

**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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**Historic Settlement Reached in NEPA Lawsuit
Over Plutonium “Pit” Bomb Core Production**

AIKEN, S.C. — Nonprofit public interest groups have reached an historic settlement agreement with the Department of Energy’s semi-autonomous nuclear weapons agency, the National Nuclear Security Administration (NNSA). This is the successful result of a lawsuit against NNSA over its failure to complete a programmatic environmental impact statement on the expanded production of plutonium “pit” bomb cores, as required by the National Environmental Policy Act (NEPA). This agreement and a joint motion to dismiss have been submitted to Judge Mary Lewis Geiger of the Federal District of South Carolina. Should the Court enter the dismissal and retain jurisdiction to enforce the settlement, the agreement will go into effect.

This lawsuit was first filed in June 2021 by co-plaintiffs Savannah River Site Watch of Columbia, SC; Nuclear Watch New Mexico of Santa Fe, NM; Tri-Valley Communities Against a Radioactive Environment (CAREs), based in Livermore, CA; and the Gullah/Geechee Sea Island Coalition of coastal Georgia. NNSA promptly moved to have the case dismissed which in February 2023 Judge Lewis rejected, calling her decision “not a close call.”

In September 2024, Judge Lewis ruled that DOE and NNSA had violated NEPA by failing to properly consider alternatives before proceeding with their plan to produce plutonium pits, a critical component of nuclear weapons, at the Los Alamos National Laboratory (LANL) in New Mexico and, for the first time ever, at the Savannah River Site (SRS) in South Carolina. The Court found that the plan’s purpose had fundamentally changed from NNSA’s earlier analyses which had not considered simultaneous pit production at two sites. Judge Lewis directed the Defendants and Plaintiffs to prepare a joint proposal for an appropriate remedy which fostered additional negotiations.

In sum, the just released settlement agreement requires the National Nuclear Security Administration to:

- Complete a nation-wide programmatic environmental impact statement (PEIS) on expanded plutonium “pit” bomb core production within 2.5 years.
- Hold two successive rounds of public hearings, first on the scope of the PEIS and then on the draft PEIS before it is finalized. Hearings will be held in Livermore, CA; Santa Fe or Los Alamos, NM; Kansas City, MO; Aiken, SC; and Washington, DC (dates to be determined).
- Citizens will have 45 days to submit scoping comments and 90 days to comment on the draft PEIS. The last PEIS in 2008 generated more than 100,000 public comments.

- Until it issues a formal Record of Decision on the final PEIS, NNSA is enjoined from:
 - Installing classified equipment at the Savannah River Plutonium Processing Facility’s Main Processing Facility;
 - Introducing any nuclear materials into the Main Processing Facility; and
 - Starting construction on a related Waste Characterization Lab, Construction Maintenance Building and Vehicle Entry Building.

Concerning production at the Los Alamos Lab, the 2019 Defense Authorization Act specifically requires LANL to produce at least 30 pits per year (Public Law 115–232, Sec. 3120). NNSA repeatedly argued this barred any injunctive relief at the Lab, while threatening to appeal any such effort all the way to the U.S. Supreme Court.

Pursuit of pit production at the Savannah River Site is not required by law but rather is an administrative decision by the NNSA. Production of at least 50 pits per year at SRS has already been delayed significantly, until the mid-2030s at the earliest, and has run far over cost projections, with an estimate in NNSA’s FY 2025 Congressional Budget Request of \$18 billion to \$25 billion (a massive increase from the original less than \$5 billion).

Of added significance, the PEIS will have to assess the impacts of disposal of large quantities of radioactive plutonium wastes from pit production at the Waste Isolation Pilot Plant (WIPP) in southern New Mexico, located 2,000 feet underground in a salt deposit. Disposal of “transuranic” (TRU) wastes will challenge the congressionally mandated volume cap for WIPP, which the National Academy of Sciences has projected will be substantially exceeded. Nevertheless, NNSA expects to be able to dump TRU wastes at WIPP until at least 2050, fundamentally changing its mission from cleanup to direct support of expanded nuclear weapons production.

Ben Cunningham, an attorney with the South Carolina Environment Law Project who represents the Plaintiffs, said the following: “While we are relieved that the Defendants will finally involve the public in the assessment of alternatives concerning this existentially fraught issue, we will be vigilant in monitoring Defendants’ actions to ensure that they comply with the settlement and, more importantly, that Defendants’ actions do not prejudice the evaluation of alternatives as required by the law.”

Tom Clements of SRS Watch commented: “Given this major legal victory, the public will now have the opportunity to formally comment on not only the environmental and health impacts of plutonium pit production but also the costly and troubling policies that are pushing us into a new, dangerous nuclear arms race.”

Scott Yundt of Tri-Valley CAREs added: “The required PEIS should provide stakeholders and directly affected communities, not only near the Los Alamos Lab and the Savannah River Site, but also in Kansas City, MO, Livermore, CA and Washington, DC with an unparalleled opportunity to analyze and comment on the environmental impacts this plan poses to their communities. This includes the impacts of shipping plutonium in trucks on highways around major metropolitan areas across the country.”

Jay Coghlan, Nuclear Watch New Mexico, concluded, “It’s vital that citizens enforce federal environmental laws that are under increasing attack. The government often uses NEPA as a

rubber stamp. In contrast, we plaintiffs will work hard to transform this legal victory into nothing less than a public referendum on the new nuclear arms race that threatens all of humanity.”

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The Settlement Agreement with plaintiffs’ and defendants’ declarations is available at <https://nukewatch.org/settlement-agreement-and-exhibits> (20.9 MB)

Proposed Joint Motion to Dismiss at <https://nukewatch.org/srs-joint-mot-dismiss> (172 KB)

Proposed Order at <https://nukewatch.org/srs-mot-d-prop-order> (128 KB)

This press release is available at <https://nukewatch.org/settlement-reached-in-historic-nepa-lawsuit-over-plutonium-pit-bomb-core-production>

Background: Plutonium pits are the fissile cores of nuclear weapons. No future pit production is to maintain the safety and reliability of the existing, extensively tested nuclear weapons stockpile. Instead, future production is for speculative new-design nuclear weapons that can’t be tested because of an international testing moratorium, or alternatively could prompt the U.S. to resume full-scale testing, which would have serious proliferation consequences. Moreover, independent experts have found that plutonium pits have reliable lifetimes of at least 100 years (their average age is now around 42). At least 15,000 existing pits are already being stored. Expanded plutonium pit production will cost taxpayers more than \$60 billion over the next thirty years. However, the independent Government Accountability Office has reported that the NNSA has no credible cost estimates or “Integrated Master Schedule” between the two production sites, making a programmatic environmental impact statement all that more important.

The South Carolina Environmental Law Project is a nonprofit public interest law firm. We use our legal expertise to protect land, water and communities across South Carolina. Learn more at www.scelp.org.

Savannah River Site Watch, a non-profit public interest organization in Columbia, South Carolina, monitors nuclear weapons production and clean-up activities at SRS. <https://srswatch.org/>.

*Through comprehensive research, public education and effective citizen action, **Nuclear Watch New Mexico** seeks to promote safety and environmental protection at regional nuclear facilities; mission diversification away from nuclear weapons programs; greater accountability and cleanup in the nation-wide nuclear weapons complex; and consistent U.S. leadership toward a world free of nuclear weapons. <https://nukewatch.org/>.*

Tri-Valley CAREs (Communities Against a Radioactive Environment) is a 501(C)3 non-profit in Livermore, CA that monitors the activities of Lawrence Livermore National Laboratory, one of two locations that develops all US nuclear bombs and warheads. Learn more at www.trivalleycares.org.

The Gullah/Geechee Sea Island Coalition advocates for the human, land and water rights of all Gullah/Geechee people around the world; promotes and participates in the preservation of Gullah/Geechee history, heritage, culture, and language; works toward Sea Island land re-acquisition and maintenance; and celebrates Gullah/Geechee culture through artistic and educational means electronically and via “grassroots scholarship.” <https://gullahgeecheenation.com/>.