Congressional Update: Yucca Mountain

Overview

The U.S. Senate avoided a major floor fight over funding for Yucca Mountain when Senator Mark Kirk (R-IL), one of the Senate’s chief proponents for keeping dollars flowing for the establishment of the consolidated nuclear repository, decided to not offer an amendment to the fiscal year 2012 Energy and Water Appropriations bill (H.R. 2354). In “pulling” his amendment from consideration, Senator Kirk decided to pursue other avenues that he believes will yield more promising results, mainly, singling-out House and Senate appropriators who will make the final decision on such funding.

Fiscal Year 2012 Funding Decisions

On Monday, November 14, just as Congress was getting ready to pass its first set of three appropriations measures (i.e., “minibus”), the Senate began consideration of the Energy and Water Appropriations bill (H.R. 2354) for fiscal year 2012. The intent of Senate leaders was to attach two other fiscal year 2012 spending bills thus creating a second “minibus.” As H.R. 2354 hit the Senate floor, many observers watched in anticipation to see what amendments would be offered, with a special eye on any amendments that would fund continued operations at the nuclear repository at Yucca Mountain, Nevada. Senator Mark Kirk had indicated prior to the debate on the spending bill that he would offer such an amendment, primarily in an effort to find a permanent home for the nuclear waste from the 11 plants in his home state of Illinois (as well as waste accumulated across the nation) and to ensure the nearly $15 billion spent to date on the Yucca Mountain repository and related activities was not squandered.

Senate Majority Leader Harry Reid (D-NV) – Capitol Hill’s staunchest opponent to Yucca Mountain – has worked intently over the years to prevent the continuation of Yucca Mountain. It was expected that once Senator Kirk offered his amendment, Senator Reid, currently the Senate’s most powerful member, would utilize every parliamentary maneuver (and personal “chits” if necessary) at his disposal to defeat the proposal. As such, it is likely that Senator Kirk’s amendment would not have passed. Senator Kirk no doubt determined the political calculus of going forward with his amendment, and on November 16, he stated that he would not in fact offer his amendment. Ultimately, the decision to not offer an amendment was a prescient call, as Leader Reid ended further floor consideration of H.R. 2354 shortly thereafter, shelving the bill as an independent measure for the foreseeable future.

Instead of offering an amendment, on November 18, Senator Kirk sent a letter to the chairs and ranking members of both the House and the Senate Energy and Water Appropriations
Subcommittees urging that they include House-passed language related to Yucca Mountain in any final conference report they develop. Senator Kirk was joined by 30 of his Republican Senate colleagues on his letter, including Senators Olympia Snowe (R-ME) and Susan Collins (R-ME). The Energy and Water Appropriations bill as passed by the House of Representatives in July contains a provision prohibiting the use of federal funds to close down the Yucca Mountain licensing program. Moreover, the House version of the bill contains $20 million to fund the Nuclear Regulatory Commission’s (NRC) review of Yucca Mountain’s license and an additional $25 million from the Nuclear Waste Fund for the Department of Energy to carry out nuclear waste disposal licensing activities. The version of H.R. 2354 reported by the Senate Appropriations Committee contains no similar language, however it does contain a proviso requiring the Department of Energy to “expeditiously” come up with a plan to “manage spent nuclear fuel and other nuclear waste at consolidated storage facilities and permanent repositories.”

Significance of Senator Kirk’s Actions

By not offering his amendment to H.R. 2354 when it was on the Senate floor, Senator Kirk lives to fight another day. Had he offered the amendment and had it been defeated, it would have been a critical blow to his effort: the entire Senate’s “on the record” position going into a potential conference committee with the House would be to disallow funding for Yucca Mountain. That would significantly bind any negotiating position for proponents of Yucca Mountain – perhaps for several years. For Senator Kirk, letting the Senate remain “silent” on such a vote preserves his options now and in the future. As for fiscal year 2012, the chance for a conference with the House is not assured at this point; it remains unclear if H.R. 2354 will even be brought up again in the Senate, or if it will be packaged in another “minibus” or as part of an overall omnibus. Regardless, it is highly probable that Senate Majority Leader Reid will do whatever he can to ensure the House-passed language does not proceed any further.

Council staff will continue to follow developments regarding Yucca Mountain as fiscal year 2012 funding decisions unfold in Congress.

Letter

Senator Kirk’s letter is as follows:

November 18, 2011

Dear Chairmen Feinstein and Frelinghuysen and Ranking Members Alexander and Visclosky:

We write to support the bipartisan language of the House-passed Energy Appropriations bill regarding the storage of nuclear waste inside Yucca Mountain.

When the Executive Branch and Congress chose Yucca Mountain as a nuclear storage facility in 2002, the United States had 47,000 metric tons of waste located across America. With 9 years of further delay, the U.S. is now home to 38% more nuclear waste, totaling over 65,000 metric tons stored in 75 temporary locations not designed as permanent facilities or locations for radioactive materials. Dozens of these sites are close to cities, suburbs and critical ecosystems essential to the drinking water for millions of Americans.

To date, taxpayers paid over $14 billion to select and study the Yucca facility. Because the federal government failed to take ownership of nuclear waste as originally promised, the government paid an additional $956 million in legal fees and payments. The Department of Energy projects taxpayers
will have to pay an additional $15 billion in such fees by 2020, with a further cost of $500 million annually if a decision is delayed even further.

The House wisely provided the Nuclear Regulatory Commission with $20 million, $10 million from the Nuclear Waste Fund and $10 million from the DOE departmental administration fund, and the Department of Energy with $25 million to continue Yucca’s license application and technical review. In addition, the House directed the Commission to preserve all documentation and data with regard to Yucca.

With billions of taxpayer dollars already spent and the growing age of the temporary storage sites across America, we urge you to support the bipartisan House language. Taxpayers should preserve Yucca Mountain as an option for the transportation of nuclear waste away from cities and ecosystems across America where the permanent storage of nuclear waste is clearly inappropriate.

Sincerely,

Mark Kirk
James Inhofe
Mike Crapo
Charles Grassley
John Boozman
Jeff Sessions
Lisa Murkowski
Roy Blunt
David Vitter
John Barrasso
Daniel Coats
Richard Lugar
Michael Enzi
Lindsey Graham
Tom Coburn
James Risch

Susan Collins
John Thune
Marco Rubio
Jon Kyl
John Hoeven
Kay Bailey Hutchison
Pat Roberts
Mike Johanns
Ronald Johnson
Jim DeMint
Johnny Isakson
Olympia Snowe
John Cornyn
Bob Corker
Saxby Chambliss

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