

The Ball Is in Congress' Court: Yucca Mountain Vote To Come This Summer

It all started in Congress some 20 years ago with the passage of the Nuclear Waste Policy Act of 1982. That legislation set the stage for this summer's up-or-down vote by Congress on whether the Yucca Mountain site in Nevada will host the nation's first high-level waste and spent fuel repository.

In January of this year, Energy Secretary Spencer Abraham stated that the Yucca Mountain site was suitable for a repository and notified the state of Nevada of his decision. In February, he recommended to President Bush that the site be officially selected, and the President, only days later, accepted the recommendation and made the selection.

In April, to no one's surprise, Nevada Gov. Kenny Guinn officially vetoed the President's selection, bouncing the issue to Congress. The Congress now has 90 days—so the vote must take place before the July or August recess—to approve the choice with a simple majority vote. Both houses must approve the site.

Approval in the Republican-led House of Representatives is virtually guaranteed. In the evenly divided Senate, however, the matter is much less certain. Senate Majority Leader Tom Daschle (D-S.D.), who last year declared Yucca Mountain "dead," conceded that he cannot block a vote on the issue in the Senate. The legislation specifically prohibits moves to filibuster or block a vote or hold it up in committee.

The state of Nevada is focusing its lobbying efforts on individual senators. The state must find 51 senators willing to vote "no" on the site. To aid in its efforts, the state has hired Robert Dove, former Senate parliamentarian, to put pressure on Republican senators to vote against the project. Funding is coming from, among other sources, the gambling industry, which fears a loss of tourist revenue.

Project proponents, in the meantime, have enlisted the aid of such noteworthies as former New Hampshire governor John Sununu and former representative (and vice presidential candidate) Geraldine Ferraro. In addition, countless editorials in major (and not-so-major) newspapers around the country and commentaries by noted columnists are calling for Congress to approve the repository and keep the project moving forward.

● In other Yucca Mountain news, the state of Nevada used a move reminiscent of its Wild West past in its efforts to shut down the repository project: It cut off the U.S. Department of Energy's water supply. The DOE's tempo-

rary permits to withdraw 140 million gallons per year from five Nye County wells expired in April, and the state has denied the Energy Department's request to extend the temporary permits, stating that the permits were for studying the mountain, and that the study was completed on January 10 when Energy Secretary Abraham notified Gov. Guinn that he was going to recommend the site.

Anticipating the move, the DOE earlier had built and filled a million-gallon tank east of the mountain. The DOE said that the stockpiled water, plus another 400 000 gal stored in several other tanks, is enough to last through several months of ongoing experiments and design work.

The Bush Administration, through the Justice Department, is seeking a preliminary injunction against Nevada, arguing that the DOE should be allowed to continue to use water for the project until the Congressional vote.

● The U.S. Nuclear Regulatory Commission has published a revised draft of the its Yucca Mountain License Review Plan—the policies and procedures NRC staffers will use to review the U.S. Department of Energy's license application for a waste repository at Yucca Mountain. The original draft plan was released last November, but now has been updated to include the U.S. Environmental Protection Agency's 15-millirem all-pathways release standard and separate 4-mrem groundwater standard.

The plan includes separate sections for reviews of repository safety before permanent closure, safety after permanent closure, the performance confirmation program, and administration and programmatic requirements.

The NRC also said that the DOE is on track toward resolving hundreds of technical issues concerning its Yucca Mountain research in time for the submission of the license application in 2004. The NRC had raised some 293 technical issues in a November review of the DOE's technical work on the repository. Nearly 40 of those issues have been resolved, and NRC staffers hope that some 30 more will be closed by the end of the 2002 fiscal year.

Maine Proposes Leaving Texas LLW Compact

The state of Maine, which in the early 1990s agreed to pay some \$25 million to join a compact with the states of Texas and Vermont (forming what some wags termed the "M-TV" Compact), now is considering leaving the compact within two years. The reasons: the disposal facility in Texas is nowhere close to being sited, let alone built.

Also, with Maine Yankee currently begin decommissioned and that decommissioning work scheduled to be completed by 2005, the state will have little need for the facility. The decommissioning waste is under contract to be sent to the Barnwell facility in South Carolina or the Envirocare of Utah facility.

Legislation to leave the compact was introduced into the Maine legislature in March and was referred to the Committee on Utilities and Energy. The \$25 million fee to Texas has never been paid.

National Research Council Weighs in on Release Standards

A new report from the National Research Council, *The Disposition Dilemma: Controlling the Release of Solid Materials from Nuclear Regulatory Commission-Licensed Facilities*, while not recommending that the U.S. Nuclear Regulatory Commission (NRC) develop a new rule for such releases, states that if the agency does decide to develop such a rule, it should use the one-millirem dose standard as a "starting point" for clearance or conditional clearance.

The NRC has long been dealing with the issue of release of some slightly radioactive solid materials on a case-by-case basis. The Research Council report said that this policy has been working in the past, and that there is no evidence that the problems associated with the current approach require its immediate replacement. However, the report said, at times the policy has been inconsistently applied, and the NRC should consider whether to develop a dose-based release standard.

The issue is of great importance to nuclear power plants being decommissioned and to the U.S. Department of Energy, which is also decommissioning many of its sites. The report noted that if all contaminated steel and concrete from current U.S. power reactors had to go to low-level waste disposal sites, costs could range between \$4.5 billion and \$11.7 billion. However, if the NRC were to allow large-scale disposal in garbage or industrial waste landfills, the costs could be reduced to between \$300 million and \$1 billion. Just a few months ago, the NRC approved a plan for Consumers Energy's Big Rock Point plant, currently being decommissioned, to use a state landfill for disposal of thousands of tons of nonradioactive or minimally contaminated concrete and debris, saving Consumers ratepayers millions of dollars.

The NRC has tried several times in the past to deal with the release of slightly radioactive material. The "below regulatory concern" proposal of the early 1990s drew out-

cries from environmental groups and the public, leading Congress to set that policy aside in the Energy Policy Act of 1992. The NRC again tried to address the issue in 1999, but after some public hearings, asked the Research Council to view its current policies and make recommendations for any future courses of action.

The Research Council stated that the NRC has several options on dealing with slightly contaminated materials:

- Keep the current policy of clearing materials for release on a case-by-case basis.

- Adopt a dose- or source-based clearance standard.
- Adopt a conditional clearance standard that would allow reuse of materials only in low-exposure scenarios.
- Adopt a policy of "no release," so that all slightly contaminated material must be disposal of as low-level waste.

The full report of the Research Council's Committee on Alternatives for Controlling the Release of Solid Materials from Nuclear Regulatory Commission-Licensed Facilities can be obtained on the Internet at www.nap.edu.

Judge Blocks Resident's Challenge to Connecticut Yankee ISFSI; State Attorney General Enters the Fray

A federal judge has blocked a local resident's state court challenge to construction of an Independent Spent-Fuel Storage Installation (ISFSI) on property owned by the Connecticut Yankee Atomic Power Co. (CY). CY plans to move its spent fuel to the ISFSI so that it can complete plant decommissioning. Although the proposed ISFSI site is on CY property, the site is zoned residential.

The ISFSI was originally opposed by Haddam Neck town officials and rejected by the Planning and Zoning Commission. CY then took the case to federal court.

Early this year, the town Board of Selectmen voted to settle the dispute in return for several million dollars in compensation. A building permit was soon issued for the project. But an adjoining property owner filed a lawsuit in state Superior Court, arguing that the selectmen had no right to approve a deal that does not comply with the zoning regulations of the town.

In March, the federal judge granted an injunction preventing the resident from pursuing the case in state court. That spurred the state's attorney general, Richard Blumenthal, to enter the legal fight. He contends that the federal court settlement violates Connecticut's right to govern itself.

In the meantime, CY has begun construction on the ISFSI, while the state and some local residents plan an appeal of the federal judge's decision.

International Updates

- The German state of Lower Saxony has announced that as early as this summer, it will license the former Konrad iron mine as a repository for low- and intermediate-level waste (L/ILW). Antinuclear groups have vowed to sue, but if they are unsuccessful, the facility could open as early as 2006.

The Konrad mine was shut down in 1976. In 1982, the site was designated as an L/ILW repository. The Lower Saxony government has opposed the project, while the federal German government and nuclear utilities have been pressing the state to approve the facility. While the state remains opposed to the repository, state officials have concluded that damage claims from nuclear utilities could be massive if the state delays licensing any longer.

The utilities will be getting no bargain, however, when the site does open. It is estimated that the cost of disposal will be around 13 000 euro (\$11 300) per cubic meter of waste. The facility has already spent DM 1.6 billion (\$730 million) in planning and construction costs.

- Countries that are party to the North Sea Conference (with the exception of France) have agreed to wording in a declaration that encourages those countries that operate spent-fuel reprocessing facilities to reconsider reprocessing after current contracts have expired. France objected, stating that the conference was not the appropriate forum to discuss the issue.

The resolution may help to resolve conflicts over emissions from reprocessing plants, particularly the United Kingdom's Sellafield facility. Sweden, Norway, and Ireland have long protested emissions of technetium-99 into the North Sea, primarily from Sellafield.

- A new association promoting regional and international storage and disposal of radioactive waste was inaugurated on February 22, 2002. The new body, called ARIUS (Association for Regional and International Underground Storage), was founded by organizations from Belgium (ONDRAF Waste Agency), Bulgaria (Kozloduy Power Plant), Hungary (PURAM Waste Agency), Japan (Obayashi Corp.), and Switzerland (Colenco Power Engineering, backed by two Swiss nuclear utilities). The management of the association will be in the hands of Charles McCombie, acting as executive director, and Neil Chapman, as program director. Both executives had previously worked with Pangea Resources International, an entity that promoted commercial opportunities for international repositories. Pangea has now ceased active operations.

- Russian environmentalists are attempting to reverse the government's decision to accept spent nuclear fuel for storage and/or reprocessing. Last summer, President Putin signed into law a proposal to allow the import of spent

fuel, arguing that Russia could earn \$20 billion over the next decade through storage or reprocessing services. Opponents, however, fear that the program could turn the country into a permanent nuclear disposal site.

- Argentina's successful bid two years ago to sell a research reactor to Australia is now spurring strong protests from antinuclear environmental groups, most notably Greenpeace. The groups object to provisions of the sales agreement that would require the spent fuel to be returned to Argentina for treatment.

Envirocare Tax Proposal Could Shut Down Company

A proposal to raise the tax on low-level waste disposed of at the Envirocare of Utah Inc. facility from the current 10 cents per cubic foot to as much as \$150/ft³ could put the company out of business, company officials have stated. A citizens group called Utahns for Radioactive Waste Control announced a referendum initiative to raise the tax. The group needs to obtain about 77 000 signatures from registered voters by May 31 to get the initiative on the November ballot. The tax could generate as much as \$200 million per year, the group said, half of which would be used for education and the rest divided between environmental regulation programs and economic development for Tooele County, where the Envirocare site is located. The initiative would also prohibit Utah from licensing or siting a facility for disposal of more radioactive types of wastes, including high-level waste, greater-than-Class-C waste, and Class B and C wastes. Envirocare currently can take most types of Class A waste, the least radioactive of the U.S. Nuclear Regulatory Commission's three waste categories. The company has received some state approvals to dispose of Class B and C waste, but currently has no plans to begin accepting such waste.

Under the proposed plan, containerized LLW would be taxed at the \$150/ft³ rate, while bulk waste, generally involving large volumes of soil, would range from \$4/ft³ for mill tailings to some \$30/ft³ for mixed waste.

Envirocare has stated that the group is perpetrating a "cruel hoax" with inflated revenue forecasts. Ken Alkema, the company's interim president, said Envirocare's gross revenues over the last several years have been only about \$100 million. He said the group is really intent on shutting the company down, and are using the tax issue to achieve this goal. Envirocare receives about 14 million cubic foot of waste a year, but half of that comes from federal agencies and could not be taxed under law. ■