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September 11, 2007

Mr. Stephen A. Mellington
Assistant Manager for Environmental Management
U.S. Department of Energy
National Nuclear Security Administration
P.O. Box 98518
Las Vegas, Nevada 89193-8518

Dear Mr. Mellington:

In response to DOE/NNSA's August 14, 2007 "Announcement of Formal Review and Evaluation of 1996 Final Environmental Impact Statement for the Nevada Test Site and Off-Site Locations in the State of Nevada (DOE/EIS-0234)," I am writing to request that DOE prepare a new site-wide EIS for the Nevada Test Site. Since 1996 when the last formal NEPA review was conducted for the NTS, baseline conditions have changed markedly. It is difficult to see how the 1996 EIS and the subsequent cursory Supplemental Analyses can possibly represent today's known baseline conditions, or how federal officials, using this outdated information, can make informed decisions on future uses and management of the NTS at the landscape .

Another reason for undertaking a new site-wide EIS is the continuing controversy over the status of the land at NTS and the failure by DOE to implement the conditions of the 1977 Settlement Agreement with the State of Nevada that called for consultations between DOE and the Department of Interior (DOI) to attempt to clarify and resolve this matter. The Agreement also required DOE to report to the Nevada Attorney General on those negotiations, something else that has not been done. Recent correspondence from the Nevada congressional delegation and the Nevada Attorney General to the Secretary of Energy asking for clarification of the land status matter and the outcome of DOE's negotiations with DOI has not been responded to. In addition, a language in a 2005 House of Representatives committee report directs DOE to enter into formal consultations with DOI and, if necessary, revise and update the NTS land withdrawal to reflect additional uses. Some of these current and proposed uses for the NTS include:

- The T-18 relocation to the Device Assembly Facility;
- Importation of mixed hazardous and low-level radioactive waste to NTS for disposal;
- Sub-critical testing at various NTS locations;
- Proposals to dispose of Greater-Than-Class-C (GTCC) wastes at NTS;
- Potential storage and/or disposal of sealed sources at NTS;
- Potential disposal of Department of Defense depleted uranium at NTS;
- Biological and chemical releases at NTS for use in training hazardous materials and emergency response personnel;
- NTS as a potential alternative location for a modern (plutonium) pit facility;
- The use of NTS as a Radiological/Nuclear Countermeasures Test and Evaluation Complex;
- Consolidation of “special nuclear material” at NTS;
- The proposed move of a research reactor currently at Sandia to NTS;
- The proposed Yucca Mountain high-level radioactive waste repository project and its interface with other NTS land uses;
- Various current and futures commercial ventures at NTS, including renewable energy projects;
- Potential large scale, open-air explosive detonations at locations not previously evaluated and designated for such activities (eg. Divine Strake);
- Activities associated with maintaining readiness for resumption of underground nuclear weapons testing, and the potential for resumption of such testing.

In addition, long-term surveillance and maintenance plans and costs for the area 3 and area 5 disposal sites in relation to the remaining waste shipments from the weapons complex as well as future uses of Mercury and the rest of the base camps in relation to existing and future activities conducted on NTS must be evaluated in a new site-wide EIS. By the same token, long-term plans for managing "rad contaminated" surface soils in Yucca flat require a full-blown NEPA analysis. Is a cleanup option, and at what level (i.e., cleanup standard), relevant or not? If not, what is the plan for long-term intuitional control and how does this fit with the currently FLMPA land withdrawal?

There is also a need to establish new environmental baselines using, among other things, data produced by the UGTA investigations to date – i.e., groundwater contamination from testing – as well as data regarding environmental impacts from the sub-critical testing program and numerous other defense activities conducted at NTS.

A thorough analysis of all current and planned/proposed NTS activities in a new site-wide EIS, together with an evaluation of the legal framework governing the NTS, which requires congressional land withdrawal, would go a long way towards finding an acceptable path forward for resolving the land use issues. In addition, a new EIS is the only way to adequately assess the cumulative impacts of current and proposed NTS activities and establish new and accurate baseline data against which to assess present and future impacts to humans and the environment.

It appears that, given congressional language in the land withdrawal legislation governing the NTS, DOE is operating on a tenuous legal basis in expanding the range of activities to be undertaken at the NTS. The preparation of a new site-wide EIS for the Nevada Test Site would seem to be in the interests of both DOE and the State of Nevada and I would urge you to move expeditiously to initiate the NEPA process for such an EIS.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert R. Loux", written in a cursive style.

Robert R. Loux
Executive Director

RRL/cs

cc Governor Gibbons
Nevada congressional delegation
Attorney General Catherine Cortez Masto
Marta Adams, Deputy Attorney General
Allen Biaggi, DCNR