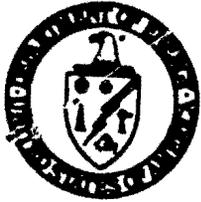


DOE/KAO File  
John T



**Department of Energy**  
Field Office, Albuquerque  
Kirtland Area Office  
P.O. Box 5400  
Albuquerque New Mexico 87185-5400

To Benito  
I have conducted  
4/22/98

HSWA SNL 1332/98

April 15, 1998

Mr. Benito J. Garcia  
Chief, Hazardous & Radioactive Materials Bureau  
New Mexico Environment Department  
P.O. Box 26110  
Santa Fe, NM 87505-2100

**HAND DELIVERED**

Dear Mr. Garcia:

We have received your letter dated April 13, 1998, advising that Hazardous & Radioactive Materials Bureau (HRMB) personnel intend to enter and conduct an independent sampling event at the abandoned mine designated as Department of Energy (DOE) and Sandia National Laboratories (SNL) Environmental Restoration Site 28-2 (ER Site 28-2). It is HRMB's intent to conduct this activity through a compliance order issued pursuant to section 74-4-1 of the New Mexico Hazardous Waste Act.

By letter dated March 9, 1998, we advised you that entry and sampling activities were tentatively scheduled for April 7<sup>th</sup> or 8<sup>th</sup>, depending on the availability of the New Mexico Mine Safety and Health Administration (MSHA) inspector. On April 8, 1998, a four-man team composed of two SNL employees, a SNL subcontractor employee, and MSHA inspector Omer Sauvageau entered ER Site 28-2 and conducted sampling at several locations inside the mine. The entry was made pursuant to the SNL health and safety plan for sampling activities at ER Site 28-2. A copy of that plan is enclosed with this letter. The entry and sampling, as well as post-entry conversations with Mr. Sauvageau, were videotaped and a written log was kept. Copies of the videotape and the log are also enclosed with this letter. We urge HRMB personnel to review them and to speak with Mr. Sauvageau before undertaking any entry into the site.

The DOE applies the United States Department of Labor's Occupational Safety and Health Administration (OSHA) standards to DOE contractor personnel working on Kirtland Air Force Base. It is the opinion of program personnel at the DOE's Kirtland Area Office and at Sandia National Laboratories that ER Site 28-2 is a confined space, as defined in federal OSHA regulation 29 CFR 1910.146(b). Our review of the April 8<sup>th</sup> entry videotape and log confirms this opinion. It is a violation of 29 CFR 1910.146(c - g)



*Ed Kelley*

Mr. Garcia

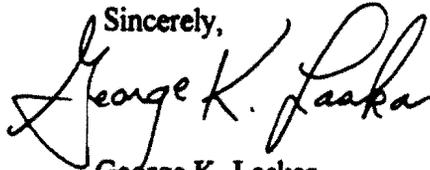
-2-

to enter a confined space without appropriate OSHA training, including confined space training.

OSHA recognizes at 29 CFR part 1952, subpart DD, that the New Mexico occupational health and safety plan adopts, with certain exceptions related to maritime employment, the federal OSHA standards found in 29 CFR part 1910. In so far as the New Mexico plan adopts part 1910 standards, it is our view that State personnel entering ER Site 28-2 to conduct sampling activities should receive confined space training. We cannot too strongly state our sincere professional opinion that any personnel who enter the site without appropriate training, to include confined space training, are subjecting themselves to serious, unnecessary risk. You will remember that we have offered on numerous occasions to provide the requisite 8-hour confined space training to HRMB personnel who wish to enter ER Site 28-2. That offer remains open.

During the entry on April 8<sup>th</sup>, the entry team took split samples. HRMB may make arrangements to obtain the splits by contacting Mr. Richard Fate, SNL, at (505)284-2568.

Sincerely,



George K. Laskar  
Assistant Area Manager for  
Laboratory Operations

3 Enclosures

cc w/o enclosures:

Mark Jackson, KAO

John Gould, KAO

David Bourne, ERD, AL

Warren Cox, SNL, MS 1147

Richard Fate, SNL, MS 1148

Ed Kelly, Ph.D., Director, WWMD, NMED

Nick Persampieri, OGC, NMED

John M. Tymkowych, RCRA I&E Program Manager, NMED

Robert S. Dinwiddie, RCRA Permitting Manager, NMED

Gilbert Miera, State Mine Inspector

John Parker, NMED-OB

Roger Kennett, NMED-OB

RECEIVED

APR 17 1998

NM ENVIRONMENT DEPARTMENT  
OFFICE OF THE SECRETARY