

# MEMO

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FORA...

**To:** Benito J. Garcia      **cc:** CAB, NMED, DOE  
**From:** Hank Daneman  
**Subject:** NMED Attendance at CAB Meetings  
**Date:** June 15, 1996

I agree with your suggestion that the NMED staff attendance at the ER/WM committee is most appropriate and welcome any and all of your staff at any and all meetings. Further, it is certainly appropriate to notify you of the dates and venue of each of our ER/WM committee meetings and I will ask our staff to do so. We will try to arrange for meetings every two weeks on the same day of the week and at the same location. This should make it simpler for all of us.

As to our agenda, it is a continuing effort to obtain and share information with which to draft recommendations to the DOE for CAB approval. As to your requirement that our agenda be "rigid", any of our CAB members are free to raise questions and propose items for consideration under "New Business". We also welcome input from the public. Otherwise, there are only two continuing subjects - namely - "Recommendations on Environmental Remediation Activities at LANL" and "Recommendations on Waste Management Activities at LANL".

As to the timing and destination of the CAB recommendations - it is my understanding that we report directly to the DOE at any time we reach a consensus on any issue. It is the expressed desire of the DOE that these reports be independent of influence by other than the public. We are, however, in need of technical advice and appreciate your continued offer to provide the attendance and co-operation of knowledgeable staff for this purpose. We have heard from Janice Archuleta, Barbara Hodicheck and Tom Tatkin as well as yourself and are exceedingly pleased with their input. I trust we may continue to draw on their specialized knowledge both at meetings and informally at other times. I hope you do not choose to restrict their participation or censor their contributions to our discussions. I promise that our committee will not become a burden and hope that you will allow a free exchange of information to continue based on this assumption.

There may be times when we will be hearing testimony from sources other than the NMED and we will let you know that your attendance is optional. This, I trust will relieve the NMED of the burden of attending each and every meeting we may decide to hold, however frequent.

At this time, our committee is exploring the environmental consequences of adding Plutonium production to the work at LANL as the potential hazards are perceived by our neighbors in Northern New Mexico. We will need to inform the public of the most accurate appraisals of these consequences as well as the proposals to manage the inevitable quantities and types of hazardous waste if we are to obtain a meaningful public response. This all takes time and, if we are to do our job, we can not wait for the regulatory process to reach the stage of mandatory public hearings. Accordingly, the CAB will need to be privy to LANL's proposals and your concerns at



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the earliest stages. While we will be pleased to receive notices of permit actions, we trust you will provide preliminary information on your concerns and not wait for regulatory formalities.

If the above is not in accord with your understanding of our role, let me know and we can try to reach some better understanding.

I would appreciate a better understanding of the NMED's role in the environmental protection of LANL, its employees, neighbors and successor occupants. What has been the application of NMED's regulatory responsibilities up to January 1, 1996 as it applies to the DOE/LANL? I assume this information is available by way of reports and summaries of notices, warnings and regulatory actions and that it is appropriate for the CAB to receive any copies of these documents. The failure of regulatory authorities to prevent contamination of DOE facilities, in the past, has a direct bearing on how well these agencies can serve the public in the future.

We can schedule a session of the ER/WM committee (and later the CAB) at which anyone who is interested can raise questions. This is preferable to a formal program at a regular CAB meetings. Answers to the following questions would prepare us for such a formal program.

1. We understand the NMED has assumed responsibility for environmental protection of LANL's surrounding communities from the EPA this year. What is the history of NMED's role in environmental protection at LANL prior to this transition? What actions has the NMED taken since the contamination of 603 sites was "discovered" in 1990? Have you expressed any concerns to LANL (or the DOE) about LANL's cleanup activity and/or waste management efforts between 1990 and 1995? If so, can you refer us to such documentation?
2. What are your concerns about LANL's plans for the future? With respect to ER/WM, are you in agreement with LANL's priorities? Are you in agreement with the EPA concerns? How does the NMED feel about the DOE's exception to the need for permitting for the CMR facility upgrades and new construction for Plutonium production purposes? Does the NMED agree with all of the DOE/LANL environmental risk assessment of January and May 1996 concerning the planned manufacture of Plutonium within Los Alamos county? Does any expert of the NMED have concerns beyond the present scope of your regulatory authority? Does this regulatory authority or enabling legislation need to be changed in order to provide essential protection to the employees of LANL and the people of surrounding communities? Is the NMED's authority subordinate to NEPA regulations? In other words, if the NEPA regulations permit (or do not disapprove) of certain activities involving the creation or disposition of hazardous waste, can the NMED oppose these activities based on potential harm to our local environment or danger to surrounding populations?

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3. Is the NMED staffed and organized to prevent the disastrous contamination of Los Alamos similar to that resulting from the illegal activities of the DOE at Rocky Flats? Is it appropriate, in the opinion of the NMED that LANL proceed, as we have been told it has been doing, to start modification of CMR facilities and construction of new facilities expressly for the purpose of assuming production responsibilities for Plutonium production formerly held by Rocky Flats without the necessity of going through the permitting process? What is the legal basis for the State of New Mexico's authority to regulate (for environmental protection purposes) a Federal installation engaged in secret defense activities?

If you could promptly share any existing documentation bearing on the above questions, it would help enormously for us to focus our attention on the most important aspects of the CAB's assignment.

~~Hank Doneman, Chairman~~  
ER/WM Committee, CAB

Ms. Driscoll - we have some recent risk assessment appraisals from LANL on CMR expansion. Construction and staffing for Plutonium production seems to be going ahead already.

- can you shed any light on why LANL got contaminated & how they came to contaminate other parts of Los Alamos County in spite of DOE, EPA and NMED oversight?

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Hank