



SUSANA MARTINEZ
Governor

JOHN A. SANCHEZ
Lieutenant Governor

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ENTERED

**NEW MEXICO
ENVIRONMENT DEPARTMENT**

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RYAN FLYNN
Cabinet Secretary

BUTCH TONGATE
Deputy Secretary

March 18, 2016

Communities for Clean Water
C/O Amigos Bravos
P.O Box 238
Taos, NM 87571

Represented by:

Joni Arends
Concerned Citizens for Nuclear Safety

Marian Naranjo
Honor Our Pueblo Existence

Rachel Conn
Amigos Bravos

Robert Chavez
Communities for Clean Water Youth
Council

Kathy Sanchez
Beata Tsosie-Pena
Tewa Women United

Joan Brown
Marlene Perrotte
Partnership for Earth Spirituality

**Re: Hearing Determination Request, DP-1835, Class V Underground Injection Control,
Los Alamos National Laboratory**

Dear Representatives of Communities for Clean Water:

On November 30, 2015 you submitted comments in opposition to draft Discharge Permit DP-1835 which included a request for a public hearing. Pursuant to 20.6.2.3108 NMAC, the Secretary has determined that a public hearing shall be held in this matter. The hearing will be held pursuant to the requirements of 20.6.2.3108; 20.6.2.3110 and 20.1.4 NMAC.

You will be notified of the location and date of the hearing location as the information becomes available. A copy of the Hearing Determination is provided as an attachment to this letter.

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Communities for Clean Water, DP-1835

March 18, 2016

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If you have any questions, please contact Greg Huey at (505) 827-6691 or Steve Huddleson at (505) 827-2936.

Sincerely,

A handwritten signature in black ink, appearing to be "Michelle Hunter", written over the word "Sincerely,". The signature is stylized and somewhat cursive.

Michelle Hunter, Chief
Ground Water Quality Bureau

Cc: Robert Beers, DOE/LANS (electronic copy)
John Kieling, HWQB, NMED (electronic copy)
Steve Yanicak, DOE/OB, NMED (electronic copy)

Attachment



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MEMORANDUM

To: Ryan Flynn, Cabinet Secretary, New Mexico Environment Department

Through: Trais Kliphuis, Director, Water Protection Division
Michelle Hunter, Chief, Ground Water Quality Bureau
Steve Huddleson, Program Manager, GWQB Pollution Prevention Section
John Verheul, General Counsel, New Mexico Environment Department

From: Greg Huey, Team Leader, GWQB Industrial/UIC Section

Date: March 9, 2016

Subject: Request for Hearing Determination for the DOE/LANS Discharge Permit Application DP-1835 for underground injection of treated groundwater

I. Facility Information – Need for Permit

The Los Alamos National Laboratory (LANL) operates under the oversight of the United States Department of Energy (DOE) and Los Alamos National Security, LLC (LANS). LANS has proposed to NMED-HWB to conduct interim measures (IM) for chromium plume control in accordance with Section VII.B.1 of the March 1, 2005, Compliance Order on Consent (the Consent Order). The IM are proposed to control chromium migration in groundwater while long-term corrective action remedies are under evaluation. Work proposed for IM involves pumping from an extraction well in an effort to hydraulically control potential plume migration beyond the LANL boundary and to achieve and maintain the 50 ppb (20.6.2.3103 NMAC standard) downgradient plume edge within the LANL boundary.

Contaminated groundwater is currently pumped, treated, and land applied under work plans submitted to NMED under DP-1793. A second permit application has been submitted to NMED for re-injection of the treated water under DP-1835. The application proposes to eventually pump up to 648,000 gallons per day (gpd) of chromium contaminated groundwater from up to three extraction wells, treat the extracted groundwater to less than 90% of the NMAC standard through a series of ion exchange units, and reinject the treated water through up to six groundwater injection wells under DP-1835, or land apply the effluent under DP-1793.

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LANS' goal is to initiate injection under the terms of this discharge permit by spring 2016.

II. Ground Water Discharge Permit History

In April, 2015, the Laboratory submitted a discharge permit application for the Chromium Plume Control Interim Measure to develop up to six Class V Underground Injection Control (UIC) wells. The Laboratory submitted supplemental information in October, 2015 to specifically describe injection well design and processes, and GWQB issued *DRAFT Discharge Permit DP-1835* and completed public notice (PN-2) in October, 2015.

Requests for Hearing and technical comments on the draft permit were received from the applicant (DOE/LANS) and Communities for Clean Water (CCW), the latter in a letter co-signed by Concerned Citizens for Nuclear Safety, Amigos Bravos, Tewa Women United, Partnership for Earth Spirituality, and Honor our Pueblo Existence. The letters from DOE/LANS and CCW are included as attachments to this memorandum.

The New Mexico Department of Game and Fish submitted comments stating that there are no significant impacts to wildlife or sensitive habitats anticipated from this proposal. Additionally, eight non-technical letters supporting the approval of DP-1835 were received from Los Alamos County, The City of Santa Fe, Northern New Mexico Protects, two New Mexico State Legislators, and individual members of the local community.

The Draft DP-1835 is currently undergoing review in light of public comments submitted during the PN-2 comment period.

The discharge is located approximately 3 miles southeast of Los Alamos in sections 24 and 25, Township 19N, Range 06E, Los Alamos County, NM. Groundwater most likely to be affected lies in a regional aquifer from 900-1100 feet below ground surface (BGS) and has a total dissolved solids (TDS) concentration of approximately 150 milligrams per liter (mg/L). In the subsequent sections, GWQB has provided summaries of comments from LANS and CCW, followed by the GWQB response as appropriate.

III. Comments received from LANS

LANS submitted a comment letter regarding the draft DP-1835 on November 24, 2015. The letter includes a section of 26 technical comments containing primarily clarifying language and operational procedures as described in the draft and discussed in a November 12, 2015 meeting with NMED. However, to address LANS' concerns that outstanding issues may remain in future draft permits, the letter requests a hearing be scheduled pursuant to 20.6.2.3108.K NMAC. The letter goes on to state that the Permittees are hopeful their concerns can be resolved prior to such a hearing, and if they are then they will withdraw the hearing request.

The comments submitted by DOE/LANS are generally reasonable and GWQB expects that the concerns presented by LANS will be resolved prior to the date of any future hearing.

V. Comments received from CCW

CCW, in a letter co-signed by Concerned Citizens for Nuclear Safety, Amigos Bravos, Tewa Women United, Partnership for Earth Spirituality, and Honor our Pueblo Existence, submitted comments on November 30, 2015. The letter contains 19 pages of narrative and technical comments that are supported by five attachments. The letter opens with an "indigenous view of environmental justice and the need for restorative justice" followed by the assertion that the public has not been provided a "full and complete description" of the proposed interim measures.

The letter proceeds to list CCW's concerns regarding environmental justice, history of the chromium contamination plume, health hazard information, specific comments on the draft permit, and a conclusion summarizing their case for submitting a request for hearing. A number of the items CCW requests, such as a series of public meetings regarding the eight-year interim measures project, are outside the scope of GWQB's authority in issuing a discharge permit. Other concerns CCW raises, such as what they characterize as circumventing federal Resource Conservation and Recovery Act (RCRA) requirements, are both outside the jurisdiction of GWQB and outside the scope of the issuance of a discharge permit. CCW appears very concerned with the process of remediating the chromium plume, something that is outside the scope of GWQB's issuance of this discharge permit.

CCW requests a public hearing pursuant to 20.6.2.3108.K NMAC "as a matter of substantial public interest." The letter goes on to list the various technical issues they believe should be addressed at a public hearing, but does not expand upon or substantiate the statement that there is substantial public interest. Besides CCW, five organizations are listed as co-signatories on the comment letter, although it is unclear if Concerned Citizens for Nuclear Safety are a co-signatory, or if the director (who is also the director of CCW) simply failed to update her signature block. The letter does not provide information as to how many members each of these organizations have or whether each member of the organization is aware of and supports the comments. There are eight distinct names in the signature block of the letter, representing the named organizations.

IV. Hearing Determination Request

The Pollution Prevention Section (PPS) of the Ground Water Quality Bureau (GWQB) respectfully requests a determination regarding this hearing request in accordance with 20.6.2.3108.K NMAC. Because the comments submitted by DOE/LANS specifically request a hearing and contain substantial technical issues directly related to the contents of DP-1835 and are within the scope of GWQB's authority, the GWQB recommends that the request for hearing be approved. In the interim, GWQB intends to continue to meet with DOE/LANS to attempt to develop a discharge permit that is protective of groundwater resources within the limitations of our regulatory authority, while enabling the remediation of contaminated groundwater at LANL.

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Hearing Request Determination:

The request for hearing on the Draft Discharge Permit DP-1835

Denied
 Approved



Ryan Flynn, Cabinet Secretary
New Mexico Environment Department

Date: 3/15/2016