

Permit



BILL RICHARDSON  
GOVERNOR

State of New Mexico  
**ENVIRONMENT DEPARTMENT**

Hazardous Waste Bureau  
2905 Rodeo Park Drive East, Building 1  
Santa Fe, New Mexico 87505-6303  
Telephone (505) 476-6000  
Fax (505) 476-6030  
www.nmenv.state.nm.us



RON CURRY  
SECRETARY

CINDY PADILLA  
DEPUTY SECRETARY

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

August 8, 2007

Donald L. Winchell, Jr., Manager  
Los Alamos Site Office  
Department of Energy  
528 35<sup>th</sup> Street, Mail Stop A316  
Los Alamos, NM 87544

Richard S. Watkins, Associate Director  
Environment, Safety, Health, & Quality  
Los Alamos National Security, LLC  
Los Alamos Research Park  
4200 Jemez Road, Suite 400  
Los Alamos, NM 87544

**SUBJECT: NOTICE OF PUBLIC COMMENT PERIOD AND MEETING FOR THE  
MODIFICATION TO THE MARCH 1, 2005 COMPLIANCE ORDER ON  
CONSENT  
LOS NATIONAL LABORATORY, NEW MEXICO  
EPA ID NUMBER: NM0890010515**

Dear Messrs. Winchell and Watkins:

Enclosed is the public notice regarding the proposed language to the March 1, 2007 Compliance Order on Consent. The New Mexico Environment Department (NMED) is providing for a 60-day public comment period from **August 8, 2007** through **5:00 p.m. MDT, October 9, 2007**. NMED is also holding a public meeting on **August 27, 2007** at the Cities of Gold Hotel from **6:00 p.m. to 8:00 p.m.** to discuss the proposed modification and listen to any public concerns regarding the proposed action.

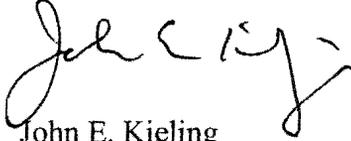
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Messrs. Winchell and Watkins  
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If you have any questions regarding this matter, please contact me at (505) 476-6035.

Sincerely,



John E. Kieling  
Program Manager  
Permits Management Program  
Hazardous Waste Bureau

Enclosures

cc: J. Bearzi, NMED HWB  
J. Kieling, NMED HWB  
D. Cobrain, NMED HWB  
K. Roberts, NMED HWB  
C. deSaillan, NMED OGC  
L. King, EPA Region 6 (6PD-N)  
G. Rael, DOE LASO MSA316  
D. Gregory, DOE LASO MS A316  
D. McInroy, LANS MS M992  
D. Hall, LANS MS J496  
File: LANL 2007 and Reading



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**PUBLIC NOTICE NO. 07-09**

**NEW MEXICO ENVIRONMENT DEPARTMENT  
HAZARDOUS WASTE BUREAU**

**Santa Fe, NM 87505**

**August 8, 2007**

**NOTICE OF OPPORTUNITY FOR PUBLIC COMMENT AND PUBLIC MEETING ON  
MODIFICATION TO THE MARCH 1, 2005 COMPLIANCE ORDER ON CONSENT  
LOS ALAMOS NATIONAL LABORATORY  
LOS ALAMOS, NEW MEXICO  
EPA ID NO. NM0890010515**

Under the authority of the New Mexico Hazardous Waste Act (Section 74-4-1 to 74-4-14 NMSA 1978, as amended), the New Mexico Hazardous Waste Management Regulations (HWMR, 20.4.1 NMAC), and the March 1, 2005 Compliance Order on Consent (Consent Order), the New Mexico Environment Department (NMED), the Department of Energy (DOE), the Los Alamos National Security, LLC (LANS) and NMED (collectively, the Parties) propose to modify the Consent Order pursuant to a Settlement Agreement and Stipulated Final Order referenced by HWB 07-27 (CO), filed on June 14, 2007. The Consent Order to be modified contains fence-to-fence cleanup requirements at Los Alamos National Laboratory.

NMED announces its intent to modify the Consent Order, pursuant to Section III.J.1 of the Consent Order and an opportunity for the public to provide comment on the proposed modification. NMED also announces a public meeting to be held on **August 27, 2007** at the Cities of Gold Hotel, at 10-A Cities of Gold Road, from **6:00 P.M. to 8:00 P.M.** to discuss the proposed modification and listen to any public concerns regarding the proposed action.

LANL is a research laboratory owned by DOE and co-operated with the Los Alamos National Security, LLC (LANS). The Facility began operations in 1943 when the United States Army Manhattan Engineer District was established for the research and development of the atomic bomb. The principal mission of LANL includes the research, design, development, and analysis of weapons components for the nation's nuclear arsenal. Current and historic operations include nuclear physics; hydrodynamics; conventional explosives; chemistry; metallurgy; radiochemistry; biology; medium-energy physics; space nuclear systems; controlled thermonuclear fusion; laser research; environmental research; geothermal, soil, and fossil energy research; nuclear safeguards; biomedical research; space physics; electrical research and development; laser design and development; and photographic processing.

LANL is located in Los Alamos County, an incorporated county, in north-central New Mexico, approximately 60 miles north-northeast of Albuquerque and 25 miles northwest of Santa Fe. LANL occupies an area of approximately 40 square miles situated on the Pajarito Plateau. The plateau consists of

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a series of finger-like mesas separated by deep west to east trending canyons. The mesa tops range in elevation from approximately 7,800 feet above mean sea level at the flank of the Jemez Mountains, located to the west of Los Alamos, to about 6,200 feet above mean sea level at their eastern extent, where they terminate above the Rio Grande.

The Permittees' offices are located at the following mailing addresses: DOE/National Nuclear Security Administration (NNSA), Los Alamos Site Office, 528 35<sup>th</sup> Street, Los Alamos, NM 87544; and LANL/LANS, P. O. Box 1663, Los Alamos, New Mexico, 87545. The Permittees' primary contact for this action is: Ms. Debora Hall, Outreach/Public Involvement, Los Alamos National Laboratory, P.O. Box 1663, MS J496, Los Alamos, New Mexico 87545.

The Parties have entered into a Settlement Agreement and Stipulated Final Order, No. HWB-07-27 (CO), filed on June 14, 2007, to resolve alleged violations of the Hazardous Waste Facility Permit issued by NMED pursuant to section 74-4-10 of the New Mexico Hazardous Waste Act (HWA), and alleged violations of the Consent Order. NMED alleged that DOE and LANS (collectively, the Permittees) violated the Permit and the Consent Order by not notifying NMED of significant increases in chromium levels measured in groundwater, contrary to the requirements to report releases of hazardous constituents into the environment from solid waste management units (SWMUs).

As part of the Settlement Agreement and Stipulated Final Order, the Parties agreed to modify the Consent Order, pursuant to section III.J.1 of the Consent Order, to include additional notification requirements for monitoring results. The following language was agreed upon by the Parties and is proposed to be added to the Consent Order as section IV.A.3.g:

**IV.A.3.g                      Notification**

By the fifteenth day of each month, the Respondents shall review the analytical data from all groundwater monitoring conducted under this Consent Order that was received during the previous month, and shall record the date of such review; provided, however, that if the fifteenth day of a month is a non-business day, then the review shall be conducted by the next business day. The Respondents shall notify the Department orally within one business day after review of the analytical data if such data show detection of a contaminant in a well screen interval or spring at a concentration that exceeds either the WQCC water quality standard or the federal maximum contaminant level if that contaminant has not previously exceeded such water quality standard or maximum contaminant level in such well screen interval or spring.

The Respondents shall notify the Department in writing within fifteen days after review of the analytical data if the data show any of the following:

1. Detection of a contaminant that is an organic compound in a spring or screened interval of a well if that contaminant has not previously been detected in the spring or screened interval.
2. Detection of a contaminant that is a metal or other inorganic compound at a concentration above the background level in a spring or screened interval of a well if that contaminant has not previously exceeded the background level in the spring or screened interval.

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3. Detection of a contaminant in a spring or screened interval of a well at a concentration that exceeds either one-half the New Mexico water quality standard or one-half the federal maximum contaminant level, or if there is no such standard for the contaminant, one-half the EPA Region VI Human Health Medium-Specific Screening Level for tap water, if that contaminant has not previously exceeded one-half such standard or screening level in the spring or screened interval.
4. Detection of perchlorate in a spring or screened interval of a well at a concentration of 2 µg/L or greater if perchlorate at such concentration has not previously been detected in the spring or screened interval.
5. Detection of a contaminant that is a metal or other inorganic compound in a spring or screened interval of a well at a concentration that exceeds two times the background level for the third consecutive sampling of the spring or screened interval.
6. Detection of a contaminant in a spring or screened interval of a well at a concentration that exceeds either one-half the New Mexico water quality standard or one-half the federal maximum contaminant level, and that has increased for the third consecutive sampling of that spring or screened interval.

The written notification shall be submitted to the Department in a letter report that includes in table format, at a minimum, the date or dates of the sampling event, an identification of the well or spring, the location of the well or spring, the depth of the screened interval of the well or zone sampled, a list of the analytical data that triggered the reporting requirement, any known issues with sample quality, and the specific category for which the data is reported under this Section (IV.A.3.g). The Respondents may submit a proposal for further sampling or investigation, or the Department may require further sampling or investigation.

Previous data to be evaluated under this Section (IV.A.3.g) to determine whether specified levels have been exceeded, or to determine trends in data for three consecutive samples, shall include only data acquired after June 14, 2007. For the purpose of the notice requirements of this Section (IV.A.3.g), the background level of a contaminant shall be the most recent Department-approved 95 percent upper tolerance limit for the background for that contaminant set forth in the *Groundwater Background Investigation Report* prepared under Section IV.A.3.d of this Consent Order once approved by the Department, including any approved revisions, as it may be revised or replaced with another document.”

#### **PUBLIC REVIEW OF THE ADMINISTRATIVE RECORD**

Availability of Additional Information: The Administrative Record for this proposed action consists of this Public Notice, Settlement Agreement and Stipulated Final Order (HWB 07-27 (CO)), and other relevant correspondence and documents. The Administrative Record may be reviewed at the following location during the public comment period with prior appointment:

New Mexico Environment Department - Hazardous Waste Bureau  
2905 Rodeo Park Drive East, Building 1  
Santa Fe, New Mexico 87505-6303  
Phone: (505) 476-6000

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*Monday – Friday: 8:00 a.m. to 5:00 p.m.*

Contact: Pam Allen

The Public Notice, Settlement Agreement and Stipulated Final Order (HWB 07-27 (CO)), and Consent Order are also available on the NMED website at <http://www.nmenv.state.nm.us/hwb/lanlperm.html> under Modification of Consent Order. To obtain a copy of the Administrative Record or a portion thereof, please contact Pam Allen at (505) 476-6064, via electronic mail (e-mail) at [pam.allen@state.nm.us](mailto:pam.allen@state.nm.us), or at the NMED address given above. NMED will provide copies, or portions thereof, of the Administrative Record at a cost to the requestor.

Comment Period and Environment Department Contact: NMED issued a public notice on **August 8, 2007** to announce the beginning of a 60-day comment period that will end at **5:00 p.m. MDT, October 9, 2007**. Any person who wishes to comment on this action must submit written or electronic mail (e-mail) comment(s) with the commenter's name and address to the address below. Only comments received on or before **5:00 p.m. MDT, October 9, 2007** will be considered.

John E. Kieling, Program Manager  
Hazardous Waste Bureau - New Mexico Environment Department  
2905 Rodeo Park Drive East, Building 1  
Santa Fe, NM 87505-6303  
Phone: (505) 476-6000  
Or via e-mail: [john.kieling@state.nm.us](mailto:john.kieling@state.nm.us)  
Reference: Modification to the Consent Order

Written comments must be based on information available for review and include, to the extent practicable, all referenced factual materials. Documents in the Administrative Record need not be re-submitted if expressly referenced by the commenter.

Final Decision: NMED must ensure that the proposed modification is consistent with the Hazardous Waste Act, the Hazardous Waste Management Regulations, and the Consent Order. All written comments submitted on this matter will become part of the administrative record. NMED will respond in writing to all written public comments. NMED's response to comments will also be posted on the NMED website in addition to being sent to all persons who submitted written comments.

After consideration of all the written public comments received, NMED may modify the proposed added text, subject to the agreement of the Permittees.

**Arrangements for Persons with Disabilities:** Any person with a disability requiring assistance or auxiliary aid to participate in this process should contact Judy Bentley at the following address: New Mexico Environment Department, Room N-4030, P.O. Box 26110, 1190 St. Francis Drive, Santa Fe, New Mexico 87502-6110, (505) 827-9872. TDD or TDY users please access Judy Bentley's number via the New Mexico Relay Network. Albuquerque users may access Ms. Bentley's number at (505) 275-7333.