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MEDIA CONTACTS

Leslie Lenhardt, South Carolina Environmental Law Project, (843) 527-0078, leslie@scelp.org

Tom Clements, Savannah River Site Watch, (803) 240-7268, tomclements329@cs.com

Jay Coghlan, Nuclear Watch New Mexico, (505) 989-7342, jay@nukewatch.org

Marylia Kelley, Tri-Valley CAREs, (925) 255-3589, marylia@earthlink.net

Queen Quet, Gullah/Geechee Sea Island Coalition, gullgeeco@aol.com

District Court Denies Department of Energy's Motion to Dismiss Plutonium Pits Suit

AIKEN, S.C. — In a win for public participation and environmental protection, the United States District Court denied the Department of Energy's motion to dismiss a 2021 legal action filed by multiple citizen groups. The suit was prompted by the agencies' failure to take the "hard look" required by the National Environmental Policy Act at their plans to more than quadruple the production of plutonium pits for new nuclear weapons and split their production between the Los Alamos National Laboratory and the Savannah River Site.

In her ruling, Judge Mary Geiger Lewis thoroughly rejected the defendants' arguments that the plaintiffs lacked standing, saying it was "not a close call".

"We were able to defeat yet another attempt to use standing as a weapon to keep members of the public out of the government's decision-making process," said Leslie Lenhardt, Senior Managing Attorney at the South Carolina Environmental Law Project (SCELP).

To date, the Department of Energy (DOE) has refused to fully examine the environmental and safety impacts of their cross-country plan, which would create massive quantities of dangerous and radioactive material, put hundreds of billions of taxpayer dollars on the line, risk a new nuclear arms race, and violate the nation's foundational environmental law. The Savannah River Site has never produced plutonium pits, the explosive core of all U.S. nuclear weapons, and currently stores 11.5 metric tons of plutonium, which poses a daunting management and disposal challenge. Pit production will only increase its plutonium burden, along with more waste that needs to be treated, stored and disposed of.

"The ruling is a significant loss for the DOE in its efforts to dodge its legal obligations under NEPA," said Tom Clements, Director of SRS Watch. "We will push forward in court to make sure that the DOE conducts the mandated environmental analysis of impacts of plutonium pit production at all involved DOE sites, including sites at which plutonium waste would be disposed."

Despite outdated analyses failing to account for significant changes in circumstances, the U.S. government has ignored the repeated calls from the public, including the plaintiffs specifically, to conduct the legally required "hard look" at this major shift in policy that will only exacerbate the already documented waste of taxpayers' money.

“It’s critical that the public understands that no future pit production is to maintain the safety and reliability of the existing nuclear weapons stockpile,” said Jay Coghlan, Executive Director of Nuclear Watch New Mexico. “Instead, it is for speculative new designs that can’t be tested because of the international testing moratorium. Or worse yet, it could prompt the U.S. to resume testing, which would have severe proliferation consequences. This is the kind of needed public discussion that NNSA seeks to shut down while spending enormous sums of taxpayers' money on expanding nuclear weapons production.”

SCELP filed the lawsuit on behalf of Savannah River Site Watch, Nuclear Watch New Mexico, Tri-Valley CAREs and the Gullah/Geechee Sea Island Coalition in June of 2021 after the NNSA concluded it was unnecessary to conduct a broad, nationwide review of this two-site strategy. Instead, the agency is relying on a supplemental analysis of an outdated Programmatic Environmental Impact Statement (PEIS) completed more than a decade ago, along with a separate review done for SRS alone.

“We are thrilled that the Court ruled in our favor and that this landmark environmental case can now proceed toward a final decision,” said Marylia Kelley, Executive Director of the Livermore-based Tri-Valley CAREs. “What’s at stake in our litigation is nothing less than the question of whether the federal government will be allowed to run roughshod over affected communities like mine all across the country. We believe the Court will ultimately agree with Plaintiff groups that the National Nuclear Security Administration must produce a nationwide Programmatic Environmental Impact Statement and hold public hearings at all of the locations that will be actively involved in these dangerous plutonium bomb core activities, including Livermore, CA. The analysis of risks must precede implementation of the project in order to forestall serious environmental degradation and potential loss of life.”

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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.