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Date: AUG 27 2013
Refer To: EP2013-0187

John Kieling, Bureau Chief
Hazardous Waste Bureau
New Mexico Environment Department
2905 Rodeo Park Drive East, Building 1
Santa Fe, NM 87505-6303

Subject: Notification of Force Majeure Resulting from Termination of Access to Gaging Station E109.9 on San Ildefonso Pueblo Land

Dear Mr. Kieling:

The U.S. Department of Energy (DOE) and Los Alamos National Security, LLC (LANS) submit this letter to provide written notice of a force majeure event (i.e., termination of access to gaging station E109.9) that may cause delays or prevent Los Alamos National Laboratory (the Laboratory) from completing an obligation (ongoing surface water monitoring work scope) under the Compliance Order on Consent (the Consent Order).

Mr. Peter Maggiore of the DOE Los Alamos Field Office (Field Office) sent an e-mail to Mr. John Kieling on August 16, 2013, notifying him of the force majeure event (i.e., termination of access to gaging station E109.9) as required by Section III.H.3 of the Consent Order. The following is a description of the event and actions that have been, and will be, taken to renegotiate access to this site.

The Pueblo of San Ildefonso sent a letter to DOE, dated August 9, 2013, notifying the Laboratory of its "intent to terminate all agreements in relation to Station E109.9 (also referred to as E110) located within the exterior boundary of the Pueblo de San Ildefonso." Although the letter is dated August 9, 2013, the Field Office received it on August 15, 2013. The letter also stated, "[i]n addition, it appears there are several safety and environmental issues that are occurring at this site. As a result, the Pueblo is notifying the affected parties that it intends to terminate the agreements in their present form and will deny any and all pending requests for access and installation of additional equipment to E109.9."

DOE/LANS currently conduct sampling at gaging station E109.9 as part of the Los Alamos/Pueblo Canyons sediment transport mitigation project. Without access, DOE/LANS will not be able to include future data for gaging station E109.9 in the annual storm water performance monitoring report.



DOE/LANS have engaged the Pueblo of San Ildefonso regarding their letter and the access issue and will continue to take all reasonable actions to regain access to gaging station E109.9. In addition, DOE/LANS will discuss the alleged "safety and environmental issues" present at the site to assist in implementing any mitigation actions, if necessary. DOE/LANS will promptly notify the New Mexico Environment Department if the termination of this access agreement is later determined to have affected any other obligations under the Consent Order.

If you have any questions, please contact Kathryn Roberts at (505) 665-0006 (kroberts@lanl.gov) or David Rhodes at (505) 665-5325 (david.rhodes@nnsa.doe.gov).

Sincerely,

Sincerely,



Jeff Mousseau, Associate Director
Environmental Programs
Los Alamos National Laboratory



Peter Maggioro, Assistant Manager
Environmental Projects Office
Los Alamos Field Office

JM/PM/DM/TG/KR:sm

Cy: Laurie King, EPA Region 6, Dallas, TX
Steven Rydeen, San Ildefonso Pueblo
Joe Chavarria, Santa Clara Pueblo
Steve Yanicak, NMED-DOE-OB, MS M894
Tom Skibitski, NMED-DOE-OB (date-stamped letter emailed)
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Annette Russell, DOE-NA-00-LA (date-stamped letter emailed)
David Rhodes, DOE-NA-00-LA (date-stamped letter emailed)
Katie Roberts, EP-REG (date-stamped letter emailed)
Steve Veenis, EP-CAP (date-stamped letter emailed)
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