



Tri-Valley CAREs



nuclear watch
new mexico

For more information:

Tri-Valley CAREs: Marylia Kelley
or Loulena Miles, (925) 443-7148

Nuclear Watch New Mexico:

Jay Coghlan, (505) 989-7342

Lead attorney, Stephan Volker, (510) 496-0600

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**COMMUNITY GROUPS HAIL VICTORY,
COURT GRANTS DEMAND FOR ENVIRONMENTAL REVIEW
BEFORE BIOWARFARE AGENT RESEARCH FACILITY OPENS AT LIVERMORE LAB;
*9TH CIRCUIT COURT ISSUES FINAL DECISION IN LANDMARK NATIONAL LAWSUIT***

San Francisco – The Ninth Circuit Court of Appeals issued a ruling today holding an Energy Dept. environmental study inadequate and thereby halting Energy’s impending plans to operate the first advanced biowarfare agent research facility inside a US nuclear weapons lab. This decision follows three years of litigation and public outcry against the planned operation of the dangerous facility.

The Biosafety Level-3 facility was designed to conduct aerosol experiments and genetic modifications using lethal pathogens such as live anthrax, plague, botulism and Q fever. The Energy Department had omitted any study of security risks and terrorist threats to the facility on the basis that that analysis was not required under the National Environmental Policy Act.

Plaintiffs, Livermore Lab watchdog group Tri-Valley CAREs and Los Alamos watchdog group Nuclear Watch of New Mexico as well as other individuals, demanded that the Energy Dept. conduct a thorough study of the project’s potential environmental impacts, including possible terrorist threats to the facility.

In today’s decision, the Ninth Circuit remanded the environmental review back to the Department of Energy for further analysis on terrorist risks, and possibly a new environmental impact statement, before the facility can operate.

“We are thrilled that the Court sent the Department of Energy back to the drawing board on this ill-conceived plan,” said Marylia Kelley, the Executive Director of Tri-Valley CAREs, who lives down the street from Livermore Lab. “I feel safer today because of the court’s decision. This is a huge victory for the residents of the Bay Area.” Kelley continued, “In the event of a terrorist attack on this laboratory where bioagents become airborne – hundreds or thousands of people could have been exposed to deadly pathogens.”

“This decision marks a turning point for Department of Energy decision-making and sets a precedent for Energy Department facilities across the nation, ensuring that they cannot open without a stringent environmental review,” said Tri-Valley CAREs Staff Attorney Loulena Miles. “Now the agency cannot merely cry National Security and avoid hard questions concerning environmental impacts and terrorist risks.”

CONTINUED ON PAGE 2 OF 2

The original lawsuit challenged both the Livermore Lab's plans to operate the facility without proper environmental study as well as a sister proposal for Los Alamos Laboratory in New Mexico to open a similar biolab, also without thorough environmental review.

Jay Coghlan, a Plaintiff and Executive Director of Nuclear Watch of New Mexico, believes this decision is likely to have wide-ranging impacts as well. "This decision in California is excellent. The question is how it might apply to Energy Department activities across the country. For instance, DOE is expanding Los Alamos's nuclear weapons programs, but failed to consider potential terrorism. New environmental review of the Los Alamos biolab is expected soon. DOE is about to begin review of the nation-wide nuclear weapons complex. Because the post-9.11 consequences to the public can be so very serious, potential terrorism effects should be considered in each case. We are very pleased that our litigation is leading in that direction," said Coghlan.

After plaintiffs filed suit, the Energy Dept. withdrew its approval for the Los Alamos advanced biowarfare agent research lab and litigated only on the Livermore proposal. Potential earthquakes, and the need for "additional seismic analysis," were listed as a reason for the approval to be withdrawn and the more stringent review to be undertaken in New Mexico. Energy is still reviewing the environmental risks of the Los Alamos bio-lab proposal.

If either of these advanced biowarfare agent research facilities would have been allowed to open, it would be the first time an advanced biowarfare agent research lab would have operated inside a US nuclear weapons lab. "Opening this lab would have sent a signal to the world that it is acceptable to study advanced biowarfare agent research inside classified nuclear weapons labs," argued Loulena Miles. "A few committed individuals have kept advanced biowarfare agent research out of the hands of US nuclear weapons labs so far but we still have a lot of work to do."