



FOR IMMEDIATE RELEASE

March 12, 2019

Contacts

Jay Coghlan, Director
Nuclear Watch New Mexico
505.989.7342

Jon Block, Staff Attorney
New Mexico Environmental Law Center
505.989.9022

Lawsuit Advances Against Los Alamos National Laboratory Management Potential Penalties Over \$272,000,000

SANTA FE – The New Mexico Environmental Law Center filed Reply Briefs with the US District Court in Nuclear Watch New Mexico’s lawsuit regarding the Department of Energy’s (DOE’s) and Los Alamos National Security, LLC’s (LANS’s) egregious violations of the 2005 Consent Order with the state of New Mexico.

At stake are real accountability for Laboratory management and, potentially, over \$272 million for violations of the Resource Conservation and Recovery Act (RCRA).

“The case here is very clear,” said Jay Coghlan, Director of Nuclear Watch New Mexico (NWNM). “LANL management agreed to the terms of the Consent Order in 2005, then proceeded to violate the terms of that agreement repeatedly. When we finally said enough is enough and announced in 2016 that we would sue the Lab, the Martinez administration and LANL management came up with a new Consent Order that they claimed wiped the slate clean on all the previous violations. It doesn’t.”

NWNM, the Law Center’s client, had filed a Motion for Partial Summary Judgement against the DOE and LANS, which, until recently, operated the Lab, regarding violations that took place under the original 2005 Consent Order. A United States District Court judge ruled in July 2018 that the lawsuit could move forward. The DOE, LANS and the NMED had argued that the violations happened under the old Consent Order and therefore were no longer relevant, but the judge stated that DOE and LANS had failed to show in their legal and factual analysis that violations were unlikely to recur, a requirement for dismissal under RCRA.

While the US District Court judge denied part of NWNM’s complaint seeking to have the 2016 Consent Order declared invalid, she specifically noted that the revised 2016 Consent Order replaced enforceable requirements in the 2005 Order with unenforceable requirements.

In 2002, the NMED under Governor Richardson determined that decades of contamination at the Laboratory constituted an “imminent and substantial endangerment to health and the environment” and sought to compel cleanup at the Lab. DOE and the University of California (UC), Lab operator at that time, countersued, and in 2005 the parties entered into a Consent Order. The Order specified that DOE/UC would characterize the extent and nature of the

contamination, assess alternatives for effective cleanup of the contamination, and implement cleanup. LANS was a consortium that succeeded UC's sole control, but in which the University still had the major interest. When Gov. Martinez came into office in 2011, DOE/LANS compliance with the Consent Order effectively stopped.

“We are very pleased that the issue of penalties will be heard in court, which should bring some accountability toward achieving comprehensive Lab cleanup,” said Jay Coghlan. “This was the point of the 2005 Consent Order and could produce hundreds of high-paying jobs. In contrast, Susana Martinez’ administration forgave hundreds of millions of dollars in potential penalties for clear violations of an enforceable cleanup order.”

###

The March 2019 Reply Brief and Exhibits:

- Reply Brief: <https://nmelc.org/wp-content/uploads/2019/03/190311-Reply-Brief.pdf>
- Exhibit 1 – History of Extensions: <https://nmelc.org/wp-content/uploads/2019/03/190311-Reply-Exhibit-1-History-of-extensions.pdf>
- Table 2 – Additional Material Facts: <https://nmelc.org/wp-content/uploads/2019/03/190311-Reply-Table-2-LANS-additional-material-facts.pdf>

NukeWatch’s 2016 Amended Complaint:

https://nukewatch.org/importantdocs/cleanup_lawsuit/NukeWatch-First-Amended-Complaint-as-filed-20160719.pdf

US District Court Judge Judith Herrera’s 2018 decision:

<https://drive.google.com/file/d/1p9JB8HYj-ryfe4S8WRT7NB2g9PQtV5x2/view?usp=sharing>