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U.S. DEPARTMENT OF ENERGY
PUBLIC HEARING

DRAFT ENVIRONMENTAL IMPACT STATEMENT FOR THE
DISPOSAL OF GREATER-THAN-CLASS C (GTCC)
LOW-LEVEL RADIOACTIVE WASTE
AND GTCC-LIKE WASTE
(DOE/EIS-0375-D)

Taken at the Desert Research Center
755 East Flamingo Road
Las Vegas, Nevada

May 9, 2001, commencing at 6:30 p.m.

Reported By: Dana J. Tavaglione, RPR CCR 841

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Hosting Public Hearing for the Department of Energy:

Mr. Holmes Brown, Facilitator

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4 Draft EIS for GTCC Disposal,

5 submitted by Darrell Lacy

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25 (* Exhibits attached to the transcript.)

P R O C E E D I N G S

U.S. DEPARTMENT OF ENERGY PUBLIC HEARING ON THE
DRAFT ENVIRONMENTAL IMPACT STATEMENT FOR THE
DISPOSAL OF GREATER-THAN-CLASS C (GTCC) LOW-LEVEL
RADIOACTIVE WASTE AND GTCC-LIKE WASTE (DOE/EIS-0375-D)

I N T R O D U C T I O N

MR. BROWN: If folks will take their seats,
we'll get started with the public comment period.

It's now time to receive your comments on the
Draft EIS. This is your opportunity to provide DOE
with oral comments on the Draft EIS, including what you
would like to see as a Preferred Alternative or what
factors you would like DOE to consider in making that
decision.

The court reporter will transcribe your
comments for the administrative record. Our reporter
for tonight is Dana Tavaglione, sitting over there.
DOE has stated how critical your input is to the
development of the EIS.

This evening's format is designed to ensure
that all interested parties have equal opportunity to
provide input. In order to do this, let me review a
few ground rules for this part of the agenda.

Please step up to the microphone over there
when your name is called. Please introduce yourself

1 and provide an organizational affiliation where
2 appropriate. If you have a written version of your
3 statement, please provide a copy to the court reporter
4 after you have completed your remarks. Also, please
5 give the reporter any additional attachments that you
6 would like included with your statement. Each will be
7 labeled and submitted for the formal record.

8 I will call two names at a time. The first
9 of the speaker, the second of the person to follow. In
10 view of the number of people that have signed up to
11 speak tonight, please confine your public statement to
12 five minutes. This is necessary in order to allow all
13 speakers an opportunity to provide their comments and
14 also provide a bit of variety for the audience.

15 If your prepared remarks exceed the time
16 allotted tonight, please summarize your key points for
17 the audience and the hearing officer. There are a
18 variety of ways of submitting additional comments after
19 your verbal statement, prior to the closing date on
20 June 27. All comments, whether verbal or written or in
21 electronic form, count equally in the preparation of
22 the Final EIS.

23 I will keep track of each presentation and
24 will let you know when you have a minute left by
25 holding up this highly visible sign. So as you get to

1 about the four-minute mark, you're going to kind of
2 glance over here.

3 And Arnie Edelman will be serving as the
4 Hearing Officer for the Department of Energy during the
5 formal comment period. He will not be responding to
6 questions or comments during the formal session.

7 So with that, by way of introduction, let me
8 call on our first speaker.

9 Steve Frisham will lead off comments this
10 evening, and he will be followed by Darrell Lacy.

11 Has he arrived yet, or is Darrell --

12 UNIDENTIFIED SPEAKER: I'll let you know.

13 MR. BROWN: Okay. Fine.

14 So Phil Klevorick, I guess, will follow.

15 You'll follow Steve then.

16 Steve, proceed.

17 PUBLIC COMMENTS

18 MR. FRISHMAN: Thanks. I'm Steve Frishman.

19 I'm representing the Nevada Agency for Nuclear
20 Projects. And I'm giving this statement on behalf of
21 Joe Strolin, the Acting Executive Director of the
22 agency. He has provided a written statement, and I've
23 taken the liberty of reducing it to a five-minute
24 statement, but I'll provide his whole statement, for
25 the record.

1 (Reading) The State of Nevada Agency
2 for Nuclear Projects is in the process
3 of reviewing the Department of Energy's
4 Draft Environmental Impact Statement.
5 In addition to these brief preliminary
6 comments, the State will provide more
7 extensive written comments prior to the
8 June 27 deadline.

9 In comments on DOE's Notice of Intent to
10 prepare the EIS for Greater-than-Class C in 2007,
11 Nevada opposed, on both scientific and legal grounds,
12 the use of either the proposed high-level nuclear waste
13 repository --

14 (Reporter request.)

15 MR. BROWN: I'll be liberal on the five
16 minutes, Steve. Go ahead on.

17 MR. FRISHAM: That's the first time I've ever
18 outrun the court reporter.

19 MR. BROWN: Yeah.

20 MR. FRISHAM: In comments on DOE's Notice of
21 Intent to prepare the EIS for Greater-than-Class C in
22 2007, Nevada opposed, on both scientific and legal
23 grounds, the use of either the proposed high-level
24 radioactive waste repository at Yucca Mountain or the
25 Nevada Test Site for Greater-than-Class C disposal.

1 The fact that this Draft EIS explicitly excludes Yucca
2 Mountain as an option is an appropriate acknowledgment
3 of the reality that Yucca Mountain will never be built.

4 The Draft EIS fails to recognize the problems
5 associated with the requirement that any facility
6 chosen for disposal of Greater-than-Class C waste
7 disposal must be licensed and regulated by the U.S.
8 Nuclear Regulatory Commission.

9 While the Draft acknowledges that most of the
10 Greater-than-Class C waste requiring disposal would be
11 commercial waste from NRC-licensed generators, neither
12 Nevada Test Site, nor any of the specific locations
13 identified for potential Greater-than-Class C waste
14 disposal, has an NRC-licensed facility. Inclusion of
15 DOE's Greater-than-Class C-Like waste, currently
16 managed under DOE orders and stored at DOE facilities,
17 requires that these wastes be brought into NRC
18 regulatory regime.

19 This raises considerable waste
20 characterization and security issues. It is by no
21 means clear how or if an NRC-regulated facility can
22 coexist with a DOE self-regulated facility like Nevada
23 Test Site, or in the case of the WIPP facility in New
24 Mexico, an EPA and state-regulated facility, and how
25 the public can be assured that the NRC's regulatory

1 authority will have primacy at a Greater-than-Class C
2 site.

3 There continues to be unresolved land-use
4 issues associated with the Nevada Test Site that are
5 not adequately addressed in the Draft EIS. The
6 original 1952 administrative land withdrawal for the
7 Nevada Test Site specified its use as a, quote,
8 "weapons testing site."

9 In 1994, the State of Nevada filed a
10 Complaint in the U.S. District Court in Las Vegas,
11 alleging that the land withdrawals for the Nevada Test
12 Site do not include waste disposal for offsite sources
13 as an intended use of the land.

14 A Settlement Agreement signed in April 1997
15 committed DOE to initiate, quote, "consultation with
16 the United States Department of the Interior concerning
17 the status of existing land withdrawals for the NTS
18 with regard to low-level waste disposal and storage."

19 Although DOE has indicated that consultations
20 with the Department of the Interior have concluded, the
21 State has continuing unresolved land withdrawal static
22 concerns about the use of the site for offsite-
23 generated waste disposal, including Greater-than-Class
24 C and Greater-than-Class-C-Like wastes.

25 Transportation impacts associated with the

1 disposal of the Greater-than-Class C waste, generally
2 and with respect to Nevada Test Site in particular,
3 have not been adequately addressed in the Draft EIS.
4 Since there is no rail access to NTS, it's entirely
5 unrealistic to assume that Greater-than-Class C waste
6 could be shipped via rail to the site. Consequently,
7 all the waste, over 30,000 potential shipments, would
8 have to be moved to the site by truck.

9 Many of these shipments, according to the
10 Draft, would be required to use the interstate highway
11 system, thus pass through the most heavily populated
12 portions of Las Vegas and Clark County. Such a shipping
13 campaign would put Las Vegas' tourism-dependent economy
14 at substantial risk in the event of an accident or
15 terrorist attack against a shipment while in transit.

16 Initial review of this draft document reveals
17 nothing that alters the State's view that disposal of
18 Greater-than-Class C at NTS, regardless of the
19 alternative method employed, is unacceptable.

20 (Whereupon Exhibit No. 1 was marked for
21 identification.)

22 MR. BROWN: Okay. Thanks, Steve.

23 The next speaker, Phil, will go next. And he
24 will be followed by Jim Haber.

25 MR. KLEVORICK: My name is Phil Klevorick,

1 and I represent Clark County today. These are the
2 comments from Clark County on the Draft EIS for the
3 Greater-than-Class C waste. Clark County is also
4 reviewing the document, and we will be providing
5 further detailed comments before the June deadline.

6 (Reading) The Draft EIS recognizes the Low-
7 Level Radioactive Waste --

8 Am I talking too fast? Because I do talk
9 fast. You're good?

10 -- Policy Amendments of 1985 specifics with
11 the Greater-Class-C Low-Level Radioactive Waste as
12 designated by the federal responsibility under Section
13 3(b)(1)(d) and is disposed of in the facility that is
14 adequate to protect public safety and licensed by the
15 NRC.

16 The DOE owns and generates the majority of
17 Greater-than-Class C waste and both the low-level
18 radioactive and non-defense generated TRU waste having
19 characteristics similar to that of the Greater-Class C
20 waste. And, also, the DOE intends to determine their
21 disposal path as well. The DOE is proposing to
22 construct and operate a facility, or facilities, or
23 maybe of an existing facility for disposal of this
24 waste.

25 The transportation description within the

1 DEIS is very general and vague. It is not site-
2 specific to any possible DOE site, including the NNSS
3 or, as I refer to it, the "N2S2." Transportation of the
4 Greater-than-Class C waste to any disposal site located
5 in the N2S2 would involve unacceptable impacts for the
6 heavily populated and, approximately, 2 million
7 residents of Clark County within which lies the City of
8 Las Vegas and other major cities and communities.

9 Since there is no rail access to the N2S2 and
10 the cost of constructing such access would be almost \$3
11 billion, according to the DOE's own estimates of March
12 2008 Application for a Certificate of Public
13 Convenience and Necessity as filed for the Surface
14 Transportation Board, File Number FD-35106, for the
15 construction and operation of the Caliente Railroad
16 supporting the high-level nuclear waste repository at
17 Yucca Mountain, there is no mention of a railroad being
18 newly constructed or the use of intermodal transport or
19 transfer nearby any proposed site, including N2S2.

20 According to Table S-3, a total of 12,600
21 truck shipments or approximately 5,000 rail shipments
22 would be required over 60 years. Given the
23 unlikelihood that the Caliente Railroad would be
24 constructed specifically for this, Clark County would
25 bear the brunt of the shipments, as the bottleneck from

1 most of the county would culminate in our region. Thus
2 it would be fair to assume that the risk of an accident
3 occurring would be greater in Clark County than almost
4 in any other region of the country.

5 Many of these shipments, according to the
6 Draft EIS, would be highway-route-controlled quantity.
7 And like we question as to why they're not all such
8 classification. By law, these shipments must use the
9 Interstate system and, therefore, would bisect Clark
10 County along the I-15 corridor. This increased
11 frequency with the Greater-than-Class C shipments,
12 along with the type of material being shipped, would
13 put Las Vegas' tourism-dependent economy at
14 considerable risk in the event of an accident or a
15 terrorism attack.

16 As no routes were present -- presented in the
17 DEIS, Clark County must assume that I-15 as the major
18 transportation route, which would be highly discouraged
19 because of the stigma associated to any shipment of any
20 nuclear waste is still very high and reigns of great
21 concern for the majority of the residents of Clark
22 County.

23 In fact, there is no economic analysis or
24 transportation plan submitted -- truck, railroad or
25 anything else -- along with the DEIS that would allow

1 further analyses by interested and potentially affected
2 parties.

3 The DEIS fails to review any socioeconomic
4 impact that may be associated with the transportation
5 and subsequent disposal of the Greater-than-Class C at
6 the N2S2. Consideration and risk assessment must be
7 conducted in order to better define the entire impact,
8 such as activities that may occur in Clark County.

9 Failing to do so is a failure to meet the NEPA
10 compliance and thorough review of alternative actions
11 as presented within the DEIS.

12 In addition, there is no mention of how the
13 wastes will be packaged for final disposal for optimal
14 configuration for both shipments and permanent
15 disposal. The DEIS uses a very general overview to
16 radiological impact assessment of the Greater-than-
17 Class C waste shipments and ignores the importance of
18 nonradiological factors in defining the true scope and
19 nature of the impacts associated with such
20 transportation.

21 There is a definitive need to further
22 evaluate the important nonradiological impacts that are
23 not used to discriminate among potential disposal
24 locations. The DEIS does not acknowledge that any
25 facility chosen for disposal of Greater-than-Class C

1 waste must be licensed by and regulated by the NRC.
2 According to Christine Gelles, Director of Waste
3 Disposal, the NRC were invited, as a cooperating agent,
4 but declined to do so as potential conflict in
5 interest.

6 In fact, the NRC itself, Subsection 61.55
7 Sub(iv), Waste Classification, basically states that
8 the waste disposal must be done in a geological
9 repository as defined in Part 60 or 63 of the chapter.
10 Thus, Alternatives 4, disposal in a new trench disposal
11 facility; and Alternative 5, disposal in a new vault
12 disposal facility, are not to be considered. Given
13 that NRC's direction, these alternatives should not
14 have been considered while one can directly interpret
15 the NRC direction as being only a single alternative,
16 which is the geologic disposal proposal.

17 The DEIS also states Area 5 has been used for
18 disposal of higher-activity Low-Level Radioactive Waste
19 and TRU waste in boreholes. No analyses has been
20 provided as to the safety and consequence of this
21 disposal method.

22 However, Section 2.6.5, reviews the N2S2 area
23 within Area 5, which they used as a basis for
24 evaluation because, along with Area 3 supporting the
25 site's radioactive waste management program; as far as

1 that Clark County is aware, neither of these two areas
2 have been studied for a geologic repository, nor does
3 the DEIS state that either have been.

4 To select either of these areas within the
5 N2S2 would be not acceptable because no analysis has
6 been conducted or provided as being satisfactory
7 foundation to be used in support of geologic disposal
8 rule as specified by the NRC.

9 Clark County is aware of the Greater-than-
10 Class C history and have been proposed to have disposed
11 of a lot of the high level -- nation's high level waste
12 and spent nuclear fuel at Yucca. Clark County is
13 fearful that Yucca would be chosen in the near term
14 with its present demise before the NRC and DOE's
15 attempt to withdraw its application for the
16 construction of this facility.

17 Clark County does question why the DOE seeks
18 public comment to create a Preferred Alternative.
19 Clark County does not -- does look forward to further
20 information and clarification of the DEIS.

21 MR. BROWN: Okay. Thanks very much.

22 MR. KLEVORICK: Thank you.

23 (Whereupon Exhibit No. 2 was marked for
24 identification.)

25 MR. BROWN: Jim Haber is next. And Judy

1 Treichel will follow.

2 MR. HABER: Thank you. My name is Jim Haber,
3 H-A-B-E-R. I'm with Nevada Desert Experience. We
4 organize interfaith resistance to nuclear weapons in
5 the war, and we're based here in valley. And we'll
6 also be submitting more formal comments; and we will be
7 encouraging others to submit comments, also, before the
8 deadline.

9 And looking at this information, which is new
10 to me, not that the issue is new. But it does strike
11 me, even though you spoke to why HOSS is not on here,
12 the Hardened On-Site Storage, seems like to -- the
13 presentation makes it seem to me like we still need to
14 consider hardened on-site something, at least for now.

15 And that the comparisons that show human
16 risks to be really elevated for that method assumes no
17 activity for 100 years, or whatever. And so I
18 understand that we can't presume what we will do if we
19 say no action now. But it just makes the form of
20 comparison seem skewed towards the deep geological or
21 was the method being proposed for consideration at the
22 Nevada Test Site.

23 So the presentation of the data that way
24 seems unfair because no action now doesn't mean no
25 action ever. It means that we're not sure what to do

1 with this material because there is no good thing to do
2 with this material, and so I'm afraid that my comments
3 are going to go beyond the scope of this hearing and
4 this EIS.

5 And yet it's necessary at all of these
6 junctures to point out that we don't know how to deal
7 with the nuclear genie that is out of the bottle.

8 Therefore, we need to stop generating nuclear waste.

9 We need to stop looking to nuclear power and nuclear
10 weapons for a whole host of reasons, and we have treaty
11 obligations and to be decommissioning and dismantling
12 our nuclear weapons, not finding ways to support
13 nuclear weapons more.

14 Now, this is about nuclear power. We need to
15 not overstate the medical component of the nuclear
16 waste because that seems clear to be a very small
17 percentage, and yet I can hear in public discourse that
18 it's going to be pointed to as, "Oh, we need a place to
19 deal with this medical waste." And yet it's very
20 small, and so I want us to be sure that we don't allow
21 that to happen.

22 I can see that the Native American community
23 has been involved on some level in this draft, and yet
24 I know that the Western Shoshoni National Council
25 opposes any further use of nuclear -- of the Nevada

1 Test Site on Western Shoshoni lands for their use. I'm
2 not Western Shoshoni. I don't presume to speak for
3 everyone there. But I do know that the Western
4 Shoshoni National Council and members of the Timbisha
5 and Yelba Tribes certainly oppose any storage and
6 further use of the facility there in this way.

7 Just a couple more things. Just checking my
8 notes. Yes. I want to mention again, you know,
9 Fukushima and Chernobyl should be wake-up calls. You
10 know, we just had the 25th anniversary of Chernobyl,
11 and it doesn't seem like this figure is in here at all.
12 I know this has been in the works. But as we go
13 forward, to go from draft to formal, that needs to
14 weigh-in here. I mean, that's just part of the reality
15 that we're struggling with, and it just points out that
16 there is no way to deal with this.

17 We need to get off that, the train of making
18 more nuclear waste, and that needs to be said at every
19 one of these hearings that deals with anything related.
20 And so that's why I'm here speaking a little outside of
21 the box and yet very much on point.

22 And, finally, I want to offer people, since
23 yesterday was Mother's Day, I have copies of "The
24 Original Mother's Day Proclamation" from 1870 by Julia
25 Ward Howe. Julia Ward Howe, who also wrote the "Battle

1 Hymn of the Republic," and I would like to make them
2 available to people. I'll have them sitting outside.
3 I don't want to disrupt by passing them out. It's very
4 pertinent, also, so for the record.

5 (Whereupon Exhibit No. 3 was marked for
6 identification.)

7 MR. BROWN: Okay. Great. Thanks very much.
8 Okay. Judy Treichel is next. And Jane, is
9 that "Foldman" or "Feldman" is after Judy.

10 MS. TREICHEL: My name is Judy Treichel. I'm
11 the Executive Director of Nevada Nuclear Waste Task
12 Force. I also will be submitting longer comments, and
13 this is just quickly what I've been able to pick up
14 here and in a brief overview of what's being talked
15 about.

16 One of the things that I think is most
17 important is defining the problem, and it's very
18 difficult to see exactly how dangerous this stuff is.
19 I understand that it comes from many, many sources and
20 there are very different items that are all considered
21 as Greater-than-Class C waste. But we've got to know
22 if -- you have to take the most dangerous of them and
23 let us know exactly how dangerous that is.

24 If it doesn't need to be in a repository, if
25 it's not that dangerous, then why is a repository being

1 considered? If it does, and I would guess that it does
2 because that's the NRC's regulation for this type of
3 waste, then why would we be considering something less
4 than that?

5 So either it's okay to put it in a shallow-
6 land burial or it's definitely not or it requires a
7 repository or it doesn't. Those things have to be
8 clearly defined so that we really know what we're
9 talking about.

10 And if it requires a repository and the only
11 one being looked at is WIPP and if WIPP is unavailable
12 because there's currently laws that say that nothing
13 goes in there but the transuranic that is going in
14 there now, then perhaps it can't be done yet. And as
15 Jim was saying, there may be a situation where we're
16 not ready to do this yet.

17 And looking at the dose chart, it really
18 looks as though the deck is stacked toward either NTS
19 or the WIPP site because that's where you have actually
20 no doses, according to that chart. I'm not sure that's
21 correct, but and very high doses for the other places.
22 So once that's handed to Congress, it would seem to me
23 that they would have very little reason to say any
24 other place but those.

25 I've been following the Blue Ribbon

1 Commission meetings that are supposed to be making
2 recommendations beyond Yucca Mountain, if the Yucca
3 Mountain site is completely dead and never used, and
4 one of the big things that they talk about is finding
5 voluntary sites.

6 And you said that you went out to the
7 commercial industry where a huge majority of this waste
8 would be made and didn't come up with any voluntary
9 sites or enthusiasm for figuring out what to do with
10 this waste, and yet they still haven't even produced
11 the lion's share of it. So it seems to me that there's
12 a big disconnect there.

13 And if they don't want the stuff themselves
14 and they still haven't produced a lot of it, it would
15 make sense to me that they not go ahead; although I
16 understand that's not part of your charge here, but I
17 do think that public opposition or public enthusiasm
18 for helping with this problem should play a big part in
19 it.

20 There should be a willing host for this
21 stuff. And if there's not, you haven't made the case
22 well enough or people don't understand it well enough
23 or they're just opposing what's going on.

24 Thank you.

25 MR. BROWN: Thanks, Judy.

1 Jane, is it -- if you can spell your last
2 name, for the court reporter.

3 MS. FELDMAN: Sure. I'm sorry it wasn't
4 clear when I signed in.

5 MR. BROWN: Sure.

6 MS. FELDMAN: My last name is Feldman, F, as
7 in Frank, E-L-D-M-A-N.

8 MR. BROWN: Okay. Great. And Shila Z.
9 will be following you.

10 Thanks. Go ahead.

11 MS. FELDMAN: I represent the Toiyabe Chapter
12 of the Sierra Club.

13 The Toiyabe Chapter of the Sierra Club has
14 over 5,000 members in Nevada and Eastern California. We
15 are all deeply concerned about how nuclear waste is
16 managed, and we want to make these following points.
17 First, the EIS process seems to be premature. The
18 majority of the Greater-than-Class C waste will not
19 exist for at least another 20 years. Planning ahead is
20 good, but this seems to be an extreme.

21 Also, it would be prudent to first receive
22 the recommendations of the Blue Ribbon Commission, as
23 Judy just mentioned, and evaluate them as possible
24 alternatives. The Commission has not yet announced
25 when to expect the recommendations. Their first

1 report, but not their final report, is required to be
2 published in the next month, June of
3 2011.

4 Second, DOE should consider Hardened On-Site
5 Storage option, a HOSS option. HOSS is similar to one
6 of the disposal concepts, vaults, that DOE is
7 considering. Except HOSS is for safe and risk-free
8 storage, not final and irretrievable disposal.
9 Materials could be accessed from a HOSS system in
10 managed ways at later times.

11 HOSS could also be used to store spent
12 nuclear fuel, a kind of high-level nuclear waste, as
13 well as Greater-than-Class C waste, at the reactor site
14 where it's generated.

15 HOSS also minimizes transportation risks to
16 move nuclear waste from multiple generation sites that
17 are mostly east of the Mississippi to select few
18 disposal sites that are all west of the Mississippi.

19 We'd also like to mention that there's no
20 rail to the Nevada National Security Site, and routing
21 would need to go through Las Vegas. We consider that a
22 huge risk and not adequately represented by the
23 information as presented in the Draft EIS.

24 Last, we'd like to mention that the best
25 solution for nuclear waste management is not to create

1 it. The Draft EIS needs to evaluate an alternative
2 where no new reactors are built. In that scenario,
3 most of the Greater-than-Class C waste would be
4 eliminated and not created.

5 Thank you.

6 MR. BROWN: Thank you.

7 (Whereupon Exhibit No. 4 was marked for
8 identification.)

9 Okay. Shila Z. is next, and she will be followed by
10 Mike Kelly.

11 MS. STERLING: Good evening. I'm Shila Z.
12 Sterling, and I'm just representing I am a voting
13 citizen of Las Vegas, a long-time resident. I am also
14 a trained participant and presenter for the climate
15 project with Al Gore, and I'm the Southern Nevada
16 coordinator for Ions. I am Ions, Las Vegas, which is
17 the noetic sciences.

18 There's a plethora of reasons why this
19 shouldn't happen. I just want to talk about a couple
20 of them. One, the economics. Las Vegas is known as a
21 destination. People come here to get married. People
22 come here for a holiday. If this happens, if there is
23 a repository for nuclear waste, regardless of what
24 level, the public eye will no longer be able to look at
25 Las Vegas as a romantic destination. It would be

1 economically disastrous.

2 Secondly, in 2005, I was in Washington DC,
3 lobbying for the national parks and became privy to
4 what was called a "safe route." At that time, they
5 were looking at Yucca Mountain for other -- as a
6 repository. And when you overlaid what they considered
7 safe routes, because they were going to be trucking and
8 you overlaid it over the states, the route they
9 considered safe went through 14 of our 22 national
10 parks.

11 Because they were going to try and stay off
12 of a lot of the main highways here in Las Vegas, it
13 would be impossible; and as many have said before, it
14 is a high-risk danger. It's a disaster looking for a
15 place to happen. There are no safe routes for nuclear
16 waste to be trucked.

17 I'd like to just say a little bit about
18 solutions. It's my personal opinion that companies who
19 engage and companies who make and use radioactive
20 materials need to be responsible for that, if they're
21 going to do that. They need to be not moved but
22 disposed of or done with where they stand. The less
23 movement -- because there is no way to 100 percent
24 contain nuclear waste when it is being in a movement.
25 And I think it's time that corporations start taking

1 responsibility.

2 And, also, I would like for -- I think I
3 mentioned before there is technology. There is now
4 technology. One is called a "plasmic arc," and I would
5 like to see the government looking into this. There is
6 a way to dispose of the waste that we have today
7 without poisoning the earth and poisoning the air and
8 potentially poisoning everybody. Because we are on the
9 endangered species list, and if we don't wake up pretty
10 soon, we're coming to that tipping point.

11 So my recommendation is also stop making
12 nuclear waste by finding alternative methods of power
13 and use. The technology is out there, and it's time we
14 put our feet forward for the future, for the future of
15 this planet, let alone our children and other
16 generations.

17 Thank you very much.

18 MR. BROWN: Thank you.

19 Mike Kelly.

20 MR. KELLY: My name is Mike Kelly. I'm a
21 private citizen. I'm a resident of Clark --

22 MR. BROWN: Hey, if you can wait until you
23 get to the mic.

24 MR. KELLY: You make a good point.

25 MR. BROWN: Yeah. And John Hadder will be

1 after you.

2 MR. KELLY: All right. Hello, everyone. My
3 name is Mike Kelly. I'm a private citizen and resident
4 of Clark County.

5 Although I just got -- I was out of work for
6 like two years and I got a job in New Mexico, so I've
7 been down there too. So I kind of -- I'm, more or
8 less, an American citizen because I kind of been --
9 like your oldest Nimby stuff, Nevada, nobody wants it
10 here. They don't want it there either. I don't think
11 they should have it down there either. Oh, God.

12 Okay. I read this article. I'll just -- you
13 know, I'm not -- there's this guy, Jon, Jon -- Jonathan
14 Schell (phonetic), I just read. I won't tell you what
15 magazine it's in. But I'd like to read a couple
16 paragraphs of what he said.

17 (Reading) "The problem is not that another
18 backup generator is needed or that safety rules aren't
19 tight enough or that the place for the nuclear waste is
20 in the wrong geological location where that controls on
21 proliferation or lax; it is that stumbling, imperfect,
22 probably imperfectible creatures like ourselves are
23 unfit to -- we have the stellar fire released by the
24 split or fused atom. When nature strikes, why should it
25 make human kind compound the problem?"

1 "The earth is provided with enough primordial
2 forces of destruction without our help in introducing
3 more. We should leave those to Mother Nature. Some
4 are suggesting that, in light of the new developments,
5 we should abandon nuclear power. I have a different
6 proposal.

7 "Perhaps in keeping with the precurl nature
8 of the peril, let us pause and study the matter. For
9 how long? Plutonium, the proponent of nuclear waste,
10 has a half life of 24,000 years. Meaning that half of
11 it is transformed into other elements through
12 radioactive decay. This suggests a time scale. We
13 will -- we will not be precipitous if we study Nevada
14 for only half that half life, 12,000 years.

15 "In the interval, we can make a search for a
16 safe new energy source, among other useful endeavors.
17 Then perhaps we'll be wise enough to make good use of
18 the split atom."

19 I'd just like to mention about the WIPP site
20 too because it seems like the facts stack against that,
21 the WIPP site. If you ever were over there, it's not
22 like Yucca Mountain where grease and bush. They have
23 like a bunch of mesquite, it looks like, and it's very
24 -- I think it looks pretty nice.

25 And, you know, Mr. Edelman was discussing the

1 water tables, said that there's salt and then there's
2 no water table, I'll bet. And mesquite has to get
3 water. They have really deep roots. So I'm thinking
4 maybe the water table -- I'm not a geologist. I'm just
5 a private citizen. And I just, I wonder about the
6 water table and the salt down in there.

7 Like he said, it's sort of like a slam-dunk
8 with the WIPP site, like in -- I just worry. Like over
9 there, there's not many people there that can like
10 stand up for themselves, and we'll just force that upon
11 them down there too, you know. And I just -- I know we
12 have to do something with it. We're stuck with it.

13 Whatever they, you know -- like I got out. I
14 visited all the nuke sites over in New Mexico, the
15 radioactives. I was at Los Alamos and seen the little
16 cars, saw the two bombs and stuff. And on the day Jap-
17 -- a couple of days after the Japanese, you know,
18 fiasco, and it's just bad off, you know.

19 I just don't -- I think we should be careful
20 when -- like, we have to keep the stuff before us,
21 rather than just dump it somewhere and forget about it
22 because we can't just -- I don't know. Each generation
23 is stuck with it now. But I agree with the other
24 speakers that, you know, we have to keep it above rack
25 and keep our eye on it, I think, personally.

1 I worry about the water table over there with
2 the WIPP site because it's pretty close to that Pecos
3 River. There's water running right -- there's more
4 water there than here, you know. And, you know, we
5 shouldn't pass it like a hot potato, this nuclear
6 waste, from one town to the other, you know. We're all
7 Americans, and maybe we should approach it some other
8 way that we'd be -- Mississippi versus over westerner
9 versus easterner, that's not going to get us nowhere,
10 you know, really.

11 Because we have to keep it in a dry place.
12 And, like, there's only very few -- the west is dryer
13 than the east, you know, just for physical reasons, not
14 -- you know, there's physical reasons for things,
15 rather than just political. And I think we should be
16 careful about not mining backyard kind of stuff too,
17 and got rid of the Yucca Mountain.

18 But we've just got to stop. Abandon nuclear
19 power. We have to abandon it, just like we have to ban
20 trickle-down economics.

21 Thanks for listening.

22 MR. BROWN: Thanks very much.

23 Okay. John Hadder is next.

24 And I believe Darrell Lacy is here now; is
25 that right? Good. Okay. He'll be after John.

1 You're next.

2 MR. HADDER: Good evening. My name is
3 Jonathan Hadder, H-A-D-D-E-R, and I'm representing an
4 organization, 501-C3 Nonprofit, called "HOME," H-O-M-E,
5 "Healing Ourselves and Mother Earth." We also watch
6 out for nuclear issues in the region, and we will be
7 submitting detailed comments later.

8 I just have a few general comments, at this
9 time, that I want to put forward, for the record. You
10 know, we recognize that there is a need to deal with
11 Greater-than-Class C waste. Certainly, like, doesn't
12 need to deal with spent nuclear fuel. We already have
13 it. We have to figure out something to do with it.

14 However, we do feel like the process is a bit
15 premature at this time. As has already been mentioned,
16 the Blue Ribbon Commission has not issued their report
17 to Congress. And, obviously, that document will have a
18 lot to do with policy that follows it, and so we think
19 we're a little premature on that.

20 Also, all of these sites do have policy
21 implications because, as was already mentioned, you've
22 got DOE-controlled sites versus places coming from
23 commercial sources. So that's an -- that's an issue as
24 well.

25 I guess if we were to have to select an

1 alternative, we would have to select the No-Action
2 Alternative. We feel that -- we feel, as many others
3 have stated, that the Department of Energy needs to
4 either reevaluate or actually conduct a proper
5 environmental review of reinforced on-site storage for
6 a number of reasons.

7 This facility, as mentioned, could serve a
8 dual purpose, of course. It could handle spent nuclear
9 fuel, which we need to deal with which, as a reminder,
10 it is also in jeopardy now because it's very
11 dangerously stored at many radioactive -- excuse me --
12 at many nuclear sites across the country, packed very
13 densely. So we do need to find a better way to do the
14 on-site storage, period.

15 And the reenforced what they call "HOSS" is
16 one good way to do that. It certainly could handle the
17 Greater-than-Class C waste at the same time. And, also,
18 these facilities would be NRC sites, licensed sites.
19 So you wouldn't have the same kind of agency
20 machinations that we've talked about already here,
21 conflicts between the two.

22 Security is really one of the things that
23 seems to be driving this process a little bit, that the
24 sealed sources, which has been mentioned earlier, are a
25 terrorist risk. Well, again, this kind of facility can

1 be secured as well, and so it could handle all of
2 those, all of those aspects of nuclear waste for the
3 short term, which is what we need.

4 We certainly need an intermediate term
5 solution to the problem that we have now, and the
6 reinforced on-site storage will buy us certainly 100
7 years, maybe a couple hundred years, to work on that.
8 HOME, also, does not -- also supports dealing with
9 waste as close to the source of generation, as close to
10 the location of generation and to minimize
11 transportation. And, again, this does this.

12 So we strongly encourage the Department of
13 Energy to pursue environmental analysis of this
14 alternative which certainly could be part of, in some
15 way, the No-Action Alternative.

16 A couple of specifics I want to mention. The
17 Draft EIS document, Environmental Impact Statement,
18 does acknowledge, or at least it recognizes the
19 existence of the Treaty of Ruby Valley between the
20 Western Shoshoni Nation and the United States
21 Government. And in that treaty, it outlines the land
22 base of the Western Shoshoni people, which has actually
23 gotten support in international law.

24 And the Draft EIS does not acknowledge or
25 does not discuss how it's going to deal with the

1 concerns raised by the Western Shoshoni Nation and that
2 land base being used to dispose of radioactive waste,
3 which it has historically opposed. And I think that
4 that was also mentioned earlier. So that should be
5 addressed more in detail in the document, and including
6 negotiations with the Western Shoshoni on that issue.

7 Another point, another point that's also been
8 raised is the transportation issues, specifically with
9 the National -- the Nevada Nuclear Security Site.

10 Also, the section which discussed potential
11 contamination from disturbing the soil in constructing
12 the site didn't -- there wasn't -- I didn't see very
13 much data on the radioactive inventory of the soil. I
14 think there should be. At least that should be
15 discussed. That should be in the document so that
16 people know whether it's there or not.

17 A number of years ago, there was supposed to
18 be a large explosion test called "Divine Strake" in
19 that test site. There was much more detailed analysis
20 there, and I think there should be -- that analysis
21 should be included in the EIS as well.

22 Also, I'd like to correct something in the
23 document. It does not acknowledge that groundwater is
24 a potential contamination pathway from the Nevada Test
25 Site, the NNSA site, NNSS. It's mostly a concern on

1 the west side from the underground testing period, and
2 it may not be a direct concerned site.

3 But in the site characterization section of
4 the Environmental Impact Statement, it does not
5 acknowledge that as a potential contamination pathway,
6 and it should acknowledge it. This is a public
7 document. So it's an opportunity for people to see
8 what's going on in the site and what kind of analysis
9 is there. So we definitely recommend that that be also
10 included.

11 That concludes our comments now. I
12 appreciate the time taken for this. We also support
13 that we shouldn't be creating more of what we don't
14 know what to do with.

15 Thank you very much.

16 MR. BROWN: Okay. Thanks, John.

17 Darrell Lacy is next. Welcome.

18 MR. LACY: Thank you.

19 MR. BROWN: And following Darrell, I believe
20 that Ian Zabarte with the Western Shoshoni government.

21 So proceed.

22 MR. LACY: Thank you. My name is Darrell
23 Lacy, representing Nye County, Nevada.

24 (Reading) Nye County is the site county for
25 two of the potential disposal sites, one at Yucca

1 Mountain or generic, the Nevada National Security Site.
2 We appreciate the opportunity to provide these summary
3 comments and observations. We would intend to provide
4 detailed comments by the June deadline.

5 We feel this EIS, in general, has several
6 deficiencies and does not meet the requirements of
7 NEPA. When the scoping hearings on this EIS were held
8 in 2007, DOE had announced that it would submit a
9 license application for Yucca Mountain, and Yucca
10 Mountain was one of the proposed sites, and the Draft
11 Supplemental EIS for Yucca Mountain considered disposal
12 of Greater-than-Class C waste in that repository.

13 Four years later now, this Draft EIS excludes
14 Yucca Mountain from consideration. The amount of
15 Greater-than-Class C waste considered in the scoping
16 for this was based on a once-through fuel cycle that
17 we're not on Yucca Mountain to handle any spent fuel.
18 Changes that might come out of the Blue Ribbon
19 Commission that would include possibly reprocessing,
20 this could significantly increase the amount of
21 Greater-than-Class C waste and should be addressed in
22 alternatives.

23 NRC regulations require that, in the absence
24 of specific approval by the Commission, Greater-than-
25 Class C waste must be disposed of in a geologic

1 repository as defined in 10 CFR, Part 60 or Part 63.
2 The only two sites in this discussion that meet this
3 requirement are Yucca Mountain and/or
4 WIPP.

5 This type of waste is currently excluded from
6 WIPP by legislation and agreements with the state of
7 New Mexico and was not included in the WIPP EIS when it
8 was cited or in any characterization activities that
9 have been done at WIPP.

10 The WIPP Land Withdrawal Act limits the total
11 radioactivity of remote handled TRU waste to 5.1
12 million curies. For comparison purposes, the total
13 radioactivity of the Greater-than-Class C waste
14 discussed here is estimated to be 157 million curies.
15 Reprocessing could greatly increase the amount of this
16 Greater-than-Class C waste above what was discussed in
17 the scoping of this EIS. WIPP was not licensed by the
18 NRC, and any assumption that legislation or NRC
19 regulations will be changed to suit DOE for this
20 process for Greater-than-Class C are invalid.

21 Performance assessments described in Draft
22 GTCC EIS are based on a number of generic and
23 simplified assumptions. The performance assessments
24 are not true indicators of the differences in
25 performance among the various sites or even disposal

1 methods. Absent better information about the key
2 parameters considered, the performance assessments
3 provide little basis for decisionmakers to select a
4 preferred site or disposal alternatives.

5 This EIS should wait until the Yucca Mountain
6 issues are resolved by the courts or legislation and
7 the Blue Ribbon Commission make their recommendation
8 and the votes are finalized; then the Greater-than-
9 Class C waste should go through a new scoping process,
10 based on the available alternative sites and/or amounts
11 of materials that needs to be disposed of.

12 Without appropriate assumptions and detailed
13 analysis of the realistic alternatives, this EIS is
14 faulty and does not meet the minimum requirements of
15 NEPA and the CEQ.

16 We will submit detailed comments by the June
17 deadline. Thank you.

18 (Whereupon Exhibit No. 5 was marked for
19 identification.)

20 MR. BROWN: Thanks very much.

21 Next speaker. I forgot my reading glasses at
22 home. So if you can you spell your name, for the court
23 reporter. Thanks.

24 MR. ZABARTE: I didn't write legibly.

25 Good evening. My name is Ian Zabarte. That's

1 I-A-N. Last name is Zabarte, Z as in zebra, -A-B, as
2 in boy, -A-R-T-E.

3 I'm the Vice President of the Native
4 Community Action Council, which is composed of Western
5 Shoshoni and Southern Paiute. It's a nonprofit. The
6 address for the Native Community Action Council is Post
7 Office Box 140, Baker, Nevada
8 89311.

9 I also have comments on behalf of the
10 Traditional Government of the Western Shoshoni, the
11 government of Newe Sogobia under Chief Raymond Yowell.
12 For those of you who think that the Western Shoshone
13 National Council is a legitimate government, it is not.
14 I was formally the Secretary of State. I have a new
15 government. Chief Yowell is the chief of that
16 government and was formerly the chief of the Western
17 Shoshoni National Council.

18 Now, for those of you who like to talk on
19 behalf of the Western Shoshoni, just stop it. That
20 includes the Department of Energy. Just stop it. It's
21 not helpful.

22 First, the Native Community Action Council
23 would like a point of contact with the Department of
24 Energy sufficiently high enough that we can have some
25 meaningful communication. Meeting with the Secretary

1 of Energy is preferable. We would like to know who the
2 responsible officer of the United States Government is
3 in dealing with Native Americans.

4 Because we contacted the headquarter's office
5 for the point of contact there, and it just goes
6 around, whether it's the web page or the telephone.
7 You call, and it doesn't go anywhere. That is the
8 problem we've had. And Action Council seeks greater
9 involvement and participation in DOE waste management
10 activities.

11 Now, these comments that I'm starting are on
12 behalf of the Western Shoshoni Traditional Government.
13 If there is a so-called representation of Western
14 Shoshoni National Council, then they should come and
15 speak. Unfortunately, their so-called chief has
16 accepted money for the payment of land, and that's not
17 the government that I'm a part of and most of the
18 traditional people that I represent are a part of.

19 The tribal IRA, federally recognized under
20 Title 25 of the United States Code are U.S.

21 government protectors. They do not speak on
22 behalf of the legitimate government of the Newe
23 Sogobia. No Newe -- no non-Newe is able to speak on
24 behalf of the government of Newe Sogobia. That means
25 no non-Shoshoni. The government of Newe Sogobia

1 proposes no action, the No-Action Alternative.

2 The U.S. does not own Newe Sogobia, which
3 includes the Nevada Test Site, Nellis Air Force bombing
4 gunnery raids, so-called Nye County, White Pine,
5 Lincoln, Humboldt, and a few other counties. About
6 40,000 square miles to the west, including parts of
7 California, Idaho, and Southern Utah. I use those
8 state names for reference purposes and not to suggest
9 or imply that they are included into the boundaries or
10 jurisdiction of Newe Sogobia.

11 For those of you who need more history, you
12 can look at the federal statute creating the territory
13 of Nevada. The Nevada Organizing Act in 1861 states
14 that no portion of Indian country will be included in
15 the boundaries and jurisdiction of any state or
16 territory, blah, blah, blah. So long as such shall not
17 -- as long as there's a treaty, blah, blah, blah.
18 We'll submit this in writing.

19 And for those of you who need to see what
20 this means and how or what affect this federal statute
21 has, you should look at the 1883 Nevada Supreme Court
22 case, "State vs. McKinney." That is controlling here,
23 Folks, and it plays out the issue.

24 There is the Treaty of Ruby Valley. What
25 happened was in 1864, when Nevada became a state, the

1 Nevada State Act required that the citizens of Nevada
2 forever disclaim all rights, title to the
3 unappropriated public lands. Unfortunately, the treaty
4 lands were not surveyed under the Nevada Organizing
5 Act, as they should have been.

6 The DOE -- this is our NEPA contention now.
7 That was the legal contention to this EIS process. Now
8 I have a NEPA contention. The DOE continues to use the
9 consolidated group of tribes as a tool to undermine the
10 traditional Newe people. The process was developed by
11 Dr. Richard Stoffel (phonetic) who continues to
12 orchestrate the systematic dismantlement of the living
13 culture of the Newe. This is a focused process designed
14 to systematically destroy the ethnic Western Shoshoni.

15 The current involvement process for Native
16 Americans is for the benefit of the United States and
17 profit of the nuclear industry -- all of those
18 industries, whether they be medical or commercial, the
19 process is a violation of the U.N. Convention on
20 prevention and punishment of the crime of genocide and
21 the U.S. Act, the Proxmire Act.

22 As far as nuclear technology, I view nuclear
23 technology and in discussions with my Traditional
24 Elders, we view the technology, whether it's coal or
25 oil or nuclear, the problem is the large-scale

1 deployment of these technology, we cannot see what is
2 going to happen. We have global warming. We have
3 Fukushima. We have Chernobyl. We have three --

4 UNIDENTIFIED SPEAKER: Two-mile Island?

5 MR. ZABARTE: Place back in Pennsylvania.

6 Yeah, Two-Mile Island.

7 Anyway, you know, that -- Two-Mile Island was
8 three days -- or excuse me. That was three months, a
9 newly refueled reactor. It had six hours or so with no
10 coolant and lost 30 percent of the core. Fukushima had
11 six to ten days with no coolant and a four-year-running
12 thermally hot reactor. Apples and oranges as far as
13 accidents go, but these are serious events. We cannot
14 foresee what is going to happen with these types of
15 technology.

16 So when I look at these, they exist. Nuclear
17 exists. Coal, oil, these things are cheap. They need
18 to be viewed as transition technologies until we can
19 get to the safe and sustainable technologies. They are
20 not safe and sustainable, and we need to get there
21 before it's too late. We'll have to use them. The
22 sustainable technologies are solar and wind.

23 Those are the end of my comments. We're
24 looking for a point of contact. We're going to
25 prosecute our -- we're going to prosecute these issues

1 with the United States.

2 Thank you.

3 MR. BROWN: Thanks very much.

4 Next speaker is Clifford Hansen, and he will
5 be followed by Walter Barbuck.

6 MR. HANSEN: Good evening. I'm a resident
7 and citizen of the State of Nevada and Clark County. I
8 appreciate DOE's taking the time to invite public
9 comment on this Draft EIS, which I found to be a well
10 organized and well written document.

11 I would call DOE's attention to a couple of
12 points on which the document was silent, and I would
13 encourage their discussion of these issues in their
14 Final EIS. The first being that the current inventory
15 of sealed sources, which comprises a large volume of
16 what's on hand now and contains many of the larger
17 migrated radionuclides of concern, in terms of this
18 volume and the geometry of those objects would suggest
19 disposal in very deep boreholes would be an option that
20 should be considered and which the EIS did not.

21 Very deep borehole disposal is discussed in
22 several technical reports that are available to the
23 public and would put these radionuclides beyond the
24 reach of credible groundwater wells and thereby remove
25 them from the biosphere.

1 I would also comment that the Draft EIS did
2 not consider the use of chemical barriers for shallow
3 disposal options. What appeared to be backfilled with
4 sand or local materials was suggested for the
5 intermediate depth boreholes. These materials would
6 not necessarily provide absorption barrier that would
7 prevent the movement of the disposed radionuclides,
8 should any water infiltrate down to the disposal area.
9 And it would appear that, from an engineering
10 perspective, the addition of a chemical barrier would
11 be a relatively easy improvement.

12 And, finally, I did not find in the EIS a
13 discussion of the effects on the disposal systems and
14 the range of future climate scenarios. It's not clear
15 to me whether those were required to be discussed at
16 this stage. But certainly in the Final EIS, I would
17 hope that the DOE would give those consideration.

18 I will submit my comments in written form to
19 the record. Thank you.

20 MR. BROWN: Thank you.

21 Okay. Walter Barbuck. Who will be followed
22 by Launce Rake.

23 MR. BARBUCK: My name is Walter Barbuck, and
24 I have -- for this project, I support the No-Action
25 Alternative. I have one comment only. The others have

1 been -- some of the others have been discussed, and
2 this is not covered by the DEIS.

3 HOSS is the only way to go, Hardened On-Site
4 Storage. This is the only thing mentioned that's
5 retrievable.

6 Once again, it's not discussed in the
7 document. Surely, a technology has to be discovered
8 where these items could be retrieved and rendered safe.
9 Once again, I support the comments of the majority of
10 the previous speakers.

11 The end of my remarks.

12 MR. BROWN: Thanks. Thanks, Walter.

13 Our next speaker is Launce Rake.

14 MR. RAKE: "Launce."

15 MR. BROWN: "Launce."

16 MR. RAKE: Good evening. My name is Launce
17 Rake. That's L-A-U-N-C-E, R-A-K-E. I'm with the
18 Progressive Leadership Alliance of Nevada, 708 South
19 Sixth Street, Las Vegas 89101.

20 People have spoken eloquently on the
21 technical problems with this EIS and with this
22 proposal. With the proposed storage of Lower-Level
23 Nuclear Waste at the Nevada Nuclear Security Site, I
24 just wanted to say that, in the history of various
25 experimentation and work with nuclear materials and

1 nuclear technologies, it's been a history of failures,
2 sometimes catastrophic failures.

3 We fail to protect groundwater. We fail to
4 live up to our legal obligations. We have failed to
5 consider the social and cultural implications of the
6 impacts of the technologies that we're working with.
7 That's true globally, and it's true specifically here
8 in our experience in Southern Nevada.

9 My group plan works with about 30 different
10 organizations as part of our coalition. I don't
11 believe any of them support this. So that would
12 indicate very wide, very deep opposition to this
13 proposal that needs to be taken into account with the
14 assessment of this very flawed proposal.

15 We have had experiences in Southern Nevada,
16 in Southern Utah, in this part of the world with the
17 failure of the companies working with atomic materials,
18 nuclear materials, and failure of the government to
19 protect citizens from exposure to nuclear materials and
20 radioactivity. We know that these failures could be
21 catastrophic or chronic, and that is why we oppose the
22 siting of this material anywhere near us.

23 We also support Hardened On-Site Storage as
24 the go-ahead mechanism for dealing with this unwanted
25 material for two reasons: One is it's the safest way

1 to deal with this material, for the time being.

2 But the second is that we believe, I believe
3 that those elements, those commercial activities that
4 generate this material have, should have a legal and
5 moral responsibility to take care of that stuff. If
6 they do, it becomes disincentive to simply continue
7 their industrial processes and stick the material in
8 our backyard and pretend it doesn't exist.

9 Thank you.

10 MR. BROWN: Thanks very much.

11 That concludes the list of those who signed
12 up to speak ahead of time. So let me ask if there's
13 anyone in the audience who hasn't spoken yet, who would
14 like to add any comments at this time.

15 Okay. We will remain available to take
16 public comments, but let me recess the meeting at this
17 point. If any of you decide you want to add anything
18 or if someone comes to the meeting later, we will
19 reconvene and take their comments.

20 But, again, I'd like to thank all of you for
21 coming out, and in particular, for your very helpful
22 comments.

23 So we are currently recessed.

24 (Public Hearing concluded at 8:04 p.m.)

25

1 PUBLIC COMMENT

2 (Continued)

3 MR. HABER: Jim Haber, H-A-B-E-R. I'm with
4 Nevada Desert Experience.

5 And the comment I wanted to add to what I
6 said earlier is that it's a bit of a fear and an
7 analogy to another governmental process that happened
8 around health care and the health care debate in that
9 there was so much public support for universal health
10 care, or at least single care; and yet when President
11 Obama came in and sat a panel to look at the issue, he
12 did not include anyone who was for universal health
13 care at the table that was actually discussing what was
14 going to be proposed.

15 And the comments that you said you've
16 received at previous meetings like this, the comments
17 reflective tonight showed that people feel like on-site
18 storage is what we need to be doing, at this point at
19 least. And yet you look at the graphs and you think,
20 wow, if this graph is presented to Congress, it's not
21 going to be presented.

22 And it seems like a lot of people feel like
23 HOSS or HOS-something needs to be really seriously
24 considered. And maybe the drafters of the EIS feel
25 like it was considered and not presented for valid

1 reasons, but it feels like it needs to be revisited in
2 a very serious way and not excluded anymore.

3 (Pause.)

4 THE REPORTER: Does that conclude your
5 comments?

6 MR. HABER: That concludes my comments.

7 THE REPORTER: Thank you.

8 (The proceedings concluded 8:25 p.m.)

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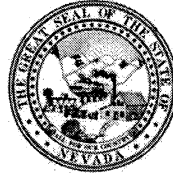
1 CERTIFICATE OF REPORTER

2 STATE OF NEVADA

3 COUNTY OF CLARK

4 I, Dana J. Tavaglione, a duly commissioned and
5 licensed Court Reporter, Clark County, State of
6 Nevada, do hereby certify: That I reported the
7 proceedings had in the above-entitled matter at the
8 place and date indicated. That I thereafter
9 transcribed my said shorthand notes into typewriting
10 and that the typewritten transcript of said proceedings
11 is a complete, true and accurate transcription of said
12 shorthand notes. IN WITNESS HEREOF, I have hereunto set
13 my hand, in my office, in the County of Clark, State of
14 Nevada, this 24th day of May, 2011.

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17 _____
18 DANA J. TAVAGLIONE, RPR, CCR NO. 841
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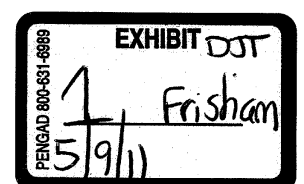
**STATEMENT OF JOSEPH C. STROLIN, ACTING EXECUTIVE DIRECTOR,
STATE OF NEVADA AGENCY FOR NUCLEAR PROJECTS
ON DOE'S DRAFT ENVIRONMENTAL IMPACT STATEMENT FOR DISPOSAL OF
GREATER-THAN-CLASS-C RADIOACTIVE WASTE AND GTCC-LIKE WASTE
Las Vegas, Nevada
May 9, 2011**

The State of Nevada Agency for Nuclear Projects is in the process of undertaking a thorough review of the U.S. Department of Energy's Draft Environmental Impact Statement for the Disposal of Greater-Than-Class-C Radioactive (GTCC) Waste and GTCC-Like Waste. In addition to these brief, preliminary comments, the State will provide more extensive written comments prior to the June 27, 2011 deadline.

In comments on DOE's Notice of Intent (NOI) to prepare an EIS for GTCC waste disposal in 2007, the State of Nevada went on record as opposing, on both scientific and legal grounds, the use of either the proposed high-level radioactive waste repository site at Yucca Mountain or the Nevada Test Site (recently renamed the Nevada National Security Site – NNSS) for GTCC waste disposal. The fact that the draft GTCC EIS explicitly excludes Yucca Mountain as an option (because DOE is moving to terminate the program as unworkable) is an appropriate acknowledgement of the reality that Yucca will never be built. However, Nevada remains concerned that NNSS continues to be identified as a possible disposal location for borehole, trench and vault disposal alternatives.

The draft EIS fails to recognize that any facility chosen for disposal of GTCC waste must be licensed and regulated by the U.S. Nuclear Regulatory Commission. While the draft EIS acknowledges that most of the GTCC waste requiring disposal would be commercial waste from NRC-licensed generators, neither NNSS nor any of the specific locations identified for potential GTCC waste disposal has a NRC licensed disposal facility. In fact, all of the location-specific disposal sites are at DOE facilities and, as such, not subject to NRC jurisdiction. While the draft EIS does reference "generic regional commercial disposal sites" as possible location options, no specific commercial/NRC-licensed facilities are identified or analyzed.

Inclusion of DOE's GTCC-Like wastes currently managed under DOE Orders and stored at DOE facilities that operate under DOE Orders requires that these wastes be brought into the NRC regulatory regime. This raises considerable waste characterization and security issues. It is by no means clear how or if an NRC-regulated facility can co-exist with a DOE self-regulated facility like NNSS, or in the case of the Waste Isolation Pilot Plant (WIPP) facility in New



Mexico, an EPA/state regulated facility, and how the public can be assured that the NRC regulatory authority will have primacy at the GTCC facility.

There continue to be unresolved land use issues associated with NNSS that are not adequately addressed in the draft EIS. As Nevada has noted in numerous comments and communications over the years, the original 1952 administrative land withdrawal for the Nevada Test Site (Public Land Order 805) specified its use as a “weapons testing site.” In 1994, the State of Nevada filed a complaint in the U.S. District Court in Las Vegas alleging that the land withdrawals for NTS do not include waste disposal from offsite sources as an intended use of the land. A settlement agreement signed in April 1997 committed DOE to initiate “consultation with the United States Department of the Interior concerning the status of existing land withdrawals for the NTS with regard to low-level waste storage/disposal activities.” Although DOE has indicated that consultations with the Department of Interior have concluded, the State has continuing concerns about off-site waste disposition, particularly with respect to GTCC and other waste streams which are subject to NRC regulation.

Transportation of GTCC waste to any disposal facility located at NNSS would involve unacceptable impacts for the State of Nevada in general and the heavily populated Las Vegas metropolitan area in particular. Since there is no rail access to NNSS, and the cost for constructing such access would be in the neighborhood of \$3 billion (according to DOE’s own estimates that were done for the Yucca Mountain project), it is entirely unrealistic to assume that GTCC waste would be shipped via rail to the site. Consequently, all of the waste (over 30,000 potential shipments) would have to be moved to the site by truck. Many of these shipments, according to the draft EIS, would be “Highway Route-Controlled Quantity” (HRCQ) shipments. By law, HRCQ shipments must use the Interstate highway system and would, of necessity, pass through the most heavily populated portions of Las Vegas and Clark County. Such a shipping campaign would put Las Vegas’ tourism-dependent economy at substantial risk in the event of an accident or terrorist attack against a shipment while in transit.

Transportation impacts associated with the disposal of GTCC waste generally and with respect to NNSS in particular, do not appear to have been adequately addressed in the draft EIS. The draft document uses an overly general approach to radiological impact assessment for GTCC waste shipments and ignores the importance of non-radiological factors in defining the true scope and nature of impacts associated with such transportation. Important non-radiological impacts are not used to discriminate among potential disposal locations. Additional issues that should have been covered in the EIS include, but are not necessarily limited to, differential analyses of impacts associated with various modes of shipment (highway, rail, barge); routing issues and impacts, including the identification of specific preferred and alternative routes from generator/storage sites to proposed disposal locations and the unique characteristics along those routes; property value effects; and risk perception impacts (and their attendant economic consequences) associated with prospective GTCC shipments.

Nevada will be providing more extensive written comments on the draft EIS prior to the comment deadline. However, initial review of the draft document reveals nothing to alter the state’s view that disposal of GTCC at NNSS, regardless of the alternative disposal method employed, is unacceptable.

Presenter ^{DRAFT} Phil Klevorick Clark County

~~STATEMENT OF~~ CLARK COUNTY Comments
**ON THE U.S. DEPARTMENT OF ENERGY'S DRAFT ENVIRONMENTAL IMPACT
STATEMENT FOR DISPOSAL OF GREATER-THAN-CLASS-C RADIOACTIVE
WASTE AND GTCC-LIKE WASTE**

**Presented at the Public Hearing
Desert Research Institute - Frank Rodgers Building
755 East Flamingo Road, Las Vegas, NV 89119**

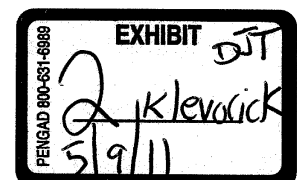
May 9, 2011

Clark County is reviewing the U.S. Department of Energy's (DOE) Draft Environmental Impact Statement for the Disposal of Greater-Than-Class-C Radioactive (GTCC) Waste and GTCC-Like Waste.

The draft environmental impact statement (DEIS) recognizes the Low-Level Radioactive Waste (LLRW) Policy Amendments Act of 1985 specifies the GTCC LLRW is designated a federal responsibility under Section 3(b)(1)(D) and is to be disposed of in a facility that is adequate to protect public safety and licensed by the Nuclear Regulatory Commission (NRC). The DOE owns and generates the majority of the GTCC waste (both LLRW and non-defense generated TRU waste having characteristics similar to those of GTCC LLRW and DOE intends to determine their disposal path as well). The DOE is proposing to construct and operate a new facility or facilities or to use an existing facility for this disposal of GTCC LLRW and GTCC-like waste.

The transportation description within the DEIS is very general and vague. It is not site specific to any possible DOE site, including the Nevada National Security Site (NNSS). Transportation of GTCC waste to any disposal facility located at the NNSS would involve unacceptable impacts for the heavily populated (approximately two million residents) Clark County within which lies the City of Las Vegas and other major cities and communities. Since there is no rail access to NNSS, and the cost for constructing such access would be almost \$3 billion (DOE's own estimates in March 2008 Application For A Certificate of Public Convenience and Necessity as filed with the Surface Transportation Board – FD35106 for the construction and operation of the Caliente Railroad supporting the High Level nuclear Waste repository at Yucca Mountain, Nevada (Yucca)). There is no mention of a railroad being newly constructed or the use of intermodal transfer nearby any proposed site, including the NNSS.

According to Table S-3, a total of 12,600 truck shipments or about 5,000 rail shipments would be required (over 60 years). Given the unlikelihood that the Caliente Railroad would be constructed specifically for this, Clark County would bear the brunt of shipments as the bottleneck from most of the country would culminate in our region. Thus, it would be fair to assume the risk of an accident occurring would be greater in Clark County than in almost any other region in the country. Many of these shipments, according to the draft EIS, would be "Highway Route-Controlled Quantity" (HRCQ) shipments (why not all?). By law, HRCQ shipments must use the interstate highway system and would therefore bisect Clark County along



I-15 currently. This increased frequency of GTCC shipments along with the type of material being shipped would put Las Vegas' tourism-dependent economy at considerable risk in the event of an accident or terrorist attack. As no routes were presented in the DEIS, Clark County must assume the use of I-15 as a major transportation route which would be highly discouraged because of the stigma associated to any shipment of any nuclear waste type is still very high and reigns of great concern to the majority of residents in Clark County. In fact, there is no economic analyses or transportation plan submitted (truck, railroad, etc.) along with the DEIS that would allow further analyses by interested and potentially affected parties.

The DEIS fails to review any socio-economic impact that maybe associated with the transportation and subsequent disposal of the GTCC at the NNSS. Consideration and risk assessment must be conducted in order to better define the entire impact such activities may have on Clark County. Failing to do this is a failure to meet National Environmental Policy Act (NEPA) compliance and thorough review of alternative actions as presented within the DEIS. In addition, there is no mention of how the wastes will be packaged for final disposal for optimal configuration (both for shipments and permanent disposal). Also, the DEIS uses a very general 'overview' to radiological impact assessment for GTCC waste shipments and ignores the importance of non-radiological factors in defining the true scope and nature of impacts associated with such transportation. There is a definite need to further evaluate the important non-radiological impacts are not used to discriminate among potential disposal locations.

The DEIS does not acknowledge that any facility chosen for disposal of GTCC waste must be licensed and regulated by the NRC. According to Christine Gelles –Director of Waste Disposal (DOE), the NRC were invited as a cooperating agency but declined due to potential conflict of interest. In fact the NRC itself in SubSection 61.55 (iv) Waste Classification states:

Waste that is not generally acceptable for near-surface disposal is waste for which form and disposal methods must be different, and in general more stringent, than those specified for Class C waste. In the absence of specific requirements in this part, such waste must be disposed of in a geologic repository as defined in part 60 or 63 of this chapter unless proposals for disposal of such waste in a disposal site licensed pursuant to this part are approved by the Commission.

Thus, alternatives 4 (disposal in a new trench disposal facility) and alternative 5 (disposal in a new vault disposal facility) are not to be considered. Given the NRC's direction, these alternatives should not have been considered while one can directly interpret the NRC direction as being only a single alternative which is the geologic disposal proposal. The DEIS also states Area 5 has been used to dispose of higher-activity low level radioactive waste and TRU waste in boreholes. No analyses has been provided as to the safety and consequence of this disposal method.

However, S.2.6.5 reviews the NNSS area within Area 5 which they used as a basis for evaluation because along with Area 3, supporting the site's radioactive waste management program. As far as Clark County is aware, neither of these two areas have been studied for a geologic repository nor does the DEIS state that either have been. To select either of these areas within the NNSS would not be acceptable because no analysis has been conducted or provided as being a satisfactory foundation to be used in support of the geologic disposal rule as specified by the NRC. Clark County is aware of the history of the GTCC and having been proposed to have

been disposed of along with the nation's high level waste and spent nuclear fuel at Yucca (because of their similar characteristics and life expectancy). Clark County is fearful Yucca would be chosen in the near term with its present demise before the NRC and DOE's attempt to withdraw it's application for the construction of this facility.

~~The~~ Clark County does question why the DOE seeks public recommendations for a preferred alternative. Clark County does look forward to further information & clarification of the DEIS.

The Original Mother's Day Proclamation

Arise then...women of this day! Arise, all women who have hearts!

Whether your baptism be of water or of tears! Say firmly:

"We will not have questions answered by irrelevant agencies,

Our husbands will not come to us, reeking with carnage,
for caresses and applause.

Our sons shall not be taken from us to unlearn all that
we have been able to teach them of charity, mercy and patience.

We, the women of one country, will be too tender of those
of another country to allow our sons to be trained to injure theirs."

From the voice of a devastated Earth a voice goes up with our own.

It says: "Disarm! Disarm!

The sword of murder is not the balance of justice."

Blood does not wipe our dishonor, nor violence indicate possession.

As men have often forsaken the plough and the anvil at the summons of
war, let women now leave all that may be left of home for a great and
earnest day of counsel. Let them meet first, as women, to bewail and
commemorate the dead. Let them solemnly take counsel with each other
as to the means whereby the great human family can live in peace...

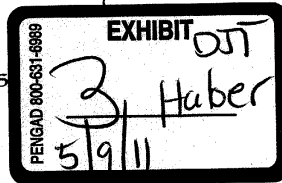
Each bearing after his own time the sacred impress, not of Caesar,
but of God-

In the name of womanhood and humanity, I earnestly ask that a general
congress of women, without limit of nationality, may be appointed and
held at someplace deemed most convenient and the earliest period
consistent with its objects,

To promote the alliance of the different nationalities

The amicable settlement of international questions,

The great and general interests of peace.



-Julia Ward Howe, Boston, 1870

Howe was reacting to the carnage of the Civil War and the Franco-Prussian war.

She felt responsible, and wanted women to stand up for the life they birth.

Today, we all need to see beyond the lies of war.

Contact NDE about our peacemaking efforts in southern Nevada and beyond.



Nevada Desert Experience
702-646-4814 info@NevadaDesertExperience.org
NevadaDesertExperience.org

Organizing Interfaith Resistance to Nuclear Weapons and War

it will be a great day

when

our schools

get all the money

they need

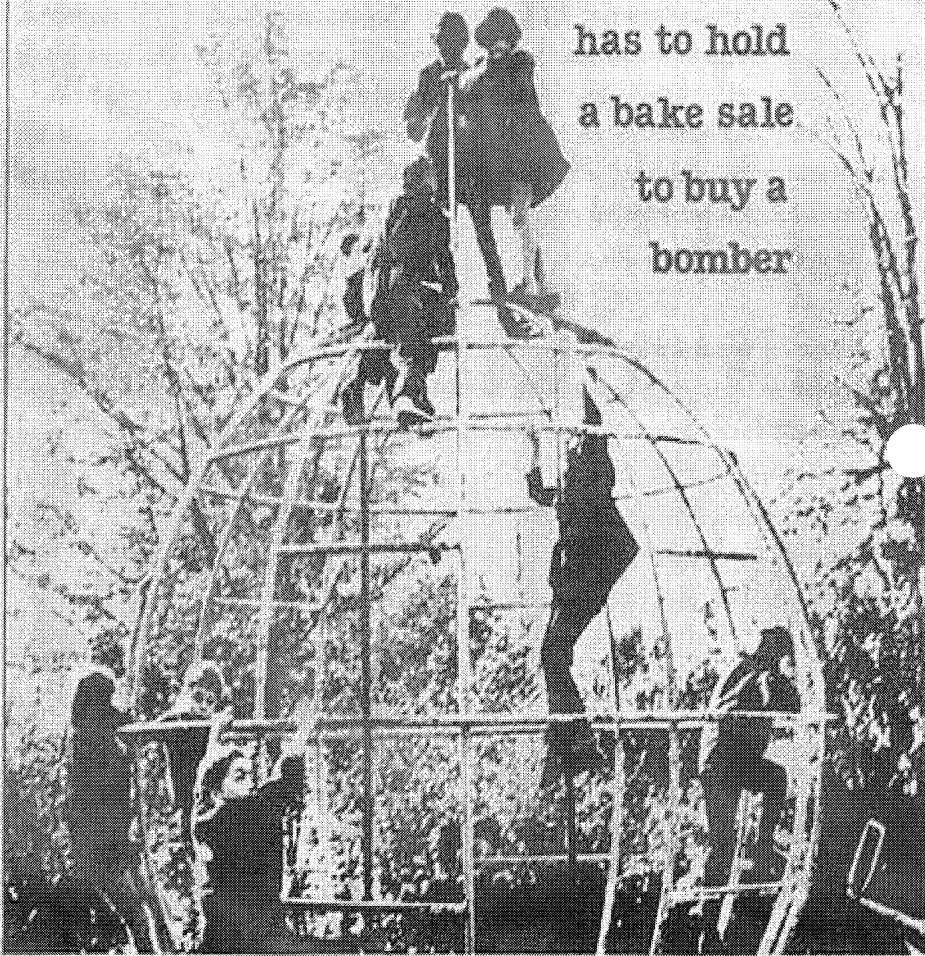
and the air force

has to hold

a bake sale

to buy a

bomber



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Toiyabe Chapter P.O. Box 8096 Reno, NV 89507

TO: Greater-Than-Class C Low-Level Radioactive Waste EIS
Office of Technical and Regulatory Support (EM-43)
U.S. Department of Energy
1000 Independence Avenue SW.
Washington, DC 20585-0119

May 9, 2011

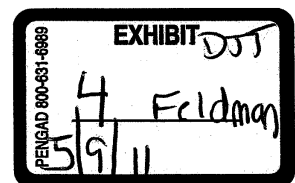
Dear, Sir /Ma'am,

Thank you for the opportunity to make comments on the referenced EIS. The Toiyabe Chapter of the Sierra Club has over 5,000 members in Nevada and eastern California. We are all deeply concerned about how nuclear waste is managed. We want to make the following points.

- **This EIS process is premature.** The vast majority of the GTCC waste will not exist for at least 20 years. Planning ahead is good, but this is extreme. Also, it would be prudent to first receive the recommendations of the Blue Ribbon Commission, and evaluate them as possible alternatives. That Commission has not yet announced when to expect their recommendations. Their first report (not their final report) is required to be published by June, 2011.
- DOE should consider a **hardened on-site storage** option (HOSS). HOSS is similar to one of the disposal concepts (vaults) that DOE is considering, except HOSS is for safe and risk-free storage not final, irretrievable disposal. The materials could be accessed in managed ways at later times.
- **HOSS could also be used to store "spent nuclear fuel"** (a kind of high-level nuclear waste), as well as GTCC, at the reactor site that generated it.
- **HOSS minimizes transportation** risks to move nuclear waste from multiple generation sites (mostly east of the Mississippi) to a select few disposal sites (all west of the Mississippi).
- There is **no rail to the Nevada Natl Security Site**. Routing would need to go through Las Vegas.
- **HOSS minimizes security risk by not concentrating the material into a single target.** The HOSS design could also incorporate other security features to further minimize risk of terrorism, theft, etc.
- **The best solution for nuclear waste management is not to create it.** The DEIS needs to evaluate an alternative where no new reactors are built. In that scenario, most of the GTCC waste will be eliminated.

Jane Feldman

Energy Chair



Talking Points
Hearing on DOE Draft EIS for GTCC Disposal
Las Vegas, NV, May 9, 2011

Nye County, the site county for two of the potential disposal sites at Yucca Mountain and the Nevada National Security Site, appreciates the opportunity to provide a few summary comments and observations on the draft GTCC EIS. This EIS has several deficiencies and does not meet the requirements of NEPA. We intend to provide our detailed comments by the June deadline.

When scoping hearings on this EIS were held in 2007, DOE had announced that it would submit a license application for the Yucca Mountain repository to NRC during 2008 and the draft Supplemental EIS for Yucca Mountain had considered disposal of GTCC waste in the repository. However 4 years later, the Draft EIS excludes the Yucca Mountain repository from consideration as a disposal option. The amount of GTCC waste was based on a once through fuel cycle which relied on Yucca Mountain. Any changes from the Blue Ribbon Commission like reprocessing will significantly increase the amount of GTCC and should be addressed in the alternatives.

NRC regulations require that, in the absence of specific approval by the Commission, GTCC waste must be disposed of in a geologic repository as defined in 10 CFR part 60 or 63. The only two sites that meet this requirement are Yucca Mountain and WIPP. This type of waste is excluded from WIPP by legislation and agreements with the State of New Mexico and was not included in the WIPP EIS or in any characterization activities at WIPP.

The WIPP Land Withdrawal Act limits the total radioactivity of remote handled TRU waste to 5.1 million curies. For comparison, the total radioactivity of GTCC waste and GTCC-like waste is estimated to be approximately 157 million curies, reprocessing could increase this amount by a multiple of 4 to 5 times. WIPP was not licensed by the NRC and any assumption that legislation or NRC regulations will be changed to suit DOE are invalid.

The performance assessments described in the Draft GTCC EIS are based on a number of generic and simplified assumptions. The performance assessments thus are not true indicators of the differences in performance among the sites or even disposal methods. Absent better information about the key parameters considered, the performance assessments provide little basis for decision-makers to select a preferred site or disposal alternative.

This EIS should wait until the Yucca Mountain issues are resolved and BRC recommendations are finalized and go through a new scoping process. Without appropriate assumptions and detailed analysis of the realistic alternatives, this EIS is faulty and does not meet the minimum requirements of NEPA and the CEQ.

