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Environment Department Fights LANL Effort to Overturn State's More Stringent Requirements for Storm Water Protections for Rivers and Streams
State Fights to Protect Scarce Surface Water Resources

(Santa Fe, NM) – The New Mexico Environment Department filed a motion with the state Water Quality Control Commission this week to dismiss a petition by the U.S. Department of Energy and Los Alamos National Security, LLC. to appeal the Environment Department's more protective requirements for storm water effluent at Los Alamos National Laboratory.

The department's requirements for storm water discharges from various locations at LANL are based on a lower "hardness" value than has been proposed by LANL. Hardness values are an indicator of the mineral content of water. Low hardness values cause certain metals to become toxic to aquatic life at lower concentrations. Therefore, using a lower hardness value in permit calculations results in more stringent effluent limits for toxic metals.

"The department's requirements for storm water discharges from LANL into nearby streams and rivers will protect aquatic life and New Mexico's river ecosystems," said New Mexico Environment Department Secretary Ron Curry. "For LANL to appeal this protective, science-based requirement now – when several New Mexico cities plan to begin drinking this water – reveals a disappointing lack of foresight."

The Buckman Direct Diversion, planned by the City of Santa Fe and Santa Fe County, will draw water from the San Juan-Chama Project and native Rio Grande water to provide drinking water for residents of the city and county.

Storm water discharges, formed when rain and snow fall on rooftops, parking lots, roads and other lab facilities, have potential to mobilize contaminants and impact the state's surface waters. If not controlled, stormwater can flow into canyons that dissect Los Alamos National laboratory, including Los Alamos, Pajarito and Sandia canyons, which then flow to the Rio Grande.

The U.S. Environmental Protection agency under the federal Clean Water Act has authority over surface water quality protection permits in New Mexico, called National Pollutant Discharge Elimination System (NPDES) permits.

DOE and the University of California applied to EPA for an NPDES permit for storm water discharges into surface water at Los Alamos National Laboratory in 2005 and revised their application in December 2007. EPA issued a draft permit in January 2008.

The Environment Department issued a state certification of LANL's permit to EPA in May 2008. State certification of an NPDES permit is required by the federal Clean Water Act before a permit can be issued. The state's certification, which was conditional, required EPA to apply a lower water hardness value in setting effluent limits for metals, including cadmium, chromium, copper, lead, nickel, silver and zinc. The department bases that hardness value on water quality data collected at and near the lab.

DOE and LANS appealed the conditional state certification to the Water Quality Control Commission in July.

However, according to the commission's rules, DOE and LANS had 30 days to appeal the certification. The appeal petition was not timely and the commission is therefore without jurisdiction to consider it. The department filed a motion to dismiss the Petition for Review on Monday.

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