

General

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**ENVIRONMENT DEPARTMENT**

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DEPUTY SECRETARY

**FASCIMILE AND  
CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

February 23, 2007

David Gregory  
Federal Project Director  
Los Alamos Site Office  
Department of Energy  
528 35<sup>th</sup> Street, Mail Stop A316  
Los Alamos, NM 87544

David McInroy  
Remediation Services Deputy Project Director  
Los Alamos National Laboratory  
P.O. Box 1663, Mail Stop M992  
Los Alamos, NM 87545

**RE: NOTICE OF DISAGREEMENT  
NOTIFICATION OF FORCE MAJEURE FOR THE REVISION TO THE "WELL  
SCREEN ANALYSIS REPORT, REVISION 1"  
LOSALAMOS NATIONAL LABORATORY (LANL),  
EPA ID #NM0890010515, HWB-LANL-06-005**

Messrs. Gregory and McInroy:

The New Mexico Environment Department (NMED) is in receipt of the *Notification of Force Majeure for the "Well Screen Analysis Report, Revision 1,"* dated February 15, 2007 (Notification), referenced by EP2007-0119. The United States Department of Energy (DOE) and the Los Alamos National Security, LLC (LANS) (collectively, "the Respondents") state in their Notification that a power failure, which caused a failure of a computer server that corrupted computer files containing report text and ancillary calculations, was a force majeure event beyond the reasonable control of the Respondents. The Respondents claim that time spent to recover lost data caused delays that resulted in their missing the February 16, 2007 submittal deadline for the report. The report was submitted to NMED on February 20, 2007.

In accordance with Section III.H.3 of the March 1, 2005 Consent Order (Order), NMED is providing written notice of its disagreement that a force majeure event has occurred.



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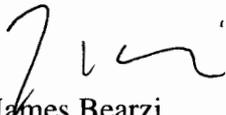
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NMED disagrees that a power failure constitutes an event that meets the definition of force majeure in Section III.H.1 of the Order. Failure to take appropriate measures to backup data is not beyond the reasonable control of the Respondents. NMED considers this to be an easily avoidable error, that did not result in a significant delay, and that could have been resolved by an appropriate extension request. NMED considers this assertion of force majeure to be an inappropriate application of Section III.H of the Order.

NMED expects that the Respondents will exercise restraint in applying the force majeure clause, as defined in Section III.H.1 of the Order.

Should you have any questions, please contact Dave Cobrain at (505) 476-6055.

Sincerely,



James Bearzi  
Chief  
Hazardous Waste Bureau

JPB:dc

cc: D. Cobrain, NMED HWB  
J. Young, NMED HWB  
S. Yanicak, NMED DOE OB, MS J993  
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file: Reading and LANL General Groundwater.