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FAX TRANSMITTAL

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TO: Carl Will, NMED. FAX: 827-1544 PHONE: _____

FROM: **EDMUND H. KENDRICK, ESQ.** (505) 986-2527

HANDLING INSTRUCTIONS: Urgent
 Call when received
 Original to be mailed

MESSAGE:

Attached is a proposed letter to Cobisa concerning the Person Project.

This fax is being sent from (505) 982-4289

CLIENT NAME: CLIENT NUMBER:

THE INFORMATION CONTAINED IN THIS FACSIMILE TRANSMITTAL IS INTENDED FOR THE PERSONAL AND CONFIDENTIAL USE OF THE DESIGNATED RECIPIENT. THIS TRANSMITTAL MAY BE CONFIDENTIAL OR PRIVILEGED. IF YOU ARE NOT THE INTENDED RECIPIENT OR AN AGENT RESPONSIBLE FOR DELIVERY TO THE INTENDED RECIPIENT, BE AWARE THAT ANY REVIEW, DISCLOSURE, COPYING OR DISTRIBUTION OF THIS TRANSMITTAL IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS TRANSMITTAL IN ERROR, PLEASE NOTIFY US BY TELEPHONE IMMEDIATELY SO WE CAN ARRANGE FOR RETRIEVAL AT NO COST TO YOU (COLLECT 505/982-3873). THANK YOU.



Mr. Greg Platt
Vice President
Cobisa Corporation
820 Gessner, Suite 930
Houston, TX 77024-4258

RE: Cobisa-Person Limited Partnership; Person Project

Dear Mr. Platt:

I understand that the Person Project will be located partially on land (hereafter referred to as the "Notice Area") described in a certain Notice Pertaining to Real Property, filed on November 11, 1988 in Bernalillo County real estate records as document No. 88106077 in Book MS 689A, pages 316-318. The Notice recites in full § 206.D.2.g.(3) from the New Mexico Environmental Improvement Board's Hazardous Waste Management Regulations - 4, which prohibits certain post-closure use of property on which hazardous wastes remain after closure. Specifically, that regulatory provision prohibits post-closure uses from disturbing the final cover, liner(s), containment system or monitoring system.

The currently applicable regulatory provision governing post-closure uses of property containing hazardous wastes is 40 C.F.R. § 164.117(c). That provision, adopted by the New Mexico Environmental Improvement Board at 20 NMAC 4.1, Subpart VI, provides as follows:

Post-closure use of property on or in which hazardous wastes remain after partial or final closure must never be allowed to disturb the integrity of the final cover, liner(s), or any other components of the containment system, or the function of the facility's monitoring systems,

You have asked this Bureau to clarify the types of disturbances caused by a post-closure use of the Notice Area that are proscribed by this regulatory provision.

The Bureau would consider any activity interfering with access to, maintenance and effective operation of, or environmental monitoring at the following facilities located within the Notice Area to be a disturbance proscribed by 40 C.F.R. § 164.117(c):

- (1) closure cover consisting of 6-inch thick wire-reinforced concrete, overlying a 6-inch layer of compacted soil and two sheets of 80-millimeter high-density polyethylene;
- (2) groundwater monitoring wells, groundwater extraction wells and a vapor extraction well, including, for each well, associated piping, concrete apron, well cover, well cover lock and guard posts (except that a change in ground surface elevation at any of

these wells would not be considered to be a proscribed disturbance if the surface components of the well are re-built without loss of function of the well);

- (3) vapor treatment system including piping, blower system, air/water separator and granulated activated carbon units;
- (4) groundwater treatment plant including inlet and outlet piping; and
- (5) the natural pit area.

If the Person Project does not interfere with the activities and facilities located within the Notice Area that are listed in the previous paragraph, you can be assured that the project has not caused a disturbance proscribed by 40 C.F.R. § 117(c).

Sincerely,

Benito J. Garcia, Chief
Hazardous and Radioactive
Materials Bureau

BJG:ehk:rlv

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