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TA-50



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CERTIFIED MAIL
RETURN RECEIPT REQUESTED

November 19, 2003

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

Mr. David Gregory, Project Manager
DOE-OLASO
528 35th Street, Mail Stop A316
Los Alamos, New Mexico 87544

**SUBJECT: DISAPPROVAL OF REVISION 1 OF THE INVESTIGATION WORK
PLAN FOR MATERIAL DISPOSAL AREA C (MDA C)
LOS ALAMOS NATIONAL LABORATORY
EPA ID# NM0890010515**

Dear Messrs. Nanos and Gregory:

The New Mexico Environment Department (NMED) has completed a preliminary review of the Department of Energy and the Los Alamos National Laboratory's (collectively, the Permittees) document titled *Investigation Work Plan for Material Disposal Area C, Solid Waste Management Unit 50-009, at Technical Area 50, Revision 1*, (Work Plan) submitted November 7, 2003 and referenced by LA-UR-03-8201.

NMED disapproves this Work Plan for the reasons stated in our letter to the Permittees dated September 4, 2003. NMED understands, based on the assertions of the Permittees, that the Permittees must conduct a nuclear safety review and prepare "Authorization Basis" (AB) documentation prior to conducting field work. NMED further understands that the Permittees assert that the nuclear safety review may result in changes to the scope of work in the Work Plan. At this site, however, the nuclear safety review was not conducted prior to selecting the locations for subsurface exploration that are set forth in the Work Plan. Consequently, the safety review may delay or alter the scope of work, and may do so in a way that is not acceptable to NMED. NMED cannot approve any Work Plan with a scope of work that is subject to unilateral revision by the Permittees. The nuclear safety review must be completed prior to submission of the Work Plan, so that NMED can properly review and approve the scope of work.



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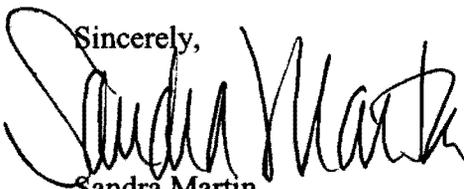
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The original submittal of the Work Plan, dated July 2003, stated that the AB approval was expected by November 3, 2003. Revision 1 of the MDA C Investigation Work Plan states that the AB approval is not expected until April 1, 2004. No rationale is provided for the five month delay in the approval process, and NMED cannot agree to additional delays resulting from the Permittees' failure to attain internal approvals. In addition, if the Permittees cannot obtain internal AB approval because the exact locations of the disposal pits and shafts have not been determined, then the Permittees must develop a plan to make such determinations prior to conducting work under the Investigation Work Plan.

The cover letter provided with the revised Work Plan incorrectly claims that NMED staff stated that the Investigation Report for MDA C would be due 10 months after NMED approves the Work Plan. NMED has tentatively agreed to complete a written review and approval or disapproval of the MDA C Investigation Work Plan within 90 days of receipt of the document (July 31, 2003). NMED provided such written notice on September 4, 2003 and subsequently agreed on a re-submittal date for the Work Plan of November 7, 2003. NMED has not agreed to postpone the August 31, 2004 submittal date for the MDA C Investigation Report. Delays caused by the Permittees will not automatically extend the due dates for subsequent submittals. NMED may adjust the submittal date for the Investigation Report upon approval of the Work Plan.

Technical comments on the MDA C Investigation Work Plan will follow in a separate letter upon NMED's completion of review of the document. If you have any questions regarding these comments, please contact Carolyn Cooper of my staff at (505) 428-2539.

Sincerely,



Sandra Martin
Acting Chief
Hazardous Waste Bureau

cc: C. Voorhees, NMED DOE-OB
S. Yanicak, NMED DOE-OB, MS J993
J. Schoeppner, NMED GWQB
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File: Reading and LANL TA-50 (MDA C, 50-009)