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CERTIFIED MAIL
RETURN RECEIPT REQUESTED

September 6, 2005

David Gregory, Federal Project Director
Los Alamos Site Office
Department of Energy
528 35th Street, Mail Stop A316
Los Alamos, NM 87544

Robert W. Kuckuck, Director
Los Alamos National Laboratory
P.O. Box 1663, Mail Stop A100
Los Alamos, NM 87545

RE: SECOND NOTICE OF DISAPPROVAL FOR THE CORRECTIVE ACTION WORKPLAN FOR SOLID WASTE MANAGEMENT UNIT (SWMU) 73-002 (INCINERATOR ASH REMOVAL) LOS ALAMOS NATIONAL LABORATORY (LANL), EPA ID #NM0890010515
HWB-LANL-05-005

Dear Messrs. Gregory and Kuckuck:

The New Mexico Environment Department (NMED) has received and reviewed the United States Department of Energy and the Regents of the University of California's (collectively, the Permittees) revised *Corrective Action Workplan for Solid Waste Management Unit (SWMU) 73-002 (Incinerator Ash Removal)*, dated August 2005 and referenced by Innovative Technical Solutions, Inc. (ITSI) Project No: 04-400.12.0012. NMED hereby issues this Notice of Disapproval (NOD) of the aforementioned work plan. The Permittees must address all comments and submit revised text and/or replacement pages (where appropriate) within fifteen (15) days of receipt of this letter. As part of the response letter that accompanies the revised text or replacement pages, the Permittees shall include a table that details where all revisions have been made to the work plan and cross-references NMED's numbered comments. All submittals must be in the form of two paper copies and one electronic copy in accordance with section XI.A of the March 1, 2005 Consent Order (Order). NMED also requests that an electronic version of the Response be included along with the electronic version of the revised work plan.

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(Note: Comment numbers refer to the original NOD dated July 19, 2005)

General Comments:

2) Section IX.A of the Order does not provide a list of SOPs. The Permittees must provide a brief description of the laboratory's investigation, sampling or analytical methods and procedures, as part of this work plan, comparable to the table submitted with the DP Aggregate Investigation Work Plan. The description must include sufficient detail to evaluate the quality of the acquired data. The Permittees may not substitute references to the Facility's SOPs for this requirement. (Submit to NMED within 15 days of receipt of this letter.)

Specific Comments:

3) Permittees' Statement: "Given that the ash contains radioisotopes, and the sensitivity of the radioisotopic methods is extremely high, it is unlikely that any debris that has been in contact with the ash will be not-detected. Therefore the debris (PPE, cans, vegetation, etc.) will continue to be classified in the same category as the original ash. The current acceptance profile to the landfill includes debris, so there should not be any change required there."

"This decontamination process will initially evaluate the item to ensure that all surfaces are accessible and available for decontamination. Each item that meets this criterion will be cleaned in an area setup for decontamination by brushing off ash residue, using wet wipes to wipe all surfaces, followed by a visual inspection by the waste management representative to ensure proper cleanliness. These items will also be evaluated by radiation safety personnel prior to release to a municipal landfill."

NMED Comment: As previously stated, but overlooked by the Permittees, NMED does not believe that the Permittees will be able to reasonably demonstrate that all contamination has been successfully removed from debris encountered at this site nor have the Permittees proposed a method to demonstrate this. Additionally, it is unclear whether debris (PPE, cans, vegetation) will be screened and sampled or simply classified in the same category as the ash to ensure proper shipment and disposal. The Permittees must provide a sampling plan that outlines the procedures that will be used to determine if debris is free of RCRA constituents or radioisotopes. (Submit to NMED within 15 days of receipt of this letter.)

7) C) Permittees' Statement: "The above-proposed sampling methods are consistent with the Standard Operating Procedures listed in Section IX.A, Standard Operating Procedures, of the Compliance Order on Consent (NMED, 2005)."

NMED Comment: See general comment #2.

F) Permittees' Statement: "Project-required reporting limits (RLs) are provided in Table 1. In accordance with Section IX.C.3.c of the NMED/LANL Order on Consent, the RL will be approximately five times higher than the experimentally-determined method detection limit (MDL) or the experimentally-determined and the minimum detectable activity (MDA). Due to the inherent uncertainty of laboratory analytical methods and procedures, in certain cases the sample-specific MDL or MDA may exceed the project RL. These cases will be considered data quality exceptions and explained in the appendix to the Investigation Report in accordance with Section XI.C.14.c of the NMED/LANL Order on Consent."

NMED Comment: Contrary to the Permittees' statement, Section IX.C.3.c of the Order does not state the RL requirements. The Order states that the preferred method detection limits are a maximum of 20 percent of the background, screening, or cleanup levels. In addition, the Permittees did not address NMED's comment.

Additional Comments:

1) Historical Investigation Report, Figure 1:

NMED Comment: The Permittees must include all 2005 sampling locations on Figure 1. Sample locations RE-73-05-58829, RE-73-05-58835, RE-73-05-58841, RE-73-05-58878, RE-73-05-58879 are not shown on Figure 1. The Permittees must submit a revised Figure 1 to NMED within 15 days of receipt of this letter.

2) Historical Investigation Report, Table A-6:

NMED Comment: The Permittees must correct Table A-6 so that the radionuclides included in the analysis are legible. For example, the last column of the table lists "Cs-3" as the isotope. This isotope should read Cs-137. (Submit to NMED within 15 days of receipt of this letter.)

3) NMED Comment: The other sites in Consolidated Unit 73-002-99 (73-004(a-b), 73-006, and AOC 73-003) have not been addressed in this work plan or the Pueblo Canyon Aggregate Area Work Plan. The Pueblo Canyon Aggregate Area Work Plan states that all future investigations at sites included in Consolidated Unit 73-002-99 will be conducted by DOE and reported separately. The Permittees have not proposed to address these sites in a separate work plan. Therefore, the Permittees must include investigation of these SWMUs as part of this work plan. (Submit to NMED within 15 days of receipt of this letter.)

NMED emphasizes that even after a previous disapproval, this work plan still does not comply with many of the basic requirements of the Order. NMED provided specific comments in the NOD that were intended to guide the Permittees in their responses, and to help the Permittees comply with the Consent Order requirements at this site. The Permittees are advised that these requirements are mandatory, and failure to comply with them may result in an enforcement

action. The Permittees are also reminded that both NMED and EPA have identified this site as having a high erosion and contaminant migration potential, creating an increased hazard risk to human health and the environment.

Please contact Kathryn Chamberlain at (505) 428-2546 should you have any questions.

Sincerely,

James P. Bearzi
Chief
Hazardous Waste Bureau

JPB: kc

cc: D. Goering, NMED HWB
K. Chamberlain, NMED HWB
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file: Reading and LANL '05 (SWMU; 73-002)