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State of New Mexico
ENVIRONMENT DEPARTMENT

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CERTIFIED MAIL
RETURN RECEIPT REQUIRED

April 20, 2005

Peter Nanos
Director
Los Alamos National Laboratory
P.O. Box 1663
Los Alamos, NM 87545

Edwin Wilmot
Manager
Los Alamos Site Office
National Nuclear Security Administration
U.S. Department of Energy
528 35th Street, MS A316
Los Alamos, NM 87544

SUBJECT: NOTICE OF VIOLATION
LOS ALAMOS NATIONAL LABORATORY, EPA ID# NM0890010515

Dear Messrs. Nanos and Wilmot:

In 2004 and 2005, the New Mexico Environment Department (NMED) conducted hazardous waste Compliance Evaluation Inspections at Los Alamos National Laboratory (LANL), located in Los Alamos County. Based on those inspections and review of the information obtained, NMED has determined that your facility is a Large Quantity Generator and a Treatment/Storage Facility as defined in Notification of Regulated Waste Activity Instruction (EPA Form 8700-12) and has violated the New Mexico Hazardous Waste Management Regulations (20.4.1 NMAC) as specified below.

NMED observed the following violations during the March 22, 2004, inspection:

1. LANL failed to label one container with a proper accumulation start date. A 30-gallon drum (Container # C03160215) of nitric acid waste, a corrosive waste, located at TA-54 Area L was not labeled with an accurate accumulation start date. The label had date "3/20/03" rather than the actual date the container was received



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(5/9/03) at the TA-54 hazardous waste storage facility. This is a violation of Permit Condition III.B.3.b, referring to 40 CFR 268.50(a)(2)(i).

2. LANL failed to retain a required land disposal restriction notification onsite for three years. The LDR notice for Manifest #02286 of 4/29/03 was not available in the TA-54 Area L hazardous waste storage facility's files or its shipping contractor's onsite files at the time of the inspection. This is a violation of Permit Condition II.K.1, referring to 40 CFR 264.73(b) (3) and (16), referring to 40 CFR 268.7(a)(8).
3. LANL failed to demonstrate that greater than one-year storage was necessary for one container of hazardous waste. A gas cylinder (Container # C02156175) of nitrous oxide, an ignitable waste, was stored at the TA-54 Area L hazardous waste storage facility for more than one year from 12/19/02 to 1/28/04 as noted on Inspection Record Forms for Area L and Waste Non-Conformance Report Form # 2004-2. LANL did not provide any evidence that such storage was solely for the purpose of accumulating such quantities of the waste as is necessary to facilitate proper recovery, treatment, or disposal. This is a violation of Permit Condition III.B.3.a, referring to 40 CFR 268.50(c).
4. LANL failed to properly label one container of used oil. A 55-gallon black metal drum of used oil stored at TA-3 Bldg 38 adjacent to site #2636 was not labeled with the words "Used Oil." This is a violation of 20.4.1.1002 NMAC, incorporating 40 CFR 279.22(c)(1).

NMED observed the following violations during the February 28, 2005, inspection:

5. LANL failed to obtain a permit for hazardous waste stored at two locations. At site #2396, located in TA-15 along the "R Site road," LANL stored containers of hazardous waste outdoors in a "flammable storage cabinet" since sometime in 2002. At site #1824 located in TA-3 Building 29, LANL stored containers of hazardous waste in a glovebox in the basement since sometime in 1998. LANL has incorrectly characterized these areas as satellite accumulation areas under 40 CFR 262.34(c). However, LANL ceased the processes or other activities that generated these wastes years ago. This is a violation of 20.4.1.300 NMAC, incorporating 40 CFR 262.34(b).
6. LANL failed to keep three containers of hazardous waste closed except when necessary to add or remove waste. At sites #1900, #122, and #1010, LANL drains waste acids through plastic tubes from analytical equipment into containers of volumes varying from about 5 liters to over 2 gallons. The containers were not sealed nor were the machines in operation at the time of the inspection. This is a

Peter Nanos and Edwin Wilmot
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violation of 20.4.1.300 NMAC, incorporating 40 CFR 262.34(c)(1)(i), referring to 40 CFR 265.173(a).

7. LANL failed to maintain accurate operating records of hazardous waste in storage at an interim status unit. The operating log for the "EV tanks" in interim status unit #481 identified the unit as #1226, a different interim status unit, resulting in an inaccurate description of the waste in storage. This is a violation of 20.4.1.600 NMAC, incorporating 40 CFR 265.73(b)(1).
8. LANL failed to maintain inspection records of permitted facilities with the name of the inspector and a notation of observations. The inspection records at TA-54 Building 38 (RANT) dated 12/25/04, 1/24/05 and 1/24/05 for permitted storage units #1579, #1580, and #1581, respectively, do not list the name of the inspector, and inspection record dated 6/14/04 for permitted storage unit #1581 does not include any notation of observations. This is a violation of 20.4.1.500, incorporating 40 CFR 264.15(d), and Permit Condition B.9.4.

In accordance with the New Mexico Hazardous Waste Act, 74-4-10 NMSA 1978, NMED may: (1) issue a compliance order requiring compliance immediately or within a specified time period, or assess a civil penalty for any past or current violations of up to \$10,000 per day of non-compliance with each violation, or both; or (2) commence a civil action in district court for appropriate relief, including a temporary or permanent injunction. Any such order may include a suspension or revocation of any permit issued by NMED.

Attached are proposed penalty calculations for the violations listed above. NMED requests a meeting with appropriate LANL representatives for the purposes of negotiating a settlement relating to this Notice of Violation.

NMED requires that LANL submit to NMED within fifteen (15) days of receipt of this letter a written description of the actions that LANL has taken to address the violations described above, including a schedule for implementation for actions not yet completed. Any actions taken, or to be taken, to address the violations must be approved by NMED.

Any action taken in response to this letter does not relieve LANL of its obligation to comply with any applicable laws and regulations.

If you have any questions regarding this letter, please contact Art Vollmer of my staff at 428-2506. Please address your written response to the attention of Mr. Vollmer at the address in the letterhead. To explore the possibility of settlement in this manner, contact me directly at 428-2512.

Peter Nanos and Edwin Wilmot
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Sincerely,



James P. Bearzi
Chief
Hazardous Waste Bureau

JPB:av

Attachment: Proposed Penalties for LANL 2004-2005 Violations

cc: Sandra Y. Martin, Manager, Compliance & Technical Assistance Program
Anna Maestas, Environmental Supervisor
Art Vollmer, Environmental Specialist
Barry Birch, Environmental Specialist
Kate Lynnes, Environmental Specialist
Cecilia Williams, General Manager, District II
Gene Turner, Manager, DOE/NNSA LASO Environmental Permitting
Tony Griggs, Group Leader, LANL Solid Waste Regulatory Compliance Group

file: Library #2390
hwbsoc05/enforcement/vollmer

Proposed Penalties for LANL 2004-2005 Violations

NOV #	Citation	Violation	Penalty
1	Permit Condition III.B.3.b referring to 268.50(a)(2)(i)	Failure to label a container of hazardous waste located at the TA-54 Area L hazardous waste storage facility with an accurate accumulation start date.	\$ 2,340
2	Permit Condition II.K.1 referring to 264.73(b)(3) & (16) and 268.7(a)(8)	Failure to maintain a required LDR notification in operating record or elsewhere onsite.	\$ 1,430
3	Permit Condition III.B.3.a referring to 268.50(c)	Failure to prove that greater than one-year storage was necessary for one container of hazardous waste stored at the TA-54 Area L hazardous waste storage facility.	\$ 5,348
4	279.22(c)(1)	Failure to label one container of used oil with the words "Used Oil."	\$ 770
5	262.34(b)	Failure to obtain a permit for hazardous waste stored at two locations.	\$ 48,360
6	265.173(a)	Failure to keep three containers of hazardous waste closed except when necessary to add or remove waste.	\$ 2,210
7	265.73(b)	Failure to maintain accurate operating records of hazardous waste in storage at an interim status unit.	\$ 2,470
8	Permit Condition B.9.4 and 264.15(d)	Failure to maintain inspection records of permitted facilities with the name of the inspector and a notation of observations.	\$ 2,990

Total Penalty: \$ 63,578