

**Concerned Citizens for Nuclear Safety
Dr. Maureen Merritt
Tewa Women United**

January 18, 2015

By email to: DarenK.Zigich@state.nm.us

Daren Zigich, P.E.
Air Quality Bureau
New Mexico Environment Department
525 Camino de los Marquez, Suite 1
Santa Fe, NM 87505-1816

Re: Air Quality Operating Permit Application No. P100-R2
NSR Permit No. 2195H and 2195BM1
TEMPO/IDEA ID No. 856 - PRT20050001
Los Alamos National Laboratory

Dear Mr. Zigich:

Please find below the comments of Concerned Citizens for Nuclear Safety (CCNS), Dr. Maureen Merritt, and Tewa Women United (TWU) regarding the above-referenced Title V air quality operating permit. We understand that the New Mexico Environment Department (NMED) intends to issue the permit on or before February 28, 2015.

Our comments and hearing request are introduced by a section entitled "The Commenters," which provides a brief description of the commenters so that your agency and the Secretary understand the basis and existence of the substantial public interest in the Title V air quality operating permit. In the event that final terms of the permit cannot be negotiated by the commenters, your agency and Los Alamos National Laboratory (LANL), there is substantial public interest sufficient to warrant a public hearing - and we specifically request that a public hearing be held.

I. THE COMMENTERS

Tewa Women United is a collective intertribal women's voice in the Tewa homelands of Northern New Mexico. The name Tewa Women United comes from the Tewa words *wi don gi mu*, which translated to "we are one."

TWU began in 1989 as a support group for women concerned with the traumatic effects of colonization leading to issues including alcoholism, suicide, terricide, environmental violence and domestic and sexual violence. In a safe space women created, transformed and empowered one another through critical analysis and the embracing and re-affirming of our cultural identity.

In 2001 TWU transitioned from an informal, all volunteer group to a formal 501(c)(3) non-profit organization. TWU was incorporated for educational, social and benevolent purposes, specifically for ending all forms of violence against Native women and girls, Mother Earth and to promote peace in New Mexico.

Dr. Maureen Merritt is a board certified physician and occupational medicine practitioner, and former Chief Medical Officer and Lieutenant Commander in the United States Public Health Service and Indian Health Service. She serves on the advisory board of Cold War Patriots, a robust 6000+ member national non-profit dedicated to helping former uranium miners and nuclear workers, and created the NM State Office of Nuclear Worker Advocacy, the first in the nation.

Concerned Citizens for Nuclear Safety (CCNS) formed in 1988 to address community concerns about the proposed transportation of nuclear waste from LANL to the Waste Isolation Pilot Plant (WIPP). CCNS is a 501(c)(3) non-profit organization based in Santa Fe, New Mexico. Our mission is to protect all living beings and the environment from radioactive and other hazardous materials now and in the future.

Over the decades, CCNS has been active in NMED administrative proceedings about LANL involving air emissions, surface water discharges, ground water protection, and hazardous waste disposal storage and disposal. In 2010, we participated in the LANL and WIPP hazardous waste permit hearings, raising concerns about waste characterization, emergency preparedness and response, protection of human health and the environment, among others. The facilities, along with the regulators, did not take many of our concerns seriously. Now because of waste characterization missteps, errors and management incompetency at LANL and acceptance of that waste at WIPP, WIPP is closed, with a possible opening date of 2018 at a cost to the taxpayers of at least \$1 billion. We take our participation in the public processes seriously.

II. ACKNOWLEDGING OUR GOVERNMENT'S OCCUPATION AND POLLUTION OF SACRED PLACES

We begin by acknowledging the sacred place where the emissions are occurring. LANL is emitting radionuclides, chemicals and particulates into the air in the Sacred Mountains of the Pueblo Peoples who were told by the U.S. Government that the Pajarito Plateau would be used for a short time and then it would be returned to the People. The Plateau has been used, and projected for use, by the U.S. Government for at least the next 50 years. One hundred and twenty years is not a short amount of time.

In response, Native women have traveled the world to inform the United Nations and other peoples about the threats of LANL operations and to learn about threats to other communities. In the meetings, Indigenous Women have prepared Declarations. We provide below summaries of some of the Declarations of Indigenous Women. The Declarations state the threats and harms from dangerous industries such as is the Los Alamos National Laboratory nuclear, chemical and biological weapons complex. Recommendations are made and references to actions being taken to restore justice and well being to Indigenous communities. Full texts of the Declarations are available upon request. The information therein documents the environmental justice aspects for the Title V permit.

1. *Las Mujeres Hablan: The Women Speak - Women's Declaration for New Mexico 2010*

9. Be it further resolved that we will support the work of Las Mujeres Hablan. (The Declaration was signed by representatives from the New Mexico Acequia Association (NMAA); Honor Our Pueblo Existence (HOPE), TWU; CCNS; Embudo Valley Environmental Monitoring Group (EVEMG); New Mexico Conference of Churches (NMCC); Community Service Organization (CSO) Del Norte)

Mission: To Address past, present and future issues arising from the nuclear industry's releases of toxic chemicals and radioactive materials that cause contamination to our land, air, and water; demand clean-up of these sites; question the continued manufacturing of nuclear weapons; and restore justice to the Peoples who have been impacted by this industry. And, address other activities that violate and cause harm to our environment and well being within the Sacred Mountains of New Mexico and other places in the world,

2. *Indigenous Women and Environmental Violence, A Rights-based approach Addressing impacts of Environmental Contamination on Indigenous Women, Girls and Future Generations. Submitted to the United Nations Permanent Forum on Indigenous Issues Expert Group Meeting Combating Violence Against Indigenous Women and Girls, January 18 - 20, 2012, United Nations Headquarters, New York, by Andrea Carmen, International Indian Treaty Council and Indigenous Women's Environmental and Reproductive Health Initiative, and Viola Waghiyi, Native Village of Savoonga, St. Lawrence Island, Alaska and Alaska Community Action on Toxics - Theme 2: Contextualizing Violence.*

From a traditional perspective, the health of our Peoples cannot be separated from the health of our environment, the practice of our spirituality and the expression of our inherent right to self-determination, upon which the mental, physical and social health of our communities is based.

--- IITC Oral Intervention presented by Faith Gemmill, Gwich'in Nation Alaska, United Nations Working Group on Indigenous Populations, Geneva July 31, 1996

3. *Report of the International Indigenous Women's Environmental and Reproductive Health Symposium, April 27th - 29th, 2012, Chickaloon Native Village, Alaska. Co-hosted by the International Indian Treaty Council (IITC) and Indigenous Women's Initiative for Environmental and Reproductive Health, Alaska Community Action on Toxics (ACAT), Chickaloon Native Village and International Indigenous Women's Forum (FIMI). Submitted to the 11th Session of the United Nations Permanent Forum on Indigenous Issues as a Conference Room Paper by the International Indian Treaty Council, Indigenous Non-governmental Organization in General Consultative Status to the United Nations Economic and Social Council. May 5th, 2012.*

Kathy WanPovi Sanchez of TWU participated in the Symposium and signed the Report.

Based on these shared understandings, we adopt by consensus this ***2nd DECLARATION for the Health, Survival and Defense of OUR LANDS, OUR RIGHTS and our FUTURE GENERATIONS and make the following recommendations:***

That Indigenous Peoples, Nations and Communities:

- 1) Identify and document the disproportionate impacts of environmental toxins on Indigenous women and children as "environmental violence" for which States and corporations can be held accountable.
 - 2) Provide community capacity-building and training linking reproductive and environmental health and human rights.
 - 3) Maintain, support, strengthen and assert traditional systems of law, community organization, decision-making, leadership and representation.
4. *Sovereignty: Long Live Mother Earth - Women's Declaration 2012: Year of Indigenous Women*, by Las Mujeres Hablan: The Women Speak, which includes TWU and CCNS.
29. Be it further resolved that we will work in solidarity with each other in our struggles to defend the air, land, and water from contamination, exploitation, and militarization,
 30. Be it further resolved that we honor, respect, and recognize the dignity of women and their families throughout the world and here at home who are subjected to exposure to toxins through their work, their food, or their proximity to pollution and that we resolve to speak and act

in solidarity with them in efforts to defend the health of their families and communities,

31. Be it further resolved that we will continue to play an important role in reshaping our communities to achieve a vision of safe, healthy, and joyful lives for our families and communities with good, healthy and locally grown food, good livelihoods that honor the dignity of every human person, and a meaningful and spiritual relationship with Mother Earth.

5. *References to Indigenous Women in the ALTA Outcome Document, Compiled and submitted to the World Conference of Indigenous Women, October 28 – 30, 2013, Lima Peru, by Andrea Carmen (North America Region) and Mililani Trask (Pacific Region).*

*Recommend that States uphold and respect the right of self determination and the free, prior and informed consent of Indigenous Peoples who do not want mining and other forms of resource extraction, “development” and technologies deemed as degrading to their human, cultural, **reproductive** and ecosystem health. Where mining and other forms of resource extraction are already occurring, States shall develop mechanisms with the full and effective participation of Indigenous Peoples to develop a comprehensive strategy for ecologically sustainable and equitable development to end and prevent uncontrolled and unsustainable industrial contamination and degradation with plans for clean---up, remediation and restoration. Such [a] strategy shall incorporate strengthening the capacity of Indigenous youth in relation to sustainable development practices based on Indigenous knowledge and the relationship with the land as well as the protection and promotion of the important role of traditional knowledge holders including Indigenous Elders and women; (*Theme 1: Indigenous Peoples’ lands, territories, resources, oceans and waters, Paragraph 6*)*

Those living downwind and downstream of LANL are very concerned about on-going emissions of hazardous air pollutants, VOCs, radionuclides, particulates, and climate changing chemicals. For over a decade, we have been taking steps to limit LANL’s emissions.

III. PERMIT SHOULD REQUIRE REPORTING FOR ALL LANL BERYLLIUM OPERATIONS

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

As a retired Public Health Service physician, I can tell you Beryllium (Be) exposure IS a big deal, health-wise. The 2% incidence of sensitization that is quoted

here is in fact low. An initial health screening in 1998 by the Department of Energy (DOE) of 23,000 former workers for Be has revealed an incidence of 3-4% BeS (beryllium sensitivity), and about 1% CBD (chronic beryllium disease) AT THE TIME of screening. Time exposed, route (inhaled vs. skin) and intensity of exposure are just part of the risk picture. There is a genetic component that can increase likelihood of contracting berylliosis, a respiratory illness that can lead to cancer. New genetic tests are being developed.

For example, if you are a LANL Be+ machinist, then you have a much higher incidence of conversion annually to CBD (30% or>). For scientists and engineers and the like, the incidence of conversion is about 10%.

Anyone who is sensitized (BeS) will convert to CBD at a rate of about 6-8% a year.

The other part of this story is that once you test positive by blood BeLPT (beryllium lymphocyte proliferation test) then Medical Centers, such as National Jewish Medical Center in Denver (nationally recognized leaders on Be disease), who partners with DOE and the Department of Labor (DOL), will want to use their clinical protocol to do more invasive testing, such as CT Scans, bronchoscopy, and/or lung biopsy, to look for classic signs of CBD.

Monitoring is typically done about every 2 years, more frequently once you have the disease. It is not a benign process.

I assist current and former DOE workers w/BeS or CBD to apply for compensation under the federal Energy Employees Occupational Illness Compensation Program Act (EEOICPA), and as such attend medical conferences on the latest beryllium disease research.

Another side note: Of 16 nuclear weapons facilities around the country listed on DOE's web site that are part of the free worker screening for Be since 1998 to present, LANL was not among them.

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

The old 1099 Occupational Safety and Health Administration (OSHA) standards for "acceptable" Be exposure in the workplace was no > than 2 mcq/m³ as a TWA (time weighted average) over an 8 hour period. The Environmental Protection Agency (EPA) regulations say no > than 0.01 mcq/m³ released into the air over a 30 day period (a miniscule amount).

The National Jewish Med Center of Denver, as well as other medical experts acknowledge there IS NO safe level of Be exposure. See, <http://www.atsdr.cdc.gov>

for toxfacts on Beryllium. Also in the past year or so, the National Institute for Occupational Safety and Health (NIOSH) has only recently begun publishing newsletters on the topic.

General awareness of Be causing some health problems has been known for decades. But refined knowledge of the beryllium exposure/disease process is not that old and is evolving; only in the last ~ 10 years has it been on the federal government's front burner. This includes DOE.

Not to alarm, but the bottom line is this; if an employee thinks s/he may have been exposed at TA-41 (or elsewhere in the LANL complex) without personal protective equipment (PPE), it is essential that s/he checks in with Occupational Medicine or their own provider for testing and follow-up. (And keep an eye on how LANS address the possible exposure.)

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

It appears that NMED has required LANL to monitor beryllium work at ID 2 (TA-35-213), ID 3 (TA-3-141), ID 6 (TA-55-PF4(a)) and ID 41 (TA-3-66). See, "Emissions Inventory Report Summary for Los Alamos National Laboratory for Calendar Year 2013," LA-UR-14-28940, issued 2014-11-19 (rev. 1), Attachments B and C.

See also, NMED Air Quality Bureau June 15, 2012 letter to Joni Arends, CCNS regarding: *Response to Enforcement letter dated 5/18/12 re: LANL Be reporting, Air Quality Operating Permit No. P100R1, Los Alamos National Laboratory.* CCNS corresponded with NMED about the need for an enforcement action requiring reporting of beryllium emissions at the Sigma Facility, Bldg. TA-3-66. NMED concluded the letter by saying:

In summary, the reporting of Be emissions at the Sigma Facility is a unique situation and only applies to the Sigma Facility. The Laboratory has agreed to voluntarily review the affected permit conditions and suggest revision or clarification during the next Title V Renewal - application due 8/7/13. The Department agrees that this issue should be addressed at that time."

We are grateful to the Department and the Permittees that beryllium emissions for the four facilities listed above are being monitored and reported. Nevertheless, 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 facilities.

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

1. Permit Condition A 707 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?

2. Permit Condition A1204 "Operational Limitations - Data Disintegrator" - We support the new processing limits.

3. Permit 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.

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

Thank you for your careful consideration of our comments. Please contact us with any questions, comments and concerns.

Sincerely,

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