

CSAs originally made at Y-12, and the other is to "disposition" the materials resulting from the dismantling of old bombs. This "disposition" may include storing special materials in a strategic reserve, destroying and disposing of materials, and storing materials (especially highly enriched uranium and lithium) in long-term storage vaults pending a decision on its ultimate disposition. In the past, Y-12's dismantling mission has been reduced as the resources and workforce have been devoted to production activities. According to DOE sources, there is more than a seven-year backlog of retired nuclear weapons components awaiting dismantlement at Y-12.

The current production mission of Y-12 is described by DOE as stockpile stewardship. Y-12 performs "life extension upgrades" on current nuclear warheads; the "upgrades" are intended to extend the design life of the warheads for 100-120 years (Robert Dempsey, Assistant Manager for Defense Programs, Oak Ridge Operations, February 3, 1998, the *Oak Ridger*).

Y-12 also has a consulting and manufacturing role in the development of prototypes for new nuclear weapons and a manufacturing role in the modifications to current weapons. In 1996, Y-12 manufactured new nosecones for the B-61 bomb, Modification 11, introducing an earth-penetrating capacity to the US nuclear arsenal.

Y-12 also performs "work for others," primarily federal agencies such as the Department of Defense. According to DOE, work for others is undertaken when DOE recognizes benefits to its nuclear weapons production activities from the work. (Briefing from Bill Brumley, National Nuclear Security Administration, Oak Ridge Operations, in a briefing to OREPA, December 12, 2000.)

#### THE PLAN OF THE DEPARTMENT OF ENERGY

In the Y-12 Draft Site-Wide Environmental Impact Statement ("Y-12SW-EIS"), DOE states that its purpose is to provide facilities sufficient to enable the agency to perform tasks it has decided to undertake in previous EIS Records of Decision and to carry out the requirement of policy decisions made by the Administration of President William J. Clinton regarding the maintenance of a large nuclear weapons stockpile for the indefinite future.

The actual numbers of weapons in the current and planned US stockpile are not officially publicly known; they remain classified for reasons of national security. In general, however, the public is informed about the size of our nuclear stockpiles through information provided by the government and media related to arms control negotiations with other nuclear powers. Therefore, while it is impossible to calculate exactly how large the scope of work required to sustain the projected nuclear weapons arsenal may be, it is possible to speak in general terms of size and complexity of facilities required for the activities proposed by our government for the foreseeable future. The fact that we can not predict with complete certitude does not mean we can not speak knowledgeably about what is reasonable to expect in the future.

This is what we do know about the future of the US nuclear arsenal—it is reasonable to project that it will continue to diminish in size. It is also reasonable to consider as a likely possibility that the arsenal will diminish dramatically in size. In the last decade, the nuclear weapons stockpiles of the United States and Russia have been reduced to nearly half their peak Cold War size. The Strategic Arms Reduction Treaty 2 ("START 2") ratified by the Russian *duma*, commits the US and Russia to a considerable reduction in the current size of the arsenal. The arms reduction goals of the START 3 treaty have already been agreed to by negotiators for the US and Russia. Russian President Vladimir Putin has called for additional deep cuts in arsenals, seeking a stockpile well below 1,500 nuclear weapons. And US President George W. Bush, during his campaign for President, pledged to seek unilateral cuts in the US arsenal. (Bush's father, President George H. W. Bush, was the last US President to make unilateral cuts in the US nuclear arsenal; he announced his cuts in September, 1991).

It is a simple fact that time has overtaken the Y-12 Site-Wide EIS's statement of Purpose and Need. DOE first promised the Y-12 SW-EIS in 1995; the first formal Draft of the document was released in 2000. In the intervening years, both the perception and

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#### Comment No. 2 (cont.)

Issue Code: 25

In response to the D&D of vacated facilities now housing HEU storage and special materials operations, the commentor is referred to Sections 1.2, 3.2.3.2, and 3.2.4.1 of the SWEIS. As explained in the SWEIS, vacated HEU storage vaults and facilities are located within listed buildings along with Y-12 mission activities. Therefore, vacating just these areas would not necessarily require the building to be declared surplus and possible transition to EM. It would be speculative at best to determine the environmental and socioeconomic impacts of D&D activities at this time without knowing which buildings would be D&D, the contamination levels, and the end use of the buildings. However, as a bounding scenario, the SWEIS estimated the D&D wastes from the vacated buildings associated with HEU storage and special materials operations in Section 5.11, Volume I.

#### Comment No. 3

Issue Code: 12

The analysis in Section 5.13 of the Final Y-12 SWEIS does not show unacceptable levels of contamination to Scarboro Community residents or others in Oak Ridge (see response to Comment No.1, Issue Code 13 above).

As identified in the Final Y-12 SWEIS, the release of three carcinogens (arsenic, beryllium, and nickel) are due to the Y-12 Steam Plant operations (see Appendix D, Section D.3.6). (Based on updated data used in the Final SWEIS, cadium emission levels were lower than reported in the Draft SWEIS, and was removed from detection analysis by the screening process.) These carcinogenic contaminants and their associated excess cancer risks resulting from Y-12 Steam Plant emissions are presented in Table D.3.6-5. No excess cancer risks were determined to fall within the EPA's range of concern (between  $10^{-4}$  and  $10^{-6}$ ). The excess cancer risks for arsenic and beryllium from Y-12 Steam Plant emissions are  $1.46 \times 10^{-7}$  and  $1.22 \times 10^{-8}$ , respectively. Excess cancer risks for nickel could not be calculated due to lack of EPA toxicity values.

the reality of the need for a massive nuclear arsenal to assure the national security of the United States have declined dramatically. In short, we will never need the capacity for nuclear weapons production envisioned in the Y-12 Site-Wide EIS.

DOE asserts in its statement of purpose and need that the actions proposed in the Y-12 Site-Wide EIS are necessary to perform the mission assigned it by the President. However, in the FY2000 Congressional Budget, a description of the Stockpile Management Restructuring Initiative, 98-D-124 ("SMRI"), an initiative based on the SSM-PEIS Record of Decision, states unequivocally "No new facilities are being proposed for implementing the SMRI," noting that "All existing facilities that have been identified for utilization under each site-specific recommendation will be repaired, upgraded, and/or modified to meet current environment, safety and health requirements." Neither DOE's own SMRI (produced after the initiation of the Y-12 SW-EIS, using more recent data) nor the SSM-PEIS support the need for any new production facilities at Y-12 (I, 3-14).

The Y-12 SW-EIS is only a small sampling of a larger plan promulgated by DOE (but not, to date, released to the public). The Y-12 Integrated Site Modernization Program projects the eventual replacement or modernization of all major production facilities that support the Defense Programs (nuclear weapons) mission (S-11)—a massive new nuclear weapons production complex in Oak Ridge, Tennessee, estimated by DOE's Inspector General's Audit to cost at least \$4 billion. Only the first two pieces of the Y-12 Integrated Site Modernization Plan are considered in the Y-12 EIS; DOE contends the remainder of the plan is not "ripe" for examination in an Environmental Impact Statement.

A description of the Y-SIM Program in the FY 2000 Congressional Budget indicates a comprehensive plan is being developed to cover Y-12 process facilities through the next decade and that the Y-12 SW-EIS is being initiated "in concert" with this plan.

**NUCLEAR WEAPONS AND INTERNATIONAL LAW**

The actions proposed by DOE in the Y-12 SW-EIS stand in violation of international treaty obligations of the United States. Specifically, Article VI of the Nuclear Nonproliferation Treaty, commits all nuclear weapons states, including the United States of America, to the pursuit of complete disarmament at an early date. The Nonproliferation Treaty entered into force in March of 1970.

Under Article 2 of the U.S. Constitution, treaty agreements of the United States have the force of the Supreme Law of the Land. Simply put, when the US takes steps away from nuclear disarmament, it violates the law.

There can be no doubt that the proposals put forth in the Y-12 SW-EIS confound the intent as well as the letter of the Nonproliferation Treaty. Our action sends a clear and explicit message to the rest of the world: far from moving toward disarmament, the US is preparing to maintain a large nuclear weapons stockpile for the next one hundred years and to develop the production capability for new nuclear weapons.

In June, 1996, the International Court of Justice in the Hague (the World Court) ruled that the use or threat of use of nuclear weapons is a violation of international law. The mere possession of nuclear weapons deployed in a military posture projects the threat of use to most observers; the US has gone farther than merely deploy weapons, however; in the last decade we have twice made explicit threats to use nuclear weapons—one threat directed at the government of North Korea, and another at the Kaddafi regime in Libya.

Furthermore, international conventions prohibit the use of weapons of indiscriminate mass destruction and the environmental devastation which would inevitably accompany any use of nuclear weapons.

And finally, The Universal Declaration of Human Rights, enacted December 10, 1949, declares that all persons have the right to live free of fear—the production of nuclear weapons, by their very nature, violates this fundamental human freedom.

OREPA believes that the proposed actions in the Y-12 SW-EIS are illegal and have been judged both illegal and immoral by humanity.

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**Comment No. 3 (cont.)**

**Issue Code: 12**

The commentor is referred to Appendix D, Section D.3.6 for discussions on the presence of chemical contamination at Y-12 due to airborne emissions, surface water, sediment, soils, and groundwater. Additional information regarding the historical use and current controls to mitigate exposure to chemical contaminants is discussed in Section D.3.7. The EM Program Y-12 staff activities that are ongoing and would continue under the proposed action and alternatives evaluated in the SWEIS are identified in Section 3.2.2.3.

DOE has a very aggressive clean-up program and has worked with the EPA, the states, stakeholders, and the general public to develop long-range programs and commitments to clean up its facilities to acceptable levels. The impacts on waste management activities associated with the proposed action, which includes continued operation of Y-12's missions and construction and operation of new facilities for the HEU Storage and Special Materials missions at Y-12, are addressed in Volume I, Section 5.11 of the Y-12 SWEIS.

**Comment No. 4**

**Issue Code: 16**

There is no plan or proposal in the Y-12 SWEIS to build a new weapons production facility or to manufacture new nuclear weapons. Since the end of the Cold War, the United States has significantly reduced the size of its nuclear weapons stockpile, and DOE has dismantled more than 15,000 nuclear weapons. At the present time, the United States is further downsizing its deployed nuclear weapons stockpile, consistent with the terms of START I and START II treaties. Although Russia suspended its nuclear weapons dismantlement activities on January 20, 2001, DOE has continued its weapons dismantlement activities. While future arms control reductions may change requirements for maintaining the weapons stockpile, DOE is responsible for meeting the current requirements set forth by the President and Congress. The need for nuclear weapons and the issue of how many nuclear weapons the United States maintains as a nuclear deterrent are beyond the scope of the Y-12 SWEIS.

Parties to the Nuclear Nonproliferation Treaty agree not to directly or indirectly transfer nuclear weapons or other nuclear explosive devices or control over them to any recipient; and not to in any way assist, encourage, or induce nonnuclear weapon states to manufacture or alter use, or acquire