

# **Nuclear Waste Review**

## **White Pine County**

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## **Nevada's Clout Evident in Waste Site Battle**

**When Congress chose Yucca Mountain, the state was a backwater. Times have changed.**

Las Vegas—The federal government's campaign to put a nuclear waste dump at Yucca Mountain in Nevada is in trouble, having encountered political and legal setbacks during the last year that have raised questions about when and even if the project will go forward.

The state has stunned federal officials with its tenacity, legal skill and evolving political acumen, scoring key victories in federal court and in Congress that have repeatedly stalled the project 90 miles northwest of Las Vegas.

When Congress selected Nevada in the 1980s as the proposed dump site for 70,000 metric tons of highly radioactive waste, the state lacked the political clout and economic power to stop the effort—one of the most scientifically complex and costly engineering projects in history.

But what Congress could not have foreseen was the huge economic, demographic and political changes that would sweep over Nevada and particularly Las Vegas, now that nation's fastest growing city and an economic juggernaut in the Southwest. The changes have made the state a more effective and powerful opponent than anybody anticipated.

Opposition has come from every level of Nevada government: Local utility managers turned off the federal project's water supply. Gov. Kenny Guinn issued a veto of the project. Atty. Gen. Brian Sandoval has tied up the project in the courts. Las Vegas Mayor Oscar Goodman threatened to arrest anybody carrying out the plan on his turf.

But the most prominent symbol of the state's growing power is Sen. Harry Reid, selected late last year as Senate minority leader and an ardent opponent of the dump. Reid has impressed even his critics with political maneuvers that have eviscerated the Energy Department's budget for Yucca Mountain.

"The Department of Energy has no credibility here in the state of Nevada," Reid said in a recent interview. In late November, Reid engineered the appointment of Greg Jaczko to the Nuclear Regulatory Commission, which is in charge of licensing the nuclear dump. To broker the deal on Jaczko, a physicist on Reid's staff, the senator held up a number of Bush administration nominations.

"We have thrown up everything humanly possible to block Yucca Mountain, but Harry Reid is going to be the difference now," said Billy Vassiliadis, a top political operative in Nevada who has produced the advertising for the state's tourism and gaming industry.

Last year, the state won its biggest legal victory when a federal appeals court ruled that the Environmental Protection Agency's standard for radiation emissions from the dump violated federal law. Now, instead of ensuring public safety for 10,000 years, peak radiation emissions must be safe over the life of the dump, potentially 1 million years.

Whether such health standards can be met is unknown. EPA officials say they will propose a new standard this year, though outside experts say it could take years to finalize a rule. Until then, the Energy Department has no hope of getting a license for the dump.

As a result, Energy officials say the project to safely bury nuclear waste from power plants and bomb production will be delayed two more years beyond the projected June 2010 startup. Even before the test setback, the effort was running 12 years behind its original schedule. The goal is to use the geology of the mountain and highly engineered containers to safely isolate radioactive waste, now stored at 131 sites across the country.

So, far, the project has cost \$8 million and could end up costing an estimated \$100 billion, rivaling the International Space Station's price tag.

The program suffered another setback Friday when its director, Margaret Chu, resigned, citing "personal circumstances." The resignation came less than two weeks after Samuel Bodman was confirmed

as Energy secretary and assured Congress he was “focused” on moving Yucca Mountain along faster, something Chu was not able to accomplish.

“Without a miracle of some sort, it is all over,” said Bob Loux, executive director of the Nevada Office for Nuclear Projects, the state’s lead agency that deals with Yucca Mountain. Other state officials echo that conclusion.

Even Pete Domenici (R-N.M.), chairman of the Senate Energy and Natural Resources Committee, which oversees the Energy Department’s budget, acknowledges political problems.

“It is very hard to see the light at the end of the tunnel,” he said.

In a recent book, Domenici argued for an aggressive new era of nuclear power, calling it critical for the nation’s economic future as natural gas prices rise and concerns grow about pollution from coal-fired plants. But without a solution to the nuclear waste problem, he said, utilities are unlikely to build new nuclear plants.

The political problems of the dump are highlighted by the Energy Department’s fiscal 2006 budget released this month, which includes only \$650 million for the project. That is half of earlier funding projections for the year. Nonetheless, Energy officials are publicly upbeat.

“In my view, there are a lot of positive things going on,” said Ted Garrish, deputy director of the program at the Energy Department. The courts, for example, did not accept Nevada’s argument that the whole project is unconstitutional, he said.

The federal government is in no position to abandon Yucca Mountain, given its decades old promise to the nuclear power industry to find a place for nuclear waste. The utility industry has 66 pending lawsuits against the Energy Department for failing to abide by its agreements. By some estimates, the federal government could bear penalties and costs of \$60 billion if Yucca Mountain is never built, according to the Nuclear Energy Institute, a trade group representing the industry.

Already, utilities have won settlements of nearly \$100 million from the Energy Department for its failure to open the dump by the original 1998 deadline, according to the institute.

“Utilities have paid \$24 billion to the federal government, collected through electric bills, to dispose of this waste,” said Rod McCullum a senior project manager at the institute. “If you live in an area served by nuclear power plants, a portion of your bill went to the federal government for Yucca Mountain.”

But another powerful and politically savvy industry—the Las Vegas gaming industry—hates Yucca Mountain. When the site was first considered in the early 1980s and then selected as the single possible site for the dump in 1987, Las Vegas was a pale shadow of what it is today. Few people anticipated the audacious growth that would occur at the gambling mecca.

More than a dozen super-sized resorts, starting with the Mirage, have opened since 1987, making the Strip home to eight of the world’s 10 largest hotels. Gaming revenue has soared fourfold to more than \$8 billion annually, while Clark County’s population has tripled to 1.7 million. The county is gaining 4,000 residents per month. The convention and gaming industry has become an economic powerhouse on a national level.

The casinos have played a low-key but powerful role in keeping state and local leaders firmly opposed to Yucca Mountain. A Clark County Commission study in 2001 said that every one of 14 top gaming executives in the city opposed the Yucca Mountain project and warned of potentially serious loss of business if any kind of radioactive incident occurred.

“I am not worried until there is an accident,” Alan M. Feldman, senior vice president at MGM Mirage, said in an interview. “When the accident does happen, it won’t be small, it will not be short-term and it may be irreversible. Twenty years ago, the federal government made a terrible mistake.” Robert Stewart, senior vice president at Caesars Entertainment, said: “You would be hard pressed to find anybody in the gaming industry who is not opposed to sitting a nuclear dump at Yucca Mountain.”

Although Nevada brings a lot to the battle, it gets little outside help. Except for in California, other western political leaders, such as Domenici, have supported the dump. And many Democrats see the dump as a solution to their own environmental problems with nuclear waste.

In a key procedural vote in 2002, 16 Senate Democrats voted for the dump, including Sen. Carl Levin of Michigan, Sen. John Edwards of North Carolina and Sen. Jeff Bingaman of New Mexico.

The 2002 vote was taken to override a veto of the dump issued by Guinn, Nevada’s Republican governor, a procedure set up under federal law. Reid said he knew he did not have the votes to block the veto, but that was before the soft-spoken parliamentary expert became Senate minority leader.

Now, even Republicans acknowledge that Reid has the votes and the political acumen to block Yucca Mountain legislation. It is one reason the Bush administration has not attempted to get legislation to

nullify last year's court setback to the dump.

"Putting Harry there is like a human stop sign," said Feldman, the casino executive.

Ironically, Yucca Mountain has attracted only sporadic interest from major national environmental groups, according to the grass roots organizations in Nevada fighting the project.

Judy Treichel, executive director of the Nevada Nuclear Waste Task Force, said she has never received money from major East Coast nonprofit foundations that often fund environmental battles. Treichel runs her organization from her condo behind the flashing marquee of the Rio casino, just off the Strip. She raises about \$30,000 annually for the effort.

"Most of the foundations are totally against gambling and totally against everything that Las Vegas stands for," Treichel said. "So, why would they give their money to save Las Vegas?"

Las Vegas' mayor echoes the thought. "We were considered the armpit of the world at that time. They thought Nevada was a wasteland and Nevada was throwaway," Goodman said, referring to the year Congress voted to create Yucca Mountain. "What would be more normal than putting nuclear waste in Las Vegas?"

But judgments made in 1987 lack validity today, Goodman said. "Nobody could have foreseen what we have become," he said. "Las Vegas is a unique, a place that symbolizes America. You are free to express yourself here. You are free to go to the cusp of what is legal. You are free to have fun. This dump could end all of that."

Goodman and the City Council passed a law banning shipments of nuclear waste through the city, a measure the federal government has not bothered testing. But Goodman vows to personally block any trucks on the freeway that attempt to transport waste through his city.

Meanwhile, Sandoval, the state's Republican attorney general, is pushing two additional lawsuits against the Energy Department, one charging that it shortchanged Nevada in payments and the second challenging the plan to build a rail line from the state border to the dump site.

"We term this project a political mugging," Sandoval said. "We were politically powerless to put up a meaningful opposition at the time. That is why we always sought the courts. I see Yucca Mountain dead as a legal outcome."

Nevada officials argue that the nation should stop to reconsider the entire idea of burying nuclear waste. Instead, they say, the waste should be stored above ground for the next 100 years until an advanced society with greater intellect and resources knows how to better handle the problem. Energy Department officials say such a plan represents a huge long-term environmental risk at waste storage sites, many close to waterways and major cities.

Michael Voegele, a senior scientist at the project, has heard the arguments for more than 25 years during a career dedicated to building the dump—a span that has covered the tenure of seven Energy secretaries.

Voegele said the state's scientific arguments— that because of flaws in the repository's design, the cylinders will corrode well before 10,000 years and contaminate groundwater—lack credibility and have been largely rejected by an independent technical review board set up by Congress. He firmly believes that the science supports the safety of the dump. But even Voegele acknowledges that Congress cut short research when it voted in 1987 to consider only Yucca Mountain.

"The technical people were caught completely unaware," he said. "We were dumbfounded. After all of the work we had done, Congress said, 'No, we are going to act on a different basis.'"

Nonetheless, he rejects the dire predictions about how a dump could scare away tourists.

"Have you ever been in a casino that wasn't dense with smoke?" Voegele asks. "They have absolutely no concern for health risks. They put their well-being on the line at the gambling table. Are you going to tell me they won't come to Las Vegas because a truck turned over 100 miles away?"

**Source: Los Angeles Times  
February 13, 2005**

## High-Stakes game over Yucca Cash

Nine Nevada counties made a back-room bet they could cut the amount of federal money Inyo County will get next year to keep an eye on the Yucca Mountain nuclear waste project.

Inyo County promptly called their bluff and if all 10 counties don't come back to the table and cut a deal, the Nevada gang and Inyo County could end up losing their share of the federal kitty come October.

That won't be too big of a deal for Inyo County, since it has kept its Yucca Mountain cash stash close to its vest and has substantial funds in reserve to continue its oversight work. But the Nevada counties appear to have a bit more riding on the roll of the federal budget dice because their overall fiscal position is a bit more dicey.

Although Inyo County sent notice that it couldn't attend, a meeting of the nine Nevada counties was convened on Feb. 4, without anyone from Inyo County present, to discuss the formula for dispensing Department of Energy Yucca Mountain oversight funds to the counties. At that meeting, the group of nine Nevada counties decided to cut Inyo County's allotment in the upcoming 2005 federal fiscal year from \$600,000 to \$285,000.

All ten counties are officially "affected units of government" with an interest in the planned Yucca Mountain high-level nuclear waste dump, located on the Nevada Test Site, just 15 miles west of Death Valley and Inyo County.

Inyo County said it couldn't send a representative to that meeting, and asked for it to be rescheduled, said Andrew Remus, project coordinator of the Inyo County Yucca Mountain Assessment Office. Remus added that he told the group at least a week before the meeting that Inyo County would not agree to any change in the oversight fund formula.

"They were aware of our stance, and that might be the reason they didn't want us there," Remus surmised.

When he learned the meeting had taken place and the result was a proposal to the DOE to cut Inyo County's Yucca Mountain money, Remus nuked the idea based on the rules set down in the Nuclear Waste Policy Act. He said that policy mandates that any changes to the formula suggested by the counties have to be "unanimous."

Since Inyo County didn't agree to the new formula, Remus said if the Nevada counties press the issue with the DOE, there is a chance that all oversight money to the counties would be withheld in the pending federal 2005 federal budget year, which begins in October 2005.

That would not have an impact on the numerous monitoring and scientific programs being conducted by Inyo County to assess any impacts from Yucca Mountain on the county, said Remus. The county still has enough oversight funds to keep those programs on track for 12-18 months, said Remus.

However, the Nevada counties seem to be "highly motivated" to make sure they get their funding without interruption, he noted.

That sense of urgency came spilling out of the Feb. 4 meeting in the form of several phone calls to Inyo County officials seeking a quick OK of the new formula.

Planning Director Leslie Klusmire said she was contacted by a consultant for Nye County, Nevada, who wanted Inyo County to agree to the formula change. Klusmire said she made it clear that Inyo County in no way wanted to relinquish its role in the formula formulation. Inyo is the only California county to receive Yucca Mountain oversight funds, and Klusmire said she told the Nye County consultant Inyo had worked hard to become an "affected unit of government" and was not going to concede any decision making power, or anything else, to the Nevada counties which are also AUGs.

Those Nevada counties "were fully aware Inyo County didn't support their proposal" to adjust the oversight funds among the 10 counties and cut Inyo County's share, Klusmire said.

Having no luck with staff members, the Nevada bunch turned to Ted Williams, the second district supervisor and chairman of the Board of Supervisors.

A Nye County representative called Williams and asked to quickly, and without conferring with the rest of the board, confirm the new funding formula. Not only did Williams reject even the suggestion that he could respond for the board, he added that, "I didn't appreciate the phone call" and being put on the spot on the issue.

"They need to know the power of one," remarked First District Supervisor Linda Arcularius.

And that power is being expressed by Remus through a flurry of letters and e-mails to the nine

counties, the DOE, the Yucca Mountain staff and anyone else he has on his extensive mailing list who has anything to do with the Yucca Mountain project.

The issue will be an agenda item during the Feb. 22 supervisors' meeting, where county's position will take official form and then be circulated once again to all affected officials, counties and federal agencies.

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## **Yucca Project Manager Chu Resigns**

Washington— The government's top manager for the Yucca Mountain Project has submitted her resignation. Margaret Chu resigned after almost three years as director of OCRWM. Her job was to prepare the Yucca Mountain site to become licensed for burial of the government's deadliest radioactive waste and for spent nuclear fuel generated by commercial power plants. Chu was credited for reorganizing the program and focusing on science and quality assurance after she took over in March 2002. Her resignation is further evidence of turmoil within the Yucca program, according to Nevada leaders. "Her legacy is she was in charge of a program that in the final analysis was missing major deadlines and did not make progress on any front," said Bob Loux, executive director of the Nevada Agency For Nuclear Projects.

Chu could not be reached for comment, but in a statement put out by DOE, she said she was "proud to have been part of this administration and of making critical progress with Yucca Mountain." The statement said Chu was returning to New Mexico because of personal circumstances. "Her resignation would be effective "on or about Feb. 25," it said.

Pressed by members of Congress concerned about delays, new Energy Secretary Samuel Bodman said he would take an active role in overseeing the Yucca program. Alex Flint, staff director for the Senate Energy Committee, told nuclear industry executives that it would be difficult to fill such a Yucca vacancy with a replacement who is capable and could pass Senate confirmation. According to industry sources, possible candidates include Eric Knox, a DOE senior policy advisor; Inez Triay, acting manager of Ted Garrish, the Yucca project's deputy director.

Source: Las Vegas Review -Journal  
February 12, 2005

## **Senate Confirms Energy Secretary**

Washington— Samuel Bodman, a Boston businessman and top-level federal manager, won confirmation to head the Department of Energy, without debate and by unanimous agreement.

Bodman, 66, takes over a department with a \$24 billion budget and 114,300 federal and contract employees, including roughly 5,000 in Nevada who work on the Yucca Mountain Project and the Nevada Test Site. The department also sponsors research into renewable energy technologies including geothermal, wind and solar sources that firms are interested in developing in Nevada.

At his Jan. 19 Senate confirmation hearing, Bodman said he would continue pursuing development of a nuclear waste repository at Yucca Mountain, an effort opposed by most of the state's elected leaders.

Sen. Harry Reid, said he expects Bodman to follow Bush administration policy in favor of Yucca Mountain, but said the new secretary promised in a telephone conversation in December to "take a fresh look at alternatives" to spent nuclear fuel burial in Nevada.

Source: Las Vegas Review-Journal  
February 01, 2005

## **Energy Secretary Sees End of '05 Date for Yucca License Application**

Las Vegas—The Energy Department intends to submit a license application by the end of 2005 to open a national nuclear waste dump in Nevada. Samuel Bodman's comments on a Yucca Mountain timetable

came in response to questions from members of the Senate Energy and National Resources Committee during confirmation proceeding in Washington, D.C.

The Energy Department missed a self-imposed December 2004 date to submit a Yucca license application to the Nuclear Regulatory Commission. The department has yet to complete a requirement that millions of pages of supporting documents be accessible at an NRC online database, the Licensing Support Network.

The Energy Department wants to open the Yucca Mountain repository by 2010.

Pete Domenici, R-N.M., chairman of the energy committee, noted the department also needs time to respond to a July federal court ruling that threw out a crucial Environmental Protection Agency radiation health safety standard. For the Yucca project to go forward, the EPA must set a new standard or Congress could consider a law creating a less strict radiation standard than one recommended by the National Academy of Sciences.

"It is the department's responsibility to make sure that the repository will comply with whatever standard emerges from the EPA's ongoing process," Bodman said in written response to questions from the committee. "My first priority will be the protection of the health and safety of the citizens of Nevada and the rest of the country."

Source: Nevada Appeal/Associated Press  
January 27, 2005

## **Senate Staffers Named To Nuclear Regulatory Commission**

Washington— The two newest members of the Nuclear Regulatory Commission have to play by different rules, at least for a year, when it comes to work related to Yucca Mountain, and that has the critics of the nuclear dump crying foul. Peter Lyons, sworn in as an NRC commissioner after serving eight years as a nuclear adviser to Sen. Pete Domenici, R-N.M., one of the Senate biggest proponents of nuclear power and storing nuclear waste at Yucca, 90 miles northwest of Las Vegas.

Lyons, a Nevada native, has a two-year term on the commission as part of a deal struck late last year among Domenici, Sen. Harry Reid, D-Nev., and the White House to get Greg Jaczko, Reid's science adviser, a seat on the commission. Commissioners usually serve five-year terms, but Lyons and Jaczko will each serve two years and will have to be re-nominated by the White House to retain their seats.

Jaczko, sworn in January, will have to recuse himself from Yucca matters for one year, based on the deal made in the Senate.

Domenici spokeswoman Marnie Funk said Lyons has no restrictions on Yucca-related work. She said Jaczko's nomination was "very controversial" and senators who opposed his nomination made clear the whole Senate would not confirm him. "Mr. Lyons nomination has not been controversial, there was no such request from senators or the White House and will be dealing with Yucca Mountain issues," Funk said.

But Yucca critics question the double standard, particularly because they feel Lyons worked as closely with Domenici in favor of nuclear power as Jaczko worked with Reid against it.

"That is immensely unbalanced and unfair," said Michele Boyd, an analyst with the watchdog group Public Citizen, who follows Yucca. She said time will tell if Jaczko will emerge as an influential Yucca critic.

"It's not clear to me yet what one person can do in a group of five," Boyd said, referring to the fact that there are five commissioners.

The Nuclear Energy Institute, which opposed Jaczko's nomination, has no problem with Lyons on the commission without restrictions, spokesman Mitch Singer said.

Singer has said all along the group feels it would be inappropriate for a former nuclear industry executive to get a seat on the commission or anyone with a clear bias one way or the other, such as Jaczko, to be in charge of regulating the industry.

"We don't feel Lyons falls into that category," Singer said.

Singer said Lyons has been involved in overall energy issues for some time and has never really taken a position on Yucca Mountain.

There wasn't much time for Reid to offer an objection to the conditions of Lyon's appointment

even if he had wanted to, Reid spokeswoman Tessa Hafen said. The White House on Wednesday tapped Lyons to fill the second vacancy after the other Republican nominee former Navy Vice Admiral Albert Konetzni withdrew his name.

But Reid isn't too concerned about the different set of rules for Lyons because the senator has a lot of respect for Lyons as scientist and as a fair arbiter of Yucca issues, Hafen said.

Reid aides also have noted that it is unlikely that the NRC will be acting much on Yucca this year, given that the Energy Department project is behind schedule and given that its application to construct the repository has not yet been submitted.

**Source: Las Vegas Sun  
January 25, 2005**