



Notification provided via E-mail

January 24, 2024

Arthur Olivas; [arthurolivas60@gmail.com](mailto:arthurolivas60@gmail.com)  
Agua Negra MDWCA, NM3515918  
PO Box 193  
Holman, NM 87723

**RE: Notice of Violation— Ground Water Rule  
Failure to Correct Significant Deficiencies**

Dear Arthur Olivas:

This letter serves as Notice of Violation that the Agua Negra MDWCA water system failed to correct significant deficiencies identified during the June 9, 2023 sanitary survey performed by the New Mexico Environment Department-Drinking Water Bureau (NMED-DWB). Pursuant to Section 20.7.10.101 NMAC [incorporating 40 CFR Section 141.401, 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 Agua Negra MDWCA with a copy of the completed sanitary survey report identifying significant deficiencies. Within 120 days of the sanitary survey report letter, the Agua Negra MDWCA water system was required to complete the corrective action and report the corrective action to NMED-DWB.

To date, NMED-DWB has not received documentation verifying compliance with the significant deficiencies noted during the Sanitary Survey. Consequently, the Agua Negra MDWCA water system is not in compliance with the regulations of the Safe Drinking Water Act (SDWA). If the Agua Negra MDWCA water system has already corrected the deficiencies, submit documentation that verifies the deficiencies have been corrected.

Based on the failure to correct all the significant deficiencies identified, the NMED-DWB requires the Agua Negra MDWCA water system to notify customers of this Tier 2 violation as required in 20.7.10.100 NMAC [incorporating 40 CFR Section §141.203 (b)]. Public Notice must be made within 30 days from the date of this letter. The notice must be repeated every three months until the significant deficiency is corrected.

Additionally, as required in 20.7.10.100 NMAC [incorporating 40 CFR Section 141.403(a)(7)(i)]-Community 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 Agua Negra MDWCA water system must certify that the notice was published and the method of publication, by submitting a

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

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

Frank Baca by email to [frank.baca@env.nm.gov](mailto:frank.baca@env.nm.gov)

Failure to comply with the public notice requirements will result in an additional violation being issued without notice to the Agua Negra MDWCA water system and reported to the Environmental Protection Agency. Continued failure to comply with Public Notification Requirements, as defined in 20.7.10.100 NMAC [incorporating 40 CFR Sections 141.203 and 141.31(d)] will result in escalated enforcement actions including issuance of Administrative Orders with possible penalties assessed against the Agua Negra MDWCA water system.

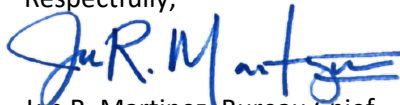
NMED-DWB reserves the right to take additional enforcement action regarding the violations identified in this NOV, to include the issuance of an Administrative Compliance Order compelling compliance and issuing civil penalties.

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 Frank Baca at 505-469-1323 or by e-mail at [frank.baca@env.nm.gov](mailto:frank.baca@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)  
      Frank Baca, Compliance Officer  
      Electronic Central File

# Instructions for GWR Failure to Take Corrective Action Within Required Time Frame Notice

## Template on Following Page

A system's failure to take correct significant deficiencies under the Ground Water Rule is a treatment technique violation and requires Tier 2 notification. You must provide public notice to persons served as soon as practical but within 30 days after you learn of the violation 20.7.10.100 NMAC [incorporating 40 CFR 141.203(b)]. You must issue a repeat notice every three months for as long as the violation persists.

Community systems must use one of the following methods 20.7.10.100 NMAC [incorporating 40 CFR 141.203(c)]:

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

Noncommunity systems must use one of the following methods 20.7.10.100 NMAC [incorporating 40 CFR 141.203(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 141.203(c)]. Such methods could include newspapers, e-mail, or delivery to community organizations. If you mail, post, or hand deliver, print your notice on your system's letterhead if available.

The notice on the reverse is appropriate for mailing, posting, or hand delivery. If you modify this 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 on health effects (from Appendix B to Subpart Q) 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 are taking. Listed below are some steps commonly taken by water systems with Ground Water Rule treatment technique violations. Depending on the corrective action you are taking, you can use one or more of the following statements, if appropriate, or develop your own text:

- Although we did not meet our deadline, we are now in consultation with the state to develop a corrective action plan.
- The [source of contamination/significant deficiency] has been identified and addressed.
- We have implemented a short-term plan to address the immediate issue while we pursue the long-term solution.

### Repeat Notices

For repeat notices, you should state how long the violation has been ongoing and remind consumers of when you sent out any previous notices. If you are making progress with correcting the significant deficiency or addressing the fecal indicator-positive source sample, describe it. Alternatively, if funding or other issues are delaying corrective action, let consumers know.

### After Issuing the Notice

Make sure to send The New Mexico Environment Department's Drinking Water Bureau a copy of each type of notice and a certification that you have met all public notification requirements within ten days after issuing the notice 20.7.10.100 NMAC [incorporating 40 CFR 141.31(d)].

## IMPORTANT INFORMATION ABOUT YOUR DRINKING WATER

### Agua Negra MDWCA Failed to Correct Significant Deficiencies 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 June 9, 2023 by the New Mexico Environment Department-Drinking Water Bureau (NMED DWB) found.

1. 004B - Agua Negra MDWCA did not provide an adequate emergency response plan for review
2. 004C - Agua Negra MDWCA did not provide an adequate operations & maintenance plan for review
3. 003F - Agua Negra MDWCA water system did not Distribution System Sampling Plan (DSSP) for review
4. 001T - Agua Negra MDWCA water system did not provide an adequate Water System Map for review
5. 003Q - Agua Negra MDWCA Failure to have water system records available for review
6. 006M - Agua Negra MDWCA had no current inspection of Storage Tank #2(#15918003) **Extension to July 2024**

As required by Environmental Protection Agency's (EPA's) Ground Water Rule, we were required to correct these deficiencies. However, we failed to take this action by the deadline 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:

Arthur Olivas at 575-447-5185 or at [arthurolivas60@gmail.com](mailto:arthurolivas60@gmail.com)  
Agua Negra MDWCA, NM3515918  
PO Box 193  
Holman, NM 87723

*\*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#:** NM3515918 **Water System Name:** Agua Negra MDWCA

**Violation or Situation Date:** June 9, 2023

**Individual Contaminant or Contaminant Group:** **45–120-day** Ground Water Rule (Treatment Technique)

**Violation or Situation Type:** Failure to resolve significant deficiencies

**Violation or Situation Public Notification Tier:** Tier 2

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:** \_\_\_\_\_