

Daubert submission

S&R pleads guilty to dumping charge

By Deborah Ensor
The Taos News

Joshua Rael, 21, an employee of S&R Sewage Service, pleaded guilty Sept. 15 to polluting the Rio Grande waters with diluted raw sewage near the Orilla Verde recreation site in March 1994.

According to the charge, Rael pleaded guilty because he "willfully and negligently discharged and caused the discharge of pollutants, that is, water which had been pumped from the Rio Grande diluted with raw sewage remaining on the walls of the sewage disposal tank truck after the contents of the tank truck had been previously pumped out at a permitted site."

Loretta Rael, co-owner of S&R and Joshua Rael's mother, said the charge stemmed from something that was at least "three-quarters the fault of the BLM [Bureau of Land Management]."

S&R had a contract with the BLM to pump the portable units at the Orilla Verde recreation site in Pilar, she said. They require that the portables be filled with water after emptying. According to the contract, that water "may be obtained from sources within the recreation sites or areas" and the "suction hose used to pump the toilets shall not be used to pump water from the Rio Grande."

According to Loretta Rael, Joshua Rael changed hoses, pumped water from the Rio Grande into his empty tank and went to fill the portable units with water. "But they didn't need water," Loretta Rael said, "because ice had melted during the winter time and made it sludge enough."

Joshua Rael then released the water from his tank into an area of willows behind the

BLM office, she said. He was cited for not having a permit to discharge water.

According to Charma Lefton of the BLM Albuquerque district office, Joshua Rael pumped approximately 1,000 gallons of water out of the river "and used it to flush out his tank, wash it out and then dumped the water back in the river."

She said the discharge was filled with "raw sewage, solid waste matter. It was not just a little bit that overflowed. He used it to flush out his tank. That's what our law enforcement reported."

Loretta Rael said not only was that not true, but that the BLM does not have a permit to withdraw waters from the Rio Grande, so they should have never allowed S&R to do it in the first place.

Lefton said the permit for pumping water comes from the State Engineers office, not the BLM, and that the contract stipulates that S&R must comply with all state and federal regulations.

"It's not the BLM's responsibility to make sure he is aware of the regulations," she said.

And although this was the first BLM citation S&R received, Lefton said the Rael's had been issued two warnings on two previous violations for taking water out of the Rio Grande by the State Engineers Office.

"So he knew it was illegal to take water out of there," Lefton said.

Joshua Rael pleaded guilty in U.S. District Court in Santa Fe and faces up to one year in jail and \$25,000 in fines. Sentencing has been set for Nov. 29.

"This has been a horrendous experience," Loretta Rael said, "because the government has taken it to the harshest point

each step of the way. ... I don't know what to fear, the worst, or something better."

Because the incident happened on federal lands, it is a federal crime. "The federal level," Rael said, "it's quite a bit stricter and scarier."

Steve Rael, Joshua's father and co-owner of S&R, said, "We have gone through hell emotionally. Josh is scared, he has a clean record, he's never been in trouble. All of a sudden [this big government thing comes down]."

Both Loretta and Steve Rael said they are unhappy with the way the BLM handled the incident and with the working relationship they had.

According to reports and to the Rael's, about 10 shovelfuls of sewage had to be cleaned up. When the water was discharged from the holding tank, there was enough raw sewage on the sides that some was dumped with the water, Loretta Rael said, "and that was all. He did not use that water to clean the tank."

"In fact," said Steve Rael, "the tank had been empty for 17 hours."

"The twist to the story is that the BLM does the exact same thing," Loretta Rael said. "They had to clean up 10 shovelfuls of contaminated soil and they just pushed it back into the river."

In a memo from the water resource specialist to the Water Quality Bureau, it stated that the "BLM had cleaned up the site by pushing the contaminated soils into the river."

That same memo also stated that Annie Apodaca of the BLM inspected the site, and her inspection revealed "sanitary napkins, paper products and other hard evidence of the presence of septage."

Ken McCallum of the New Mexico Environment Department said that the 10 shovelfuls probably fell into the river due to the high spring runoff. "The river level rose in just a day or two, so the remainder just floated into the river because of the higher water level."

"Our law enforcement people said he backed up his truck and then just dumped into river," Lefton said. "He was seen doing that by staff, but by the time he pulled away, it was rising water and it was swept into the river before our people could get to it. There was not an attempt to throw it into river."

Steve Rael said there were no witnesses and that Joshua Rael was "not caught in the act" of anything.



LOOKING

The North Central Solid Waste Planning Comm. performing long-range planning for the handling within Taos, Rio Arriba and Los Alamos County lease of their property for use as a regional landfill this purpose should be at least 50 acres in extent requirements of the North Central Solid Waste P. Environment Department. The committee reserves inquiries and proposals should be submitted by (at Smider, Miller and Associates (consultants to it Suite C, Santa Fe, NM 87505; telephone 473-9211) Pueblo, PO Box 540, Española, NM 87532; teleph

Remem

Deadline for Art Briefs, Gallery noon. Que Pasa deadline is

TAPAS



TAOS CAFE

NEW MEXICO

Monday-Friday
Saturday 10:30
Sunday 10:30

136 Bent Street

Rangeland reform kept on hold

A joint Senate-House conference committee has agreed to a 90-day moratorium on continued implementation of rangeland reforms promoted by Interior Secretary Bruce Babbitt.

In conference negotiations, House conferees agreed last week to retain the moratorium in the 1996 Interior Appropriation Bill. The moratorium was included in the Senate version of the bill. The conference committee is working to reconcile differences in the Senate and House-passed versions of the spending bill.

The bill has now been referred back to both houses of Congress for final approval before it is sent to President Clinton. The 1996 federal fiscal year began Sunday (Oct. 1).

As a member of the Senate Appropriations Committee and its subcommittee on the

Interior, New Mexico Sen. Pete Domenici said in a release, "I am pleased that the conferees have agreed to give us time to find an alternative to Secretary [Bruce] Babbitt's regulation. To that end, I am working to find a consensus that will prove more beneficial in bringing stability to the management of our federal rangelands. This three-month suspension of the Babbitt rules will give us time to address multiple use and other concerns that may need clarification in my original bill."

In late August Babbitt began implementing his "Rangeland Reform '94" regulations. If signed into law, the moratorium would prevent the Bureau of Land Management from spending any money on continued implementation of those plans.

DO YOUR KIDS, YOURSELF, AND YOUR NE

Septic Tanks are polluting our groundwater is the source of all drinking water

Clear Springs Wastewater Treatment System is a re Tanks that treats household waste to meet Federal

Our System has been independently tested and National Sanitation Foundation

For new construction or to retrofit an exist

Call (505) 828-1998 Fax (

OR

1-800-980-9898

Practical Solutions to Environmental Problems

Financing Available

New Mexico Distributors for Clearstream Wa

Cartunes

CAR STEREO

1995 Sut Impreza Ou

5-speed transmission ⁰¹⁴⁵⁵