

STATE OF NEW MEXICO  
OFFICE OF THE ATTORNEY GENERAL



HECTOR H. BALDERAS  
ATTORNEY GENERAL

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September 15, 2017

**VIA ELECTRONIC MAIL ONLY**

NYU State Impact Center  
New York University School of Law  
40 Washington Sq. South  
New York, NY 10012

**Re: NYU Law Fellows Program Application**

Dear State Impact Center Review Board:

New Mexico Attorney General Hector H. Balderas hereby submits this application to participate in The State Energy & Environmental Impact Center's NYU Law Fellows program.

**1. Program Eligibility and Narrative**

New Mexico is uniquely positioned from an energy and environmental perspective. We have a vast amount of public land, from state and national parks and landscapes that range from snow covered peaks in the north to burning desert sand dunes in the south. Our water is a precious commodity. We have some of the best land in the country for renewable energy generation, distribution, and development. However, New Mexico also is home to crippling poverty, a struggling economy, and a budget deficit that stretches state resources almost to breaking.

Though the Office houses only two attorneys dedicated to energy, utility, and environmental issues, we have demonstrated a strong commitment to protecting our environment, fighting climate change, and supporting clean energy development. New Mexico is typically among the largest oil and gas producing states to take progressive environmental positions that seek to advance and defend clean energy development, the fight against climate change, and protections for our environment.

The Office has leveraged its limited resources over the last few years by joining with other states in litigating the defense of the Clean Power Plan, the EPA's methane rule for the oil and gas industry (NSPS OOOOa), the EPA's Mercury and Air Toxic's rule, and the BLM's Venting and Flaring Rule. In addition, New Mexico has teamed with other states to bring affirmative litigation challenging recent attempts to roll back environmental regulations, including: i) delay of NSPS



OOOOa; ii) illegal suspensions of the Venting and Flaring Rule and of the DOI's Coal, Oil, and Gas Valuation Rule; iii) the DOI's lifting of the moratorium on new coal leases; iv) the EPA's delay of the accident release prevention Rule under Clean Air Act Section 112(r); v) and the EPA's delay of attainment designations under the 2015 ozone standards.

In 2016, the Office brought an action in the name of the State in response to the Gold King Mine spill, which sent millions of gallons of contaminated water coursing down the Animas River and into New Mexico. This suit is a joint effort between the Office of the Attorney General and the New Mexico Environment Department and seeks to redress harms done by the spill, but also to protect the State, our environment, and our water from future catastrophes like it. In another effort to keep New Mexico's environment and water safe, the Office undertook a legal challenge to a rule regulating the waste water and seepage from the copper mining industry in New Mexico.

In addition to litigation that seeks to enhance and defend regulations that protect our environment, the office has taken the lead in utility regulatory actions which has resulted in the reduced dependence on coal burning energy generation and has paved the way for additional transition away from carbon based generation. While statutorily charged with representing consumers in utility matters, the Office has promoted a policy that encourages cheaper, cleaner energy that is more affordable for New Mexicans. In 2015, the Office urged New Mexico regulators to undertake a study of the value which consumer-owned distributed generation adds to the grid. Recently, the Office has joined a petition that seeks to enact a rule creating a clean energy standard in New Mexico—one that would aim to reduce emissions from the energy sector in New Mexico by 80% of its 2012 amounts by 2040. The Office continues to engage stake holders in the electricity sector in ways that will bring resiliency and diversity to the grid, encourage the development of cheap renewable energy, and expand on New Mexico's clean energy potential.

Attorney General Balderas has been outspoken regarding his commitment to fighting climate change, protecting our environment, and developing clean energy. However, the office currently is only able to fund one full-time environmental attorney and one full-time utility attorney to handle these matters. New Mexico's high poverty rate, often amongst the highest in the country, coupled with its high unemployment rate, again often amongst the highest in the country, means that our economy and therefore, tax revenues, are significantly depressed. Additionally, due to our economic dependence on oil and gas production and oil's low prices recently, the State's income has been dramatically decreased.

In the last two fiscal years, as well as the upcoming fiscal year, the NM Attorney General's Office has experienced reductions in funding that has in turn impacted staffing levels due to the lack of funding. In Fiscal Year 2017, during a special session of the New Mexico legislature, the Attorney General's budget was reduced 5.5% and \$1,000,000 was taken from the consumer settlement fund. In the past few years, the consumer settlement fund has been appropriated by the NM legislature to partially fund the AG Office's operating costs (40-50% of total budget), and it has been used to supplement other state projects outside of the Office (tens of millions of dollars' worth). Due to this appropriation by the legislature, the consumer settlement fund is projected to be depleted in FY 2018, leaving the agency in search of alternative funding sources.

The budget crisis in New Mexico has gotten so bad that the Office's water and environmental protection efforts have been forced down from employing six full time attorneys to employing two. This has limited the State's ability to identify and pursue opportunities to engage in affirmative legal actions that seek to protect and enhance New Mexico's environment. Additionally, the limited resources has hindered our ability to identify and develop positions to proactively influence state and national policy.

Because New Mexico is a leading producer in oil and gas and because it is rich in potential for renewable energy development, a NYU Law Fellow who has expertise in the issues surrounding the environmental impact of oil and gas extraction and the interplay between the raw fuel and energy generation would fulfill a much-needed role in the office. Ideally, the NYU Law Fellow would have experience and knowledge regarding site extraction, transportation, as well as understanding of the economics surrounding the competition between fossil fuels and renewable energy. The Office would work with the NYU Law Fellow to identify "pressure points" on which litigation can be used to most effectively influence policy.

## **2. Program Structure**

If accepted to host an NYU Law Fellow, the Fellow would be housed in the Consumer and Environmental Protection Division (CEPD) of the Office of the New Mexico Attorney General. CEPD is charged with initiating affirmative litigation on behalf of the State. CEPD has substantial expertise in utility regulation, the federal Clean Air Act, and litigation practice. Thus a Fellow with the expertise described above would greatly benefit the division, the Office and the State. The Fellow would report directly to the Director of CEPD, who, in turn, reports to the Deputy Attorney General of Civil Affairs. The Deputy Attorney General of Civil Affairs reports directly to the Attorney General. The Fellow would be assigned an office in the Santa Fe branch of the Office, which also houses the attorney assigned to utility matters, but would work closely with the other environmental attorney located in Albuquerque.

## **3. Budget Proposal and Confirmation of Authority**

In the Office of the New Mexico Attorney General, an attorney with five to ten years of experience would qualify for a pay range of \$70,000-\$78,000 annually. This salary conforms to the salary of other, similarly experienced, attorneys in our office. The Office has no limitations or requirements governing the appointment of an employee paid by an outside funding source (unless stipulated by the funding source itself as a matter of maintaining compliance with said funding source). This serves as written confirmation that the Attorney General has the authority to hire an NYU Law Fellow as an Assistant Attorney General.

If you have questions or require more information, please contact:

Cholla Khoury  
Director, Consumer and Environmental Protection Division  
Office of the New Mexico Attorney General  
P.O. Drawer 1508

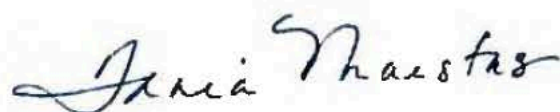


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Santa Fe, NM 87504-1508  
(505) 490-4052  
ckhoury@nmag.gov

Thank you for your consideration. We look forward to hearing from you.

Sincerely,

A handwritten signature in cursive script that reads "Tania Maestas".

Tania Maestas  
Deputy Attorney General