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PETER MAGGIORE
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Environment Department Intervenes to Assist Water System

(Santa Fe, NM) – The State Environment Department has intervened, for the first time ever, in the operation of a mutual domestic water association in an effort to assist the association with holding an election and establishing a board of directors for the benefit of its members and those served by the water system.

Environment Secretary Peter Maggiore exercised his authority to intervene based on the grounds that the water system is not currently being run in the best interests of its members and the community as a whole. Thirty-one members and/or users of the Buena Vista Mutual Domestic Water Consumers and Sewage Works Association had petitioned the Secretary for intervention.

In return for state funding, the Sanitary Projects Act requires that local domestic water associations abide by certain rules, including the formation of a board of directors, biennial elections, annual meetings, acceptance as members of all persons within a community who desire to participate in the Association, the acquisition of funds in an amount sufficient to provide for proper operation and maintenance by a monthly assessment against users of the facilities, and compliance with the Open Meetings Act, the Inspection of Public Records Act, the Audits Act and the Governmental Conduct Act.

In an attempt to resolve the issues brought forward in the petition, the Department held a hearing December 13, 2001, in the Village of Mora. At the hearing, it was undisputed that the Association has no existing board of directors, and that there is no one currently acting as vice-president, treasurer, or secretary. There are no current

by-laws, or lists of members or users. No annual meetings or biennial elections are held. Public notice of contamination required to be posted was not posted, and the June 2000 Consumer Confidence Report stated incorrectly that no coliform violations had occurred in 1999. The system's tank is leaking and the pump is malfunctioning.

The Environment Department's intervention order includes (1) Department assistance with preparation and filing of election procedures, and assistance with the nomination of board candidates, election of board members, and selection of officers; (2) Department authority to intervene as necessary when an emergency arises concerning the operation of the system and/or maintenance or construction of improvements; (3) Department assistance in obtaining support from other governmental and non-profit entities in areas including capacity building, board and officer training, organizational document revision, and technical assistance and training; and (4) disbursement by the Department of special appropriation funds to the Association. Finally, the Secretary ordered the Department's Construction Programs Bureau to end the intervention as soon as reasonably appropriate, and, throughout the course of its intervention, to preserve and foster the independence and self-governance of the Association.

If the Department had made a determination not to intervene in the operation of the Association, the community's only legal remedy was to compel an election by mandamus, requiring an action in District Court.

"I believe this intervention will be successful largely because of the energy and interest demonstrated by the community in complying with the applicable laws and improving their water system," said Secretary Maggiore

"The Department looks forward to working with the community and with the Association to make funding available for improvements in the physical facilities and to make technical assistance available for improvements in the operation and management of the Buena Vista Association's water system," Maggiore added.

For additional information, please contact New Mexico Environment Secretary Peter Maggiore at (505) 827-2855, or Cathy Tyson, Communications Director, NMED at (505) 827-0314.

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