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State of New Mexico
ENVIRONMENT DEPARTMENT



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CERTIFIED MAIL
RETURN RECEIPT REQUESTED

April 4, 2007

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: DIRECTION TO MODIFY THE INVESTIGATION REPORT FOR MATERIAL DISPOSAL AREA (MDA) C, SOLID WASTE MANAGEMENT UNIT 50-009, AT TECHNICAL AREA 50, LOS ALAMOS NATIONAL LABORATORY (LANL), EPA ID #NM0890010515 HWB-LANL-06-028

Dear Messrs. Gregory and McInroy:

The New Mexico Environment Department (NMED) has received the United States Department of Energy (DOE) and the Los Alamos National Security LLC's (LANS) (collectively, the Permittees) *Response to the Notice of Disapproval for the Investigation Report for Material Disposal Area C, Solid Waste Management Unit 50-009, at Technical Area 50* (Response), dated March 23, 2007 and referenced by LA-UR-07-1838/EP2007-0173. The document was submitted in response to NMED's Notice of Disapproval (NOD) dated February 19, 2007 for the *Investigation Report for Material Disposal Area C, Solid Waste Management Unit 50-009, at Technical Area 50*, dated December 6, 2006 and referenced by LA-UR-06-8096/EP2006-1000.

Pursuant to Section III.M of the March 1, 2005 Order on Consent (Order), NMED issues this direction to modify the subject report. NMED therefore declines to approve the Investigation



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Report at this time because all information required by the NOD (dated February 19, 2007) has not been submitted. The drilling and sampling results from four boreholes located between Pits 2 and 3 have not yet been submitted to NMED. Additionally, the Permittees must modify the investigation at MDA C to include a second phase of work required to meet the objectives of the approved work plan (April 6, 2005). The Phase II Investigation Work Plan required by the February 19, 2007 NOD is due on April 23, 2007. The notice date as defined in Section III.M.2 of the March 1, 2005 Consent Order (Order) will be September 30, 2007.

NMED has reviewed the Response and has the following comment;

(The comment number referenced below corresponds to the item number in the Response)

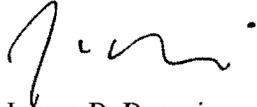
7) The Permittees' Response states that the presence of inorganics (barium and arsenic) at depth at MDA C "represents natural variability of the tuff being sampled and are not indicators of a release from MDA C." Additionally, the Permittees assert that "a fracture characterization study at MDA C is not warranted." NMED disagrees and reiterates its position that an evaluation of fracture flow beneath MDA C will be necessary for future remedy selection. The Permittees have not adequately justified that the concentrations of inorganics at depth can be attributed to natural variability in the tuff. However, in consideration of the possibility that fracture flow plays a minimal role in migration of inorganics, rather than conduct a fracture characterization study, the Permittees may seek to definitively identify the source of inorganic contamination at the off-site locations where such contamination was detected. If the Permittees choose to investigate the other source(s), additional sampling scope must be included in the Phase II Investigation Work Plan to ascertain the source of inorganics contamination at and around MDA C.

All submittals (including maps) must be in the form of two paper copies and one electronic copy in accordance with Section XI.A of the Order. NMED's direction to modify the Investigation Report in no way relieves the Permittees of their obligations to comply with the original approved work plan with which the Permittees have yet to fully comply.

Messrs. Gregory and McInroy
April 4, 2007
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Please contact Kathryn Chamberlain at (505) 476-6046 should you have any questions.

Sincerely,



James P. Bearzi
Chief
Hazardous Waste Bureau

JPB: kmc

cc: D. Cobrain, NMED HWB
K. Chamberlain, NMED HWB
D. Goering, NMED HWB
H. Shen, NMED HWB
S. Yanicak, NMED DOE OB, MS J993
L. King, EPA 6PD-N
G. Rael, DOE LASO, MS A316
C. Mangeng, ENV MS J591
file: Reading and LANL TA-50 '07 (SWMU; 50-009)