



MICHELLE LUJAN GRISHAM
GOVERNOR

JAMES C. KENNEY
CABINET SECRETARY

Notification provided via E-mail

September 9, 2024

Boe Lopez bclopez@yahoo.com
Springer Water System
P.O. Box 488
Springer, New Mexico 87747

Re: Administrative Compliance Order and Assessment of Civil Penalty, No. 2024-ACOP-02
Springer Water System, PWS# NM3526604

Dear Boe Lopez,

Please find attached Administrative Compliance Order and Assessment of Civil Penalty No. 2024-ACOP-02 issued to Springer (Town of), for Springer Water System, PWS# NM3526604, 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 and Assessment of Civil Penalty (Order) carefully to understand what action must be taken to comply with the requirements of the Order. Springer (Town of) 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).

Pursuant to the NMED Delegation Order dated February 19, 2024, the Cabinet Secretary has delegated the authority to issue Administrative Compliance Orders under 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, NMSA 1978, § 61-33-10 to the Bureau Chief of the Drinking Water Bureau.

Please note that your facility will appear on the Department's Enforcement Watch as a result of this administrative order (see: <https://www.env.nm.gov/enforcement-watch/>). Further, the Department will issue a press release to local media highlighting your public water system as appearing on this webpage. Your public water system will remain on the Enforcement Watch website as an active matter until this matter is fully resolved.

If you have any questions or need assistance, please contact Maria J. Medina, Enforcement Coordinator, at 505-629-7223 or via email at maria.medina@env.nm.gov.

Respectfully,

A handwritten signature in blue ink that reads "Joe R. Martinez".

Joe R. Martinez

Bureau Chief of the Drinking Water Bureau

cc: Compliance Officer (Electronic)
Region 6, EPA (Electronic)
Electronic Central File

**STATE OF NEW MEXICO
BEFORE THE SECRETARY OF ENVIRONMENT**

**NEW MEXICO ENVIRONMENT DEPARTMENT
WATER PROTECTION DIVISION
DRINKING WATER BUREAU**

No. 2024-ACOP-02

Complainant,

v.

DWB 24-60

SPRINGER (TOWN OF),

Respondent.

**ADMINISTRATIVE COMPLIANCE ORDER AND
ASSESSMENT OF CIVIL PENALTY**

Pursuant to Section 74-1-10 of the Environmental Improvement Act (“EIA”), NMSA 1978, §§ 74-1-1 to -15, and Section 20.7.10.300 NMAC of the Drinking Water Regulations (“DW Regulations”), 20.7.10 NMAC, the Secretary of the New Mexico Environment Department (“NMED”), acting through the Bureau Chief of the Drinking Water Bureau, issues this Administrative Compliance Order with Penalties (“Order”) to Springer (Town of) (“Respondent”) to enforce the EIA and DW Regulations.

I. FINDINGS

1. Pursuant to Section 9-7A-4 of the Department of Environment Act, NMED is an executive agency within the government of the State of New Mexico and administers and enforces the requirements of the EIA, DW Regulations, and the UOCA through its Drinking Water Bureau (“Bureau”).

2. Respondent owns and operates a public drinking water system, Springer Water System, PWS# NM3526604 (“System”), located in Colfax County, New Mexico with a mailing address of P.O. Box 488, Springer, New Mexico 87747.

3. The System is a Community water system as defined by 20.7.10.100 NMAC, incorporating 40 C.F.R. § 141.2 by reference, that regularly provides piped drinking water to approximately 1,170 users and has approximately 603 service connections to serve these users.

4. Respondent is a “supplier of water” as defined by 20.7.10.100 NMAC, incorporating 40 C.F.R. § 141.2 by reference, because it is a person who owns or operates a public water system.

5. Respondent is a “person” as defined by Section 74-1-3(F) of the EIA, and 20.7.10.100 NMAC, incorporating 40 C.F.R. § 141.2 by reference.

6. NMED issued Administrative Compliance Order No. 2021-ACO-01 (“2021 ACO”) to Respondent on January 22, 2021, via electronic mail (email) for the following violations:

a) Exceeding the Total Trihalomethanes (TTHM) Maximum Contaminant (MCL) Locational Running Annual Average (LRAA) at the TTHM-1 (High School) and HAA5-1 (New Shop) sampling sites during fourth (4th) quarter of 2019, first quarter (1st), second (2nd), and third (3rd) quarters of 2020 in violation of 20.7.10.100 NMAC, incorporating 40 C.F.R. § 141.64(b)(2)(i) and 141.620(d) by reference.

7. Respondent received the ACO on January 28, 2021.

8. Respondent did not file an answer, request a hearing or enter into a settlement conference with NMED for the ACO.

9. On February 28, 2021, the ACO became a final order of the Secretary of NMED, pursuant to NMSA 1978, Section 74-1-10(E).

10. NMED sent a letter on March 10, 2022, via email to the Respondent reminding Respondent that the water system is not in compliance with the requirements of the ACO and may be assessed civil penalties for each instance of noncompliance.

11. Respondent responded to the Administrative Compliance Order non-compliance letter on March 16, 2022. Respondent stated that they were working on addressing the TTHM MCL exceedances.

12. Respondent failed to take the corrective actions required in the ACO and to date, remains out of compliance.

13. NMED referred Respondent for Technical Assistance (TA) on August 11, 2020, to help Respondent return the System to compliance.

14. The TA provider communicated with Respondent to provide assistance between December 3, 2021, and January 5, 2022.

15. 20.7.10.100 NMAC, incorporating 40 C.F.R. § 141.64(b)(2)(i) and 141.620(d), defines the Total Trihalomethanes (TTHM) Maximum Contaminant Level (MCL) of 0.080 mg/L and establishes compliance with the MCL for TTHM is determined by calculating the Locational Running Annual Average (LRAA).

16. NMED issued a Notice of Violation (NOV) to Respondent on January 21, 2021, for exceeding the TTHM LRAA MCL at the TTHM-1 (High School) and HAA5-1 (New Shop) sampling locations during the fourth (4th) quarter of 2020. The NOV notified Respondent of the requirement to provide public notice of the violation.

17. NMED issued a NOV to Respondent on April 29, 2021, for exceeding the TTHM LRAA MCL at the TTHM-1 (High School) sampling location during the first (1st) quarter of 2021. The NOV notified Respondent of the requirement to provide public notice of the violation.

18. NMED issued a NOV to Respondent on July 7, 2021, for exceeding the TTHM LRAA MCL at the TTHM-1 (High School) sampling location during the second (2nd) quarter of 2021. The NOV notified Respondent of the requirement to provide public notice of the violation.

19. NMED issued a NOV to Respondent on September 29, 2021, for exceeding the TTHM LRAA MCL at the TTHM-1 (High School) sampling location during the third (3rd) quarter of 2021. The NOV notified Respondent of the requirement to provide public notice of the violation.

20. NMED issued a NOV to Respondent on January 3, 2022, for exceeding the TTHM LRAA MCL at the TTHM-1 (High School) sampling location during the fourth (4th) quarter of 2021. The NOV notified Respondent of the requirement to provide public notice of the violation.

21. NMED issued a NOV to Respondent on March 25, 2022, for exceeding the TTHM LRAA MCL at the TTHM-1 (High School) and HAA5-1 (New Shop) sampling locations during the first (1st) quarter of 2022. The NOV notified Respondent of the requirement to provide public notice of the violation.

22. NMED issued a NOV to Respondent on June 30, 2022, for exceeding the TTHM LRAA MCL at the TTHM-1 (High School) and HAA5-1 (New Shop) sampling locations during the second (2nd) quarter of 2022. The NOV notified Respondent of the requirement to provide public notice of the violation.

23. NMED issued a NOV to Respondent on October 13, 2022, for exceeding the TTHM LRAA MCL at the TTHM-1 (High School) and HAA5-1 (New Shop) sampling locations during the third (3rd) quarter of 2022. The NOV notified Respondent of the requirement to provide public notice of the violation.

24. NMED issued a NOV to Respondent on April 12, 2023, for exceeding the TTHM LRAA MCL at the TTHM-1 (High School) and HAA5-1 (New Shop) sampling locations during the fourth (4th) quarter of 2022 and first (1st) quarter of 2023. The NOV notified Respondent of the requirement to provide public notice of the violation.

25. NMED issued a NOV to Respondent on September 20, 2023, for exceeding the TTHM LRAA MCL at the TTHM-1 (High School) and HAA5-1 (New Shop) sampling locations during the second (2nd) and third (3rd) quarters of 2023. The NOV notified Respondent of the requirement to provide public notice of the violation.

26. NMED issued a NOV to Respondent on February 14, 2024, for exceeding the TTHM LRAA MCL at the TTHM-1 (High School) and HAA5-1 (New Shop) sampling locations during the fourth (4th) quarter of 2023. The NOV notified Respondent of the requirement to provide public notice of the violation.

27. NMED issued a NOV to Respondent on March 13, 2024, for exceeding the TTHM LRAA MCL at the TTHM-1 (High School) and HAA5-1 (New Shop) sampling locations during

the first (1st) quarter of 2024. The NOV notified Respondent of the requirement to provide public notice of the violation.

28. To date, Respondent is still exceeding the TTHM LRAA MCL at the TTHM-1 (High School) and HAA5-1 (New Shop) sampling locations.

29. 20.7.10.100 NMAC, incorporating 40 C.F.R. § 141.723, establishes requirements to undergo a sanitary survey and requires the water system to complete a corrective action plan and schedule approved by DWB.

30. NMED issued a NOV to Respondent on March 4, 2024, for failure to correct significant deficiencies identified during the October 28, 2023, sanitary survey. The NOV notified Respondent of the requirement to provide public notice of the violation.

31. To date Respondent has failed to correct significant deficiencies identified during the October 28, 2023, sanitary survey.

II. VIOLATIONS

32. Respondent violated 20.7.10.100 NMAC, incorporating 40 C.F.R. § 141.64(b)(2)(i) and 141.620(d), by exceeding the TTHM LRAA MCL at the TTHM-1 (High School) sample location during the fourth (4th) quarter of 2020 the first (1st), second (2nd), third (3rd), fourth (4th) quarters of 2021, the first (1st), second (2nd), third (3rd), fourth (4th) quarters of 2022, the first (1st), second (2nd), third (3rd), and fourth (4th) quarters of 2023, and first (1st) quarter of 2024 with results of 0.114 mg/L, 0.109 mg/L, 0.105 mg/L, 0.112 mg/L, 0.110 mg/L, 0.109 mg/L, 0.114 mg/L, 0.113 mg/L, 0.109 mg/L, 0.104 mg/L, 0.104 mg/L, 0.095 mg/L, 0.105 mg/L, 0.114 mg/L respectively. And by exceeding the TTHM LRAA MCL at the HAA5-1 (New Shop) sampling location during the fourth (4th) quarter of 2020, the first (1st), second (2nd), third (3rd), fourth (4th) quarters of 2022, the first (1st), second (2nd), third (3rd), and fourth (4th) quarters of 2023 and first (1st) quarter of 2024 with results of 0.088 mg/L, 0.085 mg/L, 0.094 mg/L, 0.105 mg/L, 0.098 mg/L, 0.094 mg/L, 0.096 mg/L, 0.086 mg/L, 0.092 mg/L, 0.104 mg/L respectively.

33. Respondent violated 20.7.10.100 NMAC, incorporating 40 C.F.R. § 141.723 and 141.723(d), by failing to correct significant deficiencies identified during the October 28, 2023, sanitary survey.

III. SCHEDULE OF COMPLIANCE

34. Respondent is hereby ordered to:

a) By July 31, 2025, Respondent must have a LRAA for TTHM below the MCL of 0.080 mg/L at the TTHM-1 (High School) and the HAA5-1 (New Shop) sample locations.

b) By October 31, 2024, Respondent must correct significant deficiencies identified during the October 28, 2023, sanitary survey.

35. Submittals made pursuant to paragraph 34 of this Order shall be sent by certified mail with return receipt requested to the following address:

Maria J. Medina, Enforcement Coordinator
New Mexico Environment Department
Drinking Water Bureau
P.O. Box 5469
Santa Fe, NM 87502-5469

and via electronic mail at the following address:

Email: maria.medina@env.nm.gov

IV. CIVIL PENALTY

36. Section 74-1-10(D)(1) of the EIA authorizes the NMED Secretary to assess a civil penalty of up to one thousand dollars (\$1,000.00) for each incident of noncompliance with an administrative compliance order.

37. Section 74.1.10(C) of the EIA authorizes the NMED Secretary to assess a civil penalty for violations of the Regulations that shall not exceed one thousand dollars (\$1,000.00) per violation per day.

38. NMED hereby assesses against Respondent a civil penalty of one hundred fifty-nine thousand six hundred dollars (\$159,600) for the two (2) violations set forth herein in paragraphs 32 through 33. The penalties are based upon the penalty calculation narrative attached to this Order. *See Attachment I.*

39. Respondent shall pay the total civil penalty of one hundred fifty-nine thousand six hundred dollars (\$159,600) by certified or cashier's check made payable to the State of New Mexico and mailed via certified mail or hand delivered to:

Mari Reimer, Financial Manager
Drinking Water Bureau
New Mexico Environment Department
Post Office Box 5469 (87502)
1190 S. St. Francis Drive
Santa Fe, New Mexico 87505

V. NOTICE OF OPPORTUNITY TO ANSWER AND REQUEST A HEARING

40. Pursuant to NMSA 1978, Section 74-1-10(E) and 20.1.5 NMAC (available at <https://www.nmcompcomm.us/search-laws/>), Respondent has the right to request a hearing. Respondent may mail or deliver within 30 days of receipt of this Order a written Request for Hearing to the following address:

Hearing Clerk
New Mexico Environment Department
PO Box 5469 (87502)
1190 S. St. Francis Drive
Santa Fe, New Mexico 87505
Email: Pamela.Jones@env.nm.gov

41. The Request for Hearing shall include an Answer. Respondent's Answer shall clearly and directly admit or deny each of the factual allegations contained in this Order. Where Respondent has no knowledge of a particular factual allegation and so states, the allegation may be denied on that basis. Any allegation of this Order not specifically denied shall be deemed admitted. 20.1.5.200(A)(2)(a) NMAC.

42. Respondent's Answer shall 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.

43. 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.

44. Respondent must attach a copy of this Order to the Answer and Request for Hearing. 20.1.5.200(A)(2)(d) NMAC.

45. A copy of the Answer and Request for Hearing must also be served on counsel for NMED at the following address:

Christal Weatherly
Assistant General Counsel
New Mexico Environment Department
121 Tijeras Avenue NE, Suite 1000
Albuquerque, New Mexico 87102
Email: Christal.Weatherly@env.nm.gov

VI. FINALITY OF ORDER

46. Pursuant to NMSA 1978, Section 74-1-10(E), this Order shall become final unless the Respondent files a Request for Hearing and Answer with the Hearing Clerk within 30 days of receipt of this Order.

47. The failure to file an Answer and Request for Hearing constitutes an admission of all facts alleged in the Order and a waiver of the right to a hearing under Section 74-1-10 of the EIA concerning this Order.

48. Unless Respondent requests a hearing and files an Answer, the penalty proposed in this Order shall become due and payable without further proceedings within 30 days after receipt of this Order.

VII. SETTLEMENT

49. Whether or not Respondent files an Answer and a Request for Hearing, Respondent may confer with the Bureau concerning settlement. NMED encourages settlement consistent with the provisions and objectives of the EIA and the Regulations.

50. Settlement discussions neither extend the 30 day deadline for filing an Answer and Request for Hearing, nor alter the deadlines imposed for compliance with the mandates of this Order. Settlement discussions may be pursued as an alternative to, and simultaneously with, the hearing proceedings.

51. Respondent may appear at the settlement conference *pro se* (without legal counsel) or may be accompanied or represented by legal counsel.

52. Any settlement reached by the parties shall be finalized by a written settlement agreement and stipulated final order. The Stipulated Order must resolve all issues raised in this Order, shall be final and binding on all parties, and may not be appealed.

53. To explore the possibility of settlement in this matter, contact the NMED attorney assigned to this case at the following address:

Christal Weatherly
Assistant General Counsel
New Mexico Environment Department
121 Tijeras Ave. NE, Suite 1000
Albuquerque, New Mexico 87102
Christal.Weatherly@env.nm.gov or at (505) 490-0681.

VIII. COMPLIANCE WITH OTHER LAWS

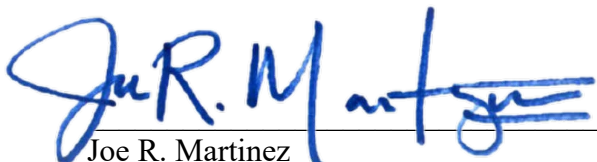
54. Compliance with the requirements of this Order does not relieve Respondent of the obligation to comply with all other applicable laws and regulations, including compliance orders or enforcement actions.

IX. TERMINATION

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

X. DELEGATION OF SIGNATORY AUTHORITY

56. Pursuant to the NMED Delegation Order dated February 19, 2024, the Cabinet Secretary has delegated the authority to issue Administrative Compliance Orders under the Environmental Improvement Act (“EIA”), NMSA 1978, § 74-1-1 to -17, the Drinking Water Regulations (“DW Regulations”), 20.7.10 NMAC, and the Utility Operator Certification Act, NMSA 1978, § 61-33-1 to -10 to the Bureau Chief of the Drinking Water Bureau.



Joe R. Martinez
Bureau Chief of the Drinking Water Bureau
P.O Box 5469
Santa Fe, New Mexico 87502-5469

September 9, 2024

Date

ATTACHMENT 1

SPRINGER WATER SYSTEM PENALTIES

Population-1,170

TTHM LRAA MCL

- Moderate Violation.
- Penalty amount \$140 (Highest penalty amount due to being out of compliance since 2019 and exceedance of MCL).
- 18 quarters (4th quarter 2019-1st quarter 2024) out of compliance.
- Each quarter capped the “per day” at 60 days for each quarter per our Enforcement policy.
- 18 quarters x 60 days for each quarter= 1,080 days.
- 1,080 days x \$140=\$151,200.

SIGNIFICANT DEFICIENCIES

- Moderate Violation.
- Penalty amount \$140 (Highest penalty amount due to being out of compliance since December 2023)
- Due date to correct significant deficiencies was December 8, 2023. Dec. 2023 (23 days), Jan. 2024 (31 days), Feb. 2024 (29 days), March 2024 (31 days), April (30 days), May (31 days), June (30 days), July (31 days), August (28 day as of today 8/28/2024). 264 days.
- Violation is over 250 days out of compliance. Capped the “per day” at 60 days per our Enforcement policy.
- 60 x \$140= \$8,400

TOTAL PENALTIES AMOUNT= \$159,600

	GRAVITY									
	Minor			Moderate				Major		
	1	2	3	4	5	6	7	8	9	10
≤100	\$ 10	\$ 20	\$ 30	\$ 40	\$ 50	\$ 60	\$ 70	\$ 80	\$ 90	\$ 100
101-500	\$ 15	\$ 30	\$ 45	\$ 60	\$ 75	\$ 90	\$ 105	\$ 120	\$ 135	\$ 150
501-3,300	\$ 20	\$ 40	\$ 60	\$ 80	\$ 100	\$ 120	\$ 140	\$ 160	\$ 180	\$ 200
3,301-10,000	\$ 40	\$ 80	\$ 120	\$ 160	\$ 200	\$ 240	\$ 280	\$ 320	\$ 360	\$ 400
10,001-50,000	\$ 60	\$ 120	\$ 180	\$ 240	\$ 300	\$ 360	\$ 420	\$ 480	\$ 540	\$ 600
50,001-100,000	\$ 80	\$ 160	\$ 240	\$ 320	\$ 400	\$ 480	\$ 560	\$ 640	\$ 720	\$ 800
≥100,000	\$ 100	\$ 200	\$ 300	\$ 400	\$ 500	\$ 600	\$ 700	\$ 800	\$ 900	\$ 1,000