



**MICHELLE LUJAN GRISHAM**  
Governor

**HOWIE MORALES**  
Lt. Governor

**NEW MEXICO  
ENVIRONMENT DEPARTMENT**

***Drinking Water Bureau***

1190 St. Francis Dr.  
Santa Fe, NM, 87505  
Phone (505) 476-8620 Fax (505) 476-8656  
[www.env.nm.gov/drinking\\_water/](http://www.env.nm.gov/drinking_water/)



**JAMES C. KENNEY**  
Cabinet Secretary

**JENNIFER J. PRUETT**  
Deputy Secretary

**CERTIFIED RETURN RECEIPT REQUESTED  
7016 2070 0000 6771 7128**

February 12, 2020

Antonia Archuleta  
Cebolla MDWCA  
PO Box 161  
Cebolla, NM 87518

**RE: Administrative Compliance Order, No. 2020-ACO-04 Cebolla MDWCA, PWS#  
NM3500921**

Ms. Archuleta,

Please find attached Administrative Compliance Order No. 2020-ACO-04 issued to Cebolla MDWCA, for Cebolla MDWCA, PWS# NM3500921, 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. Cebolla MDWCA 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](http://www.env.nm.gov)).

If you have any questions or need assistance with meeting the requirements of this Order, please contact Maria J. Medina, Enforcement Coordinator, at 505-476-8629 or via email at [maria.medina@state.nm.us](mailto:maria.medina@state.nm.us).

Sincerely,

A handwritten signature in black ink, appearing to read "Rebecca Roose".

Rebecca Roose  
Division Director  
Water Protection Division  
cc. Compliance Officer

**STATE OF NEW MEXICO  
SECRETARY OF ENVIRONMENT**

NEW MEXICO ENVIRONMENT DEPARTMENT  
WATER PROTECTION DIVISION,

Complainant,  
v.

No. 2020-ACO-04

CEBOLLA MDWCA,

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 Water Protection Division of the NMED, issues this Administrative Compliance Order (“Order”) to Cebolla MDWCA (“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”) Cebolla MDWCA, PWS# NM3500921, located in Rio Arriba 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 three hundred fifty (350) residents and has approximately one hundred sixteen (116) service connections to serve these residents.

4. Respondent, Cebolla MDWCA, 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. § 141.855(b)], requires water systems to collect one (1) total coliform sample per month.

6. On December 17, 2019, a Notice of Violation (NOV) was issued to Respondent by NMED for failure to conduct routine total coliform monitoring for the month of November 2019. The NOV notified Respondent that it was required to provide public notice of the violation.

7. On January 21, 2020, an NOV was issued to Respondent by NMED for failure to conduct routine total coliform monitoring for the month of December 2019. The NOV notified Respondent that it was required to provide public notice of the violation.

### **VIOLATION 1- Drinking Water Regulations**

8. Respondent is in violation of 20.7.10.100 NMAC, [incorporating 40 C.F.R. § 141.855(b)], which requires water systems to collect one (1) total coliform sample per month. Respondent failed to collect total coliform samples during November 2019 and December 2019.

### **RETURN TO COMPLIANCE**

#### **Drinking Water Regulations**

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

9. By March 31, 2020, comply with 20.7.10.100 NMAC, [incorporating 40 C.F.R. § 141.855(b)], and collect total coliform samples for six (6) consecutive months (March 2020 through August 2020) and submit sample results to NMED.

10. Submittals made pursuant to paragraphs of this Order shall be sent by 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

Or

Email: [maria.medina@state.nm.us](mailto:maria.medina@state.nm.us)

**If respondent fails to comply with the requirements of paragraph 9 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 2**

### **Utility Operator Certification Act**

11. Respondent is in violation of the UOCA, NMSA 1978, § 61-33-6, 20.7.4.20.A NMAC, and 20.7.10.400.Q 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 NMED on November 6, 2019 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:

12. Within 30 days of receipt of this Order, Cebolla MDWCA 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.Q NMAC. Respondent shall submit a written notification of that person’s name and a copy of the certified operator’s certification to the NMED.

13. Submittals made pursuant to paragraph(s) shall be sent by certified mail with return receipt requested to the following:

Eric Hall, Environmental Specialist  
New Mexico Environment Department

Drinking Water 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

Or

Email: [eric.hall@state.nm.us](mailto:eric.hall@state.nm.us) and [maria.medina@state.nm.us](mailto:maria.medina@state.nm.us)

**If respondent fails to comply with the requirements of paragraphs 11 through 13 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.env.nm.gov](http://www.env.nm.gov)), 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, Drinking Water Bureau, New Mexico Environment Department, P.O. Box 5469, Santa Fe, New Mexico 87502-5469, (505) 476-8629.

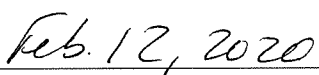
**COMPLIANCE WITH OTHER LAWS**

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 all requirements of this Order have been met and the NMED provides notification of termination in writing, or when the Secretary approves a Stipulated Final Order.

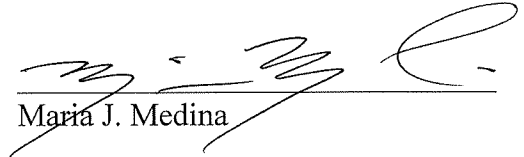
  
\_\_\_\_\_  
Rebecca Roose  
Division Director  
Water Protection Division  
P.O Box 5469  
Santa Fe, New Mexico 87502-5469

  
\_\_\_\_\_  
Date

## Certificate of Service

I hereby certify that a copy of the foregoing Administrative Compliance Order was sent on 2/13, 2020 via certified return receipt requested to the following:

Antonia Archuleta  
Cebolla MDWCA  
PO Box 161  
Cebolla, NM 87518



Maria J. Medina