

New Mexico Health and Environment Department

GARREY CARRUTHERS
Governor

DENNIS BOYD
Secretary

MICHAEL J. BURKHART
Deputy Secretary

RICHARD MITZELFELT
Director

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

June 18, 1990

Mr. Jack Tillman
Area Manager
DOE Area Office
Los Alamos, New Mexico 87544

RE: Notice of Violation
NM0890010515

Dear Mr. Tillman:

On March 5-9, 1990, the New Mexico Environmental Improvement Division (EID) conducted a hazardous waste inspection of the Los Alamos National Laboratory (LANL). This letter is EID's notice that, based on our review of the information obtained, EID has determined that LANL has violated the New Mexico Hazardous Waste Management Regulations (HWMR-5, as amended 1989) and its permit. The purpose of this letter is to delineate the violations in writing and to require LANL to comply with HWMR-5 and its permit.

The violations are:

1. At numerous satellite accumulation points, drums had unsealed lids just laying on the tops. This is a violation of HWMR-5, Part III, 40 CFR section 262.34(c)(1)(i). To be considered properly closed, containers must not have loosely fitting tops.
2. At the TA 3-1486 pesticide shed, which is a satellite accumulation point, a container of a diazinon liquid labelled hazardous waste was not closed. This is also a violation of HWMR-5, Pt. III, sec. 262.34(c)(1)(i).
3. At the TA 16-460 satellite accumulation point, a drum of HE-contaminated solvent had a badly rusted top. This is a violation of HWMR-5, Pt. III, sec. 262.34(c)(1)(i). This drum should be replaced by a container in good condition.
4. At TA 46-24 and 154, and TA 53-17, containers at satellite accumulation points had no proper marking to indicate their contents. This is a violation of HWMR-5, Pt. III sec. 262.34(c)(1)(ii).



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5. At the TA 35-125, TA 39-2, and TA 46-154 satellite accumulation points, hazardous waste in excess of fifty-five gallons had accumulated at the sites without compliance with applicable requirements. This is a violation of HWMR-5, Pt. III, sec. 262.34(c)(2).

6. At TA 53-111A, at least one of the personnel at the satellite accumulation point apparently disposes of acetone contaminated rags in the regular trash bin, even though there is a can labelled for contaminated rags in the shop. Disposal of hazardous waste by a generator at other than a hazardous waste management facility is a violation of HWMR-5, Pt. III, sec. 262.12(c).

7. At TA 53-1, a tank in the basement receives contaminated effluent from the building labs. An adequate hazardous waste determination has not been performed on this waste stream. This is a violation of HWMR-5, Pt. III, sec. 262.11. Very little testing of this waste stream is done, and since it varies in nature, a more thorough testing program needs to be implemented to ensure that it is never hazardous. At the time of the inspection, personnel did not have adequate data to prove that it is not a hazardous waste tank.

8. The transporter's identification number on a manifest accompanying an offsite shipment of hazardous waste was incorrect in that it was missing a digit. This is a violation of HWMR-5, Pt. III, sec. 262.20(a).

9. Two drums of lead solid hazardous waste were being stored in TA 54-70, which is an area that is not designated for such storage in the permit. This is a violation of Permit Module III.A.1.

In accordance with Section 74-4-10 of the New Mexico Statutes Annotated (NMSA), 1978 (1989 Supp.), you have thirty (30) calendar days from the receipt of this notice to provide documentation that the aforementioned violations have been corrected. Within this thirty day period you may request a meeting to discuss the violations, the required corrective actions and/or a settlement agreement. Such a meeting must be held within this thirty day period and will not suspend the thirty day deadline for compliance or settlement.

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If you fail to correct the violations cited in this Notice of Violation (NOV) within the specified time frame, you shall be subject to one or more of the following:

1. an order requiring compliance within a specified period, pursuant to Section 74-4-10 NMSA, 1978 (1989 Supp.), and/or an order assessing civil penalties of up to \$10,000 per violation for each day of continued noncompliance, pursuant to Sections 74-4-10 and 74-4-12 NMSA, 1978 (1989 Supp.).
2. a civil action in district court for appropriate relief, including a temporary or permanent injunction, pursuant to Section 74-4-10 NMSA, 1978 (1989 Supp.), and/or the assessment of civil penalties of up to \$10,000 per violation for each day of continued noncompliance, pursuant to Sections 74-4-10 and 74-4-12 NMSA, 1978 (1989 Supp.).
3. Termination of the Permit under Section 74-4-4.2 NMSA, 1978 (1989 Supp.).

Any settlement reached shall be finalized upon the issuance of a written settlement agreement by the Director of EID. This issuance of a settlement agreement shall constitute a waiver on your part to request a hearing pursuant to this notice.

In addition to the violations mentioned above, apparent violations of the Land Disposal Restriction (LDR) regulations regarding proper notification for restricted wastes shipped offsite were noted during the inspection. The authorized State program does not include the LDR regulations which became effective November 8, 1986. Therefore, the U.S. Environmental Protection Agency (EPA) implements and enforces the LDR regulations. This notice is a courtesy, and does not preclude any future formal or informal enforcement action which the EPA may determine to be appropriate regarding the apparent LDR violations mentioned above.

Also, several areas of concern were noted. A satellite accumulation point at TA 35-85 had several partially full drums, possibly exceeding fifty-five gallons. A disposal request was made on Feb. 28, indicating that the accumulation amount was at or near the limit. The number and size of containers at this site is somewhat impractical for a satellite accumulation point. Also, in the basement of the Life Sciences Building, a satellite point had numerous containers of hazardous waste not separated by

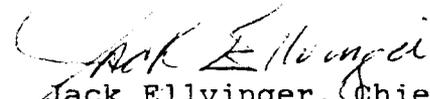
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compatibility. At the TA 54 Area L bulk container storage area, a drum of hazardous waste had the proper D002 waste code marking, but an additional bar code label, which is an internal marking system, had a D001 marking. These two waste numbers were conflicting in describing the waste.

Compliance with the requirements of this NOV does not relieve LANL of its obligation to comply with HWMR-5 in other activities which it carries on, nor does it relieve LANL of its obligation to comply with any other applicable laws and regulations.

If you have any questions regarding this notice, please contact Mr. Coby Muckelroy at (505)827-2922 or at our address. Please also address to Mr. Muckelroy's attention the information you provide in response to this letter.

Sincerely,


Jack Ellvinger, Chief
Hazardous Waste Bureau

JE/cm

cc: Lynn Prince, U.S. EPA Region VI (6H-HS)
EID District II Office
Gini Nelson, Office of General Counsel

STATE OF NEW MEXICO
ENVIRONMENTAL IMPROVEMENT DIVISION
HEALTH AND ENVIRONMENTAL DEPARTMENT

IN THE MATTERS OF:

~~DEPARTMENT OF ENERGY AND~~
~~LOS ALAMOS NATIONAL LABORATORY~~
~~LOS ALAMOS, NEW MEXICO~~

COMPLIANCE ORDERS Docket Nos. 880801 + 880801-A

DOCKET NUMBERS
~~NMHW 880801~~
~~NMHW 880801-A~~
~~NMHW 001007~~

89-01
JH
(for all attys)

ORDER

This matter having come before the Director on the Joint Motion of the parties to rescind the Order dated April 29, 1990, due to an error contained therein and to issue a substitute Order approving the parties' Settlement Agreement in these matters, and

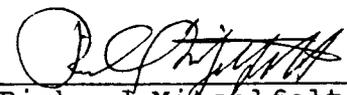
The parties having previously submitted their Consent Agreement to resolve these matters, and the Director being fully apprised with the premises therein:

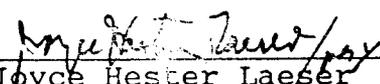
The Director finds that: (a) the Order dated April 29, 1990 should be rescinded due to error, and (b) the Consent Agreement is in conformance with the Hazardous Waste Act and is governed by the Hazardous Waste Act, Section 74-4-10, NMSA 1978.

IT IS THEREFORE ORDERED that the Order dated April 29, 1990, be, and hereby is, rescinded, and that the Consent Agreement be, and hereby is, approved and made a final order of the Director.

Approved:


Gini Nelson
Assistant General Counsel
Health & Environment Department


Richard Mitzelfelt, Director
Environmental Improvement
Division
Health and Environment
Department
State of New Mexico


Joyce Hester Laeser
Attorney for Respondent
U.S. Department of Energy

Date 6/12/90


Michael S. Yesley
Attorney for Respondent
Los Alamos National Laboratory

ENVIRONMENTAL IMPROVEMENT DIVISION
OFFICE OF THE DIRECTOR
JUN 14 1990
FILED BY HEARING CLERK
DOCKET NO. 89-01