



## Accomplishments: Selected Highlights

**Nuclear Watch New Mexico** was founded in 1999 by veteran New Mexican anti-nuclear weapons activists. Since then we have undertaken a broad spectrum of actions to advocate for the public interest in national nuclear weapons policies and programs.

### National Policy/Legislation

#### Pit Lifetimes Legislation Undercuts Controversial Program to Create New Weapons

- We worked closely with Senator Jeff Bingaman (D.-NM) and his staff to successfully introduce an amendment to the fiscal year 2005 Defense Authorization Act. This mandated independent expert review of the Department of Energy's "pit lifetime studies" then underway at their nuclear weapons arm, the National Nuclear Security Administration (NNSA). We did not trust NNSA's objectivity. The agency was claiming that pits, the crucial atomic "triggers" for modern thermonuclear weapons, last only 45 to 60 years and was increasingly pointing to potential aging effects to justify proposed new weapons programs.

We became increasingly concerned as the due date for NNSA's "Pit Lifetime Study" began to slip. We had also heard that NNSA was not preparing an unclassified summary as required by Senator Bingaman's legislation, fueling our concern that the agency was attempting to bury the study. Via inside contacts we were able to implement some measures that helped ensure the release of the study and its unclassified summary as well.

Finally, in November 2006, a panel of eminent independent nuclear weapons experts (known as "JASON") concluded that plutonium pits have reliable lifetimes of a century or more.

These findings, which we worked to publicize nationally and especially within the halls of Congress, have truly disrupted NNSA's plans both for new-design nuclear weapons, its so-called Reliable Replacement Warheads (RRW), and "Complex 2030," NNSA's hoped-for future nuclear weapons complex. The two issues are deeply intertwined, as NNSA claimed that RRW was the "enabler" for the future complex, which in turn was to produce at least 125 pits per year for RRW. The need for both was mostly premised on shorter plutonium pit lifetimes, which we played a direct role in refuting. Subsequently, Congress rejected all funding for RRW and NNSA has substituted a lesser (but still dangerous) proposal for "transformation" of its complex, in comparison to its over-the-top Complex 2030 proposal.

With literally 100's of billions of dollars and future nuclear weapons policies potentially riding on the outcome, we regard the pivotal "pit lifetime" legislation and the resulting conclusion that pits last a century or more our single most significant and far reaching accomplishment to date.

### Litigation

#### BioWeapons Lawsuit

- In August 2003, with colleague and co-plaintiff Tri-Valley CAREs, we filed suit in the 9<sup>th</sup> federal circuit against the adequacy of cursory environmental assessments for bioweapons agents research facilities handling pathogens such as plague and anthrax at both the Los Alamos and

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Lawrence Livermore National Laboratories. In response, in January 2004 the NNSA withdrew its approval for the Los Alamos biolab, stating that it would prepare a more comprehensive environmental impact statement that has still not been released. In Summer 2006 we discovered from inside sources that LANL planned to begin unpublicized “interim operations” at the biolab, which a single letter to NNSA from our attorney brought to a stop.

However, NNSA did decide to proceed with its Livermore biolab. We co-plaintiffs appealed, and as a result a 9<sup>th</sup> circuit judicial panel ruled in 2006 that “Intentional Destructive Acts” (sabotage or terrorism) must be considered in environmental reviews of proposed DOE facilities. Subsequently, DOE felt compelled to incorporate that judicial decision into Department-wide guidance for all of its public review processes required by the National Environmental Policy Act (NEPA). That now-required analysis of the potential effects of terrorism and sabotage should prove a crucial long-term tool for activists across the country.

### **FOIA Lawsuit**

- In October 2007, following protracted litigation under the Freedom of Information Act (FOIA) to obtain “Ten-Year Comprehensive Site Plans” for various NNSA sites, a federal judge ruled that NNSA’s pattern and practice of delay defies “both logic and the law.” NNSA itself describes these Plans as the foundation for strategic planning of its “intended” nuclear weapons complex. Directly related, we fought against NNSA’s claimed use of a FOIA exemption that allows “predecisional” materials to be withheld, which in the extreme could mean that all agency decisional materials could be withheld until they were specifically approved by the President or Congress. We beat NNSA on the use of that FOIA exemption as well. NNSA has now stated in court that it has gotten the message is considering providing its Site Plans to all on the Internet.

## **Facilities, Permits and Environmental Impact Statements**

### **Modern Pit Facility Stopped in its Tracks**

- Beginning in 2002 Nuclear Watch led in the fight against the NNSA’s proposed “Modern Pit Facility” (MPF), a super new bomb plant designed to produce up to 450 plutonium pits per year. First, we convinced the national Alliance for Nuclear Accountability (ANA) to take on the issue as a top priority, and through ANA’s presence in Washington, DC made the MPF issue visible in the nation’s capitol. Ultimately Congress rejected any funding for the MPF.

### **Pit Production Confined**

- In 2008 Congress also rejected any funding for NNSA’s subsequent proposal for a “Consolidated Plutonium Center” (CPC), a scaled down version of the MPF designed to produce 125 pits per year (by this time the “Pit Lifetime Study” played a strong role in sealing its doom). Defeating both the MPF and CPC fit into Nuclear Watch’s larger strategy of preventing the U.S. from resuming industrial-scale bomb production. Unfortunately, success in that strategy does have a negative boomerang effect on Los Alamos in that NNSA has been forced to rely upon LANL’s already existing plutonium pit production infrastructure instead of building a new super plant elsewhere. Nevertheless, we believe this is mostly to the good, because we also believe that pit production will always be heavily constrained at LANL because of a number of factors, including site topography, regional popular and political opposition, and even the Lab’s questionable level of competence. Moreover, we argue that few, if any, pits actually need to be produced even by the NNSA’s own definitions and terms, given Congressional rejection of the Reliable Replacement Warhead and the not-well-known fact that the Pantex Plant near Amarillo, TX, is sanctioned to “reuse” up to 350 existing pits per year for refurbished nuclear weapons.

The Plant itself boasts how far cheaper and less environmentally damaging pit reuse is in comparison to new pit production.

### **Postal Service Dissuaded from Investing in Nuclear Weapons Facility**

- In June 2006 we discovered through a Ten-Year Comprehensive Site Plan for the Los Alamos National Laboratory (LANL) a scheme for “alternative financing” in which the US Postal Service was going to pay for the construction of a 400,000 square feet, nuclear weapons-related “Science Center” at the Lab. Within two days of our public disclosure of it the USPS headquarters in Washington DC formally backed out of what it called that “arrangement.”

### **A New Environmental Impact Statement for Los Alamos**

- In 2006 Nuclear Watch and others persuaded NNSA to draft a new LANL Site-Wide Environmental Impact Statement (SWEIS) for continued operations, for which we submitted extensive formal comment. A final document has yet to be released, and in any event its importance has since been superseded by NNSA’s subsequent release of a draft programmatic environmental impact statement for “transformation” of its nuclear weapons complex. In hindsight, perhaps the most important thing that we did for the LANL SWEIS was to upload (in a massive technical effort) all of its cited reference documents onto our own web site, given NNSA’s refusal to provide online public access. [We had the reference documents because NNSA had supplied Nuclear Watch with 18 CDs, no doubt anticipating that we would have sued them under NEPA had they not given them to us.] We like to think that we shamed NNSA by our example, as the agency has now provided online access to virtually all of its cited reference documents for its transformation programmatic environmental impact statement. We can’t underline enough how important that online access is for the serious researcher and public commentator. Finally, we believe that NNSA will now be compelled to provide online access to reference documents in all major future public review processes.

### **Teaming up with Idaho**

- In 2005 DOE released a draft environmental impact statement for consolidating activities involving plutonium-238 at the Idaho National Laboratory. The isotope Pu-238 is non-fissile (i.e., incapable of sustaining a nuclear chain reaction) and hence is not directly used in nuclear weapons (however, because of its steady heat as a byproduct of radioactive decay it is used in thermoelectric batteries for deep space and unspecified national security missions). One of the expressed aims of DOE’s proposed Pu-238 consolidation was to free up more floor space for nuclear weapons pit manufacturing operations with Pu-239 at LANL’s plutonium facility. Nuclear Watch researched and supplied crucial information to colleagues in Idaho (e.g., the Snake River Alliance) demonstrating that link to increased nuclear weapons production, plus the fact that LANL had Pu-238 recycling operations that would satisfy DOE’s claimed need for increased production anyway. After raucous public hearings in Idaho that focused on these key arguments and others, DOE has to date abandoned its consolidation proposal, thereby helping to keep plutonium pit production constrained at Los Alamos.

### **LANL Criticality Experiments Ended**

- In 2004 we became aware of a report by the independent Defense Nuclear Facilities Safety Board (DNFSB) that stated that fatal offsite radiological doses were possible in the event of accidents during “criticality experiments” at LANL’s Technical Area-18. We met with NM Gov. Bill Richardson, who ironically had ordered an end to those criticality experiments in 2000 while he was Secretary of the Energy Department. In response to letters received from him and Congressman Tom Udall (both of which we drafted) in short order NNSA stopped the

experiments at TA-18 and transferred its related equipment to the Nevada Test Site (but still has not yet resumed those experiments there).

### **Updating LANL's Waste Permit**

- In August 2007 the New Mexico Environment Department (NMED) issued a new draft solid waste permit for LANL covering hazardous and mixed hazardous/radioactive wastes. The old permit had expired in 1998, but was “administratively extended” by NMED since. Nuclear Watch had been pressuring NMED since 2002 to release a new draft, and albeit far too delayed finally succeeded. We have since submitted to NMED extensive formal comment designed to strengthen the final permit, which should be a crucial tool toward State-mandated cleanup at LANL.

### **Networking and Coalition-Building**

- Nuclear Watch helps others. We are an active member of the Alliance for Nuclear Accountability (ANA), and frequently serve as “team leaders” in meetings with Congress and the Administration during ANA’s annual “DC Days,” which brings a grassroots perspective on nuclear weapons issues to the nation’s capitol. The Nuclear Watch Executive Director served on the ANA Board for eight years, six as President. He also served on the Advisory Board for the Monitoring and Technical Assistance Fund since its inception in 1998. That Fund resulted from litigation against DOE that he initiated in 1996, and the Fund dispensed over 5 million dollars to more than 40 citizen groups and Tribes so that they could conduct their own studies of DOE environmental management programs. Nuclear Watch has repeatedly traveled to promote citizen activism at an overlooked NNSA site, the Kansas City Plant, which produces 85% of all nuclear weapons components. Our support resulted in PeaceWorks Kansas City adopting the Plant as its number one issue. With others, we are now in the formative stage of preparing a legal case against NNSA for excluding the Kansas City Plant from its current, required public review of its proposal for “transformation” of its nuclear weapons complex.

### **Media and Public Outreach**

- We seize on opportunities to submit public comment to federal and state agencies, and facilitate others’ response by publicizing comment periods/deadlines and posting sample comments and talking points.
- Nuclear Watch frequently appears in New Mexico printed media and radio and periodically on TV. We publish quarterly newsletters mailed to 2,500 individuals and organizations and numerous fact sheets, press releases, op-eds and letters to the editor. Our award-winning website [www.nukewatch.org](http://www.nukewatch.org) receives approximately 750,000 visits per year, and has been the first in the nation to post such crucial documents as the November 2006 “Pit Lifetime Study” and a 2001 “Report to Congress on the Defeat of Hard and Deeply Buried Targets” by the Department of Defense (which called for the development of earth-penetrating nuclear weapons).

### **Prior Accomplishments**

Before co-founding Nuclear Watch New Mexico in December 1999, Executive Director Jay Coghlan worked with the Santa Fe-based Concerned Citizens for Nuclear Safety (CCNS) since 1989. In that decade he:

- Put LANL issues on the CCNS agenda to begin with. Prior to that, the organization focused solely on the Waste Isolation Pilot Plant, the world’s first deep geologic radioactive waste

repository in southern New Mexico. CCNS' work centers on LANL to this day, particularly with respect to environmental and water issues.

- Jay and CCNS came to be involved with LANL issues through the Lab's 1989 proposal to resume mixed hazardous and radioactive waste incineration, which required permitting by NMED. Jay organized a letter-writing campaign against radioactive incineration aimed at New Mexico's two Senators and the then-3<sup>rd</sup> District Congressman Bill Richardson. Ultimately, Richardson introduced legislation that required a year's moratorium on the proposal in order to allow NMED time to promulgate air quality regulations on mixed waste incineration. When those regulations were issued DOE sued New Mexico and lost, and then lost again in appeal to the State Supreme Court, thereby firmly setting important legal precedent. In the end, in the face of public controversy, LANL abandoned its attempt to resume mixed waste radioactive incineration, to our knowledge the first time the Lab had ever been forced to back down on a major issue.
- In 1990 LANL proposed the construction and operation of a major new plutonium facility. Under Jay's leadership, CCNS, with others, used the required National Environmental Policy Act process for public review to delay that proposal. Not long thereafter, Congress declined to fund LANL's new plutonium facility, given the end of the Cold War. However, on a sad and ironic note, the essence of that proposal has been resurrected in LANL's "Chemical and Metallurgical Research Replacement Project" (CMRR). This new facility is now being constructed and will cost more than \$2 billion and enable expanded production of 50 to 80 plutonium pits per year. We are very involved fighting against the CMRR.
- In 1992, with Jay and John Stroud as Co-Directors of CCNS's LANL Programs, the organization filed suit against the Lab for Clean Air Act violations. Ultimately, in 1997 a federal judge ruled that LANL was in violation at 29 of its 31 major radioactive air emissions sources. Prolonged settlement negotiations followed, which resulted in the first-ever independent audits of a DOE's site's radioactive air emissions monitoring program, and the required continuance of a popular online emissions monitoring network.
- In 1995, CCNS, under Jay's leadership, and the Los Alamos Study Group sued DOE for its failure to complete an environmental impact statement (EIS) before constructing an advanced nuclear weapons design facility called the Dual-Axis Radiographic Hydrodynamic Testing Facility (DARHT). DARHT is the world's most advanced nuclear weapons design facility whose purpose is to explode surrogate plutonium pits while x-raying them. As part of pre-litigation negotiations with DOE, the two parties had three demands that the Department must:
  - 1) Complete a delayed, legally required programmatic environmental impact statement (PEIS) on its proposed post-Cold War reconfiguration of its nuclear weapons complex;
  - 2) Complete an EIS for DARHT; and
  - 3) Refrain from constructing DARHT until a formal decision was reached through the EIS.DOE agreed to our first demand, which resulted in the 1996 "Stockpile Stewardship and Management PEIS," which gave much public insight into DOE's nuclear weapons plans. It also provided the crucial legal record for subsequent issues, such as the Modern Pit Facility, the \$5 billion National Ignition Facility at the Livermore weapons lab, and now NNSA's current formal proposal to "transform" its nuclear weapons complex (which is based upon and technically is a "supplement" to the 1996 Stockpile Stewardship and Management PEIS).

As the result of protracted negotiations (requiring three trips to Washington, DC), DOE also agreed to complete an environmental impact statement for DARHT, but refused to stop construction while preparing it. Therefore, the Los Alamos Study and CCNS proceeded with

litigation, and won a 16-month federal court injunction against construction until the EIS was finally completed. As one newspaper put it, that judicial decision “sent shock waves across the nuclear weapons complex,” and DOE’s and LANL’s NEPA behavior has generally been much better ever since. As a concrete environmental benefit, the EIS mandated phased-in containment of the open-air explosives tests, some of which involve plutonium and uranium, and hence are clearly public health threats.

- In 1996, Jay was the first to expose an earth-penetrating modification that in military terms was the first new U.S. nuclear weapons in nearly 20 years. He had noticed an obscure note in the Sandia National Laboratories’ FY05 Institutional Plan that stated that the Labs were working on advanced earth-penetration technologies. On a radio interview hosting him and a LANL nuclear weapons scientist Jay was able to ask him about it. The scientist forthrightly replied that indeed the Labs were involved in an earth-penetrating modification to the B61 to replace the existing one megaton surface-burst B53 as a more effective and useful means to destroy deeply buried hardened targets. This subsequently became the well-known earth-penetrating nuclear weapon, the B61-11, which was rushed to the stockpile in 1997.
- Also in 1996, Jay researched a legal case to sue DOE over its failure to have ever completed a legally required programmatic environmental impact statement for its national cleanup programs (which are the largest in history and will cost up to \$300 billion). He then persuaded a coalition of 39 co-plaintiffs represented by the Natural Resources Defense Council to pursue that case. The resulting December 1998 settlement created a \$5 million fund that enabled more than 40 citizens groups and Tribes across the country to conduct their own studies of DOE Environmental Management Programs. Since the settlement, Jay has served continuously on the Advisory Board to the Administrator of that fund, helping to guide its distribution.
- Beginning in 1997, local activists began agitating that LANL should produce a new Site-Wide Environmental Impact Statement (SWEIS) for continued operations. NEPA requires one every 10 years, but LANL’s first and only was in 1979. In unrelated documents obtained under the Freedom of Information Act (FOIA) Jay found internal Lab admissions that the old SWEIS was “obsolete” and could no longer be used as the foundation for project-specific NEPA processes at the Lab. Shortly thereafter LANL and DOE caved in and agreed to prepare a 1999 LANL SWEIS for continued operations, which yielded some of the most valuable information ever made public about the Lab.

Specific to that LANL SWEIS, Jay submitted formal comment as to how wildfire was a real risk to the Laboratory, which the draft SWEIS had completely omitted any analysis of. DOE agreed, and subsequently included a detailed analysis of a theoretical wildfire in the final 1999 LANL SWEIS. When the real thing actually broke out in the 2000 Cerro Grande Fire, according to Lab officials they followed the SWEIS as a playbook for predictions as to what would happen next. In the words of a local newspaper, the real fire “eerily matched” the SWEIS’s prediction. More importantly, as the result of the SWEIS’ model, the Lab took advance preventative measures, including cutting fire lanes around LANL’s main storage site for bomb-making radioactive wastes. The Cerro Grande Fire reached, but did not jump, those fire lanes, perhaps preventing major catastrophe. Finally, during attempts by Republican Congressional Members in 2006 to legislate restrictions on the public’s right to comment on NEPA processes, Rep. Tom Udall (D.-NM) and others specifically cited Jay’s comments for the 1999 LANL SWEIS as a model of how public comment enhances public safety and leads to better federal decisions.

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