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57
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Director
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CERTIFIED MAIL - RETURN RECEIPT REQUESTED

July 11, 2012

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Michael J. Graham
Associate Director
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**RE: APPROVAL WITH MODIFICATIONS
INVESTIGATION WORK PLAN FOR TECHNICAL AREA 57 AGGREGATE
AREA (FENTON HILL)
EPA ID #NM0890010515
HWB-LANL-12-027**

Dear Messrs. Maggiore and Graham:

The New Mexico Environment Department (NMED) has received the United States Department of Energy (DOE) and the Los Alamos National Security L.L.C.'s (LANS) (collectively, the Permittees) *Investigation Work Plan for Technical Area 57 Aggregate Area (Fenton Hill)*, dated April, 2012 and referenced by LA-UR-12-20545/EP2012-0093. NMED hereby issues this Approval with Modifications for the work plan and provides the following comments.

1. Section 1.0, Introduction, page 1:

Permittees' Statement:

Corrective actions at the Laboratory are subject to a [the March 1, 2005] Compliance Order on Consent (the Consent Order). The TA-57 site, which is located in Sandoval

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County, is not part of the Laboratory facility, as defined in Sections II.A.2 and III.B of the Consent Order; therefore, releases from the TA-57 sites are not subject to the Consent Order. However, the Laboratory is voluntarily implementing the Consent Order corrective action process for those sites at TA-57 that managed Resource Conservation and Recovery Act (RCRA)- regulated waste and that have not previously been approved for no further action (NFA) under other regulatory programs.

NMED Comment:

This statement is inaccurate Technical Area (TA) 57 sites are regulated under the Consent Order. Section IV.B of the Consent Order (page 57) lists TA-57 (Fenton Hill) as one of the watershed aggregate areas for which work plans are required to be submitted to NMED. Similarly Table XII-2 and XII-3 of the Consent Order list Investigation Work Plan for TA-57 sites as a scheduled deliverable document. In addition, seven sites located on TA-57 are listed on Table K-1 (SWMUs and AOCs Requiring Corrective Action) in Appendix K of the Laboratory's Hazardous Waste Permit (Permit).

2. Section 1.1, Investigation Work Plan Overview, page 1:

Permittees' Statement:

The TA-57 Aggregate Area includes 10 AOCs, 8 of which have previously been approved for NFA. Three sites were approved for NFA by the U.S. Environmental Protection Agency (EPA). Five sites were used to manage geothermal exploration wastes not subject to regulation under RCRA. These sites were approved for NFA by the New Mexico Oil Conservation Division (NMOCD). The remaining two sites require additional characterization.

NMED Comment:

As stated in the previous comment, seven of these ten sites are listed on Appendix K of the Permit as sites requiring corrective action. Three areas of concern (AOCs) have been approved for no further action (NFA) and are listed on Table K-3 (Corrective Action Complete Without Controls) of the Permit. The five sites that were approved for NFA by the NMOCD also are listed on Table K-1 and require a Class III Permit Modification to be moved to Table K-3 of the Permit. The Permittees must provide documentation from NMOCD to support their claim that these sites were granted NFA and corrective action is complete at these sites. The August 29, 2003 letter from New Mexico Energy, Minerals and Natural Resources Department provided as a reference indicates that NMOCD approved termination of discharge plan for GW-031 at Fenton Hill Geothermal Facility. It does not indicate that investigations were conducted at these sites or that corrective action was complete and approved by NMOCD. The supporting documentation must be included in the investigation report to be submitted after implementation of the work plan.

Messrs. Maggiore and Graham
July 11, 2012
Page 3

Based on the schedule proposed by the Permittees in the work plan, the investigation report is due no later than **April 30, 2014**. Please contact Neelam Dhawan at (505) 476-6042, if you have any questions.

Sincerely,



John E. Kieling *for*
Chief
Hazardous Waste Bureau

cc: D. Cobrain, NMED HWB
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