



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

**REGION 6**

**1445 ROSS AVENUE, SUITE 1200  
DALLAS, TX 75202-2733**

**JUN 10 2010**

**RECEIVED**

**JUN 16 2010**

**NM Environment Department  
Office of the Secretary**

The Honorable Jeff Bingaman  
United States Senate  
Washington, D.C. 20510

Dear Senator Bingaman:

Thank you for your letter dated May 12, 2010, regarding your request on behalf of your constituent, Mr. David McCoy of Citizen Action New Mexico, that the U.S. Environmental Protection Agency (EPA), through its National Risk Management Research Laboratory (NRMRL) in Ada, Oklahoma, review a November 2006 staff report by the New Mexico Environment Department (NMED) on monitoring wells at the Sandia mixed waste landfill. The NMED report is titled "Evaluation of the Representativeness and Reliability of Groundwater Monitoring Well Data, Mixed Waste Landfill, Sandia National Laboratories" written by Mr. William P. Moats and other NMED staff.

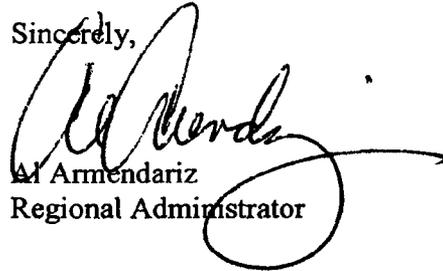
In 2007, Mr. McCoy requested that Region 6 forward the NMED report to NRMRL for review. Region 6 responded to Mr. McCoy's request in a letter dated December 13, 2007 (enclosed). At that time, we wrote that Region 6 staff had conducted a review of the overall mixed waste landfill ground water monitoring system, consulted with NRMRL, and determined that NMED's overall actions and decisions were technically sound and consistent with applicable RCRA requirements. We also informed Mr. McCoy that we found that the mixed waste landfill did not pose a threat to human health or the environment and that the NMED acted appropriately.

Our position on Mr. McCoy's request remains the same. Since 2007, three new down-gradient wells and one new up-gradient well have been installed. Four existing wells have been plugged and abandoned. The monitoring wells continue to show no indication of ground water contamination from the landfill. At this time, reviewing a 2006 staff report would not be relevant and would be an ineffective use of federal resources. We believe the current configuration of wells is adequate and protective of human health and the environment.

Letter to Senator Bingaman  
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I hope this is helpful in addressing your constituent's concerns. If you have any further questions, please contact me at (214) 665-2100, or your staff may contact Ms. Cynthia Fanning of my staff at (214) 665-2142.

Sincerely,

A handwritten signature in black ink, appearing to read "Al Armendariz", with a large, stylized flourish extending from the end of the signature.

Al Armendariz  
Regional Administrator

Enclosure

cc: Mr. Ron Curry  
Secretary, New Mexico Environment Department



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DALLAS, TX 75202-2733

DEC 13 2007

Mr. David B. McCoy, Executive Director  
Citizen Action New Mexico  
P.O. Box 4276  
Albuquerque, NM 87196-4276

Dear Mr. McCoy:

This letter is the U.S. Environmental Protection Agency Region 6's (EPA) response to your various written, e-mail, and voicemail correspondence to our office, including: Letter of March 1, 2007; e-mail of September 18, 2007; and e-mail of November 16, 2007. The thoughts and concerns you have raised in your correspondence about the Sandia National Laboratories, New Mexico, (SNL) Mixed Waste Landfill (MWL) pertain primarily to public participation and ground water monitoring.

The New Mexico Environment Department (NMED), like all other State environmental agencies in Region 6 of the EPA, has been authorized to administer the Resource Conservation and Recovery Act (RCRA) program, and received that authority after having met the requirements for an authorized State program under RCRA. The EPA's role in these federally authorized States is programmatic oversight. In contrast, the authorized State program, which includes relevant State administrative and judicial processes, is in place to address the type of facility-specific concerns you have raised.

However, because of your high level of interest in the MWL, EPA has reviewed certain aspects of the regulatory activities involving the MWL and has addressed several of your comments below.

Regulatory Status of the MWL

You have frequently raised concerns about whether the MWL should be considered a Solid Waste Management Unit (SWMU) or a regulated unit for regulatory purposes. As a result of the appeal Citizen Action filed in October, 2006, the New Mexico State Court of Appeals is currently considering this matter. The EPA considers this an issue that must be allowed an opportunity for resolution through the State administrative and judicial processes and, therefore, declines to comment on this matter.

Public Participation

You have repeatedly expressed concerns about NMED's offering of opportunities for public participation in its regulatory activities related to the MWL. In general, EPA believes that NMED has provided adequate public notice and opportunity for participation in activities related to the MWL. More specifically, NMED has routinely placed MWL documents on its website and numerous opportunities have been provided for formal public comment on MWL proposals and plans. For example, the decision to place a cover over the MWL while maintaining long term monitoring was made after several years of public meetings, study, and discussion.

Participants included a formal Citizen's Advisory Board (CAB), NMED, Department of Energy, SNL, various independent technical experts, as well as local interested citizens. The EPA was an ex officio participant in the CAB. Several possible scenarios were discussed before the cover and monitoring plan were selected. Please keep in mind that the purpose of placing a cover on the MWL is to decrease the impact of erosion, water infiltration, and animal intrusion in order to reduce the potential for ground water contamination.

Additionally, you have claimed that decisions regarding monitoring and well installation have been approved without the opportunity for public participation; however, the Long Term Monitoring and Maintenance Plan (LTMMP) for the MWL is currently open for public comment. Your concerns about this issue should be raised during the public comment period and addressed through the appropriate channels of NMED's federally authorized RCRA program. Therefore, we encourage you to utilize the proper State administrative and judicial processes to address any concerns you have regarding public participation and the LTMMP.

You have also made requests that EPA direct NMED to release the "Tech Law report." Because Citizen Action is a party to the lawsuit concerning NMED's release of that document, this matter is also currently being addressed through the New Mexico state court system. The EPA considers this an issue of State law and we are confident that this matter will be appropriately resolved through the State judicial process.

#### Ground Water Monitoring Network

In your letter dated March 1, 2007, you requested that we forward information regarding the MWL monitoring well network and sampling to the EPA National Risk Management Research Laboratory (NRMRL) for review. You also requested that NRMRL review the November, 2006, NMED report by Mr. William Moats, et al., entitled, "Evaluation of the Representativeness and Reliability of Ground Water Monitoring Well Data."

The EPA believes that ensuring the effectiveness of the fundamental aspects of the ground water monitoring well system is the most important element in detecting releases and protecting ground water resources. Therefore, EPA reviewed the overall MWL ground water monitoring system in order to determine its efficacy in detecting contamination. We reviewed well locations, depth of wells and well screens, purging and sampling methods, downhole videos, and analytical results. We also consulted with the NRMRL on various technical ground water issues. We did not conduct a rigorous technical review of the November, 2006, NMED report because NMED has already directed SNL to replace a number of MWL monitoring wells due to factors such as well screen corrosion and dropping water levels.

Based on our review, we have determined that NMED's overall actions and decisions for administration of the authorized program have been technically sound and consistent with applicable RCRA requirements. We have also found no evidence to indicate that the MWL poses an imminent or substantial danger to citizens or ground water supply.

As part of our oversight responsibility, EPA maintains an open dialogue with our States, routinely discussing program matters and raising any concerns we may have, and we have discussed these matters with NMED.

We recognize that ground water is a critical resource for New Mexico and the Albuquerque area. While we appreciate your abiding interest in this facility, we believe that NMED has acted appropriately in matters regarding the MWL. We encourage you to continue working with NMED through the State administrative and judicial processes to appropriately resolve your concerns regarding the MWL. If you have any questions, please contact Ashley Phillips of our Office of Regional Counsel at (214) 665-7121.

Sincerely,



Carl E. Edlund, P.E.  
Director  
Multimedia Planning  
and Permitting Division

cc: Senator Jeff Bingaman



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**JUN 10 2010**

The Honorable Bill Richardson  
Governor of New Mexico  
State Capitol, Room 400  
Santa Fe, NM 87501

Dear Governor Richardson:

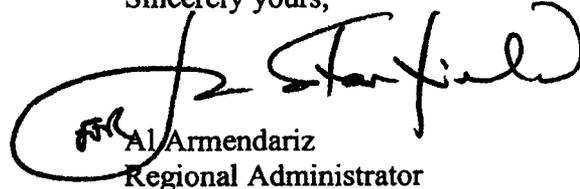
Thank you for your letter of April 12, 2010, conveying your initial designation recommendation of the new short-term Nitrogen Dioxide (NO<sub>2</sub>) National Ambient Air Quality Standard (NAAQS) for the Albuquerque-Bernalillo County area.

We will notify you next year of areas we propose to designate as attainment, nonattainment or unclassifiable for the new NO<sub>2</sub> NAAQS. The Clean Air Act defines an area as nonattainment if it is violating a NAAQS or if it is contributing to a violation in a nearby area.

Our office also looks forward to working with the City of Albuquerque regarding the details of implementing the new monitoring requirements of the new short-term NO<sub>2</sub> NAAQS. Your letter was correct in that a plan for establishing your new near-road site in Albuquerque will be due to our office by July 1, 2012, and this new near-road site is required to be operational by January 1, 2013.

Yours is the first designation recommendation letter this Region has received for the new NO<sub>2</sub> NAAQS. We appreciate the work of the City of Albuquerque Environmental Health Department and the Albuquerque-Bernalillo County Air Quality Board to protect the environment and look forward to continuing to work with New Mexico and these agencies. If you have any questions concerning area designations for NO<sub>2</sub>, please contact me at (214) 665-2100, or your staff may contact Mr. Guy Donaldson of my staff at (214) 665-7242.

Sincerely yours,

  
Al Armendariz  
Regional Administrator

cc: Please see page 2

cc: Mr. Ron Curry  
Secretary,  
New Mexico Environment Department

Ms. Mary Uhl  
Chief, Air Quality Bureau,  
New Mexico Environment Department

Ms. Mary Lou Leonard  
Acting Director, Air Quality Division,  
Albuquerque Environmental Health Department

Ms. Margaret Nieto  
Secretary to the Board,  
Albuquerque Environmental Health Department

Mr. Fabian Macias  
Environmental Health Manager,  
Albuquerque Environmental Health Department