

# The Nevada Independent

## On opposing sides, the state, Nye County prepare for Congress to act on Yucca this fall

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One of Harry Reid's most oft-repeated quotes in the tail end of his 30 years in the U.S. Senate was, "Yucca Mountain is dead."

"Yucca Mountain is dead. It'll never happen," he said in [Dec. 2006](#).

"Yucca Mountain is dead. And I think it's time for opponents to move on," he said in [April 2011](#).

"It's pronounced Nev-AD-a and Yucca Mountain is dead," he said in an Oct. 2016 [tweet](#).

In reality, plans to open a long-term nuclear waste storage facility in the mountains in Nye County just 100 miles northwest of Las Vegas have only ever been mostly dead, despite the fact that an abandoned tunnel surrounded by a chain link fence is all Yucca amounts to today. But two events in January — Reid's retirement and the inauguration of Donald Trump as president — brought new life to the long-stalled project.

Trump hasn't been shy about [his interest in reviving the nuclear industry](#), with Energy Secretary Rick Perry promising to make "nuclear energy cool again." But the president was [coy on Yucca Mountain](#) — an ill-reputed idea among [a majority Nevadans](#) who don't like the idea of nuclear waste from around the country being shipped to southern Nevada and buried in volcanic rock — during his campaign and avoided taking a position on the project when asked by a [KSNV reporter](#) on a trip to Las Vegas in October.

"I'm going to take a look at it, because so many people are talking about it," Trump said. "I came into town, and everyone's talking about it. So I will take a very strong look at it, and the next time you interview me, we'll talk about it for five minutes."

In March, the president's position on Yucca came into sharp focus. He included \$120 million in his budget for the Department of Energy to restart licensing activities halted by the Obama administration for the nuclear waste dump, the first indication that the White House was serious about making the site the long-term solution to the country's nuclear waste disposal problem.

The nuclear energy industry considers establishing a permanent, underground disposal site for the nation's nuclear waste integral to its success and continued existence. There are currently 99 nuclear reactors across 30 states in operation, which supply about 20 percent of the nation's electricity, and the industry generates about 2,000 to 2,300 metric tons of used fuel every year.

To date, the industry has produced 76,430 metric tons of used nuclear fuel, about the same amount that could cover a football field about eight yards deep. Yucca Mountain is only currently allowed by law to hold 70,000 metric tons of spent fuel.

The \$120 million that Trump asked for in his budget to allow the Department of Energy to resume licensing activities and an additional \$30 million for the Nuclear Regulatory Commission to process the application would be just a drop in the bucket of the estimated \$100 billion that the entire Yucca Mountain is expected to cost. The federal government has spent about \$15 billion to date on the project.

At the same time, a bill that would help move along the stalled project by setting a time limit for the Nuclear Regulatory Commission to approve the project and make a land transfer for the project is winding its way through the House. The legislation, sponsored by Illinois Rep. John Shimkus, passed the House Energy and Commerce Committee 49-4 in late June.

At home, the state of Nevada and almost all of the state's congressional delegation remain deeply opposed to plans for Yucca moving forward. But the state has its own Agency for Nuclear Projects that works to oppose the proposal alongside the state attorney general's office and has spent the last three and a half years preparing for the possibility of the project ramping up again.

Nevada has raised 218 "contentions" against the idea that have been accepted for consideration by the NRC, everything from geological obstacles to the possible deterioration of the waste disposal containers to the practicality of barriers to keep water out of the tunnels where the nuclear waste would be stored.

"The most important thing here is that Nevada decided early on that we had to take efforts to revive Yucca Mountain seriously, even though we didn't hear any specific details, largely because of things people in the industry said," said Robert Halstead, executive director of the agency. "I would say the political opposition in Nevada is as strong as it's ever been, and I've worked as an advisor for Nevada for almost 30 years."

But Nevada isn't entirely united in its opposition. Officials in Nye County and eight other rural counties in Nevada have long supported moving the project forward under the belief that the science will prove that the Yucca Mountain site is safe for a long-term nuclear waste dump and that it should be publicly vetted during the licensing process. They believe that the nuclear waste site will be a financial boon to the region.

"The most powerful senator this state has ever had or ever likely to have in any of our lifetimes could not kill it," said Nye County Commission Chairman Dan Schinhofen. "He kicked the can down the road. He defunded it. It was never dead. He was constantly saying it's dead. It was still the law and now we see there's a budget to follow the law. That's what we want. Let's follow that law and hear that science."

All eyes in Nevada, for or against Yucca Mountain, will be on Washington as Congress returns from its August recess on Tuesday, watching to see if the Yucca Mountain project will live once again.

### **Funding Yucca Mountain**

Proponents of Yucca Mountain scored a major victory when a [D.C. Circuit Court of Appeals ruled in 2013](#) that the Nuclear Regulatory Commission was legally required to follow a federal law requiring the body to consider the Department of Energy's application for a license to store nuclear waste at Yucca Mountain. NRC Chairman Gregory Jaczko [instructed commission staff in an October 2010 memo to comply](#) with the Obama administration's decision to shutter the Yucca Mountain project and halt licensing activities.

President Barack Obama promised at a campaign rally in Las Vegas in 2008 that he would find "some place other than right here at Yucca Mountain" for the nation's nuclear waste. Obama [slashed funding](#) for Yucca Mountain in his first proposed budget as president, eventually [zeroing out funding](#) for the project entirely.

With no funds appropriated for the 2012 fiscal year or any subsequent years, the NRC directed the Atomic Safety and Licensing Board to wrap up its work by September 2011 while NRC staff completed its Yucca Mountain technical review activities.

In the 2013 decision, the court rejected the NRC's argument that Congress's failure to fully fund the Yucca Mountain licensing process demonstrated a desire to not proceed with the project. They determined that the NRC was required to comply with the Nuclear Waste Policy Act — a 1983 bill that was amended into what opponents of the project call the "Screw Nevada Bill" —

and resume its review using the \$11 million already allocated to the commission through prior appropriations.

The NRC used those funds to work on a [five-volume Safety Evaluation Report](#), completed in January 2015, and a supplement to the Department of Energy's [environmental impact statement](#), published in May 2016.

Concurrently, Obama appointed a Blue Ribbon Commission on America's Nuclear Future in 2010 to conduct a two-year study of nuclear waste disposal. In its [final report](#), the commission recommended that the country develop a long-term geological repository for nuclear waste, like Yucca Mountain, but suggested a new, consent-based approach to choosing the site.

"The (court's decision) is basically what forced this whole business to restart. Had that case not gone forward, you know, probably you would've had just the Blue Ribbon Commission report, which came out early 2012," Halstead said.

Right now, the NRC is moving forward with certain information-gathering activities to [restore the so-called Licensing Support Network](#), an online database of nearly 4 million documents related to the adjudicatory hearing on the Yucca Mountain application. The commission announced in early August that it would use \$110,000 from the Nuclear Waste Fund, which only had \$634,000 left as of June 30, for the activities.

The lack of funding is essentially all that's holding the NRC back from resuming the licensing process, which is expected to cost the NRC alone an additional \$330 million. That's why Nevada officials — and proponents in Nye County — are focused so closely on whether Congress decides to appropriate the \$120 million to the Department of Energy and \$30 million to the NRC.

But Halstead said the relatively small sums of money proposed to be allocated toward Yucca Mountain show that the Trump administration is willing to spend money on the project but not the kind that shows a "truly strong commitment" to Yucca Mountain.

"\$30 million for the NRC is big step up. On the other hand, it's only a 10 percent down payment on licensing," Halstead said. "That shouldn't be lost in all of this."

Despite a series of proposed amendments from Nevada's congressional delegation to block funding for the project, the \$150 million for Yucca Mountain [remained intact](#) in the House's four-bill, \$800 billion spending package. The Senate's spending bill, however, passed the Senate Appropriations Committee in July [without money](#) allocated toward the project.

The differences between the two versions of the bill will be ironed out in a House-Senate conference committee.

“The House has voted on large bipartisan numbers every year to fund and move this forward,” Schinhofen said. “The Senate has played games with it, and now I’m afraid with the new Senate we might have games again.”

House Speaker Paul Ryan said earlier in August that he expects that Congress will keep the government funded — and avoid a government shutdown on Sept. 30, by passing a short-term continuing resolution, instead of a full appropriations bill. Doing so would allow Congressional Republicans to avoid a spat with the president over funding for his wall at the U.S.-Mexico border and delay decisions over federal spending until December.

“The difference this time would be without someone of Senator Reid’s clout, it’s not clear that Nevada could prevent Yucca Mountain from getting some funding on a continuing resolution resolution,” Halstead said. “A continuing resolution is a dicey and fragile vehicle for funding. If two or more senators really want to prevent something from being funded. That’s a situation where they may, in fact, have an impact.”

### **The Shimkus bill**

Officials from Nye County have been to Washington twice this year — once right after the inauguration in January and again in June. There, they met with some of Nevada’s congressional delegation — Republican Sen. Dean Heller, Democratic Rep. Ruben Kihuen and Republican Rep. Mark Amodei — as well as a member of the Illinois congressional delegation, Shimkus, who has made Yucca one of his key issues.

In late June, a House panel voted 49-4 to advance Shimkus’s bill to streamline the Yucca Mountain licensing process as laid out in the Nuclear Waste Policy Amendments Act of 1987. In addition to setting a 30-month time limit for the Nuclear Regulatory Commission to approve the project and make a necessary land transfer, the legislation would allow the Department of Energy to permit an interim nuclear waste storage site before the licensing process for Yucca is completed.

If approved in a vote of the full House, the bill would also raise the 70,000 metric ton cap on nuclear waste at Yucca Mountain to 111,000 metric tons. The legislation had originally proposed eliminating the 70,000 metric ton cap altogether.

The legislation also expedites federal land transfers to give the Department of Energy full control of the Yucca Mountain site. A portion of the bill that would

have exempted the department from state water laws and air quality permitting requirements was amended out.

Halstead said the final bill that was reported out of committee isn't good for Nevada, but he noted that committee members still recognized the need to preserve the state's authority, such as with its water law, and took those provisions out of the legislation.

"I don't want to sugar coat this. This bill is bad for Nevada because it jumpstarts Yucca Mountain," Halstead said. "But what the full committee reported out was, frankly in my opinion, a slapdown to Shimkus. It reflects the fact that bipartisan members of that committee and, particularly Republican and Democrats from California, wanted to prevent Shimkus from doing the nasty things he wanted to do like preempting state water law."

Halstead thinks the bill will "absolutely" pass the House — though it is currently unclear when the bill could come to the floor for a full vote of the House — but that it won't be favorably received in the Senate. He instead expects the Senate to take up their own bill to address the nation's nuclear waste problem.

Republican Sen. Lamar Alexander of Texas said in June that he plans to sponsor a bill along with Democratic Sen. Dianne Feinstein of California, the chairman and ranking member of the Senate Appropriations energy and water development subcommittee, respectively, that would create a new federal agency dedicated to dealing with the nation's nuclear waste. The latest version of the bill, proposed in 2015, would have created a Nuclear Waste Administration to look at a number of sites for permanent nuclear-waste storage besides Yucca Mountain.

If no new legislation is passed by Congress, the "Screw Nevada Bill" will stand, and the battle becomes purely a fight over funding. Though the process will be costly, Nye County argues that the federal government should restart licensing activities instead of scrapping Yucca and the \$15 billion already spent on the project.

"Here's the thing — all the money, all the study, all the years of science that went into this, do we want to walk away from that?" Schinhofen said.

"Because that's what they're proposing. Let's just forget that and let's go find some new site where we're going to have consent from everybody and we'll start all over."

In the meantime, the state is preparing for the worst case scenario which is that the NRC and the Department of Energy will have money to restart licensing proceedings this fall.

“We’re assuming everything we’ve been planning on since August 2013 when the court decision said, ‘Ah, got to go back to work on Yucca Mountain,’” Halstead said. “Licensing, litigation and legislation. But the licensing is where we are head and shoulders above where the other side is.”