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FISCAL IMPACT REPORT

SPONSOR McSorley **ORIGINAL DATE** 02/07/14
LAST UPDATED 02/19/14 **HB** _____
SHORT TITLE NMED Compliance Schedule for Sandia Lab **SM** 30/aSCONC
ANALYST Weber/Chabot

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY14	FY15	FY16	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		NFI	NFI			

(Parenthesis () Indicate Expenditure Decreases)

Relates to SM 42, HJM 13, HM 62

SOURCES OF INFORMATION

LFC Files

Responses Received From

Office of the State Engineer (OSE)
Department of Environment (NMED)

SUMMARY

Synopsis of SCONC Amendment

The Senate Conservation Committee amendment to Senate Memorial 30 adds the Secretary of the Air Force to recipients of the memorial.

Synopsis of Original Memorial

Senate Memorial 30 states the mixed waste landfill at Sandia National Laboratories (SNL) operated from 1959 to 1988 to receive radioactive and hazardous waste from nuclear weapons production. This waste was dumped into unlined pits and trenches and is leaking into Albuquerque's drinking water aquifer that serves over six hundred thousand residents.

The waste includes more than one hundred barrels of long-lived plutonium-contaminated waste, along with tons of depleted uranium and tritium and hazardous waste such as lead, beryllium and solvents such as trichloroethylenes, polychlorinated biphenyls, and perchloroethylene. The waste poses a long-term danger to the aquifer that serves Albuquerque residents.

The NMED 2005 final order requires SNL to have the Legislative Interim Water and Natural Resources Committee conduct a feasibility study every five years for the excavation of the mixed waste landfill and the suitability of the dirt cover over the landfill. The order also requires the feasibility study to provide an update with current data regarding the fate and transport model for the mixed waste landfill. In addition, there is a requirement that the feasibility study to include a reevaluation of the likelihood of contaminants reaching ground water.

SNL has not performed the required feasibility study.

NMED is requested to order SNL conduct the required feasibility study.

NMED is further requested to report to the public, the appropriate committee of the legislature, the Albuquerque city council, the Bernalillo County Board of County Commissioners and the Albuquerque-Bernalillo County Water Utility Authority with the results of the excavation study and that the appropriate committee be requested to report to the Senate by January 2015 with recommendations for further cleanup.

Copies of this memorial should be sent to the Secretary of Environment, the director of SNL and the co-chairs of the New Mexico Legislative Council.

FISCAL IMPLICATIONS

No fiscal implications were identified.

SIGNIFICANT ISSUES

NMED concludes a feasibility study as proposed in SM 30 is not appropriate as the corrective action process is being followed and is being implemented in compliance with the final order.

NMED offers the following background and chronology that resulted in the above conclusion:

The SNL mixed waste landfill (MWL) is regulated by the NMED through the New Mexico Hazardous Waste Act and its implementing regulations, the Hazardous Waste Management Regulations, 20.4.1 NMAC, and the requirements of the SNL Hazardous Waste Facility Permit. The Environment Department is authorized by the U.S. Environmental Protection Agency to implement the federal Resource Conservation and Recovery Act in New Mexico.

The Environment Department held a public hearing on the final remedy in 2004. On May 26, 2005, a final order was issued on the remedy selection that also required that SNL prepare a report every 5 years, re-evaluating the feasibility of excavation and analyzing the continued effectiveness of the selected remedy. On October 10, 2006, Citizen Action New Mexico sued the Environment Department before the State Court of Appeals on the selected final remedy for the MWL. On December 19, 2007 the NM Court of Appeals issued its final decision favoring the Environment Department. The matter was then taken to the State Supreme Court in 2008 by Citizen Action New Mexico. The State Supreme Court subsequently denied the petition of writ of certiorari on February 26, 2008.

In 2009, after almost three years of delay through court actions, SNL began implementation of the selected remedy. The Environment Department approved the implementation of the final remedy on October 14, 2011. The Environment Department's approval of the implementation required that a Long-Term Monitoring and Maintenance Plan (LTMMP) be submitted within 180 days of completion of the selected remedy. The LTMMP was submitted on March 23, 2012. The Environment Department issued a public notice for public comment on September 14, 2012 and held a public meeting on the matter on October 16, 2012 in Albuquerque. The Department granted two extensions to the public comment period requested in part by Citizen Action. The public comment period ended on February 11, 2013. The Environment Department also presented a summary of the LTMMP at a public meeting on February 5, 2013 sponsored by Albuquerque-Bernalillo County Water Protection Advisory Board. The Environment Department approved the LTMMP on January 8, 2014. The approved LTMMP establishes monitoring of the MWL that will allow the five-year period for re-evaluating the need for excavation and analyzing the effectiveness of the remedy, as required under the Final Order of May 26, 2005. The re-evaluation includes an updated fate and transport model with the most current data. A re-evaluation is not appropriate because five years of monitoring data is not available. The objective of the LTMMP is to ensure that the final remedy is protective of human health and the environment.

Experienced technical staff within the Environment Department and U.S. EPA, have reviewed groundwater monitoring information at the MWL and concluded that no significant impacts are likely to occur. In addition, the Albuquerque-Bernalillo County Water Protection Advisory Board has favored the selected remedy. The Environment Department has approved and supports the installation of the MWL groundwater monitoring wells and the representativeness of the sampling program. The final remedy provides for the protection of human health and the environment, the detection monitoring system is adequate and the MWL does not pose a risk to the aquifer or residents of Albuquerque. An evaluation of the groundwater monitoring program, including reevaluation of the need for excavation, will be conducted after five years of operation. Therefore a feasibility study as proposed in SM 30 is not appropriate as the corrective action process is being followed and is being implemented in compliance with the final order.

MW/ds