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"La Tierra" mural by community artist Noel Marquez, Alliance for Environmental Strategies

Community Groups Outraged by New Mexico Environment Department's Release of Policies

New Mexico Environment Department Releases Civil Rights Policies Without Public Input

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(February 27, 2018 / Santa Fe & Eddy County, NM) On February 26, 2018, Citizens for Alternatives to Radioactive Dumping (CARD) and other community groups raised serious concerns about the New Mexico Environment Department's (NMED) failure to include

community voices before releasing new policies intended to comply with civil rights laws. CARD's reaction came on the heels of the release by NMED of [Public Participation and Limited English Proficiency \(LEP\) policies](#) late Friday, February 23, that outline the agency's plans to include New Mexican communities in the process for permitting industrial facilities.

"I can't imagine anything more ironic," Deborah Reade, Research Director for CARD, stated. "While these policies are supposed to be designed to protect communities most directly impacted by the potentially adverse environmental effects of such facilities, NMED closed the door to all public input when drafting these policies."

In addition to CARD, other community groups, including Alliance for Environmental Strategies, Albuquerque Center for Peace and Justice, Los Jardines Institute, Concerned Citizens of Wagon Mound and Mora County, New Mexico Interfaith Power and Light, Amigos Bravos, Concerned Citizens for Nuclear Safety, and the New Mexico Environmental Law Center have also expressed concern about NMED's policies.

In 2005, residents of the mostly Spanish-speaking communities of Chaves County accused NMED of discrimination in its permitting process on the basis of race, color, or national origin by approving the construction of Triassic Park, a hazardous waste facility in their county. The community, through CARD and two other groups, filed a civil rights complaint against NMED for engaging in a statewide pattern and practice of discriminatory permitting, including failing to take proper steps to inform residents with limited-English proficiency of the potential construction of hazardous waste facilities, and the failure to engage them in the public participation process. On January 19, 2017, EPA and NMED signed a [Resolution Agreement](#) in which NMED committed to review its nondiscrimination policies and take steps to bring the program into compliance, including completion of the Public Participation and LEP policies released publicly on February 23. The groups that filed the initial complaint, however, were far from satisfied that NMED released the policies without giving communities an opportunity to provide input. Reade stated, *"By not allowing community members to provide input on the draft version of the policies, NMED has failed to abide by the spirit of the Resolution Agreement, and continues to send the message that public input is not a valuable part of environmental permitting."*

"I don't know what planet NMED is on, but there is no positive realistic working relationship between NMED and our communities,

which are being sacrificed by a state government willing to allow our communities to be turned into radioactive waste dumps," said Noel Marquez of Alliance for Environmental Strategies in Eddy County. *"If NMED were willing to start a relationship, we are always ready to respond, cooperate and volunteer our time to defend our lands and people, which we feel the state of New Mexico should be doing in their role if we aspire to be an honest democracy,"* Marquez continued.

CARD repeatedly asked NMED to allow community input as it wrote its Public Participation and LEP policies. In an October 30, 2017 letter, for example, CARD formally requested that NMED give CARD and other community groups a chance to comment on the policies before they were finalized.

"The community needs to be involved in shaping the Public Participation and LEP policies," said Reade, *"in order to reflect the real needs and concerns of individuals on the ground. Because of the lack of community input, the policies are sadly lacking."*

"NMED's actions are inconsistent with commitments they made in the January 2017 Resolution Agreement to address discriminatory practices," stated Lindsay Olsen of the Yale Law School Environmental Justice Clinic, the body representing CARD in its complaint against NMED and EPA.

The Resolution Agreement, signed by NMED, states *"NMED understands that meaningful public involvement consists of informing, consulting and working with potentially affected and affected communities at various stages of the environmental decision-making process to address their needs...Therefore, NMED will ensure its public involvement process is available to all persons regardless of race, color, national origin (including limited-English proficiency), age, disability, and sex."*

"Despite this language, NMED made no effort to listen to or incorporate the concerns of community members and local groups most affected by these policies into the policy-making process," Reade continued.

Since the Resolution Agreement was signed, NMED has proceeded with around 200 public processes, and the community groups contend that none of these processes has complied with the provisions of the Agreement. *"There is a big disregard of protecting the people of New Mexico,"* said Marquez. *"We will continue to live here until we no longer can survive their environmental injustices."*

The groups are also concerned that as a result of NMED's failure to consult with community stakeholders, the new policies come up short. *"These new policies need to be revised. For example, the Public Participation policy says that NMED will involve individuals living within four miles of a project site during the permitting process of industrial facilities,"* said Marquez, *"But we on the ground know that pollutants travel by wind and water much farther than a four-mile radius in this area."*

The groups also point to the LEP policy, which creates a significant loophole that allows NMED to avoid the requirement to provide language services to people with Limited English Proficiency if such services have a price tag. *"If NMED had simply consulted with community-based organizations as we repeatedly asked them to,"* said Reade, *"NMED could have avoided these problems with the policies."*

The LEP policy also suggests that NMED should save costs when implementing its outreach to those with Limited English Proficiency. This admittance of not prioritizing language access as a financial priority sets NMED up to continue in its pattern of discrimination towards non-English speaking individuals.

CARD is a community-based organization in New Mexico that advocates for the health and welfare of Southeast New Mexico communities and other communities around the State. CARD is represented by **Yale's Environmental Justice Clinic**, whose work includes cases and advocacy that advance environmental justice, <https://law.yale.edu/studying-law-yale/clinical-and-experiential-learning/our-clinics/environmental-justice-clinic>, **Earthjustice**, a national nonprofit environmental law organization, <https://earthjustice.org>, and **University of New Mexico's Natural Resources and Environmental Law Clinic**, <http://lawschool.unm.edu/clinic/sections/natural-resources-and-environmental-law-clinic.html>.