



Communities For Clean Water

Memo to: Steve Huddleson, Ground Water Quality Bureau
New Mexico Environment Department (NMED)
From: Communities for Clean Water (CCW)
Date: November 23, 2015
RE: CCW Comments to September 18, 2015 draft DP-1132 permit

Steve,

The September 18, 2015 NMED draft discharge permit, DP-1132, released for review on September 28, 2015, raises the following questions and comments for CCW:

1. Table of Contents: Change title of Condition 31 to “Soil Moisture Monitoring System Exceedance” to reflect change in the draft permit.
2. II.G, II.H: Given that the RLWTF is intended to be a “zero discharge” facility, does the definition of “discharge” or of “effluent” refer to any substance or event normally occurring at the RLWTF? It seems not.
3. II.Q: It should be noted in the permit that the definition of Incident Command System refers to a specific system developed by the Department of Homeland Security.
4. II.R: The definition of “leak detection system” seems to assume that a secondary containment system is in use. The definition should also apply to single containment leak-detection systems.
5. II.U: The definition of “open unit or system” has a misstatement. Should it state “in which”?
6. II.Y: The definition of “secondary containment” would not be met by some planned piping systems, which would not have a “foundation or base” as described.

7. II.Z: As described, a “settled solids measurement device” is not designed to measure the depth (thickness) of settled solids. However, this is the use to which it is put later in the permit. See sec. VI(A)(10). The definition should be fixed to include this purpose.
8. The definition of “tank” (item CC) follows the Resource Conservation and Recovery Act (“RCRA”) definition (40 CFR § 260.10). Thus, presumably, it adopts the “parking lot” test for defining a tank: the item must be self-supporting if filled and placed on a flat surface (like a parking lot). We have seen no engineering report or engineer’s statement confirming that the SET “tanks” meet the RCRA definition.
9. The Draft contains “Findings” (sec. IV, A-D), which state that the facility is discharging effluent or leachate, which may move into ground water. There is no basis for such statements, which are in fact untrue.
10. The Authorization to Discharge (sec. V.C) is unnecessary and should not be given to the Permittees, since no discharges are planned. The statements in section V.C, authorizing the Permittees to “discharge” into the Mechanical Evaporator System (“MES”) or the Solar Evaporative Tank (“SET”) System are not logical, because “discharge” is defined as a release that may move directly or indirectly into ground water or interfere with health, etc. (sec. II.G.) A discharge into the MES or the SET is not calculated to move into ground water or interfere with health. Further, the authorization to discharge through Outfall 051 is not proper, since the Permittees state that the RLWTF will be a “zero-discharge” facility; Permittees do not propose to make any discharges through Outfall 051 and should not be given authority to do so.
11. The draft refers to the Influent Collection System (sec. V.D). Since NMED identifies that system as part of the regulated facility, the Permit should incorporate a

schematic and a scale drawing depicting the collection system, which, as part of the regulated facility, is subject to inspection and operational oversight by NMED.

12. Likewise, the Permit should incorporate a schematic and a scale drawing of the other elements of the permitted facility, i.e., the Low-level Radioactive Waste Water Treatment System, the Transuranic (“TRU”) Waste Water Treatment System, the Secondary Treatment System, the MES, and the SET. Such systems are all subject to inspection and oversight by the regulator, NMED. Plans and specifications are required to be on file before the commencement of construction. See 20.6.2.1202, 20.6.2.3107 NMAC.
13. The draft Permit calls for approval by NMED of system or unit modifications, based on public comment. (Sec. VI.A.3). However, the public processes specified in 20.6.2.3108 NMAC apply only to a “discharge permit modification” as defined in 20.6.2.7.P. NMAC. The definition in 20.6.2.7.P NMAC is limited to modifications that significantly change the quantity or quality of the discharge, or as required by the Secretary. In the instance of the RLWTF there will be no changes in the quantity or quality of the discharge, since there will be no discharge. Therefore, we submit, the Permit should state instead that the Secretary has determined that any change in waste transportation, storage or treatment equipment or methods constitutes a “discharge permit modification” and requires a public process under the rules. The Permit should also state that the processes laid out in Sec. VI.A.3 are in addition to, and do not exclude, the processes called for in 20.6.2.3108-3114 NMAC.
14. CCW understood from the September 17, 2015 technical meeting that Applicants would contact CCW representatives about signs and arrange for a field trip to the area to determine the best placement for the signs. Also, see Comment [4] in September 18, 2015 draft permit for Condition 6, Signs. We are hopeful that the

signage issues can be resolved in discussions with the Applicants - prior to our next meeting.

15. The draft (Sec. VI (A)(7)) calls for verification of secondary containment by equipment that manages “untreated” liquid or semi-liquid waste. But “treatment” is loosely defined as any method that modifies waste characteristics, etc. (Sec. II.FF). We cannot be sure how LANL interprets “treatment,” in defining equipment that must have secondary containment. CCW has proposed double containment for the pipe that supplies the SET. This is not required in the draft, and the failure to require it is not explained.
16. CCW continues to believe that the provision of a plan 60 days before removal of settled solids is too long. (Sec. VI(A)(10)). The method of removal of solids will have been established in the first round of removal. It is not necessary to provide 60 days’ notice for each round, unless the methods change.
17. Condition VI(A)(12), Containment, is the first of several sections that concern responses to identified emergencies and violations. See VI(A)12, 13, 14, 15, 18, 31, 37, 38, 39. It would be best to have a single regulatory structure for such situations. The Permit might require the Permittees, when a violation or an unintended release is identified, to follow these steps:
 - a. Report informally, but not just orally, to NMED (i.e., email) within 24 hours.
 - b. Take action as promptly as reasonably possible (e.g., that day) to prevent potential releases from the source term.
 - c. When an exceedance of an effluent is reported in analytical results, Applicants are required to “collect and submit for analysis a subsequent sample for the particular analyte that was in exceedance.” Condition VI(A)(18).

d. Submit a report on the problem and a corrective action plan within 14 days, or ask for more time within 14 days. Work, other than emergency work, should not proceed without NMED's approval.

e. The plan should include a schedule for stages of work, ending in a report of completion, which NMED must approve.

Such a framework could be contained in Condition VI(A)(13), Maintenance and Repair, and incorporated by cross-reference in Condition VI(A)(14), Damage to Structural Integrity, Condition VI(A)(18), Effluent Exceedance, Condition VI(A)(31), Release Detection System Exceedance, Condition VI(A)(37), Ground Water Exceedance, Condition VI(A)(38), Spill or Unauthorized Release, and Condition VI(A)(39), and Failures in Discharge Plan/Discharge Permit.

18. Condition VI(A)(14). Please change reference to Condition VI(E)(53) to "Extension of Time."
19. Condition VI(A)(20), Emergency Response Procedures, refers directly to the National Incident Management System (NIMS). This ought to require LANL to pre-plan for pueblo involvement and to alert and include any pueblo potentially affected by an incident. But will LANL do that? Please confirm this.
20. Further, the emergency response procedures should be review annually, not on a triennial basis. CCW previously submitted support for our position on this important issue.
21. Condition VI(A)(21) on installation of flow meters still requires that the meters be installed only within 180 days. But there is no technical justification for not having the flow meters in place before discharges to and from the RLWTF begin. See the example of installing monitoring equipment prior to use of the system at Condition 30 (Soil Moisture Monitoring for the SET).

22. Condition VI(A)(22), Calibration of Flow Meters, calls for accuracy within plus or minus 5% for the effluent lines to the SET, MES and Outfall 051. We have asked for much closer tolerances – less than 1%. The Applicants have not provided a technical justification for accuracy within plus or minus 5%.
23. Further, the draft permit allows for the flow meter on the 10-inch influent line to the RLWTF to be calibrated to within plus or minus 10%. Again, the Applicants have not provided technical justification for accuracy within plus or minus 10%.
24. Condition VI(A)(30). CCW objects to a 2% precision for the soil moisture monitoring system for the SET. Applicants have not provided technical justification for precision within plus or minus 2%.
25. Condition VI(A)(32) Ground Water Flow. For clarity, we suggest removing “in conjunction with the Quarterly Report” in the first sentence.
26. Condition VI(A)(36). CCW opposes using defective regional wells R-46, R-60, R-1 and R-14 for groundwater monitoring for reasons described by Gilkeson and the National Academy of Sciences in various submittals to NMED and the Ground Water Quality Bureau.
27. Condition VI(A)(42), Closure Plan. CCW supports the December 31, 2015 deadline for the Applicants to submit a proposed closure plan. CCW requests that NMED change the existing language in the permit that requires submittal of the closure plan after permit issuance.
28. The permit should clearly state when the annual updates of the Closure Plan are due to NMED. Are they due February 1 in the Annual Update (VI(A)(1)) or on another schedule?
29. Condition VI(A)(46), Integration with the Consent Order, has been revised. The reference to SWMUs and AOCs “that are contained within the Compliance Order on

Consent” is ambiguous, since that Order incorporates various lists of SWMUs and AOCs, having various different statuses. The statement that cleanup of “any future SWMUs and AOCs associated with the Facility shall be conducted solely under the Consent Order and not under this Permit” contradicts the Consent Order, which expressly excludes from its scope “(1) new releases of hazardous waste or hazardous constituents from operating units at the Facility, . . . ” (par. III.W.1). It is not appropriate to include such erroneous language in DP-1132; in any case it cannot change the terms of the LANL RCRA Permit or the Consent Order.

30. Condition VI(A)(49), Electronic Posting, lists mandatory and voluntary posting requirements. There is no mention of the Permittees posting NMED responses or those of citizen groups. The Permit should state that any responses to or comments on posted reports will themselves be posted.