



**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/



JAMES C. KENNEY
Cabinet Secretary

JENNIFER PRUETT
Deputy Secretary

**CERTIFIED RETURN RECEIPT REQUESTED
7006 0810 0005 7274 9574**

February 18, 2019

Ralph Phelps
Rosa Joint Ventures Water System
#3626 CR 330
Ignacio, CO 81137

**RE: Administrative Compliance Order and Assessment of Civil Penalty, No. 2019-
ACOP-01 Rosa Joint Ventures, PWS# NM3500324**

Mr. Phelps,

Please find attached Administrative Compliance Order and Assessment of Civil Penalty No. 2019-ACOP-01 issued to Rosa Joint Ventures, for Rosa Joint Ventures Water System, PWS# NM3500324, 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 and Assessment of Civil Penalty (Order) carefully to understand what action must be taken to comply with the requirements of the Order. Rosa Joint Ventures 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,

Stephanie Stringer
Bureau Chief

Water Protection Division

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

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

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

No.

Complainant,

v.

ROSA JOINT VENTURES,

Respondent.

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

Pursuant to NMSA 1978, 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 (“Regulations”), 20.7.10 NMAC, the Secretary of the New Mexico Environment Department (“NMED”), acting through the Drinking Water Bureau Chief of the Water Protection Division of NMED, issues this Administrative Compliance Order (“Order”) to Rosa Joint Ventures (“Respondent”) to enforce the EIA and Regulations.

I. FINDINGS

1. 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 Regulations through its Drinking Water Bureau (“Bureau”).

2. Respondent owns and operates a public drinking water system (“System”), Rosa Joint Ventures Water System, PWS# NM3500324, located in San Juan County, New Mexico with a mailing address of #3626 CR 330, Ignacio, CO 81137.

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 forty-nine (249) residents and has approximately one hundred fifty (150) service connections to serve these residents, according to the Bureau's database.

4. Respondent is a "supplier of water" as defined by 20.7.10.100 NMAC, incorporating 40 C.F.R. §142.2 because it is a person who owns or operates a public water system.

5. Respondent is a "person" as defined by the EIA, NMSA 1978, Section 74-1-3, and 20.7.10.100 NMAC, incorporating 40 C.F.R. §141.2.

6. On September 8, 2017, NMED issued Administrative Compliance Order No. 2017-ACO-13 ("ACO") to Respondent via certified mail return receipt requested for failure to correct significant deficiencies identified during the February 2, 2017 sanitary survey within 120 days of receiving written notice of deficiencies.

7. Respondent received the ACO on September 18, 2017.

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

9. On October 18, 2017, thirty (30) days after Respondent received the ACO it became a final order of the Secretary of NMED.

10. On September 5, 2018, NMED sent a letter via certified mail return receipt requested to 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 received the letter on September 12, 2018.

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

13. On January 20, 2017, NMED referred Respondent for Technical Assistance (TA), which attempts to help Respondent return the System to compliance.

14. Between January 23, 2017 and July 14, 2017, TA provider communicated with Respondent.

15. On July 7, 2017, the TA provider contacted Respondent and informed Respondent that the water system had until July 14, 2017 to show progress or the Technical Assistance Request (“TAR”) would be closed out.

16. On July 17, 2017, NMED closed out the TAR due to Respondent’s unresponsiveness.

17. On February 8, 2017, NMED referred Respondent for Managerial and Financial Assistance.

18. Between March 22, 2017 and September 28, 2018, Community Services staff assisted Respondent with various financial and managerial issues.

19. Pursuant to Section 20.7.10.100 NMAC, incorporating 40 C.F.R. § 141.152(b) and 40 C.F.R. § 141.155(c), requires that all community water public water systems must provide a Consumer Confidence Report (“CCR”) to their consumers and to the State by July 1st of each year.

20. On August 17, 2018, NMED issued a Notice of Violation (“NOV”) to Respondent for failure to submit a CCR to their consumers and to the State by July 1, 2018.

21. To date, Respondent has not submitted a CCR to their consumers or the State.

II. VIOLATIONS

22. Respondent violated 20.7.10.100 NMAC, incorporating 40 C.F.R. §141.403(a)(5), by failing to correct significant deficiencies identified during the February 2, 2017 Sanitary Survey report.

23. Respondent violated 20.7.10.100 NMAC, incorporating 40 C.F.R. § 141.152(b) and 40 C.F.R. § 141.155(c), by failing to deliver a copy of the CCR to both the Drinking Water Bureau and to the water system users for the 2017 calendar year.

III. SCHEDULE OF COMPLIANCE

24. Respondent is hereby ordered to:

a) By March 31, 2019, correct the significant deficiencies identified during the February 2, 2017, sanitary survey.

b) By March 31, 2019, provide a 2017 calendar year CCR to consumers and the State.

25. Submittals made pursuant to paragraph 24 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

Or

Email: maria.medina@state.nm.us

IV. CIVIL PENALTY

26. NMSA 1978, 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.

27. NMSA 1978, Section 74.1.10(C) of the EIA authorizes the NMED Secretary to assess a civil penalty for violation of the Regulations that shall not exceed one thousand dollars (\$1,000.00) per violation per day.

28. NMED hereby assesses against Respondent a civil penalty of two thousand dollars (\$2,000) for the two violations set forth herein in paragraphs 22 through 23.

29. Respondent shall pay the total civil penalty of two thousand dollars (\$2,000) by certified or cashier's check made payable to the State of New Mexico and mailed, or hand delivered to:

Jacob Weathers, 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

30. Pursuant to NMSA 1978, Section 74-1-10(E) and 20.1.5 NMAC (available at <http://www.env.nm.gov>), Respondent has the right to request a hearing. If Respondent (a) contests any material or legal matter 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 30 days of receipt of this Order a written Request for Hearing to the following address:

Pam Castaneda, Hearing Clerk
New Mexico Environment Department
PO Box 5469 (87502)
1190 S. St. Francis Drive
Santa Fe, New Mexico 87505

31. 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 of this Order not specifically denied shall be deemed admitted. 20.1.5.200(A)(2)(a) NMAC.

32. 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.

33. 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. Lastly, Respondent must attach a copy of this Order to the Request for Hearing. 20.1.5.200(A)(2)(d) NMAC.

VI. FINALITY OF ORDER

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

VII. SETTLEMENT CONFERENCE

35. Whether or not Respondent submits 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. 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. Respondent may appear at the settlement conference *pro se* (without legal counsel) or may be accompanied or represented by legal counsel.

36. A Stipulated Order shall finalize any settlement reached by the parties. The Stipulated Order must resolve all issues raised in this Order, shall be final and binding on all parties, and may not be appealed.


37. To explore the possibility of settlement in this matter, contact Andrew P. Knight, Esq., Office of General Counsel, New Mexico Environment Department, 121 Tijeras Ave., NE, Suite 1000, Albuquerque, New Mexico 87102, andrew.knight@state.nm.us or at (505) 222-9540.

VIII. COMPLIANCE WITH OTHER LAWS

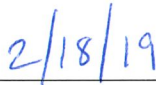
38. Compliance with the requirements of this Order does not relieve Respondent of the obligation to comply with all other applicable laws and regulations.

IX. TERMINATION

39. 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.



Stephanie Stringer
Drinking Water Bureau Chief, Water Protection Division
New Mexico Environment Department




Date

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing "Administrative Compliance Order and Assessment of Civil Penalty" was sent via certified return receipt requested mail on the following party of record on 2/18, 2019:

Ralph Phelps
Rosa Joint Ventures Water System
#3626 CR 330
Ignacio, CO 81137



Maria J. Medina