Ivan Itkin, Ph.D.
Director
Office of Civilian Radioactive Waste Management
U.S. Department of Energy
1000 Independence Ave. SW
Washington, D.C. 20585

Dear Dr. Itkin:

I am writing to express concern with the Department’s view of the requirements of section 114 of the Nuclear Waste Policy Act. Specifically, our concern has to do with the release of the Site Recommendation Consideration Report and the Department’s expectation that it is this report that will be commented upon by the Governor and legislature pursuant to section 114(a)(1)(F) of the Act. Our reading of the Act, supported by the Nevada Attorney General’s office, is that it is only the actual recommendation report that is reviewed and commented upon by the Governor and legislature and then these comments are responded to by the Secretary and included in any recommendation by the Secretary to the President.

It is unacceptable to expect that the Governor and legislature would comment on a document that indicates that the Department is simply considering recommending the site for development as a repository, and not the actual recommendation decision and the Secretary’s basis for such decision. We understand that 114 of the Act requires the Department to hold public hearings and receive comments from the public about the consideration of the site for development as a repository, but believe that the process for the Governor and legislature is legally different. It is only the actual recommendation decision and report, the one submitted to the President, with the final Environmental Impact Statement that will be reviewed by the Governor and legislature.

Moreover, since the Department has taken the position that the socioeconomic and transportation analysis that would have been done in the siting guidelines (10CFR960) are now to be included in the final EIS and not analyzed in the application of the siting guidelines, it is
even more important that the Governor and legislature be given the final EIS along with the actual recommendation report for review and comment. Suggesting that we review the site recommendation consideration report without a final Environmental Impact Statement is unacceptable and not in conformance with the Act.

The Nevada Commission on Nuclear Projects, at their recent meeting (May 30, 2000) relayed this concern to Chris Kouts, who was representing Dr. Dyer at that meeting. They asked that Mr. Kouts forward this concern to you and asked that I follow up with a call and letter to you. I would appreciate learning of your views on this matter.

If you have any questions, or wish to discuss this matter, please do not hesitate to contact me.

Sincerely,

Robert R. Loux
Executive Director

cc: Governor Guinn
   Attorney General Del Papa
   Assemblyman Dini
   Senator Raggio
   Congressional Delegation
   Commission on Nuclear Projects
   Legislative Committee on High Level Waste