

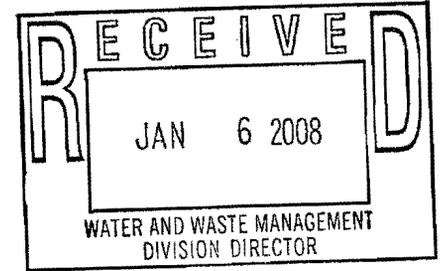


Permit

*copy to
J. Nest
Jon*

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS, TX 75202-2733

December 22, 2008



Mr. A. John Ahlquist
1625 Geary Road
Walnut Creek, CA 94597

Dear Mr. Ahlquist:

This letter is the U.S. Environmental Protection Agency Region 6's (EPA) response to your letter of October 24, 2008 to Mr. Stephen L. Johnson, Administrator for the EPA. Since New Mexico is in Region 6's jurisdiction, the Administrator requested that I respond to your letter. In your letter you identified some RCRA permitting concerns pertaining to the New Mexico Environment Department (NMED) as they relate to Los Alamos National Laboratory (LANL).

While EPA recognizes that LANL must be appropriately and efficiently regulated, the Agency also appreciates that LANL is the largest and most complex RCRA facility in the State of New Mexico. The site is complex for a variety of reasons such as: 1) a large number of hazardous wastes streams generated at the site, not including the radioactive waste streams; 2) numerous stakeholders with great public interest; 3) a large variety of hazardous waste units; 4) complex hydrogeology; 5) over 1000 sites to be investigated; and, 6) extensive media coverage. The complexity is also demonstrated by the State's Administrative record for the permit renewal, which is over 1.5 million pages.

One of your concerns is that the original RCRA permit (issued 1989) has not been re-issued. Although the original permit has not been re-issued at this time, the 1989 RCRA permit still remains in effect until the current draft RCRA permit (public noticed 8/27/07) is issued. It should be noted that New Mexico's public participation requirements are more stringent than EPA's and require more involvement with stakeholders who have commented on the draft permit. We believe that NMED is diligently working to address all comments on this draft before issuing a renewal.

Your letter also expressed concerns with the environmental cleanup program, which is associated with the investigation and cleanup of Solid Waste Management Units (SWMUs). In March of 2005, after months of negotiations between NMED and the Department of Energy (DOE) represented by the Department of Justice a "Consent Order" was agreed upon by the parties. It was



Department of Justice a "Consent Order" was agreed upon by the parties. It was hoped by both parties that this new agreement would advance the investigation and cleanup of SWMUs at the facility. Your specific concern dealt with the apparent untimely action by NMED pertaining to the "No Further Action (NFA)" finding of twenty SWMUs at LANL. In your letter, you further mentioned that NMED approved these twenty NFA findings in March of 2007. It should be noted that NMED found that the twenty SWMUs did not meet the NFA criteria and that additional investigations/work were needed before the NFA finding could be approved. Therefore, it was not until March of 2007, that these SWMUs met the NMED criteria of NFA.

In closing, EPA does conduct yearly oversight of the New Mexico RCRA program. This oversight is performed by conducting face to face semi-annual meetings with NMED and monthly conference calls. Various RCRA permitting issues (including schedules) and environmental cleanup concerns are discussed during these meetings/calls. From these interactions, EPA conducts a yearly evaluation of the NMED RCRA program to ensure that the RCRA program is being administered appropriately.

If you have any questions regarding this letter, please contact Laurie King of my staff at (214) 665-6771.

Sincerely,



Carl E. Edlund, P.E.
Director
Multimedia Planning
and Permitting Division

✓cc: Marcy Leavitt, NMED