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August 18, 1998

Ms. Corinne Macaluso
U.S. Department of Energy, c/o Lois Smith
TRW Environmental Safety Systems Inc.
600 Maryland Avenue, S.W. Suite 695
Washington, D.C. 20024

RE: Comments to "Notice of Revised Proposed Policy and Procedures" Federal Register Notice dated May 6, 1998

Dear Ms. Macaluso:

Esmeralda County, Nevada has reviewed the subject Notice of Revised Proposed Policy and Procedures and is providing the following comments. We are appreciative of the opportunity to review and comment on this notice.

In the section, Policy Statement, it states that OCRWM will provide funding and technical assistance to states and tribes for emergency response training. Esmeralda County would like that to be more specific and to specify that funding would go to the state agency responsible for emergency management and the agency responsible for regulatory oversight of highway and rail transportation. Also in that section, it states that "it is OCRWM's policy to provide funds and technical assistance to states and tribes to obtain and maintain awareness-level training." Then it states "In addition, to the extent funds are available, the assistance may be used to obtain an enhanced level of emergency response capability". This approach is not consistent with other DOE programs and OCRWM needs to make more of a commitment to provide the funds for first responders to obtain operations level training.

Also, in the section, Policy Statement, it states that "If Congress does not fully appropriate the funds requested, the funding to eligible jurisdictions will be decreased proportionately." This appears to be an excuse for DOE not to provide the necessary funding for a program as directed by Congress in the Nuclear Waste Policy Act (NWPA). It would seem that DOE would be discussing this with congress now to assure that congress agrees that this is an essential part of funding when needed. Otherwise, each

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jurisdiction may take the position that they cannot appropriately respond to an emergency involving a radioactive material accident without endangering their emergency responders. Congress needs to be fully aware of that potential situation and make a commitment to provide the necessary funding either in the current administration or in future administrations. It is not a responsible position for DOE to just sit back and state that funding will be decreased if Congress does not fully appropriate the funds without doing everything in its power to get the necessary funds appropriated by Congress. This means working with Congress long before the funds are required.

In the section on Timing of Grant Programs, it states that "the application process for grants will begin approximately four years prior to transportation through the applicant's jurisdiction." How is this process to begin when, as also stated in that section, "The Regional Servicing Contractor (RSC) would propose routes in the three years prior to shipment"? In the TY-4 time frame, each eligible jurisdiction would be conducting its determination of needs for the grant application. This seems that every possible jurisdiction nationwide, that is on an interstate highway or between a nuclear utility and an interstate would be eligible for the \$150,000 grant which would be a gross misuse and waste of available funds. How will DOE define the eligible jurisdictions?

Later in the section on Timing of Grant Programs, it states that "The Department plans to retain final approval of all transportation routes and the RSC(s) would be responsible for obtaining NRC approval of the routes." If the DOE is going to retain final responsibility for approval of the routes, then it would seem to make more sense overall, for DOE to define the routes to the RSC's. This could be initiated much earlier and get stakeholder involvement in the process so that communities would then know the jurisdictions in which emergency response personnel would require the training. This would also result in a much more efficient planning process for the affected jurisdictions. Early route identification is also consistent with other DOE transportation programs such as WIPP and the return Foreign Research Reactor spent fuel. A consistent transportation policy is a stated goal of the Senior Executive Forum.

The main concern of the local communities is that this policy and procedure does not provide a reasonable level of confidence that the emergency response training will ever get to the local level. There has been no consultation with stakeholders in the development of the process to assure that local level training will occur. As stated in the notice, each applicant will establish the financial assistance needed to obtain the appropriate level of emergency response training. This will be done in a vacuum as there

are no guidelines established for the evaluation. Also, DOE will have no means of determining whether the request is valid or not because DOE has no agreement with States and local governments over what constitutes preparedness. As a result, the state's incentive will be to ask for as much as possible knowing that DOE will probably not get full funding, and DOE's incentive, especially if not working closely with Congress, will be to limit costs. Without prior agreements regarding what DOE will fund, the application package will become a political battle. In contrast, WIPP's early negotiations with state and local governments over what constitutes preparedness have made them partners in determining the safety of the SNP shipments.

Although the following is not directly related to the 180C policy and procedures, it is a response to DOE's comment response to a number of comments to the previous version. In the section discussing the previous comments, DOE's response to many of the comments is that "OCRWM has chosen to incorporate comments when to do so would not increase shipment safety or the effectiveness of the grants program, or for other reasons is incompatible with OCRWM's mission to implement the Section 180C program according to the NWPA". While there may be some truth to the above rationale, the DOE needs to address the concerns raised by these comments. There are a number of successful shipping campaigns within DOE that OCRWM can use as an example of how to do business. Some of these are mentioned in the comments. If nothing else, DOE should make a commitment to provide specific plans and when these plans will be issued for stakeholder review and not just say that when it comes time to ship, DOE will be ready. This is especially true in light of the fact that few, if any, of the DOE personnel have ever been involved in transportation of spent nuclear fuel. These plans include items like; an overall transportation plan, a routing policy, a plan that defines roles and responsibilities, a communications plan, a stakeholder involvement plan and a plan that identified how to implement the Price-Anderson indemnification process.

At the most recent Transportation External Coordination/Working Group meeting in Milwaukee, Kelvin Kelkenberg of the Senior Executive Transportation Forum stated that the DOE Transportation Management Goals included, 1) Establish a clear set of operating/management procedures; 2) Improve coordination, communication, and integration among DOE programs; with stakeholders; with other Federal agencies and 3) Improve level of confidence in the transportation safety basis. Their current efforts include transportation protocol development (Task 98-01), public outreach and communication, emergency response training issues, funding and technical assistance

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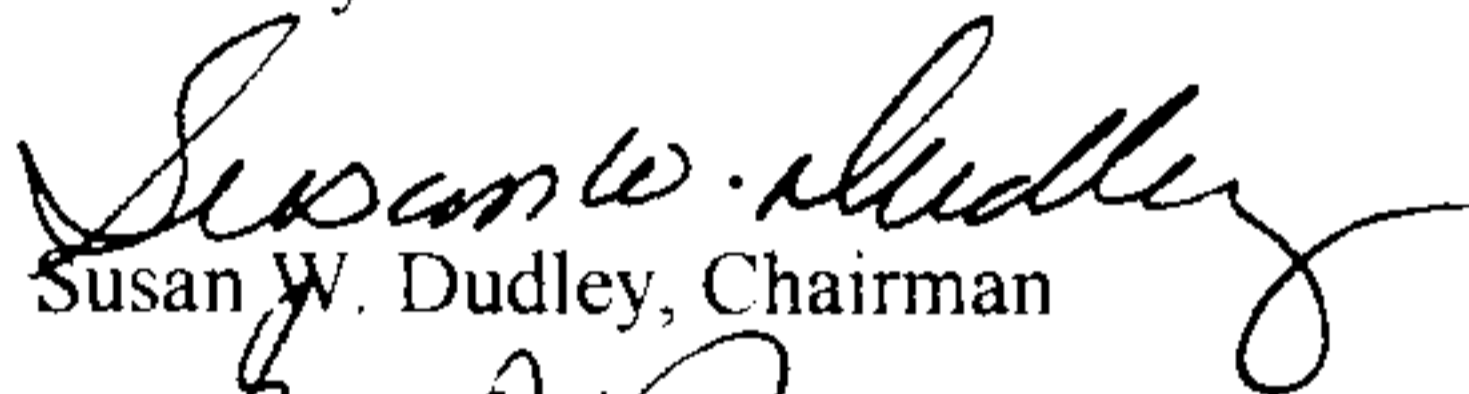
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options and a DOE single point-of-contact. Although the above seems to be a great plan, there was no apparent evidence at the TEC/WG meeting that there was buy-in by OCRWM. While it is recognized that there are difference in the various programs, if the intent is to have integration among all DOE programs, not just some, it would seem that OCRWM would be involved in product development, including emergency response issues, and to openly commit to DOE's integration policy. In the wrap-up, Mr. Kelenberg stated that DOE Senior Management is committed to working together to resolve transportation issues. We would lie to see a more active involvement in this process and a commitment by OCRWM to work together with other DOE programs to resolve transportation issues.

Again, thank you for the opportunity to review and comment on the Notice of Revised Policy and Procedures. We look forward to continue working with DOE on transportation issues related to the OCRWM Program. We encourage OCRWM to give serious considerations to these comments both in preparing the final 180© Policy and Procedures and in their overall program planning.

Sincerely



Susan W. Dudley, Chairman



Gary O'Connor, Vice Chairman