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NEW MEXICO
ENVIRONMENT DEPARTMENT

Hazardous Waste Bureau

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RON CURRY
Secretary

JON GOLDSTEIN
Deputy Secretary

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

November 20, 2008

Donald L. Winchell, Jr., Manager
Los Alamos Site Office
Department of Energy
528 35th Street, Mail Stop A316
Los Alamos, NM 87544

Richard S. Watkins, Associate Director
Environment, Safety, Health, & Quality
Los Alamos National Security, LLC
Los Alamos Research Park
4200 Jemez Road, Suite 400
Los Alamos, NM 87544

**RE: REQUEST FOR INFORMATION
LOS ALAMOS NATIONAL LABORATORY
EPA ID# NM890010515-1**

Dear Messrs. Winchell and Watkins:

Pursuant to Section 74-4-4.3.A of the New Mexico Hazardous Waste Act ("HWA"), NMSA 1978, section 74-4-1 *et seq.*, and Section 3007(a) of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6901 *et seq.*, the New Mexico Environment Department (NMED) hereby requests that the U.S. Department of Energy Los Alamos Site Office and Los Alamos National Security, LLC (collectively, the **Permittees**) provide NMED the below-listed information concerning activities associated with the Los Alamos National Laboratory (LANL) within thirty (30) days of receipt of this letter.

Section 74-4-4.3.A of HWA provides that "[f]or the purposes of developing or assisting in the development of any rules, conducting any study, taking any corrective action or enforcing the provisions of the Hazardous Waste Act, upon request of the secretary or his authorized representative, any person who generates, stores, treats, transports, disposes of or otherwise handles or has handled hazardous wastes shall furnish information relating to such hazardous wastes. . . ." Likewise, section 3007(a) of RCRA provides that "[f]or purposes of developing or assisting in the development of any regulation or enforcing the provisions of [RCRA], any person who generates, stores, treats, transports, disposes of, or otherwise handles or has handled hazardous wastes shall, upon request of any . . . duly designated officer, employee, or

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representative of a State having an authorized hazardous waste program, furnish information relating to such wastes. . . ." 42 U.S.C. § 6927(a).

On May 2, 2007, NMED received a request to evaluate a provisionally approved Scenario 3 Acceptable Knowledge Sufficiency Determination Request for LANL remote-handled waste stream LA-MHD03.002 from the Department of Energy's Carlsbad Field Office (CBFO). CBFO and Washington TRU Solutions LLC submitted this request on behalf of LANL as the generator/storage site of this waste stream for evaluation under the Waste Isolation Pilot Plant Hazardous Waste Facility Permit as specified in Permit Attachment B, Section B-0b. Although NMED issued a Notice of Deficiency on this request on August 25, 2008, NMED generally concurs with the conclusion presented in the request that waste stream LA-MHD03.002 is a mixed waste subject to regulation under the HWA. In order to better understand and document the facts surrounding the regulatory status of this waste stream, NMED requests the following information:

1. All data, logbooks, correspondence, and any other documentation used by the Permittees to make a hazardous waste determination for the 16 remote-handled canisters in waste stream LA-MHD03.002. The request includes any information the Permittees may have relied on to make a determination that the subject waste stream is non-mixed and not subject to regulation under the HWA.

Your compliance with this information request is mandatory. Failure to respond fully and truthfully within the time specified herein, or adequately justify such failure to respond, may result in an enforcement action by NMED pursuant to Section 74-4-10 of HWA, or Section 7002(a)(1)(A) of RCRA (42 U.S.C. § 6972(a)(1)(A)) or both. Both HWA and RCRA provide for the imposition of civil penalties for noncompliance. Section 74-4-12 of HWA provides that any person who violates any provision of HWA "may be assessed a civil penalty not to exceed ten thousand dollars (\$10,000) for each day during any portion of which a violation occurs." See also NMSA 1978, § 74-4-10.A and B. Section 3008(g) of RCRA provides that any person who violates any requirement of RCRA shall be liable for a civil penalty not to exceed \$27,500¹ for each such violation. 42 U.S.C. § 6928(g). Both HWA and RCRA also provide for criminal fines and imprisonment for knowingly omitting material information or making a false statement or representation in any document used for compliance with HWA or RCRA. NMSA 1978, § 74-4-11.A(3); 42 U.S.C. § 6928(d)(3).

LANL may claim confidentiality for any information required by this information request pursuant to the requirements of Section 74-4-4.3(D) and (F) of HWA, 42 U.S.C. § 6927(b), and 20.4.1.100 NMAC (incorporating 40 CFR 260.2).

¹ Although this provision of RCRA on its face provides for a civil penalty not to exceed \$25,000, the maximum penalty has been increased to \$27,500 to account for inflation pursuant to the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3107 note. 40 C.F.R. § 19.4, Table 1.

Messrs. Winchell and Watkins
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Please submit your response to me at the address on the letterhead within 30 days of receipt of this letter.

If you have any questions regarding the information request, please contact Art Vollmer of my staff at (505) 476-6004.

Sincerely,



James P. Bearzi
Chief
Hazardous Waste Bureau

JPB:soz

cc: A. Vollmer, NMED HWB
J. Kieling, NMED HWB
S. Zappe, NMED HWB
C. deSaillan, NMED OGC
M. Graham, LANS
G. Rael, NNSA LASO
File: LANL 2007 and Reading