



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS, TEXAS 75202-2733

JAN 03 2018

CERTIFIED MAIL-RETURN RECEIPT REQUESTED: 7014 0150 0000 2454 3718

Mr. Mike Colletto
Rio de Arenas Mobile Home Park, LLC
P.O. Box 1649
Oakdale, CA 95361

Re: Administrative Order; Docket Number: CWA-06-2018-1723
NPDES Permit Number: NM0027375

Dear Mr. Colletto:

Enclosed is an Administrative Order (AO) issued to Rio de Arenas Mobile Home Park, LLC for violation of the Clean Water Act (CWA) (33 U.S.C. §§ 1251-1387). The violation was identified during a review of the permit file for your Rio de Arenas Wastewater Treatment Plant for the Rio de Arenas Mobile Home Park. The violation alleged is for failure to submit required Discharge Monitoring Reports.

This AO does not assess a monetary penalty; however, it does require compliance with applicable federal regulations. The first compliance deadline is within thirty days of receipt of the AO. The AO also contains other compliance deadlines and certain information. The Environmental Protection Agency, Region 6 (EPA) 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-06-2018-1723 and NPDES Permit Number NM0027375 on your response.

If you have any questions, please contact Ms. Rachel Matthews, of my staff, at (214) 665-8589.

Sincerely,

A handwritten signature in black ink, appearing to read "Cheryl T. Seager", is written over a horizontal line.

Cheryl T. Seager
Director
Compliance Assurance and
Enforcement Division

Enclosure

Re: Administrative Order
Rio de Arenas Mobile Home Park, LLC

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cc: Mr. William Perkins
Registered Agent for Rio de Arenas Mobile Home Park, LLC
1311 N. Grant St.
Silver City, NM 88061

Ms. Shelly Lemon, Acting Chief
Surface Water Quality Bureau
New Mexico Environment Department
P.O. Box 5469
Santa Fe, NM 87502-5469

Mr. Manny Orosco, Operator
Rio de Arenas Mobile Home Park
3 Rio de Arenas Road, Space G2
Silver City, NM 88061

Mr. Robert Merchant
Registered Agent
CCI Investments, LLC
144 S. First Ave.
Oakdale, CA 95361

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 6**

In the Matter of	§	Docket No. CWA-06-2018-1723
	§	
Rio de Arenas Mobile Home Park, LLC	§	FINDINGS OF VIOLATION
	§	AND
Respondent	§	ORDER FOR COMPLIANCE
	§	
Permit No. NM0027375	§	

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 (“the 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 Compliance Assurance and Enforcement Division.

Findings

1. Rio de Arenas Mobile Home Park, LLC (“Respondent”) is a limited liability company, which was incorporated under the laws of the State of New Mexico, and as such, Respondent 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 (“all relevant times”), Respondent owned or operated the Rio de Arenas wastewater treatment plant, located at the Rio de Arenas Mobile Home Park, Arenas Valley, Grant 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 acted as a “point source” of a “discharge” of “pollutants” with its wastewater discharge to the receiving waters of Rio de Arenas, an intermittent stream; thence to San Vicente Arroyo, a naturally ephemeral stream in the Mimbres River Closed Basin; which are a “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 purchased the facility on December 10, 2014, thereby taking over responsibility of the NPDES Permit No. NM0027375 (“permit”) issued under Section 402 of the Act, 33 U.S.C. § 1342, which became effective on June 1, 2015. On July 18, 2017, EPA issued a minor modification of the permit reflecting the transfer of the permit for Rio de Arenas wastewater

treatment plant to Respondent. 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 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. The permit also requires Respondent to file with EPA certified Discharge Monitoring Reports ("DMRs") of the results of monitoring, and Noncompliance Reports when appropriate.

9. Part I.A. of the permit places certain limitations on the quality and quantity of effluent discharged by Respondent as well as monitoring requirements.

10. Part I.C. of the permit requires Respondent to submit monthly DMRs on a quarterly basis, no later than the 28th day of the month following the months of December, March, June, and September.

11. Part 1.C. of the permit was violated in that Respondent failed to submit monthly DMRs for the following months: October, November, December of 2014, (DMRs due on January 28, 2015) and January-September of 2017 (DMRs due on the 28th of April, July, and October 2017).

12. On May 2, 2016, EPA issued Administrative Order Docket Number CWA-06-2016-1762, under the authority of Section 309(a) of the Act, 33 U.S.C. § 1319(a), citing violations for failure to submit monthly DMRs for the facility. To date, the 2014 DMRs referenced in paragraph 11, *supra*, and cited in the May 2, 2016 Administrative Order have not been submitted to EPA.

13. 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(a)(3) of the Act, EPA hereby orders Respondent to take the following actions:

- A. Take such measures as are necessary to comply with all permit conditions, including “Effluent Limitations and Monitoring and Reporting Requirements,” no later than thirty (30) days from the effective date of the Order.
- B. Within thirty (30) days of the effective date of this Order, Respondent shall submit to EPA all DMRs for the time periods listed in paragraph 11.
- C. Within thirty (30) days of the effective date of this Order, Respondent shall submit a written report detailing the specific actions taken to correct the violations cited above.
- D. Within forty-five (45) days of the effective date of this Order, Respondent shall provide written certification to EPA that the violations cited herein have been corrected and the facility is in compliance with the requirements of the permit.
- E. In the event it will take the Respondent longer than thirty (30) days to achieve compliance with the permit requirements, Respondent shall provide EPA for review and approval a list of all non-compliance related deficiencies and a schedule for repair/correction for each

deficiency. The list shall be provided within thirty (30) days of the effective date of this Order.

- F. Any approved compliance schedule will be incorporated and re-issued in a future administrative order.
- G. If Respondent would like to arrange a meeting with EPA to discuss the allegations in this Section 309(a)(3) Compliance 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, 1445 Ross Ave., Dallas, Texas, and the 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.
- H. To arrange a meeting, or to ask questions or comment on this matter, please contact Rachel Matthews, of my staff, at (214) 665-8589.
- I. Any information or correspondence submitted by the Respondent to EPA under this Order shall be addressed to the following:

Nancy Williams
Water Enforcement Branch (6EN-WC)
EPA, Region 6
1445 Ross Ave., Suite 1200
Dallas, TX 75202-2733

General Provisions

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

Issuance of this Section 309(a)(3) Compliance Order shall not be deemed an election by EPA to waive any administrative or 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.

Failure to comply with this Section 309(a)(3) Compliance Order or the Act can 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 remain 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 laws or regulations.

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

1/3/2018
Date


Cheryl T. Seager
Director
Compliance Assurance and
Enforcement Division