



# Communities for Clean Water

Comments on the

LANL NPDES Storm Water Individual Permit (NM0030759)

October 28, 2020



# Communities for Clean Water (CCW)

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Communities for Clean Water (CCW) is a network of organizations whose mission is to ensure that community waters impacted by Los Alamos National Laboratory (LANL) are kept safe for drinking, agriculture, sacred ceremonies, and a sustainable future.

Our growing network includes Amigos Bravos, Concerned Citizens for Nuclear Safety (CCNS), Honor Our Pueblo Existence (H.O.P.E.), the New Mexico Acequia Association, Partnership for Earth Spirituality, and Tewa Women United.



# Cultural Importance of Tewa Lands and Waters

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Common an awareness that caring for clean water on the Pajarito Plateau is a moral and ethical responsibility.

The land and water of the Pajarito Plateau sustains many lives and are Tewa ancestral homelands and those of land-based Peoples. Regulatory actions and compliance must be grounded in this awareness.

All Pueblos downstream, or those with cultural lands that might be affected by the discharge off the Site Monitoring Areas (SMAs), must be consulted on the renewal of this permit and its impacts.

# Run On

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$$\text{Geomean (run-off)} - \text{Geomean (run-on)} \leq 0$$

Ignores mass balance approach; the runoff concentration from the site could be quite high, but diluted by run-on, resulting in a lower measured runoff concentration.

Use both equations (1 and 2) be required to demonstrate that a site is not the sole source of a Pollutant of Concern (POC).

MS4 to address watershed & other run on issues.



# Site Specific Information

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Site Specific Information, including Background Threshold Values (BTVs), used to determine if a site is the source of Pollutant of Concern (POC) Target Action Level (TAL) exceedance. EPA proposes the use of the 90<sup>th</sup> percentile composite BTV.

- shift to using BTVs is problematic; BTVs are not subject to public oversight or regulatory agency approval. Establishment of BTVs is equivalent to changing water quality standards and should require a public process.
- If BTVs are used, they should be used not just to eliminate requirements for monitoring and corrective action, but also to identify sites that are contributing POCs.



# Site Specific Information

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90th percentile eliminates sites still contributing pollutants. The 75th percentile is more appropriate considering uncertainty associated with stormwater data while ensuring that sites with significant background contributions are identified.

SW Tier 1 & SD Tier 1 allow Permittees to cease monitoring when the result is less than the TAL. Onsite control measures may be the reason a confirmation sample result is less than the TAL.

Do not delete - enter into LTS or coverage under another permit such as the MS4 Permit or the Multi-Sector General Permit (MSGP)



# Anti Degradation

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Perform an antidegradation analysis to prevent degradation of existing water quality as called for in 40CFR131.12 and 20.6.4.8 NMAC.

BTVs in many cases involves increasing pollutant loading in the watersheds. - a Tier II analysis must be performed.



# I.C.3.c., Fact Sheet VII.H., and Appendix B. HH-OO Criteria

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Concern over blanket provision that indicates use of wildlife criteria over HH-OO criteria (limited study).



## I.C.3.e., No Discharge

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Sites can be entered into Long-Term Stewardship if there is no evidence of stormwater discharges for the past five years.

Appears to contradict site deletion criteria which allows Permittees to request a site deletion if a sample cannot be collected due to no discharge.

Long-Term Stewardship is the more appropriate option and therefore, the option to request a site deletion for no discharge should be removed.



# I.C.4. and Fact Sheet Sections I and J. Deletion of Sites

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Deletion allowed only for sites that have certified corrective action and can demonstrate that no significant materials from previous industrial activity remain. All others to Long-Term Stewardship or obtain coverage under another permit (MS4 or MSGP). Various concerns with the following pathways:

- No industrial activities
- POCs will No Longer be Exposed to Stormwater
- SW Tier 1 and SD Tier 1 Eligible Sites
- Sample Not Collected
- Active Sites
- Non-DOE Owned Property.
- Sites with No Significant Industrial Materials
- Sample Not Collected



## 1.D. Corrective Action

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Installation of control measures timeline indicated as 24 months.

24 months is too generous - should be required to submit a corrective action plan within one month of knowledge of TAL or BTV exceedance.

The timeline for completion should not exceed 18 months.



## 1.D.1.c. 3-Year, 24-Hour storm

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Given the increased intensity in rain events due to climate change, defining the 3-year, 24-hour storm event should be defined with more specificity than “historic records”.

Replace “historic records” with “NOAA Atlas 14 methodology”



# Alternative Compliance

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Flexibility and options in proposed permit (SIP, SSD, BTVs) renders an alternative compliance section is no longer necessary.

If the alternative compliance section is to remain in the permit alternative compliance requests should not be able to be approved without EPA input.



# Fact Sheet VIII.PartII.1. Watershed Protection Approach

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To receive credit for in-stream sediment removal should be required to conduct an analysis to determine if it is more beneficial to remove or stabilize in-stream sediment.

Permittees should sample sediments to understand what it contains and how much might potentially be removed from the system.