



# Los Alamos Study Group

*Nuclear Disarmament • Environmental Protection • Social Justice • Economic Sustainability*

July 8, 2019

## **Re: National Environmental Policy Act (NEPA) compliance for plutonium pit production**

Dear Senator Udall –

In Senate hearings, you have been outspoken in promoting a greatly expanded pit production mission for Los Alamos National Laboratory (LANL). The environmental impacts of this mission – without precedent at LANL in scale and in impacts, both immediate and long-term – and of realistic alternatives to this mission, remain unexplored at this time.

### **We are therefore writing to ask you to demand that the Department of Energy (DOE) prepare, at a minimum:**

- 1. A new Site-wide Environmental Impact Statement (SWEIS) for LANL** which objectively analyzes – using realistic, up-to-date assumptions, and with state, tribal, other federal, and public input as required by law – the environmental impacts of industrial production of plutonium warhead cores (“pits”) at LANL, including its impact on risk reduction and cleanup efforts across LANL. De-inventory and subsequent closure of the Area G waste disposal and storage site are particularly at risk, because these multi-decade activities strongly compete with the shipments of newly-made waste that would be required by the new pit mission. The existing SWEIS (from 2008) is badly outdated and relies upon a number of key assumptions which are no longer true.
- 2. A Supplement to the Complex Transformation Supplemental Programmatic Environmental Impact Statement (CTSPEIS)**, which analyzes the environmental impacts of pit production and related waste management and disposal alternatives on a nationwide basis, including its impact on the Waste Isolation Pilot Plant (WIPP) and on environmental cleanup programs nationally, including at LANL, again with state, tribal, other federal, and public input as required by law.

In its 2017 [Analysis of Alternatives](#) (AoA) for pit production, NNSA assumed it would write a new environmental impact statement (EIS) for pit production, wherever that work took place. As explained below, NNSA is now backtracking from this approach.

Later this month we will provide DOE, and you, a detailed outline of why its existing National Environmental Policy Act (NEPA) analyses are woefully inadequate. We make this request now, in advance of that outline, because we feel the need for these two new analyses ought to be self-evident given the magnitude of the impacts and risks involved as well as the age and inapplicability of existing analyses.

Your early intervention would get DOE started on the right path sooner.

In addition – *and this is unprecedented in our 30 years of experience with these programs* – there is no actual plan for pit production, not even a conceptual plan or project data sheets for the associated projects, especially at LANL. To the extent there *are* plans, nothing has been revealed to the affected publics, tribes, local governments, and states.

At the same time there are unprecedented contradictions in official reports and statements about this program, leading one senator to remark – we believe accurately – that NNSA appears to be “making up the program as it goes along.” NNSA is currently committed to pit production deadlines and strategies which its consultants and

internal experts have more than once said are impossible. EISs are especially valuable when programs are in such turmoil.

By [law](#), NNSA must provide a detailed plan for production at LANL “of plutonium pits 31–80, in case the [SRS] facility is not operational and producing pits by 2030.” Studies by the Institute for Defense Analyses (IDA) for the [Department of Defense](#) (DoD) and [NNSA](#) in 2019 as well as by NNSA in [2017](#) have said this goal is likely unachievable.

**We believe it is strongly in the public interest to release these three documents, redacted as necessary. We would like you to facilitate that.**

The classification status of the first, the detailed plan for production of up to 80 ppy at LANL, is unknown to us. Obviously no assessment of environmental impact of this mission can be prepared or reviewed without at least a redacted plan of what the mission entails.

The second document, the IDA study for DoD, is Unclassified Controlled Nuclear Information (UCNI). Upon information and belief, only minor portions of that document are properly labeled UCNI.

The third, the IDA study for NNSA, is labeled Official Use Only (OUO). We believe this labeling is altogether improper.

### **Partial background**

A re-start of plutonium “pit” production in quantity is desired by the Trump Administration, though new pits are [not needed for decades](#) for the purpose of maintaining the current U.S nuclear stockpile. The new pits are needed for a proposed new warhead, the W87-1, to be deployed on the planned Ground Based Strategic Deterrent (GBSD), which is to replace the current fleet of 450 Minuteman III (MMIII) missiles in ground-based silos in the early 2030s. The W87-1 will replace the W78 warheads currently deployed on approximately one-half of the MMIII missile fleet.

Since late 2014 [current law](#) has required LANL to produce not less than 10 pits in 2024, 20 pits in 2025, and 30 pits in 2026. NNSA has repeatedly committed to meeting these goals and to begin producing at least 80 ppy by 2030. NNSA believes such a capacity, operating on a single production shift, would produce at an average rate of 103 ppy ([p. 13](#)).

Currently, pit production at LANL has been repeatedly limited to a maximum of 20 ppy by formal agency decisions taken over the 1996-2008 period, as we have [explained](#) and now NNSA [admits](#) (in more detail [here](#)).

Where major federal actions threaten significant environmental impacts, as is admittedly the case with any program to produce plutonium pits, NEPA requires agencies to objectively analyze the environmental impact of all reasonable alternatives prior to making decisions that irreversibly commit federal resources, incur environmental impacts, or bias agency decisions.

On May 10, 2018 NNSA announced its [decision](#) to make plutonium pits at two sites, LANL and the Savannah River Site (SRS) in South Carolina. On June 10, 2019 NNSA announced its [intent](#) to prepare an environmental impact statement (EIS) for the SRS part of this strategy, and to study whether or not to prepare a pit-production-specific Supplement to the [Complex Transformation Supplemental Programmatic Environmental Impact Statement](#) (CTSPEIS).

NNSA is preparing a SA [Supplement Analysis] to the Complex Transformation SPEIS related to the proposed action for pit production. NNSA will use the SA to determine if there are significant changes in the proposed action which are substantial and relevant to environmental concerns or whether new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts are significant. The SA would inform the site-specific documentation for the proposed pit production activities at both SRS and LANL. Although pertinent regulations do not require public comment on a SA, NNSA has decided, in its discretion, that public comment in this instance would be helpful and will issue a draft SA.

If the SA identifies no new significant circumstances or information relevant to environmental concerns that effect NNSA's decisions concerning pit production at a programmatic level, NNSA would announce the determination from the SA to the Complex Transformation SPEIS at the same time it would announce an amended ROD. If NNSA determines that a supplement to the Complex Transformation SPEIS or a new EIS is required, NNSA will announce those decisions as appropriate.

In addition,

NNSA also intends to conduct site-specific NEPA analysis for expanded pit production activities at LANL to determine if there are significant changes in the proposed action which are substantial and relevant to environmental concerns or whether new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts are significant. The type of site-specific analysis for producing a minimum of 30 pits per year at LANL will include a SA to the 2008 LANL Sitewide Environmental Impact Statement [SWEIS]. Depending on the results of the site-specific review at LANL, NNSA may announce an amended ROD or prepare additional NEPA documentation for the proposed action.

Thus in its Notice of Intent NNSA neither commits to, nor rules out, a new or supplemented SWEIS at LANL, just as it neither commits to, nor rules out, a supplemented CTSPEIS.

The [draft SA](#) for the CTSPEIS became available for public comment on June 26, 2019. It analyzes “the potential impacts from producing up to 80 [ppy] at *both* LANL and SRS” (emphasis added). It concludes (p. 48) that no further programmatic (i.e. national) NEPA analysis is required, and that NNSA will write a LANL-specific SA “for the proposal to produce a minimum of 30 pits per year at LANL, with additional surge capacity, if needed, to meet the requirements of producing pits at a rate of no fewer than 80 pits per year by 2030.”

There has been a legal requirement for LANL to plan to make “no fewer than 80 pits per year by 2030” for almost five years. Since late 2014, LANL has been [required](#) not just to plan, but to actually demonstrate a capacity of 80 ppy by 2029 at the latest. (An amendment – Section 8102 of [S. 1790](#) – was recently passed by the Senate to omit this last requirement even while making the Administration's goal of at least 80 ppy by 2030 a matter of law.)

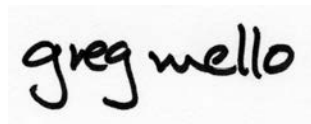
Since last year LANL has also been [required](#) to “implement surge efforts to exceed 30 [ppy] to meet Nuclear Posture Review and national policy” as well as to assess “the strategy...for manufacturing up to 80 [ppy] at [LANL] through the use of multiple labor shifts and additional equipment at PF-4 until modular facilities are completed to provide a long-term, single-labor shift capacity.”

The need for a new SWEIS and a supplemented CTSPEIS, at a minimum, is thus not at all new or peremptory. Such analyses, with the public processes required, are overdue.

At LANL, it should be obvious that this is a very challenging mission, not least from the environmental and safety perspectives, for workers and the public alike. We have written [extensively](#) on these topics. As regards NEPA compliance please see these recent resources:

- [“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
- [“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
- [“Legal concerns regarding NNSA’s pit production plans,”](#) LASG memo to NNSA Administrator Lisa Gordon Hagerty, Feb 5, 2019

Sincerely,

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

Greg Mello, Executive Director

Cc: Senator Martin Heinrich  
Governor Michelle Lujan Grisham  
Congressman Ben Ray Lujan  
Congresswoman Deb Haaland  
Tribes, local governments, federal officials, members of the public