ENTERED

NEW MEXICO ENVIRONMENT DEPARTMENT

Hazardous Waste Bureau

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SUSANA MARTINEZ
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Lieutenant Governor

RYAN FLYNN
Cabinet Secretary-Designate

BUTCH TONGATE
Deputy Secretary

TOM BLAINE, P.E.
Director
Environmental Health Division

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

October 16, 2013

Peter Maggiore
Assistant Manager
U.S. Department of Energy
National Nuclear Security Administration
Los Alamos Site Office
3747 West Jemez Rd, MS A316
Los Alamos, NM 87544

Jeffrey D. Mousseau
Associate Director Environmental Programs
Los Alamos National Security, L.L.C.
P.O. Box 1663, MS M991
Los Alamos, NM 87545

RE: NOTICE OF AGREEMENT
FORCE MAJEURE – TERMINATION OF ACCESS TO GAGING STATION E109.9 ON SAN ILDEFONSO PUEBLO LAND
LOS ALAMOS NATIONAL LABORATORY
EPA ID#NM0890018
HWB-LANL-MISC

Dear Messrs. Maggiore and Mousseau:

The New Mexico Environment Department (NMED) has received the United States Department of Energy (DOE) and the Los Alamos National Security L.L.C.'s (LANS) (collectively, the Permittees) *Notification of Force Majeure Resulting from Termination of Access to Gaging Station E109.9 on San Ildefonso Pueblo Land* (Notification), dated August 27, 2013 and referenced by EP2013-0187. In accordance with Section III.H.3 of the March 1, 2005 Compliance Order on Consent (Consent Order), the Permittees provided an email notification to NMED on August 16, 2013.

The Permittees state in the Notification that 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 of San Ildefonso." Station E109.9 is currently sampled

36118

under the Permittees' Los Alamos/Pueblo Canyons sediment transport mitigation project. Without access, the Permittees will be unable to include data for station E109.9 in the annual storm water performance monitoring report.

This correspondence constitutes written notice of NMED's agreement under Section III.H.3 of the Consent Order that a force majeure event has occurred. NMED agrees that the Permittees will be unable to collect data at station E109.9 for the foreseeable future, but expects the Permittees to nevertheless make all reasonable attempts to negotiate future access to this important monitoring location.

Please contact Ben Wear at (505) 476-6041 if you have questions.

Sincerely,

John E. Kieling
Chief
Hazardous Waste Bureau

cc: T. Blaine, NMED EHD
D. Cobrain, NMED HWB
N. Dhawan, NMED HWB
B. Wear, NMED HWB
S. Yanicak, NMED DOE OB, MS M894
L. King, EPA 6PD-N
S. Veenis, EP-CAP, MS A992
A. Russell, DOE-NA-00-LA

File: Reading and LANL 2013 – Los Alamos/Pueblo Canyons