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Laboratory responds to NMED draft order

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LOS ALAMOS, N.M., July 31, 2002 -- Officials at the U.S. Department of Energy's Los Alamos National Laboratory today filed the Laboratory's response to a draft order issued May 2 by the New Mexico Environment Department.

The Laboratory's response strongly reaffirms its overall institutional commitment to environmental stewardship, yet challenges the draft order's statement that legacy contamination at the Laboratory represents an "imminent and substantial endangerment," and objects to the department's attempt to regulate radionuclides and other substances that are regulated by other agencies. In a cover letter to Secretary Maggiore, John Browne, director of Los Alamos National laboratory, and Ralph Erickson, director of the Department of Energy's Office of Los Alamos Site Operations, request that "...NMED withdraw the ISE determination and take no further action on the draft order."

"For many years the Laboratory has had a productive and cooperative relationship with the New Mexico Environment Department in which the laboratory and the department have agreed on an overall environmental stewardship strategy that protects the environment and accelerates the cleanup of legacy waste," said Jim Holt, associate director for operations. "Although we have fundamental disagreements with the language and regulatory scope of the draft order, we agree with the department that environmental stewardship should remain a core discipline in laboratory operations."

The laboratory and the department have worked cooperatively for the last decade on a number of environmental cleanup and environmental monitoring strategies designed to minimize



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potential risk to people and the environment from legacy and on-going operations at the Laboratory.

By developing these strategies in concert with NMED and federal regulatory agencies, the laboratory prioritized its cleanup and stewardship activities based on a risk-driven approach -- areas that represent the greatest potential risk to people or the environment are given the highest cleanup priority. The first attachment to the Laboratory's response to the draft order examines its cleanup strategy in detail, and can be found on the Web at http://www.lanl.gov/worldview/news/pdf/Attachment_1A.pdf.

"We believed we were on the right track in our environmental monitoring and cleanup strategies, and that NMED was in agreement with these strategies" said Holt. "The draft order, we believe, incorrectly assigns a finding of 'imminent and substantial endangerment' to the Laboratory, attempts to give the department regulatory authority in areas where no such authority exists, and -- worst of all -- prolongs and delays cleanup of key sites by assigning actions that are overly broad and prescriptive."

"NMED, the Department of Energy and the Environmental Protection Agency recently signed a letter of intent that would complete cleanup of legacy contamination and waste 15 years ahead of schedule," Holt continued. "That letter and the related Performance Management Plan gets us back on track to what we feel is most important -- environmental restoration and continued environmental monitoring that will result in the greatest reduction of potential risk."

The Laboratory's response to the draft order points out that nothing in the official record or in the department's previous communications to the laboratory indicates any regulatory or risk basis for a finding of endangerment. Independent audits conducted by outside parties and agencies similarly have not shown any basis for such a finding. The Laboratory therefore objects to the finding on its face and says that in its response.

In addition, the Laboratory's response objects to the department's attempt to assert regulatory authority over radionuclides and other substances not regulated under the Resource Conservation and Recovery Act or New Mexico's Hazardous Waste Act. By law, other agencies, not NMED, have regulatory authority over those substances.

Los Alamos National Laboratory is operated by the University of

California for the National Nuclear Security Administration (NNSA) of the U.S. Department of Energy and works in partnership with NNSA's Sandia and Lawrence Livermore national laboratories to support NNSA in its mission.

Los Alamos enhances global security by ensuring the safety and reliability of the U.S. nuclear stockpile, developing technologies to reduce threats from weapons of mass destruction, and solving problems related to energy, environment, infrastructure, health and national security concerns.