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U.S. Department of Energy
Office of Nuclear Energy
Draft Consent-Based Siting Report
1000 Independence Ave, SW
Washington, DC 20585

These comments are submitted by the State of Nevada, Agency for Nuclear Projects, in response to the U.S. Department of Energy (DOE) Request for Public Comment on the draft report entitled: Designing a Consent-Based Siting Process: Summary of Public Input, published in the Federal Register, September 15, 2016.

As we stated in our previous letter dated July 28, 2016, DOE's new interest in consent-based siting does not change Nevada's opposition to Yucca Mountain. Governor Brian Sandoval has clearly stated that Nevada will not consent to storage or disposal of spent nuclear fuel or high-level nuclear waste at Yucca Mountain. This site is unsafe for commercial and defense high-level nuclear wastes, whether combined in one repository, or disposed separately. Nevada supports the development of a consent-based siting process for nuclear waste storage and disposal facilities to find workable alternatives to Yucca Mountain.

We appreciate the process that DOE has followed thus far to incorporate public input on designing a consent-based siting process for nuclear waste facilities. Our comments on the draft report today apply to the two tasks planned for December 2016, discussed on page 72 of the draft report.

In developing an initial draft of a consent-based siting process, DOE should be thinking now about the written consent agreement that will be required at the end of that process. We believe DOE should recommend that Congress enact a new statutory basis for binding written agreements between DOE (or any other program-managing entity) and state, local and tribal governments that consent to host nuclear waste storage and disposal facilities. We urge DOE to support the approach taken in S.1825, The Nuclear Waste Informed Consent Act, legislation introduced in the 114th Congress by Senator Harry Reid and Senator Dean Heller. We believe the Secretary of Energy should be required to obtain written consent from any potential host state and county, adjacent county impacted by transportation, and affected Indian tribe, before expending any funds from the Nuclear Waste Fund for repository construction.

In developing a draft report on siting considerations for interim storage and geologic disposal facilities, we believe that new federal legislation will be needed to affirm the regulatory basis for the siting, licensing, operation, and closure of nuclear waste storage and disposal facilities. Both the final report of the *Blue Ribbon Commission on America's Nuclear Future* (2012) and the Administration's *Strategy for Management and Disposal of Used Nuclear Fuel and High-Level Radioactive Waste* (2013) state that an important early step in the siting process is establishment of generic repository safety standards. The DOE draft report should include a commitment to early consultation with the Nuclear Regulatory Commission and Environmental Protection Agency on the urgent need for safety standards and regulations to support a new repository siting process that relies on early public confidence to make informed consent possible from potential host jurisdictions and communities.

Public input since December 2015 has clearly identified nuclear waste transportation impacts as a major area of stakeholder concern in facility siting. Transportation impacts should be addressed in both in the draft consent-based siting process and in the draft report on siting considerations. We believe that new federal legislation will be needed to address the radiological impacts and social impacts of transporting spent nuclear fuel and high-level radioactive waste. The National Academy of Sciences (NAS) Committee on Transportation of Radioactive Waste documented these radiological and social impacts and recommended comprehensive transportation safety and security measures to address these impacts in their report: *Going the Distance? The Safe Transportation of Spent Nuclear Fuel and High-Level Radioactive Waste in the United States* (2006). The NAS findings and recommendations were adopted and endorsed by the BRC in 2012. With or without new statutory requirements, DOE should make a clear commitment to implement the transportation safety and security measures recommended by the NAS and the BRC before the commencement of any shipments of spent nuclear fuel or high-level radioactive waste to consolidated interim storage or disposal facilities.

Respectfully,



Robert Halstead
Executive Director