



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

ENVIRONMENTAL APPEALS BOARD

SEP 18 2017

William K. Honker, P.E., Acting Director
Water Quality Protection Division, 6WQ
U.S. Environmental Protection Agency, Region 6
1445 Ross Avenue Suite 1200
Dallas, TX 75202-2733

Jim Payne, Regional Counsel
Office of Regional Counsel, 6RC
U.S. Environmental Protection Agency, Region 6
1445 Ross Avenue Suite 1200
Dallas, TX 75202-2733

Re: Los Alamos National Security LLC and the
U.S. Department of Energy for the Los Alamos National Laboratory
Permit Number: NM0028355
Appeal Number: NPDES 17-05

Dear Mr. Honker and Mr. Payne:

This is to advise you that the Environmental Appeals Board ("Board") received on September 14, 2017, a petition filed by Jonathan M. Block, New Mexico Environmental Law Center and Lindsay A. Lovejoy, Jr., on behalf of Concerned Citizens for Nuclear Safety, asking the Board to review the denial of a request to terminate a permit by U.S. Environmental Protection Agency, Region 6.

A copy of the petition can be found on the Board's website at www.epa.gov/eab (Click on "EAB Dockets" on the sidebar, click on the "Active Dockets" link, and then click on the appropriate case name). If you have any difficulty accessing this document, please let me know.

To assist the Board in deciding whether the matters raised by Petitioner should be reviewed, please have your staff prepare a response that addresses the Petitioner's contentions and

whether Petitioner has satisfied the requirements for obtaining review under 40 C.F.R. § 124.5(b), and file such response no later than **September 28, 2017**. The Region's response should reflect consultation with the Office of General Counsel and the Office of Water. Include relevant portions of the administrative record with the response, together with a certified index of the entire administrative record. Filing may be accomplished electronically pursuant to the Board's Order of January 28, 2010.¹ In particular, documents cited in your response must be included as attachments. The permit issuer is encouraged to file the index to the record, preferably electronically, as soon as possible after receiving notification of this appeal. Early filing of the certified index enables the Board to begin prompt review of the record even before all of the briefs are filed.

A copy of this letter also is being sent to the petitioner as notification of these filing requirements.

Filing Requirements

Filing may be accomplished electronically pursuant to the Board's Order of August 12, 2013. Alternatively, filing may be accomplished by filing a paper original (signed in blue ink) and two copies of these materials with the Board (at the address shown below) by the date specified above. A copy must be sent to Petitioner, and a certificate of service showing the date and method of service should be included with the filing.

IMPORTANT: All documents, including the materials due **September 28, 2017**, must reference the appeal number and the name, address, and telephone number of the filer. If

¹The Board has issued an Order authorizing the electronic filing of documents in cases involving permit appeals. *See* Revised Order Authorizing Electronic Filing in Proceedings Before the Environmental Appeals Board Not Governed by 40 C.F.R. Part 22 (Aug. 12, 2013), *available at* <http://www.epa.gov/eab> (Click "Standing Orders" on sidebar). Instructions on registration and document filing are available by using the "Electronic Filing" link on the Board's website. Documents containing confidential business information should not be filed electronically as the Board considers business confidentiality claims waived when a document is electronically filed. *Id.* at 5-6. Please note that if a party, or its attorney or other representative, electronically files any document, such as a notice of appeal, brief, or motion, that exceeds fifty (50) pages in length, inclusive of the certificate of service, table of contents, and table of authorities, but exclusive of exhibits or attachments, it must also send one paper copy of that document to the Board by U.S. Mail, hand, courier, or commercial delivery service within one business day of the date of the electronic filing. *See id.* at 4-5. Such paper copy must be accompanied by a signed certification stating that it is identical to the electronically filed document. *Id.* at 5. If the combined page length of all of the exhibits or attachments submitted in support of a brief or motion exceeds fifty (50) pages, the requirement to submit a paper copy, and its timing, applies to the entire set of exhibits or attachments. *Id.* Anyone electronically filing exhibits or attachments in support of a brief, motion, or other document should submit them separately from the associated brief or motion. *Id.* at 3.

available, the filer also should provide a fax number and an email address. **In addition, any envelope or other packaging containing documents sent to the Board's mailing address or hand-delivery address, as prescribed below, must bear a complete and accurate return address in the upper left hand corner. The envelope or packaging must also clearly state the case name and appeal number in the lower left hand, corner.**²

Documents that are sent through the U.S. Postal Service (except by Express Mail) **MUST**, be addressed to the Board's mailing address, which is:

Clerk of the Board
U.S. Environmental Protection Agency
Environmental Appeals Board, 1103M
1200 Pennsylvania Avenue, NW
Washington, D.C. 20460-0001

Documents that are sent to the Board's hand-delivery address through the U.S. Postal Service (except by Express Mail) will be returned to the sender and shall not be considered as filed.

Hand Delivery Address

Documents that are hand-carried, delivered via Courier, mailed by Express Mail or delivered by a non-U.S. Postal Service carrier (e.g., Federal Express or UPS) **MUST** be delivered to:

Clerk of the Board
U.S. Environmental Protection Agency
Environmental Appeals Board
1201 Constitution Avenue, NW
East Building, Room 3332
Washington, D.C. 20004-0001

The contact number for hand delivery is (202) 233-0122. Such documents may be delivered from 8:30 a.m. to 4:30 p.m., Monday through Friday (excluding federal holidays). Documents filed electronically may be filed at any time up to 11:59 p.m. Eastern Time on the day the document is required to be filed with the Board.

Thank you for your attention to these matters.

² All mail sent to the Environmental Protection Agency may be delayed by a random sterilization procedure. Parties are encouraged to utilize the Board's e-filing system or hand or courier delivery when filing pleadings with the Board. Additional information regarding mail delivery to the Board is available on the Environmental Appeals Board website (www.epa.gov/eab) at the Clerk of the Board or Frequently Asked Questions links.

Sincerely,



Eurika Durr
Clerk of the Board

cc: Jonathan Block, Counsel
New Mexico Environmental Law Center
1405 Luisa Street, Suite 5
Santa Fe, NM 87505

Los Alamos National Security, LLC
Los Alamos National Laboratory
P.O. Box 1663 (MS K491)
Los Alamos, NM 87544

U.S. Department of Energy
Los Alamos Area Office, A316
3747 West Jemez Road
Los Alamos, NM 87544

Charles F. McMillan, Director
Los Alamos National Laboratory
P.O. Box 1663 (MS K499)
Los Alamos, NM 87545

Kimberly D. Lebak, Manager
U.S. DOE Los Alamos Field Office
3747 West Jemez Road (MS A316)
Los Alamos, NM 87544

Butch Tongate, Secretary
New Mexico Environment Department
P.O. Box 5469
Santa Fe, NM 87502-5469

Renea Ryland
Office of Regional Counsel, 6RC
U.S. Environmental Protection Agency, Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

Stacey Dwyer, Associate Director
Water Quality Protection Division, 6WQ
U.S. Environmental Protection Agency, Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733