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GOVERNOR

State of New Mexico  
**ENVIRONMENT DEPARTMENT**  
Hazardous & Radioactive Materials Bureau  
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MARK E. WEIDLER  
SECRETARY

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DEPUTY SECRETARY

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

May 21, 1996

G. Thomas Todd, Area Manager  
Department of Energy  
Albuquerque Operations Office  
Los Alamos Area Office  
Los Alamos, New Mexico 87544

Dear Mr. Todd:

**RE: Approval of Class 2 modifications to the Controlled Air Incinerator**  
EPA I.D. No. EPA I.D. No. NM 0890010515

The New Mexico Environment Department (NMED) Hazardous and Radioactive Materials Bureau (HRMB) hereby approves the proposed Class 2 modifications to the Controlled Air Incinerator (CAI). The modifications consist of several equipment upgrades which were determined to be Class 2 modifications by HRMB.

Los Alamos National Laboratory (LANL) released the proposed modifications for a sixty (60) day comment period which ran from February 22, 1996, to April 22, 1996. HRMB received one (1) written comment during the public notice period. A copy of the comment is enclosed for your information. The comment did not address the proposed modifications specifically, thus no changes are required in the modifications for HRMB approval.

Please contact Mr. Michael Chacón of my staff at (505) 827-1561 if you have any questions.

Sincerely,

Ed Kelley, Director  
Water and Waste Management Division

Enclosure

cc: Benito J. Garcia, Chief, HRMB  
David Neleigh, EPA (6PD-N)  
File - LANL TA-~~4~~ Red 96, and Reading

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TA-50

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Post Office Box 510  
South Royalton, VT 05068-0510  
(802) 763-2624

April 22, 1996

Ms. Barbara Hoditschek  
RCRA Permits Program Manager  
NMED Hazardous and Radioactive Materials Bureau  
POB 26110  
Santa Fe, NM 87502

Re: LANL's Controlled Air Incinerator  
Comments on Hazardous Waste Facility Class II Permit Modification

Dear Ms. Hoditschek:

I am very concerned that the intention behind Los Alamos National Laboratory (LANL)'s request to the New Mexico Environment Department to grant a modification of the Controlled Air Incinerator (CAI) permit is to obtain a current permit and operate the CAI. I am particularly concerned that LANL will bring the CAI on-line and not take the facility off-line until DOE's transuranic waste incineration needs are met. This is completely unacceptable because (1) that is not the perception the public has of this "permit/closure" process; (2) that there are inherent dangers to the public and surrounding environment if the CAI is put into operation for the purposes of incinerating TRUW mixed wastes; and (3) LANL's inability to meet existing federal Clean Air Act standards (reference: recent lawsuit brought by citizens' groups).

I draw your attention to the Department of Energy's Draft Waste Management Programmatic Environmental Impact Statement (WM DPEIS) written in August, 1995. Chapter 8 of the WM DPEIS is devoted to Impacts of the Management of Transuranic Waste. On page 8-7, there is a table entitled, "Table 8.1-2. Capacities of Existing and Planned TRUW Facilities." In that table, under "Site," LANL is listed. Under the "Facility," the Controlled Air Incinerator" is listed. It is listed as incineration for the "Type" of Facility. The CAI is listed as having a "Capacity" of burning 680 cubic meters per year, and there is a reference to "Footnote c." "Footnote c" states:

"A recent site report now estimates the capacity at 1,000 - 2,500 cubic meters per year, but states that the Controlled Air Incinerator project is on **standby** and DOE is exploring RCRA closure. The increase in estimated capacity will have no effect on impacts. The previous estimated capacity exceeded the projected requirements; operational impacts would remain the same." [emphasis added.]

Under "Capabilities/Comments" for the CAI, it further states: "RCRA permit lapsed, TSCA permit in place; LANL sitewide Environmental Impact Statement in progress."

In addition, on page 8-5 of the WM DPEIS, in Section 8.1.3 "Existing and Planned Facilities Available at DOE Sites:"

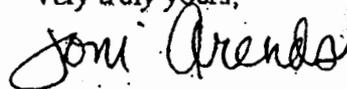
"To establish the baseline capacities for TRUW treatment and identify the need for new or expanded facilities, DOE compiled a list of existing and planned TRUW facilities. Total capacities of these identified facilities are presented in Table 8.1-2 [described in the above paragraph of this letter]. Some facilities that are not

Ms. Barbara Hoditschek  
April 22, 1996  
Page Three

LANI.'s Controlled Air Incinerator  
Comments on Class II Permit Modification

Thank you for your time in reading and assessing my comments on the CAI. This is a very important issue and, please, NMED proceed cautiously.

Very truly yours,



Joni Arends

Enclosures

greater proportion of radionuclides that produce highly penetrating radiation (gamma radiation) and thus must receive special shielding in treatment, storage, and disposal facilities.

The current total inventory plus the 20-year projected generation of TRUW analyzed in the WM PEIS is approximately 110,000 cubic meters. The largest volumes of TRUW are located at 10 sites, with 95% of the waste located at six of these sites: the Hanford Site, INEL, LANL, ORR, RFETS, and SRS. Figure 8.1-1 presents the total TRUW volumes at the major sites.

### 8.1.3 EXISTING AND PLANNED FACILITIES AVAILABLE AT DOE SITES

To establish the baseline capacities for TRUW treatment and identify the need for new or expanded facilities, DOE compiled a list of existing and planned TRUW facilities. Total capacities of these identified facilities are presented in Table 8.1-2. Some facilities that are not currently operating were considered to be in existence for the analysis, based on the assumption that they could become operational if required. Planned facilities include only those facilities for which a conceptual design has been completed.

Analysis in the PEIS assumes use of existing and planned facilities until their capacities are met. If additional capacity is needed, use of new conceptual facilities is assumed. These conceptual facilities provide the difference in TSD capacity between the baseline reported in Table 6.1-2 and what is necessary to manage the source term which a given site would receive under any given alternative. Conceptual facilities are based on generic designs with set impacts (e.g., cost, performance/efficiency). Where necessary for analysis, an assumption was made that the impact of existing facilities essentially reflects the impact of conceptual facilities.

Seven sites are listed that have either existing or planned treatment facilities: ANL-E, the Hanford Site, INEL, LANL, ORR, RFETS, and SRS (see Table 8.1-2). These facilities are each capable of performing different aspects of treatment including characterization, sorting, volume reduction, filtration, and cement stabilization. DOE also assumed that the basic capabilities to package and store TRUW are available at every site that would generate TRUW in the future. This includes 11 sites projected to generate CH TRUW and 5 sites with projected RH TRUW, as shown in Table 8.1-1.



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**CERTIFIED MAIL**  
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May 20, 1996

Ms. Joni Arends  
P.O. Box 510  
South Royalton, VT 05068-0510

Dear Ms. Arends:

**RE: Response to Comments on Los Alamos National Laboratory Class II Permit Modifications to the Controlled Air Incinerator**

The New Mexico Environment Department (NMED) Hazardous and Radioactive Materials Bureau (HRMB) is in receipt of your letter dated April 22, 1996, containing comments regarding the Class II permit modifications proposed by Los Alamos National Laboratory (LANL) to their Hazardous Waste Management Facility permit for the Controlled Air Incinerator (CAI). HRMB's responses are as follows:

Item 1: "I am very concerned that the intention behind Los Alamos National Laboratory (LANL)'s request to the New Mexico Environment Department to grant a modification of the Controlled Air Incinerator (CAI) permit is to obtain a current permit and operate the CAI. I am particularly concerned that LANL will bring the CAI on-line and not take the facility off-line until DOE's transuranic waste incineration needs are met."

Response: In fact the CAI is a currently permitted unit, but has not operated since 1987. The perception that it is not currently permitted seems to be derived from the Department of Energy (DOE) Waste Management Draft Programmatic Environmental Impact Statement (WM DPEIS) which you reference beginning in paragraph 2 (two) of your letter. The WM DPEIS erroneously states that the RCRA Permit for the CAI has lapsed.

As to your concern that the CAI will be brought on-line, please be advised that HRMB is currently preparing the Public Notice for the closure plan for the CAI, which calls for closure and dismantling of the CAI. The closure process will begin as soon as HRMB approves the plan, which will be subsequent to the fulfillment of public

1561.

Item 3b: "In reality, the NMED should make the modification permit tied to the closure permit. The permit for modification should be for a short amount of time for the modifications **ONLY**."

Response: The perception that there are separate "modification permits" and "closure permits" is not quite correct, and seems to be an unnecessary point of concern. The CAI is included in LANL's overall RCRA Facility Operating Permit. The proposed modifications are not in fact a separate permit, but are simply changes to parts of the Permit specific to the CAI. Also, it is Attachment E.4 of the Operating Permit, and not a separate permit, that deals with closure of the unit, and LANL's proposed changes to that specific attachment is what NMED will **next** be public noticing for public participation. Both of these actions are with the intent of preparing for RCRA closure of the CAI.

Item 3c: "The current public perception that the CAI permit is two separate processes may allow LANL to begin operation of the CAI to meet the WM DPEIS mandates and assumptions under the cloak of a current permit."

Response: Once again, HRMB will strive to communicate permit activities to the public in a readily comprehensible form. However, even if that effort should not always be entirely successful, RCRA regulations are explicit to the extent of preventing **ANY** facility from manipulating public perception to the extent described.

Item 4a: "I am also concerned that your notice states that you will only consider comments that you receive prior to April 22, 1996."

Response: Actually the last sentence of paragraph 6 (six) of Public Notice No. 83 reads; "Only comments and/or requests received **by** (emphasis added) April 22, 1996, will be considered."

Item 4b: "Previously, the procedure has been that as long as the comments were postmarked by a certain date that they would be accepted."

Response: Public Notice No. 83 was written with previous Notices as a template. Several examples of previous notices with such wording can be provided upon request. However, it appears that within HRMB individual interpretation of the

Ms. Joni Arends  
May 20, 1996  
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is to be closed. It signals the end of the possibility of hazardous waste operations of the unit.

Item 5b: (2) "There are inherent dangers to the public and surrounding environment if the CAI is put into operation for the purposes of incinerating TRUW mixed wastes. Proof is found in the recent decision of the federal District Court of LANL's inability to meet existing federal Clean Air Standards."

Response: Again, HRMB disagrees that there are inherent dangers in operation of the CAI.

Item 6: Various questions regarding the WM DPEIS.

Response: At this time HRMB cannot respond officially on specifics of the WM DPEIS. However, if you wish to pursue your questions further, HRMB can attempt to provide you with the proper DOE contact.

Thank you for your comments on the modifications to the RCRA Permit to the CAI. If you feel any questions or comments were not addressed or responded to sufficiently, please contact Mr. Michael Chacón of HRMB and we will attempt to address any remaining concerns.

Sincerely,



Barbara Hoditschek, RCRA Permits Program Manager  
Hazardous and Radioactive Materials Bureau

cc: Benito J. Garcia, Chief, HRMB  
David Neleigh, EPA (6PD-N)  
File - LANL TA-54 Red 96, and Reading