

Tri-Valley CAREs

Communities Against a Radioactive Environment

2582 Old First Street, Livermore, CA 94551 • (925) 443-7148 • www.trivalleycares.org



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For more information, contact

Scott Yundt, Staff Attorney, Tri-Valley CAREs, (925) 443-7148

Marylia Kelley, Executive Director, Tri-Valley CAREs, (925) 443-7148

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Tri-Valley CAREs Sues to Compel Open Government

Litigation to have National Impact, Charges Energy Dept. “Pattern & Practice” of Abuse

This morning, Tri-Valley CAREs (Communities Against a Radioactive Environment) filed major litigation in the federal court for the Northern District of California against the U.S. Dept. of Energy (DOE) and its National Nuclear Security Administration (NNSA) for numerous failures to comply with the Freedom of Information Act (FOIA), which requires federal agencies to respond to public requests for information within 20 days.

According to the lawsuit, in seven separate instances the DOE and NNSA failed to provide responsive, unclassified documents regarding operations at the agencies’ Lawrence Livermore National Laboratory (LLNL) as required by law. The information that is the subject of the litigation is overdue by time periods ranging from six months to more than three years.

“The DOE and NNSA are egregiously out of compliance with the law,” noted Tri-Valley CAREs’ Staff Attorney, **Scott Yundt**. “This frustrates the public’s basic right to know. The information is of urgent importance to the community, and involves Lawrence Livermore National Laboratory plutonium transport, bio-warfare agent experiments, hazardous materials usage, worker exposures, financial irregularities involving Lab management, start up plans for the “Tritium Facility Modernization Project,” and a proposal for future research and development.”

“As a ‘watchdog’ organization, Tri-Valley CAREs relies on open government laws like the FOIA to do its work and inform the community,” stated attorney **Iti Talwar**, a member of Tri-Valley CAREs’ Board of Directors who helped prepare the litigation filed today. “By dragging its feet for up to three years and more, and not providing the requested information, the government has not only violated the law but has potentially degraded the value of the information sought, which is often time-sensitive,” Talwar added. “In some cases, public comment timeframes have elapsed and projects have gone forward while the group’s information requests went unanswered.”

“Many of the documents Tri-Valley CAREs requested contain information about the dangers faced by our community from spills, accidents, releases and potential acts of terrorism. Keeping this information hidden does nothing to protect the public,” charged **Marylia Kelley**, the group’s Executive Director. “Instead, it robs the community of the opportunity to press for changes that would better safeguard worker and public health and the environment.”

Kelley continued, “Moreover, DOE and NNSA are illegally withholding detailed information we requested about costs incurred by LLNL programs, like the National Ignition Facility, and the Lab management’s practice of shifting the burden to other projects.”

“The DOE and NNSA have exhibited a ‘pattern and practice’ of not responding to FOIA requests in the manner prescribed by statute,” Staff Attorney **Yundt** stated. “Routinely, these federal agencies have failed to fulfill Tri-Valley CAREs’ FOIA requests within the allotted timeframe.”

The group’s lawsuit asks the judge to issue a court order appointing a Special Counsel to investigate the pattern of abuse wherein DOE and NNSA fail to comply with the law. The Special Counsel would then determine whether disciplinary action is warranted and against whom. “A positive ruling could set a precedent with national implications,” said **Yundt**.

Tri-Valley CAREs was forced to bring similar FOIA litigation in 1998, 2000, 2006 and 2008. “We should not have to file lawsuits in order to obtain public information,” said **Talwar**. “Congress enacted the FOIA specifically so that organizations like Tri-Valley CAREs would have free access to unclassified, non-exempt records that disclose the operation of the government.”

“We are prosecuting this lawsuit in order to hold the DOE and NNSA accountable and to vindicate the public’s right to be informed and to knowledgeable and democratically influence LLNL projects and the nation’s nuclear weapons policies,” concluded **Kelley**. “The information we seek impacts our lives and our future.”

Tri-Valley CAREs was founded in 1983 in Livermore, CA by neighbors of the Dept. of Energy National Nuclear Security Administration’s Lawrence Livermore National Laboratory, one of two locations where all U.S. nuclear weapons are designed. The LLNL Main Site in Livermore was placed on the federal Superfund list of most contaminated sites in the country in 1987. LLNL’s Site 300, located between Livermore and Tracy, was placed on the federal Superfund list in 1990. Tri-Valley CAREs represents 5,600 members, most of whom live and/or work in the shadow of LLNL.

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A PDF of the Complaint filed today is available on our web site at www.trivalleycares.org. We can also email or fax it upon request. Call us at (925) 443-7148.