

NYE
COUNTY

DEPARTMENT OF PLANNING
STEPHEN BRADHURST
Planning Consultant

August 14, 1989

Mr. Lloyd J. Donnelly
Acting LSS Administrator
Office of the LSS Administrator
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Dear Mr. Donnelly:

I recently received a copy of a letter you sent to Clark County, Nevada via Dennis Bechtel, coordinator for Clark County nuclear waste repository activities. This letter informs Clark County of the establishment of the Office of the LSS Administrator (Office), and the desire of the Office to keep Clark County apprised of LSS developments so Clark County can exercise its LSS responsibilities. Needless to say, Nye County (thru me) was pleased to receive a copy of the letter. But, Nye County is not pleased with the fact that you did not communicate directly with the local government that is the focus of the federal repository program.

Yucca Mountain is in Nye County, not Clark County. Therefore, Nye County, not Clark County, will likely have the burden of hosting the nation's first high level radioactive waste repository. The DOE Section 175 Report on repository socioeconomic impacts clearly shows Nye County, not Clark County, may experience negative impacts from siting, constructing and operating a repository at Yucca Mountain (100 miles northwest of Las Vegas). Also, it appears from DOE and State of Nevada transportation studies that nuclear waste to be stored at Yucca Mountain will be transported on truck and rail routes that do not traverse Clark County.

When Congress decided in 1987 to amend the Nuclear Waste Policy Act of 1982, Nye County, not Clark County, asked Congress to give the affected unit of local government participation rights in the federal (DOE, NRC, etc.) repository program. Nye County submitted 18 amendments and 14 were incorporated in the Amendments Act of 1987, including allowing the situs local government to be a full participant in the federal repository program. The Amendment Act gives only the situs local government, Nye County, automatic affected unit of local government status. And, only the situs local government is given the right to have an on-site representative to work side-by-side with the NRC on-site representative.

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The point to the above is Nye County is the affected unit of local government by law and by DOE findings. Therefore, Nye County does not want to be an afterthought or cc recipient when NRC is communicating with affected units of local government.

The NRC has had an excellent, and I emphasize excellent, track record relative to involving Nye County in all aspects of its repository program (see enclosed Nye County statement to the NRC). Nye County wants to be a full and active participant in the DOE and NRC LSS programs. Also, Nye County expects to be the local government representative on the LSS Advisory Committee given its unique role and burden in the repository program. Hence, in the future, please communicate all LSS-related information directly to me, and ensure Nye County is a full participant in your LSS program. Thank you for your attention to this matter, and I look forward to meeting you.

Sincerely,



Stephen T. Bradhurst,
Nye County Planning Consultant

STB/gl

cc: Elgie Holstein, Nye County Technical Consultant

STATEMENT OF THE NYE COUNTY BOARD OF COUNTY COMMISSIONERS
TO THE NUCLEAR REGULATORY COMMISSION
DECEMBER 1, 1988

It is difficult to imagine an enterprise of any scale or character that would create greater concern among citizens of a community than the prospect of hosting a repository for the nation's high-level radioactive waste. Yucca Mountain, the proposed site of the nation's first high-level radioactive waste repository, is in Nye County, Nevada. The siting, construction, and operation of a repository in Nye County could profoundly affect the health, safety, and economic wellbeing of our residents. Accordingly, we have plenty of reasons to be concerned.

Almost all of us in Nye County live adjacent to proposed transportation routes, if not to Yucca Mountain itself. Six miles from Yucca Mountain is the town of Amargosa Valley, for which the only source of drinking water and irrigation water is groundwater. Yucca Mountain is located upstream, hydrologically speaking, in the town's water basin. Aside from Nye County serving as the first line of defense in the case of repository-related accidents, we will be expected to provide public services and facilities to support the workforce that will be working at Yucca Mountain.

In recognition of our unique responsibilities and burdens under the repository development program, the Congress last year provided for an expanded role for affected units of local government. The Nuclear Waste Policy Amendments Act of 1987 gave the Secretary of Energy the authority to designate, upon their petition, local governments as "affected". Nye County, however, is the only unit of local government designated as "affected" by the language of the Amendments Act itself. There are now three Nevada counties designated "affected units of local government": Nye County, Clark County, and Lincoln County.

The legislation gave all affected units of local government several important benefits. Of special value to us now is that we are entitled to impact mitigation assistance during site characterization. This funding will enable us to assure ourselves and our citizens that the procedures, plans and actual work undertaken within our borders will meet the highest standards of public health and safety and site characterization-related impacts will be identified and mitigated.

Nye County has sought and received funding to carry out several important functions. Our staff has been monitoring meetings in Nevada, Washington, and elsewhere, involving the many parties to the federal government's high-level waste management program, including the Department of Energy, the US Geological Survey, the National Academy of Sciences, and the Nuclear

Regulatory Commission. We review progress reports, technical papers, and proposed regulations. We also attend meetings, briefings, and hearings related to the waste program.

In addition to monitoring the progress of the program, we are studying the socioeconomic impacts of the repository program. This study will identify potential Nye County impacts (human, fiscal, etc.) associated with siting, constructing, operating, and closing a repository at Yucca Mountain. We will use this information to prepare requests, authorized under the Act, for impact assistance.

We have offered to share with the Department of Energy the data produced by those studies. We believe that such data would be useful to DOE in at least two important respects. First, it would be useful in preparing and refining the "Section 175" report DOE is required to submit to Congress by December twenty-second of this year dealing with expected impacts of the repository on Nevada and our local communities. Second, we believe it could be useful in the preparation by DOE of an environmental impact statement for the Yucca Mountain site. If our data were incorporated into an EIS, it conceivably could save a great deal of time, effort, and money.

In addition to the financial assistance made available to affected units of local government under the Amendments Act, Nye County is authorized to appoint an on-site inspector for purposes of monitoring the progress of work carried out at Yucca Mountain. We expect to appoint our inspector sometime next year, as the pace of work at the site accelerates. We will be looking to the NRC for guidance as to ways in which we might make the most efficient use of such a resource.

Regarding Nye County's position on the proposed repository, we wish to emphasize that Nye County has not taken a position for or against the repository itself. Nye County is not blind to the realities of the situation, that is, that the President and the Congress will make the decision regarding the final resting place of the nation's high-level radioactive waste. We have found, however, that our "neutrality" helps reinforce in the eyes of our citizens our determination to serve as an "honest broker" as the work proceeds. We are not looking for frivolous excuses to condemn the repository. We understand and support the nation's need for a permanent disposal solution to the accumulating waste around the country.

At the same time, there should be no misunderstanding about the seriousness with which we regard the need for technical and institutional integrity in the management of the program. No community in America will be more harmed than Nye County if mistakes are made in the design, construction, operation, or

closure of a facility at Yucca Mountain. We have pledged to our citizens that we will do all in our power to help ensure that their health, safety, and livelihoods are protected.

The history of the management of the high-level waste program does not make such assurances easy to convey. During Congressional consideration of the Amendments Act, the Department of Energy was widely criticized for manipulating the program for political ends, for exercising inadequate oversight of its contractors, and for failing to conform to the highest standards of technical soundness and institutional fairness in pursuing the program. Recently disclosed problems with DOE's management of its defense-related nuclear facilities has reinforced public concern about the high-level waste program.

In adopting the Amendments Act, Congress said it was "re-directing" the waste program. By naming Yucca Mountain as the site to be characterized while halting all work at other sites, Congress sought to expedite the repository program and to reduce its cost. In doing so, however, it has created the risk that should the Nevada site prove technically unsound, there will be no alternative "back-up" sites immediately available. Whatever the intention, we are convinced that the inevitable result of such strategy is to put pressure on the Department of Energy not to disqualify the Yucca Mountain site.

We are under no illusions that the enhanced status afforded affected units of local government under the Amendments Act can effectively counterbalance this institutional pressure on DOE to support a repository at Yucca Mountain. Today, it is clear to us that the Nuclear Regulatory Commission and its staff must perform that function.

We have asked our staff to follow closely your activities in connection with the repository program. We are greatly encouraged by what we have seen so far. Your staff is working closely with the Department of Energy to identify and resolve key issues, and they are doing so well before work at the site actually begins.

They have provided DOE with detailed comments on the Department's Draft Site Characterization Plan, and on the proposed design of the Exploratory Shaft Facility. They have observed technical audits by DOE of its contractors. They have also provided considerable guidance to DOE on the development of quality assurance plans for repository-related activities.

Given the Department of Energy's inexperience with seeking a license from the NRC, we believe such interaction between DOE and the NRC is essential if a repository is ever to be licensed. From our standpoint, an active, continuing NRC presence is vital not only to ensure the technical soundness of the program, but to

provide public credibility for the entire program, as well. Without it, the public cannot be expected to accept anyone's assurances of safety.

The Department of Energy deserves recognition for the steady progress it has made. We are pleased that DOE seems to be making steady progress in resolving concerns raised by NRC staff. Notwithstanding the considerable turnover in personnel in the Office of Civilian Radioactive Waste Management, DOE staff have been making important decisions, not deferring them. Where issues remain unresolved between DOE and NRC staff, the Department has committed to continue working aggressively to "close" them. The Department has also committed itself to an aggressive series of audits of its contractors' operations, and it has raised the organizational visibility and importance of its quality assurance program.

Nevertheless, it appears very possible that the November 1989 date for beginning work on the Exploratory Shaft Facility will not be met. Therefore, it is very possible that there will continue to be slippage in DOE's schedules for addressing program concerns and developing adequate documentation to support their plans. The NRC staff has already signaled its concern that it may not be able to review thoroughly and comment on DOE's submissions in time for work on the ESF to commence next November, especially if problems are uncovered requiring extensive additional work by DOE.

We are particularly appreciative of the guidance the Commission has given its staff on the possibility of further program delays. When Chairman Zech recently directed the staff to "take the time you need to do the job right," he expressed our view of the appropriate sentiment to guide everyone working on, or interested in the repository program. If doing the job right means more delays in the program, we again endorse Chairman Zech's reaction to that possibility: "So be it." And we will be among the first to defend DOE against criticism if, by "doing it right" it must postpone some activity.

As valuable as the continuing vigilance and independence of the NRC is to the integrity of the repository program, we are not satisfied that the institutional checks and balances contemplated by Congress are in place.

To some observers, Congress' review and "re-direction" of the waste program through the Amendments Act seemed inconsistent. After criticizing the Department of Energy's management of the repository site selection program, Congress appeared to endorse the Department's efforts by rejecting a "moratorium" on repository site selection work, and then naming Yucca Mountain as the first and only site to be characterized.

In fact, Congress took steps in the Amendments Act not only to enhance the role of affected local governments, but to strengthen its own oversight of the program as well.

When it provided in the Amendments Act for the creation of the Technical Review Board, Congress was clearly seeking to obtain for itself and for the public the reassurance of having an independent, objective, blue-ribbon panel of experts conducting continuing oversight of the waste management program. Today, nearly a year after passage of the Amendments Act, the Technical Review Board still has not been appointed.

Meanwhile, over the last year, not only have critical repository design decisions been made, but important questions have been raised about various aspects of the program. The General Accounting Office and the NRC staff have highlighted potential quality assurance problems. Individual DOE and USGS scientists working in Nevada have raised a variety of technical concerns, including the possible need for the development of alternative geologic models. DOE's Nevada Project Office itself has issued a stop-work order to USGS. Finally, evidence has been developed suggesting more recent volcanic activity than previously identified in the vicinity of Yucca Mountain.

While we are not suggesting that Congress attempt now to further "finetune" the repository program, we do not believe that all is well. Given the importance of some of these emerging concerns and the history of the program, we do not yet believe that there is sufficient oversight of the program to provide long-term reassurance to the Congress and to the people of Nevada that the program is proceeding in a manner that, in Charman Zech's words, is "careful, conservative, and scientific." The way to provide that assurance is to get the Technical Review Board up and running, with the resources to do the job.

In the absence of the Technical Review Board, the burden of providing credible assurance to the public of the technical soundness of the program rests even more heavily on the Nuclear Regulatory Commission.

In that regard, we would like particularly to encourage the Commission and its staff to give serious consideration to the technical arguments and data developed by the State of Nevada. It appears to us that there has been a tendency in Washington to give short shrift to the State's concerns because of the strong and vocal opposition of many of our State's leaders to the process by which Yucca Mountain was selected for site characterization.

If the tenor of the dispute between the Department of Energy and the State causes the substance of the State's scientific concerns to be taken lightly, it will be difficult to persuade the

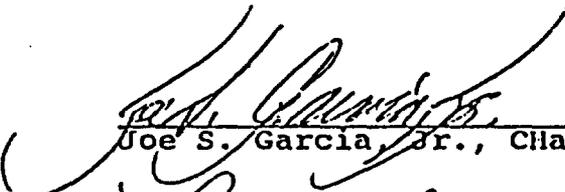
people of Nevada--or for that matter, the residents of other states that ultimately will be touched by the program -- that their safety and welfare are being taken seriously. No one in government, industry, or the public should be tempted to dismiss the seriousness with which all elected officials in Nevada, regardless of our various "positions" on the repository regard the State's technical efforts.

It is our understanding that the Department of Energy's Site Characterization Plan, when it is issued later this month, will not reflect many of the State's concerns. It is critical that Nevada's comments on the draft SCP be fully and fairly considered as soon as possible, not only by the Department of Energy, but by the NRC and the Congress as well.

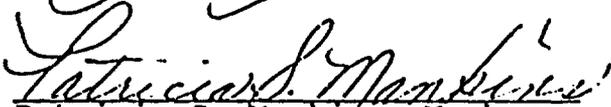
At this time, Nye County does not contemplate duplicating any of the State's geotechnical oversight efforts. We are relying on the Nuclear Regulatory Commission to help ensure that those efforts are given the serious consideration that they deserve by all parties involved with the waste program.

Finally, we want to thank the Commission and its staff for the emphasis you have placed on the need for a careful, scientific approach to the repository program. As Chairman Zech has noted, this is a one-of-a-kind project. There must be no compromise on quality. As the "situs" jurisdiction of the proposed repository, we look forward to working with you to maintain that standard.

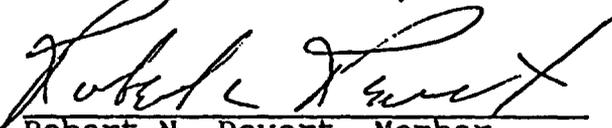
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