

222939

Surface Transportation Board
Washington, DC

Finance Docket No. 35106

Department of Energy-Certificate of Public Convenience and Necessity to Construct a
Rail Line in Lincoln, Nye, and Esmeralda Counties, Nevada

Comments of Dia Art Foundation
July 15, 2008

Laura Raicovich
Interim Director
535 West 22nd Street
New York, NY 10011
Tel: 212.293.5598
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Dia Art Foundation hereby submits the following comments concerning DOE's requested authority to construct a spur rail line from Caliente, Nevada to the Yucca Mountain facility.

Dia is both a landowner in Lincoln County, and an advocate for Michael Heizer's *City* complex, an internationally-renowned Land Art sculpture in Garden Valley, NV. The artwork, underway since 1972, is acclaimed as one of the great art monuments of our time, and Dia has served as a major conduit of funding for the project which is nearing completion. Even in its unfinished state, *City* has garnered significant attention including a cover story in *The New York Times Sunday Magazine* (2/6/05) and inclusions in myriad art history text books and expert publications about 20th century artwork. It has also served as an important economic stimulus in Lincoln County by funneling over \$14M into the local economy over the last 12 years.

Heizer is a native Westerner with deep family ties to Nevada. The son of a respected anthropologist who wrote extensively on ancient Nevada great basin and archeological sites, he chose the beautiful and remote Garden Valley as the location to create a timeless American monument in the spirit of the ancient cities of Egypt, Peru, and Mexico. His conception, *City*, is a mile-and-a-half long complex of abstract sculptural-architectural forms made of earth, rock and concrete, sourced at the site. It is the fullest expression of his influential art practice which has been recognized around the world, and his art is in the collections of leading museums including the Metropolitan Museum of Art, New York, the Museum of Modern Art, New York, the Menil Collection, Houston, and the Whitney Museum of American Art, New York. When complete, *City* will attract visitors from around the globe.

Heizer chose Garden Valley for its sense of timelessness evoked in the undeveloped natural setting, and *City's* construction has been painstakingly conducted to preserve indigenous flora and fauna. The Bureau of Land Management (BLM) identified the Valley as a unique American resource worthy of a Class II designation, and indeed, it would be difficult to find a site in the United States with a comparable confluence of natural and manmade resources.

While no exact parallel exists, there are other works of Land Art from the same generation, and recently state governments have taken significant steps to preserve the experience of them by

preventing non-natural development within the viewshed. In 2007 the State of New Mexico appropriated \$500,000 towards the acquisition of an approximately 6,000 acre permanent conservation easement adjacent to Walter De Maria's *Lightning Field* (1977) in New Mexico; and in 2008 the State of Utah committed to protecting the isolated experience of Robert Smithson's *Spiral Jetty* (1970) in the north arm of the Great Salt Lake from nearby offshore oil drilling. Internationally, similar actions are also advocated: at Stonehenge, UNESCO led efforts to eliminate traffic and road noise around the World Heritage Site and return the area to its original grasslands environment.

In Nevada, we have the opportunity to prevent such catastrophic problems before they start by *diverting the proposed rail development which would destroy the experience of Heizer's sculpture for future generations of visitors*. However, DOE's Rail Alignment EIS does not sufficiently address scoping comments provided by Michael Heizer, Dia Art Foundation, and internationally-recognized art experts from across the United States over the past four years. Our primary concerns include:

1. DOE's violation of the National Environmental Policy Act (NEPA) when, in the FEIS it identified five corridors without first selecting a preferred mode of transportation and without adequately studying the routes. By not inspecting the corridors from the ground, and conducting only a cursory over-flight before announcing its preference of the Caliente Corridor, DOE operated in a fashion contrary to standard industry practice;
2. DOE's inadequate knowledge of the routes and its inability to definitively explain their selection of the costly and lengthy Caliente Corridor. Significantly, DOE did not know that the Caliente Corridor immediately bypassed the internationally-renowned *City* complex although it has been identified on USGS maps since 1985.
3. DOE's failure to consult affected property owners before stating a preference for the Caliente Corridor, despite its recognition in the FEIS that it needed to identify a preferred rail corridor in consultation with stakeholders.
4. DOE's insufficient consideration of BLM's thoughtful, environmentally-beneficial recommendations for a visual resource plan in Garden Valley. The Caliente Rail Corridor will bring noise, pollution, and noxious weeds into pristine Garden Valley and disrupt the quiet majesty and uninterrupted viewshed of *City* and the surrounding Quinn Canyon and Worthington Ranges.
5. DOE's insufficient analysis of increased traffic under the shared-use Rail Line scenario. Among the many devastating impacts will be the tremendous negative impact to Garden Valley's natural soundscape where ambient noise hovers about 15 dBA, a level so low that special equipment was needed to measure it. (As comparison, typical quiet suburban areas far from major roadways will often be around 30 dBA in the late night hours.)
6. DOE's insufficient public exploration of possible alternative routes that avoid the Walker River Reservation along the Mina Route. DOE states that the Mina Alternative would be "environmentally preferable...[have] fewer private-land conflicts, less surface disturbance, smaller wetlands impacts, and smaller air quality impacts than the Caliente Implementing Alternative" (DOE/EIS-0369, 2-119) yet they have not publicly explored spurs that avoid the reservation.

Dia recognizes DOE's attempt to mitigate the negative impacts of the Caliente Rail Corridor in Garden Valley through its preferred Garden Valley Alternate 3 which runs furthest from *City*. However, we continue to oppose *any* corridor traversing Garden Valley because the negative impacts cannot be mitigated and will cause irreparable damage to the area's aural, aesthetic, and environmental character. Additionally, the simulations outlined in Appendix D: Aesthetic Resources are based on key observations points that have no relationship to *City*, nor to Heizer's conception of how the artwork will be seen, and thus do nothing to quell our concerns about the presence of a rail line in the valley.

To provide a sense of the extraordinary cultural resource at risk, attached are a selection of the myriad letters written by museum directors from across the nation in support of *City* and protecting Garden Valley. Dia appreciates STB's time and attention to the issues raised here, and urges STB to require DOE to thoroughly analyze and quantify alternatives that will preserve Garden Valley in its current state for the cultural betterment of the nation and the world.



Association of Art Museum Directors

December 15, 2004

VIA FAX

President George W. Bush
The White House
1600 Pennsylvania Avenue
Washington, D.C. 20500

Dear President Bush,

On behalf of the Association of Art Museum Directors we urge your help in preserving one of America's greatest cultural monuments in Garden Valley, Nevada. Michael Heizer's *City* project, a massive earthwork, will be destroyed if the Department of Energy (DOE) builds its planned rail line to carry nuclear waste to Yucca Mountain through Garden Valley. The rail line would destroy the appropriate empty and silent surrounding for this epic-scale artwork and cause a great cultural loss for the nation, as well as the loss of more than 30 years work of a single artist, and millions of dollars of philanthropic support for those efforts.

Heizer's monumental abstract architectural-sculptural forms cover an area that is over one mile long and 1000 feet wide. Composed of earth, rock, and concrete, the complex is unrivaled in scale and scope anywhere in the world, except perhaps by the ancient ceremonial cities which inspired it. The project is the fullest expression of the artist's ideas that have already been celebrated in exhibitions in the nation's most important museums from New York, to Detroit, to Los Angeles, as well as in many international venues. Utilizing a combination of ancient and modern building technologies to create his timeless awe-inspiring forms, *City*, which is nearly complete, will stand as one of the most remarkable artistic achievements of our time.

We understand there are alternatives to the current plan for the rail line that would avoid Garden Valley entirely. The members of the Association of Art Museum Directors (see attached list) believe that it is of utmost importance that the government reconsider and redesign its proposed rail line to avoid this culturally significant site.

Please do not hesitate to contact us should you like more information.

Sincerely yours,

Millicent Hall Gaudieri
Executive Director

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AAMD Member Museums December 2004

Ackland Art Museum
University of North Carolina
Chapel Hill NC

Akron Art Museum
Akron OH

Albright Knox Art Gallery
Buffalo NY

Allentown Art Museum
Allentown PA

Amon Carter Museum
Fort Worth TX

Arkansas Arts Center
Little Rock AR

Art Institute of Chicago
Chicago IL

Asian Art Museum of San Francisco
San Francisco CA

Baltimore Museum of Art
Baltimore MD

Bass Museum of Art
Miami Beach FL

Berkeley Art Museum
University of California
Berkeley CA

Birmingham Museum of Art
Birmingham AL

Boise Art Museum
Boise ID

Brandywine River Museum
Chadds Ford PA

Brigham Young University Museum of Art
Provo UT

Brooklyn Museum of Art
Brooklyn NY

Butler Institute of American Art
Youngstown OH

Cantor Arts Center
Stanford University
Stanford CA

Carnegie Museum of Art
Pittsburgh PA

Chrysler Museum
Norfolk VA

Cincinnati Art Museum
Cincinnati OH

Cleveland Museum of Art
Cleveland OH

Colonial Williamsburg Foundation
Williamsburg VA

Contemporary Arts Center
Cincinnati OH

Contemporary Arts Museum Houston
Houston TX

Corcoran Gallery of Art
Washington DC

Crocker Art Museum
Sacramento CA

Cummer Museum of Art & Gardens
Jacksonville FL

Currier Museum of Art
Manchester NH

Dallas Museum of Art
Dallas TX

Dayton Art Institute
Dayton OH

DeCordova Museum and Sculpture Park
Lincoln MA

Delaware Art Museum
Wilmington DE

Denver Art Museum
Denver CO

Des Moines Art Center
Des Moines IA

Detroit Institute of Arts
Detroit MI

Dia Center for the Arts
New York NY

Dixon Gallery and Gardens
Memphis TN

El Museo del Barrio
New York NY

Elvehjem Museum of Art
Madison WI

Farnsworth Art Museum
Rockland ME

Fine Arts Museums of San Francisco
San Francisco CA

Flint Institute of Arts
Flint MI

Frederick R. Weisman Art Museum
University of Minnesota
Minneapolis MN

George Eastman House
Rochester NY

Georgia O'Keeffe Museum
Santa Fe NM

Grand Rapids Art Museum
Grand Rapids MI

Harvard University Art Museum
Cambridge, MA

Henry Art Gallery
Seattle WA

Herbert F. Johnson Museum of Art
Cornell University
Ithaca NY

High Museum of Art
Atlanta GA

Honolulu Academy of Arts
Honolulu HI

Hudson River Museum
Yonkers NY

Indiana University Art Museum
Bloomington IN

Institute of Contemporary Art, Boston
Boston MA

Institute of Contemporary Art,
Philadelphia
University of Pennsylvania
Philadelphia PA

International Center of Photography
New York NY

Isabella Stewart Gardner Museum
Boston MA

Jack S. Blanton Museum of Art
University of Texas at Austin
Austin TX

Japan Society Gallery
New York NY

Jewish Museum
New York NY

John and Mable Ringling Museum of Art
Sarasota FL

Joslyn Art Museum
Omaha NE

Kalamazoo Institute of Arts
Kalamazoo MI

Kimbell Art Museum
Fort Worth TX

Long Beach Museum of Art
Long Beach CA

Los Angeles County Museum of Art
Los Angeles CA

Lowe Art Museum
Coral Gables FL

Meadows Museum
Southern Methodist University
Dallas, TX

Memorial Art Gallery of Rochester
University of Rochester
Rochester NY

Memphis Brooks Museum of Art
Memphis TN

Metropolitan Museum of Art
New York NY

Miami Art Museum
Miami FL

Milwaukee Art Museum
Milwaukee WI

Minneapolis Institute of Arts
Minneapolis MN

Modern Art Museum of Fort Worth
Fort Worth TX

Montclair Art Museum
Montclair NJ

Montgomery Museum of Fine Arts
Montgomery AL

Munson Williams Proctor Arts Institute
Utica NY

Museo de Arte de Ponce
Ponce, Puerto Rico

Museum for African Art
Long Island City NY

Museum of Art, Fort Lauderdale
Ft. Lauderdale, FL

Museum of Contemporary Art, Chicago
Chicago IL

Museum of Contemporary Art, Los Angeles
Los Angeles CA

Museum of Contemporary Art, San Diego
La Jolla CA

Museum of Fine Arts, Boston
Boston MA

Museum of Fine Arts, Houston
Houston TX

Museum of Modern Art
New York NY

Nelson-Atkins Museum of Art
Kansas City MO

New Museum of Contemporary Art
New York NY

New Orleans Museum of Art
New Orleans LA

Newark Museum
Newark NJ

Norman Rockwell Museum
Stockbridge MA

North Carolina Museum of Art
Raleigh NC

Norton Museum of Art
West Palm Beach FL

Oakland Museum of California
Oakland CA

Orange County Museum of Art
Newport Beach, CA

Orlando Museum of Art
Orlando FL

Palm Springs Desert Museum
Palm Springs CA

Palmer Museum of Art
University Park PA

Parrish Art Museum
Southampton NY

Peabody Essex Museum
Salem, MA

Pennsylvania Academy of the Fine Arts
Philadelphia PA

Philadelphia Museum of Art
Philadelphia PA

Philbrook Museum of Art
Tulsa, OK

Phoenix Art Museum
Phoenix AZ

Pierpont Morgan Library
New York NY

Portland (Maine) Museum of Art
Portland ME

Portland (Oregon) Art Museum
Portland OR

Princeton University Art Museum
Princeton NJ

Queens Museum
Queens NY

Saint Louis Art Museum
St. Louis MO

Samuel P. Harn Museum of Art
University of Florida
Gainesville FL

San Diego Museum of Art
P.O. Box
San Diego CA

San Francisco Museum of Modern Art
San Francisco CA

Santa Barbara Museum of Art
Santa Barbara CA

Seattle Art Museum
Seattle WA

Sheldon Memorial Art Gallery
University of Nebraska Lincoln
Lincoln NE

Smith College Museum of Art
Northampton MA

Snite Museum of Art
University of Notre Dame
Notre Dame IN

Solomon R. Guggenheim Museum
New York NY

Speed Art Museum
Louisville KY

St. Petersburg Museum of Fine Arts
St. Petersburg FL

Sterling & Francine Clark Art Institute
P.O. Box
Williamstown MA

Studio Museum in Harlem
New York NY

Taft Museum
Cincinnati OH

Tampa Museum of Art
Tampa FL

Telfair Museum of Art
Savannah GA

The Andy Warhol Museum
Pittsburgh PA

The Contemporary Museum
Honolulu HI

The Menil Collection
Houston TX

The Phillips Collection
Washington DC

The Walters Art Museum
Baltimore MD

The Wolfsonian
Florida International University
Miami Beach FL

Toledo Museum of Art
Toledo OH

UCLA Hammer Museum of Art
Los Angeles CA

University of Iowa Museum of Art
Iowa City IA

University of Michigan Museum of Art
Ann Arbor MI

Virginia Museum of Fine Arts
Richmond, VA

Wadsworth Atheneum
Hartford CT

Walker Art Center
Minneapolis MN

Wexner Center for the Arts, O.S.U.
Columbus OH

Whitney Museum of American Art
New York, NY

Wichita Art Museum
Wichita KS

Winterthur Museum, Garden and Library
Winterthur DE

Worcester Art Museum
Worcester MA

Yale Center for British Art
New Haven CT

Yale University Art Gallery
New Haven CT

The Museum of Modern Art

Glenn D Lowry
Director

August 31, 2004

Mr Spencer Abraham
Secretary
U S. Department of Energy
1000 Independence Ave., SW
Room 7A-257
Washington, D C 20585

Dear Secretary Abraham,

I have learned recently, from the Dia Foundation, that artist Michael Heizer's *City* sculpture is threatened by the Department of Energy's (DOE) proposal to build a rail line that would move nuclear waste through Nevada's Garden Valley to Yucca Mountain. I strongly encourage you and the DOE to consider one of the feasible alternative transport options that would avoid tarnishing Heizer's hugely significant work, which he began in 1970.

Heizer, the renowned sculptor, is nearing completion on his massive structure, *City*, which fuses ancient and modern ideas with a sense of timelessness. As Michael Kimmelman, art critic for the *New York Times* notes, "*City* was a very American kind of dream: big, brash, maverick [and] optimistic." The masterpiece is nearly ready for the public to experience; however, the proposed rail line would disrupt the prevailing silence and undisturbed open space that is essential to the unique experience of the work.

I understand there are a number of other possible routes and strongly urge you to consider them. I hope you will do everything possible to protect the integrity of the *City* sculpture. The value of the *City* project to our national cultural heritage is inestimable. Please do not hesitate to call on me if I can be of assistance or can answer any questions.

With best wishes,



Glenn D. Lowry

cc: M Govan
K McDonald

THE ART INSTITUTE OF CHICAGO

111 SOUTH MICHIGAN AVENUE, CHICAGO, ILLINOIS 60603-6110 • TELEPHONE 312 443-3632 • FAX 312-214-0937

*Office of the
Director and President*

July 22, 2004

President George W. Bush
The White House
1600 Pennsylvania Avenue
Washington, D.C. 20500

Dear President Bush:

For it's more than 100-year history, The Art Institute of Chicago has made every effort to acquire and preserve the finest examples of American Art in all mediums. While our collections represent most of the world's major cultures, past and present, the Trustees have always felt that they had a particular responsibility to the artistic creation of the United States and the cultures that proceeded the arrival of Europeans to this continent.

However, there are certain masterpieces of recent American art, which cannot be collected or experienced within a museum. Michael Heizer's extraordinary earthwork entitled "City" is one of the most important examples of this uniquely American art form. Heizer is universally recognized as one of the most outstanding artists of our time who has both made a unique contribution to the field of contemporary art and drawn our attention to and enhanced our understanding of the natural environment and the indigenous, pre-Columbian cultures that lived in harmony with it.

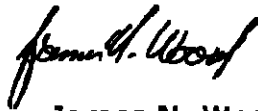
I would like to express my profound concern with regard to the current plans to introduce a rail line to transport nuclear waste directly through Nevada's Garden Valley, and specifically the Triple Aught Foundation Property that houses Heizer's "City". This plan would irrevocably violate not only the pristine landscape but also the entire spirit and aesthetic experience of this work of art.

President George W. Bush
July 22, 2004
Page 2

Helzer selected the Nevada Great Basin Valley precisely because of its remoteness and has designed his earthwork to both reflect and respect the geological context. His is a uniquely contemporary American form of expression that has grown out of our own history and a profound understanding of and respect for our geography.

I respectfully urge you to recognize the importance for current and future generations of this unique work of art by assuring that the rail line is routed in such a way that it will not endanger the current natural and artistic treasure that is the Garden Valley and Helzer's "City".

Yours sincerely,

A handwritten signature in black ink, appearing to read "James N. Wood". The signature is fluid and cursive, with the first name "James" and last name "Wood" being the most legible parts.

James N. Wood
Director and President

JNW/kp



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F 858 454 6985

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San Diego, CA
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F 619 325 1623

October 21, 2004

President George W. Bush
The White House
1600 Pennsylvania Ave NW
Washington DC 20050
Via fax: 202-456-2461

Dear President Bush:

I have visited the artist Michael Heizer on the site of his sculpture, "City," located in Garden Valley, Nevada, and thus have first-hand knowledge of this extraordinary work of art. I am compelled to write and tell you of my profound concerns for the preservation and protection of this artwork, because of the federal government's plans for the surrounding area. The artwork is located where the planned rail line would be installed to carry nuclear waste to Yucca Mountain. But "City" is also threatened by proposals of the Vidler Water Company to extract and transport water from Garden Valley.

As a museum director who has served this field for more than thirty years, as well as a scholar of contemporary art, I assure you that Heizer is one of the most important artists our country has produced, internationally recognized as a pioneer of "Land Art," "Earth Art," and "Environmental Art." The Heizer sculpture "City" consists of rectangular structures around a curved, sunken gravel-coated court. The structures – which call to mind an ancient site – are immense concrete and dirt "*mastabas*," rectangles with sloped sides. One of them alone is more than a quarter-mile long. Its irregular surface incorporates two projections, one triangular and one rectangular, and several upright slabs that poke up over the top like mountain peaks. The slabs (Heizer calls them "*stelae*") rise as much as 70 feet and weigh up to a thousand tons each. Altogether, "City" is now, and will continue to be, one of the most massive modern sculptures ever built. After nearly 30 years work, Heizer has passed the first stage toward completing what is essentially his own *Chichen Itza* in the desert.

The artist's work in the Nevada Great Basin valley is of a scale and ambition that is unique. Located in what is now an essentially untouched natural landscape, "City" has a grandeur and impact that can only be compared with some of the great monumental sites of pre-

October 21, 2004

PAGE 2

Columbian cultures of Mexico or Central America, or Native American cultures in the Southwest or Midwest.

For the U.S. government to endanger this work by putting a nuclear-waste-carrying rail line in such close proximity is absolutely unthinkable. I urge you to ask the Department of Energy to reconsider its plans to run this rail line through either Garden Valley or Coal Valley, and instead look at alternatives that would follow alongside existing highways. Furthermore, it is essential that any future pipelines and well heads that might be installed by the Vidler Water Company (or others) do not disrupt either Garden or Coal Valley.

As a past president of the Association of Art Museum Directors, representing 200 of the most prominent museums in North America, I ask you to look carefully at this situation, listen to the experts in art scholarship and museums, and ensure that Michael Heizer's monumental landmark in Nevada, entitled "City," be protected and preserved for posterity.

The Board of Trustees of our Museum, listed below, joins me in asking you to oppose the current plans, which will have such a devastating impact on one of the most significant artworks of its kind to be produced in this country.

Please don't hesitate to contact my office if I can provide further information (858-454-3541 x114).

Sincerely,



Dr. Hugh M. Davies
The David C. Copley Director

BOARD OF TRUSTEES
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THE MENIL COLLECTION

June 8, 2004

President George W. Bush
The White House
1600 Pennsylvania Avenue NW
Washington, D.C. 20500

Dear President Bush.

Having just returned from a visit to Michael Heizer, considered to be one of the most outstanding artists of our times, and his Triple Aught Foundation Property in Garden Valley, Nevada, I must express my deep concern at what I learned of the current plans for this area.

Michael Heizer is internationally recognized as one of the pioneers of a new art form created in the 1960's known as "Land Art," "Earth Art," or "Environmental Art." In addition to being a significant natural treasure, the property in Garden Valley is also the site of Heizer's most ambitious project in this vein to date, an earthwork entitled "City," a monumental, and one of the most outstanding, modern sculptures ever undertaken. The project is now nearing completion, but has recently come under threat, not only by the proposed routing of the rail line that is planned to carry nuclear waste to Yucca Mountain, but also by the proposals of the Vidler Water Company to extract and transport water from Garden Valley.

The Nevada Great Basin valley was chosen by Heizer precisely because its remoteness afforded him the space to work directly in the landscape at a monumental scale; the silence and vast undisturbed environment is essential to the basic concept of the sculpture. In addition to the visual impacts, construction and operation of a rail line would destroy the prevailing silence that is essential to the experience of the work. In summation, these impacts would simply and virtually destroy the sculpture, a cultural resource of national and international importance.

The monumental size and the location of this sculpture in an untouched landscape in Nevada make this work particularly and uniquely American. The grandeur of "City" links contemporary American art with monumental sites of pre-Columbian art in ancient Mexico, Bolivia and Peru, as well as with American Indian tumuli in the Midwest. The very fact that the sculpture was located far away from civilization provides the sculpture with a profoundly timeless and otherworldly dimension. To endanger this unique work by developing a railroad line in such close proximity would not only compromise "City," it will, to an absolute certainty, garner serious negative national and international attention and severe criticism.

If another mode of transportation cannot be found, it is important that the DOE reconsider its plan to site the rail line through either Garden or Coal Valleys. I understand that tracks could follow alongside existing highways, and I would urge DOE to consider this route. Further, it is imperative that any future pipelines and well heads installed by Vidler Water Company or others used to extract and transport water do not disrupt either Valley.

I very much hope we can work together to ensure that this cultural landmark in Nevada can be fostered and protected.

Sincerely,

A handwritten signature in black ink, appearing to read 'Josef Helfenstein', with a long horizontal flourish extending to the right.

Josef Helfenstein
Director
The Menil Collection and Foundation

cc: Menil Foundation Trustees:
Louisa Stude Sarofim, President
Adelaide de Menil Carpenter
Frances Dittmer
James A. Elkins, Jr.
Windi Grimes
Agnes Gund
Roy L. Nolen
Francesco Pellizzi
George Stark
Charles Wright
Michael Zilkha

Christophe de Menil
Michael Govan, DIA Art Foundation

WALKER ART CENTER MINNEAPOLIS SCULPTURE GARDEN

Tuesday, July 27, 2004

President George W. Bush
The White House
1600 Pennsylvania Avenue NW
Washington DC 20500
FAX 202-456-2461

Dear President Bush,

I am writing to express my deep reservations concerning the Department of Energy's plan to build a rail line through Nevada's Garden Valley, and, consequently, destroy Michael Heizer's extraordinary earthwork *City*. I'm not so cynical as to believe the destruction of this extremely influential and well-known work - 35 years in the making - is intentional. I ask you to find alternatives to disturbing the remote environment in which this monumental artwork sits and out of which it was made. Imagine the benefits of the Department of Energy being recognized internationally as an arts patron rather than as a cultural pirate.

I very much hope you will work towards ensuring the future of this cultural landmark.

Sincerely,



Kathy Halbreich
Director

cc. Michael Goven, Dia Art Foundation

GuggenheimMUSEUM

1071 Fifth Avenue
New York, NY 10128 0173
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Telefax 212 423 3450

September 7, 2004

Mr. Spencer Abraham
Secretary
U S. Department of Energy
1000 Independence Ave., SW
Room 7A-257
Washington, D C 20585

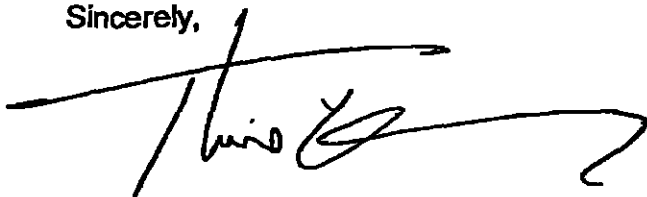
Dear Mr. Secretary,

It has recently come to my attention that Michael Heizer's *City* project—perhaps one of the nation's most ambitious and singularly significant artworks—may be compromised by plans for a new railroad to carry nuclear waste to the proposed repository at Yucca Mountain.

When Heizer chose his remote location in Garden Valley, Nevada over 30 years ago, he sought a site of utmost tranquility and remove. His work, a fusion of ancient and modern geometric forms, relies on both the silence and the vast undisturbed open space of its surrounding environment. The conjunction of art and environment in Heizer's *City* project is rivaled perhaps only by the ancient ceremonial cities which inspired it, and the project's value to our American cultural heritage is inestimable.

I urge you to consider alternate routes for the rail that avoid Garden Valley completely, and to do everything you can to protect this great work of art and its Garden Valley environment.

Sincerely,

A handwritten signature in black ink, appearing to read 'Thomas Krens', with a long horizontal stroke extending to the left.

Thomas Krens

CERTIFICATE OF SERVICE

I certify that on July 15, 2008 a true and correct copy of the foregoing document was served on the following Parties of Record by (1) first class mail, postage prepaid or (2) email as requested

The Honorable Shelley Berkley
United States House of Representatives
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Washington, DC 20515

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Nye County
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Tonopah, NV 89049

John Brown
Brown and Frehner, LLP
PO Box 656
Alamo, NV 89001

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Martin G. Malsch
Charles J. Fitzpatrick
Egan, Fitzpatrick, & Malsch
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mmalsch@nuclearlawyer.com

Kevin W. Bell
California Energy Commission
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Department of Energy
Office of Civilian Radioactive Waste
Management
180 Town Center Drive
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Healing Ourselves & Mother Earth
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Paul R. Hitchcock
Associate General Counsel
CSX Transportation, Inc.
500 Water Street
Jacksonville, FL 32202

Michael S. Cyphers
City of Henderson
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Henderson, NV 89015

Merril Hirsch
William H. Briggs
Ross, Dixon, & Bell
2001 K Street NW, 4th Floor
Washington, DC 20006-1040
mhirsch@rdbl.com

Director
Office of Civilian Radioactive Waste
Management
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A handwritten signature in black ink, appearing to read 'Katie Sonnenborn', with a long horizontal flourish extending to the right.

Notice of Intent to Participate
STB Finance Docket No. 35106

Katie Sonnenborn
Dia Art Foundation