
Memorandum

Date: October 23, 2024
To: Buckman Direct Diversion Board (BDDDB)
From: Jay Lazarus, Glorieta Geoscience (GGI)
Kyle Harwood, EFMH

Subject: 2024 Compliance Order on Consent New Mexico Environment Department and US Department of Energy (“2024 LANL Compliance Order”)

On August 30, 2024, the New Mexico Environment Department (NMED) and the US Department of Energy/Los Alamos (DOE) entered into a Settlement Agreement pertaining to the environmental cleanup of legacy hazardous waste located at the Los Alamos National Laboratory (“LANL”).

Review of the Consent Order was included as Item 7 of the BDDDB’s 2024 Water Quality work plan. Topics included in the Consent order that are pertinent to the BDDDB are summarized below. A complete copy of the Consent Order can be found at: <https://www.env.nm.gov/public-notice/wp-content/uploads/sites/32/2024/09/2024-Settlement-Agreement-and-Modified-Consent-Order.pdf>.

General Purposes

1. provide a framework for current and future actions to implement regulatory requirements
2. establish an effective structure for accomplishing work on a priority basis through cleanup Campaigns with achievable milestones and targets
3. drive toward cost-effective work resulting in tangible, measurable environmental clean-up
4. minimize the duplication of investigative and analytical work and documentation and ensure the quality of data management
5. set a structure for the establishment of additional cleanup Campaigns and milestones as new information becomes available and Campaigns are completed
6. facilitate cooperation, exchange of information, and participation of the Parties;
7. provide for effective public participation
8. define and clarify its relationship to other regulatory requirements.

Corrective Action

Corrective action activities conducted under the Consent Order are organized into Campaigns using a risk-based approach to grouping, prioritizing, and accomplishing such activities at Solid Waste Management Units (SWMUs) and Areas of Concern (AOCs). A Campaign may consist of one or more projects, and projects may consist of one or more tasks and deliverables. Campaigns, projects, tasks, and deliverables may be subject to Milestones.

Hazardous Waste Permit

Five items that will be addressed in the Hazardous Waste Permit and not in the Consent Order:

1. New releases and newly discovered releases of hazardous waste or hazardous constituents from hazardous waste management units at the Facility.
2. The closure and post-closure care requirements, as they apply to hazardous waste management units at the Facility.
3. Implementation of the controls, including long-term monitoring, for any SWMUs or AOCs listed in the Permit
4. Any corrective action conducted to address releases of hazardous waste or hazardous constituents that occur or are discovered after the date on which this Consent Order terminates pursuant to Section 38 (Termination).
5. Newly created SWMUs or AOCs from non-permitted operations.

Storm Water Runoff

The Consent Order does not establish requirements for releases of Contaminants from SWMUs or AOCs to storm water runoff that:

1. Are permitted under DOE's National Pollutant Discharge Elimination System (NPDES) Individual Permit for storm water discharges from SWMUs and AOCs (Individual Permit) (NM0030759 or as reissued); or
2. Are from SWMUs or AOCs that DOE and EPA have determined did not require coverage under the Individual Permit (i.e., SWMUs and AOCs that were not exposed to storm water, did not contain significant industrial materials, and/or did not potentially impact surface water); or
3. Are from SWMUs or AOCs formerly permitted under the Individual Permit that were deleted from the Individual Permit.

Exclusions from Scope

The Consent Order imposes no requirements on any SWMUs or AOCs previously investigated by DOE and reviewed and determined by EPA or NMED to require no further investigation or other action, except as provided for in Section 7.E (NMED reserves right for additional data or investigations).

Public Participation

A general purpose of this Consent Order is to provide for effective public participation and to provide opportunities for such public participation that include:

- (a) annual public meetings regarding changes agreed to between the Parties
- (b) a public comment period and an opportunity for a public hearing on Statements of Basis issued by NMED
- (c) a publicly accessible database, which contains all data from analysis of environmental media samples collected by DOE as part of environmental investigations and monitoring under this Consent Order or the 2005 Consent Order, and all historical data presented in documents prepared under this Consent Order or the 2005 Consent Order
- (d) an opportunity to receive email notifications concerning certain groundwater analytical data
- (e) quarterly public meetings hosted by DOE regarding actions taken pursuant to this Consent Order
- (f) an email address for which the public may submit comments to DOE regarding this Consent Order
- (g) public input for, and access to, independent third-party audits DOE will host a public meeting regarding actions taken pursuant to this Consent Order at least once per quarter of a

fiscal year, including proposed changes, if any, to Appendices A, B, and C. At least seventy-two (72) hours before each quarterly meeting, DOE will: (i) publish on its website an agenda of topics to be discussed at the quarterly meeting; and (ii) make the published agenda available to NMED to post on NMED's website. At each quarterly meeting, DOE will provide time for public comment regarding corrective actions taken pursuant to this Consent Order, including proposed changes, if any, to Appendices A, B, and C.

RECOMMENDATIONS

- Meet with the NMED Hazardous Waste Bureau "Designated Agency Manager"
- Continue to monitor clean-up progress focusing on remedial efforts in Los Alamos and Pueblo Canyons.
- Attend and participate in quarterly public meetings.