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Attention:
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January 15, 2007

Re: scoping comments on *Supplement to the Stockpile Stewardship and Management Programmatic Environmental Impact Statement—Complex 2030* (Complex2030 SEIS or SEIS, DOE/EIS-0236-S4)

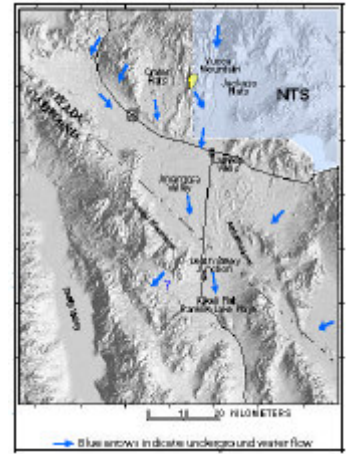
These comments are prepared by HOME with help from the Western Shoshone Defense Project regarding Western Shoshone Treaty and Human rights comments.

Scoping Meeting Format and Included Impacted Populations

HOME does not support the “poster session” only style format. We believe that a combination of “open house” hours and a facilitated hearing is the best way to maximize the solicitation of scoping comments and inform the public of the proposed action. The synergistic effect of people hearing and responding to the comments and questions of others is not available in a mere poster session. HOME fully expects that there will be a hearing process for the draft EIS process with a legal recorder present to log oral comments spoken either privately or to the hearing body.

The number of scoping meetings was inadequate, and HOME would like to see hearings on the draft EIS conducted in Northern Nevada, downwind locations in Utah, and Eastern California. The activities of the Nevada Test Site (NTS) affect all of Nevada, people downwind of the NTS, those along shipping routes to and from the NTS, and those down gradient of the NTS. While it is true that people living in close proximity to the NTS are impacted most directly by NTS programs, it is also true that as a matter of state business as the host of the NTS that all Nevadans are affected, and so Northern Nevada should be added to the hearing list.

Utahans have clearly been affected as downwinders in the past and may be in the future depending upon the future mission of the NTS, so hearings in Salt Lake City, as a population center, and St. George should also be added to the list. The southern border of NTS lies only a few miles from Southeastern California. Ground and surface water in the region generally travel in a southwestern direction through areas of natural springs and drinking wells, ultimately to Death Valley, CA. Prevailing winter winds are north-south, and our California office is currently building a database of elevated radioactive counts per minute during windy periods. People living in Southeastern California are also impacted by waste shipments to and from the NTS. All of the above impacted groups should be involved.



Mission of the Nevada Test Site

Several factors need to be included when considering the mission of the NTS and how it may change as a result of Complex 2030.

1. Nuclear Test Readiness

There are repeated references in Complex 2030 documentation as to the desire to maintain the nuclear testing moratorium, and at the same time the Nuclear Posture Review (NPR) indicates concerns over the current 2-3 year nuclear test readiness. The existing readiness status may not achieve the stated goal of a “responsive” complex. The supplemental EIS (SEIS) needs to define clearly the relationship between “responsive” and test readiness. It is unclear in existing documentation on Complex 2030 whether test readiness will be “enhanced.” It has been stated elsewhere by Linton F. Brooks, Administrator, National Nuclear Security Administration: *“One part of a responsive infrastructure is the capability to resume underground nuclear testing,”* (Presented to the Carnegie International Nonproliferation Conference, June 21, 2004). However, the extent of test readiness is not resolved. The SEIS needs to analyze the range of test readiness options from the current status to as short a time as conceivable, and how each of these will impact the region, the State of Nevada, and the nation.

In the discussion of need for agency action from the 1996 final EIS of the Nevada Test Site and Offsite Locations in Nevada (FEIS-NTS) there is a clear statement of the need to reconcile the mission of the NTS with the Clinton Administration goal of signing the Comprehensive Test Ban Treaty:

“On August 11, 1995, President Clinton reaffirmed this commitment [nuclear test moratorium] and announced his intention to seek a zero-yield Comprehensive Test Ban Treaty. A zero-yield Comprehensive Test Ban Treaty would ban any nuclear weapon explosion or any other nuclear explosion.”

- Final Environmental Impact Statement for the Nevada Test Site and Off-Site Locations in the State of Nevada, Vol. 1, pg 2-3.

While policy also required the NTS to maintain test readiness, it is a clear departure from the policy and tone of the Bush administration and the Nuclear Posture Review. The SEIS needs to clarify how the mission of the NTS is to be realigned, and specify the preferred level of test readiness under the current policy.

2. Hydrodynamic, Subcritical, and other test involving nuclear materials

The NTS has been host to a number of nuclear material related tests; many are generally categorized as “subcritical tests.” The FEIS-NTS contains data regarding the dispersal of plutonium and other radionuclides in the “safety tests” conducted in and around the NTS proper; however, there is little data on the impacts from the other subcritical tests. There also appears to be interest in moving hydrodynamic and other similar weapons related tests to the NTS. The impacts of these experiments in terms of the release of environmental toxins and radioactive materials, and handling and transportation of plutonium and other weapons materials for these tests

needs to be addressed in the SEIS. The SEIS should address the disposal of the materials used in these experiments, and health implications for workers and the surrounding communities.

3. Disposition of Special Nuclear Materials (SNM)

Under the proposed action the weapons complex will consolidate SNM to fewer locations. The NTS is already a site for maintenance of Category I/II SNM, which according to 10 CFR part 110, appendix M pertains, generally, to plutonium, and enriched uranium in amounts of 500 grams (a bit over a pound) to greater than 5 kilograms (over 10 pounds). The SEIS needs to evaluate to what extent the NTS would be a consolidation site. In doing so, the SEIS needs to address the nature of the management of this material: where and how at NTS, what volumes (masses), the transportation of these materials to the NTS, and radioactive inventories that could be anticipated. Thus, how will the region in and around the NTS be impacted?

4. Weapons Assembly and Disassembly

Assembly and disassembly of nuclear weapons would be a new activity at the NTS not analyzed in the FEIS-NTS. The SEIS needs to be very clear and explicit regarding these activities. Of particular interest and concern is the fate of the radioactive materials as a result of this activity. How will this material be handled? Will it be stored or disposed of at the NTS? Since this would be a new activity, and given the stated need to reduce the nuclear stockpile and update or redesign stockpile weapons, how will the employment profile at the NTS change? Again, the SEIS needs to address workers exposure issues, and general impacts to the NTS areas and surrounding communities. The SEIS also needs to analyze the transportation of weapons into and out of the NTS.

Contamination at the Nevada Test Site

1. Soils

The FEIS-NTS does contain some analysis of the existing contamination of the soils on the NTS. However, HOME sees this analysis to be insufficient, as has been made clear in the National Nuclear Security Agency (NNSA)/Defense Threat Reduction Agency (DTRA) attempt to conduct a high yield non-nuclear explosion, Divine Strake, at the NTS the summer of 2006. The State of Nevada just received (December 2006) a detailed soil analysis for the 1,000 ft radius encompassing the test area of Divine Strake. The State of Nevada will now be able to determine whether the test will conform to the existing air pollution permit for the NTS. The SEIS needs to fully disclose or determine the existing soil contamination data throughout the NTS and surrounding areas, especially downwind locations. The soil data ideally should contain the inventory of radionuclides present at various depths of soil, so that there is a complete understanding of the level and nature of the radioactive contamination. At the very least radionuclide analysis of the soil cores to a depth of about 20 centimeters should be detailed. It is this kind of data that is needed to evaluate the Divine Strake explosive experiment. Any soil disturbance at the NTS could loft radioactive particles in the air. Only when there is a detailed mapping of the soil, can there be a meaningful environmental evaluation of surface disturbances as a result of any activities at the NTS.

The SEIS should also explore whether various plants and animals within and near the NTS have concentrations of radionuclides from the above ground testing period. HOME believes this to be necessary to understand impacts to people, especially indigenous, who either eat or handle various flora and fauna of the region.

2. Water

Even less understood by the Department of Energy (DOE)/NNSA is the extent of groundwater contamination from the underground testing period. Especially since underground nuclear weapons testing is still within the policy of US government, the SEIS needs to fully disclose and/or determine the nature and extent of the underground contamination. It is HOME's understanding that the DOE has not conducted drill hole excavations within the underground testing areas with the purpose of elucidating the nature and potential

movement of radionuclides from the various test shots. Source term information has to our knowledge been calculated, but no attempt to obtain physical data to understand the movement of radionuclides from test shots has been made. In fact, the perspective of the DOE has been that except for tritium, radionuclides have not escaped into the groundwater:

“Much of the radioactivity exclusive of tritium, remains captured in the original cavity, and thus not available to leach into the groundwater.” - FEIS-NTS, Vol. 1, pg. 3-28.

The assumption in this statement of ten years ago has not largely changed today, and there is still no physical data to date to support this belief. The question of whether there are radioactive “plumes” moving with the groundwater from any of the test shots has never been settled. The SEIS must detail the contamination of the groundwater with physical data, and show whether the above statement from the FEIS-NTS is valid. Without a full analysis of the existing contamination, there can be no complete and meaningful environmental analysis of the NTS as part of the proposed action.

Western Shoshone Treaty

The US government has continued to disregard (for example, Yucca Mountain Final EIS) its agreements between Western Shoshone Nation in the Treaty of Ruby Valley of 1872. The SEIS must include an explanation of how the DOE/NNSA can ignore an agreement between the US government and the Western Shoshone, which is a treaty between nations and the highest law of the land. Further, if the DOE/ NNSA uses the claim that lands were taken by the U.S. through gradual encroachment as the quasi-judicial Indian Claims Commission (ICC) alleged and upheld by the subsequent Supreme Court decision (Dann vs US Government) that the Western Shoshone lost title of their land, then it must explain how a ruling of a court within one nation (US Supreme Court) is binding upon both nations. Further, the DOE/NNSA needs to address the decisions of the Organization of American States Inter-American Commission on Human Rights (IACHR) and the United Nations Committee to Eliminate Racial Discrimination (UNCERD) which both found the U.S. to have violated the fundamental human rights of the Western Shoshone people with regard to the Indian Claims Commission Proceedings which led to the Supreme Court decision. On March 9, 2006, UNCERD again urged the United States to “freeze”, “desist” and “stop” actions being taken, or threatened to be taken, against the Western Shoshone Peoples of the Western Shoshone Nation, including threats related to ongoing weapons testing at the Nevada Test Site as well as efforts to build an unprecedented high-level nuclear waste repository at adjacent Yucca Mountain. The SEIS needs to take into consideration both the IACHR and UNCERD decisions and describe the proposed action in the context of these decisions.

Philosophic Underpinning

Complex 2030 documentation cites the Nuclear Posture Review as a principle underpinning for the need for this action. The SEIS needs to reevaluate this underpinning. Since, the release of the NPR, it has become clear that the Bush administration’s policy on nuclear deterrence and US nuclear weapons has been unsuccessful or at least ineffective. The North Korean nuclear weapons test, the actions of Iran in developing nuclear power infrastructure, which is suspected by our own government to be weapons related, and the US agreement with India shows that the philosophy of the Bush administration has at the very least encouraged nuclear weapons proliferation. It is also unclear in Complex 2030 documentation how the proposed action will deter a strike against the US more than the existing nuclear complex does. HOME views the motivating document for this action (NPR) to be flawed and dangerous, undermining years of non-proliferation work. As the principle philosophic document behind this action, HOME does not see how Complex 2030 could be in the best interest of the people of the United States. Therefore, the SEIS needs to fully explore the need for action here, and explain how this action will better advance the charge of securing the health and safety of the American people.

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