



NOTICE OF VIOLATION

Certified Mail - Return Receipt Requested

March 10, 2023

Patricia Taylor, Owner
Lea County Septic Tank Service
PO Box 703
Hobbs, New Mexico 88241-0703

RE: Notice of Violation, Lea County Septic Tank Service, DP-884

Dear Patricia Taylor:

On August 17, 2021, the New Mexico Environment Department (NMED) issued a Discharge Permit Renewal and Modification, DP-884, (Discharge Permit; copy enclosed) to you (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). Section 20.6.2.3104 NMAC requires the permittee to comply with the terms and conditions of this Discharge Permit.

NMED has determined that Lea County Septic Tank Service (Facility) is operating in violation of the conditions of the Discharge Permit, the WQCC Regulations and the Water Quality Act (WQA) (NMSA 1978, §§ 74-6-1 to -17). Please be advised that NMED requires prompt action as described herein. The Facility is located approximately 8 miles south of Hobbs in Section 14, Township 20S, Range 38E, in Lea County.

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

On October 22, 2021, NMED issued a Notice of Non-Compliance (NONC) to the Permittee for failure to submit monitoring reports and failure to meet several Discharge Permit condition deadlines. On February 14, 2022, NMED staff sent an email to Patricia Taylor asking for an update on the status of a response to the NONC. On May 19, 2022, and October 4, 2022, NMED staff spoke with Elijah Taylor and Patricia Taylor, to which the Permittee assured NMED that the Permittee was making progress in accordance with the NONC. To date, NMED has not received any monitoring reports, nor any submissions of the required Discharge Permit condition deadlines outlined in the NONC.

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

1. Condition 23 of the Discharge Permit requires the submission of semi-annual monitoring reports to NMED by August 1st and February 1st each year.

The Permittee has violated this condition because, to date, NMED has not received monitoring reports due since the Discharge Permit was approved on August 17, 2021.

To correct this violation, **submit the past due monitoring reports to NMED in their entirety by April 10, 2023.** In the event that the data necessary to complete the reports was not collected, submit a statement indicating why the requirements have not been fulfilled and how this will be corrected in the future. Thereafter, submit complete monitoring reports to NMED in accordance with the Discharge Permit.

2. Condition 3 of the Discharge Permit (in part) requires submission of the final plans and specifications for NMED's review of the required relining of the two car wash wastewater impoundments.

The Permittee has violated this condition because, to date, NMED has not received the final plans and specifications for relining of the two car wash wastewater impoundments. To correct this violation, **submit the final plans and specifications for relining of the two car wash wastewater impoundments to NMED by May 9, 2023.**

3. Condition 6 of the Discharge Permit requires (in part) the submission of an up-to-date diagram of the layout of the entire Facility to NMED, which shall include:

- A north arrow;
- The effective date of the diagram;
- All impoundment locations;
- All groundwater monitoring wells;
- All wastewater sampling locations; and
- All components of the disposal Areas, e.g., cells, berms, and fences.

The Permittee has violated this condition because, to date, NMED has not received an up-to-date diagram of the layout of the entire Facility. To correct this violation, **submit the up-to-date diagram of the layout of the entire Facility to NMED within 30 days of the date of this letter, by April 10, 2023.**

4. Condition 7 of the Discharge Permit requires (in part) the following relining and closure measures on *each* impoundment located within the southern 6.8-acre parcel.
 - a) Cease discharging to the impoundment.
 - b) Drain wastewater from the impoundment and any other wastewater system components and dispose of it in accordance with all local, state and federal regulations, or evaporate remaining wastewater from the impoundment.

Within 90 days of ceasing to discharge to the impoundment, the Permittee shall submit a sludge removal and disposal plan to NMED for approval. The sludge removal and disposal plan shall include the following information.

- a) The estimated volume and dry weight of sludge planned to be removed and disposed of, including measurements and calculations.
- b) The method(s) of sludge removal from the impoundment.
- c) The method(s) of disposal for all of the sludge (and its contents) removed from the impoundments. The method(s) shall comply with all local, state and federal regulations, including 40 CFR Part 503. Note: A proposal that includes the surface disposal of sludge may be subject to Groundwater Discharge Permitting requirements pursuant to 20.6.2.3104 NMAC that are separate from the requirements of this Discharge Permit.
- d) A schedule for completion of sludge removal and disposal not to exceed two years from the date discharge to the impoundment ceased.

The Permittee has violated this condition because, to date, the Permittee has not completed the relining and closure measures on each impoundment located within the southern 6.8-acre parcel. To correct this violation, **commence the relining and closure measures on each impoundment located within the southern 6.8-acre parcel by May 9, 2023.**

5. Condition 24 of the Discharge Permit requires (in part) the submission of a written groundwater monitoring well location proposal for NMED review and approval.

The Permittee has violated this condition because, to date, NMED has not received a written groundwater monitoring well location proposal.

To correct this violation, **submit a written groundwater monitoring well location proposal to NMED by April 10, 2023.** In the event that the required monitoring well has not been installed at this facility, the Permittee shall complete monitoring well installation in accordance with the Discharge Permit, by date. Please note that NMED must approve monitoring well locations, in writing, prior to installation.

6. Condition 33 (in part) of the Discharge Permit requires the collection of composite soil samples from each impoundment located in the southern 7.2-acre parcel.

The Permittee has violated this condition because, to date, the Permittee has not collected composite soil samples for analyses. To correct this violation, **collect composite soil samples as outlined in Condition 33 and upon receiving the analyses, submit a copy of the laboratory analytical results to NMED by May 9, 2023.**

Pursuant to Section 74-6-5 of the WQA, 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 Section 74-6-10 of the WQA. NMED may also assess civil penalties up to \$15,000 per day for each violation of Section 74-6-5 of the WQA, 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 issuance of a compliance order and civil penalties, as 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.

Pursuant to the NMED Delegation Order dated May 24, 2021, 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 Andrew Romero at (505) 660-8624 or submit an email to pps.general@env.nm.gov.

Sincerely,

Justin D. Ball, Chief
Ground Water Quality Bureau

JB:AR

Patricia Taylor, DP-884

March 10, 2023

Page 5 of 5

Encl: Discharge Permit Renewal and Modification, DP-884, dated August 17, 2021

cc: John Rhoderick, Division Director, Water Protection Division

Jason Herman, PPS Program Manager

Michael Kesler, District Manager, NMED District III

Christal Weatherly, Assistant General Counsel, NMED

Elijah Taylor, lcseptictank@aol.com