

June 16, 2009  
Freedom of Information Officer (6MD-OO)  
U.S. EPA, Region 6  
1445 Ross Avenue  
Dallas, Texas 75202-2733

**Sent by Fax to Region 6 at (214) 665-2146, Attention: FOIA Officer.**

**Re: Freedom of Information Act Request -- Technical Analyses of Sandia National Laboratories (SNL) Mixed Waste Landfill (MWL) Well Monitoring Network**

Dear FOIA Officer:

A June 21, 2007 letter from EPA Administrator Richard E. Greene to Senator Jeff Bingaman stated in pertinent part:

“In our oversight capacity, the EPA is currently conducting an internal review of all well monitoring information, including well logs, site geology, and groundwater sampling results. The data for this site extends back more than two decades so there is a considerable amount of information to analyze. We intend to contact the EPA Risk Management Research Program Groundwater and Ecosystem Restoration Research Laboratory in Ada, OK, if necessary, to provide additional technical assistance.”

Under the Freedom of Information Act, 5 U.S.C. § 522, Citizen Action New Mexico is requesting:

1. Full and complete copies of the review(s) or report(s) that were prepared by EPA Region 6 Staff (Richard Mayer and others on his team) in response to a complaint that was filed with EPA Region 6 about the defective monitoring well network at Sandia National Laboratories' Mixed Waste Landfill.

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EPA Region 6 sent a letter dated December 13, 2007 about the complaint. That letter does not constitute the report(s) that was written by Richard Mayer and others on his team. Nor does the letter reference that report. Mr. Mayer was in contact on numerous occasions over a period of many months with Citizen Action and Mr. Robert Gilkeson, a registered geologist, to answer technical and historical questions that he had about the well monitoring network at the Mixed Waste Landfill at Sandia National Laboratories. Citizen Action and Mr. Gilkeson furnished Mr. Mayer and his team with numerous technical documents. We were informed by Mr. Mayer that he had completed his technical report and that the report was sent to the EPA Region 6 attorney.

The letter that issued from Region 6 on December 13, 2007 was not the technical report that Mr. Mayer completed. Nor did the letter reflect the serious technical concerns that Mr. Mayer expressed to us that would be considered in his report. The Mixed Waste Landfill with its 720,000 cu ft of radioactive and hazardous waste in unlined pits and trenches lies above the drinking water aquifer for 600,000 people in Albuquerque. Those concerns that Mr. Mayer informed us would be addressed in his report were for:

- the lack of an appropriate located background monitoring well;
- the lack of the appropriate number of down-gradient monitoring wells;
- corroded stainless steel well screens that hide knowledge of contamination ;
- the use of organic drilling muds that hide knowledge of contamination;
- placement of wells screens across different aquifer strata that cross-contaminate aquifer strata.

The incompetent well monitoring network described above was used to provide worthless information upon which the decision was made to leave radioactive and hazardous wastes under a dirt cover at the Mixed Waste Landfill.

Citizen Action is requesting the report that Richard Mayer and others on his team sent for review.

It would be appropriate for Region 6 to conform to the recent pronouncements of the Obama administration regarding a presumption in favor of release of FOIA records. Instead, Region 6 has embarked on a position to hide negative information about the well monitoring network at the Mixed Waste Landfill.

The FOIA weighs in favor of exercising discretion to provide the public the Mayer report in whatever form it was produced even though this may cause embarrassment to Region.

The new FOIA policy of President Obama's administration state in part:

“Nondisclosure should never be based on an effort to protect the personal interests of Government officials at the expense of those they are supposed to serve. In responding to requests under the FOIA, executive branch agencies (agencies) should act promptly and in a spirit of cooperation, recognizing that such agencies are servants of the public.

“All agencies should adopt a presumption in favor of disclosure, in order to renew their commitment to the principles embodied in FOIA, and to usher in a new era of open Government. The presumption of disclosure should be applied to all decisions involving FOIA.”

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. Citizen Action's work on issues at SNL/NM has been funded both by private donations from individuals and through several foundations that include the Citizen's Monitoring and Technical Assessment Fund (CMTA); the McCune Charitable Foundation; the Ploughshares Fund; NewCycle Foundation; and the New Mexican's Sustainable Energy and Effective Stewardship (NMSEES).
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 8,000 - 10,000 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).

## 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  
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