

April 9, 1998

RECEIVED

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DOE OVERSIGHT BUREAU

Operations Division  
Regulatory Branch

Mr. Tom Todd  
Area Manager  
Department of Energy, Los Alamos  
Area Office  
528 35th Street  
Los Alamos, New Mexico 87544

Dear Mr. Todd:

On February 25, 1998, Mr. James Wood of my staff met with members of your staff and representatives of Los Alamos County, Los Alamos National Laboratory, and the New Mexico Environment Department regarding a rubble pile/road crossing located in Sandia Canyon at Los Alamos, Los Alamos County, New Mexico, Action No. 1993 00244.

By a letter dated January 27, 1987, we notified the Department of Energy (DOE) that this work could be authorized under a Section 404 Nationwide Permit No. 26 for discharges into headwaters of the United States (issued on November 13, 1986), since the work would affect less than one acre of the unnamed creek and the adjacent wetlands in Sandia Canyon. This authorization required the DOE to comply with all of the conditions of the permit.

Nationwide Permit No. 26 was re-issued on November 22, 1991, and again on December 13, 1996. A copy of the current Nationwide Permit No. 26 is enclosed for your information. Activities authorized under the previous Nationwide Permits and under construction prior to January 21, 1997, remain authorized until January 21, 1998. If projects are not complete by this date, they have to be evaluated to determine if they can be authorized by the re-issued Nationwide Permits. Since this project affects between 1/3 and one acre of waters of the United States, this project requires a Corps-only notification and review procedure as required by the current Nationwide Permit No. 26.

We have reviewed the current project to determine if the work is in compliance with the current Nationwide Permit No. 26 terms and conditions. During Mr. Wood's field visit, he observed that



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The above measures must be implemented as soon as possible but no later than 60 days from the date of this letter. When the measures have been implemented and inspected, and a water quality certification has been issued by the NMED, the work will be in compliance with Nationwide Permit No. 26. Please notify this office when the required work has been accomplished so that we can schedule a site inspection.

We do not have enough information to determine if the rubble pile contains toxic or contaminated material. Based on the statements of the involved parties, we do not believe that toxic material, material which could degrade to become toxic, or contaminated material has been placed in the pile. However, if further investigation by other agencies reveals the presence of such material, the rubble pile/road crossing will be in violation of Section 404 of the Clean Water Act and we will take appropriate enforcement action.

As a reminder, the required work must be accomplished within 60 days of the date of this letter. If you have any questions regarding this matter, please feel free to write or call me or Mr. James Wood at (505) 342-3280.

Sincerely,

Andrew J. Rosenau  
Chief, Regulatory Branch

2 Enclosures

1. Nationwide permit summary
2. WQC application

Copies furnished:

Ms. Jill D. Avery  
Special Agent  
U.S. Environmental Protection Agency  
Region 6 (6CID)  
1445 Ross Avenue  
Dallas, TX 75202-2733

Handouts:  N/W \_\_\_\_\_  N/W \_\_\_\_\_  N/W Summary Set  
 Applicant's Guide  \_\_\_\_\_  \_\_\_\_\_

**8. Habitat/Wildlife/Fishery Description:** Sandia Canyon is a relatively narrow canyon with a small, perennial creek located in the bottom of the canyon. The rubble pile has been in operation for at least ten years. A wetland area is located downstream of the rubble pile. The side slopes of the canyon contain conifers, probably ponderosa pine, perennial grasses, and woody shrubs. The area provides habitat for small birds and mammals, but has been disturbed substantially over the years as a result of landfills, utility line crossings, and road crossings.

**9. Observed Effects of Project, Environment Affected, Potential Future Effects:**

The rubble pile currently has steep slopes containing a high quantity of erodible material (earth fill). While we were standing on the pile, I observed a loader removing unsuitable material (trash) from the pile. It appears that quality control may be a problem at the rubble pile.

**10. Witnesses:**  None

a. Name and address below

b. Name and address below

**See the names of the meeting attendees under #7 above.**

Phone ( )

Phone ( )

**11. Determination:**

Violation  No violation

Nationwide  Other permit

Other:

**Reasoning:** The project was initially authorized by a Section 404 Nationwide Permit No. 26 which was issued on November 13, 1991. This nationwide permit allowed the loss or adverse modification of waters of the United States, including wetlands, up to one acre in extent, provided the permittee complied with all of the conditions of the permit. This nationwide permit was re-issued again on November 22, 1991, and most recently, on December 13, 1996. The current Nationwide Permit No. 26 allows discharges without notification that result in the loss of up to 1/3 acre of waters of the United States, again provided that the permittee complies with all of the conditions of the permit. For discharges of between 1/3 and one acre of effect, a Corps-only notification and review is required.

Sandia Canyon Creek is a relatively small, perennial creek. A wetland area is located downstream of the rubble pile. However, since this wetland does not extend upstream of the pile, the upstream wetland boundary must be under the pile. The area affected by the footprint of the rubble pile appears to be less than one acre in extent, including the fill in the creek and any wetlands affected. The rubble pile could comply with

Investigator's Report  
1993-00244

Case File No. 1993-00244

DEPARTMENT OF THE ARMY  
ALBUQUERQUE DISTRICT, CORPS OF ENGINEERS

**INVESTIGATOR'S REPORT - REGULATORY BRANCH**

Date/Time of Inspection 25 Feb 98 Type of Investigation:  Sec. 404  Sec. 10

Investigator James A. Wood

**1. Description of Work:**  See complaint

The reported work consists of the placement of construction debris into a rubble pile located towards the upper end of Sandia Canyon. The rubble pile will eventually be used as a road crossing of the canyon.

**2. Location of Work:**

Waterway: Sandia Canyon

Town: Los Alamos County: Los Alamos State: New Mexico

Sec: 16 Twp: 19N Rge: 6E

RMile \_\_ Aerial Film Roll No(s). \_\_\_\_ Frame \_\_\_\_ Quad Sheet ID Frijoles (7.5' USGS)

Directions to Site:  See complaint

The site is located at the upper end of Sandia Canyon adjacent to the Los Alamos County landfill.

**3. Initial Information Source:**  see complaint Date Information Received 18 Feb 98  Anonymous

Name: Barbara Hoditschek

Address: New Mexico Environment Department (NMED)  
Point Source Regulation Bureau

**4.  Landowner  Lessee** Date of Contact:

Name: Department of Energy (DOE)

Address: Los Alamos Area Office

**Summary of Information:**

As I understand the land ownership question, the Department of Energy (DOE) owns the land upon which Los Alamos County operates the rubble pile. The Corps had sent a letter to the DOE, dated January 27, 1987, stating that the placement of material into Sandia Canyon in conjunction with the operation of the Los Alamos County landfill was authorized under Section 404 Nationwide Permit No. 26.

**5. Party Doing Work:**  see complaint

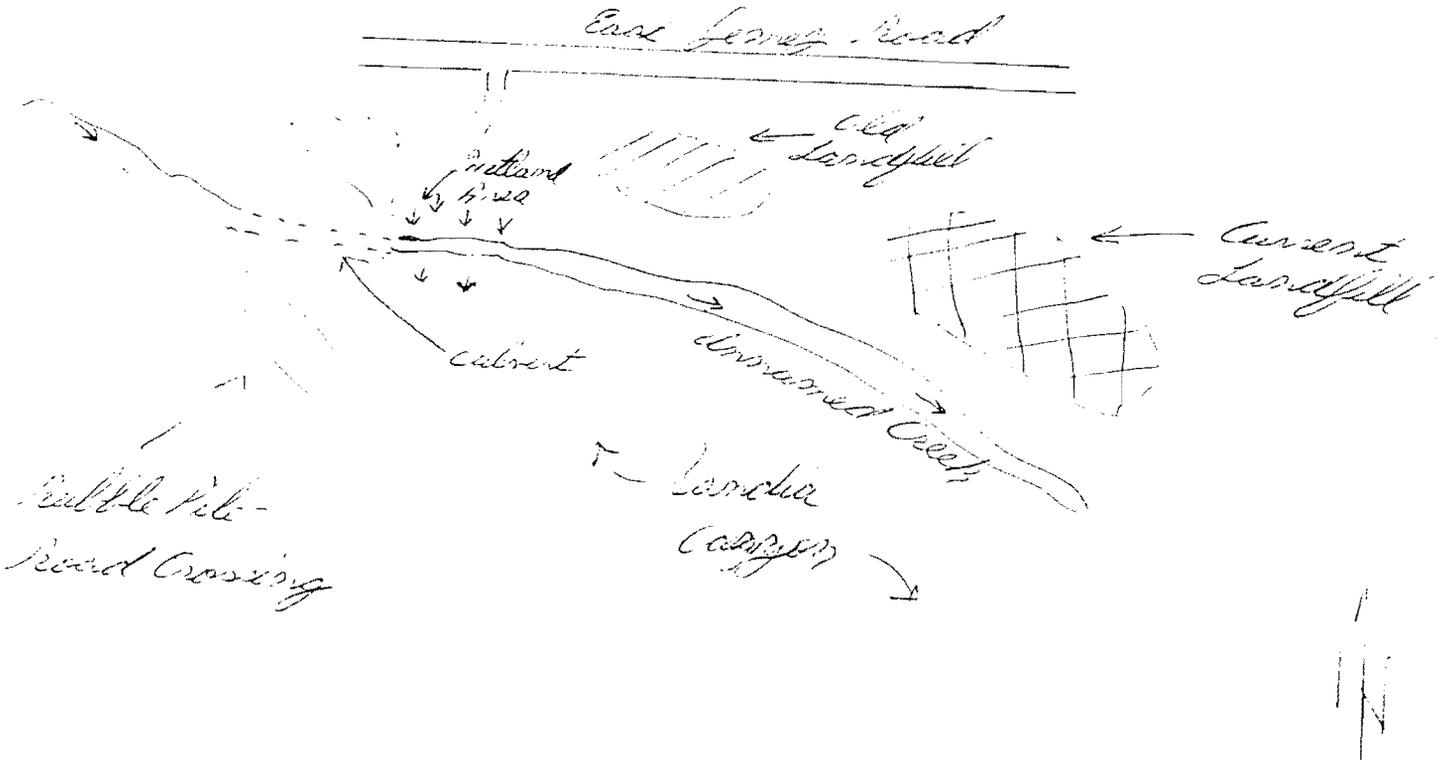
Name: Los Alamos County

Address:

*Handwritten note:*  
11.11.98 10:00 AM

PROJECT SKETCH

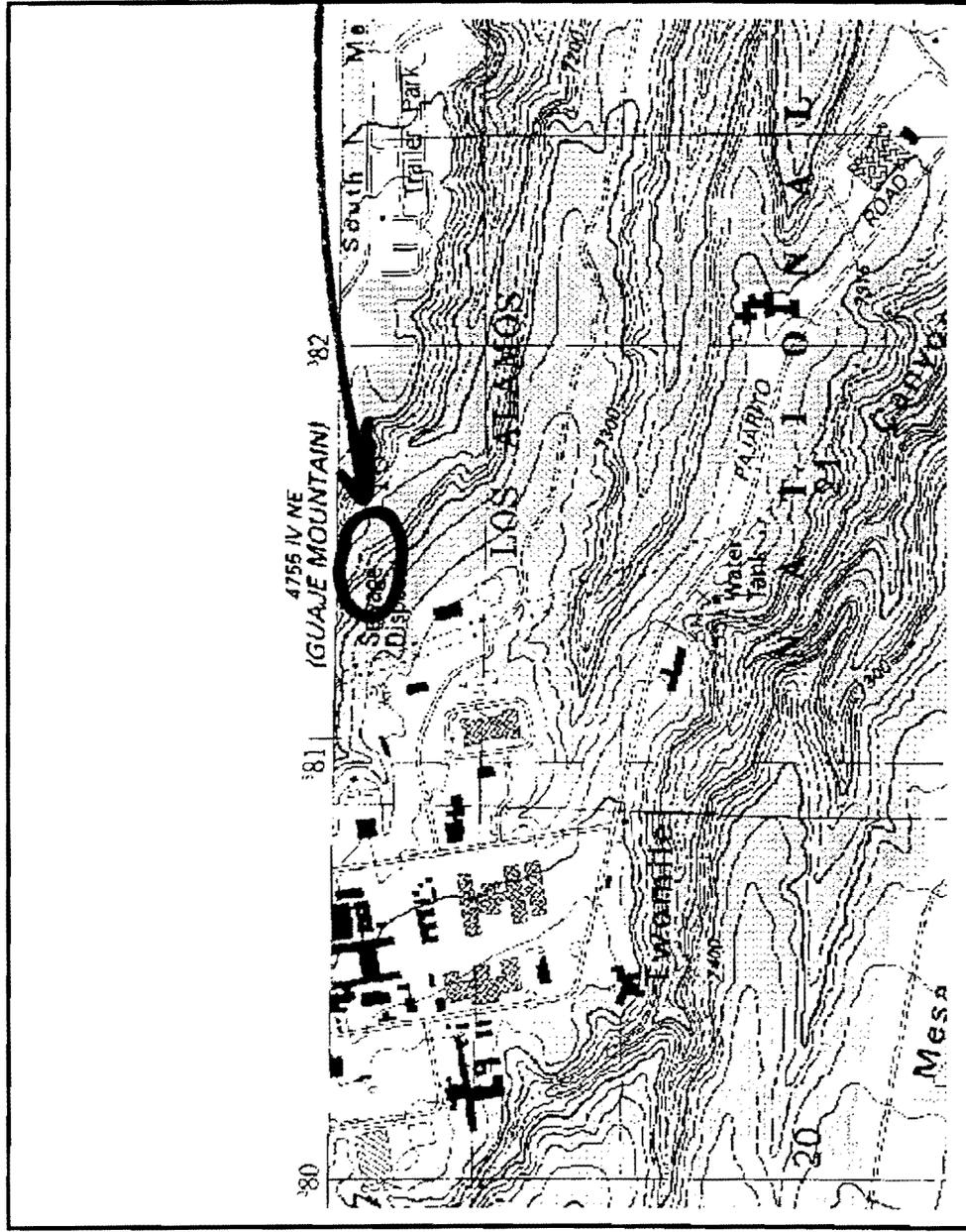
Show prominent features, flow direction, OHWM, fills, dimensions, volumes, material types, vegetation types/locations, borrow areas, etc.



Description: LOS ALAMOS LAB-SANDIA CANYON FILLS  
Waterway: Sandia Canyon At: Los Alamos, NM  
Date: 9 April 1998 By: James A. Wood

ESRI ArcExplorer 1.0

# 1993 00244-DOE/Los Alamos County-Rubble Pile/Road Crossing



**PROJECT  
SITE**

Thursday, Apr 9 1998

U.S. ARMY CORPS OF ENGINEERS, ALBUQUERQUE DISTRICT

**RECORD OF COMPLAINT**

Date February 18, 1998

Received by James A. Wood

Form of complaint:  Phone  Letter  Person  Other:

Complainant:

Name: Barbara Hođitschek  
Company: New Mexico Environment Department (NMED)  
Address: Point Source Regulation Bureau

Phone: Bus (505) 827-0596 Res ( )

Landowner

Name: DOE  
Company: Los Alamos Area Office  
Address: 528 35th Street  
Los Alamos, NM 87544  
Phone: Bus ( ) Res ( )

Party Doing Work:  Unknown  Landowner

Name: Los Alamos County  
Company: Los Alamos County  
Address: ATTN: Mike Tomlinson  
Bus ( ) Res ( )

Information on Activity: LOS ALAMOS LAB-SANDIA CANYON FILLS

Waterway: Sandia Canyon

Sub-trib: Major trib:

River: Rio Grande Basin: Rio Grande

Town: Los Alamos County: Los Alamos State: New Mexico

Sec: Twp: Rge:

Date Work Started: Unknown Date Work Completed: Ongoing

Directions to Site:  See complaint

The site is located at the upper end of Sandia Canyon adjacent to the Los Alamos County landfill

Project Description/Discussion:

The work consists of the placement of construction debris into Sandia Canyon, with the ultimate aim of creating a road crossing across the canyon. The NMED, Point Source Regulation Bureau, has reported that the unsuitable material may have been placed in the rubble pile.

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Person Documenting Conversation:  
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Disposition:

- Permitted by N/W \_\_\_\_\_
- Individual Permit \_\_\_\_\_
- Exempted Activity \_\_\_\_\_
- Further Investigation required

- Outside CE Jurisdiction
- Further Investigation Required

