

**“Review of the Blue Ribbon Commissions Draft Report on  
America’s Nuclear Future”  
A Joint Hearing between the Investigations & Oversight and the Energy & Environment  
Subcommittees  
Committee on Science, Space, and Technology  
Statement by the Honorable Paul Tonko (D-NY)  
Ranking Minority Member  
Subcommittee on Investigations & Oversight  
October 27, 2011**

Mr. Chairman,

I thank you for your welcome, and I look forward to a productive working relationship.

On November 4, 2008, the citizens of the United States chose Barack Obama to serve as our President. He received 53% of the popular vote and the largest absolute number of votes of any candidate in the country’s history.

As a candidate he had promised, very clearly, that Yucca Mountain would not be used as a nuclear waste repository. After taking office he took steps to keep that promise. That is politics, but that is the kind of politics that lies at the heart of a functioning democracy.

Apparently, Mr. Obama’s position on Yucca will not be reversed even in the unlikely event that Mr. Paul or Mr. Romney or Mr. Perry win the 2012 Presidential election. In the Republican candidates’ debate in Nevada last week, all three of them said that they would not open Yucca either.

The decision to close Yucca Mountain was not driven by science, and it is a fiction to pretend that it was. The charge that this is an example of a lack of scientific integrity only stands as an argument one way - if you can sell the idea that somehow the decision-making on Yucca always hinged on science, and that the new Administration abandoned that path or somehow skewed the science to support a favored outcome.

The truth is that the actual decision process surrounding Yucca has always been political. The Administration’s decision to close Yucca was a position advocated by a Presidential candidate and then supported by a majority of American voters. We might otherwise call that a mandate for change.

How was Yucca selected to become the nation’s permanent nuclear waste repository in the first place? You can look at the entire body of the Majority’s report—almost 40 pages long—but one critical term is missing. Please excuse the colloquial nature of my comment, but the Majority’s report does not even mention the “Screw Nevada” amendment, as it was popularly known, that came back from a House-Senate Conference Committee in 1987.

In 1987, two of the leading alternative sites had powerful political patrons. Texas had a site in Speaker Wright’s district. Washington had a site in Majority Leader Foley’s district. It may not be too much of a shock to learn that those sites were pulled out of the competition by Congress, thereby leaving Yucca Mountain as the only alternative. At the time, Harry Reid, a former Member of this I&O Subcommittee, was in his first year as a Senator from Nevada. Two decades later, the situation has changed in remarkable ways, but with predictable consequences.

Let me be clear, it was not science that led Yucca to be selected, but political muscle exercised by highly influential Members of the House and the Senate. However, none of this is in the Majority staff's report.

After the 1987 Amendments to the Nuclear Waste Policy Act, the only site that DOE was authorized to characterize and develop was Yucca Mountain. Politicians told scientists where they could look.

The State of Nevada, aside from a very small number of people, never accepted this imposition by Washington, DC. The State has always felt it was unfair to the people of Nevada. In the face of a claim of injustice, questions about science seem small. Candidate Obama recognized the procedural failings in trying to force a waste repository on the state. His statement on Yucca speaks of science, but the core of his position was about fairness, justice and equity. His statement reads, in relevant part, "States should not be unfairly burdened with waste from other states."

The Majority staff report does not quote this portion of Mr. Obama's position. By ignoring this foundational claim, the Majority staff report distorts a key problem with Yucca: that 49 states ganged up on one state. In such a situation, the most important quality of the site is not its geology or hydrology, but the fairness of how the site was selected in the first place.

In other words, this is a state's rights issue.

Science can provide facts about a changing world, but making policy is about weighing the anticipated consequences of policy options against a complex set of values and interests. To try to claim that Yucca is solely about science defaces the history of the site, the motives of President Obama and even the positions of leading Republican Presidential candidates such as Mr. Romney, Mr. Perry and Mr. Paul.

Procedural justice represents one of those qualities that distinguish democracy from despotism. When you ignore fairness, people push back, as the representatives of the people of Nevada have done.

Nevada has successfully pushed back and now has a political weight that they lacked in 1987. I don't want to say that Yucca will never be used as a repository for waste, but if it is opened, it should be because Nevadans are willing to take the waste, not because 49 states have forced it on them.

With that, Mr. Chairman, I yield back...