

## **Outrage of the Week – Yucca Mountain**

October 2004

### **Denial of State and County Oversight Funds -- A New Low Even For DOE**

Just when you thought there's no way for DOE to be more outrageous when it comes to the Yucca Mountain program, the Department manages to come up with ever more outlandish and heavy-handed decisions.

The latest is a decision attempting to severely limit how the state and local governments can use specially earmarked federal Yucca Mountain oversight funds. DOE told a meeting of affected units of government in August that they will no longer be permitted to use such funds to oversee DOE's license application process, participate in the Nuclear Regulatory Commission's licensing proceedings, or engage in any planning or oversight related to the transportation of waste to the proposed repository.

Outrageous? You bet. The Nuclear Waste Policy Act of 1982 as amended clearly intended for Nevada and its affected counties to be provided with funds to oversee DOE Yucca Mountain activities and to participate in the program until two years after DOE had received a license to begin bringing waste to the facility. Today, the most important DOE activities requiring oversight are DOE's efforts to plan for and implement a transportation program for getting waste to Yucca Mountain and DOE's work related to the preparation and submission of a license application the NRC.

Yet these are precisely the areas where DOE wants to deny affected jurisdictions the use of federal oversight monies.

Attempts to restrict the use of nuclear waste oversight funds are not new. As early as 1984, DOE attempted to prevent the State of Nevada from using federal funds for overseeing the Department's technical work at Yucca Mountain after state researchers began to focus on fundamental flaws with the site that DOE was ignoring. The state was forced to go to court to compel DOE to comply with the law.

Later, in the 1980s, DOE sought to put a halt to the state's socioeconomic impact assessment work when findings from those studies were beginning to reveal significant negative effects from the proposed repository project. A pattern emerged over the years whereby DOE, either directly or through its supporters in Congress, would seek to restrict Nevada's use of funds for those activities that were producing findings not in sync with the DOE's party line on Yucca Mountain.

In the 1990s, DOE unilaterally withheld all funds for the state's oversight program at a time when crucial site characterization work was underway and findings strongly questioning the Yucca site's suitability were coming out.

Despite clear language in the 1987 amendments to the Nuclear Waste Policy Act requiring DOE to provide funds to affected units of local government, DOE initially sought to deny such funds to affected Nevada counties. The counties actually had to file a lawsuit (which they won) to force DOE

to comply with the law. Over a decade later, however, DOE is still thumbing its nose at the law and continuing to play politics with oversight monies.

Why has DOE been so consistently and adamantly opposed to carrying out the clear intent of federal law that the State of Nevada and formally designated affected units of government be provided with adequate funds to oversee the Yucca Mountain program? The answer seems obvious. DOE simply cannot operate under the glare of real, legitimate oversight.

From the beginning, DOE has sought to cover up shoddy science, horrendous mis-management, and wasteful spending at Yucca Mountain. Now that cover-up is continuing with respect to how DOE is approaching transportation planning and the NRC licensing process.

At the same time DOE is denying legitimate oversight funds to the state and counties, the Department is coddling favor with certain "friendly" local governments by making monies available outside the established process for oversight funds. While denying funds for transportation studies to Clark County (arguably the Nevada county most potentially affected by shipments of deadly nuclear waste to Yucca Mountain) and other counties, DOE is lavishing discretionary funds through so-called "cooperative agreements" on three counties that it counts as allies.

In spite of – or perhaps because of – DOE's ongoing attempts to shield itself from meaningful oversight, the Yucca Mountain program is on the verge of collapse. Nevada's recent legal victory (in which the court ruled that Yucca Mountain must be able to meet stringent waste isolation standards that the site is incapable of meeting) is likely the death knell for the program. But the court really did nothing more than validate what the state's oversight program has been telling DOE for years that Yucca Mountain simply won't cut it.

This latest attempt to discourage meaningful oversight of its Yucca Mountain activities should be seen for what it is – a last ditch attempt by a bankrupt and dying program to hide fundamental flaws and incompetence.

Source- State of Nevada, Nuclear Project Office  
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