



**OFFICE OF THE GOVERNOR
AGENCY FOR NUCLEAR PROJECTS**

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July 31, 2014

Assemblywoman Maggie Carlton, Chair
Legislative Committee on High-Level
Radioactive Waste
Legislative Building
Capitol Complex
Carson City, Nevada 89710

Dear Assemblywoman Carlton:

Enclosed is the Nevada Agency for Nuclear Projects' semi-annual report for the period January 1, 2014 – June 30, 2014. Should you have questions regarding the report or if you would like additional information, please let me know.

Sincerely,

A handwritten signature in blue ink, appearing to read "Robert J. Halstead".

Robert J. Halstead
Executive Director

RJH/
Enclosure

cc Richard Bryan, Chairman, Nevada Commission on Nuclear Projects
Diane Thornton, LCB

NEVADA AGENCY FOR NUCLEAR PROJECTS REPORT TO THE NEVADA LEGISLATURE'S COMMITTEE ON HIGH-LEVEL RADIOACTIVE WASTE

January 1, 2014 – June 30, 2014

1.0 STATUTORY AUTHORITY

The Agency for Nuclear Projects operates under statutory authority pursuant to NRS 459.009 - NRS 459.0098 and carries out roles and responsibilities provided for the State of Nevada in the federal Nuclear Waste Policy Act of 1982, as amended (PL 97-425).

2.0 AGENCY FOR NUCLEAR PROJECTS MISSION STATEMENT

The mission of the Nevada Agency for Nuclear Projects (Agency) is to assure that the health, safety, and welfare of Nevada's citizens and the State's unique environment and economy are adequately protected with regard to any federal high-level nuclear waste and related activities in the state.

3.0 ORGANIZATION AND FUNCTIONS

The Agency is part of the Office of the Governor and by statute consists of the Division of Technical Programs and the Division of Planning. A seven-member Commission on Nuclear Projects advises the Governor and Legislature on nuclear wastes issues and oversees Agency activities. The Executive Director is appointed by the Governor from a list of three names submitted by the Commission.

The Agency was initially created through executive order by Governor Richard Bryan in 1981 as the Nuclear Waste Project Office in response to the federal Nuclear Waste Policy Act of 1982. It was formally established in statute as the Agency for Nuclear Projects by the Nevada Legislature in 1985.

The Agency oversees the federal high-level radioactive waste program; participates in the U.S. Nuclear Regulatory Commission's (NRC) licensing activities and proceedings with respect to the proposed Yucca Mountain repository project; carries out independent technical, socioeconomic and other studies; participates in activities related to implementing recommendations of the Blue Ribbon Commission on America's Nuclear Future (BRC)¹ aimed at finding alternatives to the

¹ The Obama Administration established the BRC in early 2010 to assess and recommend alternatives to the Yucca Mountain program for management of spent nuclear fuel and high-level radioactive waste. The BRC established subcommittees dealing with disposal, transportation and storage, and reactor and fuel cycle technologies and solicited extensive public and stakeholder comments on alternative approaches. A draft report was issued for public comment in July 2011, and a final report containing

Yucca Mountain project; works with and coordinates activities of state agencies on matters relating to radioactive waste and radioactive waste transportation; represents Nevada on regional organizations dealing with nuclear waste and nuclear waste transportation matters; and provides information to the Governor, Attorney General, Legislature, local governments and tribes, the Commission on Nuclear Projects, the public, and interested parties.

4.0 OVERVIEW

Developments in the federal high-level radioactive waste program and the NRC's restarted Yucca Mountain licensing proceeding continued to shape the Agency's activities during the reporting period, with the principal focus of the Agency's work on preparing strategy for and initiating responses to renewed NRC licensing activities. During the period, NRC issued a series of monthly reports to Congress incrementally laying out its plans and schedules for resuming licensing activities, including completing the major Safety Evaluation Report (SER)² for DOE's Yucca Mountain license application and for replacing the discontinued Licensing Support Network (LSN) database containing documents needed in the proceeding. NRC also provided information on the amount of funds it has remaining for licensing (approximately \$13 million) and how those funds will be spent. As a result, it appears that NRC has sufficient resources to complete the SER and load the licensing documents onto its own documents database (at an estimated cost of about \$10 million), leaving enough funds for preparing a supplemental groundwater environmental impact statement (see below) and for resuming (for some period of time) the adjudicatory hearings on the license application that were suspended in 2010.

The Agency also continues to closely monitor how the recommendations of the Blue Ribbon Commission on America's Nuclear Future (BRC) are being addressed and implemented at the federal level, especially the initiative in the U.S. Senate (S.1240) that is viewed by some as a promising vehicle for implementing the BRC recommendations. Among other things, Agency staff worked closely with the Western Interstate Energy Board's (WIEB) High-Level Radioactive Waste Committee in providing input on DOE's strategic plan for addressing the BRC recommendations.

Agency staff also participated in reviews of DOE's proposed draft National Transportation Plan (NTP) for spent nuclear fuel and high-level radioactive waste and provided comments and recommendations for improving the plan. The Agency also worked closely with the WIEB HLW Committee staff in preparing western states' comments on the NTP. The Agency's Executive Director participated in a working group comprised of representatives from the four

the BRC's recommendations was released in January 2012. The final BRC report is available on the BRC's web site at: http://www.brc.gov/sites/default/files/documents/brc_finalreport_jan2012.pdf

² The SER is a multi-volume report done by the NRC staff for all nuclear facility license application. In the case of Yucca Mountain, the SER presents the staff's views on the adequacy of DOE's license application in relation to NRC's licensing regulations. Issuance of the SER by the NRC's staff is the necessary first step in beginning to adjudicate challenges to the application.

state regional groups (SRGs) and DOE in an effort to improve the NTP and assure that western states issues are adequately addressed.

Background

In 2010, DOE, citing its conclusion that the Yucca Mountain project had become “unworkable,” attempted to withdraw the application for a license to construct a repository at the site. The NRC’s licensing board denied that motion later in 2010, ruling that under current law, DOE did not have the authority to withdraw the application. However, because Congress failed to appropriate any funds for DOE or NRC for Yucca Mountain related work for FY 2011 – FY 2014, NRC suspended the licensing proceeding indefinitely.

In 2011, the States of South Carolina and Washington, one South Carolina county (Aiken County), the National Association of Regulatory Utility Commissioners, several individuals from Washington State, and Nye County, Nevada (which joined the others in this litigation in opposition to the state of Nevada) filed suit before the U.S. Circuit Court of Appeals for the District of Columbia (CADC) asking for a writ of mandamus requiring the NRC to restart the then-suspended Yucca Mountain licensing proceeding using what little carry-forward funds remained available to NRC for Yucca Mountain licensing activities.

On August 13, 2013, the CADC finally issued a decision in the Aiken case, ruling that NRC must restart the Yucca Mountain licensing proceeding using the available carry-over appropriated funds, even though the court acknowledged that those funds were insufficient to complete the proceeding. The Agency and the Attorney General’s Office are monitoring NRC’s responses to the court’s ruling. To date, NRC has directed its staff to complete work on the Safety Evaluation Report (SER) that contains the NRC staff’s review of the DOE license application and its compliance with NRC licensing regulations. NRC also requested that DOE prepare a Supplemental Environmental Impact Statement (SEIS) to address the impacts of the proposed repository on groundwater.³ DOE has communicated to NRC that it will not accede to this request (see below).

The final BRC report recommended immediate efforts to commence development of at least one geologic disposal facility and at least one consolidated storage facility, as well as efforts to prepare for the eventual large-scale transport of spent nuclear fuel and high-level waste from current storage sites to those facilities. The centerpiece of the BRC’s work was the recommendation that *any future nuclear waste facility siting effort must be “consent-based” and have the voluntary participation of the prospective host states and communities*. In June 2013, new federal legislation was introduced in the U.S. Senate that seeks to implement key provisions of the BRC’s final report.

³ Before the licensing proceeding was suspended in 2010, NRC staff had determined that the groundwater analysis contained in the EIS DOE prepared as part of its license application did not adequately address certain groundwater impacts resulting from repository activities. The NRC staff determined that a supplemental environmental analysis would be required. However, the proceeding was suspended before such analysis could be performed.

S.1240 would remove the federal high-level radioactive waste (HLW) program from DOE and establish a new, independent government agency to manage the program. The bill requires consent of affected states, including written consent of the governor and communities and Indian tribes, before developing facilities for storage and disposal of spent fuel and HLW, and changes how future siting, characterization, licensing, and construction activities would be funded. However, the bill needs to be amended to extend the requirement for a written consent agreement to Yucca Mountain and to better address transportation safety and security.

4.0 SUMMARY OF AGENCY ACTIVITIES

4.1 Technical Division Activities

The Agency's Technical Division continued to provide support for the Agency's and Attorney General's Yucca Mountain licensing intervention activities, participation in activities related to the implementing recommendations of the Blue Ribbon Commission, participation in US Nuclear Waste Technical Review Board meetings and other pertinent meetings, and continued maintenance and updating of documents for the State's Licensing Support Network (LSN) database.

4.1.1 Licensing Activities

As of the date of this report, the adjudicatory portion of the licensing proceedings for the proposed Yucca Mountain repository remains suspended, per the direction of the Nuclear Regulatory Commission. A writ of mandamus was issued by the US Court of Appeals for the District of Columbia Circuit on August 13, 2013 directing NRC to restart the licensing proceeding for the Yucca Mountain repository, subject to the available remaining funds. In response, the NRC has begun the process to complete and issue the four remaining volumes of the Safety Evaluation Report. Once work on the SER is completed, the NRC will determine what subsequent actions will be taken with any remaining funds.

The NRC had requested that DOE issue a supplemental Environmental Impact Statement (EIS) dealing with groundwater issues raised by NRC staff in its original review of the Final EIS that DOE submitted in support of its Yucca Mountain license application in 2008. However, DOE has stated in writing that it will not prepare the supplemental EIS as NRC had requested. Instead, DOE plans to issue a revision to the technical document previously submitted to the NRC (prior to the suspension of the licensing proceeding in 2010) in answer to the NRC's concerns in this area. The NRC has decided to develop the supplemental EIS on its own if there are sufficient funds to do so.

The software needed for accessing licensing related documents and materials acquired by the Administrator of Technical Programs and the Agency IT staff person has been loaded onto the Agency's dedicated server for the LSN documents. Initial testing indicates that, while the system will work to access needed documents, the speed by which documents can be located is nowhere

near that of the NRC-sponsored system used previously⁴. More research and testing is underway to attempt to rectify this situation.

All Technical Division work with respect to the Yucca Mountain Licensing Proceedings is being done in close coordination with the State's legal/licensing team and in close collaboration with the Attorney General's Office. The Agency maintains a comprehensive web page containing all pertinent licensing materials, petitions, orders, etc. This web page can be found at: <http://www.state.nv.us/nucwaste/licensing.htm>.

4.1.2 Interactions

Agency personnel and/or contractors attended or participated by teleconference in meetings with DOE and the NRC during the time period covered by this report.

4.1.3 Independent Studies

Independent technical studies by Nevada have been suspended at this time due to funding constraints and the shift in focus on the part of the state's legal team and technical experts to participation in the licensing proceeding. However, at least four (4) new contentions have been developed or are in the process of development by the technical team as a result of new information involving site safety/suitability and in anticipation of the restart of the adjudicatory portion of the licensing hearings. These new contentions are in the areas of the TADs (transportation, aging, and disposal containers), waste package corrosion, human reliability, and fracture flow of groundwater through the Yucca Mountain subsurface. Other new contentions will be developed as new information comes to light.

4.1.4 Quality Assurance Oversight

All QA audits have ceased at this time because DOE is no longer conducting characterization work at Yucca Mountain. If DOE receives a construction authorization as a result of the NRC licensing proceeding (an unlikely event at this time), QA audits would recommence and the Agency would again monitor these activities. The Agency has historically maintained oversight of the DOE Quality Assurance (QA) Program for the Yucca Mountain Project. Any analyses and data, as well as design work, used in the license application must have been carried out under a qualified QA program, and the adequacy of DOE's QA program for the Yucca Mountain program is being contested in the NRC's licensing proceeding.

⁴ Following the suspension of the licensing proceeding in 2010, NRC directed, as a cost cutting measure, that the LSN containing all of the documents from all parties to the proceeding (several million pages in all) be discontinued and that documents be retained in electronic form by NRC staff, but not accessible to licensing participants or the public. As part of its planning for the court-ordered restart of the proceeding, NRC has indicated that the LSN documents will be loaded onto NRC's regular document system (ADAMS). However, that work is dependent upon the amount of money remaining after work on the SER is completed.

4.1.5 On-site Monitoring

The Yucca Mountain site has been shut down. Agency on-site monitoring currently consists of monitoring licensing-related activities of the Nuclear Waste Technical Review Board.

4.2 Planning Division Activities

Work of the Agency's Planning Division focused on providing support for the state's Yucca Mountain licensing contentions dealing with nuclear waste transportation and environmental issues. The Agency also continued to plan and coordinate State efforts with respect to low-level radioactive waste (LLW) and mixed hazardous and LLW shipments through Nevada destined for disposal at the Nevada National Security Site (NNSS). In addition, the Agency continued to oversee and coordinate preparations for future shipments of transuranic waste from storage and generator sites in northern California to the Idaho National Laboratory via Interstate 80 across northern Nevada (see below).

4.2.1 Transportation and NEPA Licensing Contentions

Agency expert transportation contractors undertook a number of studies during the period in support of the state's transportation-related contentions in the NRC's restarted licensing proceeding.

Sixteen of Nevada's admitted contentions in the NRC's Yucca Mountain licensing proceeding involve key nuclear waste transportation issues and directly challenge DOE's failure to comply with the requirements of the National Environmental Policy Act (NEPA) in the areas of (1) impacts of transportation sabotage and severe accidents; (2) impacts of rail access and rail line construction and operations; (3) impacts of routine radiation exposures; (4) impacts of DOE's proposed Transportation, Aging and Disposal (TAD) containers (a crucial component in DOE's license application); and (4) impacts of the HLW shipping routes used for analysis in the Yucca Mountain EIS. Work during the period included:

- Analysis regarding impacts associated with potential use of certain highway routes in the Las Vegas area for shipments of spent nuclear fuel and high-level radioactive waste to Yucca Mountain, especially the Las Vegas Beltway (I-215/CC-215);
- Evaluating recent literature on the release and dispersion of radioactive materials, the economic consequences of the release of radioactive materials, and potential implications for the way probabilistic risk assessment (PRA) is used in the Yucca Mountain licensing proceeding;
- Assessing deficiencies in DOE's 2008 Supplemental Yucca Mountain Environmental Impact Statement (FSEIS) transportation risk analysis by evaluating new information on transportation risk factors, including: (1) the shipment of higher burn-up spent nuclear

fuel, particularly PWR SNF with burn-up higher than 45,000 MWDt/MTU; (2) shipment of SNF packaged in dual-purpose canisters with capacities larger than 21 PWR or 48 BWR assemblies per canister; and (3) the implications of large-scale, cross-country rail shipments of crude oil for SNF transportation accident consequence analyses;

- Developing information to support Nevada's NEPA contentions regarding potential use of certain rail routes in the Las Vegas area for shipments of SNF and HLW to Yucca Mountain;
- Planning for updating information relative to transportation NEPA contentions regarding potential socioeconomic impacts of the proposed shipments, including but not limited to assessment of impacts on the Las Vegas area tourism and gaming industry and updated assessment of impacts on the Las Vegas area commercial and residential real estate industry.

4.2.2 Preparations and oversight for transuranic waste shipments within Nevada

The Agency and other affected state agencies continued to undertake activities designed to prepare for future transuranic waste shipments originating in northern California and destined for the Idaho National Laboratory (INL) via Interstate 80 through northern Nevada.⁵ This is a program that has been ongoing in Nevada since 2000 and has resulted in the safe and routine shipments of legacy transuranic waste out of NNSS to either to the Waste Isolation Pilot Plant (WIPP)⁶ facility in New Mexico or to INL.

DOE now plans to transport waste from California generator sites to INL for processing and characterization prior to eventually transporting it. While no shipments of this material occurred during FY 2014, DOE's plans call for periodic shipments along the I-80 corridor in the future, although a recent accident involving release of radioactivity at WIPP has closed that facility indefinitely. As a result, shipments through Nevada are not expected to resume for at least a year or more. Nevertheless, state agencies and local jurisdictions along the route need to be prepared to safely oversee these shipments and respond to any incidents that might occur.

Roles and responsibilities of Nevada agencies' with regard to these shipments are governed by a Governor's policy directive that was issued to affected agencies in May 2000. In addition to designating the Agency for Nuclear Projects as the lead coordinating agency, the Governor

⁵ This project is funded by and operated in close cooperation with the Western Governors Association (WGA). The funds received by Nevada from WGA are part of a larger, regional program whereby WGA receives funds from DOE to implement a comprehensive regional program aimed at preparing states and local communities for transuranic waste shipments through their jurisdictions and assuring that such shipments are implemented in a safe and routine manner. Working with the states, WGA has developed a system of transportation protocols that cover all aspects of the transuranic waste shipping campaign and passes funds through to affected states to implement the transportation program.

⁶ WIPP is a repository for disposal of defense transuranic waste located in Carlsbad, NM. Transuranic waste is essentially lower-level radioactive and mixed hazardous/radioactive waste that has been contaminated with low levels of plutonium or other very long-lived radioisotopes that have exceeding long half-lives and require long-term isolation from the environment.

directed the various agencies to undertake specific activities with respect to transuranic waste shipments in Nevada, including training and equipping state and local emergency response personnel along prospective shipping routes (Nevada Department of Emergency Management); inspecting all shipments and escorting them while they are in Nevada (Nevada Highway Patrol); providing expertise and technical assistance with respect to radiological inspections and emergency response (Nevada State Health Division); and providing support for highway route analyses and routine highway safety with regard to the shipments (Nevada Department of Transportation). Funding for this program is provided through an agreement between the Agency (on behalf of the State of Nevada) and WGA and is passed through to the other state agencies to enable them to carry out their responsibilities.

4.23 Coordination and Information Provision

During the period, the Agency continued to maintain its comprehensive web page with information on nuclear waste, nuclear issues in general, and links to other relevant information sources. The web page has proven to be an extremely efficient and cost effective mechanism for providing information to a wide audience quickly and accurately. The web page is available at: <http://www.state.nv.us/nucwaste/>.

As noted above, the Agency is in the process of establishing a system capable of providing access to its Licensing Support Network (LSN) database of materials containing documentary and related materials relevant to the Yucca Mountain licensing proceeding as well as sections containing information on technical, socioeconomic, transportation, legal and other nuclear waste related issues. This work is ongoing.

The Agency's collection of materials in support of the state's licensing contentions consists of almost 6,000 documents comprised of close to 200,000 pages. Due to requirements imposed by the NRC's licensing board when the licensing proceeding was suspended in 2010, the Agency was also required to obtain the electronic version of DOE's entire LSN collection, comprising several million pages of document materials so as to be prepared for any resumption of licensing in the future. The Agency is working to convert this extensive DOE database into a more readily searchable format and identify how best to provide useful access to this large trove of information.

5.0 DESCRIPTION OF THE AGENCY'S CONTRACTS DURING THE PERIOD

A description of all contracts in place during the reporting period is included as Attachment I of this report.

6.0 STATUS OF ANY LITIGATION RELATING TO THE MISSION OF THE AGENCY AND TO WHICH THE STATE OF NEVADA IS A PARTY (January 1, 2014 – June 30, 2014)

FEDERAL DISTRICT COURT IN NEVADA, U.S. COURTS OF APPEALS,
AND STATE DISTRICT COURT IN TONOPAH

(1) *United States v. State Engineer* (5th Judicial District Court, Nye County, No. 15722). Filed by the United States on behalf of the U.S. Department of Energy (DOE) following the State Engineer's denial of its applications for permanent water rights as a protective measure while the United States pursues its constitutional claims in the main water litigation in federal court. The case remains pending.

(2) *United States v. State of Nevada* (U.S. District Court, No. CV-S-00-0168-DWH-LRL). The United States challenges the Nevada State Engineer's decision that DOE is not entitled to permanent water rights to construct and operate the repository based on the State Engineer's finding that the proposed use threatens to be detrimental to the public interest. At present, DOE has curtailed its minimal water use, publically announcing that the proposed Yucca Mountain High-Level Nuclear Waste repository is unworkable. Due largely to efforts by U.S. Senator Harry Reid, funding for Yucca Mountain has been blocked. Litigation to restart licensing remains pending (see below). The litigation remains pending.

(3) *Nevada v. United States Environmental Protection Agency (EPA)* (U.S. Court of Appeals for the District of Columbia Circuit, No. 08-1327). Nevada filed suit on October 10, 2008 against the EPA, challenging the revised EPA radiation standard for the proposed Yucca Mountain repository. On January 7, 2009, the Court issued an initial scheduling order. An unopposed motion was submitted to the Court to extend the briefing schedule, which allowed the State to file its opening brief on March 15, 2010. Because DOE moved to withdraw its license application, has proceeded to terminate the Yucca Mountain Project and Congress has zeroed out funding for the Yucca Mountain project, this litigation is being held in abeyance pending resolution of the termination question.

(4) *Nevada v. United States Nuclear Regulatory Commission (NRC)* (U.S. Court of Appeals for the District of Columbia Circuit, No. 09- 1133) Nevada filed a petition for judicial review of the NRC's Licensing Rule for the proposed Yucca Mountain repository on May 8, 2009. Motions to govern procedural matters were filed August 31, 2009 and a request to the Court for tandem consideration of this case and the EPA case was filed also. Dispositive motions and the NRC index to the record were filed September 29, 2009. The case is pending. Similarly to the case above, this litigation is being held in abeyance pending resolution of whether the Yucca Mountain project can be terminated.

(5) *Nevada v. United States Department of Energy* (9th Circuit 09-71015). This case challenges DOE's selection of the Caliente rail corridor and currently is being held in abeyance pending confirmation of the project's termination.

(6) *Aiken County, South Carolina v. US Department of Energy (DOE) and NRC (Aiken I)* (D.C. Circuit 10-1050); *State of Washington v. DOE and NRC*; (D.C. Circuit 10-1082); *State of South Carolina v. DOE and NRC* (D. C. Circuit 10-1069). This consolidated case was dismissed for lack of ripeness.

(7) *Aiken County, et al. v. U.S. Nuclear Regulatory Commission (NRC), et al. (Aiken II)* (D.C. Circuit 11-1271). Following dismissal of the above-referenced case, petitioners, (this time including Nye County, Nevada), filed this case seeking a mandamus order which would require that NRC be ordered to adjudicate the Yucca Mountain license application within the three to four year time limitation provided for in the Nuclear Waste Policy Act. As argued on May 2, 2012, the NRC and Nevada, as an intervener, contend that the NRC's suspension of the Yucca Mountain licensing proceeding occurred because of congressional decisions to zero out funding for Yucca Mountain and is neither arbitrary nor unreasonable within the context of congressional decisions. On August 13, 2013, the D.C. Circuit, in a split 2 to 1 decision, granted a writ of mandamus to petitioners, and directed NRC to resume the licensing process for DOE's Yucca Mountain high-level radioactive waste repository construction authorization application despite the inadequacy of funds dedicated to the effort.

PENDING ADMINISTRATIVE PETITIONS

1. On June 29, 2010, the Atomic Safety and Licensing Board (also known as the Construction Authorization Board or "CAB") issued an Order which, among other things, denied DOE's motion to withdraw its Yucca Mountain license application. The matter was appealed to the full NRC. In September 2011, NRC formally acknowledged that it was not able to reach a decision on the appeal due to a 2-2 split among commissioners (with one member of the Commission recusing himself). The result is that the licensing board's denial of DOE's motion to withdraw the license application stands, although the licensing proceeding remains suspended due to the failure of Congress to provide funds for the Yucca Mountain program or for NRC's licensing activities (See Part 4, above).

2. *Petition for Rulemaking with NRC (filed June 22, 1999—PRM-73-10)*: Nevada filed a petition requesting that the NRC conduct rulemaking on its safeguards against terrorism as applied to shipments of nuclear waste. In December 2009, NRC accepted most of Nevada's recommendations and issued a final rule revising its regulations (10 CFR 73.37) to enhance the safeguard requirements for radioactive waste shipments. However,

shipments of spent nuclear fuel and HLW to Yucca Mountain or any other DOE facility would not be subject to 10 CFR 73.37 because DOE, as the shipper, is not subject to NRC regulations except where specifically mandated by the NWPA as amended.

3. *Petition for Rulemaking with NRC (filed April 8, 2005 PRM- -51-9)*: seeks to revise NRC’s standards for reviewing and litigating National Environmental Policy Act (NEPA) issues discussed in DOE’s Environmental Impact Statement (EIS) for Yucca Mountain to clearly conform to the decision in *NEI v. EPA*, 373 F.3d 1251 (D.C. Cir. 2004). The petition was published for comment on August 12, 2005, and the comment period expired on October 26, 2005. No further action has been taken by NRC.

4. *Petition for Rulemaking with NRC (filed December 22, 2006 and supplemented on January 23, 2007 PRM 63-2)*: addresses the critical issue of DOE’s proposed “aging pad” for commercial spent fuel at Yucca Mountain. The petition has not yet been noticed for comment in the Federal Register despite Nevada’s requests that it be published. The petition is still pending.

5. *Petition for Rulemaking (filed June 19, 2007)*: Petition for rulemaking asking NRC to fill in a gap in its Rules of Practice by specifying issues for consideration in the “mandatory hearing” on the prospective Yucca Mountain construction authorization application. The petition has been docketed but no other action has been taken. The petition was noticed for public comment on August 29, 2007 and the comment period closed November 13, 2007. The matter remains pending.

RELEVANT COURT DECISIONS⁷

1. *State of New York, et al. v. NRC* (D.C. Circuit, June, 2012): A three-member panel rejected the “Waste Confidence” regulation adopted by NRC in December 2010, which allowed nuclear waste (spent nuclear fuel) to be stored at reactor sites for 100 years or more. The court said that NRC had failed to fully study the environmental risks of long-term onsite storage under applicable provisions of the National Environmental Policy Act (NEPA). The panel sent the Waste Confidence regulation back to the NRC, directing the agency to perform a detailed NEPA evaluation of possible nuclear waste fires and storage pool leaks from extended storage at reactor sites, or explain why such an evaluation is not needed. In response to this decision, NRC has issued and accepted comments concerning its Draft Waste Confidence Generic Environmental Impact Statement and proposed Waste Confidence Rule.

⁷ These are court actions that are related to the management of spent nuclear fuel and high-level radioactive waste, but the State of Nevada is not a party to the litigation. They are discussed here for informational purposes only.

2. *National Association of Regulatory Commissioners (NARUC) v. DOE* (D.C. Circuit, November 19, 2013): Petitioners, a group of nuclear power plant operators, argued that since the government has no viable alternative to Yucca Mountain as repository for high level nuclear waste and spent nuclear fuel, they should not be charged an annual fee to cover the cost of disposal. The Court agreed. The issue considered was the government's failure to conduct an adequate fee assessment, as required by the Nuclear Waste Policy Act as amended. The Court's ruling here does not provide petitioners with any form of compensation, nor does it relieve them of their obligation to pay for the cost of their waste disposal.

ATTACHMENT I
DESCRIPTION OF AGENCY CONTRACTS

January 1, 2014 – June 30, 2014

INTRODUCTION

The following contracts constitute Agency for Nuclear Projects' contracts in place during the reporting period:

DESCRIPTION OF CONTRACTS: 1/1/14 – 6/30-14

CONTRACTOR:

Egan, Fitzpatrick, Malsch & Lawrence⁸
12500 San Pedro Avenue, Suite 555
San Antonio, Texas 78216

COMPENSATION:

Total Compensation: \$186,070.94

NARRATIVE:

This is a tripartite agreement between the Agency, the Attorney General, and the contractor whereby the contractor serves as special counsel to the State to represent the State before the Nuclear Regulatory Commission on issues related to the U.S. Department of Energy's license application for the proposed Yucca Mountain repository and in litigation arising under the Nuclear Waste Policy Act where the Attorney General and the Agency mutually agree such services are beneficial for the State.

**NEED FOR CONTRACT/CONTRIBUTION TO THE
AGENCY'S MISSION**

This contract is essential to furthering the Agency's mission to assure that Nevada's interests are protected with regard to the federal high-level nuclear waste program. It provides for essential representation before the NRC and the NRC licensing process for a repository.

STATUS:

Contract extends through 9/30/2015

⁸ This is a three-party contract wherein the Agency and the Attorney General's Office contribute towards paying expenses.

CONTRACTOR:

Nevada Division of Emergency Management
Capitol Complex
Carson City, NV 89710

COMPENSATION:

Total Compensation: \$45,127.46

NARRATIVE:

Contract provides for DEM review, monitoring, and assessment of emergency preparedness, public safety and other issues arising in the context of the transportation of transuranic waste from the Nevada Nuclear Security Site to the Waste Isolation Pilot Plant facility in New Mexico. Funds for this agreement are provided through a grant from the Western Governors' Association. This is an interagency agreement that is implemented by means of specific tasks/work plans.

**NEED FOR CONTRACT/CONTRIBUTION TO THE
AGENCY'S MISSION**

The Agency is required by statute to coordinate activities with other State agencies affected by the federal HLW program. This contract provides for the participation of a key State agency that will be significantly impacted by HLW transportation should the Yucca Mountain project go forward.

STATUS:

This is an ongoing interagency agreement. DEM will participate in emergency response/preparedness planning and development of training needs assessments and costs estimates as funding permits.

CONTRACTOR:

Nevada State Health Division
Radiation Control Program
Capitol Complex
Carson City, NV 89710

COMPENSATION:

Total Compensation: \$ 17,146.91

NARRATIVE:

Contract provides for the State Health Division's Radiological Health Section (Rad. Health) to plan for, train, and implement required oversight and inspection activities to

meet the requirements of public health and safety with respect to the transportation of transuranic waste from the Nevada Nuclear Security Site to the Waste Isolation Pilot Plant facility in New Mexico. Funds for this agreement are provided through a grant from the Western Governors' Association.

NEED FOR CONTRACT/CONTRIBUTION TO THE AGENCY'S MISSION

The objective of this contract is to provide the State of Nevada with the capability to carry out activities needed to ensure the safe and uneventful transportation of transuranic waste within Nevada on its way from NNSS to WIPP. The Agency has been designated by the Governor as the lead State agency for policy and coordination of other State agencies. Rad. Health will need to be prepared to provide carry out radiological inspections, help train and equip local and state responders, and assist with other activities related to the WIPP shipments.

STATUS:

This is an ongoing interagency agreement. Rad. Health will participate in preparedness planning, training, exercises, and implementation activities as funding permits.

CONTRACTOR:

Nevada Department of Motor Vehicles and Public Safety
Highway Patrol Division
Capitol Complex
Carson City, NV 89710

COMPENSATION:

Total Compensation: \$14,135.51

NARRATIVE:

Contract provides for NHP to plan for, train, and implement required safety activities to meet the requirements of public safety with respect to the transportation of transuranic waste from the Nevada Nuclear Security Site to the Waste Isolation Pilot Plant facility in New Mexico. Funds for this agreement are provided through a grant from the Western Governors' Association.

NEED FOR CONTRACT/CONTRIBUTION TO THE AGENCY'S MISSION

The objective of this contract is to provide the State of Nevada with the capability to carry out activities needed to ensure the safe and uneventful transportation of transuranic waste within Nevada on its way from NNSS to WIPP. The Agency has been designated by the

Governor as the lead State agency for policy and coordination of other State agencies. NHP will need to be prepared to provide shipment escorts, serve as potential first responders for accidents, monitor real time tracking for the shipments, and carry out the vehicle aspects of point-of-origin inspections.

STATUS:

This is an ongoing interagency agreement. NHP will participate in preparedness planning, training, exercises, and implementation activities as funding permits.

CONTRACTOR:

Nevada Department of Transportation
1263 Stewart Street
Carson City, Nevada 89701

COMPENSATION:

Total Compensation: \$ 0

NARRATIVE:

This is one of a series of interagency agreements with State agencies that are potentially affected by, or that have responsibilities with respect to, shipment of transuranic waste from the Nevada National Security Site to the Waste Isolation Pilot Plant in New Mexico. The Agreement provides for reviewing and evaluating highway conditions along the proposed shipping route and participating in planning and operational activities related to these shipments. Funds for this agreement are provided through a grant from the Western Governors' Association.

**NEED FOR CONTRACT/CONTRIBUTION TO THE
AGENCY'S MISSION**

The objective of this contract is to provide the State of Nevada with the capability to carry out activities needed to ensure the safe and uneventful transportation of transuranic waste within Nevada on its way from NNSS to WIPP. The Agency has been designated by the Governor as the lead State agency for policy and coordination of other State agencies. NDOT will need to be prepared to assist NDEM and NHP as necessary to assure safe and uneventful shipments.

STATUS:

This is an ongoing interagency agreement. NDOT will participate in preparedness planning, training, exercises, and implementation activities as funding permits.

CONTRACTOR

Urban Environmental Research, LLC
2850 W. Horizon Ridge Parkway, Suite 200
Henderson, NV 89052

COMPENSATION:

Total Compensation: \$119,847.90

NARRATIVE:

The work to be accomplished under this contract involves the implementation of studies and activities in support of important transportation contentions in the NRC's Yucca Mountain licensing proceeding and specific studies, reports, etc. addressing impacts that would be associated with the location and operation of a HLW repository at Yucca Mountain, including impacts from the transportation of spent nuclear fuel and HLW to such a facility.

NEED FOR CONTRACT/CONTRIBUTION TO THE AGENCY'S MISSION

In July 2002, the U.S. Congress voted to uphold the decision by the Energy Department (DOE) and the President to select Yucca Mountain in southern Nevada as the potential location for the nation's first high-level nuclear waste repository. Nevada is presently challenging the project in NRC's licensing proceeding. The work under this contract involves specific and focused studies and reports by subject-matter experts in environmental and transportation area in support of contentions or challenges the State is pursuing in the context of the NRC's licensing proceeding. Other work includes maintaining/updating baseline information; monitoring selected socioeconomic impacts identified in the Agency's Yucca Mountain Impact Report that would be associated with the location and operation of a HLW repository at Yucca Mountain, including impacts from the transportation of spent nuclear fuel and HLW to such a facility in Nevada and nationally; and carrying out additional research and/or data collection that is necessary to provide support for legal cases involving certain aspects of the Yucca Mountain program and for the State's activities associated with NRC's licensing proceedings.

STATUS:

Contract extends through 12/31/2015 .

CONTRACTOR:

Strolin Consulting, LLC
2559 Nye Drive
Minden, NV 89423

COMPENSATION:

Total Compensation: \$30,313.07

NARRATIVE:

Contract provides for services necessary for implementing the Agency's mission in light of reductions in staff and the continuing requirements for oversight of the proposed Yucca Mountain high-level nuclear waste program and the NRC licensing proceeding; for work related to the Agency's obligations with respect to transuranic and low-level radioactive waste shipments within Nevada; for work associated with the Agency's responsibilities under the Agreement-in-Principle (AIP) between the State of Nevada and the US Department of Energy/NNSA/Nevada Site Office; and for other services required for the effective operations of the Agency.

**NEED FOR CONTRACT/CONTRIBUTION TO THE
AGENCY'S MISSION**

Due to budget reductions, it was not possible to fund the Planning Division Administrator position beginning with the FY 2010 - 2011 biennium. Strolin Consulting assists the Agency on a part-time basis to assure that important Planning Division work can continue. Contractor has unique qualifications, knowledge and experience as a result of the principal's long tenure with the Agency and intimate involvement with the Yucca Mountain program and other nuclear waste issues/activities in Nevada. The Agency is at a crucial stage with respect to Yucca Mountain program, the ongoing Nuclear Regulatory licensing proceeding, and waste transportation involving planning and oversight of spent fuel, high-level waste, low-level waste, and transuranic waste affecting Nevada. Providing for the services of the contractor at this crucial time is essential to the effective functioning of the Agency.

STATUS:

Contract extends through 12/31/14