

STATE COMPLIANCE ACTIVITY RELATED TO THE
RED RIVER IN TAOS COUNTY, NEW MEXICO

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Wastewater discharges to surface waters in New Mexico fall into two broad classifications: municipal treated wastewater and nonmunicipal treated wastewater. Alternative terms used to classify dischargers, although not as accurate, are: publicly owned and privately owned, or simply, municipal and industrial.

The Red River in Taos County has a discharge in each of these two categories. Municipal treated wastewater runs from the town of Red River and consists almost entirely of domestic sewage. The other discharges of treated wastewater come from the molybdenum mine and mill that Molycorp, a division of Union Oil, owns and operates.

Discharges containing pollutants that go to surface waters are regulated nationwide under the Federal Clean Water Act through the National Pollutant Discharge Elimination System (NPDES, [1]) permit program administered by the U.S. Environmental Protection Agency (EPA). Under this program, a permit is issued by the EPA to a discharger that specifies effluent limitations, sampling frequencies, sample types and other technical and administrative conditions that have to be met in order to comply with state and federal regulations. Through the process of state certification of an NPDES permit, effluent limitations can be made more stringent than national technology based effluent guidelines in order to

protect the receiving waters, such as the Red River, which is a high quality coldwater fishery.

Due to federal manpower constraints, the New Mexico Environmental Improvement Division's (EID) Water Pollution Control Bureau conducts many of the inspections, sampling and analysis of the effluent and tracking of the discharger's self-monitoring reports for the EPA on a contractual basis. Recently, the state has had to take the lead in enforcement activities through the use of state water quality regulations (2). Under certain prescribed conditions, the bureau can enforce applicable parts of the Water Quality Control Commission regulations against a discharger that continually remains out of compliance with its federal NPDES permit.

Both the discharges that I mentioned earlier, Molycorp and the town of Red River, have repeatedly violated their federal NPDES permits. I will discuss each of these to show how the EPA, through the NPDES permit program, and the New Mexico Water Quality Control Commission through the bureau, work toward obtaining compliance with their individual regulations to achieve effluent quality required of each discharger by law.

The first discharger, Molycorp, has actual discharge points to the Red River from a large tailings pond and a small decant pond called Pope Lake below the village of Questa. In addition, for many years a serious water pollution problem came from unpermitted discharges, that is, breaks in a seven-mile portion of tailings lines that run alongside the Red River. The tailings lines carry mill tailings in a slurry from the mine down to the mill tailings disposal area below Questa. Breaks have resulted in tailings spilling into the Red River, causing the EPA, the state EID and other interested parties, to enter into a Stipulated

Agreement (3) with Molycorp in 1977. This agreement addressed the many tailings line breaks and also set the molybdenum effluent limitation at levels that would become part of Molycorp's NPDES permit in 1983. Molycorp has constructed an ion exchange plant in order to obtain the molybdenum levels required in their soon to be reissued permit.

Due to continuing tailings line breaks over the two and one half years after the 1977 agreement, a stronger, court approved document called a Judgement by Consent (4), was negotiated in 1981. The Judgement by Consent provided for a penalty payment of \$60,000 for past violations and \$8,500 for each future violation, until October 1, 1984. The penalties, in part, are paid to a tax-exempt organization that administers the money for environmentally beneficial research purposes in northern New Mexico. The rest of the money went to the state of New Mexico general fund and the United States government.

Molycorp is now undertaking a major construction project to initiate a new underground mining operation and they have asked for delays in these two legal agreements until they restart mining and milling operations. Completion of the new ion exchange unit and newly redesigned pipeline are expected to improve the water quality in the Red River.

The second discharger, the town of Red River, has had a lagoon system since 1972 to treat its wastewater. The lagoon system has proved to be inadequate to protect the Red River, as shown by repeated violations of effluent limitations in the NPDES permit and in-stream monitoring of biological and chemical quality, especially during the ski season. The New Mexico Water Quality Control Commission entered a legal agreement called An Assurance of Discontinuance with the town of Red River for the purpose

of obtaining and maintaining full compliance. This assurance gives the town a schedule for constructing and putting into operation a new advanced wastewater treatment plant to replace the existing lagoon system. As mentioned in earlier talks, the state and federal governments provided the major share of the funding for the new plant. The new wastewater treatment plant is to come on line in early April 1983, followed by a start-up period of several months.

The Water Pollution Control Bureau always tries to obtain voluntary compliance from a discharger prior to investigating legal options afforded to us by the Water Quality Control Commission regulations. Faster and more permanent abatement of water pollution can often be realized through a cooperative effort between the bureau and the discharger. Legal remedies have been used in the past and have achieved the desired results. They will continue to be used if voluntary methods do not achieve compliance with state regulations.

REFERENCES

1. U.S. Environmental Protection Agency, Region VI. 1977. Authorization to Discharge Under the National Pollutant Discharge Elimination System, Permit No. NM 0022306 issued to Molycorp, Inc. on June 16, 1977. Dallas, Texas. 11 pp.
2. New Mexico Water Quality Control Commission. 1982. Water Quality Control Commission Regulations (as amended through September 20, 1982). Santa Fe, New Mexico. 70 pp.
3. U.S. Environmental Protection Agency, Region VI. 1977. Stipulation for Regional Administrator's Approval in the Matter of National Pollutant Discharge Elimination System Permit for Molycorp, Inc. Permit No. NM 0022306. 11 pp.
4. Judgment by Consent, United States v. Molycorp, Inc., No. DIV81-0785-M (DNM, October 27, 1981).