



**Department of Energy**  
 Field Office, Albuquerque  
 Los Alamos Area Office  
 Los Alamos, New Mexico 87544

**AUG 25 1994**

TA-54

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Mr. Coby Muckelroy, Manager  
 RCRA Inspection/Enforcement Program  
 Hazardous and Radioactive Materials Bureau  
 New Mexico Environment Department  
 525 Camino de los Marquez  
 P. O. Box 26110  
 Santa Fe, New Mexico 87502

Dear Mr. Muckelroy:

The Department of Energy (DOE) and The Regents of the University of California (University) have received the Compliance Order NMHWA 94-12 from Kathleen M. Sisneros, Director, Water and Waste Management Division, New Mexico Environment Department (NMED), on August 15, 1994. The Compliance Order, issued pursuant to the New Mexico Hazardous Waste Act, states that the Los Alamos National Laboratory (LANL) has failed to comply with the New Mexico Hazardous Waste Management Regulations (HWMR-7) regarding the management of certain corrective action derived soils placed into disposal pit 37 at Technical Area (TA) 54, Area G. The Compliance Order sets forth a schedule of compliance required of LANL and proposes to assess penalties for alleged violations of HWMR-7.

This letter is to request a meeting for the purpose of clarifying certain issues raised by language contained in the findings, conclusions, civil penalty, and compliance schedule portions of the Compliance Order. DOE and the University are not presently able to determine the scope of the response required to address the Compliance Order without further information. This request for clarification and discussion of the Compliance Order does not constitute a Request for Hearing or Answer to the Order affecting the compliance schedule as stipulated in the Compliance Order, nor does it ask for a settlement conference, although we may request such a conference.

If this informational meeting concerning the Compliance Order can be arranged quickly, we request that the following issues be included for discussion:

1. Page 2, paragraph 7 - It is our interpretation that NMED's finding regarding transportation of the soils "without using a hazardous waste manifest" refers to the fact that these particular waste loads did not undergo the LANL equivalent of the manifesting process for on-site transportation of hazardous waste loads. The LANL process was approved as presented in Attachments A and F of the LANL Hazardous Waste Facility Permit, involving the use of the Chemical Waste Disposal Request form. Is this interpretation correct?



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Mr. Coby Muckelroy

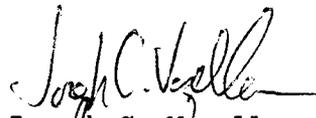
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2. Page 2, paragraph 8 - It is our belief that NMED's finding that TCA and TCE are "listed hazardous wastes" is subject to regulatory interpretation by the agency as requested by my letter to Benito Garcia dated June 1, 1994. Has NMED made a definitive interpretation on this matter as discussed in the letter?
3. Page 4, paragraph 13 - We seek clarification of NMED's statement that the referenced violations "caused a substantial likelihood of exposure to hazardous waste..."
4. Page 4, Penalty Calculation - We request more information regarding the manner in which the individual proposed penalties for each alleged violation were calculated, including the use of administrative factors regarding the seriousness of the violations and good faith efforts on the part of the Respondents.
5. Page 5, Compliance Order Item 1 - It is our interpretation that NMED's requirement to "submit a complete site characterization plan...in order to determine the vertical and horizontal extent of any hazardous waste contamination" is limited to the characterization of waste originating from the Environmental Restoration Project at the TA-3 "Mercury SWMU." We request your confirmation of this interpretation.
6. Page 5, Compliance Order Item 2 - It is our interpretation that NMED's requirement to "submit a corrective action plan...that addresses the deficiencies of the current 'knowledge of process' method used to identify hazardous wastes at Respondent's facility" refers specifically to the correction of alleged deficiencies in LANL's characterization of wastes originating from Environmental Restoration/corrective action projects. We request your confirmation of this interpretation.

In order not to interfere with the scheduling requirements of the Compliance Order and to allow all parties timely review and response to these issues, it is requested that this meeting be held as soon as possible.

If you have any questions regarding this request or if you want to make arrangements for a meeting, please do not hesitate to call Jon Mack of my staff at (505) 665-5026.

Sincerely,



Joseph C. Vozella  
Acting Asst. Area Manager  
Office of Environment and Projects

LAAMEP:9JM-093

cc:  
See page 3

Mr. Coby Muckelroy

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cc:

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