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Watchdogs Issue Second Demand for Nation-Wide Environmental Review of Expanded Plutonium Pit Production

Today, lawyers for the Natural Resources Defense Council, Nuclear Watch New Mexico, Savannah River Site Watch and Tri-Valley Communities Against a Radioactive Environment sent a second letter to Department of Energy (DOE) Secretary Rick Perry and Lisa Gordon-Hagerty, the head of the semi-autonomous National Nuclear Security Administration (NNSA). The letter demands a nation-wide programmatic environmental impact statement for the agencies' proposed expanded production of plutonium pits, the fissile cores or "triggers" of nuclear weapons. Invoking the National Environmental Policy Act (NEPA), the letter concludes:

"...we advise the agencies that timely compliance with NEPA is the best means for the agencies to keep these [expanded plutonium pit production] projects on track, as a failure to rigorously comply with NEPA may necessitate litigation, including if necessary motions for injunctive relief, all of which would likely increase the expense of DOE's and NNSA's proposed actions and extend their timelines further. Accordingly, we strongly encourage DOE and NNSA to come into compliance with NEPA by preparing a new or supplemental PEIS for its proposals regarding plutonium pit production, and to do so immediately. If the agencies continue on their current trajectory, we will have no choice but to evaluate all our options to enforce compliance with federal environmental laws."

As background, on May 10, 2018, the Departments of Defense and Energy jointly announced that plutonium pit production would be expanded from the currently sanctioned level of 20 pits per year at the Los Alamos National Laboratory (LANL) in northern New Mexico to at least 30 pits per year, plus redundant production of at least 50 pits per year at the Savannah River Site (SRS) in South Carolina, which would be a completely new mission there.

Expanded plutonium pit production is NOT to maintain the safety and reliability of the existing nuclear weapons stockpile. It is instead for shifting proposals for speculative new-design nuclear weapons, starting with the Reliable Replacement Warhead (canceled by Congress in 2008), the so-called Interoperable Warhead for both Navy and Air Force ballistic missiles (canceled by NNSA in late 2018 due to lack of Navy support), and now a new warhead dubbed the W87-1 to replace the W78 warhead on the Air Force's intercontinental ballistic missiles.

Of particular significance, future pits will not be exact replicas of existing designs but instead according to NNSA's congressional budget request will be "W87-like", without further explanation. The potential danger is that national security will be degraded because these pits cannot be full-scale tested given the global testing moratorium, or alternatively could prompt the U.S. to resume testing, which would have

grave international proliferation consequences. Nevertheless, expanded plutonium pit production is the NNSA's declared #1 priority and is a central component of the Trump Administration's \$1.7 trillion nuclear weapons "modernization" program that is helping to fuel an escalating global nuclear arms race.

The legally required public environmental reviews were first demanded in an October 31, 2018 letter by Nuclear Watch New Mexico, Savannah River Site Watch and Tri-Valley Communities Against a Radioactive Environment (CAREs), to which NNSA did not respond. A follow-up May 17, 2019 letter sent on their behalf by attorneys for the Natural Resources Defense Council and the Washington, DC law firm Eubanks & Associates, LLP yielded quick results. On May 31, 2019, NNSA signed a formal Notice of Intent stating that three environmental reviews would be conducted: 1) a site-specific environmental impact statement for pit production at the Savannah River Site, 2) additional NEPA documentation for expanded pit production at LANL, and 3) a "Supplement Analysis" to the 2008 *Final Complex Transformation Supplemental Programmatic EIS* to determine whether or not a new supplemental PEIS should be completed.

NNSA had already preliminarily concluded that a new supplemental PEIS is not required, but nevertheless offered the Supplement Analysis for public comment. The organizations on whose behalf the attorneys' letter was sent responded by submitting detailed formal comment to NNSA. Perhaps most significant of all, the Natural Resources Defense Council pointed to a 1998 court order that it had secured while representing more than 60 citizen organizations that requires DOE to prepare a supplemental PEIS when the Department begins to plan for more than 50 pits per year with a single work shift, or more than 80 with multiple work shifts. Thus, DOE and NNSA are required to complete a new supplemental PEIS not only by NEPA requirements but also by a court order that NRDC noted it would enforce if necessary.

NNSA proposes to implement pit production at SRS by repurposing the failed MOX Fuel Fabrication Facility, a boondoggle that cost American taxpayers some \$7 billion dollars. Tom Clements, director of Savannah River Site Watch, commented, "Lacking any justification for expanded pit production and absent any demonstration that the poorly constructed MOX building can be converted into a Plutonium Bomb Plant, NNSA needs to either abandon the new pit project or start over with the legally mandated PEIS." He further added, "Before proposing the reuse of the MOX building, NNSA must cooperate with Congress in investigations and hearings into fraud, waste, abuse and mismanagement at the bunged MOX project."

Tri-Valley CAREs' executive director Marylia Kelley commented, "As today's letter notes, the government is twice-bound by legal requirements to complete a PEIS. On the one hand, NEPA itself requires a PEIS. On the other, there is also a federal court order that mandates a PEIS in the present circumstance. My organization, along with NRDC, is party to the Order. I am pleased that the attorneys' letter sent today makes clear our willingness to act to uphold it. DOE and NNSA would be wise to 'do the right thing' by announcing they will commence a PEIS before taking any further action to expand plutonium pit production."

Jay Coghlan, Nuclear Watch New Mexico Director, noted, "The Los Alamos Lab has a long track record of nuclear safety problems that must be resolved before expanded plutonium pit production is even considered. The government's claimed need for expanded production needs to be critically examined in a new nation-wide supplemental PEIS for its environmental impacts, costs and potentially adverse national security impacts. Following that, given the massive changes proposed for LANL due to expanded pit production, NNSA will also have to prepare a new site-specific site-wide environmental impact statement for the Los Alamos Lab."

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Nuclear Watch New Mexico is based in Santa Fe, New Mexico; Tri-Valley CAREs in Livermore, California; and Savannah River Site Watch in Columbia, South Carolina. All three groups are members of the Alliance for Nuclear Accountability, a grassroots network of public interest groups that addresses Department of Energy issues nationwide. The three organizations are being represented by the public interest law firm Eubanks & Associates, LLC, based in Washington, DC.

Today's letter to DOE Secretary Rick Perry NNSA Administrator Lisa E. Gordon-Hagerty is available at <https://nukewatch.org/newsite/wp-content/uploads/2019/09/Second-Letter-Regarding-Need-for-PEIS-for-Plutonium-Pit-Production.pdf>

The May 17, 2019 attorneys' letter to DOE Secretary Rick Perry NNSA Administrator Lisa E. Gordon-Hagerty is available at <https://nukewatch.org/newsite/wp-content/uploads/2019/05/Summary-Pit-Production.pdf>

The 1998 court order in which NRDC was lead counsel for plaintiffs is available at <https://law.justia.com/cases/federal/district-courts/FSupp2/20/45/2423390/>