

# WebMemo



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## Yucca Mountain and Nuclear Waste Policy: A New Beginning?

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Senator Harry Reid's (D-NV) re-election campaign against Sharron Angle provides a historic new opportunity to establish a new Yucca Mountain policy that benefits Nevadans and the U.S. Unfortunately, the omnibus spending bill currently under consideration would de-fund the program. While Reid's staunch opposition to the project has brought it close to the point of termination, the end of Yucca would not benefit Nevada or the nation.

Instead, Reid should use his victory to establish a new path forward. As Angle argued throughout her campaign, science and technology have advanced to the point where Yucca Mountain would not simply be a nuclear waste dump; instead, it could provide the underpinning for a commercial nuclear industrial complex. Such a development would bring jobs to Nevada and help the U.S. solve its used nuclear fuel dilemma.

**Wasting Away.** Despite growing political and public support for nuclear power, progress toward actually building any new plants has been a struggle. While the blame for this stagnation often goes to inefficient government subsidy programs, the real problem lies in why those subsidies are necessary to begin with. Chief among these structural problems is the nation's incoherent nuclear waste policy.

This was a problem prior to the Obama Administration. The federal government was legally obliged, according to the Nuclear Waste Policy Act (NWPA) of 1982, as amended, to begin collecting nuclear waste in 1998. Despite collecting approximately

\$30 billion (fees plus interest) from electricity ratepayers and spending nearly \$10 billion, it has not collected one atom of nuclear waste. The one bright spot was the progress on Yucca Mountain made by President George W. Bush's Department of Energy (DOE).

The Obama Administration's anti-Yucca policy destroyed this progress. It ignored existing statute, such as the NWPA and the Yucca Mountain Development Act of 2002, which state clearly that Yucca Mountain shall be the location of the nation's nuclear materials repository. It unilaterally requested the withdrawal of the DOE's permit application for Yucca to the Nuclear Regulatory Commission (NRC). Questions over the legality of this policy are currently under review by the courts.

Meanwhile, in October 2010, former Reid advisor and current NRC Chairman Gregory Jaczko ordered a stop to all Yucca-related NRC activities. He argued that his authority to close out the Yucca program was derived from President Obama's 2011 budget request. The problem is that neither the House nor the Senate passed that proposed budget. Further, the order ignores the fact that the NRC's own Atomic Licensing and Safety Board agreed unani-

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mously that the DOE lacked authority to withdraw the application. The chairman's actions were so unusual and contentious that fellow NRC commissioners were compelled to publicly denounce the decision.

The combination of federal promises to store nuclear waste, the Obama Administration's policy, and the NRC actions has resulted in a complete lack of direction on nuclear waste management and a dereliction of responsibility on the part of the federal government to uphold its obligations. This creates substantial government-imposed risk on the nuclear industry, which is the primary obstacle to an expansion of U.S. nuclear power.

**A New Beginning for Yucca Mountain.** Reid can continue to oppose Yucca under the current plan and simultaneously offer a better solution that would put Nevada's interests first. Currently, the DOE controls and manages spent nuclear fuel policy and the Yucca Mountain repository. A new Reid plan should put Nevada in control.

Such a plan could garner support in Nevada. As Angle demonstrated throughout her campaign, Nevadans are at least open to Yucca under different conditions. Thus, Reid should propose a program that places Nevada in control of the future of Yucca Mountain. Under such a program, Nevada could negotiate directly with the nuclear industry to come up with a mutually beneficial arrangement. While Nevada should not be compelled to open the repository, the state could use the prospect of opening it to create a strong negotiating position.

Unfortunately, the Obama Administration and the NRC are about to take that option away from Nevada. To preserve this opportunity, Reid should demand that:

- *The NRC finish its review of the DOE's application to permit the Yucca repository.* The NRC's September 2008 docketing of the DOE's application to construct the repository at Yucca Mountain began a three-year, two-track review process. One track will determine the technical merits of the facility. The other track consists of hearings where parties can challenge the Yucca project. Unfortunately, Jaczko ordered NRC staff to discontinue all activities related to Yucca Mountain, effectively terminating the program. Fellow commissioner Kristin Svinicki described this action as "grossly premature."
- *The NRC publicly release all data, including the Safety Evaluation Report.* The technical and scientific conclusions of the Yucca permit application review were scheduled for release in a Safety Evaluation Report (SER) in November 2010. By closing the books on Yucca now, the chairman prevents this critical document—which taxpayers and ratepayers already paid for—from being published. Publication of the SER is critical because it would provide a final determination on the technical feasibility of the Yucca project. Even if Yucca never progresses, there is no reason to deny Americans access to this informative document.
- *The permit to construct Yucca Mountain be transferred to a third party.* If the NRC issues the permit, Reid should seek avenues to make the license available to a third party, such as a private sector nonprofit or even the state of Nevada. The new permit holder could then negotiate a workable solution that would fully represent the interests of all parties. This process of negotiation was absent from the original decision to name Yucca the waste repository site.
- *The Blue Ribbon Commission on America's Nuclear Future consider Yucca Mountain.* While the text of the presidential memorandum establishing the commission prudently directs commissioners to consider all alternatives without specifically excluding Yucca, the President's actions to terminate the program clearly communicate otherwise. Taking Yucca off the table erodes the credibility of both the commission and the President's ultimate decision and the ability of Nevada to pursue a different Yucca strategy.
- *At least a minimal amount of funding be made available to keep the Yucca project alive.* Instead of starving Yucca of funds, providing funds under the condition that the Yucca program be reformed to better reflect the interests of Nevada would help Nevadans and the broader United States.

**Opportunity Lost, Opportunity Gained.** A long history of opposition to Yucca makes it very difficult for some Nevada politicians to support the project, despite growing evidence of its technical soundness and general safety. This was unfortunate, as Nevada could have benefited greatly from the economic impact of such a facility.

However, this opportunity lost is opportunity gained. While the repository at Yucca would have

generated jobs for Nevada, the reality is that the program was still flawed. Reid now has the opportunity to establish a new path forward on Yucca Mountain. Such reform would not only help to establish a new industry in Nevada; it would help bring nuclear power back to the U.S.

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