

Tri-Valley CAREs

Communities Against a Radioactive Environment

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*Peace Justice Environment
since 1983*

November 1, 2012

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Mr. Thomas D'Agostino
Under Secretary for Nuclear Security & Administrator
National Nuclear Security Administration
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RE: National Environmental Policy Act and Other Safety and Security Concerns Regarding Proposed Shipments of Plutonium Bomb Cores to Lawrence Livermore National Laboratory as Part of "Plan B," also known as the draft "Revised Plutonium Strategy"

We, the forty-six local, regional, state and national organizations listed below, write to express our collective concern about an unnecessarily dangerous, potentially unlawful proposal to transport plutonium bomb cores from Los Alamos National Laboratory (LANL) in New Mexico to the Lawrence Livermore National Laboratory (LLNL) in California.

These plutonium bomb cores, often called pits, are by definition Category I/II special nuclear material items, requiring the highest level of security. The security designation at LLNL was formally downgraded from Category I/II to Category III on September 30, 2012.

As the Department of Energy (DOE) National Nuclear Security Administration (NNSA) press release of September 21, 2012 states, "the last of the Security Category I/II special nuclear material items that required the highest level of security at Lawrence Livermore National Laboratory have been removed... resulting in an annual cost savings for taxpayers of approximately \$40 million."

The reduction to Category III security at LLNL and the related cost savings includes shrinking the number of highly trained security personnel by 126 employees, according to the Modesto Bee in an article published September 25, 2012. Moreover, security

weaponry at LLNL and training for the remaining personnel have likewise been significantly reduced or eliminated.

In sum, LLNL is no longer authorized to have, store or handle Category I/II special nuclear material items, including plutonium bomb cores arriving by truck from Los Alamos.

Plan B and the 5-year delay of the proposed plutonium “Nuclear Facility” at LANL

The non-governmental organizations signing this letter wish to emphasize their support for delaying the Chemistry and Metallurgy Research Replacement – Nuclear Facility at Los Alamos for 5-years as requested in the Fiscal Year 2013 budget. We note that that the Nuclear Facility delay does not intrinsically require trucking plutonium pits to LLNL. The Nuclear Facility, without any delay, would not have been operational until 2022 at the earliest, yet the transport of bomb cores from LANL to LLNL could begin in the next year or so. Clearly, neither the Nuclear Facility nor its delay is the main driver behind the plan to send pits to LLNL.

Further, as the Government Accountability Office (GAO) noted in its March 2012 report to Congress, “New Plutonium Research Facility at Los Alamos May Not Meet All Research Needs,” the Nuclear Facility was never intended to house the diagnostic that LLNL currently has (and to which “Plan B” would send plutonium pits). On page 19, the GAO states, “Because the [LANL Nuclear Facility] was not intended to support all of these capabilities, NNSA will need to find another location if this plutonium-related work currently being conducted at Livermore is to be continued.”

We note two important points in this regard: one, that the specific portion of “Plan B” that would send pits to LLNL must be disentangled from other portions of Plan B that are related to the Nuclear Facility delay; and, two, that the wording carefully chosen by GAO supports our contention that plutonium bomb core activities cannot and should not continue at LLNL following its reduction in security.

The diagnostic in Building 334 at LLNL

The “Plan B” proposal to send plutonium bomb cores from LANL to LLNL aims to enable plutonium pits to undergo testing in a diagnostic currently housed in Building 334 at Livermore. The Building 334 Safety Analysis Report states that the diagnostic is used to simulate the conditions that a nuclear weapon core might undergo in a “storage, transportation or use environment.” Following the diagnostic testing at LLNL, the pits would be loaded back onto trucks and transported again on three western states’ highways to Los Alamos (i.e., through CA, AZ, and NM).

The Safety Analysis Report further states that Building 334 is 27 meters wide by 21 meters deep. Building 334 contains two bays. The diagnostic is housed in one bay. It contains three main pieces: the shaker pit, drop test, and thermal chamber.

According to the September 2012 DOE Office of the Inspector General report, “Inquiry into the De-Inventory of Special Nuclear Material at Lawrence Livermore National Laboratory,” this particular diagnostic was closed down from 2005 until 2011 when NNSA re-instated the capability for use in the W76 Life Extension Program and other missions (page 2).

Both the diagnostic and the building size needed to house its three parts are small. We note that your agency examined moving the LLNL Building 334 operations as part of the October 2008 Final Complex Transformation Programmatic Environmental Impact Statement. In that document, NNSA concluded it would take 4 trucks, four people to make building modifications, and two new hires at the Pantex facility in Texas, which was the agency's "preferred alternative." (Final CT PEIS, page 5-540). This was codified in the Final CT PEIS Record of Decision (page 77662, Vol. 71, No. 245, issued on December 19, 2008). At that point, however, the LLNL Building 334 pit diagnostic had not been fully operational for several years, and it was never moved.

As documented, the diagnostic was not used by NNSA for a period of about 6 years, from 2005-2011, although Los Alamos produced pits that were war reserve certified during that same period. This opens up the valid question of the "need" for this particular diagnostic at any location. Moreover, under any circumstance, the pit diagnostic should only be operated at a site that has regular Category I/II security and authorization to handle plutonium bomb cores.

Legal violations incurred by bringing plutonium bomb cores to LLNL

Federal officials have proposed imposing a "variance" from nuclear safety and security regulations at LLNL every time that plutonium pits arrive – which could be about six times a year according to one senior official. Thus far, "Plan B" does not openly discuss what it will mean for plutonium safety and security to enact regular "variances." Moreover, it is not clear that DOE NNSA has the legal authority to do so in the absence of any analysis done pursuant to the National Environmental Policy Act (NEPA).

Federal agencies are required to integrate the NEPA process into their activities at the earliest possible time. Early applications of NEPA helps achieve the laws objectives. 40 C.F.R. 1501.1; 1501.2. Agencies must prepare NEPA documents before any irreversible or irretrievable commitment of resources. *Conner v. Burford*, 848 F.2d 1441 (9th Cir. 1988). A preliminary screening to determine if NEPA applies to a proposed federal action should take place when a federal agency begins planning a proposed action. 40 C.F.R. 1502.5. NEPA applies when a federal agency is actively proposing one or more alternative means of accomplishing a goal, and may even exist when a federal agency has not formally declared that one exists.

At LLNL, the Record of Decision for the site's most recent Site-Wide Environmental Impact Statement (SWEIS) was November 29, 2005. None of the alternatives in that document examined the environmental impacts and dangers of handling Category I/II special nuclear material in the absence of a regular, ongoing commensurate level of security. The presently proposed situation wherein LLNL is not authorized to handle plutonium bomb cores, but does so regularly on the basis of multiple variances, was not considered. Nor was that scenario analyzed in any subsequent NEPA document at LLNL, including in the site's 2011 "supplement analysis" to the 2005 SWEIS.

Due to the significant steps already taken to develop this novel proposal to bring plutonium pits to LLNL from LANL following Livermore's long-planned security reductions, a stand alone NEPA analysis of this proposal and all of the reasonable alternatives to this plan should be scoped and prepared as soon as possible. Or, in the alternative, "Plan B" should be changed to preclude this ill-advised and potentially illegal activity.

Safer alternatives exist and must be examined

We, the undersigned non-governmental organizations call on DOE NNSA to appropriately and comprehensively examine all reasonable alternatives, as mandated by NEPA. Such analyses must include the alternative of foregoing use of this diagnostic altogether, or of moving the diagnostic to a NNSA site with Category I/II security in place. Moreover, we urge DOE NNSA to consider first the alternatives that would not put plutonium bomb cores on the road unnecessarily.

We thank you in advance for your urgent attention, and we await your timely response.

We would be happy to answer any questions you or your offices might have. Please contact either Marylia Kelley, Executive Director, Tri-Valley CAREs, 2582 Old First Street, Livermore, CA 94550, (925) 443-7148, marylia@trivalleycares.org, or Jay Coghlan, Executive Director, Nuclear Watch New Mexico, 903 W. Alameda #325, Santa Fe, NM, 87501, (505) 989-7342, jay@nukewatch.org.

Sincerely,

Marylia Kelley, Tri-Valley CAREs, and Jay Coghlan, Nuclear Watch New Mexico, for

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