

## **Summary of Activity for the Quarter, April 29<sup>th</sup>, 2009**

### **Agency for Nuclear Projects, Executive Director Bruce Breslow**

The State of Nevada filed its 229 contentions with the NRC concerning the licensing application. The DOE wrote an 1,800+- page response claiming that none of Nevada's contentions should be heard. The NRC staff responded with an equally long report saying that only 19 of Nevada's contentions should be heard. Nevada then responded in detail as to why our contentions have merit.

On March 31, May 1 & May 2<sup>nd</sup>, the State of Nevada along with the other 11 intervening parties, participated in preliminary hearings before three separate Atomic Safety and Licensing Board Panels and answered various questions concerning the quality and particulars of our contentions. On May 11<sup>th</sup>, the Boards will issue an order outlining which parties and which contentions will be allowed to go forward during the license application hearing. Both parties are likely to appeal whatever decision comes out. We found it interesting that several judges made comments that took both the DOE and NRC staff to task for their stance against Nevada's contentions.

Nevada's team of attorneys and scientists continue to prepare for the license application hearing. On June 29<sup>th</sup> the NRC will make a final ruling regarding contentions and any appeals that have been filed. This fall the DOE is supposed to release a supplement to its Yucca Mountain Environmental Impact Statement and Supplemental EIS to address issues identified by the NRC on September 8<sup>th</sup> of last year.

Nevada recently filed a petition with the 9<sup>th</sup> U.S. Circuit Court of Appeals challenging the DOE's record of decision on selecting the Caliente rail alignment and in particular, it's decision that the route qualifies as a "shared use" rail line. The State of California has also appealed the decision and will most likely join Nevada in its appeal. They feel the DOE didn't assess the impacts of the line on the State of California.

This month, Nevada filed more than 100 protests against DOE's application for water rights to go with the potential Caliente railroad. The protests are with the State Water Engineer's office. The Attorney General through the Agency for Nuclear Projects

prepared this filing. An environmental group also filed protests to the railroad plan saying it affects an endangered creature known as the Armargosa Toad.

Nevada continues with its lawsuit challenging EPA's radiation health protection standards. Petitioner's brief is due June 4<sup>th</sup> and final briefs for all parties are due on December 7<sup>th</sup>.

Nevada filed a motion with the Surface Transportation Board to suspend and/or re-open its decision on the Caliente Railroad. The State feels the decision is premature and moot with the new direction of the Obama Administration, and failed to address specific issues that are contained in our filing.

Nevada's experts have examined the changes to the "licensing application" as well as DOE's answers to NRC's multiple request for information and our legal team is formulating additional contentions based on that information.

Nevada participated in the Western Interstate Energy Board (WIEB) and Western Governors Association (WGA) meeting last month in Denver and contributed to several of their documents that are being filed with regard to the transportation of nuclear waste. I will be carrying a WGA letter to Energy Secretary Chu and provide Senator Reid a copy when I meet with him on May 1<sup>st</sup>. The letter addresses the western states concern that DOE is beginning to cut back on their efforts to work with the State's regarding waste shipments. Chu's schedule didn't allow for a meeting, so I'm instead meeting with his staff, along with Chris Kouts, the acting director of Office of Civilian Radioactive Waste Management (OCRWM), as well as Marv Fertel, the president of the Nuclear Energy Institute (NEI). In addition, I have meetings set up with Congressman Heller and I'm waiting for confirmation of a meeting with Senator Ensign.

In addition, the State recently completed an executive audit of the Agency and the Agency has been busy with the State Legislative process. The original Governor's recommendation to reduce the staff from 7 to 2 employees has been amended. I worked extensively with the Governor's staff on this matter. The latest proposal would allow the Agency to keep its current 4 staff members and hire Joe Strolin back, post retirement, on a part time basis. Our budget closed this morning.

While we have faith that a political decision will lead to the license application being withdrawn before a hearing begins sometime next year, we are fully prepared to battle the DOE's license application and feel confident about our contentions. We continue to fight the public relations battles with letters to the editors of almost all newspapers that editorially support the Yucca project as well as trade publications.