

Permit

ENTERED



STATE OF NEW MEXICO
BEFORE THE SECRETARY OF ENVIRONMENT

IN THE MATTER OF APPLICATION OF
THE UNITED STATES DEPARTMENT OF ENERGY
AND LOS ALAMOS NATIONAL SECURITY, LLC
FOR A HAZARDOUS WASTE FACILITY PERMIT
FOR LOS ALAMOS NATIONAL LABORATORY
AND THE NOTICE OF INTENT TO DENY A PERMIT
FOR OPEN BURN UNITS TA-16-399 AND TA-15-388
FOR LOS ALAMOS NATIONAL LABORATORY

Nos. HWB 09-37(P)
HWB 10-04 (P)

ORDER GRANTING APPLICANTS' MOTION FOR PARTIAL RECONSIDERATION

Applicants United States Department of Energy and Los Alamos National Security, LLC, having filed a Motion for Partial Reconsideration and Amendment of Final Order; the New Mexico Environment Department (NMED), Concerned Citizens for Nuclear Safety, *et al.*, Natural Resources Defense Council, *et al.*, and A. John Ahlquist, having filed responses; the Applicants having filed a reply; and the Secretary having considered all pleadings filed, and being otherwise advised, finds and orders as follows:

1. Applicants seek reconsideration of that part of the Secretary's November 30, 2010 Final Order denying that part of Applicants' application for a hazardous waste permit to operate open burn units TA-16-399 and TA-16-388 (OB Units). Applicants seek an order from the Secretary (1) remanding that part of their application related to the OB Units to the NMED Hazardous Waste Bureau (HWB) in order that Applicants may address deficiencies identified in the application and (2) allowing continued operation of the OB Units during the pendency of the remand proceeding.
2. Applicants have shown good cause for a remand and for continued operation of the OB Units during the pendency of the remand proceeding.



3. As noted by NMED in its response, Applicants may at any time file a new permit application with NMED in order to try to address deficiencies in the prior permit application submissions. It is an efficient use of the parties' resources to allow a remand to address the identified deficiencies.

4. Applicants and the HWB shall follow the permitting procedures set forth in 20.4.1.901 NMAC and 20.1.4 NMAC to process Applicants' application, including but not limited to all applicable public participation procedures.

5. Applicants shall file a full and complete permit application that adequately addresses all deficiencies previously identified in writing and at hearing by the HWB by a date determined by the HWB. The HWB and the Secretary shall confer with Applicants regarding an appropriate submission date.

6. Applicants shall pay the appropriate permit application fee in accordance with 20.4.2 NMAC.

7. Applicants may continue to operate the OB Units during the pendency of the remand proceeding. Applicants shall operate the OB Units in accordance with all applicable laws and regulations.

8. In its response, the HWB stated that it would agree to a stay of that part of the Final Order that would have prevented continued operation of the OB Units. The HWB does not allege that continued operation of the OB Units during the period for further evaluation of the application would cause harm to human health or the environment.

9. Paragraph 8 of the Final Order is hereby amended to reflect the provisions in this Order. All other provisions of the Final Order remain in full force and effect.



Ron Curry
Secretary
New Mexico Environment Department

Notice of Opportunity for Judicial Review

Pursuant to NMSA 1978, § 74-4-14, any person who is or may be affected by any final administrative action of the Secretary of NMED may appeal to the Court of Appeals for further relief within thirty days after the action.