

Concerned Citizens for Nuclear Safety
P.O. Box 31147
Santa Fe, NM 87594-1147
(505) 986-1973
nuclearactive.org

September 12, 2024

By email to: neelam.dhawan@env.nm.gov

Ms. Neelam Dhawan, Acting Program Manager
New Mexico Environment Department - Hazardous Waste Bureau
2905 Rodeo Park Drive East, Bldg. 1
Santa Fe, NM 87505-6303

Re: Comments about the Sandia National Laboratories (SNL) – Mixed Waste Landfill (MWL) Second Five-Year Report (December 2023)

- It's time for excavation, processing and removal of the waste to appropriate onsite and offsite regulated facilities in full and transparent consultation with Tribes and communities located at or near the facilities and along the transportation routes.
- President Biden's Executive Order 14096 on *Revitalizing Our Nation's Commitment to Environmental Justice for All* (April 2023)
- The Department of Energy is a covered federal Justice 40 agency

Dear Ms. Dhawan:

Sandia National Laboratories and Concerned Citizens for Nuclear Safety (CCNS) agree – it is time to excavate the Mixed Waste Landfill (MWL) and process and remove the waste to appropriate onsite and offsite regulated facilities in full consultation with Tribes and communities along the transportation routes and the sites.

CCNS appreciates the opportunity to meet virtually with the New Mexico Environment Department (NMED) Deputy Cabinet Secretary Lienemann, Resource Protection Division Director Shean and Hazardous Waste Bureau Chief Nance on Monday, September 9th, 2024 to discuss the changed conditions at the MWL that were not addressed in the Second Five Year Review, including climate change. In fact, climate change was not addressed at all.

We also discussed the need for the NMED to re-evaluate its decision to leave the waste in place and not to excavate the MWL. CCNS's concerns and requests are directed to the NMED to "open" the Five-Year Reports in light of the climate change "triggers" and "other variables" that necessitate excavation, processing and removing the waste to an appropriate onsite and offsite regulated facilities.

CCNS has a couple of questions that arise as to NMED's decisionmaking processes:

1. Would climate change be addressed in a permit modification process?
2. Would it be a Class 2 or Class 3 permit modification request?
3. Would climate change be addressed in the corrective action complete determination?
4. How well is the NMED approved remedy working to protect human health and the environment?
5. Has the non-Resource Conservation and Recovery Act (RCRA) approved evapotranspiration (EV) cover worked to protect human health and the environment in the same manner as a RCRA approved cover would?

Climate change brings a host of unpredictable risks including storms and flooding to the MWL. CCNS is concerned the Second Five-Year Report did not fully address these risks. Further, according to § 4.5.1, 'Risk Assessment Result for the Mixed Waste Landfill', sentences 12 to 14 state:

The assessment did not consider risk posed by the waste constituents in the pits and trenches that have not been released into the environment.

It is unknown how those unreleased waste constituents in the pits and trenches will react during extreme storms and increased flooding due to climate change. We do know that there are large uncertainties and speculation about how the multiple climate change variables may interact and impact the MWL and its released and unreleased contents.

The Water Protection Advisory Board (Albuquerque, Bernalillo County and Governing Board) Annual Reports for 2016, 2017 and 2020 state the dump contains a mixture of hundreds of types of classified and unclassified toxic chemicals and long-lived radioactive wastes.

One of CCNS's major concerns is such a constituent: metallic sodium. Canisters containing spent fuel from reactor meltdown experiments with up to potentially explosive 5 kg of metallic sodium in each were placed in Pits 35 and 36. Additional canisters containing spent fuel were placed in vertical small diameter holes drilled in the bottom of trenches but their locations are unknown. The canisters are subject to corrosion and explosion as occurred at a mixed waste facility in Beatty, Nevada in 2015.

As you know, the potential volatility of the MWL has Albuquerque residents and Tribal environmental justice communities on edge. Evacuation of the MWL cannot happen soon enough for those living in those communities.

In April 2023 President Biden signed his "Justice 40" Executive Order 14096 on *Revitalizing Our Nation's Commitment to Environmental Justice for All*. The Executive Order was not mentioned in the December 1, 2023 submitted Second Five-Year Review of the MWL even though it was signed by President Biden at least seven months prior to submittal. Given the diversity of population surrounding the MWL, the DOE's oversight of its responsibilities to

address its Justice 40 obligations require NMED to acknowledge that the Justice 40 “trigger” or “variable” was not addressed in the Second Five-Year Review.

Further, the Department of Energy is a Justice 40 Initiative Covered Program.

https://www.whitehouse.gov/wp-content/uploads/2023/11/Justice40-Initiative-Covered-Programs-List_v2.0_11.23_FINAL.pdf

Beginning on p. 8 of the pdf, the DOE has 167 Justice 40 covered programs. These include the following that may be applicable to NMED’s decisionmaking about next steps for the MWL:

Under the title *Office of Environmental Management (EM)* (p. 10 of the pdf),

- 75. Community Engagement Cooperative Agreements Related to Soil & Groundwater Remediation
- 76. Community Engagement Grants Related to Soil & Groundwater Remediation
- 80. Non-Superfund Soil & Groundwater Remediation Sandia National Lab

Under the title *National Nuclear Security Administration (NNSA)* (p. 12 of the pdf),

- 133. Long-term Stewardship (LTS)

Obviously, while Sandia acknowledged excavation of the MWL could be possible, it did not review the Justice 40 Initiatives that are available that would further support community engagement agreements and grants related to soil and groundwater remediation at the MWL.

Unfortunately, as for many of the federal facilities in New Mexico, it is necessary for NMED to grid up its loins and regulated these facilities to the fullest extent of the law in order to protect public health and the environment.

One recent noteworthy example is that NMED has recommended excavation of another dump in New Mexico – the Material Disposal Area C (MDA C) at Los Alamos National Laboratory (LANL). LANL opposes excavation. However, MDA C is also covered by Justice 40:

Again, under the title *Office of Environmental Management (EM)* (p. 10 of the pdf),

- 75. Community Engagement Cooperative Agreements Related to Soil & Groundwater Remediation
- 76. Community Engagement Grants Related to Soil & Groundwater Remediation
- 77. Non-Superfund Soil & Groundwater Remediation Los Alamos National Lab (EM-LA)

Under the title *National Nuclear Security Administration (NNSA)* (p. 12 of the pdf),

- 133. Long-term Stewardship (LTS)

CCNS requests NMED uses the Justice 40 tools to require excavation of the MWL now – not later – because the tools are available for community engagement, with grant funding to ensure the cleanup of the MWL will be good for all.

Thank you for your careful consideration of CCNS’s comments.

Sincerely,

Joni Arends, Co-founder and Executive Director