

DOE Censoring Freedom of Information Documents on Advanced Test Reactor

As reported February in these pages, in April 2008, the Environmental Defense Institute (EDI) and Keep Yellowstone Nuclear Free (KYNF) filed a Freedom of Information Act (FOIA) request with the Department of Energy (DOE) for documents related to the Advanced Test Reactor (ATR) located at the Idaho National Laboratory.

Since April 2008, DOE has dribbled out documents requested under FOIA. DOE recently released **some more** of the requested ATR safety reports needed by the public to evaluate ATR's extended operation hazard to the residents living in the shadow of the ATR built in the 1960s.

Many of these FOIA documents have been censored (redacted). This last batch of documents DOE sent to EDI in February had over 24 pages redacted. This is in addition to over 152 pages redacted in DOE's earlier December 2008 FOIA partial shipment or a running total of 176 pages redacted.¹ DOE claims that release of these redacted documents will compromise "national security."

EDI's preliminary review (stay tuned for our final review) of the recent FOIA reports document the following problems at the Advanced Test Reactor (ATR);

- * In 1989 the ATR Aging and Life Extension Program identified **seven** critical reactor vessel internal components that provide support for the core and direct primary coolant water flow were problematic due to aging because of inadequate materials that are not accounted for in design calculations on both the residual life of the component and the overall ATR's Life Extension;ⁱⁱ

- * Two of the above **seven** critical reactor vessel internal components were **not** originally constructed of ASME Code III approved materials; One of which is the aluminum alloy Reflector Support Tank that is highly stressed with a relatively **low fatigue life** utilizing just normal operating loads; and the second is the sand-casted aluminum Core Reflector Tank's top edge stresses due to the gear box support beams;ⁱⁱⁱ

- * Failure to identify and document an equipment deficiency associated with the ATR stack effluent Real Time Monitor;^{iv}

- * Inadequate procedures for ATR reactor primary coolant pressuring system maintenance;^v

- * Failure to recognize that the emergency primary coolant pump M-6 Diesel generator would **not** start automatically;^{vi}

- * During commercial power outage causing a ATR emergency shutdown "scram" the M-6 backup power generator "failed to start automatically, nor would it start upon subsequent manual commands";^{vii}

- * The risk of an early ATR Complete Loss of Reactor Coolant Flow Accident analysis recognized that it could happen as the result of operational malfunctions "transients" in addition to Loss-of-Coolant-Accident events designed to shutoff running primary coolant reactor pumps;^{viii}

- * The ATR safety basis does not include analysis of a complete loss of coolant flow accident with Primary Coolant System leakage;^{ix}

- * Total operating time during a year with only one operating primary coolant diesel-generator but no operable standby diesel-generator: 48 days;^x

- * The ATR reactor fuel storage canal bulkheads were not shown to be adequate for the site-specific probabilistic safe shutdown earthquake;^{xi}

- * ATR's structural components will require major modification to satisfy current PC-4 seismic criteria;^{xii}

- * Extensive corrosion of ATR reactor vessel internal parts can result in coolant system failure;^{xiii}

- * DOE's radiological analysis of a ATR meltdown of only 30% of the core fuel and only operating at a reduced 203 MW during a Loss-of Coolant-Accident predicts 67 grams of radioactive iodine will be released from the reactor fuel that melts;^{xiv} resulting in a potentially lethal thyroid dose of 369 rems;^{xv}

- * The results of the above ATR accident scenario analytical basis were **not** adjusted upward for the stated Safety Analysis Review-153 assumption of 100% reactor core melt nor full power of 250 MW.^{xvi}

- * ATR building confinement performance in keeping radiation from leaking to the atmosphere is [Kleenex-

sneeze] rated at 0.03 psi;^{xvii}

* Seismically-induced loss-of-coolant accidents and new site-specific seismic design criteria for soil for the ATR identified several areas of concern with the ATR seismic safety basis deterioration;^{xviii}

* The ATR safety basis does **not** include analysis of a complete loss-of-flow accident with Primary Coolant System leakage;^{xix}

* The status of Seismic Probabilistic Risk Assessment studies for the ATR does not adequately support the safety basis;^{xx}

* The Seismic Assessment categorized the ATR equipment and were judged to have **insufficient** capacity to satisfy current PC-4 seismic design and evaluation criteria into those that do not meet the current ATR safety basis, and those that meet current safety basis to a more stringent PC-4 criteria;^{xxi}

* Inadequate information is available for the twelve reactor vessel instrument thimble tubes; these tubes are part of the ATR primary pressure boundary and thus require stress, embrittlement and fracture analyses as part of a design basis break size loss of coolant determination.^{xxii}

* Procedures for the pre-criticality have not been revised to require investigation and mitigation of any observed high vibration levels in components or piping to preclude high cycle fatigue degradation.^{xxiii}

EDI acknowledges that for reporting accuracy, the above ATR operating safety problems are presented using DOE's own technical jargon. The bottom line is these FOIA documents show that the ATR has serious deficiencies that the public needs to know! **DOE offers no credible "national interest" for continued ATR operations that vaguely compares to the enormous risk to the public of an ATR accident.** Moreover, DOE's refusal, despite our legal challenge, to conduct a comprehensive ATR Environmental Impact Statement denies the broader general public's legal right to review and comment on these significant environment-health and safety issues.

DOE's Justification for FOIA Censoring/Redaction

DOE states; "Specifically, some of the documents requested are internal, and their disclosure would significantly risk installations and projects that safeguard nuclear materials and facilities, and thus are not releasable under [FOIA] Exemption 2. Exemption 2's anti-circumvention protection is applicable in this case because

some of the requested documents identify vulnerabilities to sabotage events, system configurations/capabilities that may be exploited and internal procedures for operating the reactor that are inherently internal."

The "anti-circumvention" exemption claimed by DOE above legally only protects documents such as agency law enforcement manuals and procedures from public disclosure so that individuals may not use them to circumvent the law or law enforcement measures.

The only "security threat" in jeopardy here is DOE's credibility to safely operate the antiquated 40 year-old Advanced Test Reactor that is still operating long after its original 20-year design life.^{xxiv}

DOE additionally states in its FOIA "exemption" claim; "Those documents in which material is so inextricably intertwined as to make redaction impossible or reduce the document to worthlessness have also been withheld."^{xxv} It is impossible to assess the veracity of this claim when DOE refuses to specifically identify which documents have been completely withheld and under what grounds they are withheld.

The Environmental Defense Institute (EDI) and Keep Yellowstone Nuclear Free (KYNF) filed Appeals (2/28/09 and 3/4/09) to DOE's Office of Hearings and Appeals challenging DOE/ID's censorship of requested FOIA documents.^{xxvi}

As the Statute shows, FOIA provides the public a right, enforceable in federal court to access government documents and information. FOIA is to be broadly construed in favor of disclosure, and its exceptions narrowly construed. Furthermore, the federal agency that is resisting disclosure bears the burden of proving that the withholding is authorized by the statute. It's tragically ironic that national security is indeed at risk because DOE refuses to acknowledge that the 40-year-old Advanced Test Reactor's continued operation poses a significant hazard to the residents of Idaho and Wyoming.

None-the-less DOE's new ATR Life Extension Plan will keep the ATR running to 2040 and beyond. Due to neglect, antiquated equipment, poor design, and many years of what DOE has termed "budget austerity," the ATR poses a threat to public health and safety.^{xxvii}

DOE also states: "One document, 'Commercial grade item dedication documentation and receiving inspection documentation,' contains information of a commercial or proprietary nature and as such is redacted pursuant to Exemption 4. Exemption 4 allows a federal agency to

withhold ‘commercial or financial information obtained from a person [that is] privileged or Confidential.’ DOE/ID offers no credible evidence here that would trump the FOIA statute requirement that gives the public a right, enforceable in federal court to access government documents and information. This is the equivalent of Ford Motor claiming material safety reports of its 1969 Fairlane as “proprietary.”

DOE self-regulates the ATR without independent oversight

“The Defense Nuclear Facility Safety Board (DNFSB) is an oversight organization chartered by Congress and reporting to Congress on the DOE defense nuclear facility operations. They were created in response to criticism about DOE being ‘self-regulated’ while operating nuclear facilities. Not surprising, the Naval Reactors program was able to remain outside the purview of the DNFSB when it was chartered by Congress. The ATR is not a Defense Nuclear Facility. Many in Congress believe that DOE should fall under regulation by [Nuclear Regulatory Commission] NRC. DNFSB may use ATR deficiencies to try to push that the Naval Reactors testing and research activities should fall under the purview of the DNFSB, and only the Navy operations of nuclear powered ships would be outside their purview.”^{xxviii}

The DOE ATR managers found DNFSB to be “VERY intelligent and EXTREMELY arrogant, as individuals.” [emphasis in original text]^{xxix}

For more information, a copy of EDI/KYNF’s Appeal to DOE’s Office of Hearings and Appeals and our review of above FOIA documents are available at: <http://environmental-defense-institute.org/publications>.

Blackfoot Idaho Uranium Enrichment Company Also Looks for Biomass Location in Northern Idaho and Washington

Sarah D. Wire reports in the *Associated Press* 2/27/09; “Areva Inc., a French-owned nuclear services company, is scouting north Idaho for possible locations for a plant to turn wood waste into electricity.

Areva President Bob Poyser, whose company also wants to build a uranium enrichment plant near Idaho Falls, told The Associated Press that it is looking for as many as two possible biomass locations in north Idaho or Washington State. He said Thursday the company is looking in “the

forested parts of Idaho north of Boise, that’s all I can tell you.”

The plant, or plants, would be part of a venture outlined earlier this month to develop biomass power plants in Washington, Idaho, Oregon and Montana. Public utility consortium Energy Northwest and private energy company Adage, a joint venture of Areva and Duke Energy Corp., announced their preliminary agreement Feb. 19.

Each plant would generate about 50 megawatts of electricity, or enough to supply 40,000 households. Energy Northwest spokeswoman Rochelle Olson told The Associated Press the participants will use wood currently decaying on private lands as fuel. She said there will have to be enough fuel for a long-term contract. “The fuel use contracts will really drive where these plants are located,” Olson said.

Areva spokesman Jarrett Adams said the goal is to begin construction by 2010. Each plant would take two to three years to build. He said 400 jobs would be created by construction and there would be 100 permanent positions. John Foster, spokesman for U.S. Rep. Walt Minnick, D-Idaho, said Areva’s interest in a biomass plant in Idaho is a sign of the state’s potential as a leader in renewable resources. He said the state needs to have an improved forest management plan before it can be ready for biomass energy. “We have to ensure a reliable supply of timber and from there the biomass facilities would go up quickly,” Foster said. Foster said others, including the timber industry and a group in Priest River, have also expressed interest in a biomass plant.

In December, Areva filed an application with the U.S. Nuclear Regulatory Commission, seeking to build a \$2 billion uranium enrichment plant near Idaho Falls. If the application is approved, construction on the facility would not be completed until 2017. The company won tax breaks from the Idaho Legislature in 2008 before deciding to build in the state. The uranium enrichment plant would be a smaller version of its Georges Besse II centrifuge enrichment facility now under construction in France. Poyser mentioned the proposed biomass plant while giving lawmakers an update on the uranium enrichment facility. The company plans public hearings if its application is approved by the NRC. Poyser estimated the application would be approved in February 2011.” [Emphasis added]

According to State Representative Shirley Ringo, the Idaho tax breaks for Areva referred to above (House Bill No. 562) provides: “Tax exemption for new capital investments in excess of \$400 million shall be exempt from property taxation.” See below article on Idaho’s additional \$2 million grant to Idaho National Laboratory for nuclear power research. Pity Idaho’s children whose schools lack adequate funding.

French-Government-Controlled Uranium Enrichment Facility On Fast-track for Idaho

The Boise based *Idaho Statesman* reported 1/30/08; “That a French-government-controlled nuclear energy company is in talks with officials in Idaho over a planned \$2 billion uranium enrichment facility that by 2014 could supply fuel to commercial nuclear power plants.

“Areva Incorporated recently hired Erika Malmen, wife of Gov. C.L. ‘Butch’ Otter's former chief of staff, Jeff Malmen, to lobby Otter and state lawmakers. Idaho legislators have been approached about providing hundreds of millions in tax incentives to help the company build a plant in eastern Idaho, near Idaho Falls.

“Idaho has recently become a target for nuclear projects, with one company, MidAmerican Nuclear Energy, recently abandoning a proposed facility and another still aiming to build a commercial reactor on 4,000 acres southeast of Boise.”

The *Idaho Business Review* reports 12/9/08 that “The Nuclear Regulatory Commission held a public comment meeting in Idaho Falls Dec. 10 to assess community support for international energy firm Areva’s proposed Eagle Rock Uranium Enrichment Facility at a site near Blackfoot between Idaho Falls and Pocatello in Idaho.

The meeting is part of the lengthy application process Areva must go through for licensing of the facility. Areva, which announced that it had selected the Idaho Falls area for its new enrichment plant earlier this year, has already submitted both parts of its **loan guarantee application to the Department of Energy, asking for the federal government to guarantee \$2 billion in loans to finance the Eagle Rock project.** [emphasis added]

Company officials said last week that the loan guarantee application was a “critical” in the project, with the next phase focusing on licensing from the Nuclear Regulatory Commission, the federal agency that oversees nuclear permitting and oversight.

Areva said it plans to file its license application with the NRC by the end of this month, and hopes the commission will complete its review within two-and-a-half years of the filing.

Ground could be broken on the \$2 billion facility as early as 2011, with operations commencing in 2014. Areva plans to employ 250 full-time workers at the operational site and 1,000 during construction.”^{xxx}

This is a perverse \$2 billion nuclear diversion of our tax dollars at a crucial time when America needs to be investing in renewable energy sources such as wind, solar and geothermal.

State of Idaho Makes Investment in INL Nuclear Energy Research Facility

According to DOE/INL June 9, 2008, Media Contact: John Walsh; “Idaho Gov. C.L. ‘Butch’ Otter has announced that the state of Idaho will provide an additional \$2 million to help complete the Center for Advanced Energy Studies (CAES) research facility being built now in Idaho Falls at the University Place Complex. The \$2 million, drawn from the state’s 1995 Settlement Agreement fund, will help complete laboratories in the building, finish information technology systems and purchase furnishings. The new funding will be in addition to the \$17 million already provided for design and construction by the state and federal governments as well as by the private companies managing Idaho National Laboratory.

“The Department of Energy greatly appreciates the support the state of Idaho has shown for this critical energy research mission,” said Dennis Spurgeon, DOE assistant secretary for Nuclear Energy. “We look forward to INL’s researchers working side by side with those from the state’s universities.”

“The funds authorized by the governor will further contribute to CAES being ready for business on day one,” CAES Interim Director Harold Blackman said. “Governor Otter has clearly demonstrated the importance he sees in CAES’ potential to address national and international energy issues, while enhancing education and work-force training opportunities in Idaho. We really appreciate the state support in making CAES a reality.”

Editors Note: During this time of shrinking Idaho State funding for primary public services for education and health and welfare, it is unconscionable that the legislature is funding a failed nuclear program as opposed to a renewable wind, solar, geothermal program.

Matheson Seeks Hearing for “Downwinders”

Washington, D.C.— 2/24/09, Congressman Jim Matheson has joined with two Idaho Congressman on a request for a Congressional hearing into whether a program designed to compensate cancer victims exposed to radioactive fallout from nuclear weapons testing should be expanded. The Radiation Exposure Compensation Act

(RECA) currently covers only residents who lived in 21 counties, including 10 in Utah, that were “downwind” of the nuclear blasts detonated in the 1950s and 1960s.

Matheson and Idaho Representatives Walt Minnick and Mike Simpson sent their letter to the Chairman and the Ranking Member of the House Judiciary Committee.

“Eligibility for compensation is limited to certain counties in just a few states. These geographical boundaries are, quite frankly, arbitrary boundaries that do not account for the fact that radioactive fallout does not abide by lines on a map,” the letter states.

Matheson said RECA was the federal government’s acknowledgement that it deceived citizens about the potential harm from the weapons tests.

“The bombs were detonated when the winds blew east. People were told “there is no danger”. But more than 4,500 Utahans who have been awarded compensation for cancer and other illnesses now know that their government lied,” said Matheson.

To date, the Department of Justice has awarded compensation to more than 20,500 citizens nationally, including to uranium miners, millers and ore-haulers. In 2000 Congress chose to enhance the RECA program by adding additional categories of illnesses.

A study of the radioactive isotope Iodine-131—completed and released by the National Institutes of Health in 1997—showed the largest concentration of fallout occurred in U.S. counties not included in the program.

“However, we believe that since RECA has not received serious review by the Congress in the past seven years, now is an appropriate time for the Judiciary Committee to hold an oversight hearing in this important federal law,” the letter states.

For more information see: <http://downwinders.org>

Bill Would Test Nuclear Safety

Patrice St. Germain reports 3/12/09 in the St. George Utah *Spectrum*; “Rep. Jim Matheson, D-Utah, has reintroduced his bill to protect Americans’ health and safety in the event that nuclear weapons testing resumes at the Nevada Test Site.

Matheson first introduced the bill, Safety for Americans from Nuclear Weapons Testing Act, in 2004 after funds were appropriated to study development of two new types of nuclear weapons and to shorten the time needed for test site readiness.

“From 1951 to 1992 more than 1,000 nuclear weapons were tested at the Nevada Test Site, 150 miles east of St. George. About 800 of the tests were underground, but still released a significant amount of radiation into the atmosphere. The radioactive fallout led to a large number

of Americans who suffered and succumbed to radiation-related cancers and illnesses.

“I appreciate that he (Matheson) keeps doggedly pursuing this, anything that keeps us safe,” Michelle Thomas said Thomas, of St. George, suffers from illnesses related to radiation as she lived in the area during the testing of Cold War era U.S. nuclear weapons.

Matheson has been at the forefront in fighting battles on renewed nuclear testing and the transportation and storage of nuclear waste at Yucca Mountain in Nevada. Matheson also opposed the testing of Divine Strake, a 700-ton conventional weapon in the Nevada desert.

The experimental bunker buster weapon was scheduled for detonation in June 2006. The test was postponed until 2007 because of public outcry that the weapon, although not nuclear, had the potential to raise radioactive dust at the site up to 10,000 feet in the air.

The Department of Energy decided in February 2007 to indefinitely postpone the test. The current administration has stopped efforts to store nuclear waste at Yucca Mountain, but Matheson said he wanted to reintroduce his bill that didn’t pass in previous sessions in the “cold light of day.”

Thomas said that maybe this is the climate for the bill to be passed with the Democratic Party now in the majority. Matheson said the bill doesn’t say to never do testing, just to prove it is safe before testing is done. He said the issue is always relevant.

“This is not a ban,” Matheson said of his bill. “This is just to say, ‘Prove it is safe.’” Matheson said he is not aware of any safe testing of nuclear weapons. Matheson’s father, former Utah Gov. Scott Matheson, died at age 61 from multiple myeloma, a cancer of the plasma cells, associated with exposure to fallout.

The cancer is one of several covered under the Radiation Exposure Compensation Act that compensates uranium miners, test site workers and those who lived downwind from the tests. Scott Matheson’s cancer fell under the RECA guidelines.

Alyson Heyrend, Matheson’s communications director, said the family believes that his exposure to radioactive fallout was a factor in his illness and untimely death, but the family never sought compensation. More than 6,400 Utahans have filed claims under RECA for cancer and other illnesses from atomic fallout and more than \$258 million has been paid to Utahans.

In a press release from Matheson’s office, Matheson said his legislation would require the government to conduct a National Environmental Policy Act review to assess health, safety and environmental impacts prior to conducting nuclear weapons testing, require Congressional authorization prior to the possible resumption of weapons testing at the Nevada Test Site and require at least one

week's public notice prior to any test. It also requires government and private monitoring of radiation levels throughout the country and creates a consortium of universities that will study the health effects of radiation exposure.

Thomas said she believes that testing like the Divine Strake test could be done through modeling on computers. "I just think this (nuclear weapons testing) is dangerous and unnecessary," she said.

The Use of Reference Man in Radiation Protection Standards

by Arjun Makhijani, Ph.D.

This study is part of Institute for Energy and Environmental Research's technical support project for grassroots groups on nuclear-weapons related issues in the United States. In May 2008, then Senator Obama and Congressman Henry A. Waxman (Chairman, House Oversight and Government Reform Committee), wrote to the Administrator of the EPA about the matter, eliciting in turn a promising response that will be the foundational step to replacing Reference Man by a framework that protects males and females and people of all ages.

Main findings

1. The use of Reference Man, a hypothetical 20 to 30 year old Caucasian male, in radiation protection regulations and guidelines, including those designed to protect the general public, is pervasive. This is scientifically inappropriate because the vast majority of people, including women and children, fall outside the definition. In general, it also does not protect those most at risk, who are often women and children.

2. Radiation protection regulations are generally given in terms of limits on radiation dose per year or in terms of maximum allowable concentrations of radionuclides in the environment, which also serve to limit radiation dose. The use of Reference Man in radiation dose calculations underestimates dose to children in a large number of situations, to women in some situations. The underestimation of dose results in an underestimation of cancer risk.

3. Overall, children have a higher risk of cancer for a given radiation dose. This higher risk per unit of radiation dose compounds the problem of underestimation of dose.

4. The regulations and guidelines that rely mainly on Reference Man include the NRC's radiation protection regulations in the workplace and for the general public specified in 10 CFR 20, EPA Federal Guidance Reports 11 and 12, and DOE Order 5400.5 for the protection of the public. The default values in the official computer

program used to estimate allowable residual radioactivity use Reference Man. He is also used to assess compliance with the Clean Air Act.

5. The Maximum Contaminant Levels for transuranic radionuclides in drinking water rely on Reference Man.

6. The 2006 report on low-level ionizing radiation of the National Academies, commonly known as the BEIR VII report, concluded that women are at considerably greater risk of dying from cancer from the same radiation dose (higher mortality risk) and also at greater risk of getting cancer per unit of radiation dose, compared to an adult male.

7. Fetal exposure is only taken into account in radiation controlled workplaces in those cases where a woman declares her pregnancy. The standards in effect are obsolete by a factor of five or more.

8. The failure to estimate doses to children and cancer risks to children when they are in excess of doses and risks received by adults would appear to be in violation of President Clinton's 1997 Executive Order on children, which was reaffirmed by President Bush, with some changes, in 2003.

This report is a crucial independent assessment on how inadequate the U.S. government calculates radiation exposure. The full December 2008 Institute for Energy and Environmental Research report is available at; <http://www.ieer.org>

DOE Secretary Chu Confirms INL Role In Future INL Nuclear Efforts

Twin Falls, ID local 8 News Channel 3/11/08 reports; "Idaho Senator Mike Crapo **won a commitment** from Energy Secretary Steven Chu that the Idaho National Laboratory will play an ongoing role in advancing nuclear research that could change the way the nation handles not only future technology but the disposal of waste products. Crapo told Secretary Chu he was disappointed that funding for nuclear initiatives and for the Yucca Mountain Repository has been cut back in President Obama's FY 2010 budget. "Are you and the Administration committed to properly funding these R&D activities?" Crapo asked Chu during a hearing before the Senate Budget Committee on the President's budget. "The simple answer is yes...I have a record of saying that nuclear has to be part of our energy mix in this century," Chu responded.

Crapo noted Chu praised nuclear power as "essential" to the nation's energy policy during his tenure as head of the

Lawrence Berkley National Laboratory. Chu told Crapo he envisions an accelerated schedule to recycle more nuclear materials and that the INL would play a leading role in the research to accomplish that effort. Crapo said he was "very discouraged" in the President's decision to cut funding for the Yucca Mountain Repository because the federal government has signed a court agreement with the State of Idaho to remove high-level nuclear waste stored in Idaho to a new location by 2035. Yucca was slated to take much of the waste but Chu is now proposing the increased use of dry cask storage for spent waste around the country.

"That's not going to help Idaho," Crapo said. "If you are going to shift from Yucca Mountain, we may be looking at a long time frame before you come up with the next option. It is my understanding that by 2035 it should be ready to ship out,"

Chu responded, citing the work of a blue-ribbon committee that will study the issue this year. "This will be done this year, and then we can move in a way that would not take as long as the previous experiences." Chu and Crapo agreed that work at the Idaho National Laboratory would be part of finding a solution to the waste issue. Crapo also called on Chu to support tax credits and federal loan guarantees for nuclear power initiatives."

Editor's note: President Obama's appointment and U.S. Senate approval of Chu as Secretary of Department of Energy ensures that there will be NO Change from previous Bush nuclear policy.

262 Public Interest Organizations Support Swift Action to Restore Whistleblower Rights

January 27, 2009

To: President Barack Obama; Senator Daniel Akaka, Senator Susan Collins, Senator Joseph Lieberman, Senator George Voinovich, Rep. Edolphus Towns, Rep. Darrell Issa, Rep. Chris Van Hollen

The undersigned organizations and corporations, representing millions of Americans, write to support the completion of the landmark, nine-year legislative effort to restore a credible Whistleblower Protection Act. We offer our support to expeditiously re-initiate the process of reconciling House and Senate passed versions of this vital good government legislation, which both chambers passed last Congress as H.R. 985 and S. 274. Whistleblower protection is a foundation for any change in which the public can believe. It does not matter whether the issue is economic recovery, prescription drug safety, environmental protection, infrastructure spending, national

health insurance, or foreign policy. We need conscientious public servants willing and able to call attention to bureaucratic corruption on behalf of the taxpayers.

Unfortunately, every month that passes has very tangible consequences for federal government whistleblowers, because none have viable rights. Last year an average of 16 whistleblowers lost every month in initial decisions from administrative hearings at the Merit Systems Protection Board (MSPB). For final rulings by the MSPB, the record is 2-53 under the current Chair. Since January, the Federal Circuit Court of Appeals, which has a monopoly on appellate review, has ruled against whistleblowers in another thirteen consecutive decisions on the merits, leaving a track record of 3-206 since October 1994 when Congress last strengthened the law.

We stand ready to provide any information that would help expedite the process, and to help you come to agreement on any unresolved issues. Any compromise should protect several critical provisions, which have already passed with overwhelming support. It is crucial that the final bill:

- Grant employees the right to a jury trial in federal court;
- Specifically protect federal scientists who report efforts to alter, misrepresent, or suppress federal research;
- Extend meaningful protections to FBI and intelligence agency whistleblowers;
- Strengthen protections for federal contractors, as strong as those provided to DoD contractors and grantees in last year's defense authorization legislation;
- Extend meaningful protections to Transportation Security Officers (screeners);
- Neutralize the government's use of the "state secrets" privilege;
- Bar the MSPB from ruling for an agency before whistleblowers have the opportunity to present evidence of retaliation;
- Provide whistleblowers the right to be made whole, including compensatory damages;
- Grant comparable due process rights to employees who blow the whistle in the course of a government investigation or who refuse to violate the law; and
- Remove the Federal Circuit's monopoly on precedent-setting cases.

We know that your offices share the commitment of every group signing the letter below and we deeply appreciate the years of effort to create more accountability in government. Please let us know how we can participate to expeditiously complete this badly needed good

government reform. Once the reconciled version becomes law, the real winners will be the public!

The Environmental Defense Institute is a signatory to this initiative.

The Economic Cost of the Military Industrial Complex

By James Quinn

"Every gun that is made, every warship launched, every rocket fired signifies, in the final sense, a theft from those who hunger and are not fed, those who are cold and not clothed. This world in arms is not spending money alone. It is spending the sweat of its laborers, the genius of its scientists, and the hope of its children."

These must be the words of some liberal Democratic Senator running for President in 2008. But no, these are the words of Republican President Dwight D. Eisenhower, the Supreme Allied Commander during World War II, five decades ago.

The United States, the only superpower remaining on earth, currently spends more on military than the next 45 highest spending countries in the world combined. The U.S. accounts for 48% of the world's total military spending. Where did the peace dividend from winning the Cold War go?

The United States spends on its military 5.8 times more than China, 10.2 times more than Russia, and 98.6 times more than Iran. The Cold War has been over for 20 years, but we are spending like World War III is on the near term horizon. There is no country on earth that can challenge the U.S. militarily.

So, why are we spending like we are preparing for a major conflict? The impression on the rest of the world is that we have aggressive intentions. The administration is posturing like Iran is a threat to our security. Iran spends \$7.2 billion annually on their military. We could make a parking lot out of their cities in any conflict. Does anyone really believe that they would create a nuclear weapon and use it on Israel? Their country would be obliterated.

Defense spending had peaked at just under \$500 billion in 1988. The fall of communist Russia did result in a decline to the \$350 billion range from 1995 through 2000, and an economic boom ensued. Since 9/11 we have doubled our spending on defense.

In conclusion, I again turn to the wisdom of Ron Paul, the only presidential candidate speaking the truth to the American public. In a speech before Congress several months before the Iraq invasion, his words were reminiscent of President Eisenhower's.

The basic moral principle underpinning a non-interventionist foreign policy is that of rejecting the initiation of force against others. It is based on non-

violence and friendship unless attacked, self-determination, and self-defense while avoiding confrontation, even when we disagree with the way other countries run their affairs. It simply means that we should mind our own business and not be influenced by special interests that have an ax to grind or benefits to gain by controlling our foreign policy. Manipulating our country into conflicts that are none of our business and unrelated to national security provides no benefits to us, while exposing us to great risks financially and militarily.

If we followed a constitutional policy of non-intervention, we would never have to entertain the aggressive notion of preemptive war based on speculation of what a country might do at some future date. Political pressure by other countries to alter our foreign policy for their benefit would never be a consideration. Commercial interests and our citizens investing overseas could not expect our armies to follow them and protect their profits.

If as a country we continue to allow our politicians and their military industrial complex corporate sponsors to spend \$700+ billion per year on weapons, to the detriment of higher education, alternative energy projects, and national infrastructure needs, we will be paying an extremely high price.

We are in a classic guns or butter scenario. The Bush Administration has decided to choose guns while borrowing from our grandchildren and the Chinese to pay for the butter. This can work for awhile, but as deficits accumulate, the dollar plummets, and inflation rears its ugly head, our great country will decline as other empires who overstepped their bounds declined.

The full text of James Quinn's report is available at;
<http://environmental-defense-institute.org/publications>

Now in Our Backyard

by David McCoy

The point that Marty Trilhaase's Editorial "Now in Our Backyard" in the Idaho Falls *Post Register* is really making that needs to be looked at, is that the governing powers of the State of Idaho will take any kind of waste from anyone, anywhere no matter whether it is radioactive or encrusted with feces. Perhaps Mr. Trilhaase should look beyond Mud Lake.

Idaho is like Louisiana. There is a sign hanging at the border that says "Bring us the wretched refuse of your teeming shore, your toxic waste and your polluting industry rejected in every other state." There are the ranchers, supported by former Sen. Craig, who, in defiance of the EPA, allow their cattle to wallow in the streams of Idaho eroding the banks and contaminating the waters. Some of them cows could use a diaper too, huh, Marty?

There are the mines of Idaho from years ago pouring

lead, arsenic and mercury into the rivers and lakes of Idaho. Millions of pounds of lead line Lake Coeur d'Alene with more being flushed in every day because Kootenai County doesn't want a no-wake zone for boats in the Coeur d'Alene River. Idahoans proudly fought the designation of the lake as a Superfund site to prevent federal funds from being used to clean it up. (NY Times 3/21/2002). Better to have children suck up the lead in the air and water.

There is the Advanced Test Reactor of the DOE that Idahoans such as Mr. Trilhaase and the Department of Environmental Quality blithely accept for pouring thousands of curies of radiation into the air of Idaho. Idaho politicians accept without a qualm the DOE proposals to leave radioactive contamination underground over the Snake River Aquifer in giant rotting 300,000 tanks knowing full well that grouting the wastes in the tank bottoms won't keep them in place.

Yes folks, Idaho can truly be regarded as a fierce protector of its right to receive radioactive, toxic waste from the Navy, Mare Island, Three Mile Island, Rocky Flats and locations around the world from the Atoms for Peace program.

Oh, there's no place like good ol' Idaho when it comes to being a dumping ground for plutonium or a dirty diaper. Idaho proudly wears its badges of having numerous, contaminated Superfund sites around the state including the Idaho National Laboratory which made the National Priority List. Is it any wonder then that with the record such as held by the Gem state that its Governor Kempthorne was appointed Secretary of the Interior in charge of the nation's public lands?

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End Notes

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- ⁱⁱ ATR Reactor Vessel Internals Lifetime Scoping Analysis, D. K. Morton, Applied Mechanics, May 1989, GT-T-89-011.
- ⁱⁱⁱ Ibid, pgs. 5 and 12. ASME = American Society of Mechanical Engineers Code, Section III, Subsection NG – “Core Support Structures.
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- ^v Ibid.
- ^{vi} Ibid.
- ^{vii} Recovery from 674-M-6 Diesel Generator and TRA-609 Breaker Failures, 2/1/02/02, Interoffice Memorandum, 2/18/02; and Occurrence Report, Reactor Scram Due to Loss of Commercial Power Followed by M-6 Quick-Start Diesel Generator Failure to Start, ID-BBWI-ATR-2002-0008.

- ^{viii} Early Complete Loss of Flow Accident Re-evaluation for Loss of Diesel Power Events with the Loss of Coolant Accident Engineering Safety Feature, EDF No. TRA-ATR-161 and 1615, 8/12/98.
- ^{ix} Impact of Potential PSC Leakage and Fuel Element Thermal-Hydraulic Conditions, Potential Inadequacy in the Safety Analysis, RTC-USQ-2005-173.
- ^x Standby Diesel-Gen Outage Time, Internal Department Communications to, J.Jacpbo, Lockheed Martin Idaho Technologies, 3/4/99. Also ATR Operation Data Appendix A, ATR Equipment in use in Calendar Years 1995-2000.
- ^{xi} Seismic Evaluation of ATR Canal, Engineering Calculations and Analysis Report, 9/23/08.
- ^{xii} Structural Evaluation of the ATR TRA-670 Superstructure, Engineering Design File No. 7210, 1/30/03, pg. 27.
- ^{xiii} ATR Center Flux Trap Baffle Status, September 2008, “It appears that the aluminum and the stainless steel form a galvanic couple which is responsible for the corrosion of the aluminum tube and the eventual failure.” Pg.5.
- ^{xiv} Inconsistencies in the Maximum Hypothetical Accident Analysis, Advanced Test Reactor, Potential Inadequacy in the Safety Analysis, RTC-USQ-2006-655, 10/11/05.
- ^{xv} ATR Reactor Building Confinement Performance, Engineering Design File, EDF-TRA-ATR-1328, Rev.2, 2/18/98.
- ^{xvi} Ibid. Endnote xiv.
- ^{xvii} ATR Reactor Building Confinement Performance, Engineering Design File, EDF-TRA-ATR-1327, Rev.1, 2/18/98
- ^{xviii} Summary of Resolution of Advanced Test Reactor Un-reviewed Safety Questions, Engineering Design File No. 4334, 1/30/03
- ^{xix} Ibid.
- ^{xx} ATR Seismic Safety Basis Deterioration, TRA-USQ-2004-214.
- ^{xxi} Experience-Based Seismic Qualification of ATR Seismic Category 1 Equipment (ARES Corp. Report) Responsibility Determination/Potential Inadequacy in the Safety Analysis, ATR Complex-USQ-2008-805, September 2008.
- ^{xxii} Leak-Before-Break Evaluations for the Advanced Test Reactor Primary Coolant System, MPR Associates Engineering, prepared for Battelle Energy Alliance, LLC, MPR-3088, December 2007.
- ^{xxiii} Ibid. page 2-1.
- ^{xxiv} ATR Reactor Vessel Internals Lifetime Scoping Analysis, D. K. Morton, Applied Mechanics, May 1989, GT-T-89-011.
- ^{xxv} Clayton Ogilvie, DOE/ID FOIA Officer 2/25/09 letter, Final Response to Freedom of Information Act Request from EDI & KYNF.
- ^{xxvi} Environmental Defense Institute and Keep Yellowstone Nuclear Free Appeal to DOE Office of Hearings and Appeals, 2/28/09 and 3/4/09, Case Nos. TFA-0295 and TFA-0298, Concerning USDOE Idaho Operations Office Partial Response to Freedom of Information Request (FOIA-08-018). The full text of this Appeal is available at <http://environmental-defense-institute.org/publications>
- ^{xxvii} KYNF v. DOE, Idaho Federal District Court, Civ. No. 07-36-E-BLW, Complaint, page 2.
- ^{xxviii} Email, Alan P. Hoskins/AXH/CC01/INEEL/US, Comments on Bill Gray and the ATR Operations Team from Ray Daniels of the Defense Nuclear Facility Board, 11/13/02.
- ^{xxx} Areva operates reprocessing plants in UK's Sellafield, Japan, and other EU sites. Comments can be sent to the Nuclear Regulatory Commission; breda.reilly@nrc.gov; <http://regulations.gov/fdmspublic/> comment/; or call 1-800-492-3110.