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**State of New Mexico
ENVIRONMENT DEPARTMENT**



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CERTIFIED MAIL-RETURN RECEIPT REQUESTED

February 9, 2007

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

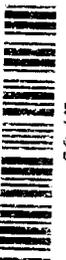
David McInroy, Deputy Program Director
Environmental Services
Los Alamos National Laboratory
P. O. Box 1663, Mail Stop M992
Los Alamos, New Mexico 87545

**RE: NOTICE OF AGREEMENT
NOTIFICATION OF FORCE MAJEURE FOR THE REVISION TO THE
“INVESTIGATION REPORT FOR THE MIDDLE MORTANDAD/TEN SITE
AGGREGATE”
LOS ALAMOS NATIONAL LABORATORY EPA ID NO. NM0890010515
HWB-LANL-05-016**

Dear Messrs. Gregory and McInroy:

The New Mexico Environment Department (NMED) is in receipt of the *Notification of Force Majeure for the Revision to the “Investigation report for the Middle Mortandad/Ten Site Aggregate”* dated February 6, 2007 and referenced by EP2007-0062 (Notification). The United States Department of Energy and Los Alamos National Security, LLC (collectively, the Respondents) state in their Notification that snow accumulation at the aggregate area is a force majeure event beyond the reasonable control of the Respondents. Snow from several recent storms has resulted in snow accumulation at the aggregate area, particularly on the north-facing steep slopes at Technical Area 35, which has resulted in “hazardous working conditions.” The Respondents state that “Worker safety issues associated with the steep slopes are compounded by deep snow and icy conditions.” The Respondents conducted a site visit on January 26, 2007 and concluded that they will be able to start field activities in early April, 2007.

As required by the Section III.H.3 of the March 1, 2005 Consent Order (Order), the Respondents gave oral notification to NMED on January 29, 2007. In accordance with Section III.H.3 of the



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Messrs. Gregory and McInroy

February 9, 2007

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Order, NMED is providing written notice of its agreement that a force majeure event has occurred.

NMED agrees with the Respondents that a delay for submitting the revised Investigation Report for Middle Mortandad/Ten Site Aggregate (IR) may ultimately be attributable to this event. The due date for IR submittal is May 18, 2007. The Respondents anticipate submittal date for the IR no later than July 20, 2007. NMED expects that the Respondents will nevertheless exercise due diligence to minimize the delay described in this Notification. Once works starts, the Respondents must notify NMED of the actual delay resulting from the event.

Please contact Neelam Dhawan of my staff at (505) 476-6040 should you have any questions.

Sincerely,



James P. Bearzi

Chief

Hazardous Waste Bureau

JPB:nmd

Attachment

cc: N. Dhawan, NMED HWB
D. Cobrain, NMED HWB
D. Goering, NMED HWB
S. Yanicak, NMED DOE OB, MS J993
L. King, EPA 6PD-N
G. Rael, DOE LASO, MS A316
A. Phelps, ADEP, MS J591
B. Coel-Roback, EP-CAP, MS M992

file: Reading and LANL '07/Middle Mortandad/Ten Site Aggregate.