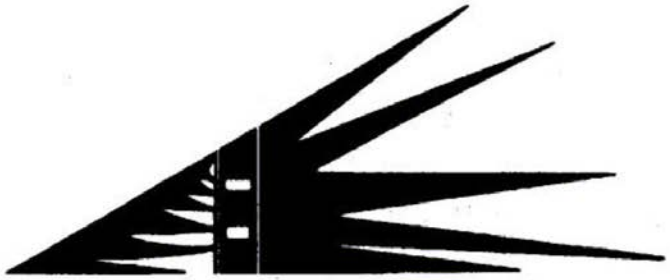

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June 2, 2020

Ms. Jennifer Nelson
NEPA Document Manager
NNSA Savannah River Site Field Office
P.O. Box A
Aiken, SC 29802 Email to: NEPA-SRS@srs.gov

Re: Notice of Availability (NOA) 85 Federal Register 18947-48 (April 3, 2020) of Draft Environmental Impact Statement (DEIS) for Plutonium Pit Production at the Savannah River Site (SRS) in South Carolina and Announcement of Public Hearing.

Dear Ms. Nelson:

Southwest Research and Information Center (SRIC) is a private non-profit organization founded in 1971, which has a long history of involvement in National Environmental Policy Act (NEPA) proceedings and documents. The following comments are in response to the above referenced DEIS. Because of SRIC's expertise regarding the Waste Isolation Pilot Plant (WIPP), these comments primarily focus on that facility and the totally inadequate analysis of that facility and transuranic (TRU) waste storage and disposal in the DEIS. Further, we note the essentially total disregard of the comments submitted to you by SRIC on August 12, 2019. Those comments and related comments submitted on July 25, 2019 are incorporated by reference and attached.

1. NNSA has not complied with NEPA, which requires a new or supplemental PEIS

A supplemental or new Programmatic Environmental Impact Statement (PEIS) is required. See attached 2019 comments. Thus, the DEIS should not have been issued at this time because the required Draft PEIS has not been issued for public comment and hearings, nor is there a Final PEIS and Record of Decision.

The DEIS does not adequately address the need for a PEIS. The DEIS mentions previous NEPA documents, including the 1996 Stockpile Stewardship and Management Programmatic Environmental Impact Statement (SSM PEIS) and the 2008 Final Complex Transformation SPEIS (NNSA 2008a), "which is a supplement to the SSM PEIS." at 1-8. The DEIS summary list of scoping comments includes: "The EIS and other plutonium pit decisions must be put on hold until such time as the Complex Transformation SPEIS ROD is amended." at 1-14. "There has been new information regarding environmental justice impacts at SRS that NNSA must consider in a new supplemental programmatic EIS. There

is a need for a more robust Environmental Justice analysis with support from Environmental Justice experts, especially cumulative impacts to Environmental Justice in a new programmatic EIS." at 1-15. Those brief mentions do not adequately summarize the scoping comments of SRIC and others. Importantly, the DEIS fails to discuss the PEIS issue, nor provide any legal and technical analysis of how the previous PEISs are adequate to support the current proposed action, for which the reuse of the MOX Facility and its impacts is not specifically discussed in either of those earlier documents.

A further important technical and legal assessment of the need for a PEIS is the issuance on April 30, 2020 of the National Academies of Sciences, Engineering, and Medicine *Review of the Department of Energy's Plans for Disposal of Surplus Plutonium in the Waste Isolation Pilot Plant*. (NAS Report).[1] The NAS Report states:

> **RECOMMENDATION 5-5: The Department of Energy should implement a new comprehensive programmatic environmental impact statement (PEIS) to consider fully the environmental impacts of the total diluted surplus plutonium transuranic waste inventory (up to an additional 48.2 metric tons) targeted for dilution at the Savannah River Site and disposal at the Waste Isolation Pilot Plant (WIPP). Given the scale and character of the diluted surplus plutonium inventory, the effect it has on redefining the character of WIPP, the involvement of several facilities at several sites to prepare the plutonium for dilution, a schedule of decades requiring sustained support, and the environmental and programmatic significance of the changes therein, a PEIS for the whole of surplus plutonium that considers all affected sites as a system is appropriate to address the intent and direction of the National Environmental Policy Act and would better support the need for public acceptance and stakeholder engagement by affording all the opportunity to contemplate the full picture.**

Thus, in addition to SRIC, many other organizations and individuals have commented on the need for a new or supplemental PEIS. And the further support for a PEIS by the National Academies should result in a draft PEIS for public comment and hearings and a Final PEIS and Record of Decision. Until those documents and proceedings happen, NNSA should not proceed further with this SRS Plutonium Pit Production EIS process.

2. <u>The DEIS is legally and technically inadequate in its consideration of WIPP as the only disposal location for all of the TRU waste generated by new plutonium pit production</u>.

A. WIPP's mission does not include TRU waste from new plutonium pit production from 2030 to some unknown future date or in perpetuity.

The long history regarding WIPP's mission and the requirement for additional repositories was addressed in the attached comments from 2019. The DEIS does not adequately discuss this issue and is therefore grossly inadequate.

[1] National Academies of Sciences, Engineering, and Medicine 2020. *Review of the Department of Energy's Plans for Disposal of Surplus Plutonium in the Waste Isolation Pilot Plant*. Washington, DC: The National Academies Press. https://doi.org/10.17226/25593.

In addition, the NAS Report also states:

> Beyond the technical considerations and analyses, there is a "social contract" perspective that may be equally important to the long-term public support and sustainability of the dilute and dispose program objectives. The common presentation of WIPP TRU waste as modestly contaminated debris generated through defense activities related to nuclear weapons maintenance and development is incongruent with the characteristics of the DSP-TRU waste streams. Indeed, the DSP-TRU waste streams (SRS-KACPuOx, SR-KAC-PuOx-1, and SRS-KAC-SPD) could be viewed as closer to conditioned nuclear material than traditional TRU waste. at 96.

The National Academies further recommended:

> **RECOMMENDATION 5-2 (updated Interim Report RECOMMENDATION 2): The Department of Energy's National Nuclear Security Administration and Office of Environmental Management should engage New Mexico and South Carolina as well as their congressional delegations prior to the public engagement required by the National Environmental Policy Act process to assess prospects for successfully amending the existing legal agreements to allow for the dilution and packaging of up to 48.2 metric tons of surplus plutonium at the Savannah River Site and its disposal in the Waste Isolation Pilot Plant.**

NNSA should acknowledge that major technical difference between the TRU waste being proposed for new pit production and the historic fact that such plutonium was not originally included in WIPP's mission. Further, NNSA should begin now the engagement with New Mexico and South Carolina recommended by the National Academies.

Additionally, DOE, including NNSA and EM, should begin the process of considering new repositories and include that reasonable alternative and its impacts in the new or supplemental PEIS.

B. State of New Mexico agreements and requirements do not include new pit production waste disposal at WIPP.

The requirements of the Consultation and Cooperation (C&C) Agreement and the WIPP Permit were discussed in the 2019 SRIC comments that are attached. The DEIS does not even mention the C&C Agreement, and is, thus, totally inadequate as to that fact and violations of, and enforceability of that Agreement. The DEIS briefly mentions the WIPP permit and some of its requirements (at 3-53, 3-54, 4-41, 4-95, and 5-11), but does not address the fact that pit production TRU waste is not included in those agreements. The DEIS does not mention or address the "social contract" aspect of those agreements, which the SRS plutonium pit production waste would violate.

The DEIS does acknowledge that "WIPP was originally planned for an operational life of 25 years, followed by closure and postclosure phases." at 3-54. It does not discuss the fact that timeframe is included in the WIPP Permit, and that the State of New Mexico can require WIPP's closure well before the end of the 50-year lifetime of pit production proposed at SRS.

Here again, the new or supplemental PEIS and any SRS EIS must include and fully consider that possibility of WIPP's closure to provide adequate environmental analysis. The less-than-50-year WIPP timeframe must also result in consideration of other alternatives than WIPP for TRU waste storage and disposal from the SRS pit production.

C. WIPP does not have capacity for the amount of TRU waste generated by new pit production.

The DEIS states: "As shown in Table 5-4, the available capacity of WIPP would accommodate the conservatively estimated TRU waste that could be generated over the next 50 years." at 5-12. However, the DEIS does not address SRIC's 2019 comments that are attached regarding the fact that those capacity efforts are not "bounding" or "conservative" outer container volumes are used, as in the WIPP permit and historical practice. Indeed, the cited reference - https://www.wipp.energy.gov/general/GenerateWippStatusReport.pdf - shows that as of May 23, 2020, that TRU waste volume is 97,858.46 cubic meters. Using that volume, and using outer container volume to calculate the SRS pit production waste, would result in WIPP's legal capacity being exceeded by about 50 percent.

The NAS Report shows those calculated results and that the DEIS does not conservatively estimate TRU waste volumes:

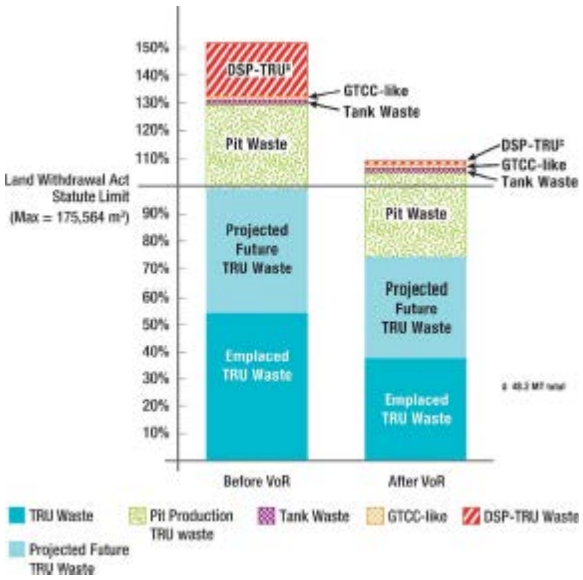


FIGURE S-5 DOE-reported emplaced and future transuranic wastes estimates (DOE-CBFO, 2018a, 2019a) and additional wastes, identified by the committee. Additional wastes are: DSP-TRU, Greater-than-Class-C-like (GTCC-like) TRU wastes, tank wastes, and TRU waste generated from pit production. The graphs illustrate the impact of the Volume of Record (VoR) recalculation, in particular the large reduction in DSP-TRU waste volumes. Both graphs also show that the Land Withdrawal Act statutory limit is likely to be exceeded. DSP-TRU volumes have been subtracted from TRU waste estimates. See Table 3-2. at 6.

As shown in that figure, if the existing defense TRU waste planned for WIPP is actually emplaced, essentially all of the pit production waste would be excluded from WIPP because it is more than the legal capacity. An adequate PEIS or SRS EIS must acknowledge that truly conservative estimates of the WIPP legal capacity limit would not accommodate any, and certainly not all, of TRU waste generated by new pit production. Such documents must analyze the impacts of adhering to that limit, as well as the impacts of changing that legal limit, including violating the "social contract" with New Mexico. Such documents must also consider the reasonable alternative sites for storage and dispose of TRU waste from pit production.

3. The DEIS is legally and technically inadequate because it does not discuss the environmental impacts of long-term storage of all the TRU waste from pit production at SRS.

As stated in the attached SRIC 2019 comments that are further supported by the above discussion, because WIPP does not have capacity for all of the waste generated by new pit production, SRS must have capacity for safe and legally compliant storage of all of the waste produced throughout the duration of pit production. The DEIS does not include any discussion of the environmental impacts of such long-term storage.

Instead, the DEIS states:

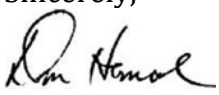
> A recent curtailment of WIPP activities lasted for longer than one year and could happen again, if necessary, to ensure safe operations at that site. However, planning internal storage capacity to accommodate more than one year of waste generation is deemed a sufficient contingency. at 4-40.

Such "planning" is not sufficient for the likely possibility that the TRU waste from pit production would not go to WIPP and there is no other long-term storage or disposal site. Thus, it is reasonable that most or all of the TRU waste would have to be stored at SRS where it would be generated. So a minimum bounding analysis of the environmental and health impacts of such a possibility must be included in an adequate PEIS and SRS EIS.

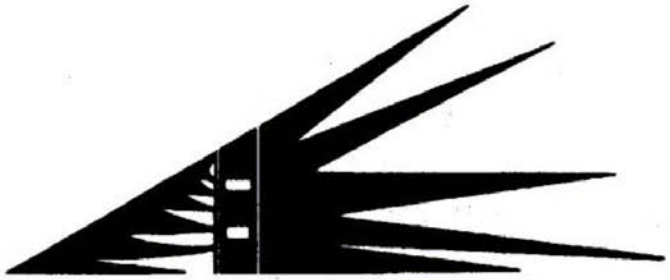
4. If NNSA proceeds with the SRS EIS process, SRIC supports the No Action Alternative of not proceeding with the SRS Plutonium Pit Facility and leaving the partially constructed MOX Fuel Facility unused.

Thank you for your careful consideration and response to these comments and all others are that being submitted.

Sincerely,



Don Hancock
Email: sricdon@earthlink.net



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August 12, 2019

Ms. Jennifer Nelson
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Re: Notice of Availability (NOA) 84 Federal Register 31055-56 (June 28, 2019) Draft Supplement Analysis (SA) of the Complex Transformation Supplemental Programmatic Environmental Impact Statement, DOE/EIS-0236-S4-SA-02, June 2019

Dear Ms. Nelson:

Southwest Research and Information Center (SRIC) is a private non-profit organization founded in 1971, which has a long history of involvement in National Environmental Policy Act (NEPA) proceedings and documents. The following comments are in response to the above referenced Draft Supplement Analysis (SA). Because of SRIC's expertise regarding the Waste Isolation Pilot Plant (WIPP), these comments primarily focus on that facility and the totally inadequate analysis of that facility and transuranic (TRU) waste disposal in the Draft SA.

Rather than reiterate related comments submitted on July 25, 2019 regarding *Notice of Intent (NOI) To Prepare an Environmental Impact Statement for Plutonium Pit Production at the Savannah River Site,* those comments are incorporated by reference and attached.

1. NNSA has not complied with NEPA, which requires a PEIS

A supplemental or new Programmatic Environmental Impact Statement (PEIS) is required. See attached July 25, 2019 comments. Thus, any adequate SA must conclude that such a PEIS is required before any further action is taken.

To the contrary, the Draft SA states: "The Draft SA preliminarily concludes that further NEPA documentation at a programmatic level is not required." Executive Summary, second page (unnumbered). "I have preliminarily determined that no further NEPA documentation is required at a programmatic level, and NNSA may amend the existing Complex Transformation SPEIS ROD." Page 48. Thus, the factual information and analysis in the Draft SA is clearly deficient and erroneous.

2. WIPP is not the disposal location for TRU waste from new plutonium pit production

A. WIPP's mission does not include TRU waste from new plutonium pit production from 2030 to some unknown future date or in perpetuity.

WIPP was initially authorized in Section 213 of Public Law 96-164 (December 29, 1979). That fact is not included in the Draft SA. That law authorized WIPP "for the express purpose of providing a research and development facility to demonstrate the safe disposal of radioactive waste resulting from the defense activities and programs of the United States exempted from regulation by the Nuclear Regulatory Commission." § 213(a).

Thus, since 1979, Congress, the State of New Mexico, and the public have understood that WIPP has a limited mission and that other nuclear waste disposal sites would be created. That fact is not included in the Draft SA. In 1982, Congress passed the Nuclear Waste Policy Act (Public Law 97-425) that required development of other nuclear waste repositories. That fact is not included in the Draft SA.

In 1992, Congress passed the WIPP Land Withdrawal Act (Public Law 102-579). That fact is mentioned in the Draft SA. Page 46. The law limited WIPP's capacity to up to 6.2 million cubic feet (175,564 cubic meters) of TRU waste. § 7(a)(3). Again, Congress explicitly recognized that WIPP had a limited mission, and implicitly reiterated that additional TRU waste disposal facilities would be needed for future pit production. That WIPP wouldn't handle all of the TRU waste was emphasized in the final House floor debate by one of the bill's co-sponsors, Rep. Peter Kostmayer:

> "Whether we are going to generate more nuclear waste is not the question. The question is we have got to get rid of the material we have. This facility will take only 20 percent of all the waste that we have. Still 80 percent will remain unburied. We have to deal with that." 102 *Congressional Record* 32552 (c. 2)(October 5, 1992).

Additionally, each of the four committees that considered the WIPP Land Withdrawal Act recognized that WIPP also had a limited, 25-year operating lifetime. Senate Energy Committee (S. Rpt. 102-196, p. 18); House Interior Committee (H. Rept. 102-241, Part 1, p. 9); House Armed Services Committee (H. Rept. 102-241, Part 2, p. 13); House Energy Committee (H. Rept. 102-241, Part 3, p. 41).

Since the Rocky Flats Plant had been closed in 1989, Congress was well aware in 1992 that WIPP was not for future major pit production, if such a replacement facility was developed. DOE is now proposing such a new facility or facilities by 2030, so new TRU waste disposal facility(ies) must also be included in such a proposal.

B. State of New Mexico agreements and requirements do not include new pit production disposal at WIPP.

1. Consultation and Cooperation (C&C) Agreement. The 1979 Authorization also included provisions: (1) requiring the Department of Energy (DOE) Secretary to "consult and cooperate with the appropriate officials of the State of New Mexico, with respect to the public health and safety concerns of such State in regard to such project…." § 213(b)(1); and (2) "seek to enter into a written agreement with the appropriate officials of the State of New Mexico, not later than September 30, 1980…." § 213(b)(2). Those facts are not included in the Draft SA.

No C&C Agreement was signed by September 30, 1980. In 1981, the State of New Mexico sued the DOE regarding WIPP in Federal District Court in New Mexico. Case Civil Action No. 81-0363 JB. On July 1, 1981, after discussions, the State Attorney General and U.S. Attorney filed a Joint Motion to Stay All Proceedings, which was approved that day by the Court along with a stipulated agreement. As part of the Stipulated Agreement, the Governor of New Mexico and DOE Secretary signed a C&C Agreement. That Agreement has been modified in 1984 and 1987. The Agreement includes a 6.2 million cubic feet capacity limit and does not include provisions to keep WIPP open in perpetuity or to allow TRU waste from future pit production.
https://wipp.energy.gov/library/Information_Repository_A/Supplemental_Information/Consultation%20and%20Cooperation%20Agreement.pdf

While the C&C Agreement might be modified again regarding TRU waste from new pit production, such a modification has not occurred. So any adequate SA or PEIS must consider other disposal site alternatives, which the Draft SA does not do.

2. WIPP Permit. The New Mexico Environment Department (NMED) issued a Permit for WIPP in 1999. The Permit was renewed in 2010 and currently expires in December 2020.
https://wipp.energy.gov/Library/Information_Repository_A/Searchable_Permit_NMED_Approved_August_2019_AR.pdf

The Permit has always specifically stated that the Disposal Phase "extends until 2024." Permit Attachment G-1d(2). And in numerous other provisions, the Permit states that the Disposal Phase is 25 years. Since the Disposal Phase began on March 26, 1999, the Disposal Phase is until 2024. If WIPP receives no TRU waste after 2024, it cannot handle waste generated by new pit production starting in 2030. Thus, the Permit does not allow TRU waste from new pit production.

While the Permit can be modified, it has not been modified to allow its operation after 2024. So any adequate SA or PEIS must consider other disposal site alternatives, which the Draft SA does not do.

C. WIPP does not have capacity for the amount of TRU waste generated by pit production.

1. Legal capacity. The Draft SA, pages 6, 24, 45, and 46 acknowledges the capacity limit is included in previous NEPA documents. The SA does not state that limit comes from the C&C Agreement and the WIPP Land Withdrawal Act.

The Draft SA emphasizes that the capacity limit was increased by the Permit Modification approved in December 2018. Pages 45-46. The Draft SA does not mention that decision is being challenged legally in the New Mexico Court of Appeals. Nor does the Draft SA mention that the revised capacity limit must again be adopted (or not) in the permit renewal process. In addition, even under the existing Permit, NMED could order closure when the permit limits are met or at some other time before 6.2 million cubic feet of waste under the new "WIPP LWA" volume is emplaced. An adequate SA or PEIS must acknowledge that the WIPP legal capacity limit may not accommodate any or all of TRU waste generated by new pit production.

2. Design/actual capacity.
The 1980 WIPP FEIS, referenced in the Draft SA, stated that the design capacity of 8 panels and panels 9 and 10, if needed, was 6.2 million cubic feet. Page 2-17.

For many years, SRIC has publicly noted that the permittees' management practices, especially failing to use all of the disposal capacity of each WIPP panel and leaving much of the remote-handled (RH) waste disposal capacity unused, meant that the actual capacity of the eight (or ten) panels is much less than 6.2 million cubic feet.

In 2003, the DOE Inspector General (IG) reported:

> "If current waste emplacement practices continue, by 2020, the repository, as now configured, will not be able to accommodate 980 planned shipments of remote-handled TRU waste. The Department has recognized the potential space problem and identified some alternatives, but has not yet formally planned for the resolution of this issue."
> https://www.energy.gov/sites/prod/files/igprod/documents/CalendarYear2003/ig-0613.pdf, page 1.

In 2013 the DOE IG reported:

> "We found that while EM had made progress in meeting its operational disposal goals, it was not on track to meet its goal to dispose of 90 percent of the Department's legacy TRU waste by the end of FY 2015. In particular, EM faces a number of challenges in meeting its planned 90 percent waste disposal goal by 2015. Additionally, without further modifications to the repository or existing waste disposal practices, WIPP may not have capacity for disposal of the current RH inventory."
> https://www.energy.gov/sites/prod/files/2013/05/f1/OAS-L-13-09.pdf, page 1-2.

In 2017, the Government Accountability Office (GAO) reported:

> "DOE does not have sufficient space at WIPP to dispose of all defense TRU waste….
> •DOE's TRU waste management plan, which includes planning for WIPP, covers a 5-year period and does not address possible expansion. Moreover, DOE's TRU waste management plan does not include a schedule for expanding DOE's disposal space before existing space is full.
> •Expanding WIPP's disposal space will require regulatory approval that is expected to take several years. However, DOE modeling that is needed to begin the regulatory approval process is not expected to be ready until 2024." https://www.gao.gov/assets/690/686928.pdf, inside cover.

Thus, it has long been known that WIPP's actual capacity in the ten panels would not accommodate the legal capacity. That actual capacity has been further reduced by the elimination of Panel 9 by closing the southern panels 3-6 by the WIPP Permit Panel Closure modification approved in 2018 and now being implemented. Further, a significant portion of the Panel 7 capacity has been lost because of using very little of Room 7 and none of rooms 4 and 6. In addition, only Panel 2 of the first six panels was filled with the permit capacity limits. None of those facts are included in the Draft SA.

Consequently, WIPP does not have actual capacity for 6.2 million cubic feet of waste that is currently proposed, let alone the additional volumes from pit production from 2030 until some unknown future date. An adequate NEPA document must include that information and discuss the reasonable alternatives, which the Draft SA does not do.

D. EPA certification does not allow for TRU waste disposal from new pit production.

In its Certification Application and recertification applications, DOE has provided EPA with waste inventory data based on outer container volume to show compliance with the LWA capacity limit of 6.2 million cubic feet of TRU waste. These submissions, and EPA's acceptance of the data as responsive to the Compliance Criteria requirement of data showing compliance with LWA limits (40 C.F.R. § 194.24(g)), were done pursuant to a public notice-and-comment rulemaking process and provide a controlling interpretation of the LWA limits. See, e.g., *Seneca-Cayuga Tribe of Oklahoma v. National Indian Gaming Commission*, 327 F.3d 1019, 1036-40 (10th Cir. 2003).

The Draft SA does not discuss the EPA certification requirements, nor that the waste volume limits are based on outer container volumes. An adequate NEPA document must include that the EPA certification may not allow the additional waste that DOE proposed in the Permit Modification and discuss the reasonable alternatives, which the Draft SA does not do.

3. Any adequate NEPA document must consider the impacts of long-term waste storage at the generator sites.

Since there is no designated existing or proposed disposal location for the waste generated by new pit production, both of the designated production sites – LANL and SRS – must have capacity for safe and legally compliant storage of all of the waste produced throughout the lifetime of the facilities.

The Draft SA includes some discussion about storage capabilities at SRS on pages 46-47 and at LANL on page 47. Regarding SRS, there is no discussion of the State of South Carolina's opposition to long-term plutonium storage at SRS, including recent litigation that required removal of one metric ton of plutonium from the state. *State of South Carolina v. United States, et al, CA: 1:16-00391-JMC*. An adequate NEPA document must include information about whether the State of Carolina's approval of long-term plutonium storage is needed and has been received, including that such storage is permitted.

At LANL, the Draft SA states that the TRU Waste Facility has a surge capacity of 1,240 drums. That capacity is totally insufficient for decades of future pit production at the site. The Draft SA also does not discuss whether the State of New Mexico would permit long-term storage at LANL, and the fact that the State has not permitted any such storage.

The Draft SA discussion is totally inadequate and does not demonstrate that there is adequate on site storage for the lifetime of pit production. Nor does it discuss any alternative long-term storage facilities.

4. NNSA has not provided all of the documentation used in the Draft SA

Section 6.0 of the Draft SA lists references. Most of the documents are publicly available and website links are included. However, the first reference listed - CBFO 2019. "WIPP Shipping Capability to Support NNSA Missions," Carlsbad Field Office, April 2019 – has no link. A google search does not find it. On July 23, 2019, SRIC requested that document be sent immediately to this organization and publicly posted online. No response was received until an August 8, 2019 email from Jennifer Nelson, NEPA Document Manager. The response was:

> "The requested document is not releasable at this time but is undergoing review for public release. When the document is approved for release it will be added to the documents referenced in the Draft SA on the NNSA website. Much of the material in the reference has already been stated in the Draft SA in Section 4.3.3."

That response is not adequate. Information used and referenced in a NEPA document must be publicly available. 40 CFR § 1502.18(d), 40 CFR § 1502.21.

The Draft SA states: "A large emphasis is placed on meeting NNSA shipping requirements to support active projects and missions related to national security and stockpile stewardship (CBFO 2019)." Page 46. No adequate basis is given for that statement, which is contrary to the facts. As discussed in Point 2.1 above, WIPP's mission is for legacy TRU waste – not current and future waste. As of August 3, 2019, about 50 percent of shipments to WIPP are from the Idaho National Lab (INL) and about 16 percent were from the Rocky Flats Plant. https://wipp.energy.gov/shipment-information.asp

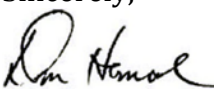
In FY 2019, more than 80 percent of shipments to WIPP are from INL. Thus, the history is contrary to the statement that there is a large emphasis on NNSA sites. In many cases, there are legal compliance agreements with states that require the legacy TRU waste to be removed from the state. The Draft SA does not discuss those compliance agreements. The Draft SA provides no adequate support for the cited statement, especially since the only cited reference document for the assertion is not available.

Moreover, the 2018 Annual Inventory Report shows that future WIPP-bound waste is primarily from INL and Hanford, WA – not NNSA sites.
https://wipp.energy.gov/library/TRUwaste/DOE-TRU-18-3425_Rev_0.pdf
The amount of waste in the Inventory certainly exceeds the existing capacity of Panels 7, 8, and 10. The waste also is likely to exceed the 6.2 million cubic feet legal capacity limit, based on outer container volume.

In summary, a new or supplemental PEIS is required before further action is taken to proceed with new pit production or any decision to implement such a major federal action. Any adequate NEPA document must conclude that WIPP is not the disposal facility for TRU waste from new pit production from 2030 onward. Any adequate NEPA document must discuss all reasonable alternatives to any waste storage or disposal at WIPP, including long-term on site storage at LANL and SRS and new disposal facility(ies).

Thank you for your careful consideration and response to these comments and all others are that being submitted.

Sincerely,



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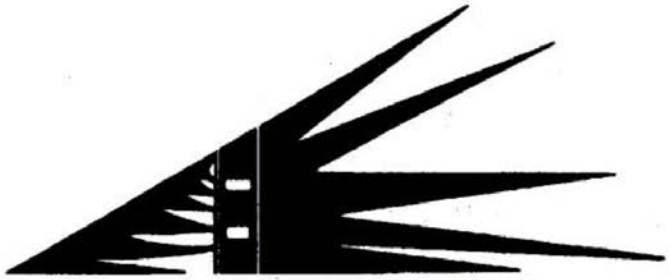

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July 25, 2019

Ms. Jennifer Nelson
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Re: Notice of Intent (NOI) To Prepare an Environmental Impact Statement for Plutonium Pit Production at the Savannah River Site. 84 Federal Register 26849-26851 (June 10, 2019)

Dear Ms. Nelson:

Southwest Research and Information Center (SRIC) is a private non-profit organization founded in 1971, which has a long history of involvement in National Environmental Policy Act (NEPA) proceedings and documents. The following comments are in response to the above referenced June 10, 2019 notice that the National Nuclear Security Administration (NNSA) will prepare a draft environmental impact statement for a proposed Plutonium Bomb Plant (PBP) at the Savannah River Site (SRS).

1. NNSA has not complied with NEPA

A. A supplemental or new Programmatic Environmental Impact Statement (PEIS) is required.

The NOI correctly states that NNSA prepared a PEIS in October 2008. *Final Complex Transformation Supplemental Programmatic Environmental Impact Statement* (DOE-EIS-026-S4). The NOI also references the PEIS Record of Decision (ROD). 73 Federal Register 77644-77656 (December 19, 2008). That ROD states:

> NNSA has decided to implement its preferred programmatic alternative as described in the SPEIS and summarized in this ROD. This decision will transform the plutonium and uranium manufacturing aspects of the complex into smaller and more efficient operations while maintaining the capabilities NNSA needs to perform its national security missions…. Manufacturing and research and development (R&D) involving plutonium will remain at the Los Alamos National Laboratory (LANL) in New Mexico.

73 FR 77644.

NNSA now is reversing that decision in establishing a plutonium manufacturing operation at SRS, in addition to LANL. Such a proposal is not a smaller and more efficient operation. NNSA must first issue a new or supplemental PEIS to justify the new purpose and need, analyze all reasonable alternatives, and environmental impacts. 40 CFR 1502.13 and 1502.14.

A new or supplemental PEIS is certainly required before the proposed SRS DEIS can be properly scoped and issued. The PEIS process should include a draft PEIS and hearings across the nation, similar to those done in 2008 for the Complex Transformation PEIS. Thus, DOE cannot proceed with any actions related to establishing a plutonium manufacturing operation at SRS until it first completes a legally and technically adequate new or supplemental PEIS and a new ROD.

B. NNSA has decided to proceed with the SRS pit bomb plant without NEPA compliance.

The May 10, 2018 Joint Statement of Under Secretary of Defense for Acquisition and Sustainment Ellen M. Lord and Under Secretary for Nuclear Security and Administrator of the NNSA Lisa Gordon-Hagerty should have been preceded by a supplemental or new PEIS.

While described as a "recommended alternative," the Joint Statement in fact is a decision to try to produce 30 pits a year at LANL and 50 pits a year at SRS. Despite the PEIS stating that LANL could produce up to 200 pits per year using multiple shifts, the Joint Statement implicitly states that previous PEIS analysis is inadequate and explicitly states that NNSA will no longer rely "on a single production site," which was the preferred alternative and the decision made in the 2008 ROD.

Thus, NNSA has made a decision and is acting to implement that decision, despite not having an adequate PEIS. Further, NNSA admits in the NOI that it does not have an adequate SRS EIS to support the decision.

NEPA does not allow such predetermined decisions, so the May 10, 2018 Joint Statement should be revoked and should not be used to support any actions related to plutonium manufacturing operations at SRS.

2. DOE must undertake additional analysis of the MOX Plant and SRS plutonium manufacturing capabilities for the new or supplemental PEIS.

The May 10, 2018 Joint Statement is the "repurpose" the MOX Plant for plutonium pit production. However, there is no analysis of what specific actions are needed for such a new function. Nor is there any analysis of what aspects of the existing structure are defective and will have to be removed and replaced. For example, there are workers that have stated that rebar and other fundamental structural aspects of the building are defective. A comprehensive analysis of any defects in design or construction of the facility must be done. The costs, risks, and timeframes for such a repurposing must be

compared with those aspects of a new plutonium manufacturing facility not using the MOX Plant.

Of course, since SRS has never had the plutonium manufacturing capability, a comprehensive analysis must be done of what infrastructure, workforce, safety culture and other capabilities are required, how they can be obtained, and what costs and environmental impacts would be.

Since there were have very significant health and safety problems at the Rocky Flats Plant, the nation's major plutonium pit manufacturing facility, there must be an analysis of how to avoid or mitigate such impacts at any new site, especially including SRS.

All of those analyses must be included in the new or supplemental draft PEIS to provide the information that decisionmakers and the public need to make programmatic decisions regarding expanding pit manufacturing at LANL, SRS, or any other site.

3. Alternatives to 80 plutonium pits per year manufacturing capability must be considered.

For more than 30 years, the U.S. has not manufactured 80 plutonium pits in any year, let alone 80 pits each year. During that time, the number of nuclear weapons and their reliability has been maintained. The proposed 80 pit capability by 2030 would produce 800 new pits by 2040, 1,600 new pits by 2050, 2,400 new pits by 2060, 3,200 new pits by 2070, and apparently more pits forever. There is no basis for a large increase in pit production capability, nor whether there is an actual need for those pits. Nor has there been any analysis of, if those numbers of pits are necessary, why the existing stockpile of more than 15,000 pits at the Pantex Plant could not provide some or all of the "needed" pits.

Thus, alternatives of a lesser number of new pits, re-using existing stockpiled pits, as well as "no action" of producing no new pits must be considered in the new or supplemental PEIS.

4. New waste disposal facilities for plutonium manufacturing wastes must be analyzed.

The Rocky Flats Plant, the U.S. major plutonium pit manufacturing facility for more than 35 years, produced millions of cubic feet (more than 100,000 cubic meters) of transuranic (TRU) waste. Congress designated the Waste Isolation Pilot Plant (WIPP) as the disposal site for such legacy TRU waste. However, in the 1992 WIPP Land Withdrawal Act (Public Law 102-579) Congress explicitly limited WIPP's capacity to no more than 6.2 million cubic feet of TRU waste. Section 7(a)(3). Thus, Congress recognized that additional TRU waste disposal facilities would be required if there was a significant, enduring plutonium pit manufacturing capability.

DOE is now proposing such an enduring plutonium pit manufacturing capability, for which WIPP is neither designed nor permitted. Thus, the new or supplemental PEIS must

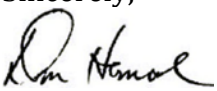
examine the alternatives for long-term storage and disposal of TRU waste. At a minimum, the analysis must include the amount and types of TRU waste that would be generated, how that waste would be stored at the manufacturing site(s), the number and types of waste disposal facilities that could be needed, and whether TRU waste disposal could be co-mingled or co-located with repositories for defense high-level waste and spent nuclear fuel.

5. Any SRS EIS must look at cumulative impacts and reasonable alternatives

While SRS has never had a plutonium manufacturing mission, it has other missions, including the cleanup of contamination from past operations and ongoing waste management activities. All of the missions and their impacts must be considered in any analysis of a new mission of plutonium manufacturing.

Thank you for your careful consideration and response to these comments and all others are that being submitted.

Sincerely,



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