



Department of Energy

Washington, DC 20585

October 29th, 2020

Ms. Patricia K. Holahan
Director
Division of Decommissioning, Uranium Recovery, and Waste Programs
U.S. Nuclear Regulatory Commission
Washington, DC 20555

SUBJECT: RECOMMENDATION TO IDENTIFY AND ADDRESS NEW CLEANUP WORK BEYOND
THE DEPARTMENT OF ENERGY'S STEWARDSHIP MISSION AT URANIUM MILL
TAILINGS RADIATION CONTROL ACT REGULATED SITES

Dear Ms. Holahan:

In May 2020, the Department of Energy (DOE) received the Government Accountability Office's (GAO) report to the U.S. Senate Committee on Armed Services entitled, *Environmental Liabilities: DOE Needs to Better Plan for Post-Cleanup Challenges Facing Sites (GAO-20-373)*. Among the three recommendations for Executive Action in the report, the second covers the work performed by the Office of Legacy Management (LM) at sites regulated by the Nuclear Regulatory Commission (NRC) under the Uranium Mill Tailings Radiation Control Act (UMTRCA).

During the GAO audit interviews with DOE staff, LM identified challenges in providing long-term surveillance and maintenance (LTSM) of sites related to: remedies containing or reducing contamination not performing as predicted or intended, environmental conditions, and new regulatory requirements. GAO found that although LM is taking action to address these challenges, DOE had not yet planned for how to address such conditions or situations at sites remediated by private licensees under Title II of UMTRCA, which may require new cleanup or corrective work not in the scope of LM's expertise and resources. In contrast to UMTRCA Title II sites, at sites remediated by the U.S. Army Corps of Engineers (USACE) under the Formerly Utilized Sites Remedial Action Program (FUSRAP), USACE can perform additional cleanup actions, post-LTSM, when it determines such actions are necessary or DOE can return FUSRAP sites to USACE for situations where a remedy fails or new areas of contamination are identified.

Pursuant to GAO's second recommendation, DOE is requesting NRC's clarification and interpretation of the pertinent Acts and Regulations for the following two inquiries:

- (1) Is there a feasible approach for a former private licensee to perform additional cleanup work or take other actions to address or correct a defective remedy at a site in DOE long-term stewardship?***
- (2) Can NRC oversee additional work by the former licensee or DOE/NRC seek recovery of federal government costs from that licensee for any additional cleanup if a remedy fails or new areas of contamination are identified?; Under what conditions can DOE return a site to NRC or a licensee?***

Addressing GAO's recommendation will make us more effective in our commitment to stewardship, protection of human health and the environment, as well as a judicious planning and use of appropriated funds allocated to maintain legacy sites. Thank you for your attention to this matter. Please contact Dr. David Shafer, david.shafer@lm.doe.gov, for any further discussions and staffing.

Sincerely,

A handwritten signature in black ink, appearing to read "Carmelo Melendez", is written over the typed name.

Carmelo Melendez

Director

Office of Legacy Management