

UPF UPDATE

JULY 2014

NEXT UP FOR THE UPF: A NEW ENVIRONMENTAL IMPACT STUDY

Years ago, when the Department of Energy brought highly enriched uranium from Kazakhstan to Oak Ridge in Project Sapphire, the Oak Ridge Environmental Peace Alliance sued, claiming the government had a responsibility to perform an environmental assessment. Lawyers for the Department of Justice argued they had no time because the President, the Secretary of Defense and the Secretary of Energy had all promised the government of Kazakhstan the material would be treated and disposed of in thirty days.

The judge dismissed our suit, noting the materials would be processed in Lynchburg, VA, so we could not show any harm. Then he turned to admonish the government's lawyers. The fact that the President and other cabinet officers had appeared on national TV and made promises to a foreign government did not give them the right to violate the law, he said.

A SENSE OF URGENCY

In April, a select Red Team of DOE and NNSA officials prepared a plan to move highly enriched uranium operations out of the warren of buildings known as Building 9212 because the old facility is reaching the end of its safe-operating life. Previous plans to build a massive Uranium Processing Facility collapsed as costs rose and repeated management failures made the "big box" UPF untenable.

In May, NNSA's Don Cook said the Red Team proposal was under review and a new plan would likely be ready in a year to eighteen months.

In the meantime, the UPF is receiving \$600 million over this year and next, and officials are implementing pieces of the Red Team plan.

What's the hurry? Well, a decade ago, officials said Building 9212 could not safely operate past 2018. When the failure of the UPF made that date an impossibility, the date magically shifted to 2025. But the truth is Building 9212 is operating in an unsafe mode today—NNSA is gambling that an earthquake just won't happen, since the building does not now meet seismic standards.

The sliding sense of urgency is

driving the Red Team plan forward—but NNSA would be wise to heed the admonition of the judge in the Project Sapphire case: the desire to do something quickly does not authorize the agency to violate the law.

NEPA OBLIGATIONS

The National Environmental Policy Act is the country's basic national charter for protection of the environment. It means to insure that "environmental information is available to public officials and citizens before decisions are made and actions are taken." NEPA regulations require "preparing environmental impact statements early in the process," commencing the process "at the earliest possible time." NEPA requires federal agencies to prepare an environmental analysis for any major federal action expected to have an impact on the environment, and the

guidelines warn federal agencies that failure to comply will delay project completion. NEPA's regulations are explicit about the timing of Environmental Impact Statements:

"An agency shall commence preparation of an environmental impact statement as close as possible to the time the agency is developing

or is presented with a proposal so that preparation can be completed in time for the final statement to be included in any recommendation or report on the proposal."

For federal agencies, NEPA requires the EIS "be prepared at the feasibility analysis (go-no go) stage and may be supplemented at a

later stage if necessary."

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NEPA AND THE UPF

NNSA prepared a Y-12 Site-Wide EIS (SWEIS) from 2005-2010 and issued a Record of Decision in 2011 that

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contact: Ralph Hutchison
Oak Ridge Environmental Peace Alliance
www.orepa.org • orep@earthlink.net

discarded several alternatives and embraced the “big box” UPF. The Record of Decision envisioned a multipurpose UPF, the closing of several existing facilities and a significant reduction of the security footprint at Y12.

That Record of Decision is mooted by the dramatic change in plans—the Red Team calls for moving some operations into other deteriorating facilities and pressing them into use for decades; it also envisions continuing some of the most dangerous operations in Building 9212 until 2025 or later. Some new low-security facilities will also be built. And, finally, there will still be a UPF—the size and shape of the UPF is murky at the moment.

The 2011 Record of Decision is also undermined by new understandings of the context of operations at Y12. In preparing a haul road to support the construction of the UPF, workers uncovered a previously unknown radioactive dump. They called it a “debris field,” admitted it involved some enriched uranium, and have yet to disclose the extent of the dump or information about worker exposure or environmental releases.

Information not available in 2005 has also undermined the statement of purpose and need for the UPF, a statement meant to support a stockpile of 6,000 nuclear warheads. The US is

currently committed to maintaining an active stockpile of 1,525 warheads. Efforts to make major modifications to existing warheads under the guise of “stockpile life extension” is running into resistance from funders, the Navy, and nations in Europe where some of the weapons are stationed.

NOT JUST THE LAW

In early July, the Alliance for Nuclear Accountability wrote to NNSA Administrator Frank Klotz urging him to begin the process of preparing an EIS on the Red Team plan sooner rather than later. The letter noted the NNSA set a precedent of additional NEPA review when faced with changes in its plan to build the Chemistry and Metallurgy Research Replacement Nuclear Facility at Los Alamos. In that case, NNSA prepared a Supplemental EIS; the CMRR-NF was later deferred indefinitely due to cost and mission concerns.

The EIS for the Red Team plan and the new UPF will have to revisit the question of “reasonable alternatives” and should be more open to public suggestions this time than it was last time—when the public suggested using existing facilities in a scenario that looks a lot like the Red Team plan. Our suggestion was dismissed.

NNSA must answer public ques-

tions about the need for a multi-billion dollar bomb plant that will likely be idle by the time it is completed and the failure to plan for additional capacity to dismantle nuclear weapons in Oak Ridge. The public’s concerns about ongoing safety and security risks at Building 9212 and the compromise of safety/security inherent in above-ground construction in Bear Creek Valley will also be matters to address. And NNSA will have to do a better job of site-characterization, erring on the side of caution, now that it knows nasty surprises are present in the least expected places at Y12.

While it may seem preparation of an EIS will introduce a delay in the rush to implement the Red Team plan, in reality, failure to begin preparation of the EIS in the very near future will almost certainly guarantee delay in the project.

NEPA’s regulations are direct and to the point: “Integrating the NEPA process into early planning to insure appropriate consideration of NEPA’s policies and to eliminate delay.”

Our experience in Oak Ridge has taught us that incorporating “lessons learned” has never been a strong suit of the Department of Energy. In this case, we hope DOE sees that meeting its legal NEPA obligation is in its own best interest.

THREE THINGS YOU CAN DO

Read the Alliance for Nuclear Accountability letter to Administrator Klotz. You can find it at <http://bit.ly/1qNdoW2>.

Write to Administrator Klotz yourself. His address is:
Mr. Frank Klotz
Administrator, NNSA
U. S. Department of Energy
1000 Independence Ave, SW
Washington, DC 20585-1000

Get ready to participate in the UPF EIS process. There will be hearings in Oak Ridge and a public comment period. You can read old UPF Updates on OREPA’s web site: www.orepa.org. Scroll to the bottom for UPF resources, including archived Updates on the right.