NOTICE OF NON-COMPLIANCE

Certified Mail - Return Receipt Requested

April 28, 2022

Joseph Murdock, Program Manager
Environmental, Safety and Health
N3B-Los Alamos
1200 Trinity Drive, Suite 150
Los Alamos, New Mexico 87544

Arturo Q. Duran
Office of Quality and Regulatory Compliance
U.S. Department of Energy
Environmental Management
Los Alamos Field Office
1200 Trinity Drive, Suite 400
Los Alamos, New Mexico 87544

RE: Notice of Non-Compliance, Los Alamos National Laboratory Underground Injection Control Wells, DP-1835

Dear Joseph Murdock and Arturo Duran:

On August 31, 2016, the New Mexico Environment Department (NMED) issued a Discharge Permit, DP-1835, (copy enclosed) to the United States Department of Energy (DOE) and to Los Alamos National Security, LLC (LANS) (collectively the Permittees) pursuant to Section 20.6.2.3109 NMAC of the Water Quality Control Commission (WQCC) Ground and Surface Water Protection Regulations (20.6.2 NMAC). On April 24, 2018, LANS provided written notification to NMED that LANS was transferring its permit responsibilities under DP-1835 to Newport News Nuclear BWXT-Los Alamos, LLC (N3B) effective April 30, 2018. The notification stated that DOE would remain a co-permittee under DP-1835. Section 20.6.2.3104 NMAC requires the permittee to comply with the terms and conditions of DP-1835.

This letter is to notify you that NMED has determined that the above referenced facility is not operating in compliance with the conditions of DP-1835, the WQCC Regulations and the Water Quality Act (WQA). Prompt action is required as described herein. The discharge is located approximately 3 miles southeast of Los Alamos in Sections 24 and 25, Township 19N, Range 06E, in Los Alamos County.

A summary of the events resulting in the determination of non-compliance at this facility is as follows.

The fourth quarterly monitoring report for calendar year 2020 submitted to NMED on February 26, 2021, by the Permittee includes analytical results for total chromium (0.055 mg/L - Field sample ID CAMO-21-211005) at well R-45 screen interval 2. The analytical result of 0.055 mg/L is in excess of

the 20.6.2.3013 NMAC groundwater standard of 0.05 mg/L for total dissolved chromium. Subsequent quarterly monitoring reports submitted through 2021 and 2022 continue to display exceedances of the groundwater standard.

NMED identifies the requirements of DP-1835, non-compliance and associated actions necessary to correct the non-compliance below.

1. Condition 19 of DP-1835 states:

> In the event that groundwater monitoring in the vicinity of the discharge conducted under this permit indicates that a significant increase in concentration of an analyte identified in Section 20.6.2.3103 NMAC or a toxic pollutant defined in Subsection WW of 20.6.2.7 NMAC is present in a groundwater sample that is attributable to a discharge conducted under this permit, and in any subsequent groundwater sample, the permittees shall enact the following contingency plan.
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> Within 30 days of receipt of the data confirming the increase, the permittees shall propose measures to ensure that the exceedance of the standard or the presence of a toxic pollutant will be mitigated by submitting a corrective action plan to NMED for approval. The corrective action plan shall include a description of the proposed actions to control the source and an associated completion schedule. The plan shall be enacted as approved by NMED.
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> Once invoked (whether during the term of this Discharge Permit or after the term of this Discharge Permit and prior to the completion of the Discharge Permit closure plan requirements), this condition shall apply until the permittees have fulfilled the requirements of this condition and groundwater monitoring confirms for a minimum of two years of consecutive groundwater sampling events that the standards of Section 20.6.2.3103 NMAC are not exceeded and toxic pollutants are not present in groundwater.
>
> The permittees may be required to abate water pollution pursuant to Sections 20.6.2.4000 through 20.6.2.4115 NMAC, should the corrective action plan not result in compliance with the standards and requirements set forth in Section 20.6.2.4103 NMAC within 180 days of confirmed increase in groundwater contamination.

The Permittees are not in compliance with this condition because, to date, the Permittees have not submitted a corrective action plan to NMED for approval.

In order to correct this non-compliance, **the Permittees shall submit a corrective action plan to NMED by May 30, 2022.** The corrective action plan shall include a description of the proposed actions to control the source of the total dissolved chromium, mitigate the exceedance in R-45 screen interval 2, and the associated completion schedule for the Permittee to complete the proposed corrective actions.

Failure to comply with this letter and the terms of DP-1835 may result in the issuance of a formal notice of violation, compliance order, civil penalties, or the filing of an action in district court.

Nothing in this letter shall be construed as relieving the Permittees of the obligation to comply with all requirements of DP-1835, the WQCC Regulations, the WQA, and other applicable federal, state, and local laws, regulations, permits or orders. The purpose of this letter is to obtain voluntary compliance in addressing certain requirements of DP-1835 and may not address all non-compliance. It is the responsibility of the Permittees to be familiar with and comply with DP-1835.

If you have any questions regarding this matter, please contact Jason Herman, Acting Program Manager of the Ground Water Pollution Prevention Section, at (575) 649-3871 or Andrew Romero at (505) 660-8624.

Sincerely,

Justin Ball Digitally signed by Justin Ball Date: 2022.04.28 13:59:34 -06'00'

Justin Ball, Chief
Ground Water Quality Bureau

Encl: DP-1835, dated August 31, 2016

cc: J. Rhoderick, NMED-WPD
J. Herman, NMED-GWQB
M. Sandoval, NMED-GWQB
P. Longmire, NMED-GWQB
A. Romero, NMED-GWQB
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