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Groups Sue EPA Over Los Alamos Pollution

Los Alamos, NM – Late yesterday, clean water advocates filed a lawsuit against the Environmental Protection Agency (EPA) to force it to address extremely high urban storm water pollution in Los Alamos County, downstream from Los Alamos National Laboratory (LANL).

Urban storm water pollution from PCBs, copper, zinc, nickel, and gross alpha radiation in Los Alamos County is threatening public health – some pollutants are more than 10,000 times public safety limits. This pollution should have triggered federal action to reduce or eliminate these discharges in the form of a National Pollutant Discharge Elimination System (NPDES) permit, but the EPA has failed to act. In 2014 Amigos Bravos petitioned the agency to address this threat, but it did not respond. In June of this year Amigos Bravos and Western Environmental Law Center sent a letter notifying the EPA of the organizations' intent to sue due to the agency's inaction on the 2014 petition. EPA did not respond substantively to this letter.

As required by the Clean Water Act, New Mexico set standards to ensure the state's rivers, streams and lakes are clean enough to allow the public to use these waters for drinking, swimming, boating, and other activities, and to support healthy populations of fish and wildlife. To ensure these standards are met, the Clean Water Act requires the EPA to regulate stormwater runoff when that runoff is making the water unsafe.

The New Mexico Environment Department's (NMED) data show dramatic exceedances of the state's PCB human health water quality limits. PCB levels in Los Alamos Canyon are more than 11,000 times greater than the New Mexico Human Health water quality criteria and 51 times greater than the New Mexico Wildlife Habitat water quality criteria. Sandia Canyon shows PCB contamination more than 14,000 times greater than the New Mexico Human Health water quality criteria and 66 times greater than the New Mexico Wildlife Habitat water quality criteria. PCBs levels in Pueblo Canyon are more than 3,500 times greater than the New Mexico Human Health water quality criteria and 16 times greater than the New Mexico Wildlife Habitat water quality criteria. These three drainages are all heavily influenced by urban stormwater runoff.

The state's 303d/305b report documents many more exceedances of standards – for a variety of pollutants and locations. Mortandad Canyon is high in PCBs, mercury, silver, cyanide, copper, and gross alpha radiation pollution. Pajarito Canyon is impaired for gross alpha radiation, aluminum, PCBs, and copper. LANL's own documents confirm these findings and identify urban runoff as the culprit for many of these pollutants.

In 2015 EPA published a preliminary designation finding that Amigos Bravos' 2014 petition should be granted, but has since failed to take any action. In June 2019 Amigos Bravos and Western Environmental Law Center sent EPA a letter to notify the agency of the groups' intent to sue them for this failure to take action. EPA has not responded to the June letter, forcing the groups to take further action by filing the lawsuit today.

We are disappointed that for years EPA has failed to take action to protect New Mexicans' public health and environment and require that these toxic discharges be controlled and monitored," said Rachel Conn, projects director with Amigos Bravos. "Meanwhile toxic pollution continues to flow down into the Rio Grande above the drinking water diversions for both Albuquerque and Santa Fe."

"Under the Clean Water Act, the rubber hits the road when the standards and goals for waterways are turned into permit requirements," said Andrew Hawley, attorney with the Western Environmental Law Center. "EPA must act now to protect the people and environment in Los Alamos County. We hope the EPA decides to do the right thing."

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