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July 26, 2016

U.S. Department of Energy, Office of Nuclear Energy  
Response to IPC, 1000 Independence Ave SW  
Washington DC 20585  
**Via email: [consentbasedsiting@hq.doe.gov](mailto:consentbasedsiting@hq.doe.gov)**

RE: Response to IPC

Eureka County, Nevada, provides this response to the Department of Energy's request for public comment concerning the development of a "fair and effective" consent-based siting process. Eureka County is one of the ten affected units of local government under Section 116 of the Nuclear Waste Policy Act as amended. Eureka County has been an active participant in oversight activities related to the Yucca Mountain project and has received direct payments in order to perform oversight as outlined in Section 116.

The Federal Register notice posed five questions for consideration.

1. How can the Department of Energy ensure that the process for selecting a site is fair?

The Blue Ribbon Commission on America's Nuclear Future (BRC) strongly recommended that the Department of Energy should not be in charge of nuclear waste disposal siting or management. The BRC recommended a quasi-governmental entity similar to the Tennessee Valley Authority. The BRC's recommendation should not be ignored. It was based on the fact that trust and confidence is integral to successful waste management and disposal.

Regarding the issue of fairness in the distribution of costs, benefits, risk and responsibilities, Eureka County is a Downwinder county. Our residents were subject to the airborne radiation effects of aboveground and underground nuclear weapons tests at the Nevada Test Site and still experience health effects today. We are acutely aware of the risks and fairness issues associated with unwanted federal facilities. In 2011 we initiated a Lessons Learned interview project (<http://www.yuccamountain.org/lesson.htm>) timed to coincide with the information-gathering phase of the BRC. We conducted extensive interviews with observers and participants in the County. The interviews revealed that trying to site a nuclear facility in an area already experiencing the ill-effects of a nuclear project is probably a mistake. Whereas it appeared that Yucca Mountain was an ideal site because of previous nuclear activity on the Nevada Test Site, it may have been just the opposite. Instead

of being welcomed by state and local governments, the state and many local governments were skeptical of another “safe” project from the same agency that made promises of safety about nuclear weapons testing and instead harmed residents.

To be fair, the “consent” should also include local units of government directly affected by the project, but are not the proponents who are advocating for the site. This is true whether it is a site such as Yucca Mountain in Nevada where the facility was proposed to be developed on federal land by the federal government, or the PFS proposal in Utah where the facility was proposed by a private entity on Tribal lands. Without allowing residents who have a direct stake in the outcome to participate in the “consent based” process, true consent cannot be obtained.

### 2. What models and experience should the Department of Energy use in designing the process?

Other countries have pursued a less politicized site selection process. The Nuclear Waste Technical Review Board and the Blue Ribbon Commission have gathered some of that information and other sources exist, perhaps even within DOE, to capture and analyze the siting process of other countries for nuclear waste sites, and for other large controversial projects.

The Nevada experience, decades long, provides some indicators of what not to do. The DOE picked the site without Nevada’s consent and then spent decades and millions of dollars to justify the site rather than to objectively consider it and compare it to other sites.

The DOE should consider environmental justice, not only the definition in the Executive Order, but also the broader challenge and concern of siting an unwanted project in a community or area desperate for jobs and economic uplift, or in a rural area which is considered to be politically weak or expendable.

Always consider transportation and emergency response. If the project siting does not take transportation access and impacts into consideration, it will be even harder to get consent. In the case of Nevada, Yucca Mountain does not have, but requires rail access. By considering the site’s attributes apart from the transportation challenges, it made it much harder to accomplish the project. The nature of governmental institutions is to concentrate on the part of the project within their authority and domain. It is a mistake not to have a systems analysis and the big picture as a top priority at all times. Management by an organization tasked to consider both siting and transportation would improve the process.

### 3. Who should be involved in the process for selecting a site and what is their role?

For site selection to succeed, there must be a common understanding among all affected parties which includes the Governor and state agencies, Native American tribes, units of local government including counties and cities/towns, regional groups, university involvement, and transportation and emergency services, and non-governmental organizations and civic groups. The process should clearly state at what points the state and affected units of local government can “opt out” and identify the point of no return, when the state and community are committed to moving forward with the project. Adequate and consistent oversight funding to ensure that participation is not a burden is essential. Involving the critics and being able to address their concerns builds organizational credibility for the

project proponent and improves chances that public trust and confidence will be assured. As was proven many times in the Nevada experience, public trust and confidence is a building block for a successful project.

4. What information and resources do you think would facilitate your participation?

Eureka County has years of experience as an affected unit of local government, with direct payment funding from DOE to participate in oversight activities. Oversight funding which is adequate is essential to ensure public involvement and participation. This funding should be available consistently throughout the planning process. It is also useful and productive to ensure that non-governmental organizations with specific interests be able to participate. Information resources are also essential, through websites (for example in our case [www.yuccamountain.org](http://www.yuccamountain.org)) newsletters, and social media (which did not exist for most of the time that Yucca Mountain was considered.) Activities and organizations asking the hard questions should be encouraged rather than stifled because a consent-based siting will only work if the process is transparent and the hard questions can be answered.

Any funding for information dissemination should be provided to enhance public understanding, not to further the point of view of the project proponent. Public libraries are great but underutilized resources for this.

Information about transportation should be an integral part of the public education process. DOE's pattern is to set transportation aside, to be considered after siting. This mistake during Yucca Mountain site characterization should be instructive for a new siting process.

5. What else should be considered?

Transportation and emergency response. We cannot emphasize enough that if transportation and emergency response impacts are set aside or deemed to be secondary considerations, it is a mistake.

Consent-based siting is easier said than done. The Nevada experience is instructive of what not to do. As long as a forced siting process remains active, it will be very hard to move forward with consent-based siting.

We appreciate the opportunity to provide comments on consent-based siting.

Sincerely,



Ronald Damele, Director  
Eureka County Public Works