



United States Environmental Protection Agency

Region 6

1445 Ross Avenue, Suite 1200

Dallas, Texas 75202-2733

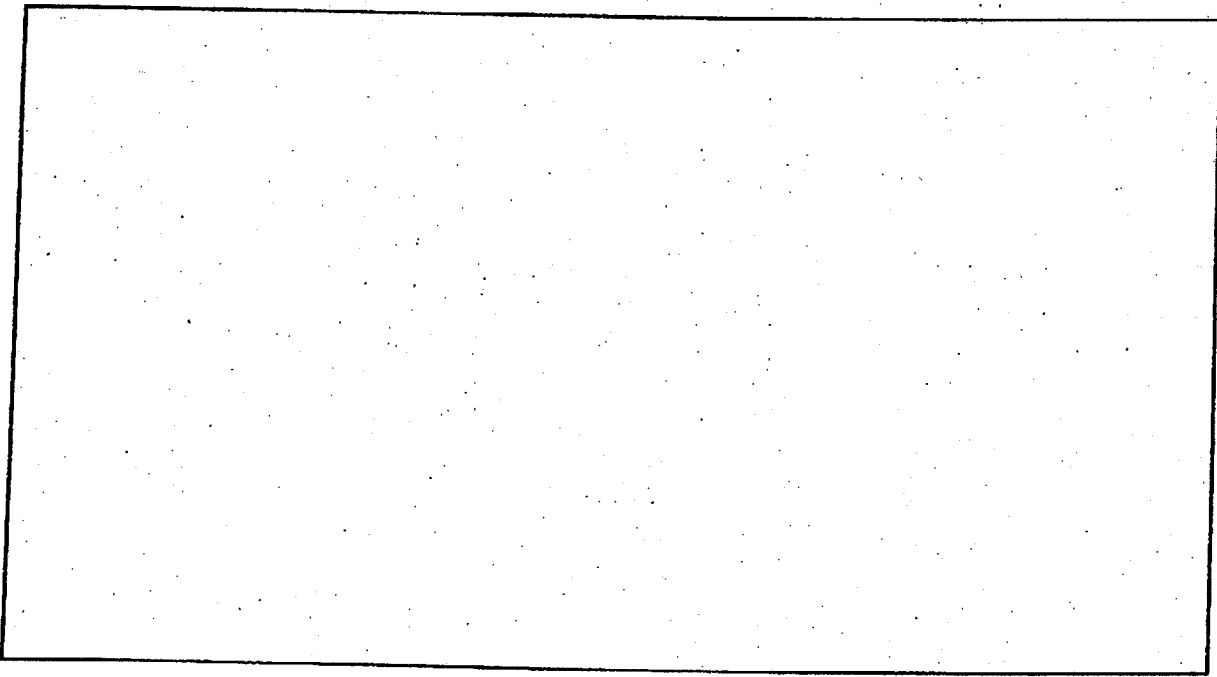


FAX FORM

Number of Pages, including cover sheet: 8

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To: Eureka Durr Clerk of the Board U.S. EPA EAB	From: Renea Ryland
Phone: (202) 233-0122	Phone: (214) 665-2130
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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS, TX 75202-2733

December 4, 2009

RECEIVED
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ENVR. APPEALS BOARD

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 for Fifth Extension of Deadline by Which Region 6 and LANS/DOE Must File Their Responses to Petition for Review 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 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, on August 11, 2009, the parties filed a third motion to extend the deadline for filing a response to the Petition for Review until October 14, 2009. On September 4, 2009, the Board granted the parties' 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. Because settlement negotiations were progressing, but not yet concluded, on October 16, 2009, the parties jointly filed a fourth motion asking that the filing

deadline be extended from October 23, 2009, until December 4, 2009. That motion was granted by the Board on December 3, 2009.

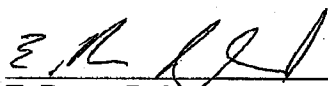
11. The parties submit that settlement negotiations are progressing well and the parties are optimistic that a settlement can be finalized in the near future. Technical and legal staff from the Region, the Western Environmental Center and its clients, LANL and DOE engaged in a two-day in-person meeting in Santa Fe, New Mexico, on October 26 and 27, 2009. As a result of those negotiations, the parties are in the process of exchanging draft language revisions.

12. Although a good bit of progress has been made, more time is needed to reach a final agreement. In a December 1, 2009, conference call, the parties established a

goal of wrapping up settlement negotiations by the end of the year.

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 for Review from December 4, 2009 until January 18, 2009.

Respectfully submitted,



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/s James T. Banks*

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/s Matt Bishop*

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Counsel for Petitioners

*pursuant to e-mail authorization 12/04/09

**could not be reached for final signature authorization, but gave prior verbal approval for filing of Fifth Motion for Extension of Deadline

CERTIFICATE OF SERVICE

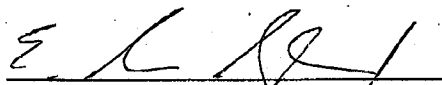
I hereby certify that on December 4, 2009, copies of the foregoing Joint Status Report and Fifth Motion for Extension of Deadline by which Region 6 and LANS/DOE Must File Their Responses to Petition for Review in the matter of Los Alamos National Laboratory, NPDES Permit No. NM0030759, were served via electronic mail to the following persons:

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