STATE OF NEW MEXICO
BEFORE THE SECRETARY OF ENVIRONMENT

IN THE MATTER OF THE APPLICATION OF THE
UNITED STATES DEPARTMENT OF ENERGY AND
LOS ALAMOS NATIONAL SECURITY, LLC FOR A
GROUNDWATER DISCHARGE PERMIT (DP-1132)
FOR THE RADIOACTIVE LIQUID WASTE
TREATMENT FACILITY

No. GWB 17-20 (P)

NEW MEXICO ENVIRONMENT DEPARTMENT’S
NOTICE OF FILING OF AMENDED ADMINISTRATIVE RECORD

Pursuant to the Environment Department’s Permit Procedures, 20.1.4.200.A(2) NMAC, the New Mexico Environment Department ("Department") notifies the parties that the Amended Administrative Record, with changes made at the request of Communities for Clean Water, has been filed with the hearing clerk. The Amended Administrative Record Index, NMED Exhibit 6 to its Statement of Intent to File Technical Testimony, filed on April 9, 2018, is included with this notice. Electronic copies of the Amended Administrative Record will be provided to the parties prior to the hearing.

Respectfully submitted,

NEW MEXICO ENVIRONMENT DEPARTMENT
OFFICE OF GENERAL COUNSEL

By: /s/ John Verheul

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was filed with the Hearing Clerk and was served on the following via electronic mail on April 18, 2018:

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Attorney for the U.S. Department of Energy

/s/ John Verheul  
John Verheul
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<td>00013-00015</td>
<td>Marcy Leavitt, NMED</td>
<td>Tom Baca, LANL</td>
<td>Letter</td>
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<td>00016-00018</td>
<td>David Moss, LANL</td>
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<td>04/1996</td>
<td>00019-00074</td>
<td>N/A</td>
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<td>Ecotoxicological Screen of Potential Release Site 50-006(D) of Operable Unit 1147 of Mortandad Canyon and Relationship to the Radioactive Liquid Waste Treatment Facilities Project</td>
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<td>00099-00106</td>
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<td>Information on Technical Area 50 Potential Release Sites 50-006(a, c) 50-007, and 50-008</td>
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<td>00110-00111</td>
<td>Thomas E. Baca, LANL</td>
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<td>Re: a request for a short deadline extension for submittal of the ground water discharge plan.</td>
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<td>00112-00532</td>
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<td>Ground Water Discharge Plan Application for the TA-50 Radioactive Liquid Waste Treatment Facility</td>
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<td>G. Thomas Todd, DOE, LANL</td>
<td>Dale Doremus, NMED</td>
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<td>Re: Ground Water Discharge Plan Application, TA-50 RLWTP</td>
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<td>Phyllis Bustamante, NMED</td>
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<td>00543-00544</td>
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<td>Douglas Meiklejohn, NMELC</td>
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<td>Re: Proposed ground water discharge plan 1132 requesting NMED to conduct a public hearing on the proposed plan</td>
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<td>Phyllis Bustamante, NMED</td>
<td>Doug Meiklejohn, NMELC</td>
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<td>Requests for hearing for DP-1132 from Susan Diane; Kathy Sanchez, Pi’ee Quiyo Inc.; and Joey Natseway, Tewa Women United</td>
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<td>00562-00568</td>
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<td>00569-00572</td>
<td>Phyllis Bustamante, NMED</td>
<td>Jay Cogman, CCWNS</td>
<td>Fax</td>
<td>Appendix C/What You, as a Requestor of Records, Should Know</td>
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<td>01/30/1997</td>
<td>00575-00577</td>
<td>Dale Doremus, NMED</td>
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<td>Dale Doremus, NMED</td>
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<td>00612-00615</td>
<td>Jorg Jansen, LANL/ER; and Theodore J.</td>
<td>Benito Garcia, NMED-HRMB</td>
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<td>00624-00632</td>
<td>Steve Yanicak, LANL</td>
<td>Tom Todd, LANL</td>
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<td>00633-00636</td>
<td>Phyllis Bustamante, NMED</td>
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<td>RLWTF Survey Results – Accelerator-Produced Isotopes</td>
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<td>00637-00639</td>
<td>Robert Dinwiddie, NMED</td>
<td>Tom Todd, LANL and Sigfried Hecker, LANL</td>
<td>Letter</td>
<td>Re: Change in Status of the Technical Area (TA) 53 Surface Impoundments LANL NM0890010515</td>
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<td>00640-00643</td>
<td>Robert Dinwiddie, NMED</td>
<td>Tom Todd, LANL</td>
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<td>Re: Revisions to LANL Ground Water Discharge Plan Application for RLWTF at TA-50 – Phase I Upgrades</td>
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<td>00644-00741</td>
<td>Jorg Jansen, LANL/ER; and Benito Garcia, NMED-HRMB</td>
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<td>Theodore J. Taylor, DOE/LAAO</td>
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<td>Michael Dale, DOE OB, NMED</td>
<td>Phyllis Bustamante, NMED</td>
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<td>Phyllis Bustamante, NMED</td>
<td>N/A</td>
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<td>Evaluation of Proposed DP-1132, Inspection of facilities or construction Phase 1 &amp; 2 upgrades to system</td>
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<td>Bob Beers, LANL</td>
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<td>00807-00809</td>
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<td>Phyllis Bustamante, NMED</td>
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<td>Asking for more information on the biological treatment.</td>
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<td>00866-00933</td>
<td>N/A</td>
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<td>Elimination of Liquid Discharge to the Environment from the TA-50</td>
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<td>Phyllis Bustamante, NMED</td>
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<td>00939-00943</td>
<td>N/A</td>
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<td>Att. C to 8/25/98 LANL letter - NPDES Monitoring Data for Outfall 051</td>
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<td>00944-00951</td>
<td>N/A</td>
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<td>Att. D to 8/25/98 LANL letter - RLWTF Influent Monitoring: Semivolatile Organic Compounds and Volatile Organic Compounds</td>
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<td>00953-00956</td>
<td>Steven Rae, LANL</td>
<td>Phyllis Bustamante, NMED</td>
<td>Letter</td>
<td>Summary of July 31, 1998 Meeting at LANL and Status Report on RLWTF Upgrades</td>
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<td>N/A</td>
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<td>N/A</td>
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<td>Thomas Baca, LANL</td>
<td>Dale Doremus, NMED</td>
<td>Letter</td>
<td>Follow up to 11/20/98 letter re mechanical evaporation as the preferred process for the long-term treatment of (RO) reject stream</td>
</tr>
<tr>
<td>Date</td>
<td>Bates No.</td>
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<td>02/26/1999</td>
<td>01241-01244</td>
<td>Dale Doremus, NMED</td>
<td>Susan Diane</td>
<td>Certified Letter</td>
<td>Response to questions submitted with request for public hearing in DP-1132 for LANL RLWTF</td>
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<td>02/26/1999</td>
<td>01245-01248</td>
<td>Dale Doremus, NMED</td>
<td>Joey Natesway, Tewa Women United</td>
<td>Certified Letter</td>
<td>Response to questions submitted with request for public hearing in DP-1132 for LANL RLWTF</td>
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<td>02/19/1999</td>
<td>01249-01256</td>
<td>Phyllis Bustamante, NMED</td>
<td>David Gurule, DOE</td>
<td>Certified Letter</td>
<td>Re: Additional information or clarification needed on Discharge Plan Application LANL RLWTF TA-50 DP-1132</td>
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<td>02/26/1999</td>
<td>01257-01260</td>
<td>Dale Doremus, NMED</td>
<td>Kathy Sanchez, Pi’ee Quiyo Inc.</td>
<td>Certified Letter</td>
<td>Response to questions submitted with request for public hearing in DP-1132 for LANL RLWTF</td>
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<td>03/12/1999</td>
<td>01261-01273</td>
<td>Dennis Erickson, LANL</td>
<td>Phyllis Bustamante, NMED</td>
<td>Letter</td>
<td>Response to NMED GWQB Request for Additional Information, Ground Water Discharge Plan Application for the TA-50 RLWTF, DP-1132 without</td>
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<td>Date</td>
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<td>03/16/1999</td>
<td>01274-01275</td>
<td>Phyllis Bustamante, NMED</td>
<td>Kathy Sanchez, Pi’ee Quiyo Inc.</td>
<td>Telephone</td>
<td>TA-50 DP-1132</td>
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<td>Conversation</td>
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<td>03/18/1999</td>
<td>01276-01277</td>
<td>Phyllis Bustamante, NMED</td>
<td>Bob Beers, LANL</td>
<td>Telephone</td>
<td>Status of Phase I and Phase II</td>
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<td>Conversation</td>
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<td>03/19/1999</td>
<td>01278-01280</td>
<td>Dale M Doremus, NMED</td>
<td>David Gurule, DOE</td>
<td>Certified Letter</td>
<td>Re: extension of time in which LANL may discharge without an approved discharge permit for an additional 20 days</td>
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<td>03/22/1999</td>
<td>01281-01282</td>
<td>Phyllis Bustamante, NMNED</td>
<td>Suzanne Westerly, CCNS</td>
<td>Telephone</td>
<td>Public Hearing</td>
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<tr>
<td>03/29/1999</td>
<td>01283-01285</td>
<td>N/A - Meeting with Joey Natseway, Tewa Women United; Gilbert Sanchez,</td>
<td>N/A Tribal Env'l Watch Alliance, Kathy Sanchez, Teresa Juarez, and Ron Rundstrom</td>
<td>Agenda</td>
<td>To provide concerned citizens with adequate information to determine if concerns on the discharge from the RLWTF are Water Quality Control Commission issues and determine if a public hearing is needed</td>
</tr>
<tr>
<td>03/23/1999</td>
<td>01286-01292</td>
<td>Dennis Erickson, LANL Thomas</td>
<td>Phyllis Bustamante, NMED</td>
<td>Letter</td>
<td>Installation of Mechanical</td>
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<td>Date</td>
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<td>04/09/1999</td>
<td>01293-01295</td>
<td>Bob Beers, LANL</td>
<td>Phyllis Bustamante, NMED</td>
<td>Letter</td>
<td>NMED Sampling and Analysis of Effluent from the Laboratory’s RLWTF at TA-50</td>
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<td>04/13/1999</td>
<td>01296-01302</td>
<td>N/A</td>
<td>N/A</td>
<td>Sign-up sheet, Agenda</td>
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<td>04/14/1999</td>
<td>01303-01307</td>
<td>Bob Beers, LANL</td>
<td>Phyllis Bustamante, NMED</td>
<td>Fax</td>
<td>Letter forwarding a detailed project schedule for installation and start-up of the proposed mechanical evaporator for the LANL RLWTF at TA-50</td>
</tr>
<tr>
<td>04/14/1999</td>
<td>01308-01309</td>
<td>Bob Beers, LANL</td>
<td>Phyllis Bustamante, NMED</td>
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<td>RLWTF Effluent Tank Discharge</td>
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<td>04/13/1999</td>
<td>01310-01314</td>
<td>DOH, Scientific Laboratory Division</td>
<td>Phyllis Bustamante, NMED</td>
<td>Analytical Results</td>
<td>Analytical results of sample of effluent collected on 04/13/99</td>
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<td>04/13/1999</td>
<td>01315-01317</td>
<td>DOH, Scientific Laboratory Division</td>
<td>NMED</td>
<td>Analytical Results</td>
<td>Analytical results</td>
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<td>04/13/1999</td>
<td>01318-01322</td>
<td>DOH, Scientific Laboratory Division</td>
<td>Phyllis Bustamante, NMED</td>
<td>Analytical Results</td>
<td>Analytical results of sample of effluent collected on</td>
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<tr>
<td>Date</td>
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<td>05/06/1999</td>
<td>01323-01327</td>
<td>Bob Beers, NMED</td>
<td>Phyllis Bustamante, NMED</td>
<td>Letter</td>
<td>RLWTF, Ground Water Discharge Plan DP-1132 Quarterly Report, January 1-March 31, 1999</td>
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<td>05/12/1999</td>
<td>01328-01338</td>
<td>Steve Yanicak, NMED</td>
<td>Jay Coghlan, CCNS</td>
<td>Letter with Att. 1 through 6</td>
<td>Status of Current and planned Upgrades at the TA-50 RLWTF and the Ground Water Discharge Plan DP-1132 Application</td>
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<td>07/21/1999</td>
<td>01339-01344</td>
<td>Marcy Leavitt, NMED</td>
<td>Kathy Sanchez, Pi’ee Quiyo Inc.,</td>
<td>Letter</td>
<td>Public Hearing, LANL RLWTF, DP-1132 – no cover sheet begins</td>
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<td>06/30/1999</td>
<td>01345-01348</td>
<td>Marcy Leavitt, NMED</td>
<td>David Gurule, DOE</td>
<td>Letter</td>
<td>Public Hearing, LANL, RLWTF, DP-1132</td>
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<td>07/21/1999</td>
<td>01349-01350</td>
<td>Marcy Leavitt, NMED</td>
<td>Susan Diane</td>
<td>Letter</td>
<td>Public Hearing, LANL, RLWTF, DP-1132</td>
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<td>07/21/1999</td>
<td>01351-01352</td>
<td>Marcy Leavitt, NMED</td>
<td>Douglas Meiklejohn, NMELC</td>
<td>Letter</td>
<td>Public Hearing, LANL, RLWTF, DP-1132</td>
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<td>01353-01354</td>
<td>Marcy Leavitt, NMED</td>
<td>Kathy Sanchez, Pi’ee Quiyo Inc.</td>
<td>Letter</td>
<td>Public Hearing, LANL, RLWTF, DP-1132</td>
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<td>07/21/1999</td>
<td>01355-01356</td>
<td>Marcy Leavitt, NMED</td>
<td>Joey Natseway, Tewa Women</td>
<td>Letter</td>
<td>Public Hearing, LANL, RLWTF, DP-1132</td>
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<td>08/06/1999</td>
<td>01369-01370</td>
<td>Douglas Meiklejohn, NMELC</td>
<td>Marcy Leavitt, NMED</td>
<td>Letter</td>
<td>Law Center no longer representing San Ildefonso Pueblo</td>
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<td>10/04/1999</td>
<td>01371-01373</td>
<td>Bob Beers, LANL</td>
<td>Phyllis Bustamante, NMED</td>
<td>Letter</td>
<td>Re: a process modification at the TA-50 RLWTF-replacement of TUF tubes</td>
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<tr>
<td>12/22/1999</td>
<td>01380-01384</td>
<td>Steve Yanicak, NMED</td>
<td>Steve Rae, LANL</td>
<td>Letter</td>
<td>Radioactive Effluent Quality at NPDES Outfall 051, TA-50, Building 1, October, 1999; (ESH-18/WQ&amp;H:99-0467)</td>
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<tr>
<td>Date</td>
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<td>01/25/2000</td>
<td>01385-01391</td>
<td>Bob Beers, LANL</td>
<td>Phyllis Bustamante, NMED</td>
<td>Letter</td>
<td>RLWTF, Ground Water Discharge Plan DP-1132, Quarterly Report, Fourth Quarter, 1999</td>
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<td>03/12/1999</td>
<td>01401-01430</td>
<td>N/A</td>
<td>N/A</td>
<td>Attachment 7.0</td>
<td>Effluent Canyon Surface Water Monitoring – Summary Table of Results – Assaigai Analytical Laboratories, Inc. Report</td>
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<tr>
<td>01/31/2000</td>
<td>01431-01433</td>
<td>Maura Hanning, NMED</td>
<td>David Gurule, DOE</td>
<td>Certified Letter</td>
<td>Status Update on the Discharge Permit Application for the LANL, RLWTF, DP-1132</td>
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<tr>
<td>02/18/2000</td>
<td>01434-01438</td>
<td>Steven Rae, LANL</td>
<td>Maura Hanning, NMED</td>
<td>Letter</td>
<td>Status Update on the Ground Water Discharge Permit Application, LANL, RLWTF, DP-1132</td>
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<tr>
<td>04/26/2000</td>
<td>01439-01445</td>
<td>Bob Beers, LANL</td>
<td>Phyllis Bustamante, NMED</td>
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<td>Ground Water Discharge Plan DP-</td>
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<td>Date</td>
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<td>From</td>
<td>To</td>
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<td>08/18/2000</td>
<td>01456-01457</td>
<td>Bob Beers, LANL</td>
<td>Phyllis Bustamante, NMED</td>
<td>Letter</td>
<td>Ground Water Discharge Plan DP-1132, Quarterly Report, Third Quarter, 2000</td>
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<td>12/01/2000</td>
<td>01458-01459</td>
<td>Phyllis Bustamante, NMED</td>
<td>Jody Arends, CCNS</td>
<td>Telephone Conversation</td>
<td>LANL – TA-50 – Public Hearing</td>
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<tr>
<td>12/08/2000</td>
<td>01460-01462</td>
<td>Bob Beers, LANL</td>
<td>Joni Arends, CCNS</td>
<td>Letter</td>
<td>LANL, Ground Water Discharge Plan Application for the TA-50 RLWTF</td>
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<tr>
<td>01/30/2001</td>
<td>01503-01508</td>
<td>Bob Beers, LANL</td>
<td>Phyllis Bustamante, NMED</td>
<td>Letter</td>
<td>Ground Water Discharge Plan DP-1132, Quarterly Report, Fourth</td>
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<td>02/08/2001</td>
<td>01509-01510</td>
<td>Joni Arends, CCNS</td>
<td>Marcy Leavitt, NMED</td>
<td>Letter</td>
<td>IPRA Request Groundwater Discharge Plan for the LANL RLWTF TA-50 DP-1132</td>
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<td>03/20/2001</td>
<td>01511-01513</td>
<td>Steven Rae, LANL</td>
<td>Joni Arends, CCNS</td>
<td>Letter w/no Attachments</td>
<td>Request for information, Groundwater Discharge Plan Application for the RLWTF at TA-50</td>
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<td>Post-May 2001</td>
<td>01514-01533</td>
<td>N/A</td>
<td>N/A</td>
<td>Study</td>
<td>Radioactive Liquid Wastewater Treatment Facility Influent Minimization Study</td>
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<td>06/21/2001</td>
<td>01539-01541</td>
<td>Bob Beers, LANL</td>
<td>Phyllis Bustamante, NMED</td>
<td>Letter</td>
<td>June 11, 2001 Tour of Mortandad Canyon and the RLWTF at TA-50 — w/no Attachments</td>
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<td>07/23/2001</td>
<td>01542-01548</td>
<td>Bob Beers, LANL</td>
<td>Phyllis Bustamante, NMED</td>
<td>Letter</td>
<td>Request for Change in Procedure, Total Dissolved Determination</td>
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<tr>
<td>07/25/2001</td>
<td>01549-01553</td>
<td>Bob Beers, LANL</td>
<td>Phyllis Bustamante, NMED</td>
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<td>Ground Water Discharge Plan DP-</td>
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<td>Date</td>
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<td>09/17/2001</td>
<td>01554-01560</td>
<td>Bob Beers, LANL</td>
<td>Phyllis Bustamante, NMED</td>
<td>Letter</td>
<td>Withdrawal of Request for Change in Procedure, Total Dissolved Determination</td>
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<td>11/2001</td>
<td>01566-01582</td>
<td>N/A</td>
<td>N/A</td>
<td>Diagrams/PowerPoint</td>
<td>The Radioactive Liquid Waste Treatment Facility at LANL Technical Area-50 Building 01</td>
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<td>11/13/2001</td>
<td>01583-01586</td>
<td>N/A</td>
<td>N/A</td>
<td>Agenda</td>
<td>NMED-GWQB Tour</td>
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<td>12/07/2001</td>
<td>01591-01596</td>
<td>N/A</td>
<td>N/A</td>
<td>Report – Att. 7.0</td>
<td>Derived Concentration Guideline Monthly Report for the TA-50 RLWTF-Sept. 2001</td>
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<td>08/15/2001</td>
<td>01597-01702</td>
<td>N/A</td>
<td>N/A</td>
<td>Report</td>
<td>RLWTF Annual Report for 2000,</td>
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<td>CY 2001</td>
<td>01703-01706</td>
<td>N/A</td>
<td>N/A</td>
<td>AR-RLW- 2000 Vol. 2.R.</td>
<td>Sample Results – Att. 2.0</td>
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<td>01/10/2002</td>
<td>01707-01709</td>
<td>N/A</td>
<td>N/A</td>
<td>Field Trip Report</td>
<td>TA-55 Plutonium Processing Plant, DP-1132</td>
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<td>01/16/2002</td>
<td>01710-01712</td>
<td>Curt Frischkorn, NMED</td>
<td>Bob Beers, LANL</td>
<td>Certified Letter</td>
<td>Request for Additional Information, DP-1132, LANL, RLWTF TA-50</td>
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<td>01/31/2002</td>
<td>01718-01720</td>
<td>Steven Rae, LANL</td>
<td>Samuel Coleman, US EPA, Region 6</td>
<td>Letter</td>
<td>Notice of Planned Change at NPDES Outfall 051, NPDES Permit No. NM0028355– Perchlorate Removal</td>
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<td>02/04/2002</td>
<td>01721-01724</td>
<td>Bob Beers, LANL</td>
<td>Phyllis Bustamante</td>
<td>Letter</td>
<td>LANL, RLWTF, Ground Water Discharge Plan DP-1132, Minor Modification – Perchlorate</td>
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<td>Date</td>
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<td>02/12/2002</td>
<td>01725-01726</td>
<td>Curt Frischkorn, NMED</td>
<td>Bob Beers, LANL</td>
<td>Email</td>
<td>Direct all correspondence related to DP-1132 to Curt Frischkorn and delete Phyllis Bustamante from mailing list.</td>
</tr>
<tr>
<td>02/22/2002</td>
<td>01727-01742</td>
<td>Bob Beers, LANL</td>
<td>Curt Frischkorn, NMED</td>
<td>Letter</td>
<td>Response to Request for Additional Information RLWTF at TA-50</td>
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<td>03/18/2002</td>
<td>01743-01749</td>
<td>N/A</td>
<td>N/A</td>
<td>Meeting Notes</td>
<td>LANL-RLWTF Meeting with Joni Arends, CCNS; Brian Shields and Linda Fair, Amigos Bravos; Coila Ash, NM Toxics Coalition</td>
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<td>04/2002</td>
<td>01750-01874</td>
<td>N/A</td>
<td>N/A</td>
<td>Report</td>
<td>RLWTF Annual Report for 2001 - Volume 1</td>
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<td>04/24/2002</td>
<td>01875-01880</td>
<td>Bob Beers, LANL</td>
<td>Curt Frischkorn, NMED</td>
<td>Letter</td>
<td>Ground Water Discharge Plan DP-1132, Quarterly Report, First Quarter 2002</td>
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<td>Date</td>
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<td>11/2002</td>
<td>01886-01966</td>
<td>N/A</td>
<td>N/A</td>
<td>Report LA-UR-02-7108</td>
<td>Pilot Scale Membrane Filtration Testing at the LANL RLWTF</td>
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<td>11/27/2002</td>
<td>01967-01971</td>
<td>Steven Rae, LANL</td>
<td>Samuel Coleman, US EPA Region 6</td>
<td>Letter</td>
<td>Notice of Planned Changes at TA-50 RLWTF, NPDES Permit No. NM0028355–Influent Tank Farm (300,000 gal.) and RO Pilot Units</td>
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<tr>
<td>12/10/2002</td>
<td>01972-01975</td>
<td>Bob Beers, LANL</td>
<td>Curt Frischkorn, NMED</td>
<td>Letter</td>
<td>RLWTF, Ground Water Discharge Plan DP-1132, Minor Modification–Influent Tank Farm (300,000 gal.) and RO Pilot Units</td>
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<tr>
<td>04/02/2003</td>
<td>01990-02007</td>
<td>N/A</td>
<td>N/A</td>
<td>Report</td>
<td>Field Trip Report LANL RLWTF TA-50 Facility Inspection (GWB), preparation for issuance of DP-1132</td>
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<td>06/24/2003</td>
<td>02136-02139</td>
<td>Bob Beers, LANL</td>
<td>Curt Frischkorn, NMED</td>
<td>Letter</td>
<td>TA-50 RLWTF, Ground Water Discharge Plan DP-1132, Minor Modification—Cross-country pipeline from TA-21-257 to TA-50</td>
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<td>08/01/2003</td>
<td>02140-02146</td>
<td>Maura Hanning, NMED</td>
<td>Ralph Erickson, US DOE</td>
<td>Letter</td>
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<td>08/11/2003</td>
<td>02153-02158</td>
<td>Maura Hanning, NMED</td>
<td>Kathy Sanchez, P'ee Quiyo Inc.; Susan Diane; Douglas Meiklejohn, NM ELC; Joey Natseway, Tewa Women United; Joni Arends, CCNS</td>
<td>Letter</td>
<td>Notice of Public Hearing</td>
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<td>08/04/2003</td>
<td>02159-02161</td>
<td>N/A</td>
<td>N/A</td>
<td>Affidavit</td>
<td>Affidavit of Publication Notice DP-1132, LANL, RLWTF</td>
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<td>09/03/2003</td>
<td>02162-02163</td>
<td>Joni Arends, CCNS</td>
<td>Maura Hanning, NMED</td>
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<td>Request for a public hearing on LANL RLWTF DP-1132</td>
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<td>09/03/2003</td>
<td>02164-02166</td>
<td>Joni Arends, CCNS</td>
<td>Maura Hanning, NMED</td>
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<td>DP-1132 – RLWTF proposed permit. Request for public hearing on draft discharge permit</td>
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<td>09/06/2003</td>
<td>02167-02168</td>
<td>Kathleen Sanchez, Tewa Women United</td>
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<td>LANL, RLWTF DP-1132. Request for public hearing on draft discharge permit</td>
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<td>08/11/2003</td>
<td>02169-02171</td>
<td>Maura Hanning, NMED</td>
<td>Susan Diane</td>
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<td>Public Notice pertaining to proposed ground water discharge permit for LANL, RLWTF</td>
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<td>09/04/2003</td>
<td>02172-02198</td>
<td>David McInroy, LANL; David Gregory, DOE</td>
<td>John Young, NMED</td>
<td>Letter</td>
<td>Status of Mortandad Canyon Sediment Investigations</td>
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<tr>
<td>09/17/2003</td>
<td>02299-02201</td>
<td>Bob Beers, LANL</td>
<td>Curt Frischkorn, NMED</td>
<td>Letter enclosing Ground Water Wells in the Mortandad Canyon Area (LA-UR-03-4596, July 2003</td>
<td>Request for additional information, TA-50 RLWTF, Ground Water Discharge Plan DP-1132</td>
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<td>10/20-22/2003</td>
<td>02202-02219</td>
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<td>Report/Powerpoint</td>
<td>NM Environmental Health Conference re Radioactive Liquid Waste Treatment Facility at LANL</td>
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<td>10/31/2003</td>
<td>02220-02221</td>
<td>NMED</td>
<td>LANL</td>
<td>Invoice</td>
<td>Assessments Ground Water PRD200330002, 341 Discharge Fee $3,450.00</td>
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<td>11/10/2003</td>
<td>02228-02320</td>
<td>Bob Beers, LANL</td>
<td>NMED; CCNS; Tewa Women United</td>
<td>Presentation and Meeting Sign-in List</td>
<td>TA-50 RLWTF Ground Water Discharge Plan History</td>
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<td>12/23/2003</td>
<td>02321-02327</td>
<td>Bob Beers, LANL</td>
<td>Curt Frischkorn, NMED</td>
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<td>Response to request for additional information for TA-50 RLWTF, Ground Water Discharge Plan DP-1132 re unanswered questions at 11/10/03 presentation</td>
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<td>03/04/2004</td>
<td>02328-02329</td>
<td>Curt Frischkorn, NMED</td>
<td>Steven Rae, LANL</td>
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<td>Request for Additional Information, DP-1132, LANL –</td>
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<td>Date</td>
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<td>04/05/2004</td>
<td>02330-02340</td>
<td>Bob Beers, LANL</td>
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<td>05/13/2004</td>
<td>02475-02479</td>
<td>Steven Rae, LANL</td>
<td>Ed Wilmot, NNSA; Joseph Vozella, NNSA</td>
<td>Letter</td>
<td>Radioactive Effluent Quality at NPDES Outfall 051, TA-50, February 2004 and March 2004</td>
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<td>07/13/2004</td>
<td>02480-02503</td>
<td>N/A</td>
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<td>Assessment of potential contaminant pathways through saturated zone in the vicinity of Mortandad Canyon</td>
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<td>07/13/2004</td>
<td>02504-02517</td>
<td>N/A</td>
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<td>07/13/2004</td>
<td>02524-02533</td>
<td>LANL</td>
<td>N/A</td>
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<td>Distribution of Nitrate plus Nitrate, Perchlorate, RDX, and Tritium within Perched Zones and the Regional Aquifer at LANL</td>
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<td>08/18/2004</td>
<td>02534-02536</td>
<td>Christina Kelso, NMED</td>
<td>Bob Beers, LANL</td>
<td>Email</td>
<td>Re: letter requesting the closure plan for TA-50</td>
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<tr>
<td>08/18/2004</td>
<td>02537-02539</td>
<td>George Schuman, NMED</td>
<td>Steven Rae, LANL</td>
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<td>Request for Additional Information, DP-1132 for NMED to complete its technical evaluation of the application: a closure plan</td>
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<tr>
<td>08/27/2004</td>
<td>02540-02542</td>
<td>Robert Beers, LANL</td>
<td>Christina Kelso, NMED</td>
<td>Email</td>
<td>Draft Closure Plan RLWTF DP-1132</td>
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<tr>
<td>08/30/2004</td>
<td>02543-02544</td>
<td>Christina Kelso, NMED</td>
<td>Bob Beers, LANL</td>
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<td>08/30/2004</td>
<td>02545-02548</td>
<td>Beverly Ramsey, LANL</td>
<td>George Schuman, NMED</td>
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<td>Request for Additional Information, DP-1132, RLWTF</td>
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<td>11/03/2004</td>
<td>02549-02551</td>
<td>Christopher Vick, NMED</td>
<td>Bob Beers, LANL</td>
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<td>Request for Additional Information, DP-1132 for NMED to complete its technical evaluation of the application: a closure plan</td>
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<td>11/19/2004</td>
<td>02552-02570</td>
<td>N/A</td>
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<td>03/01/2005</td>
<td>02577-02851</td>
<td>N/A</td>
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<td>Compliance Order on Consent In the Matter of the United States Department of Energy and the Regents of the University of California Los Alamos National Laboratory</td>
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<td>04/05/2005</td>
<td>02852-02855</td>
<td>Bob Beers, LANL</td>
<td>Christopher F. Vick</td>
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<td>TA-50 RLWTF, Ground Water</td>
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<td>Date</td>
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<td>04/11/2005</td>
<td>02856-02878</td>
<td>William Olson, NMED</td>
<td>Edwin Wilmott, NNSA; Regents of the University of California</td>
<td>Certified Letter</td>
<td>Notice that Ground Water Discharge Permit DP-1132, LANL has been proposed for approval.</td>
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<td>04/15/2005</td>
<td>02879-02880</td>
<td>NMED GWQB</td>
<td>LANL</td>
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<td>Invoice, DP-1132 Ground Water Discharge Fee</td>
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<td>04/27/2005</td>
<td>02881-02902</td>
<td>William Olson, NMED</td>
<td>Edwin Wilmott, NNSA; Regents of the University of California</td>
<td>Letter</td>
<td>Re-issuance of Public Notice Draft Discharge Permit, DP-1132, LANL RLWTF</td>
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<td>06/06/2005</td>
<td>02909-02910</td>
<td>Douglas Meiklejohn, NM ELC</td>
<td>William Olson, NMED</td>
<td>Letter</td>
<td>Draft Discharge Permit DP-1132 – requesting a 30-day extension to file comments and request public hearing.</td>
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<td>06/10/2005</td>
<td>02911-02919</td>
<td>William Olson, NMED</td>
<td>Edwin Wilmott, NNSA; Regents of</td>
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<td>06/30/2005</td>
<td>02920-02925</td>
<td>Diana Sandoval, NMED</td>
<td>Joni Arends, CCNS; Kathleen Sanchez, Tewa Women United; Peggy Prince, Peace Action New Mexico; George Rice, CCNS; Brian Shields, Amigos Bravos</td>
<td>Letter</td>
<td>Discharge Permit Application Proposed for Approval, DP-1132 – notifying interested parties of 30 days after publication to receive written comments, and to request a public hearing</td>
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<td>06/30/2005</td>
<td>02930-02935</td>
<td>Diana Sandoval, NMED</td>
<td>Brian Shields, Amigos Bravos; George Rice, CCNS; Peggy Prince, Peace Action New Mexico; Kathleen Sanchez, Tewa Women United; Joni Arends, CCNS</td>
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<td>Discharge Permit Application Proposed for Approval, DP-1132 – notifying interested parties of 30 days after publication to receive written comments, and to request a public hearing</td>
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<td>07/26/2005</td>
<td>03054-03059</td>
<td>Bob Beers, LANL</td>
<td>Christopher Vick, NMED</td>
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<td>TA-50 RLWTF, Ground Water Discharge Plan DP-1132</td>
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<td>03060-03064</td>
<td>Steven Rae, LANL</td>
<td>William Olson, NMED</td>
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<td>Review Comments, Draft Discharge Permit DP-1132, TA-50 RLWTF</td>
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<td>08/04/2005</td>
<td>03065-03075</td>
<td>Douglas Meiklejohn, NMELC</td>
<td>William Olson, NMED</td>
<td>Letter</td>
<td>Application for renewal of discharge permit DP-1132 – request public hearing and submitting comments</td>
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<td>08/04/2005</td>
<td>03076-03093</td>
<td>Joni Arends, CCNS</td>
<td>William Olson, NMED</td>
<td>Letter with Att. 3 by George Rice</td>
<td>Draft Ground Water Discharge Permit, DP-1132 – submitting comments and requesting public hearing</td>
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<td>02/02/2005</td>
<td>03094-03097</td>
<td>George Schuman, NMED</td>
<td>Edwin Wilmott, NNSA; Robert Kuckuck, University of California</td>
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<td>01/12/2006</td>
<td>03098-03232</td>
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<td>Letters, Reports, Work Plans, Logs, and Data</td>
<td>TA-50-RLWTF Ground Water Discharge Plan (DP-1132) Response to NMED Information Request of 12/2/05</td>
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<td>01/12/2006</td>
<td>03233-03248</td>
<td>Bob Beers, LANL</td>
<td>George Shuman, NMED</td>
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<td>03/08/2010</td>
<td>03393-03395</td>
<td>Bob Beers, LANL</td>
<td>William Olson, NMED</td>
<td>Letter</td>
<td>TA-50 RLWTF, Ground Water Discharge Plan (DP-1132), Upgrade Project 60% Design for new RLWTF</td>
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<td>06/19/2006</td>
<td>03403-03406</td>
<td>Richard Watkins, LANS, LLC</td>
<td>Ron Curry, NMED; Richard Greene, EPA</td>
<td>Letter</td>
<td>Delegation of Authorized Representative for the Solid Waste Disposal Act, the New Mexico Solid Waste Act, the Resource Conservation and Recovery Act, the New Mexico</td>
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<td>09/28/2006</td>
<td>03547-03549</td>
<td>N/A</td>
<td>N/A</td>
<td>Memorandum of Meeting</td>
<td>LANL proposal to design evaporative basins for the discharge of TA-50 treated effluent</td>
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<td>03653-03658</td>
<td>Anthony Grieggs, LANL</td>
<td>William Olson, NMED</td>
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<td>Draft of Notice of Intent to Discharge</td>
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<td>10/26/2007</td>
<td>03672-03682</td>
<td>James Bearzi, NMED</td>
<td>Donald Winchell, Jr., DOE; Richard Watkins, LANS, LLC</td>
<td>Letter</td>
<td>Information Request Regarding the Exemption Status of the Technical Area 50 RLWTF, EPA ID #NM0890010515</td>
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<td>10/04/07</td>
<td>03683-03685</td>
<td>N/A</td>
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<td>Update on status of permits for RLWTF and SWSH (DP-857)</td>
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<td>10/26/2007</td>
<td>03686-03687</td>
<td>Bob Beers, LANL</td>
<td>Robert George, NMED; Jennifer Montoya, NMED</td>
<td>Email</td>
<td>DP-1132 Application Amendment for</td>
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<td>11/06/2007</td>
<td>03695-03702</td>
<td>James Bearzi, NMED</td>
<td>Lindsay Lovejoy</td>
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<td>LANL RLWTF exemptions</td>
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<td>11/01/2007</td>
<td>03703-03813</td>
<td>Anthony Grieggs, LANL</td>
<td>William Olson, NMED; James Bearzi, NMED</td>
<td>Letter</td>
<td>Notice of Intent to Discharge, Evaporation Tanks, TA-50, RLWTF</td>
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<td>11/20/2007</td>
<td>03814-03822</td>
<td>N/A</td>
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<td>Inspection Report</td>
<td>LANL, DP-1132, Facility Inspection (GWHB)</td>
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<td>03/05/2008</td>
<td>03834-03839</td>
<td>George Schuman, NMED</td>
<td>Jennifer Fullam, NMED; Gerald</td>
<td>Email</td>
<td>Old LANL letters from HWB</td>
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<td>03846-03850</td>
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<td>LANL, DP-1132 Facility Inspection</td>
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<td>06/11/2008</td>
<td>03851-03853</td>
<td>Jennifer Fullam, NMED</td>
<td>Anthony Grieggs, ENV-RCRA</td>
<td>Letter</td>
<td>Request for Additional Information, DP-1132, RLWTF</td>
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<td>07/01/2008</td>
<td>03854-03855</td>
<td>Jennifer Fullam, NMED</td>
<td>George Schuman, NMED</td>
<td>Email</td>
<td>Call from Bob Beers re: TA-50 and perchlorate concentrations</td>
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<td>09/19/2008</td>
<td>03913-03914</td>
<td>Bill Olson, NMED</td>
<td>Robert George, NMED; Jennifer Fullam</td>
<td>Email</td>
<td>Listening Session Press Release and flier</td>
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<tr>
<td>10/30/2008</td>
<td>03915-03922</td>
<td>Bob Beers, LANL</td>
<td>William Olson, NMED</td>
<td>Letter</td>
<td>Ground Water Discharge Plan Quarterly Report, Third Quarter 2008,</td>
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<tr>
<td>Date</td>
<td>Bates No.</td>
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<td>02/11/2009</td>
<td>03930-03932</td>
<td>Robert George, NMED; Jennifer Fullam, NMED</td>
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<td>07/09/2009</td>
<td>03947-03949</td>
<td>Marissa Bardino, NMED</td>
<td>Jennifer Fullam, NMED</td>
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<td>Radioactive Waste Plant at LANL Has Spill – Albuquerque Journal article</td>
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<td>08/24/2009</td>
<td>03950-03952</td>
<td>Jennifer Fullam, NMED</td>
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<td>10/28/2009</td>
<td>03953-03959</td>
<td>Bob Beers, LANL</td>
<td>William Olson, NMED</td>
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<td>TA-50 RLWTF Ground Water Discharge Plan DP-1132 Upgrade Project 60% Design for new RLWTF</td>
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<td>04014</td>
<td>Jake Meadows, LANL</td>
<td>Jennifer Fullam &amp; Richard Powell - NMED</td>
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<td>Anthony Grieggs, LANL</td>
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<td>09/20/2010</td>
<td>04020-04022</td>
<td>Norma Perez, NMED AQB</td>
<td>Patricia Gallagher LANL</td>
<td>Certified Letter</td>
<td>Notice of No Permit Required authorizes LANL to operate the facility as stated in the application - LANL RLWTF, TA-50</td>
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<td>09/27/2010</td>
<td>04023-04029</td>
<td>Anthony Grieggs, LANL</td>
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<td>11/09/2010</td>
<td>04037-04038</td>
<td>Gerald Knutson, NMED</td>
<td>Jennifer Fullam, NMED</td>
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<td>01/31/2011</td>
<td>04044-04048</td>
<td>Bob Beers, LANL</td>
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<td>04550-04563</td>
<td>Bob Beers, LANL</td>
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<td>TA-50 RLWTF, Discharge Plan DP-1132, Minor Modification to install pressure media filtration and cartridge filtration capability</td>
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<td>03/30/2011</td>
<td>04568-04577</td>
<td>George Schuman, NMED; Robert George, NMEd; Jennifer Fullam, NMED; Gerald Knutson, NMED</td>
<td>Bob Beers, LANL; Pete Worland, LANL; Make Saladen, LANL</td>
<td>Telephone Conversation</td>
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<td>04585-</td>
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<td>05224-05225</td>
<td>Bob Beers, LANL</td>
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<td>09/08/2011</td>
<td>05226-05228</td>
<td>N/A</td>
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<td>09/12/2011</td>
<td>05229-05233</td>
<td>Bob Beers, LANL</td>
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<td>NMED-GWQB Inspection of the TA-50 RLWTF NNMED inspection participant list 9/8/11</td>
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<td>05234-05236</td>
<td>Anthony Grieggs, LANL</td>
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<td>Addendum to the Notice of Intent to Discharge for the RLWTF's Evaporation Tanks</td>
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<td>11/08/2011</td>
<td>05243-05252</td>
<td>Jim Davis, NMED</td>
<td>Jennifer Fullam, NMED</td>
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<td>Review of documents</td>
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<td>11/18/2011</td>
<td>05253-05258</td>
<td>James Davis, NMED</td>
<td>Anthony Grieggs, LANL</td>
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<td>Response to Notice of Intent to Discharge and Discharge Permit Required for Zero Liquid Discharge Tanks, AI 856: PRD20070004 and Updated Application Submittal Required for the RLWTF, DP-1132</td>
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<td>12/01/2011</td>
<td>05259-05260</td>
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<td>12/08/2011</td>
<td>05261-05269</td>
<td>Bob Beers, LANL</td>
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<td>12/07/2011</td>
<td>05270-05277</td>
<td>Anthony Grieggs, LANL</td>
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<td>Jerry Schoeppner, NMED; Clint Marshall, NMED; Robert George, NMED; Kim Kirby, NMED; Jennifer Fullam, NMED; Gerald Knutson, NMED</td>
<td>Bob Beers, LANL; Danny Katzman, LANL; Gene Turner, LANL</td>
<td>Telephone Conference</td>
<td>Ground Water Monitoring Program at LANL, they discussed the current monitoring program and hydrogeological conditions which exist at the facility</td>
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<td>12/22/2011</td>
<td>05282-05283</td>
<td>Bob Beers, LANL</td>
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<td>James Davis, NMED</td>
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<td>01/03/2012</td>
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<td>James Davis, NMED</td>
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<td>05322-05324</td>
<td>Bob Beers, LANL</td>
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<td>02/06/2012</td>
<td>05326</td>
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<td>No. 251606 for $100.00, DP-1132</td>
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<td>02/10/2012</td>
<td>05327-05330</td>
<td>Jennifer Fullam, NMED</td>
<td>Jerry Schoepchner, NMED</td>
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<td>LANL 2011 GWQB Status Report</td>
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<td>02/13/2012</td>
<td>05331-05332</td>
<td>Bob Beers, LANL</td>
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<td>02/14/2012</td>
<td>05333-05335</td>
<td>Bob Beers, LANL</td>
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<td>02/14/2012</td>
<td>05336-08003</td>
<td>Allison Dorries, LANS; Gene Turner, NNSA</td>
<td>Jerry Schoepchner, NMED</td>
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<td>08096-08097</td>
<td>Bob Beers, LANL</td>
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<td>08100-08101</td>
<td>Gerald Knutson, NMED</td>
<td>Jerry Schoepner, NMED; Marshall, Clint, NMED; Robert George, NMED Jennifer, Fullam, NMED</td>
<td>Email</td>
<td>NMED Inspection of LANL’s Sanitary Effluent Reclamation Facility and the TA-52 ZLD Solar Evaporation Tanks on March 20, 2012</td>
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<td>03/02/2012</td>
<td>08102-08107</td>
<td>Jerry Schoepner, NMED</td>
<td>Kevin Smith, NNSA; Alison Dorries, LANS</td>
<td>Letter</td>
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<td>03/16/2012</td>
<td>08114-08115</td>
<td>Jennifer Fullam, NMED</td>
<td>Bart Vanden Plas, Santa Ana Pueblo</td>
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<td>08116-08117</td>
<td>Jennifer Fullam, NMED</td>
<td>Michael Chacon, San Ildefonso Pueblo</td>
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<td>Bob Beers, LANL</td>
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<td>Alison Dorries, LANL; Gene Turner, LANL</td>
<td>Jerry Schoepnner, NMED</td>
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<td>Alison Dorries, LANL; Gene Turner, LANL</td>
<td>Jerry Schoepnner, NMED</td>
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<td>Affidavit of Public Notice Completion, Discharge Permit Application DP-1132, TA-50 RLWTF and TA-52 Zero Liquid Discharge Solar Evaporation Tanks</td>
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<td>Jerry Schoepnner, NMED</td>
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<td>Alison Dorries, LANL; Gene Turner, LANL</td>
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<td>Alison Domes, LANL; Gene</td>
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<td>Bob Beers, LANL</td>
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<td>Alison Domes, LANL; Gene</td>
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<td>08314-08315</td>
<td>Bob Beers, LANL</td>
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<td>Correction Notice re: LANL ZLD Evaporation Tanks</td>
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<td>08336-08338</td>
<td>Jerry Schoepner, NMED</td>
<td>Governor Phillip Quintana, Pueblo de Cochiti</td>
<td>Letter</td>
<td>Notification of Proposed Ground Water Discharge Permit for LANL - RLWTF, DP-1132</td>
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<td>Jerry Schoepner, NMED</td>
<td>Governor Terry Aguilar Pueblo of San Ildefonso</td>
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<td>08342-08344</td>
<td>Jerry Schoepner, NMED</td>
<td>Governor Walter Dasheno Pueblo of Santa Clara</td>
<td>Letter</td>
<td>Notification of Proposed Ground Water Discharge Permit for LANL - RLWTF, DP-1132</td>
</tr>
<tr>
<td>11/16/2012</td>
<td>08349-08350</td>
<td>Jerry Schoepner, NMED</td>
<td>Governor Joshua Madalena, Pueblo of Jemez</td>
<td>Letter</td>
<td>Notification of Proposed Ground Water Discharge Permit for LANL - RLWTF, DP-1132</td>
</tr>
<tr>
<td>01/13/2014</td>
<td>08463-08464</td>
<td>Jennifer Pruett, NMED</td>
<td>Bob Beers, LANL; Jennifer Fullam, NMED</td>
<td>Email</td>
<td>Obtaining copies of public comments on Draft Discharge Permit DP-1132</td>
</tr>
<tr>
<td>01/17/2013</td>
<td>08465-08516</td>
<td>N/A</td>
<td>N/A</td>
<td>Report</td>
<td>Facility Operations Analysis and Sequence of Operations for the</td>
</tr>
<tr>
<td>Date</td>
<td>Bates No.</td>
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<td>04/04/2013</td>
<td>08636-08639</td>
<td>Robert George, NMED</td>
<td>Brian Shields, Amigos Bravos;</td>
<td>Email</td>
<td>LANL Discharge</td>
</tr>
<tr>
<td>04/04/2013</td>
<td>08641-08644</td>
<td>Brian Shields, Amigos Bravos</td>
<td>Robert George, NMED</td>
<td>Email</td>
<td>Requesting information re: discharge observed on February 27.</td>
</tr>
<tr>
<td>04/05/2013</td>
<td>08645-08649</td>
<td>Jennifer Fullam, NMED</td>
<td>Brian Shields, Amigos Bravos; Robert George, NMED</td>
<td>Email</td>
<td>LANL Discharge</td>
</tr>
<tr>
<td>04/30/2013</td>
<td>08681-08683</td>
<td>Alison Dorries, LANS; Gene Turner, DOE</td>
<td>Jerry Schoepner, NMED</td>
<td>Letter</td>
<td>Discharge Plan DP-1132 Quarterly Report, First Quarter 2013, TA-50 RLWTF</td>
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<td>05/17/2013</td>
<td>08780-08782</td>
<td>Unknown</td>
<td>Unknown</td>
<td>CD</td>
<td>Gage Stations</td>
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<tr>
<td>06/14/2013</td>
<td>09062-09064</td>
<td>Jerry Schoepner, NMED</td>
<td>Myron Armijo, Governor of Santa Ana Pueblo</td>
<td>Letter</td>
<td>Preliminary Draft Discharge Permit, DP-1132, RLWTF. Transmitting preliminary draft.</td>
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<tr>
<td>06/14/2013</td>
<td>09065-09067</td>
<td>Jerry Schoepner, NMED</td>
<td>Terry Aguilar, Governor of San Ildefonso Pueblo</td>
<td>Letter</td>
<td>Preliminary Draft Discharge Permit, DP-1132, RLWTF. Transmitting preliminary draft.</td>
</tr>
<tr>
<td>06/14/2013</td>
<td>09068-09070</td>
<td>Jerry Schoepner, NMED</td>
<td>Vincent Toya, Sr., Governor of Jemez Pueblo</td>
<td>Letter</td>
<td>Preliminary Draft Discharge Permit, DP-1132, RLWTF. Transmitting preliminary draft.</td>
</tr>
<tr>
<td>Date</td>
<td>Bates No.</td>
<td>From</td>
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<td>06/14/2013</td>
<td>09071-09073</td>
<td>Jerry Schoepnner, NMED</td>
<td>J. Leroy Arquero, Governor of Cochiti Pueblo</td>
<td>Letter</td>
<td>Transmitting preliminary draft. Preliminary Draft Discharge Permit, DP-1132, RLWTF. Transmitting preliminary draft.</td>
</tr>
<tr>
<td>06/14/2013</td>
<td>09074-09076</td>
<td>Jerry Schoepnner, NMED</td>
<td>J. Bruce Tafoya, Governor of Santa Clara Pueblo</td>
<td>Letter</td>
<td>Preliminary Draft Discharge Permit, DP-1132, RLWTF. Transmitting preliminary draft.</td>
</tr>
<tr>
<td>06/14/2013</td>
<td>09249-09251</td>
<td>Jerry Schoepnner, NMED</td>
<td>Myron Armijo, Governor of Santa Ana Pueblo</td>
<td>Letter</td>
<td>Preliminary Draft Discharge Permit, DP-1132, RLWTF. Resending preliminary draft.</td>
</tr>
<tr>
<td>07/24/2013</td>
<td>09267-09269</td>
<td>Bob Beers, LANL</td>
<td>Robert George, NMED</td>
<td>Email</td>
<td>Corrective Action Plan Pumping Test at Monitoring Well R-42</td>
</tr>
<tr>
<td>07/25/2013</td>
<td>09270-09284</td>
<td>Alison Dorries, LANS; Gene Turner, DOE</td>
<td>Jerry Schoepnner, NMED</td>
<td>Letter</td>
<td>Discharge Plan DP-1132 Quarterly Report, Second Quarter 2013, TA-50 RLWTF</td>
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<tr>
<td>08/06/2013</td>
<td>09375-09376</td>
<td>Jennifer Fullam, NMED</td>
<td>Rachel Conn, Amigos Bravos</td>
<td>Email</td>
<td>Second Public Notice for RLWTF DP-1132</td>
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<tr>
<td>08/13/2013</td>
<td>09377-09378</td>
<td>Bob Beers, LANL</td>
<td>Jennifer Pruett, NMED</td>
<td>Email</td>
<td>Requesting meeting with NMED, DOE, and LANS</td>
</tr>
<tr>
<td>09/10/2013</td>
<td>09394-09445</td>
<td>Jennifer Fullam, NMED</td>
<td>Gene Turner, DOE; Alison Dorries,</td>
<td>Letter</td>
<td>Ground Water Discharge Permit</td>
</tr>
<tr>
<td>Date</td>
<td>Bates No.</td>
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<td>09/13/2013</td>
<td>09449-09450</td>
<td>NMED</td>
<td>LANS</td>
<td>Public Notice</td>
<td>Public Notice of applications that have been proposed for approval.</td>
</tr>
<tr>
<td>09/17/2013</td>
<td>09453</td>
<td>Jennifer Fullam, NMED</td>
<td>N/A</td>
<td>Memorandum of Phone conversation</td>
<td>Conversation with Michael Chacon re: DP-1132</td>
</tr>
<tr>
<td>09/27/2013</td>
<td>09454-09456</td>
<td>Myron Armijo, Governor of Santa Ana Pueblo</td>
<td>Jennifer Fullam, NMED</td>
<td>Letter</td>
<td>The Pueblo of Santa Ana’s Comments on the Draft Ground Water Discharge Permit (DP-1132)</td>
</tr>
<tr>
<td>10/03/2013</td>
<td>09516-09565</td>
<td>Alison Dorries, LANS; Gene Turner, DOE</td>
<td>Jerry Schoepner, NMED</td>
<td>Letter</td>
<td>Request for Temporary Permission to Place New Influent Storage Tanks Into Service at LANL, DP-1132</td>
</tr>
<tr>
<td>10/16/2013</td>
<td>09575-09576</td>
<td>Bob Beers, LANL</td>
<td>Jennifer Fullam, NMED</td>
<td>Email</td>
<td>Draft Discharge Permit DP-1132 MS Word Version. Requesting a copy.</td>
</tr>
<tr>
<td>10/17/2013</td>
<td>09577-09584</td>
<td>Alison Dorries, LANS; Gene Turner, DOE</td>
<td>Jerry Schoepner, NMED</td>
<td>Letter</td>
<td>Discharge Plan DP-1132 Quarterly Report, Third Quarter 2013, TA-50 RLWTF</td>
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<tr>
<td>10/28/2013</td>
<td>09589</td>
<td>Jennifer Fullam, NMED</td>
<td>N/A</td>
<td>Memorandum of Phone conversation</td>
<td>Dave McCoy left voicemail requesting</td>
</tr>
<tr>
<td>Date</td>
<td>Bates No.</td>
<td>From</td>
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<td>10/29/2013</td>
<td>09590-09595</td>
<td>Jennifer Pruett, NMED</td>
<td>John Kieling, NMED; Jerry Schoeppner, NMED; Jennifer Fullam, NMED; Dave McCoy, Citizen Action NM</td>
<td>Email</td>
<td>Missing Attachment for Draft LAN RLWTF. Providing link to monitoring well guidelines.</td>
</tr>
<tr>
<td>11/07/2013</td>
<td>09596-09597</td>
<td>Jennifer Fullam, NMED</td>
<td>Jerry Schoeppner, NMED; Jennifer Fullam, NMED</td>
<td>Email</td>
<td>Discussion with San Filipe Pueblo re: LANL RLWTF</td>
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<tr>
<td>N/A</td>
<td>09598-09599</td>
<td>N/A</td>
<td>N/A</td>
<td>Memorandum of Phone Conversation</td>
<td>Stout called Fullam to inform her that San Felipe Pueblo was planning on submitting comments</td>
</tr>
<tr>
<td>11/13/2013</td>
<td>09600-09601</td>
<td>Jennifer Fullam, NMED</td>
<td>Bob Beers, LANL</td>
<td>Email</td>
<td>Confirming dates of DP-1132 Public Comment Period</td>
</tr>
<tr>
<td>11/18/2013</td>
<td>09604</td>
<td>Jennifer Fullam, NMED</td>
<td>Robert Gilkeson</td>
<td>Email</td>
<td>Public Records Request</td>
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<tr>
<td>11/18/2011</td>
<td>09605-09615</td>
<td>James Davis, NMED</td>
<td>Anthony Grieggs, EPA</td>
<td>Letter</td>
<td>Response to Notice of Intent to Discharge and Discharge Permit Required for Zero Liquid Discharge Tanks, AI 856: PDR 20070004 and Updated Application</td>
</tr>
<tr>
<td>Date</td>
<td>Bates No.</td>
<td>From</td>
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<td>11/26/2013</td>
<td>09619-09626</td>
<td>Gene Turner, DOE; Alison Domes, LANS</td>
<td>Jennifer Fullam, NMED</td>
<td>NMED Routing Slip</td>
<td>Submittal Required for the RLWTF DP-1132</td>
</tr>
<tr>
<td>12/06/2013</td>
<td>09631-09655</td>
<td>Jonathan Block, NMELC</td>
<td>Jerry Schoeppner, NMED; Jennifer Fullam, NMED</td>
<td>Email</td>
<td>CCW-TWU-3 Individuals-TA-50 RLWTF Permit</td>
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<td></td>
<td>First Set of Comments and Hearing Request</td>
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<tr>
<td>12/06/2013</td>
<td>09656-09679</td>
<td>Jonathan Block, NMELC</td>
<td>Jerry Schoeppner, NMED; Jennifer Fullam, NMED</td>
<td>Letter</td>
<td>Comments and Hearing Request of the Communities for Clean Water, Tewa Women United and three individuals on the proposed permit DP-1132 to RLWTF</td>
</tr>
<tr>
<td>12/12/2013</td>
<td>09683-09684</td>
<td>Scott Kovac, Nuclear Watch NM</td>
<td>Ryan Flynn, NMED; Jennifer Fullam, NMED</td>
<td>Email</td>
<td>Nuclear Watch NM Comments on Draft Discharge Permit DP-1132 – Cover email</td>
</tr>
<tr>
<td>12/12/2013</td>
<td>09685-09686</td>
<td>Jonathan Block, NMELC</td>
<td>Jerry Schoeppner, NMED; Jennifer Fullam, NMED; Brian Shields, Amigos Bravos; Rachel Conn, Amigos Bravos;</td>
<td>Email</td>
<td>2nd Set of Comments and Hrg. Reg. from CCW, TWU and Individuals on DP-1132 for the RLWTF – Cover</td>
</tr>
<tr>
<td>Date</td>
<td>Bates No.</td>
<td>From</td>
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<td>12/12/2013</td>
<td>09687-09689</td>
<td>Scott Kovac, Nuclear Watch NM</td>
<td>Kathy Sanchez, Pi’ee Quiyo Inc.; J.G. Sanchez; Marian Naranjo, Honor Our Pueblo Existence (HOPE); Robert Gilkeson; Joni Arends, CCNS</td>
<td>Comments</td>
<td>Nuclear Watch NM Comments on Draft Discharge Permit DP-1132</td>
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<tr>
<td>12/12/2013</td>
<td>09690-09768</td>
<td>Jonathan Block, NMELC</td>
<td>Jerry Schoepnner, NMED; Jennifer Fullam, NMED; Brian Shields, Amigos Bravos; Rachel Conn, Amigos Bravos; Kathy Sanchez, Pi’ee Quiyo Inc.; J.G. Sanchez; Marian Naranjo, Honor Our Pueblo Existence (HOPE); Robert Gilkeson; Joni Arends, CCNS</td>
<td>Comments</td>
<td>2nd Set of Comments and Hrg. Reg. from CCW, TWU and Individuals on DP-1132 for the RLWTF</td>
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<tr>
<td>12/12/2013</td>
<td>09769-09864</td>
<td>Alison Dorries, LANS; Gene Turner, DOE</td>
<td>Jerry Schoepnner, NMED</td>
<td>Letter</td>
<td>Review Comments, Draft Discharge Permit, DP-1132, RLWTF</td>
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<tr>
<td>N/A</td>
<td>09865-09881</td>
<td>Robert Gilkeson</td>
<td>CCW, TWU, NMED</td>
<td>Public Comment and Hearing Request</td>
<td>Deficiencies in Ground Water Protection in the</td>
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<tr>
<td>Date</td>
<td>Bates No.</td>
<td>From</td>
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<td>12/12/2013</td>
<td>09882-09883</td>
<td>Kathy Sanchez, TWU</td>
<td>Jerry Schoepnner, NMED; Jennifer Fullam, NMED; Brian Shields, Amigos Bravos; Rachel Conn, Amigos Bravos; Kathy Sanchez, Pi'ee Quiyo Inc.; J.G. Sanchez; Marian Naranjo, HOPE; Bob Gilkeson; Joni Arends, CCNS</td>
<td>Email</td>
<td>RE: got it...[sic]2nd Set of Comments and Hrg. Reg. from CCW, TWU and Individuals on DP-1132 for the RLWTF</td>
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<td>01/14/2014</td>
<td>09884-09890</td>
<td>N/A</td>
<td>N/A</td>
<td>NMED Internal Document</td>
<td>DP-1132 Public Comments Summary</td>
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<td>12/12/2013</td>
<td>09891-09895</td>
<td>Jay Coghlan Nuclear Watch NM; Scott Kovac Nuclear Watch NM</td>
<td>Ryan Flynn, NMED; Jennifer Fullam, NMED</td>
<td>Letter</td>
<td>Submitting comments for Draft Discharge Permit DP-1132</td>
</tr>
<tr>
<td>01/07/2014</td>
<td>09896-09897</td>
<td>Bob Beers, LANL</td>
<td>Jennifer Fullam, NMED</td>
<td>Email</td>
<td>Comments on DP-1132 Draft Discharge Permit</td>
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<td>01/13/2014</td>
<td>09898-09899</td>
<td>Jennifer Pruett, NMED</td>
<td>Bob Beers, LANL; Jennifer Fullam, NMED</td>
<td>Email</td>
<td>Comments on DP-1132 Draft Discharge Permit</td>
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<tr>
<td>Date</td>
<td>Bates No.</td>
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<td>01/15/2014</td>
<td>09900-09904</td>
<td>Bob Beers, NMED</td>
<td>Melissa Mascarenas, NMED</td>
<td>Email</td>
<td>Request for Public Records – Public Comments – DP-1132-LANL</td>
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<tr>
<td>01/16/2014</td>
<td>09910-09911</td>
<td>Jennifer Fullam, NMED</td>
<td>Bob Beers, LANL</td>
<td>Email</td>
<td>Forwarding documents requested in Request for Public Records</td>
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<tr>
<td>01/16/2014</td>
<td>09912-09920</td>
<td>Diana Sandoval, NMED</td>
<td>Jennifer Fullam, NMED</td>
<td>Email</td>
<td>IPRA – Beers – DP – 1132 – LANL</td>
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<td>01/21/2014</td>
<td>09921-09924</td>
<td>Alison Dorries, LANS; Gene Turner, DOE</td>
<td>Jerry Schoeppner, NMED</td>
<td>Letter</td>
<td>Discharge Plan DP-1132 Quarterly Report, Fourth Quarter 2013, TA-50 RLWT</td>
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<td>02/03/2014</td>
<td>09934-09936</td>
<td>Bob Beers, NMED</td>
<td>Jennifer Fullam, NMED</td>
<td>Email</td>
<td>Request for Public Records</td>
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<td>02/06/2014</td>
<td>09937-09943</td>
<td>Jennifer Fullam, NMED</td>
<td>Jon Block, NMELC; Joni Arends, CCNS; Diana Sandoval, NMED; Melissa Mascarenas, NMED; Jerry Schoeppner, NMED</td>
<td>Email</td>
<td>IPRA – Block-LANL NMELC IPRA to NMED</td>
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<tr>
<td>Date</td>
<td>Bates No.</td>
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<td>To</td>
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<td>02/07/2014</td>
<td>09944-09947</td>
<td>Jon Block, NMELC</td>
<td>Jennifer Fullam, NMED</td>
<td>Email</td>
<td>IPRA – Block LANL</td>
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<td>02/07/2014</td>
<td>09948-10152</td>
<td>Jennifer Fullam, NMED</td>
<td>Jon Block, NMELC</td>
<td>Email</td>
<td>IPRA – Block – LANL, DP-1132 Comments from DOE-LANS; Santa Ana; Tewa Women and CCW</td>
</tr>
<tr>
<td>02/12/2014</td>
<td>10153-10154</td>
<td>Jennifer Fullam, NMED</td>
<td>Jon Block, NMELC</td>
<td>Telephone Conversation</td>
<td>IPRA</td>
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<tr>
<td>02/26/2014</td>
<td>10178-10180</td>
<td>Jennifer Fullam, NMED</td>
<td>Jerry Schoepnner, NMED; John Hall, NMED; Jennifer Pruett, NMED</td>
<td>Email</td>
<td>TP for WMRM DP-1132</td>
</tr>
<tr>
<td>04/01/2014</td>
<td>10190-10191</td>
<td>Jerry Schoepnner, NMED</td>
<td>Alison Dorries, LANS; Gene Turner, DOE</td>
<td>Letter</td>
<td>Temporary Permission to Discharge, WMRM Influent Storage Tanks at LANL RLWTF, DP-1132</td>
</tr>
<tr>
<td>06/13/2014</td>
<td>10209-10211</td>
<td>Jonathan Block, NMELC</td>
<td>Joni Arends, CCNS; Brian Shields; Rachel Conn; Kathy Sanchez; Beata Tsosie; J. Gilbert Sanchez; Marian Naranio; Robert</td>
<td>Email</td>
<td>LANL DP-1132 PN-2 Draft Permit Withdrawal Questions about public notice</td>
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<tr>
<td>Date</td>
<td>Bates No.</td>
<td>From</td>
<td>To</td>
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<td>06/13/2014</td>
<td>10212-10217</td>
<td>Jonathan Block, NMELC</td>
<td>Jennifer Pruett, NMED</td>
<td>Email</td>
<td>LANL DP-1132 PN-2 Draft Permit Withdraw Questions about public notice</td>
</tr>
<tr>
<td>6/2/14</td>
<td>10219-10225</td>
<td>Robert Gilkeson</td>
<td>Unknown</td>
<td>Report</td>
<td>LANL Characterization Wells R-16 and R-16r require replacement because they are not reliable monitoring wells for LANL contaminants in groundwater travelling to the Buckman Well Field for the City of Santa Fe</td>
</tr>
<tr>
<td>07/09/2014</td>
<td>10226-10231</td>
<td>NMED</td>
<td>N/A</td>
<td>Meeting Memo</td>
<td>Ground Water Quality Bureau Response to Issues Discussed at June 2, 2014 DP-1132 Meeting</td>
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<tr>
<td>07/17/2014</td>
<td>10232-10242</td>
<td>N/A</td>
<td>N/A</td>
<td>Notes</td>
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<tr>
<td>07/17/2014</td>
<td>10243-10252</td>
<td>N/A</td>
<td>N/A</td>
<td>Notes</td>
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<td>07/22/2014</td>
<td>10253-10256</td>
<td>Alison Dorries, LANS; Gene</td>
<td>Jerry Schoeppler, NMED</td>
<td>Letter</td>
<td>Discharge Plan DP-1132 Quarterly</td>
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<tr>
<td>Date</td>
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<td>04/23/2014</td>
<td>10257-10262</td>
<td>Michael Brandt, LANS; Gene Turner, DOE</td>
<td>Erika Schwender, NMED</td>
<td>Letter</td>
<td>Filing of Plans and Specifications RLWTF Upgrade Project, LANL, DP-1132</td>
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<td>07/30/2014</td>
<td>10270-12678</td>
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<td>08/07/2014</td>
<td>12679-12682</td>
<td>Alison Domes, LANS; Gene Turner, DOE</td>
<td>Jerry Schoeppler, NMED</td>
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<td>N/A</td>
<td>12683-12686</td>
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<td>Ground Water Quality Bureau Meeting with LANL/DOE August 11, 2014</td>
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<td>08/12/2014</td>
<td>12687-12695</td>
<td>N/A</td>
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<td>August 12, 2014 meeting with LANL</td>
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<td>08/21/2014</td>
<td>12698-12723</td>
<td>Alison Domes, LANS; Gene Turner, DOE</td>
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<td>Letter</td>
<td>Request for Additional Information, Discharge Permit Application DP-1132 RLWTF</td>
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<td>N/A</td>
<td>12724-12726</td>
<td>N/A</td>
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<td>Inspection Report</td>
<td>DP-1132, Inspection Date</td>
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<td>08/29/2014</td>
<td>12727-12730</td>
<td>Jennifer Pruett, NMED</td>
<td>Bob Beers, LANL</td>
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<td>09/11/2014</td>
<td>12731-12751</td>
<td>Alison Dorries, LANS; Gene Turner, DOE</td>
<td>Jerry Schoepner, NMED</td>
<td>Letter</td>
<td>Corrected ENV-DO-14-0229, Request for Additional Information, Discharge Permit Application DP-1132, RLWTF</td>
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<td>09/16/2014</td>
<td>12752-12757</td>
<td>John Kieling, NMED</td>
<td>Steven Huddleson, NMED</td>
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<td>09/17/2014</td>
<td>12758-12760</td>
<td>Bob Beers, LANL</td>
<td>Steven Huddleson, NMED</td>
<td>Email</td>
<td>A Question. Response to question re: seismic standards</td>
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<td>09/18/2014</td>
<td>12761-12764</td>
<td>Bob Beers, LANL</td>
<td>Steven Huddleson, NMED</td>
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<td>09/18/2014</td>
<td>12765-12766</td>
<td>Steven Huddleson, NMED</td>
<td>Jennifer Pruett, NMED; John Hall, NMED; Jerry Schoepner, NMED</td>
<td>Email</td>
<td>DP-1132 Latest (9-18-14 version)</td>
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<td>09/22/2014</td>
<td>12767-12769</td>
<td>Jim Chiasson, NMED</td>
<td>Steven Huddleson, NMED</td>
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<td>LANL WWTF Plans and Specs Review</td>
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<td>09/22/14</td>
<td>12770-12771</td>
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<td>DOE/LANS Remaining Issues</td>
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<td>09/26/2014</td>
<td>12772-12778</td>
<td>Jerry Schoepner, NMED</td>
<td>Steven Huddleson, NMED</td>
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<td>Requesting a short meeting to discuss request for extension re:</td>
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<tr>
<td>Date</td>
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<td>10/03/2014</td>
<td>12779-12781</td>
<td>Jerry Schoeppner, NMED</td>
<td>Bob Beers, LANL</td>
<td>Letter</td>
<td>Comments on 90% and 100% Design Specifications RLWTF Upgrade Project</td>
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<td>12782-12794</td>
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<td>12795-12800</td>
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<td>Meeting of October 15, 2014</td>
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<td>10/20/2014</td>
<td>12801-12819</td>
<td>Bill Blankenship, LANL</td>
<td>Steven Huddleson, NMED; Cember Hardison, NMED</td>
<td>Email</td>
<td>NPR approval for TA50 RLWTF thermal evaporator</td>
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<td>10/20/2014</td>
<td>12820-12825</td>
<td>Joni Arends, CCNS</td>
<td>Chris Del Signore, LANL; Jennifer Pruet, NMED; Michael Saladen, LANL; Alison Dorries, LANS; Gene Turner, DOE; Bob Beers, LANL; Anthony Grieggs, EPA; Steven Huddleson, NMED; Jerry Schoeppner, NMED; Jonathan Block, NMELC; Jennifer Hower, NMED</td>
<td>Email</td>
<td>CCNS – Receipt of FOIA Request</td>
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<tr>
<td>10/23/2014</td>
<td>12826-12828</td>
<td>Steven Huddleson, NMED</td>
<td>Bob Beers, LANL; Jennifer Pruet, NMED</td>
<td>Email</td>
<td>DP-1132 list of remaining issues</td>
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<td>10/24/2014</td>
<td>12829-12836</td>
<td>Toni Arends, CCNS; Marian Naranjo, Honor Our Pueblo Existence; Brian Shields and Rachel Conn, Amigos Bravos; Kathy Sanchez and Beata Tsosie-Peña, TWU; Joan Brown and Marlene Perrotte, Partnership for Earth Spirituality; Robert Gilkeson, Independent Registered Geologist; J. Gilbert Sanchez, Tewa Environmental Watch Alliance</td>
<td>Jennifer Pruett, NMED; Jerry Schoeppner, NMED; Steven Huddleson, NMED</td>
<td>Letter</td>
<td>CCW Comments to NMED TA-50 draft GWDP</td>
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<td>12842-12847</td>
<td>Angeline Purdy, ENRD</td>
<td>Jonathan Block, NMELC; Joni Arends, CCNS</td>
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<td>10/30/2014</td>
<td>12848-12849</td>
<td>Steven Huddleson, NMED</td>
<td>Gene Turner, DOE</td>
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<tr>
<td>Date</td>
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<td>12850-12852</td>
<td>Gene Turner, DOE</td>
<td>Steven Huddleson, NMED; Jennifer Pruett, NMED</td>
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<td>12/02/2014</td>
<td>12918-12920</td>
<td>Bob Beers, LANL</td>
<td>Steven Huddleston, NMED</td>
<td>Email</td>
<td>Draft Discharge Permit DP-1132, Revised Draft Discharge Permit DP-1132 (Version 12/15/2014) CCW, Gilkeson and Sanchez</td>
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<td>01/13/2014</td>
<td>12921-12924</td>
<td>Alison Dorries, LANS; Gene Turner, DOE</td>
<td>Jerry Schoepchner, NMED</td>
<td>Letter</td>
<td>Discharge Plan DP-1132 Quarterly Report, Fourth Quarter 2014, TA-50 RLWTF</td>
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<td>03/16/2015</td>
<td>12925-12931</td>
<td>Joni Arends, CCNS</td>
<td>Steven Huddleston, NMED; Bob Beers, LANL</td>
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<td>Agenda Items for Tuesday 3/17 Meeting</td>
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<td>03/17/2015</td>
<td>12932-12934</td>
<td>CCW, Gilkeson and Sanchez</td>
<td>Steven Huddleston, NMED</td>
<td>Letter</td>
<td>Participation in March 17, 2017 Meeting on DP-1132 between NMED and DOE/LANS</td>
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<td>03/15/2015</td>
<td>12935-12940</td>
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<td>March 15, 2015 Meeting</td>
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<td>03/16/2015</td>
<td>12941-12942</td>
<td>Bob Beers, LANL</td>
<td>Steven Huddleston, NMED</td>
<td>Email/Agenda</td>
<td>Agenda for March 17, 2017 meeting between NMED and DOE/LANS, plus items DOE/LANS wish to add to the agenda</td>
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<td>04/23/2015</td>
<td>12972-12974</td>
<td>Alison Dorries, LANS; Gene Turner, DOE</td>
<td>Phyllis Bustamante, NMED</td>
<td>Letter</td>
<td>Discharge Plan DP-1132 Quarterly Report, First Quarter 2015, TA-50 RLWTF</td>
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<td>05/20/2015</td>
<td>13036-13198</td>
<td>Alison Dorries, LANS; Gene Turner, DOE</td>
<td>Phyllis Bustamante, NMED</td>
<td>Letter</td>
<td>DOE and LANS responses regarding issues identified during the April 16, 2015 meeting</td>
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<td>06/01/2015</td>
<td>13199-13211</td>
<td>Lindsay Lovejoy, CCW</td>
<td>Phyllis Bustamante, NMED</td>
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<td>13233-13234</td>
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<td>Statement</td>
<td>Statement by Steve Huddleson re: wells having limited</td>
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<td>13235-13236</td>
<td>Chiasson, Jim, NMED</td>
<td>Steve Huddleson, NMED</td>
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<td>07/27/2015</td>
<td>13237-13238</td>
<td>Chris Del Signore, LANL</td>
<td>Steve Huddleson, NMED</td>
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<td>11/09/2015</td>
<td>13243-13244</td>
<td>Peter Maggiore, DOE</td>
<td>Steve Huddleson, NMED</td>
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<td>DP-1132 Issues - Signage</td>
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<td>11/23/2015</td>
<td>13245-13251</td>
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<td>Steve Huddleson, NMED</td>
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<td>01/20/2016</td>
<td>13255-13258</td>
<td>Alison Dorries, LANS; Jody Pugh, DOE</td>
<td>Michelle Hunter, NMED</td>
<td>Letter</td>
<td>Discharge Plan DP-1132 Quarterly Report, Fourth Quarter 2015, TA-50 RLWTF</td>
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<td>01/21/2016</td>
<td>13259-13260</td>
<td>John Kieling, NMED</td>
<td>Steve Huddleson, NMED</td>
<td>Email</td>
<td>Closure Plan. HWB has no comments</td>
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<tr>
<td>01/29/2016</td>
<td>13261-13263</td>
<td>Michelle Hunter, NMED</td>
<td>Alison Dorries, LANL</td>
<td>Letter</td>
<td>Comments on 60% Design Plans and Specifications RLWTF - Upgrade Project Transuranic Liquid Waste Project, DP-1132</td>
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<td>02/28/2016</td>
<td>13264-13267</td>
<td>Bob Beers, LANL</td>
<td>Steve Huddleson, NMED</td>
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<td>04/28/2016</td>
<td>13266-13271</td>
<td>Alison Domes, LANS; Jody Pugh, DOE</td>
<td>Michelle Hunter, NMED</td>
<td>Letter</td>
<td>Discharge Plan DP-1132 Quarterly Report, First Quarter 2016, TA-50 RLWTF</td>
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<td>06/03/2016</td>
<td>13272-13355</td>
<td>John McCann, LANS; Jody Pugh, DOE</td>
<td>Michelle Hunter, NMED</td>
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<td>Supplemental Information for Discharge Permit Application DP-1132, RLWTF</td>
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<td>07/06/2016</td>
<td>13356-13358</td>
<td>Michael Saladen, LANL</td>
<td>Steve Huddleson, NMED; Bob Beers, LANL; Chris Del Signore, LANL</td>
<td>Email</td>
<td>List of SWMUs associated with RLWTF</td>
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<td>07/19/2016</td>
<td>13359-13412</td>
<td>John McCann, LANS; Jody Pugh, DOE</td>
<td>Michelle Hunter, NMED</td>
<td>Letter</td>
<td>Revised Closure Plan for Draft Discharge Permit DP-1132</td>
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<td>10/19/2016</td>
<td>13417-13420</td>
<td>Anthony Grieggs, LANS; Karen Armijo, NNSA</td>
<td>Michelle Hunter, NMED</td>
<td>Letter</td>
<td>Discharge Plan DP-1132 Quarterly Report, Third Quarter 2016, TA-50 RLWTF</td>
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<td>01/13/2017</td>
<td>13426-13434</td>
<td>Kathy Sanchez, TWU; Beata Tsosie-Pena, TWU; Marian</td>
<td>Steven Huddleson, NMED; Jennifer Hower, NMED</td>
<td>Letter</td>
<td>CCW comments on October 1, 2016 final draft permit DP-1132 and...</td>
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<td>01/17/2017</td>
<td>13435-13437</td>
<td>Jon Block, NMELC</td>
<td>Jennifer Hower, NMED</td>
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<td>revised closure plan for LANL RLWTF at TA-50</td>
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<td>01/18/2017</td>
<td>13438-13441</td>
<td>Anthony Grieggs, LANS; Karen Armijo, DOE</td>
<td>Michelle Hunter, NMED</td>
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<td>01/18/2017</td>
<td>13442-13451</td>
<td>Anthony Grieggs, LANS; Karen Armijo, DOE</td>
<td>Michelle Hunter, NMED</td>
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<td>Filing of 90% Design Plans and Specifications, RLWTF Upgrade – Transuranic Liquid Waste Project, DP-1132</td>
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<td>02/15/2017</td>
<td>13452-13472</td>
<td>Anthony Grieggs, LANS; Karen Armijo, DOE</td>
<td>Michelle Hunter, NMED</td>
<td>Letter</td>
<td>Filing of 100% Design Drawings, RLWTF, Sodium Hydroxide Chemical Feed System, DP-1132</td>
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<td>03/13/2017</td>
<td>13473-13475</td>
<td>Michelle Hunter, NMED</td>
<td>Karen E. Armijo, NNSA; Anthony Grieggs, LANS</td>
<td>Letter</td>
<td>NMED Comments on 100% Design Specifications: Sodium Hydroxide Chemical Feed System, DP-1132</td>
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<tr>
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<td>04/17/2017</td>
<td>13476-13479</td>
<td>Karen E. Armijo, NNSA; Anthony Grieggs, LANS</td>
<td>Michelle Hunter, NMED</td>
<td>Letter</td>
<td>Discharge Plan DP-1132f Quarterly Report, First Quarter 2017, TA-50 RLWTF</td>
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<td>05/05/2017</td>
<td>13481-13494</td>
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<td>06/05/2017</td>
<td>13495-13761</td>
<td>Communities for Clean Water</td>
<td>Kathryn Hayden, NMED</td>
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<td>Comments and Hearing Request on DP-1132</td>
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<td>06/09/2017</td>
<td>13762-13764</td>
<td>Kathryn Hayden, NMED</td>
<td>Steve Pullen, NMED</td>
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<td>Forwarding Comments and Hearing Request on DP-1132</td>
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<td>07/06/2016</td>
<td>13765-13767</td>
<td>Michael Saladen</td>
<td>Steven Huddleston, NMED; Bob Beers, LANL; Chris Signore</td>
<td>Email</td>
<td>List of SWMU associated with RLWTF</td>
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<tr>
<td>07/12/2017</td>
<td>13768-13770</td>
<td>Steve Pullen, NMED</td>
<td>Bob Beers, LANL</td>
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<td>DP-1132 – Integration with the Consent Order</td>
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<td>07/17/2017</td>
<td>13771-13773</td>
<td>Bob Beers, LANL</td>
<td>Steve Pullen, NMED</td>
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<tr>
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<td>13774-13775</td>
<td>Bob Beers, LANL</td>
<td>Steve Pullen, NMED</td>
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<td>07/24/2017</td>
<td>13776-13777</td>
<td>Steve Pullen, NMED</td>
<td>Joni Arends, CCNS</td>
<td>Email</td>
<td>LANL DP-1132 – monitoring equipment</td>
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<td>07/24/2017</td>
<td>13778-13781</td>
<td>Joni Arends, CCNS</td>
<td>Steve Pullen, NMED; Rachel Conn; Marian Naranjo; Kathy Sanchez; Beata Tsosie-Pena; Marlene; Joan Brown; Jon Block, NMELC; Lindsay Lovejoy</td>
<td>Email</td>
<td>CCW Comments and Hearing Request on DP-1132 – monitoring equipment</td>
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<tr>
<td>07/24/2017</td>
<td>13782-13786</td>
<td>Karen E. Armijo, NNSA; Anthony Grieggs, LANS</td>
<td>Michelle Hunter, NMED</td>
<td>Letter</td>
<td>Filing of 100% Design Plans and Specifications, RLWTF Upgrade – Transuranic Liquid Waste Project, DP-1132</td>
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<tr>
<td>07/26/2017</td>
<td>13787-13796</td>
<td>Joni Arends; CCNS</td>
<td>Steve Pullen, NMED et al.</td>
<td>Email</td>
<td>11-14-14 CCW, Gilkeson &amp; Sanchez Comments to DP-1132</td>
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<tr>
<td>08/16/2017</td>
<td>13797-13803</td>
<td>William Honnker, US EPA</td>
<td>Lindsay Lovejoy; Jonathan Block, NMELC</td>
<td>Letter</td>
<td>Request to Terminate NPDES Permit #NM0028355 as to Outfall #051 for RLWTF</td>
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<td>09/14/2017</td>
<td>13804-13810</td>
<td>N/A</td>
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<td>NMED Internal Memo</td>
<td>Request for Hearing Determination for the draft DOE/LANS Discharge Permit, DP-1132, Radioactive Liquid</td>
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<td>09/14/2017</td>
<td>13811-13814</td>
<td>Steve Pullen, NMED</td>
<td>Butch Tongate, NMED</td>
<td>Memorandum</td>
<td>Request for Hearing Determination for the DOE/LANS Discharge Permit Application DP-1132, Discharges from the RLWTF</td>
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<td>13815-13824</td>
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<td>13825-13829</td>
<td>Joni Arends, CCNS</td>
<td>Melissa Mascarenas, NMED</td>
<td>Email/IPRA</td>
<td>File review — LANL DP-1132 for the RLWTF, No. GWB 17-20 (P)</td>
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<td>13838-13839</td>
<td>Melissa Mascarenas, NMED</td>
<td>Joni Arends, CCNS</td>
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<td>3-Day Letter Response to IPRA</td>
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<td>10/30/2017</td>
<td>13840-13843</td>
<td>Taunia Van Valkenburg, LANL</td>
<td>Michelle Hunter, NMED</td>
<td>Letter</td>
<td>Discharge Plan DP-1132 Quarterly Report, Third Quarter 2017, TA-50 RLWTF</td>
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<td>13844-13850</td>
<td>Deborah Reade</td>
<td>Michelle Hunter, NMED</td>
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<td>MASE also signs on to the letter</td>
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<td>Joni Arends, CCNS</td>
<td>Steve Pullen, NMED</td>
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<td>Steve Pullen, NMED</td>
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<td>Steve Pullen, NMED</td>
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<td>Request to stop the comment period for DP-1817 and the hearing process for DP-1132</td>
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<td>Michell Hunter, NMED</td>
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<td>01/31/2000</td>
<td>13881-13882</td>
<td>Maura Hanning, NMED GWQB</td>
<td>Gurule/Erickson, DOE/LANS</td>
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<td>Status update on the Discharge Permit (DP-1132)</td>
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<td>13883-13890</td>
<td>Anthony Grieggs, LANS</td>
<td>Jennifer Fullam, NMED GWQB</td>
<td>Letter</td>
<td>Response to request for additional information, DP-1132. Includes RLWTF Upgrade Project – 60% plans and specifications on compact disc</td>
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<td>12/27/2013</td>
<td>13891-13892</td>
<td>Jerry Schoepner, NMED GWQB</td>
<td>Dorries/ Turner, LANS/DOE</td>
<td>Letter</td>
<td>Temporary permission to discharge to the Waste Mitigation and Risk</td>
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<td>13893-13897</td>
<td>Brandt/Turner, LANS/DOE</td>
<td>Erika Schwender, NMED RPD</td>
<td>Letter</td>
<td>DP-1132 - RLWTF Upgrade Project – 90% plans and specifications on compact disc</td>
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<td>09/21/2016</td>
<td>13898-14020</td>
<td>Grieggs/Armijo LANS/DOE</td>
<td>Michelle Hunter, NMED GWQB</td>
<td>Letter</td>
<td>Revised Closure Plan and comments on the draft DP-1132</td>
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<td>12/15/2017</td>
<td>14021-14028</td>
<td>Lochlin Farrell, NMED GWQB</td>
<td>ABQ Journal</td>
<td>Email/Notice</td>
<td>Public hearing notice – DP-1132 – request for placement in legal section – both English and Spanish</td>
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<td>14037-14042</td>
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<td>Email/Notice</td>
<td>Copy of notice of public hearing on DP-1132 – refers to a hearing date of January 17, 2018, and a hearing location of the UNM Los Alamos campus – includes a link to draft permit notice in English and Spanish</td>
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<td>12/11/2017</td>
<td>14043-14044</td>
<td>NMED</td>
<td>NA</td>
<td>Website posting, newspaper ads, mailings to interested parties, mailings to affected government agencies, and mailings to tribes</td>
<td>Public hearing notice for DP-1132 – includes notice in English and Spanish – includes link to draft DP-1132</td>
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<td>03/07/2018</td>
<td>14045</td>
<td>NMED</td>
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<td>Copy of public notice of draft permit DP-1132 - (PN2) – call for public comment and request for hearing – includes a link to draft permit - re-notice to provide current and</td>
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<td>Date</td>
<td>Bates No.</td>
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<td>To</td>
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<td>03/12/2018</td>
<td>14046-14051</td>
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<td>NA</td>
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<td>correct version of the Closure Plan</td>
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<td>Copy of notice of public hearing on DP-1132 – refers to a hearing date of April 19, 2018, and a hearing location of the Fuller Lodge – includes a link to draft permit – notice in English and Spanish</td>
</tr>
<tr>
<td>04/04/2018</td>
<td>14052-14111</td>
<td>Joni Arends, CCW</td>
<td>Steve Pullen, NMED-GWQB</td>
<td>Email</td>
<td>Proposed changes to the DP-1132 Administrative Record Index</td>
</tr>
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</table>
IN THE MATTER OF THE APPLICATION OF THE UNITED STATES DEPARTMENT OF ENERGY AND LOS ALAMOS NATIONAL SECURITY, LLC FOR A GROUND WATER DISCHARGE PERMIT (DP-1132) FROM THE RADIOACTIVE LIQUID WASTE TREATMENT FACILITY

ORDER DENYING MOTION TO DISMISS

Having come before the Hearing Officer on a Motion to Dismiss filed by Communities for Clean Water ("CCW") the motion has been denied after reviewing all the pre-hearing briefing. The hearing, regarding DP-1132, will continue as scheduled on April 19, 2018. The Hearing Officer will not be providing time additional time for oral argument before the Hearing as the Motion was decided on its merits based on the briefing submitted.

Erin O. Anderson, Administrative Law Judge
Hearing Officer for GWB 17-20 (P)
New Mexico Environment Department
1190 South St. Francis Drive, Suite S-2103
Santa Fe, New Mexico 87505
(505) 827-0339
CERTIFICATE OF SERVICE

I hereby certify that a copy of the Order Denying Motion to Dismiss was sent via the stated methods below to the following parties on April 18, 2018:

Via hand delivery and Email:

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Assistant General Counsel
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Counsel for the New Mexico Environment Department

Via First Class U.S. Mail and Email:

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Christina C. Sheehan
Modrall, Sperling, Roehl, Harris & Sisk, P.A.
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15885
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Counsel for Communities for Clean Water

Pam Castañeda, Hearing Clerk
STATE OF NEW MEXICO  
BEFORE THE SECRETARY OF ENVIRONMENT  

IN THE MATTER OF THE APPLICATION  
OF THE UNITED STATES DEPARTMENT  
OF ENERGY AND LOS ALAMOS NATIONAL  
SECURITY, LLC, FOR A GROUNDWATER  
DISCHARGE PERMIT (DP-1132) FOR THE  
RADIOACTIVE LIQUID WASTE TREATMENT  
FACILITY  

NOTICE OF TRANSCRIPT FILING  

On April 30, 2018, Kathy Townsend Court Reporters, 110 Twelfth Street, Northwest, 
Albuquerque, New Mexico 87102 filed with the Hearing Clerk the transcript of the hearing from 
April 19, 2018. The transcript is available for review at the Hearing Clerk’s office, 1190 St. Francis 
Drive, Suite S-2103, Santa Fe, New Mexico 87505. 

Proposed findings of fact, conclusions of law, and any closing argument must be submitted 
in writing to the Hearing Clerk on or before May 30, 2018.  

Pam Castañeda, Hearing Clerk  
New Mexico Environment Department  
1190 St. Francis Drive, Suite S-2103  
Santa Fe, New Mexico 87505  
(505) 827-2425  
ext: pam.castañeda@state.nm.us
CERTIFICATE OF SERVICE

I hereby certify that a copy of the Notice of Transcript Filing was sent via the stated methods below to the following parties via email on April 30, 2018 and via U.S. mail on May 1, 2018:

Via hand delivery and Email:

John Verheul
Assistant General Counsel
New Mexico Environment Department
121 Tijeras Avenue NE, Ste
Albuquerque, New Mexico 87102
John.Verheul@state.nm.us
Counsel for the New Mexico Environment Department

Via First Class U.S. Mail and Email:

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Christina C. Sheehan
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Counsel for Communities for Clean Water

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jblock@nmelc.org
Counsel for Communities for Clean Water

Pam Castañeda, Hearing Clerk
STATE OF NEW MEXICO
BEFORE THE SECRETARY OF ENVIRONMENT
No. GWB 17-20(P)

IN THE MATTER OF THE APPLICATION
OF THE UNITED STATES DEPARTMENT
OF ENERGY AND LOS ALAMOS NATIONAL
SECURITY, LLC, FOR A GROUNDWATER
DISCHARGE PERMIT (DP-1132) FOR THE
RADIOACTIVE LIQUID WASTE TREATMENT
FACILITY

TRANSCRIPT OF PROCEEDINGS

BE IT REMEMBERED that on the 19th day of April, 2018, this matter came on for hearing before ERIN O. ANDERSON, Hearing Officer, at Fuller Lodge Art Center, Pajarito Room, 2132 Central Avenue, Los Alamos, New Mexico, at the hour of 9:25 AM.
APPEARANCES

THE HEARING OFFICER:

MS. ERIN O. ANDERSON
Administrative Law Judge
New Mexico Environment Department
1190 St. Francis Drive
Suite S-2100
Santa Fe, New Mexico 87505
505-827-0339

FOR THE NEW MEXICO ENVIRONMENT DEPARTMENT:

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john.verheul@state.nm.us

For Applicants Los Alamos National Security, LLC, and US Department of Energy:

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MS. CHRISTINA C. SHEEHAN
MODRALL SPERLING ROEHL HARRIS & SISK, PA
Attorneys at Law
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MS. SUSAN L. McMICHAEL
Office of Laboratory Counsel/MS A187
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Kathy Townsend Court Reporters
(505) 243-5018    Fax (505) 243-3606
A P P E A R A N C E S (CONTINUED)

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National Nuclear Security Administration
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505-667-4668
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For Communities for Clean Water:

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Executive Director CCNS
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jarends@nuclearactive.org
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Kathy Townsend Court Reporters
(505) 243-5018    Fax (505) 243-3606
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MS. ANDERSON: Hi. Good morning.

So we're going to be on the record today.

This is Kathy Townsend of Townsend Court Reporters. Kathy is taking everything down in real time.

This is our board administrator, Pam Castaneda. Some of you have talked with Pam leading up to this hearing. So she's with me today to corral our rather substantive record and to help with the hearing.

I mentioned to all of you individually, please sign in. So what we're going to do is -- I'm sorry to ask you, Pam, but could we grab the sign-in sheet?

MS. CASTANEDA: Yes. Okay.

MS. ANDERSON: We're going to go in order of the sign-in sheet.

So what I did was I spoke with the attorneys and their witnesses, and we are going to take some public comment before we get into the bulk of the hearing.

So just so we're clear, we're on the record in GWB, as in boy, 17-20(P), as in permit, and this is in the matter of the application of United States Department of Energy and Los Alamos National Security, LLC, for a groundwater discharge permit.
The permit -- many of the people who have been working on this case, they call it by the permit, which is DP-1132. So we have our own numeric way of doing it, so I'll probably revert to the GWB 17-20 number, but just in case anybody is hearing two different permits.

This permit is for the Radioactive Liquid Waste Treatment Facility.

So briefly, just to go over the record, there was a request for hearing made on 9/18/2017, so September; a notice of Hearing Officer assignment, which was me; a notice of docketing on 9/19/2017; and an entry of appearance by LANS on 9/27/2017.

We've had affidavits of publication in English on 12/11/2017, as well as Spanish.

We have an entry of appearance by Mr. Lovejoy. We have a motion to dismiss filed on DP-1132. That was filed on 3/18.

We have an entry of appearance by Mr. Verheul of NMED, acronym for New Mexico Environment Department. We have New Mexico Environment Department's response to the opposition to Communities for Clean Water's motion to dismiss DP-1132. That was filed on 4/2 -- April 2nd, 2018. And then Los Alamos National Security, LLC, and the United States Department of Energy filed a response to the motion to dismiss on DP-1132, and that was also
filed on April 2nd. There was a reply brief on the motion to dismiss on DP-1132. That was filed on 4/6.

There is notices of intent to present testimony, entries of appearances, and objections to the record.

Just a brief aside, in these hearings, because there is such a volume of information, much of which is scientific, the parties have agreed to file things in advance. So their notice of intent to present testimony, this is something that was done in advance of the hearing.

And then the New Mexico Environment Department, they filed some supplemental exhibits in response to Communities for Clean Water's motion to dismiss, and that was on April 9th, 2018.

New Mexico Environment Department's statement of intent to present technical testimony was filed on April 9th, 2018.

Los Alamos National Security, LLC, and the United States Department of Energy's statement of intent to present technical testimony, that was filed on 4/9/2018.

And New Mexico Environment Department's notice of filing of the administrative record was done on 4/12/2018.
We haven't had a chance to amend the pleading board yet because I've been in Albuquerque, but yesterday I issued a procedural order denying the motion to dismiss, and that was distributed to the parties. So that is something that Pam filed yesterday. It's not yet in the record.

So to let you know, there was some significant motion practice leading up to this hearing to try to determine what was going to be covered in the hearing.

And so what we're probably going to do when we start with introductions for the attorneys is I'm going to ask them, before we do that, if there is any other motions or any other exhibits that we need to know about before we get started.

And I'm looking at you, Mr. Verheul.

MR. VERHEUL: Good morning, Madam Hearing Officer.

John Verheul. I'm putting in an appearance for the New Mexico Environment Department, and the Environment Department doesn't have any additional exhibits to introduce at this time.

MS. ANDERSON: Okay. Thank you.

MR. BUTZIER: Madam Hearing Officer, Stuart Butzier for LANS and DOE.

And at this time we have no additional
exhibits to offer. We reserve the right to offer additional exhibits if they become necessary during the course of the proceeding.

MS. ANDERSON: Thank you.

MR. LOVEJOY: Lindsay Lovejoy for CCW.

At this point, I would like to give the hearing clerk a CD that contains something which was filed earlier, but apparently was lost, which was the request to terminate the NPDES permit and some exhibits that went with it, and we referred to that in our briefing, and it was our understanding that NMED had it, and it was certainly also mailed to LANL, but this is -- is the item right here.

MS. ANDERSON: Okay.

MR. LOVEJOY: So that it will definitely be in the record.

MS. ANDERSON: Sure.

And let me ask before we do that, is there any dispute about the admittance of the CD and the exhibits? Have you looked and reviewed the exhibits?

MR. VERHEUL: We have, and NMED has no objection.

MR. BUTZIER: No objection.

MS. ANDERSON: No objection?

MR. BUTZIER: No objection.
MS. ANDERSON: Okay.

MR. LOVEJOY: May I give it to the clerk?

MS. ANDERSON: Thank you very much.

Yeah.

So not -- I don't believe everybody did their introductions for the attorneys and feel free witnesses as well to introduce yourself, we'll probably do it again in a bit, but then after this portion, we're going to go ahead and start with public comment.

So I'm going to start to -- I guess to my left, actually, and if you could just introduce yourself and say where you work and what your role is.

MR. PULLEN: Madam Hearing Officer, my name is Steve Pullen. I'm with the State of New Mexico Environment Department, Ground Water Quality Bureau, and principally responsible for this permit.

MR. BUTZIER: Are you asking for introductions of counsel as well?

MS. ANDERSON: Counsel and witnesses, yes.

MR. BUTZIER: Okay. Thank you, Madam Hearing Officer.

My name is Stuart Butzier with the Modrall Sperling Law Firm in the Santa Fe office, and with me at counsel table is Susan McMichael, who is with the Office of General Counsel at Los Alamos Lab; and also my
partner, Christina Sheehan, in the Albuquerque office of Modrall Sperling.

And over here on the right, in the front row, we have Silas DeRoma, who is an attorney with the Department of Energy.

And I will introduce the witnesses, I guess, as we -- as we go, but I also want to mention that we have general counsel of Los Alamos National Labs, Deb Woitte, in the audience as well.

MS. ANDERSON: Thank you.

MR. BUTZIER: Thank you.

MR. LOVEJOY: I'm Lindsay Lovejoy. I'm an attorney for the Communities for Clean Water. And here with me at counsel table is Jonathan Block of the Environmental Law Center and Joni Arends of Concerned Citizens for Nuclear Safety, who are also attorneys representing CCW.

MS. ANDERSON: Thank you very much for your introduction.

And part of the reason I like to do that is not to be redundant, but I know sometimes people who want to give public comment, they sort of want to get a lay of the land and determine who is here, what their roles are, it's sort of helpful to know, as opposed to seeing, you know, a bunch of grim faces.
So I sort of personalize things a little bit.

So with that, I think what we're going to do is get started.

So I'm going to read people -- and actually, I'm going to read all of you, if you could all stand, and Kathy is going to swear you in.

Is it okay if I do a standing one?

Okay. So we're going to -- I'm going to read all your names. If you all want to stand, I'm going to swear you in, Kathy will at the same time, so it's a little more timely.

So we're going to start with Scott Kovac.

Kovac, Kovac?

MR. KOVAC: Kovac.

MS. ANDERSON: Kovac.

Hi, Mr. Kovac.

Rachel Conn. Hi, Ms. Conn.

Beata Tsosie. Hi.

Kathy Sanchez. Kathy is here.

Sister Marlene -- I'm sorry, Sister, is it Perrotte?

MS. PERROTTE: Perrotte.

MS. ANDERSON: Perrotte, okay.

Sister Joan Brown. Hi.

This is a tough one.
Joe Zupan.

MR. ZUPAN: Joe Zupan.

MS. ANDERSON: Zupan, okay.

Thank you.

Mike Saladen.

MR. SALADEN: Actually, I signed in but I will not be doing -- having any public comment.

MS. ANDERSON: Okay. Thank you.

That might be also true of you. Bob Beers.

You're not going to make comment.

MR. BUTZIER: He's a witness.

MS. ANDERSON: Yeah, you're with, I believe, Los Alamos.


MS. NARANJO: I won't be doing a public comment.

MS. ANDERSON: You're not going to do a public comment. Okay. Thank you, Ms. Naranjo.

So with that, could you guys raise your right hands, and Kathy can swear you in.

(Oath administered to Mr. Kovac, Ms. Conn, Ms. Tsosie, Ms. Sanchez, Ms. Perrotte, Ms. Brown and Mr. Zupan.)

MS. ANDERSON: Thank you very much, everyone.

So we're going to start with you, Mr. Kovac.
MS. TOWNSEND: And can you start with spelling your name for me, please?

MR. KOVAC: Where would you like me to stand?

MS. TOWNSEND: Right there.

MS. ANDERSON: If you -- yeah, you can stand there or be seated, so you don't feel --

MR. KOVAC: Thank you, Madam Chair.

SCOTT KOVAC

after having been first duly sworn under oath,

provided public comment as follows:

PUBLIC COMMENT

MS. TOWNSEND: Please spell your name -- state and spell your name.

MR. KOVAC: My name is Scott Kovac, K-o-v-a-c, with Nuclear Watch New Mexico.

I have some comments here. I'm going to read some selected comments and turn in the whole page as my comments, please.

On December 12th, 2013, in response to the New Mexico Environment Department's September 10th, 2013, Public Notice 2, for PN-2, Nuclear Watch New Mexico submitted public comments to the New Mexico Environment Department concerning the draft Discharge Permit 1132.

In our comments, we requested a public hearing, which meant that Nuclear Watch was interested
in participating in negotiations to resolve issues.

Please see the administrative record at Bates number 09683.

We understand that Nuco -- we understand that a series of meetings and negotiations over various versions of the draft permit were held between the Environment Department, the Department of Energy, the National Nuclear -- the National Nuclear Security Administration, Los Alamos National Security, and the Communities for Clean Water.

Nuclear Watch New Mexico was never invited to any of those sessions. Thus, we did not have any input into the version of the draft permit, which is now the subject of this public hearing.

Now, we are here -- now, we are here. A public hearing is being held on this draft permit, in which Nuclear Watch New Mexico was not involved -- invited to participate. And we were also not invited to participate in the meetings and discussions about various versions of the draft permit.

We were invited and did participate actively in the 2010 LANL hazardous waste permit negotiations and did participate in the subsequent hearing.

In 2010, the negotiated -- in 2010, we negotiated over DP-1132 and the Radioactive Liquid Waste
Treatment Facility at great length.

We're still under the opinion that DP-1132 should be properly regulated under RCRA and not under groundwater regulations, the New Mexico Water Quality Act, because there is no discharge and there are no plans for a discharge.

The Radioactive Liquid Waste Treatment Facility is a radioactive and hazardous waste storage and treatment facility. The influent contains liquid hazardous waste, as well as does the effluent.

As such, the facility must be regulated under the New Mexico Hazardous Waste Act.

Thank you.

MS. ANDERSON: Thank you.

If you could do a baton change and if you could hand that off to the next person.

MR. KOVAC: Sure.

MS. ANDERSON: Thank you very much.

Ms. Conn.

MS. CONN: Hello.

MS. ANDERSON: Hi.
after having been first duly sworn under oath,
provided public comment as follows:

PUBLIC COMMENT

MS. CONN: Madam Hearing Officer, my name is Rachel Conn, C-o-n-n. R-a-c-h-e-l is the first name.

So I wanted to -- and I was trying to figure out the best way to do this to get this on the record, but I have 28 written public comments that I wanted to submit into the record that have been written by 28 people, and so I was trying to figure out the best way to get it on the record, and so I was hoping that through this process I could hand this off and get the --

MS. ANDERSON: Sure.

MS. CONN: -- written comments on the record.

MS. ANDERSON: Yeah. But what we'll do is mark it as an exhibit, and Kathy will include it in the administrative record.

And if you want to summarize your own position and briefly go over some of the other people's positions, that would be fine, too.

MS. CONN: Sure.

So this is -- this is a letter that has been signed by 28 people, and what it -- it says -- I can
read -- I could read this into the record, the -- it's a form that has been signed by 28 people.

MS. ANDERSON: Sure.

MS. CONN: And it says, "I am concerned about the proposed issuance of a groundwater discharge permit (DP-1132) by the New Mexico Environment Department to the US Department of Energy and the Los Alamos National Laboratory for the Radioactive Liquid Waste Treatment Facility. Under the New Mexico Water Quality Act, no discharge permit should be issued because there is no discharge and there are no plans for a discharge. Such a permit would not be effective, nor enforceable, because there is no discharge. Issuing a permit would be a nullity."

"The RLWTF is a radioactive and hazard liquid waste storage and treatment facility. The influent contains liquid hazardous wastes, as well as the effluent. As such, it is required to be regulated by the New Mexico Hazardous Waste Act."

"In June 1998, LANL released a report 'Elimination of Liquid Discharge to the Environment from the TA-50 Radioactive Liquid Waste Treatment Facility,' LA-13452-MS. In that report, LANL defined zero liquid discharge as 'Zero liquid discharge from the Radioactive Liquid Waste Treatment Facility means that no treated
liquid radioactive waste will be discharged to the environment.'" That's on page 32 of that aforementioned report.

"Since November 2010, LANL accomplished its goal of zero discharge from the Radioactive Liquid Waste Treatment Facility. Since then, no discharge from the facility through Outfall 051 to Mortandad Canyon has occurred."

"The resources devoted to issue a New Mexico Water Quality Act permit should have been devoted to regulating the RLWTF under the New Mexico Hazardous Waste Act. The Water Quality Act states that a facility subject to the Hazardous Waste Act cannot be regulated by the Water Quality Act. The New Mexico Environment Department must require LANL to submit a permit modification request for regulation of the RLWTF under the New Mexico Hazardous Waste Act."

"Thank you for careful consideration of these comments."

MS. ANDERSON: Thank you very much.

MS. CONN: Okay.

MS. ANDERSON: And, Rachel, would you mind doing the baton toss as well?

Thank you. And give that to Kathy.

So next up is Beata Tsosie.
MS. TOWNSEND: Is this admitted?

MS. ANDERSON: It's going to be admitted.

MS. TOWNSEND: As what?

MS. ANDERSON: We'll do public comment. So do you have the first one?

MS. TOWNSEND: Uh-huh. And do that 1.

MS. ANDERSON: This will be Public Comment 2. (Public Comment Exhibits 1 and 2 admitted.)

MS. ANDERSON: Hi.

MS. TSOSIE: Thank you, Madam Hearing Officer, member.

BEATA TSOSIE

after having been first duly sworn under oath,

provided public comment as follows:

PUBLIC COMMENT

MS. TSOSIE: Members of the counsel, members of the communities.

MS. TOWNSEND: Your name.

MS. TSOSIE: My name is name is Beata Tsosie.

MS. TOWNSEND: Can you spell that?

MS. TSOSIE: B-e-a-t-a T-s-o-s-i-e.

I'm from Santa Clara Pueblo, which is one of the impacted communities from LANL operations.

I'm here to express my concerns about what is happening to our water up here. I want to speak on our
truth and world view that water is sacred; water is

deserving of all the respect, love and care that we
would give to each other.

    Behind us is some vessels in these glass
cases, and I would hope everyone reflect on what those
represent and what it means; that what we do to water,
we do to ourselves.

    And it breaks my heart to hear our precious,
precious resource, that we have taken care of since time
in memorial, be treated as waste, be treated as
expendable, as something to be used for a culture of
violence, for war; that it's disregarded as something
that is -- can be tortured so that its life-giving
existence is twisted into being deadly.

    We can't do this to water, because we're doing
it to ourselves, and it's going to go away if we don't
take care of it. It deserves healing, it deserves that
respect, and I ask that any of you that work in this
radioactive liquid waste facility, that has the
interaction with this water that is being tortured, that
you say prayers for that water every time you walk by
those storage tanks, because that water is eventually
going to find its way into us, into our children, into
our environment.

    I also have observed how this facility -- how
Los Alamos National Laboratories constantly look for loopholes to not be regulated, to avoid being held accountable for how it treats our life-giving elements that are here listening to us today.

To me, this discharge permit is just another way that the labs do not have to be held accountable, that they can be less regulated, and I think that it is hazardous waste, unfortunately, that that water has gone through, what it's gone through, and it needs to be regulated as such, because we live here, we don't have the luxury of moving away.

This has been our home. This has been our ancestors' home. We have human rights of our spiritual/cultural elements to be respected. United Nation Rights of Indigenous People, that declaration.

This is our spiritual/cultural property, our water here. And in the very least, it needs to be regulated under RCRA and this hazardous waste permit so that we're guaranteed public hearings, so that we're guaranteed more stringent regulations.

Why do I have to come up here and beg for harm reduction on what gives us life and my children life?

I would love for the harm and the environmental violence to disappear, but in the very
least, I ask that this permit is dismissed and that this
-- that this facility is regulated under RCRA and
hazardous waste.

Thank you. Condola.

MS. ANDERSON: Thank you.

Ms. Tsosie, would you hand that over to Ms. Sanchez? It's a narrow one.

Hi.

MS. TOWNSEND: State and spell your name, please.

MS. SANCHEZ: I'm Kathy, K-a-t-h-y, Wanpovi, W-a-n-p-o-v-i, Sanchez, S-a-n-c-h-e-z.

KATHY SANCHEZ

after having been first duly sworn under oath,
provided public comment as follows:

PUBLIC COMMENT

MS. SANCHEZ: Thank you, community members and
counsels here.

(Speaks in Tewa.) That means with your
respectful permission I shall speak.

I'm here as an elder from San Ildefonso
Pueblo. I am not representing our tribal government,
but speaking for myself in recognition of ancestral,
honest, heartfelt, spirit-rooted peoples in the sacred
Jemez Mountains, (in Tewa), our people.
Sacred energy for life-giving is love. Love for Mother Earth speaks honestly, truthfully, about do no harm and do with highest, best accountability for toxic fluidity of multiple pathways of spirited, energetic, radioactive liquid waste.

Becoming an elder and living all my life in a nuclear secret city, under a hidden magical veil of experimental failures, make for a greater depth of angular perception for me, because I can go within my Native way of knowing and also within the American way of knowledge gained from experimentation, research and developments.

Toxic matters do not magically become -- excuse me. Toxic matters do not magically not be toxic radioactive waste.

Water is sacred in its purest state of form. Water, as fluid, was made a toxic medium for carrying toxic matter, and now the flow path, with end disposal discharge, are manipulated to zero, but pathways of regulating under the correct permit with permitting agencies seem to be about who can create magically the what-if trump card.

I think that is very disingenuous. For as the pre-kindergarten teachers know, I was once a gullible four-year-old. I was singing the song that says "I am
the teapot, here is the handle, here is the spout."

So how does that apply?

I should have been -- I should have said a round, tubular outlet or outfall for water with chemical herbs or tea. Please do not -- no more -- no more disguising of legalities to get away with the heart of proper issuance under what is being sent down from the source of the toxic polluting. Please be guided. Do not -- please be guided by do no harm, of precautionary principles of application, be calm and be in the flowing sacred energy, sacred energy for life-giving, love for Mother Earth, speaks honestly, truthfully, and about no harm, and to do with the highest, best permit under the appropriate regulatory agency.

There is no magic veil to hide this ingenuity.

Teapot mentality.

Thank you for hearing how wounded I feel as an aging tribal grandmother who has been at these permitting processes since 1996 and waiting and waiting for movement to end this non-regulating of flowing toxic liquid radioactive waste. (In Tewa.)

MS. ANDERSON: Thank you, Ms. Sanchez.

Would you hand that over to Sister Perrotte?

MS. PERROTTE: Good morning.

MS. ANDERSON: It's a tight squeeze over here.
MS. PERROTTE: Good morning, Madam Hearing Officer --

MS. ANDERSON: Good morning.

MS. PERROTTE: -- and members of New Mexico.

MARLENE PERROTTE

after having been first duly sworn under oath,
provided public comment as follows:

PUBLIC COMMENT

MS. PERROTTE: I am Sister Marlene Perrotte, that's P-e-r-r-o-t-t-e, a Sister of Mercy and a member of the Partnership for Earth Spirituality.

At the discretion of the New Mexico Environmental Department, after 22 years, I am given the opportunity to register my comments concerning the Radioactive Liquid Waste Treatment Facility at Los Alamos National Laboratory.

This facility is a storage and treatment facility. It continues to receive influent that contains liquid hazardous waste and stores the liquid hazardous waste at its effluent.

The fact -- this facility, therefore, should be regulated by the New Mexico Hazardous Waste Act.

This facility needs to be regulated. The public was never given the decision of whether or not we should have this kind of facility and that we should be
continuing to produce liquid hazardous waste. We were never asked that.

From the Government Accountability Office, March 14th, 2018, this is part of what the DOE is doing. Since 1989, the Department of Energy has spent over 164 billion to retrieve, treat and dispose of nuclear and hazardous waste.

And as of 2017, it has completed cleanup at 91 of 107 sites across the country. The 91 sites were generally viewed by DOE as the smallest and least contaminated sites to address.

Despite billions spent on environmental cleanup, DOE's environmental liability has roughly doubled from 176 billion in fiscal year 1997 to the fiscal year 2016 estimate of 372 billion.

Between 2011 and 2016, DOE spent 35 billion primarily to treat and dispose of nuclear and hazardous wastes and construct capital asset projects to treat the waste of the one class of weapons of mass destruction that can truly destroy our country.

Modernizing nuclear infrastructure and production of nuclear pits and nuclear weapons will instead set back non-proliferation and arms control efforts across the globe and further hollow out our country by diverting yet more huge sums of money to the
usual fat defense contractors, at the expense of public education, environmental protection, natural disaster recovery, et cetera.

Why am I bringing this up?

Because we aren't just treating what has been, but we continue to produce.

When will it ever end? When will we stop producing this kind of waste?

I then challenge LANL's mission, which is to solve national security challenges through scientific excellence. That's what it says.

But in reality, it -- DOE funds nuclear and non-nuclear weapons design, development and production, and, therefore, must be transformed and diversified into funding the cleanup.

Where is non-proliferation?

I think we also have to look at not creating any more radioactive and hazardous waste from nuclear weapons.

When will a permit also address that issue?

Thank you.

MS. ANDERSON: Thank you very much.

Would you help me and hand that over to Sister Brown?

MS. PERROTTE: Yes.
Thank you.

MS. ANDERSON: Thank you very much.

Hi. Good morning.

MS. BROWN: Good morning, Hearing Officer, and people -- good people of New Mexico.

JOAN BROWN

after having been first duly sworn under oath,

provided public comment as follows:

PUBLIC COMMENT

MS. BROWN: My name is Joan Brown. That's J-o-a-n B-r-o-w-n. And I'm a Franciscan Sister.

And I'm here to say that the Radioactive Liquid Waste Treatment Facility does need to be regulated desperately, but this is not the proper regulation.

I am speaking as a -- coming out of a Franciscan tradition where Francis of Assisi and Clare spoke of everything as brother and sister, and that's the context in which I come out of, and also tocontemporize that, someone that many of you may have heard of is Pope Francis, who has spoken about and looked out to see, in care of our common home, both the relationship between economics and environment, or care of our common home, our Sister and Mother Earth.

And Pope Francis speaks of -- that each year
hundreds of millions of tons of waste are generated, much non-biodegradable, highly toxic and radioactive.

Now, he has never visited LANL, this is happening all over the world, but here we're today addressing it at LANL, which is a contributor to this degradation of Sister/Mother Earth.

These problems are closely linked to a mentality of a throw-away culture, which affects the excluded justice, it quickly reduces things to rubbish, or puts it out of sight, out of mind, thinking that somehow it will be taken care of when it is not. We're diluting ourselves.

We need only to take a frank look at the facts to see that our common home is falling into serious disrepair. And that is the case here in New Mexico and with LANL.

The problem is not that LANL does not have the smart, bright, clever people; I believe it is that we are not following what is known as integral ecology, where we see that we are connected to everything and everything is one, including our souls with our minds and with our bodies.

And so I think the problem that we're facing is that we're leaving our souls outside the door when we enter facilities; and when we enter this room, I would
beg and pray that we all not leave our souls. The souls -- our souls last even longer than this radioactive toxin, which we are facing -- which in religious terms I can't even imagine how long it will be here. In religious terms, we would say it will be here for an eternity.

That's the breadth -- that is the severity of what we're really holding here and addressing and continually are called to address.

I am not a lawyer, I know there is going to be all kinds of legal things happening today, but I think we need to be integrating that with our very deep humanness, with our souls.

We say in this country that we are one nation under God. "Under God," I wonder about that. What does that mean?

Another thing that our tradition, the Franciscan tradition, well, and Pope Francis speaks of, which I think applies today to this particular issue, is that we are facing four pervasive attitudes regarding the future and regarding the hearing.

They are denial, indifference, resignation, and trust in inadequate solutions.

So denial. I think many people would deny that there is a problem here. I heard some people
saying, as I was walking in, "Well, this is a large crowd for here. I just thought this would just be another permit hearing. People would just say, 'It's just another permit, what's the big deal?'"

To me, that feels like denial of the reality of what's going on.

One might say we're also involved in indifference. Well, we'll just let those other people take care of that, I'm too busy, I have too many things to do; or resignation, it's all too big, it's all too complicated, I'm not smart enough to even deal with that, and who am I to even speak here in this room with people who are so intelligent about science and other elements.

But I think the biggest of these four that we need to really look at today is trust in inadequate solutions. And I really do not believe that the solutions that are being proposed are adequate or have they been seriously looked at. In fact, I would even say there might be intentional having inadequate solutions, although I do not know that.

So, finally, in my Franciscan tradition, we're called to conversion, that means looking at our own souls, our own lives, what we do every day, how can I change, how can I be a better person for the common
good, how can I follow my soul path.

Francis of Assisi said, "Let us" -- near the end of his life, when he felt like he was a failure, "Let us begin now to follow God. Up until now, we have done little or nothing."

I say that here in this room to this hearing, to this issue, it is not too late to begin to do a right thing, to transition to life and to reevaluate what has been put forth on the floor with this permit.

Thank you.

MS. ANDERSON: Thank you very much.

Would you kindly pass that over to Mr. Zupan?

MS. BROWN: Yes.

MS. ANDERSON: Okay. Thank you.

Introduce yourself.

MR. ZUPAN: Good morning, Madam Hearing Officer and good people.

JOE ZUPAN

after having been first duly sworn under oath, provided public comment as follows:

PUBLIC COMMENT

MR. ZUPAN: My name is Joseph Zupan, Z-u-p-a-n.

I'm a New Mexico registered professional engineer. I have been registered, excuse me, in 17
other states. I was a practicing environmental consultant for over 25 years, with a lot of experience with the Clean Water Act and RCRA, which stands for Resource Conservation and Recovery Act.

In my environmental consulting career, I worked with a lot of industrial facilities and federal facilities as well.

As a registered professional engineer, there is a very big ethical component to what is supposed to guide your practice. Public welfare is always supposed to be paramount. In my specialization as an environmental engineer, that always meant evaluating what impact my actions might have on human health and the environment.

In my practice as a consultant, one of the things that we would avoid at all costs is a so-called circumvention of a rule. For example, I would never advise a client to try to circumvent regulation under RCRA by simply holding up another rule that might be regulating you to a lesser standard.

I think Beata Tsosie actually said it best, you know, can we stop looking for loopholes and ways to avoid accountability?

In this case, I think that's exactly what's going on, trying to issue a discharge permit under the
water rules does take potentially the facility out from under regulation of the Hazardous Waste Act, and I think that kind of represents a circumvention and kind of a fig leaf for how this facility should be viewed and regulated.

So I'm kind of coming at this from more of a technical standpoint than a spiritual standpoint, but I hope you'll keep both aspects of that in mind.

MS. ANDERSON: Thank you very much.

MR. ZUPAN: Thank you.

MS. ANDERSON: Thank you, sir.

MR. ZUPAN: Is there another one?

MS. ANDERSON: I'm going to check.

Thank you.

Sometimes when people have public comment, that spurs some other people to make public comment.

Hello. I see a lovely women in aqua in the back.

So does anyone else wish to make a public comment at this point?

I'm not seeing any hands.

So if that's going to conclude our -- oh, sir, with the burgundy. Would you want to come up?

MR. COLLINS: Yes.

MS. ANDERSON: Thank you.
Sir, afterwards, I'll have you sign in, and you're going to need to be sworn by the court reporter. Okay?

MR. COLLINS: Okay.

(Oath administered to Mr. Collins.)

MS. TOWNSEND: And your name?

MR. COLLINS: Michael Truax Collins.

MS. TOWNSEND: Can you spell that?

MR. COLLINS: T-r-u-a-x. Collins, C-o-l-l-i-n-s.

MS. TOWNSEND: Thank you.

MS. ANDERSON: Thank you, Mr. Collins.

MR. COLLINS: Did you all swear?

MS. ANDERSON: We did, we did it in kind of a group swearing.

MR. COLLINS: I mean, when you started this business?

MS. ANDERSON: Yeah. We did.

MICHAEL COLLINS

after having been first duly sworn under oath, provided public comment as follows:

PUBLIC COMMENT

MR. COLLINS: I was going to bring some props -- in fact, I do have one that I thought you might understand. I'll wear this for your benefit, because I
know this is really important to you. In case anyone
can't see it, it's a dollar sign.

The other prop I was going to bring was a
baseball bat, because I think you understand that, too,
because the way you -- your logic is, that kind of ment-
-- Neanderthal mentality.

I could read -- I guess I'll read what I have
to say.

I was born in 1942, in the middle of the war,
I guess about the same time as the Manhattan Project
started. I can't believe it's still going. To me, it's
been a failure ever since. The land was taken from San
Ildefonso and Santa Clara. I don't think the permission
was ever given. I don't believe any permit was ever
filed or any hearings were held.

A few years after I was taught to learn to
hate Hilter and Mussolini and the so-called Japs.

As I got older, I realized, wait a minute, we
supposedly won this war by wiping out grandmas and
grandpas and children, babies, and was that -- was that
our way of getting at the soldiers to get their
grandparents and their parents and their families?

I wonder about the great minds that are
supposedly here, or people representing these great
minds, the thinkers, mathematicians, chemists,
How about the humanities? Did any of you ever study any of the humanities, like maybe philosophy or sociology, et cetera?

Maybe -- maybe that would have modified some of the thinking of the annihilators. That's what -- what this represents, it's the F'ing annihilators. And if I said the word -- the F word, I know I'd probably get arrested or taken away, even though what you all are doing, you don't get arrested, and the murder that has happened over and over and that you're still planning and you want to increase or expand upon, the -- to me, the details that -- your so-called science alchemy, whatever you want to call it.

I don't hate you, I hate your behavior; just like we're taught with our children, we love our children but we hate their vicious behavior sometimes.

And that's the way it is right now with you, and I'm really upset with you as -- as brothers and sisters wanting to harm fellow brothers and sisters.

I think I pretty much said what I -- what I wanted to say, and I doubt if it makes -- it's like whistling or something else in the wind and it could matter less, but I've lived here 46 years, I got here when I was 28, I'm 75, and the damn Manhattan Project is
still going strong, and I hope you're really happy about it.

Thanks.

MS. ANDERSON: Thank you, sir.

Okay. Do we have anyone else who wanted to make a public comment at this time?

Ma'am, in the blue.

And when you come up, would you also sign in as well?

Thank you.

(Oath administered to Ms. Bethke.)

MS. TOWNSEND: Can you state and spell your name?

MS. BETHKE: My name is Corinna --

MS. TOWNSEND: I can't hear you.

MS. BETHKE: It's Corinna, C-o-r-i-n-n-a, Bethke, B-e-t-h-k-e. Corinna Bethke.

CORINNA BETHKE

after having been first duly sworn under oath,

provided public comment as follows:

PUBLIC COMMENT

MS. BETHKE: So, yeah, I -- I'm actually a student at UNM. I'm in a Nuclear New Mexico class. And so I came here just to observe, really, but I'm sort of like a downwinder/downstream community member. I live
in Ponderosa.

I'm a terrible public speaker, so excuse me, I'm real nervous.

So I was a legal assistant for about 20 years. And when I received my legal assistant's training back in the 1990s in Texas at Coryell County Community College and I went to work for different law firms, the thing that was kind of drilled into my head was, well, we err on the side of caution. So whenever we draft documents and give testimony and, you know, seek to pass laws and guide ourselves, that's what was taught to me, err on the side of caution.

So kind of just in this, you know, realm and what I'm hearing, you know, I heard several public comments that sort of echoed that sentiment, err on the side of caution, so don't circumvent, you know, the system, don't try to take a shortcut.

I know personally when I found that I try to do that, it causes, you know, more complications and difficulty later.

So I just want to echo that sentiment and say, you know, that I support -- as a downwinder, downstream person, I support that we don't circumvent and we err on the side of caution, and if this issue needs to be looked at under another, you know, rule or law or
regulation, then -- then that's what should be done rather than just discharging, you know, under this circumvented way.

So -- and also like other people here, I would say that our water is our most precious commodity, we're not making any new water, we live in a closed system on this planet, so there is no new water.

Thank you.

MS. ANDERSON: Thank you very much.

And, ma'am, would you sign in for me?

Okay. Last call.

I'm not seeing anybody who wanted to make public comment at this time.

So with that, just to kind of give us a lay of the land -- what time is it, Pam?


Normally, what we'll do is I'll sort of look to the attorneys to have a natural stopping point. So this facility is small enough that if anyone needs to, you know, get up use the bathroom, feel free.

Also, I don't know what that horrible noise was during the hearing, we kept hearing a beep, beep, but as a reminder, would everybody please turn off their cell phones or put them on silent mode.
With that, I think we're going to get started.

It's 10:14, 11:14 -- I think we'll see how we go. We may take a brief break at 11:30. And then normally I like to take a little bit of a hour or an hour-and-a-half lunch, only because depending on where people parked, they may need to take some time to get to their cars.

So with that, we're going to get started.

MR. BUTZIER: Madam Hearing Officer, I have one housekeeping-related request.

MS. ANDERSON: Sure. Yeah.

MR. BUTZIER: LANS and DOE will be presenting three witnesses today.

MS. ANDERSON: Okay.

MR. BUTZIER: And what I propose to do is what has been done traditionally in practice of this kind, which is to go through each of the three direct testimonies and then put all three of them up as a panel for cross-examination.

Is that acceptable?

MS. ANDERSON: I don't see any objections.

Oh, Mr. Lovejoy.

MR. LOVEJOY: As long as counsel can direct questions to individual witnesses, that will be okay.

I don't want to have a panel where they kind
of take turns answering my question or leap to the
opportunity. I think I ought to be able to ask one
person one question.

MS. ANDERSON: Thank you. And I think that's
what Mr. Butzier said.

I think you're going to call your individual
witness, and then at the conclusion, if there are other
questions, you'll do it as a panel.

Is that right?

MR. BUTZIER: Yes. We'll go through each of
the three witnesses, then we'll put them on as a panel.
If Mr. Lovejoy has a specific question that he wants to
address to one of the witnesses, he can certainly make
that known as part of his question.

MS. ANDERSON: Okay.

MR. BUTZIER: If he doesn't specify who should
answer, then our intention would be to have the three
panelists figure out who the best person would be to
answer the question.

MS. ANDERSON: Sure. That makes sense to me.

And also as a side housekeeping note as well,
when -- if people are going to answer as a panel, just
in terms of clarity of the record, even though it seems
like a pain, would you remind them to give their names
or their positions so it's clear when the panel responds
who is speaking?

MR. BUTZIER: Yes. Thank you.

MS. ANDERSON: Thank you very much.

Okay. And one thing I neglected to say, do the parties wish to make opening statements?

MR. BUTZIER: We had no plans to make opening statements, Madam Hearing Officer.

MS. ANDERSON: Mr. Lovejoy?

MR. LOVEJOY: Your Honor, we had an opening statement in the form of an argument on our motion, but that's been somewhat preempted.

MS. ANDERSON: Okay.

MR. LOVEJOY: May I reserve an opening statement for after the conclusion of the lab and the agency's evidence?

MS. ANDERSON: Sure, you can. And that goes for all the parties.

So at the conclusion of this, if you don't want to do a -- for example, an opening, but maybe you want to take an extra ten minutes in your summation, feel free to use your time however you want to.

MR. BUTZIER: Okay. Thank you.

MR. LOVEJOY: Thank you.

MS. ANDERSON: Okay.

MR. BUTZIER: So with that, Madam Hearing
Officer, we'll call our first witness, Mr. Robert Beers.

MS. ANDERSON: Okay. Thank you.

MR. BUTZIER: It might take a minute to make sure that we have the lapel mike operating appropriately.

MS. ANDERSON: Sure. And is everybody able to hear? Good.

(Oath administered to Mr. Beers.)

MS. ANDERSON: Thank you.

MR. BEERS: Would you like me to test the microphone?

MS. ANDERSON: Sure. Give it a go.

MR. BEERS: Just a microphone test. Can everyone hear me? Very good.

ROBERT S. BEERS

after having been first duly sworn or affirmed, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. BUTZIER:

Q. Okay. Mr. Beers, would you please state your full name for the record?

A. Robert S. Beers, spelled B-e-e-r-s.

Q. And what is your current employment position?

A. I am an environmental professional at Los
Q. What are your job duties in relation to the draft permit in issue?

A. I have been the environmental project lead responsible for preparing the permit application materials leading to draft Discharge Permit DP-1132.

Q. And would you please briefly describe your experience and education?

A. As reflected on slide two, I have over 20 years of experience in discharge permit management, and I currently manage four discharge permits, as well as the permit application for DP-1132.

I serve as LANL's principal point of contact with the New Mexico Environment Department, Ground Water Quality Bureau, for regulatory compliance with the Water Quality Control Commission regulations under the Water Quality Act.

I have a bachelor of science degree from Cornell University and a master's in water resources administration from the University of New Mexico.

My resume is LANS/DOE Exhibit 2.

Q. Thank you.

And what will be the subjects of your testimony today?

A. I am offering testimony in support of NMED's
issuance of DP-1132 for the Radioactive Liquid Waste Treatment Facility, or RLWTF, at LANL.

I will briefly describe the permitting history, the basic coverage of the draft permit and permit provisions that will ensure protection of groundwater quality.

MR. BUTZIER: Madam Hearing Officer, at this time I would like to introduce this witness as an expert witness in this proceeding.

MS. ANDERSON: Do we have any objections to that?

MR. LOVEJOY: No objection.

MS. ANDERSON: Was that a yes?

MR. LOVEJOY: No.

MS. ANDERSON: No, okay. Sorry. I didn't hear you.

So admitted. Yeah.

Q. (BY MR. BUTZIER) Mr. Beers, have you submitted the prefilled written technical testimony that is LANS/DOE Exhibit 1, and do you adopt it as part of your testimony in this proceeding?

A. Yes. I submitted the testimony, and I adopt it as part of my testimony.

Q. Would you please describe, in general terms, this Radioactive Liquid Waste Treatment Facility that's
already been discussed today?

A. The RLWTF, as its name would suggest, is a wastewater treatment facility that supports LANL programs by treating radioactive liquid waste wastewaters received from technical areas throughout the laboratory.

It has an influent collection and storage system, a main treatment process for low-level radioactive waste, a process for treating transuranic radioactive liquid waste, and a secondary treatment process for waste streams from both the low-level and transuranic treatment processes.

Basically, the RLWTF is a series of tanks, piping systems and treatment equipment and processes designed to address the laboratory's radioactive liquid waste streams and to allow for discharges of treated effluent in an environmentally responsible manner.

Q. Would you please provide an overview of the permitting history under NMED's groundwater permitting program that has led up to draft DP-1132?

A. As reflected on slide three, the RLWTF predates NMED's groundwater discharge permitting program.

Beginning in 1996, however, NMED requested, and LANL submitted, an application for a discharge
permit.

In November 2011, NMED requested a new, updated permit application, and that was provided by LANL in 2012.

It is the 2012 application that led to NMED's publication of the draft DP-1132 that is the subject of this hearing.

Q. What are the discharges from the RLWTF that would be covered by DP-1132?

A. As reflected on slide four, DP-1132 would cover all future discharges of treated effluent from the RLWTF to two distinct evaporation units and a third location known as Outfall 051, an outfall that is also permitted under a federal Clean Water Act Section 402 permit known as National Pollutant Discharge Elimination System, or NPDES permit.

Slide five is a photo of one of the evaporation units that will receive discharges of treated effluent from the RLWTF. It is known as the solar evaporation tank system, or SET, and it consists of an open-air concrete impoundment that is synthetically lined and allows for evaporation of the treated effluent as described in the draft permit.

Slide six is a photo of the other evaporation unit that receives discharges of treated effluent from
the RLWTF. It is known as the mechanical evaporation
system, or MES, and it relies on the mechanical process
fired by natural gas that facilitates evaporation of the
treated effluent.

Slide seven is a photo of NPDES Outfall 051,
which allows for the discharge of treated effluent from
the RLWTF into Effluent Canyon, a tributary to Mortandad
Canyon.

LANL intends to only periodically use this
discharge location, such as on occasions when the
evaporation units are under repair, or in the event the
volume of treated effluent discharged from the RLWTF
exceeds the capacity of the evaporation units.

Slide eight is a photo not of any of the three
discharge locations that would be authorized by DP-1132;
rather, it shows brand-new influent storage tanks that
DP-1132 would allow LANL to put into service at the
RLWTF.

These are engineered tanks, with primary and
secondary containment systems, that will receive
radioactive liquid waste streams from around the
laboratory before the treatment of those waste streams
at the RLWTF and the discharge of resulting treated
effluent to the three discharge locations.

Q. Now, Mr. Beers, you were present this morning
to hear a number of members of the public make statements to the effect that there would be no discharges from the Radioactive Liquid Waste Treatment Facility.

Is that correct?

A. That's correct.

Q. And do you have a response to that?

A. Yes.

Discharges would be allowed under DP-1132 to the three discharge locations that I showed on the prior slides: the solar evaporation tank system, or SET; the mechanical evaporation system, or MES; or NPDES Outfall 051 in Effluent Canyon.

Q. And what would be discharged to those locations would be treated effluent, is that correct?

A. That is correct.

Q. All right.

A. Treated effluent that meets all effluent limitations.

Q. What are the standards that discharges of treated effluent must meet?

A. The RLWTF treats the waste streams it receives under a comprehensive and complex regulatory system. Draft DP-1132 establishes effluent standards that must be met to ensure protection against discharges.
and potential releases that may, directly or indirectly, reach groundwater regulated by the WQCC under the Water Quality Act.

Specifically, the discharges authorized by DP-1132 to the three discharge locations -- the SET, the MES and Outfall 051 -- must meet effluent limitations specified in conditions 16 and 17 of the permit.

The effluent limitations are based on a combination of Groundwater Quality Standards, in Section 3103 of the WQCC regulations, maximum contaminants levels, or MCLs, under the federal Safe Drinking Water Act, and New Mexico Risk Assessment Guidance for Site Investigation and Remediation Standards.

All of this is spelled out in conditions 16 and 17 of DP-1132 and is described and explained more fully in my advanced written testimony that is LANS/DOE Exhibit 1.

Q. Mr. Beers, would you please describe in a bit more detail the permitting activities since 2012?

A. As reflected on slide nine, since the new permit application was submitted, there have been approximately 25 technical meetings with NMED over 56 months. There have also been approximately six meetings with non-governmental organizations, or NOGs, over 22 months to negotiate draft permit conditions.
The NOGs include Communities for Clean Water, or CCW, which is participating in this hearing, and is made up of five additional NOGs that are members of CCW.

The permitting activity since 2012 has also included the sharing of multiple draft permits by NMED among LANL and the NOGs, as well as tours of the RLWTF by NMED and NOGs.

The final draft DP-1132 was made the subject of three public notices, one in May 2017, another in December 2017, and another in March 2018, all leading to today's public hearing.

Slide ten summarizes the changes made to draft DP-1132 as a result of participation of CCW and its member NOGs in the permit process. These include enhanced electronic reading room posting requirements for transparency, provisions addressed to discharge flow meter accuracy and calibration, soil moisture monitoring requirements for future discharges to the SET, installation of two new alluvial monitoring wells in Mortandad Canyon, and development of a detailed closure plan to better facilitate public input.

Q. And does LANL have other responses to comments that have been received from the NGOs?

A. Yes.
The most recent public comments that have been received from CCW prior to this hearing appear in the June 5th, 2017, letter that is LANS/DOE Exhibit 3.

Written responses to each of CCW's comments are included with my advanced written testimony and are also part -- adopted as part of my testimony and are marked as LANS/DOE Exhibit 5 in the materials submitted before this hearing, which is supported by Attachments A through E to Exhibit 5.

Q. Mr. Beers, what other exhibits have you included with your written testimony?

A. LANS/DOE Exhibit 4 is an excerpt of two pages from the 2012 permit renewal application for the NPDES permit that relates to discharges to Outfall 051, as well as discharges of treated effluent from the RLWTF to the SET and the MES.

This exhibit is referenced and explained in Footnote 2 of my testimony.

LANS/DOE Exhibit 6 is a copy of the PowerPoint slides I'm using today.

Q. In your opinion, Mr. Beers, if DP-1132 is issued, would it meet all of the requirements of the WQCC's regulatory program administered by NMED under the Water Quality Act?

A. Yes. For all the reasons discussed in my
written testimony and today's oral testimony.

One last thing I would like to point out is

the fact that DP-1132, if issued, would authorize new

systems that will be very helpful to ensure groundwater

protection going forward. These are listed on slide 11.

They include the new WMRM tanks that I showed

in one of my earlier photos. The SET facility would be

one of the three authorized discharge locations. The

soil moisture monitoring system I mentioned in

connection with the SET, the new alluvial monitoring

wells to be installed in Mortandad Canyon, and other

monitoring, operating requirements and controls and

annual updating of the 2016 closure plan that would be

-- that was included as part of my permit application --

the permit application and the draft permit.

Q. Thank you, Mr. Beers.

MR. BUTZIER: Madam Hearing Officer, at this
time LANS and DOE would move the admission of exhibits

-- LANS/DOE Exhibits 1 through 6, all of which were
tested to now by Mr. Beers.

MR. LOVEJOY: I have not seen these exhibits.

I certainly have seen his prepared testimony

and the attachments, but I'm not quite clear which is

which.

MS. ANDERSON: I'll let Mr. Butzier answer
that.

MR. BUTZIER: Madam Hearing Officer, Mr. Lovejoy, these -- all six of these exhibits, as well as additional exhibits that will be talked about by other witnesses we'll be presenting, were identified as LANS/DOE exhibits by number as part of the statement of intent to present technical testimony, which was provided ten days in advance of this hearing and served upon Mr. Lovejoy.

MS. ANDERSON: So they are all part of the record and you've just sort of highlighted key ones.

(LANS/DOE Exhibits 1 through 6 admitted.)

MS. ANDERSON: And do you have an extra package handy or printout of your PowerPoint that you could share with Mr. Lovejoy?

MR. BUTZIER: If he doesn't have our statement of intent which included that, I'd be happy to provide one.

MS. ANDERSON: Okay.

MR. BUTZIER: And in fact, Madam Hearing Officer, we have made ten copies of our entire submission that was to -- our statement of intent to present technical testimony. If there are other members of the audience that would like to have access, we'd be happy to pass those out as well.
MS. ANDERSON: Sure.

Let me ask. There may be. Would anyone like a copy of the exhibits?

Because the record in this case is pretty substantive. So everything that they are discussing has already been prefiled, but they are sort of highlighting key elements.

So, Mr. Butzier, the attorney, has about 10 or 12 extra packages.

Sister, you would like a package.

MS. PERROTTE: Does it include this PowerPoint?

MS. ANDERSON: It's not going to include his -- well, his testimony was prefiled. He might have veered a little bit from it today, his oral testimony, but it should be in there.

MS. PERROTTE: Okay.

MS. ANDERSON: Ms. Sanchez, do you want a package?

MS. SANCHEZ: Yes.

MS. ANDERSON: Okay. I see some hands, so we have about three more out there.

Thank you.

Stuart, I see one more in the back.

Okay. Thank you.
MR. BUTZIER: Madam Hearing Officer, that concludes Mr. Beers' testimony.

MS. ANDERSON: I think -- I'm looking with consternation at Mr. Lovejoy.

You want to cross-examine them as they testify, is that the feeling? Yes.

MR. LOVEJOY: Sure. That would be great.

MR. BUTZIER: Madam Hearing Officer, we addressed this at the beginning, and I thought we had an agreement that we would make them available as a panel and that if he had specific questions of individual witnesses, he could ask them at that time. That was my understanding.

MS. ANDERSON: You know what -- and I'm sorry, Mr. Butzier, I misunderstood, too.

I thought what you were going to do was have them testify, cross, and then if there are any other questions, you could do it as a panel. That's what I thought.

So I'm sorry if I led you down the wrong path.

MR. BUTZIER: And that's fine, Madam Hearing Officer.

I would just point out that it's been standard practice for many years in proceedings of this nature to do exactly what we've proposed.
MS. ANDERSON: I think -- yeah.

MR. BUTZIER: Obviously, you're in control of this, you know, hearing, so however you wish to proceed, I guess, is the way to go.

MR. VERHEUL: Madam Hearing Officer, I would add the Environment Department had intended to present its witnesses in a similar manner. Mr. Pullen has prefilled direct testimony and will give direct testimony; however, our second witness was only here to assist in answering any additional questions based on his expertise and his knowledge of the facility.

So really our second witness would not be available in a scenario where the individual witnesses could be questioned; he would only be available had he presented any direct testimony.

MS. ANDERSON: I think I understand what you're saying.

But you know what -- I'm sorry, I am going to -- I'm going to go the Lovejoy method here, only because I think it's easier. I definitely think it's definitely more time effective if you do it as a panel, that honestly would be my preference; however, I think sometimes when you have questions, it's better to ask the individual witness.

But, Mr. Lovejoy, at any point during the
hearing you decide you want to opt for the panel method, it certainly is a little bit easier, but we'll -- we'll give it a shot this way.

Okay?

MR. LOVEJOY: There is one other question --

MS. ANDERSON: Sure.

MR. LOVEJOY: -- and that is, will there be any examination by NMED of this witness?

MS. ANDERSON: I don't know yet.

MR. LOVEJOY: And if so, what would the sequence be?

MS. ANDERSON: Well, why don't we do one thing at a time, unless we want to go over that now. Mr. Verheul, are you planning on crossing Mr. Beers?

MR. VERHEUL: The Environment Department has no questions for Mr. Beers.

MS. ANDERSON: Okay. There won't be a cross. It's just you, Mr. Lovejoy.

MR. LOVEJOY: Thank you.

MR. BUTZIER: Madam Hearing Officer, one other point of clarification.

There is a specified order of cross-examination in the Environment Department's hearing regulations, and so I would just suggest that we follow
that proceeding, and that if -- if Mr. Beers is
cross-examined at this time that we not allow people to
get a second bite at the apple, in effect, by having him
called back up in the future of this proceeding as part
of a panel.

MS. ANDERSON: I think I understand what
you're saying, but just to be clear, you're saying if
we're going to do it piecemeal, then you're not going to
do the panel method because you don't want two bites at
the apple essentially.

MR. BUTZIER: Exactly.

MS. ANDERSON: Okay. I'm in agreement.

So, Mr. Lovejoy, this is your call. So if you
want to do it individually, you're not going to have a
second round as a panel.

MR. LOVEJOY: I understand.

MS. ANDERSON: Okay. Sure.

MR. LOVEJOY: I think that's acceptable.

MS. ANDERSON: Thank you.

MS. TOWNSEND: Mr. Lovejoy, do you want to use
the microphone?

MR. LOVEJOY: Can you hear me now? Am I
speaking through the mike.

MS. ANDERSON: I don't think the people in the
back can hear you. And feel free to stand up, you know,
move freely.

      MR. LOVEJOY: Okay. Thank you.
      Can you hear me now?
      MS. ANDERSON: Yes. Okay.

      CROSS EXAMINATION

      BY MR. LOVEJOY:

      Q. Good day, Mr. Beers.
      A. Good day.
      Q. Do you have in front of you your prefiled direct testimony?
      A. I do.

      MS. ANDERSON: Okay. Thank you.
      Q. Thank you.
      And that includes the responses which are part of your testimony, the responses to comments. I'm asking, is that true?
      A. Madam Hearing Officer --
      MS. ANDERSON: Uh-huh.
      MR. BEERS: -- Mr. Lovejoy, you're referring to the responses to the June 5th, 2017 --
      Q. (BY MR. LOVEJOY) That's the one.
      A. -- comments?
      MS. ANDERSON: And as an aside, once you find that, could you just mention, before you get started, which exhibit you're referring to so it's clear on the
record?

MR. BEERS: (Nods head.)

MS. ANDERSON: Thank you.

MR. BEERS: Madam Hearing Officer,

Mr. Lovejoy, I'm looking at LANS/DOE Exhibit 5.

MS. ANDERSON: Thank you.

Q. (BY MR. LOVEJOY) And those are the responses
to comments; true?

A. That's correct.

Q. Okay. I'm going to ask my colleague to show
you some regulations that apply here, 20.6.2 NMAC, and
I'm going to ask about particular parts of it.

I assume that counsel have their own
regulations. I didn't make these an exhibit.

MR. BLOCK: These are just -- it's just a copy
of the regs so that he can answer some questions.

MR. VERHEUL: Okay. All right.

MR. BUTZIER: Obviously, Madam Hearing
Officer, this witness has not testified as a legal
witness, and so I just would like to be sure that we
recognize that it would be inappropriate to ask him to
provide legal testimony in this proceeding.

MS. ANDERSON: I concur a hundred percent.

And also if this -- Mr. Lovejoy, if this
veers out of the scope of his direct substantively,
that's not going to happen, either.

So if we could try to keep it within the substance of his direct, that would be great.

MR. LOVEJOY: It's within his direct, Your Honor.

MS. ANDERSON: Thank you very much.

Q. (BY MR. LOVEJOY) In DP-1132, what does "DP" stand for?

A. Madam Hearing Officer, Mr. Lovejoy, DP stands for discharge permit.

Q. Can it also mean discharge plan?

A. Madam Hearing Officer, Mr. Lovejoy, it's my understanding that NMED's permitting process years back included -- referred to applications as discharge plans, correct.

Q. Would you look at 20.6.2.7, which is "Definitions," and I'm going to ask you to look at part -- Subpart R.

And I'll just ask you, can you accept that the definition of the Department's regulations of a discharge plan is that it consists of operational, monitoring, contingency, and closure requirements and conditions for any discharge of effluent or leachate which may move directly or indirectly into groundwater?

Did I read that correctly?
A. Madam Hearing Officer, Mr. Lovejoy, yes, you're reading that correct.

Q. Okay. And the Department's regulations specify further, further down the page, that groundwater is defined as interstitial water which occurs in saturated earth material and which is capable of entering a well in sufficient amounts to be utilized as a water supply. Correct?

MR. BUTZIER: Madam Hearing Officer, we're already tumbling into both of the categories that we just discussed, and he's starting to get into legal questions, as well as questions that are beyond the scope of the direct testimony.

MS. ANDERSON: Mr. Lovejoy?

MR. LOVEJOY: Your Honor, the -- whether this permit is effective in attaining the ends of the Water Quality Act verges into the legal area from time to time.

Certainly, this witness has been deep into the issues of this permit for more than a decade, and I suggest that he's perfectly capable of answering. These are technical terms, they are contained in regulations, but these are technical terms and he's a technical man.

MS. ANDERSON: You both have very good
arguments, but I'm going to accede to Mr. Butzier on that, only because I think we're going to have -- we don't want to get into a legal debate what the definition is of an interstitial water and that sort of thing, because I think we could get off topic.

I have no doubt that he could probably shed some light on it, and if he's able to answer in a way that doesn't veer too heavily towards the legal part, for now I'm going to sustain, you know, Mr. Butzier's objection.

Do you think you could potentially phrase that in a way that would not elicit a response that would veer into the legal?

MR. LOVEJOY: This witness, Your Honor, has testified that the DP-1132 meets the regulations issued by the Department under the Water Quality Act, and I'm crossing on that issue.

MS. ANDERSON: But he has not been -- he's not an expert in NMED's regulations, and so that's what you're asking him to opine.

MR. LOVEJOY: I'm asking -- I'm just starting out here, Your Honor --

MS. ANDERSON: Okay.

MR. LOVEJOY: -- asking him to agree that that's the definition that governs this -- this project,
this permit.

MS. ANDERSON: Respectfully, I'd ask you to try to rephrase or maybe leapfrog over those initial questions and get into the bulk of what you're trying to do.

MR. LOVEJOY: Okay.

Q. (BY MR. LOVEJOY) As you understand the scope of the regulations, what discharge is subject to the requirements and conditions under this permit?

A. Madam Hearing Officer, Mr. Lovejoy, Section 20.6.2.3103 of NMAC requires, as I understand, a discharge permit to control discharges, I'm going to read it, onto or below the ground -- the surface of the ground to protect all groundwater of the State of New Mexico which has an existing concentration of 10,000 milligrams per liter or less, for present and potential future use as domestic and agricultural water supply, and to protect those segments of surface waters that are gaining because of the groundwater inflow, for uses designated in the New Mexico Water Quality Standards.

Q. Well, thank you for reading the regulation. Let's kind of take counsel's hint and get away from the rules for the moment and go into the great outdoors and answer my question.

What discharge is covered by this permit?
What's happening that is going to be regulated by this permit?

A. Madam Hearing Officer, Mr. Lovejoy, are you speaking to discharges from the RLWTF?

Q. I take it that that's the subject of this permit. So, yes.

A. Then there would be three discharges regulated by DP-1132. Those are to the SET, the solar evaporation tank system; the MES, mechanical evaporation system; and, third, NPDES Outfall 051 in Mortandad Canyon.

Q. And there isn't any discharge being made from Outfall 051 at present, is there?

A. Madam Hearing Officer, Mr. Lovejoy, correct. At present, there is not.

Q. And there has not been since before the 2012 application was filed; true?

A. The last discharge to Outfall 051 was November 2010.

Q. And does the lab have any plan to discharge from Outfall 051 at present?

A. Madam Hearing Officer, Mr. Lovejoy, yes, the lab intends to discharge to Outfall 051.

Q. And when will that be?

A. Outfall -- discharges to Outfall 051 will be conducted following water tightness testing of the
outfall line, which is a requirement of draft DP-1132.

Q. And what -- what will be the quantity of those discharges from 051?

A. The quantity of discharges?

Q. Yes.

A. You may be aware that the RLWTF discharges in batches. It is not a continuous discharge facility. Batches are approximately 20,000 gallons per discharge.

I cannot say, that's an operational question, of exactly how many discharges would occur.

MR. BUTZIER: Madam Hearing Officer, I would add that the question asks for speculation and also goes beyond the scope of the direct testimony.

There was no testimony from this witness about volumes of discharges in the future or when they would occur to Outfall 051.

MS. ANDERSON: Well, I think -- I think he's already answered. So, sorry.

MR. BUTZIER: I agree.

MS. ANDERSON: Yeah.

MR. BUTZIER: But I just am pointing that out in case Mr. Lovejoy intends to pursue further questioning along this line.

MS. ANDERSON: Okay.

Q. (BY MR. LOVEJOY) Are you aware that the
discharges from 051 you've testified about are not reflected in the application?

A. Madam Hearing Officer, Mr. Lovejoy, I believe you're incorrect.

The 2012 discharge permit application makes clear references to the three discharge locations: the MES, the SET, and NPDES Outfall 051.

Q. And since that application was filed, there have been no discharges from 051; true?

A. Madam Hearing Officer, Mr. Lovejoy, that is correct.

Q. But you're testifying that there will be such discharges?

MR. BUTZIER: Madam Hearing Officer, asked and answered.

MS. ANDERSON: That is true. He has answered that, yeah.

Q. (BY MR. LOVEJOY) What's the basis for your testifying that there will be discharges from Outfall 051? What's the information that tells you that?

A. Madam Hearing Officer, Mr. Lovejoy, the 2012 application, in that application we requested authorization from the NMED to discharge to Outfall 051, and the draft DP-1132, the subject of this hearing, authorizes the laboratory to do so.
Q. Oh, so you're just saying that the permit would allow discharges. That's what you're saying, correct?

A. Correct.

Q. You're not saying that you know of any specific discharges that will actually occur from 051, are you?

A. Madam Hearing Officer, Mr. Lovejoy, I am stating that the laboratory has an intention to discharge to Outfall 051.

Q. Okay. What's the basis for that statement?

A. Madam Hearing Officer, Mr. Lovejoy, there are conditions that could occur at the facility -- excuse me, I'm going to rephrase that -- that there are conditions that will determine when a discharge to Outfall 051 occurs.

I'm going to identify a couple of those conditions.

But one of those conditions would be a situation where the mechanical evaporator and the solar evaporation tank are out of service being repaired. An additional condition could be where the facility is receiving larger-than-expected volumes of influent and would need to discharge to 051.

Another condition would be to demonstrate
operational readiness.

Q. So these are conditions, as you've stated it, which will determine whether there will be discharges from 051; is that true?

A. Could you restate that, please?

Q. Are these conditions, without the occurrence of which, there would not be discharges from 051?

MR. BUTZIER: Madam Hearing Officer, I think his last testimony gave two examples, and so the premise of this question sort of mischaracterizes the prior testimony.

MS. ANDERSON: I don't see that. I mean, he gave three examples, the evaporation, the tanks and then the third example which maybe has to do with testing.

So, Mr. Lovejoy, you're saying that this may happen, is that the distinction you're trying to make?

MR. LOVEJOY: I'm asking the witness if these conditions need to exist before there is an Outfall 051 discharge. I think that's the gist of his testimony.

MS. ANDERSON: You're saying if the conditions exist?

MR. LOVEJOY: If and only if those conditions exist, there will be a discharge from 051.

MS. ANDERSON: Well, do you want to break them down individually and ask it differently?
MR. LOVEJOY: All right.

Q. (BY MR. LOVEJOY) Are you testifying that if but only if there is a breakdown involving the MES and the SET, then there could be a discharge from 051?

MR. BUTZIER: Madam Hearing Officer, I am going to have to interject, at the risk of unduly interrupting this line of questioning.

I think the phrasing of this -- this question seems to be kind of laying a trap and -- and vague and ambiguous as to exactly what he's asking. He seems to be asking is the need to discharge the -- to the 051, is the need to do that based upon the possibility of the other two discharge locations being put out of service the only occasion in which a discharge would occur, and I think inherent in that is sort of already an asked and answered question. He's identified additional, as the Hearing Officer has already pointed out, and so I don't see the fruitfulness of this line of questioning.

MS. ANDERSON: Mr. Lovejoy?

MR. LOVEJOY: Well, it has not been totally clear what the witness is saying.

I think this clarifies his point about the mechanical evaporator and the solar evaporation tanks being out of service.

I want to be clear that it's his testimony
that if both of those are out of service, then there could be a discharge from Outfall 051. There may be other circumstances, and we'll get to those, but I think you've asked me to break it down, and I'm breaking it down.

MS. ANDERSON: I think that's helpful --

MR. LOVEJOY: Thank you.

MS. ANDERSON: -- and I understand the distinction.

Q. (BY MR. LOVEJOY) Can you answer?

A. Madam Hearing Officer, Mr. Lovejoy, would you please restate the question?

MR. LOVEJOY: Can I have that read back?

MS. TOWNSEND: "Q. Are you testifying that if but only if there is a breakdown involving the MES and the SET, then there could be a discharge from 051?"

MR. BEERS: Could you say that again? I'm sorry, I didn't hear that very well.

MS. TOWNSEND: "Q. Are you testifying that if but only if there is a breakdown involving the MES and the SET, then there could be a discharge from 051?"

MR. BEERS: Thank you.

Madam Hearing Officer, Mr. Lovejoy, no, that was not my intention to limit the option to that only -- only that scenario.
There are multiple options that could determine whether the laboratory discharges to Outfall 051.

Q. (BY MR. LOVEJOY) Okay. But to clarify, the breakdown or the need to service the MES and the SET is one of the circumstances which would be a condition for an Outfall 051 discharge?

MR. BUTZIER: Madam Hearing Officer, that mischaracterizes the prior testimony. There was no reference by this witness to a breakdown. He simply referred to when those other evaporation units were out of service.

MR. LOVEJOY: Out of service for any reason.

MS. ANDERSON: Are you -- Mr. Lovejoy, are you suggesting that this is but one of many examples that could lead to --

MR. LOVEJOY: Yes. He may -- he may add others. This is one of them.

MS. ANDERSON: So I think that's a fair question.

MR. BUTZIER: Fine.

Q. (BY MR. LOVEJOY) Can you answer?

A. I'm -- Madam Hearing Officer, Mr. Lovejoy, I'm sorry, could you repeat the question again, please?

MR. LOVEJOY: Yes.
Q. (BY MR. LOVEJOY) Is it your testimony that the occurrence of a need to service the MES and the SET simultaneously would be one circumstance that would determine the need to discharge through Outfall 051?

A. Yes, that's correct.

Q. Okay. And do you have any idea of the likelihood of that?

MR. BUTZIER: Madam Hearing Officer, calls for speculation.

MS. ANDERSON: That does call for speculation. Yes.

MR. LOVEJOY: He's a professional engineer, Your Honor. They project likelihoods of failures as part of their job.

I think it's a fair question. If he doesn't know, if nobody has figured that out, he can say that.

MS. ANDERSON: I think it's a very broad question, so I'm going to -- I'm going to ask you to move on or rephrase that.

MR. LOVEJOY: Okay.

Q. (BY MR. LOVEJOY) The SET is not even in service at all so far, is it?

A. Madam Hearing Officer, Mr. Lovejoy, that's correct. The SET is not in service.

Q. Has the mechanical evaporator or one or
another version of the mechanical evaporator failed over the last seven years in such a way that it was necessary to discharge through Outfall 051?

A. Madam Hearing Officer, Mr. Lovejoy, that's an operational question. I don't -- I'm not an expert in operations at the facility.

I can't answer that.

Q. Okay. But in any event there has been no discharge since November of 2010, correct, through Outfall 051?

A. That is correct.

Q. And the occurrence of a large volume of influent, is that another of the circumstances which you think would determine the need to discharge through Outfall 051?

A. Madam Hearing Officer, Mr. Lovejoy, yes, that's a condition that could -- could drive a discharge to Outfall 051.

Q. How large?

A. Oh, that's again an operational question that I'm not privy to. I'm not informed to answer.

Q. Has this ever happened?

MR. BUTZIER: Madam Hearing Officer, it's not clear what the question refers to when he says "has this ever happened," and I think we're getting into lines of
questioning that are asked and answered.

MR. LOVEJOY: It's not asked and answered,
Your Honor, and I'm talking about the occurrence that
the witness has testified to.

MS. ANDERSON: I think this is a fair
question. Yes.

MR. LOVEJOY: Thank you.

MR. BEERS: Madam Hearing Officer,
Mr. Lovejoy, to my knowledge, it has not occurred, but I
am -- I'm not an expert in operations at the RLWTF.

Q. (BY MR. LOVEJOY) What other circumstances --
you said there might be others.

What other circumstances would, in your words,
determine the need to discharge through Outfall 051?

A. Madam Hearing Officer, Mr. Lovejoy, you may be
aware that at a facility as complex as the RLWTF, it's
very important to maintain readiness, to conduct an
operation, and so establishing readiness is -- would be
a condition to discharge to Outfall 051.

Q. Has that taken place since November of 2010?

A. Madam Hearing Officer, Mr. Lovejoy, as I
indicated previously, there has been no discharge to
Outfall 051 since November 2010.

MR. LOVEJOY: Okay. I'd like to mark three
letters as exhibits -- CCW 1, CCW 2 and CCW 3.
These are from the administrative record, letters dated respectively September 28th, 2007; November 1st, 2007; and August 19th, 2011.

MR. BLOCK: Who does the marking here?

MS. ANDERSON: I'll mark them for you.

MR. BLOCK: Okay.

MS. ANDERSON: It was CCW 1, 2 and 3.

Let me ask, counsel, have you seen these, because they are part of the record, it was prefiled.

MR. BLOCK: We're going to be -- they are part of the record.

MS. ANDERSON: Okay.

MR. BLOCK: But we're going to hand out copies to everybody.

MS. ANDERSON: Okay.

MR. BLOCK: I just thought it would be efficient to get them marked first.

MS. ANDERSON: That was a good idea.

MR. BLOCK: Okay. So 1, 2 and -- 1, 2 and 3. These are for the witness.

MS. ANDERSON: The originals will go to Kathy.

MR. BLOCK: Okay. And then we thought they'd go back to the court reporter.

MS. ANDERSON: Mr. Beers, these are exhibits.

Q. (BY MR. LOVEJOY) Mr. Beers, do you have
Exhibit 1, 2 and 3 -- CCW 1, 2 and 3?

A. Madam Hearing Officer, Mr. Lovejoy, yes, I do.

Q. Do you recognize these as documents that you received a copy of?

MS. ANDERSON: I'm sorry, Mr. Lovejoy. One moment, please.

Sir, did you have an objection?

MR. BUTZIER: I don't have an objection. I just don't yet have the documents that are being referred to.

MR. LOVEJOY: Okay.

MS. ANDERSON: Yeah, I think it might be better if we just sort of distribute them and then we'll go into questioning.

MR. VERHEUL: Madam Hearing Officer, I don't know if these are going to be -- if it's -- they are going to move to admit these into evidence in some way. It seems redundant, since they are already part of the administrative record.

The Department would just like to clarify, though, the Department would object to any offers of evidence from CCW, since CCW chose to not file a statement of intent to present evidence in this matter; and the rules, specifically 20.6.2.3110, are very clear...
that a statement of intent has to be filed ten days prior in order to present any evidence in one of these proceedings.

MS. ANDERSON: So CCW, you have not?

MR. LOVEJOY: We did not. We did not identify exhibits for cross-examination, and I don't think that's required.

MS. ANDERSON: I don't -- I don't think that's what Mr. Verheul is saying. He's saying that they didn't do it.

MR. VERHEUL: I'm saying if these are not offered -- if these are offered into evidence, then NMED would object to that, despite the fact that they are already in the record, simply because the protocol of advising all the parties that they would be used as such was not followed.

There is a -- there is a notice factor here, Madam Hearing Officer. 3110 says if you don't file a statement of intent to present evidence at this proceeding, then anything presented must be limited to a general statement either supporting or objecting to the issuance of the discharge permit.

MR. LOVEJOY: Your Honor, that's quite incorrect. We're allowed to cross-examine a witness.

These are cross-examination exhibits that touch on
exactly what he's been talking about.

MS. ANDERSON: Mr. Lovejoy, are you going to plan on admitting them into the record, or you're just using them for the purposes of cross-examination?

MR. LOVEJOY: Well, essentially for cross-examination, but as counsel has said, they are part of the administrative record already.

MS. ANDERSON: Oh, I understand what you're meaning. Okay.

All right. Well, I'm going to let you cross on it and then we'll cross the second bridge when we get to it.

MR. LOVEJOY: All right. I'm not quite sure what Your Honor is suggesting. If these exhibits are in the administrative record, I find it rather cumbersome to also move that they be admitted to the record of the hearing.

MS. ANDERSON: Well, you said earlier you weren't planning on, because they were already in the record, and what Mr. Verheul is stating is you didn't note them in your statement of intent.

So if you haven't done them in your statement of intent ten days before the hearing, technically, they shouldn't come in at all, but to your point if they are already part of the administrative record, I'm saying
have at it in terms of cross --

MR. LOVEJOY: Okay.

MS. ANDERSON: -- but in terms of readmitting it, I don't think that's going to happen, because it's already there.

He's just pointing out a technical issue with the rule in terms of what you're supposed to be following.

MR. LOVEJOY: Okay.

MS. ANDERSON: And I'm giving you some latitude.

MR. BUTZIER: And Madam Hearing Officer, I would just also point out that these are documents that were not referenced in the direct testimony.

I'm fine with Mr. Lovejoy asking questions about them, but I would like the courtesy of Mr. Beers having sufficient time to look through to see if he recognizes these documents, et cetera.

MS. ANDERSON: And to that note, may I have a set of the documents? Because I don't have them.

Yeah. Thank you. Because then I can sort of -- thank you.

MR. BLOCK: I'm sorry about that.

MS. ANDERSON: No problem.

MR. BLOCK: So we had one for the Hearing
Officer, and there was an additional one for you.

     MS. CASTANEDA: Thank you.

     MR. BLOCK: And the same here, one for the
Hearing Officer, that's number 2.

     MS. ANDERSON: Okay.

     MR. BLOCK: And one for you as well. That's
number 2.

     MS. CASTANEDA: Thank you.

     MR. BLOCK: And then one for the Hearing
Officer, and that's number 3.

     MS. ANDERSON: Okay. Thank you.

     MR. BLOCK: And one for you as well.

     MS. CASTANEDA: Thank you.

     MS. ANDERSON: Thank you.

Go ahead, Mr. Lovejoy.

Thank you.

     Q. (BY MR. LOVEJOY) Mr. Beers, have you had a
chance to look at these letters?

     A. Madam Hearing Officer, Mr. Lovejoy, yes, I
have.

     Q. And you have testified previously about the
nature of the SET, the solar evaporation tanks, have you
not?

     A. That's correct.

     Q. And you're familiar with their general design
and construction, correct?

A. Their general design and construction, yes.

Q. I'm looking at CCW 1 --

A. Their general design and construction, yes.

Q. I'm looking at CCW 1 --

MS. SHEEHAN: Can you use the mike so they can hear?

MR. LOVEJOY: Oh.

Q. (BY MR. LOVEJOY) And did you see that you're listed as a cc recipient of this letter?

A. I'm sorry, I didn't quite hear you.

Q. Did you see that you're listed as a recipient on page three?

A. Yes.

Q. Okay. The statement appears on the first page of the letter, in the first paragraph, about halfway down. It says, "It is the Laboratory's view that a groundwater discharge permit will not be required for this project because there is no reasonable probability or likelihood that liquid contained in the evaporation tanks will move into groundwater, either through a leak or by overflow."

Do you see that?

MR. BUTZIER: Madam Hearing Officer, I don't see the document that Mr. Lovejoy is referring to. Is it part of what was handed to me?

MS. ANDERSON: Mr. Lovejoy, is it your
Exhibit 1, further on page two?

MR. LOVEJOY: Exhibit 1, the first page.

MR. BUTZIER: I don't see exhibit numbers even on these documents.

Okay. I apologize. I see it now, Madam Hearing Officer.

MS. ANDERSON: Okay. So, Mr. Lovejoy, just so I'm clear, we're talking about the second page; right?

MR. LOVEJOY: The second page of the exhibit, the first page of the letter.

MS. ANDERSON: Exactly. Okay. We're on the same page.

MR. LOVEJOY: Thank you, Your Honor.

MS. ANDERSON: Yeah.

Q. (BY MR. LOVEJOY) Do you see that language?

A. I do.

Q. Do you agree with that?

A. Madam Hearing Officer, Mr. Lovejoy, it's not my place to agree or disagree with that. That was a laboratory document submitted to NMED, and I have no opinion whether I agree or disagree.

Q. You can't answer that question?

A. I'm sorry, I can't.

Q. As an engineer, you can't answer that
question?

A. Madam Hearing Officer, Mr. Lovejoy keeps referring to me as an engineer. I am not a degreed engineer. I have not attended an engineering school. So I'd like to correct the record for that.

MS. ANDERSON: And I think that's true.
Mr. Lovejoy, based on his resume, I believe you have a master's in water resources.

MR. BEERS: Water resources, that's correct.
MS. ANDERSON: And you're in charge of permitting, correct?

MR. BEERS: Correct.

MS. ANDERSON: So he's not an engineer, Mr. Lovejoy.
You maybe have transposed him with another engineering witness, but he's not an engineer.

MR. BUTZIER: And Madam Hearing Officer, Mr. Lovejoy may not be satisfied with the answer, but I think that we should prevent getting into harassing the witness by essentially rephrasing the same question and asking it again in a demonstrative manner like Mr. Lovejoy has just done.

MS. ANDERSON: I don't think it's raised to the level of harassing the witness, and I think Mr. Beers correctly pointed out he's not an engineer, so
he doesn't want to give a false impression, but I think he answered the question, which was the person who signed this letter was Anthony Grieggs, group leader, and this letter is dated 2007. So you're just asking his opinion and he's answered. Correct?

MR. LOVEJOY: With respect, Your Honor, I asked his opinion, and I did not get an answer.

MS. ANDERSON: Okay. I think there was an answer, but would you restate the answer, please? You did answer the question, Mr. Beers.

MR. BEERS: Madam Hearing Officer, I did answer the question.

I wonder if the court reporter could repeat my answer.

MS. ANDERSON: Thank you.

AUDIENCE MEMBER: Could you please use the microphone so we could hear?

MR. BEERS: Can you not hear me? This mike --

AUDIENCE MEMBER: No.

MS. TOWNSEND: "Q. As an engineer, you can't answer that question?"

"A. Madam Hearing Officer, Mr. Lovejoy" -- is it the one before that?

MR. BUTZIER: Yes.
MS. TOWNSEND: "Q. Do you see that language?"
"A. I do."
"Do you agree with that?"
"Madam Hearing Officer, Mr. Lovejoy, it's not my place to agree or disagree with that. That was a laboratory document submitted to NMED, and I have no opinion whether I agree or disagree."
MS. ANDERSON: So his answer was he didn't have an opinion. That's an answer.
Q. (BY MR. LOVEJOY) Okay. Let me just point out, to save time, that similar language appears in Exhibit 2 on the first page, in the first paragraph. You may wish to look at that. And in Exhibit 3, at the top of page two, similar language appears.
And would your answer also be that it's not your place to express an opinion one way or another?
A. That is correct.
Q. Why did you get copies of these letters?
A. Madam Hearing Officer, Mr. Lovejoy, Anthony R. Grieggs, who signed these letters, is my -- was my group leader, and it's typical for members of the staff to receive copies.
Q. Do you have your prefiled testimony there? I'm looking at page six.
Toward the bottom of the first paragraph, the
words appear "Unlike" -- do you have it?

I'll let you get it.

A. You're referring to LANS/DOE Exhibit 1?

Q. I believe it's Exhibit 1, yes.

A. (Witness nods head.)

Q. And on page six of your prepared testimony, in paragraph one, it says, "Unlike the treated effluent to the MES and SET, discharges of treated effluent from Outfall 051 reach surface waters and indirectly, have the potential to impact groundwater."

Is that what it says?

A. Correct.

Q. So discharges from Outfall 051 are unlike the movement of effluent to the MES or the SET in your testimony, correct?

A. Madam Hearing Officer, Mr. Lovejoy, with respect to reaching surface waters, yes.

Q. They are dissimilar in that unlike water emitted by Outfall 051, effluent directed to the MES or SET does not reach surface waters; true?

A. Madam Hearing Officer, Mr. Lovejoy, discharges to the MES and the SET have the potential for unplanned releases to reach groundwater.

Q. And that was a different question.

If you don't mind, would you answer the
question?

MR. BUTZIER: I disagree that that was a different question. I think he asked the question and he got the answer, and it should be time to move on, Your Honor, Madam Hearing Officer.

MS. ANDERSON: I think Mr. Lovejoy's question was slightly different. His first go at it was regarding the one to, and then you were talking about 051.

MR. LOVEJOY: Yes, I was.

MS. ANDERSON: And so now he -- he mentioned the unplanned portion of it.

MR. LOVEJOY: Which was not responsive --

MS. ANDERSON: Yeah.

MR. LOVEJOY: -- frankly.

MS. ANDERSON: So, Mr. Beers, if you remember the question.

MR. BEERS: Madam Hearing Officer, would the court reporter please repeat the question?

MS. ANDERSON: I'm sorry, Kathy.

MS. TOWNSEND: That's okay.

"Q. They are dissimilar in that unlike water emitted by Outfall 051, effluent directed to the MES or SET does not reach surface waters; true?"

MR. BEERS: Madam Hearing Officer,
Mr. Lovejoy, yes, that would be true.

Q. (BY MR. LOVEJOY) And effluent directed to the MES or the SET, in conventional operation, then does not have the potential to reach groundwater; is that true?

A. Madam Hearing Officer, Mr. Lovejoy, that is not true.

There is a potential for unplanned releases from the MES and the SET. There -- the NMED, in DP-1132, has placed controls, engineering controls, to mitigate that potential.

Q. And if you heard my question, it said "in normal operations."

In normal operation, does effluent directed to the MES and SET have the potential to reach groundwater?

A. And again my response would be yes, in normal operations, there is always the potential for unplanned releases from the MES and the SET.

Q. And absent the case of an unplanned release, the effluent directed to the MES or the SET would not reach groundwater, is that true?

A. Would you please restate that again for me?

Q. In normal operation, absent consideration of unplanned releases, effluent directed to the MES or the...
SET does not reach groundwater?

A. That is correct.

Q. Okay. Now, you add, on the page I'm looking at, down one paragraph, that water released to the evaporative units, the MES and the SET, and I'm quoting, "per NMED, require a discharge plan due to the potential for effluent from the RLWTF to move indirectly into groundwater within the meaning of 20.6.2.3104 NMAC."

Is that correct?

A. Madam Hearing Officer, Mr. Lovejoy, that is correct.

Q. Okay. Does "per NMED" mean according to NMED?

A. I would agree.

Q. And who was it at NMED that expressed what you state here?

A. Madam Hearing Officer, Mr. Lovejoy, that would be the Ground Water Quality Bureau.

Q. What human being?

A. Madam Hearing Officer, Mr. Lovejoy, I do not recall an individual who crafted -- who stated that position.

Q. How did you learn about it?

A. Through the Bureau, communications with the Bureau.
Q. Written communications? Oral? Tell me, please.
   A. Written.

Q. Okay. And how did the lab, LANL, respond when this was stated?
   A. Madam Hearing Officer, Mr. Lovejoy, I need some more context before I can answer that question. It's very broad and general. I'm not sure if you're referring to a specific communication. I can't answer without more context.

Q. Well, you made reference to a communication, so I'm asking how you -- how the lab responded to that.
   A. Mr. Lovejoy, there have been probably on the order of 500 communications between NMED and LANL over 22 years on this permit.

Would you please narrow the scope for me?

Q. Well, I'm narrowing down to your statement in this testimony, and I'm asking you what the response was.

MR. BUTZIER: Madam Hearing Officer, if I could interject here.

I don't think there has been a foundation laid that there is a single specific communication that is referenced here.

We've heard testimony that there have been
many drafts exchanged with DP-1132. DP-1132 clearly requires what's stated here. Those are -- those are NMED communications.

I just think this line of questioning, to try to assume that we're talking about a single communication, has not been laid as a foundation.

MS. ANDERSON: May I ask a clarifying question for Mr. Lovejoy?

Mr. Lovejoy, if he doesn't remember the specific communication but he remembers the content of the communication, would it be acceptable to you in answering your question that he just explained how he learned?

Because I think he's getting nervous, because he's trying to remember one specific communication out of a chain of 500.

So, for example, if he had a conversation with you about a blue shirt, and he said, "You know what, I remember speaking to Mr. Lovejoy about a blue shirt," would that be acceptable to you, or are you looking for a specific document?

MR. LOVEJOY: I'm looking really to whatever he had in mind when he said there was a written communication. He seemed to have something in mind.

MS. ANDERSON: Okay. So I'm going to run with
that.

If you remember ballpark the communication, that would be helpful. And if you don't remember the exact date or number --

MR. BEERS: Madam Hearing Officer,

Mr. Lovejoy, Exhibit CCW 2 that you presented, "Notice of Intent to Discharge for Evaporation Tanks," November 1st, 2007, NMED responded to that NOI some years later, I can't give you a date, and their response was a discharge permit is required for the solar evaporation tanks.

Q. (BY MR. LOVEJOY) Thank you.

Does the exhibit you have in front of you include the responses to comments?

A. Yes.

Q. Did you draft these or assist in their drafting?

A. Are you referring to LANS/DOE Exhibit 5?

Q. Yes.

A. And you're asking me if I drafted them?

Q. Or assisted in drafting them, yes.

A. I contributed to their preparation.

Q. I'm looking down at the bottom of page one, that paragraph there. You may want to read it.

And my question is to refer to language saying
that it isn't correct that the RLWTF does not or will not discharge.

Do you see that language?

A. Yes.

May I have a moment to read it, please?

Q. Please.

A. I've read it.

Q. The text says that -- in response to that point, that it -- the RLWTF is allowed to discharge, and the question is, being allowed is not the same thing as actually discharging, is it?

A. That is correct.

Q. And the responses on the next page, at the top, say -- also in the first paragraph say that the RLWTF is authorized to discharge.

And the question is, again, being authorized isn't the same thing as discharging; correct?

Please take your time and read it.

A. Yeah.

What sentence is that? Would you identify it for me, please?

Q. It's the second sentence at the top of page two. Other parts of that paragraph could also be pointed out.

A. And Madam Hearing Officer, Mr. Lovejoy, please
state what -- your question again.

Q. Isn't it true that being authorized isn't the same thing as discharging?
A. I would agree.

Q. There is a text that parallels some things you've mentioned in that same paragraph stating that the lab maintains an NPDES, that's the federal permit, for Outfall 051 so that it can maintain capacity to discharge should the SET and/or the MES become unavailable, due to maintenance, malfunction, and/or if there is an increase in treatment capacity caused by changes to LANL's scope/mission.

Is that the lab's purpose in seeking issuance of DP-1132 as well -- one of its purposes?
A. Yes, I would agree.

Q. You said yes?
A. Yes.

Q. Thank you.

And would that mean, then, that the discharge from Outfall 051 is, in fact, a potential discharge subject to certain conditions occurring?
A. Madam Hearing Officer, Mr. Lovejoy, yes, there are certain conditions that have to be met before a discharge can be made to Outfall 051.

Q. And these are ones that you've mentioned, is
that correct?

A. One of those conditions is a condition in draft DP-1132 that requires water tightness testing of the outfall line, correct.

Q. That would apply if this permit came into effect, is that true?

A. Correct.

MR. LOVEJOY: Okay. Your Honor, if I may inquire, did you wish to take a break somewhere along here?

MS. ANDERSON: Well, let me ask you, how long do you think your cross is going to continue?

MR. LOVEJOY: It does depend on the way the testimony goes, Your Honor.

MS. ANDERSON: Okay.

MR. LOVEJOY: Anyway, I'm anyway over half through, but --

MS. ANDERSON: Yeah, it's 11:30. So you're saying you're half through. So you think probably a good 20 minutes or more you're going to take?

MR. LOVEJOY: Yes, more than that.

MS. HANSEN: I'm a Santa Fe County Commissioner. I came to make public comment. I only have a limited amount of time. I would like to know when that's possible.

MS. ANDERSON: You know what, it will be before we go to lunch.

So what I think we're going to do is we're going to take a brief five-minute break to go to the bathroom, move around, we're going to come back.

Ma'am, if it's okay with the attorneys, I'm going to have this lady give public comment, we're going to go right back into the cross, and then we'll probably break for lunch at 12:30, and that should give us time to end on a clean note. Okay?

All right. So try to keep it to five. Thank you.

(REcess held from 11:35 to 11:40 AM.)

MS. ANDERSON: Let's go back on the record.

Ms. Hansen, you're up.

Hi. Mr. Butzier is going to give you a mike. He's going to hand you a microphone.

Before you -- we're going to get on the record and you need to be sworn in. Okay?

MS. HANSEN: Okay.

(Oath administered to Ms. Hansen.)
MS. TOWNSEND: State and spell your name.

MS. HANSEN: My name is Anna Hansen. A-n-n-a H-a-n-s-e-n.

Do you want my address?

MS. TOWNSEND: No.

ANNA HANSEN

after having been first duly sworn under oath, provided public comment as follows:

PUBLIC COMMENT

MS. HANSEN: Good morning, everyone. Good morning, everyone. Good morning, Madam Hearing Officer.

My name is Anna Hansen. I am a Santa Fe County Commissioner, Chair of the Board, member of the Buckman Direct Diversion Board, and former Chair of Concerned Citizens for Nuclear Safety.

I am speaking today as a Santa Fe County Commissioner from District 2, which is the location of the Buckman Direct Diversion Plant and our ongoing concerns about Los Alamos National Laboratory, LANL, contaminants flowing in surface and groundwater towards drinking water supplies in Santa Fe County.

The pueblo people, the City of Santa Fe, and Santa Fe County have been here long before LANL and Los Alamos County were established.

Just like other environmental justice
communities impacted by irresponsible discharge of toxic materials by industry that moves into their communities, it is long time since -- it is long since time for the Department of Energy, DOE, and LANL, and its federal and state regulators, to accept the responsibility and meet statutory and regulatory requirements as a site that generates large amounts of hazardous waste.

From the beginning of operations in 1943, raw radioactive liquid wastes generated by LANL were discharged without any treatment directly into the Pueblo and Los Alamos Canyons.

By the late 1940s, LANL categorized these as highly contaminated, knew that the areas of these canyons that were accessible to the public were contaminated with plutonium and uranium, and that the waste generated at LANL could eventually enter the Rio Grande.

In 2010, Santa Fe County and the City of Santa Fe began diversion of waters from the Rio Grande three miles downstream from where Los Alamos Canyon, which carries Manhattan Project-era LANL pollutants in storm water and snowmelt, enters the Rio Grande.

Mortandad Canyon is the location of Outfall 051 and a subject of this hearing.

In 2004, an independent groundwater
hydrologist, George Rice, reviewed DOE and LANL data to determine that contaminants from LANL waste sources, such as Outfall 051, are moving towards the Rio Grande much more quickly than previously estimated.

Rice, who has analyzed contaminant transport at several DOE sites, found that contaminant particles leaving Outfall 051 and reaching the Rio Grande could travel that distance of eight miles in 26 years or less. At the time Rice wrote the report, LANL was stating publicly that travel times were hundreds of years.

For decades, the springs along the Rio Grande have carried LANL contaminants to the river.

Further, the growing co-located hexavalent chromium and perchlorate groundwater plumes below LANL are moving towards Los Alamos County's drinking water wells.

Santa Fe County is concerned about the safety of the deep waters pumped from the Buckman Well Fields, directly east of Mortandad Canyon and the Rio Grande.

Madam Hearing Officer, you have an opportunity to stop this public hearing for a groundwater discharge permit that will never go into effect. There is no discharge. There has never been a discharge since November of 2010.
Following the Cerro Grande Fire in May 2000, Congress provided funding for LANL to construct and operate the Waste Migration Risk Management, WMRM, which contains six 50,000-gallon tanks to store low-level waste influent. Four of these tanks are storages for -- 200,000 gallons are reserved for emergency.

If LANL needs to do maintenance to the Radioactive Liquid Waste Treatment Facility, it can use those tanks for storage purposes.

Since 1963, when it began operations, the radioactive liquid waste treatment is a radioactive and hazardous liquid waste storage and treatment facility.

The influent to the facility and the effluent from it contains hazardous waste material. The sludge that is generated is shipped off site for disposal at facilities regulated by the federal Resource Conservation and Recovery Act. As such, it is required to be regulated by the New Mexico Hazardous Waste Act, the federal -- and the federal Resource Conservation and Recovery Act, RCRA.

Over the past 24 years, the New Mexico Environment Department has requested permit applications to regulate the facility under the hazardous waste laws and regulations. Now is the time to get that done.

Thank you for this opportunity to express the
concerns of the County of Santa Fe. Sincerely, Santa Fe County Commissioner, District 2, Anna Hansen.

MS. ANDERSON: Thank you, Ms. Hansen.

MS. HANSEN: Thank you very much.

MS. ANDERSON: Public Comment 3.

(Public Comment 3 admitted.)

MS. ANDERSON: I'm just going to check in. Did that prompt anyone else to want to do public comment?

I'm not seeing any hands.

So what we're going to do is we're going to resume with Mr. Lovejoy's cross of Mr. Beers. The goal is to take lunch at around 12:30. We want to sort of stick on schedule if possible.

And then when we come back from lunch, if anybody then wants to do public comment, we'll have another opportunity for public comment before we get started and again before the end of the day. So there will be multiple opportunities for public comment.

With that, Mr. Beers.

Thank you.
after having been previously duly sworn or affirmed, was examined and testified further as follows:

CROSS EXAMINATION (CONTINUED)

BY MR. LOVEJOY:

Q. Are you prepared, Mr. Beers?
A. I am.

Thank you.

Q. Thank you. Yes. I got my wiring lined up, too. Maybe everybody can hear me, too, now. I'll certainly try.

Do you have the responses to comments there?
A. I have it.

Q. I'm on page two, in the second paragraph. You may want to read that paragraph.

I'm going to ask you about the text starting with the words "accordingly."

A. I'm sorry, Mr. Lovejoy. Is the mike working?

MR. BUTZIER: Yes.

MR. BEERS: I'm sorry, Mr. Lovejoy, I can't find that sentence. Would you --

Q. (BY MR. LOVEJOY) It's about two -- it's about halfway down that paragraph.
A. Halfway down.
Q. "Accordingly, even if the intended discharges." Do you see that?

Page two, paragraph two.

A. Page two.

Q. Page two, paragraph two.

A. Thank you.

Got it.

Q. Okay. The language is "Accordingly, even if the intended discharges authorized by Draft DP-1132 'through Outfall 051' to Effluent Canyon were disregarded, and only the discharges to the MES and SET evaporator systems were to be considered, CCW's position is still flawed, because it is the 'potential' for a discharge to get to groundwater that matters, regardless of intent."

Did I read that right?

A. You did.

Q. And is that your opinion?

A. Yes, it is.

Q. And is it because of this potential for discharge that you're advocating adoption of DP-1132?

A. That's correct.

Q. Now, is this passage stating that when effluent is piped to the MES or the SET, it's a
discharge as the regulations define it, namely, a discharge of effluent or leachate which may move directly or indirectly into groundwater?

MR. BUTZIER: Madam Hearing Officer, I would object. This calls for a legal conclusion, number one; number two, what Mr. Lovejoy is reading from is a response to an argument that in a nutshell is the argument that CCW presented in its motion to dismiss, it's a legal question in the overall context, and this particular question calls for a legal -- a legal conclusion, and I think it's something that we should move on from, given the fact that this -- these issues have been fully briefed and decided prior to today's proceeding.

MS. ANDERSON: I think I'm going to allow Mr. Lovejoy to ask that question, only because this is his opportunity, because today is the public hearing, and if the witness can answer the question without speculating into the larger legal issues, that's great, but if he can't, he can't.

So I'm going to allow him to ask the question.

MR. BUTZIER: Thank you.

MS. ANDERSON: Yeah.

Mr. Lovejoy.

Q. (BY MR. LOVEJOY) Do you need the question
reread?

   A. Please.

MR. LOVEJOY: Would you, please.

MS. TOWNSEND: "Q. Now, is this passage stating that when effluent is piped to the MES or the SET, it's a discharge as the regulations define it, namely, a discharge of effluent or leachate which may move directly or indirectly into groundwater?"

MR. BEERS: Madam Hearing Officer, Mr. Lovejoy, I would agree with that statement. Yes.

   Q. (BY MR. LOVEJOY) But you've also stated that effluent directed to the MES or the SET, unlike water emitted by Outfall 051, doesn't reach surface water. True?

   A. Madam Hearing Officer, Mr. Lovejoy, there is the potential for it to reach groundwater.

   Q. Well, talk about a discharge to the MES. How would it reach groundwater?

   A. Madam Hearing Officer, Mr. Lovejoy, there is the potential for a failure of the containment system, in which case an unintended release could reach groundwater.

   Q. What kind of failure? Please describe what you're talking about.

   A. With regard to the SET, the failure would be a
failure of the liner system -- it's a two-liner system -- a failure of the liner system and a failure of the moisture monitoring system to detect that leak.

Q. I asked about the MES. Where would the failure occur there?

A. Failure at the MES would be similar. It would be a failure of the steel containment and the liner within that steel containment.

Q. But these systems are all built not to leak, aren't they?

A. They are built with pipes and tanks that are designed so they won't release water. Isn't that true?

A. That's true. That is the intent of the containment systems.

Q. It's the substance of them, isn't it? They are made of metal and they are double lined in the case of the SET. True?

A. True.

Q. How likely is this potential for, say, the SET to leak?

MR. BUTZIER: Objection. Calls for speculation.

MR. LOVEJOY: It does not call for speculation, if I may. It calls for probability.

MR. BUTZIER: Well, in that case we're going
beyond the scope of his direct testimony, because we
were not offering this witness as a -- as somebody who
would address probabilities.

MS. ANDERSON: That is sustained. I would
agree.

Q. (BY MR. LOVEJOY) There are various other
facilities at the lab, aren't there, that have tanks and
pipes that contain some substances that are controlled
under the Water Quality Act; is that true?

A. That is true.

Q. And each of them just sitting there has a
potential discharge, correct?

A. That is correct.

Q. But they don't all have a discharge plan, do
they?

A. That is true.

Q. And they are not required to have one?

A. NMED has not requested a discharge plan for
those facilities.

Q. What facilities are you thinking about when
you testify?

A. I'm thinking about a cooling tower that has a
containment basin below it.

Q. Any others?

MR. BUTZIER: Madam Hearing Officer, we're
getting off of the scope of the direct testimony, and
I think we need to move on from this line of
questioning.

MS. ANDERSON: I think it's fair. If you
could be succinct. I don't think he expects you to list
every one, but if you have your top three that come to
mind, you know.

MR. BUTZIER: Madam Hearing Officer, we began
this line of questioning with Mr. Lovejoy asking about
other tanks, and now he's turned it around and asking
this witness to sit here today and talk about other
tanks, and I think -- you know, if Mr. Lovejoy has
specific tanks in mind, maybe he should ask about them
rather than try to make this a test for the witness.

MS. ANDERSON: I didn't get that impression
that it was a test for the witness, and I think his
question was whether other facilities within Los Alamos
need a permit, and then he thought of some, and he
answered one of them, which was the one with the cooling
tower.

So let's -- let's -- let me just back up.
Let's not try to hide the ball.

So, Mr. Lovejoy, if you have your top five and
you want to cross him on the top five, we can go that
route, but I think you're just asking what is he basing
his answer to.

Is that what I'm hearing?

MR. LOVEJOY: That is, in this case, what I'm asking.

MS. ANDERSON: Yeah. Okay.

MR. BUTZIER: And Madam Hearing Officer, if inherent in the line of questioning is a question of whether a permit is needed for other facilities, that, I think, clearly is outside the scope of the direct and also calls for a legal conclusion.

MS. ANDERSON: I guess we're not hearing things the same way. I'm not hearing that. I'm just --

MR. BUTZIER: Okay.

MS. ANDERSON: Sorry, you know.

MR. BUTZIER: Okay. Thank you.

MR. LOVEJOY: The question was just does he have in mind others, and I think he testified about it. He talked about a cooling tower. He said that's one. Are there others that he's speaking of?

MS. ANDERSON: Mr. Beers?

MR. BEERS: Madam Hearing Officer, Mr. Lovejoy, are you referring to other tanks without discharge permits --

Q. (BY MR. LOVEJOY) Yes.

A. -- at the laboratory?
Q. Yes.
A. And I provided the example of a cooling tower--
Q. Yes.
A. -- containment basin. And you'd like another example.
Q. If -- you said there were several. You mentioned one.
Do you have in mind others?
A. None others come to mind.
Q. Okay. The responses say, and I'm still on page two, down in paragraph four, that the Water Quality Act is intended to prevent pollution.
So NMED should be able to issue a permit for a potential discharge. Is that correct?
MR. BUTZIER: Madam Hearing Officer, this goes back to my earlier point.
This is essentially a response to a legal argument, it's been fully briefed, it's been decided, and this question specifically calls for a legal conclusion.
MR. LOVEJOY: This is this witness' own testimony. He's put it forward and introduced it as an exhibit, and I'm asking him about his own testimony.
MR. BUTZIER: Same objection.
MS. ANDERSON: Well, I would say what I stated earlier, which is if you can answer without getting into the greater legality. You're not New Mexico Environment's witness, so we don't expect you to testify about whatever their policy directives are or aren't. But if you know and can answer, please have a stab at it.

MR. BEERS: Madam Hearing Officer, Mr. Lovejoy, would you please repeat the question?

Q. (BY MR. LOVEJOY) Well, let me -- let me quote the exact language in this text that you've sworn to. At the bottom of paragraph four, on page two, it says, "If the WQCC intended only to permit facilities" -- "to permit," which I take as to issue a permit for -- "to permit facilities once those potential sources actually release water contaminants, then its groundwater permitting program would be rendered superfluous, and the separate abatement program adopted by the WQCC and administered by NMED would be all that is needed."

That's your testimony.

Are you here to testify that NMED should be able to issue a permit for a potential discharge?

A. Madam Hearing Officer, Mr. Lovejoy, I believe you're asking me to render an opinion on how NMED would
implement their -- the regulations, and that's not my
place to do so.

Q. Aren't you advocating that type of permitting
process?

A. I think the objective of the statement was to
point out that NMED does permit potential discharges,
and it's a -- a fundamental part of their permitting
program.

Q. And that's what's proposed in DP-1132, isn't
it?

A. That is correct.

Q. Do you have the statute there, the Water
Quality Act?

I want to ask you about Section 74-6-5.A. Do
you have the statute there? I'm not sure.

A. Just the --

MR. BLOCK: We gave you the book.

MR. BUTZIER: I don't believe he does. Maybe
you do.

MR. BLOCK: Yeah, he has it.

MR. BUTZIER: Sorry, I didn't realize you
brought that up there.

Q. (BY MR. LOVEJOY) Do you have paragraph A --

MR. BLOCK: 72-6-5.

Q. -- in 74-6-5.A?
A. Excuse me. 74?

Q. Yes.

MR. BLOCK: 74.

A. 6.5.A.

Thank you.

Q. Take a moment to read it.

This authorizes an agency to issue a permit for the discharge of any water contaminant, doesn't it?

A. That's correct.

Q. It doesn't authorize a permit for a potential discharge.

A. The word "potential" does not appear in that 74-6-5.A.

MR. BUTZIER: Madam Hearing Officer, I do think we're getting well beyond the --

MS. ANDERSON: Mr. Lovejoy, I have to agree at this point.

I've given you kind of a broad latitude, because today is your day for your hearing, and I wanted you to be able to ask as many questions as you could, but I don't really think it's fair to ask him to comment on the interpretation of that.

MR. LOVEJOY: I accept that, Your Honor. I don't think it's subject to dispute.

MS. ANDERSON: Well, I beg to differ. I
respectfully differ.

So do you have some other line of questioning?

MR. LOVEJOY: Yes.

MS. ANDERSON: Okay.

Q. (BY MR. LOVEJOY) Would you look -- you have 74-6-5 there.

Would you look at 74-6-5. I? This says that "for new discharges, the term of the permit shall commence on the date the discharge begins."

Do you want to look at that?

A. I'm reading "Permits shall be issued for fixed terms." That -- do I have that correct?

Q. Yes.

MR. BUTZIER: Same objection, Madam Hearing Officer.

MS. ANDERSON: Mr. Lovejoy, do you want to finish your question and then I can determine if it's objectionable or not?

MR. LOVEJOY: Okay. I'm going to paraphrase.

MS. ANDERSON: Okay.

Q. (BY MR. LOVEJOY) This says that for new discharges, the term of the permit shall commence on the date the discharge begins.

Would this rule apply to DP-1132?

MR. BUTZIER: Calls for legal conclusion.
MS. ANDERSON: I think we've established the same questions and the same issues. I'm going to allow him to answer, again, if you can answer, without bearing into the legal issues.

MR. BEERS: Madam Hearing Officer, Mr. Lovejoy, I'm not an attorney. I do not feel comfortable responding to that question. It's outside my area of expertise.

Q. (BY MR. LOVEJOY) Does the draft permit specify the effective date of the discharge plan?

A. The draft permit -- does it -- it references the issue date.

Q. Do you have the draft permit there?

A. I do.

Q. Would you point out where that reference is? I'm going to -- if you don't go there yourself, I'm going to take you to page 50.

A. Madam Hearing Officer, Mr. Lovejoy, in the draft DP-1132, there is a reference to "by date," which is the date the discharge permit is issued.

Q. Could you tell me what page you're on?

A. I'm on page 15, looking at condition number seven, "Verification of Secondary Containment."

Q. Okay. Reading that, how do you interpret that?
You pointed us to it. How do you interpret that as establishing an effective date?

A. I'll read the first sentence in that condition. "Within 90 days following the effective date of this Discharge Permit (by DATE), the Permittees shall submit to NMED verification demonstrating all units and systems intended to convey, store, treat or dispose of an untreated liquid or semi-liquid waste streams meet the requirements of secondary containment as defined in this Discharge Permit."

Q. And you said something about an issue date. Do you see a reference to an issue date?

A. I misspoke. "By date" is the issue date, as I interpret it.

Q. Why -- why do you say it's the issue date?

A. Why do I say issue date?

Q. Yeah, you say that you interpret it that way. Why do you say that?

A. What I'm saying is the -- the issue date, in my mind, is the same as by date, as I just read. It's the date the permit is issued to DOE/LANS.

Q. Okay. In this connection, have you looked at and considered 74-6-5.I, which says that "for new discharges, the term of the permit shall commence on the date the discharge begins"?
A. Madam Hearing Officer, Mr. Lovejoy, the by date in draft DP-1132 will be established by NMED, and I cannot speculate what that date will be.

Q. Don't you think NMED would be following the terms of the statute?

A. I presume they would.

Q. Did you read the regs that apply to this facility when you undertook to be responsible for the permit?

A. I did.

Q. Would you look now at 20.6.2.3109.H?

A. I have.

Q. And this says -- it gives a -- it requires a period -- no period longer than five years, and then it continues, saying "expect that for new discharges, the term of the discharge permit approval shall commence on the date the discharge begins, but in no event shall the term of the approval exceed seven years from the date the permit was issued; for those permits expiring more than five years from the date of issuance, the discharger shall give prior written notification to the Department of the date the discharge is to commence; the term of the permit shall not exceed five years from that date."
Did you give consideration to that language in your study of this draft permit?

A. No, I did not. It did not seem relevant.

Q. Why was it not relevant?

A. It was not relevant because we were requested by NMED to submit a discharge permit application. Determining the term of the permit would be under the purview of the NMED, not the permittee.

Q. Would you not wish to know what the regulations and the statute require?

A. Oh, I'm familiar with what the regulations require.

Q. So under this regulation, the term of the discharge permit approval will begin when there is a discharge, correct?

A. Correct, and the RLWTF began discharging in 1963.

Q. And there hasn't been a DP, discharge permit, for this facility previously, has there?

A. There has not.

Q. Okay. Has the lab given any notification to the Department of the date the discharge shall begin, as is contemplated by 3109.H?

MR. BUTZIER: Madam Hearing Officer, frankly, that question doesn't even make sense in light of the
last answer.

The last answer was there has been discharges since 1963, and so now he's asking a question about when they began, which makes no sense. It's vague and ambiguous.

MR. LOVEJOY: Your Honor, the new discharge addressed in the statute and the regulation is from a context and -- and from the terms clearly a discharge which has not previously been permitted. There has been no permit for this -- for anything discharged from the RLWTF at any time before this one.

MS. ANDERSON: Well, could you shorten your question to basically encapsulate your last section there?

Because I was sort of getting lost in the question, too, Mr. Lovejoy, I'm sorry to say. So --

MR. LOVEJOY: Okay.

Q. (BY MR. LOVEJOY) Has there been a notice of the type referred to in Subpart H? Notification to the Department.

MR. BUTZIER: Excuse me, Madam Hearing Officer, Mr. Lovejoy, where is the notice in H that you're referring to?

MR. LOVEJOY: The subpart says "For those permits expiring more than five years from the date of
issuance, the discharger shall give prior written notification to the Department of the date the discharge is to commence."

MR. BUTZIER: Thank you.

MR. LOVEJOY: You're welcome.

MR. BEERS: Madam Hearing Officer, Mr. Lovejoy, Los Alamos National Laboratory informed NMED of the history of discharges from the RLWTF in the 1996 discharge permit application.

Q. (BY MR. LOVEJOY) And this proceeding is based upon the February 2012 discharge permit application, is it not? I think you testified to that.

A. Madam Hearing Officer, Mr. Lovejoy, it's my understanding that the entire administrative record captures the 1996 discharge permit application.

Q. So it was on file.

But the application that the agency is acting upon is the one filed February 2012, right?

A. That would be correct.

Q. And at that time -- and there was no discharge occurring from Outfall 051, true?

A. That is correct.

Q. And there hasn't been a discharge from Outfall 051 since then up to today, correct?

A. That is correct.
Q. If the Secretary of the Environment issued a discharge permit like DP-1132 for the RLWTF, even though it is not discharging, when would it become effective?

MR. BUTZIER: Madam Hearing Officer, that assumes facts that are not in evidence. In fact, the evidence is that there have been discharges and are continuing to be discharges from the RLWTF.

MS. ANDERSON: I'm going to sustain that.

MR. LOVEJOY: I beg your pardon?

MS. ANDERSON: I'm sustaining that objection.

MR. LOVEJOY: Okay.

Q. (BY MR. LOVEJOY) Well, under this rule and the statute that I pointed you to, if there were never a discharge, if there was zero liquid discharge, the permit would never come into effect, would it?

MR. BUTZIER: Objection. Calls for speculation.

MS. ANDERSON: I don't believe it's speculative, but it has been asked and answered several times in several different ways.

MR. BUTZIER: Thank you.

MR. LOVEJOY: Okay.

That's all I have, Your Honor.

MS. ANDERSON: Thank you very much. Okay.
Well, thank you, Mr. Lovejoy. You finished right on time.

Mr. Butzier, do you want a brief rebuttal, or do you want to wait until after lunch?

MR. BUTZIER: Madam Hearing Officer, I would just point out that the -- the rules governing these proceedings have an order for people to ask questions that include and are not limited to Mr. Verheul as the representative of NMED. I think he's already indicated he doesn't intend to ask questions, but I believe there are opportunities for other people to ask questions.

MS. ANDERSON: The public.

MR. BUTZIER: Essentially, that's correct, yes.

MS. ANDERSON: Well, thank you. I like the short version. Thank you for reminding me. I'm sorry, I forgot.

I'm just going to stand up so I can see anyone. Any member of the public who has attended this public hearing, you are allowed to ask questions of this witness.

Now, everything leading up to now has been prefilled technical testimony, and you've heard Mr. Lovejoy really cross Mr. Beers regarding the technical testimony.
I'd kind of like to get a show of hands, because if there are several members of the public who are probably going to come back after lunch, what I may do is have us break and then have you cross Mr. Beers, but if nobody wishes to cross Mr. Beers -- and it can be a brief cross, but if you don't feel that you want to, you're not forced to.

And at any time during the hearing when there is a natural stopping point and after the attorneys have crossed their witnesses, you, as members of the public, are allowed to cross witnesses.

And that's part of the reason we have public hearings, so the public can basically ask questions of the witnesses, because many of the witnesses are experts in their respective fields.

So if you have a burning question that you want to ask Mr. Beers, now is your time. And probably later on this afternoon, too.

I'm not seeing any hands.

Okay. I don't see anybody.

Mr. Butzier?

MR. BUTZIER: And Madam Hearing Officer, we have no redirect of this witness.

MS. ANDERSON: Okay.

MR. BUTZIER: So I think we're completed with
this witness.

    MS. ANDERSON: Okay. Great.

    On that note, it's 12:30. I was leaning
towards an hour 30 for lunch, but I think that might be
excessive, considering I think we have a lot of stuff
we're going to get through. So I'm going to shorten it
a little bit. I have a feeling this is going to be a
two-day hearing. I don't think it's going to be a
one-day hearing. I would be surprised if it was.

    So let me ask, counsel, how are you feeling,
one 15 versus one 30 for lunch? An hour and 30 minutes?
    MR. VERHEUL: That works for us.
    MS. ANDERSON: Mr. Lovejoy, an hour and
    30 minutes?
    MR. LOVEJOY: Yes.
    MS. ANDERSON: Okay. Everybody would prefer a
    slightly longer lunch.

    Okay. So it's 12:30 now. So 1:30, so 2:00.
So we're going to be back by 2:00, we're going to be on
the record, and we're going to -- the train is leaving
at 2:00, and I won't be late.

    Thank you. We're off the record.

    (Recess held from 12:28 to 2:00 PM.)
    MS. ANDERSON: Good afternoon, everyone.
    We're on the record in GWB 17-20(P), for
permit, hearing.

    I just wanted to mention on the record that someone had left an exhibit for Kathy Townsend, our court reporter, on her chair, and it looks like it was comments from Michael T. Collins. So we marked those as Public Comment Number 4, and we're going to admit those into the record.

    (Public Comment Exhibit 4 admitted.)

    MS. ANDERSON: With that, I think we're going to get started.

    MS. SHEEHAN: Do you want to do public comment?

    MS. ANDERSON: Let me check again.

    Anybody in the afternoon for public comment? I'm not seeing anybody at this time.

    So probably what we'll do is we'll probably have a break in the afternoon to go to the restroom, and when we come back, we'll do public comment.

    We're talking about how long we were going to plan on having this hearing. Some people have weighed in and they'd like to have it to 8:00 PM. That's a little bit late. I live in Albuquerque, and I won't get home until 11:00.

    So I think we're probably going to stop around 6:00 or 6:30 at the latest. So this will probably turn
into a two-day hearing.

That being said, I don't want to abbreviate anybody's testimony, but if we could succinctly make our points, because we have quite a few witnesses that need to testify still. So -- and we'll check in again with you for public comments later.

Thank you.

MS. SHEEHAN: Good afternoon, Madam Hearing Officer.

Although Mr. Butzier already introduced me earlier this morning, for the record, my name is Christina Sheehan. I'm an attorney at the Modrall Sperling Law Firm here today representing LANS.

And LANS and DOE would like to call their next technical witness, Mr. Danny Katzman.

MS. ANDERSON: Thank you.

(Oath administered to Mr. Katzman.)

MS. SHEEHAN: Sorry. I just need the projector on.

MS. ANDERSON: No problem.

Technology.

MS. SHEEHAN: Is there someone here that's somewhat tech savvy? It's not making any noise and it's blinking.

(Off the record.)
MS. SHEEHAN: Thank you so much. And I apologize for that.

MS. ANDERSON: No problem.

DANNY KATZMAN

after having been first duly sworn or affirmed,
was examined and testified as follows:

DIRECT EXAMINATION

BY MS. SHEEHAN:

Q. Good afternoon, Mr. Katzman.

A. Good afternoon.

Q. Will you please state and spell your name for the record?

A. Danny Katzman. It's D-a-n-n-y K-a-t-z-m-a-n.

Q. And what is your current employment position?

A. I'm the lead scientist for the Environmental Management Division at Los Alamos National Laboratory.

Q. How long have you worked for Los Alamos National Laboratory?

A. I've worked for Los Alamos for 20 years.

Q. What are your current job duties?

A. My current job duties involve oversight of all of the technical groundwater work that essentially comes out of our program.

Q. Can you please describe and summarize your educational and professional qualifications?
A. Yes. I have a bachelor's of -- bachelor of science in geology from the University of Texas in Austin. I have a master's in geology from the University of New Mexico.

And I have 28 total years environmental experience, two of which were with the New Mexico Environment Department, five as a consultant here at the laboratory, and then 20 as a laboratory employee.

Q. Thank you, Mr. Katzman.

A. Yes, it is.

MS. SHEEHAN: Madam Hearing Officer, at this point in time I'd like to offer Mr. Katzman as an expert witness in this proceeding.

MS. ANDERSON: In what aspect?

MS. SHEEHAN: In hydrogeology.

MS. ANDERSON: Okay. Do I have any objections?

MR. LOVEJOY: No objection, Your Honor.

MS. ANDERSON: Thank you.

So admitted.

Q. (BY MS. SHEEHAN) And you have submitted prefilled written direct testimony in this proceeding, which has been provided as LANS/DOE Exhibit 7. Is that
correct?

   A. Yes.

   Q. Do you have any changes to your written testimony?

   A. Yes, I do. We found a couple of typographical errors in the written testimony.

   Specifically, on page 16, Figure 2, there is a description box associated with a symbol -- a green triangle symbol that represents the Outfall 051, and in that box it only says the "05," so it should have a "1" added to the end of that to be "Outfall 051."

   And also there is the -- another box pointing to Buildings 50-1 and 50-250 on that same page, same figure, where the "S" on RLWTF/MES fell off the page. And on page 16, Figure 3, there is a description box that reads "RLWT," and it should say "RLWTF."

   Those are the only changes.

   Q. Thank you, Mr. Katzman.

   With those changes, do you adopt your written testimony here today?

   A. Yes, I do.

   MS. SHEEHAN: Madam Hearing Officer, at this point I move for the admission of Mr. Katzman's prefiled written direct testimony and related exhibits, which are
LANS/DOE Exhibits 7, 8 and 9.

MS. ANDERSON: I'm not seeing any objections.

MR. LOVEJOY: No.

MS. ANDERSON: So admitted.

(LANS/DOE Exhibits 7, 8 and 9 admitted.)

Q. (BY MS. SHEEHAN) Mr. Katzman, what is the general purpose of your testimony in this proceeding?

A. The purpose of my testimony is to provide an overview of the groundwater monitoring that's being proposed in support of DP-1132.

Q. Can you please summarize your testimony?

A. Yes, I can.

So I'm also going to be providing as part of my testimony -- let's see if we can get this to work -- some basic overview of the site hydrogeology that should provide a good context for the groundwater monitoring that's actually proposed as part of the permit.

I like to always start with a little bit of an outline of what I'm going to present so people can track along with it. I'll talk about the geologic setting. I'll talk the geologic setting associated with the RLWTF and surrounding areas, specifically in the areas focusing on groundwater monitoring.

I'll speak a little bit to the faults and fractures and their respective role in the groundwater...
monitoring strategy.

I'm going to speak specifically to the objectives of groundwater monitoring for 1132.

I'll speak about the role they have in early detection of future non-compliant releases. I'll talk about how they function as an additional safety net to support the very extensive administrative and engineering controls that are a part of the RLW program.

I'll speak to the way that monitoring could play a role in the future to characterize the extent of the groundwater effect in the unlikely event that a non-compliant release does occur.

And of course, all the people familiar with the monitoring well locations, speak to the suite and frequency of monitoring, the quality of the wells, and how the monitoring actually provides robust defenses in depth to the administrative and engineering controls that are actually part of the permit itself.

So this is going to feel maybe a little bit like a Hydro 101 program for folks, but I want to make sure everyone is kind of up to speed, Madam Hearing Officer, on the setting itself.

This is something we generally refer to as kind of a cake diagram. Think of this as a very simplified sort of slice through a portion of the
Pajarito Plateau where we all sit here today.

You can see that there is a couple of key features in this that I think are important for providing some context for the groundwater monitoring strategy for 1132.

One is the canyon setting. The mesa here, the plateau, is carved by parallel-running canyons, simplified in this depiction here, and mesas in between the canyon settings.

We have kind of a conceptual model that we like to use here, or a term that we use that we consider these canyons to be sort of the wet environment, it's all a bit of a relative term, but they are wet because sometimes they have these alluvial groundwater bodies in them that can occur from natural runoff from the mountain front and in some cases are effluent supported as well.

They are actually fairly rare to find, and where they do occur on the laboratory property, they are not known in any cases to extend actually off of laboratory property. So they are -- they still say it's fairly limited groundwater bodies.

It's the upper of three groundwater zones that I'll speak to in my presentation here.

The second is one we call perched-intermediate
groundwater. And it's really kind of a generalized term for a fairly rare occurrence of groundwater bodies that can occur where water that might percolate down from this alluvial groundwater might work its way down through and find a geologic layer, shown in a very simplified manner here by this gray layer, where it might have a hydrologic property that might cause water to perch on it; thus, the term perched-intermediate groundwater.

They are very -- when they do occur, in the rare instances that they are present, they occur beneath canyons where there is water that can feed them.

It's also important to note that the connection -- the hydrologic connection between the alluvial groundwater and these perched-intermediate zones is not continuous along the length of these canyons, but actually occur in really spotty areas where the geology beneath this alluvial groundwater right here is such that it can allow infiltration to finally work its way through and then create these perched zones.

This lower black line here represents the reg-- what we call here the regional aquifer, and it's the broad groundwater body that is the water supply for both the townsite and the county and the laboratory, and it's present everywhere beneath the laboratory itself.
The other key feature in this sort of conceptual drawing of the hydrogeologic setting, besides the canyons and mesas, is this pretty substantial thickness between the ground surface and this regional aquifer body, or first groundwater, if it's this case right here, it might be as deep as 500 feet, and the steepest groundwater zone can be anywhere from 800 feet to as much as 12 or 1,400 feet around the laboratory.

From extensive studies that we've done around the laboratory for decades, we've learned that there can be contaminant pathways, they can work their way through this entire system.

What we've learned is that it's a pretty rare situation that actually occurs in, and it's situations where a variety of conditions have to come together to essentially make that happen.

The conditions we believe would ever lead to contamination of this regional aquifer are large amounts of a contaminant; so a small spill or something like that could, we believe, never manifest itself in the regional aquifer, but it also has to be a large quantity of a mobile contaminant. So not all contaminants have similar environmental behaviors, some are more mobile and may move as water moves, and some don't want to move at all as water moves and might stay behind at the
surface and simply become soil contamination.

And so the situation where we have identified around the laboratory where this deep zone becomes contaminated and you create a link between all three of these zones, the conditions of lots of water, millions and millions of gallons, a large amount of contaminant, and it has to be a mobile contaminant.

So we're going to kind of zoom in now and focus specifically on the monitoring that's being proposed for 1132.

This is sort of a flyover of the site, if you will. The facility itself, RLWTF, sits right here, highlighted in yellow. Within that yellow area right here is the MES. You've heard plenty about that this morning.

Outfall 051 sits right here, and the solar evaporation tanks are right here.

I'm going to keep coming back to this sort of framed area in future slides, so it might be a good idea to kind of get a lock-in on what that is and the area it covers.

The monitoring wells that are proposed in the permit include two alluvial wells that actually currently do not exist; they are proposed and would be subject to a separate work plan upon issuance of the
permit. These are just shown as approximate locations where it's believed they could serve a good purpose for the monitoring.

The -- a perched-intermediate well, one right here called -- I don't know if people can read the numbers on here, but that says MOCI-6; and four regional aquifer wells, R-1, R-14, R-46 and R-60.

All right. So I'm going to spend a little bit of time on this slide as well.

So this is actually a real look at the subsurface and all the complex geologic layers that exist in the subsurface. This is that same frame right here, but now you're looking at it as a slice through the earth, down to about -- you know, this total thickness right in here is about probably 13 or 1,400 feet.

So now we're actually going to show -- I'm going to describe for you the same groundwater zones that we actually know exist in this specific area.

So this is no longer a conceptualization of the groundwater occurrences, it's the information we know from extensive drilling in the area.

And one of the things I want to point out is that the alluvial groundwater body in here -- so what you're actually seeing in this figure are the real
topography that exists along the mesas. The alluvial groundwater is actually too thin on here to actually show in a discernible way, but it's kind of depicted here as these blue arrows pointing left to right on this figure.

The perched-intermediate zone, the only one that has been identified anywhere in this particular area, it's one further down canyon, and it's the one that is actually monitored by the well MOCI-6.

Drilling of each of these four regional aquifer wells have shown us that there is, in fact, no perched water anywhere in the subsurface in these areas.

And this is part of what comes back to what I was talking about in the earlier conceptual slide, where this alluvial groundwater, in the way that it breaks through from the near-surface environment into the deep groundwater zones, is not uniform everywhere. In fact, it only occurs in this particular location where the geology gets just such that it allows infiltration from that real thin alluvial groundwater body to start working its way vertically, and it forms this kind of conceptualized perched-intermediate groundwater here that we actually know is also a very limited lateral extent.
So coming in on the wells now, I'm going to sort of review those same set of wells again and give you the context for those on this particular figure.

We have the two alluvial groundwater wells that you can see right here, and again these aren't in place today. They are wells that are proposed and would be subject to a separate work plan subject to NMED approval. You can see their position relative to Outfall 051. They are just almost immediately downgradient of that, and they would provide a useful, early way for anything that might be released from the outfall pipe to be detected and monitored quite quickly, actually.

We believe the kind of travel times that you would have from the mouth of the outfall pipe to these wells would literally be on the scale of hours or maybe days. We believe that the alluvial groundwater body stays perched within that canyon bottom, until it gets further down canyon, where we do have evidence that percolation does occur.

And so the first next groundwater body that we would see that would deserve monitoring associated with this permit is the perched groundwater body here that's monitored by MOCI-6.

So it may look intuitively to someone that
it's quite a distance away from the actual facility, but, in fact, it is the first groundwater body, other than the alluvial groundwater, that would be encountered, and it's the location where that would be encountered in the event of a non-compliant release of RLW.

There is another feature on here that I want to point out, which is these conceptualized sort of purple lines that are showing angles beneath the solar evaporation tanks.

And what those depict are a moisture monitoring network that's actually proposed in the permit to provide early detection in the event that the liners in those basins, or other engineered and administrative controls associated with solar evaporation tanks, fails, or if there is a release and they identify it, it still would help provide a very early means for detecting the extent of such a release.

And in this case, it was deemed that moisture monitoring would be a powerful tool to do that with, because any contaminant that would have to travel any distance from the solar evaporation tanks would have to move with water.

So in this case, the moisture monitoring was deemed a protective means of ensuring that if water is
detected, then it could mean that there is also contaminants associated with it as well.

The regional aquifer wells here, they are all accessing the regional aquifer down again at about -- in this particular case, nominally around 1,100 feet below ground surface, really just provide additional sort of -- just kind of additional robust monitoring, again in the unlikely event that there would be a release that would work its way -- and if you recall the conceptual model I described earlier, the likelihood that it could ever reach the regional aquifer is low, but we felt it was important to make sure that there were wells in place in the event that the release somehow was robust enough, voluminous enough, to actually have a driver to move waters all the way through in this case almost 1,100 feet of fairly dry rock and work its way into the regional aquifer.

So they kind of provide an additional safety net to all of the very robust engineering and administrative controls that are within the facility itself.

Again, one of the reasons why angled moisture monitoring was proposed beneath the solar evaporation tanks was that we felt that putting a regional aquifer well in the role of trying to monitor an early detection
or even a release from the solar evaporation tanks would not be sufficiently robust, because, number one, it might not ever even make it to the regional aquifer; and, number two, it could potentially take decades or even a hundred or more years for that to ever occur and that didn't feel sufficiently protective.

So with respect to faults and fractures, certainly I think folks tend to think that faults and fractures can be a potential hydraulic factor in how water moves in a situation like this.

What you see in a -- in this particular figure, each one of these black traces on here are mapped -- are mapped faults and fractures that are actually done for the laboratory seismic hazardous program. So the laboratory, of course, has to be -- have facilities all over the place that are safe from a seismic hazard standpoint, so there is an extensive program at the laboratory to make sure that all key faults and fractures associated with seismic hazards are mapped.

Well, it's these same faults and fractures that could theoretically have a potential role in how water moves around the plateau. But if you note back to that same framed area that we've been coming back to, the RLWTF itself and the solar evaporation tanks, no
significant faults and fractures are actually mapped in this particular area.

All right. So now that you kind of have a general sense of the hydrologic setting, I sort of want to go back through the objectives of the groundwater monitoring that's being put in in support of 1132.

We have early detection, which we certainly see as an important potential component. We know that the groundwater monitoring objective needs to be essentially a safety net for what is inherent administrative and engineering controls in the system. And in the unlikely event that there is a release of any kind of significance, we felt that it was very important to have a network already in place that could actually monitor the extent of the conditions associated with that release.

So how each one of those wells and well types support this objectives -- these objectives is described down in here in these bullets.

We have the two alluvial wells, and you may recall -- and if you'd like me to go back to the other side, I'm happy to do that -- but you can recall that those two alluvial wells, when they are installed, will be located in the watercourse, in that alluvial groundwater environment, just downstream of Outfall 051.
So, again, a very rapid response time, hydrology response time, between the outfall pipe and those two alluvial wells.

We believe that those wells provide supplemental monitoring for early detection and again even characterization of the extent of a release.

The perched-intermediate well is also kind of viewed, even though it appears far down canyon, as a supplement to Outfall 051 monitoring, in that water that would move down that alluvial groundwater system would travel down to a point where it would ultimately infiltrate into that perched-intermediate groundwater body. That total travel time could be maybe on the order of three years or so, two to three years.

And we also believe it provides a nice way to ensure that if there is an unlikely non-compliant release, it's a good well, already in place, to help characterize the extent of that release.

The four regional aquifer wells are really more tied to the monitoring downgradient of the RLWTF itself. We believe that effectively they provide a useful safety net that is really built on top of the very robust engineering and administrative controls that are a part of the permit itself within the facility.
All right. So how do we monitor these wells?

The proposal in 1132 is to use the alluvial groundwater wells, the two new alluvial groundwater wells, as well as the single perched-intermediate well, for quarterly monitoring.

I've got a list here that -- I forgot to include perchlorate, but the contaminants are total Kjeldahl nitrogen, nitrate, total dissolved solids, chloride, fluoride and perchlorate, are all going to be monitored at those wells on a quarterly basis. Plus every well, those alluvial and perched-intermediates, as well as the four regional alluvial wells, on an annual basis, will be monitored for what we call -- really call here a full suite of contaminants, which is essentially the contaminants listed in these regulations, and they include kind of the suite of organic compounds, inorganic compounds, and metals as well.

So an important part of any monitoring network is ensuring that the wells can provide good data.

The wells that are proposed in 1132 are all constructed consistent with the requirements in NMED guidance documents. They all produce high-quality representative data, meaning that we pull a sample out of the well and send it off for analysis. Those samples are, in fact, representative of the ambient groundwater.
condition around the well itself.

And one demonstration of that basis for representative data is that all these wells are also in the NMED-approved interim facility-wide groundwater monitoring plan, which is a separate plan under a separate regulation that recognizes all of these wells as providing representative data.

So to kind sort of start to wrap things up here, I think it's important to understand that in the -- in the permit, the first real line of defense for operation of the RLWTF is the very robust administrative and engineering controls that are an inherent part of how that facility will operate.

What the wells do is essentially provide an additional sort of backstop, if you will, for environmental protection, complementing all those administrative and engineering controls.

And that is my testimony.

MS. ANDERSON: Thank you.

MR. KATZMAN: I think you said something about asking us to be brief, so I'm trying to be brief.

MS. ANDERSON: Thank you. Yeah.

Questions?

I'm seeing none from NMED.

MR. LOVEJOY: Just a couple.
CROSS EXAMINATION

BY MR. LOVEJOY:

Q. Mr. Katzman, the MOCI-6 well, has -- is that in place now?

A. Madam Hearing Officer, Mr. Lovejoy, yes, it is in place now.

Q. Okay. And upstream or upgradient from that point, is there -- excuse me -- is there any control to identify additional perched zones?

A. Would you like me to -- is it okay for me to go back to some slides --

Q. Absolutely.

A. -- for demonstration here?

Okay. Let's do that.

So, Madam Hearing Officer, Mr. Lovejoy, the control that we have in this situation is the information that we obtain from these four -- from the drilling of these four regional aquifer wells. When we drill these wells, an inherent part of the methodology is to, in fact, explore for the presence of perched-intermediate water, and we found none at those locations.

Q. Okay. Now, I see that perched water body. What's the aerial extent of that?

A. Madam Hearing Officer, Mr. Lovejoy, the extent
of that sits essentially beneath Mortandad Canyon. So if you were looking for actual sort of dimensions --

Q. Uh-huh.
A. -- I'm going to suggest that it probably is on the order of about maybe 500 feet wide --

Q. Okay.
A. -- and roughly circular in shape, and maybe 20 to 30 feet thick.

Q. And what's the spacing of the R wells?
A. What's the distance between these wells?
Q. Between them.
A. Madam Hearing Officer, Mr. Lovejoy, I believe there is a scale on -- let me go to a -- if it's okay, let me go to a previous map.

Q. Yeah.
A. This one has a scale on the bottom of it. I believe that shows about -- the first tick mark to the right of the zero there is I think the 750-foot tick mark, so 750 feet there, maybe another 2,000 feet there, a similar distance there.

Q. So a perched water body between these R wells could well have escaped detection; true?
A. Madam Hearing Officer, Mr. Lovejoy, it's certainly conceptually possible that there could be a groundwater body, a perched-intermediate body, that we
don't know about.

I will tell you from our experiences that the geology beneath the alluvium along this length of canyon, and this one here as well, and other places we've looked, doesn't suggest that that would be a likely case.

Q. And when were the R wells drilled?
A. Madam Hearing Officer, Mr. Lovejoy, I won't remember the specific dates of these wells, but they are each on the order of about 15 years or less in age.

Q. Can you -- did you give us the numbers of the R wells?
A. I did.

Q. Can you repeat them for my benefit, please?
A. Yes.

Madam Hearing Officer, Mr. Lovejoy, the numbers are R-60, R-46, R-14 and R-1. The R standing for regional aquifer well.

MR. LOVEJOY: Excuse me.

(Confers.)

Q. (BY MR. LOVEJOY) You have a slide captioned "Faults and Fractures."

Can you go back to that?

Yes.

Do you have a scientific explanation for the
absence of faults and fractures in the area of the RLWTF?

A. Madam Hearing Officer, Mr. Lovejoy, the location of faults and fractures is really driven by sort of deep tectonic and structural factors.

It's well known that the western portion of the laboratory property, essentially against the Jemez Mountain front, is a fault zone. That's the PF here, that's the Pajarito fault zone.

And when you see a number of lines like this -- faults, in practice, even though often they are drawn as single lines, depending on the scale of a given map, in practice, they are usually sort of a swarm of faults or fault traces through here.

So it's no surprise, in fact, that most of these faults would be lined up along an area called the Pajarito fault zone.

These two up in here are known faults as well that have been well mapped. You can see actual displacement on the ground surface, the Guaje Mountain fault, the Rendija Canyon fault, and again their nature is associated with deep structural tectonic features that are pretty well understood around the laboratory property simply because of its importance for infrastructure issues, building safety, and things like
MR. LOVEJOY: That's all I have, Your Honor.

MS. ANDERSON: Thank you.

NMED didn't have questions.

Any questions from the public for this witness?

I'm sorry, I'm just going to stand up because I can't really get a good angle.

I don't see anybody, so we're going to move on.

Thank you.

MR. KATZMAN: Okay.

MS. ANDERSON: Yep.

MR. DeROMA: Good afternoon, Madam Hearing Officer.

MS. ANDERSON: Hi.

MR. DeROMA: For the record, Silas DeRoma with the Department of Energy.

MS. ANDERSON: Hi, Mr. DeRoma.

I'm sorry, I was getting my glasses on.

I was just going to let you know, when you testify, you don't have to address me at all, just speak to your counsel, because everybody has been very formal with Madam Hearing Officer, but let's just go for it.
MR. DeROMA: We'll be short and to the point.

MS. ANDERSON: Yes. Okay.

Yeah. Absolutely.

MR. DeROMA: Good afternoon, Ms. Armijo.


MS. ANDERSON: She has to get sworn in.

MR. DeROMA: Okay.

(Oath administered to Ms. Armijo.)

KAREN E. ARMIJO

after having been first duly sworn or affirmed,

was examined and testified as follows:

DIRECT EXAMINATION

BY MR. DeROMA:

Q. Good afternoon, Ms. Armijo.

Would you state your full name for the record, please?

A. Karen E. Armijo.

Q. And what is your current place of employment

and current position?

A. My current place of employment is for the

Nuclear -- National Nuclear Security Administration, a

semi-autonomous agency with the Department of Energy,

for the Los Alamos Field Office, and my current position

is as the Environmental Permitting Compliance Programs

manager.
Q. Can you summarize your educational background and work experience, please?
A. Yes.

I have an undergrad degree from New Mexico State University in environmental science; two minors, one in environmental chemistry and one in environmental waste management.

I have a master's of environmental policy and management from the University of Denver.

I've worked in the environmental field for the last 18-ish years in various degrees for -- since about 2005 in environmental permitting, looking at NEPA documents, planned projects, activities; and since about 2011, up here in Los Alamos, both as a contractor and then the last two years as a federal employee.

Q. How long have you been in your current position with NNSA?
A. Approximately two years.

Q. Thank you.

Do your duties include RLWTF operations?
A. They do.

Q. Can you describe briefly how your duties relate to RLWTF?
A. Yes.

I am a federal employee that's responsible for
conducting oversight of the management operations contractor.

My area of oversight is to do environmental permitting compliance, which includes environmental discharges from facilities and operations like RLWTF.

Q. And are you familiar with LANS/DOE Exhibit 10 in this proceeding?
A. Yes.

Q. And can you briefly describe Exhibit 10, please?
A. It is my technical testimony.

Q. Are you familiar with LANS/DOE Exhibit 11 in this proceeding?
A. Yes.

Q. Can you describe Exhibit 11, please?
A. It is my resume, which includes my education and work history.

Q. Are you familiar with LANS/DOE Exhibit 12 in this proceeding?
A. Yes.

Q. Can you briefly describe that?
A. It is a table -- it's part of the administrative record. It's a table that summarizes CCW's comments on a draft and earlier version of the draft permit.
Q. And are you familiar with Exhibit 13 in this proceeding?
A. Yes.
Q. I'm sorry, LANS/DOE Exhibit 13 in this proceeding.
A. Yes.
Q. Can you describe that, please?
A. It is communications from DOE and LANS to the Environment Department regarding some of the comments that CCW has made on previous drafts.

MR. DeROMA: Madam Hearing Officer, the Department of Energy would move for admission of Exhibits 10 through 13 into the record, please.

MS. ANDERSON: Any objection?
I'm not seeing any.
So admitted.
(LANS/DOE Exhibits 10 through 13 admitted.)

MR. DeROMA: Thank you.

Q. (BY MR. DeROMA) Ms. Armijo, in your position with NNSA, have you had the opportunity to familiarize yourself with the proposed draft permit DP-1132?
A. Yes.
Q. Are you familiar with condition A.6 in the draft permit?
A. Yes, it's regarding signage.
Q. And are you familiar with CCW's comments regarding the signage at the RLWTF?

A. Yes.

Q. Can you describe briefly your understanding of their position?

A. My understanding is that CCW has submitted comments to the Environment Department requesting that signage be posted at the facility boundary in Spanish, English and Tewa.

Q. Does the Department of Energy have a position on those comments?

A. We do.

Q. Would you explain that position, please?

A. Yes.

Our position is that the RLTL-- the RLWTF facility is a facility that's located interior to the Los Alamos National Laboratory boundary, approximately three miles to the interior; that the RLWTF does not share a boundary with the pueblos; and that we agree with the draft permit -- we agree with the provisions in the draft permit for A.6 that identify signage in Spanish and English.

Q. Are you familiar with comments submitted by CCW on the organization of the Emergency Operations Center?
A. Yes.

Q. What is your understanding of their comments?
A. My understanding of the comments is that CCW has requested that members of the pueblo be allowed to staff the Emergency Operations Center.

Q. And does DOE have a position on those comments?
A. We do.

Q. Could you describe that position, please?
A. Yes.

The Emergency Operations Center for Los Alamos National Laboratory is a facility -- it's a facility that is geared towards addressing emergency situations that would occur at the laboratory as a result of operations; that facility is driven by DOE Order 151.1D, which is the emergency management systems; and that order defines how an Emergency Operations Center like this one would be organized for emergency personnel.

It also requires that personnel in these facilities have appropriate capabilities and skill sets geared towards addressing the hazards and risks that may arise from these operations in our facilities.

And that that same order also identifies how we would interact with key stakeholders and regulators, and it defines what that process would be.
So it -- that's it.

Q. To your knowledge, was a comment similar to this ever raised by the pueblo to the Department of Energy?

A. It was not, to my knowledge.

MR. DeROMA: Thank you.

Madam Hearing Officer, I have no further questions.

MS. ANDERSON: You know, I have a question for you.

EXAMINATION

BY MS. ANDERSON:

Q. Could you expand on this? Because I'm not familiar with the comment, and I'd have to read it. But essentially are they saying they want someone from the tribes or the pueblos to be part of the monitoring?

A. To be part of the environmental -- excuse me, the Emergency Operations Center.

Q. Okay. And you're saying they are -- your position is that they don't want that to happen because are there security clearances, or what's the issue?

A. No, our position is that members of the pueblo would not have and may not have the necessary skill sets and capabilities to adequately address the hazards from
our facilities and our operations; that there are other avenues in which we would engage them, and that's specified in the order.

They are a key stakeholder, because they share a member -- they share a boundary with the laboratory, so we would engage them on issues or concerns from emergency operations that would affect the pueblo.

Q. So as an example, if there was an accident, let's say a big accident, some of this water was released, what steps would you take to notify the surrounding community?

A. It would start with the Emergency Operations Center --

Q. Okay.

A. -- which would evaluate the hazard and the risk. And in determining that hazard and risk, we would make notifications to key stakeholders, like the New Mexico Environment Department and/or the pueblos, the county, possibly the state emergency response organization, the State EOC, to determine public risk, to communicate any risk or hazards or emergency response actions that should be taken.

Q. And is there a time frame?

A. For those notifications?

Q. Uh-huh. Yeah.
A. It's spelled out. It depends on the severity of the issue, but it's spelled out.

MS. ANDERSON: Thank you.

Thank you.

MR. DeROMA: Okay.

I have no follow-up on your questions.

MS. ANDERSON: Okay. Thank you.

MR. DeROMA: But I would point out that the specific comments are in Exhibit 5.

MS. ANDERSON: And I have to go back and read them.

I was just thinking in my mind there was the big spill in Northern New Mexico with the copper mine, and there was some real issues with notification for people downstream, and I know that that's kind of a sensitive topic in New Mexico, because I guess one person's version of what is an emergency versus this person living downstream might be different, you know.

MS. ARMIJO: Yes.

MS. ANDERSON: I guess it depends if you fish or what your background is, you know, you might want to know.

Yeah. Thank you.

MR. DeROMA: Thank you.

MR. LOVEJOY: If I may.
CROSS EXAMINATION

BY MR. LOVEJOY:

Q. Is there -- is there, in the structure of an Emergency Operations Center, as you understand it, a requirement for advanced consultation by community -- with communities who may be affected by future emergencies rather than -- as distinguished from contacts when the emergency has already arisen?

A. Mr. Lovejoy, I believe that the DOE Order identifies a planning and coordination requirement, where DOE and our facilities, our contractor, like LANS, would work with -- would work with agencies that either could potentially be affected and/or would perhaps provide some augmented support in the times of an event, to increase awareness, education.

I believe that our relationship with the pueblo, under a separate agreement, under a government-to-government relationship, that we would engage in those discussions.

I can tell you that, based on my interactions with the folks in my office, that it's my belief that the pueblo has never raised a concern.

Q. So if there were interactions, you don't know of them?

A. I don't have any direct knowledge, no.
MR. LOVEJOY: Okay.

Thank you.

MS. ANDERSON: Thank you.

Okay. I'm going to just stand again.

Any questions for this witness?

Go ahead, Joni.

MS. ARENDS: May I just take a moment?

MS. ANDERSON: Sure. Yeah. If you need to take a moment.

(Confers.)

CROSS EXAMINATION

BY MS. ARENDS:

Q. Ms. Armijo, I would like to raise the environmental justice issues with regard to the Emergency Operations Center.

MR. DeROMA: Madam Hearing Officer, with all due respect to the question, Ms. Armijo's testimony was specifically limited to those two comments regarding signage and the station -- involving a pueblo representative in the Emergency Operations Center.

I would propose that the discussion on environmental justice is beyond the scope of her direct testimony.

MS. ANDERSON: Well, do you have anybody here today who is going to talk about that?
MR. DeROMA: We do not have anyone planned to address this, no.

MS. ANDERSON: Okay.

MS. ARENDS: Could you repeat your question -- your comment, sir? I didn't hear you.

MR. DeROMA: So I explained to the Hearing Officer that I believe your question exceeds the scope of the direct testimony from this witness.

MS. ARENDS: The witness said that the fire -- the people that would be at the EOC did not have the skill set, and I wanted to raise the issue about the empty seats that are available in the EOC.

And having sat with the members of the Communities for Clean Water, from Honor Our Pueblo Existence and with Tewa Women United -- they are not here, but I feel that I need to address this issue.

Specifically, when we went on the tour of the EOC --

MR. DeROMA: Excuse me.

So, Madam Hearing Officer, we'll withdraw the question -- the objection to the questioning.

I have no objection to her pursuing this line of questioning.

MS. ANDERSON: Okay. Thank you.

And, Ms. Arends, before you go on, I just want
to clarify, I don't think New Mexico has a definition of what is environmental justice.

I know that the federal EPA has suggestions, which change with the political whims. So in terms of environmental justice, if you're focusing on a specific prong of environmental justice, it sounds like maybe notice and government-to-government communications, or whatever your goal is, could you emphasize which aspect you're talking about?

Because otherwise it's such a broad umbrella, I think people are going to be thinking different things. Okay?

MS. ARENDS: Okay. The New Mexico Environment Department has an environmental justice program/policy, as well as the environmental justice policy that was signed by Bill Richardson in 1998 --

MS. ANDERSON: So you're talking about state --

MS. ARENDS: -- when he was governor.

MS. ANDERSON: -- state environmental justice, not federal.


MS. ANDERSON: Okay. Thank you.

MS. ARENDS: I'm -- I'm just going to stop.
The pueblo women aren't here to address this issue about the skill set. And I would respectfully ask that there be an opportunity for them to communicate possibly in writing to you about their concerns about this issue.

MS. ANDERSON: Well, we may -- this hearing may, in fact, go on into tomorrow, and we may leave the record open for a week or so afterwards.

So if they wanted to submit some comments, we probably wouldn't oppose that.

But one thing, before we do that, are you hearing this witness to say that the people were not qualified, is that what you heard?

MS. ARENDS: That's what I heard.

MS. ANDERSON: Yeah, she -- she changed her answer. She actually said -- it's kind of far along in the record, but she was basically saying they have a policy and she distinguished whether or not people would be qualified to do that. She wasn't saying they were unqualified. She kind of changed her statement, basically, not meaningfully, but --

MS. ARENDS: Thank you for that clarification.

MS. ANDERSON: Yeah.

MS. ARENDS: My -- my main concern was that during the Cerro Grande Fire in May 2000, and during the
Las Conchas Fire in June 2011, that it was the hotshots from the pueblos that came up to fight the fire, and it just doesn't feel -- there is no justice that there is not a seat in the E-- there are not seats for the surrounding pueblo.

Thank you.

MS. ANDERSON: Well, I think you raised a good point, and I'm sure that's something the DOE could, you know, think about, because I think you have a policy on tribal, you know, consultation, correct, federally?

MR. DeROMA: Yes, Madam Hearing Officer, we have a policy on tribal consultation, which is driven by executive order; and we also -- with regard to the EOC, we follow DOE Order 151.1D, which is referenced in Ms. Armijo's formal testimony.

MS. ANDERSON: And I'm going to go back and read that.

And one of the things that I was thinking about, it also could potentially be a good opportunity, since we have a lot of people locally who maybe are curious and there certainly could be a pipeline there as well. But I understand it depends on the policy.

Do we have other questions for this witness?

I'm not seeing any.
All right. Thank you very much.

MS. ARMIJO: Thank you.

MS. ANDERSON: Oh, I'm sorry.

Go ahead.

MS. CONN: Good afternoon. I had one question -- or two questions, actually.

EXAMINATION

BY MS. CONN:

Q. There are other governmental entities that have seats at the EOC. Does the County of Santa Fe have a seat at the EOC?

A. I do not know that myself. I would have to follow up.

I know that under the DOE Order 151.1D Santa Fe County would be engaged as a key stakeholder as well.

Individuals that have seats within the LANL EOC are LANL badge holders. They are familiar with the operations and the facilities, with the hazards and risks that occur here.

It's a little different from like a county EOC, because we are a unique and complex industrial facility.

Q. My recollection from our tour was that there
was seats for other governmental agencies adjacent to Los Alamos that had seats, and that it was a glaring omission for those of us on the tour that the pueblos weren't included in those seats, and maybe it's following up on that, and maybe it's changed since then since that's been years ago, but I think that that's the crux of this -- the issue, that these are key stakeholders and appeared, at least from those of us on the tour, that there were seats for some of these other adjacent governmental entities but not for the pueblos. So that was -- that was where a lot of the concern was coming from in our comments.

A. So if I may, I believe that the -- the LANL EOC, DOE and LANS, that we have memorandums of agreement to create reciprocal services with Santa Fe County, Los Alamos County, the State of New Mexico, to provide support during a large-scale incident, and that may be where their seats are rooted in, for that sort of coordination and support during an incident.

It's not uncommon, under the National Incident Management System, the NIMS system, which typically creates the structure and organization for these types of emergency operations centers.

MS. CONN: Okay. Thank you.

MS. ANDERSON: Thank you.
MS. ARENDS: And I would just like to add that, Ms. Armijo, I know that you were not involved in the negotiations, and I know that you were not present on our tour.

So with all due respect, I asked those questions today.

Thank you.

MS. ARMIJO: Thank you.

MS. ANDERSON: Thank you.

MR. BUTZIER: Madam Hearing Officer, could we just let the reflect that just before that last question that it was Rachel Conn who was the questioner?

MS. ANDERSON: Yes. Yeah. Thank you. I don't see any other questions for this witness. So thank you.

MS. ARMIJO: Thank you.

MS. ANDERSON: John, are you guys going to present your case at this point?

MR. VERHEUL: We're ready, yes.

MS. ANDERSON: I don't want to steal your thunder, but we were thinking if you were going to present, this might be a good time for a break, a brief one, if anybody had to go to the bathroom, because if we're going to be here till six, we probably should take a break, and I'd rather do it now than interrupt you.
MR. VERHEUL: Sounds good.

MS. ANDERSON: Okay. Thank you.

(Recess held from 2:55 to 3:05 PM.)

MS. ANDERSON: Good afternoon. We're on the record in GWB 17-20(P), for permit.

Hello. Hello, happy social people.

We're on the record in GWB 17-20(P), for permit.

And we're going to start with the New Mexico Environment Department's case.

MR. VERHEUL: Good afternoon, Madam Hearing Officer. Again, my name is John Verheul. I'm the attorney for the New Mexico Environment Department.

I'll pause for a second if you'd like to swear in the witness.

MS. ANDERSON: Yes, please.

Thank you.

(Oath administered to Mr. Pullen.)

MS. ANDERSON: Thank you.

MR. VERHEUL: Madam Hearing Officer, Steve Pullen is our primary witness; however, we've also brought with us Dr. Pat Longmire, who did not file any direct testimony and does not intend to give any direct testimony.

We have -- in past hearings similar to this,
we've provided Dr. Longmire as an additional witness, typically to answer questions from the public, because of his expertise and his familiarity with this facility, and we typically have them sit as a panel for cross-examination.

Previously, counsel for CCW indicated that they were interested in cross-examining witnesses one by one, and I believe that is still counsel's preference.

MR. LOVEJOY: Yes.

MR. VERHEUL: However, the Department -- assuming that we're still here today, when the public is able to question our witnesses, Dr. Longmire is still here and can come up as a second panel witness.

MS. ANDERSON: Okay. So I think what we should probably do, then, is we'll do direct, CCW can cross. If Mr. Longmire wants to join as the panel, we can swear him in, and I'll check in before we add him to see if there is any other members of the public who want to make public comments or have questions.

I haven't seen anybody new on the sign-in sheets, but we'll double-check.

So is that okay with everyone?

MR. LOVEJOY: Yes.

MR. VERHEUL: That's great. Thank you, Madam
Hearing Officer.

   MS. ANDERSON: Thank you.
   Okay.

   MR. VERHEUL: The Department's first witness is Steve Pullen.

   STEPHEN PULLEN
   after having been first duly sworn or affirmed,
   was examined and testified as follows:

   DIRECT EXAMINATION

   BY MR. VERHEUL:

   Q. Good afternoon, Mr. Pullen.
   A. Good afternoon.

   Q. Please state your name.
   A. Steve Pullen.

   Q. What is your current employment position?
   A. I am the manager of the Pollution Prevention Program within the Ground Water Quality Bureau of the New Mexico Environment Department.

   Q. Would you please briefly describe your education and your experience?
   A. I earned a bachelor's of science degree in geology from the University of Texas at Austin in 1983. I have 30 years of experience working in the environmental field, with three years in the private sector and the remainder of my time working
regulatory oversight for the New Mexico Environment Department.

The majority of my approximately 27 years of experience with NMED was with the Hazardous Waste Bureau, where I worked as a permit writer and as manager of the compliance program.

Since late 2015, I've been employed with the Ground Water Quality Bureau.

With this Bureau, I started as a permit writer, processing permit applications and performing routine monitoring of complex industrial facilities. These facilities include Los Alamos National Laboratory.

With regard to LANL, I assumed the lead regulatory oversight role with the Bureau for the Radioactive Liquid Waste Treatment Facility and the chromium and RDX contaminant plumes approximately a year ago.

Approximately eight months ago, I was promoted to manager of one of the principal groundwater discharge permitting sections within the Bureau, with the Pollution Prevention Section. This section permits all discharges of groundwater, except mines and agricultural facilities in the state.

I consider myself to have a high level of expertise as an environmental permit writer, to be very
adept in evaluating environmental compliance, and to be a fairly good hydrogeologist.

My resume is Exhibit 2 of the Department's statement of intent to present technical testimony.

Q. And, Mr. Pullen, what is the purpose of your testimony today?

A. My purpose today is to present testimony regarding the United States Department of Energy and the Los Alamos National Security's application to discharge treated wastewaters associated with the Radioactive Liquid Waste Treatment Facility that might impact groundwater and the associated draft discharge permit allowing this discharge to happen in a safe and protective manner.

The latest draft of DP-1132 is marked as Exhibit -- NMED Exhibit 1. References to draft DP-1132 in my testimony refer to this version of the proposed permit.

Q. And, Mr. Pullen, what was your involvement in the permitting process for this particular discharge permit?

A. As program manager, I oversee the permitting process for all domestic and industrial discharges, including DP-1132.

Through a staff of 11 permitting specialists,
each application for discharge is evaluated, additional information is sometimes requested, and specific conditions are drafted and included in the permits which protect New Mexico's groundwater resources.

I review all draft discharge permits for consistency between permittees, applicability of the conditions, regulatory framework, and provide input on requirements and conditions set forth in the permit.

I have been directly involved in the permitting process with DOE/LANS on a number of other permits.

With regard to this draft permit, though I did not personally draft the conditions and I did not participate in many of the meetings between the applicants, interested parties and the Department in preparation for these conditions, I have reviewed all the conditions and found them to be appropriate.

Q. And did you prepare written testimony that explains in detail the permitting action in question today?

A. Yes. It was filed as NMED Exhibit 4.

Q. Do you have any revisions to any of your written testimony that you'd like to make now?

A. No, I do not.

Q. Do you adopt Exhibit 4 as your testimony under
oath here today?

A. Yes.

MR. VERHEUL: Madam Hearing Officer, at this time I'd like to move for the admission of NMED Exhibits 1, 2 and 4.

MR. BUTZIER: No objection.

MR. LOVEJOY: 1 is the DP-1132?

MR. VERHEUL: Yes.

MR. LOVEJOY: 2 is the resume?

MR. VERHEUL: Yes.

MR. LOVEJOY: And 4 is the testimony?

MR. VERHEUL: Yes.

MR. LOVEJOY: We don't have any objection.

MS. ANDERSON: Thank you.

MR. LOVEJOY: Subject to cross-examination.

MS. ANDERSON: Sure.

(NMED Exhibits 1, 2 and 4 admitted.)

Q. (BY MR. VERHEUL) Mr. Pullen, do you support issuance of DP-1132 in the form that was filed along with your written testimony as NMED Exhibit 1?

A. Yes.

Q. Can you elaborate on why this discharge permit is needed and how it is protective of groundwater?

A. This discharge permit is needed for the same reason all New Mexico's discharge permits are needed,
and these are basic and fairly intuitive.

First, to protect public health and the environment, to address statutory and regulatory requirements for discharge permits, to prescribe a regulatory scheme for the oversight and monitoring of operating a complex facility whose associated fluids may adversely affect groundwater, to provide the public with an opportunity to have a voice in an important and concerning environmental issue within the community.

But the main reason this permit is needed, and is the prime -- and its primary focus, is to minimize the potential for an adverse impact on groundwater.

The reason we need to finalize this draft discharge permit is to finally, after a very long time, bring this facility under Ground Water Quality Bureau oversight.

Q. And how is this discharge permit protective of groundwater?

A. Every condition of the permit, even though seemingly unrelated to groundwater protection, are included in the permit to protect groundwater.

The permit includes a number of detailed, sometimes unique and protective, conditions addressing administrative and engineering controls.

Administrative controls include frequent
inspections of the facility; detailed standard operating procedures; training requirements, including operator certification; emergency response capabilities 24/7; regulatory oversight and inspections.

Engineering controls include things like secondary containment for all piping and vessels managing liquids not treated to discharge levels; liquid level and liquid presence alarms and critical components of the system; the presence of two 60-mil synthetic liners, with leak detection and soil moisture monitoring of the solar evaporation tank; chemistry monitoring occurring throughout the facility, particularly monitoring the influent/effluent fluids; and finally a groundwater monitoring system.

Q. Briefly, Mr. Pullen -- briefly, Mr. Pullen, could you describe how the Department notified the public of this permit, as it was first applied for and then as it continued through the permitting process?

A. The Department ensured, and continues to ensure, public notice occurs at all regulatory-specified milestones in the permitting process.

The principal public notice milestones are three: the application submittal notice, which is referred to as the PN-1, or Public Notice 1 stage; the draft permit for public comment notice, otherwise known
as PN-2; and, finally, if things proceed to the level of a hearing, the hearing notice.

Each of these notification processes associated with the Radioactive Liquid Waste Treatment Facility took place in accordance with the rules at 20.6.2.3108 NMAC, and may have occurred multiple times due to changing circumstances, such as the 2007 decision to add the solar evaporation tank, resulting in a significant changed discharge permit.

The public notice timeline with this permit includes DP-1132 PN-1 occurring two times, in association with the first application submitted in November of 1996 and then again in March of 2012; PN-2, this is the notice of -- for public comment and a hearing for DP-1132 occurred six times, primarily to provide the public with the opportunity to review a draft discharge permit revised because of the concerns and comments received during the previous public comment period. DP-1132 PN-2 occurred in August of 2003, in April of 2005, in August of 2013, in November of 2013, May 2017, and March -- and the final on March 9th of 2018.

Q. And, Mr. Pullen, just to clarify, you said PN-2 was for comment and hearing. You meant if there were requests for a hearing --
A. That's correct.

Q. -- is that correct?

A. That's correct.

In fact, the Department's hearing notices occurred three times in the late 2017s and early 2018.

In December of 2018, in January of 2018, and finally in March of this year, these changes were necessary due to changes in the hearing date and location of this hearing.

The March 9th, 2018, hearing notice is marked as NMED Exhibit 5.

Q. And, Mr. Pullen, you said "December of 2018," I think you mean December 2017. Is that right?

A. That's correct.

Q. Okay. Do you want --

A. I have a little more to say regarding public notice.

It occurred in various forms. These include at a minimum newspaper ads, mail-outs and e-mails to interested parties, and posting of the notice on the Bureau's web page.

During this permitting process, the Department held multiple listening sessions and meetings with stakeholders. A more complete description of the public notification process associated with this draft permit
is presented in my written testimony.

Q. And is there anything else you'd like to add with respect to this discharge permit?

A. Yes, there is.

I'd just like to list some of the aspects of this discharge permit and the Radioactive Liquid Waste Treatment Facility that I consider, in my experience, significantly unique.

I provide this list to mention some of the factors contributing to the lengthy permitting process, but primarily to provide our audience with some in-depth regulatory perspective on the facility and the permitting process.

So these unique aspects include, as we're all aware, the Radioactive Liquid Waste Treatment Facility and its function at LANL are very unique.

The facility has many complex water -- wastewater treatment systems, including things like chemical neutralization, chemical separators, gravity filters, pressure filters, rotary vacuum filters, primary and secondary reverse osmosis systems and ion exchange systems.

I generally see two of these type systems associated with any particular wastewater treatment facility.
Another unique aspect is the facility's influent secondary containment system. I've never seen such a robust secondary containment system at any facility I've ever regulated.

Another unique aspect includes the three different discharge mechanisms or ways that liquid can be discharged. I might occasionally see discharge going two different directions, but that's fairly unique, too.

A mechanical evaporator as a discharge mechanism, I've never seen one of these.

A passive solar evaporative system that is very highly engineered, I've never seen an evaporation performed in a tank, though we occasionally see earthen impoundments with double liners.

I seldom encounter leak detection systems for evaporative ponds, and I've never encountered an associated soil moisture monitoring system.

Finally, I don't think that I've ever seen a discharge permit, or any permit -- any kind of permit, take more than 20 years to get issued.

Finally, regarding groundwater at Los Alamos National Laboratory, I've seen no facility in New Mexico where the Department has dedicated as many resources, in the form of FTEs, to perform groundwater investigation
and remediation oversight.

There are currently three bureaus with significant LANL groundwater involvement. Those include the Hazardous Waste Bureau, the DOE Oversight Bureau, and the Ground Water Quality Bureau.

I am confident that between the efforts of the applicants and the Department, groundwater is continuously being better understood at LANL, groundwater is certainly not being as contaminated at such a gross scale as it was in the past; and as discharges diminish and remediation efforts increase, there is evidence, particularly in the alluvial zones, that existing groundwater quality is slowly improving at the laboratory.

I hope this improvement continues and propagates to the regional aquifer.

And that is what I consider unique.

MR. VERHEUL: Thank you.

The Department has no further questions on direct and presents this witness for cross-examination.

MS. ANDERSON: I have a couple of questions.

EXAMINATION

BY MS. ANDERSON:

Q. And some of these questions, you may not be the appropriate person to answer them, and I maybe
should have directed them at Mr. Beers.

But I want to know about the wall or the barrier in the evaporation tanks. What is that made of, and how long does it last?

A. The solar evaporation tank, it's considered a single tank, is constructed of concrete, which as my -- my verbal testimony just stated is rather unique. Normally, these are earthen impoundments. So it's concrete. I believe it's ten-inch thick walls and an eight-inch thick floor.

Q. Okay.

A. Atop the concrete structure are two synthetic liners. These are poly -- some kind of poly liner, and I understand the permit requires that these liners be of a special, extraordinary thickness. This is a 60-mil liner for each of these.

And there is other very interesting engineering controls associated with this evaporative tank.

Q. Thank you.

And that was my first question.

My second question is, they are talking about the -- they are calling it SET, which is the environment -- the evaporation tank, the large one with the concrete, and then they had the images of the little
tanks -- or they are not little, they are gigantic, but
big tanks --

A. Uh-huh.

Q. -- and then the discharge to the canyon or the pipe.

So the way this is set up, the way I was reading the permit, and I'm not a permitting person and that's why I'm asking you -- and this is some permit, I have to say.

Is there a preference? Because one of the things that I was understanding is the idea behind the permit is that if they have to do maintenance or reroute things that they would maybe move over to another system.

So is it a tiered system?

A. The permit does not dictate any kind of a preference.

Q. Okay. All right. Okay.

A. And let me clarify one thing.

The photograph of Mr. -- and in Mr. Beers' testimony showing a series of tanks, those were not part of the -- one of the discharge options.

Q. Okay.

A. Those are holding tanks for influent, should there be an emergency.
Q. Okay.
A. The other discharge option is the mechanical evaporator.

Q. Okay. So, for example, if there was an accident, or let's say they had to replace the liner on the evaporative cooling, they would probably want to reroute the system.

Are they doing it in a pipe system as well?
A. If I understand your question, if there was an emergency and they had to reroute -- they certainly have a very highly engineered plumbing system.

Q. Okay.
A. They can reroute discharges to any one of the three options.

Q. Uh-huh.
A. I -- and they have a considerable holding capacity. So I think they have a lot of options.

Q. Okay. So it's more -- is it more about flexibility or -- the reason I'm asking about the tiers is it -- it's sounding like which method is best, because the permit doesn't say how -- like you're saying, the permit allows them to decide.

So there is no monitoring of which preference?
A. The permit dictates no preference.
Q. Okay. And is that because of this specific
permit and this facility and the level of all of the steps?

A. Well, let me explain that though there hasn't been a discharge to Outfall 051 for a long time, the principal discharge point since 2010 has been the mechanical evaporator.

Q. Okay.

A. The solar evaporation tanks have not been utilized because they are not grandfathered in.

Q. Okay.

A. The -- the outfall and the mechanical evaporator are grandfathered in, and they are allowed to use those without having to receive the discharge permit to date.

MS. ANDERSON: Thank you. That answers my question.

Thank you very much.

MR. PULLEN: Uh-huh.

MS. ANDERSON: I'm sorry.

Cross?

MR. BUTZIER: No questions.

CROSS EXAMINATION

BY MR. LOVEJOY:

Q. Mr. Pullen, what do you mean by "grandfathered in"?
A. Mr. Lovejoy, as I understand it, if the facilities were in operation prior to the effective date of the regulations, they are -- they are authorized to operate.

Q. And what was the effective date?
A. Of the regulations?
Q. The ones you've just referred to.
A. I'm not certain.

I believe a discharge permit application was submitted in the 1980s. That was even prior to the effective date of the rules.

I believe the groundwater protection rules came into effect in the 1990s. I couldn't tell you exactly when.

Q. Now, I couldn't help but notice that you were reading from some material in front of you.

What is that?
A. I have a binder here of a number of different things.

I was reading what I had titled my oral testimony.

Q. Who prepared that?
A. I did.
Q. Alone?
A. There was a little bit of oversight.
Q. And who was overseeing?
A. My counsel and my management.

Q. Okay. When you came to the Ground Water Quality Bureau in 2015, did you study the Water Quality Act and the regulations under the Water Quality Act to become familiar with the provisions that would govern your tasks?
A. As anybody new to the Bureau would do, you — you are initially assigned projects and you learn the rules and regulations as -- as you explore the particular issues at hand.

Q. Do you think you -- sorry, were you done?
A. Yes.

Q. Do you think you became familiar with the length and depth of the regulations and the statute?
A. I'm still becoming familiar with the length and depth of the regulations and -- and even more so with the statute.

Q. But you do have, as you say, expertise as an environmental permit writer; is that right?
A. That's correct.

Q. Now, you did not -- you were not the only NMED individual working on this permit, correct?
A. Correct.

Q. You were in a -- in effect, an oversight
capacity yourself. Is that true?

A. Initially, when I started with the Bureau in 2015, I was working with a group of permit writers on LANL permits, including this particular one.

It wasn't until approximately eight months ago that I was in an oversight role for the -- for the program. But I retained the principal permit oversight role for this permit.

Q. And who was working under you, so to speak, on this permit?

A. Since I took responsibility -- responsibility for program management, nobody. It's been me alone.

Q. And you said you examined all of the conditions and provisions of this permit and determined that they were appropriate. Correct?

A. Correct.

Q. Okay. There was reference to the SETs, the solar evaporation tanks.

Do you know why they are called "tanks"?

A. It's my understanding they are called tanks because, in contrast to an impoundment, they are constructed of engineered materials and principally because they can stand-alone. They -- this tank, if it was not set in the ground, it could set atop a parking lot and -- and function properly.
Q. How do you know that?
A. I don't know that. I believe that the engineering, the size of the tanks, the size of the con-- or the thickness of the concrete walls, would be sufficient to be structurally supportive.

Q. Well, did you do any math or study these --
A. No.

Q. -- tanks or this tank?
A. No.

Q. Okay. Have you ever heard it said that the SET facility is called tanks so that it would be eligible for the wastewater treatment unit exemption?
A. No, I've never heard that.

Q. Okay. You are aware that the lab invokes the wastewater treatment unit exemption, are you not?
A. Yes.

Q. Okay. Do you have your full-length testimony -- I think it's Exhibit 4 -- in front of you?
A. I do.

Q. I'm looking at the bottom of page two and the text going over to the top of page three.

You state, on page two, that "A discharge permit is required for the RLWTF because; 1) the Applicants are discharging effluent in a manner such that the effluent may move directly or indirectly into
groundwater within the meaning of 20.6.2.3104 NMAC."

That's what you say. Am I correct?

A. That's correct.

Q. And you say, after that, that "2) the
discharge is such that effluent may move into
groundwater of the State of New Mexico which has an
existing total dissolved solids (TDS) concentration of
less than 10,000 milligrams per liter within the meaning
of 20.6.2.3101.A NMAC."

Correct?

A. Correct.

Q. And you say, going over to page three, that
"The discharge is into or within a place of withdrawal
of groundwater for present or reasonably foreseeable
future use within the meaning of the Water Quality Act,"
citing 74-6-5.E.3 and 20.6.2.3103 NMAC.

Correct?

A. Correct.

Q. And in addition, the draft permit, which is --
what is it, Exhibit 1 now? -- at page nine -- I'm just
going to check -- under Roman numeral IV, recites
essentially the same matters; is that true?

A. That's correct.

Q. Did you write that part?

A. If you're referring to the permit language --
Q. Yes.
A. -- no, sir.
Q. Yes, I am.
A. No, sir. I did not write that.
Q. Who did?
A. My predecessor.
Q. Who was that?
A. Oh, it's been a number of people.
I'm not sure exactly who wrote this, but this permit has been in the making for at least ten years, and this is standard language that comes -- or is found in most of our permits, and it could have been -- I could name the individuals, if you'd like.
Q. Well, if you know who wrote it, yes, that would be the answer.
A. I don't -- I don't know exactly who wrote this. No.
Q. Okay. But you went through each segment and each section of this permit to determine that it was appropriate for inclusion in the permit; true?
A. That's correct.
Q. What did you do with respect to the paragraphs that I've mentioned?
A. I -- the paragraphs in the permit you've mentioned at Section IV are "Findings," as we refer to
them in all of our permits, and I made sure they were applicable to the RLWTF, that they were consistent with our other permit language and appropriate for this facility.

Q. What did you do to make sure that they are applicable?

A. I made sure that there was actually a discharge of effluent or leachate from the facility; that they are discharging effluent or leachate to an area that might impact a groundwater that has less than 10,000 milligrams per liter TDS; that they are discharging within a -- to an aquifer that is a place of withdrawal for present or reasonably foreseeable future use; and I evaluated the language regarding -- well, you didn't ask about the last one, so --

Q. And where did you find that discharges were taking place?

A. I find that discharges are currently taking place to the mechanical evaporation system, and that they have in the past occurred to Outfall 051.

Q. The paragraphs that I referred to speak in the present tense, though, don't they?

A. I'm sorry, we're bouncing back and forth between my testimony and the permit.

You're referring still about the permit
language?

Q. Yes. Now.

A. Well, if and when this permit goes into effect, then it -- it will be possible that those discharges will be going to all the different discharge options, and it will be in the present tense.

Q. You say "it will be possible." Why do you say that it's possible?

A. I'm sorry?

Q. Well, let me strike that.

When you say it's possible that there will be discharges at the time the permit goes into effect, are you saying that just in the sense that, well, really anything is possible?

A. Yeah, anything is possible.

But it will be permitted and the applicant, or the permittees at the time, will be allowed to discharge to any one of these three options.

Q. Have you seen quarterly reports about the operations of the RLWTF?

A. I've seen copies on the shelves.

Q. Okay. And is it true that since November 2010 there have been no discharges?

A. To my understanding, that's correct.

Q. Okay.
MR. BUTZIER: Madam Hearing Officer, may I just make a clarification?

He was asking specifically --

MR. LOVEJOY: I object to the --

MR. BUTZIER: -- about 51, correct?

MR. LOVEJOY: I object to him coaching the witness.

MR. BUTZIER: If I could finish making my objection, sir.

MR. LOVEJOY: Was that an objection?

MR. BUTZIER: Yes, that's what I said it was.

Madam Hearing Officer, we need to -- we need to be clear, when he's talking about no discharges, whether he's talking about -- it may have been implied that he was talking about a particular discharge location, but it wasn't entirely clear.

That's my objection.

MS. ANDERSON: I'm sorry. When you were starting to speak, were you talking about 051?

I didn't hear you, Mr. Butzier.

MR. BUTZIER: Okay. It was not clear to me --

MS. ANDERSON: Okay.

MR. BUTZIER: -- from -- from the question, although it flowed from earlier questions, that he was talking about Outfall 51.
MS. ANDERSON: Okay.

MR. BUTZIER: And I just wanted to make sure that it was clear whether that's the case or whether he was talking about there were no discharges, period.

MS. ANDERSON: Mr. Lovejoy, I think that's fair.

I don't -- if you're talking about something within versus something else, I didn't get that, either. So --

MR. LOVEJOY: I believe the question was in terms of discharges.

MS. ANDERSON: But when you say "discharge," you're implying it can happen in one of many ways; right?

MR. LOVEJOY: Actually, I would not agree with that --

MS. ANDERSON: Okay.

MR. LOVEJOY: -- in the case of this facility, Your Honor.

MS. ANDERSON: Okay. I understand what you're saying. So there is a -- there is a difference in discharge.

So I think that is reasonable.

I don't know that it was clear for the record, so, Mr. Pullen, if you want to clarify what you were
discussing specifically.

MR. PULLEN: If I could get the question repeated, please.

MR. LOVEJOY: I would not ask the reporter to do that.

Let me see if I could clear it up going step by step.

MS. ANDERSON: Thank you.

Q. (BY MR. LOVEJOY) Your testimony says -- now I'm looking at page five, right about in the middle, it says "No discharges have occurred at the Outfall since 2010."

Is that a fact?

A. I believe that to be accurate.

Q. Okay. So the discharges, which you refer to in the three paragraphs we went over a couple minutes ago, which speak in the present tense, those discharges are not discharges from Outfall 051; true?

A. This permit is a draft permit meant to go into effect, and the language will be in the present tense when -- whenever a discharge occurs.

With regards to Outfall 051, if a discharge goes to that outfall, these three paragraphs will be accurate.

Q. But it hasn't been true since 2010, has it?
A. That would be correct.

Q. And you note also on page five that the SET is not yet in service, and that is true today, is it not?

A. That's correct.

Q. Okay. So discharges into the SET are not the discharges you are referring to in the passages I quoted which are in the present tense?

A. I repeat, the permit language is meant to go into effect in the future, and any discharges that happen in the future, the present-tense language will be accurate.

Q. Let me take you up on that for a moment, Mr. Pullen.

If this permit goes into effect, and that's another issue, but when and if it goes into effect, if the SETs have not been authorized prior to that, and are only authorized at the -- at that time, it will not be true that the discharges are being made to the SETs; will it?

A. I'm sorry, I'm not following you, Mr. Lovejoy.

The permittees, once this permit goes into effect, will have the option to discharge to the SET, at which point this present-tense language will be accurate.
Q. But it isn't now?
A. It's not now.

Q. Okay. Your testimony, again on page five of the direct testimony, notes that the MES disposes of radioactive liquid waste, that's RLW; correct?
A. Can you tell me which line in my testimony this is on?
Q. Four lines down.

The sentence starts "The MES is co-located with the RLWTF and disposes of RLW treated effluent by mechanical evaporation."

Is that correct?
A. That's correct.

Q. Okay. Can you just describe how the MES works?
A. As I understand it, and I've seen it once, it's a gas-fired -- essentially a boiler, in which treated effluent from all the treated -- treatment activities that happen at the RLWTF, this effluent goes through the treatment process, meets the effluent treatment standards specified in this permit, and goes to this gas-fired boiler for evaporation.

Q. And the gas-fired evaporator, again reading from page five of your testimony, has been the sole disposal method for the RLWTF for approximately seven
years.

Is that a fact?

A. It's my understanding.

Q. Now, the regulations state -- and I will certainly make them available to you if you wish to take a look.

A. I have some.

Q. You could look at 20.6.2.7.R and Z.

The regulations state that a discharge plan consists of, quoting, "conditions for any discharge of effluent or leachate which may move directly or indirectly into groundwater," unquote.

Is that what the rule says?

A. That's correct.

Q. And the regulations define groundwater as "interstitial water which occurs in saturated earth material and which is capable of entering a well in sufficient amounts to be utilized as a water supply," unquote.

Is that what it says?

A. That's correct.

Q. Now, effluent directed to the MES enters a closed system of tanks and pipes, doesn't it?

A. That's correct.

Q. And when the MES is operating normally,
effluent introduced into the MES does not touch the ground; does it?

A. That's correct.

Q. Effluent pumped into the MES, when it's operating normally, is evaporated and escapes in the vapor phase; is that not right?

A. That's correct.

Q. So does the pumping of effluent into pipes and tanks in the MES constitute a discharge of effluent or leachate which may move directly or indirectly into groundwater?

A. I think the key word in that definition is the word "may," "may move."

The potential for any of this effluent to move to groundwater is the reason we permit the mechanical evaporator.

Q. And is the same the case with the solar evaporation tanks?

A. That's correct.

Q. Okay. So am I correct that the pumping of effluent to the MES and its evaporation, under normal operation, is not a discharge you're referring to in the passages I quoted?

A. We consider that to be a discharge that may move to groundwater, has the potential to move to
groundwater. So it is a discharge.

Q. Was that true of anytime I put the teakettle on and get steam?

A. I suppose if your teakettle has got a hole in it and it goes then down the drain into your septic tank. I don't know about your teakettle.

Q. But you seem confident that the MES, which makes steam, does send effluent to groundwater.

A. No. I am confident that it will not, because this permit exists to ensure that there are controls in place that it does not. Or the permit will exist.

Q. Well, a moment ago you said that the escape of steam is the basis for regulating the MES.

A. No --

MR. VERHEUL: Object --

MR. PULLEN: -- I don't believe I said that.

Q. (BY MR. LOVEJOY) Well --

A. I believe it is a transfer of water from a treatment system to some sort of a discharge point, be it evaporation or to an outfall. We consider that an actual -- or some sort of a discharge that may cause effluent to migrate to groundwater.

Q. When you say "may," you're just saying that it's not impossible; is that right?

A. That's right.
Q. Looking again at page five, you say that "Los Alamos National Lab retained Outfall 051 as an option to dispose of effluent."

That means that it may or may not be used at the lab's determination, is that correct?

A. Can you point me again to the line?

Q. I'll have to find it.

It's just a little below the middle of the page, "The applicants maintain the NPDES permit as a discharge option."

And is that the same as their --

MR. VERHEUL: If counsel could refer to a line number, that would be appreciated.

MR. LOVEJOY: Let's see.

14 and 15.

MR. VERHEUL: Thank you.

MR. PULLEN: I'm sorry, Mr. Lovejoy. Can you repeat the question?

Q. (BY MR. LOVEJOY) Do the applicants regard Outfall 051 as one discharge option?

MR. VERHEUL: Objection. Asking the witness to speculate as to the intention of the applicant.

MR. LOVEJOY: I think the applicant -- I think
the permit author has been close enough to this project
to know that.

MS. ANDERSON: I'm going to allow it, if you
know. Yep.

MR. PULLEN: I do believe the applicants
believe that discharging to 051 is an option.

Q. (BY MR. LOVEJOY) And have you been given to
understand that the lab, LANL, plan to discharge through
Outfall 051 when the needs of maintenance or possible
malfunction or changes in mission put other treatment
systems out of use?

A. I can conceive of the possibility.

I'm almost certain that, as was described
earlier today, during the testing of the effluent line
to 051, there will most certainly be a discharge to that
outfall.

Q. In the circumstances you've just described,
would that testing be done with contaminated water?

A. I don't believe so.

Q. And other than that, is Outfall 051 an option
that the lab would use only in certain conditions using
this permit?

A. Yes. Yes.

Q. So as far as this permit is concerned, I think
somebody has said that the discharge from Outfall 051 is
only a potential discharge.

Is that true?

A. I believe all of the discharge options are potential, and the permit will give the applicant the option to use any of them.

(Confers.)

Q. The Water Quality Act, when it gives authority to issue permits, refers to a permit for the discharge of any water contaminant, doesn't it?

A. I was following this line of questioning this morning, and I recognize that the statute says that.

Q. It doesn't authorize the agency to permit a potential discharge, does it?

A. It does not use the word "potential."

Q. Okay. Now, your prefiled direct testimony discusses at length provisions of DP-1132, such as operational terms, monitoring, closure and other aspects.

When would the permit come into effect if the Department approves it?

A. It will come into effect the moment my boss signs the permit.

Q. Okay. You say it will be an enforceable document at that point?

A. That's correct.
Q. Does DP-1132 specify how the date will be determined, the effective date?

A. No. It's a function of this hearing process and a lot of other factors.

But, no, it does not specify when the permit will go into effect, or when my boss will sign this.

Q. I'm looking at page 50 of 50 of DP-1132. Would you look at that?

A. Okay. I see it.

Q. It says "Effective Date" -- it's a little obscure to me -- it says, "Effective Date: [effective date]." And then it says, "Term Ends: [expiration date]."

Are those places for dates to be entered?

A. That's correct.

Q. Okay. Then it refers to 20.6.2.3109.H NMAC, and then it refers to the statute, NMSA 1978 74-6-5.I.

Are those the regulation and the statute that govern the effective date?

A. I presume.

I would have to go back and revisit those rules and statute.

Q. Do you have the statute there?

A. Yes, sir.

Q. Would you look at 74-6-5.I?
MR. BUTZIER: Madam Hearing Officer, I just would point out that it's 74-6-5.K in the document that counsel is referring to.

MS. ANDERSON: Thank you.

MR. LOVEJOY: Well, that's interesting, too -- that is also interesting, but I am actually this time talking about 74-6-5.I, which is the statute referred to in the draft permit.

MR. PULLEN: Could you repeat the question, please?

Q. (BY MR. LOVEJOY) I think I just asked you to refer to that, and I will. And based on that, can you tell when this permit -- the term of the permit shall commence?

A. The statute says "The term of the permit shall commence on the date the discharge begins," and then goes on to talk about not exceeding a specific length of time.

Q. Okay. And do you know what date that will be?

A. I believe discharge is occurring today; and, therefore, upon signature of this permit, it will go into effect on that day.

Q. Where is discharge occurring today?

A. Discharge is occurring to the mechanical...
Q. And going -- and you're talking about the steam going up into the air?
A. Again, it's the potential for impact to groundwater. It's that discharge that we're concerned with concerning this permit.

Q. I'm looking at 20.6.2.7 NMAC, Subparagraph R. Do you have that?
A. Yes, sir.

Q. It says, "'Discharge plan' means a description of any operational, monitoring, contingency, and closure requirements and conditions for any discharge of effluent or leachate which may move directly or indirectly into groundwater."
A. Yes, sir.

Q. All right. Are you saying that the steam coming out of the MES is a discharge of effluent or leachate which may move directly or indirectly into groundwater?
A. No, sir.

Q. But that's what's going on, it's an escape of steam at the present?
A. That's not what we're concerned about.

We're concerned about wastewater transferring between the treatment units and the mechanical evaporating system.
evaporator that may move directly or indirectly into groundwater.

Q. Wastewater, you said, transferring between treatment units?

A. Between the treatment unit and the discharge unit.

Q. Okay.

A. That may escape that piping system, a break in the pipe, that could drip for some period of time and migrate to groundwater.

Q. Are you aware of any such leak occurring now?

A. At the -- at -- associated with the Radioactive Liquid Waste Treatment Facility?

Q. Yes.

A. No, sir.

Q. There is a reference in 20.6.2.3109.H of the regulations to the discharger giving prior written notification to the Department of the date the discharge is to commence.

Do you want to take a look for that?

A. I believe what you're referring to is at Section 3109.H(4). Is that correct?

Q. I'm just going to make sure.

A. It's in H(4).

Q. I'm sorry, was there an outstanding question?
Q. Well, you have the passage.
A. Yes.

Q. Has there been any such notification, as is referred to?
A. Yes.

Q. When was that given?
A. I believe I witnessed a notice of intent provided as an exhibit by you this morning. I believe it was dated 2007, and that notice of intent discusses a discharge that could happen.

Q. The text of the rule is notification to the Department of the date the discharge is to commence. Have you received that kind of notification?
A. No.

Q. Okay. In this connection, if the Department were to issue a discharge permit for a facility, such as this one, which is -- you may assume for this question -- that is not discharging, when would it become effective?

MR. VERHEUL: Objection. The witness has already stated that this facility is discharging.

MR. LOVEJOY: He's an expert. I've given him a hypothetical.

MS. ANDERSON: Well, I do believe he did...
answer that, though. He did.

You asked the same question in a different way, and he answered it previously. He did.

MR. LOVEJOY: All right.

Q. (BY MR. LOVEJOY) Well, prior -- is it true that prior to the discharge, the permit would not be in effect?

A. If it was a hypothetical, a facility was yet to be constructed, and we issue a discharge permit for that facility, that discharge permit would go into effect the moment it is signed, regardless of when the discharge actually occurs.

That's the way -- that's the way we think of it within our program. And we will terminate that permit five years hence.

There are circumstances, I believe, where we have allowed -- signed discharge permits that allow the discharge to commence some years later, and we would say the expiration of that permit would expire five years after that initial discharge.

MR. LOVEJOY: That's all I have, Your Honor.

MS. ANDERSON: Thank you very much.

I don't -- was there going to be any redirect?

And then I was going to open it up to the public.

MR. VERHEUL: I don't have any redirect
questions for this witness.

    MS. ANDERSON: Okay.

    MR. BUTZIER: No further questions.

    MS. ANDERSON: No, okay.

    Sorry, I have to stand up so I can see everyone.

    Does anybody wish to cross-examine this witness?

    I'm going to put my glasses on so I can see. I'm nearsighted.

    I don't see anybody.

    Thank you very much.

    At this time, let me just ask the parties -- Mr. Verheul, do you have other witnesses?

    MR. VERHEUL: No, Madam Hearing Officer.

    We had previously indicated that Dr. Longmire would be available for any panel questions from the public, but seeing none, the Department has no further witnesses.

    MS. ANDERSON: Let me just open that up in case anybody missed it.

    So Mr. Longmire is a scientist, he works for New Mexico Environment Department. He came along today to answer any questions primarily from the public or anyone else.
So does anybody have some nitty-gritty scientific questions that he could answer? Because he's been very patient today waiting in the wings.

I'm not seeing anybody wishing to question him, so if he wants to -- you have my permission to leave if nobody, you know, has questions.

Thank you.

So for the attorneys, has everyone presented their cases now?

MR. BUTZIER: We have, Madam Hearing Officer.

MS. ANDERSON: Okay.

MR. VERHEUL: The Environment Department has, yes.

MS. ANDERSON: Okay. And --

MR. LOVEJOY: We have no witnesses.

MS. ANDERSON: Okay. So at this point -- I know you all waived your opening statements -- and, Pam, I'm just not sure what the time is now. I think it's about 4:30.

MS. CASTANEDA: 4:10.

MS. ANDERSON: Oh, it's 4:10.

Does a ten-minute summary sound long enough?

I'm seeing a nod from the Environment.

MR. BUTZIER: Madam Hearing Officer, I don't -- I don't see a necessity to do that --
MS. ANDERSON: Okay.

MR. BUTZIER: -- if we're going to have post-hearing submissions, which I assume is something you intend to ask for under the regulations.

MS. ANDERSON: That's true.

MR. BUTZIER: I mean, I'm happy to, you know, spend some more time talking about this, but I don't see that it personally is necessary.

MS. ANDERSON: Okay.

CCW?

MR. LOVEJOY: Are you planning on requesting proposed findings of fact and conclusions of law?

MS. ANDERSON: Yes, I definitely am going to, but because it's a hearing, I know sometimes people like to do a brief summary because it's -- but if you don't feel it's necessary, I certainly won't twist your arm.

MR. LOVEJOY: Thank you.

I think probably we'll do better if we do it in writing, and I'm just wondering when we may have a transcript.

MS. ANDERSON: Okay. The last question.

Did you want to do any summary?

MR. DeROMA: No, Madam Hearing Officer. Thank you.

MS. ANDERSON: Have I forgotten anybody?
I don't think so.
So in terms of a transcript, I'm going to ask Kathy. Kathy? No pressure.

MS. TOWNSEND: Ten days, ten business days.

MS. ANDERSON: It normally is ten days, and she has her business card here if you want to go ahead to get it to get a transcript.

MR. LOVEJOY: Yeah. Okay.

MS. ANDERSON: All right.

So with that, Pam, did we check -- I don't believe anyone else has signed in for public comment at this point. We keep popping in and out.

So any last-minute public comment?

We'll normally stay a little bit after five, but if there is nobody here that wishes to give public comment at this point, I don't think anyone will cry any salty tears if we conclude the hearing a little bit earlier.

So I'm not seeing anybody who wishes to make public comment.

Did you -- did you have something, Mr. Lovejoy?

MR. LOVEJOY: I'm going to put it in writing, Your Honor.

MS. ANDERSON: Okay. Sure. All right.
So what we're going to do is we're going to have findings of fact and conclusions of law. We'll wait for the transcript to come out, which will be a triggering point, and you can submit those.

The only other issue that was brought up on the record, and you could convey that -- or, Joni, you're still here -- is if the people from the pueblo want to submit any public comment.

In terms of keeping the record open, today is Thursday. How about next Friday for them to submit those letters, or whatever they'd like to submit?

And then in terms of findings of fact -- I've forgotten what the rule is. Is it 20 or 30?

MR. BUTZIER: I think it's 30.

MR. VERHEUL: I believe it's 30, Madam Hearing Officer.

MS. ANDERSON: Okay.

MR. VERHEUL: And I would ask for the full 30, given that, as you know, I plan to be out for a couple of weeks starting next week.

MS. ANDERSON: Very fun. Well, in that case, three days. No, just -- just teasing. That was a joke -- I'm sorry, a Hearing Officer joke.

Yeah, let's -- bad joke, apparently.

Let's do the full 30. And I'm not sure if the
rule states when my Hearing Officer report needs to be

done.

MR. BUTZIER: It does.

MS. ANDERSON: Is it a 30?

MR. VERHEUL: I believe it's another 30.

MS. ANDERSON: Okay. So, yeah, then we'll do

that, too.

And so what happens in terms of post-hearing

submissions -- and I'm sorry I'm asking, but each
department has a different set of guidelines for when
reports need to get filed.

Once the parties submit their findings of
facts and conclusions of law, then what I will do is
take the transcript, review the transcript, review the
hearing notes, review all the findings, come up with a
report.

And then at that point the report will get
filed with Pam Castaneda. All of you who are on the
notification and hearing list, you will get an e-mail,
it will be served upon you.

In terms of public notification of this, this

is an Office of the Secretary case, right?

MS. CASTANEDA: Correct.

MS. ANDERSON: Yeah, so that isn't necessarily
going to be on our website. So if people did want
copies of the Hearing Officer report, that's something that would need to be IPRA'd.

But then once I'm done with my part, I hand that over to the Secretary of the Environment, and he reviews it, and he has -- I don't believe the rule states how long he has, it's really at his discretion how long he wants to review it.

And then basically whatever recommendation that I have, it can be upheld, not upheld, portions can be taken. So I'm not the ultimate decider here. That's going to go to the Secretary.

So if the Secretary determines -- he sometimes will ask for additional public comments on the Hearing Officer's report, and there is a process that falls under the rule for that as well.

So once I've filed my report, the parties will be able to file objections to the report, and then they are also able sometimes to request oral argument. That's less common, and that is at the discretion of the Secretary.

So essentially the triggering point is Kathy's transcript. The attorneys will have 30 days from the transcript to file their findings of facts and conclusions of law.

If it would be helpful for the parties, after
the hearing I can issue a post-hearing order just to
clarify when everything will be due, so then there will
be no dispute amongst the parties.

We're going to keep the record open until next
Friday in order for the pueblo to file their public
comments. And then I have 30 days from the triggering
date to do my report. That will be filed and
distributed. And then that will go over to the
Secretary.

I don't tell the Secretary what to do. He can
take as much time as he wants, or as little time as he
wants, and then if he requests post-submission briefs or
oral argument, that will all be in an order form, it
will be on the record, and you'll definitely know about
it. And that's less usual.

Mr. Lovejoy?

MR. LOVEJOY: Your Honor, not wishing to make
difficulties --

MS. ANDERSON: Yeah.

MR. LOVEJOY: -- but the 20.6.2. -- I think --
yeah, 3110, provides that the Secretary shall issue a
decision in the matter no later than 30 days of receipt
of the hearing report.

MS. ANDERSON: Okay.

MR. LOVEJOY: So he's on the schedule, too.
MS. ANDERSON: Okay.

MR. LOVEJOY: But I just wish to note that I think all the parties will wish to comment on your report --

MS. ANDERSON: Uh-huh.

MR. LOVEJOY: -- for the Secretary's benefit one way or another.

MS. ANDERSON: Yes. And there definitely will be a process in there.

MR. LOVEJOY: Okay.

MS. ANDERSON: And I believe the date for the comments on the Hearing Officer report -- I'm sorry, I don't have the rule in front of me, but I want to say that that's 15 days.

So, yeah, you'll definitely have a chance to comment, and comment at your heart's desire.

MR. LOVEJOY: Okay.

MS. ANDERSON: Yeah.

And also one other thing I neglected to mention, I am doubtful that there is going to be a lot of similarities between positions, although there may be with NMED and the labs and DOE, but if the parties are done with their reports prior to any kind of deadline, there is really nothing to stop you from meeting and conferring, and I think that's usually a good practice,
because there may be some language in each of your
submissions that you could talk about.

So what I'm saying, in a long version, is if
you want a decision sooner versus later, the volume and
the amount of motion practice will be determined largely
by how well you communicate with each other, and I don't
have any control over that.

But as a former mediator, I do note and my
goal is that you always meet and confer. And I can
formalize that in an order, but I'm respectful of
people's time.

So you all know each other, talk to one
another, and we'll take it from there.

MR. LOVEJOY: All right.
Thank you.

MS. ANDERSON: All right. Well, do you have
any other questions?
I'm not seeing any.
We don't have any other public comment.
So I wanted to thank all the attorneys and all
the experts. I know that this was quite a moment --
yeah.

MR. LOVEJOY: Just as a question.
Do I understand that Your Honor is going to
make an order? You talked about the possibility.
MS. ANDERSON: Yes.

MR. LOVEJOY: Okay.

MS. ANDERSON: I can, and I think that would be helpful. I was seeing some heads --

MR. LOVEJOY: I think so.

MS. ANDERSON: -- some heads waving. I probably won't do it till Monday, but you'll get it early next week. And we'll file it, and we'll e-mail it to you in terms of notice.

MR. LOVEJOY: Thank you.

MR. VERHEUL: And, Madam Hearing Officer, my understanding, from listening to your instructions now, is that you do not intend to deviate from what's in the rules?

MS. ANDERSON: No, I -- I -- we have rules for a reason, let's follow them, and so then nobody has to guess. You know, I think that would be great.

MR. VERHEUL: Great.

And so the order would simply be for everyone's convenience and simplicity to spell it out.

MS. ANDERSON: Yes, because in my experience sometimes the attorneys interpret things differently.

Yeah. Who? Attorneys?

Thank you, Kathy, for court reporting; and thank you, Pam, for coming.
So I guess we're not going to have a two-day hearing. Yay.

All right. Thank you.

(Hearing concluded at 4:20 PM.)
STATE OF NEW MEXICO )

)ss.

COUNTY OF BERNALILLO

I, Kathy Townsend, the officer before whom the foregoing hearing was taken, do hereby certify that the witnesses whose testimony appears in the foregoing transcript were duly sworn by me; that I personally recorded the testimony by machine shorthand; that said transcript is a true record of the testimony given by said witnesses; that I am neither attorney nor counsel for, nor related to or employed by any of the parties to the action in which this matter is taken, and that I am not a relative or employee of any attorney or counsel employed by the parties hereto or financially interested in the action.

Kathy Townsend

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