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Date: October 15, 2009

To: Erika Durr, Clerk of the Board, Environmental Appeals Board

Fax Number: (202) 233-0121

From: Dina Gonzales, Admin. Coord. for Matthew Bishop, Attorney

Office Location: Northwest Southwest N. Rockies S. Rockies

of pages (incl. cover page): 6

In re: Los Alamos National Laboratory, NPDES Permit No. NM0030759, NPDES Appeal No. 09-05

Dear Clerk:

Attached for filing, please find a Joint Status Report and Motion for Further Extension of Deadline to File Response in the above-referenced matter. An electronic copy of this filing has been sent to all counsel today. Two (2) hard copies of this filing are also being sent to the Environmental Appeals Board today via First Class Mail. A self-addressed, stamped envelope is being included in the mailing for return of a file-stamped copy to our office.

If you have any questions, please do not hesitate to contact me at 575-751-0351, ext. 136 or via email at gonzales@westernlaw.org or our attorney Matthew Bishop at 406-324-8011 or bishop@westernlaw.org. Thank you for your attention to this matter.

Sincerely,

Dina M. Gonzales, Administrative Coordinator
Southwest Office

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BEFORE THE ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.

OCT 16 AM 9:09
ENVIR. APPEALS BOARD

In re: Los Alamos National Laboratory)
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NPDES Appeal No. NPDES 09-05

NPDES Permit No. NM0030759

**JOINT STATUS REPORT AND THIRD MOTION FOR FURTHER EXTENSION
OF DEADLINE BY WHICH REGION 6 AND LANS/DOE MUST FILE THEIR
RESPONSES TO PETITION FOR REVIEW**

Pursuant to the Order of the Environmental Appeals Board ("the Board") dated September 4, 2009, the United States Environmental Protection Agency, Region 6 ("the Region"), Los Alamos National Security, LLC and the U.S. Department of Energy (LANS/DOE) and the Western Environmental Law Center respectfully file this Joint Status Report concerning progress in settlement discussions regarding the above-referenced matter. In addition, the parties jointly and respectfully request that the Board extend the deadline by which the Region and LANS/DOE must file their respective responses to the Petition for Review filed by the Western Environmental Law Center until December 4, 2009, in order to allow the parties time to continue, and hopefully successfully conclude, settlement negotiations. In support of this request, the parties states as follows:

1. The Region issued NPDES Permit No. NM0030759 ("the Permit") for the Los Alamos National Laboratory (LANL) facility located at Los Alamos, New Mexico on February 13, 2009. Los Alamos National Security, LLC (LANS) and the U.S.

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 Amigos Bravos, Concerned Citizens for Nuclear Safety, Embudo Valley Environmental Monitoring Group, Honor Our Pueblo Existence, New Mexico Acequia Association, Partnership for Earth Spirituality, J. Gilbert Sanchez, Kathy Sanchez, and Tewa Women United ("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.

4. The Petition for Review raises complex issues, including whether compliance schedules are permissible under the Clean Water Act and under what circumstances, and what is required to ensure compliance with water quality standards. The issues are further complicated by the unique nature of the LANL facility and its industrial discharges.

5. Based on the complex nature of both the permitted facility and the issues raised in the Petition for Review and the resulting need for extensive coordination between the Region and EPA Headquarters on these issues, the Region filed a Motion for

Extension of Time in Which to File Region 6's Response to Petition for Review on April 17, 2009, asking for an additional six (6) weeks, or until June 11, 2009, to file a response.

6. 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. The Board's Order stated that both the Region's and LANS/DOE's responses were due on or before Thursday, June 11, 2009.

7. Upon consideration of the permitting documents and the Petition for Review and based on preliminary discussions, the parties requested that the Board extend the June 11, 2009, deadline for the Region and LANS/DOE to file their respective responses to the Petition for Review until September 11, 2009, in order to allow the parties to engage in settlement discussions.

8. On June 9, 2009, the Board granted the parties' joint request for an extension of time until September 11, 2009. The Board also ordered the parties to jointly file, no later than August 11, 2009, a status report on the progress of settlement negotiations.

9. In order to accommodate on-going settlement talks, the parties filed a second joint motion to extend the deadline for filing a response to the Petition for Review to October 14, 2009. On September 4, 2009 the Board granted the parties' second request, except that the Board granted the stay until October 23, 2009. The Board also ordered the Parties to file, no later than October 16, 2009 a status report on the progress of settlement negotiations.

10. To date, the parties have made progress but are still actively engaged in settlement talks. The parties remain cautiously optimistic that this matter will settle.

Given the number of parties and technical nature of the issues involved, however, more time is needed to accommodate these talks. The parties have scheduled a conference call for October 19, 2009 and a follow up, two day in person meeting in Santa Fe, New Mexico on October 27th and 28th with the aim of reaching a proposed settlement by the end of the month and wrapping up settlement negotiations by mid-November.

WHEREFORE, to accommodate on-going settlement talks and avoid potentially unnecessary legal costs and expenses, the parties respectfully request an extension of the deadline for the Region and LANS/DOE to file their respective responses to the Petition to be extended December 4, 2009.

Respectfully submitted,

/s Renea Ryland*

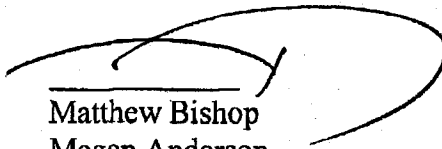
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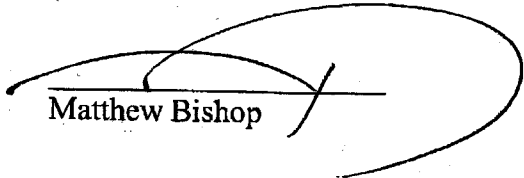
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this JOINT STATUS REPORT AND THIRD MOTION FOR FURTHER EXTENSION OF DEADLINE BY WHICH REGION 6 AND LANS/DOE MUST FILE THEIR RESPONSES TO PETITION FOR REVIEW were sent to the following persons via electronic mail on October 15, 2009:

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