



**MINUTES OF THE MEETING
OF THE
NEVADA LEGISLATURE'S COMMITTEE ON
HIGH-LEVEL RADIOACTIVE WASTE
(*Nevada Revised Statutes 459.0085*)
November 18, 1999
Las Vegas, Nevada**

The first meeting of the Nevada Legislature's Committee on High-Level Radioactive Waste (HLRW) (*Nevada Revised Statutes* [NRS] 459.0085) for the 1999-2000 interim was held on Thursday, November 18, 1999, commencing at 9:30 a.m. and video conferenced to Room 4412 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada.

Pages 2, 3, and 4 contain the "Meeting Notice and Agenda."

COMMITTEE MEMBERS PRESENT:

Senator Lawrence E. Jacobsen, Chairman

Senator Mike McGinness, Vice Chairman

Senator Bill R. O'Donnell

Assemblyman John J. Lee

Assemblyman Harry Mortenson

Assemblyman Robert E. (Bob) Price

Assemblywoman Sandra Tiffany

COMMITTEE MEMBERS ABSENT:

Senator Raymond C. Shaffer

LEGISLATIVE COUNSEL BUREAU STAFF PRESENT:

John L. Meder, Senior Research Analyst

Steven J. Coburn, Senior Deputy Legislative Counsel

Nenita R. Wasserman, Senior Research Secretary

MEETING NOTICE AND AGENDA

Name of Organization: Nevada Legislature's Committee on High-Level Radioactive Waste

(Nevada Revised Statutes 459.0085)

Date and Time of Meeting: Thursday, November 18, 1999

9:30 a.m.

Place of Meeting: Grant Sawyer State Office Building

Room 4412

555 East Washington Avenue

Las Vegas, Nevada

Note: Some members of the committee may be attending the meeting and other persons may observe the meeting and provide testimony, through a simultaneous video conference conducted at the following location:

Legislative Building

Room 2135

401 South Carson Street

Carson City, Nevada

A G E N D A

I. Opening Remarks and Introductions by the Chairman.

Senator Lawrence E. Jacobsen

*II. Approval of Minutes of December 16, 1998, Meeting.

III. Reports to Committee.

A. Update on Status of the High-Level Radioactive Waste Program of the United States Department of Energy.

J. Russell Dyer, Ph.D., Acting Project Manager, Department of Energy Yucca Mountain (Nevada) Site Characterization Office

Topics to include:

1. The underground and surface scientific studies relating to the Yucca Mountain Site Characterization project.
2. The Yucca Mountain Draft Environmental Impact Statement and Public Hearings.
3. The impacts on a repository design and program from the Radiation Health Standards proposed by the U.S. Environmental Protection Agency and the U.S. Nuclear Regulatory Commission.
4. The Yucca Mountain Site Characterization program schedule for Federal Fiscal Year 2000.

B. Update on the Nevada Agency for Nuclear Projects' (NANP) activities and review of scientific studies.

Robert R. Loux, Executive Director

Topics to include:

1. The State agency review of the Yucca Mountain Draft Environmental Impact Statement and participation at public hearings.
2. The NANP-sponsored Pre-Public Hearing Workshops.
3. The proposed Radiation Health Standards by the U.S. Environmental Protection Agency and the Nuclear Regulatory Commission for a possible repository at Yucca Mountain.
4. Status of legal actions involving the State or being monitored by the NANP.

C. Lunch

D. Overview of the proposed radiation health standards for a possible high-level radioactive waste repository at Yucca Mountain by the U.S. Environmental Protection Agency.

Steve Page, Director, Office of Air and Radiation

E. Update on High-Level Radioactive Waste activities of the National Conference of State Legislatures.

Linda Sikkema, Program Principal

F. Update on activities of the Citizens Against Nuclear Waste in Nevada (CANWIN).

Cheryl Lau, President

G. Clark County Radioactive Waste Oversight activities.

Dennis Bechtel, Planning Manager for the Clark County Department of Comprehensive Planning, Las Vegas

Bob Andrews, Clark County Emergency Management

H. Update on oversight activities of the Affected Units of Local Governments.

IV. Public Testimony.

V. Comments and Discussion by Committee Members.

VI. Adjournment.

*Denotes item on which the committee may take action.

Note: We are pleased to make reasonable accommodations for members of the public who are disabled and wish to attend the meeting. If special arrangements for the meeting are necessary, please notify the Research Division of the Legislative Counsel Bureau, in writing, at the Legislative Building, 401 South Carson Street, Carson City, Nevada 89701-4747, or call Nenita Wasserman, at (775) 684-6825, as soon as possible.

Notice of this meeting was posted in the following Carson City, Nevada, locations: Blasdel Building, 209 East Musser Street; Capitol Press Corps, Basement, Capitol Building; Carson City Courthouse, 198 North Carson Street; Legislative Building, 401 South Carson Street; and Nevada State Library, 100 Stewart Street. Notice of this meeting was faxed for posting to the following Las Vegas, Nevada, locations: Grant Sawyer State Office Building, 555 East Washington Avenue; and Clark County Office, 500 South Grand Central Parkway.

OPENING REMARKS AND INTRODUCTIONS BY THE CHAIRMAN

Chairman Jacobsen welcomed everyone and called the meeting to order at 9:30 a.m. He explained that this was a fact-finding committee and its goal is to be well informed. He introduced staff and committee members.

APPROVAL OF MEETING MINUTES OF DECEMBER 16, 1998

ASSEMBLYMAN LEE MOVED FOR APPROVAL OF THE MEETING MINUTES FOR DECEMBER 16, 1998. THE MOTION WAS SECONDED BY ASSEMBLYMAN MORTENSON AND CARRIED UNANIMOUSLY.

REPORTS TO COMMITTEE

UPDATE ON STATUS OF THE RADIOACTIVE WASTE PROGRAM BY THE UNITED STATES DEPARTMENT OF ENERGY

J. Russell Dyer, Ph.D.

J. Russell Dyer, Ph.D., Project Manager, Department of Energy (DOE) Yucca Mountain Site Characterization Office, gave a slide presentation concerning the activities at the Yucca Mountain Site Characterization Program, the Viability Assessment Report (VAR), scientific projects, and the *Draft Environmental Impact Statement* (DEIS). A hard copy of the slide presentation is Exhibit A-1.

Dr. Dyer noted that he has been the Project Manager for approximately two years. He explained that his presentation would update the committee on what has happened the past year since he last spoke before this group.

If all the studies of supporting activities, such as the EIS, license application, site recommendation, and VAR are positive, Dr. Dyer stated, the result would be an operating high-level nuclear waste repository at Yucca Mountain in the year 2010.

The Underground and Surface Scientific Studies Relating to the Yucca Mountain Site Characterization Project

Dr. Dyer reviewed the summary of the *1980 Programmatic Environmental Impact Statement* which states what the national approach is for dealing with high-level radioactive waste (HLW). The alternatives for waste disposal at that time included: space, sub sea bed, well injection of liquids, building a very deep bore hole for canisters of material, rock melt technology, disposal on an isolated island, disposal in an ice sheet, transmutation and deep geologic disposal. In his presentation he covered the following points:

- The results of the Nuclear Waste Policy Act (NWPA) of 1982 (42 *United States Code* 10101 *et seq.*) was deep geologic disposal for waste disposal.
- There has been a move to review some of these potential technologies again such as transmutation.
- Worldwide scientific consensus is that geologic repositories are the best option for dealing with these high-level radio active nuclear material.

- International confidence in the feasibility of secure and safe deep geologic disposal has been enhanced by improved understanding of safety-relevant processes; development of detailed repository concepts in many countries; application of rigorous safety-assessment methods; independent review by national and international groups of experts; and development and demonstration of technologies.

In response to Mr. Mortenson's question as to what would be done with the bulk of the Uranium 238 in transmutation disposal, Dr. Dyer explained that in a continuous reprocessing system, some of the materials would be burned but much of it would be reprocessed. As to how specific inventory would be processed, he would have to research that question and respond to Mr. Mortenson at a later date.

Regarding international confidence and the feasibility of secure and safety geologic disposal, Dr. Dyer noted this area has been enhanced by some actions that have occurred internationally and covered the following topics:

- Finland is close to approving a site and beginning the development of a repository program.
- Almost every nation that has some kind of nuclear capability such as Japan, Russia and Western Europe have some kind of geological program.

The Yucca Mountain Draft Environmental Impact Statement and Public Hearings.

In July 1999, Dr. Dyer stated that his office released a draft EIS and covered the following items in his testimony:

- The NWPA calls for a final EIS to be produced to inform the national decision as to what to do with the repository.
- The DEIS is a voluminous document which was provided to the committee on CD-ROM and is Exhibit A-2 of these minutes.
- The final EIS would be published in November 2000.
- The goal of the EIS is a site suitability decision recommendation which on the current schedule would be July 2001.

Addressing Mrs. Tiffany's question, Dr. Dyer stated that NWPA provides that the State of Nevada can protest a decision for a repository and the state would be notified of that which could slow the time line for the repository.

Dr. Dyer stated that if all the studies of supporting activities, such as the EIS, license application, site recommendation, and VAR are positive, the result would be an operating high-level nuclear waste repository at Yucca Mountain in the year 2010. He covered the following points in his testimony:

- The United States Secretary of Energy has made a commitment to release the VAR by the end of 1999.
- Depending on the outcome of the site recommendation for Yucca Mountain, potential license application actions may be taken. The DOE is maintaining momentum on the completion of the Yucca Mountain report to help determine whether that site will be suitable for a permanent repository.
- The mission statement of the Yucca Mountain Site Characterization Project is to provide the basis for a national decision regarding the development of a repository for spent nuclear fuel and high-level waste at Yucca Mountain.
- Work should proceed to support a decision in 2001 on whether to recommend the site to the President for development as a repository.
- Costs to develop a repository are reasonable and supported by Total System Life Cycle Cost analyses.
- The purpose of the DEIS is to provide information on potential environmental impacts that could result from a Proposed Action to construct, operate, and monitor, and eventually close a geologic repository for the disposal of spent nuclear fuel and HLW at the Yucca Mountain site; and to solicit public input to the decision process.
- The VAR was dictated by the United States Congress and will allow an informed decision on what to do strategically on a national scale regarding radioactive waste in general.

Dr. Dyer reviewed the major technical components of the VAR, which are detailed in Exhibit A and covered the following points:

- A preliminary design concept for the critical elements of the repository and waste package.
 - A total system performance assessment based upon the design concept and scientific data.
 - A plan and cost estimate for the remaining work required to complete a license application.
 - An estimate of the costs to construct and operate the repository in accordance with the design concept.
- The VAR will be contained in five volumes and made available on the Internet when it is officially released.

Dr. Dyer reviewed the dates of public hearings regarding the DEIS which are listed in detail on page 21 of Exhibit A-1.

Addressing Chairman Jacobsen's question, Dr. Dyer stated that it would be a good experience for committee members to attend the scheduled hearings to brief the state agencies. He explained the hearings are used as one forum to receive input for the DEIS. He noted that comments and input are also taken by e-mail, mail, and telephone calls.

The status of proposed changes to the Siting Guidelines for a High-Level Radioactive Waste Repository.

Regarding the license application plan and cost estimate, Dr. Dyer stated that it will:

- Identify the actions required and remaining work needed to develop a license application by the year 2002.
- Explain why the planned work is necessary and sufficient.
- Identify performance uncertainties that need additional information.
- Describe the performance confirmation plan that will continue during repository construction and operation.

Dr. Dyer explained that after the DEIS was published, a briefing before state agencies was conducted. He reviewed a list of public hearings that are scheduled and listed in detail on page 22 of Exhibit A-1.

Dr. Dyer reviewed the site recommendation process and made the following points in his presentation:

- The project's primary focus for Fiscal Year 2000 and Fiscal Year 2001 is the work leading to the evaluation of suitability and possible site recommendation.
- The Nuclear Waste Policy Act establishes a process of public consultation before the Secretary of Energy makes a decision on whether or not to recommend approval of the site to the President.
- This process begins with public hearings in the vicinity of the site to inform residents of the area and receive their comments regarding the possible recommendation.
- The DOE will release a Site Recommendation Consideration Report (SRCR) before the public hearings to inform the public of the basis for the Secretary's consideration of a possible recommendations.
- The SRCR will also be used to solicit the views and comments of the Governor and legislature of any state, and the governing body of any affected Indian tribe.
- After completion of these hearings and site characterization, the Secretary may decide to recommend the site.
- If the U.S. Secretary recommends the site, he must make available to the public and submit to the President, a comprehensive statement of the basis for the recommendation.

In response to Ms. Tiffany's question, Dr. Dyer explained if the Secretary recommends Yucca Mountain for the repository site, it is triggered by the notification to Congress and must be decided within 90 days. If the Congress voted for the site, the next action would be to prepare and submit a license application to the Nuclear Regulatory Commission (NRC). He commented that it is not a decision to build a system.

Mr. Mortenson stated in the unlikely event a Governor approved a repository site and a legislature disapproved a site, would it still go through the process of disapproval. Dr. Dyer stated that he would have to refer that question to counsel.

Addressing Mrs. Tiffany's question, Dr. Dyer replied that she was correct that early disposal can only occur after licensing.

Dr. Dyer reviewed a table titled "Budget Distribution Comparison" which details how funds have been appropriated from Fiscal Year 1994 to Fiscal Year 2000 for the Yucca Mountain project. He also reviewed how the funding was distributed between the State of Nevada, Nevada Cooperative Agreement, University System of Nevada, Payments Equal To Taxes (PETT), Nye County Science and Verification Program, and the Ten Affected County Governments. The distribution is listed in detail on pages 33-37 of Exhibit A-1 of these minutes.

In response to Ms. Tiffany's question as to what the end date of the PETT funds is, Allan Benson of the U.S. DOE, stated that the NWPA provides stated that as long as site characterization, construction or operation within the county or state, that it is in, PETT funds would continue.

The next topic Dr. Dyer discussed was the evolution of site characterization at Yucca Mountain Project action. His presentation covered the following topics:

- More than a decade of site and laboratory investigations have enhanced understanding of site conditions and processes and associated uncertainties.
- Total system performance assessment model abstractions better represent available engineering and scientific information.
- The Repository Safety Strategy continues to evolve and identifies the principal factors most significant to performance.
- Testing has evolved in response to enhanced understanding of site conditions and data needs; multiple iterations of the Total System Performance Assessment (TSPA) that better defined those factors most significant to performance; recommendations from oversight groups, peer reviews, and external parties; and annual funding limitations.
- Based on the TSPA for the Viability Assessment and the principle factors significant to performance as identified in the Repository Safety Strategy, DOE defined the remaining testing to be completed for site recommendation and license application.
- The most significant uncertainties requiring additional testing as identified in the VAR are: percolation flux, flow and transport in the unsaturated zone and saturated zone, and effect of waste generated heat on the system.
- The site characterization activities that the office is focused on at the present time are on the key uncertainties that were identified in the VAR which is Exhibit C of these minutes.
- The site characterization is almost closed. Most of what needs to be done has been completed and will move forward to the decision makers.

Dr. Dyer invited Committee members to tour the Yucca Mountain Repository at their convenience.

Chairman Jacobsen and Mr. Price agreed with Ms. Tiffany's suggestion that this committee continue to meet during the 2001 Legislative Session.

UPDATE ON THE NEVADA AGENCY FOR NUCLEAR PROJECTS' ACTIVITIES BY AGENCY STAFF

The State agency review of the Yucca Mountain Draft Environmental Impact Statement and participation at public hearings.

Robert R. Loux

Robert R. Loux, Executive Director, Nevada's Agency for Nuclear Projects (NANP), covered the following points regarding the DEIS:

- It was the opinion of his office, the DOE has reversed the philosophy of the program that has been in place since 1980 which is that natural geology will be the primary barrier for the repository that is currently in law. Currently, the DOE indicates that the engineered barrier provides almost all of the performance with the natural barrier providing two to five percent.
- Since the DOE has changed its position, the NRC has also changed its position from one that requires geology as the primary barrier to one that allows for the approach of a totally engineered barrier to compensate for faulty geology.
- The latest discussions in the scientific community is the question if it is appropriate for an engineered barrier to provide most of the requirements of the site and the natural barrier providing very little.
- If the nuclear regulatory agency regulations go forward as proposed and the DOE Final EIS continues to rely on engineered barriers to compensate for faulty natural systems, it was his opinion that they were both legally deficient and do not meet the requirements of the NWPA.

Mr. Loux stated the DEIS is a result of the NWPA which is a federal requirement when constructing or initiating a federal project. The NANP has not completed its review of the DEIS but have noted several deficiencies and covered the following points:

- The NWPA requires the DOE to review no action alternatives in combination with the act of preferred action.
- In the DOE's No Action Alternatives, there are two no action alternatives that have been included that his office is of the opinion are not reasonable and do not meet the test of the law.

A. The DOE assumes that the high-level nuclear waste and spent nuclear fuel would remain at the 77 source sites under institutional controls for at least 10,000 years.

B. The high-level nuclear waste and spent nuclear fuel would remain at the 77 source sites for 10,000 years under institutional controls for a period of 100 years.

Mr. Loux noted that the NWPA requires that if it is found that the Yucca Mountain site does not meet the requirements for a nuclear waste repository, it must be reported back to Congress and attempt to get new direction. He also covered the following points:

- The DEIS does not specifically identify transportation routes which does not allow for analysis of potential transportation routes which is a legal defect.
- It is difficult to look and analyze the current design when it not the actual design. The design has been changed several times and is not reflected in the DEIS.
- Teams have been organized within all the affected state agencies.
- Efforts have been made to review the DEIS by December 2000.
- His office has conducted eight workshops around Nevada to educate the public regarding the legal requirements of the DEIS.

The NNP-sponsored Pre-Public Hearing Workshops

Mr. Loux reported that his office has received complaints on the format for the hearings presented by the DOE. Public comment is taken towards the end of the hearings and so all comments made earlier during the presentation are not made part of the record.

The proposed Radiation Health Standards by the U.S. Environmental Protection Agency and the Nuclear Regulatory Commission for a possible repository at Yucca Mountain

Mr. Loux noted that the geologic natural barriers have been defined by the scientific community as inadequate because it is incapable of reducing the rate of radio nuclide release. The EPA is drafting their standard for radio nuclide release to compensate for the inadequacies of the Yucca Mountain site. He also covered the following points regarding the release standards:

1. The period of performance is a period of 10,000 years which his office is of the opinion is not long enough. The peak doses from the repository will occur between 200,000 and 300,000 years.
2. There is a concern there is a proposal that the doses of release would not be measured at 5 kilometers but at 20 kilometers which is more in line with DOE's view of how the site works and allows the deliberate pollution of the Armagosa Aquifer.
3. The controlled area proposed could be as large as 100,000 kilometers which is much larger than necessary.
4. Instead of providing for the assurance of safety at the Yucca Mountain repository site, the ruling appears to be a vehicle to permit licensing of an unsafe repository site.

Regarding water hearings, Mr. Loux indicated that the DOE has applied for water rights at the Yucca Mountain site for the construction and operation of the site. His office has protested these

rights and argued that granting of the water permits is not in the public interest and would create an unhealthy economic climate in Southern Nevada. The Nevada State Water Engineer will make a decision at the beginning of the year 2000.

Addressing Senator Jacobsen's question, Mr. Loux noted that most of the concerns expressed at the hearings are regarding the lack of transportation routes.

In response to Mr. Lee's question as to what the NANP is doing to keep interim storage out of Nevada, Mr. Loux

stated that the NANP has not been active in that environment since it is in Congress. Mr. Loux indicated that his office is not involved in any lobbying activity but has provided information to the Nevada Congressional delegation, who are doing an excellent job, in his opinion, with that subject.

Status of legal actions involving the State or being monitored by the NANP

Mr. Loux reported that he did not have anything to report on pending legal actions of the State that are being monitored by the NANP at this time.

UPDATE ON HIGH-LEVEL RADIOACTIVE WASTE ACTIVITIES OF THE NATIONAL CONFERENCE OF STATE LEGISLATURES.

Linda Sikkema

Linda Sikkema, Program Principal, National Conference of State Legislatures (NCSL), Denver, Colorado, provided the committee with a copy of her presentation, which is attached as Exhibit E. testified through teleconference and a detailed copy of her testimony is Exhibit D. She covered the following points:

- The NCSL's High-Level Radioactive Waste Committee met on September 23-24, 1999 in Arlington, Virginia. The committee received updates from the Office of Civilian Radioactive Waste Management, Yucca Mountain Environmental Impact Statement Overview; Surplus Plutonium Disposition Activities; Foreign Research Reactor Spent Nuclear Fuel Program; NRC Commission activities; Nuclear Waste Technical Review Board and the NCSL's Washington/Oregon Legislative Roundtable.
- "It is the goal of the High-Level Radioactive Waste Working Group to gather information about the storage, disposal and transportation of HLWs and to share that information with fellow legislators from individual states to better inform them regarding public policy decisions about these issues. The primary focus of the working group is high-level waste, the group may also decide to address other related issues. It will issue reports and other documents as appropriate."
- The NCSL staff is working to secure funding for the Working Group's year 2000 activities.
- There is an agreement that the group has with the DOE Environmental Management Program and are going to put together a legislative round table for New Mexico, Idaho, and Colorado legislators inviting some Nevada and Washington legislators to come to Santa Fe in February 2000 to discuss the Waste Isolation Pilot Plant

(WIPP) near Carlsbad, N.M., and transportation issues of transuranic waste going to WIPP.

Continuing her presentation, Ms. Sikkema summarized recent developments in radio active materials transportation at the state and federal levels and covered the following topics:

- In an effort to standardize transportation protocols, the Senior Executive Transportation Forum (SETF) of the U.S. Department of Energy has compiled information on current protocols and practices in the shipment of radioactive materials by DOE. About 4,000 to 5,000 of such shipments are made by the DOE each year. Included are weapons-related materials, spent nuclear fuel, transuranic waste, high-level waste, low-level waste, radioisotopes, tritium, plutonium residues and oxides, and highly enriched uranium.
- The DOE intends to periodically update the protocols and practices document for currency, completeness and continued compliance with laws and regulations.

Ms. Sikkema reviewed other items of interest for the committee and stated that:

- The New Hampshire's legislature -- called the General Court -- enacted a strict law to govern HLW transportation which went into effect on January 1, 1999. The act requires that a permit be obtained for transportation of HLW including spent fuel by road, rail or water. Permittees would have to identify routes that would be traveled; identify emergency response personnel who would accompany each shipment as well as emergency response resources along the route; and identify foreseeable accident and shipment disruption scenarios.
- The State of Indiana prepared for an expected increase in high level waste shipments and the Indiana Legislature passed Senate Bill 154 which was signed by the Governor on May 5, 1999. The new law addresses emergency response by requiring the preparation of a state plan for emergency response to a high-level waste transportation accident in Indiana.
- To reduce the threat of nuclear terrorism, the United States is accepting spent nuclear fuel rods from foreign research reactors to ensure that the highly enriched uranium they contain will not be used to make nuclear weapons.

Ms. Sikkema stated that she would note Ms. Tiffany's interest in attending the next the legislative round table meeting to be held in Santa Fe, New Mexico. She would notify the committee of the meeting dates and the only restriction would be budget and not for any other reason to limit attendance.

OVERVIEW OF THE PROPOSED RADIATION HEALTH STANDARDS FOR A POSSIBLE HIGH-LEVEL RADIOACTIVE WASTE REPOSITORY AT YUCCA MOUNTAIN BY THE U.S. ENVIRONMENTAL PROTECTION AGENCY.

Frank Marcinowski

Frank Marcinowski, Acting Director, Radiation Protection Division, gave an overview of the proposed radiation health standards for a possible HLW repository at Yucca Mountain by the EPA.. Mr. Marcinowski testified that his agency is responsible for the developing of EPA standards for the Yucca Mountain facility. Other responsibilities include overseeing waste at the WIPP facility. He provided a copy of his detailed testimony which is Exhibit E of these minutes. He reviewed the following items related Yucca Mountain:

- His office is involved in the EPA standards pursuant to the *Energy Policy Act* of 1992. A report was received from the National Academy of Sciences (NAS) on recommendations that should be considered. Public hearings were held on the NAS recommendations. A series of public hearings were held in October 1999 regarding the EPA standards.
- Initially this office was commissioned to receive a report from the NAS. Once that report was received, a number of hearings were held on the NAS recommendations.
- The proposed EPA standards were established in August 1999 and another series of public hearings were held. Hearings were held in Washington, D.C., Amargosa Valley, Las Vegas, Nevada and Kansas City, Missouri. Comments regarding the hearings are listed on page 15 and 16 of Exhibit E.

Mr. Marcinowski explained that the EPA standards for the Yucca Mountain site is divided into parts and is pictured in a flow chart on page 3 of Exhibit E. He reviewed the different standards described in detail in Exhibit E.

Continuing his testimony, Mr. Marcinowski stated in terms of where the ground water point of compliance for EPA standards is to be determined, four alternatives have been set to determine whether it complies with the ground water standard. He commented that:

- Two are a controlled area approach, one is 5 kilometers from the repository and the other is 5 kilometers plus the Nevada Test Site boundary.
- Designed points which are a fixed distance alternative are the Lathrop Wells intersection and Southern Amargosa Valley.

Mr. Marcinowski reviewed the reasons that separate ground water standards are necessary and stated that:

- It is Administration policy to protect all sources of ground water.
- To protect current and future resources is important.
- Prevention is easier and cheaper than treating contaminated water.

Mr. Mortenson asked if the DOE were to institute the 100 kilometer controlled area, would people have to be evacuated. Mr. Marcinowski explained that the controlled area is a 100 square kilometer area that is within the Nevada Test Site itself.

Addressing Mr. Mortenson's question regarding what the NAS said that the EPA should do regarding the standards initially set for Yucca Mountain, Mr. Marcinowski stated that there were a number of items that were different than the generic standards and explained that the NAS instructed the EPA to set a site specific standard.

UPDATE ON ACTIVITIES OF THE CITIZENS AGAINST NUCLEAR WASTE IN NEVADA (CANWIN)

There was no representative from Citizens Against Nuclear Waste in Nevada but a letter was submitted for the record. The letter is dated November 15, 1999, addressed to Chairman and Members of the Nevada Legislature's Committee on High-Level Radioactive Waste, from Cheryl Lau, President/Treasurer, of Citizens Against Nuclear Waste in Nevada (CANWIN) which gave an overview of CANWIN, its present activities, and future plans. The letter is Exhibit F of these minutes.

CLARK COUNTY RADIOACTIVE WASTE OVERSIGHT ACTIVITIES

Dennis Bechtel

Dennis Bechtel, Planning Manager for the Clark County Department of Comprehensive Planning, Las Vegas, stated in 1987 with passage of the Amendments Act, this provided a direct role for local governments in the HLRW program which was approved by DOE and have been funded for most years since then. He explained that Clark

County is one of ten affected counties. He introduced Fred Dilger, Clark County Department of Comprehensive Planning, whose area of expertise is on transportation issues.

Addressing Ms. Tiffany's question, Mr. Bechtel stated that he had been to the WIPP site and that it would be a good experience for the committee, particularly at the present time since it is accepting nuclear waste.

Mr. Bechtel testimony covered the following points:

- The county is concerned about the process DOE is using to evaluate Yucca Mountain.
- There has been a shift of the site being the primary site for the catch of nuclides shifting over to the engineered barrier system. The engineered barrier system will last only a certain period of time. The original objective of the NWPA required reliance on the environment.
- The program mentions that the area is isolated at the present time but 10,000 years from now the area may fit that definition. There is a community in the Armagosa Valley that is concerned about the release of radio nuclides to the water.

Mr. Bechtel stated that there are a number of concerns regarding the DEIS that the Clark County Office is of the opinion was not addressed well and stated that:

- There are specific concerns regarding potential impacts to the public health and safety of Clark County's citizens and possible adverse effects to the community's tourist-based economy.
- Quality of life and property value issues are avoided.
- Environmental justice is not addressed at all.

Fred Dilger

Fred Dilger, Clark County Department of Comprehensive Planning, stated his comments would focus on transportation which is his expertise. Mr. Dilger explained the major concerns that the Clark County office had with the DEIS included:

- The human health risk is understated for Clark County.
- The DEIS underestimates the cost of moving the high-level waste.
- No allocation or any responsibility is given for the transportation upgrades, or costs to acquire right of way.
- The document states that heavy haul transportation of HLW is half the price of building a rail line which Clark County does not agree.
- There is no indication which truck or rail route would be used to transport the HLW.

Mr. Lee asked if the county receives notification when a hazardous waste is being transported through the area. Mr. Dilger responded that notifications are passed to the highway patrol who coordinates well with the local emergency response personnel.

Continuing his testimony, Mr. Dilger commented that the DEIS does not provide enough information necessary to assess impacts in the transportation system. He stated that:

- The areas of concern that he addressed have not been studied adequately and this should be indicated as such to the Congress.
- It is not apparent to Clark County how the massive transportation problems can be overcome. It was his office's opinion, that license application and site characterization may be in vain unless a credible transportation system is produced.
- The DEIS should have defined what a "design accident." It is alluded to as a "maximum reasonably credible accident." This would be the "accident" that would be presented to emergency responders for analysis.
- A supplemental analysis to the DEIS may be necessary.

UPDATE ON OVERSIGHT ACTIVITIES OF THE AFFECTED UNITS OF LOCAL GOVERNMENTS

Mr. Dilger testified that each of the counties has an oversight program which looks at issues associated with the High-Level Radioactive Waste program. At the present time the local governments have had several meetings among the counties to share information. The Affected Units of Local Government will report on common issues that are agreed

on at a future meeting.

PUBLIC TESTIMONY

Bill Vasconi

Bill Vasconi, Nevada resident, stated that he appreciated the committee's involvement on this issue. He noted there are many Nevadans that are of the opinion that the Yucca Mountain Project is a national problem. His comments covered the following topics:

- Rural meetings have a good attendance at meetings regarding the Yucca Mountain project because a new road or rail system would affect them the most.
- Transportation is a major problem for the rural population.
- Emergency response is not possible from the rural areas if a nuclear waste accident were to occur.
- There are many people who are of the opinion that a rail system would be the best way to transport HLW.
- The state should have some benefits for having the repository and suggested a state trust fund be established.

ADJOURNMENT

There being no further business before the committee, Chairman Jacobsen adjourned the meeting.

Respectfully submitted,

Nenita Wasserman

Senior Research Secretary

John Meder

Senior Research Analyst

APPROVED BY:

Senator Lawrence E. Jacobsen, Chairman

Date: _____

LIST OF EXHIBITS

Exhibit A-1 is a hard copy of a slide presentation dated November 18, 1999, which was given by J. Russell Dyer, Ph.D., Project Manager, Yucca Mountain Site Characterization Office, United States Department of Energy, Las Vegas, Nevada.

Exhibit A-2 is a CD-ROM of the *Environmental Impact Statement* for a Geologic Repository for the Disposal of Spent Nuclear Fuel and High-Level Radioactive Waste at Yucca Mountain, Nye County, Nevada provided by J. Russell Dyer, Ph.D, Project Manager, Yucca Mountain Characterization, United States Department of Energy, Las Vegas.

Exhibit B is a document titled *Environmental Impact Statement - Summary*, dated July 1999, that was provided by J. Russell Dyer, Ph.D, Project Manager, Yucca Mountain Characterization, United States Department of Energy, Las Vegas.

Exhibit C is a document titled *Viability Assessment of a Repository at Yucca Mountain - Overview* provided by J. Russell Dyer, Ph.D, Project Manager, Yucca Mountain Characterization, United States Department of Energy, Las Vegas.

Exhibit D is a handout provided by Linda Sikkema, National Conference of State Legislatures (NCSL), Denver, Colorado, titled *Update for the Nevada High-Level Radioactive Waste Committee*, dated November 18, 1999."

Exhibit E is a handout provided by Frank Marcinowski, Acting Director, Radiation Protection Division titled *Proposed Standards for Yucca Mountain*, dated November 18, 1999.

Exhibit F is a letter dated November 15, 1999, addressed to Senator Lawrence E. Jacobsen, Chairman and Members of the Nevada Legislature's Committee on High-Level Radioactive Waste from Cheryl Lau, President/Treasurer, Citizens Against Nuclear Waste in Nevada.

Exhibit G is a copy of Fred Dilger, Clark County, presentation titled "Yucca Mountain Draft EIS Transportation-Emergency Management Concerns."

Exhibit H is the attendance roster for this committee meeting.

Copies of the materials distributed in the meeting are on file in the Research Library of the Legislative Counsel Bureau, Carson City, Nevada. You may contact the library at (775) 684-6827.