

# Rogue Nuclear Waste Agencies Flouting Federal Law

## Secret Cross-Country Plutonium Shipment Ignored US Law & Nevada Lawsuit

With two recent actions, government nuclear power and weapons program administrators in the Department of Energy and the Nuclear Regulatory Commission appear to have flagrantly disregarded federal and state law governing transport of highly radioactive materials in one case, and storage of it in another.

Sometime late last year, the Energy Dept. secretly shipped a half metric ton of weapons-grade plutonium from South Carolina to Nevada in defiance of Nevada's public opposition and the National Environmental Policy Act.

In the face of near unanimous resistance from Nevada state lawmakers, and from past and present governors, the DOE's National Nuclear Security Administration (NNSA) secretly sent the extremely hazardous shipment across the country without notifying first responders or emergency preparedness officials in any city or state through which the plutonium passed, and without first completing an environmental impact assessment.

The NNSA acknowledged its clandestine transport during a court hearing in January. Former Nevada governor Brian Sandoval had filed a November 2018 lawsuit to prevent DOE's shipment without first filing an environmental impact statement as required by the National Environmental Policy Act.

In a January 30 court filing, the NNSA claimed that its shipment of the plutonium was "before November 2018, prior to the initiation of..." Sandoval's lawsuit. However, the agency refused to say exactly when the shipment took place.

The government's admission that the plutonium was secretly shipped to the Nevada National Security

Site 70 miles north of Las Vegas (formerly called the Nevada Test Site), outraged state politicians and other observers. The Associated Press reported that Nevada Governor Steve Sisolak was "beyond outraged by this completely unacceptable deception" and said he's working with Nevada's congressional delegation to fight back against the government's "reckless disregard" for the safety of Nevadans.

The *Mineral County Independent-News* reported April 4, 2019 that Amber Torres, Chair of the Walker River Paiute Tribe, joined 12 Nevada tribal leaders in writing to President Trump and Energy Secretary Rick Perry protesting that the shipment was done without first informing state or tribal officials. The Tribe was "outraged that Federal officials ... have shipped radioactive plutonium to Nevada in spite of the state's vehement opposition to the idea and concerns that doing so opens the state up to further nuclear waste dumping," Torres wrote.

The Nevada National Security Site is the "ancestral homelands of the Western Shoshone people," said Arlan Melendez, Chair of the Reno-Sparks Indian Colony, a federally recognized government in Reno, Nevada.

State lawmakers and Gov. Sisolak had demanded that studies be done regarding the chances and impacts of transport accidents, but were ignored by the NNSA.

## Atomic Licensing Board Violates US Nuclear Waste Policy Act

A similarly crass trampling of environmental law was issued May 7 by the Atomic Safety and Licensing Board (ASLB), an arm of the US Nuclear Regulatory Commission.

The Licensing Board was petitioned by Beyond Nuclear to dismiss the unlawful application for a permit, submitted by Holtec International/Eddy-Lea Energy Alliance (Holtec), to "temporarily" store 173,600 metric tons of highly radioactive waste reactor fuel rods in southeast New Mexico.

The petition to terminate Holtec's application is based on the fact that the governing Nuclear Waste Policy Act of 1982, as amended, forbids any transfer of the commercial reactor waste to a temporary or "interim" storage site, only to a permanent repository. Holtec could do this as a private enterprise, but the company wants the Energy Department to pay all its costs, and the industry is lobbying Congress to further amend the Nuclear Waste Policy Act.

In what Beyond Nuclear called "an astounding ruling," the ASLB agreed that the application violates federal law, but it nevertheless dismissed the legal challenge on the ground that Holtec could be depended on not to implement the unlawful provision if the license were granted. "...the Board assumes Holtec will honor its commitment not to contract unlawfully with DOE to store any other spent nuclear fuel. Likewise, we assume DOE would not be complicit in any such unlawful contracts."

Mindy Goldstein, a lawyer for Beyond Nuclear said, "Holtec, Beyond Nuclear, and the NRC all agree that a fundamental provision in the Holtec application violates the US Nuclear Waste Policy Act. Today the Licensing Board decided that the violation did not matter. But, the Board cannot ignore the mandates of federal law." The ASLB ruling will be appealed, first to the NRC, and then to the US Circuit Court of Appeals for the District of Columbia, the second highest court in the land.

—JL

## Radiation's and Colonialism's Permanent Stamp on New Mexico

By Leona Morgan

As an indigenous person whose ancestral connections to the land are rooted in the occupied territories of "New Mexico," and as an anti-nuclear activist, the connection between the marginalization and oppression of people of color in this state and the incidence of widespread radioactive contamination is unmistakable.

White settler colonialism has been perfected over centuries, and is built on deliberate institutionalized racism. The United States once mandated genocide and the forced removal of indigenous peoples to uplift a dominant culture of privileged white men making decisions about our future and the future of our Mother Earth. With modern technology, the process of removal and genocide has taken new forms and may have slowed in pace, but has not ended.

The drive for nuclear domination, first military and later electrical, has left thousands of abandoned uranium mines, over a hundred aging reactors, and no safe place to put radioactive waste. In New Mexico, we consider ourselves to be in the belly of the nuclear beast, and July 16th is an anniversary that reminds us of the omnipresence of that beast.

### Trinity Test

July 16, 1945 was the day of the first atomic blast. The Trinity nuclear bomb test and hundreds more have left countless victims with cancers, other health problems, and deadly fallout that covered much of the state. The Radiation Exposure Compensation Act (RECA) compensates uranium workers prior to 1971, "onsite participants" of US nuclear weapons tests, and Nevada Test Site "downwinders" who can show their health problems were caused by bomb test fallout. RECA does not cover uranium workers after 1971, or downwinders from other tests such as the Trinity Site. However, many survivors today are suffering from illness at the hands of the US government. US Rep. Ben Ray Lujan, D-NM, has been pushing Congress for changes to RECA on behalf of post-1971 workers and others from the impacted area known as the Tularosa Basin.

Tina Cordova, founder of the Tularosa Basin Downwinders Consortium, is an advocate for the impacted community. The group has done a Health Impact

Assessment to gain support in Congress for expanded RECA coverage. This year, TBDC is planning a National Trinity Day of Remembrance to bring attention to all downwinders. "We are hoping to get organizations representing the Downwinders in places like Idaho and the Pacific Islands and the Post 71 Uranium miners/workers to hold candlelight vigils of their own in remembrance of the people who've lost their lives as a result of nuclear testing and uranium mining around the country," Cordova states.

Cordova continues, "We never thought that it would take this long for Congress to pass the RECA Amendments to add the New Mexico Downwinders to the fund... We add new names every year to our list. People are dying... It is high time for the people of New Mexico to receive the justice they've been denied for 74 years."

### Church Rock Mill Spill of 1979

This year marks the 40th anniversary of the world's largest uranium milling disaster, which occurred within miles of the Diné (Navajo) community located along Red Water Pond Road north of Church Rock. The United Nuclear Corporation (UNC) knowingly and willfully continued using a uranium mill waste tailings pond that had a cracked dam wall. United Nuclear's own consultant predicted that a dam failure was likely, yet no state or federal agencies came to inspect. In the early morning hours of July 16, 1979, the dam broke, and over 90 million gallons of liquid radioactive waste and 1,100 tons of solid waste spilled into the environment, the Little Puerco River and eventually Arizona.

Today, UNC has proposed "cleaning up" its mine by piling waste on top of its existing contaminated mill

waste, covering it with clay, and abandoning it permanently. The proposal does not include any cleanup of off-site contamination or address the liquid mill tailings spill. Residents living near the Rio Puerco say that when it rains they can still smell the toxic chemicals that were spread downriver by the giant Church Rock spill.

Today, the community continues to demand reparations for the two 1,000-foot-deep mine pits where Mother Earth has been raped for the sake of paper money. The Red Water Pond Road Community Association is working with the US Environmental Protection Agency on the cleanup. Edith Hood, local Diné resident and community organizer, says, "We,

the people of the Red Water Pond Road, are still waiting for equality and justice to be served. The toxic contamination of our Mother Earth and her people has not been addressed—a lot of talk and not enough action." In Hood's public testimony at the NRC's public scoping meeting regarding the mine site's cleanup, she said, "They are just waiting for us to die."

On the weekend of July 13-14, 2019, the Red Water Pond Road Community Association will hold a commemoration to recognize the anniversary,

the work that has been done by the community, and the work still left for the government and responsible companies to address.

From the 1942 Manhattan Project, to newly proposed radioactive waste dumps, we as New Mexicans know and live with the injustice that, while once focused on Natives, now threatens everyone. With the industrialization of the splitting of the atom, the totality of the impact on humanity is unknown. For those of us living in places broadly contaminated with ionizing radiation, we know radiation does not discriminate, and that we will forever pass-on this history of nuclearism in our DNA.



Leona Morgan, with Diné No Nukes and the Nuclear Issues Study Group in New Mexico, spoke to the Oak Ridge Environmental Peace Alliance in Tennessee in 2016.