

TABLE 2: LANS's PROPOSED ADDITIONAL UMFs

NWNM's UMF. 5: LANS Additional Material Fact A: DOE did not provide the necessary funds to LANS to conduct the investigation and submit a Phase II Investigation/Remediation Report for MDA A by the alleged deadline date or by June 23, 2016. LANS Resp. at 5. **LANS Additional Material Fact B:** DOE did not provide LANS with a contractual scope of work that authorized it to conduct the investigation and submit the Phase II Investigation/Remediation Report for MDA A by the alleged deadline date or by June 23, 2016. *Id.*

NWNM's UMF 9: LANS Additional Material Fact E: DOE did not provide LANS with a contractual scope of work that authorized it to conduct the investigation and submit the Canon de Valle Aggregate Area Investigation Report for TA-15 by the alleged deadline date or by June 23, 2016.

NWNM's UMF. 15: LANS Additional Material Fact F: DOE did not provide the necessary funds to LANS to complete the installation of regional monitoring Well R-65 by the alleged deadline date or by June 23, 2016. **LANS Additional Material Fact G:** DOE did not provide LANS with a contractual scope of work that authorized it to complete the installation of Monitoring Well R-65 by the alleged deadline date or by June 23, 2016. LANS Resp. at 8.

NWNM's UMF24: LANS Additional Material Fact H: DOE did not provide the necessary funds to LANS to conduct the investigation and submit the Lower Pajarito Canyon Aggregate Area Investigation Report by the alleged deadline date or by June 23, 2016. ECF No. 98 at 6 (¶ 17). **LANS Additional Material Fact I:** DOE did not provide LANS with a contractual scope of work that authorized it to conduct the investigation and submit the Lower Pajarito Canyon Aggregate Area Investigation Report by the alleged deadline date or by June 23, 2016.

NWNM's UMF. 29: LANS Additional Material Fact J: DOE did not provide the necessary funds to LANS to conduct the investigation and submit the Twomile Canyon Aggregate Area Investigation Report by the alleged deadline date or by June 23, 2016. ECF No. 98 at 7 (¶ 18).

LANS Additional Material Fact K: DOE did not provide LANS with a contractual scope of work that would allow it to conduct the investigation and submit the Twomile Canyon Aggregate Area Investigation Report by the alleged deadline date or by June 23, 2016

NWNM's UMF. 34: LANS Additional Material Fact L: Section III.G.3 of the 2005 Order provides that NMED has discretion to waive stipulated penalties for alleged violations, and that this decision "shall not be subject to judicial review." Swickley Decl., Attach. 1, p. 18. **LANS Additional Material Fact M:** Once NMED provides notice and thereby elects to assess stipulated penalties under Section III.G for a 2005 Order violation, Section III.G.7 bars any RCRA civil penalty action

NWNM's UMF 35: LANS Additional Material Fact O: DOE did not provide the necessary funds to LANS to conduct the investigation and submit the Cañon de Valle Aggregate Area Investigation Report at TA-16 by the alleged deadline date or by June 23, 2016. **LANS Additional Material Fact P:** DOE did not provide LANS with a contractual scope of work that authorized it to conduct the investigation and submit the Cañon de Valle Aggregate Area Investigation Report at TA-16 by the alleged deadline date or by June 23, 2016.

NWNM's UMF 41: LANS Additional Material Fact R: DOE did not provide the necessary funds to LANS to conduct the investigation and submit the Upper Water Canyon Aggregate Area Investigation Report by the alleged deadline date or by June 23, 2016. **LANS Additional Material Fact S:** DOE did not provide LANS with a contractual scope of work that authorized it to conduct

the investigation and submit the Upper Water Canyon Aggregate Area Investigation Report by the alleged deadline date or by June 23, 2016.

NWNM's UMFR 47: LANS Additional Material Fact U: DOE did not provide the necessary funds to LANS to conduct the investigation and submit the Starmer/Upper Pajarito Canyon Aggregate Area Investigation Report by the alleged deadline date or by June 23, 2016. **LANS Additional Material Fact V:** DOE did not provide LANS with a contractual scope of work that authorized it to conduct the investigation and submit the Starmer/Upper Pajarito Canyon Aggregate Area Investigation Report by the alleged deadline date or by June 23, 2016

NWNM's UMF 52: LANS Additional Material Fact W: DOE did not provide the necessary funds to LANS to complete the installation of intermediate monitoring well R-26i by the alleged deadline date or by June 23, 2016. **LANS Additional Material Fact X:** DOE did not provide LANS with a contractual scope of work that authorized it to complete the installation of intermediate monitoring well R- 26i by the alleged deadline date or by June 23, 2016.

NWNM's UMF 59: LANS Additional Material Fact Y: DOE did not provide the necessary funds to LANS to submit a Remedy Completion Report for MDA AB by the alleged deadline date or by June 23, 2016. **LANS Additional Material Fact Z:** DOE did not provide LANS with a contractual scope of work that authorized it to submit a Remedy Completion Report for MDA AB by the alleged deadline date or by June 23, 2016.

NWNM's UMF 34: LANS Additional Material Fact N: NMED exercised its discretion under Section III.G.3 and waived the stipulated penalties for the alleged failure to timely file the Investigation Report for the Canon de Valle Aggregate Area (TA-16).

NWNM's UMF 40: LANS Additional Material Fact Q: NMED exercised its discretion under Section III.G.3 and waived the stipulated penalties for the alleged failure to timely file the Investigation Report for the Upper Water Canyon Aggregate Area.

NWNM's UMF 46: LANS Additional Material Fact T: NMED exercised its discretion under Section III.G.3. and waived the stipulated penalties for the alleged failure to timely file the Investigation Report for the Starmer/Upper Pajarito Canyon Aggregate Area.

NWNM's UMF. 64: LANS Additional Material Fact AA: NMED exercised its discretion under Section III.G.3. and waived the stipulated penalties for the alleged failure to timely file the Investigation Report for the Chaquehui Canyon Aggregate Area.