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From: jimmckay@mckay-assoc.net [mailto:jimmckay@mckay-assoc.net]

Sent: Monday, February 11, 2013 1:51 PM

To: Kieling, John, NMENV; Moats, William, NMENV

Subject: MWL Comment

Hello,

My name is Jim McKay. I am submitting what follows, for the purpose of consideration by NMED Hazardous Waste Division, as amongst the body of MWL public comments for the period to end Feb. 11, 2013.

I make "my case" in 2 parts:

I: My request for specific, immediate NMED action and policy with regard to (WRT) the MWL.

II: My rationale for this advocacy.

...

PART I: My request for immediate NMED official action and policy WRT the MWL

I.a: Extend public comment period, duration os which must extend until PART I.b is completed.

I.b: Conduct public hearing(s), as necessary, in the near future. I define: necessary, as "all it takes" to fulfill the following:

I.b.1: Conduct a thorough review of the existing public record, with WRT *everything* accepted as fact, as included in this record, it's spokespeople (including those quoted in public media and represented as: expert). This record needs correction from the

beginning: eg. pre-1982.

I.b.2: Above mentioned (1.b.1) public record to be compared & corrected against EPA FOIA documents, obtained by Dave McCoy (Citizen Action), which explicitly contradict assumptions within the current record, in near saturating fashion, going back at minimum, to 1996.

I.b.3: Include a thoroughly identified, multi-disciplinary team of independent experts in this review. Over the course of the current factually non-relevant record, many have been eliminated from having their findings entered into the official record. A beginning would be to cull, from Mr. McCoy's FOIA documents, those who fought for their findings/statements over these many years be considered, but were ignored. These documents show a vast, representative, "story changing" body of findings... all not only ignored within current public record, but replaced by utter fallacy.

Another group to consider is the various NMED officials/scientists who also worked on the MWL over the years, who were fired (and in some cases

publicly ridiculed) for expressing findings also subsequently ignored, but now demonstrably true.

- 1.b.4: A brief (non-comprehensive) but illuminating summary of what has been included in current public record, it's fallacy, and implication(s) into the future, should these fallacies persist as

official:

- 1.b.4.a: It is impossible, for the current monitoring wells to produce data in any way representative of contaminants from the MWL which may have "migrated" to the water table below.

This is... certain.

- 1.b.4.b: Incorrectly allowing RCRA definition of the MWL as a SWMU. RCRA explicitly defines: Regulated Unit, as a dump into which contaminants were deposited after 1982.

Sandia's MWL deposited

contaminants into the MWL well after 1982. As you (NMED) well know, the rigor/standards/detail required under RCRA for all aspects of characterization/monitoring/cleanup are far more rigorous under the Regulated Unit designation.

(*)

This needs to be corrected.

- 1.b.4.c: Fully acknowledge the mature, state of the art available technology by which many facilities generally comparable to the MWL have been safely excavated, and contaminants removed. Many statements, over many years, by many official and non-official-but-designated-spokespeople have said explicitly that excavation is a non-option, because of public safety concerns having to do with airborne particles from this endeavor threatening the public. This is simply, false.

(**)

- 1.b.4.d: Conduct Vadose zone sampling down to the water table, comprehensively testing for ALL known (highly toxic...

deadly) contaminants, and

likely contaminants. Likely means, knowing Sandia has said much of their record cataloguing what was "dumped" into the MWL, was lost and/or destroyed, nevertheless the processes engaged in are known, and the required toxic constituents for these processes are known.

Let's identify those of greatest concern, and look for them.

The Current public record shows investigation of the Vadose zone below the MWL has been sampled (record is contradictory) no more

then +/- half way down to the water table, possibly only 50 ft.

We know factually that, contrary to publicized official and/or sanctioned statements saying Tritium concentrations have decreased, Tritium concentration have in fact increased and will continue to do so, well into the future: 1000's of years into the future, literally.

(***)

The toxicity of tritium should need no explanation here.

I.c: Purposefully organize and fund an INDEPENDENT review of all that has transpired to date WRT all MWL critical considerations. Incorporate all the notions, principles, findings of fact and people both explicitly and implicitly suggested in I.a >> I.b, in entirety. Incorporate also the very well known and credible local experts, all with direct experience with the MWL, who spoke at the Wed, February meeting sponsored by Rey Garduno and NMED, at the Veteran's Memorial Center in Albuquerque.
(****)

The transcript from that meeting is attached.

II: My rationale for this advocacy.

II.a. Brief background, high lighting my notions underlying by which I've become persuaded that non-trivial water contamination "events" are/will be far more consequential into the immediate future, then the mobilization/activity/focus/purposefulness of various City, County, State and Federal institutions assumed to be responsible for all matters of planning, oversight, cleanup and general water need assessment... in totality, demonstrate.

I began focused investigation and subsequent commitment to local water matters just over a year ago. This began for me in seeing ABQ Journal headlines/articles, making very very generalized statements about the Kirtland jet fuel "spill". I began attending KAFB's quarterly CAB meetings at Caesar Chavez Community Center. I "looked into it" because, over the years (I'm 57) I have lived in communities hosting military bases responsible for very large contamination events. And, in observing through media (decades ago), the inaction was... startling. In the case of Treasure Island Naval Base, DOD argued for (at least) 10 years after that base closure, that they were not responsible for cleanup.

I have since found out (in last year) that SHAW (KAFB's contractor) "signed up" within the recent past, to begin a "Performance Based Contract" review of the Treasure Island "event". I'd point out that spill was "discovered" when I was in High School, and just now is meager action beginning to simply... characterize.

II.a.1: To further focus in, or bring "weight" to my point:
in the course of

my activities this past year, I have studied major DOD (mostly military base) toxic spill (pollution events).

There is a huge

backlog of major "events". Currently, the Air Force alone has 42 bases on the Super Fund list. And, clean up efforts at all of them

are progressing similar to the KAFB spill:

- a) ineffectually slow, while official statements imply otherwise.
- b) Repeated statements of intention to thoroughly characterize, when scrutinized (e.g.: compare to EPA, RCRA and CLUEIN.ORG explicit legal guidelines) reveal... at best,

+/- 10% of what state

of the art science/procedures require for meaningful characterization has been accomplished.

Meaningful "means":

thoroughness in extent, saturation, rate of pollutant migration sufficient to understand the systemic quantities/qualities as a whole. If the "event" is measured/understood minimally, it is utterly *impossible* to craft a cleanup plan, because deliberate ignorance of what/how much there is to "clean up" leads to persistence of contaminants ignored.

This "minimized" characterization process seems to be the norm. And the extended duration required simply for minimal (non representative) characterization, on most of the military super fund sites, turns into decades when the job could/should be completed in a few short years.

We see this now with the Kirtland spill, and the costs/effort/resources for cleanup expand geometrically as extent of contamination increases wide and deep.

- c) This has happened again and again, over many decades, at (or under) a very troublingly large number of US military sites.

(*****)

- d) This "pattern" is being repeated, in this entire process addressed here: The MWL LTMMMP, and fallacious data and monitoring on the record to date, in support of ineffectual minimalist non-cleanup.

SUMMARY: These are not isolated issues of "fooling ourselves" about both the reality (how threatening, by what contaminants, projecting reliably into the future both persistence and MCL(s) of very very harmful substances, to human health.

II.b: We... various regions, the US, and much of the globe... is finding expected and assumed "always will be there" water supplies, increasingly constrained. We are running out, we are planning... largely guided by assumptions made decades ago, ignoring the vast increase in population (so many more people to provide water for) and... as we are seeing convincingly here in NM, persistent and increasing drought conditions going backward (the past) and forward (the future). We are seeing vast areas of the US's most relied upon and productive farmland, increasingly losing huge portions of annual yield, to drought (lack of available water).

II.c: Here in ABQ, this Aquifer with which we've been gifted is pretty much much all we got... both now, and into the future. It's expected yield

has been diminished by investigation in recent decades, displacing the assumption it's vast depth was all high quality water:

we know now, that

"brackish" concentrations increase going down, and that our water table's productive (healthy) availability is far less than assumed.

II.d: ABQ is a mile high city... there is no more water on the way. Colorado is now contemplating "cutting off" the continental pipe, long assumed as a major source of much of the state's water (Chama was conceived, and future supplies relied upon estimates). Colorado is doing this, because their water supply, too... is now realized to be constrained into the future, by the same climate, demographic and total-volume-available constraints New Mexico is facing.

SUMMARY: The value of, and reliance upon water in this Aquifer of ours, as I see it, needs to be newly considered and quantified, given what so much of our science, knowledge and demographics are so plainly telling us.

II.e: We... locally and nationally, are and have been these recent years, scrambling to find cash through the "channels" as they've existed for a long time. But, things aren't working all that well, and this "stash of cash"... allotted for attending to the health of of water, is not... showing up. It's not showing up for the KAFB spill, for the other Air Force Super Fund sites, it is in fact diminishing NMED's budget and competent human resources available to them, for these very large and complex tasks.

Yet, the vast amounts of \$\$ allocated to the military and DOD (Sandia) labs, largely as a proportion of budgeted priorities, continues about as it has, for decades.

The activities at these sites similarly seem to be "assumed" as of value commensurate with the proportion of available \$\$ allocated to so many long per siting projects. However, seems to me that a worthwhile reconsideration of the proportions of US tax \$\$, divided up for what, is in good order. When it's all said and done, there's not an awful lot out there in the world we all accept (in the habit of) as "valuable", which will retain that value, if safe/clean water available for given populations becomes constrained.

II.f: SUMMARY: Our public is put in jeopardy now, and more so in the future, by assuming (pretending?) our mostly out-of-public view custodianship of our available water, is cared for... reliably. It... matters.

It's very clear, locally... the KAFB spill AND this Sandia MWL LTMMP and the data by which policy seems on "automatic pilot" to allow what we know is in there, and which... by the laws of gravity/chemistry and all, guaranteed to persist and expand...

At some point, we at least have to get honest about what these toxic

events portend for our water supply's health. It is impossible to do so, while playing "let's pretend" with the sincerity and integrity with which we assess contaminants certain to have major health consequence in the future, for many many people. anteed to get very sick, should this MWL be allowed to go into LTMP, as is... essentially, it is fraudulently defined.

General Summary: These issues, really... are for everyone that lives her now, and will live here going forward. We're told by our leaders we are a "Nation of laws" in military matters relating national security. The US, now... has spent somewhere over \$8 trillion in these endeavors.

Sandia and Kirtland are amongst the institutions being financed by all this money. I would hope, sometime... the sooner the better, as citizens here, intelligent and demanding of truthful facts, we somehow find a way to speak up and express as a very common sense recognition of value, that our water is something... by virtue of more constrained supply and quality threatened by the momentum of decade old habit... that we can re-think priorities, and the portion of public resources devoted to water increases in mass and focused determination.

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Footnotes (all taken from: Feb 6_MWL-PubForum_Transcript.pdf, attached to email and posted on NMED web site):

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Dr. Steward Dinwiddie
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7 I have a history with this site going
8 back to 1993 when I was with the Hazardous Waste Bureau in
9 Santa Fe. I ended up being promoted to the program
10 manager, and I wrote the nasty NOD declaring it
11 insufficient for their monitoring plan, for their
12 corrective measures study. And I also told them that the
13 unit is a regulated unit under the law because it was in
14 operation in 1982 receiving hazardous waste and continued
15 to operate until December of 1988.
16 In September of 186, it had not filed the
17 necessary paperwork with the U.S. EPA or the New Mexico
18 Environment Department to retain interim status. Interim
19 status is statutory. Once a law or regulation is passed
20 bringing that unit under RCRA, the Resource Conservation
21 and Recovery Act, it is interim status.
22 It has -- what we call a "drop-dead date" that
23 they have to file a Part A declaring hazardous waste
24 operations on that site. Sandia failed to do so, so it
25 lost interim status. Because it lost interim status and

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1 was a regulated unit receiving waste after the effective
2 date for landfills, it must then close under 264.
3 And the difference between interim status closure
4 is little or no chance of release from the unit under
5 interim status, or under 264, which is the permitted unit,
6 absolutely no chance of release. I'm sorry. There's been
7 releases from this unit.

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Dr. Eric Nutall
page 64.

<beg quote>

22 So there is a list of of 100 radioactive and
23 carcinogenic organics, chlorinated solvents to be
24 specific, on that list. That list is available. I'm sure
25 it's in the WERC report that you can get from one of the
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1 repositories. I can assure you of the toxicity of those
2 materials. Definitely, a highly-toxic situation.

3 The argument - - two arguments that Sandia made
4 with regard to discussions with the panel that was doing
5 the review was that there was no location for the mixed
6 waste. It couldn't be put anywhere. There were certain
7 components that could not be put anywhere.

8 I happened to know the director at that time for
9 WIPP. I spoke with her. She's in the headquarters in the
10 DOE. She assured me that there were locations between
11 WIPP and the facility up in Utah in Salt Lake that could
12 handle all of the mixed waste that's out there at the
13 mixed waste land site. So that was a bogus argument.

14 The second argument that they put forth was that
15 the radioactivity and the material out there was too
16 dangerous to be excavated. Bruce referred to that.
17 That's bogus. Up at INEL, up in Idaho, they have removed
18 much higher levels and much more extensive. This is only
19 2.6 acres 20-foot deep of material. And that has been
20 done in a variety of ways. We won't go into the details.
21 Some of it's robotic.

22 We have tremendous instrumentation now and
23 ability to measure radioactivity at very low levels and
24 really no need to expose people to extraordinary levels of
25 radiation. So that's a bogus argument.

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1 The arguments that they put forth at that time
2 that there was no place to put the waste and that it was
3 too dangerous to handle are both bogus at this point in
4 time. So the conclusion of the committee in which I wrote
5 some of the words, and some of the words were used here,

6 was the idea of eminent danger.

7 Well, one of the concerns was in using that word,
8 and we had a different interpretation of that, was
9 tomorrow is somebody in Albuquerque going to drink some water
10 that's radioactive, and that's not going to happen.
11 That's not tomorrow, but it is eminent. It definitely is
12 without question going to hit the groundwater.

Paul Robinson

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21 And I want to talk about a slightly
22 different part of the problem at the mixed waste landfill,
23 and that is the lack of monitoring in the vadose zone
24 between the surface and the groundwater table. There is
25 about 450 feet of unsaturated zone between the surface and
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1 the groundwater table. And at the mixed waste landfill
2 the deepest soil borings for identification of
3 contaminants are 50 feet. So there's 400 feet of
4 unmonitored area and the Long-Term Monitoring
5 and Maintenance Plan should be expanded to monitor the vadose
6 zone for organics and metals and radionuclides.

Dr. Eric Nutal (See Bruce Thompson quote below)

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3 I did want to correct one point, too, then go
4 on and talk a little bit about the contamination out
5 there. Bruce had mentioned that tritium was an important
6 species, and it is. It's created water, and it's mobile.
7 But there's a slight correction. It does indeed have a
8 12.3 half-life, but today, the concentration of tritium at
9 the mixed waste land site is 10 times what it was a decade
10 ago and down to greater depths. It has not gone away.

Bruce Thompson

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8 The resolution says that the Board found that the
9 mixed waste landfill does not pose an eminent threat that
10 excavating it at this time, 10 years ago, would be a very
11 substantial occupational risk as well as a risk to the 12publicby--
throughdust,airbornecontamination,and
13 airborne release of volatile radioactive constituents,
14 principally tritium.

Attached transcript titled:

Feb 6_MWL-PubForum_Transcript.pdf

See following link for reference to list of current US Military Superfund sites:

<http://veteransinfo.org/epa.html>

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Kind Regards,
Jim McKay
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"There is the truth, then... there is everything else."

Some guy