

NEVADA COMMISSION ON NUCLEAR PROJECTS  
TUESDAY, DECEMBER 09, 2016; 1:00PM

LOCATIONS:

LEGISLATIVE BUILDING  
GRANT SAWYER OFFICE BUILDING  
555 E. WASHINGTON AVENUE, #4500  
LAS VEGAS, NEVADA 89101

ATTORNEY GENERALS' OFFICE  
100 NORTH CARSON STREET, MOCK COURT  
CARSON CITY, NEVADA 89701

Commissioners in Attendance:

Senator Richard Bryan, Chairman  
Dr. Marie Boutte  
Lawrence Brown  
Michon Mackedon  
Aurelia Roberts  
Dr. Lois Tarkanian  
M. 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.

Nicholas Trutanich, Assistant Attorney General greeted the Commission, Agency for Nuclear Projects and the public. Mr. Trutanich stated that the Office of the Attorney General will continue to stay the course with respect to Nevada's decade's long opposition to the proposed High Level Waste repository at Yucca Mountain. The Office of the Attorney General is a critical member of the state's Yucca Mountain team and offers legal assistance to both the Agency for Nuclear Projects and the Commission on Nuclear Projects. In addition to providing legal support for the commission, the Office of the Attorney General along with the Agency has sought essential legislative support for Nevada's efforts to finally put to rest the proposed 90 billion dollar poster child for federal overreach. The duties of this office include protecting Nevada's public health, safety and environment. Mr. Trutanich stated that the Office of the Attorney General's takes this responsibility seriously, and that it is optimistic that this ill-conceived project will never be authorized. He also stated that his office is committed to pursuing any and all reasonable efforts to guarantee that the Yucca Mountain project will never be built.

The minutes from the May 10, 2016, Nevada Commission on Nuclear Projects meeting were approved with one correction on page 4. Commissioner Workman moved to approve the minutes and it was seconded by Commissioner Tarkanian. All voted in favor.

Senator Bryan tendered the floor to the public to offer comments on the agenda items.

Comments from the public

Dr. Paz (Jacob Paz Consultants) – referenced information about the 1996 Amendments to the Clear Water Act; “The Administrator shall develop new approaches to the study of complex mixtures, such as mixtures found in drinking water, especially to determine the prospects for synergistic or antagonistic interactions that may affect the shape of the dose response relationship of the individual chemicals and microbes.”

John Baietti – advised that he will be contacting the Attorney Generals’ office to give the pro-Yucca side of view and he wanted everyone to know that the site is safe.

Judy Treichel (Nevada Nuclear Waste Task Force) – recently attended a meeting in Chicago, Illinois hosted by the Nuclear Energy Information Service and organized by the Nuclear Information League Resource Service. The group is made up of grassroots people who are interested in the nuclear waste issues, primarily Yucca Mountain and the handling of the waste at the reactors.

Report from Executive Director Robert Halstead

- Since the November 8 elections, an almost constant stream of media stories predict that the Yucca Mountain licensing proceeding will be resumed after the new Congress convenes (January 3, 2017) and the new President-elect is inaugurated (January 20, 2017). As of this morning, we do not have any definite information on what might happen and when it might happen. The State of Nevada strategy for responding to a licensing restart is pretty much the same today as it has been since August 2013 when the US Court of Appeals for the District of Columbia Circuit ordered the Nuclear Regulatory Commission to resume the licensing proceeding with their available limited funds. Nevada has been preparing for a situation in which there might be a Department of Energy that reversed the 2010 termination of the Yucca Mountain project; a Nuclear Regulatory Commission that lifts the 2011 suspension of the adjudicatory proceeding; and a US House of Representatives and the U.S. Senate that appropriate new funds for the licensing proceeding for the first time since FY 2010. We are prepared to adjudicate the 218 contentions admitted by the licensing board and we are prepared to submit an additional 30 to 40 contentions within 30 days of a resumption of the proceeding. Our strategy has previously been approved by this Commission, by the Governor’s office, and by the Office of the Attorney General. We are confident that this is the appropriate strategy going forward.
- The Commission members were provided the presentation handout used on a Yucca Mountain panel discussion at the American Nuclear Society Winter meeting in Las Vegas on November 7. The Department of Energy’s Yucca Mountain program no longer exists and it will be legally, financially, and logistically difficult for DOE to restart the program. The ANS members were reminded that there is no repository at Yucca Mountain, only a five-mile exploratory tunnel that cannot be used for nuclear waste storage or disposal. There are no facilities to receive and handle waste. There is no railroad. The U.S. Bureau of Land Management (BLM) land withdrawal for the southwest quadrant of the site has expired. It was emphasized that Nevada’s 218 admitted contentions challenge all aspects of the DOE

license application: Transportation impacts and risks, pre-closure Safety (especially the surface facilities), and post-closure safety, including the hot repository concept in which the emplacement drifts are supposed to remain near the boiling point of water for 1000 years, coupled with installation of thousands of large titanium drip shields, one over each of the 11,000 or more waste packages, beginning about 90 years after waste emplacement. Because of the high temperature and high radiation levels in the drifts, waste emplacement and drip shield emplacement would have to be accomplished using robotic equipment which has not yet been designed or demonstrated to work.

- There is no news to report on the legislative front at this time. We plan to continue working with our congressional delegation on S.1825, The Nuclear Waste Informed Consent Act, to extend consent to Nevada regarding siting a repository at Yucca Mountain.
- DOE is completing the first phase of the consent-based siting project that it began in December 2015. Between January and October 2016, DOE held a series of public meetings around the country and accepted written input through July of this year. In September, DOE published a draft report on the recommendations that they received. The State of Nevada submitted comments to DOE in July and in October that urged DOE to focus on written consent agreements, new repository technical performance standards, and early adoption of the transportation safety and security measures recommended by the National Academy of Sciences in 2006 and the BRC in 2012.

#### Report from Deputy Attorney General Belinda Suwe

- Litigation and Legal Issues
  - Water Related Issues
    1. The water case, U.S. vs. Nevada, in which 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.
  - DC Circuit of Appeals
    1. Challenge to the EPA Radiation Standard is pending. The EPA radiation standard is the measure by which the public health and safety is to be protected. 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.
  - 9<sup>th</sup> Circuit, San Francisco
    1. Challenge to the Caliente Rail Corridor remains pending.

#### Report from Special Deputy Attorney General Marta Adams

- To reinstate the expired Bureau of Land Management land withdrawals would require a public process hearing under applicable BLM requirements.
- With the 2015 presidential designation of the Basin and Range Monument, DOE has increased challenges with respect to utilizing the Caliente Rail Corridor.
  - What are the requirements to revoke the National Monument?

- White papers are being prepared addressing:
  - Continued fuel storage
    - NRC has determined that spent nuclear fuel can be safely stored in dry cask storage for 160-200 plus years. The Continued Storage Rule demonstrates that Yucca Mountain is not needed now and has therefore reduced the linkage between new reactors and Yucca Mountain.
  - Licensing Process
    - If licensing is restarted, Nevada has 30-40 new contentions waiting

#### Affected Units of Local Government and Tribal Representatives

Darrell Lacy (Nye County) – asking for the support from the Commission for its request for federal funding for the Nye Counties contentions.

Phil Klevorick (Program Manager for Clark County Nuclear Waste Division) –

- The resort properties have been active with the Yucca Mountain issues. A public statement was provided during the ground water Supplemental EIS meeting in Las Vegas. They have been vocal in their opposition to Yucca Mountain and they will remain involved.
- Clark County has been actively involved in the interaction and development of positive relationships with our federal and local stakeholders.

#### Comments from the public

No additional comments from the public

#### Next Commission meeting

The next meeting will address the finalization of the Commission’s biennial report to the governor and the legislature. A telephone conference meeting of the commission will be scheduled in compliance with the Nevada open meetings law for the purpose of finalizing that report in early January.

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