

STATEMENT OF

KENNY C. GUINN
GOVERNOR
STATE OF NEVADA



**BEFORE THE SUBCOMMITTEE ON
FEDERAL WORKFORCE AND AGENCY ORGANIZATION
OF THE
UNITED STATES HOUSE OF REPRESENTATIVES
COMMITTEE ON GOVERNMENT REFORM**

APRIL 5, 2005

Governor Guinn's Testimony

Mr. Chairman and members of the subcommittee, for the record I am Kenny Guinn, governor of the State of Nevada. Let me begin by thanking Representative Jon Porter for taking the initiative in arranging for this very important hearing. I also want to thank all of the members of this subcommittee for devoting your time and effort to address a matter of critical importance not only to my state, but also to the entire country.

The recent disclosure by Secretary of Energy Bodman that scientists working on the Yucca Mountain project may have falsified data is nothing short of criminal behavior. While it is certainly possible for there to be honest differences of opinion among scientists and technical experts in a project as complex and controversial as a nuclear waste repository, the fact that data may have been intentionally fabricated in service of shoring up predetermined and politically-driven conclusions calls into question the very legitimacy of this entire program.

I am both shocked by this development and I join our Attorney General and Congressional delegation in calling for an immediate and thorough investigation. For too long in this project we have watched politics trump science over and over again. In 1987, when Congress decided to arbitrarily abandon the step-by-step, scientifically based approach to repository site selection embodied in the original Nuclear Waste Policy Act of 1982 and singled out Nevada's Yucca Mountain as the only site to be considered, it did so for purely political reasons. And, frankly, it has been all down hill from there. What began as a noble effort to blend science and policy into a sound approach for solving a difficult and controversial technical problem, has deteriorated into a quagmire of politics where the laws of expediency prevail over the laws of science.

Mr. Chairman, less than a month after my election as Nevada's governor but before I was sworn in to office, I co-authored a letter with then-governor Bob Miller to Energy Secretary Bill Richardson urging that Yucca Mountain be immediately disqualified as a repository site, citing strong and compelling scientific evidence indicating the site was incapable of safely isolating deadly radioactive waste. One of the main points raised in that letter was, ironically, the existence of very rapid groundwater pathways and evidence showing that rapid water movement through the site would expedite the corrosion of waste disposal containers underground at Yucca Mountain and very quickly transport radioactive materials to the aquifer and from there to water sources used by people and communities.

Little did we know then that the very information the Secretary of Energy relied on in subsequently denying my request was very likely based on fabricated data, given the fact that, from published reports at least, the data believed to have been compromised involved U.S. Geological Survey studies of groundwater movement at Yucca Mountain. It is certainly suspicious, if not outright incriminating, that those USGS studies were ordered by DOE in an attempt to contradict earlier DOE and state of Nevada research findings that were not to DOE's liking.

In 2002, when President Bush, acting on Secretary Abraham's advice, recommended that Congress endorse continuing the Yucca Mountain program, he was likely also acting on information that was grounded in falsified data. The President personally told me that he would base his decision on sound science.

I wonder how many of you in Congress, who voted in the summer of 2002 to override my veto of the project, would have done so if you had known that a fundamental underpinning of the Yucca Mountain project was based on fraudulent and intentionally falsified data.

It is a sad day for my state and for America when we can no longer trust government scientists to report their findings honestly and not mislead, misrepresent or falsify the facts, especially when we are dealing with such a critically important and risky technical issue as nuclear waste disposal. It would be far worse for the country, however, if such fraudulent science were allowed to be swept under the rug. To quote Thomas Jefferson, "It is more honorable to repair a wrong than to persist in it." That, Mr. Chairman, is the task before this subcommittee today.

Already, DOE officials are seeking to minimize the importance of Secretary Bodman's disclosure. The wagons are being circled, and without swift and decisive action to get at the whole truth in this matter, I am very concerned that the true extent of any wrongdoing in the Yucca Mountain program will never be known.

Despite calls from the Nevada Attorney General, Nevada's congressional delegation, others, and me for DOE to release the emails and other materials that prompted Secretary Bodman's disclosure of likely data falsification, DOE has refused to make the materials available. Instead, DOE representatives have been seeking to downplay evidence as merely paperwork problems or as minor quality assurance matters.

If that is in fact the case, Mr. Chairman, why has DOE not made the evidence available to the State of Nevada and other entities charged by the Nuclear Waste Policy Act with overseeing DOE Yucca Mountain activities?

Before becoming Nevada's governor, I was the CEO for the largest utility company in Nevada and for more than a year I was the acting president at UNLV. Let me tell you, if any scientists or engineers working for me were found to have fabricated or otherwise misrepresented information regarding academic work at UNLV or any Southwest Gas project, they would have been dealt with swiftly and harshly.

Yet, here we sit today, three weeks since Secretary Bodman disclosed the existence of falsified Yucca Mountain data, and no one has been permitted to see the emails in question or interview the scientists involved. What we get from DOE is obfuscating and damage control.

During the past year, the country has seen CEOs of major industries dragged before the courts for cooking the books and fabricating information to make corporate profits appear better than they were in reality. I see no difference between those scandals and what appears to have occurred in DOE's Yucca Mountain program. In the case of Enron, World Com and other corporate wrong-doing, the motive was maximizing profits and avoiding losses, while the fraudulent actions involved falsifying embarrassing and incriminating accounting records and reports. In the case of Yucca Mountain, the motive was covering up and countering incriminating and embarrassing information that could have meant disqualifying the project, and the questionable actions involved doctoring scientific findings and quality assurance records.

If we treat corporate fraud, which after all, hardly compares to the seriousness of fraud involving the safe disposal of some of the most deadly and long-lived substances known to man, as such a serious matter, how can we not demand equally intense scrutiny of apparent fraud in a public sector program that has the potential to impact many generations of people and do irreparable damage to the credibility of agencies and institutions whose role it is to address some of the most pressing technical issues of our day?

The foot-dragging and game playing must stop, and a real, legitimate investigation must be initiated immediately.

Let me conclude, Mr. Chairman, by reminding this subcommittee and other members of Congress, that, from the very beginning of the federal government's high-level nuclear waste repository program, we in Nevada have asked just one thing of the Department of Energy: Be honest with us and carry out a scientifically sound and credible screening program that has as its goal the identification of a site capable of isolating deadly radioactive waste from people and the environment for the extraordinarily long time required. DOE has never lived up to that expectation, and now, with these revelations about falsified scientific data, the curtain has been pulled back to reveal just how bankrupt and fraudulent the Yucca Mountain program may have been all along.

The evidence is becoming overwhelming that the Yucca Mountain program is broken beyond repair. It is hemorrhaging money, it cannot meet appropriate health and safety standards, it is falling farther and farther behind schedule, even its most ardent supporters are beginning to question its wisdom, and now the project has lost whatever scientific credibility that might have been remaining.

Let us, Mr. Chairman, find a way to make this fraudulent, bankrupt and unnecessary project stop, not only for the sake of the of the people and environment in my state, but in the best interests of the country as a whole.

Thank you again for the opportunity to address you today.