

 ENTERED

STATE OF NEW MEXICO
BEFORE THE SECRETARY OF ENVIRONMENT

IN THE MATTER OF:)
)
APPLICATION OF THE UNITED STATES)
DEPARTMENT OF ENERGY AND)
LOS ALAMOS NATIONAL SECURITY LLC)
FOR A HAZARDOUS WASTE FACILITY)
PERMIT FOR LOS ALAMOS NATIONAL)
LABORATORY, and the)
NOTICE OF INTENT TO DENY A PERMIT)
FOR OPEN BURN UNITS TA-16-388 AND)
TA-16-399 FOR LOS ALAMOS NATIONAL)
LABORATORY.)
_____)

Nos. HWB 09-37 (P)
HWB 10-04 (P)
Consolidated



NEW MEXICO ENVIRONMENT DEPARTMENT'S
STATEMENT OF INTENT TO
PRESENT TECHNICAL TESTIMONY

Pursuant to the Environment Department's Permit Procedures, 20.1.4.300.B(1) NMAC, and the Revised Scheduling and Procedural Order, entered on February 15, 2010, the New Mexico Environment Department ("Department") hereby submits its Statement of Intent to Present Technical Testimony at the public hearing on the Department's proposed draft Hazardous Waste Facility Permit ("Proposed Permit"), issued for public comment on February 2, 2010, for Los Alamos National Laboratory ("LANL"), and on the Department's notice of intent to deny the permit for open burning at LANL Technical Area 16 ("Notice of Intent to Deny"), also issued for public comment on February 2, 2010. The hearing is scheduled to begin on April 5, 2010, at Santa Fe Community College.

In accordance with 20.1.4.300.B(1) NMAC, the Department states as follows:

1. The name of the person filing this Statement is the New Mexico Environment Department.



2. The Department supports the Proposed Permit and supports the Notice of Intent to Deny.

3. The name and affiliation of each witness are as follows:

- A. James P. Bearzi
Chief, Hazardous Waste Bureau
New Mexico Environment Department
Santa Fe, New Mexico
- B. Steve Pullen
Hazardous Waste Bureau
New Mexico Environment Department
Santa Fe, New Mexico
- C. Rebecca J. Cram
Hazardous Waste Bureau
New Mexico Environment Department
Santa Fe, New Mexico
- D. Dave Cobrain
Hazardous Waste Bureau
New Mexico Environment Department
Santa Fe, New Mexico
- E. Jerzy Kulis
Hazardous Waste Bureau
New Mexico Environment Department
Santa Fe, New Mexico
- F. Paige Walton
AQS, Inc.
Salt Lake City, Utah
- G. Kathryn Roberts
Hazardous Waste Bureau
New Mexico Environment Department
Santa Fe, New Mexico
- H. Mohamed Nur
TechLaw, Inc.
Fairfax, Virginia

I. James D. Werner
Delaware Department of Natural Resources and Environmental Control
Wilmington, Delaware

J. The Department may call additional witnesses in rebuttal.

4. The direct testimony of each witness is estimated to be for the following lengths of time:

A. James P. Bearzi: Ninety minutes

B. Steve Pullen: Ninety minutes

C. Rebecca J. Cram: Sixty minutes

D. David Cobrain:: Sixty minutes

E. Jerzy Kulis: Thirty minutes

F. Paige Walton: Sixty minutes

G. Kathryn Roberts: Twenty minutes

H. Mohamed Nur: Thirty minutes

I. James D. Werner: Sixty minutes

5. The Department intends to offer the following exhibits into evidence at the hearing:

Exhibit 1: Proposed Hazardous Waste Facility Permit for Los Alamos National Laboratory (Feb. 2, 2010).

Exhibit 2: Intent to Deny TA-16 Treatment Units (Feb. 2, 2010).

Exhibit 3: Written Testimony of James P. Bearzi.

Exhibit 4: Resume of James P. Bearzi.

Exhibit 5: Most Recent LANL Part A and B Permit Applications.

Exhibit 6: Index to the Administrative Record.

Exhibit 7: Stipulated Final Order (May 20, 2002).

Exhibit 8: Stipulated Final Order (Dec. 2, 2002).

Exhibit 9: Stipulated Final Order (Jan. 16, 2004).

Exhibit 10: Administrative Order (Apr. 23, 2001).

Exhibit 11: Notice of Violation (Mar. 31, 2003).

Exhibit 12: Settlement Agreement and Stipulated Final Order NO HWB 04-01 (Sept. 23, 2005).

Exhibit 13: Notice of Violation (April 20, 2005).

Exhibit 14: Settlement Agreement and Stipulated Final Order NO HWB 05-03 (Sept. 12, 2005).

Exhibit 15: Notice of Violation (April 3, 2006).

Exhibit 16: Settlement Agreement and Stipulated Final Order NO HWB 08- (Jan. 24, 2008).

Exhibit 17: Settlement Agreement and Stipulated Final Order NO HWB 07-10 (CO) (Apr. 10, 2007).

Exhibit 18: Notice of Violation (Oct. 25, 2006).

Exhibit 19: Notice of Violation (Jan. 22, 2007).

Exhibit 20: Settlement Agreement and Stipulated Final Order NO HWB 08-33 (CO) (Aug. 20, 2008).

Exhibit 21: Applicants' Request for Waiver from the Groundwater Monitoring Requirements at MDA G and MDA L at TA-54 (July 26, 1984).

Exhibit 22: Applicants' Request for Waiver from the Groundwater Monitoring Requirements at MDA P and the TA-16 Open Burn Ground (Dec. 15, 1987).

Exhibit 23: Applicants' Request for Waiver from the Groundwater Monitoring Requirements at TA-35 Surface Impoundment (Mar. 22, 1989).

Exhibit 24: Applicants' Request for Waiver from the Groundwater Monitoring Requirements at from TA-53 Surface Impoundments (Apr. 1, 1992).

Exhibit 25: N.M. Environment Dept., Denial of Requests for Waivers from Groundwater Monitoring Requirements (May 30, 1995).

Exhibit 26: Compliance Order on Consent (Mar. 1, 2005).

Exhibit 27: Letter from N.M. Environment Dept., to Dept. of Energy & Los Alamos National Security LLC: *Well Evaluations for Intermediate and Regional Wells* (Apr. 5, 2007).

Exhibit 28: Letter from N.M. Environment Dept., to Dept. of Energy & Los Alamos National Security LLC: *Direction to Rehabilitate Wells. Pilot Well Rehabilitation Study Summary Report* (Apr. 27, 2007).

Exhibit 29: Letter from N.M. Environment Dept., to the Applicants: *Approval with Direction. Drilling Work Plan for Regional and Intermediate Wells at Technical Area 54*(Dec. 7, 2007).

Exhibit 30: Letter from N.M. Environment Dept., to Dept. of Energy & Los Alamos National Security LLC: *Denial Request for Extension to Submit the Corrective Measures Evaluation Report for Material Disposal Area G, Consolidated Unit 54-013(b)-99, at Technical Area 54*(Aug. 14, 2008).

Exhibit 31: Letter from N.M. Environment Dept., to Dept. of Energy & Los Alamos National Security LLC: *Intent to Assess Stipulated Penalties, Corrective Measures Evaluation Report for Material Disposal Area G, Consolidated Unit 54-013(b)-99, at Technical Area 54* (Sept. 26, 2008).

Exhibit 32: Letter from N.M. Environment Dept., to Dept. of Energy & Los Alamos National Security LLC: *Denial Request for Extension to Submit a Revised Corrective Measures Evaluation Report* (Jan. 7, 2009).

Exhibit 33: Letter from N.M. Environment Dept., to Dept. of Energy & Los Alamos National Security LLC: *Preliminary Review. Corrective Measures Evaluation Report for Material Disposal Area G, Consolidated Unit 54-013(b)-99, at Technical Area 54, Revision 1* (Oct. 9, 2009).

Exhibit 34: Letter from N.M. Environment Dept., to Dept. of Energy & Los Alamos National Security LLC: *Proposed Integrated Well-Installation Schedule* (Nov. 2, 2009).

Exhibit 35: Letter from N.M. Environment Dept., to Dept. of Energy & Los Alamos National Security LLC: *Requirement to Conduct Reliability Assessment of Multi-Screened Westbay Wells* (Feb. 11, 2010).

Exhibit 36: Notice of Violation (July 12, 2006).

Exhibit 37: Settlement Agreement and Stipulated Final Order NO HWB 07-03 (Feb. 23, 2007).

Exhibit 38: Intent to Assess Stipulated Penalties for the *Investigation Report for Corrective Action of SWMU 73-002 and Consolidated Unit 73-002-99* (Sept. 13, 2006).

Exhibit 39: First Demand for Payment: *Stipulated Penalty for the Investigation Report for Corrective Action of SWMU 73-002 (Incinerator Ashpile Removal)* (Oct. 13, 2006).

Exhibit 40: Second Demand for Payment: *Stipulated Penalty for the Investigation Report for Corrective Action of SWMU 73-002 (Incinerator Ashpile Removal)* (Dec. 7, 2006).

Exhibit 41: Third Demand for Payment: *Stipulated Penalty for the Investigation Report for Corrective Action of SWMU 73-002 (Incinerator Ashpile Removal)*(May 3, 2007).

Exhibit 42: Fourth Demand for Payment: *Stipulated Penalty for the Investigation Report for Corrective Action of SWMU 73-002 (Incinerator Ashpile Removal)*(June 8, 2007).

Exhibit 43: Fifth Demand for Payment: *Stipulated Penalty for the Investigation Report for Corrective Action of SWMU 73-002 (Incinerator Ashpile Removal)*(July 5, 2007).

Exhibit 44: Sixth Demand for Payment: *Stipulated Penalty for the Investigation Report for Corrective Action of SWMU 73-002 (Incinerator Ashpile Removal)*(August 13, 2007).

Exhibit 45:Seventh Demand for Payment: *Stipulated Penalty for the Investigation Report for Corrective Action of SWMU 73-002 (Incinerator Ashpile Removal)*(October 29, 2007).

Exhibit 46: Eighth Demand for Payment: *Stipulated Penalty for the Investigation Report for Corrective Action of SWMU 73-002 (Incinerator Ashpile Removal)*(Dec. 11, 2007).

Exhibit 47: Notice of Violation (Chromium) (Sept. 15, 2006).

Exhibit 48: Settlement Agreement and Stipulated Final Order HWB NO 07-27 (CO) (June 14, 2007).

Exhibit 49: Intent to Assess Stipulated Penalties: *Investigation Report for Material Disposal Area C, Solid Waste Management Unit 50-009, at Technical Area 50* (Dec. 20, 2006).

Exhibit 50: First Demand for Payment: Stipulated Penalties for the *Investigation Report for Material Disposal Area C, Solid Waste Management Unit 50-009, at Technical Area 50* (Jan. 8, 2007).

Exhibit 51: Second Demand for Payment: Stipulated Penalties for the *Investigation Report for Material Disposal Area C, Solid Waste Management Unit 50-009, at Technical Area 50* (Feb. 9, 2007).

Exhibit 52: Third Demand for Payment: Stipulated Penalties for the *Investigation Report for Material Disposal Area C, Solid Waste Management Unit 50-009, at Technical Area 50* (Mar. 8, 2007).

Exhibit 53: Fourth Demand for Payment: Stipulated Penalties for the *Investigation Report for Material Disposal Area C, Solid Waste Management Unit 50-009, at Technical Area 50* (Apr. 11, 2007).

Exhibit 54: Final Demand for Payment: Stipulated Penalties for the *Investigation Report for Material Disposal Area C, Solid Waste Management Unit 50-009, at Technical Area 50* (Apr. 26, 2007).

Exhibit 55: Demand for Interest: Stipulated Penalties for the *Investigation Report for Material Disposal Area C, Solid Waste Management Unit 50-009, at Technical Area 50* (Oct. 2, 2007).

Exhibit 56: Intent to Assess Stipulated Penalties: *Delta Prime Site Aggregate Area Investigation Report, at Technical Area 21*(Nov. 20, 2007).

Exhibit 57: *Reply to LANL's Response to the Intent to Assess Stipulated Penalties, Delta Prime Site Aggregate Area Investigation Report, Technical Area 21* (Dec. 18, 2007).

Exhibit 58: First Demand for Payment: Stipulated Penalties: *Delta Prime Site Aggregate Area Investigation Report, at Technical Area 21*(Jan. 7, 2008).

Exhibit 59: Second Demand for Payment: Stipulated Penalties: *Delta Prime Site Aggregate Area*

Investigation Report, at Technical Area 21(Feb. 11, 2008).

Exhibit 60: Third Demand for Payment: Stipulated Penalties: *Delta Prime Site Aggregate Area Investigation Report, at Technical Area 21*(Mar., 19, 2008).

Exhibit 61: Fourth Demand for Payment: Stipulated Penalties: *Delta Prime Site Aggregate Area Investigation Report, at Technical Area 21*(Apr. 4, 2008).

Exhibit 62: Demand for Interest: *Delta Prime Site Aggregate Area Investigation Report, at Technical Area 21*(June 24, 2008).

Exhibit 63: Notice of Violation and Resolution for the *Status Report for Supplemental Sampling at Material Disposal Area (MDA) A, Technical Area 21*(Jan. 4, 2008).

Exhibit 64: Intent to Assess Stipulated Penalties for the *Corrective Measures Evaluation Report for Material Disposal Area G, Consolidated Unit 54-013(b)-99* (Sept. 26, 2008).

Exhibit 65: First Demand for Payment: Stipulated Penalties for the *Corrective Measures Evaluation Report for Material Disposal Area G, Consolidated Unit 54-013(b)-99* (Jan. 26, 2009).

Exhibit 66: Second Demand for Payment: Stipulated Penalties for the *Corrective Measures Evaluation Report for Material Disposal Area G, Consolidated Unit 54-013(b)-99* (Nov. 23, 2009).

Exhibit 67: Intent to Assess Stipulated Penalties for the *Periodic Monitoring Report for Vapor-Sampling Activities at Material Disposal Area T (MDA-T), Consolidated Unit 21-016(a)-99, Technical Area 21, Fiscal Year 2008* (Feb. 25, 2009).

Exhibit 68: First Demand for Payment: Stipulated Penalties for the *Periodic Monitoring Report for Vapor-Sampling Activities at Material Disposal Area T (MDA-T), Consolidated Unit 21-016(a)-99, Technical Area 21, Fiscal Year 2008* (May 22, 2009).

Exhibit 69: Second Demand for Payment: Stipulated Penalties for the *Periodic Monitoring Report for Vapor-Sampling Activities at Material Disposal Area T (MDA-T), Consolidated Unit 21-016(a)-99, Technical Area 21, Fiscal Year 2008* (Sept. 15, 2009).

Exhibit 70: Notice of Violation (MCOBT-4.4) (May 22, 2009).

Exhibit 71: Settlement Agreement and Stipulated Final Order HWB 09-48 (CO) (Dec. 1, 2009).

Exhibit 72: July 6, 2009 Revised Fact Sheet.

Exhibit 73: Second Stipulation to the Proposed Permit Language.

Exhibit 74: Document indicating that there are more than 1,000 computers available for public use in connecting to the Internet at locations in northern New Mexico.

Exhibit 75: *Los Alamos Area Potential Lineaments Aligned with Holocene Faulting; TA-55- Bldg. 185, TA-54 – Bldg 39, and TA-54 – Dome 375* (Demonstrative Exhibit).

Exhibit 76: *Update of the Probabilistic Seismic Hazard Analysis and Development of Seismic Design Ground Motions at the Los Alamos National Laboratory*, URS Corp. (25 May 2007).

Exhibit 77: Letter from David Bussard, EPA Office of Solid Waste, to J.C. Mulligan (Jun. 1, 1990).

Exhibit 78: Letter from Elizabeth A. Cotsworth, EPA Office of Solid Waste, to S. Pendleton (Apr. 9, 1998).

Exhibit 79: Letter from Sylvia K. Lowrance, EPA Office of Solid Waste, to T.A. Hopkins (Aug. 15, 1990) (R.O. 11551).

Exhibit 80: Memorandum from Marcia E. Williams, EPA Office of Solid Waste, to W.A. Whittington (Dec. 21, 1987) (R.O. 13112).

Exhibit 81: Letter and Position Paper advising the Department that the Dept. of Energy & Los Alamos National Security LLC have diverted treated wastewater to impoundments at TA-53 (Feb. 21, 2008).

Exhibit 82: AR 30439 – RLWTF

Exhibit 83: Pits, Trenches, and Shafts at MDA G (Consolidated Unit 54-013(b)-99 (Demonstrative Exhibit).

Exhibit 84: Shafts at MDA H (SWMU 54-004) (Demonstrative Exhibit).

Exhibit 85: Pits, Shafts at MDA L (SWMU 54-006) (Demonstrative Exhibit).

Exhibit 86: *Investigation Report for Material Disposal Area G, Consolidated Unit 54-013(b)-99, at TA-54, LA-UR-05-6398, at Plates 6.3-1 through 6.6-2* (Sept. 2005).

Exhibit 87: Generalized Geologic Cross Section for TA-54 (Demonstrative Exhibit).

Exhibit 88: Current Groundwater Monitoring Network at TA-54 (Demonstrative Exhibit).

Exhibit 89: Letter from Sylvia Lowrance, EPA Office of Solid Waste, to R.J. Mahoney, (Feb. 11, 1991).

Exhibit 90: *Final Permit Issued to the U.S. DOE and Westinghouse Electric Company Waste Isolation Division for a Hazardous Waste Act Permit for the Waste Isolation Pilot Plant*, HRM 98-04 (Sept. 9, 1999).

Exhibit 91: *Final Order of the Secretary* (Oct. 27, 1999).

Exhibit 92: News Release, Sen. Pete V. Domenici (Nov. 16, 1999).

Exhibit 93: *Audit Report, The Department's Progress in Meeting Los Alamos National Laboratory Consent Order Milestones*, DOE/IG-0793, at 2 (Apr. 2008).

Exhibit 94: Permit Application (6679).

Exhibit 95: Permit Application (12718).

Exhibit 96: Email from Denny to Laboratory Employees on Treatment of Hazardous Waste at TA-16.

Exhibit 97: TA-16 OB Unit Waste Treatment Forms.

Exhibit 98: Closure Plan for TA-16-388.

Exhibit 99: Closure Plan for TA-16-399.

Exhibit 100: Site Map of Los Alamos National Laboratory (Demonstrative Exhibit).

Exhibit 101: Hazardous Waste Management Units at TA-3 (Demonstrative Exhibit).

Exhibit 102: Hazardous Waste Management Units at TA-16 (Demonstrative Exhibit).

Exhibit 103: Hazardous Waste Management Units at TA-50 (Demonstrative Exhibit).

Exhibit 104: Hazardous Waste Management Units at TA-54 (Demonstrative Exhibit).

Exhibit 105: Hazardous Waste Management Units at TA-55 (Demonstrative Exhibit).

Exhibit 106: Aboveground Units at TA-54 Area G (Demonstrative Exhibit).

Exhibit 107: Aboveground Units at TA-54 Area L (Demonstrative Exhibit).

Exhibit 108: Well Construction Diagram (Demonstrative Exhibit).

Exhibit 109: Written Testimony of Steve Pullen.

Exhibit 110: Resume of Steve Pullen.

Exhibit 111: Applicants' current Hazardous Waste Facility Permit.

Exhibit 112: U.S. EPA Model RCRA Permit.

Exhibit 113: Nov. 19, 1987 Office of Solid Waste and Emergency Response Directive.

Exhibit 114: U.S. EPA July 1995 model (HSWA) Module, Section A.

Exhibit 115: DOE "Nordhaus Memo" regarding interpretation of the term "atomic energy defense activities (Sept. 9, 1996).

Exhibit 116: Los Alamos National Laboratory guidance, Waste Generator Instruction for Completing the Waste Profile Form (WPF).

Exhibit 117: *Documented Safety Analysis (DSA) for LANL Waste Characterization, Reduction, and Repackaging Facility.*

Exhibit 118: Emergency Preparedness Report - U.S. Department of Energy, Office of Inspector General's Sept. 2009 *Inspection Report.*

Exhibit 119: Steve Pullen, N.M. Environment Dept., Memo to file (Apr. 23, 2009).

Exhibit 120: Steve Pullen, N.M. Environment Dept., Memo to file (Apr. 27, 2009).

Exhibit 121: EPA, *Introduction to Tanks* (Sept. 2005).

Exhibit 122: EPA, *RCRA Guidance Manual for Subpart G Closure and Post-Closure Care Standards* (Jan. 1987).

Exhibit 123: N.M. Environment Dept., letter to Dept. of Energy & Los Alamos National Security LLC, regarding emergency response preparedness (Mar. 16, 2010).

Exhibit 124: Mar. 5, 2010 EPA memorandum, *Preparedness and Prevention Requirements for RCRA TSDFs.*

Exhibit 125: Permit Modification Request (PMR) from the Applicants received on Mar. 3, 2010.

Exhibit 126: Department Approval of Permit Modification Request (PMR) (Mar. 17, 2010).

Exhibit 127: Department's Mar. 17, 2010 letter to the Applicants titled *Proposed Revised Language for Draft Renewal Permit* (Proposed Permit).

Exhibit 128: Written Testimony of Rebecca J. Cram.

Exhibit 129: Resume of Rebecca Cram.

Exhibit 130: Proposed Permit Language for Part 9 and Attachment G (Closure Plans).

Exhibit 131: EPA Guide for Decontaminating Buildings, Structures, and Equipment at Superfund Sites.

Exhibit 132: Written Testimony of David Cobrain.

Exhibit 133: Resume of Dave Cobrain.

Exhibit 134: Memorandum from Elliott P. Laws, Assistant Administrator, Office of Solid Waste, EPA: *Use of the Corrective Action Advance Notice of Proposed Rulemaking as Guidance* (Jan. 17, 1997).

Exhibit 135: Risk Assessment Guidance for Superfund Volume 1: Human Health Evaluation Manual (Part A) (1989).

Exhibit 136: Technical Background Document for development of Soil Screening Levels, Volume I:

Soil Screening Guidance Technical Background Document.
<http://www.nmenv.state.nm.us/hwb/guidance.html> (2009).

Exhibit 137: *Guidance for Assessing Ecological Risks Posed by Chemicals: Screening-Level Ecological Risk Assessment* (2009).

Exhibit 138: *Assessing Ecological Risks Posed by Radionuclides: Screening-Level Radioecological Risk Assessment* (2008).

Exhibit 139: *Guidance for Evaluating the Technical Impracticability of Ground-Water Restoration, Interim Final* (Sept. 1993).

Exhibit 140: ASTM D 6286-98, *Standard Guide for Selection of Drilling Methods for Environmental Site Characterization*.

Exhibit 141: ASTM D 5092-02, *Standard Practice for Design and Installation of Ground Water Monitoring Wells in Aquifers*.

Exhibit 142: *RCRA Groundwater Monitoring: Draft Technical Guidance* (1992).

Exhibit 143: ASTM D 4700-91 *Standard Guide for Soil Sampling from the Vadose Zone*.

Exhibit 144: ASTM D 6169-98: *Standard Guide for Selection of Soil and Rock Sampling Devices Used With Drill Rigs for Environmental Investigations*.

Exhibit 145: ASTM D 2487-06: *Standard Practice for Classification of Soils for Engineering Purposes (Unified Soil Classification System)*.

Exhibit 146: ASTM D 2488-06: *Standard Practice for Description and Identification of Soils (Visual-Manual Procedure)*.

Exhibit 147: ASTM D 5314-92: *Standard Guide for Soil Gas Monitoring in the Vadose zone*

Exhibit 148: ASTM D 6452-99 *Standard Guide for Purging Methods for Wells Used for Ground-Water Quality Investigations*.

Exhibit 149: ASTM D 5903-96: *ASTM Standard Guide for Planning and Preparing for a Groundwater Sampling Event*

Exhibit 150: ASTM D 6634-01: *Standard Guide for the Selection of Purging and Sampling Devices for Groundwater Monitoring Wells*.

Exhibit 151: ASTM D 6771-02: *Standard Practice for Low-Flow Purging and Sampling for Wells and Devices Used for Ground-Water Quality Investigations*.

Exhibit 152: ASTM D 5088-02: *Standard Practices for Decontamination Procedures of Field Equipment Used at Waste Sites*.

Exhibit 153: Office of Superfund Remediation and Technology Innovation, *Contract Laboratory Program Guidance for Field Samplers* (July 2007).

Exhibit 154: Status Tables for SW-846, Third Edition (Feb. 2007).

Exhibit 155: US Dept. of the Interior & USGS: *Basic Groundwater Hydrology: Water Supply Paper 2220* (1983).

Exhibit 156: EPA: How To Evaluate Alternative Cleanup Technologies For Underground Storage Tank Sites: A Guide For Corrective Action Plan Reviewers (May 2004).

Exhibit 157: EPA Requirements for Quality Assurance Project Plans (EPA QAIR-5) (Mar. 2001).

Exhibit 158: National Environmental Laboratory Accreditation Conference (NELAC), "Environmental Laboratory Accreditation Standard, EPA/600/R-04/003 (July 2003).

Exhibit 159: US Environmental Protection Agency, "Contract Laboratory Program National Functional Guidelines for Inorganic Data Review," OSWER 9240.1-45, EPA 540-R-04-004 (Oct. 2004).

Exhibit 160: US Environmental Protection Agency, "Contract Laboratory Program National Functional Guidelines for Superfund Organic Methods Data Review," EPA-540-R-08-01 (June 2008).

Exhibit 161: ASTM D 5299-99: *Standard Guide for Decommissioning of Ground Water Wells, Vadose Zone Monitoring Devices, Boreholes, and Other Devices for Environmental Activities*

Exhibit 162: ASTM D 5521-05: *Standard Guide for Development of Ground-Water Monitoring Wells in Granular Aquifers.*

Exhibit 163: ASTM D 5730-02: *Standard Guide for Site Characterization for Environmental Purposes With Emphasis on Soil, Rock, the Vadose Zone and Groundwater.*

Exhibit 164: ASTM E 1527 – 05: *Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process.*

Exhibit 165: E 1528 – 00: *Standard Practice for Environmental Site Assessments: Transaction Screen Process.*

Exhibit 166: EPA OSWER Directive 9502.00-6D: *Interim Final RCRA Facility Investigation (RFI) Guidance Volume I of IV Development of an RFI Work Plan and General Considerations for RCRA Facility Investigations* EPA 530/SW-89-031 (May 1989).

Exhibit 167: EPA OERR Directive 9345.3-02: *Management of Investigation Derived Wastes During Site Inspections* EAP/540/G-91/009 (May 1991).

Exhibit 168: Written Testimony of Jerzy Kulis.

Exhibit 169: Resume of Jerzy Kulis.

Exhibit 170: RCRA Ground-Water Monitoring Technical Enforcement Guidance Document (Sept. 1986).

Exhibit 171: Schalla, R. et al., Selection of Sampling Pumps Used for Groundwater Monitoring at the Hanford Site (Nov. 2001).

Exhibit 172: Resonant Sonic Drilling; Innovative Technology Summary Report demonstrated at U.S. Department of Energy Hanford Site and Sandia National Laboratory Richland, WA and Albuquerque, NM (Apr. 1995).

Exhibit 173: Innovative Technology Summary Report; Cryogenic Drilling: Subsurface Contaminants Focus Area (Oct. 1996).

Exhibit 174: Written Testimony of Paige Walton.

Exhibit 175: Resume of Paige Walton.

Exhibit 176: USEPA: Johnson and Ettinger Model for Subsurface Vapor Intrusion into Buildings(1991).

Exhibit 177: USEPA (Region 8): Evaluating and Identifying Contaminants of Concern for Human Health.(1994).

Exhibit 178: USEPA Region 8. Site Conceptual Model.

Exhibit 179: USEPA 1996. Data Validation Guidance, Parts I-IV.

Exhibit 180: USEPA 1998. Guidelines for Ecological Risk AssessmentEPA/630/R-95/002F (April 1998).

Exhibit 181: USEPA: Guidance for Comparing Background and Chemical Concentrations in Soil at CERCLA Sites. EPA 540-R-01-003 (2002).

Exhibit 182: Written Testimony of Kathryn Roberts.

Exhibit 183: Resume of Kathryn Roberts.

Exhibit 184: *Directions to Investigate Magazine Area A (TA-28) and Magazine Area B (TA-29)* (Feb. 8, 2010).

Exhibit 185: Applicants' Response to Direction to Investigate Magazine Area A (TA-28) and Magazine Area (TA-29) (Feb. 26, 2010).

Exhibit 186: Department letter to the Applicants *Direction to Investigate Magazine Area A (TA-28) and Magazine Area (TA-29)* (Mar. 4, 2010).

Exhibit 187: Proposed Changes to *List K-1 (SWMUs and AOCs Requiring Corrective Action) in Attachment K*.

Exhibit 188: Testimony of Mohamed Nur.

Exhibit 189: Resume of Mohamed Nur.

Exhibit 190: Relevant Excerpts from the Environmental Cost Handling Options and Solutions (ECHOS) Database (1995).

Exhibit 191: Written Testimony of James D. Werner.

Exhibit 192: Resume of James D. Werner.

Exhibit 193: *Office of Technology Assessment (U.S. Congress), "Technologies and Management Strategies for Hazardous Waste Control," at page 16 (Mar. 1983)*.

Exhibit 194: U.S. Congress, Office of Technology Assessment, *Superfund Strategy (OTA-ITE-252) (Apr. 1985)*.

Exhibit 195: Testimony of Natural Resources Defense Council Before the Senate Committee on Governmental Affairs Regarding the Department of Energy's Five-Year Plan for Environmental Restoration and Waste Management (Nov. 14, 1989).

Exhibit 196: Testimony of Natural Resources Defense Council Comments on the Department of Energy's "Environmental Restoration and Waste Management Five-Year Plan" (DOE/S-0070) (Nov. 30, 1989).

Exhibit 197: Testimony of Natural Resources Defense Council and Environmental Policy Institute, et al., Before the House Armed Services Committee, Department of Energy Defense Nuclear Facilities Panel, "The Need for Accelerated Funding for Environmental Restoration at Department of Energy Nuclear Weapons Facilities" (May 9, 1989).

Exhibit 198: Testimony of Natural Resources Defense Council Before the House Armed Services Committee, Department of Energy Defense Nuclear Facilities Panel, "The Department of Energy's FY 1993 Budget," (Mar. 30, 1992).

Exhibit 199: Natural Resources Defense Council, Comments on the Department of Energy's "Predecisional Draft, Environmental Restoration and Waste Management Five-Year Plan (May 1992)" (Jun. 17, 1992).

Exhibit 200: *DOE Environmental Management Historical Funding Profile FY 1992-2000 (Jun. 15, 2000)*.

Exhibit 201: *Statement of Thomas P. Grumbly, Assistant Secretary for Environmental Management, U.S. Department of Energy Before the Committee on Armed Services, U.S. Senate (Apr. 25, 1995)*.

Exhibit 202: DOE Top to Bottom Review Team, *A Review of the Environmental Management*

Program (Feb. 4, 2002).

Exhibit 203: Testimony of Christine Gregoire,, Attorney General of Washington, Before the U.S. Senate Committee On Energy And Natural Resources, "Oversight Hearing on The U.S. Department of Energy Environmental Management (EM) Program's Accelerated Cleanup Initiative, and Proposed Changes To EM's Science And Technology Program," (July 11, 2002)

Exhibit 204: Statement of James A. Rispoli, Assistant Secretary for Environment Management, U.S. Department of Energy, Before the Subcommittee on Strategic Forces, Committee on Armed Services, United States Senate (Apr. 25, 2007).

Exhibit 205: *Tri-City Herald Article, "Sen. Murray rebukes DOE over Hanford budget* (Apr. 10, 2008).

Exhibit 206: *Energy Communities Alliance Newsletter, Issues 97* (Feb. 2008).

Exhibit 207: DOE Inspector General Report (Gregory Friedman), *The Department's Progress in Meeting Los Alamos National Laboratory Consent Order Milestones* (Apr. 2008).

Exhibit 208: Letter from Energy Communities Alliance to DOE Secretary Steven Chu, "*ECA Priorities For The Obama Administration,*" (Feb. 2009).

Exhibit 209: Probst, Katherine N. and Adam I. Lowe, *Cleaning Up the Nuclear Weapons Complex: Does Anybody Care?*, Center for Risk Management; Resources for the Future (Jan. 2000).

Exhibit 210: *From Cleanup to Stewardship: A Companion Report to 'Paths to Closure' and Background Information to Support the Scoping Process Required for the 1999 PEIS Settlement Study* (1998) (DOE/EM-0466) (1998).

Exhibit 211: Consent Order, State Of Tennessee Department Of Environment And Conservation Division Of Solid Waste Management, In the Matter of: U.S. Department Of Energy)) Docket No. 99-0438 (Nov. 2, 1999).

Exhibit 212: Bauer, Carl and Katherine N. Probst, *Long-Term Stewardship of Contaminated Sites Trust Funds as Mechanisms for Financing and Oversight, Discussion Paper 00-54*, (Dec. 2000).

Exhibit 213: Memorandum Of Understanding Between The U.S. Department Of Energy and the U.S. Army Corps Of Engineers Regarding Program Administration and Execution of the Formerly Utilized Sites Remedial Action Program (FUSRAP) (Mar. 17, 1999).

6. The full direct testimony of each witness is set forth in the following NMED Exhibits, which the Department is filing today:

A. The testimony of James P. Bearzi is set forth in NMED Exhibit 3.

B. The testimony of Steve Pullen is set forth in NMED Exhibit 109.

- C. The testimony of Rebecca J. Cram is set forth in NMED Exhibit 128.
- D. The testimony of David Cobrain is set forth in NMED Exhibit 132.
- E. The testimony of Jerzy Kulis is set forth in NMED Exhibit 169.
- F. The testimony of Paige Walton is set forth in NMED Exhibit 175.
- G. The testimony of Kathryn Roberts is set forth in NMED Exhibit 182.
- H. The testimony of Mohamed Nur is set forth in NMED Exhibit 188.
- I. The testimony of James D. Werner is set forth in NMED Exhibit 192.

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NEW MEXICO ENVIRONMENT DEPARTMENT

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CERTIFICATE OF SERVICE

I hereby certify that on this 19th day of March, 2010, a copy of the foregoing Statement of Intent to Present Technical Testimony was sent by first class mail or electronic mail to:

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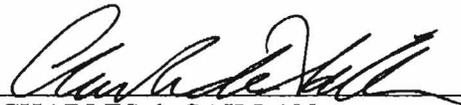
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