

**COVER SHEET**

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

**Docket Number RW-RM-96-100**

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

**DISTRIBUTION AT HEADQUARTERS:**

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

**CLOSE OF COMMENT PERIOD:** Extended to April 16, 1997

**TODAY'S DATE:** March 21, 1997

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

1. **Hearing Transcripts**
  - a. **January 23, 1997 - 12:30 p.m.**
  - b. **January 23, 1997 - 6:00 p.m.**
  
2. **Federal Register Notice, Reopening Public Comment Period**  
**March 20, 1997 62 FR 13355**

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102.8

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

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PDR WASTE  
WM-11 PDR



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

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

§ 591.203 Agencies and employees covered.

(a) \* \* \*

(1) General Schedule.

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

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

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

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

§ 591.210 Payment of allowances and differentials.

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

(1) On separation;

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

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

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

## DEPARTMENT OF ENERGY

### Office of Civilian and Radioactive Waste Management

10 CFR Part 960

RIN 1901-1172

#### General Guidelines for the Recommendation of Sites for Nuclear Waste Repositories

AGENCY: Proposed rule; Reopening of public comment period.

SUMMARY: In response to additional requests from several interested persons, the Department of Energy has granted additional time to comment on proposed amendments to 10 CFR Part 960 that were published at 61 FR 66158, December 16, 1996.<sup>1</sup>

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

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

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

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

Lake Barrett,

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

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

## FEDERAL ELECTION COMMISSION

11 CFR Parts 100 and 114

[Notice 1997 4]

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

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

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

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

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

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

FOR FURTHER INFORMATION CONTACT:

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

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

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

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

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

<sup>1</sup> See also 62 FR 4941, Feb. 3, 1997.

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**THIS VERBATIM TRANSCRIPT CONSTITUTES**

**THE OFFICIAL RECORD OF THE**

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

**Held at the**

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

**on**

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

**REPORTED BY: Lana Stewart  
Senior Verbatim Reporter**

**Bechtel Nevada  
Reporting Services**

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KEY to Transcript Symbols and/or Abbreviations

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

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

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

(ph) Indicates phonetic.

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

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

VOICE: Indicates an unknown speaker.

Uh-huh: Indicates affirmative answer.

Huh-uh: Indicates negative answer.

PUBLIC HEARING AGENDA

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Page

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

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

**PUBLIC COMMENT PERIOD:**

UNSCHEDULED SPEAKERS      REPRESENTING

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

Willene DeLangis      Self.....18

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

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

1 LAS VEGAS, NEVADA, JANUARY 23, 1997, 6:00 P.M.  
2

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

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

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

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

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

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

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

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

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

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

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



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

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

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

9 (NO QUESTIONS WERE ASKED)

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

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

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

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

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

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

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

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

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

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

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

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

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

7  
8 JOHN WELLS

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

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

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

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

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

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

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

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

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

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

11 HANLON: Thank you.

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

14  
15 WILLENE DE LANGIS

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

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

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

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

11 RIVES: Okay.

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

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

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

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

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

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

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

2 HANLON: Thank you for your comments.

3 RICE: Thank you, Ms. DeLangis.

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

6 (NO COMMENTS WERE MADE FROM THE PUBLIC)

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

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

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

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



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

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

21 HANLON: Thank you

22 RICE: Thank you, Mr. Rogers.

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

25 (NO COMMENTS WERE MADE FROM THE PUBLIC)

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

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

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

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

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

15                  (NO QUESTIONS OR COMMENTS FROM THE PUBLIC)

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

20                   \* \* \* \* \*

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**THIS VERBATIM TRANSCRIPT CONSTITUTES**

**THE OFFICIAL RECORD OF THE**

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

Held at the

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

on

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

**REPORTED BY: Lana Stewart**  
**Senior Verbatim Reporter**

**Bechtel Nevada**  
**Reporting Services**

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KEY to Transcript Symbols and/or Abbreviations

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

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

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

(ph) Indicates phonetic.

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

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

VOICE: Indicates an unknown speaker.

Uh-huh: Indicates affirmative answer.

Huh-uh: Indicates negative answer.

PUBLIC HEARING AGENDA

Page

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
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20  
21  
22  
23  
24  
25

**WELCOMING REMARKS BY:** Stephen Rice  
Moderator  
Associate Provost of Research  
University of Nevada  
Las Vegas.....6

**PRESENTATION BY:** Carol Hanlon  
Presiding DOE Official  
Physical Scientist, YMSCO.....13

**PUBLIC COMMENT PERIOD:**

SCHEDULED SPEAKERS

REPRESENTING

Frankie Sue Del Papa Attorney General  
State of Nevada.....18

Robert Loux Director  
Nevada Nuclear Waste  
Project Office.....24

Dennis Bechtel Manager  
Clark County Dept. of  
Comprehensive Planning  
NWD.....27

Hal Rogers Co-Chairman  
The Study Committee.....33

Mary Olson Nuclear Information and  
Resource Service.....36

Richard Nielsen Director  
Citizen Alert.....43

Fred Dexter Sierra Club.....49

Steven Kraft Director, High-Level Waste  
Nuclear Energy Institute.....52

	<u>AGENDA (Cont.)</u>	
		<u>Page</u>
1		
2		
3		
4	<u>SCHEDULED SPEAKERS</u>	<u>REPRESENTING</u>
5		
6	Tom McGowan	Self.....55
7	Dr. Robert Bass	Retired Professor of Physics and Astronomy BYU.....61
8	Nick Stellavato	Nye County.....67
9	Sally Devlin	Self.....67
10	Grant Hudlow	Self.....71
11	Chris Brown	Director Campaign for Nevada's Future..75
12		
13	<u>UNSCHEDULED SPEAKERS</u>	<u>REPRESENTING</u>
14		
15	Mike De Floria	Self.....78
16	Chuck Chavez	Self.....84
17	Wanda Mc Clenaghan	Self.....86
18	Reinard Knutsen	Action for Nuclear Abolition.....87
19	Abby Johnson	Eureka County, Nevada.....91
20	Judy Treichel	Executive Director Nevada Nuclear Waste Task Force.....95
21		
22	Julia Moon Sparrow	Shundahai Network.....100
23	Bill Vasconi	Self.....105
24	James McGuinness	Shundahai Network and Save Ward Valley.....111
25		

AGENDA (Cont.)

Page

REBUTTAL SPEAKERS

REPRESENTING

Mary Olson Nuclear Information and Resource Service.....120

Tom McGowan Self.....125

Dr. Robert Bass Retired Professor of Physics and Astronomy BYU.....129

John Haslam Southern Nevada Building and Trades.....136

Tom McGowan Self.....138

CLOSING REMARKS BY: Stephen Rice Moderator.....139

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
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1 LAS VEGAS, NEVADA, JANUARY 23, 1997, 12:30 P.M.

2  
3 RICE: Ladies and Gentlemen, welcome.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 Now, are there any procedural  
12 questions?

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

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

17 Any other procedural questions?

18 (NO FURTHER QUESTIONS WERE ASKED)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 FRANKIE SUE DEL PAPA

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

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

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

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

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



1 subject to review by the Federal Court of Appeals.

2 The Ninth Circuit Court of Appeals ruled in

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

4 "The site recommendation guidelines issued pursuant to

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

6 requires the Secretary to address site ownership and

7 jurisdiction issues, as well as transportation issues

8 in any recommendation he or she makes to develop

9 Yucca Mountain as a repository site."

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

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

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

25 A performance assessment which

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

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

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

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

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

7  
8 ROBERT LOUX

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

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

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

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

25 Further, the proposed rule

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

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

25 The change of the rule at this

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

17 Thank you.

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

20  
21 DENNIS BECHTEL

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

Bechtel Nevada  
Reporting Services

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 Thank you.

24 HANLON: Thank you.

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

1 speaker is Hal Rogers.

2  
3 HAL ROGERS

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

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

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

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

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

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

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

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

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

25 We also believe using a

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

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

17 Thank you very much.

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

20  
21 MARY OLSON

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 Thank you.

4 HANLON: Thank you.

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

7  
8 RICHARD NIELSEN

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

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

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

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

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

1           them out and making a decision.

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

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

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

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

25 DOE continually points to Congress

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

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

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

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

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

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

18 Thank you.

19 HANLON: Thank you.

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

22  
23 FRED DEXTER

24  
25 DEXTER: My name is Fred Dexter. On

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

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

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

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

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

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

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



1 close of the filing deadline.

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

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

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

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

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

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

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

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

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

17 HANLON: Thank you.

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

20  
21 TOM MC GOWAN

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

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

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

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

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

25 2) The Nuclear Waste Policy Act

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

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

1 4) Specifically, the terms and  
2 processes incorporated in the DOE-proposed amended  
3 guidelines, including but not limited to,  
4 (a) viability assessment; total system performance  
5 assessment; site characterization program; adequate  
6 protection of public health and safety; waste  
7 isolation; deep geologic; permanent; repository;  
8 water-divergent fast-flow pathway; may; might; could;  
9 would; hypothetical; potential; and similarly  
10 oxymoronic intentional vagaries, approximations and  
11 unscientific ambiguities and uncertainties,  
12 respectively and in toto, are intentionally  
13 misleading, obfuscatory, responsibility-avoidant,  
14 deceitful, deceptive and fraudulent in the extreme,  
15 and there as not only adversely impactive upon the  
16 genuine best public interest, inclusively and  
17 intergenerationally, but also obtain as amateurish,  
18 patently ludicrous, scientifically unqualified, and  
19 frankly embarrassing, as indicative of a source and  
20 policy and process paradigm self-evident as virtually  
21 devoid of ethics, morality, reason, integrity,  
22 responsibility, and above all, conscience.

23 Conversely, and bearing directly  
24 upon the abundantly self-evident as fraudulent  
25 context, spirit, purpose and intent of the

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

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

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

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

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

8 Thank you.

9 HANLON: Thank you.

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

12  
13 ROBERT BASS

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

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

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

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

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

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

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

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

1 for more than the past few centuries.

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

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

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

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

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

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

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

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

24 HANLON: Thank you.

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

1 speaker is Nick Stellavato.

2 **NICK STELLAVATO**

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

12 **HANLON:** Thank you.

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

17  
18 **SALLY DEVLIN**

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

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

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

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

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

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

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

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

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

3 Thank you.

4 HANLON: Thank you.

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

7  
8 GRANT HUDLOW

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

25 I'd like to explain to you that in

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

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



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

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

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

22                        HANLON: Thank you.

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

25



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

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

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

2 What I'd like to point out to you  
3 in case you hadn't considered it -- although, you have  
4 enough geologists on staff that I'm sure someone has  
5 thought of this. Whenever you have a fast pathway in  
6 an area of a lot of earthquakes, those things can be  
7 disrupted and barriers can develop. And in fact, what  
8 could have channeled water away can simply become a  
9 dam and an aquifer can develop right there at your  
10 repository level above or below it in an area where it  
11 could have devastating effects to your repository  
12 design. And so I guess what I would like to say is, I  
13 don't see anywhere in here, in your performance  
14 assessment designs, that you intend to deal with  
15 catastrophic results of geologic events. It's not  
16 stated in here and it should be in there.

17 Catastrophic events are of a very essential nature  
18 when it comes to an area with high earthquake  
19 probability; and certainly, the Yucca Mountain site  
20 fits into that description. These rules, besides  
21 being cynical and turning a bad thing into a good  
22 thing, are clearly deficient if they don't deal with  
23 the possibility of catastrophic events.

24 Thank you.

25 RICE: Thank you, Mr. Brown. That

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

8 (BREAK)

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

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

12  
13 MIKE DE FLORIA

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 Thank you.

12 HANLON: Thank you.

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

15  
16 **CHUCK CHAVEZ**

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

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

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

19 Thank you.

20 HANLON: Thank you.

21 RICE: Wanda McClenaghan.  
22  
23  
24  
25

## WANDA MC CLENAGHAN

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

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

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

3 Thank you.

4 HANLON: Thank you.

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

7  
8 REINARD KNUTSEN

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

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

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

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

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

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

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

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

7 Thank you.

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

10  
11 ABBY JOHNSON

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



1 evaluating the adequacy of the site.

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

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

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

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

23 HANLON: Thank you.

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

## 1 JUDY TREICHEL

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

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

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

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

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

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

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

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

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

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

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

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

6 Thank you.

7 HANLON: Thank you.

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

10  
11 JULIA MOON SPARROW

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

1 Ruby Valley.

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

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

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

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

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

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

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

1 dumping in the desert regions.

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

9 Thank you very much.

10 HANLON: Thank you.

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

23 Now, Bill Vasconi.  
24  
25

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

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

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

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



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

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

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

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

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

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

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

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

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

9 Thank you.

10 HANLON: Thank you.

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

13  
14 JAMES MC GUINNESS

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

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

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

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

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

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

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

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

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

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

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

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

1 Asking people, the common people who normally don't  
2 even understand how these hearings work, they come up  
3 with eight different copies of what they want to put  
4 together, is ludicrous. They can't afford to mail  
5 things in on a regular basis like that. I mean, I  
6 don't understand why you can't just get one copy, put  
7 it on E-Mail. I'm sure all of you have an E-Mail.  
8 Why can't you just get one copy, have someone type it  
9 in and send it to everybody else via the E-Mail? Why  
10 do you have to try to make it so hard for people?  
11 Essentially, because you don't want them to be  
12 involved?

13 You talk about the idea on-site is  
14 too dangerous. That's all I've been hearing for the  
15 longest time. It's too dangerous to keep this stuff  
16 on site. Well, how the hell can it not be too  
17 dangerous to transport it? If it's too dangerous to  
18 be on site, it should not be produced. That's all  
19 there is to it. This is a ludicrous concept. It's  
20 cost way too much money. There's been way too many  
21 problems. And yet, we continuously monitor it. And  
22 the scientists each year say, "Oh, we've got new  
23 ideas. We're going to be able to solve this." We've  
24 been hearing that for years. And people are dying of  
25 cancer at a steadily increasing rate. And I don't

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

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

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

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

17 HANLON: Thank you.

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

1 MARY OLSON

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

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

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

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

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

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

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

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

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

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

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

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

19                                    Thank you.

20                                    HANLON: Thank you.

21                                    RICE: Thank you, Ms. Olson. Tom

22       McGowan.  
23  
24  
25

1 TOM MC GOWAN

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

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

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

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

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

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

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

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

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

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

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

14 HANLON: Thank you.

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

17  
18 ROBERT BASS

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

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

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

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

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

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

#### 8 Clean Energy Technology

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

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

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

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

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

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

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

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

24 Thank you.

25 HANLON: Thank you.

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

2 JOHN HASLAM

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

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

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

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

3 With that, I thank you.

4 HANLON: Thank you.

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

13  
14 TOM MC GOWAN

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

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

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

16 (NO FURTHER COMMENTS FROM THE PUBLIC)

17 HANLON: Thank you, Mr. McGowan.

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

20 \* \* \* \* \*