



MICHELLE LUJAN GRISHAM
GOVERNOR

JAMES C. KENNEY
CABINET SECRETARY

March 27, 2024

Via email to: juancarlosc@donaanacounty.org

Juan Crosby (JC), Interim Executive Director
Camino Real Regional Utility Authority
P.O. Box 429
Sunland Park, New Mexico 88063

Re: Information Request to Camino Real Regional Utility Authority

Dear Mr. Crosby:

The New Mexico Environment Department (“NMED”) has received citizen complaints and media inquiry regarding the safety of the drinking water being provided to customers of the Camino Real Regional Utility Authority (“CRRUA”). This letter and the attached “Information Request” formally request information and documentation for the purpose of determining the Camino Real Regional Utility Authority’s (“CRRUA”) compliance with the requirements of the Environmental Improvement Act (“EIA”), NMSA 1978, § 74-1-1 to -17 (1953, as amended through 2023), the federal Safe Drinking Water Act (“SDWA”), 42 U.S.C. § 300f, et seq., and the Drinking Water Regulations (“NMDW Regulations”), 20.7.10.1 NMAC (12/04/2002), which adopt and incorporate by reference the National Primary Drinking Water Regulations (“NPDWRs”), 40 C.F.R. §§ 141 and 143 (2022).

CRRUA is the “public water system” that provides drinking water for human consumption to the residents of the City of Sunland and surrounding areas in Doña Ana County. As an owner and operator of the “public water system” and “community water system” within the meaning of 40 C.F.R. § 141.2, CRRUA is subject to the requirements of the NPDWR, and the NMDW Regulations. 40 C.F.R. § 141, *see* 20.7.10.100 NMAC, and at 40 C.F.R. § 143. *See* 20.7.10.101 NMAC.

The State is authorized to undertake primary enforcement responsibility for public water systems in New Mexico, and NMED has primary enforcement responsibility over public water systems for the State. *See* Section 1413 of SDWA, 42 U.S.C. § 300g-2. Accordingly, pursuant to 40 C.F.R. § 141.31(E), NMED is ordering CRRUA to “submit to the State within the time stated in the request copies of any records required to be maintained under § 141.33 hereof or copies of any documents then in existence which the State or the Administrator is entitled to inspect pursuant to the authority of section 1445 of the Safe Drinking Water Act or the equivalent provisions of State law.”

Section 1445(a) of the SDWA, 42 U.S.C. § 300j-4(a), authorizes NMED to require CRRUA to provide information as may be necessary to determine compliance with the SDWA. The requirement to submit information upon request pursuant to Section 1445(a) of the SDWA is mandatory. Compliance with this requirement does not relieve CRRUA of any of the existing requirements under the EIA, the SDWA, the DW Regulations, or the NPDWRs, nor does it operate to resolve any liability for violations of the EIA, the SDWA, the DW Regulations, or the NPDWRs. Failure to provide the requested information is a violation of the SDWA and subjects the violator to a penalty of up \$1,000 for each day of violation. Each day beyond the required deadline that you fail to provide a complete response to the request for information will constitute a separate violation.

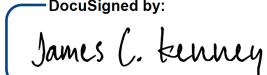
Please submit your written response in accordance with the attached instructions within twenty-one (21) days of receiving this Information Request to:

Joe Martinez
Chief, Drinking Water Bureau
New Mexico Environment Department
1190 St. Francis Drive
Santa Fe, NM 87505
P.O. Box 5469
Santa Fe, NM 87502

Although the information requested must be submitted to NMED, you are entitled to assert a business confidentiality claim pursuant to the regulations set forth in 40 C.F.R. Part 2, Subpart B. If NMED determines the information you have designated meets the criteria in 40 C.F.R. § 2.208, the information will be disclosed only to the extent and by means of the procedures specified in Subpart B.

We appreciate your cooperation and prompt attention to this matter. Please contact Joe Martinez, Chief of the Drinking Water Bureau within 72 hours of receipt of this information request to inform us of your intention to comply with this request. If you or your staff would like an opportunity to meet or confer with us or if you have any questions relating to this information request, please contact Joe Martinez at (505) 467-9415. Thank you for your cooperation in this matter.

Sincerely,

DocuSigned by:

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James C. Kenney
Cabinet Secretary
New Mexico Environment Department

Enclosures as stated.

cc: Earthea Nance, Regional Administrator, U.S. EPA
John Rhoderick, Director, Water Protection Division, NMED

INFORMATION REQUEST

This information is requested pursuant to Section 1445(a) of the Safe Drinking Water Act, 42 U.S.C. § 300j-4(a). The Instructions and Definitions for responding to this Information Request are as follows:

A. Instructions & Definitions

1. A separate narrative response must be made for each question set forth below, and for each subpart of each question.
2. Precede each answer with the corresponding number of the question and subpart to which it responds.
3. Provide all documents in your possession which relate to the responses given. With respect to each document, identify the date, author, addressee, current location, and custodian and identify the question or subpart to which it relates.
4. Provide documents in both hard copy and electronic form, where available. The term "document" refers to "writings," "recordings" and "photographs" as those terms are defined in Rule 1001 of the Federal Rules of Evidence. Documents should be produced as they are kept in the usual course of business.
5. If any question cannot be answered in full, answer to the extent possible along with an explanation of why the question cannot be answered in full. If your responses are qualified in any manner, please explain.
6. If information or documents not known or not available to you as of the date of submission of your response to this request should later become known or available to you, you must supplement your response to NMED. Moreover, should you find at any time after the submission of your response that any portion of the submitted information is false or misrepresents the truth, you must notify NMED of this fact as soon as possible and provide a corrected response.
7. The term "you" or "your" refers to the Camino Real Regional Utility Authority ("CRRUA").

8. To the extent you provide information in electronic format, contact Joe Martinez at (505) 467-9414 prior to providing the information in order to verify compatibility with NMED's equipment.
9. The following certification must accompany each submission pursuant to this request and must be signed by a management representative of CRRUA authorized to respond on behalf of CRRUA:

"I certify that the information contained in or accompanying this submission is true, accurate, and complete. As to the identified portion(s) of this submission for which I cannot personally verify its truth and accuracy, I certify as the company official having supervisory responsibility for the person(s) who, acting under my direct instructions, made the verification, that this information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment."

10. All information shall be submitted within twenty-one (21) days of receipt of this Information Request to:

Joe Martinez
Chief, Drinking Water Bureau
New Mexico Environment Department
1190 St. Francis Dr.
Santa Fe, NM 87505
P.O. Box 5469
Santa Fe, NM 87502

B. Request for Information

CRRUA is hereby required, pursuant to Section 1445(a) of the Safe Drinking Water Act, 42 U.S.C. § 300j-4(a), to submit the following information pursuant to the Instructions set forth above:

1. With regard to the person providing answers to these questions, state your name, business address, business telephone number and position with CRRUA.
2. With regard to any person who participated in or contributed to CRRUA's response to this Information Request, provide that person's name, business address, business telephone number, and position within CRRUA, including whether the person is an employee or a contractor.

3. Provide all communications (including but not limited to letters, emails, facsimiles, text messages, internal messages, notes from telephone conversations, etc.) between CRRUA, CRRUA Board Members, CRRUA staff or any other party regarding testing for or treatment of arsenic from January 1, 2014 to the present.
4. Provide all financial documentation (including but not limited to annual budgets, ledgers, income statements, profits and loss statements, cash flow statements, balance sheets, financial statements, bank statements, credit card statements, loan agreements, loan statements, federal, state or local grant statements, etc.) for CRRUA operations from January 1, 2014 to the present.
5.
 - a. Provide all results from arsenic sampling or monitoring performed on drinking water supplied by CRRUA since January 1, 2014. This request includes all results in the possession or control of CRRUA or its agents or representatives (including contractors) regardless of whether the sampling and/or analysis was performed by CRRUA, a representative or agent of CRRUA (including a contractor), a homeowner or building owner, a representative of any other federal or District of Columbia agency, or by any other person. This request seeks all results from arsenic sampling or monitoring in the possession or control of CRRUA or its agents or representatives (including contractors) regardless of where the sample was taken from. This request seeks all results from arsenic sampling or monitoring in the possession or control of CRRUA or its agents or representatives (including contractors) regardless of whether the samples were required to be collected pursuant to law. This request seeks all results from arsenic sampling or monitoring in the possession or control of CRRUA or its agents or representatives (including contractors) regardless of whether or not those samples were invalidated.
 - b. To the extent any samples taken to determine the concentration of arsenic in drinking water provided by CRRUA were invalidated, CRRUA shall identify the invalidated samples, the arsenic concentration of each sample, and provide an explanation as to why the samples were invalidated. Such explanation shall include the procedures followed for such invalidation, including but not limited to identifying who in CRRUA made the decision to invalidate the sample, and who if anyone at NMED approved the invalidation. Provide copies of all approvals by NMED for any arsenic sample invalidation.

6. Provide all contracts for services, work orders, daily construction reports, or any other documents regarding construction of CRRUA's arsenic treatment plants from January 1, 2014 to the present.
7. Provide all contracts for services, work orders, maintenance reports, or any other documents regarding the functioning and maintenance of CRRUA's arsenic treatment plants from January 1, 2014 to the present.
8. Provide representative samples of all transmittals of arsenic sampling results to residents sent by you since January 1, 2014, including the cover letter(s) and any attachment(s). To the extent different versions of the cover letter were used to transmit arsenic sampling results to different populations (i.e., residences sampled for compliance with the law, regular or usual sampling and monitoring, or any other purpose), provide samples of each version. To the extent the wording of the transmittals changed over time, provide all versions and identify the time frame(s) in which each version was used. State whether sample results were transmitted to all residences that were sampled or only to a subset.
9.
 - a. Provide copies of all documents (including bill inserts) produced or distributed by you since January 1, 2014 in any language for the purpose of educating the public about arsenic in drinking water.
 - b. Produce all information regarding arsenic in drinking water used as a reference by persons answering telephone help lines for CRRUA in any language other than English since January 1, 2014.
10. Provide copies of all newspaper advertisements you have purchased since January 1, 2014 for the purpose of educating the public about arsenic in drinking water. Identify the newspaper(s) in which each advertisement was published and the date(s) of publication.
11.
 - a. Provide copies of all transmittal documents, letters or other documents since January 1, 2014 that accompanied any document or public service announcement regarding arsenic in drinking water distributed by CRRUA to television stations, radio stations, newspapers, the New Mexico Department of Health, libraries, hospitals, clinics, City Council or any other person or agency pursuant to 40 C.F.R. § 141.85(c).

- b. Provide copies of all public service announcements regarding the arsenic content of drinking water distributed by CRRUA since January 1, 2014 to television stations, radio stations, newspapers, the New Mexico Department of Health, libraries, hospitals, clinics, City Council or any other person or agency pursuant to 40 C.F.R. § 141.85(c).
 - c. Identify the date each public service announcement was distributed and provide any document demonstrating the date each public service announcement was distributed.
12. Provide copies of all policies and/or procedures that CRRUA has for arsenic testing, arsenic reporting and public notification/education regarding the presence of arsenic in drinking water.
13. Provide copies of all preliminary, draft and final reports for all tap water monitoring for arsenic submitted by CRRUA to NMED pursuant to 40 C.F.R. § 141.90(a) since January 1, 2014.
14. Provide copies of all written documentation submitted by CRRUA to NMED pursuant to 40 C.F.R. § 141.90(f) since January 1, 2014.
15. Provide copies of all loan agreements, grant awards or any other documentation regarding funding appropriations or disbursement received by CRRUA since January 1, 2010. Include any loan report, grant report, performance progress reports, reports for reimbursement, reports for advances, contracts and audits, etc.