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SOUND SCIENCE TRUMPS YUCCA MOUNTAIN

Carson City—Attorney General Brian Sandoval today announced that the ruling of the Circuit Court of Appeals in Washington, D.C. is a sound victory for Nevada. “The Court ruled in our favor on our most critical case. If we were to choose a case to win, the EPA case would be the one because it is fundamental to the basis for site selection, licensing, groundwater and other issues. Simply put, Yucca is stopped in its tracks because the Court recognizes that the project isn’t rooted in sound science. We wouldn’t trade places with the opposition.”

The D.C. Circuit’s opinions on Nevada’s Yucca Mountain cases, released today, offered stunning victories for the state that :

- The Court *vacated* the primary EPA rule governing the project, holding that not only was EPA’s rule inconsistent with the Congressionally-mandated recommendations of the National Academy of Sciences, but EPA *deliberately rejected* the sound advice of the scientific community and adopted a standard that is not safe. In order to move forward, the EPA will have to promulgate a new rule, a process that would take years to achieve. That rule will have to extend the regulatory compliance period to at least the time of the peak radiation hazard for the repository, which is somewhere between 300,000 and a million years. “This alone is a fatal blow to the repository,” said Sandoval.
- The evidence indicates DOE *cannot satisfy* this extended requirement given Yucca’s porous geology. The Court cites Lake Barrett, former head of the Yucca program saying that DOE cannot meet this more stringent requirement. Moreover, since DOE based its site suitability determination on NRC’s illegal 10,000-year requirement, Nevada may now challenge DOE’s refusal to disqualify the site as evaluated against the stricter standard. “While DOE may attempt to tinker with the cadaver, wasting taxpayer and utility ratepayer money, the futility of such action will soon become

evident to DOE,” said Joe Egan, of Egan and Associates, the McLean Virginia law firm representing Nevada.

- The Court *vacated* the NRC rule governing repository licensing. This means there is currently no rule against which to license the project. NRC will have to wait until EPA puts out a new rule, and then it too will have to promulgate a new rule. As a practical matter, the NRC licensing proceeding is on hold. If it is ever re-instituted, DOE will have to prove what Nevada has always desired it to—that the *geology* of the mountain is capable of containment of a leak, that the *geology* is sufficient to retard radiation hazards to a safe level *for all time*. “DOE cannot succeed in that endeavor,” said Sandoval.
- The Court preserved Nevada’s ability to fully litigate the numerous defects in DOE’s Environmental Impact Statement during the NRC licensing proceeding. This means issues such as DOE’s rejection of the “no-action” alternative (continued on-site storage), its transportation plan, and its violation of Nevada’s hazardous waste laws are now fully addressable in courts of law. “DOE had argued that these issues were moot. DOE lost,” said Sandoval.
- The Court rejected every one of the Nuclear Energy Institute’s challenges to the groundwater safety standards that were imposed on the repository by EPA. The Nuclear Energy Institute had sought to diminish the stringency of EPA’s rules.
- Finally, the Court affirmed that the higher standard of “reasonable assurance of safety” must be used to judge the repository in licensing, not the watered-down “reasonable expectation of safety” that NRC had desired.

“Truth and our country’s justice system trump political influence,” said Sandoval. “Our Founding Fathers put a system in place to ensure this would be the case, and, sure enough, it worked today. Nevada has endeavored for 25 years to obtain a victory, and we have it. This is a great day for Nevada and, indeed, the Nation.”

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