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## INDIAN PUEBLO

ESPANOLA, NEW MEXICO  
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OFFICE OF GOVERNOR

August 18, 2009

*Via Hand-Delivery and First-Class Mail*

Hon. Ron Curry  
Cabinet Secretary  
New Mexico Environment Department  
P.O. Box 5469  
Santa Fe, NM 87502-5469

**Re: Requesting Assurances of Continued Government-to-Government Consultation with the New Mexico Environment Department ("NMED") on Key Matters Associated with the July 6, 2009 Revised Draft Hazardous Waste Permit for Los Alamos National Laboratory ("LANL"), EPA Identification Number NM0890010515 ("RCRA Permit") and the March 1, 2005 Compliance Order on Consent ("Consent Order")**

Dear Secretary Curry:

Santa Clara Pueblo is delighted to be working with NMED to develop an historic, comprehensive Memorandum of Agreement ("MOA") between our two governments which will set forth the framework and protocols for all specific interactions between the Pueblo's Office of Environmental Affairs ("OEA") and NMED. We also commend NMED for its ongoing efforts to work with the New Mexico Pueblos and Tribes to update NMED's Tribal Consultation Plan. Once NMED's final draft Tribal Consultation Plan is finalized, we hope to draw upon it as we establish more specific protocols in the Santa Clara Pueblo-NMED MOA. In addition, the Pueblo specifically thanks your Hazardous Waste Bureau for the Bureau's continued outreach to the Pueblo's OEA regarding comments Santa Clara Pueblo made to the August 2007 draft of the RCRA Permit for LANL operations. We understand a revised draft RCRA Permit was issued this summer for public comment, and we are pleased that the revised draft permit addresses a number of concerns raised by the Pueblo in its comments on the original draft permit.

As a result of the many interactions and discussions about the original draft and recently-issued revised draft RCRA Permit, staff from the Pueblo's OEA and the NMED's Hazardous Waste Bureau have identified key areas of on-going interest to the Pueblo that relate both to the RCRA

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Permit and the Consent Order regarding LANL. Those key areas are:

1. Any changes that occur or are contemplated to the status of, or the production of documents concerning, NMED guidance documents used for corrective action under the RCRA Permit or the Consent Order;
2. Any changes that occur or are contemplated to the status of, or the production of documents concerning, the Federal Facilities Compliance Order addressing mixed wastes at LANL;
3. The issuance of, or changes to the status of, major documents concerning corrective action at LANL, whether issued under the RCRA Permit or the Consent Order, such as: Corrective Measures Evaluation Reports; Corrective Measures Implementation Plans; Long-term Monitoring and Maintenance Plans; Variance Requests to Clean-up Levels; Corrective Action Complete Determinations; and Land Transfers;
4. Closure and post-closure care at LANL governed by the RCRA Permit; and
5. Any modifications of the RCRA Permit or extensions of deadlines in the Consent Order.

Santa Clara Pueblo wishes to ensure it is timely informed about these issues so that any comments or concerns the Pueblo may have will be given timely and deliberate consideration by NMED as NMED fulfills its regulatory oversight of LANL hazardous waste treatment, storage, and clean-up activities.

We expect these specific issues for government-to-government consultation will be included in the Pueblo-NMED MOA being developed now. However, because NMED is seeking comments before September 4, 2009 regarding the revised RCRA Permit, Santa Clara Pueblo would like to receive assurances sooner from NMED that these specific issues will be ones for which NMED is committed to assuring on-going government-to-government consultation with the Pueblo. Because neither the updated NMED Tribal Consultation Plan nor the new comprehensive MOA has yet been finalized, we invoke here NMED's still-existing Pilot Tribal Consultation Plan, transmitted by then-Deputy Secretary Derrith Watchman-Moore to Governor Richardson on June 21, 2005 to respectfully request assurances of government-to-government consultation regarding the RCRA Permit and Consent Order issues outlined above. We invoke this NMED Pilot Tribal Consultation Plan, along with Executive Order No. 2005-2004, *Statewide Adoption of Pilot Tribal Consultation Plans* (Feb. 1, 2005) and the *Statement of Policy and Process* executed by Governor Richardson and the Governors of the nineteen Pueblos (Jan. 17, 2003) as an interim measure until such time as the updated NMED Tribal Consultation Plan and the Pueblo-NMED MOA are finalized.

The Pueblo looks forward to working with NMED on the completion of the Pueblo-NMED MOA and is eager to get those meetings underway as soon as possible. We trust you will view this request as an important interim measure to keep us all on the right track and hope to receive the requisite assurances from you soon.

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Sincerely,

A handwritten signature in black ink, appearing to read "Walter Dasheno". The signature is fluid and cursive, with a long horizontal stroke at the end.

Walter Dasheno  
Governor

cc: NMED Deputy Secretary Jon Goldstein  
NMED Hazardous Waste Bureau Chief James Bearzi  
NMED Tribal Liaison Milton Bluehouse, Jr.  
NMED Counsel Kathryn Becker  
Santa Clara Pueblo Tribal Council  
Santa Clara Office of Intergovernmental Affairs Director Florine Gutierrez  
Santa Clara Office of Environmental Affairs Director Joseph M. Chavarria  
Santa Clara Counsel Jessica Aberly