

**Eureka County
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January 5, 2004

Secretary
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
Attention: Rulemakings and Adjudications Staff

RE: Policy Statement on the Treatment of Environmental Justice Matters in NRC
Regulatory and Licensing Actions

To whom it may concern:

Eureka County, Nevada is an “affected unit of local government” under Section 116 of the Nuclear Waste Policy Act as amended.

Eureka County’s concern with federal agencies addressing environmental justice issues relates to impacts of the nuclear waste repository project and the county’s potential to host a rail line transporting high level radioactive waste and spent nuclear fuel to Yucca Mountain, Nevada.

Why is NRC issuing a draft policy statement now? This Notice should contain a detailed explanation about specifically how the new policy differs from current environmental justice guidance and NRC practices, as well as what NRC hopes to accomplish by promulgating a new policy. The explanation should include examples how the draft policy would result in different actions or decisions, especially in relation to implementation and interpretation of the National Environmental Policy Act. For example, it would be helpful to understand differences between existing policy and proposed policy in relation to NRC’s decision to adopt Department of Energy’s Yucca Mountain Final EIS “to the extent practicable.”

We bring as a point of reference our experience in reviewing and commenting on Department of Energy’s Draft Environmental Impact Statement on Yucca Mountain. Eureka County commented on DOE’s treatment of environmental justice impacts on February 28, 2000, as follows:

“As discussed in the general comments, the DEIS inadequately analyzes the project impacts in relation to environmental justice. Because of the nature of rural life, communities are dispersed, rather than concentrated. Given the limited political power of rural communities, they are often targeted for unwanted projects. The Yucca Mountain repository is an excellent example of this type of “justice.” The DOE’s risk models are based on avoiding urban areas, and presume that risks from the project should be borne by rural people.

The DOE should consider the effects of past programs and policies on communities, as well as the additional impacts of the Yucca Mountain project. Rural low income populations received damaging doses of radiation in the 1950s and 1960s from above-ground and underground nuclear weapons tests conducted by the Atomic Energy Commission. The DOE must take these disproportionately high adverse health and environmental impacts of its programs, policies, and activities into consideration.”

Eureka County would argue that NRC’s environmental justice policy should recognize and mitigate the disproportionate impacts that fall on a rural population because they are rural. In addition, we believe that NRC’s policy must address the situation of persons and communities repeatedly bearing the burden of nuclear projects for the nation, as we have done and continue to do in Nevada. The decision to revise NRC’s policy statement on environmental justice is an opportunity to broaden the scope of the policy, rather than narrow it.

Thank you for considering Eureka County’s comments.

Sincerely,

Abigail C. Johnson

Abigail C. Johnson
Nuclear Waste Advisor

cc: Leonard Fiorenzi, Laurel Marshall