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Groups Fire Back at Feds' Move to Dismiss Plutonium Pit Lawsuit

Federal agencies continue to reject a full review of the public safety and environmental risks of producing nuclear bomb cores across multiple cross-country sites.

AIKEN, S.C. — Public interest groups shot back at the U.S. Department of Energy and the National Nuclear Security Administration's attempt to suppress a lawsuit seeking a comprehensive environmental review of the agencies' plans to produce large quantities of nuclear bomb cores, or plutonium pits, at DOE sites in New Mexico and South Carolina.

Attorneys for **Nuclear Watch New Mexico, Savannah River Site Watch, Tom Clements, Tri-Valley Communities Against a Radioactive Environment** and the **Gullah/Geechee Sea Island Coalition** filed a response ([download PDF](#)) to the motion to dismiss the case before the U.S. District Court on Monday.

The Federal Defendants sought dismissal in late September on an alleged lack of constitutional standing and an assertion the Congressional mandate to increase production to at least 80 pits per year by 2030 means the agencies have no discretion as to how to implement the mandate.

However, according to Monday's filing, DOE and NNSA's pit production plan—which would involve extensive processing, handling and transportation of extremely hazardous and radioactive materials—presents a real and imminent harm to the plaintiffs and to frontline communities surrounding the production sites. Further, Congress's 80-pit mandate does not obviate the need and demand for a Programmatic Environmental Impact Statement, or PEIS, required by the National Environmental Policy Act.

“The Federal Defendants have mischaracterized the legal standing requirements for bringing a claim under NEPA, ignored clear harms to the Plaintiffs' interests that the government has already conceded will occur, and have challenged a claim that Plaintiffs did not bring; namely, that the court has jurisdiction to rule on the validity of a Congressional mandate. Their arguments are without merit,” said Leslie Lenhardt of the **South Carolina Environmental Law Project**, a nonprofit law firm representing the multi-state coalition.

Tom Clements, director of SRS Watch in Columbia, said the arguments filed for DOE by Department of Justice lawyers widely miss the mark and the court should allow the case to proceed.

“We are fighting a central and erroneous claim repeated many times by DOJ in the filing—that we are challenging a congressional mandate concerning the number of pits to be produced. It almost appears that DOJ lawyers lacked sound arguments to challenge our lawsuit and simply made up the assertion that we were challenging the number of pits to be produced, which is obviously not the case,” Clements said.

The groups sued DOE and NNSA in late June over the agencies’ failure to take the necessary “hard look” at their plans to more than quadruple the production of plutonium pits and split their production between the Los Alamos National Laboratory in New Mexico and the Savannah River Site in South Carolina. Instead of undertaking a new review, NNSA is relying on a supplemental analysis of an outdated PEIS completed more than a decade ago, along with a separate standalone review done solely for the Savannah River Site.

“What happens at the Savannah River Site will not remain there. In fact, the environmental pollution will find its way into the watershed that travels to the coast. This is the same coastal area that we are working to protect via 30 x 30 and resiliency planning in South Carolina. So, it is antithetical to that effort and counterproductive to seek to restore and protect one area of South Carolina while allowing an environmentally harmful project such as this to go forth in another area,” **Queen Quet**, founder of the Gullah/Geechee Sea Island Coalition, said. “The lack of PEIS that allows all people an opportunity to comment on the actual impacts to our cultural communities shows that there has been no informed consent granted by those whose land, waterways, health and overall quality of life will be negatively impacted by these plutonium pits being created. What is use of making land more resilient if you harm the health of the people? We need to invest in the sustainability of cultural heritage communities such as the Gullah/Geechee Nation by sustaining the environmental health of the Carolinas. We are already battling for that. We do not need this battle to compound the war of environmental injustice!”

Jay Coghlan, director of Nuclear Watch New Mexico, commented, “The government has yet to explain to American taxpayers why it will spend more than \$50 billion to build new plutonium pit bomb cores for new-design nuclear weapons when we already have thousands of existing pits proven to be reliable for a century or more. This has nothing to do with maintaining the safety and reliability of the existing stockpile and everything to do with building up a new nuclear arms race that will threaten the entire world.”

Moreover, the plan involves unexamined hazardous activities at additional sites alongside serious transportation and waste issues. Unanalyzed impacts of pit production and associated waste disposal would also involve numerous other sites across the country, including the Waste Isolation Pilot Plant in New Mexico, the Pantex Plant in Texas, the Y-12 National Security Complex in Tennessee and the Kansas City Plant.

The new plutonium pits are first intended for the W87-1, a controversial new nuclear warhead under development at the Lawrence Livermore National Laboratory (LLNL) in California and slated to go on a missile named the Ground Based Strategic Deterrent.

Marylia Kelley, executive director of Livermore-based Tri-Valley CAREs stated, “My organization has obtained government documents disclosing that expanded pit production will introduce new plutonium dangers in my community – and the NNSA’s failure to produce a program wide review leaves those risks unexamined and unmitigated. We have proof that plutonium will be sent through multiple states to Livermore for ‘materials testing’ in support of pit production. Initial funding for new plutonium glove boxes at LLNL is in the FY22 budget request. Moreover, the government has left unexamined the relationship between the W87-1 under development at LLNL and the elective decision to change the pit design in this warhead.”

Kelley concluded, “I’m here to say my community matters. We have a right to know what risks we are being asked to bear. That right is central to NEPA, and the government has no leave to ignore it. I am confident that the Court will reject the government’s specious claims.”

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The South Carolina Environmental Law Project uses its legal expertise to protect land, water, and communities across South Carolina. Savannah River Site Watch is based in Columbia, SC and monitors DOE activities at SRS. Nuclear Watch New Mexico is based in Santa Fe, New Mexico and focuses on nuclear weapons activities at the Los Alamos National Laboratory. Tri-Valley Communities Against a Radioactive Environment (CAREs) is located in Livermore, California and monitors the Lawrence Livermore National Laboratory, a key nuclear-weapons-design facility. The Gullah/Geechee Sea Island Coalition operates in accordance with the mission of the Gullah/Geechee Nation and spans from North Carolina to northern Florida and receives the downward flow of the Savannah River.