



NOTICE OF VIOLATION

VIA Certified Mail/Return Receipt Requested and Email

November 6, 2023

Dino Cervantes, Owner, dinoc@ceinm.com
Cervantes Enterprises
P.O. Box 158
Las Cruces, NM 88004

**RE: Notice of Violation, DP-1152 issued to Cervantes Enterprises, 9926 South Highway 478,
Vado, in Section 18, Township 25S, Range 03E, Dona Ana County**

Dear Dino Cervantes:

The New Mexico Environment Department (NMED) has determined that the above-referenced facility is operating in violation of the Water Quality Control Commission (WQCC) Regulations (20.6.2 NMAC) and the Water Quality Act (WQA). Please be advised that NMED requires prompt action as described herein.

Pursuant to Section 20.6.2.3109 NMAC, NMED issued a Discharge Permit Renewal, DP-1152, to Cervantes Enterprises (Permittee) on September 10, 2018. DP-1152 expired on September 9, 2023.

A summary of the events resulting in the determination of violation at this facility follows.

- Pursuant to 20.6.2.3106.G NMAC, a holder of a discharge permit must submit an application for renewal 120 days before the discharge permit expires in order for the current permit to be administratively continued. Otherwise, the permittee will be discharging without a permit after the date the current permit expires. DP-1152 expired on September 9, 2023.
- On January 20, 2023, NMED provided the Permittee with a renewal reminder regarding the upcoming expiration of their permit on September 9, 2023.
- On August 29, 2023 NMED scheduled a routine inspection with facility. At the time of inspection NMED addressed some conditions regarding their monitoring reports and again reminded the permittee that DP-1152 would soon expire and the permittee would need to submit an application for renewal.

The requirements of the WQCC Regulations, resultant violation and associated actions necessary to correct the violation are identified below.

Section 20.6.2.3104 NMAC states that no person shall cause or allow wastewater or leachate to discharge so that it may move directly or indirectly into ground water unless they are discharging pursuant to a Discharge Permit. You have violated Section 20.6.2.3104 NMAC by discharging wastewater from this facility without a Discharge Permit.

In order to correct this violation, please complete the application for a Discharge Permit (copy enclosed), and submit two completed copies, an electronic copy and a \$100 filing fee to NMED within 30 days from the date of this letter, by December 6, 2023. Failure to comply with this Notice of Violation may result in NMED's issuance of a compliance order that assesses a civil penalty pursuant to WQA, Section 74-6-10 NMSA 1978. NMED may also assess civil penalties up to \$15,000 per day for each violation of the WQA, Section 74-6-5, NMSA 1978, any regulation promulgated pursuant to that section or any permit issued pursuant to that section. NMED may assess civil penalties up to \$10,000 per day for each violation of any other provision of the WQA, or any regulation, standard, or order adopted pursuant to such other provision. As an alternative 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 permittee of the obligation to comply with all requirements of the WQCC Regulations, the WQA, and other applicable federal, state, and local laws, regulations, permits or orders.

Please note that your facility will appear on the NMED's Enforcement Watch as a result of this NOV (see: <https://www.env.nm.gov/enforcement-watch/>). Further, NMED will issue a press release to local media highlighting your facility as appearing on this webpage. Your facility will remain on the Enforcement Watch website as an active matter until this matter is fully resolved.

Pursuant to the NMED Delegation Order dated May 24, 2021, the Cabinet Secretary has delegated the authority to sign a Notice of Violation under the New Mexico Water Quality Act to the Chief of the Ground Water Quality Bureau. If you have any questions regarding this matter, please contact Jaben Richards, Agriculture Program Manager of the Ground Water Agriculture Compliance Section, at (505) 660-8376 or Aracely Tellez at (505) 629-8864 or submit an email to acs.general@env.nm.gov.

Sincerely,

Justin D. Ball, Chief
Ground Water Quality Bureau

JB:AT

enc: Application for a Ground Water Discharge Permit
cc: John Rhoderick, Division Director, Water Protection Division (electronic copy)
Jaben Richards, Manager, ACS (electronic copy)

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Bill Chavez, District Manager, NMED III (electronic copy)
ACS Reading File