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Members of the New Mexico Water Quality Control Commission:

On October 13, 1994, CCNS first raised concerns about the seepage through tank walls within the Radioactive Liquid Waste Treatment Facility (RLWTF) at LANL. See the Administrative Record 00003 – 00006. Recent reports indicate that seepage is continuing through tank walls. The seepage contains hazardous caustic and liquid acid wastes, not intended for discharge to waters of the United States, which are subject to regulation under the NM Hazardous Waste Act.

The NM Water Quality Act clearly states that:

B. The Water Quality Act does not apply to any activity or condition subject to the authority of the environmental improvement board pursuant to the Hazardous Waste Act [Chapter 74, Article 4 NMSA 1978], the Ground Water Protection Act [Chapter 74, Article 6B NMSA 1978] or the Solid Waste Act except to abate water pollution or to control the disposal or use of septage and sludge. [Emphasis added.] 74-6-12 NMSA

The dangerous hazardous materials stored in tanks at the RLWTF are clearly subject to regulation under the Hazardous Waste Act by the New Mexico Environment Department (NMED).

Further, I strongly disagree with the Hearing Officer's recommendation to the NM Water Quality Control Commission (WQCC) to deny standing to Concerned Citizens for Nuclear Safety (CCNS) and Honor Our Pueblo Existence (HOPE). These organizations have members who are affected, both in the past and presently, by releases of hazardous materials that are treated and stored in the Radioactive Liquid Waste Treatment Facility (RLWTF) at Los Alamos National Laboratory.

Only the Hazardous Waste Act and its regulations can properly safeguard downstream communities from the imminent danger to public health posed by hazardous waste leaks from the RLWTF into the domestic water supply sources that flow through their communities, but the New Mexico Environment Department has failed to assert its jurisdiction to regulate these materials under the Hazardous Waste Act.

CCNS members are therefore compelled to request that the Water Quality Control Commission vacate the issuance of discharge permit, DP-1132 and deny any future renewals of the discharge permit, so that the NMED can exercise its lawful authority to regulate the RLWTF under the NM Hazardous Waste Act.