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ENVIRONMENT DEPARTMENT

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RON CURRY
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CERTIFIED MAIL
RETURN RECEIPT REQUESTED

December 20, 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 Project Director
Los Alamos National Laboratory
P.O. Box 1663, MS M992
Los Alamos, NM 87545

RE: STIPULATED PENALTY FOR THE INVESTIGATION REPORT FOR MATERIAL DISPOSAL AREA C, SOLID WASTE MANAGEMENT UNIT 50-009, AT TECHNICAL AREA 50, LOS ALAMOS NATIONAL LABORATORY, EPA ID #NM0890010515 HWB-LANL-03-005

Messrs. Gregory and McInroy:

The New Mexico Environment Department (Department) is in receipt of the Department of Energy (DOE) and the Los Alamos National Security, LLC's (LANS) (collectively, the Respondents) *Investigation Report for Material Disposal Area C, Solid Waste Management Unit 50-009, at Technical Area 50* (Report), referenced by LA-UR-06-8096/EP2006-1000 and dated December 6, 2006. The Department has completed a preliminary review of the Report and finds that it does not substantially comply with the specifications set forth in the March 1, 2005 Order on Consent (Order). This letter constitutes notification of the Department's intention to assess stipulated penalties pursuant to Section III.G of the Order.

Pursuant to Section III.M of the Order, the Respondents were required to submit an Investigation Work Plan for Material Disposal Area C (Work Plan) to the Department for review and approval. The Work Plan was approved with modifications by the Department on April 6, 2005. Through



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various approved deviations to the scope of work, four boreholes were required to be advanced between Pits 2 and 3. This was memorialized in the Department's September 25, 2006 letter that approved the borehole locations. The chronology of correspondence detailing how the number and locations of boreholes was determined is provided in the Department's December 5, 2006 letter denying the Respondent's extension request for the aforementioned Report.

The Department received the Investigation Report for MDA C on December 6, 2006. The Report did not include the results of the four boreholes required by the approval with modifications, as the boreholes have not yet been completed. Therefore, the Respondents are not in substantial compliance with the specifications set forth in the approved Work Plan, and therefore are not in substantial compliance with the Order.

The Department reserves the right to seek another form of relief, in lieu of assessing stipulated penalties, for all or part of the penalties for noncompliance. If the Department decides to assess stipulated penalties pursuant to Section III.G, the Department will not seek a separate penalty for the deficiency identified in this notice. The Department's demand for stipulated penalties will be sent in accordance with Section III.G.5 of the Consent Order.

Please do not hesitate to contact me should you have any questions.

Sincerely,



James P. Bearzi
Chief
Hazardous Waste Bureau

JPB:kmc

cc: K. Chamberlain, NMED HWB
D. Cobrain, NMED HWB
H. Shen, NMED HWB
A. Vollmer, NMED HWB
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file: Reading and LANL TA-50 (SWMU 50-009)