

SUPERFUND CLEANUP PROGRAM

Tri-Valley CAREs' comment on the

***“Community Involvement Plan for the Lawrence Livermore National Laboratory”
(Covering the LLNL Main Site and Site 300 Superfund programs)***

Submitted by Marylia Kelley on September 28, 2018

Summary: In 2018, a single volume 11-page Community Involvement Plan (CIP) with attachments was issued by the U.S. Dept. of Energy (DOE) National Nuclear Security Administration (NNSA) Livermore Field Office (LFO) pursuant to the Superfund cleanup of toxic and radioactive contaminants at the Lawrence Livermore National Laboratory (LLNL) Main Site in Livermore and Site 300 high explosives testing facility near Tracy. This single document is intended by the DOE/LFO to update and supersede the 1992 Site 300 CIP as well as the 1993 (revised) Main Site CIP.

Legal Basis: In establishing the Superfund law, Congress made clear its intent that members of affected communities be given meaningful opportunities to become active participants in the Superfund cleanup process - and that members of the public must have a say in the decisions that affect their communities. In establishing Superfund, Congress wanted EPA (the Agency it empowered to run the program) to be guided by the people whose lives are affected by Superfund sites. The intent of the law is restated in the National Contingency Plan, in provisions such as 40 CFR300.430(c)(2)(ii) for remedial actions: ***“(A) Ensure the public appropriate opportunities for involvement in a wide variety of site-related decisions, including site analysis and characterization, alternatives analysis, and selection of remedy; (B) Determine, based on community interviews, appropriate activities to ensure such public involvement; and (C) Provide appropriate opportunities for the community to learn about the site.”***

At Superfund sites that are federal facilities, such as the LLNL Main Site and Site 300, the lead agency is the “owner” (in this case DOE) and EPA has “go-no go authority” at key cleanup decision points. Specifically regarding production and implementation of a CIP at a federal facility, EPA guidance documents use the terms “oversight” and “concurrence” to describe the Agency’s role. Clearly, EPA is envisioned as maintaining a significant responsibility for CIPs. In the past, at the LLNL site, the EPA has required changes to a CIP prior to Agency acceptance. More recently, at another DOE site, EPA was a formal signature authority to the Hanford community involvement document (June 2017, Hanford Federal Facility Public Involvement Plan, Page 1).

Consequently, Tri-Valley CAREs' comments are addressed to EPA and the state regulatory agencies with responsibility for the LLNL Superfund cleanup as well as to DOE/LFO.

Specific Comments:

1. In the Summary, at page iii, the CIP should make clear that some of the contaminated areas at Site 300 that are part of the Superfund cleanup do not yet have Records of Decision (i.e., are pre-ROD).
2. In the Summary, at page iv, the CIP refers to the federal EPA and state regulatory agencies as DOE “stakeholders.” This wording should be changed to accurately reflect the federal and state regulatory agencies’ oversight roles in the Superfund cleanup at the LLNL Main Site and Site 300.
3. In Section 4.1.2, City of Tracy, the CIP incorrectly states: “Site 300 is remotely located in the Altamont Hills...” The word “remotely” does not properly characterize the Tracy Hills development of 5,500 homes and other growth in that area. Further, Section 4.1.2, at page 5, places Tracy “approximately 8 miles to the Northeast” of Site 300. This is not correct. The City of Tracy has expanded its sphere/boundary to within approximately 7,000 feet of Site 300.
4. In Section 4, Community Background, at page 4, The CIP notes that it is important to consider the “most appropriate and effective methods of outreach.” Tri-Valley CAREs concurs with the statement but notes that the CIP does not carry the expressed sentiment forward into action. Notably, there is no commitment to provide Spanish language services. Specific recommendations for changes in the CIP text to include the necessary services follow in comment #s 5, 6 and 7 below...
5. The Community Action Plan that follows as Section 5 (beginning at page 7) should be changed to state that written Superfund cleanup materials such as public notifications, fact sheets, community letters, summaries, and proposed plans will be produced and disseminated by DOE/LFO in Spanish and English. Tri-Valley CAREs notes that these materials in English are generally 8-pages or less in length, with many being only 1-page. Instead, the CIP specifies, for example at Section 5.6, Fact Sheets (at pages 8 and 9) that DOE/LFO will produce written material in English only and merely include web links to [other, general, and not necessarily site specific] information available in Spanish on the EPA website. The CIP further states, at page 9, that these English language fact sheets will “accommodate the growing Hispanic/Latino population in both the Livermore and Tracy communities.” They will not. In particular, the population of Tracy, which is 40% Hispanic/Latinx, cannot be appropriately and effectively served with site-specific materials that are English only.
6. In Section 5.1, Public Meetings, at page 7, the CIP contains the same deficiency as with written materials by failing to commit to providing Spanish language translation services at public hearings and community meetings that are intended to include a broad cross section of the communities surrounding the LLNL Main Site and Site 300.

With no Spanish translation available, these hearings and meetings are by definition not inclusive. This section should be changed to include Spanish language translation services. At a minimum, these services should include bilingual translators available to sit with and assist Spanish speakers during the hearings and meetings. Further, the CIP should specify that public comments provided by members of the public in Spanish and translated into English for the convenience of the DOE/LFO and regulatory agencies should not mean that Spanish speakers effectively get one-half the time of English speakers.

7. Regarding Section 5.2, Public Tours, at page 8, Tri-Valley CAREs reiterates its request to work with DOE/LFO/Site 300 staff to conduct a public tour in Spanish in the fall of 2019. This tour could also serve as a prototype to determine whether the inclusion of bilingual tours can or should become an annual occurrence. The CIP should be worded to say that DOE/LFO staff (and the regulatory agencies) are evaluating the public involvement benefit of DOE/LFO offering an annual bilingual public tour of Site 300 and that a decision will be made in 2020 (or at another reasonable date).

8. In Section 5.1, Public Meetings, at page 7, the CIP states that: "Preliminary dates for these meetings are provided in Appendix C." That appendix should be amended to include the agreed-upon public meeting in Tracy to be held prior to the proposed plan for remediating uranium in soils at the B812 firing table area.

9. In Section 5.6 Fact Sheets, at pages 8 and 9, the term "at least annually" should be included. As presently written there is no mention of how often fact sheets will be produced or if, indeed, they ever will be.

10. In section 5.4, Interviews, at page 8, the CIP states: "Interviews will continue to be conducted with community members, stakeholder groups, and state and local government officials..." Tri-Valley CAREs notes that interviews are a mandated requirement for Superfund CIPs. The problem with the CIP is that it fails to list the interview questions and the interviewees in the document, including in the appendices. In other federal facility CIPs reviewed by Tri-Valley CAREs these two elements were uniformly included. Indeed, the 1992 Site 300 CIP and the 1993 (revised) Main Site CIP contain the interviewees, questions and responses. The 2018 CIP must be amended to include sufficient information about the quantity and quality of interviews so that regulatory agencies and the public can evaluate whether the plan meets the standard set out in EPA guidance and the law.

Conclusion: Tri-Valley CAREs recognizes the positive elements of the 2018 CIP and the effort that DOE/LFO made to update what had become clunky, obsolete involvement plans of the past. Further, we appreciate this opportunity to provide written comments to codify and augment the verbal comments we were able to offer at the September 25, 2018 TAG meeting. We also stand ready to clarify, explain or discuss our comments.

Finally, we anticipate a more comprehensive CIP that will meet the needs of DOE/LFO, the federal and state regulatory agencies and the public. Again, thank you.

Sincerely,

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