September 5, 2002

Senator Harry Reid
528 Hart Senate Office Building
Washington, DC 20510

Attention: Susan McCue

Subject: DOE's Claims About Yucca Mountain Safety?

My name is Joseph P. Carson. I'm a licensed Professional Engineer (P.E.) whose 25 year career has been in nuclear power and technology. I had a Naval ROTC scholarship to college and served as an officer on nuclear submarines for six years. I've been P.E. for almost twenty years. I worked at three commercial nuclear plants in the 1980's and have been a nuclear safety engineer for the U.S. Department of Energy (DOE) since 1990.

Because I have put adherence to my legal duty as a P.E. to "hold paramount the health, safety, and welfare of the public in the performance of professional duty" over self-interest in DOE, DOE has punished me and my family for over ten years. I have now "prevailed" an unbelievable eight times in whistleblower related actions at the U.S. Merit Systems Protection Board, as detailed on my website www.carsonversusdoe.com. DOE has paid about $400,000.00 in my legal fees and costs to date, and litigation's end is (absent Congressional pressure) no where in sight, due to DOE's "scorched earth" legal policy.

As DOE attorneys apparently see it, I'm a "profit-center" to them and the more they punish me, the more they intimidate other concerned DOE employees into silence. So while DOE represents to Congress and the public that "safety in our first priority, we even have a policy of `zero tolerance for reprisal,'" it knows that fear of reprisal inhibits concerned safety professionals from saying otherwise. In 1992, a senior DOE safety manager and a DOE personnel specialist explained "DOE's Rules" regarding safety to me. They are:

1) In DOE, if it's legal, it's ethical.
2) If DOE gets away with it, it's legal.
3) In DOE, the only right a concerned employee has is the right to seek employment elsewhere.

I think any objective examination of what I've experienced for the past ten years would demonstrate the repeated application of "DOE's Rules." I think the thousands of diseased, disabled, or prematurely deceased DOE workers that Congress passed a 2000 law to compensate - victims of a workplace health and safety disaster of national scale - also result from the application of "DOE's Rules."

In 1994, I was assigned to an accident investigation board of a serious fire at a DOE research nuclear reactor. During the fire, which burned without abatement for several hours, a number of

first responders were contaminated with radioactivity, the interior of the reactor building was extensively contaminated, and a measurable release to the environment occurred. I identified a number of safety violations present at the fire, which occurred in an experimental facility called "TRISTAN." My wife, who was pregnant at the time with two young children to care for, started experiencing near continuous "morning sickness," so I requested to be dismissed from the Board, after alerting everyone involved to my concerns.

DOE completely covered-up the safety violations present at the fire. In my opinion, when a number senior DOE managers, from several DOE organizations, participate in cover-up of serious safety violations at a reactor fire - a fire that first responders risked, per their duty, injury or death to extinguish - they are treating those first responders as "expendable," just like DOE treated so many of its now-sick workers. It's wrong, the sacrifice and suffering I and my family have experienced to confront this wrong is justified because it's my professional duty, as a P.E., to: 1) blow the whistle, 2) resign, or 3) both. By my religious faith, "suffering for righteousness' sake," is not necessarily to be shunned.

DOE claimed that there were no safety violations at the experiment, in which a uranium target was fissioned so research could be conducted on its radioactive fission products, because the new uranium target was not that hazardous before it was fissioned. By that reasoning, there is no need for a Yucca Mountain - since new reactor fuel rods could be safety stored in a home garage, DOE could argue that the spent fuel rods should be treated the same (the spent TRISTAN targets are classified as "high level nuclear waste," and are currently destined for Yucca Mountain.).

I took my concerns to the DOE Inspector General (IG), it issued a report in March 1996, "Report on the Scope of the Accident Investigation of the Tristan Fire at the DOE Brookhaven National Laboratory," which is available at <http://www.ig.doe.gov/text/IG-0386.txt>. It substantiated many of my concerns, but the DOE IG refused to directly address my central allegation - that there had been a conscious cover-up of safety violations, compounding those violations, in the May 1994 TRISTAN Fire Accident Investigation Report (which is not available on the web, but is available from DOE.)

Because the DOE IG failed to investigate my concern, I brought it to the U.S. Office of Special Counsel (OSC), per 5 USC 1213. It referred it back to DOE, per the law, where it was considered by DOE's Office of Environment, Safety and Health (EH), an organization instrumental in the initial 1994 cover-up. DOE repeated the same argument to the Congress and the President - that because the uranium target wasn't that hazardous before it was fissioned, it shouldn't be that hazardous afterwards either (despite all the contamination released by the fire and the thick shielding that was used around the TRISTAN experiment to prevent experimenters from being exposed to very high radiation fields)!

On November 4, 1998, OSC issued a press release about the DOE report and mentioned it was inconclusive regarding my allegations about the safety violations. This OSC press release, "U.S. Office of Special Counsel Announces Report To The President Of Safety Concerns At The U.S.

Department Of Energy's Brookhaven National Laboratory," is available at <http://www.osc.gov/documents/press/1998/pr98_10.htm>. Although DOE told OSC that it was processing a "differing professional opinion," (DPO) about my concern about the safety violations, it closed it afterwards without being considered, a decision made within the organization that was involved with the initial cover-up.

This cover-up now implicates, I allege, senior managers in DOE's Office of Science, Chicago Operations Office, Office of Environment, Safety, and Health (EH), and DOE IG.

In my professional opinion, nuclear facilities, to be adequately safe, need to be characterized by trustworthy - ethical, competent, and accountable - nuclear professionals, working in a safety and security-conscious work environment. Neither is the case in DOE, "DOE's Rules" won't allow for it.

DOE's representations about safety, at Yucca Mountain, or elsewhere, cannot, in my opinion, be trusted, because DOE's (and its contractors') the nuclear professionals cannot be trusted to put professional duty to public and workplace health and safety before their economic self-interest. The DOE sick worker disaster, the cover-up of the safety violations at the TRISTAN fire, the implementation or tacit acceptance of "DOE's Rules,"during the ten years of "Carson v. DOE," supports my contentions.

The nuclear profession made a deal with the public at the start of the nuclear age. It was "trust us - to do our duty to protect you, from the inherent risks of nuclear technology." Based on that trust, our society moved forward in developing commercial nuclear power technology. The nuclear professionals in DOE have too often dishonored that trust - they have failed the nuclear profession and the public it is supposed to serve, out of fear and greed, because of "DOE's rules" regarding nuclear safety.

That's the ugly truth, and it's past time for it to be recognized. Without an adequate basis to trust DOE's nuclear professionals to do their duty, instead of advancing their economic well-being, in issues of significant workplace and public health and safety, why should DOE's representations about Yucca Mountain's suitability be given more credibility than a tabloid story about UFO's?

My allegations of professional malfeasance involving DOE workplace and public health and safety issues extend to the National Academy of Science (NAS), which has played a crucial role at Yucca Mountain. For instance, the NAS proposes members for the U.S. Nuclear Waste Technical Review Board, which has a statutory role in evaluating safety issues at Yucca Mountain. Specifically, DOE has paid many millions of dollars to NAS over the past 20 years to review workplace and public health and safety related issues at DOE sites. Much of this work has been done by members of the National Academy of Engineering (NAE), which is an autonomous part of NAS. Not once, to my knowledge, have any of these reports, which cite the involvement of the National Academy of Engineering, mentioned the existence or relevancy of

engineering ethics or engineering licensure to the workplace and/or public health and safety issues addressed. In my opinion, the National Academy of Engineering, arguably the most prestigious engineering organization in the world, played a role in the DOE sick worker disaster uncomfortably like that of Arthur Anderson at the Enron debacle.

I offer the following suggestions to help substantiate or dispel my concerns:

1, Request DOE finally conduct a differing professional opinion (DPO) about the status of the TRISTAN facility as a "nuclear facility."

2, Request the National Academy of Science/National Academy of Engineering explain how it has applied the code of ethics of engineers and/or rules of professional conduct for licensed P.E.'s to reviews it has conducted at DOE, particularly in light of the DOE sick workers.

3. Make a similar request the Nuclear Waste Technical Review Board, to explain how it has incorporated compliance with the code of ethics for engineers into its work.

4, Examine whether and how DOE and its contractors are complying with Nevada Engineering Law and Regulation at Yucca Mountain. As a federal agency working on federal land, DOE can claim an exemption from them, for it and its contractors. But it can also impose them on itself and its contractors. If it hasn't, why not? The protection of public health and safety is the purpose of State Engineering Law and Regulations.

I make the above statements consistent with my legal responsibilities as a P.E. to speak truthfully and objectively in public reports and testimony. I have signed and sealed this document as a P.E., registered in Tennessee. My Tennessee P.E. license number is 106350. If anyone reviewing this document thinks I have violated my professional responsibilities, I suggest that person file a complaint with the Tennessee State Board of Engineering. Information about the Board is available at <http://www.state.tn.us/commerce/ae.html>.

Respectfully,

Joseph P. Carson, P.E.

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September 8, 2002

To: Stakeholders to Department of Energy (DOE) Safety and Accountability - at Yucca Mountain and Elsewhere

From: Joe Carson, P.E., "eight-time prevailing and still aggrieved" DOE nuclear safety whistleblower, 865-300-5831, <http://www.carsonversusdoe.com> <jpcarson@mindspring.com>

Subject: Obtaining Senate "Hold" on Kyle McSlarrow's nomination as DOE Deputy Secretary to persuade DOE resolve Carson v. DOE.

In late July, DOE informed a citizen's group in Oak Ridge that its settling my ten year-long ordeal as a "eight-time prevailing and still aggrieved" nuclear safety whistleblower was not "legally warranted." Of course, a settlement, being voluntary, is NEVER "legally warranted." So I need to create Congressional/public pressure to convince DOE that settlement is "politically warranted." DOE has yet to respond, in over four months (in some cases), to strongly-worded expressions of Congressional concern/interest about my case, written to Secretary of Energy Abraham.

My hope is persuading one or more Senators to put a "hold" on the pending nomination of Kyle McSlarrow as DOE Deputy Secretary, until DOE either goes forward with an equitable settlement or agrees to allow a third party to review the matter and make recommendations to resolve it. Such a development will, I think, persuade DOE leadership that allowing the DOE attorneys to drag out my case in order to intimidate other concerned DOE employees into silence isn't working anymore.

The sickest thing about this entire ordeal is that it has been an exercise in futility in getting DOE to address the underlying safety issues. I didn't become a whistleblower to "prevail" in whistleblower reprisal appeals. I have a legal duty to "blow the whistle," given my legal status as a licensed professional engineer (P.E.) and assigned job duties, when DOE management suppresses my safety findings. However, the law does not require an agency to address the safety issues which a "prevailing" whistleblower disclosed, so DOE won't. So I "blow the whistle" again and we start all over. Clearly, ten years and "eight-times prevailing" later, the system isn't working. However, the system allows a Senator to get personally involved by placing a "hold" on a Presidential nominee in situations like this, to get the involved agency's and Administration's attention. That's what I'm now seeking.

A "hold" means the nomination is not voted upon by the full Senate, until the "hold" is lifted. Generally, confirmation votes by the full Senate are "pro forma" voice votes.

Because a Senator from the Administration's party will not place a hold on an Administration's nominee, I need to locate a Democratic Senator, although I don't think a "hold" could be described as "partisan," given the interest Republican members of Congress have expressed to DOE in seeing my case resolved.

The Senators I've approached are Senator Schumer of NY, Senator Cantwell of WA, and Senator Reid of NV. Senators Schumer and Cantwell are members of the Senate Energy and Natural Resources Committee. Senator Reid led the fight against Yucca Mountain, which Senators Cantwell and Schumer also opposed.

At this point, there is some kind of "hold" on Mr. McSlarrow's nomination, but I was unable to learn much about it, other than it MAY involve questions about his interactions with Enron officials in his current position as Chief of Staff at DOE.

I've met with the appropriate people in offices of Senators Schumer, Cantwell, and Reid. No commitments have been made, but my request has not been rejected either. DOE is aware of my actions, I have nothing to hide.

I will be in Las Vegas, NV this coming Monday to Wednesday, September 9-11. I will be speaking during the public comment period of the September 10 meeting of the U.S. Nuclear Waste Technical Review Board (NWTRB) <http://www.nwtrb.gov>. The purpose of the NWTRB is to,

> "provide independent scientific and technical oversight of the U.S. program for management and disposal of high-level radioactive waste and spent nuclear fuel from civilian nuclear power plants."

I will be expressing my concerns about the credibility of DOE's representations about Yucca Mountain's suitability, based on my unparalleled experiences as a concerned DOE nuclear professional. I will provide the NWTRB a copy of my September 5, 2002 letter to Senator Reid, which I discussed, personally, with Susan McCue, his Chief of Staff, on September 5, 2002.

I respectfully make the following request of you and your organization:

Contact the offices of:

Senator Reid (Attention: Greg Jazcko), 202-224-3542; fax 202-224-7327
<http://reid.senate.gov>

Senator Schumer (Attention: Ryan McConaughy), 202-224-6542; fax 202-228-0525
<http://schumer.senate.gov> and/or

Senator Cantwell (Attention: Angela Becker-Dippmann), 202-224-3441; fax 202-228-0514
<http://cantwell.senate.gov>

expressing support for their placing a "hold" on Kyle McSlarrow as DOE Deputy Secretary, to persuade DOE that punishing me (and my family) for doing my legal duty "isn't working anymore." While I have no illusions that DOE will ever "do the right thing for the right reason," I believe it will settle, equitably, if and when settlement becomes "politically warranted."