

Coyote Creek Mutual Domestic Water Users Association
HC 32 Box 584 Quemado, NM 87829

November 14, 2011

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

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REGIONAL HEARING CLERK
EPA REGION VI

Re: PWS ID Number: NM3500402
Coyote Creek MDWUA- Water Supply Project
Response to Administrative Complaint Issued October 18, 2011

Dear Mr. Blevins:

This letter is in response to the Administrative Complaint listed above and includes an update of the Coyote Creek MDWUA Water Supply Project, the related Construction Schedule, Current Water Supply Conditions and a detail of the chronological activities associated with this Association's efforts in addressing the USEPA Region 6 Safe Drinking Water Act compliance issues.

Our responses to your Complaint are listed below:

- A. In paragraph 6 of the complaint, EPA states that the Coyote Creek MDWUA has failed to ~~meet the requirement for total coliform, uranium, and several surface water treatment rules.~~ We take exception to this statement as the Coyote Creek MDWUA has made a clear and conscientious effort to comply with these rules. The water system has been served by surface water springs. In an effort to comply with these rules a new water supply was developed in response to the original complaint. These prior and ongoing efforts are listed below:

Detail of Progressive Activities to Achieve Compliance:

- 1) In November 2008 the new well was drilled to a depth of 1,600 feet and produces up to 100 gpm, however, due to power supply limitation the well presently produces 25 gpm. The building and support facilities were also constructed during the Fall of 2008. This was funded by a USDA grant and it was intended that this well would replace the surface water springs in an effort to achieve compliance.
- 2) However, the water quality of the new well indicates that the primary maximum contaminant levels (MCLs) for gross alpha particles and combined radium and secondary MCL for total dissolved solids (TDS), chloride, zinc, iron and

secondary MCL for total dissolved solids (TDS), chloride, zinc, iron and manganese are exceeded. This was unanticipated and a new project for treatment was initiated in 2010.

- 3) In June 2010, NCS Engineers Inc., developed another preliminary engineering report (PER) that recommended a two phase approach for developing the community's water supply.
- 4) The PER was submitted to the USDA for its funding consideration. USDA determined that the estimated costs were high and the project was not viable as originally proposed. USDA also expressed concern regarding the annual operation and maintenance costs for a small community and the support required to implement the project.
- 5) NCS Engineer's offered Amendments to the PER in order to make this initiative a viable project. Phase 1 of the project will be divided into two separate phases. Phase 1A will provide a system capable of producing 10 gpm of treated water, along with an 85,000 gallon storage tank and evaporation ponds to handle the liquid waste concentrate. Phase 1B would consist of the construction of a permanent water supply and treatment facilities which will meet all federal and state Clean Drinking Water Act regulations.
- 6) The project was funded by USDA in August 2011 in the amount of approximately \$900,000.

Clearly, the water system is not recalcitrant and intends to comply with the Safe Drinking Water Act. The small number of connections, complex issues and funding challenges need to be considered prior to enforcing any penalty.

- B. The complaint poses a penalty of \$5,000 in paragraph 8 and it mentions an administrative penalty of \$37,500 in paragraph 7. It is unclear what the penalty amount is. We request that EPA clarify this matter. Additionally, the Coyote Creek MDWUA will request a waiver of the proposed \$5,000 fine as well as any liability associated with an administrative civil penalty in an amount not to exceed \$37,500. A proposed fine and or administrative civil penalty will only deteriorate the USDA grant funding mechanism that has been successfully secured to fund Phase 1A of this particular critical water supply project as well as adversely impact the overall Water Supply Project. The penalty will significantly deplete the Coyote Creek MDWUA current bank account balance of \$7,865.66. It is the Association's desire that a mutual acceptable compliance schedule and agreement can be reached between the USEPA Region 6 Director and the Coyote Creek MDWUA Board Members which will waive any proposed fine and or administrative penalty.
- C. Given the challenges and constraints listed above, we have developed an approach to achieve SDWA compliance and resolve this complaint, as summarized below:
 - 1) The source water for the Coyote Creek water supply project has several regulated contaminants and requires the design of a complicated treatment train. The design effort for such a treatment train is substantial and is independent of treatment system size.

- 2) NCS' approach for Phase 1A is to design, construct and operate the treatment train proposed for the Coyote Creek MDWUA water supply. The size of the treatment train was estimated at 10 gpm and the corresponding finished water production would be approximately 5-7 gpm. The finished water would be stored in a new 85,000 gallon storage tank, and treatment train residuals would be handled in a new onsite lagoon. Since the 10 gpm treatment train would be used as part of the full-scale water treatment facility, the design would meet the NMED DWB requirements. The treatment train would require a building which would be designed and constructed to house the final 25 gpm train due to economy of scale.
- 3) NCS would provide two months of full time operation of the facilities after construction to train Coyote Creek MDWUA system operator(s). These specific efforts will guarantee a successful transition to the Owner.

D. The current Design and Construction Schedule to install treatment on the new well is as follows:

- 50% Design - 2 months 10/15/11 to 12/15/11
- 90% Design and Specifications - 2 months 12/15/11 to 2/15/12
- USDA LOC Approval - 1 month 2/15/12 to 3/15/12
- Bid Phase 1 (Bidding & Award) - 2 months 3/15/12 to 5/15/12
- Water Treatment Study - 4 months 5/15/12 to 9/15/12
- Final Design and Specifications - 2 months 9/15/12 to 11/15/12
- Bid Phase 2 (Bidding & Award) - 2 months 11/15/12 to 1/15/13
- Construction - 6 months 1/15/13 to 7/15/13
- Start up and Commissioning - 2 months 7/15/13 to 9/15/13

Total Time Required for Design and Construction of Phase 1A - 23 months

~~E. We anticipate that this specific Revised Design and Construction Schedule, Detail of Progressive Activities and USDA secured funding will portray an aggressive and positive attitude of the Board as well as the Contract Engineer's (NCS) commitment to the Board and USEPA Region 6 to rectify any and all Federal and State compliance issues. Additionally, you can see that the Coyote Creek MDWUA treatment process and facility will be completed in mid July 2013 which will meet the compliance issues associated with the original notice of August 7, 2008 five year deadline date.~~

F. In closing, the Coyote Creek MDWUA looks forward to working with the designated USEPA Region 6 staff in resolving these specific matters and requests an informal hearing or conference to further discuss the waiver of any proposed fine and or civil penalty, and any other proposed NOV'S and or compliance issues associated with PWS ID # NM3500402. We request that we enter into an agreement to clear the water system of all pending and ongoing violations and agree to a formal Compliance Schedule based on the activities listed above. Given the financial constraints and our ongoing efforts to comply, any monetary penalty would be inappropriate and hamper our compliance efforts

and if a formal hearing is necessary to further discuss this matter, please let me know when we can schedule this.

Thank you for your continued cooperation and please contact me directly at 575-773-4158 to finalize the conference call and or informal hearing time & date.

Sincerely,

A handwritten signature in black ink, appearing to read "Liz Thayer". The signature is written in a cursive style with a large initial "L".

Liz Thayer
President
