

NNSA/NSO
Divine Strake EA Comments
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Defense Threat Reduction Agency
Attn: James Tegnalia
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Dear Mr. Tegnalia et al,

While I contribute independently to the Alliance for Nuclear Accountability, and am former Associate Director of Shundahai Network, the comments I submit here regarding the Divine Strake Environmental Assessment represent my own opinion, and not necessarily those of any named organizations.

I have concerns in three primary areas: Cultural Resources and Environmental Justice Issues, the impact that integrity and accuracy issues pose on health and safety, and the legality of the test itself given the March 2006 UN CERD decision, and other instruments of international law.

Cultural Resources and Environmental Justice Issues

The criteria used for determining the presence of, and by extension, impact to cultural resources and sites of cultural or religious significance is based on so-called “western” values. Resources as defined here are limited to structures, particularly of archaeological significance and to funerary sites and objects. The area of the Nevada Test Site is in the middle of traditional Western Shoshone lands. Western Shoshone culture reveres the land itself as sacred, and every effort is made to leave little trace of human intervention. When a culture so reveres the land that a prayer and an offering is required when even a single stone is removed from its place, criteria that judge cultural resources based on enduring structures will fail to properly assess value to this culture.

Some Western Shoshone elders are concerned about the effects of continued explosives testing on the land, particularly about the cumulative and long-term effects on the natural vibrations of the earth.

The land in question is within the traditional lands of the Western Shoshone, and title to these lands is guaranteed by the treaty of Ruby Valley of 1863. While there is ongoing dispute over this land both within departments of the US government and at the United Nations, there is no mention of the Western Shoshone Nation when talking about land use or cultural resources. In the list of persons consulted, why is the Western Shoshone National Council not mentioned? In Appendix G, there are 2 letters from the State Historic Preservation Office regarding a damaged structure of historical interest close to the test site. Where are the letters from Western Shoshone officials noting that no sites of

cultural or religious interest would be harmed? On what was the conclusion based that there would be no harm to indigenous sites?

Conclusion: There has been inadequate consultation with the Western Shoshone Nation regarding cultural resources, and the culturally biased criteria being used to determine the value of resources, will fail to properly assess value to this culture.

Impact that integrity and accuracy issues pose on health and safety

Conflicting statements have been made about whether debris will drift downwind off the boundaries of the site, and whether that debris will carry radioactive particles that could exceed the dose limit. In summer 2006, there were many questions about whether soil sampling had been done, how it had been done, and whether there was any need for it at all. The "Ejecta Studies" to be performed as part of this test, and the use of colored indicators, suggests that there is no consensus on debris drift. While the Site Characterization Report is very thorough, why was it not completed until December 2006?

Within section 3.7 there is a map indicating several faults within the immediate vicinity of the U16B site, yet there is no analysis of the potential impact on seismic activity in this area in the text. Since there is some discussion in the EA about academic debate about whether past explosions have triggered seismic activity, this seems a critical omission.

Within section 4.3, the air dispersion models are described. One of the models, the CAP88-PC is described as "designed for continuous chronic releases, the default buildup value is 100 years. " While the conclusion is that this makes for a conservative estimate (higher potential dose), the use of a model that is not designed for a single event is odd. Surely after so many tests, there is a model for estimating dose from a single release? Bob Hager, the lead attorney for the lawsuit being brought by the Winnemucca Colony and several downwinders, alleges that the COMBIC model is "a military model that assesses visibility. It has nothing to do with health."

http://www.reviewjournal.com/lvrj_home/2007/Feb-01-Thu-2007/news/12321691.html

Algirdas Leskys, a Clark County Air Quality and Environmental Management analyst, said the environmental assessment failed to discuss the important issue of extremely fine dust that is less than 2.5 microns in diameter - about .0001 of an inch - and is regulated by the Environmental Protection Agency through the state government. Quoted from the Las Vegas Sun:

<http://www.lasvegassun.com/sunbin/stories/sun/2007/jan/11/566681073.html?utah>

"Leskys, who emphasized that he was speaking personally and not for Clark County, said the environmental assessment also improperly calculated and 'significantly underestimates' the amount of coarser dust that the test would put into the atmosphere.

Leskys said his models showed about 521 tons of dust will be produced by the blast - about 30 times more than the federal estimate. The total amount is

important because the federal estimate of how much radiation people could be exposed to is based in part on how much dust goes into the air.”

In addition, Although the EA claims the exposure will be below EPA standards, a National Academies of Science study affirms “the smallest dose of low-level ionizing radiation has the potential to cause an increase in health risks to humans...there is no threshold of exposure below which low levels of ionizing radiation can be demonstrated to be harmless or beneficial...” (“Low Levels of Ionizing Radiation May Cause Harm” June 2005.) With the possibility of a 10,000-foot cloud spewing long-lived radionuclides into the wind, there can be no margin for error—no amount of exposure is safe.

It is also troubling that questions asked at the public sessions have gone unanswered. There is video evidence of DTRA being asked about the diameter of the blast pattern, and whether there will be an initial sucking up of material prior to the upward thrust of the explosion, and officials were unable to answer the questions. In addition, the venue for the public meeting in Salt Lake City was changed the morning of the meeting, and 10 pages were missing from the EA released in December, requiring the extension of the comment period. All of these factors have eroded public confidence.

Conclusion: Scientific models have been chosen that are a questionable fit for the problems to be solved, errors have been made in the publication and dissemination of the documentation, and DTRA personnel have not been able to adequately address the public’s questions. Public confidence in DTRA to compile and disseminate accurate data is low. A complete EIS may alleviate this perception.

Legality of the test itself

In Section 3.1, the land in question is described as federal land. This term is inaccurate. “Title” of the land in question was settled in 1863, with the Treaty of Ruby Valley, in which the United States federal government recognized the sovereignty of the Western Shoshone Nation, and recognized their homeland as consisting of approximately 2/3 of current area of the state of Nevada, as well as small areas in Utah and California. This treaty has never been amended or rescinded, nor has it been violated by the Western Shoshone Nation. Further information on the treaty may be found here: <http://www.shundahai.org/newesogobia.htm> Lands have been taken by the federal government over the years, both for government purposes, and for sale for large scale mining operations. In the late 1940’s the area now known as the Nevada Test Site was seized. Far from being “absentee landlords” as some have accused, the Western Shoshone have consistently fought these seizures in US legal venues, and received no hearing of their grievances. Finally they went to the United Nations, and their claim was heard by the Committee for the Elimination of Racial Discrimination. In the historic March 2006 decision, the US was directed to “freeze,” “desist” and “stop,” activities on Western Shoshone ancestral lands, including extractive industries and the activities at the Nevada Test Site. Further information may be found on the CERD decision here: http://www.shundahai.org/3-10-06Western_Shoshone_UN_Press_Release.htm

Within section 1, the “need” for this test and the relationships to various foreign policy and defense documents are described. I find it disturbing that this document would mention the Nuclear Posture Review of 2002, suggesting a link between this test and the development or maintenance of nuclear weapons, in express violation of the Nuclear Non-Proliferation Treaty. It is also disturbing to note the reference to the Quadrennial Defense Review, and a shift from “threat-based” to “capability-based,” assets in support of pre-emptive warfare, a violation of the United Nations Charter. Given these violations, the statement in section 1.3 that “the primary focus of these activities [of the DOE Nevada Operations Office Work for Others Program] are centered around treaty verification, non-proliferation, counter-proliferation, demilitarization, and defense-related research and development,” is both ironic and disingenuous.

Conclusion: It is illegal for DTRA/NNSA to conduct this test at all. Despite the goals of the executive branch, **the No-Action Alternative is the only legal course of action.**

I urge NNSA to cancel this test to restore faith in the adherence of the United States to the rule of law. Failing that, a full EIS must be produced that adequately seeks the advice and concurrence of the Western Shoshone Nation on cultural issues, addresses the scientific modeling issues and missing seismic analysis, and restores public faith in the accuracy and integrity of this process.

Sincerely,

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