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By email to: NEPA-SRS@srs.gov

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*Re: Comments on NNSA's Draft Supplement Analysis of the 2008 Complex Transformation PEIS that seeks to raise plutonium pit production from 20 pits per year to more than 80.*

Dear NEPA Document Manager:

The stated purpose of the National Nuclear Security Administration's<sup>1</sup> (NNSA's) *Supplement Analysis of the 2008 Complex Transformation Programmatic Environmental Impact Statement* is:

“... to allow NNSA to determine whether, prior to proceeding with the effort to produce plutonium pits at a rate of no fewer than 80 pits per year by 2030, the existing Complex Transformation SPEIS should be supplemented, a new environmental impact statement should be prepared, or no further *National Environmental Policy Act* (NEPA) analysis is required. The Draft SA [Supplement Analysis] preliminarily concludes that further NEPA documentation at a programmatic level is not required; however, NNSA will consider comments on this Draft SA and publish a Final SA.”<sup>2</sup>

In my view, to meet legal NEPA requirements NNSA must complete a new programmatic environmental impact statement (PEIS) on its nation-wide plans for expanded production of plutonium pits, the radioactive cores of nuclear weapons. Simply amending the Record of Decision for the 2008 Complex Transformation (CT) PEIS, as NNSA plans to do, will not be sufficient to formally raise the level of production from the level of 20 pits per year at the Los Alamos National Laboratory (LANL) sanctioned by the original 1996 Stockpile Stewardship and Management PEIS. This is because of numerous changed circumstances and much new information and an existing 1998 court order that requires DOE to prepare a supplemental PEIS when it plans to produce more than 80 pits per year.<sup>3</sup>

Further, a new PEIS is required because NNSA proposes simultaneous pit production at two sites, which the Complex Transformation PEIS never considered. NNSA's new plan involves the production of at least 30 pits per year at the Los Alamos Lab and at least fifty pits per year at the Savannah River Site (SRS), which would be a completely new mission there. This is inherently a “programmatic” decision, sufficient justification by itself for a new PEIS.

NNSA plans to establish pit production at SRS by “repurposing” the failed MOX Fuel Fabrication Facility (MFFF). To use the Department of Energy's own NEPA regulatory language, a new PEIS is required because the expansion of pit production at LANL and the repurposing of the MOX Facility at SRS are “systematic and connected agency decisions” that are clearly “connected,” “cumulative,” and “similar” actions, therefore “their environmental effects must be considered in a single impact statement.” Accordingly, DOE's own NEPA regulations require the preparation of a PEIS.

Moreover, damning conclusions by independent experts further reinforce the need for full programmatic review. For example, the Institute for Defense Analysis recently concluded that NNSA's plans for expanded plutonium pit production will be “extremely challenging” and calculated that NNSA has never completed a facility costing more than \$750 million in less than 16 years.<sup>4</sup> Nevertheless, NNSA improbably claims pit production will begin at SRS by 2030. This is throwing bad money after bad money given the 7 billion in taxpayer dollars that NNSA has already wasted on the MOX Facility.

The Supplement Analysis claims that the drivers and requirements for expanded plutonium pit production have remained the same. To the contrary, they have substantially changed, further underlining the need for a new PEIS. Why is no pit production scheduled to maintain the safety and reliability of the

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<sup>1</sup> The National Nuclear Security Administration (NNSA) is the semi-autonomous nuclear weapons agency within the federal Department of Energy (DOE).

<sup>2</sup> *Supplement Analysis of its 2008 Complex Transformation Programmatic Environmental Impact Statement*, NNSA, June 2019, Executive Summary, <https://www.energy.gov/nepa/downloads/eis-0236-s4-sa-02-draft-supplement-analysis>

<sup>3</sup> *Natural Resources Defense Council v. Pena*, 20 F.Supp.2d 45, 50 (D.D.C. 1998), <https://law.justia.com/cases/federal/district-courts/FSupp2/20/45/2423390/>

<sup>4</sup> Unclassified Executive Summary, Institute for Defense Analysis, March 2019, <https://nukewatch.org/newsite/wp-content/uploads/2019/07/pit-production-summary-IDA.pdf>

existing nuclear weapons stockpile? Instead, NNSA's changing rationale for expanded production has been for speculative new-design nuclear weapons that end up being canceled, such as the past "Reliable Replacement Warhead" and "Interoperable Warhead." It is imperative that a new PEIS clearly and consistently define the specific needs and requirements for expanded plutonium pit production, especially given that up to 20,000 existing pits are already stored at the Pantex Plant near Amarillo, TX, and independent experts have found that existing pits have reliable lifetimes of more than a century.

Further, NNSA does not plan to produce exact replicas of existing pits. Therefore, a new PEIS should analyze how heavily modified pit designs could undermine confidence in stockpile safety and reliability, thereby possibly degrading national security and prompting a return to full-scale testing. Related, a new PEIS must instead consider the extensive reuse of existing plutonium pits as a serious alternative to expanded pit production that is less harmful to the environment and will save taxpayers' money.

A new PEIS is also needed to analyze the occupational and public risks of repeated, chronic nuclear criticality safety infractions at LANL and how to resolve them. By extension this applies to any future pit production at SRS as well. A genuine, comprehensive nuclear safety regime needs to be instituted at a programmatic level that must be analyzed in a new PEIS. It must also fully review potential risks to the public by apparent systemic attempts by DOE to degrade institutional safety, such as relaxing internal nuclear safety rules and restricting access of the independent Defense Nuclear Facilities Safety Board.

The risks of increased transport of plutonium between NNSA sites must be analyzed in a new PEIS. The only repository for transuranic radioactive wastes from plutonium pit production is the Waste Isolation Pilot Plant (WIPP) in southern New Mexico. New programmatic review is required to analyze all of the increasing radioactive waste disposal demands on WIPP, which include future expanded pit production, 35 tons of existing "excess" plutonium and possible downgrading by DOE of some high-level radioactive wastes. A new PEIS must guarantee that all future transuranic waste packaging and shipping will be safe, given that LANL sent an improperly prepared waste drum to WIPP that ruptured and closed that facility for nearly 3 years, costing the American taxpayer \$3 billion to reopen.

The new PEIS must be completely free of predetermination. NNSA must demonstrate that it can pursue an impartial process without predetermination that leads to an objective decision to repurpose the MOX Facility or not. The new PEIS must seriously analyze its as-built quality and demonstrate that it indeed can be "repurposed" for expanded plutonium pit production. The extent of problems with construction of the MOX Facility, underscored by the government's false claims lawsuit against the MOX contractor, may well preclude its reuse for pit production.

The new PEIS should analyze the impacts of diverting taxpayer dollars to new nuclear weapons facilities instead of cleaning up the massive environmental damage caused by past research and production. What are the long-term public health and environmental effects of leaving radioactive and toxic contaminants that can pollute precious water resources, while new, unnecessary, and costly nuclear facilities that will produce more contaminants are being built? Further, given the deteriorating arms control climate and a new nuclear arms race, a new PEIS must analyze the potentially adverse impacts of expanding plutonium pit production on the global nonproliferation regime. This includes any adverse impacts on the NonProliferation Treaty which the U.S. signed in 1970 but has never honored its mandate to enter into serious negotiations leading to global nuclear disarmament.

All analyses in a new PEIS must address the risk to the most vulnerable, that is pregnant women, fetuses, children and the elderly, rather than the standard, less vulnerable "Reference Man." The comment period for a draft PEIS should be at least 120 days. All cited reference documents should be made immediately accessible online upon the release of a draft programmatic environmental impact statement.

These comments on expanded plutonium pit production respectfully submitted,

Name, City and State