



United States Environmental Protection Agency

Region 6

1445 Ross Avenue, Suite 1200

Dallas, Texas 75202-2733

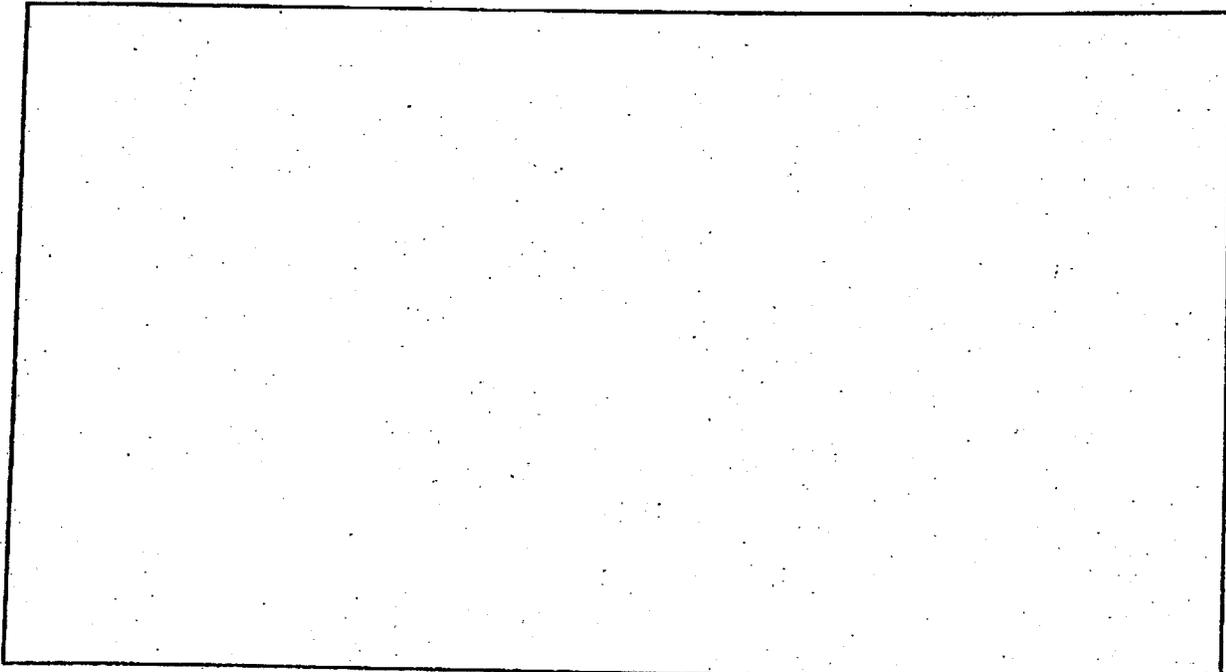


FAX FORM

Number of Pages, including cover sheet: 6

RECEIVED
U.S. EPA
AUG 11 11 11 AM '09
ENVIRONMENTAL APPEALS BOARD

To: Eureka Durr Clerk of the Board U.S. EPA EAB	From: Renea Ryland
Phone: (202) 233-0122	Phone: (214) 665-2130
Fax: (202) 233-0121	Fax: (214) 665-2182





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

August 11, 2009

RECEIVED
U.S. EPA
AUG 11 10 13 AM
ENVIRONMENTAL 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 Further 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

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

RECEIVED
 U.S. EPA

ENVIRONMENTAL APPEALS BOARD

In re: Los Alamos National Laboratory)

NPDES Appeal No. NPDES 09-05

NPDES Permit No. NM0030759)

**JOINT STATUS REPORT AND 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 June 9, 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 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 September 11, 2009, 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 October 14, 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.

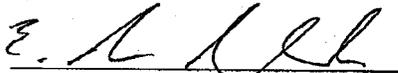
9. The parties submit that settlement negotiations are ongoing and that the parties remain optimistic that resolution of some or all of the issues in this appeal is possible. Technical and legal staff from the Region, the Western Environmental Center and its clients, LANL and DOE have met and discussed possible settlement options and the parties are in the process of exchanging draft language revisions.

10. The parties submit that a further extension of time of this length is both reasonable and necessary given the unique circumstances underlying the Permit itself; the

complexities of the issues raised in the Petition for Review; the need to schedule additional meetings between technical and legal staff from the various parties; and the need for the Region to coordinate extensively with EPA Headquarters regarding any actions proposed to be taken as a result of settlement discussions. Due to the large number of individuals involved, even the scheduling of meetings and/or conference calls requires a good deal of time and date flexibility.

For the foregoing reasons, 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 September 11, 2009 until October 14, 2009.

Respectfully submitted,



E. Renea Ryland
Assistant Regional Counsel
U.S. EPA, Region 6
1445 Ross Ave., Suite 1200
Dallas, TX 75202
(214) 665-2130
Counsel for EPA, Region 6

/s James T. Banks*

James T. Banks
Adam J. Siegel
HOGAN & HARTSON LLP
555 13TH Street, NW
Washington, D.C. 20004
(202) 637-5600
Counsel for LANS

/s Lisa Cummings*

Lisa Cummings
U.S. Department of Energy
Los Alamos Site Office
3747 West Jemez Road
Los Alamos, NM 87544
(505) 665 -9172
Counsel for DOE

/s Megan Anderson*

Megan Anderson
Matthew Bishop
Western Environmental Law Center
P.O. Box 1507
Taos, NM 87571
(575) 751-0351
Counsel for Petitioners

*pursuant to e-mail authorization 08/10/09