



**Nye County**  
**Nuclear Waste Repository Project Office**  
2101 E. Calvada Blvd. Ste., 100 · Pahrump, Nevada 89048  
(775) 727-7727 · Fax (775) 727-7919

11-044-DL (L)

April 5, 2011

U.S. Department of Energy  
Attn: Dr. Peter Lyons, Office of Nuclear Energy  
1000 Pennsylvania Avenue  
Washington, D.C. 20585

**Re: Local Community Support for the Yucca Mountain Project**

Dear Dr. Lyons,

On March 31, 2011 you testified before a HEARING OF THE ENERGY AND WATER DEVELOPMENT SUBCOMMITTEE OF THE HOUSE APPROPRIATIONS COMMITTEE.

At that hearing you were asked by Congressman Simpson to explain what "unworkable" meant in the context of the Department's decision to terminate the Yucca Mountain Project. Your response, as quoted from the transcript of the record of the hearing was: *"The secretary has made it clear that to be workable requires both a technical -- from a technical perspective and a local support perspective. The technical perspective, I don't think I'm prepared to comment on. That has not been determined. From a local support perspective, it has certainly not enjoyed that support."*

Nye County takes exception to your response.

Yucca Mountain is wholly contained in Nye County, NV. Nye County was designated as the site county for the nation's repository in July 2002. The attached letter from Nye County to the BRC, accompanied by the resolutions the county passed on the same subject should be clear and convincing evidence that your response to the subcommittee was at best an uninformed opinion or one where you have for some reason been mis-informed.

The presumed community acceptance of the WIPP in New Mexico, relied upon by DOE as an example of cooperation, is distorted hindsight. The WIPP project was opposed by some locals, resulted in federal litigation, and took several decades to complete. The fact that WIPP is operational without major safety failures has dramatically changed acceptance of the facility over time.

The NWPA eliminated State veto power over repository siting after the Governors of the states informed Congress that political pressure on the states to exercise a veto regardless of the technical merit of a repository location could result in a repository never being sited and built. The NWPA was therefore structured with an over-ride of state disapproval, and that over-ride

Dr. Lyons  
April 5, 2011  
Page 2

was exercised by Congress and the President in the case of Yucca Mountain after Nevada objected.

We respectfully request that you utilize this information and the attachments to this message (letter) as a basis to revise and extend your testimony to the subcommittee.

While we cannot speak for other Nevada counties, we have reason to believe that Esmeralda, Mineral, Lander, Churchill, White Pine and Lincoln Counties support YM in Nevada.

We have not yet had the opportunity to meet with you, however, our interactions with what was DOE's Office of Civilian Radioactive Waste Management were many and often. On our next visit to Washington, D.C. we will contact your office to arrange a meeting with you. If you come out to Nevada, we invite you to visit Nye County and hope you will visit the YM site.

Thank you for your time and consideration.

Sincerely,



Lewis Darrell Lacy, Director  
Nye County Nuclear Waste Repository Project Office

DL/wm

Attachments: Nye County Letter to the BRC, Feb 7, 2011  
Nye County Resolution 2002-07  
Nye County Resolution 2002-22  
Nye County Resolution 2004-25  
Nye County Resolution 2011-21

cc: U.S. DOE, Dr. Chu  
Staff Director, The House Energy and Water Development Subcommittee of the House  
Appropriations Committee  
CM Simpson  
CM Pastor  
CM Frelinghuysen  
CM Rehberg  
CM Fattah  
CM Nunnelee  
CM Walberg  
CW Lowey  
NRC, Chairman Jaczko



**Board of County Commissioners  
Nye County  
Pahrump, Nevada**

**Pahrump Office**  
2100 E. Walt Williams Drive  
Pahrump, NV 89048  
Phone (775) 751-7075  
Fax (775) 751-7093

February 7, 2011

U.S. Department of Energy  
Attn: Blue Ribbon Commission  
1000 Independence Ave., S.W.  
Washington, DC 20585

**Subject: Additional Comments for Blue Ribbon Commission Consideration**

**Chairman Hamilton & Chairman Scowcroft:**

We respectfully submit the following comments for your consideration.

Prior to the BRC meetings in New Mexico we forwarded three (3) Nye County resolutions (attached) associated with the Yucca Mountain Project that specifically demonstrate local government support for the Yucca Mountain Project. Local officials in Carlsbad have demonstrated their support for WIPP and have clearly stated their desire to extend that support for receipt of high-level defense waste. This has the potential of at least a partial solution to the nation's nuclear waste dilemma. We commend their efforts. New Mexico's Governor and Attorney General stated their openness to expanded operations at WIPP as long as those operations are supported by science.

Considering that the BRC is not a siting commission, and the fact that Yucca Mountain is by law the designated site for the nation's geologic repository for spent nuclear fuel and defense high level waste, we would like to point out, one more time, that strong local community support for Yucca Mountain exists at the host county level. Our own research, conducted with Nuclear Waste Policy Act provided funds, convinces us that the science embodied in DOE's license application for Yucca Mountain and its hundreds of supporting documents is sound. That conclusion is supported at least in part by the Nuclear Regulatory Commission staff review of the documents, wherein they have formally stated that they have no further questions and were about to issue their Safety Evaluation report when politics took over. While Nevada's Governor and Attorney General in concert with Nevada's federal delegation oppose a geologic repository at Yucca Mountain, it is still the law. In 1975 Nevada actually supported what would become the Yucca Mountain Project (resolution attached). Similarly, it is possible that New Mexico is only one election away from losing state support regardless of what sound science indicates if political winds change.

At the February 1, 2011 BRC meeting in Washington, D.C. expert witnesses present for the meeting testified to the importance of local government support and the necessity of a definitive role for state government. It took eleven years for the State of New Mexico to agree to the terms of its definitive role with WIPP. The business of Yucca Mountain is as yet unfinished, hi-jacked by the politics of a single powerful senator and what some view as complicity by the NRC Chairman. **As a minimum, for the sake of the science and other lessons that can be learned from the experience, we ask that the BRC recommend completion of the NRC review of the Yucca Mountain license application.** It is difficult to understand how a tour of WIPP without a comparable tour of Yucca Mountain and review of the technical issues provides any basis for beginning a dialog on paths forward for repository development. We invite the BRC to Nye County to visit Yucca Mountain and our Yucca Mountain Information center where we have retained what we believe to be the best public multi-media collection of Yucca Mountain history.

The complexity of the task you face is immense. Various subject matter experts testified to you that at the end of the day the nation needs to provide for geologic disposal of our nation's nuclear waste streams. We ask you not to lose sight of the following facts and issues:

- The nation needs more clean base load energy and nuclear fills that bill.
- Nuclear waste has always been an Achilles heel for nuclear energy development; the waste issue must be resolved for new nuclear to be successful. We need geologic disposal no matter what choices are made for future fuel cycles. In fact, most studies indicate the need for more than one repository.
- No site will be perfect - we need safe acceptable sites. We can waste years arguing whether WIPP or Yucca Mountain is better; please do not lose sight of the facts that the New Mexico proposal is for high-level radioactive waste and not spent fuel. Also, recent studies, as you are no doubt aware, suggest that even if the U.S. proceeds with an advanced fuel cycle involving reprocessing, the legacy wastes are not likely to be reprocessed. WIPP will probably need another 10 to 20 years to be characterized, resolve questions regarding high heat loads and complete NRC licensing required under current law. Yucca Mountain took nearly 30 years before a license application was submitted. **We urge you to recommend finishing the Yucca Mountain licensing process and start characterizing WIPP to the applicable NRC standards. The nearer term solution does not have to be an "either/or" process.**

- Our current waste definitions need to be revised as there are several orphan streams such as Greater than Class C (GTCC) low level radioactive waste. WIPP may be a good site for some of these and they could possibly be technically and legally approved for disposal in a time frame to keep WIPP operational. It would be a shame to shut down WIPP when the legislative limit of TRU waste is emplaced while other nuclear waste streams do not have a home.
- No matter what recommendations the BRC comes up with, they must emphasize that any policy is only good if it's followed. Congress must define the policy and it's everyone else's job to follow it until and unless Congress changes it. Nothing the BRC does will be of use if the direction of Congress is not followed.

Sincerely,  
NYE COUNTY, NEVADA

  
\_\_\_\_\_  
Gary Hollis, Commissioner

DL/cs

Enclosures: Resolution 2002-22  
Resolution 2002-007  
Resolution 2004-25 support YMP  
Resolution–YM NC Res. Accepting HLRW.SNF 1975

cc: Nye County Board of Commissioners  
Rick Osborne, Nye County Manager  
Cash Jaszczak, Consultant, Nye County

**BOARD OF COUNTY COMMISSIONERS  
COUNTY OF NYE, STATE OF NEVADA**

**RESOLUTION SETTING FORTH NYE COUNTY'S  
POSITION REGARDING THE PROPOSED HIGH LEVEL  
NUCLEAR WASTE REPOSITORY AT YUCCA MOUNTAIN  
AND THE SITUS COUNTY COMMUNITY PROTECTION PLAN**

WHEREAS, the President has now formally recommended Yucca Mountain, in Nye County, as the site to which the federal government would transfer the Nation's highly radioactive wastes for interim storage, waste handling, and permanent disposal; and

WHEREAS, Nye County is the location of the Nevada Test Site where, for over 40 years, the Nation conducted nearly 1,000 atmospheric and underground nuclear weapons tests which permanently contaminated large tracts of land and groundwater; and recent studies reveal that radiation released in 828 underground nuclear detonations is migrating in poorly understood regional groundwater systems; and

WHEREAS, the program instituted by the United States Department of Energy (USDOE) to clean up the Nation's defense complex relies heavily on the disposal of low-level radioactive wastes at the Nevada Test Site, in Nye County;

WHEREAS, these low-level wastes arrive by truck on two-lane roads that go through four Nye County communities; in fiscal 2001, about 600 shipments containing 750,000 cubic feet of low-level wastes traveled 107,000 shipment miles on rural highways in the destination county; and

WHEREAS, Nye County also is the site of the Nellis Test and Training Range, a premier training range where the Nation trains its best fighter pilots for combat preparedness; and

WHEREAS, Nye County also is the site of the Tonopah Test Range, a restricted facility where the Nation has developed and based new-technology combat aircraft; and

WHEREAS, these activities (the Nevada Test Site, the Nellis Test and Training Range, and the Tonopah Test Range) have made major contributions to national defense but meager contribution to the Nye County's economic or revenue base; and

**WHEREAS, the management and use of 11 million acres of public lands, comprising 98% of the Nye County's total land area, by a variety of federal land management agencies contributes very little to the Nye County's economic or revenue base, and forecloses opportunity for local community development; and**

**WHEREAS, Nye County has not sought to provide the site to which the federal government would transfer the Nation's highly radioactive wastes for interim storage, waste handling, and permanent disposal; and**

**WHEREAS, the USDOE claims that the proposed Yucca Mountain Project will be good for national health and safety, good for the nuclear power industry and their ratepayers, good for 80 communities in which highly radioactive wastes are now stored, good for 35 states that do not want to become permanent storage locations for highly radioactive wastes, and/or good for the federal government which has legal obligations to dispose of commercial spent fuel; and**

**WHEREAS, it is clear that the Yucca Mountain Project, if implemented as proposed, will achieve the expected benefits for others by the transfer of the Nation's highly radioactive wastes, along with all its attendant risks and uncertainties, from 80 sites in 35 states to a single community in Nevada—Nye County; and**

**WHEREAS, the elected government of Nye County has responsibility to protect local health, safety, and welfare, and is the only representative government whose first and overriding responsibility is to provide such protection in the situs county; and**

**WHEREAS, since 1995 Nye County has conducted independent scientific investigations in areas downgradient from the proposed Yucca Mountain repository, focusing on geologic and hydrologic conditions affecting the potential for contamination in the repository's major exposure pathways; and**

**WHEREAS, these independent investigations have identified uncertainties and contingencies—in science, design, and in implementing organization and funding— that require continued independent inquiry and confirmation; and**

**WHEREAS, in recognition of all of the above, Nye County has prepared a "Community Protection Plan" that identifies the legitimate objectives of the situs county, and the protections it expects in the event that the federal government decides to transfer the Nation's highly radioactive wastes to Yucca Mountain; and**

**WHEREAS, the Nye County Board of Commissioners deems it imperative that it set forth Nye County's statement of history, policy and intent regarding this issue,**

**NOW THEREFORE, it hereby is resolved as follows:**

- 1. Nye County has not sought to provide the site to which the federal government would transfer the Nation's highly radioactive wastes for permanent disposal.**
- 2. The Nation and the various parties who stand to benefit have a special obligation to the single local jurisdiction to which they desire to transfer their unwanted radioactive wastes.**
- 3. If the Nation decides to transfer its highly radioactive wastes to this single community—Nye County—it has an obligation to do so under conditions that address the situs county's concerns and that assist rather than jeopardize legitimate site county objectives, as these are outlined Nye County's "Community Protection Plan."**
- 4. Among these concerns and objectives are the following:**

- Protection of Health, Safety, and the Environment**  
The situs county—Nye County—should be empowered to conduct independent oversight and monitoring of USDOE activity in the situs county throughout Yucca Mountain site characterization, licensing, construction, operations, and performance confirmation. Situs county empowerment should be permanently financed, and should not be dependent on annual federal appropriations over the expected 50-300 years of repository operations.  
  
Federal activities to confirm repository performance and to conduct research and development related to waste handling and potential reuse should be headquartered in Nye County—the only community in which repository performance, and the potential consequences of poor repository performance, would be an urgent daily concern throughout the expected 50-300 years of repository operations.
- Equity in Nuclear Waste Transportation**  
Transportation of highly radioactive wastes in the situs county should be conducted by rail, and under policies which minimize the risks for Nye County communities of all high and low-level radioactive waste shipments.
- A Viable Local Economic & Revenue Base**  
Special federal actions should be taken to provide the situs county an opportunity to develop a viable economic and revenue base, with facility and service systems comparable to those in other communities hosting USDOE nuclear facilities—even as the federal government plans to make an extraordinary future imposition in addition to the extraordinary impositions of the past.





## **Nye County, Nevada Board of Commissioners**

### **RESOLUTION STATING THE INTENT OF NYE COUNTY TO ACTIVELY AND CONSTRUCTIVELY ENGAGE WITH THE U.S. DEPARTMENT OF ENERGY (DOE), THE ADMINISTRATION, AND CONGRESS AS THE YUCCA MOUNTAIN PROJECT PROCEEDS TO FINAL DESIGN, LICENSING, AND IMPLEMENTATION:**

WHEREAS, the United States Congress has voted to move the Administration's proposed Yucca Mountain Project, located in Nye County, Nevada, towards final design, licensing, and implementation.

WHEREAS, since 1940 the federal government has selected sites in Nye County for nuclear weapons testing, air force fighter training, and low-level radioactive waste disposal in cleanup of other sites in the nation's weapons complex.

WHEREAS, these activities (the Nevada Test Site, the Nellis Test and Training Range, and the Tonopah Test Range) have made major contributions to national defense but meager contribution to the Site County's economic or revenue base.

WHEREAS, the management of 11 million acres of federal lands in Nye County, comprising 98% of the county's total land area, makes meager contribution to the Site County's economic or revenue base, and forecloses opportunity for local community development.

WHEREAS, while the President has recommended and the Congress has mandated that DOE should prepare and apply for a license from the Nuclear Regulatory Commission to construct a repository at Yucca Mountain, many questions and issues regarding the Yucca Mountain Project remain to be addressed—including the safety and equity of the Yucca Mountain Project as proposed, and whether the Yucca Mountain Project will be implemented as proposed.

WHEREAS, the duty of the representative local government to ensure the health, safety, and welfare of its citizens requires the active engagement of Nye County to ensure that the questions and issues referenced above are addressed in design and licensing as well as in implementation, and to provide assurance of same for the residents of the single local entity to which the nation's highly radioactive wastes would be transferred.

WHEREAS, Nye County has prepared a "Community Protection Plan" that identifies the legitimate objectives of the site county, and the protections it expects in the event that the federal government transfers the nation's highly radioactive wastes from 131 sites in 39 states to a single site at Yucca Mountain, in Nye County.

WHEREAS, if implemented, the Yucca Mountain Project should be more than just a repository 12 miles north of Lathrop Wells in the Nye County community of Amargosa Valley, but the center for a community of synergistic scientific, engineering, educational, and entrepreneurial activities for management and possible reuse of the nation's highly radioactive wastes, and for the demonstration of alternative forms of energy for future generations.



1 **NYE COUNTY RESOLUTION NO. 2004-25**

2 **RESOLUTION CONCERNING THE INTENT OF NYE COUNTY TO TAKE ACTION TO**  
3 **MAXIMIZE THE SAFETY, ECONOMIC OPPORTUNITY AND SUCCESSFUL OUTCOME OF**  
4 **THE YUCCA MOUNTAIN REPOSITORY AND TRANSPORTATION SYSTEM BY ACTIVELY**  
5 **AND CONSTRUCTIVELY ENGAGING ALL RELEVANT PARTIES.**

6 **WHEREAS** the Nuclear Waste Policy Act of 1982 as amended designates Yucca Mountain,  
7 located in Nye County, Nevada as the only site for consideration as the nation's repository for high-level  
8 nuclear waste and spent fuel; and

9 **WHEREAS** the site has been determined to be a suitable location for a repository, the U.S Court  
10 of Appeal dismissed all challenges to the site selection of Yucca Mountain, the scientific basis for the  
11 selection process and the constitutionality of the resolution approving Yucca Mountain; and

12 **WHEREAS** the Department of Energy is preparing a license application for the repository and  
13 expects to begin operation beginning in 2010; and

14 **WHEREAS** the Department intends to use rail transportation, the mode of transportation Nye  
15 County prefers, to the maximum extent possible and the Department has made progress in planning the  
16 transportation system by selecting the Caliente route; and

17 **WHEREAS** the Department is beginning the process of identifying repository and transportation  
18 facilities which could be located off-site and is considering other means of maximizing local economic  
19 opportunity; and

20 **WHEREAS** the Nye County "Community Protection Plan" has established a vision for  
21 protecting the community and for the local development of synergistic economic, scientific and  
22 educational activities for management and possible future reuse of material which will be stored at  
23 Yucca Mountain; and

24 **WHEREAS** it is just such a vision for the Yucca Mountain Project that offers the best long-term  
25 prospect for converting long-standing resistance and mistrust within the State of Nevada to constructive  
engagement and cooperation; and

1 WHEREAS Nye County intends to work cooperatively with communities along the Caliente  
2 route, the Department of Energy, and any other appropriate group for the purpose of achieving this  
3 vision,

4 NOW THEREFORE, BE IT RESOLVED that Nye County intends to fully, constructively and  
5 energetically support:

- 6 1. Development of a safe repository at Yucca Mountain,
- 7 2. Development of policy that empowers the County concerning repository and  
8 transportation safety and health,
- 9 3. Creation of synergistic scientific, engineering, educational and entrepreneurial economic  
10 opportunities in the County,
- 11 4. Assisting the United States of America in fulfilling the commitment to provide a geologic  
12 repository for spent nuclear fuel and high-level waste to protect the health, safety and  
13 welfare of the citizens of the United States,
- 14 5. Assisting the United States Department of Energy in meeting their timeline for the  
15 reception of spent nuclear fuel and high-level waste at Yucca Mountain,
- 16 6. Maximizing jobs and economic opportunities for Nye County citizens,
- 17 7. Working cooperatively with appropriate federal entities, rural Nevada communities along  
18 the transportation route and other parties willing to constructively engage in the  
19 development of a repository that is safe and offers significant economic benefit to Nye  
20 County and others most affected by the operation of a repository and related  
21 transportation systems.

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1 **NYE COUNTY RESOLUTION NO. 2011-21**

2  
3 **A RESOLUTION OF THE NYE COUNTY BOARD OF COMMISSIONERS RESOLUTION**  
4 **SUPPORTING COMPLETION OF THE NUCLEAR REGULATORY COMMISSION'S REVIEW OF**  
5 **THE YUCCA MOUNTAIN LICENSE APPLICATION**

6 WHEREAS, the Nuclear Waste Policy Act of 1982, as amended, ("Act") selected Yucca  
7 Mountain, located in Nye County as the only site to be characterized as the nation's first high-level  
8 radioactive waste repository; and

9 WHEREAS, Congress in July 2002, in accordance with provisions of the  
10 Act, as amended, overrode Nevada's notice of disapproval; and

11 WHEREAS, Yucca Mountain was designated to be the site for development of a permanent  
12 repository for United States spent nuclear fuel and defense high level radioactive waste; and

13 WHEREAS, the U.S. Department of Energy ("USDOE"), in accordance with the Act, submitted  
14 a License Application (LA) to the Nuclear Regulatory Commission (NRC); and

15 WHEREAS, that LA, in accordance with NRC regulations, was accepted for review by the NRC;  
16 and

17 WHEREAS, the USDOE has since requested withdrawal of its submission of the LA "with  
18 prejudice"; and

19 WHEREAS, the request for withdrawal has been denied by the Atomic Safety and Licensing  
20 Board (ASLB) and challenged in Federal Court; and

21 WHEREAS, the Commissioners of the NRC have not issued a final ruling on their review of the  
22 ASLB decision that USDOE does not have the legal authority to withdraw the Yucca Mountain license  
23 application; and

24 WHEREAS, the nation needs to move forward on the established NWP strategy that provides  
25 for the permanent storage of spent nuclear fuel and high level waste; and,

WHEREAS, the Nye County Board of Commissioners (Board) recognizes that further delays in  
the development of a permanent geologic repository will result in significant public expenditures and  
potentially jeopardizes the future expansion of nuclear power production and energy independence; and

1           WHEREAS, the Board is convinced that until such time as the NRC completes its review of the  
2 LA, Nye County, the State of Nevada and the nation will be denied a scientific and technical  
3 determination of the potential of the Yucca Mountain repository to be built and operated safely and  
4 successfully; and

5           WHEREAS, Nye County adopted Resolutions 2002-7, 2002-22 and 2004-25 defining the  
6 County's involvement as the site county for the nation's geologic repository for spent nuclear fuel and  
7 defense high level waste,


8 NOW THEREFORE, it hereby is resolved as follows:

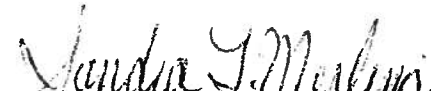
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- 10       1.     The Yucca Mountain licensing proceedings should be restarted and the NRC should  
11           complete a thorough and detailed review of the License Application; and
  - 12       2.     If upon completion of the license application review by the NRC staff and the licensing  
13           proceeding before the ASLB, the conclusion is that the Yucca Mountain repository can  
14           be constructed and operated safely, Nye County reaffirms our prior resolutions and  
15           supports such construction and operation consistent with these prior resolutions ; and

16 APPROVED this 15<sup>th</sup> day of March, 2011.

17  
18 NYE COUNTY BOARD OF  
19 COUNTY COMMISSIONERS:

ATTEST:

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21 \_\_\_\_\_  
22 Gary Hollis, Chairman

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21 \_\_\_\_\_  
22 Sandra "Sam" L. Merlino, Nye County Clerk  
23 And Ex-Officio Clerk of the Board

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