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Bruce 5/27/99
File 11/2/99

Date: May 20, 1999
Refer to: EM/ER:99-132

TA-16

Mr. James Bearzi
NMED-HRMB
P.O. Box 26110
Santa Fe, NM 87502

RECEIVED
MAY 26 1999

16-
16-387 Burn Pad

SUBJECT: MDA P WASTE DETERMINATION STRATEGY DOE OVERSIGHT BUREAU

Dear Mr. Bearzi:

The Los Alamos National Laboratory Environmental Restoration (ER) Project would like to thank your staff for taking the time to meet with ER Project and Department of Energy (DOE) staff on April 8, 1999 to discuss a waste characterization issue regarding Material Disposal Area (MDA) P. The purpose of this letter is to provide our understanding of the agreement that was reached at the meeting regarding an approach to characterizing waste that could be viewed as having F-listed constituents, but that may not have actually come from F-listed waste sources.

During the April 8, 1999 meeting, ER Project personnel discussed the possibility of finding F-listed constituents in soil or on debris removed from MDA P once excavation activities entered into the east lobe. Historically gasoline, kerosene, and solvents were used in an ignition train to start the burn process at the Technical Area 16-387 burn pad and to keep the burn hot. In most cases, it is not possible for the Laboratory to determine whether the presence of a hazardous constituent from a sample analyzed for waste characterization purposes was a product of incomplete combustion or the result of the disposal of residues from an F-listed solvent. In light of this uncertainty, it is our understanding that the Hazardous and Radioactive Materials Bureau (HRMB) has approved an approach whereby the Laboratory will manage waste materials removed from MDA P as F-listed wastes only when there is directly observable evidence that the wastes at issue, i.e., soils or debris, were in contact with an F-listed source. Such evidence would typically include indications of contact with a spent solvent container, drum, or rags. All other soil and debris wastes will undergo a waste characterization to determine whether the waste is a characteristic hazardous waste, and, if so, this waste will be managed appropriately as a hazardous waste.

We understand that the approach we agreed upon is consistent with Environmental Protection Agency (EPA) guidance identified in *Management of Remediation Waste Under RCRA* (EPA530-F-98-026) which states "Where a facility owner/operator makes a good faith effort to determine if a material is a listed hazardous waste but cannot make such a determination because documentation regarding a source of

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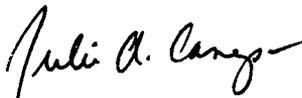


contamination, contaminant, or waste is unavailable or inconclusive, EPA has stated that one may assume the source, contaminant or waste is not listed hazardous waste and, therefore, provided the material in question does not exhibit a characteristic hazardous waste, RCRA requirements do not apply." A footnote to this guidance further states "Listing determinations are often particularly difficult in the remedial context because the listings are generally identified by the sources of the hazardous waste rather than the concentrations of various hazardous constituents; therefore, analytical testing alone, without information on a waste's source, will not generally produce information that will conclusively indicate whether a given waste is a listed hazardous waste."

The EPA affirms in 50 FR 53316, December 31, 1985, that the threshold level (10% or more by volume for solvent mixtures) promulgated in that particular federal register is not based on health criteria, but rather on typical use patterns. Consequently, the EPA is not applying the threshold to all waste (including remediation waste) that may contain one or more of the solvents.

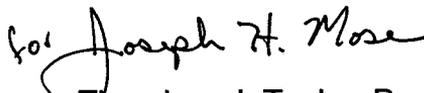
The ER Project is proceeding with the excavation of MDA P and is presently implementing the approach that we have agreed upon and that is described in this letter. Please let us know if you have any concerns regarding our understanding and implementation of this approach. Contact persons for this matter are Dave McInroy at (505) 667-0819 or Joe Mose at (505) 667-5808.

Sincerely,



Julie A. Canepa, Program Manager
LANL/ER Project

Sincerely,



Theodore J. Taylor, Program Manager
DOE/LAAO

JC/TT/HWB/ ev

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