



BILL RICHARDSON
Governor

DIANE DENISH
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



RON CURRY
Secretary

JON GOLDSTEIN
Deputy Secretary

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

May 19, 2008

David Gregory
Federal Project Director
Los Alamos Site Office
Department of Energy
528 35th Street, Mail Stop A316
Los Alamos, NM 87544

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

**RE: FINAL DECISION AND RESPONSE TO PUBLIC COMMENT ON THE
MODIFICATION TO THE CONSENT ORDER FOR GROUNDWATER
NOTIFICATION REQUIREMENTS, LOS ALAMOS NATIONAL LABORATORY**

Dear Messrs. Gregory and McInroy:

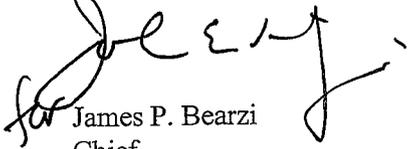
The New Mexico Environment Department (NMED), the Department of Energy (DOE), and the Los Alamos National Security, L.L.C. (LANS) have agreed to the modification of the notification requirements for groundwater monitoring results under the March 1, 2005 Order on Consent (Order). The modification was required by a Settlement Agreement and Stipulated Final Order (No. HWB-07-27) filed on June 14, 2007. With NMED's signature, the agreement became effective on May 13, 2008.

Public comments were solicited by NMED on the proposed Order modification for a period of 60 days beginning August 8, 2007. NMED also held a public meeting on August 27, 2007, to provide additional information on the proposed modification to the Order. Comments concerning the Order modification were received from one commenter. One change was made to the proposed language based on the comments. The final modification language, a redline strikeout version of the modification language, and the response to comments can be viewed on NMED's web page at www.nmenv.state.nm.us/hwb/lanlperm.html under "Modification of Consent Order (5-13-2008)". These documents, as well as the final signature page, are also attached for your review.

Messrs. Gregory and McInroy
May 19, 2008
Page 2

Should you have any questions please contact John Kieling at (505) 476-6000.

Sincerely,

A handwritten signature in black ink, appearing to read "James P. Bearzi". The signature is written in a cursive style with a large initial "J" and a long horizontal stroke.

James P. Bearzi
Chief
Hazardous Waste Bureau

Cc:

S. Yanicak, NMED DOE OB, MS J993
T. Skibitski, NMED DOE OB
L. King, EPA 6PD-N
G. Rael, DOE LASO, MS A316
S. Stiger. ENV MS J591
file: Reading and LANL'08 General

IV.A.3.g

Notification

By the fifteenth day of each month, the Respondents shall review the analytical data from all groundwater monitoring conducted under this Consent Order that was received during the previous month, and shall record the date of such review; provided, however, that if the fifteenth day of a month is a non-business day, then the review shall be conducted by the next business day. The Respondents shall notify the Department orally within one business day after review of the analytical data if such data show detection of a contaminant in a well screen interval or spring at a concentration that exceeds either the WQCC water quality standard or the federal maximum contaminant level if that contaminant has not previously exceeded such water quality standard or maximum contaminant level in such well screen interval or spring.

The Respondents shall notify the Department in writing within fifteen days after review of the analytical data if the data show any of the following:

1. Detection of a contaminant that is an organic compound in a spring or screened interval of a well if that contaminant has not previously been detected in the spring or screened interval.
2. Detection of a contaminant that is a metal or other inorganic compound at a concentration above the background level in a spring or screened interval of a well if that contaminant has not previously exceeded the background level in the spring or screened interval.
3. Detection of a contaminant in a spring or screened interval of a well at a concentration that exceeds either one-half the New Mexico water quality standard or one-half the federal maximum contaminant level, or if there is no such standard for the contaminant, one-half the EPA Region VI Human Health Medium-Specific Screening Level for tap water, if that contaminant has not previously exceeded one-half such standard or screening level in the spring or screened interval.
4. Detection of perchlorate in a spring or screened interval of a well at a concentration of 2 µg/L or greater if perchlorate at such concentration has not previously been detected in the spring or screened interval.
5. Detection of a contaminant that is a metal or other inorganic compound in a spring or screened interval of a well at a concentration that exceeds two times the background level for the third consecutive sampling of the spring or screened interval.
6. Detection of a contaminant in a spring or screened interval of a well at a concentration that exceeds either one-half the New Mexico water quality standard or one-half the federal maximum contaminant level, and that has increased for the third consecutive sampling of that spring or screened interval.

The written notification shall be submitted to the Department in a letter report that includes in table format, at a minimum, the date or dates of the sampling event, an identification of the well or spring, the location of the well or spring, the depth of the screened interval of the well or zone sampled, a list of the analytical data that triggered the reporting requirement, any known issues with sample quality, and the specific category for which the data is reported under this Section (IV.A.3.g). The Respondents may submit a proposal for further sampling or investigation, or the Department may require further sampling or investigation.

The Respondents shall develop and maintain an e-mail notification list to notify members of the public concerning groundwater analytical data reported under this Section (IV.A.3.g). The Respondents shall provide a link on the LANL/Environment Home Page <currently <http://www.lanl.gov/environment>> whereby members of the public may submit a request to be placed on this list. Within five working days of submittal to the Department of the written notification under this Section (IV.A.3.g), the Respondents shall post a notice on the LANL/Environment website and shall notify those on the e-mail notification list.

Previous data to be evaluated under this Section (IV.A.3.g) to determine whether specified levels have been exceeded, or to determine trends in data for three consecutive samples, shall include only data acquired after June 14, 2007. For the purpose of the notice requirements of this Section (IV.A.3.g), the background level of a contaminant shall be the most recent Department-approved 95 percent upper tolerance limit for the background for that contaminant set forth in the *Groundwater Background Investigation Report* prepared under Section IV.A.3.d of this Consent Order once approved by the Department, including any approved revisions, as it may be revised or replaced with another document.

IV.A.3.g

Notification

By the fifteenth day of each month, the Respondents shall review the analytical data from all groundwater monitoring conducted under this Consent Order that was received during the previous month, and shall record the date of such review; provided, however, that if the fifteenth day of a month is a non-business day, then the review shall be conducted by the next business day. The Respondents shall notify the Department orally within one business day after review of the analytical data if such data show detection of a contaminant in a well screen interval or spring at a concentration that exceeds either the WQCC water quality standard or the federal maximum contaminant level if that contaminant has not previously exceeded such water quality standard or maximum contaminant level in such well screen interval or spring.

The Respondents shall notify the Department in writing within fifteen days after review of the analytical data if the data show any of the following:

1. Detection of a contaminant that is an organic compound in a spring or screened interval of a well if that contaminant has not previously been detected in the spring or screened interval.
2. Detection of a contaminant that is a metal or other inorganic compound at a concentration above the background level in a spring or screened interval of a well if that contaminant has not previously exceeded the background level in the spring or screened interval.
3. Detection of a contaminant in a spring or screened interval of a well at a concentration that exceeds either one-half the New Mexico water quality standard or one-half the federal maximum contaminant level, or if there is no such standard for the contaminant, one-half the EPA Region VI Human Health Medium-Specific Screening Level for tap water, if that contaminant has not previously exceeded one-half such standard or screening level in the spring or screened interval.
4. Detection of perchlorate in a spring or screened interval of a well at a concentration of 2 µg/L or greater if perchlorate at such concentration has not previously been detected in the spring or screened interval.
5. Detection of a contaminant that is a metal or other inorganic compound in a spring or screened interval of a well at a concentration that exceeds two times the background level for the third consecutive sampling of the spring or screened interval.
6. Detection of a contaminant in a spring or screened interval of a well at a concentration that exceeds either one-half the New Mexico water quality standard or one-half the federal maximum contaminant level, and that has increased for the third consecutive sampling of that spring or screened interval.

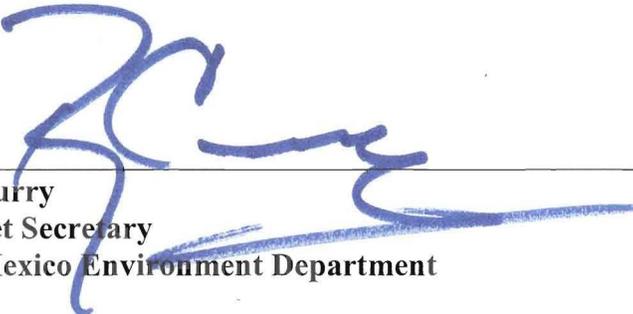
The written notification shall be submitted to the Department in a letter report that includes in table format, at a minimum, the date or dates of the sampling event, an identification of the well or spring, the location of the well or spring, the depth of the screened interval of the well or zone sampled, a list of the analytical data that triggered the reporting requirement, any known issues with sample quality, and the specific category for which the data is reported under this Section (IV.A.3.g). The Respondents may submit a proposal for further sampling or investigation, or the Department may require further sampling or investigation.

The Respondents shall develop and maintain an e-mail notification list to notify members of the public concerning groundwater analytical data reported under this Section (IV.A.3.g). The Respondents shall provide a link on the LANL/Environment Home Page <currently <http://www.lanl.gov/environment>> whereby members of the public may submit a request to be placed on this list. Within five working days of submittal to the Department of the written notification under this Section (IV.A.3.g), the Respondents shall post a notice on the LANL/Environment website and shall notify those on the e-mail notification list.

Previous data to be evaluated under this Section (IV.A.3.g) to determine whether specified levels have been exceeded, or to determine trends in data for three consecutive samples, shall include only data acquired after June 14, 2007. For the purpose of the notice requirements of this Section (IV.A.3.g), the background level of a contaminant shall be the most recent Department-approved 95 percent upper tolerance limit for the background for that contaminant set forth in the *Groundwater Background Investigation Report* prepared under Section IV.A.3.d of this Consent Order once approved by the Department, including any approved revisions, as it may be revised or replaced with another document.

Modification to the March 1, 2005 Order on Consent consists of changes to the notification requirements (Section IV.A.3.g) for groundwater monitoring results. This modification to the March 1, 2005 Order on Consent is hereby AGREED and CONSENTED TO by the Parties, pursuant to Section III.J:

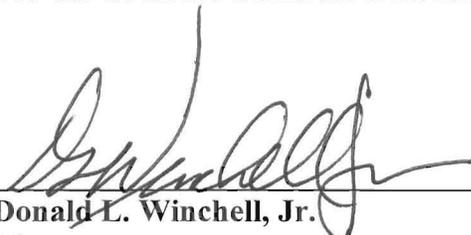
For the NEW MEXICO ENVIRONMENT DEPARTMENT:



Date 5/13/08

Ron Curry
Cabinet Secretary
New Mexico Environment Department

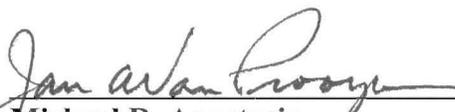
For the UNITED STATES DEPARTMENT OF ENERGY:



Date 5/8/08

Donald L. Winchell, Jr.
Manager
Los Alamos Site Office
U.S. Department of Energy

For LOS ALAMOS NATIONAL SECURITY, LLC:



Date 8 May 2008

for Michael R. Anastasio
Deputy Director
Director
Los Alamos National Laboratory