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Original by Facsimile, Copy by Mail

September 4, 2001

The Honorable Spencer Abraham
Secretary of Energy
U.S. Department of Energy
1000 Independence Ave. SW
Washington, D.C. 20585

FAX: 202-586-4403

Dear Secretary Abraham:

On behalf of myself, my firm, and several of my firm's clients, I object to the lack of proper, reasonable notice and opportunity to be heard on the DOE's recommendation of Yucca Mountain for a site for a national high-level nuclear waste repository.

On August 21, 2001, with less than 30 days for any interested person to read the more than 370 page long technical report, "Yucca Mountain Preliminary Site Suitability Evaluation," DOE announced it would hold public hearings on the Yucca Mountain site recommendation only in Nevada between September 5th and 13th. Not only is the length of notice for these hearings totally inadequate, but the location is wholly inappropriate for persons who, like my clients, my firm and me, will be affected by the requisite transportation of high-level nuclear waste through their hometowns via rail and road. In effect, DOE has provided us with no opportunity to comment at a public hearing on the suitability of the recommendation. A few hastily noticed meetings in Nevada simply does not provide the required opportunity for public hearing on a project of this magnitude and risk for those on transportation routes throughout the country. The notice period was too short even to arrange one's schedule to attend and the location too far away to attend for most persons who are interested in the site recommendation due to living and/or working on the high-level nuclear waste transportation routes.

The notice you provided was plainly defective not only for being absurdly short, but for noticing one location, cancelling it, then noticing another location with an incorrect address. Moreover, your agency provided that final notice of the meeting at the wrong address on August 31st, on the eve of the long Labor Day weekend and less than five days before the meeting including the intervening weekend and holiday.

Finally, the notices your agency published in the Federal Register on August 21, 27 and 31, were plainly defective in that the public is not clearly placed on notice that these are public hearings on your

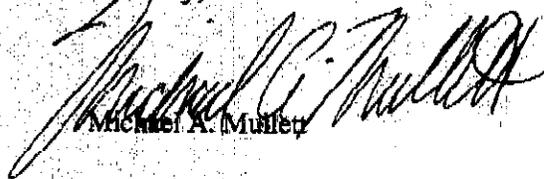
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agency's decision to recommend Yucca Mountain as the site for a national high-level nuclear waste repository. Persons reading the notice are given the impression that these are merely hearings on the preliminary site suitability evaluation. Even assuming that the issue at hand was a preliminary suitability determination, your provision of less than thirty days notice from the availability of the 370 page evaluation and the few hearings in Nevada make it impossible for most affected citizens to have any meaningful participation in such meetings.

There is no doubt that, no matter what provisions may be in the Nuclear Waste Policy Act, the United States Constitution's Fifth Amendment requires that persons such as my clients, my firm and me-- as well as affected Nevadans--must have at least reasonable notice and an opportunity to be heard on a decision such as this one, a decision with vast repercussions and potentially grave risks for us. Your agency's actions in this regard have not even substantially complied with the most minimal constitutional protections of citizens' rights to due process applicable under the circumstances. I am both concerned and confident that you have violated our rights as well as those of the citizens of Nevada.

I call on you to reschedule these hearings with both notice and locations sufficient to provide a meaningful opportunity to be heard by all persons who will be affected by your agency's recommendation of Yucca Mountain as the site for the national high-level nuclear waste repository, including especially but not exclusively those on the projected transportation routes.

Sincerely,



Michael A. Mullett

cc: Lake Barrett, Acting Director
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