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Date: May 30, 2003  
Refer to: RRES-WQH: 03-123

Ms. Marcy Leavitt, Chief  
New Mexico Environment Department  
Ground Water Quality Bureau  
Harold Runnels Building  
1190 St. Francis Drive  
P.O. Box 26110  
Santa Fe, NM 87502-6110

TA-15

**SUBJECT: RESPONSE TO CONDITIONS FOR NOTICE OF INTENT TO DISCHARGE (NOI) FOR WATER/FOAM USE AT DX PHERMEX FIRING SITE**

Dear Ms. Leavitt:

This letter is in response to your May 8, 2003 letter, which requires that the Laboratory submit the current site investigation/characterization plan for the PHERMEX firing site following cessation of activities.

Please note that PHERMEX is an active range or firing site for research, development, testing and evaluation of explosives/munitions. Munitions used in weapons research, development, testing, and evaluation programs do not meet the definition of a RCRA solid waste (or Hazardous Waste) under the US EPA finalized Military Munitions Rule (40 CFR 266 Subpart M, "Military Munitions"). This rule became effective (i.e. codified federal law) August 12, 1997, and was adopted by NMED on June 14, 2001 (title 20, chapter 4, part 1, section 700 of the New Mexico Administrative Code). Thus, PHERMEX does not manage RCRA hazardous or solid waste, and has not done so in the past. Therefore, there is no solid or hazardous waste at PHERMEX that would subject it to any corrective action requirement for site investigation or characterization.

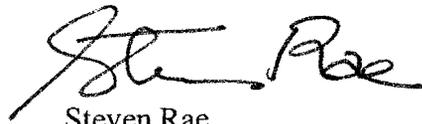
However, once the site is deactivated a characterization and cleanup plan will be developed, unless firing at nearby firing sites would impact such characterization and cleanup. This information will be provided to your office upon completion of the plan. Additionally, the Laboratory has already submitted to NMED a proposal to remove the PHERMEX firing site from the Laboratory's Hazardous Waste Facility Permit based on the Munitions rule (September 2001, LA-UR-01-5437).



The Laboratory's "ER Project Baseline" is a schedule of activities and resources that captures all the (foreseeable) work or scope that will be required to complete the Environmental Restoration Project at the Laboratory. It is a living document that is updated frequently as changes are identified. The PHERMEX firing site is included in the ER Project baseline but only to state that it is deferred until the site is closed. There are currently no planned activities in the ER Project Baseline for this site.

We appreciate the courtesy and responsiveness extended by your staff during the review of this NOI. Please contact Mark Haagenstad at (505) 665-2014 or Mike Saladen at (505) 665-6085 if additional information would be helpful.

Sincerely,



Steven Rae  
Group Leader  
Water Quality & Hydrology Group

SR:MH/tml

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