

NEVADA COMMISSION ON NUCLEAR PROJECTS
TUESDAY, DECEMBER 03, 2016; 1:00PM

LOCATION:
CLARK COUNTY GOVERNMENT CENTER
COUNTY COMMISSION CHAMBERS, FIRST FLOOR
500 S. GRAND CENTRAL PARKWAY
LAS VEGAS, NEVADA 89155

Commissioners in Attendance:
Senator Richard Bryan, Chairman
Dr. Marie Boutte
Lawrence Brown
Michon Mackedon
Aurelia Roberts
Dr. Lois Tarkanian
Paul Workman

Senator Bryan called the meeting of the Commission on Nuclear Projects to order. Executive Director Halstead specified that the meeting agenda had been posted per the open meeting law.

Senator Bryan acknowledged the attendance of Marta Adams in her new capacity as a consultant as opposed to Deputy Attorney General assigned to the Agency and her successor in the Attorney General's office, Belinda Suwe.

The minutes from the May 07, 2015, Nevada Commission on Nuclear Projects meeting were approved as modified. Motioned by: Lawrence Brown. Second by: Dr. Marie Boutte. All were in favor.

Senator Bryan tendered the floor to the public for anyone who would like to speak on the agenda items. There were no comments at this time from the public.

Report from Executive Director Robert Halstead

- Deputy Attorney General Belinda Suwe is now the designated primary official member of the Attorney General's Yucca Mountain team. Marta Adams will continue on the team as a Special Deputy Attorney General under a contract approved by the Board of Examiners.
 - Attorney General Adam Laxalt, Wes Duncan (Chief Assistant Attorney General), Brin Gibson (Bureau Chief for Gaming and Governmental Affairs), and Wayne Howle (Division Chief for Government and Natural Resources) were all briefed on the whole range of the Yucca Mountain licensing proceeding, the EIS Supplement on Groundwater Impacts, Legislative developments in the United States Congress and Nuclear Industry developments.
 - The Agency is in communication on an on-going basis with Nick Trutanich, the Attorney General's Chief of Staff.

- In our agency,
 - Consultant Joe Strolin will continue to work for us under a one-year contract extension approved by the Board of Examiners in November.
 - Technical Division Administrator Susan Lynch gets special thanks for her work over the past four months coordinating our review of the NRC EIS Supplement, supervising the preparation of our draft comments, and editing the final document.
 - Executive Assistant Shawnee Hughes, who also serves as Administrative Secretary to this Commission, has now been with the Agency for more than two years. Information Technology Planner and Researcher Paul Maser is back in Carson City managing the office today. Paul and Shawnee are working on a plan to improve the Agency's website and internet capabilities.
- Review of the NRC Staff Draft EIS Supplement on Yucca Mountain Groundwater Impact has been the Agency's major task since August, and is an important part of the restarted licensing proceeding.
 - In 2013, the U.S. Nuclear Regulatory Commission (NRC) ordered its Staff to resume the non-adjudicatory portion of the Yucca Mountain licensing proceeding, despite the fact that the applicant in this proceeding, the U.S. Department of Energy (DOE), has given up on the Yucca Mountain site, has terminated its Yucca Mountain repository program, and has sought to withdraw the license application.
 - As part of the restart, NRC Staff requested that DOE prepare an EIS supplement to correct the six deficiencies in evaluation of groundwater impacts identified in 2008. DOE refused the request to prepare the EIS Supplement. NRC Staff then prepared the Draft EIS Supplement and issued it for public review and comment in August 2015. Comment period ended November 20, 2015.
 - Depending on how NRC responds to the comments it receives, the Final EIS Supplement could raise new issues in the licensing proceeding, and might result in legal challenges.
 - Agency comments on the Draft EIS Supplement can be boiled down to four topics:
 1. Procedural violations and deficiencies;
 2. Scoping deficiencies;
 3. Deficiencies in the technical evaluation of groundwater impacts;
 - The technical analysis of groundwater impacts is severely flawed in numerous ways, mostly related to its reliance upon DOE's Total System Performance Assessment (TSPA) computer model outputs. The Draft Supplement radiation dose analysis fails to demonstrate that the proposed repository would actually comply with existing applicable radiation protection requirements. The analysis fails to consider the application of State of Nevada Water Quality and Water Usage Laws, and fails to assess impacts within a large and unprecedented "sacrifice zone" within the controlled area, where future human populations might drill deep water wells.
 - ❖ Senator Bryan: Is the difference in the proponents and opponents of Yucca Mountain only the amount of radiation not that there will be migration of radionuclides into the water basin or aquifer?

- ❖ Director Halstead: The NRC believes that there will be contamination of the water but it will be a small dose of radiation, a maximum of 1.3 millirem per year dose to people consuming the water. This is an average number based on probabilities about the different inputs. The Agency view is the models and uncertainty in the design of the repository and the waste that will be put in prevent any accurate calculations of what the dose effects will be at this time. Using the same Goldsim model, with different assumptions, the Agency has come to the opposite conclusion. The radionuclides could exceed the 15 millirem per year limit (a standard which is in place for the first 10,000 years) and in fact could occur in less than a thousand years.
 - ❖ Senator Bryan: Does this include private land holdings and water rights?
 - ❖ Director Halstead: Almost 10% of the land in the township of the Amargosa Valley is privately owned. The area where DOE evaluated the off-site impact is called the Amargosa Farms Road which is surrounded by private land. This is in itself a major item down the road for a legal challenge to this EIS.
4. Deficiencies in evaluation of social, economic, and cultural impacts (Native American cultural resources)
- The Draft Supplement description of the affected environment failed to identify affected private owners of land and associated water wells, and failed to adequately evaluate affected current and future populations, in the Town of Amargosa Valley. The Draft Supplement acknowledged the validity of Native American cultural and spiritual issues, but completely failed to evaluate significant adverse cultural and spiritual impacts on the Timbisha Shoshone Tribe and other members of the Native American community.
 - Legislative developments in Congress, budget negotiations for the remainder of Fiscal Year 2016 are ongoing, but at this time we do not expect any new funds to be appropriated for Yucca Mountain licensing. Also:
 - S.854, the Nuclear Waste Administration Act of 2015, would enact recommendations of the Blue Ribbon Commission on America’s Nuclear Future, but would allow Yucca Mountain licensing to proceed;
 - S.691 and H.R.1364, the Nuclear Waste Informed Consent Act of 2015, would require Nevada’s consent before NRC licensing of Yucca Mountain; and
 - S.1825, the Nuclear Waste Informed Consent Act of 2015, would prohibit DOE repository construction expenditures from the Nuclear Waste Fund without a written consent agreement with host state, local and tribal governments. S.1825 would fall under the jurisdiction of the Committee on Energy and Natural Resources and could be offered as an amendment to S.854.
 - Yucca Mountain transportation impacts continue to be a major concern. Staff and contractors are preparing new studies, focused on two topics:
 1. Updated evaluations of DOE proposed rail and truck shipments through Clark County;

2. Implications of the recent Basin and Range National Monument designation for the DOE proposed Caliente Rail Alignment

Commissioner Mackedon: The report was easy to read and found the comments disturbing as they are on point, fundamental and basic, logical issues that this report gives voice to. Taking something as fundamental as the reference to the maps of potential plumes and the releases to the groundwater and yet all of these are predicated on the computer models and as we know that the computer models are only as good as the information that is fed into them and this information changes with the way the wind blows. For example; we had so much of Yucca Mountains safety predicated on engineered barriers. The facts that go into engineering the barriers to produce these plume estimates are changing willy-nilly including the TAD canisters. We have been talking about the canisters, titanium drip shield, and engineered repositories for as long as I have sat on this Commission. If those fundamentals inputs change, then how can we rely on anything that goes into a Supplemental EIS; I maintain that we can't because those very inputs change with whatever the next plan. The very first report that we issued to the Legislature was titled "beyond a shadow of a doubt". As simple as that phrase is, it speaks to the heart and soul of what this commission, the agency office and what the whole State of Nevada has to worry about. We have to be beyond a shadow of doubt and this Supplemental EIS makes that shadow much longer than it was 25 years ago.

Report from Special Deputy Attorney General Marta Adams

- Litigation and Legal Issues
 - DC Circuit of Appeals
 - 1. Challenge to the EPA Radiation Standard is pending. The EPA radiation standards are the measures by which the public health and safety is regulated. We believe that the challenge is viable and the EPA standard fails to protect the public health and safety.
 - 2. Challenge to the NRC License Rule is pending. The NRC licensing rule is based on the EPA radiation standard.
 - 9th Circuit, San Francisco
 - 1. Challenge to the Caliente Rail Corridor remains pending.
 - Water Related Issues
 - 1. The water case, U.S. vs. Nevada, in which the DOE challenges the State Engineer's denial of water to construct the proposed repository is pending in the U.S. District Court in Las Vegas.
 - 2. U.S. vs. State of Nevada is also pending in the state court of Tonopah.
- The NRC staff analysis found that the Department of Energy's analysis was deficient on prospective impacts to groundwater, hence the need for a supplemental. A very important element of state sovereignty is ownership of water. The Federal Government has largely deferred to the State both in the area of water rights and water quality. NRC's analysis assumes a contamination buffer zone of 18 kilometers which determined the contamination would be in small amounts. Nevada's water pollution law or water quality law would look at it at the point of discharge with no dilution factor.

Affected Units of Local Government and Tribal Representatives

Ian Zabarte (Western Shoshone) – I am here on behalf of the Native American community council, a party with standing to the Atomic Safety Licensing Board, panels and proceedings on Yucca Mountain. We are the only Non-Federally funded participants to the proceedings. We are moved to participate in the licensing beginning with the address to the health consequences known to the exposure of radiation our people have experienced. We began looking at what was happening to our land, plants and water. In the mid 90's the research was the basis of the contentions we believed that are the current circumstances where our lands are identified for disposal of High Level Nuclear Waste as well as weapon testing is environmental racism. We believe that it is a disproportional risk upon our people that the DOE and NRC has not considered. A disproportional burden we believe the life style differences alone (diet, mobility, shelter, what we eat, how we prepare our foods, how much we eat, where we went, where we live, and what our houses are constructed) are not considered. We continue to brief the staff but with no response. We would also like to invite the Commission to the Native American Forum in 2016. Commissioner Tarkanian stated that she greatly appreciated the feelings of the Native group and the follow up information provided by Mr. Zabarte.

Phil Klevatorick (Program Manager for Clark County Nuclear Waste Division) – Clark County has been actively involved in various committees around the country including the National Transportation Stakeholders forum, Western Governors Transportation Group, and Western Interstate Energy Board. Clark County is a defensive player in this case. Ultimately, we are still opposed to the Yucca Mountain Project and Clark County has a resolution last year to reiterate this position. We understand that everyone is moving forward on transportation issues, so we remain actively involved in these kinds of forums. The Navy propulsion fuel program is using very large rail cars. DOE has a RFP out currently looking at a rail car designs for the commercial spent fuel casks. Whatever the final destination may be they will be going on rail. Hypothetically, if Yucca does get built, we have these Caliente Railroad questions and even more so because of the National monument. A real possibility is inter-modal transportation and off-loading of these giant casks, which will eventually need to go on the highway, and could possibly go by rail through downtown Las Vegas. Ultimately, we need to voice our concerns and be part of the discussions now. There are so many that support the DOE, not just locally but nationally. With the lack of confidence in safety, we want to be heard on these issues relating to transportation even with low level waste. Senator Bryan and Commissioner Tarkanian thanked Clark County for their support of the State and their due diligence regarding safety.

Comments from the public

Dr. Paz (Jacob Paz Consultants) – Submitted comments to NRC: 1. Requested explanation on what is meant by small amounts of non-radiological particles. 2. Requested explanation on the State of Nevada and DOE studies on corrosion which contradict each other. 3. Requested explanation of absorption of chromium and heavy metals entering the groundwater from Yucca Mountain to Amargosa Valley.

John Baietti – Tons of Nuclear Waste is stored in Beatty because they did not have anywhere to store it. They knew that it was dangerous to store it and needed to come up with an alternative way to store the waste. They came up with Yucca Mountain, because of the solid granite and it is safe. He stated that there is 100 feet of granite before it reaches the groundwater. Also, the containers are beyond safe. Commissioner Mackedon stated that the containers are not yet built. Mr. Baietti also stated that the State of Nevada would net 5 billion dollars a year for Yucca Mountain. He stated we need a place to store this stuff and believes Yucca Mountain is 100% safe as well as the transportation.

Judy Treichel (NNWTF) – People in Nevada and Southern California seem to know a lot more about Yucca Mountain than in the past. The Amargosa Conservancy is a big deal and we are excited to know that the group has energetic young people reviewing comments on the EIS. They are receiving a lot of calls, not in the immediate area, thinking that Yucca Mountain is built and ready to go. Some of that has been newspaper articles that have put out that message. Need work on getting the correct information out. Commissioner Workman wanted to commend Judy on the press conference. There were concerns nationwide about the transportation of nuclear waste. The awareness that was raised went very well.

Next Commission meeting: possibly May, 2016 time frame.

Chairman Bryan called for the adjournment of the meeting. All were in favor.