

HSWA LANL GP/01



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**CERTIFIED MAIL  
RETURN RECEIPT REQUESTED**

March 19, 2001

Joni Arends  
Waste Programs Director  
Concerned Citizens for Nuclear Safety  
107 Cienega  
Santa Fe, New Mexico 87501

**RE: RESPONSE TO COMMENTS ON NMED's NOTICE OF INTENT TO APPROVE A  
MODIFICATION TO RCRA PERMIT NO. NM0890010515  
US DEPARTMENT OF ENERGY/LOS ALAMOS NATIONAL LABORATORY,  
NEW MEXICO**

Dear Ms. Arends:

The Hazardous Waste Bureau (HWB) of the New Mexico Environment Department (NMED) has received the comments submitted by Concerned Citizens for Nuclear Safety (CCNS) regarding NMED's Intent to approve a Class III Modification to Los Alamos National Laboratory's (LANL's) Resource and Conservation and Recovery Act (RCRA) Permit (the Permit). The approval would result in the removal of thirty solid waste management units (SWMUs) from the Hazardous and Solid Waste Amendments (HSWA) Module of the Permit.

NMED issued the public notice (Public Notice No. 00-13) on November 22, 2000 and received comments from two parties during the public comment period that ended on January 8, 2001. NMED has reviewed the comments and is providing response to the specific comments received in the Attachment to this letter. NMED appreciates the public interest and encourages public participation in protection of the environment and health of New Mexico residents.



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TC

Ms. Arends  
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If you have any questions please contact Neelam Dhawan at (505) 827-1557 extension 1018.

Sincerely,



*for*  
John E. Kieling  
Manager  
Permits Management Program

JEK:nmd

Cc:

J. Bearzi, NMED HWB  
J. Young, NMED HWB  
C. Will, NMED HWB  
N. Dhawan, NMED HWB  
P. Allen, NMED HWB  
T. Taylor, DOE LAAO, MS A316  
J. Canepa, LANL EM/ER, MS M992

File: Reading and HSWA LANL/NFA

## ATTACHMENT

### **NMED's Response to comments received on "Intent to Approve a Modification to RCRA Permit No. NM0890010515, US Department of Energy (DOE)/ Los Alamos National Laboratory (LANL), New Mexico"**

The New Mexico Environment Department (NMED) issued a Public Notice of "Intent to Approve a Modification to RCRA Permit No. NM0890010515, US Department of Energy (DOE)/ Los Alamos National Laboratory (LANL), New Mexico" on November 22, 2000. NMED has approved thirty sites for no further action (NFA) after conducting site visits and extensive reviews of corrective action documents. The Public Notice and a 45-day public comment period was provided pursuant to 20.4.1.901 NMAC. The public comment period ended on January 8, 2001. NMED has received comments from two parties with requests for a public hearing. NMED appreciates the public interest and is providing response to the specific comments. At this time, NMED does not feel that the comments received warrant the need for holding a public hearing. To facilitate the review of this response, comments received are included verbatim. NMED's response follows each comment.

#### **Comments Received from Concerned Citizens for Nuclear Safety:**

***1. In order to protect the health and welfare of New Mexicans and the environment, NMED should retain all regulatory and enforcement powers for all SWMUs in general, and these thirty SWMUs in particular.***

**NMED Response:** Section K of the HSWA Module of the LANL RCRA permit, that contains corrective action requirements for Solid Waste Management Units (SWMUs), states that "Based on the results of the RFI and other relevant information, the Permittee may submit an application to the Administrative Authority for a Class III permit modification under 40 CFR 270.42(c) to terminate the RFI/CMS process for a specific unit. This permit modification application must contain information demonstrating that there are no releases of hazardous wastes including hazardous constituents from SWMUs that pose a threat to human health and the environment." It is appropriate to make a no further action (NFA) determination and remove SWMUs from the Permit that do not pose a threat to human health and the environment. At any time in the future, should additional information become available indicating that further action at a SMWU is warranted, NMED can require the Facility to take these actions because NMED retains regulatory authority over the entire Facility as long as the Permit is in effect and as long as corrective action activities are required at the Facility. The HSWA Module further states that "A determination of no further action shall not preclude the Administrative Authority from requiring further investigations, studies, or remediation at a later date, if new information or subsequent analysis indicates a release or likelihood of a release from a SWMU at the facility that is likely to pose a threat to human health or the environment." NMED retains regulatory and enforcement powers over LANL, and granting an NFA determination does not compromise NMED's regulatory authority to require future corrective actions at these SWMUs if new information indicates it is necessary.

***2. Long-term stewardship principles should be incorporated into all SWMU decision making. Long-term stewardship was defined in the 1998 Natural Resources Defense Council, et al. V. Richardson, et al. Civ. No. 97-936(SS) (D.D.C Dec.12, 1998) settlement agreement as the physical controls, institutions, information and other mechanisms needed to ensure protection of people and the environment at sites where DOE has completed or plans to***

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***complete 'cleanup' (e.g., landfill closures, remedial actions, removal actions, and facility stabilization). This concept of long-term stewardship includes, inter alia, land-use controls, monitoring, maintenance, and information management.***

***Unlike other DOE sites that are "cleaning up," LANL has a continuing nuclear weapons mission, including production of plutonium batteries and pits. In order to protect the citizens and the environment surrounding LANL, NMED must incorporate long-term stewardship principles into all of its decisionmaking regarding LANL.***

**NMED Response:** NMED agrees with the commenter's assertion that long-term stewardship principles should be incorporated in all SWMU decisions. However, long-term stewardship mechanisms such as land use controls, monitoring, maintenance, etc., are not necessary for SWMUs meeting NFA Criteria 1 through 3 as defined in the Statement of Basis for this decision. Twenty-six of the thirty SWMUS that are the subject of this permit modification fall under NFA Criteria 1 through 3 as described in the Statement of Basis. Four SWMUs, addressed in the following discussion, were approved under the terms of NFA Criteria 4. SWMU 3-002(a) was a less-than-90-day accumulation area, SWMU 35-004(e) is a satellite accumulation area, and both sites are regulated and managed under 40 CFR 262, RCRA hazardous waste generator requirements. In compliance with these requirements, the Laboratory conducts training classes for the operation of these areas, inspects them, keeps records on them, and has strict administrative controls governing the closure of these units. If a release should occur at these sites, it is cleaned immediately in accordance with the Laboratory's Spill Prevention Countermeasures and Control Plan. SWMU 35-004(c), an underground storage tank, underwent closure in accordance with the NMED Underground Storage Tank Bureau's regulations. SWMU 35-006, a surface impoundment, underwent RCRA closure in accordance with an NMED approved closure plan. Risk assessment was performed for the site and the closure was approved by NMED. Since these sites were remediated under current applicable state and/or federal regulations and do not pose a threat to human health or the environment, NMED does not believe that these sites need long-term stewardship activities.

DOE and LANL are just now beginning an effort to develop a long-term stewardship plan for LANL. This plan will address both operating and inactive portions of the facility. NMED and the public will have opportunity to participate in the development of the LANL plan.

***3. No SWMUs should be approved for no further action (NFA). NMED must retain all regulatory and enforcement powers over these units, especially in light of further drinking water and groundwater contamination at LANL and the surrounding area.***

See response to Question 1. Removal of a SWMU from the operating permit does not reduce NMED's existing authority over contamination at the Facility in various media (including drinking water and groundwater).

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**Comments Received from Mr. Weinstein:**

***General Objection***

***It is without dispute that the 30 SWMUs in question when the permit became effective on May 23, 1990 were expected to have submitted detailed RCRA Facility Investigations and Corrective Action Plans and Corrective Management Schedules under the assumption that, based on the information submitted by the Permittee itself in its original permit application, they needed to be monitored and regulated for on-site and off-site contaminant migration. For DOE/LANL at this late date to now urge that all the information in the initial permit application which was relied on to develop the permit requirements were inaccurate i.e. the oil trap sump in SWMU 3-025(a) "can not be located or have been shown to not exist" is difficult to believe given the detail of the application and LANL's own representation at the time of the initial permit application. Furthermore, as will be more fully delineated in the objections set forth below which address each requested NFA determination, a review of the Statement of Basis indicates that the bases [sic] for a major number of the permit modification requests are undocumented representations and self-serving conclusions, none of which from the record appear to have been verified by the Environment Department after a site inspection pursuant to its right of inspection (According to Title 42 U.S.C. § 6927 Inspections; Title 42 U.S.C. § 6926, Authorized State hazardous waste programs, and 40 CFR § 271.15(b)(2) Requirements for compliance evaluation programs, when New Mexico was authorized to administer the RCRA program under 40 CFR 272.1601 Subpart GG, it had to demonstrate authority to conduct site inspections).***

**NMED Response:** In May of 1987, a RCRA Facility Assessment (RFA) was conducted at LANL by the United States Environmental Protection Agency (EPA). The RFA consisted of a four-day drive through of the Laboratory's 44 square mile site. To be conservative, any site with the possibility of being a SWMU was identified. Based on the RFA, a SWMU Report was submitted by LANL to NMED and EPA in December 1988 to satisfy requirements of 40 CFR 270.14. A revised SWMU Report was prepared and submitted to NMED in November 1990. The SWMU report merely describes SWMUs identified in the RFA. During the RFA, no further research or characterization was conducted for any of the potential SWMUs identified because archival research and site characterization is performed as part of the RCRA Facility Investigation (RFI). Hence, many of the sites in the SWMU Report were mistakenly identified as SWMUs. As required by its operating permit, LANL did further investigation of the sites and submitted Operable Unit (OU) Work Plans and RFI Reports to NMED. In these documents, based on archival research (such as engineering drawings, aerial photographs, memoranda, employee interviews, etc.), LANL identified SWMUs that warranted an NFA determination based on the five criteria described in the Statement of Basis for this decision. The OU Work Plans were reviewed and approved or were issued a Notice of Deficiency (NOD) by EPA or NMED. Based on approval of Work Plans or RFI Reports, LANL submitted three requests for permit modifications to NMED (March 1995, September 1995, September 1996) to remove 190 SWMUs from the HSWA Module of the Permit. NMED reviewed the requests and granted NFA for a total of 102 SWMUs in 1997 and 1998. NMED requested more documentation from LANL for the remaining 88 SWMUs. NMED staff also conducted site visits at many of these sites on July 28 and November 9 of 1999. Based on the additional information provided by LANL and the site visits conducted by NMED staff, NMED approved NFA for 30 additional sites. NMED has requested that LANL subject the remaining 58 sites to further investigation, including additional sampling. The Statement of Basis for

this decision is intended to provide only a brief description of the sites and not to provide all the details. To fully understand the review and decision process, the commenter should review additional documents. Additional information is available in the Requests for Permit Modification; OU Work Plans; RFI Reports; and "Supplemental Information in Support of NOD Responses for March 1995, September 1995, and September 1996, Request for Permit Modification" dated April 2000. All of these references are provided in section J of the Statement of Basis for this decision. Some of these documents are also available at LANL's Environmental Restoration (ER) Project website <http://erproject.lanl.gov/documents/virtual.html>. All of these documents are available for review at NMED and at LANL at the addresses provided in the Statement of Basis.

### **Specific Objections**

***DOE/LANL Claim that NFA Criterion 1, The site does not exist; is a duplicate of another site; can not be located; or is located within another site and, has been or will be investigated as part of that site.***

#### ***SWMU 3-025(a) Oil Trap Sump, TA-3 (Former Operable Unit 1114)***

***This modification request is claims [sic] that initially this SWMU was identified as an oil trap sump that connected to a steam cleaning drain from the machine shop in Building TA-3-34 to a drain that discharged to the radioactive wastewater facility at TA-50. The bases [sic] for the claim that an NFA under Criterion 1 is applicable is [sic] that:(1) "field investigations and archival information do not indicate the presence of an oil sump trap associated with the steam cleaning drain", and (2)" all sinks and drain lines from this building discharge either to a sanitary wastewater treatment facility at TA-3 or to the radioactive wastewater treatment facility at TA-50.[sic]***

***The first basis is not supported by an independent field investigation but rather the permittee's own unverified field investigation and a revisiting of archival information which must have served as the basis for the information initially provided by the permittee in its application for the Module III [sic] corrective action permit. The permittee does not specify what facts were revealed in the revisiting of the archival data that the permittee was not aware of when it reviewed the same data for its original RCRA application.***

***The second basis seems to be that even if the oil trap sump does exist it is connected to either a sanitary wastewater treatment facility at TA-3 or to the radioactive wastewater treatment facility at TA-50. Here again the permittee is making an unsupported assumption and is evidencing by the use of the word "either" its lack of complete knowledge of the configuration of its discharge points. Even if in fact the oil trap sump conveys the wastes from the machine shop Building TA-3-34 to a separately permitted facility under the SPDES [sic] requirements of the Clean Water Act (CWA), no mention of what kind of treatment pursuant to CWA §307(b) will be provided to such wastes before they enter the sanitary wastewater facility, if that is the one to which the sinks and drain lines are connected, to ensure that the wastewater treatment facility complies with its effluent discharge and sludge disposal standards. Furthermore, there is no explanation as to why the permittee has concluded that instead of an oil sump trap there are now drains and sinks in the machine shop building which is covered by the subject SWMU.***

***Finally, if the same highly contaminated radioactive and hazardous wastes are present in the subject SWMU and they are stored there in sinks or drains rather than an oil sump trap the requirement that there be a RCRA permit for such wastes would only be obviated by proof that the wastes do not remain in such vessels for more than 90 days. This request should be denied until the Environment Department can after an inspection verify the claims made by DOE/LANL and make its own independent evaluation. This is hardly a way to address a condition which at the time of the issuance of this permit called for extensive investigation and a work plan or its equivalent designed to address the serious problem of a current or potential release of hazardous wastes to the underground aquifer (perched zone).***

**NMED Response:** NMED did conduct a site visit to the machine shop in Building TA-3-34 on July 28, 1999. At the site, NMED staff conducted a visual inspection to verify that there was no oil trap sump associated with the steam cleaning drain. No additional archival information was provided by LANL on this site. Rather, LANL clarified archival information already submitted to NMED. The sentence concerning the discharge of the drainlines was not meant to infer that LANL does not know the points of discharge. The intent of the sentence was to state that certain drainlines are appropriately connected to LANL's sanitary sewer line, whereas other drainlines are appropriately connected to the radioactive wastewater treatment facility. This was confirmed by a 1992 study of the building by Santa Fe Engineering. There was no indication during the 1992 study that an oil trap sump was associated with either system. Both treatment facilities are regulated under the Clean Water Act, and are subject to NPDES requirements. The waste was never stored in the sinks or drains, rather connected to the wastewater treatment facility through them.

***SWMU 3-045(i) Outfall TA-3 (Former Operable Unit 1114)***

***In this request the permittee again makes a similar argument as the one offered in the previous SWMU. It alleges that this was "initially identified as an outfall from floor and sink drains at TA-3-34, the Cryogenics Building. However, field investigations and engineering drawings revealed that no outfall is associated with these drains which discharge directly to the sanitary sewer system. In addition, all sinks and drain lines from this building discharge either (my emphasis) to sanitary wastewater treatment facility at TA-3 or to the radioactive wastewater treatment facility."***

***For the same reasons stated in the comment on SWMU 03-025(a) this proposed modification should also be denied.***

**NMED Response:** NMED met with LANL on June 15, 1999 to discuss this site and reexamined the engineering drawings that confirmed that there was no outfall associated with the drainlines. Some of the drainlines from the building discharge appropriately to the sanitary wastewater treatment facility at TA-3, and others discharge appropriately to the radioactive wastewater treatment facility at TA-50. NMED inspected the site on July 28, 1999 and found no outfall associated with the drainlines at the site. NMED approved the NFA after the site visit.

***SWMU 11-011© [sic] Boiler Discharge/Outfall TA-11 (Former Operable Unit 1082)***

***The permittee states: " SWMU 11-011 © [sic] was initially identified as the discharge from a boiler in building TA-11-24. The boiler system reputedly discharged through a pipe that exited the building***

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***onto the surrounding asphalt pavement. However, field investigations and archival information do not indicate the presence of a boiler system discharge to the pavement outside the building."***

***Presumably this waste stream related to a discharge of boiler cleaning wastes as part of periodic routine maintenance of the system. Surely the records of the process and maintenance system would establish whether such a procedure was indeed carried on at the facility at the time of the issuance of the permit or the filing of the permit application. For the same reason stated in the comment on SWMU 03-025(a) this proposed modification should also be denied. It is not supported by an independent field investigation but rather the permittee's own unverified field investigation and a revisiting of archival information which must have served as the basis for the information initially provided by the permittee in its application for the Module III [sic] corrective action permit. The permittee does not specify what facts were revealed in the revisiting of the archival data that the permittee was not aware of when it reviewed the same data for its original RCRA application.***

**NMED Response:** LANL submitted as-built engineering drawing ENG-27313 that shows that a natural gas line was present on the east wall of the building. This gas line was incorrectly identified as a pipe discharging from a boiler, causing this site to be incorrectly identified as a SWMU in the RFA and, consequently, in the SWMU Report. NMED approved the site for NFA after a review of the engineering drawing and a site visit confirmed that no pipe exited to the asphalt pavement outside of the building.

***SWMU 18-007 Buried Armored Vehicle TA-18 (Former Operable Unit 1093)***

***SWMU 27-001 Buried Naval Guns TA-27 (Former Operable Unit 1093)***

***This one is almost comical. How big an armored vehicle is the permittee referring to as the one which was buried? Could such a large item be lost? To have initially stated in its permit application that there was an armored vehicle buried at this Technical Area and now say the records do not support this fact seems odd. Either an armored vehicle was buried or it was not. Even if it was not buried where it was originally thought to have been then the likelihood is that it was buried at some other site at LANL which should be able to be verified assuming the primary information source which was relied on by the permittee is not unexplainedly unavailable.***

***The same can be said for the Naval Guns which were buried specifically in Pajarito canyon (one of the locations referred to in the permit as a site for well borings and testing as part of the correction action plan). These permit modifications should also be denied in the absence of the Environment Department's verification of the non-existence of the armored vehicle and the naval gun barrels.***

**NMED Response:** SWMU 18-007 was initially identified in the SWMU Report based on a memo and a verbal report suggesting the possibility of a tank burial in one of two canyons. Similarly, 27-001 was also identified by verbal reports. During a thorough archival search, LANL was unable to locate either the interview notes or the memo in which these SWMUs were originally identified. Seven Laboratory employees who had worked at Technical Area 18 were interviewed and none could verify the burial of the tank or the guns. Nevertheless, LANL conducted an electromagnetic investigation of the areas in question in 1994 and again in 1997. These geophysical surveys would have located the presence of metal objects as large as a tank or naval guns, if present; however, the surveys found no evidence of

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these burials. After meeting with LANL on July 14, 1999 and reviewing the 1997 survey report, NMED decided that these sites were appropriate for NFA under Criterion 1. The report documenting the results of the 1997 electromagnetic survey "Electromagnetic Investigation of SWMU 18-007 and SWMU 27-001, Los Alamos National Laboratory, Los Alamos, New Mexico" is included in "Supplemental Information in Support of NOD Responses for March 1995, September 1995, and September 1996, Request for Permit Modification."

***SWMU 59-001 Decommissioned Septic System TA-59 (Former Operable Unit 1114)***

***The reason why the permittee believes this SWMU should be granted an NFA and removed from the permit is that the septic system was removed in 1979; the subject buildings were connected to the new Laboratory-wide sanitary sewer line and...Subsequent construction activities excavated and removed all soils in the area to a level well below the location of the former septic system. These activities would have removed any soil potentially contaminated from the septic system"[sic] Here again the permittee makes self-serving statements. How was the closure of that septic system monitored and by what independent regulatory agency in accordance with the conditions in the RCRA permit for Module III [sic].[sic] Why doesn't the permittee reference in its Statement of Basis under this modification request the Record of Decision as would be required in a CERCLA remediation.[sic] Was a FI/FS done to characterize the site vertically and horizontally.[sic] This is the minimum which should be expected from LANL where possibly harmful hazardous waste may have percolated into the aquifer. Were soil samples provided to the Environment Department? Don't allow LANL to escape from its responsibilities whether it is a Federal facility or not. Deny this request until these matters are addressed and the Environment Department and the public are satisfied that there is no subsurface contamination and all contaminants have been removed from the site and all contaminants that may have migrated off-site and off the property of LANL have been identified and remediated.***

**NMED Response:** NMED approved this SWMU for NFA after a site visit on July 28, 1999. The SWMU was a septic tank that handled only sanitary waste. The septic tank removal was conducted in 1979 before the promulgation of RCRA regulations. The area is now an asphalt-paved parking lot 10-15 feet below the grade of former septic tank. NMED sees no reason to conduct sampling at this site because approximately 7 feet of overburden has been excavated from the area. There is no Record of Decision because the site was not closed under CERCLA.

***NFA Criterion 2. The site was never used for the management (that is, generation, treatment, storage or disposal) of RCRA solid or hazardous wastes and/or constituents.***

***SWMU 3-002(d) Former Storage Area TA-3 (Former Operable Unit 1114)***

***This requested modification involved an area where dielectric fluid from electrical power supply units were stored in 55 gallon drums. The permittee makes a self-serving and unverified claim to support its request that the drums did not contain any hazardous wastes. These drums seem to have contained a waste that LANL was concerned about enough to have stored in metal drums on a presumably impervious surface. The Environment Department should examine the LANL records of the production processes,[sic] the waste streams and obtain a detailed profile of the wastes that were in the dielectric fluids in question before granting this request. Furthermore, the question of whether***

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*there was runoff from spills and topping operations at this site should be verified as well. When I handled the matter of Solvent Savers clean-up in New York State this kind of information was obtained in extensive discovery and depositions of plant personnel familiar with the practices at the site. Surely, former employees of LANL could shed some light on the questions I have raised. At the very least a responsible official of LANL should provide a supporting affidavit setting forth what his or her basis is for concluding that the drums did not contain any hazardous wastes.*

**NMED Response:** LANL provided an employee interview [as Attachment A for SWMU 3-002(d) in its "Request for Permit Modification Units Proposed for NFA 1996"], that stated that no known spillage or leaking from the drums had occurred. The drums in question contained dielectric mineral oil used inside electrical power supply units. The units did not contain PCBs, and dielectric fluid composed of mineral oil normally does not meet the definition of a RCRA hazardous waste under 40 CFR Part 261. In June of 1993 a LANL investigating team conducted a site visit and did not observe any obvious stains on the asphalt to suggest releases. NMED was concerned that the area might have been paved over after the removal of drums and asked for additional information in June 1997. LANL provided additional documents, including a document stating that the area had not been repaved between 1986 and 1993 [as Attachment C for SWMU 3-002(d) in "Response to Notice of Determination for Request for Permit Modification: Units Proposed for No Further Action September 1996 Part I" July, 1997]. NMED examined the Material Safety Data Sheet provided by LANL and confirmed that the mineral oil did not contain any RCRA hazardous constituents. Because the SWMU did not handle RCRA waste or constituents, it was approved for NFA under Criterion 2.

**SWMU 3-009(c) Construction Debris Area TA-3 (Former Operable Unit 1114)**

*This request concern [sic] a "disturbed area south of TA-3-66, the Sigma Bldg. and concrete debris...concrete footings". The same reason for requesting NFA on this SWMU is proffered as the one for SWMU 3-002(d) Former Storage Area TA-3 (Former Operable Unit 1114). For the same reason stated in the comment on the latter SWMU the permit modification request in this case should also be denied.*

**NMED Response:** NMED conducted a site visit on July 28, 1999. Fragments of concrete footings were observed during the site visit. A review of archival information, including several historical aerial photographs taken from 1958 through 1986, shows no evidence of other debris. There was no indication that RCRA hazardous waste or constituents had been managed at the site. NMED approved the site for NFA after the site visit.

**SWMU 3-009(g) Soil Fill Area TA-3 (Former Operable Unit 1114)**

*Here the permittee alleges that again the soil fill area located south of Two-Mile Canyon Bridge did not contain historic fill or any concern and no hazardous substances but only "soil and tuff". This is self-serving and unverified and no detailed explanation, or for that matter any explanation is provided to justify the change of position. This modification should also be denied until further documentation is provided by the permittee.*

**NMED Response:** NMED met with LANL staff to discuss this site on June 19, 1999. LANL provided further clarification on previously submitted documents and NMED approved the NFA. The site was

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used in 1978 during road construction activities that extended Mercury Road to TA-58. The site was used to stockpile approximately 300 truckloads of excavated materials consisting of soil and tuff. Portions of it were used for construction fill. The rest remained at the site and was identified as a SWMU. Because this site managed only clean dirt and tuff material that was used for fill at various LANL construction sites and contained no RCRA hazardous waste, it was approved for NFA.

***SWMU 3-019 Septic Tank, TA-3 (Former Operable Unit 1114)***

***For the same rationale provided for the previous request for modification this request should be denied as well.***

**NMED Response:** SWMU 3-019 is a septic tank that was constructed for intended use at the Van de Graaff Facility. At a July 7, 1999 meeting LANL provided NMED with as-built drawings indicating that, at the time of the building's construction, Building TA-3-16 was appropriately tied into the laboratory's sanitary sewer and acid waste systems and the septic tank was never connected to the building. The septic tank was abandoned in place, but not removed until 1964 during a building addition. Because the septic tank never received any hazardous waste it was approved for NFA.

***SWMU 3-019 Septic Tank, TA-3 (Former Operable Unit 1114)***

***For the same rationale provided for the previous request for modification this request should be denied as well.***

**NMED Response:** This is duplicate of the aforementioned site. Please see the response provided above.

***NFA Criterion 3. The SWMU is not known or suspected of releasing RCRA solid or hazardous wastes and/or constituents to the environment.***

***SWMU 3-026(b) Active Sumps, TA-3 (Former Operable Unit 1114)***

***In this request the permittee acknowledges that "One sump/lift station potentially received spent photo-processing solutions ([sic]RCRA hazardous wastes... but that it is not known or suspected of releasing these substances to the environment because of its location within the concrete foundation". The permittee should be required to [sic] some core soil sampling around the concrete structure and under the concrete structure to verify this claim otherwise the modification request should be denied. As for the other sump/lifts there is no objection since they were recognized as sanitary lift stations and some credence should be given to the permittee's representations in the absence of circumstances and facts to the contrary.***

**NMED Response:** The lift stations are located in the basement of the Building TA-3-132. The lift stations have been active since 1961 and have been connected to the sanitary sewer line that discharged to the wastewater treatment facility at TA-3. Currently, wastewater is collected in the lift stations and pumped to the Laboratory's sanitary wastewater system. All of the lift stations were upgraded in 1976 and engineered as well as tested to meet the Uniform Plumbing Code. Two photo-processing laboratories previously discharged spent processing solutions to one lift station and that station has been removed. The practice of discharging spent photo-processing solutions was discontinued in 1992.

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The solutions are now collected at the point of generation and disposed of properly. Since the lift stations are constructed of steel boxes encapsulated in six inches of concrete and the wastewater is discharged to sanitary wastewater system there are no pathways for any releases to the environment. NMED conducted a site visit on July 28, 1999 and verified that the lift station containments were intact. Since there has been no release of hazardous waste or constituents to the environment, this site does not warrant any further investigation and was approved for NFA.

***SWMU 3-044(a) Container Storage Area, TA-3 (Former Operable Unit 1114)***

***The permittee asserts that "the SWMU was used for the storage of wooden cable spools and drums containing waste diesel fuel, kerosene and oil emulsion [sic]. LANL again makes an unverified assertion that there was no releases [sic] of these admittedly hazardous wastes. The only explanation it gives is conjectural that "Any release that may have occurred while it served as a Satellite Accumulation Area would have been remediated in accordance with 40 CFR 262, Standards Applicable to Generators of Hazardous Waste [sic]. First the permittee fails to provide a basis for its assumption and second, it is not clear why if the facility was not storing the wastes, and was only a generator subject to the manifest requirements only and not a storage, treatment and disposal facility that it became regulated under a RCRA permit in the first place. This request should also be denied.***

**NMED Response:** Satellite Accumulation Areas (SAAs) are regulated under 40 CFR Part 262, Standards Applicable to Generators of Hazardous Waste. In compliance with these requirements, the Laboratory conducts training classes for the operation of these areas, inspects them, keeps records on them, and has strict administrative controls governing the closure of these units. If a release should occur at an SAA, LANL requires that it be cleaned immediately in accordance with the Laboratory's Spill Prevention Countermeasures and Control Plan and documented in the inspection records for that SAA. In addition, NMED enforcement personnel perform annual inspections of each SAA at LANL and, at the time of inspection, review all SAA records. The commentor is correct in his statement that an SAA should not have been considered a SWMU. However, this site was placed on the SWMU list, and, as such, had to be addressed. NMED conducted a site visit on July 28, 1999 and found no visible or documented evidence of a release. Thus the site was approved for NFA.

***It should be noted that on December 29, 2000 I requested from Carmen M. Rodriguez of LANL background information and data which served the basis for the Statement of Basis and to date no response to my request has been received. If the permit modification requests contained material representations that were not set forth in the Statement of Basis I am not aware of this fact.***

NMED inquired why LANL had not responded to your request. The Laboratory annually closes during the week between Christmas and New Year's Day. In addition, the LANL representative whom you contacted was ill and did not return to duty until January 9, 2001. Therefore, no one at the Laboratory was aware of your request until January 9. The Laboratory has informed NMED that they have since been in contact with you.