

*Appendix to the Consent Decree in United States and New Mexico Environment Department v.  
United Nuclear Corporation*

## **APPENDIX B**

### **Scope of Work**

**APPENDIX B**

**For Consent Decree in United States et al. v. United Nuclear Corporation and The General  
Electric Company (D. NM)**

**REMEDIAL ACTION STATEMENT OF WORK**

**UNITED NUCLEAR CORPORATION SUPERFUND SITE OPERABLE UNIT 02  
AND NORTHEAST CHURCH ROCK MINE**

**MCKINLEY COUNTY, NEW MEXICO**

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## 1. INTRODUCTION

**1.1 Purpose of Statement of Work (SOW).** This SOW sets forth the procedures and requirements for implementing the Work required pursuant to the above-referenced Consent Decree (Decree).

**1.2 Structure of the SOW**

- Section 1 (Introduction) defines the purpose of the SOW, sets forth the structure of the SOW, provides the Scope of the Response Actions, and identifies where terms found in this SOW are defined.
- Section 2 (Community Involvement) sets forth the United States Environmental Protection Agency (USEPA) and Settling Defendants' responsibilities for community involvement.
- Section 3 (Coordination and Supervision) contains the provisions for selecting the Supervising Contractor and Project Coordinators regarding the Work.
- Section 4 Not Used
- Section 5 (Response Actions) sets forth requirements regarding the completion of the Remedial Action, including primary deliverables related to completion of the Response Actions.
- Section 6 Not Used
- Section 7 (Reporting) sets forth Settling Defendants' reporting obligations.
- Section 8 (Deliverables) describes the contents of the supporting deliverables and the general requirements regarding Settling Defendants' submission of, and USEPA's review of, approval of, comment upon, and/or modification of, the deliverables.
- Section 9 (Schedules) sets forth the schedule for submitting the primary deliverables, specifies the supporting deliverables that must accompany each primary deliverable, and sets forth the schedule of milestones regarding the completion of the Remedial Action.
- Section 10 (Supporting Agencies' Participation) addresses the State of New Mexico and the Navajo Nation participation.
- Section 11 (References) provides a list of references, including URLs.

**1.3** The Scope of the Response Actions includes the actions described in Section V.A.1 of the 2011 Non-Time Critical Action Memo (2011 Action Memo) and Section 2.9.5 of the 2013 Record of Decision (2013 ROD). Some aspects of the response actions selected in the 2011 Action Memo and 2013 ROD have been completed, as noted below:

- **Repository Design.** Design a repository for the contaminated material excavated and removed from the Northeast Church Rock Mine Site (NECR Site). (2011 Action Memo and 2013 ROD). USEPA has approved the 100% design and related deliverables. On February 8, 2024, USEPA issued a Notice of Completion for the Modification of Administrative Settlement Agreement and Order on Consent, U.S. EPA Region 9, CERCLA Docket Nos. 06-09-14 (R6) and 09-2015-02 (R9), which required submittal of the 100% design.

- **Baseline Sampling.** If necessary, conduct any additional baseline sampling to assess current site conditions prior to construction and waste disposal. (2011 Action Memo and 2013 ROD)
- **Construction.** Construct a repository on the United Nuclear Corp. Mill Site (UNC Site) to contain the contaminated mine waste and soil excavated and removed from the NECR Site in accordance with the approved design specifications. (2011 Action Memo and 2013 ROD)
- **Excavation.** Excavation at the NECR Site and transportation of waste with concentrations of uranium and Radium-226 (Ra-226) that exceed the applicable action levels as specified in the 2011 Action Memo and 2013 ROD (“Action Levels”) to the repository at the UNC Site for co-disposal at the existing Tailings Disposal Cells (as defined in the 2011 Action Memo). Confirmation that all waste exceeding Action Levels has been excavated shall be provided by sample results that are below the Action Levels per the Multi-Agency Radiation Survey and Site Investigation Manual (MARSSIM) procedures. (2011 Action Memo)
- **Receiving.** NECR Site waste that is transported to the UNC Site will be disposed of in the Tailings Disposal Area. All such waste will contain concentrations of uranium and radium 226 (Ra-226) that exceed Action Levels. (2013 ROD)
- **Principal Threat Waste.** All NECR Site waste containing either 200 picocuries per gram (pCi/g) or more of Ra-226 or 500 milligram per kilogram (mg/kg) or more of total uranium is considered Principal Threat Waste. To treat this Principal Threat Waste, the 2011 Action Memo calls for reprocessing of the Principal Threat Waste to reclaim metals and radionuclides. If reprocessing technologies are not technically feasible or are not available within a reasonable timeframe as determined by the USEPA, then the Principal Threat Waste will be disposed of in a facility that has been determined by USEPA to be acceptable under the Off-site Rule, 40 CFR § 300.440. (2011 Action Memo)
- **Confirmation Sampling.** Conduct confirmation scanning, sampling and analysis to ensure that the Action Levels have been met in excavated areas per MARSSIM procedures. (2011 Action Memo)
- **Closure.** Once all contaminated mine waste and soil is excavated from the NECR Site, as described under “Excavation” above, transported to the repository, and disposed of in the repository at the Tailings Disposal Cells, the portion of the Tailings Disposal Cells containing NECR Mine waste will be closed, and the cap will be put in place. (2011 Action Memo and 2013 ROD.)
- **Site Re-vegetation.** Re-vegetation activities will include the backfilling and regrading of areas disturbed during implementation of the Work. These areas will also be re-vegetated with native species. (2011 Action Memo and 2013 ROD) (Note: The area outside this portion of the Work is being addressed under the U.S.

Nuclear Regulatory Commission (NRC) Source Materials License SUA-1475 (“NRC License.”)

- **Institutional Controls.** USEPA Region 6 selected institutional controls to help protect the cap and prevent exposure to the waste. Well completion at the UNC Site will be regulated by the New Mexico Office of the State Engineer. USEPA, working with NRC, will install warning signs at the UNC Site and will publish notices in a newspaper of general circulation warning area residents of the dangers of the chemicals of concern and how to avoid exposure to the potential contamination associated with the UNC Site. USEPA Region 9 will work with the Navajo Nation to implement institutional controls to ensure protectiveness of the NECR Site should waste material above the Action Levels be left in place. (2011 Action Memo and 2013 ROD)
- **Housing.** Future Response Costs will include the costs of Voluntary Alternative Housing provided by USEPA for residents significantly impacted by disruptions associated with the Removal Action. (Note: USEPA has arranged for housing for approximately 80% of the residents and anticipates finalizing the housing for the remaining residents that have requested housing prior to the start of construction.)

**1.4** Performance Standards are defined in the 2011 Action Memo and the 2013 ROD and were developed in the preliminary design. The Performance Standards include both general and specific standards applicable to the Work elements and associated Work components. Details of the Performance Standards can be found in the 100% final design.

**1.5** The terms used in this SOW that are defined in the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), in regulations promulgated under CERCLA, in the Decree, in the 2011 Action Memo, or in the 2013 ROD have the meanings assigned to them in CERCLA, in such regulations, in the Decree, in the 2011 Action Memo, or in the 2013 ROD except that the term “Paragraph” or “¶” means a paragraph of this SOW, and the term “Section” means a section of this SOW, unless otherwise stated.

## **2. COMMUNITY INVOLVEMENT**

**2.1** As requested by USEPA, Settling Defendants shall conduct community involvement activities under USEPA’s oversight as provided for in this Section. Such activities shall include designation of a Community Involvement Coordinator (CI Coordinator), who shall either have some proficiency in Navajo or work with a translator. USEPA is committed to providing comprehensive support to communities in the NECR/UNC Site area.

### **2.2 Community Involvement Responsibilities**

- (a) USEPA has the lead responsibility for developing and implementing community involvement activities at the CD Site. USEPA is working to strengthen ties with

other federal, tribal, and community organizations in the Navajo Nation, and will also update community members on agency efforts. USEPA has developed two Community Involvement Plans (CIP) for the CD Site: NECR and Kerr-McGee Quivira Mines CIP (USEPA, 2016) and the UNC Mill Site CIP (USEPA, 2018). The Navajo Nation Environmental Protection Agency (NNEPA) will be informed of all community involvement activities at the CD Site, will assist with community involvement activities and will be present at all community involvement coordinated events concerning the NECR and Kerr-McGee Quivira Mines. The New Mexico Environment Department (NMED) may support USEPA with community involvement activities, at the request of USEPA. If requested by USEPA, Settling Defendants shall support USEPA's community involvement activities. In accordance with 40 C.F.R. § 300.435(c), USEPA shall periodically review the existing CIPs and determine whether either one should be revised to describe further public involvement activities during the Work that are not already addressed or provided for in the existing CIPs, including any use of the Technical Assistance Services for Communities (TASC) contractor Technical Assistance Grant (TAG).

- (b) USEPA Region 9 will be the lead USEPA Community Involvement Coordinator for Navajo Nation Community Involvement for USEPA. USEPA Region 6 will be the lead USEPA Community Involvement Coordinator for New Mexico Community Involvement for USEPA. USEPA will notify the Settling Defendants if USEPA elects to change the lead USEPA Community Involvement Coordinator Region for the Navajo Nation. All correspondence regarding Community Involvement shall include both Region 6 and Region 9 Community Involvement Coordinators, as well as USEPA Project Coordinators.
- (c) If requested by USEPA, Settling Defendants shall assist USEPA in implementing community involvement activities, including but not limited to the following: (1) preparation of information regarding the Work for dissemination to the public, with consideration given to including mass media and/or Internet notification; (2) public meetings that may be held or sponsored by USEPA to explain activities at or relating to the Site; (3) providing access to initial submissions and updates of deliverables to Community Advisory Groups and their advisors and other entities; and (4) providing support to USEPA to maintain, update and refresh public information repositories. USEPA intends to coordinate with other work groups to also support community involvement activities. All community involvement activities conducted by the Settling Defendants at USEPA's request are subject to USEPA's oversight, review, and approval.
- (d) If requested by USEPA, Settling Defendants shall, within 30 days, designate and notify USEPA of Settling Defendants' CI Coordinator. Settling Defendants may hire a contractor for this purpose. Settling Defendants' notice must include the name, title, and qualifications of the Settling Defendants' CI Coordinator. Settling Defendants' CI Coordinator shall coordinate their activities with USEPA's CI Coordinator, provide support regarding USEPA's community

involvement activities, and, as requested by USEPA's CI Coordinator, provide draft responses to the public's inquiries, including requests for information or data about the Site.

- (e) As requested by USEPA, Settling Defendants shall develop and provide to USEPA information about the implementation and operation and maintenance of the remedy. The USEPA Project Coordinator may use this information for communication to the public via USEPA's website, social media, or local and mass media. The information provided to USEPA should be suitable for sharing with the public and the education levels of the community. Written documents are required to be compliant with Section 508 requirements of the Rehabilitation Act of 1973 (29 U.S.C. Section 794(d), as amended in 1998, if requested by USEPA. USEPA also may ask Settling Defendants to provide information about the Work on Settling Defendants' website.

### **3. COORDINATION AND SUPERVISION**

#### **3.1 Project Coordinators**

- (a) Settling Defendants' Project Coordinator must have sufficient technical expertise to coordinate the Work. Settling Defendants' Project Coordinator may not be an attorney representing any Settling Defendants in this matter. The Project Coordinator may assign other representatives, including other contractors, to assist in coordinating the Work.
- (b) USEPA Region 6 is the lead USEPA region for all Work conducted on the UNC Site and USEPA Region 9 is the lead USEPA region for all other Work under the SOW.
- (c) Settling Defendants shall address all correspondence to USEPA Region 6 for deliverables for Work on the UNC Site. Settling Defendants shall include "UNC Site Item" in the subject line and copy USEPA Region 9 on the transmittal. Settling Defendants shall address all correspondence to USEPA Region 9 for deliverables for all other Work. Settling Defendants shall include "NECR Site Item" in the subject line and copy USEPA Region 6. For Work that is related to both Sites, Settling Defendants shall send deliverables to both USEPA Regions 6 and 9 and shall include the designation "Both Sites Item."
- (d) USEPA shall designate and notify the Settling Defendants of USEPA's Project Coordinators and Alternate Project Coordinators for both Region 6 and Region 9. USEPA may designate other representatives, which may include its employees, contractors, and/or consultants, to oversee the Work. USEPA's Project Coordinators/Alternate Project Coordinators will have the same authority as a remedial project manager and/or an on-scene coordinator, as described in the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). This includes the authority to halt the Work and/or to conduct or direct any necessary response action when it is determined that conditions at the



CD Site constitute an emergency or may present an immediate threat to public health or welfare or the environment due to a release or threatened release of Waste Material.

- (e) The State shall designate and notify USEPA and the Settling Defendants of its Project Coordinator and Alternate Project Coordinator. The State may designate other representatives, including its employees, contractors and/or consultants, to oversee the Work. For any meetings and inspections in which USEPA's Project Coordinator participates, the State's Project Coordinator also may participate. Settling Defendants shall notify the State reasonably in advance of any such meetings or inspections.
- (f) The Navajo Nation shall designate and notify USEPA and the Settling Defendants of its Project Coordinator. The Navajo Nation may designate other representatives, including its employees, contractors and/or consultants, to oversee the Work. For any meetings and inspections in which USEPA's Project Coordinator participates, the Navajo Nation's Project Coordinator also may participate. Settling Defendants shall notify the Navajo Nation reasonably in advance of any such meetings or inspections.
- (g) Settling Defendants' Project Coordinators shall communicate with USEPA's, NMED's and the Navajo Nation's Project Coordinators at least monthly, or when requested by USEPA. All correspondence directed to the USEPA Project Coordinator for one Region must be copied to the USEPA Project Coordinator for the other Region and to NMED and Navajo Nation Project Coordinators.

**3.2 Supervising Contractor.** Settling Defendants' proposed Supervising Contractor must have sufficient technical expertise to supervise the Work and a quality assurance system that complies with the most recent version of *Quality Systems for Environmental Data and Technology Programs -- Requirements with Guidance for Use* (American National Standard), ANSI/ASQC E4 (Feb. 2014).

### **3.3 Procedures for Disapproval/Notice to Proceed**

- (a) Settling Defendants shall designate, and notify USEPA, within 15 days after the Effective Date, of the name, title, contact information, and qualifications of the Settling Defendants' proposed Project Coordinator and Supervising Contractor, whose qualifications shall be subject to USEPA's review for verification based on objective assessment criteria (e.g., experience, capacity, technical expertise). Settling Defendants' Project Coordinator and Supervising Contractor must not have a conflict of interest with respect to the project.
- (b) USEPA shall issue notices of disapproval and/or authorizations to proceed regarding any proposed Project Coordinator and Supervising Contractor, as applicable. If USEPA issues a notice of disapproval pursuant to ¶ 3.3(c), Settling Defendants shall, within 30 days, submit to USEPA a list of supplemental proposed Project Coordinators and/or Supervising Contractors, as

applicable, including a description of the qualifications of each. Settling Defendants may select any coordinator/contractor covered by an authorization to proceed and shall, within 21 days, notify USEPA of Settling Defendants' selection.

- (c) USEPA may disapprove the proposed Project Coordinator, the Supervising Contractor, or both, based on objective assessment criteria (*e.g.*, experience, capacity, technical expertise), if they have a conflict of interest regarding the project, or any combination of these factors.
- (d) Settling Defendants may change their Project Coordinator and/or Supervising Contractor, or both, by following the procedures of ¶¶ 3.3(a) and ¶ 3.3(b).

#### 4. NOT USED

#### 5. RESPONSE ACTIONS

##### 5.1 **Response Actions Work Plan (RAWP).** Settling Defendants shall submit a RAWP for USEPA approval that includes:

- (a) Plans for implementing all activities identified in this SOW, or required by USEPA in accordance with ¶29 of the Decree to be conducted to implement the Work;
- (b) Designation of Settling Defendants' Project Coordinator, Independent Quality Assurance Team, if necessary, and other key project management personnel, along with lines of authority and descriptions of duties;
- (c) A description of the overall management strategy for performing the Work and the responsibility and authority of all organizations and key personnel, including a proposal for initiating elements of construction concurrent with design submittals review, if applicable;
- (d) A description of the proposed general approach to contracting, operation, maintenance, and monitoring as necessary to implement the Work;
- (e) Schedule of major milestones in construction; mobilize within 6 months, excavate and haul 500,000 cubic yards within 30 months, reseeding on the NECR Site within 36 months, and start the placement of the Riprap on the UNC Site (Pipeline Arroyo) within 33 months from USEPA approval of the RAWP and Contractor Supporting Documents.
- (f) Procedures to address potential unknown features, such as an old vent hole, if encountered during excavation;
- (g) Procedures for Settling Defendants to notify USEPA, with a copy to NMED and NNEPA, of substantial deviations from the RAWP and to address deviations from the RAWP, upon receipt of notice from USEPA;

- (h) Procedures to sequence the Work under this Decree to avoid conflicts or disruption of CERCLA response actions within the CD Site, and to prevent impacts to ongoing ground water response at the UNC Site or to reclamation activities conducted pursuant to NRC licensing authority.

**5.2 Independent Quality Assurance Team (IQAT).** If requested by USEPA, Settling Defendants shall notify USEPA of Settling Defendants' designated IQAT. The IQAT must be independent of, and cannot include, the Supervising Contractor. Settling Defendants may hire a third party for this purpose. Settling Defendants' notice must include the names, titles, contact information, and qualifications of the members of the IQAT. The IQAT will have the responsibility to determine whether Work is of expected quality and conforms to applicable plans and specifications. The IQAT will have the responsibilities described in ¶ 2.1.3 of the *Guidance on EPA Oversight of Remedial Designs and Remedial Actions Performed by Potentially Responsible Parties*, EPA/540/G-90/001 (Apr. 1990).

### **5.3 Meetings and Inspections**

- (a) **Preconstruction Conference.** Settling Defendants shall hold a preconstruction conference with USEPA, NNEPA, and others as directed or approved by USEPA and as described in the *Remedial Design/Remedial Action Handbook*, EPA 540/R-95/059 (June 1995). Settling Defendants shall prepare minutes of the conference and shall distribute the minutes to all Parties.
- (b) **Periodic Communications.** During the construction portion of the Remedial Action (Remedial Action Construction), Settling Defendants shall communicate regularly with USEPA, depending on the phase of Work currently underway, and others, as directed or determined by USEPA, to discuss construction issues. NMED and NNEPA shall be informed of such communications and, where feasible, provided with an opportunity to participate. Bi-weekly onsite progress meetings, which may be convened via telephone call or other electronic means (i.e., Microsoft Teams), shall be scheduled while field work is in progress. Settling Defendants shall distribute an agenda and list of attendees to all Parties prior to each meeting. Settling Defendants shall prepare minutes of the meetings and shall distribute the minutes to all Parties.
- (c) **Inspections**
  - (1) USEPA or its representative may have an on-site presence during the Work. At USEPA's request, the Supervising Contractor or other designee shall accompany USEPA while on the NECR Site or UNC Site.
  - (2) USEPA shall also develop and implement its Quality Verification Program for key elements of the Remedial Action, as defined in the Decree, including oversight, sampling and measurements.
  - (3) Upon notification by USEPA of any material deficiencies, Settling Defendants shall take all necessary steps to correct the deficiencies and/or

bring the Work into compliance with all deliverables approved under this SOW and any approved design changes. If applicable, Settling Defendants shall comply with any reasonable schedule provided by USEPA in its notice of deficiency.

- (4) Settling Defendants shall provide two, on-site office spaces for USEPA personnel or their contractors to perform their oversight duties. The minimum office requirements are a private office with at least 150 square feet of floor space, an office desk with chair, and wireless internet access, and reasonable availability of sanitation facilities.

#### 5.4 Permits

- (a) As provided in CERCLA § 121(e), and Section 300.400(e) of the NCP, no permit is required for any portion of the Work conducted entirely on-site (*i.e.*, within the areal extent of contamination or in very close proximity to the contamination and necessary for implementation of the Work). When any portion of the Work that is not on-site requires a federal or state permit or approval, Settling Defendants shall submit timely and complete applications and take all other actions necessary to obtain all such permits or approvals.
- (b) Settling Defendants may seek relief under the provisions of Section XI (Force Majeure) of the Decree for any delay in the performance of the Work resulting from a failure to obtain, or a delay in obtaining, any permit or approval referenced in ¶ 5.4(a) and required for the Work, provided that they have submitted timely and complete applications and taken all other actions necessary to obtain all such permits or approvals.
- (c) Nothing in the Decree or this SOW constitutes a permit issued under any federal or state statute or regulation.

#### 5.5 Emergency Response and Reporting

- (a) **Emergency Action.** If any event occurs during performance of the Work that causes or threatens to cause a release of Waste Material on, at, or from the CD Site, and that either constitutes an emergency situation or that may present an immediate threat to public health or welfare or the environment, Settling Defendants shall: (1) immediately take all reasonable and appropriate action to prevent, abate, or minimize such release or threat of release; (2) immediately notify the authorized USEPA officer (as specified in ¶ 5.5(c)) orally; and (3) take such actions in consultation with the authorized USEPA officer and in accordance with all applicable provisions of the approved 100% Design Health and Safety Plan and Release Contingency and Prevention Plan and any other deliverable approved by USEPA under the SOW.
- (b) **Release Reporting.** Upon the occurrence of any event during performance of the Work that Settling Defendants are required to report under CERCLA § 103 or Section 304 of the Emergency Planning and Community Right-to-Know Act

(EPCRA), Settling Defendants shall immediately notify the authorized USEPA officer orally.

- (c) The “authorized USEPA officer,” for purposes of immediate oral notifications and consultations under ¶ 5.5(a) and ¶ 5.5(b), is the USEPA Project Coordinator, the USEPA Alternate Project Coordinator (if the USEPA Project Coordinator is unavailable), or USEPA Emergency Response Unit, Region 6 if the release occurs on the UNC Site or Region 9, if release occurs off of the UNC Site.
- (d) For any event covered by ¶ 5.5(a) and ¶ 5.5(b), Settling Defendants shall:
  - (1) within 14 days after the onset of such event, submit a report to USEPA describing the actions or events that occurred and the measures taken, and to be taken, in response thereto; and
  - (2) within 30 days after the conclusion of such event, submit a report to USEPA describing all actions taken in response to such event. Copies of these reports shall be provided to the NMED and NNEPA Project Coordinators. In addition, notification provided to USEPA under ¶ 5.5(a) shall be provided as soon as possible to NNEPA.
- (e) The reporting requirements listed under ¶ 5.5 (d) are in addition to the release reporting required by CERCLA § 103 or EPCRA § 304.

## 5.6 Off-Site Shipments

- (a) Settling Defendants may ship hazardous substances, pollutants, and contaminants from the Site to an off-Site facility only if they comply with CERCLA § 121(d)(3), and 40 C.F.R. § 300.440. Settling Defendants will be deemed to be in compliance with CERCLA § 121(d)(3) and 40 C.F.R. § 300.440 regarding a shipment if Settling Defendants obtain a prior determination from USEPA that the proposed receiving facility for such shipment is acceptable under the criteria of 40 C.F.R. § 300.440(b).
- (b) Settling Defendants may ship Waste Material from the Site to an out-of-state waste management facility only if, prior to any shipment, they provide notice to the appropriate state environmental official in the receiving facility’s state and obtain approval from the Region 9 USEPA Project Coordinator under *Region 9 Superfund-wide Standard Operating Procedure for Waste Determination and Disposal of Remediation Waste Implementation Procedures* (Jan. 2018). This notice requirement will not apply to any off-site shipment when the total quantity of such shipment does not exceed 10 cubic yards. The notice must include the following information, if available: (1) the name and location of the receiving facility; (2) the type and quantity of Waste Material to be shipped; (3) the schedule for the shipment; and (4) the method of transportation. Settling Defendants also shall notify the state environmental official referenced above and the USEPA Project Coordinator of any major changes in the shipment plan, such as a decision to ship the Waste Material to a different out-of-state facility. Settling Defendants shall provide the notice after the award of the contract for

Remedial Action construction and before the Waste Material is shipped. Off-Site shipments of Waste Material, if any, from the UNC Site will be handled in accordance with Paragraph 5.6(a) above.

- (c) Settling Defendants may ship Investigation Derived Waste (IDW) from the CD Site to an off-Site facility only if they comply with CERCLA § 121(d)(3), 40 C.F.R. § 300.440, *EPA's Guide to Management of Investigation Derived Waste*, OSWER 9345.3-03FS (Jan. 1992), and any IDW-specific requirements contained in the Record of Decision. Wastes shipped off-Site to a laboratory for characterization, and RCRA hazardous wastes that meet the requirements for an exemption from RCRA under 40 CFR § 261.4(e) for wastes shipped off-site for treatability studies, are not subject to 40 C.F.R. § 300.440.

## 5.7 Non-Time Critical Removal Action (NTCRA) and Certification of NTCRA Completion

- (a) **NTCRA Completion Inspection.** The NTCRA is “Complete” for purposes of this paragraph when construction and revegetation have been fully performed and the Performance Standards, except for O&M and revegetation success as specified in Appendix U, Revegetation Plans, to the 100% design, set forth in the 2011 Action Memo and specified in the approved design have been achieved. Settling Defendants shall schedule an inspection for the purpose of obtaining USEPA’s Certification of NTCRA Completion. The inspection must be attended by Settling Defendants and USEPA and/or their representatives. NNEPA and NMED shall be invited to attend the inspection.
- (b) **NTCRA Report.** Following the inspection, Settling Defendants shall submit a NTCRA Report to USEPA requesting USEPA’s Certification of NTCRA Completion. The report must: (1) include certifications by a New Mexico registered professional engineer and by Settling Defendants’ Project Coordinator that the Remedial Action is complete; (2) include as-built drawings signed and stamped by a New Mexico registered professional engineer; (3) be prepared in accordance with Chapter 2 of USEPA’s *Close Out Procedures for NPL Sites* guidance (May 2011), as supplemented by *Guidance for Management of Superfund Remedies in Post Construction*, OLEM 9200.3-105 (Feb. 2017); (4) contain monitoring data to demonstrate that Performance Standards have been achieved; and (5) be certified in accordance with ¶ 8.5 (Certification).
- (c) If USEPA concludes that the NTCRA is not Complete, USEPA shall so notify Settling Defendants, with a copy to NMED and NNEPA. USEPA’s notice must include a description of any deficiencies. USEPA’s notice may include a schedule for addressing such deficiencies or may require Settling Defendants to submit a schedule for USEPA approval. Settling Defendants shall perform all activities described in the notice in accordance with the schedule.
- (d) If USEPA concludes, based on the initial or any subsequent NTCRA Report requesting Certification of NTCRA Completion, that the NTCRA is Complete,



USEPA shall so certify to Settling Defendants, with a copy to NNEPA. This certification will constitute the Certification of Completion for purposes of the NTCRA.

## 5.8 Remedial Action (RA) Construction Completion

- (a) For purposes of this ¶ 5.7, “Remedial Action Construction” comprises, for any Remedial Action that involves the construction and operation of a system to achieve Performance Standards, the construction of such system and the performance of all activities necessary for the system to function properly and as designed.
- (b) **Inspection of Constructed Remedy.** Settling Defendants shall schedule an inspection to review the construction and operation of the system and to review whether the system is functioning properly and as designed. The inspection must be attended by Settling Defendants and USEPA and/or their representatives. NNEPA and NMED shall be invited to attend the inspection. A reinspection must be conducted if requested by USEPA.
- (c) **Remedial Action Report.** Settling Defendants shall submit a “Remedial Action Report” requesting USEPA’s determination that Remedial Action Construction has been completed before O&M implementation. The Remedial Action Report must: (1) include statements by a registered professional engineer and by Settling Defendants’ Project Coordinator that the construction of the system is complete and that the system is functioning properly and as designed; (2) include a demonstration, and supporting documentation, that construction of the system is complete and that the system is functioning properly and as designed; (3) include as-built drawings signed and stamped by a registered professional engineer; (4) be prepared in accordance with Chapter 2 (Remedial Action Completion) of USEPA’s *Close Out Procedures for NPL Sites* guidance (May 2011), as supplemented by *Guidance for Management of Superfund Remedies in Post Construction*, OLEM 9200.3-105 (Feb. 2017); and (5) be certified in accordance with ¶ 8.5 (Certification).
- (d) If USEPA determines that Remedial Action Construction is not complete, USEPA shall so notify Settling Defendants, with a copy to NMED and NNEPA. USEPA’s notice must include a description of, and schedule for, the activities that Settling Defendants must perform to complete Remedial Action Construction. USEPA’s notice may include a schedule for completion of such activities or may require Settling Defendants to submit a proposed schedule for USEPA approval. Settling Defendants shall perform all activities described in the USEPA notice in accordance with the schedule.
- (e) If USEPA determines, based on the initial or any subsequent Remedial Action Report, that Remedial Action Construction is complete, USEPA shall so notify Settling Defendants, with a copy to NNEPA.

**5.9 Periodic Review Support Plan (PRSP).** Settling Defendants shall submit the PRSP for USEPA approval. The PRSP addresses the studies and investigations that Settling Defendants shall conduct to support USEPA's reviews of whether the Remedial Action is protective of human health and the environment in accordance with CERCLA § 121(c) (also known as "Five-Year Reviews"). Settling Defendants shall develop the plan in accordance with *Comprehensive Five-year Review Guidance*, OSWER 9355.7-03B-P (June 2001), and any other relevant five-year review guidance.

**5.10 Certification of Work Completion**

- (a) **Work Completion Inspection.** Settling Defendants shall schedule an inspection for the purpose of obtaining USEPA's Certification of Work Completion. The inspection must be attended by Settling Defendants and USEPA and/or their representatives. NMED and NNEPA shall be invited to attend the inspection.
- (b) **Work Completion Report.** Following the inspection, Settling Defendants shall submit a report to USEPA requesting USEPA's Certification of Work Completion. The report must: (1) include certifications by a registered professional engineer and by Settling Defendants' Project Coordinator that the Work, including all O&M activities at the NECR Site and the UNC Site, is complete; and (2) be certified in accordance with ¶ 8.5 (Certification). If the Remedial Action Report submitted under ¶ 5.8(c) **Error! Reference source not found.** includes all elements required under this ¶ 5.10(b), then the Remedial Action Report suffices to satisfy all requirements under this ¶ 5.10(b).
- (c) If USEPA concludes that the Work is not complete, USEPA shall so notify Settling Defendants, with a copy to NNEPA. USEPA's notice must include a description of the activities that Settling Defendants must perform to complete the Work. USEPA's notice must include specifications and a schedule for such activities or must require Settling Defendants to submit specifications and a schedule for USEPA approval. Settling Defendants shall, subject to their right to initiate dispute resolution under Section XII **Error! Reference source not found.** of the Decree, perform all activities described in the notice or in the USEPA-approved specifications and schedule.
- (d) If USEPA concludes, based on the initial or any subsequent report requesting Certification of Work Completion, that the Work is complete, USEPA shall so certify in writing to Settling Defendants, with a copy to NNEPA. Issuance of the Certification of Work Completion does not affect the following continuing obligations: (1) activities under the PRSP; (2) obligations under Sections VII (Property Requirements), and XVII (Records) of the Decree; (3) Institutional Controls obligations as provided in the Institutional Control Implementation and Assurance Plan; and (4) reimbursement of USEPA's Future Response Costs under Section X (Payments for Response Costs) of the Decree.



**6. NOT USED**

**7. REPORTING**

**7.1 Monthly Progress Reports.** Commencing with the month following lodging of the Decree and until USEPA approves the Remedial Action Construction Completion, Settling Defendants shall submit progress reports to USEPA on a monthly basis, or as otherwise reasonably requested by USEPA. The reports must cover all activities that took place during the prior reporting period, including:

- (a) The actions that have been taken toward achieving compliance with the Decree;
- (b) A summary of all results of sampling, tests, and all other data received or generated by Settling Defendants;
- (c) A description of all deliverables that Settling Defendants submitted to USEPA;
- (d) A description of all activities relating to Remedial Action Construction that are scheduled for the next six weeks;
- (e) An updated Construction Schedule, together with information regarding percentage of completion, delays encountered or anticipated that may affect the future schedule for implementation of the Work, and a description of efforts made to mitigate those delays or anticipated delays;
- (f) A description of any modifications to the work plans or other schedules that Settling Defendants have proposed or that have been approved by USEPA; and
- (g) A description of all activities undertaken in support of the CIPs during the reporting period and those to be undertaken in the next six weeks.

**7.2 Bi-Weekly Progress Reports.** Commencing one week before the pre-Construction Meeting and until the final inspection per section ¶ 5.7(b), Settling Defendants shall submit progress reports to USEPA on a bi-weekly basis, or as otherwise requested by USEPA. The reports must cover all activities that took place during the prior reporting period, including, but not limited to:

- (a) Work performed by the Settling Defendants during the reporting period;
- (b) Work anticipated during the next reporting period;
- (c) Summaries of all contacts with representatives of public interest groups and state or local government;
- (d) Summaries of all problems encountered;
- (e) Daily Field reports and daily Health and Safety Tailgate meeting forms from the week to include photographs of work conducted;

- (f) Quality Control/Quality Assurance activities;
- (g) Potential Changes to Work or Schedule;
- (h) On-going deficiencies identified and status.
- (i) Additional Submittals Status;
- (j) Waste disposal/manifest documents;
- (k) Photos/Field Notes;
- (l) Accidents or Near Misses; and
- (m) Testing Performed and Results.

**7.3 Annual O&M Reports.** Commencing six months after Certification of RA Completion, the Settling Defendants shall submit progress reports to USEPA, with a copy to NNEPA, on an annual basis, or as otherwise requested by USEPA. For clarity, the first report will be due 18 months after receipt of the Certification of RA Completion. The reports shall include inspection items identified in the U.S. Department of Energy's *Guidance for Developing and Implementing Long-Term Surveillance Plans for UMTRCA Title I and Title II Disposal Sites (Attachments 3 and 4)*. The reports must cover all activities that took place during the reporting period, including, but not limited to:

- (a) Copies of all Inspection Reports;
- (b) Identification of deficiencies noted during the inspection and proposed remedies;
- (c) Maintenance performed during the year; and
- (d) Measurements such as surveys and radiation data, excluding groundwater data.

**7.4 Notice of Progress Report Schedule Changes.** If the schedule for any activity described in the Progress Reports, including activities required to be described under ¶ 7.1(d), causes a material change in the overall schedule, Settling Defendants shall notify USEPA of such change at least seven days before performance of the activity, with a copy to NMED and NNEPA.

## **8. DELIVERABLES**

**8.1 Applicability.** Settling Defendants shall submit deliverables for USEPA approval or for USEPA comment as specified in this SOW. If neither is specified, the deliverable does not require USEPA's approval or comment. Paragraphs 8.2 (In Writing) through 8.4 (Technical Specifications) apply to all deliverables. Paragraph 8.5 (Certification) applies to any deliverable that is required to be certified. Paragraph 8.6 (Approval of

Deliverables) applies to any deliverable that is required to be submitted for USEPA approval.

**8.2 In Writing.** As provided in ¶ 91 of the Decree, all deliverables under this SOW must be in writing unless otherwise specified.

**8.3 General Requirements for Deliverables.** All deliverables must be submitted by the deadlines in the Response Actions Schedule, as applicable. Settling Defendants shall submit all deliverables to USEPA in electronic form, unless otherwise requested. If requested, Settling Defendants shall submit up to three total paper copies of deliverables consisting of one copy to each of the designated representatives of the Navajo Nation, the Red Water Pond Road Community and the Pipeline Canyon Road Community in accordance with the contact information provided by USEPA. Deliverables to NMED shall be submitted in electronic form. Technical specifications for sampling and monitoring data and spatial data are addressed in ¶ 8.4. All other deliverables shall be submitted to USEPA in the electronic form specified by the USEPA Project Coordinator.

#### **8.4 Technical Specifications**

- (a) Sampling and monitoring data should be submitted in standard regional Electronic Data Deliverable (“EDD”) format (Scribe). Other delivery methods may be allowed if electronic direct submission presents a significant burden or if the Parties agree on the use of alternative technology.
- (b) Spatial data, including spatially-referenced data and geospatial data, should be submitted: (1) in the ESRI File Geodatabase format; and (2) as unprojected geographic coordinates in decimal degree format using North American Datum 1983 (NAD83) or World Geodetic System 1984 (WGS84) as the datum. If applicable, submissions should include the collection method(s). Projected coordinates may optionally be included but must be documented. Spatial data should be accompanied by metadata, and such metadata should be compliant with the Federal Geographic Data Committee (FGDC) Content Standard for Digital Geospatial Metadata and its USEPA profile, the USEPA Geospatial Metadata Technical Specification. An add-on metadata editor for ESRI software, the USEPA Metadata Editor (EME), complies with these FGDC and USEPA metadata requirements and is available at <https://edg.epa.gov/EME/>.
- (c) Each file must include an attribute name for each site unit or sub-unit submitted. Consult <https://www.epa.gov/geospatial/geospatial-policies-and-standards> for any further available guidance on attribute identification and naming.
- (d) Spatial data submitted by Settling Defendants does not, and is not intended to, define the boundaries of the CD Site.
- (e) If requested by USEPA, final deliverables shall be compliant with Section 508 requirements of the Rehabilitation Act of 1973 (29 U.S.C. Section 794(d), as amended in 1998. USEPA policy for Section 508 compliance can be found on the Agency's Directive System identified in section (b) of this clause under

policy number CIO 2130.0, Accessible Electronic and Information Technology. Additional information on Section 508, including USEPA's 508 policy can be found at [www.epa.gov/accessibility](http://www.epa.gov/accessibility).

- 8.5 Certification.** All deliverables that require compliance with this paragraph must be signed by the Settling Defendants' Project Coordinator, or other responsible official of Settling Defendants, and must contain the following statement:

I certify under penalty of perjury that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I have no personal knowledge that the information submitted is other than true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

**8.6 Approval of Deliverables**

**(a) Initial Submissions**

- (1) After review of any deliverable that is required to be submitted for USEPA approval under the Decree or this SOW, USEPA shall:
  - (i) approve, in whole or in part, the submission; (ii) approve the submission upon specified conditions; (iii) disapprove, in whole or in part, the submission; or (iv) any combination of the foregoing.
- (2) USEPA also may modify the initial submission to cure deficiencies in the submission if: (i) USEPA determines that disapproving the submission and awaiting a resubmission would cause substantial disruption to the Work; or (ii) previous submission(s) have been disapproved due to material defects and the deficiencies in the initial submission under consideration indicate a bad faith lack of effort to submit an acceptable deliverable.

- (b) Resubmissions.** Upon receipt of a notice of disapproval under ¶ 8.6(a) (Initial Submissions), or if required by a notice of approval upon specified conditions under ¶ 8.6(a), Settling Defendants shall, within 21 days, or such longer time as specified by USEPA in such notice or as otherwise agreed to by USEPA, correct the deficiencies and resubmit the deliverable for approval. After review of the resubmitted deliverable, USEPA may: (1) approve, in whole or in part, the resubmission; (2) approve the resubmission upon specified conditions; (3) modify the resubmission; (4) disapprove, in whole or in part, the

resubmission, requiring Settling Defendants to correct the deficiencies; or  
(5) any combination of the foregoing.

- (c) **Implementation.** Upon approval, approval upon conditions, or modification by USEPA under ¶ 8.6(a) (Initial Submissions) or ¶ 8.6(b) (Resubmissions), of any deliverable, or any portion thereof: (1) such deliverable, or portion thereof, will be incorporated into and enforceable under the Decree; and (2) Settling Defendants shall take any action required by such deliverable, or portion thereof. The implementation of any non-deficient portion of a deliverable submitted or resubmitted under ¶ 8.6(a) or ¶ 8.6(b) does not relieve Settling Defendants of any liability for stipulated penalties under Section XIII (Stipulated Penalties) of the Decree.
- (d) If: (1) an initially submitted deliverable contains a material defect and the conditions are met for modifying the deliverable under ¶ 8.6(a)(2); or (2) a resubmitted deliverable contains a material defect; then the material defect constitutes a lack of compliance for purposes of this Paragraph.

**8.7 Supporting Deliverables.** Settling Defendants shall submit each of the following supporting deliverables for USEPA approval, except as specifically provided. Settling Defendants shall develop the deliverables in accordance with all applicable regulations, guidance, and policies (see Section 11 (References)). Settling Defendants shall update each of these supporting deliverables as necessary or appropriate during the course of the Work, and/or as requested by USEPA.

- (a) **Contractor Supporting Documents.** The Settling Defendants shall submit to USEPA, for review and comment, the following Contractor-supplied plans:
  - (1) Construction Schedule
  - (2) Traffic Control Plan (based on the approved Traffic Safety and Security Plan)
  - (3) Materials Management Plan
  - (4) Dust Control Plan (based on the approved Dust Control and Air Monitoring Plan)
  - (5) Emission Reduction Plan
  - (6) Water Management and Conservation Plan
  - (7) Proposed times and routes for off-site shipment of Waste Material, which includes identification of communities, including underserved communities referred to in Executive Order 14008, § 222(b) (Feb. 1, 2021), affected by shipment of Waste Material.

- 8.8 Periodic Updated Design Deliverable.** Settling Defendants shall, subject to their right to initiate dispute resolution under Section XII of the Decree, within 30 days of receipt of USEPA's directive, submit reports, updates to existing design plans and work plans, as directed by USEPA, based on the assessment of the performance of the remedy and review of the monitoring data. USEPA shall provide direction to Settling Defendants in writing, identifying which report, work plan or update to a design work plan is required, and shall include a reasonable due date for its submittal.

## 9. SCHEDULES

- 9.1 Applicability and Revisions.** All deliverables and tasks required under this SOW must be submitted or completed by the deadlines or within the time durations listed in the Response Actions Schedule set forth below. Settling Defendants may submit proposed revisions to the Response Actions Schedule for USEPA approval. Upon USEPA's approval, the revised Response Action Schedule shall supersede the Response Actions Schedule set forth below, and any previously approved Response Actions Schedule.

### 9.2 Response Actions Schedule

	Description of Deliverable / Task	¶ Ref.	Deadline
1	Designate CI Coordinator	2.2(d)	30 days after USEPA request
2	Designate Settling Defendants' Project Coordinator	3.1(a), 3/3 (a)	15 days after the Effective Date
3	Designate Settling Defendants' Supervising Contractor	3.1(a), 3/3 (a)	15 days after the Effective Date
4	RAWP	5.1	60 days after the Effective Date
4a	Mobilization	5.1 (e)	Start onsite mobilization within 90 days from USEPA approval of the RAWP and Contractor Supporting Documents
4b	Excavate and Haul	5.1 (e)	Excavate and haul 500,000 cubic yards within 30 months of USEPA approval of the RAWP and Contractor Supporting Documents
4c	Re-seeding	5.1 (e)	Start reseedling on Mine Site within 36 months of USEPA approval of the RAWP and Contractor Supporting Documents
4d	Riprap Placement	5.1 (e)	Start placement of Riprap Placement on Mill Site (Pipeline Arroyo) within 33 months of USEPA approval of the RAWP

			and Contractor Supporting Documents
5	Inspection for the NTCRA	5.8(b)	15 days after completion of construction for NTCRA work
6	NTCRA Report	5.8(c)	60 days after USEPA's determination that NTCRA work is complete
7	Final Inspection for the Certification of Remedial Action Completion	5.8(b)	15 days after completion of construction for Remedial Action work
8	Remedial Action Report	5.8(c)	60 days after USEPA's determination that Remedial Action work is complete.
9	Schedule of proposed activities to complete Remedial Action Construction activities	5.8(d)	30 days after USEPA determines and notifies Settling Defendants that Remedial Action Construction is incomplete
10	Periodic Review Support Plan	5.9	As requested by USEPA
11	Final Inspection for the Certification of Work Completion	5.10(a)	15 days after Settling Defendants determine Work has been completed
12	Work Completion Report	5.10(b)	60 days after USEPA's determination that Work has been completed
13	Monthly Progress Reports	7.1	15 <sup>th</sup> of the Month
14	Bi-weekly Reports	7.2	As requested by USEPA
15	Annual O&M Reports	7.3	18 months after Certification of RA Completion and annually thereafter
16	Contractor Supporting Documents.	8.7	As scheduled in the approved RAWP
17	Periodic Updated Design Deliverable	8.8.	As requested by USEPA

## 10. SUPPORTING AGENCY PARTICIPATION

**10.1 Copies.** Settling Defendants shall, when they send a deliverable to USEPA, send a copy of such deliverable to the State of New Mexico and to the Navajo Nation. USEPA shall, when it sends a notice, authorization, approval, disapproval, or certification to Settling Defendants, send a copy of such document to the State and Navajo Nation. If requested, Settling Defendants shall also provide the supporting agencies with paper copies.

**10.2 Review and Comment.** The State of New Mexico and Navajo Nation will have a reasonable opportunity for review and comment prior to:



- (a) Any USEPA notice to proceed under ¶ 3.3 (Procedures for Disapproval/Notice to Proceed);
- (b) Any USEPA approval or disapproval under ¶ 8.6 (Approval of Deliverables) of any deliverables that are required to be submitted for USEPA approval; and
- (c) Any approval or disapproval of the Construction Phase under ¶ 5.7 (Remedial Action Construction Completion), any disapproval of or Certification of Remedial Action Completion under ¶ 5.8(e)**Error! Reference source not found.** (Certification of Remedial Action Completion), and any disapproval of or Certification of Work Completion under ¶ 5.9 (Certification of Work Completion).

## 11. REFERENCES

**11.1** The following regulations and guidance documents, among others, apply to the Work. Any item for which a specific URL is not provided below is available on one of the three USEPA web pages listed in ¶ 11.2:

- (a) Acceptance of United Nuclear Corporation (UNC) Mill Site and Northeast Church Rock (NECR) Design with Comments, Letter, Sara Jacobs, EPA, to Roy Blickwell, May 25, 2018.
- (b) Environmental Impact Statement for the Disposal of Mine Waste at the United Nuclear Corporation Mill Site in McKinley County, New Mexico, NUREG-2243, January 2023.
- (c) Safety Evaluation Report, Revision 1, of License Amendment Request, dated September 24, 2018, United Nuclear Corporation (UNC) submitted a request to the U.S. Nuclear Regulatory Commission (NRC) to amend its Source Materials License No. SUA-1475 for the former UNC Church Rock uranium mill and tailings site under the requirements specified in Title 10 of the Code of Federal Regulations (10 CFR), Part 40, Domestic Licensing of Source Material, Materials License No. SUA-1475, NRC Docket No. 040-08907, December 2022.
- (d) Programmatic Agreement Between the U.S. Nuclear Regulatory Commission, The U.S. Environmental Protection Agency, The Bureau of Indian Affairs, The Navajo Nation Tribal Historic Preservation Officer, The New Mexico State Historic Preservation Officer, And United Nuclear Corporation Regarding the Church Rock Project in McKinley County, New Mexico, June 13, 2022.
- (e) Treatment and Discovery Plan, Dinéahdóó Cultural Resources Management, 2022.
- (f) Guidance for Developing and Implementing Long-Term Surveillance Plans for UMTRCA Title I and Title II Disposal Sites, LMS/S00336, Nov 2012.



- (g) A Compendium of Superfund Field Operations Methods, OSWER 9355.014, EPA/540/P-87/001a (Aug. 1987).
- (h) CERCLA Compliance with Other Laws Manual, Part I: Interim Final, OSWER 9234.1-01, EPA/540/G-89/006 (Aug. 1988).
- (i) CERCLA Compliance with Other Laws Manual, Part II, OSWER 9234.1-02, EPA/540/G-89/009 (Aug. 1989).
- (j) Guidance on EPA Oversight of Remedial Designs and Remedial Actions Performed by Potentially Responsible Parties, OSWER 9355.5-01, EPA/540/G90/001 (Apr.1990).
- (k) Guidance on Expediting Remedial Design and Remedial Actions, OSWER 9355.5-02, EPA/540/G-90/006 (Aug. 1990).
- (l) Guide to Management of Investigation-Derived Wastes, OSWER 9345.303FS (Jan. 1992).
- (m) Permits and Permit Equivalency Processes for CERCLA On-Site Response Actions, OSWER 9355.703 (Feb. 1992).
- (n) National Oil and Hazardous Substances Pollution Contingency Plan; Final Rule, 40 C.F.R. part 300 (Oct. 1994).
- (o) Remedial Design/Remedial Action Handbook, OSWER 9355.0-04B, EPA/540/R-95/059 (June 1995).
- (p) EPA Guidance for Data Quality Assessment, Practical Methods for Data Analysis, QA/G-9, EPA/600/R-96/084 (July 2000).
- (q) Comprehensive Five-year Review Guidance, OSWER 9355.7-03B-P, EPA/540R01-007 (June 2001).
- (r) Guidance for Quality Assurance Project Plans, EPA QA/G-5, EPA Office of Environmental Information (Dec. 2002) <https://www.epa.gov/quality/guidance-quality-assurance-project-plans-epa-qag-5>.
- (s) Institutional Controls: Third-Party Beneficiary Rights in Proprietary Controls, OECA (Apr. 2004).
- (t) EPA Guidance on Systematic Planning Using the Data Quality Objectives Process, QA/G-4, EPA/240/B-06/001 (Feb. 2006).
- (u) EPA Requirements for Quality Management Plans, QA/R-2, EPA/240/B01/002 (Mar. 2001, reissued May 2006).

- (v) EPA National Geospatial Data Procedure, CIO Policy Transmittal 2135-P-02.0 (Jul. 2023), [https://www.epa.gov/system/files/documents/2023-08/national\\_geospatial\\_data\\_procedure.pdf](https://www.epa.gov/system/files/documents/2023-08/national_geospatial_data_procedure.pdf).
- (w) Principles for Greener Cleanups (Aug. 2009), <https://www.epa.gov/greenercleanups/epa-principles-greener-cleanups>.
- (x) Close Out Procedures for National Priorities List Sites, OSWER 9320.2-22 (May 2011).
- (y) Recommended Evaluation of Institutional Controls: Supplement to the “Comprehensive Five-Year Review Guidance,” OSWER 9355.7-18 (Sep. 2011).
- (z) Updated Superfund Response and Settlement Approach for Sites Using the Superfund Alternative Approach, OSWER 9200.2125 (Sep. 2012).
- (aa) Institutional Controls: A Guide to Planning, Implementing, Maintaining, and Enforcing Institutional Controls at Contaminated Sites, OSWER 9355.0-89, EPA/540/R-09/001 (Dec. 2012), <https://semspub.epa.gov/work/HQ/175446.pdf>.
- (bb) Institutional Controls: A Guide to Preparing Institutional Controls Implementation and Assurance Plans at Contaminated Sites, OSWER 9200.0-77, EPA/540/R-09/02 (Dec. 2012), <https://semspub.epa.gov/work/HQ/175449.pdf>.
- (cc) EPA’s Emergency Responder Health and Safety Manual, OSWER 9285.3-12 (July 2005 and updates), [https://www.epaosc.org/\\_HealthSafetyManual/manual-index.htm](https://www.epaosc.org/_HealthSafetyManual/manual-index.htm).
- (dd) Broader Application of Remedial Design and Remedial Action Pilot Project Lessons Learned, OSWER 9200.2-129 (Feb. 2013).
- (ee) Quality Management Systems for Environmental Information and Technology Programs -- Requirements with Guidance for Use, ASQ/ANSI E-4 (February 2014), available at <https://webstore.ansi.org/>.
- (ff) Guidance for Management of Superfund Remedies in Post Construction, OLEM 9200.3-105 (Feb. 2017), <https://www.epa.gov/superfund/superfund-post-construction-completion>.
- (gg) Advanced Monitoring Technologies and Approaches to Support Long-Term Stewardship (July 20, 2018), <https://www.epa.gov/enforcement/use-advanced-monitoring-technologies-and-approaches-support-long-term-stewardship>.
- (hh) Superfund Community Involvement Handbook, OLEM 9230.0-51 (March 2020). More information on Superfund community involvement is available on the Agency’s Superfund Community Involvement Tools and Resources web

page at <https://www.epa.gov/superfund/superfund-community-involvement-tools-and-resources>.

- (ii) EPA directive CIO 2105.4 (Environmental Information Quality Policy, 2024), [https://www.epa.gov/system/files/documents/2024-03/enviornmental\\_information\\_quality\\_policy.pdf](https://www.epa.gov/system/files/documents/2024-03/enviornmental_information_quality_policy.pdf).
- (jj) Region 9 Superfund-wide Standard Operating Procedure for Waste Determination and Disposal of Remediation Waste Implementation Procedures (Jan. 2018) R9-SUP-PROC-04-R1.

**11.2** A more complete list may be found on the following USEPA web pages:

- (a) Laws, Policy, and Guidance at <https://www.epa.gov/superfund/superfund-policy-guidance-and-laws>;
- (b) Search Superfund Documents at <https://www.epa.gov/superfund/search-superfund-documents>; and
- (c) Test Methods Collections at: <https://www.epa.gov/measurements/collection-methods>.

**11.3** For any regulation or guidance referenced in the Decree or this SOW, the reference shall be read to include any subsequent modification, amendment, or replacement of such regulation or guidance. Such modifications, amendments, or replacements apply to the Work only after Settling Defendants receive notification from USEPA of the modification, amendment, or replacement.

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