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August 4, 2003

Mr. Jay Rose
U.S. Department of Energy /NNSA
1000 Independence Avenue, S. W.
Washington D.C. 20585

Re: State of Nevada Comments on DOE's Draft Supplemental Programmatic Environmental Impact Statement on Stockpile Stewardship and Management For a Modern Pit Facility (DOE/EIS-236-S2)

Dear Mr. Rose:

The State of Nevada has reviewed the *Draft Supplemental Programmatic Environmental Impact Statement (EIS) on Stockpile Stewardship and Management For a Modern Pit Facility* (draft EIS) and offers the following comments:

(1) The Nevada Test Site is an unsuitable location for the proposed MPF.

- Locating such a facility at NTS significantly complicates the transportation components of the program. It would require shipping existing pits from the Pantex facility and then returning new/modified pits to the Texas plant. Because truck transport is the only available option to a NTS facility, such shipments would likely impact the heavily populated and congested Las Vegas Valley. Options for co-locating existing pit storage/fabrication facilities (i.e., Pantex in Texas and/or the Savanna River site in South Carolina) with the proposed MPF would seem to offer significant advantages, substantially decrease risks associated with transportation and handling, and reduce overall program costs.

- The fact that NTS lacks rail access and is some 100 miles distant from the nearest main line railroad further complicates transportation considerably. It would seem logical that strong preference be given to MPF sites with adequate rail access, since rail transportation can substantially reduce risks and limit the public's exposure to and contact with radioactive materials shipments. In addition, rail transport of special nuclear materials offers significant security advantages over highway transport.

- Because of other contemporaneous NTS operations and the possible transportation of spent nuclear fuel (SNF) and high-level radioactive waste (HLW) associated with the proposed Yucca Mountain repository program, shipments of MFP-related radioactive materials will pose unacceptable risks and impacts on Nevada highways and in Nevada communities. Currently, heavy volumes of low-level waste (LLW) are being shipped to the NTS from numerous generators throughout the Nuclear Weapons Complex. Planned shipments of large volumes of mixed low-level waste (MLLW), SNF and HLW, along with plutonium pits from the MPF will cause cumulative impacts on state highways. We note the draft EIS fails to adequately assess these cumulative impacts.

(2) The potential for significant cumulative impacts has not been adequately addressed in the draft EIS.

- The Yucca Mountain project will have significant, pervasive, and long-lasting impacts on Nevada and on communities in southern Nevada – impacts that will unavoidably interact with and exacerbate impacts from the proposed MPF. Such impacts are not adequately assessed in the draft EIS. For example, the draft EIS contains no examination of the potential stigmatizing effects of the MPF (or transportation accidents or incidents associated with MPF operations) on the State or the contribution the MPF would make to stigma impacts associated with the Yucca Mountain program.

- Cumulative impacts from existing and future operations at the Nevada Test and Training Range (Nellis Range) are not addressed at all in the draft document.

- At the NTS, major LLW and MLLW operations at areas 5 and 3 are expected to continue while the proposed MPF is in operation. Cumulative impacts associated with these NTS activities are inadequately assessed in the draft EIS.

- At NTS, substantial surface and subsurface contamination left over from weapons testing activities already exists. There is continuing concern about the adequacy of DOE's existing ground water monitoring program at NTS and the ability of DOE to accurately characterize the extent of radiological contamination in the groundwater and the direction and rate of migration. Even a small additional increment in radiological contamination, especially groundwater contamination, that may be associated with the proposed MPF is unacceptable.

- The proposed MPF is wholly inconsistent with the weapons testing, research and development mission of the NTS as authorized in the existing land withdrawal for the site. The draft EIS failed altogether to assess the MPF in terms of the facility's consistency with the land withdrawal status of the NTS.

(3) Inadequate support for the assertion that contamination and related problems at the past DOE pit production facility will not be repeated.

- Section 3.1.3 of the draft EIS discusses differences between the proposed MPF and its predecessor plant at Rocky Flats. The section implies that the dramatic environmental and safety problems at Rocky Flats were due to old and obsolete technology. However, it ignores the fact that serious violations of environmental,

health, and safety regulations and laws were still occurring at Rocky as recently as the late 1980s, despite the fact that numerous technology upgrades were made to the Rocky Flats facility over the years.

Technology is only as good as the management system that operates it. The draft EIS does not address the pervasive management and oversight deficiencies at Rocky Flats and their contributions to the environmental contamination and safety violations that occurred. Unless management deficiencies are addressed and corrected, there is no reason to expect a new MPF facility will have a better environmental and safety track record, regardless of the technology employed. If, as in the past, conditions are permitted to develop where mission, cost and schedule imperatives routinely override environmental, safety and related concerns (as happened repeatedly at Rocky Flats and at most other DOE weapons facilities), history is bound to repeat itself. DOE's track record in this regard at almost all of its facilities is atrocious, and nothing in the draft EIS demonstrates that DOE has learned the management, oversight, and 'cultural' lessons of the past.

(4) Inadequate assessment of seismic risks at NTS.

- The generalized descriptions of MPF facilities contained in Section 3.1 do not address how (and whether) an MPF at NTS can be designed and constructed to prevent damage and radiological releases in the event of a major seismic event at the site. The discussion of NTS seismicity contained in Section 4.3.5.1 makes reference to historical earthquakes and known faults, but it does not reflect the fact that earthquakes of 7.0 or greater magnitude are possible in this area. The implications of such an event for facility construction and operations (including materials handling, storage, transportation, etc.) are not addressed in the draft EIS.

(5) The proposed MPF represents an unwarranted imposition on Nevada.

- Should the MPF be located at NTS, it would represent yet another imposition on a state that has already shouldered more than its share of the burden for the nation's nuclear activities – both nuclear weapons-related and commercial. For more than 40 years, the Nevada Test Site and at least two other locations in Nevada outside the NTS were used for above and below ground nuclear weapons tests, resulting in a legacy of massive surface and subsurface contamination that even today is not adequately understood. Groundwater contamination just from existing radioactive materials left over from weapons tests is massive and has the potential to migrate off-site and to persist over an extremely long time period (i.e., hundreds, even thousands, of years). Health effects from the weapons testing era are still occurring. Existing groundwater contamination caused by nuclear testing beneath the NTS spans some 300 square miles.

- Sub-critical tests involving radioactive materials continue at NTS to the present time, and will for the foreseeable future, while millions of cubic feet of low-level and mixed low-level waste from DOE facilities around the country have been and are slated to be disposed of at NTS.

- Last year, Congress, over Nevada's strong objection, voted to approve location of a repository for spent nuclear fuel and high-level radioactive waste at Yucca Mountain on the western border of the NTS. If the Yucca Mountain project goes forward, upwards of 70,000 metric tons of highly radioactive waste (a figure that could reach 120,000 MTU or more under credible alternative scenarios) would be transported to Nevada from around the country, resulting in tens of thousands of shipments over a period spanning four decades.

- The potential environmental contamination and cumulative risks from all of these nuclear activities will impact Nevada and Nevadans for generations to come. The analyses contained in the draft EIS do not support adding another risky and potentially environmentally harmful nuclear facility to the mix.

Conclusion

Our review finds that the draft EIS does not support a decision to locate the proposed MPF at the Nevada Test Site. To the contrary, the many deficiencies of the Nevada site should have caused NTS to be disqualified from further consideration and call into question the legitimacy of the initial selection process used for identifying potential sites for the MPF facility.

Thank you for the opportunity to provide comments of the draft EIS.

Sincerely,

(Signed)

Robert R. Loux
Executive Director

RRL/cs
cc Governor Guinn
Nevada congressional delegation