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TA-16



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**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

October 25, 2004

David Gregory, Federal Project Director
Los Alamos Site Operations
Department of Energy
528 35th Street, Mail Stop A316
Los Alamos, New Mexico 87544

G. Pete Nanos, Director
Los Alamos National Laboratory
P.O. Box 1663, Mail Stop A100
Los Alamos, New Mexico 87545

**SUBJECT: NOTICE OF DISAPPROVAL FOR MATERIAL DISPOSAL AREA P SITE
CLOSURE CERTIFICATION REPORT
LOS ALAMOS NATIONAL LABORATORY EPA ID No: NM0890010515
HWB-LANL-03-019**

Dear Messrs. Gregory and Nanos:

The New Mexico Environment Department (NMED) has received and reviewed the United States Department of Energy and Regents of the University of California (collectively, the Permittees) document entitled *Submittal of Response to Request for Supplemental Information (RSI) for Material Disposal Area P Site Closure Certification Report* dated May 14, 2004 and referenced by ER2004-0264. The document was submitted in response to an Request for Supplemental Information sent by NMED on April 12, 2004 after its review of the *Material Disposal Area P Site Closure Certification Report* dated October 2003. NMED hereby issues this Notice of Disapproval of the aforementioned document. The Permittees must respond to the comments as outlined in the attachment to this letter within thirty days of receipt of this letter.



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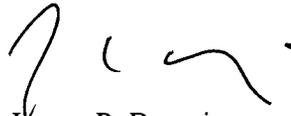
Messrs. Gregory and Nanos

October 25, 2004

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Please contact Neelam Dhawan of my staff at (505) 428-2540 should you have any questions.

Sincerely,



James P. Bearzi

Chief

Hazardous Waste Bureau

JPB:nd

Attachment

cc: D. Cobrain, NMED HWB
J. Young, NMED HWB
N. Dhawan, NMED HWB
G. Schuman, NMED GWQB
M. Leavitt, NMED SWQB
C. Voorhees, NMED DOE OB
S. Yanicak, NMED DOE OB, MS J993
L. King, EPA 6PD-N
J. Vozella, DOE LAAO, MS A316
B. Ramsey, LANL RRES-DO, MS J591
D. Stavert, LANL RRES-DO, MS J591
N. Quintana, LANL RRES-ER, MS M992
D. McInroy, LANL RRES-ER, MS M992

File: Reading and ~~LANL~~TA 16 ?

ATTACHMENT
NOTICE OF DISAPPROVAL FOR RESPONSE TO THE REQUEST FOR
SUPPLEMENTAL INFORMATION (RSI) FOR THE MATERIAL DISPOSAL AREA P
SITE, CLOSURE CERTIFICATION REPORT, OCTOBER 2003

1. The Permittees' response to the RSI General Comment 1 is inadequate and confusing. The response contradicts itself both within bullet points and between bullet points. For example, the first bullet point, paragraph one, indicates that there are "no reclaimed areas within the Material Disposal Area (MDA) P footprint". However, the second paragraph states that "reclaimed areas exist in the biological zone" within MDA P. In addition, paragraph one indicates that topsoil at MDA P is either native topsoil or non-native soil brought in during active site operations, but that no clean fill was brought in. Paragraph two indicates that clean fill was brought in. Please revise the response to clarify the soil backfilling and reclamation activities at MDA P. It may be helpful to provide a timeline and/or figures to clarify where native soil exists, locations of operational fill (clean or contaminated), and reclaimed areas.
2. The table provided in response to RSI General Comment 3 depicts total RME incremental lifetime cancer risk (ILCR) at 2E-05, but the text states that cumulative ILCR from potential exposures to all chemicals of potential concern is below 1E-05. Explain the discrepancy.
3. The Permittees have indicated in their response to RSI General Comment 4 that an agreement was reached between representatives of NMED and LANL in April 2002 that decided the approach to be taken for the MDA P site ecological risk assessment. Provide the record of communication or other document that recorded this agreement. NMED has searched their records and have not found any such document.
4. In response to the RSI Specific Comment 5, the Permittees agreed to correct the statement regarding detection of organic chemicals in boreholes 516 and 273. Provide the replacement pages for the Closure Certification Report with the correct statement
5. Provide the replacement pages with revisions for the Closure Certification Report for MDA P site as committed to in the response to the RSI Specific Comment 9.
6. Provide the replacement pages for the Closure Certification Report with revisions to the text committed to in the response to the RSI Specific Comment 13.
7. The response to RSI Specific Comment 14 is not adequate. As the original comment indicated, NMED is concerned that inclusion of data down to five feet below ground

surface (ft. bgs) may result in dilution of the exposure concentration. However, the Permittees' response provided justification for excluding deeper soil concentrations and defended the use of the 95% upper confidence level (95%UCL), which was not a concern outlined in the original comment. The response did not address the use of the surface soil exposure interval of zero to five ft. bgs rather than a more commonly applied exposure interval of zero to one to two ft. bgs. The response indicates that an exposure interval of 0-5 ft. bgs is conservative because the concentrations below five feet are much less than shallower soil concentrations. It is also noted that inclusion of concentrations below five feet would serve to dilute the exposure concentrations. However, the response appears to contradict itself by stating that the highest concentrations detected on site were in the top few feet. Revise the risk assessment to include an assessment for surface soil (0 to 0.5 or 0 to 1 foot) and one for subsurface soil (below 0.5 or 1 foot).

8. Provide the replacement page for the Closure Certification Report with corrected text to read NMED target cancer risk as 1×10^{-5} , as committed to in the response to the RSI Specific Comment 17.
9. Provide the replacement pages for the Closure Certification Report with revisions to the text of section 2.5.3.5, Ecological Assessment Summary, as committed to in the response to the RSI Specific Comment 19.
10. Provide the revised Figure 3.3.2-8 as committed to in the response to the RSI Specific Comment 20.
11. Provide the replacement pages for the Closure Certification Report with revised text of Appendix B, Section 4.2, as stated in the response to the RSI Specific Comment 23.
12. Provide the replacement pages for the Closure Certification Report with revisions to the text of Appendix B as committed to in the response to the RSI Specific Comment 26.