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NOTICE OF VIOLATION
Certified Mail - Return Receipt Requested

January 17, 2008

Larry Webb, Utilities Director
City of Rio Rancho
PO Box 15550
Rio Rancho, NM 87124

Notice of Violation, City of Rio Rancho, DP-179

Dear Mr. Webb:

The New Mexico Environment Department (NMED) has determined that the City of Rio Rancho (City) is in violation of conditions of its permit, DP-179, and that it is discharging at the Chamisa Hills Golf and Country Club without a permit. As a result, the City is in violation of the Water Quality Act (WQA) and the Water Quality Control Commission (WQCC) Regulations (20.6.2 NMAC).

Pursuant to Section 20.6.2.3104 NMAC, 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. Since the City acquired the waste water treatment plants for Rio Rancho, in 1995, the City and the Department have worked with the understanding that the City would be responsible for all effluent discharges at the golf course, including all re-use and storage of effluent. The conditions of DP-179 require that the City inspect the effluent storage lagoons at the golf course, and if needed, submit a corrective action plan to the Department. The City has not fulfilled this responsibility. To the extent that the City believes that the discharges are not within its permit, the discharges from effluent storage lagoons are discharges without a permit, in violation of 20.6.2.3104 NMAC.

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

1. On February 24, 1982, Albuquerque Utilities Corporation submitted a Notice of Intent to Discharge with the Environmental Improvement Division of the Health and Environment

Department, which is the predecessor agency to the New Mexico Environment Department. The Notice of Intent to Discharge included irrigation on 90 acres of golf course, and attached a map showing two sets of lagoons at the golf course.

2. On August 16, 1982, a discharge plan (DP-215) for Albuquerque Utilities' land application of municipal wastewater at the Chamisa Hills Golf Course and adjoining rangeland was approved.

3. On May 14, 1987, the Environmental Improvement Division approved the renewal and modification of DP-215 for Albuquerque Utilities Corporation's Waste Water Treatment Plant No. 1, including discharges at the golf course.

4. At some time between September 11, 1990 and December 21, 1990, the entity operating Wastewater Treatment Plants No. 1 and 2 serving Rio Rancho changed from Albuquerque Utilities Corporation to Rio Rancho Utilities Corporation.

5. On April 2, 1992, the Rio Rancho Utilities Corporation submitted an application for a discharge plan renewal for DP-215.

6. On July 2, 1992, the Department approved the renewal of DP-215 for Rio Rancho Utilities Corporation.

7. By letter dated June 26, 1995, counsel for the City informed the Department that the City was condemning the assets of Rio Rancho Utilities Corporation, including its Discharge Plans, as of June 30, 1995. Attached to the letter was a certification by the Administrator of the City stating that the City would take possession and control of the discharge Plans, including DP-215, and that the City assumed responsibility for the exercise of the Discharge Plans and would have the same rights and responsibilities under the Discharge Plans as applicable to the current holder of those plans, United Water New Mexico, Inc. f/k/a Rio Rancho Utilities Corporation.

8. On July 23, 1999, the Department issued a Discharge Plan Renewal and Modification for DP-215 for the discharge of up to 1.25 million gallons per day of treated domestic wastewater to the Chamisa Hills Golf Course. The permit states that "Up to 1.25 million gpd of treated domestic wastewater from WWTP #1 is discharged to three synthetically lined lakes at the Chamisa Hills Golf Course. Wastewater from the golf course lakes is discharged using a sprinkler system to irrigate 276 acres of golf course located at Chamisa Hills Golf Course in Sections 19, 20, and 30, T12N, R3E, and Sections 24 and 25, T12N, R2E."

9. Under the renewed and modified DP-215, issued on July 23, 1999, the City continued to be responsible for all discharges of effluent from its wastewater treatment plants made at the golf course. The permit renewal and modification was not appealed by the City.

10. In June of 2003, following an inquiry by the City's wastewater contract operations firm, Operation and Maintenance Incorporated (OMI), the Department informed the City that the discharges at the golf course could be removed from the City's permit, and the golf course could apply for a separate Discharge Permit. The City informed the Department that it preferred to continue to be permitted and responsible for discharges of effluent at Chamisa Hills Golf Course. In the context of these discussions, the Department informed the City that if the City kept the discharges at the golf course under its permits, it would be responsible for those discharges.

11. On September 24, 2003, the Department sent a letter reminding the City that its discharge permit DP-215 would expire on July 23, 2004, and that it should apply for a renewal.

12. By letter dated May 27, 2005, the City requested that the effluent total nitrogen limit for discharges from Wastewater Treatment Plants #1 and #2 be increased from 15 mg/L monthly and 10 mg/L quarterly averages to 30 mg/L monthly and 30 mg/L quarterly averages. Attached to

the letter were spreadsheets showing effluent nitrogen data dating back to July 2002 for WWTP plants #1 and #2. The spreadsheets show several instances where the total nitrogen limitation on effluent discharged to the golf course exceeded the permit standards.

13. On December 12, 2005, the Department issued a Discharge Permit Renewal and Modification, DP-215 to the City. Discharges at the golf course were not included in the permit.

14. On December 12, 2005, the Department issued a Discharge Renewal and Modification, DP-179 to the City, which incorporated the discharges at the golf course formerly permitted under DP-215 and added the Vista Verde Memorial Park (previously permitted under DP-140) to the permit at the City's request. This was done because the Department separated operations at the wastewater treatment plants from discharges of effluent by re-use. Operations at the wastewater treatment plant were permitted under DP-215, and discharges at the golf course and Vista Verde Memorial Park and Cemetery were permitted under DP-179. DP-179 permit states, "Up to 1,781,000 gallons per day of reclaimed municipal wastewater from City of Rio Rancho Wastewater Treatment Plants (WWTP) 1,2, and 3 will be discharged for the above ground reuse at the following facilities: Chamisa Hills Golf and Country Club, Vista Verde Memorial Park and Mortuary, and for irrigation of grounds at WWTP's 1,2 and 3. Prior to irrigation at Chamisa Hills Golf and Country Club reclaimed wastewater is stored in three synthetically lined lagoons at the golf course. This Discharge Permit contains modifications to the previously issued Discharge Permit. The modification is to permit irrigation of all City of Rio Rancho reuse areas under DP-179 and to permit operation and maintenance of the City of Rio Rancho WWTP's under DP-215." The renewed and modified permit was not appealed.

15. DP-179, as renewed and modified on December 12, 2005, incorporates materials submitted by the City dated December 19, 2003. In addition, the Discharge Plan includes information and materials submitted as part of the original Discharge Permit issued on June 25, 1981 and the materials for renewal and/or modification dated November 1, 1985, July 2, 1992, and June 11, 1999.

16. The Ground water Discharge Permit Application submitted by the City on December 19, 2003, and incorporated into DP-179 lists the City as the Responsible Party for discharges at Chamisa Hills Golf and County Club.

17. The Ground water Discharge Permit Application submitted by the City on December 19, 2003, and incorporated in DP-179 states that "Reclaimed wastewater that is delivered to the golf course is stored in three synthetically lined lagoons before it is applied on the turf via sprinkler system."

18. The Ground water Discharge Permit Application submitted by the City on December 19, 2003, and incorporated in DP-179 was not factually accurate. Effluent from Rio Rancho WWTP #1 and #2 is conveyed to the East lagoons of the golf course and is then transferred to the North and West lagoons. The East and North lagoons are synthetically lined, and assertions have been made that the West lagoons have clay liners, although this has not been verified.

19. Either DP-179 is intended to, and does, apply to all ponds and discharges at the Chamisa Hills Country Club, or the City is discharging effluent to lagoons at the Chamisa Hills Golf Course that are not specifically included in DP-179 and are therefore not authorized as part of the City's Discharge Permit within the meaning of 20.6.2.3104 NMAC.

20. Discharge Permit DP-179 contains terms and conditions that must be complied with by the City and are enforceable by the Department pursuant to 20.6.2.3104 NMAC and NMSA 1978, § 74-6-5 and § 74-6-10.

21. The discharge from the City of Rio Rancho Wastewater Treatment Plants #1 and #2, which is stored and re-used at the Chamisa Hills Country Club, and the accumulated sediment (sludge) in all the lagoons contain water contaminants that exceed the human health standards for ground water found at 20.6.2.3103 NMAC. These water contaminants include nitrogen compounds (which could result in exceedances of the nitrate standard for ground water) and metals accumulated in the sludge which exceed standards for ground water.

22. DP-179 requires the permittee to visually inspect the lagoons at Chamisa Hills Golf and Country Club on a monthly basis to ensure proper maintenance. The permit states that, "Any conditions that could damage the lagoon liner or affect the structural integrity of the lagoon shall be corrected. Such conditions include but are not limited to erosion damage, animal activity/damage, the presence of potentially harmful vegetation such as woody shrubs or uncontrolled weeds, evidence of seepage, or the presence of large pieces or quantities of debris. The permittee shall keep a log of the inspection findings and repairs made. In the event that inspection findings reveal significant damage likely to affect the ability of the lined lagoon to contain contaminants, the permittee shall submit a corrective action plan to NMED for approval."

23. Vegetation that is likely to affect the ability of the lined lagoons to contain contaminants exists in some or all of the effluent storage lagoons at Chamisa Hills Country Club.

24. Support pilings that are likely to affect the ability of the lined lagoons to contain contaminants have been driven through the synthetic liner of the East storage lagoons.

25. The synthetic liners of some of the East and North effluent storage lagoons at the Chamisa Hills Country Club may be significantly compromised due to age, unchecked growth of vegetation and intentional detrimental modifications (i.e. the installation of support pilings). There is a reasonable probability that water contaminants discharged due to damaged synthetic liners may move directly or indirectly to ground water resulting in exceedances of standards for ground water. Investigation is necessary to determine whether the liners are intact and the nature and extent of any contamination.

26. The condition of any liners of the West effluent storage lagoons at the Chamisa Hills Country Club may be significantly compromised due to unchecked growth of vegetation. A significant accumulation of sludge, containing water contaminants within the meaning of the Subsection AAA of 20.6.2.7 NMAC, has been identified in these lagoons.

27. There is a reasonable probability that water contaminants discharged due to leaking liners may move directly or indirectly to ground water resulting in exceedances of standards for ground water. Investigation is necessary to determine whether the liners are intact and the nature and extent of any contamination.

28. The City is, or should be, aware of the age of the liners, unchecked growth of vegetation and intentional detrimental modifications (i.e. the installation of support pilings) and other conditions that have damaged the lagoon liners or affect the structural integrity of the lagoons.

29. The City has not performed corrective actions or submitted a corrective action plan to NMED for approval as required under DP-179.

30. The City did not maintain two feet of freeboard at the effluent storage lagoons as required by DP-179, Condition 5.

Following is the resultant violation of the WQCC Regulations that was identified and the actions necessary to correct this violation:

NATURE OF VIOLATION

Number	Violation	
1.	The City failed to properly inspect the lagoons at Chamisa Hills Country Club as required under Condition 6 of DP-179. The City also failed to submit a corrective action plan as required under Condition 6 of DP-179. The condition of the synthetic liners constitutes a violation section 20.6.2.3104 NMAC and NMSA 1978, § 74-6-5 and § 74-6-10 and indicates that the standards of 20.6.2.3103 NMAC are being or may be exceeded.	

Number	Violation	
2.	The City discharged and continues to discharge reclaimed wastewater to the West lagoons effluent storage ponds at the Chamisa Hills Golf Course in violation of 20.6.2.3104 NMAC. The West lagoons do not constitute a part of the City's discharge plan and are not authorized for discharge as part of DP-179 within the meaning of 20.6.2.3104 NMAC. The unknown condition of the lagoon liners, the management of water levels and the accumulated sludge within the West lagoons indicates that the standards of 20.6.2.3103 NMAC are being or may be exceeded.	

CORRECTIVE ACTION REQUIRED AND SCHEDULE

Number	Corrective Action	Due Date
1.	<ul style="list-style-type: none"> • Submit a work plan to the department for approval for the investigation/removal of sludge accumulation in the East and North lagoons. The work plan shall set forth the methods to be used for the investigation/removal of accumulated sludge and outline the mechanisms for compliance with state and federal regulations for the disposal of the sludge. The CAP shall be certified by a Professional Engineer licensed by the state of New Mexico. • Submit a work plan to the department for approval for the investigation of the condition/integrity of the synthetic liners of the East and North lagoons and of the clay liners of the West lagoons. The work plan shall be certified by a Professional Engineer licensed by the state of New Mexico. 	<p>The Corrective Action Plans shall be submitted by January 28, 2008. The Plan shall provide that the actions be taken as soon as practical.</p>

Number	Corrective Action	Due Date
2.	<ul style="list-style-type: none"> • Submit a corrective action plan (CAP) to the department for approval for the removal of accumulated sludge within the West lagoons within the shortest practical timeframe. The CAP shall set forth a schedule and work plan for the removal of the sludge, identify the location of the disposal site of the sludge and outline the mechanisms for compliance with state and federal regulations for the disposal of the sludge. The CAP shall be certified by a Professional Engineer licensed by the state of New Mexico. • Submit a CAP to the department for approval for the removal of potentially harmful vegetation such as woody shrubs or uncontrolled weeds within all of the lagoons. The work plan must address potential damage to the lagoon liners resulting from removal of the vegetation. The CAP shall be certified by a Professional Engineer licensed by the state of New Mexico. • Following removal of sludge from the West lagoons, no discharge of reclaimed wastewater shall be made to the West lagoons unless DP-179 is modified to include these lagoons in the City’s discharge plan or the discharge is authorized under another Discharge Permit. 	<p>The Corrective Action Plans shall be submitted by January 28, 2008. The Plan shall provide that the actions be taken as soon as practical.</p>

Please be advised that if you fail to comply with this Notice of Violation, NMED may issue a compliance order that assesses a civil penalty pursuant to WQA § 74-6-10. Civil penalties may be assessed for up to \$15,000 per day for each violation of WQA § 74-6-5, any regulation adopted 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 violation of any regulation, water quality standard, or compliance order adopted pursuant to the WQA.

Alternatively 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 owner/operator of the above facility of his obligation to comply with all requirements of other applicable federal, state, and local laws, regulations, permits, or orders. This letter is intended to address violations of certain requirements

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of the WQA and WQCC Regulations and may not address all violations. It is the responsibility of the City to be familiar with, and comply with, the WQA and WQCC Regulations.

If you have any questions regarding this matter, please feel free to contact me at (505) 827-2919 or Robert George of the Ground Water Pollution Prevention Section, at (505) 476-3648.

Sincerely,

William C. Olson, Chief
Ground Water Quality Bureau

cc: Jon Goldstein, Director, Water and Waste Management Division
Chuck Noble, Assistant General Counsel, NMED