PUBLIC COMMENT AND QUESTIONS for RCLC Board Meeting Mar.1, 2109

I want to thank the Board and Mr. Eric Vasquez very much for holding the Jan. workshop in which stakeholder members of the public were able to be a part of the conversation. The meeting was skillfully and exceptionally well-organized and run. The icebreaking and lightening up moments were extremely helpful., I think, especially for those of us who aren't normally a part of the conversation.

Following up on that meeting, we have several questions and requests for the Board.

Our question:
1. We are wondering if there is a recap of the meeting available with the notes taken by excellent facilitators, Laura Durbin and Blanca Surgeon of the Rural Communities Assistance Corporation on the large sheets of paper?

We also greatly appreciate Mr. Vasquez's statement about removing the LANL acronym from the name of the coalition because it might give a perception that LANL was somehow a part of the coalition. I didn't recall his exact wording, but the Los Alamos Daily monitor quoted him as saying, "It's not supposed to be a LANL entity..... It isn't...". "It's the community's voice."

Mr. Vasquez's statement relates to our concerns with the JPA, Federal Legislative Priorities, and Work Plan Proposals. We feel that all of the Coalition documents should reflect Mr. Vasquez's statement. This is why we asked that the Board specifically define "LANL missions" and "mission diversification." Especially with regard to the JPA in *Recitals.Whereas # 4, "the Parties share a common interest in assuring that LANL's missions remain sustainable and diversified, ...

and in
*Agreements.
A.(i)promotion of new missions for LANL that the citizens of the Coalition Members support;
and A. (ii)advocacy of long term stable funding of LANL missions.

Our questions:
1. Has the Board had time to give thought as to how our request to specifically define LANL Missions can be addressed?

2. By what process will the nine coalition communities be informed when the draft JPA is ready for review?

3. How much time will be allotted for review?
For your review and records, I have brought LANL FY 2019 Congressional Budget Request table chart with NNSA Nuclear Weapons Budget Request analysis compiled by Nuclear Watch New Mexico. Nuke Watch is listed and linked on the coalition website under "Related Links. NM Organizations Involved in Nuclear Power and Safety." I thought the Board might find these to be useful for identifying and listing the LANL missions the members support.
Suzie,

Back in September 2018, the CAB approved a Recommendation to suspend DOE Order 140.1 pending further review and evaluation. Attached is a copy of that action which was sent to Doug Hintze by the Board and forwarded to DOE Sec Perry by our Senators Heinrich and Udall. The Recommendation contains an extensive description and critique of the Order. It was apparent from the public hearing in ABQ the other day that the questions raised in our recommendation and have not really been addressed or answered. The DOE reps present claimed that really nothing had changed, while the DNFSB Board members highlighted the inconsistencies between the plain meaning of the Order and DOE claims.

Bottom line is that we continue to believe that a moratorium on the order is still in order (to coin a phrase). There are too many open questions that still haven’t been answered. Principal among them is the status of WIPP: Does it fall within DNFSB ambit or not? One of the influential citizens in Carlsbad Dr. Heaton, who advises the Mayor on WIPP, insisted that DNFSB should remain. It’s good that the north and south of NM are of one mind.

Feel free to circulate our Recommendation to interested individuals and groups, such as the RCLC. It is a bit surprising that, as you say, the members do not seem to be aware of the issue. Perhaps a joint meeting of some kind would be appropriate.

All the best,

Dr. Stan Riveles

Chair, NNM CAB
| Nuclear Counterterrorism and Incident Response | 271,881 | 270,035 | 319,185 | 18.2% |
| Legacy Contractor Pensions | 83,208 | 82,643 | 28,640 | -65.3% |

### Naval Reactors
(Reactors in nuclear-powered submarines and aircraft carriers)

| Naval Reactors | 1,419,792 | 1,410,455 | 1,788,618 | 26.8% |

### Federal Salaries and Expenses

| Federal Salaries and Expenses | 387,366 | 384,736 | 422,529 | 9.8% |

### Total NNSA

| Total NNSA | 12,927,635 | 12,922,786 | 15,091,050 | 16.8% |

### Environmental Management

(All numbers in thousands of US dollars)

<table>
<thead>
<tr>
<th>Environmental Management</th>
<th>FY 2017</th>
<th>FY2018</th>
<th>FY2019</th>
<th>FY19-FY18</th>
</tr>
</thead>
<tbody>
<tr>
<td>FY 2017</td>
<td>FY2018</td>
<td>Annualized CR</td>
<td>Request</td>
<td>+%</td>
</tr>
<tr>
<td>Environmental Management</td>
<td>6,418,908</td>
<td>6,376,728</td>
<td>6,601,217</td>
<td>3.4%</td>
</tr>
</tbody>
</table>

| Defense Environmental Cleanup | 5,405,000 | 5,368,298 | 5,630,217 | 4.9% |
| Hanford Site Total | 839,760 | 834,057 | 658,171 | -21.1% |
| Office of River Protection (Also at Hanford) | 1,499,965 | 1,489,779 | 1,438,513 | -3.4% |
| Idaho National Laboratory Total | 382,088 | 379,493 | 349,226 | -8.0% |
| Savannah River Site Total | 2,233,429 | 1,225,054 | 1,472,823 | 20.2% |
| Oak Ridge Total | 263,219 | 261,432 | 226,206 | -13.5% |
| Waste Isolation Pilot Plant | 292,720 | 290,732 | 396,907 | 36.5% |
| Los Alamos National Laboratory | 194,000 | 192,683 | 191,629 | -0.5% |
| Nevada | 62,176 | 61,754 | 60,136 | -2.6% |

| Defense Uranium Enrichment Decontamination and Decommissioning | 563,000 | 559,177 | 0 | -100.0% |

| Non-Defense Environmental Cleanup | 247,000 | 245,324 | 218,400 | -11.0% |

| Uranium Enrichment Decontamination and Decommissioning Fund | 768,324 | 763,106 | 752,749 | -1.4% |

### Energy and Water Development

(All numbers in thousands of US dollars)

<table>
<thead>
<tr>
<th>Energy and Water Development</th>
<th>FY 2017</th>
<th>FY2018</th>
<th>FY2019</th>
<th>FY19-FY18</th>
</tr>
</thead>
<tbody>
<tr>
<td>FY 2017</td>
<td>FY2018</td>
<td>Annualized CR</td>
<td>Request</td>
<td>+%</td>
</tr>
<tr>
<td>Energy and Water Development Total</td>
<td>10,953,295</td>
<td>10,926,999</td>
<td>9,064,504</td>
<td>-20.5%</td>
</tr>
</tbody>
</table>

| Energy Programs | Energy Efficiency and Renewable Energy | 3,279,988 | 3,277,197 | 1,609,809 | -103.6% |
| Electricity Delivery and Energy Reliability | 2,034,582 | 2,040,249 | 695,610 | -65.9% |
| Electricity Delivery | 229,585 | 228,026 | 0 | -100.0% |
| Cybersecurity, Energy Security, and Emergency Respo | 0 | 0 | 61,309 | new |
| Nuclear Energy | 1,015,821 | 1,008,922 | 757,090 | -25.0% |

| Fossil Energy Programs | Fossil Energy Research and Development | 662,261 | 667,882 | 697,175 | 4.4% |
| Strategic Petroleum Reserve | 421,154 | 425,093 | 502,070 | 18.1% |
| 222,605 | 221,485 | 175,105 | -20.9% |

### Advanced Research Projects Agency - Energy

| Advanced Research Projects Agency - Energy | 305,245 | 303,172 | 0 | -100.0% |

Sources: DOE FY 2019 Congressional Budget Justification, Volumes 1 & 5

May 16, 2018

Nuclear Watch New Mexico * 903 W. Alameda #325 * Santa Fe, NM 87501
505/989-7342 * www.nukewatch.org * Info@nukewatch.org
## Nuclear Watch New Mexico

### Department of Energy FY 2019 Nuclear Weapons Budget Request

**National Nuclear Security Administration** (All numbers in thousands of US dollars)

<table>
<thead>
<tr>
<th></th>
<th>FY 2017 Enacted</th>
<th>FY 2018 Annualized CR</th>
<th>FY 2019 Request</th>
<th>FY19-FY18 +%</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Total NNSA Weapons Activities</strong></td>
<td>9,240,739</td>
<td>9,241,675</td>
<td>11,017,078</td>
<td>19.2%</td>
</tr>
<tr>
<td><strong>Directed Stockpile Work</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(The core hands-on nuclear weapons work)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Life Extension Programs</td>
<td>1,340,341</td>
<td>1,331,238</td>
<td>1,919,988</td>
<td>44.2%</td>
</tr>
<tr>
<td>W80-4 Life Extension Program</td>
<td>220,253</td>
<td>218,757</td>
<td>654,766</td>
<td>199.3%</td>
</tr>
<tr>
<td>IW1</td>
<td>0</td>
<td>0</td>
<td>53,000</td>
<td>new</td>
</tr>
<tr>
<td>Stockpile Systems</td>
<td>443,676</td>
<td>440,663</td>
<td>619,482</td>
<td>40.6%</td>
</tr>
<tr>
<td>Weapons Dismantlement and Disposition</td>
<td>56,000</td>
<td>55,620</td>
<td>56,000</td>
<td>0.7%</td>
</tr>
<tr>
<td>Stockpile Services</td>
<td>890,173</td>
<td>884,128</td>
<td>1,068,363</td>
<td>20.8%</td>
</tr>
<tr>
<td>Strategic Materials</td>
<td>577,837</td>
<td>573,912</td>
<td>1,002,372</td>
<td>74.7%</td>
</tr>
<tr>
<td>Plutonium Sustainment</td>
<td>184,970</td>
<td>183,714</td>
<td>361,282</td>
<td>96.7%</td>
</tr>
<tr>
<td><strong>Research, Development, Test and Evaluation</strong></td>
<td>1,842,230</td>
<td>1,829,721</td>
<td>1,995,393</td>
<td>9.1%</td>
</tr>
<tr>
<td>Science (Provide assessments of weapon performance)</td>
<td>436,500</td>
<td>433,537</td>
<td>564,860</td>
<td>30.3%</td>
</tr>
<tr>
<td>Enhanced Capabilities for Subcritical Experiments</td>
<td>0</td>
<td>0</td>
<td>117,000</td>
<td>new</td>
</tr>
<tr>
<td><strong>Engineering</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(Tools and capabilities necessary to maintain the stockpile)</td>
<td>132,482</td>
<td>131,582</td>
<td>211,367</td>
<td>60.6%</td>
</tr>
<tr>
<td>Inertial Confinement Fusion Ignition &amp; High Yield (Validation of nuclear weapons design codes)</td>
<td>522,959</td>
<td>519,408</td>
<td>418,927</td>
<td>-19.3%</td>
</tr>
<tr>
<td>Advanced Simulation and Computing Campaign (Computer simulation of nuclear explosions)</td>
<td>663,184</td>
<td>658,680</td>
<td>703,401</td>
<td>6.8%</td>
</tr>
<tr>
<td>Advanced Manufacturing Development</td>
<td>87,105</td>
<td>86,514</td>
<td>96,838</td>
<td>11.9%</td>
</tr>
<tr>
<td><strong>Infrastructure and Operations</strong></td>
<td>2,808,363</td>
<td>2,789,290</td>
<td>3,002,736</td>
<td>7.7%</td>
</tr>
<tr>
<td>Total Operating</td>
<td>2,001,148</td>
<td>1,987,558</td>
<td>1,911,688</td>
<td>-3.8%</td>
</tr>
<tr>
<td>Construction</td>
<td>807,215</td>
<td>801,732</td>
<td>1,091,048</td>
<td>36.1%</td>
</tr>
<tr>
<td>Uranium Processing Facility, Y-12</td>
<td>575,000</td>
<td>663,000</td>
<td>703,000</td>
<td>6.0%</td>
</tr>
<tr>
<td>Chemistry and Metallurgy Research Replacement Project, LANL</td>
<td>150,615</td>
<td>180,900</td>
<td>235,095</td>
<td>30.0%</td>
</tr>
<tr>
<td><strong>Secure Transportation Asset</strong></td>
<td>248,889</td>
<td>247,199</td>
<td>278,639</td>
<td>12.7%</td>
</tr>
<tr>
<td><strong>Defense Nuclear Security (guards, guns, and gates)</strong></td>
<td>685,500</td>
<td>680,845</td>
<td>690,638</td>
<td>1.4%</td>
</tr>
<tr>
<td><strong>IT &amp; Cybersecurity</strong></td>
<td>176,592</td>
<td>175,393</td>
<td>221,175</td>
<td>26.1%</td>
</tr>
<tr>
<td><strong>Legacy Contractor Pensions</strong></td>
<td>248,000</td>
<td>247,000</td>
<td>162,000</td>
<td>-34.4%</td>
</tr>
</tbody>
</table>

### Defense Nuclear Nonproliferation

<table>
<thead>
<tr>
<th></th>
<th>FY 2017 Enacted</th>
<th>FY 2018 Annualized CR</th>
<th>FY 2019 Request</th>
<th>FY19-FY18 +%</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Defense Nuclear Nonproliferation</strong></td>
<td>1,879,738</td>
<td>1,885,920</td>
<td>1,862,825</td>
<td>-1.2%</td>
</tr>
<tr>
<td>Material Management and Minimization</td>
<td>288,350</td>
<td>286,391</td>
<td>332,094</td>
<td>16.0%</td>
</tr>
<tr>
<td>Global Material Security</td>
<td>367,108</td>
<td>364,615</td>
<td>337,108</td>
<td>-7.5%</td>
</tr>
<tr>
<td>Nonproliferation and Arms Control</td>
<td>124,703</td>
<td>123,856</td>
<td>129,703</td>
<td>4.7%</td>
</tr>
<tr>
<td>Defense nuclear nonproliferation R&amp;D</td>
<td>469,750</td>
<td>466,560</td>
<td>456,095</td>
<td>-2.2%</td>
</tr>
<tr>
<td>Nonproliferation Construction</td>
<td>335,000</td>
<td>332,725</td>
<td>279,000</td>
<td>-16.1%</td>
</tr>
<tr>
<td>(NNSA is terminating the boondoggle MOX program in favor of diluting plutonium and disposing at the WIPP facility)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mixed Oxide (MOX) Fuel Fabrication Facility</td>
<td>335,000</td>
<td>332,725</td>
<td>220,000</td>
<td>-33.9%</td>
</tr>
<tr>
<td>Surplus Plutonium Disposition Project</td>
<td>0</td>
<td>0</td>
<td>59,000</td>
<td>new</td>
</tr>
</tbody>
</table>
Los Alamos National Laboratory
FY 2019 Congressional Budget Request
(In billions of dollars)

Total Los Alamos National Laboratory
Nuclear Weapons Activities (71%)
Nuclear Nonproliferation (10.3%)
Work For Others (est.)* (9.31%)
Environmental Cleanup (7%)
Science (1.9%)
Renewable Energy (0.21%)
Nuclear Energy (0.2%)
Other Defense and Energy Activities (0.14%)
Nuclear Waste Disposal** (0.03%)
Energy Efficiency (0.01%)

Notes: The percentages are of total LANL budget for FY 2019. **"Work For Others" is for other than the Department of Energy (e.g., Depts. of Defense and Homeland Security, the FBI, CIA, etc.) and is based on past years is estimated at $250 million annually. **Nuclear Waste Disposal includes funding for Yucca Mountain and for Interim Storage. "Nuclear Weapons Activities" is funded by DOE's semi-autonomous National Nuclear Security Administration. Forty percent of NNSA's $11 billion nuclear weapons budget is spent in New Mexico alone.

Nuclear Watch New Mexico • 903 W. Alameda St #325 • Santa Fe NM 87501
www.nukewatch.org • (505) 989-7342
"The atomic weapons race and the secrecy surrounding it crushed American democracy. It induced us to conduct government according to lies. It distorted justice. It undermined American morality."

Stewart Udall
Dear Senators Udall and Heinrich,

Taos Town Councilmember and RCLC Board Vice Chair, Darien Fernandez, invited me to submit a letter to you for your meeting tomorrow with RCLC Board Members. I am writing on behalf of many of your Taoseno constituents who are concerned about Los Alamos National Laboratory and its activities.

We appreciate the opportunity to communicate with you in a way that will hopefully generate a more specific response than usual.

We greatly appreciate the position you've taken on Executive Order 140.1 Interface with the DNFSB. We hope you will be able to continue to advocate on behalf of your constituents and the Board to reverse the Order to ensure that the DNFSB can continue to act on behalf of the people, particularly in the area of Nuclear Criticality Safety at LANL and PF-4.

We also appreciate the position you've taken on the safety of storage at WIPP and your questioning of the diabolical and unbelievably dangerous and expensive plan by HOLTEC/NRC to ship and store all of the nations spent nuclear fuel rods to Southern NM, and we want to thank you.

We have three other topics of interest we would like you to consider.

1. "plutonium sustainment"

In the interest of peaceful and sustainable futures for Taos, we have gathered many small business and non-profit endorsements for an updated resolution that we are bringing before our Town and County governments. We are continuing to gather endorsements and also individual petition signatures in support of the resolution.

In basic terms, the non binding resolution requests that our governments strengthen and enforce the revised 2016 DOE-NMED Consent Order (CO) governing cleanup at LANL in regard to Area G, expresses its opposition to the continuation of nuclear weapons activities, including expanded production of new types of pits, and instead, diversifies its missions by redirecting nuclear weapons funding to expand non-proliferation activities, cleanup, and peaceful and sustainable research and technologies, including climate science.

Historically, funding for nuclear weapons activities has dwarfed all other activities at LANL. The current FY 2019 DOE Congressional Budget Request of ~$2.69
billion provides 70% or ~$1.9 billion for "plutonium sustainment," ~10% for non-proliferation, ~7% for cleanup, and less than 3% for all other sciences combined.

When your Taosneno constituents learn about and understand what plutonium pits are, how many we already have in storage with reliable lifetimes of 100 years or more, how many nuclear warheads the US and Russia still have, that the DOE and New Mexico Senators Heinrich and Udall want to manufacture up to 80 more new "pits" per year at LANL for new smallish "safer to use" nuclear weapons, and that the Lab still has many serious unresolved nuclear criticality safety issues, with all of the above using unimaginable amounts of their tax dollars, they almost universally say, "NO."

2. Cleanup

While the Trump Administration is predictably working to undermine ongoing cleanup efforts at LANL, the current Consent Order (CO) was drastically curtailed in 2016, before Trump took office. The revised 2016 CO allows the Lab to continue to delay characterization of legacy radioactive and hazardous waste in the 63 acre Area G dump, citing that other areas have a more urgent need for cleanup. Further, the 2016 CO recommends an engineered cover or "cap and cover" remedy, similar to what was done at the devastatingly contaminated Rocky Flats pit factory after it was permanently shut following a raid by the FBI for environmental crimes.

"Cap and cover" may seem to be a cheaper option to the DOE than proven comprehensive and effective cleanup methods, but neglecting to characterize the legacy Area G waste, as per the "cap and cover" method could permanently threaten the environment, and especially, the subterranean water source upon which people depend. It could also be considered to be an environmental crime not to characterize and contain as much as necessary, all of the contaminated waste in the unlined pits, shafts, and trenches at Area G.

For the sake of future generations, we urge you to use your powerful positions to do whatever is necessary to access sufficient funding from DOE in order to adequately characterize and remediate the Area G legacy dump sites concurrently with implementation of other milestones of the Los Alamos Environmental Management Life Cycle Cleanup Plan, in spite of the weak and unenforceable 2016 DOE/NMED Consent Order.
Again, when your constituents learn about the cleanup issues at LANL, they almost universally want cleanup to be comprehensive, and with enforceable deadlines. They also tend to support the idea of redirecting federal funding for "plutonium pit" manufacturing, which generates the radioactive waste to begin with, to projects which expand and expedite cleanup. Real comprehensive cleanup at Area G would create many jobs in our poverty stricken state, and even more importantly serve the well-being of future generations.

The RCLC and our entire New Mexico Congressional Delegation should have protested the 2016 CO and should be currently working to restore, strengthen and enforce the provisions that were "revised" out of the 2005-2015 CO.

3. Economy

The last subject we would like you to address on behalf of Taosenos is the idea of LANL’s economic impact on New Mexico and Northern New Mexico in particular.

Recently, LANL released a statement that was widely published, claiming that LANL has a $3.1 billion impact on the State of New Mexico.

An economic impact study citing "independent research from the University of New Mexico's Bureau of Business and Economic Research" (BBER) was released Mon. Jan 14, 2019 by LANL, stating that the Lab "had an average annual economic impact of 3.1 billion from 2015-2107." The Study was commissioned and funded by LANL to estimate its economic impacts on the State of New Mexico for FY 2009 using Impact Analysis for Planning (IMPLAN) Version 3 Economic Impact Model.

These types of studies are flawed however, as they are not cost/benefit analyses. They do not consider opportunity costs or alternative uses. They ignore negative multiplier effects. The BBER study is an inaccurate assessment, and in real terms, the fact remains that the State of New Mexico as a whole has not actually gotten richer from the enormous amounts of federal taxpayer funds being sent to LANL.

The study provides information about money going into LANL, or cost, but fails to demonstrate specifically how the people in the state benefit from all of that taxpayer money. In fact, New Mexico continues to decline or at best, flatline in GDP and median income, while hitting a new low of highest child poverty rate in the country. Los Alamos County, on the other hand, continues to grow in wealth
and currently remains one of the wealthiest counties in the United States. So, the question is, how can we account for this disparity?

Thank you so much and we look forward to your response.

Sincerely,

Suzanne Schwartz

El Prado

eototos@gmail.com

"The atomic weapons race and the secrecy surrounding it crushed American democracy. It induced us to conduct government according to lies. It distorted justice. It undermined American morality."

Stewart Udall
References

1. DOE O 140.1, “Interface with The Defense Nuclear Facilities Safety Board.”

   https://www.dnfsb.gov/about/history

   the-atomic-energy-act. Also, “Trump Administration Moves to Neuter Nuclear Safety Board,”
   Santa Fe New Mexican, July 22, 2018.
   http://www.santafenewmexican.com/news/local_news/trump-administration-moves-to-neuter-
   nuclear-safety-board/article_eod6b385-471e-5c79-b2fe-75220867d93e.html

4. Energy Communities Alliance letter to DOE Secretary Perry dated August 28, 2018.
   http://www.energyca.org/policy Alliance of Nuclear Workers Advocacy Groups.

5. Letter from NM Senators Udall and Heinrich to Chairman and Ranking Member of Energy and
   Board-Reorganization-and-DOE-Order-140.1-to-A....pdf Alliance of Nuclear Worker Advocacy
   Groups letter to Secretary Perry, dated July 24, 2018.

6. The hearing was broadcast by DNFSB live via its website. 15 Exhibits. See

   Year Ending September 30, 2019, and for Other Purposes.” Conference Report to accompany
   report/929/?q=%7B%22search%22%3A%5B%22H.R.+5895%22%5D%7D&r=1&overview=clo
   sed

   Charter-2018.pdf

9. DNFSB Letter to DOE Secretary Perry, September 14, 2018, with attachment. ARCHIVE: 2018-
   100-064, DOE Order 140.1 (SOE). https://www.dnfsb.gov/board-activities/board-notational-
   votes/2018-100-064-regarding-doe-order-1401-soe
The NNM CAB takes note of the positions of Senators Udall and Heinrich who have called for suspension of the Order pending review by Congress and the public. The NNM CAB also takes note of the DNFSB recommendation to suspend the Order and its offer to collaborate with DOE to clarify implementation.

**Recommendation**

The NNM CAB recommends that DOE suspend implementation of Order 140.1 pending clarification of how the order will be implemented at LANL EM sites and how such implementation may differ from previous practice. The NNM CAB requests DOE to provide such clarification through the EM site manager, through DNFSB representatives at LANL, and at public forums. The NNM CAB recommends that the DNFSB hold its next hearing in New Mexico, as Senators Udall and Heinrich have proposed.

Pertinent questions are listed below.

1. What direct and/or indirect effects would restrictions on the operations and effectiveness of DNFSB have on the information and oversight mission and responsibilities of the NNM CAB?

2. Can the NNM CAB receive a full accounting of the changes under this new Order affecting EM sites and how it is designed to benefit the public, nuclear site workers and public health?

3. How will this Order affect flow of information necessary for the NNM CAB to fulfill their advisory role with DOE EM?

4. What is the actual impact of this Order on DOE/EM at LANL and its contractor?

5. Does the Order conflict legally with the Statute that created the DNFSB?

6. Why was this Order put into effect without notice in the Federal Register or public hearings?

7. Why has the DNFSB been excluded from information regarding DOE Nuclear Hazard Category 3 or below? At LANL, re-categorization of the Rad Lab to Nuclear Hazard Category 3 takes it outside of the DNFSB's purview.

8. Is WIPP still under the purview of DNFSB?

9. What does “speaking in one voice” mean? Does this in any way restrict employees and staff from raising safety concerns?

10. In reviewing past safety incidents at LANL specifically and at other nuclear facilities, how will this Order change the likelihood that such safety incidents will be uncovered in time for corrective action?

11. What are the expected life-cycle costs and duration of the LANL clean-up?

**Intent**

It is the intent of the NNM CAB to maintain its interest in this issue and update its members, as appropriate, at future meetings.
The lack of clarity perceived in the provisions of the Order have prompted interested organizations, as well as elected representatives, to call for suspension of the order pending consultations and reconsideration. These include the Energy Communities Alliance and the Alliance of Nuclear Worker Advocacy Groups, among others. In addition, Senators Heinrich and Udall from New Mexico have called for language in 2019 DOE legislation to suspend the order. In a letter approved by all four Board members, the DNFSB detailed the specific reasons why the Order is inconsistent with provisions of the Atomic Energy Act, under which it was created.

In an August 28, 2018, public hearing called by the DNFSB to review the Order, DOE officials defended its authority to delimit oversight jurisdiction of the DNFSB vis-à-vis DOE operations. William (Ike) White, Chief of Staff and Associate Principal Deputy Administrator for the National Nuclear Security Administration, is quoted as saying that "it is certainly not intended to harm" the DOE-DNFSB relationship." The changes are designed to ensure DOE leaders "have ownership and accountability for the decisions they make." Other DOE officials who spoke at the hearing said they believed the negative impacts of the Order have been exaggerated by the critics. They believed that the actual changes would be minimal, and that any ambiguities, such as access to information and timing of discussions, would be smoothed out during interactions between the two organizations. Matthew Moury, Associate Under Secretary of Energy for Environment, Health, Safety and Security, defended the safety record of the department and restated the DOE commitment to ensuring safety while carrying out its mission. The Hearing evidently did not close the gap. At the end, Acting DNFSB Director Bruce Hamilton questioned whether provisions of the Order are consistent with the Atomic Energy Act, under which the DNFSB was created.

Under its Charter, the NNMCAE "provides advice and recommendations concerning the following EM site-specific issues: clean-up standards and environmental restoration; waste management and disposition; stabilization and disposition of non-stockpile nuclear materials; excess facilities; future land use and long-term stewardship; risk assessment and management; and clean-up science and technology activities." Ultimately, the goals are protection of the natural environment and human safety. The NNMCAE does not question or undervalue the commitment of DOE EM to safety standards and performance. It also believes that, in the final analysis, DOE EM must take responsibility for carrying out operational tasks. The Chairs also understand that the DOE and DNFSB have sometimes had policy disagreements, and that reforms of DNFSB activities and procedures have been urged by independent observers, such as the Government Accountability Office. At the same time, it is acknowledged that the DNFSB has made and continues to make constructive contributions to improving DOE safety standards and performance.

Comments and Observations

The NNMCAE believes that the health and safety of the public, as well as responsible execution of the EM mission requires the consistent and transparent implementation of applicable laws and policies. Disagreement on the implementation of the law among Executive Branch agencies, as is currently the case, jeopardizes such implementation. By fostering the perception of organizational conflict, it undermines public credibility. The absence of the opportunity for comment by the public or, indeed, by the DNFSB itself, diverges from common practice and raises questions about the process that resulted in the Order.
NORTHERN NEW MEXICO CITIZENS' ADVISORY BOARD

Recommendation to the Department of Energy

No. 2018-03

INTERFACE WITH DEFENSE NUCLEAR FACILITIES SAFETY BOARD

Drafted by: Stanley Riveles

Background

On May 14, 2018, the Department of Energy (DOE) issued Order 140.1, entitled “Interface with the Defense Nuclear Facilities Safety Board (DNFSB).” Effective on the date of publication, Order 140.1 was released without advance public notice and without opportunity for public comment. The purpose, according to the Order, is to “emphasize line management accountability and establish clear requirements and responsibilities when working with the Defense Nuclear Facilities Safety Board.” In so doing, however, the terms of the Order appear to restrict the mission of the DNFSB and raise concerns about how the effectively DNFSB will carry out its safety mission in the future.

The DNFSB is an independent organization within the executive branch, chartered by Congress with the responsibility of providing recommendations and advice to the President and the Secretary of Energy regarding public health and safety issues at Department of Energy defense nuclear facilities. The organization does not have any regulatory authority over the conduct or activities of DOE. Instead, it was created in the late 1980s, under the Atomic Energy Act, to provide expert citizen advice and recommendations for consideration and decision by senior DOE officials. Independent reviews of DNFSB recommendations have cited its contributions to improvements in the management and storage of environmental waste; reductions in risk of fire and explosion; improvements in safety standards and procedures; and long-term planning and emergency procedures.

The relationship between the Northern New Mexico Citizens’ Advisory Board (NNMCAB) and the DNFSB is a limited one. Most of the facilities subject to DNFSB jurisdiction fall under National Nuclear Security Administration. However, there are a number of Environmental Management (EM) sites at LANL and New Mexico, such as Waste Isolation Pilot Plant (WIPP) that do fall under DNFSB purview. Whether or not an EM site is subject to DNFSB oversight depends on the level of danger to the public and certain categories of workers. Under the DOE interpretation laid out under the new Order, some undetermined number of facilities at EM sites around the country may no longer be subject to DNFSB safety evaluation. (There is a question about the status of WIPP.) Also, the definitions of “worker” and “public” safety are in dispute and subject to interpretation.

Order 140.1 has been the subject of substantial media attention and criticism. In addition, several public interest organizations have raised specific concerns about the impact of Order-140.1. They have called for clarification of the following issues:

- Exclusion of Hazard Category 3 facilities from DNFSB oversight.
- Exclusion from DNFSB oversight of DOE workers directly involved in affected operations
- Restriction of contacts between DNFSB officials and contractor personnel.
- Limitations on access of DNFSB officials to “pre-decisional” and other types of information.
- Requirement that DOE “speak with one voice” in interaction with DNFSB.
- Restrictions on staff and whistleblowers from raising safety concerns.
October 4, 2018

The Honorable Rick Perry  
Secretary  
U.S. Department of Energy  
1000 Independence Ave. SW  
Washington, DC 20585

Dear Secretary Perry:

We write again to follow-up on our recent letter to you regarding the Department of Energy’s (DOE) new Order 140.1, which imposes severe limitations on the Defense Nuclear Facilities Safety Board’s statutory oversight responsibility to ensure the safety of communities and workers at New Mexico’s two nuclear security labs and the Waste Isolation Pilot Plant. In our letter of September 5, 2018, we urged you to suspend the implementation of the order while the members of the board, Congress and the public have time to review and offer constructive feedback on how to maintain and enhance the board’s critical safety role.

Attached is a copy of a letter to DOE we received from Mr. Gerard Martínez y Valencia, Chair of the Northern New Mexico Citizens’ Advisory Board (CAB). The Northern New Mexico CAB is one of DOE’s site-specific advisory boards that provides valuable information, advice, and recommendations from citizens concerning issues affecting Environmental Management (EM) program sites. Chair Martínez y Valencia’s letter includes the CAB’s unanimous recommendation that DOE suspend implementation of Order 140.1 pending clarification of how the order will be implemented. The CAB’s recommendation also poses a series of pertinent questions and asks DOE for clarification.

We respectfully request your careful consideration of the Northern New Mexico CAB’s recommendation to DOE. In light of the CAB’s recommendation and other concerns with the changes made by Order 140.1, we again urge you to suspend implementation to give the members of the DNFSB an opportunity to provide comments and feedback, including issues raised by stakeholders at the board’s next two planned public hearings. DOE should then reissue an order that fully complies with DNFSB’s legal authority to continue to protect workers and the community.

Sincerely,

TOM UDALL  
United States Senator

MARTIN HEINRICH  
United States Senator
September 28, 2018

Mr. Doug Hintze, Manager
Environmental Management Los Alamos Field Office
3747 West Jemez Road, MS A316
Los Alamos, NM 87544

Dear Mr. Hintze,

I am pleased to enclose Recommendation 2018-03 “Interface With Defense Nuclear Facilities Safety Board” which was unanimously approved by the Northern New Mexico Citizens’ Advisory Board during its meeting on September 26, 2018.

Please contact me if you have questions regarding this recommendation. We look forward to the response from the Department of Energy.

Sincerely,

Gerard Martínez y Valencia
Chair, NNM CAB

Enclosure: a/s
Cc w/encl:
U. S. Senator Tom Udall
U. S. Senator Martin Heinrich
U. S. Congressman Ben R. Lujan
Secretary Butch Tongate, NMED
David Borak, DFO (via e-mail)
M. Lee Bishop, DFO (via e-mail)
David Rhodes, EM-LA (via e-mail)
Gil L. Vigil, Executive Director Eight Northern Indian Pueblos
Menice B. Santistevan, NNM CAB Executive Director
NNM CAB File