

**Additional State Comments Received After Close of Comment Period  
and Responses Under Section 114(a)(1) of the NWPA**

## 1. INTRODUCTION

The Nuclear Waste Policy Act of 1982 (NWPA or "the Act") (and as subsequently amended) established the process for development of geologic repositories for the disposal of high-level radioactive waste and spent nuclear fuel and a program of research, development and demonstration regarding the disposal of such material. In the 1987 amendment to the Act, the Secretary of Energy was directed to cease site characterization activities at other sites and evaluate the suitability of the Yucca Mountain site in Nevada as the nation's first geologic repository for such wastes.

If the Secretary considers recommending the site, the Act requires that he direct the U.S. Department of Energy (DOE) to conduct public hearings in the vicinity of the Yucca Mountain site to inform the residents of the area of such consideration and receive their comments regarding his possible recommendation. In addition, if the Secretary recommends the site to the President, the recommendation must be accompanied by a comprehensive statement of the basis of such recommendation, including the views and comments of the Governor and legislature of any State, or the governing body of any affected Indian tribe, as determined by the Secretary, together with the response of the Secretary to such views.

In a Federal Register notice dated May 7, 2001 (66 FR 23013), the DOE announced "a public comment period on the possible recommendation of the Yucca Mountain site in Nevada by the Secretary of Energy to the President for development as a spent nuclear fuel and high level waste geologic repository." This public comment period closed on October 19, 2001, after numerous public hearings were held throughout the state of Nevada and Inyo County, California. To ensure that an adequate period of time existed to permit mail that had been posted prior to October 19, 2001, to be received by the DOE, comments continued to be accepted through the close of business on October 31, 2001. All comments received by that date are addressed in the Site Recommendation Comment Summary Document (CSD).

In a Federal Register notice dated November 21, 2001 (66 FR 58460), the DOE announced its intent to hold nine additional public hearings during the first two weeks of December 2001, at multiple sites in the state of Nevada to provide additional opportunities for members of the public to provide comments on information that was not available at the closure of the initial comment period. This supplemental public comment period closed on December 14, 2001. All of the comments received by the closure of the supplemental comment period, including those received at the nine additional public hearings, are addressed in the Supplemental Comment Summary Document (SCSD).

The comments addressed in this document were received from the state of Nevada after the close of the public comment periods described above. The following provides the DOE response to the comments received.

## 2. STATE COMMENTS AND RESPONSES UNDER SECTION 114(a)(1) OF THE NWPA

### 2.1 NEVADA

#### 2.1.1 Nevada – Governor Kenny Guinn

*Commenter*

Nevada, State of, Office of the Governor  
Guinn, Governor Kenny

Comment

I was disappointed, to say the least, with your letter notifying me of your intent to recommend to President Bush approval of the Yucca Mountain site for the development of the nation's high level nuclear waste repository. Framing the decision in part as a "security" issue was somewhat surprising, since no analysis has ever been done to suggest that Yucca Mountain will contribute to national security.

It appears that the Department of Energy is the only entity familiar with the facts at Yucca Mountain that does not see your decision as premature. As you know, your own contractor Bechtel/SAIC, as well as the General Accounting Office, the Nuclear Regulatory Commission, the Advisory Committee on Nuclear Waste, the Yucca Mountain Technical Review Board, the National Academy of Sciences, and, recently, the International Atomic Energy Agency and the OECD's Nuclear Energy Agency, have each concluded that significant additional studies need to be performed before DOE can seriously consider whether to recommend the Yucca Mountain site for permanent nuclear waste disposal. For example, NRC has indicated that at least 292 major studies remain to be completed in 19 key areas, including corrosion of the waste packages, potential effects of volcanic activity, rapid groundwater flow rates through the mountain, large uncertainties in predicted repository performance, even the very design of the repository itself.

In particular, many of the organizations noted above have commented on DOE's newly improvised "total system" approach to nuclear waste storage at Yucca Mountain, an approach that appears designed to ignore the blatant unsuitability of the geology at Yucca Mountain for the isolation of radioactive waste. As you know, Nevada has taken legal action against DOE over this very issue on the grounds that DOE has abandoned the Nuclear Waste Policy Act's requirement that geologic isolation must be the primary form of containment. We know, as you do, that DOE retroactively changed its site suitability rules when it learned that the mountain's natural site features could not safely contain the waste. At the very least, the D.C. Court of Appeals should be allowed to rule on the merits of that action before any recommendation is made.

For the reasons set forth below, I respectfully disagree with each of your articulated reasons for rushing forward with Yucca Mountain.

Security Against Terrorism. This new rationale for rushing forward with Yucca Mountain was invented by DOE and the nuclear industry in the wake of the September 11 terrorist attacks. But what this rationale fails to acknowledge is that even if the Yucca Mountain project moves forward, spent fuel will continue to be stored at reactor sites across America for at least the next 50 years. Even on an optimistic schedule, Yucca Mountain will not be capable of receiving most of the waste for decades. Indeed, once at the site, much of the spent fuel will be stored above ground for the next 100 years. Instead of reducing any terrorist threat, rushing forward will actually significantly increase the potential threat by adding a massive new aboveground site in Nevada, in addition to the more than 100,000 shipments of spent fuel that will travel through the nation's cities. Upon examination of the facts, the terrorism argument does not ring true.

National Security. Yucca Mountain is not, and has never been, about national security and nuclear non-proliferation, as you suggest. Spent nuclear fuel and waste products do not pose a non-proliferation threat, since they do not contain separated fissile materials that can be utilized for nuclear weapons. If you mean to suggest that if Yucca Mountain does not open, the United States will be unable to dismantle its nuclear weapons or operate its nuclear submarines, I believe this is misleading. For example, I understand that DOE is currently building a brand new spent fuel storage facility in Idaho to house foreign research reactor spent fuel, and that this will be accomplished in a matter of only two years. If this can be done so readily to aid our foreign trading partners, I'm sure it can also be done to keep our nation secure should such a need arise.

Energy Security. During the next several decades, Yucca Mountain will contribute nothing to the nation's energy security. Nuclear plants across the nation are building inexpensive and safe dry storage facilities for their spent fuel, and successfully renewing their licenses as a result. They will continue to do this regardless of whether Yucca Mountain proceeds or not, since, even under the best conditions, Yucca Mountain could not provide storage for several decades. DOE has even agreed with one utility, PECO Energy, to take title to its fuel on site, and to purchase and operate its storage facility.

Environmental Protection. It is simply untrue to suggest that Yucca Mountain is stalling cleanup of the nation's defense nuclear facilities. These sites are contaminated with massive quantities of low level radioactive waste, which Yucca Mountain will not accept at any time. Higher-level transuranic wastes are already going into the successful repository at the Waste Isolation Pilot Project in New Mexico. DOE rejected efforts to develop additional low-level waste disposal sites in several states for defense cleanup activities. If environmental protection is DOE's main concern, perhaps the Department should explain to Nevadans why we should tolerate an uncertainty factor of 10,000 in the radiation dose projections for the Yucca Mountain repository system. Our slot machines have better odds than that.

Though you've clearly made up your mind, I remain hopeful that President Bush, when he receives your recommendation, will keep his promise to me and Nevada not to push the Yucca Mountain project forward against the imperatives of sound science. If that is not the case, however, please rest assured that Nevada will continue to pursue every means available to ensure that science and the law will ultimately prevail.

## Response

The Governor provided a response to the Secretary's January 10, 2002, notification of intent to recommend the Yucca Mountain site to the President, citing several reasons a decision to recommend the site is either premature or unnecessary, including: (1) the purported differing opinions on this matter attributed to other entities; (2) disagreement that Yucca Mountain would increase security against possible terrorist threats as compared to continued storage of spent nuclear fuel at existing nuclear facilities; (3) disagreement that Yucca Mountain contributes to national security and nuclear non-proliferation goals; (4) the belief that Yucca Mountain will contribute nothing to the nation's energy security during the next several decades; and (5) disagreement that delay in siting a repository at Yucca Mountain will stall cleanup of the nation's defense nuclear facilities.

Responses to each of these points are provided below.

**(1) A Site Recommendation Now is Timely.** After 24 years of scientific research, we have reached a point where our national policy for the management of nuclear materials can move forward to the next phase. During these twenty-four years, the investigative science that serves as the foundation for the comprehensive bases for a site recommendation has been openly and thoroughly reviewed. The Department has made available thousands of scientific and technical reports for review by the entities cited. Since passage of the Nuclear Waste Policy Act, the Department has continuously met with the Nuclear Regulatory Commission, the Advisory Committee on Nuclear Waste, the Nuclear Waste Technical Review Board, the International Atomic Energy Agency, and the Nuclear Energy Agency. In fact, a December 2001 International Peer Review Team of the International Atomic Energy Agency and the Organization of Economic Cooperation and Development's Nuclear Energy Agency report stated that our performance assessments provide an *"adequate basis for supporting a statement on likely compliance with the regulatory period of 10,000 years and, accordingly, for the site recommendation decision."*

In contrast to the notion that a decision at this time is premature, the formal conclusion of the U.S. Geological Survey, the International Peer Review Team of the International Atomic Energy Agency and the Organization of Economic Cooperation and Development's Nuclear Energy Agency, and the Committee of the Council of Engineering of the American Society of Mechanical Engineers – the independent scientific and technical community – all agree the voluminous body of scientific research is sufficient for a site recommendation at this time. In addition, the Nuclear Waste Technical Review Board, on January 24, 2002, stated that *"no individual technical or scientific factor eliminates Yucca Mountain."* Further, the General Accounting Office, in the final version of the report referred to, acknowledged that the Department has the discretion to make a site recommendation decision now. Similarly, the Nuclear Regulatory Commission, in its letter to DOE on sufficiency of information and data for inclusion in a possible license application, did not state that the additional work relating to resolution of key technical issues needed to be complete before a site recommendation.

**(2) Security Against Terrorism.** A repository is important to the secure disposal of nuclear waste. Spent nuclear fuel, high-level radioactive waste, and excess plutonium for which there is

no complete disposal pathway without a repository are currently stored at over 131 sites in 39 States. Approximately 161 million Americans live within 75 miles of one or more of these sites. We should consolidate the nuclear wastes to enhance protection against terrorist attacks by moving them to a secure underground location that is far from population centers and that could withstand an attack well beyond any that is reasonably conceivable. To understand how clear it is that Yucca Mountain will frustrate potential terrorist attacks, one need only ask the following: if nuclear materials were already emplaced there, would anyone choose to spread them to 131 sites in 39 states, at locations typically closer to major cities than Yucca Mountain is, as a means of reducing risks from a terrorist attack?

**(3) National Security.** A repository is important to our national security. It will provide certainty for the future operational capability of our nuclear-powered warships. A strong Navy is a vital part of our national security. About 40 % of our fleet's principal combat vessels, including submarines and aircraft carriers, are nuclear-powered. They have played a major role in every significant military action in which the United States has been involved for some 40 years, including our current operations in Afghanistan.

A decision now on the Yucca Mountain repository is also important in several respects to our efforts to prevent the proliferation of nuclear weapons. First, the end of the Cold War has brought the welcome challenge to our country of disposing of surplus weapons-grade plutonium as part of the process of decommissioning weapons we no longer need. A geologic repository is critical to completing disposal of this material. Such complete disposal is important if we are to expect other nations to decommission their own weapons, which they are unlikely to do unless persuaded that we are decommissioning our own.

A repository is important to non-proliferation for other reasons as well. Unauthorized removal of these materials from a repository is likely to be difficult even in the absence of strong institutional controls. Therefore, in countries that lack such controls, and even in the United States, a safe repository is essential to preventing nuclear material from falling into the hands of rogue nations. By permanently disposing of nuclear weapons-grade materials in a facility of this kind, the United States would encourage other nations to do the same.

**(4) Energy Security.** A repository is important to our energy security. We must ensure that nuclear power, which provides 20% of the nation's electric power, remains an important part of our domestic energy production. Without the stabilizing effects of nuclear power, energy markets will become increasingly more exposed to price spikes and supply uncertainties in direct proportion to our failure to maintain diverse sources of power. Already we are facing a growing imbalance between our projected energy needs and our projected supplies. The loss of existing electric generating capacity from existing nuclear plants would significantly exacerbate this problem and force us to substantially increase our dependence on other energy sources to replace the almost five hours of electricity that nuclear power currently provides each day, on average, to each home, farm, factory and business in America.

Generating nuclear power is important to our economy, and is likely to become more so. But nuclear energy produces nuclear waste. It has been doing this for more than 50 years. A permanent repository for that waste is essential to any realistic hope that nuclear energy will

continue to help us meet our energy demands. And it is not just energy supplies for the distant future that need concern us. If we do not provide for permanent disposal of the waste, we cannot reasonably expect new nuclear power plants to be built. Combined with the expected retirement of plants reaching the end of their life-span, potential shortages will become actual shortages. Thus, if we fail to develop a permanent repository, or even make any serious effort to settle on a plan for building one, the question soon enough will be, not whether we will have more energy supplies to meet growing demand, but whether we can maintain the energy supplies we have now. Our chances of answering this question positively are minimized as long as nuclear waste disposal remains an unresolved public policy issue.

**(5) Environmental Protection.** A repository is important to our efforts to protect the environment. We must permanently clean up our defense waste sites, which are located in Tennessee, Colorado, South Carolina, New Mexico, New York, Washington, and Idaho. Among the wastes currently at these sites, approximately 100,000,000 gallons of high-level liquid waste are stored in, and in some instances have leaked from, temporary holding tanks. About 2,500 metric tons of solid, unprocessed fuel from production and other reactors also are stored at these sites. In addition to addressing our defense legacy, we must safely dispose of commercial spent fuel currently stored in aging and temporary facilities, many of which are located near major population centers and important water resources.

Yucca Mountain is not merely the safe answer and the right answer for protecting our environment, it is the only answer advanced with any degree of realism. It is easy enough to say "no," but saying "no" does nothing to bring about a real solution, much less a solution backed by the exhaustive, two-decades-plus amount of thought, research and care that has gone into evaluating Yucca Mountain.

## 2.1.2 Nevada – Governor Kenny Guinn

### *Commenter*

Nevada, State of, Office of the Governor  
Guinn, Governor Kenny

### Comment

On January 10, 2002, you notified me of your intention to recommend the Yucca Mountain site to the President for development as the nation's high-level nuclear waste repository. As you know, President Bush promised Nevada that the Yucca Mountain project would not be advanced against the imperatives of sound science.

### **Sound Science Does Not Suggest Yucca Mountain is Suitable**

Nevada has challenged the very core of DOE's science in its lawsuit over DOE's recently enacted site suitability guidelines. This is a grave and urgent lawsuit, and one of considerable importance to the citizens of Nevada and to all Americans. For that reason, rather than rushing forward with your recommendation to the President, I urge you to join with Nevada in requesting the court to expedite review of the merits of our case, and to be guided by the court's decision.

Given the findings and meetings last month of the Nuclear Waste Technical Review Board ("TRB"), there is little doubt that science presently cannot support the suitability of the Yucca Mountain site.

On January 24, 2002, the TRB issued a report concluding that the technical basis for DOE's repository performance estimates at Yucca Mountain is "weak to moderate at this time." I cannot conceive of your recommending to the President that he approve the permanent disposal of the nation's most dangerous radioactive waste at Yucca Mountain at a time when the scientific basis for doing so is considered "weak to moderate" – not by some adversary of DOE or opponent of Yucca Mountain, but by the very federal agent tasked by Congress with independently assessing the scientific process used by DOE. Contentious meetings between the TRB and DOE in Nevada last week only further underscored the lack of any credible evidence supporting the suitability of Yucca Mountain for nuclear waste disposal.

### **Affidavit of Dr. John Bartlett**

Enclosed with this letter is a critically important sworn affidavit by Dr. John Bartlett, who as you know previously ran DOE's Yucca Mountain project as Director of the Office of Civilian Radioactive Waste Management. Dr. Bartlett has extensively studied Yucca Mountain and DOE's site analyses and has concluded that the Yucca Mountain site is *unsuitable* for nuclear waste disposal. Even more troubling, he attests that DOE *has itself* reached this conclusion. He attended the recent TRB meetings in Nevada and observed further indications along these lines.



In his affidavit, Dr. Bartlett recounts just how far DOE has strayed from the mandates of the Nuclear Waste Policy Act, and from DOE's original scientific mission, by abandoning geologic isolation at Yucca Mountain in favor of man-made contrivances. Given Dr. Bartlett's stature and experience in this field, it is hard to image a more powerful indictment of the actual science at Yucca Mountain.

I am also enclosing a sworn affidavit by Mr. Robert Loux, Executive Director of Nevada's Agency for Nuclear Projects, explaining some of the serious adverse consequences your recommendation will have in Nevada even now. Taken together, all of this new information demonstrates that any recommendation you might make at this time will be fatally flawed, premature, and harmful to Nevada.

### **Requirements of Section 114(a)(1) of the Nuclear Waste Policy Act**

The Nuclear Waste Policy Act requires that, as an integral part of any recommendation you may submit to the President, you include "[t]he views and comments of the Governor and legislature" of Nevada, "together with the response of the Secretary to such views." This has clearly not been done. Nevada has not yet received copies of DOE's Final Environmental Impact Statement for Yucca Mountain, nor, indeed, any of the other items specifically listed in the statute as accompanying the site recommendation. Because Nevada has not seen these documents, Nevada cannot yet comment on them.

Any site recommendation you may make to the President at this time will, therefore, be devoid of Nevada's required comments, and of your required response. We believe the President not only has a statutory right to hear Nevada's views, but an obligation to carefully consider them in weighing whether to approve your recommendation. A premature recommendation to the President, made without offering Nevada the opportunity to comment, would be further grounds for judicial review and reversal of DOE's actions. Moreover, any Final Environmental Impact Statement you release on Yucca Mountain must, under the law, be available for 30 days and then be accompanied by a Record of Decision. We have been apprised in writing that DOE does not intend to adhere to these requirements prior to your making a recommendation to the President, and we find that all the more troubling.

### **Expedited Review of Nevada's Court Case**

Nevada has challenged DOE's science and its legal basis for determining Yucca Mountain's suitability in federal court. Moreover, Nevada recently notified the court of its intention promptly to challenge your recommendation to the President if you choose to make it at this time. DOE disputes Nevada's contentions on these critical issues. But surely DOE would agree that, if Nevada ultimately is correct on the science and the law, going forward with the Yucca Mountain project would be an unfortunate breach of justice for Nevadans and a grave mistake for this nation. For that reason, your recommendation should not be made at this time.

Nevada does not seek to delay resolution of the serious issues raised by this letter and by our pending lawsuit. Indeed, just today I have instructed our attorneys to move to expedite review of Nevada's court challenge. I urge DOE to join Nevada in requesting expedited review so these

critical disputes can be quickly resolved. The citizens of Nevada and the American people deserve nothing less.

### Response

Governor Guinn advances three reasons why it is premature for the Secretary to recommend approval of the Yucca Mountain site to the President: (1) sound science does not suggest Yucca Mountain is suitable, as explained in greater detail in accompanying affidavits; (2) the views and comments of Nevada on a recommendation to the President have not been received, as required by section 114(a)(1)(F); and (3) pending litigation over DOE's site suitability guidelines should be resolved prior to a recommendation.

The Department does not agree with the Governor's reasons for suspending judgment on the recommendation of the Yucca Mountain site. As addressed in earlier correspondence, the DOE is convinced that sound science supports the siting of a repository at Yucca Mountain. The Department has engaged in over 20 years of scientific and technical investigation of the suitability of the Yucca Mountain site. As part of this investigation, some of the world's best scientists have been examining every aspect of the natural processes – past, present and future – that could affect the ability of a repository beneath Yucca Mountain to isolate radionuclides emitted from any spent fuel and radioactive waste disposed there. They have been conducting equally searching investigations into the processes that could affect the behavior of the engineered barriers that are expected to contribute to successful isolation of radionuclides. These investigations have run the gamut, from mapping the geological features of the site, to studying the repository rock, to investigating whether and how water moves through the Yucca Mountain site.

To give just a few examples, Yucca Mountain scientists have: mapped geologic structures, including rock units, faults, fractures, and volcanic features; excavated more than 200 pits and trenches to remove rocks and other material for direct observation; drilled more than 450 boreholes; collected over 75,000 feet of core, and some 18,000 geologic and water samples; constructed six and one-half miles of tunnels to provide access to the rocks that would be used for the repository; mapped the geologic features exposed by the underground openings in the tunnels; conducted the largest known test in history to simulate heat effects of a repository, heating some seven million cubic feet of rock over its ambient temperature; tested mechanical, chemical, and hydrologic properties of rock samples; and examined over 13,000 engineered material samples to determine their corrosion resistance in a variety of environments.

The findings from these and numerous other studies have been used to expand our knowledge of the rocks beneath Yucca Mountain and the flow of water through these rocks, including amounts, pathways, and rates. Yucca Mountain scientists have used this vast reservoir of information to develop computer simulations that describe the natural features, events and processes that exist at Yucca Mountain and, in turn, have used these descriptions to develop the models to forecast how a repository will perform far into the future. Yucca Mountain scientists have followed a deliberately cautious approach in forecasting performance to minimize the uncertainties that are inherent in any forecast of future performance.

The results of this investigation have been openly and thoroughly reviewed by the Department and oversight entities such as the Nuclear Regulatory Commission (NRC), the Nuclear Waste Technical Review Board, and the U.S. Geological Survey, as well as having been subjected to scientific peer reviews, including a review undertaken by the International Atomic Energy Agency. The Department also has made available the scientific materials and analyses used to prepare the technical evaluations of site suitability for public review by all interested parties. The results of this extensive investigation and the external technical reviews of this body of scientific work gives me confidence for the conclusion, based on sound scientific principles, that a repository at Yucca Mountain will be able to protect the health and safety of the public when evaluated against the radiological protection standards adopted by the Environmental Protection Agency and implemented by the NRC in accordance with Congressional direction in the Energy Policy Act of 1992.

Notwithstanding the assertions in the affidavit of Mr. Bartlett, the Department has not found the site to be unsuitable. It is also incorrect to suggest that the Department's consideration of natural as well as engineered barriers in assessing the performance of a repository contravenes the spirit or letter of the Nuclear Waste Policy Act (NWPA). Section 121 of the NWPA directs the NRC to provide for the use of a multiple barrier system in the design of a repository. The NRC has implemented this directive, as well as that of section 801(b) and (c) of the Energy Policy Act of 1992, by requiring DOE to show at licensing that the natural and engineered barriers will work in conjunction to enhance repository performance. Thus, the operation of both sets of barriers is relevant under the regulatory framework for licensing. Given the link between suitability and licensability, it is entirely appropriate for DOE's suitability Guidelines to consider both kinds of barriers in making a suitability determination.

With regard to the Governor's comment that the views and comments of the state of Nevada have not been received and responded to, as required by section 114(a)(1)(F), the DOE does not agree. On May 7, 2001, DOE issued a Federal Register notice announcing the opening of a comment period on the possible recommendation of the Yucca Mountain site. Moreover, DOE notified the governors and legislators of each state in the nation of the opportunity to provide their views and comments on a possible site recommendation pursuant to section 114(a)(1)(F) of the NWPA. This comment period extended through October 19, 2001, and a supplemental comment period was held from November 14, 2001 to December 14, 2001. In accordance with section 114(a)(1)(F), DOE has responded to the views and comments received from the State of Nevada and other state governments during the public comment periods in the Comment Summary Document and the Supplemental Comment Summary Document. In addition, DOE has responded to comments by the State received since the close of the public comment periods in this document. These materials will become part of the comprehensive statement of the basis of a recommendation, and as such will be transmitted to the President along with the recommendation.

Lastly, the DOE does not believe it is either legally required or appropriate that the site recommendation process be held in abeyance because of pending litigation on DOE's site suitability guidelines. The DOE's site suitability guidelines were promulgated in accordance with applicable laws and regulations. In fact, it would have been impermissible and unreasonable for the DOE not to have updated its suitability guidelines to take into account

statutory and regulatory changes, as well as advances in science. These updated guidelines provide an excellent tool for assisting in the evaluation of how well a repository at Yucca Mountain will bring together the location, natural barriers, and design elements necessary to protect the health and safety of the public, including those Americans living in the immediate vicinity, now and long into the future.

The Nuclear Waste Policy Act (NWPA) sets forth the process for deciding whether to submit an application for a license from the Nuclear Regulatory Commission (NRC) for a repository at Yucca Mountain, with clearly defined roles for the Secretary, the President, the State of Nevada, and the United States Congress. Litigation should not be permitted to frustrate the operation of this process and delay a decision on whether to submit a license application. If the political process ultimately results in a decision to submit a license application, there will be ample opportunity for administrative and judicial review of all issues relevant to licensing a repository at Yucca Mountain.

A Secretarial recommendation would not harm Nevada or provide any basis for judicial intervention. If the Secretary submits a recommendation to the President, then the President must decide whether to submit a recommendation to the Congress. If the President submits a recommendation to the Congress, then the NWPA gives Nevada an absolute right to disapprove the Presidential recommendation. If Nevada disapproves a Presidential recommendation, then no license application could be submitted unless and until Congress takes affirmative action.

Given the sound science that the site is technically suitable with an anticipated exposure level less than 1 percent of the individual protection standards established by the Environmental Protection Agency and implemented by the NRC in accordance with the Energy Policy Act of 1992, the compelling national interests that support the development of a repository, and the absence of any sufficient countervailing interests (which are not set out in this comment or any other), it would be an irresponsible dereliction of duty to delay a Secretarial recommendation.