



**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 7159**

February 28, 2020

Arthur Romero  
Upper Holman MDWCA  
PO Box 214  
Holman, NM 87723

**RE: Administrative Compliance Order, No. 2020-ACO-05 Upper Holman MDWCA, PWS# NM3535518**

Mr. Romero,

Please find attached Administrative Compliance Order No. 2020-ACO-05 issued to Upper Holman MDWCA, for Upper Holman MDWCA, PWS# NM3535518, 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. Upper Holman 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,

Rebecca Roose  
Division Director  
Water Protection Division

cc. Compliance Officer (Electronic)  
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,

No. 2020-ACO-05

v.

UPPER HOLMAN 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 Upper Holman 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”) Upper Holman MDWCA, PWS# NM3535518, located in Mora 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 twenty-five (325) residents and has approximately seventy-four (74) service connections to serve these residents.
4. Respondent, Upper Holman 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. § 141.152(b) and 40 C.F.R. § 141.155(c)], requires that all community public water systems must provide a Consumer Confidence Report (CCR) to their consumers and to the State by July 1<sup>st</sup> of each year.

6. On September 19, 2017, a Notice of Violation (NOV) was issued to Respondent by NMED for failure to provide a CCR for the 2016 calendar year to their consumers and the State by July 1, 2017.

7. On August 17, 2018, an NOV was issued to Respondent by NMED for failure to provide a CCR for the 2017 calendar year to their consumers and the State by July 1, 2018.

8. On July 8, 2019, an NOV was issued to Respondent by NMED for failure to provide a CCR for the 2018 calendar year to their consumers and the State by July 1, 2019.

9. 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).

10. On November 18, 2016, an NOV was issued to Respondent by NMED for failure to complete the required DBP2 monitoring during 2014, 2015, and 2016. The NOV notified Respondent that it was required to provide public notice of the violation.

11. On November 9, 2017, an NOV was issued to Respondent by NMED for failure to complete the required DBP2 monitoring during 2017. The NOV notified Respondent that it was required to provide public notice of the violation.

12. On April 23, 2019, an NOV was issued to Respondent by NMED for failure to complete the required DBP2 monitoring during 2018. The NOV notified Respondent that it was required to provide public notice of the violation.

13. On February 14, 2020, an NOV was issued to Respondent by NMED for failure to complete the required DBP2 monitoring during 2019. The NOV notified Respondent that it was required to provide public notice of the violation.

14. 20.7.10.100 NMAC, [incorporating 40 C.F.R. § 141.204(c)(1), and 40 C.F.R. § 141.31(d)], requires water systems to notify customers of the non-sampling violation within a year from the date of the NOV 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.

15. On November 18, 2016, a Notice was issued to Respondent by NMED to notify customers of failure to complete the DBP2 monitoring during 2014, 2015, and 2016.

16. On November 9, 2017, a Notice was issued to Respondent by NMED to notify customers of failure to complete the DBP2 monitoring during 2017.

### **VIOLATION 1**

17. Respondent is in violation of 20.7.10.100 NMAC, [incorporating 40 C.F.R. § 141.152(b) and 40 C.F.R. § 141.155(c)], which requires that all community public water systems must provide a Consumer Confidence Report (CCR) to their consumers and to the State by July 1<sup>st</sup> of each year. Respondent failed to submit a CCR for the 2016, 2017, and 2018 calendar years to their consumers and the State by July 1, 2017, July 1, 2018, and July 1, 2019 respectively.

### **VIOLATION 2**

18. 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 complete the required DBP2 monitoring during 2014, 2015, 2016, 2017, 2018, and 2019.

### **VIOLATION 3**

19. 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 non-sampling violation within a year from the date of the NOV 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 the 2014, 2015, 2016, and 2017 DBP2 non-sampling violations.

## RETURN TO COMPLIANCE

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

20. By March 15, 2020, comply with 20.7.10.100 NMAC, [incorporating 40 C.F.R. § 141.152(b) and 40 C.F.R. § 141.155(c)], and provide a 2016, 2017, and 2018 calendar year CCRs to consumers and the State.

21. Between July 1-July 31, 2020, comply with 20.7.10.100 NMAC, [incorporating 40 C.F.R. § 141.620 and 141.621], and collect a DBP-DIST sample at Holman School.

22. By March 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 complete the DBP2 monitoring during 2014, 2015, 2016, and 2017 and a completed Public Notification Certification Form.

23. Submittals made pursuant to paragraphs 20 through 22 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 paragraphs 20 through 23 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](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 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 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.



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

2/28/20

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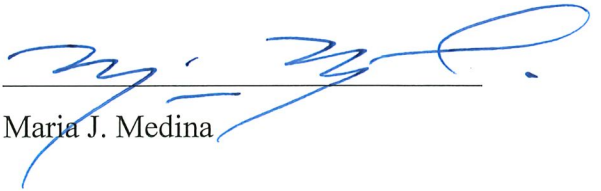
Date



## Certificate of Service

I hereby certify that a copy of the foregoing Administrative Compliance Order was sent on 3/2, 2020 via certified return receipt requested to the following:

Arthur Romero  
Upper Holman MDWCA  
PO Box 214  
Holman, NM 87723

  
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Maria J. Medina