March 25, 2013

Ms. Linda Cohn, SWEIS Document Manager
NNSS Nevada Site Office
U.S. Department of Energy
P.O. Box 98518
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Re: Comments on Final Site-Wide Environmental Impact Statement (SWEIS) for the Nevada National Security Site (NNSS) and Off-Site Locations in the State of Nevada (DOE/EIS-0426)

Dear Ms. Cohn:

The purpose of this letter is to formally submit comments on the Final Site-Wide EIS for the NNSS and Off-Site Locations in the State of Nevada. The Federal Register Notice (78 FR 12309) published February 22, 2013, states that the review period ends March 25, 2013. We request that these comments be acknowledged and addressed in the Record of Decision, which is expected to be issued in April 2013.

As we stated in our letter of March 13, 2013, the 30-day comment period is not sufficient for an extensive, in-depth review of this lengthy and complex three-volume document and the attendant reference materials. Nevada requested additional time specifically for technical analysis of DOE’s responses to our comments on transportation risk evaluations, and for legal analysis of references to, and reliance upon, DOE EISs prepared in 2002 and 2008 for the now-terminated Yucca Mountain repository project.

The National Nuclear Security Administration (NNSA) rejected Nevada’s request on March 19, 2013. The comments we are submitting today summarize our concerns about the major deficiencies in the Final SWEIS evaluation of transportation impacts, and focus on Volume 3, the Comment Response Document. We will continue to evaluate these technical and legal issues as we monitor DOE/NNSA’s implementation of the Record of Decision.

The Nevada Agency for Nuclear Projects (NANP) acknowledges and supports DOE’s determination “that it would retain the highway routing restrictions” for shipments of low-level radioactive waste (LLW) and mixed low-level radioactive waste (MLLW) to the NNSS.
[Response 65-1, Vol. 3, page 2-228] NANP interprets DOE/NNSA’s statement as a commitment to continue the “Constrained Case” over the 10-year period covered by the Final SWEIS, i.e., routing shipments of LLW and MLLW to NNSS without using the Las Vegas Beltway, the intersection of Interstate-15 and US 95 known as the Spaghetti Bowl, and the Hoover Dam Bypass Bridge.

NANP rejects the DOE/NNSA finding that “environmental analyses showed no meaningful differences in potential environmental effects between the Constrained and Unconstrained Cases.” [Response 65-1, Vol. 3, page 2-228] This finding is based upon the deficient transportation risk analyses presented in the Draft SWEIS. In responding to Nevada’s comments on the Draft SWEIS, DOE/NNSA has generally ignored NANP’s constructive comments and the measures that were recommended to correct the deficiencies in the Draft SWEIS and has, with few exceptions, repeated the risk analyses and conclusions in the Final SWEIS.

The transportation risk analyses presented in the Final SWEIS are not consistent with the Council on Environmental Quality’s guidance to federal agencies (40 CFR 1502.1; 40 CFR 1502.2(b)); the National Environmental Policy Act at 42 U.S.C. § 4332; and the case law involving environmental impact statements. DOE/NNSA’s environmental impact statement must contain a reasonably thorough discussion of the significant probable environmental consequences and must discuss the environmental impacts, including transportation impacts, of the proposed action – which requires DOE/NNSA to take a hard look at the potential environmental consequences of the transportation operations required as part of the proposed action.1 Regarding transportation events of low probability but high consequence, DOE/NNSA must comply with the standard recently established in the Waste Confidence Update EIS case: “Such an analysis must, unless it finds the probability of a given risk to be effectively zero, account for the consequences of each risk.” 2

While the unacceptably short comment period does not allow for a comprehensive review of all aspects of the SWEIS, the following are especially problematic in the analyses of transportation impacts and risk contained in the SWEIS:

1. The Final SWEIS transportation risk assessment fails to evaluate unique local conditions along the transportation routes. The Final SWEIS admits that “specific local hazards” were not part of the comparative evaluation of the “Constrained” and “Unconstrained” Cases. [Response 65-9, Vol. 3, p. 2-232]

2. The Final SWEIS transportation risk assessment fails to evaluate new and unique hazards that would require analysis of specific locations along routes. Contrary to DOE’s

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1 See Northwest Ecosystem Alliance v. Rey, 380 F. Supp. 2d 1175, 1185 (W.D. Wash. 2006); and Idaho Conservation League v. Mumma, 956 F.2d 1508, 1519 (9th Cir. 1992). See also Public Service Electric & Gas Co. (Hope Creek Generating Station), ALAB-518, 9 NRC 14 (1979); and Florida Power & Light Co. (Turkey Point Units 3 & 4), LBP-81-14, 13 NRC 677 (1981).

assertion, the actions considered under the “Unconstrained Case” – including tens of thousands of LLW and MLLW shipments through downtown Las Vegas on routes not previously utilized – would “present a new or unique hazard that would require specific locations along a route to be analyzed or analysis of other aspects such as economic impacts.” [Response 65-9, Vol. 3, p. 2-233]

3. The Final SWEIS transportation risk assessment fails to evaluate unique route characteristics important to radiological risk assessment. The Final SWEIS admits that total shipment distance and resident population distribution are the primary “discriminating factors” used in comparative evaluation of the “Constrained” and “Unconstrained Cases.” DOE ignored factors uniquely important for radiological risk assessment in Las Vegas including nonresident populations, pedestrian populations, and population concentrations at iconic venues, mass events, and difficult-to-evacuate locations. [Response 65-9, Vol. 3, p.2-233; Response 65-43, Vol. 3, page 2-247]

4. The Final SWEIS transportation risk assessment fails to evaluate adverse socioeconomic impacts associated with waste transportation under both normal operations and accident scenarios. The Final SWEIS admits that “DOE/NNSA did not attempt to quantify any potential for impacts from risk perception or stigma.” [Response 65-9, Vol. 3, p.2-233; Response 65-57, Vol. 3, page 2-253] DOE/NNSA ignores the published social science literature in this field, including specific studies of nuclear waste transportation risk perception in the Las Vegas area, and relies upon questionable findings in documents prepared for the now-terminated Yucca Mountain repository project.

5. The Final SWEIS transportation risk assessment fails to adequately evaluate the health effects consequences of the maximum reasonably foreseeable accident. The information provided in Chapter 5, Appendix E, and in Response 65-49 [Vol. 3, p.2-250 to 2-252] is not sufficient to validate the purported consequences of the maximum reasonably foreseeable accident involving a release of strontium-90 (about 1.3 curies of strontium-90 released from a shipment inventory of 1,750 curies). The Final SWEIS states that the consequences of the maximum reasonably foreseeable accident “occurring along an urban route in Nevada is less than 1 chance in 10 million and was not evaluated separately…”.

6. The Final SWEIS transportation risk assessment fails to adequately evaluate the economic impacts of the maximum reasonably foreseeable accident. The Final SWEIS admits that DOE/NNSA did not evaluate the economic impacts of the maximum reasonably foreseeable accident involving LLW or MLLW. No technical basis is
provided for the assertion that the economic impacts would be “orders of magnitude less” than the transportation impacts evaluated in the DOE EIS prepared for the now-terminated Yucca Mountain repository project. [Response 65-49, Vol. 3, p.2-251; Response 65-50, Vol. 3, pages 2-251 to 252]

7. The Final SWEIS transportation risk assessment fails to adequately evaluate the impacts of acts of sabotage or terrorism. The Final SWEIS states that “a classified appendix” evaluates the impacts of “intentional acts of destruction related to transportation” [Vol. 2, p. E-35] but provides no evidence that DOE/NNSA specifically evaluated the health consequences or economic impacts of credible acts of sabotage or terrorism against LLW or MLLW shipments. No technical basis is provided for the assertion that the impacts would be “enveloped” [Vol. 2, p. E-35] or “bounded” by the transportation impacts evaluated in the DOE EIS prepared for the now-terminated Yucca Mountain repository project. [Response 65-54, Vol. 3, page 2-252] Moreover, studies prepared for the State of Nevada estimate that the health consequences of a successful terrorist attack on a spent fuel shipment in an urban area could be 50-200 times greater than the DOE Yucca Mountain FEIS estimates, and that cleanup costs could range from $3.5 billion to more than $400 billion.

Respectfully,

[Signature]

Robert J. Halstead
Executive Director

RJH/
cc Governor’s Office
    Sen. Bryan
    Congressional Delegation
    Marta Adams, Deputy Attorney General
    Clark County
    City of Las Vegas
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