



MICHELLE LUJAN GRISHAM  
GOVERNOR

JAMES C. KENNEY  
CABINET SECRETARY

CERTIFIED MAIL - RETURN RECEIPT REQUIRED

January 30, 2024

Garnett Stokes  
President  
University of New Mexico  
MSC05 3300  
1801 Tucker Street NE  
Albuquerque, NM 87131-0001

Melissa Terry  
Chemical Hygiene Officer  
University of New Mexico  
MSC07 4100  
1801 Tucker Street NE  
Albuquerque, NM 87131-0001

**RE: RESOLUTION OF NOTICE OF VIOLATION  
UNIVERSITY OF NEW MEXICO  
EPA ID# NMD980621197**

Dear President Stokes and Melissa Terry:

Beginning on April 11, 2022, the New Mexico Environment Department ("NMED") conducted a hazardous waste Compliance Evaluation Inspection ("Inspection") at the University of New Mexico, main campus ("UNM"), located at 1801 Tucker Street NE, Albuquerque, New Mexico ("Campus"). Based on that Inspection and review of information obtained NMED issued a Notice of Violation with Penalties ("NOVP") dated March 23, 2023.

Enclosed is a copy of the signed Stipulated Final Order to resolve claims of the NMED for civil penalties and other relief for violations specified in the NOV. As of the date January 17, 2024, all civil penalty payments have been received and all corrective actions required to bring UNM into compliance have been met. Any action taken in response to this letter does not relieve your facility of its obligation to comply with any and all other applicable laws and regulations.

If you have any questions regarding this letter, please contact Aaron Coffman of my staff at 505-670-5211 or by email at [aaron.coffman@env.nm.gov](mailto:aaron.coffman@env.nm.gov).

Sincerely,

**Ricardo Maestas**

Digitally signed by Ricardo  
Maestas

Date: 2024.01.30 12:29:53 -07'00'

Ricardo Maestas  
Acting Chief  
Hazardous Waste Bureau

Garnett Stokes and Melissa Terry

January 30, 2024

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RM: ac

cc: Aaron Coffman, NMED HWB  
Andrew Knight, NMED OGC  
Levi Cole, NMED District I Manager

file: Library # 2501

**STATE OF NEW MEXICO  
ENVIRONMENT DEPARTMENT**

**NEW MEXICO ENVIRONMENT** )  
**DEPARTMENT,** )  
**Complainant,** )  
 )  
**v.** )  
 )  
**UNIVERSITY OF NEW MEXICO,** )  
**EPA I.D. NMD980621197,** )  
**Respondent** )  
\_\_\_\_\_ )

**STIPULATED FINAL ORDER**

The New Mexico Environment Department (“Department”) and University of New Mexico (“UNM”, “Party” or “Respondent”), pursuant to 20.1.5.600.B(2) NMAC, stipulate to resolve the alleged violations specified in the Notice of Violation (“NOV”) issued by the Department to Respondent on March 23, 2023. The Parties have agreed on the terms and conditions specified in this Stipulated Final Order (“Order”).

**BACKGROUND**

1. The Department is an agency of the executive branch of the State of New Mexico pursuant to NMSA 1978, § 9-7A-4. The Department is authorized to administer and enforce the New Mexico Hazardous Waste Act (“HWA”), NMSA 1978, §§ 74-1-1 to -14, and the Hazardous Waste Management Regulations (“HWMR”), 20.4.1 NMAC, including assessing administrative civil penalties for violations thereof.
2. The Respondent UNM is a state higher education institution registered as a Large Quantity Generator of Hazardous Waste (“LQG”), EPA I.D. Number NMD980621197, located at 1 University of New Mexico, Albuquerque, New Mexico (“Facility”).

3. Beginning on April 11, 2022, NMED conducted a hazardous waste compliance evaluation inspection (“Inspection”) at the Facility. During the Inspection, the Department observed potential violations of the HWA and the HWMR.

4. As a result of the Inspection and in consideration of the documentation and information provided, the Department issued a Notice of Violation (“NOV”) to the Respondent on March 23, 2023. On April 27, 2023, the Respondent submitted to the Department correspondence that responded to the NOV, provided additional information, and detailed the corrective actions taken by UNM to address the alleged violations.

#### **ALLEGED VIOLATIONS**

5. The Department alleged the following violations in the NOV, dated March 23, 2023:

- a) Failure to make a hazardous waste determination, which is a violation of 20.4.1.300 NMAC, incorporating 40 CFR § 262.11.
- b) Failure to station satellite storage of hazardous waste at locations that are at or near the point of generation and under the control of the operator of an active process, which is a violation of 20.4.1.300 NMAC, incorporating 40 CFR § 262.15(a).
- c) Failure to keep containers of hazardous waste stored at or near the point of generation closed, which is a violation of 20.4.1.300 NMAC, incorporating 40 CFR § 262.15(a)(4).
- d) Failure to label containers of hazardous waste stored at or near the point of generation with the words “Hazardous Waste”, which is a violation of 20.4.1.300 NMAC, incorporating 40 CFR § 262.15(a)(5)(i).

e) Failure to label containers of hazardous waste stored at or near the point of generation with an indication of the relevant hazard(s), which is a violation of 20.4.1.300 NMAC, incorporating 40 CFR § 262.15(a)(5)(ii).

f) Failure to label containers of hazardous waste stored at the Central Accumulation Area with the words “Hazardous Waste”, which is a violation of 20.4.1.300 NMAC, incorporating 40 CFR § 262.17(a)(5)(i)(A).

g) Failure to label containers of hazardous waste stored at the Central Accumulation Area with an indication of the relevant hazard(s), which is a violation of 20.4.1.300 NMAC, incorporating 40 CFR § 262.17(a)(5)(i)(B).

h) Failure to mark containers of hazardous waste stored at the Central Accumulation Area with the date upon which accumulation began, which is a violation of 20.4.1.300 NMAC, incorporating 40 CFR § 262.17(a)(5)(i)(C).

i) Failure to properly station spill control and decontamination equipment at Satellite Accumulation Areas, which is a violation of 20.4.1.300 NMAC, incorporating 40 CFR § 262.252(c).

j) Failure to maintain sufficient aisle space for hazardous wastes at the Central Accumulation Area, which is a violation of 20.4.1.300 NMAC, incorporating 40 CFR § 262.255.

k) Failure to develop a waste analysis plan for hazardous wastes that must be treated at the Facility, which is a violation of 20.4.1.800 NMAC, incorporating 40 CFR § 268.7(a)(5).

l) Treatment of hazardous waste without a permit, which is a violation of 20.4.1.900 NMAC, incorporating 40 CFR § 270.1(c).

m) Failure to label universal waste lamps as “universal waste”, or with other wording to identify the waste, which is a violation of 20.4.1.1000 NMAC, incorporating 40 CFR § 273.14(e) and 20.4.1.1001(B) NMAC.

n) Failure to label universal waste aerosols with clearly identifying wording, which is a violation of 20.4.1.1001(D)(2)(b) NMAC.

o) Failure to demonstrate the length of time universal waste has accumulated, which is a violation of 20.4.1.1000 NMAC, incorporating 40 CFR § 273.15(c).

p) Failure to label containers of used oil with the words “used oil”, or with other wording to identify the contents, which is a violation of 20.4.1.1002 NMAC, incorporating 40 CFR § 279.22(c)(1) and 20.4.1.1003(A) NMAC.

### **COMPROMISE AND SETTLEMENT**

6. All actions required to maintain or restore Respondent’s compliance have been completed.

7. The Respondent does not admit to any of the allegations in the NOV. To avoid further legal proceedings, the Department and the Respondent agree to the terms and conditions in this Order to resolve the alleged violations in the NOV.

8. The Respondent admits to the jurisdictional allegations of this Order and consents to the relief specified in the Order including the civil penalty.

9. In compromise and settlement of the alleged violations in the NOV, the Parties agree that the Respondent shall owe a civil penalty of \$51,215.00 which shall be paid in a lump sum. Respondent shall pay the civil penalty to the State of New Mexico within 60 days after the effective date of this Stipulated Final Order. Payment shall be made by certified check or other

guaranteed negotiable instrument, payable to the “State of New Mexico-Hazardous Waste Emergency Fund,” and shall be delivered to the Department at the following address by either hand delivery or U.S. Postal Service:

Bureau Chief  
Hazardous Waste Bureau  
New Mexico Environment Department  
2905 Rodeo Park Drive East, Building 1  
Santa Fe, New Mexico 87505

10. Payments of the civil penalty shall be accompanied by a transmittal letter referencing this Order.

11. If the Respondent fails to make timely and complete payments of the civil penalty, the Respondent shall pay interest on the outstanding balance at the rate established for judgements and decrees under NMSA 1978, § 56-8-4.

### **OTHER TERMS AND CONDITIONS**

#### **ENFORCEMENT**

12. Except as provided in Paragraph 15 (Covenants Not to Sue), the Department reserves all of the powers, authorities, rights, and remedies, whether administrative or judicial, civil or criminal, legal or equitable, to enforce the requirements of the HWA, HWMR, or Permit, for any past, present or future violations not addressed in the NOV. In any such action, the Respondent reserves the right to assert any defenses that it may have.

13. The Department retains its right to enforce this Order by administrative or judicial action, and the Respondent reserves the right to assert any defenses that they may have.

14. In the event that the Department elects to file a judicial action to enforce this Order, the Department shall file such action in the First Judicial District Court of Santa Fe County, New



Mexico. The Respondent will not challenge that jurisdiction or that the venue lies with the First Judicial Court of Santa Fe County, New Mexico.

#### **COVENANTS NOT TO SUE**

15. The Department covenants not to sue or take any administrative or civil action against the Respondent under the HWA, HWMR, and Agreement for any of the facts or violations alleged in the NOV or this Order. This covenant not to sue extends to Respondent and its respective officers, directors, agents, employees, successors, and assigns and does not extend to any other person. This Covenant does not extend to future violations of the same HWA or HWMR requirements or violations of this Order.

16. Respondent covenants not to sue the State of New Mexico for any claims deriving from the NOV.

#### **EFFECTIVE DATE**

17. This Order shall become effective on the date it is approved and signed by the Department Secretary.

#### **INTEGRATION**

18. This Order merges all prior written and oral communications between the Department and the Respondent concerning the subject matter of the Order and contains the entire agreement between the Department and the Respondent.

#### **BINDING EFFECT**

19. This Order shall be binding upon the Department and its successor agencies and shall be binding upon the Respondent and on its successors.



**AUTHORITY OF SIGNATORIES**

20. The persons executing this Order represent that they have the requisite authority to bind either the Department or the Respondent, as appropriate, to this Order, and that their representation shall be legally sufficient evidence of actual or apparent authority to bind the Department or the Respondent to this Order. The Hazardous Waste Bureau Chief signs pursuant to the authority granted by the March 24, 2023 Delegation Order and with concurrence of the Resource Protection Division Director.

For: **NEW MEXICO ENVIRONMENT DEPARTMENT**

By: DocuSigned by:  
*Rick Shean*  
4008430C2BC2409 \_\_\_\_\_ Date: 11/6/23  
RICK SHEAN  
DIRECTOR  
RESOURCE PROTECTION DIVISION  
NEW MEXICO ENVIRONMENT DEPARTMENT

For: **UNIVERSITY OF NEW MEXICO**

By: *Garnett S. Stokes* \_\_\_\_\_ Date: 12/4/2023  
GARNETT STOKES  
PRESIDENT  
UNIVERSITY OF NEW MEXICO

**APPROVAL OF STIPULATED FINAL ORDER**

Pursuant to 20.1.5.600.B(2) NMAC, this Order, agreed to by the Department and Respondent, is hereby APPROVED as a FINAL ORDER.

DocuSigned by:  
*James C. Kenney*  
4409EC01BAAC470 \_\_\_\_\_ Signing for  
JAMES C. KENNEY  
SECRETARY OF ENVIRONMENT  
Date: 12/13/2023



STATE OF NEW YORK

IN SENATE  
January 13, 1979

REPORT OF THE  
COMMISSIONER OF THE DEPARTMENT OF SOCIAL SERVICES  
ON THE  
OPERATIONS OF THE DEPARTMENT OF SOCIAL SERVICES  
FOR THE FISCAL YEAR ENDING JUNE 30, 1978

STATE OF NEW YORK  
DEPARTMENT OF SOCIAL SERVICES  
ALBANY, NEW YORK

STATE OF NEW YORK  
DEPARTMENT OF SOCIAL SERVICES  
ALBANY, NEW YORK

RECEIVED  
DEC 14 1978

BY: \_\_\_\_\_