity to Show Cause, Pursuant to Section 309(a) of the Clean Water Act, 33 U.S.C. § 1319(a) for Haney Enterprises, LLC, Barlow, Kentucky.

Dear Mr. Haney:

On March 22, 2017, the U.S. Environmental Protection Agency Region 4 issued an Information Request Pursuant to Section 308 ("308 Letter") of the Clean Water Act ("CWA"), 33 U.S.C. § 1318, to the Haney Enterprises, LLC facility ("Facility") located at 817 Broadway Street in Barlow, Ballard County, Kentucky. The purpose of the 308 Letter was to evaluate the Facility's compliance with the requirements of Sections 301 and 307(d) of the CWA, 33 U.S.C. §§ 1311 and 1317(d); the regulations promulgated thereunder at 40 C.F.R. Part 403 and § 433.17, and the Commonwealth of Kentucky's pretreatment regulations, 401 KAR 5:057.

The EPA's evaluation of Haney Enterprises, LLC's response to the 308 Letter reveals that the Facility failed to comply with Section 301 of the CWA, 33 U.S.C. § 1311 and its implementing pretreatment regulations at 40 C.F.R. Parts 403 and § 433.17. Specifically, the EPA hereby notifies Haney Enterprises, LLC, pursuant to Section 309(a) of the CWA, 33 U.S.C. § 1319(a), of the following findings of violations:

1. Discharge causing/contributing to pass-through at a POTW.

   Pursuant to 40 C.F.R. § 403.5(a)(1), an industrial user may not introduce pollutants into a POTW which cause or contribute to pass-through. Pursuant to 40 C.F.R. § 403.3(p), pass-through is a discharge which exits the Publicly Owned Treatment Works ("POTW") in quantities or concentrations which, alone or in conjunction with discharges from other sources, is a cause of a violation of any requirement of the POTW's National Pollutant Discharge Elimination System ("NPDES") permit.

   The Facility discharged pollutants that have exited the POTW in quantities or concentrations that have caused or contributed to violations of the POTW's Kentucky Pollutant Discharge Elimination System ("KPDES") permit, and therefore caused pass-through as indicated on the Barlow Sewer Treatment Plant's Discharge Monitoring Reports for the following months:

a. February 2013
b. March 2013
c. April 2013
d. July 2013
e. October 2013
f. November 2013
g. December 2013
h. January 2014
i. April 2014
j. June 2014
k. June 2015

2. New Source failure to install and operate pretreatment equipment prior to discharge.

Pursuant to 40 C.F.R. § 403.6(b), the Facility was subject to the federal categorical pretreatment standards in 40 C.F.R. § 433.17 when discharging to a POTW. The Facility was a new source, as defined in 40 C.F.R. § 403.3(m), from the commencement of discharge to the POTW in February 2011 until the date in which the Facility ceased discharging on October 1, 2015, because it originated after the EPA published proposed standards for Part 433 on August 31, 1982. Haney Enterprises, LLC was thus required to install, and have in operating condition, all the pollution control equipment necessary to meet applicable Pretreatment Standards, including those in 40 C.F.R. Part 433, prior to beginning discharge to the POTW.

The Facility failed to install such necessary pollution control equipment prior to beginning discharge to the POTW in February 2011. The Facility thus discharged to the POTW without the necessary pollution control equipment, in violation of 40 C.F.R. § 403.6(b).

3. Failure to report/record the baseline report prior to commencing discharge.

At least 90 days prior to commencement of discharge, a new source is required to submit to the Control Authority (as defined in 40 C.F.R. § 403.3(f)), a baseline report pursuant to 40 C.F.R. § 403.12(b) and to maintain records of the report pursuant to 40 C.F.R. § 403.12(o).

The Facility failed to submit a baseline report to the Control Authority at least 90 days prior to commencing a new source discharge in February 2011, to the POTW.

4. Failure to report/record initial compliance with categorical standards.

Within 90 days after commencing a discharge to a POTW, a new source is required to report and maintain record of the self-monitoring information on its compliance with standards, per 40 C.F.R. §§ 403.12(d), 403.12(g), 403.12(l) and 403.12(o).

Ninety days after commencing discharge to the POTW in February 2011, the Facility failed to submit a report to the Control Authority of its initial compliance with the pretreatment standards in 40 C.F.R. § 433.17.

5. Failure to submit periodic reports on continued compliance with categorical standards.

Pursuant to 40 C.F.R. §§ 403.12(e), 403.12(g), 403.12(l) and 403.12(o), any industrial user subject to categorical pretreatment standards must submit to the Control Authority,

and maintain its own records of, additional periodic compliance reports at least twice a year on its compliance with categorical standards and other information.

From June 1, 2011 until June 30, 2015, the Facility did not submit to the Control Authority, or maintain its own records of, self-monitoring reports for the following reporting periods:

a. February 2011 (date the discharge began) through June 30, 2011
b. July 1 through December 31, 2011
c. January 1 through June 30, 2012
d. July 1 through December 31, 2012
e. January 1 through June 30, 2013
f. July 1 through December 31, 2013
g. January 1 through June 30, 2014
h. July 1 through December 31, 2014
i. January 1 through June 30, 2015

6. Failure to monitor and analyze to demonstrate continued compliance.

Pursuant to 40 C.F.R. § 403.12(g), reports required in §403.12(b), §403.12(d), §403.12(e), and §403.12(h) must be based upon data obtained through appropriate sampling analysis performed during the period covered by the report, which data are representative of conditions occurring during the reporting period.

The Facility failed to monitor and analyze all constituents of the discharged pollutants pursuant to 40 C.F.R. § 433.17 (for new sources). From February 2011, to October 1, 2015, the Facility failed to properly monitor and analyze pollutants discharged over 9 self-monitoring reporting periods.

The EPA requests that representatives of Haney Enterprises, LLC contact the EPA within fifteen (15) business days of receipt of this letter to arrange a meeting in this office to show cause why the EPA should not take formal civil enforcement action against Haney Enterprises, LLC for these violations and any other potential violations, including the assessment of appropriate civil penalties. In lieu of appearing in person, a telephone conference may be scheduled.

Haney Enterprises, LLC should be prepared to provide all relevant information with supporting documentation pertaining to the violations, including but not limited to any financial information which may reflect an inability to pay a penalty. Haney Enterprises, LLC has the right to be represented by legal counsel. Any information submitted to the EPA must be accompanied by the following certification that is signed by a duly authorized company official in accordance with 40 C.F.R. § 403.12(l):

> "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, 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."

Please be aware that the EPA may use information provided during the meeting or telephone conference in any enforcement proceeding related to this matter. Failure to schedule a show cause meeting may result in a unilateral enforcement action against Haney Enterprises, LLC. Notwithstanding the scheduling of a show cause meeting, the EPA retains the right to bring further enforcement action under Section 309 of the CWA, 33 U.S.C. § 1319, for the violations cited therein or for any other violation of the CWA.

Please contact Mr. Dennis Sayre at (404) 562-9576, or at Sayre.Dennis@epa.gov, to arrange a show cause meeting or if you have any questions or concerns. Legal inquiries should be directed to Mr. Patrick Johnson, Associate Regional Counsel, at (404) 562-9574.

Sincerely,

Mary S. Walker
Director
Water Protection Division

Enclosure

cc: Mr. Jeffrey Cummins, Director
Kentucky Division of Enforcement

Ms. Sara J. Anderson
Kentucky Division of Water

Mr. John Wells, CHMM, CSP
GEO Consultants Corporation

The Honorable John Wood
Mayor of Barlow

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
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OCT 03 2017

CERTIFIED MAIL 7016 1970 0000 8992 3648
RETURN RECEIPT REQUESTED

City of Roswell
c/o Mr. Stuart A. Moring
Director of Public Works
38 Hill Street, Suite 235
Roswell, Georgia 30075

Re: Notice of Violation and Opportunity to Show Cause Pursuant to Section 309(a) of the Clean Water Act, 33 U.S.C. § 1319
National Pollutant Discharge Elimination System Permit No.: GAS000131

Dear Mr. Moring:

The U.S. Environmental Protection Agency and PG Environmental, contractor to the EPA, conducted a Compliance Stormwater Evaluation Inspection (CSWEI) of the City of Roswell's (City) Municipal Separate Storm Sewer System (MS4) program, on December 6-8, 2016. The purpose of the CSWEI was to evaluate the City's compliance with the requirements of Section 301 of the Clean Water Act (CWA), 33 U.S.C. § 1311, the regulations promulgated thereunder at 40 C.F.R. § 122.26, and the City's Phase I Large MS4 National Pollutant Discharge Elimination System Permit, Permit Number GAS000131.

The CSWEI report was submitted to the City on April 24, 2017, for its review. The CSWEI, the City's responses, and subsequent investigative efforts, including an assessment of the City's Storm Water Management Program (SWMP), have revealed that the City failed to comply with several requirements of the Permit and is therefore in violation of Section 301 of the CWA, 33 U.S.C. § 1311. Specifically, the EPA hereby notifies the City, pursuant to Section 309(a) of the CWA, 33 U.S.C. § 1319(a), of the following findings of violation:

1. **Permit Part 3.3.1.1.a.** states that the permittee must "[p]rovide an inventory and map of MS4 control structures as defined in the SWMP. At a minimum, the inventory and map must include catch basins, ditches (miles or linear feet), detention/retention ponds, and storm drain lines (miles or linear feet). Include the total number of each type of structure with the 2014-2015 annual report, due June 15, 2015. The inventory and map must be completed and submitted with the 2015-2016 annual report due June 15, 2016."

   Observation: The City's GIS-based storm sewer system inventory did not identify all of the storm sewer system structural controls at multiple municipal facilities (CSWEI Observation 1, Permit Part 3.3.1.1.a., SWMP page 5). Specifically, the inventory did not identify storm drain lines, catch basins, and the stormwater detention pond at the Fleet Maintenance Facility, and storm drain lines, catch basins, and the stormwater detention pond at the Recycling Facility. It also did not identify storm drain lines and catch basins at the Waste Transfer Station, and storm drain lines, catch basins, and the stormwater "bioponds" at the Water Treatment Facility.

Observation: The City's GIS-based storm sewer system inventory did not identify City-owned ditches (CSWEI Observation 2, Permit Part 3.3.1.1.a., SWMP page 5).

Observation: The City's GIS-based storm sewer system inventory did not identify City-owned detention/retention ponds (CSWEI Observation 3, Permit Part 3.3.1.1.a., SWMP page 5).

2. **Permit Part 3.3.1.2.a.** states that the permittee must "[c]onduct inspections of the MS4 structures so that 100% of the structures are inspected within the 5-year period. The permittee must conduct a percentage of the inspections each year. The MS4 inspections shall be executed in accordance with the schedule contained in the SWMP. Provide the number and percentage of the total structures inspected during the reporting period in each annual report."

   Observation: According to the City's 2014–2015 and 2015–2016 MS4 Annual Reports, the City had not inspected the quantity of storm drain lines for the 2014–2015 and 2015–2016 reporting periods outlined in the City's SWMP and its "MS4 Inventory, Inspection, and Maintenance Schedule" (CSWEI Observation 5, Permit Part 3.3.1.2.a., SWMP page 6).

   Observation: The City had not established a schedule for inspections of the ten (10) City-owned detention/retention ponds and had no documentation of pond inspections conducted during 2014-2016 (CSWEI Observation 6, Permit 3.3.1.2.a., SWMP page 6).

3. **Permit Part 3.3.1.4.a.** states that the permittee must "[i]mplement street maintenance and cleaning procedures specified in the SWMP. Documentation on activities conducted during the reporting period, such as litter removal, street sweeping, de-icing material removal, road repair, etc., must be submitted in each annual report. Report details such as the amount of litter removed, miles of street swept, etc., in each annual report."

   Observation: The City was not implementing the street maintenance and cleaning procedures specified in the City's SWMP. Specifically, the SWMP identifies that the City uses a contracted sweeping service that disposes of collected material at a private landfill. However, the inspection team noted that the City's Department of Transportation conducted street sweeping activities throughout the City instead of a contracted service, and disposed of collected materials in two locations, an area of the City's Fleet Maintenance Facility at 1810 Hembree Road and a private landfill. (CSWEI Observation 8, Permit Part 3.3.1.4.a., SWMP page 8).

   Observation: The City did not report quantities of material removed from street sweeping activities in its 2014–2015 and 2015–2016 MS4 Annual Reports (CSWEI Observation 9, Permit 3.3.1.4.a., SWMP page 8).

   Observation: The City did not report details regarding the City's "adopt-a-road" and "adopt-a-stream" programs in its 2015–2016 MS4 Annual Report, failing to fully report the estimated amount of litter and debris collected each year (CSWEI Observation 10, Permit 3.3.1.4.a., SWMP page 8).

4. **Permit Part 3.3.1.6.a.** states that the permittee must "[e]stablish, maintain, and/or update an inventory of municipal waste facilities and provide in the 2014-2015 annual report, due June 15, 2015. Provide an updated inventory in each subsequent annual report."

   Observation: The City did not identify any municipal waste facilities in its 2014–2015 MS4 Annual Report, 2015–2016 MS4 Annual Report, or SWMP; however, based on discussions with City staff at

the time of the inspection, the City owned a waste transfer station, which was not included in the inventory, and contracted its operations to a third party (CSWEI Observation 11, Permit 3.3.1.6.a., SWMP page 10).

5. **Permit Part 3.3.1.6.b.** states that the permittee must "[i]mplement the [MS4] program to control runoff from municipal waste facilities. The program shall include the facility inspection prioritization, inspection frequency, and inspection documentation protocol described in the SWMP. Conduct an inspection on 100% of the inventoried facilities within the 5-year period. The permittee must conduct a percentage of the inspections each year. Provide documentation of inspections in each annual report."

   Observation: The City's SWMP states that the City does not own or operate any facilities that handle municipal waste, however, it was discovered that the City operates a Waste Transfer Station. The City's Environmental Officer, who is responsible for inspecting other municipal facilities, explained that he did not conduct inspections of the City's Waste Transfer Station (CSWEI Observation 12, Permit Part 3.3.1.6.b., SWMP page 10).

6. **Permit Part 3.3.1.7.a.** states that the permittee must "[e]stablish, maintain, and/or update an inventory of municipal facilities with the potential to cause pollution and provide in the 2014-2015 annual report, due June 15, 2015. Provide an updated inventory in each subsequent annual report."

   Observation: The City's inventory of municipal facilities with the potential to cause pollution did not include all applicable facilities (CSWEI Observation 13, Permit Part 3.3.1.7.a., SWMP page 11). Specifically, the inventory of municipal facilities did not include the City's Fleet Maintenance Facility, located at 1810 Hembree Road, and the City's Water Resources Division Facility, located at 105 Dobbs Drive, both of which housed materials and activities with the potential to cause stormwater pollution.

7. **Permit Part 3.3.1.7.b.** states that the permittee must "[i]mplement the [MS4] program to control runoff from municipal facilities with the potential to cause pollution. The program shall include the facility inspection prioritization, inspection frequency, and inspection documentation protocol described in the SWMP. Conduct an inspection on 100% of the inventoried facilities within the five-year period. The permittee must conduct a percentage of the inspections each year. Provide documentation of inspections in each annual report."

   Observation: The City had not fully implemented a program to control runoff from municipal facilities with the potential to cause pollution (CSWEI Observation 14, Permit Part 3.3.1.7.b., SWMP page 11). Specifically, (1) the City had not included the Water Resources Division Facility in its program for stormwater inspections, and (2) the City's inspections for the City's Fleet Maintenance Facility did not include all of the areas of the facility with the potential to cause pollution.

8. **Permit Part 3.3.1.8.b.** states that the permittee must "[i]mplement the [MS4] program to reduce pollution by the application of pesticides, fertilizer, and herbicides including an inventory, municipal staff training in application and safety by the Georgia Department of Agriculture, etc., described in the SWMP. Provide documentation of program activities in each annual report."

   Observation: The City's SWMP identifies that the City does not use or store fertilizers, but City staff explained that the City does apply fertilizers to City lands; thus, the City's SWMP did not accurately

portray the City's activities pertaining to fertilizer application (CSWEI Observation 15, Permit 3.3.1.8.b., SWMP page 12).

9. **Permit Part 3.3.1.9.a.** states that the permittee must "[e]nsure that MS4 Staff involved in municipal facility operation activities obtain the appropriate education and training."

   Observation: The City had not provided stormwater-specific education and training to City staff involved in municipal facility operation activities for at least the last two reporting years (CSWEI Observation 16, Permit Part 3.3.1.9.a., SWMP page 13).

10. **Permit Part 3.3.2.2.a.** states that the permittee must "[p]rovide an inventory and map showing the location of all outfalls from the MS4 and the names and location of all waters of the State that receive discharges from those outfalls with the 2014-2015 annual report due, June 15, 2015," and **Permit Part 3.3.2.2.b.** states that the permittee must "[p]rovide the number of outfalls added during the reporting period, and the total number of outfalls in the inventory, in subsequent annual reports."

    Observation: The City did not maintain an accurate inventory and map of all outfalls and has not provided updates to this inventory in its annual reports (CSWEI Observation 17, Permit Part 3.3.2.2.a.–b., SWMP pages 15-16).

11. **Permit Part 3.3.2.8.a.** states that the permittee must "[e]nsure that MS4 staff involved in [Illicit Discharge Detection and Elimination Program (IDDE)] activities obtain the appropriate education and training."

    Observation: The City had not provided education and training to MS4 staff regarding illicit discharge identification, reporting, and response for at least the last two reporting years (CSWEI Observation 19, Permit Part 3.3.2.8.a., SWMP page 22).

12. **Permit Part 3.3.3.1.a.** states that the permittee must "[d]evelop and/or update an inventory of facilities with industrial activities that potentially discharge to the MS4. At a minimum, this shall include facilities listed on EPD's Industrial Stormwater General Permit (IGP) Notice of Intent (NOI) and No Exposure Exclusion (NEE) online listings. . . Provide the inventory with the 2014-2015 annual report due June 15, 2015. Provide an updated inventory in each subsequent annual report."

    Observation: The City did not maintain an up-to-date inventory of facilities within its jurisdiction with industrial activities that potentially discharge to the MS4 (CSWEI Observation 20, Permit Part 3.3.3.1.a., SWMP page 24).

13. **Permit Part 3.3.3.2.a.** states that the permittee must "[i]mplement the industrial facility inspection program, which includes the facility inspection prioritization, inspection frequency, and inspection documentation protocol described in the SWMP. Conduct inspections on 100% of the inventoried facilities that discharge to the MS4 within the 5-year period. The permittee must conduct a percentage of inspections each year. Provide the total number of facilities and the number and percentage of inspections conducted during the reporting period and documentation of inspections in each annual report."

    Observation: The City had not implemented an industrial facility inspection program in accordance with the City's SWMP that included all industrial facilities within the City (CSWEI Observation 21, Permit Part 3.3.3.2.a., SWMP page 25).

14. **Permit Part 3.3.3.2.b.** states that the permittee must "[i]mplement a monitoring program for stormwater runoff from industrial facilities, waste facilities, hazardous waste treatment, storage and disposal facilities, as defined in the SWMP. Provide the results of any monitoring conducted during the reporting period in each annual report. This shall include all facilities that the permittee determines are contributing a substantial pollutant loading to the MS4."

    Observation: The City had not developed and implemented a monitoring program for stormwater runoff from its industrial facilities (CSWEI Observation 22, Permit Part 3.3.3.2.b., SWMP page 25).

15. **Permit Part 3.3.3.4.a.** states that the permittee must "[i]mplement educational activities for industrial facilities. Provide details of any educational activities performed during the reporting period in each annual report."

    Observation: The City had not implemented educational activities for industrial facilities within its jurisdiction for at least the last two reporting years (CSWEI Observation 23, Permit Part 3.3.3.4.a., SWMP page 27).

16. **Permit Part 3.3.3.5.a.** states that the permittee must "[e]nsure that MS4 staff involved in industrial activities obtain the appropriate education and training."

    Observation: The City had not provided education and training to MS4 staff involved in industrial activities for at least the last two reporting years (CSWEI Observation 24, Permit Part 3.3.3.5.a., SWMP page 28).

17. **Permit Part 3.3.4.2.a.** states that the permittee must "[i]mplement the site plan review procedures described in the SWMP." Additionally, the City's SWMP, page 31, Site Plan Review Procedures, states that City staff reviews erosion sedimentation and pollution control plans (ESPCPs) to verify whether the plans meet state and local requirements.

    Observation: The City had developed and implemented a detailed land development permit application process and checklists for reviewing LDP applications; however, this process was not described in the City's SWMP (CSWEI Observation 25, Permit Part 3.3.4.2.a., SWMP page 31).

18. **Permit Part 3.3.4.3.b.** states that the permittee's "construction site inspection program shall include the facility inspection prioritization, inspection frequency, and inspection documentation protocol described in the SWMP or in accordance with the [Construction General Permits (CGPs)]. At a minimum, inspections must occur following installation of initial BMPs, during active construction, and after the final site stabilization."

    Observation: The City did not use the "E&S BMP Inspection" form identified in the City's SWMP for documenting erosion and sediment control inspections (CSWEI Observation 28, Permit Part 3.3.4.3.b., SWMP page 32).

    Observation: The inspection team observed multiple issues related to erosion and sediment control at two sites with disturbed areas administered by the City's Department of Transportation. The City's construction site inspection program did not include these Department of Transportation construction sites and therefore these sites were not inspected at the minimum required frequency (CSWEI Observation 29, Permit Part 3.3.4.3.b., SWMP page 32).

19. **Permit Part 3.3.5.1.a.** states that the permittee must "[e]stablish, maintain and/or update an inventory for [Highly Visible Pollutant Sources (HVPS)] facilities that discharge to the MS4. Provide the inventory with the 2014-2015 annual report, due June 15, 2015. Provide an updated inventory in each subsequent annual report."

    Observation: The City had not developed an accurate inventory of HVPS facilities that discharge to the MS4 in accordance with the City's SWMP (CSWEI Observation 32, Permit Part 3.3.5.1.a., SWMP page 36).

20. **Permit Part 3.3.5.4.a.** states that the permittee must "[i]mplement educational activities for HVPS facilities. Provide details of any educational activities performed during the reporting period in each annual report."

    Observation: The City had not implemented educational activities for HVPS facilities within its jurisdiction as described in the SWMP for at least the last two reporting years (CSWEI Observation 34, Permit Part 3.3.5.4.a., SWMP page 39).

21. **Permit Part 3.3.5.5.a.** states that the permittee must "[e]nsure that MS4 staff involved in HVPS activities obtain the appropriate education and training."

    Observation: The City had not provided education and training to MS4 staff involved in HVPS activities for at least the last two reporting years (CSWEI Observation 35, Permit Part 3.3.5.5.a., SWMP page 40).

22. **Permit Part 3.3.6** of the Permit requires that "the permittee must develop and implement an [Enforcement Response Plan (ERP)] that describes the action to be taken for violations associated with the IDDE, construction, industrial, HVPS, and other SWMP programs."

    Observation: The City's ERP did not identify enforcement actions to be taken for violations associated with industrial and HVPS facilities (CSWEI Observation 36, Permit Part 3.3.6., SWMP page 41).

Until compliance with the CWA is achieved, the City is considered to be in violation of the CWA and subject to enforcement action pursuant to Section 309 of the CWA, 33 U.S.C. § 1319. This Section provides for the issuance of administrative penalty and/or compliance orders and the initiation of civil and/or criminal actions.

The EPA requests that representatives of the City contact the EPA within 14 business days of receipt of this letter to arrange a meeting in this office to show cause why the EPA should not take formal civil enforcement action against the City for these violations and any other potential violations, including the assessment of appropriate civil penalties. In lieu of appearing in person, a telephone conference may be scheduled. The City should be prepared to provide all relevant information with supporting documentation pertaining to the violations, including but not limited to, any financial information which may reflect an inability to pay a penalty. The City has the right to be represented by legal counsel.

All information submitted in response to this letter and/or during the show cause meeting must be accompanied by the following certification signed by a duly authorized official in accordance with 40 C.F.R. § 122.22:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, 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."

Please be aware that the EPA may use information provided during the meeting or telephone conference in any enforcement proceeding related to this matter. Failure to schedule a show cause meeting may result in a unilateral enforcement action against the City. Notwithstanding the scheduling of a show cause meeting, the EPA retains the right to bring further enforcement action under Section 309 of the CWA, 33 U.S.C. § 1319, for the violations cited therein or for any other violation of the CWA.

Please contact Ms. Rebecca Garnett at (404) 562-8083 to arrange a show cause meeting or if you have any questions or concerns. Legal inquiries should be directed to Mr. Nathan Stopper, Associate Regional Counsel, at (404) 562-9581.

Sincerely,

Mary S. Walker
Director
Water Protection Division

cc: Ms. Anna Truszcynski
Georgia Environmental Protection Division

Mr. Bert Langley
Georgia Environmental Protection Division