

Victory in Freedom of Information Suit

From the November/December 2011 Citizens Watch

Hooray! Here is a piece of late-breaking, good news. On December 20, just as we were preparing this newsletter for the printer, Tri-Valley CAREs reached a favorable settlement agreement with the government in our year-long Freedom of Information Act (FOIA) litigation.

In December 2010, Tri-Valley CAREs filed a FOIA lawsuit against the Dept. of Energy (DOE) and its National Nuclear Security Administration (NNSA) for nine failures to comply with the Freedom of Information Act, which requires federal agencies to respond to public requests for information within 20 days.

Specifically, in all nine instances, the DOE and NNSA failed to provide responsive, unclassified documents regarding operations at the Livermore Lab as required by law. Moreover, the agencies were illegally non-responsive for time periods ranging from six months to more than three years.

We are particularly happy to report that prevailing in this lawsuit means that we forced the DOE and NNSA to produce significant documents in response to all nine of our requests. Additionally, we have settled for an agreeable sum to cover the expense of the litigation.

"The DOE and NNSA were egregiously out of compliance with the law," noted Tri-Valley CAREs' Staff Attorney, Scott Yundt. "The information we won is important to the community. Documents we obtained involve the Lab's plutonium transport, bio-warfare experiments, hazardous materials usage (including large amounts of depleted uranium blown up at Site 300), worker exposures (including a recent beryllium accident), financial irregularities (involving Lab management), start up of new operations in the tritium facility - and more."

"As a 'watchdog' organization, we rely on open government laws like FOIA to do our work," stated attorney Nick Chan, a member of Tri-Valley CAREs' Board of Directors who assisted in the litigation. "Keeping this information hidden does nothing to protect the public," Chan added. "Instead, it robs the community of the opportunity to press for changes that would better safeguard worker and public health and the environment."

Tri-Valley CAREs was forced to bring similar FOIA litigation in 1998, 2000, 2006 and 2008. "Our victory in this latest lawsuit strengthens our efforts to hold the DOE and NNSA accountable. Further, it vindicates the public's right to be informed, stated the group's Executive Director," Marylia Kelley. "The information we sought and have now received impacts our lives and our future."

Kelley added, "We hope we will not be forced to sue DOE and NNSA again and again in order to compel them to follow the law. However, if need be, we will do so."