



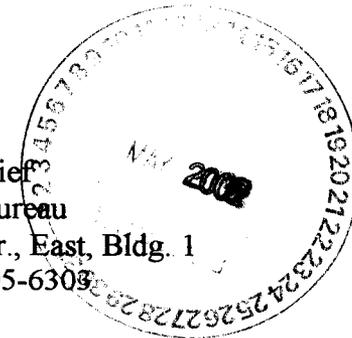
Permit
Los Alamos Study Group

Nuclear Disarmament • Environmental Protection • Social and Economic Justice

May 13, 2002

Peter Maggiore, Cabinet Secretary
New Mexico Environment Department
Harold Runnels Building
1190 South St. Francis Drive
Santa Fe, NM 87502-6110

James P. Bearzi, Chief
Hazardous Waste Bureau
2905 Rodeo Park Dr., East, Bldg. 1
Santa Fe, NM 87505-6309



Dear Secretary Maggiore and Mr. Bearzi:

The recent release of the corrective action order for Los Alamos National Laboratory (LANL) from your office, and the letter of intent for expedited cleanup which we understand you signed this week with the Department of Energy (DOE), has raised many concerns from our office.

The corrective action order contains no actual orders for corrective action, sets no site wide cleanup standards, fails to order cleanup for well-studied sites, and will continue to allow dumping at unpermitted disposal facilities. We wish to emphasize the need for public hearings on the corrective action order.

We are deeply concerned about the ramifications of the letter of intent and ask that you reconsider your agreement to this document that compromises the prospects for thorough cleanup at LANL.

It is distressing to us that often NMED has not responded to public inquiries and requests made about permitting and closure plans at LANL. In the future, we hope that you will keep us better informed on these matters.

We expect to provide NMED with more detailed comments about the letter of intent and corrective action order in the near future. A copy of our May 8th, 2002 press release regarding these issues is also enclosed for your information.

Sincerely,

Lydia Clark
Los Alamos Study Group

cc: Patricia Madrid, New Mexico Attorney General



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Los Alamos Study Group

Nuclear Disarmament • Environmental Protection • Social and Economic Justice
Press Advisory 5/8/02

Johnson administration Environment Department fails again to require Los Alamos cleanup; sets course for cleanup failure

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“Corrective action order” contains no order for corrective action; allows continued dumping at unpermitted hazardous/nuclear waste site
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Under the carefully-crafted public relations cover provided by the “order,” NMED Secretary Maggione meets privately with DOE top officials today in Washington to try to achieve pact on overall cleanup philosophy, decision-making process – and get more money for NMED

Contact: Greg Mello, Lydia Clark, or Blake Trask, 505-982-7747 or 505-577-8563

Concerns in Brief

Santa Fe – On May 2, the New Mexico Environment Department (NMED) issued a 253-page “corrective action order” (CAO) which sets forth a program of environmental studies at Los Alamos National Laboratory (LANL). The order was described by the NMED Secretary Pete Maggione and his leadership team as a major step forward [get] in environmental regulation at LANL. It is a major step, but the direction is not forward. In brief, this is why:

- The “corrective action order” (CAO) contains no orders or requirements for corrective action. It proposes no schedule by which cleanup decisions must be made. Although existing generic cleanup standards are mentioned, it does not propose or require any cleanup standards for the site. Instead, the CAO formalizes an arcane and opaque process in which cleanup cost and convenience will, despite “scientific” euphemisms, dominate essentially all cleanup decisions – which will be made separately for roughly two thousand contaminated sites. Future adoption of clear site-wide standards, which would conserve agency resources and provide clear guidelines for action, is all but ruled out.
- This order, if allowed to stand, would ensure that little cleanup ever takes place, while providing a “scientific” rationale for squandering scarce cleanup funds for years to come, long after DOE plans call for the availability of cleanup funds to drastically decline. While some of the research required is useful, the order ignores 15 years of prior research, conducted at a cost approaching \$700 million, in favor of a *de novo* approach that fails, *in every case*, to act on knowledge the agency already has, knowledge which is more than adequate to support cleanup requirements or detailed engineering and cost studies in many, if not most, cases.
- Instead of a paradigm which maximizes maximum reduction of real environmental risk for taxpayer dollars, the NMED, in this order, formalizes a strategy of using cleanup funds to conduct research and risk assessment. In effect, the agency is here acting much like a corporate consulting firm, vetting and assisting the regulated party in proving that no cleanup will ever be necessary, given “long-term stewardship” and “institutional controls” (aka fences), instead of using the hundreds of millions of dollars in cleanup funds available to actually reduce risks. In effect, this order blesses a “ritual” cleanup paradigm, based on pseudoscientific procedures designed to mask the corporate

economic interests of the University of California, a paradigm which substitutes “virtual” cleanup – submitting paper studies – for real cleanup based on genuine real scientific analysis of how risks might be best reduced with the funds available. The hidden assumption informing the analysis is that no cleanup will, in most cases, ever be required. The analysis proposed will cost, in many cases, more than cleanup would cost, continuing *and legitimizing* a long trend at the site.

- The CAO does not require formal closure of the unpermitted hazardous waste disposal sites in LANL’s Technical Area (TA) - 54. One of these sites (Area G) *continues to accept nuclear waste* for disposal in large quantities, estimated by the Department of Energy (DOE) as 19 million cubic feet of radioactive waste over the next 70 years. The Attorney General of New Mexico has found this long-standing disposal to be illegal, but, like NMED, she has chosen to not enforce the law for political reasons.
- Rather than comprising an enforcement action, the CAO is, in content and in effect, a substantial part of LANL’s operating permit under the Resource Conservation and Recovery Act (RCRA). As such it would normally be subject to public notice and hearings prior to approval, in a process designed to provide a formal record for future enforcement and appeal. The public participation process initiated by the CAO, by contrast: a) is voluntary for all parties; b) being completely informal, provides no basis or record on which to appeal; c) can be terminated or abridged (or continued for public relations purposes only) at any time prior to the actual cleanup decisions, which are in all cases postponed into the indefinite future. The main purpose of issuing the CAO late in the Johnson Administration, which is not noted for its environmental orientation, appears to side-step permitting requirements in favor of a completely informal process which will cut out the public from all substantive deliberation and provide complete discretion for the agency and hence for the DOE.
- Only four days after the CAO was issued, the decision-making process it only *appears* to embody is already been superceded by a far more substantive set of private meetings with top DOE officials. NMED expects to receive at least \$400,000 annually from DOE (in addition to other, still greater, sums that NMED already receives) in return for NMED’s acquiescence to DOE’s “cleanup” philosophy, its overall cleanup goals (which include minimizing actual cleanup obligations and costs while supporting the nuclear weapons program), its secret decision-making structure, and more.

Further analysis is available upon request, along with draft agreement under discussion in Washington today.

ENDS