

Exhibit 2

Defendants' Response in Opposition to
Plaintiffs' Motion to Enforce this Court's Judgment

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE**

OAK RIDGE ENVIRONMENTAL PEACE)
ALLIANCE,)
NUCLEAR WATCH OF NEW MEXICO,)
NATURAL RESOURCES DEFENSE)
COUNCIL,)
RALPH HUTCHINSON,)
ED SULLIVAN,)
JACK CARL HOEFER, and)
LINDA EWALD,)

Plaintiffs,

v.

JAMES RICHARD PERRY, SECRETARY,)
UNITED STATES DEPARTMENT OF)
ENERGY, and)
LISA E. GORDON-HAGERTY,)
ADMINISTRATOR, NATIONAL)
NUCLEAR SECURITY)
ADMINISTRATION,)

Defendants.

Case No. 3:18-cv-00150

REEVES/POPLIN

**DECLARATION OF TERESA M.
ROBBINS
IN SUPPORT OF DEFENDANTS'
RESPONSE IN OPPOSITION TO
PLAINTIFFS' MOTION TO ENFORCE
THIS COURT'S JUDGMENT**

I, Teresa M. Robbins, pursuant to 28 U.S.C. § 1746, declare as follows based upon my personal knowledge:

1. I am the Field Office Manager for the National Nuclear Security Administration (“NNSA”) Production Office (“NPO”), located in Oak Ridge, Tennessee. The NPO is one of seven NNSA field offices, which, along with NNSA Headquarters, comprise the Nuclear Security Enterprise. NPO is responsible for, inter alia, the safe and secure operation of the Y-12 National Security Complex (“Y-12 NSC”) and the Pantex Plant in Amarillo, Texas. In this

position, I am accountable to the NNSA Administrator and am the risk acceptance official for NNSA for these two plants. I administer the NPO management and operating contract for the Y-12 NSC and Pantex Plant and perform oversight of contractor operations and overall appraisal of contractor performance, including safety performance.

2. As the Field Office Manager, I am responsible for approval of the Documented Safety Analysis (“Safety Basis”) for each Y-12 NSC nuclear facility, which is a document that provides a description of the hazards of a facility during its design, construction, operation, and eventual cleanup and the basis for operating and engineering controls.

3. The Uranium Processing Facility (“UPF”) Project is under the purview and responsibility of Mr. Robert Raines, the NNSA Associate Administrator for Acquisition and Project Management. His direct report, Mr. Dale Christenson, the UPF Federal Project Director, is responsible for overall execution of construction of the UPF Project, which is being built at the Y-12 NSC. Once construction and readiness activities are completed, and upon verification that preparations for startup have been completed in accordance with DOE Order 425.1D, *Verification of Readiness to Start Up or Restart Nuclear Facilities*, the NNSA Administrator will authorize startup of UPF operations. At that time, responsibility for UPF operations will transfer to me.

4. The UPF, as previously approved in 2016, includes a Main Process Building, Salvage and Accountability Building, Mechanical Electrical Building, Personnel Support Building, along with other support facilities, utility infrastructure and security systems. A key goal of NNSA’s Uranium Strategy is to cease enriched uranium programmatic operations in Building 9212 and enable transition of critical Building 9212 capabilities into the UPF by 2025.

These capabilities include casting, chemical recovery, special oxide production, packaging, and decontamination and maintenance.

5. A six- to twelve-month suspension of UPF construction would result in the need to continue to operate Building 9212 for at least an additional fourteen to twenty months. The reasons why a six- to twelve-month suspension would cause a fourteen- to twenty-month delay are described in the Declaration of Robert Raines submitted to the Court contemporaneously with this Declaration. Such a consequence would be problematic because, unlike Buildings 9404-2E and 9215, there is no Extended Life Program (ELP) for Building 9212. Even with the preferred alternative described in the 2011 Site-Wide Environmental Impact Statement, which would have consolidated all enriched uranium operations into a single-structure UPF, the plan has always been to cease operations in Building 9212 and perform those activities in a new UPF, once its construction is complete and operations are authorized. There has never been a plan to continue operations in Building 9212 beyond the time it takes to complete construction of a new UPF and initiate operations. A fourteen- to twenty-month delay would necessarily require continued operations in Building 9212, which is less safe than the new UPF. If Building 9212 is required to be operated significantly beyond what is planned for its useful life (2025-2027), a major effort would have to be undertaken which, similar to the ELP, described below for Buildings 9215 and 9204-2E, would describe what physical upgrades would be necessary to be performed to extend the life of the facility. In the interim, I would be required to determine whether operations in Building 9212 could continue, based upon my risk analysis evaluation.

6. Because the UPF project scope was reduced to include only replacement of certain 9212 capabilities, an alternate strategy to ensure continued enriched uranium product certification, assembly, disassembly, dismantlement, and machining functions was developed to

maintain these capabilities in Buildings 9215 and 9204-2E. This alternate strategy consisted of 1) investing in the infrastructure of the existing facilities; 2) completing holistic Safety Basis and engineering codes/standards evaluations; and 3) implementing a new, robust systematic and planned maintenance program to maintain the existing capabilities in the two facilities until a replacement facility is available. Such upgrades include physical changes to buildings and systems, as well as technology and process changes that reduce risk. These changes are part of the ELP, which is a comprehensive process that enables the life extension of Buildings 9215 and 9204-2E beyond their designed useful life to ensure continuous, safe, and secure enriched uranium mission capabilities at the Y-12 NSC.

7. The ELP Implementation Plan defines the scope of the ELP by identifying a roadmap with specific tasks that must be executed in order to ensure full implementation. The ELP is funded on an annual basis and is designed to continue to mature as it is implemented, with further evaluations and physical upgrades influencing the priority of the ELP tasks. The ELP Implementation Plan is updated on an annual or as-required basis to ensure appropriate maturation of the program. Since the beginning of 2018, NNSA has spent \$114M in ELP activities and a total of \$176M since the approval of the ELP as a component of the actions approved in a 2016 Amended Record of Decision.

8. The ELP and associated uranium sustainment projects are a series of targeted investments above standard maintenance. This effort makes essential upgrades to nuclear facilities at the Y-12 NSC that are needed to meet national security missions for the nuclear deterrent, naval propulsion and nuclear nonproliferation. The ELP program also addresses deferred maintenance in key areas that support disassembly and assembly of nuclear components, uranium recovery operations, and machining.

9. Examples of some planned ELP activities for Fiscal Year (FY) 20 include modernization of the electrical power distribution system to reduce risk of a fire from electrical equipment failures and accident alarm system upgrades to ensure proper detection and annunciation of an accident, as the alarms in Buildings 9204-2E and 9215 are at or near end of life. An example of an ELP activity that has been completed is replacement of wet pipe system sprinkler heads in both facilities, which ensures the proper operation of these critical safety systems for the remainder of their planned useful life and reduces risk to the worker and the public. These activities would be needed, regardless of the outcome of the ultimate action that is approved at the conclusion of the new seismic review. This is because Buildings 9204-2E and 9215 will continue to contain enriched uranium operations for the foreseeable future, even if any building modifications were to be approved at the conclusion of this review. In this regard, even the construction of the single-structure UPF described in the 2011 Site-Wide Environmental Impact Statement that would have housed these buildings' enriched uranium operations, was not projected to be completed until 2025. Any building modifications approved in 2020 or in the years to come would likely take even longer to implement and require the continued use of Buildings 9204-2E and 9215 in the interim until final build-out of any modified project. It is critical that the safety of these building continue to be maintained and upgraded for so long as they contain enriched uranium operations.

10. In addition to the major refurbishment and replacement activities planned for FY 20, the ELP Implementation Plan also includes Safety Basis updates and engineering codes and standards evaluations that are guided by an approved, living Safety Strategy. This Safety Strategy is important to document the risk reduction that will take place to guide investment decisions and justify continued operations of the facilities. In order to prepare a complete,

updated Safety Basis, certain deliverables are required, including a flood hazard assessment, a probabilistic seismic hazards analysis, and a Building 9204-2E and Building 9215 seismic analysis. All of these activities are planned for FY 20 and FY 21 and are a part of the ELP. New or re-evaluated seismic data would be included in this process.

11. To the extent a shutdown of the ELP is required, the above described activities, which are necessary to ensure safe and secure operations in Buildings 9215 and 9204-2E, would not be performed. The conduct of safety reviews is not a one-time process. My duties include assuring that safety analyses are kept up to date and that new data or new circumstances are evaluated. A court order shutting down the ELP would interfere with my ability to carry out this obligation.

12. An integral part of the ELP is reducing risk to the public from ELP facilities by reducing the amount of radioactive and hazardous materials that could be involved in a worst-case accident (such as an earthquake). These materials are called Material-At-Risk (MAR) and are mostly composed of various forms of uranium. MAR reduction activities to date have already reduced the potential impact to the public, in terms of worst-case accident radiological dose, almost in half for the ELP facilities. Those reductions have been documented in the associated Safety Basis documents (analogous to a nuclear license to operate), with restrictions that prevent higher inventories of material. Further MAR reduction activities are planned that will reduce MAR limits again by a similar percentage. These MAR reduction activities would be jeopardized by a suspension of the ELP.

13. Failing to continue with these activities associated with ELP would result in increased hazards to the workforce and increase the likelihood of a facility failure. A delay in implementing these ELP activities, as well as a delay in moving operations out of Building 9212,

equates to a delay in efforts to improve worker and facility safety, which is inconsistent with my mandate as the NNSA official required to ensure safe and secure operations at Y-12.

14. If NNSA is unable to implement its planned safety improvements and upgrades under the ELP and is unable to continue UPF construction activities, it is possible that a shutdown of operations in Buildings 9212, 9204-2E, and 9215 would be required. If this were to occur, the negative ramifications for the Nation would be severe. Ultimately such a result would mean that Y-12 would not be able to fulfill its statutory missions, including (to name a few) manufacturing nuclear weapon secondaries (a critical component of a nuclear warhead), supplying enriched uranium for use in naval reactors, dismantling and dispositioning weapons that are no longer part of the U.S. stockpile, extending the life of certain weapons systems, and providing uranium for use in medical isotopes and research reactors.

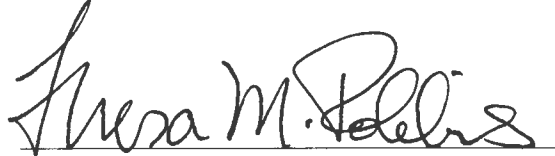
15. NPO has identified 14 projects involving Categorical Exclusions contained in the Administrative Record that are currently ongoing. Consistent with the Memorandum Decision and Order, NPO is currently reviewing the Categorical Exclusions to ensure that information regarding segmentation and extraordinary circumstances is included and in the case of four of the fourteen categorical exclusions, information regarding “integral elements” is sufficiently described in its revised Categorical Exclusions.

16. Regarding the requirement under the Memorandum Decision and Order for NNSA to issue additional NEPA documentation regarding updated seismic information for the Y-12 NSC, NPO’s contractor has stated that it plans to draft a new analysis on an expedited basis. Once the draft analysis is provided to and reviewed by NPO, NNSA will prepare appropriate new NEPA documentation, which is anticipated to be in the form of a Supplement Analysis, consistent with DOE’s NEPA regulations at 10 C.F.R. § 1021.314(c). It is estimated

that it will take six- to twelve- months to complete a Supplement Analysis for the Court-ordered seismic analysis. If the outcome of the anticipated Supplement Analysis is that additional NEPA documentation is required, *i.e.*, a Supplemental Environmental Impact Statement or a new Environmental Impact Statement, rather than concluding that no further NEPA documentation is required, a much lengthier time will be required to complete such NEPA documentation.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 4th day of November, 2019.


Teresa M. Robbins