



**Department of Energy**

Albuquerque Operations Office  
Los Alamos Area Office  
Los Alamos, New Mexico 87544

NOV 19 1999

HAND DELIVERED

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Mr. James Bearzi, Chief  
Hazardous and Radioactive Materials Bureau  
New Mexico Environment Department  
2044 Galisteo Street, Building A  
P. O. Box 26110  
Santa Fe, NM 87505

Dear Mr. Bearzi:

Subject: Continuation of the Hazardous Waste Permit for the Los Alamos National Laboratory

The purpose of this letter is to call to your attention an issue regarding the renewal of the Los Alamos National Laboratory's (LANL) Hazardous Waste Permit NM08900010515-1 (Permit). The Permit became effective on November 8, 1989, for a specified term of ten years. As you are aware, that ten-year period has run its course.

The regulations governing the renewal of hazardous waste permits provide that if a permittee has submitted a timely application for permit renewal in accordance with specified criteria, and the administrative entity charged with issuing the new permit does not act on or before the expiration date of the existing permit, then the existing permit continues in full force and effect until the date of the new permit. See 20 NMAC 4.1.102.A.1 (substituting "Secretary of the New Mexico Environment Department" [NMED] for "Administrator" or "Regional Administrator") and 20 NMAC 4.1.900 (adopting by reference 40 C.F.R. Part 270, including 40 C.F.R. 270.51, which addresses permit continuation beyond initial term).

The specific requirement in the regulations that addresses the timing of submittal of a permit renewal application is found at 20 NMAC 4.1.900, incorporating all of 40 C.F.R. Part 270, including 40 C.F.R. §270.10(h), which addresses permit reapplications. This section states in relevant part: *"Any HWM facility with an effective permit shall submit a new application at least 180 days before the expiration date of the effective permit...."*

LANL met the above requirement by submitting its application for renewal of the Permit in January 1999. The permit application package that was provided by LANL was complete. It included all of the units LANL was seeking to re-permit at the currently permitted locations within LANL. LANL has also submitted requests for permit status for all existing interim status units that have not been permitted to date. All of the data



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required in Parts 264 and 270 of the regulations were addressed in the development of the permit application and the requests.

With the passage of time, the requests for permit status have been updated to reflect changes that have occurred at LANL, as well as changes to the format for permitting required by NMED. However, as to previously permitted units, the complete application was submitted eleven months prior to the expiration date of the existing permit. In terms of the regulatory requirement regarding timely submittal of a permit renewal application, LANL's submittal was both timely and complete.

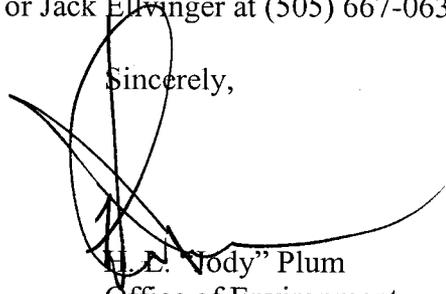
With the timely submittal of a complete permit application for renewal of the permit, LANL has met the regulatory requirement that will allow it to continue to operate under its existing Permit, until reissuance of the new permit. Accordingly, LANL intends to continue operating under the existing Permit for those units currently permitted and according to interim status requirements for those units awaiting approval of their request to be added to the facility permit.

These issues have been discussed several times at the monthly permit meetings held between your staff and LANL representatives. We believe the mutually arrived at understanding has been that the Permit would continue, subject, of course, to the Secretary's ongoing statutory right to suspend or revoke existing permits for cause. We further believe that it has also been our mutual understanding that continued operation under the Permit would not require a request or application, but would happen automatically, provided that the applicable regulatory requirements are satisfied.

We have met the requirements of the regulations regarding continuation of permit beyond the stated term, and this letter constitutes notification that LANL will continue to operate by the permit requirements until NMED takes action on LANL's permit renewal application.

If you should have any questions concerning the issues discussed in this letter, please feel free to contact me at (505) 665-5042 or Jack Ellwinger at (505) 667-0633.

Sincerely,

A handwritten signature in black ink, appearing to read "H.L. 'Nody' Plum". The signature is written in a cursive style with a large loop at the beginning and a long horizontal stroke extending to the right.

H.L. "Nody" Plum  
Office of Environment

LAAME:6JP-168

James Bearzi

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bcc:

David Gurulé, LAM, LAAO

Hortense Haynes, Office of Counsel, LAAO

Tom Gunderson, DLDOPS, LANL, MS-A100

Dennis Erickson, ESH-DO, LANL, MS-K491

Jack Ellvinger, ESH-19, LANL, MS-K490

Gian Bacigalupa, ESH-19, LANL, MS-K490

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Tom Baca, E-DIV, LANL, MS-J591

ESH-19 (99-0118.JE), LANL, MS-K490