Buckman Direct Diversion Project

A joint project of the City of Santa Fe and Santa Fe County to build a reliable and sustainable water supply for the Santa Fe region.

DATE: March 26, 2012

TO: Buckman Direct Diversion Board of Directors

VIA: Robert Mulvey, Manager, Buckman Direct Diversion

FROM: Alex A. Puglisi, Environmental Compliance Specialist, City of Santa Fe Public Utilities Department

BACKGROUND:

On March 1, 2005, the New Mexico Environment Department's Hazardous Waste Bureau (NMED) issued a Consent Order to Los Alamos National Laboratory (LANL) that required LANL to investigate and remediate sites that had been potential contamination attributable to LANL's operation and historical discharges of the Laboratory on a pre-determined timeline set by NMED. The Department of Energy/National Nuclear Safety Administration (DOE/NNSA) and the New Mexico Environment Department (NMED) have recently entered into an agreement regarding the realignment of environmental priorities at Los Alamos National Laboratory referred to as the "Los Alamos National Laboratory Framework Agreement: Realignment of Environmental Priorities" (Framework Agreement). This "framework agreement" was first presented to City of Santa Fe staff on January 11, 2012 by George Rael (DOE/NNSA) and Jim Davis (NMED). The Agreement places new emphasis on the removal of Transuranic (TRU) waste from Area G at the Laboratory, as prioritized by Governor Susan Martinez. Protection of ground water and ensuring that surface water runoff does not negatively impact the Rio Grande and, thus, the Buckman Direct Diversion shall also remain as priorities. Additionally, DOE/NNSA and NMED have agreed that they will meet at an appropriate time to consider renegotiation of the Compliance Order on Consent issued by NMED to LANL in 2005. (See attached for further detail)

ITEM and ISSUE:

The Framework Agreement is a non-binding agreement-in-principle entered into voluntarily by both parties. Its primary purpose is to address the above ground TRU waste currently located within TA-54 and to establish an action-oriented approach that makes optimum use of available resources. The Mayor has maintained to the NMED during meetings concerning the Framework Agreement and community support for LANL's environmental restoration budget that it is the City of Santa Fe's position that there needs to be legally binding component to the Framework Agreement. Otherwise, there is little incentive or indication of preliminary support for fulfilling the commitments made by both sides. At a minimum, a Memorandum of Agreement should be in place which holds LANL to the completion of Environmental Restoration activities as well as TRU waste removal.

The Mayor will participate in the Los Alamos National Laboratory Community Coalition's efforts to support for LANL's FY2013 and Subsequent Year Environmental Restoration Budget. The Mayor has just attended meetings in Washington, DC on March 5-6, 2012, with New Mexico's congressional delegation, staff of House and Senate Committees, and DOD/NNSA officials. The purpose of these meetings was to discuss the importance of environmental restoration funding for LANL including the acceleration of TRU-waste shipments to WIPP and sufficient cleanup funding for other sites. The Mayor supports a LANL budget which is sufficient to continue remediation and monitoring of contamination relating to past and current operations at LANL, as well as the removal of TRU waste from possible wildfire threat. Additionally, the Mayor and staff agree that an accelerated effort to move TRU waste from TA-54 to the Waste Isolation Pilot Plan (WIPP) may be justified; however, this action should not impact the remediation of other contaminated sites at the Laboratory. The Mayor recognizes that the City's support for appropriate funding levels for LANL's environmental restoration activities is especially relevant to those sites which pose immediate concerns for the residents of Santa Fe, its natural resources and its infrastructure, as well as the environmental monitoring activities designed to determine risks and protect resources from contamination originating at LANL. Concurrently, staff has indicated their concern to NMED that the City has not yet been informed which, if any, of the activities related to the protection of Santa Fe's resident's, drinking water supply and environment could be terminated or delayed as a result to the Framework Agreement.

RELATED STAFF RECOMMENDATIONS/PATH FORWARD:

The City should continue to support a LANL environmental restoration budget which is sufficient to implement the provisions of the 2005 NMED Consent Order as well as facilitate the removal of above-ground TRU waste from TA 54, Area G. These activities provide future benefit to the City of Santa Fe and help to ensure the protection of the City's drinking water supply at the Buckman Well Field and the Buckman Direct Diversion. However, City staff should continue to monitor the implementation of the provisions of the NMED 2005 Consent Order by both LANL and NMED, especially those provisions which directly impact the health and environment of its citizens. The City should advocate a position, through the Mayor's Office with its congressional delegation and DOE/NNSA that the level of funding for environmental restoration activities should not be decreased from current and recent year levels ensuring that, at a minimum, current level of activity will be maintained if not increased at levels consistent with the rest of LANL's budget. City staff should continue close coordination and collaboration with the NMED and LANL to ensure that monitoring and remediation of contamination of concern to Santa Fe, the BDD and its ground water reserves continues as required under the Consent Order.

Briefing to the City of Santa Fe Public Utilities Committee regarding Environmental Restoration and the Realignment of Environmental Activities at Los Alamos National Laboratory

Recent Events of Importance to the City of Santa Fe:

- The Department of Energy/National Nuclear Safety Administration (DOE/NNSA) and the New Mexico Environment Department (NMED) have entered into an agreement regarding the realignment of environmental priorities at Los Alamos National Laboratory referred to as the "Los Alamos National Laboratory Framework Agreement: Realignment of Environmental Priorities" (Framework Agreement). This "framework agreement" was first presented to City of Santa Fe staff on January 11, 2012 by George Rael (DOE/NNSA) and Jim Davis (NMED). Additionally, DOE/NNSA and NMED have agreed that they will meet at an appropriate time to consider the Compliance Order on Consent issued by NMED to LANL in 1992.

- The Mayor and Public Utilities Department (PUD) staff met with NMED Cabinet Secretary David Martin and other municipal/county members of the Los Alamos Community Coalition on February 2, 2012, regarding support for LANL's FY2013 Environmental Restoration budget. City and County representatives invited included the City of Santa Fe, Los Alamos County, Santa Fe County, Rio Arriba County, the City of Espanola, Eddy County and Taos County

- The Framework Agreement is a non-binding agreement-in-principle entered into voluntarily by both parties. Its primary purpose is to address the above ground Transuranic waste currently located within TA-54 and to establish an action-oriented approach that makes optimum use of available resources. -

- The Mayor has maintained to the NMED during meetings concerning the Framework Agreement and community support for LANL's environmental restoration budget that it is the City of Santa Fe's position that there needs to be legally binding component to the Framework Agreement.

- The Mayor will participate in the Los Alamos National Laboratory Community Coalition's efforts to support for LANL's FY2013 and Subsequent Year Environmental Restoration Budget. The Mayor has just attended meetings in Washington, DC on March 5-6, 2012, with New Mexico's congressional delegation, staff of House and Senate Committees, and DOD/NNSA officials. The purpose of these meetings was to discuss the importance of environmental restoration funding for LANL including the acceleration of TRU-waste shipments to WIPP and sufficient cleanup funding for other sites.

- The Mayor supports a LANL budget to continue remediation and monitoring of sites that represent threats or concern to the City of Santa Fe, as well as the

removal of TRU waste from possible wildfire threat. Additionally, while the Mayor and staff agree that an accelerated effort to move TRU waste from TA-54 to the Waste Isolation Pilot Plan (WIPP) may be justified, this action should not impact the remediation of other contaminated sites at the Laboratory.

- The Mayor recognizes that the City's support for appropriate funding levels for LANL's environmental restoration activities is especially relevant to those sites which pose immediate concerns for the residents of Santa Fe, its natural resources and its infrastructure, as well as the environmental monitoring activities designed to determine risks and protect resources from contamination originating at LANL. Concurrently, staff has indicated their concern to NMED that the City has not yet been informed which, if any, of the activities related to the protection of Santa Fe's resident's, drinking water supply and environment could be terminated or delayed as a result to the Framework Agreement.

- An increase in funding for environmental restoration activities could result in positive economic benefits for the City of Santa Fe and northern New Mexico as a whole. Increased funding could result not only in the maintenance of current employment of Santa Fe residents but the creation of new jobs for citizens with experience or training in areas associated with environmental restoration activities including engineering and other sciences, waste removal, and waste hauling and disposal. Additional funding for LANL activities could also result in increases in the collections of Gross Receipts Tax and other tax revenues for the City of Santa Fe both directly and through wage related purchases.

- The Mayor would like to further evaluate ways in which the City can further capitalize on employment opportunities for its citizens associated with probable increases in LANL's environmental restoration work such as the creation of related programs at the Santa Fe Community College

- LANL had apparently originally requested 362 million dollars for FY 2013. This amount was supported by the Office of Management and Budget (OMB) after a review of LANL deliverables under the NMED Consent Order on Compliance.

Related Staff Recommendations/Path Forward:

- Staff recommends that that NMED's Consent Order on Compliance should not be modified solely on LANL's participation in this non-binding Framework Agreement or its ability to move TRU waste. Any future modification of the Consent Order by NMED should be based solely on LANL's ability to reach previously agreed upon progress toward fulfilling the applicable portions of the Consent Order while moving TRU waste off of Area G.

- LANL's obligation under the NMED Consent Order which have a direct impact on the City's Buckman Wells, the Buckman Direct Diversion, or the health and

environment of Santa Fe's citizens, should not be modified without notice, collaboration and full consideration of the City's interests and concerns

- Members of the public have expressed concern to the City that the Framework Agreement between DOE/NNSA and NMED is a deliberate attempt to modify provisions of the Consent Order outside of the public process that NMED would have to implement if it attempted to just renegotiate the Order. Although NMED has stated that it will not renegotiate the Consent Order at this time, it has publicly stated that it is fully aware that the provisions of the CO cannot be met by LANL and will consider changes as performance and associated timelines for completion draw near. Staff recommends that the City should maintain that its status as a "directly affected party", should be recognized by NMED and, therefore, the agency should make all efforts possible to coordinate and collaborate with Santa Fe on provisions that have direct or indirect impacts on the City

- There is an obvious advantage to moving TRU waste off of Area G regardless of perceived fire danger. Support of LANL's 2013 and subsequent budgets by the City should focus on our understanding that the budget is necessary for LANL to continue its Environmental Restoration Activities and move TRU waste into safe storage at WIPP.

- Staff recommends that the City should continue to monitor the proportion of the recommended 250 million dollar budget will be allocated to environmental restoration activities versus TRU waste disposal. The City should advocate a position with DOE/NNSA that the level of funding for environmental restoration activities should not be decreased from current and recent year levels ensuring that, at a minimum, current level of activity will be maintained if not increased at levels consistent with the rest of LANL's budget.

- City Public Utilities Department staff and Economic Development Department staff should initiate discussions with local educational institutions, LANL. The County of Los Alamos, the NMED, and the Environmental Protection Agency on the creation and implementation of training programs to create employment opportunities in environmental remediation and waste management in order to take advantage of the current and future funds which will be budgeted by the federal government for environmental restoration activities at LANL.