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Watchdogs File Suit for NNSA's Performance Evaluation Reports

Santa Fe, NM – Today, Nuclear Watch New Mexico has once again filed a lawsuit to pry loose the National Nuclear Security Administration's (NNSA's) full and complete Performance Evaluation Reports that evaluate contractor performance at its eight nuclear weapons sites. Approximately 57,000 people are employed by NNSA's nuclear weapons production complex, 95% of them contractor personnel. NNSA and its parent Department of Energy have been on the independent Government Accountability Office's "High Risk List" for project mismanagement and waste of taxpayers' dollars since 1992.

NNSA's Performance Evaluation Reports grade contractor performance, award performance fees and contain no classified information. Nevertheless, NNSA seeks to hide how taxpayers' money is spent from the public, issuing only terse three page summaries instead of the full and complete Reports. Nuclear Watch sued in 2012 to obtain the full and complete Performance Evaluation Reports, after which NNSA started releasing them within three working days. But NNSA has again been releasing only summaries since 2019, despite a Freedom of Information Act request by Nuclear Watch that the agency never responded to.

To illustrate the importance of these Performance Evaluation Reports, in its FY 2021 Los Alamos Lab summary NNSA noted that the contractor "[s]uccessfully made advances in pit production processes..." Plutonium "pits" are the fissile cores of nuclear weapons whose expanded production the Pentagon has identified as the number one issue in the United States' \$2 trillion nuclear weapons "modernization" program. NNSA has directed the Los Alamos National Laboratory (LANL) to begin producing at least 30 pits per year by 2026 and the Savannah River Site (SRS) in South Carolina to begin producing at least 50 pits per year by 2030.

Yet under "Issues" in the FY 2021 LANL summary, NNSA noted that the contractor "Struggled with some production activities... Experienced several programmatic challenges in executing the plutonium mission... [and] Mission execution was impacted by lapses in safety performance." No further explanation was given.

NNSA has already acknowledged that the estimated cost of "repurposing" the failed MOX Fuel Fabrication Facility at SRS to pit production has more than doubled to \$11.5 billion and is delayed to 2033-2035. This is in addition to the sunk, unaccounted costs of \$7 to \$8 billion that taxpayers have previously lost in the MOX Facility. Meanwhile, the annual cost of pit production at LANL is increasing 46% to \$1.5 billion in FY 2023 alone, as the Lab is transformed into a nuclear weapons production site.

Expanded plutonium pit production is not only not necessary but may actually degrade national security. This is because no future production is scheduled to maintain the safety and reliability of the existing, already extensively tested nuclear weapons stockpile. Instead, future production is for speculative new-design nuclear weapons that can't be tested because of the global testing moratorium. Or, arguably worse yet, may prompt the U.S. to resume testing, which would have severe international proliferation consequences.

Obviously, it is imperative that Congress and the public have the full and complete picture of the progress (or not) of expanded plutonium pit production at LANL and SRS, which is expected to cost at least \$50 billion over the next 30 years. In this lawsuit, we seek more than just NNSA's FY 2019 Performance Evaluation Reports for all of its eight sites. We also seek to compel NNSA to replace the summaries of its FYs 2019, 2020 and 2021 Performance Evaluation Reports that it has already posted in its required E-FOIA Reading Room with full and complete Reports. Further, since the Performance Evaluation Reports are "Frequently Requested Documents" as defined by the Freedom of Information Act, Nuclear Watch is asking the court to require that NNSA automatically post future Performance Evaluation Reports in its E-FOIA Reading Room, as the law requires.

Nuclear Watch New Mexico is represented by the attorneys Jules Zacher of Philadelphia, PA and John Stroud of Santa Fe, NM. In reference to again filing a lawsuit for NNSA's annual Performance Evaluation Reports, Mr. Zacher commented, "As the inestimable Yogi Berra said, "It's deja vu all over again," but in this case it involves the existential consequences of misguided nuclear weapons policies."

Jay Coghlan, director of Nuclear Watch New Mexico, added, "NNSA is becoming more opaque and less transparent in its head long rush toward expanded plutonium pit bomb core production. It's crucial that citizens have full and complete information on how their taxpayer dollars are being spent as the world enters a new and more dangerous nuclear arms race. Our lawsuit seeks to enforce that."

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Nuclear Watch's filed complaint is available at <https://nukewatch.org/nukewatch-nm-per-lawsuit/>

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