



DEPARTMENT OF ENERGY
Environmental Management Los Alamos Field Office (EM-LA)
Los Alamos, New Mexico 87544

EMLA-24-BF084-2-1

January 12, 2024

Mr. Rick Shean
Designated Agency Manager
Hazardous Waste Bureau
New Mexico Environment Department
2905 Rodeo Park Drive East, Building 1
Santa Fe, NM 87505-6313



Subject: Request for Certificates of Completion for Two Solid Waste Management Units and Four Areas of Concern in the Lower Water/Indio Canyons Aggregate Area

References

1. N3B Document EM2023-0182, "Investigation Report for Lower Water/Indio Canyons Aggregate Area, Revision 1," dated May 2023
2. N3B Document EM2021-0344, "Investigation Report for Lower Water/Indio Canyons Aggregate Area," dated September 2021
3. NMED Email, M. Schatz to A. Duran, "NMED Draft Comments for IR for the Lower Water/Indio Canyons AA," dated May 13, 2022
4. N3B Email, K. Ellers to M. Schatz, "NMED Draft Comments for IR for the Lower Water/Indio Canyons AA" (N3B document EM2022-0744), dated November 8, 2022
5. NMED Email, M. Schatz to A. Duran, "NMED response to DOE's response to NMED Draft Comments for the IR for Lower Water/Indio Canyons AA," dated February 6, 2023
6. NMED Letter, R. Shean to A. Duran, "Approval Investigation Report for Lower Water/Indio Canyons Aggregate Area Los Alamos National Laboratory, Revision 1," dated August 30, 2023

Dear Mr. Shean:

In accordance with Section XXI of the Compliance Order on Consent (Consent Order), the U.S. Department of Energy (DOE) Environmental Management Los Alamos Field Office (EM-LA) is requesting certificates of completion without controls for the following areas of concern (AOCs) and solid waste management unit (SWMU) within the Lower Water/Indio Canyons Aggregate Area:

- AOC 15-001, Surface Disposal Site
- AOC 15-004(h), Firing Site H
- SWMU 15-009(g), Septic System
- AOC C-15-011, Former Underground Tank

AOCs 15-001, 15-004(h), and C-15-011 and SWMU 15-009(g) were recommended for corrective action complete without controls in the "Investigation Report for Lower Water/Indio Canyons Aggregate Area, Revision 1," (hereafter the IR) (Reference 1). The IR confirms the nature and extent of contamination are

defined, or no further sampling is warranted at AOCs 15-001, 15-004(h), and C-15-011 and SWMU 15-009(g). In addition, the IR demonstrates that the above-mentioned AOCs and SWMU pose no potential unacceptable risks or doses to human health under the industrial, construction worker, and residential scenarios or to ecological receptors. Therefore, neither site controls nor additional future actions under the Consent Order are necessary at these four sites.

In addition, EM-LA is requesting certificates of completion with controls for the following AOC and SWMU:

- AOC 15-014(d), Drainage
- SWMU 15-014(1), Outfalls from Former Building 15-202

AOC 15-014(d) and SWMU 15-014(l) were recommended for corrective action complete with controls in the IR. The IR confirms the nature and extent of contamination are defined, or no further sampling is warranted at AOC 15-014(d) and SWMU 15-014(l). In addition, the IR concluded that this AOC and SWMU pose no potential unacceptable risk or dose to human health under the industrial and construction worker scenarios and pose no potential unacceptable risk to ecological receptors. The sites do pose potential unacceptable human health risk under the residential scenario. Therefore, site controls to prevent future residential land use are necessary at these sites. These controls shall consist of administrative land-use controls implemented by DOE as the owner of the sites.

The IR was submitted to the New Mexico Environment Department (NMED) on September 30, 2021 (Reference 2). NMED reviewed the IR and provided draft comments to EM-LA on May 13, 2022 (Reference 3). Responses to NMED's May 13 comments were submitted on November 8, 2022 (Reference 4). Comments and responses were reviewed and accepted by NMED and delivered to EM-LA, via email, on February 6, 2023 (Reference 5). The IR was revised in response to NMED's comments and submitted to NMED on May 12, 2023 (Reference 1). NMED approved the revised IR on August 30, 2023 (Reference 6).

Per Section XXIII.D of the Consent Order, EM-LA sought to reach agreement with NMED on a review schedule by which NMED will review and approve or disapprove this submission.¹ Consistent with Section XXIII.D and Appendix D (Document Review/Comment and Revision Schedule) of the Consent Order, EM-LA proposed a 120-day period for NMED to review and approve or disapprove this submission. NMED failed to respond to EM-LA's proposal. Because of NMED's failure to respond, EM-LA and NMED were unable to reach agreement on the review schedule by which NMED will review

¹ Section XXIII.D states, in pertinent part:

“Prior to DOE's submission of any work plan or report required by Sections XIII, XVI, XVIII, XIX, or XV (Facility Investigation, Corrective Measures Evaluation, Corrective Measures Implementation, Accelerated Corrective Action, Interim Measures), **the Parties agree to reach agreement on review schedules by when NMED will review and approve or disapprove DOE's submission(s).**” “If NMED action on a DOE submission is not completed in accordance with an agreed-upon schedule, the submittal will be **deemed approved**” (emphasis added). EM-LA recognizes that “NMED may request a single extension for a specified number of days to an agreed-upon review schedule.”

and approve or disapprove the submission. A copy of the correspondence from EM-LA to NMED regarding NMED's review schedule is included as Enclosure 1.

It is crucial that NMED commits to a review schedule of EM-LA's submissions for EM-LA to be able to timely and effectively plan for—and expeditiously execute—legacy waste remediation through the Consent Order corrective action process. Moreover, such commitment from NMED needs to be in accordance with the Consent Order.

If you have any questions, please contact Christian Maupin at (505) 695-4281 (christian.maupin@em-la.doe.gov) or Cheryl Rodriguez at (505) 414-0450 (cheryl.rodriguez@em.doe.gov).

Sincerely,

**ARTURO
DURAN**

Digitally signed by
ARTURO DURAN
Date: 2024.01.11
15:12:19 -07'00'

Arturo Q. Duran
Compliance and Permitting Manager
U.S. Department of Energy
Environmental Management
Los Alamos Field Office

Enclosure(s):

1. Two hard copies with electronic files:
Email from A. Duran (EM-LA) to R. Shean (NMED), September 26, 2023, "Request for 120 days review and approval period for a request for Certificates of Completion for two Solid Waste Management Units and four Areas of Concern in the Lower Water/Indio Canyons Aggregate Area"

cc (letter emailed):

Laurie King, EPA Region 6, Dallas, TX
Steve Yanicak, NMED-DOE-OB
Neelam Dhawan, NMED-HWB
Ricardo Maestas, NMED-HWB
Kylian Robinson, NMED-HWB
Jeannette Hyatt, LANL
Stephen Hoffman, NA-LA
William Alexander, N3B
Brenda Bowlby, N3B
Robert Edwards III, N3B
Kate Ellers, N3B
Joe English, N3B
Michael Erickson, N3B
Dana Lindsay, N3B

Christian Maupin, N3B
Vince Rodriguez, N3B
Bradley Smith, N3B
Jeffrey Stevens, N3B
Troy Thomson, N3B
Jennifer von Rohr, N3B
John Evans, EM-LA
Sarah Eli Gilbertson, EM-LA
Brian Harcek, EM-LA
Thomas McCrory, EM-LA
Michael Mikolanis, EM-LA
Kent Rich, EM-LA
Cheryl Rodriguez, EM-LA
Susan Wacaster, EM-LA
emla.docs@em.doe.gov
n3brecords@em-la.doe.gov
Public Reading Room (EPRR)
PRS website

William Alexander

From: Duran, Arturo Q. <arturo.duran@em.doe.gov>
Sent: Tuesday, September 26, 2023 7:06 AM
To: 'Shean, Rick, ENV'
Cc: 'Dhawan, Neelam, ENV'
Subject: Request for 120 days review and approval period for a request for Certificates of Completion for two Solid Waste Management Units and four Areas of Concern in the Lower Water/Indio Canyons Aggregate Area

Dear Rick,

DOE EM-LA will be submitting for your review and approval a request for Certificates of Completion for two Solid Waste Management Units and four Areas of Concern in the Lower Water/Indio Canyons Aggregate Area.

Per Section XXIII.D of the 2016 Compliance Order on Consent (Consent Order), DOE EM-LA proposes a 120 day period for NMED to review and approve or disapprove EM-LA's submission of the request for Certificates of Completion for two Solid Waste Management Units and four Areas of Concern in the Lower Water/Indo Canyons Aggregate Area.

The 120 day review period will start from the date this document is submitted to NMED.

EM-LA requests NMED's agreement with the review period as proposed above. This review period is consistent with the 120 day period for NMED to review requests for Certificates of Completion set forth in Appendix D of the Consent Order.

Section XXIII.D of the Consent Order provides that "[prior to DOE's submission of any work plan or report required by Sections XIII, XVI, XVIII, XIX, or XV (Facility Investigation, Corrective Measures Evaluation, Corrective Measures Implementation, Accelerated Corrective Action, Interim Measures), the Parties agree to reach agreement on review schedules by when NMED will review and approve or disapprove DOE's submission(s)."

Please let me know if NMED agrees with the proposed 120 period for NMED to review and approve or disapprove this request.

Thank you

Arturo