

# MONITOR

## NUCLEAR WEAPONS & MATERIALS

U.S. National Nuclear Security Administration ♦ Russian Ministry of Atomic Energy  
...plus International Nonproliferation Initiatives (State, DoD, G-8, IAEA) ♦ Uranium Enrichment

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### **NNSA PLANS NEW CMRR ENVIRONMENTAL ANALYSIS, BUT GROUP WON'T DROP SUIT**

The National Nuclear Security Administration has concluded it needs to perform a Supplemental Environmental Impact Statement (SEIS) on its new Los Alamos plutonium lab. But the group suing the agency over lack of environmental review on the project says the decision does not go far enough and is planning on seeking an injunction to stop work on the new facility.

The NNSA's decision to go ahead with the SEIS on the Chemistry and Metallurgy Research Replacement-Nuclear Facility (CMRR-NF) was revealed in a Sept. 17 letter from Justice Department attorney John Tustin to the Los Alamos Study Group. The study group filed suit in August, alleging that a National Environmental Policy Act (NEPA) review of the project released in 2004 is no longer adequate to support federal decision-making on the project because of recent changes, both in the project itself and the programmatic need for its construction. "We want the EIS to examine primary alternatives to the project, not just tweaks," Los Alamos Study Group Director Greg Mello told *NW&M Monitor*. "We want the NNSA to look hard at whether it needs to build a CMRR at all. And if so, in what way? We don't think we'll get that from a supplemental EIS."

#### **'There's Far Too Much Momentum in this Project'**

In a Sept. 22 response, Study Group attorney Thomas Hnasko countered that the decision to do a supplemental EIS does not go far enough, and that rather a full-blown Environmental Impact Statement is needed. Hnasko also reiterated the lawsuit's contention that work on the CMRR must be stopped while the environmental review is completed. "There's far too much momentum in this project," Mello said. "Formally, because they're investing in the project illegally, and practically because the more they invest in this one alternative the deeper the Department is committed to it."

The CMRR project lies at the heart of nuclear weapons complex modernization efforts, which have become a key point of discussion in the political debate about a new arms control treaty with the Russians. In efforts to win Republican support for that treaty, a top Obama Administration priority, officials have pledged money to move forward with CMRR and other weapons complex modernization programs. The project faces problems, however, because of its rising costs. A review of the project design is currently underway to determine a firm cost estimate, but as a placeholder, the Administration's Fiscal Year 2011 budget request pegged the cost in excess of \$4 billion. The rising cost, and skepticism because of the NNSA's track record of missed deadlines and cost overruns, has been a major problem shadowing the project. The Study Group is targeting those concerns with its contention that a NEPA analysis must include discussion of alternatives to building the CMRR, such as upgrades to existing facilities.

## **Feds Try to Dissuade Lawsuit**

Tustin's letter reveals some of the back-and-forth that went on prior to the Study Group filing its lawsuit, as federal officials tried to persuade the group that a lawsuit was not timely because a "draft supplemental analysis" was currently underway to determine what sort of NEPA coverage the project needed. According to Tustin, that argument was laid out in a July 30 letter to the study Group, two weeks before the group filed its lawsuit. In his letter, Tustin reported that the NNSA, based on that "draft supplemental analysis," is now preparing a formal Notice of Intent for the new study. Because the NEPA analysis is currently underway, Tustin argued that the issue is "not ripe for judicial review," and asked the Study Group to withdraw its lawsuit.

Hnasko countered that an SEIS, which would build on the 2004 analysis rather than starting from scratch, would be inadequate, and that NEPA requires a full analysis be done. But in the meantime, Hnasko argued that the decision to do an SEIS amounts to a tacit admission that NEPA coverage for the project is inadequate, and that therefore the work now underway on the project, including both design work and site preparation, should be halted.

—*Todd Jacobson and staff reports*