

 ENTERED



Michelle Lujan Grisham
Governor

Howie C. Morales
Lt. Governor

NEW MEXICO
ENVIRONMENT DEPARTMENT

Hazardous Waste Bureau
2905 Rodeo Park Drive East, Building 1
Santa Fe, New Mexico 87505-6313
Phone (505) 476-6000 Fax (505) 476-6030
www.env.nm.gov



James C. Kenney
Cabinet Secretary

Jennifer J. Pruett
Deputy Secretary

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

May 24, 2019

Jeff Smith
General Manager
Advanced Chemical Treatment, Inc.
6137 Edith Blvd. NE
Albuquerque, NM 87107

**RE: ADMINISTRATIVE ORDER
ADVANCED CHEMICAL TREATMENT, INC
EPA IDENTIFICATION NUMBER: NMD002208627**

Dear Mr. Smith:

On November 5, 2019, the New Mexico Environment Department (“NMED”) conducted a Compliance Evaluation Inspection (“Inspection”) at Advanced Chemical Treatment, Inc (“ACT”) located at 6137 Edith Blvd, NE, Albuquerque, NM (“Facility”). During the Inspection, NMED inspectors observed several potential violations at the Facility specific to ACT’s Permit with NMED’s Hazardous Waste Bureau (“HWB”).

Based on information reviewed and observed during the Inspection, NMED is issuing Administrative Compliance Order (“Order”) to ACT, under the New Mexico Hazardous Waste Act (“HWA”), NMSA 1978, §§ 74-4-1 to -14, and the New Mexico Hazardous Waste Management Regulations (“HWMR”), 20.4.1 NMAC. NMED has also assessed a civil penalty of \$568,845.00 based on the alleged violations.

Please review the Order carefully to understand what action must be taken to comply with the conditions of the Permit as it relates to the HWA and HWMR. Pursuant to NMSA 1978, Section 74-4-10, ACT has a right to answer the allegations in the Order and request a hearing.

Mr. Smith
May 24, 2019
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If you have any questions regarding this Order, please contact Janine Kraemer of the HWB at 505-476-4372 or by email at Janine.Kraemer@state.nm.us.

Sincerely,



Stephanie Stringer
Division Director
Resource Protection Division

SS: jk

cc: Janine Kraemer, NMED HWB
Frank Rodarte, NMED HWB
Chris Atencio, NMED OGC

**STATE OF NEW MEXICO
ENVIRONMENT DEPARTMENT**

NEW MEXICO ENVIRONMENT)	
DEPARTMENT,)	
Complainant,)	ADMINISTRATIVE ORDER
)	NO. HWB-19-____
v.)	
)	
ADVANCED CHEMICAL TREATMENT,)	
INC.,)	
EPA ID #: NMD002208627)	
Respondent.)	
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ADMINISTRATIVE COMPLIANCE ORDER

Pursuant to the New Mexico Hazardous Waste Act ("HWA"), New Mexico Statutes Annotated ("NMSA") 1978, §§ 74-4-1 to -14, the Hazardous Waste Bureau ("HWB") of the Resource Protection Division ("Division") of the New Mexico Environment Department ("NMED"), issues this Administrative Compliance Order ("Order") to Advanced Chemical Treatment, Inc. ("ACT", "Respondent" or "Permittee"). This Order requires that ACT, located at 6137 Edith Blvd, NE, Albuquerque, New Mexico, comply with the HWA and the Hazardous Waste Management Regulations ("HWMR"), 20.4.1 New Mexico Administrative Code ("NMAC"), and assesses civil penalties for violations of the HWA and the HWMR.

I. FINDINGS

A. PARTIES

1. Pursuant to the Department of Environment Act, NMSA 1978, §§ 9-7A-1 to -15, NMED is an agency of the executive branch within the government of the State of New Mexico.
2. NMED, through its HWB, is charged with administration and enforcement of the HWA and HWMR.

3. The U.S. Environmental Protection Agency (“EPA”) has granted the State of New Mexico delegated authority to implement the federal Resource Conservation and Recovery Act (“RCRA”), 42 U.S.C. §§ 6901 to 6992k, within the state. The HWMR incorporate portions of 40 Code of Federal Regulation (“CFR”) §§ 260 through 270, 40 CFR § 279 and related federal regulations by reference.

4. The State of New Mexico adopted the federal hazardous waste regulations by reference on June 14, 2000. The State of New Mexico subsequently amended the HWMR on March 1, 2009 and on December 1, 2018, to adopt changes to the federal hazardous waste regulations.

5. Respondent is a “person” within the meaning of NMSA 1978, Section 74-4-3(M) of the HWA.

6. Respondent is a New Mexico for-profit corporation.

7. Respondent operates under a Treatment, Storage, and Disposal Facility (“TSDF”) Permit, and is a Used Oil Transfer Facility, Large Quantity Generator, and Universal Waste Handler Facility, under EPA I.D. Number NMD002208627.

8. Respondent’s facility is located at 6137 Edith Blvd, NE, Albuquerque, New Mexico (“Facility”).

B. HWA INVESTIGATION – November 5, 2018

9. Beginning November 5 thru November 8, 2018, NMED conducted a routine Compliance Evaluation Inspection (“Inspection”).

10. The Inspection included a physical review of the Facility and the records required to be maintained at the Facility according to Respondent’s permit.

11. During the Inspection, NMED identified fifteen potential violations.

12. The HWMR provide that owners and operators of Used Oil Transfer Facilities are subject to regulation under 40 CFR § 279 Subpart F; therefore, Respondent cannot store used oil for greater than 35 days, as required by 20.4.1.1002 NMAC, incorporating 40 CFR § 279.45(a).

13. During the Inspection November 5, 2018, 32 containers storing used oil were identified in the operating record as being stored at the Facility since January 2018, well beyond 35 days.

14. The HWMR provide that owners and operators of Used Oil Transfer Facilities are subject to regulations under 40 CFR 279 Subpart F; therefore, must label containers storing used oil with the words "Used Oil", as required by 20.4.1.1002 NMAC, incorporating 40 CFR § 279.45(g).

15. During the Inspection November 5, 2018, NMED inspectors observed two black 55-gallon metal drums located near the back dock, identified as storing used oil, not labeled accordingly. One of the drums was not labeled properly.

16. The HWMR provide that owners and operators of Used Oil Transfer Facilities are subject to regulations under 40 CFR § 279 Subpart F; therefore, must perform cleanup activities upon detection of a release of used oil to the environment, as required by 20.4.1.1002 NMAC, incorporating 40 CFR § 279.45(h).

17. During the Inspection November 5, 2018, NMED inspectors noticed a large area of stained soil on the ground and a pool of used oil under the roll-off bin, near the back dock. There was no attempt to remediate the areas.

18. The HWMR provide that owners and operators of Large Quantity Generators of hazardous waste must make an accurate hazardous waste determination as required by

20.4.1.300 NMAC, incorporating 40 CFR § 262.11.

19. During the Inspection November 5, 2018, NMED inspectors observed containers or manifests with inaccurate information or no information:

a) One 30-gallon white poly drum (bar code D206959-1) labeled "Roundup Custom", with "Non-Regulated Waste and Empty Container" labels but was 1/3 full of liquid;

b) Four containers on Manifest #011163986 FLE, dated 9/1/17, with waste profile number ACT68576. The waste profile describes the waste stream as waste flammable liquids (Ethanol); however, the manifest listed the waste with the EPA Hazardous Waste Code D010 (Selenium); and

c) Five 50-mL vials observed on the Container Storage Facility ("CSF") floor, which contained unknown contents.

20. The HWMR provide that owners and operators of hazardous waste TSDFs must not locate containers holding ignitable or reactive hazardous waste within 15 meters (50 feet) of the Facility's property line as required by 20.4.1.500 NMAC incorporating 40 CFR § 264.176; Permit Condition ("PC") III.J.1.

21. During the Inspection November 5, 2018, NMED inspectors observed three trailer trucks, identified as 1005, T-1138 and T-1096, storing hazardous waste located on the southeast corner of the Facility property. These trucks were accepted into the Facility the week prior to the inspection.

22. The HWMR provide that owners and operators of hazardous waste TSDFs must manage and store hazardous waste only in seven rooms in the CSF and at no other locations on the Facility, as required by PC I.B.6.

23. During the Inspection November 5, 2018, NMED inspectors observed three trailer trucks, identified as 1005, T-1138 and T-1096, storing hazardous waste located on the southeast corner of the Facility property. These trucks were accepted into the Facility the week prior to the inspection.

24. The HWMR provide that owners and operators of hazardous waste TSDFs must not store any hazardous waste in the CSF for more than one year as required by PC III.A.1.d.

25. During the Inspection November 5, 2018, NMED inspectors observed one 5-gallon white poly container storing mercury compounds (bar code IC5791-4) in cell D6, Room D, dated October 20, 2017, as well as, another container identified in the operating record as IC6825-1, which contained hazardous waste that had been on site since October 2017.

26. The HWMR provide that owners and operators of hazardous waste TSDFs must appropriately mark or label all manifested containers that enter the Facility so that they can be tracked within the Facility as required by 20.4.1.500 NMAC, incorporating 40 CFR § 264.73(b)(2); Permit Attachment D, Page 7, Waste Tracking and Operating Record.

27. During the Inspection November 5, 2018, NMED inspectors observed the following containers unlabeled:

a) Two black 55 -gallon metal drums located on the third pallet from the front in cell F3B1 with no identifiable labels or markings; and

b) sixteen cubic yard sacks in Room B containing Bloom Energy waste that were all unlabeled.

28. The HWMR provide that owners and operators of hazardous waste TSDFs shall not open, handle, or store containers in a manner which may rupture the container or cause it to leak, as required by 20.4.1.500 NMAC, incorporating 40 CFR § 264.173(b); PC III.E.

29. During the Inspection November 5, 2018, NMED inspectors observed areas where leakage from containers had occurred in the CSF. In Room D, next to containers D215824-16 and D215346-4, was evidence that leakage occurred onto drums stored below and onto the floor. In Room E, E1O1, near container D215260-49, a liquid was observed pooling under the drum.

30. The HWMR provide that owners and operators of hazardous waste TSDFs shall not store more than 55,000 gallons of hazardous waste types in containers at the CSF at any one time, as required by PC III.B.2.

31. During the Inspection November 5, 2018, NMED inspectors reviewed the Operating Record and determined that a total of 85,050 gallons of hazardous waste was stored in the CSF, which did not include the three tractor trailers parked in the southeast corner of the property. Additionally, according to ACT's KPI report, the total volume stored in October 2018 was approximately 64,000 gallons of hazardous waste, likewise in excess of its permitted storage amount.

32. The HWMR provide that owners and operators of hazardous waste TSDFs must post warning signs in English and Spanish at all gates and around the fence, and they must be legible from a distance of at least 25 feet from any approach, as required by 20.4.1.500 NMAC, incorporating 40 CFR § 264.14(c); PC II.D.2.

33. During the Inspection November 5, 2018, NMED conducted a physical walk around of the property and identified multiple signs that were illegible, spray painted, and faded, failing to convey that entry was dangerous.

34. The HWMR provide that owners and operators of hazardous waste TSDFs must remedy any deterioration or malfunction of equipment or structures which a regularly scheduled

inspection reveals, as required by 20.4.1.500 NMAC, incorporating 40 CFR § 264.15(c); PC II.I.2.

35. During the Inspection November 5, 2018, NMED observed a temporary eye-wash station near broken eye-wash station, which ACT cannot demonstrate proper repair, causing a human health hazard.

36. The HWMR provide that owners and operators of hazardous waste TSDFs shall not use knowledge of process in lieu of detailed chemical analysis and must ensure that all hazardous waste destined for management or storage at the CSF complies with the waste characterization and analysis procedures described in Permit Attachment D, Waste Analysis Plan, as required by 20.4.1.500 NMAC, incorporating 40 CFR § 264.13(a); PC II.C.1.

37. During the Inspection November 5, 2018, NMED inspectors reviewed the Operating Record and determined that the following containers were mischaracterized due to the waste description indicating the waste should have additional waste codes:

- a) D181288-1: should have been classified as a D003;
- b) D183818-20: should have included a D026 code;
- c) D183551-2: should have been classified as D002;
- d) D188793-1: should have been classified as a D001;
- e) D193191-1 and D193191-3: should have been classified as at least D018 possibly D001;
- f) D199208-1: should have been classified as D001;
- g) D213621-4: should have been classified as D003,
- h) D211066-4: should have been classified as D003;
- i) D211066-7 and D211066-9: should have been classified as D009;

- j) D211744-54: should have been classified as P023;
- k) D211066-2: should have been classified as D001;
- l) D211066-3 should have been classified as D003;
- m) D2124849: waste profile indicates lead but no analyticals;
- n) IC6754-9: the operating record lists D001, D002, D003, D005, D007, D009, P030 and U151; however, the contents on the lab pack indicate U058 and U188.

38. The HWMR provide that owners and operators of hazardous waste TSDFs shall maintain an accurate written operating record, as required by 20.4.1.500 NMAC, incorporating 40 CFR § 264.73; PC II.L.1.

39. During the Inspection November 5, 2018, NMED reviewed the Operating Record and identified the following discrepancies:

a) The common name of the waste was not included in the operating record. ACT failed to include the common name of the waste for the following container numbers: D210532-116; IC6848-28; IC6848-29; IC6848-30; IC6848-31; IC6848-33; IC6848-2; IC6848-4; IC6848-5; IC6848-6; IC6848-7; IC6848-8; IC6848-9; IC6848-10; IC6848-11; IC6848-12; IC6848-13; IC6848-14; IC6848-15; IC6848-16; IC6848-17; IC6848-18; IC6848-19; IC6848-21; IC6848-22; IC6848-23; IC6848-25; IC6848-27; IC6982-14; IC6982-13;

b) The location of each hazardous waste within the Facility was not properly recorded in the operating record. The following hazardous waste containers were unable to be located in the CSF as indicated in the operating record: D197256-2 and D203327-7 were supposed to be located in D7Stage; D207414-1, D204419-33, D204419-32,

D204289-16, D204289-28, D204289-26, D204289-22, D204289-25, D204289-24, D204289-23, D204289-21, D204289-20, D204289-19, D204289-18, D204-289-17 were supposed located in E1Stage; and D210337-1, D210337-2, D213348-6 and D213387-1 were supposed to be located in F7Stage; D208710-12 and D209751-12 were located in C1K2; however, the operating record indicated they were located in C1I2; and D214442-2 were located in E2F1; however, the operating record indicated it was located in F7E2. The following containers were not in the operating record, but were being stored on site: Sixteen cubic yard sacks of Bloom Energy waste in Room B; container D168859-11 located in F2S2; a 300-gallon tote located in cell D7G2; a 55-gallon drum of used oil near the back dock; and the three trailer trucks on the southeast corner of the property;

c) The physical state of each waste stream was not properly recorded in the operating record. ACT failed to include the physical state of the hazardous waste approximately 100 times; and

d) The RCRA hazardous waste codes of each waste were not properly recorded in the operating record. ACT failed to include the hazardous waste codes on the following containers in the operating record; D180875-1, IC6037-1, D182372-5, D183551-2, D184735-3, D188793-1, IC6530-1, D193191-3, D193191-1, D198005-1, D199208-1, D205172-1, D207891-6, D210635-1, D211066-4, D211066-7, D211066-9, D214119-4, D213621-4, D213621-4, IC6906-1, D216910-1, D216912-3, and D216912-4.

40. The HWMR provide that owners and operators of Universal Waste Handler Facilities must mark or label each universal waste battery, or a container in which the batteries are contained, with the words "Universal Waste -- Batteries" or other wording to identify the type of universal waste being stored, as required by 20.4.1.1000 NMAC, incorporating 40 CFR §

273.14(a) and 20.4.1.1001.B NMAC.

41. During the Inspection November 5, 2018, NMED inspectors observed two pallets of spent batteries; however, only one battery was labeled on each pallet. The batteries, located in cells E7Q1 and cell E3N1 in Room E, were not shrink wrapped nor bound together.

II. VIOLATIONS

A. HWA INVESTIGATION – November 5, 2018

42. Respondent's failure to store used oil for a period of less than 35 days for a Transfer Facility is a violation of 20.4.1.1002 NMAC, incorporating 40 CFR § 279.45(a).

43. Respondent's failure to label containers, storing used oil, with the words "Used Oil" is a violation of 20.4.1.1002 NMAC, incorporating 40 CFR § 279.45(g).

44. Respondent's failure to respond to a release of used oil to the environment is a violation of 20.4.1.1002 NMAC, incorporating 40 CFR § 297.45(h).

45. Respondent's failure to make a hazardous waste determination is a violation of 20.4.1.300 NMAC, incorporating 40 CFR § 262.11.

46. Respondent's failure to manage and store hazardous wastes containers, holding ignitable or reactive hazardous waste, at a distance greater than 15 meters (50 feet) of the facility's property line is a violation of PC III.J.1 and 20.4.1.500 NMAC, incorporating 40 CFR § 264.176.

47. Respondent's failure to manage and store hazardous waste only in seven rooms of the CSF is a violation of PC I.B.6.

48. Respondent's failure to store hazardous waste in the CSF for less than one year is a violation of PC III.A.1.d.

49. Respondent's failure to label or mark containers for waste tracking is a violation

of Permit Attachment D, Page 7 and 20.4.1.500 NMAC, incorporating 40 CFR § 264.73(b)(2).

50. Respondent's failure to store containers in a manner that would prevent rupture or cause leaks is a violation of PC III.E and 20.4.1.500 NMAC, incorporating 40 CFR § 264.173(b).

51. Respondent's failure to store hazardous waste within the permitted maximum volume of 55,000 gallons is a violation of PC III.B.2.

52. Respondent's failure to properly post legible warning signs on the property boundary fence is a violation of PC II.D.2 and 20.4.1.500 NMAC, incorporating 40 CFR § 264.14(c).

53. Respondent's failure to remedy any deterioration or malfunction of equipment or structures is a violation of PC II.I.2 and 20.4.1.500 NMAC, incorporating 40 CFR § 264.15(c).

54. Respondent's failure to submit the waste stream profiles to a qualified lab to perform a detailed chemical analysis when knowledge of process is not adequate for determination is a violation of PC II.C.1 and 20.4.1.500 NMAC, incorporating 40 CFR § 264.13(a).

55. Respondent's failure to maintain an accurate operating record is a violation of PC II.L.1 and 20.4.1.500 NMAC, incorporating 40 CFR § 264.73.

56. Respondent's failure to label universal waste batteries is a violation of 20.4.1.1000 NMAC, incorporating 40 CFR § 273.14(a) and 20.4.1.1001.B NMAC.

III. SCHEDULE OF COMPLIANCE

57. Based upon the foregoing findings and conclusions, Respondent is hereby ordered to take the following corrective actions, according to the following schedule, to achieve compliance with the HWA and the HWMR.

A. HWA INVESTIGATION – November 5, 2018

58. No later than 30 days after this Order becomes final, Respondent shall submit a written response describing all actions taken by Respondent in response to the violations identified herein. The response shall include photos, procedures documents, and any other relevant records, that document the actions taken by the Respondent to remedy any compliance deficiencies related to the November 5, 2018 inspection.

a. The Respondent's written response shall contain a description of the corrective actions to ensure that used oil is not stored for greater than 35 days for a Used Oil Transfer Facility, consistent with 20.4.1.1002 NMAC, incorporating 40 CFR § 279.45(a).

b. The Respondent's written response shall contain a description of corrective actions to ensure containers storing used oil are labeled with the words "Used Oil", consistent with 20.4.1.1002 NMAC, incorporating 40 CFR § 279.45(g).

c. The Respondent's written response shall contain a description of corrective actions to ensure remedial actions occur when a release of used oil to the environment has occurred, consistent with 20.4.1.1002 NMAC, incorporating 40 CFR § 279.45(h).

d. The Respondent's written response shall contain a description of corrective actions to ensure accurate hazardous waste determinations are made on hazardous waste, consistent with and 20.4.1.300 NMAC, incorporating 40 CFR § 262.11.

e. The Respondent's written response shall contain a description of corrective actions to ensure hazardous waste containers holding ignitable or reactive hazardous wastes are not stored within 15 meters (50 feet) of the facility's property fence line, consistent with PC III.J.1 and 20.4.1.500 NMAC, incorporating 40 CFR § 264.176.

f. The Respondent's written response shall contain a description of

corrective actions to ensure hazardous waste is managed and stored only in seven rooms of the CSF, consistent with PC I.B.6.

g. The Respondent's written response shall contain a description of corrective actions to ensure hazardous waste is stored in the CSF for a period of less than one year, consistent with PC III.A.1.d.

h. The Respondent's written response shall contain a description of corrective actions to ensure hazardous waste containers are labeled or marked for waste tracking in the CSF, consistent with Permit Attachment D, Waste Tracking and the Operating Record.

i. The Respondent's written response shall contain a description of corrective actions to ensure containers are stored in a manner that would prevent rupture or cause leaks, consistent with PC III.E and 20.4.1.500 NMAC, incorporating 40 CFR § 264.173(b).

j. The Respondent's written response shall contain a description of corrective actions to ensure hazardous waste is stored within the allowable maximum volume of 55,000 gallons, consistent with PC III.B.2.

k. The Respondent's written response shall contain a description of corrective actions to ensure legible warning signs are properly posted on the property boundary fence, consistent with PC II.D.2 and 20.4.1.500 NMAC, incorporating 40 CFR § 264.14(c).

l. The Respondent's written response shall contain a description of corrective actions to ensure all malfunctions of equipment or structures are repaired, consistent with PC II.I.2 and 20.4.1.500 NMAC, incorporating 40 CFR § 264.15(c).

m. The Respondent's written response shall contain a description of corrective actions to ensure waste stream profiles are submitted to a qualified lab to perform a detailed chemical analysis when knowledge of process is inadequate for determination,

consistent with PC II.C.1 and Permit Attachment D.

n. The Respondent's written response shall contain a description of corrective actions to ensure that the Operating Record is accurately maintained, consistent with PC II.L.1 and 20.4.1.500 NMAC, incorporating 40 CFR § 264.73.

o. The Respondent's written response shall contain a description of corrective actions to ensure that universal waste is accurately labeled, consistent with 20.4.1.1001 NMAC, incorporating 40 CFR § 273.14(a).

IV. CIVIL PENALTY

59. Pursuant to NMSA 1978, Sections 74-4-10(B) and 74-4-12 of the HWA, Respondent is liable for a civil penalty of up to \$10,000.00 per day of noncompliance for each violation of the HWMR. The Department hereby assesses a civil penalty of \$568,845.00 against Respondent for the HWA violations described above.

60. No later than 30 days after this Order becomes final, Respondent shall make payment to the State of New Mexico-Hazardous Waste Emergency Fund by certified check, bank draft or other guaranteed negotiable instrument, and mailed to or hand delivered to:

John E. Kieling, Chief
Hazardous Waste Bureau
New Mexico Environment Department
2905 Rodeo Park Drive East, Building 1
Santa Fe, New Mexico 87505.

A copy of the transmittal letter shall be sent to counsel for the Department.

V. NOTICE OF POTENTIAL ADDITIONAL PENALTIES

61. If Respondent fails to comply in a timely manner with the Schedule of Compliance, the Secretary may assess additional civil penalties of up to \$25,000 for each day of continued noncompliance pursuant to NMSA 1978, Section 74-4-10(C) of the HWA.

VI. RIGHT TO ANSWER AND REQUEST A HEARING

62. Pursuant to NMSA 1978, Section 74-4-10(H) of the HWA, and NMED's Adjudicatory Procedures, 20.1.5.200 NMAC, Respondent may file a written request for a public hearing with the Hearing Clerk no later than 30 days from the receipt of this Order. An Answer must be filed with the Request for Hearing. The Answer shall:

a. 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 shall so state, and Respondent may deny the allegation on that basis. Any allegation of the Order not specifically denied shall be deemed admitted. 20.1.5.200.A(2)(a) NMAC.

b. Assert 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.

c. 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.

d. Include a copy of this Order attached. 20.1.5.200.A(2)(d) NMAC.

The Answer and Request for Hearing shall be filed with the Hearing Clerk at the following address:

Pam Castaneda, Hearing Clerk
New Mexico Environment Department
1190 Saint Francis Drive, S-2103
P.O. Box 5469
Santa Fe, New Mexico 87502

Respondent must also serve a copy of the Request for Hearing on counsel for the HWB.

VII. FINALITY OF ORDER

63. This Order shall become final unless Respondent files a Request for Hearing and Answer with the Hearing Clerk within 30 days after the date of receipt of this Order pursuant to NMSA 1978, § 74-4-10(H).

VIII. SETTLEMENT CONFERENCE

64. Whether or not Respondent requests a hearing and files an Answer, Respondent may confer with the HWB concerning settlement. Settlement is encouraged consistent with the provisions and objectives of the HWA. Settlement discussions do not extend the 30-day deadline for filing the Respondent's Answer and Request for Hearing or alter the deadlines for compliance with this Order. Settlement discussions may be pursued as an alternative to and simultaneously with the hearing proceedings. Respondent may appear at the settlement conference on its own behalf or may be represented by legal counsel.

65. Any settlement reached by the Parties shall be finalized by written settlement agreement and stipulated final order. A settlement agreement must serve to resolve all issues raised in the Order, shall be final and binding on all Parties to the Order, and shall not be appealable.

66. To explore the possibility of settlement in this matter, Respondent may contact Christopher Atencio, Office of General Counsel, New Mexico Environment Department, 121 Tijeras Ave. NE, Suite 1000, Albuquerque, New Mexico 87102, (505) 222-9554, christopher.atencio@state.nm.us.

IX. TERMINATION

67. This Order shall terminate when Respondent certifies that all requirements of this Order have been met and the Department has approved such certification, or when the Secretary

of the Environment approves a settlement agreement and signs a stipulated final order.

X. COMPLIANCE WITH OTHER LAWS

68. Compliance with the requirements of this Order does not remove the obligation to comply with all other applicable laws and regulations.

Stephanie Stringer

**STEPHANIE STRINGER, DIRECTOR
RESOURCE PROTECTION DIVISION**

DATE: 5/24/19

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Administrative Compliance Order was mailed postage prepaid on this _____ day of May 2019, via Certified Mail, Return Receipt Requested, to the following:

Christopher N. Atencio, Assistant General Counsel
New Mexico Environment Department