The Secretary of Energy
Washington, DC 20585

March 1, 2019

The Honorable Steve Sisolak
Governor of the State of Nevada
101 North Carson Street
Carson City, Nevada 89701

Dear Governor Sisolak:

On behalf of the Trump Administration, I am responding to your recent letters regarding the court-ordered shipment of plutonium from South Carolina to Nevada. The Trump Administration greatly values its relationship with Nevada, which is why, since April 2018, the Department of Energy has intentionally and proactively engaged with Nevada's senior leadership on this issue.

At issue is a shipment of nuclear material – not waste, as your letters allege – to the Nevada National Security Site (NNSS). In December 2017, the United States District Court for the District of South Carolina ordered the Department of Energy to remove at least one metric ton of weapons-grade plutonium from South Carolina within two years. In August 2018, the Department's National Nuclear Security Administration (NNSA) completed an analysis to comply with the court order, identifying sites where the material would be temporarily staged prior to its use in plutonium pit production: Pantex Plant in Texas, Los Alamos National Lab in New Mexico, and NNSS in Nevada.

You have alleged that the Department, and the men and women who execute the vital national security mission of transporting nuclear material, shipped some of the material subject to the court order to Nevada and have temporarily stored it within that State without notifying your predecessor or Nevada's congressional delegation.

This allegation is not accurate. Shortly after NNSA completed its analysis, the Department notified those officials of the shipments and storage decisions and offered briefings about those decisions to them, as well as to several other State, county, and local officials. In fact, you were among the officials the Department notified and offered to brief.

For your reference, I have attached a copy of email correspondence dated August 29, 2018, that was sent to you in your prior capacity as Chairman of the Clark County Board of Commissioners. A similar message was sent to other Nevada officials, including then-Governor Sandoval, and all appropriate officials were directly notified by the Department of its intent to ship and temporarily store materials at the NNSS. The Department was as transparent about this matter as operational security would permit.

Both President Trump and I regret that your decision not to attend this year's Governors' meetings at the White House – which I understand was due to a desire to draw attention to your allegations – prevented us from discussing these important issues in person.

Notwithstanding this missed opportunity, I want to assure you that appropriate Administration officials stand ready to engage with you in fact-based dialogue about these serious legal and national security matters as soon as you are prepared to take that step.

Additionally, I would like to extend an invitation to you and your staff to visit the NNSS. A tour of the site will afford another opportunity to provide you the briefing we offered in August of last year, as well as an opportunity to gain insights into the unique and vital capabilities of the NNSS, which plays an important role in Nevada's economy – employing roughly 3,000 Nevadans and representing nearly $1 billion in economic activity for the State.

For nearly 70 years, Nevada has had an essential role in our Nation's security. The Trump Administration looks forward to working with you to strengthen and deepen that partnership so that it continues to endure for decades to come.

If you have any questions, please contact me or Melissa Burnison, Assistant Secretary for Congressional and Intergovernmental Affairs, at (202) 586-5450.

Sincerely,

Rick Perry

Rick Perry

Enclosure

Enclosure

What is the current overall capacity of the DAF for the purposes of storage or staging of nuclear material?
The Device Assembly Facility (DAF) at the NNSS is approximately 100,000 square feet. The authorized radioactive material inventory limits for the DAF are specified in the facility safety basis documents (i.e., Documented Safety Analysis and Technical Safety Requirements). All plutonium currently staged in the DAF is within these authorized limits.

What specific role does the DAF serve in the DOE/NNSA's plutonium disposition program?
The material currently staged at the DAF is not waste and will eventually be used for plutonium pit production, a vital national defense need articulated in the President's Nuclear Posture Review (NPR). The DAF plays no role in DOE/NNSA's surplus plutonium disposition program.

Has the DAF been used previously to store or stage weapons-grade plutonium for defense purposes?
The DAF is an extremely unique national defense asset that serves as one of the safest, most secure locations in the United States' nuclear security enterprise to conduct complex nuclear operations. In addition to regularly supporting stockpile surveillance activities and housing the National Criticality Experiments Research Center (NCERC), the DAF holds all special nuclear material, including plutonium, used for experiments at both the Joint Actinide Shock Physics Experimental Research Facility (JASPER) and the U1a Complex, NNSS' underground laboratory used for subcritical experiments to obtain information about the U.S. nuclear weapons stockpile in the absence of explosive testing. Quantities, duration, and the specific nature of materials staged at DAF could be addressed in a classified briefing for you and select members of your staff.

Has the DAF previously been used to store or stage weapons-grade plutonium for disposition purposes?
The DAF serves as one of the safest, most secure locations in the United States' nuclear security enterprise to conduct complex nuclear operations. As previously mentioned, the DAF plays no role in DOE/NNSA's surplus plutonium disposition program.

Is the one-half ton of plutonium shipped to the DAF before November of 2018 part of the 34 metric tons of excess plutonium designated for disposal under the 2000 Plutonium Management and Disposition Agreement?
The Plutonium Management and Disposition Agreement (PMDA), signed between the United States and the Russian Federation in 2000, and entered into force in 2010, laid out a path forward for how the two countries would handle excess-to-defense-needs plutonium. As previously mentioned, the one-half metric ton of plutonium temporarily staged at the DAF is weapons-grade material designated for plutonium pit production, a vital national defense need articulated in the NPR. The plutonium temporarily staged at DAF is not part of the 34 metric tons of excess plutonium under the PMDA.

Was the one-half ton of plutonium shipped to the DAF before November of 2018 part of the plutonium designated for processing in the Mixed Oxide Fuel Fabrication Facility (MOX) at DOE's Savannah River Site in South Carolina?
While the one metric ton analyzed in the 2018 *Supplement Analysis of the Removal of One Metric Ton of Plutonium from the State if South Carolina to Nevada, Texas, and New Mexico* was previously analyzed as part of the surplus plutonium for potential processing at the MOX Facility, the material has been re-designated for defense programs activities supporting the Nation's nuclear security agenda. As such, it is no longer part of any surplus plutonium disposition pathway and is not nuclear waste. The defense plutonium removed from the State of South Carolina will be used for plutonium pit production and contribute to NNSA's national security requirements to produce up to 80 pits per year by 2030.

Will the one-half ton of plutonium material designated for storage at the Pantex facility in Texas be transferred to the DAF at NNSS?
No. As stated in the Department of Justice's January 30, 2019, status report to the District Court for the District of Nevada, "no more plutonium will be shipped to the Nevada National Security Site as part of the Supplemental Analysis's proposed action. All other shipments of plutonium under the Supplemental Analysis's proposed action are going elsewhere."

The United States Fourth Circuit Court of Appeals has also directed the DOE/NNSA to remove an additional six tons of plutonium from South Carolina before January 2022.
Neither the Court of Appeals for the Fourth Circuit nor the U.S. District Court for the District of South Carolina, Aiken Division, has so ordered. Rather, on December 12, 2017, the District Court ordered that, consistent with the National Environmental Policy Act and other applicable laws, the Department remove not less than one metric ton of defense plutonium or defense plutonium materials, for storage or disposal elsewhere, within two years of the date of the Court's Order or at the latest by January 1, 2020.

Regardless of space constraints, what other facilities in the DOE/NNSA complex can store the plutonium material shipped to the DAF before November of 2018?
Special nuclear material (SNM), including the plutonium shipped to the DAF, is among the most safeguarded material in the United States, and can only be stored at specified facilities meeting rigorous safety and security standards. While the DAF is considered one of the most secure facilities in the Nation, SNM is able to be stored at the following sites in the DOE/NNSA complex: Hanford Site in Washington, the Pantex Plant in Texas, the Savannah River Site in South Carolina, Idaho National Laboratory in Idaho, Oak Ridge National Laboratory in Tennessee, Y-12 National Security Complex in Tennessee, Lawrence Livermore National Laboratory in California, Los Alamos National Laboratory in New Mexico, and Sandia National Laboratories in New Mexico.

While all of these sites are equipped to handle SNM, the Department must also analyze the amount of existing material housed at each site in relation to their authorized

radioactive material inventory limits before making any decision on shipment of material to a particular facility. All plutonium currently staged in the DAF is within these authorized limits.

Regardless of space constraints, what other facilities in the DOE/NNSA complex can store the additional six tons of plutonium material the United States Fourth Circuit Court of Appeals has ordered DOE to remove from South Carolina by January 2022?
Neither the Court of Appeals for the Fourth Circuit nor the U.S. District Court for the District of South Carolina, Aiken Division, has so ordered. The shipment of one metric ton of plutonium is all that is required under the referenced court order. It is DOE's avowed intention to remove additional plutonium from South Carolina and meet future statutory requirements by shipping it directly from South Carolina to the Waste Isolation Pilot Plant in New Mexico using a methodology known as Dilute and Dispose.

What level of National Environmental Protection Act (NEPA) review does the DOE/NNSA plan to undertake regarding the six tons of plutonium material designated for removal by January 2022?
DOE plans to remove additional plutonium from South Carolina, in accordance with NEPA and other applicable law.

Will the nuclear material currently stored at the DAF or intended for storage at the DAF be stored or staged in the same packaging as it was for shipping to the NNSS?
Yes, the nuclear material will be staged in the original packaging configuration as received from SRS (i.e., welded 3013 cans inside 9975 shipping containers, DOE-certified Type B shipping containers authorized for the specific content).

Will the nuclear material stored in the DAF be repackaged before it is eventually transported to Los Alamos National Laboratory or another facility?
No, the nuclear material staged in the DAF will not be repackaged before it is transported out of Nevada. However, prior to transport, the 9975 containers may be opened to perform maintenance, if necessary, to re-certify the containers prior to shipping. The maintenance includes replacement of seals and visual inspection of the containers, insulation, and lead shielding. Leak checks are also performed as part of the maintenance and certification processes.

ENCLOSURE 2

From: Easson, Stuart
Sent: Wednesday, August 29, 2018 4:10 PM
To: 'ccdista@clarkcountynv.gov' <ccdista@clarkcountynv.gov>
Subject: NNSA Completes Supplemental Analysis Related to the Removal of Plutonium from South Carolina

Dear Steve,

In December 2017, the federal District Court in South Carolina ordered the Department of Energy (DOE) to remove one metric ton of plutonium from the state within two years. DOE must ensure the Proposed Action is fully covered by a National Environmental Policy Act (NEPA) analysis. To this end, DOE has prepared a Supplement Analysis as the basis for evaluating the proposed approach for meeting the court order.

We are reaching out to you to let you know that the Supplement Analysis has been completed and NNSA has determined that the environmental impacts of the proposed action have been adequately addressed by existing NEPA analyses. Based on a thorough review, a plan was developed to remove one metric ton of programmatic defense material from Savannah River, South Carolina and ship it to the Device Assembly Facility (DAF) at the Nevada National Security Site (NNSS) outside of Las Vegas, Nevada, the Pantex Plant outside of Amarillo, Texas, and Los Alamos National Laboratory in New Mexico.

If you would like a briefing on the issues addressed in the Supplement Analysis, please let us know and we will work to schedule a time with our subject matter experts.

Regards,

Stuart Easson

NNSA Intergovernmental Affairs Specialist

1000 Independence Ave. SW,

Washington D.C. 20585

National Nuclear Security Administration