

June 3, 2010  
Freedom of Information Officer (6MD-OO)  
U.S. EPA, Region 6  
1445 Ross Avenue  
Dallas, Texas 75202-2733

Sent by Email to EPA Region 6 at [durham.jerva@epa.gov](mailto:durham.jerva@epa.gov) and [morales.maryann@epa.gov](mailto:morales.maryann@epa.gov)

**Attention: FOIA Officer.**

**Re: Freedom of Information Act Request**

Dear FOIA Officer:

Under the Freedom of Information Act, 5 U.S.C. § 522, Citizen Action New Mexico is requesting access to a full and complete copies of documents in any form, whether from correspondence, memoranda, tape recordings, electronic or handwritten communications, notes or handout documents. This would include all documents and communications written by and/or from and/or between the Environmental Protection Agency (“EPA”), Sandia National Laboratories, the Department of Energy (“DOE”), the New Mexico Environment Department (“NMED”) and/or any of their contractors. This would include all attachments, maps, graphs, figures, tables and references to those documents.

The USEPA Office of Inspector General issued an April 14, 2010 Hotline Report <http://www.epa.gov/oigearth/reports/2010/20100414-10-P-0100.pdf> that identified that EPA Region 6 engaged in a widespread mislabeling of information that also included a Region 6 report entitled “Sandia Mixed Waste Landfill Groundwater Monitoring Well System and Program Oversight Review” (pp.1 and 21):

**“The Region’s comments, particularly those regarding the widespread mislabeling of information as “confidential” and undocumented “informal” oversight demonstrate systemic material control weaknesses in these areas. The Region’s comments, such as the refusal to address misuse of confidential markings with the explanation, in effect, that everyone does it, also indicates a deficient control environment.”**

1. Provide the identity of all records that have been requested by Citizen Action in its Freedom of Information Act requests during the period from 2006 to the present day that were withheld from Citizen Action on the basis of containing Classified National Security Information or other mislabeling. This should also include “Sandia Mixed Waste Landfill Groundwater Monitoring Well System and Program Oversight Review”
2. Provide all records requested by Citizen Action in its Freedom of Information Act requests during the period from 2006 to the present day that were withheld from Citizen Action on the basis of containing Classified National Security Information but which did not contain national security information.

3. For each document withheld on the basis of containing Classified National Security Information, provide a concise reason for classification, i.e., identify any reason used to withhold the record such as:
  - (a) military plans, weapons systems, or operations;
  - (b) foreign government information;
  - (c) intelligence activities (including covert action), intelligence sources or methods, or cryptology;
  - (d) foreign relations or foreign activities of the United States, including confidential sources;
  - (e) scientific, technological, or economic matters relating to the national security;
  - (f) United States Government programs for safeguarding nuclear materials or facilities;
  - (g) vulnerabilities or capabilities of systems, installations, infrastructures, projects, plans, or protection services relating to the national security; or
  - (h) the development, production, or use of weapons of mass destruction.
4. Provide the identity of each record that was withheld from Citizen Action on any basis of containing Classified National Security Information, but for which the withholding did not identify Exemption 1 for National Security Information. Identify any exemption that was instead stated as the reason for withholding the record(s), e.g., Exemption 5.
5. For each of the record(s) above classified for national security information, provide the identity, by name and position, or by personal identifier, of the original classification authority; any letter(s) of delegation of authority to the person or persons to make the decision to withhold or identify the record(s) for containing National Security Information
6. Identify and provide any records that were withheld from Citizen Action on the basis of Controlled Unclassified Information that did not contain controlled unclassified information.
7. For each of the record(s) above classified for Controlled Unclassified Information, provide the identity, by name and position, or by personal identifier, of the original classification authority; any letter(s) of delegation of authority to the person or persons to make the decision to withhold or identify the record(s) for containing National Security Information

Citizen Action New Mexico is a special interest citizen-based organization that publishes or disseminates information that will be beneficial to the public as well as for operations of the government, scientific and potential regulatory purposes; therefore, I am requesting a waiver of all fees associated with this request. Disclosure of the requested information is in the interest of the public as it is likely to contribute significantly to public knowledge and education; public health issues; and other concerns frequently cited by members of the public (\*please refer to Section 2). This request is not in our commercial interest nor are we a business attempting to collect information on industrial competitors.

Section 1.

Please note the following information:

1. Citizen Action is a non-profit citizen group under the fiscal auspices of the New Mexico Community Foundation (NMCC), Santa Fe, New Mexico. Citizen Action represents at least 16-non-governmental organizations (NGOs) and neighborhood associations as a part of its coalition. The organizations within the coalition include: Southwest Research and Information Center (SRIC); Citizens for Alternatives to Radioactive Dumping (CARD); Peace Action New Mexico (PANM); Progressive Albuquerque Network (PAN); Southwest Organizing Project (SWOP); Native Forest Network (NFN); Center for Action and Contemplation (CAC); Green Party of New Mexico; Bernalillo County Green Party; International Depleted Uranium Study Team (IDUST); Living Rivers; Forest Guardians; Mountain View Neighborhood Association; South Meadows Neighborhood Association; New Mexico Solidarity Network (NMSN); and Stop The War Machine (STWM).
2. Deleted.
3. Citizen Action's interactive website ([www.radfreenm.org](http://www.radfreenm.org)) contains a partial listing (29 entries) of information from previous documents obtained by our organization under the Freedom of Information Act (FOIA). The contact information for the University of New Mexico Zimmerman Library, U.S. Department of Energy Reading Room, where the entire collection of FOIA documents is available for public review, is also posted on our website.
4. Citizen Action's website receives on average between 2,500 - 6,000 hits per month. In addition to posting independent technical reviews of the Mixed Waste Landfill, press releases, newspaper articles, action alerts, related lawsuits, and meeting announcements the results of FOIA requests are summarized and posted on the Citizen Action website.
5. Citizen Action is expanding its research on legacy waste sites at SNL/NM to other concerns regarding weapons activities and programs currently being conducted at SNL/NM. A short survey was recently mailed to over 750 interested individuals and organizations throughout the State of New Mexico to gauge public interest in programs at SNL/NM. The "Get To Know Sandia" survey has also been posted on the Citizen Action website where members of the public can register their comments electronically.
6. Citizen Action sends press releases to the local media announcing the results of FOIA reviews for further dissemination of this information to the public. Citizen Action also makes appearances on television and radio programs and disseminates information obtained from FOIA requests.
7. Citizen Action maintains an active and rapidly growing e-list serve and member mailing list of over 700 people to provide updated information on issues at SNL/NM. We network with other groups in disseminating information on SNL/NM issues such as

neighborhood organizations, clubs, churches, schools, unions, businesses, and other non-governmental organizations

8. As we have done in the past, information obtained from previous FOIA requests are shared with the New Mexico Environment Department (NMED).

**9. It is the specific intention of Citizen Action to distribute the information and documentation received from the above request to the general public in New Mexico. Citizen Action has both the ability and intent to disseminate the records and communicate the meaning of the records.** Citizen Action intends to use its substantial and numerous resources to convey EPA evaluation information and documentation regarding the performance of hazardous waste permitting actions of the New Mexico Environment Department (NMED) to the general public in New Mexico. This distribution will include use of Citizen Action's resources for emailing to over 1,000 persons, publishing the information on the Citizen Action website, distribution to associated organizations throughout New Mexico (outlined in the original FOIA request) and organizations in different states, placing articles in public media and when possible, appearance on public media outlets.

10. The issues surrounding NMED permitting activities and EPA Region 6 oversight (and lack thereof), are especially pertinent (likely to contribute to an understanding of the public) because there are ongoing permit processes for the Sandia National Laboratories' Chemical Waste Landfill and the Resource Conservation and Recovery Act (RCRA) Part B Permit Applications for both Sandia National Laboratories and Los Alamos National Laboratory all of which require public participation and for which Citizen Action is a public participant.

## Section 2.

We are requesting the full disclosure of the information requested under this FOIA as this information will:

- 1) Fulfill the public's right-to-know about SNL/MWL's permit history and requirements for compliance with the Resource Conservation and Recovery Act ("RCRA"). This will enhance knowledge of current and past government operations involving the SNL MWL.
- 2) Provide, in the spirit of openness and transparency, responses to questions from the public concerning SNL/NM's future programs and activities;
- 3) Enhance the general public's understanding of government operations at SNL/NM;
- 4) Provide information that may affect regulatory issues and oversight by the NMED concerning future programs and activities at SNL/NM, and the potential impact of these programs and activities on surrounding communities;
- 5) Provide information about programs and activities at SNL/NM that may potentially have an impact on the Albuquerque regional aquifer;

6) Provide members of the public with information that may potentially relate to important matters of public health and protection of the environment concerning SNL/NM's future plans for activities and programs conducted at the lab.

Citizen Action New Mexico is requesting a full fee waiver for all items requested under this FOIA request with the EPA as the agency solely responsible for any costs associated with this request at no cost to the taxpayer or the requester. We hope this information is sufficient for you to assess our request for a fee waiver.

If all or part of our request is denied, please cite each specific exemption that justifies your refusal to release the requested information, and please notify me of appeal procedures available under the law. If you have any questions about the handling of this request or the information requested therein you may call me at (505) 262-1862. Thank you very much.

As the FOIA requires, Citizen Action will look forward to a response from EPA within 20 days. Feel free to contact us by telephone if there are any questions.

Sincerely,

David B. McCoy, Director  
Citizen Action New Mexico  
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Albuquerque, NM 87196-4276 (505) 262-1862 [dave@radfreenm.org](mailto:dave@radfreenm.org)

