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NEVADA SUES DOE TO ENFORCE STATE FUNDING FOR NEVADA'S YUCCA MOUNTAIN OVERSIGHT

Las Vegas—Nevada Attorney General Brian Sandoval today announced the filing of a lawsuit against Energy Secretary Spencer Abraham and the U.S. Department of Energy ("DOE") in the federal Court of Appeals for the D.C. Circuit in Washington. According to the suit, Abraham and the DOE violated federal law by failing to provide oversight funds to both the state of Nevada and local governments affected by the proposed Yucca Mountain nuclear waste repository.

The Nuclear Waste Policy Act requires the Secretary to make such grants from a "Nuclear Waste Fund" that has been collected through nuclear utility ratemaking fees, and which now amounts to over \$8 billion. The Act provides that all expenses of nuclear waste disposal "should be the responsibility of the generators and owners of such waste." Congress requires issuance of grants to ensure that Nevada is able to conduct appropriate oversight to evaluate the health, safety, and environmental impacts of the repository, and to participate meaningfully in upcoming Nuclear Regulatory Commission ("NRC") licensing proceedings for the project, scheduled to begin in December 2004.

"It's an outrage," said Sandoval, "and tragically it's just the latest in a long record of deception, rule-bending and law-breaking in order to make the case for an unsuitable site. It defies law, and it strangles our ability to account for the health and safety of Nevadans."

Sandoval then elaborated: "This fiscal year, DOE reduced Nevada's oversight grant from \$5 million to only \$1 million, at a time when our scientific and technical experts are preparing critical studies to aid the NRC in its safety evaluation. It's a blatant conflict of interest when the agency in charge of funding your participation to sabotage your participation," he said. "That's not what Congress had in mind."

The lawsuit asks the Court to suspend all of DOE's licensing activities for the Yucca project until the Secretary complies with the law, and it requests the Court to direct DOE to make the requisite grants.

Secretary Abraham neither replied to a February 2003 letter from Nevada's Governor Kenny Guinn about the funding, nor to a December 2003 letter from Sandoval citing Nevada's acute need for the funds as licensing proceedings commence. Yucca program Director Margaret Chu likewise ignored a detailed request from Robert R. Loux, Executive Director of the Nevada Agency for Nuclear Projects, for establishment of a reasonable funding mechanism that would ensure Nevada could participate meaningfully in the NRC proceeding. The Nuclear Waste Police Act contains extensive provisions requiring cooperation with the state affected by any repository.

For more information, see the Agency for Nuclear Projects website at:
<http://www.state.nv.us/nucwaste/>.

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