



concerned citizens
for nuclear safety

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LANL ~~PERMIT~~ 2004 Permit

September 23, 2004

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**Re: Public Comment Period for the draft Federal Facilities
Compliance Agreement under the Clean Water Act for Los
Alamos National Laboratory**

Gentlemen:

Concerned Citizens for Nuclear Safety (CCNS) is a non-profit environmental organization based in Santa Fe, New Mexico. CCNS was formed in 1988 to voice citizens' concerns about the transportation of nuclear waste from Los Alamos National Laboratory (LANL) to the Waste Isolation Pilot Plant (WIPP). As an active participant in public processes involving operations and emissions at LANL, CCNS

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requests a 60-day public comment period for the draft Federal Facilities Compliance Agreement (FFCA) under the Clean Water Act for LANL.

CCNS understands that, despite requests by the New Mexico Environment Department (NMED) through the negotiation process for the Corrective Action Order (CAO) for LANL, the draft FFCA under the Clean Water Act will not be made available for public comment. We understand that the Environmental Protection Agency (EPA) is opposed to public comment on the FFCA and is adamantly arguing that there is no requirement to release the draft for public comment. EPA also argues that if the document is released for public comment, it will set a precedent that would require EPA to provide public comment opportunities on such documents in the future.

These arguments are disingenuous. In 1991 and 1992, the EPA issued Notices of Non-compliance to the Department of Energy (DOE) for Clean Air Act violations at LANL. As a result of negotiations between EPA and DOE, a draft FFCA was released for a 60-day public comment period. In 1996, EPA and DOE signed a final FFCA that incorporated comments made during the public comment period. Therefore, the precedent has already been set by EPA to allow public comment on compliance agreements involving LANL.

Furthermore, when the NMED CAO for LANL was released, there was no legal requirement for a public notice and comment process. Yet, NMED erred on the side of the public process and released the CAO for a 90-day public comment period. We believe EPA should also err on the side of public process and release the draft FFCA under the Clean Water Act for public comment.

The citizens of Northern New Mexico have been impacted by the May 2000 Cerro Grande fire and are concerned about increased runoff, flooding and erosion as a result of the fire. Recent findings indicate that increased levels of plutonium and other contaminants are moving through surface and storm water pathways in the canyon systems and toward the Rio Grande. As an organization that commented on the NMED CAO for LANL, which included the Clean Water Act issues that are now being negotiated through the FFCA, CCNS believes public comment on the draft FFCA under the Clean Water Act is essential. Therefore, CCNS strongly recommends that EPA submit the draft FFCA to the public for a 60-day public comment period.

Should you have any comments or questions, I can be reached by email at jarends@nuclearactive.org. Thank you for your consideration of our request.

Sincerely,



Joni Arends
Executive Director

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cc: Senator Pete V. Domenici
Senator Jeff Bingaman
Representative Tom Udall
Representative Heather Wilson
Representative Steve Pearce
NMED Secretary Ron Curry
Santa Fe Mayor Larry Delgado
Santa Fe City Council
Santa Fe County Commission