

April 27, 2007
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Citizen Action Comment RE: April 13, 2007, New Mexico Environment Department (“NMED”) Public Meeting Notice (“Notice”) issued regarding the Soil-Vapor Sampling and Analysis Plan for the Department of Energy/Sandia National Laboratories’ Mixed Waste Landfill (“MWL”). Request for Notice Correction and Restatement.

The NMED Notice states “The Soil-Vapor SAP is not considered to be a part of the [Corrective Measures Implementation] CMI Plan, but instead is a stand alone document.”

For the reasons set forth below Citizen Action respectfully disagrees with this statement in the Notice.

The MWL is regulated under the Resource Conservation and Recovery Act (“RCRA”). NMED is required to operate at all times under the RCRA for the MWL. The NMED issuance of a November 20, 2006 *Notice of Disapproval : Mixed Waste Landfill Corrective Measures Implementation Work Plan, November 2005, And Requirement for Soil-Vapor Sampling and Analysis Plan Sandia National Laboratories* (“NOD”) is exercise of NMED’s authority under RCRA. The NOD links the CMI Plan and includes the requirement for a Soil-Vapor and Sampling Plan. The Soil-Vapor SAP is part of the RCRA CMI Plan and has been treated as such by the Department of Energy/Sandia National Laboratories’ (“DOE/SNL”) and the NMED.

The entire CMI Plan and the NOD related to the CMI Plan are under the RCRA rubric:

- Soil sampling was required by the Phase 2 RCRA Facility Investigation.
- The planned sampling DOE/SNL has submitted in response to the NMED NOD is linked to the previous Phase 2 locations where Volatile Organic Compounds and tritium were detected.
- Module IV of the HSWA Permit is part of the RCRA process. Module IV (p.12) requires measures to protect the aquifer such as “monitoring of temperature, pressure and moisture in the vadose (unsaturated) zone, moisture and vapor flux investigations and numerical simulations.” (Emphasis supplied). DOE/SNL is required to have in place a program to collect analytical data on, among others, “subsurface gas contamination when necessary to characterize contamination from a SWMU [Solid Waste Management Unit].”
- The 11/20/07 NOD references soil gas throughout the NOD. states that “The NMED may also require soil gas monitoring to be conducted at depths other than 173 feet ... Monitoring details will need to be included in the long-term monitoring and maintenance plan, due within 180 days following approval of the

CMI Report.” (P.2, para 8). Further, gas phase constituents are required to be discussed for tritium, radon, and PCE. (P.5). Soil gas monitoring in the vadose zone is required. (P. 7). Trigger levels for soil volatile organic compound gases such as 1,1,1-TCA, ethylbenzene, styrene, toluene and total xylenes are cited as being too high. (P. 7). Proposed listing of monitoring triggers for Subsurface Soil Gas are to be expanded. (P. 7).

Conclusion

The error in the Notice should be corrected by NMED. The Soil-Vapor Sampling Analysis Plan is not a “stand alone” document. Subsurface soil gas sampling is part of a RCRA process under the CMI Plan and the HSWA Permit. The soil gas plan is linked to RCRA and the CMI Plan. The public is being denied two procedural rights: 1) The right to a public hearing with full evidentiary procedures in place as provided by RCRA; and, 2. The public is not informed that the decision for the soil gas plan is subject to appeal.

Please include this comment into the administrative record along with previous Citizen Action Comments on the Soil-Vapor Sampling and Analysis Plan.

Thank you.

Sincerely,

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