



WESTERN SHOSHONE DEFENSE PROJECT

P.O. Box 211308 Crescent Valley, Nevada 89821
(775) 468-0230 phone; 775-468-0237 fax; e-mail: wmdp@igc.org

RRR000686

January 10, 2008

Dr. Jane Summerson, EIS Document Manager
M. Lee Bishop
Regulatory Authority Office
Office of Civilian Radioactive Waste Management
U.S. Department of Energy
1551 Hillshire Drive
Las Vegas, NV 89314

RE: Comment on Draft Repository Supplemental EIS and Draft Nevada Rail Corridor/Alignment EIS

Dear Ms. Summerson:

[The following comments summarize our concerns to any further development or planning of a nuclear waste repository at Yucca Mountain or the planning of a rail corridor to carry such waste across Nevada and other states. We recommend the No Action option on this project. We have stated our opposition on numerous other occasions and hope that you will listen to us now before this project goes any further.] 1

[First and foremost, the proposed project lies within the ancestral lands of the Western Shoshone people, as recognized by the United States in the *Treaty of Ruby Valley 1863*. The United States has yet to prove title to this land base. Without legal title to this land there can not be any land withdrawal(s). Mere claims of "gradual encroachment" by the Indian Claims Commission or Supreme Court decisions allowing the Department of Interior to accept money on our behalf thereby barring us from asserting our rights in the U.S. courts does not change the basic fact that this is Western Shoshone land and our Western Shoshone Nation has never agreed to allow nuclear waste or other radioactive materials on our lands.

The project being proposed violates our most basic laws. As Western Shoshone peoples, we have our own laws which stem from our existence as indigenous peoples. These laws are natural laws and tell us that we were placed here as caretakers of the land, air, water, and life that exists out here. The four things that must be protected above all else are the land, air, water, sun (L.A.W.S.), without any one of these things there would be no life. These are our laws. We must protect our lands for the good of everyone and we hope that you will
The Western Shoshone Defense Project is an affiliate of the Seventh Generation Fund for Indian Development.

this project it is apparent that the planning for this project only demonstrates that the DOE and U.S. Government are oblivious to the future of the Western Shoshone Nation. We hope that this behavior will change in the immediate timeframe.

In fact, and as you have been told previously, according to United States obligations under recognized standards of human rights, this project should be halted. During the 68th Session of the **COMMITTEE FOR THE ELIMINATION OF RACIAL DISCRIMINATION, February 20 – March 10, 2006** an “**Early Warning and Urgent Action Procedure**” Decision was handed down to the United States of America. (A copy of the Decision is attached). In this decision, the proposed Yucca Mountain nuclear waste repository and rail line were a primary concern for the Committee. The legal action is ongoing, however at this point in its decision, the Committee urged the State party to: (1) respect and protect the human rights of the Western Shoshone peoples, to pay particular attention to the right to health and cultural rights of the Western Shoshone people, which may be infringed upon by activities threatening their environment and/or disregarding the spiritual and cultural significance they give to their ancestral lands, (2) take immediate action to initiate a dialogue with the representatives of the Western Shoshone peoples in order to find a solution acceptable to them, and which complies with their rights of indigenous peoples, in particular their right to own, develop, control and use their communal lands, territories and resources (3) adopt the following measures until a final decision or settlement is reached on the status, use and occupation of Western Shoshone ancestral lands in accordance with due process of law and the State party’s obligations under the Convention:

- a) Freeze any plan to privatize Western Shoshone ancestral lands for transfer to multinational extractive industries and energy developers;
- b) Desist from all activities planned and/or conducted on the ancestral lands of Western Shoshone or in relation to their natural resources, which are being carried out without consultation with and despite protests of the Western Shoshone peoples;
- c) Stop imposing grazing fees, trespass and collection notices, livestock impoundments, restrictions on hunting, fishing and gathering, as well as arrests, and rescind all notices already made to that end, inflicted on Western Shoshone people while using their ancestral lands.]

In addition to the obvious land title issue, on a preliminary basis (there may be additional issues raised as we continue to monitor and analyze the full impact of this proposal) there are other disturbing factors in relation to the proposed project. It is also necessary that these issues be addressed before any further consideration is given to this project.

[First, we are concerned that the project and its potential impacts, including transportation of the nuclear waste, are not mentioned in the related Resource Management Plans (RMP). Our understanding of federal law is that for any project to even be considered on alleged “public” lands, that the proposed activity and its impacts must first be mentioned in the RMP. If our understanding is incorrect please advise us immediately.] 3

[Secondly, what type(s) of studies have been conducted and documented on the project, specifically, impacts to cultural, burial, historical and religious sites, as well as plant, wildlife, and human life and have these studies had participation from Western Shoshone as we will again reiterate that is this Western Shoshone lands. What consultations, if any have been conducted with Western Shoshone communities regarding this project? This area is very important to Western Shoshone people, it is a spiritual place and in our language is called “sleeping snake”. 4

Clearly there will be impacts to cultural, spiritual and historical areas of the Western Shoshone people on their ancestral lands. These will include but not limited to: impacts to human life, water sources, wildlife, plants (native, medicinal and edible), hunting, and fishing areas, sensitive and protected species, air contamination. The data provided to the public does not address these vital issues.] [Additionally, what consideration and 5

analysis has been completed regarding the cumulative impacts to these areas of concern in the areas in and affected by the project?]

[Past data has shown that DOE scientists had no knowledge of the hundreds of vital hydrology, geology, cultural and numerous key issues that must be addressed before any type of project begins. What has DOE done to address these concerns?]

These are only a small number of the highly significant issues that should be taken into consideration before the proposed project is carried forth, this includes that all information regarding the proposed project be accessible to the public, not one word of the proposed project should be withheld.]

Thank you for your attention to these matters, we will look forward to a full response from your offices.

Sincerely,



Larson R. Bill
Community Planner

CC: Western Shoshone National Council
Western Shoshone Councils and Environmental Departments