



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1201 ELM STREET, SUITE 500
DALLAS, TEXAS 75270-2102**

TRANSMITTED VIA EMAIL

Mr. Chad Gaines
Environmental Systems Manager
Lee Ranch Coal Company
P. O. Box 757
Grants, NM 87020
Gaines@peabodyenergy.com

Re: Administrative Order Docket Number: CWA-06-2020-1810
Lee Ranch Coal Company
NPDES Permit Number: NM0029581

Dear Mr. Gaines:

Enclosed is an Administrative Order (AO) issued to the Lee Ranch Coal Company for violations of the Clean Water Act (CWA) 33 U.S.C. § 1251-1387. The violations currently alleged were identified during a review of the Discharge Monitoring Reports (DMRs). The violations alleged are for failing to submit the quarterly DMRs from June 2018 through June 2019. The EPA requests that you immediately confirm receipt of this e-mail and the attached Order by a response e-mail to williams.nancy@epa.gov. This Order is effective immediately upon receipt.

This AO does not include a monetary penalty; however, it does require compliance with Applicable federal regulations. The first compliance deadline is within thirty (30) days of receipt of this AO. The Environmental Protection Agency is committed to ensuring compliance with the requirements of the National Pollutant Discharge Elimination System (NPDES) program, and my staff will assist you in any way possible. Please reference AO Docket Number CWA-06-2020-1810 and NPDES Number NM0029581 in your response.

The EPA acknowledge that the COVID-19 pandemic may impact your business. If that is the case, please contact us regarding any specific issues you need to discuss. If you have any questions, please contact Ms. Nancy Williams, of my staff, at 214-665-7179 or williams.nancy@epa.gov.

Sincerely,

Cheryl T. Seager, Director
Enforcement and
Compliance Assurance Division

Enclosure(s)

ec: Ms. Shelly Lemon, NMED Bureau Chief
Shelly.lemon@state.nm.us



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1201 ELM STREET, SUITE 500
DALLAS, TEXAS 75270-2102**

**FINDINGS OF VIOLATION AND COMPLIANCE ORDER
Docket Number: CWA-06-2020-1810, NPDES Permit No.: NM0029581**

STATUTORY AUTHORITY

The following findings are made, and Order issued, under the authority vested in the Administrator of the United States Environmental Protection Agency (EPA) by Section 309(a) of the Clean Water Act (Act), 33 U.S.C. § 1319(a). The Administrator of EPA delegated the authority to issue this Order to the Regional Administrator of EPA Region 6, who further delegated this authority to the Director of the Enforcement and Compliance Assurance Division.

FINDINGS

1. Lee Ranch Coal Company (Respondent) is a corporation which was incorporated under the laws of the State of Texas, and as such, is a "person" as that term is defined at Section 502(5) of the Act, 33 U.S.C. § 1362(5), and 40 C.F.R. § 122.2.
2. At all times relevant to this Order, Respondent owned or operated a domestic wastewater treatment facility located at 35 miles north of Milan, near Grants, McKinley County, New Mexico ("facility"), and was, therefore, an "owner or operator" within the meaning of 40 C.F.R. § 122.2.
3. At all relevant times, the facility was a "point source" of a "discharge" of "pollutants" with its municipal wastewater to the following receiving waters at sections of Mulatto Canyon, Arroyo Tinaja and San Isidro Arroyo as identified on the applicable Use Attainability Analysis map on NMED's water quality standards website subject to 20.6.4.97 NMAC; unnamed tributaries, San Isidro Arroyo, Arroyo Tinaja, Doctor Arroyo, thence to San Isidro Arroyo all subject to 20.6.4.98 NMAC if intermittent or 20.6.4.99 NMAC, if perennial; and San Miguel Canyon subject to 20.6.4.98 NMAC, thence to Arroyo Chico, thence to Rio Puerco, thence to Rio Grande in classified Segment 20.6.4.105 of the Rio Grande Basin which are waters of the United States within the meaning of Section 502 of the Act, 33 U.S.C. § 1362, and 40 C.F.R. § 122.2.
4. Because Respondent owned or operated a facility that acted as a point source of discharges of pollutants to waters of the United States, Respondent and the facility were subject to the Act and the National Pollutant Discharge Elimination System ("NPDES") program.
5. Under Section 301 of the Act, 33 U.S.C. § 1311, it is unlawful for any person to discharge any pollutant from a point source to waters of the United States, except with the authorization of, and in compliance with, an NPDES permit issued pursuant to Section 402 of the Act, 33 U.S.C. § 1342
6. Section 402(a) of the Act, 33 U.S.C. § 1342(a), provides that the Administrator of EPA may issue permits under the NPDES program for the discharge of pollutants from point sources to waters of the United States. Any such discharge is subject to the specific terms and conditions prescribed in the applicable permit.
7. Respondent applied for and was issued NPDES Permit No. NM0029581 (herein the permit) under Section 402 of the Act, 33 U.S.C. § 1342, which became effective on June 1, 2018. At all relevant times, Respondent was authorized to discharge pollutants from the facility to waters of the United States only in compliance with the specific terms and conditions of the permit.
8. Parts III.C and III.D of the permit require the Respondent to sample and test its effluent and monitor its compliance with permit conditions according to specific procedures, in order to determine the facility's compliance or noncompliance with the permit and applicable regulations. They also require the Respondent to file with EPA certified Discharge Monitoring Reports ("DMRs") of the results of monitoring, and Noncompliance Reports when appropriate.
9. Part I.C of the permit requires that reports shall be submitted quarterly:

- a. Reporting periods shall end on the last day of the months March, June, September and December.
- b. The permittee is required to submit regular reports as described above postmarked no later than the 28th of the month following each reporting period.
- c. NO DISCHARGE REPORTING: If there is no discharge during the sampling month, place an "X" in the NO DISCHARGE box located in the upper right corner of the Discharge Monitoring Report.

10. Respondent failed to timely submit DMRs for the period of June 30, 2018 to June 30, 2019, as specified in Table A, in violation of Part I.C of the permit and Section 301 of the Act, 33 U.S.C. § 1311. To date, the DMRs for June 30, 2018 to June 30, 2019 have not been received in this office.

11. Each violation of the conditions of the permit or regulations described above is a violation of Section 301 of the Act, 33 U.S.C. § 1311.

SECTION 309 (a)(3) COMPLIANCE ORDER

Based on the foregoing Findings and pursuant to the authority of Section 309 of the Act, EPA hereby orders Respondent to take the following actions:

A. Respondent shall immediately comply and continue to comply with Part I.C of the permit and submit timely quarterly DMRs.

B. Within thirty (30) days of the Effective Date of this Order, the Respondent shall submit the required DMRs for the months of June 2018-June 2019.

C. Within thirty (30) days of the effective date of this Order, Respondent shall submit a list of the specific actions taken to correct the reporting violations cited in this Order.

D. Within thirty (30) days of the effective date of this Order, Respondent shall provide written certification to EPA, Region 6 that the violations cited herein have

been corrected and that the facility is in compliance with the requirements of the permit.

E. In the event that Respondent believes complete correction of the violations cited herein is not possible within thirty (30) days of the effective date of this Order, Respondent shall, within thirty (30) days of the effective date of this Order, submit a comprehensive written plan for the elimination of the cited violations within the shortest possible time. Such plan shall describe in detail the specific corrective actions to be taken and why such actions are sufficient to correct the violations. The plan shall include a detailed schedule for the elimination of the violations within the shortest possible time, as well as measures to prevent these or similar violations from recurring.

F. If Respondent would like to arrange a meeting with EPA to discuss the allegations in this Order, it should contact EPA within forty-five (45) days of the effective date of this Order. The meeting will be held at the Region 6 offices, 1201 Elm Street, Dallas, Texas, and Respondent can provide any information it believes is relevant to this Order. Respondent shall submit to EPA all information or materials it considers relevant to EPA at least ten (10) days prior to the meeting.

G. To arrange a meeting, or to ask questions or comment on this matter, please contact Ms. Nancy Williams, of my staff, at (214) 665-7179.

H. Any information or correspondence submitted by Respondent to EPA under this Order shall be addressed to the following:

Ms. Nancy Williams
Water Enforcement Branch (6ECD-WA)
EPA, Region 6
1201 Elm Street, Suite 500
Dallas, TX 75270-2102
and williams.nancy@epa.gov

GENERAL PROVISIONS

Issuance of this Section 309(a)(3) Compliance Order shall not be deemed an election by EPA to forego any administrative, judicial, civil or criminal action to

seek penalties, fines, or any other relief appropriate under the Act for the violations cited herein, or other violations that become known to EPA. EPA reserves the right to seek any remedy available under the law that it deems appropriate.

Respondent may seek federal judicial review of the Order pursuant to Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-706.

Failure to comply with this Section 309(a)(3) Compliance Order or the Act may result in further administrative action, or a civil judicial action initiated by the United States Department of Justice.

This Order does not constitute a waiver or modification of the terms or conditions of Respondent's NPDES permit, which remains in full force and effect. Compliance with the terms and conditions of this Order does not relieve Respondent of its obligation to comply with any applicable federal, state, or local law or regulation.

The effective date of this Order is the date it is received by the Respondent.

September 29, 2020

Date



Digitally signed by CHERYL SEAGER
DN: c=US, o=U.S. Government, ou=Environmental Protection Agency,
cn=CHERYL SEAGER, 0.9.2342.19200300.100.1.1=68001003651793
Date: 2020.09.29 16:24:47 -05'00'

Cheryl T. Seager, Director
Enforcement and
Compliance Assurance Division

LEE RANCH COAL COMPANY

NM0029581

TABLE A
DMR NON-SUBMITTAL RECORD

DMR MONITORING PERIOD	DMR OUTFALLS	DMR DUE DATES
JUNE 2018	027A, 027R, 061A,062A, 091A, 092A, 093A, 094A	JULY 28, 2018
JULY-SEPTEMBER 2018	027A, 027R, 061A,062A, 091A, 092A, 093A, 094A	OCTOBER 28, 2018
OCTOBER-DECEMBER 2018	027A, 027R, 061A,062A, 091A, 092A, 093A, 094A	JANUARY 28, 2019
JANUARY-MARCH 2019	027A, 027R, 061A,062A, 091A, 092A, 093A, 094A	APRIL 28, 2019
APRIL-JUNE 2019	027A, 027R, 061A,062A, 091A, 092A, 093A, 094A	JULY 28,2019