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RON CURRY
Secretary

CINDY PADILLA
Deputy Secretary

August 31, 2007

The Honorable Jeannette Wallace
New Mexico House of Representatives
1913 Spruce Street
Los Alamos, New Mexico 87544

RE: ASSESSED PENALTIES FOR LOS ALAMOS NATIONAL LABORATORY

Dear Representative Wallace:

At the August 27, 2007 joint meeting of the Radioactive and Hazardous Materials and Los Alamos National Laboratory Oversight Interim Committees, you asked about the amount and disposition of penalties assessed against the Los Alamos National Laboratory. I take this opportunity to clarify my answer.

The Environment Department's authority to assess civil penalties exists under the New Mexico Hazardous Waste Act at 74-4-10 NMSA 1978. All penalties collected by the Department under the Hazardous Waste Act are deposited to the Hazardous Waste Emergency Fund 74-4-8 NMSA 1978). The Act greatly restrict the uses of the Fund; examples include administration of the Department's spill response program, and cleanup of explosions, vehicle wrecks, or clandestine drug labs, where an emergency exists and no party is available to conduct the cleanup.

Since July, 2006, the Department has assessed penalties against the Laboratory for five incidents of noncompliance with the historic fence-to-fence cleanup order or the Laboratory's hazardous waste facility permit totaling \$1,174,810. These have taken the form of either settlements of proposed penalties, or "stipulated" penalties as set out in the Order. These latter penalties are agreed to up front by the parties to the Order, and simply require a demand letter by the Department in the event of noncompliance. Note that the Department does not always assess a penalty for noncompliance.

The Laboratory has paid all the settlement penalties to date. The Department is concerned, however, that the Laboratory has failed to make payment on most of the stipulated penalties. All enforcement actions, including those without penalty assessments, since July 2006 are summarized as follows:



INCIDENT	ASSESSMENT	PAYMENT
<u>Incinerator Ashpile</u> – LANL failed to adhere to its approved workplan, and shipped potentially hazardous waste to the Los Alamos Municipal Landfill	\$50,095 settlement	\$50,095
<u>Incinerator Ashpile</u> – LANL failed to conduct the cleanup and submit the required reports in the timeframes set out in the Order	\$414,000 stipulated penalties	\$210,000
<u>Chromium Reporting</u> – LANL failed to timely report hexavalent chromium in the regional aquifer at eight times the State groundwater standard.	\$251,870 settlement	\$251,870
<u>Sigma Mesa Rubble Pile</u> – LANL failed to manage hazardous waste generated through demolition of a building at TA-16	\$119,845 settlement	\$119,845
<u>MDA C</u> – LANL failed to execute its approved workplan	\$339,000 stipulated penalties	\$30,000
<u>Sampling at TA-16</u> – LANL failed to sample groundwater in timeframes set out in the Order	none	none
Total	\$1,174,810	\$661,810

As always, I sincerely appreciate the courtesy and respect I am paid when I have the pleasure of addressing the committees. Please do not hesitate to contact me should you have any questions or require further information.

Sincerely,



James P. Bearzi
Chief
Hazardous Waste Bureau

cc: Ron Curry, Environment Department Cabinet Secretary
Jon Goldstein, Water & Waste Management Division Director
Evan Blackstone, Legislative Council Service