

**FILED**

UNITED STATES DISTRICT COURT  
ALBUQUERQUE, NEW MEXICO

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO FEB 05 2003  
ALBUQUERQUE DIVISION

*R. [Signature]*  
CLERK

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 )  
 )  
 NORTHWEST NEW MEXICO REGIONAL SOLID )  
 WASTE AUTHORITY, )  
 )  
 Defendant. )  
 )  
 )  
 )  
 )  
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 )

CASE NO. 02-316  
RLP/WWD  
Jury

**CONSENT DECREE BETWEEN THE UNITED STATES OF AMERICA  
AND  
THE NORTHWEST NEW MEXICO REGIONAL SOLID WASTE AUTHORITY**

This action was brought by the United States against the Northwest New Mexico Regional Solid Waste Authority ("the Authority") to enforce the provisions of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e, et seq., as amended ("Title VII"), following receipt by the United States from the Equal Employment Opportunity Commission ("EEOC") of charges of employment discrimination filed by Ms. Desbah Padilla (EEOC charge nos. 390-98-0871, 390-99-0299). This Court has jurisdiction over this action under 42 U.S.C. § 2000e-5(f) and 28 U.S.C. §§ 1331, 1345.

In its complaint, the United States alleges that the Authority has discriminated against Desbah Padilla, a female employee, and similarly situated present or former employees of the Authority, on the basis of their race and/or sex in violation of Section 703(a) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e-2(a), among other ways, by:

- a. subjecting them to racial and/or sexual harassment during their employment with the Authority which created an intimidating, hostile or offensive work environment and which adversely affected the terms, conditions and privileges of their employment; and
- b. failing or refusing to take appropriate action to remedy the effects of the discriminatory treatment.

The United States' complaint further alleges that the Authority has discriminated against Ms. Padilla and other similarly situated female former employees of the Authority on the basis of their race and/or sex in violation of § 703(a) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e-2(a), by creating and maintaining a work environment that was so racially and/or sexually hostile that they were forced to resign from their positions at the Authority.

The Authority denies that it has discriminated against Ms. Padilla or other present or former employees in violation of

Title VII. The United States and the Authority, desiring that this action be settled without the burden of protracted litigation, agree to the jurisdiction of this Court over the parties, and the subject matter of this action. The parties also hereby waive hearings and findings of fact and conclusions of law, and further agree to the entry of this Consent Decree as final and binding between them with regard to the issues raised in the complaint filed by the United States in this case.

This Consent Decree, being entered with the consent of the United States and the Authority, shall in no way constitute an adjudication or finding on the merits of the case, nor be construed as an admission by the Authority or a finding of any wrongdoing or violation of any applicable federal law or regulation, which are expressly denied by the Authority.

It is therefore ORDERED, ADJUDGED AND DECREED as follows:

#### DEFINITIONS

"Board" or "board members" shall mean the chair and other members of the Authority governing board.

"Effective Date of this Consent Decree" shall be the date on which the Court approves and signs this Consent Decree and enters it as an order of the Court.

"Employee" shall mean, unless otherwise specified, all full and part-time employees, supervisors, contractors and the Executive Director of the Authority.

**GENERAL INJUNCTIVE RELIEF**

1. The Authority, by and through its officials, agents, employees and all persons in active concert or participation with the Authority in the performance of employment or personnel functions, shall not engage in any act or practice that has the purpose or effect of unlawfully discriminating against any employee because of that employee's sex or race.

2. The Authority shall not retaliate against or in any way adversely affect the terms and conditions of employment of any person because that person opposes or has opposed alleged discriminatory employment policies or practices of the Authority or because that person has filed a charge with the EEOC or the New Mexico Human Rights Commission, or testified, assisted, cooperated in or participated in any manner in an investigation, proceeding or hearing under Title VII, including the investigation and litigation of this case, and the development and enforcement of this Consent Decree.

3. In the event that the Authority is contacted by any employer for an employment reference regarding former Authority Executive Director Henry Wilson, the Authority shall state the following and only the following: (a) the fact and dates of Mr. Wilson's employment; (b) a description of his job duties; (c) the fact that at the time of Mr. Wilson's departure there was a pending Department of Justice investigation into allegations that

he racially and sexually harassed female employees of the Authority; and (d) that the matter was settled following suit by the United States Justice Department, with no admission of liability on the part of the Authority.

**SPECIFIC RELIEF**

4. The Authority shall offer the following relief to the following individuals:

Desbah Padilla:

(a) Monetary relief in the amount of \$50,000.

(i) Ms. Padilla shall be credited with the date she was first employed with the Authority in 1995, and the date she was first employed in the position of executive assistant with the Authority in 1996, for the following purposes for which employment seniority and job seniority may be used:

including, but not limited to, salary, promotions, reductions in force, and shift assignments, without any deduction for the time period she was not working for the Authority.

(ii) Ms. Padilla will receive an additional 40 hours of sick leave as of the effective date of this Consent Decree. In addition, Ms. Padilla will be credited with her initial date of employment in 1995 in the accumulation of all vacation and sick

leave as of the effective date of this decree.

Sandra Coats:

- (a) Monetary relief in the amount of \$48,000.
- (b) In the event that Ms. Coats re-applies for a position with the Authority, the Authority shall not retaliate against Ms. Coats in any way regarding her application for employment. Ms. Coats will be given fair and equitable consideration for the position(s) compared to any and all other applicants.

Patricia Buck:

- (a) Monetary relief in the amount of \$20,000.

Rita Charley:

- (a) Monetary relief in the amount of \$30,000.

5. In order to accept the relief to be offered by the Authority under this Consent Decree, Ms. Padilla, Ms. Coats, Ms. Charley and Ms. Buck must execute a Release in the form set forth in Exhibit 1.

6. Within fourteen (14) days after the effective date of this Consent Decree, the Authority shall notify Ms. Padilla, Ms. Buck, Ms. Charley and Ms. Coats of its terms by mailing to each of them, by certified mail, return receipt requested, a copy of the letter in the form set forth in Exhibit 2. The letter shall advise each woman individually that in order to accept the relief offered to her, she must return the Exhibit 1 release form to the

Authority within thirty (30) days of her receipt of the letter unless good cause, as determined exclusively by the United States, exists for her failure to do so. A copy of the applicable release form and of this Consent Decree shall be enclosed with the letter.

7. The Authority shall pay the full amount of the monetary awards specified for each individual within fifteen (15) business days of its receipt of the executed release form from that individual.

8. The Authority shall furnish Ms. Padilla, Ms. Buck, Ms. Charley and Ms. Coats with the appropriate IRS forms to reflect the monetary amounts paid to each individual.

9. The Authority shall notify the United States as soon as payment to each individual has been made. The Authority shall promptly forward a copy of the canceled check or other appropriate documentation indicating that payment has been received.

#### **ANTI-DISCRIMINATION AND COMPLAINT INVESTIGATION POLICIES**

10. The Authority shall continue to implement the sexual and racial harassment and anti-retaliation policy ("anti-discrimination policy") attached as Exhibit 3, the sexual and racial harassment and retaliation complaint investigation procedures ("investigation procedures") attached as Exhibit 4, and the implementation of the anti-discrimination policy and

investigation procedures ("implementation plan") attached as Exhibit 5, all adopted by the Board on or about May 30, 2002, for the life of this consent decree. These policies and procedures replace any pre-existing sexual and racial harassment and anti-retaliation policies and procedures that have not already been rescinded.

Any and all anti-discrimination policies and procedures of the Authority dealing with matters other than sexual harassment, racial harassment or retaliation shall remain in full force and effect. However, to the extent that any Authority policy is inconsistent with the terms of this Consent Decree, and its attachments, the terms of the Consent Decree and its attachments shall prevail. At present, the Authority has designated Joseph R. Murietta, Executive Director, as the individual responsible for investigating complaints of sexual and/or racial harassment and/or retaliation ("EEO Officer").

#### **POSTING REQUIREMENTS**

11. The Authority shall post a copy of the notice of settlement attached as Exhibit 6, as well as the anti-discrimination policy and the investigation procedures in visible locations, commonly used for posting notices.

#### **REPORTING AND RECORD KEEPING REQUIREMENTS**

12. The Authority shall retain the following records during the life of this Consent Decree:



- (a) all documents relating to internal or external complaints of sexual or racial harassment or retaliation, including all documents and materials relating to the following:
- (i) the initial complaint;
  - (ii) the Authority's response;
  - (iii) the Authority's investigation of the complaint;
  - (iv) the resolution of the complaint by the Authority and/or any outside agency; and
  - (v) any other information contained in the Central Registry. (See the investigation procedures contained in Exhibit 4.)
- (b) records of the trainings conducted, as provided for in this Consent Decree, including:
- (i) dates of all trainings and video replays;
  - (ii) attendance lists for all trainings and video replays;
  - (iii) the names of all employees and Board Members who failed to attend scheduled trainings or video replays, and the plans for ensuring that those individuals receive the required training, including the date therefor;
  - (iv) all training materials; and

(v) videotapes of all training sessions.

(c) documentation showing that the investigation procedures were implemented and the anti-discrimination policy has been implemented and distributed to employees.

13. For purposes of this Consent Decree, the Authority shall provide the above information and materials to the United States twice a year for the first two years and once a year for one additional year. The reporting periods shall run from January 1 through June 30, and from July 1 through December 31 of each year, with the exception that the first reporting period shall begin as of the effective date of this Consent Decree and end on June 30, 2003 and the final reporting period shall run from January 1, 2005 until 60 days prior to the expiration of this Consent Decree. Within 30 days after the close of each reporting period, the Authority shall provide to the United States copies of the materials required to be retained pursuant to the requirements of this Consent Decree. In the event that the Authority has nothing to report relevant to these requirements, during a reporting period, it will provide the United States with written notice to that effect.

14. The United States shall have the right to inspect and copy at its cost any documents including those referenced in the reports specified in this Consent Decree, that are relevant and necessary to monitor the Authority's compliance with this Consent

Decree, upon 30 days notice to the Authority, without further order of this Court.

**ENFORCEMENT AND DISPUTE RESOLUTION**

15. If a dispute arises concerning compliance by the Authority with any provision of this Consent Decree or if both parties deem it advisable for any other reason, the parties shall engage in good faith efforts to resolve the issue before seeking action by the Court. If the parties are unable expeditiously to resolve the issue, any party may move the Court for resolution, provided that notice is first provided to the other party.

16. With respect to the obligations of the United States to monitor and to enforce compliance with this Consent Decree, the United States may, without further order of the Court, conduct all necessary investigations, including interviews of present and former Authority employees and Board members. The Authority agrees to cooperate in any investigation by the United States, and the United States agrees to inform the Authority of the results of that investigation on an ongoing basis.

17. Failure by the Department of Justice to enforce this entire Consent Decree or any provision thereof shall not be construed as a waiver of its right to do so.

**NOTICE**

18. All documents required to be delivered under this Consent Decree to the United States shall be sent to the

attention of, if by U.S. Mail:

Claire L. Gregory  
Dawn Henry  
U.S. Department of Justice  
Civil Rights Division  
Employment Litigation Section  
950 Pennsylvania Avenue, NW  
Washington, D.C. 20530;

or, if by overnight delivery service:

Claire L. Gregory  
Dawn Henry  
U.S. Department of Justice  
Civil Rights Division  
Employment Litigation Section  
601 D Street, NW, Room 4918  
Washington, D.C. 20004.

19. All documents required to be delivered under this Consent Decree to the Authority shall be sent to the attention of:

Mr. Luis G. Stelzner, Esq.  
Sheehan, Sheehan & Stelzner  
P.O. Box 271  
Albuquerque, New Mexico 87103

Mr. George Kozeliski  
George W. Kozeliski, Attorney at Law  
P.O. Box 478  
Gallup, NM 87305-0478

**PARTIES' OBLIGATION TO DEFEND CONSENT DECREE**

20. In the event this Consent Decree is challenged, the Authority agrees not to contest or join anyone in contesting its lawfulness. If any such collateral challenge arises in State court, the Authority shall promptly seek to remove such action to this Court.

**ATTORNEY'S FEES AND RELATED COSTS**

21. The parties should bear their own costs in this action, including attorney's fees, except that the parties shall retain the right to seek costs for any matter which, in the future, may arise from this Decree and require resolution by the Court.

**RETENTION OF JURISDICTION**

22. The Court shall retain jurisdiction over this Consent Decree for the purpose of resolving any disputes or entering any orders that may be necessary to implement the relief provided in the Consent Decree until its expiration, pursuant to paragraph 23 below. The Court's jurisdiction over this Consent Decree shall automatically terminate upon the termination of the Consent Decree pursuant to paragraph 23 unless there are any matters relating to the Consent Decree pending before the Court at that time. In such a case, the Court's jurisdiction shall terminate after the final resolution of these matters.

23. This Decree shall become effective as of the date it is approved and entered by the Court. This Decree shall terminate three years from its effective date. Prior to its termination, any party may, upon notice to the other party and for good cause shown, move the court for an extension of the Consent Decree's term.

IT is so ORDERED, this 4th day of February, 2003.

**RICHARD L. PUGLISI**

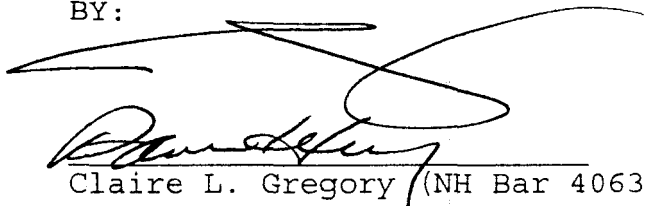
RICHARD L. PUGLISI  
UNITED STATES MAGISTRATE JUDGE  
DISTRICT OF NEW MEXICO

AGREED AND CONSENTED TO:

For the Plaintiff,  
United States of America

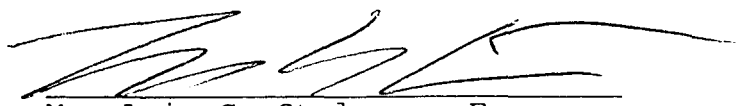
Ralph F. Boyd, Jr.  
Assistant Attorney General

BY:



Claire L. Gregory (NH Bar 4063)  
Dawn Henry  
Employment Litigation Section  
Civil Rights Division  
U.S. Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, D.C. 20530  
(202) 307-5769

For the Defendant  
Northwest New Mexico  
Regional Solid Waste Authority



Mr. Luis G. Stelzner, Esq.  
Sheehan, Sheehan & Stelzner  
P.O. Box 271  
Albuquerque, New Mexico 87103  
(505) 247-0411

EXHIBIT 1

RELEASE OF ALL CLAIMS

For and in consideration of the acceptance of all or any part of the relief offered to me by the Northwest New Mexico Regional Solid Waste Authority (Defendant), pursuant to the provisions of the consent decree entered by the Honorable Richard L. Puglisi, United States Magistrate Judge, on \_\_\_\_\_ in United States v. Northwest New Mexico Regional Solid Waste Authority, Civil Action 02-316 RLP/WWD (D. N.M.), I, \_\_\_\_\_, release and discharge the Defendant, and all current, former and future agents, employees, Board members, officials, designees, attorneys, insurers and predecessors and successors in interest from all legal and equitable claims, including, but not limited to any action in tort, contract, strict liability, or otherwise, including any claims for punitive damages, arising out of the Complaint filed in that case and EEOC charge nos. 390-98-0871 and 390-99-0299, which accrued prior to the date of this release. I further agree that I will not institute a civil action or seek to intervene against the Defendant in any pending civil action alleging employment discrimination on the basis of EEOC charge nos. 390-98-0871 and 390-99-0299, the Complaint in Civil Action 02-316 RLP/WWD, or any of the facts alleged or which could have been alleged in EEOC charge nos. 390-98-0871 and 390-99-0299 or that Complaint, including allegations of sexual and racial harassment, constructive discharge and retaliation.

I understand that the relief to be given to me, including the payment to me of any monetary amount, does not constitute an admission by the Defendant of the validity of any claim raised by me or on my behalf.

This release constitutes the entire agreement between the Defendant and myself, without exception or exclusion.

I acknowledge that a copy of the Consent Decree in this action has been made available to me and that I have reviewed that document.

To the extent that federal law does not apply, this Release shall be governed by the laws of the State of New Mexico, rather than by the laws of any other jurisdiction.

I HAVE READ THIS RELEASE AND UNDERSTAND THE CONTENTS THEREOF  
AND I EXECUTE THIS RELEASE OF MY OWN FREE ACT AND DEED.

Signed this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
[Name]

Social Security No. \_\_\_\_\_

Subscribed and sworn to before me this

\_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_



EXHIBIT 2

VIA CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

[insert name and address of Ms. Desbah Padilla, Ms. Rita Charley, Ms. Sandra Coats or Ms. Patricia Buck as applicable]

Re: United States of America v. Northwest New Mexico  
Regional Solid Waste Authority, Civ. Act. No. 02-316  
RLP/WWD(D. N.M.)

Dear Ms. \_\_\_\_\_:

The United States and the Northwest New Mexico Solid Waste Authority ("Defendant") have entered into a Consent Decree settling the case of United States v. Northwest New Mexico Regional Solid Waste Authority, Civil Action No. 02-316 RLP/WWD(D. N.M.). A copy of the Consent Decree which was approved and entered by the court on \_\_\_\_\_ is enclosed.

Pursuant to the Consent Decree, the Defendant is offering you a monetary amount of \$ \_\_\_\_\_, [add for Desbah Padilla "and other relief as specified in the Consent Decree,"] in full resolution of this matter. You should be aware that all or a portion of the monetary amount may be subject to federal, state or local income tax, for which you would be responsible.

In order to accept the Defendant's offer, you must execute the enclosed release and return it to the Defendant within 30 days of your receipt of this letter. You may return the release by mail or in person to:

Mr. Luis G. Stelzner, Esq.  
Sheehan, Sheehan & Stelzner  
P.O. Box 271  
Albuquerque, New Mexico 87103

The Defendant will pay the sum of \$\_\_\_\_\_ to you, as soon as possible and within fifteen (15) business days of receipt of your executed release.

If you accept the relief being offered you by the Defendant pursuant to the Consent Decree, and signify your acceptance by executing the enclosed release, you will thereby agree not to intervene against the Defendant in Civil No. 02-316 RLP/WWD or any pending civil action alleging employment discrimination on the basis of EEOC charge nos. 390-98-0871 or 390-99-0299 or yourself to file suit on either of those charges.

If you decline the relief offered by the Defendant, the Defendant will nevertheless have satisfied its obligation to the United States pursuant to the Consent Decree and the United States will not seek additional relief on your behalf.

If you have any questions concerning the agreement or the Defendant's offer to you, you may contact one of the following attorneys at the U.S. Department of Justice:

Claire L. Gregory  
Dawn Henry  
Employment Litigation Section  
Civil Rights Division  
U.S. Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, D.C. 20530  
(202) 307-5769

Sincerely,

Luis G. Stelzner, Esq.

Enclosures

**NORTHWEST NEW MEXICO REGIONAL SOLID WASTE AUTHORITY  
POLICY AGAINST SEXUAL AND RACIAL HARASSMENT AND RETALIATION**

**PURPOSE:**

This policy provides procedures for the reporting and investigation of sexual harassment, racial harassment and retaliation claims.

**SUMMARY OF POLICY:**

Sexual and racial harassment and retaliation in the workplace are illegal and shall not be tolerated. The Northwest New Mexico Regional Solid Waster Authority ("Authority") is committed to the vigorous enforcement of anti-discrimination laws and this policy and has adopted a zero tolerance policy for sexual and racial harassment and retaliation. This policy will be enforced by taking appropriate disciplinary action, up to and including termination, against any individual who engages in sexual or racial harassment or retaliation and against supervisors who were or should have been aware of the harassment or retaliation and did not report or respond to it.

All individuals are strongly encouraged to promptly report any conduct which they believe may constitute sexual or racial harassment or retaliation.

Employees have a right to report sexual and racial harassment and retaliation to any supervisor, Board member or the EEO Officer and to have their allegations investigated and promptly resolved.

This policy applies to all employees including probationary employees, to all applicants for employment and to Authority Board Members.

**EEO OFFICER:**

The EEO Officer is:

J. R. MURRIETTA,  
EXECUTIVE DIRECTOR

[name, address and phone]

Work:  
P.O. Box 1330  
THORLEAU, NM 87323  
(505) 862-8402

Home:  
625 GUNNISON  
GRANTS, NM 87020  
(505) 287-7050

**DEFINITIONS:**

**Complainant:** A person making an oral or written report of sexual or racial harassment or retaliation to the EEO Officer or any supervisor.

**Racial Harassment:** Racial harassment is a form of race discrimination. It is prohibited by federal law, state law and this policy. Unwelcome racial comments and derogatory or adverse treatment that is racial in nature or motivated by racial animus, and other verbal or physical conduct of a racial nature constitute racial harassment when:

- (1) submission to such conduct and/or comments is made either explicitly or implicitly a term or condition of an individual's employment; or
- (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
- (3) such conduct has the purpose or effect of interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment.

For purposes of this policy, the term racial harassment includes discrimination on the basis of national origin or ethnicity.

**Respondent:** The individual accused of sexual or racial harassment or retaliation in an oral or written complaint made to the EEO Officer or any supervisor or Board Member.

**Retaliation:** Retaliation is prohibited by federal law, state law and this policy. Retaliation occurs when an individual makes a report, files a formal charge or speaks up against conduct which s/he reasonably believes to constitute sexual or racial harassment, or when an employee cooperates in good faith in an investigation, proceeding or hearing of an allegation of sexual or racial harassment, and then is treated negatively by his or her employer or another employee because of his or her complaint or report.

**Sexual Harassment:** Sexual harassment is a form of sex discrimination. It is prohibited by federal law, state law and this policy. Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

- (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; or
- (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
- (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

#### **EXAMPLES OF PROHIBITED CONDUCT:**

While sexual and racial harassment and retaliation encompass a wide range of conduct, some examples of conduct that may violate this policy are included in Appendix A to this policy.

#### **REPORTING PROCEDURES:**

Employees may make oral or written complaints of sexual and racial harassment and retaliation to the Authority's Executive Director, any Authority supervisor, or any member

of the Authority Board. A list of Authority Board members and how to contact them is attached to this policy as Appendix B.

Complaints against the Executive Director should be reported directly to any other supervisor or Board member and complaints against the EEO Officer should be reported to any supervisor, including the Executive Director, or to a Board member.

Employees are not required to report their complaint to their immediate supervisor or to the individual they believe to be sexually or racially harassing or retaliating against them. In no event shall any investigation of sexual or racial harassment or retaliation be conducted by any individual accused of engaging in such conduct.

### **INVESTIGATION AND RESOLUTION OF COMPLAINTS:**

The procedures for investigating and resolving complaints of sexual and racial harassment and retaliation are contained in the Authority's Complaint Investigation Procedures ("Investigation Procedures"). A copy of the Investigation Procedures is available to any employee from the EEO Officer.

### **RESPONSIBILITIES OF ALL EMPLOYEES:**

All employees share responsibility for ensuring that the Authority is a workplace free of sexual harassment, racial harassment, and retaliation. Employees are subject to discipline, up to and including termination, for engaging or assisting others in conduct prohibited under this policy.

All employees should promptly report sexual and racial harassment and retaliation about which they are aware, regardless of their perception of its seriousness. However, employees who make: (1) unfounded reports of sexual or racial harassment that are determined by the EEO Officer to be made in bad faith; or (2) false statements during an investigation that are determined by the EEO Officer to be made in bad faith, will be subject to discipline.

Although not required, employees should, if they feel comfortable, inform any individual whom they believe to be sexually or racially harassing or retaliating against them, that the harasser's conduct is unwelcome.

### **ADDITIONAL SUPERVISORY AND BOARD MEMBER RESPONSIBILITIES:**

#### **Acceptance and Forwarding of Complaints:**

Supervisors, including the Executive Director, and Board Members must accept all written or oral report of sexual or racial harassment or retaliation and must forward those reports immediately to the Executive Director, having first reduced any oral complaint to writing. When the complaint is against the Executive Director, it shall be forwarded to the Authority Board Chair.

All complaints are to be forwarded regardless of the supervisor or Board Member's assessment of the veracity of the complaint, and regardless of whether the reporting employee is someone over whom they have direct supervisory responsibility.

Supervisors and Board Members shall not:

- a. discourage any individual from making a report of sexual or racial harassment or retaliation;
- b. refuse to accept a report of sexual or racial harassment or retaliation
- c. fail to forward any report to the EEO Officer,
- d. insist that any report be put in writing by the complainant.

**Prevention and Correction of Sexual and Racial Harassment and Retaliation:**

Supervisors must deal expeditiously and fairly with observations of sexual and racial harassment and retaliation by or against employees, whether or not there has been a written or oral complaint. A supervisor shall:

- (1) Take immediate corrective or disciplinary action against any individual whom they observe engaging in sexual or racial harassment or retaliation to prevent prohibited conduct from recurring;
- (2) Regularly inspect for and immediately remove any sexually or radically explicit, suggestive or offensive photographs, magazines, letters, postcards, posters or other related materials from any office area or facility;
- (3) Monitor the future compliance of any individual who is found to have violated this policy. The supervisor must make his or her best efforts to ensure that the harassment or retaliation does not recur and that the complainant is not subjected to retaliation by the individual found to have violated this policy or by other employees.

**THE EXECUTIVE DIRECTOR'S RESPONSIBILITIES AS EEO OFFICER:**

As EEO Officer, the Executive Director is responsible for:

- (1) Answering employee questions regarding the Authority's anti-discrimination policy and Investigation Procedures. The Executive Director shall have a copy of the anti-discrimination policy and the Investigation Procedures available for employees to review.
- (2) Accepting complaints of sexual and racial harassment and retaliation and reducing

any oral complaints to writing. In no event shall the Executive Director attempt to discourage an individual from making a complaint.

- (3) **Conducting an impartial investigation of complaints of alleged sexual and racial harassment and retaliation and preparing a written report and recommendation. When the Executive Director is accused of engaging in sexual or racial harassment or retaliation, alternative procedures shall be followed and the individual accused shall not be involved in the investigation or any decision regarding the complaint.**

If the Executive Director determines that the complaint is unfounded or that any material statement made by any employee during the course of an investigation was false, the Executive Director shall make a determination as to whether that complaint or statement was made in bad faith. If the Executive Director determines that such complaint or statement was made in bad faith, he or she shall make a recommendation in the report about appropriate disciplinary action.

- (4) **Ensuring that the training required by the Authority occurs and that all employees, supervisors and Board Members receive the required training.**

#### **DISCIPLINE:**

Any employee found to be engaged in sexual or racial harassment or retaliation or to otherwise be in violation of this policy shall be subject to disciplinary action up to and including termination. Disciplinary action is mandatory when the Executive Director determines that the accused individual has engaged in sexual or racial harassment or retaliation. The nature of the disciplinary action shall be determined by the Executive Director. Discipline shall be based on the totality of the circumstances, including the severity of the conduct and whether the individual has previously been disciplined for similar conduct. Disciplinary action shall be taken by the Authority under this policy without regard to any system or systems of progressive discipline otherwise employed by the Authority.

Supervisors shall be subject to discipline, up to and including dismissal, if they were or should have been aware of sexual or racial harassment or retaliation and did not report and/or respond to it as required by this policy.

#### **RIGHT TO COMPLAIN TO OUTSIDE AGENCY:**

In addition to the complaint procedures set forth in this policy, any individual has a right to file a complaint of sexual harassment, racial harassment or other employment discrimination or retaliation with the New Mexico Human Rights Commission, Department of Labor, 1596 Pacheco Street, P.O. Box 4218, Santa Fe, New Mexico 87502-4218 and the Equal Employment Opportunity Commission (EEOC), 505 Marquette NW, Suite 900, Albuquerque, NM 87102-2189. A complaint of discrimination or retaliation must be filed with these agencies within a certain period of time after the alleged act of discrimination occurred to be timely under the federal and state statutes prohibiting employment discrimination.

**NORTHWEST NEW MEXICO REGIONAL SOLID WASTE AUTHORITY  
SEXUAL AND RACIAL HARASSMENT AND RETALIATION  
COMPLAINT INVESTIGATION PROCEDURES**

**Scope of Procedures:**

These procedures govern investigation and handling of complaints arising under the Authority's Sexual and Racial Harassment and Retaliation Policy.

**Definitions:**

The Definitions contained in the Authority's Sexual and Racial Harassment and Retaliation Policy apply herein.

**Commencement and Time Frame of the Investigation:**

The Executive Director shall begin an impartial investigation immediately upon receipt of a complaint of sexual or racial harassment or retaliation and shall complete the investigation within 10 business days, unless circumstances make this impossible. The reason for any delay beyond 10 days shall be documented in writing. The complainant and the respondent shall be apprized of the progress of the investigation and the estimated completion date of the investigation not less than every 10 days.

**Protection of the Complainant:**

If upon receipt of a complaint involving allegations of sexual or racial harassment or retaliation, or at any time during the investigation, the Executive Director reasonably believes that immediate corrective or preventative action is required to assure the safety or well-being of the individual making the complaint, the Executive Director or Chair of the Authority Board (or his designee) when the Executive Director is accused, shall take that temporary corrective action (other than an adverse action against the complainant) pending the resolution of the complaint. Such action, when warranted, may include separating the complainant and the respondent, or temporarily removing the respondent, with no loss of pay, from the workplace.

**Conduct of the Investigation:**

The complainant and the respondent shall be provided with copies of the complaint and copies of these investigation procedures. If the complaint was made orally, it shall first be reduced to writing by the Executive Director.

The Executive Director shall interview the complainant, the respondent and any witnesses identified by the complainant or the respondent, or otherwise brought to the Executive Director's attention or whom the Executive Director believes may have relevant



information. Any supervisors who may have knowledge of the alleged conduct shall also be interviewed. Witnesses should not be limited only to those who directly observed the complained about events, and may include others with knowledge of the working environment, the complainant or the respondent. Notes or tape recordings of all interviews shall be made and preserved for at least 5 years.

All individuals interviewed shall be informed that the Authority does not tolerate retaliation against any individual who opposes what s/he reasonably believes to be sexual or racial harassment, retaliation or any other discrimination or who cooperates in good faith in the investigation of a complaint of sexual or racial harassment or retaliation.

All aspects of the complaint and investigation shall be held in the strictest confidence by all parties, witnesses and the Executive Director, except to the extent reasonably necessary to resolve the complaint or implement any remedial action or discipline imposed.

In addition, the complainant, respondent, witnesses and Executive Director are free to speak to any state or federal anti-discrimination agency, any anti-discrimination group or to an attorney regarding any alleged sexual or racial harassment or retaliation.

#### **Review of Central Registry and Personnel File:**

A copy of the complaints of sexual and racial harassment and retaliation, the tape recorded interviews and all other evidence, and the investigation report and final decision shall be kept in a central registry for a minimum of five years, indexed by the name of the complainant and respondent, and accessible by the Executive Director, in a secured, confidential file in the Executive Director's office.

As a part of the investigation, the Executive Director shall review the central registry and personnel file of the complainant and respondent, to determine whether prior complaints of sexual or racial harassment or retaliation have been made by the complainant or against the respondent, and the outcome of any prior complaints.

#### **Report and Recommendation:**

Following completion of the investigation, the Executive Director shall make an assessment of (a) all of the facts and circumstances surrounding the complaint and the working environment; (b) the credibility of the complainant, the respondent and any witnesses; and (c) the existence of prior complaints against the respondent and their resolution. Based on this assessment and using the definitions of sexual and racial harassment and retaliation contained in the anti-discrimination policy, the Executive Director shall arrive at a determination about whether the sexual or racial harassment or retaliation occurred.

No complaint shall be dismissed, or found to be unsubstantiated, solely because no witnesses other than the complainant and the respondent are available.

**The Executive Director shall prepare a written report promptly following the completion of the investigation. Unless circumstances make this impossible, the report must be completed within 5 working days after the completion of the investigation.**

**The report and recommendation must include:**

- (1) A summary of the complaint;**
- (2) A summary of the response by the individual charged with harassment or retaliation;**
- (3) A summary of the statements and evidence obtained during the investigation;**
- (4) A finding of whether a violation of this policy occurred and an explanation supporting the finding along with a finding of whether any supervisor was or should have been aware of the violation and failed to report or respond to it;**
- (5) The credibility assessments of the complainant, the respondent and the witnesses explaining the basis for the credibility assessments;**
- (6) A summary of known prior complaints of sexual or racial harassment or retaliation against the respondent and their outcome;**
- (7) A finding of discipline against the respondent, if appropriate, along with an explanation for the particular disciplinary action recommended. A recommendation of specific disciplinary action is mandatory when the Executive Director determines that the respondent has engaged in sexual or racial harassment or retaliation. The Executive Director may also require counseling by a supervisor, additional anti-discrimination training or other remedial action for employees whose conduct was inappropriate but does not rise to the level of a violation of this policy;**
- (8) A finding of discipline against a supervisor who knew or should have been aware of the harassment or retaliation and did not report or respond to it, if appropriate, along with an explanation for the particular disciplinary action;**
- (9) A decision, as to the restoration of any employment terms, conditions, or opportunities the complainant might have lost as a result of sexual or racial harassment or retaliation;**
- (10) An appendix containing the complaint, statement of the complainant and the respondent, witness statements, and other evidence obtained during the investigation.**

**Final Resolution of Complaint:**

The Executive Director shall make the final determination as to the discipline, if any, to be imposed. Disciplinary action is mandatory when the Executive Director determines that the respondent has engaged in sexual or racial harassment or retaliation. Supervisory counseling, additional anti-discrimination training or other remedial action shall be ordered for employees whose conduct is inappropriate but does not rise to the level of a violation of this policy.

Once the Executive Director has made his or her determination regarding what action to take:

- (1) the complainant and respondent shall be informed of the results of the investigation and any disciplinary action to be taken;
- (2) any supervisor against whom disciplinary action is to be taken shall be informed of the results of the investigation;
- (3) a copy of the report and recommendation, including the appendix, shall be placed in the Central Registry, and the results of the investigation shall be placed in the complainant's and respondent's personnel files;
- (4) the Executive Director shall insure that any disciplinary action that he or she imposes is fully implemented.

**Alternative Procedures when the Executive Director is Accused:**

In the event a complaint of sexual or racial harassment or retaliation is made against the Executive Director, these same investigative procedures shall apply, except that the investigation and determination regarding discipline shall be conducted by the Chair of the Authority Board, or his or her designee.

**Rights of the Complainant:**

The procedures under this policy do not preempt or supercede any legal procedures or remedies otherwise available to a victim of sexual harassment, racial harassment or retaliation under state or federal laws.



## **Appendix A**

### **CONDUCT THAT MAY VIOLATE THE ANTI-DISCRIMINATION POLICY**

#### **Prohibited Conduct**

The following examples are provided to assist employees in understanding the conduct that may violate this policy. The lists of examples are not exhaustive and other conduct may violate this policy. Employees shall report any behavior that they find racially or sexually offensive, retaliatory or inappropriate, regardless of whether it appears on any of these lists. An individual may be a victim of sexual or racial harassment even if s/he is not directly harassed, if s/he is adversely affected by conduct.

#### **I. Examples of Conduct that May Constitute Sexual Harassment**

Sexual Harassment can be physical and/or psychological in nature. An aggregation of a series of incidents can constitute sexual harassment even if one of the incidents considered on its own would not be harassing.

Sexual Harassment can involve males or females being harassed by members of either sex. Although sexual harassment may involve a harasser in a position of greater authority than the victim, individuals in positions of lesser or equal authority also can be found responsible for engaging in prohibited harassment.

#### **Physical Actions:**

(Some of the conduct listed below may also be criminal in nature, and should be reported to the appropriate law enforcement agency.)

- Rape, sexual molestation, or attempts to commit these assaults;
- Intentional physical contact such as unwelcome touching, hugging, kissing, pinching, patting, grabbing, poking or brushing against another employees' body, hair or clothing;
- Engaging in sexually suggestive physical contact or touching another employee in a way that is unwelcome;
- Intentionally standing close or brushing up against a person;
- Engaging in indecent exposure;

**Verbal or Written Expressions Such As:**

(Verbal or written expressions can be made in person, by telephone, by e-mail or in another form of writing.)

- Propositions of a sexual nature;
- Sexual comments, remarks, jokes, stories or suggestions;
- Names or labels such as "honey," "sweetie," "doll," "babe," "baby," "boy" or "girl";
- Sexually suggestive comments regarding an individual's body or physical characteristics;
- Comments about a person's sexuality, sexual experience, sexual behavior or sexual preference;
- Turning work discussions to sexual topics;
- Repeatedly asking a person who is not interested for a date;

**Actions Such As:**

- Excessive and unwanted attention based on sex, such as love letters, memoranda, notes, telephone calls or gifts;
- Touching or rubbing oneself sexually in the presence of another person;
- Sexually oriented gestures;
- Leering at someone/looking a person up and down;
- Reading, displaying, transmitting or otherwise publicizing materials in the workplace that are in any way sexually revealing, sexually suggestive, pornographic or sexually oriented.
- Using the Authority's equipment or facilities to display, publicize or transmit these materials.

**Favorable or Unfavorable Treatment Such As:**

- Preferential treatment or promises of preferential treatment to any employee for submitting to sexual conduct, including soliciting or attempting to solicit any employee to engage in sexual activity for compensation or reward.
- Promising directly or indirectly, an employee a reward, if the employee complies with a sexually oriented request.
- Taking or threatening directly or indirectly to take an adverse employment action against an employee if the employee refuses to comply with a sexually oriented request.

**II. Examples of Conduct that may Constitute Racial Harassment (including conduct on the basis of national origin or ethnicity)**

Racial Harassment can involve individuals being harassed either by members of the same or another racial or ethnic group. Although racial harassment may involve a harasser in a position of greater authority than the victim, individuals in positions of lesser or equal authority also can be found responsible for engaging in prohibited harassment.

**Physical Actions:**

- Physically grabbing, hitting, tripping or touching someone in an unwelcome manner because of that person's race (this conduct may also be criminal in nature, and should be reported to the appropriate law enforcement agency).

**Verbal or Written Expressions Such as:**

(Verbal or written expressions can be made in person, by telephone, by e-mail or in another form of writing.)

- Use of racial slurs;
- Racial comments, remarks, jokes, stories or suggestions;
- Derogatory comments about a person's racial ancestry or the racial ancestry of his family members, of other members of the person's racial group, or of those with whom he or she chooses to associate;
- Race-specific, derogatory comments about a person's skin color, hair texture, facial features or other physical characteristics;

- Obscene, lewd or sexually explicit comments, jokes or suggestions concerning or focusing on the sexuality or supposed sexual characteristics of a particular racial group;

**Actions Such As:**

- Displaying signs or posters or distributing pamphlets or other printed materials on Department property if those materials declare the supremacy or superiority of a particular racial group or specify that any race is inferior to any other;

**III. Examples of Other Conduct that may Constitute Sexual or Racial Harassment**

(To constitute sexual or racial harassment, harassing conduct and actions need not be overtly sexual or racial in nature.)

- Name-calling or derogatory comments, whether or not explicitly sexual or racial, about an employee based on his or her sex or race;
- Derogatory comments about an employee based on stereotypes or assumptions about that employee's sex or race, including derogatory comments about the capabilities of members of a particular sex such as "women don't belong in this kind of work," or "women aren't strong enough to do this job" or "women are too emotional"; or comments suggesting that people of a particular race or ethnic group are "lazy" or "stupid" or "drunks."
- Displaying or making signs, pictures, cartoons, caricatures, calendars, postcards, graffiti, objects, banners, bumper stickers, buttons, promotional materials, reading materials, or other materials that are demeaning, hostile or derogatory toward persons based on their gender or race;
  - Transmitting any such materials;
  - Using the Authority's equipment or facilities to display or transmit these materials.
- Reading or otherwise publicizing in the work environment materials that are in any way sexually or racially demeaning or derogatory;
- Displaying signs or other materials purporting to exclude any individual by sex or race, except in the case of restroom gender designations and gender designations on other semi-private locker/changing rooms;



- Following, hovering around or leering at another person because of their sex or race;
- Intentionally blocking a person's path or otherwise interfering with their free movement throughout the facility, because of their sex or race;
- Stating or suggesting that a person must or should perform certain assignments because of that person's sex or race or sexual or racial characteristics;
- Preventing an employee from doing a job, failing to provide assistance in doing a job, or taking any action to make a job more difficult for an employee because of that person's sex or race;
- Sabotaging, destroying or interfering with an employee's work because of that employee's sex or race or the sex or race of a person with whom the employee associates;
- Hiding, destroying or otherwise tampering with an employee's work equipment because of that employee's sex or race or the sex or race of a person with whom the employee associates;
- Making false reports about an employee's work performance because of that employee's sex or race or the sex or race of a person with whom the employee associates;
- Refusing to work with, assist or follow orders of another employee because of that employee's sex or race or the sex or race of a person with whom the employee associates;
- Stranding, abandoning or refusing to provide backup to a fellow employee on the job because of that employee's sex or race or the sex or race of a person with whom the employee associates;
- Subjecting an employee to unfavorable performance evaluations, threats of termination, denial of promotion or other benefits because of that employee's sex or race or unwillingness to accept sexually or racially hostile behavior or comments.
- Denying, directly or indirectly, an employee an employment-related opportunity, because of that employee's sex or race or unwillingness to tolerate sexually or racially hostile behavior or comments.

- Continuing any sexually or racially harassing behavior after an employee has objected;
- Continuing any behavior which has been determined to be sexually or racially harassing by a supervisor or the EEO Officer.

#### **IV. Examples of Conduct that May Constitute Retaliation**

- Ignoring, shunning, isolating or refusing to work with or assist another individual because that individual has complained about sexual or racial harassment or prior retaliation;
- Giving an individual inferior or less desirable working assignments or conditions because that individual has complained about sexual or racial harassment or prior retaliation;
- Name calling, derogatory statements, or threatening physical gestures or conduct towards another individual because that individual has complained about sexual or racial harassment or prior retaliation;
- Communication of threats either directly or indirectly to an individual because that individual has complained about sexual or racial harassment or prior retaliation;
- Taking any disciplinary action or negatively evaluating an individual because that individual has complained about sexual or racial harassment or prior retaliation;
- Denying an individual benefits provided to other employees because that individual has complained about sexual or racial harassment or prior retaliation;
- Any effort by supervisors or co-workers or employees to "get back" at or punish an individual because that individual has complained about sexual or racial harassment or prior retaliation.
- Taking any of the actions described above because an individual has made a charge, testified, assisted or participated in any manner in an investigation conducted by the EEOC or the New Mexico Human Rights Commission or has opposed any practice made unlawful by Title VII.



**Appendix B**

**NORTHWEST NEW MEXICO REGIONAL SOLID WASTE AUTHORITY**

**BOARD OF DIRECTORS**

**Pat Butler, Chairman**  
Councilman – City of Gallup  
P. O. Box 1270  
Gallup, New Mexico 87305  
(505) 722-6661 (office)

**Ron Ortiz, Vice-Chairman**  
Mayor – City of Grants  
110 ½ Geis Street  
Grants, New Mexico 87020  
(505) 287-2157 (office)

**Charley Chavez, Sec./Treas.**  
Councilman – City of Gallup  
P. O. Box 1270  
Gallup, New Mexico 87305  
(505) 863-5152 (office)

**Harry Mendoza, Member**  
Commissioner – McKinley County  
P. O. Box 70  
Gallup, New Mexico 87305  
(505) 722-3868 (office)

**Warren Mathers, Member**  
Village of Milan  
P. O. Box 2727  
Milan, New Mexico 87021  
(505) 287-2120 (home)

**Fred Scott, Member**  
Commissioner – Cibola County  
P. O. Box 231  
Laguna, New Mexico 87026  
(505) 552-7133 (home)

**Richard Bowman, Member**  
County Assessor – McKinley County  
P. O. Box 70  
Gallup, New Mexico 87305  
(505) 722-3868 (office)

## **IMPLEMENTATION OF ANTI-DISCRIMINATION POLICY AND INVESTIGATION PROCEDURES**

### **Anti-discrimination Training and Complaint Investigation Policies**

1. Prior to the implementation of the anti-discrimination policy and the Investigation Procedures, the Authority shall designate an individual responsible for investigating complaints of sexual and racial harassment and retaliation ("EEO Officer"). The Executive Director may serve as the EEO Officer. The duties and responsibilities of the EEO Officer shall be as set forth in the anti-discrimination policy and the Investigation Procedures.
2. (a) The Authority shall ensure that a copy of the anti-discrimination policy is distributed to all of its current employees and Board Members upon its implementation.  
  
(b) Within five days of receipt of the anti-discrimination policy, each employee shall sign an acknowledgment that s/he has read and understood the policy, and this acknowledgment shall be placed in each employee's personnel file.
3. The individual responsible for handling Authority personnel matters and the Executive Director shall have a copy of the anti-discrimination policy and the Investigation Procedures available for employee inspection.
4. The Authority shall incorporate the anti-discrimination policy and Investigation Procedures into its policy manual at the next regular printing of that manual.
5. (a) The Authority shall ensure that each new employee receives a copy of the anti-discrimination policy at the time of the new employee's hire.  
  
(b) Within five days of receipt, each new employee shall sign an acknowledgment that s/he has read and understood the anti-discrimination policy, and this acknowledgment shall be placed in each employee's personnel file.

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6. The Authority shall disseminate the Investigation Procedures to all supervisors, the Executive Director and all Board Members upon its implementation and to all new supervisors and Board Members upon their appointment. The Authority is not required to disseminate the Investigation Procedures to other employees. However, at the time of any complaint of sexual or racial harassment or retaliation, a copy of the Investigation Procedures shall be provided to the individual who makes the complaint and the individual against whom the complaint is brought. Copies of the Investigation Procedures shall also be available from the EEO Officer upon the request of any employee.

#### **Posting Requirements**

7. (a) Upon its implementation the Authority shall post a copy of the anti-discrimination policy and the Investigation Procedures in all buildings, facilities, districts, sub-districts and administrative offices of the Authority in visible locations, commonly used for posting notices.

(b) The Authority shall obtain from the EEOC and the New Mexico Human Rights Commission (NMHRC) posters advising employees of their rights to file complaints of discrimination with those agencies. Within 30 days of the effective date of this decree, the Authority shall place these poster in the same locations used for posting copies of this Consent Decree, including the Sexual and Racial Harassment and Retaliation Policy and Investigation Procedures.

#### **Anti-discrimination Training**

8. (a) Initially, the Authority shall provide a minimum of four hours of mandatory anti-sexual and racial harassment, retaliation and discrimination training on an annual basis to all employees and Board members. The first training shall occur within two months after the

adoption of the Policy and Investigation Procedures by the Board. After the first training, the mandatory annual training shall be for a minimum of two hours. The training shall include: (1) a review of employment discrimination laws; (2) the Authority's anti-discrimination policy; (3) the behaviors that may constitute sexual and racial harassment and retaliation; (4) the discipline that may be taken against employees who commit acts of sexual or racial harassment or retaliation or allow such acts to occur; (5) the importance of tolerance and inclusiveness in the workplace; and (6) the procedures for filing a complaint with the Authority and with the appropriate state and federal agencies.

(b) No employee or Board member shall be exempted from this training requirement for any reason. Any employee or Board member who is unable to attend the live training shall be required to watch a video replay within two weeks thereafter. All employees and Board members shall be required to sign-in for the live or video training. A copy of the sign in sheet shall be kept in each employee's personnel file or with the Board's records, as applicable.

(c) Any employee or Board member who is hired or appointed more than three months prior to the scheduled date of the next annual training shall be required to watch the video replay of the training within two weeks of his or her start date and certify that s/he has done so. A copy of the certification shall be retained in the employee's personnel file or with the Board's records, as applicable.

9. (a) In addition to the above training, the Authority shall ensure that all supervisors, the EEO Officer and Board members also receive annual mandatory training by a trainer approved in advance by the United States regarding: (1) their specific obligations under the Authority's anti-discrimination policy and this decree; (2) the Investigation Procedures; (3) how to prevent, detect and correct sexual and racial harassment and retaliation; (4) how to encourage tolerance

and inclusion in the workplace; and (5) Authority liability issues related to sexual and racial harassment and retaliation claims. The training shall be a minimum of two hours. The first training shall occur within two months of the adoption of the policy and investigation procedures by the Board.

(b) No supervisor or Board member shall be exempted from this training requirement for any reason. The EEO Officer is required to attend the live training. Any other supervisor or Board member who is unable to attend the live training shall be required to watch a video replay within two weeks thereafter. All individuals shall be required to sign-in for the live or video training, and a copy of the sign in sheet shall be kept in each supervisor's personnel file or with the Board's records, as applicable.

(c) Any supervisor or Board member who is hired or appointed more than three months prior to the scheduled date of the next annual training shall be required to watch the video replay of the training within two weeks of his or her start date and certify that s/he has done so. A copy of the certification shall be retained in the supervisor's personnel file or with the Board's records, as applicable.

10. The initial trainings described in paragraphs 8 and 9 shall occur within two months of the effective date of this Consent Decree, and shall continue thereafter on an annual basis, for the life of the decree.

#### Reporting and Recordkeeping Requirements

11. The Authority shall retain the following records:

- (a) records of the trainings conducts, as provided for in this for in this Consent Decree, including:
  - (i) dates of all trainings and video replays;



- (ii) attendance lists for all trainings and video replays;
- (iii) the names of all employees and Board Members who failed to attend scheduled trainings or video replays, and the plans for ensuring that those individuals receive the required training, including the date therefor;
- (iv) all training materials; and
- (v) videotapes of all training sessions.

(b) the name, sex, race, position, shift, home address and telephone number of all employees who resigned or were terminated from the Authority, and for each such employee a statement of the reasons for resignation or termination.

(c) the names of any Board members resigning from or appointed to the Authority.

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NOTICE

SETTLEMENT OF EMPLOYMENT DISCRIMINATION LAWSUIT

On March 20, 2002, the United States filed a lawsuit in the United States District Court for the District of New Mexico against the Northwest New Mexico Regional Solid Waste Authority ("Authority") under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000e, et seq. ("Title VII"). The lawsuit alleged that the Authority discriminated against current and former employees of the Authority on the basis of race and/or sex in violation of Title VII by:

- a. subjecting them to racial and/or sexual harassment during their employment with the Authority which created an intimidating, hostile or offensive work environment and which adversely affected the terms, conditions and privileges of their employment;
- b. creating and maintaining a work environment that was so racially and/or sexually hostile that Ms. Padilla and other former employees were forced to resign from the Authority; and
- c. failing or refusing to take appropriate action to remedy the effects of the discriminatory treatment.

The Authority expressly denies these allegations.

This notice is being posted to announce that the United States and the Authority have resolved this lawsuit by entering into a settlement agreement, called a "Consent Decree," which was approved by the Court on [date], 2002.

Under the terms of the Consent Decree, the Authority:

1. Shall not engage in any act or practice which has the purpose or effect of unlawfully discriminating against any employee in any term, condition or privilege of employment because of such individual's race or sex.
2. Shall not retaliate against or in any respect adversely affect the terms and conditions of any person's employment, because that person opposes or has opposed allegedly discriminatory policies or practices by the Authority or because that person has filed a charge with the Equal Employment Opportunity Commission or the New Mexico Human Rights Commission, or participated in or cooperated with the initiation,

investigation, litigation or administration of this case or the Consent Decree.

3. Shall provide specific relief to certain individuals who were allegedly subjected to sex and/or race discrimination.

Copies of the Authority's anti-discrimination policy and investigation procedures are available for taking, at no charge, at the Authority's central office. Should you have any questions concerning this lawsuit, the terms of the Consent Decree, or the Authority's compliance with the Consent Decree, you may contact one of the following Department of Justice attorneys:

Claire L. Gregory  
Dawn Henry  
United States Department of Justice  
Civil Rights Division  
Employment Litigation Section  
950 Pennsylvania Avenue, NW  
Washington, D.C. 20530  
202-307-5769

Apart from the Consent Decree, on or about May 30, 2002, the Authority:

1. Designated an individual as the equal employment opportunity officer responsible for investigating complaints of sexual and racial harassment and retaliation and adopted specified procedures for investigation of these complaints. At present, Executive Director, Joseph Murietta, has been designated as the equal employment officer.

2. Adopted an anti-discrimination policy prohibiting sexual and racial harassment and retaliation and shall distribute this policy to all employees.

3. Provided, and will continue to provide, anti-sexual and racial harassment and retaliation training to all employees and Board Members on an annual basis, and shall provide additional training to supervisors, the Executive Director and Authority Board Members.

In addition to the anti-sexual and racial harassment and retaliation complaint policies and procedures adopted on or about May 30, 2002, by the Authority, any individual has a right to file a complaint of sexual harassment, racial harassment or other employment discrimination or retaliation with the New Mexico Human Rights Commission, Department of Labor, 1596 Pacheco Street, P.O. Box 4218, Santa Fe, NM 87502-4218 and the Equal

Employment Opportunity Commission (EEOC), 505 Marquette NW, Suite 900, Albuquerque, NM 87102-2189. A complaint of discrimination or retaliation must be filed with these agencies within a certain period of time after the alleged act of discrimination occurred to be timely under the federal and state statutes prohibiting employment discrimination.