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AGENCY FOR NUCLEAR PROJECTS**

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Nevada State Director
Attn: NV 930 Yucca Mountain Withdrawal
Bureau of Land Management
P.O. Box 12000
Reno, NV 89520

To whom it may concern:

This letter constitutes State of Nevada comments on BLM's notice of proposed land withdrawal extension and opportunity for public meeting with regard to the U.S. Department of Energy's (DOE) Yucca Mountain project that was published in the Federal Register on September 12, 2008 (Volume 73, Number 178, Page 53041-53042).

The State of Nevada objects to the proposed extension of the temporary land withdrawal on the grounds that current circumstances with respect to the proposed Yucca Mountain repository program do not warrant granting such an extension. The current temporary land withdrawal already awarded to DOE does not expire until January 31, 2010. On January 20, 2009, a new President and a new Administration will take office. It would be entirely inappropriate for BLM to act on a land withdrawal extension for this extremely problematic and controversial project until the new President and his Energy Secretary have had the opportunity to review the program and determine the course of action they plan to follow. BLM should postpone any action on the land withdrawal extension pending new direction from the new President and his cabinet secretary.

The Federal Register Notice indicates that DOE is requesting an extension of the land withdrawal for the purpose of continuing site characterization at the Yucca Mountain site:

“DOE proposes to extend the withdrawal through January 31, 2022. The extension of the withdrawal would maintain the physical integrity of the subsurface environment to ensure that scientific studies for *site characterization* at Yucca Mountain are not invalidated or otherwise adversely impacted. *Site characterization* activities will be used to determine the suitability of Yucca Mountain for a permanent nuclear waste repository” (emphasis added).

Under the federal law governing DOE Yucca Mountain program, site characterization officially ended when the Secretary of Energy recommended the site to the President for development as a repository in 2002. Consequently, extending the land withdrawal for the purpose of carrying out “site characterization” activities contradicts the federal Nuclear Waste Policy Act (42 USC 10101) and is not warranted.

The Notice also states that, “no water rights would be needed to fulfill the purpose of the requested withdrawal extension.” In fact, DOE has applied for substantial water rights from the State of Nevada. That application was denied by the State Water Engineer, and the matter is now in litigation. DOE has stated in its water rights application that it does, in fact, require a significant amount of the State’s water for the its purposes under the proposed land withdrawal extension. Consequently, no extension of the land withdrawal should be granted until the litigation over the water rights applications has been resolved.

Request for Public Hearing

The State of Nevada hereby requests that, prior to taking any action on DOE request for a land withdrawal extension, BLM hold public hearings on the matter in locations accessible to citizens and interested parties within the State. At a minimum, such hearings should be held in Las Vegas, Nye County and the Reno/Spark metropolitan area.

Conclusion and Recommendation

Given the upcoming change in Administrations and the prospect that the Yucca Mountain program could be terminated by the incoming President and his Energy Secretary, it is inappropriate (and unnecessary at this time) for BLM to grant DOE’s application for an extension of the land withdrawal. At a minimum, BLM should postpone any action on the application until the future of the Yucca Mountain project has been determined.

Sincerely,



Robert R. Loux
Executive Director

cc State Clearinghouse