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Ms. Fana Gebeyehu-Houston
NEPA Document Manager
National Nuclear Security Administration
Livermore Field Office
7000 East Avenue, L-293
Livermore, CA 94550-9234

Submitted electronically to: LLNLSWEIS@NNSA.DOE.GOV

RE: Notice of Intent To Prepare a Site-Wide Environmental Impact Statement for Continued Operation of the Lawrence Livermore National Laboratory

Dear Ms. Gebeyehu-Houston,

On behalf of the New Mexico Environment Department (NMED), attached please find our comments on the August 5, 2020 Notice of Intent To Prepare a Site-Wide Environmental Impact Statement for Continued Operation of the Lawrence Livermore National Laboratory.

Please do not hesitate to contact me to discuss further.

Sincerely,

James C. Kenney
Cabinet Secretary

Attachment (1)

cc: Courtney Kerster, Director of Federal Affairs, Office of Governor Michelle Lujan Grisham
Sandra Ely, Director, NMED Environmental Protection Division
Rebecca Roose, Director, NMED Water Protection Division
Stephane Stringer, Director, NMED Resource Protection Division

Attachment

Introduction

The National Nuclear Security Administration (NNSA), a semi-autonomous agency within the United States (U.S.) Department of Energy (DOE), intends to prepare a Site-Wide Environmental Impact Statement (SWEIS) for the Lawrence Livermore National Laboratory (LLNL or Laboratory) in Livermore, California (LLNL SWEIS).¹ The Proposed Action Alternative will include continued operations and foreseeable new and/or modified operations/facilities to address aging infrastructure concerns at LLNL.

NNSA identified four categories of actions associated with the Proposed Action: (1) New Facility Construction Projects; (2) Modernization/Upgrades of Existing Facilities and Infrastructure; (3) Operational Changes; and (4) Decontamination, Decommissioning, and Demolition Projects. Decontamination, decommissioning, and demolition of older facilities would be conducted on a continuing basis to eliminate excess facilities and reduce costs and risks. NNSA has identified more than 110 excess facilities, totaling more than 1.1 million square feet, to be decontaminated, decommissioned, and demolished. In addition to waste generated by proposed decontamination, decommissioning, and demolition activities, proposed changes in LLNL operations may result in changes in generated wastes and shipments to disposal sites.

A recent assessment report of radioactive waste management at LLNL evaluated waste generation, characterization, packaging, and shipment to the DOE Waste Isolation Pilot Plant (WIPP) site in New Mexico.² The New Mexico Environment Department (NMED) submits the following comments that are related to the transportation of LLNL's radioactive waste, which may include demolition and other material resulting from the proposed action, through the State of New Mexico for disposal at the WIPP site.

Comments

- 1. The SWEIS must include a description of the radionuclides and activities of waste that will be transported to New Mexico for disposal at WIPP, along with anticipated changes in waste generation and disposal that will result from the Proposed Action.**

The Notice includes a list of 22 issues that NNSA is considering for a preliminary environmental analysis. NNSA must retain items 10 and 11, "Impacts from traffic and transportation of radiological and hazardous materials and waste on and off the LLNL sites" and "Pollution prevention and materials and waste management practices and activities." For New Mexico and other state, tribal and local governments to be able to participate effectively in this NEPA process, NNSA must carefully consider environmental issues associated with any action alternative that involves transportation and waste management outside of the Livermore, California area. For example, this information is needed for emergency planners and first responders in the State of New Mexico who may be called upon in the event of a transportation accident or release incident at the WIPP site.

In exploring all impacts associated with action alternatives that involve transportation of material to New Mexico, the SWEIS and the Proposed Action must provide for protection of New Mexico water sources and water supply systems from accidental releases of radioactive materials that may occur along transportation routes in the state. It is critical that all action alternatives evaluated as part of the SWEIS ensure compliance with packaging and transport regulations and emergency response

¹ <https://www.govinfo.gov/content/pkg/FR-2020-08-05/pdf/2020-17054.pdf>

² <https://www.energy.gov/sites/prod/files/2019/12/f69/LLNL%20TRU%20Waste%20Management%20Assessment%20Summary%20Report.pdf>

protocols to the greatest extent possible in order to protect water sources and water supply systems from accidental releases of radioactive materials.

Adequate transportation planning should demonstrate an awareness of public water supply facilities (groundwater wells or surface water intakes) located within one mile of transportation corridors in New Mexico and other states where low-level, transuranic, and/or other radioactive materials may be transported. An inventory of facility locations and protocols for spills that could affect water systems and supplies is missing from the Environmental Consequences section (or similar) of the SWEIS which merits correcting.

2. Action Alternatives in the SWEIS that involve transporting material from LLNL to New Mexico must ensure any action will achieve environmental justice for the high percentage of minority and low-income populations in the State of New Mexico. These populations have already suffered disproportionately high adverse human health and environmental effects from nuclear energy and weapons programs of the United States.

LLNL’s disposal of waste at the WIPP Site is among the ranks of uranium mining and milling, legacy contamination at national laboratories, and disposal of defense waste at the WIPP Site, which have long created risks to public health and the environment in the State of New Mexico that are disproportionately greater than such risks to the general population of the United States.

New Mexico’s general percentages of minority (Hispanic or Latino and American Indian) and low-income populations are significantly greater than in the United States’ general population (Table 1).

Table 1. New Mexico and United States Demographics.

Demographic	United States	New Mexico
Hispanic or Latino	18.3%	49.1%
American Indian	1.3%	10.9%
Persons in poverty	11.8%	19.5%
Source: U.S. Census Bureau QuickFacts https://www.census.gov/quickfacts/fact/table/US/PST045219		

Executive Order 12898, Federal Actions to Address Environmental Justice in Minority and Low-Income Populations, February 11, 1994, states that “... each Federal agency shall make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations of the United States.”³

The Council on Environmental Quality (CEQ) issued Environmental Justice Guidance under NEPA on December 10, 1997, that stated “[A]gencies should consider the composition of the affected area, to determine whether minority populations, low-income populations, or Indian tribes are present in the area affected by the proposed action, and if so whether there may be disproportionately high and adverse human health or environmental effects on minority populations, low-income populations, or Indian tribes.”⁴

³ <https://www.archives.gov/files/federal-register/executive-orders/pdf/12898.pdf>

⁴ <https://ceq.doe.gov/docs/ceq-regulations-and-guidance/regs/ej/justice.pdf>

The SWEIS must carefully evaluate environmental justice considerations for the high percentage of minority and low-income populations in the State of New Mexico who have already suffered disproportionately high adverse human health and environmental effects from nuclear energy and weapons programs of the United States.

The SWEIS must include a proper risk assessment that evaluates all potential release scenarios and that quantifies incident-specific and cumulative impacts to vulnerable populations in New Mexico. In accordance with Executive Order 12898, with CEQ guidance, every aspect of the Proposed Action must provide the highest level of protection to New Mexico citizens, including use of best available technology in these safeguards.