

11/15/04



STATE OF NEW MEXICO  
ENVIRONMENT DEPARTMENT

IN THE MATTER OF  
THE UNITED STATES DEPARTMENT OF ENERGY  
AND THE REGENTS OF THE UNIVERISTY OF  
CALIFORNIA, LOS ALAMOS, NM0890010515,

HRM 99-01 (CO)

RESPONDENTS.

STIPULATED FINAL ORDER

**I. Introduction**

A. On December 28, 1999, the New Mexico Environment Department ("NMED") issued Compliance Order HRM 99-01 ("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 penalty amount in Paragraph IV.A below.

**II. Jurisdiction and Authority**

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

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

**III. Allegations, Admissions, and Denials**

A. NMED alleges violations of the HWA and HMWR set forth in Conclusions of Law, ¶¶ 59, 60, 61, 62, 68, 69, 70, 71, 72, 74, 75, 76, 78, 79, 80, 82, 84, 85, 86, and 87 of the Compliance Order. NMED incorporates herein the factual and legal allegations in the Compliance Order that apply to those Conclusions of Law.

B. NMED agrees to dismiss the violations alleged in Conclusions of Law, ¶¶ 63, 64, 65, 66, 67, 73, 77, 81, 83, and 88 of the Compliance Order.

C. Respondents admit liability as to the violations alleged in Conclusions of Law, ¶¶ 59, 62, 68, 69, 72, 74, 75, 76, 78, 79, 80, and 82 of the Compliance Order.

D. Respondents deny liability as to the violations alleged in Conclusions of Law, ¶¶ 60, 61, 70, 71, 84, 85, 86, and 87 of the Compliance Order and deny the factual and legal allegations in the Compliance Order that apply to those Conclusions of Law. This SFO shall not be construed as an admission by Respondents of any of the factual or legal allegations that apply to Conclusions of Law 60, 61, 70, 71, 84, 85, 86, and 87 of the Compliance Order. Respondents' Answers are incorporated herein by reference.

**IV. Settlement of Compliance Order**

A. In settlement of the violations alleged by NMED in Paragraph III.A above and admitted to by Respondents in Paragraph III.C above, and upon consideration of the seriousness of any alleged violations, any good faith efforts to comply, and other matters as justice may require, Respondents agree to pay a penalty of Two Hundred Eighty Two Thousand, Thirty-Three Dollars (\$282,033). 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 check or guaranteed negotiable instrument and mailed or hand-delivered to Sandra Martin, Chief, Hazardous Waste Bureau, New Mexico Environment Department, 2905 Rodeo Park Drive East, Building 1, Santa Fe, New Mexico 87505, with a copy to Tannis L. Fox, Deputy General Counsel, Office of General Counsel, New Mexico Environment Department, P.O. Box 26110, Santa Fe, New Mexico 87502.

**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 penalty 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 by the New Mexico Environment Department:



Charles Lundstrom  
Director  
Water and Waste Management Division  
New Mexico Environment Department

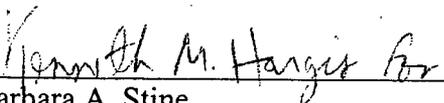
1-15-04  
Date



Tannis Fox  
Deputy General Counsel  
Office of General Counsel  
New Mexico Environment Department

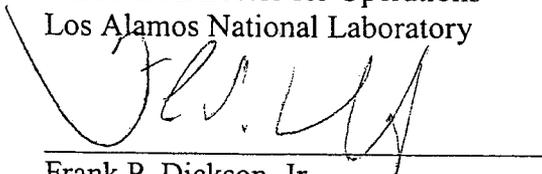
1-15-03  
Date

APPROVED by Los Alamos National Laboratory:  
The Regents of the University of California



Barbara A. Stine  
Principal Deputy to the  
Associate Director for Operations  
Los Alamos National Laboratory

1/13/04  
Date



Frank P. Dickson, Jr.  
Laboratory Counsel  
Los Alamos National Laboratory

01.13.04  
Date

APPROVED by the United States Department of Energy, National Nuclear Security Administration, Los Alamos Site Operations:

  
\_\_\_\_\_  
Ralph E. Erickson  
Manager  
Los Alamos Site Operations

1/13/04  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Lisa K. Cummings  
Counsel  
Los Alamos Site Operations

1/13/04  
\_\_\_\_\_  
Date

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

  
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RON CURRY  
Secretary  
New Mexico Environment Department

1/16/03  
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Date