



MICHELLE LUJAN GRISHAM
GOVERNOR

JAMES C. KENNEY
CABINET SECRETARY

Notification provided via E-mail

August 13, 2024

Travis Martinez Tmartinez@lasvegasnm.gov
Las Vegas (City of)
905 12th Street
Las Vegas, New Mexico 87701

Re: Administrative Compliance Order and Assessment of Civil Penalty, No. 2024-ACO-05 Las Vegas (City of), PWS# NM3518025

Dear Travis Martinez,

Please find attached Administrative Compliance Order and Assessment of Civil Penalty No. 2024-ACOP-05 issued to Las Vegas (City of), for Las Vegas (City of), PWS# NM3518025, under the Environmental Improvement Act, NMSA 1978, § 74-1-10, and the Drinking Water Regulations, 20.7.10 NMAC. Please review the Administrative Compliance Order and Assessment of Civil Penalty (Order) carefully to understand what action must be taken to comply with the requirements of the Order. Las Vegas (City of) 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
BEFORE THE SECRETARY OF ENVIRONMENT**

**NEW MEXICO ENVIRONMENT DEPARTMENT
WATER PROTECTION DIVISION
DRINKING WATER BUREAU**

No. 2024-ACOP-05

Complainant,

v.

CITY OF LAS VEGAS,

Respondent.

**ADMINISTRATIVE COMPLIANCE ORDER AND ASSESSMENT OF CIVIL
PENALTY**

Pursuant to NMSA 1978, Section 74-1-10 of the Environmental Improvement Act (“EIA”), NMSA 1978, §§ 74-1-1 to -15 and Section 20.7.10.300 NMAC of 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 with Penalties (“Order”) to Las Vegas (City of) (“Respondent”) to enforce the EIA, and DW Regulations.

I. 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, through its Drinking Water Bureau (“Bureau”).

2. Respondent owns and operates a public drinking water system (“System”), Las Vegas (City of), PWS# NM3518025, located in San Miguel County, New Mexico with a mailing address of 905 12th Street, Las Vegas, New Mexico 87701.

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 fourteen thousand five hundred thirty (14,530) users and has approximately six

thousand four hundred fifty-eight (6,458) service connection to serve these users, according to the Bureau's data base.

4. Respondent is a "supplier of water" as defined by 20.7.10.100 NMAC, incorporating 40 C.F.R. §142.2 because it is a person who owns or operates a public water system.

5. Respondent is a "person" as defined by the EIA, NMSA 1978, Section 74-1-3, and 20.7.10.100 NMAC, incorporating 40 C.F.R. §141.2.

6. Pursuant to Section 20.7.10.100 NMAC, incorporating 40 C.F.R. § 141.723 and 141.723(d), establishes requirements to undergo a sanitary survey and to complete corrective actions in accordance with a corrective action plan and an approved schedule by NMED DWB.

7. NMED issued a Notice of Violation (NOV) to Respondent on July 19, 2023, for failure to correct significant deficiencies identified during the October 20, 2021, sanitary survey within the required timeframe. The NOV notified Respondent of the requirement to provide public notice of the violation.

8. Pursuant to Section 20.7.10.100 NMAC, incorporating 40 C.F.R. § 141.64(b)(2)(i) and 141.620(d), defines the Total Trihalomethanes (TTHM) Maximum Contaminant Level (MCL) of 0.080 mg/L and establishes compliance with the MCL for TTHM is determined by calculating the Locational Running Annual Average (LRAA).

9. NMED issued a NOV to Respondent on April 13, 2023, for exceeding the TTHM LRAA MCL at the HAA5-1 (Storie Lake Park Bathroom) sampling location during the first (1st) quarter of 2023. The NOV notified Respondent of the requirement to provide public notice of the violation.

10. NMED issued a NOV to Respondent on September 20, 2023, for exceeding the TTHM LRAA MCL at the TTHM-1 (Alta Vista Med Hospital), the TTHM-2 (Mikes Precision), and the HAA5-1 (Storie Lake Park Bathroom) sampling locations during the second (2nd) quarter 2023 and at the TTHM-2 (Mikes Precision) sampling location during the third (3rd) quarter of 2023. The NOV notified Respondent of the requirement to provide public notice of the violation.

11. NMED issued a NOV to Respondent on February 14, 2024, for exceeding the TTHM LRAA MCL at the TTHM-2 (Mikes Precision) sampling location during the fourth (4th) quarter of 2023. The NOV notified Respondent of the requirement to provide public notice of the violation.

12. NMED issued a NOV to Respondent on March 13, 2024, for exceeding the TTHM LRAA MCL at the HAA5-1 (Storie Lake Park Bathroom) and the TTHM-2 (Mikes Precision) sampling locations during the first (1st) quarter of 2024. The NOV notified Respondent of the requirement to provide public notice of the violation.

13. 20.7.10.100 NMAC, incorporating 40 C.F.R. § 141.135(b)(2), requires a public water system to meet the minimum Total Organic Carbon (TOC) removal ratio.

14. NMED issued a NOV to Respondent on October 18, 2023, for failure to meet the minimum TOC removal ratio during the third (3rd) quarter of 2023. The NOV notified Respondent of the requirement to provide public notice of the violation.

15. NMED issued a NOV to Respondent on January 10, 2024, for failure to meet the minimum TOC removal ratio during the fourth (4th) quarter of 2023. The NOV notified Respondent of the requirement to provide public notice of the violation.

16. NMED issued a NOV to Respondent on April 25, 2024, for failure to meet the minimum TOC removal ratio during the second (2nd) and third (3rd) quarters of 2023 and first (1st) quarter of 2024. The NOV notified Respondent of the requirement to provide public notice of the violation.

II. VIOLATIONS

17. Respondent is in violation of 20.7.10.100 NMAC, incorporating 40 C.F.R. § 141.723 and 141.723(d), establishes requirements to undergo a sanitary survey and to complete corrective actions in accordance with a corrective action plan and an approved schedule by NMED DWB. Respondent failed to correct significant deficiencies identified during the October 20, 2021, sanitary survey within the required timeframe.

18. Respondent is in violation of 20.7.10.100 NMAC, incorporating 40 C.F.R. § 141.64(b)(2)(i) and 141.620(d), defines the Total Trihalomethanes (TTHM) Maximum Contaminant Level (MCL) of 0.080 mg/L and establishes compliance with the MCL for TTHM is determined by calculating the Locational Running Annual Average (LRAA). Respondent exceeded the TTHM LRAA MCL at the TTHM-1 (Alta Vista Med Hospital) sampling location during the second (2nd) quarter of 2023 with a result of 0.081 mg/L, at the HAA5-1 (Storie Lake Park Bathroom) sampling location during the first (1st) and second (2nd) quarters of 2023, and the first (1st) quarter of 2024 with results of 0.083 mg/L, 0.090 mg/L, and 0.084 mg/L respectively, and at the TTHM-2 (Mikes Precision) sampling location during the second (2nd), third (3rd), and fourth (4th) quarters of 2023, and the first (1st) quarter of 2024 with results of 0.087 mg/L, 0.085 mg/L, 0.082 mg/L, and 0.090 mg/L respectively.

19. Respondent is in violation of 20.7.10.100 NMAC, incorporating 40 C.F.R. § 141.135(b)(2), requires a public water system to meet the minimum Total Organic Carbon (TOC) removal ratio. Respondent failed to meet the minimum TOC removal ratio during the second (2nd), third (3rd) and fourth (4th) quarters of 2023 and first (1st) quarter of 2024.

III. SCHEDULE OF COMPLIANCE

20. Respondent is hereby ordered to:

a) By October 31, 2024, Respondent must comply with 20.7.10.100 NMAC, incorporating 40 C.F.R. § 141.723, and correct outstanding significant deficiencies identified during the October 20, 2021, sanitary survey.

b) By November 30, 2025, Respondent must comply with 20.7.10.100 NMAC, NMAC incorporating 40 C.F.R. § 141.64(b)(2)(i) and 141.620(d), and have a LRAA for TTHM below the MCL of 0.080 mg/L at the HAA5-1 (Storie Lake Park Bathroom) and the TTHM-2 (Mikes Precision) sampling locations.

c) By November 30, 2025, Respondent must comply with 20.7.10.100 NMAC, incorporating 40 C.F.R. § 141.135(b)(2), and provide drinking water that meets the minimum TOC removal ratio.

21. Submittals made pursuant to paragraph 20 of this Order shall be sent by standard U.S. mail or certified mail with return receipt requested to the following address:

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

IV. CIVIL PENALTY

22. NMSA 1978, Section 74-1-10(D)(1) of the EIA authorizes the NMED Secretary to assess a civil penalty of up to one thousand dollars (\$1,000.00) for each incident of noncompliance with an administrative compliance order.

23. NMSA 1978, Section 74.1.10(C) of the EIA authorizes the NMED Secretary to assess a civil penalty for violation of the Regulations that shall not exceed one thousand dollars (\$1,000.00) per violation per day.

24. NMED hereby assesses against Respondent a civil penalty of two hundred seventy-three six hundred dollars (\$273,600) for the violations set forth herein in paragraphs 17 through 19.

25. Respondent shall pay the total civil penalty of two hundred seventy-three thousand six hundred dollars (\$273,600) by certified or cashier's check made payable to the State of New Mexico and mailed or hand delivered to:

Mari Reimer, Financial Manager
Drinking Water Bureau

New Mexico Environment Department
Post Office Box 5469 (87502)
1190 S. St. Francis Drive
Santa Fe, New Mexico 87505

V. NOTICE OF OPPORTUNITY TO ANSWER AND REQUEST A HEARING

26. Pursuant to NMSA 1978, Section 74-1-10(E) and 20.1.5 NMAC (available at <http://www.env.nm.gov>), Respondent has the right to request a hearing. If Respondent (a) contests any material or legal matter 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 30 days of receipt of this Order a written Request for Hearing to the following address:

Hearing Clerk
New Mexico Environment Department
PO Box 5469 (87502)
1190 S. St. Francis Drive
Santa Fe, New Mexico 87505

27. 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 of this Order not specifically denied shall be deemed admitted. 20.1.5.200(A)(2)(a) NMAC.

28. 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.

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

VI. FINALITY OF ORDER

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

VII. SETTLEMENT CONFERENCE

31. Whether or not Respondent submits a Request for Hearing, Respondent may confer with the Bureau concerning settlement. NMED encourages settlement consistent with the provisions and objectives of the EIA and the Regulations. Settlement discussions neither extend the 30-day deadline for filing an Answer and Request for Hearing, nor alter the deadlines imposed for compliance with the mandates of this Order. Settlement discussions may be pursued as an alternative to, and simultaneously with, the hearing proceedings. Respondent may appear at the settlement conference *pro se* (without legal counsel) or may be accompanied or represented by legal counsel.

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

33. To explore the possibility of settlement in this matter, contact Michael Prinz, Office of General Counsel, New Mexico Environment Department, 1190 S. Saint Francis Drive, Suite N-4050, Santa Fe, New Mexico 87505, michael.prinz@env.nm.gov or at (505) 531-7887.

VIII. COMPLIANCE WITH OTHER LAWS

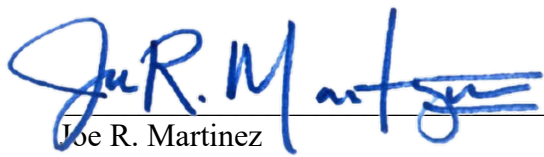
34. Compliance with the requirements of this Order does not relieve Respondent of the obligation to comply with all other applicable laws and regulations.

IX. TERMINATION

35. This Order shall terminate when Respondent certifies that all the requirements of this Order have been met, and the Bureau has approved such certification in writing, or when the Secretary of NMED approves a Stipulated Final Order.

X. DELEGATION OF SIGNATORY AUTHORITY

36. 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.



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

Date August 13, 2024