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PETER MAGGIORE
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**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

August 5, 2002

Dr. John C. Browne
Director
Los Alamos National Laboratory
P. O. Box 1663, MS A100
Los Alamos, NM 87545

Mr. Ralph Erickson
Area Manager
Office of Los Alamos Site Operations
Department of Energy
528 35th Street, MS A316
Los Alamos, NM 87544

SUBJECT: DETERMINATION OF INCOMPLETENESS FOR:

- 1) **CLOSURE/POST-CLOSURE PLAN FOR TA 54-AREA G LANDFILL (PIT 29 AND SHAFT 124), APRIL 2002;**
- 2) **CLOSURE/POST-CLOSURE PLAN FOR THE TECHNICAL AREA 54 AREA L LANDFILL (SHAFTS 1, 13-17, AND 19-34 AND IMPOUNDMENTS B AND D), APRIL 2002;**
- 3) **COMPLIANCE DEMONSTRATION WITH 40 CFR, SUBPARTS F AND G UNDER CORRECTIVE ACTION PROCEDURES FOR MATERIAL DISPOSAL AREA H AT TECHNICAL AREA 54, APRIL 2002**

**LOS ALAMOS NATIONAL LABORATORY EPA ID# NM0890010515
HWB-LANL-99-050**

Dear Dr. Browne and Mr. Erickson:

The New Mexico Environment Department (NMED) has reviewed the above-referenced Closure and Post-Closure Plans (April 2002 Plans) submitted to NMED on April 26, 2002, by Los Alamos National Laboratory and the U.S. Department of Energy (Permittees) and has determined that the Plans are incomplete.



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By letter dated December 21, 2001, NMED notified Permittees that previously submitted Closure Plans and Post-Closure Plans for Technical Area (TA) 54 are also incomplete. The December 21 letter specified that the earlier Plans' deficiencies include: 1) their coverage of only portions of MDA's G, H, and L; and 2) their failure to demonstrate compliance with groundwater monitoring requirements of 20.4.1.500 NMAC (incorporating 40 C.F.R. §§ 264.91 through 100). NMED requested that Permittees submit closure and post-closure plans addressing these deficiencies.

The April 2002 Plans, submitted in response to NMED's December 21 letter, are unresponsive to NMED's request and do not address the deficiencies identified in the December 21 letter.

In the December 21 letter, NMED requested that Permittees submit closure and post-closure plans covering each of MDA's G, H, and L as a whole. The April 2002 Plans address only 35 out of the approximately 316 disposal shafts, pits, and trenches at MDA's G, H, and L. As explained in the December 21 letter, the 316 shafts, pits, and trenches are not separate landfills. Releases of hazardous constituents and source, special nuclear, and by-product materials from individual shafts, pits, and trenches cannot be investigated and remediated separately. Installation of Resource Conservation and Recovery Act (RCRA) covers on only 35 out of the 316 shafts, pits, and trenches, as proposed in the April 2002 Plans, would not be protective of human health and the environment.

Because MDA's G, H, and L are each one landfill, MDA's G, H, and L are each one regulated unit, as defined at 20.4.1.500 NMAC (incorporating 40 C.F.R. §§ 264.90(a)(2)), and are not commingled solid waste management units (SWMU's) and regulated units. NMED does not approve the application of alternative standards under 20.4.1.500 NMAC (incorporating 40 C.F.R. § 264.110(c)) to MDA's G, H, and L. As stated in the December 21 letter, all closure and post-closure requirements under 20.4.1.500 NMAC (incorporating 40 C.F.R. Part 264, Subpart G) must be complied with at MDA's G, H, and L. Additionally, Corrective Measures Study (CMS) Reports and Corrective Measures Implementation Reports are not enforceable documents allowed in lieu of closure and post-closure plans, under 20.4.1.900 NMAC (incorporating 40 C.F.R. §§ 270.1(c)(7)), as Permittees assert in the April 2002 Plans.

Also as explained in the December 21 letter, hazardous waste was disposed of at MDA's G, H, and L after July 26, 1982, and therefore each MDA is subject to the specific groundwater monitoring requirements of 20.4.1.500 NMAC (incorporating 40 C.F.R. §§ 264.91 through 100). Groundwater monitoring in compliance with 20.4.1.500 NMAC (incorporating 40 C.F.R. §§ 264.91 through 100) for MDA's G, H, and L is mandatory.

For MDA H only, because of a prior agreement outlined in a letter from NMED to Permittees, dated December 27, 2000, NMED specified in its December 21 letter that compliance with 40

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C.F.R. Part 264, Subparts F and G, requirements may be demonstrated under 40 C.F.R. § 264.101 corrective action procedures, such as RCRA Facility Investigation Reports and CMS Reports. Closure and post-closure plans for MDA H must demonstrate that the substantive requirements of Subparts F and G are met.

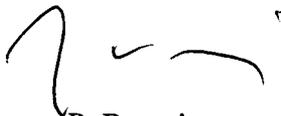
Compliance with 20.4.1.500 NMAC (incorporating 40 C.F.R. §§ 264.91 through 100 and Subpart G) closure, post-closure, and groundwater monitoring requirements at MDA's G, H, and L is mandatory. The April 2002 Plans describe compliance as a possible future alternative. Groundwater monitoring is proposed by Permittees as an alternative to be implemented in the future if appropriate. The sampling well locations, sampling frequency, hazardous constituents, and concentration limits, all required under 20.4.1.500 NMAC (incorporating 40 C.F.R. §§ 264.91 through 100) are not specified. The compliance point is said to be "the boundary of [an unspecified] Aggregate 2." Based on maps submitted previously by Permittees, Aggregate 2 does not include MDA H and therefore does not encompass the whole TA-54 waste management area.

For these reasons and the reasons explained in the December 21 letter regarding the earlier Plans, the April 2002 Plans fail to demonstrate that all closure, post-closure, and groundwater monitoring requirements of 20.4.1.500 NMAC (incorporating 40 C.F.R. §§ 264.91 through 100 and Part 264, Subpart G) will be met for MDA's G, H, and L. The April 2002 Plans are therefore incomplete.

The RCRA hazardous waste management permit for Los Alamos National Laboratory cannot be issued without complete closure and post-closure plans for TA-54. Failure on the part of Permittees to submit adequate plans may significantly delay issuance of the permit, and may result in enforcement action by NMED for violations, including but not limited to, failure by Permittees to submit a complete RCRA permit application.

If you have any questions or need additional information please contact Carl Will of my staff at 505-428-2542.

Sincerely,



James P. Bearzi
Chief
Hazardous Waste Bureau

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