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WASHINGTON, DC 20510-6250

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August 3, 2017

The Honorable Frank G. Klotz
Administrator
National Nuclear Security Administration
Department of Energy
1000 Independence Ave., S.W.
Washington, D.C. 20585

Dear Mr. Administrator:

I am writing this letter in response to a report published by The Center for Public Integrity (CPI) which detailed extensive safety violations and chronic problems at Los Alamos National Laboratory (Los Alamos). The report details numerous safety violations, delays in warhead inspection and production, significant financial and productivity loss, and light penalties for the contractors tasked with operating facilities run by the National Nuclear Security Administration (NNSA).¹

The report describes numerous instances of lab personnel committing safety violations. Some of the reported instances were so severe they nearly resulted in nuclear catastrophes, including an instance where technicians, in an effort to impress their bosses, gathered eight plutonium rods on one table to photograph how nice they looked. This instance nearly created a “critical” situation and violated one of the bedrock rules for those working with nuclear material: keep pieces of plutonium far apart. This rule is described as Physics 101 for nuclear scientists, but according to the report, “has sometimes been ignored at Los Alamos.”²

As a result of this safety failure, and other similar instances, virtually all of the engineers tasked with keeping workers safe from criticality events quit, citing their frustrations with “management’s callousness about nuclear risks and its desire to put its own profits above safety.” This resulted in the closure of a key laboratory at Los Alamos where the plutonium work is located. The closure of Plutonium Facility 4 (PF-4) presented issues related to national security. The operation of PF-4 is necessary for the U.S. government to fabricate the cores of new nuclear weapons and effectuate key scientific examinations of existing weapons to ensure they still work. Its closure may have seriously undermined these efforts. In addition to the national security

¹ *Nuclear Negligence*, The Center for Public Integrity, (June 18, 2017) (apps.publicintegrity.org/nuclear-negligence/).

² *Id.* A “critical” scenario is defined in the report as one in which too much plutonium is put in one place and begins to fission uncontrollably, spontaneously sparking a nuclear chain reaction which releases energy and generates a deadly burst of radiation.

concerns of the PF-4 closure, shutting down the facility costs the government as much as \$1.36 million in lost productivity per day. This is not the first time PF-4 has been shuttered due to safety concerns. After a plutonium vault inspection in 2007 revealed inaccurate inventory that posed a risk of spontaneous fissioning, PF-4 was closed for a month and a Nuclear Criticality Safety Board was supposedly formed to address the lab's persistent problems. However, subsequent Department of Energy (DOE) checkups revealed no records confirming that the group ever met.³

The investigation by CPI revealed numerous accidents at NNSA facilities, including ones resulting in serious injuries, such as electric shocks, burning by acid or fire, and the inhalation of radioactive particles that can cause lifetime cancer risks. However, the private firms contracted to operate and maintain these facilities have not been held accountable in a meaningful way for the safety lapses that occurred under their watch. The contractors managing the facilities were each paid between \$40,000 and \$160,000 per day in profit, amounting to a collective total of more than \$2 billion in pure profit over the past 10 years. During that period, 19 of the 21 major fines for safety lapses and other workplace misconduct were waived or significantly reduced, reducing the proposed fines by 46%, or about \$3.3 million out of \$7.3 million. Profits were not diminished when safety violations occurred. The contractors received 86% of maximum profits available to them over a ten year period.⁴

Some of the contractors responsible for safety lapses at Los Alamos have also been involved in nuclear safety issues and other contract management problems at other DOE sites. For example, Bechtel National, Inc.'s contract with DOE for the Hanford Waste Treatment site has experienced numerous problems and incurred cost overruns over \$12 billion.⁵ These contractors have also been involved in substantiated cases of whistleblower retaliation and recently settled a False Claims Act case that involved charging the government for substandard equipment and using contract funds for lobbying.⁶ Despite all of these issues these contractors

³ *Id.* Los Alamos has missed 29 planned tests of the cores of existing warheads in the US arsenal and it has not produced a usable new warhead core in at least six years.

⁴ *Id.* In 2016 the contractors that run Los Alamos — Bechtel National, Inc., AECOM, BWXT Government Group, Inc., and the University of California — received 74 percent or \$10.7 million of the \$14.4 million in profits available to them from the NNSA in the category that includes pit production and surveillance (all their actual expenses are separately reimbursed every year by the government).

⁵ Government Accountability Office, *Hanford Waste Treatment: DOE Needs to Evaluate Alternatives to Recently Proposed Projects and Address Technical and Management Challenges* (GAO 15-354) (May 7, 2015).

⁶ See Government Accountability Office, *Department of Energy: Whistleblower Protections Need Strengthening* (GAO-16-618) (July 14, 2016); Government Accountability Office, *Department of Energy: Use of Leading Practices Could Help Manage the Risk of Fraud and Other Improper Payments* (GAO 17-235) (Mar. 30, 2017); Department of Justice, *United States Settles Lawsuit Against Energy Department Contractors for Knowingly Mischarging*

continue to maintain DOE contracts for expensive and sensitive projects without any discernable accountability. Compounding the problems with failing to hold contractors accountable, NNSA has not sought to re-compete contracts, a mechanism that federal agencies can use to ensure better performance and protection of taxpayer dollars. In fact, a past NNSA administrator gave Los Alamos a waiver allowing an extra year on its contract even though it fell short of the 80% performance rating necessary for such an extension.⁷

I have previously noted my concerns regarding DOE's poor oversight and management of its contracts⁸ and its inability to properly exercise effective oversight of its budget.⁹ The incidents described in this recent report, especially at Los Alamos, raise serious questions about NNSA's commitment to safety and effective contract management. In an effort to better understand whether NNSA is working to improve safety at its facilities and ensure that contractors are held accountable, I request that you provide a response to the following questions no later than August 24, 2017:

1. What is the current status of PF-4? Is it operational? If not, why? Has it passed the necessary safety tests to function safely and effectively? If not, when will it be meet that standard?
2. What are the costs associated with its closure? Are the operators of the facilities being burdened with the costs of its closure or are they being passed on to the taxpayer?
3. President Trump requested \$13.9 billion for NNSA in his FY 2018 Budget Request, \$1.4 billion more than was appropriated in FY 2016. How much of that request will be dedicated to improve safety standards at the facilities?
4. Does the NNSA plan on applying sanctions or penalties of any kind to the contractors for the failure to implement adequate safety standards? Does it plan to address the failure to fix the safety issues at Los Alamos PF-4 and reopen it after over 4 years of closure?
5. Does NNSA believe the current contractors are managing its facilities effectively and safely? Why or why not?

Costs on Contract at Nuclear Waste Treatment Plant (Nov. 23, 2016)
(www.justice.gov/opa/pr/united-states-settles-lawsuit-against-energy-department-contractors-knowingly-mischarging).

⁷ *Nuclear Negligence*, The Center for Public Integrity, (June 18, 2017)
(apps.publicintegrity.org/nuclear-negligence/).

⁸ Letter from Senator Claire McCaskill to Secretary Rick Perry, U.S. Department of Energy (June 29, 2017).

⁹ Letter from Senator Claire McCaskill to Secretary Rick Perry, U.S. Department of Energy (May 1, 2017).

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6. What grade does NNSA give itself for oversight of the nuclear facilities, and what supports this self-assessment? Does NNSA feel it is meeting its duty to prevent dangerous nuclear accidents?
7. What steps is NNSA taking to improve its safety record? What steps is it taking to improve its oversight and contract management related to NNSA facilities?

Thank you for your assistance with this matter. If you have any questions please contact Sarah Garcia with my staff at (202) 224-2627 or Sarah_Garcia@hsgac.senate.gov. Please send any official correspondence related to this request to Amanda Trosen at Amanda_Trosen@hsgac.senate.gov.

Sincerely,



Claire McCaskill
Ranking Member

cc: Ron Johnson
Chairman