

P R E S S R E L E A S E

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FOR IMMEDIATE RELEASE

Citizen Group Wins Federal Lawsuit Against National Nuclear Security Agency/Albuquerque Operations Office for Unlawful Document Delays

Citizen Action, a public interest group, received a victory in a federal lawsuit against the National Nuclear Security Agency/Albuquerque Operations Office (NNSA) for engaging “in a continuing pattern and practice of unlawful delay” in furnishing documents under the federal Freedom of Information Act (FOIA).

The decision by U.S. District Court Judge Robert C. Brack states that “In light of the Kafkaesque review process adopted by Defendant, it is not surprising that the delay in this case stretched many months beyond the statutorily-prescribed time frame.” The decision describes a “labyrinthine process for reviewing FOIA requests” that does not justify the delays even for “situations involving national security, sensational, or complex issues.” The decision orders an agreement to be made between DOE and Citizen Action within 30 days for “responding to pending requests and for processing future requests.”

Citizen Action Attorney Richard Mietz, Santa Fe stated, “This is a complete vindication of my client’s right to receive information under the FOIA in a timely manner.”

This is the second time in a year that Mr. Mietz has successfully persuaded a federal judge that the Albuquerque NNSA office engages in a pattern and practice of unlawful delay when responding to citizen requests for information about the nation’s nuclear weapons facilities.

The documents sought by Citizen Action seek a wide range of information about Sandia National Laboratories. Dating from requests going back to 2004, these include:

- Ten-Year Site Plans for future activities at Sandia National Laboratories

- High level radioactive waste and release of contamination from nuclear weapons production buried in a Cold War waste site known as the Mixed Waste Landfill and many illegal dumpsites referred to as “Yardholes” scattered about Sandia

- Environmental information about groundwater monitoring, air monitoring, earthquake faulting, radioactive contamination of plants and animals at Sandia

Citizen Action Director, Dave McCoy stated, “This decision should send a strong message to NNSA’s management that NNSA can no longer use delay to create secrecy

about Sandia's dangerous operations. This decision acknowledges that provision of information may be useless if it is not timely. The public needs to obtain information for commenting on Sandia's current plans. There is a Sandia facility wide permit request pending approval. That would include: open air burning of high explosive wastes; production of neutron generator tubes that leak tritium without air monitoring; leaving radioactive and toxic waste contamination in place without monitoring groundwater over our drinking water, and; Sandia's plans for future nuclear weapons related production that will generate hundreds of thousands of pounds of hazardous and radioactive waste."

The decision also builds on and goes beyond an earlier federal FOIA decision in favor of Nuclear Watch in Santa Fe. The Citizen Action decision sets forth a requirement to avoid future violations and to timely furnish the documents from over ten outstanding Citizen Action FOIA requests. Judge Brack cited language from the Nuclear Watch case that "observed this process 'makes a mockery of the 20-day target set by FOIA and violates congressional intent.'"

Citizen Action continues to also battle with the New Mexico Environment Department lawsuit to obtain a 2006 TechLaw report about contamination at the MWL. The Environment Department is suing Citizen Action in state court to keep the report secret. McCoy said, "One can only question what the Environment Department hopes to achieve by suing a public interest organization instead of the polluter." The New Mexico Supreme Court recently denied a request for a stay on the release of the TechLaw report to the Attorney General and Citizen Action's attorney.