

# **EXHIBIT H**

**Catholic Charities Gallup: Office of Life, Peace, Justice & Creation,  
Nuclear Watch New Mexico, Partnership for Earth Spirituality,  
Rocky Mountain Peace and Justice Center,  
Tri-Valley CAREs (Communities Against a Radioactive Environment),  
Taoseños for Peaceful and Sustainable Futures,  
Tewa Women United, Tularosa Basin Downwinders Consortium,  
Youth United for Climate Crisis Action (YUCCA)**

November 2, 2020

By email: [rosborough.evelyn@epa.gov](mailto:rosborough.evelyn@epa.gov)

Ms. Evelyn Rosborough  
U. S. Environmental Protection Agency Region 6  
NPDES/Wetland Review Section (6WD-PN)  
1201 Elm Street, Suite 500  
Dallas, TX 75270

Re: Public Comment about the draft Industrial Wastewater Discharge  
Clean Water Act National Pollutant Discharge Elimination System  
Permit for Los Alamos National Laboratory No. NM0028355

Dear Ms. Rosborough:

Please accept these comments from nine non-governmental organizations about the above-referenced draft National Pollutant Discharge Elimination System (NPDES) Industrial Wastewater Discharge Permit for Los Alamos National Laboratory (LANL). We urge the Environmental Protection Agency (EPA) to remove those facilities from the permit that handle, treat and store hazardous waste, but have no plan or intention to discharge.

We object to LANL asking the EPA to issue a Clean Water Act permit for industrial facilities that have no plan or intention to discharge wastewater to the environment. Clean Water Act permits may be granted only for “the discharge of any pollutant, or combination of pollutants.” 33 U.S.C. § 1342(a)(1).

We object to EPA issuing a permit for facilities that handle, treat and store hazardous waste, but have no plan or intention to discharge. Such Clean Water Act permitting confers an exemption from more stringent Resource Conservation and Recovery Act (RCRA) hazardous waste laws and regulations. 42 U.S.C. § 6901 *et seq.* The only reason

to issue a Clean Water Act permit is to illegitimately exempt LANL facilities from RCRA.

We object to EPA issuing a permit for those LANL facilities that have no plan or intention to discharge, as listed below:

- **Outfall 051 - Radioactive Liquid Waste Treatment Facility (RLWTF)**, located at Technical Area 50 (TA-50). “The facility has a mechanical evaporation system and Outfall 051 has not discharged since” November 2010. EPA Fact Sheet, p. 7.

Since 1998, LANL has worked to reconstruct the RLWTF to become a “zero liquid discharge” facility, which was completed in November 2010 with the installation and operation of a mechanical evaporation system.

LANL’s permit renewal application incorporates by reference the previous application, which says LANL does not intend to discharge via Outfall 051 except when both evaporation systems are inoperative, i.e., in highly unlikely circumstances.

- **Outfall 03A027 - Strategic Computing Complex (SCC) Cooling Tower**, located at TA-3. “Outfall 03A027 did not discharge from September 2016 and to at least May 2019, so older monitoring data was submitted.” *Id.*, p. 5.
- **Outfall 03A113 - Los Alamos Neutron Science Complex (LANSCE) facility**, located at TA-53. “The cooling towers identified as TA-53-293 are not currently in use but could return to service in the future.” *Id.*, p. 5 - 6.
- **Outfall 03A160 - National High Magnetic Field Laboratory cooling towers**, located at TA-35. Treated water is being “discharged” to the Sanitary Wastewater System (SWWS) Plant, located at TA-46. *Id.*, p. 6 and App. H, p. H-4.
- **Outfall 05A055 - High Explosive Wastewater Treatment Facility**, located at TA-16 in Cañon de Valle. “Since November of 2007, the HEWTF has used the electric evaporator and not discharged through the permitted outfall.” *Id.*, pp. 6 - 7, and H-125 of 135.

Further, some of these facilities also handle, treat and store not only hazardous waste, but radioactive transuranic (TRU) (plutonium-contaminated) wastes. Recently, the Defense Nuclear Facilities Safety Board (Board or DNFSB) issued a letter and technical report to the Department of Energy detailing their concerns about chemical reaction events involving TRU waste at LANL, specifically in the Plutonium Facility (PF-4), the

Transuranic Waste Facility (TWF), the Chemistry and Metallurgy Research Facility (CMR), and at Area G.<sup>1</sup>

PF-4 and the CMR facility both deliver low-level radioactive liquid waste and TRU radioactive liquid waste to the RLWTF for handling, treatment and storage. TRU and hazardous waste, including sludge, destined for the Waste Isolation Pilot Plant (WIPP) are stored at Area G and the TWF. The Board's findings, as summarized in the cover letter, heighten our concern about the improper regulation of facilities that are hidden behind the veil of the Clean Water Act exemption. Because these facilities handle, treat and store such potential energetic chemicals, they must be properly regulated by RCRA.

Below are extracts from the Board's letter:

The Board found that safety bases for both National Nuclear Security Administration and Environmental Management facilities at Los Alamos National Laboratory do not consistently or appropriately consider a potential energetic chemical reaction involving transuranic waste.

- **Hazard analyses** lack systematic evaluations of the chemical compatibility of transuranic waste streams. These analyses are needed to fully identify potential chemical reaction hazards associated with waste constituents.
- **Accident analyses** are not bounding, assume inappropriate initial conditions, and do not defensibly establish the quantity of radioactive material that may be released due to an energetic chemical reaction. As such, additional credited safety controls may be necessary to protect workers and the public.
- Some facilities store transuranic waste without any engineered controls beyond the waste container. The radiological release events that occurred at the Waste Isolation Pilot Plant and Idaho National Laboratory have demonstrated the importance of incorporating **multiple layers of protection** to reduce the consequences of an accident.<sup>2</sup>

As documented by the Board, LANL has not done its homework to create safety bases, hazard analyses and accident analyses that take into account potential energetic chemicals – many of which are regulated by RCRA. LANL has not established multiple layers of protection to reduce the impacts of an accident to workers and the public.

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<sup>1</sup> September 24, 2020 letter from Thomas A. Summers, Acting Chair of the Defense Nuclear Facilities Safety Board, to The Honorable Dan Brouillette, Secretary of Energy, with attached report: *Potential Energetic Chemical Reaction Events Involving Transuranic Waste at Los Alamos National Laboratory*, DNFSB/TECH-46, September 2020. <https://www.dnfsb.gov/documents/letters/potential-energetic-chemical-reaction-events-involving-transuranic-waste-los>

<sup>2</sup> *Id.*

“[We’re] sick and tired of being sick and tired”<sup>3</sup> by the lack of proper regulation by federal and state regulatory agencies charged with those responsibilities for these increasingly dangerous facilities as documented by the DNFSB. It is time for EPA to remove the Radioactive Liquid Waste Treatment Facility (Outfall 051) from the Clean Water Act permit. The proper regulatory regime is RCRA as recognized by LANL over two decades ago.

In 1998, LANL expressed its concern that it could lose the Clean Water Act exemption, which would put it under the more stringent hazardous waste laws:

[T]he loss of the NPDES permit at the RLWTF will cause the loss of the RCRA exemption for the RLWTF. RCRA regulatory oversight will increase at the RLWTF. NPDES regulatory oversight will decrease.<sup>4</sup>

Also,

As regulatory requirements become more stringent and as the possibility of eliminating outfall 051 progresses, it will be important to have complete characterization of wastes discharged to the RLWTF. ... **If the outfall 051 NPDES permit is allowed to be deleted, operation of the RLWTF will fall under RCRA guidelines.** Management of waste at the source, including management of the waste generators’ [Waste Acceptance Criteria] WAC and management of facilities connections to the collection system, is a necessary part of this process. Specific monitoring regimes will be required by the RLWTF.<sup>5</sup> [Emphasis added.]

Now is the time for EPA to delete the RLWTF (Outfall 051), and other facilities that have no plan or intention to discharge, from the permit.

We support the extensive public comments and exhibits submitted by Concerned Citizens for Nuclear Safety, Honor Our Pueblo Existence (H.O.P.E.), and the New Mexico Acequia Association (NMAA) calling for the deletion of the RLWTF from the permit.

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<sup>3</sup> Fannie Lou Hamer’s statement to the Credentials Committee of the Democratic National Convention in Atlantic City. August 22, 1964.

<sup>4</sup> *Elimination of Liquid Discharge to the Environment from the TA-50 Radioactive Liquid Waste Treatment Facility*, LA-13452-MS, UC-902, June 1998, Table 6. Evaluation Matrix of Zero Liquid Discharge Alternative, p. 35. <https://www.osti.gov/biblio/661523-elimination-liquid-discharge-environment-from-ta-radioactive-liquid-waste-treatment-facility>

<sup>5</sup> *Id.*, p. 37.

We reiterate our request for EPA to delete facilities that have no plan or intention to discharge.

Thank you for your careful consideration of our comments and for your written response to the issues we have raised herein. Please contact us with any questions and comments.

Sincerely,

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Governor Michelle Lujan Grisham, <https://www.governor.state.nm.us/contact-the-governor/>  
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Senator Jeff Steinborn, Vice Chair, NM Radioactive and Hazardous Materials  
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Ms. Evelyn Rosborough  
U. S. Environmental Protection Agency Region 6  
NPDES/Wetland Review Section (6WD-PN)  
1201 Elm Street, Suite 500  
Dallas, TX 75270

By email: [rosborough.evelyn@epa.gov](mailto:rosborough.evelyn@epa.gov)

**Re: Comment on Clean Water Act Permit No. NM0028355 for LANL Industrial Wastewater Discharge**

Dear Ms. Rosborough:

Los Alamos National Laboratory (LANL) is asking the Environmental Protection Agency (EPA) to issue another Clean Water Act permit. Yet this permit includes facilities that have not discharged wastewater into the environment for years or sometimes, decades.

LANL facilities that have no discharge from an outfall should no longer be included in a Clean Water Act permit.

I object to EPA issuing a permit for facilities that handle, treat and store hazardous waste, but do not discharge. This is just a way for LANL to get around the more stringent RCRA hazardous waste laws and regulations which should be regulating these facilities. It is against the regulations and totally illegitimate to exempt such LANL facilities from RCRA. That LANL continues to apply for Clean Water Act permits for these facilities only shows that the Lab is **not** a good neighbor to the surrounding communities, as it is seeking to weasel out – yet again – from its environmental responsibilities.

LANL has a long history of just this kind of irresponsible, illegal and reckless behavior as year after year they do everything possible to avoid their responsibilities toward the communities that surround them – whether it is to limit their EJSCREEN radii essentially to Los Alamos County – possibly the richest county in the country – while ignoring the majority/minority makeup of poorer, local pueblos and the Espanola Valley and beyond – an area that LANL has already contaminated with their past discharges; or venting tritium gas with no care or even study of effects on the same local population because it's the cheapest way for the Lab to check off one of the boxes on their contract; or shipping waste to WIPP that, through total incompetence and greed, has become explosive, with no care at all for safety.



LANL has not improved their safety culture at all despite numerous demands from affected communities, government oversight entities, and state and local agencies. If EPA is truly in the business of protecting the environment, letting LANL continue to avoid proper regulation is not the way to go. EPA should require proper permit applications that meet the regulations instead of rubber stamping these illegal permits.

Therefore I object to EPA issuing a permit for those LANL facilities that have not discharged, such as the

- Radioactive Liquid Waste Treatment Facility (RLWTF),
- Strategic Computing Complex;
- Los Alamos Neutron Science Complex, or LANSCE, facility;
- National High Magnetic Field Laboratory; and
- High Explosive Wastewater Treatment Facility.

Please delete those facilities that are in the business of handling, treating, and storing hazardous waste but do not discharge, from the Clean Water Act permit so that they can be properly regulated by the more stringent RCRA regulations ,and LANL can show that they actually understand what safety means and that they are willing to operate the Lab in a safe manner.

Thank you for your careful consideration of my comments.

Sincerely,  
Deborah Reade  
117 Duran Street  
Santa Fe, New Mexico 87501  
505-986-9284  
reade@nets.com

October 30,2020

Ms. Evelyn Rosborough  
U. S. Environmental Protection Agency Region 6  
NPDES/Wetland Review Section (6WD-PN)  
1201 Elm Street, Suite 500  
Dallas, TX 75270

Re: Public Comment about the draft LANL Industrial Wastewater Discharge  
Clean Water Act Permit No. NM0028355

Dear Ms. Rosborough:

I object to Los Alamos National Laboratory (LANL) asking the Environmental Protection Agency (EPA) to issue a Clean Water Act permit for industrial facilities that have not discharged wastewater to the environment for years, if not decades.

Clean Water Act permits may be granted only for "the discharge of any pollutant, or combination of pollutants." Some LANL facilities have no discharge from a "point source," also known as an outfall. These facilities should no longer be on the permit.

I object to EPA issuing a permit for facilities that handle, treat and store hazardous waste, but do not discharge. Such Clean Water Act permitting confers an exemption from more stringent Resource Conservation and Recovery Act (RCRA) hazardous waste laws and regulations. The only reason to issue a Clean Water Act permit is to illegitimately exempt LANL facilities from RCRA.

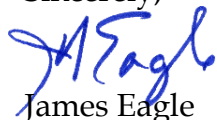
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- Strategic Computing Complex;
- Los Alamos Neutron Science Complex, or LANSCE, facility;
- National High Magnetic Field Laboratory; and
- High Explosive Wastewater Treatment Facility.

Please delete from the Clean Water Act permit those facilities that are in the business of handling, treating, and storing hazardous waste, but do not discharge. Open the door to their proper and more stringent regulation under RCRA.

Thank you for your careful consideration of my comments.

Sincerely,



James Eagle  
21 Cougar Ridge  
Santa Fe, NM 87505

**From:** Jean Siegfried Darling <[jdarling@sandwich.net](mailto:jdarling@sandwich.net)>  
**Sent:** Friday, October 30, 2020 6:48 PM  
**To:** Rosborough, Evelyn <[rosborough.evelyn@epa.gov](mailto:rosborough.evelyn@epa.gov)>  
**Subject:** Clean Water Act permit No. NM0028355

Ms. Evelyn Rosborough  
U. S. Environmental Protection Agency Region 6  
NPDES/Wetland Review Section (6WD-PN)  
1201 Elm Street, Suite 500  
Dallas, TX 75270

Re: Public Comment about the draft LANL Industrial Wastewater Discharge  
Clean Water Act Permit No. NM0028355

Dear Ms. Rosborough:

I object to Los Alamos National Laboratory (LANL) asking the Environmental Protection Agency (EPA) to issue a Clean Water Act permit for industrial facilities that have not discharged wastewater to the environment for years, if not decades.

Clean Water Act permits may be granted only for “the discharge of any pollutant, or combination of pollutants.” Some LANL facilities have no discharge from a “point source,” also known as an outfall. These facilities should no longer be on the permit.

I object to EPA issuing a permit for facilities that handle, treat and store hazardous waste, but do not discharge. Such Clean Water Act permitting confers an exemption from more stringent Resource Conservation and Recovery Act (RCRA) hazardous waste laws and regulations. The only reason to issue a Clean Water Act permit is to illegitimately exempt LANL facilities from RCRA.

I object to EPA issuing a permit for those LANL facilities that have not discharged, such as the

- Radioactive Liquid Waste Treatment Facility (RLWTF),
- Strategic Computing Complex;
- Los Alamos Neutron Science Complex, or LANSCE, facility;
- National High Magnetic Field Laboratory; and
- High Explosive Wastewater Treatment Facility.

Please delete from the Clean Water Act permit those facilities that are in the business of handling, treating, and storing hazardous waste, but do not discharge. Open the door to their proper and more stringent regulation under RCRA.

Thank you for your careful consideration of my comments.

Sincerely,  
Jean Darling

--

Rev. Jean Siegfried Darling  
312.405.9470 (cell)  
*Minister Emerita, Peoples Church of Chicago*  
*Co-Chair, UU Santa Fe Environmental Justice Team*  
Cerrillos, NM 87010

**From:** Maj-Britt Eagle <[majbritt@eaglerest.org](mailto:majbritt@eaglerest.org)>

**Sent:** Monday, November 2, 2020 1:09 PM

**To:** Rosborough, Evelyn <[rosborough.evelyn@epa.gov](mailto:rosborough.evelyn@epa.gov)>; [Alex\\_Eubanks@heinrich.senate.gov](mailto:Alex_Eubanks@heinrich.senate.gov);  
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**Subject:** Urge not to release tritium from LANL, not to issue water discharge permit to LANL

Ms. Evelyn Rosborough  
U. S. Environmental Protection Agency Region 6  
NPDES/Wetland Review Section (6WD-PN)  
1201 Elm Street, Suite 500  
Dallas, TX 75270

RE: Against **tritium release at LANL** and Clean Water Act, discharge permit for LANL

Dear Ms. Rosborough:

As the wife of a US Nuclear Submarine officer for 47 years, and the mother of two,

as well as a League of Women Voter member of the nuclear waste disposal study group, I've acquired some knowledge of the effects of radiation release into the Earth ecosystem, on life broader than only human, and urge you to shut down any attempt to (1) release tritium into the atmosphere, and (2) allow the discharge of radioactive water into our surroundings here in Los Alamos and Santa Fe, New Mexico.

Further reasoning on the water discharge and permit are below:

Safety bases for both National Nuclear Security Administration and Environmental Management facilities at Los Alamos National Laboratory do not consistently or appropriately consider a potential energetic chemical reaction involving transuranic waste.

- **Hazard analyses** lack systematic evaluations of the chemical compatibility of transuranic waste streams. These analyses are needed to fully identify potential chemical reaction hazards associated with waste constituents.
- **Accident analyses** are not bounding, assume inappropriate initial conditions, and do not defensibly establish the quantity of radioactive material that may be released due to an energetic chemical reaction. As such, additional credited safety controls may be necessary to protect workers and the public.

Some facilities store transuranic waste without any engineered controls beyond the waste container. The radiological release events that occurred at the Waste Isolation Pilot Plant and Idaho National Laboratory have demonstrated the importance of incorporating **multiple layers of protection** to reduce the consequences of an accident.

Sincerely,

Mrs. James N. Eagle, November 2, 2020

21 Cougar Ridge Road, Santa Fe, New Mexico, 87505

John E. Wilks, III  
Chair, Environmental Committee  
Veterans For Peace, Chapter #63 (ABQ)  
1115 Republic Road  
Winston, NM 87943

November 1, 2020

**SUBMITTED BY EMAIL**

*"rosborough.evelyn@epa.gov"*

Ms. Evelyn Rosborough  
U. S. Environmental Protection Agency, Region VI  
NPDES/Wetland Review Section (6WD-PN)  
1201 Elm Street, Suite #500  
Dallas, TX 75270

Re: Public Comment to LANL Industrial Wastewater Discharge Clean Water Act Application (DRAFT) to Permit NM0028355

Dear Ms. Rosborough:

This public comment is timely electronically filed prior to the November 2<sup>nd</sup> deadline to file.

Veterans For Peace, Chapter #63, strongly object to the flagrant attempt by the Los Alamos National Laboratory to circumvent the Resource Conservation and Recovery Act (RCRA) by listing on its application five (05) facilities that not have a discharge and therefore are not eligible for inclusion on the Clean Water Act regulation. The five entities inappropriately listed clearly fall into the purview of the RCRA.

The Clean Water Act addresses entities that involve "discharge or any pollutant, or combination or pollutants." The five entities that we are urging you to remove from any permit you issue, do not discharge and therefore are inappropriate for inclusion. Kindly, delete from the Clean Water Act permit those five facilities that involve handling, treating, and storing hazardous wastes, rather than discharges within the jurisdiction of the Clean Water Act. The entities for which I request deletion are, as follows:

Radioactive Liquid Waste Treatment Facility (RLWTF);  
Strategic Computing Complex;  
Los Alamos Neutron Science Complex, or LANSCE, facility;  
National High Magnetic Field Laboratory; and  
High Explosive Wastewater Treatment Facility.

Thank you for your consideration of this request.

Respectfully,

*(signed)*

John E. Wilks, III  
Committee Chair

November 1, 2020

Ms. Evelyn Rosborough  
U.S. Environmental Protection Agency  
NPDES/Wetland Review Section (6WD-PN)  
1201 Elm Street, Suite 500  
Dallas, Texas 75270-2102  
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Email sent to: [rosborough.evelyn@epa.gov](mailto:rosborough.evelyn@epa.gov)

Re: **LANL Industrial Wastewater Permit - Draft Permit No. NM0028355**

<https://www.epa.gov/nm/lanl-industrial-wastewater-permit-draft-permit-no-nm0028355-0>

Dear Sir/Madam

Citizen Action New Mexico is opposed to the continued issuance of an NPDES permit under the Clean Water Act from at least the following five facilities at Los Alamos National Laboratory:

1. **The Radioactive Liquid Waste Treatment Facility.** This key facility, located across the street from the Plutonium Facility, treats liquid radioactive and hazardous waste contaminated by the fabrication of plutonium pits, or the triggers, for nuclear weapons. In 1963, discharges began through Outfall 051 into a tributary of Mortandad Canyon. In the late 1990's LANL instituted a "zero liquid discharge" plan to eliminate the discharge.
2. **The Strategic Computing Complex** (no discharge between September 2016 and to at least May 2019);
3. **The Los Alamos Neutron Science Complex**, or LANSCE, (facility cooling towers are no longer in use);
4. **The National High Magnetic Field Laboratory** (treated water being "discharged" to the Sanitary Wastewater System (SWWS) Plant); and
5. **The High Explosive Wastewater Treatment Facility** (since November 2007 an electric evaporator(s) has been in use).

All of these facilities should be regulated under the Resource Conservation and Recovery Act (RCRA) and the areas adjacent to these non-discharge facilities should be required to clean up the contaminated soil from past operations.

It is high time for the EPA to discontinue the fiction that these discharge permits should be issued where there is no discharge. EPA should not accommodate a lesser standard of protection for public health and environmental safety than could be obtained under RCRA. The continued issuance of such permits in the absence of discharge is contrary to law.

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Cc: James Kenney, NMED Secretary  
Kevin Pierard, NMED Hazardous Waste Bureau