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STATEMENT OF ROBERT R. LOUX  
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TO THE  
U.S. NUCLEAR REGULATORY COMMISSION  
U.S. BUREAU OF INDIAN AFFAIRS  
U.S. BUREAU OF LAND MANAGEMENT  
U.S. SURFACE TRANSPORTATION BOARD

SALT LAKE CITY, UTAH  
JULY 27, 2000

RE: Docket No. 72-22.

"Draft Environmental Impact Statement for the Construction and Operation of an Independent Spent Fuel Storage Installation on the Reservation of the Skull Valley Band of Goshute Indians and the Related Transportation Facility in Tooele County, Utah." NUREG-1714. June, 2000.

The Nevada Agency for Nuclear Projects was established by the Nevada Legislature, in 1985, to oversee the federal high-level nuclear waste program pursuant to the Nuclear Waste Policy Act of 1982. Since passage of the 1987 amendments to the Act, which singled out Yucca Mountain, Nevada, as the only site to be investigated for a high-level nuclear waste repository, this Agency has represented the State of Nevada's interests as they relate to the Yucca Mountain Site Characterization Project.

We have reviewed the subject Draft Environmental Impact Statement (DEIS), and our comments here will be limited to those matters that relate to our interest in the Yucca Mountain Project and the federal high-level nuclear waste program.

Need for the Proposed Action

In discussing the need for the proposed action, the DEIS incorrectly states, "Both the original NWPA and the Nuclear Waste Policy Act of 1987 (NWPA) recognized that some form of centralized interim storage would be a component of the national program." Page 1-7, lines 1,2. This is incorrect because, while

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both pieces of legislation set out a siting process for a monitored retrievable storage facility, neither Act authorized such a facility. This suggests the intent that such a facility could be a component of the national program, if approved by Congress at a later date. There is no indication that such a facility was considered an integral component of the national nuclear waste program, and numerous reviews have concluded that there are no outstanding safety issues that would lead to the need for a centralized storage facility.

Private Fuel Storage, L.L.C. (PFS) has identified three primary reasons for the need for away-from-reactor storage. Page 1-11, lines 1-12. The reasons are 1) some reactors may not have the capability to increase storage capacity beyond what is currently available, potentially resulting in a premature shut-down; 2) some reactors may be able to complete decommissioning sooner than planned if away-from-reactor storage becomes available, thus reducing costs; 3) a centralized storage facility would reduce the cost of spent nuclear fuel storage.

These reasons may have financial merit for some utilities, but this DEIS fails to demonstrate that any of the reasons provided address a current need of any of the PFS participants who are proposing the Skull Valley storage facility. If the participants do not demonstrate their need for the facility, the need for the proposed action is not sustainable, and the no-action alternative should be selected.

#### Potential Impacts of the No-Action Alternative

The DEIS fails to describe the potential impacts of the no-action alternative to the individual PFS participants. The DEIS does not evaluate whether customers other than the participants have a need for the proposed action. Therefore, it is not justified to evaluate the potential impacts of the no-action alternative in a manner that "is limited to broad observations about the nuclear power industry." Page 6-44, lines 42-44. The specific impacts of the no-action alternative to the PFS participants should be evaluated since the assumption that the nuclear power industry, in general, needs the proposed facility has not been justified in this DEIS.

The DEIS states that the no-action alternative would allow for only two options in regard to the continued storage of spent nuclear fuel: 1) expand or construct new at-reactor storage, or 2) shut down reactors when storage capacity is reached. Page 6-43, lines 39-43. A third option exists for some licensees, i.e. storage at other reactor sites. The availability of this option for the PFS participants should be evaluated in this DEIS along with their capability to expand or construct new at-reactor storage.

### Assumed Location of the Permanent National Repository

The DEIS incorrectly assumes, in at least two places, that the permanent repository will be located at Yucca Mountain, Nevada. Page C-2, lines 34-40; and Page D-14, lines 38-42. According to the procedures of the NWPAA, and the Department of Energy's current decision schedules, the Yucca Mountain site lacks a number of necessary approvals before it can be assumed to be the location of a national high-level nuclear waste repository. Even if all necessary decisions and approvals are made according to DOE's schedule, the availability of a repository at Yucca Mountain is still a decade in the future. If a Yucca Mountain repository is not assumed to be available as a destination when spent nuclear fuel must be removed from the PFS facility, it is still not impossible that a repository at some other location could be operating before the end of the first quarter of the 21st century, as expected by the Nuclear Regulatory Commission.

This DEIS should acknowledge the uncertainty about the availability of a permanent repository and evaluate the consequences of the lack of a permanent repository at the time of expiration of the 20-year proposed PFS facility license. It is not sufficient to simply note that the 20-year license could be renewed. Page 1-5, lines 50-51.

Information in the DEIS indicates that at maximum operational capacity (40,000 MTU storage) at least one 20-year license extension would be required. This operation would include 20 years of incoming shipments and twenty years of outgoing shipments. Page D-16, Table D.8, and Page D-17, lines 4-5. If the proposed action includes licensing the PFS facility for up to 20 years, this is insufficient to accomplish the full scope of the proposed project - loading, storage, and unloading. Since the Commission cannot commit itself now to a license renewal twenty years in the future, the scope of the proposed project should be adjusted so that the entire operation can be completed within the license period. Then, if necessary, a license renewal could be applied for at the appropriate time, when more is known about whether there will be a permanent repository in operation by 2025, as expected by the Commission. This DEIS is defective in that it proposes a project that cannot be accomplished under the acknowledged regulatory conditions and proposed operational rates and capacities.

We appreciate the opportunity to comment on this Draft Environmental Impact Statement and look forward to consideration of these comments.