



*for more information, contact*

Jay Coghlan, Executive Director, Nuclear Watch of New Mexico, (505) 989-7342  
Alletta Belin, Law Offices of Belin and Sugarman, (505) 310-3466 (mobile)  
Marylia Kelley, Executive Director, Tri-Valley CAREs, (925) 443-7148  
Steve Volker, Lead Attorney, Law Offices of Stephan Volker, (510) 496-0600

*for immediate release, January 26, 2004*

**ENVIRONMENTAL GROUPS VICTORIOUS AS  
DEPARTMENT OF ENERGY WITHDRAWS APPROVAL  
OF CONTESTED BIO-WARFARE AGENT FACILITY AT  
LOS ALAMOS NATIONAL LABORATORY**

**Litigation Continues to Prevent Advanced Experimentation Facility for Bio-Warfare  
Agents at Lawrence Livermore National Lab Without Proper Review**

**Santa Fe, NM** — Amid growing controversy and federal litigation, the U.S. Department of Energy (DOE) announced that it has revoked approval for its newly-constructed, advanced bio-warfare agent research facility at the Los Alamos National Laboratory in New Mexico, which was slated to experiment with dozens of deadly pathogens.

Specifically, the DOE withdrew the Finding of No Significant Impact (FONSI) and final Environmental Assessment (EA) that it had issued prior to the start of construction. The Los Alamos facility, styled a "Biosafety Level-3" (BSL-3), would have been used for experiments — including genetic modification — with live anthrax, botulism, bubonic plague and other agents.

A second proposed bio-warfare agent research facility at the Lawrence Livermore National Laboratory in California remains under construction. The Livermore BSL-3 facility is slated to use the same mix of deadly pathogens and will also contain a special laboratory to conduct aerosol (spray) "challenges" of up to 100 small animals at a time.

In withdrawing its approval of the Los Alamos facility, DOE acknowledged its "continuing obligation under the National Environmental Policy Act ('NEPA') to consider new circumstances and information" regarding this facility's environmental risks.

DOE's action withdrawing approval of the New Mexico bio-facility is a second major victory for two environmental organizations, Nuclear Watch of New Mexico, located in Santa Fe and the Livermore, CA-based Tri-Valley CAREs (Communities Against a Radioactive Environment).

The groups' litigation, filed August 26, 2003 in the federal district court in Northern California, charges DOE with violating NEPA by approving advanced research on bio-weapon agents at its two principal nuclear weapon design labs without conducting a thorough review of the resulting environmental risks and impacts on international non-proliferation agreements. The lawsuit asks the court to compel site specific and programmatic Environmental Impact Statements and public hearings before the DOE can begin operation at either of the contested facilities.

Last month, in federal district court, Judge Sandra Armstrong issued an Order prohibiting any shipment of “select agents” – those most capable of being weaponized – to these proposed bio-warfare agent research facilities pending the trial of the environmental organizations’ lawsuit, scheduled to begin on April 23, 2004 in Oakland.

The DOE press release, available on the environmental groups’ web sites, admits that it will now need to go back to square one, producing a new environmental assessment and reviewing anew whether the agency will undertake a full Environmental Impact Statement – a key demand in the lawsuit.

“We are elated that our lawsuit has persuaded DOE to abandon its inadequate environmental assessment,” said Nuclear Watch Director Jay Coghlan. “The ‘ new circumstances and information’ which DOE cites likely includes the strength of our groups’ litigation and the weakness of Defendant’s case,” added Mr. Coghlan. “The public can now have better assurance that a stringent risk analysis will be completed before bio-weapon agent research begins at a secret nuclear weapons lab with a shoddy environmental, safety and security record,” Coghlan concluded.

“Although we are very pleased that DOE has agreed to withdraw its approval of the Los Alamos bio-warfare agent facility, we remain concerned that construction continues on the extremely dangerous Livermore facility,” stated Marylia Kelley, the Executive Director of Tri-Valley CAREs. “The serious risks to public health and safety posed by the deadly pathogens DOE proposed to use at its Los Alamos Lab are even greater at Livermore, because it is located adjacent to the active Los Positas and other area earthquake faults, and next to a large metropolitan area,” explained Ms. Kelley. “Our community deserves no less than an immediate halt to the construction of the Livermore bio-warfare agent facility and for DOE to withdraw its approval,” Kelley added.

“We are gratified that DOE has agreed to withdraw its unlawful approval of the extremely hazardous bio-warfare agent laboratory already constructed at Los Alamos,” commented plaintiffs’ lead attorney Stephan Volker of Oakland, California. “But DOE’s inexplicable failure to halt construction of the equally dangerous facility at Livermore is a huge mistake. This bio-warfare agent lab could become a magnet for terrorist attacks, exposing the entire Bay Area to potential contamination,” added Mr. Volker. “Unless DOE promptly agrees to withdraw approval of the Livermore bio-warfare agent lab, we will ask the Court to bar operation of this lab to protect the public’s safety,” Volker stated.

Biological containment levels range from BSL-1, which handles only agents not known to cause illness in humans, to BSL-4, which houses agents for which there are no known cures, such as Ebola. A BSL-3 designation permits work with virulent pathogens used in both defensive and offensive biological warfare research.

— 30 —

For further information, please call Nuclear Watch of New Mexico at (505) 989-7342 or Tri-Valley CAREs at (925) 443-7148. Or, visit their websites at [www.nukewatch.org](http://www.nukewatch.org) and [www.trivalleycares.org](http://www.trivalleycares.org).

A copy of the DOE press release is available on the web in PDF format or by calling the groups’ offices. The legal Complaint, Court Order staying operations and other background materials are also available on the two groups’ web sites.