

52 NDA 9/11/97



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GOVERNOR

State of New Mexico  
**ENVIRONMENT DEPARTMENT**  
*Hazardous & Radioactive Materials Bureau*  
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MARK E. WEIDLER  
SECRETARY  
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**CERTIFIED MAIL  
RETURN RECEIPT REQUESTED**

March 10, 1997

Mr. Theodore J. Taylor, Program Manager  
Department of Energy  
Los Alamos Area Office  
528 35th Street, Mail Stop A316  
Los Alamos, New Mexico 87544

Mr. Jorg Jansen, Program Manager  
Environmental Restoration  
Los Alamos National Laboratory  
528 35th Street, Mail Stop A316  
Los Alamos, New Mexico 87544

**RE: No Further Action Determinations  
Los Alamos National Laboratory  
NM0980010515**

Dear Mr. Taylor and Mr. Jansen:

Los Alamos National Laboratory (LANL) has requested clarification regarding No Further Action (NFA) determinations made by the Hazardous and Radioactive Materials Bureau (HRMB) of the New Mexico Environment Department (NMED). As Administrative Authority (AA) for the Hazardous and Solid Waste Amendments (HSWA) to the Resource Conservation and Recovery Act (RCRA), HRMB's responsibility is to assure protection of human health and the environment at RCRA facilities.

As outlined in Module VIII of LANL's RCRA Operating Permit, LANL may submit an application for a Class III permit modification under 40 Code of Federal Regulations (CFR) 270.42(c) to terminate the RCRA Facility Investigation/Corrective Measures Study process for a specific SWMU. The permit modification request must, however,

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contain information demonstrating that a release of hazardous waste including hazardous constituents has not occurred or will occur from that unit such that it poses a threat to human health and the environment, as well as information required in 40 CFR 270.42(c). If the AA determines that the SWMU proposed for NFA does not pose a threat to human health or the environment, the AA will grant the requested modification.

Furthermore, a NFA determination by the AA does not preclude continued or periodic monitoring of specified media or preclude the requirement for further investigation, studies, or remediation at a later date if new or subsequent analysis indicates that the unit poses a threat to human health or the environment.

The "omnibus" provisions of RCRA Section 3005 [40 Code of Federal Regulations 270.32] allow the Administrative Authority the flexibility to address all unacceptable risks to human health and the environment from RCRA facilities. Therefore, HRMB requires that DOE/LANL involve all potentially affected or otherwise interested NMED Bureaus when evaluating a SWMU for NFA. The early involvement of other Bureaus will provide HRMB with a more complete awareness of issues surrounding any particular SWMU and, thus, lead to a coordinated approach in the assessment of all SWMUs. The Bureaus which may be approached for assistance may include, but are not limited to, the Surface Water Quality Bureau, Ground Water Quality Bureau, Underground Storage Tank Bureau, Drinking Water and Community Services Bureau, Solid Waste Bureau, and the Department of Energy Oversight Bureau.

Should you or your staff have any questions concerning this letter, please contact either Mr. Benito Garcia, Hazardous and Radioactive Materials Bureau Chief, or Mr. Robert S. ("Stu") Dinwiddie, Manager of the RCRA Permits Management Program at 505/827-1558.

Sincerely,



Ed Kelley, Ph.D., Director  
Water and Waste Management Division

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cc: T. Davis, NMED HRMB  
R. Dinwiddie, NMED HRMB  
B. Garcia, NMED HEMB  
T. Glatzmaier, LANL DDEES/ER, MS M992  
K. Hill, NMED HRMB  
M. Johansen, DOE LAAO, MS A316  
M. Leavitt, NMED GWQB  
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