



SUSANA MARTINEZ  
Governor

JOHN A. SANCHEZ  
Lieutenant Governor

NEW MEXICO  
ENVIRONMENT DEPARTMENT

*Ground Water Quality Bureau*  
1190 South St. Francis Drive (87505)  
P.O. Box 5469, Santa Fe, New Mexico 87502-5469  
Phone (505) 827-2900 Fax (505) 827-2965  
[www.env.nm.gov](http://www.env.nm.gov)



BUTCH TONGATE  
Cabinet Secretary

J.C. BORREGO  
Deputy Secretary

**NOTICE OF VIOLATION**

**Certified Mail - Return Receipt Requested**

September 5, 2018

Honorable John Bassett, Mayor  
Town of Edgewood  
P.O. Box 3610  
Edgewood, NM 87105

**RE: Notice of Violation, Town of Edgewood Wastewater Treatment Plant, DP-1654**

Dear Mayor Bassett:

On September 4, 2015, the New Mexico Environment Department (NMED) issued a Discharge Permit Renewal, DP-1654, (Discharge Permit; copy enclosed) to the Town of Edgewood (permittee) pursuant to Section 20.6.2.3109 NMAC of the Water Quality Control Commission (WQCC) Ground and Surface Water Protection Regulations (20.6.2 NMAC). Section 20.6.2.3104 NMAC requires the permittee to comply with the terms and conditions of this Discharge Permit.

NMED has determined that the above referenced facility is operating in violation of the conditions of the Discharge Permit, the WQCC Regulations and the Water Quality Act (WQA). Please be advised that prompt action is required as described herein. The facility is located one mile east of the intersection of Church Street and Williams Ranch Road, Edgewood, Santa Fe County.

**A summary of the events resulting in the determination of violations at this facility follows.**

On July 11, 2018, NMED received complaints from the public concerning the discharge of water from the Town of Edgewood's Wastewater Treatment Plant to an area outside of the dedicated facility. NMED performed an unannounced site inspection on July 12, 2018 and met with Mike Butler (contracted operator) and Mike Garcia (onsite operator). At the inspection, NMED staff observed wastewater leaving the facility through a hole in the fence and being discharged into unlined impoundments outside of the facility. In addition, biosolids from the wastewater treatment process were placed directly on the bare ground. NMED staff discussed the public complaint, the

observed compliance issues, and the requirement to report the unauthorized discharge of wastewater with the facility representatives. To date, the facility has not submitted a notification of discharge.

**The requirements of the Discharge Permit, resultant violations and associated actions necessary to correct the violations are identified below.**

1. The Authorization to Discharge on Page 3 of the Discharge Permit authorizes the permittee to reuse reclaimed wastewater for dust control or for irrigation on Town-owned properties, or to discharge the reclaimed wastewater to a synthetically lined impoundment system for evaporation.

Section 20.6.2.3104 NMAC states that “no person shall cause or allow effluent or leachate to discharge so that it may move directly or indirectly into ground water unless he is discharging pursuant to a discharge permit issued by the secretary. When a permit has been issued, discharges must be consistent with the terms and conditions of the permit.”

Condition 41 of the Discharge Permit requires notifications and corrective actions in the event of an unauthorized discharge. In particular, within 15 days of an unauthorized discharge, “the permittee shall submit a corrective action report/plan to NMED describing any corrective actions taken and/or to be taken ...”

The permit and the cited regulation have been violated because, during the approximate time period of July 9 to July 11, 2018, treated effluent was discharged to an unauthorized location such that it could move directly or indirectly into groundwater. To date, NMED has not received the required notifications or corrective action report.

In order to correct these violations, **by September 28, 2018**, the Town of Edgewood must submit to NMED for approval a corrective action report that contains:

- a. The following information required by Condition 41:
  - the name, address, and telephone number of the person or persons in charge of the facility, as well as of the owner and/or operator of the facility;
  - the name and address of the facility;
  - the date, time, location, and duration of the discharge;
  - the source and cause of discharge;
  - a description of the discharge, including its chemical composition;
  - the estimated volume of the discharge; and
  - any actions taken to mitigate immediate damage from the discharge.
- b. Documentation that the discharge has ceased and that the hole in the fence has been repaired.

- c. A plan for completing closure of the unlined impoundments by October 31, 2018 as follows: dewatering and backfilling the unlined impoundments and regarding the site to blend with surface topography to promote positive drainage and prevent ponding.
  - d. A description of proposed actions to prevent future unauthorized discharges of this nature.
2. Conditions 5, 6, and 7 of the Discharge Permit require the submittal of a written emergency storage impoundment or alternate disposal method proposal, submittal of final construction plans and specifications, construction of the impoundment or alternate disposal method, and submittal of record drawings upon completion of construction. Construction was to have been completed by September 3, 2016.

These conditions have been violated because, to date, NMED has not the received the required proposal or plans and specifications for an emergency disposal method, nor has construction occurred.

In order to correct these violations, the Town of Edgewood must submit for NMED approval a written proposal for an emergency storage impoundment or alternate disposal method, as required by Condition 5 of the Discharge Permit, **by November 1, 2018**. Further, the Town must submit plans and specifications for NMED approval as required by Condition 6, and complete construction as required by Condition 7 **by November 1, 2019**.

3. Conditions 8 and 9 of the Discharge Permit require the submittal of construction plans and specifications for construction of an impervious surface for composting of the dewatered sludge, construction of the impervious surface, and submittal of record drawings. Construction was to have been completed by March 2, 2016.

These conditions have been violated because, to date, NMED has not the received the required plans and specifications for the impervious surface, nor has construction occurred.

In order to correct these violations, the Town of Edgewood must submit the construction plans and specifications as required by Condition 8 to NMED **by October 1, 2018** and complete construction as required by Condition 9 **by November 1, 2018**.

4. Condition 17 of the Discharge Permit requires that the permittee preserve a minimum of two feet of freeboard between the liquid level in the impoundment and the elevation of the top of the impoundment liner. In the event that two feet of freeboard cannot be preserved in the impoundment, the permittee is to submit a corrective action plan to NMED for approval, as required by Condition 40.

This condition has been violated because the permittee failed to submit a corrective action plan to NMED for approval before discharging excess wastewater to restore the required freeboard.

In order to correct this violation, the Town of Edgewood must not resume emergency discharges from the impoundment without an approved corrective action plan.

5. Condition 19 of the Discharge Permit requires that solids removed from the treatment process shall be contained, transported, and disposed of in accordance with all local, state, and federal regulations.

This condition has been violated because solids were being placed on the ground, as observed by NMED staff at the inspection on July 12, 2018. The solids were not contained to prevent leachate from percolating into the ground.

In order to correct this violation, the Town of Edgewood must submit documentation that all solids placed on the ground have been removed and properly disposed of by **October 1, 2018**. In addition, the Town must conduct sampling beneath the area where the solids were stockpiled. Soil samples shall be collected at depths of 4-5 feet, 9-10 feet and 19-20 feet below the affected area. Each sample shall consist of a single composite of 5 soil cores collected from across the affected area at the specified depth. The samples shall be analyzed for total Kjeldahl nitrogen (TKN) and nitrate-nitrogen (NO<sub>3</sub>-N). Soil NO<sub>3</sub>-N shall be analyzed by a 2 molar KCl extract, as described in Section 33-3.2 of Methods of Soil Analysis, Part 2, American Society of Agronomy. The results of the soil sampling, including a copy of the laboratory report, shall be submitted by **November 1, 2018**.

6. Condition 33 of the Discharge Permit states that the permittee shall analyze treated wastewater on a quarterly basis for TKN, NO<sub>3</sub>-N, TDS and Cl and submit the results to NMED in the quarterly monitoring reports. Condition 34 states that the permittee shall analyze reclaimed wastewater samples collected following the UV disinfection system for fecal coliform bacteria, BOD<sub>5</sub>, turbidity and UV transmissivity, and submit the results in quarterly monitoring reports.

These conditions have been violated because the permittee failed to include analytical results for TDS, Cl, fecal coliform bacteria, and UV transmissivity in the monitoring reports submitted since July 2017. The monitoring reports indicate that the permittee has been sampling for E. coli bacteria instead of fecal coliform bacteria.

In order to correct this violation, the Town of Edgewood must ensure that all required sampling is conducted, and the results reported in future monitoring reports. Please also include descriptions or maps indicating where the sampling takes place, and copies of analytical reports from the laboratory.

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Pursuant to WQA § 74-6-5, NMED has authority to terminate or modify the Discharge Permit prior to its date of expiration for any of the following causes:

1. violation of any condition of the permit;
2. obtaining the permit by misrepresentation or failure to disclose fully all relevant facts;
3. violation of any provisions of the WQA, or any applicable regulations, standard of performance or water quality standards;

4. violation of any applicable state or federal effluent regulations or limitations; or
5. change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge.

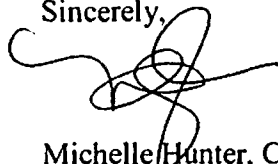
Additionally, failure to comply with this Notice of Violation may result in NMED's issuance of a compliance order that assesses a civil penalty pursuant to WQA § 74-6-10. Civil penalties may also be assessed for up to \$15,000 per day for each violation of the WQA § 74-6-5, any regulation promulgated pursuant to that section or any permit issued pursuant to that section. Civil penalties may be assessed for up to \$10,000 per day for each violation of any other provision of the WQA, or any regulation, standard, or order adopted pursuant to such other provision.

As an alternative to the remedies described above, NMED may commence an action in district court for appropriate relief, including injunctive relief.

Nothing in this letter shall be construed as relieving the permittee of the obligation to comply with all requirements of the Discharge Permit, the WQCC Regulations, the WQA, and other applicable federal, state, and local laws, regulations, permits or orders. This letter is intended to obtain voluntary compliance in addressing violations of certain requirements of the Discharge Permit and may not address all violations. It is the responsibility of the permittee to be familiar with and comply with the Discharge Permit.

If you have any questions regarding this matter, please contact Steve Pullen, Program Manager of the Ground Water Pollution Prevention Section, at (505) 827-2962 or Kellie Jones at (505) 827-2949.

Sincerely,



Michelle Hunter, Chief  
Ground Water Quality Bureau

MH:KJ

enc: Discharge Permit Renewal, DP-1654, dated September 4, 2015

cc: Bruce Yurdin, Division Director, Water Protection Division  
Steve Pullen, Program Manager  
Robert Italiano, District Manager, NMED District II  
Sherry Abraham, Town of Edgewood City Councilor, [sabraham@edgewood-nm.gov](mailto:sabraham@edgewood-nm.gov)