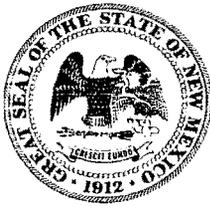


TA 16

State of New Mexico
ENVIRONMENT DEPARTMENT

Hazardous Waste Bureau
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BILL RICHARDSON
GOVERNOR



RON CURRY
SECRETARY

**CERTIFIED MAIL
RETURN RECEIPT REQUIRED**

October 25, 2006

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

Mr. 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 87545

**SUBJECT: NOTICE OF VIOLATION
LOS ALAMOS NATIONAL LABORATORY (LANL)
EPA ID NM0890010515**

Dear Messrs. Wilmot and Watkins:

The New Mexico Environment Department (Department) hereby issues this Notice of Violation (NOV) to the Department of Energy and the Los Alamos National Security, LLC (collectively, the Permittees), for violation of the New Mexico Hazardous Waste Management Regulations (20.4.1 NMAC) and the Permittees' Hazardous Waste Permit (Permit) issued under the Resource Conservation and Recovery Act (RCRA), the New Mexico Hazardous Waste Act, NMSA 1978, § 74-4-10 as specified below.

The Permittees stored hazardous waste debris in an unapproved staging pile from January 16, 2005 to February 15, 2005 in violation of 20.4.1.500, incorporating 40 CFR § 264.554(b). Additionally, the Permittees placed prohibited hazardous debris waste in a land disposal unit (the Sigma Mesa waste pile) without meeting the 40 CFR part 268 treatment standards in 40 CFR part 268 or other applicable conditions in violation of Permit Section VIII.B.4(a). The Department identified the violations described herein after the Permittees notified the Department by phone on August 31, 2005 of these facts, and after the Department reviewed relevant documents subsequently submitted by the Permittees.



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Background

The wastes associated with the demolition of the TA-16-340 Complex in the waste pile at Sigma Mesa consist of steel-reinforced concrete from SWMUs 16-003(o) and 16-029(f) at TA-16 commingled with concrete rubble from the demolition of Building TA-16-340. SWMU 16-003(o) consisted of six sumps and the outfall associated with TA-16-340, an explosives synthesis building. The 6-inch-thick, steel-reinforced concrete sumps, which had removable aluminum lids and liners, were approximately 5 feet long, 3 feet wide, and 4 feet deep. They were connected to a 10-inch drainline that discharged to an outfall east of TA-16-340. SWMU 16-029(f) was a steel-reinforced concrete sump and drainline that served TA-16-345, a high-explosive storage facility. The sump was approximately 8 feet long, 4 feet wide, and 5 feet deep with a removable aluminum lid and liner. The sump was connected to a 6-inch drainline, which discharged to an outfall (SWMU 16-026(j2)) located southeast of the building. The aluminum liners and lids are not included in the rubble at Sigma Mesa. On August 31, 2005, the Permittees notified the Department that rubble from the TA-16-340 Complex demolition had been mixed with hazardous remediation waste from SWMUs 16-003(o) and 16-029(f) and subsequently shipped to Sigma Mesa where it was placed on the ground.

According to the *TA-16-340 Complex Investigation Work Plan, Revision 1*, dated March 2005, acetone, ammonium sulfate, n-butyl-acetate, chloroform, 1,2-dichloroethane, ethyl acetate, isopropyl alcohol, methanol, methylene chloride, butanone[2-] (MEK), and toluene have all been used within Building TA-16-340. SWMUs 16-003(o) and 16-029(f) were therefore potentially contaminated with the aforementioned listed constituents. The Permittees' letter dated April 18, 2006 provided sampling results and the waste codes (D003, D005, D030, and F005) that were attached to the wastes generated when the sumps and ancillary structures were removed.

While the rubble from Building TA-16-340 contains mainly non-hazardous demolition debris, a portion of the rubble was derived from SWMUs that were used to manage listed and characteristic hazardous waste. The total volume of the rubble pile at Sigma Mesa is approximately 8,000 cubic yards, of which approximately 20 cubic yards is hazardous remediation waste from SMWUs 16-003(o) and 16-029(f) is. However, the entire 8,000 cubic yards of material staged at Sigma Mesa is now considered hazardous remediation waste because listed hazardous waste from the sumps was mixed with demolition waste from building TA-16-340. Pursuant to 20.4.1.200 NMAC, incorporating 40 CFR § 261.3(b)(2), the listing attaches to the entire waste pile. The Department has not yet ruled on the Permittees' request for a contained-in determination pursuant to 20.4.1.200 NMAC, incorporating 40 CFR § 261.3(f)(2).

Violations

The Department hereby gives the Permittees notice of the following violations:

- 1) 20.4.1.500 NMAC, incorporating 40 CFR § 264.554(b), states that the owner or operator "may use a staging pile to store hazardous remediation waste (or remediation waste

otherwise subject to land disposal restrictions) only if you follow the standards and design criteria the Director, in this case the Department, has designated for that staging pile. The Department must designate the staging pile in a permit or, at an interim status facility, in a closure plan or order (consistent with § 270.72(a)(5) and (b)(5) of this chapter)." From January 16 to 31, 2005 the sumps contaminated with F-listed hazardous waste were excavated and the resulting hazardous remediation waste was added to concrete rubble from Building TA-16-340. The Permittees began transferring the mixed debris pile from the staging pile to Sigma Mesa on February 1, 2006 and completed transfer operations on February 15. The Permittees did not obtain a staging pile designation from the Department prior to staging hazardous remediation waste at the TA-16-340 Complex. Because hazardous remediation waste was stored in an unapproved staging pile from January 16, 2005 to February 15, 2005, the Permittees are in violation of 20.4.1.500 NMAC, incorporating 40 CFR § 264.554(b).

- 2) Section VIII.B.4(a) of the Permittees' Permit states, "[t]he Permittee shall not place in any land disposal unit the wastes specified in RCRA Section 3004 after the effective date of the prohibition unless the Administrator has established disposal or treatment standards for the hazardous waste, and the Permittee meets such standards and other applicable conditions of this permit." From February 1 to 15, 2005 the Permittees transferred untreated hazardous remediation waste from a staging pile at the TA-16-340 Complex to a site at Sigma Mesa. The resulting accumulation of debris at Sigma Mesa meets the definition of a "pile" in 20.4.1.100 NMAC, incorporating 40 CFR § 260.10: "any non-containerized accumulation of solid, non-flowing hazardous waste that is used for treatment or storage and that is not a containment building." This action resulted in creation of an unpermitted land disposal unit subject to the requirements for waste piles at 20.4.1.500 NMAC, incorporating 40 CFR § 264 subpart L. Because prohibited hazardous remediation waste was placed in a land disposal unit without meeting the RCRA treatment standards or other applicable conditions (e.g., obtaining a contained-in determination) and without obtaining a permit, the Permittees are in violation of Permit Section VIII.B.4(a) and 20.4.1.900 NMAC incorporating 40 CFR § 270.10.

The Department will propose a civil penalty for these violations in a settlement offer, which will be sent by separate letter. The Department requests a meeting with the Permittees for the purpose of attempting to negotiate a settlement of the Department's claim for penalties for the violations described in this NOV.

Any action the Permittees take in response to this letter does not relieve the Permittees of their obligation to comply with all applicable laws and regulations. To arrange a settlement meeting, contact me directly within ten (10) days of your receipt of this letter at the above address, or at (505) 428-2512.

Messrs. Wilmot & Watkins

October 25, 2006

Page 4

Sincerely,



James P. Bearzi

Chief

Hazardous Waste Bureau

JPB:kc

cc: K. Chamberlain, NMED HWB
D. Cobrain, NMED HWB
A. Vollmer, NMED HWB
C. de Saillan, NMED OGC
S. Yanicak, NMED DOE OB, MS J993
L. King, EPA 6PD-N
V. George, LANS ENVP-DO, MS J978
A. Phelps, LANS ENV, MS T002
G. Rael, DOE LASO, MS A316
file: Reading and LANL '06 (SWMUs 16-003(o) & 16-029(f), TA-16-340 Complex)