

**MINUTES
of the
SECOND MEETING
of the
RADIOACTIVE AND HAZARDOUS MATERIALS COMMITTEE**

**July 18, 2011
Room 307, State Capitol
Santa Fe**

The second meeting of the radioactive and hazardous materials committee (RHMC) was called to order at 10:02 a.m. by Representative Antonio Lujan, chair, on Monday, July 18, in room 307 at the state capitol.

Present

Rep. Antonio Lujan, Chair
Sen. Richard C. Martinez, Vice Chair
Rep. Thomas A. Anderson
Sen. Vernon D. Asbill
Rep. Cathrynn N. Brown
Rep. Brian F. Egolf, Jr.
Sen. John Pinto
Rep. Jim R. Trujillo
Rep. Shirley A. Tyler
Sen. David Ulibarri

Absent

Sen. Stephen H. Fischmann
Sen. Carroll H. Leavell

Advisory Members

Rep. Donald E. Bratton
Sen. William F. Burt
Rep. Jim Hall
Sen. Nancy Rodriguez
Rep. Nick L. Salazar
Sen. Bernadette M. Sanchez

Sen. Rod Adair
Rep. Eliseo Lee Alcon
Sen. Eric G. Griego
Sen. Gay G. Kernan
Sen. Lynda M. Lovejoy
Sen. William H. Payne

Staff

Gordon Meeks
Carmella Casados
Renée Gregorio

Guests

The guest list is in the meeting file.

Handouts

Handouts and other written testimony are in the meeting file.

Monday, July 18

Government Waste Isolation Pilot Plant (WIPP) Extension Act of 2011

Todd Willens, chief of staff, office of Congressman Steve Pearce, passed out a packet that included a copy of H.R. 2367, the federal Government WIPP Extension Act of 2011. He described the purpose of the act as allowing WIPP to dispose of non-defense, government-owned transuranic (TRU) waste in addition to the waste it already accepts. He explained that the bill, sponsored by Congressman Pearce, would not allow WIPP to accept private commercial waste, so the kind of waste WIPP accepts would not change.

Mr. Willens praised WIPP as a proven, world-class facility for the disposal of low-level TRU waste that should serve as a model for the building and maintenance of radioactive disposal sites. He further described WIPP as a site that creates a unique environment that absorbs waste and prevents release of radioactivity and that accepts waste from 14 federal department of energy (DOE) facilities. He added that WIPP has utilized 43% of its facility, but it has the capability to hold more TRU waste, and non-defense waste is a prime candidate for WIPP.

H.R. 2367 supplements WIPP's defense mission, he said, because the mission of WIPP is to protect human health and the environment by the safe disposal of waste. Mr. Willens stated that this legislation proposes to clean up waste in eight states, including New Mexico. He emphasized that at present, federal agencies, primarily the DOE, are holding TRU waste that cannot be disposed of because of WIPP's current restrictions, causing a significant risk to public health.

Committee members posed several questions to Mr. Willens and included praise for the work of Congressman Pearce on introducing this legislation and for former State Representative John A. Heaton for his work with WIPP. Concern over decisions regarding the Yucca mountain site were expressed, to which Mr. Willens responded that this is a highly contentious issue in Washington, D.C. at present, with the current administration "zeroing out" funding for Yucca. He added that this is "not a question that'll get answered anytime soon".

Questions and discussion addressed:

- the difference between defense-related TRU waste and government-owned waste;
- the prioritization of the eight states that would benefit from cleanup under H.R. 2367;
- the fact that WIPP can only handle TRU defense-related waste at present and that high-level waste could be accommodated at WIPP only if federal legislation is changed;
- Congressman Pearce's position on legacy cleanup issues at Los Alamos;
- restricting waste to government-owned waste and the potential for accepting commercial waste;
- whether the government is creating jobs at WIPP;
- the role of the state in terms of any licensing or permitting;
- how much non-government-generated waste exists;
- the Yucca mountain site and whether waste will be accepted there;

- the criteria for TRU waste;
- the blue ribbon report on America's nuclear future; and
- the hearing process and expected reception of this bill.

The committee approved the minutes of the June 7 meeting. A show of attendance for the upcoming August 15 meeting in Red River was requested. Several members expressed interest in touring the WIPP site during the October meeting.

Los Alamos National Laboratory (LANL) Legacy Waste Cleanup Program

Michael Graham, associate director of environmental programs at LANL, reviewed the mission of the programs he directs, which includes investigating and remediating legacy hazardous and radioactive waste areas, repacking and shipping TRU waste and demolishing old buildings. He said that with the federal American Recovery and Reinvestment Act of 2009 (AARA) funding received less than two years ago, the focus was placed on cleaning up TA 21 across from the airport. He reviewed the accomplishments during this time frame, which included creating or saving more than 400 jobs, demolishing 24 buildings, providing small business subcontracts and maintaining compliance on ground water monitoring wells. The one project remaining is at material disposal area B, which needs to be cleaned up and returned to residential standards. He specified that there are 22,000 yards of cubic waste in this landfill. Mr. Graham ensured the committee that all remediation work has been done safely, with no personal or release contamination.

Mr. Graham reported on shipments to WIPP, saying that this will be the third record year for shipments, with 132 shipments made in 2009 and another 157 in 2010. For 2011, WIPP shipments could reach more than 170, he stated. There is also much more work to be done, with 10,000 drums remaining above ground and 6,000 below ground, and he said that LANL is continuing its work to accelerate the processing and shipping of waste.

He reviewed shipping improvements since 2006 and other cleanups accomplished in the canyon, including storm water controls and a reinforcement of monitoring wells to ensure public protection. He reported that good progress is being made on cleanup across all sites at LANL (see map on page 9 of the handout).

LANL is committed to compliance with the consent order, Mr. Graham stated, with all documents submitted early or on time in fiscal year 2009 through the current fiscal year. He presented the budget request, which will be significantly higher in 2012. In conclusion, he reviewed the goals that his program has set post-AARA, which include improved communication with the New Mexico department of environment (NMED), concentrating on high-risk areas such as removing TRU waste from the plateau area after the Las Conchas fire, awarding master contracts to small businesses and supporting the NMED's "tiger team" for LANL cleanup.

Committee members asked several questions related to the specifics of the waste and waste disposal as well as the nature of site investigations.

LANL Update

Paul Henry, principal associate director of capital projects at LANL, gave an overview of the lab's budget, work force, organizational changes, core mission and security focus. He described LANL as a national security science laboratory with an annual budget of approximately \$2.5 billion, of which \$1.4 billion (or 56%) is designated for the national nuclear security administration (NNSA) weapons programs. He stated that 28% of the career work force started at LANL as students or post-doctoral students, and that LANL is particularly proud of this fact. He added that of the lab's 12,000 employees, about 8,500 are direct lab employees and the rest are contract employees.

Mr. Henry reported that work is underway to transform the Los Alamos site into a more efficient site. This includes the management of 40 square miles and more than 1,200 buildings; he said that the main objective is to minimize the footprint, upgrade older facilities and build new ones. He also said that phase 2 of the chemistry and metallurgy research replacement (CMRR) project is underway.

The core mission of LANL, Mr. Henry stated, is to sustain the safety, security and effectiveness of the country's deterrent through stockpile stewardship, adding that Los Alamos's warheads constitute over 60% of the nation's deterrent. Through several technologies, including space-based nuclear detonation detection, imagery analysis and exploitation, and nuclear and liquid explosives detection, LANL achieves its national security mission.

Mr. Henry discussed LANL's energy security pillars, which include effective waste management, energy storage generation and transmission and clean fossil technology. He added that sustaining bipartisan support is an overall objective and a challenge for the lab.

The committee questioned and discussed:

- the security of nuclear materials in Russia and other nations;
- where Bechtel fits on the organizational chart;
- how funds allocated for the Cerro Grande fire were spent;
- a target date and what will happen with the TRU waste after the closure of WIPP and forming any plans for the storage of that waste;
- the need to start mining in New Mexico and on the Navajo Nation; and
- if, in the current financial situation, this is a good time to do away with the NNSA.

Las Conchas Fire Runoff Mitigation

Pete Maggiore, deputy assistant manager, environmental projects office, NNSA, gave an overview of the Las Conchas fire, Cerro Grande post-fire mitigation and current runoff and mitigation efforts. Reporting on the most recent fire, Mr. Maggiore said that a downed powerline sparked the fire that began on June 26, and on the first day the fire burned over 43,000 acres, almost the size of the Cerro Grande fire. He praised the work of the firefighters and said that the Cerro Grande fire actually provided a fire break that has helped in fighting the Las Conchas fire.

He said that LANL is in sound condition and it suffered little or no smoke damage, and that although the fire spread quickly, there was only one spark on lab grounds, at TA 49, which was rapidly extinguished. He added that all basic services are back in place and employees are back to work. He lauded the presence of interagency cooperation and government-to-government relationships as key to the success of fighting this fire, saying that the state activated its emergency operations center in Santa Fe five hours after the fire began. He added that the fire's nearest proximity was 3.5 miles, whereas the Cerro Grande fire was much closer at one-fourth to one-half mile.

He said that no canyons on lab property were burned; in contrast, during the Cerro Grande fire, over 7,000 acres of the lab grounds burned. He assured committee members that all three of the Buckman storm water early notification gauges are operational. He said that post-Cerro Grande fire mitigations were effective and that fire management lessons learned during that fire have been in practice for 10 years. He stated that fire management actions taken since 2000 include the thinning of trees; the installation of fire breaks and roads; the building of an interagency fire center, helicopter base and emergency operations center; the purchase of new fire trucks, service vehicles and heavy equipment; improved storm water runoff and erosion controls; and the enactment of interagency agreements and training.

Areas of continued concern include a review of infrastructure that could be affected by storm water runoff, with the attendant risks and possible actions needed. He added that several watersheds were affected by the fire, including Los Alamos canyon, where most of the current emphasis is being placed; Pajarito and Two-mile; Water canyon and canon de Valle; Frijoles; and Guaje. He stated that during a wildfire, the soils that get burned become hydrophobic; the soils are heated to such a degree that they lose their ability to let water infiltrate, and the soils repel water, which then runs off down canyons and causes erosion.

He discussed the formation of burned area emergency response (BAER) teams, which are part of an interagency effort to evaluate burned areas and recommend emergency action. He said that these teams are made up of specially trained professionals from the United States forest service, the DOE, the state of New Mexico, the pueblos of Santa Clara, San Ildefonso and Cochiti and the national park service.

In indicating LANL's top priorities, Mr. Maggiore said that what has already been accomplished by lab employees includes the installation of barriers to protect infrastructure, the removal of barriers within canyons and the cleaning of culverts, the removal of debris from canyon bottoms and the installation of an early-warning system to notify electronically when "rain events" happen. He added that water quality testing is ongoing among several agencies. In addition, flood mitigation, surface water monitoring and information management systems are all part of the efforts being made to mitigate erosion and flooding.

Mr. Maggiore stated that LANL is continuing to collaborate with its neighbors, including tribal governments, Los Alamos county, the city and county of Santa Fe and state and federal agencies, and that data will be available to the public through the lab's web site.

Committee questions and discussion included:

- the remediation of hydrophobic soil;
- air quality monitoring during the fire;
- sediment removal;
- the permitting process for the CMRR project;
- sediment removal as part of the Buckman diversion project;
- if the Cerro Grande fire burned through new growth and formed a fire break;
- the total acreage burned in the Las Conchas fire;
- natural stabilization of the soil;
- help for the Pueblo of Santa Clara, especially in regards to the hydrophobic soil and the upcoming monsoon rains;
- spending on fire mitigation and praise for local fire department responsiveness; and
- the scope of work on overgrowth and any mitigation to thin the forest next to the lab.

Northern New Mexico Citizen's Advisory Board

Robert Gallegos, vice chair, and Ralph Phelps, chair, northern New Mexico citizen's advisory board (NNMCAB), presented next. The NNMCAB is a DOE site-specific board, which was developed to involve local citizens in DOE environmental management remediation decisions at major nuclear facilities. Mr. Phelps said that the NNMCAB is one of eight federal advisory boards that serve the DOE. He added that some of the reasons for the board's existence are to recognize legacy waste and the environmental impact of LANL over the past 60 years, to provide needed community involvement, to monitor LANL's activities and to advise the DOE on cleanup and remediation at LANL. He said that the NNMCAB seeks to increase public involvement and awareness related to environmental remediation and management and to help make public voices heard by the DOE's decision-makers.

Mr. Phelps stated that the top issues have been the same over the past few years: to provide funding so that LANL can meet its consent order, to ensure that the DOE expedites high priority cleanup work and to ensure that the DOE focuses on development of an integrated site-wide surface water and ground water monitoring program.

The committee asked questions about and discussed:

- why the NNMCAB did not recommend that LANL take on more waste;
- the NNMCAB's budget and board membership; and
- a recent recommendation to the DOE to restore user confidence in the RACER database and how the database is maintained.

Public Comment

In answering an earlier request by several audience members to be given air time for public comment, Representative Lujan did so, asking for public presenters to be brief and not repetitive.

Joni Arends, executive director of concerned citizens for nuclear safety (CCNS), said that she has attended meetings since 1988 on issues concerning WIPP. She expressed concern over water quality due to the Las Conchas fire. She said that CCNS organized a conference at the Eldorado hotel on Saturday where 450 people attended. There were presentations on hydrophobic soil and mitigation, and CCNS took the directive to look more closely at these issues. She said that in 2002, CCNS made comments public regarding the Buckman project being downstream from LANL. Ms. Arends questioned how the state can possibly oversee the 30 high-priority sites identified by the EPA. She is concerned about the potential for contamination to be released from storm water. Ms. Arends asked how drinking water can be protected, and she expressed further concern about the money Santa Fe taxpayers are spending on the Buckman project and stressed that both Los Alamos and Pueblo canyons must be cleaned up. Ms. Arends handed out an article to committee members entitled "Another Kind of Fukushima?".

Several other audience members spoke, including Nancy Seawalk, who expressed concern over pollution in wells, radioactive materials in ground water and LANL's 15,000 warheads; Tom Gallegos, who said that wildlife is showing early signs of contamination and that he would like feedback about this at future meetings; and Robin Laughlin, who questioned LANL's mission of nuclear warheads and said that LANL is doing an appalling job of policing waste.

David Bacon, who described himself as not being a "flaming liberal", stated that in his opinion, fire could be the death of this area. He spoke of the national and international appreciation that occurs when unchecked wildfires rage near a nuclear facility, making New Mexico "not a place to visit or retire to". He added that the mission of the labs could begin to change if the labs partnered with tribes and the state and begin reclamation work together. He said that New Mexico needs to take this problem seriously. While partnering with other agencies and using the expertise that exists at the labs, Mr. Bacon stated that systems could be legitimately cleaned up, restored and reclaimed.

Scott Kovak of nuclear watch New Mexico wanted to add a footnote on numbers given earlier in the meeting. He said that the consent order is a plan and that many remedies have not been selected yet, such as the remedy for cleanup of area G. He stated that there is an assumption that cleanup is an ongoing process at the labs but that "cleanup" needs to be defined. He added that some remedies for removing waste from this area can cost up to \$30 billion and that the cost is based on recommendations from the lab itself.

Reverend Holly Beaumont of Santa Fe said that "if you use nuclear weapons against someone who has them, it's suicidal, and against someone who doesn't, immoral". She said that

the so-called legacy waste goes all the way back to the Manhattan project. She stated that there are 21 million cubic feet of waste dumped in unlined pits sprinkled all over the plateau and that there are between 20,000 to 50,000 barrels of waste above ground in fabric tents. She said that LANL was told that it needed to build appropriate hardened onsite storage, but by the time construction was completed, LANL said, the waste would be stored elsewhere; yet all this waste still exists at LANL.

She asked why, if these are the experts, are they not demanding that the issue of waste be addressed before this project goes forward? She added that we live in a post-September 11 world, a post-British Petroleum oil spill world and a post-Fukushima world — and in that world, corporate or government regulations cannot be trusted. She said that a regulatory agency is needed at the state level, and she urged committee members not to take anything for granted. She added that LANL is now operated by Bechtel, and that no matter how much it wants to minimize its role at LANL, it cannot minimize its legacy and its footprint around the world. She warned the committee to be careful about trusting LANL in protecting the public interest.

Anna Hampton, a 38-year resident of Santa Fe, was appalled that neither of the LANL representatives could answer the committee's questions. She said that this is not acceptable. She added that Mr. Graham did not address the legacy waste in the canyon offsite. She believes that LANL is still responsible for those offsite and onsite dumps and that they need to be cleaned up because they are above the sole source aquifer. She urged the committee to take care of the public and stay on top of LANL.

Adjournment

There being no further business, the committee adjourned at 3:20 p.m.