

Permit

James Bearzi

From: Dorothy Hoard [dorothyh@swcp.com]  
Sent: Friday, September 24, 2004 8:46 AM  
To: bearzi >> James Bearzi  
Subject: Comments on DOE, UC Order

September 24, 2004

James P. Bearzi, Chief  
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Dear Mr. Bearzi

Thank you for the opportunity to comment on the proposed LANL Compliance Order on Consent. I sincerely hope the Order accomplished its objectives as state in Section III.A. However, I do have the following concerns:

#### Contingencies

Section III.W.6 lists several contingencies under which the Order can be vacated. If the Order is vacated, I feel that the listed remedies do not insure the orderly cleanup that this Order specifies. I feel that Section III.W.6 is a fundamental weakness in the Order. I feel that III.W.6 should be revised to ensure that the cleanup continues under some binding agreement with few opportunities for misunderstanding and disagreement between the parties.

#### Approvals

In the past, LANL has performed so-called voluntary corrective actions because NMED did not have the resources to approve cleanup plans in a timely manner in keeping with availability of LANL funding and personnel. This Order allows Accelerated Cleanups (Section VII.F), however, it requires the same approval process as scheduled sites. This Order requires approval for virtually any action taken by LANL. (I did a search on your electronic file for the work approval in context of written consent to proceed with task. The number of hits was staggering!) In the Order, Section III.M.2, assurance is given that NMED intends to act in good faith to fulfill its approval obligations. In all sincerity, I do not question the intent, but rather the ability.

I feel the Order should spell out more specifically the options available to both LANL and NMED should the approval process be unable to keep pace with both the LANL and the Order schedules. In Section III.H.2. Examples of Force Majeure, Example 5 can be interpreted to include NMED as a governmental agency and that LANL is protected from fines. In Section III.M.2, NMED can extend submission dates. However, the overall schedule is delayed and may not coincide with LANL's funding and personnel cycles. I urge NMED to search for ways to streamline the approval process, both within this Order and during its lifetime.

#### Public Involvement.

In Section VII.D.7 and E.4 the Order provides for public comment for individual hazardous sites undergoing the Corrective Measures process. I feel that the public deserves information and the opportunity to comment on other sites listed at LANL. I feel the Order should provide public access to information on location, level of contamination, and extent of cleanup, if any. I feel that the active and inactive lists should be

easily available. Over the years, the citizens of northern New Mexico have been led to believe that LANL waste sites represent a significant hazard to their health. I feel that these citizens deserve the ability to assess for themselves how much their lives are really threatened. An example is the people affected by the Aamondt et al water adjudication case who are led to believe that they are being forced on to a public water system whose water will be contaminated by LANL effluents. These people deserve access to whatever information is available.

I feel that NMED owes the public periodic progress reports on how the Order is affecting LANL hazards. I feel that data generated under this Order should be publicly available so that persons who feel directly affected can monitor the progress of the studies and cleanups in a timely fashion.

#### Miscellaneous Comments

Section IX.B.2.i.i. I feel that purging wells as described will not ensure that water samples will be representative of formation water. I am aware that the presence of bentonite clays can adsorb certain cations long into the future and mask the presence of these contaminants in the water. I feel that the presence of organic polymers can affect the reduction/oxidation potentials at the screens for an uncertain period of time. This will affect the solubility of contaminants and mask their presence. I urge the Order participants to find reliable methods to determine when (or if) a well is suitable for sampling.

Section IX.C. For chemical analyses, it would seem to me that NMED would prefer quantitation limits (also referred to as method reporting limits?) above background levels rather than detection levels, for which statistical methods are suspect because uncertainties are so high. For example, in Section IX.C.1.d, detection limits are required for samples in paragraph 2 while reporting limits are required for the method blank in paragraph 3. I feel the Order needs definitions of these three terms to avoid confusion. EPA should be able to supply the current definitions. I am confused by the use of these terms as described in Section IX.C.3.c. Also, these limits are a function of the analytical method and the individual instrument; LANL has no control over them. The Order might be more clear if it merely specify that LANL use analytical methods that meet cleanup criteria.

I feel LANL should supply NMED with a standard list of analytes and analytical methods, then only have to note deviations from the list in individual work plans. The whole list in each plan seems excessive.

Section IX.C.1.c. Why radiogenic NIST standards?? NIST traceable standards are traditionally used for all analytes, whether produced by radioactivity or not.

Sincerely,  
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PS. Please thank Secretary Curry for holding the public meeting. I feel that it showed NMED's commitment to keeping the public informed. I thought you did a great job, with your characteristic forthrightness.