



## OFFICE OF EXTERNAL CIVIL RIGHTS COMPLIANCE

WASHINGTON, D.C. 20460

April 16, 2025

**In Reply Refer to:**

EPA Complaint No.: 09R-02-R6

James C. Kenney, Secretary  
New Mexico Environment Department  
1190 St. Francis Drive, Suite N4050  
Santa Fe, NM 87505  
[James.Kenney@env.nm.gov](mailto:James.Kenney@env.nm.gov)

**Re: Closure of EPA Complaint No. 09R-02-R6**

Dear Secretary Kenney:

This letter is to notify you that the U.S. Environmental Protection Agency (EPA) Office of External Civil Rights Compliance (OECRC) has determined that the New Mexico Environment Department (NMED) has substantially complied with the terms under the Informal Resolution Agreement (Agreement), dated January 19, 2017, between NMED and EPA, relating to EPA Complaint No. 09R-02-R6 (Complaint). Accordingly, OECRC is closing the monitoring of the Agreement and the Complaint as of the date of this letter.

The Agreement contains three main sections: terms related to the issuance of the Triassic Park Hazardous Waste Facility Permit, a term related to hazardous waste permits in general, and terms related to non-discrimination procedural safeguards. OECRC has reviewed deliverables submitted by NMED demonstrating fulfillment of obligations requiring specific action by NMED, the term related to hazardous waste permits in general and the terms related to non-discrimination procedural safeguards. OECRC has determined that NMED has fulfilled its commitments as set forth in Section III.C, D, E, F, G, H, I and H [sic] of the Agreement.

Specifically, OECRC has reviewed NMED's website<sup>1</sup> and information submitted by NMED demonstrating completion of the Agreement obligations described in Sections III.D, E, F, G, H, I and H [sic] (*Non-Discrimination Procedural Safeguards*) of the Agreement.<sup>2</sup> Further, NMED has confirmed

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<sup>1</sup> See NMED's website, available at <https://www.env.nm.gov/>.

<sup>2</sup> In August of 2024, the complainant raised concerns separately with OECRC and in a letter to NMED about public meetings for the Waste Isolation Pilot Project (WIPP) facility, including with respect to training of hearing officers and access for

that all NMED staff have been trained on its nondiscrimination policies and procedures and federal nondiscrimination obligations and that there is a plan in place to train new staff.<sup>3</sup>

OECRC has also determined that NMED has fulfilled its commitment as set forth in Section III.C of the Agreement related to hazardous waste permits in general. OECRC has confirmed that EPA Region 6 will continue to work with NMED to ensure that NMED verifies facilities' compliance with 40 C.F.R. § 270.10(j) in their review of current and future hazardous waste permit applications as part of EPA Region 6's permit oversight authority under the Resource Conservation and Recovery Act (RCRA).

The remaining terms in Section III. A and B of the Agreement relating to the issuance of the Triassic Park Hazardous Waste Facility Permit, are contingent upon the issuance of the Triassic Park Hazardous Waste Facility Permit. In the eight years since the Agreement was signed, however, the Triassic Park Hazardous Waste Facility Permit has not been issued, and to date, the Triassic Park Hazardous Waste Facility Permit remains pending. Given these circumstances, OECRC has determined that it is appropriate to end monitoring of these Agreement terms. If NMED processes and finalizes the Triassic Park Hazardous Waste Disposal Facility Permit, OECRC encourages NMED to honor the commitments contained in Section III.A and B of the Agreement and conduct public participation processes consistent with the commitments. Additionally, OECRC has confirmed that EPA Region 6 will continue to be a resource for NMED on the public participation requirements contained in applicable regulations at 40 C.F.R. Part 124 as part of Region 6's permit oversight authority under RCRA.

In light of the foregoing, and in consideration of the efficient use of EPA resources, OECRC has determined that closure of the monitoring is appropriate. The closure of the monitoring of the Agreement does not affect NMED's continuing responsibility under Title VI, Section 504, 40 C.F.R. Parts 5 and 7, and, as applicable, other federal nondiscrimination laws,<sup>4</sup> nor does it affect EPA's investigation of any Title VI or other federal civil rights complaint, or address any other matter not covered by this closure. Closure of the monitoring of this Agreement does not preclude the complainant or anyone else from filing a complaint about future actions associated with the Triassic Park Hazardous Waste Disposal Facility or the public participation processes associated with the processing of the permit. This letter is not a formal statement of EPA policy and should not be relied upon, cited, or construed as such.

I thank you and your staff for your cooperation in this matter. If you have any questions, please feel free to contact Kurt Temple, Senior Advisor, by email at [temple.kurt@epa.gov](mailto:temple.kurt@epa.gov) or Hayley Cormack, Case Manager, by email at [cormack.hayley@epa.gov](mailto:cormack.hayley@epa.gov).

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persons with disabilities and persons with LEP. OECRC addressed these allegations in its jurisdictional determination of EPA Complaint No. 10NOD-24-R6. See Letter to James C. Kenney, Secretary, New Mexico Environment Department, from Susan Park, Deputy Assistant Administrator, U.S. EPA Office of Environmental Justice and External Civil Rights: *Acknowledgement & Rejection of Administrative Complaint EPA Complaint No. 10NOD-24-R6* (April 14, 2025).

<sup>3</sup> Email to Lilian Dorka, Director of U.S. EPA External Civil Rights Compliance Office, from Jennifer L Hower, General Counsel of New Mexico Environment Department: *NMED Training Update* (September 11, 2018).

<sup>4</sup> See Title VI of the Civil Rights Act of 1964, 42 United States Code §§ 2000d to 2000d-7 (Title VI); Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794; Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. §§ 1681 et seq.; Age Discrimination Act of 1975, 42 U.S.C. §§ 6101 et seq.; Federal Water Pollution Control Act Amendments of 1972, Pub. L. 92-500 § 13, 86 Stat. 903 (codified as amended at 33 U.S.C. § 1251 (1972)); 40 C.F.R. Parts 5 and 7.

Sincerely,

Susan Park  
Deputy Assistant Administrator  
Office of Environmental Justice and External Civil Rights

cc: Angelia Talbert-Duarte  
Associate General Counsel  
Civil Rights and Finance Law Office

Helena Healy  
Division Director  
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