



County waiting to hear back from EPA over water appeal

By Tris DeRoma

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It has been a few weeks since Los Alamos County filed an official appeal against the Environmental Protection Agency's ruling that could have a severe economic impact on the county if enacted. So far, the county has heard nothing. The county filed the response in late January.

The appeal was a response to the agency's claims that the county will have to file with the EPA for a clean water permit, due to significantly higher-than-normal levels of heavy metals and PCBs in the county's urban storm water runoff.

The decision could mean millions of dollars in remediation by the county if the EPA goes through with the permit.

EPA Regional Administrator Ken McQueen made the decision in December, after a lawsuit filed by a New Mexico environmental protection group sued the EPA for a decision in 2019 to its petition it filed in 2014.

The group, Amigos Bravos, originally filed a petition in 2014 with the EPA concerning the polluted runoff, saying that the county's runoff was flowing into the Rio Grande and threatening the drinking water supplies of the communities down stream of Los Alamos.

In the county's January announcement that they were going to challenge the EPA decision, Los Alamos County Manager Harry Burgess also said that the county shouldn't be held responsible for runoff pollution where 86% of the land is under "effective control" of the Los Alamos National Laboratory.

"In this challenge, our stance remains the same as it was over five years ago when this issue first arose, placing this responsibility and related financial burden upon the citizens of Los Alamos is unfair, given that a mere 14% of the land in Los Alamos County is under the effective control of the county, with the vast majority of the remaining 86% of the land under the effective control of Los Alamos National Laboratory and other federal agencies," Burgess said in the statement.

In its Jan. 17 appeal, the county emphasized this point.

"Any actual contamination reported in the reports is caused by the current and past activities of the United States, which has been cleaning up areas since 1950 and would shift the burden of environmental remediation from the responsible party, U.S. Department of Energy/National Nuclear Security Agency (the United States government), to the County."

One of the other arguments the county made in its reply is that McQueen broke federal regulation by waiting too long to respond to Amigos Bravos' decision.

According to the county, the EPA had 90 days to respond to the petition when it was filed in 2014 by Amigos Bravos. McQueen acted on the petition in December 2019, five years and five months later.

The county also claimed McQueen broke federal law again by considering new public comment from the New Mexico Environment Department four years and four months after the close of public comment on the issue.

Amigos Bravos Projects Director Rachel Conn expressed disappointment in Los Alamos County's response to the EPA's decision. She said the county and LANL have a responsibility not to endanger its population and the populations of the surrounding communities with its heavily polluted storm water runoff.

"To be quibbling about response dates in the face of protecting water quality, both for Los Alamos County and downstream users is unfortunate and disappointing," Conn said.

Conn also took exception to another argument the county made in its appeal, that the EPA does not have jurisdiction over state waterways.

"We're looking to improving the quality of water coming off of the Pajarito Plateau, not taking steps backward with arguments about water not being protected," Conn said.