Via electronic delivery

November 18, 2026

The Honorable Tim Walsh
Assistant Secretary for Environmental Management
U.S. Department of Energy
1000 Independence Avenue, S.W.
Washington, D.C. 20585

RE: Withdrawal of Settlement Offer Regarding Los Alamos National Laboratory Hexavalent Chromium Plume Litigation

Dear Assistant Secretary Walsh:

Please be advised that the New Mexico Environment Department (NMED) will withdraw its pending settlement offer regarding the Los Alamos National Laboratory (LANL) hexavalent chromium groundwater plume administrative compliance orders and associated litigation on November 30, 2026. Unless a binding settlement agreement is executed on or before November 30, 2026, NMED will proceed with litigation on December 1, 2026.

Following our respective teams' work over the summer that culminated into a productive meeting on August 26, 2026 at U.S. Department of Energy (DOE) Headquarters with representatives of the Pueblo de San Ildefonso where we reached technical agreement, NMED transmitted draft settlement documents on September 3, 2026, memorializing the parties agreed upon verbal commitments to resolve the outstanding compliance orders. Over the ensuing eleven weeks, DOE's legal counsel has provided no formal feedback or proposed revisions, and DOE counsel at LANL recently indicated that DOE will not provide comments on the draft settlement agreements. Unfortunately, DOE's own legal counsel has derailed its client's agreements with NMED.

Without good faith negotiations on behalf of DOE leading to an executed agreement with NMED, deadlines remain purely aspirational, deliverables cannot be legally compelled, and technical disputes lack a binding resolution mechanism. Had DOE acted on the negotiated settlement framework, many critical physical, operational, and data-sharing milestones would have been achieved by now, including:

1. **Enforceable Scoping Plan (Missed):** Submitting a formal Scoping Plan within seven days of the mid-September initial scoping session defining target drilling locations, hydrogeologic criteria, depth intervals, and design specifications for at least two new injection wells outside the plume.

2. **Final Drilling Work Plan (Missed):** Submitting a final Drilling Work Plan to NMED and the Pueblo by September 30, 2026, for a high-capacity injection well outside the plume to preserve procurement and drilling schedules for the upcoming March 2028 operational deadline.

3. **Emergency State Engineer Filings (Missed):** Submitting Form WR-06 and formally requesting emergency authorizations from the Office of the State Engineer (OSE) by September 30, 2026, to

extract and land-apply treated water and conduct short-term operational injection into CrIN-1 and CrIN-2.

4. **Data Sharing and Flow Modeling (Missed):** Providing NMED and the Pueblo by September 30, 2026, with DOE's 2D groundwater flow model and all simulation data from Appendix A of the Independent Technical Review (ITR) report.

5. **Land Application, Dedicated Metering, and Monthly Reporting (Missed & Ongoing):** Modifying the work plan by October 30, 2026, to implement continuous extraction and land application of 150,000 to 170,000 gallons per day under DP-1793 while new injection wells are constructed; installing dedicated, auditable flow meters on injection wells CrIN-1 and CrIN-2 by October 30, 2026; and submitting the first monthly monitoring report detailing daily discharge volumes, pumping rates, and concentration trends by October 31, 2026 (with subsequent monthly monitoring reports required thereafter).

In addition, there are numerous other near-term deadlines that we negotiated in August that will soon pass in the next 30 to 60 days.

Today, the hexavalent chromium plume continues to threaten vital regional groundwater resources shared by the Pueblo de San Ildefonso, Los Alamos County, and surrounding communities. Because DOE legal counsel has declined to formalize our August 26, 2026 commitments over its client's good faith negotiations, NMED must fulfill its statutory duty to protect public health and groundwater resources through litigation.

Accordingly, NMED's settlement offer remains open only through November 30, 2026. If the agreement is not finalized and executed by that date, NMED will formally withdraw the offer and resume litigation on December 1, 2026.

Sincerely,

James C. Kenney
Cabinet Secretary

cc: Courtney Kerster, Senior Advisor, Office of Governor Michelle Lujan Grisham
The Honorable Christopher Moquino, Governor, Pueblo de San Ildefonso
The Honorable Lt. Governor Raymond Martinez, Pueblo de San Ildefonso
Secretary Josett D. Monette, Esq., New Mexico Indian Affairs Department
Anne W. Laurent, Los Alamos County Manager
Russell Lashley, Acting Division Director, NMED Resource Protection Division
State Engineer Elizabeth K. Anderson, P.E.
Carman Melendez, NMED Tribal Liaison
Zachary Ogaz, NMED General Counsel
Lisa Chai, NMED Assistant General Counsel