

THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6

Public Hearing
Renewal of the LANL Stormwater Individual Permit
NPDES Permit No. NM0030759

Transcript of Proceedings from Microsoft Teams Recording

October 26, 2020
5:00pm Mountain Time
Virtually Offered via Office Microsoft Teams and
Conference Call

Reported by: Ruben Alayon-Gonzalez from Microsoft Teams Recording

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Mr. Rucki:

Good evening, everyone. It's approximately 5:00pm MST, on October 26th, 2020 and the public hearing is now in session and officially on record. My name is Tom Rucki, I'm the Regional Judicial Officer for EPA Region 6 and Senior Counsel. I'm the Designated Hearing Office for this hearing. My responsibility includes fully developing a public hearing record by taking public comments from each of the parties.

EPA will consider the public hearing record during its decision-making process. Please note that I do not participate in the decision-making process, and I have no influence on the permits. And, in addition to me, there are EPA representative here that you also heard speak earlier. And the purpose of the public hearing is as follows:

Mr. Larsen:

Good evening. My name is Brent Larsen, and I am the Chief of Permitting Section in EPA Region 6 Water Division. I will be giving a brief overview of the proposed permitting action that is the subject of tonight's hearing. The Los Alamos National Laboratory (LANL) facility is located primarily in Los Alamos County, New Mexico. LANL is a large, multidisciplinary facility which conducts national defense research and development, scientific research, space research and technology development and every development. The discharges from the facility are to various tributaries to the Rio Grande in New Mexico Water Quality Standards Waterbody Segment Codes. No. 20.6.4.126 and 20.6.4.128 of the Rio Grande Basin.

On November 28th, 2019 the EPA Region 6 published notice of a proposal to issue the NPDES Permit No. NM0030759 on EPA's website at <https://www.epa.gov/publicnotices> and provided a draft permit and fact sheet for public review and comment. The fact sheet dated October 31, 2019 provides the rationale and basis for the permit, discharge limits and other permit conditions. Concurrently, in accordance with CWA 401(a)(1) and (a)(2), The Region requested certification from the State of New Mexico. Also, pursuant to EPA's Tribal Consultation Policy, EPA offered San Ildefonso, Cochiti Pueblo, Pueblo of Santa Clara and Pueblo of Jemez the opportunity to engage in government-to-government consultation because they are part of the Los Alamos Pueblos Project. San Felipe Pueblo requested Consultation via email January 27, 2020.

Please note that EPA does not take any position, nor is claiming any jurisdiction on water rights issues when EPA proposes this NPDES permit under the Clean Water Act. EPA published notice of the draft permit and the intent to hold a public meeting and public hearing on EPA's Public Notice website on December 4, 2019. On December 16, 2019, a mass mailing made to interested parties on the NPDES mailing lists. And on December 16, 2019 the Public Notice was updated to inform all other interested parties that a Public Informational Meeting and Public Hearing would be held at 5:00pm and 7:00pm respectively. On January 16, 2020, at the Pojoaque Valley Sixth Grade Academy, at 1574 St. Road 501 West, Santa Fe, New Mexico 8750 had to be canceled due to a winter storm forcing closure at the meeting location. Public Meeting and Hearing had to be re-scheduled for October 26, 2020 using an online virtual format and comment period was extended to November 2nd, 2020. These changes and instructions were published on EPA website and Albuquerque Journal on September 24, 2020. Thank you.

Mr. Rucki:

The purpose of this public hearing is to provide interested parties the opportunity to present information and opinions to EPA concerning the following:

This is a proposed renewal National Pollutant Discharge Elimination System (NPDES) permit authorization of stormwater discharges under Permit No. NM0030759 from the Los Alamos National Laboratory, located in Los Alamos County, NM. This Permit covers about 400 storm water discharges from Solid Waste Management Units and Areas of Concern on Los Alamos National Laboratory's property.

Previously, EPA had prepared and published a public notice regarding these proposed actions and this public hearing on EPA's website and on Regulations.gov. The notice informed members of the public of their opportunity to obtain copies of information concerning EPA's proposed actions, to provide comments on those proposed actions, and to participate in the public hearing being held today.

Even though there has been a public meeting prior to this official hearing, if any EPA representatives would like to provide any comments they may, otherwise, we will begin the explanation of procedures for this hearing. EPA representatives?

I would like to outline the procedures for this public hearing. Now, I'd like to first mention the obvious, that we are conducting this hearing virtually, which, for most of us, is something new and at times confusing. Because of that, this hearing will proceed somewhat differently than a typical public hearing, but nevertheless, I want to assure you what transpires today will carry the same level of importance as a typical hearing in person would carry regarding the issue here today.

The procedures are rather simple and informal; however, this hearing must be conducted in an orderly manner that will allow EPA to obtain and record all relevant and appropriate information related to the proposed action. Tonight's public hearing is not an evidentiary hearing or trial. There will be no direct or cross examination of anyone. As hearing officer, I may ask questions, but only for clarification of the hearing record. Otherwise, persons making comments will not be questioned. This is not a forum for debate or argumentative exchanges, but rather one for the gathering of facts, data, and information and opinions regarding the proposed actions.

EPA will not respond to any public comments or questions presented during this evening's hearing. However, EPA will respond to those questions and comments raised in the record of tonight's hearing in writing in a document known as a responsive summary.

Prior to tonight's hearing there was an opportunity to register in order to speak at tonight's hearing. I will call on persons who have registered to make comments in the order those registrations were received. If you have not yet registered and still wish to speak, please say so in the comments section or use the "raise hand" feature in Teams to let us know. Please limit any typing in the comments section to technical issues, such as you can't hear what we are saying or just to inform us you'd like to speak. Anything typed in the comments section will not be included as part of the official record or responded to in the responsive summary I mentioned

earlier. Your opportunity to speak will come after all those that have already registered to speak has passed, so please be patient while we work through the process.

When I call upon you to give your comments, please state your name and, if you are affiliated with or representing an organization, please identify your organization.

As hearing officer for this public hearing, I may impose time limits on speakers if the circumstances warrant. Given the number of people who have signed up to comment, I am setting a limit of ten minutes for each speaker. If your planned comments are rather lengthy, I recommend that you consider summarizing your comments, followed by a request to enter your complete written statement into the hearing record. However, if all interested persons who are present have had an opportunity to comment and there is additional time prior to the close of this hearing, I may allow for additional speaking time for those who have already commented, but again, only if time permits and all those who so desire have had an opportunity to comment once first.

After the public hearing record closes, EPA will continue to accept written comments. The deadline for submitting public these comments is November 2, 2020. Any written comments should be submitted by the methods described in EPA's Notice. Written comments will be considered with the same weight as oral comments here today.

I will now take the comments of persons who have signed up to speak, beginning with Anthony Ortiz.

Governor Anthony Ortiz:

Good evening, Anthony Ortiz from San Felipe Pueblo. The Pueblo of San Felipe understands LANL to renew draft permit SW from this facility. Additionally, LANL plans to increase pollutant production. The Pueblo of San Felipe is located downstream and it's important when renewing this permit that pollutants are controlled and kept out of SW within guidance of CWA, NMED Surface Water Quality Standards that poses adverse threats to the environment and health of our people. The Pueblo wants to be engaged to understand the discharge from water, air, legacy waste and cumulative impact. SW permits NM0030759 presents opportunities to be consulted with and proper consultation is a condition on the permit and be enforceable or pose a threat. IT is in the best interest of the Pueblo of San Felipe that LANL and EPA will treat us like equally in this permit renewal weather corrective actions or low risk. We must stress that management practices will minimize discharge. Weather it be filtration, corrective actions, controls or any other technology to ensure confidence for the permit because there is area of concerns in SW. LANL, New Mexico and EPA must consider the health of Pueblo San Felipe. They must ensure timely consultation is conducted for our health is considered in decision making. There are many opportunities for potentially harmful out of LANL and San Felipe may be considered as stakeholder on the operation of permitting process. The Pueblo wants to be engaged to understand the discharges from water, air, legacy waste and impacts for the health of our People. We are concern with the changes on the definition on the Water of the US and how they will be used for the discharge of LANL. We ask that the Pueblo be given Consultation to consider the burden. If the permit is modified, if there are enforcement actions or conditions are a

threat to our environment. The people and New Mexico have contributed a good deal to the USA and we ask LANL and EPA and other agencies to ensure that we are protected as well. It concerns me greatly. As tribal leader of Pueblo of San Felipe, that I'm trying to protect my people from LANL. Water that comes from the Rio Grande have been impacted negatively from radioactive waste discharge from LANL, I can say this because I've lost my sister from cancer. Which contributes from the radioactive waste from our people that have consumed in the past and I'm concern about the future of my people. I would appreciate if we could come together and work this things out in a professional way on how we can protect other people. Thank you very much.

Mr. Rucki:

Thank you very much. Next we have Oliver Slayne from UWMadison. We'll circle back. Next we have Sister Marlene Perrote.

Sister Marlene Perrote:

Hi, I'm Sister Marlene and I'm sister with the Partnership with Earth, Spirituality which are members of Communities for Clean Water. One of the major issues with respect to LANL is the contamination and the waste. Water flows Pajarito Plateau, and what happens because of the desecration that we have done as a Nation and destruction because of LANL. We now have a real problem with water (stormwater, surface water and groundwater). There is no end to the continuous proliferation of that waste. Wondering whether or not this permit could address the ending of the constantly producing contamination that really affects our holy water (the source of life). Believes that LANL has real responsibility to stop the production and the producing of nuclear and radioactive waste. Try to help us, to stop to find ways to protect water ways. This is holy land and retribution to the indigenous people contaminating of the land needs to be addressed. Thank you

Mr. Rucki:

Thank you, is there a Rachelle Conn.

Rachell Conn:

I will submit my comments in written form.

Mr. Rucki:

Is there a Vietta Tsosy from TWA Women United. Are you on the line? We'll move forward with Joan Brown.

Joan Brown:

Partnership for Earth Spirituality. Water is very precious and just continuo to be disturbing that land and water in communities downstream are just not really taken into consideration or reparation for past damages. LANL and government entities need to change the culture detrimental to the environment. LANL has the responsibility and stewardship to address all the pollution of the waters. The highest standard should be to eliminate the requirement for

monitoring or corrective actions and identify sites that can contribute to polluting the waters on our land and affecting health in communities downstream. The site should not be deleted, there has to be real demonstration over long period of time that there is no danger on the watershed. None of this should be taken lightly, change world view and throw away culture. Maybe vision of LANL has to be shifted with real problems that are happening right now like climate change and Covid. Thank you!

Mr. Rucki:

Next we have Joni Arends.

Joni Arends:

Concerned Citizens for Nuclear Safety. CCNS in a NGO 32 year old based in Santa Fe, NM and have been working with LANL issues for 3 decades. International stage big change has been Honduras joined other nations to declare prohibition for Nuclear weapons. CCNS wants to support the other speakers for the need to protect the sacred land, clean up the mess from last 77 years and part of that is that the SWIP could be as strong as possible. We need to look at the treaties and weapon productions with new eyes. Make sure that the workers and communities that have supported LANL are treated adequately and fairly. That there an ability to remediate and clean the areas and restore areas that were used and the IP is a way to do that.

The hundreds of sites to the potential to discharge that were identified 2005 Federal Facilities Compliance Agreement, precursor to the first individual SWIP. Accounting for all of those sites (1,000-1,200 approximately), individual sites that had the potential to discharge. Categorized high, moderate and low priority sites. The 405 sites on the SWIP that we are discussing are all high priority. We need to find ways to account for those remaining 800 sites. To see where they are, to see if they have been discharging. There needs to be provisions in this permit to come to term with the sites identify that are not accounted. CCNS will submit written comments to say that we need full accounting in a transparent manner. Thank you!

Mr. Rucki:

Thank you! Let me circle back to Vianna Tossy. No. With TWUnited. We'll that the extend of the Speaker registration. Tom any raised hands?

Tom Ruiz:

No raised hands on the Teams application.

Mr. Rucki:

Thank you! At this point everybody has spoken. Let's stay on the line for 15 minutes or until 6:45pm to see if anyone else decide if they want to speak.

15 minutes later...

Mr. Rucki:

Before we conclude the Public Hearing, it seems that no one has used the raise hands function or commented in the comment section. If any of the previous speakers wants to add anything more you can do it now. Hearing nothing and with no further comments. I will conclude the Public Hearing it is now 6:53pm CT it is October 26, 2020 and the Public Hearing is now closed.