



Los Alamos Study Group

Nuclear Disarmament • Environmental Protection • Social Justice • Economic Sustainability

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Ms. Jennifer Nelson, NEPA Document Manager
National Nuclear Security Administration Savannah River Field Office
P.O. Box A
Aiken, SC 29802

Sent today by email to NEPA-SRS@srs.gov

Comments on the Draft Supplement Analysis (DSA) of the Complex Transformation Supplement Programmatic Environmental Impact Statement (CTSPEIS)

A. Previous comments and directly applicable legal settlement with this organization

To avoid further repetition and to emphasize our long-standing, previously-communicated concerns about the National Nuclear Security Administration's (NNSA's) approach to National Environmental Policy Act (NEPA) compliance for plutonium warhead core ("pit") production, please incorporate by reference the following:

1. [LASG requests to Governor Lujan Grisham](#), Aug 1, 2019
2. [LASG's comments on the scope of the Environmental Impact Statement \(EIS\) for plutonium pit production at the Savannah River Site \(SRS\)](#), Jul 25, 2019
3. [National Environmental Policy Act \(NEPA\) compliance for plutonium pit production](#), LASG letter to Senator Udall, Jul 8, 2019
4. [Administration announces plan to conduct environmental analysis of plutonium warhead core \("pit"\) production in SC, No comparable commitment in NM](#), press release, Jun 10, 2019, specifically:

In its announcement NNSA provides neither a fresh analysis of impacts of alternatives to expanded pit production at LANL, nor any formal opportunity for the State, tribes, and citizens to weigh in on whether such an analysis should be conducted.

In South Carolina, by contrast, NNSA proposes a fresh environmental analysis – even though the facility involved was the subject of environmental analysis just three years ago.

Here in New Mexico NNSA proposes to write what amounts to a 'memo to file' as to whether New Mexico deserves a fresh look at expanded pit production. NNSA is cutting the State, tribes, and citizens out of the loop.

While we are pleased NNSA acknowledges some of our concerns – agreeing, for example, that LANL is legally limited to a maximum production rate of 20 pits per year – NNSA should also acknowledge right now that it cannot rely on analyses written more than a decade ago under assumptions no longer valid.

We urge NNSA to proceed directly, without delay, first to the nationwide analysis DOE previously agreed to conduct if pit production was ever pursued at more than one site, or at a larger scale, than was agreed in federal court in 1998, and second, to a site-specific analysis at LANL.

Both kinds of analyses must be based on facilities and conditions that actually exist, not on ones NNSA hoped might be built but weren't. NNSA cannot legally calculate risks and impacts based on old – or new – dreams. 'Wishing on a star' isn't enough.

NNSA should skip the 'supplement analysis' process – that is, 'analyzing whether to analyze' –and proceed directly to the 'hard look' at alternatives and impacts required by law."

5. [Administration to conduct environmental analysis of plutonium warhead core \("pit"\) production in SC; may analyze NM production; NNSA's plan may violate 1998 court order and other applicable law](#), press release, Jun 4, 2019, specifically:

NNSA's decision to conduct an environmental impact statement process for its pit production plans for the Savannah River Site, while postponing a decision on whether or not to conduct a fresh nationwide analysis including LANL, appears deeply flawed. DOE settled a lawsuit brought by our organization and others with a stipulated order to produce a nationwide analysis if its pit production plans changed sufficiently. They have changed dramatically.

In addition, NNSA has for two decades, through four formal decisions, declared it would not exceed a production rate of 20 pits per year at LANL, in a sharply-bounded space – 11,400 square feet – within its aging and troubled main plutonium facility (Building PF-4). The impacts of higher production rates and more expansive plans have never been analyzed, except under unrealistic assumptions and conditions which NNSA acknowledges no longer apply or exist.

DOE must do better. We urge DOE and NNSA to proceed directly, without delay, to the nationwide analysis DOE previously agreed to conduct should the day ever come when pit production would be pursued at more than one site, or at a larger scale, than was agreed in federal court in 1998.

6. [Legal concerns regarding NNSA's pit production plans, LASG memo to LGH](#), Feb 5, 2019. Please note the citations to 8. below and to the "[Memorandum for Heads of Federal Departments and Agencies: Effective Use of Programmatic NEPA Reviews](#)," Council on Environmental Quality, 18 Dec 2014.
7. [LASG comments on the "Draft Environmental Assessment \[EA\] of Proposed Changes for Analytical Chemistry \[AC\] and Materials Characterization \[MC\] at the Radiological Laboratory/Utility/Office Building \[RLUOB\], Los Alamos National Laboratory \[LANL\], Los Alamos, New Mexico \[NM\]"](#), Apr 25, 2018
8. [Pit production recommendations & considerations](#), LASG memo to NNSA Administrator Lisa Gordon-Hagerty, Apr 6, 2018

9. Memorandum Opinion and Order, 19 Aug 1998, US District Court for the District of Columbia, Natural Resources Defense Council [and Los Alamos Study Group], et. al., v. Federico Pena, et.al. Civil Action 97-0936, Judge Stanley Sporkin. Paragraph 5:

Prior to taking any action that would commit DOE resources to detailed engineering design, testing, procurement, or installment of pit production capability for a capacity in excess of the level that has been analyzed in the SSM PEIS (the capacity analyzed in the SSM PEIS is the fabrication at LANL of 50 pits per year under routine conditions, and 80 pits per year under multiple shift operations), DOE shall prepare and circulate a Supplemental PEIS, in accordance with DOE NEPA Regulation 10 CFR 1021.314, analyzing the reasonably foreseeable environmental impacts of and alternatives to operating such an enhanced capacity, and shall issue a Record of Decision based thereon.

B. General comments on this DSA

1. NNSA has always acknowledged, and implicitly does so again by writing this this DSA, that pit production is a major federal action with significant environmental impacts, requiring an environmental impact statement (EIS).
2. With or without this DSA, NNSA has no comparative environmental analysis of reasonable alternatives to the proposed agency action. Neither is NNSA proposing any public EIS process, which is the only means provided under NEPA for creating such an EIS. Legal requirements aside, experience shows it is primarily the NEPA process, not the document which finally results, which most helps federal decisionmakers vet choices between alternatives.
3. What NNSA is offering in this DSA is a list of 25 NEPA and other documents, which the agency has thrown into this DSA (pp. 4-8), which together comprise a sort of mélange of variously outdated analyses, administration statements of policy, and one (1) legal requirement (which has nothing to do with NEPA). These, NNSA says, are an adequate substitute for comparative environmental analysis of reasonable alternatives, with public involvement. This chaos of inapplicable, old analysis is as opaque and useless to federal decisionmakers as it is to the public, states, local governments, and tribes.
4. Instead of environmental analysis of real agency alternatives, NNSA mistakenly believes NEPA is served by a “bounding analysis” of hypothetical and/or obsolete alternatives which the agency does not believe are reasonable. For example, all pit production alternatives at the Los Alamos National Laboratory (LANL) depend heavily on completion of the Chemistry and Metallurgy Research Replacement Nuclear Facility (CMRR-NF), a \$6 billion (B) project that was indefinitely delayed in 2012 after additional NEPA analysis discovered profound engineering and environmental problems with the project. It was finally cancelled in 2014. Without CMRR-NF anchoring pit production at LANL, NNSA’s alternatives for fulfilling its LANL mission needs, whether at ≥ 30 pits per year (ppy) or ≥ 80 ppy, are fundamentally different that before.
5. NNSA is proposing no “no action” alternative. A “no action” alternative would continue the present policy of producing less than 20 ppy at LANL alone. We believe it is NNSA’s best alternative, i.e. the alternative which best serves all aspects of national security.

6. As we have noted at 5. above, NNSA's proposed pit production decision is inherently national in its environmental impacts and scope. For example, as noted in the DSA (p. 46), transuranic (TRU) solid waste production and "the majority of" TRU shipments to the Waste Isolation Pilot Plant (WIPP) "are expected to be directly related to pit production..." These shipments will compete directly with legacy TRU waste removal across the current and former nuclear warhead complex as well as impact transportation on a national basis as well as, according to the DSA, most operations at the WIPP site. At LANL alone there are approximately 20,000 drum-equivalents of TRU waste in storage. With pit production, it appears that removal of this waste will take at least a decade longer than previously planned. It may never be completed.

Across the Department of Energy (DOE) complex, not limited to the NNSA sites, pit production could incur significant costs, impacts, and risks from fires, bursting drums, vandalism, and terrorism, among other concerns. It is environmentally important to expeditiously dispose of TRU waste. The impacts of possible delays in such disposal are far from being adequately analyzed in this DSA.

Pit production also affects NNSA's proposed dilute and dispose (D&D) program for surplus plutonium, again at WIPP as well as at the Pantex Site and SRS. The Trump Administration is currently proposing to construct a vast underground bunker to store plutonium and warheads, including surplus plutonium pits and non-pit plutonium, at Pantex in part because of expected delays in the D&D program. This would have long-term, major consequences for Pantex and the surrounding communities.

The D&D program depends heavily on the industrial production of plutonium dioxide at LANL. That industrial production has now been canceled, to make room for pit production in Building PF-4. That decision, made early this year, is suppressed in this DSA. How and where will that oxide production occur now? This is another example of the pervasive, national impacts of pit production, as well as NNSA's lack of candor about related programs, both of which could be remedied by a national, programmatic NEPA analysis.

This particular theme – the negative interactions between pit production, waste plutonium disposal, waste management, and environmental cleanup generally – harkens back to NEPA litigation successfully brought in the early 1990s against DOE for its failure to adequately include the environmental impacts of waste management in its Reconfiguration PEIS.

7. An overarching theme affecting the adequacy of NEPA analysis, and of this DSA, is the paucity of information concerning exactly how pit production is to be conducted at LANL and at the Savannah River Site (SRS). There are still no conceptual plans for pit production available for either site. Neither are there Project Data Sheets for either site. On the contrary, NNSA is attempting to pursue its pit production projects using program funds where possible (as opposed to capital project funds), in avoidance of its own project management orders, e.g. [Order 431.3B](#), and congressional direction.

From fiscal year (FY) 2019 Energy and Water Development Appropriations Subcommittee, House Report 115-697, pp. 107-108:

The NNSA's five-year budget plans include approximately [\$4 B] for unspecified activities within Plutonium Sustainment to achieve long-term pit production capacity targets. The specific activities and total costs needed to achieve these

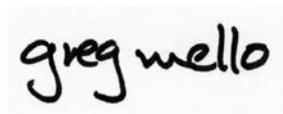
targets are not described, and a management plan with near-term milestones for carrying out this significant multi-year effort are not presented. The NNSA's continued inability to produce a transparent plan to establish a pit production capability that includes a resource-loaded schedule that can be independently verified for reasonableness creates significant concerns. The recommendation establishes a new construction project [19-D-650] that shall be utilized to carry out any capital improvements and equipment installations that are needed at [LANL] to meet plutonium mission needs.

No such project description is available, although NNSA's budget plans for pit production are now even greater than in 2018 when this passage was penned by the (Republican-led) House appropriations subcommittee.

Detailed plans for 30 and for 80 ppy pit production at LANL were required by [Sec. 3120](#) of the National Defense Authorization Act for FY2019. These have never been published. As a result, the full degree of inadequacy of this DSA as well as of the pending DSA for pit production at LANL cannot even be guessed. NNSA has not revealed the scope of its proposed construction at either pit production site, let alone at other sites which will be affected, including non-NNSA DOE sites that produce and store TRU waste.

8. On August 8, LANL conducted a forum for subcontractors, at which LANL managers lightly described some of the proposed federal actions they said were necessary to successfully execute LANL's pit production mission. These actions included multiple large new buildings at LANL, new roads and waste management facilities at LANL, at least two new highways dozens of miles long through roadless areas of national forest land, and so on. Some of these projects would by themselves be major federal actions with significant environmental, social, and economic impacts. Capital projects, mostly for pit production, were estimated at \$5.5 B over the coming 5 years; lab-wide, at \$13 B for the coming decade.
9. The DSA dismisses (p.25) the necessity of PF-4 replacement, even though the NNSA Administrator has implied in testimony (e.g. [here](#), video) that this might well prove necessary.
10. NNSA's consultants have [estimated](#) that the 50-year life-cycle costs of pit production lie in the \$11 B to \$56 B range (i.e. -20% to +100% of \$14 B to \$28 B). Adding PF-4 replacement to the lower figure would put the lower cost range closer to \$30 B. Subsequent [studies](#) have thrown all these estimates into a cocked hat. Clearly, and by any measure this a truly huge, national program, affecting many sites and programs in ways NNSA does not yet understand, with vast, as-yet-unknown environment impacts. It is also full of internal contradictions, which call for clarification. The notion that NNSA need conduct no national environmental analysis of this program, especially when the agency has already said EISs would not lie on its critical paths, and when several years of delay beyond 2030 are already "baked in the cake," is ludicrous.

Best wishes, and thank you for your attention and consideration,

A handwritten signature in black ink that reads "greg mello". The signature is written in a cursive, lowercase style.

Greg Mello, Executive Director