



**Department of Energy**  
Albuquerque Operations Office  
Los Alamos Area Office  
Los Alamos, New Mexico 87544

Generator

98  
July 24, 1988

Tammy Gonzales  
Hearing Clerk  
New Mexico Environment Department  
P.O. Box 26110  
Santa Fe, NM 87502

RE: Compliance Order 98-03

Dear Ms. Gonzales:

I am transmitting by telefax the Department of Energy's Answer to Administrative Order and Request for Hearing. As you will recall, I telephoned you yesterday to confirm that service by telefax would meet the requirements of 20 NMAC 1.5, Section 15(A)(1). You stated it would and requested that a second copy NOT be sent by regular mail as the telefax copy is considered to be the original pleading.

Please contact me at (505) 667-4667 if you have any questions.

Sincerely,

*Lisa Cummings*  
\_\_\_\_\_  
Lisa Cummings

cc: Nick Persampieri, NMED  
Joseph B. Rochelle, LANL

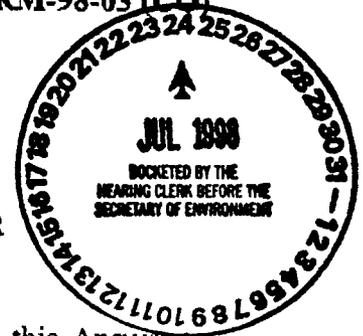


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**STATE OF NEW MEXICO  
ENVIRONMENT DEPARTMENT**

**IN THE MATTER OF  
THE UNITED STATES DEPARTMENT OF ENERGY  
AND THE REGENTS OF THE UNIVERSITY OF CALIFORNIA  
LOS ALAMOS, NEW MEXICO  
NM0890010515**

**COMPLIANCE ORDER  
HRM-98-03 (CO)**



**ANSWER TO ADMINISTRATIVE COMPLIANCE ORDER  
AND REQUEST FOR HEARING**

The United States Department of Energy (DOE or Respondent) submits this Answer to Compliance Order HRM-98-03 (the Order).

**FINDINGS**

1. DOE admits the findings contained in Paragraphs 1, 2, 3, 4, 5, and 6.
2. DOE objects to the use of the term "at all material times" in Paragraph 7 because it is vague and ambiguous in the context of this Order. The Order does not define this term, and the Order does not provide any indication regarding the "material" time period. DOE admits that since the Fall of 1993, the approximate date that Respondents initiated discussions with the New Mexico Environment Department (NMED or Complainant) regarding the need for a storage dome for mixed waste in TA-54, Area L, with a few possible exceptions, Respondents generated more than 1000 kilograms of hazardous waste per month and stored in excess of 6000 kilograms of hazardous waste on site in connection with the operation of the Los Alamos National Laboratory (LANL). Except as specifically admitted above, all other findings contained in Paragraph 7 are denied.
3. With regard to the findings contained in Paragraph 8, DOE admits the Los Alamos County Landfill (the Landfill) is located in or near Los Alamos, New Mexico, on land owned by the United States of America and under the administrative control of Respondent DOE. Respondent DOE affirmatively states that it does not own the Landfill. The Landfill is owned and operated by the Incorporated County of Los Alamos (the County) pursuant to a Special Use Permit, Contract No. DE-RO32-94AL96933, issued by Respondent to the County (the Special Use Permit). Except as specifically admitted above, all other findings contained in Paragraph 8 are denied.
4. DOE admits the findings contained in Paragraph 9.
5. DOE admits that there is a Rubble Pile at the Landfill which is in an area separate from the solid waste disposal cells and that fill has been placed in the Rubble Pile. DOE objects to the use of the term "other material" in this finding because it is vague and

- ambiguous. DOE states affirmatively, however, that the Special Use Permit expressly states that "selected inorganic material, suitable for placement in a road embankment" is permitted to be land filled in the what is referred in the Compliance Order as the Rubble Pile. Except as specifically admitted above, the findings contained in Paragraph 10 are denied.
6. DOE admits that the Rubble Pile is on land which is owned by the United States of America and under the administrative control of DOE and affirmatively states that the land on which the Rubble Pile is located is part of the land included in the Special Use Permit. Except as specifically admitted above, the findings contained in Paragraph 11 are denied.
  7. DOE admits the findings contained in Paragraph 12.
  8. With regard to the findings contained in Paragraphs 13 and 14, DOE states the Permit is a written document which speaks for itself. To the extent any of the findings contained in Paragraphs 13 and 14 are inconsistent with the Permit, those findings are denied.
  9. DOE admits the findings contained in Paragraphs 15 and 16.
  10. With regard to the findings contained in Paragraph 17, DOE admits that pits and shafts into which wastes have been disposed are located at TA-54, including a pit in Area L known as "Pit A" and a pit located in Area G know as "Pit 37." DOE objects to the use of the term "other areas" in this finding because it is vague and ambiguous. Because Respondent does not know what "other areas" refers to in this Paragraph, Respondent is without knowledge or information sufficient to form a belief as to the truth or falsity of the finding that TA-54 contains "other areas" into which wastes have been disposed, and therefore denies same.
  11. With regard to the findings contained in Paragraph 18, DOE objects to the use of the term "hazardous waste or mixed hazardous and radioactive waste" because it is ambiguous and confusing. Respondent DOE has assumed in answering the Order that this term means "hazardous waste" (as defined by 40 C.F.R. § 261.3) and "mixed waste" (as defined by 42 U.S.C. § 6903(41)). Subject to and without waiving the above objection, Respondent DOE admits the findings in Paragraph 18.
  12. DOE admits the findings contained in Paragraph 19 and affirmatively states that in 1980 the jurisdiction and regulatory authority over any such mixed wastes of the United States Environmental Protection Agency (EPA) (or of any New Mexico state agency which could have had responsibility for the regulation of hazardous waste) had not been established.
  13. DOE admits the findings contained in Paragraphs 20, 21, 22, 23, and 24.

14. With regard to the findings contained in Paragraph 25, DOE admits that Pit 37 is a low-level radioactive waste disposal pit that contains radioactive waste in a solid form only. Except as specifically admitted above, all findings in Paragraph 25 are denied.
15. With regard to the findings contained in Paragraph 26, DOE admits that the Landfill is not a part of the operations of LANL and is not operated by DOE or its management and operating contractor, Respondent University of California (the University). DOE states affirmatively that the Landfill is operated by the County pursuant to the Special Use Permit. Except as specifically admitted above, all the findings contained in Paragraph 26 are denied.
16. Subject to DOE's objection and clarification in Paragraph 11 of this Answer regarding the meaning of the term "hazardous waste and mixed hazardous and radioactive waste," DOE admits the findings contained in Paragraph 27. DOE also affirmatively states that the Permit does not specify the use of any third-party waste disposal sites.
17. With regard to the findings contained in Paragraphs 28, 29, and 30, DOE affirmatively states that the County is the owner and operator of the Landfill, and therefore, DOE is without knowledge or information sufficient to form a belief as to the truth or falsity of the findings in these Paragraph, and accordingly denies all findings contained in Paragraphs 28, 29, and 30.
18. With regard to the findings contained in Paragraph 31, DOE admits that—for hazardous wastes that will be managed at any one of the LANL hazardous waste treatment, storage, or disposal units—Respondents must follow the procedures for waste analysis described in the Waste Analysis Plan, attached to the Permit as Attachment A. Except as specifically admitted above, all findings contained in Paragraph 31 are denied.
19. With regard to the findings contained in Paragraphs 32, 33, 34, and 35, DOE admits that NMED inspected LANL in 1992, 1993, 1994, and 1995, and, with respect to each such inspection, issued Respondents compliance orders that assessed civil penalties. DOE also admits that violations as described in these Paragraphs were alleged by NMED in the referenced compliance orders, and that a number of these violations were or may have been admitted by the University or by DOE or by both Respondents. DOE denies, however, that all of the violations alleged by the referenced compliance orders were admitted by Respondents, or that all the alleged violations constituted actual violations. Respondent also affirmatively states that the civil penalties actually paid in settlement of the alleged non-compliances may have been less than the amount originally assessed in the referenced compliance orders.
20. With regard to the findings contained in Paragraph 36, DOE admits that NMED inspected LANL in 1996 and issued a letter of violation. DOE also admits that violations as

- described in this Paragraph were alleged by NMED in the referenced letter of violation. DOE, however, denies that all of the violations alleged by the referenced letter of violation were admitted by Respondents, or that all the alleged violations constituted actual violations.
21. With regard to the findings contained in Paragraph 37, DOE admits that the referenced compliance orders and letter of violation when taken together include alleged violations similar those described in Paragraph 37. DOE denies, however, that each such compliance order or letter of violation contained every alleged violation described in Paragraph 37.
  22. With regard to the findings contained in Paragraph 38, DOE admits that NMED issued Compliance Order No. 94-12 to Respondents in 1994 and states affirmatively that Compliance Order 94-12 is a written document which speaks for itself. To the extent any of the findings contained in Paragraph 38 are inconsistent with Compliance Order No. 94-12, those findings are denied.
  23. DOE admits the findings contained in Paragraph 39.
  24. With regard to the findings contained in Paragraph 40, DOE admits that Respondents proposed to construct a storage dome located partially over the top of the Pit A SWMU. DOE denies that the Pit A SWMU had been "capped with an asphalt pad." DOE affirmatively states that, prior to construction of the storage dome, an asphalt pad was constructed on top of Pit A as a pad on which to store waste as well as to facilitate vehicle traffic in the area (hereafter referred to as "Pad A"). Except as specifically admitted above, the findings in Paragraph 40 are denied.
  25. With regard to the findings contained in Paragraph 41, DOE admits the solid wastes disposed of in Pit A included aniline dye, boric acid, potassium cyanide, trichloroethylene and other spent solvents, and metals. DOE also admits that some of these wastes, if generated today, would be regulated under current federal and state law. DOE denies that such wastes were so regulated at the time of disposal. DOE also affirmatively states that the wastes disposed of in Pit A were placed in this SWMU prior to the enactment of the New Mexico Hazardous Waste Act and the federal Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. §§ 6901 *et seq.* As a result, solid wastes placed in Pit A are exempt from management and disposal standards that are otherwise applicable to hazardous and mixed wastes. Except as specifically admitted above, the findings in Paragraph 41 are denied.
  26. With regard to the findings contained in Paragraph 42, DOE admits the findings in the first sentence of this Paragraph. With respect to the second and third sentences of this paragraph, DOE admits the analyses for volatile organic compounds detected trace quantities of 1,1,1 trichloroethane and trichloroethylene in asphalt and soil samples

collected from Pad A prior to its demolition (the "Analyses"). Except as specifically admitted above, the findings in Paragraph 42 are denied.

27. With regard to the findings contained in Paragraph 43, DOE admits that it knew the wastes specifically identified in Paragraph 41 of the Order were disposed of in Pit A. Beyond the wastes specifically identified in Paragraph 41, DOE objects to the reference in this finding to "numerous wastes" because this language is vague and ambiguous.
28. With regard to the findings contained in Paragraph 44, DOE denies the asphalt and soil from the waste storage dome construction site were transported directly to Pit 37 and the Rubble Pile. Upon information and belief, DOE affirmatively states as follows with regard to the disposition of the demolished asphalt and asphalt and soil removed as part of the construction of the waste storage dome:

Beginning in May through the middle of June of 1995, Pad A was broken up, crushed, used to fill low-lying areas on the north and west sides of Pad A, and compacted in place. The primary access point for these construction activities was the south side of Pad A across an asphalt-covered shallow swale. This swale was not part of Pad A, but rather was separated from the pad by a curb. The heavy vehicle traffic across the asphalt swale caused substantial damage to this surface, and Respondents determined that this surface should also be replaced in conjunction with pouring the pad for the new waste storage dome. These construction activities included breaking up the asphalt from within the swale area, crushing the asphalt, using it to fill areas on the north and west sides of Pad A, and compaction in place.

Not all of the asphalt from the swale could be reused as fill, and on June 15, 1995, the University transported approximately 30 to 40 cubic yards of excess asphalt from the swale part of Area L to the site where the Area G compactor building has since been constructed. Over the next year or so, additional asphalt and soil from other areas of LANL were combined with the asphalt and soil taken from the swale. Portions of this mixture of material from the swale and other areas were ultimately transported to Pit 37 and the Rubble Pile.

DOE admits the demolished asphalt and asphalt and soil removed as part of construction of the waste storage dome was not analyzed for substances other than volatile organic compounds before reusing the asphalt and soil as fill for the storage dome construction, or before transporting the asphalt and soil to Area G. Except as specifically admitted above, the findings contained in Paragraph 44 are denied.

29. DOE admits the findings contained in Paragraphs 45 and 46.

30. With regard to the findings contained in Paragraph 47, DOE denies that one of the conditions of NMED's conditional approval of the construction of the waste storage dome was that Respondents treat and/or dispose of all waste asphalt removed from the *construction site* as hazardous waste. DOE admits that the conditional approval letter specified that "all waste asphalt removed from the existing pad must be treated and/or disposed of as a hazardous waste."
31. With regard to the findings contained in Paragraph 48, DOE admits that in July and August 1994, Respondents performed a utility upgrade of Area L in the same general vicinity as the proposed waste storage dome. Except as specifically admitted above, the findings contained in Paragraph 48 are denied.
32. With regard to the findings contained in Paragraph 49, DOE admits that the utility upgrade generated approximately 67,000 to 76,000 pounds of solid waste consisting primarily of waste asphalt and soil. Moreover, DOE admits this waste was managed and disposed of as a hazardous waste based on its understanding regarding the likely direction by NMED. Except as specifically admitted above, the findings contained in Paragraph 49 are denied.
33. With regard to the findings contained in Paragraph 50, DOE admits Respondent University of California manifested and shipped solid waste, including asphalt and soil, that was generated in the utility upgrade of Area L on August 30, September 15, and November 9, 1994. DOE also admits this solid waste was transported to Rollins Environmental Services, Deer Park, Texas for disposal. Except as specifically admitted above, all other findings contained in Paragraph 50 are denied.
34. With regard to the findings contained in Paragraph 51, DOE admits Pad A was demolished during May and June of 1995 and the asphalt over the adjacent swale was demolished during June of 1995. Both of these areas are near or located above the Pit A SWMU, and both projects were conducted in conjunction with construction of the waste storage dome. DOE also admits that the approximately 30 to 40 cubic yards of material described in the answer to Paragraph 44 of the Compliance Order were removed from the construction area. Except as specifically admitted above, all other findings contained in Paragraph 51 are denied.
35. With regard to the findings contained in Paragraph 52, DOE admits that the asphalt and soil demolished from Pad A and the adjacent swale area was stockpiled on site. Except as specifically admitted above, all other findings contained in Paragraph 52 are denied.
36. With regard to the findings contained in Paragraph 53, DOE admits that NMED verbally authorized Respondents to utilize the demolished asphalt and soil removed from the area of the SWMU as backfill material in the waste storage dome construction. DOE admits that this verbal authorization did not include the removal of any solid wastes from Area L

- to be used as backfill material anywhere else. DOE admits that the July 22, 1994 letter from NMED specified that demolished asphalt from Pad A, which was disposed of as a solid waste, was required to be managed and disposed of as a hazardous waste. Except as specifically admitted above, all other findings contained in Paragraph 53 are denied.
37. With regard to the findings contained in Paragraph 54, DOE admits that approximately 30 to 40 cubic yards of demolished asphalt and soil were not used as backfill and remained after the construction of the waste storage dome. Except as specifically admitted above, all other findings contained in Paragraph 54 are denied.
38. With regard to the findings contained in Paragraph 55, DOE admits that on or about June 15, 1995, Respondent University of California transported approximately 30 to 40 cubic yards of demolished asphalt to Area G under the direction of the then-Area L Group Leader and placed this material in a stockpile (hereafter referred to as the "Area G stockpile"). Respondent denies that the "Area L manager" directed this transport because the individual's correct title is "Group Leader." Except as specifically admitted above, all other findings contained in Paragraph 55 are denied.
39. DOE admits the findings contained in Paragraph 56.
40. With regard to the findings contained in Paragraph 57, DOE admits that around or during the second week of April 1996, approximately 60 cubic yards of the Area G stockpile were transported to the Landfill. Except as specifically admitted above, all other findings contained in Paragraph 57 are denied.
41. For purposes of responding to Paragraph 58, DOE has assumed that the "mixture" referenced in this finding refers to the Area G stockpile described in the answer to Paragraph 56 of the Compliance Order. Based on this assumption, DOE admits that during approximately the third week of April 1996, approximately 225 cubic yards of this mixture was transported and placed in Pit 37, Area G. Except as specifically admitted above, all other findings contained in Paragraph 58 are denied.
42. With regard to the findings contained in Paragraph 59, DOE admits that Respondent University of California transported and placed fill material from the Area G stockpile, which consisted primarily of asphalt and soil, in the Rubble Pile at the Landfill. Respondent also admits that the Rubble Pile is located above an outfall regulated under the New Mexico Water Quality Act ("WQA") and a wetland in Sandia Canyon. Except as specifically admitted above, all other findings contained in Paragraph 59 are denied.
43. DOE denies the findings contained in Paragraph 60, 61, and 62.
44. With regard to the findings contained in Paragraph 63, DOE admits that a manifest was not prepared for the asphalt and soil fill transported to the Landfill and that a manifest did

not accompany the asphalt and soil fill transported to the Landfill. Except as specifically admitted above, all other findings contained in Paragraph 63 are denied.

45. DOE denies the findings contained in Paragraph 64.

### CONCLUSIONS

46. DOE admits the conclusions contained in Paragraphs 65, 66, 67, and 68.
47. DOE admits the conclusions contained in Paragraph 69, except that DOE denies that Respondents engage in the disposal of hazardous waste on site.
48. With regard to the conclusions contained in Paragraph 70, DOE admits that it is a generator of hazardous waste. DOE denies that 1,1,1 trichloroethane and trichloroethylene are hazardous wastes; admits that certain listed spent solvent hazardous wastes may include spent solvents containing 1,1,1 trichloroethane and/or trichloroethylene (for example listed wastes F001 and F002); admits that discarded commercial formulations of trichloroethylene (U228) may also be a hazardous waste; and admits that solid wastes that exhibit the toxicity characteristic based on a measured concentration of trichloroethylene above 0.5 mg/liter as measured by the Toxicity Characteristic Leaching Procedure may also be a hazardous waste. DOE admits that 40 C.F.R. § 260.10 is incorporated by reference into 20 N.M.A.C. 4.1.101 and that 40 C.F.R. part 262 is incorporated by reference into 20 N.M.A.C. 4.1.300.
49. DOE denies the conclusions contained in Paragraph 71, except that DOE admits that 40 C.F.R. § 262.11 is incorporated by reference into 20 N.M.A.C. 4.1.300.
50. DOE denies the conclusions contained in Paragraph 72, except that DOE admits that 40 C.F.R. § 264.13 is incorporated by reference into 20 N.M.A.C. 4.1.500.
51. DOE denies the conclusions contained in Paragraph 73, except that DOE admits that 40 C.F.R. § 268.7 is incorporated by reference into 20 N.M.A.C. 4.1.800.
52. With regard to the conclusions contained in Paragraph 74, DOE denies the conclusion contained in Paragraph 74, except that DOE admits that 40 C.F.R. § 261.2 is incorporated by reference into 20 N.M.A.C. 4.1.200.
53. DOE denies the conclusions contained in Paragraph 75, except that DOE admits that 40 C.F.R. part 261 is incorporated by reference into 20 N.M.A.C. 4.1.200.
54. DOE denies the conclusions contained in Paragraphs 76 and 77 with the following exceptions. DOE admits that a manifest was not prepared for the 60 cubic yards of asphalt and soil transported from the Area G stockpile to the Landfill, and accordingly

- that transport of this material was not accompanied by a manifest. DOE also admits that 40 C.F.R. §§ 262.20(a)-(b), 262.22, and 262.23(a)-(b) are incorporated by reference into 20 N.M.A.C. 4.1.300 and that 40 C.F.R. § 263.20 is incorporated by reference into 20 N.M.A.C. 4.1.400.
55. DOE denies the conclusions contained in Paragraph 78 with the following exceptions. DOE admits that 40 C.F.R. § 262.12(c) is incorporated by reference into 20 N.M.A.C. 4.1.300. Respondent affirmatively states that it is without knowledge or information sufficient to form a belief as to the truth or falsity of the conclusion that the Landfill does not have an EPA Identification Number, is not permitted, and does not have interim status to dispose of hazardous waste. Accordingly, DOE denies these conclusions.
56. DOE denies the conclusions contained in Paragraph 79 with the following exceptions. Respondent admits that approximately 225 cubic yards asphalt and soil from the Area G stockpile were placed in Pit 37; admits that Pit 37 does not possess a permit or interim status authorization pursuant to N.M.S.A. § 74-4-4(A)(6) and 40 C.F.R. part 270; and admits that 40 C.F.R. part 270 is incorporated by reference into 20 N.M.A.C. 4.1.900.
57. DOE denies the conclusions contained in Paragraph 80, except that DOE admits that 40 C.F.R. part 270 is incorporated by reference into 20 N.M.A.C. 4.1.900. DOE affirmatively states that the United States of America owns the land on which the Landfill is located, but does not own the Landfill facility which is owned by the County.
58. DOE denies the conclusions contained in Paragraph 81, except that DOE admits that 40 C.F.R. § 270.1(c) is incorporated by reference into 20 N.M.A.C. 4.1.900.
59. DOE denies the conclusions contained in Paragraphs 82 and 83.

### FIRST AFFIRMATIVE DEFENSE

Respondent's answer and each denial or affirmative statement contained therein constitutes Respondent's first affirmative defense.

### SECOND AFFIRMATIVE DEFENSE

With regard to the allegations contained in Paragraphs 46, 47, and 53, Respondent states that the scope of the NMED requirement to manage and dispose of asphalt removed from the site of the waste dome storage area construction as a hazardous waste was limited to asphalt and soil removed from Pad A, and did not include asphalt and soil from the adjacent swale. The language of the July 22, 1994 letter from Benito Garcia is specifically limited to "asphalt removed from the existing pad."

### THIRD AFFIRMATIVE DEFENSE

With regard to the allegations contained in Paragraphs 64 and 82, Respondent states that NMED has provided no evidence that the placement of approximately 60 cubic yards of asphalt and soil at the Rubble Pile at the Landfill from the Area G stockpile presents any actual or potential threat to human health or the environment.

### FOURTH AFFIRMATIVE DEFENSE

With regard to the civil penalties proposed by the Order, Respondent states that as to the alleged violations enumerated in the Order which Respondent has denied in this Answer, no civil penalty may be imposed.

### FIFTH AFFIRMATIVE DEFENSE

With regard to the civil penalties proposed by the Order, Respondent asserts the following defenses:

- a. NMED failed to consider the good faith efforts of Respondent to comply with the alleged applicable requirements, pursuant to 74-4-10.B N.M.S.A. 1978;
- b. NMED failed to consider the seriousness of the alleged violations, pursuant to 74-4-10.B N.M.S.A. 1978;
- c. NMED failed to adhere to the Hazardous Waste Penalty Policy adopted by NMED on September 4, 1992;
- d. NMED's imposition of penalties is arbitrary, capricious, unlawful, and without substantial basis in law or in fact; and
- e. NMED improperly imposed penalties for alleged violations of law which did not occur.

The Compliance Order contains in Paragraph 85 a Schedule of Compliance and an ordered action requiring Respondent to (i) submit a plan of action to take appropriate measures to assure that the alleged hazardous wastes disposed of at the Landfill will not migrate within 60 days of receipt of the Order; (ii) implement this plan of action, following NMED approval, within 120 days of receipt of the Order (including quarterly maintenance reports and biannual monitoring reports); and (iii) submit an application for a post-closure permit for the Landfill within 180 days of receipt of the Order. Respondent objects to this requirement because it is vague, overly broad, and not justified based on the lack of real or threatened adverse impact on human health and the environment.

Notwithstanding any response on the part of Respondent to Paragraph 85, Respondent states (i) that in the event it completes the ordered action, Respondent does not admit the underlying finding or conclusion contained in any numbered Paragraphs of the Order that may be related to the ordered action, unless specifically admitted in this Answer; (ii) that it reserves the right to contest and dispute any underlying finding or conclusion relating to the ordered action, unless the underlying finding or conclusion has been specifically admitted in this Answer; and (iii) that Respondent denies on both substantive and procedural grounds NMED's basis for requiring Respondent to complete the ordered action contained in Paragraph 85, and hereby place at issue all aspects of the ordered action unless Respondent has admitted both the underlying finding and underlying conclusion contained in the related numbered Paragraph in the Order.

### **FACTS PLACED AT ISSUE**

Respondent places at issue all facts denied in this Answer.

### **REQUEST FOR HEARING**

Respondent requests a hearing to address the matters raised by Administrative Compliance Order 98-03 and this answer pursuant to Section 74-4-10 of the New Mexico Hazardous Waste Act, N.M.S.A. 1978 and 20 N.M.A.C. 1.5.200.

WHEREFORE, Respondent, the United States Department of Energy, requests that Complainant, the New Mexico Environment Department, rescind Administrative Compliance Order 98-03 in its entirety, or in the alternative, that the appropriate adjudicatory body determine that Respondents did not commit the violations alleged by the Complainant. In the event that a violation is determined to have occurred, which Respondent specifically denies, Respondent prays that any proposed civil penalty for any such violation be reduced, that the Schedule for Compliance in this Order be denied, and that any other such relief to which Respondent shows itself entitled be granted.

I hereby affirm my belief that the information contained herein is to the best of my knowledge true and correct.

Date July 27, 1998

United States Department of Energy

By J. H. Laeser  
Joyce Hester Laeser

Counsel  
United States Department of Energy  
Los Alamos Area Office  
528 35<sup>th</sup> Street  
Los Alamos, NM 87544  
(505) 667-4667

**STATE OF NEW MEXICO  
SECRETARY OF ENVIRONMENT**

**IN THE MATTER OF  
THE UNITED STATES DEPARTMENT OF ENERGY  
AND THE REGENTS OF THE UNIVERSITY OF CALIFORNIA  
LOS ALAMOS, NEW MEXICO  
NM0890010515**

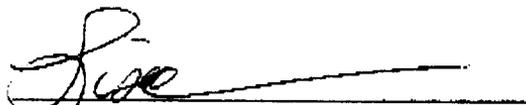
**COMPLIANCE ORDER  
HRM-98-03 (CO)**

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing Answer was delivered by telefax on July 24, 1998, to the following individuals:

Nick Persampieri  
General Counsel  
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Lisa Cummings  
General Attorney  
United States Department of Energy

OFFICE OF COUNSEL  
LOS ALAMOS AREA OFFICE  
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No. of Pages 15

Date: 7/24/98

TO: Sammy Gonzales  
Nick Persampieri  
Joe Rochell

FAX NO. 827-2836/827-2836/665-4424

TELEPHONE NO. \_\_\_\_\_

FROM: Lisa Cummings

TELEPHONE NO. (505) 667-4667

FAX NO. (505) 665-4873

MESSAGE: \_\_\_\_\_  
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PLEASE CALL IMMEDIATELY FOR PICKUP

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