



NEW MEXICO
HEALTH AND ENVIRONMENT
DEPARTMENT

August 1, 1988

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ENVIRONMENTAL IMPROVEMENT DIVISION

Michael J. Burkhart
Director

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Governor

LARRY GORDON
Secretary

CARLA L. MUTH
Deputy Secretary

CERTIFIED MAIL
RETURN REQUESTED
P 456 379 876

Mr. Siegfried S. Hecker, Director
Los Alamos National Laboratory
P.O. Box 1663
MS K490
Los Alamos, NM 87544

RE: COMPLIANCE ORDER/SCHEDULE
LOS ALAMOS NATIONAL LABORATORY
NMO890010515

Dear Mr. Hecker:

Enclosed herein is a **COMPLIANCE ORDER/SCHEDULE** issued to Los Alamos National Laboratory (LANL) pursuant to the New Mexico Hazardous Waste Act, Section 74-4-1 to 74-4-13 NMSA 1978. The Compliance Order/Schedule states that LANL has failed to comply with the New Mexico Hazardous Waste Management Regulations (HWMR-4) promulgated under the authority of the New Mexico Hazardous Waste Act. These violations are specifically set out in this Compliance Order/Schedule.

The Compliance Order/Schedule sets forth a schedule of compliance, and an assessment of penalties. You may be subject to additional civil penalties of up to ten thousand dollars (\$10,000) per day per violation for failure to comply with this Compliance Order/Schedule, as set forth in Section 74-4-10 and 74-4-12 NMSA 1978.

Any inquiries should be directed to Ms. Gini Nelson at (505) 827-2990. All correspondence required by this Compliance Order/Schedule should be sent to Mr. Boyd Hamilton of the Hazardous Waste Bureau at the above address.

Sincerely,

Michael J. Burkhart
Director
Environmental Improvement Division

MJB/JG/aw

cc: Janie Hernandez, EPA
Michael Brown, District II Manager
Mr. Harold Valencia, Manager, DOE
Gini Nelson, Assistant General Counsel, HI



STATE OF NEW MEXICO
ENVIRONMENTAL IMPROVEMENT DIVISION

IN THE MATTER OF:
LOS ALAMOS NATIONAL LABORATORY
LOS ALAMOS, NEW MEXICO 87544

DOCKET NUMBER
NMHWA 880801

COMPLIANCE ORDER/SCHEDULE

This Compliance Order/Schedule is issued pursuant to the New Mexico Hazardous Waste Act, Section 74-4-10 NMSA 1978, (as amended) under the authority of the Director of the Environmental Improvement Division (EID) of the New Mexico Health and Environment Department, as designated.

The Director of the EID has determined that Los Alamos National Laboratory (LANL), has violated the New Mexico Hazardous Waste Act and the regulations promulgated thereunder, as outlined below.

FINDINGS

1. LANL and the Department of Energy (DOE) notified the U.S. Environmental Protection Agency (EPA) on August 18, 1980, that LANL generated, treated, stored and/or disposed of hazardous waste at Los Alamos National Laboratory. In the Notification it was indicated that DOE owns, and LANL operates, the facility.
2. LANL is owned by the U.S. Department of Energy and operated by the University of California. All references to "LANL" include the physical facility and the University of California.
3. On October 14, 1986, a Notice of Violation was issued to LANL by EID requiring that each unit at LANL which treats,

stores or disposes of hazardous waste be either permitted or properly closed.

4. On December 1, 1986, EID notified LANL that the Division considered that LANL's recent Part B submittal had identified all units that would be permitted, and that any additional units which may be identified would be in violation of the regulations for operating without a permit.
5. On March 24, 1987, LANL notified EID that the Parts A and B hazardous waste permit application, revised November 1986, were "accurate, complete and correct".
6. On July 14-16, 1987, EPA and EID performed a detailed hazardous waste inspection at LANL.
7. On November 10, 1987, an Notice of Violation (NOV) was issued to LANL based on the findings of the July 14-16 inspection.
8. The November 10, 1987, NOV was withdrawn by EID, following a meeting with DOE and LANL, due to a lack of specificity on some of the violations.
9. On December 15, 1987, LANL submitted a request for a groundwater monitoring waiver for TA-16 which included a statement that additional information would be forthcoming. This additional information was submitted on February 11, 1988.
10. On January 8, 1988, EID issued a revised NOV to LANL based on EID's inspection of July 14-16, 1987. This NOV advised LANL that it had violated several provisions of the New Mexico Hazardous Waste Act and the New Mexico Hazardous Waste Management Regulations (HWMR-3).
11. The violations in the January 8, 1988, NOV included:
 - a) The Part A certification was not dated. Sections 202.D.1. and 202.E.
 - b) Manifests were not available for shipments of solvents to Safety-Kleen and shipments of precious metals for recycling. Section 203.A.1.a.
 - c) There was no ground water monitoring at the Area P landfill; the surface impoundment at Area 16; or the

- solvent disposal area at Area 16-Building 340. Section 206.C.1.
- d) Containers of hazardous waste being accumulated at TA-33-39, TA-43, and TA-51 were not marked. Section 206.C.1.
 - e) Containers of hazardous waste being accumulated at TA 53 were not labeled. Section 204.B.1.c.
 - f) The design capacity for storage of hazardous waste at Area L had been exceeded. Section 302.C.2.a.(3).
 - g) Tanks being used to store hazardous waste at Area L for less than 90 days were not labeled. Section 204.B.1.c.
 - h) LANL had not obtained detailed chemical and physical analyses from the waste streams generated on-site prior to treatment and/or storage and/or disposal. Section 206.B.3.a.
 - i) The Contingency Plan had not been updated to identify the primary emergency coordinator. Section 206.B.10.g. and k.(4).
 - j) Waste analyses were not maintained in the operating record for wastes not previously burned in the thermal treatment unit at Area 16. Section 206.C.11.c.
 - k) The following information was not available in the operating record for Area P. Section 206.C.9.c.:
 - a) a map showing the location and dimensions of each cell.
 - b) the contents of each cell and location within the cell.
 - l) LANL had failed to prepare a groundwater monitoring assessment outline for those areas identified in #3 above. Section 206.C.1.d.
 - m) LANL had failed to develop a closure plan for the hazardous waste management unit at Area 16-Building 340. Section 206.C.2.
 - n) LANL had managed hazardous waste at Area 16-Building 340; an area not specified on the Part A. Sections

202.D., 202.E., and 302.C.2.a.(2).

- o) The Part A did not specifically identify what is being treated and/or stored and/or disposed of, but rather that everything might be treated, stored and or disposed of on-site. Sections 202.E. and 302.A.4.a.(15).
 - p) The Part A did not identify all past, present, and/or future hazardous waste management activities. Examples are the hazardous waste management unit at Area 16-Building 340, and the surface impoundment at Area 16. Section 202.E.
 - q) There are 10 drums of transformer oil at TA-53, MPF-14 for which a determination had not been made by LANL as to whether the oil is a hazardous waste. Section 204.A.3.
 - r) A determination had not been made by LANL as to whether the 4 USMC tanks at Area L are being used to treat a hazardous waste. Section 204.A.3.
 - s) Inspection checklists were not available for the tanks at Area L. Section 206.B.5.b.
12. On January 15, 1988, amendments to HWMR-3 were incorporated into HWMR-4. All provisions of HWMR-3 and HWMR-4 pertinent to this Compliance Order/Schedule are identical.
13. On February 11, 1988, LANL responded to the January 8, 1988, NOV. In addition, EID conducted a follow-up inspection on June 21, 1988. EID reviewed the submitted documentation and the results of the follow-up inspection and determined the following findings of fact with regard to the aforementioned violations (Note: these statements refer to the violations cited by the same letter in Finding number 8.):
- a) The violation was corrected within thirty days of the NOV. However, the 8700-12 forms (Notification of Hazardous Waste Activity) which were submitted were not signed and dated. Sections 202.D.1. and 202.E.
 - b) This violation was corrected by the response and correction was confirmed by EID's follow-up inspection. Section 203.A.1.a.

- c) This violation was not corrected within thirty days. An incomplete request for a waiver from groundwater monitoring was submitted by LANL on December 15, 1987, and supplemented on February 11, 1988. However, a groundwater monitoring system was not installed within thirty days, and the submittal of a groundwater waiver application in lieu of installing the required monitoring system does not resolve the violation. Section 206.C.1.
- d,e) These violations are considered to have been corrected by the response, as confirmed by the follow-up inspection. Sections 206.C.1., and 204.B.1.c.
- f) This violation was not corrected within thirty days of receipt of the NOV. Further, the follow-up inspection confirmed this failure to correct within thirty days. Section 302.C.2.a.(3).
- g) This violation has been corrected by the response and confirmation of the correction was made by the follow-up inspection. Section 204.B.1.c.
- h) This violation was not corrected by LANL's response within thirty days. In addition, the July 14-16, 1987, inspection revealed waste streams which had not been previously identified or analyzed by LANL. Section 206.B.3.a.
- i) This violation was corrected within thirty days of receipt of the NOV. Section 206.B.10.g. and k.(4).
- j,k) These violations were corrected by the response. Sections 206.C.11.c., and 206.C.9.c.
- l) This violation was not corrected within thirty days of the NOV because DOE and LANL failed to submit a groundwater assessment plan. Section 206.C.1.d.
- m,n) These violations were not corrected within thirty days of the NOV, and DOE and LANL failed to submit the documents as required by the HWMR-4. Sections 206.C.2., 202.D., 202.E., and 302.C.2.a.(2).
- o) This violation was corrected by the response. Sections 202.E. and 302.A.4.a.(15).

- p) This violation was not corrected within 30 days of the NOV, and DOE and LANL have failed to identify hazardous waste management units at Area 16. EID does not have adequate information to determine whether there may be additional unidentified units. Section 202.E.
 - q) This violation is considered to have been corrected by the response, with the understanding that during future inspections LANL must have an authorized representative available to answer all questions regarding hazardous waste management. Section 204.A.3.
 - r) This violation is considered to have been corrected by the response. Section 204.A.3.
 - s) This violation is considered to have been corrected by the response. Section 206.B.5.b.
- 14. The failure to describe all treatment, storage or disposal processes for hazardous wastes is a violation of the October 14, 1986, NOV and Section 302.A.4.a.(14). of HWMR-3.
 - 15. The violation of Section 302.A.4.a.(14). HWMR-3, as cited in the October 14, 1986, NOV has extended more than thirty days beyond the issuance of the NOV.
 - 16. The violations of HWMR-4 as noted in Finding number 12 above, has extended more than thirty days beyond issuance of the NOV.

CONCLUSIONS

- 1. LANL and DOE are "persons" within the meaning of the New Mexico Hazardous Waste Act, Section 74-4-3.J NMSA 1978, and therefore is subject to the provisions of that Act.
- 2. Section 6001 of the Resource Conservation and Recovery Act of 1976, provides that federal facilities, and any instrumentalities thereof, are subject to state hazardous waste management requirements.
- 3. LANL and DOE are the operator and owner, respectively, of a hazardous waste facility that treats, stores, or disposes of hazardous waste within the meaning of the New Mexico Hazardous Waste Act, Section 74-4-3.D.L., and O. NMSA 1978,

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and therefore is subject to the provisions of that Act.

4. LANL has violated HWMR-3 as noted in Finding number 14 above.
5. LANL has violated HWMR-4 as noted in Finding number 11 above.
6. EID has the authority to issue this Compliance Order/Schedule pursuant to Section 74-4-10.A NMSA 1978.

COMPLIANCE ORDER/SCHEDULE

Pursuant to the New Mexico Hazardous Waste Act Section 74-4-10 NMSA 1978, and under the authority of the EID Director, LANL is hereby ordered to conduct the following activities by the dates set forth below:

1. Within 45 days of the receipt of this Compliance Order/Schedule,
 - a) Sign, date and resubmit the 8700-12 notification forms which were included in the February 11, 1988, response to the January 8, 1988, NOV.
 - b) Develop, and submit to EID, groundwater assessment plans for the TA-16 surface impoundment and the outfall from Building 340.
 - c) Submit a closure plan for the outfall from Building 340 and amend the Part A application to include this outfall.
 - d) Identify, and report to EID, all hazardous waste management sites, both active and inactive, including the surface impoundment at TA-16 and Building 340.
 - e) Submit a plan, subject to EID approval, for performing chemical and physical analyses on all wastes streams. This plan shall be reviewed and modified, as necessary, by EID. The plan, after EID approval, will be considered a binding portion of this Compliance Order/Schedule.

PENALTY

Section 74-4-10 NMSA 1978, authorizes an administrative penalty of up to ten thousand dollars (\$10,000) per day for each

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violation. EID is assessing an administrative penalty against Los Alamos National Laboratory based on the seriousness of the violations, the threat of harm to public health or the environment, and LANL's efforts to comply with the applicable regulations. The assessed penalty is fifty-one thousand, four hundred ninety-four dollars and fifty cents (\$51,494.50).

This Compliance Order/Schedule is effective immediately, and will become final unless LANL submits a written request for a public hearing to the Director of EID no later than (30) days after receipt of this Compliance Order/Schedule.

If, for any reason, LANL should fail to comply with the requirements of this Compliance Order/Schedule, EID may seek relief in district court pursuant to Section 74-4-12 of NMSA 1978. These sections authorize a civil penalty of up to ten thousand dollars (\$10,000) per day for each violation of the Compliance Order/Schedule.

All correspondence relating to this Compliance Order/Schedule shall be sent by Registered Mail, or Certified Mail, return receipt requested, to the following address:

Mr. Boyd Hamilton
Program Manager
Hazardous Waste Section
Environmental Improvement Division
P.O. Box 968
Santa Fe, New Mexico
87504-0968

Compliance with the requirements of this Order does not relieve LANL of its obligations to comply with HWMR-4 nor its obligations to comply with any other applicable laws and regulations.



Michael J. Burkhart
Director
Environmental Improvement Division

MJB/JG/aw