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*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

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

November 14, 2006

David Gregory  
Federal Project Director  
Los Alamos Site Office  
Department of Energy  
528 35<sup>th</sup> 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:

In a letter dated October 27, 2006, the New Mexico Environment Department (NMED) notified the United States Department of Energy (DOE) and the Los Alamos National Security, LLC (LANS) (collectively, "the Respondents") of its preliminary agreement that "discovery of regulated asbestos-containing material (ACM) was a force majeure event beyond the reasonable control of the Respondents". The Respondents sent an email on November 9, 2006, in response to NMED's letter, which stated that, "[i]n a strict sense the heavy equipment was idle from Oct 10 - Oct 21 (11 days). Once work resumed, the estimated time lost to slower production rates to accommodate health and safety for working in a RACM environment is 5 additional days. Total time lost is 16 days."

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



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As stated in the October 27<sup>th</sup> letter, NMED agrees with the Respondents that a delay for submitting the investigation report may ultimately be attributable to this event. In accordance with Section III.H.3, stipulated penalties shall not be due for a period of 16 days, as identified by the Respondents in the aforementioned email. 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.

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)