8/27/02 General
LANL

CDR LANDTRANSFER

Mr. Theodore Taylor
Program Manager
Department of Energy
Los Alamos Area Office, MS A316
Environmental Restoration Program
Los Alamos, NM 87544

RE: Comments on the draft Covenant Deferral Package for Parts of Technical Area 74 Parcel and the White Rock Parcel at Los Alamos National Laboratory

Dear Mr. Taylor:

EPA has completed its review of the draft Covenant Deferral Request (CDR) package from the Department of Energy (DOE). The draft CDR would transfer two parcels of property from the DOE to the Department of Interior (DOI) to be held in trust for the Pueblo of San Ildefonso. EPA has identified 4 major comments pertaining to this proposed transfer.

First, since the draft CDR only transfers administrative authority over the land from one federal agency to another, DOE to DOI, Section 120(h) of CERCLA does not apply. Since Section 120 (h) of CERCLA does not apply in this situation, the covenant deferral provision of Section 120 (h) (3)(C) of CERCLA (which requires concurrence of the Governor) also does not apply. Second, once the land is placed in trust by DOI for the Pueblo of San Ildefonso, the land would no longer be subject to NMED jurisdiction. EPA would become the regulatory authority. EPA would meet with NMED to discuss their environmental and regulatory concerns pertaining to the transferred property and the most appropriate mechanism for achieving investigation/cleanup. Third, it does not appear that DOE has not met the conditions precedent to transfer the parcels under Section 632 of Public Law (P.L.) 105-119. A more detailed discussion of these three items is found in Enclosure 1. Finally, even though Section 120(h) of CERCLA does not apply to this transfer, DOE's draft CDR does not meet some of the requirements of EPA's Early Transfer Authority Guidance. Please refer to Enclosure 2 for a more detailed discussion of EPA's comments.

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Should you have any questions regarding the comments, please feel free to contact Mr. Rich Mayer at (214) 665-7442.

Sincerely,

Laurie King, Chief
New Mexico and Federal
Facilities Section

Enclosures

cc: James Bearzi, NMED
John Gonzales, Governor, San Ildefonso Pueblo
Rob Barker, Bureau of Indian Affairs
Neil Weber, San Ildefonso Pueblo

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ENCLOSURE 1

APPLICABILITY OF SECTION 120(H) OF CERCLA, JURISDICTION OVER TRANSFERRED LAND, AND ANALYSIS OF SECTION 632 OF P.L. 105-119

I. SUMMARY

First, Section 120(h) of CERCLA does not apply to a transfer of land from one federal agency to another. Since Section 120(h) of CERCLA does not apply in this situation, the covenant deferral provision of Section 120(h)(3)(C) of CERCLA would also not apply. Second, since the land is proposed to be transferred to DOI in trust for the Pueblo, the New Mexico Environment Department (NMED) will no longer have any jurisdiction over the land after it is placed in trust. Third, it appears that U.S. Department of Energy (DOE) has not met the conditions precedent required by Section 632 of P.L. 105-119 for transferring the land. Thus, the land is not eligible to be transferred to the Pueblo.

II. SECTION 120(H) OF CERCLA DOES NOT APPLY TO A TRANSFER OF LAND FROM ONE FEDERAL AGENCY TO ANOTHER

A complete reading of Section 120(h) clearly shows that this section only applies to transfers of property from the Federal Government to a non-federal party. It does not apply to land "transferred" from Federal agency to another Federal agency. In a Federal agency to Federal agency "transfer", title to the land does not change. It remains with the United States. Thus, there is no actual transfer of property. There is just a different Federal agency responsible for the property. In fact, Section 632(a)(2) of P.L. 105-119 states that DOE shall transfer "administrative jurisdiction over the parcels" to the U.S. Department of Interior (DOI). All Federal agencies are part of the same executive branch, subject to the control of the President. Since there is no actual transfer of property, Section 120(h) of CERCLA [entitled "Property transferred by Federal agencies"] would not apply.

Since Section 120(h) of CERCLA doesn't apply to this situation, the covenant deferral provision of Section 120 (h) (3)(C) of CERCLA (which requires concurrence of the Governor) also would not apply. Therefore, DOE can't rely on this authority to transfer the property.[1] DOE must rely on P.L. 105-119, § 632 to transfer the property. This law is analyzed in Section IV below.

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[1]Although Section 120(h) of CERCLA does not apply as a matter of law, DOE is free, as a matter of policy, to apply EPA guidance to the transaction.

III. NMED DOES NOT HAVE JURISDICTION OVER THE TRANSFERRED LANDS

The general rule is that a state lacks civil jurisdiction over lands designated as Indian country. Cohen, *Handbook of Federal Indian Law*, Chap. 6, § C.2 (1982).[2] Once the land is transferred from DOE to DOI, and placed in trust for benefit of the Pueblo, NMED would not have any jurisdiction over the land.[3]

IV. PUBLIC LAW 105-119

According to the letter to the Governor of New Mexico, DOE plans to transfer two parcels of land to the Department of Interior (DOI), to be held in trust for the Pueblo. These transfers will take place pursuant to Public Law (P.L.) 105-119.[4]

A. SUMMARY OF P.L. 105-119

Section 632 of P.L. 105-119, 111 Stat. 2523 (42 U.S.C. § 2391 note) provides that the Secretary of Energy shall convey certain parcels of land to the County of Los Alamos (or its designee) (County) and transfer administrative jurisdiction of certain parcels to the Secretary of the Interior, in trust for the Pueblo. [Subsection (a)]. However, a number of conditions must first be met. First, the Secretary must submit a report to the congressional defense committees identifying the parcels of land that are suitable for conveyance or transfer. A property is suitable for conveyance or transfer if it likely to be conveyable or transferable under [Section 632] not later than 10 years from enactment [November 26, 1997], and can be used for historic, cultural, or environmental preservation purposes, economic diversification purposes, or community self-sufficiency purposes. [Subsections (c) & (h)]. There must also be clear title to the land being transferred. [Subsection (d)].

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[2]A discussion of any exceptions to this rule is outside the scope of this Enclosure.

[3]Although the land may not meet the technical definition of Indian country in 18 U.S.C. § 1151, the lands being returned to the Pueblo "were part of the Pueblo at the time of the Manhattan Project. Many sacred sites of the San Ildefonso Pueblo are located on that property. During the Manhattan Project, those San Ildefonso lands became part of Los Alamos County, but no compensation was ever provided to San Ildefonso Pueblo. This current evaluation of DOE's land requirements provides an ideal opportunity to return to the Pueblo some of the land that they previously used." 143 Cong. Rec. S. 7227, 7235 (July 11, 1997) (Remarks of Senator Domenici). Therefore, it appears clear that Congress intended to establish these lands as Indian country.

[4]Letter from Corey A. Cruz, Acting Director, Albuquerque Operations Office, Department of Energy, to The Honorable Gary E. Johnson, Governor of New Mexico at 1 (April 4, 2002).

In addition, the Secretary, not later than 21 months after enactment [or no later than August 26, 1999], must submit a report to Congress identifying the environmental restoration or remediation, if any, that is required, and carry out any review of the environmental impact of the conveyance or transfer required under the National Environmental Policy Act of 1969 (NEPA). If the Secretary determined that a parcel requires environmental restoration or remediation, the Secretary shall, to the maximum extent practical, complete the restoration or remediation of the parcel not later than 10 years after the date of enactment of the Act [or November 26, 2007]. [Subsection (d)].

Not later than 90 days after the submittal of the environmental report to Congress [or no later than November 25, 1999], the County and the Pueblo must submit an agreement to the Secretary which allocates the parcels between the County and the Pueblo. [Subsection (e)]. Ninety (90) days after submittal of the agreement [or no later than February 23, 2000], the Secretary shall submit to the congressional defense committees a plan for conveying or transferring the land. The plan is also required to provide for the completion of the conveyance not later than nine months after submittal of the plan [or no later than November 23, 2000]. [Subsection (f)].

If a parcel of land is not available for conveyance or transfer by reason of requirements for environmental restoration or remediation, the Secretary shall convey or transfer the parcel upon completion of the environmental restoration or remediation that is required. If the environmental restoration or remediation cannot reasonably be expected to be completed with respect to a parcel by [November 26, 2007], the Secretary shall not convey or transfer the property under [Section 632]. [Subsection g].

B. DOE HAS NOT COMPLIED WITH SECTION 632(D) OF P.L. 105-119

As previously mentioned, Section 632(d) requires that DOE submit a report to Congress identifying the environmental restoration or remediation, if any, that is required and carry out any review of the environmental impact of the conveyance or transfer required under the National Environmental Policy Act of 1969 (NEPA). If the Secretary determined that a parcel requires environmental restoration or remediation, the Secretary shall, to the maximum extent practical, complete the restoration or remediation of the parcel by November 26, 2007.

The draft Covenant Deferral Request (CDR) does not show that DOE conducted the necessary environmental assessment. According to an e-mail that EPA received from DOE, DOE has prepared, *inter alia*, an Environmental Impact Statement (EIS), an Environmental Restoration Report, a Record of Decision (ROD), and submitted a Conveyance and Transfer Plan to Congress. EPA needs to review these reports. It is possible that these documents make the make the necessary findings, although that seems unlikely given what is set out in the draft CDR. For example, in the April 4, 2002 letter to Governor Johnson, it states that "[t]wo of the subparcels have not been sufficiently investigated to permit DOE to transfer the land with the

CERCLA covenant.[5] This appears to mean that DOE has not performed the necessary environmental assessment required by Section 632(d) of P.L. 105-119.

The two parcels involved in this transfer are TA-74 North Subparcel, and White Rock "Y" Subparcel.

DOE stated that

> [t]he nature and extent of potential contamination within the TA-74 North Subparcel are unknown at this time, because the area has not been investigated. No solid waste management units (SWMU) are located on or within the boundaries of the TA-74 North Subparcel. However, the potential exists for contamination from upstream areas to have migrated through the surface water and air pathways onto the Subparcel. Extensive investigation of these upstream areas has been performed, and the results of these investigations provide detailed knowledge of the nature of contaminants that may have migrated downstream onto the Subparcel. . . .
>
> The potential for contamination in the Subparcel is expected to be minimal, based on DOE's current knowledge of the Subparcel and best professional judgement. If contamination does exist within this subparcel, it would most likely be confined to the channels and flood plains of Bayo and Barrancas Canyons or relatively near the source of aerial emissions at former TA-10.

CDR at 4.

For subparcel White Rock "Y", DOE stated that

> [n]o SWMUs are located on or within the boundaries. However, the Subparcel is transected by a portion of Pueblo Canyon, whose upper reaches are known to have received contaminants from former laboratory TAs. Over the past decade, the LANL Environmental Restoration Project has conducted numerous investigations of these upstream areas. The data from these investigations provide a detailed knowledge of the nature of the contaminants that have been released from these upstream sources into the Pueblo Canyon system.
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> The exact nature and extent of potential contamination are unknown because the ER Project has not sampled that portion of Pueblo Canyon that transects the Subparcel. However, extensive sampling has been conducted to investigate the

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[5]Letter from Corey A. Cruz, Acting Director, Albuquerque Operations Office, Department of Energy, to The Honorable Gary E. Johnson, Governor of New Mexico at 1 (April 4, 2002).

> nature and extent of contamination in specific upstream reaches within the Pueblo Canyon watershed. Information from the investigation does not indicate that there are unacceptable risks to human health and the environment from migration of contaminants in these upstream reaches.
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> * * * *
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> The potential for contamination is the Subparcel is expected to be minimal, based on the DOE's current knowledge of the Subparcel and best professional judgment. If contamination does exist within this Subparcel, it would most likely be confined to the channels and flood plains of Pueblo Canyon.

CDR at 4 - 5.

Also, DOE did not perform a risk assessment for either parcel. For the TA-74 North Subparcel, DOE stated that

> several risk assessments have been performed for TA-10. TA-10 is located immediately adjacent to and upstream of the Subparcel. This area is believed to be the only significant contributor to potential contamination for this Subparcel. Therefore, the risk posed to human health and the environment at TA-10 would represent the maximum risk present on the Sub-parcel. Human health risks assessments performed in Bayo Canyon upstream of the Subparcel indicate that no unacceptable risk is posed except in one localized area near PRS 10-002(a)-99 at TA-10. Radionuclides, primarily strontium-90, are present within soils at PRS 10-002(a)-99. The risk due to these contaminants was evaluated using both the recreational (current use) and residential (potential future use) land use scenarios. These constituents do not pose an unacceptable risk for the current recreational land use. However, unacceptable risk levels were obtained for the residential land scenario. In order to limit access to these areas, the ER Project implemented access and stormwater migration controls in appropriate areas in 1997.
>
> Ecological risk associated with TA-10 has not been evaluated. However, it is possible that the ecological risk posed by the radionuclides could be unacceptable in a localized area outside the Subparcel. Migration of these contaminants downstream in concentrations likely to affect the level of risk at the Subparcel is unlikely.

CDR at 5 - 6.

In addition, "Bayo Canyon transverses from west to east across the central portion of the TA-74 North Subparcel."[6] A workplan (which includes Bayo Canyon), is currently scheduled for implementation in FY 2004. One of the goals of the workplan is to "recommend possible remedial actions for canyon-floor areas that have unacceptable present-day human health or ecological risk."[7]

As to the White Rock "Y" Subparcel, DOE stated that

> an assessment of the potential human health and ecological risk posed by portions of the Pueblo Canyon upstream of the Subparcel has been performed as part of the Pueblo Canyon Reach Report. This assessment of risk indicates that the levels of contamination in the sediments of Pueblo Canyon do not require immediate remedial action with regard to present-day risk. In addition, other assessments indicate that the concentrations of contaminants in sediments have been stable or have declined for decades, and the redistribution of contaminated sediments by flooding will not result in future increases in contaminant concentrations in downstream areas.

Id. at 6.

As noted above, Pueblo Canyon is located with the White Rock "Y" North Subparcel. DOE has stated that

> [a]dditional risk assessments will be required beyond what was possible in the context of the Pueblo Canyon Reach Report, including both human health and ecological risk, and some additional sampling and analysis will be required to support these assessments. In particular, water quality data will be required for both human health and ecological risk assessments, and the continued collection of sufficient data to perform risk assessments is considered a priority. In addition, more analyses from sediment samples will be required to complete these risk assessments . . . If it is decided that additional sediment sampling is required . . . within the White Rock "Y" North Sub-parcel, then additional geomorphic mapping in these areas will also be required.[8]

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[6]Final Environmental Restoration (ER) Project Documentation Supporting a Covenant Deferral Request for Technical Area (TA) 74 North and White Rock "Y" North Sub-Parcels at 1-2 (January 4, 2002) (ER Project Demonstration).

[7]ER Project Demonstration at 3-1.

[8]ER Project Demonstration at 3-1 - 3-2.

Therefore, it appears clear that DOE plans additional work in these areas, and thus cannot conclude that remediation or restoration is not required prior to the transfer of the lands.

As previously stated, Section 632 of P.L. 105-119 requires DOE to determine if environmental restoration or remediation is required before a parcel is transferred. If restoration or remediation is required, it must be completed by November 2007. Section 632 also allows DOE to make a determination that no environmental restoration or remediation is required. However, one can not make this determination unless an environmental assessment in conducted in the parcels to be transferred.[9] According to the CDR, DOE did not conduct any environmental assessment on the parcels proposed to be transferred.

The limited legislative history also supports the conclusion that an environmental assessment must be conducted and remediation must take place prior to transfer. On July 11, 1997, Senators Domenici and Bingaman proposed an amendment to the National Defense Authorization Act for Fiscal Year 1998. This amendment ultimately became (with slight modifications), Section 632 of P.L. 105-119.[10] In his statement to the Senate proposing the amendment, Senator Bingaman stated that "[t]he language ensures that an environmental review of any transfer will take place, and that land in need of environmental remediation prior to transfer will be cleaned up." 143 Cong. Rec. S. 7227, 7235 (July 11, 1997) (emphasis added). In addition, the Conference Report on H.R. 1119, National Defense Authorization Act for Fiscal Year 1998 states that the provision "establishes time deadlines for DOE to identify and report to Congress on the recommended parcels of land to be transferred, to conduct title searches on the parcels, to complete environmental assessments, and to transfer title or administrative control of the land." 143 Cong. Rec. H. 9178, 9460 (October 23, 1997) (emphasis added).

Therefore, both the legislative history (brief as it is), and the plain language of Section 632 itself requires that an environmental assessment must be conducted before the property can

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[9]Since other parcels are planned to be transferred, it is possible that the assessments for these areas could be used to satisfy the requirement for an environmental assessment, and ultimately, that restoration or remediation is not required. As previously noted, EPA has been informed that DOE has prepared, *inter alia*, an Environmental Impact Statement (EIS), an Environmental Restoration Report, a Record of Decision (ROD), and submitted a Conveyance and Transfer Plan to Congress. EPA needs to review these reports. It is possible that these documents make the make the necessary findings.

[10]Tracking this statute through the legislative process can be confusing. Identical language to Section 632 [Section 3165] was passed as part of the 1998 National Defense Authorization Act, P.L. 105-85, enacted on November 18, 1997. Upon enactment of P.L. 105-119, Section 3165 was repealed by P.L. 105-119. Apparently, Section 632 was added during a conference between the House of Representatives and the Senate. *See* 4 U.S. Code & Cong. Admin. News, 2941, 3047 (1997).

be transferred. Based on the draft CDR, such an assessment was not conducted on the two subparcels proposed to be transferred. If an assessment determines that environmental restoration or remediation is required, it must be completed by November 2007, and before the land is transferred. P.L. 105-119, § 632(g)(3)(B).

Furthermore, since Section 120(h) of CERCLA does not apply to a transfer of administrative authority over land from one Federal Agency to another, DOE cannot rely on Section 120(h) of CERCLA to transfer the property without completing the environmental assessment and/or remediation or restoration (if required). If Section 120(h) of CERCLA was applicable (as in the case of a transfer of property to the County), the rules of statutory construction provide that courts first try to reconcile the two statutes that appear to be in conflict before giving priority to one. *See Herman & MacLean v. Huddleston,* 459 U.S. 375, 387, 103 S.Ct. 683, 690 (1983). If this is not possible, the "a more specific statute will be given precedence over a more general one, regardless of their temporal sequence"). *Busic v. United States*, 446 U.S. 398, 406, 100 S.Ct. 1747, 1753 (1980). EPA is not taking position at this time as to whether the two statutes can be reconciled.[11]

[11]This memo is not intended to be an exhaustive analysis of the rules of statutory construction as they apply to Section 632 of P.L. 105-119, and Section 120(h) of CERCLA.

ENCLOSURE 2

COVENANT DEFERRAL REQUEST FOR PARTS OF TECHNICAL AREA 74 PARCEL AND THE WHITE ROCK PARCEL

I. PROPERTY DESCRIPTION

EPA's *Guidance on the Transfer of Federal Property by Deed Before All Necessary Remedial Action Has Been Take Pursuant to CERLCA Section 120(h)(3)* (June 16, 1998) (*Guidance*) provides that a legal description of the real property or sufficient information which clearly identifies the property for which the CERCLA covenant is requested to be deferred should be provided. *Guidance at 2.* Although there is a general description and a map, a legal description of the property is preferred.

II. NATURE/EXTENT OF CONTAMINATION

As shown in Section IV.B of Enclosure 1, although the CDR did provide a discussion of the contamination upstream from the two parcels, DOE did not conduct an environmental assessment of the parcels themselves to determine the nature and extent of the contamination and whether remediation or restoration is need. The *Guidance* states that there is a presumption that the CDR should include the results from a completed Remedial Investigation (RI) for the parcel that will be transferred. However, the landholding federal agency should have an opportunity to demonstrate why such data and findings are not necessary before the land is transferred. *Guidance* at 3. DOE needs to supply this information.

III. ANALYSIS OF INTENDED LAND USE DURING THE DEFERRAL PERIOD

The *Guidance* provides that the CDR should include an analysis of whether the intended use is reasonably expected to result in exposure to CERCLA hazardous substances at sites where response actions have not been completed. The analysis should be based on the environmental condition of the property and should consider the contaminant(s), exposure scenarios, and potential or actual migration pathways that may occur during the future use. *Guidance* at 3. The CDR does not include an analysis of the contaminant(s), exposure scenarios, and potential or actual migration pathways that may occur during the future use. Therefore, one can't tell whether intended use is reasonably expected to result in exposure to CERCLA hazardous substances.

IV. RESULTS FROM RISK ASSESSMENT

As previously noted in Section IV.B of Enclosure 1, no risk assessment was performed on either subparcel. A risk assessment was conducted of property upstream from the subparcels. The *Guidance* states that there is a presumption that the CDR will include the results from a completed risk assessment. However, the landholding federal agency should have an opportunity

to demonstrate why a risk assessment does not have to be completed before the land is transferred. *Guidance* at 3 - 4. DOE needs to supply such information.

V. RESPONSE/CORRECTIVE ACTION AND OPERATION AND MAINTENANCE REQUIREMENTS

The TA-74 North Subparcel includes Bayo Canyon and Barrancas Canyon. DOE plans to implement a workplan in 2012 to investigate Bayo, Barrancas, Rendija, and Guaje Canyons. CDR at 6. This is too far in the future. The *Guidance* didn't anticipate 10 year wait for an investigation. However, ER Project Demonstration indicates that a workplan is scheduled to be implemented in fiscal year 2004. ER Project Demonstration at 3-1. DOE needs to address this discrepancy. Although the CDR indicates that there is no plan for any investigations for the White Rock "Y" Subparcel. (CDR at 7), the ER Demonstration Project document attached to the draft CDR indicates that an investigation of the White Rock "Y" Subparcel may occur in the future.[12] DOE also needs to address this apparent discrepancy.

VI. CONTENTS OF DEED/TRANSFER AGREEMENT

Although EPA previously noted that Section 120(h) of CERCLA does not apply to a transfer from one federal agency to another, the covenant deferral request included the notice and covenants of Section 120(h). Therefore, EPA is responding to these items as if Section 120(h) of CERCLA did apply.

A. CERCLA § 120(h)(1) & (3) NOTICE.

Section 120(h)(1) of CERCLA, 42 U.S.C. § 9620(h)(1), and 40 C.F.R. Part 373 require the <u>contract transferring the land</u> to contain notice of the type and quantity of the hazardous substances that were stored for more than one year, released, or disposed of, if the hazardous substances involved were above a certain threshold limit (emphasis added). In addition, Section 120(h)(3)(A)(i) of CERCLA, 42 U.S.C. § 9620(h)(3)(A)(i) requires that the <u>deed transferring the property</u> contain a notice of the type and quantity of the hazardous substances, notice of the time that such storage, release, or notice took place, and a description of the remedial action taken, if any (emphasis added). There is no indication DOE will comply with these provisions. Since a contract or deed would not be used in a transfer of administrative authority from DOE to DOI, such language would have to be in the transfer agreement.

B. CERCLA § 120(h)(3)(A)(ii)(II)

The section includes additional language which not in statute. The additional language "(2) any additional response action found to be necessary is the result of an act or failure to act of the Grantee . . . as of the date of this conveyance" should be deleted.

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[12]ER Demonstration Project at 3-2.

C. CERCLA § 120(h)(3)(A)(iii)

The proposed language for the transfer agreement only grants DOE access, not EPA. The Statute says that the United States needs access. This should be changed to something like "the Grantor, the United States, and its designees, the U.S. Department of Energy and U.S. Environmental Protection Agency, and their respective officials, agents, employees, contractors, and subcontractors."

D. CERCLA § 120(h)(3)(C)(ii)

The proposed language doesn't meet the requirements of Section 120(h)(3)(C)(ii)(I) - (III). Of course, since no investigation has been done, it is hard to come up with restrictions on use of the property to ensure protection of human health and the environment, or that remedial investigations, etc., are not disturbed.

VII. ATTACHMENTS

C. ATTACHMENT 1 AND 2

Better or more detailed maps should be provided with the Covenant Deferral Request such as the Map (TA-74 and White Rock "Y" Land Transfer Parcels Showing Proposed Allocations Between San Ildefonso Pueblo and the Los Alamos County, Oct. 24, 2001) provided to EPA by Kim Birdsall, LANL subcontractor.

B. ATTACHMENT 3, PAGE 3-1, FUTURE INVESTIGATIONS AND SCHEDULES; SECTION 3.1

This section mentions that the work will be implemented in FY 04. This section needs to include a date when the work will be completed and submitted to the appropriate regulatory agency. Also, this section mentions that a human health risk assessment will be performed. EPA believes that the risk scenario(s) used for evaluation should be clearly stated and consistent with the land uses of the Pueblo of San Ildefonso. EPA guidance requires that a risk assessment be included in the Covenant Deferral Request. The CDR package did not include one.

C. ATTACHMENT 3, PAGE 3-1, FUTURE INVESTIGATIONS AND SCHEDULES; SECTION 3.2

This section is vague on whether the White Rock Y site will be sampled or not. EPA believes that the portion of the tract (Pueblo Canyon) that could be affected by sediment disposition and surface water should be sampled. Note: If groundwater is contaminated underneath portions of this parcel, then sampling of that media would be needed. Also, this section should be revised to include an initiation and completion date for the sampling and a projected date that the report will be submitted to the appropriate regulatory agency.