

SNLMWL

07-067

**Kieling, John, NMENV**

**From:** Dave McCoy [dave@radfreenm.org]  
**Sent:** Thursday, August 09, 2007 10:29 AM  
**To:** Bearzi, James, NMENV  
**Subject:** FW: EPA Request to Review the NMED Moat's Evaluation  
**Attachments:** EPA.letterrequestforEPAlabMoatsEvaluationReview.August9.doc

-----Original Message-----

**From:** Dave McCoy [mailto:dave@radfreenm.org]  
**Sent:** Thursday, August 09, 2007 9:35 AM  
**To:** (edlund.carl@epa.gov.); (Jonathan\_Epstein@bingaman.senate.gov); SenBingaman/Dan Alpert  
**Cc:** NMED Secretary/Ron Curry (ron.curry@state.nm.us); NMED/Cindy Padilla (cindy.padilla@state.nm.us); NMED/Jon Goldstein/Commm Director; NMED/John Kieling; Moats, William, NMENV; NMED/Tannis Fox (tannis.fox@state.nm.us); Don Hancock; 'Joni Arends'; CARD; Rich Mayer (mayer.richard@epa.gov)  
**Subject:** EPA Request to Review the NMED Moat's Evaluation

August 9, 2007

Carl Edlund  
Director of Multi-Media and  
Permitting Division  
Environmental Protection Agency Region 6  
1445 Ross Avenue, Suite 1200  
Dallas, TX 75202-2733

Dear Mr. Edlund,

In March 2007, Citizen Action and Robert Gilkeson and City of Albuquerque Groundwater Protection Advisory Board requested that EPA send the New Mexico Environment Department's *Evaluation of the Representativeness and Reliability of Groundwater Monitoring Well Data, Mixed Waste Landfill, Sandia National Laboratories* by William Moats *et al.* (the Moats Evaluation) for review by the Ada, Oklahoma EPA Kerr Laboratory. In a July 17, 2007 letter to Citizen Action from NMED's Hazardous Waste Bureau Chief James Bearzi, Mr. Bearzi states that "NMED stands behind the conclusions in the *Evaluation of Groundwater Monitoring Well Data.*" Mr. Bearzi further states, "NMED has in no way opposed Citizen Action's request, and in fact welcomes the review by EPA."

Citizen Action and Mr. Gilkeson are informed that EPA Region 6 is evaluating the well monitoring network at the MWL and anticipates that they will produce a document addressing the network within the near future. However, the Moats *Evaluation* will not be comprehensively reviewed as a part of the Region 6 review.

NMED is taking the position that the Moats Evaluation shows that where bentonite clay drilling muds have invaded screened intervals, those screened intervals produced reliable water quality data for the decision on the final remedy for the MWL. We strongly disagree with this position as a matter of scientific fact that has also been confirmed by the EPA Kerr Lab for a similar study done at Los Alamos National Laboratory.

The Moat's Evaluation was used to address citizen concerns through NMED Responses during the Resource Conservation and Recovery Act (RCRA) Corrective Measures Implementation Plan process without any prior opportunity for public comment and review of the Moats Evaluation as required by RCRA procedures. RCRA requires "early, open and continuous involvement of the public when alternate authorities are used at a facility in lieu of post-closure permits, similar to the public involvement provided by the permitting process." 63 FR 56720. RCRA also requires public input into the decision-making processes, including for site characterization.

We would therefore appreciate your forwarding the Moats Evaluation to the Ada, OK Kerr Laboratory as we previously requested on March 1, 2007, five months ago. Further, Sen. Bingaman's Office requested giving full consideration to this request. Now, the Chief of the NMED Hazardous Waste Bureau also invites review by the scientists at the EPA Kerr Laboratory.

Sincerely,

David B. McCoy, Executive Director  
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Cc: R. Curry, NMED Secretary  
C. Padilla, NMED Deputy Secretary  
J. Goldstein, NMED WWMD Director  
J. Kieling, NMED HWB  
W. Moats, NMED HWB  
T. Fox, NMED OGC  
Don Hancock, SRIC  
Joni Arends, CCNS  
Janet Greenwald, CARD  
Jonathan Epstein, Senior Staff Sen. Bingaman's Office  
Bruce Thompson, GPAB Chairman

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