June 6, 2023

Hai Shen
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Submitted electronically to: emla-nepa@em.doe.gov

RE: Comments on Scope of Proposed Environmental Assessment for Chromium Plume Control Interim Measure and Plume-Center Characterization, Los Alamos National Laboratory, Los Alamos, New Mexico

Dear Mr. Shen,

On behalf of the New Mexico Environment Department (NMED), attached please find our comments on the scoping of the proposed Environmental Assessment (EA) for Chromium Plume Control Interim Measure and Plume-Center Characterization, Los Alamos National Laboratory (LANL), in Los Alamos, New Mexico.

Strong intergovernmental coordination, as required by the National Environmental Policy Act (NEPA), is essential to ensure progress in addressing impacts to human health and the environment from ongoing and proposed activities at LANL. In addition to strong intergovernmental coordination, public engagement is also imperative in addressing LANL's legacy contamination in New Mexico and on tribal lands, as clean-up delayed is clean-up denied. And the Department of Energy (DOE) and its contractors have denied New Mexicans and tribal members timely and effective clean-up of hexavalent chromium for too long.

Taking into consideration the unfavorable responses to injection within the plume boundary and the need to fill data gaps prior to selection of a final remedy, NMED urges DOE to focus on the Enhanced Chromium Interim Measures alternative, including activities directly related to compliance with the New Mexico Water Quality Act, the 2016 Consent Order and any other applicable regulations.

In NMED's view, the 2016 Consent Order has failed, prompting NMED's February 2021 complaint against DOE in district court to terminate the order and initiate court-supervised negotiations to establish enforceable terms that accelerate clean-up of legacy contamination. Further, NMED has directed DOE to increase monitoring wells in prior years, but LANL rejected that direction and delayed clean-up. This lack of additional monitoring prevents DOE from producing scientific data that would confirm the effectiveness of this interim measure.

NMED offers comments on the proposed EA in the attachment for you to evaluate as the NEPA process continues.

Sincerely,

James C. Kenney
Cabinet Secretary

Attachment (1)

Cc: Courtney Kerster, Senior Advisor, Office of Governor Michelle Lujan Grisham
Sydney Lienemann, Deputy Cabinet Secretary of Administration, NMED
Rick Shean, Director, Resource Protection Division, NMED
John Rhoderick, Director, Water Protection Division, NMED

Attachment

Introduction

The Department of Energy Environmental Management (DOE-EM) invited public comment on the scope of the proposed Environmental Assessment (EA) for Chromium Plume Control Interim Measure and Plume-Center Characterization at Los Alamos National Laboratory (LANL), in Los Alamos, New Mexico. As part of the scoping process, DOE-EM is seeking input on a preliminary set of alternatives for remedial action as part of the Chromium Interim Measures and Characterization Campaign under the 2016 Compliance Order on Consent (Consent Order). The New Mexico Environment Department's (NMED) comments are below.

Comments

1. **NMED urges DOE-EM to focus on expanded remedial activities to address the chromium plume above and beyond what is legally required.** In February 2021, NMED filed a complaint against DOE in district court to terminate the 2016 Consent Order and initiate court-supervised negotiations to establish enforceable terms that accelerate cleanup of legacy contamination. DOE-EM's evaluation of interim measures must account for DOE's past cleanup commitments and obligations and meaningfully consider expanded remedial activities and definite timelines, such as those that may be encompassed by a new compliance order on consent as the litigation on the 2016 Consent Order is resolved. NMED has provided technical direction to LANL in prior years, including recommending additional monitoring wells, but LANL has rejected that direction. This lack of additional monitoring prevents DOE from producing scientific data that would confirm the effectiveness of this interim measure.

2. **Issues to Include in the EA for the No Action Alternative**
    a. **At a minimum, DOE-EM should provide a detailed, qualitative assessment of the environmental impacts associated with the No Action Alternative.** Specifically, DOE-EM must include an evaluation that considers the unfavorable concentration increases in downgradient monitoring wells in response to injection operations. Furthermore, DOE-EM must include an assessment of the No Action Alternative and the ability of the current infrastructure to adequately control plume migration and maintain hexavalent chromium contamination within the LANL boundary while long-term corrective action remedies continue to be evaluated and implemented. The analyses must include the unfavorable responses and the regulatory directive from NMED to cease injection into the plume beginning April 1, 2023.

3. **Alternatives to Include in the EA**
    a. **Given the serious past and continuing impacts of LANL's operations on groundwater that could cause severe environmental and human health impacts, NMED urges DOE-EM to include an Alternative 2 "Enhanced Chromium Interim Measures" in the Chromium Final Remedy Alternative of the EA.** NMED recommends the Enhanced Chromium Interim Measures Alternative include options, with examples provided below, and evaluate potential alternative injection scenarios. Specification should be provided that the activities under this alternative would not include implementation of a final remedy for addressing the hexavalent chromium groundwater contamination. Rather, the results and analyses from the alternative would be used to develop recommendations for a final remedy to be presented to NMED for approval in accordance with the corrective

measures evaluation (CME) process. Furthermore, it accommodates the need for an expanded pump and treat system while an adequate assessment of the nature and extent of the hexavalent chromium plume continues.

This alternative should discuss additional characterization activities, including the installation of additional monitoring wells, that will be implemented under a work plan approved by NMED. DOE-EM should also include an assessment of converting current well infrastructure (injection wells or monitoring wells) into future extraction wells under this Alternative.

i. Option 1: Injection into a Shallow Infiltration Gallery
ii. Option 2: Additional Injection Well(s) Outside Plume Boundary
iii. Option 3: Conversion of Currently Available Monitoring Well(s) to Injection Well(s) Outside Plume Boundary

4. **Issues or Analyses the EA Should Include**
   a. Alternative 1 Options 1, 2, and 3 should each specify that the additional injection wells would be added outside the plume boundary. Furthermore, clarification for the requirement to add adequate monitoring wells for any expanded pump and treat system must be included.