New Mexico
Environmental Law Center
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Mr. Dave Cobrain
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New Mexico Environment Department
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By email to: dave.cobrain@state.nm.us

Re: Comments on TA-16-388 Flash Pad Open Burn Application at Los Alamos National Laboratory (LANL), LA-UR-13-27579 (September 2013)

Dear Dave,

Concerned Citizens for Nuclear Safety (CCNS) provides the following general and specific comments about the "Los Alamos National Laboratory Permit Modification Request for Open Burning Unit at Technical Area 16 (TA-16-388 Flash Pad), Rev. 0" application to modify the Los Alamos National Laboratory (LANL) Hazardous Waste Facility Permit (HWFP) issued by the New Mexico Environment Department (NMED) in November, 2010.

CCNS is a non-governmental, non-profit organization based in Santa Fe. We formed in 1988 in order to address community concerns about the proposed transportation of nuclear waste from LANL to the Waste Isolation Pilot Plant. The mission of CCNS is to protect all living beings and the environment from the effects of radioactive and other hazardous materials now and in the future. CCNS was a party to the NMED administrative process resulting in the 2010 HWFP for LANL.

General Comments

The TA-16-388 Flash Pad and the TA-16-399 Burn Tray are co-located within the TA-16 Burn Ground. The units have operated under interim status for decades. 40 CFR Part 265, Subpart P. The units have been used for waste disposal operations at the top of a tributary watershed that flows to the southeast to Water Canyon. Historically, the open burn units have been addressed together. However, there is are two separate Class 3 PMR administrative processes going on concurrently – the PMR for TA-16-388 Flash Pad and

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the closure plan for the TA-16-399 Burn Tray unit. In order to efficiently address both units, CCNS respectfully requests that NMED combine this permit modification request (PMR) and the TA-16-399 closure plan into one administrative process, as they have been historically. For example, Attachment H, "Technical Area 16 Burn Ground Human Health and Ecological Risk-Screening Assessment" to the TA-16-388 Flash Pad application is for the TA-16 Burn Grounds, which encompasses both units.

We are concerned that with the bifurcation of the administrative processes for the units, there will be duplication of efforts during any public hearing process.

Specific Comments

1. **Alternatives**. There are alternatives to the treatment of explosive waste streams other than open burning. Over the past decade, CCNS has provided information about the alternatives, including confined burn facilities. We acknowledge that LANL has reduced the amount of waste that is treated by burning through waste minimization efforts.

2. **Seismic.** We object to the fact that TA-388 Flash Pad is exempt from the seismic requirements. The TA-16-388 Flash Pad has operated as an interim status treatment unit for decades. We believe that it is reasonable, given the length of time the Flash Pad has operated, that it not be grandfathered in under the seismic exemptions.

3. **CCNS supports the no off-site waste treatment restriction in the application.**

4. **Section 3.2.2.1 Treatment Residues.** We are concerned that LANL does not characterize the waste streams as required by the Resource Conservation and Recovery Act (RCRA). The application states:

> If analysis of the residue identifies constituents not identified in the waste characterization documentation, those constituents shall be included on the waste profile form for the waste stream prior to acceptance at the OB unit in the future. LANL OB PMR, Rev. 0.0, September 2013, p. 3-5.

It is obvious that Section C.3.1.2 of the "LANL Waste Analysis Plan" (Attachment C to the 2010 NMED Permit) is not adequate to capture "constituents

not identified in the waste characterization documents," which is a violation of RCRA. NMED must include language to impose violations.

Further, 40 CFR §265.375 requires:

> In addition to the waste analyses required by § 265.13, the owner or operator must sufficiently analyze any waste which he has not previously treated in his thermal process to enable him to establish steady state (normal) or other appropriate (for a non-continuous process) operating conditions (including waste and auxiliary fuel fee) and to determine the type of pollutants which might be emitted. At a minimum, the analysis must determine:
>
> (a) Heating value of the waste;
> (b) Halogen content and sulfur content in the waste; and
> (c) Concentrations in the waste of lead and mercury, *unless* the owner or operator has written, documented data that show that the element is not present.

By regulation, the Applicants are supposed to know what is in the waste before burning. Any deviation from that requirement necessitates a Notice of Violation from NMED.

MSDSs -

5. Section 3.3.1 Security and Access Control at the TA-16-388 Flash Pad. Warning signs should be written in not only English and Spanish, but also in Tewa.

6. We provide the following comments based on the statement in the application "LANL workers are trained not to fight a fire involving explosives." Section 3.5.2.1 Fire Control Equipment.

Section 3.5.1 Required Equipment. The fire alarm pull station is located at the TA-16-1508 High Explosives Wastewater Treatment Facility, a distance from the Control Building 16-389. LANL states in the application, "This pull station can be accessed by personnel working at the unit." We disagree. In an emergency situation, it may be difficult or impossible to reach the fire alarm pull station. In

addition, the TA-16 Burn Area is located in a wildfire zone that burned three times during the May 2000 Cerro Grande fire.

The application does not state that the telephones located in the TA-16-389 control building could be used to contact the Emergency Operations Center. A fire alarm pull station also should be located within the Control Building 16-389.

NMED should require LANL to cite the procedures that "are in place that describe when and how fire department assistance is to be used."

Section 3.5.2.3 Spill Control Equipment – 1,000 year storms?

There is an inconsistency in the application. It states, "[p]ersonnel working at the site have access to two-way radios." It does not state that the personnel will be assigned two-way radios and pagers before, during and after burn operations. It states, "[e]mployees can be notified of an emergency situation and appropriate response action through the use of two-way radios and pagers." Personnel should be assigned two-way radios before, during and after burn operations in order to ensure that all forms of communication are available in an emergency.

Further in the application, **Section 3.5.4 Access to Communications or Alarm System,** it states, "In addition to the communications and alarm systems described in this section, two-way radios and pagers are used at the TA-16-388 Flash Pad to provide an additional means of communication between on-site personnel and/or to contact LANL emergency support personnel." The draft permit should include language that working two-way radios and pagers must be assigned to personnel at the TA-16-388 Flash Pad.

Description of General Capabilities: There should be **no** burns if the fire danger is "High." *See* February 2010 negotiated version of the draft HWFP that was the subject of the administrative hearing. There was a prohibition on burning when the fire danger was "High."

7. **Section 3.6.3 Control of Run-on/Runoff.** The Applicants should explain how they are going to prevent run-on.

8. **Section 3.6.4 Preventing Water Supply Contamination.** New Mexico law requires the protection of ground water now for all foreseeable future use. Dioxins and furans above New Mexico standards have been found in the surface soils around the Flash Pad. As you can see from Figure 3-7, runoff from the Flash

Pad flows within Fish Ladder Canyon to a steep drop off to Water Canyon. What pollutants have been found in the vadose zone in Fish Ladder Canyon? What pollutants have been found in the groundwater in Fish Ladder Canyon?

Issues were raised during the hearing about the eco-risk analysis. Section 4.1.1 Operating Requirements – 6K pounds a year.

"As part of fire safety considerations, grasses and weeds located within a 200-foot radius of the TA-16-388 Flash Pad are kept trimmed." In previous versions of the draft permit, it was required that the grasses and weeds be trimmed before each burn.

Conclusion

CCNS intends to submit additional comments when the final draft permit is noticed for comments and an opportunity to request a hearing.

Thank you for your consideration of these comments.

Respectfully submitted:

_____/s/_____
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