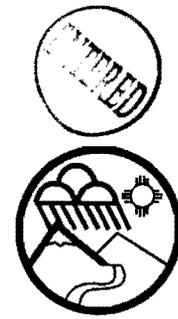




BILL RICHARDSON
GOVERNOR

TA 21
State of New Mexico
ENVIRONMENT DEPARTMENT

Hazardous Waste Bureau
2905 Rodeo Park Drive East, Building 1
Santa Fe, New Mexico 87505-6303
Telephone (505) 428-2500
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RON CURRY
SECRETARY

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

September 26, 2006

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

David McInroy
Remediation Services Deputy Program Director
Los Alamos National Laboratory
P.O. Box 1663, Mail Stop M992
Los Alamos, NM 87545

**RE: NOTICE OF DISAGREEMENT
NOTIFICATION OF FORCE MAJEURE FOR THE "INVESTIGATION
REPORT FOR SOLID WASTE MANAGEMENT UNIT 21-014, MATERIAL
DISPOSAL AREA A, AT TECHNICAL AREA 21"
LOS ALAMOS NATIONAL LABORATORY, EPA ID #NM0890010515
HWB-LANL-05-002**

Dear Messrs. Gregory and McInroy:

The New Mexico Environment Department (NMED) is in receipt of the *Notification of Force Majeure for the "Investigation Report for Solid Waste Management Unit 21-014, Material Disposal Area A, at Technical Area 21"*, dated September 18, 2006 and referenced by EP2006-0862 (Notification). The Department of Energy and Los Alamos National Security, LLC (collectively, the "Respondents") state in the Notification that "unusually severe and adverse weather" is the cause for a delay in field operations at Material Disposal Area A. The Respondents assert that associated rain and lightning has affected the ability to drill safely and to field screen for radioactive contamination during drilling.

In accordance with Section III.H.3 of the Consent Order, NMED is providing written notice of its preliminary disagreement that a force majeure event has occurred. While the weather event described in the Notification is beyond the reasonable control of the Respondents, and it is a



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Messrs. Gregory and McInroy
September 26, 2006
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potential force majeure, a force majeure under the Consent Order further means an event that "...could not be overcome by due diligence." [see Section III.H.1 of the Consent Order].

The Respondents state that by implementing the actions enumerated in the Notification, they "anticipate submitting the Investigation Report according to the current Consent Order deadline of November 9, 2006." NMED expects that the Respondents will exercise this due diligence and overcome the six-day delay described in the Notification. Hence, the weather event does not at this time appear to meet the definition of a force majeure.

If you have any questions regarding this letter, please contact Darlene Goering of my staff at (505) 428-2542.

Sincerely,



James P. Bearzi
Chief
Hazardous Waste Bureau

JPB:dxg

cc: D. Goering, NMED HWB
S. Yanicak, NMED DOE OB, MS J993
L. King, EPA 6PD-N
G. Rael, DOE LASO, MS A316
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file: Reading and LANL TA-21 '06