

Protect the Española Basin Drinking Water Sole Source Aquifer
Presentation to the New Mexico Radioactive & Hazardous Materials Committee
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by

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The New Mexico Constitution Article XX, Sec. 21 [Pollution control] states:

The protection of the state's beautiful and healthful environment is hereby declared to be of fundamental importance to the public interest, health, safety and the general welfare. The legislature shall provide for control of pollution and control of despoilment of the air, water and other natural resources of this state, consistent with the use and development of these resources for the maximum benefit of the people. (As added November 2, 1971.

New Mexico has a tremendous natural resource – the Española Basin Aquifer System – that is a Drinking Water Sole Source Aquifer (SSA) that requires the protection by the New Mexico Legislature. *Please see map of the SSA on the next page.*

Los Alamos National Laboratory (LANL) sits on the Pajarito Plateau to the north west of Santa Fe. It is located within the SSA.

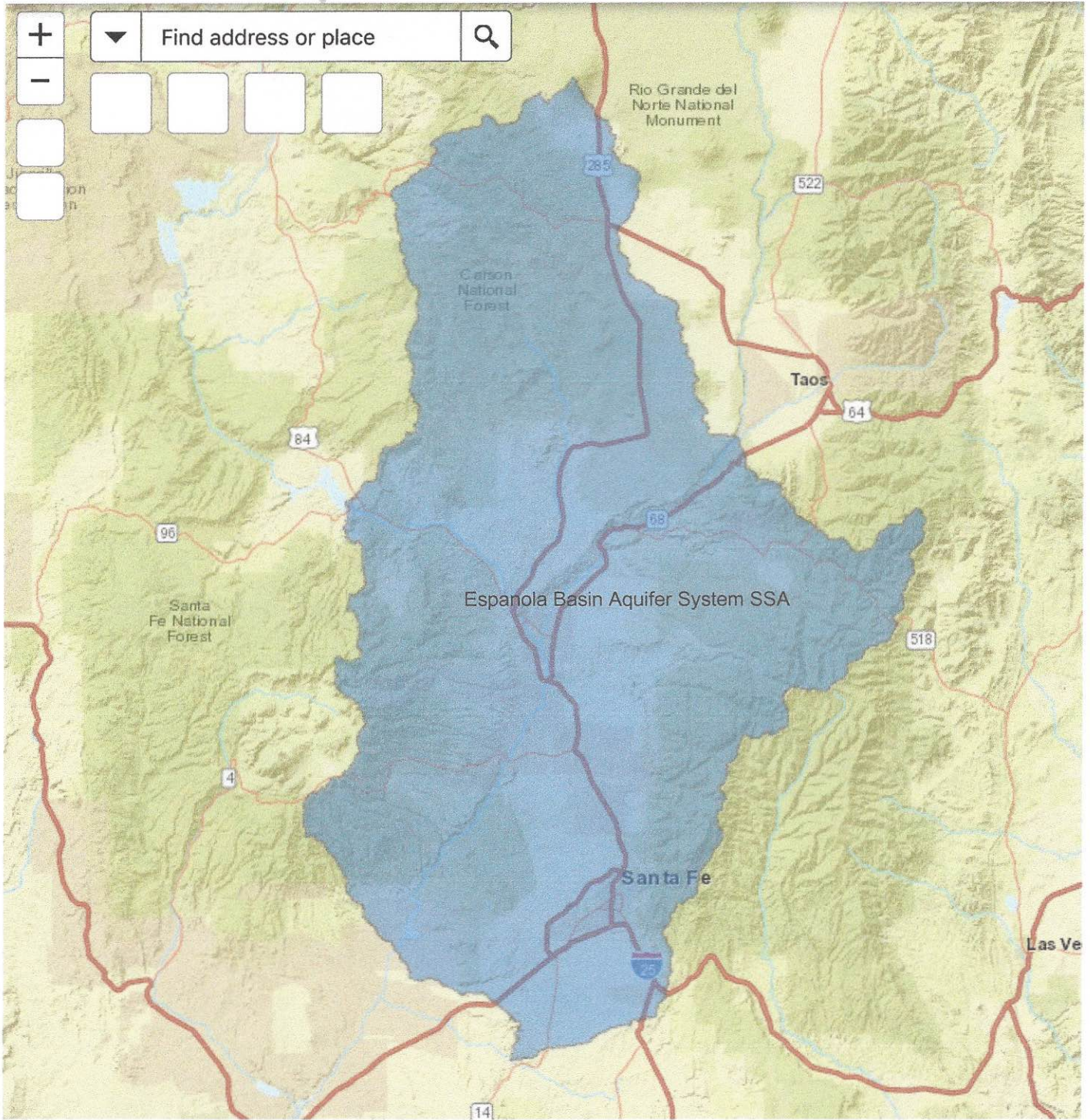
The public has not been provided the necessary information about what amounts of water are required for expanded plutonium pit production at LANL for the next 50 years of operations, per the Department of Energy's (DOE's) plans.

The National Environmental Policy Act (NEPA) generally requires a new Site-Wide Environmental Impact Statement for LANL every decade. The current SWEIS was completed in 2008. DOE is at least five years behind schedule to release its draft LANL SWEIS for public review and comment, which may happen this fall.

Now DOE claims that the next SWEIS will cover operations for the next 15 years. Fifteen plus five years equals twenty years – or the time for DOE to prepare two SWEISs for public review and comment. Given the preciousness of water, it is essential that the SWEIS be released for public review and comment every decade.



Sole Source Aquifers



20mi
-106.570 36.753 Degrees

Background Information about the Española Basin SSA

- The Española Basin Aquifer System covers approximately 3,000 square miles.
- In 2006, the La Cienega Valley Citizens for Environmental Safeguards submitted a successful petition to the Environmental Protection Agency (EPA).
- In 2008, EPA determined that 85% of the drinking water used in the area covered by the petition is derived from wells in the aquifer.
<https://www.federalregister.gov/documents/2008/01/22/E8-999/determination-of-sole-source-aquifer-petition>

Link to the EPA website and the map:

<https://epa.maps.arcgis.com/apps/webappviewer/index.html?id=9ebb047ba3ec41ada1877155fe31356b>

What is a sole source aquifer?

EPA defines a sole source aquifer (SSA) as one where:

- The aquifer supplies at least 50 percent of the drinking water for its service area
- There are no reasonably available alternative drinking water sources should the aquifer become contaminated

What is the SSA program?

The SSA program enables EPA to designate an aquifer as a sole source of drinking water and establish a review area. EPA then reviews proposed projects that will both:

- Be located within the review area
- Receive federal funding

The review area includes the area overlying the SSA. It may also include the source areas of streams that flow into the SSA's recharge zone.

EPA's review is intended to ensure that the projects do not contaminate the SSA.

EPA's authority to designate aquifers as sole source

The SSA program is authorized by Section 1424(e) of the Safe Drinking Water Act of 1974 (Public Law 93-523, 42 U.S.C. 300 et. seq), which states:

"If the Administrator determines, on his own initiative or upon petition, that an area has an aquifer which is the sole or principal drinking water source for the area and which, if contaminated, would create a significant hazard to public health, he shall publish notice of that determination in the Federal Register. After the publication of any such notice, no commitment for federal financial assistance (through a grant, contract, loan guarantee, or otherwise) may be entered into for any project which the Administrator determines may contaminate such aquifer through a recharge zone so as to create a significant hazard to public health, but a commitment for federal assistance may, if authorized under another provision of law, be entered into to plan or design the project to assure that it will not so contaminate the aquifer."

These public processes require public access to information, clear rules and regulations to guide the public through the processes, and fair and equitable public hearings to elicit the necessary evidence for informed decisionmaking to protect New Mexico's natural resources.

**Conclusion to Presentation of Concerned Citizens for Nuclear Safety to
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More oversight by the State of New Mexico is required for the Department of Energy (DOE) facilities. These are industrial facilities that use radioactive, toxic and hazardous waste and have proven records of mishandling these materials to the detriment of communities downwind and downstream and regional drinking water aquifers. More oversight by New Mexico is required of their operations.

Consistent baseline funding is needed for the Office of the State Engineer (OSE) and the New Mexico Environment Department (NMED) to **Protect the Española Basin Sole Source Aquifer**. A line item in the state budget for this purpose is needed for both agencies.

The public processes to participate in NMED permitting are inconsistent across the bureaus, e.g., water, air, hazardous waste, solid waste, etc. Large industrial facilities, such as LANL, have many environmental permits with opportunities for the public to participate in permit renewals and modifications. But for the public to meaningfully participate in the different permit processes, CCNS requests the state legislature review the rules and regulations for public participation and develop one consistent set of public participation rules and regulations across the environmental media. CCNS recommends that the standard be the most “user friendly” and expansive rules and regulations in place now, while recognizing that,

according to the U.S. Census estimates, during 2015 to 2019 only 74.6% of households in New Mexico had broadband access. This means that notices given to members of the public only by electronic means will not reach 25.4% of New Mexicans households.

For example (this is not a comprehensive list):

- notifying the public about the permitting processes and how they may be involved, such as:
 - how to join the facility mailing lists maintained by the NMED bureaus;
 - how to join the NMED monthly email of the availability of groundwater discharge permits for public review and comment;
- the media used – newspaper ads, radio announcements, paid advertising, email, posts on websites, etc.;
- how and when the administrative record (AR) is available for review in person and/or online (for some facilities the AR is updated monthly, in other cases the AR is available for review the day before a public hearing, but not available online);
- when translation of vital documents is required;
- when fact sheets about the permit are available; and
- the creation of a manual for the public about how to navigate the NMED public processes.