

TA 73

State of New Mexico
ENVIRONMENT DEPARTMENT

Hazardous Waste Bureau

2905 Rodeo Park Drive East, Building 1

Santa Fe, New Mexico 87505-6303

Telephone (505) 428-2500

Fax (505) 428-2567

www.nmenv.state.nm.us



BILL RICHARDSON
GOVERNOR



RON CURRY
SECRETARY

**FASCIMILE AND
CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

October 27, 2006

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

David McInroy
Remediation Services Deputy Project Director
Los Alamos National Laboratory
P.O. Box 1663, Mail Stop M992
Los Alamos, NM 87545

**RE: NOTICE OF AGREEMENT
NOTIFICATION OF FORCE MAJEURE FOR THE "INVESTIGATION
REPORT FOR CORRECTIVE ACTION OF SOLID WASTE MANAGEMENT
UNIT (SWMU) 73-002 AND CONSOLIDATED UNIT 73-002-99"
LOS ALAMOS NATIONAL LABORATORY (LANL),
EPA ID #NM0890010515, HWB-LANL-05-005**

Messrs. Gregory and McInroy:

The New Mexico Environment Department (NMED) is in receipt of the *Notification of Force Majeure for the "Investigation Report for Corrective Action of SWMU 73-002 and Consolidated Unit 73-002-99"*, dated October 24, 2006 (Notification). The United States Department of Energy (DOE) and the Los Alamos National Security, LLC (LANS) (collectively, "the Respondents") state in their Notification that discovery of regulated asbestos-containing material (ACM) was a force majeure event beyond the reasonable control of the Respondents. Due to the discovery of ACM at SWMU 73-002 (Ashpile), work was halted in order to obtain samples of the material and ensure "all necessary safety measures were in place to allow the safe retrieval, transport and disposal" of the waste.

In accordance with Section III.H.3 of the March 1, 2005 Consent Order (Order), NMED is providing written notice of its preliminary agreement that a force majeure event has occurred.



4980

Messrs. Gregory and McInroy

October 27, 2006

Page 2

The Respondents state that by implementing the actions enumerated in the Notification, they still “anticipate the total number of days lost, because of these events, to be approximately 27 work days. A more precise estimate of schedule delays will be provided once rates of waste retrieval are developed”.

NMED agrees with the Respondents that a delay for submitting the investigation report may ultimately be attributable to this event. NMED expects that the Respondents will nevertheless exercise due diligence, as defined in Section III.H.1 of the Order, and overcome the delay described in this Notification. Following commencement of field activities, the Respondents must notify NMED of the actual delay resulting from the event.

Should you have any questions, please contact Kathryn Chamberlain at (505) 428-2546.

Sincerely,



James Bearzi

Chief

Hazardous Waste Bureau

JPB:kc

cc: K. Chamberlain, NMED HWB
D. Goering, NMED HWB
S. Yanicak, NMED DOE OB, MS J993
L. King, EPA 6PD-N
G. Rael, DOE LASO, MS A316
A. Phelps, AD LANS, MS J591
file: Reading and LANL TA-73 '06 (SWMU 73-002-99: (73-002, 73-003, 73-004(a,b), 73-006)