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March 30, 2006

Re: Oppose Legislation That Would Weaken Public Health, Safety, Scientific, or Technical Standards for the Proposed Nuclear Waste Dump at Yucca Mountain

Dear Member of Congress:

As national, state, and local public health, environmental, and consumer organizations, *we are writing to urge you to oppose any legislation that would weaken public health, safety, scientific, or technical standards for the proposed repository at Yucca Mountain in Nevada, or that would reclassify funding for the Project.*

Currently, DOE has no estimate of when it will submit a license application to the Nuclear Regulatory Commission (NRC) or how much the Project will cost. According to Energy Secretary Bodman, DOE "may never have an accurate prediction of the cost." At the same time, new cases of scientific fraud continue to surface. Given the department's dismal record, DOE should not be allowed to circumvent laws or standards that were established to protect the public and ensure sound science, or to have unfettered access to the Nuclear Waste Fund.

DOE's flawed scientific and quality assurance practices have cast serious doubt over the validity of the work performed at Yucca Mountain. Quality assurance (QA) is crucial to sound science, especially for a project employing thousands and spanning several decades. QA is used to verify conclusions and results, and is the very backbone of scientific research. Since 1988, the Government Accountability Office has issued eight reports repeatedly criticizing DOE's quality assurance and model validation programs. The most recent report, released this month, found that DOE has more than 20 years of QA problems that continue to this day, that its tools and solutions for dealing with these problems are ineffective, and that it faces other challenges, including the need to redo work, serious design control problems and a lack of confidence in its scientific studies.

DOE has admitted that the geology of the Yucca Mountain site is not a sufficient barrier to contain the waste. The law requires that the geology be a barrier. Research shows that the proposed engineered barriers are not sufficient to prevent radiation from leaking out of waste casks and into the groundwater, which is used for drinking and irrigation. Instead of accepting this conclusion and working toward safe disposal, DOE and its contractors have been once again

found to be fabricating data and disregarding procedures that are crucial to establishing scientific validity. Some of the more recent revelations of scientific fraud include:

- ◆ In January 2006, the NRC staff released a scathing report of a Bechtel SAIC LLC (BSC) audit made last fall at Lawrence Livermore National Laboratory. The Bechtel audit was on research related to corrosion rates of the metals to be used to construct the waste packages and drip shields. The NRC found that researchers incorrectly measured the amount of corrosion on the metals, and overestimated the ability of the metals to isolate nuclear waste in engineered packages. The NRC also found that researchers failed to calibrate equipment, used equipment beyond its accuracy range, and referenced cancelled documents. According to the NRC's audit report, "the NRC observers questioned whether the corrosion data could be considered technically sound and defensible." Because of the problems NRC discovered, DOE issued a stop work order on all cask research.
- ◆ In December 2005, DOE instructed Bechtel SAIC LLC, its main contractor, to cease engineering work and safety assessment on key areas of the site, including areas of the surface facility. This order was the result of QA and design control practices, which were revealed by a whistleblower. Despite Bechtel's failings, DOE nevertheless extended its contract for another year, with an option for a second year.
- ◆ In March 2005, it was revealed that U.S. Geologic Survey (USGS) scientists studying water infiltration and climate at Yucca Mountain in Nevada altered and omitted various data related to QA and the modeling of water flow through the ground at Yucca Mountain. Faster water movement will cause the radioactive waste to migrate more rapidly through the ground to the aquifer. DOE hired Sandia National Laboratory to redo all of these analyses. Investigations are underway by the Inspectors General of both DOE and USGS, as well as a criminal investigation by the Federal Bureau of Investigation.

In light of the persistent scientific fraud and mismanagement uncovered at Yucca Mountain, it is vital that DOE be required to meet standards that protect the public health and safety. Legislating away these requirements as a means to accelerate the process would eliminate the role of science in determining whether or not Yucca Mountain can safely isolate nuclear waste for hundreds of thousands of years, as is required under the law.

DOE should not be rewarded for its incompetence by being given unlimited access to the Nuclear Waste Fund. State utility commissions require that utilities operate in a "prudent" manner and Congress should have no less of a standard when managing ratepayers' money. Reclassifying the Nuclear Waste Fund is simply a budgeting gimmick that artificially reduces federal spending and hides the real costs to consumers and taxpayers.

Instead of meeting basic scientific and safety requirements and standards at Yucca Mountain, DOE has announced that it is drafting legislation that would weaken or undermine those standards. ***We urge you to oppose any legislation that would lower public health, safety, scientific, or technical standards for Yucca Mountain, or that would reclassify the Project funding.*** Rather than making even more exceptions for this compromised project, Congress should cut funding for Yucca Mountain and convene an independent investigation into the

implications of data falsification on DOE's license application and the waste of ratepayer and taxpayer money throughout the history of this project.

If you have any questions or need further information, please contact Michele Boyd at Public Citizen (202-454-5134) or Kevin Kamps at Nuclear Information and Resource Service (301-270-6477).

Sincerely,

Susan Gordon
Executive Director
Alliance for Nuclear Accountability

Judith Johnsrud
Director
Environmental Coalition on Nuclear Power

S. Elizabeth Birnbaum
Vice President for Government Affairs
American Rivers

Sara Zdeb
Legislative Director
Friends of the Earth

Grant Smith
Executive Director
Citizens Action Coalition of Indiana

Alice Slater
President
GRACE Public Fund

Peggy Maze-Johnson
Executive Director
Citizen Alert

Jim Riccio
Nuclear Policy Analyst
Greenpeace

Deb Katz
Director
Citizens Awareness Network

Jason Groenewold
Director
Healthy Environment Alliance of Utah

Lynn Thorp
National Campaigns Coordinator
Clean Water Action

Winona LaDuke
Executive Director
Honor the Earth

Daniel Hirsch
President
Committee to Bridge the Gap

Sharon Cowdrey
President
Miamisburg Environmental Safety &
Health, OH

John Runkle
General Counsel
Conservation Council of North Carolina

Kevin S. Curtis
Senior Vice President
National Environmental Trust

Jackie Rollins
Director
Environmental Coalition of Mississippi

Karen Wayland
Legislative Director
Natural Resources Defense Council

Judy Treichel
Executive Director
Nevada Nuclear Waste Task Force

Diana Sidebotham
President
New England Coalition

Carah Ong
Office Director
Nuclear Age Peace Foundation

David A. Kraft
Director
Nuclear Energy Information Service

Kevin Kamps
Nuclear Waste Specialist
Nuclear Information and Resource Service

Jay Coghlan
Executive Director
Nuclear Watch of New Mexico

Elena Day
Steering Committee Member
People's Alliance for Clean Energy, VA

Kimberly Roberts
Director of Policy and Programs, Security
Physicians for Social Responsibility

Alfred Meyer
Executive Director
Physicians for Social Responsibility -
Wisconsin

Michele Boyd
Legislative Director, Energy Program
Public Citizen

Erin Hamby
Coordinator
Rocky Mountain Peace & Justice Center

Dave Hamilton
Director, Global Warming and Energy
Program
Sierra Club

Beatrice Brailsford
Program Director
Snake River Alliance

Sara Barczak
Safe Energy Director
Southern Alliance for Clean Energy

Marylia Kelley
Executive Director
Tri-Valley Cares, CA

Anna Aurilio
Legislative Director
U.S. Public Interest Research Group
(U.S. PIRG)

Jason K. Babbie
Senior Environmental Policy Analyst
NYPIRG - New York Public Interest
Research Group

Susan Shaer
Executive Director
Women's Action for New Directions

Bobbie Paul
Executive Director
Atlanta-WAND