



From: Dave McCoy [mailto:dave@radfreenm.org]
Sent: Thursday, February 05, 2009 5:05 PM
To: Curry, Ron, NMENV; Bearzi, James, NMENV
Cc: 'Nancy Simmons'; 'David Meilleur'
Subject: Citizen Action Objection to Approval of the CMI Plan

February 5, 2009
Mr. Ron Curry, Secretary
New Mexico Environment Department
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Mr. James Bearzi, Chief
New Mexico Environment Department
Hazardous Waste Bureau
2905 Rodeo Park Drive East, Building 1
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Dear Messrs. Curry and Bearzi,

Citizen Action objects to the violation of the Final Order (2005) by the issuance of a Corrective Measures Implementation Plan Conditional Approval without opportunity for public review and comment. The NMED approval of the CMI Plan is a violation of the 2005 Final Order of NMED Secretary Ron Curry that requires that the public shall be provided the opportunity for review and comment on such documents prior to their approval by the NMED. We request the issuance of a countermanding order and a cease and desist of any construction activities at Sandia National Laboratories' Mixed Waste Landfill until the public has had public notice and opportunity for review and comment on all matters described below.

On December 22, 2008, the New Mexico Environment Department (NMED) violated its own administrative order for citizen involvement for the Mixed Waste Landfill (MWL dump) at Sandia National Laboratories (Sandia) by approving the Corrective Measures Implementation Plan (CMI Plan).

This unpublicized approval of the CMI Plan allows Sandia to construct a dirt cover over the MWL dump and leave 700,000 + cubic feet of long-lived radioactive and hazardous waste in the MWL dump. The waste lies above Albuquerque's drinking water aquifer in unlined pits and trenches in an area where numerous other dumps, such as the Chemical Waste Landfill (CWL dump), have leaked toxic contaminants to the groundwater. During the period from 1999 to 2002, Sandia excavated the toxic wastes buried in the CWL dump.

For the past 2 years, Citizen Action has been trying to obtain a 2006 TechLaw report from the NMED about the release of toxic waste from the MWL dump. The TechLaw report was used to review the CMI Plan and was one of the reasons the NMED issued a notice of disapproval (NOD) for the plan in late 2006.

The NMED sued Citizen Action to keep the TechLaw report secret. The lawsuit was thrown out of court. The Court ruled the TechLaw report is a public record. NMED is now appealing the decision. Citizen Action still can't obtain the TechLaw report because an automatic stay is in place during the appeal.

The NMED NOD required a new study of the soil gas contamination beneath the MWL dump. Sandia performed the study and submitted a report of findings to NMED in August of 2008. The NMED approved the soil gas report on September 26, 2008 also without the required opportunity for public review and comment.

The CMI Plan has changed greatly from what was originally proposed to the public. These important changes were made through "private communications" between NMED and Sandia that excluded the public. Among the changes are: different trigger levels for detecting contamination and sampling requirements that are not responsive to public concerns for early detection of contamination. The removal of Tritium as a contaminant to sample in the soil gas below the MWL dump is one example of not meeting public concern.

Using "personal communications" that the public could not see, NMED agreed with Sandia not to require further Tritium monitoring. All earlier studies identified Tritium as the primary contaminant being released from the MWL dump. Because of its short half-life, the Tritium contamination was expected to decrease by more than 50% in the new study. However, the opposite has occurred.

The data in the new Soil Gas Report show a huge increase in the Tritium contamination in the soil gas below the MWL dump. A major mistake is that the new study did not sample the known Tritium hot spots. However, the data show an accelerated release of Tritium from the unlined pits and trenches. The accelerated release increases the danger for Tritium to contaminate the groundwater below the MWL dump. Quarterly monitoring of the soil gas below the dump is essential for early warning. The decision of the NMED to stop the soil gas sampling for Tritium is a mistake. Sampling the soil gas to depths of several hundred feet below the MWL dump for tritium and solvents is essential for early warning of groundwater contamination.

The Long-Term Monitoring and Maintenance Plan (LTMMMP) has also been issued out of sequence with the Final Order. The CMI Plan makes alterations to the LTMMMP that the public has had had an opportunity to review and comment on. The construction of the dirt cover will make it more difficult and very expensive to study the newly discovered releases of Tritium and Solvents from the dump. The dirt cover should not be installed until the danger of groundwater contamination is fully studied."

The 2008 sampling data are evidence of the new and increasing releases of Tritium and Solvents (VOCs) from the unlined pits and trenches in MWL dump. The soil gas report was based on shallow sampling to only 50 feet at only three locations. The new study did not collect samples at the known Tritium hot spots that were identified in earlier studies.

Although it was one of the requirements for the new study, data comparison was not accomplished between the new soil gas study and the older study. No comparison of the earlier data could be made with the sparse and insufficient data collected at different locations in the new study and with no concern to sample the known Tritium hot spots.

Groundwater monitoring wells for the MWL dump were recently required to be replaced due to the original wrong placement of the wells and well screens, corrosion of the screens and other problems that existed from the installation of the wells beginning in 1989. Insufficient data has been provided by the new monitoring wells to be able to conclude that there is no contamination to the groundwater beneath the MWL dump.

Sincerely,

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