



A U.S. Department of Energy
Site-Specific Advisory Board

NNMCAB Members

Douglas Sayre, Chair
Santa Fe, NM

Gerard Martínez y Valencia,
Vice-Chair
Santa Fe, NM

Carla Abeyta
Chimayo, NM

Max Baca
Las Vegas, NM

Diahann Lopez-Cordova
Alcalde, NM

Mary Friday
Taos, NM

Nona Girardi
Los Alamos, NM

Robert Gomez
Taos Pueblo, NM

Angelica Gurulé
Española, NM

Joshua Madalena
Pueblo of Jemez, NM

Tessa Mascareñas
Española, NM

Daniel Mayfield
Nambe, NM

Alex Puglisi
Santa Fe, NM

Angel Quintana
Pueblo of Pojoaque, NM

Rod Sanchez
Corrales, NM

Ashley Sanderson
Santa Fe, NM

Stephen Schmelling
Santa Fe, NM

Joey Tiano
Santa Fe, NM

Irene Tse-Pe,
Pueblo de San Ildefonso, NM

Carlos Valdez
Albuquerque, NM

Michael Valerio
Taos, NM

Mona Varela
Albuquerque, NM

Nicole Habbit
Student Representative

James Valerio
Student Representative

May 20, 2016

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 2016-03, "Order on Consent", which was approved by the Northern New Mexico Citizens' Advisory Board during its meeting on May 18, 2016.

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

Sincerely,

Douglas M. Sayre
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 Ryan Flynn, NMED
David Borak, DFO (via e-mail)
M. Lee Bishop, Co-DDFO (via e-mail)
Michael Gardipe, Co-DDFO (via e-mail)
Jeff Kendall, NMED
Katie Roberts, NMED
Dean Hammonds, USACE (via e-mail)
Andrea Romero, RCLC Executive Director (via e-mail)
Gil L. Vigil, Executive Director Eight Northern Indian Pueblos
Menice B. Santistevan, NNM CAB Executive Director
NNMCAB File

Northern New Mexico Citizens' Advisory Board
94 Cities of Gold Road
Santa Fe, NM 87506
Phone: 505-989-1662 Fax: 505-989-1752
1-800-218-5942

www.energy.gov/em/nmcb

1 **NORTHERN NEW MEXICO CITIZENS’ ADVISORY BOARD**
2 **Recommendation to the Department of Energy**
3 **No. 2016-03**
4 **Title: Order on Consent**
5 **Drafted by: CARLOS VALDEZ**

6 **Background**

7 The Department of Energy (DOE), and the New Mexico Environment Department (NMED) entered into
8 an Order on Consent in March 2005. In this Consent Order (CO), was a blueprint of the clean-up
9 activities that needed to be accomplished in and around Los Alamos, as it relates to legacy waste. The
10 Environmental Management (EM) has worked diligently to meet milestones in the CO. However, due to
11 several circumstances beyond the control of EM, several clean-up activities remain, and were not
12 completed by the deadlines established in the original CO. Some of the reasons, but definitely not all,
13 include insufficient funding, operating under Continuing Resolution, Budget Sequestration, and the
14 discovery of unanticipated clean-up areas not included in the original CO.

15 **Observations**

16 The Northern New Mexico Citizens’ Advisory Board (NNMCAB), while maintaining its independence,
17 has always worked closely with DOE and LANL to make informed sound recommendations to DOE
18 concerning legacy waste clean-up activities in and around Los Alamos. The NNMCAB also works
19 diligently to keep the citizens of northern New Mexico aware of the progress of these activities.

20
21 On March 30, 2016, NMED released a newly created draft Order on Consent that will supersede and
22 replace the original CO. This release was presented to DOE, the NNMCAB, and the public on that day.
23 The NNMCAB has now been given the opportunity to comment and make recommendations to DOE,
24 which we anticipate will be included in the final version.

25 **Recommendations**

- 26 1. The NNMCAB agrees with and recommends that the new CO focuses more on actual
27 clean-up work, rather than continued investigations. We believe that funding should be
28 devoted primarily to actual clean-up activities. This new CO represents a fair attempt by
29 NMED to work with DOE and any possible unforeseen circumstances that may arise which
30 could cause delays in clean-up work included in the CO. The NNMCAB appreciates and
31 agrees that all clean-up activities included in the original CO are incorporated into the new
32 CO. The NNMCAB agrees that a risk-based approach is essential, and should be the
33 driving factor in determining clean-up activities in and around Los Alamos. We also agree
34 and support the “Campaign Approach” for addressing these activities.
- 35 2. The NNMCAB recommends to DOE that in Section X, page 35, language be included to
36 the effect that, “when a newly discovered release has been found (determined) that DOE

1 should establish a milestone or target for a Corrective Measure Evaluation (CME), to be
2 included and made part of the CO.”

- 3 3. The NNM CAB recommends to the DOE that in Section XXII, page 53, include language to
4 the effect, “the DAM’s shall provide an up-to-date progress report to stakeholders,
5 including the NNM CAB, as to the progress of Campaigns and clean-up activities in the
6 current fiscal year. This report should be provided at least quarterly.”
- 7 4. The NNM CAB recommends that the DOE make the greatest possible effort to fully comply
8 with the CO and to meet all milestones. However, if any circumstances arise that cause the
9 DOE to fail to meet these milestones, and penalties are incurred, the NNM CAB
10 recommends that the DOE negotiate for the opportunity to undertake Supplemental
11 Environmental Projects in lieu of paying monetary fines. Language to this effect should be
12 included in Section XXXV (page 69 of draft CO).
- 13 5. The NNM CAB recommends to DOE that in Section XXXVII, page 71, should include
14 language to the effect, Certification of Completion for all work contained in this CO will be
15 issued by NMED before the CO is considered terminated.
- 16 6. The NNM CAB recommends to DOE that in Appendix B, reasonable target dates be
17 established for the following: MDA-C, Upper Watershed, MDA-AB, MDA-H, MDA-G,
18 and MDA-L. These specific areas should also be assigned into a Campaign.
- 19 7. The NNM CAB recommends to DOE that the new Consent Order should clarify the plan
20 for above and below ground TRU waste at TA-54, Area G, and the impact of those plans
21 on the ability of EM-LA and NMED to fulfill the plans outlined in the CO. In particular,
22 DOE and NMED need to clarify the status of the Framework Agreement and its
23 relationship to the new Consent Order.
- 24 8. The NNM CAB recommends that DOE and NMED need to be much more specific about
25 how the work described in the CO will be prioritized.
- 26 9. The NNM CAB recommends that DOE should provide a “Life Cycle Baseline” that will
27 align with the CO and the work described therein.

28 **Intent**

29 It is the intent of this recommendation to voice the NNM CABs comments and to take advantage of the
30 opportunity to participate in the development of the new Order on Consent, which will formulate the
31 framework for clean-up of legacy waste in and around Los Alamos.

32 **References**

33 LANL Compliance Order on Consent, March 30, 2016.