

November 26, 2007
John Kieling, Program Manager
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Dear Mr. Kieling,

This letter is to request that the New Mexico Environment Department (NMED) immediately for procedural reasons **deny** the September 2007 Long-Term Monitoring and Maintenance Plan (LTMMP) for the Mixed Waste Landfill (MWL) at Sandia National Laboratories (SNL), or; in the alternative, grant a 30 day extension for the **public comment period** with a **public hearing** to follow.

The reasons for this request are as follow:

1. **The issuance of the Sandia LTMMP prior to the completion of the soil cover denies the public its procedural rights to review and comment and public hearings. A) The public has not received the right to review and comment of the replacement wells that have been ordered for the MWL and that will constitute a significant portion of the long-term monitoring plan for the MWL. (Also see sections 9 and 10 below). B) The accelerated submission of the LTMMP requires a public hearing as a level 2 modification of the Module IV of the Hazardous Solid Waste Act (“HSWA”) permit (section B.3 Permit Modification citing 40 CFR 270.41 provisions). C) The Public is also entitled to completion of the soil cover remedy, a comment and review and public hearing on the Corrective Measures Implementation Plan and the Corrective Measures Implementation Report prior to the submission of the LTMMP.**
 - a. The LTMMP is being presented out of sequence with the requirements of the Resource Conservation and Recovery Act, the NMED Final Order (2005), the Corrective Measures Implementation Plan, Module IV of the Hazardous Solid Waste Act (“HSWA”) permit and the SNL Draft Hazardous Waste Facility Permit. Those documents require for the LTMMP to be submitted within 180 days *after* the NMED *approval* of the CMI Report.
 - b. The soil cover remedy is supposed to be completed after approval of the CMI Plan. A schedule for implementation of the cover remedy has not been approved by the NMED and the soil cover remedy is currently subject to a Notice of Disapproval (Nov. 2006) so that there is no approval for the CMI Plan. The CMI Plan approval must come before the submission of the CMI Report. The LTMMP is supposed to be submitted after the CMI Report.
 - c. The LTMMP is being inappropriately presented before approval of completion of the soil cover remedy, submission and approval of the CMI

Plan and submission and approval of the CMI Report. The CMI Report must be submitted and approved and then the LTMMP must be submitted for approval.

- d. The public is entitled to review and comment and a public hearing on the CMI Plan and the Corrective Measures Implementation Report prior to the presentation of the Long-Term Monitoring and Maintenance Plan. By putting the LTMMP out for review at the present time, the public procedural rights are violated.
 - e. DOE SNL submitted an incomplete LTMMP on an “accelerated basis” which DOE claimed was ordered by the NMED.
 - f. NMED states that no “accelerated” request for the report was made by them. The LTMMP thus presents false information to the public, if NMED is correct. The LTMMP should be denied for presenting false information.
 - g. SNL admits that the LTMMP is incomplete.
2. **By submitting the LTMMP prior to the CMI Report, SNL is denying the public to be informed of the contingency procedures to be implemented if the CMI Plan fails to be protective of human health and the environment.**
 3. **The Long-Term Monitoring and Maintenance Plan is incomplete and the public cannot make informed comment. DOE/SNL admits the submitted plan is incomplete.** The LTMMP lacks any defined well monitoring program and “lacks important details of the proposed wells.” (LTMMP, p.1-2). The document presupposes a non-existent network of monitoring wells that cannot be reviewed by the public. Accordingly, the full Administrative Record has not been made available for review in this matter. Both NMAC and the Resource Conservation and Recovery Act (RCRA) require that adequate public review be allowed with the benefit of the full Administrative Record being available from the beginning of the comment period.
 4. The Sandia RCRA Permit and the Kirtland Air Force Base Permits are scheduled for approximately the same time period as the LTMMP. Reviewing all three documents is an unacceptable burden on the public through the holiday season and because of incompleteness and the size of the documents.
 5. **The LTMMP has no transmittal letter included with the LTMMP.** The LTMMP is a Resource Conservation and Recovery Act (RCRA) document and requires a transmittal letter signed under penalty of perjury by SNL.
 6. **NMED currently has a Notice of Deficiency against the soil cover and must, but has not yet responded to citizen comments regarding soil gas testing.** The issues must be resolved prior to submission of the LTMMP. The LTMMP references the 11/2006 NOD but the issues in the NOD are not currently resolved.

7. *The Evaluation of the Representativeness and Reliability of Groundwater Monitoring Well Data, Mixed Waste Landfill, Sandia National Laboratories, ("Evaluation")* New Mexico Environment Department/Hazardous Waste Bureau By: William P. Moats, David L. Mayerson¹, and Brian L. Salem (November 2006) has not been scientifically peer reviewed nor set for public review and comment prior to its use as a major document (listed on the NMED website) for the reliability of the monitoring network at the MWL.
8. **The LTMMP should not be put out for review by the public until the same public review process has been provided for the Moat's *Evaluation* prior to the LTMMP presentation to the public.** NMED claims that it "welcomes the review by EPA" in a July 17, 2007 letter, but has not requested the review from EPA. Citizen Action and the public need the EPA review of the Moats *Evaluation* to properly review the LTMMP.
9. **NMED has failed to inform the public that there are substantive changes ordered for the well monitoring network that are not in the LTMMP.** NMED has issued the LTMMP report for review and comment by the public even though the NMED has made changes to well monitoring requirements at the MWL that are different from what is in the incomplete LTMMP.
10. **The orders for well monitoring replacements at the dump are major documents for which the public has not been given a previous opportunity for review and comment by the NMED.** The locations for monitoring wells indicated by the LTMMP (App. D-7 Fig.D-1.3-1) are not shown in the positions currently ordered by the NMED. The Order by NMED was sent out before the NMED issued the LTMMP for public review and comment.
11. **Public comment for the LTMMP requires access to the TechLaw reports.** The LTMMP should not be sent out for public comment until the public has the TechLaw reports to properly review the LTMMP. NMED Attorney Tannis Fox has stated that the TechLaw report forms the foundation for the Fate and Transport Model which is related to the long-term monitoring for the dump. NMED is refusing to present the TechLaw reports about the Fate and Transport Model for contaminants at the dump. The report may show a lack of reliable data about the existing monitoring network.
12. **The LTMMP does not comply with the 2004 Consent Order for monitoring groundwater beneath the dump.** No monitoring wells are installed beneath the dump in the groundwater as defined by the Consent Order. The Consent Order defines groundwater as follows: "Groundwater means interstitial water which occurs in saturated earth material and which is capable of entering a well in sufficient amounts to be utilized as a water supply." (Consent Order p.66, IX.A. **Sampling**) However, the LTMMP does not install any monitoring wells in the saturated formation which produces a sufficient amount of groundwater to be utilized as a water supply. Instead, all the wells in the LTMMP are in the poorly

- productive, fine-grained sediments that do not produce water in the quantity as required by the Consent Order for monitoring.
13. **The *Probabilistic Fate and Transport Modeling of the Mixed Waste Landfill* (Ho et al. January 2007) is a major document that has not been presented to the public for review and comment.** Citizen Action and the public need the knowledge gained from Ho et al, 1/07 to properly review the LTMMP.
 14. **The LTMMP does not address the concerns for monitoring the high levels of contamination within and beneath the dump.** NMED requested DOE/SNL to identify locations for monitoring wells inside the dump where high levels of tritium and PCE were discovered in the RCRA Facility Investigation. Nevertheless, DOE/SNL do not propose any monitoring wells inside the dump at the high levels of contamination. These wells are necessary for long-term monitoring and validation of the Fate and Transport Model.
 15. **Sandia is now backing out of the representation to the NMED Notice of Disapproval for the soil cover that it would monitor soil from ant nest and animal burrows for gross alpha and beta contamination.** The LTTMP (3-29) states, “Samples of soil from on-site animal burrows and ant hills showed elevated concentrations of cesium-137 above established background levels, suggesting that burrowing animals and ants may have the potential to transport contaminants to the ground surface. Plant material ...growing over trench B showed detectable activities of cobalt-60 and cesium-137.” The measured contamination shows the importance for monitoring soil from animal burrows and anthills not only for gross alpha and beta contamination, but also for a complete suite of radionuclides and hazardous wastes. The nature, location and extent of contaminants in the buried wastes is unknown. Comprehensive monitoring over time is necessary due to the unpredictability of the wastes in the dump.
 16. **Vadose zone monitoring is not provided for beneath the dump.** The vadose zone monitoring in the LTMMP is located outside the footprint of the soil cover and is too distant from the dump for early detection of contamination. The unlined pits and trenches require a RCRA 40 CFR 264 Subpart F monitoring system installed immediately below the discrete pits and trenches in lieu of the leak detection systems required in landfills.
 17. **The regulatory criteria for the Mixed Waste dump are misstated by the LTMMP (p. D-1).** The dump is subject to the closure requirements and post-closure requirements of 40 CFR 264 Subpart F and G for well monitoring networks. (See 63 Federal Register 56710 et seq.). The MWL has never had a well monitoring network that complied with the minimum requirements for at least one upgradient and three down-gradient monitoring wells for detection or a network that met requirements for long term monitoring.

18. The closure of similar Department of Energy landfills with regard to similar sized mixed waste landfills and wastes is by excavation or complete encapsulation with liners, leachate detection and active vapor extraction.

The Mixed Waste Landfill should be consistent with the protective measures for closure of other DOE mixed waste landfills in New Mexico and provide for the equivalent type of leak detection beneath the MWL that would be provided as if the MWL were an engineered RCRA landfill.

19. We request inclusion of this request for denial of the LTMMP also as comments in the administrative record for the LTMMP.

Sincerely,

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