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CERTIFIED MAIL - RETURN RECEIPT REQUESTED

January 27, 2020

Mark Patterson
BRAC Environmental Coordinator
Fort Wingate Depot Activity
13497 Elton Road
North Lima, OH 44452

**RE: WITHDRAWAL LETTER PARCEL 9 IGLOO BLOCK A INVESTIGATION REPORT
FORT WINGATE DEPOT ACTIVITY
MCKINLEY COUNTY, NEW MEXICO
EPA # NM6213820974
HWB-FWDA-18-005**

Dear Mr. Patterson:

The New Mexico Environment Department (NMED) is in receipt of the Fort Wingate Depot Activity (Permittee) *Final Investigation Report Igloo Block A, Parcel 9* (Parcel 9 Report) *Withdrawal Letter* (Request), dated December 23, 2019. The letter states that “[f]urther continuance of this report in addition to the Parcel 9 RFI documents and will be confusing for all parties” and that the Permittee “prefers to include all sites in Parcel 9 in the RFI Work Plans and Report.”

The Permittee performed investigative work at Igloo Block A, which is split between Parcel 24 and Parcel 9, in 2008 and 2010. The work was performed without an approved work plan. The Permittee never produced a report documenting the work and results of the investigation. The Permittee attempted to submit the data from the investigation in a work plan titled *Final RCRA Facility Investigation Work Plan Parcel 9 Revision 1* (Parcel 9 Work Plan), dated December 15, 2017. In this work plan, the Permittee stated, “[a]ll the igloos and revetments in Igloo Block A were investigated and documented in the Final Release Report Parcel 24...”. This statement was

proven to be inaccurate. The Parcel 9 Work Plan specifically states in multiple locations that "...only Parcel 24 is discussed in this report."

NMED's March 8, 2018 *Disapproval* of the Parcel 9 Work Plan states, "[a]n investigation report describing the work that was performed in 2008 and 2010, including all sampling data, at the Parcel 9 igloos and revetments must be submitted prior to resubmittal of the Work Plan. The investigation report must detail all work performed at Parcel 9 since the effective date of Fort Wingate's RCRA Permit (12/31/2005). Appropriate evaluation of data and associated recommendations must be included in the investigation report. The investigation report must be submitted to NMED no later than August 3, 2018."

On August 2, 2018, the Permittee submitted the *Investigation Report Igloo Block A Parcel 9*, dated July 2018. The submitted report failed to include the analytical data reports for the new data and failed to address NMED's comments regarding submittal of the Parcel 9 Report; therefore, the document was rejected. NMED's October 2, 2018 Rejection letter required that the Parcel 9 Report be resubmitted no later than December 31, 2018. On January 4, 2019, after the Parcel 9 Report was required to be submitted, NMED received an extension request from the Permittee. The request asked for 2 years to revise the Parcel 9 Report. NMED approved an extension of 1 year. The Parcel 9 Report was required to be submitted no later than December 31, 2019.

NMED received this Request from the Permittee less than 10-days before the Parcel 9 Report was due to be submitted. In addition, since the 2019 submittal of the Report was rejected by NMED, so there is no Report to withdraw.

While the Permittee has the option of withdrawing a document that has been submitted to NMED, withdrawal of the document does not relieve the Permittee of the requirement to submit the document by the submittal date established by NMED. Therefore, the Permittee's failure to submit the Parcel 9 Igloo Block A Investigation Report by December 31, 2019 constitutes non-compliance and may result in an enforcement action.

NMED does not understand the Permittee's first reason for withdrawal of the Parcel 9 Report, as there appears to be a typographical error and the sentence does not make sense. But, NMED does not agree that reporting on work completed over 10 years ago creates confusion for anyone. NMED asserts that confusion would arise when data collected over 10 years ago is included in a report for work that has yet to even be proposed. In addition, the Permittee made no such claim when submitting the results of the same investigation for the igloos contained in Parcel 24. This work was completed over ten years ago and the project results are required to be submitted in a stand-alone report. Also, the upcoming work plan should propose work that will be required based on the results presented in the Report.

NMED realizes that the Parcel 9 Report and the Parcel 9 Work Plan have the same submittal dates. The cumulative effect of the rejection and the many extensions requested by the Permittee and granted by NMED resulted in the document submittal dates overlapping. As this was initiated by the Permittee, there should have been no cause for confusion as is asserted in the Request, simply because the due dates overlapped.

If the Permittee wishes to withdraw data associated with the 2008 investigation, the upcoming Parcel 9 Work Plan must propose to repeat all previous work completed at the igloos that has not yet been submitted to NMED.

If you have any questions regarding this letter, please contact Ben Wear at (505) 476-6041.

Sincerely,



Kevin Pierard
Chief
Hazardous Waste Bureau

cc: D. Cobrain, NMED HWB
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