



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1201 ELM STREET, SUITE 500
DALLAS, TEXAS 75270

November 14, 2023

VIA ELECTRONIC FILING

Emilio Cortes
Clerk of the Board
U.S. Environmental Protection Agency
Environmental Appeals Board
1200 Pennsylvania Avenue, NW
Mail Code 1103M
Washington, DC 20460-0001
[Clerk \[EAB@epa.gov\]\(mailto:Clerk_EAB@epa.gov\)](mailto:Clerk_EAB@epa.gov)

RE: Los Alamos National Laboratory
NPDES Permit No. NM 0028355
Notice of Uncontested and Severable Permit Conditions

To all Interested Parties:

In accordance with 40 C.F.R. §§ 124.16 and 124.60(b), Region 6 of the United States Environmental Protection Agency (“EPA”) is providing notice of uncontested and severable permit conditions in connection with National Pollutant Discharge Elimination System Permit No. NM0028355, issued for the Los Alamos National Laboratory (“LANL”) on September 28, 2023, with the United States Department of Energy and Triad National Security, LLC as permittees (“2023 Permit”). When effective, the 2023 Permit will supersede the previous permit, which has been administratively continued since its expiration on September 30, 2019.

On October 30, 2023, Concerned Citizens for Nuclear Safety, Honor Our Pueblo Existence, and Veterans for Peace (“Petitioners”) filed a petition under 40 C.F.R. 124.19(a) requesting that the Environmental Appeals Board review EPA’s permit decision. The petition does not identify specific permit conditions for review or include a section specifically articulating issues presented for Environmental Appeals Board review. However, the petition does include many objections to the issuance of permit authorization for Outfall 051, which is also the only outfall referenced. Thus, after careful study of both the petition and the petition requirements at 40 C.F.R. 124.19(a)(4), EPA provides notice that the permit conditions authorizing discharge from Outfall 051, Permit section I.A, pages 7-8, are contested, and all other conditions of the permit are uncontested and severable.

When a permit appeal is filed, EPA must issue a notification identifying which permit conditions are stayed as a result of the appeal and which permit conditions will go into effect.

While an appeal is pending, contested permit conditions are stayed. Uncontested permit conditions that are inseverable from contested conditions are also considered to be contested and are stayed. Uncontested permit conditions that are severable from contested conditions are not stayed and become enforceable conditions of the permit.

The Region is notifying you that the contested or inseverable conditions listed above are stayed pending final agency action. All other provisions of the 2023 Permit become fully effective and enforceable thirty (30) days after the date of this notification. As the holder of an existing, administratively continued permit, LANL must continue to comply with the provisions of that permit that correspond to the stayed conditions.

If you have any questions or concerns, please feel free to contact Jay Przyborski of our Office of Regional Counsel at (214) 665-6605.

Sincerely,

Dzung Kim Ngo Kidd
Acting Director
Region 6 Water Division

CERTIFICATE OF SERVICE

I hereby certify that on November 15, 2023, I served the foregoing document on the following persons by email in accordance with the EAB's September 21, 2020, Revised Order Authorizing Electronic Service of Documents in Permit and Enforcement Appeals:

For: Concerned Citizens for Nuclear Safety, et al.

Lindsay A. Lovejoy, Jr.
3600 Cerrillos Road, Unit 1001A
Santa Fe, NM 87507
Telephone: (505) 983-1800
Email: lindsay@lindsaylovejoy.com

Joni Arends
Concerned Citizens for Nuclear Safety
P.O. Box 31147
Santa Fe, NM 87594-1147
Telephone: 505-986-1973
Email: jarends@nuclearactive.org

For: Triad National Security, LLC and the U.S. Department of Energy

James Banks
Hogan Lovells US LLP
Columbia Square
555 Thirteenth Street, NW
Washington, DC 20004
Telephone: 202-637-5802
E-mail: james.banks@hoganlovells.com

Maureen Dolan
Maxine M. McReynolds
Office of General Counsel
Los Alamos National Laboratory
P.O. Box 1663, MS A187
Los Alamos, NM 87545-0001
(505) 667-3766
E-mail: dolan@lanl.gov
E-mail: mcreynolds@lanl.gov

Silas R. DeRoma
Stephen Jochem
U.S. DOE NNSA, Los Alamos Site Office
3747 W. Jemez Rd.
Los Alamos, NM 87544
Tel. 505-667-4668
E-mail: silas.deroma@nnsa.doe.gov
E-mail: stephen.jochem@nnsa.doe.gov

Tyler Bergeron
Assistant Regional Counsel
U.S. EPA, Region 6
1201 Elm St, Suite 500
Dallas, TX 75270-2102
214-665-2204
Bergeron.Tyler@epa.gov