

RIC 2008 SPENT FUEL STORAGE AND DISPOSAL

**YUCCA MOUNTAIN –
THE DEATH WATCH CONTINUES**

REMARKS BY MARTIN G. MALSCH
EGAN, FITZPATRICK & MALSCH, PLLC
COUNSEL FOR THE STATE OF NEVADA
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PURPOSE OF REMARKS:

- UPDATE ON WHERE THINGS STAND
- PREDICTIONS FOR THE FUTURE
- LESSONS LEARNED



WHERE THINGS STAND- THE LA:

- LICENSE APPLICATION (FOR A CONSTRUCTION AUTHORIZATION) WILL PROBABLY NOT BE TENDERED BY JUNE 2008, AS DOE COMMITTED; NEW COMMITMENT APPEARS TO BE END OF SEPTEMBER 2008 (MAYBE)
- THIS IS TENDERING NOT DOCKETING; LA MUST BE SUFFICIENTLY COMPLETE TO DOCKET AND ACTUALLY BEGIN LICENSING PROCEEDING
- REASONABLE COMPLETENESS DOUBTFUL
- NEVADA WILL CHALLENGE DOCKETING IF LA IS NOT SUFFICIENTLY COMPLETE



WHERE THINGS STAND- THE LA (CONTINUED):

- SIGNIFICANT OBSTACLES TO A REASONABLY COMPLETE LA INCLUDE:
- NO EPA RULE: POST CLOSURE PERFORMANCE ASSESSMENT IS IMPOSSIBLE WITHOUT ONE (NEED POST 10 K DOSE STANDARDS AND FEPS DECISION); NEVADA WILL CHALLENGE EPA RULE IF IT RESEMBLES PROPOSED RULE

WHERE THINGS STAND- THE LA (CONTINUED):

- LA WILL BE BASED ON PRELIMINARY DESIGN INFORMATION ONLY
- DOE 2007 "MASTER RISK REGISTER" FOR YUCCA ACKNOWLEDGES HIGH RISK THAT NRC MIGHT FIND "LEVEL OF DESIGN DETAIL AND SAFETY ANALYSIS AT LICENSE APPLICATION SUBMITTAL IS INSUFFICIENT" AND NOTES THAT "PRIOR AGREEMENTS WITH NRC REGARDING DESIGN DETAIL AT LICENSE APPLICATION ARE BEING REINTERPRETED."

WHERE THINGS STAND- THE LA (CONTINUED):

- PARTS 52, 60 AND 63 WERE DRAFTED TO AVOID PREVIOUS PROBLEMS WITH INCOMPLETE DESIGNS IN PSARS UNDER PART 50. THE YUCCA LA/CA CANNOT LOOK LIKE AN OLD PSAR. "THE INFORMATION IT [NRC] NEEDS TO BE ABLE TO CONSIDER THE ISSUANCE OF A CONSTRUCTION AUTHORIZATION IS GENERALLY THE SAME AS WILL BE NEEDED PRIOR TO THE ISSUANCE OF A LICENSE TO RECEIVE AND POSSESS HLW" (1988 NRC RULEMAKING).

WHERE THINGS STAND- THE LA (CONTINUED):

- CRITICAL QUESTION: WILL NRC ACCEPT PERFORMANCE SPECIFICATIONS INSTEAD OF DESIGN DETAILS
- DOE (2006) ASKED BSC LICENSING ORGANIZATION FOR "ANY LICENSING PRECEDENTS FOR SAR SUBMITTAL BASED ON PERFORMANCE SPECIFICATIONS; THEIR SEARCH HAS NOT FOUND MUCH OF USE TO DATE."

WHERE THINGS STAND- OTHER OUTSTANDING ISSUES:

- CAN DOE TRANSITION TO A QUALIFIED NRC LICENSE APPLICANT?
- SAFETY CULTURE ISSUES: SANDIA (LEAD LAB) (2006): "ENSURE THAT THE 3 [LA] PRIORITIES-SCHEDULE, DEFENSIBILITY, CREDIBILITY-IN THAT ORDER ARE SATISFIED" [EMPHASIS ADDED]
- DOE'S QUALIFICATIONS CAN BE AN ISSUE IN THE HEARING

WHERE THINGS STAND- OTHER OUTSTANDING ISSUES (CONTINUED):

- ISSUES FOR MANDATORY HEARING NOT DEFINED BY NRC (NEVADA PETITION FOR RULEMAKING JUNE 19, 2007)
- SCOPE OF NRC STAFF NEPA REVIEW UNDEFINED (NEVADA PETITION FOR CLARIFICATION AND RECONSIDERATION FEBRUARY 13, 2008)
- UNLAWFUL MRS THINLY DISGUISED AS AGING FACILITY
- PHYSICAL SECURITY REQUIREMENTS AND DESIGN BASIS THREAT WILL BE CHANGED
- BASIS FOR RELIANCE ON DRIP SHIELDS, DEFINITION OF DEFENSE IN DEPTH, CRITERIA FOR QUALIFYING UNQUALIFIED DATA, AIRCRAFT CRASH PROBABILITY, AND OTHER SAFETY AND ENVIRONMENTAL ISSUES

MATTERS RESOLVED:

- DOE REJECTED ITS CONTRACTOR'S 2004 DRAFT LA AND IT WAS NEVER FILED
- "REASONABLE EXPECTATION" MEANS THE SAME AS "REASONABLE ASSURANCE"
- EXPERT ELICITATION CANNOT CONSIDER UNQUALIFIED PROJECT DATA
- DOE'S ORIGINAL YUCCA SITE RECOMMENDATION EIS (AND ANY SEIS) MAY BE CHALLENGED FULLY IN THE NRC LICENSING HEARING

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PREDICTIONS FOR THE FUTURE:

- DOE WILL FACE INCREASINGLY SEVERE BUDGET PROBLEMS
- ONLY AN INCOMPLETE LA WILL BE READY BY END OF 2008 AND THERE WILL BE A HUGE DISPUTE OVER WHETHER IT CAN BE DOCKETED
- FINAL EPA RULE WILL BE FURTHER DELAYED
- NEXT PRESIDENT WILL HAVE TO DECIDE WHETHER TO PULL "LIFE SUPPORT"
- LA MAY BE WITHDRAWN BEFORE OR AFTER DOCKETING AND BEFORE OR AFTER BEGINNING OF LICENSING HEARING-NRC CANNOT PREVENT LA WITHDRAWAL

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PREDICTIONS FOR THE FUTURE (CONTINUED):

- GNEP WILL DIE
- NRC WILL BEGIN A NEW RULEMAKING ON "WASTE CONFIDENCE"
- LICENSING PROCEEDINGS FOR NEW POWER REACTORS WILL PROCEED WITHOUT ANY SPECIFIC HLW DISPOSAL OPTION

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LESSONS LEARNED FROM YUCCA FAILURES (PERSONAL OPINIONS):

- NO NEED TO REJECT CONCEPT OF GEOLOGIC DISPOSAL AS THE BEST LONG-TERM OPTION, BUT GETTING THERE WILL REQUIRE A RECOGNITION THAT:
- A REASONABLY WELL FOUNDED BELIEF THAT SITING AND SAFETY DECISIONS ARE BEING MADE ON POLITICAL GROUNDS WILL DESTROY ANY PROJECT
- REGULATORS (NRC AND EPA) MUST GET THEIR LICENSING STANDARDS RIGHT THE FIRST TIME; THE PERCEPTION THAT STANDARDS ARE ADJUSTED TO FACILITATE COMPLIANCE WILL DESTROY ANY PROJECT

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PERSONAL OPINIONS: LESSONS LEARNED FROM YUCCA FAILURES (CONTINUED)

- PROJECT PROPONENT MUST ALWAYS BE, AND PERCEIVED TO BE, WILLING TO ABANDON A SITE THAT CANNOT REASONABLY COMPLY. COROLLARIES TO THIS ARE:
- THERE MUST ALWAYS BE SAFE AND FEASIBLE ALTERNATIVES (AS IN ORIGINAL NWSA TWO TRACK APPROACH)
- MINIMIZE INVESTMENT BEFORE THE NRC CA; CONSIDER NRC EARLY SITE PERMIT APPROACH
- DO NOT "OVER ADVOCATE" THE PROJECT AS "CRITICAL TO THE WAR ON TERROR," "ESSENTIAL IN THE NATIONAL INTEREST," OR NECESSARY FOR FUTURE NUCLEAR POWER

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PERSONAL OPINIONS: LESSONS LEARNED FROM YUCCA FAILURES (CONTINUED)

- PROPONENTS OF NEW NUCLEAR POWER PLANTS SHOULD STRESS THE SAFETY OF LONG-TERM (HUNDREDS OF YEARS) DRY STORAGE OF SPENT FUEL, EITHER ON-SITE OR AT CENTRALIZED SITES, BUT
- ACKNOWLEDGE READILY THAT "THERE IS NO FREE LUNCH" AND THAT UNCERTAINTY IN PROSPECTS FOR AN ACTUAL DISPOSAL SITE ARE A DISADVANTAGE OF NUCLEAR POWER THAT MUST BE TAKEN INTO ACCOUNT ALONG WITH NUCLEAR POWER'S BENEFITS (NO SUGARCOATING)

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PERSONAL OPINIONS: LESSONS LEARNED FROM YUCCA FAILURES (CONTINUED)

- JUDGING THE ADEQUACY OF VERY LONG-TERM PERFORMANCE CANNOT BE AVOIDED, BUT WE SHOULD CONSIDER BETTER WAYS TO DO IT, INCLUDING SUBSYSTEM PERFORMANCE STANDARDS
- THE PROJECT MUST BE LICENSED BY NRC BUT MULTI-YEAR PRE-APPLICATION REVIEW AND PARTICIPATION OF NRC STAFF AS A PARTY DETRACT FROM NRC CREDIBILITY
- DOE IS NOT QUALIFIED TO BE AN APPLICANT OR LICENSEE; ONLY THE PRIVATE SECTOR HAS A REASONABLE CHANCE OF SUCCESS

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CONCLUSION-WHERE DO WE GO FROM HERE

- FACE REALITY ON YUCCA
- CONVENE AN INDEPENDENT HIGH LEVEL EXPERT AND POLICY GROUP TO
- ASSESS, AS TRANSPARENTLY AS POSSIBLE, THE SAFETY AND SECURITY OF SNF STORAGE (WASTE CONFIDENCE)
- CONSIDER WHETHER THE LACK OF A SPECIFIC HLW DISPOSAL OPTION SHOULD PREVENT NEW NUCLEAR POWER PLANTS (WASTE CONFIDENCE)
- TAKE A REALISTIC LOOK AT GNEP

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CONCLUSION-WHERE DO WE GO FROM HERE

- CONSIDER INNOVATIVE STEPS TO ADVANCE GEOLOGIC DISPOSAL AND TO COMPENSATE THE INDUSTRY FOR DOE'S PAST FAILURES
- CONSIDER ENTRUSTING GEOLOGIC DISPOSAL TO A PRIVATE CORPORATION (OR OTHER LEGAL ENTITY), CONTROLLED BY HLW WASTE GENERATORS, WITH ACCESS TO THE NWPA WASTE FUND, GOVERNMENT GUARANTEES, AND PRIVATE FUNDS
- GIVE THE VOLUNTEER APPROACH ANOTHER TRY

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