

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

In re: )  
)  
Los Alamos National Laboratory, ) No. 14-02  
)  
NPDES Permit No. NM 0028355 )  
)  
\_\_\_\_\_ )

**STIPULATION AND JOINT MOTION TO STAY PROCEEDINGS**

Petitioners, the United States Department of Energy (“DOE”) and Los Alamos National Security, LLC (“LANS”), and Respondent Region 6 of the United States Environmental Protection Agency (“EPA Region 6”) (collectively, the “Parties”), jointly request through this motion that the Environmental Appeals Board stay the proceedings in this matter, pending EPA Region 6’s modification of the permit to delete the contested permit condition, i.e. the monitoring requirements and effluent limitations for selenium at Outfall 03A048. In support of this motion, the Parties state as follows:

1. EPA Region 6 issued a final renewed NPDES Permit No. NM0030759 (the “Permit”) for the Los Alamos National Laboratory (LANL) facility located at Los Alamos, New Mexico on August 12, 2014.
2. DOE and LANS timely filed a petition appealing the monitoring requirements and effluent limitations for selenium at Outfall 03A048 imposed in renewed NPDES Permit No. NM 0028355 on September 15, 2014.
3. EPA Region 6’s response was due on October 20, 2014.

4. The Parties have engaged in informal discussions and EPA Region 6 has agreed to propose to modify the permit to delete the contested permit condition.

5. The Parties therefore request the Board to stay proceedings on the Petition pending completion of the permit modification process. A proposed Order is attached hereto as Exhibit A.

### **STIPULATION**

The Parties stipulate and agree as follows:

A. The Parties have engaged in informal settlement discussions related to the Permit, have reached agreement on a modification of the Permit, and now wish to resolve this matter without the expense and burden of continued litigation. The Parties agree that this stipulation is in their interest as well as the public's interest, and that entry of this stipulation, and dismissal upon successful completion of the permit modification process described herein, is the most appropriate means by which to resolve this case.

B. EPA Region 6 will propose a draft permit modification deleting the monitoring requirements and effluent limitations for selenium at Outfall 03A048 for public notice and comment in accordance with 40 C.F.R 124.10 as soon as possible, but in no event later than December 29, 2014. EPA Region 6 expects to be able to complete the permit modification process no later than April 30, 2015, unless public comment raises significant issues that lead the Region to reconsider the modification. EPA Region 6 will promptly notify Petitioners if unanticipated delays as a result of the public comment process will delay issuance of a final, modified permit, and will attempt to gain agreement of the Parties to issue a final modified permit beyond April 30, 2015. The Parties hereby agree not to unreasonably withhold their agreement.

C. Upon issuance of a final modified permit deleting the monitoring requirements and effluent limitations for selenium at Outfall 03A048, Petitioners will file a voluntary dismissal of this appeal within thirty (30) days of the issuance of the final modified permit.

D. If EPA Region 6 is unable to complete the permit modification process on the schedule set forth above the Parties may request an extension of the stay of this appeal. Alternatively, any party may provide notice that the agreement cannot be consummated. In such event, the stay shall be lifted and the appeal will proceed in accord with EAB regulations and guidance.

E. The undersigned representatives of the Parties certify that they are fully authorized by the Party they represent to enter into the terms and conditions of this Stipulation and legally bind such party thereto.

F. This stipulation can only be modified upon written agreement of both Parties. If either Party realizes that it has, or will, breach this agreement, it shall promptly notify all other Parties in writing.

### **CONCLUSION**

The Parties respectfully request that this matter be stayed until April 30, 2015 to allow the Parties adequate time to complete the permit modification process, which, if successful, will fully resolve the issues on appeal. At that time, the Parties will submit a status report regarding the status of the permit modification and whether it is appropriate to continue the stay, dismiss the Petition, or establish a schedule for EPA's response to the Petition.

Respectfully Submitted,

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