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CERTIFIED MAIL
RETURN RECEIPT REQUESTED

February 10, 1997

Mr. Theodore J. Taylor, Program Manager
Department of Energy
Los Alamos Area Office
528 35th Street, Mail Stop A316
Los Alamos, New Mexico 87544

Mr. Jorg Jansen, Program Manager
Environmental Restoration
Los Alamos National Laboratory
528 35th Street, Mail Stop A316
Los Alamos, New Mexico 87544

**RE: Regulatory Status of Interim Actions
Los Alamos National Laboratory
NM0890010515**

Dear Mr. Jansen and Mr. Taylor:

This letter is in response to a request for clarification regarding the regulatory status of interim actions. This request was made in Los Alamos National Laboratory's (LANL) "Response to NOD for the TA-18, PRSs 18-003 (a-d, g) IA Plan and Report" dated January 16, 1997 and referenced by EM/ER:96-640.

The term "interim action" as used by LANL describes an interim measure which is defined as a short-term action intended to stabilize, mitigate, or eliminate a release or potential for a release of a hazardous waste or hazardous waste constituent while a comprehensive long-term solution is developed or implemented. An interim measure should be selected such that it is consistent with any long-term corrective measures that might be selected for a particular site and, in some instances, may provide an adequate long-term solution in and of itself.



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TRACK: LANL 2/10/97, NIA, Taylor/Jansen, HRMB RE:
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The use of interim measures to achieve near- and mid-term solutions to releases of hazardous wastes or hazardous waste constituents from Solid Waste Management Units (SWMUs) is the basis for the Environmental Protection Agency's (EPA) "stabilization initiative." On October 25, 1991 EPA issued an Office of Solid Waste and Emergency Response (OSWER) memorandum which requested regional support of the 1990 RCRA Implementation Study's (RIS) recommendation to adopt the more frequent use of interim actions as a program strategy. To streamline the Corrective Action (CA) process, EPA and the States were asked to identify and implement stabilization measures under the interim measure authority, concurrently with the on-going phases of the RCRA Facility Assessment and Investigation activities.

Interim measures may be required through a Resource Conservation and Recovery Act (RCRA) permit, RCRA §3008(h) orders, or a Federal Facility Compliance Act agreement or conducted on a voluntary basis by the facility. Accordingly, interim measures may be identified by either the facility or the Administrative Authority (AA). RCRA §3004(u) provides the AA the authority to compel permittees to conduct interim measures. In instances where the facility identifies the need for interim measures, the facility should consider seeking the approval of the AA prior to implementation in order to prevent disputes. Proposed Subpart S identifies several examples of interim measures that might be implemented to minimize or eliminate a release or to minimize exposure (such as source removal, runoff/runon controls, temporary cover, etc).

In 1996, the Final RCRA Implementation Plan (RIP) continued the 1990 emphasis on stabilization to address imminent or actual exposures and to prevent the future spread of contamination. EPA and the States must accurately reflect results of stabilization activities at RCRA-regulated facilities in the RCRA Information System (RCRIS) whether actions occurred under Federal or State authorities, or facilities voluntarily performed them under agency approval.

To a large extent, the stabilization effort builds on work that has been on-going in the Regions and States. Historically, these agencies have required facilities to undertake interim measures to address obvious environmental problems, particularly where the agency identified actual or imminent exposure of human or environmental populations. However, facilities have often pursued these actions in conjunction with the final, comprehensive remedy at the site.

In conclusion, although the majority of interim measures are identified and performed voluntarily by LANL, interim measures are an inherent part of the CA process. Hence,

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the AA not only has the authority to compel their performance, but also has the responsibility to ensure that implemented actions are consistent with any final corrective measures which might be selected. Therefore, all actions taken to stabilize, mitigate, or eliminate a release or potential for release of a hazardous waste or hazardous waste constituent including, but not limited to, interim actions, voluntary corrective actions, accelerated cleanups, and corrective measures are ultimately subject to the approval of the AA.

Should you have any questions concerning this letter, please contact either myself or Ms. Teri D. Davis, HRMB's DOE Team Supervisor, at 505/827-1558.

Sincerely,


Robert S. ("Stu") Dinwiddie, Manager
RCRA Permits Management Program

RSD:kth

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