



SUSANA MARTINEZ
Governor

JOHN A. SANCHEZ
Lieutenant Governor

**NEW MEXICO
ENVIRONMENT DEPARTMENT**

Hazardous Waste Bureau

2905 Rodeo Park Drive East, Building 1
Santa Fe, New Mexico 87505-6303
Phone (505) 476-6000 Fax (505) 476-6030
www.nmenv.state.nm.us



DAVE MARTIN
Cabinet Secretary

RAJ SOLOMON, P.E.
Deputy Secretary

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

May 2, 2011

George J. Rael, Assistant Manager
Environmental Projects Office
Los Alamos Site Office
Department of Energy
3747 West Jemez Road, MS A316
Los Alamos, NM 87544

Michael Graham, Associate Director
Environmental Programs
Los Alamos National Security, L.L.C.
P.O. Box 1663, MS 991
Los Alamos, NM 87545

**RE: NOTICE OF AGREEMENT
FORCE MAJEURE – POWER OUTAGE AT MDA B
LOS ALAMOS NATIONAL LABORATORY (LANL)
EPA ID #NM0890010515
HWB-LANL-MISC**

Dear Messrs. Rael and Graham:

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) *Update on April 18, 2011, Oral Notification of Power Outage at Material Disposal Area B and Written Notice of Force Majeure* (Notification), dated April 26, 2011 and referenced by EP2011-0175. In accordance with Section III.H.3 of the March 1, 2005 Compliance Order on Consent (Consent Order), the Permittees provided a verbal notification to NMED on April 18, 2011.

The Permittees state in the Notification that Material Disposal Area B (MDA B) experienced a sever wind storm on April 9, 2011 which subsequently cause subsystem failures for various equipment. The subsystem failures resulted in temporarily taking Excavation Enclosures 1, 2, 5, 9 and 12 out of service on April 11, 2011, when corrective activities were to resume. Upon restoration of power and the subsystem repairs confirmed the corrective action activities in the affected Excavation Enclosures resumed work between April 13, 2011 and April 19, 2011. The

Messrs. Rael and Graham
May 2, 2011
Page 2

Permittees indicated "that lost days resulting from this force majeure incident should not adversely affect the August 31, 2011 submittal of the MDA B investigation/remediation report."

This correspondence constitutes written notice of NMED's agreement under Section III.H.3 of the Consent Order that a force majeure event has occurred. NMED agrees that a delay in the submittal of the MDA B report may ultimately be attributable to this event, but expects the Permittees to nevertheless exercise due diligence to minimize the delay described in the Notification. Under Section III.H.3 of the Consent Order, the submittal date of the MDA Investigation Report is extended by the actual delay resulting from the force majeure event (9 days) – **September 9, 2011.**

Finally, the Permittees request in the Notification that "[i]f ... other events require the schedule to be extended ... the lost days resulting from this force majeure event be preserved so they can be used to extend the submittal date." The Consent Order automatically "preserves" lost days if NMED agrees a force majeure event occurred (*see* Section III.H.3). The Permittees state in the Notification that Enclosure 12 is still out of service as of April 26, 2011. Further delay therefore may ultimately be attributable to this event. Once work resumes, the Permittees must notify NMED of the actual delay resulting from the event, so that the actual days of extension due to force majeure can be calculated.

Please contact Dave Cobrain at (505) 476-6055 should you have any questions.

Sincerely,



James P. Bearzi
Chief
Hazardous Waste Bureau

cc: J. Kieling, NMED HWB
D. Cobrain, NMED HWB
S. Yanicak, NMED DOE OB, MS J993
T. Skibitski, NMED DOE OB
L. King, EPA 6PD-N
E. Trollinger, DOE LASO, MS E550
A. Chaloupka, EP-ARRA Project, MS C348
File: Reading and LANL 2011

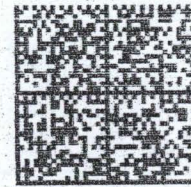
NAME *Doreen Montoya*
Z# *086365*
DATE *5-3-11*

State of New Mexico
Environment Department
Hazardous Waste Bureau
2905 Rodeo Park Drive East, Bldg.1
Santa Fe, NM 87505

CERTIFIED MAIL™



7008 0500 0001 4593 8172



Hasler

016H26523547
\$05.590
05/02/2011
Mailed From 87505
US POSTAGE

Michael J. Graham, Associate Director
Environmental Programs
Los Alamos National Security, LLC
P.O.Box 1663, ~~MS M991~~ *MS-A-150*
Los Alamos, NM 87545

