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CERTIFIED MAIL - RETURN RECEIPT REQUESTED

April 24, 2008

David Gregory
Federal Project Director
Los Alamos Site Office
Department of Energy
528 35th Street, Mail Stop A316
Los Alamos, NM 87544

David McInroy
Remediation Services Deputy Project Director
Los Alamos National Laboratory
P.O. Box 1663, MS M992
Los Alamos, NM 87545

RE: NOTICE OF DISAPPROVAL
INVESTIGATION REPORT FOR BAYO CANYON AGGREGATE AREA
LOS ALAMOS NATIONAL LABORATORY (LANL)
EPA ID #NM0890010515
HWB-LANL-08-006

Dear Messrs. Gregory and McInroy:

The New Mexico Environment Department (NMED) has received the United States Department of Energy (DOE) and the Los Alamos National Security L.L.C.'s (LANS) (collectively, the Permittees) Investigation Report for Bayo Canyon Aggregate Area (Report), dated March 2008 and referenced by LA-UR-08-1134/EP2008-0016. NMED has reviewed the Report and hereby issues this Notice of Disapproval (NOD).

Specific Comments:

1. Executive Summary, page vii:

Permittees Statement: "Pending DOE and Los Alamos County approval, the following actions are being planned for Consolidated Unit 10-002(a)-99.

- Maintain the Central Area under DOE administrative control, implement institutional controls to limit site access and potential strontium-90 mobilization,



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and negotiate additional actions, if needed, between DOE and the property owner (Los Alamos County).

- Remove two isolated areas of elevated strontium-90 activity identified outside of the Central Area within Consolidated Unit 10-002(a)-99 as a good stewardship practice.”

NMED Comment: See specific comment # 3.

2. Section 4.4, Excavation of Exploratory Test Pits, page 28, paragraph 1:

Permittees’ Statement: “No subsurface debris was encountered and no samples were collected from the test pits excavated at AOC 10-009. Figure 4.3-3 shows the location of the test pits excavated at AOC 10-009. Photographs of the excavation and the debris encountered are presented in Appendix D.”

NMED’s Comment: There are no photographs of the excavation or debris encountered at AOC 10-009 in Appendix D because no debris was encountered in the suspected location of AOC 10-009. The Permittees must remove the last sentence of the above statement or provide the photographs of the excavation.

3. Section 5.3, Cleanup Goals, page 30:

Permittees’ Statement: “As specified in Section VIII.B.1 of the Consent Order, the screening levels will be used as cleanup levels unless determined to be impracticable or unless SSLs do not exist for current and reasonably foreseeable future land use. If appropriate, the cleanup levels to be used in the Bayo Canyon Aggregate Area will be determined during the corrective measures evaluation.”

NMED Comment: NMED does not require submittal of a Corrective Measures Evaluation (CME) at this time. However, the Report concludes that removal of two isolated areas of elevated strontium-90 south of the radiochemistry laboratory is required. The Permittees must provide a work plan describing the removal activities at the two areas south of the radiochemistry laboratory. The Permittees must provide a schedule for submittal of the work plan with the response to this NOD.

4. Section 6.0, Site Contamination, page 31, paragraph 3:

Permittees’ Statement: “It should be noted that historical data were revalidated to current data-quality standards for this report. Therefore, analytical results and qualifiers for historical data presented in this document are not identical to the analytical results and qualifiers for the historical data used to develop the approved investigation work plan (and HIR). Thus, some data results used in establishing data-quality requirements for the approved Bayo Canyon investigation work plan may now be excluded from the current data set (and will not be presented in plates and figures).”

NMED Comment: Exclusion of the data that was utilized in determination of data gaps and subsequent sampling locations in the work plan could have resulted in additional data gaps. The Permittees must provide tables and figures depicting the data that has been excluded because of the data revalidation process. In addition, the Permittees must identify the deficiencies of any data relied upon during this investigation, including that collected during previous work. If such data is considered unreliable, it should not have been cited in the investigation work plan as the basis for proposed activities.

5. Section 6.2.2.1, Consolidated Unit 10-002(a)-99, Central Area, Radionuclides, page 37, paragraph 4:

Permittees' Statement: "The average strontium-90 activity from biota (vegetation) samples from chamisa plants within the Central Area is 97.4 pCi/g." "

NMED Comment: See specific comment # 8.

6. Section 6.2.2.2, Consolidated Unit 10-002(a)-99, Exclusive of the Central Area, Radionuclides, page 39, paragraph 3:

Permittees' Statement: "Additional soil samples (not specified in the approved investigation work plan) were collected as part of the 2007 investigation to characterize two localized areas of elevated radiation, south of the former radiochemistry building, identified during the 2007 radiological surveys. Two samples, from the surface and from a depth of approximately 1.5-3.0 ft (all in soil), were collected at four locations south of the former radiochemistry building area."

NMED Comment: The Permittees must revise the text and all applicable figures to identify the four additional sampling locations used to characterize the two areas of elevated radiation.

7. Section 8.0, Recommendations, page 51, paragraph 2:

Permittees' Statement: "Lastly, removal of two isolated areas of elevated strontium-90 activity identified south of the former radiochemistry laboratory is proposed as a good stewardship practice, pending DOE and Los Alamos County approval."

NMED Comment: The Permittees have not provided a map depicting the exact location of the two areas of elevated strontium-90, nor have they described the remedial activities proposed for these areas. The Permittees must submit such a map depicting the two locations of elevated strontium-90 with the response to this NOD. Also see specific comment # 3.

8. Appendix J, Section J-4.0, Recommendations, page J-9, paragraph 3:

Permittees' Statement: In summary, alternatives 1, 2, 3, 4, and 6 remain as viable alternatives. The final appropriate alternative for SWMU 10-007, based on radioactivity as the only issue, will be negotiated between the DOE and the current property owner, Los Alamos County."

NMED Comment: The Permittees must specify the alternative and subsequent corrective measures that will be implemented to protect the public from radioactive contamination. The Permittees must submit a report to NMED, following implementation of the corrective measures, describing the corrective action activities and whether the remedial action successfully mitigated the risk of radionuclides, specifically strontium-90, to receptors at SWMU 10-007 and the Central Area. NMED reminds the Permittees that a Certificate of Completion (COC) or a "corrective action complete without controls" cannot be obtained for this site until all remedial activities have been completed.

9. Appendix K, Geophysical Survey Report: Shrapnel Survey, Section K-1.0, Introduction and Scope, page K-1:

Permittees' Statement: "ARM Geophysics (a division of ARM Group, Inc.) performed a nonintrusive geophysical investigation using the TM-Semu instrument at former Technical Area (TA) 10 of Los Alamos National Laboratory (the Laboratory), located in Bayo Canyon, from July 19 to August 14, 2007."

NMED Comment: ARM Geophysics conducted the geophysical survey of TA-10; therefore, the Permittees must include the ARM Geophysics report as an appendix.

10. Appendix L, Geophysical Survey Report: Landfill and Buried Structures Identification Survey, Section L-1.0, Introduction and Scope, page L-1, paragraph 1:

Permittees' Statement: "From August 14 to 22, 2007, ARM Geophysics, Inc., performed a nonintrusive geophysical investigation at Bayo Canyon, Los Alamos, New Mexico."

NMED Comment: See comment # 9.

11. Appendix M, Radiological Survey Report, Section M-1.0, Introduction, page M-1, paragraph 1:

Permittees' Statement: Environmental Restoration Group, Inc. (ERG) conducted a walk-over radiological survey of portions of the former Technical Area 10 in Bayo Canyon, referred to as Bayo Canyon Aggregate Area."

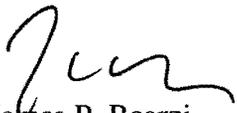
NMED Comment: See comment # 9.

Messrs. Gregory and McInroy
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The Permittees must address all comments and submit a revised Report by May 16, 2008. As part of the response letter that accompanies the revised Report, the Permittees shall include a table that details where all revisions have been made to the Report and that cross-references NMED's numbered comments. Additionally, the Permittees must provide a schedule for submittal of the work plan required in specific comment three. All submittals (including maps) must be in the form of two paper copies and one electronic copy in accordance with Section XI.A of the Order. In addition, the Permittees must submit a redline-strikeout version that includes all changes and edits to the Report (electronic copy) with the response to this NOD.

Please contact Kathryn Roberts at (505) 476-6041, should you have any questions.

Sincerely,



James P. Bearzi
Chief
Hazardous Waste Bureau

cc:

D. Cobrain, NMED HWB
K. Roberts, NMED HWB
S. Yanicak, NMED DOE OB, MS J993
T. Skibitski, NMED DOE OB
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G. Rael, DOE LASO, MS A316
S. Stiger, ENV MS J591
File: Reading and LANL '08, TA-10 [Consolidated Units: 10-001(a)-99, 10-002(a)-99;
SWMUs: 10-004(a) and 10-006, and AOCs: 10-009, C-10-001]