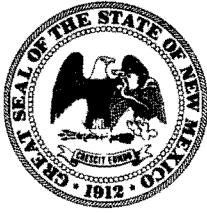


TA05



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) 428-2500
Fax (505) 428-2567
www.nmenv.state.nm.us



RON CURRY
SECRETARY

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

May 2, 2006

Mr. Edwin Wilmot, Manager
Los Alamos Site Office-Department of Energy
528 35th Street, Mail Stop A316
Los Alamos, NM 87544

Mr. Robert W. Kuckuck, Director
Los Alamos National Laboratory
P.O. Box 1663, MS A100
Los Alamos, NM 87545

**RE: REQUEST FOR ANALYTICAL LABORATORY REPORTS AND ALL
CORRESPONDANCE SUBMITTED TO THE NEW MEXICO ENVIRONMENT
DEPARTMENT PERTAINING TO REGIONAL AQUIFER WELL R-28
PURSUANT TO THE NEW MEXICO HAZARDOUS WASTE ACT AND THE
RESOURCE CONSERVATION AND RECOVERY ACT
LOS ALAMOS NATIONAL LABORATORY, NM0890010515**

Dear Messrs. Wilmot and Kuckuck:

This letter requests information regarding the December 23, 2005 Department of Energy and University of California (the Permittees) verbal notification of chromium detections in groundwater samples collected from regional aquifer well R-28. The detections are above New Mexico Water Quality Control Commission (WQCC) groundwater standard of 50 µg/L and the federal drinking water maximum contaminant level of 100 µg/L. The New Mexico Environment Department (Department) requests the following information:

1. The Permittees must provide the analytical laboratory reports and chain-of-custody forms for all samples (including contract laboratory Level II quality assurance and quality control information) collected from well R-28.
2. The Permittees must provide a master list and copies of all correspondence with the Department (including the Hazardous Waste, Ground Water Quality, and Safe Drinking Water Bureaus) regarding chromium detections in groundwater samples obtained from R-28.



2847

Messrs. Wilmot and Kuckuck
May 2, 2006
Page 2 of 4

This information request is pursuant to the New Mexico Hazardous Waste Act (HWA), NMSA 1978, §§ 74-4-1 to 74-4-14, and the federal Resource Conservation and Recovery Act (RCRA), 42 U.S.C. §§ 6901 to 6992k. Los Alamos National Laboratory (LANL) is a national laboratory owned and operated by the United States Department of Energy (DOE). DOE is an agency of the United States. LANL is also operated by the University of California. Each of these entities, the "Permittees"), is a person who generates, stores, treats, transports, disposes of, or otherwise handles or has handled hazardous wastes within the meaning of the HWA and RCRA. NMSA 1978, § 74-4-3(K); 42 U.S.C. § 6903(15).

Section 74-4-4.3(A)(1) of the HWA provides that "[f]or the purposes of taking any corrective action or enforcing the provisions of the [HWA], . . . upon request of [the Department] any person who generates, stores, treats, transports, disposes of or otherwise handles or has handled hazardous wastes shall furnish information relating to such hazardous wastes." Likewise, section 3007(a) of RCRA provides that "[f]or purposes of enforcing the provisions of [RCRA], any person who generates, stores, treats, transports, disposes of, or otherwise handles or has handled hazardous wastes shall, upon request of . . . any duly designated officer, employee, or representative of a State having an authorized hazardous waste program, furnish information relating to such wastes." (42 U.S.C. § 6927(a)).

Furthermore, Condition I.D.7 of LANL's Hazardous Waste Facility Permit (No. NM0890010515), as modified, provides that the Permittees must furnish to the Department "any relevant information which the Department may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit." In addition, Section III.P of the Compliance Order on Consent, dated March 1, 2005, provides that the Respondents shall, within a reasonable time after receipt of a request from the Department, "furnish information to the Department relating to hazardous wastes that are or have been managed at the [LANL] facility."

In accordance with these provisions, compliance with this information request by the Permittees is mandatory. Failure to respond fully and truthfully to this information request within the time specified herein, or adequately justify such failure to respond, may result in an enforcement action by the Department pursuant to section 74-4-10 of the HWA, or section 7002(a)(1)(A) of RCRA, 42 U.S.C. § 6972(a)(1)(A), or both. Both the HWA and RCRA provide for the imposition of civil penalties for noncompliance. Section 74-4-12 of the HWA provides that any person who violates any provision of the HWA "may be assessed a civil penalty not to exceed ten thousand dollars (\$10,000) for each day during any portion of which a violation occurs." (*See also* NMSA 1978, § 74-4-10(A) and (B)). Section 3008(g) of RCRA provides that any person who violates any requirement of RCRA shall be liable for a civil penalty not to exceed \$32,500 per day for each such violation. 42 U.S.C. § 6928(g). Both the HWA and RCRA also provide for criminal fines and imprisonment for knowingly omitting material information or making a false statement or representation in any document used for compliance with the HWA or RCRA NMSA 1978, § 74-4-11(A)(3); 42 U.S.C. § 6928(d)(3).

INSTRUCTIONS

The following instructions shall apply to your response to these information requests:

1. Provide the requested information in the form of two (2) hardcopies and one electronic (i.e., Microsoft Excel®) copy relating to Item #1.
2. Provide the requested information in the form of two (2) hardcopies and one electronic (i.e., Adobe PDF©) copy relating to Item #2.
3. The requested analytical laboratory reports and chain of custody forms must include and follow the requirements for submitting the information as outlined in Sections IX.C, "Chemical Analyses," and XI.C.14.d "Analytical Reports," of the March 2005 Consent Order. Copies of the analytical data may be submitted electronically in a format approved by the Department and chain-of-custody forms may be submitted electronically in a PDF format.
4. Responses shall be submitted to:

James P. Bearzi
Chief
Hazardous Waste Bureau
New Mexico Environment Department
2905 Rodeo Park Drive East
Building 1
Santa Fe, New Mexico 87505-6303

Messrs. Wilmot and Kuckuck

May 2, 2006

Page 4 of 4

All requested information must be submitted within 15 days of receipt of this letter. Thank you for your cooperation in this matter. If you have any questions please contact John Young of my staff at (505) 428-2538.

Sincerely,



James P. Bearzi

Chief

Hazardous Waste Bureau

JPB:jy

cc: C. Padilla, NMED W&WMD
D. Cobrain, NMED HWB
J. Kieling, NMED HWB
S. Yanicak, NMED DOE OB
C. de Saillan, NMED OGC
L. King, EPA 6PD-N
J. Ordaz, DOE OLASO, MS A316
D. McInroy, LANL RRES-ER, MS M992

File: Reading and file '05 General TA-5 [Interim Measures Work Plan for Chromium in Groundwater, Mortandad Canyon]