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Date: February 24, 2021
Symbol: EPC-DO: 21-033
LA-UR: 21-20824

Locates Action No.:

Mr. Kevin Pierard, Chief
Hazardous Waste Bureau
New Mexico Environment Department
2905 Rodeo Park Drive East, Building 1
Santa Fe, NM 87595-6303

Subject: Supplemental Environmental Project, Los Alamos National Laboratory Second Triennial Review Scope of Work and Guidelines Regarding Settlement Agreement and Stipulated Final Order HWB-14-20

Dear Mr. Pierard:

This letter transmits the Second Los Alamos National Laboratory (LANL) Triennial Review Scope of Work and Guidelines (Enclosure 1) associated with a supplemental environmental project as directed in the Settlement Agreement and Stipulated Final Order HWB-14-20, entered into by the New Mexico Environment Department (NMED) (Complainant), the U.S. Department of Energy (DOE), and Los Alamos National Security, LLC (Respondents) on January 22, 2016. In November 2018, Triad National Security, LLC (Triad) became the management and operations contractor for DOE/National Nuclear Security Administration (NNSA).

Paragraph 38 of the Stipulated Final Order requires the DOE to fund independent, external triennial reviews of environmental regulatory compliance and operations at LANL to ensure that any regulatory deficiencies are identified, and to submit to NMED a proposed LANL Triennial Review Scope of Work and Guidelines for comment and final approval by NMED. NNSA and Triad would be pleased to meet with Hazardous Waste Bureau personnel to discuss and explain the documentation included herein.

If you have comments or questions regarding this submittal, please contact Jennifer Payne (Triad) at (505) 500-2273 or Peter Maggiore (NA-LA) at (505) 695-5109.

Sincerely,

JENNIFER PAYNE Digitally signed by JENNIFER PAYNE (Affiliate)
Date: 2021.02.08 16:59:40 -07'00'
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Jennifer E. Payne
Division Leader
Environmental Protection & Compliance Division
Triad National Security, LLC

Sincerely,

Michael J. Weis Digitally signed by Michael J. Weis
Date: 2021.02.22 15:17:02 -07'00'

Michael Weis
Manager
National Nuclear Security Administration
Los Alamos Field Office
U.S. Department of Energy



JEP/MW/PLP:dt

Enclosure: 1) LANL Second Triennial Review Scope of Work and Guidelines

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Michael J. Weis Digitally signed by Michael J. Weis
Date: 2021.02.22 15:17:02 -0700'

Michael Weis
 Manager
 National Nuclear Security Administration
 Los Alamos Field Office
 U.S. Department of Energy



ENCLOSURE 1

LANL Second Triennial Review Scope of Work and Guidelines

EPC-DO-21-033

LA-UR-21-20824

Date: February 24, 2021

LANL Second Triennial Review Scope of Work and Guidelines

February 1, 2021

Background

This Second LANL Triennial Review Scope of Work and Guidelines (Guidelines) has been developed pursuant to the January 22, 2016, Settlement Agreement and Stipulated Final Order (Settlement Agreement) between the New Mexico Environmental Department (NMED) and the U.S. Department of Energy (DOE) and Los Alamos National Security, LLC (LANS), collectively, the Parties, in response to Section II, B, 38, a) of the Settlement Agreement which was executed for the purpose of resolving Compliance Order No. HWB-14-20 (the Compliance Order), issued on December 6, 2014, related to Los Alamos National Laboratory (LANL or the Laboratory).

Section II.B.38(a) of the Settlement Agreement requires DOE to "...submit to NMED a proposed LANL Triennial Review Scope of Work and Guidelines, within one (1) calendar year of the effective date of this settlement agreement..."

Subsequent to execution of the Settlement Agreement, responsibility for oversight of legacy cleanup activities at LANL has been transitioned from the National Nuclear Security Administration (NNSA) to the Office of Environmental Management (EM). LANS is the former contractor to both EM and NNSA for activities covered by this Supplemental Environmental Project (SEP). It was agreed that if either EM or NNSA enter into a contract with a new contractor before the obligations of this SEP are completed, EM, and NNSA agreed to impose the same SEP obligations as are now imposed upon LANS upon any successor contractor. The new NNSA contractor is Triad National Security, LLC (Triad) and the new EM contractor is N3B Los Alamos. This document describes the process that the Parties have agreed upon for the planning, executing, and closing of triennial reviews at LANL.

Representatives from NMED, DOE, and Triad began discussing scope for this second Triennial Review in February 2020. These Guidelines represent the conclusions and recommendations from those discussions.

Purpose/Objectives

The Settlement Agreement, II.B.38, states in part that "DOE will fund independent, external triennial reviews of environmental regulatory compliance and operations at LANL to ensure that any regulatory deficiencies are identified." The purpose of this Scope of Work and Guidelines is to describe the process by which NMED, DOE and LANS will implement the requirements of the Settlement Agreement.

Triennial Review Scope Development

Prior to each triennial review, the Parties will discuss and agree upon the areas of regulatory compliance that the triennial review team will focus on. These shall be areas for which NMED has regulatory responsibility. For the second triennial review, which is to be completed and made

public before September 30, 2021, the Parties have agreed that the triennial review team will examine DOE's and Triad's compliance with the following permits/laws/regulations:

1. National Pollutant Discharge Elimination System Multi-Sector General Permit for Storm Water Discharges Associated with Industrial Activity;
2. National Pollutant Discharge Elimination System Industrial and Sanitary Point-Source Outfall Permit;
3. NMAC 20.6.2.1203 Spill Regulations;
4. Federal Resource Conservation and Recovery Act / New Mexico Hazardous Waste Act
 - a. Focus areas: permitted unit compliance focused on operating record, waste characterization and compatibility documentation;
5. New Mexico Solid Waste Act
 - a. Focus areas: New Mexico Special Waste Compliance, Construction and Demolition waste characterization, and Deactivation and Decommissioning waste characterization; and
6. Stormwater Individual Permit (specific subset of sites/SWMUs covered under the individual permit that should be reviewed under the triennial process).

Triennial Review Schedule

The parties will begin meeting and discussing the scope of subsequent triennial reviews approximately one year before the review is to begin. This lead time will provide the time necessary to agree on the time frame and scope of the next triennial review, and for DOE to procure and select a third party to perform the review.

Triennial Review Team Selection/Acquisition

The independent review will be obtained through the DOE procurement process. NMED and DOE will agree on the scope of the review before final selection of the subcontractor to share views on the appropriateness of the candidate companies (review of non-obvious conflicts of interest, etc.)

Activities during the Triennial Review

The triennial review team shall only take direction from the DOE, consistent with the DOE's procurement practices.

The triennial review team will develop a plan and schedule that describes its approach and methods for performing the Triennial Review.

Post Triennial Review Activities

DOE and Triad will make the report available to the public by posting a copy on the Electronic Public Reading Room.

DOE and Triad will address potential regulatory violations identified in the triennial review.¹

NMED may shadow the review, status meetings, close-out meeting, or other activities during the review. Prior notification (to support logistics, planning, etc.) will normally be provided to the DOE and Triad by NMED to support this activity.

The triennial review team will prepare a draft report for review by the Parties for factual accuracy before final publication.

After each triennial review, the Parties will meet to discuss the review findings/issues, identify lessons learned, and/opportunities for future reviews. A specific discussion topic should include the need for future reviews under this format and approach. This second triennial review is anticipated to give the team enough data to support a discussion on the need for additional reviews.

¹ Settlement Agreement, Section II,.B.38 (in part): "The Respondents, their constituent agencies, contractors, and affiliates agree to address any potential regulatory violations, identified in the triennial reviews. NMED agrees to refrain from taking any enforcement action against the Respondents, their constituent agencies, contractors and affiliates for any potential regulatory violations, or operational deficiencies, that could lead to potential environmental regulatory violations identified in the triennial reviews so long as the Respondents and their facility operators correct any deficiencies identified in the course of such reviews within sixty (60) calendar days of the finalization of each triennial review report, or for good cause shown, within another period of time beyond sixty (60) calendar days, if approved by NMED."