

**CHAMPS INVESTMENTS
DBA LA VISTA MOBILE HOME PARK
711 S. CANYON ROAD
ALAMOGORDO, NM**



October 27, 2017

Subject: La Vista Mobile Home Park

Case Number: GWQB 17-21 (CO)

**John T. Wallace
Office of General Counsel
New Mexico Environment Department
121 Tijeras Avenue NE, Suite 1000
Albuquerque, Nm 87102-3400**



WQCC 17-09/A

John,

We are contacting you reference to the above case, for a hearing. Your immediate attention to this matter is greatly appreciated, and please contact me at 818-605-3656 reference to the above case.

I have enclosed a copy of case and looking forward to hear from you soon.

**Sincerely
Moses Anserlian
Manager**

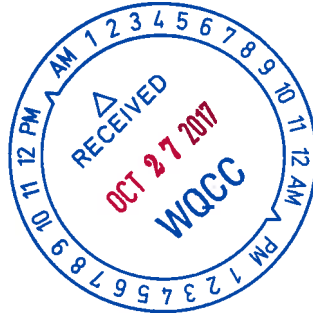
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Case Number: GWQB 17-21 (CO)

Michelle Hunter
New Mexico Environmental Department
P. O. Box 5469 – 1190 St. Francis Drive
Santa Fe, NM 87502-5469
Tel: (505) 827-2919



WQCC 17-09(A)

We are in receipt of the above case.

In response of the violations which you have outlined in your documents are following:

- a) We are not acquiring any ground water permit use because we are in process to connect the sewer line from the park directly to the city sewer.
- b) With the coordination of the city manager and planning division, city has located a new sewer tap, which is currently within a development. The development has to come stand still due to financial difficulties.
- c) We have met with contractor and awaiting a pricing to extend the sewer line from the current location to canyon road.
- d) We have also contacted the engineer, Livingston Engineering, see if he has engineered the sewer line. He was going to check his archives and get back to us.
- e) At this moment to redo the septic system and the leach field is not in the plans, and that is one of the major reasons we have not applied for a permit.
- f) The most important is financial aspect of this whole dilemma. We at this moment are in financial dilemma, and we are strongly relying on the banks position to finance the project.
- g) For any reason if the above is not accomplished, we have decided to relocated the existing tenants and close the park.

Also, I am requesting a hearing to come and meet you and discuss this matter to come to final solution.

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**Pam Castafieda,
Water Quality Control Commission
New Mexico Environment Department
1190 South Saint Francis Drive, Suite S-2102
Santa Fe, New Mexico 87502**

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**Michelle Hunter
New Mexico Environmental Department
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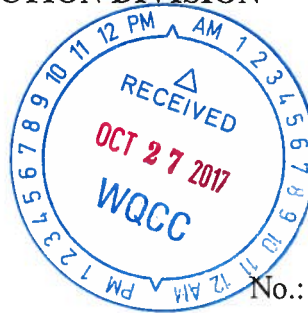
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COPY

STATE OF NEW MEXICO
NEW MEXICO ENVIRONMENT DEPARTMENT
WATER PROTECTION DIVISION

IN THE MATTER OF
LA VISTA DEL CANYON
MOBILE HOME PARK,
Moses Anserlian, Alice Apelian, and
Champs Investments III, LLC, Owners.



No.: GWQB 17-21 (CO)

WQCC 17-09 (A)

Respondents.

ADMINISTRATIVE COMPLIANCE ORDER

Pursuant to the New Mexico Water Quality Act (“WQA”), NMSA 1978, §§ 74-6-1 to -17, the Secretary of the New Mexico Environment Department (“Department”), acting through his designee, the Director of the Water Protection Division, issues this Administrative Compliance Order (“Order”) to Moses Anserlian, Alice Apelian, and Champs Investments III, LLC, owners of La Vista Del Canyon Mobile Home Park (collectively “Respondents”). This Order requires that Respondents comply with the Ground and Surface Water Protection Regulations, 20.6.2 NMAC (“Regulations”); assesses a civil penalty for violations of the WQA and Regulations; and compels Respondents to obtain a valid Ground Water Discharge Permit (“Discharge Permit”) pursuant to the WQA and Regulations.

I. FINDINGS

1. Pursuant to the Department of Environment Act, NMSA 1978, §§ 9-7A-1 to -15, the Department is an agency of the executive branch within the government of the State of New Mexico.

2. Pursuant to NMSA 1978, Section 74-6-2(K)(1), the Department is a constituent agency of the New Mexico Water Quality Control Commission (“WQCC”).

3. Pursuant to NMSA 1978, Section 74-6-10(A)(1), a constituent agency of the WQCC may issue a compliance order requiring compliance and assessing a civil penalty whenever the agency determines that a person violated or is violating a regulation adopted pursuant to the WQA.

4. Respondents are a “person” as defined by the WQA, Section 74-6-2(I), and the Regulations, 20.6.2.7.JJ NMAC.

5. La Vista Del Canyon Mobile Home Park is located at 711 S. Canyon Road, Alamogordo, New Mexico, 88310. The legal description being Section 29, Township 16S, Range 10E, Otero County (“Facility”). In case of a discrepancy between the physical and legal descriptions of the property, the legal description controls.

6. The depth to ground water beneath the Facility is approximately two hundred and fifty (250) feet.

7. Upon information and belief, Moses Anserlian, Alice Apelian, and Champs Investments III, LLC are the owners and operators of the Facility, which is a mobile home facility containing approximately twenty-five (25) mobile home spaces/connections used for residential purposes.

8. Moses Anserlian and Alice Apelian’s primary address is: 16952 Itasca Street, Northridge, California, 91343.

9. The New Mexico Office of the Secretary of State Business Services Division’s records provide that Champs Investments III, LLC’s address is: 16952 Itasca Street, Northridge,

California, 91343. Champs Investments III, LLC's registered agent in New Mexico is Business Filings Incorporated, located at 123 East Marcy Street, Santa Fe, NM, 87501.

10. On June 12, 2012, the Department's Ground Water Quality Bureau ("GWQB") sent Respondents a letter (1st Permit Required Letter) stating that information available to GWQB indicated that Respondents were discharging wastewater from the Facility without a discharge permit in violation of 20.6.2.3104 NMAC. The letter provided that the Facility was required to apply for and obtain a valid discharge permit according to 20.6.2.3106.A NMAC. The letter also provided that Respondents could appeal the determination that a Discharge Permit was required for the Facility within 30 days of receipt of the letter in accordance with 20.6.2.3112.B NMAC.

11. Respondents did not appeal the GWQB's determination that the Facility was required to apply for and receive a discharge permit, nor did Respondents respond to the GWQB.

12. On October 15, 2015, the Department's Alamogordo Field Office received a complaint from an owner of property located adjacent to the Facility concerning surfacing sewage at the Facility. The complaint stated there was a horrible smell emanating from the sewage and that it was breeding mosquitos. The complaint also stated that the sewage being discharged on the ground had been an on-going concern for the resident for at least two years prior to the submission of the complaint.

13. On October 16, 2015, the Department's Environmental Health Bureau ("EHB") conducted an inspection of the Facility and observed surfacing sewage.

14. On October 26, 2015, the EHB conducted another inspection of the Facility and again observed surfacing sewage.

15. In response to the two inspections conducted in October of 2015, the EHB issued a Notice of Violation ("1st NOV") to Respondents, which stated that waste water was observed

surfacing and pooling on the property of the Facility and the neighboring property. The 1st NOV further provided that the Facility's septic tanks had been pumped at least twice but continued to have surfacing sewage, and that the Facility did not have a Liquid Waste Permit ("Waste Permit"). Finally, the 1st NOV stated that the violation could result in a civil penalty of up to \$100.00 per day, or that the violation could result in a petty misdemeanor (NMSA 1978, Section 74-1-10), which is punishable by a fine of up to \$500.00 or a jail sentence of up to six (6) months, or both.

16. On October 27, 2015, the GWQB spoke with Respondents via telephone. Respondents stated they had a contractor on-site and that Respondents were trying to find a pump to send waste water to a drain field up-hill. Respondents also stated that they spoke with the City of Alamogordo regarding connecting the Facility to the city's sewer system.

17. On October 28, 2015, the GWQB issued a second letter ("2nd Permit Required Letter), requiring Respondents to submit a Discharge Permit Application ("Application") within ninety (90) days of receipt of the letter. The letter also provided that any appeal of the determination that the Facility required a Discharge Permit needed to be made within thirty (30) days of receipt of the letter. Respondents did not appeal that determination.

18. On December 2, 2015, Respondents called the GWQB and conveyed that Respondents were in discussions with the City of Alamogordo to connect the Facility's septic system to the city's sewer, but that Respondents were having difficulty contacting the developer which owned the property that the sewer line would need to cross. Respondents were directed to keep the GWQB informed of any updates.

19. On January 21, 2016, and again on January 22, 2016, the GWQB attempted to contact Respondents by phone to discuss the compliance deadline of January 27, 2016. Voicemails were left with requests that Respondents provide the GWQB updates regarding submission of an

Application or the Facility's connection to the City of Alamogordo's sewer system. In the voicemails, the GWQB stated that official enforcement proceedings may be initiated if Respondents failed to comply by the 2nd Permit Required Letter's January 27, 2016 deadline. Respondents did not contact the GWQB by January 27, 2016.

20. On February 8, 2016, the GWQB issued a second NOV ("2nd NOV") to Respondents for discharging without a Discharge Permit in violation of 20.6.2.3104 NMAC. The 2nd NOV required Respondents to complete an Application and submit it to the GWQB by March 3, 2016. The 2nd NOV stated that failure to comply could result in the Department's issuance of a compliance order that assesses a civil penalty pursuant to the WQA, and that penalties may be assessed for up to \$15,000.00 per day for each violation of the WQA. Finally, the 2nd NOV stated that the Department may commence an action in district court for appropriate relief, including injunctive relief. Respondents did not contact the GWQB by March 3, 2016.

21. On March 30, 2016, the GWQB called Respondents, and Respondents indicated that they had left voicemails with the GWQB which were never returned. The GWQB did not receive voicemails from Respondents. The GWQB emailed a template of the Application to Respondents at alice_travel@hotmail.com (the email address provided by Respondents), and there was an understanding between Respondents and the GWQB that Respondents would complete and submit an Application to the GWQB.

22. On April 22, 2016, Respondents called the GWQB concerning information which was required to be included in the Application. Respondents communicated uncertainty as to the information to include in the Application. The GWQB told Respondents to complete the Application to the best of their ability and submit it to the GWQB for evaluation. The GWQB

made clear that it would evaluate the Application and provide Respondents with a request for additional information as necessary.

23. By July 14, 2016, Respondents had not submitted an Application to the GWQB. The GWQB emailed Respondents stating that it had not received an Application, and that Respondents were to immediately submit one. The email stated that Respondents were currently in violation of 20.6.2 NMAC for discharging without a Discharge Permit, and that formal enforcement would be pursued if an Application was not submitted immediately.

24. On August 1, 2016, Respondents submitted an incomplete Application to the GWQB.

25. On August 5, 2016, the GWQB mailed Respondent a Notice of Incompleteness (“NOI”) regarding the Application. The NOI indicated that the GWQB had reviewed the Application and determined that it was not administratively complete. The NOI requested that Respondents provide to the GWQB the following information:

- a. A brief description of the activities that produce the discharge described in the application;
- b. A brief description of the expected quality and maximum and average volume (gallons per day) of the discharge;
- c. Depth and total dissolved solids (“TDS”) concentration of groundwater beneath the discharge site;
- d. Name of newspaper in which Respondent would publish a public notice display ad;
- e. Proposed location for posting a public notice sign;
- f. Proposed location for posting a public notice flyer;
- g. Part II of the application, completed in full; and

h. Part III of the application, completed in full.

The NOI required that Respondents provide the additional information to the GWQB within 15 days of receipt of the NOI. The NOI also stated that the GWQB recommended Respondents obtain an environmental consultant to assist in the preparation and submission of a complete Application, or to call the GWQB to discuss details required for submission.

26. On August 15, 2016, the GWQB received a letter from Respondents, which attempted to address the additional information requested by the GWQB on August 5, 2016.

27. On October 5, 2016, the GWQB responded to Respondents' August 15, 2016 letter with an email addressing Respondent's submission and requesting additional information. The GWQB also reiterated that an entire section dedicated to the technical aspects of the Application was still blank. In bold print, the GWQB recommended that Respondents hire a consultant to assist in processing the Application.

28. The GWQB did not receive any additional information, and, to date, has not received a completed Application from Respondents.

29. On March 6, 2017, the GWQB contacted Respondents requesting submission of a complete Application. In this correspondence, the GWQB made clear to Respondents that failure to do so within 30 days of March 6, 2017 would result in the Department initiating formal enforcement actions against Respondents.

30. On March 13, 2017, Respondents contacted the GWQB stating that Respondents would complete an Application and provide it to the GWQB. The GWQB never received this Application.

31. On March 16, 2017, the GWQB was contacted by Jace Ensor, a licensed contractor, who stated that on March 12, 2017, he visited the Facility and conducted a consultation of the

Facility's septic system. Mr. Ensor summarized his understanding of the Facility's septic system to the GWQB, which included the following observations:

- One of the tenants asked if Mr. Ensor was there to fix the septic system, and that the odors are horrible when it runs over;
- A hole to the system had been dug in space 23, but the lid to the lift station had probably never been lifted, because the screws were rusted through. When the power switch was engaged, nothing happened;
- Liquid levels were far above normal, meaning the leaching fields were not working. There were no effective repairs for this, so replacement was the only option;
- Complete failure of the system was imminent;
- Complete system replacement would cost approximately \$200,000.00;
- The only suitable, less costly alternative would be to utilize open top lagoons, but that the option should not be given much consideration, because housing units with many curious kids are too close in proximity to where the open top lagoons would be located.

32. On March 16, 2017, the GWQB contacted Respondents, stating that an Application was now no longer a viable option for the facility, since the system needed to be repaired before it could be permitted. The GWQB reiterated that Respondents were still discharging without a Discharge Permit, and demanded that Respondents provide an immediate plan to solve the threat to human health and the environment.

33. On March 20, 2017, Respondents responded to the GWQB by stating that Respondents were going to get a second opinion from another company.

34. On March 20, 2017, the GWQB replied to Respondents indicating that Respondents had approximately 48 hours to tell the GWQB what Respondents were planning to do about the unpermitted Facility.

35. On March 22, 2017, Laura Dixon, the property manager, contacted the GWQB to declare that she was helping Respondents complete and submit an Application for a Discharge Permit.

36. On March 22, 2017, the GWQB contacted Laura Dixon and stated that “the system has to be functioning properly and [the] system [was] not.” The GWQB emphasized that “submitting an application for a failed system will do nothing to fix [the] issue” with regard to the necessary repairs that would need to be made for the system to be permitted. The GWQB stated that if Respondents did not provide adequate plans for replacement of the system in 48 hours, the GWQB would issue to Respondents an administrative compliance order which would include penalties.

37. On March 23, 2017, Respondents contacted the GWQB stating that Respondents were in discussions with the City of Alamogordo for purposes of connecting the Facility to the city’s sewer system, and that replacement of the septic system would be cost-prohibitive without the ability to gain financing. Respondents further stated that “Larry” of “KLM Septic” had alternate solutions for immediate and permanent repair of the Facility’s septic system.

38. On March 23, 2017, the GWQB contacted Respondents to inform them that the GWQB had communicated with Larry Carson and that based on that communication, the GWQB was going to require the following of Respondents:

- Within 30 days, Respondents would begin construction on a new, adequately sized, leach field that was not located on top of the old one;

- Within 30 days, Respondents would submit a new Discharge Permit Application to the GWQB with the design of the new leach field;
- The Discharge Permit Application would include a compliance schedule (with dates) to replace the remainder of the system. The Application would include what is currently there, how it will be replaced, and what will replace it;
- Respondents would pay the \$100.00 Application fee with the new Application, and Respondents would pay the entire Discharge Permit fee (no payment plan allowed);
- Respondents would submit a new Application 180 days before the new permit expired; and
- Respondents would call GWQB every Monday to apprise GWQB of the progress in completing the above-listed requirements.

The GWQB also informed Respondents that if they had not started construction or the GWQB had not received an Application by April 24, 2017, Respondents would receive a compliance order that would include applicable penalties.

39. On March 27, 2017, Respondents contacted the GWQB stating that their appointment with a septic tank technician who was recommended to Respondents by Larry Carson of KLM Septic did not occur because the technician canceled on them. Respondents stated that they rescheduled the appointment for March 28, 2017, and that Respondents would apprise the GWQB of the findings.

40. On April 3, 2017, Matt Preslar of Preslars Dirtworks, LLC contacted the GWQB stating that Respondents had hired his company to register or repair the septic system at the Facility.

41. On April 10, 2017, Mr. Preslar provided to the GWQB a letter summarizing his findings regarding the Facility's septic system. The letter provided that one tank on the property had fluid levels above the top of the tank and into the riser, and that another tank had fluid levels above the outlet. The letter further provided the steps that Mr. Preslar was going to take:

- Review findings with Respondents and determine if Respondents had the funding to proceed;
- Schedule the pumping of the tanks and sewer manholes to evaluate the condition of the structures, which was to be coordinated with a Department inspector to verify conditions of the tanks;
- Determine which residences were connected to which systems in order to design flow requirements for each system; and
- Move forward with the plan in coordination with the Department upon the Department's approval of the plan.

42. On April 10, 2017, the GWQB responded to Mr. Preslar. The GWQB stated that Respondents were still required to provide the GWQB with a compliance schedule with specific dates upon which steps would be taken to bring the Facility into compliance. The GWQB also apprised Mr. Preslar of the GWQB's March 24, 2017 communication to Respondents that Respondents had 30 days from March 24, 2017 to submit an Application. Finally, the GWQB told Mr. Preslar to provide the GWQB with the compliance schedule by April 12, 2017.

43. On April 11, 2017, Mr. Preslar contacted the Liquid Waste Program ("LWP") of the Department asking that it take permitting jurisdiction from the GWQB.

44. On April 12, 2017, the LWP communicated to Mr. Preslar that the GWQB would be keeping jurisdiction over this permitting matter.

45. As of the date of this filing, the GWQB has not received a compliance schedule.

46. On April 21, 2017, three days before the deadline for submission of a discharge permit application, Mr. Preslar contacted the GWQB requesting a sample of a completed Application for a system similar to that of the Respondents' Facility. Mr. Preslar indicated that he would discuss with Respondents whether Respondents wished to move forward with the Application.

47. As of the date of this filing, the GWQB has not received a complete Application from Respondents.

48. Sewage contains pathogens and total Kjeldahl nitrogen, consisting of ammonia nitrogen and organic nitrogen, which are water contaminants within the meaning of WQCC Regulations, 20.6.2.7.AAA NMAC, and could create water pollution within the meaning of WQCC Regulations, 20.6.2.7.CCC NMAC.

49. WQCC Regulations, 20.6.2.3104 NMAC, prohibit any person from discharging effluent or leachate directly or indirectly into ground water without a Discharge Permit issued by the Department.

50. WQCC Regulations, 20.6.2.3106.A NMAC, require any person to submit a discharge plan to the Secretary for approval within 120 days of receipt of written notice that a discharge permit is required.

51. Applicants must submit an Application for a Discharge Permit to the Department pursuant to the procedures found in 20.6.2.3106 NMAC.

52. Any facility submitting a Discharge Permit Application must pay a \$100 filing fee at the time of the submittal of the application, pursuant to 20.6.2.3114.F and Table 2 NMAC.

53. WQCC Regulations, 20.6.2.1203.A NMAC, require any person who discharges a water contaminant in such quantity as may, with reasonable probability, injure or be detrimental to human health, animal or plant life, or property, or unreasonably interfere with the public welfare of the use of property to: (a) orally notify the Chief of the GWQB no later than twenty-four (24) hours after learning of the discharge; (b) submit written notification to the Chief of the Bureau no later than one (1) week after the discharge; (c) as soon as possible after learning of the discharge, take corrective action to contain and remove or mitigate the damage caused by the discharge; and (d) file a corrective action report with the Chief of the GWQB no later than fifteen (15) days after learning of the discharge.

54. When in doubt of which agency to notify in the event of a discharge, a person shall notify the chief of the Bureau. 20.6.2.1203.A(2) NMAC.

55. Respondents do not have a valid Department-issued Discharge Permit.

56. The GWQB has reports of spills or surfacing effluent on October 16, 2015, and October 26, 2015.

57. The GWQB issued multiple Permit Required Letters (one on June 12, 2012, and the other on October 28, 2015) to Respondents, which required Respondents to apply for and obtain a Discharge Permit. Both of these Permit Required Letters provided that information available to the GWQB indicated that Respondents were discharging wastewater from the Facility without a Discharge Permit in violation of Section 20.6.2.3104 NMAC of the WQCC Regulations, 20.6.2 NMAC.

58. The Department issued multiple NOV's to Respondents (1st NOV on October 26, 2015, and 2nd NOV on February 8, 2016) for discharging onto the Property.

59. The 1st NOV served as a warning that failure to comply may result in a compliance order that assesses a civil penalty.

60. The 2nd NOV directed Respondents to take corrective action: complete an Application for a Discharge Permit and submit two hard copies, an electronic copy, and a \$100 filing fee to the GWQB.

61. Respondents have not taken the necessary corrective action as required by the 2nd NOV.

62. The surfacing effluent as observed by the Department's inspectors on October 16, 2015 and October 26, 2015 constitute discharges of a water contaminant in a quantity that would, with reasonable probability, injure or be detrimental to human health, animal or plant life, or property, or unreasonably interfere with the public welfare which are prohibited by 20.6.2.3104 NMAC.

63. Respondents did not orally notify the Chief of the GWQB within twenty-four (24) hours of learning of the discharges, as required by 20.6.2.1203.A(1) and (2) NMAC; the GWQB learned of the discharge through complaints and subsequent inspections.

64. Respondents did not submit written notification to the Department within one week of the discharges, as required by 20.6.2.1203.A(3) NMAC.

65. Respondents did not take corrective action to contain and remove or mitigate the damage caused by the discharges as soon as possible after learning of the discharge, as required by 20.6.2.1203.A(5) NMAC.

66. Respondents did not file a corrective action report with the Department within fifteen (15) days after learning of the discharge, as required by 20.6.2.1203.A(5) NMAC.

67. To date, the GWQB has not received a completed Discharge Permit Application including the \$100 filing fee, pursuant to 20.6.2.3106, 20.6.2.3114.F and Table 2 NMAC.

68. To date, the GWQB has not received a Corrective Action Plan that addresses the multiple surfacing sewage problems at the Facility.

II. VIOLATIONS

Violation 1- Discharging Without a Permit

69. Respondents violated 20.6.2.3104 NMAC by causing or allowing effluent or leachate to discharge so that it may move directly or indirectly into ground water without first obtaining a permit issued by the Secretary.

Violation 2- Failure to Obtain a Discharge Permit

70. Respondents violated 20.6.2.3106 and 20.6.2.3114 NMAC by failing to submit a completed Discharge Permit Application, including a \$100.00 filing fee to the GWQB.

Violation 3- Failure to Report and Notify Bureau of Discharges

71. Respondents violated 20.6.2.1203.A(1) NMAC by failing to orally notify the GWQB of the discharges of sewage and water contaminants no later than twenty-four (24) hours after the discharge event; failing to send written notification to the GWQB within one (1) week verifying prior oral notification; failing to take corrective action to contain and remove or mitigate the damage caused by multiple discharges as soon as possible after learning of the discharges; failing to consult with the GWQB; and by failing to send the GWQB a written report within fifteen (15) days after learning of the discharges, describing the corrective actions taken or to be taken relative to the discharges.

72. Respondents violated 20.6.2.1203.A(2) NMAC by failing to notify the GWQB of discharges relating to the sewage build-up and potential threats to surface or groundwater quality.

Violation 4- Failure to Take Corrective Action

73. Respondents failed to take corrective action to contain or mitigate the damage caused by the documented discharges as required by 20.6.2.1203.A(5) NMAC.

III. COMPLIANCE ORDER

74. Upon receipt of this Order, Respondents shall take any corrective action specified in the NOV's previously issued that is necessary to contain and remove or mitigate the damage caused by discharges in accordance with 20.6.2.1203.A(5) NMAC. Copies of the previously issued NOV's are included herein.

75. No later than 15 calendar days after this Order becomes final, Respondents shall send a written report to the GWQB describing those corrective actions taken or to be taken relative to the discharges pursuant to 20.6.2.1203.A(6) NMAC.

76. The GWQB may require additional corrective actions be taken if previous corrective actions are found to be insufficient as specified in WQCC Regulations 20.6.2.1203 NMAC.

77. No later than 30 calendar days after this Order becomes final, Respondents shall submit for GWQB approval an Application for a Discharge Permit as specified in 20.6.2.3106 NMAC. The Application must be accompanied by the appropriate fees found in 20.6.2.3114 NMAC.

78. All Applications, corrective action, work plans, progress reports, other reports, or other documents or information to be submitted to the GWQB under the terms of this Order shall be sent to:

Michelle Hunter, Chief
Ground Water Quality Bureau
New Mexico Environment Department
P.O. Box 5469 – 1190 St. Francis Dr.
Santa Fe, New Mexico 87502-5469
(505) 827-2919

The GWQB may change the name or address for such submissions at any time by providing Respondents with written notice, effective 10 days after receipt.

IV. CIVIL PENALTY

79. Section 74-6-10(C)(1) of the WQA authorizes the assessment of a civil penalty of up to \$15,000 per day of noncompliance with the provisions in NMSA 1978, Section 74-6-5, including a regulation adopted pursuant to that section. Section 74-6-5 applies, in relevant part, to permitting, permitting fees, and facilities operation and maintenance.

80. Section 74-6-10(C)(2) of the WQA authorizes the assessment of a civil penalty of up to \$10,000 per day for violations of the provisions WQA other than NMSA 1978, Section 74-6-5, including a regulation adopted pursuant to those sections.

81. The Department hereby assesses a civil penalty in the amount of \$28,500.00 for the violations set forth above. The penalty amount is calculated pursuant to the GWQB's Civil Penalty Policy.

82. Payment of the civil penalty is due no later than 30 calendar days after this Order becomes final. Payment shall be made by certified or cashier's check payable to the "State of New Mexico" noting "GWQB ACO La Vista Del Canyon" in the memo area and mailed (certified) or hand delivered to the GWQB at the following address:

Michelle Hunter, Bureau Chief
Ground Water Quality Bureau,
New Mexico Environment Department
1190 St. Francis Dr., Suite N-2250
Santa Fe, NM 87502

Mailing Address:
P.O. Box 5469
Santa Fe, NM 87505-5469

Written notification of the payment shall also be provided to the following address:

Jason T. Wallace, Assistant General Counsel
Office of General Counsel
New Mexico Environment Department
121 Tijeras Avenue NE, Suite 1000
Albuquerque, NM 87102-3400
Facsimile: (505) 383-2064

V. NOTICE OF POTENTIAL ADDITIONAL PENALTIES

83. If Respondents fail to take corrective actions within the time specified in this Order, the GWQB may assess additional civil penalties of not more than \$25,000 for each day of continued noncompliance pursuant to NMSA 1978, Section 74-6-10(F).

VI. NOTICE OF OPPORTUNITY TO ANSWER AND REQUEST A HEARING

84. Pursuant to NMSA 1978, Section 74-6-10(G), and the WQCC's Adjudicatory Procedures, 20.1.3 NMAC, entities receiving a Compliance Order may request a hearing by filing a written request for a public hearing with the Commission Administrator no later than thirty (30) days from the receipt of this Order. An Answer must be filed with the Request for Hearing. The Answer shall:

- a. Clearly and directly admit, deny, or explain each of the factual allegations contained in this Order with regard to which Respondents have any knowledge. Where Respondents have no knowledge of a particular factual allegation, Respondents shall so state, and Respondents may deny the allegation on that basis. Any allegation of the Order not specifically denied shall be deemed admitted. 20.1.3.19.A(2)(a) NMAC.

- b. Assert any affirmative defenses upon which Respondents intend to rely. Any affirmative defense not asserted in the Answer, except a defense asserting lack of subject matter jurisdiction, shall be deemed waived. 20.1.3.19.A(2)(b) NMAC.
- c. Be signed under oath or affirmation that the information contained therein is, to the best of the signer's knowledge, believed to be true and correct. 20.1.3.19.A(2)(c) NMAC.
- d. Include a copy of this Order. 20.1.3.19.A(2)(d) NMAC.

The Answer and Request for Hearing shall be filed with the Hearing Clerk at the following address:

Pam Castañeda, Commission Administrator
Water Quality Control Commission
New Mexico Environment Department
1190 South Saint Francis Drive, Suite S-2102
Santa Fe, New Mexico 87502

Mailing Address
P.O. Box 5469
Santa Fe, New Mexico 87505-5469

A copy of the Answer and Request for Hearing must also be served on counsel for the Department at the following address:

Jason T. Wallace
Office of General Counsel
New Mexico Environment Department
121 Tijeras Avenue NE, Suite 1000
Albuquerque, NM 87102-3400
Facsimile: (505) 383-2064

VII. FINALITY OF ORDER

85. This Order shall become final unless a Request for Hearing and Answer is filed with the Commission Administrator within thirty (30) days after the date of receipt of this Order.

For purposes of this section, failure to file an Answer constitutes an admission of all facts alleged in the Order and a waiver of the right to a hearing under NMSA 1978, Section 74-6-10(G).

VIII. SETTLEMENT

86. Whether or not an Answer is filed and a hearing is requested, entities receiving a Compliance Order may confer with the Department concerning settlement. The Department encourages settlement consistent with the provisions and objectives of the WQA. Settlement discussions do not extend the thirty (30) day deadline for filing an Answer and Request for Hearing, or alter the deadlines for compliance with this Order. Settlement discussions may be pursued as an alternative to or simultaneously with the hearing proceedings. An entity may appear at the settlement conference on its own behalf or may be represented by legal counsel.

87. Any settlement reached by the Parties shall be finalized by written settlement agreement and a stipulated final order. A settlement agreement and a stipulated final order must serve to resolve all issues raised in the Order, shall be final and binding on all Parties to the Order, and shall not be appealable.

88. To explore the possibility of settlement in this matter, contact Jason T. Wallace, Assistant General Counsel, New Mexico Environment Department, Office of General Counsel, at (505) 222-9508.

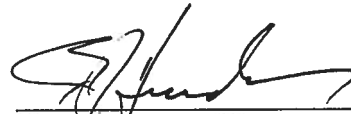
IX. COMPLIANCE WITH OTHER LAWS

89. Compliance with the requirements of this Order does not remove the obligation to comply with all other applicable laws and regulations.

X. TERMINATION

90. This Order shall terminate when Respondents certify that all requirements of this Order have been met and the Department has approved such certification, or when a settlement agreement has been executed and stipulated final order has been signed.

9/26/2017
Date



Bruce Yurdin, Director
Water Protection Division
New Mexico Environment Department

CERTIFICATE OF SERVICE

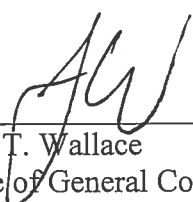
I hereby certify that the foregoing Administrative Compliance Order was mailed postage prepaid on this 27th day of September, 2017, via Certified Mail, Return Receipt Requested, to the following:

Moses Anserlian, President
Alice Apelian, CEO

Champs Investments III, LLC
16952 Itasca St.
Northridge, CA 91

Business Filings, Inc.,
Registered Agent for
Champs Investments III, LLC
123 East Marcy St.
Santa Fe, NM 87501

Laura Dixon
Manager
La Vista Del Canyon MHP
1111 10th St., Suite 440
Alamogordo, NM 88310



Jason T. Wallace
Office of General Counsel
New Mexico Environment Department