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BISHOP TRIBAL COUNCIL

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Office of Licensing & Regulatory Statement
U. S. Department of Energy
Office of Civilian Radioactive Waste Management
Yucca Mountain Site Characterization Office
P.O. Box 30307
North Las Vegas, NV 89036-0307

RE: Comments on the United States Department of Energy's Environmental Impact Statement (EIS) for Yucca Mountain Repository.

These comments on the United States Department of Energy's Draft Environmental Impact Statement (EIS) for a Geologic Repository for the Disposal of Spent Nuclear Fuel & High Level Radioactive Waste at the Yucca Mountain, Nye County, Nevada are submitted by the Bishop Indian Tribal Council who is the governing body of the Bishop Paiute Indian Reservation. Our comments will fall under the topic headings of Cultural Resources, Groundwater, Transportation,
1 and Environmental Justice. **The Bishop Tribal Council is strongly opposes the geologic repository at Yucca Mountain, and supports the No-Action Alternative.**

2 **CULTURAL RESOURCES:**

The Bishop Tribal Council feels that there will be adverse effects to Cultural Resources, impacts may result from workers, and construction activities. Which will damage the natural state of Artifacts, Yucca Mountain is not a barren wasteland but is considered by Native Americans as our (church) Holy Land, (pharmacy) healing place's, plants. Bishop Tribal Council would like to go on record as opposing the Yucca Mountain Repository Site, but only participate because of the significance of Cultural ties to the Area.

3 **GROUNDWATER:**

The Draft EIS is deficient in its analysis of the potential impact of a release of radioactive materials into the groundwater. The Draft EIS states "the groundwater flow systems of the Death Valley region is very complex, involving many aquifers and confining units. Over distance, these layers vary in their characteristics or even their presence. In some areas confining units allow considerable movement between aquifers..." Draft EIS, 3.1.4.2.1. The Draft EIS Continues to discuss scientific disagreements over the groundwater flow around Yucca Mountain, and to state that "additional research is needed to resolve the issues." Draft EIS, 3.1.4.2.2. The Draft EIS concludes that " natural discharge of groundwater from beneath Yucca Mountain *possibility.*" Draft EIS, 5.3 (emphasis added). The geological repository proposed will contain the majority of the United States' radioactive waste, basic questions regarding where groundwater from the site will travel should not be couched in uncertainties.

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11 Furthermore, the Draft EIS fails to address whether the groundwater in the Franklin Lake Playa and Death Valley areas could migrate to other aquifers in the region. Death Valley is clearly the lowest point in the area, but evidence collected by the Department of Energy (DOE) and presented in the Draft EIS suggests that due to differences in underground pressure water can ingrate upwards. Considering the importance of water supplies to both humans and the environment in the region, much more specific information regarding the groundwater flow is necessary before the geologic repository can be recommended. The lack of such information makes it difficult to comment on the Draft EIS because the risks are not clear.

4 The Draft EIS's treatment of the possibility of " disruptive events", in particular seismic activities, causing the release of radioactive materials into the groundwater is also unsatisfactory. At 5.2.3.5 the Draft EIS states, "earthquakes have occurred in the Yucca Mountain geologic region of influence, and are likely to occur in the future." Despite the Draft EIS analysis of rock size and waste package corrosion, the Bishop Tribal Council is unconvinced that facing such a likelihood of seismic activity the geologic repository at Yucca Mountain can be considered a safe means of disposal.

5 The Bishop Tribal Council considers tourism to be an important aspect of economic development in the future. The geologic repository poses a threat to Death Valley tourism. Both because of real risks to Death Valley's groundwater, and perceived risks by nature of its proximity to Yucca Mountain. The Bishop Indian Tribal Council strongly opposes the geologic repository because it will negatively impact tourism in the region.

TRANSPORTATION:

6 The Draft EIS states the " legal-weight trucks would enter Nevada on I-15 from the north and south,... and travel north on U.S. 95 to the Nevada Test Site and then to the Yucca Mountain site. Draft EIS 2.1.3.3.1. A review of the nation's highway system, and the already established pattern of shipments to the Nevada Test Site, indicate that these are not the only routes. The Bishop Tribe, Big Pine Tribe , Independence Tribe, and Lone Pine Tribe are all located along U.S. 395 in California, and are concerned about the possible us of U.S. 395 for shipments.

7 The Draft EIS states that " a truck ... would travel to the repository on highway routes selected in accordance with U.S. Department of Transportation regulations, which require the use of preferred routes. " Draft EIS, 2.1.3.2.2. For the public to have adequate information to comment on the transportation scenarios, DOE must provide a risk analysis of various possible specific routes. This should have been provided in the Draft EIS itself. The Bishop Tribal Council understands that DOE must work in cooperation with other federal agencies to produce a list of the preferred routes and their relative risks, but this should have been done prior to the Draft EIS. The Bishop Tribal Council also understands that states and tribes could have input in this process at a later time, but it would only be of greater assistance to those entities if DOE had conducted its risk analysis of particular transportation routes as part of the Draft EIS.

8... If transportation routes to the repository include routes through the Owens Valley, the Bishop Tribal Council notes that the Draft EIS, at 2.1.3.2., states that "the Nuclear Waste Policy Act requires DOE to provide technical and financial assistance to states and tribes for training public safety officials in jurisdictions through which it plans to transport spent nuclear fuel and high level radioactive waste.... DOE is developing the policy and procedures for implementing this assistance and has started discussions with the appropriate organizations. " the Bishop Tribal Council in concept supports financial assistance and training to its members so that they are able to handle an emergency situation. The funding and training would have to be substantial to provide the capability to address and accident of this nature. However the Bishop Tribal Council notes that the public is currently unable to comment on the adequacy of DOE's proposed policies

8 cont. and procedures for handling a transportation accident because they are not yet available . The Draft has again put off a crucial component of the discussion of whether the geologic repository at Yucca Mountain should be recommended. Transportation scenarios and how accidents would be handled are a major public concern, and should not be addressed as a afterthought.

9 The transportation issue is of the utmost concern to the Bishop Indian Tribal Council , because the possibility of trucks utilizing U.S. 395 puts into jeopardy the water resources of the Owens Valley, the protection of which is the purpose of the Bishop Indian Tribal Council, and necessary to the survival of the Bishop Indian Communities.

ENVIRONMENTAL JUSTICE:

10 DOE is required by Executive Order 12898 to address environmental justice issues in its " programs, policies, and activities." The Bishop Indian Tribal Council strongly opposes the methodology utilized for determining whether minority communities would be disproportionately impacted by a geologic repository at Yucca Mountain, as set forth in the Draft EIS at 3.1.13.1. The Draft EIS methodology adds all minority populations together, and then compares the percentage of minorities in the specific area with the percentage in the state. Tribal communities in the area are all relatively small (generally as a result of historic contact with non-indigenous people), as are most Tribal communities in the United States. The significance of these communities is not measured by the methodology in the Draft EIS, which makes it nearly impossible for a tribal community in the region to qualify as a minority community. Tribal communities are never a large enough percentage of the overall population to register as a minority community.

To determine whether or not there is disproportionate impact in this region requires a methodology which takes into account the locations of the concentrations of tribal members. The methodology should compare the percentage of tribal members in the specific area impacted against the percentage of tribal members in the larger region (such as the state, or even the country). The methodology utilized also fails to consider that each tribal community is inherently unique, with its own traditions and culture, making its protection significant.

In addition, the environmental justice analysis must take into account that tribal communities are adversely impacted by actions in the region in a manner disproportionate to their numbers. Tribal members have always lived on this land. No other minority community will have **holy land** affected by the geologic repository. Not other minority community will be denied access to important religious and cultural sites. The methodology utilized to examine the environmental justice issue completely ignores this reality. Tribal members still use large areas of land for traditional purposes, both ceremonial and subsistence. The impact of any action in the region on the earth, water, and air is also an impact on tribal communities. It cannot be quantified by how many tribal members live within a designated square.

The Bishop Indian Tribal Council is a sovereign tribal government, who supports the Western Shoshone in their treaty-based claim to the Yucca Mountain region. The Draft EIS address this claim at 3.1.1.4. The Western Shoshone people have not settled their claim with the United States, and the Bishop Indian Tribal Council supports their right to reject monetary compensation for land, a concept which is offensive to us. The United States cannot place the geologic repository on land which is by right of treaty Indian Country, without the permission of the sovereign tribal government.

I, the undersigned Tribal Chairman sign on behalf of the Bishop Paiute Indian Reservation submit these comments to the Department of Energy for the Draft EIS Yucca Mountain Repository.

Sincerely,

M Bengochia

Monty Bengochia, Chairman

2/23/2000

Date

Cc: Bishop Tribal Council
Richard Arnold, CGTO