

NEWS

Loopholes in oversight rules revealed

Documents released under the Freedom of Information Act raise questions about how the US Department of Energy (DOE) oversees investigations of misconduct at its science facilities. During such oversight, government officials do not always retain records of the investigations, it has emerged.

DOE officials overseeing an investigation into alleged misconduct at Oak Ridge National Laboratory in Tennessee approved the investigatory panel's findings at a meeting that government officials left without keeping copies of key investigative records. This is according to a 13 November ruling by attorneys at the DOE — issued in response to a Freedom of Information Act request by this reporter.

The story begins in March 2006, when a reviewer for the journal *Nature Physics* alleged that a manuscript submitted by Oak Ridge researchers in the group headed by electron microscopist Stephen Pennycook contained inappropriately manipulated data. An investigation panel convened by the lab's deputy director for science and technology, James Roberto, exonerated Pennycook and others of wrongdoing in July 2006, but other scientists expressed doubts (see *Nature* 444, 129; 2006). In January this year, the DOE said that Oak Ridge, which is run by the not-for-profit company UT-Battelle under a 5-year, US\$6.3-billion contract, had reopened the investigation. "Once again, the committee concluded there was no evidence of misconduct," an Oak Ridge spokesman told *Nature*.

According to the November ruling, DOE officials approved this first finding at a meeting last year with lab officials where they were



Government officials oversaw a misconduct investigation at Oak Ridge National Laboratory.

shown copies of a panel's investigation report in binders marked "do not duplicate", and reviewed the process that the panel used to arrive at its finding of "no misconduct". The lab officials then took the binders back, the ruling says. It adds that although the DOE officials felt that it was "very important" to confirm the panel was objective and composed of people who did not work at Oak Ridge, they apparently did not keep a record of who those investigators were. Last week, Oak Ridge named Paul Peercy of the University of Wisconsin-Madison and David Williams of the University of Alabama in Huntsville, as two panel members.

"Copies of the report were returned as is normal practice with confidential documents," says Oak Ridge's spokesman, Mike Bradley. "Department of Energy officials were not at any time restricted from access to the report," he adds.

The freedom-of-information ruling cites a standard clause in the contract between the DOE and UT-Battelle as evidence that the company

"clearly intended to retain control over the report of investigation." That clause says that records relating to investigations "conducted under an expectation of confidentiality" will be considered the contractor's property. In 2005, Raymond Orbach, director of the DOE Office of Science widened the clause to cover misconduct reports from all US national labs run by the DOE.

In the Oak Ridge case, the DOE did later receive a copy of the investigation report, which the recent ruling orders Orbach's office to consider for public release — overruling his deputy, Patricia Dehmer, who had refused to do so. But Oak Ridge says that it was sent not for oversight but "for informational purposes only".

"Can a government agency fulfil its oversight responsibilities with this degree of access?" asks C. K. Gunsalus, an attorney and misconduct expert at the University of Illinois at Urbana-Champaign. She says that other science-funding agencies employ oversight experts who routinely receive and retain not only investigation reports, but the data at issue and the names of people involved, and analyse these in detail — a process that for a complex case might well take longer than one meeting.

Bioethicist Arthur Caplan of the University of Pennsylvania, Philadelphia, says he can't understand why the DOE introduced a rule relinquishing control of investigation reports. "Why would they give up supervisory powers?" he asks.

Officials in Orbach's office plan to meet this week to discuss the matter.

Eugenie Samuel Reich

13 November ruling

♦ www.oha.doe.gov/cases/foia/tfa0213.pdf

OAK RIDGE NAT'L LAB.

Deforestation on the agenda at climate meeting

Deforestation issues must be included in global talks on carbon-emissions control, experts say.

European companies seeking to offset their greenhouse-gas emissions under the Kyoto Protocol are pumping billions of dollars into clean-energy projects in the developing world. But the protocol does not include funding initiatives to prevent deforestation, which is responsible for some 20% of global carbon emissions.

Eying an economic opportunity

that could put money in the hands of those who preserve native forests rather than chop them down, tropical countries are now banding together to alter the rules after the Kyoto accord expires in 2012. The first step is to ensure that deforestation is on the agenda at Bali, Indonesia, where international negotiators will gather next week for the latest round of United Nations climate-change talks.

"All of the big countries [with tropical forests] have gotten

together to tell the world that they support the same fundamental idea," says Doug Boucher, who works on the issue for the Union of Concerned Scientists, an environmental watchdog based in Cambridge, Massachusetts. Boucher points out that Indonesia has become an international leader on the issue despite being virtually absent from the debate just six months ago. "We may look back on this in a couple of years as having been a turning point," he says.

The idea that deforestation must be addressed in any cohesive response to global warming is not new. Although reforestation projects were allowed during the Kyoto deliberations a decade ago, the question of halting deforestation was dropped, largely because of technical questions. How does one verify a decline in deforestation? And how can anyone be sure that the problem hasn't just moved elsewhere?

A decade after the Kyoto talks, advocates say the issue is ready