State of New Mexico
ENVIRONMENT DEPARTMENT
ENVIRONMENTAL HEALTH DIVISION
DRINKING WATER BUREAU
1190 St. Francis, PO Box 5469
Santa Fe, New Mexico 87502-5469
Telephone (505) 476-8620 Fax (505) 476-8656
www.nmenv.state.nm.us/dwb/

SUSANA MARTINEZ
Governor

JOHN A. SANCHEZ
Lt. Governor

RYAN FLYNN
Cabinet Secretary-Designate

BUTCH TONGATE
Deputy Secretary

CERTIFIED RETURN RECEIPT REQUESTED

 # 7011 2970 0003 3869 9470

June 19, 2013

Dan Serrano
NM Water Works LLC
P.O. Box 6024
Albuquerque, NM 87197

RE: Administrative Compliance Order, NO. 2013-CO-010, NM Waterworks LLC, PWS# NM3531001

Mr. Serrano:

Please find attached Administrative Compliance Order No. 2013-CO-010, issued to NM Waterworks LLC, PWS# NM3531001, 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 (Order) carefully to understand what actions must be taken to comply with the requirements of the Order. NM Waterworks LLC has a right to answer the allegations in the Order and request a hearing, pursuant to NMSA 1978, §§ 74.1.10.E (available at www.nmenv.state.nm.us).

If you have any questions or need assistance with meeting the requirements of this Order, please contact Violette Valerio-Hirschfeld, PWSS Manager at 505-476-8636 or via email at violette.valerio-hirschfeld@state.nm.us.

Sincerely,

Tom Blaine

Tom Blaine PE, Division Director
Environmental Health Division

cc. Adam Offutt, Compliance Officer, Southern Region
Steve Schwebke, Utilities Division, PRC (Electronic)
Tonia Biggs, Region 6, EPA (Electronic)
Electronic File
System File

STATE OF NEW MEXICO
SECRETARY OF ENVIRONMENT

NEW MEXICO ENVIRONMENT DEPARTMENT
ENVIRONMENTAL HEALTH DIVISION,

Complainant,
v.

No. 2013-CO-010

NM Waterworks LLC,
PWS# NM3531001,

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 NM Waterworks LLC ("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)" 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 fifteen (115) year round residents and has approximately thirty (30) service connections to serve these year round residents.

4. Respondent, NM Waterworks LLC, 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. § 141.21(a)(2), requires community water systems serving 25 to 1,000 persons to conduct one total coliform sample per month.

6. On November 26, 2012, a Notice of Violation (NOV) was issued to Respondent by NMED for failure to conduct routine total coliform monitoring for October 2012. The NOV notified Respondent that it was required to provide public notice of the non-sampling violation.

7. On December 11, 2012, a Notice of Violation (NOV) was issued to Respondent by NMED for failure to conduct routine total coliform monitoring for November 2012. The NOV notified Respondent that it was required to provide public notice of the non-sampling violation.

8. On January 18, 2013, a Notice of Violation was issued with an incorrect date of December 11, 2012, to Respondent by NMED for failure to conduct routine total coliform monitoring for January 2013. The NOV notified Respondent that it was required to provide public notice of the non-sampling violation.

9. On February 15, 2013, a Notice of Violation was issued to Respondent by NMED for failure to conduct routine total coliform monitoring for January 2013. The NOV notified Respondent that it was required to provide public notice of the non-sampling violation.

10. On March 8, 2013, a Notice of Violation was issued to Respondent by NMED for failure to conduct routine total coliform monitoring for February 2013. The NOV notified Respondent that it was required to provide public notice of the non-sampling violation.

11. On April 19, 2013, a Notice of Violation was issued to Respondent by NMED for failure to conduct routine total coliform monitoring for March 2013. The NOV notified Respondent that it was required to provide public notice of the non-sampling violation.

12. 20.7.10.100 NMAC, incorporating 40 C.F.R. § 141 Subpart O, establishes requirements for publishing and submission of Consumer Confidence Reports ("CCR").

13. On July 6, 2011, a Notice of Violation was issued to Respondent by the NMED for failure to submit the 2010 CCR.

14. On October 12, 2011, a Notice of Violation was issued to Respondent by the NMED for failure to submit the 2010 CCR certification form.

15. On August 23, 2012, a Notice of Violation was issued to Respondent by the NMED for failure to submit the 2011 CCR.

VIOLATION 1

16. Respondent is in violation of Section 20.7.10.100 NMAC, incorporating 40 C.F.R. § 141.21(a)(2), *Coliform Sampling*, which requires public water systems to collect total coliform samples. Respondent failed to collect total coliform samples for, December 2012, January 2013, February 2013 and March 2013.

VIOLATION 2

17. Respondent is in violation of 20.7.10.100 NMAC, incorporating 40 C.F.R. § 141.153 *Consumer Confidence Report*, by failing to prepare, publish and certify a Consumer Confidence Report (CCR) for 2010 and 2011.

RETURN TO COMPLIANCE

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

18. Upon receipt of this Order, immediately comply with Section 20.7.10.100 NMAC, incorporating 40 C.F.R. § 141.21 and collect monthly total coliform samples.

19. Within 60 days of receipt of this Order, prepare and publish a 2012 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.

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

Violette Valerio-Hirschfeld
New Mexico Environment Department
Drinking Water Bureau
1190 St. Francis, PO Box 5469
Santa Fe, New Mexico 87502-5469

IF RESPONDENT FAILS TO COMPLY WITH THE REQUIREMENTS OF PARAGRAPHS 18 THROUGH 20 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), 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 Violette Valerio-Hirschfeld, PWSS Manager, Drinking Water Bureau, New Mexico Environment Department, 1190 St. Francis Drive PO Box 5469, Santa Fe, New Mexico 87502, (505) 476-8636.

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.

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

6/20/13
Date

Certificate of Service

I hereby certify that a copy of the foregoing Administrative Compliance Order was sent on June 20th, 2013 via certified return receipt requested to the following:

Dan Serrano
N.M. Water Works LLC
P.O. Box 6024
Albuquerque, NM 87197

Violette Valerio-Hirschfeld