

Daniel "Danny" Mayfield
Commissioner, District 1

Virginia Vigil
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Kathy Holian
Commissioner, District 4

Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

Office of the County Attorney

July 27, 2011

VIA FACSIMILE AND U.S. MAIL

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

Re: **Santa Fe County**
Docket No. CWA-06-2011-1832

Dear Sir or Madam:

I am enclosing for filing an original and two (2) copies of an Answer and Request for a Hearing. It would be appreciated if a date-stamped copy of the Answer could be returned to me in the enclosed self-addressed, stamped envelope.

Please do not hesitate to contact me if you have any questions about this filing. Thank you for your attention in this matter.

Sincerely,

Stephen C. Ross, County Attorney

Enclosures

cc: Tucker Henson, Esq., w/enc. via facsimile/U.S. Mail

{00294501-1}

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 6
DALLAS, TEXAS

FILED
2011 AUG -1 PM 3:44
REGIONAL HEARING CLERK
EPA REGION VI

IN THE MATTER OF	§	Docket No. CWA-06-2011-1832
	§	
Santa Fe County, New Mexico	§	Proceeding to Assess a Class I
	§	Civil Penalty under Section 309(g)
Respondent	§	of the Clean Water Act
	§	
NPDES No. NM0028614	§	ADMINISTRATIVE COMPLAINT

ANSWER AND REQUEST FOR A HEARING

Santa Fe County, New Mexico (the "County"), a political subdivision of the State of New Mexico and organized and existing under the Laws of the State of New Mexico, pursuant to 40 C.F.R. §22.15 (2010), answers the Administrative Complaint (the "Complaint") of the Director, Compliance Assurance and Enforcement Division, EPA Region 6 ("EPA"), as follows:

FIRST DEFENSE

In response to Section I ("Statement of Authority") of the Complaint, the County admits that EPA purports to have authority to bring this action under the federal Clean Water Act, the federal Administrative Procedures Act and various federal regulations, and the County denies any allegations for which a response is deemed necessary.

SECOND DEFENSE

In specific response to the allegations of the Complaint in Section II ("Findings of Fact and Conclusions of Law"), the County states as follows;

1. The County admits the allegations in Paragraph 1.
2. The County, as the operator and owner of the Valle Vista Wastewater Treatment Plant ("WWTP"), admits the allegations in Paragraph 2.

3. The County, as the operator of the WWTP discharging into the floodplain of La Cienega arroyo, admits the allegations in Paragraph 3.

4. The County admits the allegations in Paragraph 4.

5. In response to Paragraph 5, the County states that 33 U.S.C. Section 1311 and 33 U.S.C. Section 1342 speak for themselves and therefore denies any and all legal conclusions set forth in Paragraph 5.

6. In response to Paragraph 6, the County states that 33 U.S.C. Section 1342(a) speaks for itself and therefore denies any and all legal conclusions set forth in Paragraph 6.

7. The County admits the allegations in Paragraph 7.

8. In response to Paragraph 8, the County states that the cited permit speaks for itself and denies any and all factual or legal conclusions set forth in Paragraph 8.

9. In response to Paragraph 9, the County states that the cited permit speaks for itself and therefore denies and all factual or legal conclusions set forth in Paragraph 9.

10. The County denies the allegations in Paragraph 10.

11. The County denies the allegations in Paragraph 11.

12. The County denies the allegations in Paragraph 12.

13. The County is without knowledge or information to form a belief as to the truth of the allegations in Paragraph 13 and on that basis denies same.

14. The County is without knowledge or information to form a belief as to the truth of the allegations in Paragraph 14 and on that basis denies same.

THIRD DEFENSE

In response to Section III ("Proposed Penalty") of the Complaint, the County does not believe this section contains allegations for which a response is necessary, but to the extent a response is deemed necessary the County denies all statements in this section.

FOURTH DEFENSE

In response to Section IV ("Failure to File an Answer") of the Complaint, the County does not believe this section contains allegations for which a response is necessary, but to the extent a response is deemed necessary the County denies all statements in this section.

FIFTH DEFENSE

In response to Section V ("Notice of Opportunity to Request a Hearing") of the Complaint, the County does not believe this section contains allegations for which a response is necessary, but to the extent a response is deemed necessary the County denies all statements in this section.

The County, pursuant to 40 C.F.R. §22.15(c) 2010, hereby requests a hearing upon the issues raised in the Complaint and in the Answer. This pleading constitutes the County's timely Answer and Request for a Hearing.

SIXTH DEFENSE

In response to Section VI ("Settlement") the County states that it is willing to explore the possibility of settlement of the issues raised in the Complaint through informal meetings with EPA and will do so after filing this Answer and Request for Hearing and acknowledges that any settlement will be documented through a Consent Agreement and Final Order ("CAFO"), and accordingly admits the allegations of paragraphs 26, 27 and 28.

SEVENTH DEFENSE

The County has worked diligently during recent years to resolve technical problems at the WWTP. Within **five (5)** working days of the date of filing of this Answer and Request for Hearing, the County will cease all discharges from the WWTP into the floodplain of La Cienega arroyo, and will divert the waste stream to a nearby wastewater treatment plant through a lift station and force main system currently under construction as an emergency project. Once discharges cease, the County has no intention of discharging from the WWTP into the arroyo in the future and will properly abandon and close the WWTP. Consequently, the County certifies future compliance of the Valle Vista WWTP with any applicable National Pollution Discharge Elimination Permit.

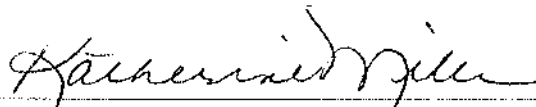
EIGHTH DEFENSE

The Complaint fails to state a claim upon which relief can be granted.

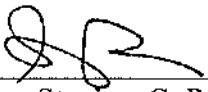
WHEREFORE, the County requests that judgment be entered in its favor on EPA's claim, that the Complaint be dismissed with prejudice, and that it be awarded such other relief as the Regional Judicial Officer deems proper.

Respectfully submitted,

SANTA FE COUNTY

By: 
Katherine Miller, County Manager
Santa Fe County
102 Grant Avenue
P.O. Box 276
Santa Fe, New Mexico 87504-0276
505-986-6200

SANTA FE COUNTY ATTORNEY

By:  _____
Stephen C. Ross, County Attorney

Santa Fe County
102 Grant Avenue
P.O. Box 276
Santa Fe, New Mexico 87504-0276
505-986-6279
505-986-6362 (facsimile)

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing *Answer and Request for a Hearing* was served via facsimile and U.S. first class mail, postage prepaid, on July 28, 2011, to the following counsel of record:

Tucker Henson, Esq.
Office of Regional Counsel (6RC-EW)
U.S. EPA, Region 6
1445 Ross Avenue, Suite 1200
Dallas, Texas 75202-2733



Stephen C. Ross