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## Nuclear hearing delay sought

### Yucca Mountain foes want process to go on

By KEITH ROGERS  
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In a surprise move, the nuclear power industry's lobbying arm has asked regulators to suspend hearings on a license to bury tens of thousands of tons of highly radioactive waste in Yucca Mountain.

The proposal by the Nuclear Energy Institute takes a step back from a 20-year goal to reach the first year of the hearing process. Institute officials say the move is necessary to make wise use of funds left in a Yucca Mountain budget slashed severely by the Obama administration.

Nevada opponents contend that suspending the hearings would hamper their efforts to achieve victory early in the process by denying the state an opportunity to offer evidence against the license application that shows the site is not suitable and the repository's design is fatally flawed.

In essence, energy lobbyists want to shift the process to one focused on safety research by the Department of Energy and the Nuclear Regulatory Commission, which critics say is an end run attempt to get those agencies to sign off on a license approval for the repository without input by Yucca foes that would come during licensing hearings.

Citing an internal Energy Department memorandum that calls for ending the agency's defense of the license next month, officials for the institute suggest using the money instead for completing a review of safety issues about the planned repository site, 100 miles northwest of Las Vegas.

"This will avoid unnecessarily consuming stakeholder resources in the face of DOE's potential withdrawal of its license application," reads the Nov. 13 letter to Nuclear Regulatory Commission Chairman Gregory Jaczko from Marvin Fertel, president and CEO of the Nuclear Energy Institute.

Stakeholder resources refer to billions of dollars ratepayers have put in a nuclear waste fund for studying, licensing and building a repository at Yucca Mountain.

Fertel's letter was triggered by an Oct. 23 Department of Energy memo that states, "All license defense activities will be terminated in December 2009."

Nevada's legal team, which opposes the repository plan, urged Jaczko not to act on the institute's request to halt licensing hearings, saying doing so would violate the nation's nuclear waste laws and sidestep Nevada's due process rights.

In a letter last Monday to Jaczko, the state's top legal consultant, Marty Malsch, said following the institute's proposal would allow federal agencies to resolve technical issues related to the project "without any meaningful participation by any adverse party on any of the admitted safety and environmental contentions."

Adopting the institute's proposal would be "an appalling denial of due process of law," because it would usurp the licensing panel's authority to conduct a trial on Nevada's concerns with the license application, Malsch asserted.

Steven Kraft, senior director of used fuel management for the Nuclear Energy Institute, said he believes there is no need for now to proceed with the hearing process, "but we think there is value in completing the technical review."

Kraft said he thinks Nevada's lawyers "missed the point of our letter."

"We're saying, 'Why don't you hold up on the hearings for now?' ... There's absolutely no hint in our letter about denying anybody" due process, Kraft said Wednesday.

Bruce Breslow, executive director of Nevada's Agency for Nuclear Projects and the lead opponent to the Yucca Mountain Project, said the institute's proposal would allow the staffs of the Energy Department and the Nuclear Regulatory Commission "to proceed, behind closed doors," until a safety evaluation report is issued with a recommendation for granting a license without input from the state and others.

Breslow said the Nuclear Energy Institute's proposal "would have the effect of shutting down" the hearing process and enabling the Energy Department to evade the next scheduled activity by the licensing board, which is consideration of a number of legal issue contentions. A favorable ruling on some of the legal issue challenges would deal a fatal blow to the project, Malsch has said.

Meanwhile, Republican backers of the project asked Energy Secretary Steven Chu not to abandon the project because it would waste \$6 billion of taxpayers' money that already has been spent on it.

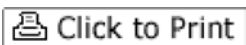
Chu has said Yucca Mountain is not an option for disposing of the nation's high-level nuclear waste. He is expected to seat a panel next year to chart a course for dealing with spent fuel that is piling up at reactor sites across the nation.

In a statement Wednesday, Rep. Joe Barton, R-Texas, ranking member of the House Energy and Commerce Committee, said, "Secretary Chu could set back the U.S. nuclear waste disposal program for decades, cost U.S. taxpayers potentially billions of dollars. ... Before Secretary Chu unilaterally shuts down the Yucca Mountain program, perhaps he should explain why, something lacking from any of his public comments to date on the nuclear waste site."

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