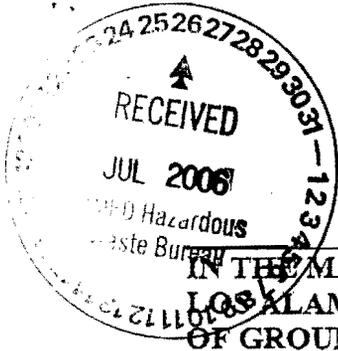


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STATE OF NEW MEXICO
SECRETARY OF ENVIRONMENT



IN THE MATTER OF THE PETITION OF)
LOS ALAMOS COUNTY FOR SUSPENSION)
OF GROUND WATER MONITORING)
REQUIREMENT IN 20.9.1.800 NMAC)
AT THE LOS ALAMOS COUNTY LANDFILL)

No. SWB 06-08(AP)

JOINT MOTION OF INCORPORATED COUNTY OF LOS ALAMOS AND NEW MEXICO ENVIRONMENT DEPARTMENT FOR STIPULATED WITHDRAWAL OF PETITION FOR SUSPENSION OF GROUNDWATER MONITORING REQUIREMENTS

The Incorporated County of Los Alamos ("County") and the Solid Waste Bureau of the Environmental Protection Division of the New Mexico Environment Department ("Department") hereby submit this Joint Motion for Stipulated Withdrawal of Petition for Suspension of Groundwater Monitoring Requirements. The grounds for this motion are as follows:

1. In connection with its closure plan for the Los Alamos County Landfill and pursuant to the New Mexico Solid Waste Management Regulations, 20.9.1.800 (A)(3), N.M.A.C., County submitted a Petition for Suspension of Groundwater Monitoring Requirements ("Petition") on February 8, 2006.
2. Department deemed the Petition complete on March 31, 2006, and a public hearing on the Petition was commenced and completed on May 11, 2006.
3. County and Department offered testimony and introduced exhibits at the hearing in support of the Petition.
4. County filed Proposed Findings of Fact, Conclusions of Law and Recommended Decision ("Proposed Findings") on June 12, 2006.



5. Department filed a Motion to Present New Evidence and Request for Extension to Submit Proposed Findings of Fact and Conclusions of Law ("Motion to Present New Evidence") on June 19, 2006. County filed a response to said motion on July 5, 2006, requesting denial.

6. Both County's Proposed Findings and Department's Motion to Present New Evidence are currently pending in this tribunal, and the Hearing Officer has allowed the parties to attempt settlement prior to July 25, 2006.

7. The parties have successfully resolved the remaining issues and have agreed to settlement terms. The terms and conditions of the settlement are embodied in the following exchange of letters by the parties, dated July 14, 2006, and attached hereto as Exhibits "A" and "B," respectively:

- A. Letter from County Administrator Max Baker to Solid Waste Bureau Chief Auralie Ashley-Marx, withdrawing the Petition;
- B. Letter from New Mexico Environment Department Secretary Ron Curry to County Administrator Max Baker, agreeing to withdrawal of the Petition.

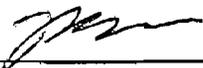
8. The exchange of letters and the terms and conditions embodied therein have rendered the Petition moot, and said Petition should be withdrawn.

9. Withdrawal of the Petition and dismissal for this proceeding will render the pending Motions moot, and said pending matters will require no further action.

WHEREFORE, for the reasons stated, County and Department stipulate that all matters in controversy have been resolved, and jointly request that the Hearing Officer grant the motion to withdraw the Petition and dismiss this proceeding.

Respectfully submitted,

INCORPORATED COUNTY OF LOS ALAMOS

By: 
Peter A. Dwyer
Los Alamos County Attorney
Post Office Box 30
Los Alamos, New Mexico 87544
Telephone: (505) 662-8020

**SOLID WASTE BUREAU
NEW MEXICO ENVIRONMENT DEPARTMENT**

By: 
Misty Braswell
Assistant General Counsel
Office of General Counsel
New Mexico Environment Department
1190 St. Francis Drive
Santa Fe, New Mexico 87502-6110
Telephone: (505) 827-2982

JOINT MOTION OF INCORPORATED COUNTY OF LOS ALAMOS AND
NEW MEXICO ENVIRONMENT DEPARTMENT FOR
STIPULATED WITHDRAWAL OF PETITION FOR
SUSPENSION OF GROUNDWATER MONITORING REQUIREMENTS

No. SWB 06-08(AP)

Exhibit A

Letter from County Administrator Max Baker
to Solid Waste Bureau Chief Auralie Ashley-Marx



LOS ALAMOS COUNTY

P.O. Box 30 Los Alamos, NM 87544 (505) 662-8080 Fax (505) 662-8079
Website: www.lac-nm.us

COUNTY COUNCIL

Council Chair
Michael G. Wheeler
Council Vice-Chair
Jim L. West
Councilors
Frances M. Berting
Nona Bowman
Jim Hall
Ken H. Milder
Michael Wismer

COUNTY ADMINISTRATOR

Max H. Baker

COUNTY ATTORNEY

Peter A. Dwyer

July 14, 2006

Ms. Auralie Ashley-Marx
Solid Waste Bureau
New Mexico Environment Department
1190 St. Francis Drive
Santa Fe, NM 87501

Re: Los Alamos County Groundwater Monitoring Suspension Petition

Dear Ms. Ashley-Marx,

Los Alamos County (County) filed a petition with the New Mexico Environment Department (Department) for a suspension of groundwater monitoring at the Los Alamos County Landfill (Landfill) on February 7, 2006. The petition was filed pursuant to section 801.C of the New Mexico Solid Waste Management Regulations, 20 NMAC 9.1 (the Regulations). The petition to suspend groundwater monitoring is a part of the County's landfill closure plan, originally submitted in 1999 and amended in September 2005.

During a meeting among Department and County representatives on June 7, 2006, the Department explained in response to the County's petition pursuant to 20.9.1 NMAC 801.C that Los Alamos National Laboratory (LANL) will be conducting groundwater monitoring in Los Alamos Canyon and Sandia Canyon watershed under the March 1, 2005 Compliance Order on Consent (Consent Order) between the New Mexico Environment Department and LANL. The Landfill is being addressed by the Consent Order investigation as part of the Sandia Canyon Investigation Work Plan. Consequently, the Department will not require the County to conduct groundwater monitoring. If future confirmed groundwater investigations by LANL show that the County's operation of the Landfill caused actual contamination that has the potential for hazardous waste or hazardous waste constituents to migrate to the uppermost aquifer during the active life of the Landfill or post-closure care period, the County may be required to begin groundwater monitoring at the site, to the extent required by law. The County will abide by existing agreements and regulations regarding the County's operations of the Landfill.

The County will use reasonable efforts not to impede or prevent DOE, LANL, or any other co-permittee of LANL from taking any corrective action(s) or other activities at the site that may be required by the Department under the Consent Order.

The County also understands that it is relieved of the financial assurance requirements for the costs of groundwater monitoring and Phase 1 and Phase II assessment as is allowed by the regulations sections 904a and 801C. If contamination by hazardous waste or hazardous waste constituents related to the County operations at the landfill is determined pursuant to the law to require further action, then the County may be fiscally responsible for any required actions to the extent required by law.

Ms. Auralie Ashley-Marx
NMED Solid Waste Bureau
July 14, 2006
Page 2 of 2

Therefore, the County withdraws its petition for a suspension of groundwater monitoring at the Landfill upon direct reliance and representations by the State of New Mexico through the Department that (consistent with the statements set forth herein) the Department will not require the County to:

- 1) undertake groundwater monitoring and
- 2) provide financial assurances for the cost of groundwater monitoring.

The County and the Department have agreed and relied upon each others' representations set forth herein and in the letter from the Department to the County in response to this letter and agree that both letters will become part of the record for the Landfill closure plan upon approval of the Landfill closure plan by the Department .

Thank you,



Max Baker
Administrator, Los Alamos County

cc: Peter Dwyer, County Attorney
Anthony Mortillaro, Assistant County Administrator
Regina Wheeler, Solid Waste Manager

JOINT MOTION OF INCORPORATED COUNTY OF LOS ALAMOS AND
NEW MEXICO ENVIRONMENT DEPARTMENT FOR
STIPULATED WITHDRAWAL OF PETITION FOR
SUSPENSION OF GROUNDWATER MONITORING REQUIREMENTS

No. SWB 06-08(AP)

Exhibit B

Letter from New Mexico Environment Department Secretary Ron Curry
to County Administrator Max Baker



BILL RICHARDSON
GOVERNOR

State of New Mexico
ENVIRONMENT DEPARTMENT
Office of the Secretary
Harold Runnels Building
1190 St. Francis Drive, P.O. Box 26110
Santa Fe, New Mexico 87502-6110
Telephone: (505) 827-2855
Fax: (505) 827-2836



RON CURRY
SECRETARY

DERRITH WATCHMAN-MOORE
DEPUTY SECRETARY

July 14, 2006

Mr. Max Baker
Administrator, Los Alamos County
P.O. Box 30
Los Alamos, NM 87544

Re: Los Alamos County Groundwater Monitoring Suspension Petition

Dear Mr. Baker,

This letter is in response to the letter from Los Alamos County (County) withdrawing the County's Petition for Suspension of Groundwater Monitoring requirements (Petition) at the Los Alamos County landfill, dated July 14, 2006. The New Mexico Environment Department (Department) agrees with the statements in your letter.

The Department has determined that the Los Alamos County Landfill (Landfill) is subject to the March 1, 2005 Compliance Order on Consent (Consent Order) between the New Mexico Environment Department, the U.S. Department of Energy (DOE), and the Regents of the University of California (and its successors). Pursuant to the Consent Order, DOE and the University of California will be conducting extensive groundwater investigation at Los Alamos National Laboratory, including Los Alamos Canyon and Sandia Canyon. The County is not a party to and has no responsibilities under the Consent Order.

Therefore, to avoid duplicative monitoring requirements, the Department will not require the County to conduct groundwater monitoring for the Landfill. If future confirmed investigations show that the County's operation of the Landfill caused actual contamination that has the potential for hazardous waste or hazardous waste constituents to migrate to the uppermost aquifer during the active life of the Landfill or post-closure care period, the Department may require the County to conduct groundwater monitoring as required by law.

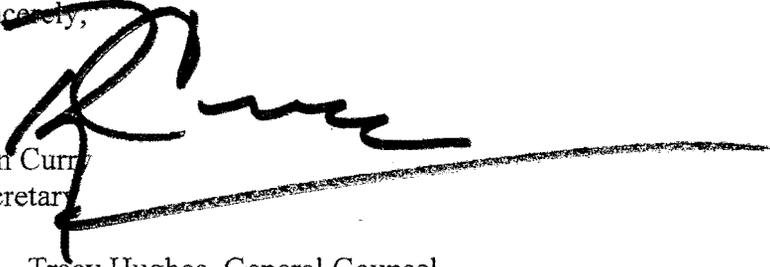
Further, the Department will not require the County to provide financial assurance for the costs of groundwater monitoring or Phase I and Phase II assessment as is outlined in the Solid Waste Management Regulations, 20 9.1 NMAC. The Department would require that the County take responsibility for groundwater contamination resulting from County operations at the landfill.

The Department will reference the County's July 14, 2006 letter, and this response, in all future correspondence regarding the closure plan for the Landfill, including any correspondence approving the closure plan. The County may rely upon the findings set forth in this letter.

The Department's decision not to require groundwater monitoring for the Los Alamos County Landfill, or associated financial assurance at this time, is based on the unique facts and circumstances on which the decision is based. The decision does not establish any precedent for future groundwater monitoring decisions for Los Alamos National Laboratory, or any other entity.

Thank you for your cooperation in this matter.

Sincerely,



Ron Curry
Secretary

C: Tracy Hughes, General Counsel
Auralie Ashley-Marx, Bureau Chief, Solid Waste Bureau
James Bearzi, Bureau Chief, Hazardous Waste Bureau