

*Rec'd with letter dtd 3/25/97*

**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 25, 1997

**ATTACHED WRITTEN COMMENT(S)/DOCUMENTS:**

1. **Public Written Comments**
  - a. new comments 47 - 67
  - b. copy of the original #40 (Nye County, NV) with signature  
(please substitute for fax version provided to you earlier)
2. **Updated Log Sheets (please recycle previous version)**

102.8

11  
NH03  
WM-11

**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 Forrestal, (202) 586-3012.

9704100235 970325  
PDR WASTE  
WM-11 PDR



**PUBLIC COMMENT LOG - 10 CFR 960 RULEMAKING**

Page 1

No.	Date	Name & Address	Title & Organization	Notes <sup>1</sup>
1	12/24/96	Bob Miller Capitol Complex Carson City, NV 89710	Governor, State of Nevada	
2	1/14/97	William C. Bianchi, PhD 4375 San Simeon Creek Road Cambria, CA 93428 Villa Bianchi@worldnet.att.net	Self	e-mail
3	1/14/97	Nancy Sanders HC60/Box CH210 Round Mountain, NV 89045	Self	
4	1/14/97	Margaret Quinn League of Women Voters PO Box 779 Carson City, NV 89702	President, League of Women Voters of Nevada	xtn/hrgs
5	1/20/97	Dr. Rosalie Bertell 103062.1200@compuserve.com	President, International Institute of Concern for Public Health	e-mail
6	1/21/97	Mary Olson Nuclear Information and Resource Service 1424 16th St. NW, Suite 404 Washington, DC 20036	Nuclear Information and Resource Service	xtn/hrgs

<sup>1</sup> Notes: xtn/hrgs = comment requested extended comment period (xtn) or additional hearings (hrgs).

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No.	Date	Name & Address	Title & Organization	Notes <sup>1</sup>
7	1/23/97	Frankie Sue Del Papa Capitol Complex Carson City, NV 89710	Attorney General, State of Nevada	
8	1/27/97	Fred Dexter, Jr. Sierra Club - Toiyabe Chapter Southern Nevada Group PO Box 19777, Las Vegas, NV 89132	Conservation Committee Member Sierra Club - Toiyabe Chapter Southern Nevada Group	
9	1/29/97	Terri Hale 159 Ortiz Court Las Vegas, NV 89110	Self	
10	1/29/97	Barbara Hanson 159 Ortiz Court Las Vegas, NV 89110	Self	
11	2/3/97	Dr. Robert Bass Innoventech, Inc. PO Box 1238 Pahrump, NV 89041-1238	Self	Fax (5 pages total); Confidential information request
12	2/3/97	Mrs. Ruth Niswander 622 Barbara Place Davis, CA 95616-0409	Self	See #17; Letter also to Secretary

<sup>1</sup> Notes: xtn/hrgs = comment requested extended comment period (xtn) or additional hearings (hrgs).

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No.	Date	Name & Address	Title & Organization	Notes <sup>1</sup>
13	2/4/97	Richard H. Bryan United States Senate 364 Russell Senate Office Bldg. Washington, DC 20010-2804	U.S. Senator (D-NV)	xtn/hrgs
14	2/5/97	Marty Grey Women's International League for Peace and Freedom P.O. Box 18138 Cleveland, OH 89193-8608	Women Speak Out for Peace and Justice branch of Women's International League for Peace and Freedom	
15	2/6/97	Charles Margulis WESPAC 255 Grove Street, Box 488 White Plains, NY 10602	Co-Chair, Westchester People's Action Coalition, Inc. (WESPAC)	xtn/hrgs
16	2/6/97	Marilyn Elie Adrian Court Cortlandt Manor, NY 10566	Indian Point Project	Phone (914) 739-6164; xtn/hrgs
17	2/6/97	Ruth Niswander 622 Barbara Pl. Davis, CA 95616	Self	See #12
18	2/8/97	Russell Todd 15 Orchard Ct. Roslyn Heights, NY 11577 russtodd@juno.com	Self	e-mail; Letter also to Secretary

<sup>1</sup> Notes: xtn/hrgs = comment requested extended comment period (xtn) or additional hearings (hrgs).

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No.	Date	Name & Address	Title & Organization	Notes <sup>1</sup>
19	2/14/97	Cathy Rosenfield Tworoses4u@aol.com	Self	e-mail
20	2/17/97	Michael Borok 378 Barway Drivve Yorktown Heights, NY 10598 mborok@pepsi.com [Private_User@pepsi.com]	Self	e-mail; also: borok@aol.com
21	2/19/97	Arch H. McCulloch Jr. Strathclyde Associates 5395 Summertime Drive Las Vegas, NV 89122	Self, Chief Engineer Strathclyde Associates	Phone (702) 453-4757
22	2/19/97	George Crockér 5093 Keats Ave. No. Lake Elmo, MN 55042	Self	xtn
23	2/19/97	Mark Frederickson 900 17th Ave NE Rochester, MN 55906	Self	
24	2/21/97	Willie R. Taylor Office of the Secretary, PEP/MS 2340 U.S. Department of the Interior Washington, DC 20240	Director, Office of Environmental Policy and Compliance Office of the Secretary, U.S. Department of the Interior	Also contact: Dr. Vijai N. Rai, (202) 208-6661

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No.	Date	Name & Address	Title & Organization	Notes <sup>1</sup>
25	2/21/97	Stephen Dwyer smd@wdc.net	Chairman, Southwest Mineral Research Foundation	Phone (714) 731-1335 Letter not sent as e-mail; no other address given
26	2/21/97	Mr. Jerry N. Manlove 1500 Park Ave., Apt. 106 Minneapolis, MN 55404-1637	Self; Member, Greenpeace	
27	2/26/97	John Schraufnagel 1506 N. 19th St. Superior, WI 54880	Self	
28	2/26/97	Loya Marie Wells P.O.B. 21255 Santa Barbara, CA 93121	Self	
29	3/3/97	Jennifer Sundance 726 Vernon Ave., #1 Madison, WI 53714	Self	Original to Secretary, dated 2/2/97
30	3/3/97	Linda Ewald 949 Ponder Rd. Knoxville, TN 37923	Self	Original to Secretary
31	3/3/97	Joan O. King 304 Manor Drive Santee, GA 30571	Self	Original to OCRWM Director; xtn

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No.	Date	Name & Address	Title & Organization	Notes <sup>1</sup>
32	3/3/97	Paul Goettlich Granger, IL gottlich@sbt.infi.net	Self	e-mail
33	3/4/97	Mr. Robert Mikes Jr. 3080 Carruth St. Las Vegas, NV 89121	Self	
34	3/4/97	L. Cheryl Runyon and James B. Reed National Conference of State Legislatures 1560 Broadway, Suite 700 Denver, CO 80202	Project Manager(s) - Energy, Science and Natural Resources Program, National Conference of State Legislatures and its High-Level Radioactive Waste Interim Storage and Transportation Working Group	
35	3/5/97	Dan and April Dan1.html dano@accessnv.com	Self	e-mail; no other address given; html link to "Dan and April's Homepage"
36	3/5/97	Bob Breslof bobb@vegas.infi.net	Self	e-mail; no other address given.
37	3/10/97	Judy Treichel Nevada Nuclear Waste Task Force, Inc. 4550 W. Oakey Blvd., Suite 111 Las Vegas, NV 89102	Executive Director, Nevada Nuclear Waste Task Force, Inc.	

<sup>1</sup> Notes: xtn/hrgs = comment requested extended comment period (xtn) or additional hearings (hrgs).

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## PUBLIC COMMENT LOG - 10 CFR 960 RULEMAKING

Page 7

No.	Date	Name & Address	Title & Organization	Notes <sup>1</sup>
38	3/11/97	Nancy & Thomas Wall Carson City, NV 89703-4951 Snow Flower@compuserve.com	Self	e-mail
39	3/11/97	Mr. Katreen Romanoff 9813 Kernville Dr. Las Vegas, NV 89134-7876	Self	post card
40	3/12/97	Les Bradshaw MalMurphy@aol.com	County Manager Nye County, Nevada	e-mail; signed original to follow
41	3/12/97	Diana Salisbury 7019 Ashbridge Arnheim Road Sardinia, OH 45171	Sycamore Valley Environmental Awareness Group	Phone (513) 446-3135
42	3/12/97	Hal Rodgers 129 Empire Road Dayton, NV 89403-8076	Co-Chair, The Study Committee Northern Nevada Activities	Phone (702) 246-5994; Original by fax 3/12/97; letter on 3/17/97
43	3/12/97	David Patterson 2816 Darby Falls Drive Las Vegas, NV 89134-7646	Self	Phone (702) 256-4079; Enclosure
44	3/12/97	Mrs. Ethyl Hess Brian 5800 Shawnee Ave. Las Vegas, NV 89107-2600	Self	Enclosures

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No.	Date	Name & Address	Title & Organization	Notes <sup>1</sup>
45	3/12/97	Ralph and Benita Cruz (& 11 other signers) 248 Helmsdale Dr. Las Vegas, NV 89014	Selves	Petition w/ 13 signers; Enclosures
46	3/12/97	Becky Gurka 5303 Stampa Ave. Las Vegas, NV 89102	Self	
47	3/14/97	Joey Latimer Box 444 Idylwild, CA 92549	Self	Original sent to Wendy Dickson [sic], EIS Manager; Form letter
48	3/14/97	Robin Rubens Box 444 Idylwild, CA 92549	Self	Original sent to Wendy Dickson [sic], EIS Manager; See #47
49	3/14/97	Paul Jacobson PO Box 1935 Idylwild, CA 92549-1935	Self	Original sent to Wendy Dickson [sic], EIS Manager; See #47
50	3/14/97	Katherine H. Grigsby [? - illegible] P.O. Box 1944 Idylwild, CA 92549	Self	Original sent to Wendy Dickson [sic], EIS Manager; See #47
51	3/14/97	Chris Sexton P.O. Box 38 Idylwild, CA 92549	Self	Original sent to Wendy Dickson [sic], EIS Manager; See #47

<sup>1</sup> Notes: xtn/hrgs = comment requested extended comment period (xtn) or additional hearings (hrgs).

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No.	Date	Name & Address	Title & Organization	Notes <sup>1</sup>
52	3/14/97	Judi G. Milin D.C. P.O. Box 3157 554508 S. Circle Dr. Idylwild, CA 92549	Self	Original sent to Wendy Dickson [sic], EIS Manager; See #47
53	3/14/97	Joez88@aol.com	Self	e-mail; no other address
54	3/14/97	Janice Flanigan 1460 Bermuda Circle Reno, NV 89509 Janflangan@aol.com	Self	e-mail
55	3/14/95	Bill Magavern and Auke Piersma apiersma@citizen.org	Director (Magavern) and Researcher (Piersma) - Critical Mass Energy Project, Public Citizen	e-mail; letter arrived 3/20/97 Phone (202) 546-4996
56	3/17/97	Marvin S. Fertel Nuclear Energy Institute 1776 I Street, NW Washington, DC 20006-3708	Vice President, Nuclear Energy Institute	letter faxed 3/17/97
57	3/17/97	Brad Mettam Inyo County Planning Department 168 North Edwards Street Post Office Drawer L Independence, CA 93526	Inyo County Yucca Mountain Project Coordinator, Inyo County, CA	faxed 3/17/97

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<b>No.</b>	<b>Date</b>	<b>Name &amp; Address</b>	<b>Title &amp; Organization</b>	<b>Notes <sup>1</sup></b>
58	3/17/97	Richard G. Telfer Educational Directions 5357 Spencer Street, Las Vegas, NV 89119	Owner, Educational Directions	
59	3/17/97	Norma Ellman 106112 Paradise Point Drive Las Vegas, NV 89134-7434	Self	Petition: 135 signatures
60	3/17/97	E. Ramona Trovato U.S. Environmental Protection Agency Washington, DC 20460	Director, Office of Radiation & Indoor Air, EPA	fax 3/17/97; Also contact Albert Colli, (202) 233-9221
61	3/17/97	Dennis A. Bechtel Clark County Las Vegas, NV DAX@co.clark.nv.us	Manager, Department of Comprehensive Planning, Nuclear Waste Division, Clark County, NV	e-mail
62	3/18/97	Francoise Frigole (? - illegible) P.O. Box 1953 Idylwild, CA 92549	Self	Original sent to Wendy Dickson [sic], EIS Manager; See #47
63	3/20/97	Robert R. Loux Agency for Nuclear Projects Capitol Complex Carson City, NV 89710	Executive Director, Agency for Nuclear Projects, Nuclear Waste Project Office, State of Nevada	attachments

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3/20/97

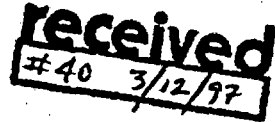
**PUBLIC COMMENT LOG - 10 CFR 960 RULEMAKING**

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No.	Date	Name & Address	Title & Organization	Notes <sup>1</sup>
64	3/20/97	Alfred K. Whitehead International Association of Fire Fighters 1750 New York Avenue, N.W. Washington, DC 2006-5395	General President, International Association of Fire Fighters	
65	3/20/97	Duane H. Gasaway Lander County 315 South Humbolt Battle Mountain, NV 89820	Manager, Lander County, NV	Phone (702) 635-2885
66	3/20/97	Mrs. Georgina K. Traut 30 Cassas Court Reno, NV 89511	Self	
67	3/18/97	Kri & Grace Van Thillo PO Box 1987 Idylwild, CA 92549	Self	Original sent to Wendy Dickson [sic], EIS Manager; See #47

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3/20/97



March 11, 1997

April V. Gil  
U.S. Department of Energy  
Office of Civilian Radioactive Waste Management  
Yucca Mountain Site Characterization Office  
P.O. Box 98608  
Las Vegas, NV 89193-8608

Re: General Guidelines NOPR, Docket Number RW-RM-96-100

Dear Ms. Gil

We appreciate the opportunity to submit these comments on the Department's proposed amendments to the repository siting guidelines.

As you are well aware Nye County, as the *situs* jurisdiction, has long been active in its exercise of its oversight of the Yucca Mountain Project, under the authority delegated to it by the U.S. Congress under the NWPA, as amended. Among the activities in which the Nye County Nuclear Waste Repository Project Office (NWRPO) has been engaged has been the Department's sometimes fitful efforts to determine whether, and how, to amend its siting guidelines. That process has been controversial and contentious. The proposal on which the Department seeks public comment promises to continue that tradition. Some background is in order, therefore, before we set out Nye's substantive reaction to the Department's proposal.

#### Background

The Yucca Mountain Project has been repeatedly redirected, beginning with the single focus on Yucca Mountain in the Nuclear Waste policy amendments Act of 1987. We have previously reviewed and commented upon several attempts by the Department to formulate a policy with respect to the repository siting guidelines developed in response to the changing program directions. Our comments have been offered either formally in writing, or informally at various interactions such as DOE/NRC Management Meetings.

In May of 1994, for example, in response to DOE's proposed "Scenario A" Nye, declined to actively participate in developing any proposed changes to 10 CFR 960, and took the position

that its pre-decisional role should be limited to responding to OCRWM's proposed changes, if any. Nye also, at that time, did not feel that justification had yet been made, given that site characterization was in its early stages, for wholesale changes in the siting guidelines. The County also opposed developing site-specific guidelines, and felt that adopting the NRC's Subpart E of 10 CFR 60 would mask the fundamental distinction between site suitability and licensability. Finally, we have consistently spoken out against the potential that "institutional momentum" would simply ensure that Yucca Mountain is licensed regardless of site conditions. An example of this concern is the direction by Congress to ratify the Department's Revised Program Plan, to amend the siting guidelines "to make them specific to the Yucca Mountain site." This was done, of course, at DOE's request, and despite our active opposition.

These concerns remain, even though we acknowledge that the provisions of 10 CFR 960 contemplated periodic revision in response to new information becoming available. More is known about Yucca Mountain now than was known in 1984; indeed more is known today than just three years ago, when real site characterization began. New knowledge and understanding of the key natural processes operating at the site, and the engineered barriers likely to be employed to enhance waste isolation, has been developed. Nye County's own Independent Scientific Investigations Program has contributed data and analyses to the understanding of Yucca Mountain.

### **The Current Proposal**

DOE now proposes that an overall system performance approach, based on a total system performance assessment, provide the basis for determining site suitability. This approach is proposed to be used instead of the alternative of writing "site specific" guidelines, such as adapting the groundwater travel time disqualifying condition of 10 CFR 960.4-2-1 to what is the known or suspected actual groundwater travel time at the site.

While we would still prefer that DOE, as it indicated was its intent in 1994, first applied the guidelines in their present form, Nye County finds the currently proposed approach far preferable to a "site specific" revision of the guidelines. Evaluating Yucca Mountain's suitability on the basis of an assessment of the overall system's ability to isolate waste for the required period of time provides a more meaningful test than artificial guidelines written to fit the specific conditions and processes the Department feels can be demonstrated at Yucca Mountain. Nye County remains opposed to such a contrived approach.

The Department's proposal, however, appears to focus on the site's overall ability to protect the public and safety, and the environment, from the hazards posed by nuclear waste and still will subject the site to the standards established by the EPA (or the Congress) and the licensing regulations of the NRC. In this light, and in light of the reservations we have noted above, Nye

County does not oppose the current proposal. We also support the Department's decision to revise only those portions of the guidelines necessary to make them consistent with the new subpart calling for the overall system evaluation. Provisions applicable to screening and comparison among sites should remain intact for future use should Yucca Mountain fail the ultimate test, and should the nation face up to the unavoidable need for a second repository.

### **An Open Repository Concept**

We have one major reservation with, or perhaps question concerning, the effect of the proposed amendments. That has to do with the ability of the Department to consider an open, naturally ventilated repository, in the design that will be the subject of the final total system performance assessment.

Data gathered and analyzed in Nye County's Independent Scientific Investigations Program strongly suggest that an open, naturally ventilated repository will remain dry for at least 10,000 years, with the temperature of the host rock staying below 30 degrees C. These conditions would essentially eliminate the primary mechanism for transport of radionuclides away from the repository to the accessible environment, by keeping water from coming into contact with the waste in the first place. The statutory and regulatory framework under which the repository program has been conducted has always contemplated a closed repository.

If these new data and analyses are confirmed by further analysis and calculations, a closed repository may not offer the optimum isolation as would a naturally ventilated repository, even though suitable under the guidelines, and licensable under the NRC regulations. Accordingly, Nye County strongly urges DOE, in amending its guidelines, not to preclude by regulatory language the consideration of a final design allowing for an open, ventilated repository at Yucca Mountain, and thereby preclude the opportunity for greater protection of the public's health, safety and the environment.

We recognize that the determination of Yucca Mountain's suitability under the guidelines is merely the first step, and that a design could be submitted to the NRC, or a licensing condition imposed by it, which is not necessarily included within the clear language of 10 CFR 960. Nevertheless, we believe that maximum flexibility in this design possibility is desirable, and that the Department should ensure that such flexibility is built into the language of the guidelines themselves.

This can be accomplished in one of two ways. First, by revising the definition of "Closure" in §960.2 so that the term would not necessarily imply sealing the repository immediately after the operational and performance confirmation periods. Alternatively, that term could be defined in a way which clearly encompassed the possibility of the repository remaining open and naturally

ventilated for an extended period, such as:

**'Closure'** means the final closing of the remaining open, operational areas of the underground facility and boreholes after termination of waste emplacement operations, performance confirmation, and any extended period of natural ventilation.

### **Detailed Comments**

The last sentence of the first paragraph of "B. Proposed Revisions", at page 20 of the Supplementary Information, 61 FR 66161, should be revised by adding the language: " and for use in siting additional repositories when needed in the future."

The discussion under "Section 960.2 Definitions" at page of the Supplementary Information, 61 FR 61663, should be changed to reflect the recommendation explained above to include the potential for an open, ventilated repository for a extended period of time, perhaps as long as 10,000 years.

The reviews under both Executive Order 12612 and Executive Order 12866 are inadequate. Neither of the EO's refer only to federal mandates, in the sense of actual legal requirements enforceable against the states or local governments under statutes or authorized regulations. Both do, however, require the following of federal agencies:

In the case of EO 12612, the effect on states (including local governments), the relationship between the federal government and the states, or the distribution of power and responsibility among various levels of government, are to be considered.

Under EO 12866, an assessment is to be made of the effects of federal regulations on state, local and tribal government, including specifically the availability of resources to carry out any mandates, or seek to minimize any burdens that uniquely or significantly affect such governmental entities.

EO 12866 further addresses "significant regulatory action", which it defines as any action which may adversely effect the economy, competition, jobs, productivity, the environment, public health or safety, or state , local or tribal governments. It is beyond argument that the Yucca Mountain program affects Nye County in a significant way. The economy, jobs, the environment, public health and safety all may well be affected, not only by the ultimate placement of nuclear waste in Yucca Mountain, but by the very activity of characterizing, and developing the site. Congress clearly recognized those affects, and burdens, by authorizing and funding, per the



NWPA, as amended, Nye County to exercise monitoring and oversight responsibilities.

The County is currently without such financial assistance, with the exception of a small amount to carry out a minimal, and not adequate, on-site data gathering and monitoring program. No funding is available to participate in the process of commenting on these very guideline amendments, for example, despite the fact that their adoption could have a significant effect on the conduct of the Department's suitability determination at Yucca Mountain. The fact that the lack of funding is the result of restrictions imposed by Congress in the appropriation process, nevertheless does not obviate the reality of the burden imposed on Nye County.

The Project's affects are clearly present and, therefore, must be acknowledged and fully analyzed per the cited Executive Orders. Indeed, a strong argument exists that the EO's impose an affirmative obligation to provide funding necessary to enable Nye County to carry out a meaningful oversight program as called for in the NWPA -- to the extent any funds are available to the Department from any source that not encumbered by the restrictions established by Congress.

Again, we appreciate the opportunity to submit these views. We look forward to continuing to participate as this process goes forward, to the extent that we are able given the current funding constraints.

Very truly yours,  
NYE COUNTY, NEVADA

*Und Still wert  
for  
/s/ Les Bradshaw*  
Les W. Bradshaw, County Manager

To: 10CFR960  
cc:  
From: Janflangan @ aol.com at pmdfpo@YMPGATE  
Date: 03/14/97 12:34:00 PM  
Subject: Yucca Mt.

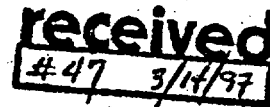
**received**  
#54 3/14/97

New Text Item: FILE.TXT

Please do not change the guidelines for the Yucca Mt. site. We depend upon you & your integrity to protect our environment for our children and generations to come. We count on you to maintain the conditons under which this site study was generated. Thank you. Janice Flanagan, 1460 Bermuda Circle, Reno, NV 89509.

Wendy Dickson  
EIS Manager  
U.S. Department of Energy  
1180 Town Center Drive  
Mailstop 010  
Las Vegas, Nevada 89134

2-28-97



Dear Wendy Dickson,

I am writing to you in regards to the proposed Yucca Mountain Nuclear Waste Repository. There are a number of concerns I have concerning the way this is being handled. First it is very alarming that the D.O.E. is changing the regulations that are necessary to determine if the site is suitable.

By doing so the DOE is undercutting any remaining scientific credibility in a decision to develop Yucca Mountain. Secondly DOE needs to consider the transpiration of waste to the sight.

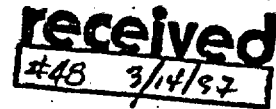
The transportation of nuclear waste to the sight impacts at least 43 states. Over 50 million Americans live within a half mile of projected waste routes. Thirdly, the D.O.E. should preserve specific technical parameters that will qualify or disqualify Yucca Mountain, and these should be the same as those applied to any other site. There should be no compromise when it comes from the isolation of nuclear waste and the environment. I urge you to insure that any decision that effects the next 12,000 generations be made with regulations as stringent as possible and the best work possible from our government.

Sincerely,

*Joely Latimer*  
*Box 444*  
*Idyllwild*  
*CA 92549*

Wendy Dickson  
EIS Manager  
U.S. Department of Energy  
1180 Town Center Drive  
Mailstop 010  
Las Vegas, Nevada 89134

2-28-97



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Sincerely,

Robert Fabens

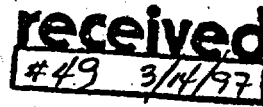
Box 444

Idyllwild, CA

92549

Wendy Dickson  
EIS Manager  
U.S. Department of Energy  
1180 Town Center Drive  
Mailstop 010  
Las Vegas, Nevada 89134

2-28-97



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Sincerely,

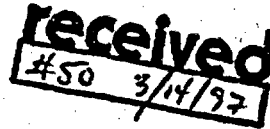


Paul Jacobson  
PO Box 1935  
Idyllwild CA 92549-1935

Wendy Dickson  
EIS Manager  
U.S. Department of Energy  
1180 Town Center Drive  
Mailstop 010  
Las Vegas, Nevada 89134

2-28-97

3/12/97  
Copies to:  
Susan Kline  
Deb W.  
Bonnie F.



Dear Wendy Dickson,

I am writing to you in regards to the proposed Yucca Mountain Nuclear Waste Repository. There are a number of concerns I have concerning the way this is being handled. First it is very alarming that the D.O.E. is changing the regulations that are necessary to determine if the site is suitable.

By doing so the DOE is undercutting any remaining scientific credibility in a decision to develop Yucca Mountain. Secondly DOE needs to consider the transportation of waste to the site. ~~to~~

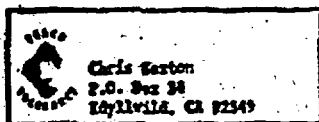
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Sincerely,

Katherine H. Sigby  
P.O. Box 1944  
Udypkild CA 92549

U.S. Department of Energy



received  
#51 3/14/97

Wendy Dickson  
EIS Manager  
U.S. Department of Energy  
1180 Town Center Drive  
Mallstop 010  
Las Vegas, Nevada 89134

2-27-97

Dear Ms Dixon,

I am writing to you in regards to the proposed Yucca Mountain Nuclear Waste Repository. There are a number of concerns I have concerning the way this is being handled. First it is very alarming that the D.O.E. is changing the regulations that are necessary to determine if the site is suitable.

By doing so the DOE is undercutting any remaining scientific credibility in a decision to develop Yucca Mountain. Secondly DOE needs to consider the transpiration of waste to the sight.

The transportation of nuclear waste to the sight impacts at least 43 states. Over 50 million Americans live within a half mile of projected waste routes. Thirdly, the D.O.E. should preserve specific technical parameters that will qualify or disqualify Yucca Mountain, and these should be the same as those applied to any other site. There should be no compromise when it comes from the isolation of nuclear waste and the environment. I urge you to insure that any decision that effects the next 12,000 generations be made with regulations as stringent as possible and the best work possible from our government.

Sincerely,

*Chris Terton*

Wendy Dickson  
EIS Manager  
U.S. Department of Energy  
1180 Town Center Drive  
Mailstop 010  
Las Vegas, Nevada 89134

2-28-97

received  
#52 3/14/97

3/12/97  
Copies To:  
Susan R.  
Debra W.  
Bonnie F.

Dear Wendy Dickson,

I am writing to you in regards to the proposed Yucca Mountain Nuclear Waste Repository. There are a number of concerns I have concerning the way this is being handled. First it is very alarming that the D.O.E. is changing the regulations that are necessary to determine if the site is suitable.

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Sincerely,

*Judi G. Milin D.C.*

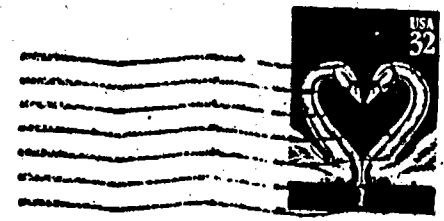
Judi G. Milin D.C.

P.O. Box 3157, 55450 S. Circle Dr  
Idyllwild, CA 92549



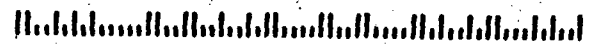
received  
#52 3/14/97

JUDI G MILIN  
PO BOX 3157  
IDYLLWILD CA 92649



Wendy Dickson, EIS mgn  
US. Dept of Energy  
1180 Town Center Dr, Mailstop 010  
Las Vegas, NV 89134

83134/6363 80



To: 10CFR960  
cc:  
From: Joez88 @ aol.com at pmdfpo@YMPGATE  
Date: 03/13/97 03:38:00 PM  
Subject: Comments on Proposal to Amend Siting



New Text Item: FILE.TXT

March 13, 1997

Comments on Proposed Amendment to Siting Guidelines  
c/o April V. Gil  
US D.O.E.

In reference to the proposed amendment to change the guidelines now that the program is so far progressed. I don't believe that the DOE should set the poor precedent of drastically changing the rules on a project far into the program. By doing so, DOE undercuts any remaining scientific credibility in a decision to develop Yucca Mountain as a waste repository. Furthur, such changes in a contract with a host state should be viewed by all states including Nevada as an indication of what might be expected in dealings with the DOE. There is a loss not only of scientific credibility, but public credibility as well. When is anyone going to act responsibly and credibly at the DOE? Las Vegas has now grown in population to at least threefold the density that was there when this project was started; why doesn't the DOE and the greedy nuclear power industry take into account this change in demographics and determine the dire safety hazards of burying so much high level nuclear waste so near to a population center that is constantly growing. We have absolutely no assurance that this nuclear material will not leak, breech or seep into the environment despite what (industry payrolled) scientists have determined. There are ongoing seismic events in and around Yucca Mountain and the largest was given media attention a while back. Earthquakes are very destructive, I know, I have been in one and everything gets scrambled around and broken. You can't tell me that after one of the usual earthquakes occurring at Yucca, that millions of tons of nuclear waste will be secure! There are no reliable gauges of the actual force of any earthquake let alone a "big" one that is predicted for the Yucca region. This would pose a definite hazard for the people living near Yucca mountain and the rest

of the country.

DOE should preserve specific technical parameters that will qualify or disqualify Yucca

Mountain, and these should be the same as those that would be applied to any site, as current

guidelines state. There should be no compromise when it comes to isolation of nuclear waste

from the environment. The program must be demonstrably the most stringent possible and our

best work. Anything less is unacceptable for 95% of the massive radiation burden that nuclear

activities in the US have created.

JOEZ88@AOL.com

To: 10CFR960  
cc:  
From: Joez88 @ aol.com at pmdfpo@YMPGATE  
Date: 03/13/97 03:40:00 PM  
Subject: Comments on Proposal to Amend Siting



New Text Item: FILE.TXT

March 13, 1997

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c/o April V. Gil  
US D.O.E.

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best work. Anything less is unacceptable for 95% of the massive radiation burden that nuclear

activities in the US have created.

JOEZ88@AOL.com



Buyers Up • Congress Watch • Critical Mass • Global Trade Watch • Health Research Group • Litigation Group  
Joan Claybrook, President

March 17, 1997

April V. Gil  
U.S. Department of Energy  
Office of Civilian Radioactive Waste Management  
Yucca Mountain Site Characterization Office  
P.O. Box 98608  
Las Vegas, NV 89193-8608



Re: Comments on General Guidelines for the Recommendation of Sites for Nuclear Waste Repositories 10CFR Part 960; Proposed Rulemaking

Public Citizen believes that any attempt to site a permanent repository must follow strict scientific integrity and provide for public credibility. The current proposal to amend the siting guidelines has no scientific basis and therefore raises questions as to the purpose for the proposed changes. Therefore, we oppose changing the guidelines.

Only a year and a half ago, the Department concluded that these same siting guidelines needed no changes to continue the site characterization process of Yucca Mountain. In fact, the department establishes the reasons for which a change in guidelines may be needed in the future.

*Although the Guidelines may have to be amended at some future date to be consistent with any future changes to EPA or NRC requirements, for now, no amendments are needed in order to provide clarification as to the appropriate role of the existing Guidelines in the evaluation of a single site. (Federal Register September 14, 1995, Pg. 47740)*

Neither the EPA nor NRC has issued any requirements that might trigger the above language. Therefore, according to the earlier DOE decision, the department should have no reason to tamper with the siting guidelines. The question we must ask is: What has changed since September of 1995 that requires the Office of Civilian Radioactive Waste Management to change the Guidelines? The Department should not allow pressure from the nuclear industry to spur an easing of the repository guidelines.

Thank you for considering our views on your proposal.

Sincerely,

Bill Magavern  
Director, Public Citizen's Critical Mass Energy Project

Ralph Nader, Founder

215 Pennsylvania Avenue SE • Washington, D.C. 20003 • (202) 546-4996

To: 10cfr960  
cc:  
From: apiersma @ citizen.org at pmdfpo@YMPGATE  
Date: 03/14/97 12:58:00 PM  
Subject: Comments on Proposed Rulemaking



New Text Item: FILE.TXT

March 17, 1997

April V.Gil  
U.S. Department of Energy  
Office of Civilian Radioactive Waste Management  
Yucca Mountain Site Characterization Office  
P.O. Box 98608  
Las Vegas, NV 89193-8608

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Thank you for considering our views on your proposal.

Sincerely,

Bill Magavern  
Director, Public Citizen's Critical Mass Energy Project

Auke Piersma  
Researcher  
Critical Mass Energy Project  
Public Citizen

Phone: (202) 546-4996  
Fax: (202) 547-7392  
Email: [apiersma@citizen.org](mailto:apiersma@citizen.org)  
Website: [www.citizen.org/cmep/](http://www.citizen.org/cmep/)





NUCLEAR ENERGY INSTITUTE

**FAX**  
**Cover Sheet**

DYER - HYI  
RIVER  
SIL

**To: Wesley Barnes**  
**Company: U.S. Department of Energy**  
**Phone:**  
**Fax: 702-794-1300**

**From: Steve Kraft**  
**Company: NEI**  
**Phone: (202) 739-8116**  
**Fax: (202) 785-1498**

**received**  
**#56 3/17/97**

**Date & Time: March 17, 1997**  
**Pages:**



NUCLEAR ENERGY INSTITUTE

Marvin S. Fertel  
VICE PRESIDENT,  
SALES & MARKETING  
INTERNATIONAL & LOCAL

March 14, 1997

Ms. April V. Gil  
Leader, Site Recommendation Team  
U.S. Department of Energy  
Office of Civilian Radioactive Waste Management  
Yucca Mountain Site Characterization Office  
Post Office Box 98608  
Las Vegas, NV 89193-8608

Subject: NEI response to DOE's proposed revisions to 10 CFR  
Part 960, "General Guidelines for the Recommendation  
of Sites for Nuclear Waste Repositories"[61 Federal  
Register 242, pages 66157- 66169 (December 16, 1996)].

Dear Ms. Gil:

The Nuclear Energy Institute (NEI)<sup>1</sup> on behalf of the nuclear energy industry commends the Department of Energy (DOE) for taking steps to recognize the changes to the repository site characterization project created under the 1987 Nuclear Waste Policy Act amendments in its "General Guidelines for the Recommendation of Sites for Nuclear Waste Repositories" ("siting guidelines" or "10 CFR Part 960"). The nuclear energy industry has long advocated the modification of the siting guidelines to bring them into conformance with the existing statutes. However, we recommend that DOE modify their proposed approach to be consistent with the comments outlined below. NEI strongly recommends that DOE leave the Siting Guidelines relatively intact and only eliminate those guidelines that are clearly intended for comparison among multiple sites (examples enclosed).

<sup>1</sup> NEI is the organization responsible for establishing unified nuclear industry policy on matters affecting the nuclear energy industry. NEI's members include all utilities licensed to operate commercial nuclear power plants in the United States, nuclear plant designers, major architect/engineering firms, fuel fabrication facilities, nuclear materials licensees, and other organizations and individuals involved in the nuclear energy industry.

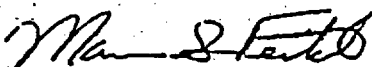
Ms. April V. Gil  
March 14, 1997  
Page 2

The proposed guidelines would require DOE to analyze comprehensively all factors affecting the safety of the Yucca Mountain site to determine if the site meets federal regulatory standards being developed by the Environmental Protection Agency (EPA) and implemented by the Nuclear Regulatory Commission (NRC). This would be accomplished through the application of a comprehensive total system performance assessment (TSPA) to the Yucca Mountain site that would then be compared to the as yet undeveloped EPA standards and unrevised NRC regulations.

Since the early 1990's, DOE and its contractors have been developing successfully the necessary tools and methodologies to conduct TSPA's to evaluate the performance of the Yucca Mountain site as a potential repository for the nation's high-level radioactive waste and spent nuclear fuel. A comprehensive TSPA is the best way to analyze the future performance of a complex facility, such as a repository, and can be effectively used to demonstrate compliance with the guidelines and NRC regulations. Consequently, NEI appreciates DOE's desire to clarify the role its TSPA efforts play in meeting the guidelines. Nevertheless, NEI does not support the modification to the siting guidelines as proposed. However, NEI strongly encourages the continued development and use of TSPA as the primary tool for evaluating the Yucca Mountain site.

NEI appreciates the opportunity to make recommendations regarding DOE's proposed rule. If you have any questions, or require additional information, please feel free to call me or Chris Henkel of our staff on (202) 739-8117.

Sincerely,



Marvin S. Fertel

Enclosure

c: Lake H. Barrett, Acting Director, U.S. DOE OCRWM  
Wesley E. Barnes, Project Manager, U.S. DOE YMSCO



**Planning Department**  
**168 North Edwards Street**  
**Post Office Drawer L**  
**Independence, California 93526**

Phone: (819) 872-1188

FAX: (819) 873-6693

E-Mail: [bmottam@telia.org](mailto:bmottam@telia.org)

March 17, 1997

April V. Gil  
U. S. Department of Energy  
Yucca Mountain Site Characterization Office  
P. O. Box 30307  
North Las Vegas, NV 89036-0307

**FAXED**  
3-17-97**Received**  
#57 3/17/97

**COMMENTS ON:** *Notice of Proposed Rulemaking: 10 CFR Part 960, General Guidelines for the Recommendation of Sites for Nuclear Waste Repositories*, 61 FR No. 242, December 16, 1996, 66158-66169

Thank you for the opportunity to comment on the proposed revisions to the siting guidelines contained in 10 CFR 960. Inyo County has been designated by the Secretary of Energy as an affected unit of local government under the provisions of the Nuclear Waste Policy Act of 1982, as Amended (NWPAA). It is the only California jurisdiction so designated, and it the ultimate recipient of the ground water in the regional carbonate aquifer that flows beneath the proposed site at Yucca Mountain. Because ground water is the most likely means of radionuclide transport, Inyo County has a continuing interest in the on-going site characterization activities at Yucca Mountain and the guidelines used to determine the suitability of the site.

The proposed guideline revisions essentially add a new section, Subpart E, which is to contain the guidelines for the Yucca Mountain site. However, the preclosure and postclosure sections of Subpart E contain no specific guidelines. Instead these sections refer to meeting EPA and NRC standards and regulations. The discussion in the *Notice of Proposed Rulemaking* refers to the use of total system performance assessment to determine the suitability of the site. Other changes would be made in Part 960 to refer to the new Subpart E and resolve minor inconsistencies.

These revisions do not conform to the direction provided in the NWPAA, Sections 112 and 113, which require a number of specific qualifying and disqualifying criteria both for proposal of candidate sites and for determining the suitability of a specific site. The *Notice of Proposed Rulemaking* refers to language in a conference report on an appropriations bill as providing authority for discarding the provisions of Sections 112 and 113. Even if the Department of Energy's interpretation of the conference report language is correct, which is disputable, report language does not have the force of law when, as in this case, existing law is clear. Therefore, it is inappropriate for the Department of Energy to consider report language as amending the NWPAA in this respect. Thus any revisions to the qualifying and disqualifying criteria must address the specific areas of investigation required in the NWPAA.

The general discussion of the proposed action in the *Notice of Proposed Rulemaking* describes the use of total system performance assessment as being able to "enhance the ability of the DOE to provide the public a more understandable conclusion about the suitability of the Yucca Mountain site for development as a repository." Total system performance assessment (abstracted models of different components — geology, hydrology, repository, casks, etc. — run iteratively against each other) is unlikely to be easily understood by the lay public.

Asking the general public to understand, for example, the advantages and weaknesses of Monte Carlo simulations without extensive background is unreasonable.

As well as being more easily understood than total system performance assessment, the measurement of the suitability of a site against specific criteria is the essence of the defense in depth concept. By using specific qualification and disqualification criteria for each major condition relating to repository performance, the possibility that unforeseen effects will cascade through the total system is greatly reduced. For example, if unforeseen effects cause an early failure in the engineered barrier system, meeting specific criteria for ground water travel time will help ensure that repository performance still meets a minimum standard. By allowing engineered barriers to compensate for hydrologic conditions the Department of Energy will, in effect, be placing all reliance for repository performance on a single portion of the entire system.

The discussion of the development and application of the guidelines in the *Notice of Proposed Rulemaking* notes that the affected units of local government, the State of Nevada, and the public were asked in 1993 and 1994 to comment on the need for revision of the guidelines in 10 CFR 960. The discussion does not mention that the general consensus of the public stakeholder meetings was that the Department of Energy should enter into negotiated rulemaking the preferred method of revision the siting guidelines. Instead the Department determined that the guidelines could be reinterpreted rather than revised. Now, fifteen years after the enactment of the Nuclear Waste Policy Act and less than a year from the legislative deadline for initial waste acceptance, the Department of Energy has decided to revise the guidelines that form the basis for a site suitability decision.

It is a matter of too little too late. While the Department of Energy has the authority to revise the siting guidelines, the revisions must retain the specific criteria provided and referred to in Sections 112 and 113 of the Nuclear Waste Policy Act of 1982. The proposed guidelines do not. In addition, eleventh hour revisions create both unnecessary confusion and the perception that the guidelines are being revised to make the site suitable. Please contact me if there are any questions concerning these comments.

Sincerely,



Brad Mettam  
Inyo County Yucca Mountain Project Coordinator



## **Educational Directions**

6367 Spencer - Las Vegas, NV 89119  
707 798-5003

**received**  
#52 3/17/97

**MARCH 15, 1997**

**COMMENTS**

# **PROPOSED AMENDMENTS SITING GUIDELINES**

**FOR  
YUCCA MOUNTAIN**

**SUBMITTED**

**BY**

**RICHARD G. TELFER**

**OWNER**

April 15, 1997

**Regarding the proposed amendment Siting Guidelines for Yucca Mountain**

Having studied carefully pages 66157 thru 66169 found in the December 16, 1996 Federal Register related to the Yucca Mountain Studies I wish to commend the DOE individuals responsible for both recognizing the need for modification of the Nuclear Waste Policy Act and for the thoughtful detail developed for improving the entire process.

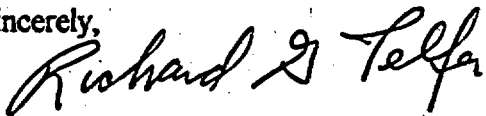
It is essential that activities of a project the magnitude of Yucca Mountain be evaluated from time to time to insure that the most effective means are being used to both gather data and report same. It would seem that the proposed changes so meet this criteria.

Based on the data included in the Federal Registered, above noted, it would seem that a segment neglected in the existing NWPA at least to a degree, is that of disseminating understandable information regarding the suitability of the mountain, the new proposal aims at correcting this concern. If enacted the proposal, though it may infact not change the thinking of the many anti Yucca people, it does indicate the willingness and concern of DOE to keep the public better informed. Much opposition to the Yucca Study stems from the lack of information or the abundance of misinformation.

As an educator long involved with promoting an understanding of the importance of nuclear energy I feel and have so informed many DOE and Contractor leadership personnel that failure has existed in not educating the public of the importance of nuclear energy but also for the need to provide safe long term storage if our nation is to remain economically strong. Either through national policy or the resistance of individual leadership the importance of educating the public has been a significant void in the entire process , which hopefully the new provisions will meet head on..

It has been my pleasure have been invited to participate in countless stakeholder meetings and serve as a resource person by invitation. I will continue to be available to assist with this important project.

Sincerely,



Richard G. Telfer  
Educational Directions  
5357 Spencer  
Las Vegas, NV 89119  
702 798-5003

March 10, 1997

Ms. April Gil  
U.S. Dept. of Energy  
Office of Civilian Radioactive Waste Management  
Yucca Mountain Side Characterization Office  
P.O. Box 98608  
Las Vegas, Nevada 89193-8608

received  
#59 3/17/97

Dear Ms. Gill:

We the undersigned strongly oppose the storage of nuclear waste at YUCCA MOUNTAIN. Do not weaken guidelines.

Josie Williams 10408 Willamette  
Sheila York 10409 Bent Brook Pl.  
Maryna Abrams 10313 Willamette Place  
Maryna Abrams 10313 Willamette Pl.  
Nel Wingard 10408 Willamette Pl.  
Norman York 10409 Bent Brook Pl.  
Radake Kujawa 4529 Eagle Hill Dr.  
Janet Wilson 3012 Abernethy Dr.  
Flanneth Paul 10032 Woodhouse Dr.  
Chen Woods 2505 CROOKED CORNER  
Chen Woods 2505 CROOKED CORNER  
Butterfield 11024 Clear Meadows Dr.  
Julia Cusick 11009 Belknap Ave.  
Janet Swanson 3100 Birch Grove Ct.  
Paul Carr 2517 Desert Butte Dr.  
Frances Clark 2517 Youngdale Dr.

SUN CITY RESIDENTS

16



Norma Ellman  
10612 Paradise Point Drive  
Las Vegas, NV 89134-7434

March 10, 1997

Ms. April Gil  
U.S. Dept. of Energy  
Office of Civilian Radioactive Waste Management  
Yucca Mountain Side Characterization Office  
P.O. Box 98608  
Las Vegas, Nevada 89193-8608

Dear Ms. Gill:

We the undersigned strongly oppose the storage of nuclear waste at YUCCA MOUNTAIN. Do not weaken guidelines.

Shirley Martin 2921 Day Road Ct 89154  
Evelyn F. Martin 9036 Dayling Dr LV 89134  
Arlene Johnson 2525 Court Capital Ln LV 89134  
Constance Martin 11732 D. Martin Ct  
Muriel Martin 11732 SUN CT YK 1134  
John Wise 10901 Fort Valley Ave  
Henry Wise 10901 Fort Valley Ave  
Harry Roberts 10913 Hard Haden Ave

SUN CITY RESIDENTS

8

Norma Ellman  
10612 Paradise Point Drive  
Las Vegas, NV 89134-7434

March 10, 1997

Ms. April Gil  
U.S. Dept. of Energy  
Office of Civilian Radioactive Waste Management  
Yucca Mountain Side Characterization Office  
P.O. Box 98608  
Las Vegas, Nevada 89193-8608

Dear Ms. Gill:

We the undersigned strongly oppose the storage of nuclear waste at YUCCA MOUNTAIN. Do not weaken guidelines.

Anne Lisagor 3136 Friss Dr. L.V. Nev.  
Stuvia B. Russell 9844 Ridge Creek Pl. LV, NV  
Hermie F. Labson 2525 LATON CT LV NV  
Lewis J. M. Russell 10905 7th Valley Ar LV-NV-89134  
Michael Westbrook 10905 7th Valley Ar LV NV 89134  
Sallya Lipson 3021 Swan Hill Dr. 89134

SUN CITY RESIDENTS

6

Norma Ellman  
10612 Paradise Point Drive  
Las Vegas, NV 89134-7434

March 10, 1997

Ms. April Gil  
U.S. Dept. of Energy  
Office of Civilian Radioactive Waste Management  
Yucca Mountain Side Characterization Office  
P.O. Box 98608  
Las Vegas, Nevada 89193-8608

Dear Ms. Gill:

We the undersigned strongly oppose the storage of nuclear waste at YUCCA MOUNTAIN. Do not weaken guidelines.

Harold Presner 11001 Hawk Valley Ave Las NV.  
William H. Hensley 11001 Hawk Valley Ave Las NV.  
Norma Matheson 10716 Argente Hill Dr L.V. NV.  
James Matheson 10716 Argente Hill Dr L.V. NV.  
Bernard Juchel 10640 ARGENT Hill Dr.  
Ed M Juchel 10640 ARGENT Hill Dr.  
Barbara Israel 10524 Shoshone Dr. 89134  
John Mark Marks 2324 Spring Water Dr 89134  
Jean Marks 2324 Spring Water Dr. LV 89134  
Bonnie Foster 10436 George Town Pl. L.V. 89134  
Eleon Wanchell 10317 Frostburg Ln 89134  
Marvin Wanchell 10317 Frostburg Ln LV 89134  
Walter Weyfel 11000 McKendree Ct 869 9110 - 89134  
Norma Klein 3001 BECKSTILL DR. 254-2630  
HAMILTON TOM 9607 GOLD BANK 255181  
Norma Klein 2528 Desert Butte Dr 89134  
Norma Klein 2528 Desert Butte Dr. 89134  
Babe Wanchell 9607 Gold Bank 29134

SUN CITY RESIDENTS

18

Norma Ellman  
10612 Paradise Point Drive  
Las Vegas, NV 89134-7434

March 10, 1997

Ms. April Gil  
U.S. Dept. of Energy  
Office of Civilian Radioactive Waste Management  
Yucca Mountain Side Characterization Office  
P.O. Box 98608  
Las Vegas, Nevada 89193-8608

Dear Ms. Gill:

We the undersigned strongly oppose the storage of nuclear waste at YUCCA MOUNTAIN. Do not weaken guidelines.

Lionel Goff 8521 Bayland Drive  
Miriam Goff 8521 Bayland Dr.  
Jamie Miller 8705 France Rd. Dr.  
Harold Wiener 10200 Villa Ridge Dr  
SAUEL GOLDSTEIN 9436 Gold Mountain Drive  
Jean Kummer 8812 Pennington Ave  
Lair Vivian Gates 9032 Grayling Dr.  
Ruth M Howard 2516 Silverton Dr.  
Edith Marcuzzi 2805 High Run Dr.  
Marty Farns 9036 Grayling Dr 89134  
Elmer J. Sullivan 2436 Silver 89134  
Lily Kozner 9328 Fresh Spring Dr.  
O. FLEMING 9809 BOSTON, WILLOW DR 89134  
Joan Johnson 10000 Hunter Springs Dr 89134  
Harold Strosser 2733 Singold Drive  
Joel Kelly 2432 PARKRIDGE DR  
Ruth Bagart 8508 Silkwood Ct. S

SUN CITY RESIDENTS

17

March 10, 1997

Ms. April Gil  
U.S. Dept. of Energy  
Office of Civilian Radioactive Waste Management  
Yucca Mountain Side Characterization Office  
P.O. Box 98608  
Las Vegas, Nevada 89193-8608

Dear Ms. Gill:

We the undersigned strongly oppose the storage of nuclear waste at YUCCA MOUNTAIN. Do not weaken guidelines.

Norma Ellman 10612 Paradise Point Dr  
Donna D. T. 2524 N. T. T. Dr  
Donna D. T. 2524 N. T. T. Dr  
Maria Simon 10717 Alton Down Dr  
JEAN W. FINER 2704 GOLFSIDE DR  
TRIS LEMING 9805 BUTON WILLOW DR  
Joanne Franklin 2640 Youngdale Dr  
RUTH EVORALES 8505 BAYVIEW DR  
Jane Edelman 9637 Buckhorn Dr.  
Yvonne Cardmon 9421 Elmloch Ct.  
Ether Rose 9301 Quince Blossom Dr.  
Eleanor Tramm 3028 Luma Bay Dr.  
Eleanor Hill 10413 Linfield Place  
Sandra Hollander 10945 Fort Valley Ave  
Wendy Hill 10945 Fort Valley Ave  
Marylou Thompson 2517 Rocky Plains Dr  
WILLIE VARNER 2525 DARK PINE LV. NV

SUN CITY RESIDENTS

17

Norma Ellman  
10612 Paradise Point Drive  
Las Vegas, NV 89134-7434

March 10, 1997

Ms. April Gil  
U.S. Dept. of Energy  
Office of Civilian Radioactive Waste Management  
Yucca Mountain Side Characterization Office  
P.O. Box 98608  
Las Vegas, Nevada 89193-8608

Dear Ms. Gill:

We the undersigned strongly oppose the storage of nuclear waste at YUCCA MOUNTAIN. Do not weaken guidelines.

Mary Weiss 8705 Prairie Hill Dr.  
Eugene Weisman 9720 1/2 Brandy Dr.  
Ruth Palmer 2425 Desert Butte Dr.  
Judy Wiener 10200 Villa Rica  
Max Palmer 2425 Desert Butte L.V. NV  
Allene Mizrahi 9257 January Ave. LV NV 89134  
Sybil Light 9321 January Ave  
Norman Asher 2837 Spalding Dr. LV NV 89134  
Thelma Brown 2905 High Range Dr. LV NV 89134  
Lillian Hudis 9712 White Cloud Dr. LV NV 89134  
Lydia & Hal Sanders 9048 Meadow Dr.  
Lillian & Steve Goldman 2612 Hanging Rock Dr. NV 89134  
Sheryl & Norman Epstein 2616 Hanging Rock Dr. NV 89134  
Rita Rubin 10717 Bunker Canyon Ct. L.V. 89134  
Raymond Minsky 9901 Heyfield Dr. 89134  
Marlene Katz 2833 Spalding Dr. NV 89134  
Marilyn Hamer 10713 Paradise Point Dr. LV 89134  
Norma McManus 9409 Sundial Dr. LV 89134  
Les McManus 9409 Sundial Dr. LV 89134

SUN CITY RESIDENTS

19

Norma Ellman  
10612 Paradise Point Drive  
Las Vegas, NV 89134-7434

March 10, 1997

Ms. April Gil  
U.S. Dept. of Energy  
Office of Civilian Radioactive Waste Management  
Yucca Mountain Site Characterization Office  
P.O. Box 98608  
Las Vegas, Nevada 89193-8608

Dear Ms. Gill:

We the undersigned strongly oppose the storage of nuclear waste at YUCCA MOUNTAIN. Do not weaken guidelines.

Faith Eisen 2743 Derby Filled dr  
Mar Luby 4 7 7

Elo Beedle 10603 S Horn Hill Dr L.V. 89134

Jeffrey Samuel 10603 S Horn Hill Dr L.V. 89134

John Plummer 2720 Lotus Hill Dr

Joe Chirba " " " "

Cela Jew Marshall 2816 BRIANWOOD CT

Sophie Maza 9216 VUCA PLACER

Joseph Maza " " " "

Sybil Miller 8905 Kingsmill Dr - L.V. 89134

Arthur Traum 2605 Byron Drive L.V. 89134

Beatrice S Tahl 2421 Benson Pk Dr L.V. 89134

Lewis S Tahl " " " "

Amye Werfel 19000 McKendree Ct. L.V. 89134

Lynise Gabel 10025 Hemenway Dr. LV 89134

Ben Lewis 2500 Blauden St. LV 89134

Sarah Greene 10029 Hope Island Dr. L.V. 89134

J. Lipon 3021 Sweet Hill Dr LV-89134

Shirley Helen DAVIDOV 2548 Sengstack CITY RESIDENTS

Robert Sedler 10509 Coddwell L.V. NV 89134

20  
14  
34

OVER



United States Environmental Protection Agency  
Office of Radiation and Indoor Air (6602J)  
Center for Waste Management  
Washington, D.C. 20460-0001

17 MAR 97

**received**  
#60 3/17/97

TELEFAX TRANSMISSION

FIVE PAGES TO FOLLOW

TO: APRIL GIL

TELEPHONE: 702-794-5578

FAX NUMBER: 702-794-1350

---

FROM: RAY CLARK

TELEPHONE: 202-233-9198

FAX NUMBER: 202-233-9626

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REQUEST: EPA'S COMMENTS ON PROPOSED AMENDMENTS TO 10 CFR  
PART 960





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

received  
#60 3/17/97

MAR 17 1997

OFFICE OF  
AIR AND RADIATION

April V. Gil, Ph.D.  
U.S. Department of Energy  
Office of Civilian Radioactive Waste Management  
Yucca Mountain Site Characterization Office  
PO Box 98608  
Las Vegas, NV 89193-8608

Dear Dr. Gil:

The Environmental Protection Agency (EPA) has reviewed the Department of Energy's (DOE) notice of proposed rulemaking to amend 10 CFR Part 960, "General Guidelines for the Recommendation of Sites for Nuclear Waste Repositories" as published in the December 16, 1996, Federal Register (61 FR 66158) and is submitting the enclosed comments.

Please call Albert Colli of my staff at 202-233-9221 if you have any questions.

Sincerely,

A handwritten signature in cursive script, reading "E. Ramona Trovato", is written over a horizontal line.

E. Ramona Trovato, Director  
Office of Radiation and Indoor Air

## ENCLOSURE

General Comments on the Proposed Amendments  
to 10 CFR Part 9601. Rationale for Changing the Guidelines

There is not sufficient explanation of why the original Guidelines need to be amended to apply solely to Yucca Mountain and why the basic approach in the revised Guidelines should be changed. In the existing Guidelines, a determination of site suitability was to be made only after considering a variety of factors in an integrated manner. The proposed rule needs to more clearly explain how it would include consideration of the 24 qualifying or disqualifying technical factors to develop a fully informed decision. In the third column, page 66163 of the December 16, 1996, Federal Register notice, DOE states "Indeed, the relevant technical factors in subparts C and D would still be considered; but, rather than each being evaluated against a specific independent technical guideline, the factors would be considered for their role in the system's performance." This statement suggests that the proposed site evaluation utilize a total-system approach to evaluating the qualifying and disqualifying conditions. A total-system approach would, in that context, identify and quantify the relative roles of natural and engineered barriers to the site's performance. This key determination should be stated explicitly in the regulatory language.

If DOE believes that explicit consideration of these factors independently is no longer important, the Preamble should explain why. It should also explain how the new approach will be implemented. The Agency is concerned that the simple one-step qualification approach of proposed Subpart E may not allow adequate evaluation of the factors and the underlying uncertainties associated with the results. Also, the Department needs to better explain why the site-suitability decision for Yucca Mountain will be made based on the single criterion of comparison with the EPA standards and Nuclear Regulatory Commission (NRC) regulations but that for other sites that determination will be made against technical Guidelines.

## 2. Necessary Data Gathering

The Agency notes that site characterization to date has been based upon the provisions of the previously applicable EPA standards in 40 CFR Part 191. Since EPA's standards for Yucca Mountain are being issued under a new authority, the Energy Policy Act of 1992, and will be based upon and consistent with recommendations of the National Academy of Sciences, there is a strong possibility that these standards will be different from those in the generic 40 CFR Part 191. It is not apparent that DOE's proposed rule has acknowledged that these new EPA standards may warrant the gathering of additional or different data to provide the basis for compliance. The proposed rule merely states that EPA standards will be used for compliance. The new Guidelines should state that the data-gathering and modeling pursued by DOE will be adequate or appropriate for determining compliance with future EPA standards.

## 3. Current State of Knowledge

The Department states that improved understanding of the site is a basis for proposing amendments to the Guidelines at this time. Much more is known about Yucca Mountain since the original Guidelines were written and EPA recognizes that DOE is striving to develop the more insightful and complex models that eventually will be needed to determine compliance. However, the models describing repository performance have changed significantly over the past several months. A major reason for these changes is new data which point to significantly faster water flow than was considered in DOE's total system performance assessment to date. As a result, there have recently been major changes in the conceptual model for ground water movement in the unsaturated zone. While the EPA understands that such models will evolve and become more complex, nowhere in the Guidelines has DOE made the case that the site characterization data base is, or will be, sufficient for the newer models. A fundamental question that the Guidelines should address is what data are necessary and how these data will be used to assess, including uncertainty, whether the Yucca Mountain site can be adequately modeled for decision-making purposes. The EPA believes that there continues to be a need for criteria which could be used to evaluate whether the data necessary to model a site as complex as

Yucca Mountain exist and, therefore, the amendments to 10 CFR Part 960 should not remove the existing criteria.

#### 4. Natural Barrier System and Associated Uncertainties

Site characterization data that have been obtained to date for Yucca Mountain indicate both positive and negative features of the natural setting that might affect waste isolation performance of a repository at the site. Low water-infiltration rates, unsaturated media, and zeolites in the Calico Hills formation, for example, all contribute to waste isolation capability. Conversely, fast paths for water transport have been found, flow in fractures may bypass the nuclide trapping capacity of the zeolites, and the radionuclide dilution and dispersion capacity of the saturated zone is virtually unknown. Overall, the waste isolation capability of the natural features of the Yucca Mountain site is at present highly uncertain and largely unassessed. The total-system approach proposed by the DOE could be viewed as masking this uncertainty and the potentially insufficient waste isolation capability of site features if the contributions and uncertainties of the natural and engineered barriers are not individually assessed. If, however, the Guidelines contained explicit requirements for the assessment of both natural and engineered barriers and the processes involved, including uncertainties, their relative contributions and uncertainties in the context of total system performance assessment would be clearly demonstrated.

A site-suitability evaluation approach is recommended in which the waste isolation capabilities of the natural site features are clearly characterized. The characterization should distinguish contributions of site features to performance for extended periods of time, and should be evaluated both independently and as part of an overall repository system performance assessment. This approach would enable assessment of the waste isolation role of site features, such as water infiltration and seismic activity. It would also make the role of natural barriers in containing radioactive wastes at Yucca Mountain in disposal safety performance as clear to members of the public. The assessments should also address explicitly the uncertainties in results that are the basis for findings concerning site suitability.

Addressing the relative role of uncertainties in evaluating the viability of the site as a repository should explicitly consider the interplay of uncertainties in the characteristics and performance of the natural and engineered barrier systems. The DOE is no doubt aware of the need to assess uncertainties and to present the site evaluation in a clear manner in this regard. To assure stakeholders that the site evaluation will address uncertainties, the guidelines could be written to explicitly require the assessment of uncertainties relative to the performance of the natural and engineered barriers. Alternatively, a more general approach could be used, incorporating some additional text in Subpart E, Paragraph 960.6-1 defining the scope of site performance assessments. Text illustrative of the point is offered below:

"Performance assessments used to evaluate compliance with the standards shall clearly characterize and demonstrate the roles of engineered barriers and the site's natural features as factors in achievement and maintenance of waste isolation. Uncertainties in the performance evaluation results which are the basis for findings concerning site suitability shall also be explicitly addressed."

To: 10CFR960  
cc:  
From: DAX @ co.clark.nv.us at pmdfpo@YMPGATE  
Date: 03/17/97 07:11:00 PM  
Subject: Comments on Proposed 10 CFR 960 Revisions

**received**  
#61 3/17/97

New Text Item: FILE.TXT

Attached are the comments of the Clark County Department of Comprehensive Planning, Nuclear Waste Division to the proposed revisions to 10 CFR 960. A hard copy will follow.

Clark County appreciates the opportunity to participate in the review process.



- 10CFR960.LTR



- 10CFR960.CMT

March 17, 1997

U.S. Department of Energy  
Office of Civilian Radioactive Waste Management  
Yucca Mountain Site Characterization Office  
P.O. Box 98608  
Las Vegas, NV 89193-8608

Attention: April V. Gil

**PROPOSED REVISIONS TO 10CFR960: GENERAL GUIDELINES  
FOR THE RECOMMENDATION OF SITES FOR NUCLEAR  
WASTE REPOSITORIES**

Dear Ms Gil:

Attached are comments on behalf of the Clark County Department of Comprehensive Planning, Nuclear Waste Division regarding the proposed revisions to 10CFR960: General Guidelines for the Recommendation of Sites for Nuclear Waste Repositories. This is a supplement to comments provided by Clark County at the Public Hearing held on January 23, 1997 at the University of Nevada, Las Vegas.

If there are questions please contact me, or Engelbrecht von Tiesenhausen at (702) 455-5175.

Sincerely,

(Signed; hard copy to follow)

Dennis A. Bechtel, Manager

Attachment

cc: Donald L. Shalmy  
James Ley  
Richard B. Holmes  
Bonnie Rinaldi

10cfr960.ltr

**PROPOSED REVISIONS TO THE  
GENERAL GUIDELINES FOR THE  
RECOMMENDATION OF SITES (10CFR960)  
FOR NUCLEAR WASTE REPOSITORIES**

**Introduction**

The following are comments from the Clark County, Nevada, Department of Comprehensive Planning, Nuclear Waste Division, on the proposed revisions to the General Guidelines for the Recommendation of Sites (10CFR960). Clark County, Nevada, was designated by DOE as an "affected unit of local government" on April 21, 1988 under provisions of *The Nuclear Waste Policy Act, as amended (Title V of PL. 100-203)*. This is in recognition of the potential impacts that could occur to Clark County, Nevada, from activities associated with the program to characterize the Yucca Mountain site to determine its suitability for development as a site to permanently dispose of spent commercial nuclear fuel and high-level defense waste.

**Background**

Clark County includes the cities of Boulder City, Henderson, Las Vegas, Mesquite and North Las Vegas, has a population of more than 1.2 million residents (more than 60 percent of Nevada's population), and plays host to more than 32 million tourists annually. Although some 65 miles south of Yucca Mountain, Clark County has experienced a considerable number of shipments of nuclear waste because of Nevada's rugged topography and limited highway system. Likewise, more than 90 percent of Yucca Mountain, and Nevada Test Site workers reside in Clark County.

The Department of Comprehensive Planning has monitored the Yucca Mountain Program since 1983, has a Division that has as its responsibility Yucca Mountain issues including an active presence at the Yucca Mountain site. Issues of concern to Clark County citizens and government include ensuring that the health and safety of its citizens are protected, that the economy retains its vibrancy, and that the quality of life of its residents is maintained.

In addition, there is concern about the process that is being employed to determine whether in fact Yucca Mountain is in fact a suitable site for the long-term storage of spent commercial nuclear fuel and high-level radioactive waste.

**Proposed Revisions to 10 CFR Part 960**

On December 16, 1996, DOE published a notice in the Federal Register for a proposed rulemaking to amend 10CFR960. As indicated in the summary the proposed rule would be modified to *"provide that a total system assessment of the performance of a proposed site-specific repository design within the geologic setting of Yucca Mountain would be compared to the applicable regulatory standards to determine whether the site is suitable for a repository."*

The following summarizes some of Clark County's concerns with the proposed amendments to 10 CFR Part 960.

1. DOE's proposal to deviate from Section 112(a) of the Nuclear Waste Policy Act, and a process defined by Congress to determine the suitability of the Yucca Mountain site.
2. The elimination of several important pre-closure characteristics in the proposed revisions, also deviating from Section 112(a) criteria.
3. In the absence of standards and regulations, to be determined by the Environmental Protection Agency (EPA), and Nuclear Regulatory Commission (NRC) respectively, there is an uncertainty understanding how DOE can design a program and collect appropriate information to determine suitability.

in  
site



## 1. Deviation from Section 112(a) of the Nuclear Waste Policy Act

The Nuclear Waste Policy Act in Section 112(a) established guidelines for the Recommendation of Candidate Sites for Site Characterization. While 10CFR960 was, in fact, promulgated to compare several sites by noting that, . . . *Such guidelines shall specify detailed geologic considerations that shall be primary criteria for the selection of sites in various geologic media.* It further states, however, that . . . *Such guidelines shall specify factors that qualify or disqualify any (emphasis added) site from development of a repository*

The objective as we understand it, was to examine those individual factors that could contribute to the failure of a repository to contain these highly dangerous wastes from the "accessible environment" for thousands of years. The objective, of course, was that the process for selection was sufficiently rigorous that the public and environment would be protected for thousands of years. Section 112(a) went on to specify a number of factors during pre- and post-closure including . . . *the location of valuable natural resources, hydrology, geophysics, seismic activity, and the transportation and safety factors involved in moving such waste to a repository . . .* These were further defined to determine whether qualifying or disqualifying conditions were present.

While in and of themselves not perfect in understanding the synergies of coupled processes' they, nonetheless, provide evidence of the physical capabilities of the site to contain either waste, or permit pathways of escape for radionuclides to the accessible environment. The proposed systems approach will place more emphasis on the engineered barriers than on the geologic ones. In the case of the State of Nevada and the Environmental Defense Fund, et al v. J.D. Watkins the decision indicated that In fact DOE indicated that "[they] had not intended to allow the capabilities of engineered barriers to compensate for geologic deficiencies at any site." and that the "contribution of engineered barriers to the ability of a repository system at each site to contain radioactive waste was minimized." The obvious concern is that "engineered barriers" are being substituted to temporarily overcome some physical site deficiency.

It is interesting that until fairly recently DOE also agreed that the current 10CFR960 was adequate. On August 4, 1994 DOE, for example, announced "that it would continue to use the Guidelines in 10 CFR Part 960 as currently written, subject to the programmatic reconfiguration directed by the 1987 amendments to the NWPA."

As late as September 14, 1995 DOE in fact provided (in the Federal Register) notice of its reasons for not changing 10CFR960. DOE stated that "The siting provisions of the guidelines set forth in 10 CFR 960 were identified in the Site Characterization Plan as the primary criteria required by section 113(b) of the NWPA to be used to determine the suitability of the Yucca Mountain site for development of a repository."

In the 1996 draft Civilian Radioactive Waste Management Program Plan, however, DOE indicated that the siting guidelines would be changed to incorporate the requirements of the EPA standard ( yet to be released) and the subsequent changes to the NRC regulations (to be promulgated based on the EPA standard).

DOE by moving, as indicated in their notice of proposed rulemaking on December 16, 1996, in moving to a total system performance assessment as an indicator of site suitability is eliminating the individual performance measures given in 10CFR Part 960. This is in direct conflict with the statement made in the Federal Register on September 14, 1995 where DOE states in the last paragraph ". . . The DOE will make specific findings regarding the applicable qualifying and disqualifying conditions identified in the post-closure and pre-closure provisions in 10 CFR Part 960 Subparts C and D respectively, in making its decision whether to recommend the Yucca Mountain site for development as a repository."

The timing of the change coupled with DOE's acceptance of the original regulation for some eight years after the passage of the Nuclear Waste Amendments Act of 1987 make's DOE's argument for change in 1997 tenuous.

## 2. The elimination of several important pre-closure characteristics in the proposed revisions

The revisions to 10 CFR 960 also propose to eliminate a number of substantive criteria concerned with the pre-closure phase of the facility. In fact, the pre-closure phase, when one could expect that the cask systems would maintain their integrity (less than a century), is eliminated completely.

Of particular concern are the socioeconomic and transportation criteria noted in the currently operational 10 CFR 960.

The criteria for "Potentially Adverse Conditions," for example, in §960.5-2-7(c)(4) [page 47765] states a potentially adverse condition is one that "... *could cause the transportation-related costs, environmental impacts, or risk to public health and safety from waste transportation operations to be significantly greater than those for other comparable siting options*"

The text notes that "... DOE is not specifying separate system guidelines for the Transportation, Socioeconomic, and Environmental considerations for Subpart E ..." for pre-closure. The rationale given for their exclusion is that they were originally intended to provide a broad basis for site evaluation and for comparisons among multiple sites. The reasons that these attributes of siting were included in the 1984 version of 10CFR960, however, are still valid today. These categories are still extremely important elements in considering pre-closure at one site as they are when evaluating three or more sites. The *environmental, socioeconomic, and transportation criteria*, are all important individual components in the total repository program, and are significant reasons for the retention of the current standards.

If DOE is truly interested in a "systems" approach, particularly in the pre-closure phase, they will acknowledge that a full range of on-site and off-site issues need to be qualified. The term "site-specific" should also relate to those issues for entities that have been designated as "*affected units of local government*" by DOE.

3. In the absence of standards and regulations, to be determined by the Environmental Protection Agency (EPA), and Nuclear Regulatory Commission (NRC) respectively, there is an uncertainty in understanding how DOE can design a program and collect appropriate information to determine site suitability.

The use of models to predict the performance of a natural and engineered barrier system for thousands of years into the future is, at best, fraught with uncertainty. This uncertainty overrides all other considerations particularly when there is insufficient data available and when, due to the lack of data the models cannot be calibrated; or the models themselves need considerable additional physical data to represent the actual system.

Since the revised regulations are to be used to predict site suitability in 2001 there is less than five years left for DOE to collect data on the critical issue of the effects of, for example, of thermal loading on the ability of the geologic and engineered barrier system to successfully isolate the waste. This, we feel, is an insufficient time period to collect the required data, let alone to analyze the implications on the coupled processes that will be affected by the thermal load.

In addition, the effects on container corrosion cannot be predicted if the geochemical environment is not sufficiently understood. This is without even considering such long term effects as, for example, embrittlement of the disposal canister, and physical property degradation due to the thermal environment and exposure to high radiation. Other issues such as geohydrology are similarly lacking in data and understanding (e.g., the hydraulic gradient adjacent to the Yucca Mountain site). The situation becomes further complex if a systems approach is utilized in examining the performance of the site.

The possible change from a release to a dose-based performance standard also has considerable implications to the data that is required to understand the saturated zone. DOE has been concentrating data collection efforts on the unsaturated zone, (the critical zone in a release based standard) and has not been collecting sufficient data to adequately characterize the saturated zone. This could lead to a continuation of an apparent desire to substitute judgement/expert elicitation for data collection. At present it is difficult to determine how much additional data

collection is planned in this area and whether it will be sufficient to address the issue of, for example, dilution. While some of this data may be available (assuming an adequate drilling and testing program is initiated) for TSPA LA it will definitely not be there for TSPA VA.

All these comments underscore the vast amounts of uncertainty that will still exist when this proposed process will be used to determine site suitability. While an integrated systems approach with adequate data and models reflecting reality will assist in determining the suitability of the site, it is our contention that insufficient time and data will be available by 2001 to provide assurances that the public (or "critical group") will be protected within a time frame that will ameliorate the effects of this highly dangerous material.

#### Summary

The last issue that needs to be considered is the effect that the proposed revisions will have on public and others. There is already considerable understanding on the part of the public, and others, that "politics" is driving the process to determine the suitability of the Yucca Mountain site. To revise guidelines that have been in force since 1984, particularly for the reasons proposed, will almost certainly confirm in the minds of the general public that the determination of "suitability" is the result of an agenda that is more political than technical.

When the Nuclear Waste Policy Act (NWPA) was approved in 1983 there was much optimism that the government had finally developed policies to resolve a highly contentious problem that had been ignored far too long. Perhaps more importantly was the fact that the NWPA legislation that had fair and equitable policies about the final resolution of the problem. Also, the NWPA provided a sound technical basis for siting a facility that has been proposed to last longer than recorded history. We should, therefore, retain the current process to ensure that in fact long-term technical objectives are met, and not short-term political ones.

#### Recommendation

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

*Bob Murray*

3/18/97

*all  
Bonnie F.  
Susan K.*

Wendy Dickson  
EIS Manager  
U.S. Department of Energy  
1180 Town Center Drive  
Mailstop 010  
Las Vegas, Nevada 89134

2-28-97

**received**  
#60 3/18/97  
#62 *for*

Dear Wendy Dickson,

I am writing to you in regards to the proposed Yucca Mountain Nuclear Waste Repository. There are a number of concerns I have concerning the way this is being handled. First it is very alarming that the D.O.E. is changing the regulations that are necessary to determine if the site is suitable.

By doing so the DOE is undercutting any remaining scientific credibility in a decision to develop Yucca Mountain. Secondly DOE needs to consider the transpiration of waste to the sight.

The transportation of nuclear waste to the sight impacts at least 43 states. Over 50 million Americans live within a half mile of projected waste routes. Thirdly, the D.O.E. should preserve specific technical parameters that will qualify or disqualify Yucca Mountain, and these should be the same as those applied to any other site. There should be no compromise when it comes from the isolation of nuclear waste and the environment. I urge you to insure that any decision that effects the next 12,000 generations be made with regulations as stringent as possible and the best work possible from our government.

Sincerely,

*F. Frigo*

*Françoise Frigo  
P.O. Box 1953  
Idyllwild, CA 92549*

030/69



**AGENCY FOR NUCLEAR PROJECTS  
NUCLEAR WASTE PROJECT OFFICE**

Capitol Complex  
Carson City, Nevada 89710  
Telephone: (702) 687-3744  
Fax: (702) 687-5277

**received**  
63 3/20/97

March 7, 1997

April V. Gil  
U.S. Department of Energy  
Yucca Mountain Site Characterization Office  
P.O. Box 30307  
North Las Vegas, NV 89036-0307

**RE: Notice of Proposed Rulemaking: 10 CRF Part 960. General  
Guidelines for the Recommendation of Sites for Nuclear Waste  
Repositories. 61 FR No. 242, December 16, 1996, 66158-66169.**

Dear Ms. Gil:

The Nevada Agency for Nuclear Projects Nuclear Waste Project Office is the agency charged by Nevada Statute to oversee the federal high-level nuclear waste program. We are providing these comments on the subject Notice of Proposed Rulemaking in that capacity, on behalf of the State of Nevada.

**Previous Statements for the Record:**

On December 24, 1996 Governor Bob Miller wrote to Secretary of Energy Hazel O'Leary (copy attached) regarding this proposed rulemaking. He wrote that "the proposed rule does not comply with the clear direction in Section 112(a) of the Nuclear Waste Policy Act, as amended, which requires specific factors that qualify or disqualify any site from development as a repository." He concluded that the proposed rule should be withdrawn, and that "[t]he proposed approach, if adopted, will result in legal challenge by the State of Nevada..."

In her written statement for the record at the Public Hearing (copy attached) on the proposed rule, on January 23, 1997, Nevada Attorney General Frankie Sue Del Papa detailed her conclusion that the proposed rule does not comply with the requirements of the

Nuclear Waste Policy Act, as amended. She further challenged the Department of Energy's claim to have received new Congressional direction as its authority to make this proposal. This new authority is said by DOE to be derived from the May 1996 draft revised Civilian Radioactive Waste Management Program Plan having been cited in the Conference Report on the 1997 Energy and Water Appropriations Act. The revised Program Plan speaks to a regulatory change similar to that now proposed in this rulemaking.

Attorney General Del Papa further stated for the record:

"It is improper for the DOE to obfuscate the deficiencies of either the guidelines or the site by substituting a new set of guidelines which is based upon the subjective opinion by unspecified persons that the site may perform satisfactorily, a process which has no support in law. My office will have no choice but to challenge this improvident decision, if pursued, in court."

Technical Comment:

The May 1996 draft revised Civilian Radioactive Waste Management Program Plan states, "The siting guidelines will be revised to identify the criteria and clarify the process for evaluating the suitability of the Yucca Mountain site." The criteria, as proposed in the rule, are the yet-to-be promulgated Environmental Protection Agency repository standards specific to Yucca Mountain, and applicable Nuclear Regulatory Commission regulations for repository licensing and operation. The process for evaluating the suitability of the Yucca Mountain site is proposed to be DOE's repository system performance assessment. At the time the Secretary of Energy makes a recommendation to the President that the Yucca Mountain site be developed as a high-level nuclear waste repository, the system performance assessment will still be evolving. The revised Program Plan calls for the recommendation to be made in fiscal year 2001.

As proposed, the suitability evaluation, therefore, will be DOE's determination, prior to the 2001 site recommendation, that the site complies with the applicable EPA and NRC requirements, based on the system performance assessment at that time.

System performance assessment relies on realistic and conservative models of the natural systems of the site and their interaction with models of the planned engineered system. The extent to which the models can be considered realistic and conservative relies on the extent to which the models are supported by, and reflect actual data collected from the site and the man-made components of the planned engineered system. Large data uncertainties and incomplete data lead to large model output

uncertainties, and therefore, large uncertainty in system performance projections.

There will always be uncertainties in performance assessment, especially for a geologic repository system. Orders of magnitude of uncertainty for some model outputs are not unexpected in some components of the system performance model. Some of the uncertainty can be reduced by further investigation and data collection, which, by DOE's own plans will continue after the guidelines are applied for the suitability evaluation and site recommendation.

In one critical area of repository performance, DOE acknowledges that there will be large uncertainty, due to lack of data at the time of site recommendation. This is the response to the thermal pulse imposed on the system by the emplacement of heat-generating waste. It is acknowledged that data collection from heat-up and cool-down in an accelerated drift-scale underground thermal test will not be complete, and certainly will not have been evaluated as to its representativeness for the full scale repository at the time the proposed new guidelines are applied. This alone could lead to orders of magnitude of uncertainty in repository system performance evaluation. Given just this one case of large uncertainty, it is scientifically indefensible to use this assessment as a basis for comparison with quantitative regulatory criteria, i.e. the EPA standard and NRC licensing regulations, and then to use this evaluation as a basis for a Secretary of Energy final decision as to whether the site is suitable.

If the proposed guideline amendment is said, by DOE, to rely on the revised Program Plan for its basis of authority, then the amendment must be reflective of all parts of the Program Plan. In the case of the thermal pulse consideration, the revised Program Plan does not provide for key data collection that would support a site suitability evaluation by the time called for in the Plan. This alone, if the Plan is followed, is sufficient justification, under the proposed rule, to challenge the technical credibility of the suitability determination.

#### Conclusion:

Taken together, the attached previous statements of Nevada officials and the technical comment in this letter constitute the State of Nevada comments on the proposed rule. In summary, our conclusion is that the proposed rule does not comply with the requirements of the Nuclear Waste Policy Act, as amended, and should be withdrawn. Further, if the rule, as proposed, is promulgated and applied as a measure for determining the suitability of the Yucca Mountain site in accord with the Revised Program Plan, that determination will be challenged as lacking substantive basis.

If you have questions about these comments please contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert R. Loux", written over the printed name.

Robert R. Loux  
Executive Director

RRL/cs

2 Attachments





STATE OF NEVADA  
EXECUTIVE CHAMBER

Capitol Complex  
Carson City, Nevada 89710

BOB MILLER  
Governor

TELEPHONE  
(702) 687-5670  
Fax: (702) 687-4486

December 24, 1996

The Honorable Hazel O'Leary  
The Department of Energy  
Intergovernmental Affairs Office  
CI-30, Room #7B164  
1000 Independence Ave., S.W.  
Washington, D.C. 20585

Dear Secretary O'Leary:

On Monday, December 16th, the Office of Civilian Radioactive Waste Management (OCRWM) of the Department of Energy published, for public comment, a proposed rule revising 10 CFR 960, General Guidelines for the Recommendation of Sites for Nuclear Waste Repositories. I am writing to express my very strong objection to this action on the following grounds.

First, the proposed rule does not comply with the clear direction in Section 112(a) of the Nuclear Waste Policy Act, as amended, which requires specific factors that qualify or disqualify any site from development as a repository. It further sets out a number of technical factors which must be addressed by these qualifying and disqualifying conditions, including geology, hydrology, the location of valuable natural resources, nearby atomic energy defense activities, proximity to water supplies and effect on the rights of water users, transportation and safety factors involved in moving the waste to a repository, etc. The proposed rule violates the statute as it does not address these factors and the requisite qualifying and disqualifying conditions.

Second, the Guideline revision substitutes, for these specific factors, a more general system analysis approach, OCRWM is proposing that, if the overall performance at Yucca Mountain can be shown to meet the yet-to-be promulgated Environmental Protection Agency radiation standards, then the site should be recommended for development as a repository. Not only does this approach violate the clear direction in the statute, but it ignores the same technical

The Honorable Hazel O'Leary  
December 24, 1996  
Page 2

factors described above that are not capable of being evaluated in a total systems performance assessment.

One can only assume that the Department of Energy officials believe that Yucca Mountain would be disqualified as a repository under the existing Section 112(a) guidelines. This approach appears to continue a very tradition of this program: If Yucca Mountain can't meet the safety rules--then change the rules.

Madam Secretary, this approach is totally unacceptable, and the proposed rule should be withdrawn. This is simply too important an issue to substitute a new, subjective approach to determining the suitability of Yucca Mountain, one that is of DOE's own making, for the clear, objective approach that Congress prescribed in adopting section 112(a) of the Nuclear Waste Policy Act of 1982, as amended.

The proposed approach, if adopted, will result in legal challenge by the State of Nevada and further erode the credibility of an already controversial program. This attempt to rewrite the law to eliminate the need to consider and evaluate important factors which, if present as they appear to be, would compromise the safety of the site and of the citizens of this state far into the future, something that I, as Governor, will not allow to happen.

Sincerely,



BOB MILLER  
Governor

BL/RU/jla

WRITTEN STATEMENT OF FRANKIE SUE DEL PAPA  
ATTORNEY GENERAL OF NEVADA  
REGARDING THE DEPARTMENT OF ENERGY'S  
PROPOSED AMENDMENTS TO 10 CFR 960  
SUBMITTED AT HEARING  
LAS VEGAS, NEVADA  
JANUARY 23, 1997

## INTRODUCTION

On December 16, 1996, the Department of Energy proposed to amend 10 CFR 960; General Guidelines for the Recommendation of Sites for Nuclear Waste Repositories (Siting Guidelines), 61 Federal Register 66157 (December 16, 1996). The proposed amendments to the Siting Guidelines are inconsistent with the federal statute (Section 112(a) of the Nuclear Waste Policy Act, 42 U.S.C. 10132 (a)); inconsistent with the Ninth Circuit Court of Appeals reasoning in three cases: *Nevada v. Watkins*, 914 F.2d 1545, 1562 (9th Cir. 1990)(*Watkins I*); *Nevada v. Watkins*, 939 F.2d 710, 716 (9th Cir. 1991) (*Watkins II*); and *Nevada v. Watkins*, 943 F. 2d 1080 (9th Cir. 1991) (*Watkins III*); and bad public policy. The office of the Attorney General of the State of Nevada opposes the proposed amendments in their entirety. Nevada's Governor has also stated his opposition on behalf of the State of Nevada. See attached letter, Governor Robert Miller to Secretary Hazel O'Leary, dated December 24, 1996.

In 1982, Congress established a political compromise with the states in which the Department of Energy was then exploring the potential for deep geological sites for the placement of high-level nuclear waste repositories, a compromise now long since dashed by inconsistent administrative actions of the Department and the political power and self interest of the nuclear power industry. The compromise resulting in the enactment of the Nuclear Waste Policy Act of 1982, 42 U.S.C. §§ 10101 *et seq.*, required the Department to study sites in

various geologies ("site characterization," 42 U.S.C. 10133), measure what DOE scientists found against pre-established minimum physical conditions ("siting guidelines," 42 U.S.C. 10132(a)) and compare the waste containment competence of each site on the basis of the respective site's physical attributes.

In 1984, the Department of Energy began what was to become a pattern of compromises to the site characterization process envisioned by the Congress in 10133(b) by the enactment of siting guidelines which contained subjective evaluation criteria and subjective minimum conditions (49 Fed. Reg. 5670, December 6, 1984). Nearly every state which had a candidate site challenged the guidelines in court cases which were eventually consolidated in the Ninth Circuit Court of Appeals.

By 1987, the Department had so politicized the evaluation process, thereby offending politically powerful states, that a frustrated Congress abandoned site characterization at other potentially competent sites. Congress, however, left intact the requirement in 42 U.S.C. 10132(a) that the Department measure what it learned about Yucca Mountain against objective, preestablished minimum physical conditions.

Now the Department wants to make the comparative process even more subjective by removing the requirement that the physical attributes of Yucca Mountain be measured against the present guidelines. The Department's proposed new approach would establish nothing more than a subjective prediction that Yucca Mountain will work in terms of total system performance. This approach abandons the statute, further abandons the political compromise, and most importantly, abandons the policy expectation that minimum physical attributes will exist in any deep geological disposal site.

Nevada sought the Ninth Circuit Court's assistance in 1985 to direct the Department to enact objective siting guidelines. In 1991, the Ninth Circuit found the issue premature, determining that the issue must be addressed when the Department uses the guidelines, not when it drafts them. *Watkins II*, *supra*. In 1990, Nevada again sought the Court's assistance in requiring the DOE to institute a "methodology, some formalized system of data collection, evaluation and decision making, to determine *early and throughout* the [site characterization] process, whether or not *any* Disqualifying Conditions exist, and if so, for making the required decision to terminate work at the site *whenever* such a condition is found." *Watkins II*, *supra*, at 1561. The Court held that although "the guidelines developed by the Secretary pursuant to section 10132(a), are to be utilized to determine the suitability of Yucca Mountain for the location of the repository," (*Id.* at 1562), "[b]ecause the Secretary is not required to promulgate regulations governing the timing of a disqualification decision, judicial review of his decision not to do so is not available under section 10139(a)" (*Id.* at 1563), and "the timing of a disqualification decision is committed to the Secretary's discretion by law" (*Id.* at 1564).

*Watkins I* and *Watkins II*, at a minimum, stand for the proposition that the guidelines which were promulgated by the DOE in 1984 and upon which the Yucca Mountain site was selected for characterization were to be used to determine the suitability of the site, and at the time of a suitability determination the validity of the guidelines would be subject to review by the Ninth Circuit or District of Columbia Courts of Appeals. The DOE's present intention to substitute the proposed new guidelines for the guidelines which have governed the site characterization process for the past 12 years is an admission either that the guidelines will not satisfy such a review or that the site cannot satisfy the guidelines. In either case, the process

self destructs. It is improper for the DOE to obfuscate the deficiencies of either the guidelines or the site by substituting a new set of guidelines which is based upon the subjective opinion by unspecified persons that the site may perform satisfactorily, a process which has no support in law. My office will have no choice but to challenge this improvident decision, if pursued, in court.

### **THE REQUIREMENTS OF SECTION 112(a) OF THE NUCLEAR WASTE POLICY ACT WILL BE VIOLATED BY THE PROPOSED RULE.**

The proposed rule does not comply with the clear direction of Section 112(a) of the Nuclear Waste Policy Act which clearly requires that the siting guidelines specify factors that qualify or disqualify any site from development as a repository.

*"Such guidelines shall specify detailed geologic considerations that shall be primary criteria for the selection of sites. . . . Such guidelines shall specify factors that qualify or disqualify any site from development as a repository, including factors pertaining to the location of valuable natural resources, hydrology, geophysics, seismic activity, and atomic energy defense activities, proximity to water supplies, proximity to populations, the effect upon the rights of users of water, and proximity to components of the National Park System, the National Wilderness Preservation System, or National Forest Lands. Such guidelines shall take into consideration the proximity to sites where high-level-radioactive waste and spent nuclear fuel is generated or temporarily stored and the transportation and safety factors involved in moving such waste to a repository. . . . Such guidelines also shall require the Secretary to consider the cost and impact of transporting to the repository site the solidified high-level radioactive waste and spent fuel to be disposed of in the repository and the advantages of regional distribution in the siting of repositories.*

Under the DOE's proposed amendment to the siting guidelines "Discrete, independent findings on individual technical factors would not be required." 61 Fed. Reg. 66160. But independent findings on individual technical factors is required by Section 112 (a). Those technical factors which should make up the guidelines must be "use[d] . . . in considering

candidate sites for recommendation [to the President for development as a repository] under subsection (b) of this section." The Ninth Circuit Court of Appeals has ruled that "the site recommendation guidelines, issued pursuant to section 112(a) of the NWPA, 42 U.S.C. §10132(a) (1988) require the Secretary to address site ownership and jurisdiction issues as well as transportation issues in any recommendation he [she] makes to develop Yucca Mountain as a repository site. *Watkins III* at 1086, note 9. Predictably, in a case which my office may be compelled to bring, the Ninth Circuit Court of Appeals will likely hold that the siting guidelines must also require that the Secretary address the other independent factors listed in section 10132(a) in advance of recommending Yucca Mountain for development as a repository.

In its "Description of Proposed Action" the Department states that:

the DOE has now determined that a system performance assessment approach provides the most meaningful method of evaluating whether the Yucca Mountain site is suitable for development of a repository. The performance assessments (4-6) conducted to date have consistently driven the DOE to focus its evaluation of the Yucca Mountain site on those aspects most important to predicting how the overall system will perform in isolating and containing waste. *61 Fed. Reg. 66160*.

Overall system performance is not, however, the determination required by section 112(a). The Department is not permitted to "focus its evaluation," but rather to determine how Yucca Mountain stacks up against all the statutorily required technical factors.

Although Congress's 1987 Amendments to the Nuclear Waste Policy Act "eliminat[ed] the [Department's] authority to consider other potential sites" for development, or consider them as alternative choices in the Department's final environmental impact statement, 42 U.S.C. 10134(f)(3); <sup>61 Fed. Reg. 66160</sup> (*Watkins III, supra*), Congress did not eliminate the requirement that the

Department compare what it learns about Yucca Mountain against what it knows about other sites as a means of evaluating the competency of Yucca Mountain as a repository site. Had Congress wanted to eliminate that requirement, it could have repealed or amended section 112(a). Congress has not.

**THE DEPARTMENT DERIVES IMPROPER AND WRONG CONCLUSIONS FROM THE AUTHORITIES ON WHICH IT RELIES TO SUPPORT ITS PROPOSED AMENDMENTS.**

The Department relies on language within the Conference Report on the Fiscal Year 1996 Energy and Water Development Appropriations Act, H.R. Rep. No. 293, 104th Cong., 1st Sess., 68 (1995) and the Report on the Energy and Water Development Appropriations Act, 1997, H. R. Rep. No. 782, 104th Cong., 2d Sess. 82 (1996) for the suggestion that Congress is prepared to accept a subjective "performance assessment" approach in place of an objective technical factor approach to site suitability. It is an elementary principle of statutory interpretation that construing courts need not consider the legislative intent contained in committee reports or individual expressions of members where an unambiguous statute provides clear direction. The clear direction of section 10132(a) obviously prevails over later observations about its meaning, notwithstanding the fact that individual, pro-nuclear utility oriented members of the Congress, Congressional committees or the Department of Energy would impose a different interpretation. The Department misconstrues those statements in any event. The direction of the Conference Report on the Fiscal Year 1996 Energy and Water Development Appropriations Act, H.R. Rep. No. 293, 104th Cong., 1st Sess., 68 (1995), that the Department "refocus the repository program on completing the core scientific activities at Yucca Mountain" and "collect the scientific information needed to determine the suitability of the Yucca Mountain site," *61 Fed. Reg.*



66160, better suggests a Congressional admonition to comply with the technical factor approach mandated by section 10132(a), rather than to propose a subterfuge for avoiding it. My office will be forced to challenge the Department's interpretation.

Congress left section 10132(a) intact when it amended the Nuclear Waste Policy Act in 1987, as it did in the several opportunities it has had to amend it since then. Section 10132(a) provides the only authoritative direction to the department. It is entirely clear that the statute prevails and the Secretary should not rely on conflicting statements or erroneous departmental interpretations of less authoritative sources as a pretext to subvert the statute.

### **THE PROPOSED AMENDMENTS TO THE SITING GUIDELINES ARE BAD PUBLIC POLICY**

The selection of a sound solution to the nation's nuclear waste problems is a process of managing potentially huge risks to the environment and public health. As with the protection of any investment against the risk of loss, the policy alternatives are consolidation of all venture assets into one risk opportunity or spreading venture assets into broad and alternative risk opportunities. We submit that spreading the risk is the better alternative, for it does not portend total failure. Unfortunately, Congress chose the poorer alternative when it consolidated all the Department's efforts at Yucca Mountain in 1987. If Yucca Mountain fails, the United States has no viable alternative for a geologic disposal site.

Once the bad policy choice has been made, however, it becomes imperative to learn the real deficiencies of the chosen single risk opportunity as soon as possible. Evaluation of Yucca Mountain under "specific factors that qualify or disqualify any site from development as a repository" provides that early warning. The Department's objective should be to provide Congress and the public with the greatest possible information regarding the technical merits of

the Yucca Mountain site at the earliest opportunity. The guidelines claim in *Watkins I* was an effort by Nevada to persuade the DOE to recognize this basic proposition. Unfortunately, the Department did not get the message.

A "performance assessment" which overlooks Yucca Mountain's technical competence and determines merely that the site "allows for" containment and isolation of radioactive waste does not provide an early warning of the deficiencies of the site. Rather, it permits the Department to hide Yucca Mountain's technical deficiencies and shortcomings in an abyss of subjective opinion. Deficiencies involving unreasonable environmental and public health risks will cause severe investment loss when it becomes necessary to confront them. The question is not if, but when.

The Ninth Circuit's decision in *Watkins I* and *Watkins II* that assessment of the risk of environmental and public health injury against predetermined technical factors was not required until the Secretary makes a site recommendation and could not be reviewed before then, although technically correct, was bad public policy because it has permitted postponement of the decision to terminate site characterization at Yucca Mountain pursuant to 10134(f) when such termination is warranted by known deficiencies in the site. The abdication of a credible technical assessment through the substitution of a subjective performance assessment for true evaluation against objective technical factors is an even worse public policy decision because it carries with it the pronounced risk that an unsuitable site will be selected for development as a repository. My office will ask the Ninth Circuit Court of Appeals to intervene, if necessary, to see that this does not happen.

The DOE should find little comfort in the Court's decisions in the *Watkins* cases because the Court did recognize that it would review a circumstance in which the Department failed to promulgate any guidelines. The proposal put forth in the December 16, 1996, Federal Register notice is tantamount to a such a failure.

## CONCLUSION

The Department of Energy should not amend 10 CFR 960 in the manner proposed in 61 Fed. Reg. 66158. Performance assessments are not a wise or legal substitute for solid evaluation of Yucca Mountain's physical characteristics against preestablished geophysical and institutional prerequisites. The public interest in the health and well being of our Nation's citizens demand that the Department of Energy comply with established federal law.

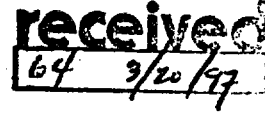


# INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS®

ALFRED K. WHITEHEAD  
General President

VINCENT J. BOLLON  
General Secretary-Treasurer

March 14, 1997



Ms. April V. Gil  
U.S. Department of Energy  
Office of Civilian Waste Management  
Yucca Mountain Site Characterization Office  
P.O. Box 98608  
Las Vegas, Nevada 89193-8608

Re: General Guidelines NOPR  
Docket No. RW-RM-96-100

Dear Ms. Gil:

The International Association of Fire Fighters ("IAFF") represents more than 225,000 fire fighters and emergency medical personnel. These emergency responders are the first line of defense during any hazardous material incident, including those that involve highly radioactive material. Because our members provide this essential service, the IAFF has taken an active interest in regulations that affect the transportation and storage of such materials. We today offer our comments on the noted Notice of Proposed Rulemaking.

In 1984, DOE's General Guidelines for the Recommendation of Sites for Nuclear Waste Repositories provided that possible sites for nuclear waste repositories would be evaluated on the basis of eleven technical guidelines, including transportation. The transportation issues to be considered primarily involved the evaluation of suitable access routes between the site and local highways (Section 960.5-2-7). In addition to listing qualifying conditions necessary to the selection of a site for characterization, DOE provided a list of favorable conditions, which included "plans, procedures, and capabilities for response to radioactive waste transportation accidents in the State that are completed or being developed."

The IAFF understands that Congress has directed DOE to focus on the core scientific issues that must be addressed with regard to the site suitability of Yucca Mountain. We appreciate that the original Guidelines have been used throughout the evaluation process thus far with regard to that determination. DOE now proposes adding a new Subpart E to the regulations which will



facilitate a more rapid completion of the selection process with regard to Yucca Mountain. This proposed subpart is geographically narrow in scope; however, the language itself seems to give DOE broad leeway in weighting various factors related to a system performance assessment. The IAFF urges that DOE recognize the continuing importance of transportation issues with regard to site selection.

DOE specifically omits environmental, socioeconomic and transportation considerations from Subpart E: "[t]he DOE will not require or make findings with regard to such considerations as part of any evaluation of the suitability of the Yucca Mountain site for recommendation" (61 F.R. 66163). The IAFF urges DOE to repudiate that statement in its final rule. The transportation issues noted by DOE in its original Guidelines cannot be evaluated once and subsequently neglected. The physical state of the roads around Yucca Mountain may have deteriorated or even improved in the many years since Yucca Mountain was originally recommended for site characterization. Additionally, DOE should review all emergency response plans for Nevada and affected jurisdictions, with an emphasis on degradation in the quality of equipment and turnover in public safety personnel that might require additional resources or continuing training.

State funding levels change; and DOE must be aware of changes that could affect the safe transport of spent nuclear fuel to the site. DOE's system performance assessment must include an acknowledgment of current infrastructure conditions and the effect such conditions might have on the suitability of the site. Safe transportation routes are a prerequisite for any site at any time during the evaluation process; Yucca Mountain cannot be excluded.

Finally, the IAFF notes that DOE will retain the original eleven technical guidelines for use in evaluating any future repositories. Use of these guidelines, particularly those dealing with preclosure radiological safety, environment, socioeconomics, and transportation, should assure that any future repository meets the same initial standard as Yucca Mountain. We would prefer, however, that the transportation conditions include regional and national interests. Given the language of the statute, that DOE consider "the transportation and safety factors involved in moving such waste to a repository" (42 U.S.C.A. 10132 (a)), it is clearly within DOE's authority to increase the scope of that particular guideline, although we understand that that is beyond the reach of this rulemaking. DOE currently considers such issues to a limited extent already, given its responsibility for ensuring training for emergency responders along all the nuclear waste transportation routes.

Ms. April V. Gil  
U.S. Department of Energy  
March 14, 1997  
Page 3

More attention, not less, should be focused on the impact that transportation will have on the actual implementation of the repository program. For Yucca Mountain alone, shipments will travel through at least 43 states for the next thirty years. The addition of any other sites will increase the risks of accident exponentially, and both infrastructure and emergency response along all routes cannot be ignored.

We thank you for your consideration of these comments. Please do not hesitate to telephone us if you have any questions or would like additional information.

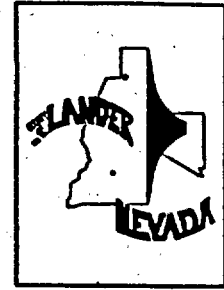
Sincerely,

A handwritten signature in cursive script, reading "Alfred K. Whitehead". The signature is written in dark ink and is positioned above the printed name and title.

Alfred K. Whitehead  
General President

# LANDER COUNTY

**DUANE H. GASAWAY**  
LANDER COUNTY MANAGER  
315 SOUTH HUMBOLDT  
BATTLE MOUNTAIN, NEVADA 89820  
(702) 635-2885  
FAX: (702) 635-5332



March 13, 1997

April V. Gil  
U.S. Department of Energy  
Office of Civilian Radioactive Waste Management  
Yucca Mountain Site Characterization Office  
P.O. Box 98608  
Las Vegas, Nevada 89193-8608



RE: Lander County Comments for Proposal to  
Amend Siting Guidelines for Yucca Mountain

Dear Ms. Gil:

Monday, December 16, 1996, the Office of Civilian Radioactive Waste Management (OCRWM) of the Department of Energy published, for public comment, a proposed rule revising 10 CFR 960, General Guidelines for the Recommendation of Sites for Nuclear Waste Repositories. I am writing to express objection of the new proposed guidelines on the following grounds.

The proposed rule does not comply with the very clear definition in Section 112(a) of the Nuclear Waste Policy Act, as amended, which requires specific factors that qualify or disqualify any site from development as a repository. The technical factors addressed in 112(a) which must be considered in the suitability of the repository site, such as geology, hydrology, the location of valuable natural resources; nearby atomic energy defense activities, proximity to water supplies and effect on the rights of water users, transportation and safety factors involved in moving the waste to a repository, etc., will not be properly evaluated if the proposed amendment to CFR 960 is passed.

The Guideline revision substitutes, for these specific factors, a more general system analysis approach, OCRWN is proposing that, if the overall performance at Yucca Mountain can be

March 13, 1997

Page 2

shown to meet the yet-to-be promulgated Environmental Protection Agency radiation standards, then the site should be recommended for development as a repository. Not only does this approach violate the direction in the statute, but appears to ignore the same technical factors described above. We believe that these technical factors cannot be evaluated in a total systems performance assessment where the individual factors would be studied as a whole and not independently as was the original intent in Section 112(a).

On behalf of the Lander County Board of Commissioners, I request the proposed rules be withdrawn. The proposal further compromises Nevada residents' right of being informed about every issue pertaining to Yucca Mountain and how it will affect them in the future.

Thank you for the opportunity to comment on this issue.

Sincerely,

A handwritten signature in dark ink, reading "Duane H. Gasaway". The signature is written in a cursive, flowing style.

Duane H. Gasaway  
County Manager

cc: Tammy Manzini, Austin DOE  
Board of Commissioners  
Chron.



received  
66 3/20/97

12 March 1997

TO: April Gil, U.S. Doc YMSCO

FROM: Georgia K. Trant (MRS.)

30 Cassas Court

Reno NV 89511

SUBJECT: Proposed change to  
10CFR960

Yucca Mountain is not an appropriate site for nuclear waste. Please do not push this scourge on Nevada. Our people will bear the burden for generations. My family has roots here and we don't intend to relocate. This is another attempt by our government to force its will.

Wendy Dickson  
EIS Manager  
U.S. Department of Energy  
1180 Town Center Drive  
Mailstop 010  
Las Vegas, Nevada 89134

2-28-97

3/18  
del  
Bonnie  
Susan H.

received  
#13 3/18/97  
67 p

Dear Wendy Dickson,

I am writing to you in regards to the proposed Yucca Mountain Nuclear Waste Repository. There are a number of concerns I have concerning the way this is being handled. First it is very alarming that the D.O.E. is changing the regulations that are necessary to determine if the site is suitable.

By doing so the DOE is undercutting any remaining scientific credibility in a decision to develop Yucca Mountain. Secondly DOE needs to consider the transpiration of waste to the sight.

The transportation of nuclear waste to the sight impacts at least 43 states. Over 50 million Americans live within a half mile of projected waste routes. Thirdly, the D.O.E. should preserve specific technical parameters that will qualify or disqualify Yucca Mountain, and these should be the same as those applied to any other site. There should be no compromise when it comes from the isolation of nuclear waste and the environment. I urge you to insure that any decision that effects the next 12,000 generations be made with regulations as stringent as possible and the best work possible from our government.

Sincerely,

*Grace van Thillo*

KRIS & GRACE VAN THILLO  
PO Box 1987  
Idyllwild, CA 92549