



Los Alamos Study Group

Nuclear Disarmament • Environmental Protection • Social Justice • Economic Sustainability

For the Radioactive and Hazardous Materials Committee of the New Mexico Legislature

In a Nutshell: Why a New Site-Wide Environmental Impact Statement (SWEIS) for Los Alamos National Laboratory (LANL) is Warranted

An abridged, shorter version of this was provided on November 4, 2019

The National Nuclear Security Administration (NNSA) is the semi-autonomous nuclear weapons agency within the Department of Energy (DOE). As such, NNSA supervises operations at LANL and other U.S. warhead laboratories and production sites.

On Nov. 1, 2018 [Triad](#) began managing LANL for NNSA under a [contract](#) that requires Triad to follow DOE regulations, including those implementing the National Environmental Policy Act (NEPA) (e-page 194). Triad must prepare strategic plans (e-page 35) and facility plans (e-page 38). Congress has required multiple [studies and plans](#) bearing on LANL's new plutonium missions, none of which have been shared with New Mexico state government, local governments, or tribes.

NNSA is currently writing (or has written but not released) a "Supplement Analysis" (SA), to examine the question of whether existing NEPA analyses adequately "address the potential environmental impacts of increasing pit production at LANL" ([p. 44](#)).

NNSA has multiple plutonium missions, with most (but not all) high-mass operations being conducted at LANL, the Savannah River Site (SRS) in South Carolina, the Pantex facility near Amarillo, TX, and the Waste Isolation Pilot Plant (WIPP) facility. Other facilities play supporting roles (e.g. the Kansas City National Security Campus, KCNSC) or supervising roles (e.g. Lawrence Livermore National Laboratory, LLNL) in addition to other missions.

There is extensive transport of plutonium and transuranic (TRU) waste between these and other sites.

This transport could soon increase dramatically. In the absence of NNSA disclosures and appropriate NEPA analysis, we estimate that nuclear material and waste transport to LANL is slated to increase by a factor of 10-100 over historic current rates.

In addition to basic research and development functions, LANL is slated to initiate or expand at least eight plutonium missions, mostly centered at its 41-year-old main plutonium facility PF-4 at Technical Area (TA) -55 and nearby supporting facilities:

- Industrial-scale manufacture of plutonium warhead cores ("pits"), a mission not seen at LANL since 1949, including implementing "surge" production over 30 pits per year (ppy), [mandated](#) by the fiscal year (FY) 2019 National Defense Authorization Act.
- Surplus pit disassembly and plutonium oxidation, currently planned for 26.2 metric tons (MT) of pits transported from Pantex; the oxidation of surplus plutonium metal could expand to 43.8 MT;
- Processing of, and manufacturing with, heat-source plutonium (Pu-238);
- Destructive surveillance of stockpile pits;
- Training pit production technicians for a second pit factory (at SRS);
- Increased TRU waste management in both liquid and solid forms;
- Shipping and receiving of plutonium (pits, metal, oxide) and TRU waste; and
- Storage of plutonium and TRU waste.

The largest of these missions in dollar terms as well as the most important NNSA's "customer" DoD, namely pit production, is currently evolving rapidly -- not to say *chaotically*.

To expand these missions *and others*, NNSA ([video](#), [timeline with quotes](#)) and Triad are in the process of hiring thousands of additional staff and subcontractor personnel at LANL.

Given the chronic lack of housing in Los Alamos County and limited prospects for radically increasing that housing stock, and given the propensity of LANL staff and contractors to retire in the unique community they know, this proposed expansion will have broad regional environmental and social impacts, as Triad has emphasized in briefings to contractors and to the Los Alamos County Council.

In semi-public and public briefings, Triad itself has emphasized the great scale and extensive regional impacts of these expansion plans. For example, according to Triad, approximately 60% of LANL employees now commute, as opposed to about 40% in the fairly recent past.

Basic applicable NEPA law

1. Government-Wide NEPA regulations begin as follows: 40 CFR § 1500.1 Purpose

(a) The National Environmental Policy Act (NEPA) is our basic national charter for protection of the environment...

b) NEPA procedures must insure that environmental information is available to public officials and citizens before decisions are made and before actions are taken. The information must be of high quality. Accurate scientific analysis, expert agency comments, and public scrutiny are essential to implementing NEPA. Most important, NEPA documents must concentrate on the issues that are truly significant to the action in question, rather than amassing needless detail.

(c) Ultimately, of course, it is not better documents but better decisions that count. NEPA's purpose is not to generate paperwork—even excellent paperwork—but to foster excellent action. The NEPA process is intended to help public officials make decisions that are based on understanding of environmental consequences, and take actions that protect, restore, and enhance the environment. These regulations provide the direction to achieve this purpose.

2. Two sections from DOE's [NEPA implementing regulations](#):

§1021.330 Programmatic (including site-wide) NEPA documents.

(a) When required to support a DOE programmatic decision (40 CFR 1508.18(b)(3)), DOE shall prepare a programmatic EIS or EA (40 CFR 1502.4). DOE may also prepare a programmatic EIS or EA at any time to further the purposes of NEPA.

(b) A DOE programmatic NEPA document shall be prepared, issued, and circulated in accordance with the requirements for any other NEPA document, as established by the CEQ Regulations and this part.

(c) As a matter of policy when not otherwise required, DOE shall prepare site-wide EISs for certain large, multiple-facility DOE sites; DOE may prepare EISs or EAs for other sites to assess the impacts of all or selected functions at those sites.

(d) DOE shall evaluate site wide NEPA documents prepared under § 1021.330(c) at least every five years. DOE shall evaluate site-wide EISs by means of a Supplement Analysis, as provided in §1021.314. Based on the Supplement Analysis, DOE shall determine whether the existing EIS remains adequate or whether to prepare a new site- wide EIS or supplement the existing EIS, as appropriate. The determination and supporting analysis shall be made available in the appropriate DOE public reading room(s) or in other appropriate location(s) for a reasonable time.

(e) DOE shall evaluate site-wide EAs by means of an analysis similar to the Supplement Analysis to determine whether the existing site-wide EA remains adequate, whether to prepare a new site-wide EA, revise the FONSI, or prepare a site wide EIS, as appropriate. The determination and supporting analysis shall be made available in the appropriate DOE public reading room(s) or in other appropriate location(s) for a reasonable time.

§ 1021.314 Supplemental environmental impact statements (emphasis added).

(a) DOE shall prepare a supplemental EIS if there are substantial changes to the proposal or significant new circumstances or information relevant to environmental concerns, as discussed in 40 CFR 1502.9(c)(1).

(b) DOE may supplement a draft EIS or final EIS at any time, to further the purposes of NEPA, in accordance with 40 CFR 1502.9(c)(2).

(c) When it is unclear whether or not an EIS supplement is required, DOE shall prepare a Supplement Analysis.

(1) The Supplement Analysis shall discuss the circumstances that are pertinent to deciding whether to prepare a supplemental EIS, pursuant to 40 CFR 1502.9(c).

(2) The Supplement Analysis shall contain sufficient information for DOE to determine whether:

(i) An existing EIS should be supplemented;

(ii) A new EIS should be prepared; or

(iii) No further NEPA documentation is required.

(3) DOE shall make the determination and the related Supplement Analysis available to the public for information. Copies of the determination and Supplement Analysis shall be provided upon written request. DOE shall make copies available for inspection in the appropriate DOE public reading room(s) or other appropriate location(s) for a reasonable time.

(d) DOE shall prepare, circulate, and file a supplement to a draft or final EIS in the same manner as any other draft and final EISs, **except that scoping is optional for a supplement**. If DOE decides to take action on a proposal covered by a supplemental EIS, DOE shall prepare a ROD in accordance with the provisions of § 1021.315 of this part.

(e) When applicable, DOE will incorporate an EIS supplement, or the de-termination and supporting Supplement Analysis made under paragraph (c) of this section, into any related formal administrative record on the action that is the subject of the EIS supplement or determination (40 CFR 1502.9(c)(3)).

See also:

- http://www.lasg.org/MPF2/LASG_pit-memo-LGH_5Feb2019.pdf
- http://www.lasg.org/MPF2/documents/CTSPEIS-SA_draft_DOE-EIS-0236-S4-SA-02_Jun2019.pdf
- http://www.lasg.org/MPF2/documents/LASG_DSA-CTSPEIS_comments_12Aug2019.pdf
- http://www.lasg.org/MPF2/documents/LASG_DSA-CTSPEIS_comments_addendum_14Aug2019.pdf

Also:

Letter to a Taos official

Dear Mr. _____ --

This is an understandable view but the actual history is quite otherwise.

There have been at least six attempts to set up a substitute for the defunct Rocky Plants Plant, all of which have foundered because they were terribly planned and engineered, there was no actual need to build them in the first place, and because of local opposition.

Taosenos were very important in the demise of one such expansion planned late in the Reagan Administration, which by 1989 was proceeding rapidly, until it was halted in 1990 by Senator Bingaman, who received thousands of postcards and calls from northern New Mexico.

The Congressional Research Service chronicled some of these failures (but not this one) [here](#).

The upshot is that many billions in taxpayer dollars have been saved, countless tons of nuclear waste not produced and dumped, etc. *U.S. national security has not been impaired in the slightest.*

What happens is that with even a little bit of sunlight, bad planning and bad engineering get exposed, along with weak-to-non-existent "mission need." Often other powerful actors in government shoot down bad proposals behind closed doors. With other people in the room who have some professional environmental background and who are not the original project promoters, many projects "don't pass the smell test."

NNSA, the agency within DOE which owns LANL, and its predecessor DOE Defense Programs, have been on GAO's "High Risk List" for waste, fraud, and abuse since that list began, in 1981 I think.

A SWEIS helps bring a little bit of sunlight into the blinkered, closed-door thinking that dominates NNSA. You might be surprised to know that even congressional committees, GAO, the White House, and Pentagon do not have access to what can sometimes be critical information provided in EISs.

In the 2012 timeframe, the military "customer" for nuclear weapons, STRATCOM, figured out that the environmental situation at LANL's TA-55 made the proposed CMRR Nuclear Facility, for all practical purposes, infeasible. It would cost a lot more money from defense accounts than any value it might produce, assuming it could be built at all. They got that information in part from citizens and from an EIS which citizens litigated to produce. What had been discovered but kept secret, partly intentionally and partly by LANL incompetence, was that -- oversimplifying -- the soil beneath TA-55 could not carry another large nuclear facility. Fixing that problem was going to be so expensive, and the result so

indefensible from an engineering perspective, there was a sort of rebellion in the military and elsewhere in government and in the contracting community.

In that case, an EIS was written but the process of doing so set in motion certain truths that could not be suppressed for long. What often happens is that the worst proposals die, or are made better, even before the EIS is completed.

Having an EIS vs. not having one boils down to a choice between knowledge and ignorance. Knowledge is better for all parties.

Speaking of cleanup, in this case we know -- from conversations we had last month in Washington -- that NNSA is not coordinating with DOE Environmental Management as regards their expanding plutonium aspirations for LANL. (In fact the different "stovepipes" within NNSA are not talking to each other very well, as regards plutonium at LANL.) Shipping some 20,000 drums worth of legacy waste off "The Hill" to WIPP is proving very difficult -- increasingly difficult, in fact. Now, LANL's expanding plutonium missions are slated to more or less consume LANL's entire share of WIPP shipments with brand-new waste from pit production, as well as LANL's capacity to *prepare* WIPP shipments.

The interaction between the production of new waste and this part of cleanup -- of concern to you, you say -- would be a key consideration in any SWEIS. It is better to have some foresight than get another in a long line of environmental fiascoes and failures.

The only way to bridge NNSA's stovepipes is to look at impacts of reasonable alternatives across the site and nearby region, which is the purpose of a SWEIS.

There is just no downside to having an SWEIS, which is a tool to make even good plans better and to build local support for them -- if they are good plans.

NEPA doesn't take sides in policy contests, as in whether or not nuclear weapons or pit production are good things to promote. Like in the old Dragnet shows, "Just the facts, ma'am."

And if an EIS, which is essentially an environmental and socioeconomic audit of reasonable federal alternatives -- something you want I think -- is done early enough, there is no delay to good projects. No judge will put himself or herself in the position of having to judge the multiple scientific disciplines in any decent EIS. The *total absence* of an EIS, however, is something that may trouble a judge.

Please let me know if I can be of any assistance.

Best wishes,

Greg Mello, Director, Los Alamos Study Group

PS I was asked by the Congressional Research Service to summarize the value to the government of an EIS in the post-CMRR-NF pit production context; that summary is on pp. 21-22 in [U.S. Nuclear Weapon "Pit" Production Options for Congress](#), Jonathan E. Medalia, CRS, Feb 21, 2014.