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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, NM 08890010515,

HRM 98-02 (CO)

RESPONDENTS.

STIPULATED FINAL ORDER



I. Introduction

A. On June 27, 1998, the New Mexico Environment Department ("NMED") issued Compliance Order HRM 98-02 ("Compliance Order") to the United States Department of Energy ("DOE") and the Regents of the University of California ("UC") (collectively "Respondents") pursuant to the New Mexico Hazardous Waste Act, NMSA 1978, §§ 74-4-1 through 74-4-14 (1993) ("HWA") and the New Mexico Hazardous Waste Management Regulations, 20.4.1 NMAC ("HWMR").

B. DOE is an agency of the federal government and the owner and co-operator of the Los Alamos National Laboratory ("LANL").

C. UC is a public education institution of the State of California and the management and operating contractor for LANL pursuant to a contract with DOE, and is a co-operator of LANL.

D. Respondents timely filed answers and requested a hearing in response to the Compliance Order.

E. NMED and Respondents agree to this Stipulated Final Order ("SFO") pursuant to Section 20.1.5.601.B NMAC. The purpose of this SFO is to set forth the agreement of the Parties settling all matters related to the Compliance Order, including agreement on the payment of the settlement amount in Paragraph IV.A, below.



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II. Jurisdiction and Authority

A. NMED has jurisdiction and authority over the subject matter of this SFO pursuant to HWA and the HMWR.

B. Respondents admit to the foregoing jurisdiction of NMED and consent to the relief specified herein, including the settlement amount to be paid by Respondents pursuant to Paragraph IV.A.

III. Compliance Order and Answer

A. NMED alleges violations of the HWA and HWMR as set forth in the Findings, Conclusions and Civil Penalty, ¶¶ 1-75, of the Compliance Order. The allegations in paragraphs 1-75 of the Compliance Order are incorporated herein by reference.

B. This SFO shall not be construed as an admission by Respondents of any of the allegations in the Compliance Order. Respondents deny the violations of the HWA and the HWMR as alleged in the Compliance Order and deny the factual and legal allegations contained in the Compliance Order, unless otherwise specifically admitted in their Answers to the Compliance Order. Respondents' Answers are incorporated herein by reference.

IV. Settlement of Compliance Order

A. In settlement of all alleged violations and penalties set forth in the Compliance Order, and upon consideration of the seriousness of any alleged violations, any good faith efforts to comply, and other matters as justice may require, NMED and Respondents agree that the Compliance Order shall be dismissed by NMED upon payment by Respondents of the settlement amount of One Hundred Sixty-Five Thousand dollars (\$165,000.00). Such payment is due and payable within thirty calendar days of the execution of this SFO. Payment shall be made to the *State of New Mexico Hazardous Waste Emergency Fund* by certified check, bank draft or other

guaranteed negotiable instrument and mailed or hand-delivered to Debby Brinkerhoff, Program Manager, Compliance and Technical Assistance, Hazardous Waste Bureau, New Mexico Environment Department, 2905 Rodeo Park Drive East, Bldg. 1, Santa Fe, NM 87505-6303, with a copy to Tannis Fox, Office of General Counsel, New Mexico Environment Department, P.O. Box 26110, Santa Fe, New Mexico 87502.

B. Upon NMED's receipt of the full settlement amount, the Secretary of NMED shall issue an Order of Dismissal dismissing the Compliance Order. A form of the Order of Dismissal is attached hereto. NMED agrees to provide Respondents a copy of the signed Order within three business days of such signing by the Secretary.

V. Enforceability

This SFO shall be enforceable by any of the Parties by the filing of a civil action in the First Judicial District Court in Santa Fe, New Mexico, or other appropriate forum.

VI. Reservation of Rights

NMED reserves the right to pursue civil or administrative relief for any violations of state or federal law, past or future, which are not the subject matter of the SFO. NMED specifically retains the right as provided by law to conduct environmental studies, investigations, monitoring, or emergency activities at property owned or controlled by Respondents. DOE and UC reserve the right to assert any and all defenses that they may have to any civil, administrative or judicial action that may be asserted by NMED as described by the terms of this Paragraph. Except as expressly provided herein, the Parties reserve all other legal privileges and rights.

VII. Release of Liability

The terms of this SFO, including payment of the settlement amount in Paragraph IV, constitute full satisfaction of and release from liability for the violations alleged in the

Compliance Order. Nothing in this SFO shall constitute or be construed as a release from liability from any claims arising as a result of past, current or future operations of LANL, other than the violations alleged in the Compliance Order.

VIII. Good Faith Performance

The Parties agree that they will act reasonably and in good faith at all times to accomplish the objectives of this SFO.

IX. Merger and Integration

This SFO merges and incorporates all prior written and oral communications between the Parties concerning the Compliance Order and SFO, and contains the entire agreement reached between the Parties. This SFO shall not be altered, amended, or construed by any communications whether written or oral, which are not contained herein, unless pursuant to Section X below.

X. Amendments

This SFO may be amended only by agreement of the Parties. Such amendments shall be in writing, signed by the Parties and approved by the Secretary of NMED.

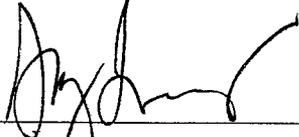
XI. Binding Effect

This SFO shall apply to and be binding upon NMED, Respondents and their respective successors and assigns.

XII. Authority of Signatories

The signatories of this SFO respectively represent that they have the requisite authority to bind NMED and Respondents to the terms of this SFO, and further agree that this representation of authority as to each such entity shall be legally sufficient evidence of actual or apparent authority to bind each of them to all of the terms and conditions of this SFO.

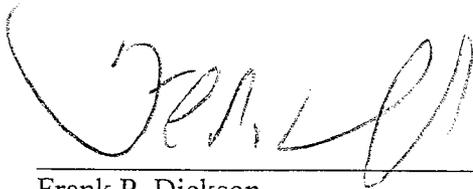
APPROVED:



Greg Lewis
Director
Water and Waste Management Division
New Mexico Environment Department

5/20/02

Date



Frank P. Dickson
Laboratory Counsel
University of California
Los Alamos National Laboratory

5/15/02

Date

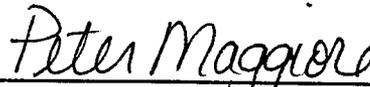


for Acting Director
Office of Los Alamos Site Operations
National Nuclear Security Administration
U.S. Department of Energy

5/15/02

Date

Pursuant to 20.1.5.601.B NMAC, this Stipulated Final Order, agreed to by NMED and Respondents, is hereby APPROVED as a FINAL ORDER.



PETER MAGGIORE
Secretary
New Mexico Environment Department

Date: 5/20/02