

Kieling, John, NMENV

From: Dave McCoy [dave@radfreenm.org]
Sent: Thursday, August 09, 2007 11:48 AM
To: Goldstein, Jon, NMENV
Cc: Curry, Ron, NMENV; Hume, William, GOV; Padilla, Cindy, NMENV; Kieling, John, NMENV; Fox, Tannis, NMENV; Don Hancock; edlund.carl@epa.gov; 'Rich Mayer'; Bearzi, James, NMENV; Jonathan_Epstein@bingaman.senate.gov; SenBingaman/Dan Alpert; Moats, William, NMENV; CARD; Rhgilkeson@aol.com; Joni Arends; Bruce M Thomson
Subject: Request to NMED to Forward the Moat's Evaluation for EPA Lab review
Attachments: Jon Goldstein letter re EPA Review Moat's Evaluation.doc

August 9, 2007

Jon Goldstein, Water and Waste Management Director
New Mexico Environment Department
Hazardous Waste Bureau
2905 Rodeo Park Drive East, Building 1
Santa Fe, New Mexico 87505-6303

Dear Mr. Goldstein,

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*." (*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]) 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 would appreciate either your or Mr. Bearzi's follow up with a formal request to the EPA Region 6 for the EPA Kerr Laboratory to review the Moat's Evaluation.

Mr. Bearzi states that "NMED, however, is not required to solicit public comment or peer review such documents." Citizen Action believes that this runs contrary to the May 27, 2005 NMED Release (Jon Goldstein) regarding the NMED approved remedy for the Mixed Waste Landfill. The Release quotes NMED Secretary Ron Curry's assurance that the remedy "includes robust public comment and review requirements on all reports and plans related to the landfill." (Emphasis supplied.) The Moat's Evaluation was used to address citizen concerns about the well monitoring system through NMED Responses to public comments during the Resource Conservation and Recovery Act (RCRA) Corrective Measures Implementation Plan process. The public had no prior opportunity for public comment and review of the Moats Evaluation as is also 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.

More recently, in a National Academies of Science report on Groundwater Protection at the Los Alamos National Laboratory, the NAS stated: "Data from scientifically vetted (peer-reviewed) studies are necessary to authoritatively address concerns and uncertainties about how drilling and well completion processes might alter native conditions around well screens and to ensure reliable monitoring activities in the future." Clearly, the Moat's Evaluation did not undergo a peer review process or RCRA citizen

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comment process.

In Governor Richardson's "Year of the Water," careful protection of the ground water resource would be supported by peer review of technical reports such as the Moat's Evaluation.

We thus appreciate Mr. Bearzi's assertion that NMED welcomes review of the Moat's Evaluation by EPA Kerr Laboratory. We would appreciate your forwarding such a request to EPA Region 6. Please inform us of your decision in this matter.

Thank you.

Sincerely,

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Cc: R. Curry, NMED Secretary
C. Padilla, NMED Deputy Secretary
J. Bearzi, Director HWB
J. Kieling, NMED HWB
W. Moats, NMED HWB
T. Fox, NMED OGC
W. Hume, Director of Policies and Issues, Gov. Richardson's Office
Carl Edlund, EPA Region 6
Rich Mayer, EPA Region 6
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Dan Alpert, Sen. Bingaman's Office
Bruce Thompson, GPAB Chairman

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