



Longtime Yucca fighter: 'We're worried but also optimistic' about waste dump in era of Trump

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Nevada is “small, but we’re mighty” in the fight to prevent the federal government from siting a nuclear waste dump within the state’s borders, according to Marta Adams, a contractor who’s been in the fray nearly two decades.

The governor, attorney general and secretary of state got a briefing last week on a battle that’s simmered for a generation but is nearing the boiling point in recent months because funding for Yucca Mountain is included in the Trump Administration’s budget proposal. Lawsuits that would reduce Nevada’s ability to make a case against the repository are active, and a bill to advance the project passed a House committee in late June.

The state faces an uphill battle in Congress, where many lawmakers are eager to move nuclear waste out of their districts and into one of the most remote places they can think of — rural Nevada. The political calculus has shifted against Nevada with the retirement of powerful Senate Democratic Leader Harry Reid, who successfully fought off the project and persuaded President Barack Obama to suspend action on it.

But the team trying to ward off the project sees promise in lawsuits and in the regulatory process that precedes licensing of a nuclear waste site. They believe they have enough scientific and legal ammunition to wear down Yucca proponents and forever prevent the project.

“I would say the state of Nevada is in sort of a heightened state of vigilance at the moment,” said Adams, a former chief deputy attorney general who has worked on the state’s anti-Yucca effort since 1998 and whose natural resources consulting contract was extended by one year and \$150,000 at the Wednesday Board of Examiners meeting. “We’re worried but also optimistic that we have a very strong team.”

A three-pronged fight

Nevada's official position is against Yucca, even though the idea has pockets of support, including among some leaders in Nye County where the waste would go. The state is fighting on three fronts, including through the legislative process, where the House and the Senate have taken divergent approaches. In the House, ardent Yucca supporter Rep. John Shimkus (R-IL) has a bill that advanced from a committee on June 28.

Adams said an earlier version of the measure presented "real challenges" in terms of administering water law and could potentially interfere with the administration of state permits. That provision was amended out, apparently in response to concerns from western states that "found those provisions problematic."

"There was a clear attempt to usurp the state's authority with water and other issues," she said. "The legislation now has backed off those parts."

Meanwhile, there's [a bill](#) from Nevada Sens. Dean Heller and Catherine Cortez Masto that would prohibit placing a nuclear waste dump in a state that doesn't consent to it, although it hasn't received a hearing and has no co-sponsors outside of Nevada. In the House, Rep. Dina Titus is co-sponsoring [a similar bill](#) with Democratic Reps. Jacky Rosen and Ruben Kihuen, although that also hasn't received a hearing.

Another anticipated bill from Sens. Lamar Alexander (R-TN) and Lisa Murkowski (R-AK) would implement provisions of the Obama-era Blue Ribbon Commission, which advocates for prior consent before choosing a nuclear waste site.

On the litigation front, the state is involved in five different lawsuits and has fought efforts to expedite the licensing process. Those are in addition to the licensing process itself — the state is preparing to make its case before the Nuclear Regulatory Commission in what could be a multi-year, court-style proceeding, should the process restart after being defunded under the previous administration.

"Unfortunately some of the legislation pending would short-circuit Nevada's ability to really present our case in front of the NRC," Adams noted. "And that's really why we're revisiting the litigation to see where we might be more productive with some of this."

Sandoval expressed frustration that the state has had to keep fighting some of the same fights he encountered during his tenure as attorney general from 2003 to 2005.

"We've had this conversation," he said. "We've identified many flaws with that project and now this proposed legislation seeks an end run around some of those technical problems which would have been fatal to the project, in my humble opinion."

Trouble with the Trump Administration

Anti-Yucca forces are finding themselves in a tougher spot under the new administration.

While President Donald Trump proposed \$120 million to restart the Yucca Mountain project, it's unclear whether it will actually end up in the budget. Congress often just passes "continuing resolutions" that maintain funding at current levels rather than doing much heavy lifting on the budget by the time the new fiscal year begins in October.

In another blow to Nevada, Energy Secretary Rick Perry suggested in a June 20 congressional budget hearing that the country should use the Nevada National Security Site to store nuclear waste on an interim basis while Yucca Mountain is under construction. Formerly known as the Nevada Test Site, the facility 65 miles northwest of Las Vegas was previously used for testing nuclear bombs.

Sandoval sharply criticized the proposal as "a complete blindside" and "a total disregard and failure to honor the historical process."

"This is further than even the most fervent pro-Yucca advocates have gone and like Yucca Mountain, this idea is a non-starter," he added.

Perry walked back the comments the following day, saying no decisions had been made about where to store nuclear waste. Adams agreed with Sandoval's assessment that the idea of test site storage wouldn't fly.

"That is problematic as well for different technical reasons. But certainly the law doesn't allow it," she said.

Is funding sufficient?

Although the Legislature approved nearly \$5 million last session to continue the state's push against Yucca over the next two years, Sandoval asked Adams if she thinks the state is paying enough to "engage in this fight in a meaningful way."

"The Legislature was extremely supportive of us this last session," Adams said, adding that lawmakers indicated she'd be welcome with open arms by the Interim Finance Committee if she needed to ask them for more money between sessions. "I believe we do have resources."

But she noted that in the current conditions, it's hard to predict how much the state will need to spend in its defense. The state wants Nuclear Regulatory Commission proceedings about Yucca to happen in Nevada, but it may be in Washington, D.C. which could prompt heavy travel expenses.

“We don’t know what it’s going to look like,” she said. “We’ll have to see how the NRC handles that.”

Sandoval criticized the federal government for pushing so hard and spending so much over the years to make Yucca Mountain happen even though scientists have concluded the area is seismically active and not ideal for sealing away waste for tens of thousands of years.

“I feel like it’s a really disgusting waste of money and resources on behalf of the federal government to try to basically fit a round peg into a square hole,” he said at the Wednesday Board of Examiners meeting. “Because that site cannot geologically isolate that waste.”

OTHER CONTRACTS

What’s the state paying to fight off Yucca Mountain and tackle other problems related to nuclear waste? Here’s a sampling of nuclear waste-related contracts that have come before the Board of Examiners since last July:

July 5, 2017: Adams Natural Resources Consulting

- The board approved another \$150,000 to contract with Adams Natural Resources Consulting Services for a third year. Consultant Marta Adams provides “ongoing services necessary to advance Nevada’s Yucca Mountain legal efforts, including the state’s participation in U.S. Nuclear Regulatory Commission licensing proceedings and other Yucca Mountain litigation, and oversight responsibilities as they relate to the proposed Yucca Mountain high-level nuclear waste program.” Adams is a retired chief deputy attorney general for the state who returned to the fight as a consultant. Funding comes from the attorney general’s office.

June 13, 2017: Department of Public Safety – Emergency Management

- The governor’s Nuclear Projects Office proposed a \$100,000, one-year contract with the state Department of Public Safety for “planning and operations associated with shipments of transuranic waste from the Nevada National Security Site to New Mexico and from out-of-state locations passing through Nevada.”

April 11, 2017: Nevada Division of Emergency Management

- The governor’s Nuclear Projects Office proposed an additional \$64,000 with the state Department of Public Safety for “planning and operations associated

with shipments of transuranic waste from the Nevada National Security Site to New Mexico and from out-of-state locations passing through Nevada.” The amount was on top of the original \$50,000, one-year contract, and pays to equip and train local emergency response personnel along the Interstate 80. Funding comes from the federal government.

Dec. 19, 2016: Strolin Consulting

- The governor’s Nuclear Projects Office added \$75,000 to a contract “providing for the continued oversight of the Yucca Mountain repository program and the ongoing Nuclear Regulatory Commission licensing proceeding, including work related to transuranic and low-level radioactive waste shipments within Nevada.” The extra money added a second year to the contract. Funding comes from the general fund and the Western Governors’ Association.

July 12, 2016: Egan, Fitzpatrick, Malsch & Lawrence

- This contract worth \$2.5 million adds a fourth year of services with the firm, which provides “ongoing outside counsel to assist with the Yucca Mountain litigation and to represent the state before the U.S. Nuclear Regulatory Commission on issues related to the proposed Yucca Mountain high-level radioactive repository program.” Ninety percent of funding comes from the attorney general’s office, while 10 percent comes from the federal government.

Feature photo: Nuclear Regulatory Commission staff tour Yucca Mountain. Courtesy Nuclear Regulatory Commission.

This story was updated at 2:15 p.m. to note that Democratic members of Nevada’s House delegation are also sponsoring an anti-Yucca bill.