nuclear watch new mexico

Presentation to the
Radiologic and Hazardous Materials Committee

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Why We Are Here

- To update you on the status of our lawsuit against DOE.
- Describe some of the harms resulting from NMED's abandonment of the 2005 LANL Consent Order.
- Request your help in correcting harms done and obtaining better regulatory oversight of LANL.

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History Of The 2005 LANL CO

- EPA issues LANL RCRA permit to DOE and University of California in March 1990. In January 1996 New Mexico received full enforcement authorization from EPA.
- From the start, enforcement and regulatory problems – DOE claims complete immunity from NMED enforcement. Further, LANL claimed that groundwater contamination was impossible.
- In May 2002 NMED issues Determination of Substantial Endangerment to LANL. DOE and UC sue New Mexico in federal and state courts.
- Litigation settled in March 2005 with NMED, DOE and UC execution of 2005 Consent Order. Its implements a comprehensive schedule for investigation leading to cleanup remedies and more complete monitoring of surface and groundwater.

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Violations Of The 2005 CO And RCRA

Beginning in 2011, violations of the 2005 CO increased dramatically. At the same time, violations of LANL's RCRA Permit increased.

(RINR = required "Reporting of Instances of Noncompliance and Releases" by LANL to NMED)

Fiscal Year Viols Occurred	No. of RCRA Violations	Source
2011	12	RINR 2011
2012	14	RINR 2012
2013	193	RINR 2013
2014	76	RINR 2014
2015	421	RINR 2015
2016	107	RINR 2016
2017	25	RINR 2017

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Nuclear Watch NM Sues DOE and LANS- Current Status Of Our Lawsuit

1. NukeWatch filed suit against DOE/LANS May 2016.
2. NMED and DOE signed new Consent Order June 2016.
3. Nuclear Watch files amended complaint, DOE/LANS file motions to dismiss.
4. July 2018 – Court dismisses NukeWatch's claims that the 2016 CO is invalid, but rules that claims for past penalties may continue.
5. Motions for summary judgment Filed By NukeWatch, DOE and LANS. Decisions on these are pending.

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Harms Done by NMED's Abandonment of the 2005 Consent Order

- Virtually none of the cleanup requirements of the 2005 CO are incorporated into the 2016 CO.
- Of 4 waste areas, none are scheduled for remediation as an enforceable milestone or target goal under the 2016 CO.
- Of 24 waste areas, none are scheduled for investigation as an enforceable milestone or target goal.
- Of two regional groundwater monitoring wells required by the 2015 CO, neither is scheduled to be drilled as an enforceable milestone or target goal.

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Overarching Harm Done by NMED's Abandonment of the 2005 Consent Order

The 2005 CO was fully enforceable, with specific tasks and specific deadlines for accomplishment.

Under the 2016 CO, NMED literally cannot require DOE to do anything it does not agree to do. It has huge loopholes whereby DOE can get out of cleanup by claiming that it is either too difficult or expensive.

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The Threat To The Public From NMED's Surrender Of Regulatory Authority Under The 2016 CO

- Effect of hollowing out of NMED by the Martinez Administration has been particularly severe with respect to LANL oversight.
- More than 160 extensions granted to LANL followed by NMED claim that 2005 CO wasn't working.
- Control over identification, investigation, and cleanup of LANL legacy waste ceded to DOE in 2016 CO.
- Action needed to reassure public of NMED's ability and commitment to protect their water and health.

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What We Request of You

1. Committee support for rebuilding NMED generally, and specifically for the Hazardous Waste and LANL Oversight Bureaus.

2. Committee investigation and hearings on the contamination threat from LANL legacy wastes (e.g. to the Buckman Direct Diversion Facility) and the harm caused by abandoning the 2005 CO cleanup schedule.

3. Committee recommendation to Gov. Grisham that NMED reconsider its intervention against NukeWatch's lawsuit. The Department should either support our claims or ask the court for leave to withdraw from the lawsuit.

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Thank You!

- Copies of these slides have been provided to you, as well as NukeWatch's white paper on The Effects of NMED's Abandonment of the Requirements of the 2005 LANL Consent Order.
- The white paper provides much more detail and data on the lost remediations, lost field investigations, and lost groundwater monitoring under the 2016 CO, and the extent of groundwater and surface water contamination at LANL.
- It also documents the 2016 CO's structure and procedures which lock in NMED's inability to a effectively regulate DOE.

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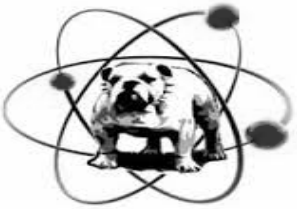

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