



CCNS

Concerned Citizens for Nuclear Safety

November 1, 1993

Deputy Administrator Sussman
U.S. Environmental Protection Agency
401 M St., S.W.
Washington, D.C. 20460

Dear Deputy Administrator Sussman,

Thank you for taking time to meet with me and Don Hancock in July of this year. Our discussion of EPA's regulatory role in New Mexico was helpful. However, since July there have been several developments in EPA's regulatory role which affect public involvement. Concerned Citizens for Nuclear Safety offers the following comments on these developments.

First, despite the limited scope of citizen input into the research, we are favorably impressed with the *Public Consultation and Communication Needs Assessment* prepared for EPA's Office of Radiation and Indoor Air by RE-SOURCE ASSOCIATES. In particular, we wish to call your attention to an important finding listed in the Executive Summary:

"EPA's past performance and reputation are a potential liability for the agency in New Mexico. NM residents are skeptical about the agency's willingness and ability to provide strong oversight of the US Department of Energy (DOE) activities at the WIPP. This skepticism is due to a widely held perception that US EPA has not, in the past, shown strength in executing its statutory responsibilities in a range of environmental programs affecting New Mexico and its citizens."

Part of this history can be placed squarely on the shoulders of the former administration's cavalier attitude toward environmental enforcement at DOE's facilities in New Mexico. Now, with the demonstrated and broadly shared commitment (including DOE, DoD, EPA and citizen stakeholders) to citizen based site specific advisory boards, CCNS believes that progress is being made toward correcting the former, ill-advised policy.

However, we are deeply concerned that several of EPA's recent actions may be counter productive to improving public confidence in its environmental enforcement activities. For example, EPA Region VI's proposed Land Disposal Restriction Requirement (LDR) FFCA for Les



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Alamos National Laboratory (LANL) is grossly defective in two ways: 1. The proposed compliance plan primarily calls for studies and includes no concrete remedial steps to bring the Lab into RCRA compliance. Thus, compliance, according to this proposed plan, could well be achieved on paper with no actual remediation of the violations, and; 2. The proposed compliance plan assumes compliance on the problematic opening of controversial facilities, specifically WIPP and LANL's controlled air incinerator.

The proposed LDR FFCA is a bad precedent for LANL's future Clean Air Act FFCA. EPA Region VI makes no allowance for citizen input into ongoing negotiations on the Clean Air Act FFCA even though members of the public and a Laboratory whistleblower were the first to raise concerns about LANL's non-compliance with the Clean Air Act. If the final FDR FFCA's lack of substance and failure to include a public process are indications of future Clean Air Act FFCA processes and result, then EPA will lose public confidence in its Federal Facilities Enforcement program in New Mexico.

Finally, EPA's recent reorganization which clearly de-emphasizes the importance of the Office of Federal Facilities Enforcement (OFFE) at EPA, is a disturbing development. The mere fact that LANL has been exempt in the past from certain regulations means that special attention is now required to bring the Lab into line. Unless EPA designates a high-level spokesperson to advocate before Congress, DOE and DoD the necessity of bringing all polluting federal agencies into compliance with the law, we predict that there will be backward movement in compliance and cleanup. EPA's recent demotion of the director of OFFE and dispersion of OFFE authority cast shadows of uncertainty over the success of citizen based site specific advisory boards. How can we know that EPA intends to take citizen involvement in EPA's regulatory role in New Mexico seriously when this reorganization makes it difficult for citizens to know to whom they can communicate their concerns? Isn't the dismantlement of OFFE a clear statement about how little EPA values federal facilities enforcement?

Thank you again for our meeting. I look forward to your response to our concerns.

Sincerely,



Margret Carde
Nuclear Waste Project Director

cc: Carol M. Browner
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