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July 17, 1997

Mr. Rich Nevarez
Albuquerque Operations Office
P.O. Box 5400
Albuquerque, New Mexico 87185

Dear Mr. Nevarez:

The New Mexico Environment Department (NMED) has received the draft Accelerating Cleanup: Focus on 2006, Albuquerque Operations Office Summary, dated June 11, 1997. The following comments have been developed by NMED staff on the summary document.

GENERAL COMMENTS

- ▶ The NMED supports the U. S. DOE effort and time line to all clean up activities and legacy waste work off be accomplished by the year 2006. NMED also believes that a suitable Ecorisk process must be developed and implemented for sites that have been characterized for contaminant constituents to include bioaccumulators and also to meet all applicable regulatory requirements for clean up at sites.
- ▶ Clean up at sites whether cleaned up to a specific standard or to an acceptable risk based level must be substantiated by sample and analytical data which meets quality assurance and quality control QA/QC requirements. NMED believes that any action taken to remove sites from the facility RCRA permit whether the site is a Solid waste Management Unit (SWMU) under the Hazardous Solid Waste Act Amendments (HSWA) or a unit regulated under other portions of the Resource Conservation Recovery Act (RCRA) or any other applicable environmental regulations that the U. S. Department of Energy (DOE) and the University of California/Los Alamos National Laboratories (LANL) and the DOE and Lockheed Martin/Sandia National Laboratories (SNL) must substantiate the site readiness for removal.
- ▶ Substantiation, even in the case of administrative removal based on No Further Action proposals (NFA), must be substantiated with documentation or sampling and analysis to justify and support the NFA request. Documentation must be able to verify that no hazardous materials have ever been used at the specific location to allow for the



production or presence of hazardous wastes. If this cannot be done then a sampling and analysis for the proposed NFA site must be implemented to provide information that no contamination exists at the site. The sampling can be tailored to meet the requirements of the individual site based on the current and previous site activity, size of site, soil characteristics, etc.

- ▶ Ecorisk and appropriate land use scenarios must be approved by the regulatory agency with specific items such as fate and transport of contaminants to include bioaccumulators being factored in to the ecorisk evaluation through predictive modeling. Sample and analysis of constituents at specific sites providing information acceptable to the regulatory agency that the site meets acceptable regulatory cleanup standards will not require any ecorisk evaluation unless bioaccumulators are present and a mechanism for transport of the contaminants exists or potentially exists.
- ▶ The NMED will make every effort within its limited staffing capabilities to review documentation, to include the appropriate site characterization data to include rate and extent of contaminate migration if it exists, to assist DOE in meeting the spirit and proposed 2006 time lines in the "Accelerating Cleanup: Focus on 2006" Discussion Draft proposed by DOE.
- ▶ NMED cannot at this time commit to meeting DOE's time line with our current limited staff resources. Time frames for regulatory reviews are influenced by the following: 1) the priority ranking of the submittal for regulatory review, 2) the number of other high priority submittals which the regulator has received for concurrent review, 3) the type, size and quality of documents submitted for approval for site specific actions, 4) the number of regulatory staff available for review of documents required for proceeding with site specific actions, 5) NMED believes that it is fundamental that DOE's assumptions related to regulator actions such as comments or Notice of Deficiencies not be construed by DOE or DOE contractor personnel to be approvals. Approvals are specific written correspondence or permit modifications. 6) DOE owned and contractor operated facilities are required to review and adequately respond to Notice of Deficiency actions by NMED. The adequacy and timeliness of the response coupled with staff resource availability will determine approval of documents and consequent site specific actions. NMED staff resources are estimated at this point in time to be approximately 30% of staffing needs to meet DOE demands relative to the 2006 time line.

SPECIFIC COMMENTS

- ▶ Page 15 - Assumptions
The assumptions for LANL are well formulated but should be revised to state that risk based decisions should be based on clean up levels which have been approved by the regulatory agency as they relate to approved risk based scenarios to include fate and transport of contaminants.
- ▶ LANL has not demonstrated that risks and hazards from radiological contamination

currently meet the ALARA principle. This statement should be revised to reflect LANL activities to meet ALARA status relative to radioactive material and waste contamination and discharges.

- ▶ The statement that “the majority of smaller sites can be closed out with demonstration that they are safe or through voluntary corrective actions” should be revised to explicitly state that sites will be substantiated to exhibit no contamination or that residual contaminant levels meet regulatory standards or regulatory approved risk based levels. The statement that sites will be “safe” does not meet regulatory needs.

- ▶ Page 61- Summary Issues
The assumption that a three month regulatory review/approval will occur with documents related to site specific actions appears to be unrealistic at this time based on NMED’s limited staffing level and NMED’s past experience that responses to Notice of Deficiencies have usually required at least a one time repeat of the NOD process. (Initiatives by NMED and DOE/Contractor staff to better understand regulator/regulatory expectations in meeting submittal requirements are currently being scheduled to help ameliorate this problem).

These comments would be applicable to SNL as well.

Thank you for the opportunity to comment on the “Accelerating Cleanup: Focus on 2006, Albuquerque Operations Office Summary” at this early date. NMED looks forward to continuing to work with DOE and DOE Contractors to be able to achieve cleanup which meets regulatory and health based and ecorisk based requirements in a timely manner. Should you have any questions on these comments, please contact me at (505) 827-2855 or Mr. Benito J. Garcia or Mr. Stu Dinwiddie, Ph.D. of my staff at (505) 827-1557.

Sincerely,



Ed Kelley, Ph.D.
Director, WWMD, NMED

cc: Gene Schmitt, U. S. DOE, Washington, D.C.
John Arthur, DOE Albuquerque Operations Office
G.Thomas Todd, Manager, LAAO
Michael Zamorski, Acting Manager, KAO
Siegfried Hecker, Director, LANL
C. Paul Robinson, President and Director, SNL