

October 18, 2001

Mr. James Rose
Defense Programs (DP-42)
National Nuclear Security Administration
U.S. Department of Energy
1000 Independence Ave, S.W.
Washington, DC 20585

Dear Mr. Rose,

Nuclear Watch of New Mexico submits the following comments on the Draft Environmental Impact Statement (DEIS) for the **Proposed Relocation of Technical Area 18 (TA-18) Capabilities and Materials at the Los Alamos National Laboratory (LANL)** [NNSA/EIS-0319D]. Our apologies for the delayed submission of these comments. Like many public and private businesses after September 11, 2001, the programmatic work of Nuclear Watch of New Mexico had to be carefully recalibrated, causing delays to our near-term goals.

Lack of stated mission for TA-18 relocation activities

The Draft Environmental Impact Statement for the **Proposed Relocation of Technical Area 18 Capabilities and Materials at the Los Alamos National Laboratory**, (hereinafter the DEIS) fails to outline the proposed mission of relocated TA-18 facilities. The DEIS must clearly disclose what the future mission of relocated TA-18 activities are in a manner that is more in depth than is currently provided. The current statement of Purpose and Need for Action ¹ is inadequate and NNSA does not define a true purpose and need for the relocation of TA-18 activities. According to the Council on Environmental Quality (CEQ), the statement of purpose and need shall briefly specify the underlying purpose and need to which the agency is responding in proposing the alternatives including the proposed action. (CEQ Regulations for Implementing National Environmental Policy Act (NEPA) 40 CFR 1502.13) For example, NNSA provides no description of TA-18's support of plutonium pit production and certification (including hydrotesting), a distinct possibility given the preferred TA-55 location. Also, because NNSA provides its preferred alternative at TA-55 without a concrete discussion of why TA-55 is preferred makes it appear that NNSA has pre-determined its decision without appropriate participatory decision making among government agencies and the public as is required by NEPA. DOE NEPA Implementing Regulations also state that DOE shall complete its NEPA review for each DOE proposal before making a decision on the proposal (10 CFR 1021.210)

Furthermore, how will the mission of TA-18 operations, current and near-future, be impacted and or modified by relocation to another site. Appendix A of the DEIS provides descriptions of the critical assemblies, however, those descriptions fail to provide validity to the NNSA's claim of the importance of maintaining those individual critical assemblies. Additionally, the National Nuclear Security Administration (NNSA) fails to outline why those critical assemblies are relevant to NNSA operations. Appendix A also fails to provide an analytical overview of critical assembly operations and the purpose for those operations. The CEQ stated that Environmental impact statements shall be analytical rather

than encyclopedic. (CEQ Regulations 40 CFR 1502.2) Appendix A fails to meet the guidelines set forth by the CEQ because it is merely an explanation of terms relevant to critical assemblies but NNSA does not demonstrate what the role of a critical assembly is within the mission of TA-18. Hence, NNSA does little in fulfilling the its NEPA responsibilities in the DEIS.

The NNSA s argument for proposed relocation of critical assemblies, excluding the SHEBA assembly, is inherently flawed because again it lacks concrete facts for its justification. Relocation of the critical assemblies and Category I capabilities of TA-18 lays at the heart of the NNSA s argument. The NNSA declares in its DEIS that While proposals regarding TA-18 activities may fall within the scope of [a long-term strategy for conducting security Category I nuclear operations at LANL] along with other activities such as analytical chemistry, security, and pit manufacturing, DOE has determined that the TA-18 Relocation proposal must move forward independent of this broader planning effort

² The NNSA cannot justify relocation of its Category I operations, including the critical assemblies housed at the TA-18 facilities, without analyzing the impacts on human health and environment that current and near-future Category I missions will have. The NNSA must also clearly state in the DEIS what materials and equipment belong to each Category. Currently, it is unclear whether the critical assemblies and associated materials belong to Category I or II. This lack of clarity is also true for materials within Category III and IV. If NNSA is to meet its NEPA obligations, NNSA must be clear on what devices and materials belong to what category and where that inventory is destined, if a valid assessment of risk to human health and the environment is to be made. Before the NNSA can continue, the planning effort that focuses on the long-term strategy for conducting security Category I nuclear operations at LANL must be completed and fully disclosed as part of this EIS process.³ Additionally, has NNSA fully analyzed the security risks of relocating SNM at a site such as the preferred alternative at TA-55? A clear discussion of potential security risks, such as terrorism, are not given by the NNSA in its DEIS. This must be remedied, particularly in light of the September 11 terrorist attacks.

Cleanup and Risk Assessment

Lack of Concrete Decontamination and Decommissioning Plans

The DEIS contains only a very limited discussion of decontamination and decommissioning (D&D) and environmental restoration process of the TA-18 site should the current operations be relocated to another site. The NNSA states that At the present time, the ultimate disposition of existing TA-18 facilities is not known Prior to the initiation of decommissioning activities, the facility operator would have to prepare a detailed decommissioning plan Specific alternatives to be considered in the decontamination and decommissioning process would likely follow the [Resource Conservation and Recovery Act] framework and would be subject to project-specific [National Environmental Policy Act] analysis. ⁴ Facilities within TA-18 that were built in the flood plain of Pajarito and Three Mile Canyons require near-term D&D and environmental restoration because those structures pose immediate risks to the public health and environment in the event these canyon systems flood. According to the National Environmental Policy Act (NEPA), [I]t is the continuing responsibility of the Federal Government to use all practicable means [to] attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences. (NEPA/ 101 (b)(3)) The Draft EIS must identify facilities of concern within the Canyon flood plain and contain a preliminary plan for carrying out D&D and environmental restoration on them immediately after relocation of those facilities has been completed if the NNSA is to abide by its

obligations under NEPA/101. DOE and LANL have continually avoided taking responsibility for site-wide mapping out of cleanup priorities. This occurred most notably in the 1999 Site-Wide EIS. NWNM's concern is amplified by proposed budget cuts to cleanup programs at LANL. DOE and LANL need to address their NEPA responsibilities in a manner that is systematic and that leads to substantive cleanup.

In a recent letter from the New Mexico Attorney General's Office to the New Mexico Environment Department, the Assistant Attorney General stated that there are unresolved questions of ground water contamination [at TA-18].⁵ NNSA must address the issue of groundwater contamination at TA-18 in its DEIS and fully indicate how it proposes to take remedial action. The Assistant Attorney General also noted that there is no completed reach report for Pajarito Canyon. This reach report is vital to the cleanup process of TA-18 because it begins to establish inventories of hazardous and radioactive constituents within Pajarito Canyon and will help in determining cleanup priorities.

Risk Assessments

In light of the terrorist attacks of September 11, 2001, it is no longer appropriate for the NNSA to state that external events such as an aircraft crash that could lead to the release of radioactive material has such an improbable chance of occurring that it was not considered credible and is not evaluated in the EIS.⁶ This scenario, along with other possible terrorist attacks upon special nuclear materials (SNM) facilities must be fully considered, regardless of how unorthodox the scenario may be, for the safety and security of the employees at LANL and the public at large. Since the September 11 attacks, the security threshold has been raised substantially. NNSA must provide evidence that it is implementing measures to meet that raised threshold.

Safety Concerns

NNSA asserts in the DEIS that LANL has experienced a number of criticality accidents in the period of 1945 to the early 1980s and goes on to say that there have been no accidents since that time that have resulted in significant adverse impacts to workers, the public or the environment.⁷ Although it may be true that there have been no accidents that have caused adverse impacts to workers, the public, or the environment, LANL has a notorious record on safety procedures and handling of SNM. As recently as October 9, 2001, the DOE's Office of Enforcement and Investigation (OE) wrote that LANL had reported in February 2000 that its Los Alamos Critical Experiments Facility (LACEF) at TA-18 was in noncompliance with quality assurance provisions of NNSA's nuclear safety requirements.⁸ This letter goes on to say that commitments to address violations through noncompliance enforcement actions issued by OE to LANL have yet to be met. OE states that On January 30, 2001, LACEF staff failed to comply with a TSR [Technical Safety Requirement] on the Godiva IV Critical Assembly [and] on February 28, 2001, LACEF staff failed to comply with another TSR on the Planet Critical Assembly [and] on July 25, 2001, the LACEF Team Leader determined that a TSR surveillance violation for the COMET Critical Assembly had occurred⁹ [and] on August 9, 2001, LANL contacted the OE to notify OE that [a] corrective action had not been completed as reported. These violations at the TA-18 criticality facilities are of great concern, and do have the potential to adversely impact the health of LANL workers, the public, and the environment. The issues of noncompliance must be addressed in the DEIS and it must also commit to resolving these issues before any relocation of TA-18 activities is made. In fact, NNSA's Office of Enforcement and

Investigation (OE) felt that Continued violations indicate that the quality controls necessary to ensure compliance are not adequate, and concludes that continued violations that are necessary to ensure safe operations of the Critical Assemblies could, if left uncorrected, lead to a more significant critical event.

We note that the above letter was issued by the DOE Office of Price-Anderson enforcement. Violations at LANL s TA-18 Critical Experiments Facility, coupled with criticality violations in 1997 at the Lawrence Livermore National Laboratory, demonstrate that the University of California should not be exempt from Price-Anderson fines resulting from violations or accidents in the use and handling of nuclear materials.

Over the past 5 years, the Neighborhood Environmental Watch Network (NEWNET) has recorded several very high gamma spikes during criticality experiments conducted at TA-18. NEWNET has been a source of substantial public and tribal interest and concern. The NEWNET air monitoring equipment at TA-18 Kappa site must be relocated to the future site for TA-18 activities.

Additionally, LANL must continue its cooperation with international agencies such as the International Atomic Energy Agency (IAEA). LANL officials have often made the claim that TA-18 has been used for the training of IAEA inspectors. Because it is not explicitly stated in the DEIS, is it to be presumed that relocated TA-18 facilities will only have a weapons mission and will no longer have a peaceful aspect in its mission such as the training of IAEA inspectors? Any effort to discontinue cooperation with the IAEA, despite heightened security concerns after the attacks of September 11, must be avoided. This cooperative mission between LANL and the IAEA must continue as part of the mission of relocated TA-18 operations. The DEIS must explicitly state that cooperation with the IAEA will continue despite increased security controls. Relocated TA-18 facilities must continue training IAEA inspectors in this world ever more threatened by weapons of mass destruction.

In summary, NWNM concluded that:

NNSA failed to clearly state a mission for relocated TA-18 activities and failed to clearly indicate why TA-55 at LANL was the preferred alternative over the other proposed sites.

NNSA has not adequately prepared a decontamination and decommissioning (D&D) plan for facilities at TA-18 that are built in the confluence of the Pajarito and Three Mile Canyon flood plains. NNSA must establish an immediate plan for conducting D&D and environmental restoration on these building as they pose obvious risks to human health and the environment.

NNSA has not addressed issues of ground water contamination at TA-18.

NNSA s claim that risk assessments for events such as airline crashes is unnecessary does not have validity in light of the September 11 terrorist attacks. A risk assessment and plan to handle such potential events must be clearly established.

Although there may not have been recent criticality events that caused harm to the LANL workforce, the public, or the environment, NNSA must address the fact that DOE s Office of Enforcement and Investigation has cited LANL for numerous violations of DOE safety procedures at the TA-18 critical experiments facility. NNSA must also commit to developing a plan that will prevent future violations. The Kappa NEWNET station must be relocated with the TA-18 critical experiments devices. Relocated TA-18 facilities must continue to help in the training of IAEA weapons inspectors.

If you have further questions, feel free to contact me.

Sincerely,

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¹ Draft Environmental Impact Statement for the Proposed Relocation of Technical Area 18 Capabilities and Materials at the Los Alamos National Laboratory, NNSA/EIS-0319D, August 2001, Summary, p. S-4.

² *Ibid.*, p. S-9.

³ *Ibid.*

⁴ *Ibid.*, Volume 1, Chapter 5, pp. 5-109 through 5-111.

⁵ Letter to James Bearzi, Hazardous Waste Bureau Chief, New Mexico Environment Department, from Lindsay Lovejoy, Jr. Assistant Attorney General, Attorney General Office of New Mexico, September 27, 2001

⁶ *Ibid.*, Appendix C, p. C-6.

⁷ Draft Environmental Impact Statement for the Proposed Relocation of Technical Area 18 Capabilities and Materials at the Los Alamos National Laboratory, NNSA/EIS-0319D, August 2001, Volume 1, Chapter 4, p. 4-41.

⁸ Letter to John Browne, Director, LANL, from R. Keith Christopher, Director, Office of Price-Anderson Enforcement, October 9, 2001. <http://tis.eh.NNSA.gov/enforce/els/ellan1100901.htm>

⁹ OE states that the TSR for the COMET Critical Assembly had been in place since September 1995 and LANL personnel concluded that the TSR surveillance had not been performed since the effective date in 1995. *Ibid.*