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

DEC 11 2015

CERTIFIED MAIL–RETURN RECEIPT REQUESTED: 7005 1820 0003 7449 5980

Mr. Greg Simmons
Assistant General Manager-North Plant
McWane, Inc.
11910 County Road 492
Tyler, TX 75706

Re: Administrative Order; Docket Number: CWA-06-2016-1724
McWane, Inc.
TPDES Permit Number: TX0001465

Dear Mr. Simmons:

Enclosed is an Administrative Order (AO) issued to McWane, Inc., for violation of the Clean Water Act (CWA) (33 U.S.C. § 1251 et seq.). Violations were identified during a review of the permit file and discharge monitoring reports submitted to the Environmental Protection Agency, Region 6 (EPA) for the Tyler Pipe Plant. The violations alleged are for failure to meet permit effluent limitations for Carbonaceous Biochemical Oxygen Demand.

This AO does not assess a monetary penalty; however, it does require compliance with applicable federal regulations. The first compliance deadline is within thirty days of receipt of the AO. The AO also contains other compliance deadlines and information demands. EPA is committed to ensuring compliance with the requirements of the National Pollutant Discharge Elimination System (NPDES) program and my staff will assist you in any way possible. Please reference AO Docket Number CWA-06-2016-1724 and TPDES Permit Number TX0001465 on your response.

If you have any questions, please contact Ms. Judy Edelbrock, of my staff, at (214) 665-8582.

Sincerely,

John Blevins
Director
Compliance Assurance and
Enforcement Division

Enclosures

cc: Mr. Sandy Van Cleave (MC 169)
Manager, Enforcement Section
TCEQ
P.O. Box 13087
Austin, TX 78711-3087

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
1445 Ross Avenue, Suite 1200, Dallas, TX 75202
FINDINGS OF VIOLATION, COMPLIANCE ORDER, AND INFORMATION DEMAND
Docket Number: CWA-06-2016-1724, TPDES Permit Number: TX0001465

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

FINDINGS

1. McWane, Inc. ("Respondent") 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 ("all relevant times"), Respondent owned or operated the Tyler Pipe Plant, located in the community of Swan, Smith County, Texas ("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 acted as a "point source" of a "discharge" of "pollutants" with its final wastewater discharge to the Sabine River Basin, which is considered a "water of the United States," within the meaning of Section 502 of the Act, 33 U.S.C. § 1362.

4. Because Respondent owned or operated a facility that acted as a point source of discharges of pollutants to waters of the United States, Respondent 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. Section 402 of the Act, 33 U.S.C. § 1342, authorizes states to request approval from EPA to administer their own permit programs for discharges into navigable waters within their jurisdiction. Pursuant to this provision, the State of Texas requested approval from EPA to administer its own permit program for discharges into navigable waters within Texas, and such approval was granted by EPA on September 14, 1998. Therefore, pursuant to the State's permit program, the Texas Commission on Environmental Quality ("TCEQ") has issued Texas Pollutant Discharge Elimination System ("TPDES") permits. Violation of a TPDES permit is a violation of Section 301(a) of the Act, 33 U.S.C. § 1311(a).

8. Respondent applied for and was issued TPDES Permit No.TX0001465 ("permit") under Section 402 of the Act, 33 U.S.C. § 1342, which became effective on November 18, 2014. At all relevant times, Respondent 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.

9. The permit includes "Monitoring and Reporting Requirements" that require Respondent to sample and test its effluent and monitor its compliance with permit conditions according to specific procedures, in order to determine the facility's compliance or noncompliance with the permit and applicable regulations. The permit also requires Respondent to file with TCEQ certified Discharge Monitoring Reports ("DMRS") of the results of monitoring, and Noncompliance Reports when appropriate.

10. The permit contains "Effluent Limitations and Monitoring Requirements" that place certain limitations on the quality and quantity of effluent discharged by Respondent. The relevant discharge limitations are specified in Attachment A, which is incorporated herein by reference.

11. Certified DMRs filed by Respondent with TCEQ in compliance with the permit show discharges of pollutants from the facility that exceed the permitted effluent limitations established in the permit, as specified in Attachment B, which is incorporated herein by reference.

12. Each instance in which Respondent discharged pollutants to waters of the United States in amounts exceeding the effluent limitations contained in the permit was a violation of the permit and Section 301 of the Act, 33 U.S.C. § 1311.

13. Each violation of the conditions of the permit or the regulations described above is a violation of Section 301 of the Act, 33 U.S.C. § 1311.

SECTION 309(a)(3) COMPLIANCE ORDER

Based on the foregoing Findings and pursuant to the authority of Section 309(a)(3) of the Act, 33 U.S.C. § 1319(a)(3), EPA hereby orders Respondent to take the following action:

A. Take such measures as are necessary to comply with all Permit conditions, including "Effluent Limitations and Monitoring and Reporting Requirements," no later than thirty (30) days from the effective date of the Order.

SECTION 308 INFORMATION DEMAND

Based on the foregoing Findings and pursuant to the authority of Section 308 of the Act, 33 U.S.C. § 1318, Respondent is required to do the following:

A. Within thirty (30) days of the effective date of this Order, Respondent shall submit a list of the specific actions taken to correct the Carbonaceous Biochemical Oxygen Demand violations.

B. Within thirty (30) days of the effective date of this Order, Respondent shall provide written certification to EPA, Region 6 that the violations cited herein have been corrected and the facility is in compliance with the requirements of the permit.

C. In the event that Respondent believes complete correction of the violations cited herein is not possible within thirty (30) days of the effective date of this Order, Respondent shall, within thirty (30) days of the effective date of this Order, submit a comprehensive written plan for the elimination of the cited violations within the shortest possible time. Such plan shall describe in detail the specific corrective actions to be taken and why such actions are sufficient to correct the violations. The plan shall include a detailed schedule for the elimination of the violations within the shortest possible time, as well as measures to prevent these or similar violations from recurring.

D. If Respondent would like to arrange a meeting with EPA to discuss the allegations in the Section 309(a)(3) Compliance Order or the Section 308 Information Demand, it should contact EPA within forty-five (45) days of the effective date of this Order. The meeting will be held at the Region 6 offices, 1445 Ross Ave., Dallas, Texas, and Respondent can provide any information it believes is relevant to this Order. Respondent shall submit to EPA all information or materials it considers relevant to EPA at least ten (10) days prior to the meeting.

E. To arrange a meeting, or to ask questions or comment on this matter, please contact Ms. Judy Edelbrock, of my staff, at (214) 665-8582.

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

Ms. Judy Edelbrock
Water Enforcement Branch (6EN-WC)
U.S. EPA, Region 6
1445 Ross Ave., Suite 1200
Dallas, TX 75202-2733

GENERAL PROVISIONS

Respondent may seek federal judicial review of the Order pursuant to Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-706.

Issuance of this Section 309(a)(3) Compliance Order and the Section 308 Information Demand shall not be deemed an election by EPA to waive 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 to EPA. EPA reserves the right to seek any remedy available under the law that it deems appropriate.

Failure to comply with this Section 309(a)(3) Compliance Order, the Section 308 Information Demand, or the Act can result in further administrative action, or a civil judicial action initiated by the United States Department of Justice.

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

12·11·15
Date

John Blevins
Director
Compliance Assurance and
Enforcement Division

Attachment A

TX0001465

Effluent Characteristics	Discharge Limitations			
Outfall 001				
	Daily Avg. (lbs./day)	Daily Avg. (mg/L)	Daily Max. (lbs./day)	Daily Max. (mg/L)
Carbonaceous Biochemical Oxygen Demand, 5-day (CBOD5)		12 mg/L		

Attachment B
Permit Number TX0001465
Outfall 001

Date	Outfall	Parameter	Violation	Permit Limit
10/2014	001	CBOD5, Daily Avg.	14.61 mg/L	12 mg/L
11/2014	001	CBOD5, Daily Avg.	16.87 mg/L	12 mg/L
02/2015	001	CBOD5, Daily Avg.	21.84 mg/L	12 mg/L
03/2015	001	CBOD5, Daily Avg.	15.28 mg/L	12 mg/L