

Historic Settlement Reached in NEPA Lawsuit Over Plutonium 'Pit' Bomb Core Production

Court-directed Agreement Legally Obligates DOE's National Nuclear Security Administration (NNSA) to Prepare "Programmatic EIS" that it Attempted to Avoid

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Nonprofit public interest groups have reached an historic settlement agreement with the Department of Energy's semi-autonomous nuclear weapons agency, the National Nuclear Security Administration (NNSA). This is the successful result of a lawsuit against NNSA over its failure to complete a programmatic environmental impact statement on

the expanded production of plutonium "pit" bomb cores, as required by the National Environmental Policy Act (NEPA). This agreement and a joint motion to dismiss have been submitted to Judge Mary Lewis Geiger of the Federal District of South Carolina. Should the Court enter the dismissal and retain jurisdiction to enforce the settlement, the agreement will go into effect.

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The public will now have the opportunity to comment on the the environmental impacts of plutonium pit production and the troubling policies that are pushing us into a dangerous nuclear arms race.”

Tom Clements, Director, SRS Watch



Partially finished plutonium fuel (MOX) plant at the Savannah River Site, which DOE has proposed to convert into the controversial SRS Plutonium Bomb Plant (SRSPBP), at a current cost estimate of \$18-25 billion. Photo ©High Flyer, 2020.

--- [full news release, with media contacts](#)

This lawsuit (docket 1:21-cv-1942) was first filed in federal court Columbia, SC in June 2021 by co-plaintiffs Savannah River Site Watch of Columbia, SC; Nuclear Watch New Mexico of Santa Fe, NM; Tri-Valley Communities Against a Radioactive Environment (CAREs), based in Livermore, CA; and the Gullah/Geechee Sea Island Coalition of coastal Georgia. NNSA promptly moved to have the case dismissed which in February 2023 Judge Lewis rejected,

calling her decision “not a close call.”

In September 2024, Judge Lewis ruled that DOE and NNSA had violated NEPA by failing to properly consider alternatives before proceeding with their plan to produce plutonium pits, a critical component of nuclear weapons, at the Los Alamos National Laboratory (LANL) in New Mexico and, for the first time ever, at the Savannah River Site (SRS) in South Carolina. The Court found that the plan’s purpose had fundamentally changed from NNSA’s earlier analyses which had not considered simultaneous pit production at two sites. Judge Lewis directed the Defendants and Plaintiffs to prepare a joint proposal for an appropriate remedy which fostered additional negotiations.

In sum, the [just released settlement agreement](#) requires the National Nuclear Security Administration to:

- Complete a nation-wide programmatic environmental impact statement (PEIS) on expanded plutonium “pit” bomb core production within 2.5 years.
- Hold two successive rounds of public hearings, first on the scope of the PEIS and then on the draft PEIS before it is finalized. Hearings will be held in Livermore, CA; Santa Fe or Los Alamos, NM; Kansas City, MO; Aiken, SC; and Washington, DC (dates to be determined).

- Citizens will have 45 days to submit scoping comments and 90 days to comment on the draft PEIS. The last PEIS in 2008 generated more than 100,000 public comments.



Los Alamos National Lab is engaged in a rushed program to increase plutonium pit production for new nuclear weapons.

The Essentials of a Thermonuclear Warhead

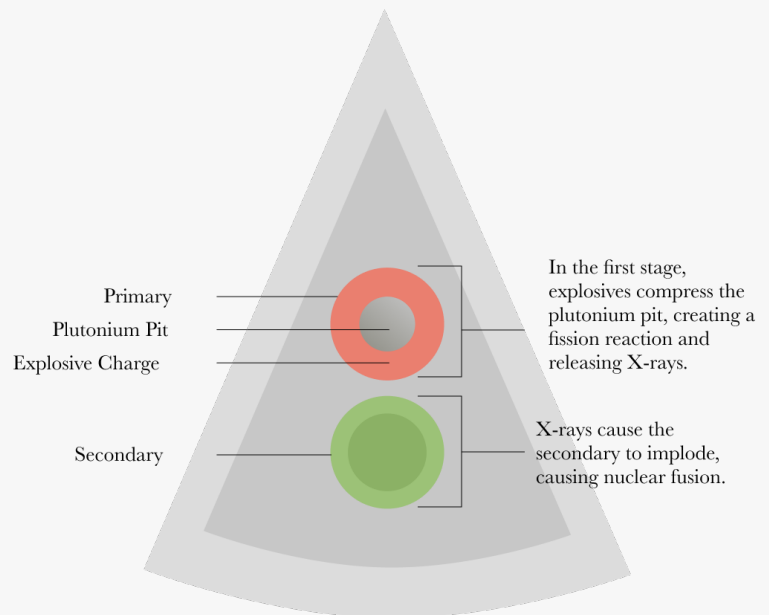


Diagram of nuclear warhead, with plutonium pit. Image by South Carolina Environmental Law Project (SCELP), lawyers for plaintiffs in the NEPA lawsuit

- Until it issues a formal Record of Decision on the final PEIS, NNSA is enjoined from:
 - Installing classified equipment at the Savannah River Plutonium Processing Facility's Main Processing Facility;
 - Introducing any nuclear materials into the Main Processing Facility; and
 - Starting construction on a related Waste Characterization Lab, Construction Maintenance Building and Vehicle Entry Building.

Concerning production at the Los Alamos Lab, the 2019 Defense Authorization Act specifically requires LANL to produce at least 30 pits per year (Public Law 115–232, Sec. 3120). NNSA repeatedly argued this barred any injunctive relief at the Lab, while threatening to appeal any such effort all the way to the U.S. Supreme Court.

Pursuit of pit production at the Savannah River Site is not required by law but rather is an administrative decision by the NNSA. Production of at least 50 pits per year at SRS has already been delayed significantly, until the mid-2030s at the earliest, and has run far over cost projections, with an estimate in NNSA's FY 2025 Congressional Budget Request of \$18 billion to \$25 billion (page 27, [NNSA budget request for FY 25](#), a massive increase from the original cost of less than \$5 billion).

Of added significance, the PEIS will have to assess the impacts of disposal of large quantities of radioactive plutonium wastes from pit production at the Waste Isolation Pilot Plant (WIPP) in southern New Mexico, located 2,000 feet underground in a salt deposit. Disposal of "transuranic" (TRU) wastes will challenge the congressionally mandated volume cap for WIPP, which the National Academy of Sciences has projected will be substantially exceeded. Nevertheless, NNSA expects to be able to dump TRU wastes at WIPP until at least 2050, fundamentally changing its mission from cleanup to direct support of expanded nuclear weapons production.

Ben Cunningham, an attorney with the South Carolina Environment Law Project who represents the Plaintiffs, said the following: "While we are relieved that the Defendants will finally involve the public in the assessment of alternatives concerning this existentially fraught issue, we will be vigilant in monitoring Defendants' actions to ensure that they comply with the settlement and, more importantly, that Defendants' actions do not prejudice the evaluation of alternatives as required by the law."

Tom Clements of SRS Watch commented: "Given this major legal victory, the public will now have the opportunity to formally comment on not only the environmental and health impacts of plutonium pit production but also the costly and troubling policies that are pushing us into a new, dangerous nuclear arms race."

Scott Yundt of Tri-Valley CAREs added: "The required PEIS should provide stakeholders and

directly affected communities, not only near the Los Alamos Lab and the Savannah River Site, but also in Kansas City, MO, Livermore, CA and Washington, DC with an unparalleled opportunity to analyze and comment on the environmental impacts this plan poses to their communities. This includes the impacts of shipping plutonium in trucks on highways around major metropolitan areas across the country.”

Jay Coghlan, Nuclear Watch New Mexico, concluded, “It’s vital that citizens enforce federal environmental laws that are under increasing attack. The government often uses NEPA as a rubber stamp. In contrast, we plaintiffs will work hard to transform this legal victory into nothing less than a public referendum on the new nuclear arms race that threatens all of humanity.”

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The Settlement Agreement with plaintiffs’ and defendants’ declarations is available at <https://nukewatch.org/settlement-agreement-and-exhibits> (20.9 MB)

Proposed Joint Motion to Dismiss at <https://nukewatch.org/srs-joint-mot-dismiss> (172 KB)

Proposed Order at <https://nukewatch.org/srs-mot-d-prop-order> (128 KB)

This press release is available at <https://nukewatch.org/settlement-reached-in-historic-nepa-lawsuit-over-plutonium-pit-bomb-core-production>

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