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AGENCY FOR NUCLEAR PROJECTS**

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Mr. Dirk Schmidhofer
NEPA Document Manager
U.S. Department of Energy
National Nuclear Security Administration
P.O. Box 98518
Las Vegas, Nevada 89193-8518

Dear Mr. Schmidhofer:

The Nevada Agency for Nuclear Project is providing the following comments on DOE/NNSA's Notification of Intention to Prepare an Environmental Assessment for a Radiological/Nuclear Countermeasures Test and Evaluation Complex (NOI) at the Nevada Test Site (NTS):

- (1) Since the proposed test and evaluation complex will be dealing with radioactive materials, and given the sensitivities among Nevada citizens and communities with respect to past, present and contemplated nuclear activities at NTS, it is in DOE/NNSA's interest (as well as the interests of affected Nevadans) for your agency to assure that ample opportunities for public comment have been made available. The type of project contemplated (i.e., the use of radiological/nuclear source terms at NTS and planned releases of radioactive materials) has the potential, especially in Nevada, to evoke considerable public concern, given the past history of contamination from the nuclear weapons testing program, the atmosphere of distrust engendered by that program, and the current atmosphere of controversy surrounding the Yucca Mountain high-level waste repository project. Since DOE has not widely publicized or distributed the NOI, additional efforts must be made to inform the public about the proposal and provide opportunities for comment. DOE should immediately schedule public meetings in Las Vegas and Nye County and give serious consideration to one or more additional meetings in

“downwind” communities in Nevada (and possibly Utah). Meeting dates, times and places plus addresses for making written comments should be well publicized so as to maximize public awareness and participation.

- (2) The comment period for the countermeasures complex NOI should be extended to a minimum of 60 days to allow for the public meetings discussed above and for adequate time for the public to make comments. We note that the thirty-three day period announced in the letter sent to the State Clearinghouse (the only notice we have seen) commenced as of the date of that letter (April 6, 2004). I would further point out that the State Clearinghouse did not receive the letter until April 12th, and my office (and presumably other affected State agencies) did not receive copies until April 13th. That means that a full week of the comment period had already passed before Nevada agencies even obtained the NOI, and it is not at all clear that members of the public and other potentially affected parties are even now aware of its existence.
- (2) The proposed EA must address all of the standard impact categories routinely covered under a NEPA analysis (i.e., land use, visual resources, noise, socioeconomics, cultural resources, water resources, geology and soils, air resources, biological resources, traffic and transportation, human health and safety, environmental justice, infrastructure, waste management, etc.). In addition, the EA should address the impacts of the project that derive from the nuclear nature of the effort, the public’s high perception of risk regarding things nuclear, and possible stigmatizing effects resulting from the proposed action. The EA should analyze impacts in relation to, at a minimum, the proposed action and a realistic and defensible no-action alternative. Such an analysis must be made so as to facilitate comparison of the impacts of going forward with the proposed action with taking no action. If DOE/NNSA is contemplating several possible approaches/courses of action, each one should be dealt with as a discrete alternative and assessed with respect to all impact area in a manner that allows ready comparison among the alternative and no-action.
- (3) Cumulative Impacts: We note that almost simultaneous with the release of the Countermeasures Complex NOI, DOE/NNSA released a predecisional Draft EA for using biological simulants and releases of chemicals at NTS (ref. the April, 2004 “Predecisional Draft Environmental Assessment for Using Biological Simulants and Releases of Chemicals at the Nevada Test Site” DOE/EA-1494). The EA for the Countermeasures Test and Evaluation Complex must assess possible cumulative impacts from biological and chemical releases contemplated in the EA for the biological/chemical releases project, including any possible synergistic effects as a result of interactions between radiological and biological, and chemical agents.

Likewise, the proposed EA must examine possible cumulative impacts from DOE's ongoing low-level radiological waste (LLW), mixed LLW and hazardous waste, and transuranic waste activities at NTS. Thousands of shipments of waste come into NTS each year. The EA should assess any potential health or safety impacts to DOE LLW or truwaste workers, drivers, inspection personnel, etc. from radiological releases under the proposed action. Potential impacts to these other DOE programs resulting from planned or unplanned releases of radiological materials under the Countermeasures Complex proposed action (i.e., work stoppages, evacuations, etc.) should also be thoroughly examined.

If DOE adheres to its published schedule and overcomes State of Nevada opposition to the proposed Yucca Mountain repository program, large numbers of workers and others involved with the construction of that project will be working and traveling on NTS regularly. Likewise, starting in 2010 (according to DOE's schedule), large numbers of spent fuel and high-level waste shipments could start arriving at the repository. The EA should examine possible impacts of the proposed action on Yucca Mountain workers, drivers, inspectors, and others involved with that project. For example, could there be harmful health effects to individuals who are repeatedly exposed to radiological materials disbursed under the proposed action? The EA should examine meteorological conditions that could cause such exposures and assess any short or long-term consequences.

- (4) The proposed EA should address whether the proposed action is consistent with the purpose for which Congress withdrew the land for the Nevada Test Site (i.e., atomic weapons testing-related activities). Under the terms of the negotiated settlement of the State of Nevada's lawsuit challenging the Nevada Test Site EIS, DOE was to have consulted with the Bureau of Land Management regarding the status of the land withdrawal and consistency of various NTS activities with the mission of the NTS as specified in the land withdrawal legislation. To date, State officials are not aware that such consultation has taken place or any plans for resolving the issue.
- (5) The proposed EA must contain a thorough discussion of possible impacts of terrorism and sabotage on the activities contemplated in the proposed action. Are the radiological/nuclear materials to be used in any way potential targets for terrorist action? What precautions are planned for securing the materials while being transported to the NTS? What are the potential impacts/consequences of a successful terrorist attack on a shipment of radiological/nuclear materials enroute to NTS (i.e., release of the material in a large metropolitan area along a shipping route, not just in Nevada but in a large city outside Nevada)? The EA should contain a section that addresses possible terrorism/sabotage impacts, both at NTS and during transportation to NTS.

Because of the insufficient public notice regarding the availability of the NOI and the lack of public comment meetings, we again strongly recommend that DOE/NNSA extend the deadline for the comment period, schedule public meeting as discussed above, and widely publicize the availability of the document, the comment period and the meetings.

Sincerely,

Robert R. Loux
Executive Director

RRL/cs

cc Governor Guinn
Mike Stafford, State Clearinghouse