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NEW MEXICO
ENVIRONMENT DEPARTMENT

Hazardous Waste Bureau

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RON CURRY
Secretary

CINDY PADILLA
Deputy Secretary

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

August 13, 2007

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

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

RE: FINAL DEMAND FOR PAYMENT
STIPULATED PENALTY FOR THE INVESTIGATION REPORT FOR CORRECTIVE ACTION OF SWMU 73-002 (INCINERATOR ASPHILE REMOVAL), LOS ALAMOS NATIONAL LABORATORY (LANL),
EPA ID NM0890010515
HWB-LANL-05-005

Dear Messrs. Winchell and Watkins:

This letter constitutes written notice of the New Mexico Environment Department's (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, LLC's (the Respondents) failure to timely submit the *Investigation Report for Corrective Action of SWMU 73-002 and Consolidated Unit 73-002-99* (Investigation Report).

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. On September 13, 2006, the Department issued written notice of its intent to assess stipulated penalties. On October 13, 2006 the Department issued a demand for payment for the first 30 days of noncompliance (September 13, 2006 to October 14, 2006). On December 7, 2006 the Department issued a demand for payment for the second 30 days of noncompliance (October 29, 2006 to November 28, 2006). On May 3, 2007 the Department issued a demand for payment for the third 30 days of

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noncompliance (December 12, 2006 to December 20, 2006 (8 days), April 9, 2007 to April 13, 2007 (5 days), and April 16 to May 2, 2007 (17 days)). On June 8, 2007 the Department issued a demand for payment for the fourth 30 days of noncompliance (May 3, 2007 to June 1, 2007). On July 5, 2007 the Department issued a demand for payment for the fifth 30 days of noncompliance (June 2, 2007 to July 1, 2007).

On July 9, 2007, NMED received the Permittees *Investigation Report for Consolidate Unit 73-002-99 and Corrective Action of Solid Waste management Unit 73-002 at Technical Area 73* (Report), dated July 2007 and referenced by EP2006-1079. Submittal of the Report satisfies the first provision of Section III.G.2 of the Order. Additionally, NMED has approved the Report (*see* NMED letter of August 13, 2007), and therefore considers the Permittees to be in substantial compliance with the requirements of the Order.

This demand for payment is for the final 8 days of noncompliance (July 2, 2007 through July 9, 2007). In accordance with Section III.G.5, $24,000.00 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.

As of the date of this letter, the Permittees have paid stipulated penalties for the first, second, and third 30 days of noncompliance. Payment for the first 30 days of noncompliance was received on December 13, 2006 (16 days late). Payment for the second 30 days of noncompliance was received on January 31, 2007 (10 days late). Payment for the third 30 days of noncompliance was received on June 25, 2007 (8 days late). Payment for the fourth 30 days has not yet been received. 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.

If you have any questions regarding this letter, please contact me at (505) 476-6016.

Sincerely,

James P. Bearzi
Chief
Hazardous Waste Bureau

cc: K. Chamberlain, NMED HWB
A. Vollmer, NMED HWB
J. Valdez, NMED HWB
C. de Saillan, NMED OGC
S. Yanicak, NMED DOE OB, MS J993
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S. Stiger, ADEP MS J591
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D. Gregory, DOE LASO, MS A316
D. Woitte, LANS, MS A187
L. Cummings, DOE LASO, MS A316
file: Reading and LANL '07 (Permit)