



SUSANA MARTINEZ  
Governor

JOHN A. SANCHEZ  
Lt. Governor

State of New Mexico  
**ENVIRONMENT DEPARTMENT**  
**Operations & Infrastructure Division**  
**DRINKING WATER BUREAU**  
525 Camino de Los Marquez, Suite 4  
Santa Fe, New Mexico 87505  
Telephone (505)476-8620 Fax (505)476-8656  
Toll Free 1-877-654-8720  
[www.nmenv.state.nm.us/dwb/](http://www.nmenv.state.nm.us/dwb/)



DAVID MARTIN  
Secretary

RAJ SOLOMON, PE  
Deputy Secretary

**CERTIFIED RETURN RECEIPT REQUESTED**

**# 7005 1820 0001 5707 8911**

May 24, 2011

Carrie Chew  
Liesure Mountain MHP  
768 State Hwy. 333  
Tijeras, New Mexico 87509

**RE: Administrative Compliance Order, NO. 2011-CO-015, Liesure Mountain MHP,  
PWS# NM3549301**

Ms. Chew:

Please find attached Administrative Compliance Order No. 2011-CO-015, issued to Liesure Mountain MHP, PWS# NM3549301, under the Environmental Improvement Act, NMSA 1978, § 74-1-10, the Drinking Water Regulations, 20.7.10 NMAC, and the Utility Operator Certification Act, NMSA 1978, § 61-33-10. Please review the Administrative Compliance Order (Order) carefully to understand what action must be taken to comply with the requirements of the Order. Liesure Mountain MHP 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.nmenv.state.nm.us](http://www.nmenv.state.nm.us)).

If you have any questions or need assistance with meeting the requirements of this Order, please contact Jeff Pompeo, Enforcement Coordinator at 505-476-8620 or via email at [Jeff.Pompeo@state.nm.us](mailto:Jeff.Pompeo@state.nm.us).

Sincerely,

Raj Solomon PE, Acting Division Director  
Operations & Infrastructure Division

- cc. Nora Romero, Water System Specialist, District I
- Jacob Sanders, Technical Services Specialist
- Chelo Hall, Region 6, EPA (Electronic)
- Electronic File
- Central File

STATE OF NEW MEXICO  
SECRETARY OF ENVIRONMENT

NEW MEXICO ENVIRONMENT DEPARTMENT  
OPERATIONS AND INFRASTRUCTURE  
DIVISION,

Complainant,  
v.

No. 2011-CO-015

Liesure Mountain MHP,  
PWS# NM3549301,

Respondent.

**ADMINISTRATIVE COMPLIANCE ORDER**

Pursuant to 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 ("UOCA"), NMSA 1978 § 61-33-10, the Secretary of the New Mexico Environment Department ("NMED"), acting through the Director of the Operations and Infrastructure Division of the NMED, issues this Administrative Compliance Order ("Order") to Liesure Mountain MHP ("Respondent") to enforce the EIA, DW Regulations and UOCA.

**FINDINGS**

1. The NMED is an executive agency within the government of the State of New Mexico and is charged with administration and enforcement of the EIA, DW Regulations and UOCA.
2. Respondent owns and operates a public drinking water system ("System") located in Bernalillo 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 sixty two (162) year round residents and has approximately fifty four (54) service connections to serve these year round residents.

4. Respondent, Liesure Mountain MHP, is a "person" as defined by the EIA, NMSA 1978, § 74-1-3, the UOCA, NMSA 1978, § 61-33-2.G, and 20.7.10.100 NMAC, incorporating 40 C.F.R. § 141.2.

5. Section 20.7.10.100 NMAC, incorporating 40 C.F.R. § 141.62(b)(10) requires a Community water system to not exceed the Selenium Maximum Contaminant Levels (MCL) MCL of 0.05 mg/L.

6. Compliance with the Maximum Contaminant Levels (MCL) for Selenium is determined by a Running Annual Average (RAA) as required by Section 20.7.10.100 NMAC, incorporating 40 C.F.R. § 141.23(i)(1).

7. Selenium samples were collected from Respondent's Chlorine Treatment Plant on November 5, 2009, April 21, 2010, July 28, 2010, and November 18, 2010. Analysis of the samples resulted in Selenium concentrations of 0.114 mg/L, 0.148 mg/L, 0.162 mg/L, and 0.188 mg/L respectively.

8. On November 3, 2010, a Notice of Violation (NOV) was issued to Respondent by NMED for violation of the Selenium MCL during the second and third quarter of 2010.

9. A Uranium sample was collected from Respondent's Chlorine Treatment Plant on November 18, 2010. Analysis of the sample resulted in a Uranium concentration of 308 micrograms per liter (µg/L).

10. Compliance with the Maximum Contaminant Levels (MCL) for Uranium is determined by a Running Annual Average (RAA) as required by Section 20.7.10.100 NMAC, incorporating 40 C.F.R. § 141.26(c)(3)(i).

11. 20.7.10.100 NMAC, incorporating 40 C.F.R. § 141 Subpart O, establishes requirements for publishing and submission of Consumer Confidence Reports (CCR).

12. On July 27, 2010, a NOV was issued to Respondent by the NMED for failure to submit the 2009 CCR certification form.

13. Pursuant to the Utility Operator Certification Act, NMSA 1978, § 61-33-1 et seq., 20.7.10.400.M NMAC, 20.7.4.20.A NMAC, and 20.7.4.20.C NMAC, Respondent is required to operate its System with a certified operator who meets or exceeds the appropriate level of certification required to operate the System.

14. On September 1, 2010, Respondent was notified by the NMED in a letter of the need to employ a certified operator/sampler.

### **VIOLATION ONE**

#### **Drinking Water Regulations**

15. Respondent is in violation of Section 20.7.10.100 NMAC, incorporating 40 C.F.R. § 141.62(b)(10), *Maximum Contaminant Levels (MCL) for Selenium*, which requires a public water system to not exceed the Selenium MCL of 0.05 mg/L. Respondent exceeded the MCL for Selenium during the second, third, and fourth quarter of 2010 with a RAA of 0.07 mg/L and 0.11 mg/L, and 0.12 mg/L respectively.

### **VIOLATION TWO**

#### **Drinking Water Regulations**

16. Respondent is in violation of Section 20.7.10.100 NMAC, incorporating 40 C.F.R. § 141.66(e), *Maximum Contaminant Levels (MCL) for Uranium*, which requires a public water system to not exceed the Uranium MCL of 30 µg/L. Respondent exceeded the MCL for Uranium at the Chlorine Treatment Plant during the fourth quarter of 2010 with an RAA of 77 µg/L.

## **VIOLATION THREE**

### **Drinking Water Regulations**

17. Respondent is in violation of 20.7.10.100 NMAC, incorporating 40 C.F.R. § 141 Subpart O, *Consumer Confidence Report*, by failing to prepare, publish and certify a Consumer Confidence Report (CCR) for 2009.

## **RETURN TO COMPLIANCE**

### **Drinking Water Regulations**

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

18. By July 1, 2011, prepare and publish a 2010 CCR in the form and manner required by 40 C.F.R. 141 Subpart O. A copy of the CCR must be submitted to the NMED.

19. By August 31, 2011, submit a proposed corrective action plan to NMED which includes a schedule and identifies steps that will be taken to bring the water system into full compliance with Section 20.7.10.100 NMAC, incorporating 40 C.F.R. § 141.62(b)(10), *MCL for Selenium*, and Section 20.7.10.100 NMAC, incorporating 40 C.F.R. § 141.66(e), *MCL for Uranium*.

20. By May 31, 2014, be in compliance with Section 20.7.10.100 NMAC, incorporating 40 C.F.R. § 141.62(b)(10) and 141.66(e), and provide drinking water with concentrations of Selenium and Uranium below the MCL of 0.05 mg/L and 30 µg/L respectively.

21. By May 31, 2015, have a RAA for Selenium below the MCL of 0.05 mg/L, a RAA for Uranium below the MCL of 30 µg/, and be in compliance with 20.7.10.100 NMAC, incorporating 40 C.F.R. § 141.23(i)(1) and 141.26(c)(3)(i).

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

Jeff Pompeo, Enforcement Coordinator  
New Mexico Environment Department  
Drinking Water Bureau  
525 Camino de los Marquez, Suite 4  
Santa Fe, NM 87505

**IF RESPONDENT FAILS TO COMPLY WITH THE REQUIREMENTS OF PARAGRAPHS 18 THROUGH 22 OF THIS ORDER, THE SECRETARY OF NMED MAY ASSESS ADDITIONAL CIVIL PENALTIES NOT TO EXCEED ONE THOUSAND DOLLARS (\$1,000) FOR EACH INSTANCE OF NONCOMPLIANCE WITH THIS ORDER.**

**VIOLATION FOUR**

**Utility Operator Certification Act**

23. Respondent is in violation of the UOCA, NMSA 1978, § 61-33-6, 20.7.4.20.A NMAC, and 20.7.10.400.M NMAC (incorporating NMSA 1978, § 61-33-6 and 20.7.4.A NMAC). NMSA 1978, § 61-33-6 and 20.7.4.A NMAC provide that, “It is unlawful to operate or allow the operation of a public water supply system or public wastewater facility unless the system or facility is operated by or under the supervision of a certified operator who meets or exceeds the appropriate level of certification required to operate the system or facility.” Respondent is operating the System without a certified operator despite having received written notification by the NMED on September 1, 2010, that a certified operator was required.

**VIOLATION FIVE**

**Utility Operator Certification Act**

24. Respondent is in violation of the 20.7.4.20.C NMAC and 20.7.10.400.M NMAC (incorporating 20.7.4.20.C NMAC). Section 20.7.4.20.C provides that, “the name(s) of the certified operator(s) employed by a public water supply system or public wastewater facility

must be on file at all times with the department. A certified operator may be replaced with another certified operator of the required level at any time. The owner shall notify the department in writing of the name of the new certified operator within thirty days after the replacement of the certified operator.” Respondent failed to notify the NMED in writing of the name of the System’s certified operator.

**Return to Compliance**

**Utility Operator Certification Act**

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

25. By August 15, 2011, Liesure Mountain MHP public water system shall at all times be operated by or under the supervision of a certified operator who meets or exceeds the appropriate level of certification required to operate the System in accordance with the UOCA, NMSA 1978, § 61-33-6, 20.7.4.20.A NMAC, and 20.7.10.400.M NMAC. Respondent shall submit a written notification of that person’s name and a copy of the certified operator’s certification to the NMED.

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

Mike Coffman, Program Manager  
New Mexico Environment Department  
Surface Water Quality Bureau, Facilities Operation Team  
5500 San Antonio Drive, NE  
Albuquerque, NM 87109

Jeff Pompeo, Enforcement Coordinator  
New Mexico Environment Department  
Drinking Water Bureau  
525 Camino de los Marquez, Suite 4  
Santa Fe, NM 87505

**IF RESPONDENT FAILS TO COMPLY WITH THE REQUIREMENTS OF PARAGRAPHS 25 THROUGH 26 OF THIS ORDER, THE SECRETARY OF NMED MAY ASSESS ADDITIONAL CIVIL PENALTIES NOT TO EXCEED FIVE THOUSAND DOLLARS (\$5,000) PER DAY FOR EACH DAY OF CONTINUED 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.nmenv.state.nm.us](http://www.nmenv.state.nm.us)), 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:

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 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, the DW Regulations and the UOCA. 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 Jeff Pompeo, Enforcement Coordinator, Drinking Water Bureau, New Mexico Environment Department, 525 Camino de los Marquez, Santa Fe, NM 87505, (505) 476-8630.

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



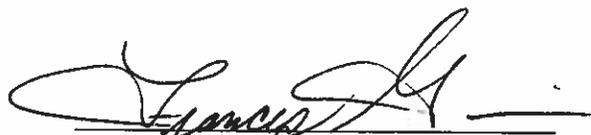
Raj Solomon P.E.  
Acting Director  
Operations and Infrastructure Division  
525 Camino de los Marquez, Suite 4  
Santa Fe, New Mexico 87505

5/26/11  
Date

**Certificate of Service**

I hereby certify that a copy of the foregoing Administrative Compliance Order was sent on 6/1, 2011 via certified return receipt requested to the following:

Ms. Carrie Chew  
Liesure Mountain MHP  
768 State Hwy. 333  
Tijeras New Mexico 87509



Frances Garcia