



Nevada Conservation League

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December 4, 2006

Dr. Jane Summerson, EIS Document Manager
Regulatory Authority Office
Office of Civilian Radioactive Waste Management
US Department of Energy
1551 Hillshire Drive, M/S 010
Las Vegas, NV 89134

Dear Dr. Summerson:

The Nevada Conservation League (NCL) submits the following comments to the U.S. Department of Energy (DOE) regarding its Notice of Intent (NOI) to prepare a Supplement to the Final Environmental Impact Statement (EIS) for a Geologic Repository for the Disposal of Spent Nuclear Fuel and High-Level Radioactive Waste at Yucca Mountain, Nevada. On behalf of NCL staff, board, and members, we hereby request that DOE consider these comments and place them into the official record.

Background

Since 2002, DOE has been preparing to submit a license application to construct a high-level nuclear waste repository at Yucca Mountain, Nevada. No license application has been submitted yet and the radiation protection health standard for Yucca Mountain established by the Environmental Protection Agency (EPA) was thrown out in federal court in 2004. The NOI, published on October 13, 2006, includes a proposed action to completely redesign and change DOE's repository program. This NOI would specifically address waste handling facilities, waste disposal, and repository performance. Combined with DOE's other NOI released on the same day that intends to consider an alternate rail line option through Nevada, dubbed the "Mina Corridor," these changes are tantamount to a profound change in direction for the Yucca Mountain Project (YMP).

A dangerous new path

Under the proposed action, DOE would take a new approach that would require more than 90% of the commercial spent nuclear fuel to be packaged at the commercial sites in "Transportation, Aging and Disposal" (TAD) canisters and all DOE high-level waste to be packaged in disposable canisters at DOE sites. A similar concept using a MultiPurpose canister (MPC) was proposed in 1995 but was quickly cancelled due to its impracticality and high cost. This seemingly small change would in actuality mark a significant change in the entire repository design. It would impact almost every aspect of the YMP including how waste is handled at reactor sites, transported across the country, received and handled at Yucca, and how it would be disposed of in the mountain. With such significant changes, DOE must at minimum revisit the entire EIS and reassess the potential environmental and public health impacts associated with YMP. Instead of taking this necessary step, DOE has once again completely understated and downplayed the significance of these changes. They go so far as to claim in the NOI that they believe

this redesign would have no different environmental effects than those described in the original EIS. This claim belies reality and suggests that DOE is once again pushing this project without meaningful public participation and against the will of the majority of Nevadans.

Bending the rules

A major aspect of the proposed action involves the creation of “aging pads” to allow nuclear waste to cool on-site at Yucca Mountain until ready to be disposed of deep in the repository. DOE is apparently attempting to create an “interim” storage facility at Yucca Mountain, which is illegal under the Nuclear Waste Policy Act (NWPA). NCL vehemently objects to any attempt to circumvent the law.

Yucca Mountain still unsafe

NCL would like to direct you to some evidence of Yucca Mountain’s unsuitability as a repository. The Institute of Energy and Environmental Research (IEER) has concluded that Yucca Mountain is an unsuitable site to build a geologic repository.¹ Their conclusion is based on evidence which clearly shows that the YMP (and for that matter the proposed action) will rely almost solely on engineered barriers for the isolation of dangerous radionuclides. This dependence on engineered barriers contradicts the entire premise of the NWPA and would pose a significant health risk to Nevadans and our environment. Surprisingly, IEER’s analysis is based upon DOE’s own assessments. The fact that DOE has continuously ignored their own information is shocking and insulting.

Public comments not fully encouraged

NCL, as a public interest organization, takes serious umbrage as to how DOE has gone about soliciting public comment for the proposed action. On October 24, 2006, NCL, along with 16 other local, state, and national public interest groups, formally requested that DOE extend the comment period to 90 days to allow more information sharing and to ultimately have more people comment. These requests were not fully considered. Only 15 days were added to the comment period (to total 60) and the first hearings in Washington D.C. and Amargosa Valley, Nevada took place only 11 and 13 working days respectively after the NOI was published. Two weeks is an extremely inadequate time frame to allow the public to weigh in on the proposed changes and be sufficiently informed, especially considering the magnitude of the proposed action. This is a clear signal from DOE that it holds little value in allowing the public to be fully informed on the issue and to submit substantive comments.

The hearings themselves are ill conducive to garnering true public comment. The hearings involve an informal poster session and the only way one can submit oral comments is to huddle in a corner room with a court reporter. This does not engender information sharing and is intimidating to the public. This process should be changed to include an open comment period during which the public can ask DOE questions and submit comments for all to hear.

¹ Institute for Energy and Environmental Research, “Some Evidence of Yucca Mountain's Unsuitability as a Repository,” http://www.ieer.org/sdfiles/vol_7/7-3/yucca.html

Finally, there is great confusion amongst the public of the fact that several of the hearings involve not only this proposed action but also a separate issue involving the DOE's proposal to consider an alternate rail line through Nevada. NCL attributes this confusion to DOE's inability to separate the two issues and clarify the process. The fundamental purpose of the National Environmental Policy Act (NEPA) is to create a transparent and open process that creates trust in the agency proposing an action and one that allows for real, meaningful public involvement. Time and again, DOE has avoided its NEPA obligations which have led to a significant mistrust of DOE. This is unacceptable and must be addressed immediately.

"No Action" alternative is best for Nevada

The NOI, as published, is full of vague references, jargon, and uncertainty. The public is left with little knowledge of the true meaning of the proposed action and the quality of the public comments will invariably suffer. Because of these facts and NCL's conclusion that Yucca Mountain is an unsuitable site for a geologic repository for high-level nuclear waste, NCL requests that DOE fully consider the "No Action Alternative" in order to protect Nevada's public health and environment.

Conclusion

This latest development in the long Yucca saga is further proof that the DOE is more interested in pushing the Yucca Mountain Project forward than involving the public in the decision making process. DOE must consider the "No Action Alternative" to the fullest extent to reestablish a small sense of trust on behalf of the general public.

Thank you for your consideration of the Nevada Conservation League's comments on the Notice of Intent to Prepare a Supplement to the Final Yucca Mountain EIS.

Sincerely,



Scot Rutledge
Executive Director
Nevada Conservation League



Tony Guzman
Outreach Director
Nevada Conservation League