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PETER MAGGIORE  
SECRETARY

**CERTIFIED MAIL  
RETURN RECEIPT REQUESTED**

September 20, 2001

Dr. John C. Browne, Director  
Los Alamos National Laboratory  
P.O. Box 1663, MS A100  
Los Alamos, NM 87545

Mr. Theodore Taylor, Project Manager  
Los Alamos Area Office  
Department of Energy  
528 35<sup>th</sup> Street, MS A316  
Los Alamos, NM 87544

**SUBJECT: CLASS 1 PERMIT MODIFICATION REQUEST  
REMOVAL OF EIGHT SWMU'S  
LOS ALAMOS NATIONAL LABORATORY  
EPA ID NO. 0890010515  
HWB-LANL-00-018**

Dear Dr. Browne and Mr. Taylor:

This letter is in response to a letter from Julie A. Canepa and Theodore J. Taylor, dated August 7, 2000, requesting a Class 1 permit modification to remove eight Solid Waste Management Units (SWMU's) from the SWMU list in the HSWA Module of Los Alamos National Laboratory's (LANL's) Resource Conservation and Recovery Act (RCRA) Permit (the Permit).

The eight SWMU's requested to be removed from the Permit are the following:

<u>SWMU Number</u>	<u>Structure Number</u>	<u>SWMU Description</u>
16-010(b)	TA-16-387	closed burn site
16-010(c)	TA-16-388	active burn site
16-010(d)	TA-16-399	active burn site
16-010(e)	TA-16-401	active HE filter vessel



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HSWA LANL Permit  
03/0022/18, 39, 50

Dr. Browne and Mr. Taylor  
September 20, 2001  
Page 2

16-010(f)	TA-16-406	active HE filter vessel
39-004(c)	TA-39-6	active firing site
39-004(d)	TA-39-57	active firing site
50-001(a)	TA-50-1	active waste water treatment facility

In the August 7 letter, LANL proposes to remove these SWMU's from the Permit as a Class 1 modification under 40 CFR § 270.42 (incorporated at 20.4.1.900 NMAC) because the SWMU's are or were interim status operating units.

HWB does not approve removal of the above-referenced SWMU's from the Permit as a Class 1 modification for the following reasons.

Removal of a SWMU from a Permit, other than units that were never built or never used, is a Class 3 modification under 40 CFR § 270.42 (incorporated at 20.1.4.900 NMAC).

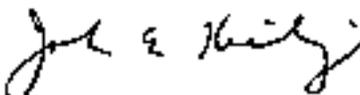
The existence at the same location of a SWMU and an operating unit is not grounds alone for removal of the SWMU from the Permit. The above-referenced sites were designated SWMU's either because there is existing or potential contamination from waste management activities prior to RCRA-regulated operations at the site or because waste management activities at the site are exempt from regulation under RCRA. Where an operating unit was constructed at the location of contamination caused by prior operations, or where a waste management unit is exempt from RCRA regulation, a facility remains responsible for investigation and remediation requirements under 40 CFR § 264.101 (incorporated at 20.1.4.500 NMAC) for prior or potential contamination at the site.

HWB will not approve removal of the above-referenced SWMU's from the Permit before the SWMU's have been investigated, a determination has been made that there is no unacceptable risk to human health or the environment, and LANL then submits documentation supporting removal.

Dr. Browne and Mr. Taylor  
September 20, 2001  
Page 3

If you have any questions or need additional information please contact Carl Will of my staff at 505-428-2542.

Sincerely,



John E. Kieling  
Manager  
Permits Management Program

JEK:ctw

cc: J. Young, NMED HWB  
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file: Reading and HSWA LANL, 2001