

COPY



STATE OF NEW MEXICO
BEFORE THE SECRETARY OF ENVIRONMENT

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

No. GWB 17-20 (P)

**NEW MEXICO ENVIRONMENT DEPARTMENT'S
NOTICE OF FILING OF AMENDED ADMINISTRATIVE RECORD**

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

Respectfully submitted,

**NEW MEXICO ENVIRONMENT DEPARTMENT
OFFICE OF GENERAL COUNSEL**

By: /s/ John Verheul
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 April 18, 2018:

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 Los Alamos 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

Jonathan Block
New Mexico Environmental Law Center
1405A Luisa Street #5
Santa Fe, New Mexico 87505-4074
jblock@nmelc.org

Attorneys for Communities for Clean Water

/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 Mortandad 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

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

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

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 Quiyo 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 (PRs 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

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

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

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

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

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

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

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, NMED	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

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	Phyllis 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

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,

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)

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-

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

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-

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,

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

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

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

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, P'lee Quiyo Inc.; Susan Diane; Douglas Meiklejohn, NM ELC; Joey Natseway, Tewa Women United; Joni Arends, CCNS	Letter	Notice of Public Hearing

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 <i>Ground Water Wells in the Mortandad Canyon Area</i> (LA-UR-03-4596, July 2003	Request for additional information, TA-50 RLWTF, Ground Water Discharge Plan DP- 1132

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

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, NMED	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

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

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-

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

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

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

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

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

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,

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
07/28/2010	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

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

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

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

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

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

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

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

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

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	2 nd Set of Comments and Hrg. Reg. from CCW, TWU and Individuals on DP-1132 for the RLWTF – Cover

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	2 nd 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

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

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

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

Date	Bates No.	From	To	Format	Subject
			Gilkeson; Jennifer Pruet, NMED		
06/13/2014	10212-10217	Jonathan Block, NMELC	Jennifer Pruet, 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

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

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:

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 Pruet, NMED; Michael Saladen, LANL; Alison Dorries, LANS; Gene Turner, DOE; Bob Beers, LANL; Anthony Grieggs, EPA; Steven Huddleson, NMED; Jerry Schoeppner, NMED; Jonathan Block, NMELC; Jennifer Hower, NMED	Email	CCNS – Receipt of FOIA Request
10/23/2014	12826-12828	Steven Huddleson, NMED	Bob Beers, LANL; Jennifer Pruet, NMED	Email	DP-1132 list of remaining issues

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

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

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

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:

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

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

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

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 Honnker, 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

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:

Date	Bates No.	From	To	Format	Subject
					Nuclear Negligence
10/30/201	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

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,

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
03/07/2018	14045	NMED	NA	Notice	Copy of public notice of draft permit DP-1132 - (PN2) – call for public comment and request for hearing – includes a link to draft permit - re-notice to provide current and

Date	Bates No.	From	To	Format	Subject
					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

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)
FROM THE RADIOACTIVE LIQUID WASTE
TREATMENT FACILITY

No. GWB 17-20 (P)

ORDER DENYING MOTION TO DISMISS

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

A handwritten signature in black ink, reading 'Erin O. Anderson', is positioned above a horizontal line.

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

CERTIFICATE OF SERVICE

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

Via hand delivery and Email:

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

Via First Class U.S. Mail and Email:

Stuart R. Butzier
Christina C. Sheehan
Modrall, Sperling, Roehl, Harris & Sisk, P.A.
P.O. Box 9318
Santa Fe, New Mexico 87504-9318
stuart.butzier@modrall.com
christina.sheehan@modrall.com
Counsel for Los Alamos National Security, LLC

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

Jonathan Block
New Mexico Environmental Law Center
1405A Luisa Street #5
Santa Fe, New Mexico 87505-4074
jblock@nmelc.org
Counsel for Communities for Clean Water


Pam Castañeda, Hearing Clerk

STATE OF NEW MEXICO
BEFORE THE SECRETARY OF ENVIRONMENT




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

GWB 17-20 (P)

NOTICE OF TRANSCRIPT FILING

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

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


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

CERTIFICATE OF SERVICE

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

Via hand delivery and Email:

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

Via First Class U.S. Mail and Email:


Stuart R. Butzier
Christina C. Sheehan
Modrall, Sperling, Roehl, Harris & Sisk, P.A.
P.O. Box 9318
Santa Fe, New Mexico 87504-9318
stuart.butzier@modrall.com
christina.sheehan@modrall.com
Counsel for Los Alamos National Security, LLC

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

Jonathan Block
New Mexico Environmental Law Center
1405A Luisa Street #5
Santa Fe, New Mexico 87505-4074
jblock@nmelc.org
Counsel for Communities for Clean Water



Pam Castañeda, Hearing Clerk

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STATE OF NEW MEXICO
BEFORE THE SECRETARY OF ENVIRONMENT
No. GWB 17-20(P)

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

TRANSCRIPT OF PROCEEDINGS

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

1 A P P E A R A N C E S

2 THE HEARING OFFICER:

3 MS. ERIN O. ANDERSON
4 Administrative Law Judge
5 New Mexico Environment Department
6 1190 St. Francis Drive
Suite S-2100
Santa Fe, New Mexico 87505
505-827-0339

7 FOR THE NEW MEXICO ENVIRONMENT DEPARTMENT:

8 MR. JOHN VERHEUL
9 General Counsel
10 New Mexico Environment Department
11 1190 St. Francis Drive
12 Harold Runnels Building
Suite N-4050
Santa Fe, New Mexico 87502
john.verheul@state.nm.us

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

14 MR. STUART R. BUTZIER
15 MS. CHRISTINA C. SHEEHAN
MODRALL SPERLING ROEHL HARRIS & SISK, PA
16 Attorneys at Law
123 E. Marcy Street
Suite 201
17 Santa Fe, New Mexico 87501
505-848-1832
18 sbutzier@modrall.com
ccs@modrall.com

19 MS. SUSAN L. McMICHAEL
20 Office of Laboratory Counsel/MS A187
21 Los Alamos National Laboratory
PO Box 1663
22 Los Alamos, New Mexico 87545-0001
smcmichael@lanl.gov

23

24

25

1 A P P E A R A N C E S (CONTINUED)

2 MR. SILAS R. DeROMA
3 Site Counsel
4 US Department of Energy
5 National Nuclear Security Administration
6 3734 West Jemez Road
7 MS-A316
8 Los Alamos, New Mexico 87544
9 505-667-4668
10 silas.deroma@nnsa.doe.gov

11 For Communities for Clean Water:

12 MR. LINDSAY A. LOVEJOY, JR.
13 Attorney at Law
14 3600 Cerrillos Road
15 Unit 1001A
16 Santa Fe, New Mexico 87507
17 505-983-1800
18 lindsay@lindsaylovejoy.com

19 MR. JONATHAN BLOCK
20 Attorney at Law
21 New Mexico Environmental Law Center
22 1405 Luisa Street
23 Suite 5
24 Santa Fe, New Mexico 87506
25 505-989-9022
 jblock@nmelc.org

 MS. JONI ARENDS
 Attorney at Law
 Executive Director CCNS
 107 Cienega Street
 Santa Fe, New Mexico 87501
 505-986-1973
 jarends@nuclearactive.org

20

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23

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1 MS. ANDERSON: Hi. Good morning.

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

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

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

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

14 MS. CASTANEDA: Yes. Okay.

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

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

21 So just so we're clear, we're on the record in
22 GWB, as in boy, 17-20(P), as in permit, and this is in
23 the matter of the application of United States
24 Department of Energy and Los Alamos National Security,
25 LLC, for a groundwater discharge permit.

1 The permit -- many of the people who have been
2 working on this case, they call it by the permit, which
3 is DP-1132. So we have our own numeric way of doing it,
4 so I'll probably revert to the GWB 17-20 number, but
5 just in case anybody is hearing two different permits.

6 This permit is for the Radioactive Liquid
7 Waste Treatment Facility.

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

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

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

18 We have an entry of appearance by Mr. Verheul
19 of NMED, acronym for New Mexico Environment Department.
20 We have New Mexico Environment Department's response to
21 the opposition to Communities for Clean Water's motion
22 to dismiss DP-1132. That was filed on 4/2 -- April 2nd,
23 2018. And then Los Alamos National Security, LLC, and
24 the United States Department of Energy filed a response
25 to the motion to dismiss on DP-1132, and that was also

1 filed on April 2nd. There was a reply brief on the
2 motion to dismiss on DP-1132. That was filed on 4/6.

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

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

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

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

19 Los Alamos National Security, LLC, and the
20 United States Department of Energy's statement of intent
21 to present technical testimony, that was filed on
22 4/9/2018.

23 And New Mexico Environment Department's notice
24 of filing of the administrative record was done on
25 4/12/2018.

1 We haven't had a chance to amend the pleading
2 board yet because I've been in Albuquerque, but
3 yesterday I issued a procedural order denying the motion
4 to dismiss, and that was distributed to the parties. So
5 that is something that Pam filed yesterday. It's not
6 yet in the record.

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

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

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

16 MR. VERHEUL: Good morning, Madam Hearing
17 Officer.

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

22 MS. ANDERSON: Okay. Thank you.

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

25 And at this time we have no additional

1 exhibits to offer. We reserve the right to offer
2 additional exhibits if they become necessary during the
3 course of the proceeding.

4 MS. ANDERSON: Thank you.

5 MR. LOVEJOY: Lindsay Lovejoy for CCW.

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

14 MS. ANDERSON: Okay.

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

17 MS. ANDERSON: Sure.

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

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

23 MR. BUTZIER: No objection.

24 MS. ANDERSON: No objection?

25 MR. BUTZIER: No objection.

1 MS. ANDERSON: Okay.

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

3 MS. ANDERSON: Thank you very much.

4 Yeah.

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

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

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

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

19 MS. ANDERSON: Counsel and witnesses, yes.

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

22 My name is Stuart Butzier with the Modrall
23 Sperling Law Firm in the Santa Fe office, and with me at
24 counsel table is Susan McMichael, who is with the Office
25 of General Counsel at Los Alamos Lab; and also my

1 partner, Christina Sheehan, in the Albuquerque office of
2 Modrall Sperling.

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

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

10 MS. ANDERSON: Thank you.

11 MR. BUTZIER: Thank you.

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

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

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

1 So I sort of personalize things a little bit.

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

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

7 Is it okay if I do a standing one?

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

12 So we're going to start with Scott Kovac.
13 Kovac, Kovac?

14 MR. KOVAC: Kovac.

15 MS. ANDERSON: Kovac.

16 Hi, Mr. Kovac.

17 Rachel Conn. Hi, Ms. Conn.

18 Beata Tsosie. Hi.

19 Kathy Sanchez. Kathy is here.

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

22 MS. PERROTTE: Perrotte.

23 MS. ANDERSON: Perrotte, okay.

24 Sister Joan Brown. Hi.

25 This is a tough one.

1 Joe Zupan.

2 MR. ZUPAN: Joe Zupan.

3 MS. ANDERSON: Zupan, okay.

4 Thank you.

5 Mike Saladen.

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

8 MS. ANDERSON: Okay. Thank you.

9 That might be also true of you. Bob Beers.
10 You're not going to make comment.

11 MR. BUTZIER: He's a witness.

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

14 Marian Naranjo. Is Marian here? Okay.

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

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

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

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

24 MS. ANDERSON: Thank you very much, everyone.

25 So we're going to start with you, Mr. Kovac.

1 MS. TOWNSEND: And can you start with spelling
2 your name for me, please?

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

4 MS. TOWNSEND: Right there.

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

7 MR. KOVAC: Thank you, Madam Chair.

8 SCOTT KOVAC

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

11 PUBLIC COMMENT

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

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

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

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

24 In our comments, we requested a public
25 hearing, which meant that Nuclear Watch was interested

1 in participating in negotiations to resolve issues.

2 Please see the administrative record at Bates
3 number 09683.

4 We understand that Nuc- -- we understand that
5 a series of meetings and negotiations over various
6 versions of the draft permit were held between the
7 Environment Department, the Department of Energy, the
8 National Nuclear -- the National Nuclear Security
9 Administration, Los Alamos National Security, and the
10 Communities for Clean Water.

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

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

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

24 In 2010, the negotiated -- in 2010, we
25 negotiated over DP-1132 and the Radioactive Liquid Waste

1 Treatment Facility at great length.

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

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

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

13 Thank you.

14 MS. ANDERSON: Thank you.

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

17 MR. KOVAC: Sure.

18 MS. ANDERSON: Thank you very much.

19 Ms. Conn.

20 MS. CONN: Hello.

21 MS. ANDERSON: Hi.

22

23

24

25

1 RACHEL CONN

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

4 PUBLIC COMMENT

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

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

15 MS. ANDERSON: Sure.

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

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

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

23 MS. CONN: Sure.

24 So this is -- this is a letter that has been
25 signed by 28 people, and what it -- it says -- I can

1 read -- I could read this into the record, the -- it's a
2 form that has been signed by 28 people.

3 MS. ANDERSON: Sure.

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

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

20 "In June 1998, LANL released a report
21 'Elimination of Liquid Discharge to the Environment from
22 the TA-50 Radioactive Liquid Waste Treatment Facility,'
23 LA-13452-MS. In that report, LANL defined zero liquid
24 discharge as 'Zero liquid discharge from the Radioactive
25 Liquid Waste Treatment Facility means that no treated

1 liquid radioactive waste will be discharged to the
2 environment.'" That's on page 32 of that aforementioned
3 report.

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

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

18 "Thank you for careful consideration of these
19 comments."

20 MS. ANDERSON: Thank you very much.

21 MS. CONN: Okay.

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

24 Thank you. And give that to Kathy.

25 So next up is Beata Tsosie.

1 MS. TOWNSEND: Is this admitted?

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

3 MS. TOWNSEND: As what?

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

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

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

9 MS. ANDERSON: Hi.

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

12 BEATA TSOSIE

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

15 PUBLIC COMMENT

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

18 MS. TOWNSEND: Your name.

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

20 MS. TOWNSEND: Can you spell that?

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

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

24 I'm here to express my concerns about what is
25 happening to our water up here. I want to speak on our

1 truth and world view that water is sacred; water is
2 deserving of all the respect, love and care that we
3 would give to each other.

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

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

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

25 I also have observed how this facility -- how

1 Los Alamos National Laboratories constantly look for
2 loopholes to not be regulated, to avoid being held
3 accountable for how it treats our life-giving elements
4 that are here listening to us today.

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

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

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

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

24 I would love for the harm and the
25 environmental violence to disappear, but in the very

1 least, I ask that this permit is dismissed and that this
2 -- that this facility is regulated under RCRA and
3 hazardous waste.

4 Thank you. Condola.

5 MS. ANDERSON: Thank you.

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

8 Hi.

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

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

13 KATHY SANCHEZ

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

16 PUBLIC COMMENT

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

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

21 I'm here as an elder from San Ildefonso
22 Pueblo. I am not representing our tribal government,
23 but speaking for myself in recognition of ancestral,
24 honest, heartfelt, spirit-rooted peoples in the sacred
25 Jemez Mountains, (in Tewa), our people.

1 Sacred energy for life-giving is love. Love
2 for Mother Earth speaks honestly, truthfully, about do
3 no harm and do with highest, best accountability for
4 toxic fluidity of multiple pathways of spirited,
5 energetic, radioactive liquid waste.

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

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

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

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

1 the teapot, here is the handle, here is the spout."

2 So how does that apply?

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

15 There is no magic veil to hide this ingenuity.
16 Teapot mentality.

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

22 MS. ANDERSON: Thank you, Ms. Sanchez.

23 Would you hand that over to Sister Perrotte?

24 MS. PERROTTE: Good morning.

25 MS. ANDERSON: It's a tight squeeze over here.

1 MS. PERROTTE: Good morning, Madam Hearing
2 Officer --

3 MS. ANDERSON: Good morning.

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

5 MARLENE PERROTTE

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

8 PUBLIC COMMENT

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

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

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

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

23 This facility needs to be regulated. The
24 public was never given the decision of whether or not we
25 should have this kind of facility and that we should be

1 continuing to produce liquid hazardous waste. We were
2 never asked that.

3 From the Government Accountability Office,
4 March 14th, 2018, this is part of what the DOE is doing.

5 Since 1989, the Department of Energy has spent
6 over 164 billion to retrieve, treat and dispose of
7 nuclear and hazardous waste.

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

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

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

21 Modernizing nuclear infrastructure and
22 production of nuclear pits and nuclear weapons will
23 instead set back non-proliferation and arms control
24 efforts across the globe and further hollow out our
25 country by diverting yet more huge sums of money to the

1 usual fat defense contractors, at the expense of public
2 education, environmental protection, natural disaster
3 recovery, et cetera.

4 Why am I bringing this up?

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

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

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

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

16 Where is non-proliferation?

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

20 When will a permit also address that issue?

21 Thank you.

22 MS. ANDERSON: Thank you very much.

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

25 MS. PERROTTE: Yes.

1 Thank you.

2 MS. ANDERSON: Thank you very much.

3 Hi. Good morning.

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

6 JOAN BROWN

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

9 PUBLIC COMMENT

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

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

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

25 And Pope Francis speaks of -- that each year

1 hundreds of millions of tons of waste are generated,
2 much non-biodegradable, highly toxic and radioactive.

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

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

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

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

23 And so I think the problem that we're facing
24 is that we're leaving our souls outside the door when we
25 enter facilities; and when we enter this room, I would

1 beg and pray that we all not leave our souls. The souls
2 -- our souls last even longer than this radioactive
3 toxin, which we are facing -- which in religious terms I
4 can't even imagine how long it will be here. In
5 religious terms, we would say it will be here for an
6 eternity.

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

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

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

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

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

24 So denial. I think many people would deny
25 that there is a problem here. I heard some people

1 saying, as I was walking in, "Well, this is a large
2 crowd for here. I just thought this would just be
3 another permit hearing. People would just say, 'It's
4 just another permit, what's the big deal?'"

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

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

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

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

1 good, how can I follow my soul path.

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

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

10 Thank you.

11 MS. ANDERSON: Thank you very much.

12 Would you kindly pass that over to Mr. Zupan?

13 MS. BROWN: Yes.

14 MS. ANDERSON: Okay. Thank you.

15 Introduce yourself.

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

18 JOE ZUPAN

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

21 PUBLIC COMMENT

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

24 I'm a New Mexico registered professional
25 engineer. I have been registered, excuse me, in 17

1 other states. I was a practicing environmental
2 consultant for over 25 years, with a lot of experience
3 with the Clean Water Act and RCRA, which stands for
4 Resource Conservation and Recovery Act.

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

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

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

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

24 In this case, I think that's exactly what's
25 going on, trying to issue a discharge permit under the

1 water rules does take potentially the facility out from
2 under regulation of the Hazardous Waste Act, and I think
3 that kind of represents a circumvention and kind of a
4 fig leaf for how this facility should be viewed and
5 regulated.

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

9 MS. ANDERSON: Thank you very much.

10 MR. ZUPAN: Thank you.

11 MS. ANDERSON: Thank you, sir.

12 MR. ZUPAN: Is there another one?

13 MS. ANDERSON: I'm going to check.

14 Thank you.

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

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

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

21 I'm not seeing any hands.

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

24 MR. COLLINS: Yes.

25 MS. ANDERSON: Thank you.

1 Sir, afterwards, I'll have you sign in, and
2 you're going to need to be sworn by the court reporter.
3 Okay?

4 MR. COLLINS: Okay.

5 (Oath administered to Mr. Collins.)

6 MS. TOWNSEND: And your name?

7 MR. COLLINS: Michael Truax Collins.

8 MS. TOWNSEND: Can you spell that?

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

11 MS. TOWNSEND: Thank you.

12 MS. ANDERSON: Thank you, Mr. Collins.

13 MR. COLLINS: Did you all swear?

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

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

18 MS. ANDERSON: Yeah. We did.

19 MICHAEL COLLINS

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

22 PUBLIC COMMENT

23 MR. COLLINS: I was going to bring some
24 props -- in fact, I do have one that I thought you might
25 understand. I'll wear this for your benefit, because I

1 know this is really important to you. In case anyone
2 can't see it, it's a dollar sign.

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

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

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

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

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

23 I wonder about the great minds that are
24 supposedly here, or people representing these great
25 minds, the thinkers, mathematicians, chemists,

1 physicists.

2 How about the humanities? Did any of you ever
3 study any of the humanities, like maybe philosophy or
4 sociology, et cetera?

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

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

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

21 I think I pretty much said what I -- what I
22 wanted to say, and I doubt if it makes -- it's like
23 whistling or something else in the wind and it could
24 matter less, but I've lived here 46 years, I got here
25 when I was 28, I'm 75, and the damn Manhattan Project is

1 still going strong, and I hope you're really happy about
2 it.

3 Thanks.

4 MS. ANDERSON: Thank you, sir.

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

7 Ma'am, in the blue.

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

10 Thank you.

11 (Oath administered to Ms. Bethke.)

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

14 MS. BETHKE: My name is Corinna --

15 MS. TOWNSEND: I can't hear you.

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

18 CORINNA BETHKE

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

21 PUBLIC COMMENT

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

1 in Ponderosa.

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

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

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

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

21 So I just want to echo that sentiment and say,
22 you know, that I support -- as a downwinder, downstream
23 person, I support that we don't circumvent and we err on
24 the side of caution, and if this issue needs to be
25 looked at under another, you know, rule or law or

1 regulation, then -- then that's what should be done
2 rather than just discharging, you know, under this
3 circumvented way.

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

8 Thank you.

9 MS. ANDERSON: Thank you very much.

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

11 Okay. Last call.

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

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

16 MS. CASTANEDA: It's 10:14.

17 MS. ANDERSON: It's 10:14.

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

22 Also, I don't know what that horrible noise
23 was during the hearing, we kept hearing a beep, beep,
24 but as a reminder, would everybody please turn off their
25 cell phones or put them on silent mode.

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

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

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

11 MS. ANDERSON: Sure. Yeah.

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

14 MS. ANDERSON: Okay.

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

20 Is that acceptable?

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

22 Oh, Mr. Lovejoy.

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

25 I don't want to have a panel where they kind

1 of take turns answering my question or leap to the
2 opportunity. I think I ought to be able to ask one
3 person one question.

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

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

9 Is that right?

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

15 MS. ANDERSON: Okay.

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

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

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

1 who is speaking?

2 MR. BUTZIER: Yes. Thank you.

3 MS. ANDERSON: Thank you very much.

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

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

8 MS. ANDERSON: Mr. Lovejoy?

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

12 MS. ANDERSON: Okay.

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

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

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

22 MR. BUTZIER: Okay. Thank you.

23 MR. LOVEJOY: Thank you.

24 MS. ANDERSON: Okay.

25 MR. BUTZIER: So with that, Madam Hearing

1 Officer, we'll call our first witness, Mr. Robert Beers.

2 MS. ANDERSON: Okay. Thank you.

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

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

8 (Oath administered to Mr. Beers.)

9 MS. ANDERSON: Thank you.

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

12 MS. ANDERSON: Sure. Give it a go.

13 MR. BEERS: Just a microphone test.

14 Can everyone hear me?

15 Very good.

16 ROBERT S. BEERS

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

19 DIRECT EXAMINATION

20 BY MR. BUTZIER:

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

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

24 Q. And what is your current employment position?

25 A. I am an environmental professional at Los

1 Alamos National Security.

2 Q. What are your job duties in relation to the
3 draft permit in issue?

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

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

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

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

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

21 My resume is LANS/DOE Exhibit 2.

22 Q. Thank you.

23 And what will be the subjects of your
24 testimony today?

25 A. I am offering testimony in support of NMED's

1 issuance of DP-1132 for the Radioactive Liquid Waste
2 Treatment Facility, or RLWTF, at LANL.

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

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

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

12 MR. LOVEJOY: No objection.

13 MS. ANDERSON: Was that a yes?

14 MR. LOVEJOY: No.

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

17 So admitted. Yeah.

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

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

24 Q. Would you please describe, in general terms,
25 this Radioactive Liquid Waste Treatment Facility that's

1 already been discussed today?

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

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

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

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

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

24 Beginning in 1996, however, NMED requested,
25 and LANL submitted, an application for a discharge

1 permit.

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

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

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

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

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

24 Slide six is a photo of the other evaporation
25 unit that receives discharges of treated effluent from

1 the RLWTF. It is known as the mechanical evaporation
2 system, or MES, and it relies on the mechanical process
3 fired by natural gas that facilitates evaporation of the
4 treated effluent.

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

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

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

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

25 Q. Now, Mr. Beers, you were present this morning

1 to hear a number of members of the public make
2 statements to the effect that there would be no
3 discharges from the Radioactive Liquid Waste Treatment
4 Facility.

5 Is that correct?

6 A. That's correct.

7 Q. And do you have a response to that?

8 A. Yes.

9 Discharges would be allowed under DP-1132 to
10 the three discharge locations that I showed on the prior
11 slides: the solar evaporation tank system, or SET; the
12 mechanical evaporation system, or MES; or NPDES Outfall
13 051 in Effluent Canyon.

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

16 A. That is correct.

17 Q. All right.

18 A. Treated effluent that meets all effluent
19 limitations.

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

22 A. The RLWTF treats the waste streams it receives
23 under a comprehensive and complex regulatory system.

24 Draft DP-1132 establishes effluent standards
25 that must be met to ensure protection against discharges

1 and potential releases that may, directly or indirectly,
2 reach groundwater regulated by the WQCC under the Water
3 Quality Act.

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

8 The effluent limitations are based on a
9 combination of Groundwater Quality Standards, in Section
10 3103 of the WQCC regulations, maximum contaminants
11 levels, or MCLs, under the federal Safe Drinking Water
12 Act, and New Mexico Risk Assessment Guidance for Site
13 Investigation and Remediation Standards.

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

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

20 A. As reflected on slide nine, since the new
21 permit application was submitted, there have been
22 approximately 25 technical meetings with NMED over
23 56 months. There have also been approximately six
24 meetings with non-governmental organizations, or NOGs,
25 over 22 months to negotiate draft permit conditions.

1 The NOGs include Communities for Clean Water,
2 or CCW, which is participating in this hearing, and is
3 made up of five additional NOGs that are members of
4 CCW.

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

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

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

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

25 A. Yes.

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

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

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

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

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

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

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

25 A. Yes. For all the reasons discussed in my

1 written testimony and today's oral testimony.

2 One last thing I would like to point out is
3 the fact that DP-1132, if issued, would authorize new
4 systems that will be very helpful to ensure groundwater
5 protection going forward. These are listed on slide 11.

6 They include the new WMRM tanks that I showed
7 in one of my earlier photos. The SET facility would be
8 one of the three authorized discharge locations. The
9 soil moisture monitoring system I mentioned in
10 connection with the SET, the new alluvial monitoring
11 wells to be installed in Mortandad Canyon, and other
12 monitoring, operating requirements and controls and
13 annual updating of the 2016 closure plan that would be
14 -- that was included as part of my permit application --
15 the permit application and the draft permit.

16 Q. Thank you, Mr. Beers.

17 MR. BUTZIER: Madam Hearing Officer, at this
18 time LANS and DOE would move the admission of exhibits
19 -- LANS/DOE Exhibits 1 through 6, all of which were
20 testified to now by Mr. Beers.

21 MR. LOVEJOY: I have not seen these exhibits.

22 I certainly have seen his prepared testimony
23 and the attachments, but I'm not quite clear which is
24 which.

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

1 that.

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

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

12 (LANS/DOE Exhibits 1 through 6 admitted.)

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

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

19 MS. ANDERSON: Okay.

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

1 MS. ANDERSON: Sure.

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

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

8 So, Mr. Butzier, the attorney, has about 10 or
9 12 extra packages.

10 Sister, you would like a package.

11 MS. PERROTTE: Does it include this
12 PowerPoint?

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

17 MS. PERROTTE: Okay.

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

20 MS. SANCHEZ: Yes.

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

23 Thank you.

24 Stuart, I see one more in the back.

25 Okay. Thank you.

1 MR. BUTZIER: Madam Hearing Officer, that
2 concludes Mr. Beers' testimony.

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

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

7 MR. LOVEJOY: Sure. That would be great.

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

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

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

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

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

23 I would just point out that it's been standard
24 practice for many years in proceedings of this nature to
25 do exactly what we've proposed.

1 MS. ANDERSON: I think -- yeah.

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

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

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

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

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

25 But, Mr. Lovejoy, at any point during the

1 hearing you decide you want to opt for the panel method,
2 it certainly is a little bit easier, but we'll -- we'll
3 give it a shot this way.

4 Okay?

5 MR. LOVEJOY: There is one other question --

6 MS. ANDERSON: Sure.

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

9 MS. ANDERSON: I don't know yet.

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

12 MS. ANDERSON: Well, why don't we do one
13 thing at a time, unless we want to go over that now.

14 Mr. Verheul, are you planning on crossing
15 Mr. Beers?

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

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

20 MR. LOVEJOY: Thank you.

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

23 There is a specified order of cross-
24 examination in the Environment Department's hearing
25 regulations, and so I would just suggest that we follow

1 that proceeding, and that if -- if Mr. Beers is
2 cross-examined at this time that we not allow people to
3 get a second bite at the apple, in effect, by having him
4 called back up in the future of this proceeding as part
5 of a panel.

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

11 MR. BUTZIER: Exactly.

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

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

16 MR. LOVEJOY: I understand.

17 MS. ANDERSON: Okay. Sure.

18 MR. LOVEJOY: I think that's acceptable.

19 MS. ANDERSON: Thank you.

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

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

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

1 move freely.

2 MR. LOVEJOY: Okay. Thank you.

3 Can you hear me now?

4 MS. ANDERSON: Yes. Okay.

5 CROSS EXAMINATION

6 BY MR. LOVEJOY:

7 Q. Good day, Mr. Beers.

8 A. Good day.

9 Q. Do you have in front of you your prefiled
10 direct testimony?

11 A. I do.

12 MS. ANDERSON: Okay. Thank you.

13 Q. Thank you.

14 And that includes the responses which are part
15 of your testimony, the responses to comments. I'm
16 asking, is that true?

17 A. Madam Hearing Officer --

18 MS. ANDERSON: Uh-huh.

19 MR. BEERS: -- Mr. Lovejoy, you're referring
20 to the responses to the June 5th, 2017 --

21 Q. (BY MR. LOVEJOY) That's the one.

22 A. -- comments?

23 MS. ANDERSON: And as an aside, once you find
24 that, could you just mention, before you get started,
25 which exhibit you're referring to so it's clear on the

1 record?

2 MR. BEERS: (Nods head.)

3 MS. ANDERSON: Thank you.

4 MR. BEERS: Madam Hearing Officer,
5 Mr. Lovejoy, I'm looking at LANS/DOE Exhibit 5.

6 MS. ANDERSON: Thank you.

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

9 A. That's correct.

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

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

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

17 MR. VERHEUL: Okay. All right.

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

23 MS. ANDERSON: I concur a hundred percent.

24 And also if this -- Mr. Lovejoy, if this
25 veers out of the scope of his direct substantively,

1 that's not going to happen, either.

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

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

6 MS. ANDERSON: Thank you very much.

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

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

11 Q. Can it also mean discharge plan?

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

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

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

25 Did I read that correctly?

1 A. Madam Hearing Officer, Mr. Lovejoy, yes,
2 you're reading that correct.

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

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

14 MS. ANDERSON: Mr. Lovejoy?

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

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

25 MS. ANDERSON: You both have very good

1 arguments, but I'm going to accede to Mr. Butzier on
2 that, only because I think we're going to have -- we
3 don't want to get into a legal debate what the
4 definition is of an interstitial water and that sort of
5 thing, because I think we could get off topic.

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

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

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

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

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

23 MS. ANDERSON: Okay.

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

1 this permit.

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

6 MR. LOVEJOY: Okay.

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

10 A. Madam Hearing Officer, Mr. Lovejoy, Section
11 20.6.2.3103 of NMAC requires, as I understand, a
12 discharge permit to control discharges, I'm going to
13 read it, onto or below the ground -- the surface of the
14 ground to protect all groundwater of the State of New
15 Mexico which has an existing concentration of 10,000
16 milligrams per liter or less, for present and potential
17 future use as domestic and agricultural water supply,
18 and to protect those segments of surface waters that are
19 gaining because of the groundwater inflow, for uses
20 designated in the New Mexico Water Quality Standards.

21 Q. Well, thank you for reading the regulation.

22 Let's kind of take counsel's hint and get away
23 from the rules for the moment and go into the great
24 outdoors and answer my question.

25 What discharge is covered by this permit?

1 What's happening that is going to be regulated by this
2 permit?

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

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

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

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

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

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

17 A. The last discharge to Outfall 051 was November
18 2010.

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

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

23 Q. And when will that be?

24 A. Outfall -- discharges to Outfall 051 will be
25 conducted following water tightness testing of the

1 outfall line, which is a requirement of draft DP-1132.

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

4 A. The quantity of discharges?

5 Q. Yes.

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

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

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

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

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

19 MR. BUTZIER: I agree.

20 MS. ANDERSON: Yeah.

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

24 MS. ANDERSON: Okay.

25 Q. (BY MR. LOVEJOY) Are you aware that the

1 discharges from 051 you've testified about are not
2 reflected in the application?

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

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

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

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

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

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

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

18 Q. (BY MR. LOVEJOY) What's the basis for your
19 testifying that there will be discharges from Outfall
20 051? What's the information that tells you that?

21 A. Madam Hearing Officer, Mr. Lovejoy, the 2012
22 application, in that application we requested
23 authorization from the NMED to discharge to Outfall 051,
24 and the draft DP-1132, the subject of this hearing,
25 authorizes the laboratory to do so.

1 Q. Oh, so you're just saying that the permit
2 would allow discharges. That's what you're saying,
3 correct?

4 A. Correct.

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

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

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

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

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

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

25 Another condition would be to demonstrate

1 operational readiness.

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

5 A. Could you restate that, please?

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

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

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

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

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

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

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

24 MS. ANDERSON: Well, do you want to break them
25 down individually and ask it differently?

1 MR. LOVEJOY: All right.

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

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

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

19 MS. ANDERSON: Mr. Lovejoy?

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

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

25 I want to be clear that it's his testimony

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

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

7 MR. LOVEJOY: Thank you.

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

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

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

13 MR. LOVEJOY: Can I have that read back?

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

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

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

22 MR. BEERS: Thank you.

23 Madam Hearing Officer, Mr. Lovejoy, no, that
24 was not my intention to limit the option to that only --
25 only that scenario.

1 There are multiple options that could
2 determine whether the laboratory discharges to Outfall
3 051.

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

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

13 MR. LOVEJOY: Out of service for any reason.

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

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

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

21 MR. BUTZIER: Fine.

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

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

25 MR. LOVEJOY: Yes.

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

5 A. Yes, that's correct.

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

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

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

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

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

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

20 MR. LOVEJOY: Okay.

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

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

25 Q. Has the mechanical evaporator or one or

1 another version of the mechanical evaporator failed over
2 the last seven years in such a way that it was necessary
3 to discharge through Outfall 051?

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

7 I can't answer that.

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

11 A. That is correct.

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

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

19 Q. How large?

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

22 Q. Has this ever happened?

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

1 questioning that are asked and answered.

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

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

7 MR. LOVEJOY: Thank you.

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

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

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

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

20 Q. Has that taken place since November of 2010?

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

24 MR. LOVEJOY: Okay. I'd like to mark three
25 letters as exhibits -- CCW 1, CCW 2 and CCW 3.

1 These are from the administrative record,
2 letters dated respectively September 28th, 2007;
3 November 1st, 2007; and August 19th, 2011.

4 MR. BLOCK: Who does the marking here?

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

6 MR. BLOCK: Okay.

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

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

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

12 MS. ANDERSON: Okay.

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

15 MS. ANDERSON: Okay.

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

18 MS. ANDERSON: That was a good idea.

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

21 MS. ANDERSON: The originals will go to Kathy.

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

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

25 Q. (BY MR. LOVEJOY) Mr. Beers, do you have

1 Exhibit 1, 2 and 3 -- CCW 1, 2 and 3?

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

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

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

8 Sir, did you have an objection?

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

12 MR. LOVEJOY: Okay.

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

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

21 The Department would just like to clarify,
22 though, the Department would object to any offers of
23 evidence from CCW, since CCW chose to not file a
24 statement of intent to present evidence in this matter;
25 and the rules, specifically 20.6.2.3110, are very clear

1 that a statement of intent has to be filed ten days
2 prior in order to present any evidence in one of these
3 proceedings.

4 MS. ANDERSON: So CCW, you have not?

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

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

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

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

23 MR. LOVEJOY: Your Honor, that's quite
24 incorrect. We're allowed to cross-examine a witness.
25 These are cross-examination exhibits that touch on

1 exactly what he's been talking about.

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

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

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

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

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

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

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

1 have at it in terms of cross --

2 MR. LOVEJOY: Okay.

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

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

9 MR. LOVEJOY: Okay.

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

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

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

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

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

23 MR. BLOCK: I'm sorry about that.

24 MS. ANDERSON: No problem.

25 MR. BLOCK: So we had one for the Hearing

1 Officer, and there was an additional one for you.

2 MS. CASTANEDA: Thank you.

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

5 MS. ANDERSON: Okay.

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

8 MS. CASTANEDA: Thank you.

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

11 MS. ANDERSON: Okay. Thank you.

12 MR. BLOCK: And one for you as well.

13 MS. CASTANEDA: Thank you.

14 MS. ANDERSON: Thank you.

15 Go ahead, Mr. Lovejoy.

16 Thank you.

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

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

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

24 A. That's correct.

25 Q. And you're familiar with their general design

1 and construction, correct?

2 A. Their general design and construction, yes.

3 Q. I'm looking at CCW 1 --

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

6 MR. LOVEJOY: Oh.

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

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

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

12 A. Yes.

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

21 Do you see that?

22 MR. BUTZIER: Madam Hearing Officer, I don't
23 see the document that Mr. Lovejoy is referring to.

24 Is it part of what was handed to me?

25 MS. ANDERSON: Mr. Lovejoy, is it your

1 Exhibit 1, further on page two?

2 MR. LOVEJOY: Exhibit 1, the first page.

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

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

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

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

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

14 MR. LOVEJOY: Thank you, Your Honor.

15 MS. ANDERSON: Yeah.

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

17 A. I do.

18 Q. Do you agree with that?

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

23 Q. You can't answer that question?

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

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

1 question?

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

6 MS. ANDERSON: And I think that's true.

7 Mr. Lovejoy, based on his resume, I believe
8 you have a master's in water resources.

9 MR. BEERS: Water resources, that's correct.

10 MS. ANDERSON: And you're in charge of
11 permitting, correct?

12 MR. BEERS: Correct.

13 MS. ANDERSON: So he's not an engineer,
14 Mr. Lovejoy.

15 You maybe have transposed him with another
16 engineering witness, but he's not an engineer.

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

23 MS. ANDERSON: I don't think it's raised to
24 the level of harassing the witness, and I think
25 Mr. Beers correctly pointed out he's not an engineer, so

1 he doesn't want to give a false impression, but I think
2 he answered the question, which was the person who
3 signed this letter was Anthony Grieggs, group leader,
4 and this letter is dated 2007. So you're just asking
5 his opinion and he's answered. Correct?

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

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

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

13 I wonder if the court reporter could repeat my
14 answer.

15 MS. ANDERSON: Thank you.

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

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

20 AUDIENCE MEMBER: No.

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

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

25 MR. BUTZIER: Yes.

1 MS. TOWNSEND: "Q. Do you see that language?"

2 "A. I do."

3 "Do you agree with that?"

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

8 MS. ANDERSON: So his answer was he didn't
9 have an opinion. That's an answer.

10 Q. (BY MR. LOVEJOY) Okay. Let me just point
11 out, to save time, that similar language appears in
12 Exhibit 2 on the first page, in the first paragraph.
13 You may wish to look at that. And in Exhibit 3, at the
14 top of page two, similar language appears.

15 And would your answer also be that it's not
16 your place to express an opinion one way or another?

17 A. That is correct.

18 Q. Why did you get copies of these letters?

19 A. Madam Hearing Officer, Mr. Lovejoy, Anthony R.
20 Grieggs, who signed these letters, is my -- was my group
21 leader, and it's typical for members of the staff to
22 receive copies.

23 Q. Do you have your prefiled testimony there?
24 I'm looking at page six.

25 Toward the bottom of the first paragraph, the

1 words appear "Unlike" -- do you have it?

2 I'll let you get it.

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

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

5 A. (Witness nods head.)

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

11 Is that what it says?

12 A. Correct.

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

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

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

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

24 Q. And that was a different question.

25 If you don't mind, would you answer the

1 question?

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

6 MS. ANDERSON: I think Mr. Lovejoy's question
7 was slightly different. His first go at it was
8 regarding the one to, and then you were talking about
9 051.

10 MR. LOVEJOY: Yes, I was.

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

13 MR. LOVEJOY: Which was not responsive --

14 MS. ANDERSON: Yeah.

15 MR. LOVEJOY: -- frankly.

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

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

20 MS. ANDERSON: I'm sorry, Kathy.

21 MS. TOWNSEND: That's okay.

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

25 MR. BEERS: Madam Hearing Officer,

1 Mr. Lovejoy, yes, that would be true.

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

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

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

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

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

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

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

23 A. Would you please restate that again for me?

24 Q. In normal operation, absent consideration of
25 unplanned releases, effluent directed to the MES or the

1 SET does not reach groundwater?

2 A. That is correct.

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

9 Is that correct?

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

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

14 A. I would agree.

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

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

19 Q. What human being?

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

23 Q. How did you learn about it?

24 A. Through the Bureau, communications with the
25 Bureau.

1 Q. Written communications? Oral? Tell me,
2 please.

3 A. Written.

4 Q. Okay. And how did the lab, LANL, respond when
5 this was stated?

6 A. Madam Hearing Officer, Mr. Lovejoy, I need
7 some more context before I can answer that question.
8 It's very broad and general.

9 I'm not sure if you're referring to a specific
10 communication. I can't answer without more context.

11 Q. Well, you made reference to a communication,
12 so I'm asking how you -- how the lab responded to that.

13 A. Mr. Lovejoy, there have been probably on
14 the order of 500 communications between NMED and LANL
15 over 22 years on this permit.

16 Would you please narrow the scope for me?

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

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

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

25 We've heard testimony that there have been

1 many drafts exchanged with DP-1132. DP-1132 clearly
2 requires what's stated here. Those are -- those are
3 NMED communications.

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

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

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

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

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

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

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

1 that.

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

5 MR. BEERS: Madam Hearing Officer,
6 Mr. Lovejoy, Exhibit CCW 2 that you presented, "Notice
7 of Intent to Discharge for Evaporation Tanks,"
8 November 1st, 2007, NMED responded to that NOI some
9 years later, I can't give you a date, and their response
10 was a discharge permit is required for the solar
11 evaporation tanks.

12 Q. (BY MR. LOVEJOY) Thank you.

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

15 A. Yes.

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

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

19 Q. Yes.

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

21 Q. Or assisted in drafting them, yes.

22 A. I contributed to their preparation.

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

25 And my question is to refer to language saying

1 that it isn't correct that the RLWTF does not or will
2 not discharge.

3 Do you see that language?

4 A. Yes.

5 May I have a moment to read it, please?

6 Q. Please.

7 A. I've read it.

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

12 A. That is correct.

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

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

18 Please take your time and read it.

19 A. Yeah.

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

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

25 A. And Madam Hearing Officer, Mr. Lovejoy, please

1 state what -- your question again.

2 Q. Isn't it true that being authorized isn't the
3 same thing as discharging?

4 A. I would agree.

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

13 Is that the lab's purpose in seeking issuance
14 of DP-1132 as well -- one of its purposes?

15 A. Yes, I would agree.

16 Q. You said yes?

17 A. Yes.

18 Q. Thank you.

19 And would that mean, then, that the discharge
20 from Outfall 051 is, in fact, a potential discharge
21 subject to certain conditions occurring?

22 A. Madam Hearing Officer, Mr. Lovejoy, yes, there
23 are certain conditions that have to be met before a
24 discharge can be made to Outfall 051.

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

1 that correct?

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

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

7 A. Correct.

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

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

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

15 MS. ANDERSON: Okay.

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

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

21 MR. LOVEJOY: Yes, more than that.

22 MS. ANDERSON: Well, let me take a poll.

23 Who wants to go to lunch at 12:30? Nobody.

24 Nobody is hungry. Mr. Lovejoy, okay. Yes. Yeah.

25 Ma'am. Yes. Yeah.

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

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

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

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

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

17 (Recess held from 11:35 to 11:40 AM.)

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

19 Ms. Hansen, you're up.

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

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

24 MS. HANSEN: Okay.

25 (Oath administered to Ms. Hansen.)

1 MS. TOWNSEND: State and spell your name.

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

4 Do you want my address?

5 MS. TOWNSEND: No.

6 ANNA HANSEN

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

9 PUBLIC COMMENT

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

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

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

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

25 Just like other environmental justice

1 communities impacted by irresponsible discharge of toxic
2 materials by industry that moves into their communities,
3 it is long time since -- it is long since time for the
4 Department of Energy, DOE, and LANL, and its federal and
5 state regulators, to accept the responsibility and meet
6 statutory and regulatory requirements as a site that
7 generates large amounts of hazardous waste.

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

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

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

23 Mortandad Canyon is the location of Outfall
24 051 and a subject of this hearing.

25 In 2004, an independent groundwater

1 hydrologist, George Rice, reviewed DOE and LANL data to
2 determine that contaminants from LANL waste sources,
3 such as Outfall 051, are moving towards the Rio Grande
4 much more quickly than previously estimated.

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

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

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

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

21 Madam Hearing Officer, you have an opportunity
22 to stop this public hearing for a groundwater discharge
23 permit that will never go into effect. There is no
24 discharge. There has never been a discharge since
25 November of 2010.

1 Following the Cerro Grande Fire in May 2000,
2 Congress provided funding for LANL to construct and
3 operate the Waste Migration Risk Management, WMRM, which
4 contains six 50,000-gallon tanks to store low-level
5 waste influent. Four of these tanks are storages for --
6 200,000 gallons are reserved for emergency.

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

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

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

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

25 Thank you for this opportunity to express the

1 concerns of the County of Santa Fe. Sincerely, Santa Fe
2 County Commissioner, District 2, Anna Hansen.

3 MS. ANDERSON: Thank you, Ms. Hansen.

4 MS. HANSEN: Thank you very much.

5 MS. ANDERSON: Public Comment 3.

6 (Public Comment 3 admitted.)

7 MS. ANDERSON: I'm just going to check in.

8 Did that prompt anyone else to want to do
9 public comment?

10 I'm not seeing any hands.

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

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

20 With that, Mr. Beers.

21 Thank you.

22
23
24
25

1 ROBERT S. BEERS

2 after having been previously duly sworn or
3 affirmed, was examined and testified further as
4 follows:

5 CROSS EXAMINATION (CONTINUED)

6 BY MR. LOVEJOY:

7 Q. Are you prepared, Mr. Beers?

8 A. I am.

9 Thank you.

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

13 Do you have the responses to comments there?

14 A. I have it.

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

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

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

20 MR. BUTZIER: Yes.

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

23 Q. (BY MR. LOVEJOY) It's about two -- it's about
24 halfway down that paragraph.

25 A. Halfway down.

1 Q. "Accordingly, even if the intended
2 discharges." Do you see that?

3 Page two, paragraph two.

4 A. Page two.

5 Oh, paragraph two?

6 Q. Page two, paragraph two.

7 A. Thank you.

8 Got it.

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

17 Did I read that right?

18 A. You did.

19 Q. And is that your opinion?

20 A. Yes, it is.

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

23 A. That's correct.

24 Q. Now, is this passage stating that when
25 effluent is piped to the MES or the SET, it's a

1 discharge as the regulations define it, namely, a
2 discharge of effluent or leachate which may move
3 directly or indirectly into groundwater?

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

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

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

22 MR. BUTZIER: Thank you.

23 MS. ANDERSON: Yeah.

24 Mr. Lovejoy.

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

1 reread?

2 A. Please.

3 MR. LOVEJOY: Would you, please.

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

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

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

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

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

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

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

25 A. With regard to the SET, the failure would be a

1 failure of the liner system -- it's a two-liner
2 system -- a failure of the liner system and a failure of
3 the moisture monitoring system to detect that leak.

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

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

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

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

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

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

18 A. True.

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

21 MR. BUTZIER: Objection. Calls for
22 speculation.

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

25 MR. BUTZIER: Well, in that case we're going

1 beyond the scope of his direct testimony, because we
2 were not offering this witness as a -- as somebody who
3 would address probabilities.

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

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

10 A. That is true.

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

13 A. That is correct.

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

16 A. That is true.

17 Q. And they are not required to have one?

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

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

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

24 Q. Any others?

25 MR. BUTZIER: Madam Hearing Officer, we're

1 getting off of the scope of the direct testimony, and
2 I think we need to move on from this line of
3 questioning.

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

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

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

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

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

1 his answer to.

2 Is that what I'm hearing?

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

5 MS. ANDERSON: Yeah. Okay.

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

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

13 MR. BUTZIER: Okay.

14 MS. ANDERSON: Sorry, you know.

15 MR. BUTZIER: Okay. Thank you.

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

20 MS. ANDERSON: Mr. Beers?

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

24 Q. (BY MR. LOVEJOY) Yes.

25 A. -- at the laboratory?

1 Q. Yes.

2 A. And I provided the example of a cooling
3 tower --

4 Q. Yes.

5 A. -- containment basin. And you'd like another
6 example.

7 Q. If -- you said there were several. You
8 mentioned one.

9 Do you have in mind others?

10 A. None others come to mind.

11 Q. Okay. The responses say, and I'm still on
12 page two, down in paragraph four, that the Water Quality
13 Act is intended to prevent pollution.

14 So NMED should be able to issue a permit for a
15 potential discharge. Is that correct?

16 MR. BUTZIER: Madam Hearing Officer, this goes
17 back to my earlier point.

18 This is essentially a response to a legal
19 argument, it's been fully briefed, it's been decided,
20 and this question specifically calls for a legal
21 conclusion.

22 MR. LOVEJOY: This is this witness' own
23 testimony. He's put it forward and introduced it as an
24 exhibit, and I'm asking him about his own testimony.

25 MR. BUTZIER: Same objection.

1 MS. ANDERSON: Well, I would say what I stated
2 earlier, which is if you can answer without getting into
3 the greater legality. You're not New Mexico
4 Environment's witness, so we don't expect you to testify
5 about whatever their policy directives are or aren't.
6 But if you know and can answer, please have a stab at
7 it.

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

10 Q. (BY MR. LOVEJOY) Well, let me -- let me quote
11 the exact language in this text that you've sworn to.

12 At the bottom of paragraph four, on page two,
13 it says, "If the WQCC intended only to permit
14 facilities" -- "to permit," which I take as to issue a
15 permit for -- "to permit facilities once those potential
16 sources actually release water contaminants, then its
17 groundwater permitting program would be rendered
18 superfluous, and the separate abatement program adopted
19 by the WQCC and administered by NMED would be all that
20 is needed."

21 That's your testimony.

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

24 A. Madam Hearing Officer, Mr. Lovejoy, I believe
25 you're asking me to render an opinion on how NMED would

1 implement their -- the regulations, and that's not my
2 place to do so.

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

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

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

11 A. That is correct.

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

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

16 A. Just the --

17 MR. BLOCK: We gave you the book.

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

20 MR. BLOCK: Yeah, he has it.

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

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

24 MR. BLOCK: 72-6-5.

25 Q. -- in 74-6-5.A?

1 A. Excuse me. 74?

2 Q. Yes.

3 MR. BLOCK: 74.

4 A. 6.5.A.

5 Thank you.

6 Q. Take a moment to read it.

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

9 A. That's correct.

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

12 A. The word "potential" does not appear in that
13 74-6-5.A.

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

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

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

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

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

1 respectfully differ.

2 So do you have some other line of questioning?

3 MR. LOVEJOY: Yes.

4 MS. ANDERSON: Okay.

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

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

10 Do you want to look at that?

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

13 Q. Yes.

14 MR. BUTZIER: Same objection, Madam Hearing
15 Officer.

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

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

20 MS. ANDERSON: Okay.

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

24 Would this rule apply to DP-1132?

25 MR. BUTZIER: Calls for legal conclusion.

1 MS. ANDERSON: I think we've established the
2 same questions and the same issues. I'm going to allow
3 him to answer, again, if you can answer, without bearing
4 into the legal issues.

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

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

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

13 Q. Do you have the draft permit there?

14 A. I do.

15 Q. Would you point out where that reference is?

16 I'm going to -- if you don't go there
17 yourself, I'm going to take you to page 50.

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

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

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

24 Q. Okay. Reading that, how do you interpret
25 that?

1 You pointed us to it. How do you interpret
2 that as establishing an effective date?

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

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

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

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

16 A. Why do I say issue date?

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

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

22 Q. Okay. In this connection, have you looked at
23 and considered 74-6-5.I, which says that "for new
24 discharges, the term of the permit shall commence on the
25 date the discharge begins"?

1 A. Madam Hearing Officer, Mr. Lovejoy, the by
2 date in draft DP-1132 will be established by NMED, and I
3 cannot speculate what that date will be.

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

6 A. I presume they would.

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

10 A. I did.

11 Q. Would you look now at 20.6.2.3109.H?

12 Did you read 3109.H?

13 A. I have.

14 Q. And this says -- it gives a -- it requires a
15 period -- no period longer than five years, and then it
16 continues, saying "expect that for new discharges, the
17 term of the discharge permit approval shall commence on
18 the date the discharge begins, but in no event shall the
19 term of the approval exceed seven years from the date
20 the permit was issued; for those permits expiring more
21 than five years from the date of issuance, the
22 discharger shall give prior written notification to the
23 Department of the date the discharge is to commence; the
24 term of the permit shall not exceed five years from that
25 date."

1 Did you give consideration to that language in
2 your study of this draft permit?

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

4 Q. Why was it not relevant?

5 A. It was not relevant because we were requested
6 by NMED to submit a discharge permit application.

7 Determining the term of the permit would be
8 under the purview of the NMED, not the permittee.

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

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

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

16 A. Correct, and the RLWTF began discharging in
17 1963.

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

20 A. There has not.

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

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

1 last answer.

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

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

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

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

17 MR. LOVEJOY: Okay.

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

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

24 MR. LOVEJOY: The subpart says "For those
25 permits expiring more than five years from the date of

1 issuance, the discharger shall give prior written
2 notification to the Department of the date the discharge
3 is to commence."

4 MR. BUTZIER: Thank you.

5 MR. LOVEJOY: You're welcome.

6 MR. BEERS: Madam Hearing Officer,
7 Mr. Lovejoy, Los Alamos National Laboratory informed
8 NMED of the history of discharges from the RLWTF in the
9 1996 discharge permit application.

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

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

16 Q. So it was on file.

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

19 A. That would be correct.

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

22 A. That is correct.

23 Q. And there hasn't been a discharge from Outfall
24 051 since then up to today, correct?

25 A. That is correct.

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

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

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

10 MR. LOVEJOY: I beg your pardon?

11 MS. ANDERSON: I'm sustaining that objection.

12 MR. LOVEJOY: Okay.

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

17 MR. BUTZIER: Objection. Calls for
18 speculation.

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

22 MR. BUTZIER: Thank you.

23 MR. LOVEJOY: Okay.

24 That's all I have, Your Honor.

25 MS. ANDERSON: Thank you very much. Okay.

1 Well, thank you, Mr. Lovejoy. You finished right on
2 time.

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

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

12 MS. ANDERSON: The public.

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

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

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

22 Now, everything leading up to now has been
23 prefiled technical testimony, and you've heard
24 Mr. Lovejoy really cross Mr. Beers regarding the
25 technical testimony.

1 I'd kind of like to get a show of hands,
2 because if there are several members of the public who
3 are probably going to come back after lunch, what I may
4 do is have us break and then have you cross Mr. Beers,
5 but if nobody wishes to cross Mr. Beers -- and it can be
6 a brief cross, but if you don't feel that you want to,
7 you're not forced to.

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

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

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

19 I'm not seeing any hands.

20 Okay. I don't see anybody.

21 Mr. Butzier?

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

24 MS. ANDERSON: Okay.

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

1 this witness.

2 MS. ANDERSON: Okay. Great.

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

10 So let me ask, counsel, how are you feeling,
11 one 15 versus one 30 for lunch? An hour and 30 minutes?

12 MR. VERHEUL: That works for us.

13 MS. ANDERSON: Mr. Lovejoy, an hour and
14 30 minutes?

15 MR. LOVEJOY: Yes.

16 MS. ANDERSON: Okay. Everybody would prefer a
17 slightly longer lunch.

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

22 Thank you. We're off the record.

23 (Recess held from 12:28 to 2:00 PM.)

24 MS. ANDERSON: Good afternoon, everyone.

25 We're on the record in GWB 17-20(P), for

1 permit, hearing.

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

8 (Public Comment Exhibit 4 admitted.)

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

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

13 MS. ANDERSON: Let me check again.

14 Anybody in the afternoon for public comment?

15 I'm not seeing anybody at this time.

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

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

24 So I think we're probably going to stop around
25 6:00 or 6:30 at the latest. So this will probably turn

1 into a two-day hearing.

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

7 Thank you.

8 MS. SHEEHAN: Good afternoon, Madam Hearing
9 Officer.

10 Although Mr. Butzier already introduced me
11 earlier this morning, for the record, my name is
12 Christina Sheehan. I'm an attorney at the Modrall
13 Sperling Law Firm here today representing LANS.

14 And LANS and DOE would like to call their next
15 technical witness, Mr. Danny Katzman.

16 MS. ANDERSON: Thank you.

17 (Oath administered to Mr. Katzman.)

18 MS. SHEEHAN: Sorry. I just need the
19 projector on.

20 MS. ANDERSON: No problem.

21 Technology.

22 MS. SHEEHAN: Is there someone here that's
23 somewhat tech savvy? It's not making any noise and it's
24 blinking.

25 (Off the record.)

1 MS. SHEEHAN: Thank you so much. And I
2 apologize for that.

3 MS. ANDERSON: No problem.

4 DANNY KATZMAN

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

7 DIRECT EXAMINATION

8 BY MS. SHEEHAN:

9 Q. Good afternoon, Mr. Katzman.

10 A. Good afternoon.

11 Q. Will you please state and spell your name for
12 the record?

13 A. Danny Katzman. It's D-a-n-n-y K-a-t-z-m-a-n.

14 Q. And what is your current employment position?

15 A. I'm the lead scientist for the Environmental
16 Management Division at Los Alamos National Laboratory.

17 Q. How long have you worked for Los Alamos
18 National Laboratory?

19 A. I've worked for Los Alamos for 20 years.

20 Q. What are your current job duties?

21 A. My current job duties involve oversight of all
22 of the technical groundwater work that essentially comes
23 out of our program.

24 Q. Can you please describe and summarize your
25 educational and professional qualifications?

1 A. Yes. I have a bachelor's of -- bachelor of
2 science in geology from the University of Texas in
3 Austin. I have a master's in geology from the
4 University of New Mexico.

5 And I have 28 total years environmental
6 experience, two of which were with the New Mexico
7 Environment Department, five as a consultant here at the
8 laboratory, and then 20 as a laboratory employee.

9 Q. Thank you, Mr. Katzman.

10 A copy of your resume has been provided as
11 LANS/DOE Exhibit 8. Is that correct?

12 A. Yes, it is.

13 MS. SHEEHAN: Madam Hearing Officer, at this
14 point in time I'd like to offer Mr. Katzman as an expert
15 witness in this proceeding.

16 MS. ANDERSON: In what aspect?

17 MS. SHEEHAN: In hydrogeology.

18 MS. ANDERSON: Okay. Do I have any
19 objections?

20 MR. LOVEJOY: No objection, Your Honor.

21 MS. ANDERSON: Thank you.

22 So admitted.

23 Q. (BY MS. SHEEHAN) And you have submitted
24 prefiled written direct testimony in this proceeding,
25 which has been provided as LANS/DOE Exhibit 7. Is that

1 correct?

2 A. Yes.

3 Q. Do you have any changes to your written
4 testimony?

5 A. Yes, I do. We found a couple of typographical
6 errors in the written testimony.

7 Specifically, on page 16, Figure 2, there is a
8 description box associated with a symbol -- a green
9 triangle symbol that represents the Outfall 051, and in
10 that box it only says the "05," so it should have a "1"
11 added to the end of that to be "Outfall 051."

12 And also there is the -- another box pointing
13 to Buildings 50-1 and 50-250 on that same page, same
14 figure, where the "S" on RLWTF/MES fell off the page.

15 And on page 16, Figure 3, there is a
16 description box that reads "RLWT," and it should say
17 "RLWTF."

18 Those are the only changes.

19 Q. Thank you, Mr. Katzman.

20 With those changes, do you adopt your written
21 testimony here today?

22 A. Yes, I do.

23 MS. SHEEHAN: Madam Hearing Officer, at this
24 point I move for the admission of Mr. Katzman's prefiled
25 written direct testimony and related exhibits, which are

1 LANS/DOE Exhibits 7, 8 and 9.

2 MS. ANDERSON: I'm not seeing any objections.

3 MR. LOVEJOY: No.

4 MS. ANDERSON: So admitted.

5 (LANS/DOE Exhibits 7, 8 and 9 admitted.)

6 Q. (BY MS. SHEEHAN) Mr. Katzman, what is the
7 general purpose of your testimony in this proceeding?

8 A. The purpose of my testimony is to provide an
9 overview of the groundwater monitoring that's being
10 proposed in support of DP-1132.

11 Q. Can you please summarize your testimony?

12 A. Yes, I can.

13 So I'm also going to be providing as part of
14 my testimony -- let's see if we can get this to work --
15 some basic overview of the site hydrogeology that should
16 provide a good context for the groundwater monitoring
17 that's actually proposed as part of the permit.

18 I like to always start with a little bit of an
19 outline of what I'm going to present so people can track
20 along with it. I'll talk about the geologic setting.
21 I'll talk the geologic setting associated with the RLWTF
22 and surrounding areas, specifically in the areas
23 focusing on groundwater monitoring.

24 I'll speak a little bit to the faults and
25 fractures and their respective role in the groundwater

1 monitoring strategy.

2 I'm going to speak specifically to the
3 objectives of groundwater monitoring for 1132.

4 I'll speak about the role they have in early
5 detection of future non-compliant releases. I'll talk
6 about how they function as an additional safety net to
7 support the very extensive administrative and
8 engineering controls that are a part of the RLW program.

9 I'll speak to the way that monitoring could
10 play a role in the future to characterize the extent of
11 the groundwater effect in the unlikely event that a
12 non-compliant release does occur.

13 And of course, all the people familiar with
14 the monitoring well locations, speak to the suite and
15 frequency of monitoring, the quality of the wells, and
16 how the monitoring actually provides robust defenses in
17 depth to the administrative and engineering controls
18 that are actually part of the permit itself.

19 So this is going to feel maybe a little bit
20 like a Hydro 101 program for folks, but I want to make
21 sure everyone is kind of up to speed, Madam Hearing
22 Officer, on the setting itself.

23 This is something we generally refer to as
24 kind of a cake diagram. Think of this as a very
25 simplified sort of slice through a portion of the

1 Pajarito Plateau where we all sit here today.

2 You can see that there is a couple of key
3 features in this that I think are important for
4 providing some context for the groundwater monitoring
5 strategy for 1132.

6 One is the canyon setting. The mesa here, the
7 plateau, is carved by parallel-running canyons,
8 simplified in this depiction here, and mesas in between
9 the canyon settings.

10 We have kind of a conceptual model that we
11 like to use here, or a term that we use that we consider
12 these canyons to be sort of the wet environment, it's
13 all a bit of a relative term, but they are wet because
14 sometimes they have these alluvial groundwater bodies in
15 them that can occur from natural runoff from the
16 mountain front and in some cases are effluent supported
17 as well.

18 They are actually fairly rare to find, and
19 where they do occur on the laboratory property, they are
20 not known in any cases to extend actually off of
21 laboratory property. So they are -- they still say it's
22 fairly limited groundwater bodies.

23 It's the upper of three groundwater zones that
24 I'll speak to in my presentation here.

25 The second is one we call perched-intermediate

1 groundwater. And it's really kind of a generalized term
2 for a fairly rare occurrence of groundwater bodies that
3 can occur where water that might percolate down from
4 this alluvial groundwater might work its way down
5 through and find a geologic layer, shown in a very
6 simplified manner here by this gray layer, where it
7 might have a hydrologic property that might cause water
8 to perch on it; thus, the term perched-intermediate
9 groundwater.

10 They are very -- when they do occur, in the
11 rare instances that they are present, they occur beneath
12 canyons where there is water that can feed them.

13 It's also important to note that the
14 connection -- the hydrologic connection between the
15 alluvial groundwater and these perched-intermediate
16 zones is not continuous along the length of these
17 canyons, but actually occur in really spotty areas where
18 the geology beneath this alluvial groundwater right here
19 is such that it can allow infiltration to finally work
20 its way through and then create these perched zones.

21 This lower black line here represents the reg-
22 -- what we call here the regional aquifer, and it's the
23 broad groundwater body that is the water supply for both
24 the townsite and the county and the laboratory, and it's
25 present everywhere beneath the laboratory itself.

1 The other key feature in this sort of
2 conceptual drawing of the hydrogeologic setting, besides
3 the canyons and mesas, is this pretty substantial
4 thickness between the ground surface and this regional
5 aquifer body, or first groundwater, if it's this case
6 right here, it might be as deep as 500 feet, and the
7 steepest groundwater zone can be anywhere from 800 feet
8 to as much as 12 or 1,400 feet around the laboratory.

9 From extensive studies that we've done around
10 the laboratory for decades, we've learned that there can
11 be contaminant pathways, they can work their way through
12 this entire system.

13 What we've learned is that it's a pretty rare
14 situation that that actually occurs in, and it's
15 situations where a variety of conditions have to come
16 together to essentially make that happen.

17 The conditions we believe would ever lead to
18 contamination of this regional aquifer are large amounts
19 of a contaminant; so a small spill or something like
20 that could, we believe, never manifest itself in the
21 regional aquifer, but it also has to be a large quantity
22 of a mobile contaminant. So not all contaminants have
23 similar environmental behaviors, some are more mobile
24 and may move as water moves, and some don't want to move
25 at all as water moves and might stay behind at the

1 surface and simply become soil contamination.

2 And so the situation where we have identified
3 around the laboratory where this deep zone becomes
4 contaminated and you create a link between all three of
5 these zones, the conditions of lots of water, millions
6 and millions of gallons, a large amount of contaminant,
7 and it has to be a mobile contaminant.

8 So we're going to kind of zoom in now and
9 focus specifically on the monitoring that's being
10 proposed for 1132.

11 This is sort of a flyover of the site, if you
12 will. The facility itself, RLWTF, sits right here,
13 highlighted in yellow. Within that yellow area right
14 here is the MES. You've heard plenty about that this
15 morning.

16 Outfall 051 sits right here, and the solar
17 evaporation tanks are right here.

18 I'm going to keep coming back to this sort of
19 framed area in future slides, so it might be a good idea
20 to kind of get a lock-in on what that is and the area it
21 covers.

22 The monitoring wells that are proposed in the
23 permit include two alluvial wells that actually
24 currently do not exist; they are proposed and would be
25 subject to a separate work plan upon issuance of the

1 permit. These are just shown as approximate locations
2 where it's believed they could serve a good purpose for
3 the monitoring.

4 The -- a perched-intermediate well, one right
5 here called -- I don't know if people can read the
6 numbers on here, but that says MOCI-6; and four regional
7 aquifer wells, R-1, R-14, R-46 and R-60.

8 All right. So I'm going to spend a little bit
9 of time on this slide as well.

10 So this is actually a real look at the
11 subsurface and all the complex geologic layers that
12 exist in the subsurface. This is that same frame right
13 here, but now you're looking at it as a slice through
14 the earth, down to about -- you know, this total
15 thickness right in here is about probably 13 or 1,400
16 feet.

17 So now we're actually going to show -- I'm
18 going to describe for you the same groundwater zones
19 that we actually know exist in this specific area.

20 So this is no longer a conceptualization of
21 the groundwater occurrences, it's the information we
22 know from extensive drilling in the area.

23 And one of the things I want to point out is
24 that the alluvial groundwater body in here -- so what
25 you're actually seeing in this figure are the real

1 topography that exists along the mesas. The alluvial
2 groundwater is actually too thin on here to actually
3 show in a discernible way, but it's kind of depicted
4 here as these blue arrows pointing left to right on this
5 figure.

6 The perched-intermediate zone, the only one
7 that has been identified anywhere in this particular
8 area, it's one further down canyon, and it's the one
9 that is actually monitored by the well MOCI-6.

10 Drilling of each of these four regional
11 aquifer wells have shown us that there is, in fact, no
12 perched water anywhere in the subsurface in these
13 areas.

14 And this is part of what comes back to what I
15 was talking about in the earlier conceptual slide, where
16 this alluvial groundwater, in the way that it breaks
17 through from the near-surface environment into the deep
18 groundwater zones, is not uniform everywhere. In fact,
19 it only occurs in this particular location where the
20 geology gets just such that it allows infiltration from
21 that real thin alluvial groundwater body to start
22 working its way vertically, and it forms this kind of
23 conceptualized perched-intermediate groundwater here
24 that we actually know is also a very limited lateral
25 extent.

1 So coming in on the wells now, I'm going to
2 sort of review those same set of wells again and give
3 you the context for those on this particular figure.

4 We have the two alluvial groundwater wells
5 that you can see right here, and again these aren't in
6 place today. They are wells that are proposed and would
7 be subject to a separate work plan subject to NMED
8 approval. You can see their position relative to
9 Outfall 051. They are just almost immediately
10 downgradient of that, and they would provide a useful,
11 early way for anything that might be released from the
12 outfall pipe to be detected and monitored quite quickly,
13 actually.

14 We believe the kind of travel times that you
15 would have from the mouth of the outfall pipe to these
16 wells would literally be on the scale of hours or maybe
17 days. We believe that the alluvial groundwater body
18 stays perched within that canyon bottom, until it gets
19 further down canyon, where we do have evidence that
20 percolation does occur.

21 And so the first next groundwater body that we
22 would see that would deserve monitoring associated with
23 this permit is the perched groundwater body here that's
24 monitored by MOCI-6.

25 So it may look intuitively to someone that

1 it's quite a distance away from the actual facility,
2 but, in fact, it is the first groundwater body, other
3 than the alluvial groundwater, that would be
4 encountered, and it's the location where that would be
5 encountered in the event of a non-compliant release of
6 RLW.

7 There is another feature on here that I want
8 to point out, which is these conceptualized sort of
9 purple lines that are showing angles beneath the solar
10 evaporation tanks.

11 And what those depict are a moisture
12 monitoring network that's actually proposed in the
13 permit to provide early detection in the event that the
14 liners in those basins, or other engineered and
15 administrative controls associated with solar
16 evaporation tanks, fails, or if there is a release and
17 they identify it, it still would help provide a very
18 early means for detecting the extent of such a release.

19 And in this case, it was deemed that moisture
20 monitoring would be a powerful tool to do that with,
21 because any contaminant that would have to travel any
22 distance from the solar evaporation tanks would have to
23 move with water.

24 So in this case, the moisture monitoring was
25 deemed a protective means of ensuring that if water is

1 detected, then it could mean that there is also
2 contaminants associated with it as well.

3 The regional aquifer wells here, they are all
4 accessing the regional aquifer down again at about -- in
5 this particular case, nominally around 1,100 feet below
6 ground surface, really just provide additional sort of
7 -- just kind of additional robust monitoring, again in
8 the unlikely event that will there would be a release
9 that would work its way -- and if you recall the
10 conceptual model I described earlier, the likelihood
11 that it could ever reach the regional aquifer is low,
12 but we felt it was important to make sure that there
13 were wells in place in the event that the release
14 somehow was robust enough, voluminous enough, to
15 actually have a driver to move waters all the way
16 through in this case almost 1,100 feet of fairly dry
17 rock and work its way into the regional aquifer.

18 So they kind of provide an additional safety
19 net to all of the very robust engineering and
20 administrative controls that are within the facility
21 itself.

22 Again, one of the reasons why angled moisture
23 monitoring was proposed beneath the solar evaporation
24 tanks was that we felt that putting a regional aquifer
25 well in the role of trying to monitor an early detection

1 or even a release from the solar evaporation tanks would
2 not be sufficiently robust, because, number one, it
3 might not even even make it to the regional aquifer;
4 and, number two, it could potentially take decades or
5 even a hundred or more years for that to ever occur and
6 that didn't feel sufficiently protective.

7 So with respect to faults and fractures,
8 certainly I think folks tend to think that faults and
9 fractures can be a potential hydraulic factor in how
10 water moves in a situation like this.

11 What you see in a -- in this particular
12 figure, each one of these black traces on here are
13 mapped -- are mapped faults and fractures that are
14 actually done for the laboratory seismic hazardous
15 program. So the laboratory, of course, has to be --
16 have facilities all over the place that are safe from a
17 seismic hazard standpoint, so there is an extensive
18 program at the laboratory to make sure that all key
19 faults and fractures associated with seismic hazards are
20 mapped.

21 Well, it's these same faults and fractures
22 that could theoretically have a potential role in how
23 water moves around the plateau. But if you note back to
24 that same framed area that we've been coming back to,
25 the RLWTF itself and the solar evaporation tanks, no

1 significant faults and fractures are actually mapped in
2 this particular area.

3 All right. So now that you kind of have a
4 general sense of the hydrologic setting, I sort of want
5 to go back through the objectives of the groundwater
6 monitoring that's being put in in support of 1132.

7 We have early detection, which we certainly
8 see as an important potential component. We know that
9 the groundwater monitoring objective needs to be
10 essentially a safety net for what is inherent
11 administrative and engineering controls in the system.
12 And in the unlikely event that there is a release of any
13 kind of significance, we felt that it was very important
14 to have a network already in place that could actually
15 monitor the extent of the conditions associated with
16 that release.

17 So how each one of those wells and well types
18 support this objectives -- these objectives is described
19 down in here in these bullets.

20 We have the two alluvial wells, and you may
21 recall -- and if you'd like me to go back to the other
22 side, I'm happy to do that -- but you can recall that
23 those two alluvial wells, when they are installed, will
24 be located in the watercourse, in that alluvial
25 groundwater environment, just downstream of Outfall 051.

1 So, again, a very rapid response time, hydrology
2 response time, between the outfall pipe and those two
3 alluvial wells.

4 We believe that those wells provide
5 supplemental monitoring for early detection and again
6 even characterization of the extent of a release.

7 The perched-intermediate well is also kind of
8 viewed, even though it appears far down canyon, as a
9 supplement to Outfall 051 monitoring, in that water that
10 would move down that alluvial groundwater system would
11 travel down to a point where it would ultimately
12 infiltrate into that perched-intermediate groundwater
13 body. That total travel time could be maybe on the
14 order of three years or so, two to three years.

15 And we also believe it provides a nice way to
16 ensure that if there is an unlikely non-compliant
17 release, it's a good well, already in place, to help
18 characterize the extent of that release.

19 The four regional aquifer wells are really
20 more tied to the monitoring downgradient of the RLWTF
21 itself. We believe that effectively they provide a
22 useful safety net that is really built on top of the
23 very robust engineering and administrative controls
24 that are a part of the permit itself within the
25 facility.

1 All right. So how do we monitor these wells?

2 The proposal in 1132 is to use the alluvial
3 groundwater wells, the two new alluvial groundwater
4 wells, as well as the single perched-intermediate well,
5 for quarterly monitoring.

6 I've got a list here that -- I forgot to
7 include perchlorate, but the contaminants are total
8 Kjeldahl nitrogen, nitrate, total dissolved solids,
9 chloride, fluoride and perchlorate, are all going to be
10 monitored at those wells on a quarterly basis. Plus
11 every well, those alluvial and perched-intermediates, as
12 well as the four regional alluvial wells, on an annual
13 basis, will be monitored for what we call -- really call
14 here a full suite of contaminants, which is essentially
15 the contaminants listed in these regulations, and they
16 include kind of the suite of organic compounds,
17 inorganic compounds, and metals as well.

18 So an important part of any monitoring network
19 is ensuring that the wells can provide good data.

20 The wells that are proposed in 1132 are all
21 constructed consistent with the requirements in NMED
22 guidance documents. They all produce high-quality
23 representative data, meaning that we pull a sample out
24 of the well and send it off for analysis. Those samples
25 are, in fact, representative of the ambient groundwater

1 condition around the well itself.

2 And one demonstration of that basis for
3 representative data is that all these wells are also in
4 the NMED-approved interim facility-wide groundwater
5 monitoring plan, which is a separate plan under a
6 separate regulation that recognizes all of these wells
7 as providing representative data.

8 So to kind sort of start to wrap things up
9 here, I think it's important to understand that in the
10 -- in the permit, the first real line of defense for
11 operation of the RLWTF is the very robust administrative
12 and engineering controls that are an inherent part of
13 how that facility will operate.

14 What the wells do is essentially provide an
15 additional sort of backstop, if you will, for
16 environmental protection, complementing all those
17 administrative and engineering controls.

18 And that is my testimony.

19 MS. ANDERSON: Thank you.

20 MR. KATZMAN: I think you said something about
21 asking us to be brief, so I'm trying to be brief.

22 MS. ANDERSON: Thank you. Yeah.

23 Questions?

24 I'm seeing none from NMED.

25 MR. LOVEJOY: Just a couple.

CROSS EXAMINATION

1
2 BY MR. LOVEJOY:

3 Q. Mr. Katzman, the MOCI-6 well, has -- is that
4 in place now?

5 A. Madam Hearing Officer, Mr. Lovejoy, yes, it is
6 in place now.

7 Q. Okay. And upstream or upgradient from that
8 point, is there -- excuse me -- is there any control to
9 identify additional perched zones?

10 A. Would you like me to -- is it okay for me to
11 go back to some slides --

12 Q. Absolutely.

13 A. -- for demonstration here?

14 Okay. Let's do that.

15 So, Madam Hearing Officer, Mr. Lovejoy, the
16 control that we have in this situation is the
17 information that we obtain from these four -- from the
18 drilling of these four regional aquifer wells. When we
19 drill these wells, an inherent part of the methodology
20 is to, in fact, explore for the presence of perched-
21 intermediate water, and we found none at those
22 locations.

23 Q. Okay. Now, I see that perched water body.
24 What's the aerial extent of that?

25 A. Madam Hearing Officer, Mr. Lovejoy, the extent

1 of that sits essentially beneath Mortandad Canyon. So
2 if you were looking for actual sort of dimensions --

3 Q. Uh-huh.

4 A. -- I'm going to suggest that it probably is on
5 the order of about maybe 500 feet wide --

6 Q. Okay.

7 A. -- and roughly circular in shape, and maybe 20
8 to 30 feet thick.

9 Q. And what's the spacing of the R wells?

10 A. What's the distance between these wells?

11 Q. Between them.

12 A. Madam Hearing Officer, Mr. Lovejoy, I believe
13 there is a scale on -- let me go to a -- if it's okay,
14 let me go to a previous map.

15 Q. Yeah.

16 A. This one has a scale on the bottom of it. I
17 believe that shows about -- the first tick mark to the
18 right of the zero there is I think the 750-foot tick
19 mark, so 750 feet there, maybe another 2,000 feet there,
20 a similar distance there.

21 Q. So a perched water body between these R wells
22 could well have escaped detection; true?

23 A. Madam Hearing Officer, Mr. Lovejoy, it's
24 certainly conceptually possible that there could be a
25 groundwater body, a perched-intermediate body, that we

1 don't know about.

2 I will tell you from our experiences that the
3 geology beneath the alluvium along this length of
4 canyon, and this one here as well, and other places
5 we've looked, doesn't suggest that that would be a
6 likely case.

7 Q. And when were the R wells drilled?

8 A. Madam Hearing Officer, Mr. Lovejoy, I won't
9 remember the specific dates of these wells, but they are
10 each on the order of about 15 years or less in age.

11 Q. Can you -- did you give us the numbers of the
12 R wells?

13 A. I did.

14 Q. Can you repeat them for my benefit, please?

15 A. Yes.

16 Madam Hearing Officer, Mr. Lovejoy, the
17 numbers are R-60, R-46, R-14 and R-1. The R standing
18 for regional aquifer well.

19 MR. LOVEJOY: Excuse me.

20 (Confers.)

21 Q. (BY MR. LOVEJOY) You have a slide captioned
22 "Faults and Fractures."

23 Can you go back to that?

24 Yes.

25 Do you have a scientific explanation for the

1 absence of faults and fractures in the area of the
2 RLWTF?

3 A. Madam Hearing Officer, Mr. Lovejoy, the
4 location of faults and fractures is really driven by
5 sort of deep tectonic and structural factors.

6 It's well known that the western portion of
7 the laboratory property, essentially against the Jemez
8 Mountain front, is a fault zone. That's the PF here,
9 that's the Pajarito fault zone.

10 And when you see a number of lines like
11 this -- faults, in practice, even though often they are
12 drawn as single lines, depending on the scale of a given
13 map, in practice, they are usually sort of a swarm of
14 faults or fault traces through here.

15 So it's no surprise, in fact, that most of
16 these faults would be lined up along an area called the
17 Pajarito fault zone.

18 These two up in here are known faults as well
19 that have been well mapped. You can see actual
20 displacement on the ground surface, the Guaje Mountain
21 fault, the Rendija Canyon fault, and again their nature
22 is associated with deep structural tectonic features
23 that are pretty well understood around the laboratory
24 property simply because of its importance for
25 infrastructure issues, building safety, and things like

1 that.

2 MR. LOVEJOY: That's all I have, Your Honor.

3 MS. ANDERSON: Thank you.

4 NMED didn't have questions.

5 Any questions from the public for this
6 witness?

7 I'm sorry, I'm just going to stand up because
8 I can't really get a good angle.

9 I don't see anybody, so we're going to move
10 on.

11 Thank you.

12 MR. KATZMAN: Okay.

13 MS. ANDERSON: Yep.

14 MR. DeROMA: Good afternoon, Madam Hearing
15 Officer.

16 MS. ANDERSON: Hi.

17 MR. DeROMA: For the record, Silas DeRoma with
18 the Department of Energy.

19 MS. ANDERSON: Hi, Mr. DeRoma.

20 I'm sorry, I was getting my glasses on.

21 I was just going to let you know, when you
22 testify, you don't have to address me at all, just
23 speak to your counsel, because everybody has been very
24 formal with Madam Hearing Officer, but let's just go for
25 it.

1 MR. DeROMA: We'll be short and to the point.

2 MS. ANDERSON: Yes. Okay.

3 Yeah. Absolutely.

4 MR. DeROMA: Good afternoon, Ms. Armijo.

5 MS. TOWNSEND: Wait. Wait.

6 MS. ANDERSON: She has to get sworn in.

7 MR. DeROMA: Okay.

8 (Oath administered to Ms. Armijo.)

9 KAREN E. ARMIJO

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

12 DIRECT EXAMINATION

13 BY MR. DeROMA:

14 Q. Good afternoon, Ms. Armijo.

15 Would you state your full name for the record,
16 please?

17 A. Karen E. Armijo.

18 Q. And what is your current place of employment
19 and current position?

20 A. My current place of employment is for the
21 Nuclear -- National Nuclear Security Administration, a
22 semi-autonomous agency with the Department of Energy,
23 for the Los Alamos Field Office, and my current position
24 is as the Environmental Permitting Compliance Programs
25 manager.

1 Q. Can you summarize your educational background
2 and work experience, please?

3 A. Yes.

4 I have an undergrad degree from New Mexico
5 State University in environmental science; two minors,
6 one in environmental chemistry and one in environmental
7 waste management.

8 I have a master's of environmental policy and
9 management from the University of Denver.

10 I've worked in the environmental field for the
11 last 18-ish years in various degrees for -- since about
12 2005 in environmental permitting, looking at NEPA
13 documents, planned projects, activities; and since about
14 2011, up here in Los Alamos, both as a contractor and
15 then the last two years as a federal employee.

16 Q. How long have you been in your current
17 position with NNSA?

18 A. Approximately two years.

19 Q. Thank you.

20 Do your duties include RLWTF operations?

21 A. They do.

22 Q. Can you describe briefly how your duties
23 relate to RLWTF?

24 A. Yes.

25 I am a federal employee that's responsible for

1 conducting oversight of the management operations
2 contractor.

3 My area of oversight is to do environmental
4 permitting compliance, which includes environmental
5 discharges from facilities and operations like RLWTF.

6 Q. And are you familiar with LANS/DOE Exhibit 10
7 in this proceeding?

8 A. Yes.

9 Q. And can you briefly describe Exhibit 10,
10 please?

11 A. It is my technical testimony.

12 Q. Are you familiar with LANS/DOE Exhibit 11 in
13 this proceeding?

14 A. Yes.

15 Q. Can you describe Exhibit 11, please?

16 A. It is my resume, which includes my education
17 and work history.

18 Q. Are you familiar with LANS/DOE Exhibit 12 in
19 this proceeding?

20 A. Yes.

21 Q. Can you briefly describe that?

22 A. It is a table -- it's part of the
23 administrative record. It's a table that summarizes
24 CCW's comments on a draft and earlier version of the
25 draft permit.

1 Q. And are you familiar with Exhibit 13 in this
2 proceeding?

3 A. Yes.

4 Q. I'm sorry, LANS/DOE Exhibit 13 in this
5 proceeding.

6 A. Yes.

7 Q. Can you describe that, please?

8 A. It is communications from DOE and LANS to the
9 Environment Department regarding some of the comments
10 that CCW has made on previous drafts.

11 MR. DeROMA: Madam Hearing Officer, the
12 Department of Energy would move for admission of
13 Exhibits 10 through 13 into the record, please.

14 MS. ANDERSON: Any objection?

15 I'm not seeing any.

16 So admitted.

17 (LANS/DOE Exhibits 10 through 13 admitted.)

18 MR. DeROMA: Thank you.

19 Q. (BY MR. DeROMA) Ms. Armijo, in your position
20 with NNSA, have you had the opportunity to familiarize
21 yourself with the proposed draft permit DP-1132?

22 A. Yes.

23 Q. Are you familiar with condition A.6 in the
24 draft permit?

25 A. Yes, it's regarding signage.

1 Q. And are you familiar with CCW's comments
2 regarding the signage at the RLWTF?

3 A. Yes.

4 Q. Can you describe briefly your understanding of
5 their position?

6 A. My understanding is that CCW has submitted
7 comments to the Environment Department requesting that
8 signage be posted at the facility boundary in Spanish,
9 English and Tewa.

10 Q. Does the Department of Energy have a position
11 on those comments?

12 A. We do.

13 Q. Would you explain that position, please?

14 A. Yes.

15 Our position is that the RLTL- -- the RLWTF
16 facility is a facility that's located interior to the
17 Los Alamos National Laboratory boundary, approximately
18 three miles to the interior; that the RLWTF does not
19 share a boundary with the pueblos; and that we agree
20 with the draft permit -- we agree with the provisions in
21 the draft permit for A.6 that identify signage in
22 Spanish and English.

23 Q. Are you familiar with comments submitted by
24 CCW on the organization of the Emergency Operations
25 Center?

1 A. Yes.

2 Q. What is your understanding of their comments?

3 A. My understanding of the comments is that CCW
4 has requested that members of the pueblo be allowed to
5 staff the Emergency Operations Center.

6 Q. And does DOE have a position on those
7 comments?

8 A. We do.

9 Q. Could you describe that position, please?

10 A. Yes.

11 The Emergency Operations Center for Los Alamos
12 National Laboratory is a facility -- it's a facility
13 that is geared towards addressing emergency situations
14 that would occur at the laboratory as a result of
15 operations; that facility is driven by DOE Order 151.1D,
16 which is the emergency management systems; and that
17 order defines how an Emergency Operations Center like
18 this one would be organized for emergency personnel.

19 It also requires that personnel in these
20 facilities have appropriate capabilities and skill sets
21 geared towards addressing the hazards and risks that may
22 arise from these operations in our facilities.

23 And that that same order also identifies how
24 we would interact with key stakeholders and regulators,
25 and it defines what that process would be.

1 So it -- that's it.

2 Q. To your knowledge, was a comment similar to
3 this ever raised by the pueblo to the Department of
4 Energy?

5 A. It was not, to my knowledge.

6 MR. DeROMA: Thank you.

7 Madam Hearing Officer, I have no further
8 questions.

9 MS. ANDERSON: You know, I have a question for
10 you.

11 EXAMINATION

12 BY MS. ANDERSON:

13 Q. Could you expand on this? Because I'm not
14 familiar with the comment, and I'd have to read it.

15 But essentially are they saying they want
16 someone from the tribes or the pueblos to be part of the
17 monitoring?

18 A. To be part of the environmental -- excuse me,
19 the Emergency Operations Center.

20 Q. Okay. And you're saying they are -- your
21 position is that they don't want that to happen because
22 are there security clearances, or what's the issue?

23 A. No, our position is that members of the pueblo
24 would not have and may not have the necessary skill sets
25 and capabilities to adequately address the hazards from

1 our facilities and our operations; that there are other
2 avenues in which we would engage them, and that's
3 specified in the order.

4 They are a key stakeholder, because they share
5 a member -- they share a boundary with the laboratory,
6 so we would engage them on issues or concerns from
7 emergency operations that would affect the pueblo.

8 Q. So as an example, if there was an accident,
9 let's say a big accident, some of this water was
10 released, what steps would you take to notify the
11 surrounding community?

12 A. It would start with the Emergency Operations
13 Center --

14 Q. Okay.

15 A. -- which would evaluate the hazard and the
16 risk. And in determining that hazard and risk, we would
17 make notifications to key stakeholders, like the New
18 Mexico Environment Department and/or the pueblos, the
19 county, possibly the state emergency response
20 organization, the State EOC, to determine public risk,
21 to communicate any risk or hazards or emergency response
22 actions that should be taken.

23 Q. And is there a time frame?

24 A. For those notifications?

25 Q. Uh-huh. Yeah.

1 A. It's spelled out. It depends on the severity
2 of the issue, but it's spelled out.

3 MS. ANDERSON: Thank you.

4 Thank you.

5 MR. DeROMA: Okay.

6 I have no follow-up on your questions.

7 MS. ANDERSON: Okay. Thank you.

8 MR. DeROMA: But I would point out that the
9 specific comments are in Exhibit 5.

10 MS. ANDERSON: And I have to go back and read
11 them.

12 I was just thinking in my mind there was the
13 big spill in Northern New Mexico with the copper mine,
14 and there was some real issues with notification for
15 people downstream, and I know that that's kind of a
16 sensitive topic in New Mexico, because I guess one
17 person's version of what is an emergency versus this
18 person living downstream might be different, you know.

19 MS. ARMIJO: Yes.

20 MS. ANDERSON: I guess it depends if you fish
21 or what your background is, you know, you might want to
22 know.

23 Yeah. Thank you.

24 MR. DeROMA: Thank you.

25 MR. LOVEJOY: If I may.

1 CROSS EXAMINATION

2 BY MR. LOVEJOY:

3 Q. Is there -- is there, in the structure of an
4 Emergency Operations Center, as you understand it, a
5 requirement for advanced consultation by community --
6 with communities who may be affected by future
7 emergencies rather than -- as distinguished from
8 contacts when the emergency has already arisen?

9 A. Mr. Lovejoy, I believe that the DOE Order
10 identifies a planning and coordination requirement,
11 where DOE and our facilities, our contractor, like LANS,
12 would work with -- would work with agencies that either
13 could potentially be affected and/or would perhaps
14 provide some augmented support in the times of an event,
15 to increase awareness, education.

16 I believe that our relationship with the
17 pueblo, under a separate agreement, under a government-
18 to-government relationship, that we would engage in
19 those discussions.

20 I can tell you that, based on my interactions
21 with the folks in my office, that it's my belief that
22 the pueblo has never raised a concern.

23 Q. So if there were interactions, you don't know
24 of them?

25 A. I don't have any direct knowledge, no.

1 MR. LOVEJOY: Okay.

2 Thank you.

3 MS. ANDERSON: Thank you.

4 Okay. I'm going to just stand again.

5 Any questions for this witness?

6 Go ahead, Joni.

7 MS. ARENDS: May I just take a moment?

8 MS. ANDERSON: Sure. Yeah. If you need to
9 take a moment.

10 (Confers.)

11 CROSS EXAMINATION

12 BY MS. ARENDS:

13 Q. Ms. Armijo, I would like to raise the
14 environmental justice issues with regard to the
15 Emergency Operations Center.

16 MR. DeROMA: Madam Hearing Officer, with all
17 due respect to the question, Ms. Armijo's testimony was
18 specifically limited to those two comments regarding
19 signage and the station -- involving a pueblo
20 representative in the Emergency Operations Center.

21 I would propose that the discussion on
22 environmental justice is beyond the scope of her direct
23 testimony.

24 MS. ANDERSON: Well, do you have anybody here
25 today who is going to talk about that?

1 MR. DeROMA: We do not have anyone planned to
2 address this, no.

3 MS. ANDERSON: Okay.

4 MS. ARENDS: Could you repeat your question --
5 your comment, sir? I didn't hear you.

6 MR. DeROMA: So I explained to the Hearing
7 Officer that I believe your question exceeds the scope
8 of the direct testimony from this witness.

9 MS. ARENDS: The witness said that the fire --
10 the people that would be at the EOC did not have the
11 skill set, and I wanted to raise the issue about the
12 empty seats that are available in the EOC.

13 And having sat with the members of the
14 Communities for Clean Water, from Honor Our Pueblo
15 Existence and with Tewa Women United -- they are not
16 here, but I feel that I need to address this issue.

17 Specifically, when we went on the tour of the
18 EOC --

19 MR. DeROMA: Excuse me.

20 So, Madam Hearing Officer, we'll withdraw the
21 question -- the objection to the questioning.

22 I have no objection to her pursuing this line
23 of questioning.

24 MS. ANDERSON: Okay. Thank you.

25 And, Ms. Arends, before you go on, I just want

1 to clarify, I don't think New Mexico has a definition of
2 what is environmental justice.

3 I know that the federal EPA has suggestions,
4 which change with the political whims. So in terms of
5 environmental justice, if you're focusing on a specific
6 prong of environmental justice, it sounds like maybe
7 notice and government-to-government communications, or
8 whatever your goal is, could you emphasize which aspect
9 you're talking about?

10 Because otherwise it's such a broad umbrella,
11 I think people are going to be thinking different
12 things. Okay?

13 MS. ARENDS: Okay. The New Mexico Environment
14 Department has an environmental justice program/policy,
15 as well as the environmental justice policy that was
16 signed by Bill Richardson in 1998 --

17 MS. ANDERSON: So you're talking about
18 state --

19 MS. ARENDS: -- when he was governor.

20 MS. ANDERSON: -- state environmental justice,
21 not federal.

22 MS. ARENDS: State. State environmental
23 justice.

24 MS. ANDERSON: Okay. Thank you.

25 MS. ARENDS: I'm -- I'm just going to stop.

1 The pueblo women aren't here to address this
2 issue about the skill set. And I would respectfully ask
3 that there be an opportunity for them to communicate
4 possibly in writing to you about their concerns about
5 this issue.

6 MS. ANDERSON: Well, we may -- this hearing
7 may, in fact, go on into tomorrow, and we may leave the
8 record open for a week or so afterwards.

9 So if they wanted to submit some comments, we
10 probably wouldn't oppose that.

11 But one thing, before we do that, are you
12 hearing this witness to say that the people were not
13 qualified, is that what you heard?

14 MS. ARENDS: That's what I heard.

15 MS. ANDERSON: Yeah, she -- she changed her
16 answer. She actually said -- it's kind of far along in
17 the record, but she was basically saying they have a
18 policy and she distinguished whether or not people would
19 be qualified to do that. She wasn't saying they were
20 unqualified. She kind of changed her statement,
21 basically, not meaningfully, but --

22 MS. ARENDS: Thank you for that clarification.

23 MS. ANDERSON: Yeah.

24 MS. ARENDS: My -- my main concern was that
25 during the Cerro Grande Fire in May 2000, and during the

1 Las Conchas Fire in June 2011, that it was the hotshots
2 from the pueblos that came up to fight the fire, and it
3 just doesn't feel -- there is no justice that there is
4 not a seat in the E- -- there are not seats for the
5 surrounding pueblo.

6 Thank you.

7 MS. ANDERSON: Well, I think you raised a
8 good point, and I'm sure that's something the DOE
9 could, you know, think about, because I think you have a
10 policy on tribal, you know, consultation, correct,
11 federally?

12 MR. DeROMA: Yes, Madam Hearing Officer, we
13 have a policy on tribal consultation, which is driven by
14 executive order; and we also -- with regard to the EOC,
15 we follow DOE Order 151.1D, which is referenced in
16 Ms. Armijo's formal testimony.

17 MS. ANDERSON: And I'm going to go back and
18 read that.

19 And one of the things that I was thinking
20 about, it also could potentially be a good opportunity,
21 since we have a lot of people locally who maybe are
22 curious and there certainly could be a pipeline there as
23 well. But I understand it depends on the policy.

24 Do we have other questions for this witness?

25 I'm not seeing any.

1 All right. Thank you very much.

2 MS. ARMIJO: Thank you.

3 MS. ANDERSON: Oh, I'm sorry.

4 Go ahead.

5 MS. CONN: Good afternoon. I had one question

6 -- or two questions, actually.

7 EXAMINATION

8 BY MS. CONN:

9 Q. There are other governmental entities that
10 have seats at the EOC.

11 Does the County of Santa Fe have a seat at the
12 EOC?

13 A. I do not know that myself. I would have to
14 follow up.

15 I know that under the DOE Order 151.1D Santa
16 Fe County would be engaged as a key stakeholder as
17 well.

18 Individuals that have seats within the LANL
19 EOC are LANL badge holders. They are familiar with the
20 operations and the facilities, with the hazards and
21 risks that occur here.

22 It's a little different from like a county
23 EOC, because we are a unique and complex industrial
24 facility.

25 Q. My recollection from our tour was that there

1 was seats for other governmental agencies adjacent to
2 Los Alamos that had seats, and that it was a glaring
3 omission for those of us on the tour that the pueblos
4 weren't included in those seats, and maybe it's
5 following up on that, and maybe it's changed since then
6 since that's been years ago, but I think that that's the
7 crux of this -- the issue, that these are key
8 stakeholders and appeared, at least from those of us on
9 the tour, that there were seats for some of these other
10 adjacent governmental entities but not for the pueblos.

11 So that was -- that was where a lot of the
12 concern was coming from in our comments.

13 A. So if I may, I believe that the -- the LANL
14 EOC, DOE and LANS, that we have memorandums of agreement
15 to create reciprocal services with Santa Fe County, Los
16 Alamos County, the State of New Mexico, to provide
17 support during a large-scale incident, and that may be
18 where their seats are rooted in, for that sort of
19 coordination and support during an incident.

20 It's not uncommon, under the National Incident
21 Management System, the NIMS system, which typically
22 creates the structure and organization for these types
23 of emergency operations centers.

24 MS. CONN: Okay. Thank you.

25 MS. ANDERSON: Thank you.

1 MS. ARENDS: And I would just like to add
2 that, Ms. Armijo, I know that you were not involved in
3 the negotiations, and I know that you were not present
4 on our tour.

5 So with all due respect, I asked those
6 questions today.

7 Thank you.

8 MS. ARMIJO: Thank you.

9 MS. ANDERSON: Thank you.

10 MR. BUTZIER: Madam Hearing Officer, could we
11 just let the reflect that just before that last question
12 that it was Rachel Conn who was the questioner?

13 MS. ANDERSON: Yes. Yeah. Thank you.

14 I don't see any other questions for this
15 witness. So thank you.

16 MS. ARMIJO: Thank you.

17 MS. ANDERSON: John, are you guys going to
18 present your case at this point?

19 MR. VERHEUL: We're ready, yes.

20 MS. ANDERSON: I don't want to steal your
21 thunder, but we were thinking if you were going to
22 present, this might be a good time for a break, a brief
23 one, if anybody had to go to the bathroom, because if
24 we're going to be here till six, we probably should take
25 a break, and I'd rather do it now than interrupt you.

1 MR. VERHEUL: Sounds good.

2 MS. ANDERSON: Okay. Thank you.

3 (Recess held from 2:55 to 3:05 PM.)

4 MS. ANDERSON: Good afternoon. We're on the
5 record in GWB 17-20(P), for permit.

6 Hello. Hello, happy social people.

7 We're on the record in GWB 17-20(P), for
8 permit.

9 And we're going to start with the New Mexico
10 Environment Department's case.

11 MR. VERHEUL: Good afternoon, Madam Hearing
12 Officer. Again, my name is John Verheul. I'm the
13 attorney for the New Mexico Environment Department.

14 I'll pause for a second if you'd like to swear
15 in the witness.

16 MS. ANDERSON: Yes, please.

17 Thank you.

18 (Oath administered to Mr. Pullen.)

19 MS. ANDERSON: Thank you.

20 MR. VERHEUL: Madam Hearing Officer, Steve
21 Pullen is our primary witness; however, we've also
22 brought with us Dr. Pat Longmire, who did not file any
23 direct testimony and does not intend to give any direct
24 testimony.

25 We have -- in past hearings similar to this,

1 we've provided Dr. Longmire as an additional witness,
2 typically to answer questions from the public, because
3 of his expertise and his familiarity with this facility,
4 and we typically have them sit as a panel for cross-
5 examination.

6 Previously, counsel for CCW indicated that
7 they were interested in cross-examining witnesses one
8 by one, and I believe that is still counsel's
9 preference.

10 MR. LOVEJOY: Yes.

11 MR. VERHEUL: However, the Department --
12 assuming that we're still here today, when the public is
13 able to question our witnesses, Dr. Longmire is still
14 here and can come up as a second panel witness.

15 MS. ANDERSON: Okay. So I think what we
16 should probably do, then, is we'll do direct, CCW can
17 cross. If Mr. Longmire wants to join as the panel, we
18 can swear him in, and I'll check in before we add him to
19 see if there is any other members of the public who want
20 to make public comments or have questions.

21 I haven't seen anybody new on the sign-in
22 sheets, but we'll double-check.

23 So is that okay with everyone?

24 MR. LOVEJOY: Yes.

25 MR. VERHEUL: That's great. Thank you, Madam

1 Hearing Officer.

2 MS. ANDERSON: Thank you.

3 Okay.

4 MR. VERHEUL: The Department's first witness
5 is Steve Pullen.

6 STEPHEN PULLEN

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

9 DIRECT EXAMINATION

10 BY MR. VERHEUL:

11 Q. Good afternoon, Mr. Pullen.

12 A. Good afternoon.

13 Q. Please state your name.

14 A. Steve Pullen.

15 Q. What is your current employment position?

16 A. I am the manager of the Pollution Prevention
17 Program within the Ground Water Quality Bureau of the
18 New Mexico Environment Department.

19 Q. Would you please briefly describe your
20 education and your experience?

21 A. I earned a bachelor's of science degree in
22 geology from the University of Texas at Austin in 1983.

23 I have 30 years of experience working in
24 the environmental field, with three years in the
25 private sector and the remainder of my time working

1 regulatory oversight for the New Mexico Environment
2 Department.

3 The majority of my approximately 27 years of
4 experience with NMED was with the Hazardous Waste
5 Bureau, where I worked as a permit writer and as manager
6 of the compliance program.

7 Since late 2015, I've been employed with the
8 Ground Water Quality Bureau.

9 With this Bureau, I started as a permit
10 writer, processing permit applications and performing
11 routine monitoring of complex industrial facilities.
12 These facilities include Los Alamos National Laboratory.

13 With regard to LANL, I assumed the lead
14 regulatory oversight role with the Bureau for the
15 Radioactive Liquid Waste Treatment Facility and the
16 chromium and RDX contaminant plumes approximately a year
17 ago.

18 Approximately eight months ago, I was promoted
19 to manager of one of the principal groundwater
20 discharge permitting sections within the Bureau, with
21 the Pollution Prevention Section. This section permits
22 all discharges of groundwater, except mines and
23 agricultural facilities in the state.

24 I consider myself to have a high level of
25 expertise as an environmental permit writer, to be very

1 adept in evaluating environmental compliance, and to be
2 a fairly good hydrogeologist.

3 My resume is Exhibit 2 of the Department's
4 statement of intent to present technical testimony.

5 Q. And, Mr. Pullen, what is the purpose of your
6 testimony today?

7 A. My purpose today is to present testimony
8 regarding the United States Department of Energy and the
9 Los Alamos National Security's application to discharge
10 treated wastewaters associated with the Radioactive
11 Liquid Waste Treatment Facility that might impact
12 groundwater and the associated draft discharge permit
13 allowing this discharge to happen in a safe and
14 protective manner.

15 The latest draft of DP-1132 is marked as
16 Exhibit -- NMED Exhibit 1. References to draft DP-1132
17 in my testimony refer to this version of the proposed
18 permit.

19 Q. And, Mr. Pullen, what was your involvement in
20 the permitting process for this particular discharge
21 permit?

22 A. As program manager, I oversee the permitting
23 process for all domestic and industrial discharges,
24 including DP-1132.

25 Through a staff of 11 permitting specialists,

1 each application for discharge is evaluated, additional
2 information is sometimes requested, and specific
3 conditions are drafted and included in the permits which
4 protect New Mexico's groundwater resources.

5 I review all draft discharge permits for
6 consistency between permittees, applicability of the
7 conditions, regulatory framework, and provide input on
8 requirements and conditions set forth in the permit.

9 I have been directly involved in the
10 permitting process with DOE/LANS on a number of other
11 permits.

12 With regard to this draft permit, though I did
13 not personally draft the conditions and I did not
14 participate in many of the meetings between the
15 applicants, interested parties and the Department in
16 preparation for these conditions, I have reviewed all
17 the conditions and found them to be appropriate.

18 Q. And did you prepare written testimony that
19 explains in detail the permitting action in question
20 today?

21 A. Yes. It was filed as NMED Exhibit 4.

22 Q. Do you have any revisions to any of your
23 written testimony that you'd like to make now?

24 A. No, I do not.

25 Q. Do you adopt Exhibit 4 as your testimony under

1 oath here today?

2 A. Yes.

3 MR. VERHEUL: Madam Hearing Officer, at this
4 time I'd like to move for the admission of NMED Exhibits
5 1, 2 and 4.

6 MR. BUTZIER: No objection.

7 MR. LOVEJOY: 1 is the DP-1132?

8 MR. VERHEUL: Yes.

9 MR. LOVEJOY: 2 is the resume?

10 MR. VERHEUL: Yes.

11 MR. LOVEJOY: And 4 is the testimony?

12 MR. VERHEUL: Yes.

13 MR. LOVEJOY: We don't have any objection.

14 MS. ANDERSON: Thank you.

15 MR. LOVEJOY: Subject to cross-examination.

16 MS. ANDERSON: Sure.

17 (NMED Exhibits 1, 2 and 4 admitted.)

18 Q. (BY MR. VERHEUL) Mr. Pullen, do you support
19 issuance of DP-1132 in the form that was filed along
20 with your written testimony as NMED Exhibit 1?

21 A. Yes.

22 Q. Can you elaborate on why this discharge permit
23 is needed and how it is protective of groundwater?

24 A. This discharge permit is needed for the same
25 reason all New Mexico's discharge permits are needed,

1 and these are basic and fairly intuitive.

2 First, to protect public health and the
3 environment, to address statutory and regulatory
4 requirements for discharge permits, to prescribe a
5 regulatory scheme for the oversight and monitoring of
6 operating a complex facility whose associated fluids may
7 adversely affect groundwater, to provide the public with
8 an opportunity to have a voice in an important and
9 concerning environmental issue within the community.

10 But the main reason this permit is needed, and
11 is the prime -- and its primary focus, is to minimize
12 the potential for an adverse impact on groundwater.

13 The reason we need to finalize this draft
14 discharge permit is to finally, after a very long time,
15 bring this facility under Ground Water Quality Bureau
16 oversight.

17 Q. And how is this discharge permit protective of
18 groundwater?

19 A. Every condition of the permit, even though
20 seemingly unrelated to groundwater protection, are
21 included in the permit to protect groundwater.

22 The permit includes a number of detailed,
23 sometimes unique and protective, conditions addressing
24 administrative and engineering controls.

25 Administrative controls include frequent

1 inspections of the facility; detailed standard operating
2 procedures; training requirements, including operator
3 certification; emergency response capabilities 24/7;
4 regulatory oversight and inspections.

5 Engineering controls include things like
6 secondary containment for all piping and vessels
7 managing liquids not treated to discharge levels; liquid
8 level and liquid presence alarms and critical components
9 of the system; the presence of two 60-mil synthetic
10 liners, with leak detection and soil moisture monitoring
11 of the solar evaporation tank; chemistry monitoring
12 occurring throughout the facility, particularly
13 monitoring the influent/effluent fluids; and finally a
14 groundwater monitoring system.

15 Q. Briefly, Mr. Pullen -- briefly, Mr. Pullen,
16 could you describe how the Department notified the
17 public of this permit, as it was first applied for and
18 then as it continued through the permitting process?

19 A. The Department ensured, and continues to
20 ensure, public notice occurs at all regulatory-specified
21 milestones in the permitting process.

22 The principal public notice milestones are
23 three: the application submittal notice, which is
24 referred to as the PN-1, or Public Notice 1 stage; the
25 draft permit for public comment notice, otherwise known

1 as PN-2; and, finally, if things proceed to the level of
2 a hearing, the hearing notice.

3 Each of these notification processes
4 associated with the Radioactive Liquid Waste Treatment
5 Facility took place in accordance with the rules at
6 20.6.2.3108 NMAC, and may have occurred multiple times
7 due to changing circumstances, such as the 2007 decision
8 to add the solar evaporation tank, resulting in a
9 significant changed discharge permit.

10 The public notice timeline with this permit
11 includes DP-1132 PN-1 occurring two times, in
12 association with the first application submitted in
13 November of 1996 and then again in March of 2012; PN-2,
14 this is the notice of -- for public comment and a
15 hearing for DP-1132 occurred six times, primarily to
16 provide the public with the opportunity to review a
17 draft discharge permit revised because of the concerns
18 and comments received during the previous public comment
19 period. DP-1132 PN-2 occurred in August of 2003, in
20 April of 2005, in August of 2013, in November of 2013,
21 May 2017, and March -- and the final on March 9th of
22 2018.

23 Q. And, Mr. Pullen, just to clarify, you said
24 PN-2 was for comment and hearing. You meant if there
25 were requests for a hearing --

1 A. That's correct.

2 Q. -- is that correct?

3 A. That's correct.

4 In fact, the Department's hearing notices
5 occurred three times in the late 2017s and early 2018.

6 In December of 2018, in January of 2018, and
7 finally in March of this year, these changes were
8 necessary due to changes in the hearing date and
9 location of this hearing.

10 The March 9th, 2018, hearing notice is marked
11 as NMED Exhibit 5.

12 Q. And, Mr. Pullen, you said "December of 2018,"
13 I think you mean December 2017. Is that right?

14 A. That's correct.

15 Q. Okay. Do you want --

16 A. I have a little more to say regarding public
17 notice.

18 It occurred in various forms. These include
19 at a minimum newspaper ads, mail-outs and e-mails to
20 interested parties, and posting of the notice on the
21 Bureau's web page.

22 During this permitting process, the Department
23 held multiple listening sessions and meetings with
24 stakeholders. A more complete description of the public
25 notification process associated with this draft permit

1 is presented in my written testimony.

2 Q. And is there anything else you'd like to add
3 with respect to this discharge permit?

4 A. Yes, there is.

5 I'd just like to list some of the aspects of
6 this discharge permit and the Radioactive Liquid Waste
7 Treatment Facility that I consider, in my experience,
8 significantly unique.

9 I provide this list to mention some of the
10 factors contributing to the lengthy permitting process,
11 but primarily to provide our audience with some in-depth
12 regulatory perspective on the facility and the
13 permitting process.

14 So these unique aspects include, as we're all
15 aware, the Radioactive Liquid Waste Treatment Facility
16 and its function at LANL are very unique.

17 The facility has many complex water --
18 wastewater treatment systems, including things like
19 chemical neutralization, chemical separators, gravity
20 filters, pressure filters, rotary vacuum filters,
21 primary and secondary reverse osmosis systems and ion
22 exchange systems.

23 I generally see two of these type systems
24 associated with any particular wastewater treatment
25 facility.

1 Another unique aspect is the facility's
2 influent secondary containment system. I've never seen
3 such a robust secondary containment system at any
4 facility I've ever regulated.

5 Another unique aspect includes the three
6 different discharge mechanisms or ways that liquid can
7 be discharged. I might occasionally see discharge
8 going two different directions, but that's fairly
9 unique, too.

10 A mechanical evaporator as a discharge
11 mechanism, I've never seen one of these.

12 A passive solar evaporative system that is
13 very highly engineered, I've never seen an evaporation
14 performed in a tank, though we occasionally see earthen
15 impoundments with double liners.

16 I seldom encounter leak detection systems for
17 evaporative ponds, and I've never encountered an
18 associated soil moisture monitoring system.

19 Finally, I don't think that I've ever seen a
20 discharge permit, or any permit -- any kind of permit,
21 take more than 20 years to get issued.

22 Finally, regarding groundwater at Los Alamos
23 National Laboratory, I've seen no facility in New Mexico
24 where the Department has dedicated as many resources, in
25 the form of FTEs, to perform groundwater investigation

1 should have directed them at Mr. Beers.

2 But I want to know about the wall or the
3 barrier in the evaporation tanks. What is that made of,
4 and how long does it last?

5 A. The solar evaporation tank, it's considered a
6 single tank, is constructed of concrete, which as my --
7 my verbal testimony just stated is rather unique.
8 Normally, these are earthen impoundments. So it's
9 concrete. I believe it's ten-inch thick walls and an
10 eight-inch thick floor.

11 Q. Okay.

12 A. Atop the concrete structure are two synthetic
13 liners. These are poly -- some kind of poly liner, and
14 I understand the permit requires that these liners be of
15 a special, extraordinary thickness. This is a 60-mil
16 liner for each of these.

17 And there is other very interesting
18 engineering controls associated with this evaporative
19 tank.

20 Q. Thank you.

21 And that was my first question.

22 My second question is, they are talking about
23 the -- they are calling it SET, which is the environment
24 -- the evaporation tank, the large one with the
25 concrete, and then they had the images of the little

1 tanks -- or they are not little, they are gigantic, but
2 big tanks --

3 A. Uh-huh.

4 Q. -- and then the discharge to the canyon or the
5 pipe.

6 So the way this is set up, the way I was
7 reading the permit, and I'm not a permitting person and
8 that's why I'm asking you -- and this is some permit, I
9 have to say.

10 Is there a preference? Because one of the
11 things that I was understanding is the idea behind the
12 permit is that if they have to do maintenance or reroute
13 things that they would maybe move over to another
14 system.

15 So is it a tiered system?

16 A. The permit does not dictate any kind of a
17 preference.

18 Q. Okay. All right. Okay.

19 A. And let me clarify one thing.

20 The photograph of Mr. -- and in Mr. Beers'
21 testimony showing a series of tanks, those were not part
22 of the -- one of the discharge options.

23 Q. Okay.

24 A. Those are holding tanks for influent, should
25 there be an emergency.

1 Q. Okay.

2 A. The other discharge option is the mechanical
3 evaporator.

4 Q. Okay. So, for example, if there was an
5 accident, or let's say they had to replace the liner on
6 the evaporative cooling, they would probably want to
7 reroute the system.

8 Are they doing it in a pipe system as well?

9 A. If I understand your question, if there was an
10 emergency and they had to reroute -- they certainly have
11 a very highly engineered plumbing system.

12 Q. Okay.

13 A. They can reroute discharges to any one of the
14 three options.

15 Q. Uh-huh.

16 A. I -- and they have a considerable holding
17 capacity. So I think they have a lot of options.

18 Q. Okay. So it's more -- is it more about
19 flexibility or -- the reason I'm asking about the tiers
20 is it -- it's sounding like which method is best,
21 because the permit doesn't say how -- like you're
22 saying, the permit allows them to decide.

23 So there is no monitoring of which preference?

24 A. The permit dictates no preference.

25 Q. Okay. And is that because of this specific

1 permit and this facility and the level of all of the
2 steps?

3 A. Well, let me explain that though there hasn't
4 been a discharge to Outfall 051 for a long time, the
5 principal discharge point since 2010 has been the
6 mechanical evaporator.

7 Q. Okay.

8 A. The solar evaporation tanks have not been
9 utilized because they are not grandfathered in.

10 Q. Okay.

11 A. The -- the outfall and the mechanical
12 evaporator are grandfathered in, and they are allowed to
13 use those without having to receive the discharge permit
14 to date.

15 MS. ANDERSON: Thank you. That answers my
16 question.

17 Thank you very much.

18 MR. PULLEN: Uh-huh.

19 MS. ANDERSON: I'm sorry.

20 Cross?

21 MR. BUTZIER: No questions.

22 CROSS EXAMINATION

23 BY MR. LOVEJOY:

24 Q. Mr. Pullen, what do you mean by "grandfathered
25 in"?

1 A. Mr. Lovejoy, as I understand it, if the
2 facilities were in operation prior to the effective date
3 of the regulations, they are -- they are authorized to
4 operate.

5 Q. And what was the effective date?

6 A. Of the regulations?

7 Q. The ones you've just referred to.

8 A. I'm not certain.

9 I believe a discharge permit application was
10 submitted in the 1980s. That was even prior to the
11 effective date of the rules.

12 I believe the groundwater protection rules
13 came into effect in the 1990s. I couldn't tell you
14 exactly when.

15 Q. Now, I couldn't help but notice that you were
16 reading from some material in front of you.

17 What is that?

18 A. I have a binder here of a number of different
19 things.

20 I was reading what I had titled my oral
21 testimony.

22 Q. Who prepared that?

23 A. I did.

24 Q. Alone?

25 A. There was a little bit of oversight.

1 Q. And who was overseeing?

2 A. My counsel and my management.

3 Q. Okay. When you came to the Ground Water
4 Quality Bureau in 2015, did you study the Water Quality
5 Act and the regulations under the Water Quality Act to
6 become familiar with the provisions that would govern
7 your tasks?

8 A. As anybody new to the Bureau would do, you --
9 you are initially assigned projects and you learn the
10 rules and regulations as -- as you explore the
11 particular issues at hand.

12 Q. Do you think you -- sorry, were you done?

13 A. Yes.

14 Q. Do you think you became familiar with the
15 length and depth of the regulations and the statute?

16 A. I'm still becoming familiar with the length
17 and depth of the regulations and -- and even more so
18 with the statute.

19 Q. But you do have, as you say, expertise as an
20 environmental permit writer; is that right?

21 A. That's correct.

22 Q. Now, you did not -- you were not the only NMED
23 individual working on this permit, correct?

24 A. Correct.

25 Q. You were in a -- in effect, an oversight

1 capacity yourself. Is that true?

2 A. Initially, when I started with the Bureau in
3 2015, I was working with a group of permit writers on
4 LANL permits, including this particular one.

5 It wasn't until approximately eight months ago
6 that I was in an oversight role for the -- for the
7 program. But I retained the principal permit oversight
8 role for this permit.

9 Q. And who was working under you, so to speak, on
10 this permit?

11 A. Since I took responsibility -- responsibility
12 for program management, nobody. It's been me alone.

13 Q. And you said you examined all of the
14 conditions and provisions of this permit and determined
15 that they were appropriate. Correct?

16 A. Correct.

17 Q. Okay. There was reference to the SETs, the
18 solar evaporation tanks.

19 Do you know why they are called "tanks"?

20 A. It's my understanding they are called tanks
21 because, in contrast to an impoundment, they are
22 constructed of engineered materials and principally
23 because they can stand-alone. They -- this tank, if it
24 was not set in the ground, it could set atop a parking
25 lot and -- and function properly.

1 Q. How do you know that?

2 A. I don't know that. I believe that the
3 engineering, the size of the tanks, the size of the con-
4 -- or the thickness of the concrete walls, would be
5 sufficient to be structurally supportive.

6 Q. Well, did you do any math or study these --

7 A. No.

8 Q. -- tanks or this tank?

9 A. No.

10 Q. Okay. Have you ever heard it said that the
11 SET facility is called tanks so that it would be
12 eligible for the wastewater treatment unit exemption?

13 A. No, I've never heard that.

14 Q. Okay. You are aware that the lab invokes the
15 wastewater treatment unit exemption, are you not?

16 A. Yes.

17 Q. Okay. Do you have your full-length
18 testimony -- I think it's Exhibit 4 -- in front of you?

19 A. I do.

20 Q. I'm looking at the bottom of page two and the
21 text going over to the top of page three.

22 You state, on page two, that "A discharge
23 permit is required for the RLWTF because; 1) the
24 Applicants are discharging effluent in a manner such
25 that the effluent may move directly or indirectly into

1 groundwater within the meaning of 20.6.2.3104 NMAC."

2 That's what you say. Am I correct?

3 A. That's correct.

4 Q. And you say, after that, that "2) the
5 discharge is such that effluent may move into
6 groundwater of the State of New Mexico which has an
7 existing total dissolved solids (TDS) concentration of
8 less than 10,000 milligrams per liter within the meaning
9 of 20.6.2.3101.A NMAC."

10 Correct?

11 A. Correct.

12 Q. And you say, going over to page three, that
13 "The discharge is into or within a place of withdrawal
14 of groundwater for present or reasonably foreseeable
15 future use within the meaning of the Water Quality Act,"
16 citing 74-6-5.E.3 and 20.6.2.3103 NMAC.

17 Correct?

18 A. Correct.

19 Q. And in addition, the draft permit, which is --
20 what is it, Exhibit 1 now? -- at page nine -- I'm just
21 going to check -- under Roman numeral IV, recites
22 essentially the same matters; is that true?

23 A. That's correct.

24 Q. Did you write that part?

25 A. If you're referring to the permit language --

1 Q. Yes.

2 A. -- no, sir.

3 Q. Yes, I am.

4 A. No, sir. I did not write that.

5 Q. Who did?

6 A. My predecessor.

7 Q. Who was that?

8 A. Oh, it's been a number of people.

9 I'm not sure exactly who wrote this, but this
10 permit has been in the making for at least ten years,
11 and this is standard language that comes -- or is found
12 in most of our permits, and it could have been -- I
13 could name the individuals, if you'd like.

14 Q. Well, if you know who wrote it, yes, that
15 would be the answer.

16 A. I don't -- I don't know exactly who wrote
17 this. No.

18 Q. Okay. But you went through each segment and
19 each section of this permit to determine that it was
20 appropriate for inclusion in the permit; true?

21 A. That's correct.

22 Q. What did you do with respect to the paragraphs
23 that I've mentioned?

24 A. I -- the paragraphs in the permit you've
25 mentioned at Section IV are "Findings," as we refer to

1 them in all of our permits, and I made sure they were
2 applicable to the RLWTF, that they were consistent with
3 our other permit language and appropriate for this
4 facility.

5 Q. What did you do to make sure that they are
6 applicable?

7 A. I made sure that there was actually a
8 discharge of effluent or leachate from the facility;
9 that they are discharging effluent or leachate to an
10 area that might impact a groundwater that has less than
11 10,000 milligrams per liter TDS; that they are
12 discharging within a -- to an aquifer that is a place of
13 withdrawal for present or reasonably foreseeable future
14 use; and I evaluated the language regarding -- well, you
15 didn't ask about the last one, so --

16 Q. And where did you find that discharges were
17 taking place?

18 A. I find that discharges are currently taking
19 place to the mechanical evaporation system, and that
20 they have in the past occurred to Outfall 051.

21 Q. The paragraphs that I referred to speak in the
22 present tense, though, don't they?

23 A. I'm sorry, we're bouncing back and forth
24 between my testimony and the permit.

25 You're referring still about the permit

1 language?

2 Q. Yes. Now.

3 A. Well, if and when this permit goes into
4 effect, then it -- it will be possible that those
5 discharges will be going to all the different discharge
6 options, and it will be in the present tense.

7 Q. You say "it will be possible." Why do you say
8 that it's possible?

9 A. I'm sorry?

10 Q. Well, let me strike that.

11 When you say it's possible that there will be
12 discharges at the time the permit goes into effect, are
13 you saying that just in the sense that, well, really
14 anything is possible?

15 A. Yeah, anything is possible.

16 But it will be permitted and the applicant, or
17 the permittees at the time, will be allowed to discharge
18 to any one of these three options.

19 Q. Have you seen quarterly reports about the
20 operations of the RLWTF?

21 A. I've seen copies on the shelves.

22 Q. Okay. And is it true that since November 2010
23 there have been no discharges?

24 A. To my understanding, that's correct.

25 Q. Okay.

1 MR. BUTZIER: Madam Hearing Officer, may I
2 just make a clarification?

3 He was asking specifically --

4 MR. LOVEJOY: I object to the --

5 MR. BUTZIER: -- about 51, correct?

6 MR. LOVEJOY: I object to him coaching the
7 witness.

8 MR. BUTZIER: If I could finish making my
9 objection, sir.

10 MR. LOVEJOY: Was that an objection?

11 MR. BUTZIER: Yes, that's what I said it was.

12 Madam Hearing Officer, we need to -- we need
13 to be clear, when he's talking about no discharges,
14 whether he's talking about -- it may have been implied
15 that he was talking about a particular discharge
16 location, but it wasn't entirely clear.

17 That's my objection.

18 MS. ANDERSON: I'm sorry. When you were
19 starting to speak, were you talking about 051?

20 I didn't hear you, Mr. Butzier.

21 MR. BUTZIER: Okay. It was not clear to me --

22 MS. ANDERSON: Okay.

23 MR. BUTZIER: -- from -- from the question,
24 although it flowed from earlier questions, that he was
25 talking about Outfall 51.

1 MS. ANDERSON: Okay.

2 MR. BUTZIER: And I just wanted to make sure
3 that it was clear whether that's the case or whether he
4 was talking about there were no discharges, period.

5 MS. ANDERSON: Mr. Lovejoy, I think that's
6 fair.

7 I don't -- if you're talking about something
8 within versus something else, I didn't get that, either.
9 So --

10 MR. LOVEJOY: I believe the question was in
11 terms of discharges.

12 MS. ANDERSON: But when you say "discharge,"
13 you're implying it can happen in one of many ways;
14 right?

15 MR. LOVEJOY: Actually, I would not agree with
16 that --

17 MS. ANDERSON: Okay.

18 MR. LOVEJOY: -- in the case of this facility,
19 Your Honor.

20 MS. ANDERSON: Okay. I understand what you're
21 saying. So there is a -- there is a difference in
22 discharge.

23 So I think that is reasonable.

24 I don't know that it was clear for the record,
25 so, Mr. Pullen, if you want to clarify what you were

1 discussing specifically.

2 MR. PULLEN: If I could get the question
3 repeated, please.

4 MR. LOVEJOY: I would not ask the reporter to
5 do that.

6 Let me see if I could clear it up going step
7 by step.

8 MS. ANDERSON: Thank you.

9 Q. (BY MR. LOVEJOY) Your testimony says -- now
10 I'm looking at page five, right about in the middle, it
11 says "No discharges have occurred at the Outfall since
12 2010."

13 Is that a fact?

14 A. I believe that to be accurate.

15 Q. Okay. So the discharges, which you refer to
16 in the three paragraphs we went over a couple minutes
17 ago, which speak in the present tense, those discharges
18 are not discharges from Outfall 051; true?

19 A. This permit is a draft permit meant to go into
20 effect, and the language will be in the present tense
21 when -- whenever a discharge occurs.

22 With regards to Outfall 051, if a discharge
23 goes to that outfall, these three paragraphs will be
24 accurate.

25 Q. But it hasn't been true since 2010, has it?

1 A. That would be correct.

2 Q. And you note also on page five that the SET
3 is not yet in service, and that is true today, is it
4 not?

5 A. That's correct.

6 Q. Okay. So discharges into the SET are not the
7 discharges you are referring to in the passages I quoted
8 which are in the present tense?

9 A. I repeat, the permit language is meant to go
10 into effect in the future, and any discharges that
11 happen in the future, the present-tense language will be
12 accurate.

13 Q. Let me take you up on that for a moment,
14 Mr. Pullen.

15 If this permit goes into effect, and that's
16 another issue, but when and if it goes into effect, if
17 the SETs have not been authorized prior to that, and are
18 only authorized at the -- at that time, it will not be
19 true that the discharges are being made to the SETs;
20 will it?

21 A. I'm sorry, I'm not following you, Mr. Lovejoy.

22 The permittees, once this permit goes into
23 effect, will have the option to discharge to the SET, at
24 which point this present-tense language will be
25 accurate.

1 Q. But it isn't now?

2 A. It's not now.

3 Q. Okay. Your testimony, again on page five of
4 the direct testimony, notes that the MES disposes of
5 radioactive liquid waste, that's RLW; correct?

6 A. Can you tell me which line in my testimony
7 this is on?

8 Q. Four lines down.

9 The sentence starts "The MES is co-located
10 with the RLWTF and disposes of RLW treated effluent by
11 mechanical evaporation."

12 Is that correct?

13 A. That's correct.

14 Q. Okay. Can you just describe how the MES
15 works?

16 A. As I understand it, and I've seen it once,
17 it's a gas-fired -- essentially a boiler, in which
18 treated effluent from all the treated -- treatment
19 activities that happen at the RLWTF, this effluent goes
20 through the treatment process, meets the effluent
21 treatment standards specified in this permit, and goes
22 to this gas-fired boiler for evaporation.

23 Q. And the gas-fired evaporator, again reading
24 from page five of your testimony, has been the sole
25 disposal method for the RLWTF for approximately seven

1 years.

2 Is that a fact?

3 A. It's my understanding.

4 Q. Now, the regulations state -- and I will
5 certainly make them available to you if you wish to take
6 a look.

7 A. I have some.

8 Q. You could look at 20.6.2.7.R and Z.

9 The regulations state that a discharge plan
10 consists of, quoting, "conditions for any discharge of
11 effluent or leachate which may move directly or
12 indirectly into groundwater," unquote.

13 Is that what the rule says?

14 A. That's correct.

15 Q. And the regulations define groundwater as
16 "interstitial water which occurs in saturated earth
17 material and which is capable of entering a well in
18 sufficient amounts to be utilized as a water supply,"
19 unquote.

20 Is that what it says?

21 A. That's correct.

22 Q. Now, effluent directed to the MES enters a
23 closed system of tanks and pipes, doesn't it?

24 A. That's correct.

25 Q. And when the MES is operating normally,

1 effluent introduced into the MES does not touch the
2 ground; does it?

3 A. That's correct.

4 Q. Effluent pumped into the MES, when it's
5 operating normally, is evaporated and escapes in the
6 vapor phase; is that not right?

7 A. That's correct.

8 Q. So does the pumping of effluent into pipes and
9 tanks in the MES constitute a discharge of effluent or
10 leachate which may move directly or indirectly into
11 groundwater?

12 A. I think the key word in that definition is the
13 word "may," "may move."

14 The potential for any of this effluent to move
15 to groundwater is the reason we permit the mechanical
16 evaporator.

17 Q. And is the same the case with the solar
18 evaporation tanks?

19 A. That's correct.

20 Q. Okay. So am I correct that the pumping of
21 effluent to the MES and its evaporation, under normal
22 operation, is not a discharge you're referring to in the
23 passages I quoted?

24 A. We consider that to be a discharge that may
25 move to groundwater, has the potential to move to

1 groundwater. So it is a discharge.

2 Q. Was that true of anytime I put the teakettle
3 on and get steam?

4 A. I suppose if your teakettle has got a hole in
5 it and it goes then down the drain into your septic
6 tank. I don't know about your teakettle.

7 Q. But you seem confident that the MES, which
8 makes steam, does send effluent to groundwater.

9 A. No. I am confident that it will not, because
10 this permit exists to ensure that there are controls in
11 place that it does not. Or the permit will exist.

12 Q. Well, a moment ago you said that the escape of
13 steam is the basis for regulating the MES.

14 A. No --

15 MR. VERHEUL: Object --

16 MR. PULLEN: -- I don't believe I said that.

17 Q. (BY MR. LOVEJOY) Well --

18 A. I believe it is a transfer of water from a
19 treatment system to some sort of a discharge point, be
20 it evaporation or to an outfall. We consider that an
21 actual -- or some sort of a discharge that may cause
22 effluent to migrate to groundwater.

23 Q. When you say "may," you're just saying that
24 it's not impossible; is that right?

25 A. That's right.

1 Q. Looking again at page five, you say that "Los
2 Alamos National Lab retained Outfall 051 as an option to
3 dispose of effluent."

4 That means that it may or may not be used at
5 the lab's determination, is that correct?

6 A. Can you point me again to the line?

7 Q. I'll have to find it.

8 It's just a little below the middle of the
9 page, "The applicants maintain the NPDES permit as a
10 discharge option."

11 And is that the same as their --

12 MR. VERHEUL: If counsel could refer to a line
13 number, that would be appreciated.

14 MR. LOVEJOY: Let's see.

15 14 and 15.

16 MR. VERHEUL: Thank you.

17 MR. PULLEN: I'm sorry, Mr. Lovejoy. Can you
18 repeat the question?

19 Q. (BY MR. LOVEJOY) Do the appli- -- well, let
20 me just put it this way.

21 Do the applicants regard Outfall 051 as one
22 discharge option?

23 MR. VERHEUL: Objection. Asking the witness
24 to speculate as to the intention of the applicant.

25 MR. LOVEJOY: I think the applicant -- I think

1 the permit author has been close enough to this project
2 to know that.

3 MS. ANDERSON: I'm going to allow it, if you
4 know. Yep.

5 MR. PULLEN: I do believe the applicants
6 believe that discharging to 051 is an option.

7 Q. (BY MR. LOVEJOY) And have you been given to
8 understand that the lab, LANL, plan to discharge through
9 Outfall 051 when the needs of maintenance or possible
10 malfunction or changes in mission put other treatment
11 systems out of use?

12 A. I can conceive of the possibility.

13 I'm almost certain that, as was described
14 earlier today, during the testing of the effluent line
15 to 051, there will most certainly be a discharge to that
16 outfall.

17 Q. In the circumstances you've just described,
18 would that testing be done with contaminated water?

19 A. I don't believe so.

20 Q. And other than that, is Outfall 051 an option
21 that the lab would use only in certain conditions using
22 this permit?

23 A. Yes. Yes.

24 Q. So as far as this permit is concerned, I think
25 somebody has said that the discharge from Outfall 051 is

1 only a potential discharge.

2 Is that true?

3 A. I believe all of the discharge options are
4 potential, and the permit will give the applicant the
5 option to use any of them.

6 (Confers.)

7 Q. The Water Quality Act, when it gives authority
8 to issue permits, refers to a permit for the discharge
9 of any water contaminant, doesn't it?

10 A. I was following this line of questioning this
11 morning, and I recognize that the statute says that.

12 Q. It doesn't authorize the agency to permit a
13 potential discharge, does it?

14 A. It does not use the word "potential."

15 Q. Okay. Now, your prefiled direct testimony
16 discusses at length provisions of DP-1132, such as
17 operational terms, monitoring, closure and other
18 aspects.

19 When would the permit come into effect if the
20 Department approves it?

21 A. It will come into effect the moment my boss
22 signs the permit.

23 Q. Okay. You say it will be an enforceable
24 document at that point?

25 A. That's correct.

1 Q. Does DP-1132 specify how the date will be
2 determined, the effective date?

3 A. No. It's a function of this hearing process
4 and a lot of other factors.

5 But, no, it does not specify when the permit
6 will go into effect, or when my boss will sign this.

7 Q. I'm looking at page 50 of 50 of DP-1132.
8 Would you look at that?

9 A. Okay. I see it.

10 Q. It says "Effective Date" -- it's a little
11 obscure to me -- it says, "Effective Date: [effective
12 date]." And then it says, "Term Ends: [expiration
13 date]."

14 Are those places for dates to be entered?

15 A. That's correct.

16 Q. Okay. Then it refers to 20.6.2.3109.H NMAC,
17 and then it refers to the statute, NMSA 1978 74-6-5.I.

18 Are those the regulation and the statute that
19 govern the effective date?

20 A. I presume.

21 I would have to go back and revisit those
22 rules and statute.

23 Q. Do you have the statute there?

24 A. Yes, sir.

25 Q. Would you look at 74-6-5.I?

1 MR. BUTZIER: Madam Hearing Officer, I just
2 would point out that it's 74-6-5.K in the document that
3 counsel is referring to.

4 MS. ANDERSON: Thank you.

5 MR. LOVEJOY: Well, that's interesting, too --
6 that is also interesting, but I am actually this time
7 talking about 74-6-5.I, which is the statute referred to
8 in the draft permit.

9 MR. PULLEN: Could you repeat the question,
10 please?

11 Q. (BY MR. LOVEJOY) I think I just asked you to
12 refer to that, and I will.

13 And based on that, can you tell when this
14 permit -- the term of the permit shall commence?

15 A. The statute says "The term of the permit shall
16 commence on the date the discharge begins," and then
17 goes on to talk about not exceeding a specific length of
18 time.

19 Q. Okay. And do you know what date that will
20 be?

21 A. I believe discharge is occurring today; and,
22 therefore, upon signature of this permit, it will go
23 into effect on that day.

24 Q. Where is discharge occurring today?

25 A. Discharge is occurring to the mechanical

1 evaporating system.

2 Q. And going -- and you're talking about the
3 steam going up into the air?

4 A. Again, it's the potential for impact to
5 groundwater. It's that discharge that we're concerned
6 with concerning this permit.

7 Q. I'm looking at 20.6.2.7 NMAC, Subparagraph R.
8 Do you have that?

9 A. Yes, sir.

10 Q. It says, "'Discharge plan' means a description
11 of any operational, monitoring, contingency, and closure
12 requirements and conditions for any discharge of
13 effluent or leachate which may move directly or
14 indirectly into groundwater."

15 A. Yes, sir.

16 Q. All right. Are you saying that the steam
17 coming out of the MES is a discharge of effluent or
18 leachate which may move directly or indirectly into
19 groundwater?

20 A. No, sir.

21 Q. But that's what's going on, it's an escape of
22 steam at the present?

23 A. That's not what we're concerned about.

24 We're concerned about wastewater transferring
25 between the treatment units and the mechanical

1 evaporator that may move directly or indirectly into
2 groundwater.

3 Q. Wastewater, you said, transferring between
4 treatment units?

5 A. Between the treatment unit and the discharge
6 unit.

7 Q. Okay.

8 A. That may escape that piping system, a break in
9 the pipe, that could drip for some period of time and
10 migrate to groundwater.

11 Q. Are you aware of any such leak occurring now?

12 A. At the -- at -- associated with the
13 Radioactive Liquid Waste Treatment Facility?

14 Q. Yes.

15 A. No, sir.

16 Q. There is a reference in 20.6.2.3109.H of the
17 regulations to the discharger giving prior written
18 notification to the Department of the date the discharge
19 is to commence.

20 Do you want to take a look for that?

21 A. I believe what you're referring to is at
22 Section 3109.H(4). Is that correct?

23 Q. I'm just going to make sure.

24 It's in H(4).

25 A. I'm sorry, was there an outstanding question?

1 Q. Well, you have the passage.

2 A. Yes.

3 Q. Has there been any such notification, as is
4 referred to?

5 A. Yes.

6 Q. When was that given?

7 A. I believe I witnessed a notice of intent
8 provided as an exhibit by you this morning. I believe
9 it was dated 2007, and that notice of intent discusses a
10 discharge that could happen.

11 Q. The text of the rule is notification to the
12 Department of the date the discharge is to commence.

13 Have you received that kind of notification?

14 A. No.

15 Q. Okay. In this connection, if the Department
16 were to issue a discharge permit for a facility, such
17 as this one, which is -- you may assume for this
18 question -- that is not discharging, when would it
19 become effective?

20 MR. VERHEUL: Objection.

21 The witness has already stated that this
22 facility is discharging.

23 MR. LOVEJOY: He's an expert. I've given him
24 a hypothetical.

25 MS. ANDERSON: Well, I do believe he did

1 answer that, though. He did.

2 You asked the same question in a different
3 way, and he answered it previously. He did.

4 MR. LOVEJOY: All right.

5 Q. (BY MR. LOVEJOY) Well, prior -- is it true
6 that prior to the discharge, the permit would not be in
7 effect?

8 A. If it was a hypothetical, a facility was yet
9 to be constructed, and we issue a discharge permit for
10 that facility, that discharge permit would go into
11 effect the moment it is signed, regardless of when the
12 discharge actually occurs.

13 That's the way -- that's the way we think of
14 it within our program. And we will terminate that
15 permit five years hence.

16 There are circumstances, I believe, where we
17 have allowed -- signed discharge permits that allow the
18 discharge to commence some years later, and we would say
19 the expiration of that permit would expire five years
20 after that initial discharge.

21 MR. LOVEJOY: That's all I have, Your Honor.

22 MS. ANDERSON: Thank you very much.

23 I don't -- was there going to be any redirect?
24 And then I was going to open it up to the public.

25 MR. VERHEUL: I don't have any redirect

1 questions for this witness.

2 MS. ANDERSON: Okay.

3 MR. BUTZIER: No further questions.

4 MS. ANDERSON: No, okay.

5 Sorry, I have to stand up so I can see
6 everyone.

7 Does anybody wish to cross-examine this
8 witness?

9 I'm going to put my glasses on so I can see.
10 I'm nearsighted.

11 I don't see anybody.

12 Thank you very much.

13 At this time, let me just ask the parties --
14 Mr. Verheul, do you have other witnesses?

15 MR. VERHEUL: No, Madam Hearing Officer.

16 We had previously indicated that Dr. Longmire
17 would be available for any panel questions from the
18 public, but seeing none, the Department has no further
19 witnesses.

20 MS. ANDERSON: Let me just open that up in
21 case anybody missed it.

22 So Mr. Longmire is a scientist, he works for
23 New Mexico Environment Department. He came along today
24 to answer any questions primarily from the public or
25 anyone else.

1 So does anybody have some nitty-gritty
2 scientific questions that he could answer? Because he's
3 been very patient today waiting in the wings.

4 I'm not seeing anybody wishing to question
5 him, so if he wants to -- you have my permission to
6 leave if nobody, you know, has questions.

7 Thank you.

8 So for the attorneys, has everyone presented
9 their cases now?

10 MR. BUTZIER: We have, Madam Hearing Officer.

11 MS. ANDERSON: Okay.

12 MR. VERHEUL: The Environment Department has,
13 yes.

14 MS. ANDERSON: Okay. And --

15 MR. LOVEJOY: We have no witnesses.

16 MS. ANDERSON: Okay. So at this point -- I
17 know you all waived your opening statements -- and, Pam,
18 I'm just not sure what the time is now. I think it's
19 about 4:30.

20 MS. CASTANEDA: 4:10.

21 MS. ANDERSON: Oh, it's 4:10.

22 Does a ten-minute summary sound long enough?
23 I'm seeing a nod from the Environment.

24 MR. BUTZIER: Madam Hearing Officer, I don't
25 -- I don't see a necessity to do that --

1 MS. ANDERSON: Okay.

2 MR. BUTZIER: -- if we're going to have
3 post-hearing submissions, which I assume is something
4 you intend to ask for under the regulations.

5 MS. ANDERSON: That's true.

6 MR. BUTZIER: I mean, I'm happy to, you know,
7 spend some more time talking about this, but I don't see
8 that it personally is necessary.

9 MS. ANDERSON: Okay.

10 CCW?

11 MR. LOVEJOY: Are you planning on requesting
12 proposed findings of fact and conclusions of law?

13 MS. ANDERSON: Yes, I definitely am going to,
14 but because it's a hearing, I know sometimes people like
15 to do a brief summary because it's -- but if you don't
16 feel it's necessary, I certainly won't twist your arm.

17 MR. LOVEJOY: Thank you.

18 I think probably we'll do better if we do it
19 in writing, and I'm just wondering when we may have a
20 transcript.

21 MS. ANDERSON: Okay. The last question.

22 Did you want to do any summary?

23 MR. DeROMA: No, Madam Hearing Officer. Thank
24 you.

25 MS. ANDERSON: Have I forgotten anybody?

1 I don't think so.

2 So in terms of a transcript, I'm going to ask
3 Kathy. Kathy? No pressure.

4 MS. TOWNSEND: Ten days, ten business days.

5 MS. ANDERSON: It normally is ten days, and
6 she has her business card here if you want to go ahead
7 to get it to get a transcript.

8 MR. LOVEJOY: Yeah. Okay.

9 MS. ANDERSON: All right.

10 So with that, Pam, did we check -- I don't
11 believe anyone else has signed in for public comment at
12 this point. We keep popping in and out.

13 So any last-minute public comment?

14 We'll normally stay a little bit after five,
15 but if there is nobody here that wishes to give public
16 comment at this point, I don't think anyone will cry any
17 salty tears if we conclude the hearing a little bit
18 earlier.

19 So I'm not seeing anybody who wishes to make
20 public comment.

21 Did you -- did you have something,
22 Mr. Lovejoy?

23 MR. LOVEJOY: I'm going to put it in writing,
24 Your Honor.

25 MS. ANDERSON: Okay. Sure. All right.

1 So what we're going to do is we're going to
2 have findings of fact and conclusions of law. We'll
3 wait for the transcript to come out, which will be a
4 triggering point, and you can submit those.

5 The only other issue that was brought up on
6 the record, and you could convey that -- or, Joni,
7 you're still here -- is if the people from the pueblo
8 want to submit any public comment.

9 In terms of keeping the record open, today is
10 Thursday. How about next Friday for them to submit
11 those letters, or whatever they'd like to submit?

12 And then in terms of findings of fact -- I've
13 forgotten what the rule is. Is it 20 or 30?

14 MR. BUTZIER: I think it's 30.

15 MR. VERHEUL: I believe it's 30, Madam Hearing
16 Officer.

17 MS. ANDERSON: Okay.

18 MR. VERHEUL: And I would ask for the full 30,
19 given that, as you know, I plan to be out for a couple
20 of weeks starting next week.

21 MS. ANDERSON: Very fun. Well, in that case,
22 three days. No, just -- just teasing. That was a
23 joke -- I'm sorry, a Hearing Officer joke.

24 Yeah, let's -- bad joke, apparently.

25 Let's do the full 30. And I'm not sure if the

1 rule states when my Hearing Officer report needs to be
2 done.

3 MR. BUTZIER: It does.

4 MS. ANDERSON: Is it a 30?

5 MR. VERHEUL: I believe it's another 30.

6 MS. ANDERSON: Okay. So, yeah, then we'll do
7 that, too.

8 And so what happens in terms of post-hearing
9 submissions -- and I'm sorry I'm asking, but each
10 department has a different set of guidelines for when
11 reports need to get filed.

12 Once the parties submit their findings of
13 facts and conclusions of law, then what I will do is
14 take the transcript, review the transcript, review the
15 hearing notes, review all the findings, come up with a
16 report.

17 And then at that point the report will get
18 filed with Pam Castaneda. All of you who are on the
19 notification and hearing list, you will get an e-mail,
20 it will be served upon you.

21 In terms of public notification of this, this
22 is an Office of the Secretary case, right?

23 MS. CASTANEDA: Correct.

24 MS. ANDERSON: Yeah, so that isn't necessarily
25 going to be on our website. So if people did want

1 copies of the Hearing Officer report, that's something
2 that would need to be IPRA'd.

3 But then once I'm done with my part, I hand
4 that over to the Secretary of the Environment, and he
5 reviews it, and he has -- I don't believe the rule
6 states how long he has, it's really at his discretion
7 how long he wants to review it.

8 And then basically whatever recommendation
9 that I have, it can be upheld, not upheld, portions can
10 be taken. So I'm not the ultimate decider here. That's
11 going to go to the Secretary.

12 So if the Secretary determines -- he sometimes
13 will ask for additional public comments on the Hearing
14 Officer's report, and there is a process that falls
15 under the rule for that as well.

16 So once I've filed my report, the parties will
17 be able to file objections to the report, and then they
18 are also able sometimes to request oral argument.
19 That's less common, and that is at the discretion of the
20 Secretary.

21 So essentially the triggering point is Kathy's
22 transcript. The attorneys will have 30 days from the
23 transcript to file their findings of facts and
24 conclusions of law.

25 If it would be helpful for the parties, after

1 the hearing I can issue a post-hearing order just to
2 clarify when everything will be due, so then there will
3 be no dispute amongst the parties.

4 We're going to keep the record open until next
5 Friday in order for the pueblo to file their public
6 comments. And then I have 30 days from the triggering
7 date to do my report. That will be filed and
8 distributed. And then that will go over to the
9 Secretary.

10 I don't tell the Secretary what to do. He can
11 take as much time as he wants, or as little time as he
12 wants, and then if he requests post-submission briefs or
13 oral argument, that will all be in an order form, it
14 will be on the record, and you'll definitely know about
15 it. And that's less usual.

16 Mr. Lovejoy?

17 MR. LOVEJOY: Your Honor, not wishing to make
18 difficulties --

19 MS. ANDERSON: Yeah.

20 MR. LOVEJOY: -- but the 20.6.2. -- I think --
21 yeah, 3110, provides that the Secretary shall issue a
22 decision in the matter no later than 30 days of receipt
23 of the hearing report.

24 MS. ANDERSON: Okay.

25 MR. LOVEJOY: So he's on the schedule, too.

1 MS. ANDERSON: Okay.

2 MR. LOVEJOY: But I just wish to note that I
3 think all the parties will wish to comment on your
4 report --

5 MS. ANDERSON: Uh-huh.

6 MR. LOVEJOY: -- for the Secretary's benefit
7 one way or another.

8 MS. ANDERSON: Yes. And there definitely will
9 be a process in there.

10 MR. LOVEJOY: Okay.

11 MS. ANDERSON: And I believe the date for the
12 comments on the Hearing Officer report -- I'm sorry, I
13 don't have the rule in front of me, but I want to say
14 that that's 15 days.

15 So, yeah, you'll definitely have a chance to
16 comment, and comment at your heart's desire.

17 MR. LOVEJOY: Okay.

18 MS. ANDERSON: Yeah.

19 And also one other thing I neglected to
20 mention, I am doubtful that there is going to be a lot
21 of similarities between positions, although there may be
22 with NMED and the labs and DOE, but if the parties are
23 done with their reports prior to any kind of deadline,
24 there is really nothing to stop you from meeting and
25 conferring, and I think that's usually a good practice,

1 because there may be some language in each of your
2 submissions that you could talk about.

3 So what I'm saying, in a long version, is if
4 you want a decision sooner versus later, the volume and
5 the amount of motion practice will be determined largely
6 by how well you communicate with each other, and I don't
7 have any control over that.

8 But as a former mediator, I do note and my
9 goal is that you always meet and confer. And I can
10 formalize that in an order, but I'm respectful of
11 people's time.

12 So you all know each other, talk to one
13 another, and we'll take it from there.

14 MR. LOVEJOY: All right.

15 Thank you.

16 MS. ANDERSON: All right. Well, do you have
17 any other questions?

18 I'm not seeing any.

19 We don't have any other public comment.

20 So I wanted to thank all the attorneys and all
21 the experts. I know that this was quite a moment --
22 yeah.

23 MR. LOVEJOY: Just as a question.

24 Do I understand that Your Honor is going to
25 make an order? You talked about the possibility.

1 MS. ANDERSON: Yes.

2 MR. LOVEJOY: Okay.

3 MS. ANDERSON: I can, and I think that would
4 be helpful. I was seeing some heads --

5 MR. LOVEJOY: I think so.

6 MS. ANDERSON: -- some heads waving. I
7 probably won't do it till Monday, but you'll get it
8 early next week. And we'll file it, and we'll e-mail it
9 to you in terms of notice.

10 MR. LOVEJOY: Thank you.

11 MR. VERHEUL: And, Madam Hearing Officer, my
12 understanding, from listening to your instructions now,
13 is that you do not intend to deviate from what's in the
14 rules?

15 MS. ANDERSON: No, I -- I -- we have rules
16 for a reason, let's follow them, and so then nobody has
17 to guess. You know, I think that would be great.

18 MR. VERHEUL: Great.

19 And so the order would simply be for
20 everyone's convenience and simplicity to spell it out.

21 MS. ANDERSON: Yes, because in my experience
22 sometimes the attorneys interpret things differently.
23 Yeah. Who? Attorneys?

24 Thank you, Kathy, for court reporting; and
25 thank you, Pam, for coming.

1 So I guess we're not going to have a two-day
2 hearing. Yay.

3 All right. Thank you.

4 (Hearing concluded at 4:20 PM.)

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1 STATE OF NEW MEXICO)

2)ss.

3 COUNTY OF BERNALILLO)

4 I, Kathy Townsend, the officer before whom the
5 foregoing hearing was taken, do hereby certify that the
6 witnesses whose testimony appears in the foregoing
7 transcript were duly sworn by me; that I personally
8 recorded the testimony by machine shorthand; that said
9 transcript is a true record of the testimony given by
10 said witnesses; that I am neither attorney nor counsel
11 for, nor related to or employed by any of the parties to
12 the action in which this matter is taken, and that I am
13 not a relative or employee of any attorney or counsel
14 employed by the parties hereto or financially interested
15 in the action.

16
17 *Kathy Townsend*

18 _____
19 NOTARY PUBLIC
20 CCR License Number: 23
21 Expires: 12/31/18

22 My Commission Expires: 9/12/2021

23
24
25

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