

Nuclear Waste Review

White Pine County

December 2004

Congress resolves Yucca funding dispute

Washington—A dispute over how Nevada counties can spend federal money on Yucca Mountain has been resolved by Congress in favor of the counties, officials said this week.

A year-end spending bill that lawmakers passed Nov. 20 makes clear that local governments can use Energy Department grants to take part in licensing for the proposed nuclear waste repository, they said.

Counties can use DOE grants to take part in licensing for project

Clark County commissioners protested after DOE issued new grant guidelines in August. One directive disallowed use of grant money for activities such as loading pertinent research into an electronic database being for Yucca Mountain license hearings.

County leaders said the rules would restrict their ability to fully participate in upcoming hearings before the Nuclear Regulatory Commission.

A provision that reverses the directive was proposed by Clark County officials and was inserted into the bill by Senator Harry Reid, D-Nev., according to Capitol Hill officials.

Abigail Johnson, a nuclear waste consultant to Eureka County, said the problem appears to be solved for now.

“It provides the specific language that answers the questions that had come up over how we can use our oversight funds,” she said.

Reid aides said the provision will need to be renewed each year.

Nine Nevada counties and Inyo County in California shared \$4 million this year and are being given \$8 million during fiscal 2005 to monitor DOE’s work at Yucca Mountain, 100 miles northwest of Las Vegas, and to study the planned repository’s potential impacts on their residents.

Clark County’s allocation for 2005 is expected to be about \$2 million.

Yucca Mountain hearings will be conducted in a traillike format before an NRC administrative panel. DOE officials said their August guidelines were based on their reading of a law that prohibits the counties from spending federal money on repository “litigation.”

Energy Department spokesman Allen Benson said DOE welcomed the instructions from Congress.

“Congress has for many years provided us guidance as well as the state and the (counties) on how the funds should be spent,” Benson said. “Now we have congressional direction, which helps all of us.”

Website: http://www.reviewjournal.com/lvrj_home/2004/Dec-01-Wed-2004/news/25381673.html

Energy Funding limits opposed

Washington-Federal lawmakers on Thursday called on Energy Secretary Spencer Abraham to rescind new guidelines that some Nevada counties complain are hindering their involvement in the Yucca Mountain Project.

If Abraham does not comply, the next step could be legislation in Congress to overturn the new rules or perhaps yet another lawsuit against the Energy Department, according to aides for Nevada lawmakers.

Five Nevadans in Congress asked Abraham in a letter to explain new DOE guidelines for how counties can spend federal money they are given each year through the Yucca program.

Ten counties have divided \$4 million this year. Subject to certain restrictions, the money can be spent to assess how the proposed nuclear waste repository will affect county residents.

Guidelines for 2005 that were given to counties on Aug. 27 include new limits on spending for “transportation activities,” including commenting on DOE’s proposal to build a railroad from Caliente across rural Nevada to the repository site in Nye County.

Also, counties would be unable to spend federal money to load their research into a Yucca Mountain licensing database, an initial step to participate in licensing and transportation was permitted. “It seems to me the timing is really suspicious,” said Abby Johnson, a nuclear waste consultant to Eureka County. “At a time when transportation planning on the part of DOE is actually starting to occur, when we are actually looking at ground impact from the construction of a rail line, they would find suddenly there is no basis for affected local governments to participate in those activities,” Johnson said. “I just have to wonder if this is a way to marginalize the counties.”

The DOE guidelines contained some positives for the counties.

Counties holding unspent funds at the end of a fiscal year can carry it over into the new year, the department said.

Also, counties can keep any interest accrued on federal aid, as long as it is spent on approved Yucca Mountain activities.

Nye County Commissioner Candice Trummel said the DOE rules were mixed as far as their impact.

Trummel said she doubted Nye would pursue any complaints about them.

“There were positives as far as Nye County was concerned, and the negatives are things we can work around,” Trummel said.

Unlike Clark County and some other rural counties, Nye County participates in cooperative agreements with the Energy Department that provide funding to carry out specific Yucca activities.

Sen. Harry Reid, D-Nev., plans to wait for Abraham’s response before deciding whether to introduce legislation to reverse the guidelines, a spokeswoman said.

Other Nevada lawmakers have begun research to determine if legal action might be warranted, congressional officials said.

The letter to Abraham was signed by Reid, Sen. John Ensign, R-Nev., and Reps. Jim Gibbons and Jon Porter, both R-Nev., and Shelley Berkley, D-Nev.

Source: Las Vegas Review Journal
September 17, 2004

Low-Level Waste Disposal at NTS Means Clean up for DOE Complex

Fiscal year 2004 was another record-setting year at the Nevada Test Site (NTS), with disposal operations accepting 3.7 million cubic feet low-level waste—enough to fill a football field more than 6 stories high! And the 150,000 man-hours it took to dispose the waste were logged without any lost-time accidents. Quite an accomplishment!

What does this mean for the dozens of U.S. Department of Energy (DOE) approved waste generators who ship to the NTS? It means that sites, such as Rocky Flats in Colorado, are that much closer to their cleanup goals. Environmental restoration activities across the DOE complex, in fact, are on the fast track to cleanup thanks to the safe, efficient low-level waste disposal operations provided at the NTS.

While receiving record volumes is a significant accomplishment, the NTS’ number one priority continues to be the protection of workers, the public, and the environment. Scientists and engineers study the radioactive waste management sites to ensure that disposal cells sagely perform as planned. These studies include developing computer models of the long-term performance of the disposal facilities and gathering information through monitoring activities are published in the Nevada Test Site Environmental Report which can be found on-line at <http://www.nv.doe.gov> under News and Publications

Coming Soon...Atomic Testing Museum

Construction on the long awaited and much anticipated Atomic Testing Museum is near completion — with a scheduled opening of February 2005. The 8,000 square-foot museum, which is a project of the Nevada Test Site (NTS) History Foundation (NTSHF) and an affiliate of the Smithsonian, will provide an extensive visual tour of past and present NTS activities, as well as an overview of the area's geologic and archaeological features.

Audiovisual presentations, environmental recreations, films, and astonishing graphic displays will all be part of the museum experience. Guests will literally be “moved” inside an interactive movie theatre that simulates an atmospheric nuclear detonation with shaking benches, hot air blasts, and rumbling surround sound. Descriptions of current Environmental Management projects, including groundwater studies, industrial sites cleanup, low-level waste disposal, etc., will also be featured.

The museum was literally constructed around several large NTS artifacts, including a grain silo from the Environmental Protection Agency farm, a one-fifth-scale down-hole canister donated by Los Alamos National Laboratory, and a 15-foot diameter section from a pipe used in a tunnel on the NTS.

It is estimated that as many as 800,000 people will visit the museum annually. For additional information on the Atomic Testing Museum or the NTSHF log on to <http://www.ntshf.org/>.

Gertz Retires

After many years of dedicated service to the U.S. Department of Energy (DOE), Carl P. Gertz, Assistant Manager for Environmental Management, will retire as of January 1, 2005. Mr. Gertz is responsible for implementation of the \$100 million annual environmental restoration and waste management program at the Nevada Test Site.

Prior to this appointment, Gertz served as Acting Assistant Manager for Environmental Restoration and Waste Management. He also served as Director for the Waste Management Division.

In 1987, Gertz was named DOE's Project Manager of the Yucca Mountain Site Characterization Project. He managed DOE's evaluation of Yucca Mountain as a potential site for the nation's first repository for commercial spent fuel and high-level radioactive waste.

Prior to 1987, Mr. Gertz was manager of the Isotope Separation Project Office at DOE's Idaho National Engineering Environmental Laboratory (INEEL). He headed the effort to design, develop, and operate a facility which uses lasers to separate isotopes of plutonium. He also served as Deputy Assistant Manager for Nuclear Programs, involved with the management of spent nuclear fuel and high-level radioactive waste from Defense Programs at DOE's INEEL.

For 16 years, before joining DOE, Gertz worked in the inter-mountain states for the Boeing Company in missile site development, installation and construction management.

Mr. Gertz will use his retirement wisely— by traveling and spending quality time with his wife, children, and grandchildren. Golfing and skiing will continue to be a part of his regular itinerary as well as officiating both high school football and basketball. He looks forward to retirement and plans to enjoy every minute of it!

Nevada Files Suit Over Yucca Waste Shipment Plan

previously rejected plan increases health, safety, terror risk

Carson City-Attorney General Brain Sandoval today announced the filing by Nevada of a new lawsuit against the Department of Energy (“DOE”) broadly challenging its transportation plan for nuclear waste shipments to the proposed Yucca Mountain nuclear waste repository. Many, if not most, of those shipments

would go through Las Vegas. The suit contends DOE's plan violates the National Environmental Policy Act, the Interstate Commerce Act, and regulations set by the Council on Environmental Quality, the Surface Transportation Board, and DOE itself. The case was filed in D.C. Court of Appeals, the same court that in July ruled favorably for the state on another case challenging Yucca.

DOE's transportation plan, announced April 8, 2004, selects a 318-mile route from Caliente, Nevada, to Yucca Mountain in which to construct what would be the longest new rail line in the United States in over 80 years. To make the rail shipments, DOE selected a new national mode of transport that it had not previously analyzed: loading light weight truck casks onto rail cars and shipping them by the thousands cross-country. DOE's previous analyses had assumed rail shipments would involve only newly designed, larger, and heavier rail casks. The larger casks would have sharply reduced the number of shipments, and are less vulnerable in accidents or terrorist attacks.

"It's uncanny how DOE manages to do precisely the wrong thing," Sandoval said. "With no public input whatsoever, DOE chose a new transport mode that DOE itself had rejected for study because it is the most expensive by a billion dollars, the most impractical, and has the highest health and safety risks."

Sandoval is also challenging DOE's right to play the role of lead agency in the new rail project, contending the law requires the federal Surface Transportation Board to assume that role. "DOE didn't even contact the Board before plunging ahead with the largest new rail project in decades," Sandoval said. "Given DOE's track record at building anything, the Board is a far better agency than DOE to run a project of this magnitude. It is also far less biased."

Finally, Sandoval is challenging DOE's failure to evaluate actual impacts and land use conflicts within the one-mile wide swath of land along the 318-mile Caliente Route. "No landowners were contacted or given any notice that DOE was about to appropriate their land," Sandoval said, noting that DOE has already applied to the Bureau of Land Management to have set aside 308,600 specifically itemized acres for the new track. "DOE stood the mandatory review process on its head," he added. "First, DOE unilaterally proclaimed a new route, then it applied to withdraw the land, and only now has it announced it will begin to evaluate the environmental impacts along that route. The whole point of environmental review is to study the impacts before you make the decision, not after."

The State is asking the court to compel DOE to withdraw its transport decisions, issue a supplemental environmental impact statement, solicit public comment, and bring the Surface Transportation Board to the project as the lead or co-lead agency.

Source: Marta Adams (775)684-1237
September 7, 2004

MOTION TO STRIKE THE DEPARTMENT OF ENERGY'S LSN CERTIFICATION AND FOR RELATED RELIEF

On June 30, 2004, the U.S. Department of Energy ("DEN") provided NRC with an "initial LSN certification" in the captioned matter of High-Level Waste Repository. For the reasons set forth herein, the State of Nevada ("NEV") hereby moves this purported "certification" be struck from the docket as unlawful, unauthorized, antithetical to the measures NRC has implemented over the last fifteen years to expedite the geologic repository licensing proceeding, and contrary to every promise DEN made to the NRC about how it would cooperate in implementation of electronic discovery. Nevada also requests a ruling that DEN's merely populating its website, the so-called "Yucca Vista" site, with documentary material does not satisfy NRC's LSN requirements. Finally, NEV requests a ruling that DEN's purported "certification" does not constitute the event that initiates the ninety-day period specified in 10 C.F.R. for LSN certification by NEV and other prospective parties to the licensing proceeding.

Nev believes the relief requested above has "a direct relation to the LSN" and therefore falls within the jurisdiction of the Pre-License Application Presiding Officer ("PAPO").

Energy and Water Development Appropriations

Act of 2005

BILL LANGUAGE: Nuclear Waste Disposal

For nuclear waste disposal activities to carry out the purposes of Public Law 97-425, as amended, including the acquisition of real property or facility construction or expansion, \$346,000,000, to maintain available until expended: Provided, That of the funds made available in this Act for Nuclear Waste Disposal, \$2,000,000 shall be provided to the State of Nevada solely for expenditures, other than salaries and expenses of State employees, to conduct scientific oversight responsibilities and participate in licensing activities pursuant to the Nuclear Waste Policy Act of 1982, Public Law 97-425, as amended: Provided further, That \$8,000,000 shall be provided to affected units of local governments, as defined in Public Law 97-245, to conduct scientific oversight responsibilities and participate in licensing activities pursuant to the Act: Provided further, That the distribution of the funds as determined by the units of local government shall be approved by the Department of Energy: Provided further, That the funds for the State of Nevada shall be made available solely to the Nevada Division of Emergency Management by direct payment and units of local government by direct payment: Provided further, That within 90 days of the completion of each Federal fiscal year, the Nevada Division of Emergency Management and the Governor of the State of Nevada and each local entity shall provide certification to the Department of Energy that all funds expended from such payments have been expended for activities authorized by Public Law 97-425 and this Act: Provided further, That failure to provide such certification shall cause such entity to be prohibited from any further funding provided for similar activities: Provided further, That none of the funds herein appropriated may be: (1) used directly and indirectly to influence legislative action on any matter pending before Congress or a State legislature or for lobbying activity as provided in 18 U.S.C. 1913; (2) used for litigation expenses; or (3) used to support multi-State efforts or other coalition building activities inconsistent with the restrictions contained in this Act: Provided further, That all proceeds and recoveries realized by the Secretary in carrying out activities authorized by the Nuclear Waste Policy Act of 1982, Public Law 97-425, as amended, including but not limited to, any proceeds from the sale of assets, shall be available without further appropriation and shall remain available until expended.

Defense Nuclear Waste Disposal

For nuclear waste disposal activities to carry out the purposes of Public Law 97-425, as amended, including the acquisition of real property or facility construction or expansion, \$231,000,000, to remain available until expended.

Nuclear Regulatory Commission

For necessary expenses of the Commission in carrying out the purposes of the Energy Reorganization Act of 1974, as amended, and the Atomic Energy Act of 1954, as amended, including official representation expenses (not to exceed \$15,000), and purchase of promotional items for use in the recruitment of individuals for employment, \$662,777,000, to remain available until expended: Provided, That of the amount appropriated herein, \$69,050,000, shall be derived from the Nuclear Waste Fund: Provided further, That revenues from licensing fees, inspection services, and other services and collections estimated at \$534,354,000 in fiscal year 2005 shall be retained and used for necessary salaries and expenses in this account, notwithstanding 31 U.S.C. 3302, and shall remain available until expended: Provided further, That the sum herein appropriated shall be reduced by the amount of revenues received during fiscal year 2005 so as to result in a final fiscal year 2005 appropriation estimated at not more than \$128,423,000.

Nuclear Waste Technical Review Board

For necessary expenses of the Nuclear Waste Technical Review Board, as authorized by Public Law 100-203, section 5051, \$3,177,000, to be derived from the Nuclear Waste Fund, and to remain available until expended.

CONFERENCE REPORT LANGUAGE:

Nuclear Waste Disposal

The conference agreement provides \$346,000,000 for Nuclear Waste Disposal. When combined with the \$231,000,000 appropriated from the Defense Nuclear Waste Disposal account, a total of \$577,000,000 will be available for program activities in fiscal year 2005. The conferees have provided \$2,000,000 for the State of Nevada and \$8,000,000 for the Affected Units of Local Government (AULG) for project oversight.

Defense Nuclear Waste Disposal

The conference agreement provides \$231,000,000 for the defense contribution to the nuclear waste repository program. The Conferees are aware that the Department formally approved, in 1995, the right of the Affected Units of Local Government and the State of Nevada to retain interest earned on unexpended balances in their oversight accounts. The conferees reaffirm that this policy reflects the intent of Congress and should be maintained by the Department.

Nuclear Regulatory Commission

The conference agreement includes \$662,777,000, provide certification to the Department of Energy that all funds expended from such payments have been expended for activities authorized by Public Law 97-425 and this Act: Provided further, That failure to provide such certification shall cause such entity to be prohibited from any further funding provided for similar activities: Provided further, That none of the funds herein appropriated may be: (1) used directly and indirectly to influence legislative action on any matter pending before Congress or a State legislature or for lobbying activity as provided in 18 U.S.C. 1913; (2) used for litigation expenses; or (3) used to support multi-State efforts or other coalition building activities inconsistent with the restrictions contained in this Act: Provided further, That all proceeds and recoveries realized by the Secretary in carrying out activities authorized by the Nuclear Waste Policy Act of 1982, Public Law 97-425, as amended, including but not limited to, any proceeds from the sale of assets, shall be available without further appropriation and shall remain available until expended.

Defense Nuclear Waste Disposal

For nuclear waste disposal activities to carry out the purposes of Public Law 97-425, as amended, including the acquisition of real property or facility construction or expansion, \$231,000,000, to remain available until expended.

Nuclear Regulatory Commission

For necessary expenses of the Commission in carrying out the purposes of the Energy Reorganization Act of 1974, as amended, and the Atomic Energy Act of 1954, as amended, including official representation expenses (not to exceed \$15,000), and purchase of promotional items for use in the recruitment of individuals for employment, \$662,777,000, to remain available until expended: Provided, That of the amount appropriated herein, \$69,050,000, shall be derived from the Nuclear Waste Fund: Provided further, That revenues from licensing fees, inspection services, and other services and collections estimated at \$534,354,000 in fiscal year 2005 shall be retained and used for necessary salaries and expenses in this account, notwithstanding 31 U.S.C. 3302, and shall remain available until expended: Provided further, That the sum herein appropriated shall be reduced by the amount of revenues received during fiscal year 2005 so as to result in a final fiscal year 2005 appropriation estimated at not more than \$128,423,000.

Nuclear Waste Technical Review Board

For necessary expenses of the Nuclear Waste Technical Review Board, as authorized by Public Law 100-203, section 5051, \$3,177,000, to be derived from the Nuclear Waste Fund, and to remain available until expended.

CONFERENCE REPORT LANGUAGE:

Nuclear Waste Disposal

The conference agreement provides \$346,000,000 for Nuclear Waste Disposal. When combined with the \$231,000,000 appropriated from the Defense Nuclear Waste Disposal account, a total of \$577,000,000 will be available for program activities in fiscal year 2005. The conferees have provided \$2,000,000 for the State of Nevada and \$8,000,000 for the Affected Units of Local Government (AULG) for project oversight.

Defense Nuclear Waste Disposal

The conference agreement provides \$231,000,000 for the defense contribution to the nuclear waste repository program. The Conferees are aware that the Department formally approved, in 1995, the right of the Affected Units of Local Government and the State of Nevada to retain interest earned on unexpended balances in their oversight accounts. The conferees reaffirm that this policy reflects the intent of Congress and should be maintained by the Department.

Nuclear Regulatory Commission

The conference agreement includes \$662,777,000, to be offset by revenues of \$534,354,000, for a net appropriation of \$128,423,000. This reflects the statutory language adopted by the conference in fiscal year 2001 to reduce the fee recovery requirement to 90 percent in fiscal year 2005.

In fiscal year 2004, the conferences directed the Nuclear Regulatory Commission to contract with the National Academy of Sciences for a study of spent nuclear fuel storage at commercial reactor sites. The National Academy completed this study and found a number of areas in which the NRC could improve its modeling of the risks to spent fuel storage and the mitigation of such risks. The conferees expect the NRC to take the necessary steps to improve its analyses, including the preparation of site-specific models, and to work with the utilities to ensure timely application of this information to mitigate risks.

Nuclear Waste Technical Review Board

The conference agreement provides \$,177,000, the same as the budget request.