



## Notification provided via E-mail

February 21, 2024

Nicole Chacon; [capulinwater@yahoo.com](mailto:capulinwater@yahoo.com)  
Capulin MDWCA, NM3500821  
P.O. Box 144  
Gallina, NM 87017

### RE: **Notice of Violation— Ground Water Rule Failure to Submit Corrective Action Plan**

Dear Nicole Chacon:

This letter serves as Notice of Violation that the Capulin MDWCA water system failed to submit a corrective action plan for significant deficiencies identified during the 2022 sanitary survey performed by the New Mexico Environment Department-Drinking Water Bureau (NMED-DWB). Pursuant to Section 20.7.10.100 NMAC [incorporating 40 CFR Section 141.401 (Sanitary surveys for ground water systems)], public water systems must undergo an onsite inspection (Sanitary Survey) of the water source, facilities, equipment, operation, maintenance and monitoring compliance of a public water system to evaluate the adequacy of the system, its sources and operations and the distribution of safe drinking water.

The NMED-DWB provided the Capulin MDWCA with a copy of the completed sanitary survey report identifying significant deficiencies. The Capulin MDWCA is required to consult with NMED-DWB regarding the appropriate corrective actions within 30 days of the sanitary survey report letter date as required in 20.7.10.100 NMAC [incorporating 40 CFR Section 141.403 (a) (4)].

To date, NMED-DWB has not received the corrective action plan. Consequently, the Capulin MDWCA water system is not in compliance with the regulations of the Safe Drinking Water Act (SDWA). Please review the deficiencies identified and provide NMED-DWB the corrective action plan. If the Capulin MDWCA water system has already corrected the deficiencies, submit documentation that verifies the deficiencies have been corrected.

Based on the failure to provide the corrective action plan for the significant deficiencies identified, the NMED-DWB requires the Capulin MDWCA water system to notify customers as required in 20.7.10.100 NMAC [incorporating 40 CFR Section 141.204 (b) (1) and 141.204 (b) (2)]. The notice must be provided to all customers and others who drink the water by mail or direct delivery as soon as practical but no later than one year from the date of this letter and must be issued annually until the significant deficiency is corrected. Additionally, as required in 20.7.10.100 NMAC [incorporating 40 CFR Section 141.403(a)(7)(i)] the public water system must notify the public of any significant deficiency that has not been corrected and continue to inform the public annually until the significant deficiency is corrected.

Pursuant to 20.7.10.100 NMAC [incorporating 40 CFR Section 141.31(d)] the Capulin MDWCA water system must certify that the notice was published and the method of publication, by submitting a

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completed copy of the enclosed Public Notification Certification Form to the DWB within 10 days of the public notice being provided to customers. A representative copy of each type of notice distributed, published, posted or made available to the persons served by the system must be included with the certification form.

Please fill out and return the enclosed Public Notice Certification Form to:

Gordon Miller by email at [gordon.miller@env.nm.gov](mailto:gordon.miller@env.nm.gov).

Failure to comply with the public notice requirements will result in an additional violation (failure to notify the public and the state) being issued without notice to the Capulin MDWCA water system. Continued failure to comply with Public Notification Requirements, as defined in 20.7.10.100 NMAC [incorporating 40 CFR Sections 141.403(a)(7)(i-ii) and 141.31(d)] will result in escalated enforcement actions including issuance of Administrative Orders with possible penalties assessed against the Capulin MDWCA water system.

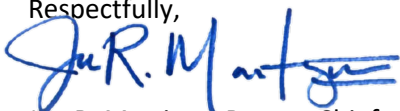
NMED-DWB reserves the right to take additional enforcement action regarding the violations identified in this NOV, to include the issuance of an Administrative Compliance Order compelling compliance and issuing civil penalties.

Pursuant to the NMED Delegation Order dated March 24, 2023, the Cabinet Secretary has delegated the authority to issue Notice of Violations to DWB Bureau Chief Joe R. Martinez.

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

If you have any questions or need assistance, please contact Gordon Miller at 505-258-3203 or by e-mail at [gordon.miller@env.nm.gov](mailto:gordon.miller@env.nm.gov).

Respectfully,



Joe R. Martinez, Bureau Chief  
Drinking Water Bureau  
Water Protection Division

Enclosures:     Public Notice Template  
                  Public Notice Certification Form

xc: Wayne Jeffs, Northern Area Compliance Supervisor (electronic)  
      Gordon Miller, Compliance Officer (electronic)  
      Electronic Central File

# Instructions for GWR Failure to prove a Corrective Action Plan

## Template on Following Page

If you are required to provide Tier 3 notification, you must provide public notice to persons served within one year after you learn of the violation 20.7.10.100 NMAC [incorporating 40 CFR 141.204(b)]. Multiple monitoring violations can be serious, and the NMED DWB may have more stringent requirements. Check with the NMED DWB to make sure you meet its requirements.

Community systems must use one of the following 20.7.10.100 NMAC [incorporating 40 CFR 141.204(c)]:

- Hand or direct delivery
- Mail, as a separate notice or included with the bill

Noncommunity systems must use one of the following 20.7.10.100 NMAC [incorporating 40 CFR 141.204(c)]:

- Posting in conspicuous locations
- Hand delivery
- Mail

In addition, both community and noncommunity systems must use another method reasonably calculated to reach others if they would not be reached by the first method 20.7.10.100 NMAC [incorporating 40 CFR 141.204(c)]. Such methods could include newspapers, e-mail, or delivery to community organizations. If you post the notice, it must remain posted until the violation is resolved. If the violation has already been resolved, you must post the notice for at least seven days 20.7.10.100 NMAC [incorporating 40 CFR 141.204(b)]. If you mail, post, or hand deliver, print your notice on your system's letterhead, if available.

The notice on the following page is appropriate for insertion in an annual notice or the Consumer Confidence Report (CCR), as long as public notification timing and delivery requirements are met 20.7.10.100 NMAC [incorporating 40 CFR 141.204(d)]. You may need to modify the template for a notice for individual monitoring violations. This example presents violations in a table; however, you may write out an explanation for each violation if you wish. For any monitoring violation for volatile organic compounds (VOCs) or other groups, you may list the group name in the table, but you must provide the name of every chemical in the group on the notice, e.g., in a footnote.

You may need to modify the notice if you had any monitoring violations for which monitoring later showed a maximum contaminant level or other violation. In such cases, you should refer to the public notice you issued at that time. If you do modify the notice, you must still include all required PN elements from 40 CFR 141.205(a) and leave the mandatory language unchanged (see below).

### **Mandatory Language**

Mandatory language for monitoring and testing procedure violations 20.7.10.100 NMAC [incorporating 40 CFR 141.205(d)] must be included as written (with blanks filled in) and is presented in this notice in italics and with an asterisk on either end.

You must also include standard language to encourage the distribution of the public notice to all persons served, where applicable 20.7.10.100 NMAC [incorporating 40 CFR 141.205(d)]. This language is also presented in this notice in italics and with an asterisk on either end.

### **Corrective Action**

In your notice, describe corrective actions you took, or are taking. Listed below are some steps commonly taken by water systems with monitoring violations. You can use the following language, if appropriate, or develop your own:

- We have since taken the required samples, as described in the last column of the table above. The samples showed we are meeting drinking water standards.
- We have since taken the required samples, as described in the last column of the table above. The sample for [contaminant] exceeded the limit. [Describe corrective action; use information from public notice prepared for violating the limit.]
- We plan to take the required samples soon, as described in the last column of the table above.

### **After Issuing the Notice**

Make sure to send the NMED DWB a copy of each type of notice and a certification that you have met all the public notice requirements within ten days after issuing the notice 20.7.10.100 NMAC [incorporating 40 CFR 141.31(d)].

**\*\*PUBLIC WATER SYSTEM MUST APPROPRIATELY MODIFY THIS PUBLIC NOTICE TO INCLUDE UP-TO-DATE INFORMATION REGARDING THE VIOLATION AS WELL AS INFORMATION ABOUT THE CURRENT STATUS OF THE VIOLATION'S AFFECT ON THE WATER SYSTEM. PUBLIC WATER SYSTEM OFFICIAL MUST DELETE THIS PARAGRAPH ONCE PUBLIC NOTICE HAS BEEN APPROPRIATELY UPDATED, PRIOR TO SENDING OUT TO THE PUBLIC\*\***

## **IMPORTANT INFORMATION ABOUT YOUR DRINKING WATER**

### **Capulin MDWCA Failed to Submit Corrective Action Plan Within Required Time Frame**

***Este informe contiene información importante acerca de su agua potable. Haga que alguien lo traduzca para usted, o hable con alguien que lo entienda***

Our water system recently violated a drinking water requirement. Although this incident was not an emergency, as our customers, you have a right to know what happened and **what we did (are doing)** to correct this situation.

A routine sanitary survey conducted on August 25, 2022, by the New Mexico Environment Department-Drinking Water Bureau (NMED DWB) found storage tanks that had not been inspected, a malfunctioning chemical feed pump, an improper raw water sample tap, inadequate site security at multiple facilities, inadequate construction at the treatment plant, no operations and maintenance plan, no emergency response plan, no sampling plans, and no system maps.

1. **006M – no storage tank inspection at Storage Tank #1**
2. **006M – no storage tank inspection at Storage Tank #2**
3. **005T – malfunctioning chemical feed pump at Treatment Plant #1**
4. **003T – inadequate raw water sample tap**
5. **004C – inadequate site security at Well #1**
6. **001J – inadequate site security at Storage Tank #2**
7. **004W – improper construction at Treatment Plant #1**
8. **004C – no operations and maintenance plan**
9. **004B – no emergency response plan**
10. **003F – no distribution system sampling plan**
11. **001T – no system maps**

We were to consult with the NMED-DWB regarding the appropriate corrective actions within 30 days as required by Environmental Protection Agency's (EPA's) Ground Water Rule. However, we failed to take these actions by the deadlines established by the NMED DWB.

#### **What should I do?**

- There is nothing you need to do. You do not need to boil your water or take other corrective actions. However, if you have specific health concerns, consult your doctor.
- If you have a severely compromised immune system, have an infant, are pregnant, or are elderly, you may be at increased risk and should seek advice from your health care providers about drinking this water. General guidelines on ways to lessen the risk of infection by microbes are available from EPA's Safe Drinking Water Hotline at 1-800-426-4791.

#### **What does this mean?**

This is not an emergency. If it had been, you would have been notified within 24 hours.

*\*Inadequately treated water may contain disease-causing organisms. These organisms include bacteria, viruses, and parasites which can cause symptoms such as nausea, cramps, diarrhea, and associated headaches.\**

These symptoms, however, are not caused only by organisms in drinking water, but also by other factors. If you experience any of these symptoms and they persist, you may want to seek medical advice.

#### **What is being done?**

**[Describe corrective action.]** We anticipate resolving the problem within **[estimated time frame]** (or the problem was resolved on **[give date]**).

#### **For more information, please contact:**

Nicole Chacon at 505-927-3699  
Capulin MDWCA, NM3500821  
P.O. Box 144  
Gallina, NM 87017

***\*Please share this information with all the other people who drink this water, especially those who may not have received this notice directly (for example, people in apartments, nursing homes, schools, and businesses). You can do this by posting this notice in a public place or distributing copies by hand or mail.\****



**New Mexico Environment Department - Drinking Water Bureau**

**Public Notification Certification Form – All Tiers**

Requirements Pursuant to 40 CFR 141 (Subpart Q)

**\*\*This form and a copy of your Notice to the Public must be submitted to the State within 10 days of notifying your customers. \*\***

**PWSID#:** NM3500821    **Water System Name:** Capulin MDWCA

**Violation or Situation Date:** February 21, 2024

**Individual Contaminant or Contaminant Group:** 20-Ground Water Rule

**Violation or Situation Type:** Failure to submit a Corrective Action Plan within 30 days

**Violation or Situation Public Notification Tier:** Tier 3

Distributed the notice by the following method(s), and on the following date(s) in accordance with 40 CFR 141.201:

- |   |             |
|---|-------------|
| <input type="checkbox"/> Continuously Post                                  | Date: _____ |
| <input type="checkbox"/> Separate Mailing to Customers                      | Date: _____ |
| <input type="checkbox"/> Hand Deliver Notice to Customers                   | Date: _____ |
| <input type="checkbox"/> Publish Notice in Newspaper                        | Date: _____ |
| <input type="checkbox"/> Release Notice to and Announced by Broadcast Media | Date: _____ |
| <input type="checkbox"/> Post Notice on System Website                      | Date: _____ |
| <input type="checkbox"/> Billing  | Date: _____ |
| <input type="checkbox"/> Annual Report (Consumer Confidence Report)         | Date: _____ |
| <input type="checkbox"/> Other: _____                                       | Date: _____ |

**Attach a copy of the posted Public Notice(s) to this certification form.**

The public water system named above hereby certifies that public notification has been provided to its consumers in accordance with all delivery, content, and format requirements specified in 40 CFR Part 141:

**Water System Representative:** \_\_\_\_\_  
(Signature)                      (Print Name)                      (Phone Number)

Date of Certification: \_\_\_\_\_