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State of New Mexico
ENVIRONMENT DEPARTMENT

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RON CURRY
SECRETARY

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CERTIFIED MAIL
RETURN RECEIPT REQUESTED

November 5, 2004

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

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

RE: APPROVAL WITH MODIFICATIONS
INVESTIGATION WORK PLAN FOR SOLID WASTE MANAGEMENT UNIT
21-018(a)-99, MATERIAL DISPOSAL AREA V,
AT TECHNICAL AREA 21,
LOS ALAMOS NATIONAL LABORATORY, EPA ID #NM0890010515
HWB-LANL-04-008

Dear Messrs. Gregory and Nanos:

The New Mexico Environment Department (NMED) is in receipt of the Response to the Notice of Disapproval (NOD) for the *Investigation Work Plan for Solid Waste Management Unit 21-018(a)-99, Material Disposal Area V, at Technical Area 21*, referenced by LA-UR-04-3699/ER2004-0278 and dated June 2004. NMED has reviewed this document and hereby approves the work plan and the response to the NOD with the modifications described in the attachment to this letter. If the Permittees fail to implement the modifications, the approval for this document will be automatically rescinded.



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Messrs. Gregory and Nancy
November 5, 2004
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Should you have any questions, please contact Kathryn Chamberlain at (505) 428-2546.

Sincerely,



James P. Bearzi
Bureau Chief
Hazardous Waste Bureau

cc: K. Chamberlain, NMED HWB
M. Leavitt, NMED SWQB
C. Voorhees, NMED DOE OB
S. Yanicak, NMED DOE OB, MS J993
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J. Vozella, DOE OLASO, MS A316
B. Ramsey, LANL RRES/DO, MS M591
N. Quintana, LANL RRES-RS, MS M992
D. McInroy, LANL RRES-RS, MS M992
file: Reading and LANL TA-54 (SWMUs 54-013(b), 54-014(b,c,d), 54-015(k),
54-017, 54-018, 54-019, and 54-020)

ATTACHMENT

(Note: Comment numbers refer to the original NOD dated September 14, 2004)

Specific Comments:

4. NMED finds the Permittees' response acceptable and reiterates the position that any proposed remediation activities (i.e. excavations) to be completed at MDA V will not be considered a final remedy. NMED will determine if further action is warranted based on the results of the work completed in accordance with the work plan.
5. NMED does not agree with the proposed removal of the glass block located in absorption bed 1. Removing the top two feet of the glass block would compromise its physical integrity. The Permittees can either leave the entire glass block in place and undergo a Comprehensive Monitoring Evaluation (CME), or remove the entire block as part of the preliminary excavation activities. The 10 ft of clean fill can be returned to the excavation prior to field screening and laboratory analysis.
9. The Permittees expect the only waste type to be created will be low-level waste and assume that no waste will be subject to RCRA. The Permittees may conclude that waste is low-level only based on waste characterization results obtained from an off-site analytical laboratory. Whether the waste is RCRA hazardous or low-level only, the Permittees may not return environmental media to the point of origin because, by doing so, the Permittees will change the hydraulic characteristics of the unit(s) and may provide a conduit for contaminant migration. All boreholes must be properly plugged and abandoned following Section X.D of the proposed Consent Order.

In accordance with Section IX.A (Standard Operating Procedures) of the proposed Consent Order, the Permittees must provide a description of the proposed investigation, sampling, and analytical activities. The Permittees may reference relevant SOPs as presented on the LANL website.

The Permittees reference to 40 CFR 262.11 (Hazardous Waste Determination) refers to waste generated as a result of a process, not waste generated as a result of corrective action investigations (Part 262.11(c)(2)). The Permittees cannot use Acceptable Knowledge (AK) as a means for characterizing IDW because IDW is generated as part of the characterization of contamination resulting from historical releases to the environment, not from a manufacturing or industrial process. All IDW shall be contained and characterized in accordance with Section IX.B.2.b.iv of the proposed Consent Order.