

OFFICE OF GENERAL COUNSEL
NEW MEXICO CORRECTIONS DEPARTMENT

FACSIMILE TRANSMITTAL SHEET

TO: Regional Hearing Clerk FROM: James Brewster
COMPANY: USEPA Region 6 DATE: Feb 2, 2012
TOTAL NO. OF PAGES INCLUDING COVER: 5
PHONE NUMBER: _____ SENDER'S REFERENCE NUMBER: 505-827-8698
RE: In the Matter of Central New Mexico Correctional Facility YOUR REFERENCE NUMBER: _____
DOCKET NO. CWA-06-2011-1826
 URGENT FOR REVIEW PLEASE COMMENT PLEASE REPLY AS REQUESTED

NOTES/COMMENTS:

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Thank you.*

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UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 6

FILED
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REGIONAL HEARING CLERK
EPA REGION VI

In the Matter of

Docket No. CWA-06-2011-1826

Central New Mexico Correctional Facility,
Los Lunas, New Mexico

Respondent

NPDES No. NM0028851

**RESPONDENT'S ANSWER TO ADMINISTRATIVE COMPLAINT (Proceeding
to Assess a Class I Civil Penalty under Section 309 (g) of the Clean Water Act**

COMES NOW Respondent, Central New Mexico Correctional Facility, by and through its undersigned counsel, and answers the Complainant's Administrative Complaint as follows:

1. Respondent admits the allegations contained in paragraphs 1-7, 9-11, 13-17, and 19-30 of the Complaint.
2. Respondent admits the allegations contained in paragraph 8 of the Complaint. However, Respondent affirmatively states that during the relevant time period, it was unable to perform the required monitoring and DMRs because Respondent did not have an operator for four months in 2009, five months in 2010 and for six months in 2011.
3. Respondent admits the allegations contained in paragraph 12 of the Complaint that it did not submit the DMRs, but denies that it did not submit or report overflows. Respondent affirmatively states that it could not submit the DMRs without an operator, but that it could and did submit the overflow reports or information.
4. Regarding the allegations contained in paragraph 18 of the Complaint, Respondent admits that the proposed penalty amount is to be determined based on the statutory factors specified in the delineated sections of the applicable law, and that such factors include the nature, circumstance, extent and gravity of the violations, economic

benefits, if any, prior history of such violations, if any, degree of culpability, and such matters as justice may require; but Respondent denies that the proposed penalty amount of \$13,000 has fully taken into consideration all of these factors. Respondent affirmatively states that these factors and the interests of fairness or justice require the imposition of no penalty or a lesser penalty.

AFFIRMATIVE DEFENSES

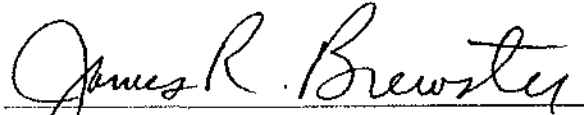
1. Pursuant to the factors contained in Section 309 (g) (3) of the Clean Water Act, 33 U.S.C. Section 1319 (g) (3), the interests of justice, and because Respondent has taken expensive, effective corrective action to resolve the deficiencies culminating in its successful connection to the Village of Los Lunas sanitary sewer system, Respondent affirmatively states that it should be subject to no or only a minimal penalty. The proposed penalty amount of \$13,000 should therefore be eliminated or greatly reduced.

PRAYER FOR RELIEF

WHEREFORE Respondent requests a hearing to contest the appropriateness and fairness of the amount of the proposed penalty, and further requests that proposed penalty amount of \$13,000 be eliminated or reduced significantly.

Respectfully submitted,

OFFICE OF GENERAL COUNSEL
NEW MEXICO CORRECTIONS DEPT.



James R. Brewster
General Counsel
PO Box 27116
Santa Fe, NM 87502-0116
(505) 827-8698

Certificate of Service

I hereby certify that a true and correct copy of this Answer was mailed to the following individuals on February 2nd, 2012:

VIA UPS OVERNIGHT

Regional Hearing Clerk (6RC-D)
U.S. EPA, Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

VIA U.S. MAIL

Earle A. "Rusty" Herbert (6RC-EW)
EPA Houston Lab
10625 Fallstone Road
Houston, TX 77099

Mr. John Blevins
Director, Compliance and Assurance Division
U.S. EPA, Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

Ms. Sonia Hall
Environmental Specialist, Compliance and Assurance Division
Water Enforcement Branch
U.S. EPA, Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

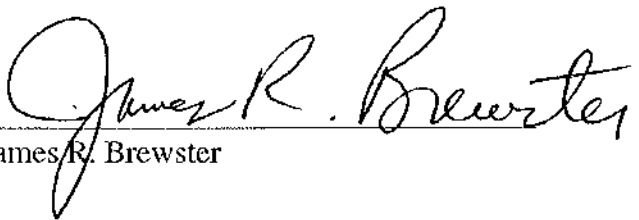
Mr. Scott McDonald (6RC-EW)
Water Enforcement Legal Branch
U.S. EPA, Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

Mr. James Bearzi, Bureau Chief
Surface Water Quality Bureau
NMED
P.O. Box 5469
Santa Fe, NM 87502-5469

Certificate of Service Continued

Ms. Sandra Galbadon
Surface Water Quality Bureau
NMED
P.O. Box 5469
Santa Fe, NM 87502-5469

Mike Coffman
NMED
P.O. Box 5469
Santa Fe, NM 87502-5469


James R. Brewster