

Oak Ridge Environmental Peace Alliance Nuclear Watch New Mexico

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COURT VACATES LEGAL AUTHORITY FOR NUCLEAR BOMB PLANT CONSTRUCTION IN OAK RIDGE, TENNESSEE

Knoxville, TN - Judge Pamela Reeves, Chief United States District Judge for the Eastern District of Tennessee, declared the Department of Energy/National Nuclear Security Administration in violation of the National Environment Policy Act (NEPA) and vacated key decisions regarding NNSA's enriched uranium operations at the Y-12 National Security Complex in Oak Ridge, Tennessee.

"With this ruling," said Ralph Hutchison, coordinator of the Oak Ridge Environmental Peace Alliance, "the NNSA no longer has any legal authority to continue construction of the Uranium Processing Facility bomb plant."

Reeves' 104-page ruling declares "the 2016 Supplement Analysis, the 2016 Amended Record of Decision, the 2018 Supplement Analysis...are vacated." The 2016 Amended Record of Decision was prepared by the NNSA to "reflect its decision to implement a revised approach for meeting enriched uranium requirements by upgrading existing EU processing buildings and constructing a new Uranium Processing Facility."

The 2016 A-ROD was the first formal statement of NNSA's plan to separate its single-structure "big box" UPF design into multiple buildings and to continue using two out-of-compliance facilities for enriched uranium operations for at least twenty more years.

Reeves ruled on a lawsuit brought by the Oak Ridge Environmental Peace Alliance, Nuclear Watch New Mexico, the Natural Resources Defense Council and several individual plaintiffs challenging the federal government's environmental analysis for its nuclear weapons operations in Oak Ridge. Reeves rejected two of the plaintiff's claims but validated their argument that new earthquake data, published in 2014, must be considered in NNSA's environmental analysis.

"The court has ordered NNSA to prepare a new environmental analysis," Hutchison noted. "This is precisely what we called for five years ago. The NNSA should do what we asked them to do several years ago—prepare a new Site-wide Environmental Impact Statement for Y-12."

Dismissing one of the government's arguments—that its analysis of potential seismic impacts was sufficient—Reeves wrote: "Y-12 is located in a populous and quickly growing part of the country. Within the range of possible NEPA cases that might come through this courthouse, the Court is hard-pressed to imagine a more dramatic hypothetical than this, where it must contemplate what might occur if a major earthquake struck a nuclear weapons manufacturing facility located in a major population center."

The citizen plaintiffs are represented by Nick Lawton, formerly an associate at the public interest law firm, Meyer Glitzenstein & Eubanks LLP, and now an associate at the successor public interest law firm Eubanks & Associates, LLC.

After reviewing the decision, Lawton said, “In holding the NNSA accountable for its failure to seriously consider new information on seismic hazards, the court recognized the seriousness of this case. We are pleased that the court is requiring the agency to prepare a new, more specific consideration of earthquake risks, and we encourage the agency to come into compliance with NEPA by fully disclosing these serious risks and by properly involving the public in any ongoing decision-making process.”

Geoff Fettus, counsel for NRDC, said, “The UPF, an exorbitantly expensive project, is at the heart of the continuing nuclear weapons complex with all its security and environmental risks. We are gratified that the Court saw the need to ensure the weapons complex complies with our national environmental laws. This is good day for the environment and the Southeast.”

The decision may also have serious ramifications for NNSA’s efforts to expand nuclear weapons production at other sites, including Los Alamos, NM and Savannah River, SC. Jay Coghlan, director of co-plaintiff Nuclear Watch New Mexico, commented, “Uranium and plutonium components manufacturing are two sides of the same coin of expanding nuclear weapons production for a new global arms race. The Department of Energy should take this court ruling against its Uranium Processing Facility as a warning that it must also comply with National Environmental Policy Act requirements while ill-advisedly expanding the production of plutonium pits, the radioactive cores of nuclear weapons.”

The court ruling also points out the crucial role the Defense Nuclear Facilities Safety Board plays in monitoring safety issues at Y-12 and across the nuclear weapons complex. Since last year, the Department of Energy has worked to reduce the Safety Board’s access to some nuclear facilities, even issuing a revised Order to limit the information available to the Board and restricting who the Board can and cannot speak to directly.

“The court relied, as we did, on the excellent work of the Safety Board in coming to an understanding of the issues surrounding the safety of the old buildings in Oak Ridge,” Hutchison noted. “We urge the Department of Energy to abandon its efforts to constrain the oversight powers of the Board. The Board has always been scrupulous about adhering to its limited mandate, and it has also been a window into the world of DOE. This case shows why we need that transparency—it’s the last line of accountability we have left.”

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The court’s decision is available at <http://orepa.org/wp-content/uploads/2019/09/OREPA-Ruling.pdf>