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CERTIFIED MAIL

September 4, 2025

Theodore Wyka, Manager
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1200 Trinity Drive, Suite 400
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**RE: APPROVAL WITH MODIFICATIONS OF TEMPORARY AUTHORIZATION REQUEST
CLASS 2 PERMIT MODIFICATION FOR WASTE TREATMENT, STORAGE, AND REPACKAGING
OF FOUR FLANGED TRITIUM WASTE CONTAINERS
LANL HAZARDOUS WASTE FACILITY PERMIT
LOS ALAMOS NATIONAL LABORATORY
EPA ID#NM0890010515
HWB-LANL-19-033**

Dear Theodore Wyka and Steven Coleman:

On August 22, 2025, the New Mexico Environment Department (NMED) received from the United States Department of Energy and its field offices, the National Nuclear Security Administration Los Alamos Field Office (NA-LA), in association with Triad National Security, LLC (Triad) (collectively referred to as the Permittees) the submission of *Los Alamos National Laboratory's Flanged Tritium Waste Container Temporary Authorization Request and Mitigation Project is Compliant with Law and Protective of Worker Safety, Public Health, and the Environment, and Should be Approved by August 29, 2025* (Criteria Response), as referenced by ALDESHQ-25-041.

NMED is clarifying that the title of the Criteria Response "*should be approved by August 29, 2025*" is not a regulatory response deadline nor has NMED agreed to any response deadline. As a reminder, the Permittees do not establish unilateral deadlines for NMED.

Background:

On June 18, 2019, the Permittees submitted the *Temporary Authorization Request for Waste Treatment, Storage, and Repacking, Los Alamos Hazardous Waste Facility Permit* (Request) referenced by EPC-DO-19-0176/LA-UR-19-24513. On July 11, 2019, NMED determined that the Request was administratively complete.

On March 9, 2020, the Permittees submitted *Withdrawal and Resubmittal of a Temporary Authorization Request for Waste Treatment, Storage, and Repackaging* (Resubmittal).

On April 4, 2025, NMED received the Permittees submission of *Notification of Planned Start of a Temporary Authorization Request Waste Management Activity* (Notification), which referenced LA-UR-25-21806.

On June 9, 2025, NMED responded to Permittee's *Temporary Authorization Request* and notified the Permittees that due to the significant public interest in this matter, NMED would not act on the temporary authorization request until the following criteria were met:

1. Independent Technical Review. The Permittees shall obtain an independent, third-party technical review for alternative options for the depressurization of the FTWCs. The independent, third-party technical review report shall be provided to the U.S. Environmental Protection Agency (EPA) Region 6 and the NMED. This was completed and submitted to NMED on August 12, 2025.
2. Public Meeting. The Permittees were required to host a public meeting for interested stakeholders. The public meeting was to review the independent, third-party technical review for alternative options; the preferred treatment process; and a discussion of the safety mechanisms and contingencies that will be utilized to ensure the protection of human health and the environment during operations. The public meeting was to provide an opportunity for the public to ask questions and receive answers or to provide comments for the Permittees to consider. Feedback from stakeholders to NMED following the public meeting identified problems with public access to make comments virtually and stakeholders expressed an overall lack of meaningful public engagement.
3. Tribal Consultation. The Permittees were required to host a tribal consultation with interested tribal governments related to the independent, third-party technical review for alternative options; the preferred treatment process; and a discussion of the safety mechanisms and contingencies that will be utilized to ensure the protection of human health, environment, and cultural practices. Tribal consultation was held on August 12, 2025, August 19, 2025, and August 20, 2025.
4. Compliance Audit. The Permittees were required to retain an independent third-party auditor to conduct a hazardous waste compliance audit of its operations. The compliance audit regarding the four FTWCs was received on August 18, 2025.

The Permittees submitted this Request for the short-term authorization to treat, store, and repackage four containers at Technical Area (TA) 54, Area G, Pad 5, Building 1028, and TA-16, Building 205, Rooms 116 and 122. This Request is consistent with the applicable requirements of 40 Code of Federal Regulation (CFR) §270.42 (e), which allows for the "one-time or short-term activity at a facility for which the full permit modification process is inappropriate". NMED reviewed the Request, and Criteria Response, and Tribal Feedback and Public Comments, and finds that the Request and Criteria meets the compliance with the standards of 40 CFR §264, and §270.42(e)(3)(ii):

- (B) to allow for treatment in a container in accordance with 40 CFR §268,
- (C) to prevent the disruption of ongoing waste activities, and
- (E) to facilitate other changes to protect human health and the environment.

40 CFR §270.42(e)(4) requires that the Permittees notify the public via the Facility Mailing list, within seven (7) days of submitting the request. NMED received the Notice, and the Permittees notified the Facility Mailing List on June 21, 2019. The complete Request, including Enclosures 1 and 2, Resubmittal, Notification, and NMED's response letter are available on the NMED's Hazardous Waste Bureau website at: <https://www.env.nm.gov/hazardous-waste/lanl-permit/>.

Upon review of the documentation provided by the Permittees, NMED finds the documentation sufficient to support the issuance of temporary authorization. NMED concurs that the risk of inaction is greater than the risk of action and the technical solution proposed by the Permittees is more protective of human health and the environment than inaction or further delay. The temporary authorization is effective for 180 days, starting on September 5, 2025, and expiring on February 7, 2026. The temporary authorization is to complete the treatment, storage and repacking of the four FTWCs containers at TA 54 and TA 16 during appropriate weather conditions and air temperatures, with the following non-negotiable modifications:

1. The Permittees shall ensure positive verification that the capture system AL-M1 has adequate capacity to fully and efficiently capture headspace gases. To prevent breakthrough, the Permittees will validate, between each FTWC depressurization evolution, that the AL-M1 loading ratings are not exceeded. Upon finding a loading risk, the Permittees will use an unloaded AL-M1 for the next FTWC.
2. The Permittees shall change the administrative hard stop emissions limit from 8 mrem to 6 mrem to the maximally exposed individual for the entire FTWC treatment process. This is below the EPA's CAP 88 standard.
3. The Permittees shall notify the public and tribal communities in writing in English and Spanish no less than three days prior to commencing operations to allow surrounding communities and persons time to adjust their activities in an abundance of caution as they deem necessary.
4. Permittees shall communicate with the public and engage in tribal consultation following completion of the proposed activities. The Permittees shall provide meaningful public and government to government engagement. At a minimum, the Permittees shall conduct a post-activity meeting within 30 days of completing the treatment process and provide advance notification to the public about participation options. The Permittees shall provide audio and visual support during the meeting sufficient to allow unrestricted virtual attendance and commenting; and must provide information to be presented prior to the meeting for public access and review, including but not limited to sampling and modeling data. Within two days of this post-activity meeting, the Permittees shall post a recording of the public meeting. Within two weeks of this post-activity meeting, the Permittees shall post a comments and response table.
5. Permittees must publish a final report documenting the treatment process and all analytical results, including summaries of activities, lessons learned, and photographic documentation of

the process to the public, along with any other information provided to EPA or NMED to demonstrate adherence to permit and this temporary authorization's conditions.

6. In accordance with 40 CFR 270.42(a)(1)(ii), the Permittees must provide a notification of this permit modification to all persons on the LANL facility mailing list, maintained by the NMED Hazardous Waste Bureau, within ninety days of incorporation of this permit modification.
7. The Permittees shall notify NMED, the EPA, tribal communities, and the public of any potential threat to public health within 15 minutes of any problems during the treatment process that result in an unanticipated release of tritium exceeding the conditions of this temporary authorization.

If the Permittees are not able to complete the work within 180 days from the date of this approval letter, the Permittees must notify NMED and submit a Class 2 Permit Modification in accordance with 40 CFR 270.24 (e)(4). Any such request is subject to re-evaluation by NMED. The Permittees may appeal certain decisions by NMED pursuant to NMSA Section 74-4-4.2(G).

An electronic version of the Permit that incorporates the approved modification will be sent to the Permittees via email and the modified Permit will also be available on the NMED Hazardous Waste Bureau's website at: <https://www.env.nm.gov/hazardous-waste/lanl-permit/>.

Pursuant to Section 74- 4-10 NMSA 1978, NMED reserves the right to pursue enforcement actions including but not limited to a suspension or revocation of this temporary authorization for cause, including: (1) During the execution of the tasks associated with the temporary authorization, noncompliance by the Permittees with any condition of the Permit, or any applicable requirement found within the Hazardous Waste Act or Hazardous Waste Management Regulations; (2) the discovery of the failure by the Permittees to disclose fully all relevant facts, or the Permittees' misrepresentation of any relevant facts, associated with this temporary authorization; or (3) a determination that the temporary authorization activities endanger human health or the environment.

As previously stated, NMED concurs that the risk of inaction is significantly greater for human health and the environment than the risk from the mitigation proposed by the Permittees. However, significant public interest in this matter remains unmitigated. The Permittees public meeting on this matter did not resolve the concerns of many individuals who continue to question the protectiveness and timeliness of the Permittee's actions. The Permittees failure to meaningfully engage with concerned individuals continues to erode the social license to operate by the U.S. Department of Energy, the National Nuclear Safety Administration, and Triad National Security, LLC. Moreover, the failed environmental management efforts by U.S. Department of Energy, the National Nuclear Safety Administration, and its contractors continue to detract from the advances in science and technology that is developed by Los Alamos National Laboratory. As stated in my letter dated June 9, 2025, NMED reasserts its claim that the primary reason the Permittees requested a temporary authorization stems from the Permittees failure to properly manage hazardous waste at the time of generation followed by almost a 20-year disregard of compliance obligations under state laws and rules. Given the Permittees failure to comply with New Mexico Hazardous Waste Act and its regulations codified at 20.4.1 of the New Mexico Administrative Code, NMED reserves its right to commence a civil enforcement action pursuant to this matter.

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If you have any questions regarding the temporary authorization, please contact my colleague, JohnDavid Nance, Chief, Hazardous Waste Bureau, at (505) 629-6764 or via email at jd.nance@env.nm.gov.

Sincerely,



James C. Kenney
Cabinet Secretary

Cc:

Scott Mason, Regional Administrator, U.S. EPA Region 6
Josett Monette, Cabinet Secretary, New Mexico Department of Indian Affairs
Christopher Moquino, Governor, Pueblo de San Ildefonso
Joseph Herrera, Governor, Pueblo de Cochiti
George Shendo, Governor, Pueblo of Jemez
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File: 2025 LANL Permit, Approval with Modifications Temporary Authorization Request Class 2 Permit
Modification For Waste Treatment, Storage, and Repackaging, LANL Hazardous Waste Facility
Permit

LANL-19-033