



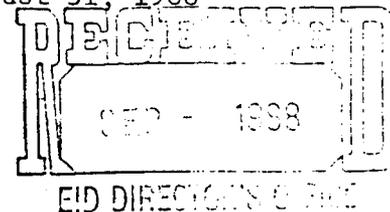
Department of Energy

Albuquerque Operations
Los Alamos Area Office
Los Alamos, New Mexico 87544

SEP 06 1988

OFFICE OF THE SECRETARY

August 31, 1988



Mr. Michael Burkhart, Director
New Mexico Health and Environment Department
Harold Runnels Building
1190 St. Francis Drive
Santa Fe, NM 87501

Request for Public Hearing in the Matter of Compliance
Order/Schedule, Los Alamos National Laboratory, NM 0890010515 -
Under Protest.

Dear Mr. Burkhart:

The United States Department of Energy (DOE) and the Regents of the University of California (the University) request a public hearing on the above referenced Compliance Order/Schedule pursuant to 74-4-10F, NMSA 1978, as amended. We make this request for public hearing under protest for the following reason.

Section 74-4-10F, NMSA 1978, as amended, requires that the public hearing be requested within 30 days after the Compliance Order/Schedule is served. At this time EID has not promulgated rules of procedure for a hearing conducted pursuant to 74-4-10F, NMSA 1978, as amended. DOE and the University assert that the requirement to elect a public hearing without adequate notice of the rules of procedure governing such hearing is a denial to DOE and the University of their fundamental rights of due process. Accordingly, this request for a public hearing shall not be construed as a waiver by DOE or the University of their rights to due process; nor shall it be construed as a waiver by DOE or the University of their rights to contest the validity of the public hearing for lack of due process either in the course of the public hearing or in a court of competent jurisdiction.

In making this request for public hearing, neither DOE nor the University waive their rights to challenge the authority of New Mexico to impose administrative sanctions on DOE or the University for alleged violations at the Los Alamos National Laboratory of the New Mexico Hazardous Waste Act, on account of the sovereign immunity of the United States of America.



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Mr. Michael Burkhart

2

August 31, 1988

Should you have questions or require additional information, please contact Joyce Hester Laeser, Counsel, Los Alamos Area Office, Department of Energy, at 667-4667.

Sincerely,

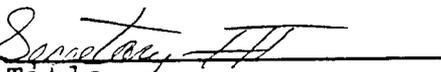

Harold E. Valencia
Area Manager
Los Alamos Area Office
Department of Energy


Allen J. Tiedman
Associate Director for Support
Los Alamos National Laboratory

cc: Gini Nelson, EID, PO Box 968, Santa Fe, NM 87504-0968

Hand delivery acknowledged by the Environmental Improvement Division in lieu of Certified Mail.


Signature


Title


Date