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November 23, 2020

Mr. Kirk D. Lachman, Manager
Environmental Management Los Alamos Field Office
1200 Trinity, MS M984
Los Alamos, NM 87544

Dear Mr. Lachman,

I am pleased to enclose Recommendation 2020-04 "Improving the Utility of the Consent Order with Tangible Cleanup Progress," which was approved by the Northern New Mexico Citizens' Advisory Board during its meeting on November 18, 2020.

Please contact me if you have questions regarding this recommendation. We look forward to the response from the Department of Energy.

Sincerely,

Robert Hull
Chair, NNMCAB

Enclosure: a/s

Cc w/encl:

U. S. Senator Tom Udall, (via e-mail)
U. S. Senator Martin Heinrich, (via e-mail)
U. S. Congressman Ben R. Lujan, (via e-mail)
Secretary, James C. Kenney NMED, (via e-mail)
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Gil L. Vigil, Executive Director Eight Northern Indian Pueblos (via e-mail)
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1 **NORTHERN NEW MEXICO CITIZENS’ ADVISORY BOARD**
2 **Recommendation to the Department of Energy**
3 **No. 2020-04**
4 **Improving the Utility of the Consent Order with Tangible Clean-Up Progress**
5 **Drafted by: Mark Hayden**
6

7 **Background**
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9 This Recommendation suggests steps to use the “Los Alamos National Laboratory (LANL) Compliance
10 Order on Consent” (Consent Order) and its annual work planning process to increase public
11 understanding and support of LANL Environmental Management; advance completion of cleanup goals;
12 and promote greater public funding for cleanup. In designing these steps, the Northern New Mexico
13 Citizens’ Advisory Board (NNMCAB) believes it is consistent with the format and structure of the
14 Consent Order and with policy objectives endorsed by the Department of Energy (DOE) Headquarters
15 leadership. The Recommendation is intended to be a timely contribution to the annual Department of
16 Energy Environmental Management Los Alamos Field Office (EM-LA)/New Mexico Environmental
17 Department (NMED) Consent Order update, with supplementary information provided.
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19 In June 2016, NMED and DOE approved the Consent Order setting forth a plan and a process for
20 cleaning up dangerous and contaminated areas at LANL. A principal purpose of the Consent Order is to
21 establish the basic framework and structure “for accomplishing work on a priority basis through clean-
22 up campaigns with achievable milestones and targets.” The Consent Order has two important
23 Appendices to fulfill this purpose. Appendix C, “Future Campaigns,” enumerates the 17 major projects
24 listed in current priority order that will be accomplished along the road to the comprehensive cleanup of
25 LANL in the future. Each Campaign aggregates many related areas; they represent the “strategic”
26 cleanup challenges. Appendix B, “Milestones and Targets,” charts the annual goals and deliverables for
27 each Campaign (plus two years into the future). Both Appendices are subject to annual updates.
28 Campaign priorities (Appendix C) were established in the 2016 Consent Order and have not changed.
29 Appendix B is more responsive to changing budgets, conditions, and accomplishments, though the
30 process for making such changes might be difficult.
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32 **Comments and Observations**
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34 In the EM-LA annual report to the NNMCAB regarding cleanup progress and accomplishments, reports
35 are often referred to as milestones and/or targets. The NNMCAB understands reporting is a
36 documentation requirement – not actual clean up. Presenting required documentation such as reports are
37 derivative to work and not substantive. Therefore, reporting should not be considered a milestones or
38 target under the Consent Order. If reports are allowed to count toward cleanup activity milestones, EM-
39 LA could simply submit a report on each campaign milestone as a peripheral task to satisfy its mission
40 under the Consent Order while doing nothing of substance toward tangible cleanup. To further clarify,
41 the NNMCAB understands documentation is required before, during and after cleanup operations and
42 this should continue as is required for RCRA/CERCLA compliance. What the NNMCAB recommends
43 is that documentation and reporting alone should not be made a milestone. The NNMCAB does not
44 agree that documentation and reporting should be identified as milestone, rather, only work that
45 specifically address cleanup activity qualifies as a milestone – not the generation of paper
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47 Example 1 – Chromium Campaign [This milestone is solely a paper-based reporting update to the
48 existing groundwater monitoring document but does not involve actual cleanup work.]
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Interim Facility-Wide Groundwater Monitoring Plan (IFGMP) for MY2021 (October 2020-September 2021)	Annual update to the groundwater monitoring program baseline document with adjustments to sampling, monitoring groups, analytes, and frequencies based on previous results.
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51 Example 2 – MDAs A & T Remedy [In contrast, this milestone requires “completion of the well” as a
52 cleanup activity, and includes as a deliverable a letter to NMED documenting completion of the well
53 and collection of first samples.]
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Letter Report Documenting Completion of R-65 and Collection of First Samples	R-65 is a monitoring well planned for the north edge of DP Mesa between MDA A and MDA T. The well will be drilled in accordance with the NMED-approved work plan. The deliverable is a letter to NMED documenting completion of the well and collection of first samples.
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56 **Recommendation**

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58 1. The NNMCAB recommends DOE/EM directly tie all milestones and targets to actual
59 cleanup activities. Only reporting substantially tied to clean-up activities should be
60 included among targets and milestones. Routine updates in plans or technical
61 specifications should be excluded from the Consent Order and, if necessary, separated as
62 'technical information to regulators.
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64 **Intent**

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66 It is the intent of the NNMCAB to promote actual cleanup work to accelerate the cleanup activities by
67 EM-LA rather than attributing necessary and required paperwork as counting toward progress. Our
68 recommendation to EM-LA is intended to focus on the campaign cleanup work activity as the priority.
69 While EM-LA reporting should continue, the public is entitled to progress on the actual cleanup.
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72 **References**

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74 1. N3B September 23, 2020 Presentation to the Northern New Mexico Citizens’ Advisory Board 2016
75 Compliance Order on Consent –Appendix B Milestones (proposed)