

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
AIKEN DIVISION

SAVANNAH RIVER SITE WATCH, TOM)
CLEMENTS, THE GULLAH/GEECHEE SEA)
ISLAND COALITION, NUCLEAR WATCH)
NEW MEXICO, and TRI-VALLEY)
COMMUNITIES AGAINST A RADIOACTIVE)
ENVIRONMENT,)

Plaintiffs,)

v.)

UNITED STATES DEPARTMENT OF)
ENERGY, JENNIFER GRANHOLM, in her)
official capacity as the Secretary, The)
NATIONAL NUCLEAR SECURITY)
ADMINISTRATION and JILL HRUBY,)
Administrator,)

Defendants.)

No. 1:21-cv-01942-MGL

**DECLARATION OF NNSA
ADMINISTRATOR, JILL HRUBY,
IN SUPPORT OF DEFENDANTS'
RESPONSE BRIEF**

I, JILL HRUBY, declare the following:

1. I am the Under Secretary for Nuclear Security for the United States Department of Energy. Pursuant to Section 2402 of Title 50 of the United States Code, I am also the Administrator for Nuclear Security and lead the National Nuclear Security Administration (NNSA), a semi-autonomous agency within the Department of Energy. In my capacity as Administrator, I am also a member of the Nuclear Weapons Council (NWC). In these three roles, I am privy to the most sensitive national security matters, including the national defense needs and requirements of the United States.

2. The NWC is the focal point for interagency activities to sustain and modernize the U.S. nuclear deterrent. The Council endorses military requirements, approves trade-offs, and

ensures alignment between Department of Defense (“DoD”) delivery systems and NNSA weapons.

3. The NWC is charged with cradle-to-grave management of the existing nuclear deterrent, including the nuclear weapons stockpile, and for planning for the future nuclear deterrent. The NWC develops and promulgates a number of important policy documents and provides significant information on nuclear weapons safety, security, and effectiveness to the President and Congress.

4. The NWC provides policy guidance and oversight of the nuclear weapons stockpile management process to ensure high confidence in the safety, security, reliability, and performance of U.S. nuclear weapons. The Council meets regularly to discuss status, paths forward, and resolve issues between DoD and NNSA regarding strategies for stockpile sustainment and modernization.

5. I am the most senior official at NNSA. Among other things, the statutory mission of the NNSA is to enhance the national security of the United States through the military application of nuclear energy, to maintain and enhance the safety, reliability, and performance of the United States nuclear weapons stockpile (including the ability to design, produce, and test, in order to meet national security requirements), and to reduce global danger from weapons of mass destruction.

6. Pit production is vital to the NNSA mission and will undeniably and significantly enhance the national security of the United States for decades into the future. Pit production is one of the highest priorities of the NNSA. Moreover, the construction of the Savannah River Plutonium Processing Facility and optimization of pit production at Los Alamos National Laboratory are NNSA’s *most* important infrastructure projects.

7. Current national security policy emphasizes resiliency, flexibility, and redundancy

in the pit production program to ensure that NNSA can meet its statutory mission to produce at least 80 pits per year.

Waste Isolation Pilot Plant (“WIPP”)

8. WIPP is the nation’s deep geologic repository for the permanent disposal of defense-generated transuranic (TRU) waste. WIPP is located near Carlsbad, New Mexico, in the Chihuahuan Desert, far from major population centers.

9. WIPP is responsible for permanently isolating TRU waste by emplacing it 2,150 feet underground in a deep geologic salt bed repository. The repository consists of underground tunnels and TRU waste disposal rooms. Through natural geologic processes, the TRU waste will be encapsulated in salt, safely isolating the TRU waste.

10. To date, WIPP has received almost 14,000 shipments that were safely transported more than 16 million cumulative miles.

11. While WIPP falls under the stewardship of DOE’s Office of Environmental Management (EM), and is not an NNSA facility, I am aware of matters concerning disposal of NNSA waste at WIPP. As the Under Secretary of Nuclear Security for DOE, and because NNSA is a semi-autonomous agency of DOE, the information from and about WIPP, especially with respect to nuclear security, in which WIPP plays a major role, is shared between NNSA, EM, and the rest of DOE.

12. I have read the Plaintiffs’ May 3, 2024, Motion for Summary Judgment. Because the pit production mission is a top priority of the NNSA, I am familiar with the facts and circumstances of this case, including the allegations raised with respect to WIPP.

13. Specifically, I understand that Plaintiffs assert that if WIPP is not available “there is simply nowhere for the highly dangerous waste to go.” (MSJ at p. 6). I have several responses

to this assertion.

14. First and foremost, as submitted to the Court as part of the Administrative Record [LANL SA_11944-12373; LANL SA_37282-37710; SRS_52691-53120; SRS_53458-53886], the calculations (which are continuously reviewed, updated, and revised) associated with the projected volumes of *cumulative* TRU waste associated with pit production demonstrate that the total TRU waste volume expected to be produced by the pit production mission over the next 50 plus years will *not* exceed WIPP's capacity. Much time and attention is devoted to updating the estimates for TRU waste volumes associated with pit production and other sources of TRU waste. These projections are published annually in the Annual Transuranic Waste Inventory Report ("ATWIR"). While TRU waste projections from NNSA activities may change year over year, these projections are always based on the highest quality information available to NNSA at the time the projections are made. NNSA conducts varied activities in support of complex missions, and as more information becomes available to NNSA projections are updated and refined; therefore it is not unexpected that information such as TRU waste projections from NNSA activities may change to some degree year over year. Year-over-year shifts in TRU waste projections does not mean that NNSA has previously published information that is speculative or unreliable. Second, as Plaintiffs acknowledge, the pit production mission will be enduring with Records of Decision authorizing production for the next fifty years. Thus, in the unlikely event that WIPP is projected to no longer be available because it will reach its capacity, NNSA and DOE will have many years (possibly decades) to determine an alternate disposition strategy for TRU waste. Again, WIPP's capacity is closely monitored, and the current and projected future TRU waste volumes are updated annually in the ATWIR. Accordingly, if, for some reason the WIPP capacity calculations are trending such that it appears that WIPP will reach its capacity during the life of the pit production mission, NNSA

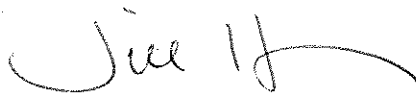
and DOE will have ample time to determine an alternative disposition strategy. WIPP will not reach its capacity overnight.

15. In addition to Plaintiffs' assertions regarding the threat that WIPP will reach its maximum capacity in 50 years or so, I am also familiar with the DNFSB Technical Report regarding TRU Waste identified in the Plaintiffs' Motion. For the reasons identified in the Declaration of Carl Sykes from LANL, the concerns raised by the DNFSB have been addressed through the revision of Standard 5506.

16. Moreover, because of the recognized human error involved in the 2014 LANL related WIPP incident (MSJ p. 9), and based on subsequent analysis, important programmatic improvements have occurred at both LANL and WIPP such that there is little to no risk that the same type of event, which involved legacy material, will ever occur again. Likewise, because legacy material played a significant role in the 2018 INL event (MSJ p. 9), the risk of a similar repeat event with respect to pit production is also slim to none as TRU waste produced from NNSA's pit production activities is not legacy material. There will be no mixing of legacy material with respect to pit production. The chemical constituents of the waste from the pit production mission will be a known quantity to exacting detail, unlike the unknown constituents of some of the legacy material involved in the WIPP and INL events.

I declare under penalty of perjury, pursuant to 28 U.S.C. 1746, that the foregoing is true and correct to the best of my knowledge, information, and belief.

Executed this 3 day of June 2024.



Jill Hruby
Under Secretary for Nuclear Security of the United
States Department of Energy and Administrator of
the National Nuclear Security Administration