



Savannah River Site Watch

August 24, 2020

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**Attachment to SRS Watch Comments of August 20 and August 21, 2020 on the U.S. Nuclear Regulatory Commission's Scoping Related to Preparation of an Environmental Impact Statement on the Westinghouse Fuel Plant in Richland County, South Carolina - Docket ID NRC-2015-0039**

I formally submit this additional scoping comment for the record of Docket NRC-2015-2239.

I request that this and my other comments be included in the scoping record, be responded to in the draft EIS and that all of my comments be posted in ADAMS.

I am emailing and mailing this comment. My second emailed comment of August 21, 2020 is also being mailed along with this comment.

Scoping Comments:

**1. High-Assay Low-Enriched Uranium (HALEU) Use?**

As there is much discussion of use of high-assay low-enriched uranium (HALEU) as a nuclear reactor fuel, the draft EIS must discuss the possibility of this material being used to fabricate fuel at the Westinghouse fuel plant. Westinghouse must inform the NRC and public if it might have intentions to process HALEU into fuel.

environmental and health impacts. Even if the NRC claims not to regulate WesDyne, its presence impacts the LEU fuel fabrication activities and must be considered. Please discuss this matter in the scoping comment and draft EIS.

The Government Accountability Office, in an October 2010 document titled *National Nuclear Security Administration Needs to Ensure Continued Availability of Tritium for the Weapons Stockpile* (at <https://www.gao.gov/new.items/d11100.pdf>) includes this information about the length of a contract between the National Nuclear Security Administration and WesDyne:

NNSA relies largely on commercial suppliers to provide TPBARs, TPBAR components, and other services to the program through fixed price contracts. Although the Pacific Northwest National Laboratory originally designed the TPBARs and fabricated initial supplies, NNSA believed that the commercial sector was better able to meet nuclear industry quality requirements at lower cost. Therefore, in 2000, NNSA entered into a contract with WesDyne International to manufacture TPBARs. WesDyne International is a subsidiary of Westinghouse which is owned by the Japanese company Toshiba. Because of the relatively few companies capable of manufacturing TPBAR components, and to minimize the possibility of one of these companies exiting the industry or losing interest in working with the program, the contract was structured as a 44-year fixed price contract with an approximately 4-year initial phase and a 40-year second phase consisting of a 10-year base period and three 10-year options.

According to NNSA officials, a 44-year fixed price contract with lengthy options was intended to assure companies that there would be sufficient work required far enough into the future to make a contractor's initial investment in new facilities and capabilities worthwhile. Because of the highly specialized manufacturing processes involved in fabricating TPBARs, the relatively low production quantities planned by the program, and the length of time required to set up facilities for manufacturing classified components, NNSA identified the loss of one or more component suppliers as a major program risk. For example, several components can only be obtained from a single supplier, and if any of these companies were to decide it was no longer profitable to continue working with NNSA or were acquired by foreign firms, it could take NNSA several years and millions of dollars to find and develop a new supplier.

While these considerations led NNSA to use a 44-year contract to procure TPBARs, NNSA did not provide us evidence that it adhered to the appropriate contracting procedures typically involved when entering into a contract of this length. Federal statutes as implemented by the Federal Acquisition Regulation are the principal set of rules that govern the process through which the federal government acquires and purchases goods and services. NNSA officials did not document the legal authority used in entering into a contract of this length. In contrast, NNSA waived application of a statutory provision prohibiting contract awards under certain circumstances to foreign-controlled entities—by permitting a foreign-owned

company to produce TPBARs—and provided us with evidence of its compliance with the waiver requirements. (pages 13-14)

What is the relationship between the 40-year license-extension request by Westinghouse and the NNSA-WesDyne contract “structured as a 44-year fixed price contract with an approximately 4-year initial phase and a 40-year second phase?” Is it mere coincidence that the NNSA contract and the license extension request are for 40 years or around 40 years? This must be discussed in the draft EIS.

The DOE's *Fiscal Year 2018 Stockpile Stewardship and Management Plan* of November 2017 likewise mentions the contract with WesDyne: “Issued the WesDyne 9-year contract modification to continue fabrication and assembly of TPBARs.” (page 8-6)

So, it is known that there is a contract between NNSA and WesDyne to provide TPBARs that are irradiated in TVA's Watts Bar unit 1 reactor and then returned to DOE Savannah River Site for tritium extraction from the highly radioactive rods. We keep in mind that NNSA, unlike the NRC, is not an agency that regulates commercial facilities and note that the performance of the TPBARs in Watts Bar are regulated by the NRC. But who regulates the TPBAR fabrication so as to assure quality of performance in an NRC-licensed reactor?

If the NRC license extension for the Westinghouse facility is for less than 40 years, which impact would this have on WesDyne and its contract with the NNSA?

Which agency or agencies regulates the industrial activities at the WesDyne facility? Who regulates the matters related to potential environmental and health impacts, including any chemical waste or waste water (sewage) that might be transferred to the Westinghouse side of the facility or other on-site facilities?

What is the relationship between the WesDyne contract with the DOE's National Nuclear Security Administration and the Westinghouse license issued or to be issued by the NRC? Are there any agreements of any sort between the NRC and WesDyne and/or the NNSA concerning operation or oversight of the WesDyne facility?

Does the South Carolina Department of Health and Environmental Control (DHEC) regulate WesDyne? If not, why not?

Is any part of the NRC license held by Westinghouse or new license application to the NRC secret or confidential as it pertains to WesDyne International?

Recognizing that security protection could be related to environmental impacts, worker exposure and deliberate events or accidents, are security forces shared in common between the Westinghouse fuel fabrication part of the facility and WesDyne?