



NOTICE OF VIOLATION

Certified Mail - Return Receipt Requested

March 12, 2024

RayeAnn Medina, Owner
Southwest Envirotec
5486 Del Rey Blvd
Las Cruces, New Mexico 88012

RE: Notice of Violation, HORVAC Environmental Liquid Waste Land Application Site, DP-1355

Dear RayeAnn Medina:

On October 28, 2016, the New Mexico Environment Department (NMED) issued a Discharge Permit Renewal, DP-1355, (Discharge Permit; copy enclosed) to Ruben Gallegos, now transferred to RayeAnn Medina (Permittee), pursuant to Section 20.6.2.3109 NMAC of the Water Quality Control Commission (WQCC) Ground and Surface Water Protection Regulations (20.6.2 NMAC) for disposal discharges at the HORVAC Environmental Liquid Waste Land Application Site (Facility). Section 20.6.2.3104 NMAC requires the Permittee to comply with the terms and conditions of the Discharge Permit.

NMED has determined that the above referenced Facility is operating in violation of the conditions of the Discharge Permit, the WQCC Regulations and the Water Quality Act (WQA). Please be advised that NMED requires prompt action as described herein. The Facility is located 0.6 miles north of the intersection of Road B004 and Road B007, approximately 19.25 miles southwest of Las Cruces in Section 4, Township 26S, Range 01W, Doña Ana County.

A summary of the events resulting in the determination of violations at the Facility is as follows.

On November 29, 2023, NMED staff conducted an inspection of the Facility. During the inspection, NMED staff noted multiple issues at the Facility including insufficient berms, improper sign posting, and ponding wastewater all of which is in violation of DP-1355. At the conclusion of the inspection NMED staff discussed the inspection findings with Mr. Henry Medina. Mr. Medina acknowledged that he was aware it is his responsibility to install berms and signs at the Facility. Mr. Medina stated he would complete the necessary work by the end of January and submit photographic documentation to NMED by January 31, 2024. On February 22, 2024, the Facility consultant, on the Permittee's behalf, submitted photographic documentation to NMED showing the posting of the signage around the Facility's parameter and at the entrance gate. To date, NMED has not received the documentation for the remaining corrective actions.

Additionally, the most recent monitoring report indicated that on December 13 and 14, 2023, the Permittee disposed of Miscellaneous Food Processing Waste, which NMED has not provided written approval for disposal at the Facility.

The requirements of the Discharge Permit, violations, and associated actions necessary to correct the violations are identified below.

1. Condition 4 of the Discharge Permit requires the Permittee to maintain the following signs at the following locations:

A sign to identify each cell by number and the waste type authorized to be discharged in the cell. All signs shall be weatherproof and posted at the boundary of the cells to facilitate a rotational disposal schedule as required in the conditions below.

The Permittee has violated Condition 4 of the Discharge Permit because, during the November 29, 2023 inspection, NMED noted that Permittee has not installed the necessary signage as required by Condition 4 of the Discharge Permit and the Permittee has not submitted proof of sign installation to NMED as agreed upon at the November 29, 2023 inspection.

In order to correct this violation, **the Permittee shall submit photographic documentation to NMED by April 2, 2024**, showing that the above signs have been installed.

2. Condition 5 of the Discharge Permit in part requires the Permittee to maintain a minimum 24-inch earthen berm surrounding the perimeter of the Facility.

The Permittee has violated Condition 5 of the Discharge Permit because, during the November 29, 2023 inspection, NMED staff noted that the Permittee has failed to maintain the 24-inch earthen berms and the Permittee has not submitted proof of any berm repairs to NMED as agreed upon at the November 29, 2023 inspection.

In order to correct this violation, **the Permittee shall submit photographic documentation to NMED by April 2, 2024**, showing that the perimeter berm is meeting the 24-inch requirement.

3. Condition 6 of the Discharge Permit states that the Permittee shall not combine different waste types and they must dispose of different waste types in separate cells that receive only a single designated waste type.

The Permittee has violated Condition 6 of the Discharge Permit because, during the November 29, 2023 inspection, NMED staff noted that the Permittee had not maintained the berms between disposal cells. Without berms to divide and separate cells it is not possible to effectively separate different waste types during disposal practices.

In order to correct this violation, **the Permittee shall submit photographic documentation to NMED by April 2, 2024**, showing that disposal cell boundaries/berms have been installed.

4. Condition 12 of the Discharge Permit states in part that the Permittee shall minimize ponding of liquid sludge.

The Permittee has violated Condition 12 of the Discharge Permit because, during the November 29, 2023 inspection, NMED staff observed ponding wastewater in two areas in the northwestern sludge disposal area.

In order to correct this violation, **the Permittee shall submit photographic documentation to NMED by April 2, 2024**, showing that the ponding wastewater has been pumped out or disked into the soil.

5. Condition 12 of the Discharge Permit states in part that the ponding of the aqueous portion of grease trap/interceptor waste shall be minimized.

The Permittee has violated this condition because, during the November 29, 2023 inspection, NMED staff observed wastewater ponding in two areas within the aqueous grease trap/interceptor waste disposal area.

In order to correct this violation, **the Permittee shall submit photographic documentation to NMED by April 2, 2024**, showing that the ponding wastewater has been pumped out or disked into the soil.

6. Condition 18 of the Discharge Permit states that all miscellaneous food processing waste shall have written approval or written approval with conditions from NMED prior to disposal at the Facility. Condition 34 of the Discharge Permit states in part that the Permittee shall sample the miscellaneous food processing waste and analyze the sample for TKN, NO₃-N, TDS, Cl, and fats, oil, and grease.

The Permittee has violated Conditions 18 and 34 because manifests show that the Permittee disposed of waste from Saputo Cheese Plant of at the Facility without NMED written approval and failed to sample the waste as required by Condition 34 of the Discharge Permit.

In order to correct this violation, **the Permittee shall cease disposal of Saputo Cheese Plant waste at the Facility until the Permittee receives written approval from NMED.**

Pursuant to WQA § 74-6-5, NMED has authority to terminate or modify the Discharge Permit prior to its date of expiration for any of the following causes:

1. violation of any condition of the permit;
2. obtaining the permit by misrepresentation or failure to disclose fully all relevant facts;
3. violation of any provisions of the WQA, or any applicable regulations, standard of performance or water quality standards;
4. violation of any applicable state or federal effluent regulations or limitations; or
5. change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge.

Failure to comply with this Notice of Violation may result in NMED's issuance of a compliance order that assesses a civil penalty pursuant to WQA, Section 74-6-10. NMED may also assess civil penalties up to \$15,000 per day for each violation of the WQA, Section 74-6-5, any regulation promulgated pursuant to that section, or any permit issued pursuant to that section. NMED may assess civil penalties up to \$10,000 per day for each violation of any other provision of the WQA, or any regulation, standard, or order adopted pursuant to such other provision.

As an alternative to the remedies described above, NMED may commence an action in district court for appropriate relief, including injunctive relief.

Nothing in this letter shall be construed as relieving the permittee of the obligation to comply with all requirements of the Discharge Permit, the WQCC Regulations, the WQA, and other applicable federal, state, and local laws, regulations, permits, or orders. This letter is intended to obtain voluntary compliance in addressing violations of certain requirements of the Discharge Permit and may not address all violations. It is the responsibility of the permittee to be familiar with and comply with the Discharge Permit.

Please note that your facility will appear on the NMED's Enforcement Watch as a result of this NOV (see: <https://www.env.nm.gov/enforcement-watch/>). Further, NMED will issue a press release to local media highlighting your facility as appearing on this webpage. Your facility will remain on the Enforcement Watch website as an active matter until this matter is fully resolved.

Pursuant to the NMED Delegation Order dated March 24, 2023, the Cabinet Secretary has delegated the authority to sign a Notice of Violation under the New Mexico Water Quality Act to the Chief of the Ground Water Quality Bureau. If you have any questions regarding this matter, please contact Jason Herman, Program Manager of the Ground Water Pollution Prevention Section, at (575) 649-3871 or Gerald Knutson at (505) 660-7189 or submit an email to pps.general@env.nm.gov.

RayeAnn Medina
March 12, 2024
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Sincerely,

Justin D. Ball, Chief
Ground Water Quality Bureau

JB:GK

Encl: Discharge Permit Renewal, DP-1355, dated October 28, 2016
Inspection Report, dated November 29, 2023

cc: John S. Rhoderick, Division Director, Water Protection Division
Jason Herman, PPS Program Manager
Michael Kesler, District Manager, NMED District III
Henry Medina, old56rat@gmail.com