

COVER SHEET

**U.S. DEPARTMENT OF ENERGY
OFFICE OF CIVILIAN RADIOACTIVE WASTE MANAGEMENT
YUCCA MOUNTAIN SITE CHARACTERIZATION OFFICE**

Docket Number RW-RM-96-100

**General Guidelines for the Recommendation of Sites for Nuclear Waste Repositories
Notice of Proposed Rulemaking (NPR)**

DISTRIBUTION AT HEADQUARTERS:

Bob Waxman, GC
Chris Einberg, RW
DOE FOI Reading Room
Docket File

CLOSE OF COMMENT PERIOD: Extended to April 16, 1997

TODAY'S DATE: March 21, 1997

ATTACHED WRITTEN COMMENT(S)/DOCUMENTS:

1. **Hearing Transcripts**
 - a. **January 23, 1997 - 12:30 p.m.**
 - b. **January 23, 1997 - 6:00 p.m.**

2. **Federal Register Notice, Reopening Public Comment Period**
March 20, 1997 62 FR 13355

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Note: The original written comments are located in the official agency docket file currently being held by Bob Murray at the Yucca Mountain Site Characterization Project Office in Las Vegas, NV. (702) 295-4894. Andi Kasarsky is coordinating distribution for DOE Forrester, (202) 586-3012.

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Authority: 5 U.S.C. 5941; E.O. 10000, 3 CFR, 1943-1948 Comp., p. 792; E.O. 12510, 3 CFR, 1985 Comp., p. 338.

2. In § 591.203, paragraphs (a)(1), (a)(3), (a)(6), and (b) are revised to read as follows:

§ 591.203 Agencies and employees covered.

(a) * * *

(1) General Schedule.

(3) Foreign Service (including the Senior Foreign Service).

(6) Senior Executive Service (including the Federal Bureau of Investigation and the Drug Enforcement Administration Senior Executive Service).

(b) This subpart may be applied, at the sole discretion of the employing agency, to civilian employees in other positions authorized by specific law applicable to such positions, consistent with the intent of 5 U.S.C. 5941.

3. In § 591.210, paragraph (f) is removed, paragraphs (b) through (e) are redesignated as (c) through (f), respectively, and a new paragraph (b) is added to read as follows:

§ 591.210 Payment of allowances and differentials.

(b) Payment of an allowance or differential begins as of the date of an employee's arrival on regular assignment or transfer, or on the date of entrance on duty in the case of local recruitment. An employee who is temporarily assigned to duty in a nonforeign area is eligible for a differential, but not an allowance, except that payment of a differential shall not begin until after 42 consecutive calendar days of assignment in the differential area. Payment of an allowance or differential ceases—

(1) On separation;

(2) As of the date of departure on transfer to a new post of regular assignment; or

(3) As of the date of departure in the case of an employee on temporary assignment to the differential area.

[FR Doc. 97-7071 Filed 3-19-97; 8:45 am]
BILLING CODE 6325-01-P

DEPARTMENT OF ENERGY

Office of Civilian and Radioactive Waste Management

10 CFR Part 960

RIN 1901-1172

General Guidelines for the Recommendation of Sites for Nuclear Waste Repositories

AGENCY: Proposed rule; Reopening of public comment period.

SUMMARY: In response to additional requests from several interested persons, the Department of Energy has granted additional time to comment on proposed amendments to 10 CFR Part 960 that were published at 61 FR 66158, December 16, 1996.¹

DATES: Comments should be received no later than April 16, 1997.

ADDRESSES: All written comments are to be submitted to April V. Gil, U.S. Department of Energy, Office of Civilian Radioactive Waste Management, Yucca Mountain Site Characterization Office, PO Box 98608, or provided by electronic mail to 10CFR960@notes.ymp.gov.

FOR FURTHER INFORMATION CONTACT: April V. Gil, U.S. Department of Energy, Office of Civilian Radioactive Waste Management, Yucca Mountain Site Characterization Office, PO Box 98608, Las Vegas, Nevada 89193, (800) 967-3477.

Issued in Washington, DC on this 14th day of March, 1997.

Lake Barrett,

Acting Director, U.S. Department of Energy,
Office of Civilian Radioactive Waste Management.

[FR Doc. 97-7031 Filed 3-19-97; 8:45 am]
BILLING CODE 6450-01-P

FEDERAL ELECTION COMMISSION

11 CFR Parts 100 and 114

[Notice 1997 4]

Rulemaking Petition: Definition of "Member" of a Membership Association; Notice of Availability

AGENCY: Federal Election Commission.
ACTION: Rulemaking petition: Notice of availability.

SUMMARY: On February 24, 1997, the Commission received a Petition for Rulemaking from James Bopp, Jr., on behalf of the National Right to Life Committee, Inc. The Petition urges the Commission to revise its rules defining

who is a member of a membership association in view of a recent court decision. The Petition is available for inspection in the commission's Public Records Office.

DATES: Statements in support of, or in opposition to, the Petition must be filed on or before April 21, 1997.

ADDRESSES: Comments must be in writing and addressed to: Ms. Susan E. Propper, Assistant General Counsel, 999 E Street, NW., Washington, DC 20463.

FOR FURTHER INFORMATION CONTACT:

Ms. Susan E. Propper, Assistant General Counsel, or Ms. Rita A. Reimer, Attorney, 999 E Street, NW., Washington, DC 20463, (202) 219-3690 or (800) 424-9530.

SUPPLEMENTARY INFORMATION: The petitioner is requesting the Commission to revise its rules defining who is a member of a membership association in view of the decision by the United States Court of Appeals for the District of Columbia Circuit in *Chamber of Commerce of the United States versus Federal Election Commission*, 69 F.3d 600 (D.C. Cir 1995), amended on denial of rehearing, 76 F.3d 1234 (D.C. Cir. 1996). The decision held that the current rules at 11 CFR 100.8(b)(4)(iv) and 114.1(e), which require members in most instances to have direct or indirect voting rights for at least one member of the association's highest governing body, cannot be applied to the Chamber of Commerce or the American Medical Association, because of other financial and organizational ties that exist between these entities and their members.

Copies of the Petition for Rulemaking are available for public inspection at the Commission's Public Records Office, 999 E Street, NW., Washington, DC 20463, Monday through Friday between the hours of 9:00 a.m. and 5:00 p.m. Interested persons may also obtain a copy of the Petition by dialing the Commission's FlashFAX service at (202) 501-3413 and following its instructions, at any time of the day and week. Request document #232.

Statements in support of, or in opposition to, the Petition for Rulemaking must be submitted in writing by April 21, 1997.

Consideration of the merits of the Petition will be deferred until the close of the comment period. If the Commission decides that the Petition has merit, it may begin a rulemaking proceeding. Any subsequent action taken by the Commission will be announced in the Federal Register.

¹ See also 62 FR 4941, Feb. 3, 1997.

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THIS VERBATIM TRANSCRIPT CONSTITUTES

THE OFFICIAL RECORD OF THE

NOTICE OF PROPOSED RULEMAKING (NOPR)
GENERAL GUIDELINES FOR THE RECOMMENDATION OF SITES FOR
NUCLEAR WASTE REPOSITORIES - DOCKET NO. RW-RM-96-100
PUBLIC MEETING

Held at the

UNIVERSITY OF NEVADA, LAS VEGAS - MOYER STUDENT UNION
4505 South Maryland Parkway
Las Vegas, Nevada 89154

on

January 23, 1997
Beginning at
6:00 p.m.

REPORTED BY: Lana Stewart
Senior Verbatim Reporter

Bechtel Nevada
Reporting Services

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KEY to Transcript Symbols and/or Abbreviations

Webster's New Collegiate Dictionary: "Verbatim -- in the exact words; word for word."

Dash: [--] Indicates a sentence not completed by speaker.

Dots: [...] Indicates something was said by the speaker, which, as spoken, is neither audible nor decipherable to the reporter or from the taped cassette recording.

(ph) Indicates phonetic.

(sic) Represents exactly as said by the speaker and is used to alert the speaker/reader to an error in the record.

Parentheses: () Words within parentheses are reporter's explanatory comments.

VOICE: Indicates an unknown speaker.

Uh-huh: Indicates affirmative answer.

Huh-uh: Indicates negative answer.

PUBLIC HEARING AGENDA

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WELCOMING REMARKS BY: Stephen Rice
Moderator
Associate Provost of Research
University of Nevada
Las Vegas.....4

PRESENTATION BY: Carol Hanlon
Presiding DOE Official
Physical Scientist, YMSCO.....11

PUBLIC COMMENT PERIOD:

UNSCHEDULED SPEAKERS REPRESENTING

John Wells Southern Bands of the
Western Shoshone to the
Western Shoshone National
Council.....15

Willene DeLangis Self.....18

Hal Rogers Co-Chairman
The Study Committee.....22

CLOSING REMARKS BY: Stephen Rice
Moderator.....24

1 LAS VEGAS, NEVADA, JANUARY 23, 1997, 6:00 P.M.

2
3 RICE: Ladies and Gentlemen, welcome.
4 I'd like to thank you for taking the time to
5 participate in this public hearing concerning the
6 Department of Energy's Civilian Radioactive Waste
7 Program, particularly those of you who have come from
8 some distance. I am Stephen Rice, Associate Provost
9 for Research at the University of Nevada at Las Vegas,
10 and I will be the moderator for this rulemaking
11 hearing. My role as moderator is to keep the public
12 hearing orderly, focused, and on schedule, and to
13 ensure that everyone here has the opportunity to
14 present oral testimony. I have volunteered my
15 services to the Department of Energy and am not being
16 paid by the Department.

17 The purpose of this hearing is to
18 receive oral testimony from the public on DOE's Notice
19 of Proposed Rulemaking (NPR) to amend the General
20 Guidelines for the Recommendation of Sites for Nuclear
21 Waste Repositories. While you may have comments about
22 other DOE issues, it is essential that you keep your
23 remarks focused on the proposed rule. If you have not
24 already read the proposed rule in the Federal
25 Register, published on December 16, 1996, I urge you

1 to do so. Copies are available at the registration
2 desk. Your comments are not only appreciated, they
3 are essential to the process.

4 Today's hearing is different from
5 most other meetings held by the Department of Energy
6 for this program, in that this is a rulemaking hearing
7 which is governed by a different set of rules, so to
8 speak. Generally, Congress passes a piece of
9 legislation and then turns it over to one or more
10 agencies to write the rules to implement that
11 legislation. The Agency will publish its proposed
12 rule or rules in the Federal Register and ask the
13 public to comment on them. In a DOE rulemaking, the
14 public has two ways to provide comments: 1) orally at
15 a public hearing; and 2) providing written comments
16 before the end of the comment period. The Agency will
17 then consider the comments provided by the public, as
18 well as comments from other Federal agencies, and will
19 then publish a final rule to be codified in the
20 Code of Federal Regulations.

21 The comments received here today,
22 and those submitted during the written comment period,
23 will assist the Department in the rulemaking process.
24 Please note that although the original notice of
25 proposed rulemaking stated that the written comment

1 period is open until February 14th, 1997, DOE will be
2 extending this written comment period by 30 days in
3 response to a number of requests it has received from
4 the public. Under this revised schedule, the written
5 comment period will end March 17th, 1997. All written
6 comments must be received by this date to ensure
7 consideration by DOE. The U.S. Mail address for-
8 sending in comments is posted and available in the
9 written handouts for this meeting, as is the E-Mail
10 address by which you can send in comments.

11 As the Moderator for this hearing,
12 I would like to set forth the guidelines for
13 conducting this meeting and provide other pertinent
14 information. This will not be an evidentiary or
15 judicial type of hearing. It will be conducted in
16 accordance with the Administrative Procedure Act and
17 the DOE Organization Act. To provide the Department
18 with as much pertinent information and as many views
19 as can reasonably be obtained, and to enable
20 interested persons to express their views, the hearing
21 will be conducted in accordance with the following
22 procedures and ground rules: Please be courteous
23 while oral testimonies are being given. Everyone
24 deserves the opportunity to present testimony without
25 interruption or disruption. Please turn off cellular

1 phones and beepers. Please conduct side conversations
2 outside the meeting room. These are distracting to
3 those presenting testimony, the transcriber, the
4 hearing panel, and the audience. Speakers will be
5 called to testify in the order as presented. Speakers
6 have been allotted five minutes for their oral
7 statements. To help you know how much time is
8 remaining while you are presenting your oral
9 testimony, we will be using a light box. The yellow
10 light signifies that you have one minute remaining to
11 speak. The red light indicates that you have used the
12 five minutes allotted to you and your oral testimony
13 is complete. Should a member of the DOE panel ask a
14 clarifying question while you are presenting
15 testimony, the time clock will be stopped and then
16 restarted at the end of your response to ensure that
17 you receive a full five minutes to speak. Please do
18 keep to the five-minute time limit. We will be
19 enforcing this limit as needed in order to ensure that
20 this courtesy is extended to all speakers.

21 Tonight's proceedings are being
22 recorded by a transcriber. The transcript will become
23 a part of the official record. We ask that you
24 identify yourself and state your city or town and
25 affiliation before beginning your oral testimony.

1 Please speak slowly and clearly to help the
2 transcriber record your testimony as accurately as
3 possible.

4 After all registered speakers have
5 delivered their statements, anyone may make an
6 unscheduled oral statement. Persons interested in
7 making such an unscheduled statement should submit
8 their name to the registration desk before the
9 conclusion of the last scheduled speaker. At the
10 conclusion of all scheduled and unscheduled
11 presentations, speakers will be given the opportunity
12 to make rebuttals and/or clarifying statements,
13 subject to time limitations, and will be called in the
14 order in which the initial statements were made.
15 Persons interested in making such a statement should
16 submit their name to the registration desk before the
17 conclusion of the last speaker. If time permits, at
18 the conclusion of all rebuttals and/or clarifying
19 statements, persons may be given the opportunity to
20 make additional unscheduled statements. Persons
21 interested in making such an unscheduled statement
22 should submit their name to the registration desk
23 before the conclusion of the last rebuttal and/or
24 clarifying statement. Finally, clarifying questions
25 will be asked only by members of the hearing panel.

1 procedures established at 10 CFR 1004.11, the
2 Department of Energy shall make its own determination
3 as to whether or not the information shall be exempt
4 from public disclosure.

5 In keeping with the regulations of
6 this facility, there will be no smoking in this room.

7 Are there any procedural questions
8 before we go on?

9 (NO QUESTIONS WERE ASKED)

10 RICE: We appreciate the time and effort
11 that you have taken in preparing your statements and
12 are pleased to receive your comments and opinions. I
13 would now like to introduce the members of the hearing
14 panel. Joining us this evening from the Yucca
15 Mountain Site Characterization Office here in Las
16 Vegas are: Carol Hanlon, Physical Scientist;
17 Susan Rives, Chief Counsel; and Allen Benson,
18 Director of Institutional Affairs. The hearing panel
19 will receive your comments and ask clarifying
20 questions, as necessary, to ensure that the record is
21 clear and complete. We also have with us a number of
22 DOE employees who may assist the panel in assuring
23 that clarifications are requested when appropriate.

24 The hearing panel will not respond
25 to your comments today. All oral comments provided at

1 this hearing, and written comments submitted by the
2 deadline, will be carefully considered by DOE in
3 developing a final rule. In addition, the DOE
4 welcomes written questions as part of your comments on
5 the proposed rule. Please submit your questions on
6 the substance of the rule in writing, so that they may
7 be considered and addressed in the final rule. The
8 final rule will respond to all comments and questions
9 that focus on the scope and the content of this
10 proposal.

11 This introduction has been
12 lengthy, but I hope, useful. Let me now introduce
13 Carol Hanlon who will provide a short statement on the
14 proposed rule. Carol.

15 HANLON: Thank you, Stephen. Good
16 evening. My name is Carol Hanlon and on behalf of the
17 Department of Energy, I thank you for your
18 participation here this evening. As mentioned
19 earlier, I am a Physical Scientist working with the
20 Department of Energy in the Yucca Mountain Site
21 Characterization Office. I will be serving as the
22 hearing officer to the Department this evening. I
23 would like to provide you with some background
24 information and a brief overview of the proposed rule
25 that is the subject of this rulemaking.

1 In 1982, Congress passed the
2 Nuclear Waste Policy Act. The Act required the
3 Secretary of Energy to issue general guidelines for
4 use in the recommendation of sites for the disposal of
5 spent nuclear fuel and high-level radioactive waste in
6 geologic repositories. These guidelines were issued
7 as a regulation and became effective upon their
8 publication as a final rule in the Federal Register on
9 December 6, 1984. These guidelines were applied in
10 nominating five sites as suitable for characterization
11 and in recommending that three of these sites to be
12 characterized. The three sites recommended for
13 characterization, including the Yucca Mountain site in
14 Nevada, were approved by the President on
15 May 28, 1986.

16 In 1987, the Act was amended to
17 provide that Yucca Mountain, Nevada, be the sole site
18 to be characterized. In addition, the Energy Policy
19 Act of 1992 directed the Environmental Protection
20 Agency to promulgate standards specifically for the
21 protection of the public from releases from
22 radioactive wastes disposed of in the repository at
23 the Yucca Mountain site. The Nuclear Regulatory
24 Commission is directed to revise its regulations to be
25 consistent with EPA's site-specific standards.

1 In Fiscal Year 1996, the Congress
2 directed the Department of Energy to focus on only
3 those activities necessary to assess the performance
4 of a repository at the Yucca Mountain site. The
5 Department responded, in part, by proposing to amend
6 the siting guidelines as part of the Office of
7 Civilian Radioactive Waste Management's revised
8 Program Plan.

9 These proposed amendments to the
10 guidelines would concentrate the regulatory review on
11 the analyses of overall repository performance at
12 Yucca Mountain. This would enhance the ability of the
13 Department to provide the public with a more
14 understandable conclusion about the suitability of the
15 Yucca Mountain site for development as a repository.
16 To provide this focus, a new subpart would be added to
17 the existing regulations to govern the evaluation of
18 Yucca Mountain. The proposed new subpart would use a
19 systems approach and would involve assessing how the
20 engineered parts of the repository would work within
21 the geology of the Yucca Mountain site. That
22 assessment would then be evaluated against the health
23 and safety standards being developed by EPA
24 specifically for the Yucca Mountain site and
25 applicable NRC regulations. In short, this proposal

1 would focus the suitability decision on whether a
2 repository at Yucca Mountain would protect public
3 health and safety consistent with the requirements of
4 the EPA and NRC. Please note that this proposal does
5 not eliminate any of the guidelines currently in the
6 regulation, but preserves them should general
7 guidelines applicable to site screening and
8 comparisons be needed in the future. In addition,
9 other sections of the guidelines would be revised only
10 as needed to make them consistent with the new
11 subpart.

12 The hearings this evening are
13 provided as opportunities for you to provide comments
14 on the proposed amendments. To better understand the
15 proposed amendments, I strongly recommend that you
16 take a few minutes to read the Notice of Proposed
17 Rulemaking, if you have not already done so. Copies
18 are available at the registration desk. If you plan
19 to make oral statements or submit written comments to
20 the Department, please focus your comments only on the
21 scope and content of the Notice of Proposed
22 Rulemaking. The Department will not consider general
23 comments on the current regulations at this time.
24 Again, I thank you all for your participation.

25 RICE: Now it is time to move on to the

1 important business of listening to your comments on
2 the NOPR. I would like to call our first speaker on
3 the agenda. And as a reminder, I would ask that each
4 speaker, please identify yourself by name, city or
5 town and affiliation before making your statement.
6 And we'll begin with John Wells, please.

7
8 JOHN WELLS

9
10 WELLS: Good evening. My name is
11 John Wells. I'm a resident of the City of Las Vegas.
12 I represent the Southern Bands of the Western Shoshone
13 to the Western Shoshone National Council.

14 This forum is an opportunity to
15 look at some of the siting issues associated with the
16 illegality proposed repository at Yucca Mountain. I
17 state again, "illegal." Illegal, since there is no
18 provision in the 1863 Treaty of Ruby Valley for the
19 dumping of nuclear waste within the Territory. I have
20 no doubt that your agency is fully aware of the
21 Western Shoshone government. The Western Shoshone
22 National Council is the traditional government of the
23 Western Shoshone people being in existence
24 continuously and unbroken from time immemorial to the
25 present, asserting continuing inherent and exclusive

1 right to decide how we live on our lands without
2 interference or encroachment. Your government
3 formally recognized our government in 1863 when your
4 President Grant signed the Treaty of Peace and
5 Friendship with our government. This treaty has been
6 added to our common laws and is found in your laws at
7 Volume 12, of the United States Statutes at Large,
8 pages 689 through 692.

9 In our country, Newe Sogobia, the
10 United States government has ravaged our lands for its
11 nuclear experimentation. The United States government
12 through the Department of Energy violates the law, the
13 Treaty of Ruby Valley, and the inherent rights of the
14 Western Shoshone people protected by the 1863 Treaty
15 of Ruby Valley. The United States demonstrates
16 criminal intent and disregard of moral conscience by
17 placing our land and people at severe risk.

18 The motive behind the rush to
19 resolve the waste issue is clear to the Western
20 Shoshone government. The United States government has
21 become an engine for making private debt public,
22 making private liability, public liability. The
23 United States Congress now attempts to dump its
24 problems upon the Western Shoshone Nation. There is
25 moral implications of creating material which

1 threatens the world for 250,000 years. The moral
2 obligation and responsibility is to all humanity. We
3 need no more discussion to persuade us of the right
4 path which we must take on this issue. In 1995, the
5 Western Shoshone National Council passed
6 Resolution WSNC 1995-1 declaring our territory a
7 nuclear free zone.

8 American leaders isolate
9 themselves from information which does not support
10 their initiatives. The unrestrained exploitation of
11 the Western Shoshone Nation by the United States also
12 has severe political, social, and economic impacts
13 upon our people. Our people and government are unable
14 to resist. The Shoshone people are being
15 systematically destroyed by the United States through
16 a war of attrition where nuclear waste is the second
17 coming of Custer. The result is genocide.

18 We urge you to consider fully
19 other case examples, similar to the Western Shoshone
20 Nation's experience, as you consider the actions
21 proposed for the storage of spent nuclear fuel from
22 nuclear reactors. Your siting guideline issues are
23 irrelevant in light of these superior treaty
24 implications and the overall moral responsibilities to
25 the Western Shoshone Nation. You propose to sacrifice

1 our land as a nuclear waste land. This is necessarily
2 intent to sacrifice our people and culture as well.
3 Our people and land are one. You are committing
4 crimes against humanity and the United States
5 Constitution.

6 This land is the Shoshone
7 homeland, not a Department of Energy wasteland. - We
8 join with the Radioactive Waste Project to request at
9 least six additional hearings throughout the United
10 States. Thank you.

11 HANLON: Thank you.

12 RICE: Thank you, Mr. Wells. The next
13 speaker is Willene DeLangis.

14
15 WILLENE DE LANGIS

16
17 DE LANGIS: Willene DeLangis. And I've
18 been active in fightin' Yucca Mountain, and so I'm
19 getting kind of old now, so -- but I'm still fightin',
20 I want you to know. I have primarily questions
21 tonight. I read -- and thanks to Mary Manning, we get
22 some pretty good coverage. Because I'm not as active
23 in organizations as I used to be, our last one was
24 rather mild. We're in Norad (ph). And I'd like to
25 know about the warmin' of the earthquakes -- I mean,

1 the volcano, the heaters that you have there. Can you
2 tell me about this and tell the people about them?

3 RIVES: We're taking comments on the
4 Notice of Proposed Rulemaking. If you'd like
5 information about the program, we can tell everyone
6 where they can find it, but we wanted to focus on the
7 Rule tonight. And if you have questions about that,
8 we'd like to have those put in the record.

9 DE LANGIS: Oh, because I do -- mine is
10 mostly questions.

11 RIVES: Okay.

12 DE LANGIS: Because another thing was
13 about -- we begin to hear a lot about burnin' and the
14 plutonium. And then I read, that in France, that
15 there's a lot of leukemia. And this is something that
16 concerns me. And then, of course, already there's
17 poison in the water table in Yucca Mountain and it's
18 headed towards the Nellis Range. And I was so
19 interested because my husband and I bought some land
20 out in Nye county. And I guess it hasn't started that
21 way yet, but it could turn any time, I'm told. And I
22 was told by someone who knows.

23 Has anyone in the United States
24 government been told by the leaders of Yucca Mountain
25 that this is not suitable? We have earthquakes and

1 the volcanoes. And the desert, it's not like a lot of
2 people back in Washington and other places think it
3 is. It's a beautiful place. And I have a picture
4 over my fireplace of exactly what the desert behind us
5 looked like until they built all the houses. So it's
6 just a beautiful thing to see of how the desert once
7 was in behind our house. And -- let's see. I didn't
8 prepare a speech, but I did have the questions that I
9 would like answered. And if you can't do it now, I'll
10 write them out.

11 But those were primarily the
12 things that I think the people need to know.
13 Because -- and we're concerned about this nuclear
14 waste that's going to come here from the states that
15 should take care of their own. We don't have any
16 puffin' nuclear plants in this state. And wasn't it
17 enough that we gave up to have the Test Site there?
18 So jobs is not everything. The health of the people
19 in the state, I feel, is very important. And I thank
20 you for this opportunity.

21 BENSON: I'll see you afterward, and I'll
22 take your questions and we'll provide responses to
23 them.

24 DE LANGIS: Okay, thank you very much.
25 But I'm sure that there is citizens here, they'd like

1 to know the same answers, too. Thank you.

2 HANLON: Thank you for your comments.

3 RICE: Thank you, Ms. DeLangis.

4 At this time, are there any other
5 persons interested in presenting oral testimony?

6 (NO COMMENTS WERE MADE FROM THE PUBLIC)

7 RICE: Since there's no one who wishes to
8 make a further comment at this time, let's stand
9 adjourned until 7 p.m. to allow other persons, who may
10 still be trying to get to this meeting, a chance to
11 get here. So we're adjourned until 7 p.m. Thank you.

12 (RECESSED - BACK ON RECORD AT 7:00 P.M.)

13 RICE: Before we get started, but back on
14 the record, Mr. Benson, did you have a comment?

15 BENSON: Thank you, Steve. Let me just
16 say that if anyone here has questions about the Yucca
17 Mountain Project that do not pertain to the
18 Rulemaking, there are numerous ways that you can have
19 your questions answered. First of all, my office, the
20 Office of Institutional Affairs, will take your
21 questions. You can either give them to me verbally.
22 I would prefer if you would send them to me in writing
23 so that we can answer specifically. You can call us.
24 My telephone number is (702) 794-1411. We do have a
25 toll free telephone number which is 1-800-225-NWPA.

1 any part of 960, as it stands, to be ignored under
2 Subpart E? That is, when you -- assuming you adopt
3 Subpart E, will you still be considering Subparts A,
4 B, C, D, and the other -- the appendix -- I've
5 forgotten how many there are in there. Five of them,
6 I think. Will there be any elaboration of
7 Subpart E? Subpart E, as it is currently written, is
8 not the most clearly written thing in the world. And
9 I think that some further work on that would be
10 advantageous.

11 So those are the three questions I
12 have. And I realize that you can't give me direct
13 answers on these this evening, but I would like to
14 receive answers on them. Once again: Is any part of
15 960 to be thrown out or discarded? Is any part of 960
16 to be ignored under Subpart E? That is, when you
17 adopt Subpart E. And the third one: Will there be
18 any elaboration of Subpart E, any rewriting,
19 clarification of Subpart E? And those are the three
20 questions that I have. Thank you very much.

21 HANLON: Thank you

22 RICE: Thank you, Mr. Rogers.

23 Are there any other persons who
24 would like to register any further testimony?

25 (NO COMMENTS WERE MADE FROM THE PUBLIC)

1 RICE: There being none, would it be
2 appropriate to close the proceedings at this time, or
3 should we adjourn again to allow people who may be
4 running late? Any advice for the Moderator?

5 RIVES: I would say 15 more minutes, and
6 then we'll close if nobody else comes.

7 RICE: I have 7:07, so 7:22ish, we'll
8 reconvene.

9 (RECESSED - BACK ON RECORD AT 7:25 P.M.)

10 RICE: Ladies and gentlemen, if we can
11 just bring ourselves to a place where we can ask if
12 there are anymore persons who would wish to make any
13 kind of statement this evening? Anyone who wishes to
14 be heard for the record?

15 (NO QUESTIONS OR COMMENTS FROM THE PUBLIC)

16 RICE: Well, you've heard about the
17 opportunities to provide written testimony, and I hope
18 you will do that. And I thank you very much for your
19 participation. And we are adjourned.

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THIS VERBATIM TRANSCRIPT CONSTITUTES

THE OFFICIAL RECORD OF THE

NOTICE OF PROPOSED RULEMAKING (NOPR)
GENERAL GUIDELINES FOR THE RECOMMENDATION OF SITES FOR
NUCLEAR WASTE REPOSITORIES - DOCKET NO. RW-RM-96-100
PUBLIC MEETING

Held at the

UNIVERSITY OF NEVADA, LAS VEGAS - MOYER STUDENT UNION
4505 South Maryland Parkway
Las Vegas, Nevada 89154

on

January 23, 1997
Beginning at
12:30 p.m.

REPORTED BY: Lana Stewart
Senior Verbatim Reporter

Bechtel Nevada
Reporting Services

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KEY to Transcript Symbols and/or Abbreviations

Webster's New Collegiate Dictionary: "Verbatim -- in the exact words; word for word."

Dash: [--] Indicates a sentence not completed by speaker.

Dots: [...] Indicates something was said by the speaker, which, as spoken, is neither audible nor decipherable to the reporter or from the taped cassette recording.

(ph) Indicates phonetic.

(sic) Represents exactly as said by the speaker and is used to alert the speaker/reader to an error in the record.

Parentheses: () Words within parentheses are reporter's explanatory comments.

VOICE: Indicates an unknown speaker.

Uh-huh: Indicates affirmative answer.

Huh-uh: Indicates negative answer.

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1 LAS VEGAS, NEVADA, JANUARY 23, 1997, 12:30 P.M.

2
3 RICE: Ladies and Gentlemen, welcome.

4 I'd like to thank you for taking the time to
5 participate in this public hearing concerning the
6 Department of Energy's Civilian Radioactive Waste
7 Program, particularly those of you who have come from
8 some distance. My name is Stephen Rice. I'm the
9 Associate Provost for Research at the University of
10 Nevada at Las Vegas, and I will be the moderator for
11 this rulemaking hearing. My role as moderator is to
12 keep the hearing orderly, focused, and on schedule,
13 and to ensure that everyone here has the opportunity
14 to present oral testimony. I have volunteered my
15 services to the Department of Energy and am not
16 receiving payment for this activity.

17 The purpose of this hearing is to
18 receive oral testimony from the public on DOE's Notice
19 of Proposed Rulemaking (NOPR) to amend the General
20 Guidelines for the Recommendation of Sites for Nuclear
21 Waste Repositories. While you may have comments about
22 other DOE issues, it is essential that you keep your
23 remarks today focused on the proposed rule. If you
24 have not already read the proposed rule in the Federal
25 Register, published on December 16th, 1996, I urge you

1 to do so. Copies are available in the back of the
2 room. Your comments are not only appreciated, they
3 are essential to the process.

4 Today's hearing is different from
5 most other meetings held by the Department of Energy
6 for this program, in that this is a rulemaking hearing
7 which is governed by a different set of rules, so to
8 speak. Generally, Congress passes a piece of
9 legislation and then turns it over to one or more
10 agencies to write the rules to implement that
11 legislation. The Agency will publish its proposed
12 rule or rules in the Federal Register and ask the
13 public to comment on them. In a DOE rulemaking, the
14 public has two ways to provide comments: 1) orally at
15 a public hearing; and 2) providing written comments
16 before the end of the comment period. The Agency will
17 then consider the comments provided by the public, as
18 well as comments from other Federal agencies, and will
19 then publish a final rule to be codified in the Code
20 of Federal Regulations.

21 The comments received here today,
22 and those submitted during the written comment period,
23 will assist the Department in the rulemaking process.
24 Please note that although the original Notice of
25 Proposed Rulemaking stated that the written comment

1 period is open until February 14th, 1997, DOE will be
2 extending this written comment period by 30 days in
3 response to a number of requests it has received from
4 the public. Under this revised schedule, the written
5 comment period will end March 17th, 1997. All written
6 comments must be received by that date to ensure
7 consideration by DOE. The U.S. Mail address for
8 sending in comments is April Gil, U.S. Department of
9 Energy, Office of Civilian Radioactive Waste
10 Management, Yucca Mountain Site Characterization
11 Office, Docket No. RW-RM-96-100, Post Office
12 Box 98608, Las Vegas, Nevada 89193-8608. You may also
13 send in written comments electronically with the
14 E-Mail address being published on the materials
15 available to you here in the room.

16 As the Moderator for this hearing,
17 I would like to set forth guidelines for conducting
18 the hearing and provide other pertinent information.
19 This will not be an evidentiary or judicial type of
20 hearing. It will be conducted in accordance with the
21 Administrative Procedure Act and the DOE Organization
22 Act. To provide the Department with as much pertinent
23 information and as many views as can reasonably be
24 obtained, and to enable interested persons to express
25 their views, the hearing will be conducted in

1 accordance with the following procedures and ground
2 rules: Please be courteous while oral testimonies are
3 being given. Everyone deserves the opportunity to
4 present testimony without interruption or disruption.
5 Please turn off cellular phones and beepers. Please
6 conduct side conversations outside the meeting room.
7 These are distracting to those presenting testimony,
8 the transcriber, the hearing panel, and the audience.
9 Speakers will be called to testify in the order
10 indicated on the agenda. Speakers have been allotted
11 five minutes for their oral statements. To help you
12 know how much time is remaining while you are
13 presenting your oral testimony, we will be using a
14 light box. The yellow light signifies that you have
15 one minute remaining to speak. The red light
16 indicates that you have used the five minutes allotted
17 to you and your oral testimony is complete. Should a
18 member of the DOE panel ask a clarifying question
19 while you are presenting testimony, the time clock
20 will be stopped and then restarted at the end of your
21 response. This will ensure that you receive a full
22 five minutes to speak. Please keep to the five-minute
23 time limit. We will be enforcing this limit in order
24 to ensure that this courtesy is extended to all other
25 speakers.

1 Today's proceedings are being
2 recorded by a transcriber. The transcript will become
3 part of the official record. We ask that you identify
4 yourself and state your city or town and affiliation
5 before beginning your oral testimony. Please speak
6 slowly and clearly to help the transcriber record your
7 testimony as accurately as possible.

8 After all registered speakers have
9 delivered their statements, anyone may make an
10 unscheduled oral statement. Persons interested in
11 making such an unscheduled statement should submit
12 their name to the registration desk before the
13 conclusion of the last scheduled speaker. At the
14 conclusion of all scheduled and unscheduled
15 presentations, speakers will be given the opportunity
16 to make rebuttals and/or clarifying statements,
17 subject to time limitations, and will be called in the
18 order in which initial statements were made. Persons
19 interested in making such a statement should submit
20 their name to the registration desk before the
21 conclusion of the last speaker. If time permits, at
22 the conclusion of all rebuttals and/or clarifying
23 statements, persons may be given the opportunity to
24 make additional unscheduled statements. Persons
25 interested in making such an unscheduled statement

1 should submit their name to the registration desk
2 before the conclusion of the last rebuttal and/or
3 clarifying statement. Finally, clarifying questions
4 will be asked only by members of the hearing panel.

5 As mentioned earlier, the close of
6 the comment period will be March 17th, 1997. All
7 written comments received will be available for
8 inspection and copying at: The Yucca Mountain Science
9 Center, 4101B Meadows Lane, Las Vegas, Nevada. Their
10 phone is 295-1312; and also, at the Department of
11 Energy's Freedom of Information Reading Room,
12 Room 1E-190 in the Forrestal Building,
13 1000 Independence Avenue, SW., Washington, DC. As a
14 reminder, the Department requests that eight copies of
15 the written comments be submitted. If you have any
16 questions concerning the submission of written
17 comments, please see the staff at the registration
18 desk. In addition, in approximately two weeks, a
19 transcript of this hearing will be made available at
20 both the Yucca Mountain Science Center and the
21 Department of Energy's Freedom of Information
22 Reading Room, and via the Internet at the address
23 <http://www.ymp.gov>.

24 Any person submitting information
25 which he or she believes to be confidential and exempt

1 by law from public disclosure should submit, to the
2 address mentioned above, one complete copy and seven
3 copies from which information claimed to be
4 confidential has been deleted. In accordance with the
5 procedures established at 10 CFR 1004.11, the
6 Department of Energy shall make its own determination
7 as to whether or not the information shall be exempt
8 from public disclosure.

9 In keeping with the regulations of
10 this facility, there will be no smoking in this room.

11 Now, are there any procedural
12 questions?

13 DEVLIN: Do you have a fax number that is
14 available?

15 RICE: We'll get that number and announce
16 it later. Thank you for asking.

17 Any other procedural questions?

18 (NO FURTHER QUESTIONS WERE ASKED)

19 RICE: We appreciate the time and the
20 effort that you have taken in preparing your
21 statements and are pleased to receive your comments
22 and opinions. I would now like to introduce the
23 members of the hearing panel. Joining us today from
24 the Yucca Mountain Site Characterization Office here
25 in Las Vegas are: Carol Hanlon, Physical Scientist;

1 Susan Rives, Chief Counsel; and Allen Benson has left
2 the room for the moment. He's talking outside. He's
3 the Director of Institutional Affairs. The hearing
4 panel will receive your comments and ask clarifying
5 questions, as necessary, to ensure that the record is
6 clear and complete. We also have with us a number of
7 DOE employees who may assist the panel in assuring
8 clarifications are as requested when appropriate.

9 The hearing panel will not respond
10 to your comments today. All oral comments provided at
11 this hearing, and written comments submitted by the
12 deadline, will be carefully considered by DOE in
13 developing a final rule. In addition, the DOE
14 welcomes written questions as part of your comments on
15 the proposed rule. Please submit your questions on
16 the substance of the rule in writing, so that they may
17 be considered and addressed in the final rule. The
18 final rule will respond to all comments and questions
19 that focus on the scope and content of this proposal.

20 This introduction has been
21 lengthy, but I hope, useful. Let me now introduce
22 Carol Hanlon who will provide a short statement on the
23 proposed rule.

24 HANLON: Good afternoon. My name is
25 Carol Hanlon, and on behalf of the Department, I thank

1 you for your participation here today. As mentioned
2 earlier, I am a Physical Scientist working with the
3 Department of Energy in the Yucca Mountain Site
4 Characterization Office. I will be serving as the
5 hearing officer for the Department this afternoon.
6 And I would like to provide you with some background
7 information and a brief overview of the proposed rule
8 that is the subject of this rulemaking.

9 In 1982, Congress passed the
10 Nuclear Waste Policy Act. The Act required the
11 Secretary of Energy to issue general guidelines for
12 use in recommendation of sites for the disposal of
13 spent nuclear fuel and high-level radioactive waste in
14 geologic repositories. These guidelines were issued
15 as a regulation and became effective upon their
16 publication as a final rule in the Federal Register on
17 December 6th, 1984. These guidelines were applied in
18 nominating five sites as suitable for characterization
19 and in recommending that three of these sites be
20 characterized. The three sites recommended for
21 characterization, including the Yucca Mountain site in
22 Nevada, were approved by the President on May 28,
23 1986.

24 In 1987, the Act was amended to
25 provide that Yucca Mountain, Nevada, be the sole site

1 to be characterized. In addition, the Energy Policy
2 Act of 1992 directed the Environmental Protection
3 Agency to promulgate standards specifically for the
4 protection of the public from releases from
5 radioactive wastes disposed of in the repository at
6 the Yucca Mountain site. The Nuclear Regulatory
7 Commission is directed to revise its regulations to be
8 consistent with EPA's site-specific standards.

9 In Fiscal Year 1996, the Congress
10 directed the Department of Energy to focus only on
11 those activities necessary to assess the performance
12 of a repository at the Yucca Mountain site. The
13 Department responded, in part, by proposing to amend
14 the siting guidelines as part of the Office of
15 Civilian Radioactive Waste Management's revised
16 Program Plan.

17 These proposed amendments to the
18 guidelines would concentrate the regulatory review on
19 the analyses of overall repository performance at
20 Yucca Mountain. This would enhance the ability of the
21 Department to provide the public with a more
22 understandable conclusion about the suitability of the
23 Yucca Mountain site for development as a repository.
24 To provide this focus, a new subpart would be added to
25 the existing regulations to govern the evaluation of

1 Yucca Mountain. The proposed new subpart would use a
2 systems approach and would involve assessing how the
3 engineered parts of the repository would work within
4 the geology of Yucca Mountain. That assessment would
5 then be evaluated against the health and safety
6 standards being developed by the Environmental
7 Protection Agency specifically for the Yucca Mountain
8 site and applicable Nuclear Regulatory Commission
9 regulations. In short, this proposal would focus the
10 suitability decision on whether a repository at Yucca
11 Mountain would protect public health and safety
12 consistent with the requirements of the EPA and NRC.
13 Please note that this proposal does not eliminate any
14 of the guidelines currently in the regulation, but
15 preserves them should general guidelines applicable to
16 site screening and comparison be needed in the future.
17 In addition, other sections of the guidelines would be
18 revised only as needed to make them consistent with
19 the new subpart.

20 The hearings today are provided as
21 opportunities for you to provide comments on the
22 proposed amendments. To better understand the
23 proposed amendments, I strongly recommend that you
24 take a few minutes to read the Notice of Proposed
25 Rulemaking, if you have not already done so. Copies

1 are available at the registration desk. If you plan
2 to make oral comments or submit written comments to
3 the Department, please focus your comments only on the
4 scope and content of the Notice of Proposed
5 Rulemaking. The Department will not consider general
6 comments on the current regulation at this time. I
7 might note, that from time to time, members of the
8 panel may be standing to stretch or to move around.
9 Again, I thank you for your participation.

10 RICE: I've been given the fax number for
11 those of you who might wish to submit comments by FAX.
12 Unfortunately, the 800 number is no longer in service;
13 however, there is a toll number which is -- well, it's
14 actually a 702 number, so not so bad. (702) 295-5222,
15 the FAX number for submitting comments.

16 And now it's time to move on to
17 the important business of listening to your comments
18 on the NOPR. I would like to call our first speaker
19 on the agenda. And as a reminder, I ask that each
20 speaker, please identify yourself by name, city or
21 town and affiliation before making your statement.

22 And our first speaker this afternoon is
23 Frankie Sue Del Papa.

24 HANLON: We're very pleased to have the
25 Attorney General of the state of Nevada here to be our

1 first speaker. The Department has already received a
2 letter from the Governor in which he states his belief
3 that the Proposed Rule violates the Nuclear Waste
4 Policy Act. We look forward to your comment today,
5 Attorney General, and we hope that you will be able to
6 expand upon your rationale for the state's position
7 and the Governor's letter, either in your written
8 comments or in your verbal comments today. Thank you.
9

10 FRANKIE SUE DEL PAPA

11
12 DEL PAPA: Good afternoon. I'm Frankie
13 Sue Del Papa. I reside in Reno, Nevada, and I am the
14 Nevada Attorney General. Thank you for the
15 opportunity to appear here today to present the
16 comments of my office with respect to an initiative
17 commenced by the Department of Energy to repeal the
18 geologic repository siting guidelines promulgated by
19 the DOE in 1984 and replace them with proposed new
20 guidelines. I have prepared written guidelines which
21 I request to be made part of the record. I have my
22 eight copies here and have delivered an original to
23 your staff outside.

24 I opposed the proposed amendments
25 of 10 CFR 960 in the manner proposed in 61 Fed

1 Reg 66158 in their entirety. Nevada's Governor,
2 Bob Miller, has also stated his opposition on behalf
3 of the state of Nevada in a letter to former
4 Secretary O'Leary dated December 24th, 1996. I
5 endorse his comments.

6 In 1982, Congress established a
7 political compromise with the states in which the
8 Department of Energy was exploring the potential for
9 deep geological sites for the placement of high-level
10 nuclear waste repositories. The compromise resulted
11 in the enactment of the Nuclear Waste Policy Act of
12 1982. The Act required the Department of Energy to
13 characterize sites in various rock types, measure what
14 scientists found against pre-established minimum
15 physical, technical criteria contained in siting
16 guidelines, and compare the waste containment
17 competence of each site on the basis of each site's
18 physical attributes.

19 The siting guidelines promulgated
20 by the DOE in response to the Nuclear Waste Policy Act
21 are, with a few exceptions, too subjective to be
22 useful. Now the Department wants to make them even
23 more useless by substituting nothing more than a
24 subjective prediction that Yucca Mountain will work in
25 terms of total system performance. This approach

1 abandons the statutory command, further abandons the
2 political compromise; and most importantly abandons
3 the policy expectation that minimum physical
4 attributes will exist in any deep geological disposal
5 site.

6 Under the DOE's proposed amendment
7 to the siting guidelines: "Discrete, independent
8 findings on individual technical factors would not be
9 required." But independent findings on individual
10 technical factors is required by Section 112(a) of the
11 Nuclear Waste Policy Act. A new set of guidelines,
12 which is based on the subjective opinion by
13 unspecified persons that the site may perform
14 satisfactorily, sets forth a process which has no
15 support in law. Overall system performance is not the
16 determination required by Section 112(a). My office
17 will have no choice but to challenge this decision in
18 court should it go forward. The Nevada versus
19 Watkin cases, Watkins I and Watkins II, which I have
20 cited in the written submittal, decided by the
21 Ninth Circuit Court of Appeals in 1990 and 1991, stand
22 for the proposition that the guidelines were to be
23 used to determine the suitability of a Yucca Mountain
24 site. And at the time of the suitability
25 determination, the validity of the guidelines would be

1 subject to review by the Federal Court of Appeals.

2 The Ninth Circuit Court of Appeals ruled in

3 Watkins III, another 1991 case, at 1086, note 9, that

4 "The site recommendation guidelines issued pursuant to

5 Section 112(a) of the Nuclear Waste Policy Act,

6 requires the Secretary to address site ownership and

7 jurisdiction issues, as well as transportation issues

8 in any recommendation he or she makes to develop

9 Yucca Mountain as a repository site."

10 The Department's present intention
11 to substitute the proposed performance assessment
12 guidelines, for the guidelines which have governed the
13 site characterization process for the past 12 years,
14 is an admission either that the former guidelines will
15 not survive judicial review or that the site cannot
16 satisfy the guidelines. In either case, the site
17 recommendation process will self-destruct. The
18 Department relies on language within the Conference
19 Report on the Fiscal Year 1996 Energy and Water
20 Development Appropriations Act, and the Report on the
21 Energy and Water Development Appropriations Act, 1997,
22 for the suggestion that Congress is prepared to accept
23 a subjective "performance assessment" approach in
24 place of an objective technical factor approach to
25 site suitability. It is an elementary principle of

1 statutory interpretation that construing courts need
2 not consider the legislative intent contained in the
3 committee reports or individual expressions of members
4 where an unambiguous statute provides clear direction.
5 Section 112(a) provides the only authoritative
6 direction to the Department. It is clear that the
7 statute prevails and the Secretary should not rely on
8 conflicting statements or erroneous Departmental
9 interpretations of less authoritative sources as a
10 pretext to subvert the clear directive of the statute.
11 It is imperative to address the deficiencies of Yucca
12 Mountain site as soon as possible. If Yucca fails,
13 the United States has no viable alternative for a site
14 for geological disposal of spent fuel and high-level
15 radioactive waste. The Department's objective should
16 be to provide Congress and the public with information
17 regarding the technical merits or lack thereof of the
18 Yucca Mountain site at the earliest opportunity.

19 Evaluation of Yucca Mountain under
20 specific factors that qualify or disqualify any site
21 from development as a repository provides that early
22 warning. In Watkins I, my office tried to persuade
23 the DOE to recognize this basic proposition, a message
24 which has gone unheeded.

25 A performance assessment which

1 overlooks Yucca Mountain's technical competence and
2 determines merely that the site "allows for"
3 containment and isolation of radioactive waste does
4 not provide an early warning of the deficiencies of
5 the site. Rather, it permits the Department to hide
6 Yucca Mountain's technical deficiencies and
7 shortcomings in an abyss of subjective opinion. The
8 abdication of a credible technical assessment against
9 objective technical factors through the substitution
10 of a subjective performance assessment carries with it
11 the pronounced risk that an unsuitable site will be
12 selected for development as a repository. My office
13 will ask the Ninth Circuit Court of Appeals to
14 intervene, if necessary, to see that this does not
15 happen.

16 In conclusion, the Department of
17 Energy should not amend 10 CFR 960 in the manner
18 proposed in the December 16th Federal Register notice.
19 Performance assessments are not a wise or legal
20 substitute for solid evaluation of Yucca Mountain's
21 physical characteristics against preestablished
22 geophysical and institutional prerequisites. The
23 public interest in the health and well-being of our
24 Nation's citizens demand that the Department of Energy
25 comply with established federal law and abandon this

1 present initiative. And the citizens of Nevada will
2 insist on it.

3 HANLON: Thank you, Attorney General Del
4 Papa.

5 RICE: Thank you, Attorney General Del
6 Papa. The next speaker is Robert Loux.

7
8 ROBERT LOUX

9
10 LOUX: Good afternoon. I'm Robert Loux.
11 I'm the Executive Director of the Nevada Agency for
12 Nuclear Projects of the Nevada Governor's Office in
13 Carson City; and here representing not only the state,
14 but the Governor in this matter today. We will be
15 providing a detailed written statement at a later date
16 before the close of the period. And I intend to just
17 make some brief remarks this afternoon.

18 As a matter of background, the
19 reason that 10 CFR 960 was developed, and indeed, the
20 reason for Section 112(a) of the guidelines in the
21 Nuclear Waste Policy Act, was intended to force the
22 Department of Energy to a very thorough understanding
23 of the site and the site characteristics prior to the
24 development and application of very sophisticated
25 models that we all understand would be used at a later

1 point in time for licensing should it make that far.
2 It provided for a series of technical factors, as
3 discussed earlier, that would require this thorough
4 understanding of the site. One of the primary
5 concerns of the state of Nevada has been that the
6 Department of Energy does not intend to gain a
7 thorough understanding of the entire site prior to
8 making subsequent decisions about its suitability.

9 And lastly, the reason for the
10 proposed rule, was to take a look at the site
11 characteristics before the application of any sort of
12 engineered barriers or any sort of factors that were
13 man-made. The basis of the Act, and indeed, the rule
14 is the Environmental Impact Statement produced by the
15 Nuclear Regulatory Commission in the late '70s and
16 early '80s that specifically talked about
17 understanding site characteristics prior to the
18 application of any engineered barriers. As indicated
19 earlier, the proposed rule violates the statute and it
20 allows DOE to substitute an objective site evaluation
21 processes contained in 112(a) of the Act for a
22 subjective one that is entirely of DOE's own making, a
23 theoretical black box, if you would, to the
24 performance assessment.

25 Further, the proposed rule

1 attempts now further to exclude the public from
2 understanding the decision-making process in which the
3 suitability of Yucca Mountain will be determined; and
4 indeed, very few scientists and very few members of
5 the public will have the ability to understand the
6 development and the application of the proposed
7 performance assessment to determine site suitability
8 at Yucca Mountain. Moreover, there are sections
9 contained in 112(a) of the Act that cannot be
10 satisfied through the application of performance
11 assessment, including the effect on water rights,
12 users of water, transportation, the cost and impact of
13 transporting waste, and a variety of other factors
14 that are contained in the requirements of 112(a).

15 DOE's rationale, apparently, for
16 the proposed rule is to eliminate unnecessary language
17 requiring a comparative evaluation among sites since
18 there are no other sites into consideration. The
19 proposed rule, however, as you can see, goes way
20 beyond that. And indeed, if Congress had intended the
21 rule to be changed to accommodate the elimination of
22 other sites to be compared, they could have changed
23 that in the requirement for the guidelines; the
24 Amendments Act of 1987, which they did not do.

25 The change of the rule at this

1 late game and understanding the site suitability of
2 Yucca Mountain by the Department of Energy can only
3 mean one thing from my perspective. That is, that the
4 Department of Energy, as does the state believes, that
5 Yucca Mountain cannot be found suitable. Indeed, will
6 be found unsuitable under the existing rule. And
7 that's the rationale for the change, as we understand
8 it. Unfortunately, the hallmark of this program has
9 been, that whenever the site does or does not appear
10 to meet the rules or qualifying conditions or
11 suitability, rather than change the site, the rules
12 are changed. For these and many other reasons, the
13 proposed rule is wrong. It violates the statute. It
14 further erodes any remaining public confidence at this
15 process; and as the Attorney General indicated, should
16 be withdrawn.

17 Thank you.

18 RICE: Thank you, Mr. Loux. The next
19 speaker is Dennis Bechtel.

20
21 DENNIS BECHTEL

22
23 BECHTEL: For the record, my name is
24 Dennis Bechtel. I'm a Planning Manager for the Clark
25 County Department of Comprehensive Planning, Nuclear

Bechtel Nevada
Reporting Services

1 Waste Division. And Clark County, for the record, has
2 been designated as an Affected Unit of Local
3 Government by the Department of Energy in April of
4 1988, and we have been intimately involved in the
5 program since about '84; about four years before that
6 time. I also have submitted some comments and I just
7 have a few statements to make.

8 Clark County has a number of
9 concerns with regard to this program. We're concerned
10 about transportation and we're concerned about
11 potential effects on the economy of Las Vegas. And
12 we're also concerned about the potential for
13 revisionism on the siting guidelines as are being
14 proposed in the revised -- the addition of Subpart E
15 to 10 CFR 960.

16 The objectives of the process to
17 determine a site's suitability to develop a
18 repository, as we understand it, are generally to
19 consider the physical merits of the site. Does a
20 site, for example, have a significant flaw that would
21 disqualify it, to use the terminology of the Rule,
22 from isolating waste from the accessible environment
23 for a long period of time? Parts C and D of the
24 current 10 CFR 960, while not perfect, provide
25 specific criteria to which individual or multiple

1 sites can be evaluated for suitability. Subpart E,
2 which would analyze Yucca Mountain site specifically,
3 adds nothing to that objective. In fact, DOE's
4 rationale for the proposed revisions, as described,
5 seem to be more appropriate for the licensing phase of
6 the project than for suitability determination. And
7 there's a section in there that said, "DOE's
8 understanding that assessing how specific design
9 concepts will work with the natural systems at Yucca
10 Mountain." Which indicates that it's looking beyond
11 the site characteristics.

12 Based on the background
13 information, it is also apparent that performance
14 assessment models are key components in evaluating
15 whether Yucca Mountain meets the pre- and postclosure
16 qualifying conditions noted in the new Subpart E. The
17 accuracy of modeling results is generally enhanced by
18 having an extensive understanding of the system being
19 modeled, a good grasp of the interactions between
20 modeling variables, and an adequate history of data to
21 calibrate and validate the model. In other words,
22 does the model reflect reality? The comprehensiveness
23 of the data and the accuracy of the assumptions on
24 which the model is developed are therefore important
25 considerations in determining whether models can be

1 useful in evaluating, in this case, site
2 suitability. If modeling is to be a component of
3 decision-making, it is obvious that much more
4 information is needed than has been gathered to date.

5 The dependence on models as
6 decision-making tools deviates from the needed
7 objectives of rigorously determining whether in fact
8 the site has utility for long-term storage.
9 Performance models with limited data should not be
10 substitutes for rigorous on-site investigation. Thus,
11 as in my comments with regard to Number 1 above, a
12 greater reliance on modeling would appear to be more
13 appropriate for the licensing phase.

14 The next one is near and dear to
15 Clark County's heart. The text notes that "DOE is not
16 specifying separate system guidelines for the
17 transportation, socioeconomic, and environmental
18 considerations for Subpart E for preclosure." The
19 rationale given for their exclusion is that they were
20 originally intended to provide a broad basis for site
21 evaluation and for comparisons among multiple sites.
22 We agree. As you state, that can be used for site
23 evaluation. The reasons that these attributes of
24 siting were included in the 1984 version of 10 CFR 960
25 are still valid today. These categories are still

1 extremely important elements in considering
2 pre-closure at one site as they are when evaluating
3 three or more sites. Environmental, socioeconomic and
4 transportation considerations should, therefore, not
5 be excluded in Subpart E.

6 The last issue that I would like
7 to discuss briefly is the effect that the proposed
8 revisions will have on public opinion. There's
9 already considerable belief on the part of the public,
10 and others, that politics is driving the process to
11 determine the suitability of the Yucca Mountain site.
12 To revise guidelines that have been in force since
13 1984, particularly for the reasons proposed, will
14 almost certainly confirm in the minds of the general
15 public that the determination of suitability is the
16 result of an agenda that is more political than
17 technical.

18 While the 1984 guidelines, as
19 noted previously, are not perfect, they have been
20 essentially a common thread in a program that has
21 changed significantly from Congress' original
22 objectives, largely because of politics.
23 Historically, however, any attempts to change, or
24 simplify the program have generally resulted in the
25 program slowing down, usually for entirely valid

1 reasons. This may happen again with the proposed
2 revisions.

3 It is the recommendation of Clark
4 County, Nevada, therefore, that DOE not implement the
5 proposed revisions and retain 10 CFR Part 960, General
6 Guidelines for the Recommendation of Sites for the
7 Nuclear Waste Repositories: Final Siting Guidelines,
8 as categorized in the 6 December 1984 Federal
9 Register.

10 To summarize, when the Nuclear
11 Waste Policy Act was approved in 1983, there was much
12 optimism that, finally, the government had developed
13 policies by which to resolve a highly contentious
14 problem that had been ignored for decades. Perhaps,
15 more importantly, was the fact that the NWPA
16 legislation had a fair and equitable policies about
17 the final resolution of the problem. Also, the NWPA
18 provided a sound technical basis for siting a facility
19 that has been proposed to last longer than recorded
20 history. Let us be certain that the process we select
21 does in fact meet long-term technical objectives, and
22 not short-term political ones.

23 Thank you.

24 HANLON: Thank you.

25 RICE: Thank you, Mr. Bechtel. Our next

1 speaker is Hal Rogers.

2
3 HAL ROGERS

4
5 ROGERS: My name is Hal Rogers. I live
6 in Dayton, Nevada. And I'm Co-Chair of The Study
7 Committee, Nevada's largest grassroots organization
8 with over 15,000 members. On behalf of The Study
9 Committee, I'm pleased to have this opportunity to
10 provide comments on the Department of Energy's siting
11 guidelines for a nuclear waste repository at Yucca
12 Mountain.

13 My background as a nuclear
14 licensing engineer with General Electric Nuclear
15 Energy, it has given me a good understanding of
16 performance assessments and siting guidelines as they
17 would pertain to the repository.

18 We believe that it is important to
19 understand the history of this program in order to
20 better appreciate the merit and need to modify the
21 siting guidelines as proposed by the DOE.

22 In 1974, the federal government
23 began a search for a possible permanent repository
24 site beginning with a survey of underground rock
25 formations in 36 states. In the summer of 1978, the

1 first exploratory hole was drilled at Yucca Mountain.
2 In February of 1983, following passage of the Nuclear
3 Waste Policy Act of 1982, DOE formally identified nine
4 potentially acceptable sites.

5 In 1984, based upon scientific
6 studies and in compliance with the law, DOE reduced
7 the number of sites to five. In 1986, the President
8 approved a reduction to three sites for detailed site
9 characterization. And that work actually got
10 underway. In 1987, the Nuclear Waste Policy Act was
11 amended to focus site characterization efforts only at
12 Yucca Mountain; and work at the other two sites
13 stopped. This made the current multiple site based
14 guidelines no longer relevant. Why do we need
15 guidelines comparing multiple sites when only one site
16 is being considered? The answer is, we don't. It
17 makes little sense, and those who argue otherwise are
18 doing so, because of their particular beliefs or
19 because they are opposed to the decision made by
20 Congress and the President a decade ago to study only
21 one site. Like it or not, national policy is, and is
22 expected to continue to be, to study only Yucca
23 Mountain in great detail. For those who have a
24 problem with this reality, we suggest you take this
25 matter up in the appropriate forum, the U.S.

1 Congress. As it turns out, it appears that the
2 Congress made the right decision in focusing on Yucca
3 Mountain. The scientific information, collected to
4 date, is difficult to dispute. Based upon current
5 information, the current state of scientific
6 collection, Yucca Mountain certainly appears to be an
7 outstanding location for a repository.

8 The theme of our comments is that
9 the regulatory framework developed, after the NWPA was
10 passed, was heavily influenced by the initial
11 requirement of the law to evaluate a number of
12 potential repository sites and select the most
13 promising sites for further evaluation.

14 Based on DOE's significantly
15 increased understanding of Yucca Mountain and geologic
16 disposal, in general, since the guidelines were first
17 issued, we think a performance assessment approach
18 provides the most meaningful method of evaluating
19 whether or not the Yucca Mountain site is suitable for
20 repository development. And from my experience, a
21 repository assessment approach, is just as factual and
22 can be just as exacting as any of the other
23 evaluations. I fail to see the distinction that's
24 being drawn between them.

25 We also believe using a

1 performance assessment approach will most credibly
2 evaluate the integrated system of site specific
3 characteristics and repository design features, and
4 will do so by modeling the conditions such a system
5 would operate in. I don't think there's a single
6 structure that is built in the United States these
7 days that is not an integrated system. You don't just
8 look at the dirt, you also look at the engineering
9 that's going into it.

10 The comprehensive integrated
11 evaluation afforded by a performance assessment
12 approach will provide the DOE, the President, and the
13 public information regarding expected repository
14 performance, data uncertainties, associated risks, and
15 compliance with applicable regulatory standards for
16 public health, safety, and environmental protection.

17 Thank you very much.

18 RICE: Thank you, Mr. Rogers. Our next
19 speaker is Mary Olson.

20
21 MARY OLSON

22
23 OLSON: I'm Mary Olson with Nuclear
24 Information and Resource Service. Because the
25 Department is holding only one hearing, a number of

1 citizen organizations around the country asked that I
2 represent them here. And when asking to have five
3 minutes of their time, they were told that they had to
4 lump altogether and have me represent all of them in
5 one testimony. So I am on behalf of Public Citizen
6 Critical Mass Energy Project, Washington, DC; Military
7 Production Network, Washington, DC; Greenpeace, USA,
8 Washington, DC; Nuclear Energy and Information
9 Service, Evanston, Illinois; Citizen's Action for Safe
10 Energy, Claremore, Oklahoma; Environmental Coalition
11 on Nuclear Power, State College, Pennsylvania;
12 Syracuse Peace Council, Syracuse, New York;
13 Grandmothers For Peace, International, Sacramento,
14 California; Citizen Alert, Las Vegas, Nevada; Prairie
15 Island Coalition, Lake Elmo, Minnesota; Citizen
16 Awareness Network, both Shelbourne Falls,
17 Massachusetts and Haddam, Connecticut; GANE
18 (Georgians Against Nuclear Energy), Atlanta, Georgia;
19 Alternatives in Action, Winder, Georgia; Rocky
20 Mountain Peace and Justice Center, Boulder, Colorado;
21 National Environmental Coalition of Native Americans,
22 based in Prague, Oklahoma; the Snake River Alliance,
23 Boise, Idaho; Peace Farm, Amarillo, Texas; Save Ward
24 Valley, Statewide, California; Oyster Creek Nuclear
25 Watch, New Jersey; Downwinders, Utah; Radioactive

1 Waste Management Associates, New York City, New York;
2 Shundahai Network, Nevada; Action for Nuclear
3 Abolition, Las Vegas, Nevada; Los Angeles Physicians
4 for Social Responsibility, Los Angeles, California;
5 Mothers For Peace, San Luis Obispo, California;
6 Arizona Safe Energy Coalition, Tucson, Arizona; GE
7 Stockholder's Alliance, Tucson, Arizona; NO Escape,
8 Statewide, New York; Indian Point Project, New York;
9 Alliance to Close Indian Point, Ossining, New York;
10 Southwest Toxic Watch, El Paso, Texas; Global 2000,
11 based in Austria; Toledo Coalition for Safe Energy,
12 Toledo, Ohio; Affinity, Ohio's Environmental
13 Newspaper, Statewide, Ohio; The Wise Use Movement of
14 Washington State, Seattle, Washington; Virginia Earth
15 First, Charlottesville, Virginia; Pennsylvania
16 Environment Network, Statewide, Pennsylvania;
17 Conservation Council of North Carolina, Chapel Hill,
18 North Carolina; WESPAC (Westchester People's Action
19 Coalition), White Plains, New York; Committee to
20 Bridge the Gap, Los Angeles, California; and the
21 Blue Ridge Environmental Defense League based out of
22 North Carolina.

23 I want to note that of these
24 organizations, we have 20 states representing, 18 of
25 which host nuclear power reactors. And many of these

1 are grassroot citizen organizations in reactor host
2 communities. And I, on behalf of Nuclear Information
3 and Resource Service, Washington, DC, and these
4 organizations respectfully request on behalf of our
5 members and the public that we serve, that the
6 Department withdraw the proposed rule and the proposed
7 changes to 10 CFR 960 and to apply the existing
8 guidelines, and to follow the provisions of the
9 Nuclear Waste Policy Act.

10 I have written comments on behalf
11 of all these groups, and I'll just mention that with
12 technical difficulties, I think the Department will be
13 seeing additional organizations sending similar
14 comments in; but because of phone lines and other
15 things, it's limited to this number.

16 I'm going to summarize briefly the
17 comments that are contained in the statement that you
18 have. Three main points: The first reason to
19 withdraw the changes, is the proposed rule does not
20 uphold the law, it implements. The Nuclear Waste
21 Policy Act, as amended, clearly states that any
22 changes to guidelines will be consistent with the
23 Section 112(a) that requires that site suitability
24 guidelines be based on specific factors that will
25 qualify or disqualify a site; and that these factors

1 will include geology, hydrology, earthquake activity,
2 population, water, water and water rights,
3 transportation, and others including proximity to
4 where the waste is now.

5 The proposal to exempt Yucca
6 Mountain does not deliver this. The proposal also
7 overlooks the instruction in law in the same section
8 that the DOE work with the Council in Environmental
9 Quality, the Environmental Protection Agency, the
10 U.S. Geological Survey, and Governors of states in
11 these guidelines. There is no evidence that that has
12 been done in the current proposal.

13 As an aside, I'll mention on
14 behalf of Nuclear Information Resource Service, that
15 DOE may be overeager in anticipating a change in the
16 law. Many of the groups signed on to this testimony
17 are committed to stopping such revisions.

18 The law mandates an evaluation of
19 the natural system at Yucca Mountain without respect
20 to engineering that DOE might add. It is to be judged
21 and qualified or disqualified on defined parameters
22 and objective criteria. DOE must do this.

23 The second point is, that it is
24 unacceptable to the assigned groups to exclude
25 transportation of nuclear waste to the site as a

1 factor in the decision about whether to develop Yucca
2 Mountain as a nuclear waste site. The groups signed
3 here have members in all 50 states, of which at least
4 43 states are on projected Yucca transport routes.
5 DOE's own numbers project 50 million people live
6 within a half mile of these routes. The
7 transportation campaign will go on for 30 or more
8 years. I just saw a DOE number saying 40 years. This
9 is a substantial impact on public health, safety,
10 environment, property value, tourism, state resources;
11 the list goes on, that affect our members and the
12 groups signing. If this is not going to be considered
13 now in the suitability decision on this site, when
14 will transportation be considered and under what
15 process? And not only the impacts of it but the
16 advisability of it. It is given in the law that it
17 will be considered for the selection of the site.

18 Finally, changing the rules in the
19 middle of the game erodes both scientific and public
20 credibility. The proposed changes to suitability
21 guidelines undermines the last shred of scientific
22 credibility left in the U.S. High-Level Nuclear Waste
23 Program. The project will simply be a matter of
24 engineering where cost and schedule are the primary
25 factors, rather than any objective confidence that the

1 goal of waste isolation from the biosphere will be
2 attained.

3 Retaining the existing site
4 evaluation guidelines for any site, except the only
5 one that may be considered by law, is an outrageous
6 smoke screen. You have contracted with Princeton
7 University to assess how the DOE is doing in building
8 public trust and confidence. The only way DOE could
9 have built our trust in this program would have been
10 to urge the President to issue a stop work order in
11 1992 when Congress exempted Yucca Mountain from EPA's
12 40 CFR 191, Radiation Standards for Nuclear Waste
13 Repositories, and send us on the path of site-specific
14 standards.

15 The current proposal to, again,
16 exempt Yucca Mountain demolishes our trust and our
17 confidence. And we instruct you to withdraw it. In
18 addition, we ask for an additional time period for
19 comments, and we also ask you to expand the number of
20 hearings. Because as is obvious from my being here
21 and the 43 organizations I represent, this is a
22 program that affects the entire nation, not only
23 Nevada. And the people from around the country
24 appreciate this opportunity for me to have five
25 minutes on their behalf, but they would like to have

1 additional hearings for you to hear from their
2 concerns.

3 Thank you.

4 HANLON: Thank you.

5 RICE: Thank you, Ms. Olson. Our next
6 speaker is Rick Nielsen.

7
8 RICHARD NIELSEN

9
10 NIELSEN: Good afternoon. My name is
11 Richard Nielsen. I'm the Executive Director of
12 Citizen Alert. And although I am speaking on behalf
13 of our approximately 2,500 Citizen Alert members in
14 Nevada and across the country, Citizen Alert is
15 encouraging all of its members to make individual
16 comments before the deadline.

17 For more than a decade,
18 Citizen Alert has participated and commented on the
19 countless documents and processes issued by the DOE
20 and the Office of Civilian Radioactive Waste
21 Management. In fact, responding to these requests for
22 public comment and public participation, in general,
23 is a large part of our mission. However, it has been
24 our experience that the DOE pays very little regard to
25 public comments; and generally, as is the case with

1 this rulemaking, makes it very inconvenient to
2 participate. As evidence to this, I point to the
3 importance of this issue and the timing in which it
4 was published, during the very busy holiday and
5 Christmas season.

6 Additionally, we believe the
7 60-day time limit for comments and the fact that there
8 has been only one public hearing scheduled, on an
9 issue that, in reality, impacts the entire nation on a
10 grand scale, is inadequate. People from relevant
11 groups and different levels of affected government and
12 the public, who wish to attend these hearings, are
13 thereby required to travel large distances at a
14 considerable expense to do so in order to have their
15 comments heard. Furthermore, the publicity of this
16 hearing at the local level has, in my opinion, been
17 minimal and designed in a way to not attract much
18 public attention.

19 Finally, the requirement to
20 provide eight copies and a disk to DOE seems absurd to
21 me. If the DOE is indeed seeking to encourage public
22 participation, they need to not only drop that
23 requirement and hold numerous additional public
24 hearings throughout the nation, but to take those
25 comments seriously into consideration before weighing

1 them out and making a decision.

2 Much reference is made in the
3 Federal Register notice regarding recent discussions
4 with public and other groups which led DOE to the
5 conclusion that there was no need to revise the
6 guidelines. Now, however, in a complete reversal of
7 the previous decision not to revise, without any
8 additional rationale supplied, the DOE claims that
9 revisions are needed. What is the basis of this
10 decision? I believe this lends additional credence to
11 our belief that public comment has little or no weight
12 in DOE decision-making. Besides eliminating what
13 little scientific credibility remains in the siting
14 process, DOE further undercuts its current reputation
15 regarding public trust and confidence by attempting to
16 change the rules of this project so far along into it.

17 It is stated in the Notice that at
18 the time the original guidelines were developed, DOE
19 had only general understanding of geological disposal.
20 We contend that that is still the case. Site
21 characterization activities and scientific
22 investigations have found conditions that pose more
23 questions that were originally anticipated and, as in
24 the case of the Chlorine 36, recent findings do not
25 reduce uncertainty, but rather show previously held

1 assumptions to be incorrect. This is particularly
2 relevant when you consider that the performance
3 assessments, which will be used to determine
4 suitability, will be based in part on information that
5 will not be fully available at the time the decision
6 is to be made.

7 We believe that evolving Yucca
8 Mountain suitability analysis into a process of
9 overall system performance is exactly the wrong thing
10 to do. Instead, the project should evaluate
11 conditions that have been discovered, such as the
12 evidence of fast hydrologic flow paths, independent of
13 other considerations such as engineering and
14 repository design. To integrate and/or combine all of
15 these, and other factors in a suitability
16 determination, severely diminishes the importance of
17 the potential for failure posed by these geological
18 conditions. The essence of your proposal will allow
19 DOE to switch the focus from a fundamental repository
20 safe -- from that of a fundamental repository safety
21 condition to a broad range of considerations that are
22 all mashed into a questionable computer model where it
23 appears that the hope is, that by magic, the desired
24 results will pop out.

25 DOE continually points to Congress

1 as the source of their direction, and the reason for
2 the inadequacies of the Site Characterization Project
3 at Yucca Mountain. We submit that while this may be
4 the case in program funding and in other Yucca
5 Mountain directives in general, many important
6 directives in federal legislation resulted from
7 recommendations from OCRWM officials. I point to the
8 Program Plan as a perfect example of an internal
9 program policy shift, created by OCRWM, not
10 Congress. The Program Plan was written, presented and
11 adopted into Congressional appropriation with no
12 public input or participation whatsoever. In fact, we
13 believe the Program Plan to be the impetus for these
14 guideline revisions.

15 The proposed guideline revisions
16 would focus on the ability of an engineered barrier
17 system at Yucca Mountain to adequately contain and
18 isolate waste, rather than evaluate each technical
19 aspect of the site independently to determine whether
20 it is favorable or adverse to waste isolation
21 assurance. In the example given, a fast pathway for
22 groundwater may seem to be detriment that potentially
23 could disqualify the site, but when the design is
24 changed to channel the water away from the waste, it
25 could be beneficial by reducing the potential for

1 contact with the waste packages. This sort of
2 scientific rationalization is certainly a drastic
3 departure from the original intent of site
4 characterization. Yucca Mountain, rather than having
5 to be proven to be capable of waste isolation in
6 accordance with public expectations for health and
7 safety and expectations regarding geological waste
8 isolation, becomes nothing more than a large,
9 expensive hole in the ground, with all of its inherent
10 long-term uncertainties. This undermines the
11 fundamental scientific basis for choosing deep
12 geological waste isolation, that the primary defense
13 against a breach of waste isolation is the geological
14 barrier.

15 The Notice states that both the
16 Postclosure and the Preclosure Guidelines of
17 Subparts C and D will not apply to Yucca Mountain, but
18 will be replaced by Subpart E. In doing so,
19 consideration of environment, socioeconomic, and
20 transportation criteria are eliminated from the site
21 evaluation process at Yucca Mountain. These are
22 important issues in a project with the potential for
23 serious impacts on public health and safety,
24 economics, quality of life, environmental
25 preservation, all of these on both the local and

1 national scale. These are also issues that our
2 members and the general public consider salient and
3 are naturally concerned about. For that reason, these
4 issues should be considered crucial in the
5 recommendation or disqualification for the site of the
6 nation's nuclear waste repository.

7 We join in with the Governor and
8 with the Attorney General of the State of Nevada in
9 questioning whether the proposed rule even complies
10 with Section 112(a) of the Nuclear Waste Policy Act.
11 Rather than continually revising the rules to fit the
12 site, we strongly believe that the site must meet the
13 preexisting rules and guidelines. We therefore join
14 with the Governor and the Attorney General; and the
15 previous speaker, Mary Olson, on behalf of all of
16 those other groups listed across the country, and
17 request that the DOE withdraw their proposed rule.

18 Thank you.

19 HANLON: Thank you.

20 RIVES: Thank you, Mr. Nielsen. The next
21 speaker is Fred Dexter.

22
23 FRED DEXTER

24
25 DEXTER: My name is Fred Dexter. On

1 behalf of the Sierra Club, the Southern Nevada Group
2 of the Toiyabe Chapter, I would like to place on
3 record the following comments on the DOE proposal to
4 amend the siting guidelines for the proposed Yucca
5 Mountain nuclear waste repository.

6 Current rules require each
7 important category of the siting process to meet a
8 minimum scientific safety qualification for that
9 category. Failure of any major single category to
10 meet such a minimum level of safety would disqualify
11 the entire site for selection as the nation's nuclear
12 waste repository. This standard adheres to the proven
13 concept that a chain is only as strong as the weakest
14 link in the chain. Chains often lift very dangerous
15 loads. Caution is well-advised.

16 The intent of the proposed rule
17 change is to average the strengths and weaknesses of
18 these different important categories to determine
19 system performance approach. This assumes that a
20 scientifically proven safety hazard, a discrete single
21 flaw in one category, can be offset by a different
22 strength in another unrelated category.

23 I'd like to quote from the Federal
24 Register December 12th (sic), 1996: "This approach
25 would include consideration of technical factors in an

1 integrated manner within the system postclosure and
2 preclosure qualifying conditions. Discrete,
3 independent findings on technical factors would not be
4 required."

5 This is the same as saying that a
6 weak link in a chain can be overlooked in favor of the
7 other stronger links in the chain, perhaps the average
8 strength of the chain, if there is such a thing. I do
9 not believe that there is any person in this room who
10 would voluntarily stand under a load held by such a
11 chain of average strength.

12 Jessica Mathews, Senior Fellow at
13 the Council on Foreign Relations, a very prestigious
14 organization, wrote for the Wall Street Journal, and
15 in other papers, that "The plan is to dispose of
16 nuclear wastes once and forever in a deep hole in the
17 ground. A repository would be built, filled and
18 sealed. This difficult, new technology must work
19 perfectly the first time, protecting the wastes for
20 10,000 years." We don't even have 10,000 years of
21 recorded history available to us from 10,000 years ago
22 and we're projecting that into the future. "There can
23 be no pilot project, no improving of the technology,
24 no learning curve; yet, there must be public
25 confidence that it will work."

1 close of the filing deadline.

2 I am Steven Kraft from NEI. I'm
3 the Director of High-Level Waste. In general, DOE
4 proposes to change from the comparison approach to
5 evaluate many sites to an approach that will better
6 protect public health and safety, and the environment,
7 with criteria focused on the unique requirements for
8 Yucca Mountain. The Agency's proposal is a sensible
9 approach in light of the decision in 1987 to study
10 only a single site instead of comparing the merits of
11 many sites.

12 The new guidelines will require
13 DOE to comprehensively analyze all the factors
14 affecting the safety of Yucca Mountain to determine if
15 the site meets federal regulatory standards being
16 developed by EPA and NRC. Borrowing from the analogy
17 made by the prior speaker, that analysis will allow to
18 see if there are in fact multiple chains holding the
19 load, not a single chain.

20 The Nuclear Waste Policy Act of
21 1982 established a regulatory framework based upon the
22 initial requirement of the Act to screen a number of
23 potential sites. The amendments to the Act in '87
24 directed DOE to evaluate only a single site. However,
25 the regulations put in place under the '82 Act were

1 never changed and now DOE is proposing to change the
2 obsolete comparison approach. Furthermore, the
3 original regulations were based on a very preliminary
4 understanding of the scientific and technical factors
5 affecting safety and the integrity of a repository.
6 Congress, in fact, recognized the preliminary nature
7 of that understanding in 1982 directing EPA to write a
8 Yucca Mountain specific standard.

9 The proposed changes to the
10 guidelines tailored to the evaluation of Yucca
11 Mountain will ensure protection of the public health
12 and safety and the environment for the following
13 reasons: First, the standard will be based on the
14 unique characteristics of the Yucca Mountain site
15 instead of more general criteria; and thus, DOE will
16 evaluate the suitability of this specific site more
17 accurately than under more general standards of the
18 current guidelines. They will require a specifically
19 comprehensive, systematic performance assessment of
20 the Yucca Mountain site as well as the proposed
21 repository design.

22 The proposed changes replace the
23 general approach of existing guidelines with a more
24 scientifically rigorous, detailed assessment of both
25 the natural characteristics of the Yucca Mountain site

1 as well as the repository design features. These are
2 the multiple chains to which I refer.

3 The guidelines will require that
4 the results of the Yucca Mountain repository
5 evaluation be compared with the radiation safety
6 standards being developed specifically for that site
7 by EPA and NRC; and lastly and perhaps most to the
8 point, no facility at Yucca Mountain can be
9 constructed or operated without being licensed by the
10 NRC.

11 In closing, DOE's proposal is a
12 sensible approach to protecting the public health and
13 safety. It is consistent with the congressional
14 direction in 1987. Appreciate the opportunity to
15 appear today and I stand ready to answer any questions
16 you may have. Thank you.

17 HANLON: Thank you.

18 RICE: Thank you, Mr. Kraft. The next
19 speaker is Tom McGowan.

20
21 TOM MC GOWAN

22
23 MC GOWAN: A deep appreciation to the
24 previous speaker. I would indicate the reasonable
25 real world accurate perception that man is mortal,

1 radioactivity is virtually immortal; and that's
2 invaluable not withstanding the DOE, NEI, or any
3 entity on this planet. May I proceed?

4 My name is Tom McGowan. I am an
5 individual member of the interested and affected
6 public residing in Las Vegas, Nevada.

7 Consistent with the DOE's
8 expedient and intentional imposition of arbitrary time
9 constraints upon the oral articulation of public query
10 and commentary in address of the amended guidelines,
11 I'll be succinct and directly to the point, without
12 undue regard for variably fragile bureaucratic
13 sensibilities. And I feel that's entirely in order
14 under these circumstances.

15 1) The DOE-proposed amended
16 guidelines are abundantly and irrefutably self-evident
17 as limited special interested expediency-based,
18 artificial deadline-driven, unscientific,
19 intentionally vague, misleading, erroneous and
20 incomplete, hence deceitful, deceptive and fraudulent
21 in the extreme, and they're as adversely impactive
22 upon the natural environment, the public health and
23 safety, and the genuine best public interest of all
24 current and ensuing generations, inclusively.

25 2) The Nuclear Waste Policy Act

1 (NWPA) directly invocative of the proposed amended
2 guidelines if limited special interested
3 expediency-driven, unscientific and they're as
4 fundamentally flawed, deficient, defective,
5 extortionary and fraudulent in the extreme, hence
6 adversely impactive upon the genuine best public
7 interest of all current and ensuing future
8 generations, inclusively and intergenerationally.

9 3) The amended
10 guidelines-pertinent hearing process, that's this, is
11 a DOE-expedient and securely DOE-administrated,
12 managed and controlled attempt to simulate public
13 participation via the solicitation of post-facto,
14 non-realtime and advisory-only public query of and
15 commentary upon the long-since previously and
16 unilaterally DOE-formulated, recommended and proposed
17 amended guidelines, hence is unduly impactive upon the
18 public time, convenience and sensibilities, and is
19 inherently misleading, deceitful, deceptive and
20 fraudulent in the extreme, as solely and expressly
21 intended as persuasive of public acceptance of the
22 amended guidelines facilitative of the
23 DOE-determination and recommendation of the licensing
24 suitability of an underground permanent repository
25 sited at Yucca Mountain, Nevada.

1 DOE-proposed amended guidelines; et al.: It's
2 axiomatic that the terrestrial geophysical domain is
3 naturally ordered as in a state of variable dynamic
4 flux, ongoing in continuum; and therefore, not
5 surprisingly water doesn't ordinarily run up hill or
6 in reverse, according to anybody. But it's
7 scientifically and technologically impossible to
8 guarantee the safe, secure storage and disposal of
9 toxic radioactive high-level nuclear waste and spent
10 nuclear fuels, either in an above-ground extended
11 interim term monitored retrievable storage facility
12 and/or in a deep geologic, underground permanent
13 repository, via any engineered containerization and
14 waste-isolation means whatsoever, and/or any
15 combination of natural and engineered barriers
16 whatsoever, and/or any combination of site-suitability
17 study programs, total system performance assessments
18 or viability assessments whatsoever, and/or any
19 combination of historical scientific evidence and/or
20 hypothetical statistical probabilistic modeling
21 whatsoever, and via any guidelines amended or
22 otherwise, and over any enduring term whatsoever, and
23 in particular as securely and invariably subject to
24 any ensured effective and substantially enduring
25 institutional controls whatsoever, either at NTS or

1 Yucca Mountain, Nevada, or elsewhere nationally or
2 anywhere within the terrestrial geophysical domain. I
3 might throw in the universe as well because it will
4 apply there, too.

5 Consequently, the DOE-proposed
6 amended guidelines; and indeed the entire Nuclear
7 Waste Orthodoxy, inclusively, is comprised of and
8 engaged in a criminal conspiracy to commit mass
9 genocide on a historically unprecedented scale, via
10 the limited special interested expediency-based
11 underground injection of toxic radionuclides
12 inexorably ensured released into and throughout the
13 human-accessible environment, and whose deadly
14 impactive consequences are ensured invocative of the
15 extinction of humanity, as well as all other species
16 of organic life forms, and of the natural environment
17 requisite to sustain life over the entire remaining
18 term of the geologic time-scaled continuum and of
19 profound significance ensured invocative of the
20 extinction of human consciousness itself.

21 Therefore, summarily reject the
22 hereto pertinent amended guidelines and concomitant
23 activities, and instead respond to the herein
24 identified as priority imperative call to reason,
25 responsibility and conscience, and solely

1 public-acceptable mandate, which, stated in least
2 complexity is: Don't store it and inject it into the
3 human-accessible environment. Eliminate it,
4 completely and permanently, from the terrestrial
5 geophysical domain. And there as and thereby take on,
6 however timorous and faltering step down from the
7 primordial tree.

8 Thank you.

9 HANLON: Thank you.

10 RICE: Thank you, Mr. McGowan. The next
11 speaker is Robert Bass.

12
13 ROBERT BASS

14
15 BASS: My name is Robert Bass. I was a
16 Professor of Physics and Astronomy at BYU in Provo,
17 Utah. I'm now retired and I live in Pahrump, Nevada.

18 I propose adding a single sentence
19 to Section 960.3-1-5(c), and I cite 10 CFR Part 960 to
20 prove that no legitimate objection exists. To quote
21 the proposed amended section language: "Site
22 comparisons shall evaluate predicted releases of
23 radionuclides to the accessible environment. The
24 comparisons specified above shall consist of two
25 comparative evaluations that predict radionuclide

1 releases for 100,000 years after repository closure."

2 Site comparisons shall be made in
3 two stages. The first stage "emphasizes the
4 performance of natural barriers to the site." Second,
5 "the sites shall be compared by means of evaluations
6 that emphasize the performance of the total repository
7 setup based on the expected performance of all other
8 engineered components of the repository system. The
9 comparison of isolation capability shall be one of the
10 significant considerations in the evaluations
11 specified above -- no, one of the significant
12 considerations in the recommendation of sites for the
13 development of repositories. The first of the two
14 comparative evaluations specified above shall take
15 precedence unless the second comparative evaluation
16 would lead to -- I'm adding "emphasis" --
17 substantially different recommendations."

18 In the second case, "the two
19 comparative evaluations shall receive comparable
20 consideration. Sites with predicted isolation
21 capabilities that differ by less than a factor of 10,
22 with similar uncertainties, may be assumed to provide
23 equivalent isolation."

24 Suppose there were a hitherto
25 ignored "engineered component of a repository system,"

1 which would be relatively cheap and could guarantee
2 isolation not for 100,000 years, but for a billion
3 years? Should not the unbiased second stage of the
4 evaluation then take precedence over the presently
5 specified, but rigged, first stage? I propose adding
6 this sentence: Site comparisons must also include
7 consideration of all commercially proffered and
8 self-evidently more cost-effective alternative
9 existing-waste-adjacent sites demonstrably capable of
10 total compliance with all relevant Nuclear Regulatory
11 Commission and Environmental Protection Agency
12 national standards, provided that the predicted
13 isolation capabilities differ by more than a factor of
14 10,000 from other sites being considered.

15 Who can object to an engineered
16 component of the isolation repository if it actually
17 converts the radionuclides to nonexistence, i.e.,
18 replaces them with stable, nonradioactive nuclides?
19 Then the period of predictable isolation increases
20 from the desired 100,000 years to eternity. And a
21 totally guaranteed billion-year isolation period is
22 undeniably 10,000 times better than a chancy
23 100,000-year isolation period based upon subjective
24 opinions regarding highly controversial geological
25 theories that have not had any real scientific testing

1 for more than the past few centuries.

2 The National Academy of Science
3 literally cheated the taxpayers when it advised the
4 DOE that there are no cost-effective methods for
5 converting radionuclides to stable, nonradioactive
6 elements.

7 As contrary evidence, on the
8 public record, I refer to the Journal of New Energy,
9 Volume 1, Issues 1 and 3, which have been abstracted
10 in chemical abstracts, metal abstracts, and other
11 international abstracting services, and which the DOE
12 and the National Academy of Science have absolutely no
13 excuse for ignoring. These cited issues contain the
14 proceedings of the first and second international
15 conferences on low-energy nuclear transmutations.
16 These disclose at least seven patent-pending bulk
17 processes for remediating radionuclides, by
18 cost-effective transmutation into nonradioactive
19 elements, which have been ignored because they defy
20 what has been called the "most sacrosanct principle in
21 all science," namely the idea that the rate of decay
22 of a radionuclide cannot be affected by ordinary
23 chemical or electrochemical processes. But this dogma
24 is demonstrably mistaken, and soon every high-school
25 lab will be able to verify that the present hierarchy

1 of cardinals of the Church of Science is every bit as
2 corrupt and mistaken as were the medieval cardinals
3 who forced Galileo to deny that the Earth orbits the
4 sun.

5 I will stake my entire
6 professional reputation, as a former Rhodes Scholar
7 and a Doctor of Philosophy from Johns Hopkins, a
8 former post-doctoral student at Princeton under a
9 National Medal of Science winner (Solomon Lefschetz),
10 that the patent-pending Neal-Gleeson process
11 transmuted about half of one gram of thorium into
12 stable elements in less than an hour's electrochemical
13 processing. It also transmuted the worst of all the
14 substances Cesium 137. The gamma-ray spectroscopy lab
15 which did before-and-after tests commented to the
16 inventors that you have caused thorium to do in one
17 hour what it would take nature 140 billion years to
18 do. The results from scanning-electron-microscope
19 atomic emission spectroscopy, mass spectroscopy,
20 Geiger counters, and many other tests confirmed this
21 result.

22 I have first-hand eye-witness
23 knowledge of five of the seven patent-pending
24 processes promising providentially to free mankind
25 from its Faustian bargain with aptly-named plutonium.

1 Recall that Pluto was the lord of plutocracy, and also
2 the prince of the underworld, alias Hades.

3 Indeed, I have personally drafted
4 or worked on Office Action Responses for four of the
5 seven now-pending radiation remediation Patent
6 Applications listed in Exhibit 1.

7 Exhibit 2 is an analysis, based
8 upon established principles of interpretation of
9 nuclear experiments, which proves that the medieval
10 alchemists were in fact able to transmute mercury into
11 gold, by boiling mercurous chloride in gunpowder. For
12 daring to publish these results, Dr. John O'M. Bockris
13 was severely punished by the scientific community.
14 Thirty-five of the 39 members of Texas A&M who hold
15 the title of Distinguished Professor voted to
16 recommend that Dr. Bockris' title of Distinguished be
17 taken away, even though he had in the preceding
18 40 years published numerous widely-used monographs,
19 treatises, and hundreds of important technical papers.
20 In today's hard-science establishment, objective truth
21 is no longer the goal; what is sought is funding
22 success and peer-collusion in promoting a consensus
23 mythology.

24 HANLON: Thank you.

25 RICE: Thank you, Dr. Bass. Our next

1 speaker is Nick Stellavato.

2 **NICK STELLAVATO**

3
4 **STELLAVATO:** My name is Nick Stellavato
5 with the Nye County Nuclear Waste Repository Project
6 Office in Tonopah, Nevada. I'm the on-site rep at
7 Yucca Mountain. And although we have no public
8 statement today, we will be submitting written
9 comments on the rulemaking which we are very
10 interested in at a later date by the March 17th date.
11 So we'll be submitting those.

12 **HANLON:** Thank you.

13 **RICE:** Thank you, Mr. Stellavato. The
14 next scheduled speaker, as last we knew, has not
15 arrived. Is Chris Brown here? Chris Brown. We'll
16 move to Sally Devlin.

17
18 **SALLY DEVLIN**

19
20 **DEVLIN:** This will be one of my usual
21 speeches, because as everybody knows, and I recognize
22 so many old friends who have gotten younger like
23 myself, I am a professional stakeholder for almost
24 four years now. And I began at the NWTRB meeting at
25 UNLV when the only railroad route was through Pahrump

1 for the high-level waste. And I said over my dead
2 body will you bring this stuff through here and then
3 we just grew. And we have continued to grow and
4 attend every DOT, DOE, NRAMP, CAB, ten-year Test Site
5 meeting and so on. And so I've really learned a great
6 many things. And everybody knows, I really do read
7 the reports that are sent to me.

8 My concern is, and I think all
9 this is about INEL and the 10-percent DoD fuel that I
10 had read about at an NWTRB meeting and presented from
11 the Congressional Report. Everybody went there, "Oh,
12 my God, we didn't know that," and there were
13 33 scientists that said, "Oh, shit, we didn't know
14 that." And it was true, that they didn't realize that
15 DoD could put 10 percent of their stuff in the rock.
16 And so we proceeded from there. And my fear is, you
17 change the law, the next thing you know, that we don't
18 know what mixed case waste is, that will go into the
19 multipurpose canisters from INEL. We have no concept
20 of what these high-level wastes are and we can't get
21 anything out of DOE on them. And these kind of
22 clarifications for stakeholders like myself -- and I
23 try and explain all these acronyms and all this sort
24 of thing to people and they don't have the time and
25 the interest. What they do is rely on an old folk

1 like me to go to these meetings and bring them back
2 something in English. And I think this is the reason
3 that there are no stakeholders really who are not old
4 and have the time and the money to attend these
5 things. It's cost me thousands.

6 I am really very, very concerned
7 particularly about the radiation, because I took --
8 have been tutored in radiobiology. I took human
9 biology and geology last year. And what was
10 interesting to me is all these numbers, 4.8 to the
11 10-6, I find are fallacious. We don't know what
12 causes radiation poisoning in the body and in each
13 organ. And so all of these myths that are sent down
14 from -- and I'm talking about by the pound because
15 I've read them. They are not true. And they are
16 deceiving the public. And this is another thing I
17 think that the stakeholders are terribly are concerned
18 about.

19 I really feel that this is very
20 much a war between Nevada and the rest of the country.
21 And if I were married to a congressman or a senator, I
22 would pull a Liz Estrada. Or if I were a man married
23 to a lady, I would pull a reverse Liz Estrada and say,
24 "Stop this war." Because the Test Site is in Nye
25 County. There are no maps of any of this in any of

1 the books and we have been insulted again, time and
2 time again, from INEL, OCRWM, the Fissile Fuel, and so
3 on. You don't tell anybody that the Test Site is
4 1,350 square miles and it is all in Nye County. And
5 this is really another insult to us. And again, let's
6 get back to this war. I feel very strongly that it is
7 a war against Nevada; dump Nevada. And what is even
8 worse about all this as a stakeholder, I feel that the
9 EPA rules of not having a high-level waste within 40
10 miles of a major city is not even being observed. I
11 think Vegas is now 40 miles from the Test Site.

12 I want to talk about the roads
13 because transportation will be talked about at the
14 NWTRB meeting, but I bring it up at everything. If
15 INEL and all their hot stuff turns the Test Site into
16 an MRS and we hold it and then other things, the
17 meteorology, volcanology, all of this stuff has not
18 been attended to and it says succinctly that there is
19 no funding for this in the OCRWM report, and that's
20 another four inches. And I am insulted as a
21 stakeholder that this sort of thing is being
22 perpetuated continuously at every meeting and so on.
23 And if this law is passed, and it's just "Screw
24 Nevada," it will kill our number one industry which is
25 gambling. And I object very strongly to that. And

1 this is exactly what this law would do. So that is my
2 comment.

3 Thank you.

4 HANLON: Thank you.

5 RICE: Thank you, Ms. Devlin. Our next
6 speaker is Grant Hudlow.

7
8 GRANT HUDLOW

9
10 HUDLOW: I'm Grant Hudlow. I'm from
11 Pahrump, Nevada; Nye County. And I'm a chemical
12 engineer. I have nuclear engineering training and
13 experience. Other speakers have detailed for you the
14 latest illegal actions DOE officials are perpetuating
15 on the public. I can understand how government
16 officials can get sucked into this mess. A nuclear
17 power lobbyist explained to me part of the drivers for
18 this process. He stated federal court will not stop
19 the Yucca Mountain Project. I wonder how he knows
20 that the fix is in? I still don't know why DOE
21 illegally refuses to consider commercially proven
22 processes to destroy the long-lived radionuclides.
23 Dr. Bass explained some of the theory behind it and
24 some of the patents behind it.

25 I'd like to explain to you that in

1 the '60s, Livermore ran through the periodic table
2 with a variety of reactions. And their idea was to
3 try to generate power from them and they weren't able
4 to do that. Private people have been able to generate
5 some power but not commercially yet. The only other
6 people that have been able to generate power with
7 these reactions are the military. And they have some
8 of these in orbit around the world right now. The
9 Livermore work is still classified. And, of course,
10 the military work is now still classified. So we have
11 two drivers for this. One of them is greed. These
12 power companies get a million dollars a day from these
13 reactors. And they have managed to con the officials
14 into taking charge of their waste. And the officials
15 in turn have conned Congress into saying that there's
16 no way to handle it except bury it in a rock some
17 place.

18 This kind of greed that drove the
19 initial thing is now resulting in ignorance on the
20 part of our governmental officials. And governmental
21 officials who are too ignorant to handle this problem
22 have a solution. All they have to do is hire
23 engineering consultants to explain to them how it's
24 done and then they bring in contractors to go ahead
25 and do it. So there is a solution to it.

1 guarantee you, your career is over when you get
2 involved in something like that. You need to wake up
3 and get with the program.

4 The other thing I want to say is,
5 that DOE is attempting to get the EPA and some other
6 people sucked in also into changing the rule so that
7 these illegal actions will have further support
8 amongst government officials. Those officials are
9 laying themselves open for criminal action, too.
10 Government officials tend to think that they don't
11 have to obey the laws, that they can't be prosecuted.
12 And the people in Rocky Flats found out different.
13 The opening for that comes under the Color of Office,
14 Color of Authority type laws. And from there, you can
15 go into the EPA laws, fraud, anything else, to
16 individual government officials.

17 And in conclusion, I think that
18 you need to get some engineers in, get the processes
19 that I know about and Dr. Bass knows about in place,
20 and stop doing things that are illegal. It's going to
21 cost you dearly.

22 HANLON: Thank you.

23 RICE: Thank you, Mr. Hudlow. Chris
24 Brown.

25

1 proposed subpart would focus on the ability of a
2 repository system at the Yucca Mountain site to
3 protect public health and safety by adequately
4 containing and isolating waste rather than on
5 evaluating each technical aspect of the site
6 independently. So after telling the public that your
7 own performance assessments are showing that technical
8 issues are the most important, you then go on to tell
9 us very clearly that technical issues are not what is
10 going to be considered in the new rulemaking.

11 For example, and this is the most
12 cynical part I've ever seen, a geological structural
13 feature that provided, and this is a quote, "a fast
14 pathway for groundwater flow through the mountain, may
15 seem a detriment when considered alone. But when
16 considered in conjunction with a specific repository
17 design, may act beneficially by channeling far away
18 from the waste." In other words, what we have just
19 said is, what we've known all along has been
20 guaranteed to the citizens of this state and the
21 country, that if water were to flow fast, this would
22 not be a good place to put nuclear waste. You're now
23 telling us is a benefit. In fact, we want water to
24 flow fast because it will help us. This is incredibly
25 cynical and amazing that you would put it in print,

1 but here it is for all of us to see.

2 What I'd like to point out to you
3 in case you hadn't considered it -- although, you have
4 enough geologists on staff that I'm sure someone has
5 thought of this. Whenever you have a fast pathway in
6 an area of a lot of earthquakes, those things can be
7 disrupted and barriers can develop. And in fact, what
8 could have channeled water away can simply become a
9 dam and an aquifer can develop right there at your
10 repository level above or below it in an area where it
11 could have devastating effects to your repository
12 design. And so I guess what I would like to say is, I
13 don't see anywhere in here, in your performance
14 assessment designs, that you intend to deal with
15 catastrophic results of geologic events. It's not
16 stated in here and it should be in there.
17 Catastrophic events are of a very essential nature
18 when it comes to an area with high earthquake
19 probability; and certainly, the Yucca Mountain site
20 fits into that description. These rules, besides
21 being cynical and turning a bad thing into a good
22 thing, are clearly deficient if they don't deal with
23 the possibility of catastrophic events.

24 Thank you.

25 RICE: Thank you, Mr. Brown. That

1 concludes the set of speakers who had registered
2 before this meeting. We have some eight speakers who
3 have asked to make oral testimony and we will
4 entertain that. However, we're going to take a
5 10-minute break before we go to the unscheduled
6 speakers. I have just about 2:30, so we will
7 reconvene at 2:40. A 10-minute break, please.

8 (BREAK)

9 (BACK ON RECORD AT 2:40 P.M.)

10 RICE: The first speaker in this round is
11 Chuck Chavez. Let's go to Mike DeFloria, please.

12
13 MIKE DE FLORIA

14
15 DE FLORIA: Mike DeFloria. I live here
16 in Las Vegas. I'm an unofficial and represent the
17 American Indian Nation in Nevada and the rest of the
18 United States. I highly object to Yucca Mountain or
19 any other location of Nevada being a dump ground for
20 high-level nuclear waste from other states and from
21 the rest of the world. Local state and federal
22 politicians have been insulting the American people
23 for over 200 years, starting with the Indians, the
24 Eskimos, the slaves, the senior citizens of America,
25 robbing the social security funds of 90 billion

1 dollars for the Vietnam War and now they are stealing
2 60 billion dollars a year from the social security
3 fund to pay off the national debt. This is treason
4 and politicians responsible for this should be kicked
5 out of office and put in jail.

6 There are many reasons why Nevada
7 should not be a dumping ground for high-level nuclear
8 waste from around the world. Most of Nevada is
9 private property. According to the Treaty of 1863,
10 Ruby Valley, this is Indian territory. And I have a
11 copy of the Treaty of 1863, it's only a page and a
12 half. It is still a legal document. We are
13 trespassing on private property. There is no safe way
14 to store high-level nuclear waste. No country in the
15 world who makes atomic power has ever found a safe way
16 of storing it. There is no safe way of transporting
17 high-level waste and is very expensive. Nuclear power
18 is the most expensive way to make electricity in spite
19 of what we were led to believe. Do you remember back
20 in the '50s when it said nuclear power is going to be
21 almost free? It will cost more to bury this crap than
22 to make it. The United States recognized the Shoshone
23 title to this ancestral territory at Ruby Valley in
24 1863, when it solemnly signed a Treaty of Peace and
25 Friendship known as the Treaty of Ruby Valley. This

1 Treaty has never been modified or abrogated. It still
2 stands as a form of domestic and international law
3 just like the other treaties between the United States
4 and any other nation. But what became an act of
5 Western Shoshone goodwill to facilitate travel to
6 California is being abused by the federal government
7 to swindle the Western Shoshone people out of their
8 land and therefore their livelihood.

9 The government's legal
10 manipulations over the years have been complex and
11 confusing. The most shameless attempt to defraud the
12 Western Shoshone people in 1979, when the government
13 tried to pay the Western Shoshone 25 million dollars,
14 just 15 cents per acre for land that has never been
15 for sale. The Western Shoshone refused the offer.
16 But the government claiming to be a trustee put the
17 money in the government account and they called it
18 transaction completed. There is no account. They
19 have no money. They're 20 trillion dollars in debt.

20 Jack Anderson, writer for the
21 Washington Post, wrote in 1984, the government argued
22 somewhat absurdly that just by its offer of payment,
23 it became the owner of Shoshone land; and thus, the
24 Shoshone Indians were trespassers. Who's trespassing?
25 This godfather theory of real estate, making an offer

1 that can't be refused should strike fear into the
2 hearts of every American from every homeowner. You
3 don't think they're going to take your property paid
4 for or not when they go to pay off the national debt
5 or give it to the United Nations? We better wake up.

6 I took that free trip to
7 Yucca Mountain a couple years ago and I was amazed at
8 the first-class propaganda brainwashing sales pitch
9 that DOE is handing out, trying to hypnotize the
10 people into thinking this high-level garbage is going
11 to be the best thing that happens in Nevada. Just a
12 few short years ago, the Defense Department tried to
13 shove 4,000 MX missiles down our throats not 100 miles
14 from here. That was back in the 1980s. Imagine
15 destructive power and misery that we are going through
16 right now.

17 The state of Israel, with the help
18 of the U.S. government and U.S. taxpayers, they're
19 using U.S. taxpayer's money, they're going -- the
20 United States helped Israel take back the land that
21 Israel claims was theirs 5,000 years ago. Now, just a
22 couple of years ago, they said, well, they only had it
23 3,000 years ago. Now, there's a 2,000-year difference
24 in there. Israel did not have a treaty, they were
25 there just like the Indians were living here 20,000

1 years ago. An Israeli official was asked what the
2 American Indians should do about the land that's been
3 there since day one. His answer was, this Israeli
4 official said, they should fight to take their land
5 back. No country in the world has found a safe way to
6 store high-level nuclear waste. Sweden is building a
7 repository out of solid granite in a mountain but it's
8 to store low-level waste. Where is all the high-level
9 nuclear waste from around the world going to be
10 stored? When General Electric and Westinghouse built
11 the atomic plants in France 30 years ago, the deal was
12 that the U.S. would reclaim all the high-level waste
13 so the other countries would not be able to make
14 atomic bombs with the waste. Now, every country in
15 the world has atomic bombs; don't they? So, do those
16 people who think Yucca Mountain is the location on the
17 earth that is a safe place to store high-level waste
18 for thousands of years?

19 The International Astronomical
20 Union claim a 30-foot diameter asteroid missed earth
21 by 106,000 miles recently, less than half the distance
22 to the moon. Now, this was only a couple of years
23 ago. They noted, had it hit Earth, it would have
24 destroyed the city or how about any other -- anything
25 in its path, such as one of the hundreds of nuclear

1 plants scattered around the world? The problem is,
2 we're still making this deadly chemical which is
3 millions of times more deadly than the chemical gas
4 that was outlawed after World War I. A Test Site
5 geologist told me that the high-level nuclear dump
6 would not be safe from a hit with an asteroid. There
7 is no law in this country against people being stupid.
8 Example: The U.S. spends five billion dollars a year
9 to protect Japan from Communism. Russia has been our
10 biggest enemy since World War II and we have been
11 supplying them with hundreds of millions of dollars.
12 The U.S. detonated over 700 underground nuclear bombs
13 at the Test Site since World War II. This property
14 will be contaminated for thousands of years. The
15 above-ground test areas in the 1950s is called
16 Plutonium Valley. It is off limits to all humans
17 forever. No one has ever figured out a way to clean
18 up this plutonium that lays on top of the ground.

19 And I recommend that people take
20 these free trips that the government is handing out.
21 You take the bus up there. It takes all day. They
22 give you a lunch up there. It's a good trip. I
23 recommend that everybody takes it. The Test Site area
24 receives four inches of rain a year. I'm not going to
25 go over that. No other state in the Union is willing

1 to accept this high level. In my opinion, the
2 Department of Energy and our politicians, they flunked
3 intelligence and passed stupidity. I will give
4 \$5,000 cash for every problem the government solves,
5 they pay me \$5,000 cash for every problem they don't
6 solve. They are traitors. They are committing
7 treason. And there is a district of criminals in
8 every town, every city, every county, every state in
9 the United States, not only in Washington, DC. We
10 better wake up.

11 Thank you.

12 HANLON: Thank you.

13 RICE: Thank you, Mr. DeFloria. Chuck
14 Chavez.

15
16 **CHUCK CHAVEZ**

17
18 CHAVEZ: My name is Chuck Chavez. And I
19 just want to make a comment. Okay? First of all, I'm
20 new to your state. I just moved in from Arizona. So
21 just a little about my background: Since early '90, I
22 worked at Palo Verde Nuclear Generator Station. I
23 didn't find out about this meeting until today so it's
24 just a coincidence. But my comment is, the words
25 everybody is using for Yucca Plant, just look at --

1 the way I look at it, just look at it as a time
2 capsule, I guess, basically. Store it there for a
3 while, let's do some research, let's do some
4 development. At the same time, we'll educate
5 everybody. And by the time we come up with the
6 problem-solving, fine, do we dig it up or do we leave
7 it there or whatever? But ever since I've worked at
8 Palo Verde, education was a big thing. And the more
9 we got educated, which is daily just about, the more
10 and more we realized, hey, there's nothing wrong with
11 nuclear energy.

12 I lived approximately 50 miles
13 from it. And every time we'd go to California, we'd
14 pass by it and it's running almost 100 percent most of
15 the time. We call outages there so they turn it off
16 every now and then. But again, I just want to make a
17 point that Nevada should be a leader and not a
18 follower when it comes to this.

19 Thank you.

20 HANLON: Thank you.

21 RICE: Wanda McClenaghan.
22
23
24
25

WANDA MC CLENAGHAN

1
2
3 MC CLENAGHAN: I'm Wanda McClenaghan. I
4 reside in Clark County, Nevada. I'm not a Communist
5 nor am I a socialist, nor do I want to see the United
6 States defenseless against our enemies who have become
7 more numerous because of our government meddling in
8 the affairs of other countries in the name of peace.
9 Shortly after World War II ended, we had an extremely
10 small amount of radioactive waste. We had no plan or
11 place to deposit it. In 1997, we have tons of nuclear
12 waste. And so much of it is around that the DOE has
13 even been known to lose track of it, they don't know
14 where it is. We still have no place to store it that
15 is safe and no feasible plan as to what we are really
16 going to do. It sort of sounds like insanity to me.
17 We have to stop manufacturing it or stop selling it to
18 foreign dictators until we have some way to dispose of
19 it or to neutralize it. If we had a suitable
20 solution, we wouldn't be here today.

21 If I were to go into my kitchen
22 and mix up something that was so volatile and so
23 deadly that it would kill me and my family and all of
24 my neighborhood, I'm certain that someone would put a
25 stop to my insanity. And I certainly think that we

1 should focus on putting a stop to Washington, DC's
2 insanity before they kill us all.

3 Thank you.

4 HANLON: Thank you.

5 RICE: Thank you, Ms. McClenaghan. The
6 next speaker is Reinard Knutsen.

7
8 REINARD KNUTSEN

9
10 KNUTSEN: Thank you. My name is
11 Reinard Knutsen. I'm a resident of Las Vegas, Nevada.
12 And I'm with Action for Nuclear Abolition, a
13 grassroots organization working with over
14 3,000 organizations and individual activists around
15 the country on nuclear weapons, nuclear waste, and
16 nuclear energy issues. I do not have any prepared
17 statements today. In fact, I only recently found out
18 about this hearing. The DOE keeps us really busy in
19 trying to juggle all these different hearings and the
20 EIS studies and proposals and stuff around. I'm a
21 volunteer so I have to work to support myself. And a
22 lot of the people who I work with are volunteers too
23 or are just politically active as volunteers, and so
24 it's really hard for us to try to have a livelihood
25 and also try to respond to all the governmental issues

1 and environmental issues that are pressing today. But
2 I'm not complaining about -- well, I am complaining
3 about the fact that we have to respond, but it's my
4 decision to do so and I do it willingly.

5 I want to right now on behalf of
6 all the people that I work with around the country,
7 which on our list, there's -- we work with people in
8 every state of this country -- demand that the
9 Department of Energy withdraw this proposed amendment.
10 And my particular focus of interest in dealing with
11 nuclear issues is in transportation. I have a report
12 in my folder here from the Department of Energy from
13 1986 that says when the nuclear waste trucks start
14 coming to Yucca Mountain over 15,600 shipments,
15 they're expecting over -- between 70 and 310 accidents
16 to occur during this shipping campaign. This is in a
17 Department of Energy report. So whenever we're
18 considering something to site all the nuclear waste
19 around the country, we need to look at more than just
20 the physical location where that nuclear waste is
21 going to be located. We need to look at all the
22 impacts of the nuclear waste. And I believe that
23 transportation is one of the most greatest impacts
24 that nuclear waste is going to have on our society as
25 we start moving it around.

1 I think that if the Department of
2 Energy goes ahead with this amendment, it's going to
3 be one more step in losing the credibility and the
4 trust of the American people. Just this past week,
5 the Department of Energy released new statistics that
6 13 underground nuclear weapons tests between in the
7 '80s and the early -- during the '80s had released
8 radioactivity into the atmosphere. You know, before,
9 they were telling us these tests were perfectly safe.
10 As we go along and discover more and more about the
11 damage that's been done to our environment and the
12 people, the Department of Energy and other
13 organizations keep releasing new statistics, new
14 things that have happened in the past saying, whoops,
15 now we realize how bad it is, and yet we keep going on
16 and proposing to continue doing the same thing.

17 I think our nuclear waste problem
18 is like an overflowing bathtub and we're trying to sit
19 there with a mop while the water flows over the top,
20 when we need to reach over and turn off the faucets to
21 stop production of nuclear waste. Number one, before
22 any kind of long-range storage can be considered, we
23 need to stop production. Because right now, Yucca
24 Mountain is just a bail-out for the nuclear industry.
25 And the Department of Energy is complicit in that

1 bail-out, that if the nuclear industry wants to hide
2 the nuclear waste in Yucca Mountain, so that they can
3 continue to produce more nuclear waste. Nuclear
4 energy is not needed in this country. It produces
5 20 percent of our electricity. We lose 10 percent of
6 our electricity through the national grid system. A
7 Canadian research firm came out with a report this
8 summer saying that if the United States moved towards
9 environmental sustainable energy and products, that we
10 could save over 30 percent of our electricity usage
11 currently. So we obviously do not need nuclear energy
12 in the future. There are other alternative sources;
13 cutting down on energy uses; and number one,
14 prerequisite for that.

15 So on behalf of all the people
16 that I work with around the country, I'm asking that
17 these amendments be withdrawn. If they are not, then
18 at least, the very least that you can do, is to hold
19 more public hearings around the country. Because this
20 does not just affect Nevada, this affects the entire
21 country. Transportation of nuclear waste is going to
22 occur in 43 states. There should be a hearing in each
23 one of those states to assess Yucca Mountain because
24 it's going to impact that state. And the people that
25 I do work with also want to just say that if these

1 guidelines are not withdrawn, if Yucca Mountain goes
2 ahead, then there will be people stopping the nuclear
3 shipments in the streets and demanding that the U.S.
4 government stand accountable to the environmental
5 destruction that has already gone on, on behalf of the
6 nuclear industry.

7 Thank you.

8 RICE: Thank you, Mr. Knutsen. The next
9 speaker is Abby Johnson.

10
11 ABBY JOHNSON

12
13 JOHNSON: Thank you. My name is
14 Abby Johnson. I represent Eureka County, Nevada, one
15 of the Affected Units of Local Government under the
16 Nuclear Waste Policy Act of 1982, as amended. Our
17 interests in the Yucca Mountain Project continues
18 despite a lack of funding from the Department of
19 Energy for us to provide funded oversight from the
20 project. With potential socioeconomic, environmental,
21 and transportation impacts, we continue to participate
22 in the process to the extent possible. We have the
23 following comments concerning the guidelines changes.
24 Process: The rules of the game as outlined in the
25 Federal Register for participating in this hearing are

1 evaluating the adequacy of the site.

2 Subpart E: The proposed changes
3 to the guidelines are better suited for today's high
4 school seniors than for a facility that must isolate
5 deadly waste for thousands of years. As we understand
6 it, the new approach is that the factors in Subpart C
7 and D of the guidelines are like subjects on a report
8 card; whereas before, if the site flunked earthquakes,
9 theoretically the site would be expelled. Now, we
10 combine earthquake performance with other factors to
11 get the equivalent of a grade point average. Although
12 the site may flunk in one or two areas, overall, it
13 can still get a passing grade point average. This is
14 the latest attempt by the DOE and the nuclear industry
15 to write the rules to fit the site and to make sure
16 that no matter what, the site gets a passing grade and
17 can graduate. This is wrong.

18 The result of guideline changes:
19 When trying to track down the date of this meeting,
20 which was posted incorrectly on DOE's event contact
21 information calendar on the Internet, I read a
22 disclaimer at the bottom of the page, "Information
23 listed here is obtained from internal and external
24 sources that are considered reliable, but accuracy is
25 not guaranteed." Those of you who have been around

1 this program for a while will remember the periodic
2 conversations about erecting markers so that future
3 generations of local residents will know to stay away
4 from this supertoxic area. If a Yucca Mountain
5 repository ever becomes a reality, next to the
6 hieroglyphics should also be DOE's disclaimer:
7 "Accuracy is not guaranteed." The proposed changes in
8 these guidelines ensure the truth of the disclaimer.
9 We just got a new computer program and I was able to
10 develop, through clip art, several suggestions for the
11 hieroglyphic that could be erected next to the
12 proposed Yucca Mountain repository. (PICTURES SHOWN)

13 To conclude, the guidelines do not
14 contain criteria on socioeconomic, environmental, and
15 transportation factors, all of which are considered
16 important to Eureka County. Moreover, the guidelines
17 do not meet statutory requirements of the Nuclear
18 Waste Policy Act which states that factors will
19 qualify and disqualify the site. Based alone on the
20 fact that they do not conform to the statute, they
21 should be withdrawn. Thank you for the opportunity to
22 speak.

23 HANLON: Thank you.

24 RICE: Thank you, Ms. Johnson. Our next
25 speaker is Judy Treichel.

1 JUDY TREICHEL

2
3 TREICHEL: My name is Judy Treichel. I'm
4 the Executive Director of the Nevada Nuclear Waste
5 Task Force. I live and work here in Las Vegas. I was
6 to begin this statement by expressing anger about the
7 short reply time and the shortness of the public
8 comment period. I'm extremely happy that this has
9 been extended for a month. I think that's going to
10 help a lot. And I called Headquarters, I wrote
11 letters, and I know that others did, too. And I'm
12 gratified that those were considered. However, I do
13 not feel that there was enough effort -- I'm glad that
14 the public comment period has been extended, but there
15 certainly wasn't enough effort put into getting people
16 to this meeting and inviting them to participate in
17 this hearing.

18 I really submit that DOE does not
19 want to listen to the public's view on this proposal.
20 And I have clear and specific evidence that I think
21 shows that that's true. I check the newspapers every
22 day for an announcement of this. On one day on the
23 16th of this month, there was an ad that ran in each
24 of the papers here. And that ad was, as you can see,
25 not eye-catching, very wordy. And it gave people who

1 read it no enthusiasm about coming here. It was sort
2 of a rehash of the Federal Register language. And you
3 had one day -- the next day was the deadline to call
4 to get into the meeting. It would take a really
5 zealous citizen to respond to something like that.
6 And I would ask you to contrast it with the ads that
7 have run in the paper for DOE's presentations where
8 they really want the public to come and these are held
9 over at the Science Center. And it's sort of a
10 presentation of "gee whiz science." But you can't
11 tell us that you don't know how to do it or that this
12 is the standard form that DOE only uses. When there's
13 an attempt to actually get people out, there's folks
14 who know how to do that. So I would say that the
15 newspaper ads on this were not what they should have
16 been.

17 Also, people who are on the
18 mailing list to receive the DOE's newsletter, which is
19 now called the OCRWM Enterprise, has 11 full pages of
20 very optimistic good news. And in this issue, the
21 latest issue, which I received on January 13th, it had
22 an article about DOE's public outreach efforts. If
23 you looked at the January calendar, there was nothing
24 about this meeting. The only thing on January 23rd is
25 the meeting that's going on in Fort Myers, Florida.

1 So it was not in there. If you went further on to
2 OCRWM's homepage where all of the current events were
3 going on, you found that this meeting was being held
4 two days ago on the 21st. The contact person was
5 Alan Brownstein at his Washington number. I called
6 the number. Alan was really surprised that I was
7 calling him. He didn't know -- and he especially
8 didn't know that his direct number was being listed
9 there as a contact person and he wasn't happy about
10 that. So it would seem to me that, there again,
11 that's the public -- that's the way the public gets
12 these things.

13 I've never met anybody that
14 subscribes to the Federal Register. But if they did,
15 or if they got a copy of that, the instructions for
16 submitting comment included the need to produce eight
17 copies. I can understand that you wanted multiple
18 copies today. I didn't bring them, and anybody that
19 called my office, I didn't even mention it because I
20 didn't want anything that was going to stifle their
21 ability to participate here. But when you request
22 eight copies to be mailed in, this is insane. Also,
23 requesting a computer disk. I suppose there are some
24 people who can do that, but that's not the general
25 public. There's an implication that people needed to

1 call to request to speak in order to be able to do so.
2 Not only are you told to call, but one of the places
3 in the Register Notice said "The person making the
4 request should briefly describe his or her interest in
5 the proceedings; and if appropriate, state why that
6 person is a proper representative of the group or
7 class of persons that has such an interest. The
8 person also should provide a phone number." And then
9 the clincher, is at the end, "Each person selected to
10 speak -- this is like a contest where if you win the
11 lottery, you get to speak. This is just crazy.
12 There's no need to go through the whole thing, but
13 it's incredibly intimidating.

14 And that's why when you held this
15 meeting today, you had 16 signer-uppers. These are
16 people who are almost always at the meeting. There
17 wasn't a name on there, except the man from BYU, that
18 I hadn't seen at every meeting I've been to. These
19 are people who, like myself, go to a lot of these
20 meetings know and they find out. The people that
21 you've seen speak later are people who heard by
22 accident, either on a call-in show that was held today
23 or a newspaper, news articles that this was happening,
24 and they showed up. And the things that you've heard
25 from people -- I realize that everything I've said

1 here is not within the scope of this meeting, but you
2 don't get a place to say it except here. And a lot of
3 what you've heard from people who have come is not
4 within the scope but it's vitally interesting to them.
5 And they don't get a chance to speak to people who
6 make decisions that very seriously affect their lives.
7 So I think that has to change.

8 Two days ago while I was fielding
9 the usual work load that I have, I also got a call
10 from Response Analysis in Princeton and they wanted my
11 assistance. They wanted me to take part in a
12 30-minute survey on behalf of the Department of
13 Energy. And the results of the survey were to be used
14 by DOE to determine, is public trust and confidence
15 improving? This is just the latest costly and
16 time-consuming exercise that's done on that subject,
17 and the effort seems to be aimed at keeping us busy
18 while they go on with business as usual. There's no
19 meaningful public involvement and you've seen the
20 frustration from that day. But this single
21 rulemaking, it appears that DOE hopes to make
22 regulations for the public comment far more stringent
23 than the repository siting guidelines.

24 As I said, I realize that I have
25 not been within the scope that you have asked for.

1 The Task Force will be filing its comments. They will
2 be in within the deadline. And I -- at the time that
3 the comments that we submit are considered, what I
4 have said today would be too late, and I thought it
5 needed to be said.

6 Thank you.

7 HANLON: Thank you.

8 RICE: Thank you, Ms. Treichel. Our next
9 speaker is Julia Moon Sparrow.

10
11 JULIA MOON SPARROW

12
13 SPARROW: Thank you for allowing us this
14 opportunity to speak and hear what it is in our minds
15 and in our hearts. My name is Julia Moon Sparrow. I
16 work with Shundahai Network, an organization that was
17 founded by Corbin Harney, a Western Shoshone spiritual
18 leader. I'd like to place on the record the following
19 comments regarding the DOE rule changes and other
20 issues. The DOE must stop conducting environmental
21 racism. The 1863 Treaty of Ruby Valley, which legally
22 states the new-way nation or Western Shoshone as they
23 have been renamed as the legal owners, care-givers of
24 Yucca Mountain, the Test Site, and the land
25 surrounding. DOE is violating the Treaty of

1 Ruby Valley.

2 We know radioactive contamination
3 is leaking into groundwater in Beatty. We know that
4 Yucca Mountain will contaminate Southern Nevada's
5 largest aquifer. These decisions are involved -- we
6 are involved in regarding dumping nuclear waste and
7 will have devastating impacts on the next 12,000 human
8 generations.

9 The Department of Energy should
10 consider transportation, socioeconomic, and
11 environmental factors in evaluating Yucca Mountain for
12 suitability as a permanent nuclear waste repository.
13 The transportation of waste to this site will have
14 impacts on at least 43 states. Already people have
15 talked about the DOE admitting that there will be at
16 least 310 accidents a year. This is unacceptable. We
17 can't allow this. The DOE should not set the bad
18 precedent of drastically changing the rules on a
19 project far into the program. By doing so, DOE
20 undercuts any remaining scientific credibility in a
21 decision to develop Yucca Mountain as a waste
22 repository. Further, such changes in a contract with
23 a host state should be viewed by all states as an
24 indication of what might be expected in dealings with
25 the DOE. There is a loss not only of scientific

1 credibility but public credibility as well. And we
2 all know that we need to be working together. We need
3 to find ways to put our minds together and work
4 together, not to be fighting one another. We don't
5 have time for that anymore.

6 DOE should preserve specific
7 technical parameters that will qualify or disqualify
8 Yucca Mountain. And these should be the same as those
9 that would be applied to any site. As current
10 guidelines state, there should be no compromise when
11 it comes to isolation of nuclear waste from the
12 environment. The program must be the most stringent
13 possible and our best work. Anything less is
14 unacceptable for 95 percent of the massive radiation
15 burden nuclear activities in the U.S. have created.
16 For these reasons, DOE should withdraw its proposed
17 rule.

18 As my coworker and colleague,
19 Reinard spoke of, there will be people including
20 ourselves on the roads blocking nuclear waste
21 trucks. There have been good friends of ours,
22 relatives of ours that have been hurt in these
23 processes. We don't want to do this and we're
24 nonviolent direct activists. We don't believe in
25 violence. However, we feel strongly, so strongly,

1 that we're willing to put our bodies on the line for
2 our mother earth and for our future generations. We
3 would rather that these decisions be made in the
4 offices then putting political pressure. In the
5 United States, it's not such a big activity. Over in
6 the South Pacific, tens, twenties, thirties, thousands
7 of people put their bodies on the lines. Over in
8 Europe during the French nuclear testing, it was very
9 common to have 20,000 people gathered. When nuclear
10 waste trucks go through Germany, it's common to have
11 10,000 people gathered. Here in the United States,
12 it's so effective in the kind of lies and propaganda,
13 that cover up really what's happening. The truth is
14 very, very hard to dig out, you have to be very
15 dedicated.

16 We're all volunteers. We're
17 asking you to, please look within your hearts, to
18 please think very carefully. I request formally each
19 DOE employee think very carefully about the
20 responsibility of their involvement in decisions that
21 will genetically mutate those contaminated by
22 transportation accidents, storage waste leaks,
23 et cetera. The solution is to shut every reactor down
24 within the year. Until the reactors are shut down, we
25 cannot safely consider waste transportation and

1 dumping in the desert regions.

2 We have one planet, we're one
3 people. We have one air that we breathe and one water
4 that we drink. And this is our mother earth and that
5 travels throughout, and we know this. We know this
6 now scientifically as our ancestors have been telling
7 us. Since time beginning, we know this to be true.
8 Let's not pretend that this isn't what's happening.

9 Thank you very much.

10 HANLON: Thank you.

11 RICE: Thank you, Ms. Moon Sparrow. We
12 have two more speakers who have requested an
13 opportunity to present their remarks. But as a
14 reminder, before we go to those last two speakers, at
15 the conclusion of these presentations, speakers will
16 have an opportunity to make rebuttals and/or
17 clarifying statements subject to time limitations, and
18 will be called in the order in which the initial
19 statements were made. So persons interested in making
20 such a statement should submit their name to the
21 registration desk before the conclusion of the last
22 speaker.

23 Now, Bill Vasconi.
24
25

1 **BILL VASCONI**2
3 **VASCONI: Bill Vasconi, stakeholder.**4 **Trivia, how about a little bit of trivia? Nevada:**
5 **110,540 square miles. Three and a half times bigger**
6 **than Austria, ten times bigger than Belgium, seven**
7 **times bigger than Denmark, three times bigger than**
8 **Portugal, seven and a half times bigger than**
9 **Switzerland, 110 times bigger than Luxembourg.**10 **Nevada: Nevada, you can put England, Scotland, and**
11 **Ireland all within our borders. That's trivia.**12 **Trivia: Thirteen original**
13 **colonies. Somebody mentioned Nye County a little**
14 **while ago. In Nye County, you can put Rhode Island,**
15 **Delaware, Connecticut, New Jersey, and about half of**
16 **Massachusettes. A pretty good size county, isn't it?**
17 **Now, if you took the entire state of Nevada, you could**
18 **put Rhode Island, Delaware, Connecticut, New Jersey,**
19 **Massachusettes, New Hampshire, Maryland,**
20 **South Carolina, Virginia, and a good part of**
21 **Pennsylvania inside the borders of Nevada.**22 **Trivia: There was a grand total**
23 **of 1,030 nuclear devices. At the NTS, there was a**
24 **total of 904. Underground, there was 802; 24 more**
25 **with the United Kingdom. Some of them didn't go off.**

1 Atmospheric, 100. You've got nuclear waste stored at
2 the Nevada Test Site. You've got 828 sites that's
3 storing nuclear waste right now, some of them
4 hundreds, some of them thousands of foot (sic)
5 underground that won't be retrieved as cost permitted
6 and the technology is not there.

7 Trivia: Amarillo, Texas, a place
8 called Pantex. They're storing some 12,500 plutonium,
9 uranium, enriched-uranium pits from nuclear devices,
10 mostly missiles. They're increasing that storage area
11 to hold some 18,000 of these pits. Food for thought.
12 How did these missiles get there from North Dakota?
13 Via the highways. And let me tell you this, the high
14 explosives and enriched uranium or plutonium is
15 disassembled at Pantex.

16 The Review Journal: The storage
17 of nuclear weapons. The Review Journal: One of our
18 storage areas right here in the valley missed a
19 million people. Two hundred nuclear devices stored at
20 Nellis Air Force Base in Nevada. How do you think
21 they got here, folks? They got here via trucks, via
22 antiquated B-52 bombers that was built in the '50s;
23 '51, '52. Some of those bombers, 45, 46 years old,
24 older than some of the folks in the audience;
25 antiquated B-52s.

1 Development (sic) Corporation. And the comments I
2 make today are my very own, not through any
3 affiliations with those organizations. I'm familiar
4 with this site and understand the amended guidelines
5 would provide a total system review of the performance
6 of a site-specific repository design within
7 Yucca Mountain's geological that would be compared to
8 the applicable regulations to determine whether or not
9 the site is suitable for a repository in concurrence
10 with the Energy Policy Act of 1992.

11 I know the original guidelines
12 were written in the early '80s. They were published
13 in 1984. Their purpose was to provide the primary
14 criteria for the evaluation and comparison of several
15 sites all with different geology. I think common
16 sense tells us when Congress directed Yucca Mountain
17 as the only site to be studied, that the DOE's
18 original guidelines which were designated to
19 facilitate comparisons of different sites, does no
20 longer apply. This is an ever-changing project and I
21 don't see how multiple site guidelines makes sense
22 when Yucca Mountain is the only site being studied.

23 One thing I would like to see
24 changed is our state's opposition when it comes to
25 Yucca Mountain. We are the only site being studied.

1 I've been to this site. I've seen the science, the
2 characterization studies being done at the exploratory
3 studies facilities, that's the YMP tunnel. I'm proud
4 of the work I've been involved with. I'm proud of my
5 fellow workers, what they have done, and what they are
6 doing at the site. And it appears to a good many
7 folks that's familiar with it, that Yucca Mountain is
8 a go. Now, you may read where only 73 percent or
9 72 percent of Nevadans stand up and say we don't want
10 it, but if you did it all over again, there'd be
11 100 percent of them saying it's coming anyway.

12 Anyhow, we are an independent
13 bunch here in Nevada, but if the nation is going to
14 solve the nation's problems, nuclear problems, we
15 deserve considerations in the form of equity
16 compensation. I think it's interesting to note that
17 with the science and site characterization studies
18 being done at YMP, our delegation is no longer
19 fighting to stop the site but fighting when the
20 shipments will begin. They should be securing health
21 and safety standards and financial compensation for
22 the future of our state, equity. Our state and
23 congressional leaders need to start a serious dialogue
24 aimed at a benefits package for all Nevadans for
25 helping the country solve this national environment

1 problem by using our natural resources. And keep in
2 mind, in 1987, there was an offer of 50 million
3 dollars a year to our site characterization studies.

4 The amended guidelines will help
5 DOE present its case come time for licensings, NRC's,
6 EPA's. But who's representing the case for all
7 Nevadans to be equitably compensated for the studies
8 taking place at the Test Site? The Test Site, a site
9 that has successfully managed nuclear projects for
10 over 45 years.

11 In conclusion, I'm proud of my
12 Pennsylvania heritage, prouder still of my home of
13 33 years here in Nevada. But first and foremost, I'm
14 an American. The federal government mandated, the
15 United States Congress enacted the Nuclear Waste
16 Policy Act of 1982 to solve this country's nuclear
17 waste problems. These nuclear problems of this
18 courageous nation should be rectified, solved,
19 corrected by the generation that needed it, in the
20 generation that created it and not pass it on to our
21 future generations of sons, daughters,
22 grandchildren. The Nevada Test Site is profoundly
23 proud of its major contributions to this nation's
24 security and it's earned self-confidence and abilities
25 to conduct high-tech operations. The NTS has the

1 credentials and a credibility for handling any project
2 nuclear; from experimentation to storage of. The NTS
3 has a scientific community, the organizational
4 management, and the abilities of labor, both men and
5 women, to do it right. The mountain, the management,
6 the manpower. Let's complete the studies, resolve the
7 transportation and equity issues. Let's get on with
8 the project.

9 Thank you.

10 HANLON: Thank you.

11 RICE: Thank you, Mr. Vasconi. Our next
12 speaker is James McGuinness.

13
14 JAMES MC GUINNESS

15
16 MC GUINNESS: My name is James
17 McGuinness. I work with a number of different
18 organizations as a volunteer, including Shundahai
19 Network and Save Ward Valley. I found out about this
20 just about a day or two ago myself. I'm working on to
21 stop a low-level waste dump in Southern California.
22 And so I was supposed to be going back there today and
23 I decided to stay an extra day to do this.

24 And I first came to one of these
25 in 1988 when I was here in Las Vegas. And I'd see the

1 same stuff, the same basic literature being handed
2 out. It seems like you never pay attention, you just
3 keep changing what's going on. We told people this
4 wasn't safe. I can remember when Carl Gertz said,
5 "Oh, earthquakes? There will be no earthquakes,
6 nothing will happen. There won't be any damage if
7 there is." Shortly thereafter, there was an
8 earthquake, a million dollars in damage to the
9 building. There is no problem. That seems to be the
10 answer on a regular basis. You've put out literature
11 saying that your building is safe to hold the waste
12 for 10,000 years. In that same literature, it was
13 saying that the stuff was going to be radioactive and
14 lethal for at least 25,000 years. I don't see how
15 that's a very good project. To build for something
16 that you're even saying in your own literature is
17 going to be lethal far longer than what you're
18 building to store it for.

19 We're having one hearing. I
20 understand that this is going to be affecting
21 43 states between the transportation and where the
22 stuff is stored at this point. I don't understand why
23 each state, at least, isn't having one hearing. I
24 don't know how you expect a lot of people to come out
25 here. Apparently, you don't really care about oral

1 testimony. You seem to care about written testimony;
2 yet, you put it in something like the Federal
3 Register. I don't know how many people you know that
4 don't work for the Department of Energy, read the
5 Federal Register. I know people all across the
6 country. I know a lot of activists all across the
7 country who sure as hell don't read the Federal
8 Register. So I don't know how you think a lot of
9 people are going to find out about this and actually
10 be able to reply.

11 The advertising was brought up. I
12 have gone to a number of these hearings in DC, in
13 Las Vegas, in Oak Ridge, all across the country. And
14 continuously, we ask them to do better advertising; to
15 put it out earlier, to put it out more often in the
16 newspapers, on radio stations, in television. What we
17 constantly hear is not enough money, it's not up to
18 them whether it goes in, it's up to the newspapers.
19 But I think the government is able to get a lot of
20 stuff put where they want it in the media. I think if
21 you really wanted these advertisements on page 2 or 3,
22 you would get them. If you really put the effort to
23 getting it somewhere where people would see it, you
24 would have it. I don't think you want to. And I have
25 seen the advertisements coming out by the Nuclear

1 Information Center or whatever where they talk about
2 the -- they used to say Yucca Mountain, that's a good
3 place to put the waste. There's so much opposition in
4 Yucca Mountain now, that when they take out their full
5 page ads, they don't mention Yucca Mountain any
6 longer. They have things like saying not in your
7 backyard, not in my backyard, not in anybody's
8 backyard. And they have a picture of the desert.
9 Well, that's a lot of people's backyard. Maybe people
10 in DC don't understand that, but it means a lot to a
11 lot of people I know that lived in the desert and
12 still do live in the desert.

13 Transportation is a major issue.
14 I understand you're going to have a whole lot of
15 accidents by your own accounting. Now, how many of
16 those accidents do you actually foresee as being
17 serious, very serious accidents? How many are going
18 to cause fatalities? During Reagan's tenure when they
19 were talking about nuclear weapons, I remember they
20 had a 40 percent casualty rate, was going to be an
21 acceptable death rate if we were to end up in a
22 protracted nuclear war. What is your casualty rate?
23 What is acceptable death in the event of a
24 transportation accident? In the event if your
25 radioactive waste leaks into the groundwater? If a

1 low-level waste is done in Beatty, in Maxey Flats,
2 Kentucky and in Sheffield, Illinois, that's low level.
3 And it's already gotten into the groundwater. Now,
4 what's your acceptable casualty risk? I'd like to see
5 that put in writing. And how many people can legally
6 die in order for us to get our cheap energy?

7 You talk about who's down there.
8 Downwinders. Does anybody really talk about how many
9 downwinders there are or how many people have gotten
10 cancer? They were lied to by the Atomic Energy
11 Committee. They were lied to by the Department of
12 Energy for years. There were coverups that went on on
13 a regular basis. And eventually, people came out and
14 admitted that, yeah, there were some problems. But
15 DOE now has this new and open and honest policy.
16 Hazel O'Leary, I went to the hearing here when she was
17 on the TV screen and everybody was talking about how
18 we're going to tell everybody the truth. Well, that
19 information was out years before. We were talking
20 about that in 1988 and 1989. The atomic veterans were
21 putting that information out for quite some time so it
22 wasn't new information. Although, the media seemed to
23 think it was because of the press that you put out,
24 the media spin. It seemed like everything was brand
25 new. Well, we'll just bring a release and nobody knew

1 this. Well, we did know it. So what else is being
2 hidden here? What other problems are there that we're
3 not hearing about?

4 This basically -- trying to put
5 this in and ramrod it through and only looking at one
6 site and forcing it on Nevada, and trying to sign this
7 legislation, it's a bail-out for the nuclear industry.

8 That's all it is. The nuclear industry wants to
9 build new reactors. They can't build those reactors
10 because they have no place to put the high-level waste
11 and they really don't have very many places to put the
12 low-level waste. So once they open Yucca Mountain,
13 it's going to be time to build new reactors, better
14 reactors because they won't have any problem, just
15 like the other ones that are leaking. Just like the
16 other ones that have caused a lot of problems in the
17 past. But you don't really care because you worry
18 more about corporate wealth than the public's health.
19 When the corporations talk, the DOE listens. When the
20 people want to know what's going on, they don't hear
21 it. I never see a problem with any corporate people
22 not finding out about these hearings in time, not
23 knowing where they're going to be, not knowing a long
24 time in advance how they're going to be held, where
25 they're going to be held, and what they need to have.

1 think the scientists have the right to be playing with
2 these people's lives.

3 As far as the health and safety is
4 concerned. If you really, really cared about health
5 and safety, then you'd stop producing this stuff. The
6 majority of the population of this country does not
7 want the nuclear power. They don't want the nuclear
8 weapons. And they sure as hell don't want the nuclear
9 waste. And when it comes to nuclear waste when they
10 are willing to accept it, they don't want it in their
11 backyard. So let's get rid of this stuff once and for
12 all. Waste at the atomic test site? Yeah, it is
13 waste at the Nevada Test Site. So are we going to
14 take the smart route like everybody else is doing and
15 dig it up and move that east? It seems to be the
16 answer for everything that's going on there. There's
17 a mistake and we've said for years it's a mistake.
18 The government finally stopped testing except for
19 subcriticals. We'll see what that comes up with.

20 As far as I heard, people talking
21 about a time capsule. That's a lovely idea. It may
22 be a time capsule to some, but it's a time bomb to me.
23 It's just an accident waiting to happen. And as far
24 as people on submarines, they're doing okay. Well,
25 talk to the Alliance of Atomic Veterans. I have a

1 number of friends who are Atomic Veterans that lived
2 on submarines like that and also went out to the Test
3 Site and went to other things, they're not doing okay.
4 They're very far from doing okay. And as far as you
5 saying 100 percent coming -- you say it was coming
6 anyway? Well, I'm living in Las Vegas essentially
7 right now and I've lived here a number of times. I've
8 worked in a number of issues, including running the
9 Homeless Activity Project of 15 months. I love
10 Las Vegas. Not Las Vegas, I love the desert. I don't
11 particularly love Las Vegas, to tell you the truth.
12 But I love the desert and I don't want to see it
13 spoiled. So it's not going to be 100 percent because
14 I sure as hell ain't going to let it happen. I plan
15 to be out there stopping the trucks if they do come.
16 So --

17 HANLON: Thank you.

18 RICE: Thank you, Mr. McGuinness. That
19 completes the listing of the persons who signed in for
20 an opportunity to present testimony following the
21 preregistered speakers. And I now have a list of
22 three persons who would like to make rebuttal or
23 clarifying statements. So we'll go through those at
24 this time beginning with Mary Olson.
25

1 MARY OLSON

2
3 OLSON: Mary Olson. And I'd like to
4 clarify that I am representing Nuclear Information and
5 Resource Service only in these additional comments.
6 And I'm taking the chance, although there's been lots
7 of talk all afternoon, to speak candidly; because this
8 is an oral interaction with members of the Department.

9 I've been six years inside the
10 beltway working with national environmental
11 organizations, and during that time, going out to
12 communities across the country where people are
13 concerned about these issues. I think that the
14 Department has to understand that you are about to
15 lose a very major asset if you go forward with the
16 proposal. And that asset is the ability of some
17 organizations -- I'm not speaking of my own here -- to
18 say that it's important to go forward with the Yucca
19 Mountain Repository Program, to get a credible
20 scientific decision as to whether it is the site for
21 long-term waste disposition or not.

22 The reason you lose this asset is
23 because in 1992 when Congress knocked out the existing
24 EPA criteria, radiological criteria standard, 40 CFR
25 191, Yucca Mountain was exempted from an external

1 criteria that included things like release criteria,
2 release standards, radionuclide concentration levels,
3 and a population dose. There are people near reactors
4 who understand these terms, understand what source
5 term means, understand what population dose versus
6 individual dose are, understand the loss to the
7 program when the site was exempted by a political move
8 in Washington. That's why we recommended that you
9 could have petitioned the President. Well, that's
10 sort of an ad lib statement about history, it didn't
11 happen, but it should have. We should have all said
12 stop right now.

13 Now, the one remaining thing that
14 the Department has as an asset in this program are our
15 technical guidelines. You've heard today from people
16 who know this project from the state level here that
17 these guidelines aren't even sufficient to talk about
18 a good site. But we do believe they're sufficient to
19 rule out a bad site. And we believe that you should
20 be applying them. If you move forward exempting this
21 program from this last piece, this last shred of
22 scientific credibility, you will have lost any sector
23 of the public interest community that understands what
24 these things mean in terms of public health and
25 protection rather than scheduled, cost economics,

1 politics at the industry level. Their ability to
2 stand with the Department in a credible pursuit of a
3 permanent disposition for the waste.

4 If you are going to go forward in
5 something that is a relatively new approach, which
6 would probably be termed a short-term approach to an
7 engineered solution, we at Nuclear Information and
8 Resource Service, would like to recommend that
9 politicians and policymakers should reopen the whole
10 siting process. And this sounds funny, but I really
11 truly mean that existing engineered structure should
12 be considered if that truly is the basis upon which
13 Yucca Mountain is going to be determined as an
14 adequate site or not. And I would put in the category
15 of existing engineered structures the biological
16 containment domes of the reactors that we have today
17 after the reactors are shut down. There are people I
18 work with who honestly suggest that for the near-term,
19 that is the basis of biological isolation that should
20 be considered. And a little more tongue in cheek, but
21 to make the point, a structure like the Pentagon
22 should be considered. Add an earth berm and what's
23 the difference?

24 So I really think that if you're
25 talking about pursuing geologic isolation as a

1 credible ongoing project that might enjoy public
2 support, you have absolutely no business throwing away
3 your last piece of a basis behind which people could
4 stand and say, yes, this was a decision that was made
5 on scientific basis. So I am taking this opportunity
6 to speak very directly to you on these grounds because
7 of my experience with people and what their
8 willingness and what their limits are.

9 The other piece that I would like
10 to fold in here, is that I see a very disturbing
11 tendency to delay any decision on this site at all,
12 and the only basis upon which I can gather that is
13 either that the site could and should be disqualified
14 or there are credible reasons to go forward in study,
15 or politically, it is not to the Department's benefit
16 to have a final decision because it will trigger legal
17 actions. So I just want to note that.

18 And the final thing that I want to
19 mention here, is that there's a tendency these days to
20 be moving away from specific verifiable standards.
21 And one of these is contained in the whole
22 Department's commentary on why transportation is not a
23 factor. And I've been deeply disturbed by this and I
24 want to get it on the record here because I think that
25 it's extremely inappropriate for the Department to

1 exclude the radiological component of the
2 transportation of nuclear waste on the basis of
3 averaging impacts across the entire U.S. population.
4 This is another example of a way to approach a problem
5 where people at the local community level who
6 understand these issues hear this and they cannot
7 believe that that's the basis upon which the
8 Department has proceeded. I know this is only in
9 terms of Environmental Impact Statements in the past,
10 but we are calling for you to continue inclusion of
11 transportation in the assessment of Yucca Mountain,
12 but we are also calling on you to do it from the point
13 of view of the average person meaning the average
14 member of our organizations, the average person
15 walking down the street, the average person who lives
16 in a community with high-level nuclear waste shipments
17 going through their town and not a figment individual
18 who is the average of the entire U.S. population.

19 Thank you.

20 HANLON: Thank you.

21 RICE: Thank you, Ms. Olson. Tom

22 McGowan.
23
24
25

1 TOM MC GOWAN

2
3 MC GOWAN: For the record, this is not an
4 oral interaction of any kind. It's not intended to
5 be. But quite obviously, it's a DOE promotional
6 audience. I would indicate that the Pope grants an
7 audience, the Queen of England grants an audience, the
8 Native ... of ... grants an audience. But this is
9 still a democratic/republic and the Constitution
10 begins with three simple words, "We, the people," not
11 "We, the DOE." Moving right along in rebuttal.

12 I would indicate the amended
13 guidelines not only do not and will not ensure the
14 protection of the natural environment or the public
15 health and safety of ensuing future generations, but
16 will inextricably ensure the deadly and pertinent
17 consequences of dosage exposure to toxic radionuclides
18 transported, deployed, and disseminated throughout the
19 human accessible environment and enduring over the
20 entire remaining term of the geologic time scale
21 continuum. Let's get it straight.

22 Uranium 235: Initial active half
23 life, four and a half to five billion years. Man is
24 mortal. Radioactivity is immortal as far as we're
25 concerned. Accordingly, it's important to securely

1 recognize whereas the as yet unborn people of future
2 generations cannot be here, they're not on your list
3 to provide either oral or written cogent public query
4 and commentary of their respectively interested in the
5 technical behalf. I hereby voluntarily responsibly
6 and conscionably assume specific duty to speak in
7 their genuine best public interest and behalf,
8 inclusively and without exception and with the
9 expressed reminder that the members of the ensuing
10 future public in the legalistic sense have the same
11 right as are guaranteed in the federal constitution to
12 this or any other generation of publics assuming there
13 will still be a Constitution at some point in time.

14 We have identification that the
15 ensuing future generations are neither aliens from a
16 distant planet nor esoteric-beings from a hypothetical
17 parallel universe, nor strangers from a foreign land,
18 nor anonymous entities of no immediate significance or
19 enduring consequence whatsoever, but rather
20 irrefutably, they are our direct descendents, our
21 posterity, our flesh and blood. They will carry and
22 transmit our genes mutated or otherwise. They may
23 even cause to persist some of our however frail hopes
24 and dreams we've come up with so far. And it is we,
25 their ancestral forbearers, who are the key and

1 crucial determinant of both the fact and the quality
2 of their lives and of their very existence is viable
3 reasoning humanity. That may be quite a burden to
4 bear; isn't it? While man is mortal, radioactivity is
5 immortal. It is the profound and unavoidable
6 responsibility of current generations to ensure the
7 protection and preservation of ensuing future
8 generations as secure from a deadly impact of
9 consequences of an unavoidable exposure to
10 artificially produced and disseminated toxic
11 radionuclides, invoked by the current generations
12 comprised of we ourselves, according to Pogo who has
13 met the enemy and it is we.

14 Therefore, respective of the
15 amended guidelines and intended as facilitative of
16 thereby virtually ensured licensing suitability of an
17 underground permanent repository, Yucca Mountain,
18 Nevada. The salient question arises and looms
19 unavoidably. As a matter of reason and conscience and
20 straightforward and addressed to the Nuclear Waste
21 orthodoxy, inclusively specifically as follows:
22 Precisely what is it that the leading scientific,
23 technological, academic, political, bureaucratic,
24 economic, legalistic, and statistical probabilistic
25 minds of our time do not fully understand about the

1 fundamental difference between right and wrong? Is it
2 that evasive? And straightforward addressed with the
3 national and interested public, inclusively of society
4 and government combined. Are we indeed the nihilistic
5 oxymoronic as both suicidal and current generations
6 who on the poetry basis of quality deficient limited
7 special interest and expedient rationale, failed
8 utterly, not only ourselves, but all ensuring
9 generations of humanity combined? Are we indeed to
10 stand self-identified and indelibly self-labeled as
11 irresponsible, unconscionable, reprehensive, and there
12 as human inconceivable monstrosities of self-impelled,
13 including the distinction of human consciousness
14 itself?

15 Rest assured, this is not a
16 Yucca Mountain-specific issue or a Nevada centric
17 issue, or an important national issue, or even the
18 most important issue of our time. It's a human and
19 universal issue of utmost profound significance
20 enduring and continuum for the rest of human and
21 geologic time, there as it's the most important issue
22 of all time ranked on a par of significance coequal to
23 the creation, the birth of Christ, and the so-called
24 discovery of the so-called New World. And by ignoring
25 it and by unwitting public acceptance, you allow it to

1 proceed through completion, you obtain as indelibly
2 self-labeled accomplish, co-culpable, co-perpetrative,
3 mass genocidal murderers. Wear the label because
4 there is no other way out of this. We must eliminate
5 it. We must, not them. They're soldiers, they don't
6 make policy-level decisions, we do. We need to talk
7 to each other, not them. We need to then instruct the
8 Congress and the President of the United States and
9 the rest of the people of this world what to do to
10 solve this problem. Because it's not the problem,
11 we're the problem. Get it straight.

12 Thank you once again for your
13 generous extension of time and considered interest.

14 HANLON: Thank you.

15 RICE: Thank you, Mr. McGowan. Next is
16 Robert Bass.

17
18 ROBERT BASS

19
20 BASS: I want to comment on the
21 lamentable polarization that's occurred. I find a lot
22 of truth on both sides of this thing. And there is a
23 way out. I don't believe that we should be vindictive
24 to the nuclear fission industry, because as former
25 Senator Mike Gravail (ph) said in his wonderful book

1 "Poisoned Power," they didn't get into the nuclear
2 industry out of greed or malice. They got into the
3 nuclear industry to help the government win a war.
4 They got into the nuclear industry, because after the
5 war, the government encouraged them and gave them
6 incentives to do it. Therefore, it would be wrong to
7 say to the nuclear industry, even though they have
8 betrayed our trust a thousand fold, go bankrupt and
9 disappear. Senator Gravill said, "Let's pay them to
10 get out of that business because there's something
11 better."

12 Now, Mr. McGowan spoke very harsh
13 words. He spoke of criminal conspiracy, he spoke of
14 treason. These things are true, they're documentable.
15 I'm going to tell you about the criminal conspiracy.
16 You probably don't know anybody involved. But just
17 tell the people at the very top, maybe
18 Secretary O'Leary didn't know it, and maybe the
19 present Secretary Mr. Pena doesn't know it; but I'll
20 tell you Admiral Watkins was part of that criminal
21 conspiracy. And he was photographed having dinner
22 with the head of EPRI (Electric Power Research
23 Institute) long after EPRI had secretly decided to
24 spend five million a year behind closed doors secretly
25 investigating aneutronic cold fusion. Now, EPRI is

1 getting ready to go bankrupt. All the people who have
2 invested in the nuclear industry are quietly shifting
3 their investments into new things. And the top
4 investigator that got five million a year for five
5 years from EPRI is now being funded by the Japanese,
6 believe it or not. Because EPRI has said, sorry, we
7 got no more money.

8 Now, the Japanese have opened a
9 new hydrogen energy institute. They don't want to
10 call it cold fusion because of the disrepute of cold
11 fusion. I have gone to four of the six international
12 conferences on cold fusion in the last seven years.
13 There are at least 200 professors of nuclear physics
14 who have gone to these meetings and who believe that
15 it is real. The criminal conspiracy came about when
16 Ronald Reagan's Secretary -- no, Chief of Staff was
17 going to introduce Fleischmann and Paons to the
18 President. And then at the last minute, he said, no,
19 no, no, no, no, and the American Physical Society
20 voted nine to one that cold fusion doesn't exist.
21 Now, truth is not decided by a vote. Truth is decided
22 by objective experiments. I do not assume that the
23 three DOE employees sitting here are consciousnessless
24 people. I compliment them on being good sports and
25 being the designated victims to be sacrificed to the

1 angry God of public opinion. In olden days, the King
2 would send his daughter -- and if you've seen Clash of
3 the Titans, the monster would eat the daughter and
4 then the public would be spared for a little while.
5 So you are playing the sacrificial role. But I want
6 to tell you to take this message back to the highest
7 levels.

8 Clean Energy Technology

9 Incorporated has gone to the latest meeting of the
10 American Nuclear Association and they've said cold
11 fusion is not only real -- aneutronic cold fusion is
12 not only real, but we'll sell you a kit for \$3,750 a
13 year which you could take home and verify in your
14 basement that cold fusion is real. Now, they sold
15 20 of these kits. Go and tell the Secretary of Energy
16 how long is it going to be before the general public
17 wakes up? Do you know why cold fusion was suppressed
18 by a conspiracy in the White House and in the Patent
19 Office which is illegally sitting on 400 patents that
20 they haven't issued? This was to give breathing time
21 for the fission industry to quietly get ready to get
22 out of the fission industry and to get patents on cold
23 fusion so they'd be ready to go into that. But
24 unfortunately, they don't have enough money to do
25 other things, gas are in the way, et cetera,

1 et cetera. So the Japanese are now ahead in cold
2 fusion. And this is amply documented.

3 Cold fusion is real. For \$3,750 a
4 year, you can buy your own cold fusion kit. It puts
5 out 1,000 watts. You can verify -- I was the first --
6 I don't own any stock in that company, but I was the
7 first person who put on the Internet that I am an
8 eyewitness to a public demonstration of 1,000-watt
9 cold fusion reactor. The solution for the fission
10 industry is to say, okay, we needed this highly
11 dangerous technology to win the war. We needed this
12 highly dangerous technology when we were in a cold war
13 with the Soviet Union. We no longer need this. We're
14 in a commercial competition with Japan. Why are they
15 spending 50 million dollars on a new hydrogen
16 institute? Are Japanese scientists -- at least two of
17 them won the Nobel prize in physics. Are Japanese
18 scientists incompetent?

19 I worked for the Atomic Energy
20 Commission at Princeton Plasma Physics Laboratory from
21 1957 to 1959 and I have known many of the leading
22 people in control of thermonuclear fusion for the past
23 40 years. Some of the scientists at Livermore, at Los
24 Alamos, are among the best scientists that have ever
25 walked the Earth. If a cold fusion comes to pass, it

1 will impart; because these laboratories, national
2 laboratories, which are national treasures, have
3 brought forth data which has enabled us to go beyond a
4 dangerous fission and to go to aneutronic low-energy
5 cold fusion. So I see truth on both sides of this
6 thing.

7 There were three activists who
8 said that if the truck is coming here bringing the
9 radioactive waste, they're going to lie down in front
10 of the trucks: Now, you three panelists are probably
11 too young to know why the British lost India. The
12 British lost India because the lowest level of British
13 troops refused to drive a tank over helpless people
14 laying down in the road. You tell the Department of
15 Energy that they are laying the seeds for a new civil
16 war, because if they send the trucks in here and those
17 activists lie down, I'm going to go and lie down along
18 side them. But there is a way out of all this. The
19 way out of all this is for Congress to say to the
20 nuclear fission industry, we begged you to get into
21 this stuff. You're in it because the country asked
22 you to get into it. We'll subsidize you to get out of
23 it. There's something better available. We will
24 transition into the better thing. There's no need to
25 have economic turmoil. There's no need to have all

1 the people on fixed pensions whose investments are in
2 the utility industry as it currently exists. Only
3 20 percent of our energy comes from fission power and
4 it could be easily replaced by cold fusion power which
5 would not produce more radioactive waste. The people
6 who said why create more, are absolutely right. Why
7 create more when there is a way to go ahead without it
8 at all?

9 So I urge you to take seriously --
10 if you'd like to send me a letter or something, I can
11 send you scientific papers by some of the smartest
12 scientists alive on this planet who have validated
13 that cold fusion is true and correct, that it's
14 aneutronic, that it puts out excess energy, that it
15 could replace fission power easily. And furthermore,
16 the same technology now will enable us to convert the
17 radioactive wastes which have a half-life of say
18 24,000 years for plutonium, so we need to store it for
19 240,000 years to get ten half-lives. We can eliminate
20 that stuff by the cold fusion technology. That's the
21 spin-off. So instead of being adversarial, let's
22 de-escalate the polarization and let's see if there is
23 not a better way than another civil war.

24 Thank you.

25 HANLON: Thank you.

1 RICE: Thank you, Dr. Bass. John Haslam.

2 JOHN HASLAM

3
4 HASLAM: Good afternoon, Panel. My name
5 is John Haslam. I'm a business agent with the
6 Operating Engineers Local 12. Our office is at
7 360 Shadow Lane in Las Vegas. I'm a business agent
8 who represents Test Site workers as well as Yucca
9 Mountain workers, and I'm proud to say that I
10 represent the crew that set the world record on the
11 tunnel boring machine for a 25-foot diameter machine
12 which approached over 700 feet in a week's period of
13 time. By the way, those were Local 12 Operating
14 Engineers that performed that task. I'm here today on
15 behalf of the Building and Trades which represents
16 15 crafts to do work at the Nevada Test Site as well
17 as Yucca Mountain. I've always stated in meetings
18 prior to, that the salvation for the Nevada Test Site
19 workers is Yucca Mountain, and I'm a firm believer
20 that that's true.

21 I just left a meeting this
22 afternoon with Bechtel Nevada Corporation. They're
23 the prime contractor at the Nevada Test Site. And as
24 you all know, if you live in the area, we're losing
25 over 400 workers out there. The work force has been

1 declining over the years and I wished I could say
2 there's something we could do. I don't see anything
3 on the horizon. I don't think Bechtel does either. I
4 just wish that we would go on with this program. We
5 definitely support the site characterization program.
6 And I'd like to read a little memo from the Southern
7 Nevada Building and Trades. A quick review of the
8 facts makes it look like Yucca Mountain is inevitable.
9 We are doing great work out there. The scientists are
10 doing great work. To date, there are no signs
11 whatsoever the site to be found unsuitable. We are
12 the only site being studied, but who's looking at us?
13 Since December of this year, Bechtel Nevada
14 Corporation has been laying off people at the Nevada
15 Test Site with no future jobs, no future programs
16 coming in. We heard delegations saying they're
17 talking about solar energy coming in. Well, I haven't
18 seen it yet, but I've heard them talking about it for
19 the last two years. We have been looking at Yucca
20 Mountain for several reasons, not only because of the
21 employment, because we have a national concern where
22 to put spent fuel rods. We're supportive of the Yucca
23 Mountain Site Characterization Program and we'll
24 continue to support the scientific studies, and we'll
25 approach the next session when the scientists report

1 back to Congress that it's adequate to go forward with
2 storing spent fuel rods.

3 With that, I thank you.

4 HANLON: Thank you.

5 RICE: Thank you, Mr. Haslam. Are there
6 any other members of the audience who would wish to
7 register with the desk and present testimony? We have
8 about ten more minutes before we have to adjourn. If
9 not, we're obligated to stay here until 4:30 for this
10 session, so we'll not even take a break, there's so
11 little time remaining, in case there is anyone who
12 would come forward and want to make a -- Mr. McGowan.

13
14 TOM MC GOWAN

15
16 MC GOWAN: I'd like to be the first and
17 perhaps not the last to thank sincerely the panel
18 members who are here. Clearly, these are extremely
19 well-experienced and expertise people, and what I call
20 responsible good soldiers. They are not policy
21 decision-level people. It's not their job. It's
22 beyond their pay grade. They are dedicated to
23 carrying out their mission, mandated duties and
24 responsibilities, and they do that quite well. If you
25 notice, although they had many occasions or perhaps

1 opportunities to be inclined to respond some of the
2 commentaries that were made by various persons, they
3 exercised restraint. That's good. Because we're not
4 really arguing with them at all, are we? They are our
5 DOE. You know? The Canadians have the French and we
6 have the DOE. My only issue with the DOE is you can
7 do better; therefore, do better. There's no question
8 about it. It's not an option among arrangeable
9 alternatives. It's categorically imperative and to
10 our people, we American people, including the workers
11 at the Test Site who, yes, did a fabulous job. We can
12 do better. There's no longer time to think about
13 it. We must do better. Thank you once again.

14 RICE: Thank you. Anyone else for a
15 closing statement?

16 (NO FURTHER COMMENTS FROM THE PUBLIC)

17 HANLON: Thank you, Mr. McGowan.

18 RICE: Thank you all very much for your
19 participation. And we are adjourned.

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