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APR 13 2009  
U.S. ENVIRONMENTAL PROTECTION AGENCY  
ENVIRONMENTAL APPEALS BOARD

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April 13, 2009

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**BY HAND DELIVERY**

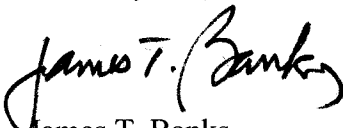
U.S. Environmental Protection Agency  
Clerk of the Board  
Environmental Appeals Board  
1341 G Street, N.W., Suite 600  
Washington, D.C. 20005

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

Dear Sir or Madam:

Enclosed are the original and two copies of the Co-Permittees United States Department of Energy's and Los Alamos National Security, LLC's Motion to Intervene and Request for Leave to Respond to the Petition for Review. In addition, enclosed is one copy to be date-stamped and returned in the self-addressed envelope provided. If you should have any questions, please contact me. Thank you.

Sincerely,

  
James T. Banks

Enclosures

**BEFORE THE ENVIRONMENTAL APPEALS BOARD  
U.S. ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C.**

ENVIRONMENTAL APPEALS BOARD

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U.S. EPA.

In Re: Los Alamos National Laboratory  
NPDES Permit No. NM0030759

NPDES Appeal No. 09-05

**CO-PERMITTEES UNITED STATES DEPARTMENT OF ENERGY'S AND LOS  
ALAMOS NATIONAL SECURITY, LLC'S  
MOTION TO INTERVENE AND REQUEST FOR LEAVE TO RESPOND  
TO THE PETITION FOR REVIEW**

The United States Department of Energy ("DOE"), and Los Alamos National Security, LLC ("LANS") (jointly "the co-permittees"), hereby request leave to intervene in the above-styled matter and to file a response to the Petition for Review filed by 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 (hereinafter "Petitioners").

Petitioners seek review of Los Alamos National Laboratory NPDES Permit No. NM0030759 (the "Permit") issued by the U.S. Environmental Protection Agency ("EPA") Region 6 on February 13, 2009 to the co-permittees. Among other things, Petitioners have requested that this Board grant review of the Permit to determine whether the Permit's compliance schedule is permissible, and whether the Permit's conditions comply with the Clean Water Act ("CWA"). The co-permittees have a direct and substantial interest in the Permit and the matters raised by Petitioners, and state as follows:

1. Los Alamos National Laboratory ("LANL") is located in Los Alamos County approximately 60 miles north-northeast of Albuquerque, New Mexico and 25 miles northwest of Santa Fe, New Mexico. LANL is managed and owned by co-permittees, LANS and DOE, respectively.

2. LANS is a limited liability company whose members are composed of Bechtel National, Inc., the University of California, BWX Technologies, and the Washington Group International, Inc. LANS took over management and operation of LANL in June, 2006, from the Regents of the University of California.

3. DOE is a department of the United States Government, and is the owner and a co-operator of LANL.

4. On February 3, 2005, DOE and EPA entered into a Federal Facility Compliance Agreement ("FFCA"), which, among other things, was designed to establish a compliance program for the regulation of storm water discharges from point sources at LANL until such time as those sources are regulated by an individual NPDES storm water permit issued by EPA.

5. Among other things, the FFCA required that DOE apply for an individual storm water discharge permit for LANL prior to December 31, 2004. On or about December 20, 2004, DOE submitted an application for such permit.

6. On February 13, 2009, EPA Region 6 issued the Permit to LANL as managed and owned by co-permittees, LANS and DOE.

7. DOE, as co-permittee and owner of LANL, and LANS, as co-permittee, and manager and operator of LANL, have a direct and substantial interest in the matters raised in the Petition for Review, which, among other things, asserts that: (1) the Permit should be remanded

because it includes an inappropriate compliance schedule; and (2) the Permit should be remanded because it fails to ensure compliance with water quality standards.

8. As operators of LANL, co-permittees also have a direct and substantial interest in addressing Petitioners' unsubstantiated allegations that LANL "has not engaged in good faith efforts to comply" with its stormwater permits.

9. In addition to the present permit appeal proceedings, in February 2008, Petitioners and other plaintiffs filed a CWA citizen suit against LANS and DOE in the United States District Court for the District of New Mexico. In that case, Amigos Bravos et al. v. U.S. Department of Energy et al., Case No. CV-08-137, Petitioners have alleged a number of violations related to LANL's NPDES Storm Water Multi-Sector General Permit ("MSGP") Nos. NMR05A734 and NMR05A735, which became effective on December 23, 2000. Petitioners have raised issues in that case that are similar to the issues raised here.

10. Because the new individual Permit at issue here is designed to replace the old MSGP, which is the subject of Petitioners' pending CWA citizen suit, the co-permittees have a direct and substantial interest in participating in these proceedings to defend EPA's issuance of the new individual Permit and to protect their related interests in the ongoing CWA citizen suit.

11. Counsel for EPA Region 6 has indicated that EPA does not oppose this motion. Counsel for Petitioners has indicated that Petitioners do not oppose this motion.

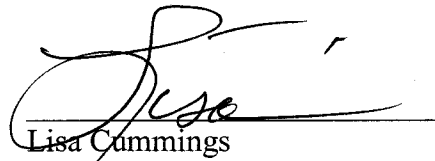
For all of the foregoing reasons, the co-permittees respectfully request that they be granted leave to intervene in this matter and to file a response to the Petition for Review.

Respectfully submitted,



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Counsel for DOE

Dated: April 13 , 2009

**CERTIFICATE OF SERVICE**

This is to certify that on this 13th day of April, 2009, a true and correct copy of the foregoing Motion to Intervene and Request for Leave to Respond to the Petition for Review, was served by First Class Mail, postage pre-paid, to the following counsel:

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