



SUSANA MARTINEZ  
Governor

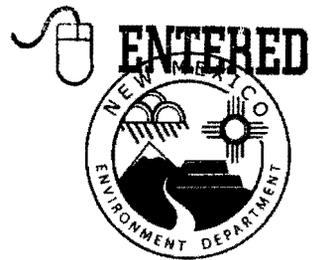
JOHN A. SANCHEZ  
Lieutenant Governor

General

NEW MEXICO  
ENVIRONMENT DEPARTMENT

*Hazardous Waste Bureau*

2905 Rodeo Park Drive East, Building 1  
Santa Fe, New Mexico 87505-6303  
Phone (505) 476-6000 Fax (505) 476-6030  
[www.nmenv.state.nm.us](http://www.nmenv.state.nm.us)



DAVE MARTIN  
Cabinet Secretary

RAJ SOLOMON, P.E.  
Deputy Secretary

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

July 28, 2011

George J. Rael, Assistant Manager  
Environmental Projects Office  
Department of Energy/National  
Nuclear Security Administration  
Los Alamos Site Office  
3747 West Jemez Road, MS A316  
Los Alamos, NM 87544

Michael J. Graham, Associate Director  
Environmental Programs  
Los Alamos National Security, LLC  
P.O. Box 1663, MS M991  
Los Alamos, NM 87545

**RE: APPROVAL WITH MODIFICATIONS  
FORCE MAJEURE FOR THE LOS CONCHAS WILDFIRE  
LOS ALAMOS NATIONAL LABORATORY  
EPA ID #NM0890010515  
HWB-LANL-MISC**

Dear Messrs. Rael and Graham:

The New Mexico Environment Department (NMED) has received the United States Department of Energy (DOE) and the Los Alamos National Security, LLC (LANS) (collectively, the Permittees) *Response to the New Mexico Environment Department's Notice of Agreement regarding Force Majeure for the Los Conchas Wildfire* (Notice), dated July 21, 2011 and referenced by EP2011-0256. NMED hereby issues this Approval with Modifications for the Notice.

The Notice was submitted pursuant to Section III.H.3 of the 2005 Consent Order, Procedure for Claiming Force Majeure. The Los Conchas wildfire started on June 26, 2011 and because of the fire the Los Alamos National Laboratory (Laboratory) was closed from June 27 to July 5, 2011. The Laboratory reopened on July 6, 2011, resumed most normal operations on July 13, 2011 and notified NMED as such via an email on July 13, 2011. NMED agrees that a force majeure event



has occurred, the duration of the event is 11 business days, and the anticipated delay in submittal of the documents identified in the Attachment 1 are attributable to the Los Conchas Wildfire.

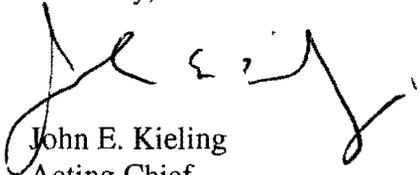
As a result of the fire and subsequent Laboratory closure, safety concerns, and diversion of technical resources to ongoing fire recovery efforts, the Permittees anticipate that the deadlines for some of the Consent Order submittals would not be met. Several future submittals would also be affected. As required by the Consent Order, the Permittees provided the written notice on July 21, 2011 that described a) the causes of delay; b) the expected duration of delays; c) the actions taken or to be taken to prevent or minimize delays; and d) the timetable by which those actions will be implemented. The Attachment 1 of the Notice included a table that identified the submittal dates and other deadlines the Permittees expect to be affected by the force majeure event.

NMED reviewed the Attachment 1 and made appropriate changes to the table so that delays are in general accordance with the conditions of Section III.H.3 of the Consent Order. Section III.H.3 of the Consent Order states "If the Department agrees in writing that a delay or anticipated delay is attributable to a force majeure event, as defined in the Section III.H.1, the time for performance of the affected obligation or obligations will be extended for a period not to exceed the actual delay resulting from the force majeure event, and stipulated penalties shall not be due for such a delay."

The Attachment 1 included several proposed submittal dates that extended beyond the 11-business day extension allowed by the Consent Order. NMED has amended the table to be in compliance with the Consent Order. However, NMED has accepted the proposed submittal dates for several groundwater documents related to well drilling and abandonment that extend beyond the 11-business day extension. NMED is aware that the Permittees may not be able to access certain areas affected by the fire to continue drilling activities. NMED also understands that the contractors may have moved the drilling equipment to other projects that would result in cascading impact on the drilling schedule. The revised table and a redline-strikeout version highlighting NMED's modifications to the proposed dates are enclosed.

Please contact Neelam Dhawan of my staff at (505) 476-6042 should you have any questions.

Sincerely,



John E. Kieling  
Acting Chief  
Hazardous Waste Bureau

cc: B. Tongate, Director, NMED EPD  
D. Cobrain, NMED HWB  
N. Dhawan, NMED HWB

Messrs. Rael and Graham  
July 28, 2011  
Page 3

S. Yanicak, NMED DOE OB, MS J993  
T. Skibitski, NMED DOE OB  
L. King, EPA 6PD-N  
P. Maggiore, DOE LASO, MS A316  
V. George, EP-CAP, MS M992

File: LANL, Force Majeure, 2011, LANL MISC

**Attachment 1**  
**Submittal Dates and Deadlines Affected by Las Conchas Wildfire Force Majeure Event**

Deliverable	Original Submittal Date	Revised Submittal Date/Deadline	Rationale for Revised Date
Summary of New Los Alamos National Laboratory Groundwater Data Loaded in May 2011	June 29, 2011	Submitted on July 8, 2011	Laboratory closure delayed document preparation.
Progress Report for Material Disposal Area B, 3rd Quarter FY2011	June 30, 2011	Submitted on July 8, 2011	Laboratory closure delayed document preparation.
Phase III Investigation Report for Material Disposal Area C	June 30, 2011	Submitted on July 15, 2011	Laboratory closure delayed document preparation.
Response to Notice of Disapproval and Revised Investigation Report for Ancho, Chaquehui, and Indio Canyons	June 30, 2011	Submitted on July 8, 2011	Laboratory closure delayed document preparation.
Work Plan for Redevelopment and Conversion of R-5, R 7, R-8, and R-9i at TA-21	July 1, 2011	Submitted on July 15, 2011	Laboratory closure delayed document preparation.
Periodic Monitoring Report for Vapor-Sampling Activities at Material Disposal Area V	July 2, 2011	Submitted on July 7, 2011	Laboratory closure delayed document preparation.
Completion Report for Well R-63	July 9, 2011	<del>Submitted on July 15, 2011</del> Will be submitted on or before July 29, 2011	Laboratory closure delayed document preparation.
Well R-64 NMED Complete	July 15, 2011	July 11, 2011	No impact.
Work Plan Proposing a Vapor Monitoring Wells and Moisture Wells at Material Disposal Area T	July 15, 2011	August 1, 2011	Laboratory closure delayed document preparation. (Day for day)
Periodic Monitoring Report for Vapor Sampling Activities at Material Disposal Area L, Quarter 2 FY2011	July 27, 2011	August 5, 2011	Laboratory closure and recovery efforts delayed work on document. However, work on this document resumed early, only 7-day force majeure impact.
2011 Interim Facility-Wide Groundwater Monitoring Plan	July 29, 2011	August 15, 2011	Laboratory closure and recovery efforts delayed work on document (day for day).
Report of Results of TA-16 Westbay Study	July 29, 2011	August 15, 2011	Laboratory closure and recovery efforts delayed work on document (day for day).
Summary of New Los Alamos National Laboratory Groundwater Data Loaded in June 2011	July 29, 2011	No change	n/a*

Formatted: Centered

Revised 7-28-11

Deliverable	Original Submittal Date	Revised Submittal Date/Deadline	Rationale for Revised Date
Periodic Monitoring Report for Vapor Sampling Activities at Material Disposal Area T, July 2011	July 30, 2011	No change	n/a
Response to Approval with Modifications for SWMU 01-001(f) Supplemental Interim Measure Report	July 31, 2011	August 15, 2011	Laboratory closure and recovery efforts delayed work on document (day for day).
Response to Notice of Disapproval and Revised Phase II Investigation Report for Middle Los Alamos Canyon Aggregate Area	August 1, 2011	August 16, 2011	Laboratory closure and recovery efforts delayed work on document (day for day).
Well R-62 NMED Complete	August 19, 2011	September 19, 2011	Laboratory closure and recovery efforts impacted contractor availability, delayed mobilization of drilling equipment, and affected sequencing of drilling work.
Summary of New Los Alamos National Laboratory Groundwater Data Loaded in July 2011	August 29, 2011	No change	n/a
Well SCI-3 NMED Complete	August 30, 2011	September 30, 2011	Drilling schedule impacted by delays in starting well R-62 (cascading schedule impact).
Response to Notice of Disapproval and Revised Corrective Measures Evaluation Report for Material Disposal Area G	August 31, 2011	September 9, 2011	Laboratory closure and recovery efforts delayed work on document. However, work on this document resumed early, only 7-day force majeure impact.
Response to Notice of Disapproval and Revised Corrective Measures Evaluation Report for Material Disposal Area H	August 31, 2011	September 9, 2011	Laboratory closure and recovery efforts delayed work on document. However, work on this document resumed early, only 7-day force majeure impact.
Response to Notice of Disapproval and Revised Corrective Measures Evaluation Report for Material Disposal Area L	August 31, 2011	September 9, 2011	Laboratory closure and recovery efforts delayed work on document. However, work on this document resumed early, only 7-day force majeure impact.
Work Plan for Regional Monitoring Wells at Northeast Corner of Material Disposal Area G	August 31, 2011	September 16, 2011	Laboratory closure and recovery efforts delayed work on document (day for day).
Work Plan for Regional Monitoring Wells (East-Southeast) Material Disposal Area H	August 31, 2011	September 16, 2011	Laboratory closure and recovery efforts delayed work on document (day for day).
Investigation Report for Water Canyon and Cañon de Valle	August 31, 2011	September 30, 2011	Laboratory closure and recovery efforts delayed work on document. Additionally, key project staff were reassigned to fire recovery activities.
2010 Nest Box Monitoring Report for Upper Pajarito Canyon Watershed	August 31, 2011	No change	n/a
Periodic Monitoring Report for Water/Cañon de Valle Watersheds, Quarter 2 FY2011	August 31, 2011	No change	n/a

Formatted: Centered

Revised 7-28-11

Deliverable	Original Submittal Date	Revised Submittal Date/Deadline	Rationale for Revised Date
Periodic Monitoring Report for Mortandad and Sandia Watersheds, Quarter 2 FY2011	August 31, 2011	No change	n/a
Periodic Monitoring Report for Pajarito Watershed, Quarter 2 FY2011	August 31, 2011	No change	n/a
Periodic Monitoring Report for Los Alamos and Pueblo Watersheds, Quarter 2 FY2011	August 31, 2011	No change	n/a
Periodic Monitoring Report for Ancho Watershed, Quarter 2 FY2011	August 31, 2011	No change	n/a
Final Design for Grade-Control Structure and Stilling Basin for the Stabilization of Sandia Canyon Wetland	August 31, 2011	September <del>30</del> <sup>16</sup> , 2011	Laboratory closure and recovery efforts delayed work on document. Additionally, key project staff were reassigned to fire recovery activities.
Work Plan for Pump Test at R-66 (TW-3r)	September 1, 2011	September 19, 2011	Laboratory closure and recovery efforts delayed work on document (day for day).
Investigation Report for Material Disposal Area B	September 9, 2011	September 21, 2011	Laboratory closure and recovery efforts delayed field activities and work on document. However, work on this activity resumed early, only 8-day force majeure impact.
Report on Background Concentrations of Inorganic Chemicals in Unit 4 of the Bandelier Tuff	September 11, 2011	No change	n/a
Annual Updated to 260 Outfall Surface CMI Long-Term Monitoring and Maintenance Plan	September 15, 2011	September 30, 2011	Laboratory closure and recovery efforts delayed work on document (day for day).
Phase II Investigation Work Plan for S-Site Aggregate Area	September 15, 2011	September 30, 2011	Laboratory closure and recovery efforts delayed work on document (day for day).
Investigation Report for Lower Mortandad/Cedro Canyons Aggregate Area	September 23, 2011	October <del>4</del> <sup>21</sup> , 2011	Laboratory closure and recovery efforts delayed field activities and work on document (day for day).
Summary of New Los Alamos National Laboratory Groundwater Data Loaded in August 2011	September 29, 2011	No change	n/a
Determine if Piezometer Nests Can Obtain Representative Samples (Buckman Well Field Monitoring)	September 30, 2011	October 18, 2011	Laboratory closure and recovery efforts delayed field work (day for day).
Response to Notice of Disapproval and Revised Report on Stormwater Performance Monitoring in the Los Alamos/Pueblo Watershed During 2010	September 30, 2011	No change	n/a
Completion Report for Well R-61	September 30, 2011	No change	n/a

Formatted: Centered

Revised 7-28-11

Deliverable	Original Submittal Date	Revised Submittal Date/Deadline	Rationale for Revised Date
Well R-65 NMED Complete	September 30, 2011	October 30, 2011	Drilling schedule impacted by delays in starting Well SCI-3 (cascading schedule impact).
DP Site Aggregate Area Footprint IR	October 3, 2011	October 19, 2011	Laboratory closure and recovery efforts delayed project activities (day for day).
Well R-10i NMED Complete	December 1, 2011	January 11, 2012	Drilling schedule impacted by delays in starting Well R-66 (cascading schedule impact).
TA-16 and Upper Water Canyon Watershed Well Evaluation and Network Recommendation Study Report	December 15, 2011	January <del>15</del> , 2012	Delay in predecessor activity (Investigation Report for Water Canyon and Cañon de Valle) because of reassignment of project staff to recovery activities (cascading schedule impact).
Plugging and Abandonment of Test Well 3	December 20, 2011	January <del>20</del> , 2012	Well R-66 must be completed and pump tested before Test Well 3 can be abandoned. Drilling schedule for Well R-66 impacted by delays in starting Well R-65 (cascading schedule impact).
Cañon de Valle Aggregate Area Investigation Report (TA-14)	January 15, 2012	<del>February</del> January <del>30</del> <sup>15</sup> , 2012	Delay in field activities because of Laboratory closure and recovery activities in Cañon de Valle.
Cañon de Valle Aggregate Area Investigation Report (TA-15)	June 15, 2012	July <del>15</del> , 2012	Delay in field activities because of Laboratory closure and recovery activities in Cañon de Valle.
Twomile Canyon Aggregate Area Investigation Report	August 15, 2012	<del>September 15</del> August <del>30</del> , 2012	Delay in mobilization of field team because of Laboratory closure and recovery activities in Pajarito watershed.

\*n/a = Not applicable.

Revised 7-28-11

Formatted: Centered

**Attachment 1**  
**Submittal Dates and Deadlines Affected by Las Conchas Wildfire Force Majeure Event**

<b>Deliverable</b>	<b>Original Submittal Date</b>	<b>Revised Submittal Date/Deadline</b>	<b>Rationale for Revised Date</b>
Summary of New Los Alamos National Laboratory Groundwater Data Loaded in May 2011	June 29, 2011	Submitted on July 8, 2011	Laboratory closure delayed document preparation.
Progress Report for Material Disposal Area B, 3rd Quarter FY2011	June 30, 2011	Submitted on July 8, 2011	Laboratory closure delayed document preparation.
Phase III Investigation Report for Material Disposal Area C	June 30, 2011	Submitted on July 15, 2011	Laboratory closure delayed document preparation.
Response to Notice of Disapproval and Revised Investigation Report for Ancho, Chaquehui, and Indio Canyons	June 30, 2011	Submitted on July 8, 2011	Laboratory closure delayed document preparation.
Work Plan for Redevelopment and Conversion of R-5, R 7, R-8, and R-9i at TA-21	July 1, 2011	Submitted on July 18, 2011	Laboratory closure delayed document preparation.
Periodic Monitoring Report for Vapor-Sampling Activities at Material Disposal Area V	July 2, 2011	Submitted on July 7, 2011	Laboratory closure delayed document preparation.
Completion Report for Well R-63	July 9, 2011	Will be submitted on or before July 29, 2011	Laboratory closure delayed document preparation.
Well R-64 NMED Complete	July 15, 2011	July 11, 2011	No impact.
Work Plan Proposing a Vapor Monitoring Wells and Moisture Wells at Material Disposal Area T	July 15, 2011	August 1, 2011	Laboratory closure delayed document preparation. (Day for day)
Periodic Monitoring Report for Vapor Sampling Activities at Material Disposal Area L, Quarter 2 FY2011	July 27, 2011	August 5, 2011	Laboratory closure and recovery efforts delayed work on document. However, work on this document resumed early, only 7-day force majeure impact.
2011 Interim Facility-Wide Groundwater Monitoring Plan	July 29, 2011	August 15, 2011	Laboratory closure and recovery efforts delayed work on document (day for day).
Report of Results of TA-16 Westbay Study	July 29, 2011	August 15, 2011	Laboratory closure and recovery efforts delayed work on document (day for day).
Summary of New Los Alamos National Laboratory Groundwater Data Loaded in June 2011	July 29, 2011	No change	n/a*
Periodic Monitoring Report for Vapor Sampling Activities at Material Disposal Area T, July 2011	July 30, 2011	No change	n/a

<b>Deliverable</b>	<b>Original Submittal Date</b>	<b>Revised Submittal Date/Deadline</b>	<b>Rationale for Revised Date</b>
Response to Approval with Modifications for SWMU 01-001(f) Supplemental Interim Measure Report	July 31, 2011	August 15, 2011	Laboratory closure and recovery efforts delayed work on document (day for day).
Response to Notice of Disapproval and Revised Phase II Investigation Report for Middle Los Alamos Canyon Aggregate Area	August 1, 2011	August 16, 2011	Laboratory closure and recovery efforts delayed work on document (day for day).
Well R-62 NMED Complete	August 19, 2011	September 19, 2011	Laboratory closure and recovery efforts impacted contractor availability, delayed mobilization of drilling equipment, and affected sequencing of drilling work.
Summary of New Los Alamos National Laboratory Groundwater Data Loaded in July 2011	August 29, 2011	No change	n/a
Well SCI-3 NMED Complete	August 30, 2011	September 30, 2011	Drilling schedule impacted by delays in starting well R-62 (cascading schedule impact).
Response to Notice of Disapproval and Revised Corrective Measures Evaluation Report for Material Disposal Area G	August 31, 2011	September 9, 2011	Laboratory closure and recovery efforts delayed work on document. However, work on this document resumed early, only 7-day force majeure impact.
Response to Notice of Disapproval and Revised Corrective Measures Evaluation Report for Material Disposal Area H	August 31, 2011	September 9, 2011	Laboratory closure and recovery efforts delayed work on document. However, work on this document resumed early, only 7-day force majeure impact.
Response to Notice of Disapproval and Revised Corrective Measures Evaluation Report for Material Disposal Area L	August 31, 2011	September 9, 2011	Laboratory closure and recovery efforts delayed work on document. However, work on this document resumed early, only 7-day force majeure impact.
Work Plan for Regional Monitoring Wells at Northeast Corner of Material Disposal Area G	August 31, 2011	September 16, 2011	Laboratory closure and recovery efforts delayed work on document (day for day).
Work Plan for Regional Monitoring Wells (East-Southeast) Material Disposal Area H	August 31, 2011	September 16, 2011	Laboratory closure and recovery efforts delayed work on document (day for day).
Investigation Report for Water Canyon and Cañon de Valle	August 31, 2011	September 16, 2011	Laboratory closure and recovery efforts delayed work on document. Additionally, key project staff were reassigned to fire recovery activities.
2010 Nest Box Monitoring Report for Upper Pajarito Canyon Watershed	August 31, 2011	No change	n/a
Periodic Monitoring Report for Water/Cañon de Valle Watersheds, Quarter 2 FY2011	August 31, 2011	No change	n/a
Periodic Monitoring Report for Mortandad and Sandia Watersheds, Quarter 2 FY2011	August 31, 2011	No change	n/a

<b>Deliverable</b>	<b>Original Submittal Date</b>	<b>Revised Submittal Date/Deadline</b>	<b>Rationale for Revised Date</b>
Periodic Monitoring Report for Pajarito Watershed, Quarter 2 FY2011	August 31, 2011	No change	n/a
Periodic Monitoring Report for Los Alamos and Pueblo Watersheds, Quarter 2 FY2011	August 31, 2011	No change	n/a
Periodic Monitoring Report for Ancho Watershed, Quarter 2 FY2011	August 31, 2011	No change	n/a
Final Design for Grade-Control Structure and Stilling Basin for the Stabilization of Sandia Canyon Wetland	August 31, 2011	September 16, 2011	Laboratory closure and recovery efforts delayed work on document. Additionally, key project staff were reassigned to fire recovery activities.
Work Plan for Pump Test at R-66 (TW-3r)	September 1, 2011	September 19, 2011	Laboratory closure and recovery efforts delayed work on document (day for day).
Investigation Report for Material Disposal Area B	September 9, 2011	September 21, 2011	Laboratory closure and recovery efforts delayed field activities and work on document. However, work on this activity resumed early, only 8-day force majeure impact.
Report on Background Concentrations of Inorganic Chemicals in Unit 4 of the Bandelier Tuff	September 11, 2011	No change	n/a
Annual Updated to 260 Outfall Surface CMI Long-Term Monitoring and Maintenance Plan	September 15, 2011	September 30, 2011	Laboratory closure and recovery efforts delayed work on document (day for day).
Phase II Investigation Work Plan for S-Site Aggregate Area	September 15, 2011	September 30, 2011	Laboratory closure and recovery efforts delayed work on document (day for day).
Investigation Report for Lower Mortandad/Cedro Canyons Aggregate Area	September 23, 2011	October 11, 2011	Laboratory closure and recovery efforts delayed field activities and work on document (day for day).
Summary of New Los Alamos National Laboratory Groundwater Data Loaded in August 2011	September 29, 2011	No change	n/a
Determine if Piezometer Nests Can Obtain Representative Samples (Buckman Well Field Monitoring)	September 30, 2011	October 18, 2011	Laboratory closure and recovery efforts delayed field work (day for day).
Response to Notice of Disapproval and Revised Report on Stormwater Performance Monitoring in the Los Alamos/Pueblo Watershed During 2010	September 30, 2011	No change	n/a
Completion Report for Well R-61	September 30, 2011	No change	n/a
Well R-65 NMED Complete	September 30, 2011	October 30, 2011	Drilling schedule impacted by delays in starting Well SCI-3 (cascading schedule impact).

<b>Deliverable</b>	<b>Original Submittal Date</b>	<b>Revised Submittal Date/Deadline</b>	<b>Rationale for Revised Date</b>
DP Site Aggregate Area Footprint IR	October 3, 2011	October 19, 2011	Laboratory closure and recovery efforts delayed project activities (day for day).
Well R-10i NMED Complete	December 1, 2011	January 11, 2012	Drilling schedule impacted by delays in starting Well R-66 (cascading schedule impact).
TA-16 and Upper Water Canyon Watershed Well Evaluation and Network Recommendation Study Report	December 15, 2011	January 3, 2012	Delay in predecessor activity (Investigation Report for Water Canyon and Cañon de Valle) because of reassignment of project staff to recovery activities (cascading schedule impact).
Plugging and Abandonment of Test Well 3	December 20, 2011	January 6, 2012	Well R-66 must be completed and pump tested before Test Well 3 can be abandoned. Drilling schedule for Well R-66 impacted by delays in starting Well R-65 (cascading schedule impact).
Cañon de Valle Aggregate Area Investigation Report (TA-14)	January 15, 2012	January 30, 2012	Delay in field activities because of Laboratory closure and recovery activities in Cañon de Valle.
Cañon de Valle Aggregate Area Investigation Report (TA-15)	June 15, 2012	July 2, 2012	Delay in field activities because of Laboratory closure and recovery activities in Cañon de Valle.
Twomile Canyon Aggregate Area Investigation Report	August 15, 2012	August 30, 2012	Delay in mobilization of field team because of Laboratory closure and recovery activities in Pajarito watershed.

\*n/a = Not applicable.