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DOE/EA-1184

Comment Letters and DOE Responses Supplement

to the

Environmental Assessment

for the

Transfer of the DP Road Tract

to the County of Los Alamos

Los Alamos, New Mexico

DO NOT REMOVE
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Date: February 14, 1997

Prepared by: U. S. Department of Energy
Los Alamos Area Office

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Department of Energy
Albuquerque Operations Office
Los Alamos Area Office
Los Alamos, New Mexico 87544

MAR 4 1997

Ms. Salley Lindsey
DOE Public Reading Room
Technical Vocational Institute
Montoya Campus Library
4700 Morris NE
Albuquerque, NM 87123

Dear Ms. Lindsey:

Enclosed are copies of the letters received from stakeholders and members of the public regarding the Environmental Assessment (EA) for the *Transfer of the DP Road Tract to the County of Los Alamos, New Mexico* (DOE/EA-1184), along with copies of the Department of Energy's response letters to these parties, which have been assembled into a separate informational document. Please make this document available to the public.

If you have any questions concerning this document, please contact Dean Triebel, Document Manager, at (505) 665-6353. Questions regarding the Los Alamos Area Office National Environmental Policy Act (NEPA) program can be directed to me at (505) 667-8690.

Sincerely,

Elizabeth R. Withers
NEPA Compliance Officer
Office of Environment
and Projects

LAAMEP:2DT-081

Enclosure

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A. **U. S. Environmental Protection Agency, December 9, 1996**

DOE Response Letter, January 23, 1997

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS, TX 75202-2733

December 9, 1996

Mr. G. Thomas Todd
Area Manager
Department of Energy
Albuquerque Operations Office
Los Alamoa Area Office
Los Alamos, NM 87544

Dear Mr. Todd:

The Environmental Protection Agency (EPA) has reviewed the Environmental Assessment (EA) for a proposal to tranfer land located along DP Road to the County of Los Alamos. Our review and comments are in accordance with Section 309 of the Clean Air Act and the National Environmental Policy Act (NEPA).

The EA documents baseline conditions at the site, anticipated impacts from the land transfer, and coordination with other resource agencies necessary to insure appropriate environmental compliance and to minimize environmental impacts.

Based upon the environmental assessment information, EPA has no objection to the implementation of the selected alternative.

Thank you for this opportunity to comment. If you have any questions, please contact me at 214/655-7451 for assistance.

Sincerely yours,

Michael P. Jansky, P.E.
Regional Environmental Review
Coordinator

Department of Energy
Albuquerque Operations Office
Los Alamos Area Office
Los Alamos, New Mexico 87544

JAN 23 1997

Michael P. Jansky, P.E.
Regional Environmental Review Coordinator
U. S. Environmental Protection Agency
Region 6
1445 Ross Ave, Suite 1200
Dallas, TX 75202-2733

Dear Mr. Jansky:

This responds to your December 9, 1996 letter commenting on the Pre-decisional Draft Environmental Assessment (EA) for the *Transfer of the DP Road Tract to the County of Los Alamos, New Mexico* (DOE/EA-1184). We appreciate the Agency's interest in the Los Alamos Area Office's (LAAO) National Environmental Policy Act (NEPA) program and thank you for commenting on the draft EA. The final EA reflects changes made to the text to address comments received from stakeholders. The Department of Energy (DOE) issued a Finding of No Significant Impact (FONSI) for this project and a final EA on January 23, 1997. Copies of the EA and FONSI are enclosed.

This NEPA decision was based on the consideration that there are no significant impacts to the human environment as a result of the proposed land transfer. DOE is aware of other issues associated with land transfers, and therefore, no land will be transferred from DOE ownership until these issues are discussed in a public forum. A public meeting to discuss future land transfer issues will be held on February 18, 1997, at LAAO, 528 35th Street, Los Alamos, NM, Room 100, from 6:00 p.m. to 9:00 p.m.

I appreciate both your effort in providing your evaluation of the draft EA and support of the LAAO NEPA program. If you would like further information regarding this project, please call Dean Triebel, Office of Environment and Projects, at (505) 665-6353. If you have any questions regarding our LAAO NEPA program, please call Elizabeth Withers, NEPA Compliance Officer, at (505) 667-8690.

Sincerely,

G. Thomas Todd
Area Manager

LAAMEP:2DT-061

Enclosures

bcc w/o enclosures:
H. Haynes, Office of Counsel, LAAO
G. Sahd, Area Manager's Office, LAAO
K. Zamora, Acting AAMFO, LAAO
E. Withers, LAAMEP, LAAO
D. Triebel, LAAMEP, LAAO
S. Fong, LAAMEP, LAAO
B. Koch, LAAMEP, LAAO
R. Romero, LAAMBOS, LAAO
B. Enz, Scientech, LAAO
J. Robbins, EPD, AL
B. Buvinger, EPD, AL
P. Dickman, OEPM, AL
J. Griego, PSAD, AL

B. **National Parks and Conservation Association, January 3, 1997**

DOE Response Letter, January 23, 1997

National Parks
and Conservation Association

SOUTHWEST REGIONAL OFFICE

January 3, 1997

Mr. Dean Triebel, EA Document Manager
U.S. Department of Energy
528 35th Street
Los Alamos, NM 87544

Dear Mr. Triebel:

The National Parks and Conservation Association (NPCA) is a 500,000-member citizens organization founded in 1919 and dedicated to the protection and enhancement of the National Park System. NPCA appreciates the opportunity to comment on the Environmental Assessment (EA) for the proposed transfer of the DP Road Tract to County of Los Alamos.

As this is the first EA for a proposed land transfer from the Los Alamos National Laboratory (LANL) to other interests, NPCA feels strongly that the Department of Energy must set a strong precedent in this EA for thorough and complete analysis. DOE should hold itself to a high standard in assessing environmental impacts of this and all future proposed transfers. NPCA's particular interest is that DOE fully consider and analyze direct and indirect impacts on Bandelier National Monument, Santa Fe National Forest, and other public lands.

NPCA supports some of the basic intent of land transfers, which may benefit Los Alamos County residents. NPCA commends DOE for efforts to facilitate additional public input by extending the public comment period (despite the fact that the deadline extension period occurred during the holidays).

Overall, NPCA feels that DOE has adequately described the DP Road site, its resources, and some estimated impacts of the proposed land uses. NPCA is concerned, however, that the EA does not adequately address the potential direct or indirect environmental effects of various development options, nor does it adequately acknowledge or consider alternative uses of the tract which might benefit county residents, as intended by the Atomic Energy Community Act of 1955. Absent such analysis, NPCA must withhold full support for the proposed action (although we are inclined to support it).

Southwest Regional Office
823 Gold Ave., S.W., Albuquerque, NM 87102
Tel: (505) 247-1221 • Fax: (505) 247-1222

National Office
1776 Mass. Ave., N.W., Washington, D.C. 20036
Tel: (202) 223-6722 • Fax: (202) 659-0650

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Our concerns are as follows:

1. The EA needs more analysis on possible impacts of specific types of development that have been proposed.

Although the land use for the tract has not been determined, different types of development may have vastly different environmental effects. For example, the risk of toxic spills or contamination, the rate of erosion and runoff, water resource demands, and impacts to wildlife or air quality will vary widely from one type or scale of development to another. The absence of specific development scenarios makes it extremely difficult for DOE to evaluate environmental impacts, or for the public to evaluate the EA.

NPCA believes that DOE should establish a policy right now regarding any potential land transfers, that policy being that environmental compliance will only be done when future anticipated lands uses are well-known and subject to some degree of specific evaluation At the absolute minimum, the public needs more detailed information on the environmental impacts of specific types or options for development of the DP Road site, and other potential transfer sites. This information is critical, since there are watershed and human health concerns associated with the past use and proposed future development of the DP Road Tract.

While it is helpful to assess a worst case scenario such as an earthquake on existing LANL facilities near the DP Road Tract, it might be more helpful to analyze more likely scenarios involving uses such as heavy manufacturing and equipment, underground tanks, septic systems and the radioactive waste pipeline. It would be useful to show how any leakage, accidents or accelerated erosion could affect future employees, groundwater, canyon watersheds and habitat and downstream landowners.

For example, according to the EA on page 19, wastewater facilities at Bayo Canyon and White Rock are not operating at full capacity but there are "constraints at other parts of the system that limit the maximum amount they could process." The EA is silent on how different development scenarios would impact or exacerbate this situation. What levels of wastewater generation would stress the capacity beyond a safe operating margin?

Similarly, the EA mentioned possible contamination sites upstream in Los Alamos Canyon, radionucleides downstream and potential release sites (PRS's) on the DP tract itself. How would differing development scenarios increase or decrease the likelihood of problems occurring with these sites and materials?

Both DP and Los Alamos canyons are ephemeral streams that flow primarily in summer months during thunderstorms. The document mentions that riverine and palustrine

wetlands as well as habitat for peregrine falcon, spotted bat and Mexican spotted owl exist in Los Alamos Canyon. NPCA feels strongly that DOE should establish a clear policy in evaluating land transfers that allows for the early zonation of potential transfer lands that might set certain areas off limits to post-transfer development. The EA should discuss any benefits of this approach in more detail.

Similarly, some types of uses may be compatible with the resources of the tract, others may be completely incompatible. For example, an industrial site that produced large emissions of air pollutants might be totally unacceptable in proximity to both human populations and sensitive public lands valued for their aesthetic quality. DOE should be much more upfront in discussing these possibilities and framing future use of potential transfer lands to avoid such uses.

DOE is right to note that any future developments must adhere to local, state and federal environmental and safety standards. However, now is the best opportunity to reduce the likelihood of certain impacts by discussing their undesirability in this location.

2. All EAs for property transfers must specifically discuss potential impacts to public lands.

The EA mentions Bandelier National Monument and adjacent U.S. Forest Service lands only once, in passing, in the discussion of the environmental setting. The EA is virtually silent on *what that setting means* in terms of what the public values in the area, and that might frame approaches to development and human uses in the Los Alamos area. Although it may not be as crucial for this tract as some other LANL lands potentially up for disposal, there must be a clear assessment of the proposed action's impacts to water and air quality, habitat, transportation/traffic (e.g. would State Roads 4 and 502 need to be widened as a result of transfer and development of the DP Road Tract?) and visitation to these areas. Although our sense is that impacts may be minimal, the EA does not discuss the fact that the Tsankawi unit of Bandelier is ultimately down-canyon from the DP Road tract.

3. DOE must analyze a full range of alternate uses and ownership of potential transfer lands.

The Atomic Energy Community Act of 1955 acknowledged the responsibility of the federal government to provide support in the form of assistance payments for a specified period to Atomic Energy Communities such as Los Alamos, NM, while helping these communities achieve local self-government and financial self-sufficiency.

According to the Atomic Energy Community Act as amended in 1955 (Title 42, U.S. Code 2301-2394) "The administrator shall assure that the governmental or other entities receiving assistance hereunder utilize all reasonable, available means to achieve self-sufficiency to the end that assistance payments by the Administrator may be reduced or terminated at the earliest practical time."

Objective interpretation of the Act does not necessarily mean that DOE can only consider outright transfer to Los Alamos County. DOE must analyze other options for ownership and use of the tracts be adequately analyzed and compared to the "proposed" and "no" action alternatives so that the public has the opportunity to consider the whole range of options.

While the option of transferring this land to Los Alamos County to foster economic development may be appropriate for this particular tract, other options could easily serve the purposes of the Atomic Energy Community Act. NPCA believes that that there are important economic, cultural and/or ecological justifications for considering the transfer of certain tracts to other agencies or entities as alternatives to developing the tracts. For example, NPCA would point out that tourism in New Mexico generated $2.7 billion in 1995 and is the largest private sector industry in the state. The economic benefits to communities generated by national park and national forest areas are a substantial contributor to these revenues. According to 1994 statistics, Bandelier National Monument received approximately 420,000 visitors and had an estimated economic impact of $9,500,000 on the local economy. Therefore, any actions taken to enhance the ecological, scenic or cultural integrity of the monument or the surrounding area are likely to have measurable, positive economic and quality of life impacts for Los Alamos County and be fully compatible with the Atomic Energy Community Act.

In conclusion, the EA should analyze an established proposed action with other feasible alternatives that meet the DOE directive to "implement a site-specific process to identify future-use options based on the unique characteristics of the site and stakeholder needs," and to protect and preserve the human environment and natural resources. Moreover, an improved, more rigorous approach addressing the above concerns should be applied to this and all subsequent NEPA compliance work relating to potential land transfers.

Thank you for considering the Association's views.

Sincerely,

David J. Simon

David J. Simon
Southwest Regional Director

Department of Energy
Albuquerque Operations Office
Los Alamos Area Office
Los Alamos, New Mexico 87544

JAN 2 3 1997

David J. Simon
Southwest Regional Director
National Parks and Conservation
Association
Southwest Regional Office
823 Gold Ave., S.W.
Albuquerque, NM 87102

Dear Mr. Simon:

This responds to your January 3, 1997 letter commenting on the Pre-decisional Draft Environmental Assessment (EA) for the *Transfer of the DP Road Tract to the County of Los Alamos, New Mexico* (DOE/EA-1184). We appreciate the Association's interest in the Los Alamos Area Office's (LAAO) National Environmental Policy Act (NEPA) program and thank you for commenting on the draft EA. The final EA reflects changes made to the text to address comments received from your office and other stakeholders. The Department of Energy (DOE) issued a Finding of No Significant Impact (FONSI) for this project and a final EA on January 23, 1997. Copies of the EA and FONSI are enclosed.

This NEPA decision was based on the consideration that there are no significant impacts to the environment or human health as a result of the proposed land transfer. DOE is aware of other issues associated with land transfers in general, and therefore, no land will be transferred from DOE ownership until these issues are discussed in a public forum. A public meeting to discuss future land transfer issues will be held on February 18, 1997, at LAAO, 528 35th Street, Los Alamos, NM, Room 100, from 6:00 p.m. to 9:00 p.m.

In your letter, you asked several questions and made some observations and comments that I would like to briefly address. For convenience, I refer to your comments by number in my responses presented below. Text locations referencing changes to the final EA document are indicated:

1. As you indicated in your letter, we have not analyzed the impacts of specific types of development options. There are many variations and evaluating each possible variation would be never ending and therefore is considered unreasonable. Instead, we have evaluated what we consider a reasonable bounding development scenario in consultation with the County of Los Alamos (County). The proposed development of the tract, as stated in the EA, is limited to either use by the County, development and use as a commercial or professional business park, or for light industrial business purposes. The effects of these uses are felt to be bounded by the analysis presented in the EA, including potential accident scenario effects analysis.

Your comment about the wastewater system constraints are a concern of the County and their management of the development of the property. Their proposals for development of the DP Road tract consider this constraint. The limiting factors associated with the treatment system are the sizes of various pipes and lift station capabilities. These are items that could be changed out and corrected so that the system could function at a greater level if the County chooses to do so. This is not currently being considered by the County, however, due to the costs involved.

Your comment about possible contamination sites in Los Alamos Canyon was addressed in this EA through the evaluation of a bounding case scenario that contemplated covering the entire site with buildings and asphalted or concreted parking areas, thus maximizing the runoff potential. Potential Release Sites (PRS) on the tract will be cleaned up, if necessary, to the satisfaction of the regulatory agency before any disturbance of the PRS location is allowed by DOE per the transfer agreement. Similarly, a nearby site that has not been fully characterized will have to be fully characterized, and may have to be remediated, before any disturbance to the PRS buffer area is allowed. Additional text has been added to the approved EA regarding this issue in Chapter 4.1.4.

We appreciate your comments regarding establishing a policy in evaluating land transfers that might set certain areas off limits to post-transfer development. This type of evaluation will be incorporated in future land transfer discussions. For this particular EA, there is no need to establish such a policy, since there is no adversely affected habitat for threatened or endangered species within the DP Road Tract.

Your concern about the compatibility of uses for the DP Road tract was taken into consideration in the EA. The analysis in Chapter 4 of the EA discussed the compatibility and environmental consequences of the development on the affected environment. Changes to the type of activities allowed on the tract in the distant future would be subject to established County procedures that include public input and local, State, and Federal laws and regulations in effect at the time. It is not DOE's intent to limit the future use of the site after Technical Area 21 is vacated by Los Alamos National Laboratory operations (which is not proposed for the foreseeable future).

2. The EA assesses the consequences of the proposed action on the existing environmental setting, which includes Bandelier National Monument and U. S. Forest Service lands located several miles away. In the EA analysis, however, effects to these properties were considered but eliminated from further consideration because no identified direct, indirect or cumulative effects could be identified that impacted the human environment of those distant locations (Chapter 3, Table 3.1). If a proposal(s) for future land transfers is developed, it will have additional NEPA documentation to evaluate the consequences of that action(s). Depending upon the location of the property being considered, there may or may not be the need to analyze impact to the Monument or Forest Service properties.

3. Although DOE is not constrained to transfer property to the County under the Atomic Energy Act or the Atomic Energy Community Act, it is in the best interest of DOE and the County that it do so. To that end, and in light of our obligation to assist the County in

its quest to become more self-reliant, we have proposed the transfer of the DP Road tract as it is adjacent to the heart of the commercial townsite area. It is not incumbent upon DOE to consider the entire universe of possible parties to whom the land could be transferred, or to consider such a broad range of future uses in making our decision, based on our need for action. In the broader sense, transferring land out of DOE management to a variety of recipients would be allowed under the Atomic Energy Act, and we agree that there may be many different interested parties involved in such a proposal for a variety of reasons and that these should all be considered in such an action, as appropriate.

I appreciate both your comments and your support of the LAAO NEPA program. I hope this letter, together with the accompanying changes made to the EA, has further clarified some of your comments regarding the proposed action. If you would like further information regarding this project, please call Dean Triebel, Office of Environment and Projects, at (505) 665-6353. If you have any questions regarding our LAAO NEPA program, please call Elizabeth Withers, NEPA Compliance Officer, at (505) 667-8690.

Sincerely,

G. Thomas Todd
Area Manager

LAAMEP:9DT-065

Enclosures

bcc w/o enclosures:
H. Haynes, Office of Counsel, LAAO
K. Zamora, Acting AAMFO, LAAO
G. Sahd, Area Manager's Office, LAAO
E. Withers, LAAMEP, LAAO
D. Triebel, LAAMEP, LAAO
R. Romero, LAAMBOS, LAAO
S. Fong, LAAMEP, LAAO
B. Koch, LAAMEP, LAAO
B. Enz, Scientech, LAAO
J. Robbins, EPD, AL
B. Buvinger, EPD, AL
P. Dickman, OEPM, AL
J. Griego, PSAD, AL

C. Homesteaders Association of the Los Alamos Plateau, January 2, 1997

DOE Response Letter, January 23, 1997

Homesteaders Association of the Los Alamos Plateau

RECEIVED
LAAO - MAIL & RECORDS
1997 JAN -3 PM 2:23

January 2, 1997

Department of Energy
Los Alamos Area Office
528 35th Street
Los Alamos, NM 87544

Attention: Mr. Triebel, EA Document Manager

Dear Mr. Triebel:

On behalf of my family and the residents of Northern New Mexico whom I represent and who are the original homesteaders and heirs to the lands proposed for transfer to the Los Alamos County, I would like to thank you for the opportunity to comment on the following document:

> DOE-EA-1184, predecisional draft Environmental Assessment (EA) for the Transfer of the DP Road Tract to the County of Los Alamos, November 15, 1996.

In reference to the acceptability of this draft environmental assessment, I find the document to be deeply flawed, the terms of the studies incomplete, outdated, and self-serving. In the case of the bases for the transfer of the land to the County, the interpretation of commitments is distorted, misleading and heavily biased in favor of the County.

For the reasons stated below, the document fails to meet the minimum standards for a draft EA and will require correction, revision, and re-publication as a draft. This conclusion results not only from the internal deficiencies in the document itself, but also because it fails to address the true scope of the land transfer activity planned and that has already taken place.

It is obvious from the draft EA that the proposed actions discussed are actually part of a larger "master plan" which includes the transfer of many acres of land at various laboratory sites. These actions are clearly interdependent and must be analyzed together in order to properly take into consideration their cumulative and long-term effects. Therefore, all actions involved in the "master plan" must be analyzed in one EA. Since there has never been "a broad environmental impact statement" for the overall "master plan" for these interrelated actions, this piecemeal approach of separate EAs is improper.

Itemized below, I am providing general and specific comments cross referenced to the sections of the EA. These comments serve to illustrate only a few of the many inadequacies of the EA. I have not commented on all of the deficiencies due to time constraints and volume of deficiencies found.

General Comments:

1. RE: Cover page to EA dated November 15, 1996-the second paragraph states that the *Land and Facility Use Policy* for returning lands to public use is for ensuring public participation. The Citizens Advisory Board (a forum for public participation) has forwarded to the DOE a recommendation for considering the homesteaders claims to the lands proposed for transfer. However, as of this date the DOE has been slow to acknowledge and respond to these recommendations. This lack of response from the DOE does not ingratiate the DOE into the public trust.

Action Requested: Please respond to the CAB's recommendations.

2. RE: Cover page to EA dated November 15, 1996-the forth paragraph states that the DOE considered but dismissed from further evaluation the alternative to "sell the land to a non-government buyer". However, in contradiction under section 2.1 on page 9 of the EA the DOE makes allowance for conveying the tract of land to other parties for development and use as a commercial or professional business park. This action sidesteps allowance for considering the homesteader's claims and allowing them access to participate in development ventures.

Action Requested: Please identify if in fact the proposed action expressly prohibits the County from selling or otherwise leasing the land to private developers.

3. RE: Cover page to EA dated November 15, 1996-the third sentence on page two of the cover page states that the DOE does not believe a public meeting is necessary. The fact that the comment period was extended, because of much insistence from the public, is not reason enough not to have a public hearing. Many members of the public are unable to submit written comment therefore the omission of a public hearing denies a large segment of the public their right to public participation in the comment process.

Action Requested: I urge you on behalf of my constituency and the general public to hold a public hearing and comment period.

4. RE: Page 3 of the EA-the proposed transfer of land is for future business park or light industrial development purposes. However, the feasibility study results have not been made available to the public for their review in conjunction with the EA.

Action Requested: Please provide a copy of the feasibility study for the research park.

5. RE: Page 3 second paragraph of the EA-the forth sentence identifies that the decision to be made by the DOE in this case is whether or not to transfer its ownership of the subject land tract by deed. The DOE has not shown that they hold ownership to the land regardless of the fact that this land was taken under the War Powers Act. The procedural process under which the land was taken is being challenged and pending legal action. If in fact the DOE can deed the land to the County, then the land can also be deeded to the homesteaders. In latter part of 1995, the DOE Albuquerque Office stated that the Corps of Engineers is conducting a title search to determine the ownership of the lands. This title search was to take 9 to 12 months to complete.

Action Requested: Please provide appropriate documentation that would show that the DOE holds ownership of the land proposed for transfer. Also, provide a status of the Corps title search and findings to date.

6. RE: Page 25 of the EA-paragraph 1 of section 3.13, **Environmental Justice** acknowledges the need for identifying and addressing the possibility of disportionately adverse health and socioeconomic effects of Proposed Actions on minority and low-income populations. However, DOE is in the process of finalizing procedures for implementing the requirements of Executive Order 12898. Additionally, the DOE contends that the analysis of environmental justice in this EA is not intended to establish the direction of DOE 's future procedures implementing the Executive Order.

Action Requested: Please explain how the DOE can justify proceeding with the proposed action without knowing the results of the socioeconomic effects of the proposed action on the surrounding minority population. Also, please explain on what basis the DOE can disregard the application of the analysis results on future actions. Additionally, I request a copy of the results of the socioeconomic analysis as soon they become available.

Specific Comments:

1. RE: Page 1 of the EA-the second paragraph asserts that economic development will accelerate within the County through employment opportunities offered subsequent to the attainment of additional property ownership and its following use.

Action Requested: Please provide a copy of the model and results of the analysis used to make this assertion. Also, identify the distributional equity to the Northern New Mexico Region.

2. RE: Page 1 of the EA-third paragraph discusses a "sliding scale approach" for determining the potential of creating adverse environmental effects as a result of the proposed action.

Action Requested: Please provide a copy of the application of the "sliding scale approach" to this EA.

3. RE: Page 9 of the EA-second sentence of the last paragraph identifies the fact that... "The tract has been previously disturbed by surface activities and by prior site facilities or structures".

Action Requested: Please provide specifics with regard to the actual type of facilities/structures and processes used and products produced within the structures as well as the environmental impacts and duration of these impacts.

4. RE: Page 23 of the EA-section 3.9, Air Quality does not discuss the impact of the findings of the Clean Air Act (CAA) suit currently being settled in court.

Action Requested: Address the relationship of the CAA law suit on the proposed DP Road land transfer.

In closing, I would like to remind the DOE that the economic benefits that can be realized from the use of the lands proposed for transfer are important to all of Northern New Mexico, not just Los Alamos. The homesteaders and their heirs have a right to have their lands ceded back to them to enable them to participate as full partners in generating the economic development for Northern New Mexico. I suggest that the DOE work closely with the heirs to the homesteads in the months and years to come. These efforts are needed to minimize any resentment, public distrust, and economic setbacks which may result from ignoring the homesteaders claims.

We request that there be a public hearing/comment process before consideration of closure of the comment period. This public process should include all interested parties including the New Mexico State Delegation and economic development organizations. We urge that a complete and satisfactory draft EA be developed. This would permit the public to provide background information within the decision making framework.

Thank you for the consideration of my views. Please forward your response to 334 Kimberly Lane, Los Alamos, NM 87544. I can be reached by telephone at (505)665-6891 or 672-3182.

Sincerely,

Joe Gutierrez

Joe Gutierrez
President

Department of Energy
Albuquerque Operations Office
Los Alamos Area Office
Los Alamos, New Mexico 87544

JAN 2 3 1997

Joe Gutierrez, President
Homesteaders Association of
the Los Alamos Plateau
334 Kimberly Lane
Los Alamos, NM 87544

Dear Mr. Gutierrez:

This responds to your January 3, 1997 letter commenting on the Pre-decisional Draft Environmental Assessment (EA) for the *Transfer of the DP Road Tract to the County of Los Alamos, New Mexico* (DOE/EA-1184). We appreciate your interest in the Los Alamos Area Office's (LAAO) National Environmental Policy Act (NEPA) program and thank you for commenting on the draft EA. The final EA reflects changes made to the text to address comments received from your organization and other stakeholders. The Department of Energy (DOE) issued a Finding of No Significant Impact (FONSI) for this project and a final EA on January 23, 1997. Copies of the EA and FONSI are enclosed.

This NEPA decision was based on the consideration that there are no significant impacts to the environment or human health as a result of the proposed DP Road land transfer. DOE is aware of other issues associated with land transfers, and therefore, no land will be transferred from DOE ownership until these issues are discussed in a public forum. A public meeting to discuss future land transfer issues will be held on February 18, 1997, at LAAO, 528 35th Street, Los Alamos, NM, Room 100, from 6:00 p.m. to 9:00 p.m. There currently is no "master plan" proposal to transfer large land acreages from DOE management to any entity, although there has been some contemplation of pursuing such an action within the foreseeable future. Until an actual proposal for land transfer has been put together, it is not possible for DOE to comply with NEPA and to make any decision(s) regarding such a proposal.

In your letter, you asked several questions and made some observations and comments that I would like to address directly. For convenience, I refer to your comments by number in my responses presented below.

General Comments:

1. DOE has received the referenced request by the Citizens' Advisory Board (CAB) dated January 3, 1997. A response will be sent to the CAB shortly. Public participation in DOE decision-making is encouraged through the NEPA process and other forums.

2. The County proposes to use the DP Road Tract for their own purposes. However, it may choose to sell or lease the property to other parties. If the County conveys the land to other parties, the County still reaps the benefits of the transfer.

3. As stated above in this letter, DOE is planning to have a public meeting that will focus on land transfer issues. These issues, as understood by DOE thus far, seem to focus on ownership claims for properties in the area that might later be proposed for transfer out of DOE management. I would very much appreciate your thoughts on an agenda and procedures for this meeting.

4. A feasibility study for moving County operations to the DP Road Site was performed by the County of Los Alamos (County). Please contact Mr. Kevin Fenner, County Development Director, at (505) 662-8198, to request a copy of this study.

5. The transfer of the property will require a title search and deed documentation as part of the actual legal transfer arrangements. Now that DOE has decided to transfer the property, all appropriate title search and survey activities, etc., can be initiated. Based on information obtained that is not part of the formal title search, the DP Road tract apparently was obtained for use as part of the Manhattan Project from the Los Alamos Ranch School for monetary consideration

6. DOE can proceed with the proposed action without knowing all detailed socioeconomic effects on surrounding minority populations because the likely effects of providing new jobs and increased incomes in a given area is generally thought of to be a positive, beneficial effect. DOE's analysis under the Environmental Justice Executive Order 12898 determined that the health and socioeconomic effect for minority and low-income populations would not be disproportionately adverse.

Specific Comments:

1. The statement made in the EA is that "The Proposed Action is intended to accelerate economic development activities within the County through the employment opportunities offered subsequent to the attainment of additional property ownership and its following use." We did not use a computer model to provide the underlying analysis for this statement, nor was a distributional equity of income analysis for the Northern New Mexico Region performed.

2. The "sliding scale" approach referenced in the EA is a method commonly used by DOE in preparing NEPA documentation. This approach is suggested in DOE NEPA document preparation guidance for all EAs and Environmental Impact Statements (EIS). This approach is designed to focus EAs and EISs on issues with potential for significant environmental issues and alternatives and to discuss impacts in proportion to their significance. An example of the application of this "sliding scale" approach in the subject EA is the level of analysis given to the potential for economic impact of the land transfer verses the level of analysis given to noise generation concerns.

3. The EA documents previous disturbance of the land tract as it relates to its present condition. Based on anecdotal accounts and review of readily available aerial photographs, the site was partially used as a residential trailer park in the 1960s. For the past 20 or so years it has been vacant land.

4. There is no relationship between the Clean Air Act law suit and the transfer of the DP Road Tract. The discussion of potential air quality effects was presented for informational purposes to ensure completeness of the EA analysis.

I appreciate receiving your comments. I hope this letter, together with the accompanying changes made to the EA, has further clarified some of your comments regarding the proposed action. If you would like further information regarding this project, please call Dean Triebel, Office of Environment and Projects, at (505) 665-6353. If you have any questions regarding our LAAO NEPA program, please call Elizabeth Withers, NEPA Compliance Officer, at (505) 667-8690.

Sincerely,

G. Thomas Todd
Area Manager

LAAMEP:2DT-062

Enclosures

JAN 2 3 1997

bcc w/o enclosures:
H. Haynes, Office of Counsel, LAAO
G. Sahd, Area Manager's Office, LAAO
K. Zamora, Acting AAMFO, LAAO
E. Withers, LAAMEP, LAAO
D. Triebel, LAAMEP, LAAO
S. Fong, LAAMEP, LAAO
B. Koch, LAAMEP, LAAO
R. Romero, LAAMBOS, LAAO
B. Enz, Scientech, LAAO
J. Robbins, EPD, AL
B. Buvinger, EPD, AL
P. Dickman, OEPM, AL
J. Griego, PSAD, AL

D. Pueblo De San Ildefonso, January 10, 1997

DOE Response Letter, January 23, 1997

Office of Governor

PUEBLO DE SAN ILDEFONSO
TEWA
NEW MEXICO 87

Telephone
(505)455-2273
FAX (505)455-7351

SI-GC97-026

Route 5, Box 315-A
Santa Fe, New Mexico 87501

January 10, 1996

Mr. Dean Tribal
EA Document Manager
528 35th Street
Los Alamos, New Mexico 87544

Dear Mr. Tribal:

I have reviewed the (draft) Environmental Assessment (EA) for the proposed transfer of the DP Road Tract. The proposed alternative of transfer of 28 acres to the county of Los Alamos inappropriate without consideration of transfer to the Pueblo de San Ildefonso. The Pueblo would like to an additional alternative study that does include transfer to the Pueblo of those lands identified in the draft EA. It is important that the concerns and interests of the Pueblo de San Ildefonso be part of any consideration and consultation, prior to any predetermined decision or not, of the disposition of ancestral lands within the Los Alamos Laboratoty.

We would appreciate that this new alternative be given high priority consideration. Please direct future comments on this matter to myself and Bill B. Wyatt, Environmental Program Manager. I would appreciate your understanding of this matter as it is currently before us.

Sincerely,

Elmer C. Torres
Governor

cc: Bill B. Wyatt, Environmental Program Manager
Cavan Gonzales, 1st Lt. Governor
Gary S. Roybal, 2nd Lt. Governor

Department of Energy
Albuquerque Operations Office
Los Alamos Area Office
Los Alamos, New Mexico 87544

JAN 2 3 1997

The Honorable Elmer C. Torres
Governor
Pueblo of San Ildefonso
Route 5, Box 315-A
Santa Fe, NM 87501

Dear Governor Torres:

This responds to your January 10, 1997 letter commenting on the Pre-decisional Draft Environmental Assessment (EA) for the *Transfer of the DP Road Tract to the County of Los Alamos, New Mexico* (DOE/EA-1184). We appreciate your interest in the Los Alamos Area Office's (LAAO) National Environmental Policy Act (NEPA) program and thank you for commenting on the draft EA. The final EA reflects changes made to the text to address comments received from stakeholders. The Department of Energy (DOE) issued a Finding of No Significant Impact (FONSI) for this project and a final EA on January 23, 1997. Copies of the EA and FONSI are enclosed.

This NEPA decision was based on the consideration that there are no significant impacts to the environment or human health as a result of the proposed land transfer. DOE is aware of other issues associated with land transfers, and therefore, no land will be transferred from DOE ownership until these issues are discussed in a public forum. A public meeting to discuss future land transfer issues will be held on February 18, 1997 at LAAO, 528 35th Street, Los Alamos, NM, Room 100, from 6:00 p.m. to 9:00 p.m.

In your letter, you requested an additional alternative that includes transfer of the tract to the Pueblo de San Ildefonso. It was fully our intent that the potential of transfer of this particular parcel to the Pueblo of San Ildefonso was included in alternative (2) in section 2.3 of the EA. We have concluded that this alternative was not consistent with DOE's purpose and need with respect to meeting DOE's responsibilities to the County of Los Alamos (County) under the Atomic Energy Act and the Atomic Energy Communities Act. As you and I have discussed, this alternative does not have the prospect of immediacy in achieving the goal of enhancing County self-sufficiency particularly in light of the impending elimination of the County subsidy payments in July 1997. Nonetheless, as you and I have also discussed, it is extremely important for the Department and the Pueblo of San Ildefonso to conclude a cooperative agreement so that among many other important activities, you will have the capabilities to undertake land planning activities.

I very much appreciate your effort in providing your evaluation of the draft EA. If you would like further information regarding this project, please call Dean Triebel, Office of Environment and Projects, at (505) 665-6353. If you have any questions regarding our LAAO NEPA program, please call Elizabeth Withers, NEPA Compliance Officer, at (505) 667-8690. I would be pleased to respond to any questions you might have.

Sincerely,

G. Thomas Todd
Area Manager

LAAMEP:2DT-066

Enclosures

cc w/enclosures:
B. Wyatt
Environmental Project Manager
Pueblo of San Ildefonso
Route 5, Box 315-A
Santa Fe, New Mexico 87501

bcc w/o enclosures:
H. Haynes, Office of Counsel, LAAO
G. Sahd, Area Managers Office, LAAO
K. Zamora, Acting AAMFO, LAAO
E. Withers, LAAMEP, LAAO
D. Triebel, LAAMEP, LAAO
S. Fong, LAAMEP, LAAO
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B. Enz, Scientech, LAAO
J. Robbins, EPD, AL
B. Buvinger, EPD, AL
P. Dickman, OEPM, AL
J. Griego, PSAD, AL

E. U. S. Fish and Wildlife Service, December 12, 1996

DOE Response Letter, January 23, 1997

United States Department of the Interior

FISH AND WILDLIFE SERVICE
New Mexico Ecological Services Field Office
2105 Osuna NE
Albuquerque, New Mexico 87113
Phone: (505) 761-4525 Fax: (505) 761-4542

December 12, 1996

Cons. #2-22-97-I-078

Mr. Dean Triebel
EA Document Manager
528 35th Street
Los Alamos, New Mexico 87544

Dear Mr. Triebel:

The U.S. Fish and Wildlife Service has reviewed the predecisional draft Environmental Assessment (EA) for the proposed transfer of the DP Road Tract. The proposed action involves the transfer of 28 acres of Federal land to the County of Los Alamos (County).

The document states that the disposal of this land by the Federal government may lead to commercial or light industrial development of the property or the construction of office complexes for County workers. The County has zoned the area for heavy commercial and utilities are extant. The DP Road Tract has no structural facilities present but remanent sites of Los Alamos National Laboratory do exist.

The EA discusses population growth if the County develops the DP Road Tract after transfer. However, the EA fails to address how population growth may influence Ecological Resources (Section 4.1.3). Moreover, the EA (Section 4.4) does not discuss the cumulative effects of population growth.

Wildlife resources are susceptible to impacts in the Potential Accident Scenario (Section 5.0) given in the EA. However, there is no discussion of the effects of such an accident to wildlife resources.

The spelling of the specific name for the Mexican spotted owl on page 19 should be changed to *occidentalis*.

If you have any questions, please contact Craig Springer at (505) 761-4525.

Sincerely,

Jennifer Fowler-Propst
Field Supervisor

cc:
NEPA Compliance Officer, Department of Energy, Los Alamos Area Office, Los Alamos, New Mexico (Attn: Elizabeth R. Withers)
Director, New Mexico Department of Game and Fish, Santa Fe, New Mexico
Chief, New Mexico Environment Department, Surface Water Quality Bureau, Santa Fe, New Mexico
Regional Administrator, U.S. Environmental Protection Agency, Dallas, Texas
Geographic Manager, New Mexico Ecosystems, U.S. Fish and Wildlife Service, Albuquerque, New Mexico

Department of Energy
Albuquerque Operations Office
Los Alamos Area Office
Los Alamos, New Mexico 87544

JAN 2 3 1997

Jennifer Fowler-Propst
State Supervisor
U. S. Fish and Wildlife Service
Ecological Services
2105 Osuna Rd., NE
Albuquerque, NM 87113

Dear Ms. Fowler-Propst:

This responds to your January 3, 1997 letter commenting on the Pre-decisional Draft Environmental Assessment (EA) for the *Transfer of the DP Road Tract to the County of Los Alamos, New Mexico* (DOE/EA-1184). We appreciate your interest in the Los Alamos Area Office's (LAAO) National Environmental Policy Act (NEPA) program and thank you for commenting on the draft EA. The final EA reflects changes made to the text to address comments received from your office and other stakeholders. The Department of Energy (DOE) issued a Finding of No Significant Impact (FONSI) for this project and a final EA on January 23, 1997. Copies of the EA and FONSI are enclosed.

This NEPA decision was based on the consideration that there are no significant impacts to the environment or human health as a result of the proposed land transfer. DOE is aware of other issues associated with land transfers in general, and therefore, no land will be transferred from DOE ownership until these issues are discussed in a public forum. A public meeting to discuss future land transfer issues will be held on February 18, 1997, at LAAO, 528 35th Street, Los Alamos, NM, Room 100, from 6:00 p.m. to 9:00 p.m.

In your letter, you asked several questions and made some observations and comments that I would like to briefly address. Text locations referencing changes to the final EA document are indicated.

Fish and Wildlife Service (FWS) Comment: "The EA discusses population growth if the County develops the DP Road Tract after transfer. However, the EA fails to address how population growth may influence Ecological Resources (Section 4.1.3)."

A sentence has been added to Section 4.1.3 of the final approved EA that addresses your comment on population growth effect on ecological resources. No significant effect is expected since population growth is not anticipated to be concentrated in any one community in the general Los Alamos area based on the current distribution of employees whose worksites are located in Los Alamos County but who reside elsewhere.

FWS Comment: "Moreover, the EA (Section 4.4) does not discuss the cumulative effects of population growth."

We have added a statement to Section 4.4 that discusses the cumulative effects of population growth. No cumulative effect is anticipated related to population growth on the area, again because of the unusual work location verses residential location situation in Los Alamos County.

FWS Comment: "Wildlife resources are susceptible to impacts in the Potential Accident Scenario (Section 5.0) given in the EA. However, there is no discussion of the effects of such an accident to wildlife resources."

The accident scenario discussed in this EA is intended to describe impacts to the human population. There is no attempt to discuss effects on wildlife resources because of a lack of appropriate information to do so in a meaningful way. The issue of accident scenarios and risk presentation is one of concern to NEPA compliance personnel within DOE; a team is currently being formed to make recommendations regarding improvements in this area of EA analysis. The issue of whether to present limited information on potential wildlife effects and, if so, how to frame the discussion will be considered.

FWS Comment: "The spelling of the specific name for the Mexican spotted owl on page 19 should be changed to *occidentalis*."

The correct spelling of the epithet name has been corrected in the final version of the EA.

I appreciate both your comments and your support of the LAAO NEPA program. I hope this letter, together with the accompanying changes made to the EA, has further clarified some of your comments regarding the proposed action. If you would like further information regarding this project, please call Dean Triebel, Office of Environment and Projects, at (505) 665-6353. If you have any questions regarding our LAAO NEPA program, please call Elizabeth Withers, NEPA Compliance Officer, at (505) 667-8690.

Sincerely,

G. Thomas Todd
Area Manager

LAAMEP:2DT-064

Enclosures

F. State of New Mexico, Environment Department

DOE Response Letter, January 23, 1997

State of New Mexico
ENVIRONMENT DEPARTMENT
Harold Runnels Building
1190 St. Francis Drive, P.O. Box 26110
Santa Fe, New Mexico 87502
(505) 827-2850

GARY E. JOHNSON
GOVERNOR

MARK E. WEIDLER
SECRETARY

EDGAR T. THORNTON, III
DEPUTY SECRETARY

December 10, 1996

Dean Triebel, Document Manager
Los Alamos Area Office
528 35th Street
MS-A316
Los Alamos, N.M. 87544

Dear Mr. Triebel:

RE: **ENVIRONMENTAL ASSESSMENT FOR THE TRANSFER OF THE DP ROAD TRACT TO THE COUNTY OF LOS ALAMOS, LOS ALAMOS, NEW MEXICO (DOE-EA-1184), PREDECISIONAL DRAFT; U.S. DEPARTMENT OF ENERGY, LOS ALAMOS AREA OFFICE; NOVEMBER 15, 1996**

The following transmits New Mexico Environment Department (NMED) staff comments concerning the above-referenced Predecisional Draft Environmental Assessment (PDEA).

A. HAZARDOUS AND RADIOACTIVE MATERIALS ISSUES

1. Affected NMED Laws and Regulations

The Department's Hazardous and Radioactive Materials Bureau (HRMB) is responsible for enforcing and ensuring compliance with the Resource and Conservation Recovery Act (RCRA) within the State of New Mexico. The Department of Energy (DOE)/Los Alamos National Laboratory (LANL) is currently implementing Corrective Action through the Environmental Restoration (ER) program as required by RCRA Sections 3004 (u) and (v), 40 Code of Federal Regulations Parts 260-280, and by the New Mexico Hazardous Waste Management Regulations found in Title 20, Chapter 4. The proposed land transfer could possibly impact current RCRA investigations and potential remedial actions at the following Potential Release Sites (PRS): PRS 0-010(a), PRS 0-030(b), and PRS 21-015.

2. Specific Impacts

PRS 0-010(a) is a suspected surface disposal area which is an Area of Concern (AOC) not listed on the HSWA permit and has been proposed for No Further Action (NFA) in a Request for Permit Modification dated March 1995. NMED has reviewed the information presented for NFA justification and does not agree that information exists to determine if NFA can be justified or if the site should

be added to the HSWA permit. Stockpiles of 10 foot long objects are seen in 1946 photographs by which DOE/LANL concludes, "the objects in the photographs are rows of supplies stored in containers that are considerably larger than 55 gallon drums and because these containers have no characteristics that indicate that they are associated with potentially hazardous materials, it is recommended that no further action be taken." HRMB is concerned that characteristics are being determined for unknown objects and decisions regarding NFA are being made from such information. Also, the close proximity to PRS 21-015 (MDA-B) from PRS 0-10(a) and the history of disposal practices at LANL during this period lend to suspect the nature of the stockpile. HRMB intends to issue a Notice of Determination (NODT) on the March 1995 Request for Permit Modification to DOE/LANL which would convey this information.
PRS-0-030(b) is a septic system/leach field and a SWMU which is on the HSWA A permit. This site was initially investigated July 26, 1995 during which antimony, copper, lead, mercury, silver, zinc, plutonium-238 & 239, and Aroclor (1260) were found at levels which indicate a potential for adverse human health effects (LANL RFI Report, May 1996). A Voluntary Corrective Action (VCA) has been conducted, however, the results of the clean-up and verification sampling have not been submitted to HRMB for review. Thus HRMB can not determine if additional work is needed at this SWMU to meet the requirements of RCRA for Corrective Action.

Additionally, of concern to HRMB is a high priority PRS (21-015). Material Disposal Area (MDA)-B, is immediately adjacent to the proposed land transfer area. Existing information indicates releases of radioactive contaminants to both surface and subsurface soils from MDA-B (LANL RFI Workplan, May 1991). It is currently unknown what the extent of contamination may be and if the DP Road Tract is affected from any releases associated with MDA-B. Due to DOE budget constraints, characterization of MDA-B is not scheduled to be completed until April 1999. Also, as projections of the Guaje Mountain Fault zone extend directly through the proposed DP tract land transfer area near MDA-B, an enhanced likelihood of subsurface migration of contaminants from MDA-B may exist (LANL RFI Workplan, May 1991).

B. AIR QUALITY ISSUES

The transfer of the DOE tract of land to the county will in itself create no new air emissions. However, the county of Los Alamos proposes to develop the 28 acres of land (transferred by DOE) in the next 5 to 10 years. Development of this land will involve earth moving, road making, and construction of buildings. As such, the County of Los Alamos will need to contact NMED's Air Quality Bureau if air emission sources will be installed that require permitting. Additionally, the County will need to commit to a plan for controlling particulate emissions during the construction phase of the project.

C. MISCELLANEOUS ISSUES

1. Page 3, Section 1.2

Comment: No mention is made of the close proximity of MDA-B to the land in question. As previously indicated, its close proximity, the substantial amount of hazardous waste buried there and

past problems associated with this MDA, make it essential and prudent that more information about the site be presented to provide a better picture of the "entire area".

2. Page 11, Section 2.1.1, top of page

The existence of the buried radioactive waste line should be presented in more detail. This should include its future status as well as a contingency plan addressing potential leaks in the line after the land transfer and future development. Incidently, what is the true size of this waste line as 7.5 cm in not equal to 33 inches, as stated?

3. Page 12, Section 2.1.2, first paragraph, last sentence

"Any environmental monitoring and protection on the DP Road tract, if necessary, would be the responsibility of the County."

Comment: It is not clear to the reader if the County would also be responsible for environmental monitoring of the DOE's easement containing the radioactive waste line that transects this tract. It is probably not good policy to leave the primary responsibility of monitoring DOE's radioactive waste line to the County. The DOE should maintain this function until the line is removed or state how it will assure the County that it will be responsible to the tract's future inhabitants by providing an early warning system in the event of an integrity problem with the radioactive waste line.

What action is being taken to ensure that the radioactive waste line that crosses the DP Road Tract will not be intruded upon by potential construction scenarios? Has the radioactive waste line been geographically verified recently (by a non-destructive method) to ensure that its location on the plans of that area are correct?

4. Page 22, Section 3.8, second paragraph

A dose of 0.4 mrem/yr cannot be measured directly from TLD chips. This must be a computer modeling estimate.

5. Page 23, Section 3.9, second paragraph

"Radioactive and nonradioactive air emissions are in compliance with the Clean Air Act and the New Mexico Air Quality Control Act (LANL 1996)."

Comment: This statement is very misleading, particularly to a concerned public wanting to know the present status of the Laboratory's compliance with the Clean Air Act. In a civil case filed on April 2, 1996, the DOE clearly admitted that LANL is out of compliance with the Clean Air Act and corresponding regulations: *Concerned Citizens for Nuclear Safety, Inc, and Patrick Jerome Chavez, Plaintiffs, v. United States Department of Energy and Siegfried S. Hecker, Defendants.*

6. Page 23-24, Section 3.1, last paragraph

Comment: Due to the large area of impermeable surfaces located near to this parcel of land and the close proximity of MDA-B, the NMED staff feel that the discharge runoff volume stated is too low and contaminants from MDA-B may be discharged onto the property by surface flow or by possible subsurface transport.

7. Page 31, Section 4.1.6

There is insufficient evidence in this and the previous sections (Sections 3.6.4.1.4) to make the conclusions of no or minimal impact to the human health of future site workers. Only impacts from the operational LANL facilities have been considered as possible human health risk; no health impacts have been made based on levels of contaminants presently found in soils or debris on or near the site. Soil sampling data from the on-site and nearby PRSs should have been incorporated into the risk assessment for construction workers and other future workers at the DP Road Tract.

8. Page 32, Section 4.1.7

If 2699 pounds in ten years of CO equals 0.071 ppm (from table 4.1.7.1 - highest 8 hr ave.) then it follows that a ratio can be established using the CO release given in table 4.1.7.2. as follows:

$$\frac{183{,}423\,lbs/yr}{269.9\,lbs/yr} = \frac{x}{0.071\,ppm}$$

Therefore, $x = 48.25\,ppm$, which exceeds the New Mexico Air Quality standards shown in table 4.1.7.1.

9. Page 50, Appendix B, last paragraph

Dose Conversion Factors are in units of rem/Ci, not rem/g as stated.

We appreciate the opportunity to review this document. Please let us know if you have any questions on our comments.

Sincerely,

Gedi Cibas, Ph.D.
Environmental Impact Review Coordinator

NMED File No. 1043ER

Department of Energy
Albuquerque Operations Office
Los Alamos Area Office
Los Alamos, New Mexico 87544

JAN 2 3 1997

Gedi Cibas, Ph.D.
New Mexico Environment Department
1190 St. Francis Drive
P. O. Box 26110
Santa Fe, NM 87502

Dear Dr. Cibas:

This responds to your December 10, 1996 letter commenting on the Pre-decisional Draft Environmental Assessment (EA) for the *Transfer of the DP Road Tract to the County of Los Alamos, New Mexico* (DOE/EA-1184). We appreciate the New Mexico Environment Department's (NMED) interest in the Los Alamos Area Office's (LAAO) National Environmental Policy Act (NEPA) program and thank you for commenting on the draft EA. The final EA reflects changes made to the text to address comments received from your office and other stakeholders. The Department of Energy (DOE) issued a Finding of No Significant Impact (FONSI) for this project and a final EA on January 23, 1997. Copies of the EA and FONSI are enclosed.

This NEPA determination was based on the consideration that there are no significant impacts to the environment or human health as a result of the proposed land transfer. DOE is aware of other issues associated with land transfers, and therefore, no land will be transferred from DOE ownership until these issues are discussed in a public forum. You are invited to attend a public meeting to discuss future land transfer issues on February 18, 1997, at LAAO, 528 35th Street, Los Alamos, New Mexico, Room 100, from 6:00 p.m. to 9:00 p.m.

In your letter, you asked several questions and made some serious observations and comments that I would like to briefly address. For convenience, I refer to your comments by number in my responses presented below. Text locations referencing changes to the final EA document are indicated.

A.1. Potential Release Sites (PRS) located on the DP Road tract have been recommended for "No Further Action." However, DOE intends to retain right of reentry onto the property and to not release the PRSs for development purposes until all issues regarding their status have been settled. The final approved EA discusses the potential effects of these PRSs on the Proposed Action (with added text, Chapter 4.1.4), and deed restrictions for the transfer actions will address this issue as well. The deed restrictions for the land

transfer actions will address specific actions to be taken to ensure no negative impact on Resource Conservation and Recovery Act (RCRA) investigations and potential remedial actions.

A.2. Thank you for the additional information on the PRS at and near to the DP Road Tract. DOE will ensure no earth is disturbed at these PRS areas until State approval to do so has been granted. Los Alamos National Laboratory's (LANL) Environmental Restoration Project has provided additional information regarding these PRSs. Based on limited site analytical sampling results that have at least tentatively established the suspected extent of contamination with relationship to the subject land tract, a 100-foot buffer zone will be established around Material Disposal Area (MDA)-B to ensure that no significant contamination is inadvertently spread across the site during construction activities. This buffer zone will not be released to the County for development until issues regarding the extent of this PRS are settled and mitigation has been accomplished if necessary. The MAP for this action additionally addresses this concern by providing DOE radiological technician assistance to the County during the initial development on the land transfer tract.

B. The air permitting for development of the tract will be the responsibility of the County of Los Alamos as stated in your comment. The County has been informed of your comment regarding their need to contact NMED's Air Quality Bureau if air emission sources are to be installed that require permitting, and their need to commit to a plan for controlling particulate emissions during construction activities.

C. 1. As already noted, information concerning the MDA-B has been included in the final approved EA (See Sections 3.5 and 4.1.4 of the EA.), and the Mitigation Action Plan addresses action needed to ensure that no adverse effects result from the close proximity of this site to the land tract development.

C.2. and C.3. The EA states in Section 4.1.4 that there will be a 15 m (50 ft) easement established for the buried radioactive waste line. This easement will be sufficient to ensure that the future status of the waste line can be ascertained (e.g., monitoring activities) and, if necessary, the line can be removed when it is no longer needed. Future development of the site that might affect this easement (such as paving over the easement) will have to be conducted with DOE's approval and oversight. The exact waste line location will be surveyed, the easement staked and flagged, and the location included on the site maps before construction is initiated. The correct diameter of the waste line is 3 inches, or 7.5 cm. This typographical error was corrected in the final EA, Chapter 2.1.1.

C.4. You are correct in stating that a dose of 0.4 mrem/yr cannot be measured by thermoluminescent dosimetry. This value was calculated by an Environmental Protection Agency (EPA) approved radiological air emissions modeling computer code. The wording in the final EA has been changed to reflect this information. (Section 3.8)

C.5. DOE believes that LANL's radioactive and nonradioactive air emissions are currently in compliance with the Clean Air Act. Although a citizen's lawsuit was brought against the DOE in 1994 alleging non-compliance, that suit has been settled. DOE is unaware of any further allegation by anyone that emissions are not in compliance.

C.6. The runoff volume noted in Chapter 3 of the EA takes into account the natural state of the DP Road tract. The vegetation roots and developed soil layer serve as an absorption pad to take in water and to minimize surface flow and erosion. In addition, the fractured tuff substrate of the area contributes to the water's percolation. Water runoff from DP Road in front of the tract is controlled by concrete curbs. As described in Section 3.6, no surface water flows from MDA-B into the DP Road tract because the tract has a higher elevation, and part of it is physically separated from MDA-B by a canyon.

C.7. DOE disagrees with this comment. We feel there is sufficient evidence to make conclusions of no or minimal impact to the human health of future site workers based on the information included in the EA regarding the future use of the site and the effect of the proposed development on the existing environment at the site. While it is true that we considered the potential effects of an accident that was initiated at Technical Area 21 on the site, it was believed that this scenario represents a bounding case or worst case possibility of risks to workers at the site. Mitigative measures are being taken to protect site workers against potential health effects that might be associated with the PRSs present onsite or nearby. Soil sampling has been conducted at the site with the determination that no further site cleanup is needed, pending State approval. Additional measures are being taken to assure that no significant contamination from MDA-B affects the site workers either.

C.8. The Proposed Action is not expected to exceed any NMED Air Quality standards for any criteria pollutants. Using a simple ratio to compare emission rates (lbs/yr) from construction activities to those from automobiles to estimate contaminant concentrations (ppm) for determining compliance with air quality standards is inappropriate. Although there are a number of technical factors that makes this an inappropriate comparison, the overriding difference involves the size of the receptor, which in turn affects the contaminant concentration levels. For construction emissions, the receptor is the 30,000 square feet building site which is relatively small. For automobile emissions, receptors occur along a fourteen-mile-long public road (estimated to be 25 million square feet). The receptor for the automobile emissions is approximately a factor of three larger than the size of the receptor used for the construction emissions.

C.9. This error was corrected in the final approved EA. (Appendix B)

I appreciate both your comments and your support of the LAAO NEPA program. I hope this letter, together with the accompanying changes made to the EA, has further clarified some of your comments regarding the proposed action. If you would like further

information regarding this project, please call Dean Triebel, Office of Environment and Projects, at (505) 665-6353. If you have any questions regarding our LAAO NEPA program, please call Elizabeth Withers, NEPA Compliance Officer, at (505) 667-8690.

Sincerely,

ORIGINAL SIGNED BY
G. THOMAS TODD

G. Thomas Todd
Area Manager

LAAMEP:3DT-057

Enclosures

bcc w/o enclosures:
H. Haynes, Office of Counsel, LAAO
K. Zamora, Acting AAMFO, LAAO
G. Sahd, Area Manager's Office, LAAO
E. Withers, LAAMEP, LAAO
D. Triebel, LAAMEP, LAAO
S. Fong, LAAMEP, LAAO
B. Koch, LAAMEP, LAAO
R. Romero, LAAMBOS, LAAO
B. Enz, Scientech, LAAO
J. Robbins, EPD, AL
B. Buvinger, EPD, AL
P. Dickman, OEPM, AL
J. Griego, PSAD, AL