STATE OF NEW MEXICO
ADMINISTRATIVE HEARINGS OFFICE
TAX ADMINISTRATION ACT

IN THE MATTER OF THE PROTEST OF
WEIL CONSTRUCTION INC., **No. 16-42**
TO THE FAILURE TO GRANT OR TO DENY A CLAIM FOR REFUND
PROTEST ACKNOWLEDGED BY LETTER ID NO. L0917463088

DECISION AND ORDER

A formal hearing on the above-referenced protest was held on May 20, 2016 before Hearing Officer Dee Dee Hoxie. The Taxation and Revenue Department (Department) was represented by Ms. Cordelia Friedman, Staff Attorney. Mr. Danny Pogan, Auditor, and Ms. Melinda Wolinsky, Staff Attorney, also appeared on behalf of the Department. Mr. Steve Keen, CPA, Mr. Jeffrey Shilling, and Mr. Duwayne Sibley appeared for the hearing as the authorized representatives of Weil Construction, Inc. (Taxpayer). The Hearing Officer took notice of all documents in the administrative file. Both parties provided numerous exhibits. Exhibits will be referenced in the decision as Ex. followed by the number or exhibit letter and then the page of the exhibit, for example: Ex. 1-1 and Ex. A-1. The Department's supplemental briefing included a copy of the refund granted as Exhibit "A". However, since the Department had previously admitted an Exhibit "A" at the hearing, the refund with letter ID number L0425267248 that was attached to the supplemental brief will be relettered for purposes of the record as Exhibit "Z" and will be referred to as such. Based on the evidence and arguments presented, IT IS DECIDED AND ORDERED AS FOLLOWS:

FINDINGS OF FACT

1. On November 25, 2014, the Taxpayer filed an application for refund of $30,851 in gross receipts tax for the periods from October 1, 2012 through December 31, 2013. Ex. 1-1.

2. The Department took no action on the request for refund within 120 days of its filing.

3. On June 15, 2015, the Taxpayer filed a timely formal protest letter.

4. On August 6, 2015, the Department filed a Request for Hearing asking that the Taxpayer's protest be scheduled for a formal administrative hearing.

5. On August 7, 2015, the Hearings Office issued a notice of hearing. The hearing date was set within ninety days of the protest.

6. On September 9, 2015, a telephonic scheduling hearing was conducted. A date for a hearing on the merits was selected on the record, and formal notice was sent to the parties on September 17, 2015.

7. The Taxpayer is engaged in the construction business in New Mexico.

8. From October 1, 2012 through December 31, 2013, the Taxpayer was involved in a construction project for the county of Santa Fe, New Mexico. The Taxpayer performed construction services by building a new fire station for the city of Edgewood.

9. The Taxpayer issued Type 6 nontaxable transaction certificates (NTTCs) to its vendors for items that were included in the construction of the fire station.

10. The Taxpayer paid gross receipts tax on its receipts from the county for the construction of the fire station, including on items of tangible personal property that were incorporated into the fire station.

11. Mr. Sibley and his firm performed a cost segregation study on the construction of the fire station at the behest of the county.

12. They concluded that many items of tangible personal property that were incorporated into the fire station were items that could be classified as 3-year, 5-year, 7-year, 10-year, and 15-year property under Section 168 of the Internal Revenue Code (depreciable property).

13. Mr. Sibley and his firm agreed to represent the Taxpayer in order to try to recuperate some of the county's expenses through tax refunds.

14. Mr. Sibley communicated with the Department about the Taxpayer's cost segregation study and submitted the Taxpayer's application for refund using the method recommended by the auditor.

15. Mr. Sibley has done numerous cost segregation studies for other taxpayers in the past, and the requests for refund on those taxpayers were generally granted from 2008 through 2013, although there were some delays and additional justifications required in 2010 and 2011. Mr. Sibley explained that the process changes every time a new auditor is assigned to these types of claims.

16. The Taxpayer now seeks a refund on the gross receipts tax paid on those items of tangible personal property incorporated into the fire station that could be classified as depreciable property.

17. Since the protest was filed, the Department has granted a partial refund to the Taxpayer.

18. The parties did not specify what amount of refund was granted, but agreed that the majority of the refund requested remains outstanding.

19. On June 22, 2016, the Hearing Officer ordered the parties to provide additional information, with specific details, on the partial refund that was granted. The Department was ordered to file a brief by July 1, 2016, and the Taxpayer's response was due by July 8, 2016.

20. On June 29, 2016, the parties requested additional time to file their supplemental briefs.

21. On July 6, 2016, the order granting additional time was filed. The Department was ordered to provide its brief by July 8, 2016, and the Taxpayer was ordered to provide its response by July 15, 2016. Both parties filed timely briefs.

22. On July 29, 2016, the Department filed another brief in reply. On August 5, 2016, the Taxpayer filed a response.

23. The Department's first brief included an exhibit with specific details on the refund and the items to which the refund related. Ex. "Z". The Taxpayer stipulated to the exhibit in its response.

24. The Department granted a refund of gross receipts tax paid in the amount of $3,629.44. Therefore, the refund claim still outstanding is $27,221.56.

25. The detail sheet identifies 34 items or categories of items that made up the total refund claim for $30,851.00.

26. The partial refund granted reflects that six of these claimed items were approved as allowable deductions, which resulted in the refund amount of $3,629.44.

27. The six allowed items were lockers, visual display boards, audio/visual equipment, appliances, fire extinguishers, and window treatments.

28. The parties agreed on the record at the hearing that the items allowed were primarily items that were easily removable from the fire station.

29. The remaining items were cabinets and countertops, athletic flooring, flagpoles, exterior signage, interior signage, operable partitions, postal specialties, computer equipment cooling, vehicle service exhaust, vehicle service equipment piping, compressed air piping, emergency eyewash/shower, kitchen equipment piping, laundry equipment piping and ventilation, data cabling and equipment, computer equipment electrical, kitchen

appliance electrical, generator, fitness equipment electrical, audio visual equipment and electrical, office equipment electrical, paging system equipment and electrical, security and surveillance electrical, signage electrical, telephone cabling and equipment, television cabling and equipment, vehicle service equipment electrical, and laundry equipment electrical.

30. Exhibit "Z" reflects that these items were denied as they were permanent structural components of the building, affixed to the building, part of the construction service, or not even part of the building.

DISCUSSION

The issue to be decided is whether the Taxpayer is entitled to a refund for gross receipts tax paid on items of tangible personal property that were incorporated into a fire station that was constructed for a government agency.

The Taxpayer argues that the depreciable property is tangible personal property that was sold to a government agency and should be deductible. The Taxpayer argues that construction does not include the depreciable property under Regulation 3.2.1.11 (J) (2). The crux of the Taxpayer's argument is that the word "building" is modified by the regulation and a building "does not include equipment, systems, or components installed to perform, support or serve the activities and processes conducted in the building and which are classified" as depreciable property. 3.2.1.11 (J) (2) NMAC (2012). The Taxpayer argues that all of the claimed depreciable property is equipment installed to support the activities conducted in the building. The Taxpayer encourages a broad interpretation of supporting the activities or processes. The Taxpayer would include any depreciable property that is installed for the convenience and comfort of anyone within the building, such as countertops and decorative lighting. *See* Ex. 1-7,

1-8, and 1-11[1]. The Taxpayer argues that the fire station's express purpose is to provide emergency services to the public. The Taxpayer essentially argues that the fire station houses firefighters and that almost everything within the building, like countertops and decorative lighting, goes to support their activities.

The Department argues that the term "building" in the regulation "includes the structural components integral to the building and necessary to the operation or maintenance of the building". 3.2.1.11 (J) (2) NMAC. The Department also argues that all of the depreciable property claimed is comprised of fixtures, which are items "so firmly attached to the realty as to constitute a part of the construction project." 3.2.1.11 (H) (1) NMAC (2012). The Department encourages a narrow interpretation of supporting the activities or processes. The Department would exclude any depreciable property that is not directly required in a manufacturing process, such as a microchip producer's clean room. The Taxpayer argues that the exception in (J) (2) does not require manufacturing. *See* 3.2.1.11 (J) (2) NMAC.

The Department argues that the depreciable property at issue is necessary to the operation or maintenance of the building and was not installed for the express or exclusive purpose of supporting fire-fighting activities. The Department argues that the easily removable items that clearly went to fire-fighting activities, such as the fire extinguishers, were allowed in the partial refund granted after the protest was filed. The Department argues that depreciable property that has been fixed to the property and cannot be removed without damage are items that are necessary to the operation and maintenance of the building and do not specifically support the provision of emergency services.

[1] Exhibit 1-11 reveals that the category asset #16505 Computer Equipment Electrical on Exhibit "Z" consists mainly of various forms of decorative lighting.

The Department also argues that receipts "from performing a construction project for a governmental agency are receipts derived from performing a service and are not deductible". 3.2.212.10 NMAC (A) (2001). The Department argues that the deduction is not available even if "the materials are billed separately on the same contract as the construction services or are billed under a separate contract." *Id.* The Department acknowledges that depreciable property might be deducted in a sale to a government agency, but only when there is a bond project with a third party acting as an agent for the government. *See* 3.2.212.22 NMAC (2001). The Department argues that there was no agent or bond project in the Taxpayer's case. The Taxpayer concedes that the construction of the fire station was not a bond project with a third party agent. The Taxpayer also admits that its receipts were from performing construction for the county of Santa Fe in the city of Edgewood. The Taxpayer argues that the general provisions of Regulation 3.2.1.11 (J) (2) should still apply.

Burden of Proof.

The burden is on the Taxpayer to prove that it is entitled to the exemption or deduction. *See Public Services Co. v. N.M. Taxation and Revenue Dep't.*, 2007-NMCA-050, ¶ 32, 141 N.M. 520. *See also Till v. Jones*, 1972-NMCA-046, 83 N.M. 743. "Where an exemption or deduction from tax is claimed, the statute must be construed strictly in favor of the taxing authority, the right to the exemption or deduction must be clearly and unambiguously expressed *in the statute*, and the right must be clearly established by the taxpayer." *Sec. Escrow Corp. v. State Taxation and Revenue Dep't.*, 1988-NMCA-068, ¶ 8, 107 N.M. 540 (emphasis added). *See also Wing Pawn Shop v. Taxation and Revenue Dep't.*, 1991-NMCA-024, ¶ 16, 111 N.M. 735. *See also Chavez v. Commissioner of Revenue*, 1970-NMCA-116, ¶ 7, 82 N.M. 97.

Gross receipts tax.

"[I]t is presumed that all receipts of a person engaging in business are subject to the gross receipts tax." NMSA 1978, § 7-9-5. The Taxpayer acknowledges that it was engaged in the construction business in New Mexico and that its sales are generally subject to the gross receipts tax. *See* NMSA 1978, § 7-9-3.5 (2007). The Taxpayer acknowledges that "[g]enerally, New Mexico imposes its gross receipts tax on all construction activity." Ex. 1-4. However, receipts from the sales of tangible personal property to a government agency may be deducted from gross receipts. *See* NMSA 1978, § 7-9-54. The Taxpayer acknowledges that the construction of the fire station would generally fall under the definition of "construction" in the statute because it involved the construction of a "building, stadium, or other structure". NMSA 1978, § 7-9-3.4 (A) (1) (b) (2003). Again, it is the Taxpayer's burden to prove that it is entitled to take the deduction. *See Public Services Co.*, 2007-NMCA-050, ¶ 32.

Exclusion of construction materials from deduction.

The right to a deduction must be clearly and unambiguously expressed in the statute. *Sec. Escrow Corp.*, 1988-NMCA-068, ¶ 8. In this instance, the statute itself indicates that the deduction does not apply to "receipts from selling construction material". NMSA 1978, § 7-9-54 (A) (3) (2003). "Construction material" is defined by statute as "tangible personal property that becomes or is intended to become an ingredient or component part of a construction project". NMSA 1978, § 7-9-3.4 (B) (2003). Construction project is intended to include the broad statutory definition of construction. *See id.* The regulations that interpret Section 7-9-54, which provides for the deduction, should be given greater weight in determining whether the deduction applies than the regulation that interprets Section 7-9-3.4, which provides general definitions. *See Ping Lu v. Educ. Trust Bd.*, 2013-NMCA-010, ¶ 13 (holding that when two statutes deal with the same subject, the more specific one will be given effect over the more general one). *See also*

Johnson v. NM Oil Conservation Com'n, 1999-NMSC-021, 127 NM 120 (holding that canons of construction that apply to statutes also apply to rules and regulations). The fact that there is a special regulation addressing depreciable property in the context of sales to government agencies indicates that the sale of construction services to government agencies is not treated the same as sales of construction services in general. *See* 3.2.212.22 NMAC (2001). The statute also excludes from the deduction "that portion of the receipts from performing a 'service' that reflects the value of tangible personal property utilized or produced in performance of such service." NMSA 1978, § 7-9-54. *See also Arco Materials, Inc. v. Taxation and Revenue Dep't*, 1994-NMCA-062, ¶ 7, 188 N.M. 12, *overruled in part on other grounds by Blaze Constr. Co. Inc. v. Taxation and Revenue Dep't*, 1995-NMSC-110, 118 N.M. 647.

In *Arco Materials*, the court affirmed the Department's disallowance of deductions for receipts from sales of construction materials to state government agencies and reversed the Department's disallowance of deductions for sales to certain federal agencies. *See Arco Materials*, 1994-NMCA-062, ¶ 16. The decision was reversed on the issue of the federal agencies and upheld on the state agencies. *See Blaze Construction Co.*, 1995-NMSC-110. The taxpayer in *Arco Materials* was also claiming a deduction under Section 7-9-54 for sales of tangible personal property to government agencies. *See Arco Materials*, 1994-NMCA-062, ¶ 4. The taxpayer in *Arco Materials* argued that it was also relying on the Department's longstanding treatment of some items as non-construction materials and its then-existing regulatory definition of "construction project". *See id.* at ¶ 5. The court found that even if the taxpayer's sales of materials did not fall within the Department's regulatory definition of "construction project" the regulation could not change the legislatively defined meaning of construction in the statute. *See id.* at ¶ 6. The court held that the legislature broadly defined construction in the statute and that

there was no indication that the legislature intended to distinguish between construction and "construction project". *See id.* The court also found that even if the Department had been treating some materials as non-construction materials in the past, that treatment could not override the legislative definition that clearly included the materials in its definition of construction. *See id.* at ¶ 7. The court found that the statute intended to make sales of construction materials to government agencies taxable when those materials are incorporated into a construction project, and that construction project includes all of the construction activities defined in the statute. *See id.* Therefore, the statutory provisions of Section 7-9-54 control and limit the deduction.

Again, the deduction does not apply to "receipts from selling construction material". NMSA 1978, § 7-9-54 (A) (3) (2003). "Construction material" is defined by statute as "tangible personal property that becomes or is intended to become an ingredient or component part of a construction project". NMSA 1978, § 7-9-3.4 (B) (2003). Construction projects include all of the statutory activities and items listed by the legislature, including a building, and regulations cannot override the legislative definition. *See Arco Materials*, 1994-NMCA-062, ¶ 6-7. *See also* NMSA 1978, § 7-9-3.4 (A) (2003). All of the depreciable property claimed by the Taxpayer appears to be firmly attached to the fire station, which means that the depreciable property was incorporated into the construction project. *See* 3.2.1.11 (H) (1) NMAC (2012). *See also* 3.2.209.22 NMAC (2001). Consequently, all of the depreciable property became an ingredient or component part of the fire station. Moreover, the performance of a construction service for the government is the sale of a service and is not subject to the deduction. *See* 3.2.212.10 NMAC (A) (2001). Therefore, all of the outstanding depreciable property was construction

material as defined by the statute, and the deduction was properly denied. *See* NMSA 1978, §§ 7-9-54 and 7-9-3.4.

Operation and maintenance vs. supporting the activities.

Even if the outstanding depreciable property were not excluded by the statute, the Taxpayer's argument would fail in this case. The regulation gives several examples of "equipment, systems, or components" that may or may not support or serve the activities and processes conducted in the building. *See* 3.2.1.11 (J) (3) NMAC. These would include elevators, escalators, heating and cooling units, electrical systems, and plumbing systems. *See id.* These items would all be considered as components of the building except for items that were categorized as depreciable property

> installed to meet temperature, humidity or cleanliness requirements for the operation of machinery or equipment or the manufacture, processing or storage of products; …installed to power machinery or equipment operated as part of the activities and processes conducted in the building *and not necessary to the operation or maintenance of the building*; and…installed to perform, serve or support the activities and processes conducted in the building, such as for the handling, transportation or treatment of ingredients, chemicals, waste or water for a manufacturing or other process. *Id.* (emphasis added)

Therefore, the Taxpayer's interpretation of the regulation is too broad. The examples given in the regulation demonstrate an intent to limit the exclusion to items that provide a specific function that is necessary for the activities and processes occurring in the building, but not for the items that are part of the building's overall operation and maintenance. *See id.*

The Department pointed out that its approach, granting the part of the refund for easily removable items like fire extinguishers, is akin to the federal standard for determining if an item is tangible personal property or a structural component of a building. The federal standard is based on several factors that have to do with ease of removal. *See Whiteco Indus., Inc. v. Comm'r,* 65 T.C. 664, 672 (1975). The federal case cited by the Taxpayer also adopts this

standard, but notes that removability is not an absolute necessity. *See Hosp. Corp. of Am. v. Comm'r,* 109 T.C. 21, 57 (1997). The court notes that items are structural components of the building if they relate to the operation and maintenance of the building. *See id.* at 58. The court reviewed the extensive evidence presented on each claimed item, including information from expert witnesses on the items' functionality and their relation to the hospital care, to make a determination on each item's status as tangible personal property or as a structural component of the building. *See id.* at 61-92. The court indicated that items which served a dual function, as part of the operation of the building and as an essential component to conducting hospital activities, failed to meet the "sole justification" test and were structural components. *See id.* at 91-92. However, some items, such as the electrical system, could be partially claimed based on the amount of use directly related to the operation of hospital equipment. *See id.* at 63.

There was almost no evidence presented on the depreciable property claimed by the Taxpayer and its relation to the fire station's provision of emergency services. A few outstanding items of the claimed depreciable property were mentioned as part of the argument that they supported the activities and processes; the exhaust fans, and part of the drainage in the garage. There was no evidence on how exactly those items related to the provision of emergency services. Again, the burden is on the Taxpayer to prove that it is entitled to the deduction. *See Sec. Escrow Corp.*, 1988-NMCA-068, ¶ 8. *See also Wing Pawn Shop*, 1991-NMCA-024, ¶ 16. *See also Chavez*, 1970-NMCA-116, ¶ 7. Given the lack of evidence presented on the items claimed and their relation to provision of emergency services rather than the overall operation and maintenance of the building, the Taxpayer has failed to meet its burden. Ultimately, though, this issue is moot given the statutory limitations on taking a deduction for sales of tangible

personal property to government agencies when those items are incorporated into a construction project.

NTTCs.

The Taxpayer admitted that it regularly issued Type 6 NTTCs to its vendors. Buyers must apply to the Department for the privilege of executing NTTCs, and will only be issued appropriate NTTCs. *See* NMSA 1978, § 7-9-43 (D) (2011). A Type 2 NTTC is used by buyers who are "engaged in a business that derives a substantial portion of its receipts from leasing or selling tangible personal property". NMSA 1978, § 7-9-49 (1992). A Type 6 NTTC is used by buyers who are "engaged in the construction business" for the purchase of construction materials. NMSA 1978, § 7-9-51 (2001). The Taxpayer is engaged in the construction business and its purchases of materials are generally for purposes of performing construction. Therefore, Type 6 NTTCs are the appropriate NTTCs for the Taxpayer to issue, and there is no evidence that the Taxpayer would be entitled to issue Type 2 NTTCs.

If there were sufficient evidence to show that the Taxpayer issued Type 6 NTTCs on the items it now claims as depreciable property, it would be conclusive evidence that the items became ingredients or component parts of the construction project because the goods purchased using a Type 6 NTTC are required to be incorporated into a construction project. *See* NMSA 1978, § 7-9-51. By issuing Type 6 NTTCs for the purchases of the materials, the Taxpayer represents that it is incorporating the items into the construction project and that the project is subject to the gross receipts tax. *See id.* However, there was no substantive evidence that the Taxpayer purchased any of the claimed items using Type 6 NTTCs. The Department's argument that NTTCs were issued by the Taxpayer during the construction project to vendors who sold the same types of items claimed is speculative at best.

Matters not at issue.

The Department raised several issues that are not a part of this protest. The Department argues that the Taxpayer is not entitled to claim the deduction because the Taxpayer is not the party who can depreciate the property and that the property cannot even be categorized as depreciable property because the city is not entitled to claim the property for depreciation purposes under another provision of the Internal Revenue Code. These arguments fail as the regulation does not require these criteria. *See* 3.2.1.11 (J) (2) NMAC. There was no evidence to refute the Taxpayer's claims that the property claimed would be categorized as depreciable property as required by the regulation and the applicable section of the Internal Revenue Code. *See id.* The Department also argues that the Taxpayer underreported its gross receipts tax on the overall construction project and whether the Taxpayer would owe compensating tax. The Department argues that they should, nevertheless, be considered in offsetting any refund that might be granted to the Taxpayer pursuant to the protest.

The Department may use refunds to offset amounts of tax due. *See* NMSA 1978, § 7-1-29. However, the Department must first give appropriate notice to a taxpayer that the offset will occur. *See* NMSA 1978, § 7-1-29. Moreover, the Department must give notice to a taxpayer that a tax is due by issuing an assessment. *See* NMSA 1978, § 7-1-17. There was no evidence that the Department has done either.

Presumption of correctness only applies to assessments made. *See id.* There was little to no evidence presented at the hearing to support the Department's claims on these issues. The Taxpayer was surprised by the arguments made by the Department on the issues of the underreported gross receipts tax and compensating tax, and the Taxpayer was not afforded sufficient notice to be able to prepare and address these issues at the hearing. Although these

issues are tangentially related to the Taxpayer's claim for refund, they are not ripe and are not a part of this protest. Moreover, they are moot given the findings made in this decision.

CONCLUSIONS OF LAW

A. The Taxpayer filed a timely written protest to the Department's failure to act on its claim for refund, the protest was acknowledged by Letter ID number L0917463088, and jurisdiction lies over the parties and the subject matter of this protest.

B. Receipts for sales of construction materials to government agencies are not subject to deduction. *See* NMSA 1978, § 7-9-54 (A) (3). *See also Arco Materials*, 1994-NMCA-062. *See also* 3.2.212.10 NMAC.

C. Construction materials include any items that are incorporated into a construction project. *See* NMSA 1978, § 7-9-3.4 (B) (2003). *See also* 3.2.1.11 (H) (1) NMAC. *See also* 3.2.209.22 NMAC. *See also Arco Materials*, 1994-NMCA-062. *See also Whiteco*, 65 T.C. 664. *See also Hosp. Corp. of Am. v. Comm'r*, 109 T.C. 21.

D. The term "construction project" includes the statutory definition of construction, which includes the construction of "a building, stadium, or other structure", and regulations cannot override statutory definition. *See* NMSA 1978, § 7-9-3.4. *See also Arco Materials*, 1994-NMCA-062.

E. The Taxpayer was performing construction services for a government agency. The items claimed were incorporated into the construction project. Therefore, the deductions were properly denied. *See* NMSA 1978, § 7-9-54 and § 7-9-3.4. *See also* 3.2.1.11 (H) (1) NMAC. *See also* 3.2.209.22 NMAC. *See also Arco Materials*, 1994-NMCA-062; *Whiteco*, 65 T.C. 664; *Hosp. Corp. of Am. v. Comm'r*, 109 T.C. 21.

F. Even if the items were subject to the deduction, there was no evidence that the items claimed were necessary to support the fire station's provision of emergency services rather than necessary to the operation and maintenance of the fire station. *See* 3.2.1.11 (J) (2) NMAC. *See also Arco Materials*, 1994-NMCA-062; *Whiteco*, 65 T.C. 664; *Hosp. Corp. of Am. v. Comm'r*, 109 T.C. 21.

G. The Taxpayer failed to meet its burden. *See Wing Pawn Shop*, 1991-NMCA-024. *See also Chavez*, 1970-NMCA-116.

For the foregoing reasons, the Taxpayer's protest **is DENIED**.

DATED: August 17, 2016.

Dee Dee Hoxie

DEE DEE HOXIE
Hearing Officer
Administrative Hearings Office
Post Office Box 6400
Santa Fe, NM 87502

NOTICE OF RIGHT TO APPEAL

Pursuant to NMSA 1978, § 7-1-25, the parties have the right to appeal this decision by filing a notice of appeal **with the New Mexico Court of Appeals** within 30 days of the date shown above. *See* Rule 12-601 NMRA. If an appeal is not filed within 30 days, this Decision and Order will become final. A copy of the Notice of Appeal should be mailed to John Griego, P. O. Box 6400, Santa Fe, New Mexico 87502. Mr. Griego may be contacted at 505-827-0466.

CERTIFICATE OF SERVICE