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RYAN FLYNN
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DEPUTY SECRETARY

Air Quality Bureau

January 26, 2015

Joni Arends
Executive Director
Concerned Citizens for Nuclear Safety (CCNS)
P.O. Box 31147
Santa Fe, NM 87594-1147
Sent Via Email to: jarends@nuclearactive.org

Dr. Maureen Merritt
1012 Summerlin Falls Court
Wilmington, NC 28412
Sent Via Email to: abovepar33@gmail.com

Kathy Sanchez, Environmental Health and Justice Program Manager and
Gathering for Mother Earth
Tewa Women United (TWU)
P. O. Box 397
Santa Cruz, NM 87567
Sent Via Email to: kathy@tewawomenunited.org

SUBJECT: Response to comments and questions regarding the Draft-Proposed Los Alamos National Laboratory Title V Air Quality Operating Permit No. P100-R2

Dear Ms. Arends, Dr. Merritt, and Ms. Sanchez:

The New Mexico Environment Department (Department) – Air Quality Bureau (AQB) received your comments and questions regarding the Draft-Proposed Title V Air Quality Operating Permit No. P100-R2, for the Los Alamos National Laboratory (LANL). This response is intended to answer any questions that you may have regarding permit conditions and address concerns regarding beryllium monitoring and reporting. If after reviewing this response there are still more questions and/or concerns, please notify us **by Monday, February 2, 2015**. We are requesting this deadline so that we can meet the regulatory deadlines for this permit application.

Below are summaries of the questions and comments from section III of your attached letter, dated January 18, 2015, and the Department's responses.

Comments:

III. PERMIT SHOULD REQUIRE REPORTING FOR ALL LANL BERYLLIUM OPERATIONS

III.A. Beryllium Sensitivity and Chronic Beryllium Disease – Comments of Dr. Maureen Merritt

III.B. Beryllium Standards for LANL Employees – Comments by Dr. Maureen Merritt

Department Response: We thank you for including this information regarding the health effects of beryllium exposure. Since we do not have the regulatory authority over any of these specific processes or regulatory entities listed in this section, our understanding is that these comments are to provide important background information regarding beryllium sensitivity (BeS), awareness, worker testing and monitoring, compensation, and Occupational Safety and Health Administration (OSHA) Standards and do not include any requests for specific changes to the Title V Draft-Proposed permit. If our interpretation is not correct, please notify us.

Comments:

III.C. NMED Promises to Require Beryllium Monitoring in this Permit Renewal- Comments by Joni Arends, CCNS

Department Response: As stated in your January 28, 2015 comment letter, the new Title V draft-proposed permit now requires monitoring and semi-annual emissions inventory reporting of the four beryllium facilities in the Title V permit, including the Sigma Facility (TA-3-66). This comment stems from an April 20, 2012 CCNS letter to the AQB Enforcement Section regarding semi-annual emissions reporting for beryllium facilities at LANL. In responding to this letter, the AQB reviewed the previous Title V permit and found that it did not require the semi-annual emissions reporting for the Sigma Facility (TA-3-66) in the same manner as the other 3 beryllium facilities (see attached CCNS 4-20-12 & 5-18-12 letters and AQB's 4-24-12 letter). The Sigma Facility condition A707.D of the current Draft-Proposed permit references the semi-annual beryllium emissions reporting requirement at A109.

The III.C comments also state that “due to the extreme consequences to those who are sensitive to beryllium and are exposed to it, we believe **now** is the time to require monitoring and reporting of all LANL beryllium processing facilities”. The AQB confirmed with the LANL air permit contact that there are no beryllium facilities located at LANL that are not already regulated in the Title V permit. Therefore, the Draft-Proposed permit does require reporting of emissions from all LANL beryllium facilities that are subject to regulation.

Comments:

III.D. Questions and Comments about the draft Permit - Comments by Joni Arends, CCNS

1. **Comment:** Permit Condition A707.D – Is the Beryllium Technology Facility at TA-3-141 operating? The permit condition anticipates a “date of initial startup of each new or modified source”. How will the public be notified about new or modified sources?

Department Response: The Beryllium Technology Facility at TA-3-141 has been permitted and operational since the 1990s. Some of the equipment at TA-3-141, that was permitted in new source review (NSR) permit number 634 and its subsequent modifications, is not yet operational. This is the reason that the initial startup reporting is still required by this condition. Reporting of source startup, maximum production rate, and notifications of noncompliance within 60 days is similar to standard condition language found in all of our new source review (NSR) permits and is based on the regulatory reporting requirements at 20.2.72.213 NMAC. Public notification for permit approval to construct the equipment at TA-3-141 occurred through the NSR permit application process, which included full public notification by both LANL and AQB. Any future modifications to existing sources or the addition of new sources would require public notice and have to be approved through this same permit process. The regulation does not also require that public notice be given of the initial startup of a unit or source that has already been permitted. However, startup notifications that have been submitted to the Department are available for public inspection.

2. **Comment:** Condition A1204 – “Operational Limitations – Data Disintegrator” – We support the new processing limits
3. **Comment:** Condition A1304 “Operational limitation TA-3 Power Plant” – We support the new paragraph B limiting the operation of Units TA-3-22-1 through – 3 with fuel oil to no more than 48 hours per year per boiler for non-emergency maintenance and readiness testing.

Department Response: The Department acknowledges your support for the new/revised permit conditions and thanks you for your feedback.

4. **Comment:** Permit Condition B101.A(2). How would the public be notified about emissions trading within the facility?

Department Response: The LANL Draft-Proposed permit does not include any terms or conditions that required an emissions cap or does it allow trading of emissions increases and decreases to comply with it. These types of conditions would, if applicable, be found in the Part A – Specific Conditions of the permit. Therefore, this General Condition number B101.A(2) is not applicable under this permit and cannot be implemented by LANL. However, the Title V regulation at 20.2.70.302.H(2) NMAC requires that we include this condition in all Title V permits and the reason that this standard language is found in this permit.

Thank you for your interest and comments in this Title V Draft-Proposed permit. We hope that the above responses addressed your concerns and answered questions. If there are questions, please do not hesitate to contact me.

Sincerely,

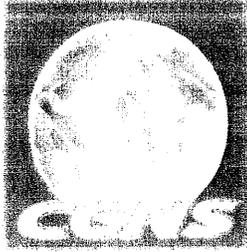


Daren K. Zigich, P.E.
Air Quality Bureau – Major Source Permit Section
New Mexico Environment Department
525 Camino de los Marquez, Suite 1
Santa Fe, NM 87505-1816
(505) 476-4366 office
darenk.zigich@state.nm.us

Attachments: CCNS 4-20-12 letter to Judy Fisher, NMED AQB
NMED AQB 4-24-12 letter to Joni Arends, CCNS
CCNS 5-18-12 letter to Judy Fisher, NMED AQB

cc: Bill Blankenship, LANL via email: bblankenship@lanl.gov
Randy Pitre, US EPA Region-6 via email: Pitre.Randy@epamail.epa.gov

Jon.



**Concerned Citizens
for Nuclear Safety**

107 Cienega Street
Santa Fe, New Mexico 87501
505.986.1973
www.nuclearactive.org

April 20, 2012

CERTIFIED MAIL NO. 7007 3020 0001 2496 0683

Ms. Judy Fisher, AIRS AFS
New Mexico Environment Department
Air Quality Bureau
1301 Siler Road, Building B
Santa Fe, New Mexico 87507

RE: Notice of Apparent Violation: Operating Permit No. P100R1
AIRS No. 35-028-00001
Facility Name: Los Alamos National Laboratory
Facility Owner/Operator: U.S. Department of Energy National Nuclear
Security Administration/
Los Alamos National Security, LLC

Dear Ms. Fisher:

While engaged in reviewing the draft permit that will replace the one referenced above, it came to our attention that Los Alamos National Security, LLC and the Department of Energy have apparently violated the terms and conditions of the permit.

The permit requires, under section 2.2.6 Reporting, that the permittees, U.S. Department of Energy National Nuclear Security Administration/Los Alamos National Security, LLC, in regard to the "Sigma Facility, TA-3-66," adhere to permit condition 4.2. Permit No. P100R1 at page 13. Condition 4.2 states, in pertinent part, pursuant to 20.2.70.302.E.1 NMAC, that:

Reports of all required monitoring activities shall be submitted on a semiannual basis. All instances of deviation from permit requirements, including those that occur during emergencies, shall be clearly identified in these reports.



Id. In the Title V Semi-Annual Emissions Report for Permit P100R1 for the period July 1, 2011 through December 31, 2011, the permittees state in footnote five (5) to Table 2.2 "Beryllium Activities" at page 4 of the report, "The Sigma Facility listed in section 2.2 of the permit does not require reporting in the Semi-Annual Emissions Report" and no reporting data is supplied therein. This appears to be a direct violation of the permit condition 4.2 as applied to Section 2.2.6 of the permit in relation to the Sigma Facility.

By this letter we request that you take all steps that are necessary in order to bring the Los Alamos National Security, LLC and the Department of Energy into compliance with the New Mexico and federal clean air acts.

We also request that you keep us apprised of your investigation and inform us of the resolution that your office obtains.

Thank you for your prompt attention to this matter.

Sincerely,

A handwritten signature in cursive script that reads "Joni Arends".

Joni Arends
Executive Director



NEW MEXICO
ENVIRONMENT DEPARTMENT



Air Quality Bureau

SUSANA MARTINEZ
Governor
JOHN A. SANCHEZ
Lieutenant Governor

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DAVE MARTIN
Cabinet Secretary
BUTCH TONGATE
Deputy Secretary

April 24, 2012

Joni Arends
Executive Director
Concerned Citizens for Nuclear Safety
107 Cienega Street
Santa Fe, NM 87501

RE: Notice of Apparent Violation, Operating Permit P100R1

Dear Ms. Arends:

We received your inquiry regarding compliance of Los Alamos National Laboratory with permit conditions requiring semiannual reporting of activities regarding the Sigma Facility, TA-3-66. As you noted in your letter, Section 2.2.6 of Permit P100R1 requires adherence to Permit Condition 4.2. Permit Condition 4.2 requires semiannual reports of all required monitoring activities. Los Alamos National Laboratory is in compliance with this requirement. The footnote that you reference in your letter appears in the semiannual emissions report for the facility, which is submitted pursuant to a requirement of Permit Condition 4.1. The Sigma Facility, TA-3-66 is not required to adhere to Permit Condition 4.1.

As a result, the Bureau finds no violation with respect to this matter, and no further action is required. Thank you for your concern.

Sincerely,

A handwritten signature in black ink, appearing to read "Judy Fisher".

Judy Fisher
Enforcement Manager



Concerned Citizens for Nuclear Safety

107 Cienega Street
Santa Fe, New Mexico 87501
505.986.1973
www.nuclearactive.org

May 18, 2012

Judy Fisher, Enforcement Manager
New Mexico Environment Department
Air Quality Bureau
1301 Siler Road, Bldg. B
Santa Fe, NM 87507

RE: Denial of enforcement action, failure to report on beryllium emissions from the Sigma Facility, per permit # P100R1 (AIRS no. 35-028-00001) issued August 7, 2009.

Dear Ms. Fisher:

Concerned Citizens for Nuclear Safety (CCNS) is in receipt of your letter dated April 24, 2012, denying our request to investigate what appears to be a failure of Los Alamos National Laboratory to provide information on beryllium emissions for the Sigma Facility.

As we have examined the existing permit and can find no exemption for that facility written into the permit and, in fact, find it among the listed beryllium emitting facilities required to report, your reply does not seem consistent with the requirements of the federal Clean Air Act and the New Mexico statutes that specifically adopt the Clean Air Act and relevant Code of Federal Regulations for the purpose of being a U.S. Environmental Protection Agency delegation state for administration of the federal Clean Air Act. See above referenced operating permit at sections 2.4.2 and 2.6.2 (enforcement pursuant to section 4.2).

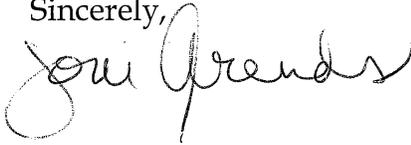
Your answer to us that the Sigma Facility is not required to report under 4.1, absent additional information, does not address the requirements of the permit at sections 2.2.4 and 2.2.6, as made effective under section 4.2, and is an apparent failure to enforce the issued permit which is intended to assure occupational and public health and safety under the applicable federal and state laws. If you are indicating that under section 4.1 the emissions from the Sigma Facility are "insignificant," you should be aware that even a single particle of beryllium lodged in the lungs of a genetically sensitive individual will lead to an irreversible and fatal disease. Moreover, other than "no activity" in the



Sigma Facility (which could have been stated in the table), filter efficiency would not be a basis for non-reporting for the Sigma Facility, as the same systems are used in other of the permittee's facilities for which reports were filed.

Please disclose on what basis is your agency failing to enforce the reporting requirements on the Sigma Facility that are contained in the current air quality permit for the Los Alamos National Laboratory. We look forward to your prompt response.

Sincerely,

A handwritten signature in black ink that reads "Joni Arends". The signature is written in a cursive style with a large, looping initial "J".

Joni Arends
Executive Director

cc: (via email with semi-annual report and previous letter to NMED attached)

Esteban Herrera,
Chief, Air Toxics Section, EPA Region VI
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