

FFCO

LANL



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**NEW MEXICO
ENVIRONMENT DEPARTMENT**

Hazardous Waste Bureau

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RON CURRY
Secretary

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Deputy Secretary

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

May 1, 2008

Donald L. Winchell, Jr., Manager
Los Alamos Site Office
Department of Energy
528 35th Street, Mail Stop A316
Los Alamos, NM 87544

Richard S. Watkins, Associate Director
Environment, Safety, Health, & Quality
Los Alamos National Security, LLC
Los Alamos Research Park
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Los Alamos, NM 87545

**RE: NOTICE OF NONCOMPLIANCE OF MILESTONE ACTIVITY
COMPLETION NOTIFICATION, SITE TREATMENT PLAN (STP),
FEDERAL FACILITY COMPLIANCE ORDER (FFCO)
EPA ID NO. NM08990010515**

Dear Messrs. Winchell and Watkins:

The New Mexico Environment Department (NMED) has received the March 20, 2008 letter (referenced by ENV-RCRA-08-063) entitled "Correction on the April 20, 2007 Notice of Completion of Off-Site Waste Shipment Activities in the Compliance Plan Volume (CPV), Site Treatment Plan (STP), Los Alamos National Laboratory (LANL)" submitted by LANL and the U.S. Department of Energy (the Respondents). According to this letter, a shipment of elemental mercury (LA-W920) and a shipment of bulk oils (LA-W909) were reportedly shipped; the former to ME&C in Oakridge, TN on March 5, 2007 and completed on March 9, 2007 and the latter to PernaFix in Florida on March 5, 2007 and completed on March 8, 2007.

By submitting this notice of completion of off-site waste shipment, the Respondents fulfilled the reporting requirements of Activities 3.1.10(B) and 3.1.11(B) in the Compliance Plan Volume (CPV), Section VII(B) of the Federal Facilities Compliance Order (FFCO). However, Section XX(C)(1) states "[r]espondents shall as expeditiously as possible, but in no event more than ten (10) days after a compliance date, provide notice in writing to NMED of the completion of the activity required to be completed by



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that compliance date.” By failing to provide a “Notice of Completion of Milestone Activity” letter for the completion of Activities 3.1.10(A) and 3.1.11(A), the requirements of this section were not fulfilled.

After reviewing past STP related documents, there appears to be a history of similar non-compliance in reporting of these activities. The following table illustrates some of the more notable occurrences:

Compliance Date	Date NMED received letter	LANL Letter Date	LANL reference number	Milestone Activity	Number of Days Out of Compliance
02/01/2001	02/27/02	02/20/02	E/WMOSR:02-04	3.1.11(A)	261
12/20/2001	01/25/02	01/22/02	E/WMOSR:02-01	3.2(I)	14
02/14/2002	03/08/02	03/06/02	E/WMOSR:02-05	3.1.4(A)	6
12/20/2004	03/21/05	03/16/05	ENV-SWRC: 05-018	3.1.10(A)	53
10/01/2005	03/16/06	03/15/06	SWRC:06-018	3.1.3(D)	102

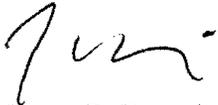
Section VI of the FFCO states “[r]espondents shall carry out all activities in accordance with the schedules and requirements set forth in the CPV of the STP and this Order” and “[t]he Compliance Plan Volume of the STP provides overall schedules...based on compliance dates as defined in Section IV (Definitions).” Section IV(B) defines a compliance date as “a fixed, firm, and enforceable date on or before which a task must be completed in accordance with the provisions of the STP.”

The Respondents must submit notices of completion for milestone activities 3.1.10(A) and 3.1.11(A) on or before Friday May 9, 2008. Compliance with the FFCO is mandatory. Anything less may result in enforcement action.

Messrs. Winchell & Watkins
May 1, 2008
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If you have any questions or comments regarding this letter, please contact Rebecca Kay of my staff at (505) 476-6040 or by email at rebecca.kay@state.nm.us.

Sincerely,



James P. Bearzi
Chief
Hazardous Waste Bureau

cc: J. Kieling, NMED-HWB
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File: Reading and LANL FFCO 2008