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ENTERED



DAVE MARTIN  
Cabinet Secretary

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

January 14, 2011

George J. Rael, Assistant Manager  
Environmental Projects Office  
U.S. Department of Energy/National  
Nuclear Security Administration  
Los Alamos Site Office  
3747 West Jemez Road, MS A316  
Los Alamos, NM 87544

Michael J. Graham  
Associate Director Environmental Programs  
Los Alamos National Security, L.L.C.  
P.O. Box 1663, MS M991  
Los Alamos, NM 87545

**RE: NOTICE OF APPROVAL WITH MODIFICATIONS  
NEST BOX MONITORING REPORT, REVISION 1  
FOR THE UPPER PAJARITO CANYON WATERSHED  
LOS ALAMOS NATIONAL LABORATORY  
EPA ID #NM0890010515  
HWB-LANL-10-075**

Dear Messrs. Rael and Graham:

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) *Nest Box Monitoring Report for the Upper Pajarito Canyon Watershed, Revision 1* (Report), dated November 2010 and referenced by EP2010-0511. NMED has reviewed the Report and hereby issues this Notice of Approval with Modifications. Because of the Modifications, it is not necessary to revise the Report.

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**Specific Modifications:**

1. NMED's review of the data collected for semi-volatile organic compounds (SVOCs) indicates the detection frequency has been very low and its spatial extent limited. This is most likely indicative of contaminant concentrations not being sufficiently high or widespread to accumulate in the monitored species. The SVOCs that tend to drive risk assessments at Solid Waste Management Units (SWMUs) and Areas of Concern (AOCs) within Upper Pajarito Canyon tend to be polycyclic aromatic hydrocarbons (PAHs). PAHs have not been detected in the nest box studies; therefore, it is reasonable to cease sampling for SVOCs. In the event new data become available during SWMU/AOC investigations that indicate the potential for migration through the watershed, it may become necessary to reconsider sampling for SVOCs.
2. The Permittees' response to the previous NMED Notice of Disapproval (NOD) Comment 3 clarified that the gender ratio data were collected from 1997 through 2008. However, the response also indicated that eggshell thicknesses and other measures of nest success were not measured in the cited report. While not specifically stated, the Permittees appear to be drawing the conclusion that the evaluation of gender ratios is sufficient to draw conclusions on overall nest success and impact on eggshell thickness, without actually examining eggshell thickness. The response does not address the fact that the *Pajarito Canyon Biota Investigation Work Plan* (LANL, July 2006) (Work Plan), which governs this investigation, included conducting a trend analysis of variations in eggshell thickness. This deviation from the Work Plan must be discussed in the August 2011 report. In addition, since additional data are being collected and results, including an assessment of nest success, and will be reported in the August 2011 report, a final evaluation of this comment response must be postponed pending the August report and evaluation of the data and conclusions provided therein.
3. The Permittees' response to NMED NOD Comment 4 indicates that additional data to supplement the conclusion that there is no adverse impact in reach AW-1 will be provided with the August 2011 report. Until these additional data and/or lines of evidence are evaluated, a determination of impact cannot be made by the Permittees or by NMED.

Messrs. Rael and Graham  
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Please contact Daniel Comeau at (505) 476-6043, if you have any questions.

Sincerely,



James P. Bearzi  
Chief  
Hazardous Waste Bureau

cc: J. Kieling, NMED HWB  
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File: 2011 -- LANL, Nest Box Monitoring Report for the Upper Pajarito Canyon Watershed  
NoA w/Modification