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Pamela Jones

By Environmental Improvement Board at 3:30 pm, Oct 08, 2024

STATE OF NEW MEXICO
BEFORE THE SECRETARY OF ENVIRONMENT

NEW MEXICO ENVIRONMENT DEPARTMENT
WATER PROTECTION DIVISION
DRINKING WATER BUREAU

Complainant,

No. 2024-ACOP-02

v.

DWB 24-60

TOWN OF SPRINGER,

Respondent.

ANSWER TO
ADMINISTRATIVE COMPLIANCE ORDER AND
ASSESSMENT OF CIVIL PENALTY

COMES NOW the Town of Springer, by and through its attorneys, New Mexico Local Government Law, LLC, Lea Corinne Strife and Randall D. Van Vleck, and for its Answer to the Administrative Compliance Order and Assessment of Civil Penalty (“ACO”) states as follows:

1. Respondent admits the allegations contained in paragraphs 1-5 of the ACO.
2. Respondent admits the allegations contained in paragraph 6 of the ACO insofar as the NMED issued Administrative Compliance Order No. 2021-ACO-01 (“2021 ACO”), but denies the specific allegation contained in 2021 ACO.
3. Respondent admits the allegations contained in paragraphs 7-11 of the ACO.
4. Respondent denies the allegation contained in paragraph 12 of the ACO.
5. Respondent admits the allegations contained in paragraphs 13-15 of the ACO.

6. Respondent admits the allegations contained in paragraph 16 of the ACO insofar as the NMED issued a NOV to respondent on January 21, 2021, but denies the specific allegations contained in the NOV.
7. Respondent admits the allegations contained in paragraph 17 of the ACO insofar as the NMED issued a NOV to respondent on April 29, 2021, but denies the specific allegations contained in the NOV.
8. Respondent admits the allegations contained in paragraph 18 of the ACO insofar as the NMED issued a NOV to respondent on July 7, 2021, but denies the specific allegations contained in the NOV.
9. Respondent admits the allegations contained in paragraph 19 of the ACO insofar as the NMED issued a NOV to respondent on September 29, 2021, but denies the specific allegations contained in the NOV.
10. Respondent admits the allegations contained in paragraph 20 of the ACO insofar as the NMED issued a NOV to respondent on January 3, 2022, but denies the specific allegations contained in the NOV.
11. Respondent admits the allegations contained in paragraph 21 of the ACO insofar as the NMED issued a NOV to respondent on March 25, 2022, but denies the specific allegations contained in the NOV.
12. Respondent admits the allegations contained in paragraph 22 of the ACO insofar as the NMED issued a NOV to respondent on June 30, 2022, but denies the specific allegations contained in the NOV.
13. Respondent admits the allegations contained in paragraph 23 of the ACO insofar as the NMED issued a NOV to respondent on October 13, 2022, but denies the specific allegations contained in the NOV.

14. Respondent admits the allegations contained in paragraph 24 of the ACO insofar as the NMED issued a NOV to respondent on April 12, 2023, but denies the specific allegations contained in the NOV.
15. Respondent admits the allegations contained in paragraph 25 of the ACO insofar as the NMED issued a NOV to respondent on September 20, 2023, but denies the specific allegations contained in the NOV.
16. Respondent admits the allegations contained in paragraph 26 of the ACO insofar as the NMED issued a NOV to respondent on February 14, 2024, but denies the specific allegations contained in the NOV.
17. Respondent admits the allegations contained in paragraph 27 of the ACO insofar as the NMED issued a NOV to respondent on March 13, 2024, but denies the specific allegations contained in the NOV.
18. Respondent admits the allegations contained in paragraphs 28-29 of the ACO.
19. Respondent admits the allegations contained in paragraph 30 of the ACO insofar as the NMED issued a NOV to respondent on March 4, 2024, but denies the specific allegations contained in the NOV.
20. Respondent denies the allegations contained in paragraph 31 of the ACO.
21. Respondent lacks sufficient information to admit or deny the allegations contained in paragraphs 32-33 of the ACO and therefore denies the same.

AFFIRMATIVE DEFENSES

1. Respondent has taken all reasonable measures within its abilities to correct disinfection byproduct exceedances as evidenced in a letter from the Town of Springer to Pamela Jones, Hearing officer dated October 7, 2024, and attached hereto as Exhibit 1.


2. Respondent has taken all reasonable measures within its abilities to correct disinfection byproduct exceedances as evidenced by the Bench Test Report prepared by Daniel B. Stephens & Associates dated May 30, 2024, and attached hereto as Exhibit 2.
3. Respondent has taken all reasonable measures within its abilities to correct disinfection byproduct exceedances as evidenced by Sanitary Survey Corrective Action Plan (CAP) prepared by the Town of Springer and attached hereto as Exhibit 3.
4. Samples from First Quarter and Second Quarter 2024, for Total Trihalomethanes (TTHM) Maximum Contaminant (MCL) at the TTHM-1 High School and HAA5-1 (New Shop) sampling locations have been in compliance with regulatory requirements.
5. Imposition of a civil penalty of \$159,600 against the Town will result in a significant hardship to the Town and a substantial burden on the Town's budget.
6. Imposition of a civil penalty of \$159,600 against the Town will divert much needed resources away for the objective of addressing the alleged disinfection byproduct exceedances at the Town's water treatment plant.

WHEREFORE, for the reasons stated above, respondent Town of Springer:

1. Requests a hearing on the allegations contained in the Administrative Compliance Order.
2. Requests suspension of the civil penalty so that those funds may be directed toward addressing the alleged disinfection byproduct exceedances at the Town's water treatment plant.
3. Expresses its interest in negotiating a settlement to this ACO and all other NOVs involving the alleged disinfection byproduct exceedances at the Town's water treatment plant.

Respectfully submitted:

New Mexico Local Government Law, LLC.



Lea Corinne Strife
Randall D. Van Vleck
Attorneys for Town of Springer

I hereby certify that a copy of this Answer to
Administrative Compliance order and
Assessment of Civil Penalty was served on
The Hearing Clerk and Christal Weatherly,
Assistant General Counsel
by e-mail and U.S. mail on
October 7, 2024.

