

STAGECOACH NEIGHBORHOOD ASSOCIATION (SNA)  
c/o John Durham, SNA Board President  
PO Box 2785, Taos NM 87571

MEMO TO: JASON HERMAN, NMED, Ground Water Quality Bureau, Santa Fe NM  
FROM: STAGECOACH NEIGHBORHOOD ASSOCIATION (SNA)  
DATE: November 8, 2018  
RE: REQUEST FOR INTERIM CLOSURE OF S&R LAGOON

We know you are well aware that the Stagecoach Neighborhood Association (SNA), individual home owners and businesses in the area will be submitting letters opposing the lagoon and renewal of its discharge permit during the upcoming public protest period. In our formal protest letter, we will request that the facility be permanently closed as it is an ongoing threat to our neighborhood and there is no viable reason that S&R cannot use The Taos Valley Regional Wastewater Treatment Facility (see resolution attached) as do all the other County septic haulers.

However, due to S&R's blatant and continuing delays in submitting NMED's requested operational documentation and S&R's chronic lack of full compliance with permit directives, we are hereby requesting that NMED immediately use its ability to seek a restraining order and close down this sewage lagoon until the formal review process including the public hearing is complete and NMED arrives at a final decision on the future of the lagoon.

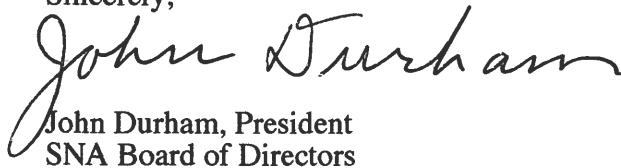
As a result of its history of delinquent filings and requests for extensions, S&R has been operating without a current permit since December 2017 and has shown a complete disrespect for its obligation to run this septic lagoon safely, to operate with a proper permit, and to abide by your directives.

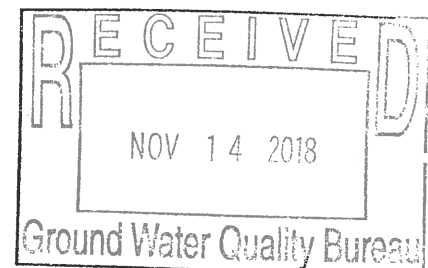
Temporary closure at this time is absolutely warranted because of: (1) S&R's ongoing disregard for compliance with the permit directives; (2) NMED's and the EPA's repeated statements that they cannot properly monitor compliance and enforcement; and (3) the health risks the facility presents to our water and air.

Please see the attached history that substantiates our above claims, and the Town Resolution 13.41, administrative and usage requirements of the Taos Valley Regional Wastewater Treatment Facility.

Thank you for your understanding and we look forward to hearing from you regarding this interim closure request.

Sincerely,

  
John Durham, President  
SNA Board of Directors



**A record of VIOLATIONS AND NON-COMPLIANCE**  
**Plus other relevant history of the S&R Septic Disposal Permit (DP-465)**  
**Prepared by the Stagecoach Neighborhood Association**

According to an NMED letter to Rael, S&R's original discharge plan for the Tune Drive site was approved on April 7, 1987.

**2000 Records:** In our SNA file is a letter dated July 28, 2000, from the NMED Ground Water Quality Bureau to Steve Rael of S&R Septic and the subject is: "Letter of Non-Compliance, S&R Septic, DP-465." It says: "This letter is to notify you that you are not operating in compliance with your discharge plan, DP-465, for the S&R Septic approved in a letter to you dated July 28, 1999. The following violations are based on the NMED site inspection on July 10, 2000, conducted by Fred Kalish and Jerzy Kulis of the Ground Water Pollution Prevention Section (GWPPS) and a review of the discharge plan file."

**VIOLATIONS pointed out in the letter,**

- 1 signs** were not mounted every 100 feet as required;
- 2 number and size of disposal cells** were not in accordance with the approved disposal plan;
- 3 location** of cells not consistent with plan;
- 4 no placards** were present identifying the cells;
- 5 the disposal rotational schedule** was not in accordance with the plan;
- 6 the required earthen berms** were not present around each cell, as required;
- 7 there was no facility perimeter berm nor were there diversion bar ditches** at the entrance gate;
- 8 S&R** was required to collect and bag dry residual material such as plastics, rags, paper, etc., which could be blown offsite. **The NMED site inspection showed such materials on the site;**
- 9 S&R** was required to keep records for each waste pick-up: date, location of pick-up, type of waste, inspections for acceptable waste type, signature of person conducting the inspection, total volume pumped, and disposal location. These records were to be submitted to NMED on May 31 and Nov. 30 of each year. **These records were not kept nor submitted as required.**

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**On May 31 of each year, S&R was to submit to NMED analytical results of samples collected annually from designated cells and analyzed.** The specified procedure: using hand auger or shovel, collect soil samples from six locations, depth of 12 inches and depth of 36 inches. Samples were to be mixed together and analyzed for total Kjeldahl nitrogen and nitrate as nitrogen.

**VIOLATION: No analytical results for such sampling had been submitted to NMED.**

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**Twice a year, S&R was to submit to NMED "Land Application Data Sheets"** specifying the volume of wastewater discharged to the site and total nitrogen load determined either from assuming 600 mg per liter of nitrogen (average characteristics of septage) or from laboratory analysis. These sheets were to be submitted by May 31 and November 30 of each year.

**VIOLATION: No sheets had been submitted to NMED.**

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**JULY 9, 2002** At a public information hearing, representatives from the NMED Groundwater Quality Bureau said that NMED had no funds to monitor compliance with discharge permits and the haulers "...may need more oversight." The state had no funds to provide this oversight. A representative of the U.S. EPA in D.C. said "although . . . regulations are in effect and EPA is the agency that forces compliance . . . U.S. EPA has no current programs or resources, or foreseeable plans, to enforce the regulations, presuming voluntary compliance of each operator."

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**On July 17, 2002,** the NMED sent a letter to Steve Rael, indicating "your application of renewal of discharge permit DP-465 . . . is approved, subject to the conditions below."

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In July 2008, the SNA again received notification of the permit renewal process for S&R. In phone calls, Brad Reid of NMED stated that the NMED doesn't have the manpower to monitor compliance more than about once per year, even though S&R has a record of past convictions for non-compliance.  
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In July 2012, we again received the NMED's notice of "Discharge Permits Proposed for Approval" in the state, including S&R's permit renewal. John Durham again wrote on behalf of the SNA, citing our reasons why S&R should use the Town of Taos Wastewater Treatment Plant. Back in 2002 the SNA board president, Doug West, had discussions with Steve Rael regarding S&R closing the sewage lagoon and using the Town's disposal site like all the other septic haulers in Taos. Rael said he would do so when the treatment plant had completed its renovations for better waste treatment. The plant completed those renovations in 2012. But once more, S&R's permit was renewed and he has continued using his private sewage lagoon.  
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July 2018: We received notices from NMED that the permit is once again up for renewal. On August 3, John Durham and Ron Soskin met with Jason Herman of NMED. In the NMED discharge permit, it states that applications for permit renewal must be submitted at least 180 days prior to the date the current permit ends (Dec. 27, 2017). An application for renewal was submitted by S&R to NMED on Feb. 22, 2018. It was submitted almost 8 months late with no penalty or order to cease operations at the lagoon until the permit was renewed.

**VIOLATION: NO issue of noncompliance was made by NMED. Sewage lagoon should have been shut down due to having no active permit in place.**

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Sept. 28, 2018 The NMED does have the ability to seek a restraining order and it has occasionally fined S&R for noncompliance. The permit no longer allows grease dumping and S&R claims they do not haul grease. However, on this date an email string started by Mathew Bogar of NMED reads: Taos field office: "I just witnessed the crew for S&R Septic Service . . . pumping a grease trap at El Monte Sagrado" which is on the town's sanitary sewer. Bogar asks for confirmation that dumping grease in the pit is prohibited. Responses to this email say "you are correct our permit with S&R does not allow for disposal of grease trap waste, only septage and wastewater treatment plant sludge." He will inspect to see whether grease is being dumped at the site:

**VIOLATION: August 1, 2018, S&R has not submitted a monitoring report for the first six months of 2018, now due. There is continuing uncertainty at NMED about whether Rael is in fact dumping sludge/grease when he is not allowed to.**

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On Sept. 7, 2018, Herman of the NMED received a letter from James C. Brockman, atty. for the El Prado Water and Sanitation District objecting to the renewal of S&R's permit, and requesting a public hearing on this matter. The District (EPWSD) has several major municipal groundwater wells in the vicinity, serving more than 1,000 people. EPWSD asked that groundwater monitoring wells be installed and that the water be tested and results reported. We do not have Herman's reply to this letter.

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On Sept. 13, 2018, Herman emailed Mansker responding to questions about the permit and referring to Michelle Hunter's letter to Rael. He said, "The most recent monitoring summary reported 31,200 gallons of sludge disposed of at the facility and requires the additional sludge characterization for calculation of the loading to each cell." The email doesn't specify whether Rael is allowed to dump sludge at the facility, and he seems to go very soft on the reporting requirements that NMED has stated in the past.

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Sept. 24, 2018: Herman reports a meeting with Mansker (teleconferencing with Steve and Loretta Rael) called "Response to Notice of Non-Compliance and Hearing Request." Mansker provided a schedule and update of compliance measures and they discussed the definition of sludge. The Rael's requested a 2-week extension for

compliance documentation, so NMED made the new deadline 10/10/18. Herman gave them a copy of the EPWSD hearing request.

**NMED asked that Rael provide supporting documentation for groundwater levels at 500 feet or deeper. Mansker and Rael "committed to searching for and providing to NMED any additional studies or documentation regarding depth to groundwater and the geology of the facility."**

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**Sept. 28, 2018:** Email from Herman to staff members stating that he is on his way to Taos to make a surprise inspection of the site.

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**Sept. 29, 2018:** Report of inspection by NMED, Groundwater Quality Bureau: "NMED arrived onsite at 10:45 am observed the gate to be locked. Signs remain improperly posted and no apparent progress has been made on any of the compliance issues stated in the NONC. The smell of septage and a very strong FOG smell was coming from the facility. Jason Herman called Steve Rael . . . [who] stated he was driving toward Albuquerque and there was no one . . . who could grant access to facility . . . A second inspection to include management will be conducted on Oct. 1, 2018." Herman took photos through a break in the gate material and as they left the site, they saw Loretta Rael in an S&R van on Tune Drive near US 64.

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**Oct. 1, 2018:** Melanie Sandoval and Herman visited the site again. Steve Rael arrived in 20 minutes and opened the gate. Cell 13 had fresh dirt and so Herman took samples. There were new signs with unreadable waste type ID. Herman requested manifests for the previous week, including any pumping of grease trap waste. Photos were taken and samples collected (duplicate samples given to Rael).

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**Oct. 11, 2018** Herman has emailed John Durham (SNA) a number of reports. In a letter from Michelle Hunter, Chief, Ground Water Quality Bureau of NMED, to Steve Rael dated Aug. 27, 2018, she states "This letter is to notify you that NMED has determined that the above referenced facility **is not operating in compliance with the conditions of the Discharge Permit, the WQCC Regulations and the Water Quality Act.**" She cites failure to submit semi-annual monitoring reports showing compliance with the regulations imposed. Also, she mentions lack of appropriate signage, inadequate construction of concrete splash pads, expiration of the permit (12/27/17) without a renewal application submitted on time; and similar deficiencies observed by NMED inspectors (meeting with Rael and Mansker) at the site on 12/28/17. On 2/19/18, Rael submitted some documents but none of the missing monitoring data.

The semi-annual monitoring reports are due by Aug. 1 and Feb. 1 every year. Hunter's letter further says ". . . to date, NMED **has not received monitoring reports or received incomplete monitoring reports for 2014-2018.**" Rael was told to submit all of the past due reports in their entirety within 30 days of this letter (by Sept. 26, 2018). If a report was missing he was told to explain why and how this would be corrected in the future. "Failure to comply with this letter and the terms of the Discharge Permit may result in the issuance of a formal notice of violation, compliance order, civil penalties, or the filing of an action in district court."

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The Rael's have again requested an extension of 30 days to provide proof of compliance with State-imposed conditions that accompanied their latest permit extension. This will delay the 30-day window for protest letters to go to the State of New Mexico.

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## RESOLUTION 13-41

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF TAOS ESTABLISHING ADMINISTRATIVE POLICIES AND A FEE STRUCTURE PERTAINING TO ALL SEPTIC TANK WASTE TRANSPORTED FROM THE TAOS VALLEY FOR DISPOSAL AT THE TAOS VALLEY REGIONAL WASTEWATER TREATMENT FACILITY.**

**WHEREAS**, the Town Council of the Town of Taos recognizes the need to provide its community and the citizens of Taos County with a means for the disposal and treatment of Septic Waste which is environmentally acceptable;

**NOW THEREFORE**, be it resolved, by the Town Council, the governing body of the Town of Taos, that:

- 1.) A septage discharge facility is established at the Taos Valley Regional Wastewater Treatment Facility, located at 182 Los Cordova Road for the purpose of receiving septic waste from licensed and approved septic haulers.
- 2.) The policies and procedures contained herein shall be followed by all users of this facility.
- 3.) The charges, fees, and rates prescribed herein shall be charged to all users of this facility, and are subject to change as deemed necessary by the Town Council of the Town of Taos.
- 4.) The Town of Taos reserves the right to refuse service to anyone if the user fails to comply with the Policies, Procedures, Rules and Regulations as established herein, or if discharge of such waste poses a threat to the proper treatment of sewerage at the Taos Valley Regional Wastewater Treatment Facility. The fees listed in this resolution shall be in addition to any required by separate ordinance or resolution;

**BE IT FURTHER RESOLVED**, that the policies, procedures, regulations and fees listed herein have been established by the Town Council, the governing body of the Town of Taos as follows:

**Purpose: The Town of Taos Septage receiving station has been constructed for the purpose of providing an environmentally safe and economical disposal site for the discharge of domestic and small commercial septic waste.**

**Location and Hours of Operation:** The Septage receiving station is located at 182 Los Cordovas Road. The hours of operation for the Town of Taos Septage Discharge Facility are from 7:00 AM to 7:00 PM Monday thru Sunday and closed for Town observed holidays.

**Fees:** The discharge fees listed below will be charged based on the actual amount of discharge only if the truck is equipped with an adequate measuring device which has been inspected and approved by a designated representative of the Town of Taos. Any discharge from a truck not having an approved measuring device, will be charged based on truck tank capacity, regardless of the actual gallons being discharged.

Random sampling will be conducted on loads accepted at the septage receiving station, a budget for sampling will be established in the Waste Water Treatment Facility operating budget. In the event the septic hauler discharge an unacceptable load he/she will be billed for the testing and lab results not to exceed \$1500.00 per test and will lose their dumping privileges for up to one (1) year.

Fees for discharging septage waste will be as follows.

<u>TANK CAPACITY</u>	<u>COST PER LOAD</u>
1 - 2000 GALLONS	\$ 45.00
2001 - 3000 GALLONS	\$ 55.00
3001 - 4000 GALLONS	\$ 65.00
4001 - 5000 GALLONS	\$ 75.00

In the event of an after-hour emergency, the septic receiving station, upon proper notification will be made available for discharge. A service fee of \$100.00 per visit will be assessed to the respective account. Emergency contact number is 575-770 2021.

Emergency is defined as:

A septic spill that poses an immediate risk to health, life, property and or environment.

All fees may be subject to change when viewed as necessary by the Town Council of the Town of Taos.

**Account start-up Procedures:** Any Septage hauler wishing to utilize the discharge facility will be required to set up an account at the Utility Billing Office located at 400 Camino de la Placita. Septage haulers will be charged a deposit of \$250.00 to activate their account. Septic Haulers, who have previously established accounts with the Town of Taos for Septic Discharge, will not be required to pay new account deposits. Users will be billed on a monthly basis for the total number of loads discharged during the billing period. All Septage haulers must provide proof of current discharge permit, appropriate State of New Mexico licensing and insurance in order to set up an account for discharging waste. Companies conducting business with the Taos Valley Regional Wastewater Treatment Facility will be required to obtain and renew a business license with the Town of Taos on an annual basis

**Fines for Violations:** This facility has been provided as a service to the community, any misuse or fraudulent use of this facility is subject to fines up to \$5,000.00 and/or revocation of discharge privileges. Fines for any violation to the discharge policies and procedures may be invoked on both the owner and his/her representative when in the opinion of the Town of Taos; the haulers representative knowingly violated the policies and procedures for discharging septic waste.

**Vehicle Inspections:** Any truck discharging at this facility must be inspected to verify size of tank and to insure that no leaks are present prior to allowing the vehicle in question to use this facility. All trucks must have the Company name and tank capacity displayed and clearly visible on the unit. Proof of appropriate permits, licensing and insurance must be kept on each vehicle and made available for inspection upon request. All trucks using this facility are subject to inspection at any time by a representative of the Town of Taos or CH2MHILL. Any vehicle failing to pass inspection will not be allowed to use this facility until all deficiencies are corrected.

**Manifests:** Manifests must be filled out for each pump location and must be submitted to the Town official (CH2MHILL) at the time of discharge. All discharge records will be kept on file and are subject to review by the New Mexico Environment Department. Blank Manifest forms are available at the Town of Taos, Wastewater Treatment Plant. Any falsification of manifest information shall be considered a gross violation and is subject to immediate revocation of privileges and a fine for the maximum allowed by law. Anyone caught committing such a violation will also be reported immediately to the New Mexico Environment Department with a recommendation for severe action by that authority.

**Liability Insurance Requirements:** Prior to discharging septic waste at the designated location, septic haulers must maintain and have available for inspection, proof of liability insurance in an amount at least equal to the minimum requirements set forth by the New Mexico Tort Claims Act, Sec. 41-4-19, N.M.S.A. 1978 (as amended and specified herein) and name the Town of Taos as additional insured on the policy.

- 1.) The sum of one hundred thousand dollars (\$100,000) for damage to or destruction of property arising out of a single occurrence; and
- 2.) The sum of three hundred thousand dollars (\$300,000) for all past and future medical and medically related expenses arising out of a single occurrence; and
- 3.) The sum of four hundred thousand (\$400,000) for any person for any number of claims arising out of a single occurrence for all damages other than property damage and medical and medically related expenses as permitted under the Tort Claims Act; or
- 4.) The sum of seven hundred fifty thousand (\$750,000) for all claims other than medical or medically related expenses arising out of a single occurrence.

**Indemnification:** The Septic Hauler and his/her representatives agree, to the fullest extent permitted by law, to indemnify and hold the TOWN harmless from damages and losses arising from the negligent acts, errors or omissions of the Septic Hauler or his/her representatives in the use of this facility, to the extent that the Septic Hauler is responsible for such damages and losses on a comparative basis of fault and responsibility between the Septic Hauler and the TOWN. The Septic Hauler is not obligated to indemnify the TOWN for its own negligence. The Septic Hauler further agrees to hold harmless the TOWN from all personal claims for any injury or death sustained by the Septic Hauler, his employees, agents or other representatives while engaged in the performance of this contract.

**Subcontractors:** Subcontracting services under a discharge permit or account is not permitted. Such subcontractors will not be allowed to use the Septic Discharge Facility until the subcontractor meets all the conditions set forth herein and operate under his/her own service account with the Town of Taos.

**Acceptable waste:** Domestic wastes from residential and commercial septic tanks are permitted for dumping at the designated receiving site.

**Non-acceptable waste:** Any liquid or vapor having a temperature exceeding 150 degrees, any waste containing fifty parts per million in weight of fat, oil or grease, any waste containing a pH lower than 5.5 or higher than 9 or having corrosive properties capable of causing damage or hazard to structures, equipment or personnel, any waste containing toxic, radioactive or poisonous substances in sufficient amounts to injure or interfere with treatment or constitute a hazard to humans or animals, any sand or grit, any garbage hazardous waste, industrial waste, toxic waste, petroleum products and chemical waste are prohibited from dumping into the Town of Taos sewage disposal site. Septic haulers must make alternate arrangements for disposing of non-acceptable waste materials listed herein.

**Any hauler wishing to discharge waste(s) not listed herein must receive prior approval from the Town of Taos, Wastewater Treatment Plant Manager before discharging at the designated site. If you are uncertain about the type of waste you are proposing to discharge please contact the Town of Taos Wastewater Treatment Plant at (575) 758-8401, or the Utilities Department at (575) 751-2047 or you may visit our office at 1030 Dea Lane between the hours of 8:00AM and 5:00PM Monday thru Friday.**

**Limitations to Service Area:** The Town of Taos recognizes the need to provide this service to our community and surrounding area, however due to concerns with controlling the discharge to this facility, the service area will be limited to waste produced within Taos County and certain approved locations in the immediate surrounding area. Waste produced outside of the service area will not be accepted at this facility. Septic haulers must make other arrangements for disposing of such septic waste. The Taos Valley Regional Waste Water Treatment Facility will only accept a maximum of 10,000 gallons of septic per hauler per day and 30,000 gallons of septic waste combined per day.

**Unloading Procedures:** Drivers must report to the Taos Valley Wastewater Treatment Facility, located at 182 Los Cordovas Road to log in loads, at which time they will be accompanied to the



Septage Receiving Site for unloading. Septic Haulers are responsible for cleaning up all spills and for following all safety procedures while using this facility. A yard hydrant will be available at the discharge site for rinsing tanks. Washing trucks is prohibited at this site. Anyone abusing the use of this hydrant is subject to revocation of privileges. Each hauler must provide a garden hose and spray nozzle for any clean up required after discharging of septic waste, The Town of Taos nor its contractor will not provide hoses for cleanup.

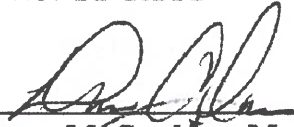
**Any Septic Hauler causing damages to Town of Taos property will be billed for repairing said damages and are subject to fines if said damages were a result of abuse or negligence. Any violation(s) to the discharge regulations will result in citations and possible revocation of discharge privileges.**

**All Policies, Procedures and Fee's described herein are subject to change at the discretion of the Town of Taos.**

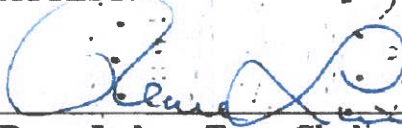
**PASSED, APPROVED and ADOPTED**, this 22rd day of October, 2013, at the Regular Meeting of the Town Council by the following vote:

- Mayor Pro Tem Andrew T. Gonzales     yes
- Councilmember Rudy C. Abeyta         yes
- Councilmember Michael A. Silva        yes
- Councilmember Frederick A. Peralta    yes

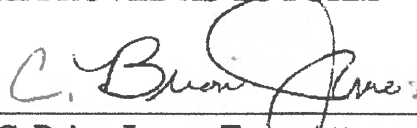
**TOWN OF TAOS**

  
\_\_\_\_\_  
Darren M. Cordova, Mayor

**ATTEST:**

  
\_\_\_\_\_  
Renee Lucero, Town Clerk

**APPROVED AS TO FORM**

  
\_\_\_\_\_  
C. Brian James, Town Attorney

**Acknowledgment of Receipt of Policies and Procedures Governing the Use of the Town of Taos Septic Receiving Facility.**

I the undersigned representative for CHAM HILL, acknowledge receipt of the Policies and Procedures governing the use of the Town of Taos Septage Receiving Facility, and agree to comply with all the terms and conditions listed herein while using this facility. It is further understood and agreed, that it shall be the responsibility of the undersigned septic waste hauler to inform any employee or representative of said hauler of all policies,

procedures, rules, regulations and fees related to the use of this facility. Failure to inform his/her employees shall constitute a violation and is subject to revocation and/or fines as outlined in the Policies and Procedures.

Company Name: CH2M HILL

*Anthony J. Mantua*  
Signature

12-4-13  
Date

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