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STATE OF NEW MEXICO

BEFORE THE SECRETARY OF ENVIRONMENT

No. GWB 19-24(P)

IN THE MATTER OF PROPOSED DISCHARGE
PERMIT DP-1132 FOR THE RADIOACTIVE
LIQUID WASTE TREATMENT FACILITY AT
LOS ALAMOS NATIONAL LABORATORY,
LOS ALAMOS, NEW MEXICO

TRANSCRIPT OF PROCEEDINGS

BE IT REMEMBERED that on the 14th day of
November, 2019, this matter came on for hearing before
RICHARD L. C. VIRTUE, Hearing Officer, at the Fuller
Lodge, Pajarito Room, 2132 Central Avenue, Los Alamos,
New Mexico, at the hour of 8:58 a.m.

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1 REXCROSS-EXAMINATION

2 BY MR. LOVEJOY:

3 Q. Mr. Beers, you've talked about the -- oh.

4 Sorry.

5 Mr. Beers, you talked about possible unplanned
6 releases from the MES and the various efforts that are
7 made to prevent that.

8 What's the probability of an unplanned release
9 from the MES?

10 MR. BUTZIER: Mr. Hearing Officer, I'm sorry
11 to have to object again. I think he -- I think
12 Mr. Lovejoy is now going back and asking questions that
13 relate to testimony -- part of his direct testimony, and
14 the purpose of recross is to ask questions relating to
15 cross-examination, and we did not get into those issues.

16 MR. VIRTUE: The objection is granted. I
17 believe you need to limit your recross to the scope of
18 the redirect.

19 MR. LOVEJOY: I'm -- there was, if I may, a
20 question just on this subject, and he testified about
21 the probability -- possibility of this happening. This
22 was in redirect.

23 MR. VIRTUE: Okay. If I recall, I think
24 that's correct. So I do recall a question was asked on
25 that subject so you may proceed.

1 MR. LOVEJOY: Thank you.

2 Q. What's the probability of an unplanned release
3 from the MES?

4 A. Mr. Lovejoy, that would be speculative on my
5 part to -- to give you any probability. I can't answer
6 that question. I'm not an engineer. I don't know what
7 the odds are.

8 Q. Would you say it's highly unlikely?

9 A. I would say it's highly unlikely.

10 MR. LOVEJOY: Thank you.

11 That's all I have. Done.

12 MR. VIRTUE: Mr. Verheul, any questions?

13 MR. VERHEUL: No.

14 MR. VIRTUE: Okay.

15 MR. BUTZIER: Nothing further.

16 MR. VIRTUE: I believe we have concluded the
17 testimony of Mr. Beers.

18 At this point, I do have questions on the
19 status of Exhibit 21. I'm not sure that was admitted.
20 It is part of the administrative record, as I understand
21 it. And I don't recall it being offered.

22 MR. BUTZIER: Thank you. Thank you,
23 Mr. Hearing Officer.

24 You're correct that it is part of the
25 administrative record, but I don't think there's any

1 A. No. That's incorrect.

2 Q. Would you care to explain?

3 Do you understand why I ask?

4 A. Yes, I think I do.

5 Q. Okay.

6 A. If we can go back to my written testimony on
7 page 2, where, as you point out, permit requires the --
8 a discharge permit is required for the RLWTF because the
9 applicants are discharging effluent in a manner such
10 that the effluent may move directly or indirectly into
11 groundwater within the meaning of the specific
12 regulation.

13 That condition -- that language says the
14 applicants are discharging effluent in a manner such
15 that it may move directly or indirectly into
16 groundwater. I believe that the discharge from the
17 treatment system to the MES may move indirectly into
18 groundwater.

19 Q. Can you describe the pathway you have in mind?

20 A. Well, this is a system -- a plumbing system
21 between the treatment systems and the MES, and if there
22 were to be a leak in that plumbing system and it get
23 through the secondary containment systems associated, it
24 may move indirectly into groundwater.

25 Q. Is there a leak?

1 A. I hope not. I've seen --

2 Q. I'm not asking about your hopes.

3 Is there a leak?

4 A. I'm not familiar with any leak associated with
5 the MES.

6 Q. Has there been a leak between the treatment
7 tanks and the MES any time since 2010?

8 A. Not that I'm aware of.

9 Q. Okay.

10 Well, what's the likelihood that the water --
11 wastewater going from the treatment tanks to the MES
12 may, as you say, reach groundwater?

13 A. I would say there is a very low likelihood. I
14 cannot quantify that, but a very low likelihood.

15 Q. Is it highly unlikely?

16 A. It is highly unlikely, yes.

17 Q. Thank you.

18 You see quarterly reports about the operations
19 of the RLWTF, don't you, quarterly monitoring reports?

20 A. Yes, I do.

21 Q. And based on those reports since November
22 of 2010, there have been no discharges from Outfall 051
23 except for a single one on June 18th, 2019, but
24 otherwise none since 2010; is that true?

25 A. That's correct.

1 Q. And is it your understanding that after
2 DP-1132 was first issued on August 29, 2018, those were
3 the conditions, what you've stated, under which the
4 applicants intended to discharge through Outfall 051?

5 A. I'm sorry.

6 Q. Were the conditions that you just articulated
7 concerning insufficiency of other discharge locations --
8 were those the conditions under which the applicants
9 intended to discharge through Outfall 051 when DP-1132
10 was issued in August of 2018?

11 A. It's been my understanding from the inception
12 that the discharge through Outfall 051 was to satisfy
13 any insufficient capacity situations at the other
14 discharge points.

15 Q. And is that true today?

16 A. I understand that they discharged in June of
17 this year to test the operational capability of the
18 system.

19 Q. Who told you that?

20 A. Well, other than hearing it today, I -- I
21 can't recall exactly who told me that.

22 Q. At the time of that discharge, was the MES
23 functioning?

24 A. Yes, I believe it was.

25 Q. Was it unavailable for any reason, like

1 maintenance or malfunction?

2 A. Not that I'm aware of.

3 Q. Who was the person that decided that there
4 should be a discharge in June of this year?

5 A. I do not know the answer to that question.

6 Q. Do you know who is in charge of deciding to
7 discharge from the RLWTF in general as a matter of
8 management structure?

9 A. I certainly don't know a name, and I'm not
10 even sure at what level of management within the
11 laboratory or their contractors would make that
12 decision. No.

13 Q. Were you surprised to hear that there was a
14 discharge in June of 2019?

15 A. I was -- yes. I would say I was surprised.

16 Q. Would you say that concerning the factors
17 determining whether there would be a discharge you had
18 been misinformed?

19 A. No. I don't know that the factors determining
20 a discharge to 051 had ever been discussed. So I can't
21 say that I was misinformed on that.

22 Q. Well, hadn't you been informed that discharges
23 would take place from 051 when the other discharge
24 locations were unavailable or there was a lack of
25 capacity?

1 A. Somehow I was informed of that fact. Yes.

2 Q. And was the source of that Los Alamos or its
3 contractors?

4 A. To the best of my recollection, yes.

5 Q. So right now looking forward, any discharge
6 from Outfall 051 in your understanding is contingent on
7 the conditions that you've stated, namely the
8 insufficient capacity or unavailability of the other
9 discharge points; is that true?

10 A. Well, first of all, I'd like to say that the
11 permit does not address when the applicant or permittee
12 can utilize these various forms of discharge. So it has
13 not been a major topic of conversation.

14 I now believe that in the future they will
15 discharge to 051 when they need the extra capacity or
16 they need to test the system.

17 Q. And that's different from the understanding
18 you had --

19 A. My previous understanding. That's correct.

20 Q. And still as expressed, that's only a
21 potential discharge, is it not, in the sense that it
22 depends on the availability or whether the other
23 discharge points are available or not, or whatever it
24 determines that there would be a test of operational
25 capability?

1 A. As far as I know, the laboratory may have a
2 schedule for testing operational capability, and in that
3 sense, it would not be a potential discharge, it would
4 be a planned discharge, and --

5 Q. Is -- go ahead.

6 A. And as far as capacity limitations, I --
7 they're about to put the S on line so that's going to
8 expand their capacity. I don't know what the
9 laboratory's intentions are with regard to generating
10 this waste stream, whether they're going to at some
11 point in the future have insufficient capacity. I -- I
12 do not know what the intentions of the laboratory are in
13 that regard.

14 Q. But as for a schedule for testing operational
15 readiness, as far as you know today, the schedule is
16 once every eight or nine years, right?

17 A. I have not heard of any schedule, one year or
18 eight or nine years.

19 Q. Do you have the regulations there?

20 We have extra copies if you'd like.

21 A. I do.

22 Q. Would you look at 20.6.2.3106, please.

23 A. Sure.

24 Okay.

25 Q. And subsection A describes old or