

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF IDAHO

KEEP YELLOWSTONE NUCLEAR	)	
FREE, ENVIRONMENTAL DEFENSE	)	Case No. CV-07-36-E-BLW
INSTITUTE, MARY WOOLLEN,	)	
JOHN PEAVEY, AND DEBRA	)	<b>MEMORANDUM</b>
STANSELL,	)	<b>DECISION AND ORDER</b>
	)	
Plaintiffs,	)	
	)	
v.	)	
	)	
THE UNITED STATES DEPARTMENT	)	
OF ENERGY, AND SAMUEL W.	)	
BODMAN, SECRETARY, UNITED	)	
STATES DEPARTMENT OF ENERGY,	)	
	)	
Defendants.	)	
_____	)	

**INTRODUCTION**

The Court has before it a motion to alter or amend a judgment filed by plaintiff KYNF. For the reasons expressed below, the Court will deny the motion.

**ANALYSIS**

Plaintiff KYNF takes issue with the Court's conclusion that the LEP was designed to avoid a premature shutdown of the ATR, not extend its life-span. KYNF points out that the ATR began operations in 1969 and had an original life-span of 20 years. That means, KYNF argues, that the original life of the ATR

expired in 1989, and that the LEP must have been designed to extend its life-span because it intended the ATR to operate well-beyond 1989.

KYNF provides persuasive evidence that the original life span of the ATR was designed to be 20 years, expiring in 1989. Just a year before that life span was due to expire, the DOE acted to extend it substantially, by implementing the “ATR Aging Evaluation and Life Extension Program” (AELEX). The goal of AELEX was to operate the ATR “to the year 2014 and perhaps beyond.” *AR* at 25913. AELEX “concluded that the ATR could be operated well into the 21st century (2014).” *Id.* at 011497.

AELEX was clearly a program designed to increase substantially the life span of the ATR, and it did so. Whether AELEX should have been subjected to a NEPA analysis is an issue not now before this Court. By the time the LEP was implemented, the ATR’s life span had been extended out to 2040 or so, as discussed in the Court’s earlier decision. The LEP was designed to avoid a premature shut down in 2008, and allow the LEP to live out its full life to 2040. The Court therefore adheres to its original decision.

### **ORDER**

In accordance with the Memorandum Decision set forth above,

NOW THEREFORE IT IS HEREBY ORDERED, that the motion to alter

judgment (Docket No. 62) is DENIED.



DATED: **April 28, 2008**

A handwritten signature in black ink, reading "B. Lynn Winmill".

Honorable B. Lynn Winmill  
Chief U. S. District Judge