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RON CURRY
SECRETARY

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

May 8, 2006

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 Program Director
Los Alamos National Laboratory
P.O. Box 1663, Mail Stop M992
Los Alamos, NM 87545

**RE: THIRD NOTICE OF DISAPPROVAL FOR THE INVESTIGATION REPORT
FOR SOLID WASTE MANAGEMENT UNITS (SWMU) 3-010(a) AND 3-001(e)
LOS ALAMOS NATIONAL LABORATORY, EPA ID #NM0890010515
HWB-LANL-06-002**

Dear Messrs. Gregory and McInroy:

The New Mexico Environment Department (NMED) is in receipt of the *Response to the Second Notice of Disapproval for the Investigation Report for Solid Waste Management Units 3-010(a) and 3-001(e) at Technical Area 3*, dated April 21, 2005 (Response). NMED has reviewed the Response and is hereby issuing this notice of disapproval (NOD).

Response #3:

The table entitled "Results for Pending Data" that is referred to in this comment does not exist, and so was not included as part of the Response. However, the information that was to be presented on this table is found elsewhere in the Response. No action is required by the Permittees.



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Response #4:

The U.S. Department of Energy (DOE) and the University of California (collectively, the Permittees) “acknowledge that the drainage immediately south and west of Building SM-030 is part of SWMU 3-010(a)”, as NMED pointed out in both the first and second NOD. In the second NOD, the Permittees were directed to change the text in the revised report to reflect this acknowledgement but failed to do so. The Permittees state, “no modification to the text is required.” NMED disagrees. The text is misleading and should have been changed as directed.

Response #6:

The Permittees state that “[i]n the February 20, 2006 NOD, it was not clear to DOE that NMED had made a determination pursuant to Section VII.B.1 of the Consent Order that an interim measure was required. Therefore, in the NOD response, DOE proposed alternate actions to those specified in the NOD to identify the source(s) of groundwater at the site.” In the aforementioned NOD, NMED clearly directs the Permittees to perform specific activities pursuant to several sections of the Consent Order. The February 20, 2006 NOD specifically stated that, “...NMED requires the Permittees to perform the following *interim measure* activities while conducting the proposed quarterly monitoring” (*emphasis added*). This exact wording was also used in the second NOD dated April 3, 2006. Pursuant to Section III.M.2, NMED stated in writing the deficiencies that gave rise to the NOD and specified activities to be performed to correct these deficiencies. The Permittees failed to respond adequately to the NOD or to implement the specific interim cleanup activities.

NMED and DOE have discussed pouring water into the roof drains and observing the effects in the monitoring wells. In order to test the Permittees’ theory that the sole source of groundwater is the runoff from the roof drains, the water in the wells must be rapidly withdrawn and monitored for recharge. This must be done prior to another precipitation event and prior to the roof drain test.

NMED is again directing the Permittees to perform the interim cleanup activities identified in both NODs (February 20, 2006 and April 3, 2006). In their response, the Permittees elected to submit an Interim Measures Work Plan instead of correcting the report’s deficiencies as directed by NMED in both NODs. A phone conversation with the Permittees on April 19, 2006, NMED again directed the Permittees to implement the interim cleanup activities and that a formal plan was not required. If the Permittees insist on submitting a work plan for these interim measure activities, pursuant to Section VII.B.2 of the Consent Order, it will be due ninety (90) days after receipt of our February 20, 2006 NOD, or May 22, 2006. NMED emphasizes that by submitting a work plan and the subsequent review and approval process, the Permittees risk delay of pumping of the wells prior to the next precipitation event, and therefore may hinder the interim cleanup activities.

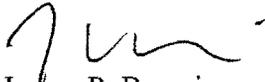
In addition to the interim cleanup activities required by NMED, the Permittees have proposed

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focusing on identification of the actual recharge location(s) to determine if the source of recharge can be controlled or eliminated (NOD Response, March 24, 2006). The Permittees have also proposed evaluating the groundwater inflow from the roof drains vs. the outflow from the culvert (electronic mail, April 19, 2006). These two objectives could be met by running potable water through the roof drains following pumping and/or performing a tracer study following pumping. This could be done after the wells are pumped if groundwater levels do not return to current static levels within thirty days after groundwater removal. In addition, the Permittees have proposed removing the contaminated soil/fill that continues to be a source of groundwater contamination. NMED concurs with the Permittees' proposal to remove contaminated soil, fill and possibly tuff. However, a work plan must be submitted to NMED for approval prior to initiation of any remedial activities (*i.e.*, soil removal and disposal) at this site so that the need for further excavation can be avoided.

Noncompliance with the interim cleanup activities outlined in this letter may subject the Permittees to an enforcement action. If you have any questions regarding this letter, please contact Darlene Goering of my staff at (505) 428-2542.

Sincerely,



James P. Bearzi
Chief
Hazardous Waste Bureau

JPB:kmc

cc: D. Goering, NMED HWB
S. Yanicak, NMED DOE OB, MS J993
L. King, EPA 6PD-N
J. Ordaz, DOE LASO, MS A316
K. Hargis, LANL RRES/DO, MS M591
N. Quintana, LANL RRES-RS, MS M992
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