

memorandum

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TA54

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INTERNAL DRAFT

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DATE:

REPLY TO: G. Thomas Todd
ATTN OF: G. Thomas Todd
SUBJECT: TA-54, Disposal of Hazardous Waste Contaminated Asphalt

TO: Siegfried Hecker

The purpose of this letter is to discuss two letters recently received from the New Mexico Environment Department (NMED) regarding the disposal of hazardous waste contaminated asphalt, and University of California's response of August 6, 1997. The first letter was sent to James L. White and Tony Stanford, of your staff on July 7, 1997. The second letter was addressed to you and dated July 10, 1997. For your convenience, I have attached copies of each letter. It is important to note that these letters were addressed to the UC, the co-permittee on the Hazardous Waste Permit for Los Alamos National Laboratory.

The need for NMED to submit such letters to LANL greatly concerns me. I have discussed the issue with my staff and have been informed that, yes, NMED did in fact address this matter in a letter dated July 22, 1994, also attached. As can be seen in the highlighted passage, NMED stated clearly that they did consider the asphalt disturbed during construction activities at TA-54, Area L hazardous waste.

It is my understanding that in May and June, 1994, discussions were held with NMED regarding the need to disturb the asphalt at TA-54, Area L to allow construction of a new dome facility for storage of waste materials. LANL did not believe the material to be disturbed hazardous. NMED maintained a stance that the material was hazardous due to the fact that it covered a hazardous waste containing Solid Waste Management Unit (SWMU). LANL argued that we did not believe this the case. NMED, however, made a written determination on July 22, 1997 that the asphalt was a hazardous waste.

NMED was approached to provide clarification and indicated that as long as the material was reused in the same location, where the material originated this was acceptable, the material was hazardous waste only if moved. NMED's statement in the July 22, 1994, letter that they did considered the material hazardous waste if moved was in no way altered, and they remained firm on this point.

When it was determined in approximately February, 1997 that operations at LANL had in fact moved the asphalt, and used or disposed of the asphalt in several locations within TA-54, Area G and the Rubble Pile operated in TA-3, it became

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necessary to report to NMED LANL's failure to comply with permit conditions and specific direction received from NMED. When staff of University of California and DOE/LAAO could not agree to the contents of the letter to NMED on this matter, LANL was allowed to submit the letter of its choice to NMED on this matter on May 28, 1997 (please see the attached document).

NMED submitted to UC a response on July 7, 1997 requesting an "adequate response" to its notification. UC submitted a response on August 6, 1997.

DOE reviewed the UC response and believed it to be lacking and inaccurate. UC, however, chose not to address the issues raised by DOE and submitted the letter as drafted.

I am very concerned. NMED's perception that it must write letters of this caliber is not indicative of attentive stewardship of wastes generated by either DOE or its contractor and does not support the contention that LANL is operated as a premier scientific facility. This perception is further supported by UC's apparent lack of concern for regulatory requirements to protect human health and the environment, or an understanding of what they, NMED, has stated in writing and in discussions, as acceptable management practice. Further still, these issues, compounded with other operational concerns such as inadequate implementation of permit requirements from marking of containers, knowledge of waste generation, management of waste, abandoned waste (chemicals and gas cylinders) are similar to what has caused recent severe action to be taken at Brookhaven National Laboratory. DOE expects better performance from its operating contractors.

For these reasons I must notify you that any and all costs associated with the improper management and disposal of asphalt generated at TA-54, Area L are considered inappropriate and reimbursement is denied.

If you want to discuss this matter further, please contact me.