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## FISCAL IMPACT REPORT

**ORIGINAL DATE** 01/18/13  
**LAST UPDATED** 02/04/13     **HJM** 5/aHBIC

**SPONSOR** Trujillo/Cisneros

**SHORT TITLE** Los Alamos Area G Cleanup     **SB** \_\_\_\_\_

**ANALYST** Cerny

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY13	FY14	FY15	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>	Minimal				Nonrecurring	

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

New Mexico Environment Department (NMED)

### SUMMARY

#### Synopsis of HBIC Amendment

The House Business and Industry Committee amendment to House Joint Memorial 5 emphasizes the waste cleanup includes both above and below ground waste.

#### Synopsis of Original Bill

House Joint Memorial 5 requests that the U.S. Department of Energy (DOE) fully fund removal of aboveground transuranic waste stored at Material Disposal Area G (MDA G) at Los Alamos National Laboratory (LANL). The Memorial also requests that the DOE provide a status report on the waste removal to the Radioactive and Hazardous Materials Committee during the 2013 legislative interim. HJM5 will be transmitted to New Mexico's Congressional delegation.

### FISCAL IMPLICATIONS

Minor costs will be incurred in notifying recipients.

### SIGNIFICANT ISSUES

NMED notes that removal of transuranic waste from MDA G is a priority and enjoys public support. Removal of the waste is essential to the completion of environmental cleanup at MDA

## **House Joint Memorial 5/aHBIC – Page 2**

G. A lack of funding, and the potential for further federal budget cuts that would affect funding for LANL environmental cleanup has the potential to delay completion of the removal of transuranic waste stored at MDA G. Should a lack of adequate funding cause delays in the waste removal, there would be a delay in completion of the environmental cleanup at MDA G that is required by the March 1, 2005 Order of Consent. (This Order was entered into by LANL, DOE, and NMED to address the potential release of contamination from the laboratory facility and to establish requirements and a timetable for environmental cleanup.)

The schedule for cleanup of other locations at LANL could also subsequently be delayed.

Further, the potential exists for citizen lawsuits related to enforcement of the Consent Order.

### **TECHNICAL ISSUES**

NMED notes the following technical issues: HJM5 does not reference funding for removal of below ground transuranic waste at MDA G or other environmental cleanup activities also required by the March 1, 2005 Consent Order that are listed in the Framework Agreement (attached) for example, the protection of groundwater and surface water.

Page 2, line 12 insert after “remaining,” “above and below ground”

CC/svb



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## **LOS ALAMOS NATIONAL LABORATORY**

### **FRAMEWORK AGREEMENT:**

#### **REALIGNMENT OF ENVIRONMENTAL PRIORITIES**

The purpose of this Framework Agreement is to set forth the agreement of the Department of Energy/National Nuclear Security Administration (DOE/NNSA) and the New Mexico Environment Department (NMED) to address the highest risk, above ground transuranic waste currently located within Technical Area 54 at Los Alamos National Laboratory (the Laboratory or LANL) and to establish an action-oriented approach that makes optimum use of available resources. This Framework Agreement is a non-binding agreement in principle entered into voluntarily by both sides. DOE/NNSA and NMED agree that they will meet at an appropriate time to consider changes to the Compliance Order on Consent.

1. DOE/NNSA commits to continue to accelerate the rate of removal of above ground transuranic waste (TRU) at TA-54, Area G, and to focus its efforts to achieve disposition of this TRU waste at the earliest feasible time. Over the last year, DOE/NNSA has accelerated the pace of TRU shipments to the Waste Isolation Pilot Plant (WIPP) and agrees with New Mexico Governor Susana Martinez that this continues to be the imperative priority at LANL.
  - a. DOE/NNSA commits to demonstrating continued progress by increasing shipments of TRU, and thereby achieving decreasing amounts of radioactivity (Pu equivalent Ci) and volume (cubic meters). DOE/NNSA commits to submit to NMED quarterly reports showing this continued progress.
  - b. DOE/NNSA commits to the complete removal of all non-cemented above-ground EM Legacy TRU and newly generated TRU currently-stored at Area G as of October 1, 2011, by no later than June 30, 2014. This inventory of above-ground TRU is defined as 3706 cubic meters of material.
  - c. DOE/NNSA commits to the complete removal of all newly generated TRU received in Area G during FY 2012 and 2013 by no later than December 31, 2014.
  - d. Based on projected funding profiles, DOE/NNSA will develop by December 31, 2012, a schedule, including pacing milestones, for disposition of the below-ground TRU requiring retrieval at Area G.
  - e. As part of DOE/NNSA's overall commitment to long-term stewardship and protection of human health and the environment, DOE/NNSA will subsequently complete the removal of the above-ground cemented EM Legacy TRU in an

efficient and effective manner protective of the health and safety of workers and the public. (For purposes of this provision, the bolas grandes are considered to be cemented TRU.)

2. DOE/NNSA commits to the continued protection of groundwater and drinking water.
  - a. DOE/NNSA will continue to perform groundwater monitoring under the annual Interim Facility-Wide Groundwater Monitoring Plan required by the Consent Order. Groundwater monitoring provides for the identification of potential new contaminants and the characterization of fate and transport of known contaminants, if any, to water-supply wells. Monitoring also supports a determination of the effectiveness of corrective action remedies. The results of groundwater monitoring as provided by the Interim Plan will be reported to NMED and made publicly available.
  - b. As required by the Laboratory's NPDES Individual Storm Water Permit (No. NM0030759), DOE/NNSA will conduct storm water monitoring at 250 site-specific locations; implement erosion and sediment controls; and install control measures to minimize storm water pollutant discharges at 406 individual locations identified in the permit.
  - c. DOE/NNSA will continue to maintain large-scale mitigations that have been implemented in the canyons under the Consent Order to provide protection of surface water quality, including the source water utilized by the City of Santa Fe's Buckman Direct Diversion Project.
  
3. DOE/NNSA and NMED agree that in order to achieve the most rapid progress feasible in completing the highest priority activities at the Laboratory, planning, characterization and implementation activities for all remediation actions must be carried out in a cost effective and efficient way that provides full protection of human health and the environment and takes advantage of lessons learned both from previous work performed at the site and nationally.
  - a. NMED will require the collection and reporting of characterization and monitoring data which is necessary and sufficient to assure protection of human health and the environment. NMED will reduce the frequency of data collection and reporting where prior results indicate very low or no risk (e.g., no results above applicable standards).
  - b. DOE/NNSA and NMED agree to cooperatively engage in effective planning of activities to avoid unnecessary de-mobilization and re-mobilization of manpower, equipment, and other resources.
  - c. NMED and DOE/NNSA agree to use input from a variety of sources to make cleanup activities efficient while maintaining the protection of human health and the environment. These efficiencies include, but are not limited to:
    - Re-evaluating the number of wells necessary for the protection of human health and the environment;
    - Working to reduce the volume of paperwork required under the Consent Order;

- Reviewing the characterization efforts undertaken to date pursuant to the Consent Order to identify those sites where the nature and extent of contamination has been adequately characterized, and then shifting efforts to cleanup for those sites;
  - Providing flexibility to conduct voluntary corrective actions;
  - Eliminating DOE/NNSA investigation and remediation of non-LANL constituents; and
  - Exploring collaborative, real-time data-sharing capabilities.
4. NMED commits to follow pertinent EPA guidance except where such guidance is not supported by sound science.
  5. DOE/NNSA and NMED agree to collaborative regular, periodic reviews of environmental remediation and clean-up practices at the Laboratory with an eye towards utilizing sound science and protecting the public interest. In furtherance of this and other objectives, DOE/NNSA and NMED commit to employ an Annual Planning Process, in order to assess and to refocus the environmental remediation and clean-up work at the Laboratory to ensure alignment with the Governor's priorities, consider input from the public, and find efficiencies that maximize the use of available federal funds.
  6. DOE/NNSA and NMED recognize the annual need to prioritize and dedicate available funding to the Governor's highest environmental priorities, as laid out above, and recognize that this will require that some lower priority cleanup work cannot be completed (under current budget conditions) as currently scheduled in the Consent Order. DOE/NNSA and NMED will continue to re-evaluate the sequencing of, and if possible, accelerate, cleanup activities, as the work progresses and as the funding situation changes.
  7. In order to meet Governor Martinez's request that DOE/NNSA and NMED allocate sufficient funding to accelerate the removal of above ground TRU inventory and continue DOE's stewardship of water resources at LANL, NMED will expeditiously consider DOE/NNSA's requests for necessary extensions of near term milestones and, in doing so, will consider Congressional funding limitations.
  8. In the interest of transparency, DOE/NNSA and NMED commit to apprise the public of progress in connection with their re-alignment process. DOE/NNSA and NMED also commit to seek input from the public to inform the Annual Planning Process.