

newsletter of
**nuclear watch
new mexico**
volume 5, issue 1
march 2004
www.nukewatch.org



Another Major Legal Victory (for the good guys): Approval Withdrawn for Los Alamos Biolab

Faced with mounting evidence that it had failed to weigh adequately the risks of operating an advanced biolab at Los Alamos National Laboratory, the Department of Energy (DOE) withdrew its approval to operate the facility. DOE's decision to rescind its Finding of No Significant Impact (FONSI) for the biolab is a blow to its earlier legal posture that it had considered all the ramifications of its proposed action. At the same time it represents a significant victory for Nuke Watch and our Livermore, CA-based partner Tri-Valley CAREs.

In August 2003 Nuke Watch and Tri-Valley CAREs filed a lawsuit in federal district court in northern California, challenging DOE's analysis of human health, security, and environmental risks posed by the Los Alamos biolab and a similar facility proposed for its sister lab, Lawrence Livermore National Laboratory.

DOE's withdrawal of its FONSI for the Los Alamos biolab forces it to scrap the environmental assessment it prepared in 2002. DOE will now have to prepare a new review of the health,

security, and environmental risks posed by the Los Alamos biolab. In a press release announcing its decision to conduct a new study, DOE left open the option of conducting an environmental impact statement (EIS) for the biolab. Nuke Watch and its partners have argued since early 2001 that only an EIS, the most rigorous type of environmental review, would be adequate to consider the potential dangers such a biolab poses. Our litigation demands that DOE conduct an EIS for the facilities, plus a programmatic EIS, which would entail a comprehensive environmental review of DOE's nationwide bioagents activities.

With the recent completion of construction activities, Los Alamos would soon have begun moving staff, equipment, and some of the most dangerous pathogens known to humans (including anthrax and plague) into the facility.

The second proposed biolab, located at the Lawrence Livermore National Lab in California, remains under construction. The Livermore biolab 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. Nuke Watch and Tri-Valley CAREs are challenging this facility in the same litigation filed against the Los Alamos biolab.

In December 2003 the Plaintiffs had another important victory. Judge Sandra Armstrong, the northern California federal district court judge hearing the case, issued an Order prohibiting any shipment of "select agents" to either the Los Alamos or the Livermore facilities. Select agents are a special high-risk federal classification of biological pathogens. These are the infectious and deadly biological organisms that have historically been used to create biological weapons.

More information on DOE's bioagents programs and our litigation can be found at www.nukewatch.org.

--Colin King



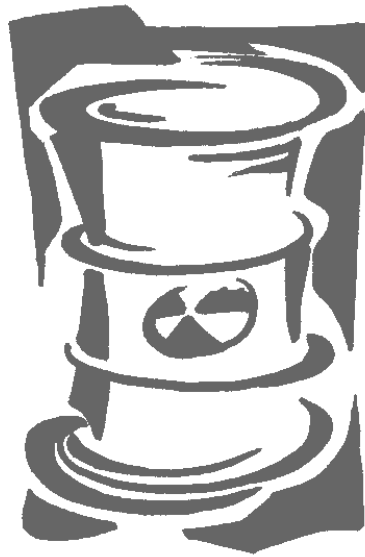
cartoon by Jamie Chase

Want a closer look at the beast? We've enclosed a federal budget fact sheet !

A Snapshot of Cleanup at LANL

They [DOE and LANL] want to play hardball; I can play hardball too... New Mexico will not - and I repeat, will not - give up on cleanup of the environment for dollars.
--Gov. Bill Richardson, accusing DOE of "extortion."

- DOE never completed required public review of its nationwide cleanup program, which will cost taxpayers up to an estimated \$300 billion and 70 years to complete. DOE lumps together cleanup and the "waste management" of currently generated nuclear weapons wastes while commonly portraying the entire "environmental management" budget as dedicated to cleanup (the latter is only around 33%). Los Alamos National Laboratory (LANL) decided that public review of its cleanup program was off-limits in its legally required 1999 Site-Wide Environmental Impact Statement for Continued Operations.
- A 1997 audit by the DOE Inspector General found that out of \$413 million spent by LANL for cleanup only 21% had gone to actual cleanup (the rest went to studies, administration and overhead). An estimated \$700 million has been spent to date, with questionable effectiveness. New Mexico's Environment Department (NMED) found that plutonium contamination in stormwater runoff is now 100 times greater than before the Cerro Grande Fire.
- In response to the lack of progress and declining cleanup funding the NMED issued a "Corrective Action Order" against LANL. This Order does not mandate cleanup, but is instead a very comprehensive and enforceable information request that should eventually lead to State-mandated cleanup.
- The DOE and University of California (LANL's manager) responded to the Order by filing six lawsuits against New Mexico in federal and state courts. If successful, these lawsuits would roll back two decades of legal evolution of states' authority over DOE sites and set terrible precedent across the country.



- LANL formulated an internally devised "Performance Management Plan" that explicitly plans to "cap and cover," not cleanup, its major hazardous and radioactive waste dumps. Further, it plans to turn over cleanup to the nuclear weaponeers by 2015, who created the mess to begin with.
- Funding for lab cleanup has fallen from a high of more than \$100 million in 1994 to under \$30 million in 2004. The PMP proposes to add approximately \$45 million in 2005 to that \$30 million "baseline," if only New Mexico would agree to the lab's cleanup plan (which is effectively non-cleanup). This is the "extortion" to which Governor Richardson refers.
- The lab also drafted an internally devised "Risk-Based End States Vision" (RBES). In our view, its essential purpose is to establish the framework for calculating potential risk to humans from residual contaminants based on future *industrial* use versus an *agricultural* or *residential* use. Industrial use assumes human occupancy for only eight hours a day, thereby dramatically lowering potential risks and the need for cleanup. A consultant for NukeWatch has calculated, for example, that cleanup to an industrial standard would leave 900 times as much plutonium-239 in the ground as would an agricultural standard. No doubt, in the lab's view, that would overwhelmingly eliminate the need for cleanup,

except at the major waste dumps. But the lab has already made it clear that it won't clean them up anyway!

So there you have it! For much, much more see our comments on the LANL Risk-Based End States Vision and "LANL 'Cleanup' and "Risk-Based End States'" at www.nukewatch.org.

Modern Pit Facility News: Interim Victory!

In a surprise move the DOE announced an indefinite delay to the environmental impact statement for its new industrial-scale nuclear weapons plant, a significant step in stopping this provocative project!

The "Modern Pit Facility" (MPF) will cost up to \$4.1 billion (without factoring in typical DOE cost overruns). There are five candidate sites: two in New Mexico and one each in Texas, Nevada, and South Carolina. The MPF will manufacture up to 450 plutonium pits per year (possibly more

with extra work shifts). DOE claims that the MPF is needed for "capability," meaning the preservation of an immense nuclear weapons stockpile, and the "flexibility" of producing new-designs if needed.

This rationale has been under attack because the U.S. has declared that it will reduce its "operational" warheads from around 7,500 to 2,000. This begs the questions of how many "reserve" weapons will be fully maintained and if there will be any irreversible arms cuts at all. Further, the idea of manufacturing

new-designs is hypocritical given U.S. demands that other countries cease their WMD programs. Finally, there is currently a lack of evidence showing that aging will impact pit "reliability" for the foreseeable future.

DOE cited "congressional concerns" (sparked by NukeWatch and many others) in its decision to delay. However, that didn't keep it from requesting \$29.8 million for MPF design work in 2005. Stayed tuned on how this pivotal issue plays out as we march forward to defeat it for good!

WIPP Update

(also known as acronym soup)

The Department of Energy (DOE) has submitted its permit modification request (PMR) to make substantial changes to the Waste Analysis Plan (WAP) at the Waste Isolation Pilot Plant (WIPP) in southeastern New Mexico. This PMR is historically significant, especially as it is the first submitted by Congressional mandate. This request came from Senator Pete Domenici (R-NM) through Section 311 of the Energy Bill.

The changes are radical. The PMR states that DOE intends to eliminate important sampling and analysis requirements at WIPP--oversight measures that took several years of public comments and 19 days of public hearings to develop. This PMR does not protect human health and the environment; it substantially increases the likelihood that prohibited and dangerous waste would come to WIPP. What is DOE's rationale? Simply that Congress (that is Domenici) told them to make these changes.

What is at stake here is twofold. First: DOE wants to remove headspace gas sampling and analysis, solids sampling and analysis and visual examination from its methods of characterization and confirmation. Second: this is a direct attack on the state's authority to regulate facilities such as WIPP. If Congress continues to put states in congressionally mandated headlocks, then the chance for real and safe cleanup throughout the nuclear weapons complex will be increasingly dubious.

Other PMRs submitted by DOE:

The Addition of Drum Age Criterion for New Containers. This PMR is basically a sequel to another that was submitted a while back-- but DOE left us all hanging. The previous PMR, approved by NMED, asked that additional waste containers be added to the list of technically adequate shipping containers. What DOE didn't do was tell the public how long it wanted the containers to sit at generating sites to ensure that they were safe for shipping. This is what DOE is addressing now with this PMR.

Container Management Improvements. Ah, this one revives an old classic that DOE continues to bring back due to popular demand. DOE is asking to open up the amount of space available for them to store long-term waste above ground. Instead of having shipments come to WIPP as space allows, they want the opportunity for many more shipments to arrive, without having to worry about regulations that limit above ground storage for waste that's waiting to go underground. This would turn WIPP into a *de facto* above ground waste site, something that DOE previously promised never to do.

--Geoff Petrie

You can find out more on-line.

See the WIPP web site: <http://www.wipp.ws>.

Or see NukeWatch's web site: <http://www.nukewatch.org>.

[nukewatch.org](http://www.nukewatch.org)

Hey kids, want to know more? Our *Watchdog* stories have additional information on-line. Bookmark us at www.nukewatch.org. Join our e-mail list and get an electronic version of this newsletter. Keep up to date with useful "What to Do's." Thanks!

LES Uranium Plant

(the gov's not so sure now)

This is a tale of the Governor of New Mexico, Bill Richardson, and Louisiana Energy Services (LES). Not so long ago, the Governor and LES officials held a press conference to announce a new partnership. At this event LES spokespeople told the world that they were picking Eunice, New Mexico, as the home for a \$1.2 billion facility to enrich uranium for nuclear power plant fuel. The goal: to produce cheap fuel for a conglomerate that builds nuclear power plants around the world. The new venture, according to its boosters, would mean hundreds of jobs for an area that needs them....The project would be so safe that you could eat off their waste barrels....It was called a win-win situation.

Being a good Governor, Mr. Richardson liked the idea from the start. Jobs for Eunice and more privatized industry in his state; what wasn't there to like?

However, LES wasn't completely forthright about what would happen to the thousands of tons of waste that the plant would produce in its lifetime. At first LES claimed that they would find a solution either through another private entity or possibly the federal government; now they admit they aren't quite sure *what* they'll do with the waste. You see, because of the complex nature of the waste--its simultaneous radioactive and hazardous chemical properties--there isn't a facility in the US that will take it. Every former uranium enrichment facility still has its waste on-site, with no sign that it's going to be removed. What's worse, studies are also starting to indicate that some of the waste canisters have leaked at these sites.

Plans are now being released as a part of LES's licensing procedures. One item that has raised the eyebrows of citizens and the Governor: LES wants to build a large concrete pad where the waste would be stored. This pad could eventually become large enough to hold over 15,000 steel canisters with each canister capable of holding 12 metric tons of waste.

With LES conceding that it may not have a complete plan to manage the waste, Governor Richardson now has doubts as to whether the plant is as beneficial to the state as previously believed. While corporations like LES may think it's no big deal to leave over 180,000 metric tons of hazardous and radioactive waste sitting around indefinitely, it is a big deal to New Mexicans. But we need to make sure that the Governor remains aware of our concerns; without his blessing it's going to be a heck of a lot harder for LES to ram this thing through. GP

Return Address for this mailing: Southwest Research and Information Center PO Box 4524 Albq. NM 87106
551 Cordova Road #808 Santa Fe, New Mexico 87505-4100 Phone: 505.989.7342 Fax: 505.989.7352


nuclear watch new mexico
march 2004

non-profit org.
US Postage PAID
Albuquerque NM
Permit No. 553

Return Service Requested

mission statement

The mission of Nuclear Watch New Mexico is to provide timely and accurate information to the public on nuclear issues in the American Southwest, and to encourage effective citizen involvement and activism in these issues. We seek to promote greater environmental protection, safe disposition of radioactive wastes, and federal policy changes that will curb the proliferation of nuclear weapons.

Inside this issue: Great News on our Biolab Lawsuit and the Modern Pit Facility; a Snapshot of LANL Cleanup; Updates on WIPP and LES; the BIG BAD FEDERAL WEAPONS BUDGET

What To Do!

- Let Gov. Richardson know that you support his strong stance against what he calls "extortion" by DOE over cleanup funding for Los Alamos (update inside). For background on the many connected issues, please read our in-depth papers on LANL cleanup issues at www.nukewatch.org.
- While you are it, let Governor Richardson know that you oppose the proposed uranium enrichment plant in New Mexico (update inside). There is already a global glut of enriched uranium and no clear disposal path for the facility's wastes.
- Let your congressperson know your opinions on DOE's proposed new bomb plant, AKA the "Modern Pit Facility" (update inside). The entire New Mexican delegation came out in support of locating the MPF near Carlsbad, NM. Tell them "No New Bomb Plant, No Where, No Way!"
- The heroic Israeli nuclear whistleblower Mordechai Vanunu is due to be released on April 21, 2004, after nearly 18 years in prison (more than 11 years in solitary confinement). For information on him and the undeclared Israeli nuclear weapons stockpile visit www.nonviolence.org/vanunu. Send his vigilant supporters a donation if you can.
- NukeWatch is in its 4th season of weekly cable access TV shows that highlight current nuclear issues. You can watch in Santa Fe at 7:30 PM every Sunday on Channel 8. Our shows also air in Albuquerque, Taos and Silver City, NM (call your local cable access station for schedules).
- If you're not registered to vote, please do so today! NukeWatch believes that the coming November elections will be among the country's most important ever. Remember: If you don't vote, don't *itch!
- Throw the dawgs a bone (any contributions are tax deductible)!



nuclear watch new mexico

Staff

Jay Coghlan	Director
Colin King	Research Director
Geoffrey Petrie	Media Director

Steering Committee

Mary Lou Cook
Rico Johnson
Shelby Miller
Sasha Pyle
John Stroud
Cathie Sullivan

Sen. Jeff Bingaman: 202.224.5521, 505.988.6647
Sen. Pete Domenici: 202.224.6621, 505.988.6511
Rep. Heather Wilson (1st District): 202.225.6316, 505.346.6781
Rep. Steve Pearce (2nd District): 202.225.2365,
Rep. Tom Udall (3rd District): 202.225.6190, 505.984.8950
Capitol Switchboard: 202.224.3121; The White House: 202.456.1111
Gov. Richardson's Office: 505.476.2200

