

STATEMENT OF ROBERT R. LOUX AT THE USDOE  
GENERAL SESSION ON THE CONSULTATION DRAFT  
SCP FOR THE YUCCA MOUNTAIN SITE

JANUARY 28, 1988

INSTEAD OF OPENING MY REMARKS TODAY WITH A LENGTHY INTRODUCTION TO THE STATE'S MULTIPLE CONCERNS RELATIVE TO THE PRELIMINARY DRAFT OF THE YUCCA MOUNTAIN SITE CHARACTERIZATION PLAN (SCP) AND THE PROCESS BY WHICH DOE IS SEEKING TO PROMOTE THE CREDIBILITY OF THAT DOCUMENT, I INTEND, FIRST, TO CLEARLY AND CONCISELY PRESENT MY AGENCY'S POSITION WITH REGARD TO DOE'S SITE EVALUATION ACTIVITIES AND PLANS, SO THERE CAN BE NO DOUBT OR MISUNDERSTANDING ABOUT WHERE THE STATE STANDS.

THE SO-CALLED CONSULTATION DRAFT OF THE SITE CHARACTERIZATION PLAN WHICH DOE MADE AVAILABLE TO THE STATE IN EARLY JANUARY AND WHICH IS THE SUBJECT OF THIS MEETING TODAY IS INCOMPLETE, FAILS TO ADDRESS CRUCIAL SITE SUITABILITY QUESTIONS, LACKS THE SPECIFICITY REQUIRED FOR ANYTHING APPROACHING AN ADEQUATE AND MEANINGFUL REVIEW, AND, AS CURRENTLY WRITTEN, REPRESENTS AN ATTEMPT TO CLOUD

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WM Project: WM-11

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WM Record File: 10218

LPDR yes

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AND OBSCURE TECHNICAL ISSUES AND DIVERT ATTENTION AWAY FROM POTENTIALLY DISQUALIFYING FLAWS AT THE YUCCA MOUNTAIN SITE.

THAT BEING SAID, LET ME ELABORATE ON THE CONCERNS WHICH HAVE FORCED THIS CONCLUSION ON US AND OFFER SOME RECOMMENDATIONS BY WHICH THESE CONCERNS MIGHT BE ADDRESSED.

LAST SUMMER AND FALL WHEN DOE INITIALLY ANNOUNCED PLANS FOR RELEASE OF A "CONSULTATIVE DRAFT SCP" FOR EACH OF THE THREE SITES THEN UNDER CONSIDERATION AS CANDIDATE REPOSITORY LOCATIONS AND FOR A SERIES OF TECHNICAL WORKSHOPS TO ADDRESS SCP ISSUES, THE STATE AGENCY FOR NUCLEAR PROJECTS INSISTED THAT A NUMBER OF CONDITIONS WERE PREREQUISITE FOR MEANINGFUL "CONSULTATION" WITH REGARD TO THE SCP. THOSE CONDITIONS INCLUDED:

1. THAT EQUIVALENT SCPs BE RELEASED SIMULTANEOUSLY FOR ALL 3 SITES. (LITTLE DID WE KNOW THEN THAT DOE AND CONGRESS HAD OTHER IDEAS ABOUT THE NUMBER OF SITES TO BE EVALUATED);

2. THAT THE SCPs CONTAIN STUDY PLANS DESCRIBING IN DETAIL HOW EACH TASK/ACTIVITY WOULD BE CARRIED OUT;
3. THAT ALL ENVIRONMENTAL DOCUMENTS, INCLUDING DOE'S ENVIRONMENTAL PROGRAM PLAN AND ENVIRONMENTAL FIELD ACTIVITIES PLANS BE RELEASED SIMULTANEOUSLY WITH THE DRAFT SCP;
4. THAT THE SCP CONTAIN DOE'S SOCIOECONOMIC AND ENVIRONMENTAL MONITORING AND MITIGATION PLANS (SMMP AND EMMP);
5. THAT THE NUCLEAR REGULATORY COMMISSION BE INVITED TO PARTICIPATE IN ALL WORKSHOPS AND MEETINGS REGARDING THE SCPs AND;
6. THAT THE PUBLIC BE PROVIDED WITH THE OPPORTUNITY TO PARTICIPATE FULLY AND MEANINGFULLY IN THE SCP WORKSHOP AND MEETING PROCESS.

DESPITE INITIAL ASSURANCES THAT THESE CONDITIONS WOULD BE MET, MY OFFICE WAS INFORMED IN EARLY JANUARY THAT DETAILED STUDY PLANS AND DOE ENVIRONMENTAL PROGRAM PLANS WOULD NOT BE INCLUDED WITH THE SCP AND WOULD NOT BE THE SUBJECT OF THIS CONSULTATIVE PROCESS. IN ADDITION, DOE MOVED TO CHANGE THE FORM OF THE "WORKSHOPS" TO THAT OF HIGHLY STRUCTURED MEETINGS WHEREIN INTERACTION AND, MOST DISTURBINGLY, PUBLIC PARTICIPATION WOULD BE DISCOURAGED.

IT IS UNFORTUNATE THAT DOE HAS CHOSEN TO ABROGATE AN AGREEMENT WHICH WOULD HAVE LENT TECHNICAL AND SCIENTIFIC CREDIBILITY TO ITS OWN SCP DOCUMENT AND ENABLED THE STATE AND THE CITIZENS OF NEVADA TO SEE FIRST HAND HOW DOE PLANS TO ADDRESS THE MOST PRESSING AND URGENT ISSUES DIRECTLY AFFECTING THE POTENTIAL SUITABILITY OF YUCCA MOUNTAIN AS A NUCLEAR WASTE REPOSITORY.

WITHOUT A REASONABLY COMPLETE SET OF DETAILED STUDY PLANS AND ENVIRONMENTAL PROGRAM PLANS, IT IS IMPOSSIBLE TO ADEQUATELY OVERSEE AND REVIEW DOE'S PROPOSED PROGRAM FOR SITE EVALUATION. ONE IS LEFT TO QUESTION, THEREFORE, THE REAL INTENT OF THE DEPARTMENT IN ISSUING AN INCOMPLETE SCP WHICH LACKS REQUIRED SPECIFICITY AND WHICH IS MEMORABLE MORE FOR ITS VOLUME AND WEIGHT THAN FOR WHAT IT REVEALS ABOUT THE ADEQUACY OF PLANNED DOE SITE CHARACTERIZATION WORK.

LAST WEEK, GOVERNOR BRYAN RELEASED A REPORT, PREPARED BY A DOE SCIENTIST, WHICH MAY IN RETROSPECT, SHED SOME LIGHT ON THE DEPARTMENT'S RELUCTANCE TO PROVIDE THE OPPORTUNITY FOR CLOSE SCRUTINY OF ITS PROPOSED TECHNICAL WORK AT YUCCA MOUNTAIN. THAT REPORT, DEVELOPED BY MR. JERRY SZYMANSKI, CONFIRMED WHAT STATE SCIENTISTS AND NRC STAFF MEMBERS HAVE BEEN SAYING FOR ALMOST A DECADE - THAT THERE ARE GEOHYDROLOGIC CONDITIONS AT YUCCA MOUNTAIN WHICH DOE'S OWN EXISTING DATA SUGGEST COULD MAKE THE SITE UNSUITABLE AND UNSAFE. MR. SZYMANSKI'S WORK, WHICH HAS BEEN

AVAILABLE TO DOE SINCE NOVEMBER 1987 IN REPORT FORM AND IN THE FORM OF VERBAL RECOMMENDATIONS AND WORKING PAPERS SINCE AS EARLY AS 1984, VERY CLEARLY LAYS OUT A SERIES OF COUPLED STUDIES THAT MUST BE UNDERTAKEN IN A MANNER THAT WILL CLEARLY EXPOSE INDICATIONS OF SITE UNSUITABILITY. IT IS EXTREMELY DISTURBING THAT MR. SZYMANSKI'S RECOMMENDATIONS HAVE NOT BEEN INCORPORATED INTO THE SCP AND THAT, IN FACT, THERE IS EVIDENCE TO SUGGEST THAT DOE MAY HAVE ACTUALLY DROPPED STUDY PLANS WHICH RELATE TO MR. SZYMANSKI'S RECOMMENDATIONS.

WHAT CONCLUSIONS CAN BE DRAWN FROM THE WAY DOE HAS CHOSEN TO APPROACH THE SITE CHARACTERIZATION PLANNING PROCESS? THE TRUISM THAT A PERSON (OR AN AGENCY) MUST BE JUDGED BY ACTIONS RATHER THAN WORDS SEEM VERY APPLICABLE HERE.

DOE HAS REPEATEDLY TOLD CONGRESS AND ANYONE ELSE WHO WOULD LISTEN THAT NO EVIDENCE EXISTED THAT WOULD INDICATE THAT YUCCA MOUNTAIN COULD NOT BE FOUND SUITABLE AS A REPOSITORY LOCATION.

YET, DOE WAS APPARENTLY COVERING UP THE SZYMANSKI REPORT WHILE THOSE ASSURANCES WERE BEING GIVEN.

IF INDEED, DOE INTENDED TO EXAMINE THE ISSUES RAISED BY THE SZYMANSKI REPORT, AS THEY HAVE RECENTLY ASSERTED, THEN THERE SHOULD BE CLEAR EVIDENCE OF THAT CLAIM IN THE DRAFT SCP. WE CAN FIND NO EVIDENCE OF DOE'S ATTENTION TO THE THEORY OR THE SUGGESTED STUDY PROGRAM IN THE SCP AND HAVE SERIOUS DOUBTS AS TO THE CLAIM.

HOWEVER, SHOULD WE BE INACCURATE AND THE SZYMANSKI ISSUE IS CONTAINED IN THE SCP, THEN CLEARLY THERE CAN BE NO EXCUSES WHY CONGRESS WAS NOT INFORMED OF THE POTENTIAL DISQUALIFYING CONDITIONS LAST FALL. DOE CANNOT HAVE IT BOTH WAYS. EITHER THEY WERE COGNIZANT OF THE REPORT AND THEORY AND ATTEMPTED TO BURY IT OR THEY SHOULD HAVE INFORMED CONGRESS. EITHER WAY THEY ARE DEAD WRONG.

AS I MENTIONED PREVIOUSLY, DOE COMMITTED TO A SERIES OF CONDITIONS REGARDING THE ISSUANCE AND REVIEW OF ITS CONSULTATIVE DRAFT SCP WHICH WOULD GUARANTEE A FULL AND PROPER TECHNICAL REVIEW AND WHICH WOULD FULLY INVOLVE THOSE MOST AFFECTED BY THE DEPARTMENT'S WORK - THE CITIZENS IN NEVADA. YET, DOE RENEGED ON ITS COMMITMENT AND INSTEAD ESTABLISHED A PROCESS AND ISSUED A DOCUMENT THAT INVOLVES MUCH MORE SHOW THAN SUBSTANCE.

IT IS NOTEWORTHY THAT DOE HAS FORMALLY AGREED TO COMPLY WITH ALL STATE REGULATORY AND ENVIRONMENTAL COMPLIANCE REQUIREMENTS AND TO FULLY COOPERATE WITH THE STATE IN ASSURING THE ADEQUACY OF ENVIRONMENTAL PROTECTION IN ITS ACTIVITY. YET THE DEPARTMENT HAS CONSISTENTLY SOUGHT TO THWART STATE OVERSIGHT IN THIS AREA BY WITHHOLDING NECESSARY PLANS AND BY PIECEMEALING THE REGULATORY/PERMITTING ASPECTS OF THE REPOSITORY PROGRAM. SO THAT AFFECTED STATE AGENCIES ARE KEPT IGNORANT OF WHAT OTHER AGENCIES ARE BEING ASKED TO DO OR WHAT PERMITS ARE BEING REQUESTED.

FINALLY, AND MOST IMPORTANT, DOE HAS GIVEN ASSURANCE AFTER ASSURANCE THAT IT INTENDS TO EXPEDITIOUSLY ADDRESS STATE AND NRC CONCERNS ABOUT SPECIFIC TECHNICAL DISQUALIFYING CONDITIONS AT YUCCA MOUNTAIN. YET THE SCP, WHICH REPRESENTS OUR FIRST DIRECTED LOOK AT DOE'S PLANS FOR SITE EVALUATION, NOT ONLY FAILS TO CONFRONT THE PRESSING ISSUES IN A MANNER THAT CAN BE EXPECTED TO LEAD TO EXPEDITIOUS RESOLUTION, BUT IT ALSO SERVES TO OBSCURE THE EVALUATIVE HORIZON WITH VOLUMES OF OVERLY GENERAL, POORLY FOCUSED MATERIAL. A CYNIC MIGHT BE TEMPTED TO SUGGEST THAT THE REAL PURPOSE OF THE DRAFT SCP AND THE SO-CALLED "CONSULTATIVE" PROCESS DOE HAS ESTABLISHED AROUND IT ARE MERE SMOKE-SCREENS INTENDED TO HIDE THE FACT THAT THE DEPARTMENT HAS NO INTENTION OF ADEQUATELY ADDRESSING THE CRUCIAL, POTENTIALLY TECHNICAL ISSUES THAT HAVE BEEN POINTED OUT BY THE STATE, BY THE NRC AND EVEN BY DOE'S OWN SCIENTISTS.

GIVEN THE CURRENT SITUATION WHICH THE STATE IS FACING WITH REGARD TO DOE SITE CHARACTERIZATION ACTIVITIES, IT IS ESSENTIAL

THAT REMEDIAL ACTION BE TAKEN IMMEDIATELY TO RESTORE SOME SEMBLANCE OF CREDIBILITY TO SITE-SPECIFIC TECHNICAL WORK PLANS AND TO SEE THAT SITE SUITABILITY QUESTIONS ARE ADDRESSED IN THE MOST FORTHRIGHT AND EXPEDITIOUS MANNER. TO THIS END, THE STATE AGENCY FOR NUCLEAR PROJECTS RECOMMENDS THAT THE DEPARTMENT TAKE THE FOLLOWING ACTIONS AT ONCE:

1. ALL WORK ON THE CURRENT - AND LARGELY IRRELEVANT - DRAFT OF THE SCP SHOULD CEASE IMMEDIATELY WITH ONE EXCEPTION. THAT IS THAT DOE SHOULD PLAN TO CONDUCT, DURING THE NEXT 12 MONTHS, A SERIES OF PUBLIC MEETINGS AND WORKSHOPS THROUGHOUT THE STATE, SPECIFICALLY REGARDING THE DRAFT SCP WITH EMPHASIS ON PROMOTING AND ENHANCING THE PUBLIC UNDERSTANDING OF THIS ISSUE, INSTEAD OF THE CURRENT PLAN TO DISCOURAGE AND AVOID INTERACTIONS WITH THE CITIZENS OF NEVADA. IN THE TECHNICAL ARENA DOE SHOULD SHELVE THE DRAFT SCP AND INSTEAD DEVELOP, IN CONSULTATION WITH THE STATE, DETAILED PLANS FOR IMPLEMENTING THE STUDIES SUCH AS THOSE RECOMMENDED BY MR. SZYMANSKI IN HIS

REPORT. THIS WOULD FOCUS DOE'S AND THE STATE'S TECHNICAL RESOURCES ON THOSE TECHNICAL ISSUES WHICH RELATE DIRECTLY TO THE SUITABILITY OF THE SITE. MR. SZYMANSKI'S PROPOSED WORK PROGRAM DOES NOT REQUIRE FULL-SCALE SITE CHARACTERIZATION INVOLVING THE EXPLORATORY SHAFT FACILITY AND COULD SAVE DOE (AND THE NUCLEAR UTILITY RATEPAYERS) MILLIONS - PERHAPS BILLIONS - OF DOLLARS IN UNNECESSARY SITE EVALUATION COSTS. ONCE THE RECOMMENDED STUDIES HAVE BEEN COMPLETED (IN PERHAPS 18-24 MONTHS), THE STATE AND DOE CAN REVIEW THE RESULTS AND DECIDE WITH A GREATLY IMPROVED DEGREE OF CONFIDENCE THE QUESTION OF WHETHER FURTHER SITE CHARACTERIZATION WORK IS WARRANTED.

2. THE CONSULTATIVE PROCESS CURRENTLY PROPOSED FOR THE INITIAL SCP DRAFT SHOULD NOT GO FORWARD. IN FACT, THERE IS A VERY REAL QUESTION AS TO WHETHER THERE IS SUFFICIENT REASON FOR THIS MEETING HERE TODAY TO CONTINUE. THE INITIAL CONDITIONS WHICH CAUSED THE WORKSHOPS TO BE CONCEIVED AND AGREED TO HAVE

NOT BEEN ADHERED TO. THE DRAFT DOCUMENT LACKS SPECIFIC PLANS BY WHICH TO EVALUATE THE ACTUAL WORK THAT IS PROPOSED. AND THE REVELATIONS CONTAINED IN THE SZYMANSKI REPORT CLEARLY REQUIRE URGENT ATTENTION OUTSIDE OF THE CURRENT, AND POTENTIALLY OBSCURING, SCP PROCESS.

3. FINALLY, DOE MUST GET ITS ENVIRONMENTAL COMPLIANCE HOUSE IN ORDER BEFORE ANY ON-SITE WORK CAN PROCEED AND BEFORE ANY REGULATORY REQUIREMENTS CAN BE FORMALLY MET OR PERMITS OBTAINED. TO THIS END, MY OFFICE HAS ASKED THAT ALL STATE AGENCIES WITH REGULATORY/PERMITTING RESPONSIBILITIES FOR DOE'S REPOSITORY PROGRAM WITHHOLD ANY APPROVALS AND PERMITS UNTIL DOE HAS SUBMITTED A COMPLETE AND ADEQUATE SCP WHICH CONTAINS ALL TECHNICAL WORK PLANS AND ALL ENVIRONMENTAL PLANS FOR REVIEW. THE EXCEPTION TO THIS WOULD BE ANY PERMITS OR APPROVALS FOR SPECIFIC ACTIVITIES WHICH MAY BE NEEDED FOR CONDUCTING THE INTEGRATED STUDIES WE HAVE HERE RECOMMENDED.

## CONCLUSION

AS LONG AGO AS 1979, THE NATIONAL ACADEMY OF SCIENCES (NAS) VOICED CONCERN OVER POTENTIAL GEOLOGIC AND HYDROLOGIC CONDITIONS AT YUCCA MOUNTAIN WHICH COULD MAKE IT UNSAFE AS A REPOSITORY SITE. THE NAS RECOMMENDED THAT DOE UNDERTAKE A PRELIMINARY SERIES OF INVESTIGATIONS TO DETERMINE IF THOSE CONDITIONS DID, IN FACT, EXIST AND TO CONDUCT SUCH STUDIES BEFORE GIVING FURTHER CONSIDERATION TO THE SITE. DOE FAILED TO HEED THE NAS'S ADVICE.

FOLLOWING THE 1986 RELEASE OF THE ENVIRONMENTAL ASSESSMENT FOR YUCCA MOUNTAIN UNDER THE NUCLEAR WASTE POLICY ACT OF 1982, STATE SCIENTISTS AND NRC STAFF POINTED TO EXISTING DOE INFORMATION WHICH SEEMED TO INDICATE THAT THE SITE WAS UNSUITABLE. DOE IGNORED THOSE CONCERNS AND PROCEEDED TO INTERPRET ITS DATA ONLY IN THE MOST FAVORABLE AND OPTIMISTIC MANNER.

LAST MONTH, ONE OF DOE'S OWN SCIENTISTS CAME FORWARD WITH A REPORT SUGGESTING THAT YUCCA MOUNTAIN IS POTENTIALLY A POOR AND UNSAFE CHOICE FOR STORING HIGHLY RADIOACTIVE MATERIALS.

DOE CAN NO LONGER BE PERMITTED TO BLITHELY PUT ASIDE EVIDENCE THAT DIFFERS FROM ITS OWN PRECONCEPTIONS ABOUT YUCCA MOUNTAIN AND PROCEED ALONG A PATH WHICH IS INTENDED TO AVOID DEALING WITH CRUCIAL AND TROUBLING (FROM DOE'S POINT OF VIEW) ISSUES.

MR. SZYMANSKI HAS GIVEN US THE TOOLS (IN THE FORM OF RECOMMENDED TECHNICAL STUDIES) TO BEGIN DETERMINING WHETHER SOME OF THE CONCERNS VOICED BY THE STATE, THE NRC, AND THE NAS IN THIS AREA ARE VALID.

IT IS TIME FOR DOE TO FISH OR CUT BAIT. DOE MUST MOVE IMMEDIATELY TO EXAMINE THE DISQUALIFYING CONDITIONS THAT APPEAR TO EXIST AT YUCCA MOUNTAIN, AND MUST DO SO IN A MANNER THAT DOES NOT

SEEK TO OBSCURE THE SIGNIFICANCE OF THE INFORMATION THAT IS THEREBY OBTAINED AS THE CURRENT DRAFT SCP APPEARS TO DO.

I CHALLENGE DOE TO PUT ASIDE ITS GAMESMANSHIP AND ITS BUREAUCRATIC DELAYING TACTICS AND FORTHRIGHTLY EXAMINE THE REAL ISSUES OF TECHNICAL SUITABILITY AT THE NEVADA SITE. TO DO ANYTHING LESS WILL BE A DISSERVICE TO THOSE WHO MUST PAY THE PRICE - BOTH MONETARILY AND IN TERMS OF HEALTH AND SAFETY - OF DEFERRING ACTION WHICH IS CLEARLY AND IMMINENTLY CALLED FOR. WE CANNOT AFFORD TO WAIT UNTIL DOE AND ITS CONTRACTORS HAVE SPENT THE 3 BILLIONTH DOLLAR BEFORE WE HAVE DEFINITIVE CONCLUSIONS REGARDING THE SUITABILITY OF THE YUCCA MOUNTAIN SITE.

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WM Record File  
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WM Project 11  
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PDR   
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Distribution:  
REB MSB Youngblood  
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