STATE OF NEW MEXICO
BEFORE THE OFFICE OF THE SECRETARY

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) FOR THE RADIO ACTIVE LIQUID WASTE TREATMENT FACILITY

GWB 19-24 (P)

NOTICE OF HEARING DETERMINATION & HEARING OFFICER APPOINTMENT

During a public special meeting of the Water Quality Control Commission ("Commission") on June 18, 2019, the Commission remanded the Petition for Review of DP-1132 in the proceeding GWB 17-20 (P) and WQCC 18-05 (A) to the Secretary of the Environment, James Kenney, for a new hearing and appointment of a new hearing officer.

Pursuant to NMAC 20.1.4.100 (E) (2), the Secretary of the Environment may appoint a Hearing Officer. The Cabinet Secretary hereby appoints Richard Virtue to serve as Hearing Officer. The Hearing Officer shall exercise all powers and duties granted under the New Mexico Environment Department Permit Procedures found in 20.1.4 NMAC and all other applicable law.

The hearing is set to take place on September 24, 2019 and the following days as applicable in Los Alamos, NM.

James Kenney, Cabinet Secretary
New Mexico Environment Department

Certificate of Service

I hereby certify that a true and correct copy of the foregoing **Notice of Hearing Determination & Hearing Officer Appointment** was emailed to all parties on July 17, 2019. The above-mentioned document can be served via first class mail upon request.

Lindsay A. Lovejoy, Jr.
Attorney at Law
3600 Cerrillos Road, Unit 1001A
Santa Fe, New Mexico 87507
lindsay@lindsaylovejoy.com
Counsel for Communities for Clean Water

Johnathan M. Block, Eric D. Jantz,
Douglas Meiklejohn, Jaimie Park
New Mexico Environmental Law Center
1405 Luisa Street, Ste.5
Santa Fe, New Mexico 87507
jblock@nmelc.org
Counsel for Communities for Clean Water

Mr. Stuart R. Butzier and Ms. Christina C. Sheehan
Modrall Sperling Roehl Harris & Sisk, PA
123 E. Marcy Street, Ste. 201
Santa Fe, New Mexico 87501
sbutzier@modrall.com
ccs@modrall.com

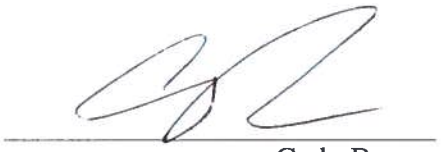
Silas R. DeRoma, Site Counsel,
U.S. Department of Energy/NNSA
3734 West Jemez Road/MS-A316
Los Alamos, New Mexico 87544
silas.deroma@nnsa.doe.gov

Ms. Susan L. McMichael
Office of Laboratory Counsel/MS A187
Los Alamos National Laboratory
P.O. Box 1663
Los Alamos, New Mexico 87545-0001
smcmichael@lanl.gov

Counsel for Triad National Security, LLC, and
U.S. Department of Energy/NNSA

Mr. John Verheul, Assistant General Counsel,
New Mexico Environment Department
121 Tijeras Avenue, NE, Suite 1000
Harold Runnels Building, Suite N-4050
Albuquerque, New Mexico 87102
john.verheul@state.nm.us
Counsel for the New Mexico Environment Department

Richard Virtue
Virtue, Najjar & Brown
2200 Brothers Rd.
Santa Fe, NM 87505
rvirtue@virtuelaw.com
Hearing Officer



Cody Barnes
Hearing Clerk
(505) 827-2428
cody.barnes@state.nm.us

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 GROUND WATER DISCHARGE PERMIT (DP-1132) FOR THE RADIOACTIVE LIQUID WASTE TREATMENT FACILITY

WQCC NO. 18-05 (A)
GWB 19-24 (P)

SCHEDULING ORDER

Having reviewed the Water Quality Control Commission Order to Vacate Decision and Remand the Petition for Review of DP-1132 for a new hearing and the Notice of Public Hearing attached to this scheduling order as Attachment 1, the Hearing Officer orders:

1. The attached Notice of Public Hearing shall serve as to the initial scheduling order in this matter. No timelines or other procedures set out in the applicable procedural rules are adjusted, and no prehearing conference or teleconference will be held unless a request is made by counsel.

2. Non-technical public testimony will be allowed after presentation of the Applicant's case in chief and after the close of presentation of direct technical testimony of all parties, subject to change based upon the availability of public witnesses and the extent of proposed public testimony.

3. The hearing may continue into the evening of November 14 and/or on November 15 as necessary.

DATED: October 4, 2019.

Richard L. C. Virtue, Hearing Officer

Attachment 1

NOTICE OF PUBLIC HEARING
NEW MEXICO ENVIRONMENT DEPARTMENT

The New Mexico Environment Department (NMED) will hold a public hearing beginning at 9:00 a.m. on November 14, 2019, and continuing on as needed, at the Fuller Lodge, Pajarito Room, located at 2132 Central Avenue, in Los Alamos, New Mexico. The hearing will consider the proposed ground water discharge permit (Discharge Permit or DP-1132) prepared in response to a discharge plan submitted by the United States Department of Energy and Los Alamos National Security, LLC (DOE/LANS or Applicants). The decision of the Secretary of NMED was vacated by order of the Water Quality Control Commission (WQCC) in WQCC Case No. 18-05(A) and the case was remanded by the WQCC for a new hearing to be conducted by a new Hearing Officer. The remanded case has been docketed by the Hearing Clerk as GWB 19-24 (P). The Hearing Officer will provide opportunities for general oral statements or non-technical testimony from members of the public at the hearing.

Name of the Applicants: United States Department of Energy and Los Alamos National Security, LLC. (DOE/LANS), 3747 W. Jemez Road, MS A316, Los Alamos, NM 87544.

Location of the Discharge: The discharge is located within Los Alamos National Laboratory (LANL), approximately 1.5 miles south of Los Alamos, New Mexico, in Sections 16, 17, 20, 21 and 22, Township 19N, Range 06E, Los Alamos County.

Activities Which Produce the Discharge: The Radioactive Liquid Waste Treatment Facility (RLWTF) is a wastewater treatment facility that receives and treats radioactive liquid waste (RLW) from waste generating locations at LANL. The Discharge Permit authorizes the use of the RLWTF's multiple systems and associated units, including: the influent collection system; the influent storage system, i.e., the Waste Management Risk Mitigation Facility (WMRM); the low-level radioactive liquid waste treatment system; the transuranic wastewater treatment system; and the secondary treatment system. RLW treatment processes include chemical treatment in a reaction tank, filtration, ion exchange, and reverse osmosis. The Discharge Permit authorizes the discharge of treated water via the Mechanical Evaporator System (MES) and the Solar Evaporative Tank (SET) at TA-52. The discharge of treated water at an outfall (Outfall 051) is authorized by a National Pollutant Discharge Elimination System (NPDES) permit issued by the United States Environmental Protection Agency (EPA) pursuant to the federal Clean Water Act Section 402, 33 U.S.C § 1342.

Quality, Quantity, and Flow Characteristics of the Discharge: Up to 40,000 gallons per day may be discharged via the three processes identified above. The expected quality of the discharge is that it will meet all numerical groundwater standards identified in 20.6.2 NMAC. Potential contaminants associated with this waste stream include nitrogen compounds, metals, organic compounds, and low-level radioactive materials.

Depth to Groundwater: Groundwater most likely to be affected ranges from depths of approximately one foot to 1,306 feet and has a total dissolved solids concentration ranging from approximately 162 to 255 milligrams per liter.

Hearing Procedures: The hearing will be conducted pursuant to the NMED Permit Procedures regulations, 20.1.4 NMAC, and the NMED Ground and Surface Water Protection regulations, 20.6.2.3110 NMAC. Any member of the public may attend the hearing and present relevant non-technical testimony, orally or in writing, and to examine witnesses testifying at the hearing. To be a party or to present technical testimony, a person must follow the procedures below:

Entry of Appearance Required to be a Party: Any person who wishes to be a party shall file with the Hearing Clerk, and serve upon all other parties of record, including NMED and the Applicants, an *Entry of Appearance* on or before **November 4, 2019**.

Statement of Intent to Present Technical Testimony Required: Any person who wishes to present technical evidence, data, or testimony at the hearing shall file with the Hearing Clerk and serve on the Applicants, NMED, and all other parties of record a *Statement of Intent to Present Technical Testimony* on or before **November 4, 2019**, pursuant to 20.6.2.3110.C NMAC. A timely filed Statement of Intent shall be considered an Entry of Appearance. The Statement of Intent must comply with the requirements in 20.1.4.300 NMAC and 20.6.2.3110.C NMAC and shall include: the name of the person filing the statement, whether the person filing the statement supports or opposes the proposed permit, the name/address/affiliation/work background/educational background of each witness, the estimated length of direct testimony of each witness, a list of exhibits to be offered into evidence at the hearing with a copy of each exhibit that is not already part of the Record Proper, a list of all technical materials – and information where the material can be obtained – relied upon by each witness in making a technical statement of fact or opinion and an explanation of the basis for such an opinion, and the full written direct testimony of each witness including any opinions to be offered by such witness and an explanation of the basis for that opinion.

Failure to file a timely Entry of Appearance or Statement of Intent to Present Technical Testimony shall preclude a person from being a party to the proceeding and from presenting technical testimony but shall not preclude a person from presenting a general written or oral statement or non-technical testimony in the proceeding.

Final Determination on Permit by NMED: The Secretary of NMED will make a final determination approving, conditionally approving, or disapproving DP-1132 based on the administrative record for the permit application, public comment, and the public hearing.

Documents Filed with Hearing Clerk: All documents that need to be filed with the Hearing Clerk shall be submitted to: Cody Barnes, Hearing Clerk, NMED, P.O. Box 5469, 1190 St. Francis Drive, Santa Fe, NM 87502, Telephone: (505) 827-2428.

Documents Served on NMED: All documents that need to be served on NMED shall be sent to: John Verheul, NMED Office of General Counsel, 121 Tijeras Avenue NE, Ste 1000, Albuquerque, NM 87102, or John.Verheul@state.nm.us.

Transcripts of Hearing. Pursuant to 20.6.2.3110.J NMAC, NMED will make an audio recording of the hearing. If any person requests a written transcript or certified copy of the audio recording, the requestor shall pay the cost of the transcription or audio copying.

Further Information and NMED Contact: For further information on DP-1132 and the public hearing, or to be placed on the facility-specific mailing list, or if you are a non-English speaker or do not speak English and would like to request assistance, please contact Andrew C. Romero, NMED Ground Water Quality Bureau (GWQB), P.O. Box 5469, 1190 St. Francis Drive, Santa Fe, NM 87502-5469, by telephone at (505) 827-0076, or at AndrewC.Romero@state.nm.us. The administrative record and copies of the proposed permit can be viewed at the GWQB. The draft permit and fact sheet may be viewed on-line at https://www.env.nm.gov/gwqb/public-notice/ or at the NMED office in Los Alamos: 1183 Diamond Drive, Suite B, Los Alamos, NM 87544.

If any person requires assistance, an interpreter, or auxiliary aid to participate in this process, please contact Cody Barnes by telephone at (505) 827-2428, or submit a written request to Mr. Barnes, at least ten (10) calendar days prior to the hearing at NMED, P.O. Box 5469, Santa Fe, NM 87502, or Cody.Barnes@state.nm.us. Telephone conversation assistance is available through Relay New Mexico at no charge for people who are deaf, hard of hearing, or have difficulty speaking on the phone, by calling 1-800-659-1779; TTY users: 1-800-659-8331; Spanish: 1-800-327-1857.

NMED maintains a Public Involvement Plan (PIP) for each permitting action to plan for providing public participation opportunities and information that may be needed for the community to participate in a permitting process. The Public Involvement Plan may be viewed online at www.env.nm.gov/gwqb/public-involvement-plans/ or at the NMED office in Taos: 145 Roy Rd. Suite B, Taos, NM 87571. NMED also maintains facility-specific mailing lists for persons wishing to receive associated notices for a permitting action.

NMED does not discriminate on the basis of race, color, national origin, disability, age or sex in the administration of its programs or activities, as required by applicable laws and regulations. NMED is responsible for coordination of compliance efforts and receipt of inquiries concerning non-discrimination requirements implemented by 40 C.F.R. Parts 5 and 7, including Title VI of the Civil Rights Act of 1964, as amended; Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975, Title IX of the Education Amendments of 1972, and Section 13 of the Federal Water Pollution Control Act Amendments of 1972. If you have any questions about this notice or any of NMED's non- discrimination programs, policies or procedures, you may contact: Kristine Yurdin, Non-Discrimination Coordinator, New Mexico Environment Department, 1190 St. Francis Dr., Suite N4050, P.O. Box 5469, Santa Fe, NM 87502, (505) 827-2855, nd.coordinator@state.nm.us. If you believe that you have been discriminated against with respect to a NMED program or activity, you may contact the Non-Discrimination Coordinator

identified above or visit our website at https://www.env.nm.gov/non-employee-discrimination-complaint-page/ to learn how and where to file a complaint of discrimination.

AVISO DE AUDIENCIA PÚBLICA
DEPARTAMENTO DE MEDIO AMBIENTE DE NUEVO MÉXICO

El Departamento de Medio Ambiente de Nuevo México (NMED, por sus siglas en inglés) celebrará una audiencia pública que comenzará a las 9:00 de la mañana del 14 de noviembre de 2019, y continuará según sea necesario, en Fuller Lodge, Sala Pajarito, ubicado en 2132 Central Avenue, Los Alamos, NM. La audiencia considerará el permiso de descarga a aguas subterráneas propuesto (Permiso de Descarga o DP-1132), preparado en respuesta a un plan de descarga presentado por el Departamento de Energía de Estados Unidos y Los Alamos National Security, LLC (DOE/LANS o Solicitantes). La decisión del Secretario de NMED fue anulada por orden de la Comisión de Control de la Calidad del Agua (WQCC, por sus siglas en inglés) en el caso Núm. 18-05(A) de la WQCC y el caso fue remitido por la WQCC para que se llevara a cabo una nueva audiencia con un nuevo Funcionario de Audiencias. El caso remitido ha sido registrado por el Secretario de Audiencias como GWB 19-24 (P). El Funcionario de Audiencias dará oportunidades a los asistentes del público para presentar declaraciones orales generales o testimonio que no sea de carácter técnico antes de la conclusión de la audiencia.

Nombre de los solicitantes: Departamento de Energía de los Estados Unidos y Los Alamos National Security, LLC. (DOE/LANS); 3747 W. Jemez Road, MS A316, Los Alamos, NM 87544.

Ubicación de la descarga: La descarga se encuentra dentro de Los Alamos National Laboratory (LANL, por sus siglas en inglés), aproximadamente a 1.5 millas al sur de Los Alamos, Nuevo México, en las Secciones 16, 17, 20, 21 y 22; Municipio (Township) 19N; Zona (Range) 06E; condado de Los Alamos.

Actividades que producen la descarga: La Instalación de Tratamiento de Residuos Líquidos Radioactivos (RLWTF por sus siglas en inglés) es una instalación de tratamiento de aguas residuales que recibe y trata residuos líquidos radioactivos (RLW por su sigla en inglés) de ubicaciones en LANL que generan residuos. El Permiso de Descarga autoriza el uso de múltiples sistemas y de unidades asociadas de la RLWTF, que incluyen: el sistema de recolección de afluentes; el sistema de almacenamiento de afluentes, es decir, la Instalación de Mitigación de Riesgo de Gestión de Residuos (WMRM por sus siglas en inglés); el sistema de tratamiento de residuos líquidos de bajo nivel radioactivo; el *transuranic wastewater treatment system*; y el sistema de tratamiento secundario. Los procesos de tratamiento de RLW incluyen tratamiento químico en un tanque de reacción, filtración, intercambio iónico y ósmosis inversa. El Permiso de Descarga autoriza la descarga del agua tratada por medio del Sistema Evaporador Mecánico (MES, por sus siglas en inglés) y el Tanque de Evaporación Solar (SET, por sus siglas en inglés) en TA-52. La descarga de agua tratada a un desagüe (Desagüe 051) está autorizada por un permiso del Sistema Nacional de Eliminación de Descargas de Contaminantes (NPDES, por sus siglas en

inglés) emitido por la Agencia de Protección Ambiental (EPA, por sus siglas en inglés) de los Estados Unidos conforme a la Ley Federal de Agua Limpia, Sección 402, 33 U.S.C § 1342.

Calidad, cantidad y características del flujo de la descarga: Mediante los tres procesos antes identificados, se podrán descargar hasta 40,000 galones por día. La calidad esperada de la descarga es que cumplirá con todos los estándares numéricos para aguas subterráneas identificados en 20.6.2 NMAC. Los posibles contaminantes asociados con esta corriente de residuos incluyen compuestos de nitrógeno, metales, compuestos orgánicos y materiales radiactivos de bajo nivel.

Profundidad a la que se encuentran las aguas subterráneas: Las aguas subterráneas con mayor probabilidad de ser afectadas se encuentran en un rango de profundidades que va de uno a 1,306 pies aproximadamente y tienen una concentración de sólidos disueltos totales que va de 162 a 255 miligramos por litro aproximadamente.

Procedimientos seguidos en las audiencias: La audiencia se llevará a cabo de conformidad con los reglamentos de Procedimientos de Permisos de NMED, 20.1.4 NMAC, y los reglamentos de Protección de Aguas Subterráneas y Superficiales de NMED, 20.6.2.3110 NMAC. Cualquier miembro del público puede asistir a la audiencia y presentar testimonios no técnicos relevantes, oralmente o por escrito, y examinar a los testigos que testifiquen en la audiencia. Para ser parte interesada o presentar un testimonio técnico, una persona debe seguir los siguientes procedimientos:

Se requiere un Registro de Comparecencia para ser Parte Interesada: Cualquier persona que desee ser parte interesada deberá presentar ante el Secretario de Audiencias, y entregar a todas las demás partes del registro, incluidos el NMED y los Solicitantes, un Registro de Comparecencia a más tardar el **4 de noviembre de 2019.**

Se requiere una Declaración de Intención de Presentar Testimonio Técnico: Cualquier persona que desee presentar pruebas, datos o testimonio de carácter técnico durante la audiencia deberá presentar ante el Secretario de Audiencias y notificar a los Solicitantes, al NMED, y todas las demás partes reconocidas una Declaración de Intención de Presentar Testimonio Técnico a más tardar el **4 de noviembre de 2019**, de conformidad con 20.6.2.3110.C NMAC. Toda Declaración de Intención presentada oportunamente se considerará un Registro de Comparecencia. La Declaración de Intención debe cumplir con los requisitos de 20.1.4.300 NMAC y 20.6.2.3110.C NMAC, e incluirá: el nombre de la persona que presenta la declaración, si la persona que presenta la declaración apoya o se opone al permiso propuesto, el nombre/dirección/afiliación/historial laboral/ e historial educativo de cada testigo, la duración aproximada del testimonio directo de cada testigo, una lista de documentos u objetos de prueba que se ofrecerán como pruebas durante la audiencia, con una copia de cada documento u objeto de prueba que aún no forme parte del Registro Administrativo, una lista de todos los materiales técnicos –y la información sobre dónde se puede obtener el material– en los que se base cada testigo en su declaración de carácter técnico de hechos u opiniones y una explicación del fundamento de dicha opinión; y el

testimonio directo completo por escrito de cada testigo, incluidas las opiniones que ofrecerá dicho testigo y una explicación del fundamento de esa opinión.

La falta de presentación oportuna de un Registro de Comparecencia o de una Declaración de Intención de Presentar Testimonio Técnico impedirá que esa persona sea parte interesada del procedimiento y que presente testimonio técnico, pero no impedirá que esa persona presente una declaración de carácter general por escrito o en forma oral o testimonio que no sea de carácter técnico durante el procedimiento.

Determinación final del NMED sobre el permiso: El Secretario de NMED hará una determinación final de aprobar, aprobar condicionalmente o denegar el DP-1132 según el registro administrativo de la solicitud del permiso, los comentarios del público y la audiencia pública.

Documentos presentados ante el Secretario de Audiencias: Todos los documentos que deban presentarse ante el Secretario de Audiencias deberán enviarse a: Cody Barnes, Hearing Clerk, NMED, P.O. Box 5469, 1190 St. Francis Drive, Santa Fe, NM 87502; Teléfono: (505) 827-2428.

Documentos entregados al NMED: Todos los documentos que deban entregarse al NMED se enviarán a: John Verheul, NMED Office of General Counsel, 121 Tijeras Avenue NE, Ste 1000, Albuquerque, NM 87102 o John.Verheul@state.nm.us.

Transcripciones de la audiencia. De conformidad con 20.6.2.3110.J NMAC, el NMED realizará una grabación de audio de la audiencia. Si alguna persona solicita una transcripción escrita o una copia certificada de la grabación de audio, el solicitante deberá pagar el costo de la transcripción o de la copia de audio.

Información adicional y contacto de NMED: Para obtener más información sobre el DP-1132 y la audiencia pública o para ser incluido en la lista de correo específica de la instalación o si usted no habla inglés y desea solicitar asistencia, comuníquese con Andrew C. Romero, NMED Ground Water Quality Bureau (GWQB), P.O. Box 5469, 1190 St. Francis Drive, Santa Fe, NM 87502-5469; o por teléfono al (505) 827-0076; o al correo electrónico AndrewC.Romero@state.nm.us. El registro administrativo y las copias del permiso propuesto pueden examinarse en la Oficina de Calidad de Aguas Subterráneas (GWQB, por sus siglas en inglés). El borrador del permiso y la hoja informativa pueden verse en línea en https://www.env.nm.gov/gwqb/public-notice/ o en la oficina de NMED en Los Alamos: 1183 Diamond Drive, Suite B, Los Alamos, NM 87544.

Si alguna persona necesita asistencia, un intérprete o un dispositivo auxiliar para participar en este proceso comuníquese con Cody Barnes llamando por teléfono al (505) 827-2428, o envíe una solicitud por escrito al Sr. Barnes, al menos diez (10) días de calendario antes de la audiencia a: NMED, P.O. Box 5469, Santa Fe, NM 87502, o al correo electrónico Cody.Barnes@state.nm.us. Hay disponible de forma gratuita asistencia para conversación telefónica a través de Relay New Mexico para personas sordas, con dificultades auditivas o con dificultades para hablar por teléfono, llamando al 1-800-659-1779; usuarios de TTY: 1-800-659-8331; español: 1-800-327-1857.

NMED mantiene un Plan de Participación Pública (PIP, por sus siglas en inglés) para cada acción de permisos para planificar el proveer oportunidades de participación pública e información que pueda ser necesaria para que la comunidad participe en los procesos de permisos. El Plan de Participación Pública se puede ver en línea en www.env.nm.gov/gwqb/public-involvement-plans/ o en la oficina de NMED en Taos: 145 Roy Rd. Suite B, Taos, NM 87571. NMED también mantiene listas de correo específicas de la instalación para las personas que desean recibir avisos asociados para una acción de permiso.

NMED no discrimina por motivos de raza, color, origen nacional, discapacidad, edad o sexo en la administración de sus programas o actividades, según lo exigen las leyes y regulaciones aplicables. NMED es responsable de la coordinación de los esfuerzos de cumplimiento y la recepción de consultas sobre los requisitos de no discriminación implementados por 40 C.F.R. Partes 5 y 7, incluido el Título VI de la Ley de Derechos Civiles de 1964, según enmendada; Sección 504 de la Ley de Rehabilitación de 1973; la Ley de Discriminación por Edad de 1975, el Título IX de las Enmiendas de Educación de 1972 y la Sección 13 de las Enmiendas de la Ley de Control de la Contaminación del Agua de 1972. Si tiene alguna pregunta sobre este aviso o alguno de los programas, políticas o procedimientos de no discriminación de NMED o si cree que ha sido discriminado con respecto a un programa o actividad de NMED, puede comunicarse con: Kristine Yurdin, coordinadora de no discriminación, NMED, 1190 St. Francis Dr., Suite N4050, P.O. Box 5469, Santa Fe, NM 87502, teléfono (505) 827-2855, correo electrónico nd.coordinator@state.nm.us. También puede visitar nuestro sitio web en https://www.env.nm.gov/non-employee-discrimination-complaint-page/ para saber cómo y dónde presentar una queja de discriminación.

Certificate of Service

I hereby certify that a true and correct copy of the foregoing **Scheduling Order** was emailed to all parties on October 4, 2019. The above-mentioned document can be served via first class mail upon request.

Lindsay A. Lovejoy, Jr.
Attorney at Law
3600 Cerrillos Road, Unit 1001A
Santa Fe, New Mexico 87507
lindsay@lindsaylovejoy.com
Counsel for Communities for Clean Water

Johnathan M. Block, Eric D. Jantz,
Douglas Meiklejohn, Jaimie Park
New Mexico Environmental Law Center
1405 Luisa Street, Ste.5
Santa Fe, New Mexico 87507
jblock@nmelc.org
Counsel for Communities for Clean Water

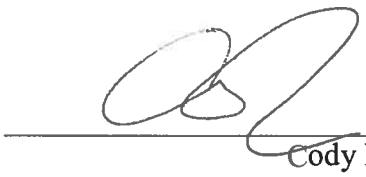
Mr. Stuart R. Butzier and Ms. Christina C. Sheehan
Modrall Sperling Roehl Harris & Sisk, PA
123 E. Marcy Street, Ste. 201
Santa Fe, New Mexico 87501
sbutzier@modrall.com
ccs@modrall.com

Silas R. DeRoma, Site Counsel,
U.S. Department of Energy/NNSA
3734 West Jemez Road/MS-A316
Los Alamos, New Mexico 87544
silas.deroma@nnsa.doe.gov

Ms. Susan L. McMichael
Office of Laboratory Counsel/MS A187
Los Alamos National Laboratory
P.O. Box 1663
Los Alamos, New Mexico 87545-0001
smcmichael@lanl.gov

Counsel for Triad National Security, LLC, and
U.S. Department of Energy/NNSA

Mr. John Verheul, Assistant General Counsel,
New Mexico Environment Department
121 Tijeras Avenue, NE, Suite 1000
Harold Runnels Building, Suite N-4050
Albuquerque, New Mexico 87102
john.verheul@state.nm.us
Counsel for the New Mexico Environment Department



Cody Barnes
Hearing Clerk
(505) 827-2428
cody.barnes@state.nm.us

NEW MEXICO ENVIRONMENT DEPARTMENT
BEFORE THE SECRETARY OF THE ENVIRONMENT

IN THE MATTER OF PROPOSED DISCHARGE)
PERMIT 1132 FOR THE RADIOACTIVE LIQUID)
WASTE TREATMENT FACILITY AT THE) **No .GWB-19-24(P)**
LOS ALAMOS NATIONAL LABORATORY,)
LOS ALAMOS, NEW MEXICO)

MOTION TO DISMISS DP-1132 PROCEEDING

I. INTRODUCTION

This proceeding involves the proposed issuance of a groundwater discharge permit under the New Mexico Water Quality Act, § 74-6-1 *et seq*. NMSA 1978 ("WQA"), for the Los Alamos National Laboratory ("LANL") Radioactive Liquid Waste Treatment Facility ("RLWTF"). LANL does not oppose such regulation; in fact, LANL demands it. Four citizen groups, parties to this proceeding, strongly oppose the permit and move for dismissal of this proceeding.

This motion is made by the four citizen groups—Concerned Citizens for Nuclear Safety of Santa Fe ("CCNS"), Tewa Women United of Santa Cruz, Honor Our Pueblo Existence of Española, and the New Mexico Acequia Association, a statewide organization based in Santa Fe—all of which have presented comments on the proposed groundwater discharge permit ("DP-1132"), and have requested a hearing (collectively, "Citizens"). Members of each of the Citizen groups live within a few miles of the RLWTF and downstream and downwind from it and are

exposed to the risks of illness and injury from releases of radioactive and hazardous materials from the RLWTF.

Applicants, the U.S. Department of Energy ("DOE") and Triad National Security, LLC ("Triad") (collectively, "Applicants"), have the burden of establishing their right to a permit: They must "prov[e] the facts relied upon to justify the proposed discharge plan." 20.6.2.3110.G.1 NMAC.

The WQA authorizes State regulation of groundwater discharges. However, the scope of WQA regulation is limited. "The Water Quality Act is a separate regulatory scheme and does not overlap with the Hazardous Waste Act." *Schwartzman, Inc. v. Atchison,* T. & S.F. Ry., 857 F. Supp. 838, 847 n.4 (D.N.M. 1994). Specifically, by its own terms, the WQA does not apply to "any activity or condition subject to the authority of the environmental improvement board pursuant to the Hazardous Waste Act [Chapter 74, Article 4 NMSA 1978]." § 74-6-12.B. As the RLWTF stores and treats hazardous waste, it would, therefore, normally be subject to the HWA and required to obtain a HWA permit. In that situation, the WQA would *not* apply.

Applicants assert, however, that the WQA *does* apply to the RLWTF. To establish that the WQA applies, Applicants must demonstrate that the HWA *does not* apply to the RLWTF. The State has shown, and the U.S. Environmental Protection Agency ("EPA") has determined, that the State HWA program is no less

stringent than the federal hazardous waste program under the Resource Conservation and Recovery Act, 42 U.S.C. § 6921 *et seq*. ("RCRA"), and on that basis EPA has authorized New Mexico to enforce hazardous waste regulation under the HWA in place of RCRA. New Mexico has, in substance, under the HWA, adopted nearly all of the hazardous waste regulations issued by the EPA under RCRA. Once a state program has been approved and authorized by EPA, it has the force of federal law. To show that a facility is exempt from the HWA, Applicants must show that the facility is exempt under the federal RCRA regulations, which have been adopted in New Mexico.

The RLWTF has only one basis for a possible exemption from RCRA: namely, the wastewater treatment unit ("WWTU") exemption. Citizens show herein that the WWTU exemption does not and cannot apply to the RLWTF. Moreover, the WQA, by its own terms, does not apply to the operation of the RLWTF. The RLWTF is properly subject to RCRA regulation under the HWA, and the WQA cannot apply here.

Citizens move for dismissal of this WQA proceeding on four grounds, namely:

A. Applicants have the burden of establishing their entitlement to a permit under the WQA. Thus, they must establish that the RLWTF is not an "activity or condition subject to the authority of the environmental improvement

board pursuant to the Hazardous Waste Act." NMSA 1978, § 74-6-12.B. They cannot make that showing, and since the RLWTF is subject to HWA regulation, the WQA does not apply to it.

B. Further, a permit under the WQA is not authorized by law, because Applicants do not intend to discharge from the RLWTF any water contaminants within the meaning of NMSA 1978, § 74-6-5.A.

C. The WQA does not authorize a permit for a "possible" or "potential" discharge, as is requested here, where there is no actual regulated discharge.

D. The proposed permit, DP-1132, would be a nullity, because under the WQA it would not become effective until there is a discharge, *i.e.*, never.

II. FACTUAL BACKGROUND

1. The RLWTF was constructed in 1963 to treat, store, and dispose of radioactive and hazardous liquids generated by LANL facilities, whose waste liquids are transported to the RLWTF by pipes and trucks. AR 9 at 00117, 00123. Initially, the RLWTF discharged treated water through Outfall 051into a tributary of Mortandad Canyon, called Effluent Canyon. Those discharges were regulated by LANL's permit under the National Pollutant Discharge Elimination System of the federal Clean Water Act ("NPDES") (33 U.S.C. § 1342).

2. The New Mexico Environment Department ("NMED") started this proceeding in 1996 to issue a parallel state WQA groundwater discharge permit,

DP-1132, for discharges from Outfall 051. NMED recognized that a public hearing would be required but initially lacked the resources for a hearing and obtained LANL's agreement to make quarterly reports. AR 106 at 01432; AR 107 at 01435.

3. In 1998 LANL announced its commitment to eliminate liquid discharges from the RLWTF. A 1998 LANL report[1] stated, "Determining viable options for eliminating the discharge of treated radioactive liquid waste to Mortandad Canyon was the directive of the outfall 051 elimination working group."[2,3]

4. On April 8, 1998 the Zero Discharge Working Group outlined for LANL officials the problems associated with release of radioactive liquid effluent. (AR 56 at 00860). LANL's Environmental Safety and Health and Environmental Management Divisions decided that they, "[A]gree that the Laboratory should set a goal of zero discharge of radioactive liquid effluent to the environment[,]" adding,

[1] "Elimination of Liquid Discharge to the Environment from the TA-50 Radioactive Liquid Waste Treatment Facility," Moss et al. (1998) (Ex. A to Request to Terminate NPDES Permit #NM0028355 to Outfall 051 for the Radioactive Liquid Waste Treatment Facility (June 17, 2016) (the "Request").

[2] *Id*. v (Ex. A to Request).

[3] A copy of the Request with a complete set of the referenced attachments is in the possession of the Office of General Counsel of NMED, as it was provided as a courtesy to the office of the Secretary on June 20, 2016. In addition, at the April 19, 2018 hearing a computer disk with the text of the Request and attachments was entered into the Administrative Record without objection. April 19, 2018 Hearing Transcript ("Tr.") at 12:5-13:4.

"To reach this ambitious goal, ESH and EM Divisions will jointly initiate the Radioactive Liquid Waste Zero Discharge Project." *Id.*

5. LANL told NMED that the project would include gas-fired evaporation units and, later, evaporative basins. AR 99 at 01372 (Oct. 6, 1999); AR 208 at 03548 (Sept. 28, 1999). LANL's 2008 Site-Wide Environmental Impact Statement, at Appx. G, discusses the "upgrade" of the RLWTF.[4] DOE determined to pursue design of a Zero Liquid Discharge RLWTF.[5] Later, DOE decided to construct and operate a new RLWTF and operate the Zero Liquid Discharge facility.[6]

6. In the late 2000's, LANL rebuilt the RLWTF for "zero-liquid-discharge" operation, eliminating discharges through Outfall 051 except in an "emergency":

> A new rad/liquid waste facility will be constructed within 3-5 years that will eventually discharge preferentially to the new evaporative basins or, under emergency, to Mortandad canyon under the NPDES permit and DP.

AR 208 at 03548 (Sept. 28, 2006).

7. LANL advised NMED in 2010 that it was evaluating an evaporation system with capacity exceeding effluent production. AR 243 at 04016. A NMED inspection report in March 2012 states that LANL would use a mechanical

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[4] SWEIS at G-60, G-73, G-83, G-88 (Ex. JJ).

[5] Record of Decision, Site-Wide Environmental Impact Statement for Continued Operation of Los Alamos National Laboratory, 73 Fed. Reg. 55833, 55839 (Sept. 26, 2008) (Ex. LL).

[6] Record of Decision, Site-Wide Environmental Impact Statement for Continued Operation of Los Alamos National Laboratory, 74 Fed. Reg. 33232, 33235 (July 10, 2009) (Ex. MM).

evaporator (called an "MES") and solar evaporation tanks (called the "SET") to dispose of all liquid output:

> LANL has not discharged to the NPDES outfall for over a year and they are not intending to discharge due to the difficulty in treating the effluent to meet the NPDES copper limitations. Currently, the facility has been mechanically evaporating all effluent. . . .
>
> At the time of inspection, LANL was nearing completion of the uncovered Solar Evaporative tanks (SET). All treated effluent from the RLWTF will be discharged via a 3,500 foot single-lined gravity fed conveyance pipe (with welds every 500 feet) to the SET. LANL is anticipating having the as-built drawings for the SET completed by mid-May and would be looking at placing the SET on-line and commencing discharge approximately 3-4 months after that."

AR 290 at 08122 (Mar. 20, 2012).

8. Discharges of contaminated water from Outfall 051 ended in late 2010. A 2014 LANL report states: "Discharges from Outfall 051 decreased significantly after the mid-1980s and effectively ended in late 2010."[7] In late 2014 NMED advised EPA that Outfall 051 had not discharged since November 2010.[8] A LANL web site, NPDES Industrial Outfall Locations, states that "a mechanical evaporator was installed so no water has been discharged at Outfall 051 since November

[7] Isotopic evidence for reduction of anthropogenic hexavalent chromium in Los Alamos National Laboratory groundwater, 373 Chemical Geology 1, 4 (12 May 2014) (Ex. PP to the Request).

[8] Letter, Yurdin to Dories with Inspection Report, at 4th page (August 5, 2014) (Ex. QQ to Request).

2010."[9] Quarterly reports in the Administrative Record show that there has been no regulated discharge since November 2010. *See* quarterly reports at: AR 246; AR 253; AR 255; AR 261; AR 273; AR 307; AR 309; AR 321; AR 359; AR 396; AR 419; AR 446; AR 458; AR 467; AR 492; AR 502; AR 510; AR 518; AR 520; AR 524; AR 528; AR 529; AR 533; AR 537; AR 529. No such discharges are planned. The facts are set forth in detail in the Request to Terminate NPDES Permit #NM0028355 to Outfall 051 for the Radioactive Liquid Waste Treatment Facility (June 17, 2016), which was placed in the Administrative Record. *Supra* note 3.

9. LANL recently reported that on June 18, 2019 the RLWTF released approximately 80,798 liters of "treated effluent" through Outfall 051. Monitoring Report, RLWTF, 2d Quarter 2019 (July 22, 2019).[10] The report states that no contaminants were present in this water in excess of values stated in 20.6.2.3103 NMAC, so that the release did not require a WQA permit. *Id; see* 20.6.2.3105 NMAC (discharges of effluent or leachate "which conforms to all the standards in Subsections A, B, and C of Section 20.6.2.3103 NMAC and has a total nitrogen concentration of 10 mg/l or less" are exempt from regulation under Sections

[9] LANL web site, NPDES Industrial Permit Outfall Locations: https://www.lanl.gov/environment/protection/compliance/industrial-permit/outfall-map.php (reviewed on Oct. 7, 2019) (Ex. RR to Request).

[10] This and other post-hearing documents are properly part of the Administrative Record. However, NMED has not provided the parties to this proceeding with an updated copy of the Administrative Record as of the filing of this Motion.

20.6.2.3104 [discharge permits required] and 20.6.2.3106 [application for permits, renewals and modifications]").

10. In applying for DP-1132, Applicants have stated that their purpose is to "maintain capacity to discharge should the [SET] and/or [MES] become unavailable due to maintenance, malfunction, and/or there is an increase in treatment capacity caused by changes to LANL scope/mission." LANL/DOE Ex. 5 at 2 (Ex. attached to the Bob Beers testimony). Thus, discharges are only contemplated under highly unlikely, indeed, merely speculative circumstances.

11. The recent release of water on June 18, 2019, took place—coincidentally or not—on the very day when the Water Quality Control Commission ("WQCC") vacated the previous DP-1132 permit based on the hearing officer's disqualification. LANL may have then assumed that, without a permit, it was not authorized to direct treated water to the MES, and so it discharged through Outfall 051. But to direct treated water to an evaporator is not a discharge to ground water and requires no permit. Moreover, the release was *below* the contaminant threshold for WQA permitting. 20.6.2.3105 NMAC. In addition, the RLWTF now has six 50,000 gallon tanks available to store effluent; thus, the release was not required to be made. Beers prefiled testimony, Slide 8 (WMRM tanks).

12. The discontinuance of regulated discharges determines which regulatory regime applies to the RLWTF. Discharges of contaminated water that required

regulation under the WQA and the NPDES program have ceased. Thus, there is no longer any need or any basis to regulate such discharges—and to issue a permit to regulate non-discharges is no regulation at all.

13. Nevertheless, LANL has proceeded with the DP-1132 WQA Discharge Permit Application (February 14, 2012), which is captioned "Application for a new Discharge Permit—existing (unpermitted) facility" and seeks a permit to discharge through Outfall 051 and also to the MES and SET evaporation units:

> Discharge to the environment is via NPDES Outfall #051, solar evaporation at the TA-52 Zero Liquid Discharge Solar Evaporation Tanks, or mechanical evaporation at TA-50-257.

AR 280 at 5348.

14. Applicants assert that the RLWTF is exempt from regulation under RCRA or the HWA, based on the wastewater treatment unit exception. *See* 42 U.S.C. § 6903(27) ("NPDES"); 40 C.F.R. §§ 260.10 (*Tank system, Wastewater treatment unit*), 264.1(g) (6)). For example, LANL stated that liquid waste from the Plutonium Facility, PF-4, was considered exempt from hazardous waste regulation. AR 164 at 02323. As another example:

> General Comment No. 1, Permit Condition II.V, Page 6 (Definition of Secondary containment):
>
> This permit condition defines "secondary containment" by incorporating (verbatim) the definition of "secondary containment" as that term is used under the New Mexico Hazardous Waste Regulations (NMAC 20.4.2.1 et seq.) and EPA rules under the Resource Conservation and Recovery Act of 1976 ("RCRA", 42

> U.S.C. § 6901 et seq.) at 40 C.F.R. § 264.193. This proposed condition is inappropriate for at least four reasons. First, the RLWTF is a wastewater treatment unit which is exempt from the requirements of 40 C.F.R. § 264.193 and 20.4.2.1 NMAC.

AR 435 at 09794 (Dec. 12, 2013). LANL argued that:

> RCRA contains very prescriptive requirements which NMED-GWQB is attempting to inject in the draft permit definition, to determine if tank or tank systems meet "secondary containment" requirements. . . . Because it is an exempt wastewater treatment unit, the existing RLWTF was not constructed to meet the RCRA requirements.

Id.

15. Citizens have argued that conversion of the RLWTF to "zero-liquid-discharge" operation requires the RLWTF to obtain a RCRA permit. (AR 431 at 09663). Communities for Clean Water ("CCW"), of which Citizens are members, have stated that "LANL should be forced to seek a [RCRA] permit for this facility as a hazardous waste treatment facility—and go to zero discharge within one year of issuance of the permit." AR 434 at 09694 (Dec. 12, 2013).

16. CCW also pointed out that the "Authorization to Discharge" language in draft DP-1132 was not appropriate, since the RLWTF is a "zero-liquid-discharge" facility. (AR 539 at 13690) (Nov. 23, 2015). CCW contended that "a discharge permit is only supportable where there is an actual discharge occurring or planned—a situation not present here." AR 539 at 13698 (Aug. 29, 2016).

17. Applicants have stated that discharges through Outfall 051 were planned—but only if both of the evaporation systems failed or influent capacity increased, neither of which has occurred or is expected to occur:

> [Applicants] contemplate that discharges would be authorized "through an outfall (identified as Outfall 051) also regulated by [NPDES Permit No. NM0028355] issued by [EPA]. See Section V.C. of Draft DP-1132. Per LANL's NPDES Permit renewal application, Outfall 051 is NPDES-permitted to allow the RLWTF to "maintain capacity to discharge should the [SET] and/or [MES] become unavailable due to maintenance, malfunction, and/or there is an increase in treatment capacity caused by changes to LANL scope/mission."

LANS/DOE Exhibit 4, Form 2C, pp. 5, 7, 2012 NPDES Permit Re-Application, Outfall 051, RLWTF, LA-UR-12-00359 (Feb. 2012); *see also* DOE/LANS Preliminary Response to CCW public comments of June 5, 2017, Ex. 2 to Beers Pre-filed hearing testimony at 5.[11]

18. At the April 19, 2018 hearing on DP-1132, witnesses for the Applicants and NMED testified that the RLWTF was not expected to make a regulated discharge. Robert S. Beers of LANL initially stated that "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." Tr. at 70:25-71:14. Mr. Beers testified that, "[U]nlike the treated effluent to the MES and SET, discharges of treated effluent from Outfall

[11] This should also be part of the current Administrative Record or available with the April 19, 2018 Hearing Transcript as it was submitted for that purpose.

051 reach surface waters and indirectly, have the potential to impact ground water." Tr. at 93. However, on cross-examination Mr. Beers conceded that there has been no discharge from Outfall 051 since November 2010. Tr. at 71, 72-73; 80-81. He testified that effluent directed to the MES or the SET does not normally reach surface water. Tr. at 94-95, 95-96.

19. Steven Pullen, testifying for NMED, confirmed that the SET has not begun operation and that, when the SET operates normally, effluent would not touch the ground. Tr. at 205, 207-08. He also stated that, when the MES operates normally, water is evaporated and escapes in the vapor phase. Tr. at 208. When asked whether he was confident that the MES, which turns water into steam, will send effluent to groundwater, Mr. Pullen said, "No; I am confident that it will not, because this permit exists to ensure that there are controls in place that it does not." Tr. at 209.

20. Concerning the solar evaporation tanks, Applicants asserted that "a ground water discharge permit will not be required for this project [the SET] because there is no reasonable probability or likelihood that liquid contained in the evaporation tanks will move toward ground water." Tr. at 88; *see also* AR at 03654-03657 (CCW Cross Ex. 1). Similar language appears in CCW Cross Ex. 2 and CCW Cross Ex. 3. AR at 03704-07 (11/1/2007); 05216-23 (8/19-9/15/2008).

21. None of Applicants' or NMED's witnesses stated that any *actual* statutory discharges, whereby contaminated water released from containment in the facility would move towards groundwater, were planned or expected from the RLWTF.

22. Mr. Pullen was asked about statements in his prepared testimony and in the draft permit, saying that the RLWTF is currently discharging so that effluent may move into ground water, and at a place of ground water withdrawal for present or reasonably foreseeable future use. Tr. at 197-198. He admitted that the only asserted "discharges" currently occurring were releases to the MES and that discharges from Outfall 051 had only taken place in the past. *Id.* He stated that it was "possible" that, when the permit is issued, discharges will be occurring at all three authorized locations, but he acknowledged that he said so, assuming that "anything is possible." Tr. at 201, 204. He stated that the paragraphs in DP-1132, which recite that discharges are occurring, will be true if a discharge goes to Outfall 051—but that has not been true since 2010. Tr. at 204-05.

23. Mr. Pullen testified that the Applicants viewed Outfall 051 as an "option" for use in certain conditions. Tr. at 211. He stated that Outfall 051 and "all of the discharge options are potential, and the permit will give the applicant the option to use any of them." Tr. at 212.

24. Mr. Beers said that LANL plans to discharge from Outfall 051 for "water tightness testing of the outfall line." Tr. at 71-72. However, Mr. Pullen stated that

such testing would not be done with contaminated water. Tr. at 211: l 13-19. Mr. Beers confirmed that LANL intends to discharge to Outfall 051 only under certain conditions, namely: if the mechanical evaporator and the solar evaporation tank are both out of service, or where the RLWTF is receiving larger than expected volumes of influent and needs to discharge, or to demonstrate operational readiness. Tr. at 74-75, 79, 101. He acknowledged that LANL's purpose in maintaining a federal NPDES permit for Outfall 051 is to maintain capacity to discharge should the MES and/or the SET become unavailable due to maintenance, malfunction, and/or if there is an increase in treatment capacity caused by changes to LANL's scope/mission. He agreed that this is one of LANL's purposes in seeking issuance of DP-1132. Tr. at 101.

25. Mr. Beers testified that, even considering only discharges to the MES and SET, a WQA permit is needed because "it is the *potential* for a discharge to get to ground water that matters, regardless of intent." Tr. at 110 (*emphasis added*). It is because of the *potential* for discharge that Mr. Beers advocates adoption of DP-1132. Tr. at 110. He said that, when effluent is piped to the MES or the SET, it is a "discharge" under the WQA regulations, namely, a discharge of effluent or leachate which may move directly or indirectly into ground water, because "there is a potential for a failure of the containment system, in which case an unintended

release could reach ground water." Tr. at 112. He referred to a possible failure of the containment system in the MES or the SET. Tr. at 113.

26. When counsel inquired as to the probability of such a failure, counsel for LANL protested that it was *speculative*, and the Hearing Officer agreed. Tr. at 113-14. Mr. Beers concurred that other LANL facilities have tanks and pipes that contain substances controlled under the WQA, and each of them "just sitting there has a potential discharge," but they do not all have discharge plans. Tr. at 114. Ultimately, Mr. Beers stated that NMED is proposing to issue DP-1132 for a *potential* discharge. Tr. at 119.

27. Likewise, Mr. Pullen testified, as to water directed to the MES, that "[t]he *potential* for any of this effluent to move to ground water is the reason we permit the mechanical evaporator." *Id*. (*emphasis added*). The same is true as to the solar evaporation tanks. *Id.* He stated that pumping effluent to the MES and its evaporation is a "discharge that *may* move to ground water, has the *potential* to move to ground water. So it is a discharge." Tr. at 208-209 (*emphasis added*). He explained that the basis for permitting the MES is a transfer of water that, possibly, may cause effluent to migrate to ground water:

> 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.

Id. at 209.

28. Pressed as to whether the release of steam by the MES is a “discharge of effluent or leachate which may move directly or indirectly into ground water” (20.6.2.7.R NMAC), Mr. Pullen testified that the permit is based on the *possibility* of a failure of containment:

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 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.

Tr. at 215-216.

29. At the same time, Mr. Pullen conceded that the Water Quality Act does not allow NMED to permit a “potential” discharge. Tr. at 212:3-14.

III. ARGUMENT.

30. It may seem that this case merely involves the issuance of an environmental permit, but that is not the reality. The Applicants here seek the issuance of an environmental *exemption* from RCRA and HWA. Thus, the usual roles of the parties are reversed: the putative regulated parties, Applicants, demand that NMED subject them to the proposed WQA permit, while the citizen organizations, which normally favor regulation, ask instead that this proceeding be dismissed. If NMED issues the WQA permit, NMED necessarily determines that the RLWTF is *not* subject to the HWA, a conclusion that would block any future HWA regulation of the RLWTF. The issue here is whether NMED should confer upon LANL's RLWTF a wholesale exemption from the HWA, one which, simultaneously, imposes no effective regulation under the WQA, as the lack of discharges means zero regulation.

31. Under New Mexico law, the issuance of a WQA permit is only allowed if the permitted facility is *not* regulated by the Hazardous Waste Act. NMSA 1978, § 74-6-12.B. Thus, this proceeding raises the question whether the RLWTF is regulated by the HWA, the law that enforces RCRA in New Mexico.

32. RCRA looms large in this proceeding. The Supreme Court has stressed the breadth and importance of RCRA regulation:

> RCRA is a comprehensive environmental statute that empowers EPA to regulate hazardous wastes from cradle to grave, in accordance

> with the rigorous safeguards and waste management procedures of Subtitle C, 42 U.S.C. §§ 6921-6934. . . . Under the relevant provisions of Subtitle C, EPA has promulgated standards governing hazardous waste generators and transporters, see 42 U.S.C. §§ 6922 and 6923, and owners and operators of hazardous waste treatment, storage, and disposal facilities (TSDF's), see § 6924. Pursuant to § 6922, EPA has directed hazardous waste generators to comply with handling, recordkeeping, storage, and monitoring requirements, see 40 CFR pt. 262 (1993). TSDF's, however, are subject to much more stringent regulation than either generators or transporters, including a 4- to 5-year permitting process, see 42 U.S.C. § 6925; 40 CFR pt. 270 (1993); U.S. Environmental Protection Agency Office of Solid Waste and Emergency Response, The Nation's Hazardous Waste Management Program at a Crossroads, The RCRA Implementation Study 49-50 (July 1990), burdensome financial assurance requirements, stringent design and location standards, and, perhaps most onerous of all, responsibility to take corrective action for releases of hazardous substances and to ensure safe closure of each facility, see 42 U.S.C. § 6924; 40 CFR pt. 264 (1993).

Chicago v. EDF, 511 U.S. 328, 331-32 (1994). The Supreme Court has emphasized that courts must uphold the declared statutory purpose of RCRA and reject supposed exemptions that are not clearly mandated by statute:

> In light of that difference, and given the statute's express declaration of national policy that "waste that is . . . generated should be treated, stored, or disposed of so as to minimize the present and future threat to human health and the environment," 42 U.S.C. § 6902(b), we cannot interpret the statute to permit MWC ash sufficiently toxic to qualify as hazardous to be disposed of in ordinary landfills.

Id. at 335. Thus, RCRA exemptions cannot be read to belie the fundamental purpose of the statute.

33. It is undisputed that the RLWTF manages hazardous waste.[12] Since it receives, stores, and treats wastes which contain hazardous constituents and constitute "solid waste" and "hazardous waste" under RCRA, 42 U.S.C. § 6903(5), (27), the RLWTF would normally need a permit under RCRA or an authorized state program. 42 U.S.C. § 6925, 40 C.F.R. § 270.1(c). A public permit application process is required before beginning construction or operation of the facility. 40 C.F.R. § 270.10(f). The permitting process entails public notice and a public hearing. 20.4.1.901 NMAC. Detailed RCRA regulations specify the configuration and operation of treatment and storage tanks for hazardous wastes, of which the RLWTF has many, including requirements for double containment design, and the engineering certifications required before tank systems may be used for hazardous wastes. See 40 C.F.R. §§ 264.190-99, 270.16; 51 Fed. Reg. 25422 (July 14, 1986). Further, there are stringent RCRA requirements for corrective action and closure of hazardous waste facilities. *See* 40 C.F.R. §§ 264.90-101, 264.110-20, 264.197.

[12] LANL concedes that the RLWTF will "receive and treat or store an influent wastewater which is hazardous waste as defined in 40 C.F.R. § 261.3 . . ." LANL has expressly stated that, "The RLWTF satisfies each of these conditions[.] The RLWTF [r]eceives and treats a small amount of hazardous wastewater[.]" Comments, Dec. 12, 2013, Encl. 3 at 1. Moreover, LANL has told NMED that, "[A]ll units at the TA-50 RLWTF . . . have been characterized as a SWMU or AOC and are therefore subject to regulation under the [HWA Consent Order]." AR 12732 (LANL letter to [Jerry] Schoeppner, Head, Groundwater Quality Bureau (September 11, 2014)).

34. The RLWTF has not been scrutinized for compliance with these requirements. Some are clearly not met; *e.g.*, the long pipeline connecting the RLWTF proper with the SET is not double-contained.

35. In this proceeding, Applicants have the burden of "proving the facts relied upon to justify the proposed discharge plan," 20.6.2.3110 NMAC. Under the WQA, a permit may not issue for a facility subject to RCRA or the HWA:

> The Water Quality Act does not apply to any activity or condition subject to the authority of the environmental improvement board pursuant to the Hazardous Waste Act [Chapter 74, Article 4 NMSA 1978] . . .

74-6-12.B NMSA 1978. If the RLWTF is subject to the HWA, the WQA cannot apply to it, and DP-1132 cannot issue.

36. Thus, Applicants must show, and NMED must determine, that the RLWTF is *exempt* from the HWA. LANL asserts that the RLWTF is exempt from hazardous waste protections as a "wastewater treatment unit." 42 U.S.C. § 6903(27); 40 C.F.R. § 260.10 (*Tank system; Wastewater treatment unit*); § 264.1(g)(6):

> A wastewater treatment unit is a device which:
>
> (1) Is part of a wastewater treatment facility that is subject to regulation under either section 402 or 307(b) of the Clean Water Act; and
>
> (2) Receives and treats or stores an influent wastewater that is a hazardous waste as defined in § 261.3 of this chapter, or that generates and accumulates a wastewater treatment sludge that is a hazardous

> waste as defined in § 261.3 of this chapter, or treats or stores a wastewater treatment sludge which is a hazardous waste as defined in § 261.3 of this Chapter; and
>
> (3) Meets the definition of tank or tank system in § 260.10 of this chapter.

40 C.F.R. § 260.10. The definitions of tank and tank system, incorporated into the definition of WWTU, are as follows:

> Tank means a stationary device, designed to contain an accumulation of hazardous waste which is constructed primarily of non-earthen materials (e.g., wood, concrete, steel, plastic) which provide structural support.
>
> Tank system means a hazardous waste storage or treatment tank and its associated ancillary equipment and containment system.

40 C.F.R. §260.10. Thus, the facility must be a "tank system" and be "subject to regulation under Section 402 of the Clean Water Act."[13]

37. In a published statement, EPA has said that the WWTU exemption does not depend on the issuance of a NPDES permit but, instead, depends on whether the unit comes within the statutory language of the Clean Water Act, 33 U.S.C. § 1342: "This phrase includes all facilities that are subject to NPDES permits . . . It is sufficient that the facility be subject to the requirements of the Clean Water Act." RO 11020, Letter, J.P. Lehman to Richard C. Boynton, July 31, 1981.

[13] CCNS has contested the validity of the NPDES permit issued by EPA with respect to Outfall 051. That challenge is currently on review before the Tenth Circuit, *CCNS v. U.S. EPA*, No. 18-9542. In the meantime the permit is undergoing a five-year renewal, in which similar challenges are anticipated. Thus, the issue of the current NPDES permit's validity must be considered disputed and unresolved.

38. EPA has explained specifically that the WWTU exemption *does not apply* where there is no discharge from the facility:

> A final clarification of this exemption concerns an on-site wastewater treatment facility that has no discharge to surface water. As previously stated in 45 FR 76078 (November 17, 1980), the wastewater treatment unit exemption is intended to cover only tank systems that are part of a wastewater treatment facility that (1) produces a treated wastewater effluent which is discharged into surface waters or into a POTW sewer system and therefore is subject to the NPDES or pretreatment requirements of the Clean Water Act, or (2) produces no treated wastewater effluent as a direct result of such requirements. *This exemption is not intended to apply to wastewater treatment units that are not required to obtain an NPDES permit because they do not discharge treated effluent.*

53 Fed. Reg. 34079, ¶ 2 (Sept. 2. 1988) (*emphasis supplied*). Here, LANL has reconstructed the RLWTF specifically to attain zero liquid discharge. Applicants have stated to EPA (and as to DP-1132) that it now has no need, and no plan, to discharge contaminants from the RLWTF, unless its evaporation equipment is unavailable—a highly unlikely occurrence. Such a facility is ineligible for the WWTU exemption, because it is a non-discharging facility "that [is] not required to obtain an NPDES permit."

39. In addition, the CWA bars a NPDES permit where there is no discharge. The CWA applies only to a "discharge of any pollutant, or combination of pollutants." 33 U.S.C. § 1342(a)(1). A discharge is "[a]ny addition of a 'pollutant' or combination of pollutants to 'waters of the United States' from any 'point source.'" 40 C.F.R. § 122.2. Where there is no discharge, there is no basis for a

NPDES permit. *Waterkeeper Alliance, Inc. v. U.S. EPA,* 399 F.3d 486, 505 (2d Cir. 2005); *National Pork Producers Council v. U.S. EPA,* 635 F.3d 738, 750 (5th Cir. 2011). Here, there is no discharge; there is no basis for a NPDES permit; thus, there can be no WWTU exemption.

40. Note also that Applicants need to establish all the elements of the WWTU exemption, which include the application of the "tank system" definition, which requires a structure that has independent integrity. *Beazer East, Inc. v. U.S. EPA,* 963 F.2d 603, 608-10 (3d Cir. 1992); *see also* EPA Memorandum, M.H. Shapiro to A.M. Davis (May 12, 1994), Clarification of the regulatory status of a refinery ditch system (RO 13669).

41. Applicants and NMED must respect the limitations of NPDES permitting and the WWTU exemption. RCRA, as a congressional enactment, is the supreme law of the land. (U.S. Const., Art. VI, Cl. 2). Further, NMED has represented to the EPA that New Mexico's HWA program is "equivalent to, consistent with, and no less stringent than the federal program" under RCRA. *See generally,* New Mexico: Final Authorization of State Hazardous Waste Management Program Revision, 72 Fed. Reg. 46165 (Aug. 17, 2007). EPA therefore authorized New Mexico under 42 U.S.C. § 6926(b) to operate the State's HWA program in lieu of RCRA. *Id.* When EPA has approved a state program, the state regulations have the force of federal law. 42 U.S.C. § 6926(d). NMED, having adopted EPA's

RCRA regulations, must follow the federal law and regulations in applying the HWA.

42. There is no unfairness here. Applicants knew well that the initiation of zero-liquid-discharge operation would spell the end of a NPDES permit for the RLWTF and, consequently, of the WWTU exemption:

> Under RCRA, wastewater treatment facilities that are subject to NPDES permit limits may qualify for exemption from certain RCRA requirements, including engineering design standards. When the RLWTF implements zero liquid discharge, if the NPDES permit for Mortandad Canyon is deleted, current exemptions would not apply. RCRA-listed wastes are already administratively prohibited from the RLW waste stream. However, the potential for exposure to increased RCRA regulatory coverage with zero discharge underscores the need for better administration and documentation of compliance with WAC [waste acceptance criteria] requirements.[14]

LANL then noted that loss of the RCRA exemption was an "important consideration" in its planning, and:

> Loss of this exemption would mean that the RLWTF would be required to meet additional RCRA regulatory guidelines regarding waste treatment practices. RCRA guidelines regarding waste treatment at the RLWTF would focus on concentrations of metals and organics in the RO [reverse osmosis] concentrate stream and sludges produced at the RLWTF. The RLWTF would need to manage the constituents in the waste stream and so have much better knowledge of, and control over, wastes discharged to it for treatment.[15]

In sum:

[14] *Id*. 12 (Ex. A to Request).

[15] *Id*. 32.

> [T]he loss of the NPDES permit at the RLWTF will cause the loss of the RCRA exemption for the RLWTF. RCRA regulatory oversight will increase at the RLWTF. NPDES regulatory oversight will decrease.[16]

On this basis, LANL established zero liquid discharge as its "ultimate goal."[17] LANL repeatedly so stated.[18] NMED endorsed elimination of Outfall 051 as a desirable aim.[19]

43. Indeed, NMED has stated in LANL's HWA permit that the WWTU exemption depends upon the RLWTF discharging through a CWA outfall:

> 4.6 TA-50 RADIOACTIVE LIQUID WASTE TREATMENT FACILITY. The Permittees shall discharge all treated wastewater from the TA-50 Radioactive Liquid Waste Treatment Facility (RLWTF) through the outfall permitted under Section 402 of the federal Clean Water Act, or as otherwise authorized by the terms of an applicable Clean Water Act permit that regulates the treatment and use of wastewater. If the Permittees intentionally discharge through a location other than the permitted outfall or as otherwise authorized, they will fail to comply with this requirement, and as a consequence the wastewater treatment unit exemption under 40 CFR § 264.1(g)(6) will no longer apply to the RLWTF. The Permittees shall not accept listed hazardous wastes as specified at 40 CFR Part 261 Subpart D at the RLWTF.

2010 LANL HWA permit at 86.

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[16] *Id*. Table 6.

[17] Letter, Hanson and Rae to Bustamante, Sept. 3, 1998 (Ex. B to Request).

[18] Letter, Erikson and Baca to Coleman, March 18, 1999 (Ex. C to request); Letter, Rae to Coleman, Dec. 22, 1999 (Ex. D to Request); Letter, Rae to Coleman, June 13, 2000 (Ex. E to Request).

[19] See Letter, Yanicak to Coghlan, May 12, 1999, at 2 (Ex. F to Request).

44. If NMED concludes that the WQA supports a permit here, it would be ruling that the HWA does not apply to the RLWTF. Such a determination would, in essence, direct the NMED Hazardous Waste Bureau *not* to apply the HWA to the RLWTF. Such an action would be erroneous as a matter of law and would be seriously damaging to the interests of citizens who rely on the protections of RCRA and the HWA.

45. Under the WQA, where RCRA and HWA regulation is required, the WQA cannot apply. § 74-6-12.B NMSA 1978. Therefore, no WQA permit may be issued, and this proceeding must be dismissed.

B. There can be no WQA permit where there is no discharge:

46. It bears repeating that the Applicants have the burden of "proving the facts relied upon to justify the proposed discharge plan," 20.6.2.3110 NMAC.

47. The WQA authorizes the WQCC *only* to require "a permit *for the discharge of any water contaminant*" (*emphasis supplied*):

> By regulation, the commission may require persons to obtain from a constituent agency designated by the commission a permit for the discharge of any water contaminant or for the disposal or reuse of septage or sludge.

NMSA 1978, § 74-6-5. Thus, the regulations state that a permit applies to a discharge:

> Unless otherwise provided by this Part, no person shall cause or allow *effluent* or *leachate* to discharge so that it may move directly or

> indirectly into ground water unless he is discharging pursuant to a discharge permit issued by the secretary.

20.6.2.3104 NMAC. (Emphasis supplied.)

48. The regulations state that a discharge plan addresses releases of effluent or leachate "so that it may move directly or indirectly into ground water." 20.6.2.3104 NMAC. (Emphasis supplied.) The regulations define a

> "discharge plan" [as] 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 ground water . . .

20.6.2.7 NMAC. "Ground water" is further defined by regulation:

> Z. "ground water" means 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 . . .

Id. Thus, the WQA only applies to an actual "discharge" of a contaminant, moving toward ground water, and ground water 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."

49. But the RLWTF is now a "zero-liquid-discharge" facility. No water containing contaminants at regulatory levels is planned to be released, and none will move toward water occurring in saturated earth material which is capable of entering a well in sufficient amounts to be utilized as a water supply. An agency must follow its authorizing statute. *Albuquerque Cab Co. v. N.M. Public*

Regulation Commission, 2014-NMSC-004, ¶ 11. Likewise, an agency must follow its own regulations. *Hillman v. Health & Social Services Department*, 1979-NMCA-007, ¶ 5, 92 N.M. 480, 481; *accord*: *La Mesa Racetrack v. State Racing Commission*, 2013 N.M. App. Unpub. Lexis 95, ¶ 14.

50. Here, NMED's draft DP-1132 erroneously defines "discharge" in terms that far exceed the governing regulations:

> G. Discharge- the intentional or unintentional release of an effluent or leachate which has the potential to move directly or indirectly into ground water or to be detrimental to human health, animal or plant life, or property, or unreasonably interfere with the public welfare or the use of property.

DP-1132 draft permit at 5 (July 19, 2019).

51. In addition, NMED has erroneously inserted language into DP-1132 referring to a statutory "discharge" that is not actually occurring:

> In issuing this Discharge Permit, NMED finds:
>
> The Permittees are discharging effluent or leachate from the Facility so that such effluent or leachate may move directly or indirectly into ground water within the meaning of 20.6.2.3104 NMAC.
>
> The Permittees are discharging effluent or leachate from the Facility so that such effluent or leachate may move into ground water of the State of New Mexico which has an existing concentration of 10,000 mg/L or less of total dissolved solids (TDS) within the meaning of 20.6.2.3101.A NMAC
>
> The discharge from the Facility is within or into a place of withdrawal of ground water for present or reasonably foreseeable future use within the meaning of the WQA, NMSA 1978, § 74-6-5.E.3, and the WQCC Regulations at 20.6.2.3103 NMAC.

> The discharge from the Facility to Outfall 051 is subject to the exemption set forth in 20.6.2.3105F NMAC, to the extent that effective and enforceable effluent limitations (not including monitoring requirements) are imposed, unless the NMED Secretary determines that a hazard to public health may result.

Id. 9. The recitals that effluent or leachate is now being discharged are simply untrue and are refuted by, among other things, the consistent quarterly reports that show no such discharges.

52. Moreover, DP-1132 contains an "authorization to discharge," purportedly allowing LANL to "discharge" contaminated water from one tank to another within the RLWTF:

> The Permittees are authorized to discharge up to 40,000 gpd of low-level and transuranic radioactive industrial waste water using a series of treatment processes as described in Section V(D) of this Discharge Permit in accordance with the Conditions set forth in Section VI of this Discharge Permit.
>
> The Permittees are authorized to discharge up to 40,000 gpd of treated waste water, in accordance with the Conditions set forth in Section VI of this Discharge Permit. Discharges shall be to either the Mechanical Evaporator System (MES), the synthetically lined Solar Evaporation Tank System (SET), or through an outfall (Identified as Outfall 051) also regulated by a National Pollutant Discharge Elimination System (NPDES) permit (Permit No. NM0028355) issued by the United States Environmental Protection Agency [20.6.2.3104 NMAC, 20.6.2.3106C NMAC, 20.6.2.3109.C NMAC].

Id. 9-10. These findings and authorizations are entirely bogus. Discharges of contaminants through Outfall 051 stopped in 2010 and are neither occurring nor planned. The "authorization" to make such discharges through Outfall 051 is

meaningless, because Applicants have no plans to do so. The other "discharges" referred to are simply transfers among parts of the RLWTF, in which the water and any contaminant remain isolated. The idea that a transfer of water from one tank to another tank or evaporation unit in a contained facility, or back again—an action that makes no release of water to the environment or towards ground water even incrementally more likely—constitutes a "discharge" cannot be squared with the language of the WQA and its regulations.

53. Applicants recognize that a transfer to the evaporation units is no "discharge." They have repeatedly told NMED that a groundwater discharge permit is not required for the SET, because "there is no reasonable probability that liquid contained in the evaporation tanks would move into groundwater." (AR 213 at 03655; *see also* AR 221 at 03704; AR 256 at 05217). Recitals about fantasy "discharges" are merely a fabricated predicate for an unlawful WQA permit.[20]

C. There is no legal basis to regulate a supposed "potential" discharge.

54. The draft DP-1132 cannot be supported on the theory that a discharge

[20] Indeed, the WQA makes it clear that management of water that is confined within a particular unit is not subject to the Water Quality Act. It denies application of the Act to water pollution that is "confined entirely within the boundaries of property within which the water pollution occurs when the water does not combine with other waters":

> C. The Water Quality Act does not authorize the commission to adopt any regulation with respect to any condition or quality of water if the water pollution and its effects are confined entirely within the boundaries of property within which the water pollution occurs when the water does not combine with other waters.

NMSA 1978, § 74-6-12.

through Outfall 051 is *possible*. The WQA does not authorize a permit based on a finding that a facility might *possibly* discharge, *e.g.*, from an accidental leak. Such regulation would make little sense. If the *possibility* of equipment failure called for a discharge permit, then NMED would need to issue a discharge permit for any pipe or tank that does—or might—contain water with contaminants. It is always *possible* that a pipe or tank might leak. But only a "discharge" may be regulated. NMED is not allowed to issue a discharge permit for a facility that does not discharge. § 74-6-5.A NMSA 1978; 20.6.2.3104 NMAC.

D. The proposed permit, DP-1132, would be a nullity, because under the WQA it would not become effective until there is a discharge, *i.e.*, never.

55. The WQA authorizes "a permit for the discharge of any water contaminant," § 74-6-5.A NMSA 1978, and it specifies that "the term of the permit shall commence *on the date the discharge begins*." NMSA 1978, § 74-6-5(I) (*emphasis supplied*). Regulations contain the same terms. 20.6.2.3109.H. NMAC.

56. Since the permit term starts only with an *actual* discharge, a permit to a non-discharging facility never comes into effect. Here, Outfall 051 will indefinitely have 'zero liquid discharge', *i.e.*, no discharge at all. *See generally: Request to Terminate NPDES Permit #NM0028355 as to Outfall 051 for the Radioactive Liquid Waste Treatment Facility* (filed with the U.S. EPA Region 6 Regional Administrator on June 20, 2016). DP-1132, upon issuance, will be a nullity, and it will continue indefinitely to be a nullity.

57. When a permit is not in effect, it cannot be enforced. *State v. Villa*, 2003-NMCA-142, 134 N.M. 679, 82 P.3d 46, *aff'd in part, rev'd in part on other grounds*, 2004-NMSC-931, 136 N.M. 367, 98 P.3d 1017. Citizens respectfully submit that the Legislature did not assign NMED the task of promulgating a nullity.

IV. CONCLUSION

This proceeding is purely an attempt to confer upon the RLWTF an unlawful shield of immunity from hazardous waste regulation. NMED should not surrender to Applicants' demands for such undeserved privilege. RCRA, and the HWA, which enforces RCRA, have the force of federal law. It is not for a state agency to erect obstacles to the congressionally-mandated application of federal hazardous waste laws to a facility that admittedly treats and stores hazardous waste and is required under RCRA to adhere to stringent regulations in the handling of such dangerous substances. This proceeding should be dismissed.

Respectfully submitted this 8th day of October, 2019:

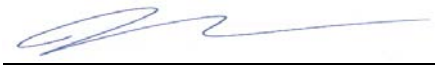
BY: _____
Lindsay A. Lovejoy, Jr.
Attorney at law
3600 Cerrillos Road, Unit 1001A
Santa Fe, NM 87507
(505) 983-1800
lindsay@lindsaylovejoy.com

_____
Jonathan M. Block, Eric D. Jantz,
Douglas Meiklejohn, Jaimie Park
New Mexico Environmental Law Center
1405 Luisa Street, Ste. 5, Santa Fe, NM 87505
(505) 898-9022, Ext. 22
jblock@nmelc.org

Co-Counsel for Petitioner Communities for Clean Water

CERTIFICATE OF SERVICE

I, Jonathan M. Block, hereby certify that on this 8th day of October, 2019, I caused the foregoing *Motion to Dismiss* to be served on the parties listed below by email and filing an original and one copy with the Administrator of Boards and Commissions.



Jonathan M. Block

Mr. Stuart R. Butzier and Ms. Christina C. Sheehan
Modrall Sperling Roehl Harris & Sisk, PA
123 E. Marcy Street, Ste. 201
Santa Fe, New Mexico 87501
sbutzier@modrall.com
ccs@modrall.com

Ms. Susan L. McMichael
Office of Laboratory Counsel/MS A187
Los Alamos National Laboratory
P.O. Box 1663
Los Alamos, New Mexico 87545-0001
smcmichael@lanl.gov

Silas R. DeRoma, Site Counsel,
U.S. Department of Energy/NNSA
3734 West Jemez Road/MS-A316
Los Alamos, New Mexico 87544
silas.deroma@nnsa.doe.gov

Triad National Security, LLC, and U.S. Department of Energy/NNSA

Mr. John Verheul, Assistant General Counsel,
New Mexico Environment Department
121 Tijeras Avenue, NE, Suite 1000
Harold Runnels Building, Suite N-4050
Albuquerque, New Mexico 87102
john.verheul@state.nm.us

Counsel for the New Mexico Environment Department

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 19-24 (P)

NEW MEXICO ENVIRONMENT DEPARTMENT'S NOTICE OF FILING OF THE 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 Administrative Record has been filed with the hearing clerk. The Administrative Record Index is included with this notice. Electronic copies of the Administrative Record will be made available as soon as possible.

Respectfully submitted,

NEW MEXICO ENVIRONMENT DEPARTMENT
OFFICE OF GENERAL COUNSEL

By: */s/ John Verheul*

John Verheul
Assistant General Counsel
121 Tijeras Avenue NE, Ste 1000
Albuquerque, New Mexico 87102
Phone: (505) 383-2063
Email: john.verheul@state.nm.us

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 October 17, 2019:

Stuart R. Butzier
Christina Sheehan
Modrall, Sperling, Roehl, Harris & Sisk, PA
P.O. Box 9318
Santa Fe, New Mexico 87504-9318
stuart.butzier@modrall.com
christina.sheehan@modrall.com

and

Susan McMichael
Office of Laboratory Counsel
Los Alamos National Laboratory
P.O. Box 1663, MS A187
Los Alamos, New Mexico 87545
smcmichael@lanl.gov

Attorneys for Triad National Security, LLC

Silas R. DeRoma
Attorney
U.S. Department of Energy
National Nuclear Security Administration
1900 Diamond Drive
Los Alamos, New Mexico 87544
silas.deroma@nnsa.doe.gov

Attorney for the U.S. Department of Energy

Lindsay A. Lovejoy, Jr.
Attorney at law
3600 Cerrillos Road, Unit 1001A
Santa Fe, New Mexico 87507
lindsay@lindsaylovejoy.com

and

Jonathan M. Block
New Mexico Environmental Law Center
1405 Luisa St., Ste. 5
Santa Fe, New Mexico 87505
jblock@nmelc.org

Attorneys for Concerned Citizens Nuclear for Safety, Honor our Pueblo Existence, New Mexico Acequia Association, and Tewa Women United

/s/ John Verheul
John Verheul

ADMINISTRATIVE RECORD INDEX

LOS ALAMOS NATIONAL LABORATORY

RADIOACTIVE LIQUID WASTE TREATMENT FACILITY

DP-1132

Date	Bates No.	From	To	Format	Subject
11/01/1994	00002-00012	Dennis McQuillan, NMED	Michael Dale, NMED GWPRB AIP/LANL	Fax	Response to NMED Letter of November 1, 1994 Re: Technical Area (TA)-50 Radioactive Liquid Waste Treatment Plant
04/03/1996	00013-00015	Marcy Leavitt, NMED	Tom Baca, LANL	Letter	Re: Discharge Plan Required for TA-50, Liquid Radioactive Waste Treatment Facility
04/18/1996	00016-00018	David Moss, LANL	Tori George, LANL	Memorandum	Re: Posting of Mortendad Canyon
04/1996	00019-00074	N/A	N/A	Abstract/Report	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
N/A	00075-00098	NMED	LANL	Letter attachment	Request for Additional

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Date	Bates No.	From	To	Format	Subject
					Information on Technical Area 50 Potential Release Sites 50- 006(a, c) 50-007, and 50-008
05/20/1996	00099-00106	N/A	N/A	Agenda, sign-up sheet, and Meeting Notes	May 20, 1996, Field Trip by NMED to the TA-50 Radioactive Liquid Waste Treatment Facility: Agenda, sign-up sheet, and Meeting Notes
07/13/1996	00107-00109	LANL	NMED	Acknowledgment of Receipt	Copy of Check No. 743204 $50.00
08/05/1996	00110-00111	Thomas E. Baca, LANL	Marcy Leavitt, NMED	Letter	Re: a request for a short deadline extension for submittal of the ground water discharge plan.
08/16/1996	00112-00532	LANL	NMED	Application	Ground Water Discharge Plan Application for the TA-50 Radioactive Liquid Waste Treatment Facility
08/16/1996	00533-00535	G. Thomas Todd, DOE, LANL	Dale Doremus, NMED	Letter	Re: Ground Water Discharge Plan Application, TA-50 RLWTP
08/26/1996	00536-00537	Dale M. Doremus, NMED	James Bearzi, NMED	Memorandum	Re: New Discharge Plan for DP-1132 LAN/TA-50

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Date	Bates No.	From	To	Format	Subject
					RLWTF
10/02/1996	00538-00539	Courte Voorhees, NMED	Phyllis Bustamante, NMED	Memorandum	Re: DP1132 LANL/TA-50
11/12/1996	00540-00542	Phyllis Bustamante, NMED	file	Field Trip Report	Evaluation of Proposed Discharge Plan. Inspection of Facilities
11/15/1996	00543-00544	LANL	NMED	Affidavit of Publication	Public Notice of proposed discharge plans for DP-1132, LANL, RLWTF TA-50 in the Los Alamos Monitor paper
11/17/1996	00545-00546	N/A	N/A	Affidavit of Publication	Public Notice DP-1132, LANL, RLWTF TA- 50 in the Albuquerque Journal
11/19/1996	00547-00554	Dale Doremus, NMED	Tom Todd, DOE, LANL	Letter	Public Notice forwarded
11/18/1996	00547-00554	Dale Doremus, NMED	Lawry Mann, LANL	Letter	Public Notice forwarded
11/19/1996	00547-00554	Dale Doremus, NMED	Board of County Commissioners, Los Alamos County	Letter	Public Notice forwarded
12/17/1996	00555-00556	Douglas Meiklejohn, NMELC	NMED	Letter	Re: Proposed ground water discharge plan 1132 requesting NMED to conduct a public hearing on the proposed plan

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Date	Bates No.	From	To	Format	Subject
12/13/1996	00557-00561	Phyllis Bustamante, NMED	Doug Meiklejohn, NMELC	Fax	Requests for hearing for DP-1132 from Susan Diane; Kathy Sanchez, Pi'ee Qµiyo Inc.; and Joey Natseway, Tewa Women United
12/06/1996	00562-00568	N/A	N/A	Workplan	Hydrogeologic Workplan LANL Draft Revision 1
12/19/1996	00569-00572	Phyllis Bustamante, NMED	Jay Cogman, CCWNS	Fax	Appendix C/What You, as a Requestor of Records, Should Know
01/1997 – 12/1997	00573-00574	Unknown	Unknown	Data Table	TA-50 WM-1 Radionuclide Summary Jan. 1997 through Dec. 1997
01/30/1997	00575-00577	Dale Doremus, NMED	Susan Diane	Letter	Re: DP 1132 for LANL RLWTF public hearing
01/30/1997	00578-00580	Dale Doremus, NMED	Joey Natseway Tewa Women United	Letter	Re: DP 1132 for LANL RLWTF public hearing
01/30/1997	00581-00583	Dale Doremus, NMED	Kathy Sanchez, Pi'ee Quiyo Inc.	Letter	Re: DP 1132 for LANL RLWTF public hearing
01/30/1997	00584-00611	N/A	N/A	List	Potential Release Sites
02/11/1997	00612-00615	Jorg Jansen, LANL/ER; and Theodore J.	Benito Garcia, NMED-HRMB	Letter	Re: Response to Request for Additional

Date	Bates No.	From	To	Format	Subject
		Taylor, DOE/LAAO			Information for RFI Report on TA-50 (PRSs 50-006(a,c), 50-007, and 50-008
04/20/1997	00616-00623	Steve Yanicak, LANL	Mat Johansen, DOE	Draft Letter	Re: Review of LANL's Ground Water Discharge Plan Application for the TA-50 RLWTF (08/16/1996)
04/21/1997	00624-00632	Phyllis Bustamante, NMED	Tom Todd, LANL	Letter	Re: Request for Additional Information, LANL RLWTF (TA-50), DP-1132
06/04/1997	00633-00636	N/A	N/A	RLWTF Survey Results	RLWTF Survey Results – Accelerator-Produced Isotopes
07/21/1997	00637-00639	Robert Dinwiddie, NMED	Tom Todd, LANL and Sigfried Hecker, LANL	Letter	Re: Change in Status of the Technical Area (TA) 53 Surface Impoundments LANL NM0890010515
04/24/1997	00640-00643	Tom Todd, LANL	Dale Doremus, NMED	Letter	Re: Revisions to LANL Ground Water Discharge Plan Application for RLWTF at TA-50 – Phase I Upgrades
06/13/1997	00644-00741	Jorg Jansen, LANL/ER; and	Benito Garcia, NMED-HRMB	Letter	Re: Response to the Request for

17231

Date	Bates No.	From	To	Format	Subject
		Theodore J. Taylor, DOE/LAAO			Supplemental Information to the NOD Response for RFI Report for PRSs 50-004(a, c) and 50-011(a) in TA-50 (Former OU 1147)
06/23/1997	00742-00763	Tom Todd, LANL	Dale Doremus, NMED	Letter	LANL's response to 4/21/1997 request for clarification and/or additional information on the RLWTF TA-50 Application, DP-1132
07/03/1997	00764-00772	Steven Rae, LANL	Sam Coleman, US EPA	Letter	Notice of Changed Conditions at NPDES Outfall 051- change of waste streams
N/A	00773-0777	N/A	N/A	Permit excerpts	Permit No. NM.0028355 Outfall 051
08/01/1997	00778-00779	Dale Doremus, NMED	Douglas Meiklejohn, NM ELC	Letter	Response to request for public hearing for DP- 1132 for LANL RLWTF
08/01/1997	00780-00782	Michael Dale, DOE OB, NMED	Phyllis Bustamante, NMED	Internal Memo	Suggestions or recommendations concerning LANL's response to GWPR's review for the TA-50

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Date	Bates No.	From	To	Format	Subject
					discharge plan
09/1997	00783-00785	N/A	N/A	Maps/Figures from Mortandad Canyon Workplan, Sept. 1997	Figure 3.3.1-2, Preliminary Isopach map of the alluvium in lower Mortandad Canyon and Figure 3.7.2.4 recent elevations of alluvial groundwater in lower Mortandad Canyon
09/29/1997	00786-00787	Douglas Meiklejohn, NMELC	Marcy Leavitt, NMED	Letter	IPRA request re: DP-1132 LANL RLWTF
09/30/1997	00788-00790	Phyllis Bustamante, NMED	N/A	Field Trip Report	Evaluation of Proposed DP-1132, Inspection of facilities or construction Phase 1 & 2 upgrades to system
10/16/1997	00791-00792	Bob Beers, LANL	Phyllis Bustamante, NMED	Letter	LANL's work plan for Mortandad Canyon – LA-UR-97-3291 work plan not included
12/11/1997	00793-00797	N/A	N/A	Figures 3 - 6	Figures 3 – 6, Mortandad Alluvial Nitrate Concentrations: 1962-1996
12/22/1997	00798-	Herman Le-	Dale Doremus,	Letter	LANL's response to

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Date	Bates No.	From	To	Format	Subject
	00802	Doux, DOE	NMED		comment number 6.b.1 of NMED's request for additional information, LANL RLWTF TA-50, DP-1132
12/30/1997	00803-00806	Tom Todd, LANL	Dale Doremus, NMED	Letter	Re: Revisions to LANL RLWTF at TA 50 for Phase I and Phase II
03/28/1997	00807-00809	N/A	N/A	Report	LANL Waste Profile System WPF #22921
03/24/1998	00810-00838	Alex Puglisi, LANL	Janice Archuleta, NMED	Letter	Transmittal of TA-50 Sampling and Analysis Plan
04/01/1998	00839-00840	P. Bustamante, NMED	Doug Meiklejohn, NMELC	Telephone conversation	TA-50 DP Application
04/09/1998	00841-00843	Phyllis Bustamante, NMED	Bob Beers, LANL	Letter	Follow Up-Meeting April 1, 1998, LANL RLWTF, DP-1132
04/27/1998	00844-00845	Douglas Meiklejohn, NMELC	Phyllis Bustamante, NMED	Letter	Proposed ground water discharge plan 1132 Pueblo of San Ildefonso wishes to withdraw request for public hearing on proposed DP 1132
05/29/1998	00846-00848	Bob Beers, LANL	Phyllis Bustamante, NMED	Letter	Re: Status of Phase I and II Upgrades, LANL Ground

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Date	Bates No.	From	To	Format	Subject
					Water Discharge Plan Application for the RLWTF at TA 50
05/12/1998	00849-00850	N/A	N/A	Map	Large Color Plot Map Proposed Regional Wells
05/12/1998	00851	N/A	N/A	Map	Large Color Plot Map Proposed Alluvial and Intermediate Wells
06/01/1998	00852-00858	Steven Rae, LANL	Phyllis Bustamante, NMED	Letter	Request for Additional Information, Ground Water Discharge Plan Application for the RLWTF, DP-1132
07/10/1998	00859-00861	Distribution	Dennis Erickson, Tom Baca, LANL	Memorandum	Radioactive Liquid Waste Zero Discharge Project
08/06/1998	00862-00863	Phyllis Bustamante, NMED	Bob Beers, LANL	Certified Letter	Effluent Quality and Ground Water Monitoring Data, LANL, RLWTF, DP-1132
08/06/1998	00864-00865	Phyllis Bustamante, NMED	Bob Beers, LANL	Telephone Conversation	Asking for more information on the biological treatment.
06/1998	00866-00933	N/A	N/A	Report, LA-13452-MS	Elimination of Liquid Discharge to the Environment from the TA-50

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Date	Bates No.	From	To	Format	Subject
					Radioactive Liquid Waste Treatment Facility
08/10/1998	00934-00935	Phyllis Bustamante, NMED	Bob Beers, LANL	Telephone Conversation	Sending a letter on compliance for the discharge.
08/25/1998	00936-00938	Bob Beers, LANL	Phyllis Bustamante, NMED	Letter	Request for additional information, Ground Water Discharge Plan Application for the RLWTF, DP-1132– effluent & ground water well data for 1997 and 1998
01/1997-06/1998	00939-00943	N/A	N/A	Monitoring Data	Att. C to 8/25/98 LANL letter - NPDES Monitoring Data for Outfall 051
01-1997-12/1997	00944-00951	N/A	N/A	Analysis Results	Att. D to 8/25/98 LANL letter - RLWTF Influent Monitoring: Semivolatile Organic Compounds and Volatile Organic Compounds
09/03/1998	00953-00956	Steven Rae, LANL	Phyllis Bustamante, NMED	Letter	Summary of July 31, 1998 Meeting at LANL and Status Report on RLWTF Upgrades

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Date	Bates No.	From	To	Format	Subject
09/17/1998	00957-00959	Dale Doremus, NMED	David Gurule, LANL	Certified Letter	Letter of Non-Compliance, LANL, RLWTF, DP-1132
10/08/1998	00960-00964	Steven Rae, LANL	Dale Doremus, NMED	Letter	Response to Letter of Non-Compliance, LANL, RLWTF, DP-1132
1997	00965-01081	N/A	N/A	Annual Report	EM/RLW Environmental Management Radioactive Liquid Waste Group Annual RLWTF Report
1997	01082-01228	N/A	N/A	Annual Report	EM/RLW Environmental Management Radioactive Liquid Waste Group Annual RLWTF Report
11/20/1998	01229-01237	Thomas Baca, LANL	Dale Doremus, NMED	Letter	Re: a short-term proposed operational plan
12/23/1998	01238-01240	Thomas Baca, LANL	Dale Doremus, NMED	Letter	Follow up to 11/20/98 letter re mechanical evaporation as the preferred process for the long-term treatment of (RO) reject stream

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Date	Bates No.	From	To	Format	Subject
02/26/1999	01241-01244	Dale Doremus, NMED	Susan Diane	Certified Letter	Response to questions submitted with request for public hearing in DP-1132 for LANL RLWTF
02/26/1999	01245-01248	Dale Doremus, NMED	Joey Natesway, Tewa Women United	Certified Letter	Response to questions submitted with request for public hearing in DP-1132 for LANL RLWTF
02/19/1999	01249-01256	Phyllis Bustamante, NMED	David Gurule, DOE	Certified Letter	Re: Additional information or clarification needed on Discharge Plan Application LANL RLWTF TA-50 DP-1132
02/26/1999	01257-01260	Dale Doremus, NMED	Kathy Sanchez, Pi'ee Quiyo Inc.	Certified Letter	Response to questions submitted with request for public hearing in DP-1132 for LANL RLWTF
03/12/1999	01261-01273	Dennis Erickson, LANL	Phyllis Bustamante, NMED	Letter	Response to NMED GWQB Request for Additional Information, Ground Water Discharge Plan Application for the TA-50 RLWTF, DP-1132 without

Date	Bates No.	From	To	Format	Subject
					Att. 1.0 – 11.0
03/16/1999	01274-01275	Phyllis Bustamante, NMED	Kathy Sanchez, Pi'ee Quiyo Inc.	Telephone Conversation	TA-50 DP-1132
03/18/1999	01276-01277	Phyllis Bustamante, NMED	Bob Beers, LANL	Telephone Conversation	Status of Phase I and Phase II
03/19/1999	01278-01280	Dale M Doremus, NMED	David Gurule, DOE	Certified Letter	Re: extension of time in which LANL may discharge without an approved discharge permit for an additional 20 days
03/22/1999	01281-01282	Phyllis Bustamante, NMNED	Suzanne Westerly, CCNS	Telephone Conversation	Public Hearing
03/29/1999	01283-01285	N/A - Meeting with Joey Natseway, Tewa Women United; Gilbert Sanchez,	N/A Tribal Env'l Watch Alliance, Kathy Sanchez, Teresa Juarez, and Ron Rundstrom	Agenda	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
03/23/1999	01286-01292	Dennis Erickson, LANL Thomas	Phyllis Bustamante, NMED	Letter	Installation of Mechanical

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Date	Bates No.	From	To	Format	Subject
		Baca, LANL			Evaporator, Ground Water Discharge Plan Application for the TA- 50 RLWTF, DP-1132
04/09/1999	01293-01295	Bob Beers, LANL	Phyllis Bustamante, NMED	Letter	NMED Sampling and Analysis of Effluent from the Laboratory's RLWTF at TA-50
04/13/1999	01296-01302	N/A	N/A	Sign-up sheet, Agenda	NMED Site Visit at RLWTF
04/14/1999	01303-01307	Bob Beers, LANL	Phyliss Bustamante, NMED	Fax	Letter forwarding a detailed project schedule for installation and start-up of the proposed mechanical evaporator for the LANL RLWTF at TA-50
04/14/1999	01308-01309	Bob Beers, LANL	Phyllis Bustamante, NMED	Email	RLWTF Effluent Tank Discharge
04/13/1999	01310-01314	DOH, Scientific Laboratory Division	Phyllis Bustamante, NMED	Analytical Results	Analytical results of sample of effluent collected on 04/13/99
04/13/1999	01315-01317	DOH, Scientific Laboratory Division	NMED	Analytical Results	Analytical results
04/13/1999	01318-01322	DOH, Scientific Laboratory Division	Phyllis Bustamante, NMED	Analytical Results	Analytical results of sample of effluent collected on

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Date	Bates No.	From	To	Format	Subject
					04/13/99
05/06/1999	01323-01327	Bob Beers, NMED	Phyllis Bustamante, NMED	Letter	RLWTF, Ground Water Discharge Plan DP- 1132 Quarterly Report, January 1-March 31, 1999
05/12/1999	01328-01338	Steve Yanicak, NMED	Jay Coghlan, CCNS	Letter with Att. 1 through 6	Status of Current and planned Upgrades at the TA-50 RLWTF and the Ground Water Discharge Plan DP-1132 Application
07/21/1999	01339-01344	Marcy Leavitt, NMED	Kathy Sanchez, Pi'ee Quiyo Inc.,	Letter	Public Hearing, LANL RLWTF, DP-1132 – no cover sheet begins
06/30/1999	01345-01348	Marcy Leavitt, NMED	David Gurule, DOE	Letter	Public Hearing, LANL, RLWTF, DP-1132
07/21/1999	01349-01350	Marcy Leavitt, NMED	Susan Diane	Letter	Public Hearing, LANL, RLWTF, DP-1132
07/21/1999	01351-01352	Marcy Leavitt, NMED	Douglas Meiklejohn, NMELC	Letter	Public Hearing, LANL, RLWTF, DP-1132
07/21/1999	01353-01354	Marcy Leavitt, NMED	Kathy Sanchez, Pi'ee Quiyo Inc.	Letter	Public Hearing, LANL, RLWTF, DP-1132
07/21/1999	01355-01356	Marcy Leavitt, NMED	Joey Natseway, Tewa Women	Letter	Public Hearing, LANL, RLWTF,

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Date	Bates No.	From	To	Format	Subject
			United		DP-1132
07/23/1999	01357-01368	Bob Beers, LANL	Phyllis Bustamante, NMED	Letter	RLWTF, Ground Water Discharge Plan DP- 1132, Quarterly Report, April 1 – June 30, 1999 – no cover sheet begins
08/06/1999	01369-01370	Douglas Meiklejohn, NMELC	Marcy Leavitt, NMED	Letter	Law Center no longer representing San Ildefonso Pueblo
10/04/1999	01371-01373	Bob Beers, LANL	Phyllis Bustamante, NMED	Letter	Re: a process modification at the TA-50 RLWTF- replacement of TUF tubes
10/29/1999	01374-01379	Bob Beers, LANL	Phyllis Bustamante, NMED	Letter	LANL's Ground Water Discharge Plan DP- 132 report for the RLWTF at TA-50 from July 1 – September 30, 1999
12/22/1999	01380-01384	Steve Yanicak, NMED	Steve Rae, LANL	Letter	Radioactive Effluent Quality at NPDES Outfall 051, TA-50, Building 1, October, 1999; (ESH-18/WQ&H:99-0467)

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Date	Bates No.	From	To	Format	Subject
01/25/2000	01385-01391	Bob Beers, LANL	Phyllis Bustamante, NMED	Letter	RLWTF, Ground Water Discharge Plan DP- 1132, Quarterly Report, Fourth Quarter, 1999
02/18/2000	01392-01397	Bob Beers, LANL	Barbara Hoditschek, NMED	Letter	Monthly Status Report, RLWTF at TA-50 for January 2000
03/20/2000	01398-01400	Bob Beers, LANL	Barbara Hoditschek, NMED	Letter	Monthly Status Report for February 2000, RLWTF at TA-50
03/12/1999	01401-01430	N/A	N/A	Attachment 7.0	Effluent Canyon Surface Water Monitoring – Summary Table of Results – Assaigai Analytical Laboratories, Inc. Report
01/31/2000	01431-01433	Maura Hanning, NMED	David Gurule, DOE	Certified Letter	Status Update on the Discharge Permit Application for the LANL, RLWTF, DP-1132
02/18/2000	01434-01438	Steven Rae, LANL	Maura Hanning, NMED	Letter	Status Update on the Ground Water Discharge Permit Application, LANL, RLWTF, DP-1132
04/26/2000	01439-01445	Bob Beers, LANL	Phyllis Bustamante, NMED	Letter	Ground Water Discharge Plan DP-

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Date	Bates No.	From	To	Format	Subject
					1132, Quarterly Report, First Quarter, 2000
07/31/2000	01446-01450	Bob Beers, LANL	Phyllis Bustamante, NMED	Letter	Ground Water Discharge Plan DP-1132, Quarterly Report, Second Quarter, 2000
10/27/2000	01451-01455	Bob Beers, LANL	Phyllis Bustamante, NMED	Letter	Ground Water Discharge Plan DP-1132, Quarterly Report, Third Quarter, 2000
08/18/2000	01456-01457	Bob Beers, LANL	Phyllis Bustamante	Letter	Ground Water Discharge Plan DP-1132, RLWTF at TA-50, additional information
12/01/2000	01458-01459	Phyllis Bustamante, NMED	Jody Arends, CCNS	Telephone Conversation	LANL – TA-50 – Public Hearing
12/08/2000	01460-01462	Bob Beers, LANL	Joni Arends, CCNS	Letter	LANL, Ground Water Discharge Plan Application for the TA-50 RLWTF
08/15/2001	01463-01502	N/A	N/A	Report	RLWTF Annual Report for 2000, AR-RLW- 2000 Vol. 1,R
01/30/2001	01503-01508	Bob Beers, LANL	Phyllis Bustamante, NMED	Letter	Ground Water Discharge Plan DP-1132, Quarterly Report, Fourth

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Date	Bates No.	From	To	Format	Subject
					Quarter, 2000
02/08/2001	01509-01510	Joni Arends, CCNS	Marcy Leavitt, NMED	Letter	IPRA Request Groundwater Discharge Plan for the LANL RLWTF TA-50 DP-1132
03/20/2001	01511-01513	Steven Rae, LANL	Joni Arends, CCNS	Letter w/no Attachments	Request for information, Ground Water Discharge Plan Application for the RLWTF at TA-50
Post-May 2001	01514-01533	N/A	N/A	Study	Radioactive Liquid Wastewater Treatment Facility Influent Minimization Study
04/24/2001	01534-01538	Bob Beers, LANL	Phyllis Bustamante, NMED	Letter LA-UR—01-5353	Ground Water Discharge Plan DP-1132, Quarterly Report, First Quarter, 2001
06/21/2001	01539-01541	Bob Beers, LANL	Phyllis Bustamante, NMED	Letter	June 11, 2001 Tour of Mortandad Canyon and the RLWTF at TA-50 – w/no Attachments
07/23/2001	01542-01548	Bob Beers, LANL	Phyllis Bustamante, NMED	Letter	Request for Change in Procedure, Total Dissolved Determination
07/25/2001	01549-01553	Bob Beers, LANL	Phyllis Bustamante, NMED	Letter	Ground Water Discharge Plan DP-

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Date	Bates No.	From	To	Format	Subject
					1132, Quarterly Report, Second Quarter, 2001
09/17/2001	01554-01560	Bob Beers, LANL	Phyllis Bustamante, NMED	Letter	Withdrawal of Request for Change in Procedure, Total Dissolved Determination
10/29/2001	01561-01565	Bob Beers, LANL	Phyllis Bustamante, NMED	Letter	Ground Water Discharge Plan DP-1132, Quarterly Report, Third Quarter, 2001
11/2001	01566-01582	N/A	N/A	Diagrams/ PowerPoint	The Radioactive Liquid Waste Treatment Facility at LANL Technical Area-50 Building 01
11/13/2001	01583-01586	N/A	N/A	Agenda	NMED-GWQB Tour
11/26/2001	01587-01590	David McInroy, LANL	John Young, NMED	Letter ER2001-0915	Notification of Geotechnical and Waste Characterization Sampling at TA-50
12/07/2001	01591-01596	N/A	N/A	Report – Att. 7.0	Derived Concentration Guideline Monthly Report for the TA-50 RLWTF-Sept. 2001
08/15/2001	01597-01702	N/A	N/A	Report	RLWTF Annual Report for 2000,

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Date	Bates No.	From	To	Format	Subject
					AR-RLW- 2000 Vol. 2,R.
CY 2001	01703-01706	N/A	N/A	Sample Results – Att. 2.0	LANL TA-50 RLWTF Weekly Composite Effluent Sample Results N03/N02-N, NH-3, TKN, F, TDS
01/10/2002	01707-01709	N/A	N/A	Field Trip Report	TA-55 Plutonium Processing Plant, DP-1132
01/16/2002	01710-01712	Curt Frischkorn, NMED	Bob Beers, LANL	Certified Letter	Request for Additional Information, DP-1132, LANL, RLWTF TA-50
01/25/2002	01713-01717	Bob Beers, LANL	Phyllis Bustamante, NMED	Letter	Ground Water Discharge Plan DP-1132, Quarterly Report, Fourth Quarter, 2001
01/31/2002	01718-01720	Steven Rae, LANL	Samuel Coleman, US EPA, Region 6	Letter	Notice of Planned Change at NPDES Outfall 051, NPDES Permit No. NM0028355– Perchlorate Removal
02/04/2002	01721-01724	Bob Beers, LANL	Phyllis Bustamante	Letter	LANL, RLWTF, Ground Water Discharge Plan DP-1132, Minor Modification – Perchlorate

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Date	Bates No.	From	To	Format	Subject
					Treatment Upgrade
02/12/2002	01725-01726	Curt Frischkorn, NMED	Bob Beers, LANL	Email	Direct all correspondence related to DP-1132 to Curt Frischkorn and delete Phyllis Bustamante from mailing list.
02/22/2002	01727-01742	Bob Beers, LANL	Curt Frischkorn, NMED	Letter	Response to Request for Additional Information RLWTF at TA-50
03/18/2002	01743-01749	N/A	N/A	Meeting Notes	LANL-RLWTF Meeting with Joni Arends, CCNS; Brian Shields and Linda Fair, Amigos Bravos; Coila Ash, NM Toxics Coalition
04/2002	01750-01874	N/A	N/A	Report	RLWTF Annual Report for 2001 – Volume 1
04/24/2002	01875-01880	Bob Beers, LANL	Curt Frischkorn, NMED	Letter	Ground Water Discharge Plan DP-1132, Quarterly Report, First Quarter 2002
07/25/2002	01881-01885	Bob Beers, LANL	Curt Frischkorn, NMED	Letter	Ground Water Discharge Plan DP-1132, Quarterly Report, Second

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Date	Bates No.	From	To	Format	Subject
					Quarter 2002
11/2002	01886-01966	N/A	N/A	Report LA-UR-02-7108	Pilot Scale Membrane Filtration Testing at the LANL RLWTF
11/27/2002	01967-01971	Steven Rae, LANL	Samual Coleman, US EPA Region 6	Letter	Notice of Planned Changes at TA-50 RLWTF, NPDES Permit No. NM0028355– Influent Tank Farm (300,000 gal.) and RO Pilot Units
12/10/2002	01972-01975	Bob Beers, LANL	Curt Frischkorn, NMED	Letter	RLWTF, Ground Water Discharge Plan DP- 1132, Minor Modification – Influent Tank Farm (300,000 gal.) and RO Pilot Units
01/29/2003	01976-01989	Bob Beers, LANL	Curt Frischkorn, NMED	Letter	TA-50 RLWTF, Ground Water Discharge Plan DP-1132 Quarterly Report, Fourth Quarter 2002
04/02/2003	01990-02007	N/A	N/A	Report	Field Trip Report LANL RLWTF TA-50 Facility Inspection (GWB), preparation for issuance of DP-1132

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Date	Bates No.	From	To	Format	Subject
04/30/2003	02008-02012	Bob Beers, LANL	Curt Frischkorn, NMED	Letter	TA-50 RLWTF, Ground Water Discharge Plan DP-1132 Quarterly Report, First Quarter 2003
06/09/2003	02013-02135	Bob Beers, LANL	Curt Frischkorn, NMED	Letter and Report LA-UR-03-2728	Forwarding RLWTF Annual Report for 2002
06/24/2003	02136-02139	Bob Beers, LANL	Curt Frischkorn, NMED	Letter	TA-50 RLWTF, Ground Water Discharge Plan DP-1132, Minor Modification– Cross-country pipeline from TA-21-257 to TA-50
08/01/2003	02140-02146	Maura Hanning, NMED	Ralph Erickson, US DOE	Letter	Notice of Public Hearing
07/30/2003	02147-02152	Bob Beers, LANL	Curt Frischkorn, NMED	Letter	TA-50 RLWTF, Ground Water Discharge Plan DP-1132 Quarterly Report, Second Quarter 2003
08/11/2003	02153-02158	Maura Hanning, NMED	Kathy Sanchez, Pi'ee Quiyo Inc.; Susan Diane; Douglas Meiklejohn, NM ELC; Joey Natseway, Tewa Women United; Joni Arends, CCNS	Letter	Notice of Public Hearing

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Date	Bates No.	From	To	Format	Subject
08/04/2003	02159-02161	N/A	N/A	Affidavit	Affidavit of Publication Notice DP-1132, LANL, RLWTF
09/03/2003	02162-02163	Joni Arends, CCNS	Maura Hanning, NMED	Letter	Request for a public hearing on LANL RLWTF DP-1132
09/03/2003	02164-02166	Joni Arends, CCNS	Maura Hanning, NMED	Email	DP-1132 – RLWTF proposed permit. Request for public hearing on draft discharge permit
09/06/2003	02167-02168	Kathleen Sanchez, Tewa Women United	Maura Hanning, NMED	Letter	LANL, RLWTF DP-1132. Request for public hearing on draft discharge permit.
08/11/2003	02169-02171	Maura Hanning, NMED	Susan Diane	Letter	Public Notice pertaining to proposed ground water discharge permit for LANL, RLWTF
09/04/2003	02172-02198	David McInroy, LANL; David Gregory, DOE	John Young, NMED	Letter	Status of Mortandad Canyon Sediment Investigations
09/17/2003	02299-02201	Bob Beers, LANL	Curt Frischkorn, NMED	Letter enclosing *Ground Water Wells in the Mortandad Canyon Area* (LA-UR-03-4596, July 2003	Request for additional information, TA-50 RLWTF, Ground Water Discharge Plan DP- 1132

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Date	Bates No.	From	To	Format	Subject
10/20-22/2003	02202-02219	N/A	N./A	Report/Powerpoint	NM Environmental Health Conference re Radioactive Liquid Waste Treatment Facility at LANL
10/31/2003	02220-02221	NMED	LANL	Invoice	Assessments Ground Water PRD200330002, 341 Discharge Fee $3,450.00
10/29/2003	02222-02227	Bob Beers, LANL	Curt Frischkorn, NMED	Letter and Report	TA-50 RLWTF, Ground Water Discharge Plan, Quarterly Report, Third Quarter 2003
11/10/2003	02228-02320	Bob Beers, LANL	NMED; CCNS; Tewa Women United	Presentation and Meeting Sign-in List	TA-50 RLWTF Ground Water Discharge Plan History
12/23/2003	02321-02327	Bob Beers, LANL	Curt Frischkorn, NMED	Letter	Response to request for additional information for TA-50 RLWTF, Ground Water Discharge Plan DP-1132 re unanswered questions at 11/10/03 presentation
03/04/2004	02328-02329	Curt Frischkorn, NMED	Steven Rae, LANL	Letter	Request for Additional Information, DP-1132, LANL –

Date	Bates No.	From	To	Format	Subject
					exceedances & detections in wells
04/05/2004	02330-02340	Bob Beers, LANL	Curt Frischkorn, NMED	Letter	Response to request for additional information for TA-50 RLWTF, Ground Water Discharge Plan DP-1132 – well data
04/20/2004	02341-02467	Bob Beers, LANL	Curt Frischkorn, NMED	Letter	RLWTF Annual Report For 2003
04/28/2004	02468-02474	Bob Beers, LANL	Curt Frischkorn, NMED	Letter	TA-50 RLWTF, Ground Waste Discharge Plan DP-1132 Quarterly Report, First Quarter 2004
05/13/2004	02475-02479	Steven Rae, LANL	Ed Wilmot, NNSA; Joseph Vozella, NNSA	Letter	Radioactive Effluent Quality at NPDES Outfall 051, TA-50, February 2004 and March 2004
07/13/2004	02480-02503	N/A	N/A	Assessment Powerpoint	Assessment of potential contaminant pathways through saturated zone in the vicinity of Mortandad Canyon
07/13/2004	02504-02517	N/A	N/A	Presentation Powerpoint	Historical Contaminant Impact on Groundwater at

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Date	Bates No.	From	To	Format	Subject
					LANL
07/28/2004	02518-02523	Beverly Ramsey, LANL	Curt Frischkorn, NMED	Letter	TA-50 RLWTF, Ground Water Discharge Plan DP-1132 Quarterly Report, Second Quarter 2004
07/13/2004	02524-02533	LANL	N/A	Presentation	Distribution of Nitrate plus Nitrate, Perchlorate, RDX, and Tritium within Perched Zones and the Regional Aquifer at LANL
08/18/2004	02534-02536	Christina Kelso, NMNED	Bob Beers, LANL	Email	Re: letter requesting the closure plan for TA- 50
08/18/2004	02537-02539	George Schuman, NMED	Steven Rae, LANL	Letter	Request for Additional Information, DP-1132 for NMED to complete its technical evaluation of the application: a closure plan
08/27/2004	02540-02542	Robert Beers, LANL	Christina Kelso, NMED	Email	Draft Closure Plan RLWTF DP-1132
08/30/2004	02543-02544	Christina Kelso, NMED	Bob Beers, LANL	Email	Draft Closure Plan RLWTF DP-1132
08/30/2004	02545-02548	Beverly Ramsey, LANL	George Schuman, NMED	Letter	Request for Additional Information, DP-1132, RLWTF

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Date	Bates No.	From	To	Format	Subject
					Closure Plan
11/03/2004	02549-02551	Christopher Vick, NMED	Bob Beers, LANL	Letter	Request for Additional Information, DP-1132 for NMED to complete its technical evaluation of the application: a closure plan
11/19/2004	02552-02570	N/A	N/A	CD	Photographs NMED Tour of RLWTF LA-UR-04-8540 LANL 12/04
01/25/2005	02571-02576	Bob Beers	Christopher F. Vick	Letter	TA-50 RLWTF, Ground Water Discharge Plan DP-1132 Quarterly Report, Fourth Quarter 2004
03/01/2005	02577-02851	N/A	N/A	CO	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
04/05/2005	02852-02855	Bob Beers, LANL	Christopher F. Vick	Letter	TA-50 RLWTF, Ground Water

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Date	Bates No.	From	To	Format	Subject
					Discharge Plan DP-1132, Minor Modification– well MCA-5 installed to replace MCO-3
04/11/2005	02856-02878	William Olson, NMED	Edwin Wilmott, NNSA; Regents of the University of California	Certified Letter	Notice that Ground Water Discharge Permit DP-1132, LANL has been proposed for approval.
04/15/2005	02879-02880	NMED GWQB	LANL	Invoice	Invoice, DP-1132 Ground Water Discharge Fee
04/27/2005	02881-02902	William Olson, NMED	Edwin Wilmott, NNSA; Regents of the University of California	Letter	Re-issuance of Public Notice Draft Discharge Permit, DP-1132, LANL RLWTF
04/29/2005	02903-02908	Bob Beers, LANL	Christopher Vick, NMED	Letter	TA-50 RLWTF, Ground Water Discharge Plan DP-1132 Quarterly Report, First Quarter 2005
06/06/2005	02909-02910	Douglas Meiklejohn, NM ELC	William Olson, NMED	Letter	Draft Discharge Permit DP-1132 – requesting a 30-day extension to file comments and request public hearing.
06/10/2005	02911-02919	William Olson, NMED	Edwin Wilmott, NNSA; Regents of	Letter	Draft Discharge Permit DP-1132 –

Date	Bates No.	From	To	Format	Subject
			the University of California		re-issuing public notice
06/30/2005	02920-02925	Diana Sandoval, NMED	Joni Arends, CCNS; Kathleen Sanchez, Tewa Women United; Peggy Prince, Peace Action New Mexico; George Rice, CCNS; Brian Shields, Amigos Bravos	Letter	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
06/30/2005	02930-02935	Diana Sandoval, NMED	Brian Shields, Amigos Bravos; George Rice, CCNS; Peggy Prince, Peace Action New Mexico; Kathleen Sanchez, Tewa Women United; Joni Arends, CCNS	Letter	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
06/29/2005	02936-03053	Bob Beers, LANL	Christopher Vick, NMED	Letter	TA-50 RLWTF, Annual Report for 2004 - Ground Water Discharge Plan DP-1132
07/26/2005	03054-03059	Bob Beers, LANL	Christopher Vick, NMED	Letter	TA-50 RLWTF, Ground Water Discharge Plan DP-

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Date	Bates No.	From	To	Format	Subject
					1132 Quarterly Report, Second Quarter 2005
08/04/2005	03060-03064	Steven Rae, LANL	William Olson, NMED	Letter	Review Comments, Draft Discharge Permit DP-1132, TA-50 RLWTF
08/04/2005	03065-03075	Douglas Meiklejohn, NMELC	William Olson, NMED	Letter	Application for renewal of discharge permit DP-1132 – request public hearing and submitting comments
08/04/2005	03076-03093	Joni Arends, CCNS	William Olson, NMED	Letter with Att. 3 by George Rice	Draft Ground Water Discharge Permit, DP- 1132 – submitting comments and requesting public hearing
02/02/2005	03094-03097	George Schuman, NMED	Edwin Wilmott, NNSA; Robert Kuckuck, University of California	Letter	Request for Additional Information, DP-1132
01/12/2006	03098-03232	N/A	N/A	Letters, Reports, Work Plans, Logs, and Data	TA-50-RLWTF Ground Water Discharge Plan (DP-1132) Response to NMED Information Request of 12/2/05
01/12/2006	03233-03248	Bob Beers, LANL	George Shuman, NMED	Letter	Response to NMED RFI, TA-50

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Date	Bates No.	From	To	Format	Subject
					RLWTF Ground Water Discharge Plan, DP-1132
N/A	03249-03392	N/A	N/A	CD	Environmental Stewardship Division, Solid Waste Regulatory Compliance (ENV-SWRC) Sampling and Analysis Plan
03/08/2010	03393-03395	Bob Beers, LANL	William Olson, NMED	Letter	TA-50 RLWTF, Ground Water Discharge Plan (DP-1132), Upgrade Project 60% Design for new RLWTF
04/25/2006	03396-03402	Bob Beers	Christopher Vick, NMED	Letter	TA-50 RLWTF, Ground Water Discharge Plan (DP-1132) Quarterly Report, First Quarter 2006
06/19/2006	03403-03406	Richard Watkins, LANS, LLC	Ron Curry, NMED; Richard Greene, EPA	Letter	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

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Date	Bates No.	From	To	Format	Subject
					Hazardous Waste Act, and the Toxic Substances Control Act
07/27/2006	03407-03413	Bob Beers, LANL	Christopher Vick, NMED	Letter	Ground Water Discharge Plan Quarterly Report, Second Quarter 2006 TA-50 RLWTF (DP-1132)
N/A	03414-03546	N/A	N/A	Report	Radioactive Liquid Waste Treatment Facility Annual Report for 2005
09/28/2006	03547-03549	N/A	N/A	Memorandum of Meeting	LANL proposal to design evaporative basins for the discharge of TA-50 treated effluent
01/23/2007	03550-03555	Bob Beers, LANL	Christopher Vick, NMED	Letter	Ground Water Discharge Plan Quarterly Report, Fourth Quarter 2006 TA-50 RLWTF (DP-1132)
04/23/2007	03556-03561	Bob Beers, LANL	Robert George, NMED	Letter	Ground Water Discharge Plan Quarterly Report, First Quarter 2007 TA-50 RLWTF (DP-1132)
06/11/2007	03562-03645	Bob Beers, LANL	Robert George, NMED	Letter	TA-50 RLWTF Annual Report for 2006

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Date	Bates No.	From	To	Format	Subject
07/23/2007	03646-03652	Bob Beers, LANL	Robert George, NMED	Letter	Ground Water Discharge Plan Quarterly Report, Second Quarter 2007 TA-50 RLWTF (DP-1132)
09/28/17	03653-03658	Anthony Grieggs, LANL	William Olson, NMED	Letter Draft	Draft of Notice of Intent to Discharge
10/23/2006	03659-03664	Bob Beers, LANL	Christopher Vick, NMED	Letter	Ground Water Discharge Plan Quarterly Report, Third Quarter 2006 TA-50 RLWTF (DP-1132)
10/30/2007	03665-03671	Bob Beers, LANL	Robert George, NMED	Letter	Ground Water Discharge Plan Quarterly Report, Third Quarter 2007 TA-50 RLWTF (DP-1132)
10/26/2007	03672-03682	James Bearzi, NMED	Donald Winchell, Jr., DOE; Richard Watkins, LANS, LLC	Letter	Information Request Regarding the Exemption Status of the Technical Area 50 RLWTF, EPA ID #NM0890010515
10/04/07	03683-03685	N/A	N/A	Telephone Conference	Update on status of permits for RLWTF and SWSH (DP-857)
10/26/2007	03686-03687	Bob Beers, LANL	Robert George, NMED; Jennifer Montoya, NMED	Email	DP-1132 Application Amendment for

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Date	Bates No.	From	To	Format	Subject
					new RLWTF at TA-50
10/18/2005	03688-03694	Bob Beers, LANL	Christopher Vick, NMED	Letter	TA-50 RLWTF, Ground Water Discharge Plan DP-1132 Quarterly Report, Third Quarter 2005
11/06/2007	03695-03702	James Bearzi, NMED	Lindsay Lovejoy	Email	LANL RLWTF exemptions
11/01/2007	03703-03813	Anthony Grieggs, LANL	William Olson, NMED; James Bearzi, NMED	Letter	Notice of Intent to Discharge, Evaporation Tanks, TA-50, RLWTF
11/20/2007	03814-03822	N/A	N/A	Inspection Report	LANL, DP-1132, Facility Inspection (GWHB)
11/28/2007	03823-03827	Richard Watkins, ESH&Q LANS; Gene Turner, LANL	James Bearzi, NMED	Letter	Response to Information Request regarding the Exemption status of the Technical Area 50 RLWTF, LANL, EPA ID # NM0890010515
01/25/2008	03829-03833	Bob Beers, LANL	William Olson, NMED	Letter	TA-50 RLWTF, Ground Water Discharge Plan DP-1132 Quarterly Report, Fourth Quarter 2007
03/05/2008	03834-03839	George Schuman, NMED	Jennifer Fullam, NMED; Gerald	Email	Old LANL letters from HWB

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Date	Bates No.	From	To	Format	Subject
			Knutson, NMED		
04/30/2008	03840-03845	Bob Beers, LANL	William Olson, NMED	Letter	Ground Water Discharge Plan Quarterly Report, First Quarter 2008, TA-50 RLWTF DP-1132
06/02/2008	03846-03850	N/A	N/A	Inspection Report	LANL, DP-1132 Facility Inspection
06/11/2008	03851-03853	Jennifer Fullam, NMED	Anthony Grieggs, ENV-RCRA	Letter	Request for Additional Information, DP-1132, RLWTF
07/01/2008	03854-03855	Jennifer Fullam, NMED	George Schuman, NMED	Email	Call from Bob Beers re: TA-50 and perchlorate concentrations
07/01/2008	03856-03906	Bob Beers, LANL	Robert George, NMED	Letter	TA-50 RLWTF Annual Report for 2007
07/30/2008	03907-03912	Bob Beers, LANL	William Olson, NMED	Letter	Ground Water Discharge Plan Quarterly Report, Second Quarter 2008, TA-50 RLWTF DP-1132
09/19/2008	03913 - 03914	Bill Olson, NMED	Robert George, NMED; Jennifer Fullam	Email	Listening Session Press Release and flier
10/30/2008	03915-03922	Bob Beers, LANL	William Olson, NMED	Letter	Ground Water Discharge Plan Quarterly Report, Third Quarter 2008,

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Date	Bates No.	From	To	Format	Subject
					TA-50 RLWTF DP-1132
01/30/2009	03923-03929	Bob Beers, LANL	William Olson, NMED	Letter	Ground Water Discharge Plan Quarterly Report, Fourth Quarter 2008, TA-50 RLWTF DP-1132
02/11/2009	03930-03932	Robert George, NMED; Jennifer Fullam, NMED		Memorandum of Meeting or Phone Conversation	
04/30/2009	03933-03939	Bob Beers, LANL	William Olson, NMED	Letter	Ground Water Discharge Plan Quarterly Report, First Quarter 2009, TA-50 RLWTF DP-1132
07/30/2009	03940-03946	Bob Beers, LANL	William Olson, NMED	Letter	Ground Water Discharge Plan Quarterly Report, Second Quarter 2009, TA-50 RLWTF DP-1132
07/09/2009	03947-03949	Marissa Bardino, NMED	Jennifer Fullam, NMED	Email	Radioactive Waste Plant at LANL Has Spill – Albuquerque Journal article
08/24/2009	03950-03952	Jennifer Fullam, NMED	Bob Beers	Email	Map Request
10/28/2009	03953-03959	Bob Beers, LANL	William Olson, NMED	Letter	Ground Water Discharge Plan

Date	Bates No.	From	To	Format	Subject
					Quarterly Report, Third Quarter 2009, TA-50 RLWTF DP-1132
01/28/2010	03960-03967	Bob Beers, LANL	William Olson, NMED	Letter	Ground Water Discharge Plan Quarterly Report, Fourth Quarter 2009, TA-50 RLWTF DP-1132
04/28/2010	03968-03974	Bob Beers, LANL	William Olson, NMED	Letter	Ground Water Discharge Plan Quarterly Report, First Quarter 2010, TA-50 RLWTF DP-1132
03/08/2010	03975-04006	Bob Beers, LANL	William Olson, NMED	Letter	TA-50 RLWTF Ground Water Discharge Plan DP-1132 Upgrade Project 60% Design for new RLWTF
07/28/0210	04007-04013	Bob Beers, LANL	William Olson, NMED	Letter	Groundwater Discharge Plan Quarterly Report, Second Quarter 2010, TA-50 RLWTF DP- 1132
08/20/2010	04014	Jake Meadows, LANL	Jennifer Fullam & Richard Powell - NMED	Email	LANL Safety Shower Test Discharge
08/25/2010	04015-04019	Anthony Grieggs, LANL	William Olson, NMED	Letter	TA-50 RLWTF, Discharge Plan DP-1132 Minor

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Date	Bates No.	From	To	Format	Subject
					Modification to reduce copper and zinc in discharge
09/20/2010	04020-04022	Norma Perez, NMED AQB	Patricia Gallagher LANL	Certified Letter	Notice of No Permit Required authorizes LANL to operate the facility as stated in the application – LANL RLWTF, TA-50
09/27/2010	04023-04029	Anthony Grieggs, LANL	William Olson, NMED	Letter	TA-50 RLWTF Discharge Plan DP-1132, Minor Modification to reduce copper and zinc in discharge
10/28/2010	04030-04036	Bob Beers, LANL	William Olson, NMED	Letter	Groundwater Discharge Plan Quarterly Report, Third Quarter 2010, TA-0050 RLWTF DP- 1132
11/09/2010	04037-04038	Gerald Knutson, NMED	Jennifer Fullam, NMED	Email	LANL interested party list for TA-50 DP-1132
12/15/2010	04039-04043	Bob Beers, LANL	William Olson, NMED	Letter	TA-50 RLWTF Discharge Plan DP-1132, Minor Modification– add hardness
01/31/2011	04044-04048	Bob Beers, LANL	William Olson, NMED	Letter	Groundwater Discharge Plan Quarterly Report, Fourth Quarter 2010,

Date	Bates No.	From	To	Format	Subject
					TA-50 RLWTF
2010	04049-04549	N/A	N/A	CDs	LANL Environmental Report 2010 Includes Supplemental Data
03/22/2011	04550-04563	Bob Beers, LANL	William Olson, NMED	Letter	TA-50 RLWTF, Discharge Plan DP-1132, Minor Modification to install pressure media filtration and cartridge filtration capability
03/28/2011	04564-04567	Bob Beers, LANL	Robert George, NMED	Letter	NMED LANL Meeting Agenda, 3/30/2011 – LANL revised
03/30/2011	04568-04577	George Schuman, NMED; Robert George, NMEd; Jennifer Fullam, NMED; Gerald Knutson, NMED	Bob Beers, LANL; Pete Worland, LANL; Make Saladen, LANL	Telephone Conversation	TA-50 RLWTF LANL met with NMED to discuss treatment process changes occurring at the RLWTF
04/19/2011	04578-04583	Bob Beers, LANL	William Olson, NMED	Letter	Groundwater Discharge Plan DP-1132 Quarterly Report, First Quarter 2011, TA-50 Radioactive Liquid Waste Treatment Facility
07/13/2011	04585-	N/A	N/A	4 CDs	RLWTF Zero

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Date	Bates No.	From	To	Format	Subject
	05208				Liquid Discharge Subproject LANL 60% Design Submittal Specifications, Calculations, Test and Inspection Plan, Master Document List and Field Change Notice Criteria Document
07/25/2011	05209-05214	Bob Beers, LANL	William Olson, NMED	Letter	Groundwater Discharge Plan DP-1132 Quarterly Report, Second quarter 2011 TA-50 RLWTF
08/11/2011	05215-05223	Anthony Grieggs, LANL; Gene Turner, LANL	Jerry Schoeppner, NMED	Letter	Sixty Percent Design, Evaporation Tanks, TA- 50 RLWTF
08/30/2011	05224-05225	Bob Beers, LANL	Jennifer Fullam, NMED	Email	NMED-GWQB Inspection of the TA-50 RLWTF
09/08/2011	05226-05228	N/A	N/A	Field Trip Report	RLWTF at TA-50, Unauthorized Diesel Spill Site at TA-53
09/12/2011	05229-05233	Bob Beers, LANL	Jennifer Fullam, NMED	Email	NMED-GWQB Inspection of the TA-50 RLWTF NNMED inspection participant list 9/8/11

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Date	Bates No.	From	To	Format	Subject
10/19/2011	05234-05236	Anthony Grieggs, LANL; Gene Turner, LANL	Jerry Schoeppner, NMED	Letter	Addendum to the Notice of Intent to Discharge for the RLWTF's Evaporation Tanks
11/08/2011	05243-05252	Jim Davis, NMED	Jennifer Fullam, NMED	Email	Review of documents
11/18/2011	05253-05258	James Davis, NMED	Anthony Grieggs, LANL	Letter	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
12/01/2011	05259-05260	Jennifer Fullam, NMED	Bob Beers, LANL	Telephone Conversation	DP Application Required Letter
12/08/2011	05261-05269	Bob Beers, LANL	Jennifer Fullam, NMED	Email	Request for Extension to Submit Updated Discharge Permit Application RLWTF DP- 1132
12/07/2011	05270-05277	Anthony Grieggs, LANL	James Davis, NMED	Letter	Request for an Extension to Submit and Updated Discharge Permit Application for the RLWTF

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Date	Bates No.	From	To	Format	Subject
					DP-1132
12/15/2011	05278-05281	Jerry Schoeppner, NMED; Clint Marshall, NMED; Robert George, NMED; Kim Kirby, NMED; Jennifer Fullam, NMED; Gerald Knutson, NMED	Bob Beers, LANL; Danny Katzman, LANL; Gene Turner, LANL	Telephone Conference	Ground Water Monitoring Program at LANL, they discussed the current monitoring program and hydrogeological conditions which exist at the facility
12/22/2011	05282-05283	Bob Beers, LANL	Jennifer Fullam, NMED	Email	NMED Inspection Report
12/30/2011	05284-05292	James Davis, NMED	Anthony Grieggs, LANL	Certified Letter	Denial of Time Extension to Submit Application, DP-1132, RLWTF
01/03/2012	05293-05294	Jennifer Fullam, NMED	Bob Beers, LANL	Telephone Conversation	Meeting/Request for Extension
01/18/2012	05299-05302	Bob Beers, LANL	Jennifer Fullam, NMED	Letter	Request for Short Time Extension to Submit Application DP-1132, RLWTF
01/24/2012	05303-05308	Allison Dorries, LANS; Gene Turner, NNSA	Jerry Schoeppner, NMED	Letter	Groundwater Discharge Plan DP-1132 Quarterly Report, Fourth quarter 2011 TA-50 RLWTF
01/27/2012	05309-05321	James Davis, NMED	Anthony Grieggs, LANL	Letter	Approval of Time Extension to Submit Application DP-1132, RLWTF

Date	Bates No.	From	To	Format	Subject
02/02/2012	05322-05324	Bob Beers, LANL	Jennifer Fullam, NMED	Email	Request for a meeting with GWQB and HWB re: R-28 DP Application
02/06/2012	05326	LANL	NMED	Check	No. 251606 for $100.00, DP-1132
02/10/2012	05327-05330	Jennifer Fullam, NMED	Jerry Schoeppner, NMED	Email	LANL 2011 GWQB Status Report
02/13/2012	05331-05332	Bob Beers, LANL	Robert, George, NMED	Email	ZLD Evaporation Tank Liners
02/14/2012	05333-05335	Bob Beers, LANL	Robert George, NMED	Email	ZLD Evaporation Tank Liners
02/14/2012	05336-08003	Allison Dorries, LANS; Gene Turner, NNSA	Jerry Schoeppner, NMED	Application	Groundwater Discharge Permit DP-1132 Application for the TA-50 RLWTF and the TA-52 Zero Liquid Discharge Solar Evaporation Tanks
unknown	08005-08095	N/A	N/A	CD	RLWTF Upgrade Project Zero; ZLD Subproject PID 100761
02/28/2012	08096-08097	Bob Beers, LANL	Jennifer Fullam, NMED	Email	Discharge Permit DP-1132 Application – Revised Latitude/Longitude
02/28/2012	08098-08099	Jennifer Fullam, NMED	Bob Beers, LANL	Telephone Conversation	Location of Evaporators

Date	Bates No.	From	To	Format	Subject
02/29/2012	08100-08101	Gerald Knutson, NMED	Jerry Schoeppner, NMED; Marshall, Clint, NMED; Robert George, NMED Jennifer, Fullam, NMED	Email	NMED Inspection of LANL's Sanitary Effluent Reclamation Facility and the TA-52 ZLD Solar Evaporation Tanks on March 20, 2012
03/02/2012	08102-08107	Jerry Schoeppner, NMED	Kevin Smith, NNSA; Alison Dorries, LANS	Letter	Administrative Completeness Determination and Applicant's Public Notice Requirements, DP-1132, LANL
03/12/2012	08108-08113	N/A	N/A	Public Notice 1	Ground Water Discharge Permit applications have been submitted to the NMED for review
03/16/2012	08114-08115	Jennifer Fullam, NMED	Bart Vanden Plas, Santa Ana Pueblo	Telephone Conversation	Interested Party
03/19/2012	08116-08117	Jennifer Fullam, NMED	Michael Chacon, San Ildefonso Pueblo	Telephone Conversation	Interested Party
03/20/2012	08118-08119	Jennifer Fullam, NMED	Rachel Conn, Amigos Bravos	Telephone Conversation	Interested Party
03/20/2012	08120-08124	N/A	N/A	Inspection Report	LANL – RLWTF Routine inspection pre- permit discussion
03/26/2012	08125-08126	Jennifer Fullam, NMED	Rachel Conn, Amigos Bravos	Telephone Conversation	Interested Party

Date	Bates No.	From	To	Format	Subject
03/27/2012	08129-08131	Bob Beers, LANL	Jennifer Fullam, NMED	Email	NMED Inspection DP-1132 and DP-857 participant list
03/27/2012	08132-08133	Bob Beers, LANL	Jennifer Fullam, NMED	Email	Request for NMED – GWQB Inspection Report
04/02/2012	08134-08151	Alison Dorries, LANL; Gene Turner, LANL	Jerry Schoeppner, NMED	Letter	Supplemental Information for Discharge Permit Application DP-1132
N/A	08175	Jennifer Fullam, NMED	Sylvia Hower	Telephone Conversation	LANL – RLWTF Interested Party
05/17/2012	08176-08201	Alison Dorries, LANL; Gene Turner, LANL	Jerry Schoeppner, NMED	Letter	Affidavit of Public Notice Completion, Discharge Permit Application DP-1132, TA- 50 RLWTF and TA-52 Zero Liquid Discharge Solar Evaporation Tanks
03/02/2012	08202-08214	Jerry Schoeppner, NMED	Kevin Smith, NNSA; Allison Dorries, LANS	Letter	Administrative Completeness Determination and Applicant's Public Notice Requirements, DP-1132, LANL
04/26/2012	08215-08221	Alison Dorries, LANL; Gene Turner, LANL	Jerry Schoeppner, NMED	Letter	Discharge Plan DP-1132 Quarterly Report, First Quarter 2012, TA-50 RLWTF

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Date	Bates No.	From	To	Format	Subject
07/10/2012	08222-08234	Alison Dorries, LANL; Gene Turner, LANL	Jerry Schoeppner, NMED	Letter	Response to NMED GWQB Inspection Report, DP-1132 dated 3/20/12
07/17/2012	08235-08241	Alison Dorries, LANL; Gene Turner, LANL	Jerry Schoeppner, NMED	Letter	Discharge Plan DP-1132 Quarterly Report, Second Quarter 2012, TA-50 RLWTF
07/25/2012	08242-08243	Bob Beers, LANL	Robert George, NMED	Email	DOE/LANS/NMED GWQB Meeting Re: ZLD Evaporation Tanks
08/10/2012	08268-08313	Alison Dorries, LANL; Gene Turner, LANL	Jerry Schoeppner, NMED	Letter	Supplemental Information for Discharge Permit Application DP-1132, RLWTF and ZLD Solar Evaporation Tanks
08/22/2012	08314-08315	Bob Beers, LANL	Robert George, NMED; Jennifer Fullam, NMED; Clint Marshall, NMED; Jim Davis, NMED	Email	Correction Notice re: LANL ZLD Evaporation Tanks
10/29/2012	08323-08332	Alison Dorries, LANL; Gene Turner, LANL	Jerry Schoeppner, NMED	Letter	Discharge Plan DP-1132 Quarterly Report, Third Quarter 2012, TA-50 RLWTF
11/14/2012	08333-08335	LANL	Jerry Schoeppner, NMED	Letter	Supplemental Information for Discharge Permit

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Date	Bates No.	From	To	Format	Subject
					Application DP-1132, Zero Liquid Discharge (ZLD) Solar Evaporation Tanks, As-built Drawings
11/16/2012	08336-08338	Jerry Schoeppner, NMED	Governor Phillip Quintana, Pueblo de Cochiti	Letter	Notification of Proposed Ground Water Discharge Permit for LANL – RLWTF, DP- 1132
11/16/2012	08339-08341	Jerry Schoeppner, NMED	Governor Terry Aguilar Pueblo of San Ildefonso	Letter	Notification of Proposed Ground Water Discharge Permit for LANL – RLWTF, DP- 1132
11/16/2012	08342-08344	Jerry Schoeppner, NMED	Governor Walter Dasheno Pueblo of Santa Clara	Letter	Notification of Proposed Ground Water Discharge Permit for LANL – RLWTF, DP- 1132
11/16/2012	08349-08350	Jerry Schoeppner, NMED	Governor Joshua Madalena, Pueblo of Jemez	Letter	Notification of Proposed Ground Water Discharge Permit for LANL – RLWTF, DP- 1132
01/13/2014	08463-08464	Jennifer Pruett, NMED	Bob Beers, LANL; Jennifer Fullam, NMED	Email	Obtaining copies of public comments on Draft Discharge Permit DP-1132
01/17/2013	08465-08516	N/A	N/A	Report	Facility Operations Analysis and Sequence of Operations for the

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Date	Bates No.	From	To	Format	Subject
					TA-50 RLWTF Upgrade Project Low-level Waste Subproject
04/04/2013	08636-08639	Robert George, NMED	Brian Shields, Amigos Bravos;	Email	LANL Discharge
04/04/2013	08641-08644	Brian Shields, Amigos Bravos	Robert George, NMED	Email	Requesting information re: discharge observed on February 27.
04/05/2013	08645-08649	Jennifer Fullam, NMED	Brian Shields, Amigos Bravos; Robert George, NMED	Email	LANL Discharge
04/30/2013	08681-08683	Alison Dorries, LANS; Gene Turner, DOE	Jerry Schoeppner, NMED	Letter	Discharge Plan DP-1132 Quarterly Report, First Quarter 2013, TA-50 RLWTF
05/17/2013	08780-08782	Unknown	Unknown	CD	Gage Stations
06/14/2013	09062-09064	Jerry Schoeppner, NMED	Myron Armijo, Governor of Santa Ana Pueblo	Letter	Preliminary Draft Discharge Permit, DP-1132, RLWTF. Transmitting preliminary draft.
06/14/2013	09065-09067	Jerry Schoeppner, NMED	Terry Aguilar, Governor of San Ildefonso Pueblo	Letter	Preliminary Draft Discharge Permit, DP-1132, RLWTF. Transmitting preliminary draft.
06/14/2013	09068-09070	Jerry Schoeppner, NMED	Vincent Toya, Sr., Governor of Jemez Pueblo	Letter	Preliminary Draft Discharge Permit, DP-1132, RLWTF.

Date	Bates No.	From	To	Format	Subject
					Transmitting preliminary draft.
06/14/2013	09071-09073	Jerry Schoeppner, NMED	J. Leroy Arquero, Governor of Cochiti Pueblo	Letter	Preliminary Draft Discharge Permit, DP-1132, RLWTF. Transmitting preliminary draft.
06/14/2013	09074-09076	Jerry Schoeppner, NMED	J. Bruce Tafoya, Governor of Santa Clara Pueblo	Letter	Preliminary Draft Discharge Permit, DP-1132, RLWTF. Transmitting preliminary draft.
06/14/2013	09249-09251	Jerry Schoeppner, NMED	Myron Armijo, Governor of Santa Ana Pueblo	Letter	Preliminary Draft Discharge Permit, DP-1132, RLWTF. Resending preliminary draft.
07/24/2013	09267-09269	Bob Beers, LANL	Robert George, NMED	Email	Corrective Action Plan Pumping Test at Monitoring Well R-42
07/25/2013	09270-09284	Alison Dorries, LANS; Gene Turner, DOE	Jerry Schoeppner, NMED	Letter	Discharge Plan DP-1132 Quarterly Report, Second Quarter 2013, TA-50 RLWTF
08/06/2013	09375-09376	Jennifer Fullam, NMED	Rachel Conn, Amigos Bravos	Email	Second Public Notice for RLWTF DP-1132
08/13/2013	09377-09378	Bob Beers, LANL	Jennifer Pruett, NMED	Email	Requesting meeting with NMED, DOE, and LANS
09/10/2013	09394-09445	Jennifer Fullam, NMED	Gene Turner, DOE; Alison Dorries,	Letter	Ground Water Discharge Permit

Date	Bates No.	From	To	Format	Subject
			LANS		DP-1132 has been proposed for approval
09/13/2013	09449-09450	NMED	Public Notice	Public Notice 2	Public Notice of applications that have been proposed for approval.
09/17/2013	09453	Jennifer Fullam, NMED	N/A	Memorandum of Phone conversation	Conversation with Michael Chacon re: DP-1132
09/27/2013	09454-09456	Myron Armijo, Governor of Santa Ana Pueblo	Jennifer Fullam, NMED	Letter	The Pueblo of Santa Ana's Comments on the Draft Ground Water Discharge Permit (DP- 1132)
10/03/2013	09516-09565	Alison Dorries, LANS; Gene Turner, DOE	Jerry Schoeppner, NMED	Letter	Request for Temporary Permission to Place New Influent Storage Tanks Into Service at LANL, DP-1132
10/16/2013	09575-09576	Bob Beers, LANL	Jennifer Fullam, NMED	Email	Draft Discharge Permit DP-1132 MS Word Version. Requesting a copy.
10/17/2013	09577-09584	Alison Dorries, LANS; Gene Turner, DOE	Jerry Schoeppner, NMED	Letter	Discharge Plan DP-1132 Quarterly Report, Third Quarter 2013, TA-50 RLWTF
10/28/2013	09589	Jennifer Fullam, NMED	N/A	Memorandum of Phone conversation	Dave McCoy left voicemail requesting

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Date	Bates No.	From	To	Format	Subject
					info on draft DP-1132
10/29/2013	09590-09595	Jennifer Pruett, NMED	John Kieling, NMED; Jerry Schoeppner, NMED; Jennifer Fullam, NMED; Dave McCoy, Citizen Action NM	Email	Missing Attachment for Draft LAN RLWTF. Providing link to monitoring well guidelines.
11/07/2013	09596-09597	Jennifer Fullam, NMED	Jerry Schoeppner, NMED; Jennifer Pruett, NMED	Email	Discussion with San Filipe Pueblo re: LANL RLWTF
N/A	09598-09599	N/A	N/A	Memorandum of Phone Conversation	Stout called Fullam to inform her that San Felipe Pueblo was planning on submitting comments
11/13/2013	09600-09601	Jennifer Fullam, NMED	Bob Beers, LANL	Email	Confirming dates of DP-1132 Public Comment Period
11/18/2013	09604	Jennifer Fullam, NMED	Robert Gilkeson	Email	Public Records Request
11/18/2011	09605-09615	James Davis, NMED	Anthony Grieggs, EPA	Letter	Response to Notice of Intent to Discharge and Discharge Permit Required for Zero Liquid Discharge Tanks, AI 856: PDR 20070004 and Updated Application

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Date	Bates No.	From	To	Format	Subject
					Submittal Required for the RLWTF DP-1132
11/26/2013	09619-09626	Gene Turner, DOE; Alison Dorries, LANS	Jennifer Fullam, NMED	NMED Routing Slip	Temporary Permission WMRM
12/06/2013	09631-09655	Jonathan Block, NMELC	Jerry Schoeppner, NMED; Jennifer Fullam, NMED	Email	CCW-TWU-3 Individuals-TA-50 RLWTF Permit First Set of Comments and Hearing Request
12/06/2013	09656-09679	Jonathan Block, NMELC	Jerry Schoeppner, NMED; Jennifer Fullam, NMED	Letter	Comments and Hearing Request of the Communities for Clean Water, Tewa Women United and three individuals on the proposed permit DP-1132 to RLWTF
12/12/2013	09683-09684	Scott Kovac, Nuclear Watch NM	Ryan Flynn, NMED; Jennifer Fullam, NMED	Email	Nuclear Watch NM Comments on Draft Discharge Permit DP-1132 – Cover email
12/12/2013	09685-09686	Jonathan Block, NMELC	Jerry Schoeppner, NMED; Jennifer Fullam, NMED; Brian Shields, Amigos Bravos; Rachel Conn, Amigos Bravos;	Email	2nd Set of Comments and Hrg. Reg. from CCW, TWU and Individuals on DP-1132 for the RLWTF – Cover

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Date	Bates No.	From	To	Format	Subject
			Kathy Sanchez, Pi'ee Quiyo Inc.; J.G. Sanchez; Marian Naranjo, Honor Our Pueblo Existence (HOPE); Robert Gilkeson; Joni Arends, CCNS		email
12/12/2013	09687-09689	Scott Kovac, Nuclear Watch NM	Ryan Flynn, NMED; Jennifer Fullam, NMED	Comments	Nuclear Watch NM Comments on Draft Discharge Permit DP-1132
12/12/2013	09690-09768	Jonathan Block, NMELC	Jerry Schoeppner, 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	Comments	2nd Set of Comments and Hrg. Reg. from CCW, TWU and Individuals on DP-1132 for the RLWTF
12/12/2013	09769-09864	Alison Dorries, LANS; Gene Turner, DOE	Jerry Schoeppner, NMED	Letter	Review Comments, Draft Discharge Permit, DP-1132, RLWTF
N/A	09865-09881	Robert Gilkeson	CCW, TWU, NMED	Public Comment and Hearing Request	Deficiencies in Ground Water Protection in the

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Date	Bates No.	From	To	Format	Subject
					Draft Ground Water DP-1132 Permit, by Independent Registered Geologist Robert H. Gilkeson
12/12/2013	09882-09883	Kathy Sanchez, TWU	Jerry Schoeppner, 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	Email	RE: got it..[sic]2nd Set of Comments and Hrg. Reg. from CCW, TWU and Individuals on DP-1132 for the RLWTF
01/14/2014	09884-09890	N/A	N/A	NMED Internal Document	DP-1132 Public Comments Summary
12/12/2013	09891-09895	Jay Coghlan Nuclear Watch NM; Scott Kovac Nuclear Watch NM	Ryan Flynn, NMED; Jennifer Fullam, NMED	Letter	Submitting comments for Draft Discharge Permit DP-1132
01/07/2014	09896-09897	Bob Beers, LANL	Jennifer Fullam, NMED	Email	Comments on DP-1132 Draft Discharge Permit
01/13/2014	09898-09899	Jennifer Pruett, NMED	Bob Beers, LANL; Jennifer Fullam, NMED	Email	Comments on DP-1132 Draft Discharge Permit

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Date	Bates No.	From	To	Format	Subject
01/15/2014	09900-09904	Bob Beers, NMED	Melissa Mascarenas, NMED	Email	Request for Public Records – Public Comments – DP-1132- LANL
01/15/2014	09905-09909	Melissa Mascarenas, NMED	Bob Beers, LANL	Letter	3-Day Letter Response to Request for Public Records
01/16/2014	09910-09911	Jennifer Fullam, NMED	Bob Beers, LANL	Email	Forwarding documents requested in Request for Public Records
01/16/2014	09912-09920	Diana Sandoval, NMED	Jennifer Fullam, NMED	Email	IPRA – Beers – DP – 1132 – LANL
01/21/2014	09921-09924	Alison Dorries, LANS; Gene Turner, DOE	Jerry Schoeppner, NMED	Letter	Discharge Plan DP-1132 Quarterly Report, Fourth Quarter 2013, TA-50 RLWT
01/23/2014	09925-09933	Melissa Mascarenas, NMED	Jonathan Block NMELC	Letter	3-Day Letter Response to Request for Public Records
02/03/2014	09934-09936	Bob Beers, NMED	Jennifer Fullam, NMED	Email	Request for Public Records
02/06/2014	09937-09943	Jennifer Fullam, NMED	Jon Block, NMELC; Joni Arends, CCNS; Diana Sandoval, NMED; Melissa Mascarenas, NMED; Jerry Schoeppner, NMED	Email	IPRA – Block-LANL NMELC IPRA to NMED

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Date	Bates No.	From	To	Format	Subject
02/07/2014	09944-09947	Jon Block, NMELC	Jennifer Fullam, NMED	Email	IPRA – Block LANL
02/07/2014	09948-10152	Jennifer Fullam, NMED	Jon Block, NMELC	Email	IPRA – Block – LANL, DP-1132 Comments from DOE-LANS; Santa Ana; Tewa Women and CCW
02/12/2014	10153-10154	Jennifer Fullam, NMED	Jon Block, NMELC	Telephone Conversation	IPRA
02/26/2014	10178-10180	Jennifer Fullam, NMED	Jerry Schoeppner, NMED; John Hall, NMED; Jennifer Pruett, NMED	Email	TP for WMRM DP-1132
03/08/2014	10183-10188	File – LANL DP-1132	Steve Pullen, NMED	Memorandum	RLWTF-UP LLW Subproject-Design Documents – 90% - January – dated March 28, 2014 – Contents of compact disc
04/01/2014	10190-10191	Jerry Schoeppner, NMED	Alison Dorries, LANS; Gene Turner, DOE	Letter	Temporary Permission to Discharge, WMRM Influent Storage Tanks at LANL RLWTF, DP- 1132
06/13/2014	10209-10211	Jonathan Block, NMELC	Joni Arends, CCNS; Brian Shields; Rachel Conn; Kathy Sanchez; Beata Tsosie; J. Gilbert Sanchez; Marian Naranio; Robert	Email	LANL DP-1132 PN-2 Draft Permit Withdrawal Questions about public notice

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Date	Bates No.	From	To	Format	Subject
			Gilkeson; Jennifer Pruett, NMED		
06/13/2014	10212-10217	Jonathan Block, NMELC	Jennifer Pruett, NMED	Email	LANL DP-1132 PN-2 Draft Permit Withdrawal Questions about public notice
6/2/14	10219-10225	Robert Gilkeson	Unknown	Report	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
07/09/2014	10226-10231	NMED	N/A	Meeting Memo	Ground Water Quality Bureau Response to Issues Discussed at June 2, 2014 DP-1132 Meeting
07/17/2014	10232-10242	N/A	N/A	Notes	
07/17/2014	10243-10252	N/A	N/A	Notes	
07/22/2014	10253-10256	Alison Dorries, LANS; Gene	Jerry Schoeppner, NMED	Letter	Discharge Plan DP-1132 Quarterly

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Date	Bates No.	From	To	Format	Subject
		Turner, DOE			Report, Second Quarter 2014, TA-50 RLWTF
04/23/2014	10257-10262	Michael Brandt, LANS; Gene Turner, DOE	Erika Schwender, NMED	Letter	Filing of Plans and Specifications RLWTF Upgrade Project, LANL, DP-1132
07/30/2014	10270-12678	N/A	N/A	CDs	RLWTF Project LLW Subproject Design Documents Final Drawings and Specs
08/07/2014	12679-12682	Alison Dorries, LANS; Gene Turner, DOE	Jerry Schoeppner, NMED	Letter	Filing of 100% Design Plans and Specifications, RLWTF Upgrade Project, DP- 1132
N/A	12683-12686	NMED	N/A	Meeting Memo	Ground Water Quality Bureau Meeting with LANL/DOE August 11, 2014
08/12/2014	12687-12695	N/A	N/A	Sign-in Sheet, Agenda, notes	August 12, 2014 meeting with LANL
08/21/2014	12698-12723	Alison Dorries, LANS; Gene Turner, DOE	Jerry Schoeppner, NMED	Letter	Request for Additional Information, Discharge Permit Application DP-1132 RLWTF
N/A	12724-12726	N/A	N/A	Inspection Report	DP-1132, Inspection Date

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Date	Bates No.	From	To	Format	Subject
					August 25, 2014
08/29/2014	12727-12730	Jennifer Pruett, NMED	Bob Beers, LANL	Email	Progress on Re-draft of DP-1132
09/11/2014	12731-12751	Alison Dorries, LANS; Gene Turner, DOE	Jerry Schoeppner, NMED	Letter	Corrected ENV-DO-14-0229, Request for Additional Information, Discharge Permit Application DP-1132, RLWTF
09/16/2014	12752-12757	John Kieling, NMED	Steven Huddleson, NMED; Dave Cobrain, NMED	Email	Suggested Closure Language
09/17/2014	12758-12760	Bob Beers, LANL	Steven Huddleson, NMED	Email	A Question. Response to question re: seismic standards
09/18/2014	12761-12764	Bob Beers, LANL	Steven Huddleson, NMED	Email	Reference for Sampling
09/18/2014	12765-12766	Steven Huddleson, NMED	Jennifer Pruett, NMED; John Hall, NMED; Jerry Schoeppner, NMED	Email	DP-1132 Latest (9-18-14 version)
09/22/2014	12767-12769	Jim Chiasson, NMED	Steven Huddleson, NMED	Email	LANL WWTF Plans and Specs Review
09/22/14	12770-12771	N/A	N/A	Summary Sheet	DOE/LANS Remaining Issues
09/26/2014	12772-12778	Jerry Schoeppner, NMED	Steven Huddleson, NMED	Email	Requesting a short meeting to discuss request for extension re:

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Date	Bates No.	From	To	Format	Subject
					WMRM influent storage tanks
10/03/2014	12779-12781	Jerry Schoeppner, NMED	Bob Beers, LANL	Letter	Comments on 90% and 100% Design Specifications RLWTF Upgrade Project
N/A	12782-12794	N/A	N/A	Agenda, Sign-in Sheet, Notes	Meeting of October 9, 2014
N/A	12795-12800	N/A	N/A	Sign-in Sheet, Notes	Meeting of October 15, 2014
10/20/2014	12801-12819	Bill Blankenship, LANL	Steven Huddleson, NMED; Cember Hardison, NMED	Email	NPR approval for TA50 RLWTF thermal evaporator
10/20/2014	12820-12825	Joni Arends, CCNS	Chris Del Signore, LANL; Jennifer Pruett, 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	Email	CCNS – Receipt of FOIA Request
10/23/2014	12826-12828	Steven Huddleson, NMED	Bob Beers, LANL; Jennifer Pruett, NMED	Email	DP-1132 list of remaining issues

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Date	Bates No.	From	To	Format	Subject
10/24/2014	12829-12836	Joni 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	Jennifer Pruett, NMED; Jerry Schoeppner, NMED; Steven Huddleson, NMED	Letter	CCW Comments to NMED TA-50 draft GWDP
10/27/2014	12837-12841	Alison Dorries, LANS; Gene Turner, DOE	Jerry Schoeppner, NMED	Letter	Discharge Plan DP-1132 Quarterly Report, Third Quarter 2014, TA-50 RLWTF
10/30/2014	12842-12847	Angeline Purdy, ENRD	Jonathan Block, NMELC; Joni Arends, CCNS	Email	Distributing LANL comments to CCW
10/30/2014	12848-12849	Steven Huddleson, NMED	Gene Turner, DOE	Email	Financial Assurance Question

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Date	Bates No.	From	To	Format	Subject
11/12/2014	12850-12852	Gene Turner, DOE	Steven Huddleson, NMED; Jennifer Pruett, NMED	Email	Response to Financial Assurance Question
N/A	12853-12855	N/A	N/A	Summary Sheet	DOE/LANS Remaining Issues (Updated 11/12/2014
11/14/2014	12856-12863	N/A	N/A	Summary Sheet	CCW, Gilkeson and Sanchez Remaining Issues – Revised draft NMED GWDP-1132 (October 31, 2014)
N/A	12865-12877	N/A	N/A	Sign-in Sheet, Notes	November 17, 2014 CCW-LANS/DOE NMED Meeting
12/03/2014	12878-12892	N/A	N/A	Summary Sheet	CCW, Gilkeson and Sanchez Remaining Issues – Revised draft NMED GWDP-1132 (October 31, 2014)
12/15/2014	12893-12896	N/A	N/A	Summary Sheet	Typographical Errors and Minor Editorial Comments, Revised Draft Discharge Permit DP-1132 (Version 12/15/2014) DOE and LANS
12/15/2014	12897-12917	N/A	N/A	Summary Sheet	Typographical Errors and Minor Editorial

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Date	Bates No.	From	To	Format	Subject
					Comments, Revised Draft Discharge Permit DP-1132 (Version 12/15/2014) CCW, Glikeson and Sanchez
12/02/2014	12918-12920	Bob Beers. LANL	Steven Huddleson, NMED	Email	Draft Discharge Permit DP-1132, List of Other Wastestreams
01/13/2014	12921-12924	Alison Dorries, LANS; Gene Turner, DOE	Jerry Schoeppner, NMED	Letter	Discharge Plan DP-1132 Quarterly Report, Fourth Quarter 2014, TA-50 RLWTF
03/16/2015	12925-12931	Joni Arends, CCNS	Steven Huddleson, NMED; Bob Beers, LANL	Email	Agenda Items for Tuesday 3/17 Meeting
03/17/2015	12932-12934	CCW, Gilkeson and Sanchez	Steven Huddleson, NMED	Letter	Participation in March 17, 2017 Meeting on DP-1132 between NMED and DOE/LANS
03/15/2015	12935-12940	N/A	N/A	Sign-in Sheet, Notes, Agenda	March 15, 2015 Meeting
03/16/2015	12941-12942	Bob Beers. LANL	Steven Huddleson, NMED	Email/Agenda	Agenda for March 17, 2017 meeting between NMED and DOE/LANS, plus items DOE/LANS wish to add to the agenda

Date	Bates No.	From	To	Format	Subject
N/A	12965-12971	N/A	N/A	Summary Sheet	Typographical Errors and Minor Editorial Comments, Revised Draft Discharge Permit DP-1132 (Version 12/15/2014) DOE and LANS
04/23/2015	12972-12974	Alison Dorries, LANS; Gene Turner, DOE	Phyllis Bustamante, NMED	Letter	Discharge Plan DP-1132 Quarterly Report, First Quarter 2015, TA-50 RLWTF
N/A	12975-13035	N/A	N/A	Discharge Permit	Draft discharge permit 12/15 DOE/LANS revision
05/20/2015	13036-13198	Alison Dorries, LANS; Gene Turner, DOE	Phyllis Bustamante, NMED	Letter	DOE and LANS responses regarding issues identified during the April 16, 2015 meeting
06/01/2015	13199-13211	Lindsay Lovejoy, CCW	Phyllis Bustamante, NMED	Letter	Responding to proposed draft permit forwarded May 21, 2015
N/A	13212-13232	N/A	N/A	Fact Sheet	NPDES Permit No. NM0028355. Prepared June 26, 2013
N/A	13233-13234	NA/	N/A	Statement	Statement by Steve Huddleson re: wells having limited

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Date	Bates No.	From	To	Format	Subject
					relevance to groundwater protection goals
07/24/2015	13235-13236	Chiasson, Jim, NMED	Steve Huddleson, NMED	Email	Flow Meter Question
07/27/2015	13237-13238	Chris Del Signore, LANL	Steve Huddleson, NMED	Email	Pipe Diameter
07/28/2015	13239-13242	Alison Dorries, LANS; Gene Turner, DOE	Michelle Hunter, NMED	Letter	Discharge Plan DP-1132 Quarterly Report, Second Quarter 2015, TA-50 RLWTF
11/09/2015	13243-13244	Peter Maggiore, DOE	Steve Huddleson, NMED	Email	DP-1132 Issues - Signage
11/23/2015	13245-13251	CCW	Steve Huddleson, NMED	Memo	CCW Comments to September 18, 2015 draft DP-1132
01/20/2016	13255-13258	Alison Dorries, LANS; Jody Pugh, DOE	Michelle Hunter, NMED	Letter	Discharge Plan DP-1132 Quarterly Report, Fourth Quarter 2015, TA-50 RLWTF
01/21/2016	13259-13260	John Kieling, NMED	Steve Huddleson, NMED	Email	Closure Plan. HWB has no comments
01/29/2016	13261-13263	Michelle Hunter, NMED	Alison Dorries, LANL	Letter	Comments on 60% Design Plans and Specifications RLWTF – Upgrade Project Transuranic Liquid Waste Project, DP-1132
02/28/2016	13264-13267	Bob Beers, LANL	Steve Huddleson, NMED	Email	Request for Information:

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Date	Bates No.	From	To	Format	Subject
					Former Septic System at TA-50
04/28/2016	13266-13271	Alison Dorries, LANS; Jody Pugh, DOE	Michelle Hunter, NMED	Letter	Discharge Plan DP-1132 Quarterly Report, First Quarter 2016, TA-50 RLWTF
06/03/2016	13272-13355	John McCann, LANS; Jody Pugh, DOE	Michelle Hunter, NMED	Letter	Supplemental Information for Discharge Permit Application DP-1132. RLWTF
07/06/2016	13356-13358	Michael Saladen, LANL	Steve Huddleson, NMED; Bob Beers, LANL; Chris Del Signore, LANL	Email	List of SWMU associated with RLWTF
07/19/2016	13359-13412	John McCann, LANS; Jody Pugh, DOE	Michelle Hunter, NMED	Letter	Revised Closure Plan for Draft Discharge Permit DP-1132
07/28/2016	13413-13416	Anthony Grieggs, LANS; Karen Armijo, NNSA	Michelle Hunter, NMED	Letter	Discharge Plan DP-1132 Quarterly Report, Second Quarter 2016, TA-50 RLWTF
10/19/2016	13417-13420	Anthony Grieggs, LANS; Karen Armijo, NNSA	Michelle Hunter, NMED	Letter	Discharge Plan DP-1132 Quarterly Report, Third Quarter 2016, TA-50 RLWTF
01/13/2017	13426-13434	Kathy Sanchez, TWU; Beata Tsosie-Pena, TWU; Marian	Steven Huddleson, NMED; Jennifer Hower, NMED	Letter	CCW comments on October 1, 2016 final draft permit DP-1132 and

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Date	Bates No.	From	To	Format	Subject
		Naranjo, HOPE; Joni Arends, CCNS; Joan Brown and Marlene Perrotte, Partnership for Earth Spirituality			revised closure plan for LANL RLWTF at TA-50
01/17/2017	13435-13437	Jon Block, NMELC	Jennifer Hower, NMED	Email	DP-1132 comments by CCW
01/18/2017	13438-13441	Anthony Grieggs, LANS; Karen Armijo, DOE	Michelle Hunter, NMED	Letter	Discharge Plan DP-1132 Quarterly Report, Fourth Quarter 2016, TA-50 RLWTF
01/18/2017	13442-13451	Anthony Grieggs, LANS; Karen Armijo, DOE	Michelle Hunter, NMED	Letter	Filing of 90% Design Plans and Specifications, RLWTF Upgrade – Transuranic Liquid Waste Project, DP-1132
02/15/2017	13452-13472	Anthony Grieggs, LANS; Karen Armijo, DOE	Michelle Hunter, NMED	Letter	Filing of 100% Design Drawings, RLWTF, Sodium Hydroxide Chemical Feed System, DP-1132
03/13/2017	13473-13475	Michelle Hunter, NMED	Karen E. Armijo, NNSA; Anthony Grieggs, LANS	Letter	NMED Comments on 100% Design Specifications: Sodium Hydroxide Chemical Feed System, DP-1132

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Date	Bates No.	From	To	Format	Subject
04/17/2017	13476-13479	Karen E. Armijo, NNSA; Anthony Grieggs, LANS	Michelle Hunter, NMED	Letter	Discharge Plan DP-1132f Quarterly Report, First Quarter 2017, TA-50 RLWTF
05/05/2017	13481-13494	N/A	N/A	Public Notice 2	Groundwater Discharge Permits applications have been proposed for approval
06/05/2017	13495-13761	Communities for Clean Water	Kathryn Hayden, NMED	Letter	Comments and Hearing Request on DP-1132
06/09/2017	13762-13764	Kathryn Hayden, NMED	Steve Pullen, NMED	Email	Forwarding Comments and Hearing Request on DP-1132
07/06/2016	13765-13767	Michael Saladen	Steven Huddleson, NMED; Bob Beers, LANL; Chris Signore	Email	List of SWMU associated with RLWTF
07/12/2017	13768-13770	Steve Pullen, NMED	Bob Beers, LANL	Email	DP-1132 – Integration with the Consent Order
07/17/2017	13771-13773	Bob Beers, LANL	Steve Pullen, NMED	Email	DP-1132 – Integration with the Consent Order
07/20/2017	13774-13775	Bob Beers, LANL	Steve Pullen, NMED	Email	DP-1132 – Integration with the Consent Order
07/24/2017	13776-13777	Steve Pullen, NMED	Joni Arends, CCNS	Email	LANL DP-1132 – monitoring equipment

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Date	Bates No.	From	To	Format	Subject
07/24/2017	13778-13781	Joni Arends, CCNS	Steve Pullen, NMED; Rachel Conn; Marian Naranjo; Kathy Sanchez; Beata Tsosie-Pena; Marlene; Joan Brown; Jon Block, NMELC; Lindsay Lovejoy	Email	CCW Comments and Hearing Request on DP-1132 – monitoring equipment
07/24/2017	13782-13786	Karen E. Armijo, NNSA; Anthony Grieggs, LANS	Michelle Hunter, NMED	Letter	Filing of 100% Design Plans and Specifications, RLWTF Upgrade – Transuranic Liquid Waste Project, DP-1132
07/26/2017	13787-13796	Joni Arends; CCNS	Steve Pullen, NMED et al.	Email	11-14-14 CCW, Gilkeson & Sanchez Comments to DP-1132
08/16/2017	13797-13803	William Honker, US EPA	Lindsay Lovejoy; Jonathan Block, NMELC	Letter	Request to Terminate NPDES Permit #NM0028355 as to Outfall #051 for RLWTF
09/14/2017	13804-13810	N/A	N/A	NMED Internal Memo	Request for Hearing Determination for the draft DOE/LANS Discharge Permit, DP-1132, Radioactive Liquid

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Date	Bates No.	From	To	Format	Subject
					Waste Management Facility – Background
09/14/2017	13811-13814	Steve Pullen, NMED	Butch Tongate, NMED	Memorandum	Request for Hearing Determination for the DOE/LANS Discharge Permit Application DP-1132, Discharges from the RLWTF
N/A	13815-13824	N/A	N/A	Table	DP-1132 Hearing Determination – Table – LANL draft DP-1132 Public Comment – CCW
10/12/2017	13825-13829	Joni Arends, CCNS	Melissa Mascarenas, NMED	Email/IPRA	File review – LANL DP-1132 for the RLWTF, No. GWB 17-20 (P)
10/19/2017	13838-13839	Melissa Mascarenas, NMED	Joni Arends, CCNS	Letter	3-Day Letter Response to IPRA
10/30/2017	13840-13843	Taunia Van Valkenburg, LANL	Michelle Hunter, NMED	Letter	Discharge Plan DP-1132 Quarterly Report, Third Quarter 2017, TA-50 RLWTF
10/30/2017	13844-13850	Deborah Reade	Michelle Hunter, NMED	Email	MASE also signs on to the letter
01/27/2017	13851-13860	N/A	N/A	Summary Report	EJSCREEN ACS Summary Report
10/30/2017	13861-13862	Joni Arends, CCNS	Steve Pullen, NMED	Email	DP-1132 – Center for Public Integrity:

17298

Date	Bates No.	From	To	Format	Subject
					Nuclear Negligence
10/30/2017	13863-13865	Steve Pullen, NMED	Steve Pullen, NMED	Email	Request to stop the comment period for DP- 1817 and the hearing process for DP-1132
10/30/2017	13867-13869	Steve Pullen, NMED	Steve Pullen, NMED	Email	Request to stop the comment period for DP- 1817 and the hearing process for DP-1132
10/30/2017	13870-13880	Deborah Reade	Michell Hunter, NMED	Email	MASE also signs on to the letter
01/31/2000	13881-13882	Maura Hanning, NMED GWQB	Gurule/Erickson DOE/LANS	Letter	Status update on the Discharge Permit (DP-1132)
09/15/2008	13883-13890	Anthony Grieggs, LANS	Jennifer Fullam, NMED GWQB	Letter	Response to request for additional information, DP-1132. Includes RLWTF Upgrade Project – 60% plans and specifications on compact disc
12/27/2013	13891-13892	Jerry Schoeppner, NMED GWQB	Dorries/Turner LANS/DOE	Letter	Temporary permission to discharge to the Waste Mitigation and Risk

17299

Date	Bates No.	From	To	Format	Subject
					Management influent storage tanks – DP-1132
04/23/2014	13893-13897	Brandt/Turner, LANS/DOE	Erika Schwender, NMED RPD	Letter	DP-1132 - RLWTF Upgrade Project – 90% plans and specifications on compact disc
09/21/2016	13898-14020	Grieggs/Armijo LANS/DOE	Michelle Hunter, NMED GWQB	Letter	Revised Closure Plan and comments on the draft DP-1132
12/15/2017	14021-14028	Lochlin Farrell, NMED GWQB	ABQ Journal	Email/Notice	Public hearing notice – DP-1132 – request for placement in legal section – both English and Spanish
12/15/2017	14029-14030	NMED	Listserve	Notice	Public notice of draft discharge permit (PN2) – call for public comment and request for hearing – includes a link to draft permit
12/15/2017	14031-14036	NMED	NA	Notice	Copy of public notice of public hearing on DP-1132 – refers to a hearing date of January 17,

17300

Date	Bates No.	From	To	Format	Subject
					2018 and a hearing location of the UNM Los Alamos campus
12/15/2017	14037-14042	NMED	Listserve	Email/Notice	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
12/11/2017	14043-14044	NMED	NA	Website posting, newspaper ads, mailings to interested parties, mailings to affected government agencies, and mailings to tribes	Public hearing notice for DP-1132 – includes notice in English and Spanish – includes link to draft DP-1132
01/29/2018		Taunia Van Valkenburg & Karen Armijo, LANL	Michelle Hunter, NMED-GWQB	Letter	Discharge Plan DP-1132 Quarterly Report, Fourth Quarter 2017, TA-50 RLWTF
03/07/2018	14045	NMED	NA	Notice	Copy of public notice of draft permit DP-1132 - (PN2) – call for public comment

17301

Date	Bates No.	From	To	Format	Subject
					and request for hearing – includes a link to draft permit - re-notice to provide current and correct version of the Closure Plan
03/12/2018	14046-14051	NMED	NA	Notice	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
04/04/2018	14052-14111	Joni Arends, CCW	Steve Pullen, NMED-GWQB	Email	Proposed changes to the DP-1132 Administrative Record Index
05/01/2018	14112-14116	Taunia Van Valkenburg & Karen Armijo, LANL	Michelle Hunter, NMED-GWQB	Letter	Discharge Plan DP-1132 Quarterly Report, First Quarter 2018, TA-50 RLWTF
05/22/2018	14117-14121	Taunia Van Valkenburg, LANL	Michelle Hunter, NMED-GWQB	Letter	Notification of Pre-Start Surrogate Water Test, Radioactive Liquid Waste Treatment Facility Upgrade Project, DP-1132

Date	Bates No.	From	To	Format	Subject
07/27/2018	14122-14123	Taunia Van Valkenburg & Karen Armijo, LANL	Michelle Hunter, NMED-GWQB	Letter	Discharge Plan DP-1132, Quarterly Report, Second Quarter 2018, TA-50 RLWTF
09/12/2018	14124-14137	William Mairson & Karen Armijo, LANL	Michelle Hunter, NMED-GWQB	Letter	Transfer Notice for Ground Water Discharge Permit No. 1132 (DP-1132)
09/18/2018	14138-14139	Michelle Hunter, NMED-GWQB	John Bretzke & Cheryl Rodriguez, LANL	Letter	Discharge Permit, DP-1132, Radioactive Liquid Waste Treatment Facility, Los Alamos National Laboratory
09/20/2018	14140	Andrew Romero, NMED	Bob Beers, LANL	Email	DP-1132, Condition No. 29, Effluent Sampling
09/26/2018	14141-14142	Michelle Hunter, NMED-GWQB	John Bretzke & Cheryl Rodriguez, LANL	Letter	Updated Discharge Permit, DP-1132, Radioactive Liquid Waste Treatment Facility, Los Alamos National Laboratory
10/11/2018	14143-14145	Taunia Van Valkenburg & Karen Armijo, LANL	Michelle Hunter, NMED-GWQB	Letter	DP-1132, Condition No. 13, Maintenance and Repair
10/18/2018	14146-14157	Taunia Van Valkenburg & Karen Armijo, LANL	Michelle Hunter, NMED-GWQB	Letter	DP-1132, Condition No. 4, Quarterly Monitoring Report,

17303

Date	Bates No.	From	To	Format	Subject
					Third Quarter 2018
10/24/2018	14158	Andrew Romero, NMED	Karen Armijo, LANL	Email	DP-1132 Condition No. 13 Time Extension granted
10/29/2018	14159	Bob Beers, LANL	Andrew Romero, NMED	Email	DP-1132, Condition No. 40, Cessation of Operation of Specific Units
10/31/2018	14160-14162	Taunia Van Valkenburg & Karen Armijo, LANL	Michelle Hunter, NMED-GWQB	Letter	DP-1132, Condition No. 53, Request for an Extension of Time to Complete SET Pipeline Water Tightness Testing
10/31/2018	14163-14195	Taunia Van Valkenburg & Karen Armijo	Michelle Hunter, NMED-GWQB	Letter	DP-1132, Condition No. 30, Soil Moisture Monitoring System Workplan
11/13/2018	14196-14197	Andrew Romero, NMED	Karen Armijo & Bob Beers, LANL	Email	DP-1132, Condition No. 8, Request for an Extension of Time Approval
11/19/2018	14198-14207	Enrique Torres & Karen Armijo, LANL	Michelle Hunter, NMED-GWQB	Letter	DP-1132, Condition No. 7, Verification of Secondary Containment
11/19/2018	14208-14217	Enrique Torres & Karen Armijo, LANL	Michelle Hunter, NMED-GWQB	Letter	DP-1132, Condition No. 33, Alluvial Monitoring Wells Workplan
12/04/2018	14218-14224	Enrique Torres & Karen Armijo,	Michelle Hunter, NMED-	Letter	DP-1132, Status Update on

17304

Date	Bates No.	From	To	Format	Subject
		LANL	GWQB		Malfunctioning RLWTF Vault and Sump Alarms
12/04/2018	14225-14262	Enrique Torres & Karen Armijo, LANL	Michelle Hunter, NMED-GWQB	Letter	DP-1132, Condition No. 40, 100K Tank and Clarifier #1
12/18/2018	14263-14267	Enrique Torres & Karen Armijo, LANL	Michelle Hunter, NMED-GWQB	Letter	DP-1132, Condition No. 20, Summary of Emergency Response Procedures
12/27/2018	14268-14271	Michelle Hunter, NMED-GWQB	Enrique Torres & Karen Armijo, LANL	Letter	Approval of Stabilization Work Plans for the 100K Tank and Clarifier #1, LANL RLWTF, DP-1132
01/18/2019	14272-14273	Michelle Hunter, NMED-GWQB	John Bretzke & Cheryl Rodriguez, LANL	Letter	Updated Discharge Permit with 2016 Closure Plan, DP-1132, RLWTF, LANL
01/23/2019	14274-14276	Enrique Torres & Karen Armijo, LANL	Michelle Hunter, NMED-GWQB	Letter	DP-1132, Condition No. 53, Request for an Extension of Time to Complete Outfall 051 Pipeline Water Tightness Testing
01/25/2019	14277-14345	Enrique Torres & Karen Armijo, LANL	Michelle Hunter, NMED-GWQB	Letter	DP-1132, Condition No. 41, Stabilization Plans for RLWTF Clarifier #2,

17305

Date	Bates No.	From	To	Format	Subject
					Gravity Filter, WM2-North/South Tank, and 75K Tank
01/30/2019	14346-14349	Steve Pullen, NMED-GWQB	Taunia Van Valkenburg & Karen Armijo, LANL	Letter	Approval, Soil Moisture Monitoring System Workplan, LANL RLWTF, DP-1132
01/30/2019	14350-14351	Steve Pullen, NMED-GWQB	Enrique Torres & Karen Armijo	Letter	Approval of Alluvial Monitoring Wells Workplan, LANL RLWTF, DP-1132
01/30/2019	14352-14369	Taunia Van Valkenburg, LANL	Michelle Hunter, NMED-GWQB, Shelly Lemon, NMED SWQB	Letter	Triad Quarterly Discharge Report (October 1, 2018 – December 31, 2018)
1/31/2019	14370-14479	Enrique Torres & Karen Armijo, LANL	Michelle Hunter, NMED-GWQB	Letter	DP-1132, Annual Update and Fourth Quarter Monitoring Report for 2018
02/04/2019	14480-14481	N/A	N/A	Inspection Report	DP-1132, Inspection Date February 4, 2019
02/26/2019	14482-14492	Enrique Torres & Karen Armijo, LANL	Michelle Hunter, NMED-GWQB	Letter	DP-1132, Status Update on Malfunctioning RLWTF Vault and Sump Alarms
03/08/2019	14493	Andrew Romero, NMED	Bob Beers, LANL	Email	Alluvial Monitoring Wells Workplan Approval

17306

Date	Bates No.	From	To	Format	Subject
					Discrepancies
03/20/2019	14494-14506	Enrique Torres & Karen Armijo, LANL	Michelle Hunter, NMED-GWQB	Letter	DP-1132, Status Update, Condition No. 7, Verification of Secondary Containment
04/03/2019	14507-14508	Andrew Romero, NMED	Bob Beers, LANL	Email	DP-1132, Approval of Request for Extension of Time, Condition No. 53
04/09/2019	14509-14512	Enrique Torres & Karen Armijo, LANL	Michelle Hunter, NMED-GWQB	Letter	DP-1132, Condition Nos. 21 and 22, Installation and Calibration of Flow Meters
04/17/2019	14513-14527	Enrique Torres & Karen Armijo, LANL	Michelle Hunter, NMED-GWQB	Letter	DP-1132, Final Status Update on Malfunctioning RLWTF Vault and Sump Alarms
04/17/2019	14528-14556	Enrique Torres & Karen Armijo, LANL	Michelle Hunter, NMED-GWQB	Letter	DP-1132, First Quarter Monitoring Report for 2019
04/25/2019	14557-14558	Steve Pullen, NMED-GWQB	Enrique Torres & Karen Armijo, LANL	Letter	Approval of Stabilization Plans for Clarifier #2, Gravity Filter, WM2-North/South Tank, and 75K Tank, LANL RLWTF, DP-1132
05/22/2019	14559-14563	Taunia Van Valkenburg, LANL	Michelle Hunter, NMED-	Letter	Notice of Intent to Discharge Storm

17307

Date	Bates No.	From	To	Format	Subject
			GWQB		Water from Technical Area 52 Solar Evaporation Tank
06/03/2019	14564-14587	Enrique Torres & Karen Armijo, LANL	Michelle Hunter, NMED-GWQB	Letter	DP-1132, Condition No. 7, Verification of Secondary Containment, May 2019 Revision
06/07/2019	14588-14589	Michelle Hunter, NMED-GWQB	Taunia Van Valkenburg, LANL	Letter	Response to Notice of Intent to Discharge; DP Not Required for LANL, AI-856
06/12/2019	14590-14599	Enrique Torres & Karen Armijo, LANL	Michelle Hunter, NMED-GWQB	Letter	DP-1132, Condition No. 8, Completion of Water Tightness Test, Outfall 051 Pipeline
06/19/2019	14600-14601	Enrique Torres & Karen Armijo, LANL	Michelle Hunter, NMED-GWQB	Letter	DP-1132, Condition No. 41, Stabilization of Individual Units and Systems, 100K Tank, Removal of Process Liquids
06/25/2019	14602-14606	NM WQCC	NMED	Order	Corrected Order to Vacate Agency Decision and Remand the Petition for Review of DP-1132
07/16/2019	14607-14608	Steve Pullen, NMED	Joni Arends, CCW	Email	DP-1132 - Discharge to

17308

Date	Bates No.	From	To	Format	Subject
					Outfall 051
07/18/2019	14609-14610	NMED	Subscribers of GWQB-Public Notice of Discharge Permit Actions (922 recipients)	Email bulletin	Groundwater Discharge Permit Applications Proposed for Approval (PN-2) - July 19, 2019
07/19/2019	14611-14613	NMED	Albuquerque Journal	Legal Ad	Groundwater Discharge Permit Applications Proposed for Approval (PN-2) - July 19, 2019 (English)
07/19/2019	14614	NMED	Albuquerque Journal	Legal Ad	Groundwater Discharge Permit Applications Proposed for Approval (PN-2) - July 19, 2019 (Spanish)
07/19/2019	14615	NMED	Los Alamos Monitor	Legal Ad	Groundwater Discharge Permit Applications Proposed for Approval (PN-2) - July 19, 2019 (English)
07/19/2019	14616-14620	Albuquerque Journal	NMED	Affidavit	Affidavits of publication for English & Spanish PN-2
07/19/2019	14621-14627	NMED	N/A	Fact Sheet	Fact Sheet for draft

17309

Date	Bates No.	From	To	Format	Subject
					DP-1132 (English)
07/23/2019	14628-14635	NMED	N/A	Fact Sheet	Fact Sheet for draft DP-1132 (Spanish)
07/22/2019	14636-14672	Enrique Torres & Karen Armijo, LANL	Michelle Hunter, NMED-GWQB	Letter with attachments	Monitoring Report, RLWTF, 2nd Quarter 2019
07/22/2019	14673	Joni Arends, CCW	Steve Pullen, NMED	Email	RE: redline/strikeout version of the latest version of DP-1132
07/25/2019	14674-14703	Enrique Torres & Karen Armijo, LANL	Michelle Hunter, NMED-GWQB	Letter	Request for Temporary Permission to Discharge Treated Wastewater, RLWTF, Discharge Permit DP-1132
07/30/2019	14704-14705	Enrique Torres & Karen Armijo, LANL	Michelle Hunter, NMED-GWQB	Letter	TA-50 RLWTF, Maintenance and Repair Notification
08/07/2019	14706-14707	William Foley, LANL	Steve Pullen, NMED	Email	SET Moisture Monitoring Workplan - Update on boreholes SET-MM-1 and SET-MM-2
08/16/2019	14708	William Foley, LANL	Steve Pullen, NMED	Email	SET Moisture Monitoring Workplan - Update on boreholes SET-MM-3
08/21/2019	14709-14710	Michelle Hunter, NMED-GWQB	Enrique Torres & Karen	Letter	Temporary Permission to

17310

Date	Bates No.	From	To	Format	Subject
			Armijo, LANL		Discharge, RLWTF, DP-1132
08/23/2019	14711-14716	NMED	Subscribers of GWQB-Public Notice of Discharge Permit Actions (922 recipients)	Email bulletin	Groundwater Discharge Permit Applications Proposed for Approval (PN-2) - August 23, 2019
08/23/2019	14717-14731	NMED	NA	webpage	Groundwater Discharge Permit Applications Proposed for Approval (PN-2) - August 23, 2019 (English)
08/23/2019	14732-14746	NMED	NA	webpage	Groundwater Discharge Permit Applications Proposed for Approval (PN-2) - August 23, 2019 (Spanish)
08/23/2019	14747-14755	NMED	Albuquerque Journal	Legal Ad	Groundwater Discharge Permit Applications Proposed for Approval (PN-2) - August 23, 2019 (English)
08/23/2019	14756-14758	NMED	Albuquerque Journal	Legal Ad	Groundwater Discharge Permit Applications Proposed for Approval (PN-2) -

17311

Date	Bates No.	From	To	Format	Subject
					August 23, 2019 (Spanish)
08/23/2019	14759-14760	NMED	Los Alamos Monitor	Legal Ad	Groundwater Discharge Permit Applications Proposed for Approval (PN-2) – August 23, 2019 (English)
08/23/2019	14761-14762	NMED	Los Alamos Monitor	Legal Ad	Groundwater Discharge Permit Applications Proposed for Approval (PN-2) – August 23, 2019 (Spanish)
09/03/2019	14763-14771	Taunia Van Valkenburg, LANL	Steve Pullen, NMED-GWQB	Letter	Submittal of Construction and Lithologic Logs for Alluvial Monitoring Wells, RLWTF, LANL, Temporary Permission to Discharge
09/13/2019	14772-14784	Enrique Torres & Karen Armijo, LANL	Michelle Hunter, NMED-GWQB	Letter	Request for Renewal of Temporary Permission to Discharge Treated Wastewater, RLWTF, Discharge Permit DP-1132
09/19/2019	14785-14823	Enrique Torres & Karen Armijo,	Michelle Hunter, NMED-	Letter	Submittal of Well Completion Report

Date	Bates No.	From	To	Format	Subject
		LANL	GWQB		for Alluvial Monitoring Wells, RLWTF, LANL
09/25/2019	14824-14825	Enrique Torres & Karen Armijo, LANL	Michelle Hunter, NMED-GWQB	Letter	Stabilization of the 75K Influent Storage Tank, RLWTF at LANL, Temporary Permission to Discharge

STATE OF NEW MEXICO
BEFORE THE SECRETARY OF ENVIRONMENT

IN THE MATTER OF PROPOSED DISCHARGE PERMIT DP-1132 FOR THE RADIOACTIVE LIQUID WASTE TREATMENT FACILITY AT LOS ALAMOS NATIONAL LABORATORY, LOS ALAMOS, NEW MEXICO

No. GWB 19-24 (P)

THE NEW MEXICO ENVIRONMENT DEPARTMENT'S RESPONSE IN OPPOSITION TO CONCERNED CITIZENS FOR NUCLEAR SAFETY'S MOTION TO DISMISS DP-1132 PROCEEDING

Pursuant to 20.1.4.200.D NMAC, the New Mexico Environment Department (the "Department" or "NMED") submits this response in opposition to Concerned Citizens for Nuclear Safety, Honor our Pueblo Existence, New Mexico Acequia Association, and Tewa Women United's ("CCNS") Motion to Dismiss DP-1132 Proceeding (the "Motion"). The issuance of a discharge permit for the Radioactive Liquid Waste Treatment Facility ("RLWTF") is fully within the Secretary's authority under the Water Quality Act, NMSA 1978, §§ 74-6-1 to -17. The Motion is without merit and should be denied for the reasons set forth below. Furthermore, as explained in detail below, the Motion cites pleadings and testimony that are null and void, such portions of the Motion should be stricken for that reason.

BACKGROUND

The focus of the proceeding under which CCNS' Motion was filed is the draft discharge permit (DP-1132) associated with an application submitted by the United States Department of Energy and Los Alamos National Security, LLC (the "Applicants") to discharge treated wastewater from the Applicants' RLWTF located at Los Alamos National Laboratory ("LANL"). [**AR 12975-13035**]. Operational control of LANL passed from Los Alamos National Security, LLC to Triad National Security, LLC ("Triad") on November 1, 2018. Accordingly, Los Alamos

National Security, LLC's interest in this case as the discharge permittee for DP-1132 passed to Triad when Triad assumed management responsibilities of LANL on November 1, 2018. During the transition process, LANL transferred the permit - and the rights and obligations associated with it- to Triad. Triad, and not Los Alamos National Security, LLC, is therefore the appropriate party in this case as permittee of DP-1132.

Construction of the RLWTF began in 1961, and the processing of liquid waste began in 1963. On April 3, 1996, the Department notified the Applicants that a discharge permit was required. [**AR 00013-00015**]. The Application consists of the materials submitted by the Applicants on August 16, 1996 [**AR 00112-00532**], an updated application submitted to NMED on February 14, 2012 [**AR 05336-08003**], an amendment to the application submitted to NMED on August 10, 2012 [**AR 08268-08313**], supplemental information submitted on June 3, 2016 [**AR 13272-13355**], and materials contained in the administrative record prior to issuance of DP-1132. NMED advised the Applicants in January 2000 that there was significant public interest in DP-1132, and that a public hearing would be held. However, due to staff constraints and time requirements for a full review of all materials submitted, no hearing was scheduled at that time, and subsequently the discharge permit was never issued. [**AR 01437-01441**]. DP-1132 was first public noticed in draft form on August 4, 2003. [**AR 02159-02161**]. A revised draft DP-1132 was public noticed on April 18, 2005 [**AR 02881-02902**], then another draft on June 10, 2005. [**AR 02911-02919**]. In January 2016, the Applicants submitted a draft Closure Plan for inclusion into DP-1132. [**AR 13255-13258**]. On May 5, 2017, the Department issued a public notice for the draft DP-1132 that is the subject of this hearing. [**AR 13481-13796**]. On March 2, 2018, the Department re-noticed the draft Discharge Permit, and included the correct, September 2016 version of the closure plan contained therein (the May 5, 2017 notice inadvertently and mistakenly included a

prior version of the closure plan). On August 23, 2019, the Department once again issued a public notice for the draft DP-1132 that is the subject of this hearing. [**AR 14711-14762**].

The draft DP-1132 authorizes the discharge of treated effluent to three locations; the Mechanical Evaporator System ("MES") located near Building 50-01, the SET, or through an outfall in Effluent Canyon (Outfall 051), which is a tributary to Mortendad Canyon. The MES is co-located with the RLWTF and disposes of treated effluent via mechanical evaporation. This natural gas fired evaporator has been the sole disposal method for the RLWTF for the past several years. The SET system is associated with the RLWTF but located at TA-52. Approximately 3500 feet of high-density polyethylene transfer piping connect the SET and the RLWTF. The SET is a concrete, synthetically-lined impoundment designed to receive treated effluent from the RLWTF for disposal by evaporation. The SET was constructed and has not yet been put into service pending issuance of this Discharge Permit. [**AR 12975-13035**]. Outfall 051 was the Applicants' sole discharge option until the construction of the MES. Only one discharge has occurred at that outfall since 2010, 80,798 liters of treated effluent were discharged through Outfall 051 on June 18, 2019. **[AR 14636-14672]**. Outfall 051 is regulated by a National Pollutant Discharge Elimination System ("NPDES") permit (Permit No. NM0028355) issued by the United States Environmental Protection Agency ("EPA"). The Applicants maintain the NPDES permit as a discharge option. [**AR 13212-13232**].

THE APRIL 19, 2018 PUBLIC HEARING

On April 19, 2018, a public hearing was held in this matter (GWB 17-20 (P)), eventually resulting in issuance of DP-1132 on August 29, 2018. That proceeding was reviewed by the Water Quality Control Commission ("WQCC") in proceeding No. WQCC 18-05 (A). On June 18, 2019 the WQCC vacated the Final Order of the Secretary of Environment and remanded the matter to

NMED for a new hearing. [**AR 14602-14606**]. In the final WQCC meetings on this matter, on June 18, 2019, the WQCC heard argument from counsel for Communities for Clean Water[1] ("CCW"), Triad, and NMED. At that time, following the WQCC voting to vacate and remand the proceeding, counsel for NMED requested that the WQCC only vacate portions of the proceeding occurring on or after June 15, 2018. June 18, 2019 WQCC Special Meeting Transcript ("Tr."), 10:17-11:13 (excerpts attached as Exhibit 5), Order at ¶ 11. Counsel for CCW opposed this motion for reconsideration, and the WQCC ruled in favor of CCW. Tr. 15:15-17:17; Order at ¶ 12. Now counsel for CCNS, representing four parties who previously were a subset of CCW, wishes to cite pleadings from GWB 17-20 (P) and the transcript from the public hearing in that matter, asserting that these "should also be part of the current Administrative Record or available with the April 19, 2018 Hearing Transcript as it was submitted for that purpose." Motion at n.11.

Counsel cannot have it both ways. If the assertion was that *any* proceedings before the GWB 17-20 (P) hearing officer were potentially "tainted by misconduct", then those materials cannot be part of the Administrative Record or be cited in the present proceeding, for fear that "we would still have a record that might be corrupted." Tr. 16:1-9. NMED initiated the present proceeding by re-noticing the draft DP-1132 for public comment and intends to proceed forward from that point in the hearing process. Any pleadings, testimony, or other materials from GWB 17-20 (P) are by necessity null and void, given the June 18, 2019 WQCC Order. NMED does not intend to include any such materials in the Administrative Record for the present proceeding, for the same reason that citation to these materials is improper. Therefore, NMED respectfully requests that all such citations and references in CCNS' Motion be stricken. *See* Motion at ¶¶ 18-29 and elsewhere.

[1] Counsel for CCW in the WQCC proceeding are the same as those now representing CCNS *et al.* in the present matter.

ARGUMENT

CCNS makes the tortured legal argument that regulation via a discharge permit issued pursuant to the Water Quality Act cannot occur unless actual water pollution is occurring or has already occurred. While they have made this argument consistently in public comments and in other forums, now that the Applicants have in fact discharged to Outfall 051 in June of this year, CCNS attempts to argue that this discharge didn't trigger the authority of the Water Quality Act because the treated effluent met the standards of 20.6.2.3103 NMAC and is therefore exempt from regulation pursuant to 20.6.2.3105 NMAC. Motion at ¶ 9. First, CCNS' argument flies in the face of established New Mexico case law which states that the purpose of the Water Quality Act is to prevent water pollution. Second, where treatment is required for effluent to meet the standards of 20.6.2.3103 NMAC, NMED has consistently taken the position that a discharge permit is in fact required to as to ensure that treatment system remains effective in treating such discharge effectively to prevent water pollution. Without regulation via a discharge permit, there is no mechanism to ensure effluent is treated to meet the standards of 20.6.2.3103 NMAC. Third, and finally, a holding that pollution must have occurred or be occurring would have the effect of undermining the entire groundwater discharge permitting program, as NMED has a number of active discharge permits for facilities which discharge only sporadically, or to lined impoundments similar to the MET or the SET.

I. The Secretary Has the Authority to Require and Issue Discharge Permits to Prevent Water Pollution Where There Exists the Possibility of a Discharge

A. The Purpose of the Water Quality Act is to Prevent Water Pollution

The Water Quality Act is the primary statutory mechanism by which groundwater in New Mexico is protected. The objective of the Water Quality Act is "to abate and *prevent* water pollution." *Bokum Res. Corp. v. New Mexico Water Quality Control Comm'n*, 1979-NMSC-090,

¶ 59, 93 N.M. 546, 555 (emphasis added). The Water Quality Act directs the New Mexico Water Quality Control Commission ("WQCC") to "adopt, promulgate and publish regulations to *prevent* or abate water pollution in the state." NMSA 1978, § 74-6-4(E) (emphasis added). Pursuant to this statutory directive, the WQCC has adopted such regulations. *See* 20.6.2 NMAC.

B. The Secretary Has the Authority to Require and Issue Discharge Permits

The Water Quality Act provides the WQCC with the authority "to adopt regulations requiring that permits for discharge of a water contaminant be obtained from a constituent agency." NMSA 1978, § 74-6-5(A); *Phelps Dodge Tyrone, Inc. v. New Mexico Water Quality Control Comm'n*, 2006-NMCA-115, ¶ 16, 140 N.M. 464, 469, 143. "With regard to a permit, however, the Act grants authority directly to constituent agencies." *Phelps Dodge*, 2006-NMCA-115, ¶ 16. NMED is a constituent agency of the WQCC. NMSA 1978, § 74-6-2(K)(1). The Water Quality Act expressly authorizes NMED, as a constituent agency, to issue a permit, issue a permit with conditions, deny a permit, or modify a permit. NMSA 1978, § 74-6-5(M), (N). Permitting actions by NMED are reviewable by the WQCC in response to a petition filed by "any person who participated in the permitting action." NMSA 1978, § 74-6-5(O).

The implementing regulations of the Water Quality Act, as adopted and promulgated by the WQCC pursuant to its authority under the Water Quality Act, state that "no person shall cause or allow effluent or leachate to discharge so that it may move directly or indirectly into ground water unless he is discharging pursuant to a discharge permit issued by the secretary." 20.6.2.3104 NMAC. The phrase "may move directly or indirectly" means that NMED, as a constituent agency of the WQCC, has the authority to require a discharge permit from any person, if the activities of that person may result in one or more water contaminants moving directly or indirectly into groundwater. That phrase is not unique to Section 3104, it is repeated six times throughout the

regulations. *See* 20.6.2.7.R NMAC; 20.6.2.3104 NMAC; 20.6.2.3105 NMAC; 20.6.2.3105 NMAC.

C. The Possibility of Water Pollution Triggers the Secretary's Authority to Require and Issue a Discharge Permit

CCNS asserts that, since the "Applicants do not intend to discharge from the RLWTF any water contaminants within the meaning of [the Water Quality Act]", there can be no possible discharges, and therefore the Secretary is without authority to issue a discharge permit. Motion at 4. Indeed, comments submitted on the draft DP-1132 in 2015 attempt to make a similar point. [**AR 13690**]. This assertion is incorrect for several reasons.

First, nowhere in the Water Quality Act or its implementing regulations is a discharge required to be actual, or already occurring, for a permit to be issued. CCNS implies that a discharge must be "planned" in order for a discharge permit to be issued. Motion at ¶ 8 ("there has been no regulated discharge since November 2010 . . . No such discharges are planned"). The words "shall cause or allow" in 20.6.2.3104 NMAC contemplate that such discharge may occur simply as a result of the activities of the person, and that there is no requirement that such discharges be planned, ongoing, or intentional. Contrary to CCNS' assertions, it is the potential for the discharge of water contaminants that may move into groundwater that triggers the authority of the Water Quality Act, and thus the Secretary's authority to issue a discharge permit. As such, CCNS' assertion that "a permit under the WQA is not authorized by law, because Applicants do not intend to discharge from the RLWTF any water contaminants" (Motion at 4) is plainly wrong.

Second, in order to prevent water pollution, as is the purpose of the Water Quality Act and its implementing regulations, it is necessary to contemplate and acknowledge the possibility of failures of mechanical systems and correlated operations. CCNS appears certain that there will never be a discharge from the RLWTF. Motion at ¶ 51 ("The recitals that effluent or leachate is

now being discharged are simply untrue and are refuted by, among other things, the consistent quarterly reports that show no such discharges."), ¶ 56 ("Outfall 051 will indefinitely have 'zero liquid discharge', *i.e.*, no discharge at all."). While the confidence CCNS places in the permittees is commendable, it is hard to understand how CCNS can predict the future operations of the RLWTF with such certainty, and conclude there will never be an event that would lead to an unplanned or emergency discharge. Yet the Applicants have repeatedly stated that emergency discharges remain a possibility in the event of a system failure. They argued this as recently as 2018, before the EPA's Environmental Appeals Board ("EAB"). *See In re Los Alamos National Security, LLC, and the U.S. Department of Energy*, NPDES Appeal No. 17-05, slip op. at 5-6 (EAB Mar. 14, 2018) (attached as Exhibit 1). The Applicants argued in that case that discharges to Outfall 051 pursuant to their NPDES permit would be necessary in the event that the "Mechanical Evaporator and/or Zero Liquid Discharge tanks become unavailable due to maintenance, malfunction, and/or there is an increase in treatment capacity caused by changes in [the Laboratory's] scope/mission." *Id.* The EAB agreed, holding that discharges to Outfall 051 would be necessary if certain equipment became unavailable due to maintenance, malfunction or capacity shortage, and were therefore indeed a possibility. *Id* at 1. CCNS made similar arguments before the EAB in the aforementioned proceeding as in this proceeding - namely that a discharge permit should not be issued when there has not been a discharge since 2010 and no future discharges are planned. *Id* at 6. The EAB found that the Regional EPA Administrator's denial of CCNS' request to terminate the NPDES permit in this context did not constitute error or abuse of discretion. *Id* at 19.

Similarly, discharges to the SET and MET are not without the potential for failure, and resultant discharge. NMED made that determination years ago in the "Authorization to Discharge"

section of the draft DP-1132. [**AR 13690**]. NMED has issued many permits that limit discharges to evaporative systems, and therefore are designed as "zero discharge" (to surface or groundwater), as a mechanism in which to avoid the impact of the discharge on groundwater. Examples include power plants and many small-scale systems associated with mobile home parks and car washes. Two examples of evaporative-only facilities regulated via a discharge permit are the Alamogordo Brackish Water RO Plant (DP-1827) and the PNM San Juan Generating Station (DP-1327) (attached as Exhibits 2 and 3). There are also examples of discharge permits issued to facilities which only discharge to lined, engineered impoundments similar to the MES and SET, such as Pyramid Peak Mining LLC - Banner Mill (DP-1651) (attached as Exhibit 4). As explained *supra*, as well as in responses to comments in 2017 [**AR 13815-13824**], NMED chooses to retain its authority to regulate such systems, as no treatment or containment system is infallible. Granting CCNS' Motion would severely undermine NMED's authority to continue requiring, issuing and enforcing discharge permits such as these.

It would be unreasonable for NMED to only have the authority to regulate a discharge that is planned, regular, or already occurring if the purpose of the Water Quality Act is to prevent and abate water pollution. Were that so, then the purpose would solely be to abate water pollution that has already occurred, as prevention clearly implies taking proactive regulatory action prior to the activities or potential failures which may result in water pollution. To interpret the Water Quality Act otherwise, as CCNS does in its Motion, leads to an absurd result – that the Secretary only has authority to regulate once pollution has already occurred. Statutes must be construed according to the purpose for which they were enacted and not in a manner which leads to absurd or unreasonable results. *State v. Romero*, 2002-NMCA-106, ¶ 8, 132 N.M. 745, 747.

II. The Activities Regulated by DP-1132 are Not Specifically Addressed by the Hazardous Waste Act

CCNS argues that the RLWTF should be regulated by NMED pursuant to the Hazardous Waste Act, NMSA 1978, §§ 74-4-1 to -14 ("HWA"). Motion at ¶¶ 14-15, 30-52. Again, this argument is premised on CCNS' incorrect assertion that there will never be a discharge from the RLWTF. Motion at ¶ 56 ("Outfall 051 will indefinitely have 'zero liquid discharge', *i.e.*, no discharge at all."). NMED has independent authority under the Water Quality Act to issue, or propose to issue, a discharge permit for this facility separate and aside from any obligation CCNS perceives NMED to have under the HWA. CCNS argues that this proceeding should be dismissed because NMED does not have authority to regulate such activities that would fall under the Hazardous Waste Act, based on the statutory provisions found in NMSA 1978, § 74-6-12(B). Motion at ¶¶ 31, 35, 45. Specifically, Section 74-6-12(B) states: "[t]he Water Quality Act does not apply to any activity or condition subject to the authority of the environmental improvement board pursuant to the Hazardous Waste Act, the Ground Water Protection Act or the Solid Waste Act except to abate water pollution or to control the disposal or use of septage and sludge."

Section 74-6-12(B) is not applicable because NMED is not attempting to use the Water Quality Act to regulate an "...activity or condition subject to the authority of the environmental improvement board pursuant to the Hazardous Waste Act." The activities and conditions addressed by DP-1132 are specifically included the Water Quality Act and its implementing regulations, and there are specific regulatory provisions approved by the WQCC to address such events. As can be found in 20.6.2.3104 NMAC and as discussed *supra*, the Ground and Surface Water Protection Regulations allow for the regulation of discharges of "effluent or leachate" which "may move directly or indirectly into ground water" via the requirement of a discharge permit. The discharge permit DP-1132 is being used for precisely such regulation, the activities and conditions it

regulates are not specifically provided for in the HWA. Furthermore, CCNS acknowledges that the waste water treatment unit exemption would preclude HWA regulation. Motion at 3, ¶¶ 30-45. However, their argument that it cannot apply is premised on the incorrect assertion that discharges can never and will never occur, as explained supra.

Curiously, CCNS also attempts to misuse 20.6.2.3110.G(1) NMAC ("testimony by and examination of the applicant or permittee proving the facts relied upon to justify the proposed discharge plan, renewal or modification and meeting the requirements of the regulations") to state that the Applicants must prove that the HWA does not apply in order for a discharge permit to issue. First, Subsection 3110.G has to do with the order testimony is to be presented in a public hearing within the context of "Public Hearing Participation" (20.6.2.3110 NMAC). In other words, Section 3110 in general, and Subsection 3110.G in particular, are procedural regulations proscribing how a public hearing is to be conducted. Second, in that context, Subsection 3110.G has to do with the content of the applicants or permittees testimony, not the burden of proof for the overall proceeding. Third, and finally, discharge permit hearings are not the appropriate venue for arguments related to HWA jurisdiction.

CONCLUSION

The purpose of the Water Quality Act is to prevent and abate water pollution. The Secretary of Environment has the authority to require a discharge permit at the RLWTF, and to issue such a permit pursuant to the Water Quality Act, because it is the possibility of a discharge which triggers that authority. Granting this Motion would undermine that authority with respect to many discharge permits presently in effect. For the foregoing reasons, CCNS' Motion should be denied.

Respectfully submitted,

NEW MEXICO ENVIRONMENT DEPARTMENT
OFFICE OF GENERAL COUNSEL

By: */s/ John Verheul*

John Verheul
Assistant General Counsel
121 Tijeras Avenue NE, Ste 1000
Albuquerque, New Mexico 87102
Phone: (505) 383-2063
Email: john.verheul@state.nm.us

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 October 23, 2019:

Stuart R. Butzier
Christina Sheehan
Modrall, Sperling, Roehl, Harris & Sisk, PA
P.O. Box 9318
Santa Fe, New Mexico 87504-9318
stuart.butzier@modrall.com
christina.sheehan@modrall.com

and

Susan McMichael
Office of Laboratory Counsel
Los Alamos National Laboratory
P.O. Box 1663, MS A187
Los Alamos, New Mexico 87545
smcmichael@lanl.gov

Attorneys for Triad National Security, LLC

Silas R. DeRoma
Attorney
U.S. Department of Energy
National Nuclear Security Administration
1900 Diamond Drive
Los Alamos, New Mexico 87544
silas.deroma@nnsa.doe.gov

Attorney for the U.S. Department of Energy

Lindsay A. Lovejoy, Jr.
Attorney at law
3600 Cerrillos Road, Unit 1001A
Santa Fe, New Mexico 87507
lindsay@lindsaylovejoy.com

and

Jonathan M. Block
New Mexico Environmental Law Center
1405 Luisa St., Ste. 5
Santa Fe, New Mexico 87505
jblock@nmelc.org

Attorneys for Concerned Citizens Nuclear for Safety, Honor our Pueblo Existence, New Mexico Acequia Association, and Tewa Women United

/s/ John Verheul
John Verheul

(Slip Opinion)

NOTICE: This opinion is subject to formal revision before publication in the Environmental Administrative Decisions (E.A.D.). Readers are requested to notify the Environmental Appeals Board, U.S. Environmental Protection Agency, Washington, D.C. 20460, within sixty (60) days of the issuance of this opinion, of any typographical or other formal errors, in order that corrections may be made before publication.

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

In re: Los Alamos National Security, LLC and the U.S. Department of Energy Permit No. NM0028355	)	NPDES Appeal No. 17-05

[Decided March 14, 2018]

FINAL DECISION

Before Environmental Appeals Judges Mary Kay Lynch, Kathie A. Stein, and Mary Beth Ward.

Exhibit 1
17329

IN RE LOS ALAMOS NATIONAL SECURITY, LLC AND THE U.S. DEPARTMENT OF ENERGY

NPDES Appeal No. 17-05

FINAL DECISION

Decided March 14, 2018

Syllabus

Concerned Citizens for Nuclear Safety ("Concerned Citizens") filed an Informal Appeal with the Environmental Appeals Board ("Board") under 40 C.F.R. § 124.5(b) seeking review of the U.S. Environmental Protection Agency Region 6's ("Region") denial of Concerned Citizens' request to terminate as to one outfall – referred to as Outfall 051 – a National Pollutant Discharge Elimination System ("NPDES") permit issued for operations at the Los Alamos National Laboratory in New Mexico ("Los Alamos Laboratory").

The Region issued the permit in 2014 ("2014 Permit") authorizing Los Alamos National Security, LLC and the U.S. Department of Energy to continue discharges from eleven sanitary and/or industrial outfalls at the Los Alamos Laboratory, including the discharge of treated wastewater from the Radioactive Liquid Waste Treatment Facility through Outfall 051. In its Informal Appeal, Concerned Citizens alleges that the Region erred in denying its subsequent request to terminate the 2014 Permit as to Outfall 051 because the Los Alamos Laboratory has not discharged liquid waste from that Outfall since 2010. Concerned Citizens asserts that permit termination is appropriate under 40 C.F.R. § 122.64(a)(4), which provides that after an NPDES permit is issued, "[a] change in any condition" requiring a reduction or elimination of any discharge is cause for permit termination. In response, the Region argues that Concerned Citizens failed to establish a change in any condition justifying permit termination.

Held: The Region did not clearly err or abuse its discretion in denying Concerned Citizens' request to terminate the 2014 Permit as to Outfall 051. When the Region issued the 2014 Permit, discharges from Outfall 051 had not occurred since 2010 and would only be necessary if certain equipment became unavailable due to maintenance, malfunction or capacity shortage. Under these circumstances, the record supports the Region's determination that Concerned Citizens failed to establish a change in any condition after

the Region issued the 2014 Permit justifying permit termination pursuant to 40 C.F.R. § 122.64(a)(4). The Board therefore denies the Informal Appeal.

Before Environmental Appeals Judges Mary Kay Lynch, Kathie A. Stein, and Mary Beth Ward.

Opinion of the Board by Judge Ward:

I. *STATEMENT OF THE CASE*

Concerned Citizens for Nuclear Safety ("Concerned Citizens") filed this Informal Appeal under 40 C.F.R. § 124.5(b) seeking review of the denial of its request to terminate as to one outfall – Outfall 051 – a National Pollutant Discharge Elimination System ("NPDES") permit issued for operations at the Los Alamos National Laboratory ("Los Alamos Laboratory"). *See* Concerned Citizens for Nuclear Safety Submission Pursuant to 40 C.F.R. §§ 124.2 and 124.5(b) ("Informal Appeal") (Sept. 14, 2017); Authorization to Discharge Under the National Pollutant Discharge Elimination System, NPDES Permit No. NM0028355 (Aug. 12, 2014) ("2014 Permit") (Administrative Record ("A.R.") II).[1] The U.S. Environmental Protection Agency Region 6 ("Region") issued the permit in 2014 authorizing Los Alamos National Security, LLC and the U.S. Department of Energy ("Permittees") to continue discharges from eleven sanitary and/or industrial outfalls at the Los Alamos Laboratory, including discharges of treated wastewater from the Radioactive Liquid Waste Treatment Facility ("Treatment Facility") through

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[1] In responding to the Informal Appeal, the Region attached an index to the administrative record. *See* "Index to EPA Region 6 Administrative Record (A.R.)" (Oct. 18, 2017). The Region's Index lists five documents, each identified with a Roman numeral (I-V). This decision will cite these documents using the Roman numeral assigned by the Region along with the title of the document. In addition, one of the documents in the administrative record provided by the Region, A.R. IV, is Concerned Citizens' request to terminate with respect to Outfall 051 filed with the Regional Judicial Officer in June 2016 and then resubmitted to the Region 6 Acting Regional Administrator in March 2017 (discussed in section III.C. of this decision). *See* Letter from Lindsay A. Lovejoy, Jr., Jonathan Block, Eric D. Jantz, Douglas Meiklejohn, and Jaimie Park, Counsel for Concerned Citizens, to Samuel Coleman, P.E., Acting Administrator, U.S. EPA Region 6 (Mar. 9, 2017) (enclosing Request to Terminate NPDES Permit # NM0028355 as to Outfall 051 for the Radioactive Liquid Waste Treatment Facility) (June 17, 2016) ("Termination Request")). The Termination Request attaches multiple exhibits. This decision cites to these exhibits as "Ex. __ to Termination Request."

Outfall 051. *See* 2014 Permit Pt. I at 6. Concerned Citizens participated in the permitting process leading up to the issuance of the 2014 Permit.

In the current appeal, Concerned Citizens alleges that the Region erred in denying its subsequent request to terminate the 2014 Permit as to Outfall 051 because the Los Alamos Laboratory has not discharged liquid waste from that outfall since 2010. *See* Informal Appeal at 1. Concerned Citizens asserts that permit termination is appropriate under 40 C.F.R. § 122.64(a)(4), which provides that after a permit is issued, "[a] change in any condition" requiring a reduction or elimination of any discharge is cause for permit termination. *See id.* at 3-11. In response, the Region argues that Concerned Citizens failed to establish a change in any condition justifying permit termination. *See* EPA Response to Concerned Citizens for Nuclear Safety's Informal Appeal of EPA's Denial of Request to Terminate Permit Authorization (Oct. 18, 2017) ("Region's Response").

We conclude that the Region did not clearly err or abuse its discretion. The record supports the Region's determination that Concerned Citizens failed to establish a change in a condition justifying permit termination after the Region issued the 2014 Permit. The Informal Appeal is therefore denied.

II. *REGULATORY HISTORY*

EPA's consolidated permitting regulations provide detailed procedures for EPA's issuance or renewal of permits under NPDES and other permit programs. Those regulations require EPA to issue a draft permit, seek public comment, hold a public hearing where there is significant public interest in the draft permit, and respond to significant comments received when a final permit decision is issued. *See* 40 C.F.R. §§ 124.6-.12, .17. The regulations specify the procedures and grounds for an appeal of a permit decision at 40 C.F.R. § 124.19. After EPA issues an NPDES permit, however, 40 C.F.R. § 124.5 allows "any interested person" to request termination under that regulation only for the reasons listed in 40 C.F.R. § 122.64. In particular, section 124.5 states, in part:

> (a) Permits * * * may be modified, revoked and reissued, or terminated, either at the request of any interested person * * * or upon the [Region's[2]] initiative. However, permits may *only* be

[2] The regulations use the term "Director" to describe the permitting authority. 40 C.F.R. § 124.2 (defining "Director"). The permitting authority here is EPA's Regional Administrator for Region 6. The Board will therefore refer to the Region in places where

> * * * terminated for the reasons specified in * * * [40 C.F.R.] § 122.64 * * *.

40 C.F.R. § 124.5 (emphasis added). And 40 C.F.R. § 122.64 in turn identifies four bases for "terminating a permit during its term:"

> (1) Noncompliance by the permittee with any condition of the permit;
>
> (2) The permittee's failure in the application or during the permit issuance process to disclose fully all relevant facts, or the permittee's misrepresentation of any relevant facts at any time;
>
> (3) A determination that the permitted activity endangers human health or the environment and can only be regulated to acceptable levels by permit modification or termination; or
>
> (4) A change in any condition that requires either a temporary or permanent reduction or elimination of any discharge or sludge use or disposal practice controlled by the permit (for example, plant closure or termination of discharge by connection to a POTW).

40 C.F.R. § 122.64(a).

Concerned Citizens' Informal Appeal relies on the fourth basis for termination at 40 C.F.R. § 122.64(a)(4) – where there has been "[a] change in any condition" since permit issuance.

III. *FACTUAL HISTORY*

To best understand the issue raised by Concerned Citizens – that there has been "[a] change in any condition" after the Region issued the 2014 Permit – we

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the regulations use the term "Director." *See id.* ("When there is no approved State * * * program, and there is an EPA administered program, 'Director' means the Regional Administrator.").

describe in detail below the Treatment Facility, the process leading to issuance of the 2014 Permit, and Concerned Citizens' subsequent termination request.

A. *The Los Alamos Laboratory*

The Los Alamos Laboratory is located on forty square miles in Los Alamos County in north-central New Mexico, approximately sixty miles north-northeast of Albuquerque. *See* Los Alamos National Laboratory NPDES Permit Re-Application, Permit No. NM0028355 at ¶ 3.0 (Feb. 2012) ("2012 Permit Re-Application") (A.R. I) and attached 2012 NPDES Re-Application Outfall Fact Sheet for Outfall 051 ("2012 Re-Application Fact Sheet – Outfall 051") (A.R. I.A.). The Los Alamos Laboratory provides for "stockpile stewardship" and engages in "extensive basic research in physics, chemistry, metallurgy, mathematics, computers, earth sciences, and electronics." 2012 Permit Re-Application at ¶ 3.1.

B. *The 2012 Permit Re-Application and the 2014 Permit*

In February 2012, the Los Alamos National Security, LLC and the U.S. Department of Energy submitted an application for renewal of the Los Alamos Laboratory's then-existing NPDES permit, issued in August 2007, to authorize continued discharges from eleven outfalls, including discharges from the Treatment Facility to the Facility's one Outfall, Outfall 051. *See* 2012 Permit Re-Application at ¶ 4.0 & Table 4.1. The Treatment Facility treats low-level and transuranic radioactive liquid waste from various locations at the Laboratory. 2012 Re-Application Fact Sheet – Outfall 051 at 1.

Prior to 2010, treated wastewater from the Treatment Facility was regularly discharged to Outfall 051. *See* 2012 Permit Re-Application at ¶ 2.0; 2012 Re-Application Fact Sheet – Outfall 051 at 1, 5. As the Permittees stated in their 2012 Re-Application, however, the Treatment Facility "ha[d] not discharged to Outfall 051 since November 2010" due to changes in facility operations prior to re-application, including the use of a mechanical evaporator. *See* 2012 Re-Application Fact Sheet – Outfall 051 at 5. The Permittees also identified the anticipated construction of two new solar evaporation tanks – referred to as "Zero Liquid Discharge" tanks – that would serve the same function as the mechanical evaporator of receiving treated effluent from the Treatment Facility. *See id.* at 5, 7. Permittees nevertheless requested re-permitting of Outfall 051, "so that the [Treatment Facility] can maintain the capability to discharge to the outfall *should* the Mechanical Evaporator and/or Zero Liquid Discharge * * * tanks become unavailable due to maintenance, malfunction, and/or there is an increase in

treatment capacity caused by changes in [the Laboratory's] scope/mission." *Id.* at 5 (emphasis added). Permittees further noted that "[a] grab sample [of the effluent] will be collected from Outfall 051 *when/if* the [Treatment Facility] discharges effluent through the [O]utfall." *Id.* (emphasis added). *See also* Form 2C to the 2012 Permit Re-Application at 6-14 (same).

In June 2013, the Region issued a public notice of the draft permit seeking public comment. *See* NPDES Permit No. NM0028355 Response to Comments at 2 (Aug. 4, 2014) ("Response to Comments") (A.R. III). The Region's Fact Sheet accompanying the 2013 draft permit stated: "The effluent is evaporated through a mechanical evaporator and has no discharge since November 2010. [Los Alamos Laboratory] includes the outfall in the application *in case* the evaporator becomes unavailable due to maintenance, malfunction, and/or capacity shortage." NPDES Permit No. NM0028355, Fact Sheet for the Draft [NPDES] Permit to Discharge to Waters of the United States at 12 (June 26, 2013) (Ex. NN to Termination Request) (emphasis added).

In their August 2013 comments on the draft permit, the Permittees reiterated that "the * * * [Treatment Facility has] not discharged [to Outfall 051] since November 2010 as a result of using the mechanical evaporator" and that it sought to re-permit the Outfall in the event that the mechanical evaporator or now constructed evaporation tanks (once permitted and in use) were not functioning: "Based on discharge records prior to November 2010, and with options of using the existing mechanical evaporator or new [Zero Liquid Discharge] evaporation tanks, [the Treatment Facility] would discharge to Outfall 051 only once or twice per week *if* evaporation is not an option." Letter from Alison M. Dorries, Division Leader, Environmental Protection Division, Los Alamos National Security, LLC, and Gene E. Turner, Environmental Permitting Manager, Los Alamos Field Office, Department of Energy, to Diane Smith, U.S. EPA Region 6 Permit Processing Team, Enclosure 1 at 3 (Aug. 13, 2013) (emphasis added) ("Los Alamos Laboratory Comments on 2013 Draft Permit") (Ex. OO to Termination Request).

Further, because Los Alamos Laboratory anticipated that future discharges to Outfall 051 – if they were to resume – were likely to be intermittent, its August 2013 comments requested modification of a provision in the draft permit's continuous flow monitoring requirements for Outfall 051: "[The Treatment Facility] has not discharged since November 2010. *If* discharges to the Outfall 051 resume, it is estimated that [Treatment Facility] would only discharge intermittently * * *." *Id.* at 7 (emphasis added).

Although Concerned Citizens apparently filed comments on other parts of the draft permit, no commenter objected to the 2014 Permit's continued authorization of discharges through Outfall 051 during the comment period on the draft permit.[3] *See generally* Response to Comments.

The Region issued its 2014 permit determination on August 12, 2014. In the Region's August 2014 Response to Comments on the draft permit, the Region agreed that continuous monitoring was not necessary because the Treatment Facility had not discharged to Outfall 051 since November 2010 and would only discharge intermittently even "if discharges resume." Response to Comments at 17. Consequently, although the 2014 Permit includes discharge parameters for Outfall 051, the Permit requires only that a one-time grab sample be taken "*if* a discharge occurs at Outfall 051." 2014 Pt. I.E. at 26 (emphasis added).

The deadline for filing a petition for review of the Region's 2014 Permit renewal decision with the Board was in September 2014. 40 C.F.R. § 124.19(a).[4] Neither Concerned Citizens nor any other party filed a petition for review with the Board under 40 C.F.R. § 124.19 objecting to the inclusion of Outfall 051 in the 2014 Permit. However, Permittees filed a petition for review with the Board challenging the 2014 Permit's imposition of monitoring and sampling requirements for selenium at a different outfall (Outfall 03A048). At the request of the parties, the Board dismissed the petition after the Region removed the disputed permit

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[3] In its response to Concerned Citizens' Informal Appeal, the Region represents that Concerned Citizens joined another organization, Communities for Clean Water, in submitting comments on the 2013 draft permit and that the Region responded to those comments. *See* Region's Response at 14 (citing Response to Comments at 9-13). The Region states that these comments did not raise the issue of whether the permit should authorize discharges from Outfall 051. *Id.* In its Reply to the Region's Response, Concerned Citizens indicates that the Region correctly characterized Concerned Citizens' participation during the public comment period. *See* Concerned Citizens for Nuclear Safety Reply Submission Pursuant to 40 C.F.R. §§ 124.2 and 124.5(b) at 16 (Nov. 3, 2017).

[4] Under 40 C.F.R. § 124.19(a), any person filing comments on the draft permit or participating in a public hearing on the draft permit may file a petition for review with the Board within thirty days after the Region serves notice of issuance of a permit. 40 C.F.R. § 124.19(a)(2)-(3).

provision. *See In re Los Alamos Nat'l Lab.*, NPDES Appeal No. 14-02 (EAB Apr. 27, 2015) (Order Dismissing Petition for Review).

C. *Concerned Citizens' 2015 Letter Challenging Issuance of 2014 Permit and 2016 Termination Request*

A little over a year later, in November 2015, new attorneys representing Concerned Citizens sent a letter to the Region questioning the need for the 2014 Permit. *See* Letter from Stacey Dwyer, Associate Director, U.S. EPA Region 6, NPDES Permits and TMDL Branch, to Lindsay A. Lovejoy, Jr., Attorney at Law, 3600 Cerrillos Rd., Santa Fe, NM (Dec. 18, 2015) ("Region's 2015 Response Letter") (Ex. UU to Termination Request) (referencing Concerned Citizens' Nov. 2015 letter). Concerned Citizens did not request termination of the 2014 Permit and instead asked for the Region's justification for issuance of the Permit in the first instance. In particular, the letter stated that because the Treatment Facility has been designed to eliminate all discharges and there have been no discharges since 2010, there was no need for the Permit, and, pursuant to federal case law, the Region lacked jurisdiction under the Clean Water Act to have issued the 2014 Permit for Outfall 051. *Id.* at 1-2; *see also* Ex. 7 to Informal Appeal (attaching Concerned Citizens' Nov. 2015 letter).

In response, the Region stated that it had re-examined its permit file and determined that it would not alter its permit determination. Region's 2015 Response Letter. Although no discharges had occurred since 2010, the Region stated, in part, that: "[Los Alamos Laboratory] specifically sought permit coverage for Outfall 051 to protect against liability in case of a future discharge. In its application, [Los Alamos Laboratory] indicated that under certain circumstances, e.g.[,] maintenance, malfunction, and/or capacity shortage, a discharge could occur and permit authorization would be needed." *Id.* at 1. The Region also disagreed that it lacked jurisdiction to issue a permit for potential discharges where, as here, the permittee requested coverage "for a possible future discharge." *Id.* at 2.

In June 2016, Concerned Citizens filed with the Regional Judicial Officer a request to terminate the 2014 Permit with respect to Outfall 051 pursuant to 40 C.F.R. §§ 124.5 and 122.64(a)(4).[5] *See* Termination Request (June 17, 2016) (A.R. IV). As noted above, section 124.5 allows any person to request termination

[5] Concerned Citizens did not allege that 40 C.F.R. § 122.64(a)(1)-(3) served as a basis for termination.

of an NPDES permit during its term based on: "(4) A change in any condition that requires either a temporary or permanent reduction or elimination of any discharge or sludge use or disposal practice controlled by the permit (for example, plant closure or termination of discharge by connection to a POTW)." 40 C.F.R. § 122.64(a). In particular, Concerned Citizens stated that, since at least 1998, Los Alamos Laboratory had engaged in an effort to eliminate liquid discharges from the Treatment Facility to Outfall 051. *See* Termination Request at 3-11 (citing *Elimination of Liquid Discharge to the Environment from the TA-50 Radioactive Liquid Waste Treatment Facility*, David Moss, et. al., Los Alamos National Laboratory, at *vi* (June 1998) (Ex. A to Termination Request) (recommending a "phased transition toward zero liquid discharge" through Outfall 051). Concerned Citizens further noted that as a result of these efforts, the Treatment Facility had not discharged any wastes through Outfall 051 since November 2010. *Id.* at 10-11.

Concerned Citizens also acknowledged that in the 2012 Permit Re-Application, Permittees had "expressly requested a permit [for Outfall 051] only for a possible discharge" and as a "fallback" for "use in possible contingencies." *See Id.* at 9; *see also id.* at 10 (stating that 2012 Permit Re-Application sought leave to provide effluent characteristics for Outfall 051 only "*if discharges * * * are initiated* during the life of the new permit"), 11 (stating that the final permit refers to regulation of discharges from Outfall 051 "*if discharges resume*") (emphasis in original). Nevertheless, because no discharges had occurred since 2010, Concerned Citizens asserted that Los Alamos Laboratory had no need for or intention of discharging through Outfall 051. *Id.* at 11. Given the continued lack of any discharges from Outfall 051, Concerned Citizens asserted that termination was justified under 40 C.F.R. § 122.64(a)(4). *See id.* at 17 (asserting that the permit must be terminated "due to lack of discharge").

Concerned Citizens further argued that EPA lacked the authority under the Clean Water Act ("CWA") to issue a permit for potential discharges that could occur sometime in the future. *Id.* at 12-15. Finally, Concerned Citizens suggested that Los Alamos Laboratory sought to maintain Outfall 051 as a permitted discharge for the Treatment Facility because coverage under the 2014 Permit allows Los Alamos Laboratory to obtain a Waste Water Treatment Unit exemption under another federal law, the Resource Conservation and Recovery Act ("RCRA"), and loss of the exemption would require Los Alamos Laboratory to meet additional RCRA requirements. *Id.* at 3-6 (citing RCRA § 1004(27), 42 U.S.C. § 6903(27); 40 C.F.R. §§ 260.10, 264.1(g)(6)).

On March 2, 2017, the Regional Judicial Officer dismissed Concerned Citizens' termination request for lack of jurisdiction under 40 C.F.R. § 124.5, but stated that Concerned Citizens could proceed with the matter before the Regional Administrator. *See In re Concerned Citizens for Nuclear Safety (CCNS) Request to Terminate NPDES Permit #NM0028355 (Permit) for Los Alamos Nat'l Lab. Radioactive Liquid Waste Treatment Facility,* (RJO, Mar. 2, 2017) (referencing June 2016 Termination Request).[6] Thereafter, on March 9, 2017, Concerned Citizens resubmitted its termination request to the Regional Administrator. *See* Letter from Lindsay A. Lovejoy, Jr., Jonathan Block, Eric D. Jantz, Douglas Meiklejohn, and Jaimie Park, Counsel for Concerned Citizens, to Samuel Coleman, P.E., Acting Administrator, U.S. EPA Region 6 (Mar. 9, 2017) (A.R. IV) (enclosing Request to Terminate NPDES Permit # NM0028355 as to Outfall 051 for the Radioactive Liquid Waste Treatment Facility (June 17, 2016)).

D. *Region 6's Denial of Concerned Citizens' Termination Request*

In August 2017, the Region denied Concerned Citizens' request pursuant to 40 C.F.R. § 124.5(b).[7] The Region determined that Concerned Citizens' request to terminate the 2014 Permit as to Outfall 051 was not justified because Concerned Citizens failed to demonstrate that there had been "[a] change in any condition" after the 2014 Permit was issued justifying termination under 40 C.F.R. § 122.64(a)(4). *See* Letter from William K. Honker, Director, Water Division, U.S. EPA Region 6, to Lindsay A. Lovejoy, Jr., Attorney at Law, and Jonathan Block, Eric D. Jantz, Douglas Meiklejohn, and Jaimie Park, New Mexico Environmental Law Center, Counsel for Concerned Citizens (Aug. 16, 2017) ("Region 6 Letter") (A.R. V). The Region also rejected Concerned Citizens' assertion that EPA lacked

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[6] Although the Regional Judicial Officer's Order is not part of the administrative record identified by the Region, the Board takes official notice of it as a public document. *See, e.g., In re Donald Cutler*, 11 E.A.D. 622, 650-51 (EAB 2004) (explaining that information in the public domain is subject to official notice by the Board); *In re City of Denison,* 4 E.A.D. 414, 419 n.8 (EAB 1992) (taking official notice of administrative order not part of proceeding before Board).

[7] 40 C.F.R. § 124.5(b) states, in pertinent part, that "[i]f the [Region] decides that the [termination] request is not justified, he or she shall send the requester a brief written response giving a reason for the decision."

the authority under the CWA to issue the NPDES permit for potential discharges. *Id.* at 2. Finally, the Region concluded that "[w]hether or not issuance of NPDES permit coverage might trigger the RCRA [Waste Water Treatment Unit] regulatory exemption has no bearing on EPA's NPDES permitting decisions, which must be based on the requirements of the CWA and implementing regulations." *Id.* at 3.

E. *Informal Appeal to the Board*

On September 14, 2017, Concerned Citizens timely filed an Informal Appeal with the Board under 40 C.F.R. § 124.5(b) seeking review of the Region's denial of Concerned Citizens' termination request.[8] On September 21, 2017, the Board issued an Order for Additional Briefing requiring that the Region file a response to the Informal Appeal and requesting that the parties address certain issues in their replies. Thereafter, on September 25, 2017, the Board issued an order granting the parties' request to extend deadlines for the Region's and the Permittees' responses as well as Concerned Citizens' reply. The Permittees and the Region filed responses on October 16 and 18, 2017, respectively.[9] Concerned Citizens filed a reply on November 3, 2017, and requested oral argument.[10] On

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[8] Under 40 C.F.R. § 124.5(b), denials of requests for termination "may be informally appealed to the Environmental Appeals Board by a letter briefly setting forth the relevant facts."

[9] *See* Letter from Susan L. McMichael, Attorney, Office of Laboratory Counsel, Los Alamos National Laboratory, and Silas R. DeRoma, Field Office Counsel, U.S. Department of Energy, to Clerk of the Board, U.S. EPA Environmental Appeals Board, and enclosed Aff. of Michael Thomas Saladen, Environmental Manager at LANL (Oct. 12, 2017); EPA Response to Concerned Citizens for Nuclear Safety's Informal Appeal of EPA's Denial of Request to Terminate Permit Authorization (Oct. 18, 2017) ("Region's Response").

[10] Concerned Citizens for Nuclear Safety Reply Submission Pursuant to 40 C.F.R. §§ 124.2 and 124.5(b).

February 22, 2018, the Board heard oral argument in this case.[11] For the reasons stated below, the Board denies Concerned Citizens' Informal Appeal.[12]

III. *STANDARD OF REVIEW*

Unlike the procedures governing Board review of permit determinations under 40 C.F.R. § 124.19, the regulations governing informal appeals from the denial of a request to terminate a permit under 40 C.F.R. § 124.5 do not specify the Board's standard of review. Upon consideration, the Board will adopt for informal appeals the same standard used for appeals of permit determinations under 40 C.F.R. § 124.19. Specifically, a party seeking review under 40 C.F.R. § 124.5 must demonstrate that the Region's determination was based on either a finding of fact or conclusion of law that was clearly erroneous or was an abuse of discretion. *See* 40 C.F.R. § 124.19(a)(4)(i)(A)-(B).[13] The issues that may arise in a proceeding under 40 C.F.R. § 124.5 are not necessarily different or less significant than the issues that arise in a proceeding under 40 C.F.R. § 124.19. Where, as here, the Board has decided to consider an informal appeal under 40 C.F.R. § 124.5, *see supra* note 12, the issues presented warrant Board consideration under the same standard of review as issues arising in proceedings under 40 C.F.R. § 124.19. Moreover, adopting this standard will serve administrative efficiency and will provide for consistency in addressing future appeals to the Board whether formal

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[11] Concerned Citizens, the Region, and Permittees (Los Alamos National Security, LLC and the U.S. Department of Energy) all participated in oral argument. *See* EAB Hearing Transcript ("Tr.") (Feb. 22, 2018).

[12] Under 40 C.F.R. § 124.5(b), the "appeal shall be considered denied if the Environmental Appeals Board takes no action on the letter within 60 days after receiving it." The Board's September 21 and 25 orders constituted sufficient "action" necessary to keep this matter alive beyond the sixtieth day, allowing the Board to now address this Informal Appeal on the merits. *See In re Waste Techs. Indus.*, 5 E.A.D. 646, 655 n.13 (EAB 1995) (order for supplemental briefing is sufficient action for purposes of the sixty-day period specified in 40 C.F.R. § 124.5(b)).

[13] This standard is in keeping with the Board's other review on the merits of an informal appeal under 40 C.F.R. § 124.5. *See, e.g., In re Waste Tech. Inds.*, 5 E.A.D. 646 (EAB 1995). Although the Board in *Waste Technologies* did not explicitly address the standard of review for informal appeals, the Board found that the permit issuer "committed no error" in its permit determination and adequately justified that determination. *Id.* at 662-63.

or informal. *Cf.* 40 C.F.R. § 124.19(n) (stating that the Board "may do all acts and take all measures necessary for the efficient, fair, and impartial adjudication of issues arising in an appeal").

IV. *ANALYSIS*

A. *The Region Did Not Clearly Err or Abuse its Discretion in Denying the Termination Request*

In this Informal Appeal, Concerned Citizens asserts that permit termination proceedings are appropriate for the reason specified in 40 C.F.R. § 122.64(a)(4) because "no discharges of water or pollutants are planned or expected for Outfall 051, and no such discharges have occurred since November 2010." Informal Appeal at 3.

Under 40 C.F.R. § 122.64(a)(4), a cause for "terminating [an NPDES] permit during its term" includes: "[a] change in any condition that requires either a temporary or permanent reduction or elimination of any discharge * * * controlled by the permit (for example, plant closure or termination of discharge by connection to a POTW)." 40 C.F.R. § 122.64(a)(4). As noted, the regulation states plainly that termination is an action that occurs "during [the permit's] term." *Id.* Therefore, "[a] change" for purposes of termination is one that occurs after permit issuance. *See also* 40 C.F.R. § 122.62(a)(1) (similarly requiring certain "changes" to have "occurred after permit issuance" to allow modification of a permit). And to read "[a] change" for purposes of termination some other way would effectively write the phrase "during its term" out of 40 C.F.R. § 122.64(a). The Informal Appeal, however, does not allege "[a] change in any condition" at Outfall 051 since issuance of the 2014 Permit. Indeed, in quoting the language of this provision, Concerned Citizens omits the reference to "[a] change in any condition." *See* Informal Appeal at 3 (quoting only the portion of section 122.64(a)(4) referring to the "elimination of any discharge * * * controlled by the permit."). Thus, on its face, the Informal Appeal fails to demonstrate that the Region clearly erred or abused its discretion in denying the request to terminate.

The record supports the Region's determination that there has not been "[a] change in any condition" at Outfall 051 since issuance of the 2014 Permit. Although not explicitly stated, Concerned Citizens appears to suggest that the passage of additional time since issuance of the 2014 Permit by itself constitutes a sufficient basis for termination. *See id.* at 5. However, when Permittees applied for renewal of their permit, they advised the Region that discharges from

Outfall 051 had not occurred "since November 2010" and would only be necessary "*should* the Mechanical Evaporator and/or Zero Liquid Discharge * * * tanks become unavailable due to maintenance, malfunction, and/or there is an increase in treatment capacity caused by changes in [the Laboratory's] scope/mission." 2012 Re-Application Fact Sheet at 5 (emphasis added).[14] As the Region explained in the Fact Sheet accompanying the 2013 draft permit, "[Los Alamos Laboratory] includes [Outfall 051] in the application *in case* the evaporator becomes unavailable due to maintenance, malfunction, and/or capacity shortage." NPDES Permit No. NM0028355, Fact Sheet for the Draft [NPDES] Permit to Discharge to Waters of the United States at 12 (June 26, 2013) (Ex. NN to Termination Request) (emphasis added). And when the Region issued the 2014 Permit, it reiterated that discharges from Outfall 051 had not occurred "since November 2010," imposing certain monitoring requirements only "if discharges resume." Response to Comments at 17; *see also* 2014 Permit Part I.E. at 26 (requiring that Permittees take a one-time grab sample of effluent from Outfall 051 "*if* a discharge occurs") (emphasis added). Thus, the passage of additional time without a discharge from Outfall 051 since issuance of the 2014 Permit was expected, was made known during the permit proceeding, and does not amount to a change in any condition justifying termination. Under these circumstances, the Informal Appeal fails to demonstrate the Region clearly erred or abused its discretion in denying the termination request.

In its Reply, Concerned Citizens makes conclusory claims that there have in fact been "massive and obvious" changes to the Treatment Facility and its operation that, according to Concerned Citizens, justify termination of the 2014 Permit for Outfall 051 under 40 C.F.R. § 122.64(a)(4). Concerned Citizens for Nuclear Safety Reply Submission Pursuant to 40 C.F.R. §§ 124.2 and 124.5(b) ("Concerned Citizens Reply") (Nov. 3, 2017) at 7. However, these alleged changes – the use of a mechanical evaporator and the anticipated use of the Zero Liquid Discharge tanks designed to reduce or eliminate discharges from the Treatment

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[14] *See also* 2012 Re-Application Fact Sheet, Form 2C at 6-14 (same). Form 2C of the 2012 Re-Application Fact Sheet states further that an effluent sample "will be collected from Outfall 051 *when/if* the [Treatment Facility] discharges effluent to Mortandad Canyon." *Id.* (emphasis added). Further, in their comments on the 2013 draft permit, Permittees stated that "*[i]f* discharges to the Outfall 051 resume, it is estimated that [Treatment Facility] would only discharge intermittently." Los Alamos Laboratory Comments on 2013 Draft Permit at 7 (emphasis added).

Facility – were identified in the 2012 Permit Re-Application and the Region's Fact Sheet for the 2013 draft permit prior to the 2014 Permit's issuance. Thus, they do not reflect "[a] change in any condition" since issuance of the 2014 Permit warranting termination pursuant to 40 C.F.R. § 122.64(a)(4).[15]

And maintaining the integrity and finality of the permitting process for permittees and other stakeholders requires Concerned Citizens to show that there has been "[a] change in any condition" since issuance of the 2014 Permit. When EPA is deciding whether to issue or renew a permit, the public is given a full opportunity to participate in and challenge any aspect of the permit. EPA's permitting regulations direct EPA to issue a draft permit, to seek public comment for no less than thirty days, to hold a public hearing where there is a significant degree of public interest in a draft permit, and to issue a response to significant comments received at the time the final permit is issued. 40 C.F.R. § 124.6 - .12, .17. The public in turn is required to raise "all reasonably ascertainable issues and submit all reasonably available arguments supporting their position by the close of the comment period." *Id.* § 124.13. And under section 124.19, a party may seek to challenge any condition of a final permit so long as it files a petition for review with the Board within thirty days of issuance. *See id.* § 124.19(a)(3), (4).

Once the permit is issued, however, the regulations at 40 C.F.R. § 122.64(a) and § 124.5 specify that EPA may only terminate a permit during its term for one of four listed reasons. Initially, EPA's permitting regulations applicable to state NPDES programs allowed the Agency to terminate a permit for cause, "including, but not limited to," "[a] change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge." *State Program Elements Necessary for Participation in the NPDES,* 37 Fed. Reg. 28,390, 28,397 (Dec. 22, 1972). EPA included identical language in promulgating regulations applicable to federal NPDES programs in 1973. *See National Pollution Discharge Elimination System*, 38 Fed. Reg. 13,528, 13,533 (May 22, 1973). In 1979,

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[15] During oral argument, Concerned Citizens objected to any finding that its termination request was untimely because the issues raised in that request were not raised during the proceedings leading to issuance of the 2014 Permit. Tr. at 61-62. The Board's decision, however, is not based on any finding that the termination request was untimely, but rather the Region's finding that the request fails to demonstrate a basis for termination because there has been no "change of any condition" since permit issuance under 40 C.F.R. § 122.64(a)(4).

however, EPA revised the regulations to remove the phrase "including, but not limited to" so as to allow for termination "only in certain limited circumstances." *See National Pollution Discharge Elimination System; Revision of Regulations*, 44 Fed. Reg. 32,854, 32,868, 32,912 (June 7, 1979). In addition, the Agency agreed with commenters that the causes for permit modification should be listed separately from the "more 'severe' measure" of termination. *Id.* In 1980, when EPA issued consolidated regulations governing its permitting programs, it expressed the expectation that the bases for termination in 40 C.F.R. § 122.64(a) would not be read broadly. *See Consolidated Permit Regulations,* 45 Fed. Reg. 33,290, 33,316 (May 19, 1980). Further, although the proposed rule included "other good cause" as a ground for termination, EPA chose not to include this as a basis for termination in the 1980 consolidated regulations because it was too "vague and open ended." *Id.* at 33,317. The limited scope of 40 C.F.R. § 122.64(a) has remained unchanged for almost forty years now.

And the more abbreviated process EPA must follow before denying a request to terminate (as opposed to the process for issuing or renewing a permit) further supports the point that a request to terminate was not intended to be a basis to reopen the original permit decision. EPA does not need to issue a public notice or provide an opportunity for comment before denying a request to terminate. Instead, EPA need only "send the requester a brief written response giving a reason for the decision" not to terminate. 40 C.F.R. § 124.5(b); *see also id.* § 124.10(a)(2).

Notably, although much of the Informal Appeal focuses on Concerned Citizens' assertion that the Region erred in issuing the 2014 Permit in the first instance,[16] it does not seek, nor could it seek, to challenge the 2014 Permit now. And it fails to demonstrate that the Region erred or abused its discretion in denying the request to terminate the 2014 Permit under 40 C.F.R. § 122.64(a)(4). Instead, Concerned Citizens may raise the issues it raises here, or any other issue it chooses, in any future permit renewal process for the Los Alamos Laboratory when the 2014 Permit expires in September 2019, and file a petition for review with the Board

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[16] *See, e.g.,* Informal Appeal at 2 (contesting the Region's "*issuance of an NPDES permit*" for possible discharges from Outfall 051), 2-3 (stating that the Region's position that it may "*issue an NPDES permit*" for possible discharges is "in error"), 5 (discussing EPA's limited authority under the CWA to "*issue NPDES permits*" for potential discharges), and 7-8 (challenging the Region's position that it can "*issue an NPDES permit*" at the request of the owner or operator) (emphasis added).

from any future permit at that time under 40 C.F.R. § 124.19. *See also* Tr. at 40-41.[17]

B. *Concerned Citizens' Contention That Permittees Never Disclosed that Discharges to Outfall 051 Might Not Occur is Untimely and Not Supported by the Record Here*

In its Reply, Concerned Citizens argues further that it could not have contested the 2014 Permit at the time the Permit was issued, implying that Los Alamos Laboratory never disclosed the possibility that discharges to Outfall 051 might not occur. *See* Concerned Citizens Reply at 8. Specifically, Concerned Citizens now asserts that during the 2014 Permitting process, Los Alamos Laboratory expressed an intent to make use of Outfall 051. *Id.* (claiming that during the permitting process Los Alamos Laboratory represented that "discharges through Outfall 051 would be required"). From there, Concerned Citizens argues that it relied on Los Alamos Laboratory's representations that it intended to discharge from Outfall 051 and thus could not have raised an earlier challenge to the 2014 Permit. *See id.* at 8-12.

However, Concerned Citizens did not make this argument before filing its Reply or otherwise claim that termination was appropriate under 40 C.F.R. § 122.64(a)(2) because of a "failure * * * to disclose" or "misrepresentation of any relevant facts" during the 2014 permitting process. And because this argument is raised for the first time in Concerned Citizens' Reply, it is beyond the scope of the Informal Appeal and is therefore untimely. *Cf. In re Russell City Energy Ctr. LLC*, 15 E.A.D. 1, 53 (EAB 2010) (declining to consider new issues raised for the first time in a reply brief); *In re Knauf Fiber Glass, GmbH,* 8 E.A.D. 121, 126 n.9

[17] Because the Region did not clearly err or abuse its discretion in finding that there has been no "change in any condition," the Board does not address the Region's further argument that any such change must be of a condition "that requires *** elimination of any discharge *** (for example, plant closure or termination of discharge by connection to a POTW)." 40 C.F.R. § 122.64(a)(4); *see* Region's Response at 6-7.

(EAB 1999) (new issues raised in reply briefs are equivalent to late-filed appeals and are thus untimely).

Even had Concerned Citizens timely raised this argument, however, the argument is contradicted by the record here. Although Permittees acknowledged during the application process that the use of the mechanical evaporator had resulted in no discharges from Outfall 051 since 2010, Permittees nevertheless sought a permit for continued discharges under certain circumstances. As discussed above, the permitting record for the 2014 Permit made clear that discharges from Outfall 051 would only be necessary if the mechanical evaporator or Zero Liquid Discharge tanks become unavailable due to malfunction, maintenance, or capacity shortage. Indeed, the permitting record refers to Outfall 051 requirements in multiple places as applying only "if" discharges resume. Thus, contrary to Concerned Citizens' assertion, the record alerted the public to the fact that discharges might not occur at all.

This argument is also at odds with Concerned Citizens' own prior statements. As early as November 2015, Concerned Citizens raised concerns about the 2014 Permit demonstrating its understanding that Permittees had sought and the Region had issued the 2014 Permit covering Outfall 051, even though it was known that there had been no discharges since 2010. *See* Region's 2015 Response Letter (Ex. UU to Termination Request) (referencing Concerned Citizens' Nov. 2015 letter). Further, in its termination request, Concerned Citizens acknowledged that the Permittees had stated that there had been no discharges to Outfall 051 since 2010 and had expressly requested a permit for Outfall 051 "only for a possible discharge," and as a "fallback" for use in possible contingencies. *See* Termination Request at 9; *see also id.* at10 (stating that 2012 Permit Re-Application sought leave to provide effluent characteristics for Outfall 051 only "*if discharges * * * are initiated* during the life of the new permit"), 11 (stating that the final permit refers to regulation of discharges from Outfall 051 "*if discharges resume*") (emphasis in original). In short, there is no merit in Concerned Citizens' argument that the Permittees never disclosed the possibility that discharges from Outfall 051 might not occur at all, as Concerned Citizens' own submissions demonstrate.[18]

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[18] In a post-argument brief, Concerned Citizens now contends that it could not have known during the comment period on the draft permit that the Zero Liquid Discharge tanks had been constructed, and on that basis, claims termination is appropriate. *See* Concerned Citizens for Nuclear Safety Post-Argument Submission Pursuant to 40 C.F.R. §§ 124.2 and

V. *CONCLUSION*

For the reasons stated above, the Board concludes that Concerned Citizens has not established that the Region clearly erred or abused its discretion in denying Concerned Citizens' request to terminate the 2014 Permit for Outfall 051. Concerned Citizens' Informal Appeal is therefore denied.[19]

So ordered.

124.5(b) at 7 (Feb. 27, 2018). The Board did not grant the parties leave to file post-argument briefs but instead only directed the filing of publicly-available information regarding the status of the State permitting process for the Zero Liquid Discharge tanks, Tr. at 67-68, and this argument raised for the first time in a post-argument brief is untimely. In any event, regardless of when the Zero Liquid Discharge tanks were constructed, the permitting record – and specifically the 2012 Permit Re-Application and the Region's Fact Sheet for the 2013 draft permit – alerted the public that with either the mechanical evaporator or the Zero Liquid Discharge tanks, discharges might not occur at all.

[19] Because we conclude that the Region did not clearly err or abuse its discretion in denying the termination request, we do not need to address Concerned Citizens' argument that EPA lacked authority under the CWA to issue a permit for potential discharges.

CERTIFICATE OF SERVICE

I certify that copies of the forgoing *Final Decision* in the matter of Los Alamos National Security, LLC and the Department of Energy, NPDES Appeal No. 17-05, were sent to the following persons in the manner indicated:

By First Class Mail, Return Receipt Requested:

Lindsay A. Lovejoy, Jr.
3600 Cerrillos Rd., Unit 1001A
Santa Fe, NM 87507

Susan L. McMichael
Office of Laboratory Counsel
Los Alamos National Laboratory
P.O. Box 1663 (MS A187)
Los Alamos, NM 87545-0001

Silas R. DeRoma
Field Office Counsel
U.S. Department of Energy
National Nuclear Security Administration
3745 West Jemez Road
Los Alamos, NM 87544

Charles F. McMillan, Director
Los Alamos National Laboratory
P.O. Box 1663 (MS K499)
Los Alamos, NM 87545

Kimberly D. Lebak, Manager
U.S. DOE Los Alamos Field Office
3747 West Jemez Road (MS A316)
Los Alamos, NM 87544

Jonathan Block, Counsel
New Mexico Environmental Law Center
1405 Luisa Street, Suite 5
Santa Fe, NM 87505

Butch Tongate, Secretary
New Mexico Environment Department
P.O. Box 5469
Santa Fe, NM 87502-5469

By EPA Pouch Mail:

Renea Ryland
Office of Regional Counsel, 6RC
U.S. EPA, Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

Stacey Dwyer, Associate Director
Water Quality Protection Division, 6WQ
U.S. EPA, Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

By Inter-Office Mail

Dawn Messier
Office of General Counsel (MC-2355A)

Dated: MAR 1 4 2018

Annette Duncan
Administrative Specialist

Exhibit 1
17349

NEW MEXICO
ENVIRONMENT DEPARTMENT

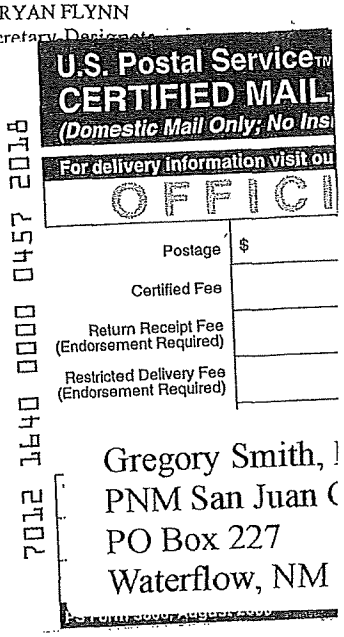
Ground Water Quality Bureau

SUSANA MARTINEZ
Governor

JOHN A. SANCHEZ
Lieutenant Governor

Harold Runnels Building
1190 St. Francis Drive
P.O. Box 5469, Santa Fe, NM 87502-5469
Phone (505) 827-2918 Fax (505) 827-2965
www.nmenv.state.nm.us

RYAN FLYNN
Secretary Designate



CERTIFIED MAIL – RETURN RECEIPT REQUESTED

June 5, 2013

Gregory Smith, Plant Manager
Public Service Company of New Mexico—San Juan Generating Station
PO Box 227
Waterflow, NM 87421

RE: Discharge Permit Renewal and Modification, DP-1327, San Juan Generating Station—Power Plant

Dear Mr. Smith:

The New Mexico Environment Department (NMED) issues the enclosed Discharge Permit Renewal and Modification, DP-1327, to Public Service Company of New Mexico (permittee) pursuant to the New Mexico Water Quality Act (WQA), NMSA 1978 §§74-6-1 through 74-6-17, and the New Mexico Water Quality Control Commission (WQCC) Regulations, 20.6.2 NMAC.

The Discharge Permit contains terms and conditions that shall be complied with by the permittee and are enforceable by NMED pursuant to Section 20.6.2.3104 NMAC, WQA, NMSA 1978 §74-6-5 and §74-6-10. Please be aware that this Discharge Permit may contain conditions that require the permittee to implement operational, monitoring or closure actions by a specified deadline. Such conditions are listed at the beginning of the operational, monitoring and closure plans of this Discharge Permit.

Issuance of this Discharge Permit does not relieve the permittee of the responsibility to comply with the WQA, WQCC Regulations, and any other applicable federal, state and/or local laws and regulations, such as zoning requirements and nuisance ordinances.

Pursuant to Paragraph (4) of Subsection H of 20.6.2.3109 NMAC, the term of the Discharge Permit shall be five years from the effective date. The term of this Discharge Permit will end on June 5, 2018.

NMED requests that the permittee submit an application for renewal (or renewal and modification) at least 180 days prior to the date the Discharge Permit term ends.

An invoice for the Discharge Permit Fee of $11,500.00 is being sent under separate cover. Payment of the Discharge Permit Fee must be received by NMED within 30 days of the date the Discharge Permit is issued.

If you have any questions, please contact John Hall at (505) 827-1049. Thank you for your cooperation during this Discharge Permit review.

Sincerely,

for Jerry Schoeppner

Jerry Schoeppner, Chief
Ground Water Quality Bureau

JS:JH

Encs: Discharge Permit Renewal and Modification, DP-1327
Ground Water Discharge Permit Monitoring Well Construction and Abandonment Conditions, Revision 1.1, March 2011

cc: Robert Italiano, District Manager, NMED District II (permit – electronic copy)
NMED Farmington Field Office (permit – electronic copy)
John Romero, Office of the State Engineer (permit – electronic copy)
John Hale, Alvarado Square, MS 2104, Albuquerque, NM 87158 (permit/enclosures)

GROUND WATER DISCHARGE PERMIT RENEWAL AND MODIFICATION
San Juan Generating Station, DP-1327

I. INTRODUCTION

The New Mexico Environment Department (NMED) issues this Discharge Permit Renewal and Modification (Discharge Permit), DP-1327, to Public Service Company of New Mexico (permittee) pursuant to the New Mexico Water Quality Act (WQA), NMSA 1978 §§74-6-1 through 74-6-17, and the New Mexico Water Quality Control Commission (WQCC) Regulations, 20.6.2 NMAC.

NMED's purpose in issuing this Discharge Permit, and in imposing the requirements and conditions specified herein, is to control the discharge of water contaminants from the San Juan Generating Station (facility) into ground and surface water, so as to protect ground and surface water for present and potential future use as domestic and agricultural water supply and other uses and protect public health. In issuing this Discharge Permit, NMED has determined that the requirements of Subsection C of 20.6.2.3109 NMAC have been met.

The activities which produce the discharge, the location of the discharge, and the quantity, quality and flow characteristics of the discharge are briefly described as follows:

Up to 2,600,000 gallons per day of process waters, storm water, recovery trench return water and miscellaneous process upset-related surface flows from an 1,800-megawatt coal-fired electrical generating plant are discharged to 17 cells or ponds/basins, including North Evaporation Cells 2-3, South Evaporation Cells 1-5, Process Pond 1 (A & B), Process Pond 2 (A & B), Process Pond 3 (A, B & C), Coal Pile 1&2 Runoff Basin, Runoff Basin Pre-pond, and Coal Pile 3&4 Runoff Basin. The evaporation cells are for final disposal through evaporation. The process ponds operate as holding ponds for water prior to reuse within the facility. The Coal Pile Runoff Basins and Pre-pond operate to catch storm water runoff and plant process upsets so the water can be transferred to the plant process ponds for use. All process ponds are plumbed to enable transfer of water from one pond to any other for management of water at the facility. Discharges include: brine concentrator wastes, pond cleanings, boiler cleanings, sump cleanings, recovery trench return water, clarifier blow down, drain upsets and blow down from the sulfur dioxide removal system (SDRS), limestone preparation area drains, power block drains including area wash down and pump seal water blow down and upset flows, neutralized demineralizer wastes, storm water, boiler blow down, cooling tower blow down, treated domestic effluent, ash system upsets and overflows, and intermittent flows from coal pile runoff basins. Up to 150 gallons per day of domestic wastewater from the facility's guard shack is discharged to a septic-tank/leachfield system. The permittee is authorized to maintain up to 150,000 cubic yards of plant generated residual waste onsite for disposal provided that applicable closure and financial assurance requirements in this permit are met. The modification consists of adding the discharge of the recovery trench return water to the South Evaporation Cells, the incorporation of discharges associated with DP-157 and DP-176 (discussed below), and the authorization to maintain up to 150,000 cubic yards of plant generated residual waste onsite for disposal. The facility is located approximately 15 miles west of Farmington, in Sections 17 and 20, Township 30N, Range 15W, San Juan County. Ground water most likely to be impacted by the discharge occurs in saturated

alluvium along the Westwater Arroyo at depths between 10 and 40 feet, and has a total dissolved solids concentration ranging from 4,000 milligrams per liter to 13,000 milligrams per liter.

The original Discharge Permit was issued on July 31, 2002. This Discharge Permit Renewal and Modification incorporates Discharge Permit DP-157 (discharges to Coal Pile 1&2 Runoff Basin) issued on May 7, 1981 and subsequently renewed or modified on April 18, 1986, October 25, 1991, June 11, 1997, and June 5, 2003; and Discharge Permit DP-176 (discharges to Coal Pile 3&4 Runoff Basin) issued on June 23, 1983 and subsequently renewed or modified on December 8, 1987, June 28, 1988, June 28, 1993, September 23, 1997, and June 5, 2003. The permittee's application consists of the materials submitted by the permittee dated February 1, 2007 and additional information received on May 30, 2007 (submitted on PNM's behalf by Metric Corporation), October 22, 2007, and December 8, 2011. The discharge shall be managed in accordance with all conditions and requirements of this Discharge Permit.

Pursuant to Section 20.6.2.3109 NMAC, NMED reserves the right to require a Discharge Permit Modification in the event NMED determines that the requirements of 20.6.2 NMAC are being or may be violated or the standards of Section 20.6.2.3103 NMAC are being or may be violated. This may include a determination that structural controls and/or management practices approved under this Discharge Permit are not protective of ground water quality, and that more stringent requirements to protect and/or remediate ground water quality may be required by NMED. These requirements may include: lining/relining lagoons; changing waste management practices; expanding monitoring requirements; installing an advanced treatment system(s); and/or implementing abatement of water pollution.

Issuance of this Discharge Permit does not relieve the permittee of the responsibility to comply with the WQA, WQCC Regulations, and any other applicable federal, state and/or local laws and regulations, such as zoning requirements and nuisance ordinances.

The following abbreviations may be used in this Discharge Permit:

Abbreviation	Explanation		Abbreviation	Explanation
BOD_5	biochemical oxygen demand (5-day)		NTU	nephelometric turbidity units
CFR	Code of Federal Regulations		Org	organisms
Cl	chloride		TDS	total dissolved solids
LADS	land application data sheet(s)		TKN	total Kjeldahl nitrogen
mg/L	milligrams per liter		total nitrogen	TKN+NO_3-N
mL	milliliters		TRC	Total Residual Chlorine
NMAC	New Mexico Administrative Code		TSS	total suspended solids
NMED	New Mexico Environment Department		WQA	New Mexico Water Quality Act
NMSA	New Mexico Statutes Annotated		WQCC	Water Quality Control Commission
NO_3-N	nitrate-nitrogen			

II. FINDINGS

In issuing this Discharge Permit, NMED finds:

1. The permittee is discharging effluent or leachate from the facility so that such effluent or leachate may move directly or indirectly into ground water within the meaning of Section 20.6.2.3104 NMAC.

2. The permittee is discharging effluent or leachate from the facility so that such effluent or leachate may move into ground water of the State of New Mexico which has an existing concentration of 10,000 milligrams per liter or less of total dissolved solids within the meaning of Subsection A of 20.6.2.3101 NMAC.

3. The discharge from the facility is not subject to any of the exemptions of Section 20.6.2.3105 NMAC.

III. CONDITIONS

The following conditions shall be complied with by the permittee and are enforceable by NMED. The permittee is authorized to discharge water contaminants subject to the following conditions:

OPERATIONAL PLAN

#	Terms and Conditions
1.	The permittee shall implement the following operational plan to ensure compliance with Title 20, Chapter 6, Parts 1 and 2 NMAC. [20.6.2.3106.C NMAC, 20.6.2.3107 NMAC]
2.	The permittee shall operate in a manner such that standards and requirements of Sections 20.6.2.3101 and 20.6.2.3103 NMAC are not violated. [20.6.2.3101 NMAC, 20.6.2.3103 NMAC]
3.	The permittee is authorized to discharge up to 2,600,000 gallons per day of process waters, storm water, recovery trench return water, and miscellaneous process upset-related surface flows from a 1,800-megawatt coal-fired electrical generating plant to seven evaporation cells, seven process ponds, and two coal pile runoff basins as follows: a) North Evaporation Cells 2-3 and South Evaporation Cells 1-5: Waste streams include brine concentrator wastes, clarifier blow down, thickener blow down, process pond water, plant upset water, pond cleanings, boiler cleanings, sump cleanings, recovery trench return water, and SDRS blow down. All evaporative cells are constructed with 100-mil high density polyethylene (HDPE) liners. The north cells utilize ground water monitoring wells for leak detection while the south cells are equipped with French drain leak detection systems. b) Process Pond 1 (A & B), Process Pond 2 (A & B), and Process Pond 3 (A, B & C): Waste streams include cooling tower blow down, wash down water, floor drain water, overflows and upsets from the entire plant, coal pile runoff basin water,

	storm water flows, neutralizer regeneration waste, and treated domestic effluent. Process ponds are plumbed such that water from any process pond can be transferred to any other process pond. Pond 1 (A & B) is constructed with a soil-cement liner, Pond 2 (A & B) and Pond 3 (A, B, & C) are constructed with 100-mil HDPE liners. Pond 1 (A & B), Pond 2 (A & B), and Pond 3 (A, B, & C) utilize monitoring wells for leak detection. c) Coal Pile Runoff Basins and Pre-pond (Coal Piles 1&2 and Coal Piles 3&4): Waste streams include secondary crusher wash down water, reclaim sump water, ash system wash down water and upsets, and miscellaneous process upset-related surface flows. The basins are constructed with a 15-inch minimum compacted clay liner. The Runoff Basin Pre-pond is synthetically lined with HDPE. The coal pile runoff basins utilize monitoring wells for leak detection. The permittee is authorized to discharge up to150 gallons per day of domestic wastewater from the facility's guard shack to a septic-tank/leachfield system. The permittee is authorized to maintain up to 150,000 cubic yards of plant generated residual waste onsite for disposal provided that applicable closure and financial assurance requirements in this permit are met. [20.6.2.3104 NMAC, 20.6.2.3106 NMAC]
4.	The evaporation cell, process pond, and runoff basin liners shall be maintained in such a manner as to avoid conditions which could affect the structural integrity of the cells/ponds/basins and/or their liners. Such conditions include, but are not limited to: • Erosion damage; • Animal activity/damage; • The presence of vegetation, such as; aquatic plants, weeds, woody shrubs or trees growing within five feet of the cell/pond/basin edge or within the cell/pond/basin itself; • Evidence of seepage; • Evidence of berm subsidence; and/or • The presence of large pieces or large quantities of debris in the cell/pond/basin. The permittee shall visually inspect the cells/ponds/basins and surrounding berms on a monthly basis to ensure proper maintenance. Vegetation growing around the cells/ponds/basins shall be routinely controlled by mechanical removal in a manner that is protective of the cell/pond/basin liner. Any evidence of damage to the cell/pond/basin berm or liner shall be reported to NMED immediately upon discovery. [20.6.2.3107 NMAC]
5.	The permittee shall maintain a minimum of two feet of freeboard between the liquid level in the cells/ponds/basins and the top elevation of the liners at all times. [20.6.2.3107 NMAC, 20.6.2.3109 NMAC]
6.	The permittee shall operate the recovery trench system continuously, except as maintenance and repairs necessitate. [20.6.2.3107 NMAC]

MONITORING, REPORTING, AND OTHER REQUIREMENTS

#	Terms and Conditions
7.	The permittee shall conduct the following monitoring, reporting, and other requirements listed below. [20.6.2.3107 NMAC]
8.	METHODOLOGY – Unless otherwise approved in writing by NMED, the permittee shall conduct sampling and analysis in accordance with the most recent edition of the following documents: a) American Public Health Association, Standard Methods for the Examination of Water and Wastewater (18th, 19th or current) b) U.S. Environmental Protection Agency, Methods for Chemical Analysis of Water and Waste c) U.S. Geological Survey, Techniques for Water Resources Investigations of the U.S. Geological Survey d) American Society for Testing and Materials, Annual Book of ASTM Standards, Part 31. Water e) U.S. Geological Survey, et al., National Handbook of Recommended Methods for Water Data Acquisition f) Federal Register, latest methods published for monitoring pursuant to Resource Conservation and Recovery Act regulations g) Methods of Soil Analysis: Part 1. Physical and Mineralogical Methods; Part 2. Microbiological and Biochemical Properties; Part 3. Chemical Methods, American Society of Agronomy [Subsection B of 20.6.2.3107 NMAC]
9.	The permittee shall submit quarterly monitoring reports to NMED for the most recently completed quarterly period by the 1st of February, May, August and November each year. Quarterly monitoring shall be performed during the following periods: • January 1st through March 31st (first quarter) – **due by May 1st** • April 1st through June 30th (second quarter) – **due by August 1st** • July 1st through September 30th (third quarter) – **due by November 1st** • October 1st through December 31st (fourth quarter) – **due by February 1st** Monitoring requirements detailed in this Discharge Permit are summarized on the sheet titled *Summary of Required Actions, Monitoring and Reporting*. [20.6.2.3107 NMAC]
10.	The permittee shall determine the monthly volume of wastewater discharged by the facility by recording the discharged wastewater volumes at the following locations by the indicated methods: • Process Pond 3A inlet—record readings for the one inlet line totalizing flow meter (this discharge represents volumes discharged to all process ponds) • South Evaporation Cells—record readings for the three inlet line totalizing flow meters that discharge into these cells

	• North Evaporation Cells—record readings for the two inlet line totalizing flow meters that discharge into Cells 2 and 3 (Cell 1 is no longer in use) • Coal Pile Runoff Basins 3 and 4—record readings for the one transfer line totalizing flow meter to Process Pond 3C • Coal Pile Runoff Basins—Use standard engineering methods to estimate discharge volumes into these basins • All locations listed above—any estimated volumes of wastewater transferred into a listed location by vacuum truck or other method. Monthly discharge volumes shall be recorded and submitted for each location listed above. The sum of the monthly discharges for each location listed above shall represent the facility discharge. The monthly meter readings and monthly discharge volumes shall be submitted to NMED in the quarterly monitoring reports. The flow meter shall be calibrated to within +/- 10% of actual flow and kept operational at all times. [20.6.2.3107 NMAC, 20.6.2.3109 NMAC]
11.	The permittee shall perform monthly inspections of the French drain leak detection systems for the South Evaporation Cells. Summaries of inspection reports shall be submitted to NMED in the quarterly monitoring reports. [20.6.2.3107 NMAC]
12.	Once prior to the expiration date of this Discharge Permit, NMED shall have the option to require the permittee to temporarily remove the dedicated pump from each monitoring well to provide access for a complete well inspection by NMED personnel. NMED shall establish the inspection date and provide at least 60 days notice to the permittee by certified mail. Dedicated pumps shall be removed at least 48 hours prior to NMED inspection to allow adequate settling time for sediment agitated from pump removal. [20.6.2.3107 NMAC]
13.	Within 18 months of the effective date of this Discharge Permit (by DATE), the permittee shall install one new monitoring well and one piezometer, likely to be located on BLM property. The permittee shall install: • One monitoring well (MW-Westwater) hydrologically upgradient of both the generating station and areas affected by mining, and • One Piezometer (PZ-RTWW3) located 300 to 400 feet hydrologically downgradient of the capture trench. All monitoring well and piezometer locations shall be approved by NMED prior to installation. The well shall be completed in accordance with the attachment titled *Ground Water Discharge Permit Monitoring Well Construction and Abandonment Conditions*, Revision 1.1, March 2011. Construction and lithologic logs shall be submitted to NMED within 30 days of well and piezometer completion. [20.6.2.3107 NMAC]
14.	Following well development and no more than five days after installation of the new monitoring well required by this Discharge Permit, the permittee shall sample ground water in the new wells and analyze the samples for arsenic (As), boron (B), cadmium (Cd), calcium (Ca), chloride (Cl), chromium (Cr), cobalt (Co), copper (Cu), fluoride (F), iron (Fe), lead (Pb), magnesium (Mg), manganese (Mn), molybdenum (Mo), nickel (Ni), potassium (K), selenium (Se), , sodium (Na), uranium (U), carbonate (CO_3), bicarbonate

	(HCO_3), nitrate (NO_3), sulfate (SO_4), total dissolved solids (TDS), and pH. The permittee shall sample: • MW-Westwater, intended to be located hydrologically upgradient of both the generating station and areas affected by mining and Ground water sample collection, preservation, transport and analysis shall be performed according to the following procedure: a) measure the depth-to-ground water from the top of well casing to the nearest hundredth of a foot; b) purge three well volumes of water from the well prior to sample collection; c) obtain samples from the well for analysis; d) properly prepare, preserve and transport samples; and e) analyze samples in accordance with the methods authorized in this Discharge Permit. Depth-to-water measurements, analytical results, including the laboratory QA/QC summary report, and a facility layout map showing the location and number of each well shall be submitted to NMED within 45 days of the installation of the monitoring well and piezometer. [20.6.2.3107 NMAC]
15.	Within 60 days of well completion, the permittee shall survey all wells and piezometer approved by NMED for Discharge Permit monitoring purposes to a U.S. Geological Survey (USGS) or other permanent benchmark. Survey data shall include northing, easting and elevation to the nearest hundredth of a foot or in accordance with the "Minimum Standards for Surveying in New Mexico" (12.8.2 NMAC). A survey elevation shall be established at the top-of-casing, with a permanent marking indicating the point of survey. The survey shall be completed and certified by a licensed New Mexico professional surveyor. Depth-to-water shall be measured to the nearest hundredth of a foot in all surveyed wells and piezometer, and the data shall be used to develop a map showing the location of all monitoring wells and piezometer and the direction and gradient of ground water flow at the facility. The data and map of ground water flow direction at the facility shall be submitted to NMED within 30 days of survey completion. [20.6.2.3107 NMAC]
16.	The permittee shall perform quarterly ground water sampling in 24 monitoring wells/boreholes/piezometer and analyze the samples for arsenic (As), boron (B), cadmium (Cd), calcium (Ca), chloride (Cl), chromium (Cr), cobalt (Co), copper (Cu), fluoride (F), iron (Fe), lead (Pb), magnesium (Mg), manganese (Mn), molybdenum (Mo), nickel (Ni), potassium (K), selenium (Se), sodium (Na), uranium (U), carbonate (CO_3), bicarbonate (HCO_3), nitrate (NO_3), sulfate (SO_4), total dissolved solids (TDS), and pH. The permittee shall sample: • MW-Westwater, intended to be located hydrologically upgradient of both the generating station and areas affected by mining; • KPC, intended to be screened in, and representative of, the aquifer contained in the Pictured Cliffs Formation; • QNT, intended to be located hydrologically upgradient of both the generating station and areas affected by mining;

- M1, (Borehole to Pictured Cliffs Formation--normally dry), intended to intercept leakage from Process Pond 1;
- M2, (Borehole to Pictured Cliffs Formation--normally dry), intended to intercept leakage from Process Pond 2;
- M3.1, intended to be located hydrologically downgradient of Process Pond 3;
- M3.2, intended to be located hydrologically downgradient of Process Pond 3;
- M3.3, intended to be located hydrologically downgradient of Process Pond 3;
- QAL1, intended to be located in a buried surface drainage and hydrologically downgradient of the south process contaminant sources;
- QAL2, intended to be located in a buried surface drainage and hydrologically downgradient of the central process contaminant sources;
- QAL3, intended to be located in a buried surface drainage and hydrologically downgradient of the north process contaminant sources;
- QAL4, intended to be located in a buried surface drainage and hydrologically downgradient of Process Pond 2;
- MW4, intended to be located hydrologically downgradient of south process contaminant sources that potentially impact groundwater in the Duck Pond Arroyo;
- NEP1 (Borehole to Pictured Cliffs Formation--normally dry), intended to intercept leakage from North Evaporation Cell 1;
- NEP2 (Borehole to Pictured Cliffs Formation--normally dry), intended to intercept leakage from North Evaporation Cell 2;
- NEP3, (Borehole to Pictured Cliffs Formation—contains groundwater), intended to detect impacts from North Evaporation Cells;
- NEP4, (Borehole to Pictured Cliffs Formation—contains groundwater), intended to detect impacts from North Evaporation Cells;
- NEP5 (Borehole to Pictured Cliffs Formation--normally dry), intended to intercept leakage from North Evaporation Cell 2;
- CBI, intended to detect impacts from Coal Pile 3&4 Runoff Basin;
- CBII, intended to detect impacts from Coal Pile 3&4 Runoff Basin;
- RTWS1, intended to be located within recovery trench;
- RTWE2, intended to be located 200 feet hydrologically upgradient of recovery trench;
- RTWW2, intended to be located 100 feet hydrologically downgradient of recovery trench; and
- PZ-RTWW3, intended to be located 300-400 feet hydrologically downgradient of recovery trench (depth-to-ground water measurement only).

Ground water sample collection, preservation, transport and analysis shall be performed according to the following procedure:

a) measure the depth-to-ground water from the top of well/piezometer casing to the nearest hundredth of a foot;
b) purge three well volumes of water from the well prior to sample collection, unless low formation yield or insufficient water volume in the well makes it impracticable to purge the three volumes, in which case, collect samples using a proper low-flow sampling procedure or by purging the well once and allowing the water level to recover prior to

	sample collection; c) obtain samples from the well for analysis; d) properly prepare, preserve and transport samples; and e) analyze samples in accordance with the methods authorized in this Discharge Permit. Depth-to-water measurements, analytical results, including the laboratory QA/QC summary report, and a facility layout map showing the location and number of each well and piezometer shall be submitted to NMED in the quarterly monitoring reports. [20.6.2.3107 NMAC]
17.	The permittee shall develop a ground water elevation contour map on a quarterly basis using the monitoring well and piezometer survey data and quarterly depth-to-water measurements required by this Discharge Permit. The ground water elevation contour map shall depict the ground water flow direction based on the ground water elevation contours. The data and ground water elevation contour maps shall be submitted to NMED in the quarterly monitoring reports. [20.6.2.3107 NMAC]
18.	The permittee shall sample wastewater sources on a semi-annual basis. The permittee shall obtain one composite liquid sample from each pond group (North Evaporation Cells, South Evaporation Cells, Process Ponds) by combining equal volumes of grab samples collected from each cell and individual grab samples from Cooling Towers 1&2, Cooling Tower 3, Cooling Tower 4, Coal Pile 1&2 Runoff Basin, Runoff Basin Pre-pond Coal Pile 3&4 Runoff Basin, and the recovery trench sump. Samples shall be analyzed for the following parameters: arsenic (As), boron (B), cadmium (Cd), calcium (Ca), chloride (Cl), chromium (Cr), cobalt (Co), copper (Cu), fluoride (F), iron (Fe), lead (Pb), magnesium (Mg), manganese (Mn), molybdenum (Mo), nickel (Ni), potassium (K), selenium (Se), sodium (Na), uranium (U), carbonate (CO_3), bicarbonate (HCO_3), nitrate (NO_3), sulfate (SO_4), total dissolved solids (TDS), and pH. Samples shall be properly prepared, preserved, transported and analyzed in accordance with the methods authorized in this Discharge Permit. Analytical results shall be submitted to NMED in the monitoring reports due by May 1st and November 1st. [20.6.2.3107 NMAC]
19.	The permittee shall log all time periods when the recovery trench system is not operating. A copy of the log shall be submitted to NMED in the quarterly monitoring reports. [20.6.2.3107 NMAC]

CONTINGENCY PLAN

#	**Terms and Conditions**
20.	In the event that monitoring indicates ground water standards are violated during the term of this Discharge Permit, upon closure of the facility or during post-closure monitoring, the permittee may be required to submit to NMED a corrective action plan that proposes additional measures to mitigate damage from the discharge including, at a minimum, source control measures and an implementation schedule. The permittee may be required to abate water pollution pursuant to Sections 20.6.2.4000 though 20.6.2.4115 NMAC, if the corrective action plan will not result in compliance with the standards and requirements set forth in Section 20.6.2.4103 NMAC. [20.6.2.1203 NMAC, 20.6.2.4105.A(8) NMAC]

21.	In the event of a spill or release that is not authorized under this Discharge Permit, the permittee shall initiate the notifications and corrective actions as required in Section 20.6.2.1203 NMAC. The permittee shall take immediate corrective action to contain and remove or mitigate the damage caused by the discharge. Within 24 hours after discovery of the discharge, the permittee shall verbally notify NMED and provide the information required by Paragraph (1) of Subsection A of 20.6.2.1203 NMAC. Within 7 days of discovering the discharge, the permittee shall submit a written report to NMED verifying the oral notification and providing any additional information or changes. The permittee shall submit a corrective action report within 15 days after discovery of the discharge. [20.6.2.1203 NMAC]
22.	In the event NMED or the permittee identifies any other failures of the Discharge Permit or system not specifically noted herein, NMED may require the permittee to develop for NMED approval contingency plans and schedules to cope with the failures. [20.6.2.3107.A(10) NMAC]
23.	In the event that a minimum of two feet of freeboard cannot be maintained in the cells/ponds/basins at all times, the permittee shall submit a corrective action plan for NMED approval within 30 days of the date when the two feet of freeboard limit was initially exceeded. [20.6.2.3107 NMAC, 20.6.2.3109 NMAC]
24.	In the event that inspection findings reveal significant damage likely to affect the ability of the lined cells/ponds/basins to contain contaminants, the permittee shall submit a corrective action plan for the repair or replacement of the liners to NMED for approval within 30 days of discovery by the permitee or following notification from NMED that significant liner damage is evident. [20.6.2.3107 NMAC, 20.6.2.3109 NMAC]
25.	In the event that leachate is discovered in the French drain leak detection systems of the South Evaporation Cells, the permittee shall sample the leachate and analyze it for arsenic (As), boron (B), cadmium (Cd), calcium (Ca), chloride (Cl), chromium (Cr), cobalt (Co), copper (Cu), fluoride (F), iron (Fe), lead (Pb), magnesium (Mg), manganese (Mn), molybdenum (Mo), nickel (Ni), potassium (K), selenium (Se), sodium (Na), uranium (U), carbonate (CO_3), bicarbonate (HCO_3), nitrate (NO_3), sulfate (SO_4), total dissolved solids (TDS), and pH. If the analytical results demonstrate that the leachate is chemically similar to the wastewater in the impoundments the permittee shall follow the contingency plan outlined in the January 29, 2007 renewal application and submit the analytical results along with a corrective action plan for NMED approval within 30 days of receiving analytical results. [20.6.2.3107 NMAC, 20.6.2.3109 NMAC]
26.	In the event leaks are detected from the North Evaporation Cells, Process Ponds, or Coal Pile Runoff Basins the permittee shall follow the contingency plan outlined in the January 29, 2007 renewal application and submit a corrective action plan to NMED within 30 days of discovering the leak. [20.6.2.3107 NMAC, 20.6.2.3109 NMAC]
27.	In the event that information available to NMED indicates that a well(s) is not appropriately constructed to effectively monitor ground water quality, contains insufficient water to allow the collection of representative ground water samples, or is not completed in a manner that is protective of ground water quality, the permittee shall install a replacement well(s) within 90 days of notification from NMED. Replacement well location(s) shall be approved by NMED prior to installation and completed in accordance with the attachment titled *Ground Water Discharge Permit Monitoring Well Construction and Abandonment*

	Conditions, Revision 1.0, July 2008. Construction and lithologic logs shall be submitted to NMED within 30 days of well completion. Upon completion of the replacement monitoring well(s), the monitoring well(s) requiring replacement shall be properly plugged and abandoned. The well(s) shall be plugged and abandoned in accordance with the abandonment details in the attachment titled *Ground Water Discharge Permit Monitoring Well Construction and Abandonment Conditions*, Revision 1.0, July 2008, and any applicable local, state, and federal regulations. Documentation describing the plugging and abandonment procedures, including photographic documentation, shall be submitted to NMED within 30 days of completed well abandonment. [20.6.2.3107 NMAC]
28.	In the event that ground water flow information obtained pursuant to this Discharge Permit indicates that a monitoring well(s) was not installed hydrologically downgradient of the intended discharge location(s), the permittee shall install a replacement well(s) within 90 days of notification from NMED. The well location(s) shall be approved by NMED prior to installation and completed in accordance with the attachment titled *Ground Water Discharge Permit Monitoring Well Construction and Abandonment Conditions*, Revision 1.0, July 2008. Construction and lithologic logs shall be submitted to NMED within 30 days of well completion. [20.6.2.3107 NMAC]

CLOSURE PLAN

#	**Terms and Conditions**
29.	Ground water impacts have occurred in the shallow alluvial Shumway Arroyo aquifer due to San Juan Generating Station operations. Therefore, NMED is imposing closure, post-closure activities, and financial assurance requirements (Conditions 29 to 32) to ensure proper closure of all evaporation cells, process ponds, coal pile runoff basins, and any other wastewater related infrastructure to prevent future ground water impacts resulting from releases of ground water contaminants. Additionally, these conditions are imposed to ensure operation of the facility's ground water capture trench and the facility's ground water monitoring system until such time that all impacted ground water from the northern boundary of the plant to the capture trench located downgradient of the plant is intercepted and disposed, and all ground water monitoring wells are plugged and abandoned. For the purposes of this permit, collectively, the activities in this paragraph are referred to as "Complete Closure"). Upon cessation of discharges to each evaporation cell, process pond, and/or coal pile runoff basin, the permittee shall implement the relevant parts of the initial closure-plan outline submitted in the January 29, 2007 renewal application and the detailed closure plan as described below in condition 30. Additionally, after all wastewater related infrastructure is closed, the permittee shall perform the following post-closure activities: a) Continue operation of the ground water capture trench and ground water monitoring system (exept for any monitoring wells or boreholes closed with NMED approval in accordance with the attachment titled *Ground Water Discharge Permit Monitoring*

	Well Construction and Abandonment Conditions, Revision 1.1, March 2011as necessitated by the closure of any evaporation cells, process ponds, coal pile runoff basins, and any other wastewater related infrastructure) until WQCC ground water standards or background concentrations have been met for at least eight consecutive quarters. All continuing post-closure monitoring data and results shall be submitted to NMED in accordance with the monitoring section of this discharge permit. b) Following notification from NMED that post-closure activities may cease, the permittee shall plug and abandon all remaining monitoring well(s) and borehole(s) in accordance with the attachment titled *Ground Water Discharge Permit Monitoring Well Construction and Abandonment Conditions*, Revision 1.1, March 2011. When Complete Closure and all required post-closure activities have been completed, the permittee may request to terminate the Discharge Permit. [20.6.2.3107.A(11) NMAC]
30.	Submission of Detailed Plan for Complete Closure: Within 9 months of the effective date of this Discharge Permit (by March 5, 2014), the permittee shall submit a detailed closure plan with sufficient detail to estimate the cost of Complete Closure of all wastewater related infrastructure for financial assurance. The detailed closure plan shall address the steps necessary to close (and the proposed order of closure for) the evaporation cells, process ponds, coal pile runoff basins, and any other wastewater related infrastructure. The detailed closure plan shall contain plans and specifications signed and stamped by a New Mexico professional engineer for construction of the store-and-release covers for the Evaporation Cells, process ponds, and coal pile runoff basins along with a schedule of time durations for construction and completion that is not based on a specific date. Further, the detailed closure plan shall address de-watering (as necessary), characterization of wastes to be disposed on-site, restoration of vegetation, and ongoing maintenance for all evaporation cell, process pond, coal pile runoff basin store and release covers and all post-closure activities and plugging and abandonment of monitoring wells. The detailed closure plan shall also provide sufficient detail to estimate the cost of operating, maintaining, and closing the capture trench and ground water monitoring system. Inherent in this detail is an estimate of the time (after the cessation of facility operation) that the capture trench and ground water monitoring system will have to remain in place and in operation, i.e., until WQCC ground water standards or background concentrations have been met for at least eight consecutive quarters.
31.	Submission of Detailed Estimate for Complete Closure Cost for Financial Assurance Purposes: Within 15 months of the effective date of this Discharge Permit (by September 5, 2014), the permittee shall submit a detailed cost estimate ("Estimate") based on the initial closure-plan outline submitted in the January 29, 2007 renewal application and the detailed closure plan for Complete Closure required by Conditions 29 and 30 above. The Estimate shall be based on the cost of hiring a third party to conduct Complete Closure. The Estimate shall include direct costs associated with all third party implementation of the closure plan, contingency costs in the amount of 15 percent of the direct costs, the cost of

	an independent project manager and contract administration, and NMED oversight and administration costs, including indirect costs. The Estimate shall forecast the worst case scenario for Complete Closure over the five year period of this permit; if a new permit is not issued after five years, the Estimate for the worst case scenario shall be updated annually each year after five years and any financial assurance shall be adjusted accordingly. The Estimate shall be adjusted for inflation over the five year period for Complete Closure and shall project the amount needed for each of the five years for the worst case scenario for all activities included in Complete Closure.
32.	Submission of Financial Assurance: Within 21 months of the effective date of this Discharge Permit (by March 5, 2015), the permittee shall submit to NMED for approval a draft of its proposed financial assurance instrument(s) that meet the requirements below. a) The amount of financial assurance shall be sufficient to cover the cost of implementing Complete Closure as described in the closure plan and cost estimate required by Conditions 29, 30 and 31 of this Discharge Permit. The permittee shall not propose any form of self-guarantee. The financial assurance shall ensure that funds will be available to implement Complete Closure if at any time the permittee is unable, unwilling, or otherwise fails to implement any portion of the closure plan as required by this Discharge Permit. If the form of financial assurance entails incremental costs of maintaining it, i.e., costs for a trustee, the amount of the financial assurance shall be increased to include all such costs. b) Within 30 days after NMED approves the draft financial assurance proposal, the permittee shall execute the financial assurance instrument and submit it to NMED for final acceptance. c) NMED shall be named as the sole beneficiary in each financial assurance instrument(s). d) Within 30 days of execution, NMED acceptance, and implementation of the financial assurance instrument(s), the permittee shall establish a trust to receive and disburse funds, which may arise as the result of forfeiture of financial assurance. The trust shall name NMED as the beneficiary. The trust agreement shall be in a form satisfactory to the State Board of Finance and shall be subject to approval by the Governor pursuant to NMSA 1978, § 46-4-1 through 9. The trust shall be maintained until the Complete Closure has occurred, NMED has released the financial assurance, and NMED has agreed to terminate this permit. Upon forfeiture of financial assurance, the forfeited amount shall be deposited directly into the trust and shall be used for any activities or costs related to Complete Closure. e) The permittee may propose alternative financial assurance instruments from time to time subject to NMED's prior written approval and acceptance. The permittee shall

not replace any approved financial assurance instrument without NMED's prior written approval.

f) The financial assurance instrument(s) shall remain in effect until Complete Closure and final termination of this permit and shall remain in place at all times, including lapses in discharge permit coverage, late discharge permit renewal or temporary shutdown of facilities covered under DP-1327 unless released by NMED in writing.

g) The financial assurance shall include a method for adjustments due to changes in inflation, new technologies, and NMED approved revisions to the closure plan based on continued investigations or other information and shall be adjusted no less frequently than every five years such that, at all times, the amount of financial assurance provided by the permittee shall be sufficient to perform Complete Closure at any time during the following five years from the update. Should circumstances warrant more frequent adjustments, NMED may require them in writing and the permittee shall make the adjustment within 180 days.

h) No more than once every 12 months the permittee may request that NMED review remaining activities required for Complete Closure including alternate closure activities that NMED has approved. The request for review shall describe the activities which have been completed and shall contain an updated cost estimate for remaining Complete Closure activities. If NMED approves the description of activities which have been completed, the remaining activities of Complete Closure, and the cost estimate for remaining Complete Closure activities, NMED will notify the permittee of appropriate adjustments that the permittee may make to the amount of financial assurance.

i) The financial assurance shall be evaluated, and if necessary, revised to comply with applicable WQCC financial assurance regulations, if and when such regulations are promulgated and become effective.

j) Cancellation or Non-renewal: Each financial assurance instrument shall require the financial assurance provider to give at least 120 days written notice to NMED and the permittee prior to cancellation or non-renewal of the financial assurance instrument. If such notice is received, the permittee shall propose an alternate financial assurance mechanism to NMED within 30 days of the notice. If NMED approves the alternate financial assurance mechanism, the permittee shall execute it and submit it to NMED for final acceptance within 60 days of cancellation. If the permittee fails to obtain alternate financial assurance acceptable to NMED within 60 days, the current financial assurance shall be subject to forfeiture.

k) Forfeiture: If NMED determines that implementation of all or any part of Complete Closure is required and that the permittee is unable or unwilling or will otherwise fail to conduct all or any part of Complete Closure as required by this Discharge Permit, then NMED may proceed with forfeiture of all or part of the financial

	assurance. Prior to beginning a forfeiture proceeding, NMED will provide written notice, by certified mail return receipt requested, to the permittee and to all financial assurance providers, if applicable, informing them of the determination to forfeit all or a portion of the financial assurance, provided that if NMED's access to the financial assurance is threatened due to time constraints, NMED may begin a forfeiture proceeding, and provide written notice contemporaneously with that proceeding. The written notice will state the reasons for the forfeiture and the amount to be forfeited. The amount shall be based on the total cost of performing Complete Closure, in accordance with this Discharge Permit and all applicable laws and regulations. NMED will also advise the permittee and all financial assurance providers, if applicable, of the conditions under which forfeiture may be avoided. Such conditions may include, without limitation, an agreement by the permittee, by a financial assurance provider, or by an NMED approved third party, to perform Complete Closure in accordance with this Discharge Permit and all applicable laws and regulations, and a demonstration that such person has the financial ability and technical qualifications to do so. All financial assurance forfeited shall become immediately payable to the trust or as otherwise provided in the NMED approved instrument. Forfeited funds shall be used to perform Complete Closure. If the forfeited amount is insufficient, the permittee shall be liable for the remaining costs. If the amount forfeited is more than necessary, the excess amount shall be refunded to the person from whom it was collected. l) The financial assurance shall be released or modified when NMED determines that all activities of Complete Closure have been performed according to the closure plan requirements of this Discharge Permit and the Discharge Permit has been terminated. [20.6.2.3107A(11) NMAC]

GENERAL TERMS AND CONDITIONS

#	Terms and Conditions
33.	RECORD KEEPING – The permittee shall maintain a written record of the following information: a) Information and data used to complete the application for this Discharge Permit. b) Records of any releases (commonly known as "spills") not authorized under this Discharge Permit and reports submitted pursuant to 20.6.2.1203 NMAC. c) Records of the operation, maintenance, and repair of all facilities/equipment used to treat, store or dispose of wastewater. d) Facility record drawings (plans and specifications) showing the actual construction of the facility and bear the seal and signature of a licensed New Mexico professional engineer. e) Copies of monitoring reports completed and/or submitted to NMED pursuant to this Discharge Permit. f) The volume of wastewater or other wastes discharged pursuant to this Discharge Permit. g) Ground water quality and wastewater quality data collected pursuant to this Discharge

	Permit. h) Copies of construction records (well log) for all ground water monitoring wells required to be sampled pursuant to this Discharge Permit. i) Records of the maintenance, repair, replacement or calibration of any monitoring equipment or flow measurement devices required by this Discharge Permit. j) Data and information related to field measurements, sampling, and analysis conducted pursuant to this Discharge Permit. The following information shall be recorded and shall be made available to NMED upon request: i) The dates, location and times of sampling or field measurements; ii) The name and job title of the individuals who performed each sample collection or field measurement; iii) The sample analysis date of each sample; iv) The name and address of the laboratory, and the name of the signatory authority for the laboratory analysis; v) The analytical technique or method used to analyze each sample or collect each field measurement; vi) The results of each analysis or field measurement, including raw data; vii) The results of any split, spiked, duplicate or repeat sample; and viii) A copy of the laboratory analysis chain-of-custody as well as a description of the quality assurance and quality control procedures used. The written record shall be maintained by the permittee at a location accessible during a facility inspection by NMED for a period of at least five years from the date of application, report, collection or measurement and shall be made available to the department upon request. [Subsections A and D of 20.6.2.3107 NMAC]
34.	INSPECTION and ENTRY – The permittee shall allow inspection by NMED of the facility and its operations which are subject to this Discharge Permit and the WQCC regulations. NMED may upon presentation of proper credentials, enter at reasonable times upon or through any premises in which a water contaminant source is located or in which are located any records required to be maintained by regulations of the federal government or the WQCC. The permittee shall allow NMED to have access to and reproduce for their use any copy of the records, and to perform assessments, sampling or monitoring during an inspection for the purpose of evaluating compliance with this Discharge Permit and the WQCC regulations. Nothing in this Discharge Permit shall be construed as limiting in any way the inspection and entry authority of NMED under the WQA, the WQCC Regulations, or any other local, state or federal regulations. [Subsection D of 20.6.2.3107 NMAC, NMSA 1978, §§ 74-6-9.B and 74-6-9.E]
35.	DUTY to PROVIDE INFORMATION – The permittee shall, upon NMED's request, allow for NMED's inspection/duplication of records required by this Discharge Permit and/or furnish to NMED copies of such records. [Subsection D of 20.6.2.3107 NMAC]

36.	MODIFICATIONS and/or AMENDMENTS – In the event the permittee proposes a change to the facility or the facility's discharge that would result in a change in the volume discharged; the location of the discharge; or in the amount or character of water contaminants received, treated or discharged by the facility, the permittee shall notify NMED prior to implementing such changes. The permittee shall obtain approval (which may require modification of this Discharge Permit) by NMED prior to implementing such changes. [Subsection C of 20.6.2.3107 NMAC, Subsections E and G of 20.6.2.3109 NMAC]
37.	PLANS and SPECIFICATIONS – In the event the permittee is proposing to construct a wastewater system or change a process unit of an existing system such that the quantity or quality of the discharge will change substantially from that authorized by this Discharge Permit, the permittee shall submit construction plans and specifications to NMED for the proposed system or process unit prior to the commencement of construction. In the event the permittee implements changes to the wastewater system authorized by this Discharge Permit which result in only a minor effect on the character of the discharge, the permittee shall report such changes (including the submission of record drawings, where applicable) as of January 1 and June 30 of each year to NMED. [Subsections A and C of 20.6.2.1202 NMAC]
38.	CIVIL PENALTIES – Any violation of the requirements and conditions of this Discharge Permit, including any failure to allow NMED staff to enter and inspect records or facilities, or any refusal or failure to provide NMED with records or information, may subject the permittee to a civil enforcement action. Pursuant to WQA 74-6-10(A) and (B), such action may include a compliance order requiring compliance immediately or in a specified time, assessing a civil penalty, modifying or terminating the Discharge Permit, or any combination of the foregoing; or an action in district court seeking injunctive relief, civil penalties, or both. Pursuant to WQA 74-6-10(C) and 74-6-10.1, civil penalties of up to $15,000 per day of noncompliance may be assessed for each violation of the WQA 74-6-5, the WQCC Regulations, or this Discharge Permit, and civil penalties of up to $10,000 per day of noncompliance may be assessed for each violation of any other provision of the WQA, or any regulation, standard, or order adopted pursuant to such other provision. In any action to enforce this Discharge Permit, the permittee waives any objection to the admissibility as evidence of any data generated pursuant to this Discharge Permit. [20.6.2.1220 NMAC, NMSA 1978, §§ 74-6-10 and 74-6-10.1]
39.	CRIMINAL PENALTIES – No person shall: 1) make any false material statement, representation, certification or omission of material fact in an application, record, report, plan or other document filed, submitted or required to be maintained under the WQA; 2) falsify, tamper with or render inaccurate any monitoring device, method or record required to be maintained under the WQA; or 3) fail to monitor, sample or report as required by a permit issued pursuant to a state or federal law or regulation. Any person who knowingly violates or knowingly causes or allows another person to violate the requirements of this condition is guilty of a fourth degree felony and shall be

	sentenced in accordance with the provisions of NMSA 1978, § 31-18-15. Any person who is convicted of a second or subsequent violation of the requirements of this condition is guilty of a third degree felony and shall be sentenced in accordance with the provisions of NMSA 1978, § 31-18-15. Any person who knowingly violates the requirements of this condition or knowingly causes another person to violate the requirements of this condition and thereby causes a substantial adverse environmental impact is guilty of a third degree felony and shall be sentenced in accordance with the provisions of NMSA 1978, § 31-18-15. Any person who knowingly violates the requirements of this condition and knows at the time of the violation that he is creating a substantial danger of death or serious bodily injury to any other person is guilty of a second degree felony and shall be sentenced in accordance with the provisions of NMSA 1978, § 31-18-15. [20.6.2.1220 NMAC, NMSA 1978, §§ 74-6-10.2.A through 74-6-10.2.F]
40.	COMPLIANCE with OTHER LAWS – Nothing in this Discharge Permit shall be construed in any way as relieving the permittee of the obligation to comply with all applicable federal, state, and local laws, regulations, permits or orders. [NMSA 1978, § 74-6-5.L]
41.	RIGHT to APPEAL – The permittee may file a petition for review before the WQCC on this Discharge Permit. Such petition shall be in writing to the WQCC within thirty days of the receipt of postal notice of this Discharge Permit and shall include a statement of the issues to be raised and the relief sought. Unless a timely petition for review is made, the decision of NMED shall be final and not subject to judicial review. [20.6.2.3112 NMAC, NMSA 1978, § 74-6-5.O]
42.	TRANSFER of DISCHARGE PERMIT – Prior to the transfer of any ownership, control, or possession of this facility or any portion thereof, the permittee shall: 1) notify the proposed transferee in writing of the existence of this Discharge Permit; 2) include a copy of this Discharge Permit with the notice; and 3) deliver or send by certified mail to NMED a copy of the notification and proof that such notification has been received by the proposed transferee. Until both ownership and possession of the facility have been transferred to the transferee, the permittee shall continue to be responsible for any discharge from the facility. [20.6.2.3111 NMAC]
43.	PERMIT FEES – Payment of permit fees ($11,500) is due at the time of Discharge Permit approval. Permit fees shall be paid in a single payment or shall be paid in equal installments on a yearly basis over the term of the Discharge Permit. Single payments shall be remitted to NMED no later than 30 days after the Discharge Permit effective date. Initial installment payments shall be remitted to NMED no later than 30 days after the Discharge Permit effective date; subsequent installment payments shall be remitted to NMED no later than the anniversary of the Discharge Permit effective date. Permit fees are associated with <u>issuance</u> of this Discharge Permit. Nothing in this Discharge Permit shall be construed as relieving the permittee of the obligation to pay all permit fees assessed by NMED. A permittee that ceases discharging or does not commence discharging from the facility during the term of the Discharge Permit shall pay all permit fees assessed by NMED. An approved Discharge Permit shall be suspended or

	terminated if the facility fails to remit an installment payment by its due date. [Subsection F of 20.6.2.3114 NMAC, NMSA 1978, § 74-6-5.K]

EFFECTIVE DATE: June 5, 2013
EXPIRATION DATE: June 5, 2018

JERRY SCHOEPPNER
Chief, Ground Water Quality Bureau
New Mexico Environment Department

NEW MEXICO
ENVIRONMENT DEPARTMENT

Harold Runnels Building
1190 St. Francis Drive
P.O. Box 5469, Santa Fe, New Mexico 87502-5469
Phone (505) 827-2855 Fax (505) 827-2965
www.nmenv.state.nm.us

SUSANA MARTINEZ
Governor

JOHN A. SANCHEZ
Lieutenant Governor

RYAN FLYNN
Secretary

BUTCH TONGATE
Deputy Secretary

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

May 18, 2015

Brian Cesar, Public Works Director
City of Alamogordo
2600 N. Florida Ave.
Alamogordo, NM 88310

RE: Discharge Permit, DP-1827, Brackish Water Reverse Osmosis Facility

Dear Mr. Cesar:

The New Mexico Environment Department (NMED) issues the enclosed Discharge Permit DP-1827, to the City of Alamogordo (permittee) pursuant to the New Mexico Water Quality Act (WQA), NMSA 1978 §§74-6-1 through 74-6-17, and the New Mexico Water Quality Control Commission (WQCC) Regulations, 20.6.2 NMAC.

The Discharge Permit contains terms and conditions that shall be complied with by the permittee and are enforceable by NMED pursuant to Section 20.6.2.3104 NMAC, WQA, NMSA 1978 §74-6-5 and §74-6-10. Please be aware that this Discharge Permit may contain conditions that require the permittee to implement operational, monitoring or closure actions by a specified deadline. Such conditions are listed at the beginning of the operational, monitoring and closure plans of this Discharge Permit.

Issuance of this Discharge Permit does not relieve the permittee of the responsibility to comply with the WQA, WQCC Regulations, and any other applicable federal, state and/or local laws and regulations, such as zoning requirements and nuisance ordinances.

Pursuant to Paragraph (4) of Subsection H of 20.6.2.3109 NMAC, the term of the Discharge Permit shall be seven years from the effective date (May 18, 2015) or five years from the date the discharge commences, whichever occurs first. Prior to discharging, written notification shall be given to NMED stating the date the discharge is to commence.

NMED requests that the permittee submit an application for renewal (or renewal and modification) at least 180 days prior to the date the Discharge Permit term ends.

An invoice for the Discharge Permit Fee of $6,900 is being sent under separate cover. Payment of the Discharge Permit Fee must be received by NMED within 30 days of the date the Discharge Permit is issued.

If you have any questions, please contact Steve Huddleson at (505) 827-2936. Thank you for your cooperation during this Discharge Permit review.

Sincerely,

Phyllis Bustamante

Phyllis Bustamante, Acting Chief
Ground Water Quality Bureau

PB:SMH:smh

encs: Discharge Permit, DP-1827
Ground Water Discharge Permit Conditions for Synthetically Lined Lagoons – Liner Material and Site Preparation, Revision 0.0, May 2007
Ground Water Discharge Permit Monitoring Well Construction and Abandonment Conditions, Revision 1.1, March 2011

cc: Michael Kesler, Acting District Manager, NMED District # III (electronic copy)
NMED Alamogordo Field Office (electronic copy)
John Romero, Office of the State Engineer (electronic copy)

GROUND WATER DISCHARGE PERMIT
Brackish Water Reverse Osmosis Treatment Facility, DP-1827

I. INTRODUCTION

The New Mexico Environment Department (NMED) issues this Discharge Permit, DP-1827, Brackish Water Reverse Osmosis Treatment Facility (BWRO or Facility) to the City of Alamogordo (Permittee) pursuant to the New Mexico Water Quality Act (WQA), NMSA 1978 §§74-6-1 through 74-6-17, and the New Mexico Water Quality Control Commission (WQCC) Regulations, 20.6.2 NMAC.

NMED's purpose in issuing this Discharge Permit, and in imposing the requirements and conditions specified herein, is to control the discharge of water contaminants from the Facility into ground and surface water, so as to protect ground and surface water for present and potential future use as domestic and agricultural water supply and other uses and protect public health. In issuing this Discharge Permit, NMED has determined that the requirements of Subsection C of 20.6.2.3109 NMAC have been or will be met. Pursuant to Section 20.6.2.3104 NMAC, it is the responsibility of the Permittee to comply with the terms and conditions of this Discharge Permit; failure may result in an enforcement action by NMED (20.6.2.1220 NMAC).

The activities which produce the discharge, the location of the discharge, and the quantity, quality and flow characteristics of the discharge are briefly described as follows:

Up to 1,000,000 gallons per day (gpd) of brackish water will be delivered by pipeline to the Facility from the Snake Tank Well Field (Well No. 5) and treated by reverse osmosis (RO) to remove total dissolved solids (TDS). The RO treatment process removes TDS from the raw water and produces a high quality, low TDS permeate stream that will be introduced into the City of Alamogordo public water system to supplement supply during high usage periods. This Discharge Permit allows for disposal of the RO concentrate (reject) volume of 350,000 gpd which will be discharged to three double synthetically-lined impoundments equipped with leak detection for disposal by evaporation.

The discharge contains water contaminants or toxic pollutants that may be elevated above the standards of 20.6.2.3103 NMAC and/or include the presence of toxic pollutants as defined in Subsection WW of 20.6.2.7 NMAC.

The Facility is to be located at 501 LaVelle Road in Alamogordo, in Section 36, Township16 South, Range 09 East, Otero County, on the former City of Alamogordo municipal landfill which operated from the late 1950's until 1988. Ground water most likely to be affected is at a depth of approximately 73 feet below ground surface and has a total dissolved solids concentration of approximately 6,400 milligrams per liter.

The application consists of the application submitted by CDM Smith (consultant), on behalf of the City of Alamogordo dated September 23, 2014 and materials contained in the administrative record prior to issuance of this Discharge Permit including:

- Final Phase I Environmental Site Assessment Report, August 1, 2003; Prepared for NMED Remediation Oversight Section; TetraTech EMI, Inc.;
- Final Phase 2 Environmental Site Assessment Report, October 18, 2004; Prepared for NMED Remediation Oversight Section; TetraTech EMI, Inc.;
- Final Focused Environmental Investigation Report, November 12, 2014; Prepared for City of Alamogordo; CDM Smith, Inc.;
- Geotechnical Engineering Report, July 31, 2014; Terracon Consultants, Inc.; and
- Geotechnical Report, Addendum 1, August 15, 2014; Terracon Consultants, Inc..

The discharge shall be managed in accordance with all conditions and requirements of this Discharge Permit.

Pursuant to Section 20.6.2.3109 NMAC, NMED reserves the right to require a Discharge Permit Modification in the event NMED determines that the requirements of 20.6.2 NMAC are being or may be violated or the standards of Section 20.6.2.3103 NMAC are being or may be violated. This may include a determination that structural controls and/or management practices approved under this Discharge Permit are not protective of ground water quality, and that more stringent requirements to protect ground water quality may be required by NMED. The Permittee may be required to implement abatement of water pollution and remediate ground water quality.

Issuance of this Discharge Permit does not relieve the Permittee of the responsibility to comply with the WQA, WQCC Regulations, and any other applicable federal, state and/or local laws and regulations, such as zoning requirements and nuisance ordinances.

The following acronyms and abbreviations may be used in this Discharge Permit:

Abbreviation	Explanation	Abbreviation	Explanation
CFR	Code of Federal Regulations	NMAC	New Mexico Administrative Code
Cl	Chloride	NMED	New Mexico Environment Department
EPA	Environmental Protection Agency	NMSA	New Mexico Statutes Annotated
gpd	Gallons per day	TDS	Total dissolved solids
mg/L	Milligrams per liter	WQA	Water Quality Act
mL	Milliliters	WQCC	Water Quality Control Commission

II. FINDINGS

In issuing this Discharge Permit, NMED finds:

1. The Permittee is discharging effluent or leachate from the Facility so that such effluent or leachate may move directly or indirectly into ground water within the meaning of Section 20.6.2.3104 NMAC.

2. The Permittee is discharging effluent or leachate from the Facility so that such effluent or leachate may move into ground water of the State of New Mexico which has an existing concentration of 10,000 mg/L or less of TDS within the meaning of Subsection A of 20.6.2.3101 NMAC.

3. The discharge from the Facility is not subject to any of the exemptions of Section 20.6.2.3105 NMAC.

III. CONDITIONS

NMED issues this Discharge Permit for the discharge of water contaminants subject to the following conditions. Pursuant to 20.6.2.3104 NMAC, it is the responsibility of the Permittee to ensure that discharges authorized by this Discharge Permit are consistent with the terms and conditions herein.

A. Operational Plan

#	Terms and Conditions
1.	The Permittee shall implement the following operational plan to ensure compliance with Title 20, Chapter 6, Parts 1 and 2 NMAC. [Subsection C of 20.6.2.3109 NMAC]
2.	The Permittee shall operate in a manner such that standards and requirements of Sections 20.6.2.3101 and 20.6.2.3103 NMAC are not violated. [20.6.2.3101 NMAC, 20.6.2.3103 NMAC, Subsection C of 20.6.2.3109 NMAC]
3.	The Permittee is authorized to discharge up to 350,000 gallons per day of concentrate wastewater from a reverse osmosis water treatment system to three double synthetically-lined impoundments equipped with leak detection for disposal by total evaporation. [20.6.2.3104 NMAC, Subsection C of 20.6.2.3106 NMAC, Subsection C of 20.6.2.3109 NMAC]

Operating Conditions with Implementation Deadlines

#	Terms and Conditions
4.	Prior to discharging from the Facility, the Permittee shall submit written notification to

#	Terms and Conditions
	NMED stating the date the discharge is to commence. [Subsection A of 20.6.2.3107 NMAC, Subsection H of 20.6.2.3109 NMAC]
5.	The Permittee will submit to NMED for review the 60% Design when it becomes available including proposed vapor/collection systems for the Facility process building and evaporative impoundments. A minimum of 180 days prior to construction of the BWRO Facility the Permittee shall submit to NMED for review final construction plans and specifications including vapor/collection systems and monitoring schedules for the Facility process building and evaporative impoundments. The construction plans and specifications shall bear the seal and signature of a licensed New Mexico professional engineer (pursuant to New Mexico Engineering and Surveying Practice Act and the rules promulgated under that authority), include supporting design calculations. The submitted documentation shall include the following elements: a) Details for the construction of the evaporative impoundment and liner consistent with the attachment titled *Ground Water Discharge Permit Conditions for Synthetically Lined Lagoons – Liner Material and Site Preparation*, Revision 0.0, May 2007; b) Details of the vapor collection/abatement system and proposed vapor monitoring program; c) Settlement analysis and basis of geotechnical design for the evaporative impoundments; d) Design calculations for the capacity and evaporative potential of the evaporative impoundment. The impoundment(s) shall be designed to dispose of the permitted discharge volume by evaporation such that two feet of freeboard is preserved at all times. Seasonal discharge patterns may be considered in the design calculations; e) Flow meters to measure the volume of wastewater discharged to the evaporative impoundments; f) Specifications for all equipment, materials and installation procedures to be used in the construction of the evaporative impoundments, holding tanks and lines; and g) Fences around the evaporative impoundments to control access by the general public and animals. The fences shall consist of a minimum of six-foot chain link or field fencing, and locking gates. Prior to constructing the evaporative impoundments and its associated components, the Permittee shall obtain written verification from NMED that the plans and specifications meet the requirements of this Discharge Permit. [Subsections A and C 20.6.2.1202 NMAC, Subsection C of 20.6.2.3106 NMAC, Subsection C of 20.6.2.3107 NMAC, NMSA 1978, §§ 61-23-1 through 61-23-32]
6.	Prior to discharging to the evaporative impoundments, the Permittee shall complete construction in accordance with the final construction plans and specifications required by this Discharge Permit. The Permittee shall notify NMED at least five working days prior to commencement of construction to allow NMED personnel to be onsite for inspection.

#	Terms and Conditions
	The Permittee shall submit record drawings that bear the seal and signature of a licensed New Mexico professional engineer (pursuant to the New Mexico Engineering and Surveying Practice Act and the rules promulgated under that authority) for the constructed evaporative impoundments to NMED within 30 days of completion. [Subsections A and C of 20.6.2.1202 NMAC, Subsection C of 20.6.2.3109 NMAC, NMSA 1978, §§ 61-23-1 through 61-23-32]
7.	Prior to discharging from the Facility, the Permittee shall submit an up-to-date scaled map(s) of the entire Facility to NMED. The map(s) shall be developed using information obtained from a survey of the entire Facility. The map(s) shall be drawn to a scale such that all necessary information is plainly shown and labeled. The map shall include the following elements: • a graphical scale; • a north arrow; • the effective date of the map; • all components of the wastewater treatment [and disposal] system; • all re-use areas and associated distribution pipelines; • all ground water monitoring wells; • all backflow prevention methods/devices; and • all flow measurement devices. The survey shall be performed to a U.S. Geological Survey (USGS) or other permanent benchmark. Survey data shall include northing, easting and shall be in accordance with the "Minimum Standards for Surveying in New Mexico" (12.8.2 NMAC). A survey elevation shall be established with a permanent marking indicating the point of survey. The completed survey shall bear the seal and signature of a licensed New Mexico professional surveyor (pursuant to New Mexico Engineering and Surveying Practice Act and the rules promulgated under that authority). Any element that cannot be directly shown due to its location inside of existing structures, or because it is buried without surface identification, shall be on the map in a schematic format and identified as such. [Subsection C of 20.6.2.3106 NMAC, Subsection A of 20.6.2.3107 NMAC, NMSA 1978, §§ 61-23-1 through 61-23-32]
8.	Prior to discharging from the Facility, the Permittee shall install three monitoring wells: • One monitoring well (MW-1) located hydrologically upgradient of the entire Facility; • One monitoring well (MW-2) located 20 to 50 feet hydrologically downgradient of evaporative impoundments; and • One monitoring well (MW-3) located 20 to 50 feet hydrologically downgradient of evaporative impoundments.

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	All monitoring well locations shall be approved by NMED prior to installation. The wells shall be completed in accordance with the attachment titled *Ground Water Quality Bureau Monitoring Well Construction and Abandonment Conditions*, Revision 1.1, March 2011. Construction and lithologic logs shall be submitted to NMED within 60 days of well completion. [20.6.2.3107 NMAC]
9.	Following installation of the new monitoring wells required by this Discharge Permit, and prior to initiating discharge, the Permittee shall establish baseline conditions by sampling ground water in the new wells and analyzing the samples for the constituents for which numeric standards are provided under 20.6.2.3103 NMAC and toxic pollutants identified in 20.6.2.7.WW NMAC. Ground water sample collection, preservation, transport and analysis shall be performed according to the following procedure, or the Permittee may submit an alternative Sampling and Analysis Plan for approval by NMED: a) Measure the depth-to-ground water from the top of the well casing to the nearest hundredth of a foot; b) Purge three well volumes of water from the well prior to sample collection; c) Obtain samples from the well for analysis; d) Properly prepare, preserve and transport samples; and e) Analyze samples in accordance with the methods authorized in this Discharge Permit. Depth-to-water measurements, analytical results, including the laboratory Quality Assurance/Quality Control (QA/QC) summary report, and a Facility layout map showing the location and number of each well shall be submitted to NMED within 60 days of the installation of the monitoring wells. [20.6.2.3107 NMAC]
10.	Prior to discharging from the Facility, the Permittee shall survey all wells approved by NMED for Discharge Permit monitoring purposes to a USGS or other permanent benchmark. Survey data shall include northing, easting and elevation to the nearest hundredth of a foot or in accordance with the "Minimum Standards for Surveying in New Mexico" (12.8.2 NMAC). A survey elevation shall be established at the top-of-casing, with a permanent marking indicating the point of survey. The survey shall be completed and certified by a licensed New Mexico professional surveyor. Depth-to-water shall be measured to the nearest hundredth of a foot in all surveyed wells, and the data shall be used to develop a map showing the location of all monitoring wells and the direction and gradient of ground water flow at the Facility. The data and map of ground water flow direction at the facility shall be submitted to NMED within 60 days of survey completion.

#	Terms and Conditions
	[20.6.2.3107 NMAC]

Operational Conditions

#	Terms and Conditions
11.	The Permittee shall operate and maintain three double synthetically-lined impoundments with leak detection systems for the purpose of storing and evaporating concentrate wastewater generated from the Facility. The Permittee shall maintain the impoundment liner(s) in such a manner as to avoid conditions which could affect the structural integrity of the impoundment(s) and/or impoundment liner(s). Such conditions include or may be characterized by the following: • erosion damage; • animal burrows or other damage; • the presence of vegetation including aquatic plants, weeds, woody shrubs or trees growing within five feet of the top inside edge of a sub-grade impoundment, within five feet of the toe of the outside berm of an above-grade impoundment, or within the impoundment itself; • the presence of large debris or large quantities of debris in the impoundment; • evidence of seepage; and • evidence of berm subsidence. Vegetation growing around the impoundment shall be routinely controlled by mechanical removal in a manner that is protective of the impoundment liner. The Permittee shall visually inspect the impoundment(s) and surrounding berms on a monthly basis to ensure proper maintenance. In the event that inspection reveals any evidence of damage that threatens the structural integrity of an impoundment berm or liner, or that may result in an unauthorized discharge, the Permittee shall enact the contingency plan set forth in this Discharge Permit. [Subsection A of 20.6.2.3107 NMAC, Subsection C of 20.6.2.3109 NMAC]
12.	The Permittee shall preserve a minimum of two feet of freeboard between the liquid level in the impoundment(s) and the elevation of the top of the impoundment liner. In the event that the Permittee determines that two feet of freeboard cannot be preserved in the impoundment, the Permittee shall enact the contingency plan set forth in this Discharge Permit. [Subsection A of 20.6.2.3107 NMAC, Subsection C of 20.6.2.3109 NMAC]
13.	Concentrate wastewater discharged to the impoundments shall not exceed the following limitations: < 2 pH units and > 12.5 pH units.

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	[20.6.2.3109 NMAC]
14.	The Permittee shall inspect the leak detection systems on a weekly basis for the presence of liquid. The Permittee shall keep a log of the inspection findings and repairs made. The inspection log, including a statement whether or not liquids were observed in the leak detection systems, shall be submitted to NMED in the semi-annual monitoring reports. [20.6.2.3107 NMAC]
15.	The Permittee shall conduct monitoring of the soil vapor collection systems in accordance with the plan submitted to NMED in Condition 4b. [20.6.2.3107 NMAC]
16.	Once prior to the expiration date of this Discharge Permit, NMED shall have the option to perform downhole inspections of all monitoring wells identified in this Discharge Permit. NMED shall establish the inspection date and provide at least 60 days notice to the Permittee by certified mail. The Permittee shall have any existing dedicated pumps removed at least 48 hours prior to NMED inspection to allow adequate settling time of sediment agitated from pump removal. Should the Facility not have existing dedicated pumps, but decide to install pumps in any of the monitoring wells, NMED shall be notified at least 90 days prior to pump installation so that a downhole well inspection(s) can be scheduled prior to pump placement. [20.6.2.3107 NMAC]
17.	The Permittee shall maintain fences around the impoundments to control access by the general public and animals. The fences shall consist of a minimum of six-foot chain link or field fencing and locking gates. Fences shall be maintained throughout the term of this Discharge Permit. [Subsections B and C of 20.6.2.3109 NMAC]
18.	The Permittee shall maintain signs indicating that the concentrate wastewater at the Facility is not potable. Signs shall be posted at the Facility entrance and other areas where there is potential for public contact with reject concentrate from the reverse osmosis water treatment system. All signs shall be printed in English and Spanish, and remain visible and legible for the term of this Discharge Permit. [Subsections B and C of 20.6.2.3109 NMAC]

B. MONITORING AND REPORTING

#	Terms and Conditions
19.	The Permittee shall conduct the following monitoring, reporting, and other requirements listed below in accordance with the monitoring requirements of this Discharge Permit. [Subsection A of 20.6.2.3107 NMAC, Subsection C of 20.6.2.3109 NMAC]
20.	METHODOLOGY – Unless otherwise approved in writing by NMED, the Permittee shall conduct sampling and analysis in accordance with the most recent edition of the following documents: a) American Public Health Association, Standard Methods for the Examination of Water and Wastewater (18^{th}, 19^{th} or current) b) U.S. Environmental Protection Agency, Methods for Chemical Analysis of Water and Waste c) U.S. Geological Survey, Techniques for Water Resources Investigations of the U.S. Geological Survey d) American Society for Testing and Materials, Annual Book of ASTM Standards, Part 31. Water e) U.S. Geological Survey, et al., National Handbook of Recommended Methods for Water Data Acquisition f) Federal Register, latest methods published for monitoring pursuant to Resource Conservation and Recovery Act regulations g) Methods of Soil Analysis: Part 1. Physical and Mineralogical Methods; Part 2. Microbiological and Biochemical Properties; Part 3. Chemical Methods, American Society of Agronomy [Subsection B of 20.6.2.3107 NMAC]
21.	The Permittee shall perform quarterly ground water sampling in the three (3) monitoring wells established in Condition 8 of this permit and analyze the samples for volatile and semi-volatile organic compounds, major cations and anions and as directed by NMED for specific constituents identified in baseline sampling conducted pursuant to Condition 8 of this permit; • One monitoring well (MW-1) located hydrologically upgradient of the entire Facility; • One monitoring well (MW-2) located 20 to 50 feet hydrologically downgradient of evaporative impoundments; and • One monitoring well (MW-3) located 20 to 50 feet hydrologically downgradient of evaporative impoundments.

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	Ground water sample collection, preservation, transport and analysis shall be performed according to the following procedure, or the Permittee may submit an alternative Sampling and Analysis Plan for approval by NMED: a) Measure the depth-to-ground water from the top of well casing to the nearest hundredth of a foot; b) Purge three well volumes of water from the well prior to sample collection; c) Obtain samples from the well for analysis; d) Properly prepare, preserve and transport samples; and e) Analyze samples in accordance with the methods authorized in this Discharge Permit. Depth-to-water measurements, analytical results, including laboratory QA/QC summary report, and a Facility layout map showing the location and number of each well shall be submitted to NMED in the semi-annual monitoring reports. [20.6.2.3107 NMAC]
22.	The Permittee shall collect a composite wastewater sample from each impoundment on a semi-annual basis from a representative location within each evaporative impoundment. The composite sample shall consist of a minimum of six equal aliquots collected around the entire perimeter of the evaporative impoundment and thoroughly mixed. The composite sample shall be analyzed on an annual basis for all Section 20.6.2.3103 NMAC constituents. Samples shall be properly prepared, preserved, transported and analyzed in accordance with the methods authorized in this Discharge Permit. Analytical results shall be submitted to NMED in the semi-annual monitoring reports. [20.6.2.3103 NMAC and Subsection A of 20.6.2.3107 NMAC]
23.	The Permittee shall submit semi-annual monitoring reports to NMED for the most recently completed semi-annual period by the 1st of February and August each year. All monitoring required by this permit shall be submitted as follows: • January 1st through June 30th (Q1 and Q2) – **due by August 1st; and** • July 1st through December 31st (Q3 and Q4) – **due by February 1st** The reports shall include discharge volumes to the three impoundments, impoundment area inspection logs, leak detection inspection logs, analytical results from representative concentrate wastewater samples from the three double synthetically-lined impoundments, and analytical results from groundwater monitoring.

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	[Subsection A of 20.6.2.3107 NMAC]
24.	The Permittee shall develop a ground water elevation contour map on a quarterly basis using the monitoring well survey data and depth-to-water measurements as required by this Discharge Permit. The ground water elevation contour map shall depict the ground water flow direction based on the ground water elevation contours. The data and ground water elevation contour maps shall be submitted to NMED in the semi-annual monitoring reports. [20.6.2.3107 NMAC]
25.	The Permittee shall measure the monthly volume of concentrate wastewater discharged from the water treatment system to the three double synthetically-lined impoundments. The monthly meter readings and calculated monthly and average daily discharge volumes from the the water treatment system shall be submitted to NMED in the semi-annual monitoring reports. The flow meters shall be kept operational at all times. [Subsection A of 20.6.2.3107 NMAC, Subsections C and H of 20.6.2.3109 NMAC]
26.	All flow meters shall be capable of having their accuracy ascertained under actual working (field) conditions. A field calibration method shall be developed for each flow meter and that method shall be used to check the accuracy of each respective meter. Field calibrations shall be performed upon repair or replacement of a flow measurement device and, at a minimum, within 90 days of the effective date of this Discharge Permit (**by August 18**), and then on an annual basis. Flow meters shall be calibrated to within plus or minus 10 percent of actual flow, as measured under field conditions. Field calibrations shall be performed by an individual knowledgeable in flow measurement and in the installation/operation of the particular device in use. A flow meter calibration report shall be prepared for each flow measurement device at the frequency calibration is required. The flow meter calibration report shall include the following information: a) Location and meter identification; b) Method of flow meter field calibration employed; c) Measured accuracy of each flow meter prior to adjustment indicating the positive or negative offset as a percentage of actual flow as determined by an in-field calibration check; d) Measured accuracy of each flow meter following adjustment, if necessary, indicating the positive or negative offset as a percentage of actual flow of the meter; and e) Any flow meter repairs made during the previous year or during field calibration. The Permittee shall maintain records of flow meter calibration(s) at a location accessible for review by NMED during Facility inspections.

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	[Subsection A of 20.6.2.3107 NMAC, Subsections C and H of 20.6.2.3109 NMAC]
27.	The Permittee shall visually inspect flow meters on a monthly basis for evidence of malfunction. If a visual inspection indicates a flow meter is not functioning as required by this Discharge Permit, the Permittee shall repair or replace the meter within 30 days of discovery. For *repaired* meters, the Permittee shall submit a report to NMED with the next monitoring report following the repair that includes a description of the malfunction; a statement verifying the repair; and a flow meter field calibration report completed in accordance with the requirements of this Discharge Permit. For *replacement* meters, the Permittee shall submit a report to NMED with the next monitoring report following the replacement that includes a design schematic for the device and a flow meter field calibration report completed in accordance with the requirements of this Discharge Permit. [Subsection A of 20.6.2.3107 NMAC, Subsection C of 20.6.2.3109 NMAC]

C. CONTINGENCY PLAN

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28.	In the event that ground water monitoring indicates that a ground water quality standard identified in Section 20.6.2.3103 NMAC is exceeded; the total nitrogen concentration in ground water is greater than 10 mg/L; or a toxic pollutant (defined in Subsection WW of 20.6.2.7 NMAC) is present in a ground water sample and in any subsequent ground water sample collected from a monitoring well required by this Discharge Permit, the Permittee shall enact the following contingency plan: Within 60 days of the subsequent sample analysis date, the Permittee shall propose measures to ensure that the exceedance of the standard or the presence of a toxic pollutant will be mitigated by submitting a corrective action plan to NMED for approval. The corrective action plan shall include a description of the proposed actions to control the source and an associated completion schedule. The plan shall be enacted as approved by NMED. Once invoked (whether during the term of this Discharge Permit; or after the term of this Discharge Permit and prior to the completion of the Discharge Permit closure plan requirements), this condition shall apply until the Permittee has fulfilled the requirements of this condition and ground water monitoring confirms for a minimum of two years of consecutive ground water sampling events that the standards of Section 20.6.2.3103 NMAC are not exceeded and toxic pollutants are not present in ground water.

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	The Permittee may be required to abate water pollution pursuant to Sections 20.6.2.4000 through 20.6.2.4115 NMAC, should the corrective action plan not result in compliance with the standards and requirements set forth in Section 20.6.2.4103 NMAC within 180 days of confirmed ground water contamination. [Subsection A of 20.6.2.3107 NMAC, Subsection E of 20.6.2.3109 NMAC]
29.	In the event that ground water flow information obtained pursuant to this Discharge Permit indicates that a monitoring well(s) is not located hydrologically downgradient of the discharge location(s) it is intended to monitor, the Permittee shall install a replacement well(s) within 120 days following notification from NMED. The Permittee shall survey the replacement monitoring well(s) within 150 days following notification from NMED. Replacement well location(s) shall be approved by NMED prior to installation and completed in accordance with the attachment titled Ground Water Discharge Permit Monitoring Well Construction and Abandonment Conditions, Revision 1.1, March 2011. The Permittee shall submit construction and lithologic logs, survey data and a ground water elevation contour map within 30 days following well completion. [Subsection A of 20.6.2.3107 NMAC]
30.	In the event that information available to NMED indicates that a well(s) is not constructed in a manner consistent with the attachment titled Ground Water Discharge Permit Monitoring Well Construction and Abandonment Conditions, Revision 1.1, March 2011; contains insufficient water to effectively monitor ground water quality; or is not completed in a manner that is protective of ground water quality, the Permittee shall install a replacement well(s) within 120 days following notification from NMED. The Permittee shall survey the replacement monitoring well(s) within 150 days following notification from NMED. Replacement well location(s) shall be approved by NMED prior to installation and completed in accordance with the attachment titled Ground Water Discharge Permit Monitoring Well Construction and Abandonment Conditions, Revision 1.1, March 2011. The Permittee shall submit construction and lithologic logs, survey data and a ground water elevation contour map to NMED within 60 days following well completion. Upon completion of the replacement monitoring well(s), the monitoring well(s) requiring replacement shall be properly plugged and abandoned. Well plugging, abandonment and documentation of the abandonment procedures shall be completed in accordance with the attachment titled Ground Water Discharge Permit Monitoring Well Construction and Abandonment Conditions, Revision 1.1, March 2011, and all applicable local, state, and

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	federal regulations. The well abandonment documentation shall be submitted to NMED within 60 days of completion of well plugging activities. [Subsection A of 20.6.2.3107 NMAC]
31.	In the event that inspection findings reveal significant damage likely to affect the structural integrity of the impoundment(s) or its ability to contain contaminants, the permittee shall propose the repair or replacement of the impoundment by submitting a corrective action plan to NMED for approval. The plan shall be submitted to NMED within 30 days after discovery by the Permittee or following notification from NMED that significant damage is evident. The corrective action plan shall include a schedule for completion of corrective actions and the Permittee shall initiate implementation of the plan following approval by NMED. [Subsection A of 20.6.2.3107 NMAC, Subsection C of 20.6.2.3109 NMAC]
32.	In the event that a minimum of two feet of freeboard cannot be preserved in the impoundment(s), the Permittee shall take actions authorized by this Discharge Permit and all applicable local, state, and federal regulations to restore the required freeboard. In the event that two feet of freeboard cannot be restored within a period of 72 hours following discovery, the Permittee shall propose actions to be immediately implemented to restore two feet of freeboard by submitting a short-term corrective action plan to NMED for approval. Examples of short-term corrective actions include: removing excess wastewater from the impoundment through pumping and hauling; or reducing the volume of wastewater discharged to the impoundment. The plan shall include a schedule for completion of corrective actions and shall be submitted within 15 days following the date when the two feet of freeboard limit was initially discovered. The Permittee shall initiate implementation of the plan following approval by NMED. In the event that the short-term corrective actions fail to restore two feet of freeboard, the Permittee shall propose permanent corrective actions in a long-term corrective action plan submitted to NMED within 90 days following failure of the short-term corrective action plan. Examples include: the installation of an additional storage impoundment, or a significant/permanent reduction in the volume of wastewater discharged to the impoundment. The plan shall include a schedule for completion of corrective actions and implementation of the plan shall be initiated following approval by NMED. [Subsection A of 20.6.2.3107 NMAC]
33.	In the event that a release (commonly known as a "spill") occurs that is not authorized under this Discharge Permit, the Permittee shall take measures to mitigate damage from the unauthorized discharge and initiate the notifications and corrective actions required in Section 20.6.2.1203 NMAC and summarized below.

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	Within 24 hours following discovery of the unauthorized discharge, the Permittee shall verbally notify NMED and provide the following information: a) The name, address, and telephone number of the person or persons in charge of the facility, as well as of the owner and/or operator of the Facility; b) The name and address of the Facility; c) The date, time, location, and duration of the unauthorized discharge; d) The source and cause of unauthorized discharge; e) A description of the unauthorized discharge, including its estimated chemical composition; f) The estimated volume of the unauthorized discharge; and g) Any actions taken to mitigate immediate damage from the unauthorized discharge. Within one week following discovery of the unauthorized discharge, the Permittee shall submit written notification to NMED with the information listed above and any pertinent updates. Within 15 days following discovery of the unauthorized discharge, the Permittee shall submit a corrective action report/plan to NMED describing any corrective actions taken and/or to be taken relative to the unauthorized discharge that includes the following: a) A description of proposed actions to mitigate damage from the unauthorized discharge. b) A description of proposed actions to prevent future unauthorized discharges of this nature. c) A schedule for completion of proposed actions. In the event that the unauthorized discharge causes or may with reasonable probability cause water pollution in excess of the standards and requirements of Section 20.6.2.4103 NMAC, and the water pollution will not be abated within 180 days after notice is required to be given pursuant to Paragraph (1) of Subsection A of 20.6.2.1203 NMAC, the Permittee may be required to abate water pollution pursuant to Sections 20.6.2.4000 through 20.6.2.4115 NMAC. Nothing in this condition shall be construed as relieving the Permittee of the obligation to comply with all requirements of Section 20.6.2.1203 NMAC. [20.6.2.1203 NMAC]
34.	In the event that NMED or the Permittee identifies any failures of the discharge plan or this Discharge Permit not specifically noted herein, NMED may require the Permittee to submit a corrective action plan and a schedule for completion of corrective actions to

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	address the failure(s). Additionally, NMED may require a Discharge Permit modification to achieve compliance with 20.6.2 NMAC. [Subsection A of 20.6.2.3107 NMAC, Subsection E of 20.6.2.3109 NMAC]

D. CLOSURE PLAN

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35.	In the event the Facility, or a component of the Facility, is proposed to be permanently closed, upon ceasing discharging, the Permittee shall perform the following closure measures: Within 180 days of ceasing discharge to the impoundment(s), the Permittee shall complete the following closure measures: a) Remove or plug all lines leading to the impoundment(s) so that a discharge can no longer occur. b) Drain and/or evaporate all liquids from the impoundment(s) and dispose of all solids in accordance with all local, state, and federal regulations. c) Remove all liners, vapor collection systems and leak detection components. d) Collect one composite soil sample from beneath each pond liner and submit for laboratory analysis of metals, sulfate, uranium/radium, and as directed by NMED. e) Fill the impoundment(s) with suitable fill. f) Re-grade the impoundment(s) site to blend with surface topography, promote positive drainage and prevent ponding. g) Continue ground water monitoring as required by this Discharge Permit for two years after closure to confirm the absence of ground water contamination. If monitoring results show that the ground water standards in Section 20.6.2.3103 NMAC or additional analytes as required by NMED are being violated, the permittee shall implement the contingency plan required by this Discharge Permit. h) Following notification from NMED that post-closure monitoring may cease, the Permittee shall plug and abandon the monitoring well(s) in accordance with the attachment titled *Ground Water Quality Bureau Monitoring Well Construction and Abandonment Conditions*, Revision 1.1, March 2011. When all closure and post-closure requirements have been met, the Permittee may submit a written request for termination of the Discharge Permit to NMED. [Subsection A of 20.6.2.3107 NMAC, 40 CFR Part 503]

E. GENERAL TERMS AND CONDITIONS

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36.	RECORD KEEPING - The Permittee shall maintain a written record of the following information: a) Information and data used to complete the application for this Discharge Permit. b) Records of any releases (commonly known as "spills") not authorized under this Discharge Permit and reports submitted pursuant to 20.6.2.1203 NMAC. c) Records of the operation, maintenance, and repair of all facilities/equipment used to treat, store or dispose of wastewater. d) Facility record drawings (plans and specifications) showing the actual construction of the Facility and bear the seal and signature of a licensed New Mexico professional engineer. e) Copies of monitoring reports completed and/or submitted to NMED pursuant to this Discharge Permit. f) The volume of wastewater or other wastes discharged pursuant to this Discharge Permit. g) Ground water quality and wastewater quality data collected pursuant to this Discharge Permit. h) Copies of construction records (well log) for all ground water monitoring wells required to be sampled pursuant to this Discharge Permit. i) Records of the maintenance, repair, replacement or calibration of any monitoring equipment or flow measurement devices required by this Discharge Permit. j) Data and information related to field measurements, sampling, and analysis conducted pursuant to this Discharge Permit. The following information shall be recorded and shall be made available to NMED upon request: i. The dates, location and times of sampling or field measurements; ii. The name and job title of the individuals who performed each sample collection or field measurement; iii. The sample analysis date of each sample; iv. The name and address of the laboratory, and the name of the signatory authority for the laboratory analysis; v. The analytical technique or method used to analyze each sample or collect each field measurement; vi. The results of each analysis or field measurement, including raw data; vii. The results of any split, spiked, duplicate or repeat sample; and viii. A copy of the laboratory analysis chain-of-custody as well as a description of the quality assurance and quality control procedures used. The written record shall be maintained by the Permittee at a location accessible during a Facility inspection by NMED for a period of at least five years from the date of

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	application, report, collection or measurement and shall be made available to the department upon request. [Subsections A and D of 20.6.2.3107 NMAC]
37.	INSPECTION and ENTRY – The Permittee shall allow inspection by NMED of the Facility and its operations which are subject to this Discharge Permit and the WQCC regulations. NMED may upon presentation of proper credentials, enter at reasonable times upon or through any premises in which a water contaminant source is located or in which are located any records required to be maintained by regulations of the federal government or the WQCC. The Permittee shall allow NMED to have access to and reproduce for their use any copy of the records, and to perform assessments, sampling or monitoring during an inspection for the purpose of evaluating compliance with this Discharge Permit and the WQCC regulations. Nothing in this Discharge Permit shall be construed as limiting in any way the inspection and entry authority of NMED under the WQA, the WQCC Regulations, or any other local, state or federal regulations. [Subsection D of 20.6.2.3107 NMAC, NMSA 1978, §§ 74-6-9.B and 74-6-9.E]
38.	DUTY to PROVIDE INFORMATION - The Permittee shall, upon NMED's request, allow for NMED's inspection/duplication of records required by this Discharge Permit and/or furnish to NMED copies of such records. [Subsection D of 20.6.2.3107 NMAC]
39.	MODIFICATIONS and/or AMENDMENTS – In the event the Permittee proposes a change to the Facility or the Facility's discharge that would result in a change in the volume discharged; the location of the discharge; or in the amount or character of water contaminants received, treated or discharged by the Facility, the Permittee shall notify NMED prior to implementing such changes. The Permittee shall obtain approval (which may require modification of this Discharge Permit) by NMED prior to implementing such changes. [Subsection C of 20.6.2.3107 NMAC, Subsections E and G of 20.6.2.3109 NMAC]
40.	PLANS and SPECIFICATIONS – In the event the Permittee is proposing to construct a wastewater system or change a process unit of an existing system such that the quantity or quality of the discharge will change substantially from that authorized by this Discharge Permit, the Permittee shall submit construction plans and specifications to NMED for the proposed system or process unit prior to the commencement of construction.

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	In the event the Permittee implements changes to the wastewater system authorized by this Discharge Permit which result in only a minor effect on the character of the discharge, the Permittee shall report such changes (including the submission of record drawings, where applicable) as of January 1 and June 30 of each year to NMED. [Subsections A and C of 20.6.2.1202 NMAC, NMSA 1978, §§ 61-23-1 through 61-23-32]
41.	CIVIL PENALTIES - Any violation of the requirements and conditions of this Discharge Permit, including any failure to allow NMED staff to enter and inspect records or facilities, or any refusal or failure to provide NMED with records or information, may subject the Permittee to a civil enforcement action. Pursuant to WQA 74-6-10(A) and (B), such action may include a compliance order requiring compliance immediately or in a specified time, assessing a civil penalty, modifying or terminating the Discharge Permit, or any combination of the foregoing; or an action in district court seeking injunctive relief, civil penalties, or both. Pursuant to WQA 74-6-10(C) and 74-6-10.1, civil penalties of up to $15,000 per day of noncompliance may be assessed for each violation of the WQA 74-6-5, the WQCC Regulations, or this Discharge Permit, and civil penalties of up to $10,000 per day of noncompliance may be assessed for each violation of any other provision of the WQA, or any regulation, standard, or order adopted pursuant to such other provision. In any action to enforce this Discharge Permit, the Permittee waives any objection to the admissibility as evidence of any data generated pursuant to this Discharge Permit. [20.6.2.1220 NMAC, NMSA 1978, §§ 74-6-10 and 74-6-10.1]
42.	CRIMINAL PENALTIES – No person shall: make any false material statement, representation, certification or omission of material fact in an application, record, report, plan or other document filed, submitted or required to be maintained under the WQA; falsify, tamper with or render inaccurate any monitoring device, method or record required to be maintained under the WQA; or fail to monitor, sample or report as required by a permit issued pursuant to a state or federal law or regulation. Any person who knowingly violates or knowingly causes or allows another person to violate the requirements of this condition is guilty of a fourth degree felony and shall be sentenced in accordance with the provisions of NMSA 1978, § 31-18-15. Any person who is convicted of a second or subsequent violation of the requirements of this condition is guilty of a third degree felony and shall be sentenced in accordance with the provisions of NMSA 1978, § 31-18-15. Any person who knowingly violates the requirements of this condition or knowingly causes another person to violate the

#	Terms and Conditions
	requirements of this condition and thereby causes a substantial adverse environmental impact is guilty of a third degree felony and shall be sentenced in accordance with the provisions of NMSA 1978, § 31-18-15. Any person who knowingly violates the requirements of this condition and knows at the time of the violation that he is creating a substantial danger of death or serious bodily injury to any other person is guilty of a second degree felony and shall be sentenced in accordance with the provisions of NMSA 1978, § 31-18-15. [20.6.2.1220 NMAC, NMSA 1978, §§ 74-6-10.2.A through 74-6-10.2.F]
43.	COMPLIANCE with OTHER LAWS - Nothing in this Discharge Permit shall be construed in any way as relieving the Permittee of the obligation to comply with all applicable federal, state, and local laws, regulations, permits or orders. [NMSA 1978, § 74-6-5.L]
44.	RIGHT to APPEAL - The Permittee may file a petition for review before the WQCC on this Discharge Permit. Such petition shall be in writing to the WQCC within thirty days of the receipt of postal notice of this Discharge Permit and shall include a statement of the issues to be raised and the relief sought. Unless a timely petition for review is made, the decision of NMED shall be final and not subject to judicial review. [20.6.2.3112 NMAC, NMSA 1978, § 74-6-5.O]
45.	TRANSFER of DISCHARGE PERMIT - Prior to the transfer of any ownership, control, or possession of this Facility or any portion thereof, the Permittee shall: notify the proposed transferee in writing of the existence of this Discharge Permit; include a copy of this Discharge Permit with the notice; and deliver or send by certified mail to NMED a copy of the notification and proof that such notification has been received by the proposed transferee. Until both ownership and possession of the Facility have been transferred to the transferee, the Permittee shall continue to be responsible for any discharge from the Facility. [20.6.2.3111 NMAC]
46.	PERMIT FEES - Payment of permit fees is due at the time of Discharge Permit approval. Permit fees shall be paid in a single payment or shall be paid in equal installments on a yearly basis over the term of the Discharge Permit. Single payments shall be remitted to NMED no later than 30 days after the Discharge Permit effective date. Initial installment payments shall be remitted to NMED no later than 30 days after the Discharge Permit effective date; subsequent installment payments shall be remitted to NMED no later than the anniversary of the Discharge Permit effective date.

#	Terms and Conditions
	Permit fees are associated with issuance of this Discharge Permit. Nothing in this Discharge Permit shall be construed as relieving the Permittee of the obligation to pay all permit fees assessed by NMED. A Permittee that ceases discharging or does not commence discharging from the Facility during the term of the Discharge Permit shall pay all permit fees assessed by NMED. An approved Discharge Permit shall be suspended or terminated if the Facility fails to remit an installment payment by its due date. [Subsection F of 20.6.2.3114 NMAC, NMSA 1978, § 74-6-5.K]

V. PERMIT TERM & SIGNATURE

EFFECTIVE DATE: May 18, 2015
TERM ENDS: Seven years from the effective date (i.e. Date) or five years from the date the discharge commences, whichever occurs first.
[Subsection H of 20.6.2.3109 NMAC, NMSA 1978, § 74-6-5.I]

Phyllis Bustamante

PHYLLIS BUSTAMANTE
Acting Chief, Ground Water Quality Bureau
New Mexico Environment Department

Ground Water Discharge Permit Conditions for Synthetically Lined Lagoons – Liner Material and Site Preparation

These Conditions represent minimum liner material and site preparation requirements for wastewater treatment, storage and evaporation lagoons. These requirements do not apply to lagoons storing hazardous wastes or high strength waste. The Ground Water Quality Bureau may impose additional requirements (e.g., double-lined lagoons with leak detection) for facilities discharging hazardous or high strength waste to lagoons through the development of specific Discharge Permit conditions for such facilities.

Liner Material Requirements:

1. The liner shall be chemically compatible with any material that will contact the liner.
2. The liner material shall be resistant to deterioration by sunlight if any portion of the liner will be exposed.
3. Synthetic liner material shall be of sufficient thickness to have adequate tensile strength and tear and puncture resistance. Under no circumstances shall a synthetic liner material less than 40 mils in thickness be accepted. Any liner material shall be certified by a licensed New Mexico professional engineer and approved by the New Mexico Environment Department (NMED) prior to its installation.

Lagoon Design and Site Preparation Requirements:

1. The system shall be certified by a licensed New Mexico professional engineer and approved by NMED prior to installation.
2. Inside slopes shall be a maximum of 3 (horizontal): 1 (vertical), and a minimum of 4 (horizontal); 1 (vertical).
3. Lagoon volume shall be designed to allow for a minimum of 24 inches of freeboard.
4. The liner shall be installed with sufficient liner material to accommodate shrinkage due to temperature changes. Folds in the liner are not acceptable.
5. To a depth of at least six inches below the liner, the sub-grade shall be free of sharp rocks, vegetation and stubble. In addition, liners shall be placed on a sub-grade of sand or fine soil. The surface in contact with the liner shall be smooth to allow for good contact between liner and sub-grade. The surface shall be dry during liner installation.
6. Sub-grade shall be compacted to a minimum of 90% of standard proctor density.
7. The minimum dike width shall be eight feet to allow vehicle traffic for maintenance.
8. The base of the pond shall be as uniform as possible and shall not vary more than three inches from the average finished elevation.
9. Synthetic liners shall be anchored in an anchor trench in the top of the berm. The trench shall be a minimum of 12 inches wide, 12 inches deep and shall be set back at least 24 inches from the inside edge of the berm.
10. If the lagoon is installed over areas of decomposing organic materials or shallow ground water, a liner vent system shall be installed.
11. Any opening in the liner through which a pipe or other fixture protrudes shall be properly sealed. Liner penetrations shall be detailed in the construction plans and record drawings.
12. A synthetic liner shall not be installed in temperatures below freezing.
13. The liner shall be installed or supervised by an individual that has the necessary training and experience as required by the liner manufacturer.
14. All manufacturer's installation and field seaming guidelines shall be followed.
15. All synthetic liner seams shall be field tested by the installer and verification of the adequacy of the seams shall be submitted to NMED along with the record drawings.
16. Concrete slabs installed on top of the synthetic liner for operational purposes shall be completed in accordance with manufacturer and installer recommendations to ensure liner integrity.

Ground Water Discharge Permit Monitoring Well Construction and Abandonment Conditions

These conditions identify construction and abandonment requirements for installation of water table monitoring wells under ground water Discharge Permits issued by the NMED's Ground Water Quality Bureau (GWQB). Proposed locations of monitoring wells required under Discharge Permits and requests to use alternate installation and/or construction methods for water table monitoring wells shall be submitted to the GWQB for approval prior to drilling and construction.

General Drilling Specifications:

1. All well drilling activities shall be performed by an individual with a current and valid well driller license issued by the State of New Mexico in accordance with 19.27.4 NMAC.
2. Drilling methods that allow for accurate determinations of water table locations shall be employed. All drill bits, drill rods, and down-hole tools shall be thoroughly cleaned immediately prior to the start of drilling. The borehole diameter shall be drilled a minimum of 4 inches larger than the casing diameter to allow for the emplacement of sand and sealant.
3. After completion, the well shall be allowed to stabilize for a minimum of 12 hours before development is initiated.
4. The well shall be developed so that formation water flows freely through the screen and is not turbid, and all sediment and drilling disturbances are removed from the well.

Well Specifications (see attached monitoring well schematic):

5. Schedule 40 (or heavier) polyvinyl chloride (PVC) pipe, stainless steel pipe, carbon steel pipe, or pipe of an alternate appropriate material that has been approved for use by NMED shall be used as casing. The casing shall have an inside diameter not less than 2 inches. The casing material selected for use shall be compatible with the anticipated chemistry of the ground water and appropriate for the contaminants of interest at the facility. The casing material and thickness selected for use shall have sufficient collapse strength to withstand the pressure exerted by grouts used as annular seals and thermal properties sufficient to withstand the heat generated by the hydration of cement-based grouts. Casing sections shall be joined using welded, threaded, or mechanically locking joints; the method selected shall provide sufficient joint strength for the specific well installation. The casing shall extend from the top of the screen to at least one foot above ground surface. The top of the casing shall be fitted with a removable cap, and the exposed casing shall be protected by a locking steel well shroud. The shroud shall be large enough in diameter to allow easy access for removal of the cap. Alternatively, monitoring wells may be completed below grade. In this case, the casing shall extend from the top of the screen to 6 to 12 inches below the ground surface; the monitoring wells shall be sealed with locking, expandable well plugs; a flush-mount, watertight well vault that is rated to withstand traffic loads shall be emplaced around the wellhead; and the cover shall be secured with at least one bolt. The vault cover shall indicate that the wellhead of a monitoring well is contained within the vault.
6. A 20-foot section (maximum) of continuous-slot, machine slotted, or other manufactured PVC or stainless steel well screen or well screen of an alternate appropriate material that has been approved for use by NMED shall be installed across the water table. Screens created by cutting slots into solid casing with saws or other tools shall not be used. The screen material selected for use shall be compatible with the anticipated chemistry of the ground water and appropriate for the contaminants of interest at the facility. Screen sections shall be joined using welded, threaded, or mechanically locking joints; the method selected shall provide sufficient joint strength for the specific well installation and shall not introduce constituents that may reasonably be considered contaminants of interest at the facility. A cap shall be attached to the bottom of the well screen; sumps (i.e., casing attached to the bottom of a well screen) shall not be installed. The bottom of the screen shall be installed no more than 15 feet below the water table; the top of the well screen shall be positioned not

less than 5 feet above the water table. The well screen slots shall be appropriately sized for the formation materials and shall be selected to retain 90 percent of the filter pack.

7. Casing and well screen shall be centered in the borehole by placing centralizers near the top and bottom of the well screen.
8. A filter pack shall be installed around the screen by filling the annular space from the bottom of the screen to 2 feet above the top of the screen with clean silica sand. The filter pack shall be properly sized to prevent fine particles in the formation from entering the well. For wells deeper than 30 feet, the sand shall be emplaced by a tremmie pipe. The well shall be surged or bailed to settle the filter pack and additional sand added, if necessary, before the bentonite seal is emplaced.
9. A bentonite seal shall be constructed immediately above the filter pack by emplacing bentonite chips or pellets (3/8-inch in size or smaller) in a manner that prevents bridging of the chips/pellets in the annular space. The bentonite seal shall be 3 feet in thickness and hydrated with clean water. Adequate time shall be allowed for expansion of the bentonite seal before installation of the annular space seal.
10. The annular space above the bentonite seal shall be sealed with cement grout or a bentonite-based sealing material acceptable to the State Engineer pursuant to 19.27.4 NMAC. A tremmie pipe shall be used when placing sealing materials at depths greater than 20 feet below the ground surface. Annular space seals shall extend from the top of the bentonite seal to the ground surface (for wells completed above grade) or to a level 3 to 6 inches below the top of casing (for wells completed below grade).
11. A concrete pad (2-foot minimum radius, 4-inch minimum thickness) shall be poured around the shroud or well vault and wellhead. The concrete and surrounding soil shall be sloped to direct rainfall and runoff away from the wellhead.

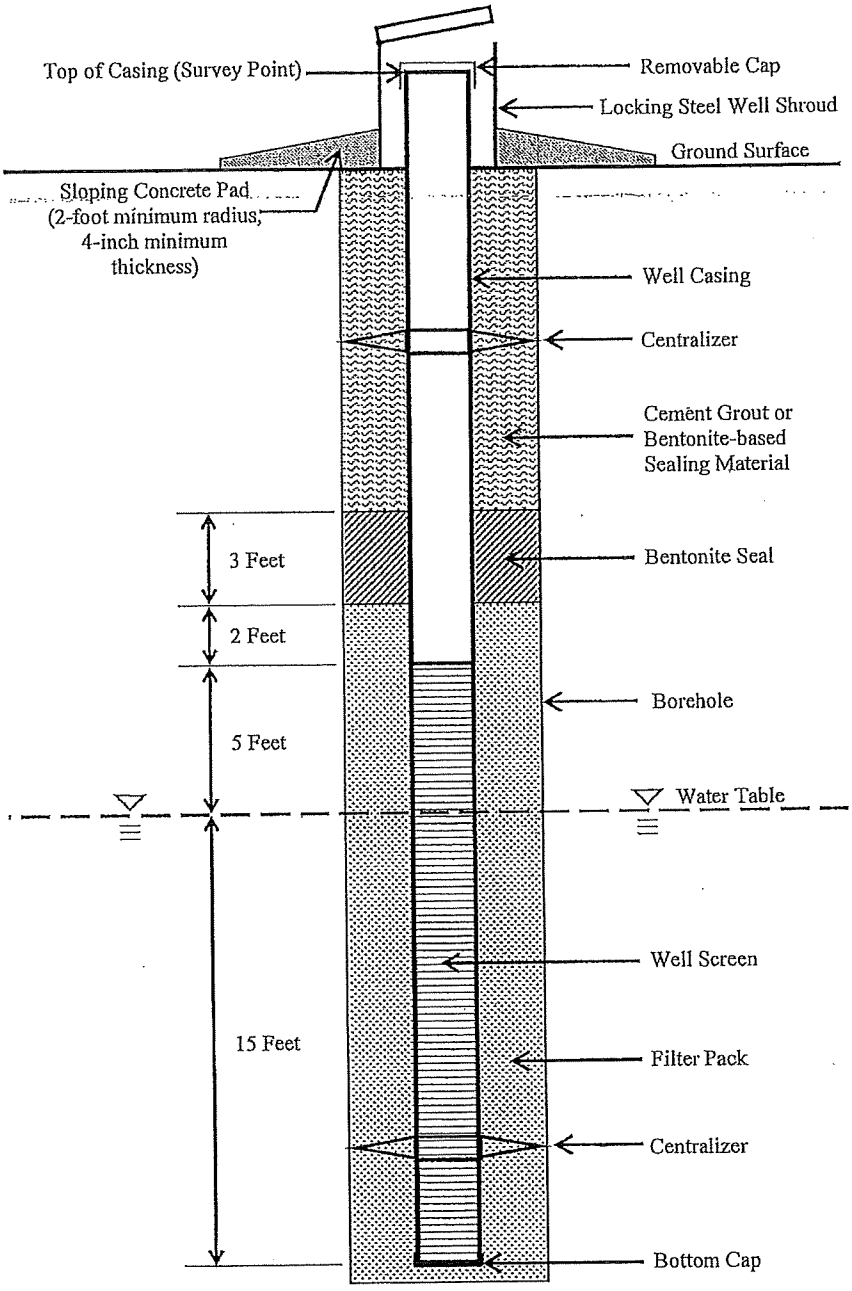
Abandonment:

12. Approval for abandonment of monitoring wells used for ground water monitoring in accordance with Discharge Permit requirements shall be obtained from NMED prior to abandonment.
13. Well abandonment shall be accomplished by removing the well casing and placing neat cement grout, bentonite-based plugging material, or other sealing material approved by the State Engineer for wells that encounter water pursuant to 19.27.4 NMAC from the bottom of the borehole to the ground surface using a tremmie pipe. If the casing cannot be removed, neat cement grout, bentonite-based plugging material, or other sealing material approved by the State Engineer shall be placed in the well using a tremmie pipe from the bottom of the well to the ground surface.
14. After abandonment, written notification describing the well abandonment shall be submitted to the NMED. Written notification of well abandonment shall consist of a copy of the well plugging record submitted to the State Engineer in accordance with 19.27.4 NMAC, or alternate documentation containing the information to be provided in a well plugging record required by the State Engineer as specified in 19.27.4 NMAC.

Deviation from Monitoring Well Construction and Abandonment Requirements: Requests to construct water table monitoring wells or other types of monitoring wells for ground water monitoring under ground water Discharge Permits in a manner that deviates from these requirements shall be submitted in writing to the GWQB. Each request shall state the rationale for the proposed deviation from these requirements and provide detailed evidence supporting the request. The GWQB will approve or deny requests to deviate from these requirements in writing.

MONITORING WELL SCHEMATIC

(Not to Scale)



Michelle Lujan Grisham
Governor

Howie C Morales
Lieutenant Governor

NEW MEXICO
ENVIRONMENT DEPARTMENT

Ground Water Quality Bureau
1190 St. Francis Drive / PO Box 5469
Santa Fe, N M 87502-5469
Phone (505) 827-2900 Fax (505) 827-2965
www.env.nm.gov

James C. Kenney
Cabinet Secretary

Jennifer J. Pruett
Deputy Secretary

GROUNDWATER QUALITY BUREAU (GWQB)
DISCHARGE PERMIT RENEWAL
PYRAMID PEAK MINING LLC – BANNER MILL
Issued under 20.6.2 NMAC

Return Receipt Requested
Certified Mail No:

Facility Name:	Banner Mill
GWQB Discharge Permit No:	DP-1651
GWQB TEMPO Al Number:	1772
Permittee Name/Responsible Party:	Pyramid Peak Mining, LLC
Mailing Address:	9650 Gateway Drive, Suite 202 Reno, NV 89521
County:	Hidalgo County
Permitting Action:	Renewal
Effective Date:	September 25, 2019
Expiration Date:	September 25, 2024
Facility Location:	State Highway 494 Lordsburg, NM 88009
NMED Permit Contact:	George Llewellyn, (575) 956-1549
E-mail Address:	George.Llewellyn@state.nm.us

Rebecca Roose, Director
Water Protection Division
New Mexico Environment Department

9/24/2019
Date

Exhibit 4
17403

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Part A GENERAL INFORMATION

A100 Introduction

A. The New Mexico Environment Department (NMED) issues this Discharge Permit Renewal, DP-1651 (Discharge Permit) to Pyramid Peak Mining LLC (permittee) pursuant to the New Mexico Water Quality Act (WQA), NMSA 1978, §§ 74-6-1 through 74-6 -17, and the New Mexico Water Quality Control Commission (WQCC) Regulations for Ground and Surface Water Protection, 20.6.2 NMAC. NMED is issuing this Discharge Permit to control the discharge of water contaminants from the Banner Mill Site (Mill Site) for the protection of groundwater and those segments of surface water gaining from groundwater inflow, for present and potential future use as domestic and agricultural water supply and other uses, and to protect public health.

B. Pursuant to this Discharge Permit, the permittee is authorized to discharge a maximum of 246,000 gallons per day (gpd) of tailings slurry to the Tailings Impoundment or the Decant Cells. Regulated discharges also include impacted stormwater runoff and leachate from the ore stockpiles and the dry stack tailings facility. These discharges may move directly or indirectly into groundwater of the State of New Mexico which has an existing concentration of 10,000 milligrams per liter (mg/L) or less of total dissolved solids (TDS) within the meaning of 20.6.2.3104 and Subsection A of 20.6.2.3101 NMAC. The discharges may contain water contaminants or toxic pollutants above the standards of 20.6.2.3103 NMAC.

C. The permittee is authorized to discharge water contaminants pursuant to this Discharge Permit which contains conditions authorized or specified by Part 20.6.2 NMAC (WQCC Regulations) on condition that the permittee complies with the WQCC Regulations and this Discharge Permit, which are enforceable by NMED.

A101 Applicable Regulations

A. The discharges associated with this Discharge Permit are not subject to any of the exemptions of 20.6.2.3105 NMAC.

B. Groundwater quality as monitored through the on-site monitoring well(s) is subject to the criteria of Sections 20.6.2.3101 and 20.6.2.3103 NMAC.

A102 Permit Duration

A. Pursuant to NMSA 1978, Section 74-6-5(I) and 20.6.2.3109.H NMAC, the term of this Discharge Permit shall be for the fixed term of **five (5) years** from the effective date.

B. If the permittee submits an application for renewal in accordance with Subsection F of 20.6.2.3106 NMAC at least 120 days before the permit expires and the permittee is not in violation of the Discharge Permit on the date of its expiration, then the existing Discharge Permit shall not expire until the application for renewal has been approved or disapproved.

A103 Terms of Permit Issuance

A. Permit Fees - The permittee shall remit a permit fee payment equal to the applicable permit fee listed in Table 1 of 20.6.2.3114 NMAC at the time of Discharge Permit approval. [20.6.2.3114.C and 20.6.2.3114.F NMAC]

B. Transfer of Discharge Permit - Prior to the transfer of any ownership, control, or possession of this permitted facility or any portion thereof, the permittee shall notify the proposed transferee in writing of the existence of this Discharge Permit and include a copy of this Discharge Permit with the notice. The permittee shall deliver or send by certified mail to NMED a copy of the notification and proof that such notification has been received by the proposed transferee. [20.6.2.3111 NMAC]

C. Permit Renewal - To renew this Discharge Permit and to meet the provisions found in 20.6.2.3106.F NMAC, the permittee must submit an application and associated fees for renewal, or renewal and Modification at least 120 days prior to the expiration date of this Discharge Permit.

Part B FACILITY SPECIFIC INFORMATION

B100 Facility Description

A. The Mill Site utilizes a rock crusher, ball mill, and flotation circuit to process gold-bearing ore from the Summit Mine. Ore is initially placed on the Coarse Ore Stockpile, then processed through the Rock Crusher and the output from the Rock Crusher is deposited on the Fine Ore Stockpile, which is used as feedstock for the Ball Mill where the ore is pulverized. The pulverized ore is then fed to the Flotation Circuit where metal-bearing minerals are recovered.

B. Tailings slurry from the milling process is conveyed either to the Tailings Decant Cells where most of the solids settle out of the tailings slurry or they are conveyed directly to the Tailings Impoundment. Decant water from the Tailings Decant Cells is conveyed to the Tailings Impoundment and decanted water from the Tailings Impoundment is pumped via a floating pump to the Reclaim Water Tank from where it is transferred to the mill for use as process water. Tailings from the Decant Cells is placed in the Dry

Stack Area to be shipped off site for possible industrial uses. Figure 1 attached to this Discharge Permit shows the major mill units and general layout of the Mill Site.

C. Other Ancillary Facilities and Structures – In addition to the major facilities identified above, there are several support facilities and structures dispersed across the Mill Site. These include water tanks, access roads, office facilities, a shop/warehouse building, and pipelines.

B101 Permitting History

A. The Discharge Plan for DP-1651 includes information and materials submitted as part of the original plan approved on November 16, 2009, renewed and modified May 2, 2014, the renewal application dated January 25, 2019, and materials contained in the administrative record prior to issuance of this Discharge Permit.

B102 Location, Groundwater, and Characteristics of the Discharge

A. The mill units regulated pursuant to DP-1651 are located approximately 4.5 miles southwest of Lordsburg, NM in Sections 14 & 23, T23S, R19W, Hidalgo County, New Mexico.

B. The depth to groundwater beneath the facilities regulated pursuant to this Discharge Permit is approximately 710 feet below ground surface and had a pre-discharge TDS concentration of approximately 1800 mg/L.

C. Discharges regulated pursuant to DP-1651 exceed the groundwater quality standards of Section 20.6.2.3103 NMAC for fluoride, manganese, sulfate and TDS.

B103 Authorized Mill Units

The permittee is authorized to manage the discharge of water contaminants through operation of the following mill units pursuant to this Discharge Permit. This Discharge Permit contains requirements associated with the following mill units as identified in the application and the administrative record as of the effective date of this Discharge Permit.

A. Mill Area – The Mill Area includes the Rock Crusher, Coarse Ore Stockpile, the Fine Ore Stockpile, the Ball Mill, Thickener Tank, and the Mill Building which contains the Flotation Circuit. The Rock Crusher has the capacity to process approximately 400 tons of ore per day. The Flotation Circuit uses clarified water from the Tailings Impoundment supplemented by water from the Banner Mine No. 2 Shaft.

B. Decant Cells – At the time of issuance of this Discharge Permit, one Decant Cell had been partially constructed. Upon completion, there will be 3 Decant Cells consisting of

an 8-inch thick concrete slab with a 50-foot long flat base and a 40-foot ramp inclined at a 10% gradient. A 60-mil high density geomembrane liner is placed below the slab and berms are constructed around the concrete decant cells.

1. Tailings are deposited on the active Decant Cell using a single tailings discharge pipeline. Water is decanted using outlet pipes located in the cell walls and trench drains located in the cell floor. The tailings are removed from the Decant Cell when they have drained to a water content that allows them to be loaded and spread in the Dry Stack Area. Decanted water is discharged to the Tailings Impoundment.

C. Dry Stack Area – The tailings removed from the Decant Cells is spread in the Dry Stack Area in approximately 2-foot thick lifts and allowed to dry. Prior to placement of a subsequent lift, the tailings are nominally compacted by equipment traffic. Stormwater runoff from the Dry Stack Area discharges to the Tailings Impoundment.

D. Tailings Impoundment – The Tailings Impoundment is lined with a 60 mil HDPE liner and is located in a small arroyo. The tailings dam is constructed in accordance with the design approved and permitted by the Office of the State Engineer (OSE) Dam Safety Bureau. The Tailings Impoundment is nearing capacity and a proposal to raise the dam 20 feet to provide additional capacity has been submitted to the OSE Dam Safety Bureau for review and approval and has been approved by the New Mexico Mining and Minerals Division (MMD).

E. Mill Site Pond – The Mill Site Pond collects stormwater runoff from the Coarse Ore Stockpile, the Fine Ore Stockpile, and the Mill Area. Water used in the laboratory is collected in a segregated drain system and conveyed by buried pipe to the Mill Site Pond. The Mill Site Pond is synthetically lined with a 60 mil HDPE liner and has a capacity of 4-acre feet. Water collected in the Mill Site Pond is disposed of through evaporation.

F. Diversion Channels – Stormwater run-on is diverted around the Mill Area, Tailings Impoundment, Decant Cells, Dry Stack Tailings and the Mill Building via the North, South, and Upper Mill Diversion Channels. All diversion channels are designed to convey flows from a 100-year, 24-hour storm event.

B104 Authorized Discharges

The permittee is authorized to discharge water contaminants and operate the following mill units as described below and in accordance with all applicable systems design and operational constraints as described in this Discharge Permit.

A. The permittee is authorized to place ore on the existing Coarse Ore Stockpile, the two proposed Coarse Ore Stockpiles, and the Fine Ore Stockpile. The ore shall be placed within the authorized footprints of the Ore Stockpiles as described in C100.A.

B. The permittee is authorized to discharge a maximum of 246,000 gpd of tailings slurry to the Decant Cells for slurry dewatering and/or directly to the Tailings Impoundment. [20.6.2.3109 NMAC]

C. The permittee is authorized to operate and manage discharges associated with the froth flotation circuit located within the Mill Building. [20.6.2.3109 NMAC]

D. The permittee is authorized to discharge decant water from the Decant Cells to the Tailings Impoundment. [20.6.2.3109 NMAC]

E. The permittee is authorized to pump decant water from the Tailings Impoundment to the Reclaim Water Tank to use as process water in the mill. [20.6.2.3109 NMAC]

F. The permittee is authorized to operate the Mill Site Pond to collect and evaporate impacted stormwater. [20.6.2.3109 NMAC]

G. The permittee is authorized to discharge domestic waste to onsite septic tanks and associated leach fields. [20.6.2.3109 NMAC]

H. This Discharge Permit authorizes only those discharges specified herein. Any unauthorized discharges such as spills or leaks must be reported to NMED and remediated as required by Section 20.6.2.1303 NMAC, and any additional requirements listed in this discharge permit.

Part C FACILITY SPECIFIC REQUIREMENTS

The permittee shall conduct the requirements set forth below to ensure compliance with the applicable requirements of 20.6.2 NMAC.

C100 Ore Stockpiles

A. The footprint of the existing Coarse Ore Stockpile, the two proposed Coarse Ore Stockpiles, and the footprint of Fine Ore Stockpile shall not exceed 0.15 acre each. At least 30 days prior to construction of the proposed two additional Coarse Ore Stockpiles, the permittee shall submit to NMED for approval a topographic map of appropriate scale showing the location and footprint of the existing Coarse and Fine Ore Stockpiles and the proposed Coarse Ore Stockpiles. The map shall include the location of the Mill Site Pond and show the flow paths of runoff from all ore stockpiles.

C101 Tailings Impoundment

A. The permittee is authorized to increase the capacity of the Tailings Impoundment in accordance with the June 2013 submittal titled *Banner Mill Tailings Dam Enlargement Plans and Specifications,* included as Attachment B-5.1 to the June 21, 2013 Application for Discharge Permit Renewal and Modification. Enlargement of the Tailings Impoundment shall not be performed until the final plan for the dam raise is approved by the New Mexico Office of the State Engineer (NMOSE). The permittee shall submit to NMED a copy of the final approved plan within 30 days of NMOSE approval and prior to the start of construction.

1. Sheet 4 included with the Banner Mill Tailings Dam Enlargement Plans and Specifications dated July 2013 shows the proposed replacement well for Monitoring Well 1 (MW-1) located approximately 150 feet southwest of MW-1. The proposed replacement well shall be located within the deepest part of the alluvial channel. Within 45 days of the effective date of this discharge permit, the permittee shall submit to NMED for approval a proposal indicating how the deepest part of the alluvial channel will be determined.

2. A minimum of 30 days prior to construction of the replacement well, the permittee shall submit to NMED for approval cross sections across the channel showing the deepest part of the alluvial channel and the proposed location of the replacement well.

3. Within 45 days of completion of the Tailings Impoundment enlargement, the permittee shall submit to NMED an as-built construction report which includes detailed as-built plans and specifications, an as built topographic map of the Tailings Impoundment and surrounding area that includes the stormwater diversion channel, and construction photographs if available. The as-built construction report shall also include a construction quality assurance and construction quality control report pertaining to the installation of the synthetic

liner.

C102 Decant Cells

A. The proposed Decant Cells shall be constructed and operated in accordance with the June 2013 submittal titled *Banner Mill Dry Stack Tailings Design and Operating Plan,* included as Attachment B-5.2 to the June 25, 2013 Application for Discharge Permit Renewal and Modification. Within 45 days of completion of the Decant Cells, the permittee shall submit to NMED an as-built construction report which includes detailed as-built plans and specifications, an as-built topographic map of the facility and surrounding area that includes the stormwater diversion channel, stormwater flow paths from the facility, and construction photographs if available. The as-built construction report shall also include a construction quality assurance and construction quality control report pertaining to the installation of the synthetic liner(s).

1. Tailings slurry with the potential to impact water quality as determined by the testing required in Condition C105.F below shall not be directed to the Decant Cells and shall be conveyed directly to the lined Tailings Impoundment.

C103 Dry Stack Tailings Unit

A. The proposed Dry Stack Tailings Unit shall be constructed and operated in accordance with the June 2013 submittal titled *Banner Mill Dry Stack Tailings Design and Operating Plan,* included as Attachment B-5.2 to the June 25, 2013 Application for Discharge Permit Renewal and Modification. Within 45 days of completion of the construction of the diversion channel and grading in preparation for placement of the Dry Stack Tailings Unit, the permittee shall submit to NMED a topographic map of the Dry Stack Tailings Unit area showing the final configuration of the area including the diversion channel and flow directions of runoff from the Dry Stack Tailings Unit.

C104 Stormwater Management

A. Within 120 days of the effective date of this Discharge Permit, the permittee shall submit to NMED for approval a stormwater management plan that describes stormwater management operations and details of how stormwater will be managed to insure the capacities of the Storm Water Pond, conveyance channels, berms, dikes and the Tailings Impoundment are not exceeded in the event of extreme rainfall events.

B. Stormwater run-on shall be routed around the Mill Area, Tailings Impoundment, Decant Cells, Dry Stack Tailings Facility, and the Coarse and Fine Stockpiles via the North Diversion, South Diversion, and Upper Mill Site Diversion Channels.

C. Stormwater run-off from the Mill Site area including seeps and runoff from the Coarse and Fine Grained Ore Stockpiles, and Dry Stack Tailings Facility shall be routed to the Mill Site Pond.

C105 Inspections, Monitoring and Reporting

The permittee shall conduct the following inspections, monitoring, reporting and other requirements listed below. Tables 1, 2 and 3 attached to this Discharge Permit provide a summary of monitoring and reporting requirements.

A. Inspections

1. The permittee shall inspect all conveyance channels, the Storm Water Pond, berms, dikes, pipelines, and the Tailings Impoundment monthly for evidence of damage, indications of leaks or potential breaching, excessive erosion, excessive sediment buildup, or stormwater accumulation that exceed design capacity or intended function of the facility. Findings shall be reported as required in Condition C105.J below.

2. The permittee shall inspect the Tailings Impoundment Dam on a monthly basis for the presence of any seepage or leaks. If any seepage or leaks are discovered the permittee shall verbally notify NMED within 24 hours of discovery and corrective action must be taken as required by Section 20.6.2.1203 NMAC. The permittee shall sample the seepage and analyze for the water parameters listed in Condition C105.E1 a, b, and c below.

3. The permittee shall report the results from the inspections in the semi-annual monitoring reports specified in Condition C105J below.

B. Ore Characterization

Prior to processing ore from sources other than the Summit Mine, the permittee shall characterize the ore according to the following procedures, using standard EPA methods.

1. A minimum of three independent composite samples shall be collected using the Incremental Sampling Methodology (http://www.itrcweb.org/ism-1) or equivalent.

2. Samples shall undergo mineralogical analysis, including identification and estimation of the percentage of acid generating and acid neutralizing minerals.

3. Samples shall be analyzed for whole rock analysis for the elements listed in Condition C105.E.1.d

4. Samples shall be analyzed for acid-base accounting to determine acid generation and neutralizing potential, and to determine sulfur forms.

5. Determine the leaching characteristics of the ore using the Synthetic Precipitation Leaching Procedure (SPLP) on samples collected pursuant to Condition C105.B.1. The leachate derived from this procedure shall be analyzed for the parameters listed in Conditions C105.E.1.d using standard EPA methods.

6. Results of the characterization shall be submitted to NMED for approval a minimum of 30 days prior to processing of ore from sources other than the Summit Mine. If the results of the characterization indicate the ore may be acid generating, NMED may require actions at the Mill Site to accommodate the ore.

C. **Groundwater**

1. The permittee shall sound MW-1 and the No. 2 Banner Mine Shaft on a quarterly basis to determine if water is present. In the event water is present in MW-1 and the No. 2 Banner Mine Shaft, the permittee shall record the depth to water and elevation above mean sea level (MSL) to the nearest hundredth of a foot (0.01 ft) and measure and record field parameters listed in Condition C105.E.1.a below.

2. If water is present in the shaft or well the permittee shall collect samples and analyze for the water parameters listed in Condition C105.E1 a, b and c below.

3. Analytical results for the groundwater samples shall be submitted in the semi-annual monitoring reports specified in Condition C105.J below.

D. **Pond Water**

1. The permittee shall collect water samples quarterly from the Tailings Impoundment Decantation Pond and analyze for the water parameters listed in Condition C105.E.1 a, b, and c below.

2. The permittee shall collect water samples quarterly from the Mill Site Pond and analyze for the water parameters listed in Conditions C105.E.1 a, b, c, e, and f below.

3. The permittee shall submit the analytical results for all surface water samples in the semi-annual monitoring reports specified on Condition C105.J below.

E. **Analysis**

1. The permittee shall analyze the Tailings Impoundment and Decantation Pond water for total and dissolved concentrations of the analytes listed below. Samples of groundwater and seeps shall be analyzed for dissolved concentrations of the analytes below.

   a. Field parameters (analysis to be performed in the field): temperature, pH, electrical conductivity.

   b. General chemistry parameters: calcium, magnesium, sodium, potassium, carbonate, bicarbonate, sulfate, chloride, nitrate, fluoride, and total dissolved solids.

   c. Metal parameters: aluminum, arsenic, barium, beryllium, cadmium, chromium, cobalt, copper, iron, lead, manganese, mercury (total concentration only), molybdenum, nickel, selenium, silver, uranium, and zinc.

   d. Custom Ore inorganic parameters: aluminum, arsenic, boron, cadmium, calcium, chloride, chromium, cobalt, copper, cyanide, fluoride, iron, lead, manganese, mercury (total concentration only), molybdenum, nickel, combined radium 226 and 228, potassium, sodium, selenium, uranium and zinc.

   e. Organic parameters: Total Petroleum Hydrocarbons (TPH).

   f. Total Kjeldahl Nitrogen (TKN) and Nitrate (NO3-N).

   g. Analytical results shall be reported as required in Conditions C105.J.

F. **Tailings Discharge**

1. The permittee shall collect a tailings slurry sample quarterly from an active discharge location and analyze the solid fraction for whole rock analysis and acid-base accounting.

2. Analytical results shall be submitted in the semi-annual monitoring reports specified on Condition C105.J below.

G. **Discharge Volumes**

1. The permittee shall record the weekly volume of tailings slurry discharged to the Tailings Impoundment, using a totalized flow meter on the tailings discharge line.

2. The permittee shall record the weekly volume of water produced from the No. 2 Banner Mine Shaft using a totalized flow meter on the discharge line.

3. All flow meters shall be calibrated and kept operational at all times.

4. The permittee shall report the flow volumes (tailings slurry and water produced from the No. 2 Banner Mine shaft) measured as required in Condition C105.J below.

H. **Water Elevations**

1. Using a staff gage (located in the Mill Site Pond and Tailings Impoundment Pond) labeled with elevations indexed to a base site elevation monument, the permittee shall measure the surface elevations of each pond quarterly, at the same time the water is sampled.

2. The permittee shall report the results from the measurements in the semi-annual monitoring reports specified on Condition C105.J below.

I. **Meteorological Data**

1. The permittee shall measure and record the total daily precipitation at the Mill Site. The data shall be submitted with the semiannual monitoring reports specified in C105.J.

J. **Reporting**

1. The permittee shall submit monitoring reports to NMED on a semi-annual schedule that that contain all quarterly monitoring data and information collected pursuant to requirements of this Discharge Permit. Semi-annual reports are due by the last day of January and July of each year. Reports shall include:

   a. A summary of all relevant activities at the facility during the preceding six months. These activities shall include without limitation operational activities, daily flow volumes, spills, maintenance, repairs, well drilling, water management, construction or demolition of structures, closure activities, ore and tailings analysis, and precipitation;

   b. A single table showing water quality data in columns and monitoring sites in rows, including a column showing the applicable water quality standard. Values exceeding applicable water quality standards under the WQCC Regulations in 20.6.2.3103.A NMAC shall be shown in bold-faced type. Only those constituents analyzed and water levels measured during a single sampling event shall be included. Tabulated electrical conductivity shall include the measured field values. Monitoring sites shall be shown in rows. Any constituent not analyzed for a particular site shall be shown as "NA," any site not sampled shall be shown as "NS," and any site not measured for water levels

shall be shown as "NM." Any such entry shall be accompanied by a note explaining why the site was not sampled, the constituent was not analyzed, or the water level was not measured. The table shall be submitted in electronic (Microsoft Excel) format;

c. Electronic copies of the signed laboratory analyses and laboratory QA/QC sheets; and

d. Graphs showing water quality and water level trends with the previous 3 years of data. Water quality graphs shall include trends for the following Mill Site Pond constituents: pH, conductively, TDS, sulfate, manganese, Aluminum, Arsenic, Calcium, Chloride, Copper, Fluoride, Iron, Lead, Manganese, Potassium, Sodium & TKN.

K. **General Sampling and Analytical Methods**

Unless otherwise approved in writing by NMED, the permittee shall conduct sampling and analysis in accordance with the most recent edition of the following documents:

1. American Public Health Association, Standard Methods for the Examination of Water and Wastewater (18th, 19th or current)

2. U.S. Environmental Protection Agency, Methods for Chemical Analysis of Water and Wastewater

3. U.S. Geological Survey, Techniques for Water Resource Investigations of the U.S. Geological Survey

4. American Society for Testing and Materials, Annual Book of ASTM Standards, Part 31. Water

5. U.S. Geological Survey, et al., National Handbook of Recommended Methods of Water Data Acquisition

6. Federal Register, latest methods published for monitoring pursuant to Resource Conservation and Recovery Act regulations.

7. Methods of Soil Analysis: Part 1. Physical and Mineralogical Methods; Part 2. Microbiological and Biochemical Properties; Part 3. Chemical Methods, American Society of Agronomy

C106 Closure Plan

A. Closure of facilities regulated under this Discharge Permit shall be performed in

accordance with the approved closure plan. Any changes to units associated with the Banner Mill may require adjustments to the closure plan and financial assurance.

C107 Financial Assurance

A. The permittee shall maintain the existing and any revised joint financial assurance with NMED and the Mining and Minerals Division (MMD) of the New Mexico Energy, Minerals and Natural Resources Department in an amount sufficient to cover the cost of a third party to implement the NMED and MMD approved final closure plan. The financial assurance shall ensure that funds will be available to implement the closure plan if at any time the permittee is unable, unwilling, or otherwise fails to implement closure of the facility. [20.6.2.3107A(11) NMAC]

Part D GENERAL CONDITIONS

General Conditions required pursuant to 20.6.2 NMAC are listed below.

D100 Enforcement

A. Any violation of the requirements and conditions of this Discharge Permit, including any failure to allow NMED staff to enter and inspect records or facilities, or any refusal or failure to provide NMED with records or information, may subject the permittee to a civil enforcement action. Pursuant to the NMSA 1978, Section 74-6-10(A) and (B), such action may include a compliance order requiring compliance immediately or in a specified time, assessing a civil penalty, modifying or terminating the discharge permit, or any combination of the foregoing; or an action in district court seeking injunctive relief, civil penalties, or both. Pursuant to the NMSA 1978, Section 74-6-10(C) and Section 74-6-10.1, civil penalties of up to $15,000 per day of noncompliance may be assessed for each violation of the WQA, the WQCC Regulations, or this Discharge Permit, and civil penalties of up to $10,000 per day of noncompliance may be assessed for each violation of any other provision of the WQA, or any regulation, standard, or order adopted pursuant to such other provision. [NMSA 1978, § 74-6-10; NMSA 1978, § 74-6-10.1]

B. Pursuant to the NMSA 1978, Section 74-6-10.2(A-F), criminal penalties may be assessed for any person who knowingly violates or knowingly causes or allows another person to:

1. Make any false material statement, representation, certification or omission of material fact in an application, record, report, plan or other document filed, submitted or required to be maintained under the WQA;

2. Falsify, tamper with or render inaccurate any monitoring device, method or record required to be maintained under the WQA; or

3. Fail to monitor, sample or report as required by a permit issued pursuant to a state or federal law or regulation, is subject to felony charges and shall be sentenced in accordance with the provisions of NMSA 1978, Section 31-18-15.

D101 General Inspection and Entry Requirements

A. Nothing in this Discharge Permit shall be construed as limiting in any way the inspection and entry authority of NMED under the WQA, the WQCC Regulations, or any other applicable law or regulation. [20.6.2.3107 NMAC, 74-6-9(B) & (E) WQA]

B. The permittee shall allow the Secretary or an authorized representative of NMED, upon presentation of credentials to:

1. Enter at regular business hours or at other reasonable times upon the permittee's premises or other location where records must be kept under the conditions of this Discharge Permit, or under any federal or WQCC regulation.

2. Inspect and copy, during regular business hours or at other reasonable times, records required to be kept under the conditions of this Discharge Permit or under any federal or WQCC regulation.

3. Inspect, at regular business hours or at other reasonable times, any facility, equipment (including monitoring and control equipment for treatment works), practices or operations regulated or required under this Discharge Permit, or under any Federal or WQCC regulations.

4. Sample or monitor, at reasonable times for the purpose of assuring compliance with this Discharge Permit or as otherwise authorized by the WQA, any effluent, water contaminant, or receiving water at any location before or after discharge.

5. Nothing in this Discharge Permit shall be construed as limiting in any way the inspection and authority of the NMED under the WQA, the WQCC Regulations, or any other applicable law or regulation.

D102 General Record Keeping and Reporting Requirements

A. The permittee shall retain written records at the mill facility of all data and information on monitoring of groundwater, surface water, seepage, and meteorological conditions pursuant to this Discharge Permit including the following:

1. The dates, exact place and times of sampling or field measurement;
2. The name and job title of the individual who performed each sample collection or field measurement;
3. The date and analysis of each sample;
4. The name and address of the laboratory and the name and job title of the person that performed the analysis of each sample;
5. The analytical technique or method used to analyze each sample or take each field measurement;
6. The results of each analysis or field measurement, including the raw data;
7. A description of the quality assurance (QA) and quality control (QC) procedures used.

D103 Reporting Requirements for Unauthorized Discharges

A. In the event of a spill or release that is not authorized under this Discharge Permit, the permittee shall initiate the notification and corrective actions as required in 20.6.2.1203 NMAC. The permittee shall take immediate corrective action to contain and remove or mitigate any damage caused by the discharge. Within 24 hours after discovery of the discharge, the permittee shall verbally notify NMED and provide the information required by Paragraph (1) of Subsection A of 20.6.2.1203 NMAC. Within 7 days of discovering the discharge reportable under 20.6.2.1203 NMAC, the permittee shall submit a written report to NMED verifying the oral notification and providing any additional information or changes. The permittee shall submit a corrective action report within 15 days after discovery of the discharge. [20.6.2.1203 NMAC]

B. As part of the 24-hour spill notification requirements, the permittee shall submit a figure to NMED that clearly displays the location (or locations) of the spill and identifies nearby mill units by the end of the next business day.

D104 Monitoring Well Abandonment

A. The permittee shall submit a written request for NMED approval to amend or modify this Discharge Permit at least 30 days prior to the anticipated destruction or removal of any monitoring wells required by this Discharge Permit. Monitoring well plugging and abandonment shall be completed in accordance with the *Groundwater Discharge Permit Monitoring Well Construction and Abandonment Conditions,* Revision 1.1, March 2011, or according to regulations issued by the Office of the State Engineer in

19.27.7 NMAC, unless an alternate method is approved by NMED. [20.6.2.3107 NMAC]

B. The request required in D104.A shall include the following information:

1. A scaled map showing the location of the monitoring well(s) and the facilities it is intended to monitor;
2. The purpose for plugging and abandoning the monitoring well(s);
3. Details, if available, on the monitoring well(s) including depth-to-water elevation, top-of-casing elevation, construction and lithologic logs;
4. Recent groundwater chemistry results from the monitoring well(s);
5. Proposed replacement well(s), if applicable; and
6. Same details, as applicable, as provided in D104.B.1, D104.B.3, D104.B.4 above are required for the proposed replacement monitoring well(s).

D105 Modifications and Amendments

A. In the event the permittee proposes a change to the facility or the facility's discharge that would result in a change in the volume discharged; the location of the discharge; or in the amount or character of water contaminants received, treated or discharged by the facility, the permittee shall notify NMED prior to implementing such changes. The permittee shall obtain approval by NMED prior to implementing such changes, which may require modification or an amendment to this Discharge Permit. [20.6.2.3107.C NMAC; 20.6.2.3109.E, 20.6.2.3109.F, or 20.6.2.3109.G NMAC]

B. Pursuant to Subsection E of 20.6.2.3109 NMAC, NMED reserves the right to require a discharge permit modification in the event NMED determines that the requirements of 20.6.2 NMAC are being or may be violated, or the standards of Section 20.6.2.3103 NMAC are being or may be violated. This may include a determination that structural controls and/or management practices approved under this Discharge Permit are not protective of groundwater quality, and that more stringent requirements are needed to protect groundwater quality. The permittee may be required to abate water pollution.

D106 Compliance with Other Laws

A. Nothing in this Discharge Permit shall be construed in any way as relieving the permittee of its obligation to comply with all applicable Federal, State, and local laws, regulations, permits, or orders. The permittee does not waive any rights under such applicable Federal, State and Local Laws, regulations, permits, or orders except as expressly provided in this Discharge Permit. [20.6.2 NMAC] [NMSA1978, § 74-5-5(K)]

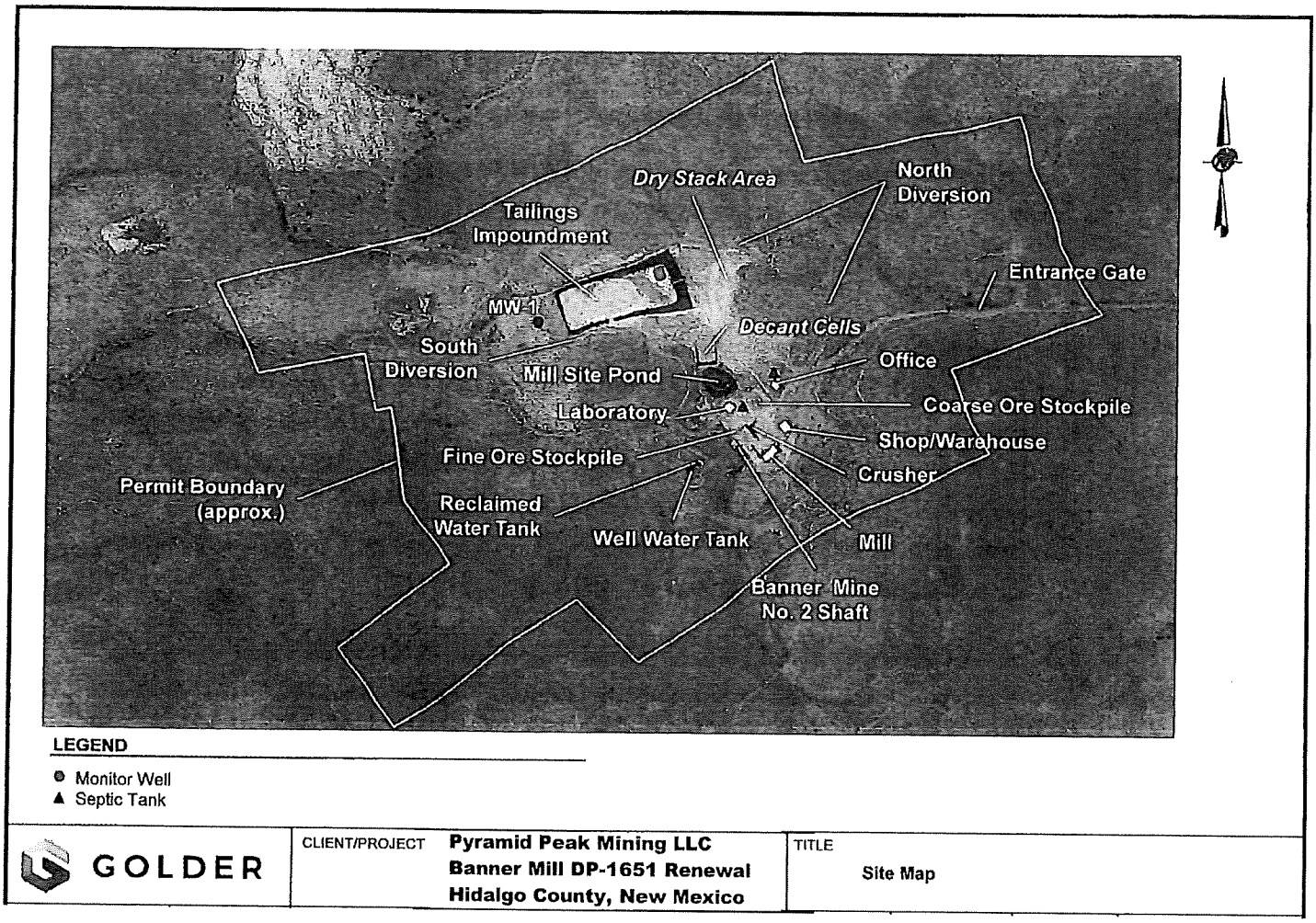
Dry Stack Area
North Diversion
Tailings Impoundment
Entrance Gate
MW-1
Decant Cells
South Diversion
Mill Site Pond
Office
Laboratory
Coarse Ore Stockpile
Shop/Warehouse
Fine Ore Stockpile
Crusher
Permit Boundary (approx.)
Reclaimed Water Tank
Well Water Tank
Mill
Banner Mine No. 2 Shaft
LEGEND
Monitor Well
Septic Tank
GOLDER
CLIENT/PROJECT
Pyramid Peak Mining LLC
Banner Mill DP-1651 Renewal
Hidalgo County, New Mexico
TITLE
Site Map

Figure 1

Table 1
Monitoring and Reporting Summary for DP-1651

Monitoring Report Schedule of Submittal (Subsection A of 20.6.2.3107 NMAC)						
	Semi-Annual Monitoring Reports due by January 31st and July 31st					
Reporting Summary						
Annual Reporting Frequency	**Number of Sites**	**Description**				
2	7	All applicable requirements of Subsection A through D of 20.6.2.3107 NMAC)				
Monitoring Schedule						
Location	**Name or ID**	**Sampling**				**Notes**
		Q1	Q2	Q3	Q4	
Monitoring Well						
	MW#1	W, B, C	W, B, C	W, B, C	W, B, C	
	Banner Shaft #2	W, B, C	W, B, C	W, B, C	W, B, C	
Ponds						
	Decant Pond	B, C	B, C	B, C	B, C	
	Mill Site Pond	B, C, O, N	B, C, O, N	B, C, O, N	B, C, O, N	
Stormwater Outfalls						
	South Diversion	B, C	B, C	B, C	B, C	
	North Diversion	B, C	B, C	B, C	B, C	
	Upper Mill Site Diversion	B, C	B, C	B, C	B, C	
Seeps						
	Stockpiles & Tailings Impoundment, (if discovered)	B, C	B, C	B, C	B, C	

Sampling Analytical Suites:
A = Field Parameters: pH, specific conductance
B = Indicator Parameters: Suite A, Sulfate, total dissolved solids (TDS)
C = Comprehensive inorganic suite: Al, As, Ca, Cd, Cl, Co, Cr, Cu, Ca, Cl, F, Fe, Pb, Mn, Na, K, Pb, Mn, Ni, Se, and Zn
W= Depth-to-water measurement to the nearest 0.01 foot
O= Total Petroleum Hydrocarbons (TPH)

N= Nitrate as nitrogen, total Kjeldahl nitrogen (TKN), and chloride		
Explanation of Abbreviations and Symbols		
Sampling Quarters: Q1 = Jan – Mar Q2 = Apr – Jun Q3 = July – Sep Q4 = Oct - Dec		Sampling Analytes Suite C: alk-HCO_3= alkalinity-bicarbonate alk-CO_3=alkalinity-carbonate Cr = Chromium Ca = Calcium Mg = Magnesium Na = Sodium K = Potassium F = Fluoride Cl = Chloride Al = Aluminum As = Arsenic Cd = Cadmium Co = Cobalt Cu = Copper Fe = Iron Pb = Lead Mn = Manganese Ni = Nickel Se = Selenium Zn = Zinc

Table 2 – Flow Volumes

Flow Description	Site Description	Frequency
Tailings Slurry to the Tailings Impoundment (GPW)	Tailings Impoundment Discharge Line[1]	Weekly
Water produced from the Banner Mine No. 2 Shaft (GPW)	Banner Shaft No. 2 Pump[1]	Weekly

1.Totalizer Flow Meter

Table 3 – Other Monitoring

Measurement	Location	Frequency
Tailings Discharge – Solid fraction for whole rock analysis & ABA	Tailings Impoundment Discharge Line	Quarterly
Surface Water Elevations[2]	Mill Site Pond Surface and Tailings Pond Surface (AMSL)	Quarterly
Precipitation (inches per day)	Banner Mill Site	Daily
Acid Generation and Neutralizing Potential of Ore	Coarse Ore Stockpile	Prior to Processing Ore other than the Summit Mine

2. Recorded at same time as water samples are collected

STATE OF NEW MEXICO
WATER QUALITY CONTROL COMMISSION
WQCC 18-05(A)

RATIFICATION OF DECISION BY COMMISSION TO RECONSIDER APRIL 9, 2019, DECISION DENYING MOTION TO VACATE AGENCY DECISION AND REMAND THE PETITION FOR REVIEW OF DP-1132; PETITION FOR REVIEW OF THE NEW MEXICO SECRETARY OF THE ENVIRONMENT'S DECISION GRANTING GROUNDWATER DISCHARGE PERMIT DP-1132 IN PROCEEDING GROUNDWATER BUREAU 17-20(P) IN RESPONSE TO COMMUNITIES FOR CLEAN WATER v. WQCC S1 SC 37717.

TRANSCRIPT OF PROCEEDINGS
June 18, 2019
10:02 a.m.
STATE CAPITOL BUILDING, ROOM 307
490 Old Santa Fe Trail
Santa Fe, New Mexico 87501

REPORTED BY: DENISE KOPAN, CCR #124
ALBUQUERQUE COURT REPORTING SERVICE, LLC
Post Office Box 56787
Albuquerque, New Mexico 87187

MR. PATTEN: Yes.

MR. BARNES: Commissioner Wade?

MR. WADE: Yes.

MR. BARNES: Commissioner Musharrafieh?

DR. MUSHARRAFIEH: Yes.

MR. BARNES: Commissioner Dominguez?

MR. DOMINGUEZ: Abstain.

MR. BARNES: Commissioner Rader?

MS. RADER: Yes.

MR. BARNES: And Commissioner Pruett?

MS. PRUETT: Yes. So that motion carries?

MR. BARNES: Yes. It carries, yes.

MS. PRUETT: Thank you. Item five on our Agenda is -- off the record.

(Discussion off the record.)

MS. PRUETT: Mr. Butzier?

MR. BUTZIER: Okay. Madam Hearing Officer, the court reporter is picking up with a record of this proceeding after Mr. Verheul for the New Mexico Environment Department has made a motion to reconsider the decision today to ratify the decision to remand for a new hearing, and Mr. Verheul's motion was to limit the effect of the remand so that it's not an instruction to have a new hearing for reasons that he set forth, including that the entire hearing was

conducted and post-hearing matters were submitted before the job opening was advertised. And so there is no indication of a need to correct anything that occurred up to that point.

And Mr. Verheul further made the point that there will be an opportunity for a newly appointed Hearing Officer, in the remand proceeding, to consider all of the hearing record, all of the post-hearing submissions, including the renewed Motion to Dismiss by CCW, and will have an opportunity to fully consider and reach the same or a different conclusion than the original Hearing Officer and provide a report to the Secretary resulting from that review.

I would add to that that there is a further opportunity, after the new Hearing Officer submits a report within 15 days under the rules, and I have just handed the Commissioners in the room a copy of the adjudicatory procedures that control permit proceedings before the New Mexico Environment Department.

And if you turn to page nine, Rule 20.1.4.500(C) is the provision for a Hearing Officer Report which is to be provided within 30 days of the post-hearing submissions.

And then if you turn to page ten, 20.1.4.500(C)(2) allows a 15-day period for the parties

to duplicate.

With that, Members of the Commission, I would conclude and request that the motion be granted.

Thank you.

MS. PRUETT: Thank you, Mr. Butzier.

Mr. Lovejoy?

MR. LOVEJOY: Thank you, Madam Chair, Members of the Commission. This is Lindsay Lovejoy for CCW.

MS. PRUETT: Mr. Lovejoy, could I prevail -- oh, there is one there.

MR. LOVEJOY: I got it.

MS. PRUETT: Can people on the telephone hear Mr. Lovejoy? Very poorly. So maybe you could get a little closer to the microphone.

MR. LOVEJOY: Okay. I will just sit down and shout.

Back in January, when we heard that Erin Anderson had taken a job with the Lab, I wrote a letter to counsel for -- it initially went to Mr. Butzier, and it was bucked to Mr. DeRoma, and the first question I asked was, "When did the hiring process begin?"

And I have never heard the answer. I was told, in fact, that they wouldn't tell me, something about disclosing personnel matters or that kind of thing. That remains unknown.

The assertion that nothing improper could possibly have happened before the 15th of June is without foundation, and it needs to be explored. And if this Commission were to restrict the Environment Secretary's ability to allow that to be looked into, find out when the disqualification actually began, it would be a mistake, and we would still have a record that might be corrupted, a case that might be affected by misconduct.

There are ways that this may be handled involving use of the existing report. I'm not saying it would be perfect, or even acceptable, but they need to be explored, and this needs to be done before the -- in the Environment Department, whose job it is to conduct the hearings.

If this Commission were to constrain the Department from dealing with this situation, this very unfortunate situation, I think we are only going to be litigating it again. To repeat, I have not learned, it has not been disclosed, when Ms. Anderson and the NNSA people commenced discussions about possibly employing her, and that is the point when disqualification arises.

The cases are quite clear on that. There is an important one, and I actually have copies for any

Commissioners, of this Al'Nashiri case in the D.C. circuit dealing with the Military Commission Judge who, in the middle of a criminal proceeding, started interviewing for a job with the Immigration Service as an immigration judge, and like Ms. Anderson, disclosed nothing to the interested parties, who found out about it, again, by the grapevine.

And, of course, all of the Orders he made from the time the discussions were made were vacated, and that's what's called for here, but first, we need to know when the discussions began. And that's not for this body.

This is not a fact-finding body for holding hearings. It's not for this body to make that investigation. It's for the Environment Department, whose job it is to do the hearings and to do them right.

MS. PRUETT: Thank you, Mr. Lovejoy. That case was provided to the Commission by -- it's by our counsel.

MR. LOVEJOY: It's good reading, Your Honor, Madam Chair.

MS. PRUETT: Mr. Butzier, or, Mr. Verheul, do you have any response? I'm sorry. Am I correct that you were done, Mr. Lovejoy?