



MICHELLE LUJAN GRISHAM
GOVERNOR

JAMES C. KENNEY
CABINET SECRETARY

Notification provided via E-mail

October 18, 2023

Orville McCallister mccallisterorville@gmail.com
Homestead Village
221 HWY 165, Suite A
Placitas, New Mexico 87043

Re: Administrative Compliance Order, No. 2023-ACO-04 Homestead Village, PWS# NM3581623

Dear Orville McCallister,

Please find attached Administrative Compliance Order No. 2023-ACO-04 issued to Homestead Village Inc., for Homestead Village, PWS# NM3581623. Please review the Administrative Compliance Order (Order) carefully to understand what action must be taken to comply with the requirements of the Order. Homestead Village Inc., 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 March 24, 2023, 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 DWB Bureau Chief Joe R. Martinez.

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
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. 2023-ACO-04

v.

HOMESTEAD VILLAGE INC.,

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 with concurrence from the Water Protection Division Director of the NMED, issues this Administrative Compliance Order (“Order”) to Homestead Village Inc. (“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”) Homestead Village, PWS# NM581623, located in Sandoval County, New Mexico.
3. The System is a Non-Transient Non-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 two hundred ninety (290) users and has approximately one (1) service connection to serve these users.
4. Respondent, Homestead Village Inc., 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. § 141.62(b)(16) and 141.23(i)(1), defines the Maximum Contaminant Level (MCL) for Arsenic as 0.010 milligrams per liter (mg/L) and states compliance with the MCL for Arsenic is determined by a Running Annual Average (RAA).

6. NMED issued a Notice of Violation (NOV) to Respondent on February 3, 2023, for exceeding the Arsenic MCL at Booster Pumps during the third (3rd) quarter of 2022. The NOV notified Respondent of the requirement to provide public notice of the violation.

7. NMED issued an NOV to Respondent on December 8, 2022, for exceeding the Arsenic MCL at Booster Pumps during the fourth (4th) quarter of 2022. The NOV notified Respondent of the requirement to provide public notice of the violation.

8. NMED issued an NOV to Respondent on April 14, 2023, for exceeding the Arsenic MCL at Booster Pumps during the first (1st) quarter of 2023. The NOV notified Respondent of the requirement to provide public notice of the violation.

9. NMED issued an NOV to Respondent on August 16, 2023, for exceeding the Arsenic MCL at Booster Pumps during the second (2nd) quarter of 2023. The NOV notified Respondent of the requirement to provide public notice of the violation.

10. 20.7.10.100 NMAC, incorporating 40 C.F.R. § 141.23, requires Public Water Systems to monitor for Inorganic contaminants.

11. NMED issued an NOV to Respondent on August 16, 2023, for failure to complete the monitoring requirements for Asbestos during the 2020-2022 monitoring period. The NOV notified Respondent of the requirement to provide public notice of the violation.

12. 20.7.10.100 NMAC, incorporating 40 C.F.R. § 141.203 and 141.31(d), requires Public Water Systems to notify customers of the violation by mail or other direct delivery to each customer and any other methods as necessary to inform the public, within 30 days from the date on the original NOV and certify that the notice was published and the method of publication by

submitting a completed Public Notification Certification Form to NMED within ten (10) days of completing the public notification requirements.

13. NMED issued an NOV to Respondent on August 23, 2023, requiring notification to consumers of the Arsenic MCL for the first (1st) quarter of 2023. Public water systems must complete this notification within thirty (30) days after the system learns of the violation.

14. NMED provided a Notice to Respondent on August 5, 2020, requiring notification to consumers of the Arsenic MCL for the second (2nd) quarter of 2020. Public water systems must complete this notification within thirty (30) days after the system learns of the violation.

VIOLATION 1

15. Respondent is in violation of 20.7.10.100 NMAC, incorporating 40 C.F.R. § 141.62(b)(16) and 141.23(i)(1), defines the Maximum Contaminant Level (MCL) for Arsenic as 0.010 milligrams per liter (mg/L) and states compliance with the MCL for Arsenic is determined by a Running Annual Average (RAA). Respondent exceeded the MCL for Arsenic at Booster Pumps during the third (3rd) and fourth (4th) quarters of 2022 and first (1st) and second (2nd) quarters of 2023 with a RAA concentration of 0.011 mg/L, 0.011 mg/L, 0.012 mg/L, and 0.013 mg/L respectively.

VIOLATION 2

16. Respondent is in violation of 20.7.10.100 NMAC, incorporating 40 C.F.R. § 141.23, requires Community water systems to monitor for Inorganic contaminants. Respondent failed to collect an Asbestos sample during the 2020-2022 monitoring period.

VIOLATION 3

17. Respondent is in violation of 20.7.10.100 NMAC, incorporating 40 C.F.R. § 141.203 and 141.31(d), requires Public Water Systems to notify customers of the violation by mail or other direct delivery to each customer and any other methods as necessary to inform the public, within 30 days from the date on the original NOV and certify that the notice was published and the method of publication by submitting a completed Public Notification Certification Form to NMED within ten (10) days of completing the public notification requirements. Respondent failed to submit to NMED a copy of the public notice within ten (10) days of notifying consumers of the Arsenic MCL exceedances during second (2nd) quarter of 2020 and first (1st) quarter of 2023.

RETURN TO COMPLIANCE

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

18. By March 31, 2024, Respondent must comply with 20.7.10.100 NMAC, incorporating 40 C.F.R. § 141.62(b)(16), and provide drinking water with concentrations of Arsenic below the MCL of 0.010 mg/L.

19. By March 31, 2025, Respondent must comply with 20.7.10.100 NMAC, incorporating 40 C.F.R. § 141.23(i)(1), and have a RAA for Arsenic below the MCL of 0.010 mg/L.

20. By November 30, 2023, Respondent must comply with 20.7.10.100 NMAC, incorporating 40 C.F.R. § 141.23, and collect an Asbestos compliance sample and submit that sample to a certified laboratory for analysis. The collection and analysis of this sample must be completed at the expense of the Respondent.

21. By October 31, 2023, Respondent must comply with 20.7.10.100 NMAC, incorporating 40 C.F.R. § 141.203 and 141.31(d), and submit a copy of the public notices

notifying consumers of the Arsenic MCL during the second (2nd) quarter of 2020 and the first (1st) quarter of 2023.

22. Submittals made pursuant to paragraphs 18 through 21 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 18 through 22 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

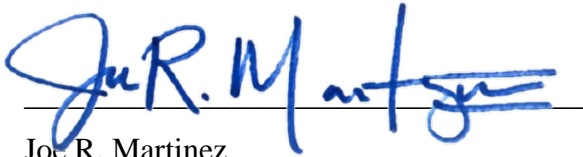
Compliance with the requirements of this Order does not relieve Respondent of the obligation to comply with all other applicable laws and regulations. This Order does not constitute a waiver, suspension, or modification of the requirements of 20.7.10 NMAC and 20.7.4 NMAC which remain in full force and 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 March 24, 2023, 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 with concurrence from the Water Protection Division Director.



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

10/18/2023

Date