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January 26, 2022

ESHID-603675

Steve Hoffman
National Nuclear Security Administration
Los Alamos National Laboratory
3747 West Jemez Road, A 316
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Los Alamos, NM 87544

**RE: NMED COMMENTS
FINAL SECOND INDEPENDENT TRIENNIAL REVIEW REPORT
LOS ALAMOS NATIONAL LABORATORY
EPA ID#NM0890010515
HWB-LANL-MISC**

Dear Steve Hoffman:

On October 6, 2021, the New Mexico Environment Department (NMED) received *Second Independent Final Second Independent Triennial Review Report* (Report). The Report was submitted as required by the Settlement Agreement and Stipulated Final Order HWB-14-20, entered by the New Mexico Environment Department (NMED) (Complainant), the U.S. Department of Energy (DOE), and Los Alamos National Security, LLC (on January 22, 2016. In November 2018, Triad National Security, LLC (Triad) became the management and operations contractor for DOE/National Nuclear Security Administration (NNSA). DOE and Triad are collectively referred to as the Respondents or Permittees for the purpose of this letter.

The Respondents provided NMED with the Second Triennial Review Scope of Work and Guidelines on February 24, 2021. Parsons Enterprise Construction Management Services, the independent contractor hired by DOE to conduct the second triennial review scope of work, the cover letter to the Report, states that the contractor submitted its final report to the Respondents on September 30, 2021.

The New Mexico Environment Department (NMED) Surface Water Quality Bureau and Hazardous Waste Bureau have reviewed the Report and are providing NMED's comments in the Enclosure attached to this letter. Please respond to NMED's comments within sixty (60) days of receiving this letter.

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Hazardous Waste Bureau - 2905 Rodeo Park Drive, Bldg. 1, Santa Fe, New Mexico 87505 - (505) 476-6000
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Steve Hoffman
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If you have any questions regarding this letter, please contact Neelam Dhawan of my staff at (505) 476-6042

Sincerely,

Rick Shean Digitally signed by Rick Shean
Date: 2022.01.26 10:30:55
-07'00'

Rick Shean
Chief
Hazardous Waste Bureau

Enclosure

cc:

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File: 2022 LANL Permit, NMED Comments Second Independent External Triennial Review of Permits
of Los Alamos National Laboratory
LANL-MISC

Enclosure
NMED Comments on the Second External Triennial Review Report

1. Section 3.1.2 Management, page 3-5

Statement in Report: *The Review Team discovered communication gaps in a couple instances between N3B and Triad and in relaying relevant information to field personnel. The Review Team identified opportunities for improving communication, automating notifications, and further formalizing processes.*

NMED Comment: The intention of these reviews is for the Permittees, in coordination with external entities, to periodically review methods, procedures and ability to meet permit conditions, and make corrections to improve their waste management. Vague statements, or lack of documentation, makes it difficult for NMED to evaluate if the review was successful and if corrective measure were implemented. NMED provided this comment originally to the draft version of the report, but it was not adequately addressed in the final draft. "It is unclear from this statement what relevant information is not relayed to field staff, nor the frequency that this has been an issue. Please clarify what information was not relayed, and the frequency of missed communication by N3B managers", the Permittee must provide this information so that NMED can evaluate if it was corrected as part of the triennial review.

2. Section 3.1.2 Management, page 3-5

Statement in Report: *Plans to expand the telemetry system to more sites are currently underway. The Review Team found that the use of the telemetry technology demonstrates a BMP for both convenience and efficient use of resources, further ensuring compliance with permit inspection requirements.*

NMED Comment: In 2020, the batteries at the samplers at LA /Pueblo canyon were not replaced and one month of data from the telemetry samplers was not collected and transmitted. The Permittees plan to expand the telemetry system should also include periodic battery replacements and system check. The Permittees must demonstrate that they are able to maintain the current telemetry system, and the Permittees plans to review and improve their telemetry system prior to expanding it.

3. Section 3.5.3 Storage, page 3-16

Statement in Report: *Storage observations were closed by the respondent taking appropriate action to correct issues.*

NMED Comment: Please clarify if these improper storage issues were documented in the annual non-compliance report, and how this issue was resolved. While Section 4.5.3 provides recommendations, it does not provide information about what was done to correct improper storage practices nor to prevent re-occurrence, so that NMED can evaluate if it was corrected as part of the triennial review.

4. Section 3.5.5 Spill/Release, page 3-17

Statement in Report: *Release/Spills observations were closed by respondents taking appropriate actions to correct deficiencies noted for the observation.*

NMED Comment: Please clarify if inaccessible spill kits or inadequate spill kits were documented in the annual non-compliance report, and how these issues were resolved. While Section 4.5.5 and Attachment E provides recommendations, it does not provide information about what was done to correct these deficiencies nor to prevent re-occurrence, so that NMED can evaluate if it was corrected as part of the triennial review.

Appendix A: NPDES Stormwater Individual Permit NM0030759,

5. Table A.1.1, Permit Requirement (5), page A-2

Statement in Report: Method of Compliance: Visual Inspection.

NMED comment: In Table A.1.1, the Report states that visual inspection will be the method of compliance to ensure that debris or potentially hazardous wastes will be controlled or minimized into receiving waters. Visual inspect is not a sufficient method of monitoring or ensuring that debris or hazardous wastes are not discharged into receiving waters. In addition to visual inspection, the Permittees must also perform maintenance and as soon as practicable implement appropriate best management practices (BMPs) when necessary to mitigate failing control measures.

Appendix B: NPDES Multi-Sector General Permit NM0028355,

6. Section 1.1.6.2(a) Eligibility for “New Dischargers” and “New Sources” for Water-Quality Impaired Waters, page B-4

Statement in Report: Stormwater controls prevent the discharge of groundwater for metals and polychlorinated biphenyls (PCBs) as well as possible. Stormwater Pollution Prevention Plans (SWPPPs) document procedures.

NMED Comment: In addition to visual inspection of SWMPP, and the use of BMPs the Permittees must also review monitoring data to confirm metals and PCBs are not present.

7. Section 1.1.6.2 (c)(i) and(ii) Eligibility for “New Dischargers” and “New Sources” for Water-Quality Impaired Waters, page B-5

Statement in Report: For discharges to waters with an applicable EPA-approved or established TMDL, that there are, in accordance with 40 Code of Federal Regulations (CFR) 122.4(i), sufficient remaining waste-load allocations in the TMDL to allow your discharge and that existing dischargers to the waterbody are subject to compliance schedules designed to bring the waterbody into attainment with water quality standards (e.g., a reserve allocation for future growth). Method of Compliance: NOI and SWPPP review.

NMED Comment: This is not sufficient; the Permittees must utilize confirmation sampling in addition to documenting in NOI and SWPPP, without analysis of samples the Permittees cannot meet the objectives of the second triennial review, please also apply this comment to Section B.1.12.4, as well.

8. Section 1.2.2.1 (a) and Non-Numeric Technology-Based Effluent Limits (Best Practicable Control Technology/Best Available Technology/Best Conventional Pollutant Control Technology [BPT/BAT/BCT]), page B-7

Statement in Report: Method of Compliance: Review of discharges.

NMED Comment: Discharges are allowable only if free from contaminants, the Permittees must provide information of how this information will be reviewed. The current information is not sufficient for NMED to determine if the review was successful, .

9. Permit Section 1.2.2.1 Authorized Non-Stormwater Discharges for all Sectors (b) and (c) Minimize Exposure, page B-7

NMED Comment: Discharges are allowable unless water is chlorinated, otherwise water must be dechlorinated water prior to discharge.

10. Permit Section .2.2.1 (f) Authorized Non-Stormwater Discharges for all Sectors, page B-7

NMED Comment: The Permittees must ensure control measures are in place to minimize erosion from wash water.

11. Section 2.1.2.1 Minimize Exposure, page B-19

Statement in Report: Industrial materials do not need to be enclosed or covered if stormwater from affected areas does not discharge pollutants to waters of the United States or if discharges are authorized under another NPDES permit. Note: Industrial materials do not need to be enclosed or covered if stormwater from affected areas does not discharge pollutants to waters of the United States or if discharges are authorized under another NPDES permit.

NMED Comment: The Permittees must cover and enclose all industrial materials to protect Waters of the State. See New Mexico Administrative Code (NMAC) 20.6.2 and 20.6.4.

12. Section 2.1.2.4 (f) Spill prevention and Response, page B-22

Permittee statement: Develop training on the procedures for expeditiously stopping, containing, and cleaning up leaks, spills, and other releases. As appropriate, execute such procedures as soon as possible.

NMED Comment: Permittees must maintain an up-to-date training log and record of SOPs. Permittees must also include or reference, these documents in the SWPPP which is provided to NMED-SWQB.

13. Section 2.1.2.8 Employee Training, Evidence of compliance, page B-24

NMED Comment: Document relevant training certifications and education to ensure compliance team is qualified in pollution prevention methods and techniques.

14. Section 3.1.1 Section 3 Inspection, Column: Evidence of Compliance, page B-28

NMED Comment: Ensure compliance team is also well versed in surface hydrology and stormwater preventions BMPs.

B.1.9 CONDITIONS APPLICABLE TO STATES, INDIAN COUNTRY LANDS, OR TERRITORIES

15. Permit Section 9.6.2.1 Evidence of compliance, B-96

NMED Comment: Multi Sector General Permit settlement requires Per-and Polyfluoroalkyl Substances (PFAS) monitoring for facilities covered by the MSGP that fall within the listed industry categories and that are required to submit a Toxics Release Inventory ("TRI") report for PFAS.

16. Section Part 9.6.2.4, Column: Evidence of Compliance, page B-99

NMED Comment: Include records, monitoring reports, and SWPPPs that supports the claim of no discharges to springs or groundwater.

Appendix C: (NPDES) Industrial and Sanitary Point Source Outfall Permit NM0028355

17. Part II Other Conditions, Permit Section H5: Toxicity Reduction Evaluation (TRE) Table , Column Title: Evidence of Compliance, page C-26

Statement in Report: According to LANL, there were no TRE Action Plans in the last three years”.

NMED Comment: This line of evidence is not sufficient to demonstrate that there were no TRE Action Plans in the last three years against discharge monitoring reports (DMRs). The Permittees must provide reference materials or documentation to verify the claim.

18. Permit Part II Requirements Specific to Bulk Sewage and Sludge for Application to the Lan Meeting Class A or B Pathogen Reduction and the Cumulative Loading rates in Table 2 or Class B Pathogen Reduction and the Pollutant Concentration in Table 3, Permit Requirement 3, page C-50

NMED Comment: Indicate where and how is sludge has been stored since 2019 to ensure compliance with CWA section 503 requirements on bio solid and sludge storage and handling.

19. Permit Part IV, Requirements Specific to Sludge Sold or Given Away in a Bag or Other Container Application to the Land That Does Not Meet Minimum Pollutant Concentrations, Method of Compliance), page C-55

Statement in Report: In all cases, if the person (permit holder) who prepares the sewage sludge supplies the sewage sludge to another person for land application use or to the owner or lease holder of the land, the permit holder shall provide necessary information to the parties who receive the sludge to assure compliance with these regulations.

NMED Comment: NMED notes that the current NPDES permit term began in 2021. The previous term was 2015. The 2015 and 2021 NPDES permits were both in effect for the time period of the triennial review. The Permittees must verify shipping logs that sludge has not been shipped.

20. Permit Part IV Major Sewage Sludge Requirements, Permit Section IA, page C- page C-57

Statement in Report: Sewage sludge shall not be applied to the land if the concentration of the pollutants exceeds the pollutant concentration criteria in Table 1 (see table in permit). The frequency of testing for pollutants in Table 1 is found in Element 1, Section I.C.

NMED Comment: Permittees must state how sludge is disposed of to prove there is no surface disposal

Appendix D: New Mexico Spill Regulations NMAC 20.6.2 1203

21. Table D.1 Compliance Checklist, Permit Section 1203.A(1), Column Title: Method of Compliance, page D-1

NMED Comment: No response present for “Is there training in place for identifying?”. The Permittees must provide documentation showing that this was evaluated to assist NMED in its evaluation of if the review was successful.

Appendix E

22. **NMED General Comment:** The Permittees have not demonstrated that identified permit violations (e.g. correction of missing spill kits, improper waste storage) have been documented, and corrected to prevent re-occurrence.