

TA-73

**State of New Mexico
ENVIRONMENT DEPARTMENT**



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GOVERNOR**

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**RON CURRY
SECRETARY**

**DERRITH WATCHMAN-MOORE
DEPUTY SECRETARY**

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

December 19, 2005

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

Mr. Robert W. Kuckuck, Director
Los Alamos National Laboratory
P.O. Box 1663, MS A100
Los Alamos, NM 87545

**RE: REQUEST FOR INFORMATION REGARDING THE CORRECTIVE ACTION
ACTIVITIES AT SOLID WASTE MANAGEMENT UNIT (SWMU) 73-002
(INCINERATOR ASH REMOVAL) LOS ALAMOS NATIONAL LABORATORY
(LANL), EPA ID #NM0890010515
HWB-LANL-05-005**

Dear Messrs. Wilmot and Kuckuck:

Pursuant to Section 74-4-4.3.(A) of the New Mexico Hazardous Waste Act (HWA), NMSA 1978, section 74-4-1 et seq., Section 3007(a) of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6901 et seq., and Section III.P, Availability of Information of the March 1, 2005 Consent Order, the New Mexico Environment Department (NMED) hereby requests that the United States Department of Energy and the Regents of the University of California (collectively, "the Permittees") provide NMED the below-mentioned information pertaining to cleanup activities at Solid Waste Management Unit (SWMU) 73-002 (Incinerator Ash Pile) at the Los Alamos National Laboratory (LANL).

Section 74-4-4.3.(A) of the HWA provides that "[f]or the purposes of developing or assisting in the development of any rules, conducting any study, taking any corrective action or enforcing the provisions of the Hazardous Waste Act, upon request of the secretary or his authorized representative, any person who generates, stores, treats, transports, disposes of or otherwise handles or has handled hazardous wastes shall furnish information relating to such hazardous wastes. . . ." Likewise, section 3007(a) of RCRA provides that "[f]or purposes of developing or



assisting in the development of any regulation or enforcing the provisions of [RCRA], any person who generates, stores, treats, transports, disposes of, or otherwise handles or has handled hazardous wastes shall, upon request of any . . . duly designated officer, employee, or representative of a State having an authorized hazardous waste program, furnish information relating to such wastes. . . ." (42 U.S.C. § 6927(a)).

In a telephone conversation with members of your staff, I was informed that waste generated during some of the cleanup activities at the subject site may have been disposed of in a manner contrary to the provisions of the NMED approved Work Plan. NMED is therefore seeking information to document the final disposition of the remediation waste from the site. NMED therefore requests that the Permittees provide the following information and supporting documentation to NMED:

- 1) The manifests and other shipping documents, certifications, and disposal facility receipts associated with wastes shipped from SWMU 73-002 (incinerator ash pile). This must include a detailed description of the contents of each shipment, quantities of materials shipped, and identification of the facility that took the final disposition, including the type of facility (*e.g.*, municipal, commercial, industrial, subtitle C or D landfills), of each shipment.
- 2) All analytical data on ash and associated debris and an explanation of how samples were prepared for analysis (*e.g.*, a composite sample of a tin can, and how that composite was created).
- 3) All documents explaining the decision-making process that was used to determine the final disposition of the waste or waste streams from the site.

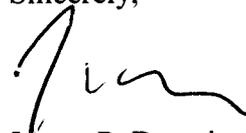
Your compliance with this information request is mandatory. Failure to respond fully and truthfully within the time specified herein, or adequately justify such failure to respond, may result in an enforcement action by NMED pursuant to Section 74-4-10 of HWA, or Section 7002(a)(1)(A) of RCRA (42 U.S.C. § 6972(a)(1)(A)) or both. Both HWA and RCRA provide for the imposition of civil penalties for noncompliance. Section 74-4-12 of HWA provides that any person who violates any provision of HWA "may be assessed a civil penalty not to exceed ten thousand dollars (\$10,000) for each day during any portion of which a violation occurs" (See also NMSA 1978, § 74-4-10.(A) and (B)). Section 3008(g) of RCRA provides that any person who violates any requirement of RCRA shall be liable for a civil penalty not to exceed \$32,500¹ for each such violation (42 U.S.C. § 6928(g)). Both HWA and RCRA also provide for criminal fines and imprisonment for knowingly omitting material information or making a false statement or representation in any document used for compliance with HWA or RCRA (NMSA 1978, § 74-4-11.(A)(3); 42 U.S.C. § 6928(d)(3)).

1) See EPA Final Rule, Civil Monetary Penalty Adjustment, 69 Fed. Reg. 7121 (February 13, 2004)

Messrs. Wilmot & Kuckuck
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Please submit your response to me at the address on the letterhead within 30 days of receipt of this letter. Thank you for your cooperation in this matter. If you have any questions regarding the information request, please do not hesitate to contact me at (505) 428-2512.

Sincerely,



James P. Bearzi
Chief
Hazardous Waste Bureau

JPB: kc

cc: D. Goering, NMED HWB
K. Chamberlain, NMED HWB
J. Volkerding, NMED DOE OB
S. Yanicak, NMED DOE OB, MS J993
L. King, EPA 6PD-N
J. Ordaz, DOE LASO, MS A316
K. Hargis, LANL RRES/DO, MS M591
N. Quintana, LANL E/ER, MS M992
D. McInroy, LANL E/ER, MS M992
file: Reading and LANL '05 (SWMU; 73-002)