



United States Environmental Protection Agency

Region 6

1445 Ross Avenue, Suite 1200

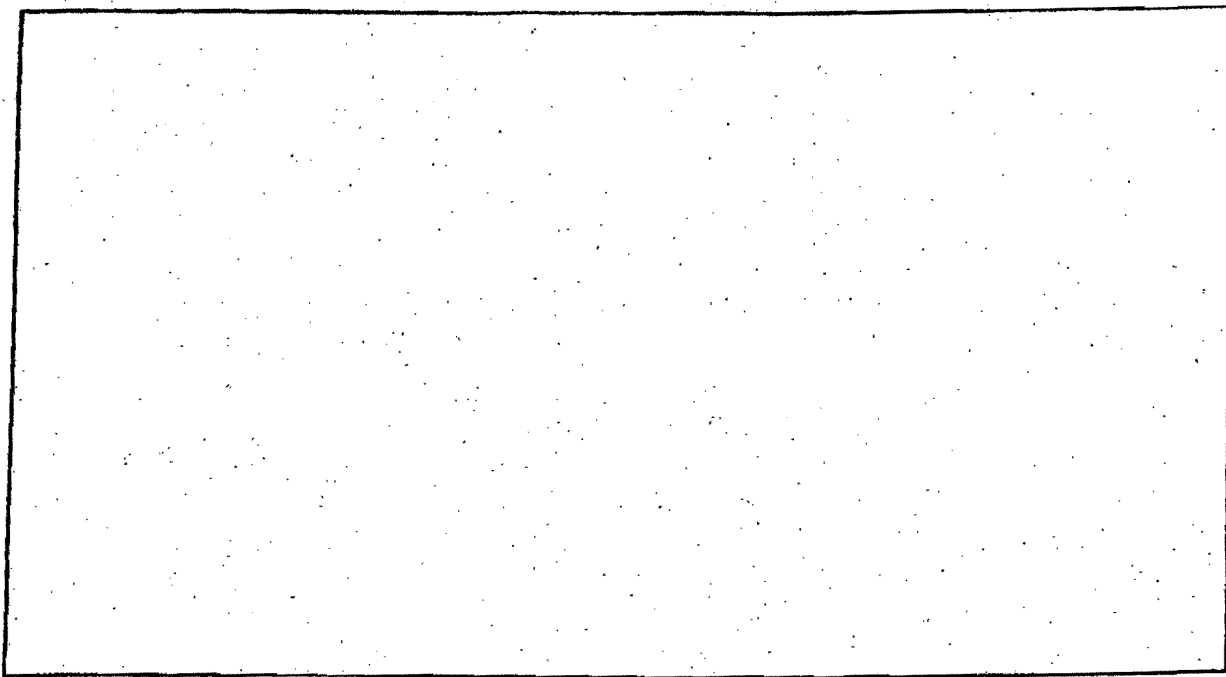
Dallas, Texas 75202-2733



FAX FORM

Number of Pages, including cover sheet: 7

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS TX 75202-2733

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ENVIR. APPEALS BOARD

September 22, 2010

VIA FAX AND FEDERAL EXPRESS

U.S. Environmental Protection Agency
Clerk of the Board, Environmental Appeals Board
1341 G Street, N.W., Suite 600
Washington, D.C. 20005
FAX (202) 233-0121

Re: Los Alamos National Laboratory
NPDES Permit No. NM0030759
NPDES Appeal No. NPDES 09-05

Dear Madam:

Enclosed please find the original and five (5) copies of a Joint Status Report and Motion to Continue Stay in the above-referenced matter. If you have any questions, please call me at (214) 665-2130. Thank you.

Sincerely,

E. Renea Ryland

Enclosures

Department of Energy (DOE) are Co-Permittees under the Permit, which is an individual permit for storm water discharges associated with industrial activities from specified Solid Waste Management Units (SWMUs) and Areas of Concern (AOCs) at the facility.

2. The facility covers approximately 40 square miles and is situated on the Pajarito Plateau in Northern New Mexico, which consists of a series of finger-like mesas separated by deep west-to-east oriented canyons cut by predominantly ephemeral and intermittent streams. The majority of the approximately 400 SWMUs and AOCs covered by the permit are remotely located and not associated with current industrial activities.

3. On March 13, 2009, the Western Environmental Law Center on behalf of Petitioners filed with the Board a timely Petition for Review of the Permit and Request for Oral Argument. On April 13, 2009, Co-Permittees LANS/DOE filed a Motion to Intervene and Request for Leave to Respond to the Petition for Review. On April 17, 2009, the Region filed a Motion for Extension of Time in Which to File Region 6's Response to Petition for Review.

4. On April 21, 2009, the Board granted both the Region's request for an extension of time and LANS/DOE's request to intervene in these proceedings and file a joint response to the Petition for Review, giving both parties until June 11, 2009 to file their responses. By subsequent Orders, the Board extended the Region's and DOE/LAN's response deadlines until March 19, 2010.

5. On March 19, 2010, the Parties filed with the Board a Stipulation and Joint Motion to Stay these proceedings pending completion of a permit modification agreed to by the Parties in settlement of the Petitioner's appeal. The Stipulation stated that EPA expected to complete the permit modification process by August 6, 2010, but

acknowledged that the Region's decision on the permit modification was not pre-determined and must take into account information introduced through public comment.

6. By Order dated March 25, 2010, the Board granted the Parties' Motion to Stay this proceeding in order to allow the Parties time to put their settlement into effect. In its Order, the Board noted that the Parties had projected four alternative courses of action through which they might bring this matter to conclusion, including voluntary dismissal of the petition by Petitioners upon successful completion of the permit modification process. The Board also noted a fifth alternative, namely that the permit modification process might take longer than anticipated by the Region and that the Parties might jointly desire to continue the stay to allow the Region to complete its decision. The Board directed the Parties to file, either jointly or individually, an appropriate document by Wednesday, September 22, 2010, taking one of the described courses of action for bringing this matter to conclusion.

CURRENT STATUS

1. On April 30, 2010, and in accordance with 40 C.F.R. § 124.10, the proposed permit modification was noticed to the public for review and a 30 day comment period. In addition, the modified permit was forwarded to the State of New Mexico for certification in accordance with Section 401(a) of the Clean Water Act. The State forwarded the Region its CWA Section 401 certification of the draft permit modification by letter dated June 3, 2010, providing both Conditions of Certification, as well as general comments. By letter to EPA dated September 22, 2010, the State clarified certain aspects of its certification.

2. As a result of comments received regarding the proposed permit modification and the State's certification, changes were necessary to the permit modification as proposed. Working through these changes and preparing responses to the comments received has taken the Region longer than expected and has prevented the Region from issuing a final permit modification by August 6, 2010, as anticipated in the Parties' Stipulation.

3. Necessary revisions to the permit modification, as well as the Region's Response to Comments, should be complete in the next few days, at which point the permit modification package will undergo final review by EPA management. The Region anticipates issuing a final permit decision by September 30, 2010. Pursuant to 40 C.F.R. § 124.15, the agency's final permit decision shall become effective 30 days after notice of the decision unless review is requested under 40 C.F.R. § 124.19.

REQUESTED RELIEF

The parties jointly and respectfully request a continuation of the Stay in this proceeding until November 1, 2010, to allow the Region to complete the permit modification process.

Respectfully submitted,



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*pursuant to e-mail or voice-mail authorization 22 September 2010.