

A.J. Eggenberger, Chairman
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DEFENSE NUCLEAR FACILITIES SAFETY BOARD

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July 31, 2008

Mr. David McCoy
Executive Director
Citizen Action New Mexico
P.O. Box 4276
Albuquerque, New Mexico 87196

Dear Mr. McCoy:

The Defense Nuclear Facilities Safety Board (Board) wishes to thank you for your participation at the public hearing and meeting convened by the Board on December 5, 2007, at the Los Alamos High School auditorium regarding health and safety issues at Los Alamos National Laboratory (LANL) defense nuclear facilities. Your testimony and the document you submitted at the hearing were made part of the official hearing record. While the agenda for this public hearing and meeting concerned health and safety issues at LANL, your concerns focused on the Mixed Waste Landfill (MWL) at Sandia National Laboratories (SNL).

The Board received your letter dated June 20, 2008. In that letter, you first ask for copies of any report the Board issued as a result of the hearing. The Board evaluated information received at the hearing in its ongoing health and safety reviews of operations at LANL defense nuclear facilities. However, it is not the Board's practice to routinely issue formal reports following such hearings. The hearing transcript, associated documents, public notice, and video recording of the LANL hearing are available for viewing in the public reading room at the Board's headquarters in Washington, D.C.

Your letter next indicates a concern regarding allegations of storage and transportation of nuclear weapons at Kirtland Air Force Base. The Board's jurisdiction is limited to Department of Energy (DOE) defense nuclear facilities. The Board does not have jurisdiction of Department of Defense facilities or activities involved with the transportation of nuclear material off-site of DOE's defense nuclear facilities.

We have reviewed the MWL inventory. Many of the waste items listed in the inventory have no additional information indicating where the item came from or why it is in the MWL. This makes it difficult to determine the relationship of the waste item to the type of defense activity, which is crucial to jurisdictional determinations. Making the analysis even more difficult is the fact that the activities which resulted in the waste disposal at the landfill occurred many years ago. As a consequence, there are many obstacles to accurately assessing whether or

not this facility constitutes a nuclear waste storage facility within Board jurisdiction. At this time the jurisdictional connection appears tenuous.

Even if the possible jurisdictional predicate were established, the Board must prioritize when and where it employs its oversight function. The Board focuses on defense nuclear facilities that are operational and pose the highest risk. The Board is also aware of the comprehensive state and federal regulatory activity directed at the MWL for a number of years. Given the weak jurisdictional connection, and the extensive oversight already being provided by other state and federal environmental regulators at the MWL, the Board has decided not to apply oversight resources to the MWL at this time.

The Board recognizes the importance of the protection of the health and safety of workers and the public from radiological risks, and the protection of the environment in the State of New Mexico. We have referred the concerns you raised regarding the MWL to the New Mexico Environment Department and the appropriate entities in the DOE and National Nuclear Security Administration.

If you should have any further concerns, please do not hesitate to contact us.

Sincerely,

A handwritten signature in black ink, appearing to read 'A. J. Eggenberger', written in a cursive style.

A. J. Eggenberger
Chairman

- c: The Honorable Ron Curry, Secretary, New Mexico Environment Department
- The Honorable James A. Rispoli, Assistant Secretary for Environmental Management,
U.S. Department of Energy
- The Honorable William C. Ostendorff, Principal Deputy Administrator, National Nuclear
Security Administration