



**SOUTH CAROLINA
ENVIRONMENTAL
LAW PROJECT**

Lawyers for the Wild Side

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April 20, 2021

VIA U.S. MAIL

Jennifer M. Granholm, Secretary
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Charles Verdon, Acting Administrator
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Dear Ms. Granholm and Messrs. Verdon & Fischer:

Re: Notice of Filing Action Pursuant to the National Environmental Policy Act, Plutonium Pit Production

We are in receipt of Mr. Fischer's correspondence of March 22, 2021 in which he informs us that the NNSA has no plans to revisit its review of plutonium pit production under NEPA. I am responding on behalf of: **Concerned Citizens for Nuclear Safety ("CCNS"); Georgia Women's Action for New Directions ("Georgia WAND"); the Gullah/Geechee Sea Island Coalition; Honor Our Pueblo Existence ("H.O.P.E."); The Imani Group; Nuclear Watch New Mexico; Savannah River Site Watch ("SRS Watch"); Tewa Women United and Tri-Valley Communities Against a Radioactive Environment ("Tri-Valley CAREs")**. This is to inform you that SCELPL, on behalf of several of these groups, intends to file an action pursuant to NEPA within 60 days if DOE and NNSA fail to reconsider its decision. The groups on whose behalf we are writing are focused on

Our Mission To protect the natural environment of South Carolina by providing legal services and advice to environmental organizations and concerned citizens and by improving the state's system of environmental regulation.

this lack of review and how it will negatively impact environmental justice. So that you understand the goals and missions of these groups, we are providing you with the following:

CCNS

CCNS is a 33-year old non-governmental organization, based in Santa Fe, NM. CCNS works to inform and educate the public, elected officials, and the media about the Department of Energy (DOE) activities in New Mexico - at Los Alamos National Laboratory and the Waste Isolation Pilot Plant - impacting public health, water, air and lands.

Georgia WAND

Georgia WAND envisions a world without militarism or systemic violence, with just, healthy, secure, and sustainable communities, and in which Georgia is a leader in regional, national, and global movements. They are an independent, community-driven, grassroots, woman-led organization that works on environmental justice issues as they relate to impacts of nuclear projects at the Savannah River Site, including plutonium pit production.

The Gullah/Geechee Sea Island Coalition

The Gullah/Geechee Sea Island Coalition operates in accordance with the mission of the Gullah/Geechee Nation to to preserve, protect, and promote their history, culture, language, and homeland and to institute and demand official recognition of the governance (minority rights) necessary to accomplish our mission to take care of our community through collective efforts, which will provide a healthy environment, care for the well-being of each person and economic empowerment. The Gullah/Geechee Nation spans from North Carolina to northern Florida and receives the downward flow of the Savannah River, which brings its benefits and also could bring disastrous impacts to a community that relies so closely on the water.

H.O.P.E.

H.O.P.E. is a nonprofit organization based in Santa Clara Pueblo, New Mexico, immediately downwind from LANL. We embrace the Pueblo teachings of love, respect and care, working together to improve the life ways of our people in order to provide an enhanced and sustainable environment for generations to come.

The Imani Group

The Imani Group is a non-profit founded by Rev. Brendolyn Jenkins Boseman in 2004, to address criminal and environmental justice, as well as youth development. As the founder she has served on the Department of Energy's Savannah River Site's Citizen Advisory Board and works to address environmental issues at the Savannah River Site and other sites affecting underserved communities.

Nuclear Watch New Mexico

Nuclear Watch New Mexico's mission is 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. Expanded plutonium pit production will have adverse environmental justice impacts given that the population within the Los Alamos Nuclear Laboratory's 50-mile radius Region of Influence is largely People of Color.

SRS Watch

SRS Watch monitors a host of projects at SRS from the public interest perspective, with a focus on cleanup of existing waste and plutonium management and pit production. We are attentive to health and safety impacts, especially to workers and populations near to the Savannah River Site and are very concerned that NNSA has summarily waved off reviewing the probable environmental justice impacts from plutonium pit fabrication to minority populations living at the fence line.

Tewa Women United

Located in the ancestral Tewa homelands of Northern New Mexico, Tewa Women United is a multicultural and multiracial organization founded and led by Native women. Our Environmental Health and Justice Program integrates body, mind, and spiritual awareness into environmental justice advocacy, policy change, and community education while uplifting Indigenous and land-based families and oppressed Peoples to build grassroots leaders and community capacity.

Tri-Valley CAREs

Tri-Valley CAREs is a non-profit founded in 1983 by frontline residents around the Lawrence Livermore National Laboratory ("LLNL") to conduct research, analysis, education and advocacy regarding the environmental justice, health and proliferation impacts of LLNL in California and the U.S. nuclear weapons complex of which it is an integral part.

Some of these groups have urged DOE and NNSA to take the necessary "hard look" at this programmatic shift that is statutorily required by the National Environmental Policy Act ("NEPA") and have sent six letters over the last two years laying out the obvious basis for the need to conduct a nation-wide programmatic environmental impact statement (PEIS). This letter is to notify you that we intend to initiate an action pursuant to NEPA if we have not received a response agreeing to a PEIS within 60 days of the date of this letter.

It is incumbent on your agencies to implement President Biden's recent Executive Order of January 27, 2021, in which he declares the U.S. policy addressing environmental justice:

Agencies shall make achieving environmental justice part of their missions by developing programs, policies, and activities to address the disproportionately high and adverse human health, environmental, climate-related and other cumulative impacts on disadvantaged communities, as well as the accompanying economic challenges of such impacts. It is therefore the policy of my Administration to secure environmental justice and spur economic opportunity for disadvantaged communities that have been historically marginalized and overburdened by pollution and underinvestment in housing, transportation, water and wastewater infrastructure, and health care.

Executive Order, Section 219, January 27, 2021.

The plans of DOE and NNSA to expand this production program will saddle the already-burdened communities represented by these groups with a significant amount of nuclear waste and pollution that is in complete contravention to the President's Executive Order.

The supplemental analysis on pit production at the Los Alamos National Laboratory (LANL) waves aside environmental justice concerns and concludes that "the pit production mission would not result in disproportionately high and adverse impacts on low-income or minority groups." The EIS prepared on pit production at the Savannah River Site included a cursory discussion of possible environmental justice impacts and concludes that "cumulative environmental justice impacts are not expected" This lack of substantive analysis is a glaring example of why a PEIS is necessary.

We are aware that Savannah River Nuclear Solutions has submitted a conceptual plan for the re-purposing of the MOX facility in South Carolina. We are also aware that NNSA is beginning to invest irretrievable resources into upgrading plutonium facilities at LANL for expanded pit production. Time is therefore of the essence that your agencies act.

One of the critical problems with refusing to prepare a PEIS is that the public is either ignorant or being provided misinformation about the breadth of the planned project. Some have described the construction at the Savannah River Site ("SRS") as a "renovation," which misleads the public into believing there will be minor changes necessary, instead of the reality of a price tag of close to \$4.6 billion dollars. At LANL there are still unresolved nuclear safety issues. Moreover, at both sites it is not entirely clear where the increased volume of radioactive wastes will go. The public has had little involvement in this decision-making process and the U.S. government has not taken the time to take a hard look at this major shift in policy.

Further, the practical feasibility has been called into question not only by DOE but by an independent group. The Congressional mandate to ramp up production to 80 pits per year by 2030 has already been determined by the Institute for Defense Analyses to be virtually impossible to accomplish.

A new Nuclear Posture Review ("NPR") will evaluate both the alleged need for new nuclear warheads and the need for expanded pit production to support them. Moreover, the

timeline and need for the planned Ground Based Strategic Deterrent with the W87-1 warhead, which would utilize the first pits to be produced, is coming under intense scrutiny. The PEIS would inform the NPR and will allow for public involvement on the impacts of these plans, particularly the impacts on environmental justice.

If your agencies continue to refuse to undertake this statutorily required task of preparing a PEIS, we will have no choice but to file the action.

Respectfully,



Leslie S. Lenhardt
Staff Attorney

Cc: (via e-mail)
Sen. Bernie Sanders, Chair, Senate Budget Committee
Sen. Dianne Feinstein, Senate Energy and Water Appropriations Subcommittee
Sen. Deb Fischer, Strategic Forces Subcommittee, Senate Armed Services Committee
Sen. Martin Heinrich, Senate Appropriations Committee
Senator Ben Ray Lujan, New Mexico
Sen. Tim Scott, South Carolina
Sen. Lindsay Graham, South Carolina
Rep. Adam Smith, Chair, House Armed Services Committee
Rep. Jim Cooper, Chairman, Strategic Forces Subcommittee, House Armed Services Committee
Rep. John Garamendi, Strategic Forces Subcommittee, House Armed Services Committee
Rep. Ro Khanna, Strategic Forces Subcommittee, House Armed Services Committee
Mr. Tarak Shah, DOE, Chief of Staff
Mr. Christopher Davis, Senior Advisor to the Secretary of Energy
Mr. Todd Kim, DOE Deputy General Counsel for Litigation and Enforcement
Mr. Narayan Subramanian, DOE, Legal Advisor, Office of General Counsel
Mr. Robert Cowin, DOE Deputy Assistant Secretary for Public Engagement
Mr. Ali Nouri, DOE Principal Dep. Asst. Sec. for Congressional and Intergovernmental Affairs

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Mr. Michael Weis, NNSA Los Alamos Office

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Ms. Jennifer Nelson, NEPA Document Manager, NNSA Savannah River Field Office

Ms. Jade Begay, White House Environmental Justice Advisory Council

Mr. Richard Moore, White House Environmental Justice Advisory Council

Mr. Harold Mitchell, White House Environmental Justice Advisory Council