

FALL 2008

Yucca Mountain New

Publication of the Churchill County
Repository Planning and Oversight Program

NRC docketes Yucca Mountain application

The Nuclear Regulatory Commission has formally docketed the Department of Energy's license application for the proposed high-level nuclear waste repository at Yucca Mountain, Nevada. The agency staff has also recommended that the Commission adopt, with further supplementation, DOE's Environmental Impact Statement for the repository project.

The decision to docket the application follows the NRC staff's determination that the application, submitted June 3, is sufficiently complete for the staff to begin its full technical review.

Docketing the application does not indicate whether the Commission will approve or reject the construction authorization for the repository, nor does it preclude the Commission

or the agency staff from requesting additional information from DOE during the course of its comprehensive technical review.

Docketing the application triggers a three-year deadline, with a possible one-year extension, set by Congress for the NRC to decide whether to grant a construction authorization. NRC officials have stated that meeting this deadline is contingent on the agency receiving sufficient resources from Congress.

After reviewing DOE's Environmental Impact Statement and its supplements, the NRC staff determined that it would be practicable for the agency to adopt the DOE report. However, the staff is requesting that DOE supplement some aspects of its groundwater analyses.

Inside this issue	Page
NRC outlines process to study Yucca Mountain application	3
Yucca Mountain Project clears another big hurdle	4
House restores Yucca Mountain funding in bill	5
Reid, Ensign oppose waste shipping plans	5



Nevada's nuclear waste fighter is out of a job



Bob Loux, Shelly Berkely and Senator Harry Reid

The executive director of Nevada's Nuclear Projects resigned Monday, September 29th, after questions were raised whether he illegally gave pay raises to himself and others in his office.

Commissioners of the state agency fighting federal plans for a nuclear waste repository at Yucca Mountain voted to keep Bob Loux office until a replacement is appointed by Gov. Jim Gibbons, who had pressured him to resign.

Loux said he authorized the raises based on interpretation of a 1999 state law that defined a classification system for employees in his agency. Loux said a state legislator asked at a hearing before the law was passed if the proposal would allow managers to redistribute the salaries of unfilled position among other staff members, and a representative for then-Gov. Kenny Guinn said it would.

representative for then-Gov. Kenny Guinn said it would.

"At no time did we ever exceed our overall budget," Loux said.

Loux said employees of his agency met to redistribute the salary of the departed employee as well as her duties. The pay raises last fiscal year for Loux and six agency employees amounted to about \$72,000.

Commissioners said they would work to fill the post as soon as possible, and estimated it would take at least six weeks. The com-

(Continued on page 3)

Nevada's nuclear waste fighter (Continued)

mission does not have authority to arrange for the money to be repaid or to determine whether the raises violated law, according to an official from the state attorney general's office.

Loux had been drawing a \$151,542 yearly salary, nearly a third more than his authorized amount, according to documents released by the governor's office.

The agency is under the governor's office, but Loux did not report the raises to the governor and instead signed the paperwork needed to authorize the higher pay.

Gibbons' office has said the procedure has been changed to ensure that the governor's chief of staff signs off on any future pay raises for the agency.

Gibbons issued a statement praising the commission for accepting Loux's resignation.

"This action sends a strong message that fiscal accountability must be maintained," Gibbons said. "I thank the commission members for meeting promptly to consider this matter, and I anticipate expedited recommendations of qualified replacement candidates from the commission so Nevada will continue the fight against nuclear waste without delay."

Richard Bryan, the commission chairman who had expressed support for Loux, praised his overall work on Monday but called the pay raises an "indefensible lapse of judgment."

"He's ably advised four governors, he's ably advised four commissions," said Bryan, a former governor and US senator. "We have never been closer to the victory we seek."

Bryan said the commission would not change its position opposing the nuclear dump as a result of its change in leadership.

"From my perspective, the paramount issue for all of us on this commission is that nothing that we do, nothing Mr. Loux has done in the past, will divert focus from our primary mission," Bryan said.

to investigate the state Agency for Nuclear Projects .

In addition to the other actions aimed at Loux, Assembly Minority Leader Heidi Gansert, R-Reno, had filed an ethics complaint against Loux. The complaint alleged that Loux improperly used his position to "grant unwarranted privileges" to himself in violation of state ethics laws.

Chuck Muth's malfeasance complaint was dismissed by a Carson City judge, who said he did not have jurisdiction in the matter.

The pay scandal sparked discussion in op-ed pages whether the state should take stock of its battle against Yucca Mountain.

While polls show a majority of Nevadans oppose Yucca Mountain, there are citizens who believe the massive government project could provide an economic shot in the arm.

Some others argue the repository is inevitable and the state should protect

its interests rather than battle to the end. *Source: Review Journal.*



In public comments, several people praised Loux's service but a couple of his critics, including Stuart Waymire, said that Loux, who holds a bachelor's degree in education from the University of Nevada, Reno, did not have credentials for the job.

"There must be at least a thousand people in Nevada who have better expertise than Bob Loux," Waymire said.

Activist Chuck Muth, upon hearing about the unauthorized pay raises asked the U.S. Department of Jus-

NRC outlines process to study Yucca Mountain application

Staff members from the Nuclear Regulatory Commission briefed residents on the agency's decision to accept for review the Department of Energy's application to build the nuclear waste handling site 90 miles northwest of Las Vegas.

The meeting was held from 5 to 7 p.m., Tuesday, September 23rd, at the Longstreet Inn in Amargosa Valley.

The NRC's decision to place the Yucca project on its docket starts an in-depth scientific review by the agency.

Federal law sets the review process for three to four years, but many experts expect it will take longer than that.

Consultants for the Yucca Mountain project from throughout Nevada were in the audience at the LongStreet Inn and Casino Tuesday night to hear precisely how the NRC process would unfold.

"The only thing that NRC would be doing is some confirmatory analysis to check key elements of DOE's conclusions, to make sure with our information independently gathered in our models and independently developed, that we arrived at the same or different conclusions," N. King Stablein, branch chief of the NRC licensing and inspection directorate, told the crowd of about 50 people.

NRC officials took pains to tell the public that though they decided the DOE application to build and oper-

ate Yucca Mountain was complete, that didn't mean the application would be approved.

The first speaker, Lawrence E. Kokajko, director of the NRC division of high-level waste repository safety, began his speech by saying, "NRC takes no position now on whether a repository can be constructed and operated at Yucca Mountain, Nevada. This remains for DOE to prove."

The NRC reviewed 33 questions to evaluate whether the application

Nye County Commissioner Joni Eastley, in her prepared remarks, said the Nye County Nuclear Waste Repository Project Office has reviewed DOE documents and conducted its own independent technical work, including an extensive drilling program.

After all the years of independent research by contractors to verify DOE results, Eastley told the NRC: "We have yet to identify any serious issues with DOE's program as a result of these activities. But we do believe, however, that there are

areas where additional work may enhance our confidence that the safety of our citizens and the quality of our environment will be protected."

Nye County intends to participate as a party in the licensing proceeding, submitting a petition to intervene with proposed contentions, Eastley said.



N. King Stablein, Branch Chief NRC, presented a review of the License Application

was complete. Twenty-nine were listed in the Code of Federal Regulations, Stablein said.

When an affirmation hearing is scheduled, probably around mid-October, a 60-day period will begin for the affected parties like counties, Indian tribes and the state to submit their contentions. Janet Kotra, senior project manager, said Nye County has "a very special role as the host community."

"To achieve party status we realize that at least one of our contentions must be admitted by the Atomic Safety and Licensing Board," she said.

Crowds turned out in Pahrump for the public hearings convened by the DOE on the environmental impact statements for the Yucca Mountain project a few years ago.

Janet Kotra, NRC Senior Project

(Continued on page 4)

NRC outlines (Continued)

Manager, said by contrast, in the NRC hearings the public will have to demonstrate a scientific or legal contention.

"It's not just, 'I don't like the idea,' or 'DOE can't be trusted.' We have to have specifics. They have to be supported by documents," Kotra said.

When questioned further, however, Kotra said the hearing board will go into the community where the public will have an opportunity to give "limited appearance statements." Those won't be subject to cross-examination and challenges to the expertise of the witnesses and can't be used as evidence, but the judges may uncover areas where more information is needed.

Kokajko refuted accusations there were no radiation standards. But he admitted those standards were only designed for up to 10,000 years.

Kokajko listed some of the experts on the NRC staff: environmental scientists, geologists, hydrologists, materials engineers, geochemists, health physicists, seismologists, structural engineers, a vulcanologist.

Bob Halstead, state of Nevada Agency for Nuclear Projects transportation advisor, said his office is looking for conditions that specify the DOE will set a maximum limit of 70,000 tons to be stored at Yucca Mountain and no more than 10 percent of the waste shipments by truck.

Kokajko replied, "You mentioned a good one about the statutory limit for the capacity of the mountain. We would certainly incorporate something like that in there."

Halstead also had questions about the titanium drip shields in the casks and the cooling of nuclear waste at surface facilities before

storage in the mountain.

The NRC can approve the license application, deny it, or approve it with conditions, Kokajko said.

"I may hasten to note that almost all, if not all, of any approvals issued by the NRC -- whether it's a certificate or whether its a license -- all typically have some conditions of operation placed upon them," Kokajko said.

The NRC delegation also sought to refute any indications that by accepting the application, the NRC was inclined to support the application.

Halstead was concerned that if the railroad isn't ready before nuclear shipments begin, the DOE will ship the waste by truck. There will already be 5,000 truck shipments over 50 years if 10 percent of the waste goes by truck, he said.

Kotra said the hearings on the environmental impact statements could begin as early as next year. The hearing on the license application could take place in 2010.

"If this sounds like the receiving and possessing and disposal of spent fuel is a long way off, that's in fact true. I think the DOE has suggested the earliest is around 2020 right now. It's a long way from now and we have a lot of work to do before we can assure the safety of that," Kokajko said. *Source: Pahump Valley Times*

Yucca Mountain Project clears another big hurdle

The Nuclear Regulatory Commission announced this morning it will conduct an in-depth review of the government plans for Yucca Mountain, another step forward for the controversial nuclear waste storage project.

The decision by the nuclear safety agency to place a Department of Energy license application on its docket represents a milestone for the project over the objections of Nevada's elected leaders.

The NRC concluded following an initial 90-day screening by its technical staff that an application that DOE filed on June 3 "is sufficiently complete" for the agency to move forward, according to its announcement.



The move opens the way for detailed safety studies that will be performed by NRC technical staff, and for legal hearings before panels of administrative judges where Nevada and other parties would be able to raise objections.

The process will result in a decision whether to grant a license for the repository to be built.

The decision was announced shortly after the NRC notified members of Congress. Those from Nevada were not happy although they were not altogether surprised.

"The NRC's decision puts nuclear politics over the health and safety of Nevada families and you can bet that we will continue fighting

(Continued on page 6)

House restores Yucca Mountain funding in bill

WASHINGTON -- Faced with a White House veto threat, Congress is restoring a part of Yucca Mountain funding that had been cut from a major defense bill.

A bill that passed the House on Sept. 23rd, authorizes \$223 million as the Defense Department's share of the Nevada nuclear waste project in the coming year. The bill faces a final vote in the Senate.

An earlier version had authorized \$197.4 million in defense spending for Yucca Mountain, which was \$50 million less than the Pentagon had wanted. The final bill splits the difference, putting back \$25 million.

The nuclear waste provision is a small part of the \$612 billion defense authorization bill that contains pay raises for troops, policy directions for the Department of Defense and funding levels for hundreds of Pentagon programs and weapons systems.

Aides on the House Armed Services Committee confirmed that several changes were made in recent days in the wake of the veto threat that was issued earlier this month.

The Yucca Mountain budget cut was among 30 or so objections that White House officials had lodged.

With the changes that were made, "we do not anticipate there being a (White House) concern with this bill," said Loren Dealy, Armed Services Committee press secretary.

The Department of Energy manages the Yucca Mountain program, but the Pentagon pays for a part of it because the planned repository about 100 miles northwest of Las Vegas would store radioactive spent fuel from defense programs.

The budget reduction was engineered by Nevada Sens. Harry Reid and John Ensign. The state's delegation annually pushes for cuts in Yucca Mountain-related bills to derail the proposed repository.

Even after some funding authorization was restored, the final bill still is less than what the

Pentagon requested for Yucca Mountain, a Reid spokesman said. "It's a \$25 million cut, and we are happy with it," spokesman Jon Summers said.

The defense bill was not viewed as make-or-break for the Yucca project. Lawmakers have not finished other bills that allocate spending and that would have a larger effect on the project.

All told the Bush administration had asked Congress to allocate \$494.7 million for Yucca Mountain in fiscal 2009. *Source: Las Vegas Review*

Veto threat forced changes to measure



Reid, Ensign oppose waste shipping plans

Nevada Sens. Harry Reid and John Ensign took the opportunity to renew their campaign against the proposed Yucca Mountain repository.

Reid, D-Nev., testified the Department of Energy's nuclear waste shipping plans "are grossly incomplete" even as the DOE has applied for a repository construction license.

The department has not yet finalized shipping routes, and its draft transportation plan "is barely a crude sketch," he said.

Ward Sproat, director of the Office of Civilian Radioactive Waste Management, said shipments still are years away, and the DOE "has committed to meet or exceed" federal safety rules.

If the repository is built 100 miles northwest of Las Vegas, the first shipments would not be made until 2020 under the DOE's best-case scenario, he said.

The discussion played out before the Senate Commerce, Science and Transportation Committee at its first hearing in years on nuclear waste shipping. The panel has jurisdiction over railroads.

Sproat and other federal officials said movement of nuclear materials around the country has a decades-long safety record.

"Spent nuclear fuel can be safely and securely transported, including from its current location at operating and decommissioned nuclear power plants, to a permanent geological repository," said Michael Weber, a safety and safeguards director at the Nuclear Regulatory Commission.

A 2006 study by the National Research Council concluded there were no technical barriers to safe shipments of nuclear fuel. (Continued on page 6)



Yucca Mountain Project (Continued)

the Bush-McCain Yucca Mountain plan," said Rep. Shelley Berkley, D-Nev.

The licensing process is envisioned by law to take three-four years. Many officials believe it could take years longer for the NRC to sort through a project that is the first of its kind.

Following construction the agency would consider a second application for DOE to begin receiving waste at the site.

The Energy Department proposes to build a warren of tunnels beneath Yucca Mountain, 90 miles northwest of Las Vegas, where 77,000 tons of used nuclear fuel and highly radioactive material from U.S. weapons manufacturing would be stored and eventually sealed within the mountain.

An above-ground waste handling complex also would be constructed where canisters of waste would arrive, mostly by rail, from sites in 39 states.

The repository plan is opposed by a majority of Nevadans. State leaders have committed millions of dollars to fight at the NRC and in courts. *Source: Washington Bureau*

Reid, Ensign oppose waste shipping plans (continued)

But study director Kevin Crowley said it also concluded the number of rail shipments to Yucca Mountain would be 18 times the number made between 1964 and 2004, and the council offered recommendations for the DOE to improve its program.

James David Ballard, a California State University, Northridge, associate professor who has consulted for Nevada, said nuclear waste shipments are "a target-rich environment" for terrorists.

Sproat said all shipments would be accompanied by armed escorts and tracked by satellite.

Ensign, R-Nev., said the safest nuclear waste shipments would be the ones that are never made.

He and Reid have promoted the idea for the government to keep nuclear waste stored at power plants, in steel-and-concrete dry cask silos.

"We need to look at whether we need to transport at all at this point," Ensign said. *Source: Washington Bureau*



This newsletter is a Publication of the Churchill County Repository Planning and Oversight Program. Churchill County is one of ten affected units of local government involved in the proposed Yucca Mountain Repository. Funding provided to Churchill County is paid by users of electricity generated by nuclear power plants.

Under a general contract with nuclear generating utilities. The federal government collects a fee of one mill (one tenth of a cent) per kilowatt hour from utility companies for nuclear generated electricity. The money goes into the Nuclear Waste fund which is used to fund all program related activities.

Additional information on the repository program can be obtained from the U.S. Department of Energy, Yucca Mountain, Site Characterization Project Office at (702) 794-1444 or see their website at www.ocrwm.doe.gov, or the Nevada Agency for Nuclear Project, Nuclear Waste Project Office, Capital Complex, Carson City, Nevada 89570, (775) 687-3744 or see their web site at www.state.nv.us/nucwaste.

*Editor: Rex Massey,
Assistant Editor*

*Design, research & format:
Loreen Pitchford
Churchill Nuclear Waste
Oversight Program website address.
<http://churchillcountynwop.com>*

