



NEW MEXICO
ENVIRONMENT DEPARTMENT
DRINKING WATER BUREAU



SUSANA MARTINEZ
Governor
JOHN A. SANCHEZ
Lieutenant Governor

P.O. Box 5469
Santa Fe, NM 87502-5469
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Butch Tongate
Cabinet Secretary
J.C. Borrego
Deputy Secretary

CERTIFIED RETURN RECEIPT REQUESTED
7006 0810 0005 7274 4137

September 8, 2017

Thomas Casados
Los Ojos MDWCA
PO Box 168
Los Ojos, NM 87551

**RE: Administrative Compliance Order, No. 2017-ACO-12 Los Ojos MDWCA, PWS#
NM3502921**

Mr. Casados

Please find attached Administrative Compliance Order No. 2017-ACO-12 issued to Los Ojos MDWCA, for Los Ojos MDWCA, PWS# NM3502921, under the Environmental Improvement Act, NMSA 1978, § 74-1-10, and the Drinking Water Regulations, 20.7.10 NMAC. Please review the Administrative Compliance Order (Order) carefully to understand what action must be taken to comply with the requirements of the Order. Los Ojos 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).

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.

Sincerely,

Bruce Yurdin
Division Director
Water Protection Division

cc. Oneva Peña, Compliance Officer (Electronic)
Region 6, EPA (Electronic)
P:\- ELECTRONIC CENTRAL FILE BY WATER SYSTEM

STATE OF NEW MEXICO
SECRETARY OF ENVIRONMENT

NEW MEXICO ENVIRONMENT DEPARTMENT
WATER PROTECTION DIVISION,

Complainant,

No. 2017-ACO-12

v.

LOS OJOS MDWCA,
Respondent.

ADMINISTRATIVE COMPLIANCE ORDER

Pursuant to the Environmental Improvement Act (“EIA”), NMSA 1978, § 74-1-10, and the Drinking Water Regulations (“DW Regulations”), 20.7.10 NMAC, 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 Los Ojos MDWCA (“Respondent”) to enforce the EIA and DW Regulations.

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 and DW Regulations.

2. Respondent owns and operates a public drinking water system (“System”) Los Ojos MDWCA, PWS# NM3502921, 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 two hundred eighteen (218) residents and has approximately eighty-three (83) service connections to serve these residents.

4. Respondent, Los Ojos MDWCA, is a “person” as defined by the EIA, NMSA 1978, § 74-1-3 and 20.7.10.100 NMAC, [incorporating 40 C.F.R. § 141.2].

5. 20.7.10.100 NMAC, [incorporating 40 C.F.R. § 141.853(a)(1)], requires systems to develop a written Distribution System Sampling Plan (DSSP) that identifies sampling sites and a sample collection schedule that are representative of water throughout the distribution system no later than March 31, 2016.

6. On October 13, 2016, a Notice of Violation (NOV) was issued to Respondent by NMED for failure to submit an adequate DSSP that meets the requirements of the Revised Total Coliform Rule (RTCR). The NOV notified Respondent that it was required to provide public notice of the violation.

7. 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.

8. On October 17, 2016, an NOV was issued to Respondent by NMED for failure to conduct routine total coliform monitoring for the months of June, July, August, and September 2016. The NOV notified Respondent that it was required to provide public notice of the violation.

9. On March 22, 2017, an NOV was issued to Respondent by NMED for failure to conduct routine total coliform monitoring for the months of October, November, and December 2016 and January and February 2017. The NOV notified Respondent that it was required to provide public notice of the violation.

10. On July 19, 2017, an NOV was issued to Respondent by NMED for failure to conduct routine total coliform monitoring for the months of March, April, May, and June 2017. The NOV notified Respondent that it was required to provide public notice of the violation.

11. 20.7.10.100 NMAC, [incorporating 40 C.F.R. § 141.620 and 141.621], defines monitoring requirements for Stage 2 Disinfection Byproducts Rule (DBP2).

12. On October 24, 2016, an NOV was issued to Respondent by NMED for failure to complete all required DBP2 monitoring during the 2014, 2015, and 2016 monitoring periods. The NOV notified Respondent that it was required to provide public notice of the violation.

VIOLATION 1

13. Respondent is in violation of 20.7.10.100 NMAC, [incorporating 40 C.F.R. § 141.853(a)(1)], which requires systems to develop a Distribution System Sampling Plan (DSSP) that identifies sampling sites and a sample collection schedule that are representative of water throughout the distribution system no later than March 31, 2016. Respondent failed to submit a written DSSP by March 31, 2016.

VIOLATION 2

14. 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 June, July, August, September, October, November, and December 2016 and January, February, March, April, May, and June 2017.

VIOLATION 3

15. Respondent is in violation of 20.7.10.100 NMAC, [incorporating 40 C.F.R. § 141.620 and 141.621], which defines the monitoring requirements for Stage 2 Disinfection Byproducts Rule (DBP2). Respondent failed to collect DBP2 samples for the 2014, 2015 and 2016 monitoring periods.

RETURN TO COMPLIANCE

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

16. Upon receipt of this Order, comply with 20.7.10.100 NMAC, [incorporating 141.853(a)(1)], and submit a written DSSP that meets the requirements of the RTCR, notify consumers of the violation, and submit a copy of the public notice to the State.

17. Following the submittal and approval of a written sample plan, comply with 20.7.10.100 NMAC, [incorporating 40 C.F.R. § 141.855(b)], collect total coliform samples for

six (6) consecutive months, submit sample results to NMED, notify consumers of the violation, and submit a copy of the public notice to the State.

18. Between August 1-August 31, 2018, comply with 20.7.10.100 NMAC, [incorporating 40 C.F.R. § 141.620 and 141.621], and collect a DBP-DIST sample at Tierra Wools building soak sink.

19. Submittals made pursuant to paragraphs 16 through 18 of this Order 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 16 through 19 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.

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), 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 and the DW Regulations. 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.

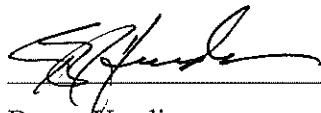
To explore the possibility of settlement in this matter, contact Maria J. Medina, Drinking Water Bureau, New Mexico Environment Department, P.O Box 5469, Santa Fe, New Mexico 87502-5469, (505) 476-8629.

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 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.



Bruce Yurdin
Division Director
Water Protection Division
P.O Box 5469
Santa Fe, New Mexico 87502-5469


Date

9/14/17

Certificate of Service

I hereby certify that a copy of the foregoing Administrative Compliance Order was sent on Sept. 14, 2017 via certified return receipt requested to the following:

Thomas Casados
Los Ojos MDWCA
PO Box 168
Los Ojos, NM 87551



Maria J. Medina