

# WINTER 2009

Publication of Lander County  
Repository Planning and Oversight Program

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## Obama urged to keep Yucca on track

Executives for the nuclear industry's lobbying arm said in early December, they have told aides to President-elect Barack Obama that the Yucca Mountain nuclear waste repository should remain in the nation's energy playbook, and there is no need to rush decisions about the project.

Officials with the Nuclear Energy Institute (NEI) said at a briefing they weighed in with members of Obama's transition team. Speculation about how Obama will handle nuclear waste issues has been running high since the election.

We have talked with them. We have no sense what they are going to do," said Marvin Fertel, NEI acting president and chief executive officer.

But Fertel and other industry officials said they are insisting that the proposed repository for nuclear spent fuel should remain a part of the nation's long-range nuclear waste strategy.

The institute also is advocating that used fuel be removed from power plant sites and stored elsewhere in the meantime, and that the government continue researching technologies for recycling the material.

"We believe under all circumstances there has to be a geologic repository, but we are willing to engage with policy-makers of all stripes as to what sort of program they want to construct," said Alex Flint, NEI senior vice president for governmental affairs.

The remarks come against a backdrop of Obama's comments during the presidential campaign that he opposes the Yucca program, and pressure being maintained by Sen. Harry Reid, D-Nev., to ensure the incoming president follows through on a promise to seek alternatives.

Reid, the project's chief opponent in Congress, has said he has discussed Yucca Mountain with Obama since the election and that the program "will bleed hard" in the coming year.

Obama has nominated Steven Chu, a strong advocate of conservation and renewable energy research, to become energy secretary. There has been no official announcement yet.

Chu, who is director of the Lawrence Berkeley National Laboratory in California, shared the Nobel Prize for physics in 1997. A New York Times profile of Chu said he has spoken unenthusiastically about the Yucca program that would fall under his jurisdiction.

Flint said Yucca Mountain is the "law of the land" under a 1982 statute that authorized the search for a repository to store thousands of tons of defense nuclear waste and spent fuel from utility reactors.

Moves by the Obama administration to halt the program by withdrawing a repository license application that has already been filed at the Nuclear Regulatory Commission could trigger industry lawsuits as a possible violation of that law, he said.

"The program is meritorious and it is the law of the land and it should proceed until the law is changed, and there is no technical reason

why it should not proceed," Flint said. "We will comply with the law as it was written until people want to change the law," Flint said. "We think it is incumbent on the administration also to comply with the law until there is a consensus that changes should be made."

Until then, Flint said, "our view is that under all circumstances the license application should be considered by the NRC."

Fertel said there should be no rush to decide on the repository, as the Nuclear Regulatory Commission review is expected to take four years at least.

"They are not building anything out there," he said of the Yucca site 100 miles northwest of Las Vegas.

"The president can make a decision after whatever review he does," Fertel said. "Our advice is to do the review, and if you are going to change the law, then change the law. But do it in a systematic way, don't do precipitous things." *Source: Washington Bureau*



## Governor Names New Nuclear Projects Chief

Nevada Governor Jim Gibbons today appointed Bruce Breslow as Executive Director of the Nevada Agency for Nuclear Projects. The Agency advises The Nevada Commission on Nuclear Projects, which in turn provides advice to Governor Gibbons and the Nevada Legislature. Breslow will fill the position left by the resignation of Bob Loux.



Breslow has a long history of public service, including City of Sparks Planning Commission member (2007-present), Nevada Transportation Services Authority Commissioner (Governor Guinn appointee 1999-2005), Chairman of the Nevada State Employee-Management Committee (Governor Guinn appointee 2002-2005), Mayor of Sparks, Nevada (1991-1999), and Chairman of the Reno-Sparks Convention and Visitors Authority (1996-1998). Breslow's professional past also includes 11 years as a television sportscaster. He has lived in Nevada for 30 years.

"I know Bruce to be a good and a fair man," Gibbons said, "I trust his leadership of the Nevada Agency for Nuclear Projects will bring new ideas and a renewed level of tenacity to the fight against locating the nation's nuclear dump in Nevada."

"I am humbled by Governor Gibbons' confidence in me," Breslow said, "I will use all of my experience to serve the Governor and the Commission and continue the fight against Yucca Mountain in order to protect the health, safety, and welfare of the citizens of Nevada."

Breslow will start his new job January 12, 2009.

## Waste dump opponents sense victory

Despite the eleventh hour push by the Bush administration to advance efforts to make Yucca Mountain the dump for all of the nation's highly radioactive nuclear waste, that plan is on its last legs, Nevada's anti-Yucca forces said this in early December.

"I believe we're on the threshold of victory," Richard Bryan, the former U.S. senator and former governor of Nevada, said at December 15th's, meeting of the Nevada Nuclear Projects Commission. Bryan is commission chairman.

One reason for his belief: the state released its barrage of reasons why Yucca Mountain should remain free of nuclear waste.

State of Nevada filed a list of hundreds of contentions on December 19th, with the Nuclear Regulatory Commission.

"These are serious challenges that will demonstrate convincingly the flaws in the Department of Energy's program," said Bob Loux, longtime chief of the Nevada Nuclear Projects Agency. "When others outside Nevada see the seriousness of these charges, they will come to the realization that Yucca Mountain can never be licensed."

The list notes, for example, that the state has demonstrated that the canisters that are to be filled with nuclear waste are vulnerable to corrosion from water and "have no chance of lasting more than a few hundred years."

The Department of Energy will have 50 days to analyze and respond to the list of contentions; then Nevada has two weeks to respond to that analysis. That's when the real debate begins.

Loux expects that an administrative law judge's review of all of this could take up to 12 years.

"It's a very lengthy process," he said.

And that's only if the new president fails to meet Nevada's expectations.

Loux also told the commission that he has talked with President-elect Barack Obama's transition people, and everything he "heard indicates (Obama) will keep his word on Yucca Mountain."

"We have a new president, we have the majority leader. Obama carried Nevada, and he pledged he was going to stop it," Loux said.

During the campaign, Obama aired a television ad that said: "Barack Obama. Opposes Opening Yucca. He'll protect our families."

Another encouraging sign came when the Surface Transportation Board, a three-member appointed panel that oversees railroad construction projects, came to Las Vegas to consider whether to allow the Energy Department to build a railroad from Caliente in Eastern Nevada to Yucca Mountain.

And although the hearing was largely regarded as a formality by opponents of the Yucca Mountain dump plan, local officials expressed surprise at the thoughtful, pointed questions the board asked.

Suddenly the hearing seemed like yet another facet of the Yucca debate that might go Nevada's way. *Source: Las Vegas Sun*

## Obama's pick for Department of Energy post signed report favoring Yucca Mountain licensing

Steven Chu, the federal laboratory director selected mid December to lead the Department of Energy, signed onto a nuclear energy report whose recommendations included licensing for a nuclear waste repository at Yucca Mountain.

Chu's signature on the August report, alongside those of nine other high ranking federal science managers, is suggesting to some people that there might be a gap between his thinking on the controversial Nevada project and that of his expected soon-to-be boss, President-elect Barack Obama.

While some Nevada lawmakers have been quick to characterize Chu as no friend of Yucca Mountain, the report indicates there might be more nuance to his position, even if in the end he carries out an Obama campaign pledge to end the project.

When he ran for president, Obama was critical of the Energy Department's effort to build a nuclear waste complex at the Yucca site, about 100 miles northwest of Las Vegas, and indicated he would end the program and divert funding to investigate other options for managing highly radioactive spent nuclear fuel.

At roughly the same time, the directors of 10 national laboratories including Chu as head of the Lawrence Berkeley National Laboratory in California were forming a position paper on nuclear power that was forwarded to Energy Secretary Samuel Bodman near the end of the summer.

In the eight-page report, the directors said they "strongly believe that nuclear energy must play a significant and growing role in our nation's — and the world's — energy portfolio." It recommended getting maximum use of the current fleet of nuclear plants while immediately deploying advanced light-water reac-



*Stephen Chu, director of Berkley National Laboratory in California*

tors to meet growing energy needs.

On nuclear waste, the directors called for a suite of actions, including interim storage of waste either on-site or away from power plants, licensing of the Yucca repository as a long-term measure, and federal funding for development of waste reprocessing and other forward-looking technologies.

"Confidence regarding the disposal of waste is needed before the (federal Nuclear Regulatory Commission) will grant a license for a new plant and before private investors will accept the financial risk of ordering new nuclear plants," the directors said.

"In the short term this confidence can be achieved by continuing the licensing of a geologic repository at Yucca Mountain and enabling the continued interim storage of used nuclear fuel in dry casks and fuel pools," the report said.

The issue paper is circulating among energy lobbyists and interest groups

looking for clues as to how Chu, a 1997 Nobel Prize winner in physics, might manage nuclear issues as energy secretary.

Whatever Chu signed over the summer, Sen. Harry Reid, D-Nev., remains confident the energy secretary-designate will work to end the repository program as part of the Obama team, Reid spokesman Jon Summers said.

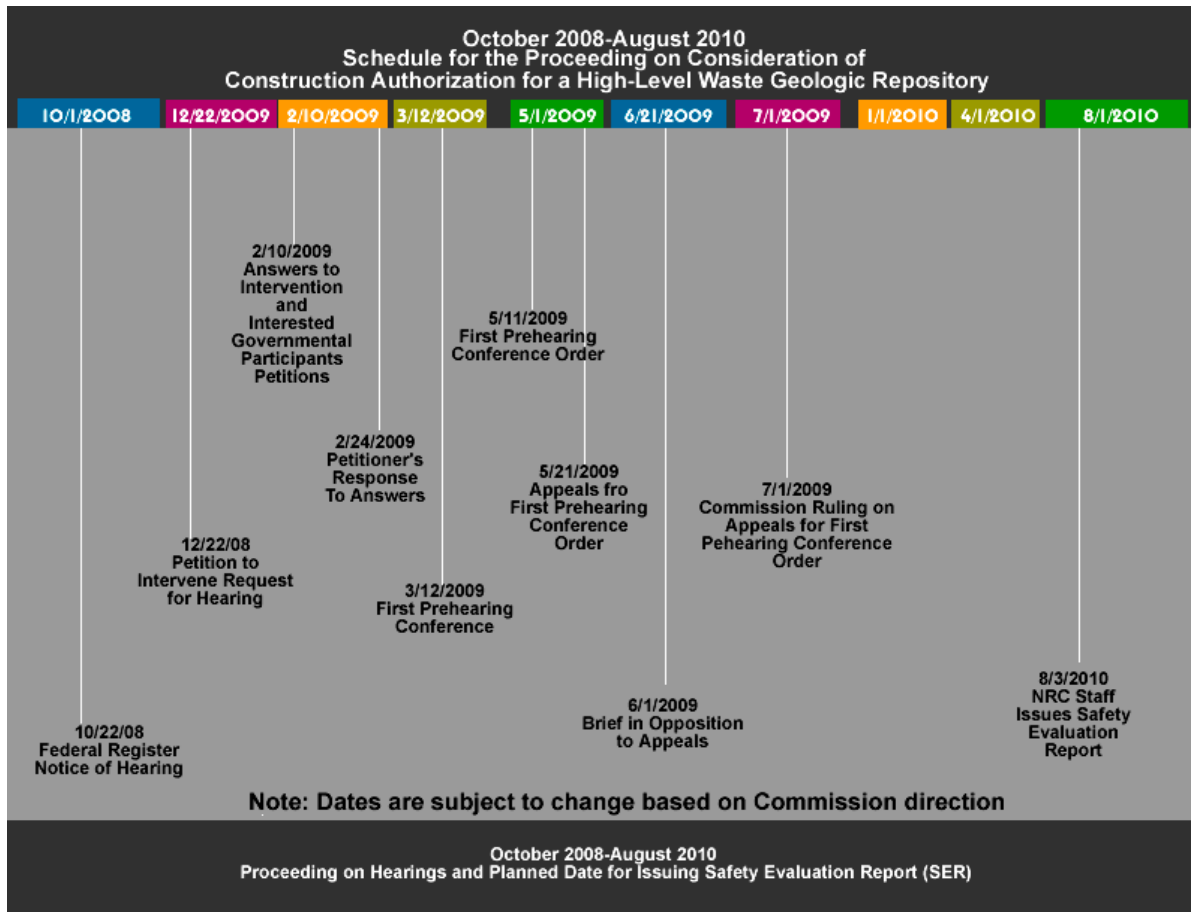
Chu's main expertise, touted by Obama when he introduced his pick has been in research and development of alternative energy technologies and strategies to combat climate change.

Chu has advocated nuclear power as a clean energy source, but like many others has expressed concerns about how its deadly waste can be managed.

The nominee-designate has spoken approvingly of spent fuel reprocessing but has said little specifically about the Yucca Mountain Project, where the Department of Energy wants to store more than 77,000 tons of commercial spent fuel and government-generated nuclear waste in a warren of tunnels 1,000 feet below the mountain's surface.

Several others involved with the report or familiar with it cautioned against reading into the document. The main author was Adam Cohen, deputy associate director for the Argonne National Laboratory.

He said, for instance, that the recommendation to continue licensing for Yucca Mountain was not so much an endorsement of the Nevada site as a desire for the Nuclear Regulatory Commission to identify and work out kinks in the license process "so you know it can be done and you have the right regulations." *Source: Associated Press*



## Lander County filed list of contentions in the Yucca Mountain hearings

After the Nuclear Regulatory Commission (NRC) published a notice of hearing on the DOE license application October 22, a 60-day period began in which any person or governmental entities wishing to participate in the licensing proceeding as a full party intervenor may apply.

Lander County joined with Churchill, Mineral and Esmeralda to petition the NRC to gain status as a party and to request a hearing prior to the December 22, 2008 deadline for filing. Together they filed several contentions (list of issues) as well as two challenges joining with Nye County.

The Nuclear Waste Policy Act (NWPA) provides the Secretary of Energy with discretionary authority to grant affected status to units of local government contiguous to the unit of local government with jurisdiction over the candidate repository site. Nye County, Nevada, is the si-

cus jurisdiction, which is bordered by eight contiguous Nevada counties and Inyo County in California. Nye County is affected by definition pursuant to the NWPA.

Lander County was given "affected status" in 1991 and subsequently established the Lander County Repository Planning and Oversight Program to actively participated in the monitoring and oversight of the proposed High-Level Radioactive Waste Repository at Yucca Mountain.

Lander County became a Potential Party to the proceedings by participating in the NRC's pre-hearing process. This required a certification of compliance with the NRC's regulations governing the Licensing Support Network (LSN) an on-line exchange of documents that may be used as evidence in the NRC licensing proceeding.

While the number of contention is considered the largest ever filed in a government nuclear proceeding (Nevada

officials filed 229 "contentions" to the DOE license application), it is expected that many of them will be pared back or rejected for formal arguments, with the focus limited to a smaller number of key issues.

The NRC has set a preliminary schedule for the license hearings with the issue of the Federal Register Notice. This notice was largely a formality to set up a process for interested parties to intervene in the case.

The challenges will be heard in courtroom-style sessions that could begin in March, according to a schedule the commission announced (above graphic). Most of the sessions, which would be run by administrative judges, will be held in Las Vegas.

The NRC effort to dissect the DOE's 8,600-page construction application (License Application (LA)) is scheduled to take three to four years.

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**Lander County files**  
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If the NRC staff issues a Safety Evaluation Report sometime in August or September of 2010 the next session of hearings will launch with the Second Case Management hearings with a decision expected by 2013. More information is available at the following websites:

**Lander County's Yucca Mountain Oversight** - Landercountynwp.com and trackhearings.com

**Department of Energy**  
http://www.ocrwm.doe.gov

**Public Internet for NRC**  
http://www.nrc.gov/waste/hlw-disposal/yucca-lic-app.html

**Lander County Repository Planning and Oversight Program**

This newsletter is a publication of the Lander County Repository Planning and Oversight Program. Lander county is one of ten affected units of local government (AULG) involved in the proposed Yucca Mountain Repository. Funding provided to Lander County is paid by users of electricity generated by nuclear power plants. Under a general contract with nuclear generating utilities, the federal government collects a fee of one mill (one-tenth of a cent) per kilowatt-hour from utility companies for nuclear generated electricity. The money goes into the Nuclear Waste Fund which is used to fund all program related activities. Articles in this newsletter may not necessarily reflect the positions or opinions of the Lander County Board of Commissioners

For more information on Lander County's program contact Deborah Teske at the Community Development Department (775) 635-2860 or Joy Brandt at (775) 964-2447 in Austin, NV. Lander County's Nuclear Waste Oversight web site is at landercountynwp.com. *Editors: Rex Massey, & Deborah Teske, Graphics, design & format, Loreen Pitchford*

**'COME TO THE TABLE': GOP says Yucca site a solution**

WASHINGTON -- Fresh from their tour of Yucca Mountain in December, Republican Party leaders are turning up the volume on their calls for Nevadans to reconsider the proposed nuclear waste site as a possible salve for the state's budget woes.

At the same time, they are stepping up pressure on Sen. Harry Reid as Yucca's No. 1 foe to show whether he has the muscle to shut down the project once and for all.

Republican state Chairwoman Sue Lowden led 60 members of the party's Central Committee on the Dec. 12 tour of Yucca Mountain, about 100 miles northwest of Las Vegas.

She wrote in her blog on December 22nd that after hearing a presentation from project Director Ward Sproat, she thinks the program will be difficult to kill.

Sproat and other supporters argue that to pull the plug, Congress has to repeal or amend the 1982 Nuclear Waste Policy Act, which authorized a repository and led to the targeting of Yucca Mountain. Judging from test votes taken in recent years, little appetite exists in the House of Representatives to abandon the site.

If Yucca Mountain cannot be killed, Nevada could find itself with nuclear waste and no benefits "we might be able to negotiate for if we would only come to the table," Lowden said.

On the same day, Clark County Republican Party Chairman Bernie Zadrowski said in an e-mail to party members there should be more debate and questions asked about Yucca Mountain and possible benefits "before the gavel is swung."

"Can we even trust that (Reid) has Nevada's best interest at heart by prematurely declaring the project dead?" Zadrowski said. "What if it isn't dead, and we get caught blindsided without these important questions being answered?"

"Over the years we've heard Sen. Reid talk about killing the Yucca Mountain Project," Lowden wrote. "But what we haven't heard is Sen. Reid's plan to introduce, pass and have President

Obama sign a bill to repeal the NWPA. Why not?"

"With that in mind, I urge Sen. Reid to immediately propose repealing the Nuclear Waste Policy Act," Lowden

wrote. "As Senate Majority Leader, Sen. Reid clearly has the power to place such a vote at the head of the calendar when Congress reconvenes after President Obama is inaugurated."

"As the second most powerful Democrat in the country -- with a Democrat in the White House, Democrat control of the U.S. Senate and Democrat control of the U.S. House of Representatives -- if such a repeal is unsuccessful, what will that tell us? It will tell us it's time for Gov. Jim Gibbons to appoint a negotiator."

Reid has been credited by supporters and blamed by opponents for stalling the repository for years by routinely cutting millions of dollars from the Energy Department's annual budgets.

Barack Obama and every other Democrat who ran for president pledged to oppose the project in part because Reid arranged for Nevada to become an early stop in the party's caucus schedule.

As a Senate leader, Reid has bottled up bills that would advance the project, and Democrats who lead energy and environment committees routinely defer to him on anything having to do with Yucca Mountain.

**Negotiating for benefits might be best, party argues**

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**'COME TO THE TABLE': GOP says Yucca site a solution** (continued from page 5)

As far as ending the project outright, Reid does have a strategy but is not about to share it with Lowden or anyone else, his spokesman Jon Summers said.

"Senator Reid has already started working with Obama and (Energy Secretary-designate Steven) Chu on a plan to kill the dump," Summers said. "However, we're not going to publicize a step-by-step strategy."

Regarding Lowden's call for Nevadans to re-examine Yucca Mountain, "Ms. Lowden would be well-served to do some homework on this issue rather than repeating talking points from the dump's supporters," Summers said.

"If Yucca Mountain was such a good idea and there were actually benefits to negotiate, why aren't other states fighting to take it away from us?"

Political analysts are scratching their heads as to why Republicans appear to be attaching themselves to Yucca Mountain when public opinion polls continue to show majorities of Nevadans do not want it.

Mark Peplowski, who teaches at the College of Southern Nevada, said it appears the GOP is trying out a possible campaign issue for 2010, when Reid is up for re-election and is going to be a major Republican target.

If Reid cannot deliver Yucca's head on a platter, he could be made the fall guy who Republicans will argue deprived the state of millions of dollars in possible benefits, according to that line of thinking.

"It is abundantly clear they are trying to set up some issues to help whoever runs against Harry in 2010," Peplowski said. "They are

trying to find some Nevada issues that are going to reinvigorate the red base. I don't know what else they have got right now."

But, Peplowski added, "As strong as public opinion is against Yucca Mountain, I don't know how they can hope to drive public opinion away from Harry on this unless they can somehow prove that Harry has been asleep at the wheel. And that will be difficult to do given that Harry has managed to cut back funding even against a Republican (pro-Yucca) administration." *Source: Las Vegas Review Journal*

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