To: Howard Shanker[howard@shankerlaw.net]; Chan, Janice[Chan.Janice@epa.gov]; Campbell, Rich[Campbell.Rich@epa.gov]
Cc: Greenberg, Ken[Greenberg.Ken@epa.gov]; Sakamoto, Glenn[Sakamoto.Glenn@epa.gov]; Sablad, Elizabeth[Sablad.Elizabeth@epa.gov]; PERKINS, SUSANNE[Perkins.Susanne@epa.gov]; Mitschele, Becky[Mitschele.Becky@epa.gov]; Wampler, David[Wampler.David@epa.gov]
From: Karlson, Kristine
Sent: Tue 11/4/2014 8:18:50 PM
Subject: RE: Hickman's Stormwater pollution Prevention Plan (SWPPP) (Tonopah, Arizona) - Response to your first question

Thank you for that information, Mr. Shanker. I'm copying David Wampler on this email, as he manages the enforcement section that handles stormwater violations.

-Kristine

Kristine Karlson

(415) 947-4297

From: Howard Shanker [mailto:howard@shankerlaw.net]
Sent: Tuesday, November 04, 2014 12:15 PM
To: Karlson, Kristine; Chan, Janice; Campbell, Rich
Cc: Greenberg, Ken; Sakamoto, Glenn; Sablad, Elizabeth; PERKINS, SUSANNE; Mitschele, Becky
Subject: FW: Hickman's Stormwater pollution Prevention Plan (SWPPP) (Tonopah, Arizona) - Response to your first question
Importance: High

Hi Ms. Karlson:

In response to your first question regarding Hickman Eggs (Desert Pride Farms) construction activities without complying with the general permit for construction, please see the below email stream with ADEQ. Hickman began construction in February, 2014. They eventually filed an NOI for construction in April, 2014 and their SWPPP in May 2014 - Both the NOI and SWPPP were only filed after I requested them (twice) in public records requests. As you can see in the below emails, Hickman admits that they were under construction without compliance with the general permit. Dan Blackson, a member of the organization I represent also filed specific

complaints on this issue with Sherri Zendri at ADEQ - he was told that ADEQ would do nothing. More information will follow vis your other questions. Thank you.

Howard

From: Howard Shanker
Sent: Wednesday, May 07, 2014 2:48 PM
To: 'Scott E. Clink'
Subject: RE: Hickman's Stormwater pollution Prevention Plan (SWPPP) (Tonopah, Arizona) - Follow up
Importance: High

Hi Scott:

I wanted to follow up on the email I sent to you yesterday with some very specific examples of ongoing violations by Hickman. As ADEQ is aware, Hickman appears to have proceeded (and continues to proceed) with construction in direct violation of the AZPDES program and the CGS. Following is a small sample of apparent violations:

(1) Section 2.1 of the CGP mandates that "all operators . . . obtain coverage for stormwater discharges associated with construction activity under this permit or an alternative AZPDES permit." Hickman has violate (and continues to violate this requirement. *See, also, e.g.*, Section 2.3 (operator shall submit separate, accurate, and complete NOIs to ADEQ for each project that disturbs one or more acres"); Section 2.3(4) ("The operator is only permitted for discharges that occur after a complete and accurate NOI is received by ADEQ and authorization is granted. ADEQ reserves the right to take enforcement action for any unpermitted discharges or permit noncompliance that occur between the time construction commenced and either permit authorization is granted, denied . . ."). Hickman has been in violation of the permit for months (and continues construction activities in violation of the permit). It is also possible that there have been unpermitted discharges during this same time period.

(2) Section 2.2 of the CGP requires, *inter alia*, the development of an SWPPP prior to the submission of a Notice of Intent ("NOI"). Hickman has failed to develop a timely SWPPP.

(3) Section 6.4 of the CGP requires that the operator, as an element "necessary to demonstrate compliance with the conditions of this permit," retain copies of, *inter alia*, the SWPPP. Hickman (the operator) admits that it has no SWPPPP. It is unlikely that Hickman retains any of the other requisite documents as well;

(4) Section 6.7 of the CGP requires the operator to: (1) "post the authorization numbers in a conspicuous location near the main entrance of the construction site and retain a copy of the authorization certificate in the SWPPP . . ."; and (2) maintain a copy of the "SWPPP on-site whenever construction or support activities are actively underway. . ." Hickman has no SWPPP and no authorization numbers or certificate. They have, however, been actively under construction for months;

I would strongly suggest that ADEQ require Hickman to stop all construction related activities immediately. I would also encourage ADEQ to take all other appropriate enforcement action, including the imposition of penalties, against Hickman. Clearly ADEQ is failing to enforce compliance in this instance. Again, I look forward to your response.

Howard M. Shanker

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From: Howard Shanker
Sent: Tuesday, May 06, 2014 10:35 AM
To: 'Scott E. Clink'
Subject: RE: Hickman's Stormwater pollution Prevention Plan (SWPPP) (Tonopah, Arizona)
Importance: High

Hi Scott:

Thank you for your response. When I made my initial request on approximately March 25, Hickman had already had the facility under construction for over a month. Please provide me with some explanation as to: (1) how Hickman could proceed with construction without complying with the CGP and/or having a SWPPP; and (2) when/if Hickman actually obtained coverage under the CGP -- it sounds like they intend to prepare a SWPPP now, in response to the follow up request I made yesterday . As the regulatory agency responsible for ensuring, inter alia, compliance with all aspects of the AZPDES program, including the CGP, it is not clear to me how you can simply accept Mr. Henninger's explanation that there was no CGP coverage in March. Please also note that, before I filed the initial public records request, I spoke with a number of people in ADEQ's water division regarding the ongoing construction -- of which they were well aware -- until they stopped talking to me and told me to file a public records request. Cleary the agency has some obligation to enforce the law - or to, at least, not be complicit in its violation. I look forward to your response.

Howard M. Shanker

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From: Scott E. Clink [mailto:Clink.Scott@azdeq.gov]
Sent: Tuesday, May 06, 2014 8:38 AM

To: Howard Shanker
Subject: Hickman's Stormwater pollution Prevention Plan (SWPPP)

Hi Howard,

I emailed Christopher Henninger regarding your request for Hickman's Storm water pollution Prevention Plan (SWPPP). He informed me that at the time of your original request that there was no Construction General Permit (CGP) coverage and no SWPPP at the time back in March. We will request the SWPP but we cannot commit to having it by the time you specified by May 9, 2014

Thank you,

Scott Clink, MLIS

Arizona Department of Environmental Quality

Records Management Center|http://www.azdeq.gov

1110 Washington St., Phoenix, AZ 85007

(602) 771-4380 (Records Center) / (602) 771-4389 (Fax)

(602) 771-4334 (Direct)

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