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NEW MEXICO
ENVIRONMENT DEPARTMENT



ENTERED



Hazardous Waste Bureau

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BILL RICHARDSON
Governor

DIANE DENISH
Lieutenant Governor

RON CURRY
Secretary

JON GOLDSTEIN
Deputy Secretary

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

November 23, 2009

Donald L. Winchell, Jr., Manager
Los Alamos Site Office-Department of Energy
528 35th Street, Mail Stop A316
Los Alamos, NM 87544

Richard Watkins, Director
Environment, Safety, Health, & Quality
Los Alamos National Security, LLC
Los Alamos Research Park
4200 Jemez Road, Suite 400
Los Alamos, NM 87545

**RE: SECOND DEMAND FOR PAYMENT
STIPULATED PENALTY FOR THE CORRECTIVE MEASURES EVALUATION
REPORT FOR MATERIAL DISPOSAL AREA G, CONSOLIDATED UNIT 54-
013(b)-99, AT TECHNICAL AREA 54
LOS ALAMOS NATIONAL LABORATORY,
EPA ID #NM0890010515
HWB-LANL-08-025**

Dear Messrs. Winchell and Watkins:

This letter constitutes written notice of the New Mexico Environment Department's (the Department) demand for payment of stipulated penalties pursuant to Section III.G of the March 1, 2005 Order on Consent (Order). This notice is for the Department of Energy (DOE) and the Los Alamos National Security, L.L.C.'s (the Respondents) failure to substantially comply with the requirements set forth in the Order for the Corrective Measures Evaluation (CME) Report for MDA G because the subject report does not include adequate groundwater data as stated in NMED's intent to assess stipulated penalties letter dated September 26, 2008 and reiterated in a letter dated October 9, 2009. These deficiencies were outlined in the Department's September 26, 2008, written notice of its intent to assess stipulated penalties.

The first demand for payment, dated January 26, 2009, was for the first 117 days of noncompliance (September 13, 2008 through January 7, 2009). To date, the Permittees have not paid this penalty or the accrued interest.

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In accordance with Section III.G.3 of the Order, the Respondents shall pay \$1,000 per day for the first thirty (30) days of noncompliance, and \$3,000 per day thereafter. This demand for payment is for the second 320 days of noncompliance (January 8, 2009 through November 23, 2009).

Therefore, in accordance with Section III.G.5, **\$960,000.00** is due to the Department within 45 days of the date of this letter.

The Respondents must follow the procedures for payment outlined in Section III.G.5 of the Order. In accordance with Section III.G.6 of the Order, interest shall accrue at the rate specified in 28 U.S.C. § 1961. Interest shall accrue from the date the penalty is due until the date it is actually paid.

Should you have any questions, please contact me at 476-6016.

Sincerely,



James P. Bearzi
Chief
Hazardous Waste Bureau

cc: K. Roberts, NMED HWB
D. Cobrain, NMED HWB
A. Vollmer, NMED HWB
C. de Saillan, NMED OGC
S. Yanicak, NMED DOE OB, MS J993
L. King, EPA 6PD-N
G. Rael, DOE OLASO, MS A316
M. Graham, LANL ADEP, MS J591
file: Reading and LANL '09 TA-54 (SWMU 54-013(b)-99)