



The Secretary of Energy
Washington, DC 20585

April 23, 2019

The Honorable Adam Smith
Chairman
Committee on Armed Services
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

This letter constitutes a report to Congress under section 4306(a)(3)(A) of the *Atomic Energy Defense Act* (50 U.S.C. § 2566), concerning the Mixed Oxide Fuel Fabrication Facility (MFFF) at the Department of Energy's (DOE or Department) Savannah River Site (SRS) near Aiken, South Carolina.

Numerous independent studies as well as analyses by the Department concluded MFFF was significantly behind schedule and would cost significantly more than previously projected. MFFF has not produced mixed plutonium-uranium oxide (MOX) fuel and the "MOX production objective" – essentially, production of one metric ton of MOX fuel per year¹ – will not be met in 2019. The Department continues to suspend further transfers of defense plutonium and defense plutonium materials (weapons-usable plutonium)² to South Carolina to be processed by MFFF.

On May 10, 2018, I waived the requirement that funds made available for MFFF in fiscal year 2018 be used for construction and project support activities relating to MFFF at SRS, pursuant to section 3121 of the *National Defense Authorization Act for Fiscal Year 2018* (NDAA) and section 309 of the *Consolidated Appropriations Act, 2018*.³ In accordance with those laws, I also provided a commitment and certification to the congressional defense committees to support the waiver, and I submitted the lifecycle cost estimate used to make the certification to the congressional appropriations committees.

On June 7, 2018, the U.S. District Court for the District of South Carolina issued a preliminary injunction order enjoining the Department from terminating construction of MFFF. The Department appealed the injunction, and the U.S. Court of Appeals for the Fourth Circuit lifted the preliminary injunction, allowing the Department to move forward with termination activities. On October 10, 2018, the Department issued a notice of termination to CB&I AREVA MOX Services to immediately terminate the contract for construction of MFFF.

¹ The "MOX production objective" is essentially defined in section 4306(h)(1) of the *Atomic Energy Defense Act* as production of one metric ton of MOX fuel per year.

² The terms "defense plutonium" and "defense plutonium materials" are defined in section 4306(h)(3) of the *Atomic Energy Defense Act* to mean weapons-usable plutonium.

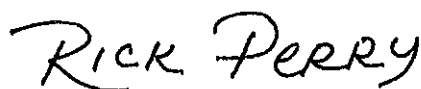
³ P.L. 115-91; P.L. 115-141.



DOE plans to submit information to Congress on options for removing from the State of South Carolina those amounts of defense plutonium or defense plutonium materials transferred to South Carolina after April 15, 2002. In this regard, DOE is downblending (diluting) more than six metric tons of surplus weapons-usable plutonium for disposal at the Waste Isolation Pilot Plant (WIPP) near Carlsbad, New Mexico, and has begun shipments of this material to WIPP.⁴ This process will remove surplus weapons-usable plutonium from South Carolina and ensure that the surplus plutonium is never again readily useable in a nuclear weapon.⁵

DOE is grateful for the interest of Congress in supporting DOE's national security missions. DOE is working diligently to process and remove surplus plutonium from the State of South Carolina and dispose of surplus weapons-usable plutonium. SRS plays a key role in U.S. national security and DOE remains committed to its enduring mission. If you have any questions, or need additional information, please contact Mr. Dwayne Bolton, Principal Deputy Assistant Secretary for House Affairs, Office of Congressional and Intergovernmental Affairs, at (202) 586-5450.

Sincerely,

A handwritten signature in black ink that reads "Rick Perry". The signature is written in a cursive, slightly slanted style.

Rick Perry

cc: The Honorable William "Mac" Thornberry
Ranking Member

⁴ This plutonium was not previously slated for fabrication into MOX fuel. To date, DOE has down-blended 77 kilograms (kg) – .077 metric tons – of surplus, weapons-usable plutonium, shipped 61 kg (.061 metric tons) of down-blended plutonium to WIPP, and shipped approximately 10 kg (.010 metric tons) to other sites outside of South Carolina for use in other DOE programs. .

⁵ In addition to a series of Interim Action decisions to prepare certain plutonium for disposal at WIPP, the Department issued a Record of Decision in March 2016 to prepare six metric tons of surplus plutonium for disposal at WIPP. 81 F.R.19588 (Apr.5, 2016).