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EIS001373

Comments regarding the document: **Draft Environmental Impact Statement for a Geological Repository for the Disposal of Spent Nuclear Fuel and High-Level Radioactive Waste at Yucca Mountain, Nye County, Nevada**

I respectfully offer the following personal comments and questions as a private citizen of the state of Nevada.

1..... 1. My first comment will be presented as a question. **Is Congress above the laws that they previously enacted?** I am not an expert in legislative issues and procedures, but I provide the following commentary regarding this question.

The 1982 NWPA was structured in such as manner to meet the 1969 NEPA requirements. Environmental documents and procedures prepared and performed up to the 1987 amendment to the NWPA clearly demonstrated an environmental approach that was inline with the spirit and intent of the NEPA requirements. However, the 1987 Congressional amendment to the NWPA appears to be a blatant attempt to bypass NEPA procedures and consequently, I believe that this DEIS is flawed and remiss in meeting the intent of the NEPA process.

In simple terms, I believe that one of the principle purposes of the NEPA process is to provide a procedure to select that option for achieving the desired outcome through the minimum disruption to ALL the environmental considerations upon its implementation. Is that the case for the evaluation performed in this DEIS? From my perspective, this does not appear to be true.

As indicated in the Federal Register/Vol 64 No 229/Tuesday, November 30, 1999, page 67058 Section II D. 1987 Amendment to NWPA: "***.....In sum, Congress made clear its intent for DOE to focus its resources on investigating Yucca Mountain, and only Yucca Mountain, as a potential site for a high-level radioactive waste repository.***"

I believe that this Congressional action is in direct violation of NEPA procedures. The Council for Environmental Quality -- Regulations for Implementing NEPA Sec 1502.14 Alternatives including the proposed action, reads as follows:

"***This section is the heart of the environmental impact statement. Based on the information and analysis presented in the sections on the Affected Environment (Sec. 1502.15) and the Environmental Consequences (Sec. 1502.16), it should present the environmental impacts of the proposal and the alternatives in comparative form, thus sharply defining the issues and providing a clear basis for choice among options by the decisionmaker and the public. In this section agencies shall:***

(a) Rigorously explore and objectively evaluate all reasonable alternatives, and for alternatives which were eliminated from detailed study, briefly discuss the reasons for their having been eliminated.

(b) Devote substantial treatment to each alternative considered in detail including the proposed action so that reviewers may evaluate

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their comparative merits.

(c) Include reasonable alternatives not within the jurisdiction of the lead agency.

(d) Include the alternative of no action.

(e) Identify the agency's preferred alternative or alternatives, if one or more exists, in the draft statement and identify such alternative in the final statement unless another law prohibits the expression of such a preference.

(f) Include appropriate mitigation measures not already included in the proposed action or alternatives."

Based on the above CEQ guidelines, I see two major flaws with this DEIS (If indeed Congress must abide by the law):

1. The lack of discussion of other potential site locations,
2. The lack of discussion of alternatives to the proposed action aside from the No Action option.

In summary, the NEPA process was ignored and essentially circumvented by the 1987 Congressional amendment to the NWPA. From that point forward, the process has been flawed and contrary to the intent of NEPA. The present process is nothing more than a political charade – using the terminology of the NEPA procedures and process, but clearly with the preconceived decision as to where the repository will be located – Yucca Mountain.

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2. The last sentence on page S-2 in the Summary indicates that additional environmental and engineering analyses, and National Environmental Policy Act reviews will be performed as part of future efforts for transporting the waste to the Yucca site. Again, it appears that this is an attempt to manipulate the NEPA process to achieve the desired outcome.

On the one hand, DOE is advocating a Total System Performance Assessment (TSPA) approach for characterizing the Yucca site. On the other hand, it is viewed as completely acceptable to decouple environmental considerations as to how the waste will actually get to the site with certainty (with regards to meeting other federal, state, and local regulations and obtaining the proper permits and approvals). This rationale appears to be very self serving – when it's to our (DOE) advantage, use the TSPA approach; when it's not, then it can be rationalized that any additional and necessary environmental analyses can be performed independent of the Yucca site environmental impact analysis.

The environmental impacts associated with dealing with the nation's high-level nuclear waste problem cannot be fragmented into a series of separate and independent actions and still meet the intent of NEPA. To illustrate this point, suppose that the Yucca site is found to be completely acceptable through this questionable DEIS process and then it turns out that due to transportation problems a large percentage of the waste can not be transported to the site, then what happens? Such a situation would not occur if the NEPA process was properly followed and the site, which minimized all environmental considerations, is selected - whether it is Yucca Mountain or some other location.

3 3a. The DEIS analysis of the local population is very misleading as presented on Page 3-73 of the DEIS. For example, with regards to the town of Pahrump which is located approximately 43 - 50 miles south-southeast of the Yucca Mountain site (as indicated in the DOE document: Viability Assessment of a Repository at Yucca Mountain; Volume 1: Introduction and Site Characteristics, December 1998, page 2-7). I offer the following recent population information which appeared in the Sunday January 2, 2000 issue of the Las Vegas Sun newspaper regarding growth in Pahrump:"***....Pahrump is the fastest-growing rural town in the United States – maintaining a constant 15 percent annual growth rate over the last seven years – with a population now approaching 35,000. By comparison, Nevada was the fastest-growing state this year with a 3.8 percent growth rate....***" The DEIS indicates a Pahrump population of 17,000 in 1997, a significantly smaller figure than that indicated by the Las Vegas Sun, even if it is assumed there is three years difference between the numbers!

I find it very curious that no population detail was provided in Table 3-22 of the DEIS for Pahrump prior to 1997 to assist in estimating population growth! I also find it insulting, if not down right fraudulent, to indicate that previous year's population estimates (1991, 1995) were not available. With all the resources of the United States government at hand, this document has the audacity to indicate that the information was not available? Such omissions of convenience do not contribute to the credibility of the document as a whole! If this DEIS can not present the simple information correctly, how can there be any public confidence in the real technical details? It is also common knowledge that the Las Vegas metropolitan area is well in excess of one million people, yet summing the 1997 population figures for that area (Boulder City, Henderson, Las Vegas, North Las Vegas) results in only 687,000 people! Something is critically wrong with this entire section of the DEIS.

4 3b. A second comment regarding population considerations is as follows. The Federal Register/Vol 64 No 229/Tuesday, November 30, 1999, page 67056 Section II A subsection 2 paragraph 4 states: "***....Except for population density, the specific content of the qualifying or disqualifying factors was left to DOE's informed discretion.....***" This describes the guidelines used during the preliminary site screening process associated with section 112(a) of NWPA that was completed in the mid 1980's. Given the population growth that has occurred in southern Nevada since the original site identification, and the projected growth of the area in the immediate future, would the Yucca Mountain site meet the population density guidelines that were employed in the mid 1980's assessment that originally identified the Yucca site?

5 4. What specific actions and planning activities has DOE undertaken if it is determined during this EIS process that the Yucca Mountain site is unsatisfactory?

6..... 5. My final comment is very subjective in nature, but I believe it gets to the heart of this particular DEIS process. Any book, short story, or written document generally has a character or style associated with it that is a direct reflection of the author(s). It is my opinion that this document has its own style, as such, that is reflective of the agency responsible for its preparation. This document reads like the decision has already been made and now the story must be written for its implementation!

The decision for Yucca Mountain was made in 1987 (whether proper or not) and this DEIS leaves no doubt in my mind what the true agenda is.

- The congressional decision to look at only Yucca Mountain in 1987

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- The current effort of DOE to revise the performance guidelines for site acceptability, which eliminates a critical performance characteristic associated with hydrological considerations. (Viability Assessment of a Repository at Yucca Mountain; Volume 1: Introduction and Site Characteristics, December 1998)
- Ongoing efforts at preparations of NRC licensing documentation
- Although not a part of this DEIS, the above referenced Viability Assessment document sums it up best on page 27 of the Overview section entitled **Plan to complete a license application** which states: "***In the next four years, DOE will focus on improving the repository and waste package design, strengthening the understanding of the key natural processes, preparing the environmental impact statement, and developing the information needed to support the site recommendation decision.....***" -- --- No doubt about what the intension is here!

These actions clearly indicate that no other conclusion will be possible and that the FEIS is going to find that the Yucca Mountain site is completely acceptable! My inference from these actions is more like: "***we are going to make the Yucca Mountain site comply one way or another***." –

7 This site characterization activity, which has been on-going since the mid 1980's, is no longer an effort to evaluate the feasibility of Yucca Mountain; but rather, it has become a political and technical crusade to force the Yucca Mountain site to be acceptable and become the nation's first and only geological repository for high-level nuclear waste.

Respectfully submitted,

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