



**Michelle Lujan Grisham**  
Governor

**Howie C. Morales**  
Lt. Governor

## NEW MEXICO ENVIRONMENT DEPARTMENT

Harold Runnels Building  
1190 Saint Francis Drive, PO Box 5469  
Santa Fe, NM 87502-5469  
Telephone (505) 827-2855  
[www.env.nm.gov](http://www.env.nm.gov)



**James C. Kenney**  
Cabinet Secretary

**Jennifer J. Pruett**  
Deputy Secretary

***CERTIFIED MAIL - RETURN RECEIPT REQUESTED***

October 1, 2020

Arturo Duran, Designated Agency Manager  
U.S. Department of Energy  
Environmental Management  
Los Alamos Field Office  
P.O. Box 1663 MS M 984  
Los Alamos, NM 87544

**RE: NOTIFICATION OF INVOKING DISPUTE RESOLUTION  
DOE'S PROPOSED APPENDIX B FOR FISCAL YEAR 2021  
2016 COMPLIANCE ORDER ON CONSENT  
LOS ALAMOS NATIONAL LABORATORY  
EPA ID #NM0890010515**

Dear Mr. Duran:

The New Mexico Environment Department (NMED) received the United States Department of Energy (DOE) *Proposed Changes to the 2016 Compliance Order on Consent Appendixes A, B, and C for Fiscal Year (FY) 2021* (Proposal), dated and received August 7, 2020 and referenced by EMLA-2020-1546-02-001. The proposed update to Appendix B of the 2016 Compliance Order on Consent (Consent Order) was provided to the NMED as required by Section VIII C of the Consent Order.

On September 3, 2020 the parties, the Department of Energy (DOE) Los Alamos National Laboratory Environmental Management (LANL-EM), the NMED Resource Protection Division Director, and the Hazardous Waste Bureau (HWB) Chief and staff, met to discuss the proposed update to Appendix B. Both parties' Designated Agency Managers (DAMs) were present and engaged in the meeting.

During this meeting, NMED expressed its disappointment with the proposal presented by DOE. The proposal was inadequate due to the lack of substantive and appropriate milestones and targets for the upcoming years. The proposal was noticeably deficient and would further slow clean-up progress which is contrary to protecting public health and the environment. NMED informed DOE that the proposal was unacceptable.

In accordance with Section VIII C 1 of the Consent Order, both parties, including DAMs, agreed to a follow-up meeting on September 23rd to provide DOE an opportunity to resolve NMED's stated concerns. A revised proposal was presented by DOE at this meeting. While DOE did revise milestones and targets in an attempt to address the NMED feedback, the revised proposal is unacceptable due to a lack of adequate milestones and targets to maintain clean-up progress. During the meeting, DOE's DAM indicated a meeting of higher-level managers would be necessary to resolve the remaining issues.

Since the parties are unable to resolve this disagreement through the regular Annual Planning Process coordination meetings with the DAMs and designated staff, NMED is hereby notifying DOE that the State is initiating Dispute Resolution per Section XXV of the Consent Order. Due to the fact that informal negotiations already occurred with both parties' DAMs through regular coordination meetings, and also per the stated request by DOE's DAM to elevate to higher-level managers, NMED is proposing to immediately elevate the dispute to the Tier 1 Officials to expedite resolution. NMED is requesting that each DAM provide a written statement of position to Tier 1 Officials within 10 business days of the date of this letter and schedule a meeting between Tier 1 Officials within 15 days of receipt of the statements of position, or other agreed upon date.

Pursuant to the NMED Delegation Order dated September 14, 2020, the Cabinet Secretary has delegated the authority to send Consent Order correspondence to the Chief of the Hazardous Waste Bureau. You may contact me directly about this matter if you have any questions at 505-476-6035.

Sincerely,

Kevin M. Pierard, Chief  
Hazardous Waste Bureau  
New Mexico Environment Department

Cc: Stephanie Stringer, NMED Resource Protection Division Director  
Neelam Dhawan, NMED HWB  
Laurie King, EPA Region 6  
Lee Bishop, EM-LA  
Cheryl Rodriguez, EM-LA  
Joe Murdoch, N3b  
Emily Day, N3B  
Pamela Maestas, N3B  
William Alexander N3B  
[emla.docs@em.doe.gov](mailto:emla.docs@em.doe.gov)  
[locatsteam@lanl.gov](mailto:locatsteam@lanl.gov)

