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United States Government

Department of Energy
Albuquerque Operations Office
Los Alamos Area Office
Los Alamos, New Mexico 87544

memorandum

DATE: August 8, 1997
REPLY TO ATTN OF: H. L. "Jody" Plum
SUBJECT: TA-54, Area L, Asphalt Disposal Issues

TO: G. Thomas Todd

The purpose of this memorandum is to express my grave concerns that the DOE's M&O contractor, the University of California (UC), is not complying with existing environmental law and subsequent regulation. The seriousness of these concerns include the potential for the closure of TA-54 facilities in total or in part. In either case, the overall effect on operations could have severe impact on Los Alamos National Laboratory operations in support of national defense programs and contingency plans for management of waste generated may need to be considered. I must specifically cite programs involving LANL facilities TA-55, CMR, and all other operations supporting defense programs.

Additionally, DOE could once again be painted by a wide brush of distrust for actions it neither supports or condons, with all of the attendant negative publicity. Further, there is ample evidence of the potential of NMED involving the New Mexico Attorney Generals Office, and the U. S. Environmental Protection Agency.

Lastly, due to the nature of the events and the refusal of UC management, Environmental Safety and Health staff, and UC Counsel to understand multiple requests by me, including my beseeching them to provide all of the information in a truthful and forthright manner when addressing the what woto address the issues in a truthful manner with all of the facts as they proposed there may be grounds for DOE to deny any and all costs for all past and future actions required of UC to address this matter. This is further supported by the beseechment of UC management by Herman LeDoux on the morning of August 6, 1997 to not submit the response as drafted.

Potential areas of violation include as follows:

- State of New Mexico, Hazardous Waste Act
- State of New Mexico, Solid Waste Act
- State of New Mexico, Water Quality Act
- Federal, Resource Conservation and Recovery Act, Subtitle C and D
- Federal, Comprehensive Environmental, Compensation, and Liability Act (SUPEFUND)

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- Federal, Clean Water Act

The facts that we know regarding the removal, use, and/or disposal of asphalt located in TA-54, Area L are as follows.

- In 1993 (my earliest recollection of this matter) LANL determined that a new dome structure needed to be constructed in TA-54, Area L to support mixed waste storage operations (TA-54, Area L, Dome 215). To do this, a permit modification was required to be submitted. This, I believe, was done in early 1994. One of the issues that needed to be resolved was what could be done or more appropriately what New Mexico Environment Department (NMED) would allow under the Hazardous Waste Management Regulations (HWMR), regarding the removal and disposal of the asphalt covering the soil surface in the immediate area of proposed construction activities. The location of the new dome structure was immediately over Solid Waste Management Unit (SWMU) 54- . The material in this SWMU contained and continues to contain hazardous constituents known to be off gassing in a vapor phase to the soil and possibly to the asphalt. The gaseous phase of these constituents is being being contained beneath the asphalt covering of the TA-54, Area L, Hazardous Waste Storage Facility, apparently with limited or no release to the atmosphere. The NMED reviewed our submittal and participated in several discussions of this matter in the early months of 1994; if I recall correctly the last discussion held with NMED prior to receiving a written decision was May, 1994.

- On July 22, 1994, NMED sent a "Conditional Approval" letter to Joe Vozella, DOE/LAAO for construction of the mixed waste storage dome in Area L. In this letter NMEDHRMB stated: "...that all waste asphalt removed from the pad must be treated and/or disposed of as a hazardous waste." which was a "(c)onditional approval"