

September 10, 2009

Dear Mr. Kieling,

I received this comment letter for the draft LANA Hazardous Waste Permit in the mail yesterday, Wednesday September 9. I can't bring it down to Santa Fe today, so I thought I would get it to you by FAX.

I have several other letters that have been FAXed and will bring the letters to you next time I am in Santa Fe.

Thank-you for your consideration,

Sheri Kotowski  
EVE M G

32031



Date: Sept 4, 2009

John E. Kieling, Program Manager  
Hazardous Waste Bureau - New Mexico Environment Department  
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Dear Mr. Kieling:

I make the following public comments about the revised draft Hazardous Waste Permit for Los Alamos National Laboratory (LANL), which will allow the Department of Energy (DOE) and LANL to handle ¼ million pounds of hazardous waste each year during the 10-year permit.

**1. STOP Open Air Burning of Hazardous Waste.** I object to NMED allowing DOE/LANL to use the open air for burning 12,500 pounds of hazardous waste each year. The open burning releases poisons into the air we breathe, which poses a direct threat to the wildlife, public health and the environment. In 2004, NMED stopped the open burning of household trash because of toxic emissions. **I support NMED requiring DOE/LANL to install a confined burn facility as an alternative to open burning.**

**2. "Alternative Requirements" Do Not Protect Groundwater.** Many reports over the past five years have described the overall failure of the DOE/LANL to protect the precious groundwater resources from contamination by LANL sources of chemical and nuclear wastes. The **Environmental Protection Agency (EPA), the DOE Inspector General and the National Academy of Sciences (NAS)** have written detailed reports that describe the major problems in the DOE/LANL groundwater protection practices and lack of compliance with the regulations.

**I object to the revised LANL draft permit that relies on "alternative requirements" for groundwater protection.** The **NAS Final Report** described the "alternative requirements" in the March 1, 2005 NMED/LANL Consent Order as an important example of the failure of the LANL groundwater protection practices. **The use of "alternative requirements" has not worked.** For example, dangerous and fast-moving hexavalent chromium was discovered in the regional aquifer over 5 1/2 years ago in wells directly west of the Buckman wells. Santa Fe pumps over 40% of its drinking water from the Buckman wells. No one knows the extent or direction of the hexavalent chromium plume - work done under "alternative requirements" in the Consent Order. **In order to protect our precious drinking water, NMED must require DOE/LANL to strictly comply with the groundwater requirements of 40 CFR 264, Sections 90 through 101.**

**3. Public Participation Must Be Early, Often, Meaningful and Continuous.** The EPA has issued enhanced public participation requirements for **early, often, meaningful and continuous contact with the public** about cleanup of the old LANL dump sites that are known as MDAs. The 25 dumps contain "legacy waste" which are dangerous mixtures of chemical and radionuclide wastes. The LANL Legacy Waste Dump Sites include MDAs G, H and L at Technical Area 54 (TA-54) and MDAs A, B, T, U and V at TA-21. DOE/LANL have been lax in fulfilling public participation requirements for the cleanup of the 25 LANL MDAs, such as providing access to documents and opportunities for public input into the decision-making processes and holding public meetings. Further, DOE/LANL is required to establish an **Information Repository** where permit documents are readily available to the public.

As an act of Restorative Justice and in order to meet the needs of both urban and rural communities and future generations, NMED must require DOE/LANL to establish both a physical Information Repository in the Española Valley as well as a virtual Information Repository. Further, NMED must require DOE/LANL to meet the enhanced participation requirements for early, often, continuous and meaningful contact with the public as specified by the EPA for both the Consent Order and the Final LANL Permit.

**4. Emergency Management, Planning, Preparedness and Response.** Over the past 10 years, serious deficiencies in the DOE/LANL Emergency Management and Response Division have been found by several government auditing agencies, including the DOE Inspector General, the Government Accountability Office and the Defense Nuclear Facility Safety Board. The expert reports described serious problems with LANL fire protection before the Cerro Grande Fire of 2000. Now new expert reports describe the ongoing failure to provide fire protection. I object to NMED allowing DOE/LANL to continue to manage hazardous waste without meeting the emergency management, planning, preparedness and response requirements. NMED must conduct a full investigation into the recommendations of the expert reports and require their implementation before the permit is finalized for the 26 hazardous waste management units.

**5. Seismic Hazard on the Seismically Active Volcanic Pajarito Plateau.** A 2007 report described a 50% increase in the seismic hazard at LANL. The 2007 report identified many deficiencies in the knowledge of the seismic hazard but the necessary studies are not being performed. The 2007 report identified the failure of DOE/LANL to install and operate a reliable network of seismic instruments (seismometers) to accurately monitor the seismic hazard from ground motions. The current network consists of only seismometers at three locations that are not kept in calibration.

I object to NMED allowing DOE/LANL to continue to manage hazardous waste without the necessary studies of the seismic hazard and without a reliable network of seismometers. NMED must conduct a full investigation into the recommendations from these seismic reviews before the permit is finalized for the hazardous waste management units.

**6. Financial Assurance Requirements.** DOE/LANL do not want to provide the financial documents that say they will have funding available in order to cleanup the contaminated facilities at LANL when they are done using them. I support NMED requirements in the revised draft permit that DOE/LANL must meet all of the financial assurance requirements for each of the 26 hazardous waste management units.

**7. Additional Comments.**

Sincerely,  
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