

Comments on the Kansas City Plant Draft Environmental Assessment

January 14, 2008

Mr. Carlos Salazar
U.S. General Services Administration
1500 East Bannister Road, Room 2191 (6PTA)
Kansas City, MO 64131

Via email to NNSA-KC@gsa.gov

Dear Mr. Salazar:

Thank you for the opportunity to comment on the draft *Environmental Assessment for the Transformation of Facilities and Infrastructure for the Non-Nuclear Production Activities Conducted at the NNSA Kansas City Plant* (“KCP EA”). Any quotes from the EA and its supporting “Business Case” in these comments are verbatim and depicted in italics.¹

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¹ The EA is available at <http://www.gsa.gov/kansascityplant> In addition to the EA, click on “NEPA Library” in order to see a critical reference document entitled “Relocation of Non-Nuclear Production to an Alternate Location Business Case.” Transcripts of the May 2007 public meeting for “scoping” the EA were available on that web site, but have since been removed.

I. Summary of Conclusions and Recommendations

- This “environmental assessment” should have been a more comprehensive “environmental impact statement.”
- The General Services Administration (GSA) and the National Nuclear Security Administration (NNSA) should cease prejudicial actions that are already occurring. Instead, the agencies are fast tracking a predetermined outcome with little publicity and no public hearing.
- A more comprehensive environmental impact statement should consider and decide upon cleanup and future uses of the old plant. Cleanup is crucial for any possible economic development and future jobs, which Kansas City badly needs.
- A new Kansas City Plant should not be built before new national review of U.S. nuclear weapons policies, which Congress has already required.
- The Kansas City Plant, as one of the NNSA’s eight active nuclear weapons sites, should be integral to NNSA’s expensive and sweeping proposal to “transform” its nuclear weapons complex under its current Transformation Programmatic Environmental Impact Statement.
- The EA’s supporting “Business Case” justifying a new plant only within Kansas City limits is false and should be redone. It looked only at a GSA-owned, stand-alone facility bordering Sandia Lab in Albuquerque, NM, instead of considering likely cost savings from merging KCP’s nonnuclear manufacturing operations within Sandia’s existing management, security, facilities, infrastructure and capabilities.
- Private development of a nuclear weapons plant should be rejected. First, as a matter of principle, it is distasteful, and should be a function of government not driven by profit. Secondly, it will likely cost taxpayers far more and circumvents the traditional process of Congressional authorization and appropriations, even as Congress has called for increased consolidation of the nuclear weapons complex.
- Instead of categorically stating that there are no potential terrorist threats at a new Kansas City Plant, NNSA and GSA are obliged to complete a credible analysis of potential “Intentional Destructive Acts” (which include both terrorism and internal sabotage).
- **Final conclusion: Because of all of the above (and more), NNSA/GSA should withdraw this environmental assessment. NNSA should consider and decide upon the fate of the Kansas City Plant through its current Transformation Programmatic Environmental Impact Statement process. However, even that process should await the outcome of pending review of U.S. nuclear weapons policies, which could dramatically reduce the size and nature of the nuclear weapons stockpile. That, in turn, could dramatically reduce NNSA’s claimed need for expansive capabilities, eight individual sites, and their respective workloads. At this point, KCP’s long-range workload is currently unknown, especially given recent Congressional rejection of new-design nuclear weapons under the so-called Reliable Replacement Warhead Program.**

II. Background

The National Nuclear Security Administration (NNSA), the semi-autonomous nuclear weapons agency within the Department of Energy, proposes to build a new half-billion dollar plant within Kansas City limits, which will not be the total costs. Private developers are to build the new plant, and then lease it to the federal General Services Administration (GSA), who would then sublease it to the National Nuclear Security Administration (NNSA). GSA and NNSA prepared this environmental assessment pursuant to the National Environmental Policy Act (NEPA), which requires that proposed “major federal actions” be subject to public review. The EA’s stated purpose is to “determine whether to prepare an environmental impact statement [EIS] or issue a finding of no significant impact if appropriate for the proposed action.”

On May 1, 2007 GSA and NNSA jointly announced in the *Federal Register* their intent to prepare an Environmental Assessment (EA) to evaluate the potential environmental impacts associated with this proposal.² We view this as a potentially serious legal matter under the National Environmental Policy Act (NEPA) given KCP’s exclusion from the ongoing, nation-wide review of NNSA’s proposed transformation of its nuclear weapons complex, called the “Complex Transformation Supplemental Programmatic Environmental Impact Statement.” That exclusion is odd given KCP’s own web site proclamation that “the Kansas City Plant is at the heart of the NNSA nuclear weapons complex,” responsible for the manufacturing or procurement of 85% of all nuclear weapons components.

The Kansas City Plant (KCP) is located on approximately 122 acres of the 300-acre Bannister Federal Complex located within City limits, 12 miles south of downtown Kansas City, Missouri. The Bannister Complex is owned GSA, which leases the KCP portion to NNSA. NNSA’s funding for KCP over the last four years averages around 400 million dollars, 98% for nuclear weapons programs, mostly components production.³ A Plant official has also stated that KCP receives approximately \$130 million annually for “Work For Others,” virtually all for nuclear weapons as well.⁴

KCP is run and operated by a subsidiary of Honeywell, Inc., under contract to NNSA. The Plant states that it is “NNSA’s highest rated production facility,” and produces and/or procures more than 85 per cent of all components that go into a nuclear warhead. It is also responsible for more than 85 percent of all the individual types of nuclear weapons components. The Plant specializes in the thousands of nonnuclear components, such as firing and arming systems, radars, guidance systems, reservoirs for tritium (a radioactive gas used to “boost” the destructive power of nuclear weapons), setting foams and adhesives.⁵

KCP is highly productive, in the words of management, averaging 5,000 nuclear weapons components shipments a month. Moreover, KCP states that it is having its busiest workload in 20 years, which is expected to last until the year 2015. Much of this work is geared towards “life extension programs” costing billions to extend the active lifetimes of existing nuclear weapons 20-30 years, despite the obligation of all signatories to the 1970 NonProliferation Treaty to disarm nuclear stockpiles. Moreover, some of the nonnuclear components are significantly changing the military utility of existing nuclear weapons. The current example is the sub-

² *Federal Register*/Vol.72, No. 83/Tuesday, May 1, 2007, p. 23822.

³ See FY08 “Laboratory Table,” part of the NNSA’s Congressional Budget Request, at <http://www.cfo.doe.gov/budget/08budget/Start.htm>

⁴ Stated by Mr. Matt Smith, Senior Manager, Program Management, Kansas City Plant, October 17, 2007, at a presentation to the Alliance for Nuclear Accountability, in response to a question by this writer. He further stated that most of that money was expended in work for other NNSA sites.

⁵ For much more background on the Kansas City Plant, see our web site at www.nukewatch.org. A hopefully decent overview is at <http://www.nukewatch.org/facts/nwd/ANA-KCP10-19-07.ppt>

launched W76, the most prevalent single warhead in the stockpile. It comprises ~30% (~1,600 MIRVed⁶ warheads) of U.S. strategic nuclear forces. Many of them have received or are slated to receive variable-altitude burst fuses and improved guidance systems that radically improve target accuracy.

This has the effect of changing a nuclear weapon of relatively modest yield (if there is such a thing), 100 kilotons,⁷ from a deterrent “countervalue” (“city buster”) weapon to a “counterforce” (first strike against military and command and control centers) weapon because of detonating at ground level closer to the target. The destructive power goes up exponentially. It is also far “dirtier” because of the soil and debris ejected into the atmosphere, returning as radioactive fallout. Amongst all the other nonnuclear components that KCP manufactures and/or procures, the Plant provides these “improved” fuses and guidance systems. The ultimate point here is that this is not passive maintenance by any means, as is commonly portrayed by NNSA, but rather is an aggressive advance in the military usability of these nuclear weapons.

KCP also planned to be very active in producing components for controversial new-design nuclear weapons, the so-called Reliable Replacement Warheads (RRWs). In fact, the Plant played a much more integral role in design with the nuclear weapons laboratories than has previously been the historical record. However, Congress recently deleted all RRW funding. NNSA had planned to begin producing at least 125 RRWs per year by 2022. The fact that such large scale RRW production seems doomed, at least for the time being, further seriously erodes the claimed need for a new Kansas City Plant.

NNSA proposes to build a new half-billion dollar, 1 to 1.55 million square feet Plant within Kansas City limits, developed by private sector financing who would lease it to GSA, who in turn would sublease it to NNSA. The National Environmental Policy Act (NEPA) requires that proposed “major federal actions” be subject to public review, and a draft “environmental assessment” (EA) was officially noticed in the Federal Register on December 10.

The draft EA states that 97 people signed in at a May 23, 2007 public meeting for “scoping” of the EA and 24 individuals provided oral comment. I was there, and attest that there were yet more people and speakers (however, some speakers spoke twice). The EA states that approximately 500 individuals submitted written scoping comment (including transcribed oral scoping comment). GSA/NNSA officials were clearly surprised by the turnout at the scoping hearing, and perhaps that is why they refused to hold a public hearing on the draft EA (citizen turnout for a public hearing is almost invariably greater once a draft document is released). The draft EA itself notes that NEPA does not require hearings for environmental assessments (P. 5-6), in contrast to more rigorous environmental impact statements. Thus GSA/NNSA can hide behind a narrow legal technicality. Moreover, there were no notices for public comment and its deadline in local mainstream media (such as in the *Kansas City Star*) that this writer and his Kansas City colleagues are aware of. In contrast to this failure by the federal government, nearly 100 individuals attended a citizens-organized hearing that I attended. In sum, it is disgraceful how GSA/NNSA have handled this NEPA public process for a new half-billion dollar nuclear weapons plant, which perhaps indicates that these agencies are attempting to fast track this process below the public’s radar.

⁶ MIRV is an acronym for “multiple independently targeted reentry vehicle,” which means that one missile’s nuclear payload can hit a number of different targets. MIRVs are generally regarded as particularly dangerous and destabilizing nuclear weapons in the event of a crisis.

⁷ In comparison, the atomic weapons that destroyed Hiroshima and Nagasaki were ~15-18 kilotons.

III. This “Environmental Assessment” Should Be An “Environmental Impact Statement”

The proposed new plant should have been the subject of a more comprehensive environmental impact statement (EIS) to begin with, justified alone by its initial half-billion dollar cost. Second, an EIS should consider cleanup and future uses of the old Plant. The EA is deficient in that it excludes consideration of the fate of the old plant once NNSA moves to the new plant. *...disposition and cleanup activities for the existing NNSA facility at the KCP are not part of the current proposed action and will be addressed in appropriate future environmental analyses.* (P. 3) Thus, the real environmental issue over the new Kansas City Plant, the “elephant in the room,” is in what the EA excludes, which is decontamination, demolition and environmental remediation of the old Plant once NNSA moves to the new Plant.

Moreover, the EA states that GSA is expected to leave the Bannister Complex at approximately the same time NNSA leaves for the new Kansas City Plant, around the year 2012. (P. 3) This raises the serious question of what federal entity will be responsible for final cleanup.

The EA’s crucial supporting document “Relocation of Non-Nuclear Production to an Alternate Location Business Case” indicates that the estimated cost of decontamination, demolition and environmental remediation of the old Plant is \$287 million in FY06 dollars through 2030.⁸ In all likelihood, given chronic DOE cost overruns, that \$287 million is likely low for ultimate cleanup costs.

The team moved costs for the planned demolition and remediation of the Bannister site out to FY 2015 and beyond, so they would not arbitrarily impact the cash flow comparisons in the Future Years Nuclear Security Program (FYNSP) window, which will soon extend to FY 2014. (Business Case, P. 22.) FYNSP is the NNSA’s rolling 5-year budget projections under its “Future Years Nuclear Security Program,” which is overwhelmingly directed at nuclear weapons research and production. Therefore, the “Business Case” moved final cleanup costs to fiscal year 2015 and beyond so as to not upset NNSA’s agenda. In effect, final cleanup of the old plant is being deferred for more nuclear weapons, and moreover may never occur since it’s not clear what federal entity will be responsible once NNSA and GSA both leave the old plant around the year 2012.

NEPA does mandate that connected actions be considered together. It then follows that construction of a new plant and cleanup and final status of the old plant should be considered in a unified environmental impact statement. The federal agency responsible for final cleanup and end state of the old plant should be designated, including what possible future uses the old plant could be put to, clearly an important economic development issue for Kansas City.

In its own conceptual study for reuse of the federal Bannister Complex, the City noted:

Environmental conditions reports completed for the General Services Administration (GSA) suggest that several millions of dollars in hazardous waste cleanup costs would have to be accomplished before reuse is viable.⁹

There are multiple ironies here. First, apparently the City is naïve enough to believe that cleanup will only cost “several millions of dollars,” in contrast to the EA’s “business case” cost of \$287 million. Clearly that excessive cost could prohibit comprehensive cleanup, especially when it might financially detract from NNSA’s agenda of

⁸ See “Business Case,” p. 16. It gives no support or citations for how that cost was arrived at. However, an official in the MO Department of Natural Resources verbally told this writer that the cost came from an internal study by the Kansas City Plant. This writer argues that that study should be released to the public.

⁹ “Bannister Federal Complex Reuse Plan,” Full Employment Council of Kansas City, Mo, June 2007, p. 2.

more nuclear weapons research and production. Yet Kansas City desperately needs economic development and jobs for its citizens, particularly given current national economic instabilities.

Furthermore, it seems apparent that some local politicians' and states' congressional support (both MO and KS) for the new plant is predicated upon the assumption that the old plant will be sufficiently cleaned so that it can be reused for economic development purposes. Yet those politicians are under the impression that cleanup will cost in the 20's of millions of dollars (at least they are not as naïve as the City). It may indeed be a rude awakening for both the Kansas City and MO and KS congressional delegations once the "Business Case" estimate is known.

Arguably, the EA's exclusion of analyzing cleanup of the old Plant is "segmentation" under the National Environmental Policy Act. NEPA does state that connected actions should be analyzed together. Therefore, construction of a new plant and D&D and cleanup of the old Plant are arguably connected actions that NNSA should consider together in a unified NEPA analysis.

Further, Missouri Department of Natural Resources officials have emphatically stated to this writer that they will not agree to simple "mothballing" of the old Plant. They are also very concerned about what the future hydrologic "water balance" could be at the old site, since any removal of existing impermeable surfaces could change that balance and possibly drive greater offsite contaminant migration of VOCs and PCBs. This basically puts reuse of the old Plant between a rock and a hard place. Any genuine reuse scheme would no doubt require large-scale demolition of existing buildings and parking areas that in turn would change the water balance, all of which would have to be addressed in future permitting processes under the Resource Conservation and Recovery Act. All of these interrelated pieces should be considered in a comprehensive environmental impact statement for the benefit of Kansas City citizens and any possible economic development.

Finally, the seriousness of the environmental issues themselves deserves consideration in a comprehensive environmental impact statement. As the May 1, 2007, Notice of Intent for the KCP EA noted for NNSA non-nuclear manufacturing operations:

Hazardous wastes are generated through general industrial processes and include acidic and alkaline liquids, solvents, oils, and coolants... operations do generate small quantities of low-level radioactive waste.¹⁰

Thus, potential environmental hazards are clearly implicated in the operations of a future KCP, even as the old KCP explicitly states that it has environmental problems that it cannot resolve for lack of NNSA clean-up funding (as reported at length in the footnote below).¹¹

¹⁰ Federal Register/ Vol.72, No. 83/ May 1, 2007, p. 23823.

¹¹ "... there is currently no budgetary category to account for the elimination of [DOE] EM [Environmental Management] funding in FY2007 and beyond... This includes the cleanup of 42 out of 43 Solid Waste Management Units (SWMUs), groundwater treatment and monitoring, and EM program management... regulatory compliance is of the utmost concern. The KCP operates under a RCRA Post Closure Permit issued by the State of Missouri. If funding is not received, compliance with this Permit will be in jeopardy... the [PCB] limit has been exceeded 32 times [since 1992] and two Notices of Violation and one letter of warning have been received. A Consent Judgment is currently being negotiated between the State of Missouri and NNSA by the Department of Justice to define response actions... Additional environmental liabilities could be generated that are not contained in the current EM baseline... These are unplanned costs and there are currently no funding source or budgetary category to perform the EM work." KCP FY06 Ten-Year Comprehensive Site Plan, pp. 61-62. "Long Term Stewardship (LTS) is required at the KCP to ensure that all remediation activities continue to be effective and protective of human health and environment following transition out of the DOE EM pro-

IV. GSA and NNSA Should Stop Their Prejudicial Actions

The May 1, 2007 Notice of Intent for the draft KCP EA jumps preemptively to a sweeping, undocumented, and unwarranted conclusion: “GSA and NNSA believe that the relocation of the non-nuclear production mission to another location outside the Kansas City Metropolitan Area is not a reasonable alternative...” Under NEPA, however, this is quintessentially the type of broad programmatic judgment that must be supported by an adequate and timely programmatic environmental impact statement (PEIS), most precisely the current “Transformation” PEIS.

Moreover, as a description of the status quo, the Notice of Intent was not even accurate, as non-nuclear components are already produced at other nuclear weapons program sites, specifically at Los Alamos and Sandia National Laboratories by KCP employees, and some are even procured commercially. Further, the EA’s crucial “Business Case” that purportedly analyzed and concluded that it was not economical to transfer KCP’s nonnuclear operations to the Sandia Lab in Albuquerque was a false analysis. It presumed that there could only be a GSA-owned, stand alone facility bordering Sandia, and not integrating KCP’s mission within Sandia. [For far more, see § VI of these comments.]

The May 1 NOI further stated, or rather postulated, that “the alternatives are constructed around the mission need to maintain the Kansas City Plant while downsizing for cost efficiency,” but we find no significant evidence of improved cost efficiency in the NOI’s Proposed Action, while the unique identification of NNSA’s “mission need” with continued operations in the Kansas City area is never explained.¹² In fact, the greatest downsizing and cost efficiency would almost certainly result from integrating KCP’s mission within Sandia, which the KCP EA preemptively, arbitrarily, and summarily rejects in advance.

Can it really be the case that no other location or combination of locations “outside of the Kansas City Metropolitan Area” could constitute an objectively reasonable alternative for relocating and consolidating NNSA’s non-nuclear production mission? This preemptive judgment artificially constrains, and therefore would tend to arbitrarily and capriciously predetermine the scope of NEPA analysis and consideration, limiting it to locations within the Kansas City limits, when the obvious and necessary domain for analysis is *the nuclear weapons complex as a whole*, specifically within the Transformation PEIS.

Elemental common sense suggests this must be the case, but more importantly, so does DOE’s September 1996 *Final PEIS for Stockpile Stewardship and Management* [the “SSM-PEIS”] the 11 year-old base document that NNSA is, in legal terms, intending to now “supplement” with the Transformation PEIS. The May 1, 2007 NOI

gram... When transition occurs, soil and groundwater will still contain volatile organic compounds, petroleum hydrocarbons, and PCBs at concentrations similar to those present today... Long term groundwater monitoring and possibly treatment is expected indefinitely at the present remediation rate due to the presence off DNAPLs (Dense Non-Aqueous Phase Liquids) in fined grained soil... KCP LTS is scheduled to begin in FY2007. The funding source is undetermined at this time... The KCP currently has nothing scheduled for LTS other than the level-of-effort and cyclical work.” Ibid, pp. 104-104.

¹² Pursuant to the December 1996 Stockpile Stewardship and Management PEIS and its Record of Decision to “downsize in place” at KCP rather than consolidate elsewhere (discussed in following comment sections), the KCP footprint was to be reduced from the then current 3.2 million sq. ft to 1.8 million sq. ft. by October 2003. This option was dubbed “KCP II.” [SSM-PEIS, 1996, p. A-182] Similarly, downsizing to KCP II was said to require 1,669 workers for single shift operation, and 2,257 workers for three-shift operation. [SSM-PEIS, 1996, p. S-43] However, the KCP EA states that 2,000 FTEs will be employed at the new plant, hence there is no significant reduction in work force from what was originally planned.

acknowledges that NNSA is simultaneously engaged in preparing a *Supplement to the Stockpile Stewardship and Management Programmatic Environmental Impact Statement—Complex 2030* (now “Transformation SPEIS”), and then it cites the *SPEIS October 2006 Notice of Intent* as follows:

NNSA believes that it is appropriate to separate the analyses of the transformation of non-nuclear production from the Supplemental PEIS because decisions regarding non-nuclear activities would neither significantly affect nor be affected by decisions regarding the transformation of nuclear production activities.¹³

This unsupported assertion is demonstrably false.

The GSA/NNSA proposal to build a new Kansas City Plant seems particularly egregious, first of all because of its sheer \$.5 billion size, which again is not the total cost. But added is the fact that Congress has specifically directed NNSA to study further consolidation of the nuclear weapons complex in order to enhance security and lower long-range costs to the taxpayer. The Senate Armed Services Committee declared the following, applicable to KCP:

The NNSA has initiated the Complex 2030 study to review the nuclear weapons complex and decide on the design for the complex of the future. The committee is troubled by the scope and timing of the study and the options under consideration. The study does not include any options that would significantly reduce the size of the complex or that would consolidate operations and NNSA sites. The committee urges the NNSA to expand the scope of the Complex 2030 study to look at site consolidation, including the possibility of closing NNSA sites that are surplus to mission needs.”¹⁴

Instead, NNSA proposes to consolidate from its present eight active sites to... its eight active sites.¹⁵ Because NNSA has excluded KCP from its pending Transformation PEIS, and because the new KCP will be privately financed (thereby avoiding Congressional review, even in the face of growing budget constraints), in effect NNSA has predetermined one major element of the “transformed” nuclear weapons complex by keeping nonnuclear components production in the Kansas City area, and rejecting in advance consolidation of that mission elsewhere.

As further evidence of predetermination, NNSA has decided to zero out “Deferred Maintenance” for the old Kansas City Plant for the next five years because of the anticipated move to the new Plant.¹⁶

P. 14. *GSA’s NEPA implementing regulations -- the GSA Public Buildings Service (PBS) NEPA Desk Guide*

¹³ *Federal Register*/Vol. 71, No. 202, Thursday, October 19, 2006 at 6171-61736.

¹⁴ Report 110–77, National Defense Authorization Act For Fiscal Year 2008, P. 619 (or PDF p. 641).

¹⁵ To be fair, NNSA does say, but does not yet guarantee, that it will lower the “footprint” of each individual site.

¹⁶ “FY 2007 FIRP site splits have been updated since the FY 2007 Congressional budget. While the FY 2007 total is the same, site split reallocations have been made in recognition of plans to move the Kansas City Plant to a new facility. KCP FY 2007 funding reflects minimum required to cover ongoing projects. Likewise, outyear DM [deferred maintenance] buy-down funding for KCP has been zeroed out and that funding has been reallocated to other NNSA sites to address other DM requirements.” NNSA FY08 Congressional Budget Request, Volume 1, p. 28. [FIRP is NNSA’s Facilities Infrastructure Recapitalization Project to address deferred maintenance.] “In FY 2006 KCP recommended that NNSA discontinue expenditure of FIRP resources on refurbishing their aged production facility. This recommendation is based on KCP’s development of a transformation proposal supporting construction of a new, modern production facility.” *Ibid*, p. 578.

(October 1999) -- provide an automatic "categorical exclusion" (CATEX) for the acquisition of property interests such as the option to purchase and develop the Botts Road/Highway 150 property described above in Section 2.0. GSA's NEPA standards also require any post-acquisition use of such property interests be analyzed under NEPA prior to their use.

P. 16. Although the decision to acquire this property interest is subject to a CATEX, several other alternative locations for the Bannister Federal Complex were nonetheless considered before deciding to acquire the Botts Road/Highway 150 development rights in 2007.

Therefore, GSA has already acquired, or at a minimum has decided to acquire, the development rights for the land. The EA is silent on further detail, but one question would be did money already change hands? This strongly smacks of NEPA predetermination. Another question is whether this acquirement created or will create federal obligations without related congressional appropriations, in possible conflict with the Anti-Deficiency Act?

The Act itself states:

- (1)** An officer or employee of the United States Government or of the District of Columbia government may not—
- (A)** make or authorize an expenditure or obligation exceeding an amount available in an appropriation or fund for the expenditure or obligation;
 - (B)** involve either government in a contract or obligation for the payment of money before an appropriation is made unless authorized by law...

The question then becomes whether third party financing for the new KCP is authorized by law. The draft EA is silent on this issue, but the final EA should attempt to resolve it. NNSA and GSA should be aware that this is an issue that Nuclear Watch NM and others will thoroughly investigate, and prosecute if merited to the best of our abilities.

In further evidence of GSA's predetermination that the new Kansas City Plant will go forward, on October 29, 2007 the agency sent out a Solicitation for Offers to perspective developers in order to stimulate interest in building the new plant. What is remarkable is that the draft KCP EA wasn't even formally released until December 10, 2007, much less any kind of formal agency decision under NEPA. Can there be a clearer example of predetermination than that?

In further evidence of NNSA's own predetermination that the new Kansas City Plant will go forward, its FY 2008 Congressional Budget Request contains two references to projects at the old plant that were cancelled in anticipation of the move to the new plant:

As a result of the planning associated with the Responsive Infrastructure/Complex 2030, the Consolidate and Renovate Computing Facilities at the Kansas City Plant has been cancelled. NNSA FY08 CBR, Volume 1., p. 260.

...the Replace Main Switchgear Project at Kansas City Plant was terminated due to transformation of the complex decisions. Ibid, p. 343.

The law requires federal agencies to not engage in prejudicial actions that predetermine the outcome of NEPA processes. Nuclear Watch maintains that GSA/NNSA have already engaged in a strong pattern of prejudicial

actions, and strongly advises them to refrain from adding to that pattern until there is a record of decision resulting from an unbiased NEPA process.

V. Do Not Build a New KCP Before National Review of U.S. Nuclear Weapons Policies

Congress has recently legislated both pending review of U.S. nuclear weapons policies, specifically aimed at the ultimate number of weapons needed for “deterrence,” and a new “Nuclear Posture Review” (NPR) by the next president. The last NPR in 2002 has driven NNSA’s aggressive proposals for its revitalized nuclear weapons complex, first Complex 2030 and now “Transformation.” There is a clear need to address the proliferation of nuclear weapons, which ultimately are the only military threat capable of destroying our nation. In order to address that threat, the U.S. should lead by example in strengthening the global nonproliferation regime under the 1970 NonProliferation Treaty.

The existing Kansas City Plant is now experiencing its heaviest workload in twenty years while it provides crucial nonnuclear components for refurbished nuclear weapons. Some of these components “improve” nuclear weapons, such as significantly improving target accuracy. KCP’s workload is predicated on keeping most deployed and reserve nuclear weapons. In contrast, many senior nuclear weapons experts agree that the U.S. could unilaterally reduce its number of nuclear weapons to 1,000 total, followed by multilateral negotiations that could lead to reductions in the hundreds. It is simply premature to build a new Kansas City Plant before congressionally mandated review of U.S. nuclear weapons policies, both through bi-partisan congressional commission and the required new Nuclear Posture Review by the incoming administration.

VI. NNSA’s Imposed Segmentation of Its Non-Nuclear Fabrication Activities from the “Transformation” PEIS Violates NEPA

GSA/NNSA noted that considerable public comment for previous “scoping” for the EA stated that KCP functions should be consolidated to other sites. Directly related, public comment stated that KCP should be included in NNSA’s pending programmatic environmental impact statement (PEIS) for “Transformation” of the nuclear weapons complex,¹⁷ whose draft has just been released. First, there is near nothing in the EA that addresses or even responds to the substantial public comment that the new KCP should be analyzed in the Complex Transformation PEIS.

But in response to the public comment that KCP functions should be transferred and consolidated to other sites, first the EA claims, “Because the non-nuclear operations at KCP are essential and are not duplicative, no proposal for relocation or elimination of these missions was formulated.” (P. 4) We know that is not categorically true because the Sandia National Laboratories (SNL) have non-nuclear operations.

In fact, Sandia has top design and engineering responsibility for all nonnuclear components, and under the “transformation” proposal these responsibilities are specifically being consolidated at the Sandia/NM site. That site already engages in some nonnuclear components manufacturing, and has recently completed a \$518 million, 400,000 square foot complex that is devoted to microelectronics R&D and production of components for nuclear weapons systems and other national security needs. The ostensible need for this facility was premised in part on the assumption that continuing and possibly extensive modernization of the non-nuclear components of future nuclear weapons systems would be required in the future. However, political and national policy trends are taking the nation in a different direction, toward continuing reductions in nuclear weapons and away from

¹⁷ Formerly known as the Complex 2030 PEIS. See NNSA’s website at <http://www.complexttransformationspeis.com>

continuing modernization of the US nuclear weapons stockpile. This means that Sandia's new MESA facility is likely to have significant unused capacity for its primary mission – sustaining the U.S. nuclear weapons stockpile -- that could be directed to some of KCP's relocated manufacturing missions. In addition, there are no doubt other Sandia/NM facilities that could help absorb KCP's nonnuclear components manufacturing mission. Further, even the EA's supporting study "Relocation of Non-Nuclear Production to an Alternate Location Business Case" conceded that the principle of collocating non-nuclear design/engineering and manufacturing operations would be a business benefit.

NNSA is in the process of conducting NEPA-required public review of its expensive proposal to transform its nuclear weapons complex. Illogically, KCP is the only site out of eight active nuclear weapons sites to be excluded from that review. NNSA's justification is that decisions made elsewhere will not affect KCP. That is false, with, for example, a 2007 KCP Ten-Year Site Plan stating plutonium "pit workload changes have a direct effect on the KCP project." The key production activity in NNSA's proposal for transforming its nuclear weapons complex is for plutonium pit "trigger" manufacturing, and by NNSA's own words KCP will be directly affected.

Historically, consolidation of KCP's nonnuclear components manufacturing mission was considered in a 1996 nation-wide NEPA study. At that time, an alternative to consolidate KCP functions elsewhere was rejected primarily because of the cost and environmental impacts of moving into new facilities. Again, that justification is now moot since NNSA proposes to move KCP to a new facility anyway. In contrast, there are arguably existing, even newly built facilities, at the Sandia Lab in Albuquerque, NM, that downsized KCP functions can be consolidated to.

P. 4: DOE issued a NOI [Notice of Intent] on June 6, 1995 (60 FR 31291), along with a final Stockpile Stewardship and Management Programmatic Environmental Impact Statement (PEIS) on November 19, 1996 (61 FR 58871) and a Record of Decision (ROD) on December 26, 1996 (61 FR 68014), announcing its decision to transform the weapons production complex by further downsizing of the nuclear weapons complex. This decision included reducing non-nuclear component fabrication capacity at the KCP. In these documents, DOE evaluated alternatives for consolidation of non-nuclear manufacturing, storage and surveillance functions of the nuclear weapons complex to the KCP and reducing the capacity for non-nuclear component fabrication. This was the environmentally preferable alternative, exhibited the least technical risk, and was also the least-cost alternative. The proposed action [in the KCP EA] would continue the consolidation and downsizing of non-nuclear activities at the KCP, which began in the early 1990s.

Again, an alternative to consolidate KCP functions elsewhere in the 1996 Stockpile Stewardship and Management PEIS was rejected primarily because of the cost and environmental impacts of moving into new facilities elsewhere. This argument is now rendered moot by virtue of the fact that under the EA's proposal, the KCP is going to move to a new facility anyway (albeit only eight miles away). Instead, there are existing, even newly built facilities, at the Albuquerque Sandia Lab that KCP functions can be consolidated to.

The EA's cited reference document, "Relocation of Non-Nuclear Production to an Alternate Location Business Case," completely failed to research potential taxpayer cost savings resulting from single management, security and overhead, eliminating work force, infrastructure and facility redundancies, the obvious \$.5 billion cost of building the new plant, and the connected \$287 million cost for D&D and cleanup of the old Plant. Instead, the so-called business case considered only a stand alone, GSA-owned facility bordering Sandia, and not integrating KCP's functions within Sandia. However, the soon-to-be-released programmatic environmental impact statement for "transformation" of the nuclear weapons complex, which KCP is excluded from, should examine those probable benefits.

EA P. 5.: *The current complex is much larger than is required by NNSA and, because of its age and size, is expensive to operate. The alternatives evaluated in this EA are constructed around the mission need to maintain the KCP while downsizing for cost efficiency with projected savings of approximately \$100M per year. Separately, NNSA is preparing a Supplement to the Stockpile Stewardship and Management Programmatic Environmental Impact Statement (SPEIS) (DOE/EIS-0236-S4) that evaluates alternatives for the continued transformation of other sites within the nuclear weapons complex.*

This just released “supplement” to the 1996 Stockpile Stewardship and Management PEIS was first known as the Complex 2030 SPEIS for the future nuclear weapons complex that NNSA hoped to achieve by that year. While NNSA published a Notice of Intent for it in October 2006, a draft renamed “Transformation” has only just now been released (with no new NOI), largely in response to congressional opposition to the Reliable Replacement Warhead Program and rejection of funding for a new proposed Consolidated Plutonium Center.

The Complex 2030 SPEIS Notice of Intent noted that the 1996 Stockpile Stewardship and Management PEIS “evaluated alternatives for consolidation of non-nuclear manufacturing, storage and surveillance functions of the Nuclear Weapons Complex to the Kansas City Plant and reducing the capacity for non-nuclear component fabrication,” which is far from the full story.

Under “Nonnuclear Fabrication,” the *1996 SSM PEIS* actually said:

In addition to the No Action alternative, two alternatives are being considered that would meet the needs of the Program: 1) downsizing the facilities that presently perform this mission at KCP and 2) transferring the KCP nonnuclear fabrication mission to LANL, LLNL and SNL by upgrading existing nonnuclear fabrication facilities at LANL and LLNL, and constructing new nonnuclear fabrication facilities at SNL. [p. S-41, emphases added]

SNL designs most of the components that KCP manufactures; therefore, SNL would become the major nonnuclear component supplier if a decision is made to transfer this function to the weapons laboratories. Other than potential synergisms with maintaining core competencies at the weapons laboratories, a major program consideration would be the cost of transferring product technologies and recreating facilities that already exist at KCP. [p. S-21, emphases added]

A decade ago, DOE’s *SSM-PEIS Record of Decision* on non-nuclear component fabrication stated that DOE’s decision to downsize the existing facilities at the KCP was “the environmentally preferable alternative”, “exhibit[ed] the least technical risk” and was also “the least-cost alternative.”¹⁸

Given that today NNSA is proposing to pay for “transferring product technologies and recreating facilities that already exist at KCP,” these near-term costs—which could well be more than offset by long-term savings from consolidation—are clearly not a sufficient justification for failing to examine consolidation alternatives for the non-nuclear fabrication functions now carried out by KCP.

In sum, nonnuclear consolidation to the NNSA weapons labs was actively considered as a “reasonable alternative” in the 1996 SSM PEIS, but was rejected at that time largely because of the upfront costs and environmental impacts of relocating the KCP when compared to “downsizing in place.” That justification is

¹⁸ Federal Register, December 26, 1996, p. 68023.

now entirely mooted by the current GSA/NNSA proposal to build a new half-billion dollar KCP at a new site. It is unlikely that the incremental costs of moving equipment to New Mexico, rather than to a new KCP eight miles away, could now justify excluding the weapons lab option.¹⁹

Further, the NNSA's own FY 2008 Congressional Budget Request contains a number of references as to how KCP fits into the Complex 2030 (now "transformation") plan:

Operations of Facilities: funding may be used to provide further support to the planned down-sizing of the Kansas City Plant consistent with the 2030 Complex plan. DOE FY08 Congressional Budget Request, NNSA, Volume 1, p. 224.

As a result of the planning associated with the Responsive Infrastructure/Complex 2030, the Consolidate and Renovate Computing Facilities at the Kansas City Plant has been cancelled. Ibid, p. 260.

...the Replace Main Switchgear Project at Kansas City Plant was terminated due to transformation of the complex decisions. Ibid, p. 343.

The [KCP] site is aligned with Complex 2030 planning for the future of the nuclear weapons complex. Ibid, p. 576.

The [KCP] site is aligned with Office of Transformation plans for Complex 2030 and supporting Responsive Infrastructure activities. Ibid, p. 577.

NNSA's own *Ten-Year Site Plans* for the Kansas City Plant demonstrate that the site will be deeply affected by proposed transformation of the nuclear weapons complex, and is itself playing a substantial role in transforming the complex. For example, from the FY07 Plan:

The KCP is aggressively evaluating transformation options in consideration of the goals from responsive infrastructure leadership at NNSA-HQ...²⁰ Emphasis added.

The *KCP FY06 Ten-Year Comprehensive Site Plan* explicitly states:

The KCP is continuing on the path to work with the NNSA to transition from "protecting the capabilities of the past" to "creating the responsive infrastructure of the future." [P. 21.]

The technologies, facilities, and equipment required to support responsive infrastructure and future weapons designs are expected to emerge from the responsive infrastructure analysis currently being led by NNSA... [P.27].

Readiness of production technology advances deployment of new manufacturing processes required

¹⁹ In the SSM-PEIS, NNSA's predecessor, DOE's Office of Defense Programs (DP), had little difficulty identifying and analyzing in detail a number of "reasonable alternatives" for relocating and consolidating the non-nuclear fabrication mission at existing long-established sites in New Mexico. None of these alternatives were characterized or discarded as "unreasonable." The 1996 analysis determined that the required upgrades to existing facilities could be accomplished on the same timescale as the option ultimately chosen (KCP "Downsize in Place"). These estimates were supported by some 40 pages of detailed analysis. (1996 SSM-PEIS Vol. II, A-182 to A-222)

²⁰ Kansas City Plant FY07 Ten-Year Site Plan, Honeywell Federal Manufacturing and Technologies, March 24, 2006, p. 12, scanned copy available at www.nukewatch.org

for the next-generation weapon systems. [P. 40]

Implementation of responsive infrastructure strategies is expected to have a major impact to future TYCSPs [KCP Ten-Year Comprehensive Site Plans]...[P. 59.]

The KCP integrates technology planning, technology investments, and teaming within the NWC [nuclear weapons complex] to plan, prioritize, and establish the new capabilities and updates required for the currently assigned and projected workload. [P. 65.]

The Kansas City Plant has established a new organization to address strategic long term issues and to work with NNSA to develop an effective plan for the complex of the future. [P. 66.] All emphases added.

This is especially ironic given that strong elements in Congress are calling upon NNSA to genuinely consolidate its nuclear weapons complex (see previous citation in § 3 of these comments). Instead, NNSA proposes to consolidate from its present eight active sites to... its eight active sites.²¹ In effect, NNSA has predetermined one major element of the “transformed” nuclear weapons complex by keeping nonnuclear components production in the Kansas City area, and rejecting in advance consolidation of that mission elsewhere.

A decade ago, DOE’s *SSM-PEIS Record of Decision* on non-nuclear component fabrication stated that DOE’s decision to downsize the existing facilities at the KCP was “the environmentally preferable alternative”, “exhibit[ed] the least technical risk” and was also “the least-cost alternative.”²²

Given that today NNSA is proposing to pay for “transferring product technologies and recreating facilities that already exist at KCP,” these near-term costs—which could well be more than offset by long-term savings from consolidation—are clearly not a sufficient justification for failing to examine consolidation alternatives for the non-nuclear fabrication functions now carried out by KCP.

In sum, nonnuclear consolidation to the NNSA weapons labs was actively considered as a “reasonable alternative” in the 1996 SSM PEIS, but was rejected at that time largely because of the up front costs and environmental impacts of relocating the KCP when compared to “downsizing in place.” That justification is now entirely vitiated given the current GSA/NNSA proposal to build a new half-billion dollar KCP at a new site. It is unlikely in the extreme that the incremental costs of moving equipment the few hundred additional miles to the New Mexico weapons labs, rather than to a new KCP eight miles away, could now justify excluding the weapons lab option.²³

To the contrary, there would likely be long-term savings by weeding out redundant facilities and programs, as the *Complex Transformation SPEIS* purports to do, and eliminating ongoing security and other overhead and administrative costs (including an NNSA Site Office) at one of the eight active NNSA sites. Further, according

²¹ To be fair, NNSA does say, but does not yet guarantee, that it will lower the “footprint” of each individual site.

²² Federal Register, December 26, 1996, p. 68023.

²³ In the SSM-PEIS, NNSA’s predecessor, DOE’s Office of Defense Programs (DP), had little difficulty identifying and analyzing in detail a number of “reasonable alternatives” for relocating and consolidating the non-nuclear fabrication mission at existing long-established DP sites in New Mexico. None of these alternatives were characterized or discarded as “unreasonable.” The 1996 analysis determined that the required upgrades to existing facilities at LANL and LLNL could be accomplished on the same timescale as the option ultimately chosen (KCP “Downsize in Place”) These estimates were supported by some 40 pages of detailed analysis [SSM-PEIS Vol. II, A-182 to A-222]

to KCP documents, at least 10% of its workforce has long been employed at the SNL/Kirtland AFB complex and LANL. That alone gives ample and practical precedent for consolidating KCP functions at the weapons labs.

For the record, NNSA has ignored our prior objections to exclusion of the KCP Non-Nuclear Fabrication Mission from the ongoing “supplement” to the 1996 Stockpile Stewardship and Management PEIS. In scoping comment for the Complex 2030 SPEIS, Nuclear Watch New Mexico formally objected to the exclusion of KCP activities from national review of its nuclear weapons complex, as follows:

We have already argued that important aspects of the Complex Transformation proposal are happening now, not sometime in the hazy future, such as the Reliable Replacement Warhead (RRW)... To say that a decision like that would not affect operations at the Kansas City Plant (KCP) defies belief... Finally, we note that broad NNSA budget categories under “Total Weapons Activities” are applied to KCP just like they would be at the other sites. We argue that NNSA makes an artificial distinction between nuclear and non-nuclear component production, when clearly the two are not only inextricably linked but are given additional emphasis in NNSA’s search for a more “responsive infrastructure...” In short, KCP should be fully considered in the Complex 2030 SPEIS...²⁴

It appears that NNSA has chosen to ignore these previous, on-the-record objections, and without any initiative on its part to communicate the legal and policy basis for its position, is prejudicially pressing ahead with predetermined actions that clearly violate NEPA regulations barring improper “segmentation” of programs and projects to avoid a more rigorous level of NEPA review.

These actions notwithstanding, we again urge NNSA to: (1) immediately suspend and withdraw the environmental assessment for the new Kansas City Plant, and (2) issue notice stating that henceforth NEPA analysis of reasonable alternatives for relocation and modernization of NNSA’s non-nuclear production activities will be conducted within the scope of the ongoing *Complex Transformation SPEIS*.

NNSA must uphold its NEPA obligation under the Complex Transformation PEIS to take a “hard look” at all the connected and cumulative impacts of its proposed “transformation” of its nuclear weapons complex. Such a hard look must include analysis of the potential environmental benefits and savings to taxpayers flowing from all reasonable alternatives for consolidating nuclear weapons complex operations, including the non-nuclear fabrication mission, at a smaller number of less dispersed NNSA nuclear weapons sites.

VII. The EA’s “Business Case” Justifying a New Plant in the Kansas City Area Is False

For support, the EA references the study “Relocation of Non-Nuclear Production to an Alternate Location Business Case.”²⁵

EA P. 5.: ... a recent analysis has concluded that transferring these operations to a site other than one within the immediate Kansas City area would not be cost effective. (See Section 3.4) Consequently, the non-nuclear operations would remain at either the current KCP or the proposed new KCP facility because (1) KCP downsizing has benefits independent of the rest of the transformation proposal, (2) KCP downsizing decisions would neither affect nor be affected by the transformation decisions around proposed actions or alternatives

²⁴ “Scoping Comments on the Future Bombplex,” Nuclear Watch NM, Jan. 17, 2007, to the Complex 2030 Document Manager, http://www.nukewatch.org/facts/nwd/BomplexScopingComments_011707.pdf

²⁵ Available at <http://www.gsa.gov/kansascityplant> under “NEPA Library.”

in the SPEIS, (3) NNSA expects a decision on construction of the new KCP facility to be made prior to any decisions that would be made based on the SPEIS allowing NNSA to take advantage of projected cost savings, and (4) maintaining and downsizing the KCP in the Kansas City area is consistent with previous NEPA analysis and recent cost analysis.

Superficially, this “business case” appears impressive and intimidating, but in my view the critical assumptions upon which its analyses are based render it ridiculous. Perhaps its greatest flaw is that the study assumes that since the old Kansas City Plant is owned by the GSA and leased to NNSA that an entirely new GSA-owned, 1 million+ square foot plant would have to be built “outside of the fence” from the Sandia Lab in Albuquerque. This inflates the costs of moving KCP functions to SNL/ABQ to begin with, which the study further exacerbates by including the cost of projected delays for a new GSA plant in Albuquerque, which the study estimates couldn’t be done for 8 years. In short, the study does not consider the consolidation of KCP functions within Sandia, but assumes a near autonomous plant bordering Sandia, driving up costs and blocking in advance potential cost savings such as single management, security, and infrastructure that are not even factored in. The EA also ignores the projected \$287 million in D&D and cleanup of the old Plant that could be precipitated by the move to the new Plant, which almost exactly offsets the “savings” claimed by the business case by not consolidating KCP functions to Albuquerque. Further, the EA also omits serious infrastructure costs, to be paid for by the public treasury.

Additionally, the study argues against moving KCP functions to Albuquerque because Sandia has weapons-grade special nuclear materials (SNM), which the old KCP does not, and the resulting organizational security and secrecy would discourage growing “commercialization” of KCP functions (meant as both outsourcing and technology spin-offs to the private sector). There are two ironies here. First, NNSA Administrator Tom D’Agostino testified to Congress in April 2006 that all SNM Cat I/II material would be removed from Sandia by 2008. All NNSA nuclear weapons complex transformation plans that we are aware of show that Sandia will remain a non-SNM Cat I/II site.²⁶ Second, Sandia is already one of the most successful, if not the most, NNSA sites for technology spin-off.

As to NNSA making decisions on KCP before making decisions on the rest of the complex, we think that predetermination of nuclear weapons nonnuclear components manufacturing, a key element of the future nuclear weapons complex. More generally, while Congress has directed NNSA to study consolidating the nuclear weapons complex, NNSA proposes to consolidate from eight active sites to.... exactly eight active sites.

We argue that maintaining and downsizing the KCP in the Kansas City area is not consistent with previous NEPA analysis and recent cost analysis. The fatal flaw in the “Business Case” has already been discussed. Concerning previous NEPA analysis, the Record of Decision (ROD) for the 1996 SSM PEIS decided not to move KCP to another site because of the costs and environmental impacts of a new facility. Now, NNSA aggressively seeks to build a new facility. Arguably, the least costs and potential environmental impacts would lie in integrating KCP functions within existing Sandia capabilities and facilities, which NNSA has preemptively, capriciously and arbitrarily ruled out even considering.

P. 4: In addition, NNSA is currently considering alternatives that would consolidate, relocate or eliminate duplicative facilities and programs and improve operating efficiencies. Because the non-nuclear operations at KCP are essential and are not duplicative, no proposal for relocation or elimination of these missions was formulated.

²⁶ Cat I/II is Security Category I and II, whose criteria combine both the quantities involved and the weapons-grade purity of the plutonium and highly enriched uranium.

Here, the EA refers to the nuclear weapons complex “transformation” programmatic environmental impact statement, just released, which is considering future missions at all other eight NNSA sites except KCP. NNSA claims this is justified because decisions made elsewhere are not expected to impact KCP. This is patently false. For example, a 2007 KCP Ten-Year Site Plan states that plutonium “pit workload changes have a direct effect on the KCP project.” The key production activity in NNSA’s proposal for transforming its nuclear weapons complex is for plutonium pit “triggers,” and by NNSA’s own words KCP will be directly affected. For this reason and many others, Nuclear Watch NM argues that the KCP EA process should be terminated, and the Plant (both old and new) should be considered in the Transformation PEIS.

NNSA’s argument that KCP functions are not duplicative is even easier to counter. First, Sandia has paramount design and engineering responsibility for all nonnuclear components, and secondly has large amounts of manufacturing floor space. Sandia is already the sole source for some major nonnuclear manufacturing, for example neutron generators. It appears that NNSA is guilty by omission by not even considering the possibility of consolidating KCP manufacturing functions within existing Sandia capabilities and facilities.

P. 5: Further, while the operations at KCP could be made more efficient at the proposed new KCP facility, a recent analysis has concluded that transferring these operations to a site other than one within the immediate Kansas City area would not be cost effective. (See Section 3.4) Consequently, the non-nuclear operations would remain at either the current KCP or the proposed new KCP facility because (1) KCP downsizing has benefits independent of the rest of the transformation proposal, (2) KCP downsizing decisions would neither affect nor be affected by the transformation decisions around proposed actions or alternatives in the SPEIS, (3) NNSA expects a decision on construction of the new KCP facility to be made prior to any decisions that would be made based on the SPEIS allowing NNSA to take advantage of projected cost savings, and (4) maintaining and downsizing the KCP in the Kansas City area is consistent with previous NEPA analysis and recent cost analysis.

The recent analysis is the already mentioned” Relocation of Non-Nuclear Production to an Alternate Location Business Case.” Also already mentioned is its fatal flaw: the study considers only a stand-alone, GSA-owned plant with KCP’s functions bordering Sandia, and not integrating those functions within existing Sandia capabilities and facilities. To then say that KCP downsizing solely within the Kansas City area has benefits independent of the rest of nuclear weapons complex “Transformation” is false.

The SPEIS mentioned above is the “Transformation” PEIS (which technically is a “supplement” to the 1996 Stockpile Stewardship and Management PEIS). NNSA’s assertion that decisions made elsewhere in the nuclear weapons complex will not have impact on KCP is demonstrably false.

P. 8: The relocation would involve moving approximately two-thirds of the existing capital and process equipment to the new facility. What is the cost difference between moving KCP 8 miles to a new facility or to Albuquerque? The study “Relocation of Non-Nuclear Production to an Alternate Location Business Case” concedes that transportation costs are not really a factor, while failing to analyze potentially big cost savings resulting from integrating KCP functions within exiting Sandia capabilities and facilities.

Pp. 17-18: The report assessed alternate locations that would co-locate non-nuclear production with other defense program activities and selected Albuquerque, New Mexico as the location that would offer the highest co-location benefits to NNSA. Sandia National Laboratory (SNL), the primary design laboratory for non-nuclear components, is in Albuquerque... The most likely outcome of relocating the non-nuclear production to Albuquerque results in a negative net present value of approximately \$289 million from FY 2008 to FY 2030

compared with retaining the facility in Kansas City. Schedule risk weighed very heavily in the final outcome of the study as well as near-term negative cash flow from increased upfront investment required for an alternate city move (SAIC, 2007). The Kansas City Responsive Infrastructure, Manufacturing, and Sourcing (KCRIMS) model has the best associated business case for relocation based on the conclusions made in the report, therefore, this alternative has not been further assessed in this EA. Fatal flaw of that study already discussed. Besides, when is the last time that NNSA ever worried about \$280 million over 18 years? NNSA consistently has cost overruns exceeding that.

P. 18: *The Kansas City Responsive Infrastructure, Manufacturing, and Sourcing (KCRIMS) model has the best associated business case for relocation based on the conclusions made in the report, therefore, this alternative [to relocate in Albuquerque] has not been further assessed in this EA.*

Nuclear Watch emphatically contests that decision. Further, we assert that the “Business Case” was fixed to support foreordained conclusions. The fix is made at the beginning with the self-serving assumption that transfer of KCP to Albuquerque, NM, could be accomplished only with a GSA-owned, stand alone facility bordering Sandia, without any analysis whatsoever of integrating KCP operations within Sandia. It is a false business case that should be redone.

VIII. Private Development of a Nuclear Weapons Plant Should Be Rejected

On behalf of NNSA, GSA has already solicited private developers to build it a new half-billion dollar nuclear weapons components plant. First, private financing avoids congressional scrutiny through the constitutionally mandated process of congressional authorization and appropriations. This is especially compelling since Congress has demanded real consolidation of the NNSA’s nuclear weapons complex (see previous citation). Second, private financing will ultimately cost taxpayers more, since the EA’s “Business Case” specifically states that NNSA’s sublease through FY 20030 will cost \$912 million²⁷ for a facility that costs \$500 million to build (any costs beyond 20 years are simply not addressed). Instead of the draft EA’s predetermined assumption that private developers will build the new KCP, the Transformation PEIS should explore ways to further consolidate the NNSA’s nuclear weapons complex and save taxpayers’ money.

KCP EA Executive Summary: *The proposed action is for GSA to procure the construction of a new multi-structure facility to house NNSA’s non-nuclear component procurement and manufacturing operations. GSA would issue a Solicitation for Offers to the real estate development community. The successful developer would purchase the property, and would partner with GSA and NNSA to design and construct a campus that meets NNSA’s needs. GSA would lease the campus on NNSA’s behalf, and NNSA would relocate its non-nuclear operations from the existing KCP at the Bannister Federal Complex in Kansas City, Missouri to the new facility and conduct future operations in the new facilities.*

Rather than relying on Congressional authorization and appropriations, sometimes government agencies arrange for private parties to fund projects. These agencies agree to lease the facility for extended periods of time, thus guaranteeing the developer’s profit, and often agree to outright purchase of the project after the lease expires.

These third party transactions are usually structured to conform to annual federal costs. In contrast, total estimated costs of construction are required upfront for any proposed project’s budget line item in an agency’s annual Congressional Budget Request. Hence, third party transactions generally don’t give the amount of

²⁷ See Table 3, “Business Case Model Results (Base Case),” *Relocation of Non-Nuclear production to an Alternate Location Business Case*, SAIC, October 2007, p. 15.

federal cost obligations made over any number of years, and related tend to avoid close congressional scrutiny. Ultimately, third party transactions can cost the government more because of financing costs and profits to the private developer. And ultimately taxpayers end up paying for all of this.

Kansas City media has reported that construction of the new plant will cost \$500 million.²⁸ In a table on page 15 the “Business Case” gives lease costs to the private developers through FY 2030 as \$912 million. This is over 18 years, as NNSA assumes beginning operations in at the new plant in 2012. This begs the question of what happens after FY 2030. Does NNSA re-lease, or does it buy the new plant outright? In any event, total costs are not given.

To end up paying more than double to private developers for a new nuclear weapons components plant sounds like a raw deal to the taxpayer. Further, to build the new plant with private money avoids the constitutionally mandated duty of Congress to authorize and appropriate (in other words, the new KCP is not in NNSA’s Congressional Budget Requests). This is especially ironic given that strong elements in Congress are calling upon NNSA to genuinely consolidate its nuclear weapons complex. Instead, NNSA proposes to consolidate from its present eight active sites to... its eight active sites.²⁹ In effect, NNSA has predetermined one major element of the “transformed” nuclear weapons complex by keeping nonnuclear components production in the Kansas City area, and rejecting in advance consolidation of that mission elsewhere.

GSA has already acquired, or at a minimum has decided to acquire, the development rights for the land. The EA is silent on further detail, but one question would be did money already change hands? This smacks of NEPA predetermination. Another question is whether this acquirement created or will create federal obligations without related congressional appropriations, in possible conflict with the federal Anti-Deficiency Act?

The Act itself states:

- (1) An officer or employee of the United States Government or of the District of Columbia government may not—
- (A) make or authorize an expenditure or obligation exceeding an amount available in an appropriation or fund for the expenditure or obligation;
- (B) involve either government in a contract or obligation for the payment of money before an appropriation is made unless authorized by law...

The question then becomes whether third party financing for the new KCP is authorized by law, which the EA is silent on.

NNSA makes the claim that it will save \$100 million per year with a new plant, but offers no support for that claim.

²⁸ For example, “Nuke weapons plant to mover near Richards-Gebaur [AFB]”, Kevin Collison, Kansas City Star, April 18, 2007.

²⁹ To be fair, NNSA does say, but does not yet guarantee, that it will lower the “footprint” of each individual site. However, with language applicable to KCP, the Senate Armed Services Committee declared, “The NNSA has initiated the Complex 2030 study to review the nuclear weapons complex and decide on the design for the complex of the future. The committee is troubled by the scope and timing of the study and the options under consideration. The study does not include any options that would significantly reduce the size of the complex or that would consolidate operations and NNSA sites. The committee urges the NNSA to expand the scope of the Complex 2030 study to look at site consolidation, including the possibility of closing NNSA sites that are surplus to mission needs.” Report 110–77, National Defense Authorization Act For Fiscal Year 2008, P. 619 (or PDF p. 641).

With a potential savings of \$100M per year from the KCRIMS [Kansas City Responsive Infrastructure Manufacturing and Sourcing] proposal [i.e., the new plant], every year of delay in production forfeits substantial savings. Business Case, p. vi.

The KCRIMS proposal projects potential savings of approximately \$100M per year commencing upon resumption of qualified production at a new local facility. Id, p. 12.

The KCRIMS proposal to save approximately \$100M per year is primarily based on three categories of savings: increased out-sourcing, a more commercial manufacturing model, and a streamlined site office oversight model. Id, p. 26.

Previous claims of cost savings did not turn out as promised, so why should the taxpayer believe them now? As evidence, the 2003 DOE IG Audit Report “Reconfiguration of the Kansas City Plant” states the following:

In 1994, the Department of Energy announced its intention to study options for consolidating production operations throughout the complex. In response, the contractor at the Kansas City Plant submitted a plan to significantly reduce the size of its operations. In March 1997, the Department approved Kansas City’s Stockpile Management Restructuring Initiative (SMRI), currently estimated to cost \$138 million. The Department’s approval was based on projected operational savings of \$35.4 million per year, generated by consolidating similar production processes and equipment, allowing for a reduction in both the floor space and the workforce needed to achieve required production levels...

We found that the SMRI will not reduce the floor space of the Kansas City Plant as intended. Less than half of the planned 600,000 square feet of floor space will actually be transferred to the General Services Administration; and, rather than being reduced, current staffing levels remain the same as when the restructuring activities began. This occurred because the project was not fully reevaluated when the underlying workload assumptions changed, including the assignment of new missions to Kansas City. Furthermore, the Department did not make full use of project management controls. In particular:

The project execution plan was not consistent with the work being performed;
Budget documents did not reflect the actual plan for the project; and,
Work was included in the project that did not support the intent of the initiative.

To date, the Department has spent \$84 million and will not fully achieve the \$35.4 million annual projected cost savings, which was the basis for the project’s approval.³⁰

Again, previous claims of cost savings did not turn out as promised, so why should the taxpayer believe NNSA and KCP now? This is especially compelling when it appears that the private financing scheme may cost taxpayers more than double. Further, the real costs could be on the order of at least 3 billion dollars, as follows:

- \$912 million for the capital lease on the new “campus” through FY 2030;
- Either lease costs or outright purchase by the government of the new plant after FY 2030;
- \$287 million or more for cleanup of the old plant triggered by construction of the new plant; and
- Unknown millions (more likely a billion) to maintain and equip the new factory and provide the public infrastructure (roads, sewer connections, culverts, etc.) required to accommodate it.

³⁰ DOE IG Audit Report “Reconfiguration of the Kansas City Plant,” August 2003, DOE/IG-0616 <http://www.ig.energy.gov/documents/CalendarYear2003/ig-0616.pdf>

The federal government should explain why this is not the case, and convincingly refute my argument that the new plant is not a good deal to the taxpayer. Any credible refutation needs to take place within the context that a new plant is not needed because KCP's nonnuclear components manufacturing operations could be consolidated at the Sandia/NM site with real and substantial savings to the taxpayer.

IX. Intentional Destructive Acts

P. 45: *Intentional Destructive Acts.* Per the Department of Energy's Design Basis Threat Policy (DOE Order 470.3A), the Kansas City Plant is designated a Threat Level 4 facility and has no terrorist threat. Threat Level 4 is the lowest threat classification based on the general consequences of loss, destruction, or impact to public health and safety. The KCP has no critical assets or critical facilities... The KCP is considered a low-hazard industrial facility and operations at the KCP involve hazards of the type and magnitude routinely encountered in industry and generally accepted by the public.

First, if "The KCP has no critical assets or critical facilities..." then why make such a big deal out of the new plant? Why not consolidate KCP functions with existing/modified facilities and capabilities at Sandia/NM? But to categorically state that KCP has no terrorist threats smacks of circumventing recent court decisions that the Department of Energy must consider "Intentional Destructive Acts," which also includes internal sabotage, not just potential terrorism. Concerning the former, there may well be disgruntled employees or ex-employees given that of all the alternatives in the KCP EA the preferred alternative of the new plant results in the most job loss.

During my two visits to the existing Kansas City Plant its officials have made a point of emphasizing that KCP engages in nonnuclear operations. Following that, yes, I agree that the potential consequences of Intentional Destructive Acts at the old or new plant will likely have less severe consequences than other NNSA sites with nuclear operations.

However, that is not what current case law requires. Specifically, Nuclear Watch NM, with co-plaintiff and NGO colleague Tri-Valley CAREs of Livermore, CA, was engaged in NEPA litigation over a proposed BioSafety Level-3 facility at the Livermore Lab. Following a precedent-setting decision in *Mothers for Peace v. NRC*, we successfully argued to a federal 9th Circuit appellate panel that the Department of Energy must consider Intentional Destructive Acts in NEPA analyses for its proposed facilities. Subsequently, DOE even issued Department-wide interim guidance to that effect.

My point here is that by definition the LLNL biolab will not handle special nuclear materials, yet the need for credible analysis of Intentional Destructive Acts was established by the 9th circuit. With respect to the original *Mothers for Peace v. NRC* decision, NRC appealed to the U.S. Supreme Court, but it declined to hear the case. Hence, both the *Mothers for Peace v. NRC* decision and our follow-on decision stand, and are applicable to all federal circuits. Therefore, GSA/NNSA are obliged by case law to conduct a credible analysis of Intentional Destructive Acts for the new Kansas City Plant. It clearly does not suffice to simply declare that there are no threats.

P. 47: *The current plan for RGA [the old Richards Gebaur Air Force Base immediately across MO Highway 50 from the proposed new KCP site] proposes development of approximately 924 acres of industrial land and 52 acres of retail land. Development activities include construction of a Kansas City Southern Railroad intermodal facility featuring a rail facility and adjacent light manufacturing, distribution and warehousing facilities. When completed, the facility is expected to attract industrial users and shippers within a 500-mile radius, and may*

employ an estimated 2,000 people.

In the post 9-11 world, an intermodal facility expected to attract industrial users and shippers within a 500-mile radius is arguably a target for potential Intentional Destructive Acts, including terrorism, which the EA fails to consider and analyze.

The proposed site of the new KCP is directly across a state highway (MO-150) from the former Richards-Gebaur Air Force Base (now owned by the Kansas City Port Authority), which is part of EPA's Brownfields cleanup program. Once the contaminated areas at this former base have been cleaned up, "revitalization plans call for a state-of-the art intermodal distribution facility and a light industrial and commercial business complex."³¹

We question the physical security and strategic wisdom of locating a critical link in the national defense infrastructure in the immediate vicinity of a major intermodal inland port and container terminal, with scores of freight trains and thousands of tractor-trailers arriving every week with cargoes coming in directly from foreign ports. Such an external environment could make it easier to mask and mount a massive truck bomb or tank car attack against the facility, and this threat in turn could require additional security measures and expense, and suggests the need for a comparative analysis of more secure alternative locations for the plant. The proper locus for that discussion is the ongoing Transformation PEIS.

- End of Comments -

Respectfully submitted,

Jay Coghlan
Executive Director

³¹ "Brownfields 2006 Grant Fact Sheet, Kansas City Port Authority, MO," www.epa.gov/brownfields/06arc/kansas-city.htm, May 2006.