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Northern New Mexico Citizens' Advisory Board Meeting

March 30, 2016

1:00 p.m. to 5:15 p.m.

Sandia Resort

Albuquerque, New Mexico 87113



Minutes

Meeting Attendees

Department of Energy

1. David Rhodes, Department of Energy, Environmental Management Los Alamos Field Office
2. Lee Bishop, Co-Deputy Designated Federal Officer
3. Michael Gardipe, Co-Deputy Designated Federal Officer
4. Ben Underwood, Environmental Management Los Alamos Field Office
5. Peter Maggiore, National Nuclear Security Administration, Los Alamos Field Office

NNMCAB Members

1. Doug Sayre, NNMCAB Chair
2. Gerard Martínez y Valencia, NNMCAB Vice-Chair
3. Angelica Gurulé, Chair Waste Management Committee
4. Diahann Lopez-Cordova, Vice-Chair Environmental Monitoring & Remediation Committee
5. Rod Sanchez
6. Carlos Valdez
7. Carla Abeyta
8. Tessa Jo Mascareñas
9. Ashley Sanderson
10. Joey Tiano
11. Angel Quintana
12. Michael Valerio
13. Joshua Madalena
14. Nona Girardi
15. Max Baca
16. Irene Tse-Pe

Student Representative

1. Nicole Habbit

NNMCAB Excused Absences

1. Mary Friday
2. Stephen Schmelling

- 1 3. Mona Varela
- 2 4. Danny Mayfield

3

4 **NNMCAB Absences**

- 5 1. Michael Whiting
- 6 2. Alex Puglisi

7

8 **NNMCAB Staff**

- 9 1. Menice Santistevan, Executive Director
- 10 2. Bridget Maestas, Administrative Assistant
- 11 3. William Alexander, Technical Programs and Outreach

12

13 **Guests**

- 14 1. Steven Horak, PT&C, LLC.
- 15 2. Scott Kovac, Nuke Watch New Mexico
- 16 3. Bruce Robinson, Los Alamos National Security
- 17 4. Kiki Torres, Los Alamos National Security
- 18 5. Bob Dodge, Waste Control Services
- 19 6. Gil Vigil, Eight Northern Indians Pueblos Council
- 20 7. David Rast, SFO
- 21 8. Pauline Herrera, Public
- 22 9. Rodger Snodgrass, Los Alamos Daily Post/Exchange Monitor
- 23 10. Katie Richardson, U.S. Senator Martin Henirich's Office
- 24 11. Rebecca Moss, Santa Fe New Mexican
- 25 12. Patrick Duran, U.S. Representative Ben Lujan's Office
- 26 13. Andrea Romero, Regional Coalition of LANL Communities.
- 27 14. Brian Bosshardt, Los Alamos County
- 28 15. Michele Jacquez-Ortiz, U. S. Senator Tom Udall's Office
- 29 16. Barbara Crockett, CH2M
- 30 17. Elizabeth Miller, Santa Fe Reporter
- 31 18. Secretary Ryan Flynn, New Mexico Environment Department
- 32 19. Katie Roberts, New Mexico Environment Department
- 33 20. Allison Majure, New Mexico Environment Department
- 34 21. J. Stroud, Nuke Watch New Mexico
- 35 22. Jay Coghlan, Nuke Watch New Mexico
- 36 23. Chris Edgman, BGI
- 37 24. Deborah Woitte, Los Alamos National Security
- 38 25. Peter Hyde, Los Alamos National Security
- 39 26. Herbert Lester Plum, Public
- 40 27. Tim Douan, Los Alamos National Security
- 41 28. Janet Greenwald, Public

- 1 ***All NNMCAB meetings are recorded. Audio CD's and Video DVD's have been placed on file for review**
- 2 **at the NNMCAB office, 94 Cities of Gold Road, Santa Fe, New Mexico, 87506. The written minutes are**
- 3 **intended as a synopsis of the meeting.**

1 **Minutes**

2 **I. Call to Order**

3 The Meeting of the Northern New Mexico Citizens' Advisory Board (NNMCAB) was held
4 on March 30, 2016 at Sandia Resort, Albuquerque, New Mexico. Mr. Lee Bishop, Co-Deputy
5 Designated Federal Officer (CDDFO) stated that on behalf of the Department of Energy
6 (DOE) the meeting of the NNMCAB was called to order at 1:09 p.m.

7 Mr. Bishop recognized Mr. Doug Sayre, the NNMCAB Chair. Mr. Sayre presided at the
8 meeting.

9 The meeting of the NNMCAB was open to the public and posted in The Federal Register
10 in accordance with the Federal Advisory Committee Act.

11 **II. Establishment of a Quorum (12 Needed)**

12 **a. Roll Call**

13 Mr. William Alexander conducted roll call as the members arrived. At the call to
14 order 12 members were present. Mr. Alexander recorded that Ms. Angel Quintana
15 arrived at 1:23 p.m., Mr. Josh Madalena arrived at 1:25 p.m., Ms. Irene Tse-Pe arrived at
16 1:40 p.m., and Mr. Max Baca arrived at 2:35 p.m.

17 **b. Excused Absences**

18 Mr. Alexander recorded that the following members had excused absences: Ms.
19 Mary Friday, Ms. Mona Varela, Mr. Danny Mayfield, and Mr. Steven Schmelling.

20 **c. Absences**

21 Mr. Alexander recorded that the following members were absent: Mr. Michael
22 Whiting and Mr. Alex Puglisi.

23 **III. Welcome and Introductions**

24 Mr. Sayre welcomed the members and the public to the meeting. He asked for
25 introductions from the board members and attending guests.

26 **IV. Approval of Agenda**

27 The board reviewed the agenda for the March 30, 2016 meeting, Mr. Sayre opened the
28 floor for questions or comments.

29 Mr. Tiano made a motion to approve the agenda as presented; Ms. Gurulé seconded the
30 motion. The motion to approve the agenda as presented was unanimously passed.

31 **V. Approval of Minutes**

32 The board reviewed the minutes from the January 27, 2016 meeting. By ongoing
33 instruction from DOE Headquarters, the minutes were previously reviewed and certified by
34 the NNMCAB Chair. Mr. Sayre opened the floor for questions or comments.

35 Mr. Valdez made a motion to approve the minutes as presented; Ms. Lopez-Cordova
36 seconded the motion. The motion to approve the minutes as presented was unanimously
37 passed.

1 **VI. Old Business**

2 **a. Written Reports**

3 Mr. Sayre opened the floor for questions on the written reports. Mr. Sayre gave a
4 brief overview of activities since the last NNMCAB meeting. He noted that the
5 members should review the Executive Director's report for important dates of
6 upcoming meetings and events, in addition to an update on the membership and
7 NNMCAB activities.

8
9 Mr. Sayre asked Ms. Lopez-Cordova if she would give the board an overview of her
10 Waste Management Symposia (WMS) report.

11
12 Ms. Lopez-Cordova responded that the WMS had been very interesting, noting that
13 much of the information was relevant to the NNMCABs issues and topics. She stated
14 that attendees from all across the world had attended and that the United Kingdom
15 had been the featured country at this year's WMS. Ms. Lopez-Cordova noted that she
16 had submitted a written report on the symposia.

17
18 Mr. Sayre asked Ms. Abeyta if she would give a brief overview of the Environmental
19 Justice Conference (EJC).

20
21 Ms. Abeyta stated that she and Ms. Varela had attended the EJC conference in D.C.
22 She noted that this was the first year that the conference had been as a joint
23 conference with the National Conference on Health Disparities. She stated that the
24 conference had focused on growing healthy food, urban agriculture, and how
25 communities can obtain a healthier environment. Ms. Abeyta noted that this year new
26 websites had been included as useful tools for getting information out to the public.

27
28 Written reports submitted by the members are included as attachments to the
29 minutes.

30
31 **b. Other Items**

32 Mr. Sayre noted that the Defense Nuclear Facilities Safety Board (DNFSB) had held a
33 meeting in Santa Fe in March of 2016. He noted that the topic of the meeting had
34 been on the Waste Isolation Pilot Plant (WIPP) and the incident that occurred there in
35 February of 2014. Additionally, he noted that the DNFSB had asked many questions on
36 safety and review of the incident in an interview type format.

37
38 **VII. New Business**

39 Mr. Sayre opened the floor for discussion on any new business that the members might
40 have.

1 With no new business to discuss, Mr. Bishop moved on to the update from the
2 Department of Energy DDFO, Mr. Bishop.

3
4 **VIII. Update from the Deputy Designated Federal Officer**

5 Mr. Bishop stated that the EM-LA office is in the process of staffing up, noting that
6 currently the office has 20 of the 41 proposed positions filled. He advised the members that
7 the hiring process is progressing slowly; however, some key positions have been filled with
8 the hiring of a nuclear safety engineer and general counsel.

9 Mr. Bishop stated that LANL is moving forward with the proposed remediation of the
10 nitrate drums. Additionally, noting that a readiness review is taking place this week for the
11 process that will be used for the drum venting. He noted that the installation of the new
12 drum vents will be occurring in the next several weeks.

13 Mr. Bishop advised the members that if they are interested in attending the ribbon
14 cutting ceremony for the new Emergency Management Center at the Carlsbad Field Office,
15 please let Ms. Santistevan know. He noted that this would be a great opportunity to be
16 present for one of the milestones in the reopening of WIPP.

17 Mr. Bishop stated that with the approach of the fire season, LANL is taking steps to
18 increase fire safety at Material Disposal Area G. He noted that Fire Safety Engineers have
19 been on site to evaluate the conditions at Area G and increase fire mitigation measures at
20 the site.

21 Mr. Bishop noted that the installation of the chromium extraction and injection wells is
22 under way in Mortandad Canyon. Additionally, stating that it was a possibility that the wells
23 would be in operation before the NNMCABs next board meeting in May.

24
25 **IX. Presentation**

26 **a. New Mexico Environment Department Consent Order**

27 Secretary Ryan Flynn, NMED and Katie Roberts, NMED; gave a presentation to the
28 NNMCAB on "Revisions to the 2005 LANL Order on Consent." An electronic copy of the
29 presentation may be obtained from the NNMCAB website;
30 <http://www.energy.gov/em/nnmcab>. Video of the presentation is also available on the
31 NNMCAB's YouTube Channel (NNMCAB).

32
33 **b. Questions**

34 Mr. Martínez y Valencia asked about section 35 under penalties, asking if it was a
35 possibility to include a statement that notes penalties could be transferred to a fund
36 that would support Supplemental Environmental Projects.

37
38 Secretary Flynn responded yes, it was possible and invited Mr. Martínez y Valencia to
39 submit the desired language to NMED as a comment.

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41 Dr. Girardi asked about fines not impacting programs at LANL, doesn't a fine need to
42 impact something to make the fine something that you want to avoid.

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Secretary Flynn responded that there needs to be some risk associated with a fine to compel compliance. He noted that the money for the fines incurred by the WIPP incident were derived from the contractor performance award, not clean-up budget. Additionally, noted that he feels that a pressure point is on the contractors at the site.

Mr. Valdez asked if the DOE had sat down with NMED during the drafting of this revision of the Consent Order (CO).

Secretary Flynn responded that DOE has not yet sat down with NMED to discuss the current CO revision. He noted that NMED would not be sitting down with DOE until after the public comment period for the revised CO is completed

Mr. Valdez asked about the campaigns in the document and if the risk based approach for prioritization would be the only approach.

Secretary Flynn responded that while risk assessment would be a large part of the way prioritization occurs, budget and geographic location would also be a part of how work is prioritized, as risk is not the only measure to consider in the clean-up process.

Mr. Valdez asked if EM-LA had an approved Life Cycle Baseline.

Mr. Rhodes responded that EM-LA has developed a Life Cycle Baseline; however, it is with headquarters and is awaiting approval. Mr. Rhodes noted that it is anticipated that the approval and release will occur within the next few months.

Ms. Gurulé asked about the money that is being wasted in the permitting process and who is holding up the show on the permitting.

Secretary Flynn responded that there is plenty of blame to go around regarding the disputes that occur surrounding the permitting process.

Ms. Gurulé asked about how the new CO would help LANL to set goals and funding.

Secretary Flynn responded that once a final plan is set in place DOE will have some leverage to help obtain funding. It will show Congress what can be done with the current budget and what we could do with additional funding.

Mr. Baca asked what the real stipulated penalties are.

1 Ms. Roberts responded that stipulated penalties are effectively fines that are associated
2 with a missed milestone, such as a well completion or document. If DOE were to miss a
3 milestone then the fines would be assessed per the regulatory document.
4

5 Mr. Baca asked how the amounts for the fines were derived.
6

7 Ms. Roberts responded that the amounts of the fines were taken directly out of the
8 2005 LANL Order on Consent.
9

10 Mr. Baca asked under what circumstances NMED would wave or reduce a penalty.
11

12 Ms. Roberts responded that was a difficult question to answer, as there are several
13 situations that could give rise to that and it would be difficult to speculate what that
14 would be.
15

16 Mr. Baca suggested that action plans for the annual planning process should be
17 approved at the beginning of the last quarter of the previous fiscal year, to avoid
18 slowdowns in the clean-up process.
19

20 Mr. Sayre asked who would make the determination, if there was nonperformance on a
21 milestone.
22

23 Ms. Roberts responded that NMED would be the regulatory agency that makes that
24 determination.
25

26 Mr. Valerio asked how the penalty amounts in the revised CO equate to today's dollars
27 since they were directly taken from the 2005 CO.
28

29 Secretary Flynn responded that the amounts were comparable to other clean up
30 agreements across the country, with New Mexico being either equal to or higher than
31 other sites. Additionally, noting that NMED is considering the possibility of increasing
32 the penalties in the new CO.
33

34 After discussion among the members, the NNMCAB decided to appoint an ad hoc
35 committee to address a recommendation on the revised CO. Mr. Martínez y Valencia,
36 Mr. Valdez, and Ms. Gurulé were appointed to the ad hoc committee and asked to have
37 a draft recommendation ready for discussion during the NNMCAB April 27, 2016
38 Combined Committee meeting.
39

40 **X. Public Comment**

41 Mr. Sayre opened the floor for public comment at 4:09 p.m., he invited Mr. Scott Kovac
42 from Nuke Watch New Mexico (NWNM) to address the board.

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Mr. Kovac thanked the board for the opportunity to speak at today’s meeting. Mr. Kovac stated that NWNM was requesting that the comment period be extended, noting that 45 days is not enough time. He noted that he keeps coming back to the question of why we need to force DOE to cleanup Los Alamos. Additionally, noting that “how do we clean-up 40 square miles of a secret Nuclear Weapons facility: you would need to do investigations, collect samples, dig monitoring wells, dig in the canyons, and take millions of samples, which we have done. Stating that the first 10 years of the old CO were useful to accomplish that, what will happen to all those old deliverables, are we starting over again.” Mr. Kovac noted that no one is surprised that we missed the original December 15, 2015 date in the old CO; however, schedules do have their place. Mr. Kovac noted that he thought that he had heard that LANL had not had any input thus far in the Revised CO, noting that seemed like an odd process. Mr. Kovac asked how the Revised CO is an improvement over the 2005 CO: is cleanup going to be faster, cheaper, when do the low priority sites get cleaned up. Mr. Kovac stated “that clean-up milestones in the Revised CO would be assigned annually based on the anticipated budget, which would leave 100’s of clean-up items with no target date for completion and leave cleanup at the mercy of Congressional budget whims. Noting that any cleanup item not on the list would be outside the scope of enforcement and LANL would be in a position to not put items on the annual list and to delay clean-up forever, this is my concern.” He asked if the revised CO would be available in the LANL Public Reading room. Mr. Kovac stated that a well-planned schedule with concrete milestones and completion dates, would get the work done faster and cheaper. Additionally, noting that having to adjust the schedule is no reason to throw it out. There is no reason that the original 2005 CO could not have been updated. “Instead we end up with DOE and NMED negotiating some untried document that benefits who knows who, and ends who knows when.”

Secretary Flynn responded that NMED has received feedback from DOE; however, no formal negotiations have taken place between DOE and NMED regarding revision to the CO. Additionally, noting that the NMED is attempting to make the 2005 CO better using what has been learned over the last 10 years, not throw it out completely.

Mr. Sayre invited Mr. Jay Coghlan from NWNM to address the board.

Mr. Coghlan stated that he agreed with the Secretary that the current process hasn’t worked; however, submits “the reason is that you granted more than 150 extensions to the CO, stating that the consent order as formulated under the previous administration, you didn’t let it work.” It was stated that the new draft document puts DOE in the driver’s seat and that he had specifically asked that NMED not let that happen. Mr. Coghlan noted that the original intent of the 2005 CO was to make LANL and DOE go out and get the funding to complete the clean-up, noting that under the revised CO, LANL and DOE can essentially blow off the clean-up if they can’t get the funding. It was noted that the milestones under the

1 campaign approach are enforceable for only one year, with so called targets after that are
2 not enforceable. Mr. Coghlan noted that while he has not had a chance to read the entire
3 document, it seems the public participation requirements have been stripped from the
4 revised document. Additionally, noting that NWNM and NMED have a difference of opinion
5 on the public participation requirements, it is NWNMs belief that the requirements under
6 RCRA and State Law were incorporated in the old CO. Mr. Coghlan noted that this is a huge
7 demerit under the revised CO.
8

9 Secretary Flynn responded that the public participation requires are still in full effect,
10 noting that he would specifically point out Section 17, the final Remedy Selection. Secretary
11 Flynn stated that he does not think that DOE is in the driver's seat but would be happy to
12 discuss it further with NWNM.
13

14 Mr. Sayre invited Ms. Janet Greenwald to address the board.
15

16 Ms. Greenwald thanked everyone for the opportunity to address the Board, she stated
17 that she was a co-coordinator from an old non-profit organization, Citizens for Alternatives
18 to Radioactive Dumping. She stated that her expertise was on the area down wind of LANL,
19 not LANL itself. Ms. Greenwald stated that after the Cerro Grande fire a group had met with
20 NMED during the harvest season and had been informed by NMED that there was cobalt in
21 their plums and cesium in the broccoli. Additionally, stating that they were informed that if
22 they ate an average amount per week, comparable to average Americans they would not be
23 overly contaminated. Ms. Greenwald noted that no one seemed to understand that in rural
24 areas during the harvest season you eat a lot of the produce that was grown, especially the
25 children. She noted that her daughter-in-law was pregnant at the time and for the first time
26 in 70 years her family lost a twin. Additionally, noted that shortly thereafter they lost a
27 family friend that was a vegan that ate directly out of her garden. Ms. Greenwald noted that
28 in the mountain lakes above the area there is so much cesium around the lakes that they
29 just fall short of being a superfund site. Ms. Greenwald stated that you don't normally hear
30 about these issues because the Embudo Valley area produces much of the produce
31 distributed in New Mexico. Additionally, noting that no one wants to blow any whistles since
32 they will blow the whistle on the way that they make their living. Ms. Greenwald stated that
33 she was here to inform and to ask that we all do everything that we can do to get the drums
34 out of the tents and into safe buildings. Do everything you can to protect those communities
35 that are suffering and everyone who suffers from eating the food.
36

37 With no additional public comment, Mr. Sayre closed the comment period at 4:35 p.m.
38

39 **XI. Update on FY'17 & FY'18 Budget**

40 Budget Analyst, Ms. Genna Hackett, Environmental Management Los Alamos Field
41 Office, gave an update to the NNMCAB on "Fiscal Year 2017 and 2018 Budget." Ms. Hackett
42 noted that the Presidential request is \$189 million for EM-LA which is \$4 million above the

1 FY'16 request and that EM as a whole received \$400 million above the FY'16 request. Ms.
2 Hackett stated the EM-LA is in the process of developing the request for FY'18. She stated
3 that the requests appears to align well with the draft CO and the NNMCABs Budget
4 Recommendation for 2017. Additionally, noting that as we move forward there may be
5 additional opportunities for the NNMCAB to provide comments and recommendations for
6 the FY'18 budget request.

7
8 **XII. Consideration and Action on Draft Recommendation**

9 Mr. Sayre opened the floor for consideration and action on Draft Recommendation
10 2016-02, "Fiscal Year 2018 Budget Priorities." Mr. Sayre asked Mr. Valdez if he would like to
11 provide an overview of the recommendation to the board.

12
13 Mr. Valdez responded that the intent of the recommendation was to provide input into
14 developing the budget priorities for FY'18, in order to assist in the completion of legacy
15 clean-up work to be included in the new Order on Consent.

16
17 Mr. Martínez y Valencia made a motion to approve the draft recommendation as
18 presented; Ms. Gurulé seconded the motion. The motion to approve the Draft
19 Recommendation was unanimously passed.

20
21 **XIII. Wrap-up and Comments**

22 Ms. Tse-Pe, Ms. Lopez-Cordova, Ms. Abeyta, Ms. Mascareñas, Mr. Martínez y Valencia,
23 Mr. Madalena, Ms. Habbit, Mr. Valerio, Ms. Gurulé, Mr. Tiano, and Ms. Sanderson; thanked
24 everyone for the good meeting, excellent presentations and wonderful meeting location.
25 Everyone thanked the staff for the well planned meeting and their excellent work.
26 Additionally, the NMED staff and Secretary Flynn were thanked for their continued
27 partnership with the NNMCAB.

28
29 Dr. Girardi noted that she had asked Ms. Roberts if NMED would be posting the public
30 comments on the NMED site. She noted that Ms. Roberts had stated that public comment is
31 not usually posted to the web; however, she would look into it and get back to the
32 NNMCAB. Additionally, Dr. Girardi thanked everyone for the great meeting and thanked the
33 public commenters for bringing the contamination issues to the attention of the NNMCAB.

34
35 Mr. Valdez asked that during the comment public comment period, someone from DOE
36 be available to answer questions regarding the revised CO and thanked everyone for the
37 great meeting.

38
39 Mr. Baca thanked everyone for the opportunity to make comments, and noted that he
40 would continue to ask the questions for open government and open access. He noted that it
41 is the NNMCABs responsibly to ask the questions and hoped that DOE and LANL would
42 continue to answer those questions.

1
2 Mr. Sayre thanked everyone for attending the meeting and asked the members to take
3 some time to look over the revised CO. He noted that the members should submit
4 comments for the proposed recommendation to the ad hoc committee.

5
6 **XIV. Adjournment**

7 Mr. Sayre noted that the next Combined Committee meeting would be at the NNMCAB
8 office in Pojoaque on April 27, 2016 from 1:00 p.m. to 4:00 p.m. He thanked the presenters and
9 members for attending today's meeting.

10
11 Mr. Bishop and Mr. Gardipe thanked the members for volunteering their time. With no
12 additional business to discuss, Mr. Gardipe adjourned the meeting at 5:12 p.m.

13 **Respectfully Submitted,**



14 **Doug Sayre, Chair, NNMCAB**

15 ***Minutes prepared by William Alexander, Technical Programs and Outreach, NNMCAB**

16
17 **Attachments**

- 18 1. Final NNMCAB Meeting Agenda for 03/30/2016
- 19 2. Final NNMCAB Meeting Minutes for 01/27/2016
- 20 3. Report from the Executive Director, Menice Santistevan
- 21 4. Report from Diahann Lopez-Cordova, on the Waste Management Symposia
- 22 5. Report from Michael Whiting, on the Waste Management Symposia
- 23 6. Report from Mona Varela and Carla Abeyta, on the Environmental Justice Conference
- 24 7. NNMCAB Bi-Monthly and Combined Committee Meeting Schedule for CY'16
- 25 8. Draft Recommendation 2016-02 "FY'18 Budget Priorities"
- 26 9. Presentation by New Mexico Environment Department, "Revisions to the 2005 LANL Order on
27 Consent"

28
29 **Public Notice:**

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