



Kieling, John, NMENV

From: Joni Arends [jarends@nuclearactive.org]
Sent: Monday, November 14, 2011 4:23 PM
To: Kieling, John, NMENV; david.cobrain@state.nm.us
Subject: CCNS Comments about LANL Request for Two-Year Extension of Time - LA Canyon Aggregate Area

November 14, 2011

John Kieling, Acting Bureau Chief
Hazardous Waste Bureau
New Mexico Environment Department
2905 Rodeo Park Drive East, Building 1
Santa Fe, NM 87505-6303

Re: LANL - Need for NMED to Deny Request for Extension to the Direction to Modify the Phase II Investigation Report for Middle Los Alamos Canyon Aggregate Area, Revision 1

Dear Mr. Kieling:

The request for a two-year extension of time to modify the Phase II Investigation Report for the Middle Los Alamos Canyon Aggregate Area, Revision 1 (HWB-LANL-11-022) by Los Alamos National Laboratory must be denied for lack of good cause.

Concerned Citizens for Nuclear Safety understands that the New Mexico Environment Department (NMED) received the United States Department of Energy (DOE) and the Los Alamos National Security, LLC (LANS) Phase II Investigation Report for Middle Los Alamos Canyon Aggregate Area, Revision 1 (IR), dated August 2011, and "Response to the Notice of Disapproval for the Phase II Investigation Report for Middle Los Alamos Canyon Aggregate Area" (NOD Response). NMED reviewed the IR and the NOD Response, and issued a Direction to Modify (DTM). On September 30, NMED instructed DOE/LANS to incorporate 17 NMED-requested modifications into a Response to Comments and a revised Phase II Investigation Report. NMED scheduled the DTM to be due November 30, 2011. Under the Consent Order, the Middle Los Alamos Canyon Aggregate Area IR was originally due in 2008 (a date prior to the Buckman Direct Diversion Project diversion of Rio Grande water into the Santa Fe water distribution system downstream of Los Alamos Canyon), and most recently due in March 2011.

In a letter dated November 4, 2011, DOE/LANS requested a two-year extension to complete the DTM. This two-year extension would apply to submittal of a response to the direction to modify, submittal of a revised Phase II investigation report, and implementation of the directions contained in the September 30, 2011, NMED direction to modify letter. [<http://permalink.lanl.gov/object/tr?what=info:lanl-repo/epr/ERID-207452>]

This extension request must be denied for lack of good cause. DOE and LANS state that they are "requesting this extension in order to focus efforts on accelerating the shipment of aboveground transuranic (TRU) waste..." This unconvincingly feeble reasoning implies that DOE and LANS do not have time in the next three weeks to do both. Of course there is not time to ship 40,000 drums or drum equivalents in three weeks, but there is time to complete the Investigation Report for Middle Los Alamos Canyon Aggregate Area.

As you know, CCNS is very concerned about the contaminants located in the Los Alamos Canyon system. Monsoons, snow and rain, and snow melt result in flows over dump sites which allow for the migration of



hazardous, toxic and radioactive contamination to the Rio Grande, a source of drinking water for Santa Fe and Albuquerque residents. Any delays in getting the work done in Los Alamos Canyon presents impacts to human health and the environment and our drinking water.

The Phase II Investigation Report should be nearly complete by now and accelerating TRU shipments has yet not started. CCNS remains concerned about "accelerating" TRU shipments at LANL because of the past experience with "Quick to WIPP." That experience was not Quick to WIPP and resulted in a 15 month shut down.

DOE and LANS states in the extension request, "This focus will result in a material reduction of environmental risk." So will doing both - reducing risk to drinking water supplies and removing TRU waste. Nevertheless, the Respondents/Permittees have NOT been proven whether shipping the TRU or meeting Consent Order deliverables results a larger reduction of environmental risk.

The extension request states, "The new due date to submit the response to the direction to modify was developed to support the mutual goal of environmental risk reduction." Please ask DOE/LANL to explain how not meeting Consent Order deliverables supports risk reduction. Please ask DOE/LANL to explain if there is no budget now, how does DOE/LANL know that there will be budget in the future. The new due date will certainly push the Consent Order past 2015.

The extension request also states, "This acceleration of TRU waste shipments will also allow DOE/LANS to support the environmental priorities established by the New Mexico Environment Department and the State of New Mexico." The Consent Order belongs to the people of New Mexico, not to DOE/LANS or to NMED.

Further, the Respondents/Permittees have not implemented a Community Relations Plan for removal of the TRU waste as required by Section VII.E.4 of the Consent Order. This is an issue we will discuss with NMED Secretary Martin in our meeting tomorrow.

As you are well aware, the Consent Order was meant to clear the way for the DOE/LANS to use congressional funding for cleanup of the facility. This legally enforceable document is a driver to make all cleanup a budget priority. Supposed lack of DOE budget resources can no longer be an excuse for lack of any cleanup funding at LANL. CCNS recalls the conversations at public meetings following the Cerro Grande fire where the Respondents/Permittees asked NMED for a compliance order in order to obtain congressional funding for cleanup.

We have waited too long for cleanup work to be done in order to protect human health and the environment. Please deny the request of the Respondents/Permittees for an extension of time. Thank you for your consideration in this matter.

Sincerely,

Joni Arends, Executive Director
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