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COMMUNITY CONCERNS ABOUT LOS ALAMOS NATIONAL LABORATORY

Presentation to the New Mexico Legislative Interim
Radioactive & Hazardous Materials Committee

By: Joni Arends, Concerned Citizens for Nuclear Safety
September 9, 2020

Concerned Citizens for Nuclear Safety (CCNS) appreciates this opportunity to discuss Community Concerns about Los Alamos National Laboratory (LANL). To supplement our PowerPoint presentation, we provide the following written testimony.

My name is Joni Arends. I am a co-founder and executive director of CCNS. We are a 32-year old non-governmental organization based in Santa Fe. CCNS formed in 1988 to address community concerns about the proposed transportation of plutonium-contaminated radioactive and hazardous waste from LANL through Santa Fe on St. Francis Drive to the unopened Waste Isolation Pilot Plant (WIPP).¹

In 1988, I began attending this Committee's meetings. Many of the 23 facilities regulated by the New Mexico Environment Department (NMED) Hazardous Waste Bureau that handle, store and dispose of hazardous materials remain the same. <https://www.env.nm.gov/hazardous-waste/permitted-facilities/>

Our main focus is the environmental and public health issues related to activities at LANL and WIPP.

May 2000 Cerro Grande Fire – 7,000 acres Burned on LANL

The May 2000 Cerro Grande fire alerted New Mexicans to the impacts of LANL operations on the Rio Grande. At the time, it was the largest wildfire in New Mexico history – 47,000 acres with 7,000 acres burned on LANL. In early July 2000, CCNS organized a two-day symposium, *Fire, Water and the Aftermath: The Cerro Grande Fire and Its Effect on the Rio Grande/Bravo Watershed*, in Santa Fe to address community concerns. Organized by CCNS Board Chair, Anna

Hansen (currently Santa Fe County Commissioner), CCNS staff, and community members with support from then Department of Energy (DOE) Secretary, Bill Richardson, over 400 people attended the conference.

www.nuclearactive.org/graphix/Fire_Aftermath_Program.pdf

Among the results was the Rio Grande Watershed Project, for which CCNS organized two sampling trips on the Rio Grande with independent scientists. <https://nuclearactive.org/Water/RGWindex.html> Later, CCNS staff and board members participated in five three or four day sampling trips from the Buckman Landing to Cochiti Dam in coordination with the NMED DOE Oversight Bureau and LANL staff taking water samples from the springs on the Rio Grande, which discharge from the regional drinking water aquifer, to determine if LANL contaminants were present, which they were.

Buckman Direct Diversion Project

In 2002, I learned about a proposal by Santa Fe County and the City of Santa Fe to divert 8,730 acre feet per year (AFY) of native Rio Grande water and San Juan Chama river water from the Rio Grande for drinking water for a project called the Buckman Direct Diversion Project. I attended the National Environmental Policy Act (NEPA) scoping meeting for the preparation of an environmental impact statement. I became concerned when I saw the poster sized map showing the project. The label for the location of the BDD Project covered up the location for LANL. There was no sign that LANL was directly west of the proposed BDD Project. Thus began a campaign to alert residents to the project and its possible impacts due to the 18 million cubic feet of buried radioactive and hazardous waste buried in unlined pits, trenches, and shafts on the Pajarito Plateau.ⁱⁱ LANL contaminants had already been found migrating through the complex geology of the Pajarito Plateau to the Rio Grande.

I began attending the monthly meetings of the Buckman Direct Diversion Project Board (BDDDB) in the mid-2000s and meeting with technical staff about LANL operations, contaminants, and pathways about how those contaminants could impact the Rio Grande. <https://bddproject.org/> From that time to the present, I have taken individuals, groups, elected officials, and the media on tours of the BDD Project site. For the more adventurous with a day to spend, I give tours of the BDD Project site and the LANL area, with a special view from the White Rock Overlook to witness the BDD Project site.

DOE and Los Alamos County Application to Office of the State Engineer

Fast-forward to July 2020: It is my habit to review the legal notices published in newspapers. On Sunday, July 12, 2020 I read in the *Santa Fe New Mexican* a

large legal notice about an DOE and Los Alamos County (DOE/LAC) application to the Office of the State Engineer to transfer 679 AFY from north of LANL to the location of the co-located perchlorate and hexavalent chromium plumes in Mortandad Canyon – directly west of the location of the BDD facilities on the Rio Grande. [DOELAC 679 afy App to SEO 1-24-19](#)

CCNS reviewed the DOE/LAC application and found that some questions were left unanswered; on some pages, unidentified handwritten additions were made; and no pumping schedule was provided. Most importantly, the Applicants stated:

Applicants intend to seek approval of a **return flow credit plan** at a later date. Impacts to the Rio Grande will be offset in an amount and manner approved by the State Engineer. [Emphasis added.] [DOELAC 679 afy App to SEO 1-24-19](#), p 5 of 7.

Only owners of water rights that could be impaired by the transfer are allowed to protest the application, such as Santa Fe County, the City of Santa Fe, and the Buckman Direct Diversion Project Board.

I scanned the notice and alerted Santa Fe County Commissioner Anna Hansen, who serves on the BDD.

CCNS noted that the legal notice was published on July 12th, three days after the July meeting of the Buckman Board. Protests were required to be filed with the State Engineer by August 5th, one day before the August Buckman Board meeting. That is, the timing precluded the possibility for a public discussion of the application by one of the most critically impacted agencies that protect drinking water.

On July 31st CCNS wrote a memo to Commissioner Hansen detailing the inadequacies of DOE's transfer application. [CCNS Memo to Hansen re- Cr-VI SEO app. 7-31-20](#)

Commissioner Hansen then forwarded the memo to the attorneys for the Buckman Board and Santa Fe County, thus bringing the resources of the Buckman Board and Santa Fe County water staff to bear on a review of the application. Once the application was reviewed, the attorneys wrote timely letters of protest to the State Engineer. The Protesters specifically stated that they support the remediation of the hexavalent chromium plume. [2020 08 05 BDD Board OSE Formal Protest of Application for RG00485 et al RECORDED-2](#) and [Santa Fe County Protest RG-485 Aug 5, 2020-1](#)

As Rick Carpenter, BDD Facilities Manager, stated,

If I had submitted an application that was as incomplete as this, I think I would have anticipated that someone would have protested.

<https://www.abqjournal.com/1488953/sf-county-protests-inadequate-land-cleanup-application.html>

At the August 11, 2020 meeting of the Santa Fe County Commissioners, the County's letter of protest was approved. Commissioner Hansen made a motion to ratify the protest of the DOE and Los Alamos County application under the State Engineer's File No. RG-00485 and authorize prosecution of the protest.

On Thursday, September 3, 2020, the BDDDB met. On the agenda, under "Discussion and Action," there was an *Update and Request for Ratification of the BDD Board's protest of the U.S. Department of Energy and Los Alamos County's Water Right Transfer Application for Cr6 Remediation under OSE File No. RG-00485, et al.* The Board approved the protest. They are awaiting action by the State Engineer.

Public Notice and Recent Problems with LANL's Electronic Public Reading Room

The NMED Hazardous Waste Permit for LANL requires LANL to post certain documents to the LANL Electronic Public Reading Room. LANL provides an opportunity for people to sign-up to receive an email notice of recent posts. Three or four times a week, an email is sent with links to these documents. The system works well until it does not. Over the last few months, the following message comes up when clicking on the link:

"The link you just clicked seems to lead to another site than what the link text indicated. **This is sometimes used for tracking whether you clicked the link, but it could also be a scam.**

"The link text indicated that the link would lead to energy.gov, but it leads to lnks.gd." [Emphasis added.]

The warnings have a **chilling effect** on public participation in providing informed public comments. CCNS has sent multiple emails to DOE, Triad (the operating contractor), N3B (the LANL cleanup contractor), and NMED to have the process changed back to what it was. No changes have been made.

We bring this matter to the Committee in the hope that one of the members will be able to ask the LANL Director about their practice to chill public participation at today's meeting.

CCNS has provided a few of our Community Concerns about LANL. Should you have any questions or comments, please contact me.

Respectfully submitted,

Joni Arends, CCNS Co-founder and Executive Director

ⁱ With Attorney General Tom Udall, the State of Texas, and Southwest Research and Information Center (SRIC), CCNS was a plaintiff in the federal case challenging whether the U.S. Bureau of Land Management was the appropriate agency to permanently transfer the 16 square mile site where WIPP is located to the Department of Energy (DOE). The Court and the DC Circuit Court of Appeals both ruled in the plaintiffs' favor, therefore requiring Congress to transfer the site in the WIPP Land Withdrawal Act of 1992.

ⁱⁱ This is three times the capacity of WIPP (6.2 million cubic feet).