



MICHELLE LUJAN GRISHAM
Governor

HOWIE MORALES
Lt. Governor

**NEW MEXICO
ENVIRONMENT DEPARTMENT**

1190 St. Francis Dr.
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www.env.nm.gov/drinking_water/



JAMES C. KENNEY
Cabinet Secretary

JENNIFER J. PRUETT
Deputy Secretary

**CERTIFIED RETURN RECEIPT REQUESTED
7006 0810 0005 7274 3734**

April 24, 2020

Pete Myers
Sandia Church of the Nazarene
8216 Central Ave SE
Albuquerque, NM 87108

**RE: Administrative Compliance Order, No. 2020-ACO-13 Sandia Church of the Nazarene,
PWS# NM3511601**

Mr. Myers,

Please find attached Administrative Compliance Order No. 2020-ACO-13 issued to Sandia Church of the Nazarene, for Sandia Church of the Nazarene, PWS# NM3511601, 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. Sandia Church of the Nazarene 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,

Rebecca Roose Digitally signed by Rebecca Roose
Date: 2020.04.24 14:11:46 -06'00'

Rebecca Roose
Director, Water Protection Division

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

**STATE OF NEW MEXICO
SECRETARY OF ENVIRONMENT**

NEW MEXICO ENVIRONMENT DEPARTMENT
WATER PROTECTION DIVISION,

Complainant,
v.

No. 2020-ACO-13

SANDIA CHURCH OF THE NAZARENE,

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 Sandia Church of the Nazarene (“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”) Sandia Church of the Nazarene, PWS# NM3511601, located in Bernalillo County, New Mexico.

3. The System is a Non-Transient Non-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 one hundred fifty (150) users and has approximately sixteen (16) service connections to serve these users.

4. Respondent, Sandia Church of the Nazarene, 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. § 141.86], establishes monitoring requirements for lead and copper in tap water.

6. On February 24, 2015, a Notice of Violation (NOV) was issued to Respondent by NMED for failure to conduct lead and copper sampling during 2014. The NOV notified Respondent that it was required to provide public notice of the violation.

7. On December 11, 2017, an NOV was issued to Respondent by NMED for failure to conduct lead and copper sampling during 2015, 2016, and 2017. The NOV notified Respondent that it was required to provide public notice of the violation.

8. 20.7.10.100 NMAC, [incorporating 40 C.F.R. § 141.403(a)(5)], requires a ground water system to either correct significant deficiencies or be in compliance with a State approved corrective action plan within 120 days of receiving written notice by the State of significant deficiency.

9. On November 22, 2019, an NOV was issued to Respondent by NMED for failure to correct significant deficiencies identified during the May 14, 2019, sanitary survey within 120 days of receiving written notice of deficiencies. The NOV notified Respondent that it was required to provide public notice of the violation.

10. 20.7.10.100 NMAC, [incorporating 40 C.F.R. § 141.204 and § 141.31(d)], requires water systems to notify customers of the monitoring violation and certify that the notice was published as well as the method of publication by submitting a completed Public Notification Certification Form to NMED within ten (10) days of completing the public notification requirements. A copy of the public notice must be included.

11. On February 24, 2015, a Notice was issued to Respondent by NMED to notify customers of failure to complete the required lead and copper monitoring during 2014.

12. 20.7.10.100 NMAC, [incorporating 40 C.F.R. § 141.203(b)(i), § 141.403(a)(7)(ii) and § 141.31(d)], requires a Non-Transient Non-Community water system to notify customers of a failure to correct the significant deficiencies identified during a sanitary survey. This notification is required to be completed within thirty (30) days of receiving written notice of the violation and must continue to inform the public until the significant deficiency is corrected. The Non-Transient Non-Community water system must certify that the notice was published and the method of publication by submitting a completed Public Notification Certification Form to

NMED within ten (10) days of completing the public notification requirements. A copy of the public notice must be included.

13. On November 22, 2019, a Notice was issued to Respondent by NMED to notify customers of failure to correct the significant deficiencies identified during the May 14, 2019, sanitary survey. This notification was required to be completed within thirty (30) days of receiving written notice of the violation.

14. 20.7.10.100 NMAC, [incorporating 40 C.F.R. § 141.204(c)(1) and § 141.31(d)], requires water systems to notify customers of the violation and certify that the notice was published as well as the method of publication by submitting a completed Public Notification Certification Form to NMED within ten (10) days of completing the public notification requirements. A copy of the public notice must be included.

15. On June 17, 2016, a Notice was issued to Respondent by NMED to notify customers of failure to submit an adequate written Distribution System Sampling Plan (DSSP) that meets the requirements of the Revised Total Coliform Rule (RTCR).

VIOLATION 1- Drinking Water Regulations

16. Respondent is in violation of 20.7.10.100 NMAC, [incorporating 40 C.F.R. § 141.86], which establishes monitoring requirements for lead and copper in tap water. Respondent failed to collect lead and copper samples during 2014, 2015, 2016, and 2017.

VIOLATION 2- Drinking Water Regulations

17. Respondent is in violation of 20.7.10.100 NMAC, [incorporating 40 C.F.R. § 141.403(a)(5)], which requires a ground water system to either correct significant deficiencies or be in compliance with a State approved corrective action plan within 120 days of receiving written notice by the State of significant deficiency. Respondent failed to correct significant deficiencies identified during the May 14, 2019, sanitary survey within 120 days of receiving written notice by the State.

VIOLATION 3- Drinking Water Regulations

18. Respondent is in violation of 20.7.10.100 NMAC, [incorporating 40 C.F.R. § 141.204 and § 141.31(d)], which requires water systems to notify customers of the monitoring violation and certify that the notice was published and the method of publication by submitting a completed Public Notification Certification Form to NMED within ten (10) days of completing the public notification requirements. A copy of the public notice must be included. Respondent failed to notify customers of failure to complete the required lead and copper monitoring during 2014.

VIOLATION 4- Drinking Water Regulations

19. Respondent is in violation of 20.7.10.100 NMAC, [incorporating 40 C.F.R. § 141.203(b)(i), § 141.403(a)(7)(ii) and § 141.31(d)], which requires a Non-Transient Non-Community water system to notify customers of a failure to correct the significant deficiencies identified in a sanitary survey and must continue to inform the public until the significant deficiency is corrected. The Non-Transient Non-Community water system must certify that the notice was published and the method of publication by submitting a completed Public Notification Certification Form to NMED within ten (10) days of completing the public notification requirements. A copy of the public notice must be included. Respondent failed to submit a copy of the public notice which notified customers of failure to correct the significant deficiencies identified during the May 14, 2019, sanitary survey and a completed Public Notice Certification Form.

VIOLATION 5- Drinking Water Regulations

20. Respondent is in violation of 20.7.10.100 NMAC, [incorporating 40 C.F.R. § 141.204(c)(1) and § 141.31(d)], which requires water systems to notify customers of the violation and certify that the notice was published and the method of publication by submitting a completed Public Notification Certification Form to NMED within ten (10) days of completing the public notification requirements. A copy of the public notice must be included. Respondent failed to notify customers of failure to submit an adequate written DSSP that meets the requirements of the RTRC.

RETURN TO COMPLIANCE

Drinking Water Regulations

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

21. Between June 1, 2020 through September 30, 2020 comply with 20.7.10.100 NMAC, [incorporating 40 C.F.R. § 141.86], and collect lead and copper samples.

22. By May 15, 2020, comply with 20.7.10.100 NMAC, [incorporating 40 C.F.R. § 141.403(a)(5)], and correct significant deficiency identified during the May 14, 2019, sanitary survey (chemicals are not approved for use in Public Water System-Clorox bleach used for treatment is not ANSI/NSF approved for use in drinking water).

23. By May 15, 2020, comply with 20.7.10.100 NMAC, [incorporating 40 C.F.R. § 141.204 and § 141.31(d)], and submit a copy of the public notice notifying customers of failure complete the required lead and copper monitoring during 2014 and a completed Public Notification Certification Form.

24. By May 15, 2020, comply with 20.7.10.100 NMAC, [incorporating 40 C.F.R. § 141.203(b)(i), § 141.403(a)(7)(ii) and § 141.31(d)], and submit a copy of the public notice notifying customers of failure to correct the significant deficiency identified during the May 14, 2019, sanitary survey and a completed Public Notification Certification Form.

25. By May 15, 2020, comply with 20.7.10.100 NMAC, [incorporating 40 C.F.R. § 141.204(c)(1) and § 141.31(d)], and submit a copy of the public notice notifying customers of failure to submit an adequate written DSSP that meets the requirements of the RTCR and a completed Public Notification Certification Form.

26. Submittals made pursuant to paragraphs 21 through 25 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

If respondent fails to comply with the requirements of paragraphs 21 through 26 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 6

Utility Operator Certification Act

27. 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 May 20, 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:

28. Within 30 days of receipt of this Order, Sandia Church of the Nazarene 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.

29. Submittals made pursuant to paragraph 28 shall be sent by certified mail with return receipt requested to the following:

Eric Hall, Utility Operator Certification Program Manager
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 and maria.medina@state.nm.us

If respondent fails to comply with the requirements of paragraphs 28 through 29 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), 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

Digitally signed by Rebecca Roose
Date: 2020.04.24 14:15:36 -06'00'

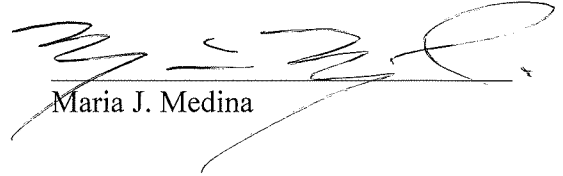
Rebecca Roose
Division Director
Water Protection Division
P.O Box 5469
Santa Fe, New Mexico 87502-5469

Date

Certificate of Service

I hereby certify that a copy of the foregoing Administrative Compliance Order was sent on 4/27, 2020 via certified return receipt requested to the following:

Pete Myers
Sandia Church of the Nazarene
8216 Central Ave SE
Albuquerque, NM 87108



Maria J. Medina