



Michelle Lujan Grisham
Governor

Howie C. Morales
Lt. Governor



ENTERED

**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

CERTIFIED MAIL - RETURN RECEIPT REQUESTED



James C. Kenney
Cabinet Secretary

Jennifer J. Pruett
Deputy Secretary

March 11, 2021

Mr. Mark Neal
Intact Insurance
1201 Third Avenue, Ste 3850
Seattle, WA 98101

**RE: AFFIDAVIT FOR PERFORMANCE BOND 800049265
2019 FINANCIAL ASSURANCE
ADVANCED CHEMICAL TREATMENT, INC.- ALBUQUERQUE
EPA ID# NMD002208627
HWB-ACT-MISC**

Dear Mr. Neal:

The New Mexico Environment Department (NMED) received the 2019 Financial Assurance submittal from Advanced Chemical Treatment, Inc. (the Permittee) on August 22, 2019. NMED issued a Disapproval letter for the 2019 Financial Assurance submittal on October 2, 2019. Comments 3, 4, and 5 of this Disapproval requires a replacement performance bond that reports the penal sum as closure, post-closure or both on the bond and must also include a Corporate Seal under "Corporate Surety(ies)" to meet the requirements of 40 CFR 264.151(c).

In order to receive a replacement bond, the Permittee requested that the original performance bond (number 800049265, effective August 12, 2019) be returned. However, NMED is unable to locate the original performance bond. In an e-mail received on August 3, 2020, the Permittee requested that NMED provide an affidavit in place of the original performance bond in order to receive the replacement bond. NMED hereby provides an Affidavit (Attachment 1) and a copy of the performance bond #800049265 (Attachment 2) to receive the replacement bond.

Mr. Neal
Performance Bond Affidavit
Page 2

If you have any questions, please contact Vanessa Colón of my staff at 505-476-6058.

Sincerely,



Kevin M. Pierard, Chief
Hazardous Waste Bureau

Enclosures (2): Affidavit and Appx A (Performance Bond)

cc: D. Cobrain, NMED HWB
L. Tsinnajinnie, NMED HWB
V. Colón, NMED HWB
L. King, EPA Region 6 (6LCRRC)
K. Harsono, ACT, Inc.

File: ACT 2020 and Reading File

Attachment 1

AFFIDAVIT OF KEVIN PIERARD

1. I am Kevin Pierard, Bureau Chief of the New Mexico Environment Department (NMED) Hazardous Waste Bureau located at 2905 Rodeo Park Drive East, Building 1, Santa Fe, NM 87505.
2. The 2019 Financial Assurance submittal, dated August 20, 2019, was received by NMED on August 22, 2019 and included an original performance bond (number 800049265, effective August 12, 2019) issued by Atlantic Specialty Insurance Company located at 1 State Street Plaza, Floor 31, New York, NY 10004. Comments 3, 4, and 5 of the October 2019 Disapproval letter requires the replacement performance bond to be in accordance with 40 CFR 264.151(c). NMED is unable to locate the original bond (Attachment 2) which must be returned to obtain the replacement bond.
3. In the event the original bond #800049265 is located, NMED will submit it to OneBeacon Surety Group located at 1201 Third Avenue, Ste 3850, Seattle, WA 98101.
4. The information in this affidavit reflects my personal knowledge of NMED's inability to locate the original performance bond #800049265 at the NMED Hazardous Waste Bureau.

FURTHER AFFIANT SAYETH NAUGHT

X Kevin Pierard

Kevin Pierard
Bureau Chief, Hazardous Waste Bureau

STATE OF NEW MEXICO)
)ss.
COUNTY OF SANTA FE)

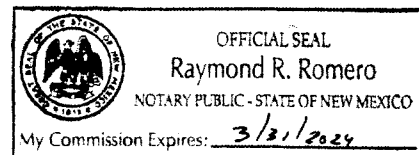
SUBSCRIBED, SWORN TO AND ACKNOWLEDGED before me this 16th day of March 2021, by Kevin Pierard.

X Raymond R. Romero

NOTARY PUBLIC

My Commission Expires

3/31/2024



Attachment 2

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

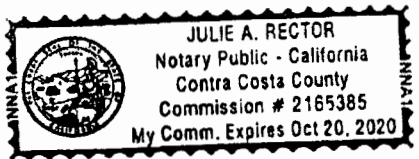
CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California }
County of Contra Costa

On August 12, 2019 before me, Julie A. Rector, Notary Public
Date Here Insert Name and Title of the Officer
personally appeared Dean Sigmundson
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) are subscribed to the within instrument and acknowledged to me that ~~he/she~~ she executed the same in his/~~her~~ her authorized capacity(ies), and that by his/~~her~~ her signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Julie A. Rector
Signature of Notary Public

Place Notary Seal and/or Stamp Above

OPTIONAL

Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: Bond Number 800049265

Document Date: August 12, 2019 Number of Pages: 3

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: Dean Sigmundson
 Corporate Officer – Title(s): _____
 Partner – Limited General
 Individual Attorney In Fact
 Trustee Guardian of Conservator
 Other: _____
Signer Is Representing: _____

Signer's Name: _____
 Corporate Officer – Title(s): _____
 Partner – Limited General
 Individual Attorney In Fact
 Trustee Guardian of Conservator
 Other: _____
Signer Is Representing: _____



Power of Attorney

KNOW ALL MEN BY THESE PRESENTS, that ATLANTIC SPECIALTY INSURANCE COMPANY, a New York corporation with its principal office in Plymouth, Minnesota, does hereby constitute and appoint: **Charles Massie, Dean Sigmundson, David W. Massie**, each individually if there be more than one named, its true and lawful Attorney-in-Fact, to make, execute, seal and deliver, for and on its behalf as surety, any and all bonds, recognizances, contracts of indemnity, and all other writings obligatory in the nature thereof; provided that no bond or undertaking executed under this authority shall exceed in amount the sum of: **sixty million dollars (\$60,000,000)** and the execution of such bonds, recognizances, contracts of indemnity, and all other writings obligatory in the nature thereof in pursuance of these presents, shall be as binding upon said Company as if they had been fully signed by an authorized officer of the Company and sealed with the Company seal. This Power of Attorney is made and executed by authority of the following resolutions adopted by the Board of Directors of ATLANTIC SPECIALTY INSURANCE COMPANY on the twenty-fifth day of September, 2012:

Resolved: That the President, any Senior Vice President or Vice-President (each an "Authorized Officer") may execute for and in behalf of the Company any and all bonds, recognizances, contracts of indemnity, and all other writings obligatory in the nature thereof, and affix the seal of the Company thereto; and that the Authorized Officer may appoint and authorize an Attorney-in-Fact to execute on behalf of the Company any and all such instruments and to affix the Company seal thereto; and that the Authorized Officer may at any time remove any such Attorney-in-Fact and revoke all power and authority given to any such Attorney-in-Fact.

Resolved: That the Attorney-in-Fact may be given full power and authority to execute for and in the name and on behalf of the Company any and all bonds, recognizances, contracts of indemnity, and all other writings obligatory in the nature thereof, and any such instrument executed by any such Attorney-in-Fact shall be as binding upon the Company as if signed and sealed by an Authorized Officer and, further, the Attorney-in-Fact is hereby authorized to verify any affidavit required to be attached to bonds, recognizances, contracts of indemnity, and all other writings obligatory in the nature thereof.

This power of attorney is signed and sealed by facsimile under the authority of the following Resolution adopted by the Board of Directors of ATLANTIC SPECIALTY INSURANCE COMPANY on the twenty-fifth day of September, 2012:

Resolved: That the signature of an Authorized Officer, the signature of the Secretary or the Assistant Secretary, and the Company seal may be affixed by facsimile to any power of attorney or to any certificate relating thereto appointing an Attorney-in-Fact for purposes only of executing and sealing any bond, undertaking, recognizance or other written obligation in the nature thereof, and any such signature and seal where so used, being hereby adopted by the Company as the original signature of such officer and the original seal of the Company, to be valid and binding upon the Company with the same force and effect as though manually affixed.

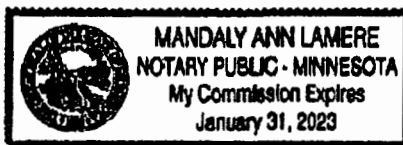
IN WITNESS WHEREOF, ATLANTIC SPECIALTY INSURANCE COMPANY has caused these presents to be signed by an Authorized Officer and the seal of the Company to be affixed this twenty-ninth day of April, 2019.



By *Paul J. Brehm*
Paul J. Brehm, Senior Vice President

STATE OF MINNESOTA
HENNEPIN COUNTY

On this twenty-ninth day of April, 2019, before me personally came Paul J. Brehm, Senior Vice President of ATLANTIC SPECIALTY INSURANCE COMPANY, to me personally known to be the individual and officer described in and who executed the preceding instrument, and he acknowledged the execution of the same, and being by me duly sworn, that he is the said officer of the Company aforesaid, and that the seal affixed to the preceding instrument is the seal of said Company and that the said seal and the signature as such officer was duly affixed and subscribed to the said instrument by the authority and at the direction of the Company.



Mandaly Ann Lamere
Notary Public

I, the undersigned, Secretary of ATLANTIC SPECIALTY INSURANCE COMPANY, a New York Corporation, do hereby certify that the foregoing power of attorney is in full force and has not been revoked, and the resolutions set forth above are now in force.

Signed and sealed. Dated 12th day of August, 2019.

This Power of Attorney expires
January 31, 2023



Christopher V. Jerry
Christopher V. Jerry, Secretary

Corporate Surety(ies)

Atlantic Specialty Insurance Company, One State Street Plaza, Floor 31, New York, NY 10004

State of incorporation: New York

Liability limit: \$60,000,000

Signature(s):



Dean Sigurdson, Attorney-In-Fact

[Corporate seal]

[For every co-surety, provide signature(s), corporate seal, and other information in the same manner as for Surety above.]

Bond premium: \$9,144

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of Santa Clara)

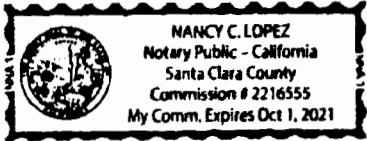
On August 20, 2019 before me, Nancy C. Lopez, Notary Public,
Date Here Insert Name and Title of the Officer

personally appeared Walter H. Singer
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature Nancy Lopez
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document
Title or Type of Document: Bond Number 800049265
Document Date: August 20, 2019 Number of Pages: 3
Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)
Signer's Name: Walter H. Singer
 Corporate Officer — Title(s): President
 Partner — Limited General
 Individual Attorney in Fact
 Trustee Guardian or Conservator
 Other: _____
Signer Is Representing: _____

Signer's Name: _____
 Corporate Officer — Title(s): _____
 Partner — Limited General
 Individual Attorney in Fact
 Trustee Guardian or Conservator
 Other: _____
Signer Is Representing: _____

Upon notification by an EPA Regional Administrator that the Principal has been found in violation of the post-closure requirements of 40 CFR part 264 for a facility for which this bond guarantees performance of post-closure care, the Surety(ies) shall either perform post-closure care in accordance with the post-closure plan and other permit requirements or place the post-closure amount guaranteed for the facility into the standby trust fund as directed by the EPA Regional Administrator.

Upon notification by an EPA Regional Administrator that the Principal has failed to provide alternate financial assurance as specified in subpart H of 40 CFR part 264, and obtain written approval of such assurance from the EPA Regional Administrator(s) during the 90 days following receipt by both the Principal and the EPA Regional Administrator(s) of a notice of cancellation of the bond, the Surety(ies) shall place funds in the amount guaranteed for the facility(ies) into the standby trust fund as directed by the EPA Regional Administrator.

The surety(ies) hereby waive(s) notification of amendments to closure plans, permits, applicable laws, statutes, rules, and regulations and agrees that no such amendment shall in any way alleviate its (their) obligation on this bond.

The liability of the Surety(ies) shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount in the aggregate to the penal sum of the bond, but in no event shall the obligation of the Surety(ies) hereunder exceed the amount of said penal sum.

The Surety(ies) may cancel the bond by sending notice of cancellation by certified mail to the owner or operator and to the EPA Regional Administrator(s) for the Region(s) in which the facility(ies) is (are) located, provided, however, that cancellation shall not occur during the 120 days beginning on the date of receipt of the notice of cancellation by both the Principal and the EPA Regional Administrator(s), as evidenced by the return receipts.

The principal may terminate this bond by sending written notice to the Surety(ies), provided, however, that no such notice shall become effective until the Surety(ies) receive(s) written authorization for termination of the bond by the EPA Regional Administrator(s) of the EPA Region(s) in which the bonded facility(ies) is (are) located.

[The following paragraph is an *optional* rider that may be included but is not required.]

Principal and Surety(ies) hereby agree to adjust the penal sum of the bond yearly so that it guarantees a new closure and/or post-closure amount, provided that the penal sum does not increase by more than 20 percent in any one year, and no decrease in the penal sum takes place without the written permission of the EPA Regional Administrator(s).

In Witness Whereof, The Principal and Surety(ies) have executed this Performance Bond and have affixed their seals on the date set forth above.

The persons whose signatures appear below hereby certify that they are authorized to execute this surety bond on behalf of the Principal and Surety(ies) and that the wording of this surety bond is identical to the wording specified in 40 CFR 264.151(c) as such regulation was constituted on the date this bond was executed.

Signature(s): Walter A. [Signature] Principal

Advanced Chemical Treatment, Inc.:

Title(s): resident

[Corporate seal]



PERFORMANCE BOND

Date bond executed: August 12, 2019
Effective date: August 12, 2019

Principal: Advanced Chemical Treatment, Inc., 6137 Edith Blvd. NE, Albuquerque, NM 87107

Type of organization: Corporation

State of incorporation: New Mexico
Surety(ies): Atlantic Specialty Insurance Company, One State Street Plaza, Floor 31, New York, NY 10004

EPA Identification Number, name, address, and closure and/or post-closure amount(s) for each facility guaranteed by this bond [indicate closure and post-closure amounts separately]: EPA Identification Number NMD002208627, Advanced Chemical Treatment, Inc., 6137 Edith Blvd. NE, Albuquerque, NM 87107

Total penal sum of bond: \$457,178
Surety's bond number: 800049265

Know All Persons By These Presents, That we, the Principal and Surety(ies) hereto are firmly bound to the U.S. Environmental Protection Agency (hereinafter called EPA), in the above penal sum for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns jointly and severally; provided that, where the Surety(ies) are corporations acting as co-sureties, we, the Sureties, bind ourselves in such sum "jointly and severally" only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sum only as is set forth opposite the name of such Surety, but if no limit of liability is indicated, the limit of liability shall be the full amount of the penal sum.

Whereas said Principal is required, under the Resource Conservation and Recovery Act as amended (RCRA), to have a permit in order to own or operate each hazardous waste management facility identified above, and

Whereas said Principal is required to provide financial assurance for closure, or closure and post-closure care, as a condition of the permit, and

Whereas said Principal shall establish a standby trust fund as is required when a surety bond is used to provide such financial assurance;

Now, Therefore, the conditions of this obligation are such that if the Principal shall faithfully perform closure, whenever required to do so, of each facility for which this bond guarantees closure, in accordance with the closure plan and other requirements of the permit as such plan and permit may be amended, pursuant to all applicable laws, statutes, rules, and regulations, as such laws, statutes, rules, and regulations may be amended,

And, if the Principal shall faithfully perform post-closure care of each facility for which this bond guarantees post-closure care, in accordance with the post-closure plan and other requirements of the permit, as such plan and permit may be amended, pursuant to all applicable laws, statutes, rules, and regulations, as such laws, statutes, rules, and regulations may be amended,

Or, if the Principal shall provide alternate financial assurance as specified in subpart II of 40 CFR part 264, and obtain the EPA Regional Administrator's written approval of such assurance, within 90 days after the date notice of cancellation is received by both the Principal and the EPA Regional Administrator(s) from the Surety(ies), then this obligation shall be null and void, otherwise it is to remain in full force and effect.

The Surety(ies) shall become liable on this bond obligation only when the Principal has failed to fulfill the conditions described above.

Upon notification by an EPA Regional Administrator that the Principal has been found in violation of the closure requirements of 40 CFR part 264, for a facility for which this bond guarantees performance of closure, the Surety(ies) shall either perform closure in accordance with the closure plan and other permit requirements or place the closure amount guaranteed for the facility into the standby trust fund as directed by the EPA Regional Administrator.