



BILL RICHARDSON
Governor

DIANE DENISH
Lieutenant Governor

TASY
NEW MEXICO
ENVIRONMENT DEPARTMENT

Hazardous Waste Bureau

2905 Rodeo Park Drive East, Building 1
Santa Fe, New Mexico 87505-6303
Phone (505) 476-6000 Fax (505) 476-6030
www.nmenv.state.nm.us



RON CURRY
Secretary

JON GOLDSTEIN
Deputy Secretary

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

May 7, 2009

David Gregory
Federal Project Director
Los Alamos Site Office
Department of Energy
3747 West Jemez Road, 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: RESPONSE TO THE PERMITTEES LETTER ENTITLED "RESPONSE TO DENIAL TO THE REQUEST FOR EXTENSION TO SUBMIT A REVISED CORRECTIVE MEASURES EVALUATION REPORT FOR MATERIAL DISPOSAL AREA G" LOS ALAMOS NATIONAL LABORATORY EPA ID #NM0890010515 HWB-LANL-08-025

Messrs. Gregory and McInroy:

The New Mexico Environment Department (NMED) is in receipt of the Department of Energy (DOE) and the Los Alamos National Security, L.L.C.'s (LANS) (collectively, the Permittees) *Response to the Denial to the Request for Extension to Submit a Revised Corrective Measures Evaluation Report for Material Disposal Area G* (Response), referenced by EP2009-0225 and dated April 24, 2009.

The Permittees state that "the Laboratory proposed performing siting, geologic, and hydrogeologic investigations to demonstrate that an on-site location exists that complies with Section 20.4.1.500 of the New Mexico Administrative Code (NMAC) incorporating 40 CFR 264.18, Location Standards." The Permittees misinterpret the rule. 40 CFR § 264.18 describes three conditions which must be considered in locating treatment, storage, or disposal facilities: 1) seismic considerations; 2) floodplains; and 3) salt dome formations. There is no mention of hydrogeologic investigations in the cited regulation as it pertains to locating an engineered



31533

landfill.

The Permittees' Response referenced only one of the five evaluation criteria identified in Section VII.D.4: Implementability (Section VII.D.4.b.iv). Section VII.D.2, item 12 of the of the March 1, 2005 Order on Consent (Order) states "[t]he Corrective Measures Evaluation Report shall, at a minimum, comply with Section XI.F of this Consent Order and include:...[a] detailed evaluation and rating of each of the remedy alternatives, applying the criteria set forth in Section VII.D.4". Consent Order Section VII.D.4.b (Remedial Alternatives Evaluation Criteria) specifically states that "[t]hese factors shall be balanced in proposing the preferred alternative." The Permittees must therefore address *all* criteria identified in Section VII.D.4.

Section VII.D.4.a states that each remedy alternative must be evaluated for its ability to control the source or sources of releases. The Permittees will be unable to evaluate the long-term reliability and effectiveness (Section VII.D.4.b.i) or the reduction of toxicity, mobility, or volume (Section VII.D.4.ii) of waste if they cannot determine whether or not an engineered landfill or corrective action management unit (CAMU) can be located at the Laboratory. Hydrogeologic and geologic investigations, except as they pertain to the seismic conditions at the proposed locations, are not relevant to meeting the location standards at the Laboratory.

The Permittees' CME Report for MDA G must therefore include an evaluation of all criteria identified in Sections VII.D.4 of the Order, including the location standards in 40 CFR § 264.18. The CME Report for MDA G is due no later than September 18, 2009.

Please contact Katie Roberts at (505) 476-6041 should you have any questions.

Sincerely,



James P. Bearzi
Chief
Hazardous Waste Bureau

cc: D. Cobrain, NMED HWB
K. Roberts, NMED HWB
S. Yanicak, NMED DOE OB, MS J993
T. Skibitski, NMED DOE OB
L. King, EPA 6PD-N
G. Rael, DOE LASO, MS A316
M. Graham, LANS ENV MS J591
File: LANL, 2009 TA-54 (SWMU 54-013(b)-99)