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Permit



NEW MEXICO ENVIRONMENT DEPARTMENT



Hazardous Waste Bureau

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CERTIFIED MAIL - RETURN RECEIPT REQUESTED

July 15, 2008

David Gregory
Federal Project Director
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David McInroy
Remediation Services Deputy Project Director
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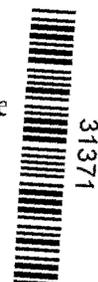
RE: LIST OF DOCUMENTS SUBJECT TO STIPULATED PENALTIES UNDER THE MARCH 1, 2005 CONSENT ORDER FOR FEDERAL FISCAL YEAR 2009

Dear Messrs. Gregory and McInroy:

On June 24, 2008, the New Mexico Environment Department (NMED) forwarded to the U.S. Department of Energy and the Los Alamos National Security, L.L.C. (collectively, the "Respondents") a list of submittals required by the March 1, 2005 Consent Order (Order) due to NMED during federal fiscal year (FFY) 09 that NMED proposed to be subject to stipulated penalties. Section III.G.1 of the Order requires that the Permittees and NMED confer on the proposed stipulated penalties list for the upcoming FFY on or before June 30th. In an email dated June 26, 2008, NMED, DOE, and LANS (the conferees) agreed to discuss the proposed stipulated penalties list after June 30th.

In a letter dated July 10, 2008, the Respondents indicated their disagreement with the submittal dates of six documents on the proposed list. NMED has carefully considered the Respondents' proposal, and offers the following response, addressed in the order presented in your letter.

- 2. Middle LA Canyon Phase II Work Plan - In the Investigation Report for the subject canyon, the Respondents proposed that a "... Phase II investigation work plan will be developed and submitted to NMED within 6 months of approval..." NMED approved the Report, and the aforementioned passage, on May 23, 2008. The due date is therefore one that the Respondents proposed and NMED approved without



change. NMED cannot agree to change this date, and therefore rejects the proposed change.

3. R-38 Well Completion Report – NMED's intent to place regional well completion milestones – especially those related to Corrective Measures Evaluations – on the stipulated penalty list underscores the importance NMED places on this work. R-38 supports the CME for MDAs-H and -L, and therefore is a crucial step for the Respondents to meet major out-year cleanup milestones. NMED therefore rejects the proposed submittal change.
6. PCI-2 Well Completion – NMED recognizes that installation of PCI-2 is dependent on results from PCI-1, and so is not yet required. In the event PCI-2 is not required, the Respondents would not have a compliance milestone for this well completion. If PCI-2 is required, demonstration that the well is completed in compliance with IV.A.3.e.iv. of the Order must be submitted by May 29, 2009.
7. R-MDA-C Well Completion Report – NMED does not agree that siting of this well is dependent on other work being completed at MDA-C. In fact, NMED believes the location of this well has already been decided. NMED therefore rejects the proposed change.
8. Lower Sandia Canyon Aggregate Area Investigation Work Plan – The due date for this document is included in the schedule of the original Consent Order, dated March 1, 2005. Changes to Consent Order milestones, especially those listed in the tables in Section XII, are made through the appropriate procedures outlined in the Order (e.g., III.J.2), not through informal conference over documents subject to stipulated penalties.
13. North Canyons Investigation Report -- The due date for this document is included in the schedule of the original Consent Order, dated March 1, 2005. Changes to Consent Order milestones, especially those listed in the tables in Section XII, are made through the appropriate procedures outlined in the Order (e.g., III.J.2), not through informal conference over documents subject to stipulated penalties. Should the Respondents be unable to obtain access for the subject alluvial well, NMED expects documentation of their due diligence in seeking to obtain access in the Investigation Report.

NMED believes the intent of III.G.1 of the Order is to identify documents or submittals to be subject to stipulated penalties. The section envisions that these documents – and their due dates – have already been defined. Therefore, the process of selecting these documents and conferring about the proposed list is an exercise in identifying submittals, not negotiating due dates.

In accordance with Section III.G.1 of the Order, NMED hereby transmits the finalized list of documents subject to stipulated penalties for FFY09 to the Respondents.

Messrs. Gregory and McInroy
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Should you have any questions, please feel free to contact me at (505) 476-6016.

Sincerely,



James P. Bearzi
Chief
Hazardous Waste Bureau

cc: J. Kieling, NMED HWB
D. Cobrain, NMED HWB
K. Roberts, NMED HWB
A. Vollmer, NMED HWB
C. deSaillan, NMED OGC
L. King, EPA 6PD-N
S. Stiger, ADEP, MS J591
G. Rael, DOE LASO, MS A316
file: Reading and LANL General Consent Order

Messrs. Gregory and McInroy

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Consent Order Stipulated Penalty Documents for Federal Fiscal Year 2009

	Deliverable	Consent Order Submittal Date
1	MDA G Final SVE Pilot Study Report	10/31/2008
2	Middle Los Alamos Canyon Aggregate Area Phase II Work Plan	11/14/2008
3	R-38 Well Completion Report	12/28/2008
4	MDA C Phase II Investigation Report	1/21/2009
5	MDA T Vapor Monitoring Report (4 th Quarter)	2/14/2009
6	PCI-2 Well Completion Report	5/29/2009
7	R-MDA C (temporary designation) Well Completion Report	3/30/2009
8	Demonstration of LAI-TA-53 Well Completion	3/30/2009
9	Lower Sandia Canyon Aggregate Area Investigation Work Plan	4/30/2009
10	R-44 Well Completion Report	5/30/2009
11	R-45 Well Completion Report	5/30/2009
12	Interim Facility-Wide Groundwater Monitoring Plan	5/30/2009
13	Upper Los Alamos Canyon Aggregate Area Investigation Report	5/31/2009
14	North Canyons Investigation Report	6/30/2009
15	Cañada del Buey Investigation Report	8/31/2009