

**South Carolina Environmental Law Project
Gullah/Geechee Sea Island Coalition
Nuclear Watch New Mexico
Savannah River Site Watch
Tri-Valley CAREs**

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Lawsuit Filed Against Biden Administration Over Nuclear Bomb Core Production Plans

Federal agencies' refusal to review cross-country expansion of plutonium pit production violates the National Environmental Policy Act and the Administrative Procedures Act, groups say.

AIKEN, S.C. – Today, a coalition of community and public interest groups filed a lawsuit against the U.S. Department of Energy (DOE) and the National Nuclear Security Administration (NNSA). This legal action is prompted by the agencies' failure to take the "hard look" required by the National Environmental Policy Act at their plans to more than quadruple the production of plutonium pits and split their production between the Los Alamos National Laboratory in New Mexico and the Savannah River Site in South Carolina.

A plutonium pit is the heart and trigger of a nuclear bomb. Production involves the extensive processing and handling of extremely hazardous and radioactive materials. In 2018, the federal government called for producing at least 80 pits per year by 2030, including 30 or more at Los Alamos and 50 or more at the Savannah River Site. The new plutonium pits are intended for the W87-1, a controversial new warhead under development at the Lawrence Livermore National Laboratory in California. Its novel design will necessitate new pits and require all of the cores manufactured at both production sites through 2038 or later, according to government documents.

Nuclear Watch New Mexico, Savannah River Site Watch, Tri-Valley Communities Against a Radioactive Environment have reached out to DOE and NNSA on six occasions since 2019 over the legal requirement for a new or supplemental broad, nationwide programmatic environmental impact statement, or PEIS, for producing the larger number of plutonium pits at Los Alamos and the Savannah River Site. However, in its March 22, 2021 [correspondence](#) (download PDF) with the groups, NNSA said it has no plans to revisit its review of pit production, relying instead on a supplemental analysis of an outdated PEIS completed more than a decade ago, along with a separate standalone review done solely for the Savannah River Site. Producing pits at one place simply is significantly different from producing pits at two places,

with two places generating more waste and needing to transport that waste from two different places.

The agencies' piecemeal, post-hoc evaluation of this programmatic shift is arbitrary and capricious and violates the Administrative Procedures Act and the National Environmental Policy Act, according to the challenge filed Tuesday in the District of South Carolina, Aiken Division by the South Carolina Environmental Law Project on behalf of the three groups and the **Gullah/Geechee Sea Island Coalition**.

The lawsuit seeks to force the Defendants to involve the public in the review and decision-making process and to evaluate the environmental impacts of the significantly altered pit production plan, including the environmental justice implications for the many underserved communities that are located near these facilities. NNSA has conducted NEPA reviews only for specific portions of this larger connected plan of plutonium pit production and have not evaluated on a programmatic level critical issues such as the impacts on all DOE sites involved in pit production; the storage capacity for disposal of wastes generated by the pit production process and the array of new information that casts significant doubt over the feasibility of this plan.

Production of pits at the Savannah River Site would require the complete overhaul of a failed project known as the Mixed Oxide Fuel Fabrication Facility, of which over \$7 billion was wasted. The February 2020 cost estimate of \$4.6 billion for the Savannah River Site alone has now skyrocketed to \$11.1 billion, as confirmed in the NNSA's budget request of May 28, 2021. In recent Congressional testimony, NNSA leaders have already said that the 2030 goal for production of 50 pits per year at SRS may need to be pushed back to 2035.

“Recent events demonstrate that the agencies have significantly underestimated the timeline and expense associated with this proposed action, making the timing of this lawsuit even more appropriate,” said **Leslie Lenhardt**, staff attorney for the South Carolina Environmental Law Project. “The evidence is overwhelming that any of the NEPA analyses that have been done are outdated and have not taken into consideration any of the significantly different circumstances that have arisen since 2008. It is imperative that NNSA correct glaring environmental-review deficiencies and conduct a thorough programmatic EIS on the impacts of pit production across the DOE complex.”

Jay Coghlan, Executive Director of Nuclear Watch New Mexico, commented, “NNSA has tried four times to expand plutonium pit bomb core production, but failed each time due to overwhelming citizen opposition. NNSA is now cutting the public out by refusing to complete nation-wide review of expanded pit production for controversial new-design nuclear weapons. We file this lawsuit to enforce the legal right of citizens to speak out on the hundreds of billions of taxpayer dollars that will be squandered in the new nuclear arms race.”

Tom Clements, director of SRS watch, in Columbia, S.C., said, “DOE's rushed planning to unnecessarily expand nuclear bomb production has already resulted in a massive cost increase and significant delays in the SRS plutonium bomb plant. While more delays and cost increases appear likely, it is essential that DOE slow down and comply with requisite environmental laws

before jumping into ill-conceived plans to expand plutonium pit production which would be a key part of a dangerous new nuclear arms race.”

Marylia Kelley, of Tri-Valley CAREs in Livermore, Calif, charged “NNSA’s refusal to undertake a programmatic review of its pit production plan is intended to allow the agency to dodge analysis of reasonable alternatives. For example, LLNL’s W87-1 design is driving both the schedule and ‘need’ for expanded pit production. The warhead’s novel design features are elective; a refurbishment option could meet stockpile requirements without necessitating expanded pit production. NNSA is robbing the public of its right to comment on alternatives, yet those of us in frontline communities will bear the brunt of this refusal. It is workers and the public who will suffer the risks of accidents, spills, leaks, radioactive exposures, and the production and transportation of plutonium wastes.”

Queen Quet, the Chieftess and head of state for the Gullah/Geechee Nation and the founder of the Gullah/Geechee Sea Island Coalition, added, “The Gullah/Geechee Nation is concerned about the further degradation at the Savannah River Site given that what takes place there has the potential of seeping not only into the waterway which eventually makes it way to the Gullah/Geechee Nation, but the pollutants that are produced by creating plutonium pits literally seeps into the bodies of people. The people of South Carolina are more valuable than plutonium and we shouldn't have to use our energy in being pitted against a government agency! We need to protect our communities and this is best done when there is transparency in the process concerning any land use. The public should be able to fully engage in determining what happens to the land and to the environment because this will have irreversible impacts on our quality of life. We are digging for the truth about the impacts that this proposal will have on the environment, on us and our communities!”

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The South Carolina Environmental Law Project’s filed complaint is available at https://uploads-ssl.webflow.com/5f2c352f324853b8b51c50db/60db415102377c2070fd3b19_Complaint.pdf

The South Carolina Environmental Law Project uses its legal expertise to protect land, water, and communities across South Carolina. Savannah River Site Watch is based in Columbia, SC and monitors DOE activities at SRS. Nuclear Watch New Mexico is based in Santa Fe, New Mexico and focuses on nuclear weapons activities at the Los Alamos National Laboratory. Tri-Valley Communities Against a Radioactive Environment (CAREs) is located in Livermore, California and monitors the Lawrence Livermore National Laboratory, a key nuclear-weapons-design facility. The Gullah/Geechee Sea Island Coalition operates in accordance with the mission of the Gullah/Geechee Nation and spans from North Carolina to northern Florida and receives the downward flow of the Savannah River.