

November 16, 2007
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Re: EPA Control Tracking Number: R6-07-001-7188

Continuing Violations for: Denial of the Public Right for Review and Comment under Resource Conservation and Recovery Act (RCRA), RCRA Permit Modification requirements, and the 2005 Final Order of the Secretary of New Mexico Environment Department (NMED) at Sandia National Laboratories (SNL) and Los Alamos National Laboratory (LANL). Request for Review and Comment and for Public Hearing Regarding Plugging and Abandonment of Wells at the SNL Mixed Waste Landfill (MWL). Demand for Submission of Application for Modification to Permit and Final Order for Submission of the Long Term Maintenance and Monitoring Plan (LTMMP) Prior to Completion of the Soil Cover at the MWL.

Action Items:

- 1. Environmental Protection Agency (EPA), oversight function, should demand to receive all TechLaw Reports from the NMED.**
- 2. EPA, oversight function, should enforce the rules for public participation under RCRA at the nuclear weapons facilities.**
- 3. EPA, oversight function, should immediately release its review of the well monitoring network at the SNL MWL and acknowledge the bearing of the review on the long term maintenance and monitoring plan for the MWL.**
- 4. EPA, oversight function, should demand denial of the SNL MWL LTMMP until after the permit has been modified and until the document is complete.**
- 5. EPA, oversight function, should inform NMED that submission of a RCRA Post Closure Permit by SNL is required for the MWL. (40 CFR 270.1(c)).**
- 6. EPA, oversight function, should enforce RCRA requirement for a monitoring well network at the MWL that is in compliance with 40 CFR 264 Subpart F.**

Dear Sirs/Madame,

An October 24, 2007 Albuquerque Journal article “NMED Sues to Keep Report Closed” and October 25, 2007 AJ editorial “Landfill Secrecy Toxic” bring to attention New Mexico Environment Department’s (NMED) failure to provide reports paid for with public money at the request of the public. (See attached articles). The New Mexico Attorney General’s Office, to no avail, has twice counseled the NMED to release the reports to the public. The TechLaw reports are relevant to the dangers of spreading contamination from the Sandia Lab’s Mixed Waste Landfill to Albuquerque’s sole source aquifer and the need for excavation of the MWL prior to emplacement of a dirt cover. The Environmental Protection Agency (EPA) has the oversight authority to demand that NMED provide EPA with the reports. **We call upon the EPA, under its RCRA oversight authority, to order the TechLaw reports from the NMED and immediately release the reports to the public.**

On September 18, 2007, a coalition of organizations and individuals furnished your offices with a formal complaint that the New Mexico Environment Department (NMED) and the Sandia National Laboratories (Sandia or SNL) are engaged in the ongoing development of a piecemeal long-term monitoring plan for the SNL Mixed Waste Landfill (MWL) which involves numerous documents and including planned construction prior to the public’s opportunity for review and comment of the several plans. This material relates to and is in support of that formal complaint. **We request that EPA furnish us a status report for that complaint.**

This is to notify you that the same pattern and practice of public exclusion by NMED and the Department of Energy (DOE) is continuing for the affected communities to participate both at Sandia and at Los Alamos National Laboratories (LANL).

We are asking that the EPA under its RCRA oversight authority, DOE and NMED undertake appropriate steps to immediately enforce the rule for public participation at both Los Alamos National Laboratory and Sandia National Laboratories.

63 Federal Register 56710, 56720 (October 22, 1998) sets out the requirements for public comment *throughout the cleanup process* including site characterization: “For example, the affected community should be notified and given the opportunity to comment prior to the initiation of any activity to assess contamination.” Public participation is to take place “very early in the process” and “prior to the initiation of any activity to assess contamination or prior to the implementation of any interim measure.” According to the rule, “EPA proposed to require public involvement during the remedy selection process. EPA is retaining this requirement in the final rule. EPA has, however made the requirement more specific by requiring public notice and comment on both the proposed remedy and the assumptions upon which it is based, including site characterization and land use.” (63 FR 56720).

DOE and NMED are not providing the required public comment at either Sandia or LANL:

1. Currently, at LANL, the public is not being afforded the opportunity to comment prior to:

- 1) the installation of monitoring wells for the characterization and
- 2) for the long-term monitoring and maintenance plan for the three RCRA regulated units at TA-54 (MDAs G,H, and L). For example, the NMED website shows approval on October 07, 2007 of a major LANL document for rehabilitation of existing wells and installation of new monitoring wells at TA-54.

[TA-54 Well Eval Netwk Recomm_Rev1_Oct07.pdf](#)

2. Currently, at Sandia (SNL), the public is not being afforded (in addition to problems recited in our September 18, 2007 letter to EPA) the opportunity to review and comment and receive a public hearing on the **prior plans and installation of monitoring wells for the long-term monitoring and maintenance plan** for the SNL Mixed Waste Landfill.

40 CFR 270.42 and Appendix I – Classification of Permit Modification-- section C. *Ground-Water Protection*, sections 1-8 thereto, provides that “changes in the number, location, depth, or design of upgradient or downgradient wells of permitted groundwater monitoring systems,” “changes in point of compliance” are Class 2 Modification. “Replacement of an existing well that has been damaged or rendered inoperable, without change to location, design or depth of well” is a Class 1 Modification requiring public notification, review and comment. The changes to the MWL well monitoring network also constitute Class 2 modifications. For Class 2 Modifications, the permittee must submit a Modification request to the Director, notify persons, provide a comment period, provide a public meeting and other requirements. Appendix I, Section J.3, provides that addition or modification of a final cover constitutes a level 3 modification. Modifications for the well monitoring system were not included prior to the issuance of the LTMMP. These requirements for permit modification have not been followed. **We are asking that EPA, in its oversight capacity, enforce these requirements for permit modifications to include requiring application for the modification prior to the submission of the LTMMP on an accelerated basis, changes to the groundwater monitoring system, and cover modifications and to include public hearings prior to the modifications.**

The NMED website shows approval for installation of a new monitoring well at the MWL without the required public comment and hearing process provided for by 40 CFR 270.42 and Appendix I, Section C (1-8).

(http://www.nmenv.state.nm.us/hwb/documents/10-12-2007_NMED_Correction-Notice_of_Approval_Monitoring_WellPandAPlan_MWL-BW1_Repl-MWL-BW2.pdf and [http://www.nmenv.state.nm.us/hwb/documents/10-10-](http://www.nmenv.state.nm.us/hwb/documents/10-10-2007_NMED_Notice_of_Approval_Monitoring_WellPandAPlan_MWL-BW1_Repl-MWL-BW2.pdf)

[2007_NMED_Notice_of_Approval_Monitoring_WellPandAPlan_MWL-BW1_Repl-MWL-BW2.pdf](http://www.nmenv.state.nm.us/hwb/documents/10-10-2007_NMED_Notice_of_Approval_Monitoring_WellPandAPlan_MWL-BW1_Repl-MWL-BW2.pdf)) On July 23, 2007, the public requested the opportunity to comment and review for the immediate and long term well monitoring at SNL. No answer to the request was ever received from NMED Secretary Ron Curry. Continuing this pattern and practice of public exclusion will result in public exclusion from the review and comment for other well replacements NMED ordered at SNL that will in large part constitute the long-term monitoring and maintenance plan for the SNL Mixed Waste Landfill.

On October 30, 2007, NMED issued a *Notice of Approval: Monitoring Well Plug and Abandonment Plan and Replacement Well Construction Plan; Decommissioning of Groundwater Monitoring Wells MWL-MW1 and MWL-MW3; Installation of Replacement Groundwater Monitoring Wells MWL-MW7 and MWL-MW8, July 2007*. Citizen Action and a coalition of groups asked for review and comment of the replacement wells but have been denied the opportunity to comment on these wells.

The NMED Notice of Approval is prior to the date NMED released the LTMMP for public comment and review for the Mixed Waste Landfill. The Notice of Approval would constitute a substantial portion of the LTMMP that is not described in the LTMMP and is made without public review and comment or a public hearing. The Notice of Approval does not provide for the replacement of well MW1 that is showing high levels of Nickel and Chromium. EPA Region 6 is currently reviewing the situation for the monitoring wells at the MWL and will issue a report relevant to these issues. RCRA requires investigation of the contamination at MW1 prior to plugging and abandoning the wells. In its oversight capacity, EPA should instruct NMED not to proceed with plugging and abandonment of MW1. EPA should order no well installation at the MWL until the EPA review is complete and opportunity is provided for public review and comment.

The LTMMP does not meet the legal requirements to be a long term monitoring plan. Although the LTMMP is listed as “Final” in its URL, 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. The LTMMP states (p.1-2):

“To minimize requirements for future modifications to this plan once the cover is completed, the document is written in the present tense as if the cover were already completed. The exception to this convention is the discussion of the groundwater monitoring well network. At the writing of this document several modifications to the groundwater monitoring well network have been proposed. As important details (construction diagrams and locations) of the proposed wells could not be provided in this plan, the DOE/Sandia fully discuss the existing well monitoring network with reference to the proposed changes. Efforts have been made to include all proposed wells in the discussion, as these are critical to the long-term monitoring of the groundwater. Because the proposed wells have not yet been installed, the circumstances of their installation may change.”

This above Sandia statement shows no intention to allow public comment on the long term monitoring network as a full comprehensible plan. The incompleteness of the plan is reason for NMED to deny the LTMMP. This statement also ignores the existence of the current Notice of Disapproval for the soil cover and the issues that must first be resolved.

No public hearing has been scheduled for the SNL September 2007 Long-Term Maintenance and Monitoring Plan (“LTMMP”) submitted to NMED by SNL for the Mixed Waste Landfill (“MWL”). Public hearings are required for Long Term Maintenance and Monitoring Plans as part of Post Closure Plans. Public review and

comment has been noticed by NMED, but the LTMMP is incomplete and in improper format as an administrative record for review and opportunity for a public hearing is required.

(http://www.nmenv.state.nm.us/hwb/documents/Final_SNL_MWL_LTMMP_Sept_2007.pdf).

The soil cover has not been installed at the MWL and details for the Soil Vapor and Analysis Plan have not been yet completed nor have NMED responses to public comments been provided. The public was denied a public hearing on the Soil Vapor Sampling and Analysis Plan.

SNL has the duty to submit a permit modification request to NMED. NMED must require the submission of a permit modification from SNL. The accelerated submission of the LTMMP by DOE constitutes a Modification to the timing for submission required by the 2005 Final Order for the Mixed Waste Landfill and has been made without public notice. The accelerated basis is a modification of the permit requirements set forth for the long term monitoring plan to be provided after the construction of the soil cover in: the Hazardous Solid Waste Act (“HSWA”) permit (section B.3 Permit Modification citing 40 CFR 270.41 provisions), Corrective Measures Implementation Plan and the May 2005 Final Order of the Secretary of the NMED.

Citizen Action objects to the LTMMP being provided at this time because the LTMMP should first follow the procedures for modification to the Final Order, the HSWA Permit and CMI Plan. Moreover, the LTMMP must be part of a Post Closure Permit process (see below). The well monitoring system should be designed and properly installed. The wastes should be excavated prior to construction of the soil cover.

Sandia asserts that NMED requested the LTMMP on an “accelerated basis” prior to the completion of the soil cover and thus the LTMMP is incomplete as a plan. (LTMMP, p. 1-3). *NMED denies this.* (See attached letter Oct.31, 2007 from NMED James Bearzi). If NMED did not request an accelerated basis as claimed by SNL, SNL is providing false information in the LTMMP. No public notice or opportunity for review and comment on the “accelerated basis” that constitutes a modification of the Final Order for the MWL has been provided. No legal justification has been provided for an “accelerated basis” for Sandia’s issuance of the LTMMP before the soil cover installation.

The LTMMP does not present a completed plan for a well monitoring network by its own statement and is an incomplete document not ready for public review and comment and should be denied. The LTMMP states, “As important details (construction diagrams and locations) could not be provided in this plan, the DOE/Sandia fully discuss the existing well network with reference to the proposed changes.” “...[T]he document is written in the present tense as if the cover were already completed.” (P.1-2, emphasis supplied). **The LTMMP should not be presented at this time for review and comment until it has completed the plan for a long term well monitoring network as required by RCRA and DOE Orders.** NMED should deny the LTMMP submission until a request to modify the permit has been submitted.

NMED should deny the LTMMP as incomplete and not on schedule and as being an improper request for modification of the permit. The administrative record for the LTMMP is not complete and the plan should be denied as submitted.

The LTMMP is further incomplete in that the Compliance Order on Consent (NMED April 2004, "Consent Order") must be followed as part of the Corrective Action measures for the MWL. (LTMMP, p.i). 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."

The MWL cannot be "undergoing corrective action in accordance with" the Consent Order, as it claims. (LTMMP, p.i, Executive Summary). The Consent Order (p.66, IX.A.Sampling) states that "Groundwater samples shall initially be obtained from monitoring wells between 10 to 30 days after completion of well development." Other than MW6 that is located over 500 ft beyond the point of compliance and may be cross-gradient to the flow of groundwater, the MWL does not have monitoring wells that are sampling the groundwater by the definition in the Consent Order. RCRA also requires that the strata that can supply sufficient amounts of water be monitored.

The Class 3 Permit Modification to Module IV of the HSWA Permit requires permittee (SNL/DOE) to submit the LTMMP to the NMED within 180 days *after* the approval of the Corrective Measures Implementation Report. (P. 1-2 LTMMP). The LTMMP was supposed to issue after the completion of the evapo-transpiration soil cover installation at the MWL.

Public review and comment of the LTMMP will be largely meaningless, if and when it does occur, if the completion of the major portion of the MWL well monitoring network is accomplished through prior piecemeal orders as is currently the case. Collectively, the replacement of 3 of the 7 wells at the MWL represents 42% of the current monitoring network and these plans constitute a major portion of the long-term well monitoring network.

NMED issued a November 2006 Notice of Disapproval (NOD) for the soil cover. At a public technical hearing written comments were filed by the public. The LTMMP should not have issued until after issues raised in the public comments at the soil gas technical meeting are resolved. The public comments have not received response from the NMED and the NOD remains in effect at present. Soil gas monitoring is too far from the point of release to be effective. Soil gas monitoring is not within the vadose zone at the MWL as claimed by the LTMMP (p. B-5). Groundwater monitoring data from the monitoring wells at MWL have not been adequate to detect contamination of Volatile Organic Compounds (VOCs) as claimed by the LTMMP. (p. B-6).

All construction activities for the soil cover should cease until long-term monitoring systems for soil gas are put in place at both the perimeter and across the entire MWL beneath each trench and including pits, especially at hot spots. Data should be obtained from the monitoring system for a period of 3-5 years before construction of the soil cover.

EPA, oversight function, should inform NMED that submission of a RCRA Post Closure Permit by SNL is required for the MWL. (40 CFR 270.1(c)).

40 CFR 270.1 (c) requires that owners and operators of landfills that received waste after July 26, 1982 must have post-closure permits, unless they demonstrate closure by removal or decontamination or obtain an enforceable document in lieu of a post-closure permit. If a post-closure permit is required, the permit must address groundwater monitoring, unsaturated zone monitoring, corrective action and post closure care requirements.

SNL has not obtained an enforceable document in lieu of a post closure permit.

The Consent Order and the HSWA Permit Module IV modification are not enforceable documents that met the notice and opportunity requirements for obtaining an enforceable document in lieu of a post closure permit. NMED did not inform the public under 40 CFR 265.121 that the Consent Order (April 29, 2004) or Permit modification were being used as enforceable documents in lieu of a post-closure permit. (63 FR 56734, Oct. 22, 1998).¹ Also, under 40 CFR 265.121 (a)(3) the requirements of 40 CFR 264.91 through 264.100 for well monitoring must be complied with.

The Executive Summary of the Corrective Measures Implementation Plan (CMIP) states: “This design is hereby formally submitted to the NMED for final closure of the MWL. The cover is a 3-foot-thick, vegetated soil cover.” However, nowhere in the public notice for the CMIP or within the CMIP is the 40 CFR 270.1 (c) (7) procedure for an enforcement document in lieu of a post closure permit referenced. Nor are the requirements of 40 CFR 265.121 stated as also being applicable for use of an alternative remedy for post-closure.

The Consent Order precludes the Permit modification, which contains the CMIP remedy, from being a post-closure permit. (CO, III.W.2—“...there shall be only one enforceable instrument for corrective action relating to the facility, except as provided in Section III.W.1, and that instrument is this Consent Order.”). This language of III.W.1 goes to excluding the Consent Order from being an enforceable document in lieu of a post-closure permit for the MWL.²

The Consent Order states (p. 32): “This is an enforceable document.” However, there is no reference to any provision whereby the document is an enforceable document for the purpose of 270.1(c) (7) to be in lieu of the requirement for a post-closure permit for the MWL. The closure and post-closure requirements and long-term groundwater

¹ See, 40 CFR 265.121 ((b)(1) – “The Regional Administrator, in issuing enforceable documents under § 265.121 in lieu of permits, will assure a meaningful opportunity for public involvement which, at a minimum, includes public notice and opportunity for public comment...”

² Consent Order, III.W.1—“The Department has determined that all corrective action for releases of hazardous waste or hazardous constituents at the Facility...shall be under this Consent Order and not under any current or any future Hazardous Waste Facility Permit (“Permit”) with the exception of the following four items which will be addressed in the Permit and not in this Consent Order.

monitoring are specifically exempted from being a part of the Consent Order. (CO, p. 33, section III.W.1).

Note that for the MWL, under the Consent Order's Section IV.D., in 2001, NMED directed Sandia to conduct a Corrective Measures Study (CMS) meeting the requirements set forth in Sections N, O, P, Q and S of Module IV of Sandia's permit. *Section R, which contained the requirements for collecting hydrogeologic and other environmental conditions at the MWL, was omitted from the Consent Order requirements contained in the CMS.* Thus, issues regarding the well monitoring network that would be required by a post-closure plan or an alternative plan in lieu thereof, were omitted from the CMS requirements. The requirements for the CMS, which then extended into the Corrective Measures Implementation Plan (CMI Plan) and ultimately to the selection of the soil cover remedy, did not formally embrace discussion of the 264.91-.100 requirements for a groundwater monitoring network that could satisfy requirements for a post-closure plan. The CMI Plan therefore does not meet requirements of a post-closure permit because it does not contain the groundwater monitoring requirements of 264 Subpart F that must be in place under the terms of 40 CFR 270.1 (c)(7).

NMED is required to ensure that the MWL have a RCRA Subpart F, i.e., 40 CFR 264.91-264. well monitoring system in place under either a post-closure permits, or by an enforcement document in lieu of post-closure permit (40 CFR 265.121).

NMED's current position in its Responses to public comments that "the bulk of the requirements of Subpart F do not apply to the MWL because it is not a permitted unit," is simply not correct.³ EPA, in its oversight capacity, needs to correct NMED's incorrect position so that a Subpart F well monitoring network is installed at the MWL.

Thus, the Consent Order is not a document that is a stand-in for a post closure permit.

The Permit modification is also not an enforceable document in lieu of a post-closure permit. The modification was not represented for public notice and comment as an enforceable document in lieu of a post-closure permit and does not reference long term monitoring under 40 CFR 264.91-.100. The LTMMP itself does not reference the requirement to meet 40 CFR 264.91-.100 and is not in compliance with those sections.

³ The November 21, 2006, NMED Responses to Public Comments on the Sandia National Laboratories Mixed Landfill Corrective Measures Implementation Plan (Responses) takes the position that 40 CFR 264.90-100 requirements do not apply to the MWL (p.44-45):

"As previously stated, some of the regulatory requirements of 20.4.1.500 NMAC incorporating 40 CFR 264 Subpart F may be useful guidance. However the bulk of the requirements of Subpart F do not apply to the MWL because it is not a permitted unit. Instead the landfill is regulated as a Solid Waste Management Unit [SWMU] pursuant to corrective action under 20.4.1.500 NMAC incorporating 40 CFR 264.101."

The MWL well monitoring system does not comply with what is required by 40 CFR 264.91-264.100. For numerous reasons, including, but not limited to those below, a RCRA compliant well monitoring system is not in place at the MWL:

- There are **two distinct flow systems** at the MWL and neither system is monitored in accord with RCRA 40 CFR 264.91-264.100 requirements.
 - The upper flow system is at the water table in the alluvial fan (AF) sediments. The direction of groundwater flow in the AF sediments is to the southwest.
 - The deeper flow system is in the Ancestral Rio Grande (ARG) strata that are located stratigraphically below the alluvial fan sediments. The ARG strata are the important groundwater resource in the region of Albuquerque and are recognized under RCRA as the “uppermost aquifer.” The direction of groundwater flow in the ARG strata is poorly characterized at the location of the MWL. The best available information indicates groundwater flow in the ARG strata is to the northwest.
- There are no background wells for either the AF sediments or the ARG strata. A background well was installed in the AF sediments at a location south of the MWL when it was believed the flow in the AF sediments was to the northwest. In 1991, flow was determined to be to the southwest. Nevertheless, a background well was not installed in the AF sediments at an appropriate location to the northeast of the MWL. A background well was never installed in the ARG strata.
- There were never three down gradient wells at the point of compliance in either the AF sediments, or in the ARG strata.
 - AF sediments. Well MW3 was the only well located down gradient of the MWL and installed in the AF sediments. This well never produced reliable and representative water samples because of the mud rotary drilling method and the purge to dry/sample methodology. In the past year, well MW3 has gone dry. Currently, there are no monitoring wells installed in the AF sediments at locations downgradient of the MWL.
 - ARG strata. The only well installed in the ARG strata at a location downgradient of the MWL is well MW6. However, this well is located 500 feet from the western boundary of the MWL and does not meet the RCRA requirement for three monitoring wells located at the point of compliance.
- Nickel contamination in well MW1. The position of SNL/DOE that the nickel contamination in well MW1 is because of corrosion of the stainless steel well screen is incorrect. Instead, the nickel contamination is because of a plume of nickel wastes released from the MWL. In fact, the RCRA Facility Investigation identified the migration of nickel wastes in the sediments below the MWL. The nickel contamination is increasing over time and is presently at a level of 400 ug/L, which is two times greater than the New Mexico Water Quality Standard of 200 ug/L. Well MW1 is located close to the northern side of the MWL with the well screen installed across the water table in the AF sediments. Presently, the dimensions of the nickel plume are not known.
- Compliance Monitoring Program. The nickel contamination requires the Compliance Monitoring Program under RCRA 264 Subpart F. This program requires installation of many monitoring wells within and surrounding the MWL to define the dimensions of the nickel plume in both the AF sediments and the

ARG strata, and to investigate groundwater contamination from other “hot spot” sources within the MWL. RCRA requires monitoring wells to be installed in both the AF sediments and the ARG strata at appropriate locations to investigate the tritium hot spots, the trace metal hot spots, and the VOC hot spots that were identified in the RCRA facility investigation.

- Monitoring well MW4. Well MW4 is a multiple-screen angle well with two screened intervals that was installed to investigate groundwater contamination below Trench D because of the disposal of 270,000 gallons of reactor coolant water in the trench. The purpose of well MW4 was to investigate contamination at the water table beneath Trench D. However, the top screen in well MW4 was installed too deep below the water table, and the well has never met its important purpose to investigate contamination at the water table. The bottom screen in well MW4 is installed across the contact of the AF sediments with the ARG strata. The position of NMED is that well screens shall not be installed across formations with contrasting hydraulic properties or markedly different hydraulic head but this is the setting for the bottom screen in well MW4. In addition, the available information indicates that well MW4 is allowing cross-contamination between the top and bottom screen. There is an immediate need to plug and abandon well MW4, and install a new monitoring well to characterize groundwater contamination at the water table beneath Trench D.
- Monitoring well MW5. Well MW5 is located west of the MWL, but the well screen is installed across the contact of the AF sediments with the ARG strata which, as explained above, is in violation of NMED requirements for monitoring wells. In addition, a mistake in well construction contaminated the screened interval with the bentonite clay grout that was used for back-filling and sealing the annular space between the well casing and the borehole wall. The grout was accidentally poured into the well and filled the lower part of the screen. There is an immediate need to plug and abandon well MW5.
- The monitoring wells do not meet the requirements set out in Module IV for the MWL, nor do the wells meet the requirements set forth in the Consent Order of April 29, 2004.⁴

The Fate and Transport Model which currently relies on assumed values rather than hard data from vadose zone and other characterization should be abandoned. SNL/DOE admits models lack of quality assurance: “We agree, however, that additional work and materials are needed to provide quality assurance for the models and software used in this particular study.” (MWL CMI Plan NOD Comment Response Set 2, p.14).

⁴ Consent Order, p.63-- “The design and construction of groundwater monitoring wells and piezometers shall comply with the guidelines established in EPA guidance, including, but not limited to: U.S. EPA, *RCRA Groundwater Monitoring: Draft Technical Guidance*, EPA/530-R-93-001, Nov. 1992.” The EPA guidance identifies RCRA 264 Subpart F as the requirements for the groundwater monitoring at the MWL.

Appropriate action to eliminate the contamination at the MWL must be taken now as it is for example at LANL Material Disposal Area H at Technical Area 54 where encapsulation of the wastes is being required, vapor extraction of VOCs and tritium, ambient air monitoring adjacent to MDA H is to collect bi-weekly ambient air samples, and collection of additional sediment sample in the drainage channel away from the MDA H. The MWL contains far greater amounts of radioactive and hazardous wastes than the MDA H on the basis of volume of wastes. At MWL, no liners or leachate collection exist, no tritium air monitoring is planned, the storm run-off pathway from the MWL has not been sampled, and no VOC extraction is planned. Taking action for excavation at the MWL in advance of full soil cover construction will avoid the costs of digging up the soil cover and then having to install it later. EPA should review the lack of appropriate cleanup standards being applied to the MWL in comparison with other sites that NMED regulates.

Please acknowledge receipt of this letter in writing within 10 days. If there are any questions we can be reached at 505 262-1862.

Sincerely,

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