

NRC pleads lack of funds in Yucca licensing battle

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As in a football game when the offense does not have enough punch to move the ball down the field, the Nuclear Regulatory Commission does not have enough money left to proceed toward a license for the planned Yucca Mountain nuclear waste repository.

That is what NRC Senior Attorney Charles Mullins said in court papers submitted Friday in a federal appeals case brought by attorneys in Aiken County, S.C., and attorneys for the states of South Carolina and Washington and the National Association of Regulatory Utility Commissioners.

The petitioners urged the appeals judges' panel to compel the NRC to resume licensing hearings for the Energy Department's funding-starved Yucca Mountain Project.

"Simply put, no appropriations decisions have been made which prohibit the Nuclear Regulatory Commission from using available funds to continue the agency's mandatory review of the Yucca Mountain license application," the petitioners' attorneys wrote.

Despite the NRC's congressionally mandated obligation to move forward, Mullins said the \$10.5 million in carryover funds isn't enough to hold meaningful hearings.

"How meaningful would it be to advance the ball three yards down the field," he wrote. "Indeed it appears far more likely than not that neither NRC nor DOE will receive additional funds from the Nuclear Waste Fund for Yucca Mountain-related activities in the foreseeable future."

According to Nevada's Nuclear Projects Agency Executive Director Bob Halstead, the judges panel for U.S. Court of Appeals for the District of Columbia Circuit might take up to three weeks before deciding on a mandate for the NRC to resume licensing hearings. The hearings were suspended by the commission's Construction Authorization Board before the NRC closed its multimillion-dollar

hearing facility in Las Vegas in August 2011.

Halstead offered assurance that Nevada's legal team is prepared for a fight if the appeals panel signals resumption of the hearings. "If they restart the licensing proceedings, we're ready to bloody them up on 200-plus contentions, and 100 of those are really, really strong," he said. "This is not going to be a cakewalk through the license application."

The DOE sought to withdraw the license application after Energy Secretary Steven Chu tasked a panel to chart a new course for disposing the nation's highly radioactive used fuel .

In 2011, NRC commissioners by a 2-2 vote with one abstention let stand the Construction Authorization Board's denial of DOE's request to withdraw the license application because it could neither uphold nor overturn the decision.

Meanwhile, the new commission recommended that Congress should change the law that singles out Yucca Mountain, 100 miles northwest of Las Vegas, for burying high-level nuclear waste and transfer that responsibility from the Department of Energy to a government-chartered independent corporation.

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