March 19, 2013

National Nuclear Security Administration
Nevada Site Office
Attn: Linda M. Cohn, NEPA Compliance Officer
P.O. Box 98518
Las Vegas, Nevada 89193-8518

Subject: Final Site-Wide Environmental Impact Statement (EIS) for the Nevada National Security Site (NNSS) and Off-Site Locations in Nevada

Dear Ms. Cohn:

Thank you for this opportunity to comment on the Final Site-Wide EIS.

The Draft Site-Wide EIS had considered both a Constrained Case, in which shipments of low-level and mixed low-level radioactive waste were routed "to avoid crossing the Colorado River near Hoover Dam and the interstate system in Las Vegas, Nevada" and an Unconstrained Case, in which shipments of radioactive waste "would travel over the bypass bridge near the Hoover Dam and on the interstate system through the greater metropolitan area". (Final Site-Wide EIS, Page S-21) As we made clear in our comments on the Draft Site-Wide EIS, the City of Las Vegas strongly opposes the shipment and storage of radioactive waste in metropolitan Las Vegas Valley. The Final Site-Wide EIS acknowledges our concerns and abandons the Unconstrained Case: "DOE/NNSA determined that it would retain the highway routing restrictions for shipments of low-level radioactive waste" (Page S-21).

The City of Las Vegas thanks DOE and NNSA for making the right decision on this issue.

On February 26, 2013, I wrote you to confirm that we have correctly concluded that the decision would continue to prohibit the transport of radioactive waste through metropolitan Las Vegas, and would not use the rail yards are Arden and Apex as locations for transferring waste from rail to trucks. We have not yet heard back from you, and take the lack of response to be a confirmation of our understanding. We also assume that, although the Final Site-Wide EIS refers to a prohibition on transport through the interstate system, DOE and NNSA do not intend to move radioactive waste through metropolitan Las Vegas on surface streets. Please let me know immediately if our understanding is incorrect.
Although we recognize that the decision by DOE and NNSA to eliminate the Unconstrained Case as an alternative may have mooted many of our comments, there are still some issues that we would like to provide comments on. We were particularly surprised by the statement that “DOE/NNSA’s environmental analyses showed no meaningful differences in potential environmental effects between the Constrained and Unconstrained Cases” (Page 2-212, response to comment 64-1). We strongly disagree. There is a great difference in environmental effects (including human health and socioeconomic effects) between a serious truck accident adjacent to downtown Las Vegas or The Strip, and the same accident in open desert far from human habitation. As the Final Site-Wide EIS recognizes, a serious accident would be accompanied by fire and by a substantial release of radioactive materials. The Final Site-Wide EIS makes a major error when it suggests that there are no environmental consequences to exposing the hundreds of thousands of tourists and travelers, as well as local workers and government employees, to radioactive waste.

The attachments provide additional technical and legal comments.

If you have any questions, please contact Randy Fultz at (702) 229-2176.

Sincerely,

Elizabeth N. Fretwell
City Manager

C: City of Las Vegas, Deputy City Manager, Orlando Sanchez
   City of Las Vegas, Director of Administrative Services, Ted Olivas
   City of Las Vegas, Director of Public Works, Jorge Cervantes
   City of Las Vegas, Assistant City Engineer, Randy Fultz
COMMENTS ON FINAL SITE-WIDE ENVIRONMENTAL IMPACT STATEMENT FOR THE CONTINUED OPERATION OF THE DEPARTMENT OF ENERGY/NATIONAL NUCLEAR SECURITY ADMINISTRATION NEVADA NATIONAL SECURITY SITE AND OFF-SITE LOCATIONS IN THE STATE OF NEVADA

TECHNICAL COMMENTS

The Purpose and Need of this site-wide environmental impact statement (SWEIS) is to analyze the potential individual and cumulative environmental impacts of reasonable alternatives for current and reasonably foreseeable missions, programs, capabilities, and projects at the Nevada National Security Site (NNSS) and offsite locations in Nevada during a 10-year period. For several environmental resources identified in Section 4.0 Affected Environment (Page 4-1), the regions of influence (ROIs) are larger and include all of southern Nevada. However, when the SWEIS describes the existing environmental conditions, environmental consequences, and cumulative impacts the document fails to consider or calculate the nearly 40,000,000 annual visitors to the Las Vegas Valley in its analysis. The City of Las Vegas and other jurisdictions of the valley must take tourists’ impacts into account when we properly plan for the provision of public services such as transportation, water quality, public safety/emergency management/emergency services, air quality, and socioeconomics. Our local economy remains tied to the highly volatile gaming and tourism industries along the Strip and within the downtown area. Any environmental impacts and cumulative impacts associated with activities of the NNSS and Off-Site Locations in the state of Nevada that occur within the Las Vegas Valley must also include the nearly 40,000,000 annual visitors (comments and responses 64-1, 64-2, and 64-3). In addition, the calculated risks associated with these impacts must also include the visitor population and specific routes within the valley that are adjacent to the gaming and tourism industries. DOE/NNSS highway routing restrictions should also include greater-than-Class C (GTCC) low-level radioactive waste, GTCC-like waste, Uranium-233, and Uranium-235 in addition to low-level radioactive waste (LLW) and mixed low-level mixed waste (MLLW) (comment and response 64-3).

AIR QUALITY (Volume 3--Page 2-215, comment and response 64-6)

The estimated dose to the population and to maximally exposed individuals during most-severe accident conditions indentified in Appendix E, Table E-16 must also include the nearly 40,000,000 annual visitors and greater-than-Class C (GTCC) low-level radioactive waste, GTCC-like waste, Uranium-233 (U-233), and Uranium-235 (U-235). The Las Vegas Valley constant-density urban population is more than the 2,000,000 permanent residents. Reasonably foreseeable future actions considered in the cumulative impacts include radioactive wastes other than LLW and MLLW.
**SOCIOECONOMIC (Volume 3--Page 2-215, comment and response 64-7)**

The comment response states that DOE/NNSA did not attempt to quantify any adverse socioeconomic impacts associated with radioactive waste transportation under normal operations or accident scenarios and they did not attempt to quantify any potential impacts from risk perceptions or stigma in this SWEIS. Clark County’s gaming revenue in 2011 was $9,200,000,000 and $6,100,000,000 of which was specifically gaming revenue on the Strip. Any radioactive waste (LLW, MLLW, GTCC, GTCC-like, U-233, or U-235) accidents occurring within gaming corridors or anywhere within the Las Vegas Valley would impact the multi-billion dollar economy and these economic impacts can and should be calculated.

**HUMAN HEALTH (Volume 3--Pages 2-216 and 2-217, comment and response 64-8)**

Same response as above for air quality applies to human health.

**TRANSPORTATION (Volume 3--Pages 2-219 and 2-220, comment and response 64-11)**

Same response as above for air quality applies to transportation. In addition, the comment response for 64-4 stated “the operation of a rail-to-truck transfer station would be the responsibility of a commercial shipper, who would need to comply with all applicable laws and regulations. DOE/NNSA would encourage generators and shippers to make shipments expeditiously and it is expected that the incentive of payment would minimize the amount of time a shipper would keep shipments at the transfer station”. The DOE/NNSA has the ultimate responsibility of its operations and radioactive waste activities including ancillary items such as transportation and storage of the material, not the commercial shipper. The City of Las Vegas does not accept the transference or deferment of these responsibilities to a rail-to-truck transfer station operator within our city limits. It seems the encouragement to generators and shippers to make shipments expeditiously implies a “rushed” practice and increased risks to public safety? Also, basing storage time of radioactive wastes at a transfer station on market factors and monetary incentives is preposterous. An unsecured rail-to-truck transfer station must be the responsibility of the DOE/NNSA.

Based on the FY2012 DOE Office of Packaging and Transportation Annual Report, Section 2.4.2, Page 9, “a negative trend was identified through multiple DOE oversight activities regarding the inconsistency of DOE Order requirements being flowed down to subcontractors. In addition, it was found that some of our prime contractors are not performing adequate oversight of their subcontractors. Also, some of the prime contractors are subcontracting out the packaging and transportation functions, and did not have sufficient expertise to oversee compliance for those activities. Contractor transportation managers need to work with the contracting/procurement organizations to ensure adequate and appropriate language is included in subcontracts with packaging and transportation scopes, and that periodic oversights be conducted as required by DOE 460.2 as well as Federal regulations”. This further justifies that operations of rail-to-truck transfer stations can not be the sole responsibility of a commercial shipper.
The comment response states "radioactive wastes would not be in the form that would be readily transported by water through storm drains and dispersed in the lake. In the unlikely event that an accident severe enough to breech a waste container were to occur during a rainstorm, most of the radioactive materials would remain near the accident location". In a special report entitled "History of Flooding, Clark County, Nevada 1905-1975", the U.S. Soil Conservation Service documented 184 different flooding events that resulted in damages to private property and public facilities. Since 1960, the area has experienced at least 11 floods costing more than a million dollars each. In that same period, 31 lives were lost in 21 separate flash flood events. Aside from the tremendous property damage and deaths related to flooding, Clark County residents experience inconveniences caused by impassable or difficult-to-travel roads. Support services such as police, fire and ambulance are sometimes delayed in responding to victims of life-threatening incidents. Flash flood waters move at very fast speeds (up to 30 m.p.h.) and can roll boulders, sweep away vehicles, tear out trees, destroy buildings, and obliterate bridges. Walls of water can reach heights of 10 to 20 feet and generally are accompanied by a deadly cargo of debris.

If an accident were to occur during a rainstorm and the radioactive waste container were breeched, most of the internal materials would not remain near the accident location.

It was also stated in the comment response that "waste shipments must meet the NNSS WAC, which stipulate, among other requirements, that the waste be free of liquids".
COMMENTS ON FINAL SITE-WIDE ENVIRONMENTAL IMPACT STATEMENT FOR THE CONTINUED OPERATION OF THE DEPARTMENT OF ENERGY/NATIONAL NUCLEAR SECURITY ADMINISTRATION NEVADA NATIONAL SECURITY SITE AND OFF-SITE LOCATIONS IN THE STATE OF NEVADA

LEGAL COMMENTS

DOE’s response to the comments submitted by the City of Las Vegas does not comply with NEPA regulations. The City explained at length that the Draft EIS did not properly evaluate the effects of an accident and release of radioactive materials adjacent to the tourist areas of metropolitan Las Vegas. NEPA regulations require DOE to respond to these comments either by making changes to the EIS or by explaining why changes are not required. The Final EIS does neither. Although DOE’s response to comments asserts that the Final EIS evaluates the consequences of accidents near Las Vegas, this statement is false. The referenced page makes no mention of Las Vegas, and the text makes clear that DOE has not evaluated a local accident. Instead, it has used a computer model to assess an artificial accident that bears no relation to a real accident near the tourist areas of metropolitan Las Vegas. For a start, DOE’s evaluation assumes that there are no tourists ever present. Nor are there any government or office workers, like those who work in the City of Las Vegas and Clark County offices near the Spaghetti Bowl. Although the accident causes a fire, there are no fireman within 330 feet of the accident, no police, and no emergency workers. People in cars passing by on the other side of the freeway are not exposed to radiation, even if they are downwind of the fire. Wind speed is near zero, even on those gusty afternoons so common in Las Vegas Valley. Even more surprising, there are no socioeconomic effects resulting from the release of radioactive wastes in tourist areas. DOE provided no response whatsoever to the City’s comment that there would be serious socioeconomic effects from a release of radioactive waste in tourist areas. The absence of any response to this important comment is a direct violation of NEPA regulations. Instead of providing a comprehensible evaluation of the consequences of a real accident, as the Final EIS concedes it must do, DOE has generated an artificial assessment that hides the key facts behind a barrier of technical jargon and grossly underestimates the real consequences.

NEPA regulations require an agency to respond to comments: “Final environmental impact statements shall respond to comments as required in part 1503 of this chapter” (40 CFR § 1502.9(b)). Section 1503.4(a) sets out five possible responses to comments.
An agency preparing a final environmental impact statement shall assess and consider comments both individually and collectively, and shall respond by one or more of the means listed below, stating its response in the final statement. Possible responses are to:

1. Modify alternatives including the proposed action.

2. Develop and evaluate alternatives not previously given serious consideration by the agency.

3. Supplement, improve, or modify its analyses.


5. Explain why the comments do not warrant further agency response, citing the sources, authorities, or reasons which support the agency's position and, if appropriate, indicate those circumstances which would trigger agency reappraisal or further response.

"The agency shall discuss at appropriate points in the final statement any responsible opposing view which was not adequately discussed in the draft statement and shall indicate the agency's response to the issues raised" (40 CFR § 1502.9(b)).

The Final EIS does not comply with these regulations. It does not fairly respond to the comments submitted by the City of Las Vegas, especially the comments about an accident that releases radioactive waste adjacent to downtown Las Vegas or The Strip.

Conspicuously absent from the Final EIS is any reference to an accident at these locations. The Final EIS properly recognizes that in the “unconstrained case” radioactive waste will be transported through Las Vegas Valley. Figure 5-2 is devoted to transportation rates through Las Vegas Valley, and clearly shows radioactive waste being transported through Spaghetti Bowl, adjacent to downtown Las Vegas on US 95 and I-15, and on I-15 along The Strip. The Final EIS properly recognizes that it must evaluate the possibility of “a severe collision and an ensuing fire” in an “urban area” (Page S-22) and even “Most-Severe Accident Conditions” (Page E-51). The Final EIS insists that it “calculate[es] the radiological risks that would results from all reasonably conceivable accidents during transportation of radioactive materials”, and that it “assesses the higher consequences of a maximum reasonably foreseeable accident … in an urban or suburban population area along the route” (Page 5-38, emphasis added). Is it reasonably conceivable that there could be an accident adjacent to downtown Las Vegas or The Strip? Of course it is. Then what does the Final EIS have to say about an accident in these locations, absolutely nothing.
Rather than considering a realistic “reasonably conceivable accident” or “maximum reasonably conceivable accident”, the Final EIS considers only a minimal, unrealistic accident in an artificial urban area that bears no recognizable relationship to metropolitan Las Vegas.

In response to the City’s comments, DOE asserts that it “performs transportation analyses to determine comparative risks among alternatives using risks calculated for the entire route” (Page 2-221, response to comment 64-14). According to DOE, “[t]he risk over the entire transportation route is generally not dominated by one specific local area” (Id.). But the maximum cannot be every point. When DOE determines the maximum reasonably conceivable accident, and when DOE evaluates risk on the maximally exposed person, it must select an individual accident and an individual person.

DOE asserts that an “analysis of specific local hazards on many possible routes is neither practical nor necessary” (Id.). But, contrary to the NEPA regulations, the Final EIS never explains why it is “neither practical nor necessary” to evaluate the radiological risk of an accident in metropolitan Las Vegas; DOE never “cit[es] the sources, authorities, or reasons which support the agency’s position” (40 CFR § 1503.4(a)(5)). And this assertion is plainly incorrect. If DOE is to evaluate the maximum reasonably foreseeable accident, then it must evaluate the “specific local hazards” present at a specific location. And surely it would not be impractical to evaluate the risk of accidents at a few sensitive locations. Metropolitan Las Vegas is an especially sensitive area because of the unusual amount of trucks carrying radioactive waste (80,000 shipments from out of state, in the expanded case, in which the cargo is low-level and mixed low-level radioactive waste), and the unusual number of tourists adjacent in close proximity to the truck route.

DOE insists that “[t]he consequences of potential accidents with the greatest impacts (maximally foreseeable accident) on routes near Las Vegas, Nevada, were calculated, and the results are shown in Appendix E, Table E-16” (Page 2-221, response to comment 64-14, emphasis added). But, Table E-16 says nothing whatsoever about Las Vegas. The accompanying text makes clear that the table refers not to Las Vegas, but to a “hypothetical transportation accident” (Page E-51). DOE’s response to the City’s comment, therefore, is not true.

Even a quick review of the assumptions shows that this hypothetical accident bears no relation to a real accident in metropolitan Las Vegas. For example, the Final EIS assumes that the maximally exposed individual would be 330 feet from the accident and fire (Page E-51). In a real accident and fire, there would be dozens of fireman, police, and emergency response personnel within a few feet of the crashed truck—not to mention the hundreds of people that would gather nearby. There would be hundreds of cars backed up on the freeway, and every minute there would be hundreds more passing by in the opposite direction (which could reasonably be downwind of the fire). The maximally exposed individual in a local accident could not possibly be a full 330 feet from the accident and fire. The assessment in the Final EIS,
therefore, underestimates the public-health consequences of an accident in metropolitan Las Vegas.

DOE’s hypothetical accident is also not representative of Las Vegas because DOE has assumed calm conditions. The wind speed is only 2.2 mph for the maximally exposed individual (Page E-51). In metropolitan Las Vegas, it is reasonable to assume that an accident will be accompanied by strong and gusty winds, which are common in the valley, and perhaps even by dust devils. The maximum reasonably foreseeable accident should not assume calm winds, or even average conditions, but rather reasonably foreseeable conditions that are likely to exacerbate the problems caused by a severe accident and fire.

It goes without saying that DOE’s assumption about tourists—none within 50 miles of the accident—is not appropriate for an accident in Las Vegas. DOE’s model apparently looks only at residents (Page 5-39). The model must think that the government offices downtown are empty, as are the hotels downtown and on The Strip. The model therefore would appear to underestimate, but several hundred thousand, the number of people who would be exposed to radiation in a local accident.

Even worse, DOE says absolutely nothing about the socioeconomic effects of an accident adjacent to tourist areas, or about the City’s comment that these socioeconomic effects must be considered. The absence of any response to this significant comment is a direct violation of NEPA regulations.

This omission demonstrates a clear bias against tourists and government workers. In response to other comments, DOE agreed to include in the Final EIS “a human health impacts analysis for an alternate maximally exposed individual based on a ‘subsistence consumer’ lifestyle pattern” (Page vi). DOE should also have included in the Final EIS an analysis of the effects of maximally exposed government workers and tourists, who are far more numerous in Las Vegas Valley than subsistence consumers, and are likely to be close to the maximum reasonably foreseeable accident.

DOE, in short, has violated NEPA regulations because it has not responded to the City’s comment that the EIS must evaluate the severe socioeconomic consequences that would result from the maximum reasonably foreseeable accident in metropolitan Las Vegas. DOE has also violated NEPA regulations by falsely asserting that it has evaluated the effects of an accident in metropolitan Las Vegas, when it has not. More generally, it has greatly underestimated the human-health consequences of the maximum reasonably foreseeable accident, and has not provided a clear explanation of the consequences of a real accident.