



Los Alamos Study Group

Nuclear Disarmament • Environmental Protection • Social Justice • Economic Sustainability

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Ms. Jill Hruby, Administrator
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Ref: [Notice of Intent \[NOI\] To Prepare a Site-Wide Environmental Impact Statement \[SWEIS\] for Continued Operation of the Los Alamos National Laboratory \[LANL\]](#)

Re: Final scoping comments, current LANL SWEIS process

Dear Ms. Hruby, Mr. Wyka, and Ms. Dors –

We hope this letter finds you all well.

Please refer to our [initial scoping comments](#), sent September 11, 2022. References linked in that letter and this one are listed below and are also being provided on a flash drive via the Postal Service.

Introduction

For the many reasons mentioned in those initial comments, we can't see how the present SWEIS complies with the letter or intent of the National Environmental Policy Act (NEPA) and its implementing regulations. We believe an opportunity to reconsider what we think are some bad decisions you have inherited could be squandered. Those inherited bad decisions could easily ramify into future decisions that increase program risks, costs, and impacts.

For that not to happen, NEPA processes must be seen as precious opportunities, to be approached with rigor and even some creativity, not as boxes to be ticked off. There is a deep conflict between objective NEPA analysis and the “mission execution” perspective we so endlessly heard from your predecessors.

As you know, NEPA establishes no environmental standards. New Mexico could be made as sterile as the surface of the moon by federal action, for all NEPA cares or requires. NEPA is entirely procedural. Its value manifests only through strict fidelity to the sequence of its procedures and the quality of its outreach and analysis.

The purpose of NEPA's activities is not, as its implementing regulations said decades ago, higher-quality analyses, but rather higher-quality decisions. *For that to happen the decisions cannot have already been taken.*

In those earlier comments we suggested five measures we thought necessary to bring this scoping process into NEPA compliance as well as provide good-faith solicitation of public, government, and tribal comments. Absent these measures or ones like them, we do not believe an objective, high-quality NEPA analysis will be possible, no matter how many detailed suggestions we might make here. These measures were to:

1. Halt implementation of decisions taken without adequate NEPA analysis, including the decision to implement stockpile plutonium pit production at LANL;
2. Provide key documents necessary for us and others to submit informed public comment;
3. Identify proposed actions in a way that allows informed comments on impacts, alternatives, and mitigation measures;
4. Extend the scoping period until NNSA clears its Freedom of Information Act (FOIA) backlog regarding the vaguely defined pit production proposal, with adequate time for review;
5. Provide in-person, interactive scoping hearings in affected communities with adequate time for questions, answers, and testimony, detailed exhibits encompassing the full range of possible NNSA actions at LANL, direct interaction between the interested public and responsible NNSA officials capable of answering questions about the proposed action and alternatives, and protocols to ensure all public comments are on the record.

Specific comments

1. Under “Purpose and Need,” the NOI states:

For the foreseeable future, NNSA, on behalf of the U.S. Government, will need to continue its nuclear weapons research and development, surveillance, computational analysis, components manufacturing, and nonnuclear aboveground experimentation. Currently, many of these activities are conducted solely at the Laboratory. *A curtailment or cessation of these activities would run counter to national security policy as established by the Congress and the President.* (emphasis added)

This sweeping claim is both vague and false in context. The statutory and presidential policies mentioned seldom specify the specific means to a policy objective in quantitative terms. Even if they did, they would be subject to NEPA where they create major federal actions with significant environmental impact, and reasonable variations in the implementing actions are then reasonable alternatives for NEPA analysis. These reasonable alternatives obviously and logically include selective curtailments of activities within the broad categories mentioned; otherwise they would demand indefinite maintenance and/or infinite growth in all activities, even those which are obsolete.

More fundamentally, NNSA is overreaching its mandate here in an attempt to constrain Presidential and congressional choices. NNSA does not know, and should not assume it knows, how Congress and the President may change their policies over the 15-year study period. That’s a long time. By eliminating environmental impact analysis of any curtailed activities at LANL, NNSA is depriving these higher decisionmakers of environmental analyses of future policies they might choose.

As an example of a reasonable curtailment, NNSA Administrator Frank Klotz ruled in June 2017 that it would be unreasonable to use Building PF-4 as a permanent pit production facility, and formally barred

such a policy (pp. 47-48). The Institute for Defense Analysis (IDA) [warned](#) against 24/7 work in PF-4 in the strongest terms again in 2019. To our knowledge, no NNSA or contractor study supports 24/7 pit production at LANL as a baseline operating condition.

PF-4 is now 5 years older than it was when Administrator Klotz ruled out its use as an enduring pit factory.

Now, it appears that reliable, quantity pit production at LANL is [likely to be delayed](#), as is pit production at the Savannah River Site (SRS). As a result, the House of Representatives has proposed modifying existing law to allow the Department of Defense (DoD), in consultation with NNSA, to set more realistic pit production requirements.

For these reasons and others, we believe curtailment of pit production at LANL is a reasonable alternative, contrary to what you have written here. In fact, curtailment may be the only realistic alternative. We discuss this further in this [briefing](#).

2. Under “Purpose and Need,” the NOI states:

The 2016 Compliance Order on Consent between the State of New Mexico Environmental Department and the Department of Energy (the Consent Order) is the principal regulatory driver for legacy waste cleanup at LANL.

We do not believe the regulatory drivers for legacy waste cleanup at LANL will remain constant. A wide range of alternative cleanup policies should therefore be considered.

3. Under (the revealingly-phrased) “Requirements to Fulfill DOE NEPA Compliance”

(Doesn’t this phrasing suggest the ticking off of a bureaucratic box? It sure does to us. It makes us question why we or anyone would want to provide a veneer of legitimacy for this process.)

“...[O]ngoing and reasonably foreseeable new and modified operations and facilities...” the word “curtailed” should be in this sentence, as in: “[O]ngoing and reasonably foreseeable new, modified, *and curtailed* operations and facilities.”

Then we read:

The SWEIS provides an overall NEPA baseline, so that the environmental effects of proposed future changes in programs and activities can be compared to the baseline. A SWEIS allows NNSA to “tier” its later project-specific NEPA analyses at the same site. Tiering is a method used in NEPA analysis that allows agencies to eliminate repetitive discussion of the same issues and to focus on the specific issues in future proposed actions.

Tiering can be appropriate but tiering of NEPA analyses for *reasonably foreseeable* projects raises the specter of segmentation of future analyses as well as failure to encompass the cumulative impacts of reasonably foreseeable projects in this SWEIS.

As we said in our initial scoping comments, “[i]t appears that NNSA is using tiering to delay disclosure [of its current and planned activities] and limit the scope of NEPA analysis.”

NNSA usually “solves” this problem by separating NEPA analysis from its actual decision-making process using the device of “bounding impacts.” If the impacts of a given future project are projected to be comparable or less than the impacts found in one of the SWEIS alternatives (which are sometimes exaggerated, apparently for this purpose), there *appears to be* no added (i.e. marginal) impact from the proposed project at all, at least in the imaginary, Alice-in-Wonderland world of the projected impacts created by the SWEIS process. The *actual* impacts might be severe, but in NNSA’s approach to NEPA, those impacts are “covered” or “bounded” by a prior programmatic analysis, so they can be swept under a “NEPA” rug.

To quote Harold Pinter’s 2005 Nobel acceptance [speech](#), “It [the environmental impact in this case] never happened. Nothing ever happened. Even while it was happening it wasn’t happening. It didn’t matter. It was of no interest.”

4. This SWEIS is tardy. Past segmented analysis and cumulative impacts can now be tied with a bow and forgotten – on paper at least.

Since May 10, 2018, when NNSA proposed to change LANL’s mission by initiating an industrial pit production mission instead of a plutonium sustainment mission, there have been some 16 categorical exclusions (CXs) written for various LANL projects (see list below). Five environmental assessments (EAs) have been conducted or are in process for other LANL projects (see also below) over this period. According to the NOI, these will now be swept into the “No Action” alternative -- along with all the projects and programs initiated and expanded to support the May 10, 2018 pit production recommendation, ratified as a pair of formal NEPA decisions on September 2, 2020.

As mentioned previously, the suite of current and proposed actions comprising the pit production mission are the largest endeavor in NNSA’s history. At LANL, this work is, budgetarily speaking, the largest project in LANL’s history and is also the largest in the state’s history. Failure to conduct a *de novo*, stand-alone environmental analysis of this LANL project is an overwhelming testament to the failure of NEPA at LANL altogether.

How will NNSA handle the many large infrastructure projects planned to support the pit mission? Project-specific EISs can be written, but really these reasonably-foreseeable projects and impacts should have been included in the still-missing NEPA analysis of the LANL pit mission.

Worse, LANL’s proposed alternatives in this SWEIS give every indication that the specific projects involved will not be described or analyzed in any real detail. Placeholder projects have been used in the past to create the desired “bounding” analysis.

The whole point of NEPA analysis is not to tally impacts of various decisions post hoc, but to analyze prospective reasonable alternatives so choices can be made. That was not done for the May 10, 2018 pit production recommendations, which were subsequently treated as *de facto* decisions by NNSA, including for NEPA purposes.

5. “Preliminary Alternatives”

NNSA’s proposed alternatives are vague. They do not describe specific actions, capabilities, and projects. They obscure the differential impacts of specific choices. I do not believe they are compliant with NEPA for these reasons.

Alternatives should be specified in detail, with definite proposed facilities, projects, programs, capabilities, and staffing. “Modernizing Current Operations” and “Expanded Operations” are meaningless without specific, quantified detail.

D&D and cleanup alternatives should be considered separately from NNSA alternatives in a “Chinese menu” approach. Impacts can easily be combined in matrices.

Conceptually, the “No Action Alternative” should be no action, period. Just as Congress has to decide to authorize and appropriate funds for LANL annually, so too should NNSA take, at least in principle, a zero baseline for environmental analysis of LANL activities. That’s the baseline from which environmental impacts of alternatives should be evaluated. In practice this won’t happen – it’s not “reasonable” -- but it is the real, genuine no action alternative, the high-contrast background against which impacts of alternatives can most clearly be seen. NEPA did not envision, and is not served, by a \$4 billion-per-year “no action alternative.” That is ridiculous.

Cleanup program alternatives might best be evaluated against this background, i.e. without the waste streams attendant to pit production and other operations.

The next alternative should be the “Reduced Operations Alternative” mentioned in the NOI. Reduced how? This too would need to be specified. For pit production, we have [suggested](#) that:

An average LANL production rate of 10 ppy [pits per year] starting in 2026 would build roughly 100 pits through 2035 under single-shift production, with greater overall resilience [and safety, than present plans], allowing:

- The LAP4 project to be rebaselined and truncated, saving \$1-2 billion;
- A long-term staff reduction of about 2,000 people (most of whom have not been hired; attrition and retirements will obviate layoffs), saving roughly \$0.7 billion annually;
- Elimination and/or downsizing of several prospective line items and other capital investments, saving an indeterminate amount of up to several billions up to many billions if augmentation or replacement of PF-4 can be avoided;
- Safer, single-shift operation, with attendant smaller impacts on transportation, housing, services, resources, and waste management, which impact LANL programs; and
- A clear focus on technology demonstration, capability maintenance, training, with less direct and indirect impact on other PF-4 missions.

The next major alternative should be “LANL operations prior to assignment of the pit mission” – that is, the assigned mission scope in April 2018. This would provide a reasonable, easily-acquired, environmental background against which current and future plans could be evaluated.

The “Modernizing Current Operations Alternative,” as vaguely described, is said to be the minimum reasonable alternative that would “enable NNSA to meet operational requirements.” In other words, the “No Action Alternative,” despite including all the known elements of LANL’s new [\\$14 billion program](#), and everything LANL does today, isn’t reasonable according to NNSA. Why include it then? Just to provide an inflated “control” in NNSA’s NEPA “experiment” that makes the *additional* environmental impact of the *additional* projects envisioned (whatever they are) look trivial?

The “Expanded Operations Alternative” should simply be dropped. LANL is struggling to accommodate current missions and may not succeed. LANL has already exceeded current operational limits. This is not a reasonable alternative.

6. Environmental Analysis

In its environmental analyses, NNSA will need to consider a wide range of regional impacts, including impacts on the housing market, transportation system, and local water and other resources.

The global warming impact of LANL activities, both direct and induced (e.g. commuting), should be included, along with resource uses.

Continued megadrought will need to be considered along with other water resource issues. LANL’s direct needs are one thing; the needs of LANL’s employees are another.

There should be a mitigation plan for LANL’s climate impacts – the worst institutional impacts in the region, we can be sure -- and the other egregious sustainability failures documented in LANL’s sustainability plan.

LANL’s impacts will need to include the impacts of reasonably foreseeable private investments, e.g. in housing and roads, as well as LANL’s direct impacts.

These -- and the references on the following pages for ourselves and you -- conclude our scoping comments.

Best wishes,

Greg Mello, for the Los Alamos Study Group

Documents cited in our initial scoping comments (“[Los Alamos Study Group initial scoping comments](#),” Sep 11, 2022):

- [Bulletin 308: NNSA "scoping" process at LANL designed to legitimate nuclear weapons, mislead, and distract; best to steer clear, step up real resistance and constructive actions](#), Sep 11, 2022
- [NNSA to conduct lab-wide "environmental impact statement process" to justify two year old decision to add huge new mission to Los Alamos National Laboratory \(LANL\)](#), press release, Aug 18, 2022
- [Is the Department of Energy \(DOE\) going to conduct a new Site Wide Environmental Impact Statement \(SWEIS\) for Los Alamos National Laboratory \(LANL\), and if so what would it mean?](#), press release, Jan 7, 2022
- [LASG Letter to Federal & State Officials, Re: Citizens hearing on LANL expansion, nuclear weapons manufacturing, and alternatives for the region](#), Oct 17, 2020
- In the absence of government venues for discussion of issues related to the expansion and change of mission at Los Alamos National Laboratory (LANL), this organization held a hearing to solicit testimony on these topics at the New Mexico State Capitol in the afternoon of Oct 7, 2020. [Complete video record](#), 1:50:20; [highlights](#) 05:53
- [Citizens hearing on LANL expansion, nuclear weapons manufacturing, and alternatives for the region to be held Wednesday, October 7, at the State Capitol](#), press release, Oct 5, 2020
- [Department of Energy concludes no rigorous environmental analyses needed for vast expansion of Los Alamos nuclear missions, including plutonium bomb core factory -- altogether, the largest project in the history of New Mexico](#), press release, Sep 1, 2020
- [Comments on the Draft Supplement Analysis \(DSA\) of the 2008 Site-Wide Environmental Impact Statement \(2008 SWEIS\) for the Continued Operation of Los Alamos National Laboratory for Plutonium Operations](#) (DOE/EIS-0380-SA-06), May 9, 2020
- [Legal concerns regarding NNSA's pit production plans](#), Feb 5, 2019
- [Pit Production Recommendations and Considerations](#), Letter to NNSA Administrator Lisa Gordon Hagerty, Apr 6, 2018

Documents cited in these scoping comments (October 18, 2022):

- [Final Report for the Plutonium Pit Production Analysis of Alternatives](#), October 2017, pp. 47-48.
- [Independent Assmt of the Plutonium Strategy of the NNSA, IDA, for DoD](#), Mar 2019. (First published by LASG May 10, 2019. Version with cover pages obtained by FOIA, May 20, 2019.)
- [LASG Bulletin 312: LANL's pit production to be delayed with cost increases](#), Oct 6, 2022.
- [LASG Briefing for a House Member: considerations in warhead core \("pit"\) production policy](#), Sep 14, 2022.
- [Harold Pinter's 2005 Nobel acceptance speech](#)
- [Plutonium \(Pu\) Modernization Spending, Actual and Proposed by Site, \\$M, from FY23 CBR](#), May 6, 2022

Environmental Assessments issued or begun at LANL since May 10, 2018

1. [DOE/EA-2122: Construction and Operation of a Second Fiber Optic Circuit Route to Los Alamos National Laboratory](#); Los Alamos, New Mexico, Apr 30, 2020
2. [DOE/EA-1329-S1: Wildfire Hazard Reduction and Forest Health Improvement Program; Los Alamos National Laboratory](#), Los Alamos, New Mexico, Jul 24, 2019
3. [EA-2101: Construction and Operation of a Solar Photovoltaic Array at Los Alamos National Laboratory](#); Los Alamos, NM, Jun 12, 2019
4. [EA-2052: Proposed Changes for Analytical Chemistry and Materials Characterization at the Radiological Laboratory/Utility/Office Building, Los Alamos National Laboratory](#), Los Alamos, New Mexico, Aug 9, 2018
5. [Third power line proposed for Los Alamos; environmental assessment process starting](#), press release, Apr 19, 2021 (original links taken down)

[Categorical Exclusion Determinations issued by Los Alamos Site Office for EM and NNSA](#) since May 10, 2018

1. [Pacheco Microwave Tower Project](#), DOE/NNSA proposes to install two 8-foot-wide microwave dishes and accompanying infrastructure on the roof of a leased property in Santa Fe, NM, (CX-270680), Oct 3, 2022
2. [DOE/NNSA proposes to lease property to provide office and warehouse space within a 150-mile radius of LANL, which could include property located in several locations of northern New Mexico and southern portions of Colorado](#), (CX-270763), Jul 21, 2022
3. [Domestic Atmospheric Radiation Measurement Campaigns - Eastern Pacific Cloud Aerosol Precipitation Experiment \(EPCAPE\)](#), (CX-270664), May 13, 2022
4. [Removal, Relocation, and Examination of Remaining Transuranic \(TRU\) Waste at Waste Control Specialists, LLC \(WCS\)](#), Andrews, TX, (CX-270662), Nov 22, 2021
5. [DOE/NNSA proposes to lease previously developed property to provide laboratory space for bioscience research within a 50-mile radius of Los Alamos National Laboratory \(LANL\), which may include existing structures located in Los Alamos, Rio Arriba, Sandoval, and Santa Fe Counties](#), (CX-270620), Aug 25, 2021
6. [Domestic Atmospheric Radiation Measurement Campaigns \(ARM\), DOE Office of Science, in conjunction with LANL](#), (CX-270611), Mar 8, 2021
7. [Construction and Operation of a 10,000 sq ft Light Manufacturing Facility to Support the Isotope Production Program at LANL](#), (CX-270609), Jan 8, 2021
8. [Categorical Exclusion for the New Mexico State Road 4 \(NM 4\) and East Jemez Road Intersection Improvements, Right-of-Way Expansion, and Land Conveyance](#), (CX-270544), Sep 8, 2020
9. [Categorical Exclusion for the Primary Circuit Electrical Power Line Extension from TA-36 to TA-68](#), (CX-270543), Sep 3, 2020
10. [Categorical Exclusion for the Decommissioning and Demolition Project at Technical Area-41, Los Alamos National Laboratory, Los Alamos County, New Mexico](#), (CX-270542), Sep 1, 2020
11. [Tracking Aerosol Convection Interactions Experiment \(TRACER\)](#), (CX-270533), Aug 5, 2020
12. [Hazardous Waste Permit Modification to Create a Treatment and Storage Facility](#), (CX-270534), Aug 5, 2020

13. [DOE, NNSA, proposes to lease property to provide office and warehouse space within a 50 mile radius of LANL, which could include property located in Los Alamos County, Rio Arriba County, Sandoval County, and Santa Fe County](#), (CX-270530), Jul 6, 2020
14. [Construction and Operation of TA-50 Parking Structure](#), (CX-270459), Oct 30, 2019
15. [Construction and Operation of TA-03 Parking Structure](#), (CX-270456), Oct 1, 2019
16. [Los Alamos National Laboratory Cellular and Radio Communications Upgrades](#), (CX-270451), Aug 7, 2019

Environmental Impact Statements issued or begun at LANL since May 10, 2018: none