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**ENTERED**

Date: **SEP 16 2013**  
 Refer To: EP2013-0211

John Kieling, Bureau Chief  
 Hazardous Waste Bureau  
 New Mexico Environment Department  
 2905 Rodeo Park Drive East, Building 1  
 Santa Fe, NM 87505-6303

**Subject: Request for Extension to Implement Controls/Clarification of February 19, 2013, Letter Regarding the Transfer of Rendija Canyon Tracts**

Dear Mr. Kieling:

The U.S. Department of Energy–National Nuclear Security Administration (DOE-NNSA) and Los Alamos National Security, LLC (LANS) are in receipt of the New Mexico Environment Department’s (NMED’s) letter “Certificate of Completion [for] Three Solid Waste Management Units [00-011(A), 00-011(D), 00-011(E)] in Guaje/Barrancas/Rendija Canyons Aggregate Area (HWB-LANL-12-039),” dated May 7, 2013. That letter responds to the DOE-NNSA/LANS letter, dated June 28, 2012, requesting Certificates of Completion (CoCs) *without* controls for Solid Waste Management Units (SWMUs) 00-011(a), 00-011(d) and 00-011(e) in the Guaje/Barrancas/Rendija Canyons Aggregate Area. NMED’s May 7, 2013, letter granted CoCs *with* controls for these SWMUs and specified several controls to be implemented and documentation to be submitted to NMED by September 30, 2013.

The controls were based on a February 19, 2013, letter from DOE-NNSA to NMED that identified actions DOE-NNSA is committed to undertaking before transfer of the Rendija Canyon tracts to Los Alamos County (the County). As explained in detail below, this letter was not intended to be a request for a CoC with controls under the March 1, 2005, Compliance Order on Consent (Consent Order). Rather, it was intended to specify the actions DOE-NNSA would commit to take to expedite the transfer of the Rendija Canyon tracts to the County. However, it was clear from NMED’s May 7, 2013, letter that NMED believed the February 19, 2013, letter was related to the June 28, 2012 request for CoCs without controls.

DOE-NNSA/LANS staff met with NMED staff on July 24, 2013, in an attempt to explain the confusion between the June 28, 2012, request for CoCs without controls under the Consent Order, and the February 29, 2013, letter identifying actions to be taken before the transfer of the Rendija tracts. Based on subsequent communications between DOE-NNSA/LANS and NMED staff, we believe that we have not resolved the issue, and we would like to schedule a meeting with NMED management to further discuss this issue.



The purpose of this letter is twofold: first, to explain in writing before our requested meeting the distinction between the request by DOE-NNSA/LANS for CoCs under the Consent Order (the June 28, 2012, letter), and DOE-NNSA's February 19, 2013, letter committing to actions to facilitate the transfer of Rendija Canyon tracts to the County; and second, to request an extension of the September 30, 2013, deadline to implement the controls required in NMED's May 7, 2013, letter.

The June 28, 2012, letter was submitted by both DOE-NNSA and LANS, acting as cosignatories under the Consent Order, to request CoCs without controls for three SWMUs in the Guaje/Barrancas/Rendija Canyons Aggregate Area. The letter explicitly stated that it was a request made pursuant to Section VII.E.6.b of the Consent Order (Certification of Completion). The February 19, 2013, letter was sent by DOE-NNSA only, acting as the owner of three tracts of property in Rendija Canyon (Tracts A-14a, A-14c, and A-14d) being prepared for conveyance and transfer to the County. The letter of February 19, 2013, made no reference to Section VII.E.6.b of the Consent Order. The February letter was intended to identify actions that would be undertaken by DOE-NNSA before transfer of the property and to request NMED concurrence with the approach proposed. The February letter was part of a series of correspondence between NMED and DOE-NNSA that pertained exclusively to the issue of transferring the Rendija Canyon Tracts to the County. On July 13, 2012, DOE-NNSA sent a letter to NMED requesting NMED withdraw its nonconcurrence with the conveyance of the Rendija Canyon tracts to the County. NMED responded on November 5, 2012, declining to concur but stated, "If the Permittees intend to transfer the land to [Los Alamos County], the Permittees must propose controls to reduce or eliminate potential hazards." It was in response to this proposal by NMED that DOE stated the following in its February 19, 2013, letter:

NA-00-LA will take the following actions to transfer these Tracts to LAC [Los Alamos County] in response to NMED's request to propose controls:

- Conduct one additional biennial survey in December 2013;
- Install a kiosk sign at the entrance to Rendija Canyon that describes the history of the site and identifies pictures of the types of potential ordnance and associated debris that may be encountered, safety precautions and phone numbers to call if encountered;
- Install signage within the Rendija parcel to guide and communicate safety to visitors;
- Conduct explosive and unexploded ordnance awareness training to LAC officials.

Although the language used in the February 19, 2013, letter, is admittedly confusing because it used phrasing associated with the Consent Order, it clearly was part of a series of letters between DOE-NNSA and NMED that related specifically to DOE's desire to obtain NMED's concurrence to transfer the Rendija Canyon tracts to the County. Therefore, the February 19, 2013, letter cannot be considered to be a request for CoCs with controls under the Consent Order because (1) Tracts A-14a, A-14c, and A-14d are not SWMUs or areas of concern (AOCs) regulated under the Consent Order, and (2) the request was not made by DOE-NNSA and LANS pursuant to Section VII.E.6.b of the Consent Order.

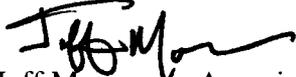
DOE-NNSA and LANS acknowledge that the wording of the February 19, 2013, letter is confusing, but as explained above, that letter did not request CoCs with controls and did not rescind, or otherwise modify, the June 28, 2012, request for CoCs without controls.

Because the actions DOE-NNSA has committed to take are for the purpose of expediting the transfer of the Rendija Canyon tracts to the County and are not intended to be controls as the term is used in the Consent Order, it is our position that we do not need make a request for extension if we will not complete these actions before September 30, 2013. However, because of the confusion regarding this issue and our request to meet with NMED management to resolve the issue, we are asking that NMED extend the deadline until after DOE-NNSA, LANS, and NMED management have had the opportunity to hold the requested meeting. As noted above, DOE-NNSA are committed to taking the actions identified in its February 19, 2013, letter and commit to completing them before we transfer the property to the County, which is expected to occur in 2014.

In conclusion, DOE-LANS respectfully request that NMED rescind the CoCs with controls for SWMUs 00-011(a), 00-011(d), and 00-011(e) and reconsider our June 28, 2012, request for CoCs without controls for these three SWMUs. We also ask that NMED extend the September 30, 2013, deadline until after the requested meeting. We will contact you to schedule the meeting.

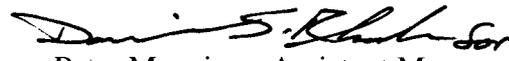
If you have any questions, please contact Dave McInroy at (505) 667-0819 (mcinroy@lanl.gov) or David Rhodes at (505) 665-5325 (david.rhodes@nnsa.doe.gov).

Sincerely,



Jeff Mousseau, Associate Director  
Environmental Programs  
Los Alamos National Laboratory

Sincerely,



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JM/PM/DM/TH:sm

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