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September 25, 2007

Ms. Corinne Macaluso
U.S. Department of Energy
c/o Patricia Temple
Bechtel SAIC Company, LLC
995 N. L'Enfant Plaza SW Suite 8000
Washington, D.C. 20024

Dear Ms. Macaluso,

Inyo County respectfully submits the following comments to the U.S. Department of Energy's Federal Register notice for a proposed policy revision regarding distribution of Section 180 (c) funds under the Nuclear Waste Policy Act (NWPA) of 1987, as amended. This notice was published in the Federal Register, Volume 72, Number 140, on July 23rd, 2007.

In this notice, the U.S. Department of Energy (DOE) asked for input on six questions related to the proposed procedure for distributing Section 180 (c) funds. Generally, the funding allocation formula set forth in the Federal Register notice will most likely ensure an appropriate distribution of funding. Additionally, Inyo County believes that the use of U.S. Census Department data to calculate population will prove to be the most acceptable way to determine populations along the routes. However, Inyo County does have several concerns related to the policy set out in the Federal Register notice.

First, the definition of shipping sites should be refined so that small volume shipping sites do not receive undue weight in the formula calculations. There are a large number of these small sites throughout the United States and it would be appropriate for the DOE to establish a minimum amount of waste as a threshold for a site to be considered in this calculation. Otherwise, the DOE should exclude sites not evaluated in the Yucca Mountain Final Environmental Impact Statement.

Inyo County is concerned that the funding may not be directly provided to the emergency first responders along potential routes. The DOE should define a process for providing funding that will ensure Section 180 (c) funding is used to train firefighters and provide equipment in a way that enhances readiness along transportation corridors. The current proposal could result in a diversion of funding into state administrative costs instead of actual improved readiness. This is of great concern because of the very large number of counties that will be affected by shipments. The likely minimum number of counties that will be impacted by a shipping campaign is approximately 669, with a maximum of approximately 707 counties. Each of these counties will be vying for some share of

Section 180 (c) funding. The DOE should ensure that Section 180 (c) funds can be delivered in order to maximize preparedness. The model used by the Waste Isolation Pilot Plant (WIPP) may be suitable for this.

It is possible that Section 180 (c) funding will not prove to be cost-effective. The DOE should internally model the implications of its proposed rulemaking in order to determine the adequacy of the program. Draft calculations produced by the National Fire Protection Association suggest that a national funding level of \$12 million under Section 180 (c) results in a national award of under five cents per firefighter for training. The DOE should evaluate the effectiveness of Section 180 (c) in terms of the program's ability to provide realistic improvements in awareness, and readiness for localities along the proposed transportation routes.

Additionally, the more urgent task for the DOE is to identify a realistic set of routes for waste shipments to Yucca Mountain. Currently, the DOE truck transportation plans remain unknown in nature and are based on the construction of a \$3 billion rail line along the Caliente Rail Corridor. Without construction of the rail line, current DOE plans for transporting waste to Yucca Mountain via rail cannot be implemented. If the Caliente route is not built due to its enormous cost and engineering difficulties, different modes and routes will have to be adopted. Different modes and routes affect where the impacts will occur, and the degree to which some areas will be affected. Without a set of routes, it is difficult to assess whether or not funding will be adequate. Inyo County supports the Western Interstate Energy Board's 1995 resolution advocating the DOE establish a set of straw man routes that can then be used and examined by individual states. The DOE must also consider Section 180 (c) funding in the event of a shipping campaign that relies heavily on truck or intermodal shipments.

In the Federal Register notice, the DOE requested comments on whether or not certain funding levels would be appropriate. The first question was whether or not \$200,000 would be an appropriate amount for an assessment and planning grant to conduct initial needs analysis. We assume that this \$200,000 would be awarded as a base grant per state. It seems clear that \$200,000 would not be an adequate sum due to variations between states. For example, routes through Vermont are 30 miles long and affect a single county, while routes through California are approximately 1100 miles long and may traverse over 20 counties. A \$200,000 planning grant would be inadequate for an initial assessment, and a more tailored approach is necessary to perform adequate assessment of potential transportation routes.

Because the transportation portion of the program will last between 24 and 38 years, there is a need to update the original needs assessment. Changes in technology, sensing equipment, and demographic changes will necessitate periodic revision of assessments. It seems likely that timing these periodic assessments to the release of the decennial census is appropriate. That is, as the DOE re-examines the distribution of funds contained in the proposed procedure, it would also use newly available data to reexamine needs assessments.

The second question asks whether \$100,000 would be an appropriate amount for the annual training grant. Once again, the answer is no. Areas of California that will be affected by the shipment of these materials contain approximately 5000 firefighters. A \$100,000 annual training grant would most likely not be adequate to provide the proper level of training for all those firefighters. Additionally, no analysis has been conducted to examine the training for California Highway Patrolman or local law enforcement officers, the most likely first responders who will arrive to an incident involving the release of high-level nuclear waste.

The Federal Register notice asserts that training may become less expensive with increased expertise and efficiency, and asks whether or not the base grants should be reduced. This statement ignores the

likely turn over that will occur throughout the course of the shipping campaign to Yucca Mountain. Of the 5000 firefighters in California likely to be impacted by a shipping campaign to the repository, approximately 2300 of them are volunteer firefighters, and can be expected to rotate in and out of service. Due to this situation, it seems unlikely that funding should be reduced. Inyo County agrees that the funding amount for the training grants should be based on the funding allocation formula described in the Federal Register notice. However, the DOE should empirically test its funding formula to determine how the funds should be distributed.

The third question asked by the DOE is whether or not mutual aid agreements should affect how funding is distributed. Inyo County relies heavily on mutual aid agreements with other nearby entities to provide first response and medical services in the event of emergencies. If funding were not provided to localities with which we have emergency mutual aid agreements, it is likely that their first responders would be ill prepared and overwhelmed in the event of an emergency. Mutual aid agreements should be included in Section 180 (c) calculations. Inyo County also believes that funding should not be reduced in cases where a route forms a border between two states. A tailored approach should be taken in these circumstances, rather than a standard formula that applies to all interstate routes.

Inyo County believes that the time periods for funding allocations in Question 4 are correct.

The fifth question asks whether or not Section 180 (c) grants should be adjusted to account for levies by states or tribes in the transportation spent nuclear fuel high-level radioactive waste. Inyo County agrees that fees and levies enacted by states and tribes should be a basis for adjusting Section 180 (c) funding. It has been shown that levying fees and imposing taxes probably results in a greater amount of income to states and localities than would be received under Section 180 (c). Therefore, a state receiving substantial income from taxes or fees on high-level radioactive waste shipments should have funds deducted from their Section 180 (c) grant.

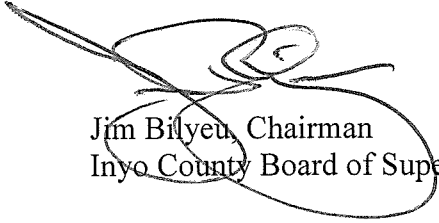
The final question asked relates to whether or not the DOE should adjust Section 180 (c) funding for other similar emergency management programs and funding assistance already related to the transportation of radioactive materials, and whether or not funding for WIPP shipments should also be considered. Inyo County believes that these funding arrangements occurred so far in the past that previous training has become obsolete. New and updated training, incorporating current methodologies and equipment, must now be initiated to adequately prepare local emergency responders for a shipping campaign to Yucca Mountain.

In closing, Inyo County remains extremely concerned that the DOE has failed to implement a comprehensive transportation plan for shipping nuclear materials to Yucca Mountain. A recent presentation made to our Board by the DOE confirmed that the DOE has not designated final truck transport routes to the repository, and the DOE cannot even state which routes are presently under consideration. Inyo County feels that current opportunities to participate in the routing process, primarily the Transportation External Coordination Working Group, is little more than an exercise, rather than a meaningful forum that allows stakeholders a significant opportunity to provide input that will be taken seriously by the DOE. A genuine and transparent participation process, which works collaboratively with all stakeholders, is the only method to ensure appropriate routing criteria and designations by the DOE.

Inyo County appreciates this opportunity to comment on this very important project. The County believes it is prudent for the DOE to request comments from potentially impacted jurisdictions. However, it is still unclear whether Section 180 (c) is an adequate basis for delivery of emergency management funds for personnel, training, and equipment.

Thank you for your consideration of this request. If you have any questions, you may contact Matt Gaffney, Project Coordinator, Yucca Mountain Repository Assessment Office, at (760)-873-7356.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Bilyeu", is written over the typed name and title.

Jim Bilyeu, Chairman
Inyo County Board of Supervisors