

**VIEW OF THE WESTERN SHOSHONE NATION
RELATING TO THE YUCCA MOUNTAIN
SOCIOECONOMIC STUDIES**

Statement of

**Ian D. Zabarte, Planner
Western Shoshone National Council
High Level Nuclear Waste Program**

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Environment and Public Health Panel**

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I appreciate the opportunity to give comments today on behalf of the Western Shoshone Nation regarding the Department of Energy socioeconomic study plans.

I have questions about the Department of Energy socioeconomic study program, as I am sure many people do. It is very unsettling, to me, to see the Department of Energy continuing to maintain the illusion of a credible repository siting program. The Department of Energy has not accurately identified potentially involved Native Americans or potential impacts.

There is no method for Native American participation besides being an affected Indian tribe. And because of this, we fear that the Department of Energy will attempt to minimize the significance of our socioeconomic situation and any potential impact. It is very nice for the Department of Energy to suggest that it recognizes our special concerns. But this statement comes from an earlier cultural resource study that had Department of Energy subcontractors appointing representatives on behalf of the tribe and coerced participation by threats of future impact. When I saw and understood the self serving and unethical achievement of these studies, I was disgusted.

An example of the lack of attention and focus by the Department of Energy of any subcontractors, rests in the failure to even recognize or identify the 1863 Treaty of Ruby Valley at any stage in the investigation of Yucca Mountain. The 1863 Treaty of Ruby Valley is highly valued by the Western Shoshone people and is a basic and significant part of the fabric of the Western Shoshone Nation today.

For me to be here today and still have the Department of Energy deny the importance and significance of the 1863 Treaty of Ruby Valley in any credible and reliable study of Yucca Mountain is unbelievable. The Western Shoshone people still have hunting, fishing, gathering and other possessory and usage rights throughout Nevada and including the Yucca Mountain area.

The Yucca Mountain lands are part of a larger area which was occupied by Western Shoshone ancestors for many generations in a nomadic manner. The lands aboriginally held by the Western Shoshone Nation were incorporated into the United States from Mexico by the 1848 Treaty of Guadalupe Hildago. That treaty provided that in removing Indians or opening up their lands to settlement, the United States should not cause the Indians to invade Mexico. The United States Supreme Court has made it clear that Indian rights survived the transfer of the territory from Mexico. It also made clear that only Congress could extinguish title

and that mere executive action wholly unauthorized by Congress could not effect an extinguishment.

In 1863 the United States entered into a treaty of "peace and friendship". The United States has admitted that the 1863 Treaty of Ruby Valley is in full force & effect. Article VI of the 1863 Treaty of Ruby Valley has not been implemented by the President of the United States by establishing a reservation for the Western Shoshone Indians within their ancestral territory as described by the Treaty.

Yet today, the United States asserts that Western Shoshone tribal title may no longer be asserted against the United States due to the preclusive effect of the Indian Claims Commission Act bar, as determined by the United States Supreme Court, and as continuously defended and upheld by the Department of Energy.

There is a gross misrepresentation being perpetrated by the United States that Western Shoshone title to their ancestral territory was extinguished. Western Shoshone title to land, which includes the Yucca Mountain site, was not at any time necessarily in issue during the past 40 years of litigation, and was never actually litigated. It is the position of the Western Shoshone Nation that Western Shoshone title has not been extinguished or abandoned, and such lands have been continuously used and occupied by Western Shoshone people and their ancestors according to aboriginal and treaty rights.

It is because of the 1863 Treaty of Ruby Valley that the Western Shoshone leaders, have maintained peace and friendship with the United States. It is because of the 1863 Treaty of Ruby Valley that the Western Shoshone National Council believes that it must be do what is possible to protect Western Shoshone interests at Yucca Mountain and to prevent the possibility of future impacts.

Unfortunately our concerns when expressed to the Department of Energy have fallen on deaf ears. There is no consultation or coordination by the Western Shoshone Nation with the Department of Energy. The question of the tribal role in nuclear waste decision making has been fabricated when convenient for the fulfillment of Department of Energy operations but at all other times minimized. The most outstanding reasons for the sad state of these relations are:

- * A basic mistrust of the actions of Department of Energy;
- * A feeling that cooperation with the Department of Energy studies would be misrepresented as an endorsement of Yucca Mountain;
- * A fear that by identifying specific site of interest or concern the Department of Energy could continue its program based on the false notion that Western Shoshone people accord sacred status site-specifically rather than recognize that all land is sacred;
- * And a reality on the part of the Western Shoshone Nation that there has been no mensurable progress and little action to our priority concerns.

The Western Shoshone Nation's cultural and religious relationship with the land, water, and all growing things within our ancestral lands and our fundamental belief that the interdependence and the protection of the land, water and all living things are a sacred duty under the Creator's Law and need to be understood by the Department of Energy.

The Yucca Mountain cultural resource studies was not an accurate scientific investigation about cultural activity and impacts and impact mitigation. The cultural resource study seemed more so to be an academic exercise for the enjoyment and benefit of the Department of Energy and a handful of subcontractors. The Department of Energy subcontractors study activity and reports are simply an amalgamation of primary and secondary source data designed to describe the existing conditions of a small sampling of Western Shoshone living on certain reservations and colonies and can only be considered a sampling of the immense body of information concerning the Western Shoshone Nation. It is based upon incomplete information avoiding the 1863 Treaty of Ruby Valley: It seems that the Department of Energy is only collecting data that will not present problems that would preclude Yucca Mountain's use.

Take a look at the 1863 Treaty of Ruby Valley. By itself anyone could draw a question regarding the difference in conditions the Western Shoshone people may have experienced in the Great Basin as opposed to those conditions than may have been experienced by the Southern Paiute people who have no treaty with the United States. Though culturally similar, the conditions for each Tribe have rendered economic situations sufficiently unique that it could be easily warranted that discreet discussion of these two ethnic groups be done separately.

The Department of Energy has not chosen to discuss these two groups separately, but has instead, chosen to minimize the involvement of the Western Shoshone Nation by focusing upon the Southern Paiute people and treating different socio-political and ~~economic~~ differences for these two groups, as similar. The Western Shoshone Nation believes that this is a transparent attempt to avoid any potential problems that may arise through an accurate in depth socioeconomic investigation in order to meet the threshold requirements of compliance with Federal laws and regulations.

The Department of Energy site characterization process will have a significant and adverse social and economic impact upon the future of the Western Shoshone Nation. If allowed to continue without the necessary balance given to the concerns of the Western Shoshone Nation including title questions to the lands at and around Yucca Mountain, the Western Shoshone people will fall victim to yet another United States program, with the affect of genocide.

The site characterization of Yucca Mountain for a high level nuclear waste repository presents a land use activity in conflict with Western Shoshone use and occupancy. Social values, religious values and economic values of land within the borders of the Western Shoshone Nation and the effect of the Yucca Mountain site studies upon these values are being discussed by Western Shoshone people. These discussions reflect every change in the Yucca Mountain project, as do the attitudes of the participants involved. Uncertainty, despair, disbelief, and fear, just to name a few.

In closing, I want to reiterate the belief and understanding of the Western Shoshone Nation that the 1863 Treaty of Ruby Valley reserves for the Western Shoshone Nation certain social and economic rights, interests and resources that are highly valued and worth defending at any price.