

What's News at Yucca Mountain

Publication of Mineral County's Yucca Mountain
Repository Planning and Oversight Program

Fall 2005

Senators block Bush choice

In This Issue

Lawmakers cut funding for Yucca Mountain to \$450 million in 2006	2
Tribe's challenge dismissed	3
California wants Yucca Refund	3
EPA to review Yucca input	4

Special points of interest:

- Sen. Harry Reid, D-Nev., who has opposed locating the nuclear waste dump 90 miles northwest of Las Vegas, said the project is "fraught with inadequate science and insidious mismanagement." (page 2)
- "We have a treaty with the United States of America. We have endeavored always to abide by the treaty and we have asked why does the United States not abide by the treaty," said John Wells, from the Western Shoshone tribe. "The United States does not treat other countries that it has treaties with the way it treats Indian nations." (page 3)

Visit Mineral County
Yucca Website:
www.mcncuprojects.com
.....where you'll find more
information about the
proposed Yucca Mountain
Nuclear Waste Storage
Facility and Radiation facts.

Nevada's senators are blocking the confirmation of President Bush's pick to lead nuclear waste disposal efforts at Yucca Mountain.

Sen. John Ensign, R-Nev., said that he and Sen. Harry Reid, D-Nev., have placed holds on Ward Sproat, the administration nominee to direct the Energy Department's Office of Civilian Radioactive Waste Management.

Ensign, who met with Sproat on Nov. 2, said he and Reid will relent on Sproat "once we can get answers about where the administration is going" on nuclear waste. Reid had no comment.

Energy Department spokesman Craig Stevens said Bush administration offi-

cial "will work with senators ... to remedy their concerns."

The Senate Energy and Natural Resources Committee approved Sproat's confirmation the second week in November, by a voice vote, sending it to the Senate floor. But senators can invoke procedural holds to block final action on nominees and legislation.

The Energy Department got approval from Bush and Congress in 2002 to entomb the nation's most radioactive nuclear waste at Yucca Mountain, near Beatty, Nevada in Nye County.

The project has been without a Senate-confirmed leader since Margaret Chu resigned in February. Paul Golan, the principal deputy director, has been serving as acting director. *Source: Associated Press*

*Questions
surround pick to
lead Yucca
Mountain project,
Ensign says*

Support for Yucca softens a little more

A key senator who was once a strong advocate of Yucca Mountain offered some of his harshest words yet about the proposed nuclear waste repository.

"As most of you know, it was not a good solution either on straight science, or surely, on economic grounds," Senate Energy Committee Chairman Pete Domenici, R-N.M., said in a speech to a group of U.S. and Japanese nuclear power leaders in November.

"So clearly, we have to move in another direction."

Domenici has long been a supporter of the nation's policy on dealing with the radioactive spent fuel from nuclear plants and U.S. defense sites: burying it in underground tunnels at Yucca Mountain.

But Domenici, a vocal advocate of nuclear power and considered the Senate leader on nuclear issues, has distanced himself from Yucca in recent public comments.

"For years Yucca Mountain was the answer, and we ran around talking about it as if it were the singular answer," Domenici said. "But we all know that it was a creature of nineteen-hundred and eighty-two."

"While Yucca was created as the final resting place, there can be no doubt that it is not the final answer."

Domenici's comments came as the Energy Department is preparing a new national nuclear waste policy that is likely to embrace recycling. While the department is now pushing for a simpler plan for Yucca, it will not abandon the project.

"Our administration is committed to successfully establishing Yucca Mountain as the nation's permanent repository for spent nuclear fuel," Deputy Energy Secretary Clay Sell said in a speech mid November. "Solving the problem of how to store spent fuel will reap tremendous benefits for America's future and will greatly facilitate the expansion of nuclear power."

(Continued on page 2)

Support for Yucca (continued)

(Continued from page 1)

Industry observers and interested lawmakers have eagerly awaited the department's new policy for months, but it is not likely to be unveiled this year, department spokesman Craig Stevens said.

Domenici said he has heard enough about the developing policy "to know it's exciting, but I've not heard enough about it to say I'm clamoring for it."

Domenici has not publicly advocated that long-delayed Yucca program be scrapped. He has said he envisions a new, broader national nuclear waste policy in which Yucca Mountain plays some role.

"In this environment, the current U.S. policy regarding Yucca Mountain clearly won't do," Domenici said. "And it won't do all by itself. I believe we must completely re-evaluate our policy on spent nuclear fuel."

Domenici is quietly discussing waste policy with the Energy Department. He also has discussed it with strident Yucca foe Senate Minority Leader Harry Reid.

Domenici has not embraced a proposal advocated by Reid and the rest of the Nevada congressional delegation -- leaving waste where it now sits on site at the nation's nuclear power plants.

Domenici has expressed interest in storing waste at government interim sites. "Interim storage is a very good solution," Domenici said. "Domenici also said the nation should pour its "scientific passion and creativity" into developing new waste-handling technology in the next 20 years.

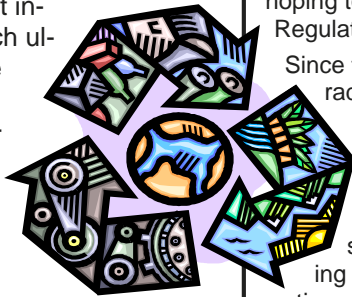
Domenici also advocates a policy that includes plans to recycle spent fuel, which ultimately could reduce the toxicity of the waste bound for Yucca.

President Jimmy Carter banned recycling because of fears that the process, which separates plutonium from waste, could enable terrorists to obtain the bomb-making material. Domenici said those fears are unfounded.

Domenici is not the first lawmaker to soften his stance on Yucca. Sen. Robert Bennett, R-Utah, in September scrapped his support for it, and others are re-thinking their positions, Sen. John Ensign, R-Nev., has said.

Domenici's speech fell just two weeks after he and Reid led an effort to slash this year's Yucca budget from a Bush administration request of \$651 million to \$450 million. Domenici is chairman of an appropriations panel that also allocated \$50 million for waste recycling technology.

"I am convinced that our great nation cannot be self-reliant, prosperous and green without more nuclear energy," Domenici said. *Source: Las Vegas Sun*



Lawmakers cut funding for Yucca Mountain to \$450 million in 2006

In November lawmakers agreed to cut 2006 spending for Yucca Mountain well below past-year levels and President Bush's budget request, reflecting the faltering prospects for locating the nation's nuclear waste dump in the Nevada desert.

House and Senate negotiators also ditched a House plan to supplement Yucca Mountain with interim storage sites for nuclear waste, settling instead on spending \$50 million to promote recycling spent nuclear fuel.

In finishing work on a \$30.5 billion bill to fund energy and water projects, lawmakers agreed to spend \$450 million in 2006 on Yucca Mountain, the planned underground repository for 77,000 tons of the nation's most radioactive nuclear waste.

The project's budget was \$577 million in each of the past two years, and Bush asked for \$650 million for the dump in his 2006 budget request.

The final figure also was less than the House and the Senate agreed to separately earlier this year, but lawmakers and aides said delays on the project kept the number low.

"No matter what side of Yucca you're on, the truth of the matter is Yucca is ... not on the schedule that even was predicted the last time. It's behind schedule," said Sen. Pete Domenici, R-N.M., chairman of the Senate Appropriations Committee's energy and water subcommittee.

"We think that this will keep what should be done on schedule," he told reporters.

Two years ago, the Energy Department projected needing \$1.2 billion for Yucca Mountain in 2006. That was when officials were hoping to quickly submit a license application to the Nuclear Regulatory Commission and open the dump by 2010.

Since then, a series of setbacks - including a required rewrite of radiation safety standards - have slowed the project.

Now it's not clear when the license application will be submitted, and the projected opening date has slipped to 2012, at the earliest.

"While this funding decision may force us to go at a slower pace, it will not deter us from our principles of using sound science to develop a high-quality license application and a disposal facility that is safe and reliable to operate," Energy Department spokesman Craig Stevens said.

Sen. Harry Reid, D-Nev., who has opposed locating the dump 90 miles northwest of Las Vegas, said the project is "fraught with inadequate science and insidious mismanagement."

"The project is never going to open and each year we grow closer to killing it," he said.

Lawmakers deleted a House proposal to spend \$10 million for the Energy Department to produce a plan for temporary above-ground storage for spent reactor fuel from commercial nuclear power plants.

Instead the bill contains \$50 million for spent fuel recycling, including \$20 million for states or localities to compete to host a recycling facility and \$30 million for research and other work.

Source: Associated Press

Tribe's challenge dismissed

A federal judge has dismissed a lawsuit filed this year by the Western Shoshone National Council, saying the U.S. District Court in Las Vegas lacks jurisdiction to decide if an 1863 treaty prohibits the Department of Energy from proceeding with plans to build a nuclear waste dump at Yucca Mountain.

"Barring some other waiver, the United States' alleged treaty violations may not be redressed by a civil suit in this court," U.S. District Judge Philip Pro wrote in his Nov. 1 order granting a motion by lawyers for the Energy and Interior departments to dismiss the case.

A statement in mid November by Robert Hager, attorney for the Western Shoshone National Council and four members of the tribe, says he will ask the court to reconsider its decision.

"If the court does not reverse that decision, an appeal will follow" with the 9th U.S. Circuit Court of Appeals in San Francisco, said Hager, a Reno attorney.

When the Western Shoshones were asked to enter into the Ruby Valley Treaty of 1863, "no one said that the U.S. government would thereafter make up laws which would be designed to break the promises of the United States," Hager said in statement. "It is shameful that the government has done just that in order to bring nuclear waste from around the world to dump on sacred Western Shoshone land."

Hager castigated the government for violating Western Shoshone land rights as well as the tribe's human rights. He cited a recent United Nations inquiry and the Inter-American Commission on Human Rights of the Organization of American States' siding with the Western Shoshone in 2002.

To the Western Shoshones, the mountain lives as a giant snake slithering westward for nearly 20 miles across southern Nye County. The ridge and nearby Forty Mile Wash are considered sacred areas of their native land that spans 93,750 square miles across parts of Nevada, California, Utah and Idaho.

The lawsuit, with a motion to stop the project, named Energy Secretary Samuel Bodman and Interior Secretary Gale Norton as defendants.

Plaintiffs from the Western Shoshone Timbisha and Te-Moak bands -- John Wells, Joe Kennedy, Pauline Esteves and Kevin Gillette -- and the national council claimed the treaty allows only five uses for the land: settlements, mines, ranches, roads and a railroad.

Wells, southern representative for the Western Shoshone National Council, reacted to the ruling, saying, "It's not surprising to me that whenever we get into the courts the findings are always so hypocritical."

Wells vowed to continue to fight the issues through the federal court system.

"We have a treaty with the United States of America. We have endeavored always to abide by the treaty and we have asked why does the United States not abide by the treaty," he said. "The United States does not treat other countries that it has treaties with the way it treats Indian nations."

In May, Pro denied the tribe's plea to block the Yucca Mountain Project from proceeding. He ruled that the Western Shoshone National Council couldn't show that the tribe had "immediate and irreparable" harm, since the nuclear waste dump has not yet opened and a rail line to haul nuclear waste to the mountain has not yet been constructed. *Source: Las Vegas Review Journal*

California wants Yucca refund

California may ask the federal government to refund money that it has paid for Yucca Mountain, a request based on "uncertainty" surrounding the proposed nuclear waste repository.

Yucca supporters said the development could give federal officials fresh incentive to move to open it as soon as possible, while critics said the action was further evidence that Yucca is viewed as a waste of money.

"I don't blame California -- they should have their money back," Rep. Jon Porter, R-Nev., said. "And I think every other state should, too. This is just one more example that the foundation that has been supporting Yucca Mountain is starting to crumble."

California's action reflects the long-simmering frustration of nuclear power utilities nationwide -- and the states where they are located -- over Congress' broken promise to construct a national nuclear waste repository by 1998. The Yucca repository has suffered numerous setbacks for years, and some critics suggest that it may even be losing support in Congress.

While waiting for a storage site to open, utilities have paid to store their highly radioactive waste at their plants. The utilities have filed dozens of lawsuits, most of them still pending, to force the government to pay for the on-site storage.

Federal law requires that nuclear power ratepayers pay part of the cost of developing Yucca. So ratepayers since 1982 have paid a special tax collected in a national nuclear waste fund. The fund currently has about \$17.9 billion, according to the Energy Department. About \$8 billion has been spent on Yucca to date.

California ratepayers have contributed more than \$1.1 billion to the fund. Last month the California Energy Commission recommended that "some portion" of that money be returned to the state to help pay for the "long-term on-site" waste storage.

"The federal waste disposal program remains plagued with licensing delays, increasing costs, technical challenges and managerial problems," a commission report noted.

It is not clear, however, how California could obtain a refund. It would be illegal for a state to stop making its payments to the fund, and it would take an act of Congress to approve refunds.

"The law is pretty clear about what is required of states," Energy Department spokesman Craig Stevens said. "We remain committed to Yucca Mountain and to opening the repository based on sound science."

Obtaining a refund for now is "more of a goal" than a specific plan, said Barbara Byron, nuclear waste policy administrator at the California Energy Commission.

The proposal, first pitched by a consultant to the state in August, is being sent this month to the California Legislature and governor's office, she said.

Byron made the case often repeated by officials in other states: Ratepayers are essentially paying twice for nuclear

(Continued on page 4)

California (continued)

(Continued from page 3)

waste storage -- into the waste fund for Yucca, and for the current on-site storage at the plants.

"It's sort of a fairness issue," she said.

California may be the first state to consider requesting a Yucca refund, said Brian O'Connell, director of the nuclear waste program for the National Association of Regulatory Utility Commissioners. Other state utility boards may take notice, he said.

"Anytime the biggest state in the union does something, the other states pay attention," O'Connell said.

He added: "It has come up from time to time: 'If the money is going down a rat hole, why don't you stop paying?'"

While utilities generally have agreed that it is not in their best interest to stop paying, they also believe they eventually will prevail in their lawsuits, O'Connell said.

The California action is consistent with the frustration felt by nuclear power companies and the states, said Michael Bauser, a lawyer for the Nuclear Energy Institute, the industry's leading trade group. It likely would grab the attention of Congress if other states start asking for their money back, he said.

"It would draw their attention to the importance of the Department of Energy meeting its contractual obligation, so those enormous liabilities that have been piling up don't get any further out of hand," he said. *Source: Las Vegas Sun*

EPA to review Yucca input



November 21st, marked the end of an almost four-month comment period on the standards, proposed in August. The Environmental Protection Agency has to create a new standard after a federal appeals court threw out the existing ones last year.

The agency proposed a two-tiered standard. One tier maintains a 15-millirem standard for up to 10,000 years and the second limits exposure to 350-millirem per year for 10,000 to 1 million years for those living in a certain area around Yucca Mountain, 90 miles northwest of Las Vegas.

Yucca critics, including state officials, strongly oppose the standard for a number of reasons. They claim the proposed rules do not satisfy what the court ordered last July, do not protect health and safety of future Nevadans and is written in a way to automatically let the mountain "pass."

But some opposed the standard because of the 1 million year time frame, saying it was ridiculous to try to regulate something that far into the future.

Comments submitted ranged from barely legible handwritten pages to quick e-mails to carefully-worded typed documents. A few contained profanity. And some included warnings on what would happen if Yucca opened, while others warned what would happen if it did not open.

It is not clear when the agency will finish reviewing the comments and issue its final rule.

The last time the agency proposed a radiation standard, it took two years to take public comment, respond and make the final standard public. *Source: Sun Washington Bureau*

This newsletter is a publication of the Mineral County Repository Planning and Oversight Program. Mineral County is one of ten affected units of local government involved in the proposed Yucca Mountain Repository. Funding provided to Mineral County is paid by users of electricity generated by nuclear power plants. Under a general contract with nuclear generating utilities, the federal government collects a fee of one mill (one-tenth of a cent) per kilowatt-hour from utility companies for nuclear generated electricity. The money goes into the Nuclear Waste fund which is used to fund all program related activities. These articles may not necessarily reflect the positions or opinions of the Mineral County Board of Commissioners.

For more information on Mineral County's program contact Linda Mathias, Director of Nuclear Projects at (775) 945-2484. Additional information on the repository program can be obtained from the U.S. Department of Energy. Yucca Mountain, Site Characterization Project Office at (702) 794-1444 or contact them at www.ymp.gov, or the Nevada Agency for Nuclear Project, Nuclear Waste Project Office, Capital Complex, Carson City, Nevada 89570, (775) 687-3744 or visit them at their web site at www.state.nv.us/nucwaste.

Mineral County Nuclear Projects Office Contact

Linda Mathias, Director

P.O. Box 1600

Hawthorne, NV 89415

Phone: 775-945-2484

Fax: 775-945-0702

Email: yuccainfo@mineralcountynv.org

Additional copies of this newsletter are
available at the Mineral County Nuclear
Projects Office

located in the Mineral County Courthouse or
the Mineral County Library. Copies can also be
downloaded from the website.

<http://www.mc NucProjects.com>.

Questions and/or comments are welcome.