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**NEW MEXICO  
ENVIRONMENT DEPARTMENT**

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Lt. Governor

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

**Jennifer J. Pruett**  
Deputy Secretary

November 9, 2020

Brian D. Knight  
Environmental Division (Building 163)  
U.S. Army White Sands Missile Range  
White Sands Missile Range, NM 88002-5000

**RE: APPROVAL WITH MODIFICATIONS  
RCRA FACILITY INVESTIGATION WORK PLAN SWMU 128 SILVER RECOVERY SYSTEM  
TAILING TANK, SWMU 131 FORMER SPENT DEVELOPER STORAGE TANK/ACETIC  
ACID SPILL CONTAINMENT TANK  
WHITE SANDS MISSILE RANGE, NEW MEXICO  
EPA ID #NM 2750211235  
HWB-WSMR-20-004**

Dear Mr. Knight:

The New Mexico Environment Department (NMED) has received White Sands Missile Range (Permittee) *RCRA Facility Investigation Work Plan SWMU 128 Silver Recovery System Tailing Tank, SWMU 131 Former Spent Developer Storage Tank/Acetic Acid Spill Containment Tank (Work Plan)*, dated March 2020 and received by electronic mail April 8, 2020. NMED has reviewed the Work Plan and hereby issues this approval with modifications.

This approval is based on the information presented in the document as it relates to the objectives of the work identified by NMED at the time of review. Approval of this document does not constitute agreement with all information, or every statement presented in the document.

## Modifications

### 1. Section 2.1.5, Conceptual Site Model, page 2-4:

**Permittee Statement:** “The Potential exposure pathway is physical contact with soil contaminated with metals and cyanide.”

**NMED Comment:** United States Department of Army White Sands Missile Range RCRA Permit, December 2009, Section VI.H.1.b, Investigation Work Plan Requirements states “The Permittee shall provide sufficient justification and associated documentation that a release is not probable or has already been characterized if a unit or a media/pathway associated with a unit (ground water, surface water, soil, subsurface gas, or air) is not included in an Investigation Work Plan.” Permit Appendix 7, Section 7.25, Reporting Requirements, Investigation Work Plan Background states “This section shall identify potential receptors, including groundwater...” The Work Plan does not address potential exposure pathways to human and ecological receptors other than physical contact with contaminated soil. The Permittee must provide a replacement page to the Work Plan that includes a discussion of the other potential exposure pathways (ground water, surface water, subsurface gas, and air) at the site.

### 2. Section 3.1 Data Quality Objectives, page 3-1:

**Permittee Statement:** “Decision rule – If validated laboratory analytical data for the soil samples collected during these activities are below the regulatory screening criteria, then it can be concluded that releases causing soil contamination have not occurred and Corrective Action Complete should be proposed.”

**NMED Comment:** The Permittee’s decision rule is inconsistent with the stated objective of the investigation:

“The results of the RFI are expected to facilitate the transfer of SWMUs 128–131 from Table 4-1 (SWMUs and Areas of Concern [AOCs] Requiring Corrective Action) to Table 4-3 (SWMUs and AOCs Corrective Action Complete Without Controls) of the WSMR RCRA Permit (NMED 2009).”

Analytical data collected as part of a RCRA investigation are used to determine the nature and extent of contamination and to determine whether or not contaminants of potential concern pose an unacceptable potential risk to human health or the environment rather than as an indication of whether or not a release has occurred. A determination by NMED that corrective action activities are complete is, in effect, an announcement that the criteria for acceptable protection of human health and the environment has been achieved. The determination that a release has not occurred is informed by the history of the site and the

Mr. Knight  
RFI Work Plan SWMUs 128-131  
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detection or non-detection of contaminants. The Permittee must provide a replacement page to revise the decision rule to be consistent with NMED guidance and the objectives of the investigation.

The Permittee must submit an investigation report summarizing the results of the implementation of this Work Plan no later than **March 31, 2021**. The report must address all of the comments included in this approval with modifications. The investigation report must be submitted to NMED in the form of two hard copies and one electronic copy.

Should you have any questions or wish to meet with us to discuss these comments, please contact Rob Murphy at (505) 795-1403.

Sincerely,

**Kevin  
Pierard**

Digitally signed by  
Kevin Pierard  
Date: 2020.11.09  
15:39:17 -07'00'

Kevin M. Pierard, Chief  
Hazardous Waste Bureau

cc: D. Cobrain, NMED HWB  
R. Murphy, NMED HWB  
B. Avalos, WSMR  
L. King EPA Region 6 (6LCRRC)

File: WSMR 2020 RFI Work Plan SWMUs 128-131