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Ms. Corinne Macaluso
Office of Civilian Radioactive Waste Management
U. S. Department of Energy
C/o Patricia Temple
Bechtel/SAIC Company, LLC
955 N L'Enfant Plaza, SW, Suite 8000
Washington, DC20024

RE: Revised Proposed Policy Section 180 (c)

Dear Ms. Macaluso,

The Esmeralda County Board of County Commissioners appreciates the opportunity to provide input on the notice of revised proposed policy implementing Section 180 (c) of the Nuclear Waste Policy Act of 1982. Esmeralda County is one of the ten Nevada counties designated as affected units of local **government** (AULG) that participate in the oversight of the Yucca Mountain Project.

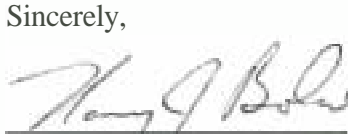
We have considered the Department of Energy's (DOE) revised policy for implementation of Section 180 (c) and provide the following comments to the **draft** policy and have approved this letter and read the contents into the record on this date December 18, 2007.

Esmeralda County is concerned that the proposed policy does not suggest adequate levels of funding for either planning or training grants. Further, the formula for allocating training grants inappropriately includes inspections at shipment points of origin as an allowable activity for which Section 180 (c) training funds may be spent **and/or** inappropriately includes the number of points of shipment origin wherein inspections might occur as a factor in allocating training funds among states. Point of origin inspections are not an emergency response activity and allocation Section 180 (c) funds for training for such inspections or factoring the number of such points into formulas for allocating 180 (c) training funds should not be included in the **final** policy. Our principal concern with the revised proposed policy is that it has the potential to dilute the original intent of Section 180 (c) by diverting the focus of technical and

financial assistance away from Affected Units Local Governments and Indian Tribes. The DOE's responsibility with respect to implementation of Section 180 (c) extends well beyond the distribution of **funds**. It is vital that DOE remain **fully** engaged in emergency response training and preparation of appropriate units of local government and Indian Tribes.

Esmeralda County encourages DOE to give serious consideration to the following comments while completing the final implementation of Section 180 (c) of the Nuclear Waste Policy Act, as amended. Should you have any questions concerning these comments, please feel free to contact us.

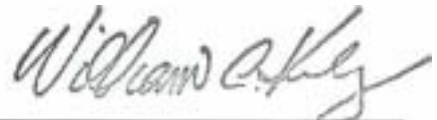
Sincerely,



Nancy Boland
Chairman



R. J. Gillum
Vice Chairman



William Kirby
Commissioner

Policy Statement

1. The Policy Statement first paragraph states "DOE is responsible for providing technical and **financial** assistance for training of local public safety officials to States and Indian Tribes....." Comment - **The sentence should be** revised to read "to aid training of public safety officials of appropriate units of local government and Indian Tribes."
2. The Policy Statement **4th** paragraph states "DOE will work with States and Tribes to evaluate current **preparedness** for safe and routine **transportation** and emergency response capability and will provide funding as appropriate to ensure that State, Tribal, and local officials are **prepared** for OCRWM shipments." **Comment** - DOE's responsibility **should** be to provide funds to states for training public safety officials of appropriate units of local government. The purpose of 180 (c) is not to provide funds to ensure that States are adequately prepared for OCRWM shipments. The law does not include such language. The policy statement should be revised.
3. The Policy Statement Last Paragraph states "**Any** deficiency in basic emergency response capability may be addressed through consultation and technical assistance." Comment -The term "may" should be replaced with "shall". The policy statement should be revised to include funding as a means to address deficiencies, and those deficiencies will largely be found with local emergency response capabilities. The policy should consider financial assistance as another means to address deficiencies in basic emergency response other than consultation and technical assistance.
4. Policy Statement concluding comment: "DOE is responsible for **providing** technical and financial assistance for training of local public safety officials to State and Indian Tribes". Comment - The emphasis of the revised proposed 180 (c) notice currently lies with the distribution of funds to states. This emphasis is consistent with the intent of the law which requires training and technical assistance for affected entities. Any distribution of funds should be built around capabilities of appropriate local governments and Indian Tribes along proposed routes.

DOE's responsibility lies with the training of appropriate units of local government and Indian tribes. The emphasis of this notice appears to be on administrative functions tied to the allocation of funds. Instead DOE should devise a system whereby appropriate local governments and Indian tribes along transportation routes receive technical assistance and funding for emergency response. Such a responsibility is not met by allocating funds to states.

DOE should establish performance measures for local emergency preparedness along transportation routes. Without them, DOE will have no way to gauge the level of preparedness for shipments to Yucca Mountain.

DOE needs to determine what are the basic minimum standards for appropriate local governments and Indian Tribes. The revised policy should describe the minimum standards for appropriate local governments and Indian Tribes and begin to focus resources on these areas **needing** the most assistance. As previously mentioned the revised policy should establish minimum emergency response performance measures as a baseline for Yucca Mountain shipments.

II. Basis for Cost Estimates/Grant Funding Allocation to States

5. **Second Paragraph: "The variable amount of the train grant will be determined through a risk based formula using the factors of population along routes, route miles, number of shipments, and shipping sites". Comment –** Population along routes should not be a factor because response capabilities generally revert to population. Areas with greater concentrations of population often have significant emergency management capabilities with professional staff. DOE should not justify allocating funds to large urban areas where public safety officials who are already trained to handle hazardous material shipments versus the rural smaller less populated areas without any capabilities. Favorable consideration should be given to the particular training needs and related costs for rural fire departments, especially volunteer fire departments.
6. **Allowable Activities second paragraph: "Under Section 180 (c) of the NWPA, DOE shall provide technical and financial assistance to States and Indian Tribes". Comment –** This sentence should read "The Secretary shall provide technical assistance and funds to states for training for public safety officials of appropriate units of local governments and Indian Tribes".

The fifteen typical planning activities and the seventeen suggested allowable training grants are a good representation of needed emergency first responder preparation. However, the maximum \$200,000 and the \$100,000 base amount budgeted by DOE per state for training is entirely inadequate. In Nevada, it is possible that rail/highway transportation routes could cross through six or more local jurisdictions, each with individual first response responsibilities. If the \$100,000 was divided amongst the seventeen Nevada Counties it would leave \$588 available for training in each county. DOE needs to plan on much larger funding amounts for planning and training grants. Instead of \$200,000 maximum and the \$100,000 base amount it should be more like \$1,000,000 and \$500,000 per state.