

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: November 26, 2008
Refer To: EP2008-0595

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: Request for Extension on Middle Cañada del Buey Investigation Report

Dear Mr. Bearzi:

The Los Alamos National Security, LLC (LANS) and the Department of Energy (DOE), Los Alamos Site Office requests an extension to the date for submission of the Cañada del Buey Aggregate Area Investigation Report.

The Investigation Work Plan for Middle Cañada del Buey was submitted by LANS and DOE to NMED on October 31, 2007. NMED issued a notice of disapproval (NOD) on November 26, 2007, requiring LANS and DOE to address several comments and submit a revised work plan by December 27, 2007. The response to the NOD and revised work plan were submitted to NMED on December 21, 2007. On January 15, NMED issued a letter, subject: *Direction to Modify* which required LANS and DOE to submit a work plan for investigation of AOC 51-001(d) by February 15, 2008. On January 16, 2008 NMED issued a *Correction for Direction to Modify* that identified a typographical error in the February 15 letter which referred to AOC 51-001(d) instead of AOC 54-001(d). In addition, the February 16 correction letter added a due date of January 15, 2009 for the Middle Cañada del Buey Aggregate Area Investigation Report.

On February 12, 2008, LANS and DOE requested an extension for responding to the *Correction for Direction to Modify*. On February 26, 2008, NMED denied the extension request and indicated that LANS and DOE would have to investigate AOC 54-001(d) or provide documentation that no spills have occurred at this site. Documentation that no releases to the environment had occurred at AOC 54-001(d) was submitted by LANS and DOE to NMED on March 18, 2008. No response has been received from NMED as to whether this documentation is adequate to justify not collecting samples at AOC 54-001(d) or if a sampling plan for that site would need to be included and executed as part of an approved work plan.

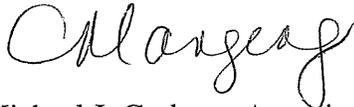
As described in Section III.M.2 of the Consent Order, directions to modify are issued when, after initial disapproval and subsequent review of an NOD response and revised document, the document is still deemed disapproved. In other words, directions to modify are not issued to approved documents. NMED's previous use of directions to modify, all of which have been issued for

reports rather than work plans, has not been deemed equivalent to document approval and has required conducting additional work and submitting revised reports. Based on the wording of Section III.M.2 and NMED's past use of directions to modify, LANS and DOE did not consider the investigation work plan to be approved.

We have only recently understood the NMED's implied approval of the revised work plan and expectation for submittal of the investigation report for the Middle Cañada del Buey Aggregate Area, by January 15, 2009. We have moved swiftly to program funds, award a contract to complete the investigation and are scheduled to begin field work by December 1, 2008 but will not be able to meet the January 15, 2009 deadline. We therefore, request an extension of the due date to March 19, 2009.

If you have any questions, please contact Dave McInroy at (505) 667-0819 (mcinroy@lanl.gov) or Cheryl Rodriguez at (505) 665-5330 (crodriguez2@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/DM/PB:sm

Cy: Laurie King, EPA Region 6, Dallas, TX
Steve Yanicak, NMED-OB, White Rock, NM
Tom Skibitski, NMED-OB, Santa Fe, NM
Alison Bennett, DOE-LASO (date-stamped letter emailed)
Dave McInroy, EP-CAP, MS M992
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Michael J. Graham, ADEP, MS M991
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Kristine Smeltz, EP-CAP, MS M992
EP-CAP File, MS M992
RPF, MS M707
IRM-RMMSO, MS A150 (date-stamped letter emailed)