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**CERTIFIED MAIL  
RETURN RECEIPT REQUESTED**

May 26, 2005

David Gregory, Federal Project Director  
Los Alamos Site Office  
Department of Energy  
528 35<sup>th</sup> 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: RESPONSE TO THE APPROVAL WITH MODIFICATIONS FOR THE  
INVESTIGATION WORK PLAN FOR DELTA PRIME SITE  
AGGREGATE AREA AT TECHNICAL AREA 21,  
LOS ALAMOS NATIONAL LABORATORY, EPA ID #NM0890010515  
HWB-LANL-04-011**

Dear Messrs. Gregory and Nanos:

The New Mexico Environment Department (NMED) is in receipt of the Department of Energy's and the Regents of the University of California's (collectively the "Permittees"), *Response to the "Approval with Modifications for the Investigation Work Plan for Delta Prime Site Aggregate Area, Technical Area 21*, dated May 12, 2005, referenced by Project Number LA-UR-05-3499 (Supplement to LA-UR-04-5009). The Permittees state in specific comment 9 that "abandonment of shallow boreholes by returning drill cuttings should achieve the borehole abandonment goals presented in Section X.D and is consistent with other routine practices, such as backfilling excavations with soil rather than grout." NMED has explained in both the original "Notice of Disapproval" (NOD), dated February 8, 2005 and "Approval with Modifications", dated April 13, 2005 (specific comments 9 and 14 respectively), that the Permittees are not permitted to return drill cuttings to boreholes. To reiterate, boreholes must be abandoned in accordance with Section X.D of the March 1, 2005 Consent Order (Order), and drill cuttings must be containerized and characterized prior to disposal. Furthermore, the Permittees statement regarding routine backfilling of excavations with soil rather than grout is misinterpreted. This would apply to trenches or other large excavations. Backfilling environmental boreholes with soil



10836

Messrs. Gregory and Nan

May 26, 2005

Page 2

(drill cuttings) rather than grout is not a routine practice.

NMED reminds the Permittees that they have been issued an "Approval with Modifications" for this Work Plan. Noncompliance with the modifications outlined in the approval letter may result in automatic rescission of the work plan and potentially subject the Permittees to an enforcement action.

Should you have any questions, please contact Kathryn Chamberlain at (505) 428-2546.

Sincerely,



James P. Bearzi

Chief

Hazardous Waste Bureau

JPB:kc

cc: J. Young, NMED HWB  
K. Chamberlain, NMED HWB  
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file: Reading and LANL TA-21 '05