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GOVERNOR

State of New Mexico  
**ENVIRONMENT DEPARTMENT**  
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MARK E. WEIDLER  
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DEPUTY SECRETARY

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

July 18, 1997

Mr. G. Thomas Todd  
DOE Los Alamos Area Office  
528 35th Street MS A316  
Los Alamos, NM 87545

Dr. Seigfried Hecker, Director  
Los Alamos National Lab  
P. O. Box 1663 MS A100  
Los Alamos, NM 87545

RE: Recurring Notice of Deficiency (NOD) Issues  
Deficient Corrective Action Reports  
Los Alamos National Laboratory [NM0890010515]

Dear Messrs. Todd and Hecker:

The Resource Conservation and Recovery Act (RCRA) Permits Management Program of the New Mexico Environment Department (NMED) reviews Corrective Action (CA) Reports submitted by Los Alamos National Laboratory (LANL) in accordance with the Hazardous Waste Permit [NM0890010515].

A review of past Notice of Deficiency (NOD) Letters composed by both NMED and EPA has resulted in a compilation of several recurring deficiencies found in LANL's CA documents. Much staff time is spent reviewing and commenting on recurring deficiencies of documents submitted. To expedite the review process, these items shall be corrected in future document submittals. Major recurring deficiencies are identified in an attachment to this letter. Other recurring deficiencies of note are ecological and human health risk evaluation methodologies, use of background data, lack of appropriate confirmatory sampling, significant workplan deviations, inappropriate use of field screening technologies, analytical data presentation, and lack of pertinent environmental setting information.

NMED is aware that the Environmental Restoration Program has developed a database to consolidate information concerning NOD's for use by LANL staff in report development. NMED would like to request that all future reports be reviewed against this database prior to submittal so that recurring deficiencies can be identified and corrected per guidance provided in previous NOD comments. The submittal of reports which have been reviewed against the NOD database should result in more acceptable documents and accelerate the regulatory review process. Failure to comply with this requirement may result in document disapproval or enforcement.



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NMED also requests that LANL use the information in this database to provide a list of any submittals with deficiencies noted in the attachment which LANL is currently proposing for No Further Action (NFA).

NMED is committed to providing concise and consistent notice of deficiency comments for all corrective action documents at all corrective action facilities within the State. NMED believes that concise and consistent comments provide facilities with tools to resolve the deficiencies in a cost-effective and efficient manner. At LANL it appears that limited resources are being diverted from the protection of human health and the environment to address these identified recurring deficiencies. The Department of Energy, LANL, and the people of New Mexico would be better served if these recurring deficiencies were resolved as expeditiously as possible.

Thank you for looking into resolving the problem of these recurring deficiencies. NMED would like to offer our assistance and looks forward to working closely with you to bring restitution to these issues. HRMB would like to schedule a meeting with your staff to discuss these issues. At your convenience, please contact Mr. John Kieling, HRMB's LANL Facility Manager, at (505) 827-1558 to schedule a meeting.

If you have any questions concerning this letter, please do not hesitate to contact myself at (505) 827-2855 or Mr. Benito Garcia of my staff at (505) 827-1558.

Sincerely,



Ed Kelley, Ph.D., Director  
Water and Waste Management Division

EK\dw

attachment

cc: G. Allen, LANL, CST-6, MS E525 (with enclosure)  
T. Baca, LANL, EM, MS J591 (with enclosure)  
T. Davis, NMED HRMB (with enclosure)  
R. Dinwiddie, NMED HRMB (with enclosure)  
T. Glatzmaier, LANL, DDEES/ER, MS M992 (with enclosure)  
G. Gould, LANL, ESA-4, MS G757 (with enclosure)  
E. Kelley, NMED SWQB (with enclosure)  
J. Kieling, NMED HRMB (with enclosure)  
D. Krier, LANL, EES-1, MS J577 (with enclosure)  
M. Leavitt, NMED GWQB (with enclosure)  
D. McInroy, LANL, EM/ER, MS M992 (with enclosure)  
S. McMichael, NMED OGC (with enclosure)  
R. Michelotti, LANL, CST-7, MS E525 (with enclosure)  
D. Neleigh, EPA, 6PD-N (with enclosure)  
J. Parker, NMED DOE OB (with enclosure)  
A. Pratt, LANL, EES-13, MS J521 (with enclosure)  
G. Rael, DOE AL, MS A906 (with enclosure)  
M. Salazar, LANL, EM/ER, MS M769 (with enclosure)  
T. Taylor, LAAO, MS A316 (with enclosure)  
J. Tymkowich, NMED RCRA I&E (with enclosure)  
S. Yanicak, NMED DOE OB (with enclosure)  
File: LANL HSWA, G/M/P '97  
Track: LANL, Date, N/A, DOE/LANL, WWMD/NMED/dww, RE, File

ATTACHMENT  
Recurring Notice of Deficiency (NOD) Issues  
Deficient Corrective Action Reports  
Los Alamos National Laboratory

- An item that often prevents NMED from approving a report concerns analytical holding times and recoveries. Samples which greatly exceed holding times and/or have unusually low recoveries cannot be considered conclusive. LANL is submitting reports containing high percentages of uncertain qualified data and, in some instances, rejected data. Qualified data, in turn, are being used to propose no further action or to provide justification for remedial action decisions. For information concerning qualified data, please note the following references: 1)U. S. Environmental Protection Agency. Using Qualified Data to Document an Observed Release. EPA/540/F-94/028. Washington, D.C.: U. S. EPA, July 1994; and 2)U. S. Environmental Protection Agency. Risk Assessment Guidance for Superfund, Volume 1, Human Health Evaluation Manual (Part A). EPA/540/1-89/002. Washington D.C.: U. S. EPA, December 1989.
- Several RCRA Facility Investigation (RFI) Workplans, Voluntary Corrective Action Plans, Sampling Plans, etc., included composite sampling for characterization. Composite samples may not be used to determine the absence of hazardous waste or hazardous constituents at a site because the act of compositing may dilute the presence of a constituent. Section Q of the Hazardous Waste Permit, Scope of Work for a RCRA Facility Investigation at Los Alamos National Laboratory states: The purpose of this RCRA Facility Investigation is to determine the nature and extent of release of hazardous constituents from solid waste management units. Composite sampling does not support the objective of the RFI. The Toxicity Characteristic Leachate Procedure (TCLP) has been used by LANL during RFIs to characterize sites. This test shall not be used for the determination of the presence of hazardous waste or hazardous constituents at a site. 40 CFR Part 261.24(a) specifies the TCLP test to determine if a solid waste exhibits the characteristic of toxicity.
- The depth at which sampling occurs is often too shallow to ascertain whether or not the extent of contamination has been adequately determined. For example, sampling at six (6) inches in a leachfield is inappropriate to determine if a release has occurred.
- Another sampling issue of concern noted in several NOD letters is the number of samples taken. For example, RFI reports requesting NFA for a site cannot be approved for a site without an adequate number of samples taken to determine the nature and extent of contamination.