



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street
San Francisco, CA 94105-3901

JAN 08 2009

Via Certified Mail:
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Return Receipt Requested

Eric Horton
Owner
A-Plus Materials Recycling
2710 Loomis Rd
Stockton, CA 95205

Subject: Findings of Violations and Order for Compliance
EPA Docket No. CWA-309(a)-09-004

Dear Mr. Horton:

On March 19, 2008, representatives of the U.S. Environmental Protection Agency (EPA) and the California Regional Water Quality Control Board, Central Valley Region (Regional Board) conducted a Clean Water Act compliance inspection at A-Plus Materials Recycling's Port of Stockton Facility. On July 17, 2008, EPA sent you a copy of the inspection report and requested that you install Best Management Practices (BMPs) and make revisions to the Storm Water Pollution Prevention Plan (SWPPP) and Monitoring Program Plan (Monitoring Program). On August 6, 2008, A-Plus Materials Recycling responded with a list of corrective actions it had taken. Given the unknown liquid surrounding the large concrete blocks placed around the acid wash area, it is not clear that the concrete blocks are an adequate BMP to ensure that the acid wash is not discharged in storm water runoff.

Based on the inspection and on A-Plus Materials Recycling's response, EPA today issues the enclosed Findings of Violation and Order for Compliance requiring A-Plus Materials Recycling to take specific actions to bring the Facility into compliance with the Clean Water Act, including the following:

1. Prepare a Storm Water Pollution Prevention Plan for the Facility which fully complies with California's General Industrial Activities Storm Water Permit (Industrial Permit). The SWPPP must fully describe all industrial activities, including concrete manufacturing, and describe all associated BMPs;
2. Prepare and submit a Monitoring Program that fully complies with the Industrial

Permit; and

3. Complete several additional tasks identified in the Order, within the time specified.

If you have any questions concerning this matter, please contact Ellen Blake of my staff at (415) 972-3496.

Sincerely,

Alexis Strauss, Director
Water Division

Enclosures

cc: Nova Clemenza, Central Valley Regional Water Quality Control Board
Richard Aschieris, Port of Stockton
Jeff Wingfield, Port of Stockton

§§ 122.26(a)(1)(ii) and 122.26(c), dischargers of storm water associated with industrial activity are required to apply for an individual permit or to seek coverage under a promulgated storm water general permit.

4. Scrap Materials Recycling, Standard Industrial Classification (SIC) 5093, falls under SIC Major Group 50 and, pursuant to 40 CFR § 122.26(b)(14)(vi), is an industrial activity subject to the discharge and permitting requirements under Section 402 of the Act, 33 U.S.C. § 1342.
5. Section 308(a) of the Act, 33 U.S.C. § 1318(a), and its implementing regulations authorize EPA to, inter alia, require the owner or operator of any point source to establish records, make reports, or submit other reasonably required information, including individual and general NPDES permit applications.
6. Pursuant to Section 308(a) of the Act, 33 U.S.C. § 1318(a), and 40 CFR § 122.21, any person who discharges or proposes to discharge storm water associated with industrial activity must submit an application for an NPDES permit 180 days prior to commencing industrial activity.
7. The State of California has an EPA-approved NPDES program, and issues permits, including storm water permits, through its State Water Resources Control Board (State Board) and nine Regional Water Quality Control Boards (Regional Boards). Since 1991, the State Board has adopted two successive statewide NPDES general permits for discharges of storm water associated with industrial activity. The permit that is currently effective, General Permit No. CAS000001/Water Quality Order No. 97-03-DWQ (General Permit) was adopted on April 17, 1997.
8. All facility operators seeking coverage under the General Permit must submit a notice of intent to comply (NOI) to the State Board 14 days prior to commencing industrial operations. Industrial storm water dischargers that do not submit an NOI must submit an application for an individual NPDES permit. (General Permit, Provision E(1), pg. 6 and Attachment 3 to the General Permit.)
9. The General Permit requires facility operators to develop and implement a storm water pollution prevention plan (SWPPP) prior to commencing industrial operations. (General Permit, Section A(1)(a), pg. 11.) The purpose of the SWPPP is to identify sources of industrial storm water pollution and to identify and implement site-specific best management practices (BMPs) to control discharges.
10. The SWPPP must include, inter alia, a narrative description of the storm water BMPs to be implemented at the facility for each potential pollutant and its source as well as a site map (or maps) that identifies: (a) facility boundaries and an outline of facility drainage areas, (b) the storm water collection and conveyance system, (c) an outline of impervious

areas, (d) locations where materials are directly exposed to precipitation, and (e) areas of industrial activity. (General Permit, Section A(4), pg. 12, 13 and Section A(8), pg. 17.)

11. Facility operators must reduce or prevent pollutants associated with industrial activity in storm water discharges and authorized non-storm water discharges using best available technology economically achievable (BAT) for toxic pollutants and best conventional pollutant control technology (BCT) for conventional pollutants. (General Permit, Effluent Limitation B(3), pg. 4.)
12. Facility operators must develop a written monitoring program, and must conduct quarterly visual observations of non-storm water discharges, monthly visual observations of storm water events, and prescribed storm water sampling and analysis. (General Permit, Section B(1), (3), (4), and (5), pg. 24-27.) In addition, facility operators must submit an annual report to the Regional Board that summarizes visual observations and sampling and provides a comprehensive site compliance evaluation. (General Permit, Section B(14), pg. 35.) A copy of the written monitoring program as well as records of inspections, steps taken to reduce or prevent discharges, and the annual report must be maintained for at least five years and must be available at the facility for review by facility employees or inspectors. (General Permit, Section B(13), pg. 34.)
13. The Port of Stockton (Port) is a division of the City of Stockton, a municipality and a "person" under CWA Section 502(5), 33 U.S.C. § 1362(5). The majority of the property within the Port's boundaries is owned by the Port and leased to tenants operating in various industrial categories. The remaining properties are privately owned and operated.
14. The Port does not assume responsibility for compliance with storm water requirements at any of its tenant facilities. Therefore, industrial operators within the Port's boundaries must independently obtain coverage under the General Permit.
15. A-Plus Materials Recycling (A-Plus Materials or Respondent) is a California corporation, licensed to do business in California and is thus a "person" under CWA Section 502(5), 33 U.S.C. § 1362(5).
16. A-Plus Materials operates a facility within the Port's boundaries, located at 250 Port Road, Stockton, California (Facility). Respondent is engaged in scrap materials recycling at the Facility, an industrial activity classified under SIC 5093.
17. Respondent submitted an NOI to the State Board. The State Board assigned Waste Discharge Identification (WDID) Number 5S39I018275 to Respondent for the Facility on July 30, 2003.
18. Rainfall events at the Facility that exceed 0.1 inches are generally sufficient to generate storm water runoff. Data from the Stockton Metro Airport Weather Monitoring Station, approximately six miles from the Facility, indicate that there were approximately 164

