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RYAN FLYNN
Cabinet Secretary
BUTCH TONGATE
Deputy Secretary

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

June 1, 2016

Pete Maggiore
Acting Chief of Staff
Los Alamos Site Office
Department of Energy
3747 W. Jemez Rd., MS-A316
Los Alamos, NM 87544

Michael T. Brandt,
Associate Director
Environment, Safety, Health, & Quality
Los Alamos National Security, LLC
Los Alamos Research Park
P.O. Box 1663, MS K491
Los Alamos, NM 87545

**RE: NOTICE OF VIOLATION WITH PROPOSED PENALTIES
LOS ALAMOS NATIONAL LABORATORIES
EPA ID# NM0890010515**

Dear Messrs. Maggiore & Brandt:

On June 13, 2015, the New Mexico Environment Department (NMED) conducted a hazardous waste Compliance Evaluation Inspection at Los Alamos National Laboratories (LANL), located at Bikini Atoll Road, SM-30, Los Alamos, NM. Based on that inspection and review of the information obtained, the NMED has determined that your facility is the following:

- a large quantity generator of hazardous waste,
- a transporter of hazardous waste;
- a hazardous waste transfer facility;
- a large quantity handler of universal wastes;
- a mixed waste generator; and
- a permitted hazardous waste treatment and storage facility.

NMED has further determined that your facility has violated the New Mexico Hazardous Waste Management Regulations (20.4.1 NMAC) or LANL's RCRA Hazardous Waste Operating Permit (Permit) as specified below.

The Permit is organized into modules and attachments. For the purposes of this Notice of Violation, the module requirements are referred to as "permit conditions" or PCs, and attachment requirements are referred to as "attachment conditions" or ACs.

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NMED inspectors observed the following violations:

- 1) Failure to keep hazardous waste containers closed at all times during storage at or near the point of generation, except when necessary to add or remove waste. This violation is associated with the following containers:
 - a) Two 1-gallon amber glass bottles containing Hexane and Ethyl Acetate liquid in Building 85;
 - b) One 5-gallon clear poly container of Acetonitrile liquid in Building 85, Room A119.

This is a violation of 20.4.1.300 NMAC, incorporating 40 CFR § 262.34(c)(1)(i), referring to 40 CFR § 265.173(a).

- 2) Failure to mark satellite accumulation containers with the words "Hazardous Waste" or other wording to identify the contents. This violation is associated with the following containers:
 - a) Twenty-four 1-gallon amber glass bottles containing Hexane and Ethyl Acetate liquid inside yellow storage cabinet in Building 85;
 - b) Three 2 ½-gallon clear poly containers and one 1-gallon bottle containing Hexane and Ethyl Acetate liquid in Building 85.

This is a violation of 20.4.1.300 NMAC, incorporating 40 CFR § 262.34(c)(1)(ii).

LANL provided information on March 10, 2016 intended to address this violation; however, some bottles only contained hexane and some bottles had both chemicals. LANL provided a picture (Enclosure 2); however, it was inconclusive.

- 3) Failure to determine applicable hazardous waste code. This violation is associated with waste profile 41215, for hazardous waste containers stored at Site ID 5141. The waste profile indicates chromium but no code was included. Analytical results were not available for review to verify the waste would not be characteristic for chromium. This is a violation of 20.4.1.900 NMAC, incorporating 40 CFR § 268.9.

LANL provided information on March 10, 2016 intended to address this violation; however, analytical results were not included with the response.

- 4) Failure to establish a SAA at or near the point of generation. This violation is associated with SAA, Site ID 4845 located 90 feet away and through six doorways on the loading dock. NMED does not consider this "at or near the point of generation nor under the control of an operator. This is a violation of 20.4.1.300 NMAC, incorporating 40 CFR § 262.34(c)(1).

LANL responded on March 10, 2016 indicating that the SAA was located in the "high bay area outside RC-45". NMED observed the SAA on a loading dock located outside the building. NMED maintains that this SAA could be placed inside the building closer to the point of generation.

- 5) Failure to establish a satellite accumulation area "at or near the point of generation" or meet 90-day storage area requirements. This violation is associated with SAA Site ID 3447 at TA-48, Bldg. 1, Room 346 and TA 35, Bldg. 85, Room A-119. These SAAs are receiving hazardous waste from several fume hoods. Specifically, these areas should have met all of the 90-day

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storage area requirements including weekly inspections, annual training, contingency plan, etc. The containers in the fume hoods (SAAs) take several days to fill-up; therefore, the full containers should be taken to a 90-day storage area. Waste cannot go from one SAA to another. This is a violation of 20.4.1.300 NMAC, referencing 40 CFR § 262.34(c)(1).

LANL responded on March 10, 2016 by providing a copy of EPA's "Frequently Asked Questions about Satellite Accumulation Areas" specifically referring to Question 9. Question 9 states that there is no limit on the number containers in a SAA. NMED agrees with this statement but disagrees with LANL's conclusion. Question 11, of the same document states, "Generators may not move hazardous wastes between SAAs. Once a hazardous waste leaves an SAA, it must be destined for a central accumulation area..." NMED's contention is the hazardous waste is moved from one SAA (the fume hood) to another SAA.

- 6) Failure to fully characterize hazardous waste. This violation is associated with two 1-gallon amber glass bottles with Hexane and Ethyl Acetate liquid in Building 85. Alice Trujillo and Jeri Martinez, LANL personnel, stated that the hazardous waste containers did not require a waste profile because the hazardous waste was going to be recycled in a distillation unit. NMED believes 40 CFR 261.6(c)(1) is applicable "Owners and operators of facilities that store recyclable materials before they are recycled are regulated under all applicable provisions of subparts A through L, AA, BB, and CC of parts 264 and 265". This is a violation of 20.4.1.500 NMAC, incorporating 40 CFR § 265.13(a)(1).
- 7) Failure to comply with manifest requirements. This violation is associated with incomplete manifest transporter dates and predated facility signature manifest from the generator for the following:
 - a) Incomplete manifests transporter dates, 006640539 FLE, 006640542 FLE, and 006640541 FLE;
 - b) Signature predated manifests, 010784282 JJK, 010784285 JJK, 010784289 JJK, 010784300 JJK, 010784303 JJK, and 010784304 JJK.

This is a violation of 20.4.1.600 NMAC, incorporating 40 CFR § 265.71(a)(2)(i).

- 8) Failure to list the addresses and phone numbers (office and home) of all persons qualified to act as emergency coordinators in the Contingency Plan. This violation is associated with ten Contingency Plans missing addresses and phone numbers (office and home). The Contingency Plans were located at TA 3, 4, 9, 35, 36, 46, 53, 55(2), and 59. This is a violation of 20.4.1.600 NMAC, incorporating 40 CFR § 265.52(d).
- 9) Failure to submit a copy of the Contingency Plans to all local police departments, fire departments, and hospitals that may be called during an emergency. This violation is associated with ten Contingency Plans not submitted to the local police departments, fire departments, and hospitals. The Contingency Plans were located at TA 3, 4, 9, 35, 36, 46, 53, 55(2), and 59. This is a violation of 20.4.1.600 NMAC, incorporating 40 CFR § 265.53(b).

Specific Permit issues:

- 10) Failure to promptly complete appropriate corrective measures associated with defects and deteriorations at a Permitted Unit discovered during an inspection. This violation is associated

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with ten "Actions Resulting from Inspections" where corrective measures were not completed. See Attachment 1. This is a violation of PC Attachment E.1.2.

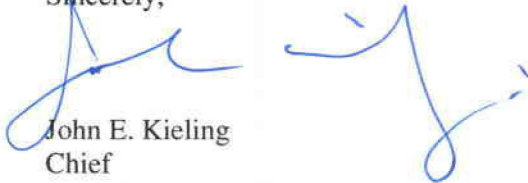
- 11) Failure to ensure that containers holding free liquids have a "free liquid" label. This violation is associated with drum # W743593 holding free liquids located in TA -54, Area G232 unlabeled. This is a violation of PC 3.6(2).
- 12) Failure to maintain secondary containment systems in permitted units used to store waste, which contain free liquids. This violation is associated with two drums number W74359 and W93961 holding free liquids not on secondary containment located in Area G232 and G229. This is a violation of PC 3.7.1(1).

NMED requires that LANL provide to NMED within (30) days of receipt of this letter a written description of the actions taken by LANL to address the violations described above and a schedule for implementation of corrective actions not yet completed. Any action taken in response to this letter does not relieve LANL of its obligation to comply with any other applicable laws and regulations.

In accordance with 74-4-10 NMSA 1978, §§, NMED may: (1) issue a Compliance Order requiring compliance immediately or within a specified time period, or assess a civil penalty for any past or current violations of up to \$10,000 per day of non-compliance for each violation, or both; or (2) commence a civil action in District Court for appropriate relief, including a temporary or permanent injunction. Any such order may include a suspension or revocation of any permit issued by NMED.

Due to the nature of the violations listed above and Los Alamos National Laboratories' past history of noncompliance with 20.4.1 NMAC, NMED will propose a civil penalty for these violations in a settlement offer, which will be sent in a separate letter. If you have any questions regarding this letter, please contact Frank Rodarte of my staff at (505) 222-9541 or by email at frank.rodarte@state.nm.us. Please address your written response to the attention of Frank Rodarte at the address on the letterhead.

Sincerely,



John E. Kieling
Chief
Hazardous Waste Bureau

JEK: fr

cc: Janine Kraemer, NMED HWB
Michael Space, NMED HWB
Frank Rodarte, NMED HWB
Dave Cobrain, NMED HWB
William Chavez, NMED District I Manager

File: Library #2390

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Attachment 1

Location	IRF Start Date	AR Number	AR Description	Date AR Opened	Date AR Closed	Open AR Duration (Days)
TA-54-232 Pad 9 CSU	4/20/15	2014-38	(Item #11) Located 9 columns east of door "M" there is a crack in the asphalt. Please fix.	3/19/14	4/20/15	397 days
Area G	5/25/15	2013-07	(Item #6) Evacuation alarms in Area G are inoperable. Please evaluate.	4/15/13	-	still open at time of inspection
Area G	5/25/15	2014-02	(Item #19) Located through Area G's RCRA permitted units an accumulation start date discrepancy has been noted on several containers and is being evaluated for corrective action.	12/11/14	-	still open at time of inspection
Area G	5/25/15	2014-3	(Item #19) Located throughout Area G's RCRA permitted units several waste containers have discrepancies with their EPA waste codes. This issue is being evaluated for corrective action.	12/23/14	-	still open at time of inspection
Dome 153	10/12/12	2012-23	Fabric deteriorating allowing moisture to get through.	10/12/12	-	still open at time of inspection
Area L	4/15/13	2013-13	Emergency evacuation alarms in Area L are inoperable.	4/15/13	-	still open at time of inspection
Dome 49	3/26/15	2014-21	Crack in asphalt south of door "B" continuing toward center of dome.	3/26/14	8/14/14	141 days
Dome 231	10/16/12	2012-14	Located in-between doors "M" and "N" there are several cut holes in asphalt.	10/16/12	4/20/15	916 days
Pad 10	2/19/15	2015-04	Located throughout pad there are several cracks in asphalt. Note, some have been fixed but cracks still remain.	2/19/15	-	still open at time of inspection

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