



**SUSANA MARTINEZ**  
Governor

**JOHN A. SANCHEZ**  
Lt. Governor

*State of New Mexico*  
**ENVIRONMENT DEPARTMENT**  
**Environmental Health Division**  
**DRINKING WATER BUREAU**

P.O. Box 5469  
Santa Fe, NM 87502  
Phone (505) 476-8620 • Fax (505) 476-8656  
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[www.nmenv.state.nm.us/dwb](http://www.nmenv.state.nm.us/dwb)



**RYAN FLYNN**  
Cabinet Secretary

**BUTCH TONGATE**  
Deputy Secretary

**CERTIFIED RETURN RECEIPT REQUESTED**  
**7005 1820 0001 5772 1800**

April 21, 2014

Andamo Sanchez  
Eagle Rock Village  
PO Box 696  
Questa, NM 87556

**RE: Administrative Compliance Order, No. 2014-ACO-05 Eagle Rock Village, PWS#  
NM3500329**

Mr. Sanchez:

Please find attached Administrative Compliance Order No. 2014-ACO-05 issued to Eagle Rock Village, for Eagle Rock Village, PWS# NM3500329, under the Environmental Improvement Act, NMSA 1978, § 74-1-10, the Drinking Water Regulations, 20.7.10 NMAC. Please review the Administrative Compliance Order (Order) carefully to understand what action must be taken to comply with the requirements of the Order. Eagle Rock Village, 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 Maria J. Medina at 505-476-8629 or via email at [maria.medina@state.nm.us](mailto:maria.medina@state.nm.us).

Sincerely,

Tom Blaine PE, Division Director  
Environmental Health Division

cc. Jan Dye, Compliance Officer  
Tonia Biggs, Region 6, EPA (Electronic)  
P:\~ENFORCEMENT\Individual PWS Enforcement Info  
Central File

**STATE OF NEW MEXICO**  
**SECRETARY OF ENVIRONMENT**

NEW MEXICO ENVIRONMENT DEPARTMENT  
ENVIRONMENTAL HEALTH DIVISION,

Complainant,

No. 2014-ACO-05

v.

EAGLE ROCK VILLAGE,  
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 Director of the Environmental Health Division of the NMED, issues this Administrative Compliance Order (“Order”) to Eagle Rock Village (“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 and is charged with administration and enforcement of the EIA and DW Regulations.
2. Respondent owns and operates a public drinking water system (“System”) Eagle Rock Village, PWS# NM3500329, located in Taos 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 eight (48) residents and has approximately sixteen (16) service connections to serve these residents.
4. Respondent, Eagle Rock Village, 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. § 141.86], establishes monitoring requirements for lead and copper in tap water.

6. On April 4, 2011, a Notice of Violation (NOV) was issued to Respondent by NMED for failure to conduct lead and copper sampling during 2010 monitoring period. The NOV notified Respondent that it was required to provide public notice of the non-sampling violation.

7. On April 8, 2014, a Notice of Violation (NOV) was issued to Respondent by NMED for failure to conduct lead and copper sampling during 2011-2013 monitoring period. The NOV notified Respondent that it was required to provide public notice of the non-sampling violation.

8. 20.7.10.100 NMAC, [incorporating 40 C.F.R. § 141.155(c)], requires CCR certifications be sent to the State no later than October 1<sup>st</sup> of each year.

9. On October 18, 2011, a Notice of Violation (NOV) was issued to Respondent by NMED for failure to submit CCR certification to the State by October 1, 2011.

10. On October 24, 2012, a Notice of Violation (NOV) was issued to Respondent by NMED for failure to submit CCR certification to the State by October 1, 2012.

11. On November 6, 2013, a Notice of Violation (NOV) was issued to Respondent by NMED for failure to submit CCR certification to the State by October 1, 2013.

12. 20.7.10.100 NMAC, [incorporating 40 C.F.R § 141.403(a)(4)], establishes requirements for ground water systems with significant deficiencies or source water fecal contamination, which requires a groundwater system to consult with the State regarding the appropriate corrective action within thirty (30) days of receiving written notice of significant deficiency.

13. On July 28, 2011, a Sanitary Survey Report was issued to Respondent by NMED requiring Respondent to consult with the State within thirty (30) days of receiving written notice of significant deficiencies.

14. 20.7.10.100 NMAC, [incorporating 40 C.F.R § 141.403(a)(5)], Ground water systems with significant deficiencies or source water fecal contamination, which requires a groundwater system to either correct significant deficiencies or be in compliance with a State approved corrective action plan within 120 days of receiving written notice by the States of significant deficiency.

15. On July 28, 2011, a Sanitary Survey Report was issued to Respondent by NMED requiring Respondent to corrective action for any significant deficiencies found during the sanitary survey no later than 120 days after receiving written notice of such deficiencies.

#### **VIOLATION 1**

16. 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 compliance samples during the 2010 monitoring period and the 2011-2013 monitoring period.

#### **VIOLATION 2**

17. Respondent is in violation of 20.7.10.100 NMAC, [incorporating 40 C.F.R. § 141.155(c)], which requires CCR certifications be sent to the State no later than October 1<sup>st</sup> of each year. Respondent failed to submit CCR certifications to the State by October 1, 2011, October 1, 2012, and October 1, 2013.

#### **VIOLATION 3**

18. Respondent is in violation of 20.7.10.100 NMAC, [incorporating 40 C.F.R. § 141.403(a)(4)], which establishes requirements for ground water systems with significant deficiencies or source water fecal contamination, which requires a groundwater system to consult with the State regarding the appropriate corrective action within thirty (30) days of receiving written notice of significant deficiency. Respondent failed to submit a corrective action plan within thirty (30) days of receiving notice by the State.

#### **VIOLATION 4**

19. Respondent is in violation of 20.7.10.100 NMAC, [incorporating 40 C.F.R. § 141.403(a)(5)], Ground water systems with significant deficiencies or source water fecal contamination, which requires a groundwater system to either correct significant deficiencies or be in compliance with a State approved corrective action plan within 120 days of receiving

written notice by the States of significant deficiency. Respondent failed to correct deficiencies identified during the April 22, 2011, Sanitary Survey within 120 days of receiving written notice by the State.

### **RETURN TO COMPLIANCE**

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

20. By September 30, 2014, comply with 20.7.10.100 NMAC, [incorporating 40 C.F.R. § 141.86], and collect lead and copper samples.

21. By October 1<sup>st</sup> 2014, comply with 20.7.10.100 NMAC, [incorporating 40 C.F.R. § 141.155(c)], and submit CCR certification to the State.

22. By June 30, 2014, comply with 20.7.10.100 NMAC, [incorporating 40 C.F.R. § 141.403(a)(4)], and submit a corrective action plan to the State.

23. By June 30, 2014, comply with 20.7.10.100 NMAC, [incorporating 40 C.F.R. § 141.403(a)(5)], and correct significant deficiencies identified in the April 22, 2011, Sanitary Survey.

24. Submittals made pursuant to paragraphs 20 through 23 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 20 through 24 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.**

## **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 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 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) 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, or when the Secretary approves a Stipulated Final Order.



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Tom Blaine PE  
Division Director  
Environmental Health Division  
Harold L. Runnels Building  
1190 St. Francis Drive  
Santa Fe, New Mexico 87502

*4-17-14*

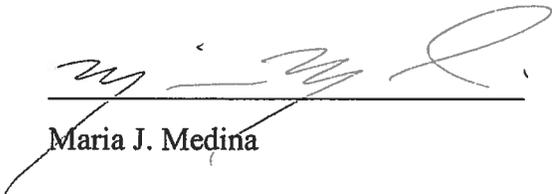
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Date

## Certificate of Service

I hereby certify that a copy of the foregoing Administrative Compliance Order was sent on 4/23, 2014 via certified return receipt requested to the following:

Andamo Sanchez  
Eagle Rock Village  
PO Box 696  
Questa, NM 87556



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Maria J. Medina