

PRESS RELEASE

NYE COUNTY Files its **PETITION TO INTERVENE AND CONTENTIONS**

December 19, 2008

Today Nye County, the site county for the proposed Yucca Mountain geologic repository, submitted its contentions to the Nuclear Regulatory Commission (NRC) on the Department of Energy's (DOE) license application. In June 2008, The DOE submitted a license application to the NRC to allow construction of the Yucca Mountain geologic repository in Nye County. In September, the NRC accepted DOE's License Application for review. The NRC's regulations allow interested parties to participate in the Licensing Process and these potential parties must submit any contentions by December 22, 2008.

Nye County has been involved in oversight of the repository process for over 15 years. Congress overrode Nevada's objection to Yucca Mountain in 2002 and now federal law designates Yucca Mountain as the sole location to dispose of spent nuclear fuel and defense high level waste. We are not advocates for or against the Yucca Mountain repository but recognize that there are currently well over 60,000 metric tons of used nuclear fuel and high level waste spread throughout the country. Nye County has a policy of constructive engagement in regard to the Yucca Mountain Repository. Our contentions, briefly summarized herein are intended to advance the safe and successful implementation and operation of the repository if the license application is approved.

The Nye County Nevada Nuclear Waste Repository Project Office (NWRPO) has submitted seven contentions to the NRC for the Yucca Mountain licensing proceeding. Two of these are joint contentions with Esmeralda, Mineral, Churchill, Lander and Inyo (CA) Counties. A summary of these contentions is attached and the full text of these contentions is available at www.nyecounty.com.

For additional information, please contact Darrell Lacy with the NWRPO at (775) 727-7727.

Synopsis of Nye County Contentions

The NWRPO's staff and consultants have conducted scientific oversight of DOE's work and also independent studies of the geology and hydrology of the Yucca Mountain site. We feel the DOE project is technically feasible and with the changes outlined in our contentions will be safe for the citizens of Nye County and Nevada. Although many of the assumptions made by DOE in their license application are overly conservative, Nye County would like DOE to perform additional work to develop baseline conditions and a more complete performance confirmation plan that validates the computer models used in their calculations. The development of this baseline data and longer term studies in the performance confirmation phase may enable the use of less conservative data to more accurately reflect the low risk associated with this project.

SAFETY

1. Upper Natural Barrier (UNB) Flow modeling

The Upper Natural Barrier is the approximately 1000 feet of mountain above the waste repository. DOE developed a computer model to predict how fast and how much water will seep into the mountain and ultimately could travel to the repository level. If the climate changes and rainfall increases, then more water could infiltrate into the mountain faster. It is important to determine how much water and the chemistry of the water that can reach and infiltrate the repository. The chemistry of the water can impact the corrosion of the waste containers and future movement of radionuclides. DOE did not include activities in the performance confirmation program sufficient to assess the adequacy of the computer model assumptions, data, and analyses that support the infiltration, seepage, and unsaturated zone (UZ) flow, that contribute to and provide the basis for the stated capability of the UNB to prevent or substantially reduce the amount and rate of water seeping into the repository. Given the uncertainty in the infiltration model, UZ Flow model, and seepage model, site-specific activities and data are needed to properly assess the adequacy of the basis for treatment of the inputs to the various models.

2. Lower Natural Barrier (LNB) flow modeling

The Lower Natural Barrier is the approximately 1000 feet of unsaturated rock between the repository and the water table, and the saturated rock below that extending 13 miles to the site boundary. After many thousands of years, if conditions are conducive to corrosion, radionuclides in the containers might escape. Any radionuclides must then be dissolved in water and travel through the rock in the LNB to escape the repository. DOE developed a computer model to predict how fast radionuclides might reach the water table if they escape from the waste containers. DOE did not include activities in the performance confirmation program to assess the adequacy of the assumptions, data, and analyses that support the basis for the stated capability of the LNB to prevent or substantially reduce radionuclide movement beyond the 13 miles from the repository to the site boundary. Additional site-specific testing and monitoring activities are required to address uncertainties in the basis for the models used to evaluate the capabilities of the features of the LNB, including both the unsaturated zone (UZ) model, and the saturated zone (SZ) model.

3. Site Scale Saturated Zone Flow Model

The water table sits about 1000 feet below the repository. If radionuclides escape from the canisters and travel down through the 1000 feet of unsaturated rock below the repository they can then be carried away from Yucca Mountain by ground water. The Site Scale Flow Model calculates the movement of water in the water system under and downstream of Yucca mountain. DOE created a site scale model to evaluate where and how fast the radionuclides could be transported to locations offsite. DOE did not include activities in the performance confirmation program sufficient to assess the adequacy of the basis for the site scale model. Given the uncertainty in the site scale model, site-specific activities and data are needed to properly assess the adequacy of the basis for treatment of the inputs to the model.

4. Air Quality During Operations

All mining operations cause the release of naturally occurring Radon from the rocks disturbed by mining. The environmental impact study shows radiation doses much higher from the natural radon than from the handling of used fuel and high level waste. DOE has failed to fully identify, examine, and evaluate the effect of construction and operational activities upon air quality and personnel in the general environment around Yucca Mountain, as required by regulation. Specifically, DOE has inadequately considered the radiation dose to members of the public from naturally occurring radon and its decay products emitted as a result of repository construction and normal operations. DOE has ignored and failed to report in its License Application that the estimated highest annual radiation dose caused by repository construction and operations as a result of radon emissions is 7.6 millirem, as reported in the Supplemental Environmental Impact Statement for the repository.

JOINT SAFETY

These two contentions are filed jointly with neighboring counties. They are easily corrected by DOE but must be identified in the contention process to ensure that they are identified and addressed by DOE.

5. JOINT SAFETY – NIMS - with Nevada Counties of Churchill, Esmeralda, Lander, and Mineral, and Inyo County, California.

DOE failed to include key interoperability and standardized procedure and terminology requirements of the National Incident Management System (NIMS), in the Emergency Planning required as part of the Safety Analysis Report to sufficiently ensure the ability of Nye County and other offsite agencies to effectively communicate and respond to onsite emergency actions.

6. JOINT SAFETY - Aircraft Over Flights - with the Nevada Counties of Churchill, Esmeralda, Lander, and Mineral, and Inyo County, California.

DOE provides no basis for its assumption that the Air Force will restrict its activities in the repository vicinity. Yet, DOE takes credit for various flight restrictions on Air Force operations in the vicinity of the proposed repository. DOE states, “The accident analysis conducted assumed that such flight restrictions would occur.” No further basis or justification of this critical assumption is discussed. DOE discusses its event sequence probability calculations

(based in large part on the noted unsupported assumption) and states, “Consequently, the aircraft hazard to the surface facilities is screened out as an initiating event.”

NEPA

7. National Environmental Policy Act (NEPA)

By regulation, the NRC adopt DOE’s Environmental Impact Statement to the extent practical. The EIS prepared by DOE did not address all of the potential groundwater impacts in areas downstream from the Yucca Mountain site. The failures of DOE’s 2002 Environmental Impact Statements and the 2008 Repository Supplemental EIS (collectively “EISs”) to completely and adequately characterize potential contaminant releases to groundwater, and from surface discharges, as well as to adequately characterize the potential impacts on the environment from those releases and discharges, constitute significant new and additional considerations that render the EISs inadequate for that portion of the EISs that consider impacts to groundwater and from surface discharge over the long term, pursuant to the related legal requirements. Therefore, NRC may not adopt the EIS without further supplementation.