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NEW MEXICO ENVIRONMENT DEPARTMENT

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RYAN FLYNN
Cabinet Secretary
BUTCH TONGATE
Deputy Secretary

Certified Mail - Return Receipt Requested

March 30, 2016

Mr. Dave Cook
Senior Business Manager
NextEra Energy Resources LLC
700 University Blvd.
Juno Beach, FL 33408

Re: Chaves Solar Project; Major; Construction Stormwater; SIC 1522; NPDES Compliance Evaluation Inspection; NPDES Permit NMU001912; March 10, 2016

Dear Mr. Cook:

Enclosed please find a copy of the report for the referenced inspection that the New Mexico Environment Department (NMED) conducted at a construction site for which you may be an "operator" (see Appendix A in permit). The NMED conducted this inspection on behalf of the U.S. Environmental Protection Agency (USEPA). This inspection report will be sent to the USEPA in Dallas for their review. These inspections are used by USEPA to determine compliance with the National Pollutant Discharge Elimination System (NPDES) permitting program in accordance with requirements of the federal Clean Water Act.

Problems noted during this inspection are listed in the checklist section of the inspection report. You are encouraged to review the inspection report, required to correct any problems noted during the inspection, and to modify your operational and/or administrative procedures, as appropriate. If you have comments on or concerns with the basis for the findings in the NMED inspection report, please contact us (see the address above) in writing within 30 days from the date of this letter. Further, notify in writing both USEPA (Racquel Douglas, USEPA (6EN), 1445 Ross Ave., Dallas, Texas, 75202), NMED (at the above address) regarding modifications and compliance schedules.

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Mr. Cook
March 30, 2016

If you have any questions about this inspection report, please contact Daniel Valenta at 505-827-2575 or at daniel.valenta@state.nm.us.

Sincerely,

/s/Bruce Yurdin

Bruce J. Yurdin
Program Manager
Point Source Regulation Section
Surface Water Quality Bureau

Cc: Carol Peters-Wagnon (6EN-AS) by email
Everett Spencer, USEPA (6EN-AS) by email
Darlene Whitten-Hill, USEPA (6EN-AS) by email
Racquel Douglas, USEPA (6EN-WM) by email
William Chavez, NMED District I Manager, by email



NPDES Compliance Inspection Report

Section A: National Data System Coding

Transaction Code	NPDES										yr/mo/day					Inspec. Type	Inspector	Fac Type						
1 N	2 5	3 N	M	U	0	0	1	9	1	2	11	12	1	6	0	3	1	0	17	18 }	19 S	20 2		
Remarks																								
C O N S T R U C T I O N > 1 A C R E																								
Inspection Work Days						Facility Evaluation Rating						BI	QA	-----Reserved-----										
67						70 2						71 N	72 N	73 74 75 80										

Section B: Facility Data

Name and Location of Facility Inspected (For industrial users discharging to POTW, also include POTW name and NPDES permit number) Chaves County Solar Project, 445 Wrangler Road, Roswell, New Mexico Chaves County	Entry Time /Date 1144 hours/3-10-2016	Permit Effective Date 2-16-2012
	Exit Time/Date 1416 hours/3-10-2016	Permit Expiration Date 2-16-2017
Name(s) of On-Site Representative(s)/Title(s)/Phone and Fax Number(s) Chris Werderitch/Field Construction Manager/Blattner Energy, Inc. Jordan Peterson/Field Supervisor/NextEra Energy/320-249-4616	Other Facility Data GPS: N. 33.4389 W. -104.4388 SIC: 1522	
Name, Address of Responsible Official/Title/Phone and Fax Number Mr. Dave Cook, 700 Universe Blvd, Juno Beach, FL 33408/ Senior Business Manager/561-694-3960, fax 561-694-3960	Contacted Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> *	

Section C: Areas Evaluated During Inspection

(S = Satisfactory, M = Marginal, U = Unsatisfactory, N = Not Evaluated)

S	Permit	N	Flow Measurement	U	Operations & Maintenance	N	CSO/SSO
U	Records/Reports	N	Self-Monitoring Program	N	Sludge Handling/Disposal	N	Pollution Prevention
U	Facility Site Review	N	Compliance Schedules	N	Pretreatment	N	Multimedia
N	Effluent/Receiving Waters	N	Laboratory	U	Storm Water	N	Other:

Section D: Summary of Findings/Comments (Attach additional sheets if necessary)

- This report is based on review of files maintained by the permittee and NMED, on site observation by NMED personal and verbal information provided by the facility's representative.
- Arriving on site at approximately 1144, accompanied by Sandra Gabaldon, the inspector made introductions, presented credentials and explained the purpose of the inspection to Mr. Chris Werderitch and Mr. Loren Magnus. A short exit interview was conducted at the site with Mr. Werderitch and Mr. Magnus. The inspector left the site at approximately 1416.

Name(s) and Signature(s) of Inspector(s) Daniel Valenta /s/Daniel Valenta	Agency/Office/Telephone/Fax NMED/SWQB 505-827-2575	Date 3/30/2016
Signature of Management QA Reviewer Sarah Holcomb /s/Sarah Holcomb	Agency/Office/Phone and Fax Numbers NMED/SWQB 505-827-2798	Date 3/30/2016

**Chaves County Solar Project
NPDES Compliance Evaluation Inspection
NPDES Permit NMU001912
March 10, 2016**

Introduction

On March 10, 2016, a Compliance Evaluation Inspection was conducted at a > 1 acre disturbed area at 445 Wrangler Road, Roswell, New Mexico.

The inspector met with Mr. Chris Werderitch, Blattner Energy Field Construction Supervisor, Mr. Loren Magnus, Blattner Energy, and Mr. Jordan Peterson, NextEra Energy Supervisor at the property, presented his credentials and explained the purpose of the inspection.

The purpose of this inspection was to document the facility's status regarding the NPDES storm water permit program and storm water regulations at **40 Code of Federal Regulations Part 122.26**. This report is based on a review of the EPA on-line notice of intent (NOI) database, on-site observation by NMED personnel, and verbal information provided by the construction site representative, Mr. Werderitch.

Findings

For purposes under the CGP, an “operator” is any party associated with a construction project that meets either of the following two criteria:

1. The party has operational control over construction plans and specifications, including the ability to make modifications to those plans and specifications; or
2. The party has day-to-day operational control of those activities at a project that are necessary to ensure compliance with the permit conditions (e.g., they are authorized to direct workers at a site to carry out activities required by the permit).

Where there are multiple operators associated with the same project, all operators are required to obtain permit coverage. The following applies in these situations:

1. If one operator has control over plans and specifications and a different operator has control over activities at the project site, they may divide responsibility for compliance with the terms of this permit as long as they develop a group SWPPP (see Part 7.1.1), which documents which operator has responsibility for each requirement of the permit.
2. If an operator only has operational control over a portion of a larger project (e.g., one of four homebuilders in a subdivision), the operator is responsible for compliance with all applicable effluent limits, terms, and conditions of this permit as it relates to the activities on their portion of the construction site, including protection of endangered species, critical habitat, and historic properties, and implementation of control measures described in the SWPPP in the areas under their control.
3. You must ensure either directly or through coordination with other permittees, that your activities do not render another party’s pollutant discharge controls ineffective.
4. If the operator of a “construction support activity” (see Part 1.3.c) is different than the operator of the main construction site, that operator is also required to obtain permit coverage.

Chaves County Solar Project
NPDES Compliance Evaluation Inspection
NPDES Permit NMU001912
March 10, 2016

NextEra Energy Resources LLC did not obtain permit coverage under the NPDES permitting program for construction. NextEra Energy is required to complete a Stormwater Pollution Prevention Program (SWPPP) and submit an eNOI to USEPA prior to any land disturbance greater than one (1) acre.

Section 301 (a) of the Federal Water Pollution Control Act states that “Except as in compliance with this section and sections 302, 306, 307, 318, 402 and 404 of this Act, the discharge of any pollutant by any person shall be unlawful.”

Per 40 CFR Part 122.26, storm water discharges associated with construction activity are required to obtain coverage under an NPDES permit. Large construction activity is defined in 40 CFR Part 122.26(b)(14)(x), as follows: “Construction activity including clearing, grading and excavation, except operations that result in the disturbance of less than five acres of total land area. Construction activity also includes the disturbance of less than five acres of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb five acres or more.”

In addition, beginning on March 10, 2003, storm water discharges associated with small construction activity became regulated according to 40 CFR Part 122.26(b)(15)(i) for “[c]onstruction activities including clearing, grading and excavating that result in land disturbance of equal to or greater than one acre and less than five acres. Small construction activity also includes the disturbance of less than one acre of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb equal to or greater than one acre and less than five acres.”

40 Code of Federal Regulations Part 122.21(a) Duty to apply (1) states “Any person who discharges or proposes to discharge pollutants ...must submit a complete application to the Director in accordance with this section and part 124 of this chapter.”

A SWPPP should include the following:

- Site Description
- Effluent limitations applicable to all discharges from construction sites
 1. Erosion and Sediment Control
 2. Site Stabilization
 3. Pollution Prevention
- Description of interim and permanent stabilization practices (e.g., seeding, mulching, etc.)
- Structural Practices (e.g., silt fences, check dams, sediment traps, earth dikes, subsurface drains, reinforced soil retaining systems, gabions, and temporary or permanent sediment basins, etc.)
- Storm Water Management Controls (e.g., detention or retention structures, vegetated swales, etc.) to be installed during the construction process to reduce pollutants in storm water discharged from the site after construction has been completed
- Description of other controls (e.g., waste disposal, procedures to minimize off-site vehicle tracking, dust control, etc.)
- Maintenance and inspection procedures
- Appropriate certifications

**NMED/SWQB
Official Photograph Log**

Photo # 1

Photographer: Daniel Valenta	Date: March 10, 2016	Time: 1510 hours
City/County: Roswell/ Chaves		
Location: 445 Wrangler Rd		
Subject: Solar panels are installed on the support arms.		



**NMED/SWQB
Official Photograph Log**

Photo # 2

Photographer: Daniel Valenta	Date: March 10, 2016	Time: 1411 hours
City/County: Roswell/ Chaves		
Location: 445 Wrangler Rd		
Subject: Some areas of the site has more disturbed soil than others, area was not regraded.		

