



BILL RICHARDSON  
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MWL  
NEW MEXICO ENTERED  
ENVIRONMENT DEPARTMENT

*Hazardous Waste Bureau*

2905 Rodeo Park Drive East, Building 1  
Santa Fe, New Mexico 87505-6303  
Phone (505) 476-6000 Fax (505) 476-6030  
[www.nmenv.state.nm.us](http://www.nmenv.state.nm.us)



RON CURRY  
Secretary

JON GOLDSTEIN  
Deputy Secretary

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

February 12, 2008

Leonard J. DeLayo, Jr.  
Executive Director  
New Mexico Foundation for Open Government  
P. O. Box 92197  
Albuquerque, NM 87199-2917

**RE: PUBLIC INFORMATION REQUEST, DECEMBER 18, 2007**

Dear Mr. DeLayo:

I am in receipt of your December 18, 2007, letter that contains eleven requests for public records pertaining to the Sandia National Laboratories (SNL) Mixed Waste Landfill (MWL). This letter follows our letter of January 9, 2008, where you were informed that the New Mexico Environment Department (Department) would need more time to respond to your request, given that your request is excessively burdensome or broad. The Department's response to your requests for access to public records follows, enumerated as in your letter.

1. The requested document is a draft document and subject to the executive deliberative process privilege and therefore is not required to be disclosed under IPRA. Thus, the document will not be made available. Tannis Fox, Deputy General Counsel for the Department, made the determination that the document was not subject to disclosure.
2. The Request for Supplemental Information (RSI) dated June 5, 2000, concerning a proposed design of the MWL cover, is available for review at the Department's Santa Fe office.
3. The SNL response dated September 8, 2000 to the June 5, 2000, RSI is available at the Department's Santa Fe office.
4. The second RSI dated February 16, 2001, concerning a proposed design of the MWL cover, is available at the Department's Santa Fe office.
5. The April 26, 2001 SNL response to the February 16, 2001 RSI is available at the Department's Santa Fe office.

6. The primary documents related to the MWL Fate and Transport Model (FTM), entitled *Probabilistic Performance-Assessment Modeling of the Mixed Waste Landfill at Sandia National Laboratories*), are the *Mixed Waste Landfill Corrective Measures Implementation Plan* (the CMI Plan, see specifically Appendix E of the CMI Plan where the FTM is discussed); the Secretary's *Final Order* of May 26, 2005; testimony, including that presented by the Department during the public hearing on the MWL Corrective Measures Study; and the *Hearing Officer's Report, Proposed Findings of Fact and Conclusions of Law* (HO Report). Other documents which provided critical data related to the FTM are the MWL cover design document entitled *Deployment of an Alternative Cover and Final Closure of the Mixed Waste Landfill*, and the landfill characterization documents *Report of the Phase 1 RCRA Facility Investigation of the Mixed Waste Landfill* and *Report of the Mixed Waste Landfill Phase 2 RCRA Facility Investigation* (the Phase 1 and Phase 2 RFI Reports). All of these documents are available for review at our Santa Fe office. In addition, the CMI Plan (including the FTM), the Secretary's *Final Order* of May 26, 2005, and the HO Report are also available for review on the Department's webpage at <http://www.nmenv.state.nm.us/hwb/snlperm.html>.
7. The requested documents are the CMI Plan, Phase 1 and Phase 2 RFI Reports (the latter contains the unclassified waste inventory for the MWL as part of a SNL response to comments issued by the Department), the New Mexico Water Quality Control Commission (WQCC) Regulations 20.6.2 NMAC, U. S. Environmental Protection Agency (EPA) Maximum Contaminant Levels (MCLs) under 40 CFR Part 141, EPA risk assessment guidance (RAGS), and testimony presented by the Department during the public hearing on the MWL Corrective Measures Study. All of this information is available for review at the Department's Santa Fe office. The CMI Plan is also available for review on the Department's webpage at the link indicated in response #6 above. The WQCC Regulations, 20.6.2 NMAC, are available on our website at: [http://www.nmenv.state.nm.us/gwb/New\\_Pages/docs\\_regs.htm](http://www.nmenv.state.nm.us/gwb/New_Pages/docs_regs.htm). EPA MCLs are listed on EPA's webpage at <http://www.epa.gov/safewater/contaminants/index.html#mcls>. EPA risk assessment guidance is found on EPA's webpage at <http://www.epa.gov/oswer/riskassessment/ragsa/index.htm>.
8. Documents regarding the three-dimensional distribution and migration of contaminants in the vadose zone are the Phase 1 and Phase 2 RFI Reports, the FTM, and a report of a study conducted on the MWL by the WERC (the WERC refers to itself as a "Consortium for Environmental Education and Technology Development") entitled *Final Report Independent Review of the U. S. Department of Energy Sandia National Laboratories' Mixed Waste Landfill* (WERC Report), dated August 31, 2001. These reports, including the WERC Report, are available for review at the Department's Santa Fe office. As indicated above, the FTM, part of the CMI Plan, is also available for review on the Department's webpage at the link indicated in response #6 above.
9. Documents with drill core data used for the FTM include the Phase 1 and Phase 2 RFI Reports. As stated previously, these reports are available for review at the Department's Santa Fe office.
10. Vadose zone monitoring was not conducted to provide input data for the FTM, thus no documents exist. Documents containing data related to sampling of the vadose zone (single sampling events or a few sampling events) for contaminants include the Phase 1

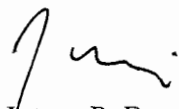
Letter to Mr. DeLayo, Jr  
February 12, 2008  
Page 3

and Phase 2 RFI Reports, a SNL report on radon dated January 1998, and a SNL report on tritium dated February 2004. All of these reports are available for review at the Department's Santa Fe office.

11. The requested documentation consists of testimony presented by the Department in the hearing on the MWL Corrective Measures Study. As indicated previously, a copy of the Department's testimony is available for review at the Department's Santa Fe office.

Documents available at our Santa Fe office may be reviewed by your organization by making arrangements in advance with Ms. Pam Allen by telephone at 505-476-6064, or by contacting her at the address indicated in the letterhead above.

Sincerely,



James P. Bearzi  
Chief  
Hazardous Waste Bureau

cc: J. Kieling, NMED HWB  
W. Moats, NMED HWB  
T. Skibitski, NMED DOE OB  
T. Fox, NMED OGC  
File: SNL 2008 and Reading