

Monday, September 16, 2002

Final

Northern New Mexico Citizens' Advisory Board
Meeting/Retreat Minutes
May 30-June 1, 2002
Kachina Lodge
413 North Pueblo Road
Taos, New Mexico 87571

Members in Attendance

Jim Brannon, *Chairman*
Don Jordan, *Vice-Chairman*
Dorothy Hoard
Joe Romero, *Nominee*
Richard Gale
Debra Welsh-Fowler
Prasanta K. Ghosh
Angelina Valdez
Maxine Ewankow
Jim Johnston
June Fabryka-Martin
Carl Friedrichs
Erlinda Gonzales
Kathleen Garland

Members Excused

Armando Benavidez
(Friday session)

Members Absent

Valerie Espinoza
Joe Chavez
Myron Garcia

Ex-Officio Members

Ted Taylor, *Deputy Designated Federal Officer*
Rich Mayer, *Environmental Protection Agency*
Beverly Ramsey, *Los Alamos National Laboratory*
James Bearzi, *New Mexico Environment Department*
Vickie Maranville, *N. M. Environment Department*
Dennis Martinez, *Office of Los Alamos Site Operations*

NNMCAB Staff

Menice S. Manzanares, *Executive Director*
Ben Latham, *Technical Advisor*
Grace Roybal, *Administrative Secretary*
Ray Lopez, *Staff Assistant*
Edward Roybal, *Sound Technician*

Special Guest

Martha Crosland, *U.S. Department of Energy*

May 30, 2002

Ted Taylor, the Deputy Designated Federal Officer opened the board meeting at 10:00 a.m. and turned the proceedings over to Jim Brannon, NNMCAB Chairman, who introduced the Designated Federal Official from the Department of Energy, Martha Crosland; Rich Mayer from the Environmental Protection Agency Region 6, Dallas, Texas; Dennis Martinez, acting director of the Office of Los Alamos Site Operations and Beverly Ramsey, acting director Risk Reduction and Environmental Stewardship Division of the Los Alamos National Laboratory.

Chairman Brannon announced the following members have been formally appointed to the Northern New Mexico Citizens' Advisory Board: **Debra Welsh-Fowler, Erlinda Gonzales, Prasanta K. Ghosh, Armando Benavidez, Carl Friedrichs** and **Kathleen Garland**. The Chairman also announced board re-appointments: **Fran Berting, Jim Johnston, Agustin Garcia** and **Angelina Valdez**. He also introduced **Joseph Romero**, of Cochiti Pueblo, a new board nominee.

The Chairman then introduced Erlinda Gonzales, a board member from the Town of Taos, as well as a town councilor, who welcomed the NNM CAB to Taos for its regularly scheduled meeting and retreat. The Chairman then introduced Dave Fascico who would serve as facilitator for the board retreat.

The Chairman entertained a motion to adopt the May 30-June 1, 2002 agenda. **Richard Gale made the motion to adopt the agenda, Dorothy Hoard seconded and the agenda was adopted on a voice vote without discussion.**

Chairman Brannon entertained a motion to adopt the March 27, 2002 NNM CAB meeting minutes. **Ms. Fran Berting, referring to Page 6, the line beginning: “Ms. Berting introduced Recommendation No. 2002-3 Environmental Covenants Bill Participation” asked for a correction. The sentence: “The recommendation supports the efforts by the NMED to introduce the bill...” should read: “The recommendation recommends that DOE support efforts by NMED to introduce a bill in the 2003 Legislature... The remaining two sentences: “~~The bill would affect lands transferred by the DOE to the County of Los Alamos and would apply to the Environmental Restoration Project at LANL. The scope of the bill would apply to remediation of commercial and industrial standards and would not apply to residential property.~~ were deleted.** The changes were accepted.

Ms. Berting then asked for the following change on Page 6, first sentence, third paragraph, Recommendation No. 2002-4: The sentence; “The recommendation asks for the EPA to continue to develop and refine action levels... should read, “The recommendation asks for the DOE to continue to develop and refine action levels... The change was accepted.

Mr. Gale, referring to Page 5, third paragraph, second line: “Mr. Gale said WIPP is their current focus...” said the sentence should read: “Mr. Gale said moving TRU waste to WIPP is their current focus...” The change was accepted.

Mr. Taylor, referring to Page 4, next to the last paragraph, end of the fourth line: “Of that \$800 million will be set aside...” suggested it be changed to: “An expedited cleanup fund of \$800 million will be set aside...” and strike ~~Of that~~. The change was accepted.

Mr. Gale moved for adoption of the March 27, 2002 meeting minutes, the motion was seconded by Dorothy Hoard and the motion passed on a voice vote.

Mr. Gale then moved for adoption of a proposed amendment to the NNM CAB bylaws. He explained that when the Executive Committee meets it is not always possible for all of the standing committee chairs to attend, therefore the amendment to the bylaws would allow co-chairs and vice-chairs to attend and represent their respective committees. The proposed bylaws amendment reads (proposed language underscored): “Page 8, Section E. Executive Committee, “The Board has an Executive Committee consisting of the Board Chair, Vice Chair, and Chairs, Co-Chairs, or Vice-Chairs of the various Standing Committees established during the fiscal year.” During discussion of the bylaws amendment it was suggested language be crafted for consideration at the next board meeting that co-chair or vice-chair nominations for a standing committee be brought to the full board for final action. It was further suggested the Executive Committee distinguish between co-chair and vice-chair. Mr. Gale recommended the Executive Committee meet briefly during this meeting to write an amendment addressing co-chair, vice-chair nominations and definition of duties for co-chair and vice-chair. The Chairman noted there were 14 board members present and adoption of the bylaws amendment would require 10 votes. The measure passed, was adopted and the bylaws will be redrafted.

The Chairman then made Recommendation 2002-10 from the Waste Management Committee the next order of business. Mr. Gale addressed the proposed recommendation. The standing committee chairman reminded the Board that at last year retreat it was decided “the most important thing that could be done in the ensuing year is to accelerate the removal of waste from the top of the hill and get it down to WIPP.” Mr. Gale said this was one in a series of recommendations over the past year addressing that goal. Now, according to Mr. Gale “characterization” of waste was an issue. He said “characterization” referred to what was in the waste barrels. The major problem, according to Mr. Gale, is the waste is in steel barrels which are difficult and dangerous to open and inventoried so “characterization” is a very high tech process required complex equipment and special facilities. “This recommendation,” Mr. Gale said, “says to the Department of Energy please make available all of that equipment necessary to increase the rate of ‘characterization’ because this is one of the many pieces of the puzzle.” Jim Johnston suggested a change on line 43: replace “...characterization removal of TRU waste to WIPP” with: “characterization and shipment of TRU waste to WIPP” to specify that the waste would be shipped to WIPP and not just removed to another disposal site. After a brief discussion, Mr. Johnston called the question, and Recommendation 2002-10 passed unanimously.

(Menice: According to my notes and the tape, there was not a motion to adopt the Recommendation. I think The Chairman assumed that when Mr. Gale began to address the Recommendation he took that as a motion to consider. Nonetheless, there wasn't a second although he said there was when he called for the vote.)

The Chairman then called for staff and committee reports.

Menice S. Manzanares, the NNM CAB Executive Director presented her report. She reported on the latest recruitment efforts including a newspaper ad. Ms. Manzanares also pointed out the inclusion of the agenda and minutes of the Executive Committee in the board member packets as per the board's request. She reported planning has begun for the SSAB Workshop the NNM CAB is co-hosting with the Carlsbad field office early next year. The workshop has been scheduled for January 29, 30, 31 and February 1, 2003. A draft of the NNM CAB Newsletter was passed out and will be published after review by The Chairman and the DDFO. The Executive Director mentioned she had attended the SSAB Chair's Workshop in April in Cincinnati, Ohio. She also participated in the recent WIPP tour with the Waste Management Committee. Joseph Romero, Ms. Manzanares said, had been recruited through her office. Recruitment efforts continue for a member from Espanola. She staffed two Executive Committee and one Waste Management Committee meetings and attended a video conference with Department of Energy Assistant Secretary Jesse Roberson. Mr. Johnston asked if the former Sandia CAB had been contacted to see if they wanted to participate in the NNM CAB. Ms. Manzanares said she would discuss it at the next Executive Committee meeting. Chairman Brannon said Sandia had a citizens' monitoring group which may meet quarterly.

Ben Latham, the NNM CAB Technical Advisor, presented his report. He attended the April and May meetings of the Environmental Restoration Committee and the May meeting of the Monitoring and Surveillance Committee. The ER Committee reviewed the PRS-0-019 document which relates to the Sombrillo Site. The ER Committee also took a tour of the lagoons at TA-53. The EMS Committee is working on a well completion recommendation. He also attended the Groundwater Hydro geologic Work plan meeting. The hydro geologic annual report is being reviewed. Mr. Latham reported he toured the WIPP site with the Waste Management Committee and drafted the Waste Characterization Recommendation. He reported progress on updating the NNM CAB website.

The Chairman then presented his report. He referred the Board to the NNM CAB Executive Committee minutes of April 4, 2002 and May 9, 2002 which were included in their packets. The Chairman addressed the issue of past attempts to enlist the enrollment of the Four Accord Pueblos within the NNM CAB. He said those attempts included letters sent directly to

Pueblo officials, a letter to the editor as well as efforts to set up meetings with tribal officials. The Chairman said the Board, within the next year, should consider redrafting the section of the Board bylaws that sets aside those four positions for the Accord Pueblos and to consider increasing Board membership to 21 at-large members but still leaving four positions available for tribal representatives thus increasing the Board membership to 25. The Chairman reported on the May 20, 2002 video/teleconference with Department of Energy Assistant Secretary Jesse Roberson in which each nationwide CAB presented their priorities. He also reported, as a result of the SSAB Chairs meeting in Cincinnati, held on April 2002, he was asked to draft a letter on behalf of all the CABs offering their services and expertise to Ms. Roberson. Also, as a result of the SSAB Chairs meeting, the NNM CAB has been asked to co-host the January 2003 SSAB National Workshop in Carlsbad because of its proximity to the Waste Isolation Pilot Project, the Chairman reported. Therefore, the Chairman, the DDFO and the NNM CAB staff have been charged with organizing and coordinating the event. The Chairman notified the Board the New Mexico Environment Department had issued a draft order for "Investigation and Cleanup of Contamination at Los Alamos National Laboratory" and recommended the Board members should read it. He suggested the NNM CAB seriously consider taking a formal position on the draft order because it could have a profound impact on LANL cleanup strategy, public perception of the Department of Energy and, possibly, funding. He also encouraged Board members to submit their own comments as private citizens because of their interest, knowledge and experience. The deadline for public comment is July 1, 2002.

The Chairman then asked for reports from the standing committees.

Mr. Gale, as chairman, spoke for the Waste Management Committee. He said, "Our main objective is to get waste off the hill and down to WIPP." In reporting on the recent tour of the Waste Isolation Pilot Project he said he had come away with the feeling the Department of Energy, the Los Alamos National Laboratory and the staff at WIPP "are talking to each other, listening to each other and they are working hard to accelerate (shipments)...and, in the process we're saving a bunch of money." The next WMC meeting is scheduled for June 12, 2002 at the NNM CAB office at 6 pm.

Kathleen Garland, committee co-chair, reported for the Environmental Monitoring and Surveillance Committee. She described the Data Quality Objectives (DQO) for six hydro geologic work plan wells scheduled for completion this calendar year. She said DOE and LANL would be meeting with NMED to specify DQOs the wells. The committee has also discussed the NMED draft Corrective Action Order. The annual report was also discussed. The next EMS Committee meeting is scheduled for June 11, 2002 at the Office of Los Alamos Site Operations at 4 pm.

Ms. Hoard, committee member, reported for the Environmental Restoration Committee. She said the Committee has been discussing whether the ERC should comment on "No Further Action" Recommendations and it has been decided it will. The discussion at the last meeting centered on the Sombrillo Site, an old waste treatment plant. Sombrillo, she said, is also the name of a health care facility in Los Alamos and an addition is being planned on top of the old waste treatment plant. The Committee decided to review the proposal, referred to as PRS00-019, Voluntary Corrective Action Report (Sombrillo Site), including the hiring of Charlie Wilson as technical advisor. The Committee has also discussed and reviewed the NMED Corrective Action Order.

Mr. Taylor, DDFO, provided his report. His report included a detail listing of the DDFOs responsibilities. Mr. Taylor noted David Chavez resigned from the Board on May 15, 2002 and the Deputy Designated Federal Officer has requested DOE to remove Myron Gonzales, for non-participation, from the Board as requested by the NNM CAB Chair on May 8, 2002. He said the Board has received responses to the following NNM CAB Recommendations: 2002-3, Environmental Covenants Bill; 2002-4, Ecological Risks at Release Site; 2002-5, SSAB Groundwater Issues; 2002-7, EM Education and Outreach; 2002-8, Transportation of TRU Waste to WIPP and 2002-9, Funding for ER Project. The DDFO has also received a draft response from

DEO to Recommendation 2002-6, Perchlorate Management. He asked the appropriate committees to review the responses. Mr. Taylor reported he would also be working on the SSAB Chairs Workshop on TRU scheduled for early next year.

Mr. Johnston asked for the floor and suggested NNM CAB members volunteer their time in various ways during the fire season in Northern New Mexico as a method of outreach. It was noted websites are created in the name of each fire. It was also suggested a link be created within the NNM CAB website so board members can quickly access information. Mr. Johnston also volunteered to send e-mail updates and a call for volunteers as the fire season progresses.

Chairman Brannon then relinquished the floor to the Board's special guest, Martha Crosland. She reported the SSAB charter had been renewed with minor changes. Ms. Crosland said a memo would be forthcoming to each of the site managers with advisory boards encouraging them to work with the boards and in this respect she noted the attendance of Dennis Martinez, from the Office of Los Alamos Site Operations. The DOE headquarters official said, "My understanding, having been with some of the representatives at an NGA recently, is that there will be additional funds available for the clean up at Los Alamos." She said her boss, Gene Schmitt, had been assigned to Rocky Flats and will be replaced by Roger Butler.

In response to a comment from the Chairman, Ms. Crosland said, in the future, when DOE holds another top-to-bottom review it will have an "extremely active involvement from the community and state regulators." She described the most recent top-to-bottom review as a "think piece" for DOE after ten years of this type of program. Don Jordan asked for an update on the cleanup fund and preliminary allocation to some sites. "It's proceeding at virtually every site," Ms. Crosland said. She added, Savannah, Oak Ridge and Idaho had signed letters of intent and New Mexico and Nevada are extremely close. I think they're trying to get all of this done by the early summer." She went on to say, "I have heard Congressional staffers say they think this is a good idea but when they go on to mark up the budget there will be dollar amounts there. There won't be \$800 million or \$1.1 billion, which is the additional amount if the sites can come to agreement, the Administration is committed to going in for an additional \$3.1 million. That will ultimately be allocated between the various sites."

Mr. Jordan then asked, "Does that mean that New Mexico is in line for some funding from this source and what is the process that we can get involved at the site level as well as the CAB level in terms of information?" Ms. Crosland replied, "I'm not party to this, and Dennis (Martinez) may have better information than I do, but discussions are ongoing with the state of New Mexico to reach agreement on the accelerated cleanup. My understanding is it's very much akin to this corrective action And then there will be a performance plan that will be very much discussed and vetted with stakeholders in terms of how that will be implemented. Hanford is the first one out of the box...they are having a number of public meetings, Savannah River is undergoing the same process and we assume that's going to be true at all the sites."

Mr. Martinez then addressed the Board: "We're putting together a communications plan for a series of public meetings that are going to be taking place in the next 60 days for the accelerated cleanup program. At the same time, we're going to combine those with public comment sessions to discuss the corrective action order and actions to be taken. We're working together with the Laboratory. Something should be coming out pretty soon that we could share with the CAB."

Mr. Jordan asked, "There are going to be performance measures established for the cleanup activities that will tie it to the budget allocation?" Mr. Martinez said, "Performance measures? Are you talking within the Laboratory contract?" Mr. Jordan said, "(Ms. Crosland)...mentioned performance measures that would be tied to the funding allocation. Would you have the same kind of criteria applied to the program that you might institute for cleanup?" Mr. Martinez said, "Eventually those will end up in very detailed types of performance measures that will tie into the Laboratory's Appendix F for their contract and also into the UC self-assessment. Right now we're reworking that entire self-assessment and the performance evaluation process. I hope to come to closure next week on the 6th. Then we'll start the hard part of doing all the detail work."

Ms. Ramsey asked for the floor and said, "Just to add a little more detail...there is a letter that John Arthur sent through Dennis to us last week that explains the process and where we stand in it. There are actually four big pieces we have to have finished by August 1st and be in agreement with the Department to get in the same position that Hanford is already. The first of those was the letter of intent that EPA, NMED and the Department of Energy did sign. That's been at headquarters for two weeks. There was an issue between NNSA and DOE making sure that since is the first one that had come through, that is an NNSA site with a large EM program, about what the assignment of responsibilities between NNSA and DOE/EM would be. It's my understanding, and I haven't seen it formally, that that indeed has been solved. But I think there's still a little in the details that has to be worked out. There's a letter of commitment between NNSA and DOE that will be finalized that codifies that. Then there is a letter of agreement, or commitment, between OLASO and the Laboratory that basically says: 'Here's what we're doing, here are the changes in business practices, here's what the Department is stepping up to do, here's what the Lab is stepping up to do to make this acceleration possible. Then the performance plans are due, in draft, in mid-June, will be finalized through NNSA and DOE by August 1st. We have the crosswalk finished now and DOE and the Laboratory are talking about when we're going to do public meetings so that people understand the dollar ramifications, the corrective action order and what we have in the accelerated cleanup versus what might be different between those two. I will tell you that there is no part of the corrective action order that is totally inconsistent with what we have in the accelerated proposals. The numbers, in terms of dollars, make sense together. There are, however, things that EM wants to complete and, as we say, 'get the footprint off' of the continuing operations of the NNSA site. That is not called for the correction action order. So they don't fit totally like a hand in a glove. But we can, in the next few weeks, intend to lay that out so the CAB, and everyone else in the community can see what those are and what the implications are."

The Chairman then summarized the previous discussion: "In the Spring, the Secretary of Energy set up an idea that may make it though the budget process, if it does, there will be an \$800 million or a \$1.1 billion fund available to DOE sites if they can expedite their cleanup program. They've got to agree with a number of other agencies in the process, they've got to agree on how they're going to do it and they've got to put their performance measures on the table to explain how they're going to do what they say they're going to do and then they have to compete with the other sites. Hanford saw \$800 million and said, 'We'll take \$350 million.' So we were concerned early in the process: how do you get it, what do you have to do, whom do you go to? We do know the Albuquerque office is putting together a plan not only for the Los Alamos sites but the other sites in their EM program. There are a couple of things you need to know about that money. It's not in a budget yet. It does not exist. And it won't exist until they get it in the budget and the Senate and House agree on it and the President signs it. Then it may come to the sites based on their input on how much they need and how much they can do. Should all of that come true, there may be some more budget to get some more done faster."

Mr. Mayer asked, "This \$800 million, is that an additional amount of money besides the regular budget that LANL gets? The Chairman said, "It's an incentive, as I understand it, to encourage expedited cleanup." Ms. Crosland said, "The actual budget submission is \$5.9 billion. It was \$6.7 last year. But the point was to create an incentive for the sites. In submitting the budget, what they did, was submit this \$5.9 million that was allocated between the sites and an additional request for \$800 million that would be part of this incentive fund, or accelerated cleanup fund. Also, there was a commitment by the Administration that if \$3.1 million was needed, in addition to this \$800 million, based on these incentive agreements, the Administration would support that for 2003. It's anticipated that the agreements reached between the states is for more than \$800 million the Administration will support the additional amount. When it ultimately gets in the budget the House and the Senate will have it allocated between the sites. I don't think you will not see this expedited cleanup fund because it will have been allocated to the various sites." The federal budget year begins October 1.

Mr. Taylor said he wanted to provide some clarification. "The LANL/ER base budget, this fiscal year, is \$50 million," he said. "The base budget proposed for next year is \$30 million. That \$800 million is not a plus up; it was carved out of the proposed budget. For Bev (Ramsey) and her program to be made whole they have to get \$20 million out of that \$800 million."

The Board recessed at noon for lunch and reconvened at 1 pm.

Mr. Taylor opened the afternoon session. He had asked his DOE counterparts to make brief presentations on Environmental Restoration, Waste Management, Groundwater Protection and Surface Water Protection with a focus on emerging issues in the 12 to 18 months so the Board can use the information to formulate its 2003 work plans.

David Gregory addressed environmental restoration at LANL. The current and emerging issues on environmental restoration, Gregory said, are cleanup reform, the cleanup reform account, the corrective action order, ecological risk assessments and screening and the environmental covenant bill. He said budget cuts had been made to the cleanup account to support homeland security. One result of the top-to-bottom review at DOE, Gregory said, was the creation of the cleanup reform account that will allow for implementation of the top-to-bottom review. According to Gregory, the cleanup reform account for LANL will be approximately \$70 million. The money will be used to accelerate key projects aimed at reduction of risk: TA-21; Los Alamos county lands, MDAs; and the protection of water wells. They will be able to close out a potential 223 release sites; reduce the overall end date for the project from 2040 to 2015. Lifecycle cost reduction savings to the taxpayer will be about \$350 million. Total cost through 2015 will be \$287 million. Gregory said it was expected this would cover the corrective action order from the state. It will reduce the total area for which are not responsible by 12 square miles with the watersheds being the highest priorities.

Gregory said the pilot site for the ecological risk assessment program is at Canon del Valle, associated with TA-16 and the 260 Outfall. He said he had recently conducted a small mammal study, comparing small mammal populations between Canon del Valle and Pajarito Canyon. There were two trappings, one in the spring and one in the fall and results from that study showed no impact after tissue and toxicity tests. He said they say they found some anomalies from an insect larvae test but don't have a definitive answer as to the contaminate.

Relating to sediment and groundwater, Ms. Ramsey added there is an Interagency Flood Task Force studying these two issues as well as surface water around the Laboratory looking specifically whether or not the burns that occurred on Laboratory property have affected what's there.

The Chairman introduced James Nunz, OLASO Waste Management Operations Manager. Mr. Nunz said LANL is pursuing multiple paths to accelerate and reduce the costs for work-off of the Legacy TRU and Mixed wastes those being "Quick to WIPP" and the Environmental Management WM Accelerated Clean Up Plans. Mr. Nunz explained that after the Cerro Grande fire and 9/11 a team was formed to identify wastes, which posed the highest risk. He said approximately 2,300 drums represented a total of 89 percent of the risk. The Quick to WIPP team was formed to expedite shipments. The project needed permit modifications from NMED for implement the expedited shipments. LANL also needs National Regulatory Commission approval to load higher activity waste drums in the TRU-PACT II containers. The accelerated proposal calls for shipment of 2,000 highest activity drums of TRU waste to WIPP by 2004. In addition, 300 Homogeneous TRU waste drums will ship to WIPP by 2010. The remaining drums will also be dealt with in an accelerated fashion through the use of additional characterization resources, decontamination, and volume reduction processes and shipments may be completed by 2010. The remaining MLLW will be treated commercially and disposed at a RCRA facility. Nunz said under the program the clean up schedule will be accelerated by 20 years and the DOE will save the taxpayers \$500 million.

The Chairman introduced Mat Johansen who spoke on groundwater protection and management. He said there are three main drivers that are or will be operating: the Hydro Work

Plan; the draft NMED Corrective Action Plan and the Accelerated Cleanup Proposal. The Hydro Work Plan is set to be completed on 2005 and it emphasizes characterization such as where the groundwater is, which direction its flowing and contamination. The next step is a pollution monitoring system. Twenty-one wells need to be drilled in three-and-one-half years. By the end of this year eight wells will have been drilled which a big improvement over past years. He went on to say the NMED draft order has a time frame of FY 03 to 2011. The corrective action plan emphasizes groundwater, he said. The plan adds 15 to 20 new regional wells and 50 to 100 shallow, or intermediate wells above and beyond the Hydro Work Plan. The order emphasizes characterization. The third driver, the Accelerated Cleanup Proposal, also emphasizes groundwater and is scheduled to be completed in 2008. While the Hydro Work Plan and the draft order concentrates on characterization the cleanup proposal focuses on source control and monitoring. Johansen said he had reviewed the Site Specific Advisory Board Chairs' statement on groundwater which stresses: information flow; stakeholders; input opportunity for stakeholders; good planning; new technology and long term environmental stewardship. Johansen said DOE would be funding these initiatives at \$70 million per year with funding beginning in FY 03. Mr. Romero asked about relations with Cochiti Pueblo and Johansen said he didn't know of any unresolved issues regarding their groundwater program.

The Chairman introduced Ken Mullins who gave a presentation on Surface Water Protection and Management. Mr. Mullins said test stations underwent a major upgrade after the Cerro Grande fire and now there are about 80 stations within the Laboratory which makes it one of the most monitored 43 square miles in the world from a surface water perspective. The reason, he said, was because the flows are so short. Pointing to a slide he referred to a test station at Water Canyon, above the Laboratory, before the fire, which showed a flow of 1/3 of a CFS (cubic feet per second). Post fire the measurement was 840 CFS. The Rio Grande, he said, as to today, was about 200 CFS. "We're seeing much bigger flows since the fire," he said. Pueblo Canyon, Mullins said, had a projected peak flow of 3,300 CFS. He added PCBs had been detected in Pueblo Canyon. The Laboratory is a radically different hydrologic system than it used to be, he said. Mullins went on to explain how contaminants are now showing up on the Laboratory grounds. "Over fifty years, since atomic testing began, the fallout products have deposited into the vegetation and some of them are taken up by the vegetation because there was no flow because we had six inches of pine dust," he said. "Well, the fire ashed all that and the ash moved offsite..." and in that ash you find higher concentrations of contamination. The concentrations have declined as the ash washes off.

Mullins said the NMED Compliance Order has asked to fully characterize the hydrology, that nature and transport of contaminants, comply with the Clean Water Act, comply with the Water Quality Standards. Another impact of the compliance order is it will make the surveillance program mandatory and it asks for more stations and reporting requirements.

Following the afternoon break, the Chairman introduced James Bearzi of the New Mexico Environment Department. Mr. Bearzi addressed the draft Corrective Action Order compiled by the Department. He explained the purpose of the order:

- Accelerate the pace of investigation and cleanup of high priority sites.
- Prioritize investigation and cleanup activities.
- Provide specific requirements and schedules for completion.
- And, ensure more stable funding from DOE for the Laboratory.

The department's legal authority comes from its administration of the Resource Conservation and Recovery Act; the New Mexico Hazardous Waste Act and a finding of imminent and substantial endangerment. He said LANL's operating permit is being renewed and will contain corrective action requirements expected to parallel those of the corrective action order. The order contains:

- Specific investigation requirements.
- Submittal requirements for ongoing projects.
- General characterization requirements.
- Requirements for stabilization of surface soils and sediment at sites with erosion potential.

The order does not contain requirements for:

- Waste management.
- Facility research activities.
- Land use policies regarding facility operations.

The order highlights: groundwater; canyons; technical areas; material disposal areas; watersheds and aggregate areas. The order contains processes for implementing cleanup; cleanup levels for soil, groundwater, surface water and human and ecological risks. It also contains methodology, a schedule and public participation. The public comment period will end on July 1, 2002.

The Chairman then asked for a revision in the agenda by moving the item “Draft Motion on Corrective Action Order” from the Friday, May 31, 2002 agenda to the Saturday, June 1, 2002 board/retreat session. Ms. Berting made the motion to reschedule the item and Mr. Gale provided a second.

The Chairman then asked the Committee Chairs to report on what has been accomplished within the past year. Mr. Gale, as chairman of the Waste Management Committee, said the Committee had decided the most important thing for them to focus on was “getting the waste off the hill.” He said they had concentrated on management, interfacing, and regulatory problems associated with transferring waste and had encouraged those involved to “think out of the box.” He added he scored the Committee’s work on this issue as 95 to 98 percent.

Ms. Hoard then listed the accomplishments of the Environmental Restoration Committee which includes public outreach for the Material Disposal Areas pilot project which is a program designed to determine how to approach clean up of these old dumps. She said the most difficult issue is determining and deciding, “how clean is clean?” The pilot project, however, is addressing this problem. She also cited the Committee’s work and recommendation on the proposed covenants bill which she described as: “If you cannot clean up completely can the New Mexico Environment Department put a covenant on a piece of property so that it’s not clean for all uses but is clean for some.” The Committee has also reviewed LANL’s prioritizing process but has not yet commented on it. They have also reviewed ecological risk assessment and it turned out the lab was doing more than the Committee thought. Regarding the Acid Canyon cleanups and tour of the waste ponds the Committee attempted to tell LANL the public is interested in these cleanups and they issued a recommendation on the Acid Canyon but not on the waste ponds, and they don’t expect to. They reviewed a cleanup report on the old sewage treatment plant that now has rest home and assisted living facilities on it. All of these projects, Ms. Hoard said, involve the concept of environmental stewardship, in other words, what are you leaving to future generations, overrides everything. The ethical thing to do is clean it up, she said.

Ms. Hoard then reiterated the Committee’s recommendations during the past year that addressed the following issues: the additional cleanup of Acid Canyon; risk-based cleanup of Environmental Restoration sites at LANL; evaluation of contaminants at potential release sites including high explosives at MDA-H; the covenants bill participation; evaluation of ecological risks at potential release sites and funding for the Environmental Restoration Project.

June Fabryka-Martin and Kathleen Garland reported the accomplishments of the Environmental Monitoring and Surveillance Committee. Ms. Fabryka-Martin said the Committee focused on groundwater, which is a full time job. She went on to list four of the Committee recommendations: perchlorate management; analytical methods and protocols for low levels of

contamination; the seismic study at Mortandad Canyon; groundwater issues from Site Specific Advisory Board Chairs Workshop. In addition to recommendations, she said, fact sheets were created on perchlorate and drinking water; a ten-page report that summarized groundwater issues at LANL. She also reported on good attendance at Committee meetings and lively discussions on topics brought before the group. Room for improvement, Ms. Fabryka-Martin said, include sharing the work of her Committee with other CAB members and the general public in particular information contained in fact sheets. "That I would like to change in a big way in the next year," she said.

Ms. Garland reiterated Ms. Fabryka-Martin's comments and added, "The hydro geological work plan and groundwater issues at the Lab are at a critical point because the work plan is being modified, redirected and rejuvenated both through funding, through the new well programs and even through the reorganization. And I think we're at the right place at the right time."

In referring to the work of the Committees Mr. Gale reported he had asked the Waste Management Committee to conduct a self-evaluation of their work in the past year. Issues raised included: frustration/concerns over the amount of time it takes government to take actions and approve cleanup; CAB presentations are too "overloading and complex"; meetings need to focus on agenda schedule; the NNM CAB played a significant role in getting DOE and Carlsbad to focus on "Quick to WIPP" and the CAB needs to dig deeper through documents for information. The Committee Chairman said the self-evaluation would be used to develop the FY 2003 Committee work plan.

At the urging of Mr. Johnston, the Board held a brief but detailed discussion on the current venue of bimonthly CAB meetings. General comments centered on the importance of attendance at all Board and Committee meetings and reviewing material provided to members prior to the bimonthly meetings. Comments centered on the increased productivity of the Board within the bimonthly format since the lapse in regular meetings resulted in the subcommittees having sufficient time to draft Recommendations.

During the discussion, Ms. Fabryka-Martin made an informal request to the Executive Committee and the Outreach Committee to see if the amount of paper could be streamlined. Other members requested that all material be marked as a DRAFT COPY as appropriate and all materials should be dated.

The Chairman then initiated a dialogue on the current makeup of the Board and possible changes in membership. The board's bylaws, he said, provide for 21 appointments four of which have been set aside for Northern New Mexico pueblos. Which means, he said, if they don't attend the meetings there are 17 positions available. In consulting with the DDFO, the Chairman said, Board membership can be increased to 25, which would mean 21 active members plus four seats for the pueblos. Chairman Brannon said the rationale for this discussion was a sense the Committees needed more manpower. "If you had five fulltime members for three Committees a piece," he said, "that's only 15 people. And based on the absentee rate (and turnover) if you had five-for-three and a minimum of 15 you'd need (because of absenteeism etc.) 21 regular CAB slots filled." He said he would entertain a motion at the meeting the following day to amend the bylaws to increase membership to 25 so "we can recruit to 21 and have sufficient manpower to man our Committees." Ms. Berting endorsed the proposal saying she could use increased membership in her Committee. Ms. Fabryka-Martin noted limited staff resources and perhaps the Board should "focus more on getting good products out then the members will follow." She said her preference would be an increased emphasis on outreach activities, fact sheets, the newsletter and the website instead of more recruiting. She also suggested the Board focus more on discussing issues rather than business and she noted "the single most important issue to come before the CAB in the time I've been on it is this corrective action order (State of New Mexico, Environment Department "Determination of an Imminent and Substantial Endangerment to Health and the Environment" May 2, 2002) and yet the time allotted for that is half-an-hour without much discussion amongst ourselves." The Chairman reminded the Board all items on the agenda are eligible for change or reconsideration once it's

adopted. Mr. Taylor endorsed the proposal to increase Board and Committee membership and added current Board members could be actively involved in recruitment. He also said he would explore methods to get (Committee) information packages to the other board members who don't sit on Committees as well as studying means of reducing paperwork not specifically requested by the Board or required by the bylaws. On the subject of Committee membership, Mr. Ghosh offered the suggestion that if a Committee Chair thinks they need more members to do their work that they increase the membership. Those Committees, he added, who are functioning well with their current membership can remain the same size. Chairman Brannon reminded the Board members, "We have one simple rule: everybody who is a member of the Board is required by the bylaws to pick and choose and serve actively on one Committee at least."

Still on the subject of accomplishments and improvements in Board activities, Ms. Berting suggested reformatting the Committee minutes so they cite specific Committee actions. She said the current format may be "overly brief" and recommended the Committees return to a prose format for their minutes. Mr. Gale offered his opinion that the format of Committee minutes was at the discretion of the Chair.

Ms. Ramsey asked for the floor. "I just got off the phone with Jim Holtz and Scott Gibbs at the Laboratory," she said. "On behalf of the Laboratory we want to thank the CAB for their level of involvement. The Recommendations you have made, particularly to the accelerated proposals, were discussed all the way to Jesse Roberson's office. It made a difference. It also helped us focus on what the community is saying to us. In a regulatory environment you sometimes do things because you're told to, not because it's the right thing to do. And there is juxtaposition between what is in the corrective action order and what is in the accelerated proposal (NNMCAB Recommendations 2000-4 and 2002-8) and you'll see that as you go through the order in detail. You made it very clear what your positions were and they aligned with what Jesse (Roberson) was asking us to do. It was a very powerful message."

Chairman Brannon introduced the next item on the agenda: Development of Fact Sheets. Ms. Garland suggested the Ad Hoc Committee on Fact Sheets set a meeting date and formulate a proposal for the July CAB meeting. The Committee meeting was set for June 19, 2002 at 1 pm at the NNMCAB office and Ms. Garland said they would discuss the purpose, format and audience for the fact sheets. Ms. Ramsey offered the services of her division. In a general discussion of outreach activities Mr. Mayer suggested the Board send a summary fact sheet to area legislators detailing CAB actions over the previous quarter. Mr. Gale recommended local legislators be notified of each Board Recommendation when it is made. Ms. Garland said the Board be selective and focus on legislators who specialize on environmental and technical issues. The Chairman asked the Executive Director to list appropriate legislative committees that the Board could contact in the future. Reference was made to Senate Joint Resolution 84, which creates the "Joint Legislative Committee for Los Alamos National Laboratory Oversight." Mr. Friedrichs suggested the Board contact the new legislative committee and offer its services. Mr. Taylor observed the Board had "been doing the business of what the Public Outreach Committee would do if we had a Public Outreach Committee." He added, any additional outreach done by the Board would require additional staff resources and "this kind of activity is very human resource intensive."

The Chairman opened the meeting to public comment. Donovan Porterfield, as a member of the public, told the Board the website needs to be improved and updated because when the last meeting minutes posted were dated November 2001. He also suggested the posting of draft minutes, before formal adoption at the next scheduled meeting. Draft recommendations should also be posted, he said, so the public can review them and be prepared to comment before they are approved. There was no further public comment.

The Chairman adjourned the meeting until 7 p.m.

Chairman Brannon reconvened the meeting at 7 p.m. and introduced Mr. Fascico who would facilitate the Board's strategic planning session the following day, Saturday, June 1, 2002. He gave a brief description of his background as planning director for Taos County and he also

outlined the rules for conducting the strategic session. Mr. Fascico then conducted a brief recap of the Board's morning and afternoon session, which included these action items:

- Discussion of bylaws regarding the role of co-chairs;
- Action on Recommendation 2002-10;
- Draft resolution on the NMED Corrective Action Order;
- Ad Hoc Committee on Fact Sheets set meeting date;
- Make CAB volunteers available during fire season;
- Proposal to change Board membership from 21 to 25.

The Chairman then gave a talk on "The History of the Northern New Mexico Citizens' Advisory Board" which included a video presentation of a January 1997 Board meeting. That Board was later disbanded by DOE. The Chairman noted the dramatic changes that have taken place since the late 90s and the aggressive and productive agenda maintained by the current Board.

Chairman Brannon then moved to the final item on the agenda: Review of FY 2002 Work Plans – Have We Met Our Goals? Mr. Fascico moderated the discussion. Regarding **changes for 2003**, Ms. Fabryka-Martin is not to be so over prescriptive or detailed and be flexible so issues can be addressed in a timely manner. She suggested goals should be general. Also, in facilitating discussions between CAB Committees, the DOE and NMED some tangible result should be recorded. Ms. Berting said the ER Committee may have over committed in formulating its goals last year and these included issues that were out of their control such as the availability of documents. She said she agreed with the Chair of the EMS Committee that goals should be general and the members should be flexible in addressing a variety of problems. Mr. Latham also encouraged the Committees to attempt to remain flexible since they can precisely know what concerns there may be from month to month. Ms. Garland cited the Cerro Grande fire which no one could have predicted but affected the goals of all the Committees. Mr. Taylor agreed with the idea of remaining flexible so they can address issues as they emerge, however, as DDFO he has to approve the work plans and he can't approve agendas that are too general. He said the Committees, and the Board, must identify the issues that will have the biggest impact to the Los Alamos National Laboratory. Ms. Fabryka-Martin said she would like the Board, in the future, to discuss DOE responses to CAB Recommendations "so we can have a follow up and to close the loop. And we can see: what difference did we make?" Ms. Garland suggested Committee reports at Board meetings include DOE responses to CAB Recommendations.

The Board discussed **goals not met**, such as: the RCRA permit report, although this was out of the hands of the Board it was still their goal to review it and the EMS Committee wanted to publish a number of fact sheets. Mr. Jordan suggested updating the Board member toolkit. Ms. Berting mentioned the CAB had wanted to sponsor three workshops on environmental restoration, waste management and monitoring and surveillance. She recalled the first workshop on risk analysis had a very low turnout as far as Board members and the public.

The dialogue then turned to **goals met**:

- Increasing the number of recommendations to DOE (four Recommendations for FY 00/01 and 11 Recommendations for FY 01/02);
- Increase membership of the Board;
- Complete the annual report;
- Monitor the hydro geological work plan;
- Amended the bylaws to reflect Board goals and activities;
- Addressed ecological risk and the risk-based analysis and the MDA H priorities, some of which resulted in Recommendations to DOE;
- Attended and participated in the SSB Chair meeting;
- Hired staff members, moved into new offices, reconstructed filing system, purchased necessary equipment;
- Formulated an outreach plan;

- Adopted the openness policy;
- Supported the “Quick to WIPP” plan.

The Chairman adjourned the Board meeting at 8 p.m.

Chairman Brannon called the NNM CAB to order at 8 a.m. on June 1, 2002 and said the session would be devoted to strategic planning for the upcoming year. The Board was divided up into three groups: Environmental Restoration Committee; Waste Management Committee and the Environmental Monitoring and Surveillance Committee. A fourth group was comprised of the Board Chairman, the Deputy Designated Federal Officer and the NNM CAB Executive Director. The Chairman turned the meeting over to Mr. DiCicco. Acting as facilitator, he said, the group would decide on strategy, visions, goals, objectives and actions for the Board and its Committees.

Mr. DiCicco asked each group to determine three strategic plan items for each Committee.

The Environmental Monitoring and Surveillance Committee listed their goals with each goal followed by objectives that are followed by action items:

- Watershed Management
 - o Become familiar with regulatory drivers for storm water management
 - ✓ Sponsor a panel presentation at an EMS Committee meeting to discuss regulatory aspects, actions the Lab is taking and the issues raised between the two
 - o Get overview from LANL about their best management practices for storm water management
 - ✓ Schedule a meeting with Ken Mullins and go into the field
 - ✓ Create fact sheet based on overview
 - o Evaluate and comment on the storm water monitoring strategy currently used by LANL
- Implementation of the hydro geologic work plan
 - o Continued involvement with the Groundwater Integration Team
 - ✓ Attend GIT meetings and develop action items
 - o Evaluate or comment on data quality objectives for wells
 - o Continue to track data on groundwater movement and contaminate transport
- Track NMED Corrective Action Order and RCRA permit reissuance
 - o Focus on EMS aspect of the CAO and RCRA permit
 - o Facilitate nonconfrontational discussion among NMED, DOE and LANL

The Environmental Restoration Committee listed its goals, objectives and action items:

- Require monthly updates to the CAB Chairman from NMED, DOE and LANL to monitor what progress is being made
 - o Ask NMED, DOE and LANL how the NNM CAB can assist them in keeping them accountable
 - o Monitor and keep priority timeframes (if things are falling behind why?)
- Require NMED and DOE to send summary of points of regulatory disagreements
- Attempt to resolve regulatory disagreements so as not to impede the work

The Waste Management Committee listed its goals, objectives and action items:

- Regulatory issues
 - o Review and comment on RCRA permit
 - o Review and comment on the NMED Corrective Action Order
 - o Review DOT and EPA requirements
- Quick to WIPP transportation issues
 - o Analyze bottlenecks including drivers, routes and clearances
 - o Improve documentation procedures

- Public education and training
 - o Support SSAB workshop at WIPP
 - o Conduct a workshop on radiation protection
 - o Support community outreach by providing fact sheets

The Outreach Committee listed its goals, objectives and action items:

- Information
 - o Website updated weekly
 - o Quarterly newsletter
 - o Annual report
 - o Internal report
- Education
 - o Preset number of fact sheets from each Committee
 - o Public presentations by NNMCA members at local high schools, particularly science students and, possibly, have a student on the Board
- Outreach
 - o Monthly editorials in the Albuquerque Journal North, Santa Fe New Mexican and the Los Alamos Monitor
 - o Radio interviews
 - o Approach community groups through NNMCA members
 - o Public presentations by NNMCA members to service organizations
 - o Outreach to four Accord Pueblos

Mr. DiCicco then explained they would now review relationships between what the Committees are doing, what is the best method to unite those relationships and what implications these actions would have on the budget. He encouraged the members to comment on each other's work.

The discussion began with the point that the Outreach Committee is charged with getting all the work the other Committees do out to the public and to DOE, NMED and LANL. In addition, Mr. DiCicco said, "communication is the key to cross Committee work."

- Each Committee's actions should be reported periodically to the Outreach Committee which would create a 500-word report for distribution to the media;
- DOE responses to Committee Recommendations would be one basis of the Committee's report to the Outreach Committee;
- Generate press releases on Committee actions including field trips.
- Increasingly focus outreach and involvement, on an issue-by-issue basis, with stakeholders such as public works and utilities in municipalities and counties including working relationships with town managers, public health officials and in particular elected officials;

Mr. DiCicco then asked the full Board to list priorities that must be addressed this year by the CAB:

- Review RCRA permit;
- Respond to NMED Corrective Action Order;
- Mediate regulatory disagreements between the Northern New Mexico Citizens' Advisory Board, the Department of Energy, the Environmental Protection Agency; the New Mexico Environment Department and the Los Alamos National Laboratory and the public;
- Quick to WIPP;
- Carlsbad SSAB Workshop in 2003;
- Periodic Committee reports, as necessary, to the Outreach Committee for public dissemination;
- Publicized field trips;
- Outreach with community decision makers;

Chairman Brannon ended the Retreat/Strategic Planning portion of the Board meeting at 10 a.m.

The Chairman reconvened the Board at 10:15 a.m. The Chairman reminded the Board they had agreed to consider changes to the bylaws and the item “Draft Motion on Corrective Action Order” had been moved to today’s agenda.

Chairman Brannon entertained a motion to consider a change to the bylaws and the item be added to today’s agenda. Ms. Berting made the motion with a second by Mr. Jordan.

The Chairman entertained a motion to move the “Draft Motion on Corrective Action Order” agenda item off the table. Mr. Jordan made the motion with a second from Armando Benavidez.

Chairman Brannon explained the changes to the bylaws would receive a first reading today and they would be considered for final adoption at the Board’s July meeting. Ms. Berting read the proposed bylaw amendment:

Northern New Mexico Citizens’ Advisory Board, Proposed amendment No. 2 to the Bylaws:

Page 8, Section D. **Structure of Committees, Ad-hoc Committees and Task Forces:**

Add to Item No. 6.

“Standing committees may, at their discretion, internally select, elect or appoint a committee Co-Chair or Vice-Chair (either title bearing the same intended meaning), from among only the properly appointed Board members of the committee. Co-Chairs or Vice-Chairs shall serve and act in the temporary absence of the duly elected committee chair person.”

Add a new Item No. 7:

“Committee chairs shall notify the Board Chair and the DDFO of the selection, election or appointment of any standing committee Co-Chair or Vice-Chair.”

Thereafter renumber Paragraph in Section D, Items No. 7, 8, 9, and 10 to be No. 8, 9, 10, and 11.

Mr. Gale suggested language be added to the first amendment “Structure of Committees, Ad-hoc Committees and Task Forces” which would provide for removal of a co-chair or vice chair. Chairman Brannon said the change would be made before formal adoption. Ms. Garland asked for a change in the language in the first proposed bylaw amendment: “Co-Chairs or Vice-Chairs shall serve and act in the temporary absence of the duly elected committee chair person.” She said it was her intention to have the Chair and Co-Chair/Vice-Chair act in an equal capacity. Mr. Jordan, for the record, objected to the change saying that, currently, a Committee Chair could name either a “Co-Chair” or a “Vice-Chair.” After a further discussion Mr. Taylor observed some of the proposed changes were impacting other sections of the bylaws. The Chairman said the changes would be thoroughly reviewed with those who have concerns before the July 31, 2002 Board meeting.

Mr. Gale then read the second amendment to the bylaws:

Northern New Mexico Citizens’ Advisory Board
Proposed amendment No. 3 to the Bylaws

Page 3, Section A. **Membership:**

Item No. 2 shall be amended to read as follows:

“The number of Board members will be **twenty-five (25)**, ...”

Also amend the second sentence Item No. 2 to read as follows:

“**Twenty-One (21)** Board members will be nominated at-large, ...”

At the direction of the Chairman, Ms. Berting began the discussion on the New Mexico Environment Department's Corrective Action Order. Chairman Brannon said the Board would pass a board-sponsored resolution addressing the action. Ms. Berting read a draft of the resolution previously prepared by several board members.

After a suggestion from Mr. Gale, the Chairman opened the floor to a general discussion of the draft resolution. "I want to hear what other people have to say," Mr. Gale said. As he understood it, Mr. Gale said, the order would prevent funding from going elsewhere because when there's an order the funding "stays put" and "they're attempting to help LANL maintain their funding because there's this order hanging over their head." However, he added, since drafting of the order was begun more than a year ago "it was probably needed a year ago" but now it appears funding has been approved without the CAO and NMED has tried to put a bunch of their work on LANL so they've muddled up the situation." He added, while he could agree with the intent of the CAO it may not help speed up the actual clean up.

Ms. Fabryka-Martin said she disagreed with Mr. Gale's assessment of the intent of the CAO since language in the Order, to her, was clear: "...to mitigate potential threats to human health or the environment...fully determine extent of releases...evaluate corrective measures for clean up and implement such corrective measures."

Mr. Taylor said the state has options on how to regulate the Corrective Action Order. "In the past," Mr. Taylor said, the state did it through the Hazardous Solid Wastes Amendments Module to the RCRA operating permit. That module expired in May of 2000 and yet still continues in effect. So NMED basically had two options: they could reissue the permit or they could issue the Order. They both have the same effect of law. The state can take the same enforcement action under either one." He went on to say, "If they (NMED) didn't issue this order they would have to reissue the permit and it would probably almost exactly the same."

Mr. Mayer said, "My understanding is that when the reissued permit comes back out the corrective action part of that reissue permit will be the Order. The Order will be referenced into the permit." In his opinion, he said, NMED issued the order "because they thought it would help in funding with DOE to do all of the expedited clean ups. Secondly, the state may have used the Order because LANL would take it a little more seriously than the permit."

Ms. Debra Welsh-Fowler asked a procedural question: Had the NMCAB taken a formal vote on writing and adopting the Board resolution addressing the Corrective Action Order? Chairman Brannon said no and explained the Order had been issued on May 1 and public comments are due on July 1 "and it seemed to most of the staff the CAB ought to have a position on the Order. Every member of this CAB should, on their own, as citizens, write James Bearzi and tell him exactly what you think." He went on to say the CAB should take a position on the Order at this meeting because their next meeting will take place long after the deadline for public comment. Ms. Berting said she would like to add further background to Ms. Welsh-Fowler's question. "Right after the order came out," she said, "it was given to the Environmental Restoration Committee. The Committee started with a Recommendation and then we realized that it could not be a legal Recommendation so it was reworded and reworked to be a Resolution."

On the same issue, Chairman Brannon said, "I do not know for certain all of the details or motivation behind the Order but it was very clear in Mr. Bearzi's letter that he expects this Order will force the Department of Energy to put more money into New Mexico so we can get on to clean up and get out of the transport and investigation process a lot faster than we have. The Environmental Restoration Program has done remarkable work over the past 13 years they've also spent a boatload of our money reorganizing, finally figuring out rain water doesn't fall along fence lines and field operating units but down watersheds and canyons. It took them almost two year to figure that out. The slowness of their progress has been duly noted. James (Bearzi) also mentioned, publicly, that he's not happy and neither is the secretary (of the New Mexico Environment Department) with the rate and the speed of all that work. There is one thing we know for sure: some chemicals that we don't want to drink are beginning now, in a dry desert environment, to show up, at long last, in the regional groundwater. That's only going to get worse until we can isolate it and fix it and that's going to require more money devoted to contractors' cleaning, drilling and checking and

getting rid of things than to reorganizing, buying new furniture and getting everyone into one building in the Pueblo Complex. I think the state's made its case well. I think it would be a strategic political error not to have a position."

Mr. Taylor asked the Board to consider adding language to the proposed Resolution which point out positive features of the order, such as: a comprehensive proposal for clean up of surface and groundwater; sets priorities for groundwater, canyons and Materials Disposal Areas; sets a firm schedule for cleanup and finally and reaffirms NMEDs watershed approach for investigations.

Ms. Garland made a motion to accept the resolution as read and to add comments made during the discussion and it be sent to the Department of Energy and the New Mexico Environment Department along with a cover letter expressing the opinion of the Northern New Mexico Citizens' Advisory Board. **Ms. Berting made a second to the motion.**

Ms. Fabryka-Martin then moved a substitute motion to temporarily table the previous motion and refer the proposed Resolution back to Chairman Brannon and Ms. Berting for redrafting to include points brought up during discussion. **The motion by Ms. Fabryka-Martin was seconded by Mr. Ghosh.**

Mr. Jordan called for the question. The motion failed on a vote of 3 Yes and 6 No.

Ms. Garland restated her original motion which passed unanimously. The Chairman said the proposed Resolution would be redrafted during the lunch break.

The Chairman recessed the meeting at Noon.

Chairman Brannon reconvened the meeting at 1 p.m. The Chairman then read a draft of the proposed NNM CAB Resolution addressing the NMED Corrective Action Order.

Ms. Garland withdrew her original motion. **Mr. Gale then moved to adopt the Resolution, as read, with a second from Mr. Johnston.** After some discussion and clarification Mr. Gale amended his motion to accept changes and recommendations made by Ms. Fabryka-Martin, Ms. Berting, Mr. Friedrichs and others. Mr. Jordan called for the question. The Resolution was adopted with 13 Yes votes; 0 No votes and 1 Abstention: Maxine Ewankow.

As adopted the Board Resolution reads:

**A Resolution by the Northern New Mexico Citizens' Advisory Board
Regarding the New Mexico Environment Department's
Draft Corrective Action Order**

Whereas the New Mexico Environment Department (NMED) has issued a Draft Corrective Action Order to the Department of Energy (DOE) and the University of California (UC) under the New Mexico Hazardous Waste Act; and,

Whereas the Draft Order asserts on Page 11, in Item No. 8 that "past and current handling, storage, treatment, and disposal of solid waste and hazardous waste at the LANL (Los Alamos National Laboratory) facility may present an imminent and substantial endangerment to human health or the environment;" and,

Whereas the Draft Order lists investigation, cleanup, and corrective action requirements at LANL, and includes a list of priority sites and a timetable for compliance; and,

Whereas the Northern New Mexico Citizens' Advisory Board (NNMCAB) is deeply interested in the issues addressed in this Draft Order and was chartered to advise DOE on these issues; and,

Whereas the experience of NNM CAB Members indicates that the public and other stakeholders are also deeply interested and concerned; and,

Whereas the State of New Mexico implemented the Hazardous Waste Act in 1985, and in view of the effort and funds expended, the public does not perceive that there has been adequate cleanup progress since that time;

Now, therefore, the Northern New Mexico Citizens' Advisory Board resolves to affirm that:

- The Board supports the intent of the NMED Draft Corrective Action Order.
- The Board believes that the cleanup of hazardous waste sites at the Los Alamos National Laboratory, operated for the Department of Energy by the University of California, has proceeded too slowly.
- The Board supports and applauds the following aspects of the order:
 - The Draft Order presents a comprehensive proposal for cleanup that addresses soil, surface water and ground water,
 - The Draft Order sets firm priorities for investigation and, where appropriate, cleanup of groundwater, canyons, and Materials Disposal Areas (MDA),
 - The Draft Order adopts a firm schedule for cleanup actions, and
 - The Draft Order reaffirms NMED's adoption and use of the watershed approach for investigations.

Furthermore, the Northern New Mexico Citizens' Advisory Board desires to assert to the New Mexico Environment Department the following as Board comments on the Draft Order:

The NNM CAB has observed constructive working relationships among DOE, LANL, NMED, and the public in our committee meetings. These multi-entity discussions have resulted in productive exchanges as evidenced by accelerated cleanup progress. We are concerned that the tone of the Draft Order threatens to destroy this working relationship, to the detriment of cleanup progress and public safety.

The NNM CAB recommends that DOE and NMED consider less confrontational paths to achieve the same objectives, including a four-party agreement (UC/LANL, DOE, NMED and EPA), inclusion of corrective action provisions in the RCRA Operating Permit, or retaining the order in Draft form.

The NNM CAB stipulates that the following are of direct concern to the NNM CAB and Stakeholders:

- Use of the term "imminent and substantial endangerment to human health or the environment" by NMED has alarmed the public, justifiably or not. The Board believes that it is incumbent upon NMED to provide the public in meetings and notices with the exact nature and severity of this "endangerment." NMED should define the term "imminent" in the phrase "imminent and substantial endangerment," as the residents of northern New Mexico deserve to know whether or not any adult or child is today truly in any kind of imminent danger from release of chemicals into the accessible environment.
- The NNM CAB believes that LANL has already generated much of the information required by NMED in this Draft Order. The NNM CAB urges NMED to provide specific acknowledgement of work LANL has already accomplished and that NMED has already accepted for each of the listed potentially contaminated sites.

- The NNM CAB believes that the Draft Order should require that the generated information be in an easily comprehensible form to allow more efficient NMED review. Timely and convenient public access to this information must be addressed in the Draft Order.
- The NNM CAB believes NMED is chronically understaffed. NNM CAB feels that the Draft Order should be structured and prioritized in such a way as to reflect the ability of NMED to provide proper oversight functions. The Draft Order should make clear that duplication of investigations, sampling or reports is not required.
- Once this Draft Order is amended by incorporation of public comments and issued as a Final Order, NNM CAB requests that the DOE actively and aggressively obtain the funding and all other resources necessary to promptly comply with the Final Order. NMED should not be a bottleneck in the execution of this Draft Order. The NNM CAB urges the NMED to likewise secure the funding and staff to adequately execute the provisions of the Final Order.
- The emphasis of the Draft Order is on investigation and reporting requirements. The NNM CAB feels strongly that emphasis should be on actual cleanup on the basis of the investigations already available. Furthermore, we are concerned that the prescriptive reporting requirements may cost time and money better spent on actual cleanup.

Adopted by the Northern New Mexico Citizens' Advisory Board (NNM CAB) in Annual Retreat assembled in Taos, New Mexico, June 1, 2002.

(Signed)

James R. Brannon, P.E.
Chairman, NNM CAB

The Chairman then asked Mr. DiCicco to initiate a short discussion on items not previously covered during the strategy workshop. He asked the Board to list:

“Who do we communicate with?”

- Stakeholders
- Pueblos
- Citizens groups
- Elected officials
- Communicate with each other on technical issues
- Congressional delegation
- General public

“What do we need to have in our toolkit?”

- Fact sheets
- Descriptions of contaminated locations
- List of references
- Update citizen's toolkit
- CAB background
- Board member resumes
- List of CAB Recommendations and follow-up

Chairman Brannon then opened the meeting to public comment. Mr. Scott Thomas addressed the Board. Mr. Thomas spoke as a concerned citizen who said he has attended CAB and DOE meetings for many years. “I still feel we're not being heard,” he said, “I'm talking about those who believe Los Alamos

and WIPP should not be in existence. The voices of those who believe in nonproliferation are not being heard.” He went on to say, “No matter how safe and contained it is there will always be a margin of error.” Mr. Thomas said he considers Los Alamos National Laboratory a source of terrorism to the planet. “If anything happens in Los Alamos we’re all going to suffer from it,” he said. He asked the Board to “take in the big picture and that is: having nuclear weapons lab will always remain an imminent and substantial threat to human health.”

Ms. Fabryka-Martin moved to reconsider the Resolution responding to the NMED Corrective Action Order. The motion died for lack of a second.

Mr. Johnston made a motion to adjourn, Mr. Jordan seconded and the motion passed unanimously on a voice vote.

Certified by:

James R. Brannon, Chairman

Date: _____

Handouts:

- NNM CAB meeting minutes for March 27, 2002
- Report from the Department of Energy and DDFO
- Environmental Restoration Committee minutes for May 13, 2002
- Environmental Monitoring and Surveillance Committee minutes for May 14, 2002
- Waste Management Committee minutes for May 8, 2002
- NNM CAB Executive Committee minutes for April 4 and May 9, 2002
- Report from the Executive Director
- Recommendation 2002-10, Waste Characterization
- New Mexico Environment Department outline on Corrective Action Order
- Recommendations from the NNM CAB from January 12, 1996 until March 27, 2002
- Presentation to NNM CAB by James Nunz, OLASO WM Operations Manager
- History of the NNM CAB
- New Mexico Environment Department frequently asked questions on Corrective Action Order
- New Mexico Environment Department table of contents for Corrective Action Order
- Press release from DOE News on accelerated clean up strategy dated May 30, 2002
- Article from Knight-Ridder Newspapers: “Dirty Secrets”
- New Mexico Environment Department synopsis of Corrective Action Order
- New Mexico Environment Department fact sheet on Corrective Action Order
- Proposed amendment to the NNM CAB bylaws No. 2, Structure of Committees
- Proposed amendment to the NNM CAB bylaws No. 3, Membership
- Work plan for Environmental Restoration Committee, FY 2002
- Environmental Restoration Committee minutes, April 15, 2002
- Work plan for Waste Management Committee, FY 2002
- Annual report for Waste Management Committee 2002
- Environmental Monitoring and Surveillance Committee minutes, April 23, 2002
- Work plan for Environmental Monitoring and Surveillance Committee