Los Alamos
NATIONAL LABORATORY
EST. 1943
Environmental Programs
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Los Alamos, New Mexico 87545
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RECEIVED
FEB 2009
NMED Hazardous
Waste Bureau

National Nuclear Security Administration
Los Alamos Site Office, MS A316
Environmental Restoration Program
Los Alamos, New Mexico 87544
(505) 667-4255/FAX (505) 606-2132

Date: February 27, 2009
Refer To: EP2009-0134

James P. Bearzi, Bureau Chief
Hazardous Waste Bureau
New Mexico Environment Department
2905 Rodeo Park Drive East, Building 1
Santa Fe, NM 87505-6303

Subject: Submittal of the Response to the Denial of Request for Extension for Submittal of the Response to the New Mexico Environment Department's Request for Information Regarding Material Disposal Area A Subsurface Vapor Monitoring

References: Letter, Bearzi to Messrs. Winchell and Watkins, dated November 17, 2008
Letter, Graham and Gregory to Messr. Bearzi, dated December 19, 2008
Letter, Bearzi to Messrs. Gregory and McInroy, dated February 13, 2009

Dear Mr. Bearzi:

This letter is in response to your request for information letter dated November 17, 2008. No vapor-monitoring data have been collected at Material Disposal Area A from January 2008 to the present. Los Alamos National Laboratory (the Laboratory) is in receipt of the New Mexico Environment Department's letter, dated February 13, 2009, denying the request for an extension. The Laboratory apologizes for confusing language contained in our letter of December 19, 2008. Our request to submit data by July 2, 2009, pertained only to the installation of a vapor-monitoring well and the first quarterly round of vapor monitoring at BH-08, as contained in the corrective measures evaluation report.

The Laboratory and NMED letters of correspondence are enclosed.

If you have any questions, please contact Bruce Wedgeworth at (505) 231-0108 (brucew@lanl.gov) or Woody Woodworth at (505) 665-5820 (lwoodworth@doeal.gov).

Sincerely,

Michael J. Graham, Associate Director
Environmental Programs
Los Alamos National Laboratory

Sincerely,

David R. Gregory, Project Director
Environmental Operations
Los Alamos Site Office

MG/DG/AC/BW:sm

Enclosures: (1) NMED Correspondence, dated November 17, 2008
(2) LANL Correspondence, dated December 19, 2008
(3) NMED Correspondence, dated February 13, 2009

Cy: Laurie King, EPA Region 6, Dallas, TX
Steve Yanicak, NMED-OB, White Rock, NM
Tom Skibitski, NMED-OB, Santa Fe, NM
Keyana DeAguero, DOE-LASO (date-stamped letter emailed)
Woody Woodworth, DOE-LASO, MS A316
Bruce Wedgeworth, EP-TA-21, MS C349
Allan Chaloupka, EP-TA-21, MS C349
Michael J. Graham, ADEP, MS M991
Alison M. Dorries, WES-DO, MS M992
Kristine Smeltz, WES-DO, MS M992
RPF, MS M707 (with two CDs)
Public Reading Room, MS M992
EP-TA-21 File, MS C349
IRM-RMMSO, MS A150 (date-stamped letter emailed)

NEW MEXICO
ENVIRONMENT DEPARTMENT

Hazardous Waste Bureau

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Secretary

JON GOLDSTEIN
Deputy Secretary

08 NOV 18 AM 11:17

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

November 17, 2008

Donald L. Winchell, Jr., Manager
Los Alamos Site Office-Department of Energy
528 35th Street, Mail Stop A316
Los Alamos, NM 87544

Richard Watkins, Director
Environment, Safety, Health, & Quality
Los Alamos National Security, LLC
Los Alamos Research Park
4200 Jemez Road, Suite 400
Los Alamos, NM 87545

RE: REQUEST FOR INFORMATION REGARDING MATERIAL DISPOSAL AREA A SUBSURFACE VAPOR MONITORING LOS ALAMOS NATIONAL LABORATORY PURSUANT TO THE NEW MEXICO HAZARDOUS WASTE ACT AND RESOURCE CONSERVATION AND RECOVERY ACT
EPA I.D. NUMBER NM0890010515

Dear Messrs. Winchell and Watkins:

Pursuant to Section 74-4-4.3.A of the New Mexico Hazardous Waste Act (HWA), NMSA 1978, section 74-4-1 et seq., and Section 3007(a) of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6901 et seq., the New Mexico Environmental Department (NMED) hereby requests that the Department of Energy (DOE) and the Los Alamos National Security, L.L.C. (LANS) (collectively, the Permittees) provide NMED the below-listed information concerning vapor sampling activities associated with the Material Disposal Area A (MDA A), Solid Waste Management Unit (SWMU) 21-014 at Technical Area 21.

Section 74-4-4.3.A of HWA provides that "[f]or the purposes of developing or assisting in the development of any rules, conducting any study, taking any corrective action or enforcing the provisions of the Hazardous Waste Act, upon request of the Secretary or his authorized representative, any person who generates, stores, treats, transports, disposes of or otherwise handles or has handled hazardous wastes shall furnish information relating to such hazardous wastes. . . ." Likewise, section 3007(a) of RCRA provides that "[f]or purposes of developing or

assisting in the development of any regulation or enforcing the provisions of [RCRA], any person who generates, stores, treats, transports, disposes of, or otherwise handles or has handled hazardous wastes shall, upon request of any . . . duly designated officer, employee, or representative of a State having an authorized hazardous waste program, furnish information relating to such wastes. . . ." 42 U.S.C. § 6927(a).

NMED requests the following information:

1) soil vapor monitoring and sampling data and all information related to the collection of such data at MDA A, SWMU 21-014 from January 2008 to the present.

Your compliance with this information request is mandatory. Failure to respond fully and truthfully within the time specified herein, or adequately justify such failure to respond, may result in an enforcement action by NMED pursuant to Section 74-4-10 of HWA, or Section 7002(a)(1)(A) of RCRA (42 U.S.C. § 6972(a)(1)(A)) or both. Both HWA and RCRA provide for the imposition of civil penalties for noncompliance. Section 74-4-12 of the HWA provides that any person who violates any provision of the HWA "may be assessed a civil penalty not to exceed ten thousand dollars ($10,000) for each day during any portion of which a violation occurs." See also NMSA 1978, § 74-4-10.A and B. Section 3008(g) of RCRA provides that any person who violates any requirement of RCRA shall be liable for a civil penalty not to exceed $32,500[1] for each such violation. 42 U.S.C. § 6928(g). Both the HWA and RCRA also provide for criminal fines and imprisonment for knowingly omitting material information or making a false statement or representation in any document used for compliance with HWA or RCRA. NMSA 1978, § 74-4-11.A(3); 42 U.S.C. § 6928(d)(3).

The Permittees may claim confidentiality for any information required by this information request pursuant to the requirements of Section 74-4-4.3(D) and (F) of HWA, 42 U.S.C. § 6927(b), and 20.4.1.100 NMAC (incorporating 40 CFR 260.2).

Please submit your response no later than December 19, 2008.

1 Although this provision of RCRA on its face provides for a civil penalty not to exceed $25,000, the maximum penalty has been increased to $32,500 to account for inflation pursuant to the Debt Collection Improvement Act of 1996. 31 U.S.C. § 3107 note. 40 C.F.R. § 19.4, Table 1.

Thank you for your cooperation in this matter. If you have any questions regarding the information request, please contact Kristen Van Horn of my staff at (505) 476-6046.

Sincerely,

James P. Bearzi
Chief
Hazardous Waste Bureau

cc: K. Roberts, NMED HWB
D. Cobrain, NMED HWB
A. Vollmer, NMED HWBS.
Yanicak, NMED DOE OB, MS J993
L. King, EPA 6PD-N
G. Rael, DOE OLASO, MS A316
M. Graham, LANL ADEP, MS J591

file: Reading and LANL 08 TA-21 (SWMU 21-014)

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National Nuclear Security Administration
Los Alamos Site Office, MS A316
Environmental Restoration Program
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(505) 667-4255/FAX (505) 606-2132

Date: December 19, 2008
Refer To: EP2008-0639

James P. Bearzi, Bureau Chief
Hazardous Waste Bureau
New Mexico Environment Department
2905 Rodeo Park Drive East, Building 1
Santa Fe, NM 87505-6303

Subject: Submittal of the Response to the New Mexico Environment Department's Request for Information Regarding Material Disposal Area A Subsurface Vapor Monitoring

Dear Mr. Bearzi:

Los Alamos National Laboratory (the Laboratory) is in receipt of the New Mexico Environment Department's (NMED's) letter, dated November 17, 2008, requesting "soil vapor monitoring and sampling data and all information related to the collection of such data at MDA A, SWMU 21-014 from January 2008 to the present." The Laboratory is proposing that these data be provided to NMED by July 2, 2009, based on the direction received in the attached email from NMED.

In the email dated August 14, 2008, from Ms. Kathryn Roberts to Mr. Bruce Wedgeworth, NMED directed that the date of the installation and the sampling of the vapor-monitoring well at borehole (BH)-08 be proposed in the Material Disposal Area A corrective measures evaluation (CME) report. The report was submitted to NMED for review on September 1, 2008. The CME report included a proposed date of June 2, 2009, to install vapor monitoring in BH-08. The proposed date is based on approval of the CME report by NMED on or before January 30, 2009. Vapor monitoring samples will be collected from BH-08 within 30 days of completing installation of the vapor monitoring in the borehole.

If you have any questions, please contact Bruce Wedgeworth at (505) 231-0108 (brucew@lanl.gov) or George Henckel at (505) 606-0960 (ghenckel@doeal.gov).

Sincerely,

Michael J. Graham, Associate Director
Environmental Programs
Los Alamos National Laboratory

Sincerely,

David R. Gregory, Project Director
Department of Energy
Los Alamos Site Office

MG/AC/BW:sm

Enclosure: Email from Kathryn Roberts to Bruce Wedgeworth, dated August 14, 2008

Cy: (w/enc.)
Laurie King, EPA Region 6, Dallas, TX
Steve Yanicak, NMED-OB, White Rock, NM
Tom Skibitski, NMED-OB, Santa Fe, NM
Kevin Reid, Terranear-PMC
Bruce Wedgeworth, EP-TA-21, MS C349
George Henckel, DOE-LASO, MS A316
Keyana DeAguero, DOE-LASO (date-stamped letter emailed)
Richard S. Watkins, ADESQ, MS K491
Michael J. Graham, ADEP, MS M991
Allan Chaloupka, EP-TA-21, MS C349
Alison M. Dorries, WES-DO, MS M992
Kristine Smeltz, WES-DO, MS M992
RPF, MS M707
Public Reading Room, MS M992
EP-TA-21 File, MS C349
IRM-RMMSO, MS A150 (date-stamped letter emailed)

Enclosure for EP2008-0639

From: Roberts, Kathryn, NMENV [mailto:Kathryn.Roberts@state.nm.us]
Sent: Thursday, August 14, 2008 9:12 AM
To: Bruce Wedgeworth; Kay, Rebecca, NMENV
Cc: Allan Chaloupka; GHenckel@doeal.gov; Cobrain, Dave, NMENV
Subject: RE: Request for Discussion on MDAs A and T

Bruce,

Unfortunately, time is very tight in the Hazardous Waste Bureau these days. I think I may be able to address your comments in this email.

1) The installation and sampling of the vapor-monitoring well at BH-08 should be proposed in the CME due September 1st. NMED may require the installation of more than one vapor monitoring well, but we will have to review the CME Report first.

2) We haven't had an opportunity to review the TA-21 Tritium Monitoring Plan. When we've had a chance to evaluate the Plan we'll be in a better position to discuss tritium vapor-monitoring requirements. I think a meeting on this can be postponed or may not be necessary at all.

We appreciate your assertiveness, but I don't think we can accommodate a meeting at this time.

Thanks,
Katie

From: Bruce Wedgeworth [mailto:brucew@lanl.gov]
Sent: Wednesday, August 13, 2008 3:21 PM
To: Roberts, Kathryn, NMENV; Kay, Rebecca, NMENV
Cc: 'Allan Chaloupka'; GHenckel@doeal.gov
Subject: Request for Discussion on MDAs A and T

Katie,

I listened to your phone message today and realize you guys are really slammed for time.

George Henckel (DOE/LASO) and I did have some specific issues to discuss with you concerning MDAs A and T:

1) You and I did not reach a conclusion on a schedule for installation and sampling of a permanent vapor monitoring well at BH-08 at MDA A.

2) Have you been able to review the TA-21 Subsurface Vapor Moisture Monitoring Plan for Tritium? In addition to a deep well at MDA V we also proposed one deep well for MDA T. That is where Rebecca would get involved since we have prepared a modified approach to the March 28, 2008 Approval with Modifications letter for MDA T that supports better defining the verticle extent of potential contamination.

We would still like to talk to both of you either in a meeting or a conference call - shouldn't take more than 30 minutes.

Thanks,

Bruce Wedgeworth
Los Alamos National Laboratory
EP-TA21, MDAs A and T Project Leader
TA-21, Trailer 9000
PO Box 1663, Mail Stop C349
Los Alamos, NM 87545
505-231-0108 (c)
505-606-1526 (f)
brucew@lanl.gov

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DIANE DENISH
Lieutenant Governor

RON CURRY
Secretary

JON GOLDSTEIN
Deputy Secretary

09 FEB 17 P 12:52

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

February 13, 2009

David Gregory
Federal Project Director
Los Alamos Site Office
Department of Energy
3747 West Jemez Rd, Mail Stop A316
Los Alamos, NM 87544

David McInroy
Remediation Services Deputy Project Director
Los Alamos National Security, L.L.C.
P.O. Box 1663, MS M992
Los Alamos, NM 87545

RE: DENIAL OF REQUEST FOR EXTENSION FOR SUBMITTAL OF THE RESPONSE TO THE NEW MEXICO ENVIRONMENT DEPARTMENT'S REQUEST FOR INFORMATION REGARDING MATERIAL DISPOSAL AREA A SUBSURFACE VAPOR MONITORING LOS ALAMOS NATIONAL LABORATORY (LANL), EPA ID #NM0890010515 HWB-LANL-08-023

Dear Messrs. Gregory and McInroy:

The New Mexico Environment Department (NMED) has received the United States Department of Energy (DOE) and the Los Alamos National Security L.L.C.'s (LANS) (collectively, the Permittees) *Submittal of the Response to the New Mexico Environment Department's Request for Information Regarding Material Disposal Area A Subsurface Vapor Monitoring* (Submittal), dated December 19, 2008 and referenced by EP2008-0639. NMED has reviewed the Submittal and hereby issues this Denial of Request for Extension (Denial).

NMED sent the Permittees the *Request for Information Regarding Material Disposal Area A Subsurface Vapor Monitoring, Los Alamos National Laboratory Pursuant to the New Mexico Hazardous Waste Act and Resource Conservation and Recovery Act* (Request for Information), dated November 17, 2008. The Request for Information

required that the Permittees provide extant "soil vapor monitoring and sampling data and all information related to the collection of such data at MDA A, SWMU-21-014 from January 2008 to the present." In the Submittal the Permittees stated that "[t]he Laboratory is proposing that these data be provided to NMED by July 2, 2009, based on the direction received in the attached email from NMED."

The Permittees' request to extend the deadline for their response to the Information Request from December 19, 2008 to July 2, 2009 is denied. The Permittees must respond to the Information Request. If no information is available, the Permittees must state so in their response.

The Permittees must respond to the Information Request and submit a response to NMED by February 27, 2009.

Please contact Kristen Van Horn at (505) 476-6046 should you have any questions.

Sincerely,

James P. Bearzi
Chief
Hazardous Waste Bureau

cc:

D. Cobrain, NMED HWB
K. Roberts, NMED HWB
S. Yanicak, NMED DOE OB, MS J993
T. Skibitski, NMED DOE OB
L. King, EPA 6PD-N
G. Rael, DOE LASO, MS A316
M. Graham, ENV MS M991
file: Reading and LANL'08, TA-21 SWMU 21-014