

# **EXHIBIT D**

THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 6

Public Meeting Re  
Proposed Changes To The  
LANL Industrial Wastewater Permit  
(NPDES Permit No. NM0028355)

TRANSCRIPT OF PROCEEDINGS

January 15, 2020  
7:00 p.m.  
Pojoaque Valley Sixth Grade Academy  
1574 State Road 502 West  
Santa Fe, New Mexico 87506

REPORTED BY: ROBIN E. JOHNSON, NM CR 105, RPR, CA CSR  
PAUL BACA COURT REPORTERS  
500 Fourth Street Northwest, Suite 105  
Albuquerque, New Mexico 87102  
(505) 843-9241

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A P P E A R A N C E S

THOMAS RUCKI, HEARING OFFICER  
U.S. Environmental Protection Agency  
1445 Ross Avenue  
Dallas, Texas 75202  
(214) 665-2759

EVELYN ROSBOROUGH  
U.S. Environmental Protection Agency  
1201 Elm Street, Suite 500  
Dallas, Texas 75270-2102  
(214) 665-7515

ISAAC CHEN, PERMIT WRITER  
U.S. Environmental Protection Agency  
1445 Ross Avenue  
Dallas, Texas 75202  
(214) 665-7364

I N D E X

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1 New Mexico. LANL is a large, multidisciplinary  
2 facility which conducts national defense research and  
3 development, scientific research, space research and  
4 technology development and energy development.

5 The discharges from the facility are to  
6 various tributaries to the Rio Grande in New Mexico  
7 Water Quality Standards Waterbody Segment Codes  
8 No. 20.6.4.126 and 20.6.4.128 of the Rio Grande Basin.

9 On November 28th, 2019, the EPA Region 6  
10 published notice of a proposal to issue the NPDES  
11 Permit No. NM0028355 on EPA's website at  
12 <https://www.epa.gov/publicnotices> and provided a draft  
13 permit and fact sheet for public review and comment.

14 The fact sheet, dated October 31, 2019,  
15 provides the rationale and basis for the permit,  
16 discharge limits and other permit conditions.

17 Concurrently, in accordance with CWA  
18 401(a)(1) and (a)(2), the Region requested  
19 certification from the State of New Mexico. Also,  
20 pursuant to EPA's Tribal Consultation Policy, EPA  
21 offered San Ildefonso, Cochiti Pueblo, Pueblo of  
22 Santa Clara and Pueblo of Jemez the opportunity to  
23 engage in government-to-government consultation because  
24 they are part of the Los Alamos Pueblos Project.

25 Please note that the EPA does not take any

1 position, nor is claiming any jurisdiction on water  
2 rights issues when EPA proposes this NPDES permit under  
3 the Clean Water Act.

4 EPA published notice of the draft permit and  
5 the intent to hold a public meeting and public hearing  
6 on EPA's Public Notices website on December 4, 2019.

7 On December 16, 2019, a mass mailing was made  
8 to interested parties on the NPDES mailing lists.

9 And on December 16, 2019, the Public Notice  
10 website was updated to inform all other interested  
11 parties that a Public Informational Meeting and Public  
12 Hearing would be held at 5:00 p.m. and 7:00 p.m.,  
13 respectively.

14 On January 15, 2020, at the Pojoaque Valley  
15 Sixth Grade Academy, at 1574 State Road 502 West,  
16 Santa Fe, New Mexico 87506. In response to requests  
17 from the public, the comment period for the draft  
18 permit has been extended to February 27, 2020.

19 Thank you.

20 MR. RUCKI: So, there are some basic outlines  
21 and basic procedures we have for the public hearing.

22 As some of you may know, this is not an  
23 evidentiary hearing. This is not a trial. There is no  
24 cross-examination.

25 As the Hearing Officer, I can ask people

1 questions, but only for clarification of the record.  
2 Otherwise, people making comments will not be  
3 questioned, and they will not be questioning EPA  
4 representatives.

5 EPA will respond to questions and issues  
6 raised in the record tonight. Not now, but in a  
7 document. There is a responsive document, which will  
8 be a formal document addressing all your concerns that  
9 you bring up today.

10 I will call on anyone who is registered with  
11 Evelyn over here to make comments. If you have not  
12 filled out a card yet and you would like to speak,  
13 please give her one.

14 As Hearing Officer for the public hearing, I  
15 can impose time limits. In this situation, it sounds  
16 like we don't have any speakers, and we have until 8:30  
17 to be heard. So, usually, you limit people to about  
18 five to ten minutes, but if you have a little bit more  
19 to say, feel free, unless we realize there is more  
20 people that want to speak.

21 After the public hearing closes, EPA will  
22 continue to accept written comments, as we discussed.  
23 Written comments should be submitted by the method  
24 described in the EPA notice.

25 If there are questions regarding how to



1 submit those comments, please let someone from the EPA  
2 know, and we'll make sure to get you that information.

3 The written comments are considered the same  
4 way as oral comments. If you don't get to say what you  
5 said today, don't worry about it. You'll still get  
6 that opportunity.

7 With that, I'll take the first comment. I  
8 believe it was from James.

9 Yes, James. You can come up here just so the  
10 court reporter can hear you. But you do have a loud  
11 voice.

12 MR. BEARZI: I can boom.

13 My name is James Bearzi. I'm the Senior  
14 Environmental Scientist with Glorieta Geoscience, an  
15 environmental and water resources consulting firm in  
16 Santa Fe.

17 We are the technical consultants for the  
18 Buckman Direct Diversion Board, the governing body for  
19 the Buckman Direct Diversion.

20 The Diversion is a single diversion point on  
21 the Rio Grande that the City of Santa Fe,  
22 Santa Fe County, and their limited partner,  
23 Los Campanas, share to divert San Juan-Chama and native  
24 Rio Grande water rights. The diverted water is treated  
25 and introduced into the regional water system.

1           The government entities, the City and the  
2 County, are represented on the board.

3           The Buckman Direct Diversion is on the  
4 Rio Grande, approximately three miles downstream of  
5 Otowi Bridge, near the location of the confluence of  
6 Los Alamos Canyon and the Rio Grande. The board is,  
7 therefore, understandably concerned about runoff  
8 Los Alamos Canyon and its tributaries.

9           NPDES Permit No. NM0028355 covers 11 outfalls  
10 or locations of discharge of industrial pollutants to  
11 waters of the U.S., in this case, the Rio Grande.

12           One of those outfalls, known as T-53 03A048,  
13 discharges treated cooling water that originates at  
14 TA-53 to a tributary of Los Alamos Canyon and is,  
15 therefore, of particular interest to the board.

16           Our comments concern two areas. One is how  
17 EPA determined the effluent limits and the constituents  
18 that would be subject to them in the permit, and then  
19 the second area is those limits themselves.

20           We have found certain discrepancies between  
21 the fact sheet and the permit that need to be clarified  
22 before a final permit is issued.

23           We also have noted that the approach for  
24 determining reasonable potential appears to change  
25 throughout the fact sheet from the beginning to the end

1 depending on the findings as one goes through the fact  
2 sheet.

3 We would appreciate EPA clarifying how they  
4 calculated reasonable potential, particularly as it  
5 relates to consistency between the approach used  
6 between outfalls and among constituents for each  
7 outfall.

8 The current permit for this outfall has  
9 effluent limitations for total recoverable aluminum,  
10 total arsenic, dissolved copper, total mercury and  
11 dissolved mercury. EPA proposes to delete those  
12 limitations and monitoring requirements from the final  
13 permit based on its analysis.

14 The current permit also has monitoring  
15 requirements for gross alpha and chromium (VI). EPA  
16 proposes to remove those monitoring requirements also,  
17 subject to their analysis.

18 Because of the confusion that I've already  
19 alluded to, the Board is concerned that these proposed  
20 changes to the permit may not sufficiently protect the  
21 Buckman Direct Diversion, and we urge EPA to retain the  
22 more stringent monitoring and effluent limitations in  
23 the existing permit.

24 These do not constitute the Board's only  
25 comment for this permit, and we reserve our rights and

1 opportunities to provide written comment during the  
2 public comment period. Thank you.

3 MR. RUCKI: Thank you, James.

4 Joni Arends?

5 You are welcome to come up here. If you can  
6 boom like James, you can stay over there.

7 MS. ARENDS: My name is Joni Arends, and I'm  
8 with Concerned Citizens For Nuclear Safety. And I  
9 wanted to say that we're not going to make any formal  
10 public comments tonight, but that we appreciate the  
11 extension of the comment period because of the number  
12 of other activities that are going on in New Mexico, as  
13 well as the voluminous amount of material to review to  
14 make informed public comment. So, thank you.

15 MR. RUCKI: Thank you.

16 Well, for I guess the next 30 or 40 minutes,  
17 we'll go off record, unless someone comes in that would  
18 like to speak or if someone changes their mind and  
19 would like to speak.

20 So, it is 7:19, and we are off record.

21 (Off the record from 7:19 until 8:02 p.m.)

22 MR. RUCKI: We're back on the record. There  
23 are no further comments or issues to be addressed. The  
24 public hearing is concluded on January 15th, 2020, at  
25 8:02 P.M.

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REPORTER'S CERTIFICATE

I, ROBIN E. JOHNSON, RPR, CA CSR, New Mexico  
Certified Shorthand Reporter, certify:

That the foregoing proceedings were taken  
before me at the time and place therein set forth;

That the questions propounded and all  
objections and statements made at the time of the  
hearing were recorded stenographically by me and were  
thereafter transcribed;

That the foregoing is a true and correct  
transcript of my shorthand notes so taken.

I further certify that I am not a relative or  
employee of any of the parties, nor financially  
interested in the action.

I declare under penalty of perjury, under the  
laws of New Mexico, that the foregoing is true and  
correct, dated this 20th day of January 2020.

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ROBIN E. JOHNSON, RPR, CA CSR  
New Mexico CCR No. 105