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NEW MEXICO
ENVIRONMENT DEPARTMENT

Hazardous Waste Bureau

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Secretary

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Deputy Secretary

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

November 16, 2007

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 ON SITE TREATMENT PLAN FISCAL
YEAR (FY) 2003-2007 UPDATES AND REVISIONS 13.0-17.0
PROPOSALS, FEDERAL FACILITY COMPLIANCE ORDER
LOS ALAMOS NATIONAL LABORATORY
EPA ID NO. NM08990010515**

Dear Messrs. Winchell and Watkins:

This information request is made pursuant to the New Mexico Hazardous Waste Act (HWA), NMSA 1978, §§ 74-4-1 to 74-4-14, and the federal Resource Conservation and Recovery Act (RCRA), 42 U.S.C. §§ 6901 to 6992k. Los Alamos National Laboratory (LANL) is a national laboratory owned and operated by the United States Department of Energy (DOE). DOE is an agency of the United States. LANL is also operated by Los Alamos National Security, L.L.C. (LANS). Each of these entities, collectively the "Respondents", is a person who generates, stores, treats, transports, disposes of, or otherwise handles or has handled hazardous wastes within the meaning of the HWA and RCRA. NMSA 1978, § 74-4-3(K); 42 U.S.C. § 6903(15).

Section 74-4-4.3(A)(1) of the HWA provides that "[f]or the purposes of taking any corrective action or enforcing the provisions of the [HWA], . . . upon request of [the Department] 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 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 representative of a State having an authorized hazardous waste program, furnish information relating to such wastes" (42 U.S.C. § 6927(a)).

Furthermore, Section XX of the Respondent's Federal Facility Compliance Order provides that the Respondents must "permit the New Mexico Environment Department (NMED), its contractors, designees, and agents to inspect and copy all records, files, photographs, documents, and other writings..." In addition, Section III.P of the Compliance Order on Consent, dated March 1, 2005, provides that the Respondents shall, within a reasonable time after receipt of a request from NMED, "furnish information to the Department relating to hazardous wastes that are or have been managed at the [LANL] facility."

This letter requests information regarding the Respondents' Site Treatment Plan (STP) Updates for federal fiscal years 2002 to 2007 and Revisions 13.0-17.0. The Respondents must submit to NMED, at a minimum, all of the following documents and information:

- Notices of Completion of Off-Site Waste Shipment Activities in the CPV;
- Requests for Expedited Treatment;
- Notices of Completion of Milestone Activities in the CPV;
- Proposed Administrative Adjustments;
- Notices of Return of Waste;
- Requests for Removal from Inventory; and
- Informal correspondence between the Respondents' and NMED's Project Managers.

The Respondents shall not re-submit STP FY 02-07 Updates and Revision 13.0-17.0 Proposals.

Compliance with this information request by the Respondents is mandatory. Failure to respond fully and truthfully to this information request 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 the HWA, or section 7002(a)(1)(A) of RCRA, 42 U.S.C. § 6972(a)(1)(A), or both. Both the HWA and RCRA provide for the imposition of civil penalties for noncompliance. Section 74-4-12 of the HWA provides that any person who violates any provision of the 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 \$32,500 per day for each such violation (42 U.S.C. § 6928(g)). Both the HWA and RCRA also provide for criminal fines and imprisonment for knowingly omitting material information or making a false statement or representation in any

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document used for compliance with the HWA or RCRA NMSA 1978, § 74-4-11(A)(3); 42 U.S.C. § 6928(d)(3).

All requested information must be submitted no later than December 20, 2007. If you have any questions please contact Rebecca Kay of my staff at (505) 476-6052.

Sincerely,



James P. Bearzi
Chief
Hazardous Waste Bureau

cc: R. Kay, NMED-HWB
D. Cobrain, NMED-HWB
J. Kieling, NMED-HWB
L. King, EPA 6PD-N
J. Ellvinger, ENV-RCRA, LANL-LASO, MS K490
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