

## Timeline of events regarding Yucca Mountain from 2010 through September 2011

NRC Commission Decision Nov 2011	The NRC Commission denies NRC Staff appeal of CAB's decision instructing parties to preserve LSN document collections and send copies to NRC for maintenance.
Due January 2012	Blue Ribbon Commission's final report to the Secretary of Energy. Blue Ribbon Commission calendar and <a href="#">activities to date</a> .
Sept 30, 2011	<p><u>Suspension of Hearings</u> – On Friday, September 30, 2011 the Nuclear Regulatory Commission filed an order suspending the licensing hearings – “Although we have been informed that the agency has current appropriated Fiscal Year 2011 Nuclear Waste Funds (NWFs) that could be carried over into the next fiscal year, there are no Full-Time Equivalent (FTE) positions (i.e., federal employee positions) requested in the President’s Fiscal Year 2012 Budget for Yucca Mountain High-Level Waste activities. Therefore, because both future appropriated NWF dollars and FTEs for this proceeding are uncertain, and consistent with the Commission’s Memorandum and Order of September 9, 2011, this proceeding is suspended. It is so ORDERED. Construction Authorization Board “</p>
September 2011	<p><u>NRC Allows closure of Yucca Mountain</u> - A divided Nuclear Regulatory Commission allowed the Obama administration to continue plans to close the controversial Yucca Mountain nuclear waste dump in Nevada. The commission split, 2-2, on whether to uphold or reject a decision by an independent nuclear licensing board. The board voted last year to block the Energy Department from withdrawing its application for Yucca Mountain, a remote site 90 miles from Las Vegas. The licensing board said the government failed to make a scientific case for why the application should be withdrawn. Despite the split vote, the NRC said in <u>an order September 15, 2011</u> that the licensing board should continue steps to close out work on Yucca Mountain by the end of the month, citing "budgetary limitations." The Energy Department has not requested additional funding for Yucca Mountain, and NRC spending on Yucca expires at the end of the month.</p> <p><u>Commissioners Order</u></p> <p>On June 30, 2010, the participants were invited to submit briefs as to whether the Commission should review, and reverse or uphold, the Board’s decision denying the Department of Energy’s motion to withdraw its construction authorization application with prejudice. Upon consideration of all filings in this matter, the Commission finds itself evenly divided on whether to take the affirmative action of overturning or upholding the Board’s decision.</p> <p>Consistent with budgetary limitations, the Board has taken action to preserve information associated with this adjudication. In furtherance of this, we hereby exercise our inherent supervisory authority to direct the Board to, by the close of the current fiscal year, complete all necessary and appropriate case management activities, including disposal of all matters currently pending before it and comprehensively documenting the full history of the adjudicatory proceeding.</p>
August 2011	The Nuclear Regulatory Commission has published in the NUREG series the first of three technical evaluation reports (TERs) detailing the agency staff’s review of the Department of Energy’s license application for a high-level waste repository at Yucca Mountain in Nevada. Publication of the TER provides the staff’s technical review of the postclosure information in the Yucca Mountain application. This TER does not include findings as to whether NRC’s regulatory requirements have been satisfied. Technical Evaluation Report on the Content of the U.S. Department of Energy’s Yucca Mountain Repository License Application; Postclosure Volume: Repository Safety After Permanent Closure," is part of the agency's orderly closeout of the Yucca Mountain license review process and is intended as a public record of the staff's scientific and technical work in preparing for and reviewing the application. It was developed using the draft Volume 3 of the staff's Safety Evaluation Report on the application. The TER was prepared as part of the agency's knowledge management activities during the closeout of

	the Yucca Mountain licensing review. The closeout, including publication of two additional TERs as NUREGs, is expected to be completed by Sept. 30, 2011. ( <a href="http://www.nrc.gov/waste/hlw-disposal/yucca-lic-app.html">http://www.nrc.gov/waste/hlw-disposal/yucca-lic-app.html</a> ).
August 2011	<a href="#">GAO report - COMMERCIAL NUCLEAR WASTE-Effects of a Termination of the Yucca Mountain Repository Program and Lessons Learned. The US General Accounting Office.</a> - "Just two years ago, the GAO estimated that the legal liabilities due to federal inaction on nuclear waste would be "about \$12.3 billion in damages through 2020." So, over the last two years, the GAO's estimated legal hit to taxpayers has jumped by more than \$3 billion."
July 2011	Blue Ribbon Commission submits the Draft Report to the Secretary of Energy - <a href="#">BRC Draft Report to the Secretary of Energy.</a> - This draft report highlights the Commission's findings and conclusions to date and articulates a preliminary set of consensus recommendations for public review and input. Comments to the draft were due by end of October 2011. Final report due January 2012.
July 2011	<a href="#">United States Court of Appeals FOR THE DISTRICT OF COLUMBIA CIRCUIT Argued March 22, 2011 Decided July 1, 2011 AIKEN COUNTY, PETITIONER On Petitions for Declaratory and Injunctive Relief, Petitions for Extraordinary Relief, and Petitions for Review: Summary</a> - A federal appeals court ruled on July 1st, 2011, that challenges to the Obama administration's decision to withdraw from developing the Yucca Mountain, Nev., nuclear waste repository were premature.
June 1, 2011	Blue Ribbon Commission's subcommittee - The Reactor and Fuel Cycle Technology Subcommittee of the Blue Ribbon Commission on America's Nuclear Future (BRC) was formed to examine issues related to the potential of existing and future reactor and fuel cycle technologies and related research and development (R&D) programs. <a href="#">Draft RFCT Report The Reactor and Fuel Cycle Technology Subcommittee Report to the Full Commission.</a>
June 1, 2011	<a href="#">Draft Disposal Report</a> <b>Draft Disposal Subcommittee Report to the Full Commission</b> "How can the United States go about establishing one or more disposal sites for high-level nuclear wastes in a manner and within a timeframe that is technically, socially, economically, and politically acceptable?"
May 2011	May 12: <a href="#">GAO report - COMMERCIAL NUCLEAR WASTE-Effects of a Termination of the Yucca Mountain Repository Program and Lessons Learned. The US General Accounting Office.</a>
April 2011	DOE NUCLEAR WASTE <a href="#">Better Information Needed on Waste Storage at DOE Sites as a Result of Yucca Mountain Shutdown</a> <a href="#">A Staff Summary of Major Themes in Testimony and Comments Received by the Blue Ribbon Commission on America's Nuclear Future to Date.</a>
April 2011	United States Government Accountability Office (GAO) - Report to Congressional Requesters - GAO suggests that Congress consider whether a more predictable funding mechanism would enhance future efforts and whether an independent organization would be more effective. GAO also recommends that DOE assess remaining risks of the shutdown; create a plan to resume licensing if necessary; and report on federal property and its disposition. NRC concurred with the facts in a draft of this report, but DOE strongly disagreed with the draft and the recommendations, questioning the veracity of GAO's information. GAO continues to believe its findings and recommendations are sound. <a href="#">COMMERCIAL NUCLEAR WASTE Effects of a Termination of the Yucca Mountain Repository Program and Lessons Learned. DOE NUCLEAR WASTE - Better Information Needed on Waste Storage at DOE Sites as a Result of Yucca Mountain Shutdown</a>
April 2011	<a href="#">A Staff Summary of Major Themes in Testimony and Comments Received by the Blue Ribbon Commission on America's Nuclear Future to Date</a>
March 2011	- <b>DOE Nuclear Waste:</b> <a href="#">Better Information Needed on Waste Storage at DOE Sites as a Result of Yucca Mountain Shutdown</a> <a href="#">GAO-11-230, Quick View</a> <a href="#">Summary</a> (HTML) <a href="#">Highlights Page</a> (PDF) <a href="#">Full Report</a> (PDF, 40 pages) <a href="#">Accessible Text</a> <a href="#">Recommendations</a> (HTML)

February 2011	<ul style="list-style-type: none"> <li>• <u>Nuclear Waste Technical Review Board Meeting transcripts Redacted copies of preliminary drafts of Volumes 2 and Volume 3 of the SER. The Nuclear Regulatory Commission released draft staff reports on the proposed Yucca Mountain repository but omitted any conclusions about whether the site would be safe for storing radioactive waste.</u></li> <li>• <u>Volume 3: Safety Evaluation Report Related to Disposal of High-Level Radioactive Wastes in a Geologic Repository at Yucca Mountain, Nevada: Repository Safety After Permanent Closure</u></li> <li>• <u>Volume 2 - Summarizes the results of the NRC staff's review of the Preclosure operations that the U.S. Department of Energy (DOE) described and provided in its June 3, 2008, license application, as updated on February 19, 2009, seeking an authorization to begin construction of a repository at Yucca Mountain.</u></li> </ul>
February 17, 2011	<p>On the NRC issued the following redacted copies of preliminary drafts of Volumes 2 and Volume 3 of the Safety Evaluation Report.</p> <p><u>Safety Evaluation Report Related to Disposal of High-Level Radioactive Wastes in a Geologic Repository at Yucca Mountain, Nevada Volume 1: General Information Safety Evaluation Report Related to Disposal of High-Level Radioactive Wastes in a Geologic Repository at Yucca Mountain, Nevada Volume 3: Repository Safety After Permanent Closure</u></p> <p><u>Volume 2 - Summarizes the results of the NRC staff's review of the Preclosure operations that the U.S. Department of Energy (DOE) described and provided in its June 3, 2008, license application, as updated on February 19, 2009, seeking an authorization to begin construction of a repository at Yucca Mountain.</u></p>

## Timeline 2010

February 2010	<p>The Administration's Fiscal Year 2011 Budget was announced and stated that in 2010, the DOE will discontinue its applications to the Nuclear Regulatory Commission (NRC) for a license to construct a high-level waste geological repository at Yucca Mountain, Nevada. <u>Budget of the U.S. Government, Fiscal Year 2011: Terminations, Reductions, and Savings, at 62 (Feb. 1, 2010).</u> The budget further states that "all funding for development of the Yucca Mountain facility will be eliminated" for fiscal year 2011. DOE remains committed, however, to fulfilling its obligation to take possession and dispose of the nation's spent nuclear fuel and high-level nuclear waste, and DOE has established the Blue Ribbon Commission to review alternatives for such disposition.</p>
February 2010	<p>DOE filed with the NRC High Level Waste Hearing (HLWH) a motion to stay the licensing proceeding, pending "the disposition by the Board of any DOE motion under Section 2.107 filed within the next 30 days." The motion explained that DOE intended to move to withdraw the pending licensing application pursuant to 10 C.F.R. 92.107 within 30 days and that a stay would avoid unnecessary expenditure of resources by the Board, NRC, and other parties to the proceeding.</p>
February 16, 2010,	<p>The NRC Licensing Board granted the stay motion pending resolution of DOE'S then-expected motion to withdraw the license application.</p>
January 29, 2010	<p>At the direction of the President, the Secretary of Energy established the Blue Ribbon Commission on America's Nuclear Future, which will conduct a comprehensive review of, and consider alternatives for disposition of spent nuclear fuel and high-level radioactive waste. Congress had already endorsed creation of this Commission by appropriating \$5 million in October 2009 for a Blue Ribbon Commission to evaluate and recommend such alternatives.</p>

### Charter of the Blue Ribbon Commission

Charter of the recently established Blue Ribbon Commission (which must issue recommendations within 24 months), makes clear that the Commission will consider solutions not only for commercial spent nuclear fuel but also for DOE high level waste that may provide a quicker solution than construction of a repository at Yucca Mountain. [Blue Ribbon Commission on America's Nuclear Future Charter](#)

**IN THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT** The following consolidated cases were filed with the US Court of Appeals for District of Columbia

February 2010	<p>Petition for Declaratory and Injunctive Relief and Writ of Mandamus, filed seeking relief against the Department of Energy ("DOE"), Nuclear Regulatory Commission ("NRC"), and agency officials was filed in the US Court of Appeals and docketed as Aiken County, D.C. Cir. No. 10-1050</p>
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February 2010	Petition for review, docketed as <i>Ferguson v. Obama</i> , D.C. Cir. No. 10- 1052, was filed in the Court of appeals against the DOE and President Obama purporting to seek review of the "final action of the President and Secretary of Energy to abandon and not to proceed with plans to apply for and pursue a license for, and to construct, a repository for high level radioactive waste at Yucca Mountain."
February 2010	South Carolina filed in the Fourth Circuit a "Petition for Review and Petition for Writ of Mandamus, Writ of Prohibition, Stay, and/or Declaratory and Injunctive Relief" naming as respondents the DOE, President Obama, the NRC, and agency officials; that case was transferred to the US Court of Appeals and docketed as <i>South Carolina v. U.S. Dept of Energy</i> , D.C. Cir. No. 1 0- 1 069.
March 2010	Federal respondents filed a response to the petition
April 8, 2010,	The three petitions were consolidated and the US Court of Appeals ordered a response to motions to expedite filed by <i>Ferguson</i> and <i>State of South Carolina</i> petitioners.
April 2 and April 7, 2010	Petitioners in <b><i>Ferguson</i></b> and <b><i>State of South Carolina</i></b> filed motions to expedite briefing and consideration of the petitions in the US Court of Appeals. <u>US Court of Appeals – Letter to Annette Vietti-Cook Secretary of the Commission U.S. Nuclear Regulatory Commission In the Matter of the U.S. Department of Energy (High-Level Waste Repository), Docket No. 63-001-HLW</u>
April 2010	<u>.US Court of Appeals – Letter to Secretary of the Commission NRC Commission In the Matter of DOE (High-Level Waste Repository)</u> (argument) Even if the NRC grants DOE's motion to withdraw, this would not give rise to a "genuine failure to act" claim because petitioners' are objecting to DOE's affirmative act of withdrawing the license application.
<b>High Level Radioactive Waste Licensing Hearings</b>	
March 2010	DOE filed a motion to withdraw the license application and five parties, including South Carolina and Aiken County, two of the petitioners in this Court, thereafter filed petitions to intervene in the NRC proceeding to oppose DOE's motion to withdraw.
March 2010	The NRC CAB issued a scheduling order providing a due date for answers to the then-pending petitions to intervene and stating that the Board will set a time for responses to DOE's motion to withdraw after" resolving the petitions to intervene.
April 2010	However, the NRC Licensing Board changed course and announced that it will withhold a decision on the petitions to intervene and DOE's motion to withdraw pending Court ruling on -the petitions. The Board deemed it more expedient for the US Court of Appeals to provide it guidance by deciding in the first instance whether DOE has authority to withdraw the license applications. The NRC Licensing Board's April 6 order, however, is an interlocutory order of an administrative hearing tribunal within the NRC and does not necessarily reflect the views of the Commission itself.
April 2010	Just before the filing of the instant response - DOE filed a request for review of the Board's interlocutory order by the NRC Commission (the body with the final authority over NRC adjudications).
April 2010	The NRC Commission vacated the Hearing Board's Suspension Order and remanded the matter to the NRC Hearing Board for prompt resolution of DOE's motion to withdraw. "We direct the Board to establish a briefing schedule on DOE's motion to withdraw and issue a decision on that motion no later than June 1, 2010. The Board should continue case management and resolve all remaining issues promptly."
April 2010	The CAB Board responded to the NRC Commission directions stating they recognize their obligation to comply with the Commission's direction but also ..... "insofar as Possible." Also, that the complexity of the issues, the desirability of holding oral argument, and a previously-established filing date concerning a related issue render a decision by June 1, 2010 infeasible. Instead, in accordance with the Commission's direction to resolve all pending matters expeditiously and responsibly, the Board will decide DOE's motion to withdraw as soon as possible after June 1 and, in no event, later than June 30.
May 2010	Intervener's responses to the CAB order regarding the DOE's request to withdraw the License Application.
June 3 and 4	Hearing in Las Vegas regarding arguments related to the DOE's request to withdraw the License Application and conference hearing to discuss the archiving of the LSN documentation.
June 2010	NRC CAB rules on DOE's request to withdraw the License Application. "We conclude that Congress directed both that DOE file the application and that the NRC consider the application and issue a final merits-based decision," the judges said. "Unless Congress directs otherwise, DOE may not single-handedly derail the legislated decision-making process by withdrawing the application." <u>US Energy Department Loses Ruling To Terminate Yucca Mountain Licensing</u>
July 2010	<u>US Appeals Court puts consideration of Yucca Mountain case on hold until July 2010</u> A US appeals court said Wednesday it would wait until the Nuclear Regulatory Commission rules on the Yucca Mountain appeal before the commission before it hears oral arguments in a lawsuit over the

	planned termination of the nuclear waste repository project.
August 2010	Responses filed by the NRC Commissioners regarding the decision on the motion of the State of Washington, South Carolina, Aiken County, SC and White Pine County, Nevada. William Magwood denied movants request to recuse and William C. Ostendorft also declined to recuse himself from the proceeding. Commissioner Apostolakis has recused himself from the proceeding.
August 2010	<u>Nuclear Regulatory Commission staff issued its "Safety Evaluation Report Related to Disposal of High-Level Radioactive Wastes in a Geologic Repository at Yucca Mountain, Nevada, Volume 1: General Information" (NUREG-1949, Vol. 1).</u>
October 2010	The Nuclear Regulatory Commission decided to amend its "Waste Confidence Decision" to double the period when used nuclear fuel can be stored on site to 60 years instead of 30. The commission also directed agency staff to begin analyzing the prospect of storing spent fuel at plants for up to 300 years or beyond.
October 2010	NRC Chairman Gregory Jaczko directed NRC staff to terminate the technical review of the Yucca Mountain application. An appeal to allow the DOE to withdraw its Yucca Mountain application has been pending since July, after a lower board rejected DOE's request.
Dec 2010	<u>Court of Appeals lifts stay and sets expedited briefing schedule.</u>