

September 15, 2003

Secretary of Energy Spencer Abraham
United States Department of Energy
1000 Independence Avenue, S.W.
Washington, DC 20585

Supplemental EIS Required on Plutonium Fuel (MOX) "Lead Test Assembly" Program

Dear Secretary Abraham:

We, the undersigned organizations, request that the Department of Energy promptly comply with National Environmental Policy Act regulations and prepare a Supplemental Environmental Impact Statement (SEIS) on the fabrication of mixed uranium-plutonium oxide (MOX) "lead test assemblies" (LTAs) in Europe. As an integral part of the surplus plutonium disposition program, the potential impacts associated with long-distance overland and trans-oceanic shipment of weapons-grade plutonium must be analyzed in an SEIS.

DOE's National Environmental Policy Act (NEPA) regulations (10 CFR 1021.314) state that "DOE shall prepare a supplemental EIS if there are substantial changes to the proposal or significant new circumstances or information relevant to environmental concerns." Given that DOE did not analyze European fabrication of the LTAs in the *Supplement to the Storage and Disposition of Weapons-Usable Fissile Materials Final Programmatic Environmental Impact Statement* (SPD EIS), is it quite clear that this new approach to the LTA fabrication constitutes a significant change to the program, mandating preparation of an SEIS. In early 2002, DOE itself circulated a Draft "Notice of Intent" (NOI) to prepare this SEIS, indicating that relevant officials within DOE have also agreed that the substantial changes to the LTA fabrication proposal necessitate preparation of this document to assure compliance with NEPA. A final NOI on the SEIS must be completed and printed in the *Federal Register*.

The only LTA option that DOE has yet publicly presented or analyzed was the proposal to fabricate the LTAs at the Los Alamos National Laboratory (LANL), a decision which was embodied in the January 2000 Record of Decision (ROD) on the SPD EIS and which was subsequently canceled. While the LANL option is no longer considered viable, analysis of it in the SPD EIS has unquestionably established the precedent that any proposed LTA alternative must likewise be analyzed in an SEIS.

Given that Duke Energy has formally begun the licensing process to irradiate MOX LTAs in one of its reactors by 2005, it is clear that the preferred alternative is to fabricate the LTAs in Europe. The fabrication of the LTAs in Europe, the so-called "Eurofab" option, would maximize transport and handling risks due to the distances and transport methods involved. As it is illegal to fly plutonium designated for commercial use over U.S. territory, the proposal would require land transport of approximately 150 kilograms of weapons-grade plutonium oxide across the U.S. from LANL to an east coast port and then via sea to Europe. The fabricated MOX LTAs would then be shipped via sea back to the U.S. and overland to a Duke reactor in North or South Carolina for irradiation testing. As is the case for separated plutonium, unirradiated MOX fuel is defined as a Category I material needing the highest level of security protection. Sea transport of such material unavoidably requires an armed escort at all points -- which would meet the physical security standard applied to shipment of U.S.-origin plutonium from Europe to Japan. The environmental and proliferation risks that such a military-type shipment presents to the global commons must be thoroughly analyzed in a Supplemental EIS.

As the MOX LTA fabrication and irradiation is a key part of the surplus plutonium disposition program, and given that this may well be the first-ever transport into the U.S. of unirradiated weapons-grade MOX

fuel, we believe that the participation of the public in an SEIS is essential. Preparation of a Supplement Analysis (SA) on the LTA issue is inadequate as DOE's NEPA regulations do not require that an SA be subject to either public participation or review, thus allowing its preparation in total and unacceptable secrecy. The established standard of public participation and in-depth analysis in DOE's plutonium disposition program dictates that an SEIS be prepared and not a notoriously cursory SA. While we would expect any SEIS to include the alternative of fabrication of the LTAs in the MOX plant which might possibly be built at the Savannah River Site, we request that the SEIS include a "no action" alternative of no fabrication of the LTAs either in Europe or at SRS.

We are well aware that the U.S. Government has been in discussion with France and Belgium concerning the fabrication of the LTAs either in Belgium's P0 MOX plants or the unsafe French ATPu MOX plant at Cadarache, which was closed on July 31, 2003 due to concerns over seismic safety of the facility. Indications are that an agreement has been reached between Duke Cogema Stone & Webster (DCS) and the French company Cogema for the fabrication to take place in ATPu, whose equipment was confirmed stopped and secured by the French regulatory authority -- Autorite de Secuete Nucleaire (ASN) -- on July 16, 2003. The SEIS must not only include detailed descriptions of the European MOX facilities in which LTA MOX pellet fabrication and rod preparation would take place, but also include details on the duly licensed and regulated facility in which the individual fuel rods would be assembled into completed MOX assemblies.

As export of the plutonium oxide and import of the LTAs will necessarily require appropriate licenses from the Nuclear Regulatory Commission (NRC), we would like to know if the transport to be analyzed in the SEIS will be the responsibility of DOE or DCS? Likewise, as DOE has pursued use of European plutonium for fabrication into the LTAs, we would like to know if such material is still be considered for use and if the isotopic concentration of it can be guaranteed to be exactly the same as U.S. weapons plutonium designated for use in the program?

Recent articles in the French media concerning the arrest of a terrorist suspect in Morocco, who apparently stated that overland plutonium shipments in France were a target. A *Le Monde* article of August 25, 2003 quotes the detained suspect as saying that "plutonium transport trucks" were a target of operatives based in France. Greenpeace France, using only publicly available information, has thoroughly documented such transports and vividly demonstrated that continued shipment of plutonium by Cogema presents a grave and totally avoidable proliferation and environmental risk. Recognizing the arrest of the terrorist suspect and risk of shipment of plutonium in France, the SEIS must thoroughly analyze transport of the LTA plutonium in France and Belgium and discuss what the involvement will be of DOE and/or DCS in security and liability arrangements of the shipment.

Congress has mandated that the U.S. and Russian plutonium disposition programs be carried out in a parallel fashion, therefore we would like to know if the Russian MOX LTA program is now also at the point of meeting appropriate environmental and licensing regulations for testing in VVER-1000 reactors? If the Russian LTA program is not being carried out in parallel with the U.S. program, what is the necessity at this time to prematurely push forward with the SEIS on the U.S. LTA program?

We are supportive of a plutonium surplus disposition program that meets its stated goals: that weapons grade plutonium is effectively, safely and transparently converted into a form that is unusable for weapons use. We urge DOE to take a leadership role in pursuing a cheaper and safer non-reactor method of achieving the goal of getting the plutonium into a "proliferation resistant" form, both in the U.S. and in Russia, with a radiation barrier equivalent to that of irradiated nuclear fuel. We request that the plutonium be declared nuclear waste and managed as such, an action that would terminate any need for the dangerous shipment of U.S. weapons-grade plutonium overseas for the LTA program.

We look forward to hearing from you about the timeline for the preparation of the SEIS and how DOE will fulfill its obligations under NEPA on the MOX LTA program. Please direct your response to this letter to Mary Olson at Nuclear Information and Resource Service, Southeast Office (P.O. Box 7586 Asheville, NC 28802, 828-675-1792) and Tom Clements of Greenpeace International (702 H Street, N.W., Washington,

DC 20001, 202-319-2411). Thank you for considering our views on this very important matter, which is of great concern to the public.

Sincerely,

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