



NEW MEXICO
ENVIRONMENT DEPARTMENT



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RYAN FLYNN
Cabinet Secretary
BUTCH TONGATE
Deputy Secretary

CERTIFIED RETURN RECEIPT REQUESTED
7005 1820 0001 5772 4306

March 9, 2016

Penny Brooks
Cassandra Water System
PO Box 2586
Edgewood, NM 87015

**RE: Administrative Compliance Order, No. 2016-ACO-03 Cassandra Water System,
PWS# NM3500330**

Ms. Brooks:

Please find attached Administrative Compliance Order No. 2016-ACO-03 issued to Cassandra Well Share, for Cassandra Water System, PWS# NM3500330, 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. Cassandra Well Share 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).

If you have any questions or need assistance with meeting the requirements of this Order, please contact Maria J. Medina, Enforcement Coordinator, at 505-476-8629 or via email at maria.medina@state.nm.us.

Sincerely,

Trais Kliphuis
Division Director
Water Protection Division

cc. Rosalie Robinson, Compliance Officer
Jenna Manheimer, Region 6, EPA (Electronic)
P:\~ ELECTRONIC CENTRAL FILE BY WATER SYSTEM
Central File

**STATE OF NEW MEXICO
SECRETARY OF ENVIRONMENT**

NEW MEXICO ENVIRONMENT DEPARTMENT
WATER PROTECTION DIVISION,

Complainant,
v.

No. 2016-ACO-03

CASSANDRA WELL SHARE,

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 Water Protection Division of the NMED, issues this Administrative Compliance Order ("Order") to Cassandra Well Share ("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") Cassandra Water System, PWS# NM3500330, located in Torrance 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 forty five (45) residents and has approximately eleven (11) service connections to serve these residents.

4. Respondent, Cassandra Well Share, 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. 20.7.10.100 NMAC, [incorporating 40 C.F.R. § 141.66(b) and 141.26(c)(3)(i)], requires a public water system to not exceed the Maximum Contaminant Level (MCL) of 5 picocuries (pCi/L) for combined radium-226 and radium-228 and states the MCL for combined radium-226 and radium-228 is determined by a running annual average (RAA).

6. On May 20, 2014, a Notice of Violation (NOV) was issued to Respondent by NMED for exceeding the combined radium-226 and radium-228 MCL at Well #2 during the second (2nd), third (3rd), and fourth (4th) quarters of 2013. The NOV notified Respondent that it was required to provide public notice of the violation.

7. On August 20, 2014 a Notice of Violation (NOV) was issued to Respondent by NMED for exceeding the combined radium-226 and radium-228 MCL at Well #2 during the first (1st) and second (2nd) quarters of 2014. The NOV notified Respondent that it was required to provide public notice of the violation.

8. On March 2, 2015, a Notice of Violation (NOV) was issued to Respondent by NMED for exceeding the combined radium-226 and radium-228 MCL at Well #2 during the third (3rd), fourth (4th) quarters of 2014. The NOV notified Respondent that it was required to provide public notice of the violation.

9. On March 11, 2015, a Notice of Violation (NOV) was issued to Respondent by NMED for exceeding the combined radium-226 and radium-228 MCL at Well #2 during the first (1st) quarter of 2015. The NOV notified Respondent that it was required to provide public notice of the violation.

10. On July 2, 2015, a Notice of Violation (NOV) was issued to Respondent by NMED for exceeding the combined radium-226 and radium-228 MCL at Well #2 during the second (2nd) quarter of 2015. The NOV notified Respondent that it was required to provide public notice of the violation.

11. On September 2, 2015, a Notice of Violation (NOV) was issued to Respondent by NMED for exceeding the combined radium-226 and radium-228 MCL at Well #2 during the third (3rd) quarter of 2015. The NOV notified Respondent that it was required to provide public notice of the violation.

12. On January 26, 2016, a Notice of Violation (NOV) was issued to Respondent by NMED for exceeding the combined radium-226 and radium-228 MCL at Well #2 during the

fourth (4th) quarter of 2015. The NOV notified Respondent that it was required to provide public notice of the violation.

13. 20.7.10.100 NMAC, [incorporating 40 C.F.R. § 141.21(b)(1)], requires public water systems to collect repeat total coliform samples within twenty four (24) hours of being notified of the positive result.

14. On September 17, 2012, a Notice of Violation (NOV) was issued to Respondent by NMED for failure to collect repeat total coliform samples. The NOV notified Respondent that it was required to provide public notice of the violation.

15. On December 6, 2013, a Notice of Violation (NOV) was issued to Respondent by NMED for failure to collect repeat total coliform samples. The NOV notified Respondent that it was required to provide public notice of the violation.

16. On January 21, 2014, a Notice of Violation (NOV) was issued to Respondent by NMED for failure to collect repeat total coliform samples. The NOV notified Respondent that it was required to provide public notice of the violation.

17. 20.7.10.100 NMAC, [incorporating 40 C.F.R. § 141.402(a)(1) and 40 C.F.R. § 141.402(a)(2)], requires public water systems to collect at least one ground water source sample from each ground water source in use at the time of the total coliform positive sample was collected. These samples must be collected within twenty four (24) hours of notification of the total coliform positive result.

18. On September 17, 2012, a Notice of Violation (NOV) was issued to Respondent by NMED for failure to collect a ground water source sample within twenty four (24) hours from each ground water source in use at the time of the total coliform positive sample was collected. The NOV notified Respondent that it was required to provide public notice of the violation.

19. On December 6, 2013, a Notice of Violation (NOV) was issued to Respondent by NMED for failure to collect a ground water source sample within twenty four (24) hours from each ground water source in use at the time of the total coliform positive sample was collected. The NOV notified Respondent that it was required to provide public notice of the violation.

20. On January 21, 2014, a Notice of Violation (NOV) was issued to Respondent by NMED for failure to collect a ground water source sample within twenty four (24) hours from each ground water source in use at the time of the total coliform positive sample was collected.

21. 20.7.10.100 NMAC, [incorporating 40 C.F.R. § 141.21(b)(5)], requires public water systems to collect at least five (5) routine total coliform samples the month following a positive result.

22. On January 21, 2014, a Notice of Violation (NOV) was issued to Respondent by NMED for failure to submit five (5) routine total coliform samples during December 2013. The NOV notified Respondent that it was required to provide public notice of the violation.

23. 20.7.10.100 NMAC, [incorporating 40 C.F.R. § 141.86], establishes monitoring requirements for lead and copper in tap water.

24. On August 23, 2011, a Notice of Violation (NOV) was issued to Respondent by NMED for failure to conduct lead and copper sampling during the 2010 monitoring period. The NOV notified Respondent that it was required to provide public notice of the violation.

25. On August 20, 2014, a Notice of Violation (NOV) was issued to Respondent by NMED for failure to conduct lead and copper sampling during the 2013 monitoring period. The NOV notified Respondent that it was required to provide public notice of the violation.

26. 20.7.10.100 NMAC, [incorporating 40 C.F.R. § 141.23], requires community water systems to monitor for Inorganic contaminants.

27. On August 22, 2014, a Notice of Violation (NOV) was issued to Respondent by NMED for failure to monitor for Asbestos during the January 1, 2011 through December 31, 2013 monitoring period. The NOV notified Respondent that it was required to provide public notice of the violation.

28. 20.7.10.100 NMAC, [incorporating 40 C.F.R. § 141.26], requires community water systems to monitor for radionuclides.

29. On January 26, 2016, a Notice of Violation (NOV) was issued to Respondent by NMED for failure to monitor for failure to complete the monitoring requirements for combined radium-226 and radium-228. The NOV notified Respondent that it was required to provide public notice of the violation.

30. 20.7.10.100 NMAC, [incorporating 40 C.F.R. § 141.152(b)], requires all community public water systems must provide a Consumer Confidence Report (CCR) to their consumers and to the State by July 1st of each year.

31. On August 27, 2013, a Notice of Violation (NOV) was issued to Respondent by NMED for failure to provide a CCR for the 2012 calendar year to their consumers and the State by July 1, 2013.

32. On August 18, 2014, a Notice of Violation (NOV) was issued to Respondent by NMED for failure to provide a CCR for the 2013 calendar year to their consumers and the State by July 1, 2014.

33. On July 10, 2015, a Notice of Violation (NOV) was issued to Respondent by NMED for failure to provide a CCR for the 2014 calendar year to their consumers and the State by July 1, 2015.

VIOLATION 1- Drinking Water Regulations

34. Respondent is in violation of 20.7.10.100 NMAC, [incorporating 40 C.F.R. § 141.66(b) and 141.26(c)(3)(i)], which requires a public water system to not exceed the Maximum Contaminant Level (MCL) of 5 picocuries for combined radium-226 and radium-228 and which states the MCL is determined by a running annual average (RAA). Respondent exceeded the MCL for combined radium-226 and radium-228 at Well #2 during the second (2nd), third (3rd), and fourth (4th) quarters of 2013, during the first (1st), second (2nd), third (3rd), and fourth (4th) quarters of 2014, during the first (1st), second (2nd), third (3rd) and fourth (4th) quarters of 2015 with a RAA concentration of 6.0 pCi/L, 8.0 pCi/L, 8.0 pCi/L, 7.89 pCi/L, 7.72 pCi/L, 7.54 pCi/L, 7.61 pCi/L, 7.0 pCi/L, 7.0 pCi/L, 7.0 pCi/L, 7.0 pCi/L respectively.

VIOLATION 2- Drinking Water Regulations

35. Respondent is in violation of 20.7.10.100 NMAC, [incorporating 40 C.F.R. § 141.21(b)(1)], which requires public water systems to collect repeat total coliform samples within twenty four (24) hours of being notified of the positive result. Respondent failed to collect repeat total coliform samples on August 2012, November 2013, and December 2013.

VIOLATION 3- Drinking Water Regulations

36. Respondent is in violation of 20.7.10.100 NMAC, [incorporating 40 C.F.R. § 141.402(a)(1) and 40 C.F.R. § 141.402(a)(2)], which requires public water systems to collect at least one ground water source sample from each ground water source in use at the time of the total coliform positive sample was collected. These samples must be collected within twenty four (24) hours of notification of the total coliform positive result. Respondent failed to collect at least one ground water source sample after a total coliform positive sample on August 2012, November 2013, and December 2013.

VIOLATION 4- Drinking Water Regulations

37. Respondent is in violation of 20.7.10.100 NMAC, [incorporating 40 C.F.R. § 141.21(b)(5)], which requires public water systems to collect at least five (5) routine total coliform samples the month following a positive result. Respondent failed to collect at least five (5) total coliform samples during December 2013.

VIOLATION 5- Drinking Water Regulations

38. Respondent is in violation of 20.7.10.100 NMAC, [incorporating 40 C.F.R. § 141.86], which establishes monitoring requirements for lead and copper in tap water. Respondent failed to collect lead and copper samples during the 2010 and 2013 monitoring periods.

VIOLATION 6- Drinking Water Regulations

39. Respondent is in violation of 20.7.10.100 NMAC, [incorporating 40 C.F.R. § 141.23], which requires community water systems to monitor for Inorganic contaminants. Respondent failed to collect an Asbestos sample during the January 1, 2011 through December 31, 2013 monitoring period.

VIOLATION 7- Drinking Water Regulations

40. Respondent is in violation of 20.7.10.100 NMAC, [incorporating 40 C.F.R. § 141.26], which requires community water systems to monitor for radionuclides. Respondent failed to collect a combined radium-226 and radium-228 compliance sample during the fourth (4th) quarter of 2015.

VIOLATION 8- Drinking Water Regulations

41. Respondent is in violation of 20.7.10.100 NMAC, [incorporating 40 C.F.R. § 141.152(b)], which requires that all community public water systems must provide a Consumer Confidence Report (CCR) to their consumers and to the State by July 1st of each year. Respondent failed to submit a CCR for the 2012, 2013, and 2014 calendar years to their consumers and the State by July 1, 2013, July 2, 2014, and July 1, 2015 respectively.

RETURN TO COMPLIANCE

Drinking Water Regulations

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

42. By May 30, 2016, submit a proposed corrective action plan (CAP) to NMED for review identifying (in detail) the steps that will be taken to bring the water system into full compliance with 20.7.10.100 NMAC, [incorporating 40 C.F.R. § 141.66(b) and 141.26(c)(3)(i)].

43. By November 30, 2017, comply with 20.7.10.100 NMAC, [incorporating 40 C.F.R. § 141.66(b)], and provide drinking water with concentrations of combined radium-226 and radium-228 below the MCL of 5 pCi/L.

44. By November 30, 2018, comply with 20.7.10.100 NMAC, [incorporating 40 C.F.R. § 141.26(c)(3)(i)], and have an RAA for combined radium-226 and radium-228 below the MCL of 5 pCi/L for five (5) consecutive quarters.

45. Upon receipt of this Order, comply with 20.7.10.100 NMAC, [incorporating 40 C.F.R. § 141.21(b)(1)], and collect four (4) repeat total coliform samples, submit sample results to NMED DWB, and provide required public notice.

46. Upon receipt of this Order, comply with 20.7.10.100 NMAC, [incorporating 40 C.F.R. § 141.402(a)(1) and 40 C.F.R. § 141.402(a)(2)], and collect total coliform samples from

each ground water source in use at the time the total coliform positive sample was collected, submit sample results to NMED DWB, and provide required public notice.

47. Upon receipt of this Order comply with 20.7.10.100 NMAC, [incorporating 40 C.F.R. § 141.21(b)(5)], and collect five (5) routine total coliform samples, submit sample results to NMED DWB, and provide required public notice.

48. By September 30, 2016, comply with 20.7.10.100 NMAC, [incorporating 40 C.F.R. § 141.86], and collect lead and copper samples, submit sample results to NMED DWB, and provide required public notice.

49. By December 31, 2016, comply with 20.7.10.100 NMAC, [incorporating 40 C.F.R. § 141.23], and collect an Asbestos sample, submit sample results to NMED DWB, and provide required public notice.

50. By March 31, 2016, comply with 20.7.10.100 NMAC, [incorporating 40 C.F.R. § 141.26], and collect a combined radium-226 and radium-228 compliance sample, submit sample results to NMED DWB, and provide required public notice.

51. By July 1, 2016, comply with 20.7.10.100 NMAC, [incorporating 40 C.F.R. § 141.152(b)], and provide a CCR to consumers and the State.

52. Submittals made pursuant to paragraphs 42 through 51 of this Order shall be sent by standard U.S. mail or 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

If respondent fails to comply with the requirements of paragraphs 42 through 52 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 9- Utility Operator Certification Act

53. Respondent is in violation of the UOCA, NMSA 1978, § 61-33-6, 20.7.4.20.A NMAC, and 20.7.10.400.Q 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 January 26, 2016 that a certified operator was required.

RETURN TO COMPLIANCE

Utility Operator Certification Act

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

54. Within sixty (60) days of receipt of this Order, Cassandra 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.Q NMAC. Respondent shall submit a written notification of that person's name and a copy of the certified operator's certification to the NMED.

55. Submittals made pursuant to paragraph 54 shall be sent by standard U.S. mail or certified mail with return receipt requested to the following:

Anne Keller, Environmental Specialist
New Mexico Environment Department
Surface Water Quality Bureau
P.O. Box 5469
Santa Fe, NM 87502-5469

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

Santa Fe, NM 87502-5469

If respondent fails to comply with the requirements of paragraphs 54 through 55 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.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 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 Maria J. Medina, Drinking Water Bureau, New Mexico Environment Department, P.O. Box 5469, Santa Fe, New Mexico 87502-5469, (505) 476-8629.

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. The NMED shall not approve such certification until Respondent's public water system has maintained a RAA for combined radium-226 and radium-228 at or below the MCL for five (5) consecutive quarters in accordance with Section 20.7.10.100 NMAC, [incorporating 40 C.F.R. § 141.26(c)(3)(i)], or when the Secretary approves a Stipulated Final Order.

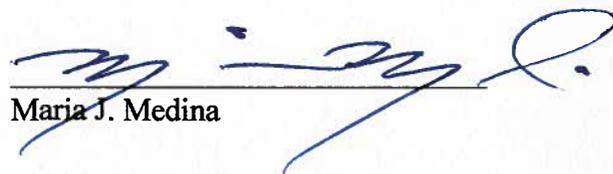

Trais Kliphuis
Division Director
Water Protection Division
P.O Box 5469
Santa Fe, New Mexico 87502-5469

Date 3/4/16

Certificate of Service

I hereby certify that a copy of the foregoing Administrative Compliance Order was sent on 3/9, 2016 via certified return receipt requested to the following:

Penny Brooks
Cassandra Water System
PO Box 2586
Edgewood, NM 87015



Maria J. Medina