

8. The Misinformation about Regulatory Requirements in the NAS Report Prepublication Copy.

The prepublication copy does not describe the failure of the LANL groundwater protection program to meet the requirements of the NMED LANL Consent Order and of DOE Orders. Instead, the prepublication copy makes the following statements:

Well drilling and completion methods are continuing to evolve, and the site is only beginning to implement its groundwater monitoring program under the Consent Order. Many if not all of the wells drilled into the regional aquifer under the Hydrogeologic Workplan appear to be compromised in their ability to produce water samples that are representative of ambient groundwater for the purpose of monitoring. p. 79.

During this study the committee was presented a good deal of information indicating that most or all wells into the regional aquifer at LANL (R-wells) are flawed for the purpose of monitoring. The committee did not disagree, but rather found a lack of basic scientific knowledge that could help ensure future success. Evidence about the conditions prevalent around the screens in the compromised wells is indirect—relying on plausible but unproven³ chemical interactions, general literature data, analyses of surrogates, and apparent trends in sampling data that may not be statistically valid. p. 97.

³ Not directly observed and measured under LANL site conditions.

In fact, LANL has already submitted reports under the Consent Order that present findings based on the water quality data from the LANL wells installed in the regional aquifer under the Hydrogeologic Workplan that the NAS committee describes as “compromised” and “flawed” for purposes of monitoring. The LANL reports present the water quality data as reliable and representative of ambient groundwater despite the findings of the Northern New Mexico Citizens’ Advisory Board, EPA and the NAS committee.

DOE is self-regulating for radionuclide contamination in groundwater as described in the prepublication copy:

The Consent Order contains no specific requirements for radionuclides or the radioactive portion of mixed waste at LANL because the state does not have jurisdiction over regulation of such substances. The DOE may voluntarily include information about radionuclides in any plan, report, or other document. However, such submission is not enforceable by any entity, including the state, under the Consent Order, because such information falls wholly outside the requirements of the Consent Order.” p. 26.

The prepublication copy failed to bring attention to the failure of LANL/DOE to be in compliance with DOE Orders for monitoring groundwater contamination by radionuclides that are produced by nuclear weapons research and production. DOE Order 450.1 requires installation of a site-wide network of reliable monitoring wells across the laboratory facility by December 2005. Given the assessment by the NAS

committee that most if not all wells are flawed or compromised, it is obvious that DOE/LANL are not in compliance with DOE Order 450.1. Similarly, LANL/DOE are not in compliance with DOE Order 435.1 for monitoring wells to determine the performance of Area G, the LANL facility for disposal of low-level radioactive waste.

The NAS committee states that the committee “was not shown data to substantiate the claim that waste has not migrated from the SWMUs.” p. 34. However, the NAS committee cites the Western Environmental Law Center. 2006. Sixty Day Notice of Intent to Sue LANL for Violations of the Clean Water Act, which documents waste migrating from the SWMUs. Please correct in the revision of the prepublication copy, or any other revision of the report.

The NAS committee describes the Consent Order as covering surface water, as well as groundwater. p. 24. This is not correct. Surface water was extracted from the Consent Order through a Federal Facilities Compliance Agreement between DOE/LANL and the EPA Region 6 that was signed on February 3, 2005.