Lab Violates Law: Major Financial Scandal at the NIF

Most of our loyal readers know that the National Ignition Facility (NIF) mega-laser at the Lawrence Livermore National Laboratory (LLNL) is billions of dollars over its original budget and years behind schedule. You may have also noticed that the Lab’s NIF manager, Ed Moses, and others recently launched a media blitz claiming that NIF’s legendary problems are all a thing of the past. They asserted, among other claims, that NIF is presently coming in on budget.

A number of media outlets were taken in by the hype. As you likely suspected, many of the claims being made for NIF are not true. Now, regarding NIF’s finances, we have the proof.

And, the truth is far more explosive than NIF’s fusion targets will ever be.

An internal Dept. of Energy (DOE) review details how LLNL management shifted costs to understate total spending on the controversial mega-laser. The previously secret report, released by Tri-Valley CAREs, pegs the current hidden costs of NIF at $80 million annually.

"Livermore Lab is systematically disguising the true costs of the NIF," explained Marylia Kelley, Tri-Valley CAREs’ executive director. "When calculated over the life of the project, these hidden costs total more than $2 billion." Kelley continued, "This illegal scheme circumvents the United States Congress, which sets NIF’s budget each year, and violates our nation’s most basic federal contracting laws."

According to the review by the DOE National Nuclear Security Administration Office of Field Financial Management (OFFM), Livermore Lab’s practice of assigning NIF overhead expenses to other Lab programs violates Public Law 100-679 Cost Accounting Standards (CAS). This law is an integral part of the structure set up to regulate government contracts.

Some of the NIF fee reductions date back to 2001. The OFFM investigators noted that the misleading cost accounting, "materially misstates the actual costs by LLNL for the NIF/National Ignition Campaign... and may result in an undercapitalization of the NIF/NIC’s total project costs."

The NIF is being shielded by Lab management from paying its share of three distinct overhead costs, the General & Admin-

istrative (G&A) cost, the Site Support Rate, and the Management Fee rate, according to the review.

The $80 million that is being sloughed off onto other Livermore Lab projects represents nearly 20% of NIF’s annual budget. And, NIF represents around 25% of the entire LLNL budget. Any way you slice it, this is a major financial scandal.

The mega-laser has long been plagued by controversy. Ten years ago, Tri-Valley CAREs broke the story that LLNL was covering up the fact NIF construction was behind schedule and over budget. The NIF had been slated for completion by 2002 at an estimated cost of $1 billion. More than $5 billion has been spent to date. And, NIF’s ignition experiments have been pushed back nearly a decade, to the fiscal year 2011-2012 timeframe.

According to the OFFM review, Livermore Lab management set up a special pool for NIF and NIF-related activities called the “Self-Constructed Asset Pool,” or SCAP. The investigators charge that the SCAP is out of compliance with the law.

The review further states: “Use of the noncompliant SCAP results in inequitable distribution of costs and, in many cases, completely exempts the NIF/NIC from its fair share of G&A and Site Support Overhead costs. LLNL’s other programs continue to subsidize... through higher indirect cost allocations.”

The internal review shows that the SCAP for NIF has a special G&A overhead rate of 3.9%. Other projects pay a G&A rate of 29.3% in order to compensate for NIF’s discount. The investigators calculated that the G&A rate overall for NNSA and Work for Others projects at the Lab would fall by 6.4% (to 22.9%) if NIF were simply paying its legally required share.

Lab management set up a second noncompliant rate reduction for NIF site support costs. As with the G&A, NIF does not pay the standard rate. It has a specially reduced SCAP site support rate.

The investigators write that: “From OFFM’s perspective, LLNL’s labor, fringe, and other direct costs making up the SCAP’s Overhead base are no different or diverse in relation

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URGENT: Stop Funding for a New Bomb

Your Letter Today Can Prevent DOE from Adding Money for a New Nuclear Bomb! Here’s what you need in order to act...

Background: Tri-Valley CAREs has gotten word that the Dept. of Energy (DOE) National Nuclear Security Administration (NNSA) is trying to add money, above what Congress allotted, for the further development of a new nuclear bomb, the B61-12.

As you may recall from our Fall newsletter, Congress cut the funds for the “Phase 2/2A study” for the B61-12 in half, from $65 million to $32.5 million. In addition, Congress specified that none of that money could be used to alter the nuclear explosive components of the old B61 bomb to create the new B61-12.

Now, the DOE NNSA is attempting to “reprogram” additional money into the B61-12 by taking money out of another program and putting it into the "Phase 2/2A study" for the new nuke. Here’s how we can stop it.

The DOE cannot “reprogram” funds after Congress votes unless they get specific permission from (1) the White House Office of Management and Budget, and (2) the Congressional committees that handle DOE’s budget. So, please write two quick letters TODAY asking them to JUST SAY NO to the DOE NNSA “reprogramming request.”

Suggested Text: I am writing to ask you to OPPOSE any increase in funding for the "Phase 2/2A study" for the development of a B61-12 nuclear bomb. I understand that the DOE NNSA is preparing a “reprogramming” request to add money for this new bomb study. The request must be rejected.

Here are a few of the many reasons why — (1) The U.S. should remove all tactical nuclear weapons from Europe, not design new ones, (2) The entire German Parliament recently voted to support the withdrawal of nuclear weapons from Europe, including the B61 bomb, (3) Funding more weapons R & D before the Obama Nuclear Posture Review is released could prejudice that review process, (4) Development of new, “modernized” nuclear bombs is contrary to U.S. and global disarmament goals, and (5) The Congress was wise to cut the “Phase 2/2A study” in half and to specify that no money could be used to change the bomb’s nuclear explosive components and no additional money should be given now.

Send to: Send one letter to Peter Orszag, Director, Office of Management and Budget, 725 17th St., NW, Washington, DC 20503. Send a second letter to our CA Senator who sits on the committee in charge of “appropriations” for nuclear weapons. Address this letter to: Senator Dianne Feinstein, 331 Hart Senate Office Building, Washington, DC 20510.

More info: Call us at (925) 443-7148 and keep checking our website for updates at www.trivalleycares.org

Final note: If you think that this latest attempt to create a new nuclear bomb means the weapons designers are going forward with the so-called “Reliable Replacement Warhead” program without calling it by that name, you are correct. President Obama announced that he would not support the RRW. Now, the DOE NNSA is trying to slip though another version of an RRW — without calling it by the RRW name. It is up to us to stop them. Please send your letters today.
Lab Violates Law...

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to any other Laboratory program. Therefore, there is no apparent justification for applying a reduced site support overhead rate…”

The third category in which NIF enjoys a reduction in costs is through a special SCAP Management Fee. According to the OFFM, this offers NIF “extraordinary special treatment” leading to “higher fee rates” for other programs. Investigators placed a $60 million estimate on the sloughed off Management Fees alone — $20 million for fees shunted to other projects in past years and an additional $40 million that will be dodged by NIF in the coming years.

The report reveals that the OFFM and the NNSA Livermore Site Office Contracting Officer had previously told Livermore Lab management to stop this practice. According to the internal review: “LLNL has had ample time to incorporate the Lab’s full fee rate into the National Ignition Campaign as recommended by OFFM and ordered by the LSO CO, but so far has refused to do so.”

The investigators conclude the financial review with cease and desist language for all three of the categories in which the NIF is gleaming illegal benefits that serve to mask its real costs.

The OFFM investigators were on-site in at LLNL in September 2009. The internal review is dated October 2009. Its cover letter demonstrates that LLNL’s deceptive practices were continuing into November 2009.

Tri-Valley CAREs calls on the White House Office of Management and Budget, the Government Accountability Office and our members of Congress to investigate this financial scandal and to hold Livermore Lab management fully accountable for the laws that have been violated.

Lab Superfund Cleanup News

Your Tri-Valley CAREs team has been working hard to ensure the cleanup of toxic pollution emanating from Livermore Lab. We are making progress.

At the Lab main site a toxic groundwater plume has migrated into the community - and the plume’s outer edges are beyond the reach of the Lab’s existing equipment, including the off-site extraction wells and pipeline. This means that the contamination is still in the aquifer and is not being cleaned up. After alot of pressure, there is a new plan emerging. Under the plan, Livermore Lab would extend its off-site pipeline, bringing it further west into the City, across Charlotte Way, and to the edge of the contaminated area, which is under Big Trees Park and the adjacent community swimming pool. The Lab would then pump out the polluted water and use the pipeline to carry it back to a special treatment facility on the Lab property. The toxic material will be separated from the water.

We have been advocating, also, that the Lab hold a public meeting to hear from community members whose homes sit on top of contaminated groundwater. The Lab has said it will hold a meeting in January. However the date and location have yet to be announced. Stay tuned!

And, we have been meeting with DOE Headquarters over its allocation of stimulus funds. The DOE Office of Environmental Management has $6 billion to distribute, and we are advocating that the Superfund cleanup at Livermore Lab receive some of the stimulus money. This funding could greatly accelerate the cleanup of the off-site plume - and more!
Bio-lab Litigation Enters New Phase

This past month, your Tri-Valley CAREs legal team has been busy filing an important round of briefings before the U.S. District Court for the Northern District of California.

The briefs explain why the environmental review of the Lawrence Livermore National Laboratory (LLNL) Bio-Safety Level 3 (BSL-3) lab, which began conducting experiments on biological weapons agents in January of this year, is legally insufficient and must be supplemented or redone.

The goal of our lawsuit is two-fold.

First, to persuade Judge Saundra Brown Armstrong to order the government to complete a more thorough analysis of the environmental effects of the BSL-3. This new, revised document (and we hope the Judge will compel a full Environmental Impact Statement) should pay specific attention to the threat of terrorist activity, particularly in light of LLNL’s highly criticized security lapses.

Second, before LLNL issues this revised document, pursuant to the National Environmental Policy Act (NEPA), the Lab must be required to conduct another round of public comment, and preferably a full public hearing. This would enable public officials, community members and other interested people to voice their concerns about potential impacts to the environment stemming from a terrorist attack or accident at the BSL-3.

Since the last public comment period on the BSL-3, significant information regarding two incidents at LLNL’s lower-level biological research facilities has come to light. The first involves a major Anthrax release in 2005, which exposed at least five people. The second involves a violation of the country’s Select Agent Regulations, which occurred when LLNL researchers conducted prohibited experiments with antibiotic resistant Plague.

In both cases, LLNL kept the information secret, which prevented the public from commenting on the relevance of these violations to the BSL-3 facility. It is worth noting that Livermore Lab researchers would be allowed to spray small animals with live Anthrax and Plague in the BSL-3, potentially leading to accidents, spills and releases even more serious than have occurred in the past.

Tri-Valley CAREs challenged the first version of the environmental review of the Lab.

Continued on page 2
December 2, 2009

We monitor, confront and stop nuclear weapons at their source. We hold the government accountable. You may already know that our advocacy is unique and effective. But, did you realize it is needed now more than ever?

Dear Tri-Valley CAREs supporter,

Let me share some exciting news with you:

• **To ensure a healthy community for our children**, we have prevailed in pressing the Livermore Lab to clean up toxic pollutants that have migrated into our neighborhoods. A much-improved plan to capture and treat the toxic groundwater under our homes is underway, and a **public meeting will be held in January**.

• **To keep California communities safe** from a catastrophic release of anthrax or other deadly pathogens from the Livermore Lab bio-warfare research facility, we recently filed a motion asking the Federal Court to do two things -- order a thorough environmental review and curtail operations pending its completion. A **hearing is scheduled for December 8**.

• **To prevent construction of new nuclear bomb plants**, and the weapons that those plants would produce, we are returning to Washington, DC for **key meetings with the Obama Administration and Congress in mid-December**.

I know you recognize that Tri-Valley CAREs works tirelessly to rid the world of nuclear weapons and the pollution caused by their development. I trust that you also appreciate our efforts to stop dangerous bio-warfare experiments in our communities. **Today, I am asking you to support this important work with your financial contribution.**

**Please give as generously as you can.** I can assure you that Tri-Valley CAREs will make immediate and very effective use of your gift. We have zero corporate jets or executive perks, and very little overhead. We achieve our major successes with a modest office, a small number of dedicated staff and lots of amazing volunteers. Every dollar that you donate will go toward achieving the social and political change that you and I both seek.

As I write this, we are preparing to argue our landmark bio-weapons case in Federal Court before Judge Saundra Brown Armstrong. We are going up against the full weight and resources of the U.S. Department of Energy. **Your gift of $3,000 will help pay legal expenses, change U.S. biodefense policy and keep our communities safe.** Are you able to donate this amount, or contribute toward this important part of our work?

We are also busy preparing new fact sheets and drafting a technical report to support our abolition position in upcoming meetings with policy makers. Over the next 30 days,
decisions about next year’s nuclear weapons budget will be made inside the government. **Your gift of $1,000** now will support crucial new advocacy materials. Can you contribute at this level and help light the path to a nuclear weapons-free world?

A **$300 gift** will put your Tri-Valley CAREs expert on the plane to Washington, DC to speak the truth about nuclear weapons in person to top agency officials and members of Congress. Are you able to sponsor an airfare?

**You can also count on us to educate and mobilize public opinion.** You may have seen our petition to President Obama on the abolition of nuclear weapons in your last Citizen’s *Watch*. We are putting the final touches right now on the next edition. As you know, our newsletter contains original research and analysis that you simply cannot get from other sources. **When 100 supporters give $30 apiece**, it keeps this important information flowing to our members, state and federal regulatory agencies, journalists, UN diplomats, and political movers and shakers.

These are challenging economic times. I know you understand that this is also true for Tri-Valley CAREs. I trust that you will contribute at whatever level you are able. **Please know that your donation in any amount is gratefully appreciated, and I thank you!**

You are a valued supporter. Together, you and I will oppose nuclear bombs and bio-warfare experiments at Livermore Lab. We will work to prevent the military hawks from dominating the Obama Nuclear Posture Review and causing it to fail as the “transformational” policy document the President promised. Equally, we will act vigorously to uphold the President’s historic declaration of “America’s commitment to seek the peace and security of a world without nuclear weapons.”

**We will counter the nuclear weapons lab directors** and their allies as they plot to hold ratification of the Comprehensive Test Ban Treaty hostage (once again) in exchange for new bomb programs that would weaken the disarmament value of the Treaty itself.

The stakes have never been higher. Strident advocates of new nukes are still in charge at the Defense Department, U.S. Strategic Command, and the National Nuclear Security Administration. **Our plate at Tri-Valley CAREs has never been more full than it is today.**

Working together, we will rise to this occasion. We will seize opportunities that exist and progress toward the total elimination of nuclear weapons. In the words of the civil rights movement, we will “keep our eyes on the prize.” This is the path I invite you to walk now with Tri-Valley CAREs.

For peace, justice and a healthy environment,

Marylia Kelley
Executive Director

**P.S. Your contribution is tax-deductible – and stops nuclear weapons.** With your gift of $50 or more, I will be happy to send you a Tri-Valley CAREs T-shirt (always in style!). Or, you may choose to further inform your activism with a copy of our 2009 report, “Transforming the U.S. Strategic Posture and Weapons Complex for Transition to a Nuclear Weapons-Free World.”

**MANY THANKS.**
You are invited
to a volunteer and donor appreciation party

All of us here at Tri-Valley CAREs would like to honor and thank our members, volunteers and supporters.

Over this past year, you have all contributed in so many wonderful ways toward our shared vision of a more just and peaceful world.

I hope you can accept the invitation and join us for this festive, drop-in holiday party. — Marylia

We will have lots of food, hot cider, mulled wine, merriment, friends and fun!

DATE: Thursday, December 10, 2009
TIME: 5 PM to 8 PM (drop-in)
PLACE: Tri-Valley CAREs
2582 Old First St.
Livermore, CA

RSVP: Marylia Kelley at (925) 443-7148 or marylia@trivalleycares.org

Some of Our Accomplishments Past and Present

Here are four examples of the many successes of Tri-Valley CAREs.

1. We played a key role in convincing Congress to cancel all funding for two new nuclear bombs that were being developed by Livermore Lab, the “Robust Nuclear Earth Penetrator” bomb and the so-called “Reliable Replacement Warhead.”

2. We stopped Livermore Lab from building a massive toxic and radioactive waste incinerator. Further, we led the successful campaign to shut down the Lab’s existing incinerator.

3. We won improvements in Livermore Lab’s program to clean up the soil and groundwater contaminated by nuclear weapons research. We stopped a Lab plan to send 80 million gallons of toxic, contaminated water into the San Francisco Bay, untreated.

4. We were the first group in the western United States to win an Environmental Protection Agency grant to monitor a Superfund cleanup site. Then, we became the first community-based group in the nation to win a recognition award from the EPA for the effectiveness of our work.
Tri-Valley CAREs - respected, effective and in the news

The New York Times

Tri-Valley CAREs is quoted in the New York Times on pollution at nuclear weapons sites. Read on.

EVEN RABBIT DROPPINGS COUNT IN NUCLEAR CLEANUP -- 10/15/09 -- by Matthew L. Wald

Anything that hops, burrows, buzzes, crawls or grazes near a nuclear weapons plant may be capable of setting off a Geiger counter. And at the Hanford nuclear reservation, one of the dirtiest of them all, its droppings alone might be enough to trigger alarms... Marylia Kelley, executive director of Tri-Valley Communities Against a Radioactive Environment, said Hanford is not the only site that has prompted concern about contamination spreading to animals. For environmentalists focusing on Lawrence Livermore, a priority is to keep endangered or threatened species like the California tiger salamander and the red-legged frog out of contaminated areas...

Science magazine -- D'AGOSTINO TO REMAIN AS HEAD OF NATIONAL NUCLEAR SECURITY ADMINISTRATION -- 10/3/09 -- by Jeffrey Mervis

"He is part of a triumvirate of Bush appointees who are committed to making further modifications in the U.S. nuclear weapons program," says Marylia Kelley of Tri Valley CAREs, noting that Obama also has retained Defense Secretary Robert Gates and the head of the U.S. Strategic Command, General Kevin Chilton. "While I applaud the president's April 5th [disarmament] speech in Prague, my concern is with how we take the first steps toward that goal. And I don't think this decision bodes well for moving in the right direction."...

MILES TO GO ON CLEANUP
11/13/09 -- by Ralph Vartabedian

The Energy Dept. is spending $328 million to clean up Livermore Lab. The lab conducted experiments with plutonium and uranium, and fabricated prototype weapons parts. It took a [state] order for Livermore to cap private wells that drew from the contaminated plume, said Marylia Kelley of Tri-Valley CAREs... She believes cleanup standards are too lax...

(Full copies of this and other articles are available at www.trivalleycares.org. Photo: TVC rally at Bechtel HQ in SF)

Tri-Valley CAREs
2582 Old First St.
Livermore, CA 94550

YES. Here is my tax-deductible donation of

$50 $30 $100 $300 $1000 Other

Name ____________________________ Phone ____________
Address ____________________________________________
__________________________________________ City __________
State_________ Zip___________ Email ________________

I am contributing $50 or more: Please send me the gift I have marked

_______ Gift #1 Tri-Valley CAREs T-shirt, please indicate size S, M, L, XL, XXL, fave colors?
_______ Gift #2 Tri-Valley CAREs' 2009 report, "Transforming the U.S. Strategic Posture and Weapons Complex for Transition to a Nuclear Weapons-Free World."