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State of New Mexico  
**ENVIRONMENT DEPARTMENT**

*Hazardous Waste Bureau*

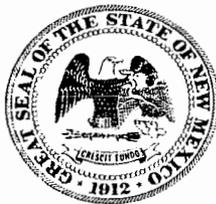
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BILL RICHARDSON  
GOVERNOR



RON CURRY  
SECRETARY

**CERTIFIED MAIL  
RETURN RECEIPT REQUIRED**

December 7, 2006

Edwin Wilmot, Manager  
Los Alamos Site Office-Department of Energy  
528 35<sup>th</sup> 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: 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. Wilmot 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. Payment for the first 30 days of noncompliance was due to the Department on November 27, 2006.

This demand for payment is for the second 30 days of noncompliance. In a letter dated November 14, 2006, NMED provided written agreement that a force majeure event had occurred and stated that stipulated penalties would not be due for the 16 days of the event. The force majeure was



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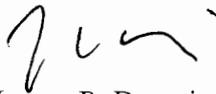
based on the discovery of asbestos at the ashpile on October 10, 2006 and the stoppage of work associated with it. Since the demand for payment for the first 30 days was sent on October 13, 2006 (after the beginning of the force majeure event), NMED considered the 16 days due to the force majeure event as beginning on October 14, 2006. Therefore, the second 30 days of noncompliance was from October 29, 2006 to November 28, 2006. In accordance with Section III.G.5, \$90,000.00 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 not paid stipulated penalties for the first 30 days of noncompliance. 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.

The NMED Hazardous Waste Bureau is in the process of switching to a new phone system. On or about December 7, 2006 the phone number for Kathryn Chamberlain will change from the current number (505-428-2546) to the new number (505-476-6046). The NMED Hazardous Waste Bureau's main number will be (505) 476-6000.

Sincerely,



James P. Bearzi  
Chief  
Hazardous Waste Bureau

JPB:kmc

cc: K. Chamberlain, NMED HWB  
D. Goering, NMED HWB  
C. de Saillan, OGC  
S. Yanicak, NMED DOE OB, MS J993  
L. King, EPA 6PD-N  
V. George, ENVP-DO, MS J978  
A. Phelps, ENV, MS T002  
G. Rael, DOE LASO, MS A316  
D. Gregory, DOE LASO, MS A316  
D. Woitte, LANS, MS A187  
L. Cummings, DOE LASO, MS A316  
file: Reading and LANL '06 (Permit)