

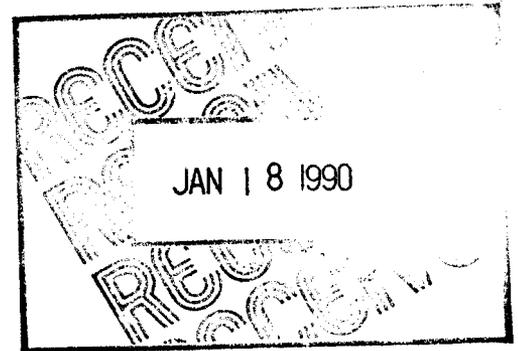
January 17, 1990

Joyce Hester Laeser, Esq.
Counsel
U.S. Department of Energy
Albuquerque Operations
Los Alamos Area Office
Los Alamos, New Mexico 87544

ALSO VIA FAX

Michael Yesley, Esq.
Office of Laboratory Counsel
Los Alamos National Laboratory
Post Office Box 1663
Mail Stop A187
Los Alamos, New Mexico 87545

ALSO VIA FAX



Re: In the Matter of Compliance Orders Docket No. 880801
and 880801-A, Hearing No. 89-01

Dear Ms. Laeser and Mr. Yesley:

I have reviewed Ms. Laeser's letter faxed late yesterday afternoon and have the following comments:

Re: Director's Approval. As I have indicated, the EID Director will disapprove the consent agreement or approve and order compliance with the terms of the consent agreement by separate order. This is EID's procedure for consent agreements in compliance order proceedings. I enclose copies of the first and signature pages of the Sandia settlement (showing signature by Deputy Director Kirkland Jones), with a copy of the separate Order presented to and signed by the Director (approving the Compliance Agreement and making it a final order of the Director). In protesting this requirement, you have made no allegations of any detriment to or even of inconvenience to your clients. Absent any compelling reason to, my client will not change its procedure on this point.

Re: Hearing Rule 108.B. The language you propose in your letter admitting the jurisdictional allegations of the compliance orders is acceptable to EID.

Re: ¶I.E. "Authority to Contract". As Ms Laeser and I discussed in our telephone conversation on January 12, 1990, EID proposes the title of this provision to changed from "contract" to, e.g., "Enter Into This Consent Agreement".

OFFICE OF GENERAL COUNSEL
Harold Runnels Building
(505) 827-299C
1190 St. Francis Dr
Santa Fe, New Mexico



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Joyce Hester Laeser, Esq.
Michael Yesley, Esq.
January 17, 1990
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At this time, not having seen your revised draft consent agreement, and given that final agreement has not yet been reached on all points, I can represent to the Hearing Officer that negotiations are proceeding, and appear to be very close to resolution, but that more time is needed. I can therefore join with you for a Third Joint Motion to Stay Proceedings. I will be out of my office all of this morning, i.e., Wednesday, January 17, 1990. If you wish to arrange a telephone conference call with the Hearing Officer, I will be available after 3:00 p.m. today (Wednesday). Please call and leave a message with my office confirming the time of the telephone conference call.

Sincerely,



GINI NELSON
Assistant General Counsel

Enclosure(s)

cc: Boyd Hamilton, EID Hazardous Waste Program Manager

STATE OF NEW MEXICO
ENVIRONMENTAL IMPROVEMENT DIVISION
HEALTH AND ENVIRONMENT DEPARTMENT

IN THE MATTERS OF:
DEPARTMENT OF ENERGY AND
SANDIA NATIONAL LABORATORIES
ALBUQUERQUE, NEW MEXICO

DOCKET NUMBERS
NMHWA 880504
NMHWA 880503

ORDER

THIS MATTER HAVING COME before the Director on the agreement of the parties to approve the Compliance Agreement and the Director being fully apprised with premises therein:

THE DIRECTOR FINDS that the Compliance Agreement is in conformance with the Hazardous Waste Act and that the Compliance Agreement is governed by the Hazardous Waste Act, Section 74-4-10.C NMSA 1978.

IT IS THEREFORE ORDERED that the Compliance Agreement be, and hereby is, approved and made a final order of the Director.



RICHARD MITZELLELT, DIRECTOR
Environmental Improvement Division
Health and Environment Department
State of New Mexico

Date: 1/11/90

STATE OF NEW MEXICO
ENVIRONMENTAL IMPROVEMENT DIVISION
HEALTH AND ENVIRONMENT DEPARTMENT

IN THE MATTERS OF:
DEPARTMENT OF ENERGY AND
SANDIA NATIONAL LABORATORIES
ALBUQUERQUE, NEW MEXICO

DOCKET NUMBERS
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COMPLIANCE AGREEMENT

This Compliance Agreement ("Agreement") is made between the Environmental Improvement Division of the New Mexico Health and Environment Department ("EID") and the United States Department of Energy ("DOE") and Sandia National Laboratories ("Sandia").

Background. EID issued a Compliance Order/Schedule to DOE (NMHWA 880504) and Sandia (NMHWA 880503) on May 11, 1988. The Compliance Order/Schedule alleged violations of the New Mexico Hazardous Waste Act, Sections 74-4-1 through 74-4-13 NMSA 1978 and the regulations promulgated thereunder. On June 9, 1988, DOE/Sandia, pursuant to Section 74-4-10 NMSA 1978, formally requested a public hearing.

Based on the information available to the parties on the effective date of this Agreement and without an appeal hearing or adjudication of any issues of fact or law, the Parties agree to be bound and obligated as stated in this Agreement.

Both DOE and Sandia deny that they are, or have been, out of compliance with Section 74-4-1 through 74-4-13 NMSA 1978, HWMR-4 and/or RCRA regulatory requirements at any time or for any activity relating to the Chemical Waste Management Area.

For the sole purpose of compromising and settling all matters

DOE/Sandia in writing that all conditions of this Agreement have been completed by DOE/Sandia. Such notification shall not be unreasonably withheld.

13. Merger. This Settlement Agreement contains all the terms of the settlement agreement between the parties, there being no oral agreements not contained herein.

14. Effective Date. This Agreement is effective when signed by all parties to this Agreement.

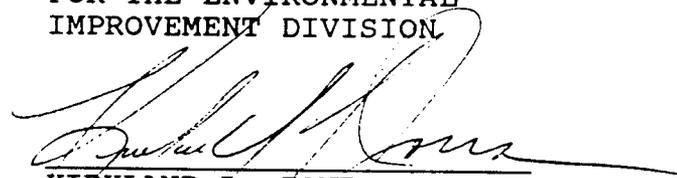
FOR DEPARTMENT OF ENERGY AND
SANDIA NATIONAL LABORATORIES



N. R. ORTIZ
Director, ES & H
Sandia National Laboratories
P.O. Box 5800
Albuquerque, NM 87185

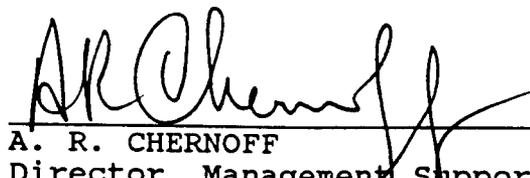
Date: 13 December 1989

FOR THE ENVIRONMENTAL
IMPROVEMENT DIVISION



KIRKLAND L. JONES
Deputy Director,
Environmental
Improvement Division
1190 St. Francis Drive
Santa Fe, New Mexico 87503

Date: 13 December 1989



A. R. CHERNOFF
Director, Management Support Division
U.S. Department of Energy
P.O. Box 5400
Albuquerque, NM 87115

Date: 12/29/89