

STATE OF NEW MEXICO
BEFORE THE SECRETARY OF ENVIRONMENT



IN THE MATTER OF:)
THE APPLICATION OF S&R)
SEPTIC FOR THE RENEWAL OF)
A SEPTIC DISPOSAL FACILITY,)
DISCHARGE PERMIT, DP-465)

GWB 19-28 (P)

APPLICANT S&R SEPTIC'S AMENDED CLOSING SUMMARY,
JOINDER IN NMED'S PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF
LAW
AND SUBMISSION OF ADDITIONAL FINDINGS OF FACTS
AND CONCLUSIONS OF LAW

CLOSING SUMMARY

S&R concurs with the closing summary of NMED and provides the following additional summary:

Jay Snyder testified on behalf of S&R with respect to groundwater issues. Mr. Snyder testified that he had bachelor's degrees in geology and meteorology, master's degrees in geophysics and geological engineering. Mr. Snyder is a licensed professional engineer in New Mexico, a licensed geologist in 14 states, a certified hydrogeologist by the state of California and a professional hydrologist by the American Institute of Hydrology. Mr. Snyder has done contaminate study for 30 years. He does site investigations and characterization all the way to cleanup and closure. Mr. Snyder has been qualified as an expert witness with the Water Quality Control Commission and in NMED public hearings. Mr. Snyder works for Region 6 EPA, Region 9 EPA, has worked directly for the state of New Mexico and worked for responsible parties and permittees. Mr. Snyder was accepted as an expert witness.

Mr. Snyder's testimony provided a sound basis for his expert opinions. Mr. Snyder's expert opinions are persuasive and were not contradicted by any other expert in the case. Mr. Snyder's opinions are contained in his Snyder/EA exhibits 1-6 as well as in his testimony from pages 88 to 136 of the transcript. His opinions support the compromise language in conditions 21 and 22 satisfying the applicable regulations and vadose zone and groundwater concerns.

In conclusion S&R supports a discharge permit as described in NMED's Proposed Findings of Fact and Conclusions of Law.

COLLATERAL ESTOPPEL

S&R withdraws its oral motion for collateral estoppel.

JOINDER

S&R joins in and supports and agrees with the findings and conclusions in NMED's proposed findings of fact and conclusions of law filed on November 27, 2019.

ADDITIONAL FINDINGS OF FACT AND CONCLUSIONS OF LAW BY S&R

48a. S&R concurs with NMED finding of fact 48 and agrees that conditions 23-28 should be interpreted with the following phrase preceding them: "where similar language does not already exist, they should now be interpreted with the following phrase preceding them: "if for any reason monitoring wells are required to be installed..."

45a. The operational plan requires lime treatment of sludge and septage which shall be mixed with lime and held at a ph of 12.0 for 30 minutes. This shall be documented in a manifest. See conditions 12, 15.

45b. Testimony of both Jay Snyder and Steve Rael provide evidence that the lime treatment meets EPA protocol and is utilized for treatment of vectors that might arise from the sludge and septage. These requirements were placed in previous permits to address vectors and public health concerns and they continue to be required.

31a. Jay Snyder was qualified as an expert in geology, hydrogeology and geologic engineering. His education, training, and experience demonstrates that he is fully qualified to provide the opinions that support modified conditions 21 and 22 as an appropriate method to monitor the vadose zone for groundwater concerns. Further his explanation of evaporation demonstrates that the threat to groundwater needs to be considered in light of significant evaporation due to design and operational changes that have been incorporated in previous permits and remain part of this permit.

31b. Jay Snyder's testimony including expert opinions and basis as set forth in EA/Snyder Exhibits 1-6 admitted at hearing and his testimony pages 88 and 136 provide persuasive technical support for the compromised conditions 21 and 22 set forth Exhibit 1 to NMED's Proposed Findings which S&R agrees to.

CONCLUSIONS OF LAW

65. The administrative record and hearing record, including hearing exhibits and testimony, demonstrate that the discharge plan meets the requirements of the regulations and will not result in a hazard to public health or undue risk to property in accordance with 20.6.2.3109(c) NMAC.

66. S&R has demonstrated by a preponderance of evidence that the discharge permit as described in paragraph 64 of NMED's Proposed Findings of Fact and Conclusions of Law should issued.

Respectfully submitted,

DOMENICI LAW FIRM, P.C.

/s/ Pete V. Domenici, Jr.

Pete V. Domenici, Jr., Esq.

320 Gold Avenue SW, Suite 1000

Albuquerque, New Mexico 87102

(505) 883-6250

pdomenici@domicilaw.com

I hereby certify that a true and correct copy of the foregoing was provided to opposing counsel of record this 2nd day of December, 2019 via e-mail.

/s/ Pete V. Domenici, Jr.

Pete V. Domenici, Jr., Esq.