



**NEW MEXICO
ENVIRONMENT DEPARTMENT**



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November 4, 2016

Fred Whistle
Morningstar Water Supply System, NM3510524
Po Box 5520
Farmington, NM 87499

RE: Emergency Powers Order 2016-1 and 2016-2 Notice of Non-Compliance

Mr. Whistle:

In response to the boil water advisory that was issued on June 2, 2016 and extended water outages at the Morningstar Water Supply System (System No. NM3510524), the New Mexico Environment Department (NMED) issued Emergency Orders (EO) 2016-1 and 2016-2 on June 17 and 24, 2016, respectively. These EOs require the Morningstar Water Supply to take specific actions to address the water emergencies at the water system.

On September 1, 2016 the NMED allowed the boil water advisory at the Morningstar Water Supply System to be lifted; however, there are several outstanding requirements of EOs 2016-1 and 2016-2 that must be completed.

The NMED's Drinking Water Bureau (DWB) has evaluated Morningstar Water Supply System's compliance with the requirements of the EOs as of November 4, 2016 and is providing you with the attached Notice of Non-Compliance.

As of November 4, 2016 the Morningstar Water Supply has accumulated the following fines:

EO 2016-1 Requirement Number	Deadline	Days Non-Compliant	Accumulated Fines
1	No Specific Deadline	Pending	Not-Applicable
2	Throughout Construction	Pending	Not-Applicable
3	Throughout Construction	Partial Compliant	Not-Applicable
4	No Specific Deadline	Compliant	Not-Applicable

5	Until NMED DWB Approves Lifting of Boil Advisory	Compliant	Not-Applicable
6	On-going	Not-Assessed	Not-Applicable
7	30 Days After Completion of Interconnection	75	Not-Applicable
EO 2016-2 Requirement Number	Deadline	Days Non-Compliant	Accumulated Fines
1	July 1, 2016	126	\$126,000
2	No later than 24 hours after repair has been completed	Pending	Pending
3	July 15, 2016	112	\$112,000
4	June 25, 2016	Compliant	Compliant
5	Noon Each Friday beginning July 1, 2016	9	\$9,000
6	Close of Business each day	3	\$3,000
7	July 15, 2016	7	\$7,000
8	Through June 24, 2016	Compliant	Compliant
9	July 1, 2016	Compliant	Compliant
Totals		257	\$257,000

Please be aware that all of the requirements outlined in EOs 2016-1 and 2016-2 must be completed. Fines may continue to accumulate until those requirements have been fully completed and verified as required. Although no fines were associated with EO 2016-1, please be aware that NMED may still impose civil penalties through an Administrative Compliance Order for continued non-compliance.

If you have any questions or need additional clarification concerning this status update please call Joe Martinez at 505-476-8635 or e-mail joe.martinez@state.nm.us.

Respectfully,



Stephanie Stringer, Chief
Drinking Water Bureau
Water Protection Division

Cc: Joe Martinez, PWSS Group Manager
Chris Cudia, Area Supervisor (electronic)
Morningstar Water Supply System Area Office file
Electronic Central File

**NEW MEXICO ENVIRONMENT DEPARTMENT
Emergency Powers Orders No. 2016-1 and 2016-2**

EO 2016-1 Requirement Number	Action Required By Morningstar Water Supply	Deadline	Current Status	Comments On Current Status
1	Connection appurtenances must include appropriate control devices to prevent back backflow from the System into the Farmington Water System.	No Specific Deadline	Pending	<ul style="list-style-type: none"> • Pending review of the Application once submitted.
2	The Farmington Water System must provide an appropriately qualified inspector to oversee connection construction activities whenever any work is being conducted.	Throughout Construction	Pending	<ul style="list-style-type: none"> • Pending review of the Application once submitted.
3	The System must implement all appropriate distribution system construction Best Management Practices (BMPs) including, but not limited to, system-wide flushing for the Morningstar System and expanded special microbial sampling within both the Morningstar and Farmington distribution systems during and after construction to verify water quality. These practices shall be coordinated with the Farmington Water System so as to not negatively impact operations, water quality, or water quantity for the Farmington Water System.	Throughout Construction	Compliant	<ul style="list-style-type: none"> • Morningstar flushed and collected samples as required in this Emergency Order.
4	The System shall discontinue use of the Morningstar surface water treatment plant and sources until written approval has been granted by DWB to return to use, should that be necessary and desired by the System.	No Specific Deadline	Compliant	<ul style="list-style-type: none"> • Daily updates provided by Mr. Fred Whistle beginning on July 18, 2016 indicated that the treatment plant had been taken offline as of July 14, 2016. • In an email submitted to NMED DWB on August 30, 2016, AV Water Attorney provided verification that the Morningstar Treatment plant had been permanently taken offline. • Photos of the disconnected pumps and piping were provided within that email .
5	The System must keep the Boil Water Advisory in effect until the DWB approves to lift based on water quality sample results.	Until NMED DWB Approves Lifting of Boil Advisory	Compliant	<ul style="list-style-type: none"> • DWB gave approval to lift the Boil Water Advisory September 1, 2016.
6	The System must provide timely response to customers regarding questions pertaining to water quality.	On-going	Not-Assessed	<ul style="list-style-type: none"> • DWB has received complaints that timely response to water quality related questions has not occurred.

7	The System must submit an Application that meets DWB Regulations for the as-built project within 30 days of project completion and must correct any deficiencies identified by the DWB Regulatory Engineer's review of the Application in a timely manner.	30 Days After Completion of Interconnection	33	<ul style="list-style-type: none"> Emergency Order 2016-1 required that Morningstar Water Supply System submit an Application that meets DWB Regulations for the as-built Farmington interconnection project within 30 days of project completion and must correct any deficiencies identified by the DWB Regulatory Engineer's review of the Application in a timely manner. Based on the required daily updates that were submitted to NMED DWB, the interconnection to the Farmington Water System and pump station were fully completed and operational on July 22, 2016 which would require a completed "as-built" plans & specifications application to be submitted no later than August 21, 2016. As of the date of this letter, the NMED DWB has not received an application for this project.
EO 2016-2 Requirement Number	Action Required By Morningstar Water Supply	Deadline	Current Status	Comments On Current Status
1	Optimize distribution system operation by identifying any deficiencies including, but not limited to, line leaks and valve operations to ensure maximum delivery of potable water to all storage tanks and customers; submit a distribution system status report to DWB no later than close of business Friday July 1, 2016 including all discovered distribution deficiencies identified along with a prioritized corrective action plan. This work must be completed and verified by an independent third party approved by DWB.	July 1, 2016	Non-Compliant	<ul style="list-style-type: none"> On Friday July 1, 2016 Mr. Whistle submitted a distribution system deficiency report via email. In the email, Mr. Whistle states that the report was compiled by Mr. Thomas Barrow, operator. The submitted report includes ten various sections which include fire hydrants, valves, dead end lines, storage tanks/facilities, dedicated sample sites, commercial meter cans, safety equipment, and other various system issues. Emergency Order 2016-01 requires that the work that is done in order to comply with Requirement #1 be "completed and verified by an independent third party approved by DWB." Due to the fact that this evaluation and report was not compiled by an independent third party that was approved by DWB, the Morningstar Water Supply is currently not in compliance

				<p>with this order.</p> <ul style="list-style-type: none">• On Friday July 8, 2016 the NMED provided Morningstar with a status update that indicated that they were not in compliance with Requirement #1.• On July 12, 2016, Germaine Chappelle, attorney for Animas Valley Land & Water (Animas Valley) submitted several documents indicating that distribution analysis work had been proposed by Animas Valley and the Molzen Corbin Engineering firm over the past several years. The documents included a system map as well as various other proposals and executed contract documents. During a conference call with Animas Valley representatives, NMED stated that Morningstar Water Supply would still be required to submit an updated distribution system evaluation report and updated distribution system map. If previous distribution analysis and work had been completed Animas Valley could include aspects of that previous work within the report that is currently required to be completed, but NMED would not solely accept the previous Molzen Corbin report as compliance documentation for the requirements of Emergency Order 2016-2.• On July 15, 2016 Ms. Chappelle, legal representative for Animas Valley submitted an extension request on behalf of Animas Valley. The extension request included a request for extension of Requirement #1.• On July 22, 2016, Ryan Flynn, former Secretary of the New Mexico Environment Department denied the July 15, 2016 Extension Request.• As of the date of this update, the requirements of Requirement #1 still have not been completed.
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2	<p>Any distribution deficiencies that are identified in Section 1 of this Order shall be repaired in a timeframe acceptable to DWB. Completion of any required distribution repairs shall be verified by an independent third party. All repair activities shall be performed in accordance with all regulatory requirements and best management practices for repairs of this nature, including but not limited to appropriate disinfection and special sampling. The System shall provide a report of each repair to DWB along with disinfection and sampling results no later than 24 hours after the repair has been completed.</p>	<p>No later than 24 hours after repair has been completed</p>	<p>Non-Compliant</p>	<ul style="list-style-type: none"> • Requirement #2 is dependent on the results of the distribution system deficiency report required in Requirement #1. • On July 15, 2016 Ms. Chappelle, legal representative for Animas Valley submitted an extension request on behalf of Animas Valley. The extension request included a request for extension of Requirement #2. • On July 22, 2016, Ryan Flynn, former Secretary of the New Mexico Environment Department denied the July 15, 2016 Extension Request. • Due to the fact that Requirement #1 is currently non-compliant, and the fact that an acceptable timeframe for completion of work has not been accepted by DWB, Requirement #2 is currently in non-compliant.
3	<p>In conjunction with identification and repair of distribution system deficiencies, the System shall either develop or update a comprehensive distribution system map which includes identification and location of distribution system features including but not limited to, size and type of all distribution lines, distribution valves and their operational status, hydrants, storage tanks, interconnections, and operating pressure zones. This comprehensive map shall be submitted to DWB no later than July 15, 2016.</p>	<p>July 15, 2016</p>	<p>Non-Compliant</p>	<ul style="list-style-type: none"> • Requirement #3 is dependent on the results of the distribution system deficiency report required in Requirement #1. • On July 12, 2016, Ms. Chappelle, attorney for Animas Valley submitted several documents indicating that distribution analysis work had been proposed by Animas Valley and the Molzen Corbin Engineering firm over the past several years. The documents included a system map as well as various other proposals and executed contract documents. During a conference call with Animas Valley representatives, NMED stated that Morningstar Water Supply would still be required to submit an updated distribution system evaluation report and updated distribution system map. If previous distribution analysis and work had been completed Animas Valley could include aspects of that previous work within the report that is currently required to be completed, but NMED would not solely accept the previous Molzen Corbin report as compliance documentation for the requirements of

				<p>Emergency Order 2016-2.</p> <ul style="list-style-type: none"> On July 15, 2016 Ms. Chappelle, legal representative for Animas Valley submitted an extension request on behalf of Animas Valley. The extension request included a request for extension of Requirement #3. On July 22, 2016, Ryan Flynn, former Secretary of the New Mexico Environment Department denied the July 15, 2016 Extension Request. Due to the fact that Requirement #1 is currently non-compliant, and the fact that an acceptable timeframe for completion of work has not been accepted by DWB, Requirement #3 is currently in non-compliant.
4	<p>Develop water conservation measures and provide a copy of these measures to System customers and DWB within 24 hours of this Emergency Order. These water conservation measures shall remain in effect until the System provides verification that all distribution system deficiencies have been corrected and the final interconnection with the Farmington Water System has been fully constructed and verified as operational. Water conservation notification to customers shall be distributed in a form and manner reasonably calculated to reach all persons served by the System including but not limited to all local broadcast media, San Juan County Emergency Management, and posting in public places throughout the System. Copies of this notice and verification of all distribution methods must be provided to DWB no later than 24 hours after the notifications have been distributed.</p>	June 25, 2016	Compliant	<ul style="list-style-type: none"> On June 25, 2016, Mr. Whistle submitted a press release via email which included water conservation measures for Morningstar Water Supply customers. The submitted email confirms that the press release was submitted to San Juan County Emergency Management as well as various media outlets and other County Officials.
5	<p>In addition to the water conservation public notifications, the System shall send out at minimum, weekly public notifications to System customers regarding the current status of the Boil Water Advisory and Water Outage(s) no later than noon on Friday of each week until these water emergencies</p>	Noon Each Friday beginning July 1, 2016	Partial Non-Compliance for the weeks ending: July 1, 2016, July 8, 2016, July 15, 2016,	<ul style="list-style-type: none"> On Friday July 1, 2016 at 4:31 PM, Mr. Whistle submitted a press release via email indicating that the weekly customer update had been delivered to San Juan County Emergency Management as well as various media outlets and County Officials. On Friday July 8, 2016 at 2:26 PM, Mr.

	<p>have been fully resolved. These public notifications shall be distributed in a form and manner reasonably calculated to reach all persons served by the System including but not limited to all local broadcast media, San Juan County Emergency Management, and phone calls or mail outs to all customers of the System. Copies this notice and verification of the proper distribution of these public notifications must be provided to DWB no later than 24 hours after the notifications have been distributed. The contents shall include but are not limited to, current status of the Boil Water Advisory, current status of distribution system deficiencies and corrective actions being taken to repair these deficiencies, current status of the proposed interconnection to the Farmington Water System, current status of the construction of the pumping station which will permanently provide Farmington water to System customers, information regarding water conservation measures that are currently in place, and information regarding any applicable timeframes for completion of the final interconnection with the Farmington Water System. Verification of the proper contents and distribution of these public notifications must be provided to DWB no later than 24 hours after the notifications have been sent out.</p>		<p>July 22, 2016, July, 29, 2016, August 5, 2016, August 12, 2016, & August 19, 2016,</p> <p>Full Non-Compliance for the week ending August 26, 2016</p>	<p>Whistle submitted a press release via email indicating that the weekly customer update had been delivered to San Juan County Emergency Management as well as various media outlets and County Officials.</p> <ul style="list-style-type: none"> • On Friday July 15, 2016 at 3:51 PM, Mr. Whistle submitted a press release via email indicating that the weekly customer update had been delivered to San Juan County Emergency Management as well as various media outlets and County Officials. Within the press release, Mr. Whistle incorrectly states that the deficiency report was concluded on July 1. However, in the status update letter that was provided to Mr. Whistle, NMED DWB indicated that the distribution deficiency status report was not accepted. • On Friday July 22, 2016 at 7:46 PM, Mr. Whistle submitted a press release via email indicating that the weekly customer update had been delivered to San Juan County Emergency Management as well as various media outlets and County Officials. Within the press release, Mr. Whistle incorrectly states that the deficiency report was concluded on July 1. However, in the status update letter that was provided to Mr. Whistle, NMED DWB indicated that the distribution deficiency status report was not accepted. • On Friday July 29, 2016 at 3:34 PM, Mr. Whistle submitted a press release via email indicating that the weekly customer update had been delivered to San Juan County Emergency Management as well as various media outlets and County Officials. Within the press release, Mr. Whistle incorrectly states that the deficiency report was concluded on July 1. However, in the status update letter that was provided to Mr. Whistle, NMED DWB indicated that the distribution deficiency status
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				<p>report was not accepted.</p> <ul style="list-style-type: none">• On Friday August 5, 2016 at 3:07 PM, Mr. Whistle submitted a press release via email indicating that the weekly customer update had been delivered to San Juan County Emergency Management as well as various media outlets and County Officials. Within the press release, Mr. Whistle incorrectly states that the deficiency report was concluded on July 1. However, in the status update letter that was provided to Mr. Whistle, NMED DWB indicated that the distribution deficiency status report was not accepted.• On Friday August 12, 2016 at 4:05 PM, Mr. Whistle submitted a press release via email indicating that the weekly customer update had been delivered to San Juan County Emergency Management as well as various media outlets and County Officials. Within the press release, Mr. Whistle incorrectly states that the deficiency report was concluded on July 1. However, in the status update letter that was provided to Mr. Whistle, NMED DWB indicated that the distribution deficiency status report was not accepted. Within this press release partial notification of a Turbidity Violation at the Harvest Gold system was provided. This partial notification did not meet the full public notification requirements for that violation.• On Friday August 19, 2016 at 1:49 PM, Mr. Whistle submitted a press release via email indicating that the weekly customer update had been delivered to San Juan County Emergency Management as well as various media outlets and County Officials. Within the press release, Mr. Whistle incorrectly states that the deficiency report was concluded on July 1. However, in the status update letter that was provided to Mr. Whistle, NMED DWB
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				<p>indicated that the distribution deficiency status report was not accepted. This update included information regarding conclusion of flushing activities and beginning of distribution sampling.</p> <ul style="list-style-type: none">• On Friday August 19, 2016 at 1:49 PM, Mr. Whistle submitted a press release via email indicating that the weekly customer update had been delivered to San Juan County Emergency Management as well as various media outlets and County Officials. Within the press release, Mr. Whistle incorrectly states that the deficiency report was concluded on July 1. However, in the status update letter that was provided to Mr. Whistle, NMED DWB indicated that the distribution deficiency status report was not accepted. This update included information regarding conclusion of flushing activities and beginning of distribution sampling.• For the week ending August 26, 2016 completely failed to submit a weekly update as required by Emergency Order 2016-2.• Additionally, the Emergency Order specifically requires that these notifications be sent to system customers no later than noon on Friday of each week.• The Emergency Order also specifically requires that the notification be distributed in a manner, including but not limited to all local broadcast media, San Juan County Emergency Management, and phone calls or mail outs to all customers of the System.• Due to the fact that not all of the notifications, specifically the phone and/or mail outs were not completed by Noon on each Friday, Morningstar Water Supply has not complied with this portion of Requirement #5 for the weeks of Friday July 1, 2016, Friday July 8, 2016, Friday July 15, 2016, July, 29, 2016,
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				<p>August 5, 2016, August 12, 2016, & August 19, 2016 & August 26, 2016.</p> <ul style="list-style-type: none"> • Additionally, verification of the proper contents and distribution of these public notifications must be provided to DWB no later than 24 hours after the notifications have been sent out. As of the date of this status update, DWB has not received full verification of required distribution. • Due to the fact that the Boil Water Advisory for the Morningstar System was lifted on September 1, 2016, the requirements for these weekly updates also ended on September 1, 2016.
6	<p>The System shall provide daily written updates to DWB regarding the current status of the Boil Water Advisory and Water Outage(s) no later than close of business on each day until all water emergencies have been fully resolved. The contents of these updates shall include but are not limited to, current status of the Boil Water Advisory, current status of distribution system deficiencies and corrective actions being taken to repair these deficiencies, current status of the proposed interconnection to the Farmington Water System, current status of the construction of the pumping station which will permanently provide Farmington water to System customers, information regarding the effectiveness of water conservation measures that are currently in place, and information regarding any applicable timeframes for completion of the final interconnection with the Farmington Water System.</p>	<p>Close of Business each day</p>	<p>Partial Non-Compliance</p>	<ul style="list-style-type: none"> • On Wednesday August 24, 2016, Ms. Chappelle, Attorney for Animas Valley Water, submitted a daily update on behalf of Animas Valley Water at 8:11 PM. This was past the required deadline of Close of Business each day. • On Thursday August 25, 2016 Animas Valley Water failed to submit an update for that day. • On Friday August 26, 2016, Animas Valley Water failed to submit an update for that day. • Due to the fact that the Boil Water Advisory for the Morningstar System was lifted on September 1, 2016, the requirements for these daily updates also ended on September 1, 2016.
7	<p>All permanent interconnection construction activities and pump station shall be completed no later than July 15, 2016. Immediately upon completion of the permanent interconnection and pump station the system shall notify DWB in writing.</p>	<p>July 15, 2016</p>	<p>Non-Compliant</p>	<ul style="list-style-type: none"> • The permanent interconnection construction activities and pump station was not completed by the July 15, 2016 deadline. • On July 15, 2016 Ms. Chappelle, legal representative for Animas Valley submitted an extension request on behalf of Animas Valley. The extension request included a request for

				<p>extension of Requirement #7.</p> <ul style="list-style-type: none"> • On July 22, 2016, Ryan Flynn, former Secretary of the New Mexico Environment Department denied the July 15, 2016 Extension Request. • According to updates provided by Mr. Fred Whistle, the permanent interconnection to the City of Farmington was completed on July 22, 2016.
8	Hauling of potable water from adjacent public water systems shall continue until continuous water service has been restored to all customers. Water hauling activities shall be conducted using a water hauler that is acceptable to the DWB.	Until continuous water service has been restored	Compliant	<ul style="list-style-type: none"> • According to the June 27, 2016 daily update from Mr. Whistle, all customers' water service has been restored as of June 24, 2016. • This was confirmed by San Juan County Office of Emergency Management. • Water hauling continued through the weekend and was finally halted on June 27, 2016.
9	Continuous water service shall be provided to all System customers no later than Friday July 1, 2016 through the correction of distribution system deficiencies or an alternative solution such as construction of a temporary pumping facility.	July 1, 2016	Compliant	<ul style="list-style-type: none"> • According to the June 27, 2016 daily update from Mr. Whistle, all customers' water service has been restored as of June 24, 2016. • This was confirmed by San Juan County Office of Emergency Management.
10	All regulatory requirements and best management practices shall be followed during any construction or related activities identified in this Order.	Ongoing	Ongoing	<ul style="list-style-type: none"> • DWB will continue to evaluate this requirement. • Mr. Whistle indicates within each update that all regulatory requirements and Best management practices have been followed on all construction.