

DP TANK Farm 21-029

4/22/99

FA-21

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-98-01 (CO)



RESPONDENTS.

STIPULATED FINAL ORDER

Pursuant to 20 NMAC 1.5.601, the Secretary of Environment

("Secretary"), the United States Department of Energy ("DOE"), and the Regents of the University of California ("UC"), hereby stipulate and agree and the Secretary of Environment hereby orders that the violations alleged in Administrative Compliance Order 98-01 issued by the Secretary, through his designee, the Director of the Water and Waste Management Division of the New Mexico Environment Department on or about June 8, 1998 ("Compliance Order"), are hereby resolved as follows:

1. On or about October 7, 1998 DOE and UC delivered to NMED a RCRA Facility Investigation Work Plan, Volume II, DP Tank Farm ("Workplan").
2. NMED has advised DOE and UC that in order for NMED to accept the Workplan for review DOE and UC must resubmit the Workplan with the following section which was not included in the Workplan submitted on or about October 7, 1998: Section 4.1 Project Scheduling and Reporting.
3. DOE and UC shall resubmit the Workplan with Section 4.1 along with a Corrective Action Document Review Fee in the amount of \$ 6,500.00, which is hereby assessed pursuant to 20 N.M.A.C. 4.2.201.7.



10525

4. Upon resubmission of the Workplan with the assessed fee pursuant to Paragraph 3, above, the Workplan shall automatically be deemed administratively complete, and NMED shall review the Workplan for technical adequacy and otherwise process the Workplan in accordance with its regulations, standard policies and procedures.

5. No civil penalty shall be required to be paid for the violations alleged in the Compliance Order. DOE and UC shall not be required to take further action beyond compliance with Paragraphs 1-3, above, in order to satisfy the Compliance Order. This Paragraph shall not be construed to prohibit NMED from requiring further action by DOE and UC pursuant to the reservation of rights set forth in Paragraph 7, below.

6. Subject to the reservation of rights set forth in Paragraph 7, below, NMED covenants not to take further administrative or judicial action against DOE and UC with respect to the violations alleged in the Compliance Order.

7. NMED reserves the right to take any and all administrative or judicial actions which NMED determines are appropriate in the course of its technical review and processing of the resubmitted Workplan pursuant to Paragraph 3, above. Such administrative or judicial actions may include but are not limited to issuance of a request for supplemental information, issuance of a notice of deficiency, denial of approval of the Workplan, rewriting or modification of the Workplan, or an administrative or judicial enforcement action to require submission of an acceptable Workplan.

8. This Stipulated Final Order shall not be construed as an admission by DOE or UC of any of the allegations of the Compliance Order. DOE and UC deny the allegations of the Compliance Order, except to the extent that DOE and UC have

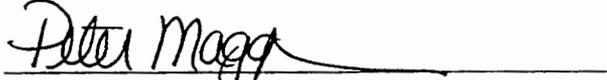
admitted certain allegations of the Compliance Order in their Answers to the Compliance Order.

9. DOE and UC reserve the right to assert any and all defenses they may have to any administrative or judicial action that may be asserted by NMED in accordance with Paragraph 7, above.

10. The Compliance Order is hereby voluntarily dismissed.

ORDERED, STIPULATED AND AGREED TO BY:

PETER MAGGIORE
SECRETARY OF ENVIRONMENT
NEW MEXICO ENVIRONMENT DEPARTMENT



1190 St. Francis Drive
P.O. Box 26110
Santa Fe, NM 87502-6110
(505) 827-2855

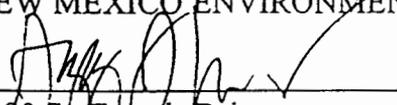
APPROVAL RECOMMENDED BY



WELDON L. MERRITT
HEARING OFFICER
New Mexico Environment Department
P.O. Box 26110
Santa Fe, NM 87502-6110
(505) 827-1603

STIPULATED AND AGREED TO BY:

GREG LEWIS
DIRECTOR
WATER AND WASTE MANAGEMENT DIVISION
NEW MEXICO ENVIRONMENT DEPARTMENT


4/22/99
1190 St. Francis Drive
P.O. Box 26110
Santa Fe, NM 87502-6110
(505) 827-2855

Nicholas F. Persampieri
Counsel of Record
Assistant General Counsel
New Mexico Environment Department
P.O. Box 26110
Santa Fe, NM 87502-6110
(505) 827-1031

UNITED STATES DEPARTMENT OF ENERGY

By David P. Gurule
David Gurule
Area Manager
528 35th Street
Los Alamos, New Mexico 87544
Mail Stop A316
(505) 667-5105

Hortense Haynes
Counsel of Record
U.S. Department of Energy
Albuquerque Operations Office
P.O. Box 5400
Albuquerque, New Mexico 87185-5400
(505) 845-6141

REGENTS OF THE UNIVERSITY OF CALIFORNIA

By Dick Burick
Dick Burick
Deputy Laboratory Director for Operations
P.O. Box 1663
Los Alamos, New Mexico 87544
Mail Stop A100
(505) 667-0079

Joseph B. Rochelle
Counsel of Record
University of California
1650 Trinity Drive Bldg. 760
Los Alamos, New Mexico 87544
Mail Stop A187
(505) 667-3766

STATE OF NEW MEXICO
BEFORE THE 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

HRM-98-01(CO)

CERTIFICATE OF SERVICE

I hereby certify that a copy of the Stipulated Final Order in this matter was served on the following Respondents' counsel of record, by first class mail, on April 30, 1999:

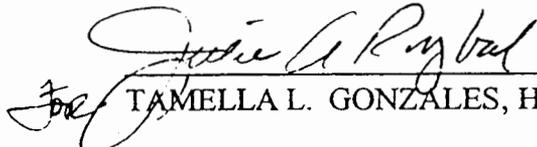
Hortense Haynes
Counsel of Record
US Department of Energy
Albuquerque Operations Office
P.O. Box 5400
Albuquerque, NM 87544

Joseph B. Rochelle
Counsel of Record
Regents of the University of California
1650 Trinity Drive, Bldg. 760
P.O. Box 1663. Mail Stop A187
Los Alamos, NM 87544

and that a copy thereof was hand-delivered on the same date to the following counsel of record for

NMED:

Nicholas J. Persampieri
Assistant General Counsel
NMED Office of General Counsel
1190 St. Francis Drive
Santa Fe, NM 87502


TAMELLA L. GONZALES, Hearing Clerk