

RED CANL-FFCO/97

ENTERED

VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED

February 14, 1997

H. L. Plum
STP Project Manager
Office of Environments and Projects
Albuquerque Operations Office
Los Alamos Area Office
Los Alamos, NM 87544

Kenneth Hargis
STP Project Manager
Los Alamos National Laboratory
Los Alamos, NM 87445

RE: Federal Facility Compliance Order (Letter of Violation)

Dear Mr. Plum and Mr. Hargis:

The New Mexico Environment Department (NMED) has determined that the Department of Energy (DOE) Los Alamos Operations Office and the University of California at Los Alamos National Laboratory (UC) (collectively, Respondents) are in violation of the Federal Facilities Compliance Order (FFCO) issued October 4, 1995, as amended and/or revised. The purpose of this letter is to notify Respondents of these violations and request the Respondents' to submit for NMED's approval a corrective action plan within forty-five (45) calendar days from receipt of this letter regarding how the Respondents will address these issues in the future.

The following violations were observed:

- ▶ DOE and UC failed to provide NMED notification pursuant to Section XX.C.1 of the FFCO and meet the compliance date within the scheduled timeframe as set forth in the FFCO Site Treatment Plan Compliance Plan Volume (CPV) Section 3.1.1 Activity A. This violation is supported by facts outlined in a letter dated December 9, 1996 from DOE to NMED.
- ▶ DOE and UC failed meet the compliance date within the scheduled timeframe as set forth in the FFCO CPV, Section 3.4.2 "*Activities for waste items in part 1 of this treatability group*", as amended October 30, 1996 (CPV Amendment 1.0 dated October 30, 1996). This violation was noted during a meeting held between the parties on January 27, 1997.



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- ▶ DOE and UC failed to provide NMED notification pursuant to Section XX.C.1 of the FFCO regarding waste received off-site within the scheduled timeframe as set forth in the FFCO CPV Section 3.1.1 Activity C. This violation is supported by facts outlined in a letter from DOE to NMED dated January 31, 1997 and was noted during a meeting between the parties held January 27, 1997.
- ▶ DOE and UC failed to obtain approval from NMED for a revision as required under Section X of the FFCO for increases in Treatability Groups reported in the 1995 Annual Update. This violation is supported by letter from DOE to NMED dated January 31, 1997.
- ▶ DOE and UC failed to comply with the requirements set forth in Section X.B.4 or Section VIII of the FFCO for the failure to report waste previously omitted from the October 1995 CPV inventory. This violation is supported by letter from DOE to NMED dated January 31, 1997.

If NMED does not receive an acceptable corrective action plan within forty-five (45) days from receipt of this letter, NMED reserves the right to initiate formal enforcement action under the New Mexico Hazardous Waste Act. In accordance with NMSA 1978, §74-4-10 (Repl. Pamp. 1993), NMED may: (1) issue a compliance order requiring compliance immediately or within a specified time period or assessing a civil penalty for any past or current violation of up to \$10,000 per day of non-compliance with each violation or both; or (2) commence a civil action in district court for appropriate relief, including a temporary or permanent injunction. Any such order issued may include a suspension or revocation of any permit issued by NMED.

Any action taken by Respondents in response to this letter does not relieve DOE or UC of its obligation to comply with 20 NMAC 4.1 and all other applicable laws and regulations.

If you have any questions regarding this letter, please contact Janice Archuleta or me at (505) 827-1558. Please address your response to Janice Archuleta.

Sincerely,

Benito J. Garcia, Chief
Hazardous and Radioactive Materials Bureau

BJG:ja

cc: Janice Archuleta, FFCO Project Manager
Susan McMichael, NMED OGC