

EXHIBIT _

STATE OF NEW MEXICO
BEFORE THE SECRETARY OF ENVIRONMENT

IN THE MATTERS OF THE 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-16-388 AND TA-16-399 FOR
LOS ALAMOS NATIONAL LABORATORY

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

SECOND STIPULATION ON PERMIT LANGUAGE

For the NATURAL RESOURCES DEFENSE COUNCIL and SOUTHWEST RESEARCH
AND INFORMATION CENTER:

Object to the following terms of the Revised Draft Permit As Changed:

Permit Section 9.2.2(1) – regarding excess cancer risk of 10^{-5}

Permit Section 11.4 – regarding human health target risk of 10^{-5}

Permit Section 11.4.1 – regarding excess cancer risk of 10^{-5}

Permit Section 11.4.2.1 – regarding excess cancer risk of 10^{-5}

Permit Section 11.4.2.2 – regarding excess cancer risk of 10^{-5}

Permit Section 11.12.5.9 – regarding risk goal of 10^{-5} for carcinogens

Attachment G – The portion of all Closure Plans that include Technical Area 54 (TA-54) Area G as
a disposal option.

Attachment M – Cost Estimates for financial assurance (and use of those estimates in the permit)

By: *Geoffrey Fettus*
GEOFFREY H. FETTUS

Date: Feb. 15, 2010

By: *Don Hancock*
DON HANCOCK

Date: Feb. 15, 2010



STATE OF NEW MEXICO
ENVIRONMENT DEPARTMENT

In the Matter of)
LOS ALAMOS NATIONAL) No. HWB-09-
LABORATORY)
)
Application for a renewed Hazardous)
Waste Permit under the New Mexico)
Hazardous Waste Act)
No. NM0890010515.)
_____)

SECOND STIPULATION ON PERMIT LANGUAGE

For the NUCLEAR WATCH NEW MEXICO:

By: *Scott Kovac*
SCOTT KOVAC

Date: 2/15/10

Exceptions to the Stipulation
NUCLEAR WATCH NEW MEXICO

Specific sections and parts with which we have exceptions -

11.4 Cleanup Levels

Our position is that a human health target risk level of 10^{-6} should be used.

11.4.2.1 Soil Cleanup Levels

Our position is that a human health target risk level of 10^{-6} should be used.

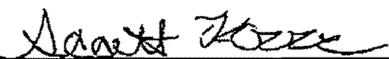
Attachment G Closure Plans

NukeWatch has an exception to the Tables titled **Potential Waste Materials, Waste Types, and Disposal Options** of each closure plan.

Potential Waste Materials, Waste Types, and Disposal Options Tables

Our position is that Low-level radioactive solid waste should not be disposed at Technical Area 54 (TA-54) Area G

For the NUCLEAR WATCH NEW MEXICO:

By: 
SCOTT KOVAC

Date: 2/15/10

Exhibit _____
CCNS Exceptions to Second Stipulation on Permit Language

In the Matter of)	
LOS ALAMOS NATIONAL LABORATORY)	
)	No. HWB-09-
Application for a renewed)	
Hazardous Waste Permit under the)	
New Mexico Hazardous Waste Act)	
)	
No. NM0890010515)	
_____)	

Concerned Citizens for Nuclear Safety (CCNS) makes the following general and specific exceptions to the Second Stipulation on Permit Language for the New Mexico Environment Department (NMED) Revised Draft Permit As Changed for Los Alamos National Laboratory (LANL), dated January 20, 2010:

CCNS states: The environmental and health conditions at LANL continue to exist to support the May 2, 2002 New Mexico Environment Department (NMED) "Determination of an Imminent and Substantial Endangerment to Health and the Environment." During the closed-door negotiations about the March 1, 2005 NMED/LANL Compliance Order on Consent, the Determination was negotiated away to the detriment and harm of public health and the environment.

CCNS wholeheartedly supports the NMED denial of LANL's application for open air burning of hazardous waste at TA-16-388 and 399. Alternatives to open air burning exist, such as confined burn facilities.

General Exceptions:

1. CCNS objects to the use of 10^{-5} (one cancer per 100,000 people) excess cancer risk, total risk for carcinogens and as a human health target risk level.
2. Quality Control/Quality Assurance requirements for laboratory analyses, detection limits and certification of laboratories.
3. CCNS takes exception to the creation of critical documents under

- Well Screen Evaluation Report and all Revisions including, but not limited to Revision 2;
- Groundwater Background Investigation Report, Revision 3;
- May 30, 2009 Interim Facility-wide Groundwater Monitoring Plan;
- Technical Area 54 Well Evaluation and Network Recommendations, Revision 1; and
- June 2007 Work Plan for R-Well Rehabilitation and Replacement, Revision 1.

No formal public participation process was provided in the approval of these documents.

4. Part 9 – Closure
5. Part 10 – Post-Closure Care
6. Part 11 – Corrective Action
7. Attachment D – Contingency Plan
8. Attachment G - Closure Plans – not available on web
9. Attachment M - Cost Estimates for Financial Assurance (and references in the revised draft permit as changed to those estimates)
10. Attachment N – Figures which do not include the height of the permitted units.

Specific Exceptions:

1. Part 1.4.
2. Part 1.4.1. Interim Status Units
3. Part 1.8. Definitions for “active portion;” “aquifer;” “groundwater;” “partial closure;” “permitted unit;” “representative sample”
4. 1.9.7. Duty to Provide Information. Define “reasonably” as in “as soon as reasonably possible”
5. 1.9.8. Inspection and Entry. Define “reasonably” as in “as soon as reasonably possible”
6. 1.9.9. Sampling and Records. For clarity, review requirements for reporting.
7. 1.9.18. Approval of Submittals.

8. 1.10. Information Repository.
9. 1.10.1. RACER
10. 1.12. Community Relations Plan.
11. 1.13. Email notification must be expanded. Please see attached proposed expanded "Email Notification List."
12. 2.2.1. Hazardous Waste from Off-Site Sources. What is the consequence for waste with no final disposal pathway?
13. 2.2.3. Documentation of Exclusion or Exemption.
14. 2.4.9. Waste Characterization for Land Disposal Restriction. Add requirement that practical quantification limits (PQL) cannot be higher than treatment standard.
15. 2.5. Security. Include wildlife.
16. 2.8.1. Ignitable and Reactive Waste Precautions.
17. 2.9 (3). Waste Minimization. Change "or" to "and"
18. 2.10. Preparation and Prevention.
19. 2.10.4. Spill Response. Add language to report per 1.9.12.2 and 1.9.13.
20. 2.11. Contingency Plan.
21. 2.12.1. Manifest System. Do these requirements apply to intra-site transfers?
22. 2.12.2. Facility Operating Record.
23. 2.13.1. Closure Cost Estimates.
24. 2.13.2. Post-Closure Cost Estimates.
25. 2.15. Liability Requirements.
26. 2.16. Incapacity.
27. 3.2. Conditions of Containers.
28. 3.5. Management of Containers.
29. 3.7.1. Containers with Free Liquids.
30. 3.7.2. Containers without Free Liquids
31. 3.9. Volatile Organic Air Emissions.
32. 3.10. TA-3 Container Storage Requirements. There is no compliance deadline.
33. 3.11.3. Preventing Run-On at TA-50.
34. 3.12.1. TA-54 General Operating Conditions.
35. 3.12.2.1 through 3.12.3.7. There are no compliance deadlines.
36. 4.2. Existing Tank System Integrity.
37. 4.3. Replacement Tank System Inspection and Stabilization Unit Components.

38. 4.4. Tank Systems and Stabilization Unit Containment.

**STATE OF NEW MEXICO
ENVIRONMENT DEPARTMENT**

In the Matter of)	
LOS ALAMOS NATIONAL)	No. HWB-09-
LABORATORY)	
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Application for a renewed Hazardous)	Exceptions to Permit Language
Waste Permit under the New Mexico)	
Hazardous Waste Act)	
No. NM0890010515.)	
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Exceptions to Permit Language

Citizen Action New Mexico takes exception to the following Sections of the Los Alamos National Laboratory Draft RCRA Part B Permit:

Sections 1, 2, 3, 4, 9, 10, and 11 and all Attachments A through O

Exception is taken also to the following:

2005 Compliance Order on Consent and as Revised in 2008.

Exception to all deliverables, supporting documents referenced therein, and/or documents and references therein accompanying the Compliance Order on Consent and its Revision, including but not limited to, the following:

Well Screen Analysis Report and all Revisions including, but not limited to Revision 2.

May 30, 2009 Interim Facility-Wide Groundwater Monitoring Plan.

Technical Area 54 Well Evaluation and Network Recommendations, Revision 1

June 2007 "Work Plan for R-Well Rehabilitation and Replacement, Revision 1."

Groundwater Background Investigation Report, Revision 3.

Respectfully Submitted,

David B. McCoy, Executive Director
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505 262-1862 dave@radfreenm.org

**STATE OF NEW MEXICO
ENVIRONMENT DEPARTMENT**

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Waste Permit under the New Mexico)	
Hazardous Waste Act)	
No. NM0890010515.)	
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Exceptions to Permit Language

Robert H. Gilkeson takes exception to the following Sections of the Los Alamos National Laboratory Draft RCRA Part B Permit:

Sections 1, 2, 3, 4, 9, 10, and 11 and all Attachments A through O

Exception is taken also to the following:

March 1, 2005 Compliance Order on Consent and as Revised in June 18, 2008.

Exception to all deliverables, supporting documents referenced therein, and/or documents and references therein accompanying the Compliance Order on Consent and its Revision, including but not limited to, the following:

Well Screen Analysis Report and all Revisions including, but not limited to Revision 2 approved by the New Mexico Environment Department on May 25, 2007.

May 30, 2009 Interim Facility-Wide Groundwater Monitoring Plan (IFWGMP) and all other IFWGMP.

October 2007 Technical Area 54 Well Evaluation and Network Recommendations, Revision 1

June 2007 Work Plan for R-Well Rehabilitation and Replacement, Revision 1.

May 2007 Groundwater Background Investigation Report, Revision 3.

April 2007 Well Evaluations for Intermediate and Regional Wells Los Alamos National Laboratory

Respectfully Submitted,

Robert H. Gilkeson
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Los Alamos, NM 87544
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EXHIBIT ___ to Second Stipulation on Permit Language

LANL Exceptions to revised Hazardous Waste Permit for the Facility (“proposed permit”).

General Exceptions

Applicants object to inclusion of financial assurance requirements, including but not limited to specific exceptions listed below.

Applicants object to use of term “regulated unit” in regard to MDAs G, H and L, including but not limited to specific exceptions listed below.

Applicants object to the deletion of Part 6: Treatment by Open Burning and to the deletion of all associated provisions in other Parts and Attachments.

These General Exceptions and the Specific Exceptions below apply both to the proposed permit, the July 6, 2009 Fact Sheet and the February 2, 2010 Fact Sheet on the Notice of Intent to Deny the permit for the Open Burn Units at TA-16 to the extent that the Fact Sheet contains discussions of the permit sections excepted below.

Specific Exceptions

Part 1 General Permit Conditions		
	1.4.1	Effect of this Permit on Interim Status Units
	1.8	Definitions Hazardous Waste Management Unit-definition acceptable but reserve the right to object to the use of “Hazardous Waste Management Unit” in the proposed permit
	1.8	Definitions Permitted Unit-exception to reference to Table J-1 in the definition.
	1.17	Notice of Demolition Activities. Added sentence makes section internally inconsistent and substantially changes the requirement.
Part 2 General Facility Conditions		
	2.4.6	Thermal Treatment – exception to deletion of section.

	2.4.7	Waste Characterization Review No. 4-exception to three day notice requirement.
	2.4.9	Waste Characterization for Compliance with Land Disposal Restrictions.
	2.10.1	Required Equipment. Need to clarify that requirements in last paragraph apply to equipment listed in Attachments A and D identified in first paragraph of section. Line 27 page 53 should reflect the regulatory language in 40 CFR §270.14(b)(8)(iv) to read "The Permittees shall maintain procedures, structures or equipment..."
	2.12.2	Facility Operating Record No. 8-exception to financial assurance requirements.
	2.13	Cost Estimate for Closure and Post-Closure Exception to entire section.
	2.14	Financial Assurance for Closure and Post-Closure Exception to entire section.
	2.15	Liability Requirements Exception to entire section.
	2.16	Incapacity of Operators, Guarantors, or Financial Institutions Exception to entire section.
Part 3 Storage in Containers		
	3.1 (3)	General Conditions. Exception to requirement to submit permit modifications to figures.
	3.7.1	Containers with Free Liquids Exception to Nos. 2 and 4.
	3.11.3	Preventing Run-on. Run-on cannot be prevented to the unit because it is an asphalt pad. We prevent run-on from contact with waste because we store in transportainers.
Part 4 TA-54 Storage in Tanks and Treatment by Stabilization		

	4.6	TA-50 Radioactive Liquid Waste Treatment Facility Exception to entire section.
Part 6 Treatment by Open Burning		Exception to deletion of Treatment by Open Burning
Part 9 Closure		
	Part 9	LANL agrees with the closure process outlined in Section 9.3 and its interface with the Consent Order requirements. However, LANL excepts the term "regulated unit" and the contents of Table J-1 as they are currently defined. Therefore, LANL maintains an exception to use of term "regulated unit" and references to Table J-1 throughout Part 9.
	9.1.2	Indoor Units. Exception to the examples provided.
	9.1.3	Outdoor Units. Exception to "co-located with a regulated unit." See Comment No. 31, DOE/LANS Comments on the Revised Draft Permit for Los Alamos National Laboratory. Additionally, new requirements do not take into account that buildings/structures/equipment may not have been used for the management of waste.
	9.2.2.2	Outdoor Units Co-located with Regulated Units. Exception to "co-located with regulated units." See Comment No. 32, DOE/LANS Comments on the Revised Draft Permit for Los Alamos National Laboratory.
	9.2.2.3	Other Outdoor Units. Exception to use of "regulated unit." See Comment No. 33, DOE/LANS Comments on the Revised Draft Permit for Los Alamos National Laboratory.
	9.3	Closure Requirements for Regulated Units Exception to entire section.
	9.4.9	Outdoor Treatment Units. Exception to section removal.
	9.5	Closure Certification Report to the Department Exception to reference to financial assurance requirements.
Part 10 Post-Closure Care		
	10.1.2	Amendment of Post-Closure Care Plan No. 4-exception to use of term "regulated unit".

Part 11 Corrective Action		
	11.1	Corrective Action Requirements Under the Consent Order Exception to last sentence of section – agree with concept but permit as written is in conflict with statement.
	11.2	Corrective Action Requirements Under the Permit Exception to Nos. 1 to 4.
	11.2.1	Identification of SWMUs and AOCs Requiring Corrective Action Exception to Table J-1.
	11.3.1	Groundwater Monitoring Exception to “regulated unit” reference.
	11.3.1.2	Source Identification Exception to “regulated unit” reference.
	11.4.1	Exception to changed language.
Attachment A	A.2	TA-16. Exception to removal of section.
Attachment C	Throughout	Exception to removal of high explosives wastes from Waste Analysis Plan.
Attachment D	Throughout	Exception to removal of TA-16 from the Contingency Plan.
Attachment E	Throughout	Exception to the removal of open burning units from the Inspection Plan.
Attachment G		
	Attachments G.2 and G.3	Exception to the removal of the open burning unit closure plans as drafted in the July 7, 2009 revised draft permit.
	Closure Schedule Tables	Tables within the closure plans conflict with the text in 9.4.1 which state “The beginning of closure is marked by initiating removal of waste from permitted unit.” Schedule tables in the closure plans list the “Final receipt of waste” as day 0.
	Section 4.2 of closure plans	Inconsistent times

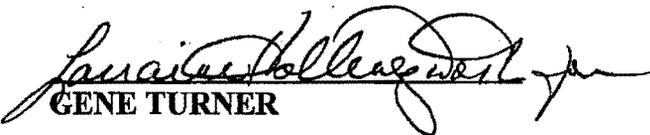
	Section 5.3.1 of closure plans	10 day window for outdoor units is inadequate.
	6.1.b and 6.1.c of closure plans	"Hazardous constituents" should be "hazardous constituents above background or screening levels whichever is higher."
Attachment J Hazardous Waste Management Units		
	Table J-1	Exception to references to identification of the entirety of TA-54 "G," "H" and "L" as regulated units. Also, exception to listing the open burning treatment units as under closure.
Attachment M Cost Estimates for Financial Assurance		Exception to all of Attachment.

STATE OF NEW MEXICO
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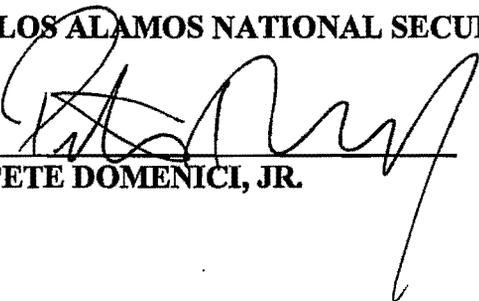
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SECOND STIPULATION ON PERMIT LANGUAGE

For the DEPARTMENT OF ENERGY:

By:  Date: 2/22/2010
GENE TURNER

For the LOS ALAMOS NATIONAL SECURITY, LLC:

By:  Date: 2/22/10
PETE DOMENICI, JR.