Environmental Protection Division
Environmental Compliance Programs (ENV-CP)
PO Box 1663, K490
Los Alamos, New Mexico 87545
(505) 667-0666

National Nuclear Security Administration
Los Alamos Field Office, A316
3747 West Jemez Road
Los Alamos, New Mexico, 87545
(505) 667-5794/Fax (505) 667-5948

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Locates Action No.: N/A

Ms. Evelyn Rosborough
Environmental Protection Agency
Water Quality Protection Division (6WQ–NP)
1445 Ross Ave., Suite 1200
Dallas, TX 75202

Dear Ms. Rosborough:

Subject: Comments on Los Alamos National Laboratory (LANL) NPDES MS4 Preliminary Designation

The Department of Energy (DOE) and Los Alamos National Security (LANS) appreciate the opportunity to provide comments on EPA's NPDES Municipal Separate Storm Sewer System (MS4) preliminary designation for Los Alamos National Laboratory (LANL), which was issued on March 17, 2015. The DOE/LANS comments pertain primarily to the preliminary designation boundary for LANL, and comment details are provided in Enclosure 1. Enclosure 2 provides a map identifying a proposed boundary modification. Your review and consideration is appreciated.

Please contact Terrill Lemke of the Environmental Compliance Group (ENV-CP) at (505) 665-2397 or tlemke@lanl.gov if you have any questions or need additional information.

Sincerely,

Alison Dorries
Division Leader
Environmental Protection Division
Los Alamos National Security LLC

Sincerely,

Gene E. Turner
Environmental Permitting Manager
National Security Missions
Los Alamos Field Office
U.S. Department of Energy

AMD:GET/ms

AMD:GET:TWL/ms

Enclosures: (1) MS4 Preliminary Designation Comments
(2) Proposed LANL MS4 Boundary

Cy: Gene E. Turner, LASO-NS-LP, (E-File)
Kirsten Laskey, LASO-SUP, (E-File)
Michael A. Lansing, PADOPS, (E-File)
Amy E. De Palma, PADOPS, (E-File)
Michael T. Brandt, ADESH, (E-File)
Raeanna Sharp-Geiger, ADESH, (E-File)
Alison M. Dorries, ENV-DO, (E-File)
Anthony R. Grieggs, ENV-CP, (E-File)
Michael T. Saladen, ENV-CP, (E-File)
Timothy A. Dolan, LC-ESH, (E-File)
Terrill W. Lemke, ENV-CP, (E-File)
Samuel R. Loftin, ENV-CP, (E-File)
Timothy Zimmerly, ENV-CP, (E-File)
lasomailbox@nnsa.doe.gov, (E-File)
locatesteam@lanl.gov, (E-File)
env-correspondence@lanl.gov, (E-File)

ENCLOSURE 1

MS4 Preliminary Designation Comments

ENV-DO-15-0160

LA-UR-15-24376

Date: JUN 1 5 2015

Enclosure 1 - LANL MS4 Preliminary Designation Comments

The following comments, on behalf of Los Alamos National Security, LLC (LANS) and the United States Department of Energy (DOE), pertain to the boundary identified for Los Alamos National Laboratory (LANL) in the MS4 preliminary designation issued by EPA on March 6, 2015. LANS and DOE do not agree with the proposed boundary in EPA's preliminary designation based on two primary points: 1) The MS4 permit boundary should not encompass all of LANL but should focus on urban areas within LANL, and 2) the MS4 permit boundary should not be based on ensuring inclusion of all the NPDES Individual Permit (IP) (Permit No. NM0030759) sites, which would necessitate the full LANL boundary. Therefore, LANS and DOE have also included a modified boundary proposal to more accurately capture urban areas. Details and justification for these primary points are provided in the sections below.

1. Boundary should focus on urban areas

Both the Amigos Bravos Petition for Determination and EPA's Preliminary Designation Document repeatedly identify urban storm water runoff as the justification for and focus of the MS4 evaluation. Further, regulations requiring MS4 designations and the MS4 permit structure are based on the existence of a population and municipal infrastructure. As evidence of this:

a. The Amigos Bravos Petition for Determination, submitted to EPA on June 30, 2014, cites urban runoff as the cause for alleged violations of water quality standards. The Petition states, "The data and studies summarized in the Statement of Facts firmly link the water quality impairment downgradient from the Pajarito Plateau to storm water runoff from urban areas". (Section II.B.2, 1st paragraph).

b. The section of the Petition titled "Statement of Facts" cites a LANL background and baseline concentration study, LANL's self-published Environmental Report, and LANL NPDES IP Alternative Compliance requests as specific examples of exceedances of water quality standards. The cited references in all of these documents pertain to storm water data from urban sources.

c. The Petition specifically calls out urban impacts to Los Alamos, Sandia, Mortandad, Pajarito and Pueblo Canyons (Section II.B 2). All five of these canyons receive substantial storm water runoff from urban areas.

d. EPA's Preliminary Designation Document states, "The Petition alleges that urban storm water pollution from Los Alamos County sites, particularly urban storm water runoff from developed areas at Los Alamos National Laboratory (LANL),...is contributing to violations of New Mexico state water quality standards". (Section I, 2nd paragraph, 1st sentence)

e. EPA's Preliminary Designation Document states, "Discharges from MS4s are comprised primarily of urban storm water". (Section II, C, 1st sentence)

f. Each regulation relating to a requirement to obtain an MS4 permit has an express nexus to population numbers, urban areas, urban clusters and census data. Phase I of the storm water rule defined large and medium MS4s based solely on the number of people within an

incorporated place or specified areas by name based on population. 40 C.F.R. § 122.26(b)(4) and (7). The Phase II rule automatically designated all MS4s located within urbanized areas as regulated MS4s. 40 C.F.R. § 122.32(a)(1). The rule further instructs permitting authorities to develop criteria to evaluate whether small MS4s outside of urbanized areas should be designated as regulated MS4s and to apply that criterion to small MS4s with a population density of at least 1,000 people per square mile and population of at least 10,000. 40 C.F.R. § 123.35(b). None of these regulations provide for or require MS4 coverage of large areas of undeveloped land.

g. MS4 permits are not structured to regulate unpopulated, undeveloped land. Rather, each of the six MS4 minimum control measures involve public outreach and involvement and assume the existence of urban infrastructure that includes materials and surfaces that may contribute pollutants to storm water runoff. Absent a population with which to engage, or any storm water systems to protect or improve, there is no justification to regulate large, undeveloped areas of LANL. Including such areas within the MS4 boundary would likely lead to confusing, unnecessary and unforeseen compliance issues.

h. EPA in its preliminary designation rejected the alternative of designating all MS4s in the entire Los Alamos County due to the unintended consequence of including municipal storm sewers operated by the National Park Service, Los Alamos County and NMDOT in rural areas of the county without information to evaluate contribution to water quality impairments above background levels. This determination is inconsistent with the inclusion of similarly situated LANL areas and is inconsistent with how MS4 boundaries are established in Phase II urbanized areas (see, e.g., Kirtland Air Force Base – Small MS4 NOI)

The majority of the area within the LANL boundary is undeveloped. Of the approximately 39 mi^2 area within LANL, less than 5% (1.62 mi^2) is urban (buildings, roads, parking lots). Therefore, since the MS4 designation is based on impacts of urban storm water runoff, the boundary should be focused on capturing urban areas and not all locations within LANL.

2. Designation should not focus on IP Sites

In conversation with EPA personnel, it was stated that the MS4 boundary for LANL was drawn to assure inclusion of all 405 NPDES Individual Permit Sites. The Permittees maintain, for the following reasons, that this is not an appropriate criterion for the MS4 boundary designation.

a. IP Sites are currently regulated under a rigorous NPDES permit (Permit No. NM0030759) which includes requirements for long-term management of Sites. Establishing an MS4 boundary for no other reason than to ensure inclusion of these Sites would appear to be unauthorized and unnecessary dual regulation.

b. Urban run-on is not an issue for most Sites. Only 58 of 405 Sites (14%) have documented urban/developed area run-on issues.

c. The IP Alternative Compliance Requests submitted by LANS and DOE to EPA stating that Target Action Level exceedances are likely from sources other than the Site (urban storm water runoff) only identify this condition at some Sites. There has been no assertion made by LANS and DOE that this condition will occur at all IP Sites.

d. 149 IP Sites (37%) have not sampled in over 5 years of monitoring. Most if not all of these sites did not discharge during the 1000-year flood event in 2013 (a limited number may have discharged but may not have been sampled as a result of equipment failure).

e. Many IP Sites are located in non-urban areas and are not associated with a conveyance that could be considered an MS4, or do not discharge to a waters of the US. These Sites would therefore not be incorporated into requirements of an MS4 permit but would nonetheless be within the MS4 boundary proposed by EPA.

Again, LANS and DOE maintain that any MS4 permit should focus on management of storm water runoff in urban areas. IP Sites that are located within urban landscapes would be incorporated into this management structure, just as NPDES permitted facilities are incorporated into MS4s nationwide. However, additional regulation is not needed to successfully manage IP Sites outside urban areas and would lead to uncertainty regarding applicable requirements.

3. Proposed boundary

LANS and DOE propose that the most appropriate and representative LANL designation/boundary for the MS4 permit would be all areas of LANL located immediately adjacent to and north of Pajarito Road. Pajarito Road extends northwest from State Road 4, adjacent to the community of White Rock, to Technical Area 3, which is the largest urbanized portion of LANL (see Enclosure 2 for details). Areas adjacent to and north of Pajarito Road would capture the majority of LANL urbanized areas including TA-03, TA-60, TA-55, TA-54, TA-53 and TA-46. This proposed boundary would address in urban runoff to Los Alamos, DP, Sandia, Mortandad, Pajarito, and Canada del Buey drainages. There are no LANL/DOE urban areas that drain to Pueblo Canyon. In addition to MS4 coverage, designated point sources within these urban areas, as well as outside of those areas, are managed through four other established NPDES permit programs (Construction General Permit, Multi-Sector General Permit, Storm Water Individual Permit, Industrial and Sanitary Outfall).

ENCLOSURE 2

Proposed LANL MS4 Boundary

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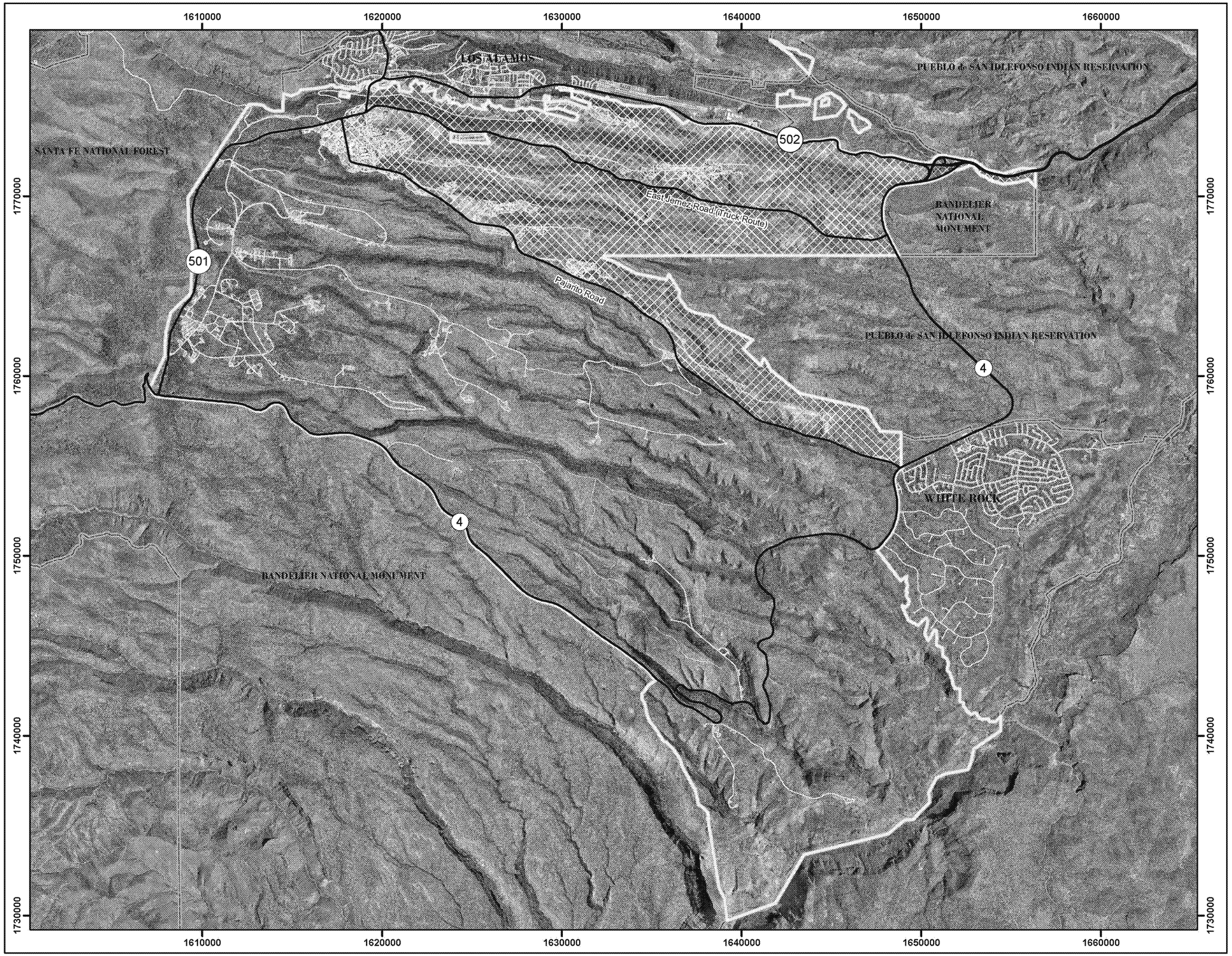
Date: JUN 1 5 2015



Proposed LANL MS4 Boundary

Major road
Minor road
Proposed MS4 boundary
LANL boundary
Land owners

N

Miles
0 0.5 1 2
0 0.5 1 2
Kilometers

State Plane Coordinate System
New Mexico, Central Zone, US Feet
NAD 1983 Datum

This map was created for work processes associated with the MS4 Permit. All other uses for this map should be confirmed with LANL ENV-ES staff.

Map #15-0042-01, Created by Brad McKown, OIO-DO, June 10, 2015