



NEVADA LEGISLATURE LEGISLATIVE COMMITTEE ON HIGH-LEVEL RADIOACTIVE WASTE

(Nevada Revised Statutes [NRS] 459.0085)

SUMMARY MINUTES AND ACTION REPORT

The first meeting of the Nevada Legislature's Legislative Committee on High-Level Radioactive Waste was held on Tuesday, January 15, 2008, at 9:30 a.m. in Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. The meeting was videoconferenced to Room 3138 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. A copy of this set of "Summary Minutes and Action Report," including the "Meeting Notice and Agenda" ([Exhibit A](#)) and other substantive exhibits, is available on the Nevada Legislature's website at www.leg.state.nv.us/74th/Interim. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (e-mail: publications@lcb.state.nv.us; telephone: 775/684-6835).

COMMITTEE MEMBERS PRESENT IN LAS VEGAS:

Senator Mike McGinness, Chair
Senator John J. Lee
Senator Warren B. Hardy II
Senator Dean A. Rhoads
Assemblyman Joseph M. Hogan
Assemblywoman Valerie E. Weber

COMMITTEE MEMBERS ABSENT:

Assemblyman Harry Mortenson, Vice Chair
Assemblyman William C. Horne

LEGISLATIVE COUNSEL BUREAU STAFF PRESENT:

Susan E. Scholley, Chief Principal Research Analyst, Research Division
Matthew S. Nichols, Senior Deputy Legislative Counsel, Legal Division
Sally Trotter, Senior Research Secretary, Research Division

OPENING REMARKS AND INTRODUCTIONS

Senator Mike McGinness, Chairman, welcomed members, presenters, and staff to the first meeting of the Legislative Committee on High-Level Radioactive Waste.

REPORTS TO THE COMMITTEE

Overview of Committee's History and Duties

- Susan E. Scholley, Chief Principal Research Analyst, Research Division, Legislative Counsel Bureau (LCB) provided an overview of the Committee's duties ([Exhibit B](#)). She advised members of LCB Bulletin No. 07-21, "Committee on High-Level Radioactive Waste," which details the activities of the Committee over the last interim.

United States Department of Energy (DOE)—Overview of Yucca Mountain Project

- Edward F. (Ward) Sproat III, Director, Office of Civilian Radioactive Waste Management, DOE, provided a Microsoft PowerPoint presentation to the Committee ([Exhibit C](#)). He presented key program milestone updates on the Yucca Mountain Project (Project) reporting on completion dates, as well as dates that were on target and deadlines on projects that were behind schedule. Mr. Sproat explained that the design project needed to support the license application and the certification of the licensing support network were both completed on schedule. He noted that the State's challenge of the DOE's certification was denied by the pre-application hearing board. Mr. Sproat reported that the State is now under obligation to certify its document collection to the Nuclear Regulatory Commission (NRC). A third milestone he commented on was a supplemental draft to the Environmental Impact Statement (EIS) for the Project that was in process. He said the next step is submitting a license application to the NRC.

Mr. Sproat discussed budget cuts and stated the final appropriation amount of \$108 million in Fiscal Year (FY) 2008 was less than what President George W. Bush had requested. He added there would be significant lay-offs mostly in the State of Nevada and the budgets cuts would also impact construction activities at Yucca Mountain and rail line construction. Mr. Sproat noted that it is unlikely that Yucca Mountain would be able to receive waste shipments by 2017.

Continuing, Mr. Sproat reported the single biggest issue facing the project, and one which he opined should be a concern to the Committee, is the impact of the Gramm-Hollings Budget Deficit Reduction Act, which classifies funds in the Nuclear Waste Fund (NWF) as mandatory receipts and deems Yucca Mountain a discretionary program. He commented because the Act does not allow mandatory receipts to be used for discretionary programs, the funds paid by nuclear utility plants into the NWF are being used to reduce the federal deficit rather than going to Yucca Mountain.

Further challenges Mr. Sproat discussed included:

1. Lack of revenue stream funds;
2. Program structure and lack of continuity of leadership;
3. The Environmental Protection Agency's (EPA) lack of issuance of the revised final rule on new radiation exposure levels; and
4. A \$7 billion financial liability due to litigation cases brought by utility companies for nonperformance by the DOE in a contractual agreement to dispose of spent nuclear fuel.

In conclusion, Mr. Sproat discussed possible future expansion of Yucca Mountain due to the amount of nuclear waste already accumulated and the rate at which additional waste is being generated. He said although the Nuclear Waste Policy Act limits the size of Yucca Mountain, it requires a report to be submitted to Congress in 2008 addressing the need for a second repository.

- Senator Rhoads asked if the DOE had ever considered low-level waste shipments for the Yucca Mountain site (Site) and if the United States was the only country facing the high-level radioactive waste (HLRW) dilemma.
- Mr. Sproat replied that other countries are facing the same issues and commented on other ideas that have been suggested as alternatives to Yucca Mountain, such as centralized interim storage areas on government land.
- Senator Rhoads stated his concerns regarding the safety issues surrounding the Site.
- Senator Lee asked about the number of employees currently working at the Site and the amount of workers that would be affected.
- Mr. Sproat responded that currently there are approximately 65 to 70 workers at the Site who will be laid off in the next 30 days. He noted there are approximately 2,400 full-time equivalent (FTE) employees in the program who are located in California, Colorado, Nevada, New Mexico, and Washington DC. Mr. Sproat said he anticipates at least 500 FTEs will be removed from the program over the next several months. He reported the majority of the affected 500 FTEs are in Nevada.
- Senator Lee asked if the utilities could stop paying fees into the NWF.
- Mr. Sproat declined to comment due to pending litigation.
- Senator McGinness asked for further clarification about the fees paid by utilities into the NWF.

- Mr. Sproat responded that the DOE is working to resolve the issue without legislation.
- Assemblywoman Weber asked for clarification of the timeline for the default of contracts that were under litigation and the funding requirements.
- Mr. Sproat explained that costs were incurred and suits were filed at the time the spent nuclear fuel required storage. He said litigation occurred because licensing had not been obtained to permit the storage. Mr. Sproat reported that most cases were still pending; however, several had been settled.
- In response to a question from Assemblyman Hogan about status of changes in the character of activity at the Site, Mr. Sproat said the U.S. Congress was operating under budget caps that caused cuts to the Program and significant managerial changes had occurred; however, he opined that a licensing application would still be completed.
- Senator Lee asked about the probability of transference of low-level waste to an interim storage site in Nevada.
- Mr. Sproat stated under the existing regulatory structure, the private sector has responsibility for disposal of low-level radioactive waste. He clarified that spent fuel rods from reactors fall in the category of high-level nuclear waste (HLRW), which is scheduled to go to Yucca Mountain.
- In response to Assemblyman Hogan's question about the DOE's role in providing security for the sites, Mr. Sproat replied the design of the interim storage facility and the security was regulated by the commercial licensee under the NRC's storage and security requirements.

Nevada's Agency for Nuclear Projects—Overview of Activities

- Robert R. Loux, Executive Director, Nevada's Agency for Nuclear Projects (Agency), explained the State's role in the Yucca Mountain process and described the duties of the Agency. Mr. Loux discussed document certification and the Agency's efforts towards accomplishing this project. He reported the State of Nevada and the City of Las Vegas are likely to enter into a joint prosecution confidentiality agreement and commented that the same agreement was offered to Clark County. Mr. Loux stated once the agreement is completed, the State, County, and City issues will all be included in the DOE license application challenges. He expects the agreement to be completed in 2008.

Continuing, Mr. Loux explained that the federal budget constraints were affecting the Agency and talked about efforts to reduce expenditures until delayed federal funds were received. He reported on a federal budget increase from \$2 million in previous years to \$5 million received this year. Mr. Loux stated another primary project the Agency was conducting included the review of the two EISs, one being a

supplemental impact statement on the overall Yucca Mountain EIS issued in 2002 and the other being the EIS on the Caliente rail line.

Mr. Loux also covered the ongoing concerns of the Agency regarding aging storage facilities, container design, and expansion of the Site. He commented on the lack of a national transportation plan, the potential for terrorism, federal regulation of military fly zone areas and land withdrawals, the installation of titanium drip shields, and concerns about the DOE's ability to submit an emergency plan. He also touched on impacts on grazing and wildlife, private property rights, volcanic hazard concerns, and water rights issues.

- Senator Lee asked for clarification of the Agency's budget and emergency funding. He wondered why North Las Vegas was not active in the appeals.
- Mr. Loux explained that a supplemental appropriation was approved by the Legislature for emergency funding to assist the Agency. He also stated the increased funding was approved by Congress. Mr. Loux noted that North Las Vegas was not as involved with the Project but if there was interest to do so the Agency would include them.
- Assemblyman Hogan asked if law firms and scientific and technical contractors could be found in Nevada.
- Mr. Loux replied the law firms with expertise in the HLRW field were located mainly in New York or Washington DC. He commented that since the DOE used scientific experts from the universities in Nevada, the Agency searched for scientists in other areas including the United Kingdom and the People's Republic of China.

Legal Issues Relating to Yucca Mountain—Overview of Litigation

- Marta A. Adams, Senior Deputy Attorney General, Nevada's Office of the Attorney General (AG), testified about pending litigation. She noted there was a lull in litigation awaiting the radiation standard (Standard) issuance by the EPA. Ms. Adams opined the Standard was being delayed purposely to moot Nevada's challenge when it is issued. She stated the NRC licensing rule would also be challenged.

Ms. Adams discussed water disputes and interim use of water at the Site that had not been agreed upon between the State and the DOE. She stated that Chief Judge Roger L. Hunt, U.S. District Court in Las Vegas, heard the AG's petition and that the DOE is appealing the decision. Ms. Adams discussed concerns with the aging pad at the repository, interim disposal and storage, the NRC's treatment of the DOE's pending EIS, terrorism, and transportation. She commented that petitions dealing with rulemaking and procedural issues the State has with the NRC have been filed and are pending. Ms. Adams reported that Catherine Cortez Masto, Nevada's Attorney General, Office of the Attorney General, is very concerned about these procedural

issues. She noted that in October 2007, the Attorney General testified before Congress regarding concerns about the radiation standards, the lack of key documents, and the DOE schedule for license application.

- Assemblyman Hogan asked about the status of the pending water applications.
- Ms. Adams said at the present time there are two cases in federal court in Las Vegas. The case regarding the merits of an application by the DOE for 430 acre-feet of water is stayed until the DOE has the authority to move forward. She reported the State Engineer had denied the application in 2000 and it has been in litigation since that denial. Ms. Adams expressed doubt as to whether the appeal of Judge Hunt's decision on the temporary water use agreement matter will be pursued by the DOE.

National Conference of State Legislatures (NCSL)—Overview of NCSL Activities and State Policy Trends Regarding Nuclear Waste and Related Matters

- Melissa Savage, Program Director, Environment, Energy and Transportation, NCSL, provided a Microsoft Powerpoint presentation ([Exhibit D](#)) detailing the mission of the NCSL, the policy position decisions made by the standing committees, and a history of the environmental management project. She discussed the two projects at the NCSL Denver office that are most closely related to the Committee, the environmental management roundtable, and the HLRW working group. Ms. Savage stated the work of the NCSL was to gather and share information on issues facing the states in the process of the transportation of the HLRW. She invited Committee members to attend the NCSL roundtable and working group meetings and offered site visits and technical assistance available through the NCSL. In closing, Ms. Savage shared information received from the last HLRW working group meeting held in September 2007 in Washington DC.
- Christina Nelson, Senior Policy Specialist, Environment, Energy and Transportation, NCSL, continued the presentation with an example of a legislator tool kit that the NCSL currently has available on Microsoft PowerPoint, which will soon be available on the NCSL website, for legislators to make presentations on radioactive waste to their constituents. She presented a demonstration of the information which provided examples of different types of radioactive waste, the types of storage, transportation, and a comparison of radiation doses. Ms. Nelson discussed NCSL's latest radioactive waste roundtable meeting and other meetings of interest held in 2007. She reported on state legislative trends regarding radiation waste. Ms. Nelson also pointed out the most popular bills regarding radiation waste introduced, which included the following issues:
 1. Depleted uranium;
 2. Nuclear power plant and storage issues;

3. Low-level radioactive waste, uranium mill tailings, and byproduct waste;
4. Radioactive waste transport fees; and
5. Support for a federal repository or other resolution to federal inaction on spent fuel disposal.

In conclusion, Ms. Nelson reported many bills in the western states involved cleanup of sites, and most all of the states were in favor of raising or imposing transportation fees. Further, she said there were resolutions made in many state legislatures supporting the federal government's action on the nuclear waste issue. In closing, Ms. Nelson provided contact information to the Committee.

- Senator Lee inquired about any proactive measures being taken by the NCSL.
- Ms. Savage stated issues are brought before the NCSL standing committee which require a majority vote of the committee for approval on any action. She said the NCSL was currently working with legislators from other states in an effort to prompt them to devise their own solutions and ideas for their individual states. Ms. Savage reported a summit was held in 2006 by NCSL for brainstorming major issues; the result of the summit was that the proactive solution phase should be brought before the federal government. She added another summit is planned for July 2008.
- In response to Senator Lee's question about applications for sites and water for cooling reactors, Ms. Nelson responded currently there are 15 to 18 applications.
- Ms. Savage added that most reactor cooling sites were located near oceans.
- Assemblywoman Weber asked if the site applications were confined to sites in the southeast corridor.
- Ms. Nelson responded that all the site applications were for locations in the south with the exception of one application from New York. She also reported on an accelerated cleanup strategy, which slated additional funds to complete an entire complex cleanup of the DOE sites by 2042.
- Assemblyman Hogan questioned reprocessing techniques in France and Japan that may have a new approach which would lower the hazards of the materials.
- Ms. Nelson stated that President Bush, under the Global Nuclear Energy Partnership, proposed reprocessing waste and supported finding a technology, after a research phase that could design a facility which would reprocess waste in an economically efficient manner. She discussed a new recycling procedure used in France, studies on plutonium and uranium recovery by extraction (PUREX), and the nuclear proliferation issues raised by reprocessing.

- Assemblyman Hogan wondered how long the research phase of the recycling procedures would take and if recycling would create less waste requiring storage.
- Ms. Nelson responded that recycled material, even if reduced, would still be factored in at the weight of waste previously measured by the NRC.

PUBLIC COMMENT

(As directed by Chairman McGinness, this agenda item was taken out of order.)

- Gary Duarte, Director of U.S. Nuclear Energy, Sparks, Nevada, provided written testimony ([Exhibit E](#)) and discussed the benefits of the proposed Yucca Mountain repository.
- Irene Navis, Planning Manager, Clark County's Nuclear Waste Program, Las Vegas, Nevada, discussed the key aspects of the Clark County Program, reported on its accomplishments over the past year, and advised the Committee of informational reports and publications that are available to them. She said the Program published EIS comments that were similar to the State's. Ms. Navis stated that podcasting was available on a wide variety of topics relating to Yucca Mountain. She called attention to community surveys the Program conducted and reported that 67 percent of Clark County's residents surveyed were opposed to a nuclear waste repository. Ms. Navis commented that studies report the Las Vegas urban area is the ninth highest area most likely to be at risk for terrorism and sabotage events.
- Assemblywoman Weber asked how often the surveys were conducted and funded and requested more detail on the types of surveys.
- Ms. Navis stated that surveys are funded by money from the federal government given to affected units of government and are made approximately every six months. She added that survey questions are reviewed and scientifically evaluated. Ms. Navis provided an Internet address where members could access this information. (www.monitoringprogram.com.)

There was further discussion among members about the survey questions and monitoring of responses.

DETERMINATION OF DATES FOR FUTURE MEETINGS AND SCHEDULING OTHER COMMITTEE ACTIVITIES

- Chairman McGinness asked members to check their schedules and return the form provided in their packet indicating their availability for future meetings.
- Susan E. Scholley, previously identified, asked if any members were interested in touring Yucca Mountain or any other areas of significance and directed them to advise Chairman McGinness of their requests.

ADJOURNMENT

There being no further business to come before the Committee, the meeting was adjourned at 12:13 p.m.

Respectfully submitted,

Sally Trotter
Senior Research Secretary

Susan E. Scholley
Chief Principal Research Analyst

APPROVED BY:

Senator Mike McGinness, Chair

Date: _____

LIST OF EXHIBITS

[Exhibit A](#) is the “Meeting Notice and Agenda” provided by Susan E. Scholley, Chief Principal Research Analyst, Research Division, Legislative Counsel Bureau (LCB).

[Exhibit B](#) is a memorandum dated January 15, 2008, to the Chairman and Members of the Nevada Legislature’s Committee on High-Level Radioactive Waste titled “Overview of History and Duties of Nevada’s Legislative Committee on High-Level Radioactive Waste,” provided by Susan E. Scholley, Chief Principal Research Analyst, Research Division, LCB.

[Exhibit C](#) is a Microsoft PowerPoint presentation titled “Yucca Mountain Project Update,” presented by Edward F. Sproat III, Director, Office of Civilian Radioactive Waste Management, U.S. Department of Energy, dated January 15, 2008.

[Exhibit D](#) is a Microsoft PowerPoint presentation titled “NCSL Radioactive Waste Projects and State Trends in Radioactive Waste,” presented by Melissa Savage, Program Director, Environment, Energy and Transportation, and Christina Nelson, Senior Policy Specialist, Environment, Energy and Transportation, National Conference of State Legislatures.

[Exhibit E](#) is the written testimony of Gary Duarte, Director of U.S. Nuclear Energy, Sparks, Nevada.

This set of “Summary Minutes and Action Report” is supplied as an informational service. Exhibits in electronic format may not be complete. Copies of the complete exhibits, other materials distributed at the meeting, and the audio record are on file in the Research Library of the Legislative Counsel Bureau, Carson City, Nevada. You may contact the Library online at www.leg.state.nv.us/lcb/research/library/feedbackmail.cfm or telephone: 775/684-6827.