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Richard A. Meserve, Chairman
U.S. Nuclear Regulatory Commission
One White Flint North Building
11555 Rockville Pike
Rockville, Maryland 20852

Attn. Rulemaking and Adjudications Staff

Subject: Supplemental Comments on the Proposed Rulemaking Pursuant to the Provisions of 10 CFR 2.802 Regarding the "Special Requirements of Plutonium Shipments," 10 CFR 71.63, NRC Docket No. PRM-71-12

Dear Chairman Meserve:

On July 29, 2002, The Nevada Agency for Nuclear Projects, on behalf of the State of Nevada, provide comments on "10 CFR Part 71 Compatibility with IAEA Transportation Safety Standards (TS-R-1) and Other Transportation Safety Amendments: Proposed Rule (April 30, 2002). In those comments we expressed strong opposition to the proposed NRC position under Issue 17 to eliminate the double containment requirement of Sec. 71.63(b) for shipments of radioactive material containing quantities of plutonium exceeding 20 curies.

Since we made those comments, there has been an incident involving the shipment of plutonium-containing transuranic waste to the Department of Energy's Waste Isolation Pilot Plant (WIPP) facility in New Mexico that appears to reinforce the need not to retain the double wall requirement for plutonium shipments. A truck carrying TRU waste from the Idaho National Engineering and Environmental Laboratory (INEEL) to WIPP was involved in a traffic accident when it was hit by a pick-up truck in New Mexico on August 25th. Initial radiological surveys showed that no radiation was released and the outer waste container appeared to be undamaged. However, when the shipment

arrive at WIPP, it was discovered that the inner container was contaminated with radiation to the extent that it could not be unloaded. The shipment was subsequently sent back to INEEL for repackaging and to assess why one or more of the drums within the inner container of the TRUPAC II had been breached.

While no radiation was released, and both the inner and outer containers that comprise the TRUPAC II cask remained intact, the fact that this was a double-walled container provided a margin of safety that would not have existed if the shipment would have been made using a single-wall vessel, as would be permitted under NRC's proposed rule. In addition, the shipment was allowed to be returned expeditiously to INEEL without protest and with minimal controversy, largely because of the confidence state and local officials and the public have in the TRUPAC II double containment design. The incident reinforces the New Mexico Environmental Evaluation Groups' conclusions that single containment will increase the risk of radionuclide release in the event of a more serious transportation accident and will increase, rather than decrease, routine worker radiation doses without providing any proven economic benefit to shippers.

The incident underscores the importance of maintaining the double containment requirement, especially when it cannot be shown that eliminating it will not compromise the overall safety of such plutonium-containing shipments. The degree of confidence provided by the use of double-walled shipping containers is an intangible that cannot be readily quantified but, nevertheless, is a crucial element in the success of the WIPP TRU waste shipping campaign to date.

Sincerely,

Robert R. Loux
Executive Director

RRL/cs

cc Western Governors' Association