

Permit

**ENVIRONMENTAL
RESTORATION
PROJECT**

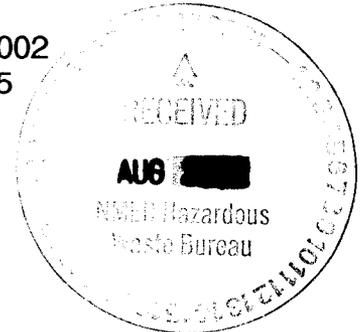
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Date: August 28, 2002
Refer to: ER2002-0565

Mr. James P. Bearzi, Chief
NMED – Hazardous Waste Bureau
2905 Rodeo Park Drive East
Building 1
Santa Fe, NM 87505-6303



**SUBJECT: CLARIFICATION OF SOLID WASTE MANAGEMENT UNIT (SWMU) AND
AREA OF CONCERN (AOC) INFORMATION PROVIDED IN RESPONSE
TO THE NEW MEXICO ENVIRONMENT DEPARTMENT'S (NMEDs)
JULY 1, 2002, REQUEST
LOS ALAMOS NATIONAL LABORATORY, NM0890010515**

Dear Mr. Bearzi:

On July 1, 2002, the NMED requested that the US Department of Energy (DOE) and the University of California (UC) provide a complete listing of all Potential Release Sites (PRSs), including SWMUs and AOCs, at Los Alamos National Laboratory (LANL). This listing was submitted to NMED on July 15, 2002 (ER2002-0486). On July 29, 2002, NMED submitted the subject request for clarification. This letter provides the DOE's and UC's responses to the specific requests for clarification. The specific areas of clarification contained in the request are addressed in the following paragraphs.

The NMED has requested clarification of the basis for the Administrative Authority (AA) determination contained in the listing of PRSs submitted on July 15. In addition, the NMED requested "an explanation for each PRS with a DOE AA designation as to why that PRS is considered not regulated by NMED under the HWA and HWMR." LANL's identification of the AA is based on whether a SWMU is contained in the Hazardous and Solid Waste Amendments (HSWA) Module of LANL's current Hazardous Waste Facility Permit (EPA 1990, 1585; EPA 1994, 44146). SWMUs included in the HSWA Module are identified as subject to NMED authority. PRSs excluded from the current permit are identified as subject to DOE authority. DOE bears ultimate responsibility for protecting human health and the environment from risks associated with these sites. This responsibility stems from DOE's obligations under the Atomic Energy Act (AEA) and associated DOE Directives, as well as DOE's obligations under laws and regulations other than the HWA and HWMR. In designating the AA for



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each unit, DOE and UC reserve their rights to challenge the appropriate reach of NMED's regulatory authority with respect to each unit.

The NMED's request for clarification notes that LANL has used the term AOC inconsistently. LANL believes it has consistently used the term AOC to describe sites that do not meet the definition of a SWMU, but that may still pose an environmental concern. However, because several types of sites may constitute an AOC, it may appear that LANL is using the term inconsistently. For example, this term may include those sites where the potential concern is limited to radionuclides, as cited by NMED's letter referring to the Resource Conservation and Recovery Act (RCRA) Facility Investigation (RFI) Report for Material Disposal Area (MDA) H. The term may also include sites that have both hazardous constituents and radiological concerns, but which the Environmental Protection Agency (EPA) excluded from the HSWA Module. The latter may include sites with activities or constituents regulated by authorities other than the HWA and HWMR.

NMED additionally has requested LANL to provide a list of sites currently designated as AOCs that may have known or suspected releases of hazardous wastes or constituents and need further investigation. As part of the process of preparing the RFI work plans, LANL evaluated existing information on the potential for releases of chemical and radiological constituents from each PRS. This information was used to develop sampling and analysis plans for each PRS that were included in the EPA-approved RFI work plans. Rather than repeat a listing of the information on potential releases contained in the RFI work plans, LANL believes that the best information on known or suspected releases at AOCs is contained in the results of investigations performed at these sites. The available sampling and analysis data for AOCs are presently being summarized in the revised SWMU Report being prepared by LANL. The revised SWMU Report will provide the best source of information for NMED to evaluate known or suspected releases at AOCs. We anticipate issuing the SWMU report during the second quarter FY03.

NMED's July 29 letter also notes discrepancies between the list of PRSs submitted in Appendix B of the Installation Work Plan (IWP) for the Environmental Restoration (ER) Project, Revision 8, and the listing provided to the NMED in our July 15 response. These discrepancies stem from No Further Action (NFA) decisions made by NMED and DOE and from the calendar year 2000 consolidation of PRSs. The list provided in the IWP does not reflect several years worth of regulatory decisions. For instance, there are approximately 50 sites listed in the IWP that have been formally removed from the HSWA Module by the NMED and which do not appear on the July 15 submittal. Similarly, there are approximately 200 sites on the IWP list that have been granted a NFA decision by the DOE in the last three years. The IWP list also does not reflect the work done by the Annual Unit Audit/Permit Modification high performing team in calendar year 2000 (work done in 1999 is reflected). The recent list we provided reflects that work and affects approximately 200 sites.

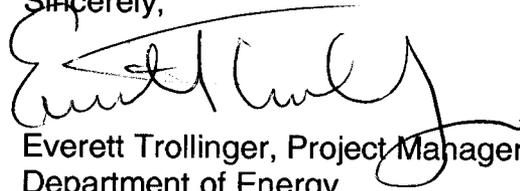
In summary, the basis for the AA designations presented to NMED on July 15 is the current HSWA permit, which represents the results of 10 years of investigation, sampling, reporting, and interactions among LANL, NMED, and EPA. As the conditions of the permit continue to evolve, these AA designations may also change.

Sincerely,



David McInroy, Acting Program Manager
Environmental Restoration Project
Los Alamos National Laboratory

Sincerely,



Everett Trollinger, Project Manager
Department of Energy
Office of Los Alamos Site Operations

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