



# Issue Brief

## Pulling the Plug on Yucca Mountain – A New Mountain of Waste

February 26, 2010

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The 27-year saga of the nation's permanent underground nuclear waste repository at Yucca Mountain, Nevada continues. After taking office in January, 2009, President Obama made good on his rash campaign promise to shutter the site, located 100 miles northwest of Las Vegas.

That decision, which is widely and correctly understood to be a political gift to Senate Majority Leader Harry Reid (D-Nev.), has negative ramifications far beyond the near-term political expediency of appeasing Leader Reid and the anti-nuclear power crowd. In fact, it is patently illogical when viewed in tandem with the President's stated support of nuclear power in general. The nation currently has 58,000 metric tons of commercial nuclear waste sitting at storage facilities at power plants across the country. President Obama's crusade to close Yucca Mountain and permanently yank the facility's license application will imperil the nation's entire energy policy and cost taxpayers hundreds of billions of dollars.

There are a myriad of problems associated with the politicized and short-sighted decision to abandon Yucca Mountain. First, and perhaps most importantly, it contravenes the law. The Nuclear Waste Policy Act (NWPA), first enacted in 1982, authorized the federal government to enter into contracts with nuclear power companies to remove their spent nuclear fuel to a permanent repository; the nuclear utilities would have the authority to charge their ratepayers fees to pay for that facility. The law, as amended, clearly designates Yucca Mountain as the only permanent nuclear waste storage facility and any alteration of that location will require a legislative change to the NWPA.

Other than to starve the project of money and announce a new "Blue Ribbon Commission" to reinvent the wheel by studying alternatives to Yucca Mountain, neither Congress nor the Obama administration has moved to amend the Act. Nor has the administration released any official documents or memoranda to explain the scientific or public policy rationale for its decision.

The spent fuel was supposed to begin moving into the Yucca Mountain facility in 1998. Despite having grabbed more than \$30 billion from ratepayers and spent \$10 billion on the development of the site, Yucca remains bereft of any spent fuel.

When it became clear that the government had no intention of complying with its legal obligation under the NWPA, nuclear power companies began suing for breach of contract. They have won 72 cases since 1998. According to the Government Accountability Office (GAO), [taxpayers' liability](#) as a result of the Department of Energy's (DOE) failures could result in \$12.3 billion in damages through 2020. Many of the cases are still mired in the appeals process, but there are more on the near horizon.

According to the Department of Justice, there [will be an estimated](#) 12 more trials in fiscal year (FY) 2010 and 13 trials in FY 2011. The cost of litigation alone, which is underwritten by taxpayers and may not be paid for out of the Nuclear Waste Fund (NWF), is \$500 million annually after that. According to a December 22, 2009 Congressional Research Service (CRS) report, “Estimates for the total potential liability incurred by the DOE as a result of the Yucca Mountain litigation range as high as \$50 billion.” CRS further stated that “...contract damages will continue to build as there seems to be no prospect for a completed facility capable of storing [spent nuclear fuel] anywhere on the horizon.”

Taxpayers and ratepayers have been hammered from all directions on Yucca Mountain. Aside from costing ratepayers \$30 billion to pay for the construction of the non-operational repository, nuclear power companies have been forced to expend millions in legal fees in their battles to force DOE to comply with the law. Those costs have also been passed on to consumers of nuclear-generated electricity.

While the nuclear companies were waiting for the permanent facility to materialize, they have had to build temporary dry cask storage adjacent to their reactors to hold the spent fuel. The companies have sent those bills to the DOE, so taxpayers have been reimbursing the nuclear power companies for those costs, which amount to [\\$565 million so far](#). Yet, as the promise of a permanent storage facility recedes away toward some distant horizon, there has been absolutely no movement, either in Congress, the administration, or the nuclear industry itself to get reimbursement for taxpayers and ratepayers, who, if current policy continues, will get absolutely nothing for the tens of billions of dollars they have lost over the last decade.

The Nuclear Energy Institute (NEI), the trade association which represents the nuclear technology industry, was at one time one of the most aggressive supporters of Yucca Mountain. Lately, not so much. In a January 29, 2010 statement, NEI [announced](#) its support for the Obama administration’s “Blue Ribbon Commission,” while also recommending, albeit rather tepidly, that the DOE “suspend the requirement for consumer payments into the federal Nuclear Waste Fund. Electricity customers should no longer contribute more than \$750 million in annual payments into a fund that has a \$22 billion surplus and earns annual interest in excess of \$1 billion.”

Since the industry is being reimbursed by taxpayers for the costs of retaining custody of the nuclear waste at commercial sites, NEI’s members have shifted their focus toward trying to get their current plants relicensed and obtaining federal loan guarantees to build new plants. Indeed, just weeks after the announcement to ax funds for Yucca and pull the plug on its licensing application, President Obama [announced](#) \$54 billion in federal loan guarantees to build new nuclear power plants. Southern Company received conditional loan guarantees to build two advanced reactors in eastern Georgia.

The Obama administration has also ignored the disposition of spent nuclear fuel at government-owned sites around the country, such as the Savannah River nuclear complex in South Carolina, which currently manages 36 million gallons of high-level liquid radioactive waste, and the Hanford site in Washington, which has high-level radioactive tank waste, as well as nuclear fuel lined up to go to Yucca. The DOE currently manages nuclear waste at 121 sites in 39 states.

On February 16, 2010, South Carolina Governor Mark Sanford (R) [declared](#) his intention to seek legal redress by the end of February unless the decision to shutter Yucca Mountain is reversed. In Washington, a trio of business leaders in the towns adjacent to the Hanford site has also announced plans to file a federal lawsuit, which may be merged with the South Carolina litigation. Washington Governor Christine Gregoire (D) is also weighing her legal options, [telling](#) the *Tri-City Herald* on February 25, 2010, that “At this point in this country’s history, I think it is a terrible mistake to take anything off the table.”

The announcement of a “Blue Ribbon Commission” is a political farce designed to appease one powerful politician from Nevada and give the appearance of doing something of significance about the important issue of where and how to store spent nuclear fuel. The administration is kicking the nuclear can down the road, into the next administration and onto the shoulders of future taxpayers. Regardless of how much the Obama administration promises in taxpayer-backed loan guarantees for nuclear power plants, without a rational plan for dealing with waste disposal the viability of future nuclear energy policy, indeed, national energy policy in general, is tenuous.

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