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**STATEMENT OF THE STATE OF NEVADA
AGENCY FOR NUCLEAR PROJECTS
ON THE
U.S. DEPARTMENT OF ENERGY'S NOTICES OF INTENT
TO AMEND THE SCOPE OF THE YUCCA MOUNTAIN
RAIL ALIGNMENT DRAFT EIS AND PREPARE
A SUPPLEMENT TO THE FINAL YUCCA MOUNTAIN EIS
October 31, 2006**

The U.S. Department of Energy's (DOE) October 13, 2006 notices of intent (NOIs) to (1) expand the scope of DOE's rail alignment draft environmental impact statement (EIS) and (2) prepare a supplement to the final Yucca Mountain EIS are procedurally and legally deficient. Both notices should be withdrawn and reissued with provisions incorporated for meaningful public participation, sufficient time for reviewing and commenting on the proposed actions, and attention to both the letter and spirit of the National Environmental Policy Act (NEPA).

The two October 13th NOIs, taken together, comprise nothing less than a major restructuring of the entire Yucca Mountain high-level radioactive waste program. The changes contemplated in the notices affect the universe of repository program elements, including the actual design of repository surface facilities, the characteristics of the waste disposal packages and engineered barrier systems, the thermal characteristics of the repository subsurface, the long-term performance of the waste isolation system and how that is modeled, and the entire national and Nevada waste transportation system. Yet, instead of treating these major program changes with the weight and importance they deserve, DOE is, once again, attempting to shirk its responsibilities and limiting public and stakeholder involvement by establishing truncated and unrealistic comment deadlines, withholding key information critical for understanding the actions being proposed and restricting opportunities for comment on the critical issues that are at stake.

On October 16, 2006, the Nevada Agency for Nuclear Projects formally requested that DOE extend the comment period for both NOIs to at least 90 days. The Agency also asked that, at a minimum, six additional public meetings be scheduled in Nevada

communities located along the rail route that encompasses the newly-proposed Mina rail access corridor. DOE agreed to extend the comment period by just two weeks – to December 12th - and added a single additional meeting in Reno.

The State of Nevada finds DOE's response to be entirely inadequate and unacceptable. The proposed Mina rail spur to Yucca Mountain would impact more Nevada communities than any other route DOE has identified. Communities across the State along the I-80 corridor, from West Wendover to Lovelock would be directly affected by thousands of shipment of spent nuclear fuel and high-level radioactive waste from the eastern portion of the country.

The heavily populated Reno-Sparks area, northern Lyon County, and the city of Fernley (one of the fastest growing communities in northern Nevada) would be impacted by hundreds - and perhaps thousands – of shipments from Arizona, California, Oregon, Washington that would transit California and end up coming through the Reno-Sparks metro area. It is likely that even reactors in Texas and a number of southern states would ship through California and northern Nevada to a Mina rail spur.

None of these impacts are discernable from the NOIs released on October 13th. DOE failed to provide any maps showing the new rail access routes or main line rail roads that are proposed for nuclear waste shipments. Key information about the actual communities affected and potential impacts are intentionally obscured by the NOI in an apparent effort to suppress public involvement and meaningful participation. On October 26 and 27, DOE added some additional information about the two proposals to its OCRWM web page, but issued no notice of its availability. Furthermore, these additions are no remedy for the deficient notices and short time provided for public comment.

The states of California and Utah – two states that stand to be significantly impacted by development of a rail access route to Yucca Mountain using the proposed Mina corridor – were left totally in the dark by DOE. Despite the fact that national changes in rail routing as a result of using a Mina rail spur would mean exponentially more shipments in California and would require the use of an entirely different main line railroad segment in Utah, DOE has refused to schedule public meetings in those states or even formally seek their input.

In the NOI announcing DOE's intent to prepare a supplement to the Final Yucca Mountain EIS, DOE is proposing fundamental changes in waste packaging, waste handling, and repository performance assessment. Nevertheless, DOE failed to include even a revised conceptual design for the Yucca Mountain facility in the notice. Instead, the NOI relies on vague references to the newly-concocted Transportation, Aging and Disposal (TAD) system and a shift in focus to a "clean" repository operating system.

In reality, the shift to the TAD concept as the governing construct for repository waste acceptance, storage, transportation and disposal marks a major change in DOE's entire repository design. It impacts every aspect of the proposed waste management system, from the way in which waste is handled and managed at nuclear reactors to how

it is transported and then received and handled at a repository to how it is ultimately disposed of underground (and how the waste disposal system performs over the tens of thousands of years necessary for safe waste isolation).

There is nothing in the NOI that even hints at the wide-ranging, all-encompassing effects of the changes DOE is proposing. One can only conclude that, as with the rail alignment NOI, DOE is intentionally seeking to mask the true import of its actions and withhold crucial information from the public.

The format for the limited number of meetings DOE is proposing to hold in Nevada is likewise deficient and designed to limit public participation. The meetings provide no opportunity for a public exchange of information. People coming to the meetings intending to make comments will be shuttled from one DOE public relations display to another, with no provision for documenting comments made to DOE staff. In order to “formally” comment, individuals must huddle with a paid DOE transcriber in a corner of the meeting room in an environment that is both intimidating and not encouraging of comments.

While DOE is asserting in the media that comments on both NOIs will be accepted at all of the scheduled meetings, the NOIs themselves say something else. For example, the notices state that DOE will accept comments on the proposed supplement to the Yucca Mountain EIS at the meetings in Amargosa Valley and Las Vegas, while comments on the scope of the revised rail alignment draft EIS would be accepted at meetings in Amargosa Valley, Goldfield, Caliente, Hawthorne and Fallon. According to how the notices are structured, DOE is under no obligation to accept “out-of-scope” comments on the supplemental Yucca Mountain EIS at any meetings other than Las Vegas and Amargosa Valley. Likewise, DOE has no obligation to accept comments of rail alignment scoping at the Las Vegas meeting.

A fundamental principle underlying the NEPA process is the requirement for federal agencies to transparently set forth proposed actions that have the potential to affect people and the environment and to follow procedures designed to not only allow, but also to encourage, meaningful public participation in the decision-making process. The NOIs DOE published in the Federal Register on October 13, 2006 not only fail to adhere to this spirit of openness and inclusive participation, but they actually serve to obscure the real extent of the changes being proposed and the nature and extent of likely impacts.

DOE must withdraw the NOIs and reissue them in a way that not only provides adequate time and opportunities for public involvement, but also affords access to adequate information to enable affected parties to understand what is being proposed and the impacts that could result.

ATTACHMENT I

North South Routing from Reactors to Yucca Mt. on Mina Route

Dedicated Rail routes from UP gateways of Memphis and Kansas City

