



June 9, 2022

Jay A. Steinberg  
Nevada Environmental Response Trust  
35 East Wacker Drive, Suite 690  
Chicago, IL 60601

Re: **Tronox LLC (TRX) Facility  
Nevada Environmental Response Trust (NERT) Property  
NDEP Facility ID #H-000539**

**Subject:** 2021 Le Petomane XXVII Performance Assessment and NERT Priorities

Dear Mr. Steinberg:

The Nevada Division of Environmental Protection (NDEP) has prepared the 2021 Performance Assessment (Attachment A) for Le Petomane XXVII, Inc., not individually, but solely in its representative capacity as Trustee of the Nevada Environmental Response Trust (NERT or Trust). This performance assessment was completed by the NDEP with input and concurrence from the US Environmental Protection Agency (EPA).

The NDEP and the US EPA have additionally prepared the NERT 2021 Milestone Activities document. (Attachment B) This document was used to track the progress of specific activities conducted in calendar year 2021. The NDEP has also prepared the 2022 Milestone Activities document (Attachment C) which was developed with the input and concurrence from both the US EPA and the NERT to track specific activities during calendar year 2022.

Please contact the undersigned with any questions at [jdotchin@ndep.nv.gov](mailto:jdotchin@ndep.nv.gov) or 702-668-3914.

Sincerely,

James (JD) Dotchin  
Chief, Bureau of Industrial Site Cleanup  
NDEP-Las Vegas Office

JD/jd

cc: Jeff Kinder, NDEP  
Frederick Perdomo, NDEP  
Carlton Parker, NDEP  
Weiquan Dong, NDEP  
Alan Pineda, NDEP  
Katie Bradley, NDEP

Sandi Gotta, NDEP  
Jeff Scott, US EPA Region 9  
Nicole Moutoux, US EPA Region 9  
Steve Armann, US EPA Region 9  
Mark Duffy, US EPA Region 9  
William (Patrick) Frier, US EPA, Region 9  
R9LandSubmit@EPA.gov  
Andrew Steinberg, Nevada Environmental Response Trust  
Steve Clough, Nevada Environmental Response Trust  
Mark Hatch, Nevada Environmental Response Trust  
Brian Loffman, Le Petomane, Inc.  
Tanya O'Neill, Foley & Lardner L  
Christine Klimek, City of Henderson  
Laura Dye, Colorado River Commission  
Orestes Morfin, Central Arizona Project  
Betty Kuo, Metropolitan Water District of Southern California  
Carol Nagai, Metropolitan Water District of Southern California  
Jill Teraoka, Metropolitan Water District of Southern California Maria  
Scully, Metropolitan Water District of Southern California Maria  
Lopez, Metropolitan Water District of Southern California Mickey  
Chaudhuri, Metropolitan Water District of Southern California Dave  
Johnson, Las Vegas Valley Water District  
Steve Anderson, Las Vegas Valley Water District  
Todd Tietjen, Las Vegas Valley Water District

**Attachment A**

**PERFORMANCE ASSESSMENT FOR  
Le Petomane XXVII, Inc., not individually, but solely in its representative capacity as Trustee of  
the Nevada Environmental Response Trust (“NERT” or “Trust”)**

[Effective Date of Trust: February 14, 2011]

**PERIOD OF PERFORMANCE: January 1, 2021 to December 31, 2021**

**Consolidated Review by NDEP Bureau of Industrial Site Cleanup and U.S. EPA Region 9**

**Ratings: EE-Exceeds Expectations; ME-Meets Expectations; DNME-Does Not Meet Expectations**

CATEGORY	TRUSTEE ACTIONS	RATING
<b>1. Quality of Service:</b>		<b>2021</b>
	A. Fulfillment of core Trust Requirements.	EE <sub>35</sub>
	B. Ownership of the Henderson Property.	EE
	C. Performance of administrative and property management functions related to the Henderson Property.	ME
	D. Management and/or funding implementation. <sup>27</sup>	EE
	E. Pursuing claims and obtaining recoveries under the Henderson Chartis Policy. <sup>28</sup>	EE
	F. Actions as landlord under the Henderson Facility Lease. <sup>29</sup>	EE
	G. Actions as substitute party for EMD dba Borman under the 2006 Henderson Consent Decree. <sup>30</sup>	EE
	H. Accuracy of reports/deliverables.	ME
	I. Effectiveness of personnel.	EE <sub>36</sub>
	J. Technical excellence.	ME
	K. Effectiveness of quality control program.	ME
<b>2. Cost Control:</b>		
	A. Budget estimate accuracy and cost control.	EE
	B. Current, accurate, supported and complete fee applications.	ME
	C. Cost efficiencies or deficiencies.	EE
<b>3. Schedule:</b>		
	A. Maintains current project schedule with regular updates.	ME
	B. Met project interim milestones (see attached).	ME
	C. Responsiveness to technical feedback.	EE
	D. Met deliverables schedules.	ME <sub>25</sub>
<b>4. Business Relations:</b>		
	A. Effective management.	ME
	B. Reasonable/cooperative. <sup>31</sup>	EE
	C. Responsiveness to Trust Requirements.	ME
	D. Informs of issues/problems.	ME
	E. Flexibility. <sup>32</sup>	EE
	F. Pro-active vs. reactive. <sup>32</sup>	EE

CATEGORY	TRUSTEE ACTIONS	RATING
<b>5.</b>	<b>Management of Key Personnel:</b>	
	A. Effective management. <sup>33</sup>	EE
	B. Reasonable/cooperative.	ME
	C. Responsiveness to Trust Requirements.	ME
	D. Informs of issues/problems.	ME
	E. Flexibility. <sup>34</sup>	ME
	F. Pro-active vs. reactive.	EE <sub>26</sub>
<b>6.</b>	<b>Environmental Performance:</b>	
	A. Overall progress towards NERT site goals	EE <sub>25</sub>
	B. Projects on schedule to meet Final Remedy timeframes	ME <sub>25</sub>
	C. Perchlorate mass removal from groundwater met projections and milestones. <sup>8</sup>	ME <sub>23,25</sub>
	D. Decrease in Perchlorate loading to Las Vegas Wash along NERT RI Study Area and Downgradient Study Area.	ME <sub>24,25</sub>
	E. Provide multiple lines of evidence to demonstrate the effective management of the plume and plume shrinkage	ME <sub>25</sub>

Footnotes (2017)

8. Targeting the removal of 400,000 pounds of perchlorate from the environment in 2017.

Footnotes (2020)

25. Outside of COVID-19 caused issues.  
26. EE ratings centers around NERT's proactive/flexible approach and overall effectiveness of working with the agencies to navigate the complexities surrounding COVID, the Eastside COPC matter, the BMI database matter, and facilitating adjustments due to ongoing dialogue regarding OU-2 SG, without any indirect delays while keeping everything else moving toward stated goals.

Footnotes (2021)

27. Trust anticipates and builds budgets to span across years and uses third party reviews on large dollar projects.  
28. Trust continues to maintain > 99% recovery on US portion of perchlorate claims.  
29. No notices from lease or issues elevated to regulators.  
30. Worked with Borman for access for Unit 4 remediation pipe works and utility repairs when issues came up.  
31. Issues from pending litigation, Stabilized Lake Mead water issues, and field constraints placed by other governmental agencies were worked throughout the year.  
32. Working through issues from other Federal and local governments.  
33. Key personnel perform are problem solving, working towards completing the job, such as extending BoR permit and overseeding green up areas so actual germination rate should be high enough to close permits.  
34. Chloroform sampling in Pittman required flexibility due to others schedules and requirements.  
35. The basis for this rating is due to the tremendous amount of time and effort required to manage our consultants and internal processes to submit six critical documents in less than five months in 2021 to advance the remedial program: RI Report for OU-1 and OU-1, Refined Screening Ecological Risk Assessment for OU-1, Screening Ecological Risk Assessment for OU-2, Baseline Health Risk Assessment for OU-1 Soil Gas and Groundwater, Baseline Health Risk Assessment for OU-2 Soil Gas and Groundwater, and Baseline Health Risk Assessment for OU-1 Soils.

36. EE ratings continues because of NERT's proactive/flexible approach and overall effectiveness of continued working with the agencies to navigate the complexities surrounding COVID, the Eastside COPC matter, the BMI database matter, and facilitating adjustments due to ongoing dialogue regarding OU-2 SG, without any indirect delays while keeping everything else moving toward stated goals.

**Attachment B**

# NEVADA ENVIRONMENTAL RESPONSE TRUST

## 2021 TRUST MILESTONES

*Revised 4/19/2022*

<b>Task</b>	<b>Original Due Date</b>	<b>Modified Due Date</b>	<b>Status</b>
<i>Remedial Investigation</i>			
Submit RI Report for OU-1 and OU-2	March 31, 2021	July 9, 2021 <sup>1</sup>	Completed
Complete OU-3 RI Field Work	December 31, 2021	July 30, 2022 <sup>2,9</sup>	On-going
Phase 7 Fate and Transport Groundwater Model NDEP/EPA Technical Briefing	September 30, 2022	To Be Determined <sup>10</sup>	On-going
<i>Risk Assessments</i>			
Submit OU-1 Screening Level Ecological Risk Assessment	May 31, 2021	August 6, 2021 <sup>3</sup>	Completed
Submit OU-2 Screening Level Ecological Risk Assessment	May 31, 2021	August 6, 2021 <sup>3</sup>	Completed
Submit OU-1 Soil Gas / GW Baseline Health Risk Assessment	June 30, 2021	September 30, 2021 <sup>3</sup>	Completed
Submit OU-2 Soil Gas / GW Baseline Health Risk Assessment	To Be Determined	July 23, 2021 <sup>3</sup>	Completed
Submit OU-3 Baseline Health Risk Assessment Work Plan	May 30, 2021	November 30, 2021 <sup>3</sup>	On-going
<i>Feasibility Study</i>			
H2 Permeable Membrane NDEP/EPA Technical Briefing Summarizing Results To Date	To Be Determined	June 30, 2021	Completed
LVW Bioremediation Pilot Study NDEP/EPA Technical Briefing Summarizing Results To Date	To Be Determined	June 30, 2021	Completed
Unit 4 Treatability Study: Technical Call	To Be Determined	March 1, 2021	Completed
Unit 4 Treatability Study: Field Mobilization	To Be Determined	To Be Determined <sup>4</sup>	On-going
ZVI Treatability Study: Initial emplacement of ZVI	To Be Determined	To Be Determined <sup>5</sup>	On-going
<i>Other</i>			
Submit GW-11 Re-Pond Closure Plan	December 31, 2021	February 15, 2022	On-going
Maintain hydraulic capture of GWETS	December 31, 2021	Not Applicable	Completed
Maintain GWETS Uptime greater than 95%	December 31, 2021	Not Applicable	Completed
Initiate operation of Treatment System Extension	December 31, 2021	Not Applicable	On-going <sup>8</sup>
Conduct 2021 Community Meeting	December 31, 2021 <sup>6</sup>	Not Applicable	Completed
Monitor and report mass flux at identified transects semiannually	December 31, 2021	Not Applicable	Completed
Sample and Results Reported for at least one home in Pittman Area	December 31, 2021 <sup>7</sup>	Not Applicable	On-going <sup>9</sup>



Notes:

<sup>1</sup> NERT anticipates submittal of the RI Report for OU-1 and OU-2 by June 30, 2021 if all NDEP database discrepancies are resolved by April 9, 2021.

<sup>2</sup> The 2020 Trust Milestone document dated March 13, 2020 included a footnote providing task due date flexibility based on then current unknowns regarding the identification of additional data gaps and time requirements related to area access. This revised due date reflects NERT's current estimate of an outside date to have all OU-3 Field Work complete, and more specifically, assumes approval of all access requests (incl. City of Henderson, Clark County, and U.S. Bureau of Reclamation) by April 30, 2021.

<sup>3</sup> Assumes the assumptions presented in the RI Report footnote remain valid.

<sup>4</sup> NERT to submit a revised schedule to NDEP within 30 days of receipt of comments on the Unit 4 Treatability Study Work Plan Addendum.

<sup>5</sup> NERT to submit a revised schedule to NDEP within 30 days of receipt of comments on the ZVI Treatability Study Work Plan Addendum.

<sup>6</sup> Meeting to be scheduled upon agency approval of RI Report for OU-1 / OU-2.

<sup>7</sup> Assumes access to a residential property can be obtained by November 12, 2021.

<sup>8</sup> Project was delayed due to NDEP until 2022, outside of NERT control.

<sup>9</sup> Project was delayed waiting on access until 2022, outside of NERT control.

<sup>10</sup> As discussed in NERT 2022 budget documentation, the Trust will require time to incorporate the results of the DRI studies into and to finalize the Phase 7 model. Accordingly, the Trust will identify a date for the Phase 7 Technical Briefing within 30 days receipt of the final DRI studies report.

**Attachment C**

## NEVADA ENVIRONMENTAL RESPONSE TRUST 2022 TRUST MILESTONES

*Revised 5/4/2022*

<b>Task</b>	<b>Due Date</b>	<b>As of 3/31/2022</b>
<i>Remedial Investigation</i>		
Complete OU-3 RI Field Work	July 30, 2022 <sup>1</sup>	On-going
Phase 7 Fate and Transport Groundwater Model NDEP/EPA Technical Briefing	To Be Determined <sup>3</sup>	On-going
Submit Revised Remedial Investigation for OU-1 and OU-2	June 30, 2022	On-going
<i>Risk Assessments</i>		
Submit OU-3 Baseline Health Risk Assessment Work Plan	February 28, 2022	Completed
Submit OU-2 SLERA RTC	May 31, 2022	On-going
<i>Feasibility Study</i>		
Unit 4 Treatability Study: Field Mobilization	January 24, 2022	Completed
Unit 4 Treatability Study: road/fence improvements and off-loading area	December 31, 2022	On-going
LVW Pilot Study: Present monitoring results and recommendations whether the results meet the project goal	By or on 2022 Annual meeting	On-going
Submit Final Report Hydrogen Gas Permeable Membrane Study	June 30, 2022	On Going
ZVI Treatability Study: Initial emplacement of ZVI	To Be Determined <sup>2</sup>	On-going
<i>Other</i>		
Submit GW-11 Pond Closure Plan	February 15, 2022	Completed
Initiate operation of Treatment System Extension	December 31, 2022	On-going
Design/Build/implement system to remove GWETS from SLMW	December 31, 2022	On-going
Maintain hydraulic capture of GWETS	December 31, 2022	On-going
Maintain GWETS Uptime greater than 95%	December 31, 2022	On-going
Conduct 2022 Community Meeting	If needed by December 31, 2022	On-going
Monitor and report mass flux at identified transects semiannually	December 31, 2022	On-going
Sample and Results Reported for Pittman Area	December 31, 2022	On-going

**Notes:**

<sup>1</sup> Assumes approval of all access requests (incl. City of Henderson, Clark County, and U.S. Bureau of Reclamation).

<sup>2</sup> Schedule based on issuance of permit.

<sup>3</sup> As discussed in NERT 2022 budget documentation, the Trust will require time to incorporate the results of the DRI studies into and to finalize the Phase 7 model. Accordingly, the Trust will identify a date for the Phase 7 Technical Briefing within 30 days receipt of the final DRI studies report.