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Nevada chases Yucca Mountain documents, sues -- Agency keeps drafts of application secret

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WASHINGTON -- A dispute between Nevada and the Department of Energy over Yucca Mountain documents escalated Wednesday into a federal lawsuit.

Attorney General George Chanos filed a complaint in U.S. District Court in Reno that seeks to force the government to make public draft versions of an application for a nuclear waste repository at the Nevada site. The filing marked at least the ninth lawsuit Nevada has pursued related to the project. Decisions are pending in several of the cases.

Chanos said the Energy Department improperly denied the state's request under the federal Freedom of Information Act for license versions prepared by contractors in July 2004 and September 2004.

DOE earlier turned down two requests by Gov. Kenny Guinn for the documents.

"The federal government is required by law to share its important Yucca information with the host state, and we are entitled to such information under the Freedom of Information act as well," Chanos said.

"What are they trying to hide?" Chanos said.

DOE officials have maintained the documents are legally shielded from disclosure.

"We believe that we are under no legal obligation to give out the draft license application," DOE spokesman Craig Stevens said. "Once the license application is submitted to the (Nuclear Regulatory Commission), it will be made public."

In denying Nevada's request, DOE said it was citing an exemption in the information law that permits agencies to withhold certain internal memos to protect "open and frank discussions" during decision-making.

DOE said the law also shields documents prepared "in anticipation of litigation."

The department has resisted attempts by others to gain access to the draft license paperwork, including a subpoena issued last year by the House Government Reform Committee.

The draft application is said to consist of roughly 5,800 pages organized into 70 chapters laying out a case that radioactive spent nuclear fuel could be safely stored in tunnels that would be bored within Yucca Mountain.

State officials have said they think the documents contain information that would help them challenge repository safety. Gaining access to the material would help Nevada-hired experts to build their case.

"We want to see this document because we believe it will show that the repository is unsafe after 10,000 years, if not before," said Bob Loux, executive director of the Nevada Agency for Nuclear Projects.

The documents were prepared when the Energy Department was closing in on a self-set December 2004 deadline to file a repository application with the Nuclear Regulatory Commission.

The department abandoned that timetable in the fall of 2004 after federal judges invalidated part of the repository's radiation safety standards.