



State of New Mexico
ENVIRONMENT DEPARTMENT

Hazardous & Radioactive Materials Bureau
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Mark E. Weidler
Secretary

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Edgar T. Thornton, III
Deputy Secretary

CERTIFIED MAIL -- RETURN RECEIPT REQUESTED

March ²²10, 1995

Earl Bean, Area Manager
U.S. Department of Energy
Los Alamos Area Office
Los Alamos, NM 87544

Seigfried S. Hecker, Director
Los Alamos National Laboratory
P.O. Box 1663
MSK 490
Los Alamos, NM 87545

Dear Mr. Bean and Mr. Hecker:

RE: Compliance Order - NM0890010515

The Hazardous and Radioactive Materials Bureau of the New Mexico Environment Department (NMED) issues the enclosed Compliance Order to the U.S. Department of Energy (DOE) and the Regents of the University of California (Regents), pursuant to the New Mexico Hazardous Waste Act, NMSA 1978 §74-4-10 (Repl. Pamp. 1993). The Compliance Order states that Los Alamos National Laboratory (LANL) has failed to comply with the New Mexico Hazardous Waste Management Regulations (HWMR-7). The violations are specifically set out in the Compliance Order.

The Compliance Order sets forth a schedule of compliance required of LANL as well as an assessment of penalties. DOE and the Regents may be subject to additional civil penalties of up to \$25,000 for each day of noncompliance with the Compliance Order, as set forth in §74-4-10 NMSA 1978.

Any inquiries concerning this Compliance Order should be directed to Coby Muckelroy, RCRA Enforcement/Inspection Program Manager, Hazardous and Radioactive Materials Bureau, New Mexico Environment Department, at (505) 827-4308.

Sincerely,

Ed Kelley, Director
Water and Waste Management Division

cc: Benito Garcia, Bureau Chief, H&RMB ✓
Coby Muckelroy, RCRA Program Manager, H&RMB
Lourdes Monserrat, Office of General Counsel
NMED District II Office



16640

STATE OF NEW MEXICO
ENVIRONMENT DEPARTMENT

IN THE MATTER OF
THE UNITED STATES DEPARTMENT OF ENERGY
AND REGENTS OF THE UNIVERSITY OF CALIFORNIA
LOS ALAMOS, NEW MEXICO,

COMPLIANCE ORDER
NMHWA 95-03

RESPONDENTS.

COMPLIANCE ORDER AND CIVIL PENALTY

This Administrative Order (Order) is issued to the United States Department of Energy and the Regents of the University of California (Respondents) pursuant to the New Mexico Hazardous Waste Act (HWA), NMSA 1978 §74-4-10 (Repl. Pamp. 1993). The authority to issue this Order has been delegated by the Secretary of the New Mexico Environment Department (NMED) to the Director of the Water and Waste Management Division (Complainant).

FINDINGS

1. Complainant is the agency within the executive branch of the New Mexico state government charged with administration and enforcement of the New Mexico Hazardous Waste Act §§74-4-1 et seq.
2. Respondents are the U.S. Department of Energy (DOE) and the Regents of the University Of California(UC).
3. DOE is an agency of the federal government and the owner and a co-operator of Los Alamos National Laboratory (LANL).
4. UC is a public educational institution of the State of California and the management and operating contractor for LANL pursuant to a contract with DOE, and is a co-operator of LANL.
5. LANL is principally located in Los Alamos County, New Mexico, approximately sixty (60) miles northeast of Albuquerque and twenty-five (25) miles northwest of Santa Fe. The LANL site encompasses approximately forty-three (43) square miles.

6. LANL was chosen in 1942 as the site for the wartime development of the atomic bomb. The facility was established as a military reservation, and operations began in 1943. Since 1943, the primary mission of LANL has been nuclear weapons research and development. In addition, the facility does work in magnetic and inertial fusion, nuclear fission, nuclear safeguards and security, laser isotope separation, and medical isotope development.

7. In association with the activities identified above, LANL generates, treats, and stores hazardous wastes and mixed hazardous and radioactive wastes.

8. On September 14-22, 1994, NMED inspectors John Tymkowych, James Seubert, Michael Le Scouarnec, and Frank Sanchez conducted a hazardous waste inspection (inspection) at LANL.

9. At the time of the inspection, at TA-3, Bldg. 38, in the paint booth in Room 103, one (1) five gallon pail of paint related hazardous waste was not labeled with the words "Hazardous Waste" or other words that identify the contents.

10. At the time of the inspection, at the TA-3, Bldg. SM-43, Rooms C-4 and C-4A satellite accumulation points, two (2) five gallon containers holding spent photographic fixer, a hazardous waste, were not labeled with the words "Hazardous Waste" or other words that identify the contents.

11. At the time of the inspection, at the TA-3, Bldg. 132, Room 260-A where spent kerosene hazardous waste is accumulated in a Cal-Corp machine, at least four (4) one quart containers were not labeled with the words "Hazardous Waste" or other words that identify the contents.

12. At the time of the inspection, at the TA-9, Bldg. 21, Room 121 satellite accumulation point, approximately seventy 50 ml vials of hazardous waste were not labeled with the words "Hazardous Waste" or other words that identify the contents.

13. At the time of the inspection, at the TA-61, Bldg. 23 satellite accumulation point, at least 5 containers holding hazardous waste were not labeled with the words "Hazardous Waste" or other words that identify the contents.

14. At the time of the inspection, at the TA-3, Bldg. 32, Room 104 satellite accumulation point, a one liter bottle of spent anodizing dye was found labeled pending analysis. The analysis request for this spent material was dated 6/9/93.

15. At the time of the inspection, at the TA-3, Bldg. 38, outside of Room 105 near the loading dock, one (1) 55 gallon container was found holding the contents from an adjacent sump. No effort by Respondents to perform a hazardous waste determination on the contents had been made.

16. At the time of the inspection, at the TA-55, Bldg. PF-4 storage area, a five gallon container was found with unknown contents. No effort by Respondents to perform a hazardous waste determination on the contents had been made.

17. At the time of the inspection, at the TA-16, Bldg. 207 satellite accumulation point, two 55 gallon containers marked as "acetone", one 55 gallon container marked "MEK", one 30 gallon container with unknown contents, one 5 gallon container marked as "chloroform", one box labeled "marking ink", one box marked electroetching solution pH 0.5, and one 2 gallon container marked "kodak developer", were found. The wastes have been present in the area for over one year and the process generator of these wastes is not known. The current operator of this area could not confirm that the markings on the containers identified the contents and no effort by Respondents to perform a hazardous waste determination on the contents had been made.

18. At the time of the inspection, at the TA-3, Bldg. 34, Room B14 satellite accumulation point, rags and gloves contaminated with silver, methanol, and acetone were found. No record of Respondents' performance of a hazardous waste determination of this waste stream was made available.

19. At the time of the inspection, at the TA-48, Bldg. RC-46, Room 101 satellite accumulation point, a plastic container holding acid contaminated wipes, a hazardous waste, was found open.

20. At the time of the inspection, at the TA-21, Bldg. 152, Room 5201 satellite accumulation point, a container holding hazardous waste was found open.

21. At the time of the inspection, at the TA-59, CST-9, Room 116 satellite accumulation point, a plastic container holding solvent contaminated lab trash, a hazardous waste, was found open.

22. At the time of the inspection, the TA-21, Bldg. 3, Room 362 satellite accumulation point which is located outside of the building in a separate building at least 100 feet away, was not under the control of the process generator. Specifically, a container of hazardous waste was found sitting on top of the storage cabinet when it should have been inside the locked cabinet.

23. At the time of the inspection, the TA-51, Northeast corner Field Site satellite accumulation point which is located over 500 feet from the generator, was not under the control of the

process generator. Specifically, a container with approximately 15 gallons of contaminated gasoline, a hazardous waste, was not secured in any way to prevent unauthorized handling.

24. At the time of the inspection, at the TA-9, Bldg. 39 Transportainer <90 day storage area, two (2) containers of hazardous waste were not labeled with the words "Hazardous Waste".

25. At the time of the inspection, at the TA-9, Bldg. 39 Magazine <90 day storage area, three (3) containers of hazardous waste were not labeled with the words "Hazardous Waste".

26. At the time of the inspection, at the TA-3, Bldg. 132, Room 187 <90 day storage area, two (2) containers of hazardous waste were found that did not have accumulation start dates on them.

27. At the time of the inspection, at the TA-59, CST-9, South Lot <90 day storage area, a container of hazardous waste was found that did not have the accumulation start date on it.

28. At the time of the inspection, at the TA-60, O-Sigma <90 day storage area, at least four (4) fifty-five gallon containers were found and Respondents could not produce documentation which could verify the contents of the containers and their accumulation start dates.

29. At the time of the inspection, at the TA-3, Bldg. SM-30, Southwest parking lot <90 day storage area, five (5) fifty-five gallon containers were found and Respondents could not produce documentation which could verify the contents of the containers and their accumulation start dates.

30. At the time of the inspection, at the TA-3, Bldg. SM-2133 <90 day storage area, the required decontamination equipment was not found. Specifically, there was no eye wash or shower unit in or near the area, nor was there any water of adequate volume in close proximity. The nearest available water source for decontamination was over 300 feet away inside a building.

31. At the time of the inspection, at the TA-52, Bldg. 122 <90 day storage area, the required decontamination equipment was not found. Specifically, there was no eye wash or water of adequate volume in close proximity. The nearest available water and decontamination equipment was on a trailer over 100 feet but less than 200 feet away.

32. At the time of the inspection, at the TA-55, Pad 4 storage area, the required decontamination equipment was not found. Specifically, there was no eye wash or water of adequate volume in close proximity. The nearest available water was over 200 feet away.

33. At the time of the inspection, at the TA-55, Pad 4 storage area, a container storing spent light bulbs contaminated with mercury, a hazardous waste, did not have the accumulation start date on it.

34. At the time of the inspection, upon information and belief, LANL employees Peter Velarde and Robert Garcia who work at TA-16 had not received the required annual hazardous waste training in over seven months.

35. At the time of the inspection, upon information and belief, at the TA-16, Bldg. O, S-site Burning Ground, the required physical and chemical analysis on hazardous wastes prior to thermal treatment has not been performed.

36. At the time of the inspection, upon information and belief, at the TA-54, Area G storage area, LANL employee Andrew Vigil who works at TA-54, had not received the required first aid training on 9/16/94 as required by the facility operating permit.

37. On August 2-12, 1993, May 4-8, 1992, April 29 to May 3, 1991, March 5-9 1990, and August 7-11, 1989, Complainant conducted hazardous waste inspections of Respondents' facility. During these inspections, violations concerning failure to keep containers of hazardous waste closed, failure to mark containers of hazardous waste as to their contents, failure to keep hazardous waste under the control of the operator generating the waste, failure to provide adequate decontamination equipment, failure to conduct adequate hazardous waste determinations, failure to provide required hazardous waste training, and failure to mark containers with accumulation start dates along with other violations, were noted. These violations were set forth in either Compliance Orders issued as a result of the August '93 and May '92 inspections, or in Notices of Violation issued as a result of the May '91, March '90, and August '89 inspections.

CONCLUSIONS

38. Respondents are a "person" as defined at §74-4-3.K. of HWA, and §101 of Hazardous Waste Management Regulations ("HWMR-7"), which, with a few exceptions, incorporates federal regulation 40 CFR §260.10.

39. Respondents are a "generator" as defined at §74-4-3.F. of HWA, and §101 of HWMR-7, which, with a few exceptions, incorporates federal regulation 40 CFR §260.10.

40. Respondents generate "hazardous waste" as defined at §74-4-3.I. of HWA, and §101 of HWMR-7, which, with a few exceptions, incorporates federal regulation 40 CFR §260.10.

41. Respondent DOE is an "owner" of an "existing hazardous waste management facility" as those terms are defined at §101 of HWMR-7, which with a few exceptions, incorporates federal regulation 40 CFR §260.10.

42. Respondent UC is an "operator" of an "existing hazardous waste management facility" as those terms are defined at §101 of HWMR-7, which, with a few exceptions, incorporates federal regulation 40 CFR §260.10.

43. Respondents engage in the "disposal", "storage", and/or "treatment" of hazardous waste as defined at §74-4-3.C., N., and Q. respectively, of HWA, and §101 of HWMR-7, which, with few exceptions, incorporates federal regulation 40 CFR §260.10.

44. Respondents store hazardous waste in "containers" as defined at §101 of HWMR-7, which, with few exceptions, incorporates federal regulation 40 CFR §260.10.

45. Certain of Respondents hazardous waste management units may not have "interim status" as legally defined under NMSA 1978, §74-4-9 (Repl. Pamp. 1993) and HWMR-7, §901, which incorporates by reference federal regulations 40 CFR Part 270, and are not operating under a permit. HWMR-7, §601, which incorporates 40 CFR 265, governs hazardous waste management units that have interim status. HWMR-7, §501, which incorporates federal regulation 40 CFR §264, governs hazardous waste management units which are permitted and do not have interim status.

46. §301 of HWMR-7, which incorporates federal regulation 40 CFR §262.10(a), makes the regulations in Part 262 (Standards Applicable to Generators of Hazardous Waste) applicable to Respondents, and Respondents have violated regulations in Part 262 as specified below. §501 of HWMR-7, which incorporates federal regulation 40 CFR §264.10(a), makes the regulations in Part 264 (General Facility Standards) applicable to Respondents, and Respondents have violated regulations in Part 264 as specified below. §601 of HWMR-7, which incorporates federal regulation 40 CFR §265.10, makes the regulations in Part 265 (General Facility Standards), applicable to Respondents, and Respondents have violated regulations in Part 265 as specified below. §801 of HWMR-7, which incorporates federal regulation 40 CFR §268.1(a), makes the regulations in Part 268 (Land Disposal Restrictions) applicable to the Respondents, and Respondents have violated regulations in Part 268 as specified below.

47. Respondents have failed to label a container of hazardous waste with the words "Hazardous Waste" or other words that identify the contents at the TA-3, Bldg. 38, Room 103 paint booth. This is in violation of §301 of HWMR-7, which incorporates 40 CFR §262.34 (c) (1) (ii).

48. Respondents have failed to label two containers of hazardous waste with the words "Hazardous Waste" or other words that identify the contents at the TA-3, Bldg. SM-43, Rooms C-4 and C-4A satellite accumulation points. This is in violation of §301 of HWMR-7, which incorporates 40 CFR §262.34(c) (1) (ii).

49. Respondents have failed to label at least four (4) one quart containers in the Cal-Corp machine with the words "Hazardous Waste" or other words that identify the contents at TA-3, Bldg. 132, Room 260-A. This is in violation of §301 of HWMR-7, which incorporates 40 CFR §262.34(c) (1) (ii).

50. Respondents have failed to label approximately 70 vials of hazardous waste with the words "Hazardous Waste" or other words that identify the contents at the TA-9, Bldg. 21, Room 121 satellite accumulation point. This is in violation of §301 of HWMR-7, which incorporates 40 CFR § 262.34(c) (1) (ii).

51. Respondents have failed to label at least five (5) containers of hazardous waste with the words "Hazardous Waste" or other words that identify the contents at the TA-61, Bldg. 23 satellite accumulation point. This is in violation of §301 of HWMR-7, which incorporates 40 CFR §262.34(c) (1) (ii).

52. Respondents have failed to perform a hazardous waste determination on a one liter bottle of anodizing dye at the TA-3, Bldg. 32, Room 104 satellite accumulation point. This is in violation of §301 of HWMR-7, which incorporates 40 CFR §262.11.

53. Respondents have failed to perform a hazardous waste determination on the contents of a 55 gallon container at TA-3, Bldg. 38, outside of Room 105 near the loading dock. This is in violation of §301 of HWMR-7, which incorporates 40 CFR §262.11.

54. Respondents have failed to perform a hazardous waste determination on the contents of a 5 gallon container at the TA-55, Bldg. PF-4 storage area. This is in violation of §301 of HWMR-7, which incorporates 40 CFR §262.11.

55. Respondents have failed to perform a hazardous waste determination on the contents of at least six containers at the TA-16, Bldg. 207 satellite accumulation point. This is in violation of §301 of HWMR-7, which incorporates 40 CFR §262.11.

56. Respondents have failed to maintain records of hazardous waste determinations on rags and gloves contaminated with silver, methanol, and acetone at the TA-3, Bldg. 34, Room B14 satellite accumulation point. This is in violation of §301 of HWMR-7, which incorporates 40 CFR §262.40(c).

57. Respondents have failed to keep a hazardous waste container closed at the TA-48, Bldg. RC-46, Room 101 satellite accumulation point. This is in violation of §301 of HWMR-7, which incorporates 40 CFR §262.34(c)(1)(i).

58. Respondents have failed to keep a hazardous waste container closed at the TA-21, Bldg. 152, Room 5201 satellite accumulation point. This is in violation of §301 of HWMR-7, which incorporates 40 CFR §262.34(c)(1)(i).

59. Respondents have failed to keep a hazardous waste container closed at the TA-59, CST-9, Room 116 satellite accumulation point. This is in violation of §301 of HWMR-7, which incorporates 40 CFR §262.34(c)(1)(i).

60. Respondents have failed to keep the satellite accumulation point at TA-21, Bldg. 3, Room 362, under the control of the process generator. This is in violation of §301 of HWMR-7, which incorporates 40 CFR §262.34(c)(1).

61. Respondents have failed to keep the satellite accumulation point at TA-51, Northeast Corner Field Site, under the control of the of the process generator. This is in violation of §301 of HWMR-7, which incorporates 40 CFR §262.34(c)(1).

62. Respondents have failed to label two containers of hazardous waste with the words "Hazardous Waste" at the TA-9, Bldg. 39, Transportainer <90 day storage area. This is in violation of §301 of HWMR-7, which incorporates 40 CFR §262.34(a)(3).

63. Respondents have failed to label three containers of hazardous waste with the words "Hazardous Waste" at the TA-9, Bldg. 39, Magazine <90 day storage area. This is in violation of §301 of HWMR-7, which incorporates 40 CFR §262.34(a)(3).

64. Respondents have failed to place the accumulation start date on two containers of hazardous waste at the TA-3, Bldg. 132, Room 187 <90 day storage area. This is in violation of §301 of HWMR-7, which incorporates 40 CFR §262.34(a)(2).

65. Respondents have failed to place the accumulation start date on a container of hazardous waste at the TA-59, CST-9, South Lot <90 day storage area. This is in violation of §301 of HWMR-7, which incorporates 40 CFR §262.34(a)(2).

66. Respondents have failed to maintain records of hazardous waste determinations for the waste stored at the TA-60, O-Sigma <90 day storage area. This is in violation of §301 of HWMR-7, which incorporates 40 CFR §262.40(c).

67. Respondents have failed to maintain records of hazardous waste determinations for the five (5) 55 gallon containers of waste at the TA-3, Bldg. SM-30, Southwest Parking Lot <90 day storage area. This is in violation of §301 of HWMR-7, which incorporates 40 CFR §262.40(c).

68. Respondents have failed to provide the required decontamination equipment at the TA-3, Bldg. SM-2133 <90 day storage area as specified in ¶31. This is in violation of §301 of HWMR-7, which incorporates 40 CFR §262.34(a)(4).

69. Respondents have failed to provide the required decontamination equipment at the TA-52, Bldg. 122 <90 day storage area as specified in ¶31. This is in violation of §301 of HWMR-7, which incorporates 40 CFR §262.34(a)(4).

70. Respondents have failed to provide the required decontamination equipment at the TA-55, Pad 4 storage area as specified in ¶32. This is in violation of §601 of HWMR-7, which incorporates 40 CFR §265.32(c) or §501 of HWMR-7, which incorporates 40 CFR §264.32(c).

71. Respondents have failed to place the accumulation start date on a container at the TA-55, Pad 4 storage area as specified in ¶33. This is in violation of §801 of HWMR-7, which incorporates 40 CFR §268.50(a)(2)(i).

72. Respondents have failed to provide the required training for LANL employees Peter Velarde and Robert Garcia at TA-16. This is in violation of §601 of HWMR-7, which incorporates 40 CFR §265.16(c) or §501 of HWMR-7, which incorporates 40 CFR 264.16(c).

73. Respondents have failed to perform the required physical and chemical analysis on hazardous wastes prior to thermal treatment at the TA-16, Bldg. O, S-site burning ground. This is in violation of §601 of HWMR-7, which incorporates 40 CFR §265.13(a) or §501 of HWMR-7, which incorporates 40 CFR §264.13(a).

74. Respondents have failed to provide the required training for LANL employee Andrew Vigil at the TA-54, Area G storage area. This is in violation of Module II, Section F of LANL's permit.

75. Paragraphs 47 through 55, 57 through 65, and 68 through 72 entail violations which were cited as a result of the inspections and/or included in enforcement actions referred to in ¶37 and/or pose a substantial likelihood of exposure to hazardous waste. Therefore, Respondents have demonstrated that they are a high priority violator of HWMR-7. Paragraphs 56, 66, 67, 73, and 74 were not cited in previous inspections and do not pose a substantial likelihood of exposure to hazardous wastes.

CIVIL PENALTY

Section 74-4-10 of HWA authorizes the assessment of a civil penalty of up to ten thousand dollars (\$10,000) per day for each violation of HWA and the regulations promulgated thereunder. Complainant hereby assess a civil penalty of One Hundred Three Thousand, Five Hundred Thirty-Nine Dollars (\$103,539.00), against Respondent. The penalty is based on the seriousness of the violations and any good faith efforts on the part of the Respondent to comply with the applicable requirements, and any economic benefit accruing to the Respondents, as well as such other matters as justice may require, and is calculated pursuant to the NMED's Civil Penalty Policy.

The individual penalty for each violation is:

<u>VIOLATION</u>	<u>AMOUNT</u>
¶47 Failure to label container at SAP	\$2,240
¶48 Failure to label container at SAP	\$700
¶49 Failure to label container at SAP	\$1,470
¶50 Failure to label container at SAP	\$1,470
¶51 Failure to label container at SAP	\$1,470
¶52 Failure to perform hazardous waste determination	\$3,037
¶53 Failure to perform hazardous waste determination	\$1,522
¶54 Failure to perform hazardous waste determination	\$10,150
¶55 Failure to perform hazardous waste determination	\$52,780
¶57 Failure to keep container closed	\$725

¶58	Failure to keep container closed	\$1,087
¶59	Failure to keep container closed	\$1,087
¶60	SAP not under control of generator	\$1,087
¶61	SAP not under control of generator	\$1,522
¶62	Failure to label container at <90 day	\$625
¶63	Failure to label container at <90 day	\$625
¶64	No accumulation start date on container at <90 day area	\$600
¶65	No accumulation start date on container at <90 day area	\$1260
¶68	No decon equipment at <90 day area	\$15,950
¶69	No decon equipment at <90 day area	\$870
¶70	No decon equipment at storage area	\$870
¶71	No accumulation start date	\$1,522
¶72	Failure to provide training	\$870

COMPLIANCE ORDER

Based on the foregoing Findings and Conclusions, Respondents are hereby ordered to comply with the following schedule of compliance:

Within thirty (30) working days from the receipt of this Order, provide analyses of the wastes noted in paragraphs 52 through 55.

Within five (5) working days from the receipt of this Order, provide the required equipment or water of adequate volume at the <90 day storage areas noted in paragraphs 68 through 70.

Within ten (10) working days from the receipt of this Order, submit copies of the required documents noted in paragraph 56, 66 and 67 to the Complainant.

Within ten (10) working days from the receipt of this Order, submit documentation that proves the "knowledge of process" claimed regarding the wastes noted in paragraph 73 or submit a revised waste analysis plan which addresses the wastes noted.

Respondents have adequately addressed the violations noted in paragraphs 47 through 51, 57 through 65, 72 and 74. No further action is required by the Respondents regarding these violations.

NOTICE

If you fail to take the corrective actions within the time specified in the Order, the Secretary may assess a civil penalty of not more than twenty-five thousand dollars (\$25,000) for each day of continued noncompliance with the Order, pursuant to §74-4-10.C. of HWA.

NOTICE OF OPPORTUNITY TO ANSWER AND REQUEST A HEARING

Where Respondents (a) contest any material fact or legal matter upon which the Order is based; (b) contend the amount of the penalty proposed is inappropriate; (c) contend that Respondents are entitled to prevail as a matter of law; or (d) otherwise contest the appropriateness of the Order, Respondents shall file a written Request for Hearing, a copy of the Order, and an answer to the Order with the Hearing Clerk within thirty (30) calendar days after service of the Order. The answer must clearly and directly identify, with specificity, what Respondents are appealing.

The answer shall clearly and directly admit or deny, with explanation, each factual allegation contained in the Order with regard to which Respondents have any knowledge. Where Respondents have no knowledge of a particular factual allegation and so state, the allegation may be denied on that basis. Any allegation of the Order not specifically denied shall be deemed admitted. The answer shall also state (1) the circumstances or arguments which are alleged to constitute the grounds of defense; (2) any affirmative defenses upon which Respondents intend to rely; (3) the facts which Respondents intend to place at issue; and (4) whether a hearing is requested. A hearing upon the issues raised by the Order and answer shall be held upon the request of the Respondents.

The Hearing Clerk's address is:

Roberta Lopez, Hearing Clerk
P.O. Box 26110
1190 St. Francis Drive
Harold Runnels Building, S-4100
Santa Fe, New Mexico, 87502
(505) 827-2850

FINALITY OF ORDER

The Order shall become final unless Respondents file a written Request for Hearing with an answer within thirty (30) calendar days of the service of this Order. For purposes of this action, failure by the Respondents to file an answer constitutes as admission of all facts alleged in the Order and a waiver of Respondents right to a hearing under §74-4-10 of HWA concerning such factual allegations.

SETTLEMENT CONFERENCE

Whether or not Respondents request a hearing, Respondents may confer with Complainant concerning settlement. A request for a settlement conference does not extend the thirty (30) day period during which the written answer and a Request for Hearing must be submitted. A settlement conference may be pursued as an alternative to and simultaneously with the hearing proceedings. Respondents may appear at the settlement conference themselves and/or be represented by counsel.

Any settlement reached by the parties shall be finalized by written Order by the Secretary of NMED. The issuance of such an Order shall constitute a waiver of Respondents right to request a hearing on any such matter stipulated therein.

To explore the possibility of settlement in this matter, Contact Mr. Coby Muckelroy, of the Environment Department, P.O. Box 26110, 525 Camino de Los Marquez, Suite 4, Santa Fe, New Mexico, 87502, telephone number 827-4308.

Compliance with the requirements of this Order does not relieve Respondents of their obligation to comply with all applicable laws and regulations.

The Order shall terminate when Respondents certify that all requirements of this Order have been completed, and NMED has approved such certification.

MARK WEIDLER, SECRETARY

22 March 1995
DATE

By: Ed Kelley
ED KELLEY, Director
Water and Waste Management
Division

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Administrative Order Requiring Compliance was mailed postage prepaid as follows on this 22 day of March, 1995 to the following:

Via Certified Mail, Return Receipt Requested:

Earl Bean, Area Manager
Department of Energy
Los Alamos Area Office
Los Alamos, NM 87544

Seigfried S. Hecker, Director
Los Alamos National Laboratory
P.O. Box 1663
Los Alamos, NM 87545

Lourdes Monserrat
LOURDES MONSERRAT