



MICHELLE LUJAN GRISHAM
GOVERNOR

JAMES C. KENNEY
CABINET SECRETARY

Notification provided via E-mail

May 2, 2024

Sandra J. Gutierrez penablancawater@gmail.com
Sile MDWCA
P.O. Box 1266
Pena Blanca, New Mexico 87041

Re: Administrative Compliance Order, No. 2024-ACO-03 Sile MDWCA, PWS# NM3543723

Dear Sandra J. Gutierrez,

Please find attached Administrative Compliance Order No. 2024-ACO-03 issued to Sile MDWCA, for Sile MDWCA, PWS# NM3543723. Please review the Administrative Compliance Order (Order) carefully to understand what action must be taken to comply with the requirements of the Order. Sile MDWCA has a right to answer the allegations in the Order and request a hearing, NMSA 1978, §§ 61-33-120.E and 74-1-10.E and 20.1.5 NMAC (available at www.env.nm.gov).

Pursuant to the NMED Delegation Order dated February 19, 2024, the Cabinet Secretary has delegated the authority to issue Administrative Compliance Orders under the Environmental Improvement Act ("EIA"), NMSA 1978, § 74-1-10, the Drinking Water Regulations ("DW Regulations"), 20.7.10 NMAC and the Utility Operator Certification Act, NMSA 1978, § 61-33-10 to the Bureau Chief of the Drinking Water Bureau.

Please note that your facility will appear on the Department's Enforcement Watch as a result of this administrative order (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 Maria J. Medina, Enforcement Coordinator, at 505-629-7223 or via email at maria.medina@env.nm.gov.

Respectfully,

A handwritten signature in blue ink that reads "Joe R. Martinez".

Joe R. Martinez
Bureau Chief of the Drinking Water Bureau

cc: Compliance Officer (Electronic)
Region 6, EPA (Electronic)
Electronic Central File

STATE OF NEW MEXICO
SECRETARY OF ENVIRONMENT

NEW MEXICO ENVIRONMENT DEPARTMENT
WATER PROTECTION DIVISION,

Complainant,

No. 2024-ACO-03

v.

SILE MDWCA,

Respondent.

ADMINISTRATIVE COMPLIANCE ORDER

Pursuant to the Environmental Improvement Act (“EIA”), NMSA 1978, § 74-1-10, and the Drinking Water Regulations (“DW Regulations”), 20.7.10 NMAC, the Secretary of the New Mexico Environment Department (“NMED”), acting through the Bureau Chief of the Drinking Water Bureau, issues this Administrative Compliance Order (“Order”) to Sile MDWCA (“Respondent”) to enforce the EIA and DW Regulations.

FINDINGS

1. The NMED is an executive agency within the government of the State of New Mexico which administers and enforces the requirements of the EIA and DW Regulations.

2. Respondent owns and operates a public drinking water system (“System”) Sile MDWCA, PWS# NM3543723, located in Sandoval County, New Mexico.

3. The System is a Community water system, as defined by Section 20.7.10.100 NMAC, incorporating 40 C.F.R. § 141.2, that regularly provides piped drinking water to approximately one hundred fifty-four (154) residents and has approximately fifty-five (55) service connections to serve these residents.

4. Respondent, Sile MDWCA, is a “person” as defined by the EIA, NMSA 1978, § 74-1-3 and 20.7.10.100 NMAC, incorporating 40 C.F.R. § 141.2.

5. 20.7.10.100 NMAC, incorporating 40 C.F.R. § 141.403(a)(5), ground water systems must either have completed corrective action for any significant deficiencies or be in compliance with a State approved corrective action plan within 120 days of receiving written notice from the State of a significant deficiency.

6. NMED issued a Notice of Violation (NOV) to Respondent on January 15, 2020, for failure to correct significant deficiencies identified during the August 21, 2019, sanitary survey, within 120 days of receiving written notice from the State of significant deficiencies. The NOV notified Respondent of the requirement to provide public notice of the violation.

7. 20.7.10.100 NMAC, incorporating 40 C.F.R. § 141.620 and 141.621, defines monitoring requirements for Stage 2 Disinfection Byproducts Rule (DBP2).

8. NMED issued a NOV to Respondent on October 18, 2023, for failure to complete the required DBP2 monitoring during September 2021, September 2022, and September 2023 at the DBP-DIST (94 Sile RD) sampling location. The NOV notified Respondent of the requirement to provide public notice of the violation.

9. 20.7.10.100 NMAC, incorporating 40 C.F.R. § 141.859(a)(1), public water systems must conduct a Level 1 Assessment and report assessment findings and any corrective actions within 30 days of assessment trigger.

10. NMED issued a NOV to Respondent on November 15, 2023, for failure to conduct and report a Level 1 Assessment or any corrective actions within 30 days of assessment trigger. The NOV notified Respondent of the requirement to provide public notice of the violation.

VIOLATION 1

11. Respondent is in violation of 20.7.10.100 NMAC, incorporating 40 C.F.R. § 141.403(a)(5), ground water systems must either have completed corrective action for any significant deficiencies or be in compliance with a State approved corrective action plan within 120 days of receiving written notice from the State of a significant deficiency. Respondent failed to correct all significant deficiencies identified during the August 21, 2019, sanitary survey within 120 days of receiving written notice from the State.

VIOLATION 2

12. Respondent is in violation of 20.7.10.100 NMAC, incorporating 40 C.F.R. § 141.620 and 141.621, defines the monitoring requirements for Stage 2 Disinfection Byproducts Rule (DBP2). Respondent failed to complete the required DBP2 monitoring during September 2021, September 2022, and September 2023 at the DBP-DIST (94 Sile RD) sampling location.

VIOLATION 3

13. Respondent is in violation of 20.7.10.100 NMAC, incorporating 40 C.F.R. § 141.859(a)(1), public water systems must conduct a Level 1 Assessment and report assessment findings and any corrective actions within 30 days of assessment trigger. Respondent failed to conduct a Level 1 Assessment and report findings or any corrective actions within 30 days of assessment trigger.

RETURN TO COMPLIANCE

Based upon the foregoing, Respondent is hereby ordered to comply with the following:

14. By September 30, 2024, Respondent must comply with 20.7.10.100 NMAC, incorporating 40 C.F.R. § 141.403(a)(5), and correct remaining significant deficiency identified during the August 21, 2019, sanitary survey.

15. Between September 1 and September 30, 2024, Respondent must comply with 20.7.10.100 NMAC, incorporating 40 C.F.R. § 141.620 and 141.621, and collect a Disinfection Byproducts sample at the DBP-DIST at the 94 Sile Road sampling location.

16. By June 30, 2024, Respondent must comply with 20.7.10.100 NMAC, incorporating 141.859(a)(1), and submit a Level 1 Assessment and report any corrective actions.

17. Submittals made pursuant to paragraphs 14 through 16 of this Order shall be sent by certified mail with return receipt requested to the following:

Maria J. Medina, Enforcement Coordinator
New Mexico Environment Department
Drinking Water Bureau
P.O. Box 5469

Santa Fe, NM 87502-5469

Or

Email: maria.medina@env.nm.gov

If respondent fails to comply with the requirements of paragraphs 14 through 17 of this order, the Secretary of NMED may assess civil penalties not to exceed one thousand dollars (\$1,000) for each instance of noncompliance with this order.

RIGHT TO ANSWER AND REQUEST A HEARING

Pursuant to NMSA 1978, §§ 61-33-120.E and 74-1-10.E and 20.1.5 NMAC (available at www.env.nm.gov), Respondent has the right to request a hearing. If Respondent (a) contests any material or legal matters upon which this Order is based; (b) contends that Respondent is entitled to prevail as a matter of law; or (c) otherwise contests the appropriateness of this Order, Respondent may mail or deliver within thirty (30) days of receipt of this Order a written Request for Hearing at the following address:

Hearing Clerk
New Mexico Environment Department
P.O. Box 5469
Santa Fe, New Mexico 87502

Respondent must attach a copy of this Order to the Request for Hearing. 20.1.5.200.A(2)(d) NMAC.

The Request for Hearing shall include an Answer. Respondent's Answer shall clearly and directly admit, deny, or explain each of the factual allegations contained in this Order with regard to which Respondent has any knowledge. Where Respondent has no knowledge of a particular factual allegation, Respondent should so state, and the Respondent may deny the allegation on that basis. Any allegation in this Order not specifically denied shall be deemed admitted. 20.1.5.200.A(2)(a) NMAC.

Respondent's Answer shall also include any affirmative defenses upon which Respondent intends to rely. Any affirmative defense not asserted in the Answer, except a defense asserting lack of subject matter jurisdiction, shall be deemed waived. 20.1.5.200.A(2)(b) NMAC.

Respondent's Answer shall be signed under oath or affirmation that the information contained therein is to the best of the signer's knowledge believed to be true and correct. 20.1.5.200.A(2)(c) NMAC.

FINALITY OF ORDER

Pursuant to NMSA 1978, §§ 61-33-10.E and § 74-1-10.E, this Order shall become final unless the Respondent files a Request for Hearing and Answer with the Hearing Clerk within thirty (30) days of receipt of this Order.

SETTLEMENT CONFERENCE

Whether or not a Request for Hearing has been filed, Respondent may confer with the NMED concerning settlement of this Order. The NMED encourages settlement consistent with the provisions and objectives of the EIA and the DW Regulations. Settlement discussions neither extend the thirty (30) day deadline for filing a Request for Hearing and Answer nor alter the deadline imposed for compliance with the mandate of this Order. Settlement discussion may be pursued as an alternative to, and simultaneously with, the hearing proceedings. Respondent may appear at the settlement conference alone or accompanied or represented by legal counsel.

A Stipulated Final Order shall finalize any settlement reached by the parties. The Stipulated Final Order must resolve all issues raised in this Order, shall be final and binding on all parties, and may not be appealed.

To explore the possibility of settlement in this matter, contact Maria J. Medina, Drinking Water Bureau, New Mexico Environment Department, P.O Box 5469, Santa Fe, New Mexico 87502-5469, (505) 629-7223.

COMPLIANCE WITH OTHER LAWS

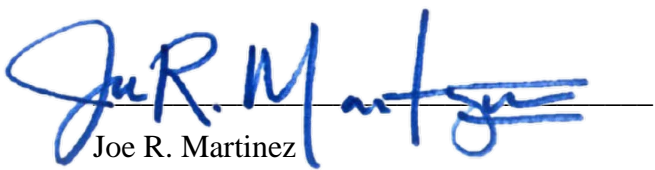
Compliance with the requirements of this Order does not relieve Respondent of the obligation to comply with all other applicable laws and regulations. This Order does not constitute a waiver, suspension, or modification of the requirements of 20.7.10 NMAC and 20.7.4 NMAC which remain in full force and effect. Issuance of this Order is not an election by the NMED to forgo any civil or criminal action otherwise authorized under the EIA.

TERMINATION

This Order shall terminate when all requirements of this Order have been met and the NMED provides notification of termination in writing, or when the Secretary approves a Stipulated Final Order.

DELEGATION OF SIGNATORY AUTHORITY

Pursuant to the NMED Delegation Order dated February 19, 2024, the Cabinet Secretary has delegated the authority to issue Administrative Compliance Orders under the Environmental Improvement Act (“EIA”), NMSA 1978, § 74-1-10, the Drinking Water Regulations (“DW Regulations”), 20.7.10 NMAC and the Utility Operator Certification Act, NMSA 1978, § 61-33-10 to the Bureau Chief of the Drinking Water Bureau.



Joe R. Martinez
Bureau Chief of the Drinking Water Bureau
P.O Box 5469
Santa Fe, New Mexico 87502-5469

May 2, 2024

Date