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PETER MAGGIORE
SECRETARY

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

July 24, 2002

Dr. John C. Browne, Director
Los Alamos National Laboratory
P.O. Box 1663, Mail Stop A100
Los Alamos, New Mexico 87545

Mr. Everett Trollinger, Project Manager
Office of Los Alamos Site Operations
Department of Energy
528 35th Street, Mail Stop A316
Los Alamos, New Mexico 87544

**RE: NOTICE OF REJECTION DUE TO TECHNICAL INCOMPLETENESS –
INTERIM MEASURE (IM) PLAN FOR SOLID WASTE MANAGEMENT UNIT
(SWMU) 73-001(a).**

Dear Dr. Browne and Mr. Trollinger:

The Hazardous Waste Bureau of the New Mexico Environment Department (NMED) has reviewed the University of California and U.S. Department of Energy (Permittees) VCM report titled "Interim Measure Plan for Potential Release Site 73-001(a) Debris Removal," dated July 2002 and referenced by LA-UR-01-2923 and ER2001-0472. NMED has found the IM Plan for SWMU 73-001(a) to be technically deficient and is rejecting the IM Plan based on the following:

- The plan does not select a remedy for debris removal.
- The plan does not discuss how a selected remedy will be implemented at the site.
- The plan does not include a detailed schedule (including start and finish dates) for implementation of a selected remedy.
- The plan does not comply with or meet the intent of the NPDES storm water multi-sector general permit for industrial activities (MSGP) and regulations found in 40 CFR 122.6.



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Furthermore, some of the assertions made by the Permittees in their July 18, 2002 cover letter are incorrect. NMED did not provide input to the Permittees during the preparation of the submitted IM Plan, as stated in the cover letter accompanying the IM Plan. The Airport Landfill High Performing Team (HPT) reviewed a draft IM Plan in June of 2001. The plan submitted to NMED is not the same plan that was reviewed by the Airport Landfill HPT. NMED has devoted time and resources to actively participate as a member of the Airport Landfill HPT. HWB recognizes the importance of the HPT; however, the HPT serves no function if the Department of Energy intends to make decisions regarding cleanup of the Airport Landfill drainages without input of the HPT.

In a letter from NMED dated December 20, 2000 to the Permittees titled "Response to Modification to the Regulatory Approach for Potential Release Sites (PRSs) 73-001(a-d) and 73-004(d), Airport Landfill Areas," NMED approved a change in the regulatory approach, which was proposed by the HPT. The modification allowed the drainage cleanup to be conducted as an IM and the cover design and construction to be completed as a VCM. NMED approved the change in regulatory approach in an attempt to accelerate cleanup of the drainages. In the December 2000 letter, NMED clearly stated that a formal IM Plan and Report must be submitted to HWB for review and approval.

The Permittees have had sufficient time to submit an IM Plan and implementation schedule to NMED for review. The IM Plan submitted to NMED contains a list of possible cleanup methods, which have already been evaluated by the HPT, but contains no path forward for removal and cleanup of the debris drainages. The revised IM Plan must select a remedy and include an accelerated schedule for cleanup activities. The revised plan and accelerated schedule must be submitted to NMED by August 7, 2002. Failure to comply with this regulatory deliverable is considered noncompliance with the Permittees RCRA Permit, and may be subject to an enforcement action.

If you have any questions or concerns regarding this notice of rejection based on technical incompleteness, or require additional clarification regarding content of the revised plan due to NMED no later than August 7, 2002, please contact me at (505) 428-2546.

Sincerely,



Victoria Maranhão

Project Manager

Permits Management Program

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DC:vm

cc: J. Bearzi, NMED HWB
D. Cobrain, NMED HWB
D. Goering, NMED HWB
J. Davis, NMED SWQB
J. Parker, NMED DOE OB
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D. Gregory, OLASO, MS A316
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File: Reading and LANL TA-73 (SWMU 73-001(a) Airport Landfill)