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James C. Kenney
Cabinet Secretary

Jennifer J. Pruett
Deputy Secretary

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

November 7, 2019

Doug Hintze, Manager
Environmental Management
Los Alamos Field Office
P.O. Box 1663 MS-M984
Los Alamos, NM 87545

RE:

**STIPULATED PENALTY FOR FAILURE TO MEET FISCAL YEAR 2019 MILESTONE # 14
APPENDIX B, 2016 ORDER ON CONSENT FOR WESTBAY WELLS RECONFIGURATION
COMPLETION REPORT
LOS ALAMOS NATIONAL LABORATORY
EPA ID#NM0890010515
HWB-LANL-MISC**

Dear Mr. Hintze:

On September 17, 2019, the New Mexico Environment Department (NMED) issued a written notice of an intent to assess stipulated penalties to the U.S. Department of Energy (DOE) for failure to timely meet the Fiscal Year 2019 (FY19) Milestone #14 of the Appendix B of the 2016 Compliance Order on Consent (CO) in accordance with Section XXXV of the CO.

NMED and DOE have come to a resolution regarding FY19 Milestone #14. The resolution was memorialized in a letter sent to DOE on October 28, 2019, which was then clarified in October 31, 2019 correspondence. The stipulated penalties associated with wells R-5, R-7, R-8, R-9i, and R-19 will be calculated from the date of NMED's written notice (September 17, 2019) in accordance with Section XXXV.A.5 of the CO.

The DOE submitted *Westbay Wells Reconfiguration Completion Report for R-5, R-7, R-8, R-9i, and R-19* on October 16, 2019 (referenced by EM2019-0397), which was 29 days after the September 17, 2019 stipulated penalty notice.

In accordance with Section XXXV.A.6 of the CO, the DOE shall pay \$2,000 per day for Day 1 through 30, and \$4,000 per day thereafter. The stipulated penalty in this instance is calculated at twenty-nine (29) days of noncompliance (i.e., September 17, 2019 through October 16, 2019). Therefore, \$58,000 is due to NMED within 45 days of the date of this letter.

Please follow the procedures for payment outlined in Section XXXV of the CO. In accordance with Section XXXV.B of the CO, interest shall accrue at the rate specified in 28 U.S.C. § 1961. Interest shall accrue from the date the penalty is due until the date it is actually paid.

Please contact Neelam Dhawan at (505) -476-6042, if you have any questions.

Sincerely,



Stephanie Stringer, Director
Resource Protection Division

cc: S. Stringer, NMED RPD
J. Hower, NMED OOTS
N. Dhawan, NMED HWB
S. Yanicak, NMED DOE OB, MS M894
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File: 2019 LANL, Stipulated Penalty for failure to meet Milestone # 14, Appendix B, FY19, Westbay wells reconfiguration completion report.