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1. To 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 continuing seepage through tank walls. The seepages include hazardous caustic and acid liquid wastes, which are required to be regulated by the NM Hazardous Waste Act.

Please review the NM Water Quality Act limitation that states at 74-6-12 NMSA:

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.]

The Hazardous Waste Act is the appropriate law to regulate dangerous hazardous materials that are handled, treated and stored within the RLWTF, but it is not being used by the New Mexico Environment Department (NMED).

The WQCC must recognize it does not have the authority under the NM Water Quality Act to regulate the RLWTF, a hazardous waste facility. The WQCC must vacate the issuance of discharge permit, DP-1132. The NMED must do its job and fully regulate the RLWTF under the NM Hazardous Waste Act.