NEVADA COMMISSION ON NUCLEAR PROJECTS  
WEDNESDAY, OCTOBER 26, 2011; 1:00PM  
CLARK COUNTY GOVERNMENT CENTER  
COUNTY COMMISSION CHAMBERS, 1ST FLOOR  
LAS VEGAS, NV  89155

Commissioners in Attendance:  
Senator Richard Bryan, Chairman  
Joan Lambert, Vice-Chair  
Larry Brown  
Brian Scroggins  
Paul Workman  
Lois Tarkanian  
Aurelia Roberts was absent

Senator Bryan called the meeting of the Commission on Nuclear Projects to order. Chairman Bryan confirmed with Executive Director Halstead that the meeting was noticed in compliance with the open meeting law.

Senator Bryan welcomed Robert Halstead as the new Executive Director and recognized and thanked Joe Strolin for his continued service on a volunteer basis.

The minutes from the June 29, 2011 Nevada Commission on Nuclear Projects Meeting were approved as amended. Motioned by Paul Workman. Second Joan Lambert. All in favor.

Report from Executive Director Robert Halstead

- On September 30, 2011 the Nuclear Regulatory Commission’s (NRC) Construction Authorization Board (CAB) issued an order that indefinitely suspended the licensing proceeding. There are some implications for the licensing proceedings being reopened and some legal implications as a result to be addressed by Chief Deputy Attorney General Marta Adams and Special Deputy Attorney General Martin Malsch.

- The President’s Blue Ribbon Commission on America’s Nuclear Future (BRC) on July 29, 2011 issued a draft report to the Secretary of Energy. Detailed comments were provided in the Commissioners’ package. The single most important finding of the waste management program will be trying to obtain voluntary sites, sites that are approved by the potential host states and local communities, in any future nuclear waste effort.

- The General Accountability Office of Congress (GAO) issued a report at the request of Senator Reid regarding alternate uses of the Yucca Mountain site and the Yucca Mountain facility. The report doesn’t say what isn’t at Yucca Mountain. What is at Yucca Mountain has very limited potential for any alternative use. It also erroneously states that Yucca Mountain is in a low seismic activity area. It should be generally noted that Yucca is in the third most seismically active region in the country with earthquakes occurring in close proximity to the site in both 1992 and 2002. The report does identify a range of potential alternative uses but doesn’t draw any conclusions about them.
• NRC is undergoing an extensive process to developing new regulations for extended reactor storage of spent fuel. Current regulations allow storage of spent fuel for 60 years. This activity that NRC has undertaken is to see if that might possibly be extended to twice that time frame from 60-120 years.

• Department of Energy (DOE) issued a site-wide draft Environmental Impact Statement (EIS) for the Nevada National Security Site (NNSS), formerly known as the Nevada Test Site. Deadline for comments has been extended to December 2, 2012. The agency gave testimony in Carson City. Most notably, DOE is unilaterally proposing to abrogate the twelve (12) year agreement between past Nevada Governors and past Secretaries of Energy that kept shipments of radioactive waste going through the downtown metropolitan area of Las Vegas, specifically not using the spaghetti bowl and beltway. DOE was put on notice that that is not an acceptable proposal.

• Mr. Halstead stated that he is now a legal resident of Carson City.

• Joe Strolin is officially a volunteer.

Report of Chief Deputy Attorney General Marta Adams

There are currently six pieces of litigation, five of which are essentially stayed. A majority of the challenges are lodged in the DC Court involving challenges to the Environmental Protection Agency (EPA) radiation standard, a challenge to the NRC licensing rule, one challenge in the 9th Circuit involving the Caliente rail corridor, and in Las Vegas district court the water case and companion case in the judicial district in Tonopah.

Ms. Adams stated, at the last meeting she indicated that the State was on the cusp of getting a decision in the case involving Washington, South Carolina, Aiken County, National Association of Regulatory Utility Commissioners (NARUC), Prairie Island Indian Tribe, that was seeking to force or urge DOE to restart licensing activities. That case has now been dismissed for lack of rightness since DOE is not in charge of the licensing hearings. Then, on September 30, 2011, the NRC Commissioners issued an order stating two things. First, the Commission was deadlocked and unable to reach a decision due to (1) a Commissioner who recused himself and the remaining members were deadlocked two-to-two on the decision as to whether or not to allow DOE to withdraw the license application; and (2) based on funding, the licensing hearings were suspended. Unless Congress restores funding, the licensing proceeding will remain suspended.

The same group (Washington, South Carolina, etc.) that filed the first case against DOE has filed a new case in the DC circuit against the NRC, asking basically for the same thing, i.e., a restart of the licensing hearing. At most, this case will result in a remand back to the NRC but there will still be no funding. This is the only case that there is really any activity on at this time.

Yucca Mountain Licensing Proceedings – Martin Malsch, Special Deputy Attorney General

Mr. Malsch gave a background report into the nature of the licensing proceeding and the process of the NRC trial-type hearings for the 2008 license application submitted by DOE for the Yucca Mountain facility. He discussed the initiation of the licensing proceedings, the subsequent DOE motion to withdraw the license application, and the CAB order denying the motion to withdraw.
Mr. Malsch reiterated the information regarding the lawsuits in the DC Court of Appeals: one lawsuit has been denied on procedural grounds; the other is asking the court to direct NRC to proceed with the licensing hearings. At this point, the court has not asked for any responses on the second case, and the proceeding remains, in theory, indefinitely suspended.

The NRC, in the process of closing down its technical arena due to funding, has issued a series of Technical Evaluation Reports (TERs) that are largely favorable to granting of the licensing application; however, they do not address Nevada’s contentions. These documents are easily convertible into formal safety reports and could be used in the event the licensing proceeding should be revived. Mr. Malsch stated that all of the State’s documents and suite of experts are being preserved so that in the event the licensing proceedings restart, the State is ready.

Senator Bryan asked Mr. Malsch about the process of appointing members to the NRC Commission. Mr. Malsch stated that the NRC Commissioners serve until their five (5) year term expires, then their seat is vacant until filled. Each year around June one commissioner’s term expires. The way the system works, there are consistently vacant positions. The commission itself can’t function unless there is quorum. Mr. Malsch stated that, as long as there is the current membership on the commission, the deadlock will continue. Even if there was a new commissioner appointed, there still is no money appropriated.

Yucca Mountain Technical Issues – Dr. Mike Thorne

Dr. Thorne is a technical expert consulting for nuclear waste and decommissioning programs in Europe (Sweden, Finland, and Spain). He has been a technical expert on the Yucca Mountain project for eight years heading up the team of experts that produced the contentions. A team of thirty technical experts were able to review the licensing application and identified deficiencies in the document. While there is a lot of good science in the DOE documents, it is important to prove safety beyond a reasonable doubt, and they did not do that. As a result, almost 200 contentions were submitted and only seven were excluded, primarily on legal, not technical, grounds. Since then the NRC and its contractors have placed a number of documents in the public domain. These are not new information; they are background information or scientific notebooks which essentially contain no new information that would affect our contentions.

The contentions are mostly in areas of safety involving the water at Yucca Mountain. The rain fall, how much of that reaches the repository, the chemical composition when it reaches the canisters, and how it moves through the unsaturated zone into the saturated zone and the impact on the people in Amargosa Valley. All of these areas have significant concerns and the DOE modeling of penetration (infiltration of the water) has not been adequate.

Senator Bryan noted Dr. Thorne’s extensive resume and asked what they are doing in Europe. Dr. Thorne responded by explaining that repositories are sited in the saturated zone, below the water table. The idea for final containment of the waste is to use simple materials including copper canisters and swelling clay that expands around the canisters, preventing corrosion. The water that is in contact with the clay creates a benign environment that would stay stable for a
very long time. This is significantly different from the geological conditions at Yucca Mountain, which is above the water table. Additionally, in Europe, the waste canisters will be stored at temperatures below about 90 degrees centigrade. At Yucca Mountain, the canister temperatures would be above the boiling point of water for 1000-2000 years, creating a complex thermal-hydrological-mechanically coupled system that is almost impossible to adequately model. European repositories avoid this by keeping waste canister temperatures substantially lower.

Commissioner Workman inquired if there were places in the United States that such geological formations existed. Dr. Thorne stated that the Canadian shield rock in the northern US is much like the formations in Sweden, and that there are plenty of places in the United State where you could design repositories that would be in the saturated zone.

Comments from Affected Units of Local Government and Tribal Representatives

Irene Navis – Program Manager Clark County’s Oversight Program and Clark County Emergency Manager discussed the Nuclear Waste Technical Review Board (NWTRB) report that does a compare and contrast on programs around the world. She stated that Clark County will be without funds by June 20, 2012. The department is in the process of closing out programs and wrapping up contracts. Their LSN has been wrapped up and provided to the state.

Additional comments: None

Comments from the public - None

Other issues: Commission members recommended a six (6) month horizon for the next meeting or when there are events that make a meeting necessary.

Commissioner Workman moved that the meeting be adjourned. A second was made by Commissioner Scroggins. Chairman Bryan adjourned the meeting.