

# Pajarito Group of the Sierra Club

## Los Alamos, New Mexico

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November 1, 2010

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Mr. Tegtmeier:

**T**he Pajarito Group of the Sierra Club is pleased to submit our scoping comments on the U.S. Department of Energy (DOE), National Nuclear Security Administrations (NNSA) Supplemental Environmental Impact Statement for the Nuclear Facility Portion of the Chemistry and Metallurgy Research Building Replacement (CMRR) Project at Los Alamos National Laboratory, Los Alamos, New Mexico (SEIS). Our comments are presented on behalf of over 350 Pajarito Group members who reside primarily in the Los Alamos and White Rock areas.

*As Congress declared in Title 1 of the National Environmental Policy Act it is the continuing policy of the Federal Government, in cooperation with State and local governments, and other concerned public and private organizations, to use all practicable means and measures, including financial and technical assistance, in a manner calculated to foster and promote the general welfare, to create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of Americans. Furthermore, it is the continuing responsibility of the Federal Government to use all practicable means, consistent with other essential considerations of national policy, to improve and coordinate Federal plans, functions, programs, and resources...*" The Pajarito Group is a public and local organization whose members will be detrimentally affected by the proposed action.

### **1. Scoping Comment Period Extension and Involved Communities Expansion:**

This SEIS is of national importance with the proposed project requiring significant fiscal resources, estimated by various sources as between 3.4 to 5.0 billion dollars and, in consideration of the connected actions, could exceed 6.0 billion dollars. Given the history of DOE fiscal management of other large projects, both locally and nationally, costs would be expected to exceed even the \$6 Billion cost estimate. The material and infrastructure requirements (including housing, schools, transportation, building supplies, etc.) of such a substantial project

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are beyond the capacities of Los Alamos and neighboring communities to provide without their making tangible sacrifices, or providing expedient solutions, that may indeed become long lasting liabilities. As required by Council on Environmental Quality NEPA implementing regulations Section (Sec.) 1506.6 *In the case of an action with effects of national concern notice shall include publication in the Federal Register and notice by mail to national organizations reasonably expected to be interested in the matter... Agencies shall maintain a list of such organizations.* Did the NNSA provide notification to national organizations (e.g. National Park Service – Bandelier National Monument); including communities as identified and maintained in NNSA’s list of organizations to contact? The issue we identify here is a concern that impacts are not and will not be limited to a specific site.

Given the significant changes to the original project, as defined and compared to the 2003 EIS, other communities may now provide and have an interest in offering a more appropriate project location (i.e., Nevada Test Site, Pantex, Savanna River, etc.). Without receiving proper notification and scoping meetings, these alternate communities have had their ability and right to provide scoping comments foreclosed. It should not be a foregone conclusion that Los Alamos is the sole site for the expanded proposed action. As explained in point 2 below the Pajarito Group advocates an EIS, not simply an SEIS, be undertaken because of the profound and significant changes to the originally proposed project. Those project changes now open the door to identifying and defining reasonable alternatives that include construction and operation at other DOE sites. Thus, EIS notification and scoping meetings should be held in those locations that have the capacity to support a pit production facility. Therefore, we are requesting that NNSA integrate the NEPA process with other communities and provide the national audience with an opportunity to provide scoping comments. To this end, the scoping comment period requires meaningful extension. The time extension and inclusion of other potentially affected communities will ensure that planning and decisions reflect environmental values, avoid major delays later in the NEPA process and head off potential litigation.

### **2. An EIS is Required**

Given the significant, substantial, and profound changes in the original project proposal the Pajarito Group’s position is that a new EIS is required. Based on a comparative analysis of information provided in various documents including the original 2003 EIS it is evident that construction costs have escalated to the point that requires the prudent and reasonable action to consider other site locations. Additionally, given that pits are now known to remain viable for a century or more and that the production of new weapons is prohibited; the need and size of a “CMRR” requires analysis. It is unclear what role CMRR plays in pit production and whether it is sized to meet current or future needs. The reasonable alternatives should be, at a minimum:

- No Action – Continued Use of CMR
- Use of other facilities at LANL

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- Other site locations
- Facility size requirements

Again the project conditions have significantly changed and it is our position that a SEIS is no longer appropriate and is not NEPA compliant nor in the best interests of the nation.

### 3. Cease Physical Modifications

The continuing expenditure of funds and physical actions in support of the CMRR at Los Alamos has introduced an unacceptable bias in favor of the Los Alamos location and is, thereby, a violation of NEPA regulations. Until such time as a new Record of Decision is issued, based on the preparation of an EIS as defined in point 2 above, all physical modifications in support of the “proposed” CMRR should cease and only very limited planning in support of mission implementation definition, cost assessment, and development of alternatives in support of the NEPA analysis be performed. To do otherwise is prejudicial and not in the best interests of the Country. As stated in NEPA implementing regulations *Sec. 1506.l Limitations on actions during NEPA process*:

(a) Until an agency issues a record of decision as provided in Sec. 1505.2 (except as provided in paragraph (c) of this section), no action concerning the proposal shall be taken which would:

1. Have an adverse environmental impact; or
2. Limit the choice of reasonable alternatives.

We note Thomas P. D'Agostino's (Under Secretary for Nuclear Security & Administrator, National Nuclear Security Administration) October 28, 2010 speech in which he is quoted *That is why it is critical that we complete the design and construction of key facilities like the Uranium Processing Facility at Y-12 and the **Chemistry and Metallurgy Research Replacement (CMRR) project at Los Alamos.***

(Bolding added for emphasis)

Comments such as this continue to provide us with a concern that DOE NNSA is treating NEPA as only a *pro forma* exercise. Until the Record of Decision is issued DOE and NNSA personnel should cease their prejudicial comments that are at best indicative of a perceived disdain of the NEPA process.

We appreciate the opportunity to provide our comments. Should NNSA have any questions or comments to our position we would be pleased to participate in discussions with the NNSA.

Sincerely,

Executive Committee of the Pajarito Group of the Sierra Club

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