

Nukewatch Rebuttal to Points Made by LANL Spokesperson in Albuquerque Journal - Thursday, June 22, 2006

This is a rebuttal on various points made by the LANL spokesperson on the Los Alamos Science Complex in the article below:

- “LANL spokesman Kevin Roark said the lab is close to signing a memorandum of understanding with the U.S. Postal Service.”

LANL’s parent organization, the National Nuclear Security Administration (NNSA), has already signed a memorandum of understanding with the United States Postal Service. The LANL Ten Year Comprehensive Site Plans that Nuclear Watch New Mexico (NWNM), obtained under FOIA litigation, explicitly state “In February 2004, the Los Alamos Site Office, on behalf of the NNSA, executed a Memorandum of Understanding with the United States Postal Service (USPS) and authorized the USPS, as a third-party, to assist in the development of the two buildings and parking [for the Science Complex] to meet the needs of the DOE/NNSA.”

- “But any allegations that the Postal Service would fund the project itself or that LANL is going through the back door to get the facility are absolutely false, said Roark, referring to a news release about the project issued Wednesday afternoon by Nuclear Watch of New Mexico.”

In an October 2005 LANL presentation on the Los Alamos Science Complex entitled “Innovations in Alternative Financing” (available at http://www.nukewatch.org/facts/nwd/C_Webster_LANL_EFCOG_10_05.pdf 6MB), one slide entitled “US Postal Service Authority to Develop” cites:

US Code Title 39, Part 1, Chapter 4, Section 411

. . . Executive agencies within the meaning of section 105 of title 5 and the Government Printing Office are authorized to furnish property, both real and personal, and personal and nonpersonal services to the Postal Service, and the Postal Service is authorized to furnish property and services to them . . .

From that it is reasonable to construe that USPS could directly fund the project. Or it’s possible that USPS could act as a broker in “third party financing.” Either alternative raises troubling questions concerning congressional authorization, appropriation and oversight and public environmental review under the National Environmental Policy Act (NEPA).

Concerning the possibility of “back door funding” the FY06 LANL TYCSP states:

“The University of California’s Office of the President (UCOP) has been working closely with DOE/NNSA Headquarters to develop alternative (e.g., third-party) methods in addition to traditional construction mechanisms such as construction line-item or GPP [general plant project] funding as a means to address the indirectly funded infrastructure.”

UC has been LANL's manager since the Lab's founding in 1943, and now co-manages the Lab with Bechtel, Inc., and two other corporations. General plant project funding is a mechanism approved in 2002 by NNSA for general construction projects of less than \$5 million at multi-program sites.

Finally, construction funding for the Los Alamos Science Complex is "off budget" or "back door" in the sense that it is not included in NNSA Congressional Budget Requests.

- "Roark said Congress doesn't need to sign off on a project like this since a third party would be paying to build it."

This is debatable. Taken to the extreme, to the extent that the NNSA's nuclear weapons complex becomes increasingly privatized, which current evidence suggests that it is, does that then proportionally reduce Congressional authorization, appropriation and oversight? One example of increased privatization is that construction of a highly enriched uranium facility at the NNSA's Y-12 site in Tennessee was funded by a limited life corporation formed for that purpose, which in turn will receive lease payments from the NNSA.

- "He added that the money to lease the complex would come out of the lab's operating budget."

Which creates a financial obligation without congressional authorization. It is possible that the cost of leasing back over, for example, 30 years could exceed the cost of construction to begin with.

- "He also said that contrary to what Nuclear Watch contends, the project was included in the 2004 site-wide environmental impact statement."

A 2004 sitewide environmental impact statement for the Los Alamos National Laboratory simply does not exist. There was a 1999 LANL sitewide environmental impact statement (in which Nuclear Watch personnel were instrumental in forcing the Lab to prepare to begin with) and there is a new one pending, for which the draft is not yet released. The Los Alamos Science Complex was not in the 1999 sitewide environmental impact statement and is not within the announced scope of the pending sitewide environmental impact statement. To our knowledge, and Nuclear Watch New Mexico follows Lab processes under the National Environmental Policy Act very closely, there has been no notice to the public for environmental review of the Los Alamos Science Complex as required by the Act for major federal actions.

- Leasing space is routine, Roark said.

LANL's leasing of office space outside of Lab boundaries is indeed routine. Leasing by LANL within its boundaries is not, and is perhaps unprecedented.

Jay Coghlan - June 22, 2006

(the Albuquerque Journal article referred to above is reposted at:<http://www.nukewatch.org/media2/postData.php?id=1742>)