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For Immediate Release

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Environment Department Issues Notice of Violation to Helena Chemical Co. for Failing to Correct Deficiencies in its Groundwater Cleanup Plan

(Santa Fe, NM) – The New Mexico Environment Department issued a notice of violation to Helena Chemical Co. for failing to correct deficiencies in its cleanup plan for the fertilizer company’s facility in Mesquite, N.M.

The company violated the state water quality laws by failing to submit a modified Stage 2 Abatement Plan proposal that include monitoring for certain contaminants -- fluoride, chloride, and total dissolved solids – that are causing contamination of groundwater at the facility above Water Quality Control Commission Regulation water quality standards (Notice of Violation is attached).

“We are disappointed in Helena’s refusal to monitor groundwater contaminants underneath its facility that exceed water quality standards,” said New Mexico Environment Department Water and Waste Management Division Director Marcy Leavitt. “The company, which is under the abatement plan because of impacts from its operations on groundwater in the area, must immediately address this issue to protect groundwater underneath and around the Helena facility and to meet its responsibilities to the surrounding community.”

The department on Jan. 26, 2005 required Helena to clean up groundwater contamination at its Mesquite facility and submit a Stage 1 Abatement Plan. Contaminants at the Helena facility exceed state groundwater quality standards for nitrate, sulfate, fluoride, chloride and total dissolved solids. Helena submitted the cleanup proposal to the department April 5, 2005. NMED approved Helena’s proposed cleanup plan May 27 of that year. The department required Helena to submit a Stage 2 Abatement Plan in October 2006. Helena submitted that plan, identifying nitrate as the only contaminant of concern in December 2006. NMED subsequently issued a Notice of Deficiency to the company for failing to address all the contaminants of concern. Helena failed to submit a proposed Stage 2 AP to cure the deficiencies identified by NMED in the NOD. Specifically, Helena has failed to include sulfate, fluoride, chloride, and TDS in its abatement plan monitoring program. Helena submitted a supplement to its proposed Stage 2 AP in December 2009 stating that it would monitor for sulfate but continued its position that it would not monitor for fluoride, chloride, or TDS.

Helena must submit to NMED -- within 30 days of receiving the notice -- a modified proposed Stage 2 cleanup plan that includes fluoride, chloride, and TDS in its proposed Stage 2 AP monitoring program, and ground water analytical results for these constituents shall be included in the next ground water quarterly monitoring report submitted to NMED. The department issued the notice of violation to Helena on March 31.

If Helena fails to address the deficiencies in its proposed Stage 2 AP, the department may issue a compliance order that assesses a civil penalty or may commence a civil action in district court for violations of the act, regulations promulgated under the act, or water quality standards adopted pursuant to the act. Penalties of up to \$10,000 per day per violation for violations of the WQA, regulations, or water quality standards may be assessed.

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