

Palomares Atomic Vets Struggle for Recognition, Compensation

By Kelly Lundeen

A second lawsuit has been filed on behalf of atomic veterans exposed to radiation during cleanup efforts after the 1966 nuclear weapons accident in Palomares, Spain. Last November, Edward P. Feeley filed suit in the U.S. Court of Appeals for Veterans Claims. If successful, his administrative appeal for class action status would be the first in history before the Board of Veterans Appeals. The Feeley case follows on the heels of another major 2019 lawsuit over grievances of surviving Palomares veterans, *Skaar vs. McDonough*, in which the vets were granted class status by another body, the Court of Appeals for Veterans Claims. The Feeley class of U.S. veterans has asked for the cleanup work conducted by about 1,600 service members at Palomares to be categorized as a “radiation-risk” activity, allowing them to have their radiation-related illnesses recognized as such in order to receive medical care and compensation.

When Feeley originally approached the VA for medical treatment of his non-Hodgkin’s lymphoma and skin cancer, he was denied. Yet, the radiation exposure levels by U.S. vets at Palomares are higher than the levels at many other already-recognized radiation-risk incidents. Vets with the same radiation-related illnesses from other contamination events qualify for medical treatment, including those who disposed of the same Palomares debris after it was shipped to the U.S.

“My fellow veterans and I spent weeks at Palomares shoveling nuclear waste without gloves or masks. We ate there and slept there,” said Feeley in a press release from the Veterans Legal Services Clinic of Yale Law School, which is handling the appeal. “At the end of the day, we would be covered in a white powder — which I later learned was radioactive debris. I was only 20 years old when I arrived at Palomares, and I’m 76 now. Most of the men I served with are older than me. Many of them have passed away since that time and the ones that are still alive deserve to have their service rewarded,” Feeley said.

The radioactive debris they were cleaning up was from the first U.S. nuclear weapons accident. Twenty-two pounds of highly toxic plutonium was scattered over 500 acres around Palomares, on the Mediterranean coast, after a B-52 bomber carrying four 1.5 megaton nuclear warheads crashed with its refueling tanker nearly six miles in the air. Even though there was no nuclear detonation, the seven service members aboard the planes were killed.

The intensive initial cleanup operation lasted months, but the service members, the local population, the Earth, and the sea were contaminated and are still suffering to this day. In 2015, the Obama administration agreed to clean up an additional 1.8 million cubic feet of contaminated soil in Palomares, but the Trump White House claimed to have no obligation to keep promises made by prior administrations, and Biden has failed to recommit the U.S. to its responsibility for cleanup.

The 2019 case, *Skaar vs. McDonough*, alleges that the military used inadequate radiation data and flawed recording methods in order to deny medical benefits to the vets (see Nukewatch Spring *Quarterly*, “Court Orders Veterans Affairs Department to Replace Flawed Science Used to Deny Benefits to Vets Poisoned in Plutonium Disaster”). This case is scheduled for oral arguments April 7, 2022.

Meanwhile on Capitol Hill, the Palomares Veterans Act in the Senate and the Promise to Address Comprehensive Toxics Act in the House of Representatives, which would compensate the veterans for their dangerous and sometimes deadly work, await approval.

— *Stripes*, Jan. 19, 2022; Yale Law School press release, Nov. 1, 2021; BBC, Oct. 19, 2015

Bills Against High-Level Nuclear Waste Storage in Desert Southwest Face Opposition

Road to Central Waste Facility Still Bumpy

By Adrian Monty

After rubber stamping the Interim Storage Partners (ISP) Consolidated Interim Storage facility for high-level radioactive waste in Texas last September, the Nuclear Regulatory Commission (NRC) is expected to do the same for a proposed New Mexico facility by July. Holtec International, in conjunction with the Eddy-Lea Energy Alliance, has proposed building a Consolidated Interim Storage (CIS) facility in New Mexico. However, it cannot accept any high-level radioactive waste or operate in any capacity until court cases are settled and until the Southwest consents to being the country’s nuclear dumping ground.

This brings into the spotlight the resuscitation of the previously-abandoned Department of Energy’s “consent-based siting process.” To restart the process, the DOE issued a Request for Information, and 140 organizations signed onto a letter opposing the CIS proposals in New Mexico and Texas. If true consent-based siting is enforced, any state that would host the nuclear waste site must approve the project before it can operate.

The dump proposals are being opposed with both protest and litigation. Major lawsuits have been filed in three U.S. Circuit Courts of Appeal, the Washington, DC Circuit, the 5th Circuit in New Orleans, and the 10th in Denver. The groups Beyond Nuclear, Don’t Waste Michigan, and Sierra Club, have each filed appeals against both CIS facilities. So too have the States of Texas and New Mexico, the Fasken Land and Mineral, Company Ltd., and the Permian Basin Land and Royalty Owners Association.

On Sept. 10, 2021, the Texas legislature overwhelmingly adopted a prohibition against storage or disposal of high-level waste in the state. Two bills in New Mexico’s legislature against issuing permits to the waste facility were tabled in February in spite of tremendous popularity.

Supporters of a license denial bill, like state Senator Jeff Steinborn, said the risk of radiation exposure to New Mexicans is too great. The bill’s opponents, including Carlsbad, New Mexico mayor Dale Janway cite potential economic advantages of the facility, but ignore its inherent dangers. Opposition to the bill is led by industry advertisements that call nuclear power a low-carbon climate change solution.

At the federal level, a bipartisan bill introduced March 2nd in the Senate and the House would prevent private companies building a CIS from receiving certain federal payments — which could be in the hundreds of millions of dollars — until a permanent deep, geologic dumpsite is approved. Because no permanent waste site has been proposed, much less consented to, this bill would halt the CIS proposals for now.

Holtec’s application to the NRC proposes a site able to store 173,600 metric tons of highly radioactive waste from U.S. nuclear power reactors. Today there are about 86,000 tons stored at the nation’s reactors.

As advertised, CIS plans are said to be “temporary” facilities, built in the Southwest for commercial radioactive waste fuel in canisters to be transported there from 75 reactor sites across the country, most of which are east of the Mississippi.

The risk of transporting dangerous, high-level radioactive waste through nearly every mainland U.S. state is unprecedented. Not only would the waste be a danger to the truck, train and barge haulers, but also to people in cities, villages, and farms along every road, rail, and waterway it passes. Recently, the NRC began discussing preparedness for the mass transport of this waste. (See page 9.)

The “interim” component of this proposal is an additional danger. If this is approved as such, the high-level radioactive waste could potentially be transported a second time once a permanent facility



Casks for highly radioactive waste reactor fuel rods like this one are not made for transport to a central dumpsite.

is approved and operational. On the other hand, the interim storage facility could turn permanent if no permanent site becomes available.

Nuclear fuel waste remains dangerously radioactive for millions of years. How can anyone ensure a facility to hold something so dangerous for such an ineffable amount of time?

In all actuality, nowhere is a good place to store all of this waste. The production of radioactive waste through use of nuclear energy must be stopped and in most cases, until there is a better answer, the safest bet is in hardened on-site storage.

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Counterfeit Parts Put U.S. Reactors at Risk

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accompanying the reports, OIG director Feitel wrote: “Thank you for taking considerable time to bring your concerns to the OIG,” and noted that “my staff has completed its investigations” into “your allegations that CFSI are present in most, if not all, U.S. nuclear power plants...”

Feitel confirmed to Comley that “OIG investigators interviewed several individuals you identified.” They are some of the over two-dozen whistle-blowers who have spoken with We the People, and who are referred to in the OIG reports as “a well-placed NRC principle” or “an NRC source.”

As Nukewatch reported last October, Comley has for 35 years been haranguing the NRC and its inspectors, demanding that they take the whistle-blowers’ charges seriously. So the OIG’s damning and alarming February findings (too many to report on in one or two articles) are the long-awaited validation and vindication of Comley’s steadfast work that goes back almost four decades.

Feitel’s letter to Comley speaks to his group’s repeated warnings to the NRC about the impossibility of safely evacuating the Seabrook, New Hampshire reactor site during an emergency, and to the whistle-blowers’ startling allegations that State Patrol and National Guard forces have been gag-ordered by their superiors not to discuss the lack of a feasible Seabrook evacuation plan. (Nuclear reactors are the only industrial operations required to earn the approval of an emergency evacuation plan prior to startup.)

“The OIG also investigated your allegation that Seabrook Station’s evacuation plan is inadequate,” Feitel wrote. This report is complete, but a response from the NRC is pending, and only after the response is filed with OIG can the public “request a copy of the report via the Freedom of Information Act,” Feitel advised.

For now, the NRC can continue to hide behind slick public relations that manages major news services with bald-faced lies. One NRC public affairs officer named Scott Burnell told Reuters, “Nothing in the report suggests an immediate safety concern.” Burnell has a point. The report doesn’t “suggest” anything, it directly if politely condemns the deceitful, unscrupulous, deceptive, and duplicitous chicanery of the Nuclear Regulatory Commission when dealing with its own whistle-blowers, and it warns against the reckless endangerment of continuing to operate nuclear power reactors using counterfeit, substandard parts and equipment.