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ENVIRONMENT DEPARTMENT

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RON CURRY
SECRETARY

June 29, 2007

**RE: FINAL DECISION AND RESPONSE TO PUBLIC COMMENT ON THE
SCHEDULE CHANGES FOR THE MARCH 1, 2005 ORDER ON CONSENT
LOS ALAMOS NATIONAL LABORATORY**

Dear Commenter:

The New Mexico Environment Department (NMED) with the U.S. Department of Energy (DOE) and the Los Alamos National Security, LLC (collectively, the "Permittees") are in agreement to schedule changes to the March 1, 2005 Order on Consent. The agreement was signed by the NMED Secretary on June 18, 2007.

Public comments were solicited by NMED on the proposed schedule changes for a period of 60 days from November 27, 2007 to January 26, 2007. NMED also held a public meeting on December 7, 2006, during which NMED provided additional information on the proposed changes. Comments concerning the schedule changes were received from one commenter. No changes were made to the proposed schedule based on the comments. The final schedule tables and the response to comments can be viewed on the Department's web page at www.nmenv.state.nm.us/hwb/lanlperm.html under Order Schedule Change (2006).

Sincerely,

A handwritten signature in black ink, appearing to read "John E. Kieling".

John E. Kieling
Program Manager
Permits Management Program
Hazardous Waste Bureau



16378

2006 LANL CONSENT ORDER SCHEDULE CHANGES
RESPONSE TO COMMENTS
June 29, 2007

NMED received comments from one commenter, Los Alamos County. The comments and NMED's responses are below.

Comment #1

Timing: NMED and DOE must be committed to quick cleanup actions and review of documents. Too often through this process either the work gets started late or the review of the reports that identify the plans for remediation or steps taken to remediate a site take an inordinate amount of time to review. The County knows that all of the parties are committed to cleanup the historical contamination at LANL. However, the County needs the parties to undertake the actions in accordance with the schedule provided in the Compliance Order on Consent in March 2005. The continued extensions of time to cleanup the site is not an "accelerated" cleanup as the presentation to the community on this issue would suggest. Further delay in the cleanup does not help the citizens of Los Alamos and the State of New Mexico. Instead of delay, can DOE commit additional funds to cleanup the contamination on an accelerated basis as it did at Rocky Flats, Fernald, and Mound sites?

The current schedule represents at least one large delay due to the changes proposed in late 2005 and NMED and LANL are proposing a further delay to that schedule. It is critical to the health and welfare of Los Alamos County and its residents that cleanup proceed as originally scheduled. Los Alamos County requests that NMED and DOE/LANL complete cleanup by the dates provided in the Compliance Order on Consent as it was agreed to in March 2005 and amended in early 2006, and sooner whenever possible.

Response #1

NMED is committed to a timely cleanup of LANL's historical contamination. The cleanup schedule in the March 2005 Compliance Order on Consent (Order) has changed over time to accommodate review times and time extension requests. Although not anticipated, all parties recognize that both situations could potentially occur as priorities change. For example, the chromium detected in regional groundwater well R-28 meant the redirection of NMED's resources from the review of one document on the schedule (*Mortandad Canyon Investigation Report*) to another (*Interim Measures Investigation Report for Chromium Contamination in Groundwater*). It also meant the acceleration of the Sandia Canyon investigation, which is now being performed earlier. Another example is the cleanup of material disposal area (MDA) V, during which larger amounts of waste than anticipated were discovered and additional time beyond the scheduled date was warranted to properly clean the site. Table XII-1 of the Order presents the due dates the parties have committed to for submitting final remedy completion reports for all major sites. These dates have not changed from the March 2005 Order (except for MDA B which had been accelerated, and MDA G which was subject to a late review) and

continue to represent the parties' commitment to final cleanup of LANL by 2015 as originally agreed upon.

During the past several months, NMED has made great strides in performing timely document reviews. For instance, since October 1, 2006, NMED has reviewed all documents having notice dates in this period on or before the notice dates.

NMED cannot make funding commitments on behalf of DOE, but agrees with the County that robust funding is an important component of accelerated cleanups at other DOE sites.

Comment #2

Coordination: As the process evolves, the County requests that DOE, LANS and NMED keep the County informed on the progress of the cleanup activities and milestones; and where acceleration of cleanup or missed deadlines occur and the reasons for the actions occurring. The County is committed to working with the parties to expedite a complete and safe cleanup. The County would like to receive a copy or a summary of the quarterly status reports that DOE/LANL submits to NMED on this cleanup action.

Response #2

NMED has committed to holding an annual meeting to notify the public of changes made to the cleanup schedule. These meetings provide information on what changes have occurred and the reasons for the changes. These meetings are opportunities for the public to ask questions or provide comments on the schedule changes, as well as an additional period during which written comments are solicited. In addition to the meetings, the public can access the Periodic Monitoring Reports and other documents LANL submits to NMED. The Periodic Monitoring Reports present the results of all water, vapor, and remediation monitoring performed during a specific period. These reports are available at www.nmenv.state.nm.us/hwb/lanlperm.html. Finally, NMED encourages the County to continue to avail itself of NMED staff familiar with individual sites of interest to the County.

The schedule changes proposed in this action are due either to extension requests made by LANL and granted by NMED, or to failure of NMED to meet notice dates in the Consent Order, with the following exceptions:

- MDA L Investigation Report – Changed notice date to accommodate additional work we are requiring.
- MDA B Investigation/Remediation Work Plan – Changed notice date to accommodate submittal of a remediation work plan instead of investigation work plan.
- MDA B Remedy Completion Report – Changed notice date to accommodate submittal of a remediation work plan instead of investigation work plan.
- MDA G CME Work Plan – Changed notice date to accommodate additional work we are requiring.

Comment #3

Shipping of hazardous and radioactive waste. Currently, multiple shipments are planned per day. DOE, LANL and NMED should coordinate with Los Alamos County to ensure that these shipments occur at times and through routes that accomplish the parties' goals and are not disruptive to the community. Any impact on local roadway infrastructure should be avoided whenever possible and repairs budgeted into project budgets where impacts are likely.

Response #3

The Permittees are required to comply with all applicable local, state and federal regulations during corrective action activities, including those relating to transportation of wastes. However, transportation issues are beyond NMED's regulatory and statutory authority. Hence, NMED cannot impose any conditions related to these concerns on the Permittees. NMED nevertheless urges the Permittees and the County to coordinate transportation routes and shipping schedules to accommodate the County's concerns.

Comment #4

Land Use Controls. As cleanup progresses, any land use control discussions that evolve from this risk based cleanup should be coordinated with the County.

Response #4

NMED agrees that any land use controls or deed restrictions that may limit future use of property to a particular use scenario for property intended to be transferred to the County should be discussed with the County. This process is contemplated in the Consent Order at Section III.Y.

Comment #5

Support the Cleanup. The County supports the cleanup actions, as it is critical for the continued health safety and welfare of the community.

Response #5

No response necessary.