



**FOR IMMEDIATE RELEASE** March 29, 2012

Contact: Jay Coghlan, Nuclear Watch NM, 505.989.7342, c. 505.920.7118, jay@nukewatch.org

## **Watchdogs File Suit for Info on Nuclear Weapons Profits**

**Santa Fe, NM** – Nuclear Watch New Mexico has filed a lawsuit under the Freedom of Information Act in the federal district court of New Mexico. We seek to compel the government to release its scorecards for awarding tens of millions of dollars to nuclear weapons contractors, while at the same time these contractors are becoming less and less accountable.

Specifically, NukeWatch launched litigation to obtain the National Nuclear Security Administration's (NNSA's) "Performance Evaluation Report" that awarded Los Alamos National Security \$72.1 million in profit for fiscal year 2009. Through this action we are also seeking to compel the government to release its FY 2011 Performance Evaluation Reports for all eight NNSA nuclear weapons sites.<sup>1</sup>

Los Alamos National Security (LANS) is the for-profit limited liability corporation that runs the world's premier nuclear weapons site, the Los Alamos National Laboratory (LANL) in northern New Mexico. Its two dominant partners are the University of California (UC) and Bechtel, one of the world's largest privately held corporations. Through a parallel consortium UC and Bechtel also run LANL's sister nuclear weapons lab, the Lawrence Livermore National Laboratory in California.

LANS' profits continue to rise every year. The NNSA awarded it \$83.7 million for FY 2011, but the limited liability corporation is now planning to cut some 600 Lab jobs in order to minimize labor costs (and therefore arguably maximize profits). However, corporate accountability has decreased because the NNSA has refused to release all Performance Evaluation Reports since 2009. In contrast, the non-profit University of California was typically awarded around \$8 million when it was the Lab's only manager until 2006, and its performance appraisals were routinely made public.

NukeWatch filed a FOIA request in January for the FY 2011 Performance Evaluation Reports of all eight NNSA nuclear weapons sites. The Freedom of Information Act mandates that federal agencies must respond within 20 working days, which NNSA routinely flouts. While acknowledging receipt of our request, the agency admitted in advance that it was going to violate the law by saying "we estimate that we will not be able to respond to your request in 20 working days **as mandated by law**" (emphasis added). This seemingly innocent explanation has been used for decades to evade legal requirements, and has resulted in months, even years of delay to the fulfillment of the public's right to information, and numerous lawsuits when that right is not fulfilled at all.

In order to sue for the FY 2011 Performance Evaluation Reports Nuclear Watch NM would have to wait for the official denial of our request and rejection of a subsequent appeal, both of which are necessary procedural steps before litigation, and subject to NNSA's timing. But in response to the agency's typical illegal behavior of failing to respond within 20 working days we are suing now for the FY 2009 LANS Performance Evaluation Report, for which our appeal was

previously denied. We seek to establish the principle that not only must these reports be released, but also that NNSA must respond within the time limits mandated by the Freedom of Information Act.

There is clear, broad and current public interest in NNSA's Performance Evaluation Reports, as three different newspapers have already editorialized (the Albuquerque Journal, the Knoxville Sentinel and the Nuclear Weapons and Materials Monitor). While ruling for the public interest in an earlier FOIA lawsuit brought by NukeWatch over "Ten Year Plans" for the eight NNSA nuclear weapons sites a federal judge declared:

The purpose of FOIA is to allow citizens to learn what their government is doing and how it is being done... 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... Information is often useful only if it is timely. Thus, excessive delay by the agency in its response is often tantamount to denial... 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... <sup>2</sup>

Jay Coghlan, Director of NukeWatch NM, commented, "The federal judge had it exactly right in 2007, but still NNSA failed to learn to comply with the law within the mandated time. Through this lawsuit we seek to correct that behavior and expose why taxpayers are paying increasing profits to nuclear weapons contractors with decreasing corporate accountability."

NukeWatch NM's legal counsel in this FOIA lawsuit is Mr. Jules Zacher of Philadelphia, PA. He commented, "I am a strong supporter of the President, particularly in his tireless efforts towards achieving a nuclear free world. Nevertheless, in this instance, bureaucratic stonewalling has prevented the public from knowing how our nuclear weapons complex is being managed. This lawsuit is not about national security but instead is about fiscal responsibility." The NNSA is notorious for cost overruns, and its parent Department of Energy is perennially on the federal Government Accountability Office's high-risk list for mismanagement and waste.

###

1. In addition to Los Alamos Lab, the NNSA nuclear weapons sites include the Sandia National Laboratories in NM and CA; the Lawrence Livermore National Laboratory in CA; the Nevada National Security Site (formerly the Nevada Test Site); and the four production plants: the Kansas City Plant for nonnuclear components; the Savannah River Site near Aiken, SC for the radioactive gas tritium used to "boost" nuclear weapons; the Y-12 Plant near Oak Ridge, TN, for nuclear weapons secondaries (which put the "H" in H-bomb); and the Pantex Plant for final nuclear weapons assembly near Amarillo, TX. For more on individual NNSA nuclear weapons sites please see <http://www.nukewatch.org/activemap/NWC-Map.html>

2. Nuclear Watch NM v. the Department of Energy, No. Civ 06-221 BB/WPL, Memorandum Opinion and Order Granting Summary Judgment on Statutory Compliance, Sept. 19, 2007, <http://www.nukewatch.org/facts/nwd/OrdergrantingNWNMSJM.pdf>

NNSA's Ten Year Site Plans are available at <http://www.nukewatch.org/importantdocs/index.html>

Nuclear Watch NM's new FOIA complaint is available at <http://www.nukewatch.org/importantdocs/resources/FOIA-Complaint3-28-12.pdf>

**551 W. Cordova Rd., #808, Santa Fe, NM 87505-4100 • Voice and fax: 505.989.7342**  
**[info@nukewatch.org](mailto:info@nukewatch.org) • [www.nukewatch.org](http://www.nukewatch.org) • <http://www.nukewatch.org/watchblog/>**  
**<http://www.facebook.com/NukeWatch.NM>**