



Savannah River Site Watch

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**For Immediate Release**

**June 7, 2018**

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**Federal Court Grants Preliminary Injunction Allowing Construction of Bungled Plutonium Fuel (MOX) Project at SRS to Continue for Now, halting Formal Termination; Judge Fails to Understand that the Failed MOX Project will Not Result in Plutonium Removal from South Carolina**

***With Court Ruling, MOX Zombie Project Allowed to Stumble Onward to Eventual Termination***

***Preliminary Injunction [linked here](#)***

Columbia, SC – A judge with the federal district court in Columbia, South Carolina this evening issued a “preliminary injunction” to halt the termination of the mismanaged plutonium fuel (MOX) project at the Savannah River Site in South Carolina. The preliminary injunction had been requested by the State of South Carolina on May 25, 2018.

Federal District Judge J. Michelle Childs issued the ruling around 6 p.m. on Thursday, June 7 and sided with the state on many of the things it had argued in favor of granting the injunction. The court concluded:

Based on the foregoing, the court **GRANTS** the State’s Motion for Preliminary Injunction (ECF No. 5). During the pendency of this lawsuit, the court enjoins the Federal Defendants’ May 10 decisions to terminate and cease construction of the MOX Facility and its intent to pursue the Dilute and Dispose approach to plutonium disposition. The Partial Stop Work Order issued on May 14, 2018 is vacated and the Federal Defendants are prevented from issuing a full stop work order on or before June 11, 2018, or thereafter, unless otherwise determined by this court. Consequently, the Federal Defendants are to maintain the status quo by continuing the MOX Project. The State is ordered to pay a bond in the amount of \$100.00 to the Clerk of Court for the United States District Court for the District of South Carolina by Friday, June 8, 2018 at 4 p.m.

“It was clear from her question in court and in the ruling that the judge simply does not understand the breadth of funding and technical problems with the mismanaged MOX project and that it will never result in plutonium removal from the state,” said Tom Clements, director of the public interest group Savannah River Site Watch.

“The judge is concerned, as we all are, about obligations by the federal government to remove plutonium from the state, but the MOX plant construction would not be finished until 2048 at the earliest and likely never operate,” added Clements. “Disposal of plutonium as nuclear waste must be pursued over the unsustainable MOX option.”

Among other things, the judge agreed that there was certain harm to the state and that requirements of the National Environmental Policy Act had not been met.

Arguments were heard on June 5 before the court by the State of South Carolina (office of the Attorney General) and by the Department of Justice on behalf of the U.S. Department of Energy and DOE’s National Nuclear Security Administration (NNSA).

DOE issued a partial stop work order May 14 and planned to issue a permanent stop work order on June 11, with worker layoffs starting 60 days later.

As DOE had presented vague plans that the MOX plant will be turned into a nuclear bomb factory, to make plutonium “pits” for weapons, that “repurposing” has now been put on hold by the court ruling. “While turning the MOX facility into an unneeded nuclear bomb production facility is wrong headed, that plan has now been thrown into doubt by the judge’s effort to save the bungled MOX project,” add Clements.

Discussion now in Congress indicate just what big problems the MOX project faces. The Senate Appropriations Committee has passed its DOE budget for Fiscal Year 2019 and only included \$220 million for MOX termination and nothing for construction. The Senate Armed Services Committee this week passed the National Defense Authorization Act of Fiscal Year 2019 authorized only \$220 million for MOX construction – a minimal life-support level far below the current funding level - and included language that specifies funds can’t be used for MOX termination or to convert the MOX plant for other use. Thus, the stage is set for a fight to resolve the status of MOX.

“If a paltry \$220 million is approved for MOX construction, it will lead to layoffs and a further slowdown in the project, making it less viable than ever, only slightly delaying termination,” according Clements of SRS Watch.

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**Notes:**

**Preliminary injunction, June 7, 2018, linked here:**

[http://www.srswatch.org/uploads/2/7/5/8/27584045/preliminary\\_injunction\\_june\\_6\\_2018.pdf](http://www.srswatch.org/uploads/2/7/5/8/27584045/preliminary_injunction_june_6_2018.pdf)

**Case docket number is 1:18-cv-01431.** Court filings in the docket can be seen by those registered in the federal court's PACER system. See more information on the website of the United States District Court – South Carolina District: <https://www.scd.uscourts.gov/default.asp>

**Initial filings of the State of South Carolina** can be seen in the attorney general's news release of May 25, 2018: "Attorney General Alan Wilson files for injunction to stop shutdown of MOX project in SC" – <http://www.scag.gov/archives/35740>

Key filings in the docket by Department of Justice for NNSA:

First declaration of Robert Raines, May 30, 2018, with attachment of "partial stop work order" (May 14) and explanation of it (May 21), and information that 60-day notice of termination of workers is planned for June 11, 2018 (unless the court grants the request for a preliminary injunction) [http://www.srswatch.org/uploads/2/7/5/8/27584045/nnsa\\_documents\\_against\\_expedited\\_hearing\\_partial\\_stop\\_work\\_order\\_may\\_30\\_2018.pdf](http://www.srswatch.org/uploads/2/7/5/8/27584045/nnsa_documents_against_expedited_hearing_partial_stop_work_order_may_30_2018.pdf)

Second declaration of Robert Raines, June 4, 2018: [http://www.srswatch.org/uploads/2/7/5/8/27584045/raines\\_declaration\\_june\\_4\\_2018.pdf](http://www.srswatch.org/uploads/2/7/5/8/27584045/raines_declaration_june_4_2018.pdf)

Recent congressional action on MOX (ask for links to House Appropriations and Armed Services language):

Senate NDAA FY 2019 bill – see page 1136 for MOX funding authorization and Section 3118 "Prohibition on use of funds for terminating activities at MOX facility": <https://www.armed-services.senate.gov/imo/media/doc/BILLS-115s2987pcs.pdf>

Senate Appropriations report on FY 2019 MOX termination funding, page 107: "MOX Construction.—The Committee recommends \$220,000,000 for closeout costs associated with the termination of MOX Fuel Fabrication Facility construction, consistent with the budget request and the Secretary's waiver to terminate the project." <https://www.congress.gov/115/crpt/srpt258/CRPT-115srpt258.pdf>