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Federal Judge Rules DOE Makes a “Mockery” of Freedom of Information, Future Decision Will Rule on “Remedies for this Violation of FOIA”

Santa Fe, NM – In March 2006 **Nuclear Watch New Mexico** filed suit under the Freedom of Information Act (FOIA) for the “Ten-Year Comprehensive Site Plans” of various Department of Energy sites. DOE’s semi-autonomous agency, the National Nuclear Security Administration (NNSA), has described these Plans as the foundation of strategic planning for its future nuclear weapons complex. Nuclear Watch filed FOIA requests beginning in December 2004, but subsequently obtained various Plans only after it sued. However, given the excessive delays (in some cases up to 17 months), Nuclear Watch amended its complaint to allege a “pattern and practice of unlawfully withholding agency records” by the NNSA.

The Federal District Court of New Mexico has now decisively ruled in our favor. As the Judge himself noted “The purpose of FOIA is to allow citizens to learn what their government is doing and how it is being done... it is intended to allow any citizen or group to receive government information ‘promptly’... A bona fide request for production of documents under FOIA must be honored in a timely fashion or the purpose of the Act is vitiated.”

In unusually strong language, the Court further declared, “Information is often useful only if it is timely. Thus, excessive delay by the agency in its response is often tantamount to denial... FOIA is intended to ensure the prompt disclosure of information, not its suppression... This makes a mockery of the 20-day target set by the Act and violates congressional intent. Indeed, the [NNSA’s] argument [why delays are merited] is contrary to both logic and law...”

Most significantly, the Judge ruled that Nuclear Watch’s case is not closed because further court hearings will be held on “remedies for this violation of FOIA.” Richard Mietz, attorney for Nuclear Watch, commented, “This decision by the Court is first a clear and unequivocal vindication of my client’s right under FOIA to receive a timely determination and production of agency records in response to their requests for information under the Act. It is a significant, precedent-setting victory for any citizen or public interest group who otherwise would be forced to endure lengthy and unlawful delays in obtaining government documents.”

Jay Coghlan, Nuclear Watch Executive Director, commented, “Our bottom line is that we want what the law says. We demand that NNSA determine within 20 days whether documents will be released, followed by their actual release within days or weeks. We won’t tolerate the months and years of delay and suppression of information that NNSA is guilty of. We look forward to real remedies that require prompt disclosure of information under citizens’ right-to-know.”

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The federal court order is available at: <http://www.nukewatch.org/facts/nwd/OrdergrantingNWNMSJM.pdf>