

General

Menice Manzanares, Chair
Northern New Mexico Citizens Advisory Board

June 16, 2000

George Chandler, Member

Re: David Gurule letter dated June 9, 2000

Menice: I have reviewed the letter from David that you sent to us June 11 with some other information, apparently in preparation for our next meeting. David's letter seems to be partly based on an outdated version of the by-laws, and partly on an interpretation of the SSAB charter that is not supported by a reading of the charter. It also promulgates a version of events that I think needs to be corrected.

Specifically, the NNM CAB by-laws do not require unanimous votes on DOE recommendations, and do not provide for minority reports. That was in the old by-laws. DOE needs to get a current version.

The SSAB charter is silent on the subject of voting rules. Each SSAB sets its own, and ours are in the by-laws.

The SSAB charter does set a 15 day limit for agenda notification, which is routinely violated by this CAB. Our agendas as published in the Federal Register are invariably generic and without detail on specific items, and the agendas mailed to members, while they contain details, invariably arrive within two or three days of the meeting. So if they didn't like this one for that reason, they shouldn't have liked any of the others either. We need to improve this, perhaps, but I cannot help but suspect that the DOE's careful technical review of this particular item may be driven more by a problem with the result of the vote than by genuine concern for the process.

The vice-Chair informed us at the April meeting that this item was brought before the CAB at the request of the DOE, and he told us that the DOE was looking for guidance with respect to the contract. The discussion we had was murky, there was no coherent presentation on behalf of the DOE so we could not really tell what they wanted. Nevertheless the CAB attempted to respond to the perceived request using the only mechanism the CAB has to do that, by a vote. Although perhaps the result of that vote cannot be considered an official recommendation because of the notice requirement, the mood of the CAB ought to be clearly discernible therefrom. In any event, the procedural failures here should be laid at the foot of the DOE, not the CAB as is implied by the hypertechnical tone of David's letter.

Because neither the CAB by-laws nor the SSAB charter provide any role for the CAB in selecting, hiring, or firing staff, that function is entirely up to the DOE, and in fact in at least some of the other SSAB's I'm familiar with, the DOE does it all. I think it's appropriate for the DOE to ask for an evaluation of the staff from the CAB, and I would be happy to contribute to that in an appropriate context with appropriate notice. Decisions about when or



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George Chandler, June 16, 2000

whether to terminate or extend particular contracts are outside our purview, and we should never have been asked for that in the first place.

I will add that I think it is extremely callous and unfair to put any person, employee or contractor, through this kind of a tortuous and ill-defined process, in public, to try to justify performance and keep a job or contract. I believe the contractor involved has been unnecessarily humiliated in public and I am embarrassed that this has happened on behalf of an organization of which I am a member. I hope that the DOE will get its act together on this issue and develop appropriate procedures to spare our contractors and our members from ever going through this again. I also recommend to you that at our next meeting the CAB apologize to the affected contractor for any part we may have had in his embarrassment.

Sincerely,

George Chandler

**Department of Energy
Charter for the Environmental Management
Site Specific Advisory Board**

1. Official Designation:

Environmental Management Site Specific Advisory Board

2. Objective, Scope of Activity, and Duties:

The Office of Environmental Management (EM) Site Specific Advisory Board will provide the Assistant Secretary for Environmental Management, and such other DOE officials as he shall designate, with policy information, advice, and recommendations concerning EM environmental restoration, waste management, and technology development activities. The EM Site Specific Advisory Board will provide input and recommendations on strategic decisions that impact future use, risk management, economic development, and budget prioritization activities. In addition, the Board will provide advice on any other EM projects which are assigned to the Board for review and advice.

The EM Site Specific Advisory Board will have the following duties:

- a. Advise the Department of Energy on the process, content, public participation, and other policy aspects of EM's environmental restoration, waste management, and technology development activities;
- b. Issue reports and recommendations;
- c. Recommend options to resolve difficult issues faced in the EM program, including site specific clean-up criteria, risk assessment, land use, priority setting, management effectiveness, cost/benefit analyses, and technological strategies for site waste management and disposal facilities.

3. Time Period Necessary for the Board to Carry Out Its Purpose:

Since the task of the Board is to advise EM on a succession of projects and issues, the time period required to carry out its purpose is continuing in nature.

4. Official to Whom this Board Reports:

This Board will report to the Assistant Secretary for Environmental Management, and to such other DOE officials as he shall designate.

5. Agency Responsible for Providing Necessary Support for the Board:

United States Department of Energy.

6. Description of Duties for Which the Board Is Responsible:

The duties of the Board are solely advisory and are fully stated in paragraph two above.

7. Estimated Annual Operating Expenses in Dollars and Person-Years:

The Department of Energy will provide resources sufficient to conduct its business as well as travel and subsistence (per diem) expenses for eligible members. The estimated annual cost is \$2.8 million and approximately 10 person-years.

8. Estimated Number and Frequency of Board Meetings:

The Board will meet approximately eight times per year at each of the sites represented on the Board. In addition, members of the Board at each site might be asked to designate a member to participate in an annual national meeting to discuss EM Site Specific Advisory Board issues.

9. Termination Date (if less than two years from the date of establishment of renewal):
Continuing.

10. Subcommittees:

To facilitate the functioning of the Board, subcommittees will be formed. The objective of the subcommittees will be to make recommendations to the EM Site Specific Advisory Board on matters concerning site plans and programs.

Subcommittees will be organized to focus on site specific concerns and issues impacting the various DOE sites with major EM programs.

11. Members:

2. Appointments shall be made for up to two years to achieve continuity in membership and to make use of the acquired knowledge and experience with the developing EM programs. Board membership shall reflect the full diversity of views in the affected community and region and be composed primarily of people who are directly affected by site clean-up activities. Members may include, but will not be limited to, interested stakeholders from local governments, Indian Tribes, environmental and civic groups, labor organizations, universities, waste management and environmental restoration firms, and other interested parties. Representatives from DOE, the Environmental Protection Agency, and State governments shall be considered ex-officio members of the board. By serving in ex-officio capacity, these representatives will have a seat at the table but will not have a vote on decisions. Selection and appointment of group members shall be accomplished using procedures designed to ensure a diverse board membership and a balance of viewpoints.

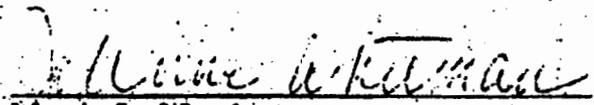
B. Approximate number of members: 350. This number is based on 15 to 30 persons for each of the proposed DOE sites.

12. Chair:

The Chair shall be appointed by the Deputy Assistant Secretary for Policy, Planning, and Budget, shall serve for a period of two years, and may be reappointed for additional terms.

This Charter for the Advisory Board above is hereby approved on:

Date: MAY 16 1996


Marcia L. Morris
Advisory Committee Management Officer

Date Filed: MAY 16 1996

BYLAWS

Northern New Mexico Citizens' Advisory Board on Environmental Management A U. S. Department of Energy Site-Specific Advisory Board for the Los Alamos National Laboratory

I. MISSION: The responsibility of the Northern New Mexico Citizens Advisory Board on Environmental Management is to provide meaningful opportunities for collaborative dialogue among the diverse multicultural communities of Northern New Mexico, the Department of Energy (DOE), the Los Alamos National Laboratory (LANL), and state and federal regulatory agencies, regarding environmental restoration and waste management activities of LANL and associated environmental issues. The Board ensures early ongoing community access to information (and its interpretation and implications) and dialogue that improves the quality of the decision-making process of DOE and LANL.

II. FUNCTIONS, SCOPE, AND ACCOUNTABILITY

A. Functions: The Board provides independent, advice and recommendations to the Department of Energy (DOE) on the environmental restoration and waste management activities of LANL and associated environmental issues. The function of the Board is to provide advice and recommendations concerning environmental restoration and waste management decisions at LANL.

B. Scope: The purview of the Board includes LANL environmental restoration and waste management operations and associated environmental issues:

1. The opportunity for the Board to discuss with DOE and the participating enforcement agencies their proposals and plans for such matters as facility expansions and closings, environmental projects, and the impact of environmental regulations;

2. Any aspects of environmental restoration and waste management issues related to all past, present, and future activities at LANL;

C. Accountability: The Board advises the DOE on behalf of the residents of Northern New Mexico. The Board will interact with the appropriate DOE decision makers. The Board may also respond to issues concerning environmental restoration or waste management activities and associated environmental issues raised by the public, federal, state, or local enforcement agencies.

1. The Board seeks a free and open two-way exchange of information and views between Board members and the participating agencies, with all are invited to speak and to listen.
2. Board members may request access to independent technical advice, staff, and training.
3. The Board will develop specific operating procedures and undergo requisite training to ensure that we will hear all views and use constructive methods for resolving conflict, making decisions, and dealing with differing viewpoints.
4. The Board will always remain accountable to the public and DOE and seek to promote multicultural community involvement. The Board will develop culturally appropriate procedures to ensure public participation in DOE's decision making processes regarding environmental restoration and waste management.
5. Meetings will be open to the public and the Board will give advance notice of a minimum of 15 days. Committee and Board meetings will be held on varying days and at varying times and in public locations to encourage

maximum public and Board participation.

6. The Board will always remain mindful of the various stakeholder interests represented on the Board. It will seek to ensure that all interested parties and stakeholders continue to be adequately and equitably represented.
7. The Board members will send all requests to the DOE Deputy Designated Federal Official to ensure a prompt response. The Deputy Designated Federal Official is responsible for tracking DOE responses to requests from the Board and ensuring the completeness of those responses.

III. MEMBERSHIP CATEGORIES, REQUIREMENTS, & TERMS

- A. **Membership:** The Board is a broadly constituted organization consisting of a diverse group of people representing the interests and concerns of Northern New Mexico residents as LANL's activities affect them.
 1. Members of the Board will be drawn from residents of the following counties: Los Alamos, Mora, Rio Arriba, Sandoval, San Miguel, Santa Fe, and Taos.
 2. The number of members will be 21, but in case of a vacancy, the Board may act with a lesser number until DOE fills such a vacancy.
 3. The Board membership will maintain a balance regarding gender, age, race/ethnicity, type of employment, neighborhood, expertise, income, educational levels and diverse viewpoints.
 4. Members may represent the stakeholder category within which DOE appointed them, but will not serve as formal representatives of any organizations with which they may be associated.
 5. Board members must personally participate in meetings and may not send

substitutes or proxies if they are unable to attend without prior written approval of the Deputy Designated Federal Official. Members will work with other members to present their concerns when absence is necessary.

B. Terms of Office: The Board membership is on a rotation schedule that maintains a balance between continuity and diversity inherent in the makeup of the Board and will encourage new individuals to participate.

1. Terms of office will be two years.
2. Members shall be appointed or reappointed to each two-year term, or removed from the Board, by the Secretary of Energy or by his or her designee, and may serve any number of terms.

C. Vacancies: When a vacancy exists, the Board may nominate a pool of at least three nominees within sixty (60) days to the DDFO (the Deputy Designated Federal Officer). Nominees should meet, as far as possible, the Board's existing stakeholder balance, diversity, and geographical distribution. The Chair and Vice Chair will question any Board member with three absences from any regularly scheduled meetings in any six-month period. The Board may recommend to the DDFO that the member be replaced.

D. DOE and other Ex-officio Participants:

1. The Deputy Designated Federal Officer represents the Department of Energy;
2. The Board requests the following agencies or offices to appoint one representative to serve as a Board ex-officio member;
 - a. The Environmental Protection Agency, Region VI Office;
 - b. The New Mexico Environment Department (NMED);
 - c. LANL.

3. Ex-officio members participate in Board deliberations but do not vote.
4. The Board may request that an agency replace an ex-officio representative for excessive absence or other cause.
5. The Board may request on either a temporary or permanent basis the participation of DOE's maintenance and operating contractor, major subcontractors, or any other entity to supply information or provide expertise as needed. Such entities, their agents or anyone else serving as a resource participant will be considered ex-officio members of the Board for a term established by the voting members.

IV. MEMBERSHIP RESPONSIBILITIES

A. Board Commitments: Board members make the following commitments:

1. To attend regular meetings, and receive training;
2. To review and comment on environmental restoration and waste management documents before the Board and submit timely recommendations to DOE, participating and enforcement agencies;
3. To be available for committee work between regular meetings, and participate fully in the affairs of the Board;
4. To respond to concerns and questions regarding environmental restoration and waste management issues raised by the public;
5. To work collaboratively and respectfully with other Board members in the best interests of both the Board and the public;
6. To accurately represent all matters before the Board;
7. To handle in a responsible manner information and materials provided by the agencies, particularly drafts developed for an agency's in-house use

that might have significant future revisions as part of the agency's working practices;

8. To establish an information distribution process to meet the diverse needs of the public regarding environmental restoration and waste management;
9. To share accordingly with the Board, any written communication with an individual, as a member of the Board;
10. To act for the Board or as its representative only with the majority vote of the Board;
11. To serve on at least one project and one procedural Committee or task force during any given six month period.
12. Any member of the Board may resign at any time if it will not be possible, for whatever reason, to fulfill the member's responsibilities and commitments to the Board. The resignation will be by written notice submitted to the Chair or DOE and, unless otherwise specified in the notice, will take effect upon delivery.

B. Ex-Officio Member's Commitments: The Board requests that ex-officio members made the following commitments:

1. To define and clearly communicate to the Board the respective decision making processes of the agencies they represent;
2. To provide timely access to information pertinent to environmental restoration, and waste management, associated environmental issues and related decision making at Los Alamos National Laboratory;
3. To inform the Board in a timely and proactive manner of agency processes, programs, projects, and activities pertinent to the Board's mission and purpose;

4. The Board requests that DOE respond to the Board recommendations to DOE within thirty (30) days, and explain the basis for DOE's decision and how DOE will implement in a reasonable and timely manner any recommendations that are accepted;
5. The Board requests that DOE designate an employee and one alternate to provide information and to assist the Board in administering its operations.

V. BOARD STRUCTURE

A. Chair and Vice Chair: The Board will elect, by majority vote, a Chair and a Vice Chair. The Chair and Vice Chair will seek to respect and represent diverse viewpoints. The Chair will support the Board in a balanced and unbiased manner, irrespective of any personal views on a particular issue and see that all Board members have the opportunity to express their views.

1. The Board will elect by majority vote the Chair and Vice Chair before September 30 of each year. The terms of the Chair and Vice Chair will be one year beginning October 1.
2. The Chair will serve as liaison with the staff and facilitator(s), assisting in the preparation of agendas, minutes of the meetings, and other necessary arrangements.
3. The Chair may draft and issue press releases and represent the work and positions of the Board within the following parameters:
 - a. The full board should approve press releases in advance;
 - b. The Board may delegate these media responsibilities on an ad hoc or any other appropriate basis.
4. The Chair certifies to the accuracy of all minutes.

5. The Chair signs the certification of the recommendation that the Board has passed by majority vote.
6. The Chair assures necessary administrative support for the Committees and task forces, and provides a liaison for their respective chairpersons when called upon to do so.
7. The Chair shall appoint members to Committees and task forces and ensure that the membership of the Committees and task forces reflects the diversity of the Board.
8. The Chair serves between regular meetings of the Board as contact for DOE as well as the participating and enforcement agencies.
9. The Vice Chair serves as the Chair in the absence or incapacity of the Chair.
10. The Chair and Vice Chair will have other duties as assigned by the Board.

B. Committees: The Board will establish its Committees at the beginning of each fiscal year to reflect the Board's approved work plan for that year. Each Committee will submit before October 1, an annual workplan for approval by the Board and DOE.

C. Other Committees and Task Forces: The Board may establish ad hoc Committees or task forces as it deems necessary.

D. Structure of Committees and Task Forces:

1. Membership on Committees will be on a volunteer basis but Board members must serve on at least one Committee.
2. Committee members may develop operating procedures consistent with these bylaws.
3. Committees may not directly submit recommendations to DOE. They are

solely responsible for producing draft proposals or information for the full Board. Before presenting a recommendation to the Board, the Committee should have passed by majority vote the recommendation.

4. The Committees will meet independently of the Board. If the meetings of the Committees are open to the public, they must hold them in public locations after appropriate notice.
5. If a written summary of the Committee meetings is prepared, the Committee will provide it to the Board.
6. Election of the Chair for the Committees will occur annually, or as necessitated by vacancies.
7. Any Committee may include non-Board members. The members of the public must be equal to or less than the number of Board members. However, non-Board members cannot vote or hold Committee leadership positions.

E. Work Sessions: Work sessions are defined as meetings of the Board including ex-officio members, at which official action may not be taken and need not be formally advertised.

VI. DECISION MAKING

A. Quorum: A quorum of the Board consists of a majority of the members of the Board.

B. Rules of Order:

1. The current edition of Roberts' Rules of Order governs the Board.
2. All decisions other than recommendations to the DOE are made by

majority vote of those members present and voting.

C. Requirements for Recommendations to the DOE or other Agencies:

1. Recommendations to the DOE or other agencies shall be passed by the unanimous vote of those members present and voting. In the event no unanimous agreement can be reached, the Chair shall appoint representatives of each viewpoint to prepare separate reports before the next meeting representing majority and minority viewpoints, and the Board may approve the final reports before submission to the DOE or other agency, but neither of these shall be represented as recommendations by the Board.
2. If an issue comes before the Board, the Chair may refer the issue to the appropriate Committee or create a special task force for the purpose. The Committee or task force will report at the next meeting for information, action or a date for final action.
3. Where possible, recommendations will be distributed in the Board mailing packet fifteen days before the meeting.
4. Any Committee may bring a draft recommendation to the Board for a first reading at any Board meeting.
5. At the following Board meeting, the Board will address the recommendation for the second reading. The Board may pass the recommendation at the second meeting.
6. Upon passage by the Board, all recommendations will be conveyed in writing to the appropriate agency and the recommendations will be recorded in the minutes. Any recommendations from the Board will require the signature of the Chair.

C. Administrative Decision Making:

1. Administrative functions of the Board may be delegated to staff persons or the Chair.
2. If the Board finds need to review or affirm specific decisions made under the authority delegated by this paragraph of the Bylaws, such affirmation will be expressed by a majority vote of the Board.

VII. ROLE OF THE FACILITATOR

A professional facilitator may be hired to help the Board organize its work, prepare an agenda based on consultations with the Board and the Chair, facilitate the Board meetings, and work with the staff to prepare the minutes of the meetings.

VIII. CONDUCT AND FORMAT OF MEETINGS

A. Meeting Format:

1. Public meetings will be printed in the Federal Register at least fifteen days before the meeting. Announcements will be made on the radio and in local newspapers.
2. The Board will meet as required, with the length of meetings determined by the agenda;
3. The Board will submit its agenda for the approval of the Deputy Designated Federal Official. In preparing the agenda, the Board obtains input from the participating and enforcement agencies, and the public;
4. Meetings will be open to the public; a section of the meeting room will be set aside for observers, and public comment is invited at appropriate times during a meeting.
 - a. There will be a fixed agenda time for public comment. Board

members

may not address the Board during the time set aside for public comment.

- b. The fixed time will be divided equally among the people who request to speak.
- c. Speakers who want to talk with the Board are expected to include their questions during their allotted time.
- d. Board members wishing to talk with the speakers are asked to hold these conversations during the break that follows the public comment period.
- e. Before a recommendation is made, the Board may invite members of the public to offer their input. The Board will determine in advance how much time they will allocate for public input.
- f. Members of the public may offer their comments in writing and them to the Chair or the facilitator.
- g. Time will be set aside for Board member comment during each meeting.

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- 5. Any meeting will be set up in terms of both the physical arrangements and the agenda to facilitate hearing and discussion;
- 6. Minutes of the meetings will be kept by an individual designated by the Chair, distributed to the Board members for their review and made available to the public. Each meeting agenda will include the opportunity for members to make revisions to the minutes of the previous meetings;
- 7. Any product of the Board such as policies, positions, reports, advice or recommendations given to DOE must be reviewed by the Board in final distribution form before distribution via the media and be placed in the

DOE public reading rooms and any other places deemed appropriate.

B. Conduct of Meetings:

1. The Board may utilize a neutral third party facilitator to assist it in accomplishing its mission; in all instances the facilitator will operate in a completely neutral, balanced, and fair manner;
2. Board members will show respect to each other and the public by avoiding personal attacks or derogatory comments. Board members should seek to err on the side of civility and provide apologies and forgiveness promptly when occasion arises.

IX. BUDGET

- A. Authority:** The Board will provide a proposal to the DDFO. Funding amounts will be determined yearly based on the Board's approved workplan and availability of funds. The DDFO retains the fiscal responsibility for the Board but may assign a fiscal agent acceptable to DOE.
- B. Compensation:** Board members will serve without compensation except in cases of extreme need, but they will arrange for reimbursement for direct expenses related to the work of the Board and meeting attendance.
- C. Travel Expenses:** Board members are required to obtain prior written approval from the Deputy Designated Federal Official for all travel plans. All meeting expenses must be submitted to the DDFO for reimbursement according to Federal guidelines.

X. EVALUATION

The Chair shall appoint a committee of Board members to conduct an annual evaluation

to assess how adequately it is representing stakeholder interests and meeting the needs of the public. The Board will also evaluate the responsiveness of DOE and the other participating and enforcement agencies. Not later than July, an Evaluation Committee will be formed to solicit public input on Board performance. The Evaluation Committee will report findings in August to the Board at the regular or an extraordinary meeting of the Board. The Board will help develop the criteria for the mutual evaluation. After Board approval, but no later than September 30, the report will be submitted to DOE, participating and enforcement agencies, state and federal regulators.

XI. CONFLICT OF INTEREST

- A. Definition:** Board members are subject to the same standards of conduct applicable to a full-time Federal employee. Board members are prohibited from personally and substantially participating as a Board member in any particular matter in which the Board member or the Board member's spouse, minor child, general partner, or employee has a financial interest. This restriction also applies if the Board member is negotiating or has any arrangement concerning prospective employment with any person or organization that has a financial interest in any particular matter before the Board.
- B. Enforcement of Conflict of Interest Policy:** Questions concerning conflict of interest shall be referred to the DDFO for resolution.
- C. Recusal:** If a Board member is aware of a conflict of interest, as defined above, the member shall immediately inform the DDFO and the Board of the interest and shall refrain from participating in discussions and recommendations in which a conflict or potential for conflict of interest exists.
- D. Principles of Conduct:** Board members shall abide by the following conflict of

interest principles:

1. Members shall refrain from any use of their memberships which is, or gives the appearance of being, motivated by the desire for private gain;
2. Members shall not use, either directly or indirectly for private gain, any inside information obtained as a result of Board or Committee service;
3. Members shall not use their positions in any way to coerce, or give the appearance of coercing, another person to provide a financial benefit to the member or any person with whom the member has family, business, or financial ties;
4. Members shall not knowingly receive or solicit from persons having business with the DOE anything of value as a gift, gratuity, loan, or favor while serving on the Board or in connection with such service.

XII. AMENDING THE BYLAWS

The Board shall have the power to alter, amend and repeal by majority vote these bylaws in ways consistent with the **Amended Charter of the Environmental Management Site-Specific Advisory Board**, the **Office of Environmental Management for the Site-Specific Advisory Board Guidance** and other applicable laws, regulations and guidelines. Any member of the public, the Board, or one of the Agencies may propose an amendment to the bylaws. However, to be considered by this Board, the proposed amendment must be sponsored by a Board member. The Board may consider and take action on the amendment to the bylaws at the meeting following the introduction of the proposed amendment. Amendments require the affirmative vote of the majority of the membership of the Board.

XIII. Adoption of the Bylaws

These bylaws will be effective upon the affirmative vote of the majority of the Board membership, execution by the Chair and the approval of DOE. All previous bylaws are hereby rescinded.

XIV. SUBORDINATION AND SEVERABILITY OF THE BYLAWS

If there arises a conflict between any provision of these Bylaws and federal statutes, the laws of the state of New Mexico, or federal or state regulatory authority, then the superseding law or regulation shall control. In the event that any provision of these bylaws is invalid, such invalidity shall not affect the remaining provisions of these bylaws that shall continue in full force and effect.

ADOPTED as AMENDED on: _____ (DATE)