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IN THE MATTER OF THE STATE OF NEW MEXICO ENVIRONMENTAL DEPARTMENT'S NOTICE OF INTENT TO APPROVE A CLASS III MODIFICATION TO MODULE III (CORRECTIVE ACTION MODULE) OF RCRA PERMIT NO. NM0890010515 FOR THE FOLLOWING US DEPARTMENT OF ENERGY/LOS ALAMOS NATIONAL LABORATORY (DOE/LANL) /SOLID WASTE MANAGEMENT UNITS (SWMU) PURSUANT TO TITLE 20, CHAPTER 4, PART 1, HAZARDOUS WASTE MANAGEMENT REGULATIONS AND 40 CFR §270.41(c): SWMU 3-025(a); SWMU 3-045(i); SWMU 11-011(c); SWMU 18-007; SWMU 27-001; SWMU 59-001; SWMU 3-049(c); SWMU 3-052(c); SWMU 3-002(d); SWMU 3-009(c); SWMU 3-009(g); SWMU 3-019; SWMU 3-019; SWMU 3-050(e); SWMU 3-055(d); SWMU 3-056(m); SWMU 16-005(b); SWMU 54-007(b); SWMU 61-004(a); SWMU 3-026(b); SWMU 3-032; SWMU 3-044(a); SWMU 3-056(n); SWMU 35-011(a); SWMU 35-013(d); SWMU 54-015(h); SWMU 35-04(e); SWMU 3-002(a); SWMU 3-43(e); SWMU 35-006.

In accordance with the New Mexico Hazardous Waste Management Regulations, 20.4.1901 NMAC and the above-referenced Public Notice dated November 14, 2000 the following statement and comments are presented to the Environment Department in opposition to its tentative decision of the aforementioned date to approve the above-referenced class III permit modifications requests of DOE/LANL and in support of a request to conduct a full public hearing pursuant to 20.4.1 MNAC, Section 901.E, *Hearings*. These comments are based on a review of the U.S. Department of Energy Los Alamos National Laboratory Los Alamos, New Mexico RCRA Permit No. NM0890010515; the Statement of Basis for Approval of No Further Action for Thirty (30) Solid Waste Management Units (SWMUs) U.S. Department of Energy Los Alamos National Laboratory Los Alamos, New Mexico RCRA Permit No. NM0890010515; the November 22, 2000 Fact Sheet prepared by the Environment Department; and Title 42 U.S.C. § 6925, Permits for treatment, storage or disposal of hazardous wastes and the applicable Federal regulations promulgated by the United States Environmental Protection Agency, set forth in 40CFR §270.41.



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General Objection

It is without dispute that the 30 SWMUs in question when the permit became effective on May 23, 1990 were expected to have submitted detailed RCRA Facility Investigations and Corrective Action Plans and Corrective Management Schedules under the assumption that, based on the information submitted by the permittee itself in its original permit application, they needed to be monitored and regulated for on-site and off-site contaminant migration. For DOE/LANL at this late date to now urge that all the information in the initial permit application which was relied on to develop the permit requirements were inaccurate i.e. the oil trap sump in SWMU 3-025(a) "can not be located or have been shown to not exist" is difficult to believe given the detail of the application and LANL's own representation at the time of the initial permit application. Furthermore, as will be more fully delineated in the objections set forth below which address each requested NFA determination, a review of the Statement of Basis indicates that the bases for a major number of the permit modification requests are undocumented representations and self-serving conclusions, none of which from the record appear to have been verified by the Environment Department after a site inspection pursuant to its right of inspection (According to Title 42 U.S.C. § 6927 Inspections; Title 42 U.S.C. § 6926, Authorized State hazardous waste programs, and 40 CFR § 271.15(b)(2) Requirements for compliance evaluation programs, when New Mexico was authorized to administer the RCRA program under 40 CFR 272.1601 Subpart GG, it had to demonstrate authority to conduct site inspections).

Specific Objections

DOE/LANL Claim that NFA Criterion 1, The site does not exist; is a duplicate of another site; can not be located; or is located within another site and, has been or will be investigated as part of that site.

SWMU 3-025(a) Oil Trap Sump, TA-3 (Former Operable Unit 1114)

This modification request is claims that initially this SWMU was identified as an oil trap sump that connected to a steam cleaning drain from the machine shop in Building TA-3-34 to a drain that discharged to the radioactive wastewater facility at TA-50. The bases for the claim that an NFA under Criterion 1 is applicable is that:(1) "field investigations and archival information do not indicate the presence of an oil sump trap associated with the steam cleaning drain", and (2)" all sinks and drain lines from this building discharge either to a sanitary wastewater treatment facility at TA-3 or to the radioactive wastewater treatment facility at TA-50.

The first basis is not supported by an independent field investigation but rather the permittee's own unverified field investigation and a revisiting of archival information which must have served as the basis for the information initially provided by the permittee in its application for the Module III corrective action permit. The permittee does not specify what facts were revealed in the revisiting of the archival data that the permittee was not aware of when it reviewed the same data for its original RCRA application.

The second basis seems to be that even if the oil trap sump does exist it is connected to either a sanitary wastewater treatment facility at TA-3 or to the radioactive wastewater treatment facility at TA-50. Here again the permittee is making an unsupported assumption and is evidencing by the use of the word "either" its lack of complete knowledge of the configuration of

its discharge points. Even if in fact the oil trap sump conveys the wastes from the machine shop Building TA-3-34 to a separately permitted facility under the SPDES requirements of the Clean Water Act (CWA), no mention of what kind of treatment pursuant to CWA §307(b) will be provided to such wastes before they enter the sanitary wastewater facility, if that is the one to which the sinks and drain lines are connected, to ensure that the wastewater treatment facility complies with its effluent discharge and sludge disposal standards. Furthermore, there is no explanation as to why the permittee has concluded that instead of an oil sump trap there are now drains and sinks in the machine shop building which is covered by the subject SWMU.

Finally, if the same highly contaminated radioactive and hazardous wastes are present in the subject SWMU and they are stored there in sinks or drains rather than an oil sump trap the requirement that there be a RCRA permit for such wastes would only be obviated by proof that the wastes do not remain in such vessels for more than 90 days. This request should be denied until the Environment Department can after an inspection verify the claims made by DOE/LANL and make its own independent evaluation. This is hardly a way to address a condition which at the time of the issuance of this permit called for extensive investigation and a work plan or its equivalent designed to address the serious problem of a current or potential release of hazardous wastes to the underground aquifer (perched zone).

SWMU 3-045(i) Outfall TA-3 (Former Operable Unit 1114)

In this request the permittee again makes a similar argument as the one offered in the previous SWMU. It alleges that this was "initially identified as an outfall from floor and sink drains at TA-3-34, the Cryogenics Building. However, field investigations and engineering

drawings revealed that no outfall is associated with these drains which discharge directly to the sanitary sewer system. In addition, all sinks and drain lines from this building discharge **either** (my emphasis) to sanitary wastewater treatment facility at TA-3 or to the radioactive wastewater treatment facility."

For the same reasons stated in the comment on SWMU 03-025(a) this proposed modification should also be denied.

SWMU 11-011© Boiler Discharge/Outfall TA-11 (Former Operable Unit 1082)

The permittee states: " SWMU 11-011 © was initially identified as the discharge from a boiler in building TA-11-24. The boiler system reputedly discharged through a pipe that exited the building onto the surrounding asphalt pavement. However, field investigations and archival information do not indicate the presence of a boiler system discharge to the pavement outside the building."

Presumably this waste stream related to a discharge of boiler cleaning wastes as part of periodic routine maintenance of the system. Surely the records of the process and maintenance system would establish whether such a procedure was indeed carried on at the facility at the time of the issuance of the permit or the filing of the permit application. For the same reason stated in the comment on SWMU 03-025(a) this proposed modification should also be denied.. It is not supported by an independent field investigation but rather the permittee's own unverified field investigation and a revisiting of archival information which must have served as the basis for the information initially provided by the permittee in its application for the Module III corrective action permit. The permittee does not specify what facts were revealed in the revisiting of the

archival data that the permittee was not aware of when it reviewed the same data for its original RCRA application.

SWMU 18-007 Buried Armored Vehicle TA-18 (Former Operable Unit 1093)

SWMU 27-001 Buried Naval Guns TA-27 (Former Operable Unit 1093)

This one is almost comical. How big an armored vehicle is the permittee referring to as the one which was buried?² Could such a large item be lost? To have initially stated in its permit application that there was an armored vehicle buried at this Technical Area and now say the records do not support this fact seems odd. Either an armored vehicle was buried or it was not. Even if it was not buried where it was originally thought to have been then the likelihood is that it was buried at some other site at LANL which should be able to be verified assuming the primary information source which was relied on by the permittee is not unexplainedly unavailable.

The same can be said for the Naval Guns which were buried specifically in Pajarito canyon (one of the locations referred to in the permit as a site for well borings and testing as part of the correction action plan). These permit modifications should also be denied in the absence of the Environment Department's verification of the non-existence of the armored vehicle and the naval gun barrels.

SWMU 59-001 Decommissioned Septic System TA-59 (Former Operable Unit 1114)

The reason why the permittee believes this SWMU should be granted an NFA and removed from the permit is that the septic system was removed in 1979; the subject buildings

were connected to the new Laboratory-wide sanitary sewer line and...Subsequent construction activities excavated and removed all soils in the area to a level well below the location of the former septic system. These activities would have removed any soil potentially contaminated from the septic system" Here again the permittee makes self-serving statements. How was the closure of that septic system monitored and by what independent regulatory agency in accordance with the conditions in the RCRA permit for Module III. Why doesn't the permittee reference in its Statement of Basis under this modification request the Record of Decision as would be required in a CERCLA remediation. Was a FI/FS done to characterize the site vertically and horizontally. This is the minimum which should be expected from LANL where possibly harmful hazardous waste may have percolated into the aquifer. Were soil samples provided to the Environment Department? Don't allow LANL to escape from its responsibilities whether it is a Federal facility or not. Deny this request until these matters are addressed and the Environment Department and the public are satisfied that there is no subsurface contamination and all contaminants have been removed from the site and all contaminants that may have migrated off-site and off the property of LANL have been identified and remediated

NFA Criterion 2. The site was never used for the management (that is, generation, treatment, storage or disposal) of RCRA solid or hazardous wastes and/or constituents.

SWMU 3-002(d) Former Storage Area TA-3 (Former Operable Unit 1114)

This requested modification involved an area where dielectric fluid from electrical power supply units were stored in 55 gallon drums. The permittee makes a self-serving and unverified claim to support its request that the drums did not contain any hazardous wastes. These drums

seem to have contained a waste that LANL was concerned about enough to have stored in metal drums on a presumably impervious surface. The Environment Department should examine the LANL records of the production processes, the waste streams and obtain a detailed profile of the wastes that were in the dielectric fluids in question before granting this request. Furthermore, the question of whether there was runoff from spills and topping operations at this site should be verified as well. When I handled the matter of Solvent Savers clean-up in New York State this kind of information was obtained in extensive discovery and depositions of plant personnel familiar with the practices at the site. Surely, former employees of LANL could shed some light on the questions I have raised. At the very least a responsible official of LANL should provide a supporting affidavit setting forth what his or her basis is for concluding that the drums did not contain any hazardous wastes.

SWMU 3-009© Construction Debris Area TA-3 (Former Operable Unit 1114)

This request concern a "disturbed area south of TA-3-66, the Sigma Bldg. and concrete debris...concrete footings". The same reason for requesting NFA on this SWMU is proffered as the one for **SWMU 3-002(d) Former Storage Area TA-3 (Former Operable Unit 1114)**. For the same reason stated in the comment on the latter SWMU the permit modification request in this case should also be denied.

SWMU 3-009(g) Soil Fill Area TA-3 (Former Operable Unit 1114)

Here the permittee alleges that again the soil fill area located south of Two-Mile Canyon Bridge did not contain historic fill or any concern and no hazardous substances but only "soil and tuff". This is self-serving and unverified and no detailed explanation, or for that matter any

explanation is provided to justify the change of position. This modification should also be denied until further documentation is provided by the permittee.

SWMU 3-019 Septic Tank, TA-3 (Former Operable Unit 1114)

For the same rationale provided for the previous request for modification this request should be denied as well.

SWMU 3-019 Septic Tank, TA-3 (Former Operable Unit 1114)

For the same rationale provided for the previous request for modification this request should be denied as well.

NFA Criterion 3. The SWMU is not known or suspected of releasing RCRA solid or hazardous wastes and/or constituents to the environment.

SWMU 3-026(b) Active Sumps, TA-3 (Former Operable Unit 1114)

In this request the permittee acknowledges that "One sump/lift station potentially received spent phot-processing solutions (RCRA hazardous wastes... but that it is not known or suspected

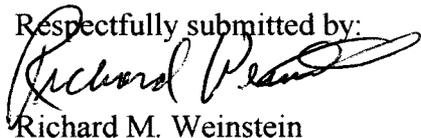
of releasing these substances to the environment because of its location within the concrete foundation". The permittee should be required to some core soil sampling around the concrete structure and under the concrete structure to verify this claim otherwise the modification request should be denied. As for the other sump/lifts there is no objection since they were recognized as sanitary lift stations and some credence should be given to the permittee's representations in the absence of circumstances and facts to the contrary.

SWMU 3-044(a) Container Storage Area, TA-3 (Former Operable Unit 1114)

The permittee asserts that "the SWMU was used for the storage of wooden cable spools and drums containing waste diesel fuel, kerosene and oil emulsion. LANL again makes an unverified assertion that there was no releases of these admittedly hazardous wastes. The only explanation it gives is conjectural that "Any release that may have occurred while it served as a Satellite Accumulation Area would have been remediated in accordance with 40 CFR 262, Standards Applicable to Generators of Hazardous Waste. First the permittee fails to provide a basis for its assumption and second, it is not clear why if the facility was not storing the wastes, and was only a generator subject to the manifest requirements only and not a storage, treatment and disposal facility that it became regulated under a RCRA permit in the first place. This request should also be denied.

It should be noted that on December 29, 2000 I requested from Carmen M. Rodriguez of LANL background information and data which served the basis for the Statement of Basis and to date no response to my request has been received. If the permit modification requests contained material representations that were not set forth in the Statement of Basis I am not aware of this fact.

Respectfully submitted by:

 1/05/01

Richard M. Weinstein

Counsellor at Law

215 Bloomfield Street #1E

Hoboken, NJ 07030

(201) 420-8136

E-mail : justicemartin@msn.com