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CERTIFIED MAIL - RETURN RECEIPT REQUESTED

October 7, 2009

David Gregory  
Federal Project Director  
Los Alamos Site Office  
Department of Energy  
528 35<sup>th</sup> 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: NONCONCURRENCE WITH LAND TRANSFER OF TRACT A-14a, -14c, AND -  
14d (RENDIJA CANYON)  
LOS ALAMOS NATIONAL LABORATORY  
EPA ID #NM0890010515**

Dear Messrs. Gregory and McInroy:

The New Mexico Environment Department (NMED) is in receipt of the U. S. Department of Energy (DOE), National Nuclear Security Administration, Los Alamos Site Office's (LASO) written notice of intent to transfer Tract A-14a, -14c, and -14d (Rendija Canyon) to the County of Los Alamos (County) within 120 days (dated August 24, 2009). NMED has determined that the site conditions are not protective of human health in light of County's intended use of the property and does not concur with the transfer of property.

In accordance with Section III.Y.1.a of the Consent Order, representatives of NMED, DOE, Los Alamos National Laboratory, and the County met on September 16, 2009 to discuss the County's intended use of the property. LASO's August 24, 2009 notice indicated that the County intended use of the property is residential/open space/utilities. The County provided a copy of *Rendija Canyon Master Plan 2009 Update*, Draft June 15, 2009, indicating that the site is proposed to be used for recreational purposes. The land is also used by Pueblo of San Ildefonso for cultural purposes.

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The investigation results for Rendija Canyon Tract were included in the *Investigation Report for Guaje/Barrancas/Rendija Canyons Aggregate Area at Technical Area 00, Revision 1* (Report) dated November 2007, and referenced by LA-UR-07-7820/EP2007-0720. Two solid waste management units (SWMUs) 00-011(a) and 00-011(c) are located on the tract. AOC 00-015, an active firing range ("Sportsman Club"), and Tract A 14b will be retained by the DOE and is not included in the proposed transfer. SWMU 00-011(e) is located near Tract A-14a. SWMUs 00-011(a), 00-011(c), and 00-011(e) are former mortar impact areas. The SWMUs were used in mid-1940s and the operations ceased in late 1940s. The tract is partially fenced and posted with "Explosives No Trespassing" signs; nevertheless, the site is used by the public for hiking, horse riding and off-road vehicles. The Report states that geophysical surveys intended to locate subsurface munitions and munitions fragments were inconclusive. DOE and Los Alamos National Security, LLC (the Permittees) requested that NMED issue Certificates of Completion for Corrective Action Complete without Controls status for these sites.

Because high explosives mortar rounds and munitions debris were recovered from the SWMUs during visual surveys conducted in 2006 and the uncertainty associated with munitions and explosives of concern (MEC) surveys, NMED approved the report but did not issue completion certificates (see Approval with Direction, dated December 20, 2007). NMED directed the Permittees to conduct stormwater sampling and biennial visual surveys at the former firing sites and to remove any exposed MEC or munitions debris (MD). Erosion, human or animal activities, and frost heave or other geological processes are likely to unearth over time MEC/MD and pose safety hazards. To ensure public safety, the Permittees were directed to develop a procedure to work with the County, the U.S. Forest Service, and other land owners in case land development and building activities occur at the site. The Permittees were further directed to develop institutional controls procedures, such as posting warning signs, in these areas with contact information in case MEC is discovered by the public. To NMED's knowledge the Permittees are yet to develop the aforementioned procedures. The first report documenting results of the stormwater sampling and biennial survey is due to NMED by December 31, 2009.

Since current technology cannot achieve 100% clearance, and because of the safety issues should reactive debris be discovered at the site, NMED did not agree to unrestricted land use, even though analytical results indicated that site soils did not pose unacceptable risk to human health and environment based on risk screening. NMED reaffirms its position that DOE restrict public access to the property because of the potential hazards to the public.

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Should you have any questions, please contact Neelam Dhawan at (505) 476-6042.

Sincerely,



James P. Bearzi  
Chief  
Hazardous Waste Bureau

cc: N. Dhawan, NMED HWB  
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file: Reading and LANL '09 (Land Transfer, Tract A-14)