

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

THE LOS ALAMOS STUDY GROUP,

Plaintiff,

Case No. 1:10-CV-0760-JH-ACT

v.

**UNITED STATES DEPARTMENT OF
ENERGY, et al.,**

Federal Defendants.

DECLARATION OF ROGER E. SNYDER

I, Roger E. Snyder, pursuant to Title 28, United States Code, Section 1746, declare:

1. I am the Deputy Site Manager at the Los Alamos Site Office of the National Nuclear Security Administration (“NNSA”), a semi-autonomous agency within the Department of Energy (“DOE”). I have held this position since December 2007. As Deputy Site Manager, I am responsible for operations at the Los Alamos National Laboratory (“LANL”). Prior to serving in this capacity, I served as Assistant Manager for National Security Missions and the Assistant Manager for Projects. Prior to June 2005, I worked for NNSA headquarters in the Washington DC area. I am a graduate of the University of Illinois with B.S. in Civil Engineering and the University of Maryland with M.S. in Civil Engineering.
2. I oversee, at the site level, the proposed Chemistry and Metallurgy Research Facility Replacement (“CMRR”) Project. This declaration provides information on the current status of the CMRR Nuclear Facility (“CMRR-NF”), relationships to other site projects and

operations, and efforts underway and in support of the CMRR-NF Supplemental Environmental Impact Statement (“SEIS”). It also addresses the national security and international policy implications should the court issue an injunction precluding further funding of project design for the CMRR-NF. The information contained herein is based on my personal knowledge and information provided to me during the performance of my official duties.

Background on the Proposed CMRR Project

3. The CMRR Project consists of the acquisition of two structures. The CMRR Radiological Laboratory Utility Office Building (“RLUOB”) was the first facility procured and is now physically complete with equipment installation underway. The CMRR-NF is the second, more substantial facility, and is currently under design.
4. The CMRR Project is intended to provide a suite of capabilities, including analytical chemistry and material characterization, actinide research and development, and special nuclear materials storage. These capabilities currently reside in the existing Chemistry and Metallurgy Research Facility (“CMR”) at LANL, a facility which became operational in 1952. The CMR is designated as a “mission critical” facility.
5. CMRR capabilities represent a suite of analytical chemistry tools that are not unique to any single program, but are necessary for all programmatic operations involving special nuclear materials. CMRR capabilities are not tied to any one program or weapons type. In addition to supporting NNSA stockpile stewardship and stockpile management objectives, the capabilities are needed to support many other programs, such as nonproliferation sponsored activities, space missions, and other energy security missions assigned to LANL. For

example, CMRR capabilities are necessary for the manufacturing of power system components for long range space missions, as well as for nuclear forensics key to non-proliferation and counterterrorism. Moreover, the missions supported by CMR (and therefore CMRR-NF, as its potential replacement) directly relate to and integrate with the balance of the Nation's nuclear weapons complex, including seven sites in addition to LANL, which collectively maintain and certify the U.S. nuclear deterrent.

6. The *Final Environmental Impact Statement for the Chemistry and Metallurgy Research Building Replacement Project at Los Alamos National Laboratory, Los Alamos, New Mexico* (DOE/EIS0350) ("CMRR EIS") was issued in November 2003 and confirms that pit fabrication will not be carried out in the CMRR-NF. Rather, the mission of the CMRR Project includes support for existing pit production activities, along with other mission critical activities. Pit fabrication (which includes metal preparation, foundry, machining, assembly, and post assembly processing) activities are conducted in PF-4 (an existing plutonium facility at TA-55). No other facility at LANL has this capability. Pit production (which includes fabrication) has been evaluated as part of multiple Programmatic and Site-Wide EIS analyses.
7. The CMRR-NF has always been predicated upon fulfillment of the functionality and capability documented in the Secretary of Energy's July 2, 2002, Approval of Mission Need. The mission need was confirmed by the Nuclear Posture Review ("NPR") issued in April of this year. The mission assignment to LANL was analyzed under the *Final Programmatic Environmental Impact Statement for Stockpile Stewardship and Management* (DOE/EIS-0236), issued in 1996, and its associated Record of Decision ("ROD"). This mission

assignment remains unchanged for purposes of the CMRR-NF SEIS, which is currently under preparation.

8. The 2003 CMRR EIS was based upon the best available conceptual information at that time. Since 2003, changes in building codes, security requirements, new seismic investigation information, new energy and sustainability requirements, and other factors have been integrated into the proposed CMRR-NF design, and our understanding of the necessary support systems and facility characteristics has evolved. For example, new seismic information was a principal factor identifying the need for thicker, stronger walls and floors. This added substantial mass to the facility and, in at least one alternative design under consideration, would drive removal and replacement of a weaker zone of soil underneath the proposed building. As part of design efforts other options are being studied. The end result of design will be a building that will survive the updated earthquake criteria without any change in mission functionality or capability.
9. The current design for the proposed CMRR-NF, which is still subject to change through design maturation, contemplates the same scope of operations necessary to meet mission requirements as the facility contemplated in the 2003 CMRR EIS. The space currently proposed for chemistry operations and materials characterization represents the smallest capability size option.
10. Public information meetings, specific to the CMRR Project, are held twice a year. See Attachment 1. Advance notice of the meetings is provided in the local newspaper and through stakeholder mailing lists. At these meetings, project staff members present a status overview of the entire project and then are available to answer project-related questions. An

agenda is prepared for each meeting, which typically lasts two hours. Meeting transcripts are available on the LANL website (<http://www.lanl.gov/orgs/cmrr/publicmeetings/index.shtml>). One or more of Plaintiff's members regularly attend these meetings. See Attachment 1. Mr. Mello and/or his wife have attended since 2007. A CMRR-specific website (<http://www.lanl.gov/orgs/cmrr>) is available to the public and stakeholders for current project information. The CMRR Project was addressed (with updated information as available) in the 2008 *Final Site-Wide Environmental Impact Statement for Continued Operation of Los Alamos National Laboratory, Los Alamos, New Mexico* (DOE/EIS-0380)), as well as the 2008 *Complex Transformation Supplemental Programmatic Environmental Impact Statement* (DOE/EIS-0236-S4). LANL held a Construction Forum in June 16, 2010, in part to inform the public on ongoing and proposed projects at LANL, including CMRR-NF.

11. Pajarito Road is on government property and has been restricted from public use since late 2001. It is routinely closed for purposes of nuclear material movements and other security concerns. Any traffic delays resulting from such closures would impact only those employed at LANL or working in support of LANL operations. Transit to and from the site is possible on other federally owned roadways.

Current Status of the Project

12. CMRR-NF construction will not be authorized or executed during the SEIS period. No contracts or contract options for the physical construction of CMRR-NF will be awarded pending outcome of the SEIS.

13. As part of the normal development of a design basis and future revised cost estimates, the Department may seek bids and/or quotes to use in revised cost estimates or for evaluation of system options. However, in such cases, the government and LANL are under no obligation to act on these bids and/or quotes. Because there are no such binding commitments, the taxpayer will not incur additional cost should the SEIS and ROD not support furtherance of the preferred alternative.

14. Final design contracts for the CMRR-NF have been deferred. Certain design efforts are continuing as a means to resolve unknowns and to continue to enhance our understanding of requirements, quantities, and impacts. Much of the knowledge we gain from current design efforts will assist in preparation of the SEIS and evaluation of the alternatives presented during the scoping period. For example, development of a suitable concrete design mix will enable development of higher fidelity estimates for water and aggregate requirements for the SEIS. During the period of the SEIS, it is estimated that CMRR-NF design will only advance about 15 percent.

15. The CMRR-NF has not established a performance baseline, as design uncertainties continue to be addressed. A timeline for Critical Decision 2 (Approve Performance Baseline) has not yet been finalized. The Performance Baseline will provide Congress with the definitive cost and schedule for the CMRR-NF Project. In light of the SEIS, a definitive path forward will not be established until issuance of a ROD by NNSA. Critical Decision 2 is required prior to Critical Decision 3 (Approve Start of Construction).

Status of Construction Activities at Los Alamos

16. In 2006, DOE authorized and funded the excavation and removal of material in the proposed CMRR-NF location, as identified and approved in the 2004 ROD. The purpose of the excavation was to facilitate seismic mapping and analysis of the area as part of site characterization activities. The characterization data reduced associated design uncertainties and confirmed the suitability of the site for the CMRR-NF. The area, excavated roughly down to the grade of the neighboring roadway, also served as a construction laydown area for RLUOB and now its equipment installation phase. No further excavation is planned in this area until a ROD is issued following the SEIS.
17. LANL is an operating site with ongoing plutonium operations comprising an area nearly as large as the District of Columbia. Most plutonium operations are located in Technical Area 55 ("TA-55"). There are a number of ongoing projects that directly support these existing operations irrespective of a decision to construct the CMRR-NF. The Nuclear Material Safeguards and Security Upgrade Project, Phase II ("NMSSUP2"), is presently in construction and will replace the security perimeter around the existing plutonium facilities – not the proposed CMRR-NF. The Radioactive Liquid Waste Treatment Facility at TA-50 (near TA-55) is presently in design to replace the 50-year-old existing facility with a smaller modern facility. The TRU Waste Facility Project recently began design on a smaller modern complex to replace existing solid transuranic waste management facilities at TA-54 that are scheduled to be closed and removed by 2015 per a Consent Order with the State of New Mexico. These projects represent capabilities essential for ongoing operations and have been appropriately addressed in prior National Environmental Policy Act ("NEPA") analyses. These projects are not dependent upon construction of CMRR-NF, nor does CMRR-NF

necessitate their construction. The LANL website (<http://www.lanl.gov/construction/projects.shtml>) contains information pertaining to all of these projects, including current status information for the benefit of the public and stakeholders.

18. The TA-55 Reinvestment Project addresses essential safety and environmental monitoring systems within existing TA-55 facilities that are approaching end of life. The existing plutonium facility and infrastructure systems are aging and, as a consequence, are beginning to require excessive maintenance. As a result, the facility is experiencing increased operating costs and reduced system reliability. It is becoming more costly and cumbersome to comply with safety and regulatory requirements, which are critical to mission essential operations, due to the physical conditions of facility support systems and equipment. The TA-55 Reinvestment Project will enhance safety and enable cost effective operations so that the facility can continue to support critical missions and activities. TA-55 Reinvestment Project efforts were selected utilizing a risk-based prioritization process that considered the current condition of the equipment, risk of failure to the worker, the environment, and the public, and risk of failure to programmatic and facility operations. The TA-55 Reinvestment Project only addresses the existing plutonium facilities, principally the PF-4 facility, and is required irrespective of any action relative to the CMRR-NF.

19. The NMSSUP2 commenced construction in 2009 and is not part of the CMRR-NF Project. The NMSSUP2 supports the continued viability of plutonium missions by upgrading and replacing the perimeter security and entry control systems of the existing plutonium facilities at TA-55. These improvements are necessary to protect critical national assets against terrorist or adversarial threats and meet evolving DOE/NNSA security requirements. The

proposed CMRR-NF site lies outside of the security perimeter upgraded by NMSSUP2. The CMRR-NF Project scope includes the expansion of the existing security perimeter around the CMRR-NF.

20. The existing TA-50 radioactive liquid waste facility characterizes, treats, and disposes of radioactive liquid waste by chemical adjustment of pH, neutralization, chemical assisted flocculation and floc removal, collection and dewatering of sludge solids, solidification of sludge solids in concrete, sedimentation and filtration, ion exchange, and addition of water treatment chemicals. The current facility is oversized, nearly 50 years old, and does not meet modern safety and reliability expectations. This is the only such operable facility onsite and addresses radioactive liquid wastes from multiple facilities including those outside of TA-55. The Radioactive Liquid Waste Treatment Facility (“RLWTF”) Project will replace the existing treatment capability at TA-50, involving both the transuranic and low-level waste operations, as well as construction of a zero liquid discharge capability. The RLWTF Project is presently in design and is required irrespective of any action relative to the CMRR-NF.
21. DOE signed an Order of Consent (“Consent Order”) with the State of New Mexico, effective March 1, 2005. The Consent Order requires DOE to complete a “fence-to-fence” cleanup of LANL by December 29, 2015. “Fence-to-fence” means removal and/or remediation of contaminants that reside in the environment at LANL. As part of the Consent Order, the State of New Mexico has identified four Material Disposal Areas (“MDAs”) in TA-54. The site TRU waste storage and process facilities reside in MDA G. MDA G will undergo a phased closure, consistent with the Consent Order, scheduled to be completed by December 29, 2015. It will not be feasible, practical, or realistic to attempt to keep the TRU facilities operational in the midst of Area G closure activities. Therefore, the TRU waste management

capability must be reconstituted elsewhere onsite. The majority of newly generated TRU waste managed at the facility is associated with existing plutonium operations at CMR and TA-55. The facility will support all operations at LANL that generate TRU waste. The TRU Waste Facility Project is presently in design and is required irrespective of any action relative to the CMRR-NF.

22. If one were to visit TA-55 today, then one would see a significant amount of ongoing NMSSUP2 construction, a completed RLUOB facility, an area of prior excavation in which the CMRR-NF construction has been proposed, and a current expansion of an active parking lot to offset parking lost due to the construction of RLUOB and NMSSUP2, as well as for anticipated RLUOB staff. See Attachment 2. These activities were last analyzed in the 2008 LANL SWEIS. None of the ongoing construction activities are connected to the proposed CMRR-NF.

23. In addition, well drilling activities are presently occurring in the vicinity of Material Disposal Area C. See Attachment 2. This work is being performed as part of site characterization tasks in support of the Consent Order agreement with the State of New Mexico.

24. Temporary security lighting is in use during removal and reconstruction of the security perimeter as part of the NMSSUP2. This is on the northern most area of the Pajarito plateau, which is the closest to the public, whereas the proposed CMRR-NF site is on the opposite side of TA-55 (the southern side).

Importance of the Project

25. CMRR is a critical component of the Nation's ongoing efforts to modernize the Nation's nuclear infrastructure and to ensure a safe, secure, and effective nuclear arsenal over the long term. This is confirmed by the 2010 NPR, which provides a roadmap for implementing the President's agenda to reduce nuclear dangers and pursue the goal of a world without nuclear weapons, while simultaneously advancing broader U.S. security interests. See Attachment 3. According to the NPR, "[i]ncreased funding is needed for the Chemistry and Metallurgy Research Replacement Project at Los Alamos National Laboratory to replace the existing 50-year old facility" Id. at xv.
26. The 2009 America's Strategic Posture Report confirms the urgency of CMRR-NF construction. See Attachment 4. According to the Report, the existing CMR building is "decrepit" and is "maintained in a safe and secure manner only at a high cost." Id. at 50. The Report concludes that replacement of the CMR building is even more urgent than the replacement of a Uranium Processing Facility at the Y-12 Facility in Tennessee – another high-priority project. This is because the CMR facility "makes a direct contribution to maintaining intellectual infrastructure that is in immediate danger of attrition," and "a short-term loss of plutonium capabilities may hurt the weapon program more than a short-term loss of enriched uranium capabilities." Id.
27. Timely construction of the CMRR-NF is also critical to the United States' commitment to renew and strengthen the Nuclear Non-Proliferation Treaty ("NPT") and to enter into new treaty obligations, including the New Strategic Arms Reduction Treaty ("START") and the Comprehensive Test Ban Treaty ("CTBT"). The United States is resolved to meeting its

obligations to pursue nuclear disarmament under Article VI of the NPT and intends to make demonstrable progress toward this goal over the next decade. To ensure that the Senate can consider new treaty obligations, NNSA must fulfill its mission to modernize and maintain the Nation's nuclear weapons complex, and replacement of the aging CMR building is a critical component of this mission.

Effects of an Injunction

28. In a recent FY2011 Budget Assessment, NNSA stated that “[i]n order to support program requirements, CMRR-NF construction must be complete by 2020 and it must be fully operational by 2022.” See Attachment 5. If NNSA is enjoined from pursuing project design until completion of the SEIS, the project schedule could be delayed by more than a year, as a result of the lengthy process of soliciting and selecting new contractors. See Declaration of Herman LeDoux, Federal Project Director for the CMRR Project at the Los Alamos Site Office of NNSA, ¶ 18.
29. Such a delay in the CMRR-NF Project schedule would have significant national security impacts. It would result in mission interruption and would require NNSA to reconstitute capabilities deferred by the reduced operations posture within the existing CMR facility, placing LANL missions and DOE/NNSA programs at further risk. In addition, commitments have been made as part of the NPR to address failing infrastructure, including CMR. These commitments would be abrogated if the project is delayed, with possible implications on foreign policy postures and at significant additional cost to the taxpayer.
30. Since 1999, NNSA has limited operations within the CMR building in an effort to minimize the worker health and safety risks associated with continued operations. See Declaration of

Donald L. Cook, NNSA Deputy Administrator for Defense Programs, Dkt. 9-1, ¶ 7. As long as LANL is forced to continue this reduced operations strategy, important characterization and chemistry capabilities will be unavailable to support mission requirements. Examples of such capabilities include materials characterization instruments and analytical chemistry techniques, all of which support the full mission suite at LANL that involves special nuclear materials.

31. The strategy NNSA has implemented to mitigate impacts from reduced operation of the CMR building is entirely dependent on a fixed start-up date for operation of the new CMRR-NF. The decision to suspend certain operations in the CMR was predicated on a 2018 CMRR-NF completion date with operations beginning in 2022.

32. I certify that Attachments 1, 2, 3, 4, and 5 are true and correct copies of documents used during the course of my usual business.

I swear under the penalty of perjury that the foregoing is true and correct.

Dated this 20th day of December, 2010, in Los Alamos, New Mexico.



Roger E. Snyder
Deputy Site Manager
Los Alamos Site office