

VIA EMAIL: URGENT — Response Required: 8:00 PAM Mountain Time, April 8, 2026

Pete Hegseth, Secretary of Defense
United States Department of Defense
1000 Defense Pentagon
Washington, D.C. 20301-1000

Re: Pre-Litigation Notice: Ward 250 Nuclear Reactor — DOD Participation in Federal Statutory Violations and Emergency Injunctive Relief

Mr. Secretary:

VIA EMAIL: URGENT — Response Required: 8:00 PAM Mountain Time, April 8, 2026

Pete Hegseth, Secretary of War
United States Department of War
1000 Defense Pentagon
Washington, D.C. 20301-1000

Re: Pre-Litigation Notice: Ward 250 Nuclear Reactor — DOD Participation in Federal Statutory Violations and Emergency Injunctive Relief

Mr. Secretary:

This letter constitutes formal pre-litigation notice pursuant to Federal Rule of Civil Procedure 65(b) of intent to seek emergency injunctive relief in the United States District Court for the District of Utah. The United States Department of War provided three C-17 Globemaster III military aircraft and military personnel to transport and deploy the Ward 250 nuclear reactor to the Utah San Rafael Energy Lab in Orangeville, Emery County, Utah on February 15, 2026. [1] That deployment violated seven independent federal statutes. DOW's material participation in the deployment creates federal agency liability under each count.

Demand. The United States Department of War must immediately cease all support, facilitation, and logistical assistance to fuel insertion activities and all actions directed toward nuclear criticality in the Ward 250 reactor and provide written confirmation to january@infoton.ai by 8:00 AM Mountain Time, April 8, 2026. Absent that confirmation, a complaint and motion for temporary restraining order will be filed without further notice naming the Secretary of War and the Department of War as federal defendants.

I. The Department of War's Role in the Statutory Violations

The DOW is not a passive participant in the Ward 250 deployment. The use of three C-17 Globemaster III aircraft under presidential executive authority to transport a civilian nuclear reactor from March Air Reserve Base to Hill Air Force Base Utah constitutes active federal participation in a civilian nuclear deployment. [1] Federal agency participation triggers statutory obligations under each of the following statutes regardless of whether DOW characterizes its role as logistical support, national security cooperation, or implementation of Executive Order 14301. [2] The Supremacy Clause does not permit executive orders to override congressional statutes. *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579 (1952).

II. Statutory Violations

Count I. Atomic Energy Act, 42 U.S.C. § 2133. [3]

The Atomic Energy Act requires an NRC construction permit and operating license for the civilian operation of a utilization facility. The Ward 250 has neither. [4] DOD transported a civilian nuclear reactor owned and operated by a private California startup to an active deployment site without NRC licensing authorization. DOW cannot invoke national security authority to shield participation in an unlicensed civilian nuclear deployment from AEA review. The AEA licensing requirement is a congressional statute that applies to civilian nuclear facilities regardless of the method of transportation or the executive authority under which transportation was ordered. Executive Order 14301 cannot authorize what 42 U.S.C. § 2133 prohibits. [2]

Count II. National Environmental Policy Act, 42 U.S.C. § 4332. [5]

NEPA requires an Environmental Impact Statement for every major federal action significantly affecting the quality of the human environment. DOW's use of military aircraft and military personnel to deliver a civilian nuclear reactor to an operational site

in the San Rafael River watershed in Emery County, Utah constitutes major federal action. [1] The San Rafael River drains into the Green River and the Colorado River system serving 35 to 40 million people across seven states. [6] No Environmental Impact Statement was conducted for the Ward 250 deployment. The DOE categorical exclusion purporting to eliminate NEPA review has been formally challenged by twelve state attorneys general as illegal, arbitrary, and capricious. [7] DOW's participation in the deployment is subject to NEPA review independently of the DOE categorical exclusion.

Count III. Administrative Procedure Act, 5 U.S.C. §§ 553 and 706. [8]

The ALARA radiation protection standard, the cognizant system engineer requirement, and groundwater discharge protections were eliminated from DOE nuclear safety orders without public notice or comment. [9] The Ward 250 will achieve criticality under a safety framework established in violation of the APA. DOW's continued logistical support for fuel insertion activities in a reactor operating under invalidly promulgated safety standards constitutes participation in ongoing APA violations. The DOE categorical exclusion is independently arbitrary and capricious under 5 U.S.C. § 706 for failure to apply the extraordinary circumstances exception required by DOE's own regulations at 10 CFR Part 1021 Appendix B. [10]

Count IV. Endangered Species Act, 16 U.S.C. § 1536. [11]

Section 7 requires federal agencies to consult with the U.S. Fish and Wildlife Service before taking actions that may affect listed species or critical habitat. The San Rafael River watershed hosts the Colorado pikeminnow and razorback sucker, both federally listed as endangered. [12] USGS monitoring data documents the San Rafael River runs completely dry in Emery County during drought years. [13] DOW's military transport operation and ongoing logistical support for Ward 250 deployment constitute federal agency action triggering Section 7 consultation obligations. No consultation was conducted.

Count V. Clean Water Act, 33 U.S.C. § 1341. [14]

Section 401 requires a state water quality certification before any federal permit or license issues for an activity that may result in discharge into navigable waters. The San Rafael River is a navigable water of the United States as a tributary of the Green River and Colorado River. [6] DOD's participation in transporting and deploying the Ward 250 to this watershed without Section 401 certification constitutes participation in a

Clean Water Act violation. Utah DEQ has formally stated in writing that no analysis of nuclear deployment in Utah's water systems exists on record. [15]

Count VI. National Historic Preservation Act, 54 U.S.C. § 306108. [16]

Section 106 requires federal agencies to consider effects on historic properties before undertaking federal actions. The San Rafael Swell surrounding the deployment site contains documented Native American cultural resources and historic sites under federal protection. [17] DOW's military transport and deployment operation is a federal undertaking triggering Section 106 consultation obligations. No consultation was conducted with tribes or the Utah State Historic Preservation Officer.

Count VII. Administrative Procedure Act, 5 U.S.C. § 706. [8]

DOE's own regulations at 10 CFR Part 1021 Appendix B require that categorical exclusions not apply when extraordinary circumstances exist. [10] A nuclear reactor deployed in a periodically dry watershed serving endangered species and draining into the water supply of 35 to 40 million people across seven states presents extraordinary circumstances as defined by those regulations. DOE failed to document consideration of the extraordinary circumstances exception. DOW's participation in executing a deployment authorized by a legally deficient categorical exclusion constitutes participation in arbitrary and capricious agency action.

III. National Security Deference Does Not Apply

DOW cannot invoke national security deference to shield the Ward 250 deployment from statutory review. National security deference applies to discretionary executive decisions involving classified operational matters and core military functions. It does not apply to the question of whether a civilian nuclear reactor owned and operated by a private California startup requires an NRC license under 42 U.S.C. § 2133. That is a statutory compliance question this Court decides de novo under *Loper Bright Enterprises v. Raimondo*, 144 S. Ct. 2244 (2024). The reactor is civilian. The operator is private. The commercial deployment purpose is publicly documented. [18] The use of military transport assets to deliver the reactor does not transform a civilian nuclear deployment into a military operation exempt from civilian nuclear law.

The federal courts have repeatedly held that national security considerations do not override the express requirements of congressional statutes. The Atomic Energy Act,

NEPA, the ESA, the Clean Water Act, the NHPA, and the APA were each enacted by Congress with full awareness that federal agencies including the Department of Defense would be subject to their requirements. Congress did not exempt DOW from these statutes. No executive order can create that exemption.

IV. Irreparable Harm

Criticality is binary and irreversible. Fuel insertion planned for this spring creates radiological conditions in the San Rafael River watershed that cannot be reversed after the fact. The Ward 250 DOE authorization will become the safety demonstration baseline for every subsequent commercial deployment of this design under MOU Addendum No. 9 between DOE and NRC [19] and the NRC proposed rule published April 2, 2026 under Docket NRC-2025-1503. [20] That baseline contains no thermodynamic analysis, no seismic characterization, no supply chain analysis for safety-critical rare earth materials under active Chinese export restriction, no Section 7 ESA consultation, no Section 401 CWA certification, and no Section 106 NHPA consultation. The harm from proceeding to criticality extends nationally to every community where subsequent gigasite deployments proceed under this deficient baseline.

V. The Record

Utah DEQ formally stated in writing that no thermodynamic analysis of nuclear deployment in Utah's water systems exists on record and DEQ is not required to produce one. [15] On April 1, 2026, ProPublica reported a DOGE operative told NRC leadership the NRC will do whatever we tell it to do. [21] The NRC's top attorney was replaced by an oil and gas DOGE lawyer. [21] NRC lawyers withdrew from an Atomic Safety and Licensing Board proceeding citing limited resources in what the presiding judge noted was the first such withdrawal in over twenty years. [21] The former NRC chair has publicly stated the regulator is no longer independent. [22] The federal court is the only remaining forum where these violations can be remedied before irreversible harm occurs.

VI. Standing

Plaintiff is an eighth-generation Utah resident with documented injury from nuclear deployment in the Colorado River watershed. Plaintiff has published thermodynamic analysis of nuclear deployment consequences in Utah's terminal basin watershed on the CERN Zenodo open repository for public awareness, DOI: 10.5281/zenodo.15001852, with a formal question formally filed with 13 federal agencies. [23] Plaintiff has submitted a draft Petition for Leave to Intervene in NRC Docket Nos. 50-616 and 50-617 and has exhausted every available administrative channel before providing this notice. [24]

Written confirmation of the halt is demanded by 8:00 AM Mountain Time, April 8, 2026.

Respectfully submitted,

January Walker

Planetary Information Security Officer

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Attachments:

1. Walker J. The Thermodynamic Effects of Nuclear Fission in the Great Salt Lake Basin. DOI: 10.5281/zenodo.15001852
2. Draft Petition for Leave to Intervene. Docket Nos. 50-616 and 50-617 and NRC Public Comment. Docket NRC-2026-0265. Submitted April 3, 2026.
3. DOE Reconciliation Demand. Nine Documented Contradictions. March 28, 2026.

Citations

[1] Valar Atomics. Operation Windlord Press Statement. February 15, 2026.

valaratomics.com. Three C-17 Globemaster III aircraft transported Ward 250 from March ARB to Hill AFB Utah under presidential executive authority.

[2] Executive Order 14301. Reforming Nuclear Reactor Testing at the Department of Energy. May 23, 2025. 90 Fed. Reg. 24125.

- [3] Atomic Energy Act of 1954, 42 U.S.C. § 2133, Licenses for utilization and production facilities.
- [4] NRC Agreement State Information — Utah. U.S. Nuclear Regulatory Commission. [nrc.gov/agreement-states/utah](https://www.nrc.gov/agreement-states/utah). Confirming no operating nuclear reactors licensed in Utah.
- [5] National Environmental Policy Act of 1969, 42 U.S.C. § 4332(2)(C).
- [6] Bureau of Reclamation. Colorado River Basin. [usbr.gov/ColoradoRiverBasin](https://www.usbr.gov/ColoradoRiverBasin). Serving 35 to 40 million people across seven states.
- [7] Twelve State Attorneys General. Formal Opposition to DOE Categorical Exclusion. Filed before March 4, 2026 comment deadline. Docket DOE-HQ-2025-0405. Led by California Attorney General Rob Bonta.
- [8] Administrative Procedure Act, 5 U.S.C. §§ 553 and 706.
- [9] Snyder R. The Trump Administration Has Secretly Rewritten Nuclear Safety Rules. NPR. January 28, 2026. Over 750 pages removed from DOE nuclear safety orders. ALARA eliminated. Cognizant system engineer requirement eliminated. New orders shared with industry before public release.
- [10] DOE NEPA Implementing Procedures. 10 CFR Part 1021 Appendix B. Extraordinary circumstances exception to categorical exclusions.
- [11] Endangered Species Act of 1973, 16 U.S.C. § 1536. Section 7 interagency consultation requirement.
- [12] U.S. Fish and Wildlife Service. Colorado Pikeminnow *Ptychocheilus lucius* and Razorback Sucker *Xyrauchen texanus*. Listed as endangered under 16 U.S.C. § 1533. Upper Colorado River Endangered Fish Recovery Program.
- [13] Arnold T. As Utah's San Rafael River Dries, Scientists Try to Give Native Fish a Fighting Chance. KUER. April 14, 2025. USGS monitoring data documenting San Rafael River running completely dry in Emery County during drought years including six consecutive weeks in 2020.
- [14] Clean Water Act, 33 U.S.C. § 1341. Section 401 state water quality certification requirement.
- [15] Utah Department of Environmental Quality. Formal Written Response to January Walker. March 2026. Stating no thermodynamic analysis of nuclear deployment in Utah's water systems exists on record and DEQ is not required to produce one.
- [16] National Historic Preservation Act of 1966, 54 U.S.C. § 306108. Section 106 consultation requirement.

- [17] Bureau of Land Management. San Rafael Swell Area of Critical Environmental Concern. Emery County Utah. Documented Native American rock art panels and historic sites under federal protection.
- [18] Valar Atomics Mission Statement. valaratomics.com/mission. Accessed April 3, 2026. Deploying clusters of thousands of HTGRs in gigasites for heavy industrial power, data center power, and hydrogen production.
- [19] DOE-NRC Memorandum of Understanding Addendum No. 9. Committing DOE and NRC to expedite commercial licensing of follow-on reactors of the same design as DOE-authorized demonstration reactors.
- [20] Nuclear Regulatory Commission. Proposed Rule. NRC Reviews of Reactor Designs Previously Authorized by U.S. Department of Energy or Department of War. 91 Fed. Reg. 16584. April 2, 2026. Docket NRC-2025-1503. Comment deadline May 4, 2026.
- [21] Collier K and Ivory D. DOGE Goes Nuclear: How Trump Invited Silicon Valley Into America's Nuclear Power Regulator. ProPublica. April 1, 2026. Documenting DOGE operative statement that NRC will do whatever we tell it to do. NRC top attorney replaced by oil and gas DOGE lawyer. NRC lawyers withdrew from ASLB proceeding for first time in over twenty years.
- [22] Macfarlane A. Quoted in Trump Has Undermined the One Agency Tasked With Making Sure America Never Has Another Nuclear Meltdown. CNN. March 10, 2026. The regulator is no longer an independent regulator. We do not know whose interests it is serving. The safety culture is under threat.
- [23] Walker J. The Thermodynamic Effects of Nuclear Fission in the Great Salt Lake Basin. *Januarian Physics* 2026, 1, 1.5. Published March 27, 2026. CERN Zenodo open repository for public awareness. DOI: 10.5281/zenodo.15001852.
- [24] Walker J. Draft Petition for Leave to Intervene and Request for Adjudicatory Hearing. In the Matter of SMR LLC Pioneer Units 1 and 2. Docket Nos. 50-616 and 50-617. NRC-2026-0265. March 30, 2026.