



Environmental Protection Agency (EPA) explicitly stated that "when the permittee chooses to request a classification determination instead of following the Class 3 process, then he or she should not initiate the formal modification review procedures until the Agency has decided on the appropriate classification." 53 Fed. Reg. 37912, 37919 (1988). This is consistent with actions taken by WIPP in requesting a class determination for permit modifications.

Section 270.42 requires that any request for a permit modification, whether it is a Class 1, 2, or 3, specify the change to be made to permit conditions. 40 CFR §270.42. However, in this case, there is no permit condition that requires modification as a result of the transfer. In addition, in Permittees' response to the NOV, we provided the HWB information demonstrating that our investigations reveal no evidence that the transferred parcels have had any possible releases. With one exception, these parcels are not identified as and contain no Solid Waste Management Units (SWMUs) listed in LANL's Hazardous and Solid Waste Amendments (HWSA) permit and have never been used for hazardous waste management activities, including storage, treatment or disposal. As explained in our prior response, one parcel had a SWMU, but the HWB approved the VCA Completion Report and Permittees submitted a Class 3 permit modification to NMED in September 2002 to remove that SWMU from LANL's HSWA permit. Further, there is no evidence of spills or other accidental release of hazardous waste constituents into the environment. For these reasons, and others set forth in our prior response, Permittees believe that no permit modification is necessary for land transfer.

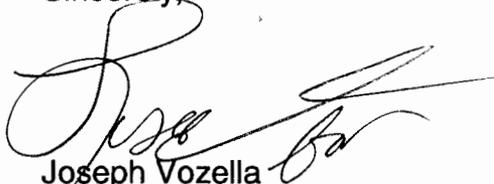
In conclusion, Permittees maintain their position that no permit modification is required, and respectfully request that NMED reconsider its rejection of that position. To ensure that NMED's concerns are addressed, we would be interested in discussing this issue with you further, at your convenience. Please contact either of us to set up a meeting.

Sincerely,



Beverly Ausmus Ramsey, Ph.D.  
Director, Risk Reduction and Environmental  
Stewardship-Division Office  
Los Alamos National Laboratory

Sincerely,



Joseph Vozella  
Deputy Manager, Environment and  
Stewardship Projects  
Los Alamos Site Office

BR/JV/DM/vn

Enclosure: Certification

Cy:(w/enc)

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RRES-R File, MS M992  
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RPF MS M707

Cy:(w/o enclosure)

J. Parker, NMED-OB

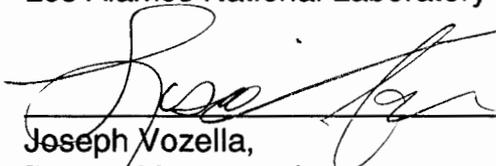
## CERTIFICATION

### **CERTIFICATION BY THE RISK REDUCTION AND ENVIRONMENTAL STEWARDSHIP REMEDATION PROGRAM**

**Document Title: REPLY TO NEW MEXICO ENVIRONMENT DEPARTMENT'S  
(NMEDS) RESPONSE TO PERMITTEES' RESPONSE TO NOTICE  
OF VIOLATION FOR FAILURE TO SUBMIT PERMIT  
MODIFICATION REQUESTS PRIOR TO CONVEYANCES OR  
TRANSFERS OF PROPERTY UNDER PUBLIC LAW 105-119,  
SECTION 632, AT LOS ALAMOS NATIONAL LABORATORY  
(LANL) (EPA ID: NM0890010515)**

I certify under penalty of law that these documents and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violation.

  
Date: 2/18/03  
Beverly A. Ramsey, Division Leader  
Risk Reduction and Environmental Stewardship Division  
Los Alamos National Laboratory

  
Date: 2/18/03  
Joseph Vozella,  
Deputy Manager of  
Environment and Projects  
Department Of Energy/Office of Los Alamos Site Operations