

23

24 MS. POTORTI: Good evening. My name is Grace
25 Potorti. I'm the Director of the Rural Alliance for
1 Military Accountability. I have been attending your
2 hearings for about 15 years now, and I was much younger
3 then.

4 Our review has identified three significant
5 deficiencies in the Draft Environmental Impact Statement.
6 Taken together we contend these deficiencies render the
1 7 whole document, the Draft Environmental Impact Statement,
8 wholly inadequate as a federal decision document per the
9 requirements of the National Environmental Policy Act or
10 NEPA.

11 The Draft EIS does not conform to NEPA
12 implementing regulations administered by the Council on
13 Environmental Quality, or DOE's own NEPA implementing
14 regulations, and in my written statement, you are going to
15 find all those numbers, but I don't want to bore all these
16 folks.

2... 17 The three deficiencies are crucial and very
18 important. Deficiency issue number one is that under CEQ
19 regulations federal agencies are required to use the NEPA
20 process to identify and assess reasonable alternatives to
21 the proposed action. This analysis must also consider
22 ways to avoid or minimize adverse effects upon the quality
23 of the human environment.

24 Given restrictions contained in the Nuclear
25 Waste Policy Act as amended which specify that only Yucca

...2

1 Mountain can be considered as a repository or dump for
2 high level nuclear waste, DOE has in part focused their
3 analysis in the DEIS on alternative repository design
4 strategies. Specifically the DEIS assesses various
5 thermal load scenarios and engineered barrier systems that
6 would supposedly, quote, contain the waste from the
7 biosphere for 10,000 years. However, none of these
8 alternative design strategies present a concise, workable,
9 proposed action.

3...

10 We also understand that the DOE will not
11 decide upon or otherwise present a comprehensive
12 repository design in the Final EIS. Accordingly, members
13 of the public, us, will not be afforded an opportunity to
14 see how the DOE will avoid or minimize adverse effects of
15 the proposed dump. DOE's EIS process is thus deficient
16 because it does not and will not address ways to avoid or
17 reduce adverse environmental effects.

4...

18 Number two deficiency. In the case of the
19 Yucca Mountain DEIS, we fully contend that the DOE has
20 bastardized the tiering processes defined under the CEQ
21 regulations. Specifically CEQ regulations require federal
22 agencies to assess the effects of major federal actions on
23 the human and natural environment, and where such actions
24 involve the adoptions of broad programs, that contain
25 groups of connected actions that are clearly
1 systematically connected, federal agencies are required to
...4 2 follow the NEPA tiering process. In other words, tiering
3 is appropriate when it helps the lead agency, in this case
4 the Department of Energy, to focus on issues that are ripe

5 for decision and exclude from consideration issues that
6 are not ripe for decision.

...4

7 So while the DEIS does not report, you don't
8 tell us this is a programmatic document, DOE is planning
9 to use the document to make wide-ranging programmatic
10 decisions. For example, the DEIS clearly identifies
11 alternative transportation modes and routes, and it
12 purports to make comparative decisions on one or more of
13 these alternatives as part of the EIS process.

14 It also expressly states that a specific
15 assessment of Nevada transportation modes and routes will
16 follow, once the mode and route comparative siting
17 decisions are made, and yet the level of analysis in the
18 DEIS is solely inadequate to support comparative decisions
19 for transportation modes or routes in Nevada.

20 The DEIS further fails to identify the cross
21 country rail and truck routes used in DOE's own
22 transportation impact analysis. Hence, where programmatic
23 decisions on a national level are clearly warranted, DOE
24 has chosen to avoid the identification of transportation
25 modes and routes.

1 In other words, much like the analysis for
2 Nevada, specific transportation modes and routes, DOE has
3 conveniently avoided making any national siting decisions
4 for transporting nuclear waste to Nevada. What this means
5 is that people outside of Nevada will share the same fate
6 as Nevadans. That is, we can all enjoy not knowing who
7 will be affected by the transportation of nuclear waste to

the proposed dump at Yucca Mountain.

Number three, CEQ regulations are very specific in requiring that federal agencies that have jurisdiction by law in a major federal action be cooperating agencies to assist as a lead agency in the preparation of an EIS. In this case, the DOE has identified several transportation options that call for construction of hundreds of miles of new rail lines over vast areas of Central and Southern Nevada. These proposed rail corridors which traverse public lands under the jurisdiction of the BLM.

Despite this, however, DOE has not decided to involve the BLM in the repository EIS, and I would suspect that BLM should also be sitting at the table, and I don't see them here.

This is completely unacceptable given that BLM has clear jurisdiction over the lands, and at a minimum, BLM would be required to establish right-of-ways for the rail corridors. And given the magnitude of designating at least 5,000 plus acres for the single use purpose, BLM would be subject to the NEPA process. In other words, if DOE selects one of the rail corridor options through its phantom and largely bogus EIS process, we contend the BLM would be required to prepare an EIS to support such a major federal decision.

In conclusion, I also want to say that CEQ Regulations 1502.9 - that one I want on the record right here and now - require that a Draft Environmental Impact Statement is to fulfill and satisfy the requirements

...6

12 established for final statements in Section 102, 2C of the
13 National Environmental Policy Act. This means that if a
14 draft statement is deemed inadequate as to preclude
15 meaningful analysis, as this Draft Environmental Impact
16 Statement does, the agency must prepare and circulate a
17 revised Draft EIS.

18 RAMA believes the Draft EIS for the proposed
19 repository at Yucca Mountain is deficient, sorely
20 deficient. Accordingly, DOE must reassess its approach to
21 NEPA by circulating a revised Draft EIS for the repository
22 program.

23 And just a few other small comments. In your
24 cumulative analysis, you have no analysis of activities at
25 Fallon Naval Air Station, supersonic jets, low level
1 flying jets. In addition, there is no analysis of
2 Hawthorne Army Weapons Depot, the largest depot in the
3 world. Tons and tons of ammunition coming in on train, in
4 trucks, and a potential hazard, and the Final EIS must
5 address those cumulative impacts to us. Thank you.