



SUSANA MARTINEZ
Governor

JOHN A. SANCHEZ
Lt. Governor

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

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RYAN FLYNN
Cabinet Secretary

BUTCH TONGATE
Deputy Secretary

CERTIFIED RETURN RECEIPT REQUESTED
7005 1820 0001 5772 1688

March 17, 2014

Alaina Pershall
Quail Hollow MDWUA
9 Quail Hollow Rd.
Tijeras, NM 87059

**RE: Administrative Compliance Order, NO. 2014-ACO-02 Quail Hollow MDWUA,
PWS# NM35201001**

Ms. Pershall,

Please find attached Administrative Compliance Order No. 2014-ACO-02 issued to Quail Hollow MDWUA, for Quail Hollow MDWUA, PWS# NM35201001, 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. Quail Hollow MDWUA, 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).

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.

Sincerely,

Tom Blaine PE, Division Director
Environmental Health Division

cc. Glenn Deguzman, 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,
v.

No. 2014-ACO-02

QUAIL HOLLOW MDWUA,

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 Environmental Health Division of the NMED, issues this Administrative Compliance Order (“Order”) to Quail Hollow MDWUA (“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”) Quail Hollow MDWUA, PWS# NM3521001, 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 thirty three (33) residents and has approximately nineteen (19) service connections to serve these residents.

4. Respondent, Quail Hollow MDWUA, 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. § 141.21(a) (2)], Coliform Sampling, which requires public water systems to collect routine total coliform samples.

6. On May 20, 2013, a Notice of Violation (NOV) was issued to Respondent by NMED for failure to conduct routine total coliform monitoring for April 2013. The NOV notified Respondent that it was required to provide public notice of the non-sampling violation.

7. On June 14, 2013, a Notice of Violation (NOV) was issued to Respondent by NMED for failure to conduct routine total coliform monitoring for May 2013. The NOV notified Respondent that it was required to provide public notice of the non-sampling violation.

8. On November 14, 2013, a Notice of Violation (NOV) was issued to Respondent by NMED for failure to conduct routine total coliform monitoring for October 2013. The NOV notified Respondent that it was required to provide public notice of the non-sampling violation.

9. On December 20, 2013, a Notice of Violation (NOV) was issued to Respondent by NMED for failure to conduct routine total coliform monitoring for November 2013. The NOV notified Respondent that it was required to provide public notice of the non-sampling violation.

10. On January 22, 2014, a Notice of Violation (NOV) was issued to Respondent by NMED for failure to conduct routine total coliform monitoring for December 2013. The NOV notified Respondent that it was required to provide public notice of the non-sampling violation.

11. On February 14, 2014, a Notice of Violation (NOV) was issued to Respondent by NMED for failure to conduct routine total coliform monitoring for January 2014. 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. § 141.21(b)(1)], Coliform Sampling, which requires public water systems to collect repeat total coliform samples within twenty four (24) hours of being notified of the positive result.

13. On September 5, 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 non-sampling violation.

14. 20.7.10.100 NMAC, [incorporating 40 C.F.R. § 141.21(b)(5)], Coliform Sampling, which requires public water systems to collect at least five (5) routine total coliform samples the month following a positive result.

15. On October 22, 2013, a Notice of Violation (NOV) was issued to Respondent by NMED for failure to submit five (5) routine total coliform samples. The NOV notified Respondent that it was required to provide public notice of the non-sampling violation.

16. 20.7.10.100 NMAC, [incorporating 40 C.F.R. § 141.402(a)(1) and 40 C.F.R. § 141.402(a)(2)], Triggered source water monitoring, 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.

17. On September 5, 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 non-sampling violation.

18. 20.7.10.100 NMAC, [incorporating 40 C.F.R. § 141.86], establishes monitoring requirements for lead and copper in tap water.

19. On October 22, 2013, a Notice of Violation (NOV) was issued to Respondent by NMED for failure to conduct lead and copper sampling during the 2010-2013 monitoring period. The NOV notified Respondent that it was required to provide public notice of the non-sampling violation.

20. 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.

21. On November 8, 2013, a Notice of Violation (NOV) was issued to Respondent by NMED for failure to submit CCR to their consumers and the State by July 1, 2013.

22. 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 1st of each year.

23. On November 8, 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.

VIOLATION 1- Drinking Water Violations

24. Respondent is in violation of 20.7.10.100 NMAC, [incorporating 40 C.F.R. § 141.21(a) (2)], Coliform Sampling, which requires public water systems to collect routine total coliform samples. Respondent failed to collect routine coliform samples for April 2013, May 2013, October 2013, November 2013, December 2013, and January 2014.

VIOLATION 2- Drinking Water Violations

25. Respondent is in violation of 20.7.10.100 NMAC, [incorporating 40 C.F.R. § 141.21(b)(1)], Coliform Sampling, 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 for total coliform positive samples on August 2013.

VIOLATION 3- Drinking Water Violations

26. Respondent is in violation of 20.7.10.100 NMAC, [incorporating 40 C.F.R. § 141.21(b)(5)], Coliform Sampling, 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) routine total coliform samples on September 2013.

VIOLATION 4- Drinking Water Violations

27. 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)], Triggered source water monitoring, 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 2013.

VIOLATION 5- Drinking Water Violations

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

VIOLATION 6- Drinking Water Violations

29. Respondent is in violation of 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. Respondent failed to provide a CCR to their consumers and the State by July 1, 2013.

VIOLATION 7- Drinking Water Violations

30. Respondent is in violation of 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 1st of each year. Respondent failed to submit CCR certification to State by October 1, 2013.

RETURN TO COMPLIANCE- Drinking Water Regulations

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

31. Upon receipt of this Order, comply with 20.7.10.100 NMAC, [incorporating 40 C.F.R. § 141.21] and collect five (5) monthly routine total coliform samples and submit the sample results to NMED DWB by the 10th day of the month following receipt of this Order.

32. 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 and submit the samples results to NMED DWB by the 10th day of the month following receipt of this Order.

33. By April 30, 2014, comply with 20.7.10.100 NMAC, [incorporating 40 C.F.R. § 141.402(a)(1)], and collect total coliform samples from each ground water source in use at the time a total coliform positive sample was collected.

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

35. By July 1, 2014, comply with 20.7.10.100 NMAC, [incorporating 40 C.F.R. § 141.152(b)], and provide a CCR to their consumers and the State.

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

37. Submittals made pursuant to paragraphs 31 through 36 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 31 through 37 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 8- Utility Operator Certification Act

38. 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 Surface Water Quality Bureau (SWQB) on February 14, 2014 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:

39. Within thirty (30) days of receipt of this Order, Quail Hollow MDWUA 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 and SWQB.

40. Submittals made pursuant to paragraph 39 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 39 through 40 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), 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, New Mexico Environment Department, Drinking Water Bureau, 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.



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

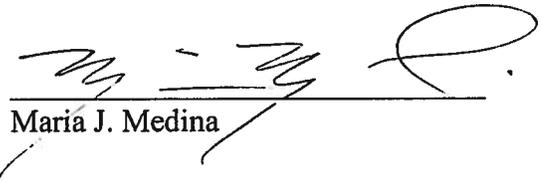
3/21/14

Date

Certificate of Service

I hereby certify that a copy of the foregoing Administrative Compliance Order was sent on 3/24, 2014 via certified return receipt requested to the following:

Alaina Pershall
Quail Hollow MDWUA
9 Quail Hollow Rd.
Tijeras, NM 87059



Maria J. Medina