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DOE To Abandon Yucca Licensing Effort Next Month
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<http://www.theenergydaily.com/Yucca/>

The Energy Department plans to abandon next month its Yucca Mountain license application pending before the Nuclear Regulatory Commission, according to internal DOE documents obtained by The Energy Daily, a move intended to bury the proposed Nevada nuclear waste repository for good.

In the meantime, sources say the White House and DOE have been engaged in considerable debate over whom to name to a "blue ribbon" panel that Energy Secretary Steven Chu is forming to identify waste disposal alternatives to the Yucca project, which President Obama says is unsafe.

Rumored candidates for the panel include former National Security Advisor Brent Scowcroft; former Rep. Lee Hamilton (D-Ind.); former Nuclear Regulatory Commission Chairman Shirley Jackson, who is currently president of Rensselaer Polytechnic Institute; and University of California astrophysics professor George Smoot, who some say Chu has favored to chair the panel.

DOE's accelerating effort to wind down Yucca Mountain is made clear by draft DOE documents obtained by The Energy Daily last week on the agency's fiscal year 2011 budget. The documents show DOE will request only \$46.2 million for Yucca in fiscal 2011—all of it aimed at closing the project.

The draft budget, dated October 23, would set aside half those funds for "archiving" project data and the rest for "transitioning" workers out of the Nevada site.

More immediately significant is DOE's plan to abandon its license application for Yucca.

"All license defense activities will be terminated in December 2009," says the budget request.

That means DOE would stop responding to NRC staff questions about technical aspects of the giant application, virtually guaranteeing that NRC could not approve it.

For supporters of Yucca, continued progress at NRC has represented the best remaining hope that the project might survive.

Although the Obama administration has said for months that it plans to develop a different option for managing U.S. nuclear waste, Chu has maintained that DOE should continue work on Yucca application to better understand NRC's criteria for a potential future disposal site.

More significantly, knowledgeable sources believe DOE has continued work on the Yucca license largely to forestall lawsuits from U.S. nuclear utilities, who might otherwise allege that DOE was violating the Nuclear Waste Policy Act which, as amended, generally directs DOE to develop Yucca.

But another source said Friday that it would be "difficult to charge DOE was doing anything illegal" if it did not request or get any money for continued development of Yucca.

Asked Friday about DOE's plan to end work on the Yucca application, and whether DOE thought it would expose them to any legal challenges, Energy Department spokeswoman Stephanie Mueller said only that "the administration's position on Yucca Mountain has not changed.

"The president and Secretary Chu have made it clear that nuclear waste storage at Yucca Mountain is not an option, period. The 2010 budget clearly reflects the president's commitment to moving beyond Yucca Mountain and developing a long-term waste management solution."

While DOE's fiscal 2010 budget includes \$149 million for Yucca, the draft fiscal 2011 budget sets a "target" request of \$46.2 million, "of which [\$21.2 million] shall support site remediation and worker transition and [\$25 million] shall support archiving of data associated with the Yucca Mountain Program."

Attached to the draft budget request is a memo from DOE Chief Financial Officer Steve Isakowitz to DOE budget officers. In the memo, Isakowitz said the budget request had recently been submitted to the White House Office of Management and Budget.

He says Chu has not given final approvals to the budget decisions, but that "we do not expect the information to change."

Utilities have already won nearly \$600 million in court awards from DOE stemming from the department's failure begin disposing of the utilities' spent fuel in Yucca beginning in 1998, a date the two sides agreed upon in a set of 1983 contracts.

Several sources said Friday that it was unclear how DOE's abandonment of the Yucca license application might affect those cases, if at all.

However, other sources say that if DOE abandons the Yucca Mountain license application, it will have an increasingly difficult time justifying continuing collecting fees from ratepayers for the so-called Nuclear Waste Fund (NWF).

The NWF is legally intended for use in developing a national spent fuel repository, but lawmakers have routinely used the money for other purposes, to the ire of nuclear utilities and state utility commissioners.

Both groups have increased calls for DOE to halt collection of the fees since the administration announced plans to end the Yucca project earlier this year, arguing it was unjustifiable to continue collecting money for a project that was ending.

And one source said DOE's ending of license application work at NRC could fuel that argument.

That move DOE would amplify the "question as to whether DOE can rightfully continue to collect fees of more than \$700 million per year if there were no program," the source said Friday. "And I think industry would really push on that."

Sources say DOE also might face tough questions from congressional appropriators if it abandons the Yucca license next month. One source said appropriators may think the agency is improperly "reprogramming" money if it uses fiscal 2010 appropriations intended for work on the Yucca license for other purposes.

More broadly, many Republicans and some moderate Democrats—particularly in the House—are generally unhappy with the Obama administration's decision to end Yucca.

Many think the decision to kill Yucca was aimed at fulfilling a political promise that Obama made to Senate Majority Leader Harry Reid (D-Nev.)—an ardent Yucca foe—when Obama was running for president and needed Reid's support.

Chu, however, says Yucca is poor disposal site, that relevant science has improved since the site was picked in the 1980s and that the nation can find a better option with the help of the planned blue-ribbon panel.

Although most Nevada officials oppose Yucca, Reid has been the

best-positioned and most active in trying to kill the project, which he says is unsafe and was foisted onto his state in political deal-making years ago.

However, Reid is facing a very tough re-election fight next fall, and currently trails likely GOP challenger and Nevada Republican Party Chairwoman Susan Lowden by 8.4 points as of October 19, according to an average of polls from the Real Clear Politics Web site.

That raises the possibility that the administration may be sinking a project that has been studied for two decades, at a cost of about \$10 billion, at the behest of a politician who may gone in a year.

Reid's electoral trouble in Nevada "make this all the more interesting—why would they [the administration] want to walk the plank here for Reid?" asked one glum pro-Yucca source last week.

One answer is surely that Obama needs Reid badly to help carry out legislative priorities that he sees as far bigger than Yucca Mountain, namely health care, climate change and regulation of the financial industry.

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