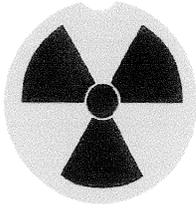


SNL 2704

**CITIZEN  
ACTION**



*Advocating for clean up of Albuquerque's nuclear waste dump*

February 16, 2004

Ms. Sandra E. Martin, Acting Chief  
New Mexico Environment Department  
Hazardous Waste Bureau  
2905 Rodeo Park Drive East, Bldg. 1  
Santa Fe, New Mexico 87505-6303



Dear Ms. Martin:

Attached please find our comments regarding the Draft Order on Consent between the New Mexico Environment Department (NMED) and the U.S. Department of Energy and Sandia Corporation for Sandia National Laboratories. We look forward to the NMED's written responses to these questions. Thank you very much.

Sincerely,

Susan Dayton  
Citizen Action New Mexico  
(505) 280-1844

cc: Ron Curry, Secretary, NMED  
John Kieling, Manager, Permits Management Program, NMED  
Charles Lundstrom, Director, Water and Waste Management, NMED  
Courte Voorhees, Director, NMED/DOE Oversight Bureau  
Will Moats, Hazardous Waste Bureau, NMED  
Jon Goldstein, Communications Director, NMED

**Citizen Action**  
**Comments on the Draft Final Compliance Order**  
**NMED and US/DOE/SNL**  
**February 16, 2004**

**I. LAND USE / LAND TRANSFER.**

1. The Consent Order (CO) appears to provide for the clean up of contaminated land at SNL to a degree that is less protective of human health and the environment than that of a land designation for residential land use. What is the statutory and regulatory basis for this approach?

2. What is the basis for limiting protection of human health and environmental risk to an “intended future use” rather than “potential future use?”

What standard is this based on?

Is this approach equivalent to the EPA approach at similar facilities?

Please give examples of how other states have addressed this concern.

3. It appears that many of the sites listed in the CO that have been “cleaned up” by SNL qualify for an “industrial land use” designation only (p. 5, 6). This approach appears to fail to implement the RCRA closure requirement of minimizing or eliminating risks to human health and the environment. Please comment.

What is the basis for the State substituting “reducing” risks for “minimizing or eliminating” risks?

Designating polluted land for specific types of human activities has been shown to be both a difficult and dangerous proposition. Limiting the public’s exposure to both hazardous and radioactive waste through land restrictions has often failed within the first few years (see: “Long-Term Institutional Management of DOE Legacy Waste Sites,” National Academy of Sciences, 2000). The NAS has concluded that DOE’s “stewardship” program, which incorporates both institutional and physical controls in an effort to keep people from being exposed to waste will be “difficult if not impossible to achieve” that will likely result in “increased risk to the public” over the long-term.

Does the NMED see this as a potential problem at any of the sites at SNL?

4. The CO states the “residential land use risk assessment shall be used for comparison purposes only, unless the land use changes to residential” (p. 49).

What is meant by “comparison purposes only” and how will this “comparison” of different land use designations affect the current status of a site?

Seen from one point of view this method of only cleaning up contaminated land to a certain “level” appears to be in the polluter’s best interest by letting him off the hook and shifting the burden to a future landholder. Please explain.

5. Is there a system in place to enforce “deed restrictions” on contaminated lands?

4. How does the NMLL go about separating the hazardous waste from the radioactive waste as documented in the CO when it is physically mixed together?

5. Do the risk analyses (p. 48) for each SWMU and AOC that will be conducted by SNL include risk from radionuclides, or do they assess risk from hazardous waste materials only?

6. How does NMED verify that all radionuclides of concern have been identified and their risks fully identified? For example, the known inventory of the MWL lists “drums of alpha emitters” and “multiple fission products.”

How does NMED verify that all hazardous waste constituents have been identified and their risks fully identified?

Does the NMED require the risk assessments for the SWMUs and AOCs to take into consideration the synergistic (combined) effects of radionuclides and hazardous waste, and the potential effects of radiolysis over time?

7. If the risk analyses for each SWMU and AOC only assess risk from hazardous waste how does the NMED accept this as a valid and complete method of assessing risk when it obviously eliminates an entire class of (potentially) toxic materials?

8. Please list the “excess cancer risk goals” with their respective “land use designations,” which includes residential, industrial, and recreational (wild life refuge status, etc.). For example, an excess cancer risk of  $10^{-5}$  corresponds with a residential land use scenario (p. 48).

9. Under what conditions will NMED consider using the excess cancer risk goal of  $10^{-6}$  for “residential land use” instead of the  $10^{-5}$ ?

Why has NMED chosen to use an “excess cancer risk goal” that is less than the level that would be most protective of human health?

10. The CO states that “the Respondents shall evaluate potential human and ecological risk for all SWMUs and AOCs at which there is contamination or residual contamination that will not be removed by a corrective action” (p. 48). How will the NMED determine the excess cancer risk goal for a SWMU or AOC if it is impossible to conduct a baseline risk assessment due to the complexities and uncertainties associated with the inventory of a site such as the MWL?