

**Written Testimony of
Commissioner Dan Schinhofen
Vice-Chairman of the Nye County, Nevada Board of County Commissioners**

**House Energy and Commerce Committee
Subcommittee on Environment and the Economy
Hearing on Federal, State, and Local Agreements and
Associated Benefits for Spent Nuclear Fuel Disposal**

July 7, 2016

Mr. Chairman, members of the Committee, thank you for the opportunity to appear before you today to discuss the need for a realistic set of benefits to go to the State of Nevada and affected local communities for accepting a permanent high level nuclear waste repository at Yucca Mountain. I am Dan Schinhofen, Vice-Chairman of the Nye County Commission and the designated liaison commissioner on Yucca Mountain. I appreciate the Committee's continued interest in Yucca Mountain issues.

The Science of Yucca Mountain

As you are well aware, the entire Yucca Mountain repository, if built, would be located within the boundaries of Nye County, Nevada. For that reason, the Nye County Commission has been actively and constructively engaged with the Department of Energy on Yucca Mountain issues for decades. As the site county, we have managed an independent oversight program utilizing a team of distinguished experts. Our program has conducted scientific investigations on the geology of the mountain, the potential water flows and the safety of the repository. All the evidence we have uncovered to date has shown that the repository can be built and operated safely.

Having said that, we know that we do not have all the relevant information on the project. That is why we strongly support completing the licensing proceeding. We want to know, based on a comprehensive review of all the data, by an impartial body, if a repository at Yucca

Mountain is safe. If it is not safe, I will be the first person to oppose the construction of the repository. My family and friends live in the County. As a Commissioner, I am responsible for the health and safety of the people and the protection of the environment of Nye County. To suggest that I am willing to compromise on the well-being of my family, friends and constituents for a federal payment is beneath contempt.

I find it hard to believe that there is anyone who does not want to have the science reviewed. Our opponents claim Yucca Mountain is unsafe. In my mind, that gives them an even greater incentive to have a thorough review. The President should also demand to see the science. In March 2009, he issued a Memorandum for the Heads of Executive Departments and Agencies on Scientific Integrity. A part of that document clearly states:

“The public must be able trust the science and scientific process informing public policy decisions. Political officials should not suppress or alter scientific or technological findings and conclusions. If scientific and technological information is developed and used by the Federal Government, it should ordinarily be made available to the public. To the extent permitted by law, there should be transparency in the preparation, identification, and use of scientific and technological information in policy making....”

The Nuclear Waste Policy Act

Beyond the need to understand the facts, a full scientific review of Yucca Mountain is required by the Nuclear Waste Policy Act. That Act has been the law of the land for over thirty years. It has been amended, but never repealed.

The Nuclear Waste Policy Act created a carefully crafted balance between State and federal interests. The State of Nevada was given a statutory right to object to the repository, which it exercised. That objection was supposed to be based on a scientific determination that the

repository was unsafe, although Congress was given the right to overcome the State's objection due to the overriding federal interests involved. We all understand that at times the national interest must supersede local ones. This is especially true in cases of health and safety. In overriding Nevada's objection, Congress correctly determined that it was far better to store spent nuclear fuel in one safe, central location than to have it stored at private power plants all over the country. And the Congressional action was also based on the fact that the State did not make a convincing case that the repository was unsafe.

Along these lines, it is not true that the 1987 amendments to the Nuclear Waste Policy Act designated Yucca Mountain as the repository site only because the State was "politically weak." The Act designated Yucca Mountain because the science at the time said it was the best alternative. Further studies since that time have reinforced that conclusion.

The Obama Administration moved to withdraw the license application even though the stated reason for this action was not allowed under the Nuclear Waste Policy Act. The Act only allows the withdrawal of a license application if the Department determines that the repository would be unsafe. That determination was never made. In fact, DOE Secretaries Chu and Moniz acknowledged that the repository would be safe. But they went on to say that the withdrawal was acceptable because the site was "politically unworkable". By any reasonable definition, that makes DOE's actions illegal. Further, when the Nuclear Regulatory Commission also stopped the license review, the D.C. Court of Appeals found the Commission's failure to complete the process to be illegal.

I might note that if federal laws can be ignored because they are "politically unworkable" there is a long list of federal laws that would not be enforced in my county, starting with a several public land management laws and Obamacare.

No Alternatives

Beyond the need to follow the law, the opponents to Yucca Mountain have refused to give us a viable alternative. With great fanfare the Department created a Blue Ribbon Commission to make recommendations on the best solutions for the storage of nuclear waste. But the Commission was forbidden from looking at Yucca Mountain. In other words, a commission created to evaluate our nation's nuclear waste crisis was prohibited from reviewing a repository that had the approval of Congress, \$15 billion in studies and the overwhelming support of the nation's scientific community.

Given that limitation, the Blue Ribbon Commission came up with an impracticable non-solution. It called for a "consent based" process. But consent has never been defined. Does it mean not only the local and state governments around the site, but also the entire Congressional delegation? How far away must local governments consent? What about adjoining states? What happens if after an election, the new local government withdraws its consent? Remember, many of the political leaders in Nevada that now oppose Yucca Mountain, originally favored it. Given the lack of answers, I believe that the whole consent based process that DOE is pursuing is an excuse to do nothing. And, in the meantime, nuclear waste continues to pile up at plants around the nation.

Low Level Waste

I also want to point out that low level nuclear waste is currently flowing into Nevada almost daily. Some of this low level waste is almost as dangerous as some of the high level waste scheduled to go to the Yucca Mountain repository. Yet this waste is simply buried at the Nevada National Security Site, formerly the Nevada Test Site. I can show you pictures of trucks carrying waste parked in a public parking lot in downtown Pahrump while the driver is eating lunch. Yet

despite this ongoing situation, the State of Nevada has not stopped the shipments. DOE has not found the shipment of low level waste to be "politically unworkable".

I never remember DOE asking the Nye County Commission if it consented to the shipment of the waste. For the record, I would not have objected if it was shown to be safe. But, the point is, we were never asked. Instead DOE asserted that the shipment of low level waste to Nevada was in the national interest. My point, of course, is that the objections to Yucca are all political and without scientific basis. Further, that DOE will twist political considerations to suit its own purposes.

In a similar manner, the Administration, which claims it is very concerned about local consent, did not ask the Nye County Commission for its consent before the President sealed off 704,000 acres of land when he created the Basin and Range National Monument. Unlike the case of the movement of low level waste, the Nye County Commission would never have consented to the national monument. The land taken is a source of needed energy, mining and grazing resources which translates into jobs and economic development. The local government would have done a much better job of balancing environmental and economic concerns. Creation of the monument is the definition of a "politically unworkable" act.

Benefits

I have praised the Nuclear Waste Policy Act as a good bill. But the law does have one deficiency which I am pleased you are reviewing today. That flaw is lack of a clearly articulated benefits package to go to the State of Nevada and the local communities. This is not "bribe money". It is a package of benefits to fairly compensate the local governments for the use of the land for nuclear waste. The resources are also for mitigation to the State and Nye County for the adverse impacts of a large multibillion dollar project located in a sparsely populated region.

We propose a two stage process to determine the proper level of benefits. The first stage would start when the license process is renewed. The second would start when construction of the repository commences.

For the first stage we propose the following:

1. Resources to the State and local counties to provide oversight and participation in the licensing process.
2. Resources to the State and local governments so they can be involved in the transportation decision making process to insure integration with existing infrastructure and needs.
3. Resources to the site county to improve its infrastructure in preparation for the construction. This would include resources for equipment, manpower and training for Nye County's EMS, fire and law enforcement agencies. It would also provide resources to upgrade to the county's roads and water systems.
4. The transfer of federal land to the State and impacted counties.
5. Resources to the University of Nevada system and community colleges to develop the trained workforce and expertise to support and monitor the project if it is approved.
6. Transferring more Yucca Mountain support activities by DOE and the contractors from other states to Nevada. Construction of new DOE laboratory facilities in Nye County to support Yucca Mountain and work on the next generation of nuclear technologies.
7. Payments to the State and local governments to replace any lost taxes and other revenue.

I do not have a comprehensive list of the benefits that will be needed during construction and operation of the repository. I propose that the law create a task force with representatives from the DOE, the NRC, the State of Nevada, Nye County, impacted Native American tribes and

other local governments to develop a prioritized list of the benefits. The task force will report back to Congress within two years. The legislation should provide, at a minimum, the additional land transfers, construction of a rail line that would serve both Yucca Mountain and other users, construction of I-11, grants to the University of Nevada and the local community colleges, and payments to the State, site county, impacted local communities and Native American tribes. The package should also address the need for water, which will be required for the project and associated support activities. If additional water became available from a desalination plant, it would greatly relieve the water controversies that plague Southern Nevada as well as guarantee needed supplies for the project.

This benefit package would not be a long term drain on the federal budget. Think of all the savings that would result if DOE is not required to study other sites. Also, as you know, nuclear utilities all over the U.S. are suing the federal government for failing to take control of their nuclear waste. This liability will run into tens of billions of dollars. Getting the waste moved to Yucca Mountain will end the suits and payments.

Finally, the current design of the Yucca Mountain repository includes aging pads to hold up to 30,000 metric tons of waste. These can be built quickly and efficiently. This would eliminate the need for an interim site in the near future. This, in turn, would eliminate the need to study and characterize another site. In short, all the savings from proceeding with Yucca Mountain will far exceed the most generous benefits package.

In short, I do not favor payment of a big check. Instead, I propose creating a collaboration between DOE, the State, Nye County and other impacted local governments to insure that resources are provided for activities that support the construction and operation of a nuclear waste repository at Yucca Mountain.