~~550567~~
330001

RECEIVED
SEP 05 2001

Comments of the

Western Shoshone National Council

on the

Possible Recommendation

of a

Proposed High Level Nuclear Waste Repository

at

Yucca Mountain

September 5, 2001

Western Shoshone National Council
P.O. Box 210
Indian Springs, NV 89018
NEWE SOGOBIA

Good Evening. My name is John Wells. I am here tonight delivering comments on behalf of the Western Shoshone National Council.

The Western Shoshone Nation believes that the Preliminary Site Suitability Evaluation and all documents produced to date are deficient. The Western Shoshone Nation has a fundamental problem with the DOE's disregard for the proper role of Native American nations based on our inherent sovereignty, historical relations, international treaties, and the US constitution. All to often consultation is consisting of brief conversations with individuals from a Native American community after decisions are made and policy is employed. The cultural differences needed to be resolved by the DOE are at least as serious and difficult to deal with as they were 200 years ago.

The Western Shoshone government understands the intended approach by the DOE to solving the problem of high level nuclear waste is to use science not politics. Science is intended to provide knowledge to inform politicians in the creation of policy. However, it is politics that directs and funds the efforts of the DOE. And so, today we are here to address both the politics and science before the Secretary of Energy decides to recommend Yucca Mountain to the President.

The DOE claims it is following the direction of Congress under the Nuclear Waste Policy Act. We are sure that Congress appreciates the Administrations unwavering loyalty to congressional legislation. However, our view is that the rights, responsibilities, and duties of Americans, including Members of Congress, is unambiguously defined by the Constitution.

Constitutional authority and prohibition against alienation of title to Western Shoshone property interests exists in the following documents:

> **The Northwest Territorial Ordinance of 1787**, *"The utmost good faith shall always be observed toward the Indians; their lands and property shall never be taken from them without their consent; and in their property rights and liberty they shall never be invaded or disturbed."*

US Constitution, Article VI, paragraph II, *"This Constitution and laws of the US which shall be made in pursuance thereof and all treaties made, or which shall be made, under the authority of the US shall be the supreme law of the land; and the judges in every state shall be bound thereby, anything in the Constitution or laws of any state to the contrary notwithstanding."*

Treaty of Guadeloupe Hidalgo 1848, 9 Statute 922, *"Special care shall be taken" against "those invasions (against the Indians) which the United States have solemnly obliged themselves to restrain."*

Act of Congress Organizing the Territory of Nevada 1861, *"...Providing that nothing in this Act contained shall be construed to impair the rights or property now pertaining to the Indians in said territory, so long as such rights shall remain unextinguished by treaty between the US and the Indians."*

Treaty of Ruby Valley 1863, *"Treaty of Peace and Friendship."*

As for the scientific process, the Western Shoshone government finds it limiting. This hearing tonight is limited by obtaining information from a small number of communities in the vicinity of Yucca Mountain. Due to the limited notice of these hearings and the focus by the DOE of holding hearing in the vicinity of Yucca Mountain many Western Shoshone communities are unable to provide testimony here today. We believe that the DOE does not want to know the truth. But we will tell you the truth that has caused serious harm to our society. Truth is relevant. And for the DOE their truth is from an origin in a culture of secrecy.

- The DOE has created a consolidated group of tribes to act on behalf of Native Americans instead of the elected tribal government;
- The DOE has appointed its own subcontractors, former employees and paid others as part of this consolidated group of tribes;
- The DOE has developed "cultural triage," a study protocol to deliberately destroy our

living culture in pursuance of its intended development;

- The DOE has poisoned or lands with 828 underground nuclear weapons tests;
- The DOE has killed our people with fallout from 105 aboveground weapons tests;
- To understand the geology of Yucca Mountain the DOE has only to look at the underground test area to understand how the existing radiation in the soil and groundwater will act;
- The DOE nuclear legacy of widespread radioactive contamination must be considered. We are already aware that the DOE has contaminated the groundwater at the Nevada Test Site. We need to know where the plume(s) are; what the groundwater flow is; how the radiation is transported; and what the lifestyles are of those who consume the water. The public has a need and right to know what the extent of the present contamination is and whether they are at risk from present contamination for which the DOE is responsible;
- The DOE develops consequence scenarios of radiation exposure isolated from the true real world past exposure of our people and the probable risks to our communities from a radiation release in transport or on site.

For the Western Shoshone Nation our truth is that of a proud ancient people who have existed in the Great Basin for 1000 generations. We have fought wars against invaders to our territory and in 1863 allied ourselves with the United States by treaty emanating from international law, the Treaty of Ruby Valley. We were not conquered by the United States. Our property was not taken by the United States. We did not sell our property to the United States. And we were never put on a reservation. We are today, as we always have been, a free people with our own aspirations for growth and development. We wish to follow our dreams and aspirations and not have our lives and that of our future generations cut short by radioactive contamination.

Our experience with nuclear hazards is as victims, advocates and now as scientists. We have experienced the adverse health, social, and economic effects of radioactive contamination downwind from the Nevada Test Site. Our unfortunate experience as downwind victims informs our policy against the proposed high level nuclear waste repository at Yucca Mountain no matter how much has been spent.

- As victims we live with the stigma of past radiation exposure that has not been considered by the DOE;
- Cumulative health effects are not considered by the DOE;
- The DOE is trespassing on Western Shoshone Treaty lands, paying nothing for the use of Western Shoshone property;
- The burden for United States nuclear development is being paid by the Western Shoshone Nation;
- Benefits such as grants equal to taxes, jobs, research grants, and knowledge pass over the Western Shoshone people to non-native communities and contractors;
- We believe institutional racism conceived long ago to be an ongoing policy of the DOE;
- Environmental Justice is a new concept developed to address the past inequities of government development. We are not waiting for the DOE to employ environmental Justice principles, we will just state the facts as they are... the DOE practices environmental racism, and we are the victims of that racism here in the Great Basin;

Democracy is the best form of government on earth. It is good for electing leaders, but not for deciding who you will dump nuclear waste upon. The failure of the DOE is a failure of United States nuclear waste policy.

The previous comments are provided on the basis of inherent government authority of the Western Shoshone National Council as the legitimate protector of the rights and interests of the Western Shoshone people to ensure that Western Shoshone public health, safety and property are protected because United States law provides too little protection for the Western Shoshone people.