

General

# Lab's Appeal of Water Standard Rejected

## Court of Appeals Backs State Panel

BY DEBORAH BAKER  
*The Associated Press*

The state Court of Appeals on Wednesday rejected Los Alamos National Laboratory's appeal of a provision in state water quality standards that the lab had complained was too stringent.

It applies human health stan-

dards — meant to protect humans from persistent toxic pollutants in fish — to tributaries such as arroyos that contain water only infrequently.

The Court of Appeals, in a ruling by a three-judge panel, said the Water Quality Control Commission's decision in May 2002 to adopt the standard was "both reasoned and rational," and not, as the lab had alleged, arbitrary and capricious.

The court also said it found "ample evidence" to affirm the commission's action.

The standard applies to 15 pollutants that the Environment Department says should not be released into any watershed. They include PCBs, dioxin, arsenic and DDT.

The lab objected that the human health standards shouldn't be applied to ephemeral tributaries, which generally contain water only after storms and can't support fish populations.

Existing programs, including the issuance of storm water permits, can be effective in

protecting downstream fishery waters if they're fully utilized, the lab said.

The state Environment Department argued that the pollutants adhere to sediments in ephemeral streams and are transported downstream to waters containing fish.

The standard was designed to ensure that the toxins don't reach fishery waters, it said.

According to the court's opinion, the department presented findings at a commission hear-

ing of high levels of PCBs and dioxin in ephemeral storm waters on LANL property and in fish caught in Cochiti Reservoir — an indication that pollutants exist in both ephemeral streams and in fishery waters, the department argued.

LANL officials could not be reached for comment Wednesday evening. A lab spokesman, Kevin Roark, said no one was available after hours to discuss the ruling.

Environment Secretary Ron

Curry said he was "very pleased" with the court decision.

"It is NMED's job to protect the health of New Mexicans, and these standards are specifically designed to do just that," he said.

"By protecting the arroyo and the tributary you protect the river. ... We won't have to wait for the pollution to get out of the barn from a site like Los Alamos before it can be cleaned up," he said.

## OBITUARIES

