



September 6, 2023

VIA EMAIL

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**RE: Corrective action under DP-1835 associated with the chromium plume**

Dear Messrs. Mikolanis and Duran:

The New Mexico Environment Department (NMED), including both the Groundwater Quality Bureau (GWQB) and Hazardous Waste Bureau (HWB), has no more pressing mission than to protect the health of all New Mexicans. The gravity of our responsibility is clearly illustrated by our ongoing efforts to protect the drinking water of those surrounding the Los Alamos National Laboratory (LANL). As an agency driven and directed by science, we seek the greatest possible clarity in understanding how our actions and those of regulated entities will impact the people and environment of our State. To that end, we seek a path forward with you that will further our shared goal of protecting public health through collaborative decision-making while maintaining our clear roles as permittee and regulator, respectively.

Since December of 2022, LANL and NMED have discussed the impacts of injection on downgradient wells, ceasing injection at the location and spreading of the chromium plume. Throughout the corrective action process, LANL has expressed that treated ground water can only be disposed of by injecting into existing injection wells, a position with which NMED disagrees.

Recognizing the gravity of the situation, the risks to groundwater safety, and the urgent need to take immediate action, the GWQB is taking the extraordinary step, one that GWQB rarely takes, of identifying an acceptable corrective action path forward (see Appendix A). NMED, including GWQB and HWB, feel this path is supported by the best available science and will allow us to take the action necessary to protect the regional aquifer. We hope LANL will take this opportunity to submit a revised Corrective Action Plan (CAP) to NMED including the actions identified in Appendix A (20.6.2.3107 (A)(10) NMAC). This matter is of utmost urgency and your immediate response will reflect your understanding of the importance of submitting and

**Michael Mikolanis, DP-1835**

September 6, 2023

Page 2 of 4

implementing a revised CAP as soon as possible.

The Hazardous Waste Bureau (HWB) fully supports the corrective action path provided in this letter and Appendix A.

To continue to expedite corrective action, NMED would like LANL to identify and retain an independent mediator to facilitate such technical discussions as soon as possible. The use of an independent mediator was recently recommended by the Government Accountability Office and endorsed by the New Mexico legislators at the August 21, 2023, Radioactive and Hazardous Waste Interim Legislative Committee (RHW) meeting. We believe working together in conjunction with a third-party mediator will clarify the technical discussions and open both parties to new ideas to protect the environment and public health of this historic community, a goal we both share. We look forward to meeting within the next several weeks to collaboratively discuss the path forward for corrective action alternatives. Please contract with a third-party mediator and provide a copy of the contract prior to our meeting.

Further, it is in the best interest of the U.S. Department of Energy (DOE) to renegotiate a functional and effective consent order governing the clean-up of LANL, including the chromium plume. As Mr. Mikolanis stated in his response to Representative Christine Chandler's line of questioning related to available funding and changes to the interim measure addressing the chromium plume at the August 21, 2023 Radioactive and Hazardous Waste Interim Legislative Committee meeting, "...we have the money to operate the system and we have the money to move into a remedy...that consent order does not envision an 'amping up' of the chromium interim measure to something different. That would be a change to the consent order and that is not within my authority..." The fact that LANL has stated the 2016 consent order is an impediment to more aggressive clean-up is precisely why the U.S. DOE Environmental Management leadership in Washington, DC must renegotiate a new consent order.

Please note that nothing in this letter or Appendix A shall be construed as relieving the Permittees of the obligation to comply with all requirements of DP-1835 and all other applicable state and federal laws, regulations, permits, and orders.

If you have any questions, please contact Justin Ball, GWQB Chief, at (505) 231-3773 or Ricardo Maestas, HWB Chief, at 505-690-6148.

Sincerely,

John Rhoderick, Director  
Water Protection Division  
New Mexico Environment Department

Rick Shean, Director  
Resource Protection Division  
New Mexico Environment Department

**Michael Mikolanis, DP-1835**

September 6, 2023

Page 3 of 4

JB: JH

Enc: GWQB Acceptable Corrective Actions

cc: Rep. Joanne J. Ferrary  
Sen. Jeff Steinborn  
Rep. Eliseo Lee Alcon  
Rep. Cathrynn N. Brown  
Rep. Christine Chandler  
Sen. David M. Gallegos  
Rep. Stefani Lord  
Sen. Brenda G. McKenna  
Sen. Shannon D. Pinto  
Sen. Nancy Rodriguez  
Sen. Joshua A. Sanchez  
Rep. Debra M. Sarinana  
Rep. John Block  
Sen. Ron Griggs  
Rep. D. Wonda Johnson  
Sen. Harold Pope  
R. Macfarlane, N3B-Los Alamos  
R. Martinez, San Ildefonso Pueblo, NM  
D. Chavarria, Santa Clara Pueblos, NM  
J. Herman, NMED-GWQB  
M. Sandoval, NMED-GWQB  
A. Romero, NMED-GWQB  
K. Becker, NMED-Tribal Liaison  
N. Dhawan, NMED-HWB  
S. Yanicak, NMED-HWB  
L. King, US EPA R6  
J. Payne, LANL  
S. Hoffman, NA-LA  
C. Rodriguez, EM-LA  
C. Maupin, N3B

GWQB Acceptable Corrective Actions

DP-1835

NMED would accept restart of injection for a period of 12 months based on implementation of the following actions by LANL in a revised CAP (20.6.2.3107 (A)(10) NMAC):

1. During a one-year temporary recommencement of injections, LANL will develop, install, and operate an alternative disposal location for injection of treated water.
  - a. The alternative disposal location must be designed to be able to dispose of the full amount of water intended to be extracted.
  - b. The alternative disposal location must be outside of the plume and not hydrologically affect the plume. Outside of the plume will be defined as 1200 feet from the outer boundary of an area where the plume is well-defined as indicated by data.
  - c. The alternative disposal location can be used on an ongoing basis to inject treated water as an alternative to injecting into CRINs 1-5.
  
2. LANL/DOE recommences injection into CRINs 3 and 4 for a maximum of one-year.
  - a. During the one-year temporary recommencement of injection, with the approval and oversight of the Pueblo of San Ildefonso, LANL will install and sample SIMR 3 on San Ildefonso land.
    - i. If SIMR 3 sampling shows any evidence of levels of Chromium above background, LANL will cease injections immediately.
    - ii. If SIMR 3 sampling does not show any evidence of Chromium contamination, LANL may continue injection into CRINs 3 and 4 and may commence injection into CRIN-5.
  - b. No injections may recommence into CRINs 1 and 2 until R-80 is installed, sampled, and evaluated. Additional wells or analysis may be required to make any determination on the effects of CRINs 1 and 2 on nearby wells.
    - i. If data shows that R-45 Screen 2 will continue to be impacted by injections into CRINs 1 and 2, those injections will remain paused.
    - ii. If hard data shows that R-45 Screen 2 will not be impacted further by injections into CRIN-1 or CRIN-2, LANL may commence injection into one, the other, or both