

**Kieling, John, NMENV**

**From:** FRED JANE BOLTON [fjbolton@msn.com]  
**Sent:** Wednesday, March 24, 2010 1:10 AM  
**To:** Kieling, John, NMENV  
**Subject:** NOTICE OF INTENT TO DENY (LANL RCRA PERMIT)

Dear Mr. Kieling:

Thank you for the opportunity to comment on the NMED notice of intent to deny a portion of the LANL open burning permit application. As a United States citizen and New Mexico resident, I fully support the scientific and technical programs, which the Los Alamos National Laboratory performs for the NNSA/DOE in support of our mutual national safety and security. I further applaud those efforts undertaken jointly by NNSA/DOE, NMED, and LANL to ensure continued program activities in a manner that protects New Mexico residents and our beautiful environment.

I object to the proposed denial of the open burning portion of the LANL permit and encourage NMED to continue its important efforts with NNSA/DOE/LANL to clarify the uncertainty associated with the ecological risk estimate. NMED should do this in the short term by renewing the LANL interim permit status in concert and in cooperation with NNSA/DOE/LANL technical efforts to improve the effectiveness of the open burning process, as well as by managing and reducing, where possible, the applicable waste streams. In the long term, each party in the permitting process shares responsibility for outcomes that are mutually beneficial to all New Mexicans and service to the nation.

There is one item of interest for which I was unable to find an answer. The nature of the LANL open burn process is controlled with respect to parameters such as operating temperature, visible plume, treatment of residual ash, process knowledge of open burn waste constituents, site monitoring, and its relatively isolated location. Other agencies in New Mexico, both federal and state, perform activities using significant quantities of energetic materials under far less controlled conditions.

Question: Given the level of concern for open burn risk assessment and permitting, why does LANL appear to be the only agency posted on the NMED permitting website?

With respect to the Notice:

The Department conclusions are not supported by the facts presented in the Notice. Given the contents of the Notice, a decision to deny open burning of non-radioactive wastes is unnecessarily restrictive to LANL non-nuclear programs. Among other impacts, such a decision will disrupt or deny the ability to provide crucial technical skills to members of the Armed Forces engaged in operations to detect, interdict, and disarm roadside bombs and improvised explosive devices (IEDs). These devices are responsible for a significant fraction of American service member casualties and devastating injuries in Iraq and Afghanistan. Further, such technical skills are also desirable for U.S. law enforcement and emergency response agencies. A decision to deny open burning also stands to increase certain occupational risks associated with transportation as well as public proximity to the vehicles needed to perform those activities.

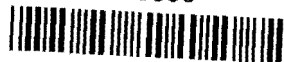
The Notice states in part that the "Department has determined that it is required to deny the permit applied for as to Open Burning (OB) treatment operations at TA-16." However, the subsequent narrative fails to clarify the nature of the requirement underlying the basis for denial. The Department should make fully clear to all New Mexicans the regulatory foundation that supports such decision-making processes.

The NMED evaluation of the LANL risk assessment documents lacks clarity with respect to the "potential for actual risk" and "what level of risk is deemed acceptable." Like the regulatory foundation discussed above, these items should be fully clarified in order to ensure that all of our citizens are fully informed open government participants.

I offer comments with respect to the three items, which appear to constitute the basis for the Department's conclusions to deny:

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1. Uncertainty. The Department clearly agrees with the LANL risk assessment regarding human risk. As a result, the residual issue appears to center largely on *uncertainty* of the LANL risk estimate to the deer mouse at the same time that the Notice characterizes the risk estimate as “elevated risk (low) to the deer mouse based on the use of NOAEL-based TRVs ....” The deer mouse carries the sin nombre virus (hantavirus), which is responsible each year for illness and death to residents of New Mexico and the Four Corners area in general. NMED is encouraged to continue working with the permittee to ensure that the risk to this population is acceptable with respect to the benefit of continued LANL programmatic activities.
2. Public Opposition. The Notice also acknowledges public opposition to LANL open burning operations, and echoes concerns regarding “the health risks to wildlife, public health, and the environment” as well as being “... particularly objectionable to persons with allergies or other sensitivities to airborne pollutants.” The role of public opposition in the Department’s intent to deny is puzzling given the NMED evaluation that “... additional analysis of human health risk was not required.” NMED is encouraged to ensure that all New Mexicans are fully informed not only of their right to participate in the permitting process, but the extent to which the weight of that input affects the outcome of the agency decision.
3. Alternatives. Finally, the Department states its “belief that there may be preferable and viable alternatives to burning the HE waste.” This statement carries a great deal of uncertainty itself, and is not substantiated by the contents of the Notice. Under the circumstances, and considering the long timeframe in which this interim permit process has taken place, it is rational to proceed with disposal processes that work reasonably well, reduce risk to humans, and for which the nature of the risk estimate disagreement is at the extreme end of the scientific evaluation process.

Thank you again for the opportunity to participate in this process.

Respectfully,

Fred Bolton, PE, CIH  
Los Alamos, NM