



Department of Energy

Field Office, Albuquerque
Los Alamos Area Office
Los Alamos, New Mexico 87544

SEP 24 1992

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TA-01

Dr. Allyn Davis
U. S. Environmental Protection Agency, Region 6
Hazardous Waste Management Division
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

Dear Dr. Davis:

The purpose of this letter is to inform you of the inability of the Department of Energy (DOE) and the University of California (the University) to obtain the access required for sampling at Loma Vista Drive, Tract LM003, for Solid Waste Management Units (SWMUs) numbers 1-001P, 1-002, 1-006B, 1-007B, Operable Unit (OU) 1078 and to document the efforts made to obtain this access.

May 29, 1992 - Access Agreement (Enclosure 1) hand-delivered by Steve Slaten, DOE/LAAO, and Ron Conrad, Project Leader for OU 1078, to Mike Harris, President of Amistad Realty.

June 4, 1992 - Letter (Enclosure 2) sent to Los Alamos National Laboratory (LANL) from Bruce Garber, Attorney for Mr. Harris, outlining concerns with the access agreement.

June 22, 1992 - Representatives from DOE and the University met with Mr. Harris, Mr. Garber, and Allan Stone, Mr. Harris' associate at Mr. Garber's office in Santa Fe, to discuss the concerns raised in Mr. Garber's June 4 letter. Mr. Harris' chief concerns were that he needed assurance that the property would receive a clean bill of health in a short time frame. Absent this assurance, Mr. Harris demanded compensation for the delay caused to his development plans. It is Mr. Harris' position that a "clean bill of health" means clean up to background levels of any contamination found on the property. The DOE representative explained that LANL could not commit to a specific time frame for cleanup because the sampling to characterize the site had not been done at that time, funds had not yet been appropriated by Congress for this project, and the approvals required were outside the control of DOE and the University. It was also explained that we are unwilling to commit to cleanup contamination caused by non-LANL related activities or to clean up to levels beyond those required by the Environmental Protection Agency (EPA). The meeting ended with a commitment by DOE to look into the issue of compensation for the use of the property during sampling and any required cleanup or the possible purchase of the property.



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July 13, 1992 - Letter (Enclosure 3) from Mr. Garber to DOE expressing concerns regarding the lease of the property to DOE.

July 17, 1992 - Meeting with Mr. Harris, Mr. Stone, and University representatives at Mr. Garber's office to discuss possibilities of leasing the property to DOE for the purpose of storing equipment associated with investigations of SWMUs. Mr. Harris is concerned about the term of the lease. DOE and the University cannot commit to a specific term because of uncertainty concerning cleanup time frames. Mr. Harris also wants commitment that the cleanup would be completed to background levels since the property would remain in his ownership during and after the lease. The lease price quoted by Mr. Stone was \$485,868 for a three-year lease term. DOE and the University were unable to agree to the lease of the property. The only option which would satisfy all Mr. Harris' concerns would be the purchase of the property.

Both the Resource Conservation and Recovery Act and its attendant regulations require that a permittee take corrective actions beyond the facility boundary unless the permittee demonstrates to the EPA's satisfaction that despite its "best efforts," the permittee was unable to obtain the necessary permission to undertake the corrective actions.

Sincerely,



Jerry L. Bellows
Area Manager

LESH:6SS-048

Enclosures:

- 1 - Access Agreement
- 2 - Garber letter sent to
LANL
- 3 - Garber letter to DOE

cc w/enclosures:

Records Room
File (2)

cc w/o enclosures:

Robert Vocke, EM-13, LANL,
MS M992