High Level Waste Insights for Reprocessing Spent Fuel -11462

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ABSTRACT

This paper will address the waste classification of solid waste from recycling of spent nuclear fuel. It will provide a history of the regulatory development of the definitions of high-level radioactive waste (HLW) and waste incidental to recycling (WIR or incidental waste) and the basis for concluding that WIR is not HLW. The development of the definitions of HLW and WIR provides support for the definitions in proposed 10 CFR Part 7x of HLW and WIR that have been submitted by the Nuclear Energy Institute Regulatory Recycle Task Force to the Nuclear Regulatory Commission (NRC) for a regulatory framework to support recycling of spent fuel. As will be explained in the paper not all waste from recycling should be considered HLW.
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I. INTRODUCTION

This paper addresses the waste classification of solid waste from reprocessing of spent fuel.[1] It reflects the authors' experiences while working at the Nuclear Regulatory Commission (NRC) as well as our experiences as consultants to the Department of Energy (DOE) and the Nuclear Energy Institute's Regulatory Recycle Task Force that was charged with the challenge of developing a regulatory framework to support the recycling of spent fuel. The Nuclear Energy Institute (NEI) submitted a draft regulatory framework as a proposed 10 CFR Part 7x to the NRC in December 2008 which is being considered as part of the NRC effort to develop a rule to regulate future recycling facilities.[2] An element of the NEI proposed framework was the treatment of reprocessing waste which necessitated defining the terms "high-level waste" and "waste incidental to recycling." NEI also provided the NRC a white paper that the authors of this paper developed to support these definitions in the framework which formed the basis for this paper.[3]

By way of background, there has been limited commercial reprocessing in the United States which occurred in the 1970s at the West Valley facility in New York. However, there has been substantial reprocessing done by the DOE at its facilities Washington, Idaho, and South Carolina. As a result of these reprocessing activities, reprocessing liquids have been stored in tanks for many years. The four sites are in various stages of decommissioning and remediation that involve the treatment and disposal of the wastes in these tanks. This paper focuses on the

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[1] This paper uses the terms reprocessing and recycling interchangeably.
[2] Part 7x is the proposed regulatory framework contained in Appendix A of the NEI December 19, 2008 "White Paper" submitted to the NRC. Available at NRC ADAMS at ML083590129 (December 24, 2008).
[3] "High Level Waste Insights" available at NRC ADAMS at ML093030353 (November 12, 2009).

process of determining the classification of the waste as either high-level radioactive waste (HLW) or waste incidental to recycling (WIR or incidental waste).

II. Development of the Definition of HLW and WIR

1. Appendix F to 10 CFR Part 50

The first regulatory definition of HLW was issued by the Atomic Energy Commission (AEC) in 1970. This definition was incorporated into 10 CFR Part 50, Appendix F, Policy Relating to the Siting of Fuel Reprocessing Plants and Related Waste management Facilities. Appendix F defined HLW as:

> those aqueous wastes resulting from the operation of the first cycle solvent extraction system, or equivalent, and the concentrated wastes from subsequent extraction cycles, or equivalent, in a facility for reprocessing irradiated reactor fuels.

The intent of the AEC was to "permanently removing these wastes from man's biological environment … disposal in deep geologic formations." 35 FR 17530, 01 (November 14, 1970). Appendix F does not define all waste associated with reprocessing as HLW needing geologic isolation. In fact, the proposed Appendix (34 FR 8712 (June 3, 1969)) provided that certain reprocessing waste did not have to be disposed of as HLW. It provided that:

> 6. Radioactive hulls and other irradiated and contaminated fuel structures hardware may be disposed of by one of the following methods:
> (a) Disposal in the same manner as high-level waste; or
> (b) Disposal at a licensed waste burial facility located on land owned by the Federal Government or by a State government as required by § 20.302 [predecessor of Part 61] of this chapter.
> 7. Other solid wastes resulting from operation of commercial fuel reprocessing plants, such as ion exchange beds, asphalted sludges, vermiculated sludges, and contaminated laboratory items, clothing, tools, and equipment must be disposed of in accordance with Commission regulations for disposal of such material in Part 20 of this chapter (e.g., disposal at a licensed waste burial facility located on land owned by the Federal Government or by a State government.

The source of the contamination for the material in paragraph 6 does not fit the Appendix F definition of HLW as the contamination occurred prior to reprocessing. The contamination in the material in paragraph 7 is from the reprocessing process.

The final rule did not include these two paragraphs that related to the disposal of radioactive hulls and other solid waste resulting from the operation of fuel reprocessing plants. AEC's explanation for deleting paragraphs 6 and 7 was that it had undertaken studies concerning the disposal of wastes contaminated with plutonium and other transuranium nuclides that may result in rulemaking identifying certain radioactive materials that might be unsuited for disposal at licensed land burial facilities. Final Rule, 35 FR 17530, 17532 (November 14, 1970). Although

these paragraphs were not adopted, the NRC has not considered the items in them to be HLW as Appendix F addressed

> [H]ighly concentrated (and hazardous) waste containing virtually all of the fission product and transuranic elements (except plutonium) present in irradiated reactor fuel. The term does not include incidental wastes resulting from reprocessing plant operations such as ion exchange beds, sludges, and contaminated laboratory items, clothing, tools, and equipment. Neither are radioactive hulls and other irradiated and contaminated fuel structure hardware within the Appendix F definition.[1]
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> > FN1 See 34 FR 8712, June 3, 1969 (notice of proposed rulemaking), 35 FR 17530 at 17532, November14, 1970 (final rule). Incidental wastes generated in further treatment of HLW (e.g., decontaminated salt with residual activities in the order of 1,500 nCi/g Cs-137, 30 nCi/g Sr-90, 2 nCI/g Pu, as described in the Department of Energy's FEIS on long term management of defense HLW at Savannah River Plant, DOE/EIS-0023, 1979) would also, under the same reasoning, be outside the Appendix F definition.

(Emphasis added). Advanced Notice of Proposed Rulemaking, Definition of "High-Level Radioactive Waste," 52 FR 5992, 5993 (February 27, 1987). NRC has, therefore, taken the view that Appendix F excluded from HLW what is now called WIR.[4] DOE has also considered the items described in paragraphs 6 and 7 of the proposed Appendix to be incidental radioactive material by citation. Chapter II.B(1) of DOE Manual 435.1.

2. Marine Protection, Research, and Sanctuaries Act of 1972

The first statutory definition of HLW appeared in the Marine Protection, Research, and Sanctuaries Act of 1972 (Marine Protection Act), 33 USC 1402(j). In that statute, Congress adopted the definition that AEC used in Appendix F to 10 CFR Part 50 but added to the AEC definition "irradiated fuel from nuclear power reactors." HLW was defined as:

> the aqueous waste resulting from the operation of the first cycle solvent extraction system, or equivalent and the concentrated waste from subsequent extraction cycles, or equivalent, in a facility for reprocessing irradiated reactor fuels, or irradiated fuel from nuclear power reactors.

The definitions in both the Marine Protection Act and Appendix F focused primarily on the source of waste, i.e., material left after reprocessing, rather than the waste's constituents or radiological properties.[5] In the Energy Reorganization Act of 1974 (ERA), the statutory language for Section 202 addressed the regulation of "high-level radioactive waste," but did not define it. The NRC took the view that the definitions in Appendix F and the Marine Protection Act for HLW applied to the ERA.[6]

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[4] Denial of Petition for Rulemaking, 58 FR 12342, 12343. (March 4, 1993).
[5] History and Framework of Commercial Low-Level Radioactive Waste Management in the United States, NUREG 1853 at B-3 (2007).
[6] 52 FR at 5993. See also Denial of Petition for Rulemaking, 58 FR 12342 (March 4, 1993).

3. West Valley Demonstration Project Act

In 1980, Congress provided another definition of HLW in the West Valley Demonstration Project Act (WVDPA) (PL 96-368). In the WVDPA the term "HLW" was defined as:

> the high level radioactive waste which was produced by the reprocessing at the Center of spent nuclear fuel. Such term includes both liquid wastes which are produced directly in reprocessing, dry solid material derived from such liquid waste, and such other material as the Commission designates as high level radioactive waste for the purposes of protecting the public health and safety.

NRC has taken the view that the definition in the WVDPA is equivalent to the definition in Appendix F. 52 FR at 5993. NRC has also concluded that the WIR concept is applicable to the West Valley site such that WIR is not part of HLW under the WVDPA. Decommissioning Criteria for the West Valley Demonstration Project at the West Valley Site, 67 FR 5003, 5011 (February 1, 2002).

4. 10 CFR Part 60

In 1981, the NRC developed a definition of HLW as part of its promulgation of 10 CFR Part 60, Disposal of High-Level Radioactive Wastes in Geologic Repositories." NRC defined HLW as

> (1) Irradiated reactor fuel, (2) liquid wastes resulting from the operation of the first cycle solvent extraction system, or equivalent, and the concentrated wastes from subsequent extraction cycles, or equivalent, in a facility for reprocessing irradiated reactor fuel, and (3) solids into which such liquid wastes have been converted.

This definition used the definition from Appendix F with the addition of spent fuel and focused primarily on the source of the waste.

5. Nuclear Waste Policy Act of 1982

Shortly after Part 60 was promulgated, Congress adopted the Nuclear Waste Policy Act of 1982 (NWPA). (42 USC 10101). Section 2 of the Section 2(12) of the NWPA defined HLW as

> (A) the highly radioactive material resulting from the reprocessing of spent nuclear fuel, including liquid waste produced directly in reprocessing and any solid material derived from such liquid waste that contains fission products in sufficient concentrations; and
> (B) other highly radioactive material that the Commission, consistent with existing law, determines by rule requires permanent isolation. (emphasis added)

Congress in 1988 amended the Atomic Energy Act of 1954 (AEA) to define the term "HLW" adopting the same definition that was in the NWPA.

The NWPA departed from the past definitions that focused primarily on the source of the waste when it added the language underlined above that is associated with the hazard of HLW. It is clear that the intent of clause A of the NWPA definition was to consider both the source and the hazard. The source of HLW is waste from reprocessing, but waste from reprocessing is not the sole criteria for determining if waste is HLW. The NWPA also included the hazard. The hazard was reflected by the "highly radioactive" and "sufficient concentration" language. A cardinal rule of statutory interpretation is that no word is to be ignored so that the hazard language needs to be utilized in determining what waste is HLW. Thus, while the source of HLW is reprocessing, not all liquid waste produced directly in reprocessing and any solid material derived from such liquid waste is HLW. HLW is only that waste which is "highly radioactive" and of "sufficient concentration. While the terms "highly radioactive" and of "sufficient concentrations" are not defined, clause B of the definition is instructive because it builds into the HLW definition the concept of a need for geologic isolation as the fundamental standard for HLW.

The language used in the definition is not accidental. HR 3809 as reported by the House Committee on Interior and Insular Affairs did not contain language to address the hazards of HLW. The "sufficient concentration" language in the definition was added by the House Armed Services Committee. It modified the previous bill language by adding hazard language as follows:

> The term "high-level waste" means the highly radioactive material resulting from the reprocessing of spent nuclear fuel, including liquid waste produced directly in reprocessing and any solid material derived from such liquid waste <u>that contains fission products and transuranic wastes in such concentrations that the Administrator determines by rule that such products and waste requires permanent isolation.</u>

The Committee explained this change as follows:

> This amendment strikes out the definition of the term "high-level radioactive waste" contains in the bill … and substitutes a new definition of the term "high-level radioactive waste." <u>The recommended definition takes into consideration both the source and the hazard of the waste</u> and permits the regulatory agency responsible under law for setting standards for radioactivity (EPA) to determine the concentration of fission products and transuranic elements that require permanent isolation.

H.R. Report.97-491, Part II, at 2 and 4 (July 16, 1982) reprinted at 1982 USCAAN 3837 and quoted in (emphasis added). Further support of Congressional intent is demonstrated by a letter that is included in the House Armed Services Committee's report submitted by DOE that stated

> [T]he Department believes that the definition of "high-level radioactive waste" should reflect not only the source of waste (e.g., from reprocessing,) but also the relative hazard. Such a definition would permit the regulatory agencies to exclude materials from "high-level radioactive waste" that need not be disposed of in a repository because of low activity.

Id at 17, reprinted in 1982 USCCAN 3847-3849.

This clearly shows the intent was to permit consideration of both the sources and the hazard of radioactive waste from reprocessing. As finally enacted the definition was placed into two clauses and the NRC replaced the EPA as the regulatory authority. The Department of Justice (DOJ) shares this view. In the U.S. Government's brief submitted to the Court of Appeals in the NRDC litigation involving DOE Order 435.1[7] DOJ stated that "Nothing in the legislative history, however, shows that these changes were intended to alter or eliminate the authority to consider both the source and hazard of the waste."[8]

While one might argue as the Government did in the NRDC litigation that the NWPA's definition of HLW considers the concentration of fission products in both liquid waste produced directly in reprocessing and in the solids derived from that waste,[9] it is unnecessary to address the application to liquids since generally only solid waste can be disposed of in licensed disposal sites under 10 CFR Part 61. Accordingly, the focus in this paper is on solid waste that is derived from liquids. This would include the solids resulting from processing reprocessing liquids for storage and transportation as well as the sludge in tanks whose source is reprocessing liquids.

6. NRC 1987 Advanced Notice of Proposed Rulemaking

In 1987, the NRC issued an Advanced Notice of Proposed Rulemaking, Definition of "High-Level Radioactive Waste," 52 FR 5992, 5993 (February 27, 1987). The question presented in that notice was whether the NRC should clarify the definition of HLW in clause A of the NWPA by (1) setting numerical limits to define "sufficient" concentrations to distinguish HLW from non-HLW or (2) define HLW to equate the waste in clause A to what has been traditionally considered to be HLW under Appendix F. In addition, the NRC considered how it should exercise its authority to define other material as HLW. As a result of the differing views expressed in the comments it received, the Commission abandoned its effort to define numerically HLW and adopted the traditional approach used for the ERA which would include "the primary reprocessing waste streams at DOE facilities, though not the incidental wastes produced in reprocessing."(emphasis added). Proposed Rules for Disposal of Radioactive Wastes, 53 FR 17709 (May 18, 1988). This proposed rulemaking resulted in the current rules on greater than Class C waste (GTCC) found in 10 CFR 61.55(a) (2) (iv).

7. Petition to Define HLW

[7] NRDC v. Abraham, 271 F.Supp.2d 1260 (D. Id. 2003) and 388 F. 3d 701 (9th Cir. 2004).

[8] Appeal Brief: Appeal from a Final Judgment of the United States District Court for the District of Idaho (271 F. Supp 2d. 1260), 9th Circuit No. 03-35711, at page 45 (January 29, 2004).

[9] The brief further stated that "DOE believes that the NWPA is better interpreted to allow the agency to consider the concentration of fission products in both liquid waste produced directly in reprocessing and in the solids derived from that waste." "When several words are followed by a clause which is applicable as much to the first and other words as to the last, the natural construction of the language demands that the clause be read as applicable to all" cites omitted. FN 7 of Appeal Brief. The brief also stated that "since the solids are derived from the liquids, they are likely to share chemical and physical characteristics, making it much more likely that congress intended DOE to have the authority to assess the concentration of fission products in both." Id. Moreover, solids may have higher concentrations than liquids.

In 1990, the States of Oregon and Washington and the Yakima Indian Nation petitioned the NRC to define the definition of HLW to determine whether certain DOE waste at Hanford was HLW. In denying the petition, NRC established for the first time specific criteria for incidental waste from reprocessing that would not be HLW. These criteria were:

> 1) The wastes have been processed (or will be processed) to remove key radionuclides to the maximum extent that is technically and economically practical;
> 2) The wastes will be incorporated in a solid physical form at a concentration that does not exceed the applicable concentration limits for Class C low-level waste as set out in 10 CFR Part 61; and
> 3) The wastes are to be managed, pursuant to the Atomic Energy Act, so that safety requirements comparable to the performance objectives set out in 10 CFR Part 61, Subpart C are satisfied.[10]

8. <u>DOE Order 435.1</u>

In July1999, DOE issued Order 435.1 on Radioactive Waste Management (July 9, 1999, revised August 28, 2001) along with its Radioactive Waste Manual (July 9, 1999, revised June 19, 2001) that defined WIR. DOE adopted two processes to determine if reprocessing waste should be WIR or HLW. The citation process adopted the waste described in paragraphs 6 and 7 of the 1969 AEC proposed Appendix F (34 FR 8712 (June 3, 1969)). For the evaluation process, DOE used the following criteria for waste to be WIR:

> 1) Have been processed, or will be processed, to remove key radionuclides to the maximum extent that is technically and economically practical;
> 2) Will be managed to meet safety requirements comparable to the performance objectives set out in 10 CFR Part 61, Subpart C, *Performance Objectives*; and
> 3) Are to be managed, pursuant to DOE's authority under the *Atomic Energy Act of 1954*, as amended, and in accordance with the provisions of Chapter IV of this Manual, provided the waste will be incorporated in a solid physical form at a concentration that does not exceed the applicable concentration limits for Class C low-level waste as set out in 10 CFR 61.55, *Waste Classification*; <u>or will meet alternative requirements for waste classification and characterization as DOE may authorize.</u>

(emphasis added). The criteria DOE adopted was similar to the 1993 NRC WIR Criteria with one significant addition which has been underlined. The significance of the underlined portion of the criteria is discussed below under the NRDC litigation. DOE uses the criteria in Order 435.1 for both on-site and off-site disposal.

It should be noted that DOE is in the process of updating Order 435.1.

9. <u>NRC Savannah River Review</u>

[10] 58 FR at 12345; The criteria were approved by the Commission in an SRM dated February 16, 1993, in response to SECY-92-391, "Denial of PRM 60-4 - Petition for Rulemaking from the States of Washington and Oregon Regarding Classification of Radioactive Waste at Hanford," and described in a letter from R. Bernero/NRC, to J. Lytle/DOE, dated March 2, 1993 (1993 NRC WIR Criteria).

On December 19, 1999, the NRC staff submitted SECY 99-284, Classification of Savannah River Residual Tank Waste as Incidental, to the NRC Commission seeking authorization to provide a response to the DOE on its request for NRC to review DOE's decision to classify certain waste in tanks at Savannah River as WIR. The staff's approach was to use the three criteria of the 1993 NRC WIR Criteria. However, the Commission in its SRM dated May 20, 2000 directed the staff to modify its response to

> delete all discussions of, and references to, the specific radionuclide concentration limits based on 10 CFR 61.55 proposed by the staff, and also [the response] be revised to reflect the following views:
>
> The letter should be modified to avoid strictly applying the criteria developed for the Hanford site to Savannah River. Rather, the staff should take a more generic, performance-based approach. In this regard, the Commission could support DOE's proposed methodology as long as the first and third criteria are satisfied. In effect, DOE would undertake cleanup to the maximum extent that is technically and economically practical and would demonstrate that it could meet performance objectives consistent with those which the Commission demands for the disposal of low-level waste. These commitments, if satisfied, should serve to provide adequate protection of the public health and safety and the environment. The staff should not designate alternative concentration limits for wastes that would exceed Class C limits. Rather, DOE should be encouraged to develop concentration limits -- in effect to develop a site-specific alternative to criterion 2 -- in order to bound the analysis and to provide a firm benchmark for satisfactory cleaning of the tanks.

This decision focused WIR in two criteria. The first involved the removal of key radionuclides to the maximum extent that is technically and economically practical and the second involved meeting the performance objectives of Part 61. In the Commission's view meeting the performance objectives of Part 61 demonstrates that near surface disposal of the waste is protective of the public health and safety. If waste from reprocessing can be disposed of safely in a near surface disposal site, then there is no need to treat the waste as HLW and dispose of it in a geologic repository. The removal of the key radionuclides adds further protection by reducing concentrations.

10. <u>10 CFR Part 63</u>

In 2001, the NRC again considered the definition of HLW as part of its rulemaking on 10 CFR Part 63, Disposal of HLW in a Geologic Repository at Yucca Mountain, Nevada. The proposed rule used the language in the Part 60 definition for HLW. 64 FR 8640 (February 22, 1999). However, it was recognized that the NRC definition was different than the EPA definition in 40 CFR 197.2. The EPA had adopted the definition of HLW used in both the AEA and NWPA. In the Statement of Considerations for the final rule, the NRC stated that "The Commission believes there is no substantive difference between the two definitions and has modified its definition to more closely reflect the definition provided in the Nuclear Waste Policy Act of 1982 and the final [EPA] standards." 66 FR 55732, 35 (November 2, 2001). The resulting rule provided:

> (1) The highly radioactive material resulting from the reprocessing of spent nuclear fuel, including liquid waste produced directly in reprocessing and any solid material derived from such liquid waste that contains fission products in sufficient concentrations;
> (2) Irradiated reactor fuel; and
> (3) Other highly radioactive material that the Commission, consistent with existing law, determines by rule requires permanent isolation.

11. NRC West Valley Decommissioning Criteria

On February 1, 2002, NRC published its Decommissioning Criteria for the West Valley Demonstration Project (67 FR 5003). In addressing WIR, the NRC stated:

> Since 1969, the Commission has recognized the concept of waste incidental to reprocessing, concluding that certain material that otherwise would be classified as HLW need not be disposed of as HLW and sent to a geologic repository because the residual radioactive contamination after decommissioning is sufficiently low as not to represent a hazard to the public health and safety. Consequently, incidental waste is not considered HLW.

(emphasis added). 67 FR at 5009.

The NRC established the following WIR criteria similar to the criteria used in Savannah River to guide the classification of waste that is applicable to both the DOE site remediation and New York State Energy Resources and Development Authority (NYSERDA) when the site reverts back to its control under an NRC license:

> (1) The waste should be processed (or should be further processed) to remove key radionuclides to the maximum extent that is technically and economically practical; and
> (2) The waste should be managed so that safety requirements comparable to the performance objectives in 10 CFR part 61 subpart C, are satisfied.

Both NYSEDA and the New York State Department of Environmental Conservation (NYSDEC) questioned the NRC as to why it removed the criterion from the 1993 NRC WIR Criteria that set a limit of Class C concentrations for incidental waste. In response to NYSERDA, NRC Chairman Richard A. Meserve stated:

> NYSERDA correctly states that the criteria for WIR determinations at Hanford included the criterion that the waste "...not exceed the applicable concentration limits for Class C low-level waste as set out in 10 CFR Part 61." This criterion does not appear in the Commission's incidental waste criteria for West Valley. When the Commission considered the incidental waste issue at Savannah River, this criterion was dropped because the Commission adopted a risk-informed and performance-based approach to meeting the performance objectives in Part 61 that focuses attention on the potential health consequences of leaving waste on-site (i.e., doses which might occur), rather than considering more indirect measures of health risk, such as meeting specific radionuclide

> concentration limits. The Commission has adopted this same approach for West Valley. In effect, DOE should undertake cleanup to the maximum extent that is technically and economically practical and should achieve performance objectives consistent with those that the Commission demands for the disposal of low-level waste.

(emphasis added).[11]

In response to NYSDEC, John Greeves, NRC Director of Waste Management, stated:

> In 1993, NRC included a WIR provision that the concentration of the residual radionuclides removed from tanks and disposed of as low-level waste not exceed the applicable concentration limits for Class C waste. However, more recently in 2000, the Commission did not include that provision in the advice it gave DOE on Savannah River tank closure. [NRC Staff Requirements Memorandum, "SECY-99-0284, Classification of Savannah River Residual Tank Waste as Incidental," May 30, 2000] In our view, while the concentrations and potential heterogeneity of wastes must be appropriately represented in the dose modeling, the physical processes associated with mobilization of wastes can result in instances where ultimate mobilization rates are not controlled by waste concentrations. Consequently, the NRC does not believe that the concentration of material is a sufficiently direct measure in WIR determinations from a public health and safety perspective that it should be a controlling element in WIR determinations. As noted in the Final Policy Statement, the Commission is taking a risk informed performance-based approach that focuses on dose as the measure of protection for the public, an approach which allows:
>
> > "DOE the flexibility to develop innovative approaches to meeting the performance objectives in Part 61. In effect, DOE should undertake cleanup to the maximum extent that is technically and economically practical and should achieve performance objectives consistent with those we demand for the disposal of low-level waste. If satisfied, these criteria should serve to provide protection of the public health and safety and the environment and the resulting calculated dose would be integrated with the resulting calculated doses for all other remaining material at the NRC-licensed site."

(emphasis added).[12]

12. NRDC Litigation

It wasn't until 2003 that the WIR issue was litigated. In 2003, a Federal District Court issued a decision addressing the claim of NRDC that DOE Order 435.1 was invalid as it exceeded DOE's authority under the NWPA. NRDC v Abraham, 271 F. Supp 2d.1260 (D. Idaho2003).[13] The Court recognized that the NWPA allows DOE to treat solids to remove fission products thereby permitting reclassification of the waste. This would include the sludges in tanks. However, the

[11] Letter from Chairman Meserve to Dr. Piciulo, Director NYSERDA, dated June 20, 2002 (ML021420085).
[12] Letter from John Greeves to Paul Merges, NYSDEC, dated October 8, 2002 (ML022120257).
[13] NRDC did not challenge the Citation methodology under DOE Order 435.1.

Court concluded that DOE had ignored the word "include" in the definition of HLW and that "sufficient concentration" only applied to solids. Id. at 1265. The Court also stated that the second 435.1 criterion associated with the performance objectives had no independent meaning stating "DOE will treat waste that it deems to be low-level waste as low-level waste." Id. Significantly, the Court was concerned with the provision in 435.1 that allows DOE "to meet such alternative requirements for waste classification and characterization as DOE may authorize." The Court stated that such "alternative requirements" are not defined and "thus are subject to the whim of DOE." Id. The Court held DOE Order 435.1 invalid because it conflicts with the HLW definition of the NWPA. The NWPA

> definition pays no heed to technical or economic constraints in waste treatment. Moreover, NWPA does not delegate to DOE the authority to establish "alternative requirements" for solid waste.

Id. at 1266. The outcome of the decision may have been different if the Court had not misread the second criterion. The second criterion is key to the application of the NWPA as waste is not so "highly radioactive" or of "sufficient concentration" if the waste material is suitable for land disposal under Part 61. This criterion contrary to the Court's opinion has independent meaning. It requires DOE to perform a performance assessment to determine if the performance objectives of Part 61 are met.

DOE appealed this case before the ninth circuit. The ninth circuit vacated the case on the basis it was not ripe for judicial review. NRDC v Abraham, 388 F.3d 701 (9th cir 2004). In so doing the Court did not reach the merits and the case does not serve as a legal precedent. The authors expect that DOE will be considering the lessons from this litigation as it updates Order 435.1.

13. Section 3116

As a result of the NRDC litigation, Congress enacted Section 3116 of the Ronald W. Reagan National Defense Authorization Act for Fiscal year 2005 (NDAA) that codifies incidental waste criteria and provides a process for determining when waste as not HLW in South Carolina and Idaho. In essence Section 3116(a) provides that high-level radioactive waste does not include radioactive material resulting from reprocessing of spent nuclear fuel that the Secretary of Energy determines –

> (1) Does not require permanent isolation in a deep geologic repository …
> (2) Has had highly radioactive radionuclides removed to the maximum extent practical; and
>
> A. Does not exceed concentration limits for Class C low-level waste (LLW) and will be disposed of in compliance with the performance objectives in 10 CFR Part 61, Subpart C; or
> B. Exceeds concentration limits for Class C LLW but will be disposed of in compliance with the performance objectives of 10 CFR Part 61, Subpart C, and pursuant to plans developed by DOE in consultation with the NRC

In August 2007, the NRC Staff issued NUREG-1854, NRC Staff Guidance for Activities Related to U.S. Department of Energy waste Determinations. This NUREG addresses NRC's review of waste determinations for WIR under DOE Order 435.1, Section 3116, and the NRC West Valley Criteria. The Staff in NUREG-1854 notes that the criteria contained in Section 3116 for determining that waste is not HLW are similar to the WIR criteria that NRC had previously used. NUREG-1854 at xxi. However, unlike DOE Order 435.1 and the NRC West Valley criteria, which permit DOE to meet requirements comparable to the performance requirements of Part 61, Section 3116 requires the performance objectives of Part 61 to be met. It is noteworthy that Section 3116 addresses Class C concentrations but does not set it as an absolute limit in that concentrations can exceed Class C if the performance objectives of Part 61 are met after appropriate consultations with the NRC.

III. Bases for the Part 7x Definitions

1. Definition of HLW

Part 7x provides definitions for both HLW and WIR. It defines HLW as:

> the highly radioactive material resulting from recycling of spent nuclear fuel, including liquid wastes produced directly in recycling (i.e., liquid wastes resulting from the operation of the first cycle solvent extraction system, or equivalent, and the concentrated wastes from subsequent extraction cycles, or equivalent) and any solid material derived from such liquid waste that contains fission products in sufficient concentrations. HLW does not include waste incidental to recycling.

This definition is based on the language of the definition of HLW in the NWPA and AEA. Three changes were made to the statutory language. First, for consistency with Part 7x the term "reprocessing" was replaced with "recycling." Second, a clarification of the phrase "liquid waste produced directly in recycling" was made by adding parenthetical language of "i.e., liquid wastes resulting from the operation of the first cycle solvent extraction system, or equivalent, and the concentrated wastes from subsequent extraction cycles, or equivalent." The words in the clarification came from the definition of HLW in Part 60. As noted above, the Statements of Consideration for Part 63 noted that originally it used the words from the Part 60 definition that are the same clarifying words that is proposed in Part 7x but took them out to be more consistent with the EPA language that was similar to the NWPA. In so doing the Commission stated that there "is no substantial difference" between the definitions. 66 FR 55732 (November 2, 2001). The clarification is important because the new Part 7x directly addresses recycling. This clarification was added to signal where in recycling consideration begins that waste might be HLW. In our view it should have no effect on either expanding or contracting the scope of HLW for purposes of the NWPA or the AEA.

The third change in the definition is the inclusion of the statement that HLW does not include WIR. This exclusion is based on the definitions in the NWPA and the AEA that not all reprocessing waste is HLW. This is evident from the legislative history cited above addressing both source and the hazard and the resulting language in the statutory definitions that address "highly radioactive material resulting from the reprocessing" and "any solid material derived

from such liquid waste that contains fission products in sufficient concentrations." By adding the exclusion of WIR, the definition answers the fundamental questions of what is "highly radioactive material resulting from the reprocessing" and what is "any solid material derived from such liquid waste that contains fission products in sufficient concentrations" (emphasis added). While the concept of WIR was created before the NWPA, it is used today to address when waste is not so "highly radioactive" or of "sufficient concentration" that it is not HLW. The Government position in the NRDC litigation is consistent with that view as it noted in that litigation that "the purpose of the WIR criteria is to determine whether solid reprocessing waste is 'highly radioactive material' and/or 'contains fission products in sufficient concentrations' so that it requires geologic disposal, 42 U.S.C. 10101(12), or whether such solid waste can instead be managed as low-level or transuranic waste."[14] Consequently, the proposed definition of HLW in Part 7x excludes WIR. This reflects DOE's and NRC's long track record of not including incidental waste as HLW.

2. Definition of WIR

Part 7x defines WIR as:

> Waste material resulting from recycling of spent nuclear fuel, including liquid wastes produced directly in recycling and any solid material derived from such liquid waste that contains fission products that is not so highly radioactive or contains insufficient concentrations of fission products to be classified as HLW. Such waste is not so highly radioactive or of sufficient concentration if it (1) has been processed to remove key radionuclides to the maximum extent that is technically and economically practical, and (2) either meets Class C concentrations under 10 CFR part 61 or will meet the performance objectives in 10 CFR part 61, subpart C if disposed of in a near surface disposal site based on a site specific performance assessment. This definition does not relieve the Department of Energy from its responsibility for the disposal of radioactive material which is greater than Class C under the Low-Level Radioactive Waste Policy Act of 1985.

Having included the exclusion of WIR in the definition of HLW it was necessary to define it. This will be the first time that NRC addresses in its regulations the concept of WIR. While this may be controversial, there is no secret that NRC has and is using the WIR concept and the NRC made it clear in the West Valley Decommissioning Criteria in 2002 that incidental waste is not considered to be HLW. In addition, because the WIR concept is important to establish in developing the waste management aspects of the application for a recycling facility, it is included in the regulatory framework of Part7x to add stability to the regulatory process.

The first sentence of the definition defines in general terms that WIR is waste material resulting from recycling spent nuclear fuel that is not so highly radioactive or contains insufficient concentrations of fission products to be classified as HLW. This statement is consistent with the NWPA and the AEA. However, some may argue that the statement is over broad because it applies the "concentration sufficiency" concept to both liquids and solids. There is no intent to apply WIR to liquids as the concept of WIR is that such material is suitable for near surface land

[14] Appeal Brief at 42.

disposal under 10 CFR Part 61 which generally requires that waste to be disposed of be in solid form to provide stability in accordance with 10 CFR 61.56. This is also consistent with the 1993 NRC WIR Criteria and DOE Oder 435.1 both of which require WIR to be in solid form

The second sentence provides specificity derived from the Commission's 2002 West Valley Criteria and Section 3116. It contains two elements. The first element addresses economic and technical practicality from the West Valley criteria. This language was used rather than the somewhat broader language of Section 3116 that states "has had highly radioactive radionuclides removed to the maximum extent practical." Notwithstanding the language in Section 3116, NRC has taken the position in NUREG-1854 that DOE should consider both the technical and economic aspects of waste removal in demonstrating compliance with the criteria of Section 3116. The proposed language is also the language that the NRC has used throughout the development of its WIR criteria. The "practicality" element is important because it reduces the concentrations of the key radionuclides that affect dose to the public and intruders and reducing the radioactivity.

The second element provides a choice of two requirements. The first requirement provides that the waste must meet the Class C concentrations under Part 61. This is different from the criteria NRC adopted in the 2002 WIR criteria for West Valley and during the 2000 review of Savannah River tanks that focused on performance objectives and did not include a concentration as part of the WIR criteria. As former Chairman Meserve explained

> this criterion was dropped because the Commission adopted a risk-informed and performance-based approach to meeting the performance objectives in Part 61 that focuses attention on the potential health consequences of leaving waste on-site (i.e., doses which might occur), rather than considering more indirect measures of health risk, such as meeting specific radionuclide concentration limits.[15]

It is also noted that while Section 3116 includes a Class C provision, as described above whether or not the waste meets Class C concentrations, the performance objectives of Part 61 must be met. However, it is important to recognize that the NRC criteria and Section 3116 addresses standards for disposing of WIR remaining in tanks on-site. Such sites have not been subject to a performance assessment demonstrating that the performance objectives have been met. It is not contemplated that waste from recycling will be disposed of on-site. Rather waste from recycling plants will need to be disposed of off-site at licensed disposal sites meeting the requirements of 10 CFR Part 61 or equivalent Agreement State regulations. Such sites in the authors' view are required by 10 CFR 61.12 and 13 to have demonstrated that the performance objectives of Part 61 will be met.

Consequently, class C waste was set as the threshold as waste that is within classes A, B, and C can be disposed of in a commercial LLW disposal site. See 10 CFR 61.55(a)(2)(iv). As just noted, sites accepting waste of classes A, B, and C must meet the performance requirements of Part 61. Class C waste is considered to be LLW and would need to be addressed if the site intends to accept such waste. Under such circumstances, the waste is not so "highly radioactive" or of "sufficient concentration" to require geologic disposal as near surface disposal will be

[15] See footnote 11. See also John Greeves, response to NYSDEC at footnote 12.

protective of the public health and safety because the performance objectives will be met. Therefore, if the waste meet the requirements for the applicable license at the disposal site, it will not be necessary to provide a separate demonstration that the performance objectives are met as the disposal site would have already done one.

The second requirement of the second element provides for that assessment to demonstrate the public health and safety is protected for greater than Class C waste. Regardless of where the waste is disposed or its concentration and the waste acceptance criteria at a license site, if a site specific performance assessment demonstrates that the Part 61 performance objectives are met, then the disposal site is suitable for the waste. This is consistent with Section 3116 (a)(3)(B) and the Commission's view that

> the "bottom line for disposal" of low-level radioactive wastes are the *performance objectives* of 10 C.F.R. Subpart C which set forth the ultimate standards and radiation limits for (1) protection of the general population from releases of radioactivity; (2) protection of individuals from inadvertent intrusion; (3) protection of individuals during operations; (4) and stability of the disposal site after closure.[16]

While the second element in itself is sufficient to demonstrate that the public health and safety will be protected based on the results of a site specific performance assessment, the first element addressing removal of radionuclides provides additional assurance. The resulting two elements if met, will provide reasonable assurance that the waste material will not need permanent isolation in a geologic repository as the waste is not so "highly radioactive" or of "sufficient concentrations."[17]

The last sentence in the definition is a statement concerning the responsibility of the Department of Energy for the disposal of radioactive material, which is greater than Class C under the Low-Level Radioactive Waste Policy Act of 1985.

3. Citation and Evaluation process

The proposed regulatory language submitted for Part 7x did not specifically address the WIR concepts of evaluation and citation used by DOE in its Order 435.1. These are important concepts as there is a clear distinction between the waste in a large waste tank that needs treatment to remove radionuclides in order to satisfy the performance objectives of Part 61 and smaller items that meets waste acceptance criteria for a LLW disposal site with no or minimum effort for treatment. The evaluation process would address tank waste and large items by applying the proposed definite of WIR in 7x. The citation process would address smaller items by applying the waste acceptance criteria for LLW disposal sites. By meeting the waste acceptance criteria for a LLW disposal site there will be assurances that the performance objectives of Part61 are met. From an operational perspective it is important to have within the regulatory framework a citation process to address gloves, filters, clothing and other items that clearly meet LLW acceptance criteria for waste management efficiency. During the rulemaking process, inclusion of a citation process will be an issue that the NRC will need to address.

[16] Louisiana Energy Services, L.P. (National Enrichment Facility), CLI-05-05, at Page 11 (January 18, 2005).
[17] See also Section 2.5.1 of NUREG -1854.

IV. Conclusion

In the authors' view, there is a clear basis for distinguishing material that is HLW and WIR based on regulatory and legislative history which is supported by the public health and safety.

HLW is only that radioactive waste from reprocessing that is "highly radioactive" and of sufficient concentration." Such waste is not suitable for near surface disposal. If radioactive waste meets the performance objectives of 10 CFR Part 61 when disposed of at a near surface disposal site, then the waste regardless of its source is not so "highly radioactive" or of "sufficient concentration" that disposal in a geologic repository is needed. WIR is material from reprocessing that is not so "highly radioactive" or of "sufficient concentration" that geologic disposal is needed to protect the public health and safety.

The proposal to NRC for defining HLW and WIR submitted by NEI as part of the proposed Part 7x regulatory framework is consistent with these views.

References

Statutes

Atomic Energy Act of 1954, as amended, 42 USC2011
Energy Reorganization Act of 1974, 42 USC 5801
Low-Level Radioactive Waste Policy Act of 1985.
Marine Protection, Research, and Sanctuaries Act of 1972, 33 USC 1402
Nuclear Waste Policy Act of 1982, 42 USC 10101
West Valley Demonstration Project Act, 42 USC 2021a.
Ronald W. Reagan National Defense Authorization Act for Fiscal year 2005 (P.L.108- 375, 2004)

Court Cases

NRDC v. Abraham, 271 F.Supp.2d 1260 (D. Id. 2003)
NRDC v. Abraham, 388 F. 3d 701 (9th Cir. 2004)
Appeal Brief: Appeal from a Final Judgment of the United States District Court for the District of Idaho (271 F. Supp 2d. 1260), 9th Circuit No. 03-35711(January 29, 2004)

Regulations

10 CFR Part 60, Disposal of High-Level Radioactive Wastes in Geologic Repositories
10 CFR Part 61, licensing Requirements for Land Disposal of Radioactive Waste
10 CFR Part 63, Disposal of HLW in a Geologic Repository at Yucca Mountain, Nevada

Federal Register Notices

10 CFR Part 50, Appendix F, Policy Relating to the Siting of Fuel Reprocessing Plants and Related Waste management Facilities, 35 FR 17530, 01 (November 14, 1970)

Advanced Notice of Proposed Rulemaking, Definition of "High-Level Radioactive Waste," 52 FR 5992, 5993 (February 27, 1987)
Proposed Rules for Disposal of Radioactive Wastes, 53 FR 17709 (May 18, 1988).
Proposed Rule: Disposal of HLW in a Geologic Repository at Yucca Mountain, Nevada, 64 FR 8640 (February 22, 1999)
Final Rule: Disposal of HLW in a Geologic Repository at Yucca Mountain, Nevada, 66 FR 55732 (November 2, 2001)
Decommissioning Criteria for the West Valley Demonstration Project at the West Valley Site, 67 FR 5003, 5011 (February 1, 2002)

Agency Documents

Staff Requirements Memorandum, in response to SECY-92-391, "Denial of PRM 60-4 - Petition for Rulemaking from the States of Washington and Oregon," February 16, 1993
SECY 99-284, Classification of Savannah River Residual Tank Waste as Incidental, December 19, 1999
Department of Energy, Order 435.1 on Radioactive Waste Management (July 9, 1999, revised August 28, 2001) along with its Radioactive Waste Manual (July 9, 1999, revised June 19, 2001)
Nuclear Regulatory Commission, NUREG-1854, NRC Staff Guidance for Activities Related to U.S. Department of Energy waste Determination(August 2007)

Miscellaneous Documents

Letter from Chairman Meserve to Dr. Piciulo, Director NYSERDA, dated June 20, 2002; available at NRC ADAMS at ML021420085
Letter from John Greeves to Paul Merges, NYSDEC, dated October 8, 2002; available at NRC ADAMS at ML022120257
NEI White Paper, Appendix A, Establishing the Regulatory Framework to License Fuel Recycling Facilities (December 24, 2008); available at NRC ADAMS at ML083590129.
NEI White Paper, High Level Waste Insights (November 12, 2009); available at NRC ADAMS at ML09303035.

Martha Coakley
Attorney General

The Commonwealth of Massachusetts
Office of the Attorney General
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Therese Murray
President

May 24, 2013

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Re: <u>Support for the Nuclear Waste Administration Act of 2013</u>

Dear Senators Feinstein, Wyden, Alexander, and Murkowski:

We urge you to pass the Nuclear Waste Administration Act of 2013 (NWAA), subject to the comments we provide below.

The federal government has long had an obligation to develop short and long term solutions to the current on-site storage of nuclear waste in facilities in Massachusetts and other states. Its failure to act has cost taxpayers and we believe poses great risks to public safety and the environment. We urge swift action to address this issue on behalf of our constituents in Massachusetts and those across the country.

Since 2006, the Commonwealth of Massachusetts, through administrative proceedings and proposed rulemakings, and before the courts, has urged the Nuclear Regulatory Commission (NRC) to address these significant risks. In recent years, the Commonwealth has addressed risks related to onsite storage of nuclear waste in connection with the NRC's relicensing proceedings for the Pilgrim nuclear power plant, located in Plymouth, Massachusetts, and the Vermont

Yankee nuclear power plant, located less than ten miles from the Massachusetts border in Vernon, Vermont.[1]

When Pilgrim and Vermont Yankee, and other reactors, were licensed by the NRC in the 1970s, regulators assumed that the spent fuel would be transferred offsite to a permanent disposal facility. More than forty years later, a permanent repository still has not been constructed. As a consequence, spent fuel continues to be stockpiled ever more densely at individual plant sites, primarily in exposed spent fuel pools, thereby increasing the risk of core melt or catastrophic fire by terrorist attack, as acknowledged in a 2006 National Academy of Sciences Report,[2] or by earthquake and other natural disasters, as occurred (core melt) at the Fukushima Daiichi site in Japan involving four nuclear power plants.[3] Yet, as the United States Court of Appeals for the District of Columbia recently found, the NRC still has not adequately addressed the risks of onsite storage of spent nuclear fuel at civilian reactors.[4] We therefore urge the Congress to act.

Pursuant to the Nuclear Waste Policy Act of 1982 (NWPA), as amended by the NWPA Amendments Act of 1987, the Department of Energy (DOE) entered into Standard Contracts with commercial reactor licensees to take title to spent fuel and high level waste beginning January 31, 1998, in exchange for payments of fees to the Nuclear Waste Fund. Because the DOE failed to develop the repository contemplated by the NWPA, the federal government has been in partial breach of the Standard Contracts. This breach has led to scores of suits against the federal government to recover damages resulting from DOE's failure to remove spent fuel and Greater Than Class C (GTCC) waste.

Since 1998, ratepayers have borne the additional costs of re-racking wet storage pools to create more on-site storage, and subsequently, the costs of constructing and operating safer dry storage in Independent Spent Fuel Storage Installations (ISFSI) at the sites of three decommissioned Yankee nuclear plants in New England. While we are pleased that the Yankee companies were recently able to recover nearly $160 million for the benefit of ratepayers in the first phase of litigation for damages incurred between 1998 and 2002, this took 14 years of litigation as a result of the federal government's strategy of opposing this recovery and filing costly appeals. Until there is a permanent solution to remove the spent fuel and GTCC waste, this litigation will continue in subsequent phases, because the courts have ruled that the Standard Contract holders may only recover damages as they are incurred. The costs, which the American taxpayer will ultimately bear, continue to mount due to heightened security concerns which have recently increased the ongoing operating costs for these sites.

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[1] *See e.g. Commonwealth of Massachusetts v. United States Nuclear Regulatory Commission*, 522 F. 3d 115 (1st Cir. 2008).

[2] NAS Committee on the Safety and Security of Commercial Spent Nuclear Fuel Storage, *Safety and Security of Commercial Spent Nuclear Fuel Storage* (The National Academies Press: 2006) at 36, 57.

[3] *See* U.S. Nuclear Regulatory Commission Task Force, Near-Term Review of Insights from the Fukushima Dai-ichi Accident: Recommendations for Enhancing Reactor Safety in the 21st Century (July 2011) at 9.

[4] *New York v. NRC*, 681 F.3d 471 (D.C. Cir. 2012); *see also* NRC Denial of Petitions for Rulemaking, 73 Fed. Reg. at 46,208 and 46,212 (August 8, 2008) (NRC concludes that the environmental impacts of storing spent nuclear fuel onsite at civilian reactors are "small" and those findings "remain valid.").

Because the work to develop a repository at Yucca Mountain came to a halt, the DOE chartered the Blue Ribbon Commission on America's Nuclear Future (Commission) to recommend a strategy for managing the back end of the nuclear fuel cycle. We participated in the Commission's comment process and supported recommendations to develop one or more consolidated interim storage facilities, to prioritize the removal of waste from decommissioned reactor sites, and to implement near term transportation related programs that will be necessary to move the waste to interim storage. On January 26, 2012, the Commission issued a report which is the basis for the various legislative proposals being discussed today.

With respect to the proposed NWAA, we submit the following comments:

Siting Requirements, Section 304

We support the provisions of the NWAA that require the consent of the affected State,[5] meaningful participation by the public,[6] and the right of judicial review.[7] Consistent with this more consensual approach, and the importance of protecting human health and the environment as part of the siting process, we recommend that sections 304(b)(2)(A) and 304(b)(3) be amended expressly to provide for National Environmental Policy Act review.

We support the NWAA's proposed tiered structure for site investigation and site suitability determination. Because the initial determination of suitability for site characterization and the final site suitability determination turn, in significant part, on whether a site comports with the statutory siting guidelines and factors set forth therein, we recommend that the guidelines expressly provide, among the additional factors to be considered, that the Administrator must take into account the extent to which a storage facility would minimize the impact of short and long term nuclear waste storage on human health and the environment.

With regard to the proposed new agency's responsibility to transport nuclear waste, we recommend that the guidelines also provide, among the additional factors to be considered, that the Administrator must also take into account the availability of safe transport routes and modes of transport. Currently, section 304(b) provides that the guidelines for storage facilities shall require the Administrator to take into account "the extent to which a storage facility would . . . (ii) minimize the impacts of transportation and handling of nuclear waste . . ."[8] Making the availability of safe transportation routes and modes an express siting requirement will likely facilitate the siting process, surface concerns earlier, and avoid scenarios in which sites are selected in the absence of sufficient and appropriate transportation infrastructure.

Relationship of Temporary to Permanent Storage, Sections 305, 306

The legislation at section 306 links the siting, construction, and operation of temporary storage facilities to "progress" on a permanent repository. We recommend decoupling development of temporary storage facilities and repositories to avoid placing a further

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[5] *See, e.g.*, section 304(c).
[6] *See, e.g.*, section 304(a).
[7] *See* section 404.
[8] Section 304(b)(2)(C)(ii).

impediment to removal of spent nuclear fuel to offsite temporary storage facilities. It is imperative that Congress promptly address the public safety and environmental concerns associated with the current practice of onsite storage of spent fuel in pools that were never designed to serve as long term storage facilities for nuclear waste. To address this issue in part, We generally support the alternative section 305 concepts suggested by Senator Alexander that would establish separate, but parallel, processes for the siting of temporary storage facilities and a permanent repository, provided both processes remain subject to siting guidelines as noted above, since this may provide opportunities for further streamlining and expediting of the temporary storage siting process.

Transportation of Nuclear Waste, Section 308

Section 308(a)(1) confers upon the Administrator the responsibility for transporting nuclear waste from the site of a contract holder to a storage facility or repository. This section should make clear that the Administrator has an obligation to accept title to spent fuel and GTCC waste delivered by a contract holder using any package that has previously been certified by the NRC. There are a number of vendors that have licensed storage and transportation canister systems which are not compatible with each other. Nuclear plant operators or ISFSI operators may have invested in dry cask systems in reliance on the NRC certification. Clarifying the obligation to accept waste delivered in any such approved package will avoid stranding additional investment and eliminate additional delays and costs of repackaging waste for transportation.

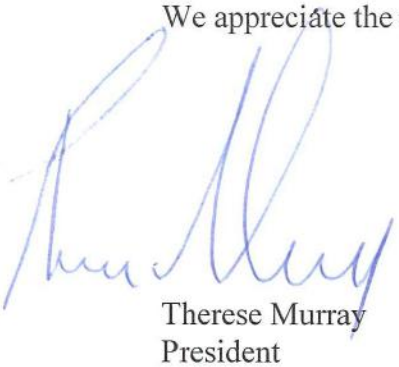
Claims Against the Federal Government, Section 406

Section 406(b) would make settlement of damage claims against the federal government a "condition precedent of the agreement of the Administrator to take title to and store the nuclear waste of the contract holder at a storage facility." Although requiring the federal government to settle damage claims under the Standard Contract in a timely manner rather than opposing and litigating the claims would better serve the public interest, the Commonwealth opposes making the obligation to take title to and store the waste contingent upon resolution of the damage claims under any existing contracts. This provision could confer an advantage on the federal government by effectively requiring contract holders to settle, likely on less beneficial terms and agree to limit future damage claims for the government's continuing breach of contract for failure to begin accepting spent fuel and GTCC waste.

The U.S. Court of Federal Claims has held that utilities cannot recover future damages, because DOE is only in partial breach of the Standard Contract. Utilities must file subsequent claims to recover damages later incurred subject to a six-year statute of limitations. Thus, the existing actions before the court cover only damages incurred within the six years prior to the time the lawsuits were filed. Ratepayers continue to pay for the cost of ISFSIs at the three decommissioned plant sites in New England: Yankee Atomic in Rowe, Massachusetts; Connecticut Yankee in Haddam Neck, Connecticut; and Maine Yankee in Wiscasset, Maine. Massachusetts ratepayers' share of the operating costs currently amounts to approximately $10 million annually. Limiting the federal government's liability for such costs would permanently shift the burden of those continuing costs to consumers.

We appreciate the opportunity to provide comments on the NWAA.

Cordially,



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May 23, 2013

The Honorable Senator Ron Wyden, Chairman
The Honorable Senator Lisa Murkowski
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The Honorable Senator Dianne Feinstein, Chairwoman
The Honorable Senator Lamar Alexander
Ranking Member, Senate Committee on Appropriations
Subcommittee on Energy and Water Development
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Re: Comments Regarding the Discussion Draft,
The Nuclear Waste Administration Act of 2013

Dear Senators Wyden, Murkowski, Feinstein and Alexander,

I would like to thank you for this opportunity to comment on the draft legislation addressing high level nuclear waste. Currently, Utah is host to neither commercial spent nuclear fuel nor defense high level nuclear waste. Nevertheless, Utah is intimately familiar with the process for siting a consolidated interim storage facility in our State. Accordingly, any legislation addressing the transportation, storage or disposal of high level nuclear waste may have a significant impact on the State of Utah.

As you may be aware, absent any meaningful input or consent from the State of Utah, and against the will of the majority of elected officials and Utah citizens, a consortium of nuclear power companies named Private Fuel Storage, L.L.C. ("PFS"), sought to transport commercial spent nuclear fuel to Utah for indefinite storage. Siting and licensing the PFS facility was neither transparent nor consent based. PFS completely foreclosed any opportunity for the State of Utah to participate in the site selection process. In fact, PFS selected its site adjacent to a U.S. Air Force bombing range and over two active seismic faults.

As litigation was the only avenue available to raise critical issues, Utah was forced to take an adversarial role. Utah engaged in intense ligation before the U.S. Nuclear Regulatory Commission ("NRC") over an eight year period. Following the failure of the NRC to adequately address numerous concerns, Utah appealed the NRC decision to grant a license for interim storage.

Utah's endeavor to adequately address potential impacts from the proposed PFS facility has spanned the administrations of four Utah governors over a sixteen year period and is still ongoing. Because of the critical importance of these issues to the State of Utah, or indeed any state where these nuclear materials might be located, it is imperative that a governor have a decisional role when any nuclear facility is being considered in his or her state. Moreover, this decisional role should exist whether or not the facility is located on private, public or tribal lands and whether or not it is financed by a private entity or the federal government.

Based on our experience, I commend your mandate to impose an open and transparent consent-based process in siting storage and disposal facilities. Moreover, I fully endorse the requirement, in both the draft discussion bill and the alternative language, to obtain gubernatorial approval through a consent agreement prior to seeking a license for any facility located in a state, whether or not on Indian lands. States are co-sovereign entities in a federal system with a unique responsibility to ensure the safety and welfare of its citizens. Thus, notwithstanding how candidate sites are selected, it is imperative that governors have a decisional role in whether or not to host a nuclear waste facility in their states, whether that facility is a storage facility or repository.

Additionally, the alternative language provides that candidate storage sites are identified through requests for proposals. As governors, local governments and tribes must ultimately consent to host a storage facility, the law should require that any request for proposal include written consent from the governor, local government and tribe.

The alternative language allows but does not require a cooperative agreement with the impacted state, local government or tribe prior to characterization of a suitable site. In pursuit of an informed decision, it is essential that states, local governments and tribes have the ability and sufficient resources to evaluate any potential impacts of a nuclear facility. Therefore, it is essential that cooperative agreements be reached prior to characterization of any site.

I appreciate the opportunity to provide input on the draft legislation. If you would like additional information regarding my comments above or the State of Utah's experience, please contact John A. Pearce, General Counsel, at 801-538-1504 or jpearce@utah.gov.

Sincerely,

Gary R. Herbert

Gary R. Herbert
Governor

cc: The Honorable Senator Orrin Hatch
The Honorable Senator Mike Lee
The Honorable Representative Jim Matheson
The Honorable Representative Rob Bishop
The Honorable Representative Jason Chaffetz
The Honorable Representative Chris Stewart

Submitter's Name/Affiliation: National Spent Fuel Collaborative
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> *"The United States may have spent more money in the effort to develop nuclear waste sites than any other nation on earth, but save for a facility in New Mexico that handles only military waste, every single effort to site a new repository in the last several decades has ended in failure."*[1]

The Achilles' heel of these failures has been a chronic lack of trust, by stakeholders, in the federal government's facility siting processes.[2] Respectfully, it is as simple as that.

There is, however, a process to successfully site contentious facilities: namely, The Facility Siting Credo.[3] Indeed, in this country, there are hundreds of examples of how the Credo has proven effective with respect to the siting of hazardous waste landfills, energy infrastructure and even prisons. Furthermore, scholars have sought to parlay this experience into nuclear waste facility siting.[4] But to date, the practical lessons of the credo have not been applied in the field of spent fuel.

With the development of new nuclear waste management legislation, now is an opportune time to revise the fundamentals of the siting process to reflect this proven approach. But please be forewarned. For such an undertaking to be successful, it must be predicated on a transparent and deliberative process with a level of meaningful stakeholder engagement that far surpasses previous federal efforts. Such a process (following the Credo's guidelines), however, is likely the <u>only</u> manner by which the federal government may regain the levels of trust necessary to successfully site a nuclear waste storage or disposal facility.

These themes of trust and stakeholder engagement go to the core of any successful siting effort. Accordingly, and as elaborated in our responses to specific questions, the structure and processes envisioned for the Nuclear Waste Administration need to fully reflect stakeholder engagement realities. Good siting takes a long time. Bad siting takes even longer.

Thank you for this opportunity to comment.

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[1] Freudenburg, W., "Can We Learn from Failure? Examining U.S. Experiences with Nuclear Repository Siting." <u>Journal of Risk Research</u>, (2004), 7 (2): 153-69.

[2] *"Trust and confidence in the federal government's basic commitment and competence to deliver on its waste management obligations have all but completely eroded."* Blue Ribbon Commission on America's Nuclear Future Final Report (BRC Final Report), 2012, p.40.

[3] *The Facility Siting Credo: Guidelines for an Effective Facility Siting Process*, Article by Howard Kunreuther and Lawrence E. Susskind <u>in Environmental Impact Assessment Review</u>. Publication Services, University of Pennsylvania, 1991.

[4] "*Interim Storage of Spent Nuclear Fuel: A Safe, Flexible, and Cost-Effective Near-Term Approach to Spent Fuel Management*." Cambridge, MA: Managing the Atom Project, Harvard University, and Project on Socio-technics of Nuclear Energy, University of Tokyo, 2001

Question 4: Separate process for storage facility siting – General streamlining for storage only

Submitter's Name/Affiliation: HAMILTON / NATIONAL SPENT FUEL COLLABORATIVE

To what extent should the siting and consensus approval process for spent fuel storage facilities differ from that for the repository? Should the Administrator be required to conduct sufficient site-specific research (referred to as "characterization" in the bill) on candidate storage sites to determine if they are suitable for storing nuclear waste or only on candidate repository sites to determine if they are suitable for geologic disposal of nuclear waste? Should the Administrator be required to hold public hearings both before and after site characterization (as required by current law in the case of the Yucca Mountain site) or only before site characterization?

In the macro perspective, the United States has no road map for how to successfully site a nuclear waste storage facility or a repository. Terms such as "consent based" and "volunteer" sound comforting but we have no agreed-upon process to achieve the desired outcomes.

Logic would dictate that before we run, we learn how to walk. To that end, the National Spent Fuel Collaborative's proposed approach to siting would involve three inter-related phases that minimize uncertainty, control costs and maximize the probability of successfully siting both a storage installation(s) and a national repository:

Phase I – Interim Storage Facility Siting: Year 0 to Year 5

- There are no impediments to launching, now, a public and deliberative process to site a spent fuel storage installation. Such an effort may begin without the creation of a separate federal agency. Indeed, industry experts fully recognize that while the DOE or the proposed Nuclear Waste Administration may excel at the licensing, design and operation of nuclear waste facilities, they may not be well-positioned or sufficiently-skilled to manage a legitimate siting effort. Such a siting effort is most efficiently implemented through a systematic and structured multi-stakeholder process in which the Administration plays an important role but is not the lead entity.
- The schedule for such an effort, if one follows proven facility siting methodologies, will be lengthy. Studies of best practices indicate that approximately 5 to 7 years would be required to secure the necessary degree of local and state support (to withstand the anticipated legal and political challenges) required to site a storage installation.
- The deliverable from Phase I would be the terms of an agreement for local host communities to host an interim storage installation.

Phase II –Launch of Nuclear Waste Administration: Year 2 to Year 5

- In parallel, it is acknowledged that the wheels of the federal bureaucracy turn slowly and are subject to unpredictable political forces. To that end, the creation of the Nuclear Waste Administration will take considerable time. Best estimates are that it will take up to five years for that agency, or a related entity, to be fully functional.

Question 4: Separate process for storage facility siting – General streamlining for storage only

Submitter's Name/Affiliation: HAMILTON / NATIONAL SPENT FUEL COLLABORATIVE

- During the Administration's start-up phase, the Interim Storage Facility siting process would be completed. The deliverable from that process (an agreement in principle with host communities) would then be taken-up by the new Administration and the design / licensing process would begin.

Phase III – Repository Facility Siting: Year 5 to Year 20+

- Apart from siting an interim storage installation, the considerable value inherent in the approach recommended by the National Spent Fuel Collaborative will be that the siting of an interim storage installation would provide the needed road map for the repository siting.
- From an efficiency perspective, cost estimates for one interim storage facility are in the $1B range. For a repository, Total Project Costs are in the $60B to $100B range. Logic would dictate that it is cost effective to develop and refine siting protocols on a $1B project and use these lessons to more efficiently site the larger, more expensive effort.

Summary

Siting of nuclear waste facilities follows the same processes whether it involves the siting of a storage installation or repository. Protocols and procedures developed from the former may then be applied to the latter. Undertaking both siting programs simultaneously will overwhelm the responsible entity, prevent lessons learned from being applied and will not serve to develop the necessary stakeholder faith and trust in the process.

The National Spent Fuel Collaborative's siting recommendations are grounded in proven facility siting methodologies, the phased implementation of which will serve well the nation's interests.

Question 8: Governance of the Nuclear Waste Administration – Membership of the Oversight Board

Submitter's Name/Affiliation: HAMILTON / NATIONAL SPENT FUEL COLLABORATIVE

Dr. Meserve testified in 2012 that representatives of stakeholders and public utility commissioners should be added to the Nuclear Waste Oversight Board. Would these additions make the Board better able to carry out its fiduciary oversight mission effectively?

There are few issues more contentious in the national policy spectrum than what to do with nuclear waste. As previously mentioned by the National Spent Fuel Collaborative, and others, lack of stakeholder trust in the decision-making process is at the root of these contentions.

Any process that exists in the public sphere and hopes to be even marginally successful in addressing a difficult issue requires the collective support of stakeholding institutions and entities. With respect to spent nuclear fuel, the list of affected stakeholders is long and varied.

Dr. Meserve's recommendations are, therefore, entirely consistent with an effort to successfully site spent fuel and every effort should be made to allow the full and robust participation of stakeholders in this process. Including their representation on the Nuclear Waste Oversight Board is, therefore, a recommendation that should be adopted.

However, care should be taken by the DOE or the new Administration in this regard. A diverse membership on the Board is but a signal as to the importance of stakeholder participation. Meaningful participation: the seeking of consensus, delivering on transparency goals and developing trust throughout the siting process requires a considerable and sustained investment in resources and mindset.

Accordingly, if a diverse board is created, the new Administration and/or DOE should be fully prepared to deliver on the promise of stakeholder participation. Lack of follow-through on this important matter will only serve to further erode trust in the process and seek to delay or potentially derail any possibility of a successful siting effort.

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May 22, 2013

US Senate Committee on Energy and Natural Resources

Nwaste_feedback@energy.senate.gov

Re: Discussion Draft of legislation to overhaul U.S. radioactive waste policy

Citizens' Environmental Coalition is a statewide organization with thousands of involved groups and individuals. We are dedicated to sound energy policy and as a result, a carbon free nuclear free future. We are advocating the closure of all six of New York's nuclear reactors: Indian Point's two facilities, 3 reactors in Oswego, NY- Fitzpatrick and Nine Mile Point 1 & 2, and 1 reactor in Rochester. In addition to numerous safety and aging issues, all of these reactors have overcrowded spent fuel pools, presenting the clearest danger that must be addressed. In addition we have been working for many years to obtain the cleanup of a former nuclear waste reprocessing site at West Valley. Current funding for West Valley is half what the GAO has recommended.

Senator Wyden deserves special recognition for his trip to Japan and highlighting the danger posed by situation at Fukushima. Senator Feinstein deserves thanks for her work on San Onofre. However, the proposed bill to overhaul nuclear waste policy does not provide the right direction. There are a few overarching points that we wish to bring to the attention of the Senate Energy Committee that directly relate to the issue you are considering: Interim storage of nuclear waste.

1) Nuclear energy is exceptionally dangerous due to the high potential for a catastrophic nuclear accident.
2) Nuclear energy is unsustainable in the long term, largely due to the generation of very long-lived and highly radioactive waste for which there is no technical or good solution.
3) Our nation has failed to grasp the fundamental meaning of these two above statements and their implications for the country and our society.
4) Current events document extremely disturbing fundamentals of nuclear energy:

- NRC is the sole nuclear regulatory for nuclear reactors. Unlike the situation with other federal agencies, states, localities and the public have no power and no rights.

- Decades of focus on deregulation has adversely impacted public safety, but nowhere is the potential for harm greater than with the nuclear industry.

- NRC is a captive of the nuclear industry and incapable of standing up for public safety. Recent actions demonstrate this clearly.

  Fukushima- style reactors (Mark I & II designs) should all be closed because their containment is too small to contain the pressure of a severe accident. This problem has been known since the 70s. Instead the NRC could not even manage to require filtered vents to contain the release of radiation.

  Those running San Onofre should be criminally prosecuted for fraud for trying to pass off their plans to substitute steam generators that were not "like for like" replacements. Instead, NRC may give the facility a green light.

5) Our country has been chronically unwilling to adequately fund the cleanup of nuclear and radioactive waste sites around the country. Thus the true costs of nuclear waste are not apparent to the public and public officials. This facilitates continuing budget support for all nuclear programs-- weapons and energy-- because the true long term costs of containing nuclear waste for millions of years is not factored in.

6) Corporations threaten the survival of society because of their anti-social behavior, and the continued collusion of government that fails to require minimal requirements for their business conduct. The banks have received the most news coverage, but the nuclear industry should probably be at the top of the list of renegade corporations that must be reined in.

In light of these points, it should be noted that the President' Blue Ribbon Commission was specifically assigned to map a course for a nuclear future.

- We do not believe that the United States should continue to pursue a nuclear future. It is far too dangerous. Therefore, Congress should not accept the BRC recommendations without critical examination.

- The United States should immediately provide extensive assistance to Japan in order to reduce the impacts of the Fukushima Daiichi continuing disaster and prevent a more serious catastrophe that could severely impact US citizens.

- The Congress should hold extensive hearings about nuclear safety and what entities including states should be involved rather than keeping safety in the exclusive hands of NRC, when the Agency is so endangering the country.

- A Congressional waste bill should prioritize not creating waste in the first place, by stopping all nuclear subsidies and requiring full accounting of the detailed status and funding needs for all radioactive waste sites undergoing cleanup.

- A Congressional bill should begin to reverse the deregulation panacea for this most dangerous nuclear industry and require much more accountability.

- A Congressional waste bill should not allow industry to fully transfer its responsibility for hundreds of thousands of tons of high level wastes onto the public sector. This will have an astronomical price tag for future generations.

- A Congressional waste bill should ensure that the funding needs of all communities with radioactive waste sites are met with long term funding allocations to complete their cleanups-- rather than taking on industry's responsibilities. The lack of accountability to the public on these cleanups will severely hamper any efforts to locate new nuclear or radioactive waste facilities.

Three issues are essential in planning what to do about the nuclear industry's spent fuel rods:

1) To prevent a severe nuclear catastrophe, we need to prioritize the movement of fuel rods out of overcrowded spent fuel pools.
A Congressional waste bill should require rapid movement of fuel rods out of overcrowded spent fuel pools to hardened on-site storage, restoring pool capacity to 100% of design capacity within 3 years. Over a longer period, pools should only have fuel rods that were removed from the core less than 5 years ago. Many groups across the country have advocated adoption of sound principles for managing this waste.
http://www.nirs.org/radwaste/policy/hossprinciples3232010.pdf

2) Permanent disposal needs to be planned and developed including long term monitoring and maintenance, with retrievability to avoid problems. A focus on interim sites will delay the work that needs to be done to develop permanent repositories.

3) Avoidance of multiple handling and transport trips is essential in order to limit the health and safety risks and excessive financial costs.

Thank you for your consideration.

Sincerely,

Barbara J. Warren
Executive Director

Blue Ridge Environmental Defense League
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May 24, 2013

Senate Energy and Natural Resources Committee
The Honorable Ron Wyden
The Honorable Lisa Murkowski
304 Dirksen Senate Building
Washington, DC 20510
Nwaste_feedback@energy.senate.gov

Re: Nuclear Waste Administration Act of 2013

Dear Senators Wyden and Murkowski:

On behalf of the Blue Ridge Environmental Defense League and our chapters in Maryland, Virginia, North Carolina, South Carolina, Tennessee, Alabama and Georgia, I write to share our views on why concept of ñinformed consentò is so problematic with regard to any recommendations on radioactive waste policy.

From the beginning, the principle of informed consent has centered in medical therapy and research. Since the early expositions on the concept in Nuremberg after WW2, informed consent has been associated with what a physician may and may not do and in the area of research intrinsically experimental in nature. Is informed consent even applicable to the concept of radioactive waste disposal? I think this is a problem.

In the United States, the ethics of informed consent were elucidated by the erstwhile U.S. Department of Health, Education and Welfare in its 1979 Belmont Report:[1]

> The consent process can be analyzed as containing three elements: information, comprehension and voluntariness.
>
> 1) Information. Most codes of research establish specific items for disclosure intended to assure that subjects are given sufficient information. These items generally include: the research procedure, their purposes, risks and anticipated benefits, alternative procedures (where therapy is involved), and a statement offering the subject the opportunity to ask questions and to withdraw at any time from the research.
>
> 2) Comprehension. The manner and context in which information is conveyed is

[1] *The Belmont Report*: Ethical Principles and Guidelines for the Protection of Human Subjects of Research, The National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research, April 18, 1979, available May 2013 at http://www.hhs.gov/ohrp/humansubjects/guidance/belmont.html

as important as the information itself. For example, presenting information in a disorganized and rapid fashion, allowing too little time for consideration or curtailing opportunities for questioning, all may adversely affect a subject's ability to make an informed choice.

3) Voluntariness. An agreement to participate in research constitutes a valid consent only if voluntarily given. This element of informed consent requires conditions free of coercion and undue influence. Coercion occurs when an overt threat of harm is intentionally presented by one person to another in order to obtain compliance. Undue influence, by contrast, occurs through an offer of an excessive, unwarranted, inappropriate or improper reward or other overture in order to obtain compliance. Also, inducements that would ordinarily be acceptable may become undue influences if the subject is especially vulnerable.

The Nuclear Waste Administration Act, as did the Presidentôs Blue Ribbon Commission, advocates a consentï based approach to finding nuclear waste management facilities. But how would a new Nuclear Waste Administration carry out its charge honorably, impartially and ethically? As outlined above, presenting information in a tendentious fashion, or allowing too little time for consideration or curtailing opportunities for questioning, adversely affects a subjectôs ability to make an informed choice. Plus there is always the possibility that silence may be construed as consent. The element of voluntariness is sharply questionable with regard to the communities which will likely become the subjects of this process. Even inducements that would ordinarily be acceptable may become undue and improper if the subject is especially vulnerable, such as an economically depressed or politically powerless community.

Working in communities in the Southeast, we are well aware of radioactive waste initiatives going out to potential waste dump communities. The Blue Ridge Environmental Defense League was founded because of one such program. They invariably come with promises of jobs and economic development, promises which short-circuits debate and sway elected officials.

Legislation ought not to hide facts about the nuclear fuel cycle which would unfairly prevent citizens from knowing the nature of the risk. The goal of the Blue Ridge Environmental Defense League is to counter technical jargon that prevents directly affected residents from effective democratic participation. Public participation is essential us to protect our families and communities from becoming victims of industrial contamination.

Consent of the governed is enshrined in the Declaration of Independence: ñThat to secure

these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed.ò Consent of the governed is anathema to the ñdivine right of kings,ò which it supplanted. In many ways, electric power companies are the 21st Century equivalent of the Second Estate. This modern equivalent of the nobility has enormous financial and political resources. They enjoy special privileges; for example, claiming the rights of natural persons while being virtually immortal and exceptionally free from prosecution.

For decades, the transfer of liability from private hands to public entities has been the underlying factor driving nuclear waste site legislation. The assumption of this liability by the people via a government agency is a transfer of wealth from poor to rich. Therefore, I can see no just application of consent, informed or otherwise, to the imposition of a nuclear waste legacy lasting millennia. Further, it is simply beyond the capability of the US Congress to ensure safety and security to people or communities for the duration which high-level radioactive waste created by electric power companies will remain a hazard to human health.

Thank you for this opportunity to share our views.

Respectfully,

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Founded in 1984, BREDL has chapters in Alabama, Tennessee, Georgia, South Carolina, North Carolina , Virginia and Maryland.

Submitter's Name/Affiliation: Brian O'Connell, private citizen
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I thank the Committee for the leadership and effort that went into the Discussion Draft of the Nuclear Waste Administration of 2013 and for inviting comments from stakeholders. I am not currently affiliated with a stakeholder group but I recently retired from a staff position where I represented a State-based organization for 14 years in which I was involved with the many facets of the faltering civilian radioactive waste management program.

It was disappointing that the Secretary of Energy sought to withdraw the Yucca Mountain repository license application before the Nuclear Regulatory Commission had completed its review to determine if a repository there would meet regulatory standards, after all the years of study and expense.

The Blue Ribbon Commission on America's Nuclear Future (BRC) did a comprehensive review of the stalemated nuclear waste situation and made some thoughtful and comprehensive recommendations in 2012 for "prompt" attention. Yet it was almost a year later that the Department of Energy issued a its Strategy for how it might implement some of the BRC report if Congress acts. The proposed FY 2014 DOE Budget request was hardly a demonstration of a prompt re-vitalization of this program.

The Discussion Draft draws upon many of the BRC recommendations. I have provided some feedback on the eight questions. The common thread in my appeal is that the bill should provide broad guidance and the NWA be afforded flexibility within the law and regulations to be adaptable to storage and disposal developments that are based on sound science and for which there is public acceptance.

I would like to express two concerns not addressed in the questions:

1. Fundamental reform is needed for the Nuclear Waste Fund. Title IV creates a Working Capital Fund to manage the annual fee revenue henceforth. Sec.401 (c) seems contradictory by saying the (principally) fees shall be immediately available to the NWA except where they might be limited by annual authorization or appropriations bills. Secondly, why can not the interest earned on the balance in the Nuclear Waste Fund (presently in the $1 billion range) be deposited into the Working Capital Fund? I must say that despite government statements about "meeting the obligations" of the NWPA to dispose of nuclear waste, there are many skeptics who are fearful that the present balance in the current Waste Fund will be available for the purposes for which it was collected—especially in the present fiscal outlook.

2. Action on implementing the NWPA—aside from continuing to collect fees for the Nuclear Waste Fund—has been suspended for the past four years. There are very few technical and management personnel left in DOE and the premise of the DOE Strategy and this bill is that some new organization will be created to take over and manage the program. Statements coming from House leaders on this bill suggest the prospects for enactment are not hopeful. I do not know how to suggest it in the bill or by other means, but the DOE may need to be reminded (and supported with resources by Congress) that the NWPA is still in force and that DOE must perform its responsibilities until an NWA or other organization takes over.

Question 1: Considerations for locating storage facility sites
Submitter's Name/Affiliation; «GreetingLine», private citizen

Should the Administrator take into account, when considering candidate storage facility sites, the extent to which a storage facility would: (a) unduly burden a State in which significant volumes of defenses wastes are stored or transuranic wastes are disposed of; or (b) conflict with a compliance agreement requiring the removal of nuclear waste from a site or a statutory prohibition on the storage or disposal of nuclear waste at a site? Alternatively, should the State and other non-federal parties seeking to site a candidate storage facility be allowed to determine whether they are unduly burdened? Should the final consent agreement, which would be sent to Congress for ratification, contain an authorizing provision to amend any conflicting compliance agreement or statutory prohibition?

Response

The question assumes that a storage facility or repository is an undesirable and burdensome nuisance to be avoided at all costs. That was how the proposed repository was considered among the political and business elite and media in Nevada following the heavy-handed manner in which the repository site selection process was truncated in 1987 by Congress leaving Yucca Mountain as the sole site for full site suitability determination. The undertold story is that Nye County, where the facility would be located, and other rural counties nearby, took a more balanced view toward the proposed facility. Nye and the other counties were interested in the risks and opportunities, involved themselves in the site study process, even performed some of the site hydrology site investigation (aided by Department of Energy grants,) attended all the public meetings and provided comprehensive review comments on the site studies and environmental impact statements. The relationship with DOE and other site study team members was cooperative and professional and was in contrast to litigation and other tactics of the State of Nevada and Clark County where the opposition was strongest.

Shortly after the Blue Ribbon Commission (BRC) issued its Report to the Secretary of Energy in 2012, calling for consent-based siting process, Nye County wrote to the Secretary and advised that Nye County gives its consent to building the repository at Yucca Mountain—subject, of course, to being successfully licensed by the Nuclear Regulatory Commission (NRC.) The Governor of Nevada wrote to the Secretary dismissing the Nye County consent as lacking authority.

The premise of the BRC recommendation is that the Yucca experience was an example of how not to go about finding a repository and that there was enough blame to go around. The BRC saw more hopeful signs that a dedicated, single-purpose organization with resources and authority to search for nuclear waste facilities in cooperative relations with States, tribes and affected units of local government (and perhaps the business community) in a more transparent and respectful way might succeed. The positive successes at WIPP and in Sweden and Finland, suggests that the approaches in this proposed Discussion Draft be seriously considered. I have been to Finland and Sweden and talked with government and nuclear industry officials there. The development of disposal solutions in those countries, different than ours, was treated in a serious, "we must solve this *together*" commitment.

Question 1: Considerations for locating storage facility sites
Submitter's Name/Affiliation; «GreetingLine», private citizen

I believe that the siting, licensing, construction, operation and eventual decommissioning of spent nuclear fuel consolidated storage facility is far simpler than developing a geologic repository. Whereas a repository has many unknowns that must be considered over unimaginable millennia for which there is no existing facility yet in operation (WIPP has the most comparable experience,) spent nuclear fuel is routinely stored and regulated in 72 active and decommissioned reactor sites around the U.S. Most of the cooling pool storage facilities in the U.S. have or are approaching their licensed capacity and have been supplemented by 57 dry cask storage facilities, called Independent Spent Fuel Storage Installation (ISFSI,) separately licensed by the NRC for 20 year periods, renewable for 20 or more years. The first installation was in 1986. The spent nuclear fuel storage facilities contemplated under this proposed bill will likely use this existing, proven technology. There is regulated manageable risk.

Indeed, the highest likely risk with the storage facilities envisioned under the bill is the possibility that –for whatever reason—a repository doesn't get built. This has been the underlying concern ever since DOE encountered delays in developing Yucca and missed the statutory and contractual deadline to begin disposal in 1998. The fears grew that waste storage, whether at reactor sites or consolidated "interim" sites, could become *de facto* permanent.

How could States, tribes and affected units of local government prevent storage facilities from becoming permanent? The first place to start is with a strong set of terms and conditions in any consent agreement. The period of license and process for potential renewals should be spelled out. What will the requirements for removal be to a location other than a repository? The parties involved can hammer these factors out in negotiations for a consent agreement. The bill calls for ratification of any agreement by Congress.

As to the relevance of existing "burden" or compliance agreements, those are factors that are best judged within those States where such conditions exist. The bill should enable agreements and not place barriers to possibilities that cannot be foreseen.

Question 2: Linkage between storage and repository
Submitter's Name/Affiliation: «GreetingLine», Private Citizen

Should the bill establish a linkage between progress on development of a repository and progress on development of a storage facility? If so, is the linkage proposed in section 306 of the bill appropriate, too strong, or too loose? If a linkage is needed, should it be determined as part of the negotiations between the state and federal governments and included in the consent agreement rather than in the bill?

RESPONSE

I got ahead of myself in answering some of the questions in Question 1.

Section 306 seems too strong and I agree with the last sentence of Question 2 that the legislation leave the linkage as a matter to be negotiated between the parties involved.

Question 4: Separate process for storage facility siting – General streamlining for storage only
Submitter's Name/Affiliation: «GreetingLine», Private Citizen

To what extent should the siting and consensus approval process for spent fuel storage facilities differ from that for the repository? Should the Administrator be required to conduct sufficient site-specific research (referred to as "characterization" in the bill) on candidate storage sites to determine if they are suitable for storing nuclear waste or only on candidate repository sites to determine if they are suitable for geologic disposal of nuclear waste? Should the Administrator be required to hold public hearings both before and after site characterization (as required by current law in the case of the Yucca Mountain site) or only before site characterization?

Response:

It should not be necessary to conduct characterization for storage to the extent appropriate for a repository. The performance requirements for storage are different than a repository, as I discussed in my response to previous questions. For instance:

	Storage	Repository
Duration of requirement	less than 100 years	hundreds of thousands years
Setting	stored on surface in dry casks	stored underground in waste containers
Regulatory	Existing NRC	to be developed by EPA, NRC

Public hearings should be held in both storage and repository development, not because they might be "required," but in order to involve and inform the public. The BRC in Chapter 7 of its Report encouraged that the new waste management organization have "key attributes" such as flexibility, transparency and participation to demonstrate and build public confidence.

The BRC also recommended establishment and utilization of advisory councils at both national and local levels. The Discussion Draft says the Administrator may establish advisory panels.

Question 5: Complexity of repository and storage facility siting processes
Submitter's Name/Affiliation: Brian O'Connell, private citizen

Should the siting process in section 304 of the draft bill be streamlined? If so, how?

Response

The section covers many of the elements that a Nuclear Waste Administration would consider for siting of nuclear waste storage and repository, although an Administrator might want more latitude to adjust the process as greater knowledge of relevant factors is uncovered. Much could be learned by both NWA and potentially interested parties from pre-proposal listening sessions. The National Research Council developed a useful guide to what has become known as adaptive staged development for disposal. The report, "One Step at a Time," was referenced in endnote 131 of the BRC report. There might be some tension between the traditional definitive regulatory regime and a "learn as we go" approach, for instance.

As stated in prior responses, there can be different siting guidelines for repository and storage facilities. Storage is an easier proposition where there are already signs that there may be competition for storage whereas there are far more questions about geologic repositories for which answers may not be known for years.

It is understandable why subsection (d)(2) expresses a preference for collocating waste facilities but we can only s peculate whether it will have a bearing on siting.

One way to streamline the Section 304 might be to give the general guidance to the NWA and retain the subsection (b) requirement that the Administrator develop siting guidelines. The public should be given an opportunity to comment. It need not be written into law, but NWA should give respect and consideration for repository performance published by the IAEA as well as the work of the OECD's Nuclear Energy Agency, as suggested in Chapter 4 of the BRC report.

Question 7: Governance of the Nuclear Waste Administration – Role of advisory committees
Submitter's Name/Affiliation: Brian O'Connell, private citizen

The Blue Ribbon Commission recommended establishment of both a board of directors for management oversight (whose "primary role ... is not to represent all stakeholder views, but rather to carry out fiduciary responsibilities for management oversight") and "a larger and more widely representative stakeholder advisory committee." The draft bill responds to these recommendations, first, by establishing a Nuclear Waste Oversight Board of senior federal officials and, second, by authorizing the Administrator to establish advisory committees. Should the Oversight Board and advisory committee be combined into a single body to perform both management oversight and stakeholder representation functions? Should the focus and membership of any advisory committees be established in the legislation or left to the Administrator?

Response:

In my response to Question 6, I favored the Board of Directors over the Oversight Board. In the context of this question, I believe the advisory committee(s) be separate from the Board. I can foresee multiple advisory committees being beneficial to the NWA and various constituencies. For example:

National

An umbrella advisory committee on nuclear waste management and disposal
Nuclear industry liaison committee
DOE high-level radioactive waste advisory committee
Nuclear waste transportation planning committee
Decommissioned site waste acceptance planning committee
Nuclear waste radiation standards advisory committee
Nuclear Waste Fund advisory committee

Site focus

Advisory committee for each candidate storage site
Advisory committee for each candidate repository site

Legislation should encourage the use of advisory committees and two-way communications, but leave the particulars up to the NWA and the various constituencies.

The BRC urges transparency among the key attributes that the new waste organization takes to heart. Two areas flagged above for specific advisory committees are likely to need special attention. Stakeholders (and even some Members of Congress) are uninformed on the status of the Nuclear Waste Fund and whether there is (or used to be) $30 billion (or some more current amount) in the Fund. There is no readily available accounting of the "investments. The other area is addressed in Chapter 10.2.5 of the BRC Report on the need for EPA and NRC to get together on setting repository radiation standards. This has been difficult in the past. Having those standards may be on the critical path for the issuance (by the NWA) of siting guidelines for the repository within one year of enactment, if the guidelines are to include radiation standards.

Question 8: Governance of the Nuclear Waste Administration – Membership of the Oversight Board
Submitter's Name/Affiliation: Brian O'Connell, private citizen

Dr. Meserve testified in 2012 that representatives of stakeholders and public utility commissioners should be added to the Nuclear Waste Oversight Board. Would these additions make the Board better able to carry out its fiduciary oversight mission effectively?

Response:

In the BRC Report, the Commission recommended a federal corporation with a Board of Directors as the new waste management organization. Financial oversight would involve the Board, independent annual audits, periodic GAO reviews and Congress. Prior "AM/FM" studies had recommended a Waste Fund Oversight Commission" to oversee the appropriate use of the Fund and approve or disapprove fee levels, but DOE had instead recommended that the Federal Energy Regulatory Commission serve that purpose. The BRC supported the FERC approach adding that it would encourage FERC to consider a "joint board" with State public utility commissioners.

The National Association of Regulatory Utility Commissioners (NARUC,) which I represented in nuclear waste matters, has a strong interest in the functioning of the Nuclear Waste Fund and now the Working Capital Fund proposed in the Discussion Draft. Many utility commissioners reflect the disappointment of electricity ratepayers in the billions of dollars in fees paid by nuclear utilities and passed along to ratepayers for disposal of spent nuclear fuel that was to have begun according to the NWPA and contracts with the federal government. Moreover, NARUC and State commissioners have been critical of the validity of the Nuclear Waste Fund Fee Adequacy Assessments done by DOE since the 2009 decision to cancel Yucca Mountain, yet the Secretary of Energy denied the suggestion by NARUC and the Nuclear Energy Institute and some utilities that the fee payments be suspended while the waste program is being refocused.

Whether on the Oversight Board, on a FERC joint board or on a national nuclear waste advisory committee or a committee focused on just the Working Capital and Nuclear Waste Fund, it would be welcome to have the ratepayers' interests represented. NARUC should be given the opportunity to work with NWA or FERC on setting up an accommodation. In Question 6, I suggested NARUC be permitted to nominate a candidate for appointment to a NWA Board of Directors, if the shift were made in that direction.

Question 1: Considerations for locating storage facility sites
Submitter's Name/Affiliation: Brie Gyncild, Washington state resident

Should the Administrator take into account, when considering candidate storage facility sites, the extent to which a storage facility would: (a) unduly burden a State in which significant volumes of defenses wastes are stored or transuranic wastes are disposed of; or (b) conflict with a compliance agreement requiring the removal of nuclear waste from a site or a statutory prohibition on the storage or disposal of nuclear waste at a site? Alternatively, should the State and other non-federal parties seeking to site a candidate storage facility be allowed to determine whether they are unduly burdened? Should the final consent agreement, which would be sent to Congress for ratification, contain an authorizing provision to amend any conflicting compliance agreement or statutory prohibition?

Yes, of course, the Administrator should take into account whether a storage facility would unduly burden a state in which significant volumes of defense wastes are stored or transuranic wastes are disposed of – or whether it would conflict with a compliance agreement requiring the removal of nuclear waste from a site or a statutory prohibition on the storage or disposal of nuclear waste at a site.

I live in Washington state, the home of Hanford, burdened by nuclear waste from the dawn of nuclear weapons. We have struggled to clean up the destructive waste that contaminates the soil and threatens to contaminate the water there. Repeatedly, the federal government has claimed that cleaning up Hanford is a priority, and repeatedly, either funding has been delayed or less than promised, or the supposedly secure methods used to contain the waste have proven faulty. Just in the past few months, we've learned of leaks in containers using newer, supposedly better, technology, and those leaks threaten important bodies of water.

I am very concerned at even the hint that more radioactive waste might be dumped in a community that has been so misused for decades.

Question 1: Considerations for locating storage facility sites
Submitter's Name/Affiliation: Robert Vandenbosch, Prof. Emeritus of Chemistry, U. of Washington and coauthor with Susanne E. Vandenbosch of "Nuclear Waste Stalemate" (Insert your name/association here)

Should the Administrator take into account, when considering candidate storage facility sites, the extent to which a storage facility would: (a) unduly burden a State in which significant volumes of defenses wastes are stored or transuranic wastes are disposed of; or (b) conflict with a compliance agreement requiring the removal of nuclear waste from a site or a statutory prohibition on the storage or disposal of nuclear waste at a site? Alternatively, should the State and other non-federal parties seeking to site a candidate storage facility be allowed to determine whether they are unduly burdened? Should the final consent agreement, which would be sent to Congress for ratification, contain an authorizing provision to amend any conflicting compliance agreement or statutory prohibition?

Please submit your response HERE. (no page limit)

If the Administrator is to decide whether unduly burdening, need to define criteria for doing so. There is no need for separate legislation for State decision. It will naturally be part of the consent process.

Question 2: Linkage between storage and repository
Submitter's Name/Affiliation: Robert Vandenbosch, Prof. Emeritus of Chemistry, U. of Washington and coauthor with Susanne E. Vandenbosch of "Nuclear Waste Stalemate" (Insert your name/association here)

Should the bill establish a linkage between progress on development of a repository and progress on development of a storage facility? If so, is the linkage proposed in section 306 of the bill appropriate, too strong, or too loose? If a linkage is needed, should it be determined as part of the negotiations between the state and federal governments and included in the consent agreement rather than in the bill?

Please submit your response HERE. (no page limit)

It is difficult to craft linkage legislation since creation of interim storage sites can be accomplished on a shorter time scale than construction of a repository. If one delays construction of a storage facility until the availability of a repository, the need for storage sites will be less. Provision 306(d) of the Draft legislation (suspension of accepting for lack of substantial progress) is a reasonable but modest linkage between acceptance of waste at a storage site and progress on a repository. Additional linkage likely will likely appear in consent agreement.

These linkage agreements may not be sufficient to assure timely completion of a geological repository. The responsible disposal of nuclear waste is such an important societal responsibility that one must consider more drastic measures. One such measure would be to pass legislation prohibiting licensing of new reactors until a repository is accepting nuclear waste.

Question 3: Separate process for storage facility siting – Alternative Section 305
Submitter's Name/Affiliation: Robert Vandenbosch, Prof. Emeritus of Chemistry, U. of Washington and coauthor with Susanne E. Vandenbosch of "Nuclear Waste Stalemate" (Insert your name/association here)

Should the bill establish separate storage and disposal programs with clearly defined requirements for each, with any linkage negotiated in the consent agreement between the federal and non-federal parties, to allow the two program to run on separate, but parallel tracks, as proposed in the alternative section 305 (which would replace section 304(b)-(g) of the draft bill)?

Please submit your response HERE. (no page limit)

I do not favor the emphasis on establishing a pilot storage facility in the alternative proposal. I feel this will drain attention and resources from the more important task of siting a permanent repository.

Question 4: Separate process for storage facility siting – General streamlining for storage only

Submitter's Name/Affiliation: Robert Vandenbosch, Prof. Emeritus of Chemistry, U. of Washington and coauthor with Susanne E. Vandenbosch of "Nuclear Waste Stalemate" (Insert your name/association here)

To what extent should the siting and consensus approval process for spent fuel storage facilities differ from that for the repository? Should the Administrator be required to conduct sufficient site-specific research (referred to as "characterization" in the bill) on candidate storage sites to determine if they are suitable for storing nuclear waste or only on candidate repository sites to determine if they are suitable for geologic disposal of nuclear waste? Should the Administrator be required to hold public hearings both before and after site characterization (as required by current law in the case of the Yucca Mountain site) or only before site characterization?

Please submit your response HERE. (no page limit)

Site characterization need be considerably less detailed and intrusive for a storage site than for a repository site. For a repository it is valuable to have hearings both before and after site characterization as many issues raised before characterization may be resolved by the time site characterization is completed.

Question 5: Complexity of repository and storage facility siting processes
Submitter's Name/Affiliation: Robert Vandenbosch, Prof. Emeritus of Chemistry, U. of Washington and coauthor with Susanne E. Vandenbosch of "Nuclear Waste Stalemate"
(Insert your name/association here)

Should the siting process in section 304 of the draft bill be streamlined? If so, how?

Please submit your response HERE. (no page limit)

On p. 24, lines 9-21(bracketed) could be eliminated. In any even (iii) needs to be grammatically restructured- lines 16-21 aren't "volumes"(line 10).

With respect to selecting sites for evaluation (p. 25), the requirements of (D)(i-iii) should also apply to (A), (B), (C). There is no point in wasting effort evaluating sites that aren't agreed to by both local and state government.

On p. 31, line 1, insert (preferably the State Capitol) after location.

p. 32 line 15. Refers to an enforceable deadline. It is not possible to have an enforceable deadline without a repository to remove the waste to.

p. 32 lines 17-19. This in effect allows for a Congressional veto on every proposed site. It compromises the independence of the siting process.

Question 6: Governance of the Nuclear Waste Administration – Administrator vs. Board of Directors

Submitter's Name/Affiliation: Robert Vandenbosch, Prof. Emeritus of Chemistry, U. of Washington and coauthor with Susanne E. Vandenbosch of "Nuclear Waste Stalemate"

(Insert your name/association here)

Should the new entity be governed by a single administrator or by a board of directors?

(a) If by a single administrator, should the administrator serve for a fixed term? If so, how long should the term of service be? Should the legislation prescribe qualifications for the administrator? If so, what should be the selection criteria?

(b) If by a board of directors, how many people should comprise the board and how should they be selected?

Please submit your response HERE. (no page limit)

It should be governed by a single administrator.

If legislation prescribes qualifications for administrator might include previous success in managing large organization (e.g. nuclear utilities) in addition to education in a related scientific discipline: physics, chemistry, geology, engineering.

Question 7: Governance of the Nuclear Waste Administration – Role of advisory committees

Submitter's Name/Affiliation: Robert Vandenbosch, Prof. Emeritus of Chemistry, U. of Washington and coauthor with Susanne E. Vandenbosch of "Nuclear Waste Stalemate" (Insert your name/association here)

The Blue Ribbon Commission recommended establishment of both a board of directors for management oversight (whose "primary role ... is not to represent all stakeholder views, but rather to carry out fiduciary responsibilities for management oversight") and "a larger and more widely representative stakeholder advisory committee." The draft bill responds to these recommendations, first, by establishing a Nuclear Waste Oversight Board of senior federal officials and, second, by authorizing the Administrator to establish advisory committees. Should the Oversight Board and advisory committee be combined into a single body to perform both management oversight and stakeholder representation functions? Should the focus and membership of any advisory committees be established in the legislation or left to the Administrator?

Please submit your response HERE. (no page limit)

The oversight board should be distinct from any advisory committee. The draft legislation should be changed to replace deputy director of OMB by the head of GAO. The latter has been active on nuclear waste issues. The Secretary of Energy should replace the Deputy Director. The legislation already retains the Nuclear Waste Technical Review Board. The legislation need not specify additional advisory committees. Members of Advisory committees should be chosen from names submitted by National Academy of Sciences. Appropriate compensation should be appropriated to enable a broader spectrum of participant.

Question 8: Governance of the Nuclear Waste Administration – Membership of the Oversight Board

Submitter's Name/Affiliation: Robert Vandenbosch, Prof. Emeritus of Chemistry, U. of Washington and coauthor with Susanne E. Vandenbosch of "Nuclear Waste Stalemate"

(Insert your name/association here)

Dr. Meserve testified in 2012 that representatives of stakeholders and public utility commissioners should be added to the Nuclear Waste Oversight Board. Would these additions make the Board better able to carry out its fiduciary oversight mission effectively?

Please submit your response HERE. (no page limit)

Yes. Perhaps a utility executive and a former Governor of a state (selected from former Presidents of National Governors Association).

Submitter's Name/Affiliation: Scott R. Thistle, Environmental Lawyer and Taxpayer
Contact:
Email: sthistle@consolidated.net
Phone:

I would urge you to use this bill, in part, to solve the problem of taxpayers having to foot the bill – to the tune of millions and billions of dollars – for the federal government to have to pay utilities for storage costs because it made a contractual commitment to build a repository and cannot keep its commitment. This is a travesty, a huge waste of taxpayers' money. We should not have to bear the loss – nor, frankly, should industry – occasioned by the federal government not being able to get its act together and abide by its own laws.

It's time to get some balls and site this facility, because it's the right thing to do, because you owe it to your constituencies, and because high-level nuclear waste should be reposited in the safest, most secure way possible. Please don't keep punting this ball to subsequent generations, stop playing NIMBY, and think of the good of and the security of the country.

Thank you for your consideration of this comment.

Muons, Inc.

"Innovation in Research"

552 N. Batavia Avenue, Batavia, IL 60510

(757) 870-6943, www.muonsinc.com

May 23, 2013

The Honorable Ron Wyden
United States Senate
Washington, DC 20510

The Honorable Lisa Murkowski
United States Senate
Washington, DC 20510

The Honorable Diane Feinstein
United States Senate
Washington, DC 20510

The Honorable Lamar Alexander
United States Senate
Washington, DC 20510

Dear Senators Wyden, Murkowski, Feinstein, and Alexander:

You are to be commended for your leadership in authoring the Draft Nuclear Waste Administration Act based on the recommendations of the Blue Ribbon Commission on America's Nuclear Future (BRC). Muons Inc., appreciates the opportunity to submit our comments for your consideration. Muons Inc. is a leading U.S. private-sector high-energy accelerator physics firm with a staff of 20 experienced and extremely talented accelerator scientists. Muons Inc. collaborates closely with 9 National Laboratories, 7 Universities, and commercial enterprises. It was formed to develop real world, commercially profitable applications with particle accelerator technology.

The Draft Nuclear Waste Administration Act does an excellent job of incorporating the BRC's recommendations on establishing an independent agency to lead the nuclear waste program, promoting a consensus approach to siting waste storage and disposal sites, and making the nuclear waste fund available for the purposes it was originally intended. However, the draft legislation does not include provisions to implement the BRC's recommendations with regard to promoting development of game-changing innovations and technologies to reduce the overall waste problem.

Included in the BRC report was recommendation #7, "Support for continued U.S. innovation in nuclear energy technology and for workforce development". The report stated:

> "Advances in nuclear energy technology have the potential to deliver an array of benefits across a wide range of energy policy goals. The Commission believes these benefits—in light of the environmental and energy security challenges the United States and the world will confront this century— justify sustained public- and private-sector support for RD&D on advanced reactor and fuel cycle technologies… Longer term, the possibility exists to advance "game-changing" innovations that offer potentially large advantages over current technologies and systems."

We strongly recommend that "The Nuclear Waste Administration Act of 2013" track the BRC's recommendation #7 and authorize the use of the Nuclear Waste Administration Working Capital Fund for U.S. innovation in nuclear energy technology, including technology to actually reduce the stockpiles

nuclear waste through the safe utilization of the economic and energy value that remains in nuclear waste.

Muons Inc., using accelerator and molten salt technologies, has developed a subcritical nuclear reactor that can safely produce power from ordinary spent nuclear fuel while reducing its volume and radioactive toxicity by an order of magnitude. This technology is a tremendous tool in helping solve the nuclear waste management problem.

This type of technological solution should be promoted by the Nuclear Waste Administration and funded in part by the Nuclear Waste Fund. Again, it is consistent with the BRC's recommendation #7.

We are submitting for your consideration draft language appended below that incorporates the BRC's recommendation #7 regarding supporting the development of game-changing technologies in the draft legislation. Our nation and the world should not be limited to storage and disposal options that are now considered the "answer" at the exclusion of better scientific and technological solutions to the nuclear waste issue that are just around the corner.

Muons Inc. is more than happy and anxious to work with you, and your committee, to move this legislation forward and to develop even better solutions to the nuclear waste problem than exclusively using storage and disposal.

Sincerely,

Rolland P. Johnson, Ph.D.,
President, Muons, Inc.
rol@muonsinc.com
(757) 870-6943

Amendments to the Discussion Draft of Comprehensive Nuclear Waste Legislation to Include Provisions to Advance "Game-changing" Innovations That Offer Potentially Large Advantages Over Current Technologies and Systems – Proposed by Muons Inc.

1. In "SEC. 101 FINDINGS." add at the end of (7) before the period "and support for the development of US innovation in nuclear technology to advance game-changing technologies that offer potentially large advantages over current technologies and systems in the safe management, disposal, or utilization of nuclear waste".

2. In "SEC. 102 PURPOSES." add at the end of the section a new paragraph (6) that reads:

3. "(6) to support the development of US nuclear technologies to advance game-changing innovations that offer potentially large advantages over current technologies and systems.

4. In SEC. 103 DEFINITIONS." add a new paragraph at the appropriate place:

   "() GAME-CHANGING TECHNOLOGIES.—The term "game-changing technologies" refers to technologies not yet in operational existence but which if developed have the potential to dramatically improve the safe management, disposal, or utilization of nuclear waste. These include technologies that safely and economically utilize the remaining energy potential in nuclear waste as a feedstock to produce additional clean, safe energy provided these technologies do not lead to proliferation of nuclear weapons and provided they safely reduce the amount of U.S. nuclear waste over time."

5. Adding to Title III a new section (309) to read:

   "SEC. 309. DEVELOPMENT OF GAME-CHANGING TECHNOLOGIES.

   The Administrator shall have the authority, working in consultation with the Secretary of Energy, to fast track the development of game-changing technologies that will dramatically improve the safe management, disposal, or utilization of nuclear waste and may use ."

Submitters Names:

Richard B. Stewart[1], Jane B. Stewart[1], Charles W. Powers[2], Kevin G. Brown[2], James H. Clarke[2],
Raymond G. Wymer[2], David S. Kosson[2], Lisa S. Bliss[2]
[1] New York University School of Law, [2]Vanderbilt University
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Introduction and Executive Summary

The authors of this document, senior university-based researchers associated with CRESP (the Consortium for Risk Evaluation with Stakeholder Communication)[1] are enthusiastic about responding to the current bi-partisan effort to find a new path for storage and disposition of HLW. We have sought to bring to this document, as we do to all CRESP-related work, both experience and a mix of the disciplines required for effective nuclear waste management. These comments, then, are our response to the Senate Environment and Natural Resources Committee's request for comments on its draft Nuclear Waste Administration Act of 2013.

To summarize, we provide a commentary on key provisions of both that draft and the alternate draft that has these key elements. We agree on the need for a strong independent, well-funded entity with the power to move forward within a framework of clear requirements for consent-based siting of all nuclear waste storage and repository facilities. We agree that the Administrator appointed to this position should be exceedingly well-qualified and that his/her appointment should be for a term (such as 6 years with reappointment permitted) adequate to undertake this new challenge. We also believe that the Administrator's work should be evaluated both for achieving progress and for assuring that the Administrator's decisions are consistent and legally appropriate policy and directly overseen by an Oversight Board, though one of whose three members would, in our view, include one appointed either by the National Academy of Sciences (NAS) or the Nuclear Waste Technical Review Board (NWTRB), rather than an official of the Army Corps of Engineers.

There are technical issues of great importance embedded in the drafts' definitions especially as they relate to persistent ambiguities in the interpretation of the Nuclear Waste Policy Act. Whether or not the Congress is prepared to address some important broader issues associated with waste classification, it should, in our view, clarify in the

[1] The multi-university consortium CRESP has served DOE and its stakeholders since 1995, recently through a cooperative agreement awarded to Vanderbilt University. The objective of CRESP is to advance cost-effective, risk-informed cleanup of the nation's nuclear weapons production facility waste sites and cost-effective, risk-informed management of potential future nuclear sites and wastes. This is accomplished by seeking to improve the scientific and technical basis for environmental management decisions by the Department of Energy and by fostering public participation in that search.

Nuclear Waste Administration Act that some wastes that might arguably be regarded as HLW because of their origin, can because they pose much lower risk be treated differently. Further, the Congress should disentangle provisions in the NWPA meant to address that Act's specifically selected Yucca Mountain repository from those that are generic – and assure that the Administrator develops requirements that take appropriate account of the specific characteristics of potential facility sites, whether those characteristics require more or less rigorous requirements than those developed specifically for Yucca.

We strongly believe that the Administrator should be encouraged to determine whether its consent-based siting requirements can be made consistent with co-location of storage and repository facilities. This is for many reasons, including the need to reduce the multiple transportation and movements of these materials.

On one key issue **we disagree** with the Committee's drafts – their presumption in favor of the co-mingling of defense legacy wastes and those generated by the civilian sectors. We suggest that the legislation establish a presumption in favor of separate disposal; while it should allow the Administrator to find that co-mingling rather than separation of some or all of these waste sources is the better strategy, initial efforts should be made to pioneer facility siting and disposition of defense materials which appear to us to be likely to be achieved more rapidly for many technical and policy reasons. With the Blue Ribbon Commission, we agree that WIPP represents the most successful facility effort made to date in this or in any country, and thus that it is very sound policy to assure that we continue to be guided by what it has taught and continues to teach us.[2]

First we provide brief responses to the questions on which the responding parties were requested to focus. Some of those answers are then expanded into more specific, section-by-section, responses to your draft legislative documents.

Response to Questions

Question 1: Should the Administrator take into account, when considering candidate storage facility sites, the extent to which a storage facility would: (a) unduly burden a State in which significant volumes of defenses wastes are stored or transuranic wastes are disposed of; or (b) conflict with a compliance agreement requiring the removal of nuclear waste from a site or a statutory prohibition on the storage or disposal of nuclear waste at a site? Alternatively, should the State and other non-federal parties seeking to site a candidate storage facility be allowed to determine whether they are unduly burdened? Should the final consent agreement, which would be sent to Congress for ratification, contain an authorizing provision to amend any conflicting compliance agreement or statutory prohibition?

[2] For an analysis of the WIPP siting experience and lessons to be learned from it, *see* Richard Stewart & Jane Stewart, Fuel Cycle to Nowhere: U.S. Law and Policy on Nuclear Waste, Chapters 5 and 8 (2011).

Given the protections afforded by the consent-based process, we find unnecessary the provision in Section 304(b)(2)(C)(iii) seeking to protect a state from undue burdens. It might deflect attention from the clear advantages of co-location of the facilities being addressed in this legislation. We are persuaded that the drafters of the legislation have given careful attention to State consent and respect for state's rights and laws in the other provisions of Section 304.

Question 2: Should the bill establish a linkage between progress on development of a repository and progress on development of a storage facility? If so, is the linkage proposed in section 306 of the bill appropriate, too strong, or too loose? If a linkage is needed, should it be determined as part of the negotiations between the state and federal governments and included in the consent agreement rather than in the bill?

We have no specific views that differ from the ways the Committee has proposed in the draft of Section 306. It is clear that some way of linking progress on the repository to operation or support of a storage facility (once established) must be found. And the mechanism must, in our view, be consistent with a preference for co-location of the two types of facility.

Question 3: Should the bill establish separate storage and disposal programs with clearly defined requirements for each, with any linkage negotiated in the consent agreement between the federal and non-federal parties, to allow the two program to run on separate, but parallel tracks, as proposed in the alternative section 305 (which would replace section 304(b)-(g) of the draft bill)?

We prefer the siting provisions in the Alternate draft since they clearly recognize that an adequate set of requirements for storage facilities can be different and simpler than those for a repository. But recognition of these differences should not be taken to suggest that co-location is discouraged. Further we specifically support those provisions in Section 306 that specify that the Administrator should start the process of selection and evaluation of both types of facilities simultaneously. See our discussion below of Section 304.

Question 4: To what extent should the siting and consensus approval process for spent fuel storage facilities differ from that for the repository? Should the Administrator be required to conduct sufficient site-specific research (referred to as "characterization" in the bill) on candidate storage sites to determine if they are suitable for storing nuclear waste or only on candidate repository sites to determine if they are suitable for geologic disposal of nuclear waste? Should the Administrator be required to hold public hearings both before and after site characterization (as required by current law in the case of the

Yucca Mountain site) or only before site characterization?

Our answer to Question 3 addresses Question 4 as well.

Question 5: Should the siting process in section 304 of the draft bill be streamlined? If so, how?

Yes. Again, see our comments on Section 304.

Question 6: Should the new entity be governed by a single administrator or by a board of directors?

We support the current proposal of an Administrator with a 6-year term, with the option of re-appointment specifically allowed, as well as a 3-member Oversight Board and an Advisory Committee formed by the Administrator (except that one third of the Committee's members should be appointed by the Oversight Board).

(a) If by a single administrator, should the administrator serve for a fixed term? If so, how long should the term of service be? Should the legislation prescribe qualifications for the administrator? If so, what should be the selection criteria?

See above. The set of qualifications specified are adequate so long as they require significant prior experience with the challenges posed by siting and implementing nuclear waste facilities and/or relevant training in the technical and organizational disciplines required.

(b) If by a board of directors, how many people should comprise the board and how should they be selected?

We do not support a Board of Directors for this entity.

Question 7: The Blue Ribbon Commission recommended establishment of both a board of directors for management oversight (whose "primary role ... is not to represent all stakeholder views, but rather to carry out fiduciary responsibilities for management oversight") and "a larger and more widely representative stakeholder advisory committee." The draft bill responds to these recommendations, first, by establishing a Nuclear Waste Oversight Board of senior federal officials and, second, by authorizing the Administrator to establish advisory committees. Should the Oversight Board and advisory committee be combined into a single body to perform both management oversight and stakeholder representation functions? Should the focus and membership of any advisory committees be established in the legislation or left to the Administrator?

Again, the provisions for creating both an Oversight Board, and an Advisory Committee whose membership is jointly selected by the Administrator and the Oversight Board, allows both the administrative and the stakeholder representation functions to be

adequately addressed. Both bodies must, however, be permitted clear pathways to express their concerns to the President and Congress if satisfactory responses are not forthcoming from the Administrator.

Question 8: Dr. Meserve testified in 2012 that representatives of stakeholders and public utility commissioners should be added to the Nuclear Waste Oversight Board. Would these additions make the Board better able to carry out its fiduciary oversight mission effectively?

See answer to Question 7 above.

Section by Section Comments

Section 103(9)

The definition of "defense waste" should be modified to include wastes for which DOE is responsible by law for managing and disposing, including highly-radioactive West Valley wastes, certain non-defense SNF, and GTCC, in order to authorize their storage and disposition in facilities developed under the Act. Accordingly, the language of the section should be modified by striking the period at the end and adding.

> ", and other wastes that DOE is by law responsible for managing and disposing."

Section 103(12)

This section defines "high-level radioactive waste" by incorporating by reference the definition of the same term in the Nuclear Waste Policy Act, Sec 10101(12), which provides:

> The term means—
>
> **(A)** the highly radioactive material resulting from the reprocessing of spent nuclear fuel, including liquid waste produced directly in reprocessing and any solid material derived from such liquid waste that contains fission products in sufficient concentrations; and
>
> **(B)** other highly radioactive material that the Commission, consistent with existing law, determines by rule requires permanent isolation.

The definition in subsection (A) is ambiguous, and differs from those contained in other federal statutes and agency regulations. It has created considerable confusion and uncertainty over whether or not low-activity fractions of reprocessing wastes can be disposed of other than in a deep geologic repository, for example in near-surface low-level radioactive waste facilities, or in boreholes. It is unnecessary and needlessly costly to manage and dispose of such wastes as high-level waste, provided that environmental and health protection is assured by the alternative means of management and disposal. The definition should also provide, consistent with current law and practice, that waste incidental to reprocessing need not be disposed of in a deep geologic repository.

Furthermore, the bill's definition of high-level radioactive waste should also be amended to provide for storage or disposal in a NWA facility of certain defense wastes, including TRU that does not meet the criteria for acceptance and disposal at WIPP, and GTCC and GTCC-like wastes that may appropriately be disposed of in a repository.

Accordingly, the draft Section 103(12) (2) should be modified to provide as follows;

> The term "high level radioactive waste" means—
>
> **(A)** the highly radioactive material resulting from the reprocessing of spent nuclear fuel, but does not include (i) low-activity fractions of reprocessing wastes that do not require deep geologic disposal and (ii) waste incidental to reprocessing;
>
> **(B)** other highly radioactive civilian materials that the Commission, consistent with existing law, determines by rule require permanent isolation;
>
> (C) other highly radioactive defense materials that the Department, consistent with existing law, determines are appropriate for permanent isolation.

This proposed provision reflects a shift from an origin-based to a hazard-based waste classification system, an approach which should be followed throughout the U.S. nuclear waste classification and regulation system. The current waste classification system based on waste origin has many undesirable results. Development and implementation of a hazard-based system (considering amount and hazards, including environmental mobility and half-life, of radionuclides contained in individual wastes) would provide a more rational waste management system. As reflected in the above proposed language, this approach would also provide a foundation for broader use of existing facilities, for example, use of WIPP for certain additional defense waste constituents such as Tc-99.

Section 202(6),(7)

We strongly support a six-year term for the Administrator with potential for reappointment for an additional term, in order to help ensure strong leadership and continuity in this important program.

Section 205

We strongly support the creation of an oversight broad in lieu of a board of directors, which is not appropriate for a waste management entity that has neither customers nor shareholders. We do not believe, however, that it is appropriate to make the Chief Engineer of the Army Corps of Engineers a member, as that official would not have significant nuclear waste management experience. In order to provide the Board with high-level technical expertise and judgment, we recommend that the third member be designated either by the National Academy of Sciences or the Nuclear Waste Technical Review Board.

Section 304

We recommend addition of the following provision:

> "In carrying out his/her siting functions, the Administrator is directed to engage DOE, NRC and other relevant federal agencies, the National Laboratories, States, tribes,

localities, subject matter experts, industry, and environmental, community, and other groups."

This directive should be included in order for the Administration to access the large amount of information and experience available on issues, including, site geology (e.g., earthquakes, volcanism, suitability of site material), near-field phenomena (e.g., cask corrosion, drift stability, water intrusion), cask design and performance, transportation, probabilistic risk assessment, safety and preparedness and other key issues.

This section of the principal draft appears to require the Administrator to develop both a pilot storage facility and a second storage facility, while the alterative draft requires only a pilot facility, leaving the administrator discretion regarding additional storage facilities. We recommend adoption of the alternative draft version because it may not be necessary to develop a separate, new storage facility beyond the pilot if a repository is developed promptly. The issue should accordingly not be prejudged at the outset. We also believe that the legislation should explicitly provide for the option of co-locating a nonpriority waste storage facility at the pilot site or expanding the pilot facility to a store both priority and nonpriority wastes. We also support the alternative draft provision that the Administrator should have the discretion to store defense HLW in the pilot facility, and believe that this flexibility should also be extended to any additional storage facilities. States and localities that have put their hopes in compliance agreements requiring removal of defense HLW and other defense wastes requiring repository disposal would be amply justified in arguing that defense wastes should have equal priority for pilot storage with commercial SNF.

The alternative draft appears to provide that the Administrator can site a facility only at a site proposed by others. We recommend that the Administrator be authorized to initiate siting at other sites provided all the other siting criteria are met.

We applaud the absence in both versions of the bill of arbitrary capacity caps on storage facilities, including the pilot facility, as the amount of stranded SNF that may develop in the future is uncertain. We also strongly support the inclusion of a Mission Plan with milestones, substantial progress review by the Oversight Board, and related procedures to assure that interim storage facilities do not become de facto repositories.

We are quite concerned that the siting provisions in the principal draft are overly complex and require too many steps and procedures in the process leading up to facility licensing. The principal draft contains numerous steps, many of which will take substantial time to accomplish, greatly lengthening the development process. We prefer the more streamlined criteria and process and greater administrative flexibility provided in the alternative draft for the pilot storage facility, which are appropriate because the geophysical and environmental issues involved in siting a storage facility are less complex than for a repository, although we suggest that this section of the alternative draft might be further simplified. We also recommend that the repository siting provisions, which are similar in both drafts be simplified; we believe that this could be accomplished while still assuring that the environment is protected and that hosts are able

to decide whether to consent to a facility with the benefit of full information and adequate procedural safeguards. We question, for example, whether it should be required to have two successive consents and two sets of consultation and cooperation-type agreements rather than giving the Administrator greater flexibility to decide what is needed and appropriate under the circumstances, as is provided in the alternative draft. We also commend the use in the alternative draft of the NWPA Section 112(a) siting guidelines as a default; this will speed the development and adoption of siting guidelines.

A critical element in the successful siting of WIPP was the Environmental Evaluation Group (EEG), a federally-funded, independent technical review body that provided independent technical capacity, information, and analysis that the states, localities, and citizens' groups could look to and draw upon throughout the siting process. The Act should require that such a body be established and provide it with assured federal funding.

Finally, we applaud the definition of "affected Indian tribe" in Section 103(3) of the draft bill to include tribes that have federally-defined possessory or usage rights on land outside their reservation boundaries, in order to ensure that they have a role in siting processes for facilities that would impact those rights.

Section 304(b)(2)(C)(iii).

We recommend that this provision not be included. Whether siting a particular facility would unduly burden a state or conflict with a compliance agreement or state law is a matter for the state to decide.

Section 306

We have no specific views on linkage issues that differ from the ways the Committee has proposed in the draft of Section 306. It is clear that some way of linking progress on the repository to operation or support of a storage facility (once established) must be found. And the mechanism must, in our view, be consistent with co-location of the two types of facility.

Section 307(e)

We believe that the initial presumption should be that defense and civilian wastes should not be commingled, with the Administrator having authority, after notice to Congress and the President, to decide, with the concurrence of the President, that the two types of wastes should be disposed of in the same facility. Most defense wastes have lower heat loads than civilian SNF, the latter of which poses greater challenges for repository siting and design. Also, some jurisdictions may be more willing to host a facility for defense wastes than one for civilian SNF. Accordingly, it may be possible to move forward more rapidly and easily to dispose of defense wastes, justifying a presumption against commingling.

However, it may well prove desirable to commingle defense and non-defense wastes, and the Administrator should have the ability to do so, with the concurrence of the President. The two-year deadline for the Administrator to make a commingling decision is

unrealistically and undesirably short. In addition the decision on commingling should not necessarily be all or nothing. The possibility of commingling a portion of the two types of wastes should be afforded.

Section 308

Transportation, including the development and deployment of appropriate containers for waste storage, transport, and disposal are a critical part of any successful new waste management program.

We support a preference for co-location of a consolidated storage facility and a repository because it will, among other benefits, minimize transportation.

The use of standardized SNF containers, especially if they can be used for two or more purposes (storage, transport, and disposal) also promises major benefits in terms of worker safety, reduced cost, and faster removal of SNF from reactor sites and ultimate disposal. Accordingly, we recommend that the Administrator be directed to give priority to the development, together and in cooperation with the Department of Energy and NRC, of standardized, multi-purpose waste containers, and to use such containers to the fullest extent feasible and appropriate.

The success of WIPP is due in no small measures to DOE's active engagement with states, localities and the Western Governors' Association in planning and cooperating on transportation routes and arrangements. Accordingly, we recommend that a provision be added to the bill to direct the Administrator to engage in cooperative planning and implementation of waste transportation with relevant states, localities, and regional associations. Accordingly, we urge consideration of the recommendations of organizations of state elected officials, including the National Conference of State Legislatures (NCSL) and the Western Governors' Association (WGA).[3]

Section 401

We strongly support the provision for a Working Capital Fund, financed going forward by fees and accrued interest which the Administrator can draw without annual appropriations by Congress. For reasons well expressed by the BRC, we view such an arrangement as critical for providing the necessary continuity and assurance of funding for the Administrator to be able successfully to discharge his/her mission of developing and constructing long-term, capital-intensive facility projects. We believe, however, that it is essential to ensure that the Working Capital Fund monies cannot be diverted to other purposes. At the time of NWPA's enactment in 1982, members of Congress expressed the view that the corpus of the fund would be used solely for, and be reliably available

[3] See NCSL, *Policy Directives and Resolutions, available at* http://www.ncsl.org/state-federal-committees.aspx?tabs=854,15,686#Radioactive Waste Management); Western Governors' Association, Policy Resolution 11-5, *Transportation of Radioactive Waste, Radioactive Materials, and Spent Nuclear Fuel, available at* http://www.westgov.org/policies/cat_view/42-resolutions/157-waste-management/250-2011.

for, development of nuclear waste facilities. History proved otherwise. We should use maximum diligence and care not to repeat this unhappy experience.

We also believe that the provision in Section 301(4) transferring to the Administrator the authority to issue obligations under NWPA Section 302(e)(5) should be reexamined in light of the new funding arrangements in the bill, with a focus on authorizing the Administrator to issue, with the concurrence of the Secretary of Treasury, debt obligations without appropriations in order to assure continuing funding should the amounts in the Working Capital Fund otherwise be inadequate.

We believe that the bracketed Section 401(c) provision suspending fee payments unless the Administrator is operating a waste facility by 2026 is ill-advised, as it would deprive the Administrator of funds that might well be need to successfully accomplish exactly this mission.

Section 502(c)

We agree that it is important to ensure input to the Administrator's decision making from a range of stakeholder constituencies. Rather than establishing a Board of Directors, we believe that this input can best be secured by having the Act establish a Nuclear Waste Advisory Committee, with 6 members appointed by the Administrator and 3 members by the Oversight Board, to represent such constituencies and also include technical experts. This provision, quite appropriately, would not preclude the Administrator from establishing additional advisory bodies.

Section 506

We found that it was not clear from the bill just what provisions of NWPA would be superseded by the provisions of the bill, and which not, and whether any additional modifications in NWPA might be required to make NWPA and the provisions of the bill consistent and workable. We believe that these matters need to be carefully examined and, to the extent necessary, explicitly addressed in the bill.

An example is provided by Sec 406(d) of the draft bill. Under NWPA Sec. 302(b)(1), utilities are required as a condition of obtaining a reactor license or license renewal to enter into the standard contract for waste disposal. Because Section 406(d) prohibits the issuance of new contracts until NRC grants an operating license for waste facilities, its effect might be to preclude licensing of any new nuclear power plants until that condition is satisfied.

Another example is provided by the EPA radiation standards that would govern new repositories. An important issue is they would consist of the existing Yucca standards, the existing generic repository standards, or new standards for repositories would be developed under the bill. We recommend that the bill contain a provision for EPA adoption of new radiation standards for the waste facilities to be developed that will provide credible protection of human health and the environment by incorporating a

performance-based, risk informed approach[4]. There may be a desire to simply transfer the extant Part 197 standards to these new facilities – but we consider this approach to be unwise. Simply adopting Part 197 for the new repository would take standards developed for a specific facility (Yucca Mountain) and make them generic, which would be a mistake technically and potentially limit flexibility in ways to establish credible, protective standards. Under the current standards, the evaluation system necessarily relies on modeling and predicting performance under time frames that introduce large, and often unknowable, uncertainties. These and other issues regarding the appropriateness of the standards have undermined the credibility of the federal nuclear waste facility development effort to date. What is needed is a sound, realistic and credible way to set standards for the new waste facilities.

We recommend that EPA set standards for new repository facilities based on a consideration of scenarios and time frames that are scientifically defensible and sufficiently flexible to account for site-specific characteristics and strategies that rely on a defense-in-depth strategy to protect human health and the environment. Site characteristics rather than engineered barriers, should be a principal basis for evaluating site suitability, given the very long time frames involved in waste disposal performance. We recommend that the evaluation system be revised to (i) focus initially on performance modeling (particularly near-term modeling) and later on long-term modeling, to be certain that candidate sites are adequately protective in light of site-specific characteristics, data gaps and modeling and other uncertainties, (ii) evaluate the effectiveness of the site geology, independent of, as well as a part of facility design, in assuring both short and long-term waste isolation in the facility after consideration of foreseeable natural events, including potential impacts of climate change, (iii) implement an extended initial monitoring period using test systems to evaluate expected system performance capabilities and provide for contingencies for unanticipated events, and (iv) develop an effective strategy for long-term protectiveness that balances information gathered during the initial phases, the results of short and longer term modeling, and uncertainties, including careful evaluation of what can and cannot be predicted. We

[4] Specifically, EPA issued standards for Yucca Mountain in June 2001 (40 CFR Part 197) considering a large volume of technical information, discussions with key stakeholders, and numerous comments received on a draft version of the standards. EPA amended the standards following a July 2004 ruling by the US Court of Appeals (DC Circuit) to 1) extend coverage beyond 10,000 years to peak dose (out to 1 million years [period of geologic stability]) and 2) establish a dose rate limit (100 mrem/yr) for the post-10,000-year period. Part 197 contains three standards for the disposal of radioactive waste at Yucca Mountain: the individual protection standard, human-intrusion standard, and groundwater protection standard. The groundwater standard provides the same dose and concentration limits as EPA's drinking water standards. For the individual protection and human-intrusion standards, a dose limit of 15 millirem per year is set for selected receptors up to 10,000 years; afterwards, the standard is 100 mrem per year through the period of geologic stability (out to 1 million years).

recommend that an integrated safety case incorporating the above elements should inform the decision-making process. Model predictions can be used to inform the decision-making process including confidence building; however, no modeling or software tool can decide how to proceed with the new waste facilities. This process instead requires well-informed decision makers and stakeholders.

May 24, 2013

TO: Senate Energy and Natural Resources Committee

RE: Discussion Draft of Nuclear Waste Administration Act of 2013

We are an ad hoc group of social and natural scientists who have been involved in nuclear waste management, some for many decades. Many of us co-authored an article in *Science* magazine in 2011 about the activities of the Blue Ribbon Commission (see attached). We have served on many committees of the National Academies of Sciences and advisory boards of federal agencies. Two of us helped prepare commissioned papers for the Blue Ribbon Commission (Tuler and Webler).

We welcome the opportunity to provide comments on the discussion draft developed by Senators Alexander, Feinstein, Murkowski, and Wyden. A new, reinvigorated program to manage spent nuclear fuel and high level waste is long overdue and necessary.

The draft Act has several strong points, with which we agree. Foremost among these is the need to create a new federal institution to implement siting processes and implement a waste management program. Adequate funding to ensure a successful program is also addressed in the draft legislation.

That said, the proposed Senate bill fails to clearly articulate a process that will fully address the critical social dimensions of spent nuclear fuel (SNF) and defense high level waste (HLW) management that have stalled prior efforts. In our view, the proposed bill does not go far enough to reduce the risks of repeating the past, undercutting the hope for a successful renewed effort and resulting (again) in great economic and political costs.

In particular, we note discuss several major shortcomings that must be addressed to increase the likelihood that a new program will be successful, and highlight four areas that are in need of modification:

1. The Nuclear Waste Administration Act should include a more robust definition of *informed* consent and a process for achieving it in potential host communities.
2. Public and stakeholder engagement processes should be more strategic and social-science based, rather than relying on public hearings which have proven to be grossly inadequate for achieving consent, building trust and confidence, and obtaining legitimate decisions.
3. Siting processes must be fully grounded in an adaptive management approach to ensure that decisions are responsive to experience and new information.
4. The Nuclear Waste Administration Act must emphasize developing a foundation for a broadly supported, socially and ethically legitimate program while also responding to the needs for urgency and efficiency. Inappropriately emphasizing urgency and efficiency over social and ethical legitimacy will endanger the success of the program.

The proposed Act must give more attention to addressing issues that may undermine social trust, confidence, and acceptance of proposed facilities. A successfully run waste

management program must: a) systematically assess reasons for opposition, b) publicly acknowledge and investigate them, c) and develop and implement strategies to address them. Fundamentally, it means being proactive about public and stakeholder engagement and ensuring that decisions are based on informed consent.

Our comments consist of comments on specific aspects of the draft Act and responses to the 8 questions posed by the Senators.

Respectfully,

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Our view of the policy challenge and social scientific foundations of public and stakeholder engagement

In the article published by *Science* (see attached), we emphasized that nuclear waste management has failed in this country as a result of not recognizing the importance of securing public consent and addressing social dimensions of waste management. These problems have been understood for a long time. Richard Hewlett, a DOE historian, noted in 1978 that federal officials failed to solve many fundamental issues because they "were not asking the right questions," and "Lip service was given to the importance of such non-technical factors as public understanding and acceptance, but almost nothing was invested in the analysis or evaluation of these factors. There is no evidence at all that attention was given to such matters as social, cultural or psychological phenomena that might serve as constraints in implementing a technical solution" (Hewlett 1978).

More recent efforts have been complicated by the high level of public distrust in government generally and the legacy of mistrust generated by authorities specifically responsible for nuclear waste management in particular. Furthermore, despite decades of progress in social science, scientifically-grounded guidance to DOE and NRC on how to promote adaptive learning, social trust, and social legitimacy has not been followed in addressing waste and other challenges to nuclear power. A successful waste management program must be radically different from DOE's earlier efforts. It must operate in a context of public distrust and scrutiny and it must build social trust.

Distrust and lack of confidence exists among:

- Federal, state, and local governmental decision makers
- The nuclear industry and federal (and state) governmental decision makers
- Large swaths of the public, the nuclear industry, and governmental decision makers
- Residents within communities hosting nuclear facilities or identified as potential host communities

There are many reasons for the existing high levels of social distrust among parties with a stake in spent nuclear fuel (SNF) and defense high level waste (HLW) storage and disposal. Chief among them are:

- Decisions have been made without obtaining social support and legitimacy
- Evolving requirements and schedules were not met
- Federal decision making has lacked transparency
- Efforts to introduce equity into decision making (e.g., multiple sites considered, multiple repositories in different areas of the country) were undermined by Congressional actions

- Psychological, social, and institutional factors affecting social support did not receive appropriate attention by decision makers.

The lack of attention to pressing psychological, social and institutional questions is reflected in many ways: the lack of scholarly literature specific to nuclear waste management, low levels of research funding to consider the social dimensions of waste management, and lack of social science expertise on key advisory groups such as the Nuclear Waste Technical Review Board. It is also reflected in the draft legislation.

While scholarly research on the social dimensions of nuclear waste management is relatively small, there is a well-developed science of stakeholder engagement and risk communication (NRC 1989, NRC 2008, Morgan et al. 2002, Renn 1992, FDA 2011) and risk decision making under uncertainty (NRC 1996, NRC 2009). The best available science should be brought to bear in a SNF and HLW management program. When done well stakeholder engagement can improve decisions, improve legitimacy of decisions, and improve capacities of participants to be involved in decisions. When done well, risk communication can inform decisions and lead to better decisions. The science of public and stakeholder engagement has demonstrated important lessons and produced effective ground rules. However, simply following general rules is not sufficient. The challenge for this legislation is how to set reasonable expectations and promote good judgments by those responsible for carrying out the program in the field. What is understood to be the best practice in a particular situation will depend on what those organizing and participating in the process think about the context, the objectives, their roles, the scientific understanding of the issues, and many other factors. General guidance can only take a planner so far. The stakes are high, however. Conflicts about process can lead to or exacerbate conflicts about outcomes. As the National Research Council argues "one of the most important goals of process design is to devise procedures that are acceptable to the interested and affected parties. Obtaining agreement on a decision process can significantly affect acceptability of the outcome" (1996, pg. 122).

Consequently, public and stakeholder engagement, risk communication, and decision making under uncertainty require a firm grounding in science as well as learning and adaptive steering, which can be achieved through systematic evaluation.

Within federal agencies there are good examples of how these can be accomplished:

- During the 1990s and early 2000's the Department of Energy Environmental Management Program funded work to systematically evaluate the performance of site specific advisory boards (Bradbury et al. 2003).

- The Food and Drug Administration created a Risk Communication Advisory Committee in 2007, which has helped ensure that communication strategies are consistent with the most current knowledge and best practices and that experience is systematically evaluated to improve learning over time (FDA 2009, FDA 2011).

- The EPA Community Involvement and Outreach Branch conducts research and develops resources to support stakeholder engagement in Superfund Program activities.

In summary, the science of public and stakeholder engagement and risk communication can support programmatic activities of the Nuclear Waste Administration in two ways:

1. Research and experience-based input from a wide variety of programs on public perceptions, public acceptability, decision making under uncertainty, mechanisms of public and stakeholder involvement and negotiation.
2. Frameworks and advice to help decision makers make sense out of experience using systematic and high quality data so that they are better able to anticipate, recognize, and address challenges.

Solutions to Problems in the existing draft

All of our comments about the draft Act do not fit cleanly into the topics about which specific comments are being sought. Before addressing the specific questions posed by the Senators we discuss specific issues with the draft Act, and provide suggestions to improve it:

1. The Nuclear Waste Administration Act should include a more robust definition of *informed* consent and a process for achieving it in potential host communities.
2. Public and stakeholder engagement processes should be more strategic and social-science based, and not rely on public hearings which have proven to be grossly inadequate for achieving consent, building trust and confidence, and obtaining legitimate decisions.
3. Siting processes need to be fully grounded in an adaptive management approach to ensure that decisions are responsive are responsive to experience and new information.
4. The Nuclear Waste Administration Act must emphasize developing a foundation for a broadly supported, socially and ethically legitimate program in the context of a recognized need for urgency and efficiency.

1. The Nuclear Waste Administration Act should include a more robust definition of *informed* consent and a process for determining it in potential host communities.

The draft Act uses the rhetoric of "consensus" and "voluntary siting," but it does not establish a structure or process to ensure that either can be implemented. Section 304(b) sets forth general siting guidelines and requires that the Administrator issue general guidelines for the consideration and selection of sites. Section 304(f) specifies that a state governor, local governmental authority, and/or Tribal government provide consent for a facility. The term consensus is not defined and we suspect it is used rather loosely. A more precise term would be consent.

The draft legislation leaves many crucial decisions unresolved *and* with no clear path for resolving them. For example, it would be up to the discretion of the Administrator to determine if "units of general local government that are contiguous with the unit that has jurisdiction over the site of a repository or storage facility" (Section 103) be included in negotiations, etc. While this is reasonable, communities will want to know – and should know – under what conditions they may be included or excluded from the siting process.

Key terms related to the issue of consent are not well-defined. For example, the draft states (Section 304(a)(1) that "affected communities" should be allowed to decide whether, and on what terms, a nuclear waste facility will be hosted. While "Affected Indian Tribe" and "Affected until of general local government" are defined (Section 103) no where is "affected community" defined. But, this does not mean, simply, that the wording of 304(a)(1) should be revised. It *is* important – vitally important – that each *potentially affected community* understand the potential health, safety, social, environmental, political, economic, etc. risks, uncertainties, and benefits of a proposed facility and have some say in a) how those risks should be managed and b) whether they are reduced sufficiently for the site to be worthy of their acceptance and support.

It is a serious mistake to assume that consent is a singular decision. Classical ethical and legal doctrines require that people and institutions expressing consent must be informed fully of the risks, uncertainties, and benefits; understand them, and agree to them (Faden et al. 1986). The legislation should explicitly require that consent be *informed consent*, including all criteria for assessing consent before final decisions are made. This implies that interested and affected parties: have a say in determining what information is needed to addresses the issues and concerns they have (not that managers or scientists think is relevant); be provided information needed for effective decision making, including risks, benefits, and uncertainties; can access that information in a timely and easy manner; and can comprehend what they access. Informed consent should be both evaluated by ethicists and social scientists and a required condition for site selection by the Administrator, including the availability of and access to information in a timely manner and form that is understandable by interested and affected parties that addresses their concerns.

Informed consent must be explicitly granted by all the relevant multiple layers of government and the relevant public (as defined under "affected community"). Consent must be acquired periodically– about guidelines and standards, and especially, after site suitability and before site selection and any consent agreement is signed. Other countries with promising nuclear waste management processes, such as Canada and the United Kingdom, use a multi-step approach to achieving informed consent of potential host communities. Informed consent must be granted by the community at multiple points – especially after site suitability and before site selection and consent agreement signed. This has been an important feature of the process in Canada. First, in order to be considered for siting at all, municipalities have to volunteer for consideration. Volunteer partnerships allows potential host communities to take the first step in determining the outcome, actively submitting their site for consideration rather than being selected by a process out of their control. Potential host communities further maintain this self-determination capacity through much of the remainder of the review of their site given the "right to

withdraw" their site from consideration without penalty any time prior to the signing of agreements that begins construction. Much more consideration needs to be given to who is expressing consent, how it is determined, and what it means at each stage of a siting process.

Local government officials should not determine consent alone. Officials at local levels of governance are not elected with a mandate to make these kinds of single issue decisions, which have far reaching consequences for a community's identity and cohesiveness. Neither are county, state, or Tribal officials. Secondly, local officials can become *un*elected, thus putting in jeopardy any agreement with the Nuclear Waste Administration. Third, a focus on local officials can lead to less transparent decision making and more strength to local power brokers. A more broad, robust form of informed consent is required, and works against backroom deals. There is nothing explicit in the proposed legislation about community / public informed consent, and how this may be different from governmental consent. One mechanism for obtaining a clearer and broader expression of community consent is via referenda. However, some communities may prefer other ways, such as Town Meetings, a series of local workshops and discussion groups, etc. As we discuss below, public hearings would be a very inadequate approach.

We recommend:

- *Section 304(b) be redrafted to include a requirement for informed consent, based on: a) effective and meaningful risk communication and public and stakeholder engagement in host communities and other potentially affected jurisdictions (see next comment) and b) a requirement that the strength of informed consent be evaluated and determined, with input from the scientific advisory committee for stakeholder engagement (including both expert social scientists in relevant fields and ethicists, see below) before final decisions are made by the Administrator, including the availability of and access to information in a timely manner and form that is understandable by potentially affected parties and addresses their concerns.*
- *Section 304(b) be redrafted to include a staged approach to informed consent. Section 304 should include language that mandates the stages for which informed consent must be granted by potential host communities and jurisdictions.*
- *Clear guidelines for how local authorities, communities, and other jurisdictions can express voluntary and informed consent (i.e., minimal standards) in stages be developed before any solicitation of sites be made or sites considered. There should be opportunities for public comment on these guidelines, as well as input scientific advisory committee for stakeholder engagement (including both expert social scientists in relevant fields and ethicists, see below).*
- *Jurisdictions volunteering for consideration of a waste storage site or repository be required to propose a plan for demonstrating informed consent by local officials and the community at large as a pre-condition for initiating a site characterization or suitability process.*
- *the Senate bill more clearly define a process with clear roles and responsibilities for each governmental unit/jurisdiction associated with the facility as well as the affected community.*

- *that specific conditions and criteria be established in advance for when and how municipalities and other jurisdictions may opt-out of further consideration at different stages of site characterization and agreement and, importantly, when an agreement is no longer revocable.*

2. **Public and stakeholder engagement processes should be more strategic and social-science based. The current draft has inadequate expectations of mechanisms for stakeholder involvement, with its reliance on public hearings which have proven to be grossly inadequate for achieving consent, building trust and confidence, and obtaining legitimate decisions.**

The draft legislation states that a process should ensure meaningful public involvement (Section 304(a)(2)). It then goes on to state only that public hearings must be held (Section 304(d)(3)) prior to site characterization and when a site is being selected. There is nothing about utilizing the science of public and stakeholder engagement or risk communication. This science should be brought to bear in the SNF and HLW management program. When done well stakeholder engagement can improve decisions, improve popular legitimacy of decisions, and improve trust in government.

The minimal public hearing provisions in the draft bill are very inadequate. Public hearings are *extremely* limited tools for public engagement. They encourage staking out of extreme positions, do little to promote learning or collaboration, and do nothing to rebuild trust with the public. Furthermore, the requirement for public hearings in Section 304(e)(3) can only be read as being part of a "decide-announce-defend" approach. The public hearings are to be held before making a final decision, but there is no requirement that anything stated or learned at the public hearings be part of the basis for final determination (Section 304(e)(2)). This is a recipe for a failed public and stakeholder engagement process.

There is a strong and consistent message from scholarship, reviews, and guidelines for best practices about public participation, risk communication, hazard management, and nuclear waste management that more extensive forms of public and stakeholder engagement are called for in high stake and controversial decision processes like nuclear waste management. They are also important when deeply held values and equity are critical aspects of a proposed program or policy. This message comes from reports by the US National Research Council (NRC 1989, 1996, 2003a, 2003b, 2006, 2008, 2009), best practices from federal agencies with significant risk communication and public involvement activities (Food and Drug Administration, EPA, DOE Environmental management Program, CDC Radiation Studies Branch); and nuclear waste management programs in Sweden, Finland, Canada, and the UK). As the US National Research Council has said in numerous reports, in contexts of social distrust, technological uncertainty, and political controversy, stakeholder engagement needs to be broadly inclusive at its early stages, informed by high quality information, and facilitate dialogues with interested and affected parties. Our recommendations are based on the advice of the National Research Council.

For example, site characterization, like risk characterization, should integrate both analytic activities (systematic information gathering and analysis) and deliberative activities (discussion, learning, negotiation) (National Research Council 1996). EPA has achieved successful Superfund redevelopment efforts using this kind of framework, which devote time and resources to helping communities understand the risks of residual contamination, trade-offs of different remediation strategies, and opportunities for redevelopment. Substantial public outreach in the form of public listening and information sessions, community advisory groups, public hearings, and technical assistance grants have been used to build consent and support for specific plans (e.g., Midvale Slag site in Utah, Fernald site in Ohio, Mound site in Ohio).

We recommend:

- *The Act require the Nuclear Waste Administration to include stakeholder engagement and risk communication as strategic functions and engage in strategic planning of these activities in all aspects of its Mission Plan. The Act should highlight and prioritize the need for a public and stakeholder engagement strategy that offers diverse opportunities for dialogue and learning, that is flexible to local needs and changing conditions, and that integrates analytic and deliberative activities.*
- *The Act establish an Office of Stakeholder Engagement, to be headed by a Deputy Administrator for Stakeholder Engagement. A senior level position is critical to ensure that it is not marginalized in a context where technical and engineering approaches have dominated in the past.*
- *A scientific advisory committee for stakeholder engagement---including ethicists who are experts on consent--- should be established. These will help ensure a) stakeholder is implemented using the best available science and b) send a strong signal that a new approach to waste management places informed consent at the fore.*
- *The Office of Stakeholder Engagement be required to systematically gather data and evaluate performance of all stakeholder engagement and risk communication activities to facilitate learning. Evaluations should meet scientific standards and peer-review publication standards to ensure their quality and legitimacy.*
- *The Office of Stakeholder Engagement publish reports documenting stakeholder concerns and how they are being addressed in order to demonstrate to the public, governmental authorities, and other stakeholders that the process is being conducted in a fair and competent manner and deserving of support.*
- *The Office of Stakeholder Engagement and scientific advisory committee for stakeholder engagement---including ethicists--- be explicitly empowered to consider and address issues of equity in the nuclear waste management program.*
- *Community Advisory Groups be established in each municipality volunteering for and being evaluated for suitability as a host for storage or disposal of waste. These can be modeled on, for example, successful DOE EM site-specific advisory boards. Prior to establishing any such community advisory groups guidelines and operating principles should be established with input from a) the Office of Stakeholder Engagement, the scientific advisory committee for stakeholder engagement, and the community in which it is being established. It should be broadly representative of interested and affected parties in the area of the proposed site. Community advisory groups provide*

another effective mechanism to ensure that experts learn about the community and the community learns from experts.

3. Siting processes need to be fully grounded in an adaptive management approach to ensure that decisions are responsive are responsive to experience and new information.

The draft Act uses the rhetoric of adaptive management (Section 304(a)(3)), but it does not establish a structure or process to ensure it can be implemented. The proposed structure and process does not provide a sound foundation for flexibility. There is really only one place where there is an explicitly stated opportunity for re-evaluating program performance – revising the mission plan when deemed "appropriate" by the Administrator. This does not meet even the basic requirements for an adaptive management approach, which emphasizes that systematic analysis and evaluation to support learning is important for improving processes and activities as they proceed. Routine opportunities for learning are needed. In the context of social distrust these opportunities should be transparent. They should also be inclusive and "two way." Experts can learn important details and information from local officials and residents about a proposed site and community. Local (and county and state) officials and local residents can learn more about the technical and engineering features of nuclear waste management. Everyone needs to learn.

Specifically, a staged, adaptive management approach can promote the competence of waste managers – as well as confidence in those managers – by enabling them to:

- address surprises as they arise,
- learn from challenges, problems, failures, and successes and provide opportunity for integrating the knowledge gained into future design and implementation,
- address technical, ethical, and societal questions and uncertainties as they arise,
- ensure opportunities for independent overview, quality control, and demonstration projects,
- monitor and evaluate performance as a condition for advancing to subsequent activities or phases,
- provide time for societal learning about complex technologies and ways to manage them safely, and
- demonstrate to regulators and the public through incremental actions that safety and security are being adequately addressed.

We recommend:

- *The Act establish a requirement for a strategic timetable that identifies milestones, but plans adequate time to achieve those milestones while earning public trust and informed consent.*
- *The program be required to link information gathering and analysis with periodic dialogue and learning among the interested and affected parties in a step-wise process. The details of the step-wise process should be developed with the close involvement of the Office of Stakeholder Engagement and scientific advisory committee for stakeholder engagement.*

4. The Nuclear Waste Administration Act must emphasize developing a foundation for a broadly supported, socially legitimate program rather than urgency and efficiency.

The proposed bill places too much emphasis on efficiency. For example, the draft legislation, for understandable reasons, seeks to push forward in the short term actions that lay the foundation for the entire program. For example, Section 304(b)(1) states that general guidelines for the consideration of candidate sites should be issues within one year of enactment.

Without even considering the time it would take to staff the new Nuclear Waste Administration's positions and identify and enroll advisory board members, this is overly ambitious. There will not be a full year to complete complex – and socially sensitive – tasks. More to the point, it may result in the classic "decide-announce-defend" cycle that is frequently employed and just as frequently results in policy or regulatory disaster.

Furthermore, in a "staged" process that envisions the siting of a pilot storage site, a consolidated storage site, and a repository, a heavy burden is placed on the first in line. Failures in early stages will leave the Administration vulnerable to further critique, further loss of legitimacy, and further erosion of trust. Problems that exacerbate distrust and lack of confidence in the federal government, and Nuclear Waste Administration specifically, nuclear industry, states, etc. during the initial siting effort will only make subsequent activities much harder. This suggests a rushed effort to site an initial facility may end up stalling the entire program.

This is a complicated and highly charged program, that will entail many complicated and highly charged decisions. It has been repeatedly noted that it is issues of equity, social justice, economic impacts, confidence in risk managers, and fears about health and safety that have historically been the most problematic yet under-addressed aspects of waste management. Where the health and safety of communities, future generations, and ecosystems are involved, people will not tolerate cutting corners in order to meet deadlines.

The draft Act implies that social concerns, such as equity, compensation, health and safety should be addressed, but then seems to limit site selection criteria in Section 304(e)(2). In this section the emphasis is put on scientific and technical suitability, meeting regulatory

requirements (e.g., radiation protection standards), and national interest, suggesting that there is no room given for interested and affected parties to express concerns about other kinds of issues and no expectation that any such concerns need to be considered or addressed. There is no explicit requirement for considering the social impacts (stigma, etc.) relative to other options or about the degree to which informed consent was expressed by the community and the way it was expressed. This means that the Administrator may elect not to consider them. This is no way to gain social acceptance, build trust, etc.

We recommend:

- *The Act should establish requirements for a more reasonable timeline, which gives considerable time upfront to allow a process to begin "on the right track." This means allowing time for a) the Nuclear Waste Administration to hire key personnel, including the Deputy Administrator for Stakeholder Engagement and his/her staff; b) staffing and establishing the scientific advisory committee for stakeholder engagement; c) seeking public input on process design and guidelines for volunteering for consideration, site suitability assessments, and expressing and determining informed consent.*
- *We recommend that the Senate bill dismiss the notion of acquiring consent from a single unit of responsible local government and recognize the pluralistic nature of American governance. It is dangerous to engender a process the pits Tribes against States, towns against counties, and so on. The bill must more clearly define a process with clear roles and responsibilities for each governmental unit associated with the facility as well as the community at-large*
- *Community Advisory Groups (see above) in potential host communities be established and used as a mechanism for gathering information about local concerns, including economic, cultural, social, equity (distributional and intergenerational), and confidence in risk managers to inform Administration actions, identify areas requiring further analysis, and promote discussion of compensation and local oversight in a final agreement with the host community to promote stable and strong expressions of informed consent.*
- *The Act make explicit that social concerns, including economic, cultural, social, equity (distributional and intergenerational), and confidence in risk managers, be included in a final determination of site suitability, legitimate topics of discussion in public and stakeholder engagement processes, addressable in consent agreements between the Administration and local/state jurisdictions, and subject of scientific study to inform discussions and negotiations.*
- *The Act make more explicit use of the comparative site evaluation that is required in Section 304 during final reviews and determination of sites. The Administrator should be directed to include comparative assessment of social concerns, including economic, cultural, social, and equity (distributional and intergenerational) impacts.*

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Additional suggestions for modifying the draft Act:

Section 304(c)(3)(A): include "social, cultural, ethical, and economic" in the types of information that should be considered.

Section 304(c)(4): add: "…site characterization based on an environmental and health assessment of the site, which shall include"

Section 304(c)(3)(D): add: "…and an *evaluation* of the decision process by which the Affected Indian Tribe or Affected until of general local government will determine and express voluntary informed consent of its residents."

Section 304(d)(1): what happens if none of the proposed sites satisfy suitability criteria? The draft language suggests that even if this is a case the Administrator must select a repository and storage facility site for further characterization. Instead this would be a good opportunity for the Administrator to act in a way that is consistent with "adaptive management": a review of what was missing and a re-solicitation of sites should be conducted. Instead of forging ahead, take a step back in a deliberate and organized and transparent way that can help to build trust and confidence.

Section 304(f): informed consent by the *community* must be shown by the local government, rather than just require consent by the local government

Section 304(f)(3) need to add terms and conditions for re-evaluation and reconsideration (opt out) mechanisms and deadlines.

Section 508: NWTRB should be explicitly expanded to explicitly include membership representing key social science disciplines and expertise relevant to the nuclear waste management program.

Responses to the 8 questions posed

1. Should the Administrator take into account, when considering candidate storage facility sites, the extent to which a storage facility would: (a) unduly burden a State in which significant volumes of defenses wastes are stored or transuranic wastes are disposed of; or (b) conflict with a compliance agreement requiring the removal of nuclear waste from a site or a statutory prohibition on the storage or disposal of nuclear waste at a site? Alternatively, should the State and other non-federal parties seeking to site a candidate storage facility be allowed to determine whether they are unduly burdened? Should the final consent agreement, which would be sent to Congress for ratification, contain an authorizing provision to amend any conflicting compliance agreement or statutory prohibition?

Equity has been a critical aspect of opposition to siting nuclear waste facilities (and hazardous facilities in general). The Administrator should be required to take into account issues of equity when making determinations of sites for storage facilities and a repository. Equity considerations should include geographic distribution of waste generators and waste storage and disposal sites, presence of other (i.e., nuclear, defense) sites and wastes, and economic burdens. The Office of Stakeholder Engagement should provide analyses of equity, including as part of (but not limited to) the comparative site evaluation that is required in Section 304 during final reviews and determination of sites. Ways of ameliorating additional burdens and inequities---such as compensation---should be explicitly stated as features that may be included within a consent agreement, as negotiated with the federal government.

2. Should the bill establish a linkage between progress on development of a repository and progress on development of a storage facility? If so, is the linkage proposed in section 306 of the bill appropriate, too strong, or too loose? If a linkage is needed, should it be determined as part of the negotiations between the state and federal governments and included in the consent agreement rather than in the bill?

The legislation should state explicitly that host municipalities and states for storage facilities are enabled to include additional linkages within a consent agreement, as negotiated with the federal government. This includes criteria for determining the definition and assessment of "substantial progress' determinations made by the Administrator and Oversight Board (Section 306(b) and 306(c)). They should not be precluded from doing so. Final determination should rest, however, with the Oversight Board (or the courts).

3. Should the bill establish separate storage and disposal programs with clearly defined requirements for each, with any linkage negotiated in the consent agreement between the federal and non-federal parties, to allow the two program to

run on separate, but parallel tracks, as proposed in the alternative section 305 (which would replace section 304(b)-(g) of the draft bill)?

The alternative Section 305 suggested by Senators Alexander and Feinstein would undermine important elements necessary for a successful and comprehensive waste management program. A pilot program for placing priority waste in a new site should not be rushed – especially since there is considerable debate as to its necessity. There is an urgent need to reduce density in reactor storage pools by expediting the transfer of wastes to dry casks. (We had a dramatic illustration of the seriousness of this threat in the accident at Fukushima). However, this can, and should, be mostly accomplished at reactor sites and certainly should not be delayed for even the time it would take to put in a pilot program. Any initial siting process will be closely watched and should avoid short-cuts for the sake of speediness that is not absolutely understood as necessary by the American public. *Every aspect of the Nuclear Waste Administration program should be based on sound science and meaningful collaboration with affected communities* – not just a repository siting process (the alternative Section 306). If there are problems with an initial siting process, efforts to rebuild social trust and confidence in a program will be severely undermined. This is a recipe for disaster.

Additional concerns we have with the proposed process in the alternative section 305 have been discussed above, regarding the inadequacy of public hearings, the unclear definition of consent, and the failure to include non-governmental stakeholders in decision processes.

4. To what extent should the siting and consensus approval process for spent fuel storage facilities differ from that for the repository? Should the Administrator be required to conduct sufficient site-specific research (referred to as "characterization" in the bill) on candidate storage sites to determine if they are suitable for storing nuclear waste or only on candidate repository sites to determine if they are suitable for geologic disposal of nuclear waste? Should the Administrator be required to hold public hearings both before and after site characterization (as required by current law in the case of the Yucca Mountain site) or only before site characterization?

Every siting effort of the Nuclear Waste Administration should be science based, transparent, and fair. Stakeholder engagement should be part of determining storage and repository siting efforts. As discussed above reliance on public hearings is inadequate, and the problem is not solved by adding additional public hearings. They are not an adequate mechanism for building social acceptance and making good decisions because they include no assurance that community concerns will be taken into account by government.

Site characterization should be conducted for both potential storage and repository sites. Site characterization is an important step in gaining informed consent. There can be technical and environmental factors that influence site suitability for *any*

hazardous material facility, including SNF and HLW interim storage. There should be no debate about their relevance, and competent assessments should be made of them before any site selection is determined.

The approval process for interim storage facilities should include severe penalties for failure to remove wastes as determined in the initial consent agreement, lest there be an incentive to delay or abandon work on a repository and the interim storage facility become a *defacto* longterm facility.

5. Should the siting process in section 304 of the draft bill be streamlined? If so, how?

It would be a serious mistake to "streamline" the process proposed in Section 304. Rather we strongly recommend that a) it be made more clear and b) put much more emphasis on staged activities to ensure a foundation of social acceptance and trust in the Nuclear Waste Administration and its decisions.

It is imperative to put in place explicit wording and explicit legislative requirements that will ensure a role for social scientists and input from the social sciences in the design and implementation of a highly technical program such as radioactive waste. For example, the lack of specificity in the NWPA concerning the meaning of critical terms such as "consultation and cooperation" and public participation resulted in major barriers to successful implementation. This is of particular relevance to the wording in the draft legislation concerning "consensus" and "voluntary siting" key terms such as "affected communities etc. (see above comments) and to providing specific requirements for public involvement that is involvement, rather than after-the-fact consultation.

A suggested framework for a site characterization and site selection process that can promote social acceptance and confidence is to:

- Immediately staff the Office of Stakeholder Engagement and establish and staff the scientific advisory committee for stakeholder engagement
- Within a year of enactment set-up advisory board of stakeholders that is broadly representative of community concerns and interests
- Within first year embark on national program to develop support for need for program and identify critical values and considerations that need to be addressed. This is about a) gaining support for the program in general and b) figuring out "the audience"
- Issue DRAFT mission plan. Get feedback, but do something "real" rather than a few public hearings (pg. 53).
- Issue Draft site suitability and selection criteria and guidelines and schedule. Get feedback.
- Issue final site suitability and selection criteria and guidelines and schedule.

- Go through process to identify "volunteer" sites. Ensure that public information and involvement activities take place.
- Pause to actually consider being flexible given new information and experience (pg. 22-23).
- Conduct comparative evaluation and site assessments (pg. 27)
- Select sites to invite for further investigation (pg. 27)
- Establish community advisory groups in each community that has volunteered for consideration to host a storage or disposal site. Hold public hearings. Gather feedback about concerns, studies people want done, etc.
- Set up consultation and cooperation agreement. This should ensure role of community advisory groups too. Agreement should specify a series of stages of review and assessment of site and determining community informed consent.
- Evaluate sites
- Select site
- Consent agreement and community informed consent (may need to be iterative and to include compensation, community oversight, and so on)

6. Should the new entity be governed by a single administrator or by a board of directors?

(a) If by a single administrator, should the administrator serve for a fixed term? If so, how long should the term of service be? Should the legislation prescribe qualifications for the administrator? If so, what should be the selection criteria?

(b) If by a board of directors, how many people should comprise the board and how should they be selected?

No comment on this question.

7. The Blue Ribbon Commission recommended establishment of both a board of directors for management oversight (whose "primary role ... is not to represent all stakeholder views, but rather to carry out fiduciary responsibilities for management oversight") and "a larger and more widely representative stakeholder advisory committee." The draft bill responds to these recommendations, first, by establishing a Nuclear Waste Oversight Board of senior federal officials and, second, by authorizing the Administrator to establish advisory committees. Should the Oversight Board and advisory committee be combined into a single body to perform both management oversight and stakeholder representation functions? Should the

focus and membership of any advisory committees be established in the legislation or left to the Administrator?

The Oversight Board and advisory committee should *not* be combined into a single body. They serve different purposes and require different kinds of membership and expertise.

As discussed above we believe that the legislation should explicitly require some advisory committees:

- scientific advisory committee for stakeholder engagement
- advisory board of stakeholders that is broadly representative of community concerns and interests
- Community advisory groups in potential host communities

In addition, the Nuclear Waste Technical Review Board membership should be explicitly expanded to include experts from relevant social science disciplines.

The Administrator should be allowed to establish other advisory committees as deemed necessary, and already stated in the draft Act.

8. Dr. Meserve testified in 2012 that representatives of stakeholders and public utility commissioners should be added to the Nuclear Waste Oversight Board. Would these additions make the Board better able to carry out its fiduciary oversight mission effectively?

We support this suggestion for the reasons discussed previously about the importance of establishing social trust and confidence in the Nuclear Waste Administration and its activities.

NUCLEAR WASTE

Nuclear Waste: Knowledge Waste?

A stalled nuclear waste program, and possible increase in wastes, beg for social science input into acceptable solutions.

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Nuclear power is re-emerging as a major part of the energy portfolios of a wide variety of nations. With over 50 reactors being built around the world today and over 100 more planned to come online in the next decade, many observers are proclaiming a "nuclear renaissance" (*1*). The success of a nuclear revival is dependent upon addressing a well-known set of challenges, for example, plant safety (even in the light of improved reactor designs), costs and liabilities, terrorism at plants and in transport, weapons proliferation, and the successful siting of the plants themselves (*2*, *3*).

Particularly challenging is the disposal of high-level nuclear wastes (HLW). More than a quarter-million tons of commercial HLW is in need of disposal worldwide (*1*). Wastes accumulate at all stages of the fuel and weapons development cycle: mining, enrichment, fabrication, and reactor operation. The most dangerous of these wastes accumulate at the "back end" of the fuel cycle, particularly in the form of spent fuel, which, despite reprocessing technologies, may remain highly radioactive for a million years (*4*). Although disposal of HLW remains one of the most challenging scientific and social problems facing all nuclear nations, recent events in the United States, home of 60,000 tons of HLW, make this a particularly important time to highlight often-overlooked social science expertise needed to develop strategies for publicly acceptable solutions to the problem.

More Waste for a Stalled Waste Program

There is disagreement about short-term and mid-term approaches for disposing of HLW, which include hardened on-site or regional storage, but the global scientific and policy consensus for long-term disposal is through deep geological sequestration (*5*). In the United States, where a successful waste-disposal program has eluded 10 presidential administrations, the 1982 Nuclear Waste Policy Act, amended by Congress in 1987, designated a single deep geologic repository at Yucca Mountain, Nevada. Authorized to store 77,000 metric tons of spent fuel, this site was projected to begin accepting wastes by 31 January 1998. However, surprises arising from technical analyses of the site, such as the discovery that water flows more rapidly at the site than expected (*6*), increasing the chances of human exposure (*7*), led to this deadline being missed. Strong, persistent opposition among Nevada residents and others also contributed to delays, with the site not yet having accepted any waste (*8*, *9*). The Obama Administration withdrew funding for Yucca Mountain in its 2010 budget and directed the Department of Energy (DOE), the federal agency responsible for building a repository, to withdraw its licensing application to the Nuclear Regulatory Commission (NRC). These actions are currently the subject of multiple lawsuits and NRC review (*10*). If successfully upheld, they will effectively stop the Yucca Mountain project, despite its being the only congressionally authorized site for a repository.

The problem could worsen. The nuclear industry has taken advantage of a new one-step licensing process for commercial nuclear plants, submitting 22 applications to the NRC for 33 new reactors (*1*, *11*). Each new reactor could generate about 25 metric tons of HLW per year (*1*). President Obama confirmed the Administration's nuclear commitment by pledging $8.3 billion in federal loan guarantees for two new nuclear plants in Georgia (*12*) and by seeking to increase the total amount to $54.5 billion by next year (*13*).

Facing a stalled national waste program on one hand, and a possible increase in the volume of wastes on the other, the president directed the secretary of energy to appoint a Blue Ribbon Commission on America's Nuclear Future, which "should include recognized representatives and experts from a range of disciplines and with a wide range of perspectives" (*14*). The 15-member commission formed in January 2010 is charged with conducting "a comprehensive review of policies for managing the back end of the nuclear fuel cycle," including civilian and defense used nuclear fuel and nuclear waste (*14*). The White House further recognized that "Such a solution must be based upon sound science and capable of securing broad support, including support from those who live in areas that might be affected by the solution" (*15*).

Physical Constraints, Social Acceptability

Unfortunately, the scientists and officials seeking to craft an acceptable waste-management strategy are starting from the weak position created by the legacy of past actions. For example, the mishandling of wastes from military weapons facilities (*16*, *17*) generated considerable controversy and loss of social trust and confidence in the integrity of the siting and facility development program. Trust is a key factor in risk perceptions (*9*, *18*). The DOE is especially mistrusted (*19*) and has been unable to address this mistrust (*20*).

The key issue here is not only to get the science right but also to get the "right" science (*21*). Getting the right science means answering the right questions. Given the history of nuclear waste management, in the United States and elsewhere, those questions must focus on the conditions for social and political acceptability, within the constraints identified by physical science and engineering. Some communities will be asked to host the processing, storage, and disposal of used nuclear fuel and HLW. Others will be asked to allow the transport of these materials. All Americans will pay for the infrastructure. Although scientific and technical analyses are essential, they will not, and arguably should not, carry the day unless they address, both substantively and procedurally, the issues that concern the public.

Fortunately, there is a sizable social science literature that has systematically investigated the questions of public acceptability, making basic tenets of public concerns quite clear (*8*, *22*). People do not like projects that pose highly uncertain risks, unless they see great compensating benefits and have deep trust in the institutions managing them (*8*, *9*). Many studies have shown that these condi-

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tions for public acceptance are lacking with HLW (*8*, *9*, *18*, *23*). Citizens have expressed great concern about siting a repository in their vicinity, even while supporting nuclear power in the abstract (*8*, *18*).

Many studies have demonstrated the importance of engaging impacted publics at the beginning of policy planning and projects, to get the right questions to frame analyses, ensure that expectations for inclusive and fair processes are met, and ensure legitimacy of decisions (*24*–*26*). A variety of frameworks, such as the staged approach (*27*), have been developed for "analytic-deliberative" (*21*) processes to ensure a technically competent and publicly engaged solution. These frameworks emphasize "continuous, adaptive learning in both technical and societal areas," continuous public engagement, and transparent use of public inputs (*27*). Case studies show the benefits of public involvement, for example, the cleanup of an Ohio nuclear weapons facility (*28*) and the siting of a facility in New Mexico for storage of defense-generated transuranic wastes (*23*).

Moreover, public engagement and transparent deliberations are "communication acts" that build social trust and legitimacy, whatever their content. The social science needed to create such communications is well understood (*21*, *27*, *29*, *30*) and essential for strategies that rest on the principal of voluntary consent and the public's right to know (*31*, *32*).

However, despite decades of social science, guidance to promote adaptive learning, social trust, and legitimacy has not been followed in addressing waste and other challenges to nuclear power (*26*). For example, how state structures of democracy and the role of technical elites in policy formation and implementation may influence whether and how scientific evidence is used. Institutional cultures typically frame challenges as technical problems rather than societal challenges. To the extent that the social side is recognized, it has often been viewed as an obstacle to overcome, not an element of the democratic process; planners and officials can be fearful that public involvement may shift an unengaged or uninformed public toward more controversy or opposition, thus reducing their control. Those institutions may not trust the public to make the "right" decisions. Agency guidance is often very general, leaving planners vulnerable to missteps when dealing with contingencies of specific situations and averse to trying new approaches.

Rebuilding Trust

The Blue Ribbon Commission, the DOE, and other responsible agencies should make the rebuilding of social trust and credibility central to their operations and their proposed strategies for waste management, then draw on the social sciences needed to fulfill these commitments. This means making the public and the social sciences serving the public a driving priority (*33*). The science that can inform an adaptive learning process that involves the public in a way that improves decisions and enhances trust and credibility is remarkably inexpensive, compared with the stakes riding on their efforts.

The commission is particularly well positioned to begin the process of overcoming the problematic legacy that it inherited. It has taken steps toward transparency by fulfilling the requirements of the Federal Advisory Committee Act. However, there is little scientific reason to expect such a pro forma approach—where the emphasis is on meeting formal requirements, not the needs of the public—to succeed where its predecessors have failed. Rather, it runs the risk of exacerbating indifference, mistrust, and resistance (*24*). The alternative is to treat the public in a respectful, evidence-based way throughout the deliberations. Social science can provide effective guidance in the selection of representative publics, in the development of effective deliberation techniques, and in the integration of technical and lay knowledge. The commission, consistent with its charge and charter, should include expertise on its subcommittees to inform recommendations addressing social trust and credibility, perhaps even creating a subcommittee devoted specifically to procedural issues of a proposed waste-management strategy. The strategy adopted by the commission will affect not only how its recommendations are judged but also how the public should be involved in subsequent policy and siting decisions. Addressing relevant social issues does not guarantee success, but ignoring them increases the chances of repeating past failures.

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10.1126/science.1193205

Downloaded from www.sciencemag.org on August 12, 2010

Published by AAAS

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Re: Energy Northwest's comments on the "Nuclear Waste Administration Act"

Dear Sens. Wyden, Murkowski, Feinstein, and Alexander:

Thank you for the opportunity to comment on your draft legislation to create a new Nuclear Waste Administration. Energy Northwest applauds your efforts to move forward to address the difficult public policy questions surrounding the long-term storage and disposal of commercial nuclear waste. We support the aims and goals of the legislation, which will have a direct impact on our business and the consumers that our member utilities serve.

Energy Northwest is a not-for-profit Joint Operating Agency comprising 27 member public utilities from across Washington state. We own and operate a diverse mix of clean electricity generating projects, including Columbia Generating Station nuclear energy facility. To best serve Northwest ratepayers, we strive to provide reliable power to the region at the least cost, while protecting the environment and ensuring the safety of our employees and the public.

In 2011, Energy Northwest undertook major upgrades and maintenance at Columbia during a scheduled refueling and maintenance outage. That strategy is paying dividends, as Columbia's 2012 generation set a new record of over 9.33 million megawatt-hours of energy generated and adding more than 20 megawatts of new capacity. Other 2012 records include our second consecutive year without an accident resulting in lost work time, lowest number of OSHA reportable accidents of any kind (3), and longest time without an OSHA reportable accident (219 days, reached Jan. 19 and still increasing).

Columbia also generates significant savings for ratepayers in the Northwest. Earlier this year, Energy Northwest and the Bonneville Power Administration (BPA) analyzed the financial value of Columbia given changing market dynamics. Our study showed that operating Columbia – instead of decommissioning the plant and

purchasing replacement power – will save Northwest consumers a minimum of more than a billion dollars during the next 30 years. Also, several Energy Northwest initiatives will save the region hundreds of millions through 2018; more than $650 million during the next eight years alone. Our recent license renewal, for example, translated into an additional $190 million in cost reductions during BPA's next rate period alone (2014-2016).

The federal government's failure to take title to commercial nuclear used fuel creates a financial burden for Energy Northwest and other nuclear reactors, and it threatens public support for new and existing nuclear energy facilities. Columbia has been in operation since 1984, and its used fuel pool was designed with the understanding that the used fuel assemblies would be transferred to a national repository after six years of use. Energy Northwest has taken steps to manage the accumulation of our used fuel through a dry cask storage project, known as an Independent Spent Fuel Storage Installation (ISFSI), which began in the late 1990s. Today, 27 casks hold 68 fuel assemblies each, for a total of 1,836 spent fuel assemblies that have been offloaded from the fuel pool. Our next ISFSI loading campaign is scheduled for 2014.

For these reasons, Energy Northwest has a strong stake in revising the nation's federal nuclear waste policy. We support and commend the President's Blue Ribbon Commission on America's Nuclear Future (BRC), as well as your effort to implement the recommendations of the BRC through legislation. However, we also support moving forward on licensing Yucca Mountain to determine whether it is a suitable site for a permanent repository.

Our comments, positions, and recommendations follow.

1. Support for a new federal agency and diverse board makeup

Energy Northwest supports the creation of a new federal agency to oversee the process of siting, transporting, and managing commercial spent fuel. The benefits of creating a new agency, as the BRC noted, include avoiding the organizational pitfalls of the current Department of Energy (DOE)-led approach. However, care must be taken to avoid transporting the politics of the existing program to the new agency. A Nuclear Waste Administration populated by the same staff with the same internal conflicts will not be able to bring about real change.

In terms of governance and management, Energy Northwest believes the goal must be to depoliticize the agency's decisions and provide oversight that does not get bogged down in decision-making. The new management entity should be governed by a board of directors with a chief executive officer hired by the board.

The agency should seek expertise from industry on the board rather than through advisory committees. A board comprised of only governmental officials, as in the discussion draft, will not provide the policy guidance or oversight needed to accomplish the agency's objectives. Further, not all stakeholders are created equal: the agency should seek a different kind of input from industry representatives and technical experts than it seeks from the broader community such as labor, environmental advocates, and the public at large.

2. Support for consent-based siting

Energy Northwest supports the BRC recommendation, codified in the draft legislation, that consent-based siting become the new process for siting future interim storage and permanent disposal facilities. This would improve public faith in the process, increase the likelihood of a successful outcome, and justify the funds ratepayers have already put toward the repository program.

However, there is room to clarify in the draft how the new process will interact with the current law, which names Yucca Mountain as the sole permanent repository and instructs DOE to determine whether it is a suitable site for permanent geologic storage. Energy Northwest believes valuable lessons will be learned for Yucca Mountain and future repositories as a result of completing its first-of-a-kind licensing process. This could be accomplished alongside efforts to develop additional repositories and interim storage sites through a consent-based process. Should consent-based efforts fail to timely identify a suitable repository, continuing work on Yucca will ensure that both efforts are positive uses of time and money. Further, the ratepayer funds that have funded work on Yucca Mountain should be carefully considered before abandoning future efforts for any reason other than its scientific suitability as a repository.

3. Support for establishing interim siting

Energy Northwest supports the concept of interim storage because it would provide for faster removal from existing sites, allowing the federal government to better meet its legal and moral responsibility for taking title to the waste. We also believe finalizing a permanent repository should not unduly hold up progress on interim sites. Establishing interim sites, and quickly taking title to the waste accumulated at existing and decommissioned reactors, will resolve the expensive legal obligation that continues to cost taxpayers and ratepayers billions.

Adopting a single process for both storage and disposal sites is efficient and would minimize bureaucracy. Establishing a separate process may allow the Administration to take into account different needs for the two types of facilities, but hiccups in the disposal siting process should not disrupt the flow of waste to interim sites – the nuclear industry and ratepayers need certainty that there will be a consistent solution to this problem.

4. The nuclear waste management program should have exclusive access to the balance of the nuclear waste fund and continuing customer fee payments

Energy Northwest supports the creation of a new Working Capital fund, separate from appropriations and including the balance of the Nuclear Waste Fund. For decades, ratepayers have paid fees associated with the creation and maintenance of a national repository, only to see those funds appropriated for other uses. Ratepayers deserve to pay once for this benefit, rather than paying down the deficit. Energy Northwest also supports ensuring that future ratepayer fees are made available exclusively to the waste program on a going-forward basis.

5. Work on Yucca Mountain should be resumed

Despite the creation of a new organization and process for siting interim and permanent facilities, the Department of Energy should complete the application process for Yucca Mountain. Energy Northwest believes that the time, funds, and public trust directed toward licensing Yucca Mountain justify abandoning efforts only if the site is found to be scientifically unsuitable. We have concerns that the Administration's decision to terminate work on the site was based on the site being politically unsuitable – that is to say, the decision demonstrates that a vocal opposition can be successful at derailing the settled law of the land.

Yucca Mountain remains a viable site that can and should be fully evaluated, not only because of the time and expense already put toward its licensing, but also because it remains a hedge against the possibility that the consent-based process fails to produce a suitable site.

6 . Commingling of civilian and defense waste should consider the possibility of eventual recycling

The new agency should address the disposal pathway for both high-level defense waste and commercial used nuclear fuel simultaneously, not sequentially. The agency should also have the authority to determine whether both types of waste should be stored and disposed of in common or separate facilities. The agency should receive payment for the storage and disposal of high-level waste from appropriated or other funds, but in no case should such payment be taken from the Nuclear Waste Fund or nuclear waste fees paid by ratepayers.

Energy Northwest believes the differences in the two types of waste should be given full consideration in the deliberations because commercial nuclear used fuel should be retrievable because it could eventually be recycled. Recycling of this fuel, while not currently feasible, may one day be a viable, affordable alternative to seeking new fuel sources, and will in itself significantly reduce the volume of waste stored. Defense waste, however, is suitable for storage in broader – and potentially less politically problematic – ways, and in other formations and media.

Again, thank you for the opportunity to provide comments. Please do not hesitate to contact me with any questions, and I hope I can continue to be a resource for the Senate Energy and Natural Resources Committee on nuclear issues.

Sincerely,

Mark E. Reddemann, CEO
Energy Northwest

Question 4: Separate process for storage facility siting – General streamlining for storage only

Submitter's Name/Affiliation: Daniel Taccarello/ ENEA Research Center Rome-Italy

To what extent should the siting and consensus approval process for spent fuel storage facilities differ from that for the repository? Should the Administrator be required to conduct sufficient site-specific research (referred to as "characterization" in the bill) on candidate storage sites to determine if they are suitable for storing nuclear waste or only on candidate repository sites to determine if they are suitable for geologic disposal of nuclear waste? Should the Administrator be required to hold public hearings both before and after site characterization (as required by current law in the case of the Yucca Mountain site) or only before site characterization?

Dear James,

I don't know that this is the first smart step we've taken in some time.

My respect and admiration-for their bravery in taking up such a formidable task- goes out to to Senators Wyden, Alexander, Feinstein, and Murkowski in particular whom I fully share her views upon Yucca Mtn. with. Nevertheless it is manifest to the naked eye commenters -our draft legislation seeks feedback from- unless they are told whether the site characterization includes the PEIS or not (but given the same language is used both for the temporary storage facility and the repository we are led to believe or hardly believe it is only the site characterization the floor will be talking about during the public hearings required by current law) will undergo considerable confusion in sending back comments. Also it sounds peculiar to me the US Senate Committee on Energy and Natural Resources should ask the citizen advice on how to forcibly link the progress of the development of the repository to the operations of a pilot interim storage facility already in business by proposing to block shipments of waste packages or suggest some other form of expedition/punishment until the repository resumes moving ahead according to the previously agreed schedule.

IS THIS DRAFT LEGISLATION REAL ? OR WE BEAT ABOUT THE BUSH FOR THREE OR SO MORE YEARS ?

Nuclear Energy Information Service

Illinois' Nuclear Power Watchdog since 1981

Office and Mail: 3411 W. Diversey Avenue, #16, Chicago, IL 60647-1245
(773)342-7650 www.neis.org neis@neis.org

May 24, 2013

TO: Senate Energy and Commerce Committee
RE: Comments on Draft legislation "to manage nuclear waste…[etc.]."

NEIS is an environmental safe-energy and anti-nuclear organization based in Chicago, Illinois. NEIS was one of over 100 organization nationwide which has co-signed a letter sent to this Committee in opposition to the proposed Draft Legislation; and is one of the over 200 organizations which in 2002 helped develop and promote the Principles for Safeguarding Nuclear Waste at Reactors referenced in that letter, dated May 24, 2013.

We wish to register the following additional comments regarding the draft legislation to manage high-level radioactive waste (HLRW):

WHAT WE FAVOR AND RECOMMEND:

- Until the design, construction and operation of the permanent, deep-geological HLRW disposal repository has occurred, HLRW should remain onsite at reactors or wherever it is in "hardened onsite storage" (HOSS), utilizing the best available, field tested and certified dry-cask technology
- Wet-storage HLRW fuel pools should utilize HOSS dry-casks to remove as much HLRW as can be safely offloaded from the wet-pools, and as soon as possible.
- Transportation of HLRW should a.) be minimized at all costs; b.) occur only to move HLRW to a final HLRW disposal repository, or to the nearest safe operational HOSS facility in cases of extreme emergency demonstrating immanent potential for adverse environmental, health and public safety effects; c.) occur using only casks the design of which has been certified after having undergone destructive field testing to demonstrate their integrity to transport HLRW.
- Creation of a process whereby the Federal Government will purchase (or if necessary, obtain through eminent domain) land onsite at reactors for the temporary storage of HLRW using HOSS, satisfying the Federal Government's 1998 obligation to take both title AND possession of HLRW.
- Use of a reasonable portion of funds collected (but not the entire amount) via the nuclear waste surcharge for implementing HOSS and acquisition of sufficient land at reactor and other HLRW sites.
- Future minimization of HLRW production.
- The disposal of all HLRW generated from new reactors not yet licensed or operating will be the responsibility of the reactor owners/operators, not the Federal Government. All generators will be required to meet the existing federal standards, laws and regulations for HLRW waste storage, transportation and disposal of all such future wastes.
- A fully transparent, meaningfully participatory and open public process for the selection and siting of all future HLRW sites; creation of an "interveners fund" for use by members of the public to obtain expert witnesses that they could not otherwise afford during any siting process.
- To improve the impartiality of the process, and avoid repeating the conflicts of interest inherent in the previous process, all federal appointee candidates in the current legislation shall be professionally qualified for the tasks relating to their appointment, and shall not for 5 years prior to appointment have received direct or indirect funding, employment or support from any entity of the nuclear industry (utilities, trade groups, etc.) , nor have been an employee of the Nuclear Regulatory Commission or the Department of Energy.

WHAT WE OPPOSE AND OBJECT TO:

- Creation of new, additional radioactively contaminated sites and waste dumps nationwide through the implementation of “centralized interim storage” (CIS).
- Any transportation of HLRW prior to the completion of a permanent deep-geologic HLRW disposal facility, except under extraordinary emergency circumstances, as described above.
- Currently over-packed wet-pools, dry-casks as currently deployed without HOSS; use of any dry-casks the design of which has not undergone destructive testing as validation of their integrity.
- Use of First Nations lands for HLRW facilities.
- The Government’s total disregard for and failure to include waste minimization as a primary principle of HLRW management moving forward.
- The potential for the (ab)use of “incentivization” to seduce, entice and bribe low-income, impoverished communities to become potential “volunteer” sites to host HLRW facilities.
- Any kind of HLRW reprocessing.
- Use of any exiting DOE HLRW storage or processing sites; WIPP in New Mexico; or Yucca Mt. Nevada as candidate sites for future HLRW disposal facilities.

We thank you for your consideration of these positions. We welcome your questions, comments and opportunity for clarification.

David A. Kraft
Director

Question 2: Linkage between storage and repository
Submitter's Name/Affiliation: David A. Kraft, Nuclear Energy Information Service (NEIS)

Should the bill establish a linkage between progress on development of a repository and progress on development of a storage facility? If so, is the linkage proposed in section 306 of the bill appropriate, too strong, or too loose? If a linkage is needed, should it be determined as part of the negotiations between the state and federal governments and included in the consent agreement rather than in the bill?

The only "storage" of HLRW that should be permitted is that utilizing hardened onsite storage, at the facility sites. There should be no "centralized interim storage facilities" (CIS) of any kind.

If the government is foolhardy enough to approve the use of CIS, then YES, there should be strict linkage between progress on the development of a permanent deep-geological disposal repository and development and use of a CIS.

"Substantial progress" is not defined sufficiently; it must be defined the same way for both the Administrator and the Oversight Board to make a meaningful report to the President and the Congress.

These items should be spelled out in the Legislation, not part of the later negotiations.

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May 24, 2013

The Honorable Senator Ron Wyden
The Honorable Senator Lisa Murkowski
The Honorable Senator Dianne Feinstein
The Honorable Senator Lamar Alexander
United States Senate
Dirksen Senate Office Building
Hart Senate Office Building
Washington, D.C. 20510-4204

Re: Comments on Discussion Draft of Comprehensive Nuclear Waste Legislation

Dear Senators:

These comments are filed on behalf of clients of my firm who, together with other organizations representing ratepayers, communities and industry companies, have an interest in ensuring progress on the back-end of the nuclear fuel cycle and establishing a sustainable fuel cycle for nuclear energy. The firm's clients have been involved in nuclear waste issues for many years and appeared before the President's Blue Ribbon Commission on America's Nuclear Future ("BRC").

The comments address the eight questions which you propounded when you released the Discussion Draft on April 25, 2013. By way of introduction, however, I believe that the most critical issues to be addressed by comprehensive nuclear waste legislation are (1) tangible actions to address the growing urgency resulting from the protracted impasse over the Federal government's responsibilities for spent nuclear fuel and high-level waste disposition; (2) a workable organizational and governance structure for the future management of spent nuclear fuel and high-level waste; (3) adequate and reliably available funding for nuclear waste management activities; (4) a sound and workable approach to siting based on consent agreements; and (5) an expeditious timetable for the establishment of nuclear waste management facilities going forward. With regard to these critical issues, I offer the following preliminary comments:

1. Urgency: More than three years have passed since the Administration's controversial decision to terminate funding for continuing the license proceedings for Yucca Mountain (now subject to legal challenge), and more than a year has passed since the BRC issued its Report recommending prompt actions for managing the back-end of the nuclear fuel cycle. When the Secretary of Energy issued his strategy in response to the BRC Report in January 2013, the timetable set forth in his response was unduly protracted. All of these actions and events occur in the context of a nuclear waste management program initiated by the Nuclear Waste Policy Act ("NWPA") in 1982 which was expected to

result in the completion of a permanent repository and movement of spent nuclear fuel by 1998 – 15 years ago. In the 31 years since the NWPA, the Federal government has collected from ratepayers well over $28 billion, and continues to collect over $750 million a year, with virtually nothing to show for it. As a consequence, defense related spent nuclear fuel and high-level nuclear waste and over 63,000 metric tons of commercial spent nuclear fuel are stored at sites across the United States. This storage imposes an undeserved and disproportionate burden on those communities where the sites are located and makes them unwitting surrogates for a promised national solution. These extraordinary circumstances reflect a lack of urgency despite the fact that the health and continued viability of one of the most critical sectors of the energy economy is a matter of utmost importance, and the cost of inaction is already high and continues to increase. The U.S. role as a leader in the international nuclear community is also at risk. A sense of urgency must be established, and the Congress must make it a high priority to take tangible steps to correct the failures of the past.

2. Structure: I strongly believe that the management of nuclear waste should not be entrusted to a government agency. The NWPA entrusted nuclear waste management to the U.S. Department of Energy, under the guidance of the Secretary of Energy, and few would disagree that the Department's management of the nuclear waste program has been ineffective at best. Merely transferring responsibility to another government agency accomplishes nothing and likely would lead to further delay. If the program is to be effective and credible, the entity responsible for a comprehensive approach to the nuclear waste management program must be an independent entity (e.g., a Federally-chartered corporation, as recommended by the BRC) with broad authority and responsibilities and that can be trusted by the stakeholders. In addition, the proposal that there be a single Administrator of the newly-created government agency, responsible to an Oversight Board comprised of officials from other government agencies, would only exacerbate the problems which plagued the management of nuclear waste under the NWPA and would disregard the complete lack of trust in this structure to carry out its statutorily-mandated mission. An independent entity (referred to hereafter as the "FedCorp") can still be accountable to the President and the Congress through a board of directors that is subject to the nomination and confirmation processes. The FedCorp can be also subject to appropriate oversight of the Congress, but in most respects should be permitted to function on its own.

3. Funding: I believe that the collection of the Nuclear Waste Fee authorized by the NWPA, coupled with the failure to apply the substantial majority of those fees to the program envisioned by the NWPA, is one of the most significant failures of that program. Without question, the funds collected from the ratepayers (by way of entities which own nuclear generation) in the future must directly support the nuclear waste management program. Those funds should be paid directly to the FedCorp and should not be subject to the annual authorization or appropriations acts. While it may not be realistic to expect the Congress to release the more than $28 billion in past fee collections directly for future management of civilian nuclear waste, it is appropriate (as recognized by the Discussion Draft) that a portion of those funds should be released to the responsible entity for management of non-civilian nuclear wastes. It would also be appropriate to make the

interest earned on those funds directly available for the civilian waste management program. In addition, the corpus of the previously collected fees can and should be made available as security to support the financing which will be necessary to plan, construct and operate the facilities authorized by the restructured program.

4. Siting Based on Consent Agreements: The structure and administration of a system for siting by consent agreement, for both consolidated storage as well as disposal, should be as streamlined and non-bureaucratic as possible. The process should be managed by the FedCorp; should engage potential hosts at all levels of government (state, regional and local); should comply with all applicable environmental laws, rules and regulations; but should not involve ratification by the Congress. The FedCorp should have full authority to provide adequate and appropriate incentives and compensation to host communities and states. In order to maximize the effectiveness of the process, funds should be provided to communities and states as early in the process as possible so that the cost of developing specific siting proposals would not limit the participation of potential hosts.

5. Timetable: The 2021-2025-2048 timetable propounded by the Secretary of Energy in January 2013, and reflected in the Discussion Draft at Sec. 504(b)(2), is unnecessarily delayed, especially for the start-up of a repository, and, as noted above, does not reflect the appropriate sense of urgency. Moreover, the Secretary's timetable has limited credibility since the proposed dates are not supported by any reasonable siting and engineering analyses which can be scrutinized nor are they supported by any legislative authorization or appropriations. In short, a properly structured and administered program can and should produce results for both storage and disposal of civilian and non-civilian nuclear waste significantly sooner than the proposed dates. As discussed below, the timetable can be advanced meaningfully if review of the license for the Yucca Mountain repository is fully funded and allowed to proceed to the culmination of the Nuclear Regulatory Commission ("NRC") licensing process.

Turning to the eight questions posed by you, I respond as follows:

Question 1: Should the Administrator take into account, when considering candidate storage facility sites, the extent to which a storage facility would: (a) unduly burden a State in which significant volumes of defenses wastes are stored or transuranic wastes are disposed of; or (b) conflict with a compliance agreement requiring the removal of nuclear waste from a site or a statutory prohibition on the storage or disposal of nuclear waste at a site? Alternatively, should the State and other non-federal parties seeking to site a candidate storage facility be allowed to determine whether they are unduly burdened? Should the final consent agreement, which would be sent to Congress for ratification, contain an authorizing provision to amend any conflicting compliance agreement or statutory prohibition?

Response to Question 1: As noted above, I do not support the creation of a new government agency with a single Administrator, and do not support Congressional ratification of consent agreements. Accordingly, my response assumes that the nuclear waste program will be managed by an independent entity (the FedCorp). The factors listed in this question should be among the many factors taken into account in the process

of reaching consent on any site. I believe that, with a properly structured and administered program, which allows for proper incentives and compensation for host communities, communities will step forward with site hosting proposals. A community which would consider itself unduly burdened by a storage or disposal site or which concludes that a compliance agreement should remain in force presumably would not step forward, at least not without specifically addressing issues of undue burden and compliance in any proposal. To the extent that a community and the responsible entity reach agreement on a site, the legislation should enable the parties to implement amendments to a compliance agreement. While it is theoretically possible that no community will step forward with a hosting proposal, or that the parties will be unable to reach agreement on terms, I believe that such a situation is highly unlikely and therefore the comprehensive legislation should not address the designation of a site or sites absent consent from the host communities.

Question 2: Should the bill establish a linkage between progress on development of a repository and progress on development of a storage facility? If so, is the linkage proposed in section 306 of the bill appropriate, too strong, or too loose? If a linkage is needed, should it be determined as part of the negotiations between the state and federal governments and included in the consent agreement rather than in the bill?

Response to Question 2: My view is that the FedCorp should manage the process for both storage and disposal, and the linkage between the two should be part of the process determined by the FedCorp – and not dictated by legislation. Creating a system where progress on one front (storage) could be derailed by lack of "substantial progress" on the other front (disposal) – as proposed in Sec. 306 of the Discussion Draft – would be counterproductive. As a practical matter, since potential host communities for consolidated storage, and their respective states, would almost certainly look for assurances with regard to disposal – and in some cases may propose to host both storage and eventually disposal facilities – it is likely that the practical linkage would be established in the consent agreement. Furthermore, it is reasonable to assume that communities which might otherwise not be interested in hosting a pilot or consolidated storage facility will step forward if disposal was assured, even if the disposal was at a different location. While it is theoretically possible that communities would agree to host pilot or consolidated storage sites but no community would step forward on disposal, I believe that such a situation is highly unlikely and, as with the consent-based process discussed under Question 1, the comprehensive legislation should not specifically link the separate processes for storage and disposal. Both the storage and disposal siting processes will depend on the incentives and compensation developed by the FedCorp in conjunction with the site proponents, and that should be the vehicle for establishing a comprehensive waste management program. All of that said (and as noted further below), it is my view that review of the license application for Yucca Mountain should be fully funded and allowed to proceed to the culmination of the NRC licensing process.

Question 3: Should the bill establish separate storage and disposal programs with clearly defined requirements for each, with any linkage negotiated in the consent agreement between the federal

and non-federal parties, to allow the two programs to run on separate, but parallel tracks, as proposed in the alternative section 305 (which would replace section 304(b)-(g) of the draft bill)?

Response to Question 3: I believe (as noted in response to Question 2) that the "parallel track" versus "linkage" approach is the correct, and more practical, approach. Separating the two programs (storage and disposal) recognizes that there is a well regulated process for licensing a storage facility, but the regulatory process for new repositories other than Yucca Mountain requires further development. While I believe that it is crucial for the U.S. to establish both storage and disposal sites, the whole concept of site selection based on "consent agreements" presupposes, as it should, that there are communities and states for whom consent, under the right circumstances, is feasible and achievable.

Question 4: To what extent should the siting and consensus approval process for spent fuel storage facilities differ from that for the repository? Should the Administrator be required to conduct sufficient site-specific research (referred to as "characterization" in the bill) on candidate storage sites to determine if they are suitable for storing nuclear waste or only on candidate repository sites to determine if they are suitable for geologic disposal of nuclear waste? Should the Administrator be required to hold public hearings both before and after site characterization (as required by current law in the case of the Yucca Mountain site) or only before site characterization?

Response to Question 4: I believe that, while the technical siting issues relating to storage and disposal differ, the fundamentals of a siting process should be the same for both. At the risk of over-simplifying the process, the three key issues for both storage and disposal siting are technical/environmental feasibility (long-term public safety being a primary factor), incentives/compensation and community and state consensus. The process for addressing each of these issues should be expeditiously developed by the FedCorp with public input. The actual consideration of specific proposals (as is always the case with proposals for major new infrastructure) should involve public hearings and request written comments. Inherent in the whole notion of a consent-based process is that the potential hosts will have developed a proposal after considerable preliminary local scrutiny and input. While the process involved in the creation of a host site proposal will not be as extensive as the process for approving and licensing the proposal (always adhering to the requirements of the environmental laws and appropriate regulations), it should be assumed that no community will come forth with a proposal absent a belief that, after public and regulatory scrutiny, the proposal will prove viable.

Question 5: Should the siting process in section 304 of the draft bill be streamlined? If so, how?

Response to Question 5: I believe that the details of the siting process should ultimately be left to the FedCorp. There are elements of the siting process which can appropriately be addressed in the comprehensive legislation. For example, it is appropriate to specify that the "community" sponsorship of a siting proposal should include all levels of government in the affected states. It is also appropriate to specify deadlines for the entity to develop program guidelines (referred to in the Discussion Draft as a "Mission Plan"). In this context, Section 304 of the Discussion Draft is largely appropriate, except that the

responsible entity should not have the power on its own to identify and recommend a site (which, by implication, would not have all of the elements of "consent"), and the ultimate acceptance of any consent agreement should not be subject to Congressional ratification. There is, of course, the issue of Yucca Mountain, which the Congress designated as the national repository site. The comprehensive legislation should not preclude Yucca Mountain from consideration if the state and local governmental entities conclude that, under appropriate terms and conditions, they can consent to hosting a disposal site. To the extent that the responsible entity is confronted with competing sites, all of which are not required, the process of selection should be part of the FedCorp's program. In sum, the FedCorp should be charged with the development and execution of a workable nuclear waste management program, and then be allowed to do its job with minimal interference by the Congress or the Executive Branch.

Question 6: Should the new entity be governed by a single administrator or by a board of directors?

(a) If by a single administrator, should the administrator serve for a fixed term? If so, how long should the term of service be? Should the legislation prescribe qualifications for the administrator? If so, what should be the selection criteria?

(b) If by a board of directors, how many people should comprise the board and how should they be selected?

Response to Question 6: As noted above, I do not believe that the nuclear waste program should be administered by a newly-created government agency, nor by a single Administrator. The responsible agency should be an independent entity, chartered by the Congress (the FedCorp). The FedCorp should have a typical (and functionally sized) corporate structure: a five-to-seven person Board of Directors (with specified (possibly staggered) terms and a Chair designated by the President of the United States or by the Board itself); a Chief Executive Officer (who may or may not be Chair of the Board); a Chief Operating Officer; a Chief Financial Officer; a General Counsel and such other "corporate" officials as are deemed by the Board and CEO to be necessary and appropriate. It would be reasonable for the members of the Board to be nominated by the President of the United States, and subject to confirmation by the Senate. The Board should include one or more representatives of community interests familiar with nuclear waste management issues. The CEO should be selected by the Board and serve at the Board's pleasure. All officials below the CEO should be chosen by the CEO, with the concurrence of the Board. While the legislation could specify the qualifications of the Board members, one should presume that an unqualified candidate would not be nominated or confirmed. As noted above, the Nuclear Waste Fee should be paid directly to the FedCorp, and those funds managed directly by the FedCorp (which should also have the authority, after a Board and CEO determination and after appropriate public process, to increase or decrease the amount of the Fee). The concept in the Discussion Draft of a Working Capital Fund subject to authorization and appropriation by the Congress is not acceptable, in light of the very history giving rise to the need for new legislation.

Question 7: The BRC recommended establishment of both a board of directors for management oversight (whose "primary role ... is not to represent all stakeholder views, but rather to carry out fiduciary responsibilities for management oversight") and "a larger and more widely representative stakeholder advisory committee." The draft bill responds to these recommendations, first, by establishing a Nuclear Waste Oversight Board of senior federal officials and, second, by authorizing the Administrator to establish advisory committees. Should the Oversight Board and advisory committee be combined into a single body to perform both management oversight and stakeholder representation functions? Should the focus and membership of any advisory committees be established in the legislation or left to the Administrator?

> Response to Question 7: I believe that the Board of the FedCorp should determine whether an Advisory Committee would be a useful adjunct to its responsibilities, and therefore should determine the appropriate composition of any Advisory Committee (or Committees). Whether representatives of potential host communities or utilities or industrial companies should be on an Advisory Committee should be left to the Board and CEO (although, as noted above, I believe that the Board should include one or more representatives of communities familiar with nuclear waste management issues). The concept of a Nuclear Waste Oversight Board comprised of officials from government agencies exercising "management oversight" is not acceptable, principally because it would interfere with the crucial independence of the responsible entity. As noted above, it would be appropriate for the legislation to require that the responsible entity should be subject to appropriate oversight of the Congress and should issue periodic reports to the President of the United States and the Congress.

Question 8: Dr. Meserve testified in 2012 that representatives of stakeholders and public utility commissioners should be added to the Nuclear Waste Oversight Board. Would these additions make the Board better able to carry out its fiduciary oversight mission effectively?

> Response to Question 8: In nominating the membership of the Board of the FedCorp, consideration should be given by the President of the United States to including stakeholder and/or state utility commissioner (or former commissioner) members. The Board/CEO of the FedCorp should also consider participation by stakeholders and present or former state utility commissioners in any Advisory Committee.

On behalf of the firm's clients, I look forward to working with you and with your colleagues in the Congress, in fashioning workable comprehensive legislation for nuclear waste management. While there are many technical issues not addressed in the questions or in my comments and responses, I am prepared to devote the firm's resources to addressing each and every issue on an expedited basis. Comprehensive nuclear waste legislation is long overdue, and is urgently needed. You are to be commended for recognizing and acting on this issue.

DICKSTEIN SHAPIRO LLP

Hon. J. Dennis Hastert, former Speaker of the U.S. House of Representatives (R. IL)

CC: Mr. Keith Chu
Mr. Robert Dillon
Mr. Jim Jeffries
Mr. Tom Mentzer

CITY OF
OAK RIDGE

Office of the City Manager

POST OFFICE BOX 1 • OAK RIDGE, TENNESSEE 37831-0001

May 24, 2013

The Honorable Dianne Feinstein, D-California
The Honorable Lamar Alexander, R-Tennessee
The Honorable Ron Wyden, D-Oregon
The Honorable Lisa Murkowski, R-Alaska

Dear Senators:

Comments on the Discussion Draft
of the Nuclear Waste Administration Act of 2013

As City Manager, I am writing to thank you for the opportunity to review the draft legislation and to comment on the discussion draft and supplemental documents. We are the host community of 29,000 residents to the U.S. Department of Energy's Oak Ridge Reservation. The City of Oak Ridge, Tennessee, has a long history with the presence of nuclear materials in our community. We applaud seeking a solution to the vexing problems of nuclear waste storage and disposal both short-term and long-term. Unless these issues are addressed, our nation will be unable to take full advantage of the nuclear-related opportunities in fields ranging from clean energy production to materials science and medical research.

Two such projects are located in Oak Ridge, Tennessee. The High Flux Isotope Reactor (HFIR) is located at the Oak Ridge National Laboratory. The neutron scattering research facilities at the HFIR contain world-class instrumentation used for research on the structure and dynamics of matter. For decades, the HFIR has also been a national resource for medical, industrial, and research isotope production. In addition, the Tennessee Valley Authority and Babcock & Wilcox announced earlier this year a major step in their joint effort to license, build and test the nation's first small modular reactor at TVA's Clinch River Site in Oak Ridge. This initiative has the potential to advance nuclear power as a major source of clean, reliable electricity that is needed to support our growing national energy demands.

Moving forward with an intergovernmental partnership process for the siting of nuclear waste facilities is absolutely essential to successful policy implementation and to ensure local and regional support. When the City of Oak Ridge was selected by DOE in the 1980s as a possible location for a monitored retrievable nuclear storage facility, then-Governor Alexander recognized the need for both state *and* local government engagement in the process. A local government task force was formed to review every aspect of the proposal. Although the project ultimately stalled, the foresight of the state and local leadership to deliberate in a technical review--that was both transparent and comprehensive--established a framework that is at the very core of the proposed legislation.

The City of Oak Ridge offers several specific recommendations for the proposed legislation:

1. Local governments must be engaged from the beginning of the decision making process.

2. Legislation must consider and address the needs of the community, including public health and safety, emergency response planning, public education about the project, economic assistance, and the impacts of transportation such as infrastructure improvements. Grants should be provided to the local jurisdiction to systematically examine these needs and potential impacts.

3. Establish separate siting processes for interim storage and repositories.

4. Agreements with a host community must be legally enforceable.

5. At least one local government representative should be designated on the proposed oversight board.

6. Affected local governments should be indemnified to limit liability for any accidents or releases.

7. The size of the proposed nuclear waste organization must be streamlined to maximize efficiency, effectiveness, and minimize cost.

Feel free to contact me at (865) 425-3550 should you have any questions.

Respectfully yours,

Mark S Watson

Mark S. Watson
City Manager

cc: The Honorable Bob Corker, R-Tennessee

Johnny Johnson
President

Ron Johnson
Secretary

Victoria Winfrey
Vice President

Alan Childs II
Treasurer

Audrey Bennett
Assistant Secretary/Treasurer

May 24, 2013

The Honorable Ron Wyden, Chairman
Senate Energy & Natural Resources Committee
304 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Lisa Murkowski, Ranking Member
Senate Energy & Natural Resources Committee
304 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Dianne Feinstein, Chair
Senate Energy & Water Development Appropriations Subcommittee
184 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Lamar Alexander, Ranking Member
Senate Energy & Water Development Appropriations Subcommittee
184 Dirksen Senate Office Building
Washington, DC 20510

Re: Nuclear Waste Administration Act of 2013 (Discussion Draft)

Dear Senators Wyden, Murkowski, Feinstein, and Alexander:

The Prairie Island Indian Community offers the following comments on your discussion draft of the Nuclear Waste Administration Act of 2013. This legislation, if enacted, would 1) establish a new nuclear waste management organization; 2) transfer to the new organization the functions of the Secretary of Energy relating to the siting, licensing, construction, and operation of nuclear waste management facilities; 3) establish a new consensual process for the siting of nuclear waste management facilities; 4) provide for centralized storage of nuclear waste pending completion of a repository; and 5) ensure that (a) generator and owners of nuclear waste pay the full cost of the program; and (b) funds collected for the program are used for that purpose. We appreciate your commitment to advance the nuclear waste policy debate with the April 2013 release of this discussion draft and thank you for this unusual opportunity to provide input before legislation has been introduced.

5636 Sturgeon Lake Road • Welch, MN 55089
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For your information, the Prairie Island Indian Community's homeland is located on the ancestral homeland of the Mdewakanton Dakota on Prairie Island, which is formed at the confluence of the Vermillion and Mississippi Rivers in southeastern Minnesota, approximately 35 miles southeast of the Twin Cities of Minneapolis and St. Paul. The Mdewakanton, "those who were born of the waters," have lived on Prairie Island for countless generations. The Tribe's current land base (including both trust and fee lands) has grown through various federal acts beginning in 1891 and direct purchases by the Tribal Council, and now totals over 3,000 acres (including both land and water).

Immediately adjacent to our homeland is the Prairie Island Nuclear Generating Plant (PINGP), owned by Northern States Power Company d/b/a Xcel Energy (Xcel). *See* Figure 1 (Page 3). The PINGP has been on line since the early 1970s and will operate at least until 2034 (both operating licenses were renewed in June 2011 for an additional 20 years). Like many utilities, Xcel also operates a site-specific Independent Spent Fuel Storage Installation (ISFSI), which is licensed by the Nuclear Regulatory Commission (NRC). The ISFSI is approximately 600 yards from the nearest Community residences, and is located on the west bank of the Mississippi River in an area that is quite popular for recreational boating and heavily used by barges. *See id.* If the PINGP is decommissioned in 2034, the spent fuel is estimated to require a total of 98 casks – approximately 2500 tons of spent nuclear fuel. In April 2012 Xcel applied for a 40-year license extension for the ISFSI.

There is no other community as close to a nuclear power plant or waste storage facility in the United States. The continued stranding of spent nuclear fuel on Prairie Island is *the* most important environmental issue facing our community.

When the ISFSI at Prairie Island was initially proposed, in the early 1990s, it was to be temporary measure, only for a few years, to keep the plant running and plant personnel working, until Yucca Mountain was open. We, along with countless others, expressed our concerns regarding the long-term storage of spent fuel in dry casks and the possibility that the waste would never leave Prairie Island. We understood then that the ISFSI was to be an *interim* or *temporary* solution until the national repository, Yucca Mountain, could begin accepting waste. The probability that the waste will leave during the lifetime of those Tribal members and leaders who fought against interim or temporary storage gets lower each day.

Because of the PINGP and the ISFSI, we closely followed the activities of the Blue Ribbon Commission on America's Nuclear Future (BRC or Commission) since its inception and look forward to seeing the recommendations finally implemented.

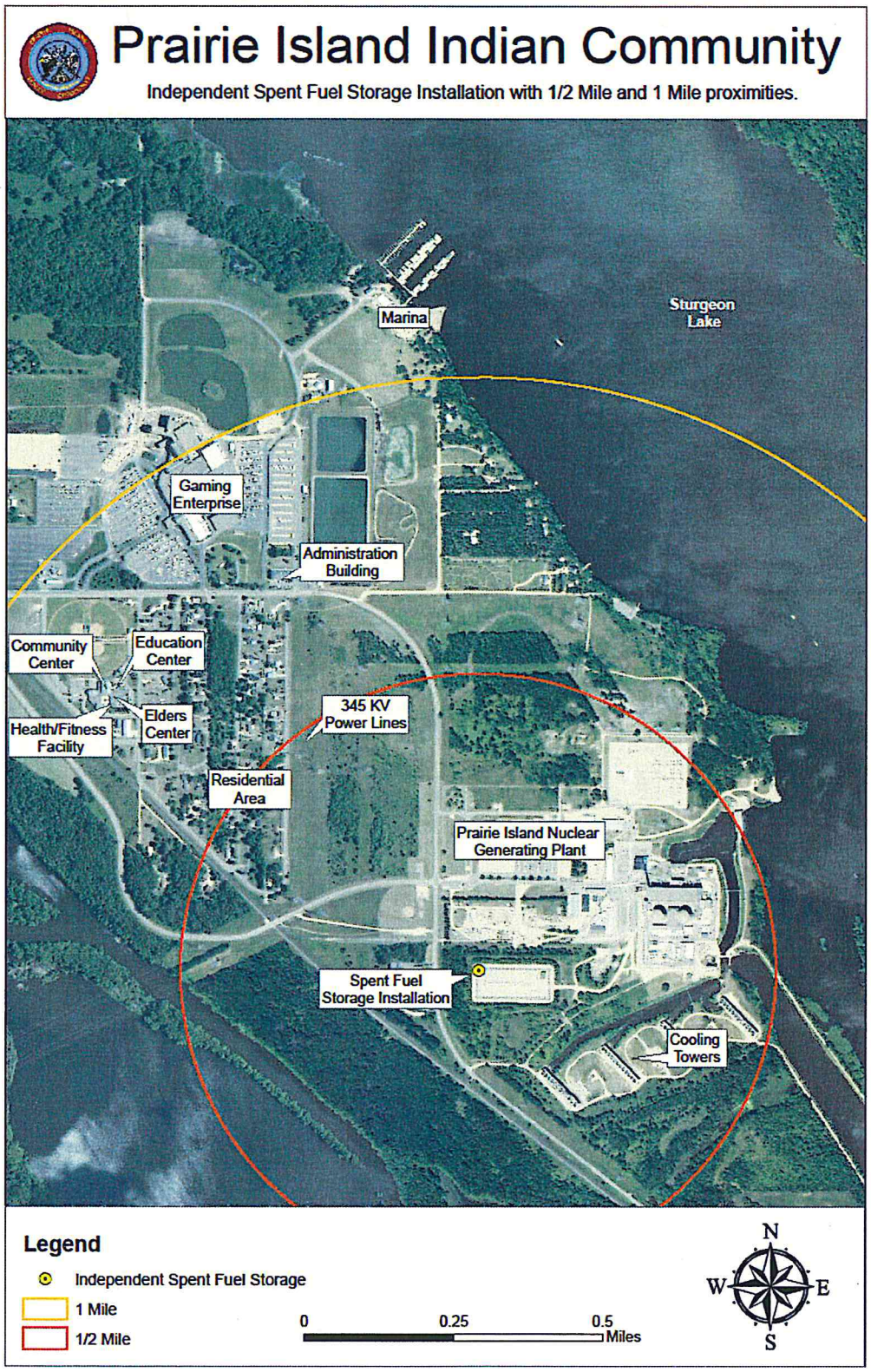
Prairie Island Indian Community
Independent Spent Fuel Storage Installation with 1/2 Mile and 1 Mile proximities.
Marina
Sturgeon Lake
Gaming Enterprise
Administration Building
Community Center
Education Center
Elders Center
Health/Fitness Facility
345 KV Power Lines
Residential Area
Prairie Island Nuclear Generating Plant
Spent Fuel Storage Installation
Cooling Towers
Legend
Independent Spent Fuel Storage
1 Mile
1/2 Mile
0
0.25
0.5
Miles
N
W
E
S

Figure 1.

Nuclear Waste Policy Act

The discussion draft does not specifically address the Nuclear waste Policy Act (NWPA), which is still the law of the land, unless it is repealed. To our knowledge the NWPA has not been repealed or amended in any way to terminate Yucca Mountain as the site for the nation's geologic repository. Section 101, Findings, provides a summary of the Congressional actions leading to the eventual submission of the license application for the repository by the US Department of Energy (DOE) in 2008. Nowhere in those findings does it state that Congress has ever repealed or amended the NWPA.

We take issue with Finding 5, which states "in 2009 the Secretary found the Yucca Mountain site to be unworkable and abandoned efforts to construct the repository." This statement is misleading in that it implies that there is a *scientific* and/or *technical* justification for withdrawing the license application. The United States ratepayers deserve to know why their $15 Billion in Yucca Mountain "is unworkable." In fact, the NRC's key, nearly-complete science evaluation of the Yucca Mountain project was shelved when the NRC shut down its work on the Yucca Mountain project. The NRC's analysis in that report might help answer the question of whether Yucca Mountain, or any other site, can be safe for long term nuclear waste disposal. If Yucca Mountain is "unworkable," why is that so? Are there other sites that would be "workable" or better suited for a geologic repository? It makes no sense to bury the scientific analysis performed at Yucca Mountain, while at the same time directing federal agencies to find more suitable locations for interim storage or permanent disposal.

Nuclear Waste Administration

While we generally support the concept of moving the responsibility for developing a national repository out of the DOE to the proposed Nuclear Waste Administration (NWA), we have many concerns that have yet to be addressed.

Foremost, since the NWA will be established as an independent agency in the executive branch, we have concerns regarding how this new entity would interact with federally recognized Indian tribes. The NWA will be responsible for siting one or more storage and disposal facilities (Section 304) and transporting the spent nuclear fuel and high-level radioactive waste (Section 308) and as such, potentially impacting Indian lands.

All federal agencies have a trust responsibility to federally recognized Indian tribes. Since the NWA will be established as an independent agency within the executive branch, it is our opinion that this new entity also has trust responsibility to federally recognized Indian tribes. The federal trust responsibility includes the responsibility to protect and preserve tribes' lands and cultural resources, and the health and wellbeing of their members.

At the historic White House Tribal Nations Conference on November 5, 2009 President

Obama reaffirmed the federal government's commitment to meaningful consultation with Indian tribes and to develop a detailed plan of action to implement Executive Order 13175, "Consultation and Coordination with Tribal Governments." This commitment was reiterated again on December 5, 2012 at the second Tribal Nations Conference. Executive Order 13175 recognizes that "the United States has a unique legal relationship with Indian tribal governments as set forth in the Constitution of the United States, treaties, statutes, Executive Orders, and court decisions." The Executive Order requires agencies to consult with federally recognized tribes prior to developing any rule or regulation that may impact tribal land, people, or resources, early in the process.

The DOE has had an Indian Policy since 1992. The Policy was revised in 2000 and in 2006 the Secretary of Energy reaffirmed the revised Policy and its seven principles for working with Indian Tribes. The seven guiding principles of the policy are:

- Recognize the Department's trust responsibility;
- Commit to a government-to-government relationship;
- Consult with Tribes to assure rights and concerns are considered prior to taking actions, making decisions, or implementing programs;
- Consult with Tribes about potential impacts of proposed DOE actions on cultural resources or religious concerns that will avoid unnecessary interference with traditional religious practices;
- The Department will initiate a coordinated effort for technical assistance, economic self-determination opportunities and training;
- The Secretary of Energy will conduct periodic Tribal summits; and
- Work with other Federal and state agencies to clarify roles, responsibilities, and relationships as they relate to Tribal matters.

We bring this to your attention because we remain concerned that although the DOE has a well-developed Indian Policy, not all aspects of the Policy have been or are implemented evenly. Tribal lands may possibly be impacted by siting decisions (i.e., if adjacent jurisdiction agrees to host a storage or disposal facility) and by the transportation of spent nuclear fuel or high-level radioactive waste. The draft legislation should be amended to include a provision that the NWA *will* work with all federally recognized Indian tribes to ensure that tribal siting and/or transportation concerns are met.

On a final note, Section 103 (3) defines "Affected Indian Tribe" as any Indian tribe--(A) within the reservation boundaries of which a repository or storage facility is proposed to be located; or (B) that has federally defined possessory or usage rights to other land outside of the reservation boundaries—that (i) arise out of a congressionally ratified treaty; and (ii) the Secretary of Interior finds, on petition of an appropriate governmental official of the

Indian tribe, may be substantially and adversely affected by the repository or storage facility. This Section should be revised to mean that Indian tribes can also be affected by a storage facility or repository *adjacent* to their reservations, not just within the reservation boundaries.

Section 406. Liabilities

We do not agree that utilities must settle their claims for breach of contract against the federal government in order to be allowed to use the consolidated storage facility (Section 406 (b)(1)). In Minnesota, the settlement funds have been returned to the ratepayers, who have paid into the Nuclear Waste Fund (NWF) and received nothing in return and will pay into the proposed Working Capital Fund. It is because of the federal government's failure to license a repository that there is litigation in the first place. The on-going litigation (and liability) has helped to keep the need for a storage facility and repository at the forefront. The ratepayers have made a good faith effort to fund a repository; the same cannot be said of the federal government's effort to license and open a repository.

Schedule and Timeline

The DOE's 2013 strategy for implementing the BRC recommendations included an ambitious time-line for developing two storage facilities and a repository. A pilot interim storage facility is to be operational by 2021, a consolidated storage facility by 2025 and a geologic disposal facility is to be available by 2048. We recommend that the Senate Environment and Natural Resources Committee and Energy and Water Development Appropriations Subcommittee Committees discuss the schedule laid out in the DOE Strategy to determine whether meeting even the first milestone (pilot interim storage facility by 2021) is feasible. We do not believe that the legislation should contain a schedule (like the NWPA and the January 31, 1998 deadline to begin accepting spent nuclear fuel and high-level radioactive waste at Yucca Mountain), that essentially kicks the nuclear waste can further down the road. Great care must be taken to avoid establishing an unreasonable and unrealistic schedule, which will then be used to make false promises to our nation and create false hopes in communities like ours that have already lost faith in our nation's failed nuclear waste policy. The two Senate committees should take testimony from the DOE and NRC officials and other experts to more fully understand how long it will realistically take to site, design, license, construct and begin operations at a pilot facility, let alone a geologic repository.

We support the comments and recommendations submitted by the Nuclear Waste Strategy Coalition (NWSC), an organization representing state utility regulators, consumer advocates, tribal governments, local governments and utilities. The Prairie Island Indian Community has been a member of the NWSC since 1999.

Thank you for allowing the Prairie Indian Community to provide input on the discussion draft. We appreciate your leadership on this most important issue. If you have any

questions, please feel free to contact PIIC's General Counsel Phil Mahowald at (651) 267-4006 or pmahowald@piic.org.

Respectfully,

Johnny Johnson
Tribal Council President

Victoria Winfrey
Tribal Council Vice President

Ronald Johnson
Tribal Council Secretary

Alan W. Childs II
Tribal Council Treasurer

Audrey Bennett
Tribal Council Assistant Secretary/Treasurer

cc: Senator Amy Klobuchar
Senator Al Franken
Representative Tim Walz
Representative John Kline
Representative Betty McCollum
Representative Erik Paulsen
Representative Keith Ellison
Representative Michele Bachmann
Representative Collin Peterson
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5/24/13

Senate Appropriations Subcommittee on Energy and Water Development
Senators Dianne Feinstein, D-Calif.,
Lamar Alexander, R-Tenn,

Energy and Natural Resources Committee
Chairman Ron Wyden, D-Ore.,
Ranking Member Lisa Murkowski, R-Alaska

RE: Nuclear Waste Bill to Implement the Blue Ribbon Commission's Recommendations Section-by-Section Summary of Discussion Draft April 2013

I, Susan H. Shapiro, Esq. submit the following comments as an individual who participated in the Blue Ribbon Commission hearings, and on behalf of the Indian Point Energy Safe Energy Coalition (IPSEC) and Public Health and Sustainable Entergy (PHASE).

Overview For the Senate to attempt to pass legislation which jumps ahead of the judicially required Environmental Impact Study and review regarding our national nuclear waste storage problem, prevent for reasoned and considered planning and will increase risks to the public health and safety.

The Waste Confidence Rule is currently completing Scoping and will soon be ready for preparation of the Draft Environmental Impact Statement (EIS).

Although some aspects of this bill, such as the creation of an independent Nuclear Waste Administration may be necessary, until all the aspects and issues related to nuclear waste storage are considered, this bill puts the cart in front of the horse. Congressional legislation and oversight of nuclear waste and the Nuclear Regulatory Commission are vital and required by the Atomic Energy Act (AEA) but due process and proper planning are also required, therefore I strongly urge Congress to engage directly in the Nuclear Waste EIS process, Docket ID NRC-2012-0246. (attached are my EIS Scoping Comments submitted on 1/1/13)

Title 1

One of critical scientific issue which caused Yucca to fail was the enormous amount of waste heat created by consolidated storage of large qualities of "hot" nuclear waste, which continues to give off large amounts of heat for 100's, if not 1000's of years.

Consolidated nuclear waste storage by its very nature creates a plethora of environmental justice issues, which must be fully addressed before any consensual process can be established.

In addition, consolidated storage will require a massive amount of transportation of nuclear waste on roads and rails increasing risks exponentially to entire nation.

Therefore, the very premises of this Bill to provide for "consolidated nuclear waste storage" is flawed and fails to establish a consensual process.

The establishment of a Nuclear Waste Administration must consider the environmental impacts and costs of alternatives, including hardened on-site dry cask storage.

Title II

While the creation of a Nuclear Waste Administration is a necessary reality, the proposed politically based top down structure will result in dangerous politically motivated organization which may be influenced by short term politics rather than long term public health and safety necessities.

Therefore, it is necessary to significantly amend the proposed structure and composition of the Nuclear Waste Administration to accomplish the stated Purpose of the Bill (§102) the establishment of a consensual process."

To balance political interest with environmental protection and public health and safety it is necessary for the chair of the Oversight Board should be elected by the Oversight Board itself, not appointed by the President.
The elected chair of the Oversight Board must have equal vote in the Nuclear Waste Administration.

Two elected representatives from the 104 stakeholder communities, must also have a seat in Nuclear Waste Administration and have equal votes in order to establish a consensual process.

This would create a balance Nuclear Waste Administration with 3 political voting appointees and 1 agency appointee and 2 stakeholder representatives. In the event of a tie, adjudicatory hearings must be held by the Inspector General.

Title III

Section 301: Transferring the responsibility for nuclear waste from the DOE, a cabinet level department, to a merely administrative agency creates a very ineffective and dangerous situation. Nuclear waste is one of the most dangerous issues facing America now and into the future, to remove nuclear waste from under the protection of a cabinet level department endangers the future of the entire nation.

Section 303: Need clear definition of "priority waste"

Section 304: Meaningful collaboration with affected communities, must be defined to include education and funding for experts and consultants at the request of affected communities.

Section 305:
It is unclear whether the Nuclear Waste Administration will retain NRC's licensing and regulatory authority. Or does the NRC retain them? In either event re-licensing or issuance of new superseding licenses must be required to provide plans for nuclear waste storage.

Section 306: Requiring consolidated waste storage limits use of reasonable alternatives, as it fails to consider hardened on site storage as a viable scientific or economic solution, "Emergency shipments of waste" must be clearly defined, to prevent it being used to continue waste production without progress on viable waste storage

Section 307: Transferring the defense of nuclear waste from the DOE without the same level of federal/military protection creates a potential for nuclear waste to end up private control, under private guard reducing public safety by increasing risks of piracy and terrorism,

Section 308: It is wholly inadequate for there to be only a requirement of mere notification of nuclear waste being transported on rails and road through communities putting public health and safety at risk.

State and local (and tribal if on an Indian reservation) must consent to transportation of nuclear waste through their community, as set forth in Section 304.

IV

Failing to provide the Nuclear Waste Administration without giving the Administration the ability to appropriate funds makes the entire Bill impotent, and will once again result in stalled nuclear waste disposal.

Section 404: Must specify that all decisions of the Nuclear Waste Administration are subject to judicial review and appeal.

Section 406: Most importantly, in the event there is inadequate progress made in developing viable and consensual waste storage the Administrator must have the authority and obligation to require cessation of nuclear waste production.

V

Section 504 – By limiting the Mission Plan to require the Nuclear Waste Administration to build consolidate nuclear waste facilities, this bill bars consideration of alternatives as required by NEPA and which will be considered as part of the current Waste Confidence EIS process/ This proposed bill prevents the Nuclear Waste Administration from considering hardened dry case storage and expenditures in research to reverse engineer the nuclear fission process, and other alternatives which may not yet exist.

Section 507

There must be a prohibition of disposing nuclear waste in foreign counties. Transferring nuclear waste used for research and electricity, and weapons increase risks to Homeland Security and creates many international environmental justice issues which will weaken our nation internationally.

Section 509

Eliminating the 70,000 metric ton cap is not based in scientific reason, as the problem of storing large quantities of nuclear waste in any form of consolidated storage create a significant "waste heat" footrprint which endangers the environment and drinking water. Therefore instead of eliminating the 70,000 metric ton cap, this bill should reduce the cap based on scientific evidence, not just political expediency.

CONCLUSION:
cc

For Congress to rush through a nuclear waste storage bill without due consideration and process is a serious mistake and endangers Homeland Security.

Other important national issues which are not considered in this bill include,

> FEMA must also be involved in any nuclear waste storage and transportation bills
>
> Insurance coverage for nuclear waste which does not fall under the Price Anderson Act.

Therefore I oppose the current bill as proposed and request that the Senate does not pass legislation regarding nuclear waste storage until the EIS process is complete and fully adjudicated.

Sincerely yours,

Susan H. Shapiro
Representing IPSEC and PHASE

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1/1/13

Ms. Cindy Bladey, Chief, Rules,
Announcements, and Directives Branch (RADB),
Office of Administration,
Mail Stop: TWB-05-B01M,
U.S. Nuclear Regulatory Commission,
Washington, DC 20555-0001.
Email: Carol.Gallagher@nrc.gov.
Fax: RADB at 301-492-3446

RE: Docket ID NRC-2012-0246
Scoping Comments for Environmental Impact Statement (EIS);
Consideration of Environmental Impacts of Temporary Storage of Spent Fuel After Cessation of Reactor Operation;
Pursuant to Environmental Scoping process as defined in 10 CFR 51.29.

Dear Ms. Bladey and NRC Commissioners:

I, Susan H. Shapiro, Esq. submit the following scoping comments as a person, who represents the interest of Indian Point Safe Energy Coalition (IPSEC) and the Indian Point reactor community with business and residences within 50 miles of Indian Point. I participated in the December 5th, teleconference I have requested an opportunity to participate in the scoping process.

We are respectfully requesting that hearings regarding the Waste Confidence EIS be scheduled with adequate notice within the Indian Point Reactor community, as it is the most densely populated reactor community in the country, with over 20 million people within the 50 mile radius. It should be noted that the Blue Ribbon Commission on Nuclear Waste failed to hold hearings in the New York metropolitan region.

Background

On June 8, 2012, the U.S. Court of Appeals for the DC Circuit found that some aspects of the 2010 Decision did not satisfy the NRC's NEPA obligations and vacated the

Decision and Rule. [*New York v. NRC*, 681 F.3d 471 (D.C. Cir. 2012)]. In vacating the 2010 decision and rule, the Court identified three specific deficiencies in the analysis:

1. Related to the Commission's conclusion that permanent disposal will be available "when necessary," the Court held that the Commission did not evaluate the environmental effects of failing to secure permanent disposal;

2. Related to the storage of spent fuel on site at nuclear plants for 60 years after the expiration of a plant's operating license, the Court concluded that the Commission failed to properly examine the risk of spent fuel pool leaks in a forward-looking fashion;

3. Related to the post-licensed-life storage of spent fuel, the Court concluded that the Commission failed to properly examine the consequences of spent fuel pool fires.

In a rulemaking, the Commission must consider the effect of its actions on the environment in accordance with NEPA. Section 102(1) of NEPA requires that policies, regulations, and public laws of the United States be interpreted and administered in accordance with the policies set forth in NEPA. It is the intent of NEPA to have Federal agencies consider environmental issues in their decision-making processes.

NOTICE IS DEFECTIVE:

The October 26, 2012 Federal Register Notice announcing the public comment opportunity on scoping in the lead up to the court- ordered EIS on Nuclear Waste Confidence Decision and Rule is legally deficient. It does not clearly describe the proposed federal actions, nor do the preferred alternatives.

Due to fatal flaws, the Federal Register Notice must be withdrawn, corrected and re-issued. The current proceedings must be suspended, and the time allocated for public comments must be re-commenced after a proper, legally adequate Federal Register Notice is published.

One single in-person hearing on November 14th in Rockville, MD, and a handful of webinars, with only one in which public comments could be made, is clearly inadequate for this nationally important environmental issue. At a minimum public comment meetings should be held in every nuclear power reactor community, with supplemental remote webinar/teleconference participation options for those unable to attend in person.

At a bare minimum a public in-person comment hearing must be held in within the Indian Point reactor area were 8% of the United States population resides; the property values exceed $8.5 trillion; New York City is within 25 miles; two intersecting active seismic faults are nearly under the reactors; West Point Military Academy and a portion of the U.S. mint are within 7 miles, and where 1800

tons of nuclear waste is currently being stored in densely packed, leaking spent fuel pools.

In order to comply with the Court order NRC should conduct public hearings, with adequate notice, of any and all hearings related to scoping and consideration of the EIS in **all reactor communities nationally** where high level nuclear waste will be stored.

Additionally the Notice provided by the NRC is defective in the following manners:

A. **By pre-limiting the scope, as set forth in the Notice paragraph c.) to "not involve analysis of site-specific issues" as " peripheral or [] not significant" the NRC fails to meet the three specific deficiencies identified by the Court.**

1) Failure to include in scope **site specific issues** to secure permanent disposal which have significantly different environmental impacts and costs based on site environmental issues, including **site specific current and projected population densities**, does not meet the specific deficiencies identified by the Court.

2) Failure to include in scope **site specific spent fuel pool leaks**, which have considerably different environmental and public health impacts depending on the current condition of the spent fuel pools, including **known or undetected spent fuel leaks**; site specific conditions, such as **geology and seismology; public drinking water supplies; and monitoring**; does not meet the specific deficiencies identified by the Court..

3) Failure to include in scope **site specific consequences of spent fuel fires** are considerably unique depending on the fire protection exemptions granted per each reactor site, the **proximity of gas pipeline or other flammable infrastructure, and the evacuation time estimates related to current and projected population densities,** does not meet the specific deficiencies identified by the Court.

B. As set forth in the Notice paragraph f.) the relationship between the timing of the preparation of the environmental analyses and the Commission's tentative planning and decision-making schedule;

Since the Commission published that it has pre-determined that the EIS must be completed by 2014, it fails to meaningful consider the relations of the decision-making process before even obtaining Scoping comments or preparing a final Scoping document, clearly **pre-determined time restrictions for review limit the necessary decision-making process required by the Court.**

Currently the United States has had 55 years of commercial nuclear power waste production. It is now 43 years after National Environmental Protection Act was enacted and 38 years since the NRC was authorized. Yet the NRC is affording the public only 70 days to submit written comment during the 2012 holiday season and in the aftermath of

Hurricane Sandy on the environmental impacts of a million year of hazards related to nuclear waster storage.

The NRC must stop rushing the EIS and allow for the necessary time to adequately prepare and review a comprehensive EIS. **Last year the NRC staff estimated it would take 7 years to do a quality job on the EIS**, for the NRC to try to rush that into a 2 year window will lead to a defective and incomplete EIS, which fails to meet the Court ordered review. What is the rush, when the waste to be stored will be highly toxic for 100,000 of years?

To provide an adequate EIS are required by the Court, the NRC should **hold public comment periods in every atomic reactor community** due to the enormity of the environmental impacts and consequences of interim/long term nuclear waste storage on reactor sites nationally.

The time frame for making public comment (October 26, 2012 to January 2, 2013) is unacceptably short. A six-month time period for making public comments is more reasonable. **The public comment deadline should be significantly extended.**

C. As set forth in the Notice paragraph g.) "Identify any cooperating agencies and, as appropriate, allocate assignments for preparation and schedules for completing the EIS to the NRC and any cooperating agencies. No cooperating agencies are involved at this time."

All States must be included as cooperating and involved agencies as a change in the Waster Confidence Rule to allow for interim or long term, 60+ year storage of high level nuclear waste which was not contemplated or approved by the States in the original approvals granted by the States for use of state lands and waters. Interim or long term dry cask storage of nuclear waste is essentially a new use of the State lands and creates much greater and continuing threats to the surrounding reactors communities.

Due to the lack of a Waste Confidence rule the federal government's original agreement to take ownership and responsibility of nuclear waste is being amended and in consideration of State's rights established in the Constitution all the States which will be hosting un-contemplated long term waste storage facilities on reactor sites must be included as involved agencies.

At a minimum the any additional storage period is a new use of land which requires a re-assessment and re-approval by State authorities, to comply with due process requirements.

Therefore it is imperative that the NRC be required to include all States as involved and cooperating agencies, upon whose approval of final determinations and findings must be obtained to satisfy the requirements set forth by the Court.

SUBSTANTIVE ISSUES:

The U.S. Government Accountability Office describes spent power reactor fuel as, "one of the most hazardous materials made by man" with good reason.

The Blue Ribbon Commission on Nuclear Waste acknowledged that by 2010 65, 000 tons of high level nuclear waste had been produced and that by 2050, at the current rate of production, there would be 133,000 tons.

The Court held that the NRC's unfounded belief that "permanent disposal will be available ``when necessary," cannot be sustained, has not apparently been recognized by the NRC staff or the Nuclear industry. On the December 5th teleconference call the the NRC staff representative stated that they still had confidence that there will be a repository. The Court held that the Commission cannot construct a waste confidence decision based on this and must fully evaluate the environmental effects of failing to secure permanent disposal even if such storage is "temporary", interim or long term. The EIS must provide the necessary analysis and information need for the agency to "take a hard look" and make an elaborate determination, which the Court may ultimately review for its adequacy. If the NRC overriding untenable position is that a repository will exist, even though no repository exists or has been approved even after years of study and expenditure, the EIS to fail judicial review.

In order to prepare an adequate EIS and to the take a "hard look" and make an elaborate evaluation, the NRC staff must change this culture whose predetermined outcome has failed to be proved. The Scoping of the EIS must be comprehensive to overcome the NRC's presumptions that a permanent disposal will be available when necessary, but which to date does not exists for technical reasons.

Therefore, the following issues and considered must be included in the Scope adequately indentify and consider significant issues to be analyzed in depth in the environmental impact statement, including potential interim and long term spent fuel storage scenarios for evaluation, such as availability of a delayed permanent repository towards the end of the century;

Site Specific Issues:

Scoping must include site specific alternative and mitigations, which must include severe accident mitigations & alternatives pursuant to 10 CFR 51.23, which currently only pertains to reactor issues, not to spent fuel.

1. **Site specific capacities of spent fuel pools and dry cask storage capacities,** currently and in the future, must be fully evaluated and considered in the EIS; i.e. at Indian Point there are no plans to expand the dry cask storage capacities and the spent fuel pools are already filled.

Nearly 75% of spent fuel is stored in high-density pools 4-5 times more than their original designs intended; therefore site-specific evaluations of the integrity, composition and current and projected densities of spent-fuel pools must be included in the EIS.

2. **Site specific Cumulative Impacts of spent fuel pool leaks**, i.e. 40% of the spent fuel pools at Indian Point 2 have not been inspected despite historic, current and on-going leaks of radioactive effluent into the groundwater which are leaching into the Hudson River, on which a public drinking water desalination plant is being considered 3 miles down river.

3. **Site Specific Cumulative Impacts of potential spent fuel pools fires,** based on increased density of spent fuel pools; and prior modifications by exemptions, exceptions and relaxations of Appendix R and 805 fire regulations. At Indian Point, where two 36" natural gas pipe lines are within 500' for the spent fuel pools #3, where there are no on-site natural gas shut-off systems, and where prior exemptions of Appendix R regulations have reduced fire safety standards are Indian Point from 3 hours to 24 minutes. In 2005, the National Academy of Science warned of the risk of spent fuel fires and the environmental consequences of increased risk of long term waste storage must be considered for minimum of 60 additional years.

4. **Site Specific Cumulative Impacts of self-monitoring by reactor operators of planned and unplanned off-site releases.** A comprehensive evaluation, including capture species studies, and continuous, independent radiological monitoring of releases of radiological products into the environment must be conducted for at a minimum 1 - 2 years, to determine the adequacy of self-monitoring and reporting by reactor operators.

5. **Site specific off-site environmental impacts are qualitatively different at different sites for a variety of reasons, including he surrounding water quality and composition, and corrosiveness** of each site-specific environment, i.e. salt water, briny water. Therefore at a minimum the EIS must consider the environmental impacts of interim or long term nuclear waste storage to the ecosystems of 1) River Reactors; 2) Bay Reactors; 3) Ocean Reactors; 4) Proximity to a Dam; and 5) Proximity to Drinking Water Supply.

6. **Site Specific Cumulative Health Impacts to groundwater and surface water which supply the public with drinking water within 50 miles of nuclear waste storage sites** must be fully evaluated in the EIS to comply with the federal **Safe Drinking Water Act**.

7. **Site Specific Cumulative Health Impacts to food supply, including milk, eggs and other agriculture products produced within the 50 mile radius** of nuclear waste storage sites, must be fully evaluated in the EIS.

8. **Site specific impacts on Environmental Justice issues** as a result of long term high level nuclear waster storage must be fully evaluated in the EIS.

9. **Site specific impacts on Community Character** as a result of long term high level nuclear waste storage must be fully evaluated in the EIS.

10. **Site specific geology, specifically site specific seismology risks to dry cask storage** i.e. the damage done to North Anna's dry cask storage by the August 23, 2011 earthquake; or, risks to spent fuel pools, due to earthquake damage, i.e. Fukushima Daiichi, Unit 4, however most U.S. reactors spend fuel pools contain significantly more high-level radioactive waste than Fukushima Daiichi, Unit 4.

11. **West Valley's** 275 reprocessed highly radioactive vitrified "logs" with an average surface dose of 2500 rads/hr and up to 7600 rads/hr (400-500 rad/hr is a lethal dose) environmental and cost impacts on the Great Lakes, New York and Canadian water supply must to be included in any decision on long term Waste Confidence. The current DOE plan provides storage at the rapidly eroding site, outside with no weather protection, in casks licensed for only 50 years. The consequences to air, surface and ground water, flora and faun, including humans, of highly radioactive waste storage at West Valley of the reprocessed, damaged irradiated fuel (SNF); high level waste sludge; and tanks buried at the erosion prone site must be included in the EIS on Waste Confidence. The West Valley site must be fully evaluated in the EIS to insure full and complete cleanup.

Generic Issues:

1. A basis must be established as an **enforceable and meaningful definition of "reasonable assurance" of "adequate protection of the public health and safety**". To date no such definition exists.

2. **Backup power sources**: Despite having much more radioactivity capable of escaping into the environment than a reactor core, reactor pools do not have thick-secondary containment, and are not required to have their own emergency back-up power or water make-up capabilities Power back up systems alternatives, including solar and wind power back0up requirements must be consider to prevent slow motion boil down environmental impacts, due to loss of off-site electricity, whether due to a natural disasters; an intentional attack; a reactor accident; station blackout; and abandonment of the nuclear power plant.

3. **Cumulative Health Impacts to most vulnerable members of the public, including fetuses, young children, women, and the elderly.** The current standards of the Standard American Man (SAM), a 6', 20-30 year old white male, does not adequately represent the must vulnerable members of society. Failure to consider the cumulative impacts and cost of the environmental impacts of long term nuclear waste storage in the middle of communities may have significant impacts on health care costs and fatality rates, and must be considered in the EIS. The EIS must include the alternative of acceptable radiation exposure standards for reference men vs. acceptable radiation exposure standards for young girls who are half as resistance to radiation.

When the reactor is shut down, the spent fuel being removed contains a myriad of radioactive isotopes with different half-lives including longer lived radioisotopes, notably cesium- 137 (half-live=30 years), along with very long-lived fission products (i.e. iodine-129, Technetium-99, Cs-135) and actinides (plutonium-239, americium-241) that have half-lives ranging from tens of thousands to millions of years.

Spent fuel contains materials that are in a class of their own because they are radiotoxic, meaning that they create biological damage based on their radioactive properties alone. The most immediate and severe form of harm is from tissue destructive doses of radiation estimated to be as low as 50 rems. Doses well above this level can damage or destroy organs of the human body, such as bone marrow, lungs, skin, gastro-intestinal system, brain and thyroid. **Direct exposure to a spent nuclear fuel assembly at a near distance at would give off more than 10,000 rems per hour (100 Sv/hr) in the form of external penetrating radiation. A person standing within 3 feet of this assembly would receive a lethal dose within minutes. For the next 100 years, it would give off life threatening doses at this distance.** Long-term damage from lower chronic environmental doses are mostly from mutational damage to individual cells and includes cancers, other diseases, and lasting genetic damage, including congenital abnormalities, chromosomal disorders, and range of diseases, which could span generations. **Women, the fetus/embryo and small children are the most vulnerable.**

From the perspective of public safety, the cesium-137 content in spent fuel is an important radioisotope of concern. With a half-life of 30-years, Cs-137 gives off external penetrating radiation as it decays and accumulates in living organisms as if it were potassium. According to the National Council on Radiation Protection and Measurements (NCRP), "**Cs -137 has often proven to be the most important long-term contributor to the environmental radiation dose received by humans and other organisms as a result of certain human activities**. As the reactor accidents at Chernobyl, in the Ukraine in 1986 and the Fukushima Dai-Ichi site in Japan last year, large-scale environmental contamination by Cs-137 underscores this concerns. **Approximately 40 percent of the intermediate and long-lived radioactivity in the spent nuclear fuel generated by reactors throughout the U.S. is Cs-137.**

4. **Impacts on radioactivity on the integrity of aging materials including cladding, storage systems concrete and steel, and existing spent fuel pools** must be included in the EIS scoping.

5. Climate change impacts over the next 100 to 200 years must be included in within the scope of the EIS.

a. **Climate change impacts on nuclear waste storage** including, but not limited to, extreme weather events which could damage off-site power necessary to cool spent fuel pools, or damage unhardened dry cask storage, must be considered in the EIS. The impacts on interim and long term nuclear waste storage due to rise in water levels of adjacent waterbodies which result in reclamation of underwater lands in 100 year flood zones.

b. **Climate change impacts of nuclear waste storage, specifically the cumulative, long term waste heat impacts**, long term impact on thermal pollution to the environment must be fully accessed.

6. Impacts of increasing knowledge of **active geological systems due to scientific advancements in seismology and increased man-made geological impacts, such as fracking** which may increase the likelihood of earthquakes, earth movement or volcanic activity.

7. **Fiscal solvency of waste management** is not part of the aging management programs evaluated in the new superseding license "renewal proceedings. Therefore, a full evaluation of guarantee of long term fiscal responsibility over hundreds of years.

Issues related to continued private ownership of high level radioactive waste, including **fiscal insolvency and increased liabilities not covered by the Price Anderson** Act, which makes the ratepayer the prime insurers, must be fully evaluated.

Long term **fiscal impacts on local and state governments vs. the Department of Energy taking title to the spent fuel to provide assurance of financial security** and solvency by federally maintaining waste management system must be fully evaluated.

Historically the NRC failed to insure adequacy of levels of decommissioning funds. The GAO has repeatedly reported that decommissioning funds are many plants are underfunded, which in part are due to NRC's granting of exemptions allowing reactor owners to gamble a significant portion their decommissioning funds on the stock market, instead of maintaining an interest bearing segregated escrow account.

8. **Unhardened dry cask storage vs Hardened On-Site Storage (HOSS) must be fully considered.** Related issues to be included in the EIS:

a. The environmental impacts and **increased risk associated with transferring high-level radioactive waste** from pools to dry casks.

b. **Integrity of the dry cask approved by the NRC, i.e. the Holtec Casks being used a many plants, approved by the NRC even though they failed multiple peer reviewed safety testing.**

c. Design requirement standards to safe guard against accidents, and terrorist attacks to prevent radioactive leakage into the environment for decades or centuries, including adequate spacing between casks, composition of casks, camouflage, fortifications, and standards for securing casks in place by bolts or bermed construction.

9. **Terrorism and sabotage risks and impacts, including aerial, terrestrial or cyber attacks** must be included in the EIS. For example, Indian Point for one is a

known terrorist target, on 9/11 the terrorists flew directly over Indian Point. 9/11 occurred prior to any dry casks being constructed. If the same scenario occurred today, unbolted down, un-bermed, un-camouflaged dry casks would be veritable sitting ducks, or bowling pins inviting a terrorist attacks.

10. **Methods and guarantees of long term security** regarding on-site high level nuclear waste storage must be included within the scope of the EIS. After 200-300 years after the radiation barrier of spent fuel has been reduced, theft of the spent fuel becomes possible.

CONCLUSION:

NRC has always had confidence there will be a repository – and claims it still has confidence there will be a repository, However, the Court held the Waste Confidence rule cannot be maintained based on a theory which to date has not come to fruition, and requires an adequate EIS. Therefore the NRC must consider an alternative in the EIS that the path to any repository, even "temporary" or on existing reactor sites will be difficult and may be impossible. The EIS must include a "no action alternative" and an alternative of stopping nuclear waste production until a permanent storage facility exists.

Please keep me posted on any and all hearings related to the Waste Confidence EIS, thank you.

Respectfully,

Susan Hito Shapiro, Esq.
On Behalf of
Indian Point Energy Coalition (IPSEC)

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May 24, 2013

The Honorable Ron Wyden
221 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Lisa Murkowski
709 Hart Senate Office Building
Washington, DC 20510

The Honorable Diane Feinstein
331 Hart Senate Office Building
Washington, DC 20510

The Honorable Lamar Alexander
455 Dirksen Senate Office Building
Washington, DC 20510

Dear Senators Wyden, Murkowski, Feinstein and Alexander:

I am providing comments of the Decommissioning Plant Coalition[1] (DPC) on the bi-partisan "Nuclear Waste Discussion Draft," the "Alexander-Feinstein Alternative Proposal to Nuclear Waste Facility Siting Process Discussion Draft" and associated documents released on April 25. The DPC is deeply appreciative of the effort that you and your staffs have put into developing the noted proposals – intended to implement the recommendations of the Blue Ribbon Commission on America's Nuclear Future (BRC). Members of the DPC worked closely with the BRC to ensure it understood the unique burdens imposed on permanently shutdown nuclear plants to continue the storage of spent fuel and high level nuclear waste on sites without an operating nuclear generating station.

The DPC believes it is important for the Nation to begin now to develop a consent-based siting process that will lead to the licensing, construction and operation of a pilot consolidated storage facility. Whether or not the Yucca Mountain repository program is restarted – and we believe that the NRC should finish its review and

[1] Permanently shutdown civilian plants represented by the DPC include: Connecticut Yankee (CT), Dairyland (WI), Humboldt Bay (CA), Maine Yankee (ME), Rancho Seco (CA), Yankee Rowe (MA) and Zion (IL). Other permanently shutdown units include: Big Rock (MI), Crystal River (FL), Kewaunee (WI) and Trojan (OR). A 12th, Ft. St. Vrain (CO) is licensed to the DOE.

evaluation of the license application submitted in 2008 – there is a critical role for consolidated storage in an integrated waste management system. A successful demonstration that civilian spent fuel and high level nuclear waste can be safely transported and centrally managed, and that the government can begin to fulfill and satisfy its contractual obligations, allowing these former industrial sites to finally complete decommissioning and be utilized for other purposes, should be viewed as a critical first step in the development of a longer-term, integrated program for managing the ultimate disposal of products in the back end of the nuclear fuel cycle.

As advocated by the BRC, our coalition believes that Congress can best assure the long-term success of the Nation's effort to manage this part of the nuclear fuel cycle if it establishes a single-purpose management entity as a successor to the Department of Energy, vests it with the requisite accountability to stakeholders, provides it with sufficient insulation from electoral politics and grants it access to the necessary financial resources currently flowing into the Nuclear Waste Fund. The Nuclear Energy Institute (NEI) has provided detailed comments on these specific issues and we generally endorse NEI's comments on them.

We appreciate the recognition in the discussion draft that the transportation of radioactive materials has been a success story in the United States (and indeed globally)[2]. The transportation provisions appropriately require:

- all transportation to be conducted in NRC certified packages;
- prior notification of shipments to affected state and tribal jurisdictions;
- the establishment of an assistance program to those jurisdictions that entails public education and training; and
- the provision of resources necessary to acquire response equipment and conduct safety programs.

On matters of principal interest to DPC participants addressed in the discussion drafts, we offer the following comments.

(1) We support the concept that a priority for use of the pilot consolidated storage facility should be accorded to *permanently shutdown nuclear plants on sites without an operating nuclear generating station*, and emergency deliveries as provided in the existing standard contract. [3]

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[2] According to information compiled for the BRC, approximately 3,200 shipments of spent nuclear fuel from commercial nuclear power plants and research reactors have occurred in the U.S., carrying approximately 3,290 MTU of material. In addition, the BRC noted that there have been more than 800 cask shipments of naval reactor spent nuclear fuel to the Idaho National Laboratory.

[3] Clearly, there are other materials for which consolidated storage could be an appropriate management response and the discussion draft identifies some of them. We would be concerned, however, that the potential "unknowns" in the universe of material that a future Secretary of Energy might want the new management entity to store prior to disposal (in addition to civilian spent nuclear fuel from the defined class of permanently shutdown reactors) could unduly complicate

(2) While we appreciate that a settlement of ongoing contractual disputes with the Department of Energy will be a part of any program that actually removes fuel from our sites, we have serious reservations and concerns about Congress' ability to unilaterally mandate a settlement as a condition of access to a consolidated storage facility created, at least in part, to relieve the government of existing contractual liabilities. Contract holders, having paid into the Nuclear Waste Fund in full accordance with the terms of their contract, should be entitled to access to these facilities without being forced to settle already existing contract breach claims on terms imposed by the Department of Justice.

(3) We do not believe that statutory siting guidelines should include a host of subjective criteria nor should the statute contain an explicit linkage between consolidated storage and ultimate disposal. The only guideline that should matter is the ability of a site to satisfy applicable licensing criteria. Other matters should be left to the negotiation between the local and state governments, Indian Tribes and the federal government. This would include matters such as whether a proposed facility was "an undue burden," whether its operation would "conflict with a compliance agreement" or a "statutory prohibition" and whether a consent agreement should require the removal of material from a storage facility if a repository is not operational by a date certain. That flexibility is already built into the legislation in the proposed section 304(f).

(4) The definition of material covered by contractual obligations should be clarified to avoid the creation of another orphan category of nuclear material. Specifically, Greater-Than-Class-C (GTCC) waste should be explicitly included in the removal and disposal obligation, as has often been decided by the federal courts that have considered the issue under the existing contracts.[4]

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discussions and negotiations with potentially willing host communities, states and Tribes who will be in need of a full understanding of the potential uses of the pilot facility and associated licensing and other technical issues. Particularly in light of the fact that the discussion draft provides for a 24-month study on the issue of co-mingling, opening up the class of material that could be received at the pilot facility too broadly could cause unnecessary delay in arriving at a consent agreement for this first management facility.

[4] The Nuclear Waste Policy Act defines high-level nuclear waste to include "other highly radioactive material that the Commission [NRC] consistent with existing law, determines by rule requires permanent isolation." This definition is adopted by the discussion draft. The NRC adopted a regulation (10 CFR 61.55), urged on it by the DOE, that says GTCC waste "must be disposed of in a geologic repository as defined in part 60 or 63 of this chapter unless proposals for disposal of such of such waste in a disposal site licensed pursuant to this part are approved by the Commission." DOE has repeatedly pointed to the option to repository disposal provided by the NRC regulation in an effort to avoid responsibility for the disposal of GTCC waste, which is an exceedingly small fraction of the material at permanently shutdown nuclear sites.

(5) We appreciate your recognition that permanently shutdown reactors no longer produce more spent fuel and associated nuclear generation revenues and have thus fulfilled their obligations under the Nuclear Waste Policy Act, consistent with the Standard Contract. It is our understanding that the discussion draft does not permit the successor agency to levy new fees against these facilities as part of its campaign to take title and remove the spent nuclear fuel and high level nuclear waste from these sites to the pilot consolidated storage (and eventually repository) facility. We applaud that treatment.

(6) As contract holders who have been involved in litigation against the Department of Energy for its failure to timely perform the acceptance of spent fuel and high level nuclear waste in accordance with the terms of that contract, we certainly appreciate the sentiment behind the proposed section 401(e). Clearly, if the program in 2025 is at a standstill, such as today, contract holders should be entitled to withhold further payments into the new Working Capital Fund. However, we would be concerned about a scenario where substantial progress is being made in the development of a consolidated storage facility, but unforeseen delay had prevented it from becoming "operational." In that instance, the legislation should make clear that unexpended balances in the Nuclear Waste Fund should be used in the interim to complete development of the consolidated storage facility(ies) under construction and begin their operation.

In closing, let me again reiterate the appreciation of our coalition for the priority that the four of you have placed on addressing the spent nuclear fuel and high level nuclear waste issue. We pledge to work with you in support of your efforts and would be pleased with an opportunity to testify should you hold hearings on the matter during the course of your deliberations.

Sincerely,

Wayne Norton
President and CEO, Connecticut Yankee and Yankee Rowe
CNO, Maine Yankee
Chairman, Decommissioning Plant Coalition

Submitter's Name/Affiliation: Earl Potter/Consultant to BRC on Federal-State Local Partnership Issue – Former Senior Advisor for Government and Regulatory Affairs – WIPP (1997-2007)
Contact: Earl Potter
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Executive Summary

For 10 years before and after its opening, I served as senior legal and regulatory advisor to the management of WIPP. My job was to nurture, facilitate, and adjust the partnership between the State of New Mexico and The Department of Energy.
At the request of Chief of Staff John Kotek, I served as a consultant to BRC and was instrumental in the adoption by the commission of the concept of Federal-State –Local Partnership as the critical central principle for future siting of nuclear waste facilities. I am grateful for the opportunity to comment on the draft Nuclear Waste Administration Act of 2013 ("NWAA")
The reason for the creation of the BRC and the need for the present legislation is that no Governor or State has been willing for the past 31 years to negotiate with DOE under the terms required by the original Nuclear Waste Policy Act and its Amendments.
The stark truth is that unless the NWAA can cause at least one state and local government to become involved in a very lengthy and costly process, the nuclear waste problem will be no closer to solution than it is today. Thus the focus of my review of the NWAA is "what changes , if any, need to be made to the draft legislation which will increase the likelihood that at least one locality and one governor will enter negotiations for developing a partnership with the Federal Government?"
In general, the draft NWAA does provide a workable framework for a state and locality which desire to consider the development of repository and storage facilities. Alternative Section 305 would vastly simplify storage facility creation, and is highly desirable. Notable weaknesses are (1) the failure to specify a funding mechanism for State and localities to participate at the earliest stages of site consideration, and (2) provisions which allow the Administrator to substitute his/her judgment for that of the State and locality on the question of whether nuclear waste is a benefit or burden.

Question 1: Considerations for locating storage facility sites
Submitter's Name/Affiliation: Earl Potter/Consultant to BRC

Should the Administrator take into account, when considering candidate storage facility sites, the extent to which a storage facility would: (a) unduly burden a State in which significant volumes of defenses wastes are stored or transuranic wastes are disposed of; or (b) conflict with a compliance agreement requiring the removal of nuclear waste from a site or a statutory prohibition on the storage or disposal of nuclear waste at a site? Alternatively, should the State and other non-federal parties seeking to site a candidate storage facility be allowed to determine whether they are unduly burdened? Should the final consent agreement, which would be sent to Congress for ratification, contain an authorizing provision to amend any conflicting compliance agreement or statutory prohibition?

Please submit your response HERE. (no page limit)

1. In Section 102. Purposes, (3) (P 3, line 24) , replace the word"consentual" with the words " partnership - based" . The Governor of New Mexico never did sign a consent agreement for WIPP. What was negotiated over a 20 year period was what DOE refered to as the " Deal with New Mexico" –a very elaborate series of State and Federal laws, regulations, and contractual agreements. The word " consent " implies that the Administrator will mostly be deciding what to do on his or her own and then convince the State and Locality to 'consent"

   Section 304 actually describes a very good process for reaching agreement on a partnership. It does not use the word "consent"

2. In Section 103. Definitions, add a definition as follows: "affected state" means a State within which the site of a repository or storage facility is located."

3. In Section 304., Siting Nuclear Waste Facilities, (a)(1) - delete the word "communities on lines 20 and 21 and replace it with "affected states, affected units of general local government, and affected Indian tribes"

   All of the following subsections of Section 304 require the Administrator to consult with, obtain the consent of, and proceed only with the recommendation of affected states, localities and Indian tribes. The word "communities" is undefined, and creates unnecessary confusion here.

4. Section 304 (C)(P 24, lines 9-21) Siting Guidelines-Additional Factors (also Question 1)–delete all this wording.

   In my decade of representing WIPP, nothing would anger State and Local officials more than DOE officials saying the Federal Government knew how to protect the citizens of the state better than they did. Why would any state or locality want to participate in a process where the Administrator was free to ignore state and local opinions about whether a storage or repository was a detrimental or beneficial?

Question 1: Considerations for locating storage facility sites
Submitter's Name/Affiliation: Earl Potter/Consultant to BRC

Beginning with the dawn of the nuclear age more than 70 years ago, New Mexico has been the location for development of nuclear facilities, people and programs. These have included a wide variety of nuclear related activities, from our two National Laboratories – Los Alamos and Sandia- to America's first commercial nuclear enrichment plant using centrifuge technology. In partnership with DOE, the technology for the construction and operation of the world's first deep geologic waste disposal facility at WIPP was developed in partnership with DOE over many years.

Our State now has far more than a "nuclear waste dump in a salt mine". A new and highly successful technology has emerged – creating thousands of new jobs, new software, and new hardware.

The hardware consists of everything from the satellite and computer systems which monitor the exact location of hundreds of trucks transporting waste in specially designed and exhaustively tested containers from 22 different sites throughout the country, and the waste handling equipment and facilities themselves. Hundreds of specially trained personnel working for many companies and agencies have safely disposed of 60,000 tons of waste. It also has extensive software- including the procedures put in place which have resulted in over eleven years of completely safe operation.

A critical part of this software is the "Partnership Agreement" with New Mexico and its local governments- including thousands of pages of agreements and regulations and personnel of the federal and state regulatory system we have jointly developed with the federal government which provides to the public the essential assurance of WIPP's benefit to our State and continued safe operation.

Supporting this industry is a network of support for all its activities by the people, civic organizations, and local and state governmental units.

Why shouldn't our State be allowed to make up its own mind?

Question 2: Linkage between storage and repository
Submitter's Name/Affiliation: Earl Potter/Consultant to BRC

Should the bill establish a linkage between progress on development of a repository and progress on development of a storage facility? If so, is the linkage proposed in section 306 of the bill appropriate, too strong, or too loose? If a linkage is needed, should it be determined as part of the negotiations between the state and federal governments and included in the consent agreement rather than in the bill?

Please submit your response HERE. (no page limit)

1. Section 306 – Linkage between Storage and Disposal (Question 2)

   As the last sentence of Question 2 suggests, linkage should be an item for negotiation between a host state and the federal government. In the past, linkage was thought to be a way to "force" to development of a repository. We now know the "stick" approach to nuclear waste facility development is a complete failure. Linkage was a part of this policy. As discussed in #4 above, the State of New Mexico has developed substantial expertise in nuclear waste facility development, and is capable of protecting its own interests in any bargaining with the Administrator.

Question 3: Separate process for storage facility siting – Alternative Section 305
Submitter's Name/Affiliation: Earl Potter/Consultant to BRC

Should the bill establish separate storage and disposal programs with clearly defined requirements for each, with any linkage negotiated in the consent agreement between the federal and non-federal parties, to allow the two program to run on separate, but parallel tracks, as proposed in the alternative section 305 (which would replace section 304(b)-(g) of the draft bill)?

Please submit your response HERE. (no page limit)

1. Question 3 –Separation of Storage and Disposal Programs

   Alternative Section 305 should replace Section 304(b)-(g) of the draft bill. Is there anyone who doesn't believe that repository development is an order of magnitude more complicated that storage? Since storage of various sorts is already going on at numerous sites, it seems very likely that there will be more than one State and locality willing to consider possible sites now. I know there is at least one.
   Focusing immediately on the storage site will give the Administrator and his/her new agency an achievable sort term objective to give everyone valuable experience- which can then be utilized in the longer term effort to develop one or more repositories.

Question 4: Separate process for storage facility siting – General streamlining for storage only
Submitter's Name/Affiliation: Earl Potter/Consultant to BRC

To what extent should the siting and consensus approval process for spent fuel storage facilities differ from that for the repository? Should the Administrator be required to conduct sufficient site-specific research (referred to as "characterization" in the bill) on candidate storage sites to determine if they are suitable for storing nuclear waste or only on candidate repository sites to determine if they are suitable for geologic disposal of nuclear waste? Should the Administrator be required to hold public hearings both before and after site characterization (as required by current law in the case of the Yucca Mountain site) or only before site characterization?

Please submit your response HERE. (no page limit)

1. Question 4 – Siting Process for storage facilities

   The siting process for storage facilities contained in Alternative Section 305 is well suited to such facilities. However, characterization and before and after characterization public hearings should be held by the Administrator. Potential host States must also be funded to conduct their own characterization and public education and information process
   An important lesson of WIPP is that independent scientific analysis and a through public education and involvement process are essential.

Question 5: Complexity of repository and storage facility siting processes
Submitter's Name/Affiliation: Earl Potter/Consultant to BRC

Should the siting process in section 304 of the draft bill be streamlined? If so, how?

Please submit your response HERE. (no page limit)

1. Question 5 -Should the siting process in Section 304 be streamlined?

   No. The five step process of adopting guidelines for site selection, investigation, characterization, selection and legislative approval is well designed to create conditions for the formation of a successful Local (or Tribe)-State –Federal partnership. However, the legislation does not contain funding for States and locality that wish to participate in the guideline and investigation stages. Such support will be essential to the involvement of potential host states at the earliest possible moment in the process. Without hosts, nothing will happen.

Question 6: Governance of the Nuclear Waste Administration – Administrator vs. Board of Directors
Submitter's Name/Affiliation: Earl Potter/Consultant to BRC

Should the new entity be governed by a single administrator or by a board of directors?

(a) If by a single administrator, should the administrator serve for a fixed term? If so, how long should the term of service be? Should the legislation prescribe qualifications for the administrator? If so, what should be the selection criteria?

(b) If by a board of directors, how many people should comprise the board and how should they be selected?

Please submit your response HERE. (no page limit)

1. Questions 6,7, and 8 –Single Administrator or Board?, composition and role of Board? Add members to Nuclear Waste Oversight Board?

   I favor a Single Administrator who can serve 2 six year terms. BRC recommendation for management oversight group (as proposed in legislation) and a Stakeholder Advisory Committee. The SAC should be established in legislation, with the ability of the Administrator to add members. Dr Meserve's recommendation is well taken. It would seem that with the history of abuse that has been dealt them, the very least that should be done for the Public Utility Commissioners is to add their representatives to the Nuclear Waste Oversight Board.
   I learned much from the process that the BRC adopted to reach its recommendations. It was rewarding to participate in, because it was very **interactive.** The BRC did not just hold a set of hearings then huddle secretly and write a report. The staff actively engaged many persons who spoke or wrote comments. The draft report was widely circulated, and many of us who had criticisms or suggestion were recruited into the process to make our own presentations and suggest changes. The result was an excellent report and a constituency for its recommendations.

The structure of the new agency is much less important to its success than the spirit that animates it. If the Administrator can capture the essence of the BRC, the NWAA will not follow the NWPA into oblivion.

Question 7: Governance of the Nuclear Waste Administration – Role of advisory committees
Submitter's Name/Affiliation: Earl Potter/Consultant to BRC

The Blue Ribbon Commission recommended establishment of both a board of directors for management oversight (whose "primary role ... is not to represent all stakeholder views, but rather to carry out fiduciary responsibilities for management oversight") and "a larger and more widely representative stakeholder advisory committee." The draft bill responds to these recommendations, first, by establishing a Nuclear Waste Oversight Board of senior federal officials and, second, by authorizing the Administrator to establish advisory committees. Should the Oversight Board and advisory committee be combined into a single body to perform both management oversight and stakeholder representation functions? Should the focus and membership of any advisory committees be established in the legislation or left to the Administrator?

Please submit your response HERE. (no page limit)

1. Questions 6,7, and 8 –Single Administrator or Board?, composition and role of Board? Add members to Nuclear Waste Oversight Board?

   I favor a Single Administrator who can serve 2 six year terms. BRC recommendation for management oversight group (as proposed in legislation) and a Stakeholder Advisory Committee. The SAC should be established in legislation, with the ability of the Administrator to add members. Dr Meserve's recommendation is well taken. It would seem that with the history of abuse that has been dealt them, the very least that should be done for the Public Utility Commissioners is to add their representatives to the Nuclear Waste Oversight Board.
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Question 8: Governance of the Nuclear Waste Administration – Membership of the Oversight Board
Submitter's Name/Affiliation: Earl Potter/Consultant to BRC

Dr. Meserve testified in 2012 that representatives of stakeholders and public utility commissioners should be added to the Nuclear Waste Oversight Board. Would these additions make the Board better able to carry out its fiduciary oversight mission effectively?

Please submit your response HERE. (no page limit)

1. Questions 6,7, and 8 –Single Administrator or Board?, composition and role of Board? Add members to Nuclear Waste Oversight Board?

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The structure of the new agency is much less important to its success than the spirit that animates it. If the Administrator can capture the essence of the BRC, the NWAA will not follow the NWPA into oblivion.

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Recommendation: That the NWAA make specific provision that not less than 9% of any years of its spending be spent on long-term R&D to cost-effectively transform the long-lived nuclear waste into short-lived waste, by producing energy in a safe and proliferation-resistant manner, and that the Administrator make an annual report to the Congress, before the third Monday of each calendar year, of his/her specific plans to use that funding for the following fiscal year.

Background: With the enactment of the Nuclear Waste Policy Act of 1982, the U.S. Government (USG) took responsibility for disposing of nuclear waste. Utilities were to sign contracts with the USG, and pay a fee (set at 1 mil/kwh) to clarify the USG's responsibility for disposing of the wastes, and the Government agreed to start taking waste by 1998. When the USG was not able to fulfill its part of the contract, the courts forced the USG to pay the costs associated with the continued maintenance of the fuel at utility sites, and not the ratepayers. The ratepayers will continue to pay the NWF fee, but they are no longer responsible for any additional costs of finding a solution. Instead, the USG is responsible for these.

General Atomics (GA) believes that any effort to deal with the nuclear waste issue should fund R&D for at least 2 purposes: 1) to address short-term issues that may occur from storage and disposal activities, and 2) to "solve" the long-term waste issue by using advanced nuclear technology to burn the waste to produce economically competitive electricity and at the same time transform the extremely long-lived wastes into short-lived waste products that have no proliferation value at all. GA also believes that the NWA must be authorized and directed to conduct both near-term and long-term R&D.

But there is a problem concerning near-term research versus long-term research. Any organization charged with dealing with nuclear wastes will tend to concentrate on short-term "solutions" and predictably will short-change its needs for long-term R&D. However, the nuclear wastes will remain a problem for hundreds of thousands of years, and doubts on the safety of dealing with nuclear waste also will persist into the indefinite future. Any "solution" will be hampered by doubts as to whether it will work "forever."

GA believes that obtaining a technology that would cost-effectively transform the waste into a short-term solution (hundreds of years), while burning it to produce electricity, would change significantly the public's acceptance of nuclear waste produced by reactors. The technology would have to be safe, proliferation-resistant, and be economically competitive so it would be willingly adopted by the commercial sector. Such an approach would bolster public confidence that the waste problem is solvable, making it much easier to identify interim storage sites. Such action also would pave the way for adopting nuclear power as a zero-carbon, domestic energy source. Plus, burning the wastes would produce revenue to make the transmutation process economic, and create enormous new energy reserves for the U.S. -- their energy equivalent estimated to be as large as 40 times the oil reserves of Saudi Arabia.

As proposed, the Nuclear Waste Administration (NWA) is not able to fund the long-term R&D that could be key to solving the USG's longer-term problem, as well as making its own nearer term goals easier to accomplish. That is why GA believes the NWA should be authorized to conduct long-term R&D and, in addition, should be required to spend at least 9% of its funds on long-term R&D.

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Senators Wyden, Murkowski, Feinstein and Alexander:

On behalf of Pacific Gas and Electric Company (PG&E), I want to thank you for the opportunity to share our thoughts regarding the Nuclear Waste Act of 2013 discussion draft. I also want to thank you for your leadership in advancing a comprehensive spent nuclear fuel strategy for the country.

As background, PG&E is one of the nation's largest combined gas and electric utility companies. With more than 20,000 employees spread across 70,000 square miles of northern and central California, we are committed to providing safe, affordable, reliable and clean energy to more than 15 million people. In fact, the energy we provide our customers is more than 50 percent greenhouse gas- (GHG-) free, with approximately 20 percent coming from our Diablo Canyon Power Plant (DCPP) located in San Luis Obispo County, California. This nuclear facility has been safely operated since the mid-1980s, employs approximately 1,400 people and helps California meet about 10 percent of its electricity needs. DCPP is an important resource for the state and the local economy.

At the present time, there is approximately 3,000 metric tons of commercial spent fuel stored in California at four separate locations, including at two locations owned and managed by PG&E: DCPP, which is an operating reactor totaling 2,200 megawatts (MW) and Humboldt Bay Power Plant (HBPP), which is located in Humboldt County, California and is in the process of being decommissioned.

Safety is PG&E's number one priority, and the spent fuel program at both DCPP and HBPP is robust. The wet storage pools at DCPP, which house spent fuel immediately after it is removed from the reactor, were built with seismic safety in mind – using steel-reinforced concrete anchored into bedrock, with steel liners serving as an added safety barrier. (There are no pools at HBPP.) The Independent Spent Fuel Storage Installations (ISFSI) at both HBPP and DCPP are seismically reinforced, and follow industry best practices. Our spent fuel programs are continuously monitored by the Nuclear Regulatory Commission (NRC), which oversees reactor safety and security, and spent fuel management.

While we currently have a robust spent fuel management program in place, it is important to PG&E, our customers, and the communities in which our nuclear

facilities are located, that the federal government act promptly, and responsibly, to meet its longstanding obligation for high-level waste management. To that end, PG&E supports the fundamental goal of the legislation, which is to create an integrated fuel management strategy for the country.

PG&E believes a sustainable, integrated program to manage spent fuel should include the following elements, as proposed in the Blue Ribbon Commission on America's Nuclear Future report, which are:

- a new management and disposal organization dedicated solely to executing a high-level waste program and empowered with the resources it needs to implement its mission successfully;
- assured access by the nuclear waste management program to the revenues generated by consumers' continuing fee payments and to the existing balance of the Nuclear Waste Fund;
- prompt efforts to develop one or more consolidated storage facilities, with priority given to shipping fuel from commercial sites with shutdown reactors; and
- research and development on advanced fuel cycle technologies to close the nuclear fuel cycle.

While not specifically mentioned in the draft legislation, PG&E also supports completing the licensing process for Yucca Mountain to determine whether the site is a viable option for the permanent disposal of high level waste.

PG&E's comments on the legislation are focused on four issue areas: the proposed nuclear waste administration; linkage and prioritization; transportation; and, finally, adjustments to the Standard Contracts prior to movement of the fuel.

Nuclear Waste Administration

PG&E supports the proposal to create a new administration with responsibility for managing and disposing of high-level nuclear waste. The administration should have a clear mission, firm mandate, and assured and consistent funding in order to develop consolidated storage facilities in a timely manner, along with a nuclear waste repository for ultimate disposal.

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It is critical that the new administration responsible for managing and disposing of high-level nuclear waste, referred to as the Nuclear Waste Administration (NWA), be configured to be self-sustaining and independent. The discussion draft legislation proposes that the NWA be governed by a single Administrator. PG&E believes it is important to have a strong Administrator and a single point of accountability. At the same time, we believe it is important for there to be an entity with an immediate "check-and-balance" on the actions of the Administrator. Toward this end, we support the approach recommended by the Blue Ribbon Commission that there be a Board of Directors, comprised of individuals with diverse and relevant backgrounds, coupled with a strong Administrator – or Chief Executive Officer (CEO) -- that is accountable for ensuring that the organization remains on track.

We believe that this governance structure would serve the goal of assuring that the agency maintains a consistent focus on its mission. In order to maintain stability and continuity, we would also recommend that Directors have staggered terms of seven- to-ten years. The Board of Directors should be required to ensure that the CEO is held accountable for how funds are being spent and achieving major milestones, as developed by the Board of Directors, with Congressional oversight and consultation.

In terms of the composition of the Board of Directors, we believe that it should be composed of individuals with diverse, yet relevant, backgrounds and political affiliations, as well as include at least one representative from an entity that is paying into the Nuclear Waste Fund.

Further, the NWA must have access to stable funding over the entire term of the mission. Fees already collected in the Nuclear Waste Fund should be made available to the NWA, and not subject to appropriation. To that end, we appreciate the language included in the bill tying continued funding of the NWA with progress towards achieving the ultimate objective of siting a storage facility and moving spent fuel (Section 401(e)). Recognizing the complexity associated with this effort, however, additional flexibility may need to be provided within the scope of this provision.

For example, if the NWA in 2025 has not progressed sufficiently toward meeting its goal, we agree that it should not continue to receive additional funds – funds being paid, ultimately, by utility customers. We also recognize, however, that there

could be a situation in which progress is being made, but due to events outside the control of the NWA, the facility is not yet operating. We believe that it is important, therefore, that the provision be clarified to state that unexpended funds can be used to continue/complete development of the consolidated storage facility(ies).

The draft bill also establishes a Nuclear Waste Oversight Board of senior officials and would allow the Administrator to create additional advisory committees. If a Board of Directors is adopted, then the proposed oversight board should be revised and expanded consistent with the Blue Ribbon Commission recommendation (and Dr. Meserve's testimony in 2012) to include stakeholders from inside and outside government.

In addition, we do not believe there needs to be a proliferation of advisory committees. Instead, we believe any additional advisory committees should be limited to special purpose technical committees, such as geoscience issues related to a repository.

Finally, in order to ensure accountability and "independent oversight" of the NWA and the expenditure of funds, we believe that an entity outside of the CEO/Administrator and Board of Directors should conduct an annual audit and that the findings of the audit should be delivered and presented both to the Board of Directors and Congress.

Consolidated Storage Facilities, Linkage, and Prioritization

The draft legislation directs the new agency to build a pilot spent fuel storage facility to take priority spent fuel from decommissioned nuclear power plants. PG&E supports this proposal. For example, HBPP ceased operations in 1976 and, under the current schedule, will be fully decommissioned by 2018.

There are six casks at the HBPP ISFSI with the ability to store nuclear fuel and greater than class C waste. Five of the casks are already loaded with spent fuel assemblies, which are licensed for transport, and the sixth cask will be loaded with greater than class C (GTCC) waste. Additional clarifying language for the definition of priority waste should include "stranded" fuel, meaning fuel being stored without an operating nuclear reactor on site, and casks loaded with GTCC waste, as this is typical of most priority sites as currently defined.

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As recommended by the Blue Ribbon Commission, the draft legislation also directs that the new agency develop a pilot and one or more consolidated storage facilities for non-priority spent nuclear fuel. PG&E agrees with the draft legislation, insofar as it authorizes the Administrator to begin siting these storage facilities immediately, and does not set volume limits. PG&E also believes that development of consolidated storage facilities should be pursued in parallel with a disposal storage facility, without specific linkage to milestones for any other facility.

The proposed linkage of the storage facility to "substantial progress" on the repository, such as an annual affirmative finding as proposed in the draft legislation, will only introduce uncertainty and subjectivity into the project, seriously diminishing the otherwise clear mandate that is the very purpose of the legislation. In that regard, PG&E favors the alternative approach outlined by Senators Feinstein and Alexander, which does not proscribe any linkage, but rather allows for any potential linkage to be negotiated in the consent agreement with potential sites. This language also recognizes the need for different siting requirements for consolidated and permanent repositories, which PG&E supports.

With respect to a high-level waste repository, a target should be established to open the repository no later than 20 years after a consolidated storage site is opened. This clear target, and the overriding statutory obligation to open a repository, should allay any concerns that the consolidated storage sites will become permanent.

Transportation

The draft legislation's light touch on transportation recognizes the fact that throughout the United States, and even within California, high level nuclear waste and spent fuel has been transported. This spent fuel has been received at Department of Energy (DOE) sites in South Carolina, Idaho, and New Mexico. Further, domestic spent nuclear fuel has been moved to Idaho from both Colorado and Pennsylvania. Although the existing set of standards and regulations has functioned well thus far, the NWA should be tasked with planning and coordinating a transport strategy for the priority shipments soon after enactment of legislation, focusing on each origin site. DOE has already visited many of the

decommissioned sites, and PG&E was pleased to provide comments with regard to HBPP potential transportation routes in a preliminary DOE report.

Adjustments to the Standard Contracts

Section 406(b) of the legislation contains two provisions that would modify the Standard Contract for the Disposal of Spent Nuclear Fuel and High-Level Radioactive Waste. These modifications, if enacted, would negatively affect the ability of utilities to settle breach of contract issues, in that the language would provide the "Justice Department, in consultation with the Administrator" the unfettered right to insist on a settlement on its terms, prior to taking any of the utility's spent fuel for storage.

In other words, if the terms of the settlement proposed by the Government are not acceptable to a utility, the utility will either be forced to accept the undesirable terms in order to have its spent fuel taken, or give up its right to have the NWA accept its spent fuel in accordance with the Standard Contract.

Settlement of the Standard Contracts between utilities and the Government is appropriate, but this should not go into effect until the last cask has been removed from the site.

Closing

Nuclear power plays a critical role in meeting our nation's energy demand, which underscores the need for the federal government to meet its commitment on spent fuel storage. To that end, we are supportive of this effort and policies that help to ensure that nuclear power continues to play a significant role in our overall energy mix. Thank you very much again for your leadership and the opportunity to provide feedback on the legislation. Please do not hesitate to reach out to me and use PG&E as a resource going forward.

Sincerely,
Melissa Lavinson
Vice President Federal Affairs
PG&E Corporation

Energy Communities Alliance
Local Concerns. National Impact.

www.energyca.org

COMMENTS
ON BEHALF OF ENERGY COMMUNITIES ALLIANCE

SUBMITTED TO THE

COMMITTEE ON
ENERGY AND NATURAL RESOURCES COMMITTEE
UNITED STATES SENATE
ON

DISCUSSION DRAFT OF
COMPREHENSIVE NUCLEAR WASTE LEGISLATION

A BILL TO ESTABLISH A NEW ORGANIZATION TO MANAGE NUCLEAR WASTE, PROVIDE A CONSENSUAL PROCESS FOR SITING NUCLEAR WASTE FACILITIES, ENSURE ADEQUATE FUNDING FOR MANAGING NUCLEAR WASTE, AND FOR OTHER PURPOSES

May 24, 2013

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EXECUTIVE SUMMARY

The Energy Communities Alliance (ECA) strongly supports the role for local governments outlined in the draft legislation ("Legislation"), specifically in a consensual decision-making process that will make "*local, state and federal governments equal partners*." We applaud the efforts of this Legislation to ensure that local governments are involved in waste decisions from the beginning. However, the local government role can and should be expanded beyond what is included in the draft.

ECA offers the following recommendations:

1. **Local governments must be included throughout the entire decision-making process.**

2. **A consent agreement must be legally enforceable and reflect the terms and conditions under which a community will agree to host a nuclear waste facility.**

3. **Any new governance structure must aim to limit political influence on nuclear waste management decisions as much as possible to allow the process to move forward once agreed upon by all of the parties identified in the Legislation.**

4. **A local government representative should serve on any newly created oversight board to ensure local perspectives and concerns are identified and represented.**

5. **The federal government must indemnify a local government for any accidents or releases that impact their community.**

6. **Disposition of defense waste must be considered a priority and included as part of a phased, adapted approach to the sequence of waste disposition.**

7. **Legislation must consider and address the impacts of transportation on local governments.**

In addition to these recommendations, ECA believes legislation should address the management and disposal of legacy waste. Legacy waste management is important to ECA and Section 307 of the Legislation fails to convey a sense of urgency for dealing with the issue and also fails to outline how or when decisions regarding defense nuclear waste will be made. Many local communities currently are the *de facto* storage sites for defense waste and should be given resources to evaluate the impacts of keeping this waste in place for longer than originally

planned since this waste is not moving to a repository. Maintaining the status quo for defense waste until decisions regarding commercial waste are made increases the risk to human health and the environment in local communities. At Hanford, approximately one million gallons of high-level waste have already leaked from storage tanks that still contain over 50 million gallons of waste. While much attention is paid to the federal government's liability for failing to take commercial SNF, the government also has a responsibility to move defense waste. The failure to move defense waste from local communities has already resulted in missed milestones, failure to meet deadlines, failure to honor agreements with States, fines and litigation-invested resources.

Legislation must also address the impact waste transportation will have on the sender and receiver sites. Local governments are responsible for public education and ensuring the safety of their citizens. Local governments provide vital emergency response services including HAZMAT training and response, as well as core public safety services such as police and fire protection, water and waste water treatment and public health services, which all must be coordinated as part of a transportation plan. Training, equipment, and transportation safety programs for public safety officials and other emergency responders at the local level is extremely important and will help ensure consistency among all affected parties as waste moves across the country.

ECA greatly appreciates the efforts made by Senators Wyden, Murkowski, Feinstein, and Alexander, to propose draft comprehensive nuclear waste management legislation and to make nuclear waste management a priority.

Founded in 1992, ECA members are the sender and receiver sites for nuclear waste, sites that currently produce or formerly produced defense nuclear waste, sites that store and process defense nuclear waste, and the sites that may potentially host a future interim storage facility, reprocessing facility or geologic repository. Our members have jointly prepared the answers to the Senate Committee's questions (set forth in bold). ECA looks forward to providing any assistance we can as your work continues.

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1. **Should the Administrator take into account, when considering candidate storage facility sites, the extent to which a storage facility would: (a) unduly burden a State in which significant volumes of defense wastes are stored or transuranic wastes are disposed of; or (b) conflict with a compliance agreement requiring the removal of nuclear waste from a site or statutory prohibition on the storage or disposal of nuclear waste at a site? Alternatively, should the State and other non-federal parties seeking to site a candidate storage facility be allowed to determine whether they are unduly burdened? Should the final consent agreement, which would be sent to Congress for ratification, contain an authorizing provision to amend any conflicting compliance agreement or statutory prohibition?**

The decision should be up to the State and local and governments that are impacted by the site. The decision cannot be made by an outside group or organization. If a State is willing to host the facility, the State will need to license or permit the facility and remove any conflicting state laws or statutory prohibitions. The local and State governments are critical to the decision.

Section 304(a)(1) p. 22, lines 20-22, of the Legislation states: "*In siting nuclear waste facilities…the Administrator shall employ a process that allows affected communities to decide whether, and on what terms, the affected communities will host a nuclear waste facility"*.

Section 304(c)(2) of the Legislation provides that the only sites selected for evaluation will be those recommended by a Governor (or duly authorized official) of a State in which the site is located; by the governing body of the affected unit of general local government, and the governing body of an Indian tribe, or by the Nuclear Waste Administrator after consultation with, and with consent of the same. It can be assumed, then, that a State and local government would not apply to be considered if these parties felt already overburdened, and would be willing to amend state law or to amend compliance agreements.

2. **Should the bill establish a linkage between progress on development of a repository and progress on development of a storage facility. If so, is the linkage proposed in sec 306 of the bill appropriate, too strong, or too loose? If a linkage is needed, should it be**

determined as part of the negotiations between the state and federal governments and included in the consent agreement rather than in the bill?

ECA's policy is that any new interim storage sites (given that our sites are already serving as *de facto* interim storage) must exist as one part of a permanent solution and not instead of a permanent disposal site. ECA agrees that the efforts to site, construct, and operate a storage facility should occur at the same time as efforts to site, construct, and operate one or more repositories.

ECA recommends that the linkage between interim storage and progress on a repository be negotiated between the federal government, the hosting local government and the State. There should also be agreement between the parties on how "substantial progress" will be defined and what the ramifications will be if it is not achieved. ECA urges the parties to carefully negotiate any provision for suspension of shipments for lack of "substantial progress" and how complicating it may be for securing long-term contractor agreements.

ECA supports the inclusion of other conditions that should be negotiated and included in a Consent Agreement as listed in the Legislation in Section 304 (f)(3), p. 31:

Terms and conditions under paragraph 2(A) shall promote the economic and social well-being of the people living in the vicinity of the repository or storage facility; and (*B) may include-*

(i) financial compensation and incentives;

(ii) economic development assistance;

(iii) operational limitations or requirements;

(iv) regulatory oversight authority; and

(v) in the case of a storage facility, an enforceable deadline for removing nuclear waste from the storage facility.

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However, the conditions are very broad and legislation should clearly define the terms. Other conditions to be negotiated as part of the consent agreement could include: what would constitute an unduly burden, how an existing compliance agreement or statutory limitation will be amended, as well as:

- Volume limitations;
- Enforceable milestones that align with an agreed upon definition of "sufficient progress";
- Penalties (that may include cessation of facility development, waste shipments or imposition of fines) to be incurred by the Federal government in cases of its failure to meet obligations under the consent agreement;
- Triggers for termination of the consent agreement;
- Agreement of indemnification to allow local communities, states or tribes to be compensated for and provided with security against damages or liabilities into the future; and
- Opportunities for future nuclear energy-related missions such as work currently being done by national laboratories or reprocessing or recycling used nuclear fuel.

Local governments are uniquely positioned to negotiate these conditions on behalf of the impacted community; as is a Governor for the impacted State. If certain conditions are met, a local community may be willing to accept a HLW and SNF disposal mission.

ECA agrees that, once negotiated, the consent agreement should be ratified by law, binding on all parties, and not amended or revoked except by mutual agreement by the parties. The consent agreement must also include milestones that are enforceable against both the state and federal government.

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Given the urgent need to address nuclear waste management in the US, ECA advises that Congress and the Administration should actively engage each interested community and State, and provide financial resources to study the scientific data, and to develop public outreach and education programs in order to determine if there is support for a nuclear waste mission.

3. **Should the bill establish separate storage and disposal programs with clearly defined requirements for each, with any linkage negotiated in the consent agreement between the federal and non-federal parties, to allow the two programs to run on separate, but parallel tracks, as proposed in the alternatives section 305 (which would replace section 304 (b) – (g) of the draft bill?**

Yes, the Legislation should establish separate storage and disposal programs with linkage negotiated between the federal government and non-federal hosts and included in the consent agreement.

While the Nuclear Regulatory Commission (NRC) has licensing standards for a site-specific interim storage facility, standards that reflect current thinking for a permanent repository outside of the Yucca Mountain project do not exist. In addition, neither NRC nor Congress has addressed how the term "interim" is to be legally defined or how long an interim storage facility (unassociated with a commercial reactor site) will be licensed to operate. Policy makers currently use "interim" loosely and have never associated it with a fixed timeframe (10, 50, 100, 500 or more years). If the period for interim storage is not fixed, how will the NRC maintain design standards? Until "interim" is defined by law, potential host communities will continue to have significant concerns that, in the absence of a long-term waste management strategy, interim storage sites will become *de facto* permanent repositories.

ECA is also concerned about the timetable for siting, constructing and opening interim storage facilities and a repository as laid out by DOE in its strategic plan. ECA urges DOE, NRC, and Environmental Protection Agency (EPA) to immediately develop scientifically-based health and environmental standards, model state laws and regulations to guide the siting process and maintain a sense of urgency in developing a comprehensive waste management plan for the

country. These agencies should also consider whether future policies and technologies to reduce waste volumes, such as closing the fuel cycle and reprocessing used nuclear fuel, can be addressed now.

4. **To what extent should the siting and consensus approval process for spent fuel storage facilities differ from that for a repository? Should the Administrator be required to conduct sufficient site-specific research (referred to as "characterization" in the bill) on candidate storage sites to determine if they are suitable for storing nuclear waste or only on candidate repository sites to determine if they are suitable for geologic disposal of nuclear waste? Should the Administrator be required to hold public hearings both before and after site characterization (as required by current law in the case of the Yucca Mountain site) or only before site characterization?**

The characterization for storage should be consistent with the present NRC requirements. For a repository, requirements should be different as the time periods for keeping waste on site and the technical aspects are vastly different.

In regards to public involvement and hearings, community engagement is critical at all steps in the process — beginning with the development of the vision, refining the goals and priorities, and at all times when conflicts arise. All parties must take the necessary steps to develop and maintain trust, accountability and openness. The Administration must engage the local governments as part of its outreach. ECA has seen DOE fail several times in communities where it holds meetings without involving the local governments in the planning and implementation of the meeting. Partnerships, which are based on trust, accountability and openness, require a fundamentally different paradigm. When the decision-making process is not transparent community trust will be difficult to maintain.

Trust and accountability flow from the program mission and vision — without an agreement on the goals for the program and a vision for where to go, trust and accountability are difficult to achieve.

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The Administrator needs to ensure that funding and resources are made available as soon as possible for public education. Local citizens that host a facility should know as much as a citizen can possibly know and learn about the health, safety and other issues that are inherent in hosting a site. They are the ones concurring and putting up the resources. Potential host communities must be given the means for education and other activities, including:

- Independent analysis of proposed activities.
- External oversight.
- Facilitating interaction between local, state, regional and federal government.

This raises another important issue - when must consent be reached on a project and when does the consent become binding? Retaining state and local political support through the federal decision-making process, including the NEPA review and analysis, will be critical for the process to succeed. Potential host States and local governments should be given resources to engage in the multi-year site evaluation and selection process necessary before the federal government can formally select an interim storage site or repository, and execute a binding agreement with the state.

5. Should the siting process in Section 304 be streamlined? If so, how?

The timeline for the siting process can be expedited if DOE, EPA and the NRC begin immediately to develop scientifically-based health and environmental standards, an outline of suitable geologic mediums, model state laws, and regulations to guide the siting process and involve the public. The only way to streamline the process is to begin the scientific studies and engage the community immediately.

6. Should the new entity be governed by a single Administrator of by a board of directors? (a) If by a single Administrator, should the administrator serve for a fixed term? If so, how long should the term of service be? Should the legislation prescribe qualifications for the administrator? If so, what should be the selection criteria? (b) If by a board of

directors, how many people should comprise the board and how should they be selected?

ECA can support the creation of a new entity dedicated solely to implementing the nuclear waste management program, provided it has clear legislative authority, appropriate autonomy, oversight mechanisms, and access to required funding.

ECA is concerned about creating a new bureaucracy and the amount of time it will take to formally create this new entity. In 1982, it took four years to begin substantive implementation of the NWPA. It will also take time to create a new regulatory structure. For ECA communities, any delay means continued or even increased risks to our communities currently hosting "de facto" HLW storage sites.

ECA urges that any oversight board include a local government representative.

7. **The Blue Ribbon Commission recommended establishment of both a board of directors for management oversight (whose "primary role...is not to represent all stakeholder views, but rather to carry out fiduciary responsibilities for management oversight") and "a larger and more widely representative stakeholder advisory committee." The draft bill responds to these recommendations, first by establishing a Nuclear Waste Oversight Board of senior federal officials, and, second, by authorizing the Administrator to establish advisory committees. Should the Oversight Board and advisory committee be combined into a single body to perform both management oversight and stakeholder representative functions? Should the focus and membership of any advisory committees be established in legislation or left to the Administrator?**

Legislation, not the Administrator, should define the membership of the oversight board to ensure that various views are included in any advice provided.

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ECA does not support combining the Oversight Board and advisory committee into a single body – each should have separate functions and responsibilities.

ECA urges that any oversight board include a local government representative.

8. Dr. Meserve testified in 2012 that representatives of the stakeholders and public utility commissioners should be added to the Nuclear Waste Oversight Board. Would these additions make the Board better to carry out its fiduciary oversight mission effectively?

Yes, ensuring input from the parties that will be most directly affected by a decision on nuclear waste management will help build trust that the federal government is being as inclusive and transparent as possible. ECA urges that any oversight board include a local government representative as well as other appropriate stakeholder representatives.

Specifics as to who is eligible to be appointed to the Board and their responsibilities should be defined in legislation to promote accountability.

A final comment on the Legislation: in Title I, section 103, definitions are provided. However some of the terms outlined in the section, such as "emergency delivery," "Substantial progress," "priority" and "non-priority" waste, need to be more clearly explained. For example, what criteria will be used to determine whether or not "substantial progress" is being made in the development of a repository? Who is ultimately responsible for making that determination? The definitions need to be clearer to avoid them becoming an issue later in the process.

NRDC's Response to S. ____, *To establish a new organization to manage nuclear waste, provide a consensual process for siting nuclear waste facilities, ensure adequate funding for managing nuclear waste, and for other purposes*.

Introduction

Chairman Wyden, Ranking Member Murkowski, and Senators Feinstein and Alexander, thank you for providing the Natural Resources Defense Council, Inc. (NRDC) this opportunity to present our views on your discussion draft of S. ____, a bill *[T]o establish a new organization to manage nuclear waste, provide a consensual process for siting nuclear waste facilities, ensure adequate funding for managing nuclear waste, and for other purposes* (hereinafter, "Nuclear Waste Discussion Draft"). Last fall, NRDC testified on S. 3469 – the template for the Nuclear Waste Discussion Draft – before the Energy & Natural Resources Committee. We reference our testimony on S. 3469 throughout our response this day and include it as a resource for the Senators and staff.[1]

Mission Statement

NRDC is a national, non-profit organization of scientists, lawyers, and environmental specialists, dedicated to protecting public health and the environment. Founded in 1970, NRDC serves more than one million members, supporters and environmental activists with offices in New York, Washington, Los Angeles, San Francisco, Chicago and Beijing. We have worked on nuclear waste issues since our founding, and we will continue to do so.

Overview of NRDC's Response to Questions

We commence our comments on the Nuclear Waste Discussion Draft with disappointment over severing S. 3469's clear and careful linkage between storage and disposal. Specifically, no "temporary" storage facility should become a permanent one, and this discussion draft, if it becomes law, invites just such an outcome.

A strong linkage that never allows an interim or temporary storage site to become a *de facto* repository should guide the legislative process. NRDC concurs with former Chairman Bingaman's caution that whatever case made for interim storage can be done "only as an integral part of the repository program and not as an alternative to, or de facto substitute for, permanent disposal." Such caution is consistent with decades of national policy and the purpose of the Nuclear Waste Policy Act (NWPA), 42 U.S.C. § 10131(b)(1). Indeed, while we expressed concerns that the pilot program offered in S. 3469 upset the likelihood of a strong repository

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[1] *See* Attachment 1, Statement of Geoffrey H. Fettus, Senior Attorney, Natural Resources Defense Council, Inc. on S. 3469, *Nuclear Waste Administration Act of 2012*, Before the Committee on Energy & Natural Resources, United States Senate, Washington, D.C., September 12, 2012.

program, the evisceration of the linkage between storage and disposal found in this Nuclear Waste Discussion Draft dooms the process, and virtually guarantees a repeat of the mistakes made in the failed Yucca Mountain effort.

Specifically, severing strong links between contemporaneous progress on storage and disposal options removes meaningful impetus for adherence to the principle that waste from the nation's nuclear weapons program and its commercial nuclear power plants must be buried in deep geologic repositories, permanently isolated from the human and natural environments. The primacy of geologic disposal as the solution for nuclear waste is consistent with more than 50 years of scientific consensus and, and, most recently, with the findings of President Obama's bipartisan Blue Ribbon Commission on America's Nuclear Future (BRC). No other solutions are technically, economically or ethically viable over the long term for the environment and human society, and NRDC strongly supports the development of a science-based repository program that acknowledges the significant institutional challenges facing spent fuel storage and disposal. Advancing this Nuclear Waste Discussion Draft without reinstating a strong link between storage and disposal does grave harm to the effort to find a final solution for nuclear waste.

We remind you the United States attempted to sever the link between interim storage and final disposal previously, only to conclude doing so was a mistake. Beginning in 1957, the Atomic Energy Commission (AEC) pursued a geologic repository program for high-level radioactive waste (HLW) in a salt deposit near Lyons, Kansas. Opposition initially came from the Kansas Geological Survey but soon spread. Concerns over conditions in the mine, the presence of numerous oil and gas wells in the vicinity, and the fact that there was solution mining at an operating adjacent salt mine operated by American Salt Company forced the AEC to abandon the site in 1972. Following the demise of the Lyons repository effort, later in 1972 the AEC announced it intended to develop a 100-year Retrievable Surface Storage Facility (RSSF). The U.S. Environmental Protection Agency (EPA) and others opposed this interim storage proposal because it diverted attention and resources from efforts to find a permanent geologic disposal solution. As a consequence of this opposition, the Energy Research and Development Agency (ERDA) abandoned its plans for a RSSF in 1975. The similarities of this history with failed attempts to force acceptance of the proposed Yucca site should be apparent.

As we have noted repeatedly over the last few years, the success of any legislative outcome depends on a consensus process that– (1) recognizes that repositories must remain the focus of any legislative effort; (2) creates a coherent legal framework before commencing any geologic repository or interim storage site development process; (3) arrives at a consent-based approach for nuclear waste storage and disposal via a fundamental change in law; (4) addresses storage in a phased approach consistent with the careful architecture of S. 3469 and NRDC's suggestions; and (5) excludes polarizing closed fuel cycle and reprocessing options from this effort to implement the interim storage and ultimate disposal missions. The Nuclear Waste Discussion Draft is a retreat from some of the better aspects of last year's S. 3469 and we urge the Senators to go back to that earlier template and to incorporate the suggestions that follow.

Questions from the Senators

1. *Should the Administrator take into account, when considering candidate storage facility sites, the extent to which a storage facility would: (a) unduly burden a State in which significant volumes of defenses wastes are stored or transuranic wastes are disposed of; or (b) conflict with a compliance agreement requiring the removal of nuclear waste from a site or a statutory prohibition on the storage or disposal of nuclear waste at a site? Alternatively, should the State and other non-federal parties seeking to site a candidate storage facility be allowed to determine whether they are unduly burdened? Should the final consent agreement, which would be sent to Congress for ratification, contain an authorizing provision to amend any conflicting compliance agreement or statutory prohibition?*

NRDC Response:
This first question has several parts and presumes the viability of consolidated interim storage sites as defined by the Nuclear Waste Discussion Draft. In order to present an orderly response to the important ideas contained in the question, we begin with (a) our prescription for how to address a pilot project for consolidated interim storage and avoid supporting closed nuclear fuel cycles; we then turn to the questions' related matters of (b) undue burdens on states and (c) meaningful state authority. We conclude the response with (d) our prescription for meaningful state authority.

To understand our specific responses, we begin with four general observations:

1.) Consolidated storage of spent fuel from currently operating reactor sites at an alternate, previously greenfield site is unnecessary and ill-advised. Any pilot project for consolidated storage should be limited to hardened, dry-cask storage of stranded spent fuel from shut down reactor sites.
2.) If emergency conditions arise at an existing operating reactor site, *e.g.*, due to an earthquake, discovery of a fault under the reactor(s), or a disaster related condition, that threatens the environment and public health, the reactors should be shut down and the spent fuel at the site would qualify as stranded spent fuel.
3.) Existing and currently operating reactor sites have government and implicit public consent for interim storage of spent fuel.
4.) Consolidated spent fuel storage should not be viewed as a step toward, or means of furthering, spent fuel reprocessing.

(a) NRDC's Support for Interim Storage Pilot Project at a Commercial Reactor Site
As preliminary matter, NRDC is not opposed in principle to commencing work on consolidated interim storage, and development of an interim storage facility for stranded fuel. Indeed, we proposed a set of steps to develop a pilot interim storage option in our testimony on S. 3469.

Specifically, NRDC sees merit in a pilot project to address the total stranded spent fuel at closed reactor sites (currently eleven sites), and where spent fuel is stored in dry casks within one or more hardened buildings similar to the Ahaus facility in Germany. Potential volunteer sites

already demonstrating "consent" are found in operating commercial reactors. The utility of using existing commercial operating reactor sites rather than burdening new areas with spent nuclear fuel should be apparent. Far less in the way of new infrastructure is required and the capacity for fuel management and transportation is already in place, along with consent necessary for hosting nuclear facilities in the first instance. And by keeping consolidated, interim-stored spent nuclear fuel under the guardianship of the nuclear industry that produced the waste in the first instance, Congress ensures that careful progress will continue with the necessary repository program.

Further, the Nuclear Waste Discussion Draft is silent on an important matter – the current configuration of spent fuel storage at a number of operating reactor sites. The BRC cited no evidence for why continued reliance on densely-packed wet storage should be accepted as adequate in light of the health, safety and security risks that interim wet storage poses. This is true regardless of the seismic, population density, or other natural factors that might create concern with the current storage configuration. NRDC and others noted the BRC was negligent in not recommending that Congress statutorily direct movement of spent fuel from wet pools to dry casks as soon as practical, *i.e.*, as soon as spent fuel has cooled sufficiently to permit safe dry cask storage, generally about five to seven years following discharge from the reactor. We again urge Congress to act on this issue in this legislation or even a stand-alone bill.

To reiterate, a pilot interim storage project housed at an existing commercial reactor site addressing issues of stranded fuel would go far in addressing a number of public safety and environmental harms, do no damage to a carefully constructed bill that focuses on repository development, and presents an option of greater efficiency and expediency.

By contrast, the unlimited interim storage allowed for in the Nuclear Waste Discussion Draft, regardless of the state of repository program, is an expedient course for the narrow financial interests of industry, does little to advance final repository solutions, and sets up a clear set of incentives for reprocessing and fast reactors. This is an enormous step back from S. 3469. Last year former Chairman Bingaman noted:

> The Commission wisely resisted the allure of reprocessing, concluding that there is "no currently available or reasonably foreseeable" alternative to deep geologic disposal. In short, we need a deep geologic repository. Even if we were to reprocess spent fuel, with all of the costs and environmental issues it involves, we would still need to dispose of the radioactive waste streams that reprocessing itself produces and we would need to do so in a deep geologic repository.

NRDC concurs. No limit consolidated interim storage increases the probability of continued efforts at reprocessing the spent fuel, resulting in plutonium separations with no way to ensure that the plutonium would not be used to make nuclear weapons. Inclusion of incentives for reprocessing and fast reactors would necessitate NRDC's objection to such nuclear waste legislation. In addition, reprocessing is expensive, environmentally disastrous, and a serious non-proliferation threat. As the BRC found, reprocessing is also not a viable waste management strategy because it does not significantly reduce the radioactivity of the waste that must be stored

in a repository. Indeed, just as for spent fuel, we must also work to resolve the path to a repository for the millions of gallons of dangerous, highly radioactive waste generated by spent nuclear fuel reprocessing in the United States over the past half century.

In contrast to this setup for reprocessing and fast reactors, NRDC's recommendation of an interim storage pilot project that is strictly limited to existing commercial operating sites avoids many of the burdensome problems posed and assumed in the question. First, our consolidated pilot proposal gets the ball rolling on spent fuel almost all parties agree is "stranded." Second, with its strict limit to shut down reactors and careful attention to establishing appropriate safety criteria, any such interim site could solve immediate public safety risks but not take the air out of meaningful progress geologic repository program.

(b) Undue Burdens

Turning to the specific subparts of the question about consolidated storage sites, NRDC asserts that any Administrator of a federal nuclear waste program should take into account a host of factors in considering equities of nuclear waste disposal, including existing burdens of defense-generated HLW or transuranic (TRU) waste, cleanup/compliance agreements, and statutory prohibitions against import of nuclear waste. Other considerations must include: an assessment of existing infrastructure and the potential for consent for spent fuel management; environmental justice; and reducing the need to unnecessarily transport spent fuel prior to final disposal in a repository.

Addressing the alternative question posed, of whether a (1) State should be allowed to determine the extent of any "undue burden," or (2) should any final consent agreement contain an authorizing provision to amend conflicting compliance agreements or statutory prohibitions, NRDC notes that the Senators' question suggests States – if operating consistent with the text found in Section 304 of Nuclear Waste Discussion Draft – could somehow have meaningful oversight roles, which we address at length below.

(c) State Authority

As a first matter, NRDC does not believe the Nuclear Waste Discussion Draft provides full and clear authority to States to determine the extent of any undue burden or necessarily to negotiate conflicting compliance agreements or statutory prohibitions. As we noted last fall, while several components of subsection 304(f) have merit – as it provides language responsive to the BRC's recommendation that any successful approach must be "consent based" and allow affected States and communities to retain control – the proposed legislation falls short of the mark in developing solutions and in way that sheds light on the Senators' query.

Section 304 provides allowances for any recipient state to have regulatory oversight authority and authority over operational limitations at either a storage or disposal site. Such things are crucial recognitions of the need for meaningful state oversight that have been missing from previous efforts at nuclear waste disposal. Equally important is the statutory requirement that Congress must ratify (and, assuredly, the President must therefore sign) any consent agreement.

And finally, the statutory direction that neither party (the federal or state government) may unilaterally amend or revoke the contract is a concept that NRDC fully supports.

But for all those laudable qualities in Section 304, we believe the suggested consent agreements will not solve the fundamental problem facing nuclear waste disposal nor allow States the oversight role suggested by the Senators' question. Rather, Congress, with its firm understanding of federalism, should legislate a role for states in the matter of nuclear waste disposal by amending the Atomic Energy Act (AEA) to remove its express exemptions of radioactive material from environmental laws.

State, local and tribal governments must be central in any prescription for a successful repository and waste storage program. The BRC recognized as much and noted federal and state tensions are often central in nuclear waste disputes. The BRC's Final Report states in pertinent part:

> We recognize that defining a meaningful and appropriate role for states, tribes, and local governments under current law is far from straightforward, given that the Atomic Energy Act of 1954 provides for exclusive federal jurisdiction over many radioactive waste management issues. Nevertheless, we believe it will be essential to affirm a role for states, tribes, and local governments that is at once positive, proactive, and substantively meaningful and thereby reduces rather than increases the potential for conflict, confusion, and delay.

Final Report at 56 (citation omitted).

Without fundamental changes in the law to address such federal, state and tribal tensions, we will never approach closure and consent on transparent, phased, and adaptive decisions for nuclear waste siting. Indeed, even if such a provision as Section 304(f) is enacted into law, we think it likely disputes will continue unchecked unless Congress avails itself of the opportunity to finally suggest a decades-overdue change in the law which we will now explore in more detail.

(d) NRDC's Prescription for State Authority – Remove the AEA's Exemptions from Environmental Law

A meaningful and appropriate role for states in nuclear waste storage and disposal siting can be accomplished in a straightforward manner by amending the AEA to remove its express exemptions of radioactive material from environmental laws. The exemptions of radioactivity make it, in effect, a privileged pollutant. Exemptions from the Clean Water Act and the Resource Conservation and Recovery Act (RCRA) are at the foundation of state and, we submit, even fellow federal agency distrust of both commercial and government-run nuclear complexes.

As the Senators are aware, most federal environmental laws expressly exclude "source, special nuclear and byproduct material" from the scope of health, safety and environmental regulation by EPA or the states, leaving the field to Department of Energy (DOE) and Nuclear Regulatory Commission (NRC). In the absence of clear language in those statutes authorizing EPA (or states where appropriate) to regulate the environmental and public health impacts of radioactive waste,

DOE retains broad authority over its vast amounts of radioactive waste, with EPA and state regulators then only able to push for stringent cleanups on the margins of the process. Indeed, the BRC Report discusses the State of New Mexico's efforts to regulate aspects of the Waste Isolation Pilot Plant under RCRA as critical positive element in the development of the currently active site (Final Report at 21). The NRC also retains far reaching safety and environmental regulatory authority over commercial nuclear facilities, with agreement states able to assume NRC authority, but only on the federal agency's terms.

States are welcome to consult with the NRC and the DOE, but the agencies can, and will, assert preemptive authority where they see fit. This has happened time and again at both commercial and DOE nuclear facilities. This outdated regulatory scheme is the focal point of the distrust that has poisoned federal and state relationships involved in managing and disposing of HLW and spent nuclear fuel, with resulting significant impacts on public health and the environment.

If EPA and the states had full legal authority and could treat radionuclides as they do other pollutants under environmental law, clear cleanup standards could be promulgated, and the Nation could be much farther along in remediating the toxic legacy of the Cold War. Further, we could likely avoid some of the ongoing legal and regulatory disputes over operations at commercial nuclear facilities. Any regulatory change of this magnitude would have to be harmonized with appropriate NRC licensing jurisdiction over facilities and waste and harmonized with EPA's existing jurisdiction with respect to radiation standards: but such a process is certainly within the capacity of the current federal agencies and engaged stakeholders. Some states would assume regulatory jurisdiction over radioactive material, others might not. But in any event, substantially improved clarity in the regulatory structure and a meaningful state oversight role would allow, for the first time in this country, consent-based and transparent decisions to take place on the matter of developing storage sites and geologic repositories.

Section 304(f) is a detailed attempt to remedy regulatory deficiencies that could be more simply and effectively handled by ending exemptions under the AEA. Removing the ability of the United States to unilaterally break the terms of the contract could potentially give a state some measure of comfort that the agreement it had painstakingly negotiated over "undue burdens" or conflicting compliance agreements will hold fast. But there would be nothing stopping Congress from revisiting this law, ratifying the consent agreements with conditions, and thereby removing whatever meaningful restraint a state might assert. Thus, ultimately what is offered as a thoughtful contract provision could be rendered inoperable, and could eviscerate a state's protection against altered, less favorable terms.

By contrast, ending the anachronistic AEA exemptions solves the matter of meaningful state oversight and does not carry with it substantial likelihood of congressional terms and modifications exacted from states years into a good faith negotiation on a site. Indeed, while it would be possible for a future Congress to revisit the AEA and re-insert exemptions from environmental law, it would have to do so in a manner that would remove overdue jurisdictional authority from all states (or Congress would have to single out one state for special treatment).

The difficulty of prevailing over the interest of all 50 states rather than simply amending legislation that affects the interests of just one state should be apparent.

NRDC's Concluding Thoughts on Question 1 from the Senators
Interim storage configurations that provide clear incentives for reprocessing and fast reactors guarantees strong objection from NRDC. And leaving assessments of "undue burdens" or reconciling conflicting cleanup and compliance obligations to the Administrator illustrates our contention that the ultimate decision making power still resides with the federal entity, thus running afoul of the dangers BRC warned about by failing to allow States meaningful oversight roles.

And further, relying on Section 304 of Nuclear Waste Discussion Draft to provide the meaningful oversight role States seek is another recipe for gridlock as there is nothing in the law stopping Congress from revisiting any negotiated agreement, ratifying the consent agreements with conditions, and thereby removing whatever meaningful restraint a state might assert. The Energy Department's current effort to reclassify HLW and ship that waste to the WIPP Project in New Mexico illustrates just how an agency can and will take such liberties. *See* Attachment 2, NRDC, SRIC and HC Marc 27, 2013 letter to Energy Secretary Chu, Re: *Proposal to Ship Hanford High-Level Radioactive Waste to New Mexico*.

In contrast to the difficulties in structuring state and federal roles noted above, ending the anachronistic AEA exemptions solves the matter of meaningful state oversight once and for all. It is past time for Congress to end anachronistic AEA exemptions from environmental law and this is the legislation where it should finally be done.

2. *Should the bill establish a linkage between progress on development of a repository and progress on development of a storage facility? If so, is the linkage proposed in section 306 of the bill appropriate, too strong, or too loose? If a linkage is needed, should it be determined as part of the negotiations between the state and federal governments and included in the consent agreement rather than in the bill?*

NRDC Response:
NRDC asserts that the bill should establish a linkage between progress on development of a repository and progress on development of a storage facility, and that the linkage proposed in section 306 of the bill is too loose. The needed linkage should not be determined as part of the negotiations between the state and federal governments and included in the consent agreement. Linkage between storage and disposal should be required and in the legislation.

Appropriating the term from the question, the linkage between storage and disposal provided in Section 306 is indeed far too loose. NRDC believes the linkage originally suggested in our fall 2012 testimony on S.3469 and here today in response to Question 1 provides a workable plan, allowing for both a meaningful pilot project on interim storage that does not undercut what the BRC made perfectly clear is the solution for nuclear waste.

Unfortunately, this iteration of Section 306 severs the strong linkage:

> Notwithstanding subsection (a), the Administrator may site, construct, and operate storage facilities in the absence of parallel progress on the siting, construction, or operation of a repository if the Administrator is making substantial progress towards siting, constructing, and operating a repository, as measured by the mission plan.

Section 306(b). Unfortunately, measurement by the "mission plan" does not provide a meaningful linkage between storage and disposal. In brief, the "Mission plan" is the report required under section 504, presented to Congress, the Oversight Board, the NRC, the Nuclear Waste Technical Review Board and then released for public comment. All this is to be done in short order. The proposed mission plan is due not later than 1 year after the date of enactment of the Nuclear Waste Discussion Draft. There is no specific date for final issuance, and there is provision for revision to reflect major changes in the planned activities, schedules, milestones, and cost estimates reported in the mission plan.

The pertinent dates of the mission plan are found in subsection (b), where the Administrator is to set out schedules for operation of a pilot facility not later than December 31, 2021; a storage facility for "nonpriority" waste not later than December 31, 2025; and a repository not later than December 31, 2048, likely more than three decades distant from the passage of any iteration of the Nuclear Waste Discussion Draft. Any analysis of "meaningful" progress on the repository during the first few years subsequent to the Act is meaningless when weighed against a scale of more than 3 decades. The likelihood of halting movement of nuclear waste – expedient for the industry – is unlikely in the extreme. Further, the allowance for revision of the mission plan can be used to simply shunt aside observations about problems in repository development or rapid development of the interim storage sites.

The certification process and suspension proceedings in subsections (c) and (d) could prove to be politically fraught, but ultimately meaningless in light of the time frames. The oversight board, comprised of the Deputy Director of the Office of Management and Budget, the Chief of Engineers of the Army Corps of Engineers and the Deputy Secretary of Energy, with the President designating one chair, is unlikely to brook any suggestion that any lack of progress on something decades away should halt an expedient activity for some of the largest corporations in the United States.

Rather than the hard cap on volume present in S. 3469 or, as NRDC suggests, an interim storage pilot project at an operating commercial site limited to the stranded fuel, the Nuclear Waste Discussion Draft sets out a functionally meaningless process that requires the Administrator to move quickly with consolidated interim storage and posit (likely rosy) scenarios about repository development decades away.

3. *Should the bill establish separate storage and disposal programs with clearly defined requirements for each, with any linkage negotiated in the consent agreement between the federal and non-federal parties, to allow the two program to run on separate, but parallel tracks, as proposed in the alternative section 305 (which would replace section 304(b)-(g) of the draft bill)?*

NRDC Response:
No.

The proposed alternative section 305 does away the residual linkage left by Section 306 of the Nuclear Waste Discussion Draft. First, alternative section 305 hypercharges the consolidated interim storage process by requiring the Administrator to issue a request for proposals for cooperative agreements for a pilot program for storing priority waste within 180 days. Second, the alternative section does away with the Nuclear Waste Discussion Draft's fig leaf *Suspension For Lack Of Substantial Progress*, severing even the barest link that remained, leaving the repository program and storage program on two entirely separate tracks. The priority and preference in site selection for sites suitable for co-location of a storage facility and a repository are cold comfort. Preference and priority for co-location are not presented as binding factors, and even if they were, such preference presents a host of problems that could lead to the consolidated storage site morphing into the de facto repository, regardless of the progress in the repository program.

Alternative section 305 fails to heed Chairman Bingaman's caution that whatever case made for interim storage can be done "only as an integral part of the repository program and not as an alternative to, or de facto substitute for, permanent disposal." Such a provision, if enacted into law, is inconsistent with decades of national policy and the purpose of the Nuclear Waste Policy Act (NWPA), 42 U.S.C. § 10131(b)(1).

4. *To what extent should the siting and consensus approval process for spent fuel storage facilities differ from that for the repository? Should the Administrator be required to conduct sufficient site-specific research (referred to as "characterization" in the bill) on candidate storage sites to determine if they are suitable for storing nuclear waste or only on candidate repository sites to determine if they are suitable for geologic disposal of nuclear waste? Should the Administrator be required to hold public hearings both before and after site characterization (as required by current law in the case of the Yucca Mountain site) or only before site characterization?*

NRDC Response:
The siting and consensus approval for storage and repository facilities should be strongly consistent, if not precisely the same. NRDC has five recommendations for ensuring the success of any legislative outcomes– (1) recognize that repositories must remain the focus of any legislative effort; (2) create a coherent legal framework before commencing any geologic repository or interim storage site development process; (3) arrive at a consent-based approach for

nuclear waste storage and disposal via a fundamental change in law; (4) address storage in a phased approach consistent with the careful architecture of S. 3469, not what is currently under review in the Nuclear Waste Discussion Draft; and (5) exclude polarizing closed fuel cycle and reprocessing options from this effort to implement the interim storage and ultimate disposal missions. We discussed these five recommendations in our testimony last fall on S. 3469 and will not repeat them here.

It should suffice to say that ensuring a coherent legal framework is crucial to avoid repeating the failure of the proposed Yucca Mountain process. We urged the BRC and we urge the Senators collectively now to be explicit and state clearly in legislation that both the standards for site screening and development criteria be in final form before any sites are considered. We also urge that generic radiation and environmental protection standards be established prior to consideration of any sites. S. 3469 went much of the way toward structuring such a result, but we have some specific concerns with that iteration and have even more concerns with the Nuclear Waste Discussion Draft and Alexander-Feinstein alternative.

4.b. Should the Administrator be required to conduct sufficient site-specific research (referred to as "characterization" in the bill) on candidate storage sites to determine if they are suitable for storing nuclear waste or only on candidate repository sites to determine if they are suitable for geologic disposal of nuclear waste?

Not necessarily – as we noted, a pilot project to address the current total stranded spent fuel at the eleven closed reactor sites, accommodated in a hardened building at one or more sites that follows the example of the Ahaus facility in Germany. Potential volunteer sites already demonstrating "consent" are operating commercial reactors. The utility of using existing commercial operating reactor sites rather than burdening new areas with spent nuclear fuel should be apparent. Far less in the way of new infrastructure is required and the capacity for fuel management and transportation is already in place, along with consent necessary for hosting nuclear facilities in the first instance. And by keeping consolidated, interim-stored spent nuclear fuel under the guardianship of the nuclear industry that produced the waste in the first instance, Congress ensures that careful progress will continue with the necessary repository program.

4.c. Should the Administrator be required to hold public hearings both before and after site characterization (as required by current law in the case of the Yucca Mountain site) or only before site characterization?

Yes, the Administrator should be required to hold public hearings both before and after site characterization. The engagement of the public should be seen as a long running and iterative partnership process for the development of a repository program based on sound science and consensus acceptance. Ending the public hearing process after site characterization is a recipe similar to the mistakes of the past.

After more than 55 years of failure, policy makers must look with clear eyes at the history of U.S. nuclear waste policy, an exercise that President Obama's Blue Ribbon Commission only

partially accomplished. The BRC recommended geologic repositories and the Nuclear Waste Discussion Draft suggests a new path to arrive at them. But we emphasize today that the record created by this process should fully reflect the story of how the EPA, the DOE, the NRC, the Justice Department, and the U.S. House and Senate together corrupted the process for developing and implementing licensing criteria for the Yucca Mountain repository. Public engagement was not the source of Yucca Mountain's demise. Failure to understand that history will doom any new effort.

While the BRC recognized that the 1987 amendments to the NWPA were "highly prescriptive" and "widely viewed as being driven too heavily by political considerations," those observations are insufficiently critical assessments of what actually occurred. We recommend Congress be clear about what happened to avoid repeating the mistakes of the past. Put bluntly, first DOE and then Congress corrupted the site selection process leading to Yucca Mountain as the only option. The original NWPA strategy contemplated DOE first choosing the best out of four or five geologic media, then selecting a best candidate site in each media alternative. Next, DOE was to narrow the choices to the best three alternatives, finally picking a preferred site for the first of two repositories. A similar process was to be used for a second repository. Such a process, if it had been allowed to fairly play out, would have been consistent with elements of the adaptive, phased, and science-based process to which the BRC referred.

But instead, what happened was that DOE first selected sites that it had pre-determined. Then in May of 1986 DOE announced that it was abandoning a search for a second repository, and narrowed the candidate sites from nine to three, leaving in the mix the Hanford Reservation in Washington (in basalt medium), Deaf Smith County, Texas (in bedded salt medium) and Yucca Mountain in Nevada (in unsaturated volcanic tuff medium). Next, all equity in the site selection process was abandoned in 1987, when Congress, confronted with cost of characterizing three sites and strong opposition to the DOE program, amended the NWPA of 1982 to direct DOE to abandon the two-repository strategy and to develop only the Yucca Mountain site. Not by coincidence, at the time, Yucca Mountain was DOE's preferred site, as well as being the politically expedient choice for Congress. The abandonment of the NWPA site selection process jettisoned any pretense of a science-based approach, led directly to the loss of support from the State of Nevada, diminished Congressional support (except to ensure that the proposed Yucca site remained the sole site), and eviscerated public support for the Yucca Mountain project.

Briefly, with respect to Title II and the creation of a Nuclear Waste Administration, as NRDC has expressed numerous times over past years, the failures of the AEC and its successor agencies (ERDA, DOE and the NRC) make the case that an alternative institutional vehicle for nuclear waste disposal is necessary. However, we note that any such new federal entity must be subject to all of the nation's environmental laws, including the National Environmental Policy Act (NEPA), 42 U.S.C. § 4321, *et seq*. We presume such is the case for this proposed agency. Alternative language may be necessary to clarify specific application of NEPA at certain junctures of the siting process (for example, in support of the initial guidelines), but it is clear to us that NEPA has full application to the newly proposed Nuclear Waste Administration.

Additionally, it has long been NRDC's view that independent oversight is critical to safe and environmentally sound operation of DOE nuclear weapons production facilities and commercial nuclear facilities regulated by the NRC. Indeed, the full suite of environmental laws should have full application. We addressed this issue in more detail when discussing Section 304, *infra* at __.

5. *Should the siting process in section 304 of the draft bill be streamlined? If so, how?*

NRDC Response:
No.

Efforts to "streamline" or "reduce regulatory obligations" are in significant measure how the Yucca project was derailed. Rather than trying to anticipate an imaginary parade of onerous regulatory obligations that lengthen this decades long dispute over nuclear waste disposal, NRDC urges careful attention to creating a coherent legal framework before commencing any geologic repository or interim storage site development process. Then (and only then) arriving at a consent-based approach for nuclear waste storage and disposal consistent with our history of federalism. *See* pages 4-7 *infra*.

As we noted last fall, while several components of section 304 have merit – as it provides language responsive to the BRC's recommendation that any successful approach must be "consent based" and allow affected States and communities to retain control – the proposed legislation falls short of the mark in developing solutions and needs no streamlining.

Section 304(a)
Turning to specific subsections and how they might be reformed, section 304(a) sets out the general terms of a process that reflects the transparent, adaptive, consent based qualities called for by the BRC. Allowing affected communities to decide, and on what terms, they will host a nuclear waste facility is an important step forward that has not heretofore existed in nuclear legislation.

Section 304 (b)
Next, section 304(b) wisely provides for consistency with section 112(a) of the NWPA but requires issuance of guidelines not later than one year after the date of enactment of this Act. We think one year an inadequate time frame. We support such consistency with the enumerated provisions in section 112(a) and agree that additional attention is important to detailed considerations such as minimizing impacts of transportation and handling and to not unduly burden states storing significant volumes of defense or transuranic wastes is important. But it is our strong recommendation that more time should be provided for the agency to get up and running before final guidelines become statutory time restrictions. Indeed, such guidelines must comply with NEPA, and ensuring those guidelines are in place prior to consideration of any storage or disposal site could go a long way in avoiding the mistakes of the past.

Section 304(c)
Section 304(c) sets up a process for determining candidate sites that, in general terms, could chart a process arriving at protective disposal solution, if it is: (1) undertaken subsequent to imposition of sound final site screening and development criteria and sound final generic radiation and environmental protection standards; and (2) not hamstrung or corrupted by Congress, other federal agencies or the Executive Branch. However, the Environmental Assessment required in section 304(c)(4) should explicitly be termed an Environmental Impact Statement to ensure there is no confusion regarding NEPA obligations.

As a final comment on section 304(c)(4)(A), we think any legislative record associated with the Nuclear Waste Discussion draft, should such a thing come to pass, must make it clear that there is no transference of the NRC's "waste confidence" obligation to the Administrator. By its terms, the "confidence" sought in section 304(c)(4)(A) is whether the environmental assessment provides the Administrator with a reasonable basis to be confident that "the proposed nuclear waste facility at the proposed site" will be safe. The "confidence" at stake in the NRC's waste confidence decision is "whether there is reasonable assurance that an off-site storage solution will be available by ... the expiration of the plant's operating licenses, and if not, whether there is reasonable assurance that the fuel can be stored safely at the sites beyond those dates." *Minnesota v. NRC*, 602 F.2d 412, 418 (D.C. Cir. 1979); *see also, New York, et al. v. NRC*, 681 F.3d 471 (D.C. Cir. 2012). The confidence required of the NRC is nuclear waste generated at a reactor can be safely stored somewhere and stems from the NRC's NEPA and Atomic Energy Act obligations. The confidence required of the Administrator under section 304(c)(4)(A) relates to a specific candidate site and stems from the Administrator's obligation under this legislation to select sites that have a reasonable prospect of proving suitable.

6. *Should the new entity be governed by a single administrator or by a board of directors? (a) If by a single administrator, should the administrator serve for a fixed term? If so, how long should the term of service be? Should the legislation prescribe qualifications for the administrator? If so, what should be the selection criteria?*

<u>NRDC Response:</u>
NRDC advises that the new entity be governed by a board of directors. We think that the lengthier processes associated with arriving at consensus decisions – as compared to the decision making capacity of a single administrator – can be painful but are worthwhile. It is NRDC's view that the success of any legislative outcomes will depend on a consensus process that includes– (1) recognize that repositories must remain the focus of any legislative effort; (2) create a coherent legal framework before commencing any geologic repository or interim storage site development process; (3) arrive at a consent-based approach for nuclear waste storage and disposal via a fundamental change in law; (4) address storage in a phased approach consistent with, as one example, the careful architecture of S. 3469 and our associated clarifications and suggestions; and (5) exclude polarizing closed fuel cycle and reprocessing options from this effort to implement the interim storage and ultimate disposal missions. A single administrator could upset the entire disposal architecture in one term, but a diverse board of directors is less

likely to do so in short order. The BRC is a good example where diverse viewpoints (and not nearly as diverse as we suggested or think was necessary) can and could produce some useful results.

(b) If by a board of directors, how many people should comprise the board and how should they be selected?

NRDC Response:
As an initial suggestion we suggest somewhere between 5 to 9 members directing the operations of a CEO. Representation should be balanced by party representation, government (federal, state, tribal), non-governmental organizations, and industry. The legislation establishing the board of directors should have an explicit requirement that the majority on the board not be composed of members with existing or historical ties to the nuclear industry. Such a requirement should also be attentive to the revolving door that has existed between government service at NRC, DOE and the nuclear industry.

7. The Blue Ribbon Commission recommended establishment of both a board of directors for management oversight (whose "primary role ... is not to represent all stakeholder views, but rather to carry out fiduciary responsibilities for management oversight") and "a larger and more widely representative stakeholder advisory committee." The draft bill responds to these recommendations, first, by establishing a Nuclear Waste Oversight Board of senior federal officials and, second, by authorizing the Administrator to establish advisory committees. Should the Oversight Board and advisory committee be combined into a single body to perform both management oversight and stakeholder representation functions? Should the focus and membership of any advisory committees be established in the legislation or left to the Administrator?

NRDC Response:

As we described briefly above, we believe direct control and oversight of the program could and should exist in a board of directors and a directly accountable Chief Executive Officer that carries out the duties, attendant to the specific direction of the Board. Ensuring that the board is not heavily composed of members with existing or historical ties to the nuclear industry would go far in ensuring improved public trust and acceptance of a nuclear waste storage and disposal program.

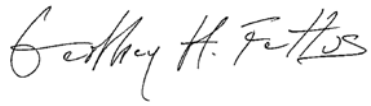
8. Dr. Meserve testified in 2012 that representatives of stakeholders and public utility commissioners should be added to the Nuclear Waste Oversight Board. Would these additions make the Board better able to carry out its fiduciary oversight mission effectively?

NRDC Response:

Yes. Outside "oversight" could only improve what has for too long been a closed and insular process.

For additional information or questions regarding these responses, please do not hesitate to contact us.

Sincerely,



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Statement of

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on

S. 3469, Nuclear Waste Administration Act of 2012

Before the
Committee on Energy & Natural Resources
United States Senate
Washington, D.C.

September 12, 2012

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Introduction

Mr. Chairman and members of the Committee, thank you for providing the Natural Resources Defense Council, Inc. (NRDC) this opportunity to present our views on S. 3469, *A Bill to establish a new organization to manage nuclear waste, provide a consensual process for siting nuclear waste facilities, ensure adequate funding for managing nuclear waste, and for other purposes*.

NRDC is a national, non-profit organization of scientists, lawyers, and environmental specialists, dedicated to protecting public health and the environment. Founded in 1970, NRDC serves more than one million members, supporters and environmental activists with offices in New York, Washington, Los Angeles, San Francisco, Chicago and Beijing. We have worked on nuclear waste issues since our founding, and we will continue to do so.

NRDC commends the Chairman's focus on three fundamental principles that must be adhered to if America is ever to develop an adequate, safe solution for nuclear waste. First, Chairman Bingaman's S. 3469 incorporates the principle that the waste from the nation's nuclear weapons program and its commercial nuclear power plants must be buried in technically sound deep geologic repositories, permanently isolated from the human and natural environments. That principle for disposal is consistent with more than 50 years of scientific consensus and, most recently, the views of President Obama's bipartisan Blue Ribbon Commission (BRC).[1] No other solutions are technically, economically or morally viable over the long term and NRDC strongly supports the development of a science-based repository program that acknowledges the significant institutional challenges facing spent fuel storage and disposal.

Second, we support Chairman Bingaman's careful analysis that any "temporary" storage facility must not become a permanent one. This is a powerful principle that should guide the legislative process. NRDC concurs with the Chairman's caution that whatever case can be made for interim storage can be done "only as an integral part of the repository program and not as an alternative to, or de facto substitute for, permanent disposal." Consistent with thirty years of national policy and the purpose of the Nuclear Waste Policy Act (NWPA), 42 U.S.C. § 10131(b)(1), Senator Bingaman has provided a crucial linkage between developing storage facilities and final repositories. We are, however, concerned that the pilot program offered in S. 3469 upsets this precisely-defined architecture. The evidence of the past 30 years shows that legislative efforts that sever such linkages between development of storage and final repository sites inevitably doom the process and virtually guarantee a repeat of the mistakes made in the failed Yucca Mountain effort.

Third, properly embedded in S. 3469 is the fundamental concept that the polluter pays the bill for the contamination that it creates. This bipartisan concept has a long history in American law and it should remain in full force in any new nuclear waste legislation. Federal assumption of the waste burden is an extraordinary boon to the nuclear industry, a benefit enjoyed by no other electricity-producing industry. At minimum, perpetuating the requirement that the industry must invest in the solution is appropriate and any relaxation of such requirements would result in immediate objection from NRDC and a host of others.

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[1] President Obama's "*Blue Ribbon Commission on America's Nuclear Future - Report to the Secretary of Energy, January 31, 2012*" (hereafter "*BRC Report*" or "*Final Report*").

Chairman Bingaman has made a laudable effort and turned some of the stronger ideas in the recent BRC report into legislative language. We support fundamental components in the proposed bill, dispute other parts, and have several key suggestions for expansion and refinement of S.3469. But the Chairman's emphasis on the necessity of repositories and the need to link any potential storage site with the development of a disposal site is of lasting value. Any legislation that fails to adhere to these concepts will prolong the failures of the past 30 years in developing solutions for nuclear waste.

Five Recommendations

Today, in commenting on specific sections of S. 3469, I offer five recommendations for ensuring the success of any legislative outcomes– (1) recognize that repositories must remain the focus of any legislative effort; (2) create a coherent legal framework before commencing any geologic repository or interim storage site development process; (3) arrive at a consent-based approach for nuclear waste storage and disposal via a fundamental change in law; (4) address storage in a phased approach consistent with the careful architecture of S. 3469; and (5) exclude polarizing closed fuel cycle and reprocessing options from this effort to implement the interim storage and ultimate disposal missions.

Importantly, our view on each area is premised on a single overarching caution: in order to avoid repeating the mistakes of the last three decades, Congress must create a transparent, equitable process incorporating strong public health and environmental standards insulated from gerrymandering or other distortions in order to ensure, at the conclusion of the process, the licensing of a suitable site (or sites). What follows are NRDC's detailed comments on S. 3469 and recommended prerequisites for establishing a protective and robust nuclear waste storage and disposal process.

Recommendation 1 - The Necessity of Repositories

Titles I and II:

Comments on Sections 101-206

Title I of S. 3469, in significant measure, recognizes our generation's ethical obligation to future generations regarding nuclear waste disposal. But we suggest an explicit adoption of the first purpose of the Nuclear Waste Policy Act (NWPA), 42 U.S.C. § 10131(b)(1), as the decision to isolate nuclear waste from the biosphere implicates critical issues of security, including: financial security, environmental protection, and public health. After more than 55 years of failure, policy makers must look with clear eyes at the history of U.S. nuclear waste policy, an exercise that President Obama's Blue Ribbon Commission failed to do. The BRC recommended geologic repositories and S. 3469 suggests a new path to arrive at them, and we concur with and support efforts to develop geologic repositories. But we emphasize today that the record created by this hearing should fully reflect the story of how the Environmental Protection Agency (EPA), the Department of Energy (DOE), the Nuclear Regulatory Commission (NRC), the Justice Department, and the U.S. House and Senate together corrupted the process for developing and implementing licensing criteria for the Yucca Mountain repository. Failure to understand that history will doom any new effort.

While the BRC recognized that the 1987 amendments to the NWPA were "highly prescriptive" and "widely viewed as being driven too heavily by political considerations," those observations

are insufficiently critical assessments of what actually occurred. We recommend that Congress be clear about what happened to avoid repeating the mistakes of the past. Put bluntly, first DOE and then Congress corrupted the site selection process leading to Yucca Mountain as the only option. The original NWPA strategy contemplated DOE first choosing the best out of four or five geologic media, then selecting a best candidate site in each media alternative. Next, DOE was to narrow the choices to the best three alternatives, finally picking a preferred site for the first of two repositories. A similar process was to be used for a second repository. Such a process, if it had been allowed to fairly play out, would have been consistent with elements of the adaptive, phased, and science-based process to which the BRC referred.

But instead, what happened was that DOE first selected sites that it had pre-determined. Then in May of 1986 DOE announced that it was abandoning a search for a second repository, and narrowed the candidate sites from nine to three, leaving in the mix the Hanford Reservation in Washington (in basalt medium), Deaf Smith County, Texas (in bedded salt medium) and Yucca Mountain in Nevada (in unsaturated volcanic tuff medium). Next, all equity in the site selection process was abandoned in 1987, when Congress, confronted with cost of characterizing three sites and strong opposition to the DOE program, amended the NWPA of 1982 to direct DOE to abandon the two-repository strategy and to develop only the Yucca Mountain site. Not by coincidence, at the time, Yucca Mountain was DOE's preferred site, as well as being the politically expedient choice for Congress. The abandonment of the NWPA site selection process jettisoned any pretense of a science-based approach, led directly to the loss of support from the State of Nevada, diminished Congressional support (except to ensure that the proposed Yucca site remained the sole site), and eviscerated public support for the Yucca Mountain project.

Briefly, with respect to Title II and the creation of a Nuclear Waste Administration, as NRDC has expressed numerous times over past years, the failures of the Atomic Energy Commission and its successor agencies (Energy Research Development Agency, DOE and the NRC) make the case that an alternative institutional vehicle for nuclear waste disposal is necessary. However, we note that any such new federal entity must be subject to all of the nation's environmental laws, including the National Environmental Policy Act (NEPA), 42 U.S.C. § 4321, *et seq*. We presume such is the case for this proposed agency. Alternative language may be necessary to clarify specific application of NEPA at certain junctures of the siting process (for example, in support of the initial guidelines), but it is clear to us that NEPA has full application to the newly proposed Nuclear Waste Administration.

Additionally, it has long been NRDC's view that independent oversight is critical to safe and environmentally sound operation of DOE nuclear weapons production facilities and commercial nuclear facilities regulated by the NRC. Indeed, the full suite of environmental laws should have full application. We will address this issue in more detail when discussing Section 304. As a last note to this Title, the meaning of Section 102(4) should be expanded and clarified to remove the word "centralized" and the words "safe, environmentally sound and publicly acceptable" storage should be inserted to address several of the concepts we will detail in the testimony that follows.

Recommendation 2 - Create a Coherent Framework Before Commencing the Nuclear Waste Siting Process

Title III – Functions, Sections 301-308

A. Comments on Section 305 –To avoid repeating the failure of the proposed Yucca Mountain process, we urged the BRC and we urge this Committee now to be explicit and state clearly in legislation that both the standards for site screening and development criteria be in final form before any sites are considered. We also urge that generic radiation and environmental protection standards be established prior to consideration of any sites. S. 3469 has gone much of the way toward structuring such a result, but we have some specific concerns.

Section 305 directs EPA to adopt, by rule, broadly- applicable standards for protection of the general environment from offsite releases from radioactive material in geologic repositories. Further, Section 305(b) directs NRC to then amend its regulations governing the licensing of geological repositories to be consistent with any comparable standard adopted by EPA. These requirements and the phasing of the agency actions are appropriate (first EPA sets the standards and then NRC ensures its licensing process meets those standards). However, the timeline required in S. 3469 – not later than one year after the enactment of this Act and not later than 1 year after the adoption of generally applicable standards by EPA – provides inadequate time for the agencies to properly do their work. After repeated and flawed attempts to establish Yucca Mountain standards, we are optimistic that EPA will not need two decades and can get the job done in a reasonable amount of time, if given adequate resources.[2]

As this Committee is aware, at this time EPA has few staffing resources, consultants, or budget for standards preparation. It would take at least a year after enactment and subsequent Congressionally-appropriated funds to properly staff the task. EPA would then have to do a rulemaking notice, preferably including hearings/meetings, develop a proposed rule for public comment, and then go about the task of issuing a publicly informed final rule. A constraint of one year (for both EPA and NRC) invites a rushed, inadequate job that hamstrings both agencies and likely denies the states, tribes, and public a meaningful opportunity to fully inform the process.

Additionally, while the requirement to promulgate generic standards is welcome, care must be taken to insulate any site standard, development or regulatory framework from adverse pressures applied by the Office of Management and Budget, the Department of Justice, DOE and the NRC. Indeed, it is our assessment that past administrations' failures to protect EPA from just such pressures is why the development of the EPA standard setting process was so problematic. The one-year time frames invite just such pressure and we urge, in the alternative, Congressional attention to ensure EPA has adequate resources and time for the task.

Recommendation 3 - A Fundamental Change in Law is Necessary

A. Comments on Section 304 – Siting Nuclear Waste Facilities and Amending the Atomic Energy Act

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[2] EPA repeatedly issued standards concerned more with licensing the site than establishing protective standards. EPA's original 1985 standards were vacated in part because EPA had failed to fulfill its separate duty under the Safe Drinking Water Act, 42 U.S.C. §300h, to assure that underground sources of water will not be "endangered" by any underground injection. *NRDC v. EPA*, 824 F.2d 1258 (1st Cir. 1987). EPA's second attempt to at setting standards that allow for a projected failure of geological isolation was again vacated, this time by the United States Court of Appeals for the D.C. Circuit. The D.C. Circuit found EPA's Yucca Mountain rule (and the corresponding NRC standard), which ended its period required compliance with the terms of those rules at 10,000 years was not "based upon or consistent with" the recommendations of the National Academy of Sciences as required by the 1992 Energy Policy Act and therefore must be vacated. *Nuclear Energy Institute, Inc. v. EPA*, 373 F.3d 1251 (2004).

1. The Necessary Change.
Section 304 is the heart of S. 3469 and there is much to applaud here. The Section is attentive to BRC's recommendation in its *Final Report* of a "consent-based, adaptive, and phased approach" for developing geologic disposal options. We agree with the general thrust of such a conceptual framework for developing repositories, but any such "consent-based" process will enjoy a far higher probability of success in concert with a simple, but profound, change in the law. As the BRC's *Final Report* acknowledges but fails to meaningfully discuss, current federal law, including aspects of the Atomic Energy Act (AEA), has the effect of preempting almost all forms of state regulation over a high level radioactive waste facility and, indeed, over regulation of radionuclides in general.

Congress should, via S. 3469 and after appropriate hearings on the proper scope, remove once and for all the AEA's exemptions for radionuclides from our nation's water and hazardous waste laws. These anachronistic exemptions from environmental law are at the heart of state and public distrust of both government and commercial nuclear facilities. A great deal of the structure of S. 3469 can help build a better nuclear waste management system, but we submit that decades from now the Nation will return to the same predicament (no matter how improved the architecture of said system) unless States are provided with meaningful regulatory authority under existing environmental laws.

2. Section 304(a)
Section 304(a) sets out the general terms of a process that reflects the transparent, adaptive, consent based qualities called for by the BRC. Allowing affected communities to decide, and on what terms, they will host a nuclear waste facility is an important step forward that has not heretofore existed in nuclear legislation.

3. Section 304(b)
Section 304(b) wisely provides for consistency with Section 112(a) of the NWPA but requires the issuance of guidelines not later than one year after the date of enactment of this Act. As with Section 305, we think one year an inadequate time frame. We support such consistency with the enumerated provisions in Section 112(a) and agree that additional attention is important to detailed considerations such as minimizing impacts of transportation and handling and to not unduly burden states storing significant volumes of defense wastes is important. But it is our strong recommendation that more time should be provided for the agency to get up and running before final guidelines become statutory time restrictions. Indeed, such guidelines must comply with NEPA, and ensuring those guidelines are in place prior to consideration of any storage or disposal site could go a long way in avoiding the mistakes of the past.

4. Section 304(c)
Section 304(c) sets up a process for determining candidate sites that, in general terms, could chart a process arriving at protective disposal solution, if it is: (1) undertaken subsequent to imposition of sound final site screening and development criteria and sound final generic radiation and environmental protection standards; and (2) not hamstrung or corrupted by Congress, other federal agencies or the Executive Branch. However, the Environmental Assessment required in Section 304(c)(4) should explicitly be termed an Environmental Impact Statement to ensure there is no confusion regarding NEPA obligations.

5. Section 304(d)
Section 304(d) sets forth requirements for characterizing sites and for consulting agreements with potential nuclear waste recipient states. If performed in a careful, phased fashion prior to embarking on the final site suitability determination delineated in Section 304(e), such a characterization process could allow for the phased and adaptive approach recommended by the BRC. Key decisions could be revisited and modified as necessary along the way rather than being pre-determined, and the process itself could be flexible and produce decisions that are responsive to new information and new technical, social, or political developments.

6. Section 304(f)
Section 304(f) seeks to provide legislative text responsive to the BRC's recommendation that any successful approach must be consent based – in the sense that affected communities will have an opportunity to decide whether to accept facility siting decisions and will retain significant local control. Several components in the proposed text merit attention. If such a provision were enacted into law, allowances for any recipient state to have regulatory oversight authority, and authority over operational limitations, are crucial recognitions of the need for meaningful state oversight that have been missing from previous efforts at nuclear waste disposal. Equally important is the statutory requirement that Congress must ratify (and, assuredly, the President must therefore sign) any consent agreement. And finally, the statutory direction that neither party (the federal or state government) may unilaterally amend or revoke the contract is a concept that NRDC fully supports.

But for all those laudable qualities, we believe the suggested consent agreements will not solve the fundamental problem facing nuclear waste disposal. We suggest Congress, with its firm understanding of federalism, legislate a role for states in nuclear waste disposal by amending the Atomic Energy Act (AEA) to remove its express exemptions of radioactive material from environmental laws.

State, local and tribal governments must be central in any prescription for a successful repository and waste storage program. The BRC recognized as much and noted federal and state tensions are often central in nuclear waste disputes. The BRC's *Final Report* states in pertinent part:

> We recognize that defining a meaningful and appropriate role for states, tribes, and local governments under current law is far from straightforward, given that the Atomic Energy Act of 1954 provides for exclusive federal jurisdiction over many radioactive waste management issues. Nevertheless, we believe it will be essential to affirm a role for states, tribes, and local governments that is at once positive, proactive, and substantively meaningful and thereby reduces rather than increases the potential for conflict, confusion, and delay.

Final Report at 56 (citation omitted).

Without fundamental changes in the law to address such federal, state and tribal tensions, we will never approach closure and consent on transparent, phased, and adaptive decisions for nuclear waste siting. Indeed, even if such a provision as Section 304(f) is enacted into law, we think it likely disputes will continue unchecked unless Congress avails itself of the opportunity to finally suggest a decades-overdue change in the law which we will now explore in more detail.

A meaningful and appropriate role for states in nuclear waste siting can be accomplished in a straightforward manner by amending the Atomic Energy Act (AEA) to remove its express exemptions of radioactive material from environmental laws. The exemptions of radioactivity make it, in effect, a *privileged pollutant*. Exemptions from the Clean Water Act and the Resource Conservation and Recovery Act (RCRA) are at the foundation of state and, we submit, even fellow federal agency distrust of both commercial and government-run nuclear complexes.

As this Committee is aware, most federal environmental laws expressly exclude "source, special nuclear and byproduct material" from the scope of health, safety and environmental regulation by EPA or the states, leaving the field to DOE and NRC. In the absence of clear language in those statutes authorizing EPA (or states where appropriate) to regulate the environmental and public health impacts of radioactive waste, DOE thereby retains broad authority over its vast amounts of radioactive waste, with EPA and state regulators then only able to push for stringent cleanups on the margins of the process. Indeed, the BRC Report discusses the State of New Mexico's efforts to regulate aspects of the Waste Isolation Pilot Plant RCRA as critical positive element in the development of the currently active site. *Final Report* at 21.[3] The NRC also retains far reaching safety and environmental regulatory authority over commercial nuclear facilities, with agreement states able to assume NRC authority, but only on the federal agency's terms.

States are welcome to consult with the NRC and the DOE, but the agencies can, and will, assert preemptive authority where they see fit. This has happened time and again at both commercial and DOE nuclear facilities. This outdated regulatory scheme is the focal point of the distrust that has poisoned federal and state relationships involved in managing and disposing of high-level radioactive waste (HLW) and spent nuclear fuel, with resulting significant impacts on public health and the environment.

If EPA and the states had full legal authority and could treat radionuclides as they do other pollutants under environmental law, clear cleanup standards could be promulgated, and we could be much farther along in remediating the toxic legacy of the Cold War. Further, we could likely avoid some of the ongoing legal and regulatory disputes over operations at commercial nuclear facilities. Any regulatory change of this magnitude would have to be harmonized with appropriate NRC licensing jurisdiction over facilities and waste and harmonized with EPA's existing jurisdiction with respect to radiation standards: but such a process is certainly within the capacity of the current federal agencies and engaged stakeholders. Some states would assume regulatory jurisdiction over radioactive material, others might not. But in any event, substantially improved clarity in the regulatory structure and a meaningful state oversight role would allow, for the first time in this country, consent-based and transparent decisions to take place on the matter of developing storage sites and geologic repositories.

[3] The BRC Report omits discussion of the fierce effort New Mexico waged to obtain RCRA authority over the site.

In short, Section 304(f) is a detailed attempt to remedy regulatory deficiencies that could be more simply and effectively handled by ending exemptions under the AEA. Removing the ability of the United States to unilaterally break the terms of the contract could potentially give a state some measure of comfort that the agreement it had painstakingly negotiated will hold fast. But there would be nothing stopping Congress from revisiting this law, ratifying the consent agreements with conditions, and thereby removing whatever meaningful restraint a state might assert. Thus, ultimately what is offered as a thoughtful contract provision could be rendered inoperable, and could eviscerate a state's protection against altered, less favorable terms.

By contrast, ending the anachronistic AEA exemptions solves the matter of meaningful state oversight and does not carry with it substantial likelihood of congressional terms and modifications exacted from states years into a good faith negotiation on a site. Indeed, while it would be possible for a future Congress to revisit the AEA and re-insert exemptions from environmental law, it would have to do so in a manner that would remove overdue jurisdictional authority from all states (or Congress would have to single out one state for special treatment). The difficulty of prevailing over the interest of all 50 states rather than simply amending legislation that affects the interests of just one state should be apparent.

***Recommendation 4 – Address Storage in a phased approach consistent with the architecture of the bill*.**

Comments on Section 306

Chairman Bingaman introduced S. 3469 by echoing the BRC and cautioning that unless there is direct, clear linkage between progress on a storage facility and progress on a repository, providing temporary storage could thwart progress toward developing repositories and reduce incentives to find a long-term solution." The Chairman stated:

> The Commission makes a strong case for interim storage, but "only in the context of a parallel disposal program." I agree with that conclusion. Interim storage can play an important role in a comprehensive waste management program, but only as an integral part of the repository program and not as an alternative to, or de facto substitute for, permanent disposal.

We agree. A link between storage and disposal is essential. We support the precise language in the text that "[t]he Administrator may not possess, take title to, or store spent nuclear fuel at a storage facility licensed under this Act before ratification of a consent agreement for a repository under Section 304(f)(4)." Such a provision wisely puts the horse before the cart and ensures just the linkage the Chairman understands and the BRC acknowledges is necessary. But this sensible process is undone by Section 306(b), which provides an exception for 10,000 metric tons of spent nuclear fuel.

The exception opens the door to a storage facility that fails to follow the phased process so carefully constructed in the earlier sections. Rather than prematurely bypassing a careful process that can arrive at protective, environmentally sensible and scientifically defensible solutions, NRDC urges spent fuel storage efforts to focus on vigorous efforts by industry and by appropriate regulatory authorities to ensure that all near-term forms of storage meet high standards of safety

and security for the decades-long time periods that interim storage sites will be in use. While NRDC can agree with the overall concept of consolidated interim storage for a measured amount of spent fuel that meets strong safety criteria (moving fuel from seismically active areas, for example) and removing the stranded fuel from decommissioned plants, we can only do so after the introduction of a phased approach, as the general architecture of S. 3469 suggests.

Indeed, the only situation where NRDC sees merit in a pilot project(s) is to address the current total stranded spent fuel at the nine closed reactor sites, accommodated in a hardened building at one or more sites that follows the example of the Ahaus facility in Germany. Potential volunteer sites that have already demonstrated "consent" are operating commercial reactors. Far less in the way of new infrastructure would be required and the capacity for fuel management and transportation is already in place, along with consent necessary for hosting nuclear facilities in the first instance.

Indeed, the BRC cited no evidence for why continued reliance on densely-packed wet storage should be accepted as adequate in light of the health, safety and security risks that interim wet storage poses. Instead, the BRC was negligent in not recommending that Congress statutorily direct movement of spent fuel from wet pools to dry casks as soon as practical, *i.e.*, as soon as spent fuel has cooled sufficiently to permit safe dry cask storage, generally about five years. Such a legislative direction would go far in addressing a number of public safety and environmental harms and do less damage to the careful architecture of this bill. With less fuel in the pool, an accident scenario in which cooling is lost would be less problematic through the extended time allotted by the slower boiling rate in the less crowded pools and the radiation source term would be reduced. The now standardized practice of onsite, hardened dry-cask storage poses clear benefits in terms of the mitigation of an accident or act of terrorism, either of which could lead to the release of quantities of radiation exceeding a reactor core melt.

Moreover, as we and many others in the environmental and public health community noted to the BRC, current practice at U.S. reactor sites allows the spent fuel pools to be filled to near capacity, with most pools containing five times as much fuel as the reactor itself. We disagree with the Commission's unfounded conclusion that it sees "no unmanageable safety or security issue associated with current methods of storage (dry or wet) at existing sites in the United States." *Final Report* at 32. This counter-factual conclusion is not borne out by the post-9/11 National Academy study of spent fuel storage, or by the recent post-Fukushima nuclear safety reviews at U.S. reactors that reveal significant deficiencies in back-up spent fuel cooling and instrumentation capability under the conditions of a station black-out. Particularly with respect to the 23 boiling water reactors (BWRs) in the United States, supplying emergency make-up water to a boiling pool inside the secondary containment can itself threaten, via excess heat and condensation, the performance of other critical reactor safety systems. Further, the elevated pools themselves are vulnerable to structural damage and debris from hydrogen explosions in a severe accident scenario, as occurred during the Fukushima accident.

In short, unprotected or lightly sheltered spent fuel pools outside containment are vulnerable to disabling of their cooling systems in a severe natural event – such as a tornado, earthquake, fire, or flood – and to direct destruction via a terrorist attack. On September 11, 2001, Flight 11 passed directly over the Indian Point nuclear reactors and spent fuel pools, containing tons of discharged fuel in wet storage. None of the above-enumerated threats could be considered "well-managed"

under current NRC regulations or current independent licensee efforts. Congress should confront this matter directly and require unpacking of excess fuel from the pools and into hardened onsite storage. A pilot storage project that addresses none of these issues merely serves to undercut the meritorious sections of S. 3469.

Title IV – Funding and Legal Proceedings

Sections 401 and 402 set forth terms of ensuring the "polluter pays principle" is appropriately enshrined in the law. Section 404 appropriately provides for judicial review of final actions under S.3469. Section 406(b)(1) – which requires settlement of all nuclear waste breach of contract claims as a condition precedent before the Nuclear Waste Administration takes title to and stores any nuclear waste for the contract holder– merits particular positive notice as a thoughtful method that will ensure settlements and allow the program to proceed in an effective fashion. Section 406(d) bars new contracts before the Commission has licensed the Administrator to operate a repository or storage facility. This provision wisely sidesteps the liability issues of the past two decades and creates an incentive for all parties to work for a strong, protective nuclear waste storage and disposal program.

Recommendation 5 - Reject Closed Fuel Cycles and Reprocessing

As a final matter, we applaud the focus in S. 3469 on storage and disposal rather than dragging into this proposed legislation the red herring that is reprocessing. Chairman Bingaman noted:

> The Commission wisely resisted the allure of reprocessing, concluding that there is "no currently available or reasonably foreseeable" alternative to deep geologic disposal. In short, we need a deep geologic repository. Even if we were to reprocess spent fuel, with all of the costs and environmental issues it involves, we would still need to dispose of the radioactive waste streams that reprocessing itself produces and we would need to do so in a deep geologic repository.

We concur. We also note that the analysis of advanced fuel cycle technologies contained in the BRC *Final Report* was inadequate, and its broad sweeping conclusions are not supported by a more rigorous comparison of current once-through versus advanced closed fuel cycles. As we demonstrated time and again to the BRC in our comments (*see NRDC November 1, 2011 comments at 7-14*), one can determine the relative attractiveness and economic outlook of various reactor and fuel cycle concepts and the likelihood that various options will be implemented in the United States.

Consequently, rather than promoting a large research and development (R&D) program covering a wide range of alternative fuel cycles, Congress should look at the reality of the federal budget over the next decade and narrow the options and focus on those that are most promising. Given that there is no current or prospective closed fuel cycle that can economically compete with the current open cycle, Congress should prioritize R&D funding to support technologies that can mitigate climate change in the near-term at the least cost. This excludes government funded R&D on closed plutonium fuel cycles.

Additionally, we are opposed to using (or attempts to use) the Nuclear Waste Fund to support development or deployment of reprocessing and fast-reactor technologies. Separating

responsibility for waste management/disposal from other fuel cycle functions is key to garnering support and public trust from NRDC and many others, and we support S. 3469's careful attention to this matter.

Conclusion

S. 3469 has several important provisions that can help build a better nuclear waste management system, but decades from now others will face our current predicament unless Congress fundamentally revamps how nuclear waste is regulated and allows for meaningful State oversight by amending the AEA to remove its express exemptions of radioactive material from environmental laws.

Thank you again for this opportunity and I am happy to answer any questions.

NRDC
THE EARTH'S BEST DEFENSE

Hanford Challenge

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March 27, 2013

Secretary Steven Chu
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The.Secretary@hq.doe.gov

RE: Proposal to Ship Hanford High-Level Radioactive Waste to New Mexico

Dear Secretary Chu,

We write to you regarding the Department of Energy's (DOE) News Release and subsequent publication in the Federal Register on March 11, 2013 of DOE's "preferred alternative" to retrieve, treat, package, characterize and certify certain Hanford tank wastes for disposal at the Waste Isolation Pilot Plant (WIPP) in Carlsbad, New Mexico.[1] As detailed below, DOE's proposed course of action would fail to resolve or meaningfully address potential threats to the Columbia River from leaking high-level radioactive waste (HLW) tanks at Hanford. The waste proposed for treatment and transfer to WIPP is too small a fraction of the total inventory of Hanford tank waste to make the investment worthwhile and the proposal does not prioritize the leaking single-shell tanks. Further, DOE's "preferred alternative" would likely have a disastrous impact on both efforts to arrive at a national nuclear waste strategy and associated progress at the WIPP facility from legal, technical and institutional perspectives.

With such caution in mind, we urge you to ensure DOE complies with the law and retracts the preferred alternative of attempting to ship high-level radioactive waste to New Mexico. It is costly, unwise and illegal to ship Hanford tank waste to WIPP. DOE should move as quickly as practicable to build new tanks to empty the actively leaking high-level radioactive waste tanks and have tank capacity for eventual feed to the Waste Treatment Plant. We would be happy to meet with your successor in the coming weeks to discuss these and other matters. We further detail these matters below.

Background

As national and regional groups that have worked on the nuclear weapons complex cleanup for decades, we share DOE's concerns about protecting human health, the environment, and of course, the Columbia River and its central role as the lifeblood of the Pacific Northwest. We also share concerns about achieving an effective high-level waste program inclusive of state, tribal and public

[1] EIS-0391: Notice of Preferred Alternative, 78 Fed. Reg. 15358, (March 11, 2013). Notice available at: http://energy.gov/nepa/downloads/eis-0391-notice-preferred-alternative.

interests that ultimately arrives at long-term geologic disposal solution for defense-generated HLW and commercial spent nuclear fuel.

As you know, Hanford's tanks are leaking HLW with an underground flow pathway toward the Columbia River. An estimated one million gallons of contamination have already leaked from the tanks, and an undetermined quantity has entered the groundwater adjacent to the river. The Washington State Department of Ecology has declared, "out of these 149 SSTs, 67 have been declared as known or assumed leakers that have released more than one million gallons of waste to the soil and groundwater. The released tank waste is now moving toward, but has not reached, the Columbia River."[2] Six single-shell tanks and one double-shell tank are now confirmed to be actively leaking, and 14 others may be leaking, according to DOE.[3] Such leaks will only serve to drive existing contamination closer to the Columbia River. This is an urgent problem, and we applaud the State of Washington and the Department of Energy for their renewed commitment to address this crisis.

While we share concerns for a meaningful and effective high-level waste disposal program, the position of the NRDC, Hanford Challenge and Southwest Research and Development Center is that DOE's "preferred alternative" to retrieve, treat, package, characterize and certify certain Hanford tank wastes for disposal at WIPP in New Mexico is both unlawful and fraught with several technical problems that make it evident any such plan does not meaningfully solve the urgent situation in Washington.

The Hanford EIS and the subject of shipping HLW to New Mexico

Prior to the close of the public comment period on the Draft Tank Closure & Waste Management EIS (TC &WM EIS), DOE issued a statement in the Federal Register (74 FR 67189) that indicated it was no longer considering sending Hanford tank waste to WIPP, declaring the intention that these wastes would be retrieved and treated at the Waste Treatment Plant (WTP) being constructed at Hanford.[4] For this reason, the State of Washington Department of Ecology (Ecology) and many members of the public did not comment on sending tank waste to WIPP during the public comment period, and no public meeting was held in New Mexico. However DOE changed its position in the Final TC & WM EIS and included the preferred alternative of sending portions of tank waste to WIPP.

In its Forward to the Final TC & WM EIS, Ecology elaborated on some of its concerns over DOE's current approach to the potential mixed TRU tank waste:

> Ecology has legal and technical concerns with any tank waste being classified as mixed TRU waste at this time. DOE must provide peer-reviewed data and a strong, defensible, technically and legally detailed justification for the designation of any tank waste as mixed TRU waste, rather than as HLW. DOE must also complete the WIPP certification process and assure Ecology that there is a viable disposal pathway

[2] http://www.ecy.wa.gov/programs/nwp/tank_waste_storage.htm

[3] "The U.S. Department of Energy and its contractor are evaluating 14 other single-shell tanks that appeared to have lost liquid, according to state regulators and others who attended a DOE briefing in Oregon Monday." http://www.oregonlive.com/environment/index.ssf/2013/03/more_tanks_could_be_leaking_at.html#incart_river_default

[4] "DOE is now expressing its preference that no Hanford tank wastes would be shipped to WIPP." 74 Federal Register 67189, (December 18, 2009).

> (i.e., permit approval from the State of New Mexico and the U.S. Environmental Protection Agency) before Ecology will modify the Hanford Sitewide Permit to allow tank waste to be treated as mixed TRU waste. Further, Ecology is concerned with the cost benefit viability of an approach that sends a relatively minor amount of tank waste to WIPP, given the cost it would take to secure the disposal path, and to construct and operate the drying facility for the TRU tank waste.[5]

A treatment facility to retrieve, process and package Hanford tank waste for shipment to WIPP would be expensive, and time-consuming. Without substantially more information, we are unclear how any such plan could comply with current law. We are unaware of blueprints or plans for such a drying facility, and certainly there is no existing facility at Hanford that could accomplish that mission.

DOE named 20 tanks with high level waste that DOE would seek to reclassify as TRU in the Final TC &WM EIS,[6] but an earlier review by the Washington State Department of Ecology put the number of tanks that might qualify under the legal definition of TRU at only eight tanks.[7] DOE's current presentations further the intention to classify 11 tanks as Contact Handled TRU (CH-TRU) and send this waste, totaling around 280,000 gallons to WIPP.[8] However, no policy, cost or legal analysis on the topic has been completed and therefore there is no credible basis at this time for DOE's preferred alternative of sending Hanford tank waste to WIPP.

The Legal Bar Against Reclassifying HLW

There is a contentious legal history on the subject of treatment and disposal of HLW, particularly with respect to "reclassifying" HLW and disposing of it in a manner not consistent with the Nuclear Waste Policy Act, 42 U.S.C. § 10101, *et seq*. DOE's efforts to reserve to itself unfettered authority to reclassify HLW over the last 15 years have precipitated litigation by NRDC and other environmental groups, and the direct objection of several states. *See, NRDC v. Abraham*, 271 F.Supp. 2d 1260 (D. Idaho 2003), rvsd' on ripeness grounds, *NRDC v. Abraham*, 388 F.3d 701 (9th Cir. 2004) (collectively the "HLW Decisions"). *See also*, Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005, Pub. L. No. 108-375, § 3116, 118 Stat. 1811, 2162-64 (2004). We will not review that entire history here, but make a few relevant points.

First, all the waste in the tanks is currently HLW.[9] However, we note that DOE is not barred from removing high-level radioactive waste (HLW) from the tanks and treating that waste for disposal. Nor do the HLW decisions bar DOE from separating some portion of that waste into a stream that meets low-level radioactive waste (LLW) standards and disposing of that portion of the waste outside

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[5] Washington State Department of Ecology Forward, Final TC & WM EIS, DOE/EIS-0391, December 2012.
[6] Final TC & WM EIS, DOE/EIS-0391, December 2012, p. 2-26 sec. 2.2.2.2.5.
[7] Conversation between Tom Carpenter, Hanford Challenge, and Department of Ecology staffer, March 16, 2013.
[8] USDOE ORP Presentation by Kevin Smith to the Oregon Hanford Cleanup Board, March 4, 2013.
[9] "<u>It is undisputed</u> that the waste stored at Hanford, INEEL, and Savannah River is highly radioactive and the result of reprocessing. No solids have yet been extracted from the liquid waste at those sites and treated to reduce fission products. Thus, the waste at issue in this case falls within NWPA's definition of HLW." *NRDC v. Abraham*, 271 F.Supp.2d 1260, 1265 (D.Idaho 2003) (emphasis added).

of a geologic repository in a properly licensed disposal site. Such a process, however, is not what DOE has proposed.

Second, Section 3116 of the 2005 National Defense Authorization Act, the Bush Administration's response to the original Idaho Federal District Court HLW Decision, was a significant change to the entire structure and purpose of the NWPA, not a "clarification."[10] That law, which allows DOE to reclassify HLW as "Waste Incidental to Reprocessing" subject to certain criteria, has application in South Carolina and Idaho. Section 3116 does not have application in Washington or Oregon. *See*, Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005, Pub. L. No. 108-375, § 3116, 118 Stat. 1811, 2162-64 (2004). Further, the "waste incidental to reprocessing" concept codified in Section 3116 does not set cleanup standards of "99 percent," "most of the radioactivity," or an "inch and half of waste at the bottom of the tank." The Natural Resources Defense Council and Hanford Challenge voiced repeatedly in comments Hanford Draft TC &WM EIS that this concept should be dropped from consideration in final and preferred alternatives for the Hanford Draft TC & WM EIS.

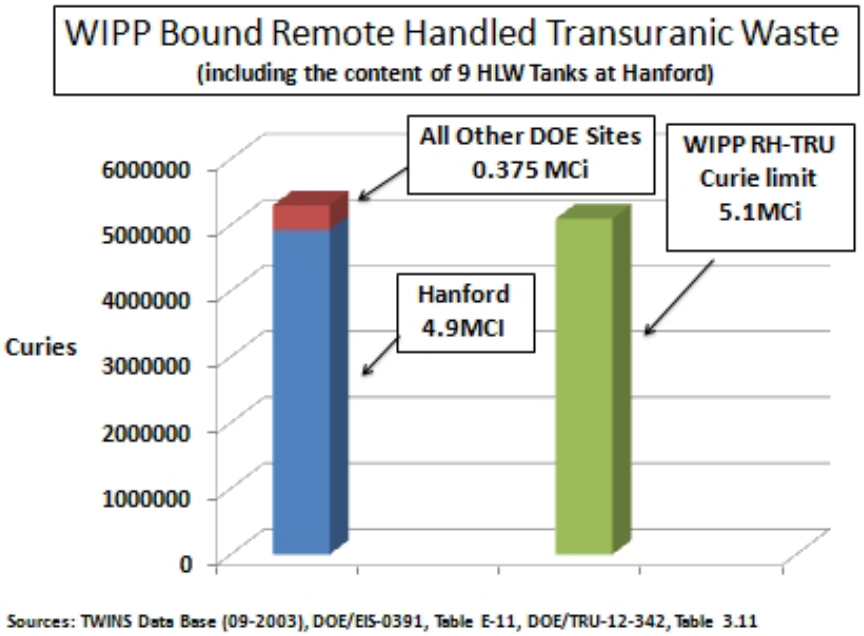
In short, under the current NWPA, the Environmental Protection Agency (EPA) and the Nuclear Regulatory Commission (NRC) regulate the geologic disposal of HLW – and decide what is (and what is not) HLW. At the Hanford Reservation, DOE may not unilaterally decide that HLW has been transformed into "waste incidental to reprocessing" or "TRU waste" for disposal at WIPP. If the concepts embodied in Section 3116 are in any way adopted or used via the Hanford Final TC & WM EIS and subsequent preferred alternatives, DOE will be in direct contravention of the NWPA.

Further Data and Analysis of Hanford HLW Tanks Needed

Along with ensuring you are clear on the status of HLW law, we would like you to consider the characteristics of the wastes in the 20 Hanford tanks named as candidates for disposal at WIPP. An analysis of Hanford's TWINS database reveals that the radioactivity content of these 20 Hanford tanks named in the EIS come close to almost entirely filling the radioactivity limits for the WIPP facility. Specifically, for remote-handled Transuranic Waste (RH-TRU), the curie content in the Hanford tanks is 4.9 million curies. WIPP's RH-TRU limit for such waste is 5.1 million curies.[11]

[10] NRDC and dozens of environmental and public interest groups stood with Washington, Oregon, New York, and New Mexico and objected to the concepts embodied in Section 3116. Only the states of South Carolina and Idaho – who sided with the other states throughout the litigation until March 2004 in objecting to DOE's assertion of "waste incidental to reprocessing" authority –submitted to DOE's cleanup budget-threatening tactics and supported the legislative change. Via Section 3116, DOE obtained an exemption from the NWPA and the ability to reclassify HLW as "incidental waste" without any congressional or state oversight. No such similar path forward exists at the Hanford site.

[11] http://www.wipp.energy.gov/library/seis/DOE_EIS-0026-SA-08.pdf



Apparently, DOE has no plans to remove radionuclides from these wastes, and instead relies on a plan to simply remove and dry the tank waste according to Appendix E of the Final TC &WM EIS. However, in order to stay under the curie limit for WIPP, either the current law will have to change to substantially increase the curie limits for the RH-TRU, or DOE will have to decontaminate the sludge (10-20% of the volume containing ~95% of the Sr) and the Cs in the salts (80-80% of the volume containing ~90% of the Cs.). This will likely involve the use of sludge washing. Once these contaminants are removed, we have no information where DOE intends to dispose of these toxic radionuclides.

The Situation at the Hanford Tank Farms

We concur with DOE and the State of Washington that there is practically little if any capacity to receive more high level wastes in the current underground waste tanks at the Hanford Tank Farms. And specifically there is diminishing capacity left in the existing double-shell tanks (DST), according to Hanford's System Plan, relied upon in the 2013 Hanford Lifecycle Scope, Schedule and Costs Report. The System Plan identifies that, after the C Farm tank waste campaign is completed and waste is retrieved from the AX Farm Single-Shell-Tanks (SSTs) and from some of the A Farm SSTs by 2020, there will be only 0.9 million gallons of Double-Shell-Tank (DST) capacity left.[12]

However, these estimates consider neither the need to empty and take AY-102 out of commission nor the amount of waste in actively leaking tanks. The recently identified DST leaker, AY-102, has 800,000 gallons of waste that will need to be removed from that tank alone. The lack of integrity of

[12] River Protection Project System Plan, ORP-11242 Revision 6, p.5-10. October 2011. Available at www.hanford.gov/files.cfm/ORP-11242_REV_6_-_[1110050954].pdf.

tank AY-102 calls into question the assumption that the current DSTs will last long enough to see the waste treatment mission through.

There is at least a significant question about how many, if any, of the Hanford tanks identified as TRU-waste candidates, would actually qualify as such. Even giving DOE the benefit of the doubt that some portion of this waste could be removed, treated, and disposed of as TRU, which as we describe above is not a lawful act, assuming all 20 of the tanks qualify as TRU, it still amounts to only 3.1 million gallons, or around 5.6 percent of the total waste volume in the tanks. It is not worth the time and money to build a TRU treatment facility at Hanford for such a small amount of waste. Second, even if the waste was suitable for WIPP, the timing does not negate the need for immediate action to build new tanks, empty leaking tanks and get the Waste Treatment Plant on track. We cannot let the false solution of unlawfully shipping some insignificant fraction of HLW to WIPP distract us from real and immediate needs.

What We Recommend at Hanford

The only sure way to relieve the crisis at Hanford is to build new waste tanks, as soon as possible. Indeed, this conclusion has been reached by the Governors of both Washington[13] and Oregon[14], and by the Hanford Advisory Board[15], a 32-member council of diverse Hanford stakeholder seats that operates by consensus. This has been a contentious political point for years, as investing in new tanks was feared to take attention (and funding) away from the much needed Waste Treatment Plant and would become a default "solution." However, with the integrity of current tanks in such question and the delays at the WTP, new DSTs need to be on the table. The technology is mature, there are no questions about the legality or technical feasibility of such a plan, and given the trade-offs in costs between building a (risky) TRU-treatment facility and tanks, the choice is clear. Additionally, new double-shell tanks are needed to help staging for Waste Treatment Plant operation.

Washington law requires that any tank containing hazardous materials that is reported as starting to leak must be pumped below the point of the leak within 24 hours, or as soon as practicable.[16] It is of paramount importance that no new leakage be tolerated, and those tanks that are reported to be actively leaking must be remediated as soon as possible. This requires that waste in those tanks be moved to double-shell tanks that have not leaked (i.e., not AY-102) and have enough room to accommodate the waste.

Furthermore, the System Plan assumes that RH-TRU waste will be treated at the WTP together with HLW.[17] Regardless of what DOE may intend to someday ship to WIPP, new tanks are needed immediately at Hanford to prevent more waste from entering the ground and water systems and to

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[13] Governor Jay Inslee wants more tanks at Hanford, Feb. 1, 2013, *Tri-City Herald*, http://www.tri-cityherald.com/2013/02/01/2258268/governor-jay-inslee-wants-more.html
[14] John Kitzhaber calls for more tanks to hold Hanford's high-level radioactive waste, Jan. 30, 2013, *Oregonian,* http://www.oregonlive.com/environment/index.ssf/2013/01/kitzhaber_calls_for_-more_tanks.html
[15] Hanford Advisory Board Advice, Nov. 2, 2012, http://www.hanford.gov/files.cfm/HABAdv_263.pdf
[16] Washington Admin. Code 173-303-640.
[17] 2013 Hanford Lifecycle Scope, Schedule and Costs Report, DOE/RL-2012-13, Rev. O. December 2012. Available at http://www.hanford.gov/files.cfm/DOE-RL-2012-13_FINAL__REV.0_.pdf.

ensure that the transfer of waste to the Waste Treatment Plant is efficient and safe once operational. Furthermore, DOE must act to put the Waste Treatment Plant on track with an independent assessment and realistic plan for how to address the cost-overruns, delays, and most importantly the design and quality assurance problems plaguing the WTP.

Institutional Implications of Such a "Preferred Alternative"

The DOE's relationship with several states, including licensing issues, and the coherency of the entire nuclear weapons complex cleanup will be called into question if DOE proceeds with this preferred alternative. Specifically, the WIPP Land Withdrawal Act (LWA, PL 102-579, Section 12, 106 Stat. 4791 (1992)) bans transportation to or disposal of HLW or commercially generated spent nuclear fuel at WIPP. *See* Section 12 of the LWA. The ban reflected the position of New Mexico officials and the congressional delegation, as well as public opinion. The legislative history illustrates Congressional recognition that Hanford tank wastes are HLW and included in the ban.

Further, DOE's WIPP environmental impact statements have at no point included any Hanford HLW (or any other HLW from any other site, for that matter) in possible WIPP inventory. Therefore, transportation or emplacement of any Hanford tank waste at WIPP requires congressional action to amend the LWA, as well as substantial and new NEPA analyses.

Finally, such a preferred alternative contradicts the national nuclear waste strategy proposed by President Obama's Blue Ribbon Commission on America's Nuclear Future and DOE's January 2013 proposal to emphasize the importance of consent in future nuclear waste storage and disposal programs.[18] Indeed, an effort to enact the ideas of the BRC into legislation was proposed at the end of the previous Congress by former Energy & Natural Resources Chairman Jeff Bingaman (NM). New iterations modeled on Senator Bingaman's template are currently being developed in this Congress. In the context of WIPP, the consent given was clearly under the stipulation that no HLW or spent nuclear fuel would be transported or disposed there. Not abiding by the longstanding limitations included in the state's consent would not only undermine DOE's credibility and Congressional action for New Mexico, but also set an extraordinary precedent, rendering it unthinkable that any other state would rely on DOE's assurance that the agency would abide by conditions or limitations that are integral to state consent.

And as a practical matter, WIPP is not designed for and does not have the capabilities to handle HLW. Indeed, WIPP is not succeeding in its remote-handled (RH) waste disposal mission, as it has available space for only about half of the RH waste that is allowed by the LWA and the Consultation and Cooperation Agreement. DOE's focus regarding WIPP should be on assuring that the facility is fulfilling its mission, not on adding additional activities for which the site is not suited.

This is a matter of significant concern and, we note, some measure of complexity. Representatives from each signatory group will be in Washington, D.C. from April 15-19, 2013 and request to meet

[18] Department of Energy, Strategy for the Management and Disposal of Used Nuclear Fuel and High-Level Radioactive Waste, January 2013. Available at: http://energy.gov/sites/prod/files/Strategy%20for%20the%20Management%20and%20Disposal%20of%20Used%20Nuclear%20Fuel%20and%20High%20Level%20Radioactive%20Waste.pdf

with your successor and staff to discuss these matters. Thank for your consideration and we look forward to hearing from you.

Sincerely,

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cc: David Huizenga (DOE), Governor Jay Inslee, Governor John Kitzhaber, Maia Bellon (WA State Department of Ecology), Governor Susana Martinez, Senator Maria Cantwell, Senator Patty Murray, Senator Jeff Merkley, Senator Ron Wyden, Senator Martin Heinrich, Senator Tom Udall, Representative Doc Hastings, and Representative Adam Smith

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GREG BELL
LIEUTENANT GOVERNOR

May 23, 2013

The Honorable Senator Ron Wyden, Chairman
The Honorable Senator Lisa Murkowski
Ranking Member, Senate Committee on Energy and Natural Resources
304 Dirksen Senate Building
Washington, DC 20510

The Honorable Senator Dianne Feinstein, Chairwoman
The Honorable Senator Lamar Alexander
Ranking Member, Senate Committee on Appropriations
Subcommittee on Energy and Water Development
The Capitol, Room S 128
Washington, DC 20510

Re: Comments Regarding the Discussion Draft,
The Nuclear Waste Administration Act of 2013

Dear Senators Wyden, Murkowski, Feinstein and Alexander,

I would like to thank you for this opportunity to comment on the draft legislation addressing high level nuclear waste. Currently, Utah is host to neither commercial spent nuclear fuel nor defense high level nuclear waste. Nevertheless, Utah is intimately familiar with the process for siting a consolidated interim storage facility in our State. Accordingly, any legislation addressing the transportation, storage or disposal of high level nuclear waste may have a significant impact on the State of Utah.

As you may be aware, absent any meaningful input or consent from the State of Utah, and against the will of the majority of elected officials and Utah citizens, a consortium of nuclear power companies named Private Fuel Storage, L.L.C. ("PFS"), sought to transport commercial spent nuclear fuel to Utah for indefinite storage. Siting and licensing the PFS facility was neither transparent nor consent based. PFS completely foreclosed any opportunity for the State of Utah to participate in the site selection process. In fact, PFS selected its site adjacent to a U.S. Air Force bombing range and over two active seismic faults.

As litigation was the only avenue available to raise critical issues, Utah was forced to take an adversarial role. Utah engaged in intense ligation before the U.S. Nuclear Regulatory Commission ("NRC") over an eight year period. Following the failure of the NRC to adequately address numerous concerns, Utah appealed the NRC decision to grant a license for interim storage.

Utah's endeavor to adequately address potential impacts from the proposed PFS facility has spanned the administrations of four Utah governors over a sixteen year period and is still ongoing. Because of the critical importance of these issues to the State of Utah, or indeed any state where these nuclear materials might be located, it is imperative that a governor have a decisional role when any nuclear facility is being considered in his or her state. Moreover, this decisional role should exist whether or not the facility is located on private, public or tribal lands and whether or not it is financed by a private entity or the federal government.

Based on our experience, I commend your mandate to impose an open and transparent consent-based process in siting storage and disposal facilities. Moreover, I fully endorse the requirement, in both the draft discussion bill and the alternative language, to obtain gubernatorial approval through a consent agreement prior to seeking a license for any facility located in a state, whether or not on Indian lands. States are co-sovereign entities in a federal system with a unique responsibility to ensure the safety and welfare of its citizens. Thus, notwithstanding how candidate sites are selected, it is imperative that governors have a decisional role in whether or not to host a nuclear waste facility in their states, whether that facility is a storage facility or repository.

Additionally, the alternative language provides that candidate storage sites are identified through requests for proposals. As governors, local governments and tribes must ultimately consent to host a storage facility, the law should require that any request for proposal include written consent from the governor, local government and tribe.

The alternative language allows but does not require a cooperative agreement with the impacted state, local government or tribe prior to characterization of a suitable site. In pursuit of an informed decision, it is essential that states, local governments and tribes have the ability and sufficient resources to evaluate any potential impacts of a nuclear facility. Therefore, it is essential that cooperative agreements be reached prior to characterization of any site.

I appreciate the opportunity to provide input on the draft legislation. If you would like additional information regarding my comments above or the State of Utah's experience, please contact John A. Pearce, General Counsel, at 801-538-1504 or jpearce@utah.gov.

Sincerely,

Gary R. Herbert

Gary R. Herbert
Governor

cc: The Honorable Senator Orrin Hatch
The Honorable Senator Mike Lee
The Honorable Representative Jim Matheson
The Honorable Representative Rob Bishop
The Honorable Representative Jason Chaffetz
The Honorable Representative Chris Stewart

Comment from Groups to the Senate Energy Committee on Discussion Draft of Nuclear Waste Administration Act of 2013

May 24, 2013: Many organizations signing here have made additional comments to the Committee on this matter; we submit these comments as one voice to emphasize these points.

Comments:
The first objective of any strategy to manage our country's stockpile of nuclear waste must be safe and secure storage and minimizing the number of times radioactive waste is handled and transported. The proposal to move nuclear waste to one or more consolidated waste storage facilities does not meet this objective. In addition the proposal does not address broader storage and disposal issues. Adopting a plan to move waste around the country without linkage to permanent disposal would be inequitable.

We oppose the inclusion of consolidated "interim" waste storage in the Nuclear Waste Administration Act of 2013.

<u>Transportation risks and hazards are compounded</u>
Consolidation would multiply the distances high-level waste is shipped, and escalate the risks of public and worker exposure and severe accidents (accident rate is directly tied to shipment miles). It would also further stress and potentially damage irradiated nuclear fuel, making future handling, transport, and long term isolation from the environment much more difficult.

Multiple transportation campaigns are more complex than some reports make them out to be:

• the National Academy of Sciences report "Going the Distance," often cited for concluding that transport is "safe," expressly stated that security concerns were significant, but this was not included in the report nor its conclusion;

• many conclusions are based on transport of other nuclear materials, such as nuclear warheads, "low-level" waste and uranium fuel that has not been used in a reactor; none of these materials are comparable in size, thermal mass, ambient gamma dose or attractiveness to would-be terrorists;

• to date, containers for irradiated fuel have never been physically tested--particularly those currently in use at reactor sites--for accident conditions;

• even routine transport will result in ionizing radiation exposure to the general population; the current regulations do not reflect many new findings about radiation impact that underscore, once again, that such exposure must be minimized, not multiplied for corporate convenience.

Transfer of backlog waste to dry containers at the site where it was generated, and storage for the "interim" period at that site, will reduce two enormous risk factors: over-full fuel pools and unnecessary transport of the waste. Security and safety at the existing sites would be greatly increased by the hardening of the dry storage containers. Hardened On-site Storage or HOSS is a set of principles developed by communities currently impacted by on-site waste storage and are posted in complete form here: http://www.nirs.org/radwaste/policy/hossprinciples3232010.pdf

Does not resolve existing vulnerability of nuclear waste storage

Our groups agree that reducing the inventory of irradiated fuel stored in liquid pools at reactor sites must be a top priority. Mandating consolidated storage does not ensure a prompt removal of waste from pools at all sites. If reactor owners are allowed to await the formation of a new federal agency, the production of new containers on a federal schedule, and the arrival of their turn in the traditional waste "queue" or some other new sequence, it could be decades before some older waste is removed from fuel pools.

A bill which mandates hardened dry storage of all waste approved by the regulator for dry storage would accomplish the goal of rapidly reducing fuel pool inventories. In our view, the failure of the U.S. Nuclear Regulatory Commission (NRC) to mandate hardened on-site dry storage at reactor sites expressly on the basis of its own assessment of harm[i] that would result from a fuel pool accident or attack should have been corrected through Congressional action long ago; the Fukushima Daiichi events merely underscore this.[ii]

Consolidated storage sites could become de facto permanent

The primary purpose of moving the waste to a temporary site is to satisfy the grave legislative blunder ratified by the Nuclear Waste Policy Act of 1982: that the federal government not only would take possession of commercial nuclear waste, but that it would begin accepting waste for disposal in 1998.

Because the federal government is 15 years late taking ownership of the waste, it is pushing a strategy that prioritizes the resolution of financial liabilities rather than ensuring safety and security. Moving irradiated nuclear fuel and other high level wastes to a consolidated site could de-incentivize and adversely impact progress of the nation’s efforts toward a viable permanent solution. The draft legislation’s

overtures toward decoupling the relationship between storage and permanent disposal further exacerbate this issue.

Our view is simple: there must be no transportation of spent nuclear fuel or high level waste until it is heading to a permanent site. The discussion of consolidated storage without the linkage provided in the existing Nuclear Waste Policy Act is not credible as "temporary" and the provisions offered by the Committee do not rise to the level of that term.

Does not reduce the number of contaminated sites

True consolidation of waste is not possible as long as nuclear utilities continue to generate waste. As long as nuclear power plants continue to operate, nuclear waste will be at reactors, as the waste must be cooled in pools on-site at least five years before being moved to either on-site dry storage or an off-site storage facility. This fact, combined with the decades it would take to establish any new site, and decades to ship the existing backlog of waste is a key reason that dry storage on-site should be put in HOSS (hardened on-site storage) now, no matter what.

In fact, the 1996 report by the Nuclear Waste Technical Review Board entitled "Disposal and Storage of Spent Nuclear Fuel -- Finding the Right Balance" stated that the most geographically equitable approach to storage is to leave the spent fuel at reactors near the communities that have benefited from the power generated.

Consolidating the storage of irradiated fuel is integral to reprocessing

Consolidation would increase the probability of reprocessing, resulting in massive separation of plutonium with no way to ensure that it would not be diverted, officially or unofficially, for use in weapons of mass destruction. Our groups strongly oppose reprocessing. It is expensive and polluting, and weakens the global non-proliferation regime. It is not a viable waste management strategy, as reflected in the Blue Ribbon Commission report, because it does not significantly reduce the radioactivity of the waste that must be stored in a repository. In fact, there has been no resolution for the millions of gallons of toxic waste generated by spent fuel reprocessed in the United States decades ago.

Does not honor the "polluter pay" principles established in the Nuclear Waste Policy Act of 1982

Exemption of waste generators from continued financial participation in responsibility for any waste generated prior to its emplacement in a bona fide location for permanent isolation from our environment is a striking change from the existing statute and should be addressed directly in this legislation. There are a number of options and our groups would, in general, support a funding equation that mandates transfer from pools to hardened on-site storage rapidly. However, there remains an

issue as to whether and to what extent waste generators should have a financial role in expediting a safer waste management regime.

Sincerely,

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Marcia Halligan
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Viroqua, WI

i See NUREG-1738, *Technical Study of Spent Fuel Pool Accident Risk at Decommissioning Nuclear Power Plants 2001*, and also analysis done by NRC staff and published in the *Federal Register* as a proposed rulemaking on October 30, 1997; FRVol62#210, pages 58690-58694.

[ii] Robert Alvarez, May 2011. *Spent Fuel Pools in the US: Reducing the Deadly Risks of Storage*. Institute for Policy Studies, report can be downloaded here: http://www.ips-dc.org/reports/spent_nuclear_fuel_pools_in_the_us_reducing_the_deadly_risks_of_storage

May 24, 2013

Senator Ron Wyden
221 Dirksen Senate Office Building
Washington, DC 20510

Senator Lisa Murkowski
709 Hart Senate Office Building
Washington, DC 20510

Senator Dianne Feinstein
331 Hart Senate Office Building
Washington, DC 20510

Senator Lamar Alexander
455 Dirksen Senate Office Building
Washington, DC 20510

Dear Senators Wyden, Murkowski, Feinstein and Alexander:

Thank you for the opportunity to comment on the discussion draft of your bi-partisan legislation to implement the recommendations of the Blue Ribbon Commission on America's Nuclear Future. Your bill would fix many of the problems that have plagued our nation's nuclear waste management program for decades and I congratulate you on your efforts.

As you may know, the nuclear energy industry has deep roots in the State of Idaho and to this day plays a large role in the Idaho economy. For example, since its creation in 1949, the U.S. Department of Energy's Idaho National Laboratory has hosted dozens of nuclear research reactors, including one that enabled Arco, Idaho to become the first city lit by nuclear power. Today, the INL is host to a world-class nuclear test reactor and other nuclear research infrastructure, and serves as the nation's lead laboratory for nuclear energy research and development. In addition, several major private nuclear industry firms operate in the state, providing materials, equipment and professional services to the DOE, to DOE contractors, and to nuclear projects across the globe. Supporting and providing the skilled workforce for Idaho's nuclear industry are well-respected programs in nuclear engineering and related fields at Idaho's three research universities.

With the knowledge that Idaho has a major strategic and economic interest in maintaining its leadership role in nuclear matters, Idaho Governor C.L. "Butch" Otter established the Leadership in Nuclear Energy Commission in February 2012. The Governor recognized that recent national developments in the nuclear energy sector will cause the State of Idaho to face important choices in the future and he formed the LINE Commission to evaluate and advise him on Idaho's options.

One of the primary drivers for the formation of the LINE Commission was the Administration's decision to withdraw the license application for a geologic repository at Yucca Mountain in Nevada. As you may know, in 1995 the State of Idaho and the federal government entered into a Settlement Agreement which sets legally enforceable deadlines for the handling, treatment, and shipment of nuclear wastes and legacy materials from the INL site, along with financial penalties if the deadlines are not met. In exchange, it allows

DOE and the U.S. Navy to ship defined quantities of spent nuclear fuel into the state for interim storage, provides funding for economic development, and establishes INL as the nation's lead laboratory for research on spent fuel management and disposal.

The Administration's decision to withdraw the Yucca Mountain license application leaves spent nuclear fuel and high-level waste at the INL site with no designated location for permanent disposal. Our Commission examined the implications of this decision for the future of INL cleanup and research missions. What we found was that while the uncertainty caused by this decision raises very real questions about the fate of the spent fuel and high-level waste already being stored in the state of Idaho, it may also present opportunities for both the private and public sectors.

In keeping with the BRC recommendations, your draft legislation proposes the establishment of one or more consolidated spent fuel storage facilities. Some commercial interests and local governments in Idaho have suggested that the state explore the possibility of hosting of a consolidated commercial spent fuel storage facility. In its January 2013 report, the LINE Commission found that consolidated storage could be conducted safely and securely within Idaho's boundaries, and that such a storage facility represents a substantial economic opportunity. However, the Commission also expressed a view that Idaho's settlement agreement coupled with current federal waste management policy – which has not evolved to the point that gives state governments enough clarity or sufficient leverage to negotiate and enforce siting agreements with the federal government – represent two fundamental inquiries for Idaho.

Your draft legislation provides important negotiating leverage to state, tribal and local governments and provides a framework for addressing other issues that we believe any state would need to resolve before consenting to host a new nuclear waste management facility. In particular, your legislation provides for a meaningful yet flexible linkage between consolidated storage and progress toward the development of a permanent nuclear waste repository. While it is still far too early to say whether and under what conditions any state would consent to host a new nuclear waste management facility, it is clear that your draft legislation represents an important step toward gaining such consent.

As you move forward with your legislation, we urge you to consider a comment the LINE Commission received from the League of Women Voters of Idaho:

> "Citizens who lack full information or access to a robust and entirely open dialogue will always move to a less productive position. The citizens of Idaho need time, spaces and means to learn, frame, and consider the inevitable choices and their pros and cons. Sound public process will require access to balanced information and opportunities for the citizens of Idaho to generate and own their choices.
>
> At the end of the day, we have all been beneficiaries of nuclear power. As such, we all have the related obligation to be part of an informed search for a responsible approach to the management of the waste. This is truly a national challenge that crosses state boundaries, but the existence and work of the LINE Commission has brought this search to our state. It is time to provide a public process respectful of the citizens of Idaho. The recommendations from the LINE Commission can and should provide the starting point."

The LINE Commission agreed with this sentiment, and Governor Otter responded by chartering a LINE 2.0 Commission that will provide a standing body to enable a continued, balanced, public discussion regarding nuclear issues. The citizens of Idaho, and indeed all our nation's citizens, deserve ample time and information to understand the complex and critical issues surrounding nuclear waste management and to make choices on the basis of balanced and accurate information. The BRC process represented an important first step in that public discussion, and your bill has helped to continue that dialogue. It would be a mistake to try to begin a site selection process or otherwise rush the nuclear waste program before allowing for extended public dialogue and debate.

In closing, let me again express my congratulations on your draft legislation. Your bill represents a dramatic improvement over the current legislative framework and can help get our nation's nuclear waste management program back on track. Please don't hesitate to call on me if I can be of any assistance to you in refining and advancing your legislation.

With best regards,

Jeff Sayer
Chairman
Idaho Leadership in Nuclear Energy Commission

To Senate Energy sub-committee members:

I urge you to oppose de-linking "consolidated interim storage" and permanent disposal.

Moving massive amounts of high level radioactive waster across our highway and rail systems to INTERIM storage facilities is an unwarranted and highly dangerous temporary step towards proper disposal.

It will require moving these same wastes again and so will risk more devastating accidents and/or terrorists' targeted attacks.

Instead we should be putting into place sound plans for long-term disposal which will require one shipment from each of the current temporary sites.

Thank you for your consideration.

Andrew Gold;

Santa Fe, NM

I don't pretend to understand the intricacies of the nuclear power debate, but I'll start with the following quote from the Senate energy website:

Currently there is no central repository for spent nuclear fuel, leaving fuel rods to be stored on-site at dozens of commercial nuclear facilities around the country, including areas that are at risk of earthquakes, floods and other natural disasters. Millions of gallons of high-level radioactive waste from the nation's nuclear weapons programs are also being stored at Department of Energy sites around the country. Although DOE has begun to process some of these wastes into more stable forms, DOE recently disclosed that high-level waste storage tanks at Hanford Nuclear Reservation are deteriorating and wastes are continuing to leak from the tanks.

The statement that "fuel rods are being stored at nuclear facilities that are prone to earthquakes, floods and other natural disasters" is particularly telling. If the government was willing to allow nuclear plants to be built in such unsafe locations, how can we trust their judgment on anything relating to nuclear power?

The statement that high-level waste storage tanks at Hanford are continuing to leak radioactive waste underscores the fact that the government is unable or unwilling to learn from its mistakes and take corrective action. Hanford has been leaking radioactive material into the surrounding environment, including the Columbia River, for decades! With this kind of history and continuing reality, how can we trust that this legislation "will provide long-term protection of public health and safety" - protection that must remain effective for thousands of years??

Any solutions will require unflagging government vigilance, basically forever, yet our history of regulation of chemicals (thousands of which have been approved for use by the public with no testing whatsoever), energy production (lack of oversight of oil drilling operations, safety of mining enterprises, etc.), our food supply (where inspections are typically preannounced, totally inadequate and usually don't require significant change even after many repeated warnings), and so on. Now we face the specter of certain radioactive materials being added to municipal waste streams or being recycled into consumer products!

Agencies that are supposed to protect the public, instead look after the interests of the entities they oversee - which often write the legislation and regulations that are supposed to govern them.

The taxpayers end up paying through the nose to subsidize these companies in many ways, and then pay some more for dealing with their waste, accidents, pollution, mistakes. If we were to eventually retire all nuclear plants and put that money into alternate energy and family planning instead, we would be far better off.

Since that isn't the subject of this hearing, however, I can only say that, despite my lack of technical expertise in this area, I put greatest trust in the judgment and testimony ("Principles for Safeguarding Nuclear Waste at Reactors") of groups like the Nuclear Information and Research Service, Union of Concerned Scientists, Friends of the Earth, et al.

Sincerely,

Kelly Pomeroy

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CONSOLIDATED "INTERIM" STORAGE AND RELATED MASSIVE RADIOACTIVE WASTE TRANSPORTATION ARE ABSOLUTELY UNACCEPTABLE!! I am one of the original, modern environmental/energy ("nuclear-free") activists ever since around the first "EARTH DAY" (Wed., April 22, 1970), more than 43 years ago. I have a Bachelor of Science (B.S.) Degree in Biology and Environmental Studies from Dana College, Blair, NE. Currently, I am the Vice President of the Chicago-based Nuclear Energy Information Service (NEIS), "Illinois' Nuclear Watchdog Group" for more than 31 years now. Thank you for focusing on the radioactive waste problem--a problem that has been over 70 years in the making! This should be of the UTMOST PRIORITY! While our country's high-level radioactive waste program is INDISPUTABLY BROKEN, the U.S. Senate Energy Committee's "discussion draft" legislation would ONLY EXACERBATE THE PROBLEMS WITH IT.

Moving lethal high-level radioactive waste to a consolidated "interim" site would NOT fix any problems at all, and is SIMPLY UNACCEPTABLE. No one charged with protection of public health, safety, and security should mandate moving deadly radioactive waste repeatedly. While the radwaste will have to be moved at some point, it should first make only the short move from the current spent ("irradiated") fuel pools at reactors to "hardened on-site storage (HOSS)" at the same reactor site. Other movement must be only from that site to a permanent location for permanent isolation. A consolidated "interim" storage site would INCREASE THE RISKS of accidents and security problems while guaranteeing INCREASED EXPOSURE to doses of ionizing radiation along public-use highways, railways, and waterways--even without an accident.

Furthermore, the "de-linking" of an interim site from progress on a permanent solution found in the discussion draft, and also even more objectionably in the Feinstein/Alexander alternative, would serve ONLY TO DELAY PERMANENT ISOLATION of the radwaste from the ecosphere, and make it more likely that a temporary and unsuitable site would become a de facto permanent radioactive waste site. While NO state or community should or would accept such an outcome, this proposed legislation would VIRTUALLY ENSURE THAT.

I ask you to focus on public health, environmental protection, and equity for the future rather than the narrow interests of the nuclear power industry--which would be the only beneficiary of such a thoughtless program. The BEST WAY of limiting the scope of our radioactive waste problem is, of course, to STOP THE PRODUCTION OF ADDITIONAL HIGH-LEVEL RADIOACTIVE WASTE BY RAPIDLY PHASING OUT THE USE OF COMMERCIAL NUCLEAR POWER; AND REPLACING IT WITH THE "INHERENTLY CLEANER/SAFER," TECHNICALLY/ECONOMICALLY FEASIBLE "'CARBON-FREE/NUCLEAR-FREE' ENERGY PATHWAY" (efficiency, co-generation, and renewables). However, for the radwaste which already exists, "Hardened On-Site Storage," along with the renewed work on finding a truly workable and permanent solution, are IMPERATIVE.

IN CONCLUSION, IT IS BACK TO THE "DRAWING BOARD"-- PLEASE SCRAP YOUR "DISCUSSION DRAFT," AND START OVER!!

Sincerely yours,

DENNIS R. NELSON, Energy-Environmental Researcher

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The Nuclear Waste Administration Act of 2013 as drafted does not address the systemic flaws in the nation's current system for nuclear waste management and disposal. Specifically, there is a fundamental misalignment of authorities, responsibilities, and incentives under the current regime.

Rather than modifying and perpetuating a broken system, a new waste management strategy should draw on the examples of successful management around the world. In order to create a viable, sustainable, and economically rational nuclear waste management system, a permanent repository must be permitted first, waste producers must be responsible for waste management, a market-based pricing system must be installed, and competition among waste management service providers must be introduced. Such an approach will allow commercial nuclear power in America to succeed (or fail) on its own merits rather than on government codependency.

Comments on Nuclear Waste Administration Act of 2013

Bill Misses Opportunity for Real Reform

Jack Spencer, Senior Research Fellow, Nuclear Energy Policy

May 24, 2013

Thank you for the opportunity to comment on the Nuclear Waste Administration Act of 2013. Though I acknowledge that you requested answers to eight specific questions, most of the questions, like the legislation, presume that the underlying approach of the current nuclear waste system is sound. Essentially, it accepts the assumption that the federal government should be responsible for nuclear waste management and disposal and that waste producers should simply pay a fee to the government for that service.

Given this assumption, the legislation is reasonable. However, the quagmire that has become America's system of nuclear waste management needs more than a simple renovation. The entire system needs to be rebuilt, and the legislation in its current form misses an opportunity to do that.

Therefore, I would like to take this opportunity to argue for a different approach that draws on the one common thread that connects nations that have success in nuclear waste management. That common thread is that nuclear waste producers are responsible for nuclear waste management. In the U.S., such an approach would allow private sector innovation to be brought to bear to find solutions that government simply cannot. The federal government's role under such a system would be to set and enforce regulatory standards.

In providing this plan, however, I will address a number of the question that you request answers to, such as that regarding linkage between a permanent repository and consolidated interim storage.

There are three fundamental problems with nuclear waste management in the United States:

1) **No long-term geologic storage.** Deep geologic storage (such as that proposed for Yucca Mountain, Nevada) provides a safe, long-term solution and thus is critical to any comprehensive nuclear waste management plan.

2) **Waste producers bear no responsibility for waste management.** This removes the incentive for those who financially depend on waste production, the nuclear utilities, to have any interest in how the waste is managed because the federal government is wholly responsible.

3) **No specific price for specific services rendered.** Accurate pricing is critical to any efficient marketplace. Prices provide suppliers and purchasers a critical data point to determine the attractiveness of a product or service and give potential competitors the information they need to introduce new alternatives.

The legislation does not adequately address any of these concerns and in some cases makes them worse.

First, it allows for a consolidated interim storage facility to be established prior to opening a permanent repository. The problem is that establishing an interim facility could diminish the likelihood of ever building the permanent repository.

Second, by moving responsibility for waste management out of the Department of Energy (DOE) to a new organization, the Nuclear Waste Administration, the legislation creates the impression that the bureaucratic nightmare that held nuclear waste policy back could be avoided. But DOE was not the problem. The problem was subjecting an activity that should exist in the private sector to public-sector bureaucracy. Moving from one government bureaucracy to another does nothing to fix that.

And finally, although the legislation would allow the government easier access to funds to manage the waste, it does nothing to introduce the kinds of accurate pricing that would allow for rational decision making.

Here are some ideas to improve the legislation:

Complete the Yucca Mountain Permit Review at the NRC
The Nuclear Waste Policy Act of 1982, as amended, obligates the Department of Energy (DOE) to submit an application to the Nuclear Regulatory Commission (NRC) for the repository and gives the NRC a specific time frame within which to review the application. The Obama Administration, in defiance of the law, has attempted to terminate the project, and the NRC, despite being almost complete with its review, has stopped all work on its review in deference to Administration policy.

Regardless of the NRC's final conclusion, the nation deserves to know the outcome. It is worth bearing in mind that finishing the application does not necessarily mean that the repository will be built. It simply allows the nation to move forward with developing a long-term solution to nuclear waste management. If the NRC approves the Yucca permit, then Americans can debate how to move forward from that point. If it denies the permit, the nuclear industry and federal government can then begin the process of finding a replacement. Since the repository is critical, siting and permitting it should be the government's singular focus.

Permit a Permanent Repository First
America is currently operating under a system of interim storage facilities, namely sites used for defense nuclear waste and existing nuclear power plants. More formally permitting a consolidated interim storage site, as the DOE currently recommends, eliminates any incentive to build the permanent site that the nation needs.

Interim storage is a quick but shoddy fix for two of the government's most pressing problems: It gets the waste off the utilities' sites and eliminates the DOE's growing liability. It does nothing, however, to solve the larger problem. Ultimately, the nation needs a permanent repository. There is almost no political or technical disagreement over that fact. But by eliminating the near-term

concerns of the government and the utilities, this strategy undermines the incentive to pursue what the nation needs in the long-term, which is the permanent repository.

Make Producers Responsible for Waste Management

Whether in France, Finland, Japan, or Sweden, the one common thread to all functioning nuclear waste programs is that the waste producers are responsible for waste management. In the U.S., private nuclear plant operators produce waste, but the government is responsible for managing and disposing of it. This removes the incentive for those who financially depend on waste production—the nuclear utilities—to have any interest in how the waste is managed. Washington, however, has proved unable to implement anything close to a workable solution. This outcome is predictable given a structure that fundamentally misaligns incentives, responsibilities, and authorities. While a full transfer at this time may not be realistic, setting in motion a system that leads to that transfer is and should be a minimum criterion for any legislation.

Allow for Market-based Pricing for Management and Disposal Services

Under the current system, nuclear utilities produce waste and then pay the federal government a flat fee for an undefined, not-rendered service. The lack of these market forces in this system is at the heart of America's current problems with nuclear waste policy.

Accurate pricing is critical to any efficient marketplace. Prices provide suppliers and purchasers a critical data point to determine the attractiveness of a product or service, and they give potential competitors the information they need to introduce new alternatives.

Though full-scale reform of pricing for waste management would be preferred, a more transitory approach would be acceptable. To establish accurate pricing at a minimum, the system should allow waste producers to pay directly for services rendered. The payment should only be for actual services rendered, and the amount should be for the actual cost of the service.

Allow for Competition in Waste Management

Though full privatization of waste management services should be the long term objective, a transition that begins by simply allowing for competition would be extremely valuable. First, waste producers must take on the responsibility for nuclear waste management. Within that context, the government could still provide waste management services for a price (as described above), but any legislative reform should, at a minimum, allow waste producers to seek waste management services from NRC-regulated, nongovernment entities. So if a company can provide waste management services more economically than government, then the waste producers could choose the company's service.

Under such a system, waste producers would have the incentive to determine what approach or combination of approaches would best meet their unique waste management needs. For example, a utility that operates 15 reactors would likely have much different waste needs than one that operates only one or two. This divergence in needs would likely increase as new reactor and fuel technologies are introduced into the marketplace.

Real Nuclear Waste Policy Reform

Policies that introduce market forces and corporate responsibility are the key that could finally unleash the nuclear renaissance to let nuclear energy succeed (or fail) on its own merits. Connecting waste management to nuclear power providers engages those who have the means and know-how to develop long-term, sustainable solutions to waste management and allows government to focus on doing a better, more efficient job of issuing permits, regulating, and oversight.

Instituting such reforms could yield multiple outcomes—all of which are better than the current system. It might be that that the private sector just cannot provide some or all of waste management services as well as the government, in which case the government entity would exist as the sole waste manager. More likely though, America will see that the private sector can provide the entire spectrum of services better than government can, and the new government entity will eventually cease to exist. No matter what scenario plays out, this framework provides waste producers the opportunity to choose what works best for their needs.

Submitter's Name/Affiliation: Jo Shaw/Concerned Citizen
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Please DO NOT EXPONENTIALLY INCREASE THE RISK of deadly nuclear waste by transporting it to interim storage sites from which it has to be removed a second time and transported to permanent dumpsites. This is: CATASTROPHE IN THE MAKING 101.

Hardened On-Site Storage (HOSS) makes a lot more sense, but would require significant upgrades to the safety, security, and environmental protections associated with dry cask storage: safeguards against accidents and natural disasters, concealment, distancing between casks, fortification against attacks, and quality assurance on cask design and fabrication to ensure they will last not decades, but centuries without leaking radioactivity into the environment.

Immeasurably dangerous and expensive, nuclear energy submits humans and all other living things to contamination and an unacceptable threat. Making a commitment to secure permanent repositories for nuclear waste is crucial to protecting the health of our lands, waterways, air, economy and future generations.

Going forward, we must engineer a nuclear exit and an end to the production of nuclear waste; all nuclear reactors no matter how "small" will produce deadly waste. No other technology can, in such short time, create such "long-lasting" catastrophes. Radioactive contamination is the price we are paying caused by a nuclear power industry that has been uncontrolled.

Respectfully,

Jo Shaw

Alliance for Nuclear Accountability

A national network of organizations working to address issues of nuclear weapons production and waste cleanup

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Member Groups
Beyond Nuclear
Coalition for Health Concerns
Colorado Coalition for the Prevention of Nuclear War
Concerned Citizens for Nuclear safety
Fernald Residents for Environmental Safety & Health
GA Women's Action for New Directions
Hanford Challenge
Healing Ourselves and Mother Earth
Healthy Environment Alliance of Utah
Heart of America Northwest
Just Peace
Miamisburg Environmental Safety & Health
Nuclear Age Peace Foundation
Nuclear Watch New Mexico
Nuclear Watch South
Oak Ridge Environmental Peace Alliance
Peace Action Education Fund
Peace Action West
Peace Farm
PeaceWorks Kansas City
Physicians for Social Responsibility
Physicians for Social Responsibility – Kansas City
Portsmouth/Piketon Residents for Environmental Safety & Security
Rocky Mountain Peace & Justice Center
Snake River Alliance
Southwest Research and Information Center
Tri-Valley CAREs
Women's Action for New Directions
Women's International League for Peace and Freedom

May 24, 2013

TO: Senate Energy and Natural Resources Committee

FROM: Katherine Fuchs, Program Director

RE: Discussion Draft of Nuclear Waste Administration Act of 2013

The Alliance for Nuclear Accountability (ANA) is a network of 34 organizations from across the United States working to address issues of nuclear weapons production and waste cleanup. For 25 years, ANA has brought together constituents from downwind and downstream of nuclear sites.

ANA appreciates that the four senators have provided the discussion draft so that ANA and other groups and individuals interested in and affected by high-level nuclear waste (HLW) and spent nuclear fuel (SNF) are able to comment before the Nuclear Waste Administration Act is introduced. Given the more than 30 years of failed nuclear waste policy, an open and inclusive legislative process is essential if comprehensive nuclear waste legislation is to be enacted and implemented. ANA and our member organizations will be actively involved.

1. ANA's long-established principles regarding nuclear waste

ANA member organizations have ongoing, direct experience with HLW and SNF. Through its consensus decision-making process, ANA has developed long-established principles that guide our work. The nine principles discussed here are essential elements of a scientifically sound, publicly accepted nuclear waste program.

A. ANA supports interim storage of high-level waste and spent nuclear fuel as close to the point of generation as possible, as safely as possible. The Department of Energy (DOE) has approximately 90 million gallons of HLW; most is stored in more than 230 tanks at Hanford, Washington; Savannah River Site, South Carolina; and Idaho National Lab, Idaho. DOE also manages about 2,500 metric tons of SNF. About 70,000 metric tons of commercial SNF is primarily stored at the reactor sites; about 2,000 metric tons more commercial SNF is created each year. ANA supports improved storage for HLW liquids and sludges immediately and solidification of those wastes as soon as possible. ANA recognizes that HLW and SNF will continue to be stored at DOE sites for decades. ANA supports Hardened On-Site Storage (HOSS) for commercial SNF to reduce the amount and density of spent fuel in storage pools, increase the amount of SNF in dry storage, and improve the safeguards to reduce the impacts of natural or human events.

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ANA supports "Principles for Safeguarding Nuclear Waste at Reactors," which is attached.

B. ANA opposes consolidated spent nuclear fuel storage facilities. Consolidated SNF storage facilities are inconsistent with the first principle of safe storage that it be as close as possible to the generation site. Consolidated storage requires nuclear waste transportation, which is costly and endangers millions of people along shipping routes. Consolidated storage is not disposal, but it could become de facto disposal. Consolidated storage does not "solve" SNF storage at reactors, because operating reactors will continue to generate more waste. Consolidated storage likely would increase worker exposure at the power plant and would certainly increase worker exposures during transportation and at the consolidated storage site.

C. ANA supports scientifically sound, publicly accepted environmental protection standards before any SNF disposal site selection activities begin. The Environmental Protection Agency (EPA) should engage in a rulemaking process to establish new disposal standards. That process requires adequate funding from Congress. EPA standards should be in place before any siting work commences so that generic standards guide the site selection process. The Nuclear Regulatory Commission (NRC) should be required to establish HOSS standards by rulemaking for licensed reactors.

D. ANA opposes Yucca Mountain, which is a technically flawed, politically chosen site. As the State of Nevada, tribal, and non-governmental organizations have shown, Yucca Mountain has many technical flaws, including seismic and volcanic issues and rapid groundwater flow, which preclude the site from meeting adequate disposal standards. In 1987, Congress inappropriately selected Yucca Mountain as the sole repository site, a clearly political, not technical, decision.

E. ANA supports independent state and federal regulation of SNF storage and disposal facilities. Independent regulation is essential for technically sound nuclear waste facilities, confidence in the competence and oversight of their management, and to ensure effective public participation and accountability. Fifty years of little or no regulation of nuclear weapons facilities resulted in contamination of those sites that will take decades and hundreds of billions of dollars to address. Additional legislation is required to establish a robust regulatory regime, which must include elimination of the pre-emption of state and federal regulation of radionuclides.

F. ANA supports an early and substantive role of tribes, states, and the public in decision making. ANA's experience with DOE sites demonstrates that the effects of nuclear activities extends far beyond the immediate area. In fact, the "affected public" is not just people in the "host" community, but includes people near other nuclear facilities and even other states.

G. ANA opposes reprocessing. Reprocessing for nuclear weapons accounts for much of the contamination at DOE sites, and the HLW from reprocessing remains an immediate and long-term health and environmental threat. Commercial reprocessing at West Valley, New York, also was an environmental and economic disaster that remains a burden. It is clear that fissile materials should not be separated from spent fuel. ANA is aware that consolidated SNF storage is seen by some as a way to

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promote reprocessing. For example, the SRS Community Reuse Organization report of March 2013 endorsed a linkage between spent fuel storage and reprocessing.

H. ANA opposes expanding the mission of the Waste Isolation Pilot Plant (WIPP) to include disposal of commercial waste or high-level waste. Since 1979, federal law has limited WIPP to handling defense transuranic waste. It would do great damage to the credibility of laws and agreements covering any future nuclear waste storage or disposal site if the WIPP mission were changed. Moreover, WIPP is technically precluded from accepting such waste because of various deficiencies, including that it is surrounded by many oil and gas wells and that bedded salt is rapidly deformed by thermally hot waste.

I. ANA supports limiting future nuclear waste generation, including a phased closure of commercial nuclear power plants. As long as the amount of commercial SNF continues to increase, storage capacity must continue to expand in tandem, and the final amount of waste requiring disposal is unknown. Without knowing the scope of the problem, effective solutions cannot be fully implemented. ANA supports a sustainable energy policy that focuses on increased energy efficiency and clean renewable energy technologies.

2. Features of draft bill worthy of support

There are various provisions of the draft bill that are consistent with ANA's principles and which we support, including in any comprehensive nuclear waste legislation.

A. Terminate the past 30 years of DOE's authority related to consolidated SNF storage and disposal. The draft bill would require DOE to manage its HLW, but not give it authority over commercial SNF. DOE's efforts to site consolidated storage and disposal sites have failed to result in any operating facilities and have instead engendered public distrust and opposition to the nuclear waste program. It should be clear that the existing laws and DOE's implementation would continue to fail.

B. Ensure that generators and owners of nuclear waste pay the full cost of storage and disposal and that funds collected are used for those purposes. Just as federal taxpayers must pay the full cost of handling and disposing of HLW from nuclear weapons production, so too nuclear utility ratepayers should pay the costs for commercial SNF storage and disposal. Taxpayer and ratepayer funds should be used only for those purposes. This mandate includes the use of the Nuclear Waste Fund for HOSS facilities.

C. Mandate disposal of high-level defense waste in a licensed repository. Consistent with past and current federal law, all high-level defense waste should be disposed in licensed repositories.

D. Require nuclear waste be transported in certified packages, with prior notification and technical and financial assistance to states and tribes. Transportation of large amounts of commercial SNF has not occurred in this country, should not occur until there are one or more repository sites, and is appropriately perceived as threatening millions of people along shipping routes. Therefore, new shipping containers will be required, and they should all meet strict licensing requirements. All shipments should

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be subject to prior notification to affected states and tribes, which should receive technical and financial assistance to ensure the safest transportation.

E. Provide for the settlement of litigation and establish new contracts prior to the federal government taking title to nuclear waste. DOE did not meet the unrealistic January 31, 1998, deadline established in the Nuclear Waste Policy Act to begin disposal of HLW and SNF. Similar dates should not be included in new legislation. As part of a new program, it is essential that litigation related to current contracts be settled so that federal taxpayers know what the prior costs are before any new program is initiated.

3. Features of draft bill ANA opposes

A. The legislation should not include consolidated SNF storage facilities. HOSS facilities should be required. The numerous provisions related to consolidated SNF storage should be eliminated from the bill. Efforts by both DOE and private entities to establish such facilities have failed. Such facilities are inappropriate for many reasons, not the least of which is that they would likely become de facto disposal facilities. To better address legitimate safety concerns about current on-site storage, including potential for catastrophic failures from densely packed SNF pools, any nuclear waste legislation should require HOSS facilities as soon as possible for commercial SNF.

B. The provisions should be eliminated that provide for schedule-driven identification of eligible disposal sites before new technically sound, publicly accepted standards are established by EPA and associated licensing regulations are then promulgated by the NRC. Another lesson that should have been learned from the experience of the past 30 years is that adequate time and resources *must* be devoted to establish technically sound, publicly accepted standards. Such standards must be in place before credible scientific site selection can begin. The DOE and congressional practice of first selecting sites and then trying to tailor standards to fit them must cease. Deadlines such as having standards or general guidelines for the consideration of candidate sites issued within one year of enactment are not consistent with using the best available science and ensuring opportunities for meaningful stakeholder participation – both of which are stated goals of the draft legislation. Furthermore, it will most certainly take longer than one year to get the new Nuclear Waste Administration working, hire staff, set-up advisory committees, etc. Laying a foundation that builds widespread confidence in the ability of the new organization to do its job well cannot be done swiftly, lest it be done poorly and exacerbate the problems we have seen over the past 30 years.

C. The decision to comingle defense and commercial waste in the same repositories should not be reconsidered. There is no technical basis to have separate defense and commercial repositories; the long-lived hazard of the wastes should have the same environmental protection requirements. The decision made in 1985 by President Reagan, pursuant to provisions of the Nuclear Waste Policy Act, should be preserved.

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D. Provisions related to consent must be substantially changed and strengthened, including 1) allowance for states and tribes to establish their own decision-making processes, 2) full National Environmental Policy Act (NEPA) compliance, 3) binding "non consent," and 4) public "informed consent." In our representative democracy, the public will insist on playing a major role in decisions about nuclear waste. That is a key lesson from the experiences of the past 30 years. The minimal public hearing provisions are grossly insufficient and are inconsistent with virtually every study by independent organizations such as the National Academy of Sciences, whose committees have written reports about nuclear waste management and public participation, best practices from federal agencies with significant risk communication and public involvement activities (Food and Drug Administration, EPA), and every international nuclear waste program that has not collapsed in failure (Sweden, Finland, Canada).

While the draft legislation uses the rhetoric of "consensus" and "voluntary siting," it does not establish a structure or process to ensure that either can be implemented. Section 304(f) specifies that a state governor, local governmental authority, and/or Tribal government provide consent for a facility. There is nothing explicit about community / public consent, and how this may be different from governmental authority consent. This is important because elected officials can come and go. "Consent" expressed by officials may not be stable unless there is a strong backing by constituents, especially for facilities that will take a long time to design, build, and operate. Trying to prescribe how states and tribes will participate and consent is inappropriate and shows a lack of understanding of existing processes in some states, including referenda or other measures that the public might require. NEPA is a proven process for providing essential technical analysis and public participation for decisions, particularly ones that include an explicit consent process. Legislation should clearly indicate that states and tribes can exercise binding "non-consent" in order to establish that "no means no" and to stop expenditures that will not lead to a repository. Conditions, mechanisms, and deadlines for re-evaluation and reconsideration (opt out) should be allowed at all stages.

There must be a requirement that consent be *informed* consent. This implies that interested and affected parties: have a say in determining what information is needed to address the issues and concerns they have (not what managers or scientists think is relevant); be provided information that contains the information needed for effective decision making; can access that information in a timely and easy manner, and; can comprehend what they access. Informed consent must be expressed by local officials, state officials, and the community at multiple points – about the new agency's mission, guidelines and standards, and especially after site suitability and before site selection and any consent agreement is signed. The strength of informed consent should be evaluated and be a condition for site selection by the Administrator. The Administrator should consider the availability of and access to information in a timely manner and form that is understandable by potentially affected parties and that addresses their concerns. Because informed consent means having access to information that is relevant to interested and affected parties and building a solid foundation of consent that can last through multiple election cycles, legislation also should require that adequate funding be provided so the public can obtain independent technical analysis in order to provide "informed consent."

4. Responses to the 8 questions posed

Alliance for Nuclear Accountability
A national network of organizations working to address issues of nuclear weapons production and waste cleanup

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A. Considerations for locating storage facility sites

1. Should the Administrator take into account, when considering candidate storage facility sites, the extent to which a storage facility would: (a) unduly burden a State in which significant volumes of defenses wastes are stored or transuranic wastes are disposed of; or (b) conflict with a compliance agreement requiring the removal of nuclear waste from a site or a statutory prohibition on the storage or disposal of nuclear waste at a site? Alternatively, should the State and other non-federal parties seeking to site a candidate storage facility be allowed to determine whether they are unduly burdened? Should the final consent agreement, which would be sent to Congress for ratification, contain an authorizing provision to amend any conflicting compliance agreement or statutory prohibition?

ANA Response – ANA opposes the proposed spent fuel storage facilities and urges that those provisions be eliminated from the bill. Instead, the bill should require HOSS facilities at commercial nuclear power plants.

Regarding (a) and (b), the DOE nuclear weapons and waste sites should not be considered for additional waste storage. The nation has moral and legal commitments to clean up those sites, and adding additional waste will delay and compromise necessary cleanup missions. Consistent with the principle that interim storage of HLW and SNF be as close to the point of generation as possible, as safely as possible, ANA recognizes that storage at DOE sites will continue until repositories are operating. ANA also supports stringent compliance agreements to have storage be as safe as possible.

Section 304(a)(1) requires the Administrator to select sites for characterization, even if they are not suitable. Such a requirement should not be included in any nuclear waste legislation.

Linkage between storage and repository

2. Should the bill establish a linkage between progress on development of a repository and progress on development of a storage facility? If so, is the linkage proposed in section 306 of the bill appropriate, too strong, or too loose? If a linkage is needed, should it be determined as part of the negotiations between the state and federal governments and included in the consent agreement rather than in the bill?

ANA Response – ANA opposes the proposed spent fuel storage facilities and urges that those provisions be eliminated from the bill. Instead, the bill should require HOSS facilities at commercial nuclear power plants.

If there is HOSS rather than consolidated spent fuel storage facilities, Section 306 is unnecessary.

Should Congress ignore the opposition of ANA and many other organizations and individuals to consolidated spent fuel storage, linkage would be necessary. But even the strongest linkage – requiring commercial SNF to be removed from a consolidated storage site if a repository does not operate – would not prevent de facto permanent storage since the host state or tribe could not force consolidated storage on another location. ANA opposes any legislation that would increase the number of sites storing SNF or HLW.

Separate process for storage facility siting

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3. Should the bill establish separate storage and disposal programs with clearly defined requirements for each, with any linkage negotiated in the consent agreement between the federal and non-federal parties, to allow the two program to run on separate, but parallel tracks, as proposed in the alternative section 305 (which would replace section 304(b)-(g) of the draft bill)?

ANA Response – ANA opposes the proposed spent fuel storage facilities and urges that those provisions be eliminated from the bill. Instead, the bill should require HOSS facilities at commercial nuclear power plants.

ANA strongly opposes the two separate spent fuel storage programs in the alternative section 305 and urges that they not be included in any legislation.

4. To what extent should the siting and consensus approval process for spent fuel storage facilities differ from that for the repository? Should the Administrator be required to conduct sufficient site-specific research (referred to as "characterization" in the bill) on candidate storage sites to determine if they are suitable for storing nuclear waste or only on candidate repository sites to determine if they are suitable for geologic disposal of nuclear waste? Should the Administrator be required to hold public hearings both before and after site characterization (as required by current law in the case of the Yucca Mountain site) or only before site characterization?

ANA Response – ANA opposes the proposed spent fuel storage facilities and urges that those provisions be eliminated from the bill. Instead, the bill should require HOSS facilities at commercial nuclear power plants.

ANA supports holding public hearings (and full compliance with NEPA) and other measures that the public, states, and tribes may require, before and after site characterization for disposal facilities.

Complexity of repository and storage facility siting processes

5. Should the siting process in section 304 of the draft bill be streamlined? If so, how?

ANA Response – ANA opposes the proposed spent fuel storage facilities and urges that those provisions in Section 304 be eliminated from the bill. Instead, the bill should require HOSS facilities at commercial nuclear power plants. Regulations for storage facilities should be established by rulemaking, with robust public participation requirements.

ANA supports a repository process that begins with EPA rulemaking to establish environmental protection standards for disposal facilities. After the EPA rules are finalized, NRC should conduct a rulemaking to establish new licensing regulations. Once the new EPA and NRC regulations are in place, potential disposal sites that are likely to meet the regulations should be identified with full participation of states, tribes, and the public. Anything less dooms the process to failure.

Governance of the Nuclear Waste Administration

6. Should the new entity be governed by a single administrator or by a board of directors?

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(a) If by a single administrator, should the administrator serve for a fixed term? If so, how long should the term of service be? Should the legislation prescribe qualifications for the administrator? If so, what should be the selection criteria?

(b) If by a board of directors, how many people should comprise the board and how should they be selected?

ANA Response – ANA develops its positions by consensus and has not made any determinations regarding the new entity.

7. The Blue Ribbon Commission recommended establishment of both a board of directors for management oversight (whose "primary role … is not to represent all stakeholder views, but rather to carry out fiduciary responsibilities for management oversight") and "a larger and more widely representative stakeholder advisory committee." The draft bill responds to these recommendations, first, by establishing a Nuclear Waste Oversight Board of senior federal officials and, second, by authorizing the Administrator to establish advisory committees. Should the Oversight Board and advisory committee be combined into a single body to perform both management oversight and stakeholder representation functions? Should the focus and membership of any advisory committees be established in the legislation or left to the Administrator?

ANA Response – ANA develops its positions by consensus and has not made any determinations regarding the new entity.

ANA generally supports strong state, tribal, and public oversight and adequate funding so that they can provide or withhold "informed consent."

8. Dr. Meserve testified in 2012 that representatives of stakeholders and public utility commissioners should be added to the Nuclear Waste Oversight Board. Would these additions make the Board better able to carry out its fiduciary oversight mission effectively?

ANA Response – ANA develops its positions by consensus and has not made any determinations regarding the new entity.

ANA generally supports strong state, tribal, and public oversight and adequate funding so that they can provide or withhold "informed consent."

March 24, 2010

Principles for Safeguarding Nuclear Waste at Reactors

The following principles are based on the urgent need to protect the public from the threats posed by the current vulnerable storage of commercial irradiated fuel. The United States does not currently have a national policy for the permanent storage of high-level nuclear waste. The Obama administration has determined that the Yucca Mountain site, which has been mired in bad science and mismanagement, is not an option for geologic storage of nuclear waste. Unfortunately, reprocessing proponents have used this opportunity to promote reprocessing as the solution for managing our nuclear waste. Contrary to their claims, however, reprocessing is extremely expensive, highly polluting, and a proliferation threat, and will actually complicate the management of irradiated fuel. Nor will reprocessing obviate the need for, or "save space" in, a geologic repository.
The United States has a unique opportunity to re-evaluate our nuclear waste management plan. We can make wise decisions about safeguarding radioactive waste or go down the risky, costly, and proliferation prone path towards reprocessing.

The undersigned organizations' support for improving the protection of radioactive waste stored at reactor sites is a matter of security and is in no way an indication that we support nuclear power and the generation of more nuclear waste.

- **Require a low-density, open-frame layout for fuel pools:** Fuel pools were originally designed for temporary storage of a limited number of irradiated fuel assemblies in a low density, open frame configuration. As the amount of waste generated has increased beyond the designed capacity, the pools have been reorganized so that the concentration of fuel in the pools is nearly the same as that in operating reactor cores. If water is lost from a densely packed pool as the result of an attack or an accident, cooling by ambient air would likely be insufficient to prevent a fire, resulting in the release of large quantities of radioactivity to the environment. A low density, open-frame arrangement within fuel pools could allow enough air circulation to keep the fuel from catching fire. In order to achieve and maintain this arrangement within the pools, irradiated fuel must be transferred from the pools to dry storage within five years of being discharged from the reactor.

- **Establish hardened on-site storage (HOSS):** Irradiated fuel must be stored as safely as possible as close to the site of generation as possible. Waste moved from fuel pools must be safeguarded in hardened, on-site storage (HOSS) facilities. Transporting waste to interim away-from-reactor storage should not be done unless the reactor site is unsuitable for a HOSS facility and the move increases the safety and security of the waste. HOSS facilities must not be regarded as a permanent waste solution, and thus should not be constructed deep underground. The waste must be retrievable, and real-time radiation and heat monitoring at the HOSS facility must be implemented for early detection of radiation releases and overheating. The overall objective of HOSS should be that the amount of releases projected in even severe attacks should be low enough that the storage system would be unattractive as a terrorist target. Design criteria that would correspond to the overall objective must include: Resistance to severe attacks, such as a direct hit by high-explosive or deeply penetrating weapons and munitions or a direct hit by a large aircraft loaded with fuel or a small aircraft loaded with fuel and/or explosives, without major releases. Placement of individual canisters that makes detection difficult from outside the site boundary.

- **Protect fuel pools:** Irradiated fuel must be kept in pools for several years before it can be stored in a dry facility. The pools must be protected to withstand an attack by air, land, or water from a force at least equal in size and coordination to the 9/11 attacks. The security improvements must be approved by a panel of experts independent of the nuclear industry and the Nuclear Regulatory Commission.

- **Require periodic review of HOSS facilities and fuel pools:** An annual report consisting of the review of each HOSS facility and fuel pool should be prepared with meaningful participation from public stakeholders, regulators, and utility managers at each site. The report must be made publicly available and may include recommendations for actions to be taken.

- **Dedicate funding to local and state governments to independently monitor the sites:** Funding for monitoring the HOSS facilities at each site must be provided to affected local and state governments. The affected public must have the right to fully participate.

- **Prohibit reprocessing:** The reprocessing of irradiated fuel has not solved the nuclear waste problem in any country, and actually exacerbates it by creating numerous additional waste streams that must be managed. In addition to being expensive and polluting, reprocessing also increases nuclear weapons proliferation threats.

National

Leonor Tomero, Center for Arms Control and Non-Proliferation

John Issacs, Council for a Liveable World

Kevin Kamps, Beyond Nuclear

Lynn Thorp, Clean Water Action

Erich Pica, Friends of the Earth

Michele Boyd, Physicians for Social Responsibility

Jim Riccio, Greenpeace

Diane Kreiger, Nuclear Peace Age Foundation

Kevin Martin, Peace Action

Tyson Slocum, Public Citizen

Susan Gordon, Alliance for Nuclear Accountability

Arjun Makhijani, Institute for Energy and Environmental Research

Ken Bossong, SUN Day Campaign

Michael Mariotte, Nuclear Information and Resource Service

Anna Aurilio, Environment America

Winona La Duke, Honor the Earth

Dan Becker, Safe Climate Campaign

Dave Hamilton, Sierra Club

Geoffrey Fettus, Natural Resources Defense Council

Ed Lyman, Union of Concerned Scientists

Susan Shaer, Women's Action for New Directions (WAND)

Alaska

Stacy Fritz, No Nukes North

Alabama

Garry Morgan, Bellefonte Efficiency and Sustainability Team, Alabama Chapter of BREDL

Tom Moss, North Alabama Peace Network

Arkansas

Pat Youngdahl, Arkansas WAND

Arizona

Stephen M. Brittle, Don't Waste Arizona

Jack and Felice Cohen-Joppa, Nuclear Resister

Patricia Birnie, GE Stockholder's Alliance

Russell Lowes, SafeEnergyAnalyst.org

Barbara Warren, Arizona Physicians for Social Responsibility

California

Rochelle Becker, Alliance for Nuclear Responsibility CA

David Hartsough, PEACEWORKERS

Jane Williams, California Communities Against Toxics

Roland Valentine, Desert Citizens Against Pollution

Mary Beth Brangan, Ecological Options Network (EON)

Betty Winholz, SAVE THE PARK

Jacqueline Cabasso, Western States Legal Foundation

Molly Johnson, Grandmothers for Peace-San Luis Obispo County Chapter

Linda Seeley, Terra Foundation

Jane Swanson, San Luis Obispo Mothers For Peace Action Committee

Marylia Kelley, Tri-Valley CARES

Michael Welch, Redwood Alliance

Enid Schreibman, Center for Safe Energy

Jennifer Olarana Viereck, Healing Ourselves and Mother Earth

Dan Hirsch, Committee to Bridge the Gap

Pamela Meidell, Atomic Mirror

Colorado

Bob Kinsey, Colorado Coalition for the Prevention of Nuclear War

Sharyn Cunningham, Colorado Citizens Against Toxic Waste, Inc.

Judith Mohling, Rocky Mountain Peace and Justice Center

Connecticut

Nancy Burton, Connecticut Coalition Against Millstone

Judi Friedman, People's Action for Clean Energy

Sal Mangiagli, Connecticut Citizens Action Network, Haddam Chapter

Washington, DC

Louis Clark, Government Accountability Project

Delaware

Alan Muller, Green Delaware

Florida

Bob Krasowski, Florida Alliance for A Clean Environment, The Zero Waste Collier County Group

Georgia

Tom Ferguson, Foundatoin for A Global Community

Bobbie Paul, Georgia WAND

Glenn Carroll, Nuclear Watch South

Bob Darby, Food Not Bombs, Atlanta

Hawaii

Henry Curtis, Life of the Land

Iowa

Maureen McCue, PSR Iowa

Idaho

Beatrice Brailsford, Snake River Alliance

Chuck Broscious, Environmental Defense Institute

Illinois

Dave Kraft, Nuclear Energy Information Service

Carolyn Treadway, No New Nukes

Indiana

Grant Smith, Citizens Action Coalition of Indiana

John Blair, ValleyWatch, Inc.

Kansas

Dave Pack, Kansas City Peaceworks

Anne Suellentrop, Kansas City PSR

Kentucky

Mary Davis, Earth Island Institute

Louisiana

Nathalie Walker, Advocates for Environmental Human Rights

Massachusetts

Debbie Grinell, C-10 Research and Education Foundation

Deb Katz, Citizens Awareness Network

Mary Lampert, Pilgrim Watch

Maryland

Dagmar Fabian, Crabshell Alliance

Johanna Neumann, Maryland PIRG

Max Obuszewski, Baltimore Nonviolence Center

Lucy Duff, Peace and Justice Coalition-Prince George's County

Maine

William S. Linnell, Cheaper, Safer Power

Bruce Gagnon, Global Network Against Weapons & Nuclear Power in Space

Michigan

Keith Gunter, Citizens Resistance at Fermi Two

Michael Keegan, Coalition for a Nuclear Free Great Lakes

Georgia Donovan, Izaak Walton League-Dwight Lydell Chapter

Terry Miller, Lone Tree Council

Patricia Gillis, Voices for Earth Justice

Alice Hirt, Don't Waste Michigan

Nancy Seubert, IHM Justice, Peace, and Sustainability Office

Lynn Howard Ehrle, International Science Oversight Board-Organic Consumers Association

Kay Cumbow, Citizens for Alternatives to Chemical Contamination

Ronald and Joyce Mason, Swords Into Plowshares Peace Center and Gallery

David Gard, Michigan Environmental Council

Steve Senesi, Kalamazoo Non-Violent Opponents of War

Minnesota

Danene Provencher, West Metro Global Warming Action Group, Inc.

Glady Schmitz, Mankato Area Environmentalists

George Crocker, North American Water Office

Bruce Drew, Prairie Island Coalition

Missouri

Mark Haim, Missourians for Safe Energy

Kat Logan Smith, Missouri Coalition on the Environment

Mississippi

Louie Miller, Mississippi Sierra Club

Montana

Florence Chessin, Missoula Women for Peace, a branch of Women's International League for Peace and Freedom

North Carolina

Lewis Patrie, Western North Carolina Physicians for Social Responsibility

E.M.T O'Nan, Protect All Children's Environment

Avram Friedman, The Canary Coalition

Jim Warren, North Carolina Waste Awareness and Reduction Network

Janet Marsh, Blue Ridge Environmental Defense League

North Dakota

Kandi L. Mossett, Indigenous Environmental Network

Jodie L. White, The Environmental Awareness Committee, Save Our Sacred Earth Campaign

Nebraska

Buffalo Bruce, Western Nebraska Resources Council

Tim Rinne, Nebraskans for Peace

New Hampshire

Will Hopkins, New Hampshire Peace Action

New Jersey

Paula Gotsch, Grandmothers, Mother and More for Energy Safety

Norm Cohen, Coalition for Peace and Justice-UNPLUG Salem Campaign

New Mexico

Mervyn Tilden, Sovereign Dine' Foundation

Janet Greenwald, Citizens for Alternatives to Radioactive Dumping

Joni Arends, Concerned Citizens for Nuclear Safety

Scott Kovac, Nuclear Watch of New Mexico

Greg Mello, Los Alamos Study Group

Don Hancock, Southwest Research and Information Center

Nevada

Judy Treichel, Nevada Nuclear Waste Taskforce

Jim Haber, Nevada Desert Experience

New York

Joanne Hameister, Coalition on West Valley Nuclear Wastes

Anne Rabe, Center for Health, Environment, and Justice

James Rauch, For a Clean Tonawanda Site (FACTS)

Barbara Warren, Citizen's Environmental Coalition

Phillip Musegaas, Riverkeeper NY

Tim Judson, Central New York Citizens Awareness Network

Ohio

Chris Trepal, Earth Day Coalition

Terry Lodge, Toledo Coalition for Safe Energy

Sharon Cowdrey, Miamisburg Environmental Safety and Health Network

Oklahoma

Marilyn McCulloch, The Carrie Dickerson Foundation

Oregon

Dona Hippert, Oregon Toxics Alliance

Charles K. Johnson, Center for Energy Research

Nina Bell, Northwest Environmental Advocates

Kelly Campbell, Oregon Physicians for Social Responsibility

Gerry Pollet, Heart of America Northwest

Pennsylvania

David Hughes, Citizen Power

Katherine Dodge, Northwest Pennsylvania, Audobon Society

Gene Stilp, Taxpayers and Ratepayers United

Ernest Fuller, Concerned Citizens for SNEC Safety

Patricia Harner, Philadelphia Physicians for Social Responsibility

Dr. Lewis Cuthbert, Alliance for a Clean Environment

Rhode Island

Sheila Dormandy, Clean Water Action Rhode Island

South Carolina

Susan Corbett, South Carolina Sierra Club

Dr. Finian Taylor, Hilton Head for Peace

South Dakota

Deb McIntyre, South Dakota Peace and Justice Center

Charmaine White Face, Defenders of the Black Hills

Tennessee

Donald B. Clark, Network for Economic and Environmental Responsibility, United Church of Christ

Rev. Charles Lord, Caney Fork Headwaters Association

Rev. Douglas B. Hunt, Interfaith Power & Light

Ralph Hutchinson, Oak Ridge Environmental Peace Alliance

Rev. Walter Stark, Cumberland Countians for Peace and Justice

Ann Harris, We the People, Inc.

Texas

Eliza Brown, SEED Coalition

Mavis Belisle, JustPeace

Gary Stuard, Interfaith Environmental Alliance

Craig Tounet, Austin Physicians for Social Responsibility

Jill Johnston, Southwest Workers Union

Utah

Margene Bullcreek, Ohngo Guadedah Devia Awareness

Vanessa Pierce, HEAL Utah

Virginia

Scott Sklar, The Stella Group, Inc.

Elena Day, People's Alliance for Clean Energy

Vermont

Arnie Gundersen, Fairewinds Associates, Inc.

Clay Turnbull, New England Coalition on Nuclear Pollution

Chris Williams, Vermont Citizens Awareness Network

Margaret Harrington Tamulonis, Women's International League for Peace

Washington

Tom Carpenter, Hanford Challenge

Wisconsin

Charlie Higley, Citizens Utility Board

Bonnie Urfer and John LaForge, Nukewatch Wisconsin

Al Gedicks, Wisconsin Resources Protection Council

Judy Miner, Wisconsin Network for Peace and Justice

West Virginia

Gary Zuckett, West Virginia Citizens Action Group

Wyoming

Mary Woolen, Keep Yellowstone Nuclear Free

Submitter's Name/Affiliation: Chairman David Wright/Nuclear Waste Strategy Coalition
Contact: Katrina McMurrian, NWSC Executive Director
Email: katrina@theNWSC.org
Phone: 337.656.8518

The Nuclear Waste Strategy Coalition (NWSC) is an ad hoc organization representing the collective interests of member state utility regulators, consumer advocates, tribal governments, local governments, electric utilities, and other government and industry experts on nuclear waste policy matters. Our primary focus is to protect electric ratepayer payments into the Nuclear Waste Fund (NWF) and to support the removal and ultimate disposal of used nuclear fuel and high-level radioactive waste currently stranded at numerous sites across the nation. To that end, we have long supported and continue our call for:

PROMPT ACTION BY THE FEDERAL GOVERNMENT TO MEET ITS OBLIGATION

The federal government should act now to meet its longstanding obligation to promptly remove used nuclear fuel and high-level radioactive waste from existing and decommissioned reactor sites in our states. Electric consumers have paid approximately $35 billion (including interest) and contribute approximately $750 million annually into the NWF. Consumers have met their obligation under the Nuclear Waste Policy Act (NWPA), but the federal government has not.

Specifically, the following five actions reflect the NWSC's long-standing goals directed at the prompt removal of used nuclear fuel and high-level radioactive waste from operating and decommissioned reactor sites in our states:

1. Establishing Permanent Disposal & Completing the Yucca Mountain License Application
2. Ensuring Consumer Payments Used for Intended Purpose
3. Reforming the Management of the Nuclear Waste Program
4. Providing for Consolidated Storage with Priority for Shutdown Reactor Fuel and High-Level Radioactive Waste
5. Facilitating the Transport of Used Nuclear Fuel and High-Level Radioactive Waste

CONGRESSIONAL LEADERSHIP

Your continued leadership on this important national issue is needed – to facilitate the removal of used nuclear fuel and high-level radioactive waste from existing and decommissioned reactor sites across the country and to protect millions of electric consumers and all taxpayers. The NWSC stands ready to work with you and your Congressional colleagues, the Administration, and DOE to advance meaningful nuclear waste policy reform.

Please refer to the following additional items comprising our complete submission in response to your request for comments on the "Nuclear Waste Administration Act of 2013" discussion draft:

Transmittal_Letter_Wright_NWSC	Question3_Wright_NWSC	Question6_Wright_NWSC
Question1_Wright_NWSC	Question4_Wright_NWSC	Question7_Wright_NWSC
Question2_Wright_NWSC	Question5_Wright_NWSC	Question8_Wright_NWSC

Thank you for your commitment to advance the nuclear waste policy debate and for this opportunity.

Question 1: Considerations for locating storage facility sites
Submitter's Name/Affiliation: (David Wright/Nuclear Waste Strategy Coalition)

Should the Administrator take into account, when considering candidate storage facility sites, the extent to which a storage facility would: (a) unduly burden a State in which significant volumes of defenses wastes are stored or transuranic wastes are disposed of; or (b) conflict with a compliance agreement requiring the removal of nuclear waste from a site or a statutory prohibition on the storage or disposal of nuclear waste at a site? Alternatively, should the State and other non-federal parties seeking to site a candidate storage facility be allowed to determine whether they are unduly burdened? Should the final consent agreement, which would be sent to Congress for ratification, contain an authorizing provision to amend any conflicting compliance agreement or statutory prohibition?

In general, approaches allowing for maximum flexibility by potential hosts should be favored, and inclinations to legislatively address each potential scenario and each potential consent agreement provision should be resisted. The state and other non-federal parties seeking to site a candidate storage or disposal facility are in the best position and should be allowed to determine whether and to what extent they may be (i) burdened by existing storage or disposal facilities, (ii) restricted by agreements requiring removal of nuclear waste from a site, and (iii) otherwise prohibited from using a potential site for nuclear waste storage or disposal. In addition, the state and other non-federal parties seeking to site a candidate storage or disposal facility should be given latitude to address any such conflicts as they see fit in accordance with applicable laws and rules.

Any entity designated to oversee the nation's nuclear waste program (the Department of Energy's Office of Civilian Radioactive Waste Management under existing law; a Nuclear Waste Administrator and Oversight Board under the current proposal; or an entity similar to that proposed in Senator Voinovich and Representative Upton's companion bills introduced in 2010 and widely supported by a range of experts including the Blue Ribbon Commission on America's Nuclear Future) should be focused on the mission of promptly carrying out the federal government's longstanding obligation to remove used nuclear fuel and high-level radioactive waste and the specific actions to support that mission as outlined in our transmittal letter. We understand that Congress may expand the mission of such a management entity; however, we respectfully request that Congress and such entity focus on tasks that need to be assigned to the management entity to support its mission and not on tasks that are better left to capable stakeholders such as state and other non-federal parties seeking to site a candidate storage or disposal facility. As such, Congress should avoid adding requirements that, while well-intentioned, may prove to be unnecessary barriers to negotiations and positive, timely results.

Question 2: Linkage between storage and repository
Submitter's Name/Affiliation: (David Wright/Nuclear Waste Strategy Coalition)

Should the bill establish a linkage between progress on development of a repository and progress on development of a storage facility? If so, is the linkage proposed in section 306 of the bill appropriate, too strong, or too loose? If a linkage is needed, should it be determined as part of the negotiations between the state and federal governments and included in the consent agreement rather than in the bill?

Although well-intentioned, statutory linkage between consolidated storage and progress on a permanent disposal facility is not necessary and prevents site-specific flexibility. Therefore, the bill should not establish such a linkage, including the one proposed in Section 306. In a consent-based siting scenario, potential consolidated storage facility hosts would be empowered to assess and manage the risks of becoming de facto permanent facilities, and they will undoubtedly do so. If a linkage is necessary, it should therefore be determined as part of the negotiations between the parties to the consent agreement and not by federal legislation. Again, Congress should avoid adding requirements that, while well-intentioned, may prove to be unnecessary barriers to negotiations and positive, timely results.

Recognizing a need for disposal under any scenario, the country must promptly site and construct a permanent disposal facility. Therefore, we urge the Department of Energy (DOE) and the Nuclear Regulatory Commission (NRC) to resume and complete the Yucca Mountain license application review, and we urge Congress to properly fund the repository program accordingly. Such actions will ensure that current dry cask storage and future consolidated storage facilities do not become de facto permanent disposal facilities.

Question 3: Separate process for storage facility siting – Alternative Section 305
Submitter's Name/Affiliation: (David Wright/Nuclear Waste Strategy Coalition)

Should the bill establish separate storage and disposal programs with clearly defined requirements for each, with any linkage negotiated in the consent agreement between the federal and non-federal parties, to allow the two program to run on separate, but parallel tracks, as proposed in the alternative section 305 (which would replace section 304(b)-(g) of the draft bill)?

Given the need for action following protracted federal delay, disposal programs (per the NWPA and any new legislation related to siting additional repositories) and consolidated storage programs should be pursued in parallel but with differences in the respective processes and related timelines. Under a consent-based process, Congress should consider setting forth basic requirements regarding new storage and disposal programs in legislation but leaving specific guidelines and implementation details to be developed by the management entity in consultation with potential hosts and other stakeholders as appropriate. While we emphasize flexibility to account for site-specific circumstances, it is important that any consent-based process (whether for storage or disposal facilities) result in an enforceable agreement. (See response to Question 2 regarding linkage between consolidated storage and a permanent repository.)

To be clear, a permanent disposal program has already been established by the NWPA. The NWSC continues to call for NWPA enforcement, including completion of review of the license application for the designated Yucca Mountain repository. Due to the NWPA's capacity limits on this first repository and projections that commercial used nuclear fuel will exceed those limits, a second repository will be necessary. In addition, until a repository is licensed and opened, consolidated storage with a priority for shutdown reactor fuel will be needed. Such storage will allow the federal government to begin meeting its obligation to remove used fuel from plant sites across the country.

Question 4: Separate process for storage facility siting – General streamlining for storage only
Submitter's Name/Affiliation: (David Wright/Nuclear Waste Strategy Coalition)

To what extent should the siting and consensus approval process for spent fuel storage facilities differ from that for the repository? Should the Administrator be required to conduct sufficient site-specific research (referred to as "characterization" in the bill) on candidate storage sites to determine if they are suitable for storing nuclear waste or only on candidate repository sites to determine if they are suitable for geologic disposal of nuclear waste? Should the Administrator be required to hold public hearings both before and after site characterization (as required by current law in the case of the Yucca Mountain site) or only before site characterization?

Both consolidated storage facilities and permanent repositories would be subject to NRC regulations pertaining to the respective type of facility. Such regulations will drive the level of characterization necessary to receive the appropriate license. In the case of consolidated storage, the regulations may be found in 10 CFR Part 72, but in the case of a permanent repository other than Yucca Mountain, the NRC and Environmental Protection Agency (EPA) may have to develop new regulations related to a generic repository.

Conducting public hearings in both consolidated storage and repository development processes will involve and inform the public and build public confidence. However, this is another area where the bill should be more flexible so that the management entity can work with potential hosts and other affected stakeholders to determine details such as the optimal number, duration, and locations of public hearings.

Question 5: Complexity of repository and storage facility siting processes
Submitter's Name/Affiliation: (David Wright/Nuclear Waste Strategy Coalition)

Should the siting process in section 304 of the draft bill be streamlined? If so, how?

See response to Question 3.

Question 6: Governance of the Nuclear Waste Administration – Administrator vs. Board of Directors
Submitter's Name/Affiliation: (David Wright/Nuclear Waste Strategy Coalition)

Should the new entity be governed by a single administrator or by a board of directors?

(a) If by a single administrator, should the administrator serve for a fixed term? If so, how long should the term of service be? Should the legislation prescribe qualifications for the administrator? If so, what should be the selection criteria?

(b) If by a board of directors, how many people should comprise the board and how should they be selected?

The NWSC greatly prefers that the new management entity be governed by a board of directors rather than by a single administrator appointed by the President as proposed. While board members would be appointed, the entire board would be responsible for hiring, managing, and firing the head of the management entity or chief executive/administrative officer (e.g., CEO). This better insulates the CEO from political interference, and the CEO is accountable to a presumably knowledgeable and engaged board, rather than politically-appointed senior federal officials whose interest in and time for nuclear waste oversight is likely negligible. For your consideration, companion bills introduced by Senator Voinovich (S. 3322) and Representative Upton (H.R. 5979) in 2010 proposed a board of directors with substantial stakeholder representation to govern the recommended management corporation.

6(a): The NWSC does not believe the new entity should be governed by a single administrator as proposed in the discussion draft for the reasons expressed in our response to Question 6. If that model advances, however, the Administrator should serve for a fixed term that is longer than one or more political cycles so as to avoid some of the historical problems with a lack of continuity in the management of the program. If the Administrator is to be politically appointed, legislation should prescribe a minimum set of qualifications to ensure high-caliber candidates with relevant experience. If a board of directors is instead used to govern the new management entity and its CEO, one can expect the board to develop a reasonable set of minimum qualifications and a process for selection from a list of candidates.

6(b): A board of directors to govern the new management entity shouldn't be so large that it becomes difficult for the board to act, and it should be an odd number to avoid tie votes. As proposed in the 2010 companion bills by Senator Voinovich and Representative Upton, nine appears to be a reasonable number of directors and would allow for substantial representation of those that contribute financially to the NWF. Knowledgeable and engaged stakeholders such as state public utility commissions, state consumer advocates, and utilities should be represented on the board. We suggest that national organizations such as the NWSC, the National Association of Regulatory Utility Commissioners (NARUC), the Nuclear Energy Institute (NEI), and the National Association of State Utility Consumer Advocates (NASUCA) provide nominees for such key stakeholder slots. In addition, the board should have representation from both the public and private sectors, in contrast to the discussion draft's Oversight Board. Terms should be longer than a political cycle and should be staggered to avoid the instability of significant turnover. A minimum set of qualifications should be included. Here again, we offer for consideration the provisions regarding board makeup and qualifications in the 2010 Voinovich and Upton bills (S. 3322; H.R. 5979).

Question 7: Governance of the Nuclear Waste Administration – Role of advisory committees
Submitter's Name/Affiliation: (David Wright/Nuclear Waste Strategy Coalition)

The Blue Ribbon Commission recommended establishment of both a board of directors for management oversight (whose "primary role ... is not to represent all stakeholder views, but rather to carry out fiduciary responsibilities for management oversight") and "a larger and more widely representative stakeholder advisory committee." The draft bill responds to these recommendations, first, by establishing a Nuclear Waste Oversight Board of senior federal officials and, second, by authorizing the Administrator to establish advisory committees. Should the Oversight Board and advisory committee be combined into a single body to perform both management oversight and stakeholder representation functions? Should the focus and membership of any advisory committees be established in the legislation or left to the Administrator?

For the reasons outlined in the response to Question 6, the NWSC would much prefer a board of directors to govern the management entity to the proposed Oversight Board of three senior federal officials. The concept of stakeholder advisory committees has merit, but given that such committees are formed at the option of the Administrator, there is no guarantee that any stakeholders (state commissioners, utilities, etc.) will be represented at all given the current discussion draft language. The best way to combine management oversight and stakeholder representation functions is to ensure that a board of directors, including key stakeholder slots, is created to govern the management entity. Additional stakeholder advisory committees may also prove useful, especially to provide particular expertise on issues with important technical, economic, or policy implications.

Question 8: Governance of the Nuclear Waste Administration – Membership of the Oversight Board
Submitter's Name/Affiliation: (David Wright/Nuclear Waste Strategy Coalition)

Dr. Meserve testified in 2012 that representatives of stakeholders and public utility commissioners should be added to the Nuclear Waste Oversight Board. Would these additions make the Board better able to carry out its fiduciary oversight mission effectively?

Adding state public utility commissioners would improve the Nuclear Waste Oversight Board in a number of ways, including making it better able to carry out its fiduciary oversight mission. Having said that, the best way to combine management oversight functions, such as fiduciary oversight, and stakeholder representation functions is to ensure that a board of directors, including key stakeholder slots, is created to govern the management entity. Stakeholder slots on the board of directors should include at least 1-2 representatives of state public utility commissions.

David A. Wright, Chairman
Chairman, South Carolina Public Service Commission

Renze Hoeksema, Vice Chairman
Director of State Affairs, DTE Energy

David Boyd, Membership
Commissioner, Minnesota Public Utilities Commission

Robert Capstick, Finance
Director of Government Affairs, Yankee Atomic

Greg R. White, Communications
Commissioner, Michigan Public Service Commission

NWSC
Nuclear Waste Strategy Coalition

May 24, 2013

The Honorable Ron Wyden, Chairman
Senate Energy & Natural Resources Committee
304 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Lisa Murkowski, Ranking Member
Senate Energy & Natural Resources Committee
304 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Dianne Feinstein, Chair
Senate Energy & Water Development Appropriations Subcommittee
184 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Lamar Alexander, Ranking Member
Senate Energy & Water Development Appropriations Subcommittee
184 Dirksen Senate Office Building
Washington, DC 20510

Dear Senators Wyden, Murkowski, Feinstein, and Alexander:

The Nuclear Waste Strategy Coalition (NWSC) appreciates your commitment to advance the nuclear waste policy debate with the April 2013 release of your discussion draft of the "Nuclear Waste Administration Act of 2013." We thank you for this unusual opportunity to provide input before legislation has been introduced, and we offer the following comments for your consideration.

The NWSC is an ad hoc organization representing the collective interests of member state utility regulators, consumer advocates, tribal governments, local governments, electric utilities, and other government and industry experts on nuclear waste policy matters. Our primary focus is to protect electric ratepayer payments into the Nuclear Waste Fund (NWF) and to support the removal and ultimate disposal of used nuclear fuel and high-level radioactive waste currently stranded at numerous sites across the nation.

To that end, we have long supported and continue our call for:

PROMPT ACTION BY THE FEDERAL GOVERNMENT TO MEET ITS OBLIGATION

The federal government should act now to meet its longstanding obligation to promptly remove used nuclear fuel and high-level radioactive waste from existing and decommissioned reactor sites in our states. Electric consumers have paid approximately $35 billion (including interest) and contribute approximately $750 million annually into the NWF. Consumers have met their obligation under the Nuclear Waste Policy Act (NWPA), but the federal government has not.

Specifically, the following five actions reflect the NWSC's long-standing goals directed at the prompt removal of used nuclear fuel and high-level radioactive waste from operating and decommissioned reactor sites in our states:

Phone: ***337.656.8518*** ♦ **Fax:** ***888.526.6883*** ♦ **Email:** ***katrina@theNWSC.org*** ♦ **Website:** ***www.theNWSC.org*** ♦ **Twitter:** ***NWSCoalition***

1 *Establishing Permanent Disposal & Completing the Yucca Mountain License Application*

Recognizing a need for disposal under any scenario, actions to support the prompt removal of used nuclear fuel and high-level radioactive waste must include establishing a permanent disposal facility as soon as possible. While referencing the Nuclear Waste Policy Act (NWPA), the discussion draft does not adequately reaffirm the need to carry out the important statutory requirements pertaining to the nation's first permanent repository at Yucca Mountain. The NWPA is the law of the land and should be enforced. Specifically, we call for the completion of the Nuclear Regulatory Commission's (NRC) independent and well-advanced review of the Yucca Mountain license application, which was submitted by the Department of Energy (DOE) in 2008.

The NWSC continues to urge you to ensure that the NRC and DOE complete this scientific evaluation. Specifically, we request your leadership in (i) appropriating the necessary funds to facilitate its timely completion and (ii) requesting a specific plan from DOE and NRC for completing the licensing process, including identification of the resources required, particularly in light of pending action by the US Court of Appeals for the DC Circuit. Whether or not a consent-based process for future disposal facilities is enacted and successful, the Yucca Mountain repository was designated by Congress and merits the scientific review begun years ago and required by law. Given the approximately $35 billion (including interest) paid by electric consumers for the purpose of such disposal, it is time for the NRC to provide answers to the public.

We highlight two key provisions pertaining to permanent disposal in the discussion draft. First, the draft proposes to establish a consent-based process for siting repositories. This language should not, and does not appear to, modify existing law with respect to the designation of Yucca Mountain. Regarding consent-based siting processes, the NWSC emphasizes (i) the need for flexibility so as not to limit creative and effective solutions that may be proposed by potential hosts and (ii) the need to have an enforceable agreement by the end of the process.

Second, we note that the draft requires the Administrator's mission plan to provide for a repository to be sited under this new process and operational not later than December 2048. This milestone mirrors the DOE Strategy's proposed repository date, which is unsupported and so distant that potential hosts for consolidated storage facilities would be justifiably nervous about becoming de facto permanent sites. This concern may have driven the draft's linkage between consolidated storage and progress on a repository. It would be a far better signal to potential hosts and to the public for Congress and the Administration to support timely completion of the Yucca Mountain process and to call for a more reasonable date for an additional repository sited under a consent-based approach.

2 *Ensuring Consumer Payments Used for Intended Purpose*

The NWSC strongly supports the need to fix the funding mechanism for the nuclear waste program so that money collected from consumers is used for its intended purpose. Regarding the new Working Capital Fund proposed in the discussion draft, we commend the effort to stop future raiding of consumer payments intended for the program. However, to the extent the Working Capital Fund remains subject to appropriations (Section 401(c)(1)), it potentially limits the management entity's ability to carry out necessary program activities in contrast to the stated intent.

We support NARUC's prior suggestion to strengthen financial support of the new organization by transferring the interest earned on the NWF balance to the new Working Capital Fund. Likewise, we support future one-time fee payments under the NWPA be paid into the Working Capital Fund. The NWSC also would like express assurance that the balance in the NWF will be made available to the management entity when program needs dictate.

Finally, we highlight for your consideration one additional funding reform measure. In a letter to the President before their January 2012 report containing the same novel recommendation, the Blue Ribbon Commission on America's Nuclear Future (BRC) Co-Chairs delineated near-term steps designed to protect future payments by electric consumers. Essentially, their proposal called for only those fee collections matching Congress' annual appropriations to the nuclear waste program to be deposited into the NWF, with any excess to be held in escrow until needed to fund future appropriations to the program. Unfortunately, those recommendations do not appear to have been pursued by the Administration, and no transparent explanation has been offered.

3 ***Reforming the Management of the Nuclear Waste Program***

Following decades of budget cuts, management turnover, and missed deadlines, our members wholeheartedly support the concept of a new, single-purpose organization to develop and implement a focused, integrated program for the transportation, storage, and disposal of nuclear waste. While such an organization could be structured numerous ways, the key is to establish an entity that ensures accountability and reasonably insulates the organization from political interference and excessive turnover in key positions. We note that the federal corporation model served as the basis of companion bills introduced by Senator Voinovich (S. 3322) and Representative Upton (H.R. 5979) in 2010, and the BRC and numerous other experts expressed the same preference following extensive study of the options.

Respectfully, the bill's proposed Nuclear Waste Administration and Oversight Board are lacking with respect to some of the key elements. As further addressed in the response to Question 6, it is important that the new management entity be governed by a board of directors. Additionally, key stakeholders (such as state public utility commissioners) should serve on the board and perhaps in other advisory capacities. In the discussion draft, the Administrator is given the option to assemble advisory committees; however, there is no guarantee that key stakeholder input will be considered. See additional comments in response to Questions 7-8.

4 ***Providing for Consolidated Storage with Priority for Shutdown Reactor Fuel and High-Level Radioactive Waste***

Consolidated storage should be authorized and funded as a safe, cost-effective option for managing spent nuclear fuel and high-level radioactive waste from decommissioned and operating plants. While a permanent facility is being licensed and constructed, one or more storage facilities would permit the federal government to begin meeting its obligations and reduce taxpayer liabilities associated with the government's delay. Therefore, the NWSC supports pursuing permanent disposal facilities and consolidated storage facilities on parallel tracks. We are pleased that the discussion draft expressly includes authorization language to develop consent-based consolidated storage with used nuclear fuel from the decommissioned reactor sites given priority for transfer. Regarding consent-based processes for siting storage and disposal, the NWSC wishes to reemphasize (i) the need for flexibility so as not to limit creative and effective solutions that may be proposed by potential hosts and (ii) the need to have an enforceable agreement by the end of the process.

We are concerned that the bill's requirement that utilities settle their lawsuits against the federal government in order to be permitted to use a consolidated storage facility would perpetuate the untenable situation of prolonged on-site dry cask storage and mounting federal government liability. The US Courts have consistently and clearly indicated which entity has not met its obligations under the law and in accordance with its contracts with utilities. Performance remains the federal government's key to avoiding future liability.

5 ***Facilitating the Transport of Used Nuclear Fuel and High-Level Radioactive Waste***

The federal government should facilitate the construction and operation of infrastructure and systems necessary to transport commercial used nuclear fuel and high-level radioactive material (as required in the NWPA) in existing and future NRC-licensed canisters to consolidated storage and permanent disposal facilities as appropriate.

CONGRESSIONAL LEADERSHIP

Your continued leadership on this important national issue is needed – to facilitate the removal of used nuclear fuel and high-level radioactive waste from existing and decommissioned reactor sites across the country and to protect millions of electric consumers and all taxpayers. The NWSC stands ready to work with you and your Congressional colleagues, the Administration, and DOE to advance meaningful nuclear waste policy reform.

Thank you again for the opportunity to weigh in with respect to your discussion draft.

Sincerely,

David A. Wright
Chairman, Nuclear Waste Strategy Coalition
Chairman, South Carolina Public Service Commission

cc: Mr. Josh Sheinkman, Majority Staff Director, Senate Energy & Natural Resources Committee
Ms. Karen Billups, Minority Staff Director, Senate Energy & Natural Resources Committee
Mr. Doug Clapp, Majority Clerk, Senate Energy & Water Development Appropriations Subcommittee
Ms. Carolyn Apostolou, Minority Clerk, Senate Energy & Water Development Appropriations Subcommittee

Submitter's Name/Affiliation: Kevin Kamps/Beyond Nuclear
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This discussion draft bill merely parrots, in large part, the Blue Ribbon Commission on America's Nuclear Future final report from Jan. 2012, in putting top priority on establishing so-called "centralized interim storage" away from reactors for highly radioactive wastes. The BRC ignored countless comments opposed to such a plan.

If enacted, this would launch unprecedented numbers of risky high-level radioactive waste (HLRW) shipments, by truck, train, and barge, onto our country's roads, rails, and waterways. These risks could well turn out to be in vain, if the ultimate final disposal site ends up being located far away, or back in the direction from which they came in the first place. This amounts to launching a risky radioactive waste shell game, all for naught. Each truck, train, and barge shipment is another round in the revolver of a risky game of radioactive Russian roulette, in terms of the shipping risks.

Take the nuclear power industry's recently cancelled Private Fuel Storage, LLC (PFS) parking lot dump targeted at the tiny Skull Valley Goshutes Indian Reservation in Utah. The U.S. Nuclear Regulatory Commission rubberstamped a construction and operations license for the facility in 2006, over the objections of tribal traditionals, the State of Utah, and nearly 500 environmental and environmental justice organizations across the country. PFS was, after all, environmental injustice, radioactive racism, at its worst.

The plan at PFS was to store the irradiated nuclear fuel for 20 to 40 years, then transfer it to a permanent dumpsite at Yucca Mountain, Nevada. However, the Obama administration has wisely cancelled the Yucca dump proposal. 'Plan B' at PFS would then have been "return to sender." Wastes from the Maine Yankee atomic reactor, as but one example, would have traveled 2,000 miles out to Utah, and then returned 2,000 miles right back to where they came from in the first place. Maine Yankee's 540 tons of highly radioactive irradiated nuclear fuel, in dozens of transport containers, would have traveled 4,000 miles round trip, accomplishing absolutely nothing.

The risks of accidents, attacks, and "mobile x-ray machines that can't be turned off" shipments means HLRW transportation cannot be rushed into for no good reason, such as nuclear industry lobbyists' pressure to transfer title and liability for the wastes from the utilities that profited from its generation onto the American taxpayer.

Delivering wastes to *de facto* permanent parking lot dumps would take decades. This means on-site pool and dry cask storage risks at the reactor sites would persist that whole time. For this reason, hundreds of environmental groups have long called for hardened on-site storage at reactor sites, to defend against attacks, safeguard against accidents, and prevent leaks into the environment during that inevitable waiting period.

See: http://ieer.org/wp/wp-content/uploads/2010/03/HOSS_PRINCIPLES_3-23-10x.pdf

I would like to take this opportunity to share some thoughts that didn't fall under your eight questions framework.

In your draft bill (on page 3 of 58), you state that Congress designated Yucca as the national repository in 1987. That is not accurate. Congress singled out Yucca as the sole site to be further studied. Given the scientific unsuitability that was discovered during those site studies, Yucca should have been quickly disqualified from any further consideration, but politics trumped science for decades at Yucca.

You suggest at Sec. 102(A) "polluters pay" principles. But if that is your aim, you are failing that. You are violating your own supposed principle, as by, for example, excusing nuclear utilities from paying into the waste management fund after 2025 if consolidated interim storage has not been opened. This makes no sense, and is risking very bad and rushed decisions being made. Haste makes waste. Rush jobs lead to mistakes. This is not a good thing when it comes to high-level radioactive waste risks!

On page 6 of 58, you proposed that the Interior Secretary has to find that a proposed dump impacts a tribe. Shouldn't the tribe determine that?

At page 23 of 58, the draft bill speaks of Guidelines. But Energy Secretary Spence Abraham gutted the Yucca Guidelines in late 2001, erasing from the books disqualifying conditions that had been in place for 17 years – because Yucca could not live up to them. These could thus be named the "get 'er done" Guidelines. Robust qualifying and disqualifying conditions are absolutely essential in any Guidelines! As Dr. Arjun Makhijani has put it, no "double standard standards" should be allowed. That is, if a site can't meet a robust standard, the site should be disqualified. At Yucca, when standards got in the way, they were merely removed. Such politics over science cannot be allowed ever again.

At page 28 of 58, if co-location is preferable, then centralized interim storage will likely become permanent, whether parked on surface, or buried underground someday. Most likely, centralized interim storage will be left on the surface, and never buried. What political momentum will there be to bury it? It will now be a single congressional district's problem.

At page 29 of 58, of course, it's not site characterization that risks the worst impacts, but rather the actual deployment of the dump itself. Again, "compensation" can be regarded as a pay off, or bribe. As Keith Lewis of the Serpent River First Nation has put it, "there is nothing moral about tempting a starving man with money." The Serpent River First Nation has paid a high price for living downstream of the Elliot Lake uranium mines and mills in Ontario, Canada, as documented in the book "This Is My Homeland."

At 34 of 58, "substantial progress" would nonetheless seem to allow centralized interim storage, no matter how far behind permanent disposal lags

At page 37 of 58, transport of "defense wastes" from DOE site to storage facility seems to be conspicuously left out, even though storage of defense wastes at storage facilities seems to be legalized elsewhere in bill, summaries, etc. Is this an unintended oversight?

At page 38 of 58, QA requirements of NRC are mentioned. It should be pointed out that NRC's QA oversight is in meltdown mode, at least in regards to dry cask storage and transportation containers. See the following documentation:

http://www.nirs.org/radwaste/atreactorstorage/atreactorhome.htm
(see the 2004 entries, especially the industry whistleblower – Oscar Shirani – and NRC whistleblower – Dr. Ross Landsman – revelations. Also see the very troubled history of dry cask storage in the U.S., "Get the Facts…".)

At page 38 of 58, "public education" about radioactive waste transport is mentioned. All too often in the past, this has meant PR deception, to sedate the public in the face of the risks, to lull them to sleep. This cannot be allowed any more.

At page 42 of 58, I thought defense waste funds from here forward were going into the Nuclear Waste Administration Working Capital Fund? But here it says only into the Nuclear Waste Fund. Is this an oversight?

At page 46 of 58, the provision that there should be no more contracts signed, till there is an NRC license for a dump, is good common sense, and thus commendable. The George W. Bush DOE's signing of new waste disposal contracts between Nov. 4, 2008 (the day the American people elected Barack Obama president) and Jan. 22, 2009 (two days after President Obama took the oath of office) was most reprehensible and scandalous. See: http://ieer.org/resource/commentary/nuclear-waste-contract-foia-results/ for more information.

The existence of the Price-Anderson Act, and its application to nuclear waste activities, is prima facie evidence that nuclear power and radioactive waste are so dangerous, that no insurance company in its right mind would touch it, unless the Federal Government assumes almost all of the liability (that is, unless ultimate liability is foisted on taxpayers). This is a huge subsidy to the nuclear power industry, a moral hazard with a radiological twist. It should no longer be allowed. It incentivizes catastrophically risky activities.

At page 53-54 of 58, re: Mission Plan, in some places in the draft bill, the President would get a copy, but not so in others. Is this in error?

At page 58 of 58, Repeal of Volume Limitation is very dangerous, and should not be allowed. It will likely result in states fighting tooth and nail against becoming the nation's sole nuclear sacrifice area.

Re: Section 403, Full Cost Recovery, they've never adjusted for inflation, and Yucca's price tag has far outstripped Nuclear Waste Fund revenues. Taxpayers will be looked to to make up for the shortfall. This is unacceptable.

Some additional thoughts:

Storage sites should have as rigorous a siting process as repositories, due to the all too real risk of parking lot dumps becoming de facto permanent.

Committee's one page summary says CIS can start immediately, and there are no limits on amounts of waste that can go there; also, that once there, waste can stay, even if further shipments are suspended. This is all unacceptable.

One page summary says Working Capital Fund is available to NWA Administrator with no congressional appropriations. This is very dangerous. He or she could blow through all the money in a great big hurry then. George W. Bush would have done this at Yucca, but for congressional checks and balances, on a doomed site. What a waste of money THAT would have been!

Every jurisdiction impacted should have to consent, including transport corridor communities.

I would like to bring to your attention that during the Blue Ribbon Commission two year long proceeding, more than once, group sign on letters in opposition to centralized storage were submitted, and apparently summarily ignored, despite being signed by scores of environmental groups. One of these group letters came from the very communities being held up by not only the Blue Ribbon Commission, but even your Gang of 4, as supposedly justifying accelerated "pilot" centralized interim storage for "orphaned" or "stranded" irradiated nuclear, at permanently shutdown reactors. The argument seems to be that that irradiated nuclear fuel needs to be moved away, so those sites can be freed up for restored productive use. But those sites are still radioactively contaminated, in their soil, groundwater, surface water sediments, flora, fauna, and food chain. Take Big Rock Point in Michigan as an example, as documented in this report posted online:

http://www.nirs.org/reactorwatch/decomissioning/bigrockbackgrounder272007.pdf

Thus, NRC's release of these sites for un-restricted re-use is not appropriate, in terms of the ongoing risks to public health, safety, and the environment. This rush to "pilot" centralized interim storage to free up such sites for un-restricted re-use not only makes no good sense, it is also dangerous, in terms of the many downsides of rushed centralized interim storage, such as I laid out in my response to your

Question #2 and others, as well as the radioactive exposures people would suffer from the un-restricted re-use of these still contaminated former reactor sites.

Re: this word "consent," at least in a sexual connotation, the opposite of "consent" would be rape. Thus, it is very disconcerting that there is so much ambiguity about what the definition of "consent" is in regards to high-level radioactive waste storage and disposal. Every community facing such risks should have the absolute right to say no. This includes not only every governmental jurisdiction directly or indirectly impacted by the proposed facility (such as from leakage, downwind, downstream, up the food chain), but also those along the targeted transportation routes.

Another troubling disconnect is any notion that communities, states, or Native American Nations would be so-called volunteering to host high-level radioactive waste storage or disposal. Volunteering connotes doing a service for no payment in return. But this draft bill proposes all kinds of incentives, inducements, compensations, etc. The explicit or implicit notion that volunteers are volunteering should be done away with.

This leads to a very troubling issue: the reprehensible targeting of low income and people of color communities, to, yet again, disproportionately "volunteer" or "consent" or "serve" as, effectively, nuclear sacrifice areas. This is environmental injustice.

Question 2: Linkage between storage and repository
Submitter's Name/Affiliation: Kevin Kamps/Beyond Nuclear

SENATE COMMITTEES' QUESTION: Should the bill establish a linkage between progress on development of a repository and progress on development of a storage facility? If so, is the linkage proposed in section 306 of the bill appropriate, too strong, or too loose? If a linkage is needed, should it be determined as part of the negotiations between the state and federal governments and included in the consent agreement rather than in the bill?

BEYOND NUCLEAR RESPONSE:

In short, the bill absolutely should establish a very strong linkage between progress on development of a repository and progress on development of a storage facility. The linkage proposed in section 306 of the bill is currently much too loose, much too weak, and must be significantly strengthened and tightened. A very strong linkage is needed, and should not only be enshrined in federal legislation, but should also play a central role in the negotiations between the state(s) and federal government, as in the consent agreement(s) needed before a centralized interim storage site, or sites, or a repository, or repositories, are allowed to move forward.

Beyond Nuclear has endorsed a group sign on statement, which states, in part:

"Consolidated storage sites could become de facto permanent

The primary purpose of moving the waste to a temporary site is to satisfy the grave legislative blunder ratified by the Nuclear Waste Policy Act of 1982: that the federal government not only would take possession of commercial nuclear waste, but that it would begin accepting waste for disposal in 1998.

Because the federal government is 15 years late taking ownership of the waste, it is pushing a strategy that prioritizes the resolution of financial liabilities rather than ensuring safety and security. Moving irradiated nuclear fuel and other high level wastes to a consolidated site could de-incentivize and adversely impact progress of the nation's efforts toward a viable permanent solution. The draft legislation's overtures toward decoupling the relationship between storage and permanent disposal further exacerbate this issue.

Our view is simple: there must be no transportation of spent nuclear fuel or high level waste until it is heading to a permanent site. The discussion of consolidated storage without the linkage provided in the existing Nuclear Waste Policy Act is not credible as "temporary" and the provisions offered by the Committee do not rise to the level of that term."

To add, the draft bill speaks of "substantial progress [towards a permanent repository]…as measured by the mission plan."

The draft bill holds that, so long as "substantial progress" towards a permanent repository is being made, irradiated nuclear fuel will be allowed to roll into a consolidated or centralized interim storage facility, or facilities, with no limitation on the quantities involved.

Question 2: Linkage between storage and repository
Submitter's Name/Affiliation: Kevin Kamps/Beyond Nuclear

But who gets to determine that "substantial progress" towards a repository is being made? First and foremost, the draft bill would put that power in the hands of the Nuclear Waste Administrator.

Of course, the Administrator would write the mission plan. We are concerned that "substantial progress," as defined by the mission plan, could be too loose a term, allowing too much wiggle room for high-level radioactive wastes to flow into a centralized interim storage site, even though real progress towards permanent disposal was not happening.

Why would the Administrator ever readily and willingly admit lack of "substantial progress" toward a repository? This would be admitting that he or she had failed in his or her mission work. It is not likely that such an admission would easily be forthcoming, but rather would have to be extracted most grudgingly, like pulling teeth.

So, how much waste would get stuck in *de facto* permanent surface storage at one or more parking lot dumps before it was realized, before the Administrator was forced to admit, that the repository was stalled, or even derailed, yet again?

In a sense, it is worse than Senator Bingaman's bill last year. He gave away the first 10,000 metric tons of "pilot" centralized interim storage, with no linkage to a permanent repository. (It should be noted that 10,000 tons is way more irradiated nuclear fuel than is currently "orphaned" or "stranded" at permanently closed, and even dismantled, nuclear power plants in the U.S.) That was an unacceptable political compromise. An unacceptable risk-taking of *de facto* permanent surface storage.

How long would such a delay in admitting the truth go on, before grudgingly admitting that the permanent repository was derailed, yet again? Would even more than 10,000 tons of irradiated nuclear fuel have already been delivered to centralized interim storage, before the Administrator or Nuclear Waste Oversight Board grudgingly admitted that the repository was yet again derailed?

This does not make sense. It is very risky. It risks *de facto* permanent centralized interim surface storage.

Both proposed repositories that advanced the furthest in the U.S. thus far – that is, advance to nowhere -- can be pointed to as cautionary tales.

As documented in the 1986 book *Forevermore: Nuclear Waste in America*, by Barlett and Steele, the U.S. Atomic Energy Commission (AEC), in the late 1960s and early 1970s, was very gung ho about burying high-level radioactive wastes in a salt formation at Lyons, Kansas. The AEC was so confident about the site, despite having done very little site suitability study, that it held a press conference announcing the imminent opening of the country's, and the world's, first deep geologic repository for high-level radioactive waste.

However, the Kansas State Geological Society involved itself. It pointed out that the locality was riven like Swiss cheese with drilling operations, mines extracting fossil fuels and

minerals. In fact, large quantities of water used in such mining operations had simply disappeared into the ground, to points unknown. Thus, there was a very real risk that unknown pathways for corrosive brine already existed, or could come into being, that would serve to quickly corrode the high-level radioactive waste burial containers at the proposed Lyons, Kansas dumpsite. In addition, given the natural resources in the surrounding locality, the risk of inadvertent human intrusion busting open the dump to the environment would be too great. The absurdly over-confident AEC was forced to beat a hasty retreat, and the Lyons, Kansas dumpsite entered the dust bin of history. So much for "substantial progress" towards a repository that time!

Yucca Mountain, too, was assured to be making "substantial progress," after all. Energy Secretary Spence Abraham declared Yucca "suitable" for a repository on Valentine's Day, 2002, despite ample evidence since the early 1980s that the site's geology was unsuitable. George W. Bush rubberstamped Yucca's "suitability" three short days later. Even Congress saw fit to override Nevada's veto a few short months later. All for naught, as Yucca's "politics over science" karma, and its geologic and hydrologic unsuitability (not to mention the fact that it belongs to the Western Shoshone Indian Nation by treaty right, and they don't want the waste there) finally caught up to it. The Obama administration wisely cancelled the proposed Yucca Mountain dump beginning in 2009.

Our point is, despite assurances that persist for years, or even decades (Yucca was under consideration as the only site in the country to be further studied as a potential high-level radioactive waste repository from 1987 to 2010, nearly a quarter-century), "substantial progress" towards a repository could be little more than a feel-good "illusion of a solution." But under this draft bill, such a mirage in the desert would be justification enough to roll unlimited amounts of high-level radioactive waste by road, rail, and waterway across our country, into a centralized interim storage site, or sites, which would then be stuck there indefinitely, even though the Administrator could be forced to finally admit someday that "substantial progress" towards a repository had yet again derailed.

So long as the Administrator stands by "substantial progress" being made towards a repository, under the draft bill this would allow centralized interim storage to fill up, no matter how far behind permanent disposal actually lags, unless and until the Administrator is forced to admit "lack of substantial progress," something that would come only grudgingly, if at all.

The draft bill does allow for suspension of shipments to centralized interim storage, but under section 306(f), allows shipments already delivered there to simply remain in storage. But how was that mistake made then in the first place? How were shipments allowed to roll into centralized interim storage, when obviously, "substantial progress" towards a repository was, in reality, later admitted to have been lacking all along? The draft bill would allow for waste already delivered to now be indefinitely stuck in centralized interim storage, the very definition of *de facto* permanent surface storage. In other words, a parking lot dump.

For this reason, iron-clad linkage must exist between a permanent repository and centralized interim storage from the get-go, in order to guard against the danger of *de facto* permanent parking lot dumps.

Question 2: Linkage between storage and repository
Submitter's Name/Affiliation: Kevin Kamps/Beyond Nuclear

The risk of *de facto* permanent, or at least indefinitely long, "interim" storage is all too well established in the U.S. Just look at the General Electric-Morris ISFSI (Independent Spent Fuel Storage Installation, as NRC and industry call it) in Illinois, located immediately adjacent to the Dresden nuclear power plant. Fortunately, the proposed reprocessing facility never operated, due to a major design flaw. If it had operated, radioactive emissions to the environment would have been nightmarish. But even though it thankfully never operated, the GE-Morris storage pool has held 772 tons of irradiated fuel, from multiple reactors in various states, for four decades now, with no end in sight. "Temporary" or "interim" seems to have taken on a new, Orwellian definition in the Atomic Age, at least in regards to forever deadly high-level radioactive waste.

Likewise, nuclear power plants themselves make the point. "Host" communities were assured the irradiated nuclear fuel would be stored on-site for an "interim" period – five years or so in the indoor wet pools to allow for radioactive decay and thermal cooling – and then it would be shipped away someplace else. Of course, this has turned out to be another false assurance. Oyster Creek, NJ, a 44-year-old reactor, still stores irradiated nuclear fuel in a pool packed to ultimate physical capacity (never mind the radiological risks of that). Big Rock Point, MI, which began operations in 1962, still stores high-level radioactive waste in dry casks on-site, even though the rest of the power plant has been completely dismantled and carted off to so-called "low" level radioactive waste dumps (although radioactive contamination of the soil, groundwater, Lake Michigan sediments, flora and fauna will linger on-site long into the future).

Furthermore, under section 306(e), the draft bill would allow for "emergency exceptions" to the suspension of shipments into a centralized interim storage site, or sites. This seems quite ripe for abuse as well. How are "emergency exceptions" to be defined?

If the nuclear power industry is to be listened to, on-site storage of irradiated nuclear fuel is safe, secure, and protective of public health and the environment. The U.S. Nuclear Regulatory Commission (NRC) parrots this industry line. So did the Blue Ribbon Commission on America's Nuclear Future. Environmental watchdog groups have long challenged such false assurances that all is well with on-site storage, pointing out serious safety, security, and environmental risks of both pools and dry cask storage at reactors.

So what's to stop abuse of this loophole, which is big enough to drive a radioactive waste truck (or train, or barge) through?! What's to prevent the nuclear establishment (in industry, NRC, etc., including even members of congress, for that matter) from going from one extreme to the other? From claiming that all is well, to suddenly claiming that on-site storage everywhere represents a safety, security, and/or environmental emergency risk, just in order to rush their wastes off-site, into centralized interim storage, as soon as it is opened? After all, as soon as the irradiated nuclear fuel leaves their reactor sites, the title and liability transfers onto the backs of the American taxpayer, something the industry that generated these forever deadly wastes would like to see happen ASAP. Even though industry, likely for PR sake, deceptively insists that on-site storage is currently safe, secure, and protective of health and the environment – even though it is far from that, truth be told.

Question 2: Linkage between storage and repository
Submitter's Name/Affiliation: Kevin Kamps/Beyond Nuclear

The Senate Committee's one-page summary states that centralized interim storage can start immediately, and there are no limits on the amounts of waste that can go there; also, that once there, waste can stay, even if further shipments are suspended. This epitomizes a rush job, which could easily result in *de facto* permanent consolidated surface storage, if and when permanent repository disposal derails yet again.

Other concerns raise their ugly head, indications that a permanent repository will be most difficult to site, if not impossible.

After watching the Yucca Mountain debacle unfold over the past generation, states are now on high alert that, once targeted for a national high-level radioactive waste dump, it becomes a 49-states-against-1 "game." Whether targeted at a centralized interim storage site, or a permanent repository, all of a sudden, our country's high-level radioactive waste problem could become a single U.S. congressional district's problem. In that regard, at least in the U.S. House of Representatives, the "game" would then amount to 434-against-1. So much for "One Nation, Under God, Indivisible." Not when it comes to high-level radioactive waste, it seems; then, it's every state for itself. The 1987 "Screw Nevada" bill is a cautionary tale in this regard. Such a shameful, rotten history has created the dynamic that all future targeted states will simply resist, tooth and nail, with all their might, to avoid becoming the nation's nuclear sacrifice area.

Along these lines, this draft bill's lifting of the cap on 70,000 metric tons at the first repository, means that only one repository, if that, will ever open.

States across the country, which have carefully watched the Yucca Mountain debacle unfold over the past 25 years, will likely fight tooth and nail to NOT become a repository, THE repository, because it's obvious they would get it all – not 70,000 metric tons of high-level radioactive waste, but the full national inventory, however big a mountain of radioactive waste that grows to be in the decades to come. Nevada, a state with no atomic reactors within its borders, and thus no in-state generated irradiated nuclear fuel or high-level radioactive waste, showed that such abuse by the federal government, and even by the other 49 states arrayed against it, can be successfully resisted. And states will likely resist, not desiring to become the nuclear sacrifice area for the rest of the country.

Thus, ironically enough, this draft bill's own provisions have made opening a permanent repository all the more unlikely.

All this underscores the danger of opening centralized interim storage parking lot dumps with no real linkage to permanent disposal. A repository would be hard to impossible to open under the provisions of this draft bill. Thus, centralized interim storage would risk becoming a *de facto* permanent parking lot dump.

Question 3: Separate process for storage facility siting – Alternative Section 305
Submitter's Name/Affiliation: Kevin Kamps/Beyond Nuclear

Instructions:

Go to View [Header and Footer] and fill in Name/Affiliation.

Save document as Question3 and add your last name and affiliation (ex. Question3_Smith_OrganizationA)

Scroll down to page 2 of this document to see Question 3, and begin your response on that page.

Question 3: Separate process for storage facility siting – Alternative Section 305
Submitter's Name/Affiliation: Kevin Kamps/Beyond Nuclear

Should the bill establish separate storage and disposal programs with clearly defined requirements for each, with any linkage negotiated in the consent agreement between the federal and non-federal parties, to allow the two program to run on separate, but parallel tracks, as proposed in the alternative section 305 (which would replace section 304(b)-(g) of the draft bill)?

BEYOND NUCLEAR'S RESPONSE:

In short, no, absolutely not.

The bill should absolutely not establish separate storage and disposal programs. The bill should absolutely not punt any linkage between centralized interim storage and a permanent disposal repository, to be negotiated in the consent agreement between the federal and non-federal parties. The bill should absolutely not allow the two program (sic, programs) to run on separate, but parallel tracks, as proposed in the alternative section 305 (which would replace section 304(b)-(g) of the draft bill).

I refer you to my arguments as to why not, which I articulated in my previous response to your Question #2. I have cut and pasted my response to question #2 below, for your convenience:

In short, the bill absolutely should establish a very strong linkage between progress on development of a repository and progress on development of a storage facility. The linkage proposed in section 306 of the bill is currently much too loose, much too weak, and must be significantly strengthened and tightened. A very strong linkage is needed, and should not only be enshrined in federal legislation, but should also play a central role in the negotiations between the state(s) and federal government, as in the consent agreement(s) needed before a centralized interim storage site, or sites, or a repository, or repositories, are allowed to move forward.

Beyond Nuclear has endorsed a group sign on statement, which states, in part:

"Consolidated storage sites could become de facto permanent

The primary purpose of moving the waste to a temporary site is to satisfy the grave legislative blunder ratified by the Nuclear Waste Policy Act of 1982: that the federal government not only would take possession of commercial nuclear waste, but that it would begin accepting waste for disposal in 1998.

Because the federal government is 15 years late taking ownership of the waste, it is pushing a strategy that prioritizes the resolution of financial liabilities rather than ensuring safety and security. Moving irradiated nuclear fuel and other high level wastes to a consolidated site could de-incentivize and adversely impact progress of the nation's efforts toward a viable permanent solution. The draft legislation's overtures toward decoupling the relationship between storage and permanent disposal further exacerbate this issue.

Our view is simple: there must be no transportation of spent nuclear fuel or high level waste until it is heading to a permanent site. The discussion of consolidated storage without the

linkage provided in the existing Nuclear Waste Policy Act is not credible as "temporary" and the provisions offered by the Committee do not rise to the level of that term."

To add, the draft bill speaks of "substantial progress [towards a permanent repository]…as measured by the mission plan."

The draft bill holds that, so long as "substantial progress" towards a permanent repository is being made, irradiated nuclear fuel will be allowed to roll into a consolidated or centralized interim storage facility, or facilities, with no limitation on the quantities involved.

But who gets to determine that "substantial progress" towards a repository is being made? First and foremost, the draft bill would put that power in the hands of the Nuclear Waste Administrator.

Of course, the Administrator would write the mission plan. We are concerned that "substantial progress," as defined by the mission plan, could be too loose a term, allowing too much wiggle room for high-level radioactive wastes to flow into a centralized interim storage site, even though real progress towards permanent disposal was not happening.

Why would the Administrator ever readily and willingly admit lack of "substantial progress" toward a repository? This would be admitting that he or she had failed in his or her mission work. It is not likely that such an admission would easily be forthcoming, but rather would have to be extracted most grudgingly, like pulling teeth.

So, how much waste would get stuck in *de facto* permanent surface storage at one or more parking lot dumps before it was realized, before the Administrator was forced to admit, that the repository was stalled, or even derailed, yet again?

In a sense, it is worse than Senator Bingaman's bill last year. He gave away the first 10,000 metric tons of "pilot" centralized interim storage, with no linkage to a permanent repository. (It should be noted that 10,000 tons is way more irradiated nuclear fuel than is currently "orphaned" or "stranded" at permanently closed, and even dismantled, nuclear power plants in the U.S.) That was an unacceptable political compromise. An unacceptable risk-taking of *de facto* permanent surface storage.

How long would such a delay in admitting the truth go on, before grudgingly admitting that the permanent repository was derailed, yet again? Would even more than 10,000 tons of irradiated nuclear fuel have already been delivered to centralized interim storage, before the Administrator or Nuclear Waste Oversight Board grudgingly admitted that the repository was yet again derailed?

This does not make sense. It is very risky. It risks *de facto* permanent centralized interim surface storage.

Both proposed repositories that advanced the furthest in the U.S. thus far – that is, advance to nowhere -- can be pointed to as cautionary tales.

Question 3: Separate process for storage facility siting – Alternative Section 305
Submitter's Name/Affiliation: Kevin Kamps/Beyond Nuclear

As documented in the 1986 book *Forevermore: Nuclear Waste in America*, by Barlett and Steele, the U.S. Atomic Energy Commission (AEC), in the late 1960s and early 1970s, was very gung ho about burying high-level radioactive wastes in a salt formation at Lyons, Kansas. The AEC was so confident about the site, despite having done very little site suitability study, that it held a press conference announcing the imminent opening of the country's, and the world's, first deep geologic repository for high-level radioactive waste.

However, the Kansas State Geological Society involved itself. It pointed out that the locality was riven like Swiss cheese with drilling operations, mines extracting fossil fuels and minerals. In fact, large quantities of water used in such mining operations had simply disappeared into the ground, to points unknown. Thus, there was a very real risk that unknown pathways for corrosive brine already existed, or could come into being, that would serve to quickly corrode the high-level radioactive waste burial containers at the proposed Lyons, Kansas dumpsite. In addition, given the natural resources in the surrounding locality, the risk of inadvertent human intrusion busting open the dump to the environment would be too great. The absurdly over-confident AEC was forced to beat a hasty retreat, and the Lyons, Kansas dumpsite entered the dust bin of history. So much for "substantial progress" towards a repository that time!

Yucca Mountain, too, was assured to be making "substantial progress," after all. Energy Secretary Spence Abraham declared Yucca "suitable" for a repository on Valentine's Day, 2002, despite ample evidence since the early 1980s that the site's geology was unsuitable. George W. Bush rubberstamped Yucca's "suitability" three short days later. Even Congress saw fit to override Nevada's veto a few short months later. All for naught, as Yucca's "politics over science" karma, and its geologic and hydrologic unsuitability (not to mention the fact that it belongs to the Western Shoshone Indian Nation by treaty right, and they don't want the waste there) finally caught up to it. The Obama administration wisely cancelled the proposed Yucca Mountain dump beginning in 2009.

Our point is, despite assurances that persist for years, or even decades (Yucca was under consideration as the only site in the country to be further studied as a potential high-level radioactive waste repository from 1987 to 2010, nearly a quarter-century), "substantial progress" towards a repository could be little more than a feel-good "illusion of a solution." But under this draft bill, such a mirage in the desert would be justification enough to roll unlimited amounts of high-level radioactive waste by road, rail, and waterway across our country, into a centralized interim storage site, or sites, which would then be stuck there indefinitely, even though the Administrator could be forced to finally admit someday that "substantial progress" towards a repository had yet again derailed.

So long as the Administrator stands by "substantial progress" being made towards a repository, under the draft bill this would allow centralized interim storage to fill up, no matter how far behind permanent disposal actually lags, unless and until the Administrator is forced to admit "lack of substantial progress," something that would come only grudgingly, if at all.

The draft bill does allow for suspension of shipments to centralized interim storage, but under section 306(f), allows shipments already delivered there to simply remain in storage. But

how was that mistake made then in the first place? How were shipments allowed to roll into centralized interim storage, when obviously, "substantial progress" towards a repository was, in reality, later admitted to have been lacking all along? The draft bill would allow for waste already delivered to now be indefinitely stuck in centralized interim storage, the very definition of *de facto* permanent surface storage. In other words, a parking lot dump.

For this reason, iron-clad linkage must exist between a permanent repository and centralized interim storage from the get-go, in order to guard against the danger of *de facto* permanent parking lot dumps.

The risk of *de facto* permanent, or at least indefinitely long, "interim" storage is all too well established in the U.S. Just look at the General Electric-Morris ISFSI (Independent Spent Fuel Storage Installation, as NRC and industry call it) in Illinois, located immediately adjacent to the Dresden nuclear power plant. Fortunately, the proposed reprocessing facility never operated, due to a major design flaw. If it had operated, radioactive emissions to the environment would have been nightmarish. But even though it thankfully never operated, the GE-Morris storage pool has held 772 tons of irradiated fuel, from multiple reactors in various states, for four decades now, with no end in sight. "Temporary" or "interim" seems to have taken on a new, Orwellian definition in the Atomic Age, at least in regards to forever deadly high-level radioactive waste.

Likewise, nuclear power plants themselves make the point. "Host" communities were assured the irradiated nuclear fuel would be stored on-site for an "interim" period – five years or so in the indoor wet pools to allow for radioactive decay and thermal cooling – and then it would be shipped away someplace else. Of course, this has turned out to be another false assurance. Oyster Creek, NJ, a 44-year-old reactor, still stores irradiated nuclear fuel in a pool packed to ultimate physical capacity (never mind the radiological risks of that). Big Rock Point, MI, which began operations in 1962, still stores high-level radioactive waste in dry casks on-site, even though the rest of the power plant has been completely dismantled and carted off to so-called "low" level radioactive waste dumps (although radioactive contamination of the soil, groundwater, Lake Michigan sediments, flora and fauna will linger on-site long into the future).

Furthermore, under section 306(e), the draft bill would allow for "emergency exceptions" to the suspension of shipments into a centralized interim storage site, or sites. This seems quite ripe for abuse as well. How are "emergency exceptions" to be defined?

If the nuclear power industry is to be listened to, on-site storage of irradiated nuclear fuel is safe, secure, and protective of public health and the environment. The U.S. Nuclear Regulatory Commission (NRC) parrots this industry line. So did the Blue Ribbon Commission on America's Nuclear Future. Environmental watchdog groups have long challenged such false assurances that all is well with on-site storage, pointing out serious safety, security, and environmental risks of both pools and dry cask storage at reactors.

So what's to stop abuse of this loophole, which is big enough to drive a radioactive waste truck (or train, or barge) through?! What's to prevent the nuclear establishment (in industry, NRC, etc., including even members of congress, for that matter) from going from one extreme to

the other? From claiming that all is well, to suddenly claiming that on-site storage everywhere represents a safety, security, and/or environmental emergency risk, just in order to rush their wastes off-site, into centralized interim storage, as soon as it is opened? After all, as soon as the irradiated nuclear fuel leaves their reactor sites, the title and liability transfers onto the backs of the American taxpayer, something the industry that generated these forever deadly wastes would like to see happen ASAP. Even though industry, likely for PR sake, deceptively insists that on-site storage is currently safe, secure, and protective of health and the environment – even though it is far from that, truth be told.

The Senate Committee's one-page summary states that centralized interim storage can start immediately, and there are no limits on the amounts of waste that can go there; also, that once there, waste can stay, even if further shipments are suspended. This epitomizes a rush job, which could easily result in *de facto* permanent consolidated surface storage, if and when permanent repository disposal derails yet again.

Other concerns raise their ugly head, indications that a permanent repository will be most difficult to site, if not impossible.

After watching the Yucca Mountain debacle unfold over the past generation, states are now on high alert that, once targeted for a national high-level radioactive waste dump, it becomes a 49-states-against-1 "game." Whether targeted at a centralized interim storage site, or a permanent repository, all of a sudden, our country's high-level radioactive waste problem could become a single U.S. congressional district's problem. In that regard, at least in the U.S. House of Representatives, the "game" would then amount to 434-against-1. So much for "One Nation, Under God, Indivisible." Not when it comes to high-level radioactive waste, it seems; then, it's every state for itself. The 1987 "Screw Nevada" bill is a cautionary tale in this regard. Such a shameful, rotten history has created the dynamic that all future targeted states will simply resist, tooth and nail, with all their might, to avoid becoming the nation's nuclear sacrifice area.

Along these lines, this draft bill's lifting of the cap on 70,000 metric tons at the first repository, means that only one repository, if that, will ever open.

States across the country, which have carefully watched the Yucca Mountain debacle unfold over the past 25 years, will likely fight tooth and nail to NOT become a repository, THE repository, because it's obvious they would get it all – not 70,000 metric tons of high-level radioactive waste, but the full national inventory, however big a mountain of radioactive waste that grows to be in the decades to come. Nevada, a state with no atomic reactors within its borders, and thus no in-state generated irradiated nuclear fuel or high-level radioactive waste, showed that such abuse by the federal government, and even by the other 49 states arrayed against it, can be successfully resisted. And states will likely resist, not desiring to become the nuclear sacrifice area for the rest of the country.

Thus, ironically enough, this draft bill's own provisions have made opening a permanent repository all the more unlikely.

Question 3: Separate process for storage facility siting – Alternative Section 305
Submitter's Name/Affiliation: Kevin Kamps/Beyond Nuclear

All this underscores the danger of opening centralized interim storage parking lot dumps with no real linkage to permanent disposal. A repository would be hard to impossible to open under the provisions of this draft bill. Thus, centralized interim storage would risk becoming a *de facto* permanent parking lot dump.

Question 4: Separate process for storage facility siting – General streamlining for storage only
Submitter's Name/Affiliation: Kevin Kamps/Beyond Nuclear

To what extent should the siting and consensus approval process for spent fuel storage facilities differ from that for the repository? Should the Administrator be required to conduct sufficient site-specific research (referred to as "characterization" in the bill) on candidate storage sites to determine if they are suitable for storing nuclear waste or only on candidate repository sites to determine if they are suitable for geologic disposal of nuclear waste? Should the Administrator be required to hold public hearings both before and after site characterization (as required by current law in the case of the Yucca Mountain site) or only before site characterization?

BEYOND NUCLEAR'S RESPONSE:

In short, the siting and consensus approval process for spent fuel storage facilities should not differ from that for the repository. For the reasons cited in my response to your Question #2, cut and pasted in below for your convenience, the Administrator should absolutely be required to conduct sufficient site-specific research (referred to as "characterization" in the bill) on candidate storage sites to determine if they are suitable for storing nuclear waste. This should not only be the case for candidate repository sites to determine if they are suitable for geologic disposal of nuclear waste. The reason for this is the very real risk of so-called centralized "interim" storage sites turning into *de facto* permanent surface parking lot dumps, due to yet another derailment of the repository site search. For these very same reasons, the Administrator absolutely should be required to hold public hearings both before and after site characterization (as required by current law in the case of the Yucca Mountain site), not only before site characterization. How could any even rudimentary notion of "consent" be attained otherwise?, I have to ask.

The flippant attitude behind such shortcuts on safety, health, and environmental protection, so evident behind this line of questioning from the Committee, is very troubling. The very real, and very high, risks of *de facto* permanent storage call for an absolute rejection of the shortcuts this line of questioning threatens.

What's the alternative to *de facto* parking lot dumps, once established, if the permanent repository derails, yet again? The Private Fuel Storage, LLC (PFS) centralized interim storage ISFSI (independent spent fuel storage installation) targeted at the Skull Valley Goshutes Indian Reservation in Utah is a cautionary tale. It was proposed, and even licensed by NRC, with no binding legal linkage between centralized interim storage and permanent repository disposal.

Even though the PFS plan called for transfer of the 40,000 metric tons of commercial irradiated nuclear fuel stored in 4,000 dry casks to the proposed Yucca Mountain repository in next door Nevada after an "interim" period of 20 to 40 years, this was not legally binding.

Ultimately, of course, the Yucca dump was wisely canceled in 2009. What, then, was "Plan B" for the ultimate disposition of the 40,000 metric tons of high-level radioactive waste parked on the Skull Valley Goshute Indian Reservation? "Plan B" was "Return to Sender," incredibly enough.

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Maine Yankee was a member of the PFS, LLC consortium. "Return to Sender" would have meant a 2,000 mile east to west journey for more than 50 dry casks full of high-level radioactive waste from Maine to Utah. Only to be followed, some 20 or 40 or more years later, by a 2,000 mile "Return to Sender" journey for those very same waste containers to Maine. All for naught, accomplishing absolutely nothing. Other than exposing countless millions of Americans to the senseless risks of transporting high-level radioactive wastes through their communities, for no good reason.

These risks include the Mobile Chernobyl, Floating Fukushima, and Dirty Bomb on Wheels risks of accidents or attacks involving high-level radioactive waste shipments. A severe accident – a high-speed crash into an unyielding surface; a plunge from a high height, such as off a bridge or cliff edge; a long-duration, high-temperature fire; or a prolonged underwater submersion – could breach the waste shipping container, unleashing disastrous amounts of hazardous high-level radioactive waste into densely populated metropolitan areas, or other vulnerable places, such as next to or directly into major drinking water supplies, the agricultural heartland, and elsewhere.

Security risks are all too real, as even an NAS panel concluded several years ago. Waste shipping containers, as with dry cask storage itself, are not even designed to withstand terrorist attacks, as with anti-tank missiles. A June 1998 test at Aberdeen Proving Ground, deploying a TOW anti-tank missile (frightening all to available on the international black market) against a German CASTOR transport cask, showed how much of a Dirty Bomb on Wheels risk high-level radioactive waste transportation is. The missile blew a hole as big as a grapefruit through the entire 15 inch thick die cast iron wall of the CASTOR transport cask. Typical U.S. transport casks are just as vulnerable, if not more so.

Once breached, if combined with an incendiary, such as attack could volatilize disastrous amounts of such radioactive poisons as Cesium-137, to escape with the smoke, and blow away on the wind.

A NIRS backgrounder on the 1998 Aberdeen Proving Ground test is available online at: http://www.nirs.org/factsheets/nirsfctshtdrycaskvulnerable.pdf

How bad could such releases be, whether due to attack or accident? A 2001 study by Radioactive Waste Management Associates, commissioned by the State of Nevada, is instructive. The Nevada study is posted online, as it has been since 2001, at: http://www.state.nv.us/nucwaste/news2001/nn11459.pdf

It was inspired by a July 2001 train tunnel which took place under downtown Baltimore. The real world accident prompted the question, what if high-level radioactive waste had been aboard that ill-fated train? After all, that very route had been targeted by DOE for Yucca-bound shipments, as documented in DOE's DEIS for Yucca, published years earlier.

The answer was most sobering. Assuming a Holtec transport container (and Holtecs are not only deployed at 33 U.S. reactor sites, but were the cask to be used by PFS, LLC at Skull Valley Goshutes, UT), the study found that the cask would have failed in the long duration, high

temperature train tunnel fire. So much radioactivity would have escaped in the smoke that downtown Baltimore would have been blanketed with contamination. Scores of persons exposed would have eventually succumbed to latent cancer fatalities, just from their initial, unavoidable exposures in the first hours of the disaster.

But if residents continued living amidst such contamination for a year, around 1,500 latent cancer fatalities would result over time. And if residents continued living in such contamination for 50 years, over 13,000 latent cancer fatalities would result.

Surely the contamination would be cleaned up to prevent such casualties?, most people would ask. Well, the study estimated that such a clean up would cost $13.7 billion. This amount would now translate to $17.8 billion, when adjusted for inflation.

Such clean up costs indicate why it is not far-fetched to fear that the U.S. federal government would be willing to "relax" (weaken) public health and safety and environmental protections against radioactive contamination hazards, in order to save money. In fact, as we speak, both the National Council on Radioactive Protection (NCRP) and even the U.S. EPA itself are considering rollbacks on radiological "event" clean up standards, which would allow persons living in contaminated areas to suffer whopping 2 Rem annual doses, a 20-fold increase over current regulations. In fact, this exact thing has happened in Japan in the aftermath of the Fukushima Daiichi nuclear catastrophe, so apparently that outrageous action by the Japanese national government is being looked to as a model by U.S. federal decision makers. Such a large "allowable" dose to members of the public would result in a 1 in 6 cancer incidence rate, over a lifetime of exposure (70 years), in the exposed population. About half of those cases of cancer would result in death. These figures, ghastly as they are, are but averages. Certain demographics are significantly more vulnerable to harm from radioactivity than is "Reference Man," assumed to be a 20-something, healthy white male, an assumption of patriarchal convenience most convenient and helpful for the nuclear industry which dates back to the 1950s. Women, children, the elderly, those with suppressed immune systems, and pregnant women and the fetus in their womb, are significantly more vulnerable to radiation than is "Reference Man." Casualty rates among such vulnerable segments of our society would be even worse.

These are the reasons that high-level radioactive waste should not be rushed into, for no good reason. The current bill would create a radioactive waste shell game on the roads, rails, and waterways, if de-linked from permanent repository disposal, for no good reason other than doing the nuclear power industry the favor of transferring title and liability for the wastes it has created, and profited from, onto the backs of the American taxpayer. The Alexander-Feinstein alternative legislative language would de-link storage and disposal even worse than the proposed current bill would, and would rush our country into unprecedented numbers of high-level radioactive waste shipments all that much faster. For that reason, it should be rejected.

As mentioned above, for your convenience, here below is pasted in my response to your Question #2, which lays out my arguments against centralized interim storage de-linked from permanent disposal:

Question 4: Separate process for storage facility siting – General streamlining for storage only

Submitter's Name/Affiliation: Kevin Kamps/Beyond Nuclear

In short, the bill absolutely should establish a very strong linkage between progress on development of a repository and progress on development of a storage facility. The linkage proposed in section 306 of the bill is currently much too loose, much too weak, and must be significantly strengthened and tightened. A very strong linkage is needed, and should not only be enshrined in federal legislation, but should also play a central role in the negotiations between the state(s) and federal government, as in the consent agreement(s) needed before a centralized interim storage site, or sites, or a repository, or repositories, are allowed to move forward.

Beyond Nuclear has endorsed a group sign on statement, which states, in part:

"Consolidated storage sites could become de facto permanent

The primary purpose of moving the waste to a temporary site is to satisfy the grave legislative blunder ratified by the Nuclear Waste Policy Act of 1982: that the federal government not only would take possession of commercial nuclear waste, but that it would begin accepting waste for disposal in 1998.

Because the federal government is 15 years late taking ownership of the waste, it is pushing a strategy that prioritizes the resolution of financial liabilities rather than ensuring safety and security. Moving irradiated nuclear fuel and other high level wastes to a consolidated site could de-incentivize and adversely impact progress of the nation's efforts toward a viable permanent solution. The draft legislation's overtures toward decoupling the relationship between storage and permanent disposal further exacerbate this issue.

Our view is simple: there must be no transportation of spent nuclear fuel or high level waste until it is heading to a permanent site. The discussion of consolidated storage without the linkage provided in the existing Nuclear Waste Policy Act is not credible as "temporary" and the provisions offered by the Committee do not rise to the level of that term."

To add, the draft bill speaks of "substantial progress [towards a permanent repository]…as measured by the mission plan."

The draft bill holds that, so long as "substantial progress" towards a permanent repository is being made, irradiated nuclear fuel will be allowed to roll into a consolidated or centralized interim storage facility, or facilities, with no limitation on the quantities involved.

But who gets to determine that "substantial progress" towards a repository is being made? First and foremost, the draft bill would put that power in the hands of the Nuclear Waste Administrator.

Of course, the Administrator would write the mission plan. We are concerned that "substantial progress," as defined by the mission plan, could be too loose a term, allowing too much wiggle room for high-level radioactive wastes to flow into a centralized interim storage site, even though real progress towards permanent disposal was not happening.

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How long would such a delay in admitting the truth go on, before grudgingly admitting that the permanent repository was derailed, yet again? Would even more than 10,000 tons of irradiated nuclear fuel have already been delivered to centralized interim storage, before the Administrator or Nuclear Waste Oversight Board grudgingly admitted that the repository was yet again derailed?

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Both proposed repositories that advanced the furthest in the U.S. thus far – that is, advance to nowhere -- can be pointed to as cautionary tales.

As documented in the 1986 book *Forevermore: Nuclear Waste in America*, by Barlett and Steele, the U.S. Atomic Energy Commission (AEC), in the late 1960s and early 1970s, was very gung ho about burying high-level radioactive wastes in a salt formation at Lyons, Kansas. The AEC was so confident about the site, despite having done very little site suitability study, that it held a press conference announcing the imminent opening of the country's, and the world's, first deep geologic repository for high-level radioactive waste.

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After watching the Yucca Mountain debacle unfold over the past generation, states are now on high alert that, once targeted for a national high-level radioactive waste dump, it becomes a 49-states-against-1 "game." Whether targeted at a centralized interim storage site, or a permanent repository, all of a sudden, our country's high-level radioactive waste problem could become a single U.S. congressional district's problem. In that regard, at least in the U.S. House of Representatives, the "game" would then amount to 434-against-1. So much for "One Nation, Under God, Indivisible." Not when it comes to high-level radioactive waste, it seems; then, it's every state for itself. The 1987 "Screw Nevada" bill is a cautionary tale in this regard. Such a shameful, rotten history has created the dynamic that all future targeted states will simply resist, tooth and nail, with all their might, to avoid becoming the nation's nuclear sacrifice area.

Along these lines, this draft bill's lifting of the cap on 70,000 metric tons at the first repository, means that only one repository, if that, will ever open.

States across the country, which have carefully watched the Yucca Mountain debacle unfold over the past 25 years, will likely fight tooth and nail to NOT become a repository, THE repository, because it's obvious they would get it all – not 70,000 metric tons of high-level radioactive waste, but the full national inventory, however big a mountain of radioactive waste that grows to be in the decades to come. Nevada, a state with no atomic reactors within its borders, and thus no in-state generated irradiated nuclear fuel or high-level radioactive waste, showed that such abuse by the federal government, and even by the other 49 states arrayed against it, can be successfully resisted. And states will likely resist, not desiring to become the nuclear sacrifice area for the rest of the country.

Thus, ironically enough, this draft bill's own provisions have made opening a permanent repository all the more unlikely.

All this underscores the danger of opening centralized interim storage parking lot dumps with no real linkage to permanent disposal. A repository would be hard to impossible to open under the provisions of this draft bill. Thus, centralized interim storage would risk becoming a *de facto* permanent parking lot dump.

Question 5: Complexity of repository and storage facility siting processes
Submitter's Name/Affiliation: Kevin Kamps/Beyond Nuclear

Should the siting process in section 304 of the draft bill be streamlined? If so, how?

BEYOND NUCLEAR'S RESPONSE:

In short, no, the siting process in section 304 of the draft bill should absolutely NOT be streamlined.

I have laid out the reasons why in my responses to your previous questions, #2, 3, and 4.

In addition to the danger to health, safety, and environment from siting storage or disposal in a streamlined (that is, rushed, throwing caution to the wind fashion), I would add at this point more detailed information on a certain transport mode: barges on waterways. After all, rushed siting would lead to rushed shipping.

Most people think of radioactive waste trucks and trains on the roads and rails. But radioactive waste barges on the waterways represent the risk of Floating Fukushimas.

As we learned over a decade ago during the bitter debate over the proposed Yucca Mountain dump during its DEIS and FEIS proceeding, no less than 26 atomic reactors in the U.S. lack direct rail access. Given that DOE had selected "mostly rail" as its preferred shipping mode to the proposed Yucca dump, this meant 100+ ton rail-sized shipping containers would be used, for the most part (some smaller sized truck containers would still be used on the roads, even under the "mostly rail" scenario).

The only ways to move 100+ ton shipping containers, absent direct rail access, is either by heavy haul truck, or by barge. Both options are problematic

As evidenced by a heavy haul truck (monster puller truck in front, sometimes combined with a monster pusher truck in back, with not 18 wheels in between as on typical semi truck, but rather 200!) shipment of the Big Rock Point reactor pressure vessel in 2003, such shipments can encounter all kinds of problems. The Big Rock Point shipment experienced a broken axle as it passed over a bridge spanning a waterway beneath. This required an emergency stop at a gas station to deal with the problem. But the gas station served as a school bus stop, thus exposing children to radioactive gamma ray emissions emanating from the shipping container. The shipment pulled into the town of Gaylord, where local residents were allowed to observe the unusual "spectacle," and at very close range, again exposing unsuspecting, and unwarned, passersby to harmful gamma ray exposure. (By the way, the "mobile X-ray machine that can't be turned off" nature of high-level radioactive waste shipments means that "routine shipments" will still be causing radiological harm to workers and innocent bystanders, due to gamma ray emissions—shipments that are externally contaminated, sometimes severely so, as have occurred in large numbers in France for example, make sure exposures all the worse.) During the rail shipment of the 290 ton weight, apparently damage was done to railroad tracks both in southeast Michigan, as well as in the Carolinas (the shipment was bound for Barnwell, SC, for burial in a ditch). The shipment caused derailments in its wake, as other trains passed over the damaged

tracks. As high-level radioactive waste containers weight 100+ tons each, and several could be loaded onto the same train, such track damage and derailments on our ever more degraded railroad tracks in this country, cannot be ruled out. Write ups (see 2003 entries), as well as photo (see right hand margin just above the 2003 entries) of this Big Rock Point heavy haul truck shipment, can be viewed online at: http://www.nirs.org/radwaste/hlwtransport/mobilechernobyl.htm

In addition, heavy haul truck shipments are sometimes too long to navigate curved roads. This was the case along various road routes proposed within Nevada to the now-canceled Yucca dumpsite. This would likely be the case in such a place as Indian Point, NY, as well.

Also, heavy haul trucks move very slowly, at speeds as low as 3 miles per hour. This would make them sitting ducks for terrorist attack, as with anti-tank missiles.

For all the reasons listed above, barge shipments by waterway might be looked to instead. The Great Lakes, rivers, bays, and the sea coasts were all targeted by DOE for potential barge shipments under the Yucca Mountain plan. The various water-borne shipment routes which DOE proposed in its Yucca FEIS in Feb. 2002 are posted online at:

http://www.nirs.org/radwaste/hlwtransport/mobilechernobyl.htm

They are posted at the Sept. 28, 2004 entry.

The proposals included:

- MD - Chesapeake Bay PDF
- VA - James River PDF
- DE - Delaware Bay PDF
- NJ, NY, CT - Waters Surrounding New York City PDF
- MA - Cape Cod Bay, Massachusetts Bay, and Boston Harbor PDF
- IL, MI, WI - Lake Michigan PDF
- LA, MS - Mississippi River PDF
- TN, AL - Tennessee River PDF
- NE, KS, MO - Missouri River PDF
- CA - California Coast PDF

FL - Florida's Atlantic Coastline PDF

Under any away-from-reactor scheme, including the rushed centralized interim storage proposal in this current draft bill, such barge shipments on waterways could again be looked to.

The risks are significant. As documented in the fact sheets in the links provided just above, if, whether due to accident or attack, a sunken barge shipment could result in disastrous, even catastrophic, releases of radioactivity into drinking water supplies, seafood fisheries, etc. Tourism and recreation industries could be threatened or ruined, not unlike the BP oil spill disaster in the Gulf of Mexico starkly demonstrated.

Question 5: Complexity of repository and storage facility siting processes
Submitter's Name/Affiliation: Kevin Kamps/Beyond Nuclear

In fact, there is enough fissile material (U-235, Pu-239) still remaining in irradiated nuclear fuel, that if a critical mass were to form due to damage during the accident, the infiltration of neutron-moderating water during the submersion could spark an inadvertent criticality. Such an un-controlled nuclear chain reaction, on the bottom of Lake Michigan, for example, would make emergency response difficult to impossible, a veritable suicide mission. Radioactive releases would be all the worse. If this were to occur on the bottom of Lake Michigan, it would threaten the drinking water supply for 40 million people in 8 U.S. states, 2 Canadian provinces, and a large number of Native American First Nations – the Great Lakes, 20% of the entire world's surface fresh water supply.

These are yet more reasons, in addition to those I gave in my responses to Questions #2, 3, and 4, why storage and repository siting should not be streamlined, and why high-level radioactive waste shipping by road, rail, and waterway should not be rushed into.

Question 6: Governance of the Nuclear Waste Administration – Administrator vs. Board of Directors
Submitter's Name/Affiliation: Kevin Kamps/Beyond Nuclear

Should the new entity be governed by a single administrator or by a board of directors?

(a) If by a single administrator, should the administrator serve for a fixed term? If so, how long should the term of service be? Should the legislation prescribe qualifications for the administrator? If so, what should be the selection criteria?

(b) If by a board of directors, how many people should comprise the board and how should they be selected?

BEYOND NUCLEAR'S RESPONSE:

It would seem to me that the more brains the better. A board of directors is better than a single administrator.

It also seems that the more accountability, the better. Yes, the administrator's term should be fixed. And that fixed term of service should be as short as is reasonable, in order to guarantee maximum accountability, as in congressional oversight.

Re: qualifications for the administrator, yes, these should be as open, transparent, and accountable as possible, and therefore should be prescribed in the legislation. An essential qualification should be a devotion to public service – not in the sense of "serving the public up for dinner to the nuclear establishment" – but rather devotion to protecting public health, safety, and the environment.

Re: how many people should comprise the board, the Blue Ribbon Commission (BRC) on America's Nuclear Future had 15 members, so that seems reasonable. The problem is, there was not a single person on that panel who provided an anti-nuclear perspective, not one.

In fact, that same bias seems inherent in this proposed draft bill. In the very bill language and summaries, and certainly in the press release that accompanied their publication, statements of the need to solve the radioactive waste problem so that we can on with expanding the nuclear power industry were to be found.

This was a fatal flaw in the BRC itself. From its very inception, statements about, and by, the BRC prioritized a nuclear power expansion as an underlying priority, at times making even solving the radioactive waste problem seem like a distant second. Energy Secretary Chu did this when he announced the formation of the BRC, as did President Obama himself. The BRC followed in hot pursuit. BRC co-chair, Gen. Brent Scowcroft, more than once described the mission of the BRC as dealing with the radioactive waste conundrum and dilemma, so that nuclear power could be expanded. This motivation is backwards.

The radioactive waste problem could well be unsolvable, or beyond human ability to solve, as Beyond Nuclear board member Dr. Judith Johnsrud, a 50+ year veteran anti-nuclear leader, has long warned. The only real solution for the radioactive waste problem is to not make it in the first place.

Question 6: Governance of the Nuclear Waste Administration – Administrator vs. Board of Directors

Submitter's Name/Affiliation: Kevin Kamps/Beyond Nuclear

Thus, for the now 70,000 metric tons of commercial irradiated fuel in the U.S., and the additional 10,000+ metric tons of DOE irradiated nuclear fuel (as from the weapons complex, research reactors, etc.), as well as the countless millions of gallons of high-level radioactive waste liquids and sludges that yet need to be vitrified at several sites, there are no good answers, only bad ones. No good solutions, only lesser evils.

It is highly inappropriate and objectionable for a bill, and its sponsors, purporting to solve radioactive waste problems, to simultaneously state that a key motivation behind the bill is promotion of an expansion of nuclear power, so that yet more radioactive wastes can be generated. We face a mountain of radioactive waste 70 years high now, and we don't even know what to do with the first cupful that Enrico Fermi generated on December 2, 1942 during the Manhattan Project. The madness must stop. The generation of high-level radioactive waste, for which we have no solution, is a curse upon all future generations, which will be left to deal with it long after we are gone. High-level radioactive waste is a crime against the future, a crime against the planet.

While I thank you for requesting public input on your discussion draft of this bill, I must hasten to add that I hope you will actually read, and take to heart, the public comments submitted. The BRC did not do so. The BRC held countless public meetings from 2010 to 2012. I testified at many of them. As did hundreds of other environmental groups representatives, and concerned citizens. While the BRC panel members present had to at least hear the public comments (often kept to arbitrarily short 5 minute time durations, if not less than that sometimes) during in-person sessions, it is far from clear that they listened to them. And we later learned that all of the written submissions from the public, encouraged to be submitted over and over again by the BRC, went largely to entirely unread, even after the publication of the BRC's final report in January 2012. Such a bad faith process accounts for why the American people, in poll after poll, show a dwindling faith and confidence in their own federal government. Nowhere do surveys reveal a lower public regard than towards the U.S. congress. So I do urge you to take public comments to heart, take them seriously, and change your draft bill accordingly. In fact, I urge you and your staff to read all the public comments to the BRC, which went unread by the BRC itself.

The BRC website is viewable online at:
http://cybercemetery.unt.edu/archive/brc/20120620211605/http:/brc.gov//

Supposedly, full documentation of written and even oral submissions by the public are posted there.

But, the "Cyber Cemetery" website address is not only ironic, but telling/revealing. It took a member of the public to point out to what remained of the BRC, after the publication of its industry-biased final report, that its website was no longer accessible, was a dead link. Only after so being alerted, did BRC revive its website, at the "Cyber Cemetery" link above.

The BRC and its proceeding were entirely biased, from the start. Its final report could have been – and likely was – largely if not entirely written before the BRC first met in 2010. Two years of public comments went largely to entirely ignored. I hope this won't happen with this discussion draft bill public comment opportunity.

Question 6: Governance of the Nuclear Waste Administration – Administrator vs. Board of Directors
Submitter's Name/Affiliation: Kevin Kamps/Beyond Nuclear

For example, at the BRC's first public meeting, in March 2010, I implored the BRC to no longer target Native American reservations for high-level radioactive waste parking lot dumps, nor as burial dumps (the Western Shoshone Indian Nation are the rightful owners of Yucca Mountain, Nevada, by treaty right, and don't want the waste there).

I pointed out the shameful history of such targeting. Scores of tribes have been so targeted by the U.S. Federal Government, and by the nuclear power industry directly, as documented at:

http://www.nirs.org/radwaste/scullvalley/historynativecommunitiesnuclearwaste06142005.pdf

I pointed out the irony, at that first BRC meeting, of President Obama himself commending Grace Thorpe of the Sauk and Fox Indian Reservation in Oklahoma – in his 2009 Women's History Month Proclamation – as a defender of Mother Earth, for fending off not only the parking lot dump for radioactive waste targeted at her own community (by the DOE), but then hitting the road and helping dozens of other reservation communities fend off the same dump targeted at them. Now, here was the BRC, set up by President Obama and his Energy Secretary, Steven Chu, poised to target Native communities with such dumps, yet again.

And, despite my testimony, this is exactly what happened. The BRC's final report includes Native American reservations as "fair game" for siting storage facilities, and perhaps even repositories.

The current draft bill here does the same.

It is a shameful history of radioactive racism.

I myself, and large numbers of others, also advocated for Hardened On-Site Storage (HOSS), as a common sense, top priority for what to do about high-level radioactive waste risks, now, at nuclear power plants. 200+ environmental groups nationwide, with at least one group in each of the 50 states, have called for HOSS since 2006, as documented in their Statement of Principles for Safeguarding Nuclear Waste at Reactors (updated in 2009-2010), posted online at:

http://ieer.org/wp/wp-content/uploads/2010/03/HOSS_PRINCIPLES_3-23-10x.pdf

In fact, the phrase "Hardened On-Site Storage" was coined by Dr. Arjun Makhijani of Institute for Energy and Environmental Research (IEER) in April 2002, and has been promoted by environmental watchdog groups ever since.

Our calls for HOSS have fallen on deaf ears at DOE, NRC, DHS, the White House, and Congress, for well over a decade now.

In its cynicism, BRC, in its final report, said that HOSS could be implemented, at the industry's coveted centralized interim storage sites.

Question 6: Governance of the Nuclear Waste Administration – Administrator vs. Board of Directors

Submitter's Name/Affiliation: Kevin Kamps/Beyond Nuclear

Which of course entirely misses the point. The risks exist now, at the reactors, in the pools and dry casks. They need to be addressed, regardless of anything else, by implementing HOSS ASAP.

Even if centralized interim storage opened today (and this draft bill wants it opened by 2021), it would take years or decades to transport the irradiated nuclear fuel there. Thus, for years, or decades, after 2021, there will still be high-level radioactive waste, stored at reactor sites, waiting for shipment to centralized interim storage. And as long as it remains stored in on-site pools, and even on-site dry casks, the risks persist. HOSS should have been begun many years ago, but the government has allowed the industry to drag its feet, in a bid to save money. But if the worst happens, "penny wise and pound foolish" won't suffice to describe the catastrophe. Alvarez *et al*. (including Dr. Allison Macfarlane, a BRC member and currently the chairwoman of the NRC) in Jan. 2003 published a report on the catastrophic potential of pool fires. NAS confirmed the validity of their warnings in 2005. Despite this, pools today remain as vulnerable, or more so, than they did before the attacks of 9/11, as well as the earthquake-tsunami-nuclear catastrophe in Japan that began on 3/11/11.

More recently, in his expert testimony on behalf of an environmental coalition challenging – successfully – the legality of NRC's bogus "Nuclear Waste Confidence Decision" (more honestly described as NRC's Nuke Waste Con Game), Dr. Gordon Thompson of the Institute for Resource and Security Studies (another of the authors of the Alvarez *et al*. pool fire risk study) has identified the risk of the contents of dry casks being attacked by missiles or explosives also going up in flames. All it would take is for the ignition temperature of the zirconium fuel cladding to be attained, and the fire would be exothermic at that point, spreading to the entire cask inventory. If attackers showed up with enough explosives or missiles, they could set the entire stockpile of casks on fire. That's why HOSS calls for camouflaging of the dry casks (as opposed to leaving them out in plain view, as is currently done), separating them by distance from each other (as opposed to lining them up like bowling pins, as is currently done), as well as fortifying them against attack (as Germany and Switzerland have long required, as documented in a report by Dr. Thompson posted online at http://www.nirs.org/reactorwatch/security/gordongorlebenmemo41803.htm). In fact, Dr. Thompson, commissioned by Citizens Awareness Network of the Northeast, published a report in Jan. 2003 entitled "Robust Storage of Spent Nuclear Fuel: A Neglected Issue of Homeland Security." The executive summary is posted online at:

http://www.nirs.org/reactorwatch/security/sechosses012003.pdf

The full report is posted online at:

http://www.nirs.org/reactorwatch/security/sechossrpt012003.pdf

Hopefully, any Nuclear Waste Administrator, and/or Board of Directors, and/or Oversight Board, will take such citizen concerns seriously, as opposed to all the missed opportunities of the past.

Question 6: Governance of the Nuclear Waste Administration – Administrator vs. Board of Directors

Submitter's Name/Affiliation: Kevin Kamps/Beyond Nuclear

However, the DOE's continuing involvement, even in this current draft bill, is disconcerting. The Deputy Energy Secretary is listed as one of three Nuclear Waste Oversight Board members.

But a key finding of the BRC was that DOE had to be removed from the process, given how badly it has bungled things for the past several decades.

Yet, DOE has continued to play a central role. Ironically, the BRC was "hosted" not just at DOE, but within the Office of Nuclear Energy there, itself. The problem? DOE's Office of Nuclear Energy is mandated with promoting nuclear power. Hence, the odd priority and motivation of the formation and behavior of the BRC itself, which seemed more concerned about promoting the expansion of nuclear energy, than in solving the radioactive waste problem.

Even after BRC's final report, its staff members who returned to full time duty at DOE's Office of Nuclear Energy busied themselves with pushing the BRC's recommendations on Capitol Hill. This culminated with Energy Secretary Chu's policy recommendations delivered to Capitol Hill, in Jan. 2003.

Now this draft bill picks up that ball, advocating ideas and priorities that come straight out of the DOE Office of Nuclear Energy. How this, and keeping DOE involved with a key posting (perhaps even the chairmanship – the President would be given that call) of the Nuclear Waste Oversight Board, comports with removing high-level radioactive waste off-site storage and disposal, is hard to understand.

Question 7: Governance of the Nuclear Waste Administration – Role of advisory committees
Submitter's Name/Affiliation: Kevin Kamps/Beyond Nuclear

The Blue Ribbon Commission recommended establishment of both a board of directors for management oversight (whose "primary role ... is not to represent all stakeholder views, but rather to carry out fiduciary responsibilities for management oversight") and "a larger and more widely representative stakeholder advisory committee." The draft bill responds to these recommendations, first, by establishing a Nuclear Waste Oversight Board of senior federal officials and, second, by authorizing the Administrator to establish advisory committees. Should the Oversight Board and advisory committee be combined into a single body to perform both management oversight and stakeholder representation functions? Should the focus and membership of any advisory committees be established in the legislation or left to the Administrator?

BEYOND NUCLEAR'S RESPONSE:

Whether the Oversight Board and advisory committee should be combined into a single body to perform both management oversight and stakeholder representation functions, depends on which approach would best incorporate an anti-nuclear, environmental, and public interest perspective, in a meaningful way, in decision making, openness, accountability, and transparency.

The same is true re: whether the focus and membership of any advisory committees should be established in the legislation or left to the Administrator.

Question 8: Governance of the Nuclear Waste Administration – Membership of the Oversight Board
Submitter's Name/Affiliation: Kevin Kamps/Beyond Nuclear

Dr. Meserve testified in 2012 that representatives of stakeholders and public utility commissioners should be added to the Nuclear Waste Oversight Board. Would these additions make the Board better able to carry out its fiduciary oversight mission effectively?

BEYOND NUCLEAR'S RESPONSE:

Dr. Meserve presided, as NRC Chairman, over the most infamous near-miss at an atomic reactor in the U.S. since the 1979 meltdown at Three Mile Island. Namely, the Hole-in-the-Head reactor lid corrosion fiasco at Davis-Besse, near Toledo, OH, in early 2002.

In late 2002, NRC's OIG concluded that the agency, including at very high levels (such as the chairman's office) had prioritized nuclear utility profits over public health and safety at Davis-Besse.

Dr. Meserve resigned his chairmanship of NRC a short time later.

So, Dr. Meserve's recommendations, at least in regards to public health, safety, and environmental protection, should be taken with a big grain of salt. His inclusion on the BRC was objectionable for this very reason.

Thus, his suggestion that public utility commissioners, or their association (NARUC), should be added to the Nuclear Waste Oversight Board, is quite dubious. NARUC, for one thing, has long clamored for the opening of the proposed Yucca Mountain dump, in spite of the site's clear scientific and technical unsuitability (as documented in NRC Chairwoman Allison Macfarlane's book *Uncertainty Underground*), as well as Nevada's adamant resistance to the idea.

Such stubborn advocacy has contributed to the waste of $11-15 billion of ratepayer and taxpayer money at the now wisely canceled Yucca Mountain hole in the ground.

Thus, NARUC's addition to the board is very questionable.

But, as I responded to your question #7, any and all additions to the board in terms of an anti-nuclear, environmental, and public interest perspective would be beneficial and helpful, at least in regards to better addressing the radioactive waste dilemma that faces our nation.

Submitter's Name/Affiliation: John Heaton/Carlsbad Mayor's Nuclear Task Force
Contact: John Heaton
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Phone: 1-575-302-6358

The Carlsbad Mayor's Nuclear Task Force would like to thank the Senators and their staff members who were involved in creation the Nuclear Waste Administration Act of 2013 discussion draft. Members of the Carlsbad community have been involved in this process for a very long time, so we understand, all too well, the challenges of the issue, and we appreciate such a monumental effort to move the nation's nuclear waste policy forward.

In general, we strongly support the act as being a document in the spirit of the Blue Ribbon Commission on America's Nuclear Future, but some of our remaining concerns are as follows:

1. The Nuclear Waste Administration Act of 2013 is similar to the 2012 act, with a significant change in the provision linking the construction and siting of a consolidated storage facility to progress on a repository.

While the 2013 Act does not include a volume limit on consolidated storage, it does require the Administrator to arbitrarily cease shipments of nuclear waste to the storage facility, if in the opinion of the Administrator, sufficient progress is not being made on the repository. This remains a significant concern, as it would have the effect of reinitiating the settlement payments to the utilities, putting contractors in limbo and not completing the job. A repository must be the final answer, and no one we know is dissuaded from siting and opening one or more repositories.

2. The bill does NOT include language for specific funding for implementation of city, county, region statewide stakeholder education for the consent process the state hiring of technical and legal experts for the consent agreement, site screening , completion of an NRC license application, SAR, NEPA process, SER and through final licensing. It should be made clear the Administrator will provide the funding for this total process.

3. The 2013 draft act also still does not give enough of the decision-making responsibility to the individual states, and instead continues to have wording that relies on the federal government to determine what is in the best interest of the states.

4. We suggest the following specific change: Section 308, part a (3)- The task force suggests editing the sentence to "in the case of defense waste, from a Department of Energy site to a storage facility or repository."

About Us: *The Carlsbad Mayor's Nuclear Task Force is an advisory committee reporting to Dale Janway, the mayor of Carlsbad, New Mexico. The purpose of the task force is to advise Mayor Janway on items of interest related to the Waste Isolation Pilot Plant and of opportunities for additional nuclear projects in the area. The task force consists of members of the business, governmental, scientific and political communities who strive to ensure that Mayor Janway, city councilors, county commissioners and the Southeastern New Mexico legislative delegation are well informed when deciding what is in the community's best interest. Former state representative John Heaton serves as the task force's chairman.*

Should the Administrator take into account, when considering candidate storage facility sites, the extent to which a storage facility would: (a) unduly burden a State in which significant volumes of defenses wastes are stored or transuranic wastes are disposed of; or (b) conflict with a compliance agreement requiring the removal of nuclear waste from a site or a statutory prohibition on the storage or disposal of nuclear waste at a site? Alternatively, should the State and other non-federal parties seeking to site a candidate storage facility be allowed to determine whether they are unduly burdened? Should the final consent agreement, which would be sent to Congress for ratification, contain an authorizing provision to amend any conflicting compliance agreement or statutory prohibition?

Please submit your response HERE. (no page limit)

NO. The "unduly burden" line basically suggests that a state cannot make its own decision about its future. Obviously, if a state believes it is overburdened, it would not apply to be a site. There are very practical reasons related to geology, population density, terrain, community familiarity and existing workforce as to why it is a terrible idea to attempt to restrict looking at areas already engaged in the process of nuclear waste storage. There's also the concern that it is paternalistic of the federal government to make the decision about what is in the state's best interests.

There should be no consideration by the administrator when considering a candidate site related to unduly burdening a state. This decision should be left up to the state and other non-federal parties seeking to site a candidate facility.
The same is true with compliance agreements or statutory prohibitions, which should be considered as separate topics

a. Consent agreements that exist in the weapons complex between states and DOE are agreements for clean-up. There are many reasons – technical, bureaucratic, and budgetary – why these agreements have failed. But most assuredly, it is the lack of will by Congress to keep faith over a long period of time. These consent agreements are separate and apart from siting a facility. Once again, it should be left up to the state to decide whether it trusts DOE, the new Waste Administration Agency and Congress with the agreed-upon obligations for a new facility.
b. A statutory prohibition at the beginning of a consent based process should not preclude a state from participating in siting, given that agreements may be reached to remove the prohibition during the process.

Should the bill establish a linkage between progress on development of a repository and progress on development of a storage facility? If so, is the linkage proposed in section 306 of the bill appropriate, too strong, or too loose? If a linkage is needed, should it be determined as part of the negotiations between the state and federal governments and included in the consent agreement rather than in the bill?

Please submit your response HERE. (no page limit)

No. This question relates to the concern that interim storage might become a permanent solution if there isn't a way to force a repository forward. However, it is up to the state to determine time limits on interim storage and requirements based on licensing and packaging. The state is also being compensated for interim storage. Even though we all recognize that a repository is the ultimate solution, this fear of interim storage becoming a *de facto* repository is an absurd notion. The limits on interim storage would be addressed within a consent agreement, and include severe penalties if they are not adhered to.

Should the bill establish separate storage and disposal programs with clearly defined requirements for each, with any linkage negotiated in the consent agreement between the federal and non-federal parties, to allow the two program to run on separate, but parallel tracks, as proposed in the alternative section 305 (which would replace section 304(b)-(g) of the draft bill)?

Please submit your response HERE. (no page limit)

Absolutely, interim storage and repository programs should be established separately. The more ties you put between the two, the more you guarantee that neither issue will ever see progress. NRC licensing standards already exist for a site-specific interim storage facility, and licensing standards for a repository will be forthcoming from a generic media perspective and subsequently for a specific media type. The licensing standards are much different for the two facilities and should be treated separately, even though the consent agreement process for each may look very similar.

To what extent should the siting and consensus approval process for spent fuel storage facilities differ from that for the repository? Should the Administrator be required to conduct sufficient site-specific research (referred to as "characterization" in the bill) on candidate storage sites to determine if they are suitable for storing nuclear waste or only on candidate repository sites to determine if they are suitable for geologic disposal of nuclear waste? Should the Administrator be required to hold public hearings both before and after site characterization (as required by current law in the case of the Yucca Mountain site) or only before site characterization?

Please submit your response HERE. (no page limit)

We suggest the adopting of Sen. Feinstein's suggested language for Sec. 305 and Sec. 306. Characterization of storage should be consistent with the present requirements of the NRC. The requirements will be very different when you think of storage for one or two hundred years versus disposal lasting for 250,000 years. Aside from the difference in the standards between the two facilities, there's a logical order to balancing the community/communications process with the characterization process based on not over-investing resources. So the most logical process is to accept applications, which means only states whose governor expresses interest and communities with significant consent and a logical geographic and geologic site will apply. You then provide funding for statewide stakeholder education. Then you hold public hearings to educate and get feedback. Then, upon the presentation by the governor of the conditions (Host Agreement) whereby the state would be willing to site a facility in their state, the Administrator would fund and conduct a more extensive characterization process equivalent to an NRC Environmental Report.

Upon the ER being satisfactory, the Administrator would then enter into negotiations with the Governor to complete the signing of a sustainable, enforceable Host Agreement. This would then lead to the funding and completion of licensing. This basic process for either facility could be followed in the same way, noting that the technical aspects of repository siting are significantly more sophisticated than for a storage facility, which is basically a very benign system of a pad, canister, cask and a fenced security system.

Should the siting process in section 304 of the draft bill be streamlined? If so, how?

Please submit your response HERE. (no page limit)

YES. We also support adopting Sen. Feinstein's suggested language for Sec. 304. As in her language for siting guidelines, it dictates they should be completed within six months. Also, her language does not include decisions on the impacts of transportation and waste handling, since those studies could not be conducted this early in the process due to there being no definitive repository site. The portions of the bill about unduly burdening a state and avoiding conflicts with compliance agreements should also be removed, since those issues should be addressed by simply leaving it up to the state.

Should the new entity be governed by a single administrator or by a board of directors?

(a) If by a single administrator, should the administrator serve for a fixed term? If so, how long should the term of service be? Should the legislation prescribe qualifications for the administrator? If so, what should be the selection criteria?

(b) If by a board of directors, how many people should comprise the board and how should they be selected?

Please submit your response HERE. (no page limit)

A board of directors. The Board of Directors is the primary ruling body. The BOD hires and fires the CEO Head of the Agency. There should be nine Board members that serve staggered seven year terms whom are appointed by the President and confirmed by the Senate on a rotating phased basis like the Nuclear Regulatory Commission. There should be no more than six members of the same political party (NRC is 3). Board members should be selected based on the following criteria:

1. Three representatives of the nuclear industry who have standard contracts with DOE to take their fuel.
2. One member who served on a Public Utility Commission or equivalent
3. One member selected from a list prepared by a Host State Governor
4. One member selected from a list prepared by the local or regional host community
5. One member selected by the National Governors Association
6. One member with nuclear waste management experience
7. One member at large

The Blue Ribbon Commission recommended establishment of both a board of directors for management oversight (whose "primary role ... is not to represent all stakeholder views, but rather to carry out fiduciary responsibilities for management oversight") and "a larger and more widely representative stakeholder advisory committee." The draft bill responds to these recommendations, first, by establishing a Nuclear Waste Oversight Board of senior federal officials and, second, by authorizing the Administrator to establish advisory committees. Should the Oversight Board and advisory committee be combined into a single body to perform both management oversight and stakeholder representation functions? Should the focus and membership of any advisory committees be established in the legislation or left to the Administrator?

Please submit your response HERE. (no page limit)

Assuming that the board is made up of and created as suggested above (6), it is appropriate for a board to be able to appoint Advisory Committees for specific tasks essential to decision making by the board. Advisory Committees are just that – established to advise the board with no decision making capability. Advisory Committees could be established by the Board, their function and purpose defined, and the criteria for selecting them established. And, again, the Board should hire the Administrator to run the organization.

Dr. Meserve testified in 2012 that representatives of stakeholders and public utility commissioners should be added to the Nuclear Waste Oversight Board. Would these additions make the Board better able to carry out its fiduciary oversight mission effectively?

Please submit your response HERE. (no page limit)

As stated above in "6", representatives from NARUC, ECA, ECOS, NCSL, academics, and industry, as well as other stakeholder representatives, should be appointed to the Board to broaden representation and give continuity and objectivity to the Board's mission.

The bottom line is that we should not go down any path in the future where we don't have the consent of the state and the nearby communities and their continued representation.

Submitter's Name/Affiliation: Lake Barrett -Sustainable Fuel Cycle Task Force Science Panel
Contact: Lake Barrett-Facilitator
Email:Lake@Lbarrett.com
Phone: 941-445-4873

Sustainable Fuel Cycle Task Force Science Panel

May 22, 2013

Subject: Sustainable Fuel Cycle Task Force Science Panel Comments on the Draft Nuclear Waste Administration Act of 2013

To: U.S. Senate Committee on Energy and Natural Resources

The Science Panel of the Sustainable Fuel Cycle Task Force appreciates the opportunity to provide comments on the draft Nuclear Waste Administration Act of 2013. Today, the legislatively mandated geologic disposal program has been suspended, not by Congress, who hold the legitimate authority to do so, but by powerfully placed individuals. To scientists, such as those comprising this panel, who have worked for many decades to provide a scientifically sound approach for safely managing and disposing of the nation's used nuclear fuel and high-level radioactive wastes, any effort to address the mired high-level radioactive waste disposal program is seen to have merit. Failure to act expeditiously exacerbates two situations. Fuel in storage at closed reactor facilities continues to incur unanticipated costs for monitoring and control. Operating nuclear reactors, with no disposal pathway for the used nuclear fuel, must continue to place it in dry storage with significant repercussions; economics drive the utilities to use ever larger storage systems, and storage costs are passed on to tax payers because the disposal costs have already been borne by rate payers. Rapidly growing additional costs and impacts appear to be inevitable; large disposal canisters, which likely could have been handled at Yucca Mountain, might need to be repackaged for placement in a different repository.

The significance of the bi-partisan efforts of the Senate Committee on Energy and Natural Resources to tackle the nuclear waste disposal stalemate is noteworthy. We agree with the fact that the draft bill does not eliminate the Yucca Mountain project from consideration, as we support continuing the licensing process by the Nuclear Regulatory Commission, as well as proceeding with a consent-based siting process for the NWPA authorized second geologic repository.

The draft Nuclear Waste Administration Act of 2013, however, does not address sufficiently the significant technical and institutional challenges and consequences inherent in an approach to implement the recommendations of the Blue Ribbon Commission on America's Nuclear Future and the Secretary of Energy's *Strategy for the Management and Disposal of Used Nuclear Fuel and High-level Radioactive Waste.* A principal concern is that once again mandated schedules, which do not take into account historically, encountered legal complexities and unanticipated findings during site exploration, form the backbone of the approach embodied in the draft bill. Consider first Sec. 504(b)(2) which requires … *schedules and milestones for carrying out the functions of the Administrator, which shall provide for the operation of: (A) a pilot facility not*

later than December 31, 2021; (B) a storage facility for nonpriority waste not later than December 31, 2025; and, (C) a repository not later than December 31, 2048. The challenges to meet the 2021 date for an operational pilot storage facility include: passing new nuclear waste legislation; overcoming or addressing existing House support for Yucca Mountain; changing the longstanding focus from disposal to storage; changing the funding concepts embodied in the Nuclear Waste Policy Act to allow the fund to be used to focus on interim storage; reversal of longstanding Congressional policy not to give final veto or consent authority to a state and to reserve to Congress the authority to override a state or tribal disapproval; promulgating interim storage facility siting regulations to reflect the new policies after changes to policy and law; completing already underway changes to storage and transportation regulations, possibly incorporating changes to reflect changes to waste disposal law; promulgating new repository siting regulations, recognizing the interim storage facility is to support repository development; identifying volunteer sites, negotiating agreements and receiving Congressional approval for negotiated benefits packages; and designing, licensing, and developing the pilot interim storage facility, including addressing legal challenges. To address concerns often voiced about perceived shortcomings of the Nuclear Waste Policy Act program, many of these challenges must be tackled sequentially; for example, the regulations should not be developed before the legislative policy is finalized, and siting ought not begin before the regulations are finalized, including legal challenges.

To argue that this can be accomplished by 2021 ignores historical precedent. Consider, for example, the promulgation of new regulations. The initial Environmental Protection Agency and Nuclear Regulatory Commission regulations were promulgated over a period of seven years and remanded following challenge; the program was without even generic regulations for nearly six years until Congressional action forced those agencies to promulgate regulations. Following Congressional direction in the Energy Policy Act of 1992, it took until 2002 for the Environmental Protection Agency and the Nuclear Regulatory Commission to develop site specific regulations for Yucca Mountain and until 2009 to address the remands and finalize them. An argument that it will be easier to promulgate new regulations because of experience gained is unsupportable; constituents that oppose nuclear power have become more effective with time in impeding progress in such rulemakings.

Everyone wants a fair and scientifically based process that allows all stakeholders ample opportunity to participate and appropriately intercede in nuclear waste decisions. Perhaps the draft bill ought to recognize that the price of allowing open and full participation in the process is time; allowing several decades to reach a fair, equitable, and safe conclusion is not unreasonable. Performance milestones may be reasonable to the extent that they only serve as a trigger to allow ongoing monitoring and maintenance to be paid from the Working Capital Fund and / or the Nuclear Waste Fund. Payments from utilities should continue without regard to any specific milestone. In this manner, utilities would pay for nuclear waste management only once. The nuclear waste lawsuits would end and focus could be on resolving the waste problem instead of focusing on arbitrary deadlines.

Another significant concern with the draft bill is the weak linkage in the draft bill between the interim storage facility and the repository. Referring to the milestone dates in the Secretary's *Strategy for the Management and Disposal of Used Nuclear Fuel And High-level Radioactive Waste*, the date for *siting* a repository is 2026, which is a year later than the consolidated interim storage facility is to be *operational*, according to the schedules of Sec. 504(b)(2). It is difficult to imagine a community volunteering to host a storage facility once it realizes that after the storage facility is operational and used nuclear fuel is being shipped, there is little incentive to continue pursuit of repository development. This fact was recognized prior to enactment of the Nuclear Waste Policy Act in 1982 and is a principal reason for the primacy of repository development in that Act. The requirements for making progress on repository development of the Sec. 306, *Linkage Between Storage and Disposal* and those of Sec. 504, *Mission Plan*, cannot effectively force repository development when all the Administrator has to do is assert that progress is being made siting a repository, and defend that by arguing that the repository does not need to be sited before the consolidated interim storage facility is to be operational.

The draft bill assumes that a consent-based repository site will be found and licensed with no political interference over the 30 to 40 years it likely will take to have an operating repository. A community contemplating volunteering needs only to look at the current situation. The Nuclear Waste Policy Act program was a bipartisan effort that addressed extremely difficult issues in its passage; today it sits suspended, awaiting the results of several lawsuits, owing to the actions of individuals, not Congress collectively, which is the true authority. Frankly, Congress's acquiescence to the will of individuals can only lead to mistrust in any commitment to follow through in development of a repository once an interim storage facility is sited.

The Blue Ribbon Commission recommendation for consent-based siting was patterned in large part after a European model where local communities had the authority to make commitments for development of a facility.

It goes without saying that several communities, including Nye County in Nevada and Lea and Eddy Counties in New Mexico to name but two have strong local support for nuclear facilities and have expressed this to Congress. It is clear that the State of Nevada has refused to even discuss a repository. It is not so clear for New Mexico, but the negative reception of the Blue Ribbon Commission at their hearing in Albuquerque certainly suggests that the northern part of the state, where its population centers are located, might not be quite so receptive to the idea. In the Nuclear Waste Policy Act the role of the states is correctly vested in the will of Congress collectively. That model is supported by recent research[1] into public support for siting used nuclear fuel facilities, which found that most of those polled ranked the majority of citizens residing within 50 miles of the proposed facility as the appropriate authority to block or veto a

[1] Jenkins-Smith, Hank C., Carol L. Silva, Kerry G. Herron, Evaristo "Tito" Bonano, and Rob P. Rechard, 2012, *Designing a Process for Consent- Based Siting of Used Nuclear Fuel Facilities–Analysis of Public Support*, The Bridge, National Academy of Engineering of the National Academies, Fall.

siting decision. Furthermore, a majority of voters in the state was ranked higher than the governor of the state as the deciding authority.

The Nuclear Waste Policy Act process that designated Yucca Mountain was skillfully crafted and succeeded (until politically derailed by the current Administration) over the objections of the State of Nevada because of carefully negotiated provisions that were designed to give the host state an opportunity to disapprove the site unless it was overridden by both Houses of Congress. The State of Nevada did disapprove, and both Houses of Congress overrode the disapproval, by large majorities. It is unlikely that any new consent-based process that does not include this Congressional pre-emption when necessary will ultimately prevail.

If Congress is serious about finding a solution to the nuclear waste problem in this country, the incentives issue should be addressed immediately with substantial benefits defined in Federal legislation before other, more controversial, changes to nuclear waste policy are addressed. Substantial benefits, valued on the order of $300 to $500 million per year for at least 50 years, may need to accrue to the appropriate entities where such facilities are located.

It is also important not to lose site of the fact that there is a viable repository site at Yucca Mountain, developed and designated in accordance with Congressional direction. The magnitude and diversity of geologic and engineering exploration of this site, and the extensive technical oversight that it has received by expert panels over the past three decades, is unprecedented. Siting and developing at any other location is uncertain and any schedule is highly speculative. The thirty-five year projection in the Secretary's *Strategy for the Management and Disposal of Used Nuclear Fuel and High-level Radioactive Waste* may well be optimistic. Yucca Mountain, after thirty-five years, was in the midst of the Nuclear Regulatory Commission licensing process when individuals chose to ignore federal law and stop work on the program. Before it was stopped, the Nuclear Regulatory Commission found the DOE license application to be complete and had issued one Safety Evaluation Report and several Technical Evaluation Reports that appear to agree with DOE's assessment in its license application indicating all safety requirements would be met by a wide margin. This Science Panel has in the past provided commentary and opinion pieces that are supportive of Yucca Mountain, and continue to believe that Yucca Mountain is a viable repository.

This country has been producing high-level radioactive wastes from reactors for nearly seventy years without overcoming the social/political obstacles such as those that have recently stopped progress on the Yucca Mountain geologic repository. To meet our needs for clean affordable energy, we need continued nuclear electric power. We must act responsibly now to provide a real disposal capacity and not just pass the environmental consequences of inaction on to future generations.

Our answers to the questions asked by the Committee, and a detailed analysis of sections of the draft bill are attached.

Yours sincerely for the Science Panel,

Charles Fairhurst, Ph.D. D. Warner North Ph.D. Ruth Weiner, Ph.D.

Isaac Winograd, Ph.D. Wendell Weart, Ph.D. Eugene H. Roseboom Jr., Ph.D.

Sustainable Fuel Cycle Task Force Science Panel

Attachment:

Science Panel Responses to Draft Senate Bill Committee Questions

Considerations for locating storage facility sites

Should the Administrator take into account, when considering candidate storage facility sites, the extent to which a storage facility would: (a) unduly burden a State in which significant volumes of defenses wastes are stored or transuranic wastes are disposed of;

No. Congress should leave that detail to the Host State and Host Community to work out in a Consent Agreement with the Implementing Organization.

or (b) conflict with a compliance agreement requiring the removal of nuclear waste from a site or a statutory prohibition on the storage or disposal of nuclear waste at a site?

No. Congress should leave that detail to the Host State and Host Community to work out in a Consent Agreement with the Implementing Organization. It is expected that any Consent Agreement will have legally enforceable conditions within it that the hosts consider necessary and appropriate.

Alternatively, should the State and other non-federal parties seeking to site a candidate storage facility be allowed to determine whether they are unduly burdened?

Yes.

Should the final consent agreement, which would be sent to Congress for ratification, contain an authorizing provision to amend any conflicting compliance agreement or statutory prohibition?

No. When the Host State and Host Community reach a binding consensus hosting agreement, Congress should concur via an appropriate mechanism. Likely Appropriations or Budgetary language or whatever mechanism Congress deems appropriate.

Linkage between storage and repository

2. Should the bill establish a linkage between progress on development of a repository and progress on development of a storage facility?

Not specifically with a hard linkage. This is primarily a Host State issue and the Host State is capable to negotiate in the consent agreement whatever it deems necessary to host. It can be made meaningful and sustainable if it is in the form of a legally binding contract between the Hosts and implementing organization.

The legislation should however, clearly state that geologic disposal is the ultimate national goal and that interim storage alone is not a solution. Interim storage is an important management tool. The national program must have a parallel timely ultimate geologic disposal program along with an interim storage program. It is expected that any host state agreement will address the linkage specifics, and those specifics will become a legally binding linkage when the host agreement is ratified. Therefore, a meaningfully progressing geologic repository program will always be necessary. However, we believe it is counterproductive to a-priori to legislatively state a specific linkage independent of a specific host state negotiation.

If so, is the linkage proposed in section 306 of the bill appropriate, too strong, or too loose?

Neither. It should not be a Congressional matter at this point, however Congress will get to review and basically approve whatever agreement is presented after the Hosts and Implementing Organization come to an agreement that is presented to Congress.

If a linkage is needed, should it be determined as part of the negotiations between the state and federal governments and included in the consent agreement rather than in the bill?

Yes.

Separate process for storage facility siting

3. Should the bill establish separate storage and disposal programs with clearly defined requirements for each, with any linkage negotiated in the consent agreement between the federal and non-federal parties, to allow the two program to run on separate, but parallel tracks, as proposed in the alternative section 305 (which would replace section 304(b)-(g) of the draft bill)?

Congress should authorize three Projects: A First Repository (which is legally Yucca Mountain or somewhere else if Congress changes the 1982 Nuclear Waste Policy Act), a Second repository which can be sited using the consensus process and third, a consensus-sited Interim Storage Facility. No a-priori linkages. Let the Hosts work that to their satisfaction subject to final Congressional oversight.

4. To what extent should the siting and consensus approval process for spent fuel storage facilities differ from that for the repository?

The first repository is based on the NWPA process which lawfully resulted in Yucca Mountain. The Second repository and Interim Storage Facility can be the consensus based siting process.

Should the Administrator be required to conduct sufficient site-specific research (referred to as "characterization" in the bill) on candidate storage sites to determine if they are suitable for storing nuclear waste or only on candidate repository sites to determine if they are suitable for geologic disposal of nuclear waste?

For simplicity, keep it the same for both interim storage facilities and repository. Of course, site characterization for interim storage is relatively simple, whereas a repository is complex, but the principles are the same.

The Administrator be required to hold public hearings both before and after site characterization (as required by current law in the case of the Yucca Mountain site) or only before site characterization?

Public hearings are simple, so do both before and after to maximize public involvement.

Complexity of repository and storage facility siting processes

5. Should the siting process in section 304 of the draft bill be streamlined?

Yes.

If so, how?

There are only two requirements: a hosting agreement with the Host State/Local Community and the site meets the EPA & NRC environmental protection and public health and safety regulatory requirements to be able to get a license. Of course there is continual Congressional monitoring & oversight. Keep it simple to avoid unnecessary lawsuits and complications.

Governance of the Nuclear Waste Administration

6. Should the new entity be governed by a single administrator or by a board of directors?

Board of Directors

(a) If by a single administrator, should the administrator serve for a fixed term? If so, how long should the term of service be? Should the legislation prescribe qualifications for the administrator? If so, what should be the selection criteria?

(b) If by a board of directors, how many people should comprise the board and how should they be selected?

The Board of Directors (BOD) is the primary ruling body. The BOD hires and fires the CEO Head of the Agency (or Fed Corp or whatever it is called). There should be nine Board members that serve staggered seven year terms who are appointed by the President and confirmed by the Senate on a rotating phased basis like the Nuclear Regulatory Commission. There should be no more than six members of the same political party (NRC is 3). Board members should be selected based on the following criteria:

- Two member from entities that have contributed to the Nuclear Waste Fund
- One member who has served on a Public Utility Commission or equivalent
- One member selected from a list prepared by a Host State Governor
- One member selected from a list prepared by the local or regional host community
- One member with Naval Reactors experience
- One member with nuclear waste management experience
- One member selected from a major environmental organization.
- One scientist recommended by the National Academy of Sciences on the basis of international expertise in repository site selection and evaluation.

7. The Blue Ribbon Commission recommended establishment of both a board of directors for management oversight (whose "primary role ... is not to represent all stakeholder views, but rather to carry out fiduciary responsibilities for management oversight") and "a larger and more widely representative stakeholder advisory committee." The draft bill responds to these recommendations, first, by establishing a Nuclear Waste Oversight Board of senior federal officials and, second, by authorizing the Administrator to establish advisory committees. Should the Oversight Board and advisory committee be combined into a single body to perform both management oversight and stakeholder representation functions?

The Bill should make very clear between supervisory roles and advisory roles. Our recommended BOD has direct responsibility for the program and is the only direct authority over the program. The BOD can establish advisory panels and boards as it sees fit. The whole program has direct strong independent external oversight by the EPA/USNRC for public health and safety and environmental protection. It also operates under host state laws and a consensus host agreement. It has Congressional oversight through the BOD confirmation process and some budgetary oversight. It should also have an independent Inspector General function and independent financial audits (like the Nuclear Waste Fund audit).

Given the importance of maintaining public confidence for the success of the program, we recommend continuance of the Nuclear Waste Technical Review Board to provide periodic public reports. But in general, excessive layers of oversight can become counter-productive to progress and serves no useful function other than added expense and delays.

Should the focus and membership of any advisory committees be established in the legislation or left to the Administrator?

Yes. The BOD can add whatever they want.

8. Dr. Meserve testified in 2012 that representatives of stakeholders and public utility commissioners should be added to the Nuclear Waste Oversight Board. Would these additions make the Board better able to carry out its fiduciary oversight mission effectively?

See response to Question 6.

Question 1: Considerations for locating storage facility sites
Submitter's Name/Affiliation: (Barrett- Sustainable Fuel Cycle Science Panel)

Should the Administrator take into account, when considering candidate storage facility sites, the extent to which a storage facility would: (a) unduly burden a State in which significant volumes of defenses wastes are stored or transuranic wastes are disposed of; or (b) conflict with a compliance agreement requiring the removal of nuclear waste from a site or a statutory prohibition on the storage or disposal of nuclear waste at a site? Alternatively, should the State and other non-federal parties seeking to site a candidate storage facility be allowed to determine whether they are unduly burdened? Should the final consent agreement, which would be sent to Congress for ratification, contain an authorizing provision to amend any conflicting compliance agreement or statutory prohibition?

Considerations for locating storage facility sites

Should the Administrator take into account, when considering candidate storage facility sites, the extent to which a storage facility would: (a) unduly burden a State in which significant volumes of defenses wastes are stored or transuranic wastes are disposed of;

No. Congress should leave that detail to the Host State and Host Community to work out in a Consent Agreement with the Implementing Organization.

or (b) conflict with a compliance agreement requiring the removal of nuclear waste from a site or a statutory prohibition on the storage or disposal of nuclear waste at a site?

No. Congress should leave that detail to the Host State and Host Community to work out in a Consent Agreement with the Implementing Organization. It is expected that any Consent Agreement will have legally enforceable conditions within it that the hosts consider necessary and appropriate.

Alternatively, should the State and other non-federal parties seeking to site a candidate storage facility be allowed to determine whether they are unduly burdened?

Yes.

Should the final consent agreement, which would be sent to Congress for ratification, contain an authorizing provision to amend any conflicting compliance agreement or statutory prohibition?

No. When the Host State and Host Community reach a binding consensus hosting agreement, Congress should concur via an appropriate mechanism. Likely Appropriations or Budgetary language or whatever mechanism Congress deems appropriate.

Question 5: Complexity of repository and storage facility siting processes
Submitter's Name/Affiliation: (Barrett-Science Panel)

Should the siting process in section 304 of the draft bill be streamlined? If so, how?

Yes.

There are only two requirements: a hosting agreement with the Host State/Local Community and the site meets the EPA & NRC environmental protection and public health and safety regulatory requirements to be able to get a license. Of course there is continual Congressional monitoring & oversight. Keep it simple to avoid unnecessary lawsuits and complications.

Question 8: Governance of the Nuclear Waste Administration – Membership of the Oversight Board

Submitter's Name/Affiliation: (Lake Barrett Sustainable Fuel Cycle Science Panel)

Dr. Meserve testified in 2012 that representatives of stakeholders and public utility commissioners should be added to the Nuclear Waste Oversight Board. Would these additions make the Board better able to carry out its fiduciary oversight mission effectively?

Yes, as indicated below.

The Board of Directors (BOD) is the primary ruling body. The BOD hires and fires the CEO Head of the Agency (or Fed Corp or whatever it is called). There should be nine Board members that serve staggered seven year terms who are appointed by the President and confirmed by the Senate on a rotating phased basis like the Nuclear Regulatory Commission. There should be no more than six members of the same political party (NRC is 3). Board members should be selected based on the following criteria:

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- One member selected from a list prepared by a Host State Governor
- One member selected from a list prepared by the local or regional host community
- One member with Naval Reactors experience
- One member with nuclear waste management experience
- One member selected from a major environmental organization.
- One scientist recommended by the National Academy of Sciences on the basis of international expertise in repository site selection and evaluation.

Question 2: Linkage between storage and repository
Submitter's Name/Affiliation: (Barrett- Sustainable Fuel Cycle Science Panel)

Should the bill establish a linkage between progress on development of a repository and progress on development of a storage facility? If so, is the linkage proposed in section 306 of the bill appropriate, too strong, or too loose? If a linkage is needed, should it be determined as part of the negotiations between the state and federal governments and included in the consent agreement rather than in the bill?

Linkage between storage and repository

2. Should the bill establish a linkage between progress on development of a repository and progress on development of a storage facility?

Not specifically with a hard linkage. This is primarily a Host State issue and the Host State is capable to negotiate in the consent agreement whatever it deems necessary to host. It can be made meaningful and sustainable if it is in the form of a legally binding contract between the Hosts and implementing organization.

The legislation should however, clearly state that geologic disposal is the ultimate national goal and that interim storage alone is not a solution. Interim storage is an important management tool. The national program must have a parallel timely ultimate geologic disposal program along with an interim storage program. It is expected that any host state agreement will address the linkage specifics, and those specifics will become a legally binding linkage when the host agreement is ratified. Therefore, a meaningfully progressing geologic repository program will always be necessary. However, we believe it is counterproductive to a-priori to legislatively state a specific linkage independent of a specific host state negotiation.

If so, is the linkage proposed in section 306 of the bill appropriate, too strong, or too loose?

Neither. It should not be a Congressional matter at this point, however Congress will get to review and basically approve whatever agreement is presented after the Hosts and Implementing Organization come to an agreement that is presented to Congress.

If a linkage is needed, should it be determined as part of the negotiations between the state and federal governments and included in the consent agreement rather than in the bill?

Yes.

Question 3: Separate process for storage facility siting – Alternative Section 305
Submitter's Name/Affiliation: (Barrett-Science Panel)

Should the bill establish separate storage and disposal programs with clearly defined requirements for each, with any linkage negotiated in the consent agreement between the federal and non-federal parties, to allow the two program to run on separate, but parallel tracks, as proposed in the alternative section 305 (which would replace section 304(b)-(g) of the draft bill)?

Congress should authorize three Projects: A First Repository (which is legally Yucca Mountain or somewhere else if Congress changes the 1982 Nuclear Waste Policy Act), a Second repository which can be sited using the consensus process and third, a consensus-sited Interim Storage Facility.

No a-priori linkages. Let the Hosts work that to their satisfaction subject to final Congressional oversight.

Question 4: Separate process for storage facility siting – General streamlining for storage only
Submitter's Name/Affiliation: (Barrett-Science Panel)

To what extent should the siting and consensus approval process for spent fuel storage facilities differ from that for the repository? Should the Administrator be required to conduct sufficient site-specific research (referred to as "characterization" in the bill) on candidate storage sites to determine if they are suitable for storing nuclear waste or only on candidate repository sites to determine if they are suitable for geologic disposal of nuclear waste? Should the Administrator be required to hold public hearings both before and after site characterization (as required by current law in the case of the Yucca Mountain site) or only before site characterization?

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Public hearings are simple, so do both before and after to maximize public involvement.

Question 6: Governance of the Nuclear Waste Administration – Administrator vs. Board of Directors
Submitter's Name/Affiliation: (Barrett-Science Panel)

6. Should the new entity be governed by a single administrator or by a board of directors?

Board of Directors

(a) If by a single administrator, should the administrator serve for a fixed term? If so, how long should the term of service be? Should the legislation prescribe qualifications for the administrator? If so, what should be the selection criteria?

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- One member with nuclear waste management experience
- One member selected from a major environmental organization.
- One scientist recommended by the National Academy of Sciences on the basis of international expertise in repository site selection and evaluation.

Question 7: Governance of the Nuclear Waste Administration – Role of advisory committees
Submitter's Name/Affiliation: (Barrett-Science Panel)

The Blue Ribbon Commission recommended establishment of both a board of directors for management oversight (whose "primary role ... is not to represent all stakeholder views, but rather to carry out fiduciary responsibilities for management oversight") and "a larger and more widely representative stakeholder advisory committee." The draft bill responds to these recommendations, first, by establishing a Nuclear Waste Oversight Board of senior federal officials and, second, by authorizing the Administrator to establish advisory committees. Should the Oversight Board and advisory committee be combined into a single body to perform both management oversight and stakeholder representation functions? Should the focus and membership of any advisory committees be established in the legislation or left to the Administrator?

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Given the importance of maintaining public confidence for the success of the program, we recommend continuance of the Nuclear Waste Technical Review Board to provide periodic public reports. But in general, excessive layers of oversight can become counter-productive to progress and serves no useful function other than added expense and delays.

Should the focus and membership of any advisory committees be established in the legislation or left to the Administrator?

Yes. The BOD can add whatever they want.

Submitter's Name/Affiliation: Lake Barrett –Personal Comments
Contact: Lake Barrett
Email:Lake@Lbarrett.com
Phone: 941-445-4873

May 23, 2013

Subject: Lake H. Barrett Comments on the Draft Nuclear Waste Administration Act of 2013

To: U.S. Senate Committee on Energy and Natural Resources

As a former DOE senior Civil Service employee who led the DOE Office of Civilian Radioactive Waste Management for about ten years until my retirement in 2002, I am pleased to be able to provide comments on the draft Nuclear Waste Administration Act of 2013. I appreciate the effort that the four Senators have made to move forward to address this important area. I will first offer general comments and my responses to your specific questions in the attachment and on the requested templates question by question.

General Comments:

1. NWPA First Repository: Yucca Mountain

   This Bill should acknowledge that Yucca Mountain legally exists as the lawful First Repository despite this Administration's position that it is unworkable and has abandoned efforts to continue licensing. l believe the licensing process for the proposed Yucca Mountain repository should be completed and with that information in hand, the Administration and Congress can make a reasoned choice to continue or not.

2. NWPA Second Repository: Consensus Sited

   The issue of Yucca Mountain should be resolved on its safety and political/policy merits and we should not delay moving forward promptly with an attempt to have a consensus sited second geologic repository. The country should have two repositories, as envisioned in the original NWPA, for many reasons, e.g. diversity, redundancy, overall system robustness, timing and regional equities. It is possible that the second repository could become the first to operate if Yucca Mountain is extensively further delayed.

   I am not an optimist that a consensus repository siting approach can be successfully implemented in the United States political construct. However, this is not a reason not to try this idealistic approach. Although consensus siting is the optimum method, past experiences in countries with strong regional area governments, like the United States, have not been encouraging. The cost to try, however, is low, and if achieved, it will provide great benefit to all.

3. Integrated Phased Interim Storage facility: Consensus Sited

   The federal waste management system needs a prompt phased integrated consensus sited interim storage facility to address the growing shutdown reactor stranded nuclear fuel problem. Again this can be started independent of the Yucca Mountain issue and brings great advantages to the federal system's responsiveness in timing to meet its obligations and overall technical performance both with and without a Yucca Mountain facility.

4. Management Reform

   The effort to reform the Nation's nuclear waste management program is to be commended, however, based on my experiences, many aspects of the draft actually move management reform banner backwards.

   Transferring nuclear waste management responsibility from one federal agency to another newly-created one is not the kind of organizational reform urged by the BRC. It still contains the same weaknesses of political interference, excessive top management turnover every election, civil service rules, and excessive external baggage. The Federal Oversight Board is an example of unnecessary encumbrances that makes a hard job harder. Please see my responses below to your question 6 on how to implement meaningful management reform while providing the Congress and the Administration an appropriate oversight and direct involvement role.

5. Hosting Agreements

   Hosting and consent agreements restrictions, as proposed in the discussion draft, are too prescriptive and will be difficult to implement. As described in my question responses, I believe the host agreement negotiation process is the proper mechanism to work out details rather than in a-priori statutory language created in the abstract, independent of a host.

6. Utility Contract Litigation and Liabilities

   The discussion draft inappropriately contains a requirement to settle lawsuits on solely government terms in order for nuclear power plant operators to obtain the performance that is required by used fuel disposal contracts, and for which the operators have paid billions of dollars. This issue cannot be resolved by decree and can be resolved best by existing negotiation mechanisms once there is Federal progress to meet its legal contractual obligations.

I appreciate the opportunity to offer the above comments and specific answers to your questions below. I would be pleased to assist with further details if desired.

Lake H Barrett

Lake H Barrett
1278 Tuscany Blvd
Venice, FL 34292
Lake@Lbarrett.com
Former Deputy Director and Acting Director
Office of Civilian Radioactive Waste Management
DOE 1993 through 2002

Attachment: Lake Barrett Responses to Draft Senate Bill Committee Questions

Considerations for locating storage facility sites

1. Should the Administrator take into account, when considering candidate storage facility sites, the extent to which a storage facility would: (a) unduly burden a State in which significant volumes of defenses wastes are stored or transuranic wastes are disposed of;

   No. Congress should leave that detail to the Host State and Host Community to work out in a Consent Agreement with the Implementing Organization.

or (b) conflict with a compliance agreement requiring the removal of nuclear waste from a site or a statutory prohibition on the storage or disposal of nuclear waste at a site?

No. Congress should leave that detail to the Host State and Host Community to work out in a Consent Agreement with the Implementing Organization. It is expected that any Consent Agreement will have legally enforceable conditions within it that the hosts consider necessary and appropriate.

Alternatively, should the State and other non-federal parties seeking to site a candidate storage facility be allowed to determine whether they are unduly burdened?

Yes.

Should the final consent agreement, which would be sent to Congress for ratification, contain an authorizing provision to amend any conflicting compliance agreement or statutory prohibition?

No. When the Host State and Host Community reach a binding consensus hosting agreement, Congress should concur via an appropriate mechanism. Likely Appropriations or Budgetary language or whatever mechanism Congress deems appropriate.

Linkage between storage and repository

2. Should the bill establish a linkage between progress on development of a repository and progress on development of a storage facility?

Not specifically with a hard linkage. This is primarily a Host State issue and the Host State is capable to negotiate in the consent agreement whatever it deems necessary to host. It can be made meaningful and sustainable if it is in the form of a legally binding contract between the Hosts and implementing organization.

The legislation should however, clearly state that geologic disposal is the ultimate national goal and that interim storage alone is not a solution. Interim storage is an important management tool. The national program must have a parallel timely ultimate geologic disposal program along with an interim storage program. It is expected that any host state agreement will address the linkage specifics, and those specifics will become a legally binding linkage when the host agreement is ratified. Therefore, a meaningfully progressing geologic repository program will always be necessary. However, we believe it is counterproductive to a-priori to legislatively state a specific linkage independent of a specific host state negotiation.

If so, is the linkage proposed in section 306 of the bill appropriate, too strong, or too loose?

Neither. It should not be a Congressional matter at this point, however Congress will get to review and basically approve whatever agreement is presented after the Hosts and Implementing Organization come to an agreement that is presented to Congress.

If a linkage is needed, should it be determined as part of the negotiations between the state and federal governments and included in the consent agreement rather than in the bill?

Yes.

Separate process for storage facility siting

3. Should the bill establish separate storage and disposal programs with clearly defined requirements for each, with any linkage negotiated in the consent agreement between the federal and non-federal parties, to allow the two program to run on separate, but parallel tracks, as proposed in the alternative section 305 (which would replace section 304(b)-(g) of the draft bill)?

Congress should authorize three Projects: A First Repository (which is legally Yucca Mountain or somewhere else if Congress changes the 1982 Nuclear Waste Policy Act), a Second repository which can be sited using the consensus process and third, a consensus-sited Interim Storage Facility. No a-priori linkages. Let the Hosts work that to their satisfaction subject to final Congressional oversight.

4. To what extent should the siting and consensus approval process for spent fuel storage facilities differ from that for the repository?

The first repository is based on the NWPA process which lawfully resulted in Yucca Mountain. The Second repository and Interim Storage Facility can be the consensus based siting process.

Should the Administrator be required to conduct sufficient site-specific research (referred to as "characterization" in the bill) on candidate storage sites to determine if they are suitable for storing nuclear waste or only on candidate repository sites to determine if they are suitable for geologic disposal of nuclear waste?

For simplicity, keep it the same for both interim storage facilities and repository. Of course, site characterization for interim storage is relatively simple, whereas a repository is complex, but the principles are the same.

The Administrator be required to hold public hearings both before and after site characterization (as required by current law in the case of the Yucca Mountain site) or only before site characterization?

Public hearings are simple, so do both before and after to maximize public involvement.

Complexity of repository and storage facility siting processes

5. Should the siting process in section 304 of the draft bill be streamlined?

Yes.

If so, how?

There are only two requirements: a hosting agreement with the Host State/Local Community and the site meets the EPA & NRC environmental protection and public health and safety regulatory requirements to be able to get a license. Of course there is continual Congressional monitoring & oversight. Keep it simple to avoid unnecessary lawsuits and complications.

Governance of the Nuclear Waste Administration

6. Should the new entity be governed by a single administrator or by a board of directors?

Board of Directors

(a) If by a single administrator, should the administrator serve for a fixed term? If so, how long should the term of service be? Should the legislation prescribe qualifications for the administrator? If so, what should be the selection criteria?

(b) If by a board of directors, how many people should comprise the board and how should they be selected?

The Board of Directors (BOD) is the primary ruling body. The BOD hires and fires the CEO Head of the Agency (or Fed Corp or whatever it is called). There should be nine Board members that serve staggered seven year terms who are appointed by the President and confirmed by the Senate on a rotating phased basis like the Nuclear Regulatory Commission. There should be no more than six members of the same political party (NRC is 3). Board members should be selected based on the following criteria:

- Three members from entities that have contributed to the Nuclear Waste Fund
- One member who has served on a Public Utility Commission or equivalent
- One member selected from a list prepared by a Host State Governor
- One member selected from a list prepared by the local or regional host community
- One member with Naval Reactors experience
- One member with nuclear waste management experience
- One member at large.

7. The Blue Ribbon Commission recommended establishment of both a board of directors for management oversight (whose "primary role ... is not to represent all stakeholder views, but rather to carry out fiduciary responsibilities for management oversight") and "a larger and more widely representative stakeholder advisory committee." The draft bill responds to these recommendations, first, by establishing a Nuclear Waste Oversight Board of senior federal officials and, second, by authorizing the Administrator to establish advisory committees. Should the Oversight Board and advisory committee be combined into a single body to perform both management oversight and stakeholder representation functions?

Yes.

Extra layers of oversight should be minimized in Statute. The Bill should make very clear between supervisory roles and advisory roles. The recommended BOD has direct responsibility for the program and is the only direct authority over the program. The BOD can establish advisory panels and boards as it sees fit. The whole program has direct strong independent external oversight by the EPA/USNRC for public health and safety and environmental protection. It also operates under host state laws and a consensus host agreement. It has Congressional oversight through the BOD confirmation process and some budgetary oversight. It should also have an independent Inspector General function and independent financial audits (like the Nuclear Waste Fund audit).

But in general, excessive layers of oversight can become counter-productive to progress and serves no useful function other than added expense and delays.

Should the focus and membership of any advisory committees be established in the legislation or left to the Administrator?

Yes. The BOD can add whatever they want.

8. Dr. Meserve testified in 2012 that representatives of stakeholders and public utility commissioners should be added to the Nuclear Waste Oversight Board. Would these additions make the Board better able to carry out its fiduciary oversight mission effectively?

See response to Question 6.

Question 1: Considerations for locating storage facility sites
Submitter's Name/Affiliation: (Barrett-_Personal)

Should the Administrator take into account, when considering candidate storage facility sites, the extent to which a storage facility would: (a) unduly burden a State in which significant volumes of defenses wastes are stored or transuranic wastes are disposed of; or (b) conflict with a compliance agreement requiring the removal of nuclear waste from a site or a statutory prohibition on the storage or disposal of nuclear waste at a site? Alternatively, should the State and other non-federal parties seeking to site a candidate storage facility be allowed to determine whether they are unduly burdened? Should the final consent agreement, which would be sent to Congress for ratification, contain an authorizing provision to amend any conflicting compliance agreement or statutory prohibition?

Considerations for locating storage facility sites

Should the Administrator take into account, when considering candidate storage facility sites, the extent to which a storage facility would: (a) unduly burden a State in which significant volumes of defenses wastes are stored or transuranic wastes are disposed of;

No. Congress should leave that detail to the Host State and Host Community to work out in a Consent Agreement with the Implementing Organization.

or (b) conflict with a compliance agreement requiring the removal of nuclear waste from a site or a statutory prohibition on the storage or disposal of nuclear waste at a site?

No. Congress should leave that detail to the Host State and Host Community to work out in a Consent Agreement with the Implementing Organization. It is expected that any Consent Agreement will have legally enforceable conditions within it that the hosts consider necessary and appropriate.

Alternatively, should the State and other non-federal parties seeking to site a candidate storage facility be allowed to determine whether they are unduly burdened?

Yes.

Should the final consent agreement, which would be sent to Congress for ratification, contain an authorizing provision to amend any conflicting compliance agreement or statutory prohibition?

No. When the Host State and Host Community reach a binding consensus hosting agreement, Congress should concur via an appropriate mechanism. Likely Appropriations or Budgetary language or whatever mechanism Congress deems appropriate.

Question 5: Complexity of repository and storage facility siting processes
Submitter's Name/Affiliation: (Barrett-Personal)

Should the siting process in section 304 of the draft bill be streamlined? If so, how?

Yes.

There are only two requirements: a hosting agreement with the Host State/Local Community and the site meets the EPA & NRC environmental protection and public health and safety regulatory requirements to be able to get a license. Of course there is continual Congressional monitoring & oversight. Keep it simple to avoid unnecessary lawsuits and complications.

Question 8: Governance of the Nuclear Waste Administration – Membership of the Oversight Board

Submitter's Name/Affiliation: (Barrett_Personal)

Dr. Meserve testified in 2012 that representatives of stakeholders and public utility commissioners should be added to the Nuclear Waste Oversight Board. Would these additions make the Board better able to carry out its fiduciary oversight mission effectively?

Yes, as indicated below.

The Board of Directors (BOD) is the primary ruling body. The BOD hires and fires the CEO Head of the Agency (or Fed Corp or whatever it is called). There should be nine Board members that serve staggered seven year terms who are appointed by the President and confirmed by the Senate on a rotating phased basis like the Nuclear Regulatory Commission. There should be no more than six members of the same political party (NRC is 3). Board members should be selected based on the following criteria:

- Three members from entities that have contributed to the Nuclear Waste Fund
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- One member selected from a list prepared by a Host State Governor
- One member selected from a list prepared by the local or regional host community
- One member with Naval Reactors experience
- One member with nuclear waste management experience
- One member at large.

Question 2: Linkage between storage and repository
Submitter's Name/Affiliation: (Barrett- Personal)

Should the bill establish a linkage between progress on development of a repository and progress on development of a storage facility? If so, is the linkage proposed in section 306 of the bill appropriate, too strong, or too loose? If a linkage is needed, should it be determined as part of the negotiations between the state and federal governments and included in the consent agreement rather than in the bill?

Linkage between storage and repository

2. Should the bill establish a linkage between progress on development of a repository and progress on development of a storage facility?

Not specifically with a hard linkage. This is primarily a Host State issue and the Host State is capable to negotiate in the consent agreement whatever it deems necessary to host. It can be made meaningful and sustainable if it is in the form of a legally binding contract between the Hosts and implementing organization.

The legislation should however, clearly state that geologic disposal is the ultimate national goal and that interim storage alone is not a solution. Interim storage is an important management tool. The national program must have a parallel timely ultimate geologic disposal program along with an interim storage program. It is expected that any host state agreement will address the linkage specifics, and those specifics will become a legally binding linkage when the host agreement is ratified. Therefore, a meaningfully progressing geologic repository program will always be necessary. However, we believe it is counterproductive to a-priori to legislatively state a specific linkage independent of a specific host state negotiation.

If so, is the linkage proposed in section 306 of the bill appropriate, too strong, or too loose?

Neither. It should not be a Congressional matter at this point, however Congress will get to review and basically approve whatever agreement is presented after the Hosts and Implementing Organization come to an agreement that is presented to Congress.

If a linkage is needed, should it be determined as part of the negotiations between the state and federal governments and included in the consent agreement rather than in the bill?

Yes.

Question 3: Separate process for storage facility siting – Alternative Section 305
Submitter's Name/Affiliation: (Barrett-Personal)

Should the bill establish separate storage and disposal programs with clearly defined requirements for each, with any linkage negotiated in the consent agreement between the federal and non-federal parties, to allow the two program to run on separate, but parallel tracks, as proposed in the alternative section 305 (which would replace section 304(b)-(g) of the draft bill)?

Congress should authorize three Projects: A First Repository (which is legally Yucca Mountain or somewhere else if Congress changes the 1982 Nuclear Waste Policy Act), a Second repository which can be sited using the consensus process and third, a consensus-sited Interim Storage Facility.

No a-priori linkages. Let the Hosts work that to their satisfaction subject to final Congressional oversight.

Question 4: Separate process for storage facility siting – General streamlining for storage only
Submitter's Name/Affiliation: (Barrett-Personal)

To what extent should the siting and consensus approval process for spent fuel storage facilities differ from that for the repository? Should the Administrator be required to conduct sufficient site-specific research (referred to as "characterization" in the bill) on candidate storage sites to determine if they are suitable for storing nuclear waste or only on candidate repository sites to determine if they are suitable for geologic disposal of nuclear waste? Should the Administrator be required to hold public hearings both before and after site characterization (as required by current law in the case of the Yucca Mountain site) or only before site characterization?

To what extent should the siting and consensus approval process for spent fuel storage facilities differ from that for the repository?

The first repository is based on the NWPA process which lawfully resulted in Yucca Mountain. The Second repository and Interim Storage Facility can be the consensus based siting process.

Should the Administrator be required to conduct sufficient site-specific research (referred to as "characterization" in the bill) on candidate storage sites to determine if they are suitable for storing nuclear waste or only on candidate repository sites to determine if they are suitable for geologic disposal of nuclear waste?

For simplicity, keep it the same for both interim storage facilities and repository. Of course, site characterization for interim storage is relatively simple, whereas a repository is complex, but the principles are the same.

The Administrator be required to hold public hearings both before and after site characterization (as required by current law in the case of the Yucca Mountain site) or only before site characterization?

Public hearings are simple, so do both before and after to maximize public involvement.

Question 6: Governance of the Nuclear Waste Administration – Administrator vs. Board of Directors
Submitter's Name/Affiliation: (Barrett_Personal)

6. Should the new entity be governed by a single administrator or by a board of directors?

Board of Directors

(a) If by a single administrator, should the administrator serve for a fixed term? If so, how long should the term of service be? Should the legislation prescribe qualifications for the administrator? If so, what should be the selection criteria?

(b) If by a board of directors, how many people should comprise the board and how should they be selected?

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- One member selected from a list prepared by a Host State Governor
- One member selected from a list prepared by the local or regional host community
- One member with Naval Reactors experience
- One member with nuclear waste management experience
- One member at large.

Question 7: Governance of the Nuclear Waste Administration – Role of advisory committees
Submitter's Name/Affiliation: (Barrett-Personal)

The Blue Ribbon Commission recommended establishment of both a board of directors for management oversight (whose "primary role ... is not to represent all stakeholder views, but rather to carry out fiduciary responsibilities for management oversight") and "a larger and more widely representative stakeholder advisory committee." The draft bill responds to these recommendations, first, by establishing a Nuclear Waste Oversight Board of senior federal officials and, second, by authorizing the Administrator to establish advisory committees. Should the Oversight Board and advisory committee be combined into a single body to perform both management oversight and stakeholder representation functions?

Yes.

Extra layers of oversight should be minimized in Statute. The Bill should make very clear between supervisory roles and advisory roles. The recommended BOD has direct responsibility for the program and is the only direct authority over the program. The BOD can establish advisory panels and boards as it sees fit. The whole program has direct strong independent external oversight by the EPA/USNRC for public health and safety and environmental protection. It also operates under host state laws and a consensus host agreement. It has Congressional oversight through the BOD confirmation process and some budgetary oversight. It should also have an independent Inspector General function and independent financial audits (like the Nuclear Waste Fund audit).

But in general, excessive layers of oversight, like the Nuclear Waste Technical Review Board, can become counter-productive to progress and serves no useful function other than added expense and delays.

Should the focus and membership of any advisory committees be established in the legislation or left to the Administrator?

Yes. The BOD can add whatever they want.

Should the focus and membership of any advisory committees be established in the legislation or left to the Administrator?

Yes. The BOD can add whatever they want.

BIPARTISAN POLICY CENTER

Submitter's Name/Affiliation: Bipartisan Policy Center
Contact: Margot Anderson
Email: manderson@bipartisanpolicy.org
Phone: (202) 204-2400

Executive Summary[1]

Senator Ron Wyden
Chairman, Senate Committee on Energy and Natural Resources
304 Dirksen Senate Office Building
Washington, DC 20510

Senator Lisa Murkowski
Ranking Member, Senate Committee on Energy and Natural Resources
304 Dirksen Senate Office Building
Washington, DC 20510

Senator Dianne Feinstein
Chairman, Senate Appropriations Subcommittee on Energy and Water Development
184 Dirksen Senate Office Building
Washington, DC 20510

Senator Lamar Alexander
Ranking Member, Senate Appropriations Subcommittee on Energy and Water Development
184 Dirksen Senate Office Building
Washington, DC 20510

May 24, 2013

Dear Senators Wyden, Murkowski, Feinstein, and Alexander:

The Bipartisan Policy Center's (BPC) Nuclear Initiative applauds the bipartisan efforts of Senators Alexander, Feinstein, Murkowski, and Wyden and we appreciate this opportunity to offer our thoughts about the draft Senate bill titled "Nuclear Waste Administration Act of 2013" (Draft Bill). The BPC Nuclear Initiative is led by BPC Senior Fellow and former Senate Energy and Natural Resources Committee Chairman Pete Domenici and Dr. Warren "Pete" Miller, former Department of Energy (DOE) Assistant Secretary for Nuclear Energy (2009-2010). Senator Domenici also served as a Commissioner on the Blue Ribbon Commission (BRC) on America's Nuclear Future.

We are pleased that the Draft Bill reflects most of the BRC's recommendations, but we think the provisions dealing with governance, funding, and linkage should be modified to more closely reflect the recommendations of the BRC.

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[1] These comments are a product of BPC's Nuclear Initiative. They do not necessarily represent the views or opinions of the BPC, its founders, or its Board of Directors.

Governance

We recommend a federal corporate structure (FedCorp), as opposed to a federal agency, for the new, single-purpose organization to take over the waste management program. The BRC found that a FedCorp will be less susceptible to political micromanagement, have more flexibility to respond to changes in external conditions, and have greater ability to manage costs and schedules. Under a FedCorp approach, a Board of Directors, appointed by the President and confirmed by the Senate, would select a chief executive officer (CEO).

Funding

The success of a new waste management organization will be highly dependent on access to financial resources. Changes are needed to the budgetary treatment and fee collection process of the Nuclear Waste Fund (NWF). The NWF is supposed to be a self-financing mechanism, but it has not worked and is not working as planned. While the Draft Bill's Working Capital Fund is an improvement of the current situation, we do not think that it will ensure that a new organization can effectively access funds. We agree with the BRC recommendation to allow the new organization to access fee receipts outside of the annual appropriations process. We also suggest that DOE be directed to pursue the BRC's recommendation to change the way the NWF is collected. The BRC Report suggested that the DOE's NWF collection from utilities should equal actual appropriations from the NWF, with the remainder transferred by utilities to approved trust funds to be available when needed for future use in carrying out the nuclear waste program.

Linkage

We strongly recommend that efforts to develop a storage facility and a repository not be tied together or "linked" by statutory requirements. The BRC concluded that requiring a link between progress on interim storage and progress on a repository could lead to further delay in the transfer of spent nuclear fuel from reactor sites around the country to one or more safer, more secure interim storage facilities. We suggest that the Draft Bill eliminate the undefined "substantial progress" requirement. We believe that the states and communities who will be hosting a nuclear waste storage facility are in the best position to determine the appropriate relationship between continuing progress on a repository and the development and operation of a storage facility. Further, we do not think congressional approval should be required. After a safe, appropriate nuclear waste project has received the approval of the waste management entity and affected state, Tribal, and local governments, the program should move forward. A requirement for congressional approval undermines and diminishes the value of the consent-based approach, and could jeopardize negotiated long term obligations from the federal government, such as research funding.

Additional issues addressed in our comments include: future contracts for waste disposal; settlement of existing claims; and technology funding.

Conclusion

The BPC Nuclear Initiative appreciates the opportunity to submit comments on the Draft Bill. We urge the Committee to make the changes recommended herein. We are available at the Committee's request to discuss these recommendations.

Sincerely,

Pete V. Domenici
Co-chairman, BPC Nuclear Initiative

Warren F. Miller
Co-chairman, BPC Nuclear Initiative

BIPARTISAN POLICY CENTER

Submitter's Name/Affiliation: Bipartisan Policy Center
Contact: Margot Anderson
Email: manderson@bipartisanpolicy.org
Phone: (202) 204-2400

Comments of the Bipartisan Policy Center to
Draft Senate Bill – Nuclear Waste Administration Act of 2013. [1]

Senator Ron Wyden
Chairman, Senate Committee on Energy and Natural Resources
304 Dirksen Senate Office Building
Washington, DC 20510

Senator Lisa Murkowski
Ranking Member, Senate Committee on Energy and Natural Resources
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The Bipartisan Policy Center's (BPC) Nuclear Initiative applauds the bipartisan efforts of Senators Alexander, Feinstein, Murkowski, and Wyden and we appreciate this opportunity to offer our thoughts about the draft Senate bill titled "Nuclear Waste Administration Act of 2013" (Draft Bill). The BPC Nuclear Initiative is led by BPC Senior Fellow and former Senate Energy and Natural Resources Committee Chairman Pete Domenici and Dr. Warren "Pete" Miller, former Department of Energy (DOE) Assistant Secretary for Nuclear Energy (2009-2010). Senator Domenici also served as a Commissioner on the Blue Ribbon Commission on America's Nuclear Future.

About the Bipartisan Policy Center

Founded in 2007 by former Senate Majority Leaders Howard Baker, Tom Daschle, Bob Dole, and George Mitchell, the BPC is a non-profit organization that works to

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address the key challenges facing the nation. BPC develops solutions through rigorous analysis, reasoned negotiation, and respectful dialogue among former elected and appointed officials, business and labor leaders, and academics and advocates who represent the entire political spectrum.

In 2011, the BPC launched the Nuclear Initiative to examine the challenges and opportunities for nuclear power in the United States.[2] Senator Domenici and Dr. Miller hosted a series of public events aimed at raising the level of dialogue about nuclear energy's future in the United States. At these events, a wide range of stakeholders discussed how to preserve and promote the safe use of nuclear energy as a reliable source of low-carbon electricity, and explored how to maintain technological and diplomatic U.S. leadership on international nuclear issues. In September 2012, the BPC's Nuclear Initiative issued a report entitled, "*Maintaining U.S. Leadership in Global Nuclear Energy Markets*."[3] In that report, Senator Domenici and Dr. Miller emphasized their belief that nuclear power must continue to be viewed as a critical option for electricity generation—one that remains uniquely important for long-term U.S. national security and energy security.

About the Blue Ribbon Commission on America's Nuclear Future

In 2010, the Blue Ribbon Commission on America's Nuclear Future (BRC) was formed by the Secretary of Energy at the direction of President Obama. This 15-member Commission was co-chaired by former Representative Lee H. Hamilton and former National Security Advisor and Lieutenant General Brent Scowcroft, USAF (Ret.). The BRC was charged with conducting a comprehensive review of policies for managing the back end of the nuclear fuel cycle and finding a way to move our nation's nuclear energy policy forward. In January 2012, the BRC issued a consensus report that recommended a new comprehensive strategy to manage and dispose of the nation's spent nuclear fuel (SNF) and high-level radioactive waste (BRC Report).[4]

The BRC Report reflects two years of work by the BRC gathering testimony and input from a variety of experts and stakeholders to develop detailed recommendations for creating a safe, long-term solution for managing and disposing of the nation's SNF and high-level radioactive waste. The strategy recommended in the BRC Report has eight key elements:

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[2] More information available at: http://bipartisanpolicy.org/projects/nuclear-initiative.

[3] Available at: http://bipartisanpolicy.org/library/report/maintaining-us-leadership-global-nuclear-energy-markets.

[4] BRC, REPORT TO THE SECRETARY OF ENERGY (January 2012), *available at* http://cybercemetery.unt.edu/archive/brc/20120620220235/http://brc.gov/sites/default/files/documents/brc_finalreport_jan2012.pdf.

1. A new, consent-based approach to siting future nuclear waste management facilities.
2. A new organization dedicated solely to implementing the waste management program and empowered with the authority and resources to succeed.
3. Access to the funds nuclear utility ratepayers are providing for the purpose of nuclear waste management.
4. Prompt efforts to develop one or more geologic disposal facilities.
5. Prompt efforts to develop one or more consolidated storage facilities.
6. Prompt efforts to prepare for the eventual large-scale transport of SNF and high-level waste to consolidated storage and disposal facilities when such facilities become available.
7. Support for continued U.S. innovation in nuclear energy technology and for workforce development.
8. Active U.S. leadership in international efforts to address safety, waste management, non-proliferation, and security concerns.

We are pleased that the Draft Bill reflects most of the BRC's recommendations, but there are some key differences that we would like to examine. Specifically, in our comments to the Draft Bill, we want to focus on the issues of governance, funding, and linkage.

Our comments are not intended to show dissatisfaction with the efforts of Senators Alexander, Feinstein, Murkowski, and Wyden. In fact, we strongly commend them and their staffs, as well as former Senator Bingaman, for their leadership and collaborative efforts to design a bill that builds on the work of the BRC. Your efforts are appreciated and vital to addressing the grand national challenge of managing and disposing of nuclear waste.

Governance

One of the BRC's central recommendations, which is essential to the effectiveness of the other recommendations, is the establishment of a new, single-purpose organization to take over the waste management program. From an implementation standpoint, we understand that establishing a new organization for waste management is among the most difficult recommendations made by the BRC. It is also one of the most important because, if the institutional structure is wrong, the responsible entity never will be able to effectively implement the proper policy.

While the BRC recognized that future waste management decisions could never be fully immune from politics, the BRC concluded that a new organization with greater control over its finances could operate with less influence from short-term political pressures. The structure of such an organization could take many forms, but the BRC consensus conclusion was that a congressionally chartered federal corporation

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(FedCorp) offers the best model.[5] The BRC's conclusion is consistent with that of an independent advisory committee, the Advisory Panel on Alternative Means of Financing and Managing Radioactive Waste Facilities, which in 1984 also recommended an independent federal corporation to serve as a new waste management organization.[6] The Draft Bill, by contrast, proposes a Nuclear Waste Administration (NWA), an independent agency within the Executive Branch of the federal government, to fulfill the role of the new organization.

We urge the drafters to reconsider the form of the new management entity. We agree with the BRC finding that a corporate structure offers advantages that a political agency does not. Similarly, the nuclear industry's comments to this Draft Bill also suggest that a new management entity should use a corporate structure, as opposed to a single administrator structure as proposed for the NWA. The BRC found that a FedCorp will be less susceptible to political micromanagement, have more flexibility to respond to changes in external conditions, and have greater ability to manage costs and schedules.

If a federal agency is chosen as the approach to pursue, we suggest that the authors of the Draft Bill reconsider the membership of the Oversight Board, which as currently drafted consists of the Deputy Director of the Office of Management and Budget; the Chief of Engineers of the Army Corps of Engineers; and the Deputy Secretary of Energy. As Presidentially-nominated and Senate-confirmed officials, they are subject to regular turnover with each new political cycle, and these three officials alone may not reflect the breadth of views needed. Advocates of the federal agency approach should consider a structure that includes a broad stakeholder advisory committee that includes a full range of perspectives as a way to provide input to the program.

We prefer the management approach outlined in the BRC Report.[7] Under this approach, the President would appoint a Board of Directors for our proposed FedCorp. The Senate would confirm these appointees, who would have staggered, seven-year terms. Members of the Board of Directors would be able to provide a range of perspectives and expertise to ensure that key interests would be represented. In addition to a Board of Directors, the FedCorp would need a strong chief executive officer (CEO). The CEO should be appointed by and report to the corporation's Board of Directors. The CEO will need exceptional management, political, and technical skills and experience and a tenure that extends longer than the political cycle. Overall, compared to an independent federal agency, we think

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[5] BRC REPORT at 61.

[6] SECRETARY OF ENERGY'S ADVISORY PANEL ON ALTERNATIVE MEANS OF FINANCING AND MANAGING RADIOACTIVE WASTE FACILITIES, MANAGING NUCLEAR WASTE - A BETTER IDEA (December 1984) (transmitted to Congress in April 1985), in the BRC library at http://www.brc.gov/sites/default/files/documents/amfm_1984_s.pdf.

[7] BRC REPORT at 63.

the FedCorp structure recommended by the BRC enhances the executive management's ability to manage the daily operations of the new organization and promotes greater political stability.

The BRC Report includes the following suggestion of how FedCorp's Board of Directors could be structured:[8]

EXAMPLE OF HOW THE NUCLEAR WASTE MANAGEMENT CORPORATION'S BOARD OF DIRECTORS MIGHT BE STRUCTURED

Size: Eleven members, including the CEO.

Appointment: appointed by the President by and with the advice and consent of the Senate (with the exception of the Board-appointed CEO who serves *ex officio*).

General qualifications: To be eligible to be appointed as a member of the Board, an individual shall — (1) be a citizen of the United States; (2) with the exception of the CEO, not be an employee of the Corporation; (3) make full disclosure to Congress of any investment or other financial interest that the individual holds in the energy industry; and (4) affirm support for the purposes of the Corporation.

Composition: The composition of the board is intended to ensure the ability to exercise sound, professional managerial and financial oversight of the functions of the waste management corporation. The President and the Senate, in making these appointments, will consider individuals who bring that expertise, ability, and experience.

Nominees should be selected from organizations contributing to the Nuclear Waste Fund, state public utility commissions, the environmental non-governmental organization community, representatives of workers involved in the construction or operation of radioactive waste management facilities, and others with demonstrated knowledge and experience relevant to the conduct of the activities of the organization, including technical, scientific, social science, community and stakeholder relations, siting, and public health and safety functions. Not more than six of the members shall be from any one political party.

Chairman: Selected by the Board.

CEO: Selected by the Board in its sole discretion, and serves as an *ex officio* member of the Board.

Compensation for members who are not federal employees would be provided through an annual stipend (e.g. TVA) or through compensation at a specified daily rate (e.g. proposed United States Nuclear Fuel Management Corporation Establishment Act)

Term of office: Seven years, renewable once. Staggered terms, member would continue to serve until his/her successor is appointed.

Subcommittees and consultants: The Board is authorized to form subcommittees and hire consultants and advisors as needed.

One issue that has been raised in connection with the FedCorp structure is that delays in the confirmation process could leave the Board without a quorum. If this is a concern, there are several approaches to dealing with the issue. One possibility, drawing on the common practice for private corporations, is to allow the FedCorp's Board to be authorized to fill a Board vacancy on an interim basis until a successor is confirmed by the Senate. Several other alternatives could also be considered: the quorum requirement could be reduced; the President could be authorized to make interim appointments; or incumbents could serve until their successors take office.

[8] BRC REPORT at 63.

Yet another solution could be to authorize the Board Directors to direct the CEO to undertake all appropriate actions otherwise requiring Board approval, in the event of a loss of quorum.

Ultimately, for the new organization to succeed, a substantial degree of independence and implementing authority will be needed. We feel strongly that a corporate structure is the best model to follow, and urge the Senators to modify the Draft Bill accordingly. We also believe that using a corporate structure works better with the funding mechanisms that we recommend below.

Funding

In addition to providing the organization with a corporate structure, the success of the organization will also depend on effective access to financial resources. According to the BRC, "the success of a revitalized nuclear waste management program will depend on making the revenues generated by the nuclear waste fee and the balance in the [Nuclear Waste Fund] available when needed and in the amounts needed to implement the program."[9]

The BRC Report provides background about the 1982 Nuclear Waste Policy Act's "polluter pays" funding mechanism and a summary of the current treatment of the nuclear waste fund (NWF) in the federal budget.[10] The NWF, which is administered by the U.S. Treasury, holds the fees collected by utilities that own or operate nuclear power plants from their ratepayers. Until recently, the fees collected for the NWF have provided the government with approximately $750 million per year in revenues. (The annual amount is projected to decrease to approximately $725-730 million per year due to plant retirements.) The total amount of fees collected from nuclear utilities through September 2012 was approximately $24.2 billion.[11] The NWF also includes revenues from the Defense Nuclear Waste Disposal Act (DNWDA) and accrues interest. The unspent balance of the NWF is often referred to as the "corpus" of the NWF.

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[9] BRC REPORT at 70.

[10] BRC REPORT at 70-74.

[11] AUDIT REPORT: DEPARTMENT OF ENERGY'S NUCLEAR WASTE FUND'S FISCAL YEAR 2012 FINANCIAL STATEMENTS at 2 (November 2012), *available at* http://energy.gov/sites/prod/files/OAS-FS-13-05.pdf. According to the Audit report:

> As of September 30, 2012, cumulative revenue from fees and the DNWDA, totaled approximately $ 24.2 billion; and cumulative interest earnings and other revenue totaled approximately $19.2 billion. Cumulative expenditures by [DOE] from appropriations and amounts authorized by Congress, including direct appropriations to the [Nuclear Regulatory Commission], the now defunct Office of the Nuclear Waste Negotiator, and the Nuclear Waste Technical Review Board, totaled approximately $11.4 billion.

The NWF was established for the sole purpose of covering the costs of disposing of civilian nuclear waste. This self-financing mechanism, which is based on contractually-obligated user fees, was supposed to provide a secure source of funding that would not be subject to the vagaries of the annual budget process or the shifting policy directions of succeeding administrations. Unfortunately, the NWF has not worked and is not working as planned.

Changes to budgetary treatment of the NWF have created major obstacles to the federal government's ability to use the NWF as intended. For example, due to the Balanced Budget and Emergency Deficit Control Act of 1985, fee receipts from nuclear utility customers are treated like tax revenues on the "mandatory" side of the budget whereas, expenditures for nuclear waste management program are treated as "discretionary" (this is known as "splitting the NWF"). Both the BRC and the January 2013 "*Strategy for the Management and Disposal of Used Nuclear Fuel and High-Level Radioactive Waste*" report (January 2013 DOE Report)[12] suggested that the Administration take steps to address the "splitting the NWF" challenge by reclassifying fee receipts from the mandatory to the discretionary side of the budget.[13] Another example of flawed budgetary treatment is related to "pay as you go/cut as you go" requirements (PAYGO). PAYGO requires that appropriations for the waste management program must be offset by cuts in other programs within the annual discretionary appropriations caps. These examples demonstrate that there is a failure to use the NWF as intended.

Entangling the NWF in budget rules that were designed to reduce the deficit fails to recognize the fact that the funds in the NWF are paid by nuclear utility ratepayers to be used to dispose of nuclear waste. It does not make sense to force a self-financed program to compete for limited discretionary funds in an annual appropriations process. Congress must extricate the NWF from the current budget process, if the new waste management organization is to have any chance for success.

In addition to these unintended consequences of budget constraints on the NWF, the requirements of current law that make the NWF subject to annual appropriations have led to a major obstacle to progress. The BRC found that the appropriations process has proven to be a "poor mechanism for financing a very long and complex effort."[14] According to the BRC, the annual appropriations process creates too much funding uncertainty, which hampers the implementing agency's ability to make long-term plans and retain staff expertise. In addition, the BRC found that Congress

[12] The January 2013 DOE Report, *available at* http://energy.gov/sites/prod/files/Strategy%20for%20the%20Management%20and%20Disposal%20of%20Used%20Nuclear%20Fuel%20and%20High%20Level%20Radioactive%20Waste.pdf.

[13] BRC REPORT at 77.

[14] BRC REPORT at 74.

has increasingly failed to pass annual appropriations bills in a timely manner, which also impedes the ability of an implementing agency to fulfill its mission.[15]

The government's failure to meet its statutory obligations under the NWPA has not only cost the nation in terms of a loss of public confidence, it also has cost taxpayers billions in damage payments to utilities. At the time the BRC Report was prepared, DOE estimated that the total damage awards to utilities could amount to $20.8 billion, assuming that the federal government begins accepting fuel in 2020.[16] This estimate will continue to grow by hundreds of millions of dollars each year that the 2020 date of acceptance slips.

We appreciate the Draft Bill's proposals to address the funding challenge. However, we offer the following modifications, which we believe are necessary to ensure that effective funding is available to the new waste management organization.

The Draft Bill establishes a Working Capital Fund, separate from the NWF, which would consist of (1) fees collected from utility ratepayers after the passage of the Draft Bill; (2) any appropriations from Congress for defense high level waste disposal; and (3) interest paid on the Working Capital Fund. Under the Draft Bill, the Working Capital Fund is made available to the Administrator of the NWA, except to the extent that access is limited in the annual appropriations process.

The Working Capital Fund is an improvement over the current situation. However, we are concerned that the new organization will still not be able to effectively access funds because, as drafted, these funds could be limited through annual appropriations. The BRC recommended that the new organization be given the same authority as the Tennessee Valley Authority and Bonneville Power Administration to use its revenues to satisfy its obligations independent of annual appropriations, with appropriate congressional oversight.[17] We encourage the drafters to modify the language to give the new organization clear access to the fee receipts, outside of the annual appropriations process. We realize this will be a legislative challenge, but we think that oversight of the new organization can be conducted without the application of an annual appropriations process that would lead to substantial uncertainty and to likely inaction. In the January 2013 DOE Report, DOE noted that mandatory appropriations could still be managed by limiting the use to specific capital expenditures and applying performance triggers, such as meeting licensing actions and major construction milestones, or using hard spending caps.[18]

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[15] BRC REPORT at 74.
[16] BRC REPORT at 79.
[17] BRC Report at 74.
[18] January 2013 DOE Report at 12.

We also suggest that the Committee consider adding a section to the Draft Bill that directs DOE to take certain steps to increase access to fee revenues. The BRC Report included a recommendation (described in the following paragraph) to accomplish this as a non-legislative action, but it appears that the Administration has yet to endorse this idea. In its January 2013 DOE Report, DOE presented its responses to the BRC's Report. DOE's Report did not address the BRC recommendation that the Secretary exercise his existing authority to establish procedures for the collection and payment of the fees.

The BRC Report suggested that the DOE change the way in which the nuclear waste fee is collected so that only an amount equal to actual appropriations from the NWF is collected each year, with the remainder transferred by utilities to approved trust funds to be available when needed for future use in carrying out the nuclear waste program.[19] We think this change in fee collection would help to arrest the flow of funds into an inaccessible account. Given the government's track record of collecting fees without delivering on its obligations to dispose of nuclear waste, this change in fee collection to "trust accounts" maintained by an approved financial institution (as is now done with fees collected for decommissioning) would increase confidence that fees will be used for the nuclear waste program, not for general federal deficit reduction, and would ensure that the funds would be readily available to the new organization to meet program needs.

Additionally, the Draft Bill does not propose needed changes to the treatment of the corpus of the NWF. The BRC recommended that a defined schedule payment to transfer the balance of the corpus to the new organization should be established, starting 10 years after the new organization is established.[20] This was recommended to ensure that the balance of the NWF would be accessible when needed, especially during periods of peak cost. The January 2013 DOE Report also recognized that access to the balance or corpus of the NWF would be needed at an appropriate time in the future. We urge the drafters to address this issue and ensure that the balance of the NWF is available to fulfill its intended commitments.

Fixing the funding problem is a major challenge. We feel that the Working Capital Fund concept is a good first step to try to free the fee receipts so that they flow more directly to the new organization, but we are concerned that as currently drafted, the funding provisions in the Draft Bill will not ensure the independence of the new organization from the budget process and from shifting political pressures.

[19] BRC REPORT at 76.
[20] BRC REPORT at 78.

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Linkage

In addition to our recommendations on governance and funding, we strongly recommend that efforts to develop a storage facility and a repository not be tied together or "linked" by statutory requirements. The BRC concluded that requiring a link between progress on interim storage and progress on a repository could lead to further delay in the transfer of spent nuclear fuel (SNF) from reactor sites around the country to one or more safer, more secure interim storage facilities.[21]

The Draft Bill would require the new waste management entity to seek to ensure that efforts to site, construct, and operate a storage facility are accompanied by parallel efforts to site, construct, and operate one or more repositories. The Draft Bill requires that if the NWA or the Oversight Board determines that substantial progress on a repository is not being made, the NWA must suspend any shipments of nuclear waste to, and receipt of nuclear waste at, any storage facility, until such time as the Oversight Board determines that substantial progress is again being made. Under the Draft Bill, the NWA and the Oversight Board annually certify whether "substantial progress" is being made towards siting, constructing, and operating a repository. Thus, under the Committee's proposal, the development and continued operation of one or more interim storage facilities would be explicitly linked to progress on siting and licensing a final repository.

By contrast, the Alexander-Feinstein Alternative Siting Proposal (Alexander-Feinstein Alternative) would eliminate the "substantial progress" requirement from the Draft Bill. Under the Alexander-Feinstein Alternative, the NWA would be empowered to continue developing and operating an interim storage facility even if progress on a permanent repository were to stall.

As the BRC observed, demonstrating parallel progress on a permanent repository will be essential to convincing communities that are considering hosting an interim storage facility that their communities will not become *de facto* disposal sites.[22] Accordingly, we strongly support Section 306(a) of the Draft Bill, which requires the NWA to seek to ensure that efforts to develop interim storage and a permanent repository be pursued on parallel tracks. This provision will help to ensure that the new nuclear waste entity remains focused on the ultimate goal: permanent disposal of the nation's SNF.

We are concerned, however, with the Draft Bill's requirement that siting, construction, and operation of a storage facility must be suspended if the NWA ceases to make "substantial progress" on a repository. First, the term "substantial progress" is undefined and open to numerous interpretations. Further, we believe

[21] BRC REPORT at xii.
[22] BRC REPORT at 40.

that the development and operation of interim storage should not be linked directly to progress on a permanent repository. The BRC concluded that the development of one or more safe, secure interim waste storage facilities would provide a number of benefits, including allowing the government to begin meeting its obligation to remove SNF from over one hundred sites around the country to safer, more secure locations; allowing the decommissioning and repurposing of shutdown nuclear facilities; and providing for flexibility and future cost savings in the nuclear waste program.[23]

In order to ensure that the benefits of interim storage are realized as expeditiously as possible, the BRC recommended that the current statutorily-mandated linkage between progress on a repository and operation of a storage facility be eliminated, so that delays in progress on a repository would not hold up the transfer of SNF from individual reactor sites to safer, more secure centralized storage facilities.[24] We support this recommendation.

In addition, we are concerned that if deliveries to a storage facility are halted due to a finding that substantial progress is not being made towards development of an ultimate repository, taxpayers could continue to incur additional liability under the government's existing waste removal contracts without clear progress. We are also concerned with the possibility that shipments of SNF could be "stranded" in transit if, as section 306(d) of the Draft Bill requires, a storage facility were to stop accepting shipments of SNF immediately upon a finding by the that the NWA has ceased making substantial progress.

Finally, we note that some communities (*e.g.*, Carlsbad, NM) have expressed openness to hosting a centralized storage facility without an explicit linkage to the siting and operation of a repository. We believe that the states and communities who will be hosting a nuclear waste storage facility are in the best position to determine the appropriate relationship between continuing progress on a repository and the development and operation of a storage facility. Concerns that a storage facility would become a *de facto* repository can be best addressed through direct negotiations between the affected communities and the nuclear waste entity. Therefore, we recommend that the drafters eliminate any linkage between the development and operation of a storage facility and progress on a repository.

[23] BRC REPORT at 35-39.
[24] BRC REPORT at xii.

Additional Issues:

Future Contracts for Waste Disposal

Section 406(d) of the Draft Bill, which relates to future contracts for waste disposal, appears to require clarification because it is subject to at least two interpretations. One possible interpretation of section 406(d) is that the NWA would be prohibited from entering into any new contracts to remove and dispose of commercial SNF until after the Nuclear Regulatory Commission (NRC) has licensed a nuclear waste storage or disposal facility.[25] The other possible interpretation is that any new waste disposal contracts entered into by the Administrator may not obligate the government to begin accepting waste until a date later than the licensing of a nuclear waste facility.[26]

We are concerned that under the first interpretation of section 406(d), the NWA would disallow any new waste disposal contracts with commercial reactors until such time as a nuclear waste facility is licensed. Given the history of previous efforts to license such a facility, and the requirement that reactor operators execute a waste disposal contract as a condition of obtaining an operating license for the reactor, we are concerned that such a requirement would effectively halt the licensing of all new reactors for years while the federal government identifies, characterizes, and licenses a new storage facility or repository.[27] We believe that such a measure is not warranted by either safety or environmental concerns, and that new facilities should continue to be licensed while the government searches for a long-term solution to the nation's nuclear waste issues.

We support the second interpretation of section 406(d), in which the NWA would be required to alter the terms of future contracts such that the government would not be obligated to begin accepting waste until after a storage facility or repository has been licensed. Such a provision would ensure that the government would not be faced with additional liability in the future, in case the search for a storage facility or repository takes longer than anticipated. However, a provision enacting the second interpretation would not unnecessarily halt all licensing of new reactors until such time as a storage facility or repository received its license. Accordingly, we urge the drafters to clarify section 406(d) so that it does not require a complete halt to new

[25] The Committee's "Side-by-Side Summary" of the Proposed Bill appears to support this reading. According to the Summary, section 406 "[p]rohibits the Administrator from entering into new waste disposal contracts before licensing a repository or storage facility."

[26] In other words, the provision would allow the Administrator to set a date-of-acceptance for SNF that would be conditioned on the future licensing of a storage facility or repository.

[27] Under the NWPA, the NRC may not issue or renew a license unless the license applicant has signed a contract with the government for disposal of SNF, or the federal government certifies that the applicant is negotiating in good faith for such a contract. *See* NWPA § 302(b)(1)(A), 42 U.S.C. § 10222(b)(1)(A) (2012). Therefore, the first interpretation of section 406(d) of the Draft Bill would effectively halt all licensing and relicensing activity in the U.S.

reactor licensing, but only allows the NWA to modify the Standard Contract by using a date-of-acceptance for SNF that is later than the date on which a nuclear waste facility would be licensed.

Settlement of Existing Claims

Section 406(b) of the Draft Bill requires the federal government to settle all breach of contract claims with contract-holders as a "condition precedent" to accepting any waste deliveries from the contract-holder to a new storage facility. The government and individual reactor owners have been engaged in both litigation and settlement negotiations to attempt to resolve claims that the government violated its contracts with commercial operators by failing to begin accepting SNF from reactors in 1998, as required by the Standard Contract.[28]

We are concerned that Section 406(b) of the Draft Bill will upset current negotiations over the government's existing liability under existing contracts for disposal of SNF.[29] Although the government's failure to timely accept and remove SNF has been the subject of significant litigation over the past several years, we believe that the parties are rapidly and efficiently moving towards settlement of the outstanding claims. We are concerned that making the settlement of all of an individual licensee's claims a precondition for removal of waste from temporary storage at reactor sites would unfairly tip the balance in the government's favor and thereby upset ongoing and future discussions to settle outstanding claims be contract-holders. In particular, we are concerned that the government may attempt to use its ability to refuse shipments of SNF from facilities that are shut down or that are running out of storage space to negotiate a settlement agreement that is more favorable to the government.

In addition, if parties are unable to settle their differences in a timely manner, the need to settle all disputes prior to movement of SNF from reactor sites could result in additional delays in the consolidation of nuclear waste at a safer, more centralized storage facility or repository. Such a result would defeat the goals of the BRC, and would lead to more costs as well as the additional safety and security concerns associated with the long-term storage of SNF at reactor sites.

[28] Since 2008, DOE has ceased agreeing to the January 31, 1998 date-of-waste-acceptance term in its contracts with utilities. However, the government is still incurring over $1 billion in annual liabilities under existing contracts due to its failure to accept and dispose of waste from existing reactors.

[29] With the exception of contracts negotiated after 2008, these contracts require the federal government to begin accepting SNF for disposal by January 31, 1998.

Congressional Approval of Consent Agreements

The BRC recommended that consent agreements negotiated between the federal waste management entity and the affected state, Tribal, and local governments not be required to obtain additional congressional approval.[30] However, both the Draft Bill and the Alexander-Feinstein Alternative would require Congress to approve any final consent agreements negotiated with affected governments.

We are concerned that these provisions could allow some in Congress to halt progress on an otherwise safe, appropriate nuclear waste project that has received the approval of the waste management entity as well as all affected state, Tribal, and local governments. Such provisions could unnecessarily delay the development of centralized waste facilities in the United States—an outcome that would be contrary to the goals of the BRC and, we believe, of the Committee. We therefore urge the Committee to reconsider this requirement, and to allow the licensing and construction of a storage facility or repository to go forward once all affected state, Tribal, and local governments have given their approval. Such a requirement for Congressional approval undermines and diminishes the value of the consent-based approach, and could jeopardize negotiated long term obligations from the federal government, such as research funding. We believe that instead of requiring congressional approval of a negotiated agreement, it would be best to rely on a FedCorp model organization to work with affected stakeholders to address issues of concern and mitigate unnecessary delays as well as assure timely access to the NWF.

Alexander-Feinstein Alternative

The BRC recommended that States, communities, and Indian Tribes with jurisdiction over a proposed waste site initially consent to be considered for siting of any nuclear waste facility before the start of site characterization.[31] The Draft Bill requires that the NWA consider for site characterization only (1) locations that have been recommended by either the State, community, or Indian Tribe, or (2) locations identified by the NWA and approved for site characterization by the State, community, and Tribe (if applicable). In addition, the Draft Bill would require the NWA to enter into consultation and cooperation agreements with all affected units of government before selecting a site for site characterization. While the Alexander-Feinstein Alternative generally mirrors the Draft Bill on the approach to repositories, the Alexander-Feinstein Alternative would allow any party (including private parties) to submit a proposal for development of an interim storage facility without requiring the NWA to obtain the consent of all affected units of government before conducting an initial site characterization for the interim storage facility.[32]

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[30] BRC REPORT at 54.

[31] BRC REPORT at 57.

[32] *See* Alexander-Feinstein Alternative § 305(b). The Alexander-Feinstein Alternative requires the Administrator to review each proposal to site a storage facility to determine the extent to which

While we appreciate the more expedited nature of the Alexander-Feinstein Alternative to siting a pilot storage facility, we think that the Draft Bill's approach more closely resembles the BRC's recommendation. It is critical to maximize the consent-based approach to siting of nuclear waste facilities so that stakeholders have assurance that site characterization activities would not proceed in a community unless all affected units of government consented. Proceeding with site characterization without the consent of affected governments could engender local opposition to the project and could result in a waste of federal site characterization funds. We therefore recommend the Draft Bill's approach as it relates to proposal and site characterization for interim storage facilities. However, as we discuss above, we support the Alexander-Feinstein Alternative's elimination of the link between progress on a repository and the development and operation of an interim storage facility.

Technology

Given that three of the four senators who developed this Draft Bill serve on the Senate Committee on Appropriations, we would also like to take this opportunity to reiterate our strong support for advanced nuclear technology programs such as DOE's Small Modular Reactor Program. We thank you for your past work and encourage you to continue to support research on small modular reactors as well as other advanced reactor concepts. Spending on such activities is critical to enhancing reactor safety and reducing radioactive waste challenges.

In addition, we recommend that a portion of the NWF be considered for the development of technologies that can repurpose existing nuclear waste into usable energy cost effectively, as proposed in Senator Domenici and Dr. Peterson's February 19, 2013, letter to Chairman Wyden. We believe that the development of these technologies will strengthen local and state support for hosting consolidated storage and geologic disposal facilities, and that it would therefore be appropriate for some portion of the NWF to be applied toward this goal. The Board of Directors (if a FedCorp) or the Administrator (if a federal agency) should coordinate with DOE in developing advanced fuel cycle technologies supported by NWF and DOE funds to avoid duplication.

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affected states, local governments, and Indian Tribes support the proposal. However, the Alexander-Feinstein Alternative does not appear to require the Administrator to forgo site characterization if he or she finds that one or more affected unit of government does not support the proposal. Like the Proposed Bill, the Alexander-Feinstein Alternative would require the Administrator to obtain consent from the State, Tribe, and local government (as applicable) before characterizing a site that was not recommended by one of those entities for purposes of siting a repository.

Defense Waste

As written in the Draft Bill, Sections 307 and 506 may create unnecessary tensions related to defense waste management between the Secretary and the new waste management organization. We recommend the drafters ensure that DOE and the new waste management organization work in collaboration to address defense waste in an effective and efficient manner.

Conclusion

The BPC Nuclear Initiative appreciates the opportunity to submit comments on the Draft Bill. We urge the Committee to make the changes recommended herein. We are available at the Committee's request to discuss these recommendations.

Sincerely,

Pete V. Domenici
Co-chairman, BPC Nuclear Initiative

Warren F. Miller
Co-chairman, BPC Nuclear Initiative

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Question 1: Considerations for locating storage facility sites
Submitter's Name/Affiliation: BIPARTISAN POLICY CENTER

Should the Administrator take into account, when considering candidate storage facility sites, the extent to which a storage facility would: (a) unduly burden a State in which significant volumes of defenses wastes are stored or transuranic wastes are disposed of; or (b) conflict with a compliance agreement requiring the removal of nuclear waste from a site or a statutory prohibition on the storage or disposal of nuclear waste at a site? Alternatively, should the State and other non-federal parties seeking to site a candidate storage facility be allowed to determine whether they are unduly burdened? Should the final consent agreement, which would be sent to Congress for ratification, contain an authorizing provision to amend any conflicting compliance agreement or statutory prohibition?

Please submit your response HERE. (no page limit)

BPC Comments:

The Bipartisan Policy Center's (BPC) Nuclear Initiative has filed general comments on the draft Nuclear Waste Administration Act of 2013 (Draft Bill), which focused on the issues of governance, funding, and linkage. As noted in our comments, we are pleased that the Draft Bill reflects most of the Blue Ribbon Commission on America's Nuclear Future (BRC) recommendations.

With respect to the BRC's recommendation about consent-based siting, we think the Draft Bill moves in the right direction, but we would warn the Committee against imposing overly prescriptive siting criteria in the legislation. The new waste management organization and consenting states and communities can negotiate acceptable terms that address any perceived burdens or conflicts.

Regarding congressional approval of final consent agreements, we agree with the BRC's recommendation that consent agreements negotiated between the federal waste management entity and the affected state, Tribal, and local governments not be required to obtain additional congressional approval.[1] However, both the Draft Bill and the Alexander-Feinstein Alternative would require Congress to approve any final consent agreements negotiated with affected governments.

We are concerned that these provisions could allow some in Congress to halt progress on an otherwise safe, appropriate nuclear waste project that has received the approval of the waste management entity as well as all affected state, Tribal, and local governments. Such provisions could unnecessarily delay the development of centralized waste facilities in the United States—an outcome that would be contrary to the goals of the BRC and, we believe,

[1] BRC, REPORT TO THE SECRETARY OF ENERGY 54 (January 2012), *available at* http://cybercemetery.unt.edu/archive/brc/20120620211605/http:/brc.gov//.

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Question 1: Considerations for locating storage facility sites
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of the authors. We therefore urge the authors to reconsider this requirement, and to allow the licensing and construction of a storage facility or repository to go forward once all affected state, Tribal, and local governments have given their approval. A requirement for Congressional approval undermines and diminishes the value of the consent-based approach, and could jeopardize negotiated long term obligations from the federal government, such as research funding.

Please refer to our comments for further details.

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Question 2: Linkage between storage and repository
Submitter's Name/Affiliation: BIPARTISAN POLICY CENTER

Should the bill establish a linkage between progress on development of a repository and progress on development of a storage facility? If so, is the linkage proposed in section 306 of the bill appropriate, too strong, or too loose? If a linkage is needed, should it be determined as part of the negotiations between the state and federal governments and included in the consent agreement rather than in the bill?

Please submit your response HERE. (no page limit)

BPC Comments:

The Bipartisan Policy Center's (BPC) Nuclear Initiative has filed general comments on the draft Nuclear Waste Administration Act of 2013 (Draft Bill), which focused on the issues of governance, funding, and linkage. As noted in our comments, we are pleased that the Draft Bill reflects most of the Blue Ribbon Commission on America's Nuclear Future (BRC) recommendations. We are concerned, however, with how the Draft Bill deals with the linkage issue.

We strongly recommend that efforts to develop a storage facility and a repository not be tied together or "linked" by statutory requirements. As the BRC concluded, requiring a link between progress on interim storage and progress on a repository could lead to further delay in the transfer of spent nuclear fuel from reactor sites around the country to one or more safer, more secure interim storage facilities.[1]

The Draft Bill would require the new waste management entity to seek to ensure that efforts to site, construct, and operate a storage facility are accompanied by parallel efforts to site, construct, and operate one or more repositories. The Draft Bill also requires that if the NWA or the Oversight Board determines that substantial progress on a repository is not being made, the NWA must suspend any shipments of nuclear waste to, and receipt of nuclear waste at, any storage facility, until such time as the Oversight Board determines that substantial progress is again being made. Under the Draft Bill, the NWA and the Oversight Board must annually certify whether "substantial progress" is being made towards siting, constructing, and operating a repository. Thus, under the Committee's proposal, the development and continued operation of one or more interim storage facilities would be explicitly linked to progress on siting and licensing a final repository.

By contrast, the Alexander-Feinstein Alternative Siting Proposal (Alexander-Feinstein Alternative) would eliminate the "substantial progress" requirement from the Draft Bill.

[1] BRC, REPORT TO THE SECRETARY OF ENERGY xii (January 2012), *available at* http://cybercemetery.unt.edu/archive/brc/20120620211605/http:/brc.gov// (BRC REPORT).

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Question 2: Linkage between storage and repository
Submitter's Name/Affiliation: BIPARTISAN POLICY CENTER

Under the Alexander-Feinstein Alternative, the NWA would be empowered to continue developing and operating an interim storage facility even if progress on a permanent repository were to stall.

As the BRC observed, demonstrating parallel progress on a permanent repository will be essential to convincing communities that are considering hosting an interim storage facility that their communities will not become de facto disposal sites.[2] Accordingly, we strongly support Section 306(a) of the Draft Bill, which requires the NWA to seek to ensure that efforts to develop interim storage and a permanent repository be pursued on parallel tracks. This provision will help to ensure that the new nuclear waste entity remains focused on the ultimate goal: permanent disposal of the nation's spent nuclear fuel.

We are concerned, however, with the Draft Bill's requirement that siting, construction, and operation of a storage facility must be suspended if the NWA ceases to make "substantial progress" on a repository. First, the term "substantial progress" is undefined and open to numerous interpretations. Further, we believe that the development and operation of interim storage should not be linked directly to progress on a permanent repository. The BRC concluded that the development of one or more safe, secure interim waste storage facilities would provide a number of benefits, including allowing the government to begin meeting its obligation to remove spent nuclear fuel from over one hundred sites around the country to safer, more secure locations; allowing the decommissioning and repurposing of shutdown nuclear facilities; and providing for flexibility and future cost savings in the nuclear waste program.[3] Furthermore, in order to ensure that the benefits of interim storage are realized as expeditiously as possible, the BRC recommended that the current statutorily-mandated linkage between progress on a repository and operation of a storage facility be eliminated, so that delays in progress on a repository would not hold up the transfer of spent nuclear fuel from individual reactor sites to a safer, more secure centralized storage facility.[4] We support this recommendation.

In addition, we are concerned that if deliveries to a storage facility are halted due to a finding that substantial progress is not being made towards development of an ultimate repository, taxpayers could continue to incur additional liability under the government's existing waste removal contracts without clear progress. We are also concerned with the possibility that shipments of spent nuclear fuel could be "stranded" in transit if, as section 306(d) of the Draft Bill requires, a storage facility were to stop accepting shipments of spent nuclear fuel immediately upon a finding by the that the NWA has ceased making substantial progress.

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[2] *See* BRC REPORT at 40.
[3] BRC REPORT at 35-39.
[4] BRC REPORT at xii.

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Question 2: Linkage between storage and repository
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Finally, we note that some communities (e.g., Carlsbad, NM) have expressed openness to hosting a centralized storage facility without an explicit linkage to the siting and operation of a repository. We believe that the states and communities who will be hosting a nuclear waste storage facility are in the best position to determine the appropriate relationship between continuing progress on a repository and the development and operation of a storage facility. Concerns that a storage facility would become a de facto repository can be best addressed through direct negotiations between the affected communities and the nuclear waste entity. Therefore, we recommend that the drafters eliminate any linkage between the development and operation of a storage facility and progress on a repository.

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Question 3: Separate process for storage facility siting – Alternative Section 305
Submitter's Name/Affiliation: BIPARTISAN POLICY CENTER

Should the bill establish separate storage and disposal programs with clearly defined requirements for each, with any linkage negotiated in the consent agreement between the federal and non-federal parties, to allow the two program to run on separate, but parallel tracks, as proposed in the alternative section 305 (which would replace section 304(b)-(g) of the draft bill)?

Please submit your response HERE. (no page limit)

BPC Comments:

The Bipartisan Policy Center's (BPC) Nuclear Initiative has filed general comments on the draft Nuclear Waste Administration Act of 2013 (Draft Bill), which focused on the issues of governance, funding, and linkage. As noted in our comments, we are pleased that the Draft Bill reflects most of the Blue Ribbon Commission on America's Nuclear Future (BRC) recommendations.

The short answer to Question 3 is yes. We are concerned with how the Draft Bill deals with the linkage issue. Therefore, we support certain aspects of the alternative section 305, including its elimination of the "substantial progress" linkage between interim storage and a repository.

Please refer to our comments and response to Question 2 for further details.

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Question 4: Separate process for storage facility siting – General streamlining for storage only
Submitter's Name/Affiliation: BIPARTISAN POLICY CENTER

To what extent should the siting and consensus approval process for spent fuel storage facilities differ from that for the repository? Should the Administrator be required to conduct sufficient site-specific research (referred to as "characterization" in the bill) on candidate storage sites to determine if they are suitable for storing nuclear waste or only on candidate repository sites to determine if they are suitable for geologic disposal of nuclear waste? Should the Administrator be required to hold public hearings both before and after site characterization (as required by current law in the case of the Yucca Mountain site) or only before site characterization?

Please submit your response HERE. (no page limit)

BPC Comments:

The Bipartisan Policy Center's (BPC) Nuclear Initiative has filed general comments on the draft Nuclear Waste Administration Act of 2013 (Draft Bill), which focused on the issues of governance, funding, and linkage. As noted in our comments, we are pleased that the Draft Bill reflects most of the Blue Ribbon Commission on America's Nuclear Future (BRC) recommendations.

With respect to the BRC's recommendation about consent-based siting, we think the Draft Bill moves in the right direction, but we would warn against trying to impose a process with too many procedural requirements at the beginning of the process. The new waste management organization and consenting states and communities should have as much flexibility as possible to engage in what are likely to be complex and extended negotiations. The BRC recommended that the implementing organization develop a set of basic initial siting criteria.[1] Further, the BRC emphasized the need to continuously communicate with local communities and stakeholders. Accordingly, the new waste management organization and affected potential hosts should be allowed to determine when and how often to hold public hearings as part of their negotiations. Please refer to our comments for further details.

[1] BRC, REPORT TO THE SECRETARY OF ENERGY 54 (January 2012), *available at* http://cybercemetery.unt.edu/archive/brc/20120620211605/http:/brc.gov//.

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Question 5: Complexity of repository and storage facility siting processes
Submitter's Name/Affiliation: BIPARTISAN POLICY CENTER

Should the siting process in section 304 of the draft bill be streamlined? If so, how?

Please submit your response HERE. (no page limit)

BPC Comments:

The Bipartisan Policy Center's (BPC) Nuclear Initiative has filed general comments on the draft Nuclear Waste Administration Act of 2013 (Draft Bill), which focused on the issues of governance, funding, and linkage. As noted in our comments, we are pleased that the Draft Bill reflects most of the Blue Ribbon Commission on America's Nuclear Future (BRC) recommendations.

On the issue of whether the siting process in section 304 should be streamlined, we would respectfully suggest that it should be streamlined. While we think the Draft Bill moves in the right direction, we would warn against trying to impose a process with too many procedural requirements at the beginning of the process. The new waste management organization and consenting states and communities should have as much flexibility as possible to engage in what are likely to be complex and extended negotiations. The BRC recommended that the implementing organization develop a set of basic initial siting criteria.[1] Then, as the siting process continues, additional sets of criteria can be applied to eliminate all but the most suitable sites. Please refer to our comments for further details.

[1] BRC, REPORT TO THE SECRETARY OF ENERGY 54 (January 2012), *available at* http://cybercemetery.unt.edu/archive/brc/20120620211605/http:/brc.gov//.

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Question 6: Governance of the Nuclear Waste Administration – Administrator vs. Board of Directors
Submitter's Name/Affiliation: BIPARTISAN POLICY CENTER

Should the new entity be governed by a single administrator or by a board of directors?

(a) If by a single administrator, should the administrator serve for a fixed term? If so, how long should the term of service be? Should the legislation prescribe qualifications for the administrator? If so, what should be the selection criteria?

(b) If by a board of directors, how many people should comprise the board and how should they be selected?

Please submit your response HERE. (no page limit)

BPC Comments:

The Bipartisan Policy Center's (BPC) Nuclear Initiative has filed general comments on the draft Nuclear Waste Administration Act of 2013 (Draft Bill), which focused on the issues of governance, funding, and linkage. As noted in our comments, we are pleased that the Draft Bill reflects most of the Blue Ribbon Commission on America's Nuclear Future (BRC) recommendations.

One of the BRC's central recommendations, which is essential to the effectiveness of the other recommendations, is the establishment of a new, single-purpose organization to take over the waste management program. As explained in further detail in our comments, we recommend that the new entity be governed by a Board of Directors. Consistent with the BRC's recommendations, we think that a congressionally chartered federal corporation (FedCorp) offers the best model for a new organization. The BRC's conclusion is consistent with that of an independent advisory committee, the Alternative Means of Financing and Managing, which in 1984 also recommended an independent federal corporation to serve as a new waste management organization.[1]

In the BRC Report, the Commissioners recommended that the Board of Directors of the FedCorp be appointed by the President and confirmed by the Senate (for staggered seven-year terms).[2] Members of the board should be selected on the basis of their expertise, ability, and experience, and would be able to provide a range of perspectives to ensure that key interests would be represented. The board should select its own chairman as well as the chief executive officer (CEO). The BRC Report suggests a board size of eleven members,

[1] SECRETARY OF ENERGY'S ADVISORY PANEL ON ALTERNATIVE MEANS OF FINANCING AND MANAGING RADIOACTIVE WASTE FACILITIES, MANAGING NUCLEAR WASTE - A BETTER IDEA (1984).
[2] BRC, REPORT TO THE SECRETARY OF ENERGY 63 (January 2012), *available at* http://cybercemetery.unt.edu/archive/brc/20120620211605/http:/brc.gov//.

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Question 6: Governance of the Nuclear Waste Administration – Administrator vs. Board of Directors
Submitter's Name/Affiliation: BIPARTISAN POLICY CENTER

including the CEO. In addition to a Board of Directors, the FedCorp needs a strong CEO with exceptional management, political, and technical skills and experience and a tenure that extends longer than the political cycle. Overall, we think that the FedCorp structure recommended by the BRC would enhance the executive management's ability to manage the daily operations of the new organization and would promote greater political stability, compared to an independent federal agency.

Please refer to our general comments for further recommendations on the governance structure for a new waste management organization.

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Question 7: Governance of the Nuclear Waste Administration – Role of advisory committees
Submitter's Name/Affiliation: BIPARTISAN POLICY CENTER

The Blue Ribbon Commission recommended establishment of both a board of directors for management oversight (whose "primary role ... is not to represent all stakeholder views, but rather to carry out fiduciary responsibilities for management oversight") and "a larger and more widely representative stakeholder advisory committee." The draft bill responds to these recommendations, first, by establishing a Nuclear Waste Oversight Board of senior federal officials and, second, by authorizing the Administrator to establish advisory committees. Should the Oversight Board and advisory committee be combined into a single body to perform both management oversight and stakeholder representation functions? Should the focus and membership of any advisory committees be established in the legislation or left to the Administrator?

Please submit your response HERE. (no page limit)

BPC Comments:

The Bipartisan Policy Center's (BPC) Nuclear Initiative has filed general comments on the draft Nuclear Waste Administration Act of 2013 (Draft Bill), which focused on the issues of governance, funding, and linkage. As noted in our comments, we are pleased that the Draft Bill reflects most of the Blue Ribbon Commission on America's Nuclear Future (BRC) recommendations. As explained in our comments and our response to Question 6, we recommend a corporate structure with a Board of Directors for the new organization.

With respect to the Oversight Board, we are concerned that the Draft Bill would only include the Deputy Director of the Office of Management and Budget; the Chief of Engineers of the Army Corps of Engineers; and the Deputy Secretary of Energy. As Presidentially-nominated and Senate-confirmed officials, these individuals are subject to regular turnover with each new political cycle. Instead of the Draft Bill's proposed Oversight Board, we support the BRC's recommendation to establish a broad stakeholder advisory committee as a way to provide input to the program from a full range of perspectives. This broader stakeholder advisory committee would advise the CEO in a FedCorp model. However, if a federal agency/Oversight Board structure is pursued, such a stakeholder advisory committee could still play a useful role as an advisor to the Draft Bill's Oversight Board.

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Question 8: Governance of the Nuclear Waste Administration – Membership of the Oversight Board
Submitter's Name/Affiliation: BIPARTISAN POLICY CENTER

Dr. Meserve testified in 2012 that representatives of stakeholders and public utility commissioners should be added to the Nuclear Waste Oversight Board. Would these additions make the Board better able to carry out its fiduciary oversight mission effectively?

Please submit your response HERE. (no page limit)

BPC Comments:

The Bipartisan Policy Center's (BPC) Nuclear Initiative has filed general comments on the draft Nuclear Waste Administration Act of 2013 (Draft Bill), which focused on the issues of governance, funding, and linkage. As noted in our comments, we are pleased that the Draft Bill reflects most of the Blue Ribbon Commission on America's Nuclear Future (BRC) recommendations.

As noted in our comments and in our response to Question 7, we believe that the proposed Oversight Board should be replaced with a broader stakeholder advisory committee that would advise the CEO in a FedCorp model. If a federal agency structure is pursued, then a stakeholder advisory committee should advise the Draft Bill's Oversight Board.

We agree with Dr. Meserve's suggestion, which is referred to in Question 8, above. It is consistent with the BRC Report's recommendation that stakeholders on such an advisory committee could include utility companies; public utility commissioners; taxpayers; states; tribes; local communities; public interest groups; the nuclear industry; DOE; the U.S. Navy; the academic community; and the non-proliferation and nuclear security policy community. Allowing individuals with such a broad spectrum of perspectives to participate will enhance the new management entity's ability to carry out its mission.

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Question 1: Considerations for locating storage facility sites
Submitter's Name/Affiliation: Les Minthorn, Chairman of the Board of Trustees, Confederated Tribes of the Umatilla Indian Reservation (CTUIR)

Should the Administrator take into account, when considering candidate storage facility sites, the extent to which a storage facility would: (a) unduly burden a State in which significant volumes of defenses wastes are stored or transuranic wastes are disposed of; or (b) conflict with a compliance agreement requiring the removal of nuclear waste from a site or a statutory prohibition on the storage or disposal of nuclear waste at a site? Alternatively, should the State and other non-federal parties seeking to site a candidate storage facility be allowed to determine whether they are unduly burdened? Should the final consent agreement, which would be sent to Congress for ratification, contain an authorizing provision to amend any conflicting compliance agreement or statutory prohibition?

These comments are offered from the perspective of an Indian Tribe identified in the Nuclear Waste Policy as a Hanford-affected Tribe. The Hanford site is not on an Indian reservation, but the nuclear processing affects CTUIR Treaty-reserved rights and traditional resources and affects individual Tribal members to safely access and use their treaty reserved natural and cultural resources. Clean and stabilized Hanford defense waste depends on the establishment of a deep geologic repository.

The CTUIR interprets the language on page 24 as establishing a component-based storage system located near current facilities with the intent to process and use the local rules, and use local assets, technical capabilities and local (state, tribal, counties) laws or agreements with the intent of drawing upon local and regional resources with the ability to change compliance agreements to ensure a storage configuration and condition that minimizes health risks and minimizes transportation risks to one or more repositories. Our interpretation takes into account the probability that a site may contain both commercial and defense waste, and the probability that any storage facility or disposal repository is likely to affect an American Indian Tribe.

This is because site locations are likely to be in the arid west, where Tribal usual and accustomed areas cover all public lands, and where reservations are large and homelands are expansive.

(a) **Yes, the cumulative burden should be considered**. Some states have both defense and commercial waste, state-compacted waste, tremendous amounts of residual environmental contamination without a remediation path forward, large nuclear waste near-surface disposal facilities, and leaking high-level waste tanks, all within a single facility (Hanford). CTUIR is one of the affected Tribes at Hanford, and has seen the consequences of piecemeal decision-making it if fails to consider cumulative impacts.
(b) **Cumulative burdens should also be considered in sections of the Act** related to identification of affected Indian Tribes, because siting decisions can affect locations where Indian Tribes have Treaty-reserved rights to access and use off-reservation natural and cultural resources. Cumulative burdens to Tribes of all environmental stressors should be explicitly listed in the Act as well as within any subsequent compliance agreements and NEPA evaluations.
(c) **Undue burden**: Yes the administrator should consider whether a State in which significant volumes of defense waste are stored or transuranic wastes are disposed; or a statutory prohibition on the storage or disposal of nuclear waste at a site. Although, this question addresses only temporary storage of defense waste and disposal of TRU waste,

it must include commercial waste. Section 304 describes a component-based system located near current facilities. This question is more complicated than a simple answer can respond to, and deserves additional inspection. For example, within an overall programmatic approach to waste types, storage, and disposal, different components of defense and commercial waste might or might not have separate storage and disposal locations, depending on the solution relative to co-mingling.

(d) **Undue burden**: The answer also depends on whether the mission is (1) for the NWA to decide where the defense waste is stored and TRU waste is disposed, and then negotiates with the state to make it happen, or (2) whether NWA expects a state or Tribe to make a request to host a facility and then negotiate terms with the federal government. The language is ambivalent on the decision process and should be clear as to whether the state or affected Indian Tribe can agree or not, and whether the terms can be fairly negotiated and distributed. Conversely, it might also be read as being able to refuse a request by a State that has decided to make money from hosting more and more nuclear waste, in which case the NWA might have to refuse on behalf of the citizens of the state. In either case, cumulative impacts and undue burden (environmental justice) need to be considered. The Act is not clear about the terms there would be for the hosts to take on this national burden; This would have to be clarified in the mission plan.

(e) **Yes, cleanup compliance agreements are very important to consider**. Under NO circumstances should Congress be authorized to amend existing compliance agreements that have been judicially settled, unless affected American Indian Tribes are allowed to participate in a manner equivalent to States.

ADDITIONAL COMMENTS

1. Reference to Affected Indian Tribes

Language in the Act says: … requires the new nuclear waste agency to obtain state and local (and tribal if on an Indian reservation*) consent to study sites;

Suggested language: "on an Indian reservation **and for any site where an Indian Tribe has been identified in the Nuclear Waste Policy Act as an affected Tribe."*

Rationale: Indian Tribes may be affected even if the site is not directly on a reservation. The CTUIR recognizes the potential for an affected Tribe to host a storage facility, but the Affected Tribes at the defense waste sites (Hanford, Los Alamos) are also affected by the development of storage and disposal facilities wherever they are located. Every mention of a Tribe needs to use the wording "affected Indian Tribe" and should NOT be limited to Tribes who might host a site on a reservation.Many tribes, including the Confederated Tribes of the Umatilla Indian Reservation retain significant off-reservation traditional use, religious and cultural interests affected by the United States nuclear waste policy decisions and implementing activities. In the Nuclear Waste Policy Act, three Tribes (including CTUIR) were explicitly recognized as affected Indian Tribes even though Hanford is not directly on an Indian Reservation.

Question 1: Considerations for locating storage facility sites
Submitter's Name/Affiliation: Les Minthorn, Chairman of the Board of Trustees, Confederated Tribes of the Umatilla Indian Reservation (CTUIR)

2. General comments

This Act establishes a new agency for storage and disposal of nuclear waste. It is probably a good idea not to specify high-level waste because definitions might change.

For commercial waste this Act makes sense, because it forces the US to find a permanent disposal site for commercial high-level waste. It is good to require local buy-in, presumably by offering incentives such as jobs and payments in lieu of taxes to the host community. It never made sense to try to force a state or community to accept the nation's commercial high level nuclear waste without compensation.

However, for defense high level waste sites (such as Hanford), this puts USDOE legally enforceable milestones at risk because adding a new agency disconnects retrieval from disposal. The CTUIR recognizes that there is a provision for emergency acceptance of defense waste, which is good. If an off site high level waste storage facility is constructed, the CTUIR recognizes that the oversight of an on-site high level waste storage facility for vitrified high-level waste needs consideration and analysis before it is transported to the off-site storage facility and ultimately to the deep geologic repository.

The USDOE has a fairly good record of consultation with Tribes, and there is an understanding on both sides based on multi-decade interactions and mutual respect. A brand new agency in charge of high level defense nuclear waste storage and disposal cannot possibly have the same sensitivity about, a commitment to upholding the Treaty reserved rights and protection of the Treaty resources, consultation, or a commitment to the USDOE American Indian Policy, DOE Order 144.1, the Framework for implementing the USDOE American Indian Policy, and cultural resource protection.

It is not clear whether the new agency will automatically import all of the DOE Orders pertaining to long-term protection of public health and the environment. The CTUIR recognizes that an assurance is needed that the new agency will be at least as stringent as USDOE in public dose limits. In the case of Hanford, there is a commercial nuclear power plant operating within the boundaries of the Hanford CERCLA/RCRA site, as well as a state-compacted commercial low level waste disposal (US Ecology), both of which cause continual regulatory problems. Adding yet another agency to the mix, particularly if more commercial or defense waste is stored at Hanford, may exacerbate the regulatory morass that currently exists.

USDOE issued NEPA Environmental Impact Statements for both Complex-wide defense waste sites as well as local Hanford-specific waste storage and disposal problems. How will a new agency continue with previous decisions, or could previous decisions be over-ridden by new EISs issued by a new agency?

3. Specific comments

Page 3, line 5. Should the wording refer to a *deep* geologic repository, or just a single national geologic repository? The CTUIR has analyzed the elements for establishing permanent shallow

Question 1: Considerations for locating storage facility sites
Submitter's Name/Affiliation: Les Minthorn, Chairman of the Board of Trustees, Confederated Tribes of the Umatilla Indian Reservation (CTUIR)

disposal repositories for high-level nuclear waste by reclassifying the waste and have found this approach to be nonsensical due to the longevity of the intrinsic hazard of the material.

Page 6, lines 1-5. It seems that Tribes already identified as affected Tribes, or that might become affected if a repository is suggested within their traditional use areas, must petition the new NWA to be designated as a disposal-affected Tribe. At Hanford, this would mean that the 3 Tribes already identified as being affected by Hanford would also have to petition to be recognized as affected Tribes with respect to a final repository, since cleanup of Hanford depends on eventual off-site disposal. If any interim storage is proposed at Hanford, which is not on Indian Reservations but is within their traditional use areas, the 3 affected Tribes might also have to petition for some additional status. The wording needs to be changed; just recognize that active defense waste sites complicate the picture, particularly if interim storage facilities are needed.

Page 24, line 14. This should be OR, not AND.

Page 25, line 8 and following. It appears that a state governor, or even a local major or county commission could veto a Tribe that seeks to host a storage or disposal facility. This is inconsistent with the federal trust duty to tribes and protect their treaty reserved resources, government-to-government relations, and the federal policies promoting tribal self-governance. The same comment applies to Consent Agreement, page 31.

Question 2: Linkage between storage and repository
Submitter's Name/Affiliation: Les Minthorn, Chairman of the Board of Trustees, Confederated Tribes of the Umatilla Indian Reservation (CTUIR)

Should the bill establish a linkage between progress on development of a repository and progress on development of a storage facility? If so, is the linkage proposed in section 306 of the bill appropriate, too strong, or too loose? If a linkage is needed, should it be determined as part of the negotiations between the state and federal governments and included in the consent agreement rather than in the bill?

These comments are offered from the perspective of an Indian Tribe identified in the Nuclear Waste Policy as a Hanford-affected Tribe. The Hanford site is not on an Indian reservation, but the nuclear processing affects CTUIR Treaty-reserved rights and traditional resources and affects individual Tribal members to safely access and use their treaty reserved natural and cultural resources. Clean and stabilized Hanford defense waste depends on the establishment of a deep geologic repository.

The linkage in Section 306 is too loose in that the consent agreements need to reinforce the applicability of Treaties between American Indian Tribes and the federal government in order to ensure equal application of responsibilities for siting, constructing and operating storage facilities and repositories among all affected governments. At Hanford, Tribes were involuntarily excluded from the consent agreement (the Tri-Party Agreement) and fails to address the CTUIR interests in Treaty reserved rights, and other affected responsibilities as a federally recognized tribe. The language in Section 306 needs to be revised to ensure that affected Tribes take a seat at the decision table to protect its interests. Although those interests include to protection of reserved Treaty rights and traditional use areas, the CTUIR also actively asserts interests in contracting services at Hanford, addressing compensation, and request relief from adverse impacts to traditional use areas even if the location is not directly on a reservation, and be able to enter into dispute resolution.

Yes, the linkage is appropriately strong as written, but not so much that defense waste disposal would be impeded. It is good to require the Nuclear Waste Administration to move forward on a deep geologic repository with a firm due date. At the same time, it is good to allow the emergency defense waste storage to occur so enforceable cleanup deadlines can still be met at defense waste sites such as Hanford.

The language belongs in the bill as written, not deferred to the consent agreement. A consent agreement might be crafted by a Court without an opportunity for public involvement. It is good for a state or Tribe to be able to host a storage facility contingent on progress toward the disposal facility, to ensure that storage is only temporary. This is a general requirement that belongs in the bill, with other enforcement language in an individual consent agreement.

Question 3: Separate process for storage facility siting – Alternative Section 305
Submitter's Name/Affiliation: Les Minthorn, Chairman of the Board of Trustees, Confederated Tribes of the Umatilla Indian Reservation (CTUIR)

Should the bill establish separate storage and disposal programs with clearly defined requirements for each, with any linkage negotiated in the consent agreement between the federal and non-federal parties, to allow the two program to run on separate, but parallel tracks, as proposed in the alternative section 305 (which would replace section 304(b)-(g) of the draft bill)?

These comments are offered from the perspective of an Indian Tribe identified in the Nuclear Waste Policy as a Hanford-affected Tribe. The Hanford site is not on an Indian reservation, but the nuclear processing affects CTUIR Treaty-reserved rights and traditional resources and affects individual Tribal members to safely access and use their treaty reserved natural and cultural resources. Clean and stabilized Hanford defense waste depends on the establishment of a deep geologic repository.

As both storage and disposal programs are linked and have clearly defined requirements, the separation into separate programs might be workable. The separate parallel tracks are appropriate, even though the preference is for the facilities to be co-located. However, it is possible that a state or Tribe could allow a storage facility but not a disposal repository. This means that separate negotiations would be occurring with a different state/Tribe for a repository, and the two sets of negotiations could stumble over each other. The CTUIR agrees that lack of a repository should not mean that a storage facility cannot be built, so parallel tracks are necessary.

What would be the consequence of a substantial delay in the repository even if the storage facility is on schedule? What if the milestone for the storage facility is met but the milestone for the repository is not? It would also be up to the Administrator to optimize the two facilities (same state or nearest agreeable state, and so on). There will inevitably be some manipulation of the system, where one state might agree to a storage facility, and an adjacent state might then raise its price for hosting the repository.

An underlying assumption is that there will be incentives offered to the hosts, rather than simply an imposition by decree from on high. This is what caused Yucca Mountain to fail. It is recognized that the facilities might be in different states. This raises NEPA complications. The siting of each facility will require separate or joint Environmental Impact Statements (EIS). USDOE has addressed this through programmatic (Complex-wide) EISs so combinations of storage and disposal facilities could be optimized. It will be more difficult for the Administrator to develop independent EISs that still optimize geology, transportation distances, and so on.

Question 4: Separate process for storage facility siting – General streamlining for storage only
Submitter's Name/Affiliation: Les Minthorn, Chairman of the Board of Trustees, Confederated Tribes of the Umatilla Indian Reservation (CTUIR)

To what extent should the siting and consensus approval process for spent fuel storage facilities differ from that for the repository? Should the Administrator be required to conduct sufficient site-specific research (referred to as "characterization" in the bill) on candidate storage sites to determine if they are suitable for storing nuclear waste or only on candidate repository sites to determine if they are suitable for geologic disposal of nuclear waste? Should the Administrator be required to hold public hearings both before and after site characterization (as required by current law in the case of the Yucca Mountain site) or only before site characterization?

These comments are offered from the perspective of an Indian Tribe identified in the Nuclear Waste Policy as a Hanford-affected Tribe. The Hanford site is not on an Indian reservation, but the nuclear processing affects CTUIR Treaty-reserved rights and traditional resources and affects individual Tribal members to safely access and use their treaty reserved natural and cultural resources. Clean and stabilized Hanford defense waste depends on the establishment of a deep geologic repository.

The language in the Act is appropriate as written. Yes, the Administrator should conduct enough site-specific research to know whether site conditions are likely to be met by candidate sites. A site might be proposed for a repository, yet only be suitable for storage, and this should be known as early as possible. The same degree of prior research is needed for both storage and deep geologic sites, except that candidate repository sites would not need deep geologic boreholes.

It would be appropriate for the Administrator to prepare a clear set of conditions that are required for each type of facility. Thus, the Administrator might suggest types of sites or actual site locations (such as those that were screened for the Yucca Mountain process) so potential host states or Tribes would be able to express an interest in a timely manner.

The CTUIR expects that the mission plan will outline the process, such as publishing site requirements, accepting expressions of interest, and conducting internal research to identify likely regions in case there are no expressions of interest by potential repository hosts. A scenario where multiple proposals by states or Tribes to host a temporary storage facility, but with no willingness to host the permanent repository without significant financial and other incentives can be envisioned. This would require the NWA to conduct road shows at locations that the NWA has determined might be suitable for the repository.

It would be optimal to find a joint solution for both facilities, but in order to avoid stopping the repository for lack of a storage facility (or vice versa), there needs to be an allowance for separate processes. The suggestion that the Administrator evaluate sites for both facilities (whether co-located or not) is good, because a state or Tribe might agree to host only one of them. While the preference is for co-location, this might not be possible, and should not be an absolute requirement. It may be that geological and political conditions make one state a better

Question 4: Separate process for storage facility siting – General streamlining for storage only

Submitter's Name/Affiliation: Les Minthorn, Chairman of the Board of Trustees, Confederated Tribes of the Umatilla Indian Reservation (CTUIR)

candidate for a storage facility and another state for the repository. For example, the Goshute Tribe might offer a storage site, and New Mexico might offer a repository site.

Before-and-after hearings, as well as many interim hearings, are good. The more hearings there are, the more community acceptance there is likely to be, particularly if the community and state or Tribe receives compensation (jobs, infrastructure support, payments in lieu of taxes, training, emergency response capacity). As sites are narrowed down, it is not clear how a final selection will be made. This must be described in the mission plan.

Question 5: Complexity of repository and storage facility siting processes
Submitter's Name/Affiliation: Les Minthorn, Chairman of the Board of Trustees, Confederated Tribes of the Umatilla Indian Reservation (CTUIR)

Should the siting process in section 304 of the draft bill be streamlined? If so, how?

These comments are offered from the perspective of an Indian Tribe identified in the Nuclear Waste Policy as a Hanford-affected Tribe. The Hanford site is not on an Indian reservation, but the nuclear processing affects CTUIR Treaty-reserved rights and traditional resources and affects individual Tribal members to safely access and use their treaty reserved natural and cultural resources. Clean and stabilized Hanford defense waste depends on the establishment of a deep geologic repository.

The definition of "Affected Indian Tribe" should be used throughout the document, and always refer to the governing body of AN AFFECTED INDIAN TRIBE, even if the site is outside a reservation boundary. Affected Tribes must always be consulted and give consent. We recommend the following language change:

(2) SITES ELIGIBLE FOR REVIEW.—The Administrator shall select sites for evaluation under paragraph (1) from among sites recommended by—
(A) the Governor or duly authorized official of the State in which the site is located;
(B) the governing body of the affected unit of general local government;
(C) the governing body of an AFFECTED Indian tribe ~~within the reservation boundaries of which the site is located; or~~
(iii) the governing body of ~~the~~ AN AFFECTED Indian tribe, ~~if the site is located within the reservation of an Indian tribe.~~

Even though the storage facility would not open until 2021, this is still a moderately aggressive schedule because nuclear waste is involved. The mission plan and siting guidelines can be done with a year. At that time, with the proper outreach and communication about benefits and other incentives, it would be expected that some states and Tribes may be willing to seek to host one or both facilities. The CTUIR experience is that imposing a repository on an unwilling state won't work. Thus, criteria, incentives, and guidelines must be clear enough for states and tribes to know whether they might qualify as a host, and they need to know quickly. The earlier the criteria, incentives, and guidelines are published, the better.

The term "streamline" often means communities are ignored while the Federal administration makes a decision and then announce it. Fairness and transparency may be more important than speed in the overall siting process. Page 22, (Section 305(a)(1) says communities will be allowed to determine what terms need to be met; this takes time and cannot be overly streamlined; on the other hand the process must continue to move forward, so a reasonable but not overextended schedule is needed. On page 27, line 22(a) should read at least TWO sites for the repository should be considered because the following section says that there is a preference for co-located storage and disposal sites. Hanford is already a temporary storage site for vitrified waste because an off-site storage site is not ready; this waste will have to be moved to the storage site as soon as possible.

Question 5: Complexity of repository and storage facility siting processes
Submitter's Name/Affiliation: Les Minthorn, Chairman of the Board of Trustees, Confederated Tribes of the Umatilla Indian Reservation (CTUIR)

Consent agreement (page 31, line 15, section C): strike 'on an Indian Reservation.' This should read simply 'the governing body of an affected Indian Tribe.' Again, this is because a Tribe may be affected by off-reservation sites.

Question 6: Governance of the Nuclear Waste Administration – Administrator vs. Board of Directors
Submitter's Name/Affiliation: Les Minthorn, Chairman of the Board of Trustees, Confederated Tribes of the Umatilla Indian Reservation (CTUIR)

Should the new entity be governed by a single administrator or by a board of directors?

(a) If by a single administrator, should the administrator serve for a fixed term? If so, how long should the term of service be? Should the legislation prescribe qualifications for the administrator? If so, what should be the selection criteria?

(b) If by a board of directors, how many people should comprise the board and how should they be selected?

These comments are offered from the perspective of an Indian Tribe identified in the Nuclear Waste Policy as a Hanford-affected Tribe. The Hanford site is not on an Indian reservation, but the nuclear processing affects CTUIR Treaty-reserved rights and traditional resources and affects individual Tribal members to safely access and use their treaty reserved natural and cultural resources. Clean and stabilized Hanford defense waste depends on the establishment of a deep geologic repository.

Overall, a Board of Directors will be better than a single Administrator. The composition of the Board should be structured to adequately represent the affected interests, and support well informed decision making. The Board must include a member appointed by an Affected Indian Tribe. who has institutional knowledge and experience in the nuclear waste field of 15 years or longer and has a science degree. There is no provision for having affected tribes on the Board; in fact, such representation is automatically excluded unless they have a corporate background, in which case they will not have nuclear site experience. In addition, appointments must be ratified by Congress, and the Board should be in the position of making recommendations to Congress that uphold Treaty rights.

In general, 6-year terms are good because it spans presidential terms. However, if both the Administrator and Deputy Administrator are confirmed at the start of the NWA, their terms would also expire at the same time. Would institutional memory be affected if both of the top positions always changed at the same time?

The qualifications of the Administrator and/or other top officials should be clear in the Act, so an "exceptionally qualified person" is selected. That individual must be experience in national level policy implementation, and upholding the federal trust duties to affected tribal governments. The CTUIR supports accountability for the impacts to our traditional use areas, cultural and religious access and other protections embodied in federal law. Based on our experience with the US management of these issues, an Administrator should be able to uphold its legal obligations in the face of political interests pressure aimed to maximize benefits from a repository state, or blocking a repository in a certain states.. The expertise of the Administrator could be in arbitration combined with legal and nuclear knowledge. Neutrality is important, and so is technical expertise.. We have found that these factors determine the extent and magnitude of adverse impacts tribal traditional use areas caused by US nuclear storage and disposal decisions – and impacting past, present and future generations of tribal people. **A board of**

Question 6: Governance of the Nuclear Waste Administration – Administrator vs. Board of Directors

Submitter's Name/Affiliation: Les Minthorn, Chairman of the Board of Trustees, Confederated Tribes of the Umatilla Indian Reservation (CTUIR)

directors is good. The Oversight Board reports to Congress on progress. It is important for the Secretary of Energy to be on the Board and have some oversight power because USDOE is dependent on the high level waste repository in order to meet enforceable deadlines at defense sites.

Question 7: Governance of the Nuclear Waste Administration – Role of advisory committees

Submitter's Name/Affiliation: Les Minthorn, Chairman of the Board of Trustees, Confederated Tribes of the Umatilla Indian Reservation (CTUIR)

The Blue Ribbon Commission recommended establishment of both a board of directors for management oversight (whose "primary role ... is not to represent all stakeholder views, but rather to carry out fiduciary responsibilities for management oversight") and "a larger and more widely representative stakeholder advisory committee." The draft bill responds to these recommendations, first, by establishing a Nuclear Waste Oversight Board of senior federal officials and, second, by authorizing the Administrator to establish advisory committees. Should the Oversight Board and advisory committee be combined into a single body to perform both management oversight and stakeholder representation functions? Should the focus and membership of any advisory committees be established in the legislation or left to the Administrator?

These comments are offered from the perspective of an Indian Tribe identified in the Nuclear Waste Policy as a Hanford-affected Tribe. The Hanford site is not on an Indian reservation, but the nuclear processing affects CTUIR Treaty-reserved rights and traditional resources and affects individual Tribal members to safely access and use their treaty reserved natural and cultural resources. Clean and stabilized Hanford defense waste depends on the establishment of a deep geologic repository.

A board of directors is good. The Oversight Board reports to Congress on progress. The CTUIR supports a Board that will make well informed and timely recommendations to Congress. This includes recommendations that are consistent with the spirit policy and protection of affected tribal traditional resources. It is important for the Secretary of Energy to be on the Board and have some oversight power because USDOE is dependent on the high level waste repository in order to meet enforceable deadlines at defense sites. The draft should be revised to clarify the role of the Oversight Board in relation to the Secretary of Energy. Currently it is unclear if the Board is simply an auditor that tracks progress, and how much influence it will have, even though the Secretary of Energy will be a member.

There should be at least one representative nominated by one of the Affected Tribes on the Oversight Board to ensure equity and fair hearing (unless this more appropriate for the Advisory Committee). If the Oversight Board has an auditor function rather than any decision authority, then the Advisory Committee should include national policy representation with experience negotiating as a governor or President or State Department official (a Clinton, for instance), given the complex nature of legal rights, obligations and issues that must be considered for sound decision making and recommendations. Please clarify t the roles of the Oversight Board and Advisory Committee, and specify its their respective decision making authority and related duties. If Advisory Committees are simply technical advisors (e.g., on subsurface geology), then all of the stakeholder and State Department function must be on the Oversight Board.

Having a separate stakeholder advisory committee is good, although this won't work if the Oversight Board has the clout and the Stakeholder Board has the stakeholders. Also, the roles of the Board might change over time. At the beginning of the process, their job would be ensuring fairness as well as scientific quality. They might have to mediate between a governor, and civic

Question 7: Governance of the Nuclear Waste Administration – Role of advisory committees

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and/or Tribal officials if, for instance, a Tribe wants to host a storage facility but the governor doesn't. They should be familiar with the Yucca process to ensure that any pitfalls are avoided, and also to ensure that the right technical questions are raised and properly addressed. Later in the process they must be knowledgeable with all of the NEPA analysis that was done at Yucca, and what technical stumbling blocks occurred. They might also need local knowledge as sites are narrowed down. However, individual site-specific advisory boards (e.g., for Hanford or Los Alamos) have members with diametrically opposing views. One member per community is very clearly not enough to represent local interests. Simply having one local community representative will disenfranchise other voices, as Tribes know from long experience.

The Oversight or Advisory Board members also need to know how to ensure that legal processes are put into place to ensure a continued role for the hosts in the management of the facilities. General qualifications of Board membership should be established by the Administrator in his mission plan, but without micro-managing. Recently USDOE has stumbled by trying to dictate the precise composition of the Hanford Advisory Board (HAB) down to specific individual people. USDOE had to change its approach after being informed of that diversity concerns had already been guaranteed by defining the seats on the HAB, and was inconsistent with USDOE's effort to exercise approval or veto authority on the participation of properly seated HAB representatives.. As a general process, however, the SSAB process used by USDOE is generally good, and looks at membership qualifications. The charter (under FACA) of the HAB listed the interests and number of seats (for example, 3 Tribes, 2 university, 7 civic, one business, 5 Hanford workforce (union and non-union), medical, environmental, and so on). Conversely, USDOE makes unilateral decisions about local reuse without talking to (or consulting with) Tribes (as a Hanford example), so it will be difficult to select an advisory board with as few biases as possible.

Will the Oversight Board be chartered under Federal Advisory Committee Act?

Question 8: Governance of the Nuclear Waste Administration – Membership of the Oversight Board
Submitter's Name/Affiliation: Les Minthorn, Chairman of the Board of Trustees, Confederated Tribes of the Umatilla Indian Reservation (CTUIR)

Dr. Meserve testified in 2012 that representatives of stakeholders and public utility commissioners should be added to the Nuclear Waste Oversight Board. Would these additions make the Board better able to carry out its fiduciary oversight mission effectively?

These comments are offered from the perspective of an Indian Tribe identified in the Nuclear Waste Policy as a Hanford-affected Tribe. The Hanford site is not on an Indian reservation, but the nuclear processing affects CTUIR Treaty-reserved rights and traditional resources and affects individual Tribal members to safely access and use their treaty reserved natural and cultural resources. Clean and stabilized Hanford defense waste depends on the establishment of a deep geologic repository.

Both stakeholders and users (waste generators) need to have a voice, either in the oversight board or the advisory board, or both.

The primary concern for the CTUIR is that the protection of traditional use areas along with cultural and religious access and upholding federal trust obligations as a duty retained by the United States in these matters. It is improper to place the federal trust responsibilities before a stakeholder process, who do not hold the same legal responsibilities to affected tribes. Those responsibilities are unique to the federal trust relationship and shaped by federal policy, law, treaties and hundreds of years of government-to-government relations with tribes. That said, we also believe that the participation of affected tribes in the advisory and oversight boards is key to securing well informed decisions and recommendations from those bodies, which include the proper context in impacts to affected tribes. The mission plan for each board should include recognized the federal obligations to affected tribes.

The mission plan should spell this out. Equity in participation will result in more stable decisions. Roles may shift over time, so there may be a site selection phase, a site analysis and construction phase, and an operations phase. Advisors (or their technical expertise) may need to change over time as well, but there needs to be a continuous presence of state/civic, Tribal, environmental, utility, fiscal, and legal representatives who can give useful or expert advice. Each potential board member will have personal or constituency criteria (such as jobs or environmental quality or Tribal sovereignty), and one member per community is very clearly not enough to represent local interests.

There are several ways to know what representation is needed. One is to ask who cares and why – this will identify groups of people with different perspectives and interests, and it will change with distance from the site. Another is to ask what kind of decisions will need to be made – this will identify what kinds of expert advice is needed. Another is to ask about lessons learned at Yucca – this might identify a need for Tribal consultation experts, or environmental modeling experts. Of least use is a demographic approach – simply counting the number of people in various demographic or ethnic categories is particularly not useful for identifying tribal interests, and only knowing whether a site is on or off a reservation can miss important impacts to Tribes, traditional use areas, and cultural resources. *See:*

Question 8: Governance of the Nuclear Waste Administration – Membership of the Oversight Board

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Barbara Harper and Stuart Harris (2011) "Tribal Environmental Justice: Vulnerability, Trusteeship, and Equity under NEPA." ENVIRONMENTAL JUSTICE 4(4): 193-197

Stuart Harris and Barbara Harper (2011) "A Method for Tribal Environmental Justice Analysis." ENVIRONMENTAL JUSTICE 4(4): 231-237

S Harris and B Harper. "Using Eco-Cultural Dependency Webs in Risk Assessment and Characterization." Environmental Science and Pollution Research, 7(Special 2): 91-100, 2000. *This suggests a way to identify who cares and why.*

A list of criteria will be needed for site selection with threshold criteria (technical suitability of the site, and local desire for the site), and modifying criteria (if the first two are satisfied, then the next set of filters might include optimal distance from waste generators, presence of utilities and roads, and so on). These filters should be reflected in the board membership so there is expertise for each filter, examples include, but are not limited to: Waste generators can advise on volumes; engineers might advise on infrastructure impacts; Tribal technical experts might advise on impacts to tribal practices and economy.

May 25, 2013

MEMORANDUM

From: **Robert Alvarez, Senior Scholar, Institute for Policy Studies**

Subject: **Review and comments of the U.S. Senate Energy Draft legislation to amend the Nuclear Waste Policy Act**

Conclusions

Nuclear reactors in this country are no longer just about generating electricity. More and more, these facilities are becoming major radioactive waste management operations involving some of the largest concentrations of artificial radioactivity in the country. Unfortunately, reactor operators and their regulator, the Nuclear Regulatory Commission (NRC), are motivated more by economics than the growing necessity of more secure and safe radioactive waste storage. The economics of an aging U.S. reactor fleet, in this marketplace of abundant and cheap natural gas, weigh heavily on merchant operators that have no captive rate base to recover growing expenses.

Concurrently, the disposition of most of the nation's defense high-level radioactive wastes (HLW) at U.S. Department of Energy's Hanford site remains uncertain, while more than 60 percent of its HLW tanks have experienced leakage.

The draft legislation does not address these problems, in terms of (a) the long time periods that spent nuclear fuel will remain at reactor sites, even under the most optimistic assumptions, (b) reducing the hazards of high-density spent fuel pool storage, (c) mandating a containment strategy and its implementation for defense high-level radioactive wastes at the Energy Department's Hanford site; and (c) mitigating economic impacts at communities where on-site spent nuclear inventories at closed reactors will remain until removed.

Overall the draft tracks the recommendations of President Obama's Blue Ribbon Commission on America's Nuclear Future (BRC) issued last year; and the Energy Department's January 2013 strategic plan to implement the BRC's recommendations.

Major elements of the DOE's strategic plan include:

- Establishment of a pilot interim storage facility by 2021 for spent nuclear fuel from closed reactors. Currently, there are 17 closed commercial power reactors with spent fuel stored onsite.[1] Announcements were recently made to close two more reactors in Wisconsin and Florida. By the 2021 there may be additional closed reactors.
- Establishment of a larger interim storage spent nuclear fuel storage facility by the year 2025. The option of expanding the pilot interim storage facility is not ruled out; and
- To make a permanent geologic repository for permanent disposal available by 2048.

[1] Nuclear Energy Institute, Spent Fuel Status December 31, 2011.

A pilot consolidated SNF storage site would likely involve approximately 5,000 metric tons of SNF from 17 reactors and a failed reprocessing plant in Illinois.[2] If this quantity of commercial spent power reactor fuel is sent by rail to a pilot facility it would result in an estimated 280 to 500 rail shipments.[3] Upgrading long-distance rail lines to accommodate transport of several 100+ ton transport casks at a time remains an unresolved issue. If sent by truck, this could result in approximately 2,500 shipments.[4] If a pilot storage facility were expanded to accommodate 20,000 metric tons of spent fuel this could result in as many as 2,000 shipments by rail or 10,000 shipments by truck.[5]

The draft bill does not deal with the issue of high-density spent fuel pools, operating reactors, or the likelihood of long onsite spent fuel storage times, even under the most optimistic assumptions regarding the opening of consolidated storage and disposal sites. The timelines for consolidated storage, much less, a geological repository, contain strong elements of speculation. In effect, the bill does not address the failed default policy of onsite SNF storage at operating reactors, based on a fundamentally flawed premise of timely removal and disposal offsite

Adding uncertainty is the matter of safe transport of high burnup spent fuel[6], generated for the past 20 years. In 2012, experts at the National Academy of Sciences raised concerns stating, "the technical basis for the spent fuel currently being discharged (high utilization, burnup fuels) is not well established… the NRC has not yet granted a license for the transport of the higher burnup fuels that are now commonly discharged from reactors. In addition, spent fuel that may have degraded after extended storage may present new obstacles to safe transport."[7]

Nor does the draft explicitly address the prospects of reactor closures with prolonged SAFSTOR timelines, where SNF could remain in wet storage for decades. Nearly all U.S. reactors utilize high-density storage in pools originally intended to hold spent fuel for 3-5 years and will run out of wet storage space by 2015. The draft bill provides no incentives to reduce spent fuel pool densities and to expand inherently safer onsite dry cask storage. The Electric Power Research Institute estimates that it would cost approximately $3.5 billion to thin out the pools at all U.S. reactors.

Last year the Federal Court of Appeals the Court for the District of Columbia struck down the Nuclear Regulatory Commission's Waste Confidence Rule allowing for high density pool storage. According to the court:"We conclude that the Commission's EA [Environmental

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[2] Ibid.

[3] International Panel on Fissile Materials, Managing Spent Fuel from Nuclear Power Reactors, Experience and Lessons from Around the World, September 2011, p. 128.

[4] Ibid.

[5] Ibid.

[6] Since the early 1990s, the Nuclear Regulatory Commission (NRC) has permitted reactor operators to increase burnup by increasing fuel enrichment to 4.8 weight percent of uranium-235. This allows a fuel assembly to remain as long as six years in the reactor core and for shutdowns for refueling to be extended from one to two years. It also results in a much larger generation of high-heat fission products (i.e. Cs-137 and Sr -90) and impacts fuel cladding.

[7] National Academy of Engineering, Managing Nuclear Waste, Summer 2012, pp 21, 31.. http://www.nae.edu/File.aspx?id=60739

Assessment] and resulting FONSI [Finding of No Significant Impact] are not supported by substantial evidence on the record because the Commission failed to properly examine the risk of leaks in a forward-looking fashion and failed to examine the potential consequences of pool fires.”.

The draft bill retains the existing definition of high-level radioactive waste in the 1982 Act. In 2005, Congress authorized DOE to deviate from this definition and to self-regulate onsite disposal of HLW at the Savannah River Site and the Idaho National Engineering Laboratory. Because of opposition by the Pacific Northwest Congressional delegation, the Hanford site was excluded. The draft also addresses concerns of states with DOE sites storing defense high-level wastes by requiring their removal under existing compliance agreements.

The bill attempts to jump-start the site selection process by requiring the new Nuclear Waste Authority to establish a mission statement and storage and disposal guidelines within a year of enactment.

The consent process involves the governor, local government and/or Indian tribe. It is a double-tier consent process, which explicitly supports preference for co-location of a consolidated storage with disposal. Funds from user fees, now placed in Working Capital Fund can be used for compensation to host communities, economic development and other sweeteners.

The bottom line is that this draft does not address the likely prospects that spent nuclear fuel and defense HLW will remain at the generating sites for decades to come. A safe containment strategy for defense HLW, particularly at the Hanford site (with 60% of its aged 177 tanks experiencing leaks), should be mandated in the proposed legislation.

Finally, the bill does not address the impacts of reactor closures on the economies of communities and states left stranded with spent nuclear fuel for an indefinite period. At the minimum, states and communities hosting closed reactors should be provided with funds from the user fees collected under the NWPA for safer dry onsite storage and “payment in lieu of taxes,” until the wastes are removed.

SPECIFICSOF THE DRAFT LEGISLATION

The draft bill:

- Establishes a new Nuclear Waste Administration (NWA) that is responsible for establishing centralized storage and a permanent disposal site for defense high-level Wastes (HLW) and commercial SNF, as well as their transport. The Nuclear Regulatory Commission retains its authority to license storage and disposal. The NWA must submit a "mission Plan" no later than 1 year after enactment for comment by the Congress, the Oversight Board, the NRC the Nuclear Waste Technical Review Board, the States, Affected Indian tribes and "such other interested persons as the Administrator considers appropriate." The NWA is also required within 1 year to issue general guidelines for the consideration of candidate sites for storage and disposal. "As soon as practicable after the guidelines are issued The Administrator shall evaluate potential candidate sites, subject to approval by the governor of the host state, the local government of the candidate site or an affected Indian tribe. There are to be subsequent public hearings and formal cooperative agreements for site characterization with the above named.

- Supports a preference for the co-location of a consolidated storage and repository site. A final determination is made by the Administrator in accordance with EPA radiation protection standards and NRC licensing standards. There are to be public hearings before a final determination is made. The terms and conditions of such agreements involve: (a) financial compensation; (b) economic development assistance; (C) regulatory oversight authority; and (d) an enforceable deadline for removing nuclear waste from a storage facility.

- Establishes a Nuclear Waste Oversight Board to "oversee and administration of this Act and protect the public interest in the implementation of this Act." The board is made up of 2nd tier officials from OMB, the Corps of Engineers, and the DOE. The Board performs oversight over the management, expenditure and schedule of the NWA in meeting its obligations. It has no regulatory powers but makes recommendations to the President and the Congress.

- Establishes a Working Capital Fund derived from user fees under the NWPA and additional appropriated funds necessary for storage and disposal of defense HLW.

- Repeals the 70,000 MTU volume limit set for Yucca Mt. under the 1987 amendments to the Act.

- Allows for the same judicial review as in the existing law -- giving the US Court of Appeals In Washington D.C. and the Supreme Court jurisdiction. Judicial review extends to NEPA, failure of the NWA or the NRC to make any decision or action under the proposed law. Actions must be brought within 180 days.

- Eliminates the legislative veto under the existing law.

- De-links storage from disposal under the concept of "parallel programs." The Administrator of the NWA has to certify to Congress that sufficient progress is being made towards establishing a permanent disposal site. If the Administrator or the Nuclear Waste Oversight Board determines that insufficient progress is being made to establish a permanent disposal site, then shipments of wastes other than "emergency" shipments will be suspended.

- Does not address the use of NWPA funding for on-site dry storage of operating reactors. Funds collected under the NWPA cannot be used until a centralized storage and /or sites are chosen. Establishment of a pilot central SNF storage site for "Priority" waste are those at decommissioned reactors -- similar to that outlined in DOE's January 2013 Strategic Plan following up on the BRC recommendations.

- Accords the rights of Indian tribes the same level of recognition as in the current law, with the Interior Secretary deciding "affected tribe" status.

- Defines "priority waste" as "spent nuclear fuel removed from a civilian nuclear power reactor that has been permanently shut down." This offers a glimmer of hope that the NWPA funds can be used for onsite dry storage in order to avoid a multi-decade SAFSTOR wet storage scenario. However, the draft defines "storage facility" to mean " a facility for the storage of nuclear waste from multiple contract holders [centralized storage] or the Secretary pending the disposal of spent nuclear fuel in a repository." This needs further clarification.

- Maintains the same definition of HLW as in the 1982 act, which does not permit the DOE to "move the goal posts" for disposal of HLW on the Hanford site. Unfortunately, this is not the case for SRS and INL, which are subject to Section 3161 of the 2005 Defense Authorization Act, which gives DOE regulatory authority over disposal of HLW at those sites.

- Leaves the issue of who pays for onsite dry storage of operating reactors up to the reactor operator and/or the resolution of the pending lawsuits against DOE for failing to meet the Jan 1998 deadline in the 1987 amendments to the NWPA the government cannot title to the waste until a settlement is reached. For those settlements already reached, this may mean that the government can assume title. This section needs clarification.

- Does not address the issue of regional equity that ensures that less populated states that do not receive the benefits of nuclear-generated electricity are not targeted. This issue is probably looked upon as a "poison pill," guaranteed to outrage eastern states. The regional equity provisions in the original 1982 Act is what led to a public uproar in eastern states that prompted Congress to pick Yucca Mt. in 1987, while removing all other candidate sites from consideration.

- Requires DOE to remove defense HLW from a site is there is a compliance agreement in place to do so. Defense HLW can be stored as a centralized facility along with SNF, through a MOU between the Administrator of the New Agency and the DOE. 'emergency delivery" of HLW to a storage site includes defense HLW.

- Allows co-mingling of disposal of defense HLW and Commercial SNF, subject to a formal agreement between DOE and the NWA. . If one or more separate permanent disposal sites are required for defense HLW the Administrator, with the concurrence of the President can proceed to end co-mingling disposal of the two wastes. The DOE has to enter into a MOU with the Administrator of the new organization to provide the funds necessary for storage and disposal of defense HLW.

- Allows for technical cooperation and financial assistance to foreign governments, including nuclear weapons states, seeking storage and disposal.
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05/07/13
Comments on the Nuclear Waste Administration Act Discussion Draft

Overview

It is encouraging that the four Senators have come forward with draft legislation intended to break the current logjam in used fuel management. The proposed legislation addresses the key issues, most notably management reform, funding reform, repository siting and centralized interim storage facility development.

It is also encouraging that the Senators have issued the legislation as a discussion draft and requested comment from stakeholders and the public. There are certain aspects of the draft legislation that need revision prior to adoption into law if the country is to deal responsibly and efficiently with used fuel and high-level waste. Our key concerns are:

- Structure of the management authority and lack of involvement and oversight by the key financial stakeholders - the utilities and the public utility commissions (representing electricity customers).
- Overly prescriptive linkage and other provisions in consent agreements.
- A coercive requirement to settle lawsuits on government terms in order for nuclear power plant operators to get the performance that is required by used fuel disposal contracts, and for which the operators have paid billions of dollars.

Comments on the discussion draft are provided below. Those comments that are considered most significant are highlighted.

No.	Location	Comment
1.	General	Last fall's proposal by Senator Bingaman would have required the Environmental Protection Agency to promulgate generically applicable health and safety standards for a geological repository. Unfortunately, this current proposal did not include such a provision. This is a necessary provision if siting a repository other than Yucca Mountain is to proceed[1]. With no current generic standard in place, it is not clear how repository siting could go forward. It is unlikely EPA will act to develop a new standard any time soon, absent specific authorization and direction from Congress. Direction along those lines in the 2014 proposed administration budget are viewed as unlikely to survive enactment.

[1] The current Yucca Mountain standard, 40 CFR Part 197, is very conservative, somewhat health-based and probably achievable for that site. The generic standard, 40 CFR Part 191, is not health-based and is outdated and unusable for a variety of sites and geologic media (a fact recognized by the BRC).

No.	Location	Comment
2.	Sec 103 (Definitions) p. 7	The term “defense waste” is too broad. It goes beyond high-level waste to include all DOE transuranic waste and low level waste as well. Only high-level waste should be covered by this legislation.
3.	Sec 103 (Definitions) pp. 9-10	It is not clear that the newly introduced terms “priority waste” and “nonpriority waste” are necessary. To have legal significance, the terms would need to be incorporated into the Standard Contracts between the government and nuclear power plant operators.
4.	Title II – Nuclear Waste Administration	The bill sets up a dedicated organization (the NWA) outside of the Department of Energy to manage and dispose of HLW (Section 201). That much is consistent with the BRC report. However, the bill would accomplish this by establishing a new, stand-alone government agency, not a federal corporation. The independent government agency approach differs from all credible third party studies of the issue, including the BRC recommendations. Consistent with the BRC and many other groups, the nuclear industry has for years advocated giving management responsibility to an independent, federally chartered corporation governed by a board of directors with substantial representation of those entities that contribute financially to the Nuclear Waste Fund. The independent government agency approach proposed in this legislation appears to be deficient in a number of areas. It would do nothing to bring sound business practices to the management of used fuel. Moreover, a major shortcoming is that it does not involve in governance the stakeholders that have a vested interest in success. Finally, the proposed new government agency, the NWA, does nothing to provide the necessary insulation from political influence that is needed to carry out this important and challenging national mission.
5.	Section 202 (Principal Officers) pp. 13-16	The key leaders for the Nuclear Waste Administration will be highly salaried political appointees of the president. In fact, there will be three times more political appointees in the NWA than there were in the DOE Office of Civilian Radioactive Waste Management. The NWA approach does not appear to be suited to providing the strong technical and managerial leadership that will be required. Moreover, it would appear to increase the susceptibility to political influence on the part of the NWA senior leadership. The industry approach (federal corporation) would have a chief executive officer selected by a board of directors. If the CEO does not perform adequately, the board will remove him or her. The federal corporation would be more likely to provide the independent, experienced, high quality leadership that will be needed for program success.

No.	Location	Comment
6.	Section 202 (Principal Officers) pp. 15-16, (a) and (b)	It is not clear how the Administrator and Deputy Administrator will be removed if they are not discharging their duties effectively. It is important to be able to promptly remove ineffective leaders.
7.	Section 205 (Nuclear Waste Oversight Board)	The Nuclear Waste Oversight Board structure is problematical on multiple counts. • It appears to have no "teeth." • It is comprised entirely of government political appointees in the Executive Branch. The board members have demanding jobs and they will have no time to provide effective oversight to a program that is not their primary responsibility. • The proposed board provides neither technical expertise nor business acumen. It also does not bring to bear the lessons-learned in the commercial nuclear power industry. • There are no representatives for key stakeholders – utilities and electricity customers who pay into the Nuclear Waste Fund.
8.	Section 304 (Siting Guidelines)	In general, the guidelines are too detailed and prescriptive. In a true consent based siting framework, most of the issues should be resolved by mutual understanding between the federal government and the affected communities, not dictated by federal law. The alternative siting guidelines proposed by Senators Feinstein and Alexander are less prescriptive and therefore better.
9.	Section 304(b) (Siting Guidelines) pp. 23-24	The key siting guidelines should be (i) ability to meet safety requirements and obtain NRC approval and (ii) acceptance of the host community. The additional criteria provided in the proposed legislation (e.g., unduly burdening a state) are both ill-defined and unnecessary. Such issues should be addressed as necessary in the consent agreement, not "top down" in federal legislation. States and local communities are perfectly capable of looking after their own interests in this matter.
10.	Section 304(c)(4)(d) p. 27	The requirement for "a description of the decision process by which the site was recommended" is irrelevant for a site suitability determination in a consent-based siting process. This requirement should be deleted.

No.	Location	Comment
11.	Section 304(e)(2)(b) p. 30	As part of the site suitability determination, the Administrator is required to determine whether "development of a repository or storage facility at the site is in the national interest." That criterion should be deleted from this section because it has nothing to do with whether or not a site is suitable. The national interest issue is a completely different question. For example, a site could be found suitable for a storage facility, but the Administrator may determine that it makes better sense to expand an existing storage facility than to open a new one.
12.	Section 304(f) (Consent Agreements) p. 32	There is no need to prescribe what should be in the consent agreement (e.g., enforceable deadline for removing used fuel). The need for specific provisions should be determined by the parties to the agreement.
13.	Section 304(f) (Consent Agreements) p. 32	It is appropriate that a consent agreement include financial compensation and incentives. However, there is no check on "reasonableness." The NWA Administrator does not answer to the financial stakeholders in the program, so the Administrator may choose to offer excessive incentives, knowing that utilities and electricity customers must pay (even if it requires an increase in the Nuclear Waste Fee). This issue points to a fundamental flaw in the proposed legislation – the people and organizations that pay the bills have no opportunity to work effectively for program success and provide proper oversight and stewardship.
14.	Section 306 (Linkage Between Storage and Disposal)	The Administrator must annually certify that "substantial progress" toward a repository is being made. The Oversight Board similarly and independently must make such a certification. If not certified, shipments to the facility are suspended, except for emergency shipments. This provision is better than the "hard link" included in Senator Bingaman's proposed legislation in 2012. However, absent any measurable criteria for progress, and given the fact that the certifying officials are political appointees of the Administration, it would appear that the certification process is at best subjective and at worst highly subject to political manipulation. This is a serious defect with the structure of the management authority as proposed in the legislation. Rather than attempting to prescribe a linkage approach in the legislation, it should be left to the consent agreement. In a consent-based process, it should be up to the local and state officials to demand the type of linkage (if any) they consider necessary for a storage facility.

No.	Location	Comment
15.	Section 307 (Defense Waste) p. 35	The legislation authorizes the storage and disposal of "defense waste." As noted above, the definition of defense waste is too broad – it should be limited to high-level waste.
16.	Section 307 (Defense Waste) p. 36	There is no clear method to determine the appropriate fee for defense waste. This may not be an issue that needs to be addressed in legislation at this time, but it may be a bone of contention in the future.
17.	Section 308 (Transportation)	The bill appropriately provides for transportation training and assistance to local and state governments. This is necessary but it should be implemented in a reasonable manner. Until there is an identified site, it would be extremely inefficient to carry out an extensive training and outreach program on transportation. As an aside, it is noted that transportation of used nuclear fuel is one of the safest endeavors in the history of the human species. Over the past 40 years, Duke Energy alone has shipped more than 5000 fuel assemblies between its plants, by road and by rail.
18.	Section 401 (Working Capital Fund)	The legislation establishes a "Working Capital Fund" that collects, going forward, payments into the Nuclear Waste Fund for use on used fuel disposition. This is an essential measure that, coupled with effective management reform, would be a great step forward for high-level waste management. Two additional measures are suggested for consideration. • The interest earned on the Nuclear Waste Fund "corpus" should be provided to the Working Capital Fund. Otherwise, the non-accessible Nuclear Waste Fund will continue to grow at the expense of used fuel management funding. This step would be consistent with the maxim, "If you are in a hole, the first thing you do is stop digging." • A long-term schedule for repayment of the "corpus" of the Nuclear Waste Fund into the Working Capital Fund could be established. This could be done over many years (e.g., 20-30) to minimize impact on the federal budget while making the money available when it is needed for its intended purpose.
19.	Section 402 (Nuclear Waste Fund) p. 41	The ability of Congress to veto an increase in the Nuclear Waste Fee is removed. It is not clear why. The congressional veto is an important barrier to an arbitrary or capricious increase in the fee charged to nuclear plant operators by the executive branch. The veto is especially important given the proposed structure of the Nuclear Waste Authority, which provides no check or balance on the part of the organizations that provide the funding. Overall, the proposed legislation has the effect of strengthening the ability of the government to obtain funds for used fuel management; unfortunately, it prevents the organizations which pay from having any meaningful way to ensure program success.

No.	Location	Comment
20.	Section 406(b)(1) (Liabilities) p. 42	The legislation requires that a contract holder must settle with the government in order for the government to pick up used fuel and store it until a repository becomes available. This provision is unjustified and unfair. Nuclear power plant operators have faithfully fulfilled their contracts since 1983, but the government has yet to perform on its end of the bargain. Moreover, the government has resisted at every turn paying legitimate compensation for damages and currently insists that contract holders give up key rights in order to settle (guaranteeing that lawsuits will continue)[1]. Under the proposed legislation contract holders would be required to accept any settlement terms offered by the government in order to get the performance that is due (in fact, overdue) under the contract. [1] As a requirement for settlement, the Department of Justice is currently requiring contract holders to waive their rights to the recovery of fees paid into the Nuclear Waste Fund in the event of total breach of contract by the government. This provision was not included in earlier settlement agreements, and government insistence on including it now is one reason more lawsuits have not been settled.
21.	Section 406(b)(2) (Liabilities) p. 42	It is not at all clear what kind of "settlement" and contract modification is intended here. Contracts should be modified pursuant to agreements between the parties to the contract, not by legislative fiat. Under this provision (as well as 406(b)(1), it would appear the government would enjoy extraordinary leverage in negotiating settlement and contract modifications, and therefore have virtually no incentive to enter into a reasonable settlement or contract amendment. At best, 406(b) is unfair to contract holders that have faithfully fulfilled their obligations; moreover, we consider this provision to very likely be unconstitutional and potentially fodder for additional court battles.

No.	Location	Comment
22.	Section 406(d) (Liabilities) p. 46	The provision should be deleted or, at a minimum, clarified to ensure it is not interpreted as a prohibition against entering into new contracts until a new facility is licensed. Without clarification the provision could be used as a *de facto* moratorium on new nuclear power plants because the NRC will not license a new plant without a waste disposal contract. That is not a helpful step for a country seeking to expand the use of clean baseload electricity generation sources. It should be noted that the government has entered into new contracts for new reactors which have effectively insulated the government from damages for failure to beginning to dispose of used nuclear fuel from those plants by 1998. It appears this provision of the draft legislation may be attempting to solve a problem that does not exist.
23.	Section 503 (Offices) p. 51	The legislation requires that the headquarters for the NWA be in the DC area. In fact, a better place for the headquarters would be away from the political influence of Washington, DC.
24.	Section 509 (Repeal of Volume Limitation) p. 58	This section of the legislation is misnamed. The 70,000 metric ton heavy metal limit is a mass limitation, not a volume limitation. There is no volume limitation on any repository.

Duke Energy Corporation Responses to Questions on the Nuclear Waste Administration Act Discussion Draft

On May 8, 2013 Duke Energy provided comments to the Senate Energy and Water Committee on the discussion draft of proposed legislation addressing used nuclear fuel and high-level radioactive waste. This supplemental Duke Energy input to the Committee consists of answers to the questions posed along with the release of the discussion draft.

1. Should the Administrator take into account, when considering candidate storage facility sites, the extent to which a storage facility would: (a) unduly burden a State in which significant volumes of defenses wastes are stored or transuranic wastes are disposed of; or (b) conflict with a compliance agreement requiring the removal of nuclear waste from a site or a statutory prohibition on the storage or disposal of nuclear waste at a site? Alternatively, should the State and other non-federal parties seeking to site a candidate storage facility be allowed to determine whether they are unduly burdened? Should the final consent agreement, which would be sent to Congress for ratification, contain an authorizing provision to amend any conflicting compliance agreement or statutory prohibition?

   Response
   In a consent-based siting process, the federal government must allow state and local governments to determine whether or not they are willing to store or dispose of material. The alternative approach discussed above (States and other entities are allowed to make their own determinations) is therefore more consistent with a consent-based framework.

   With respect to (a), “unduly burden” is a subjective term. It would be inappropriate for a party that is not bearing the burden to determine if the burden is bearable or not.

   With respect to (b), conflicts with compliance agreements or statutes are hypothetical until a specific site is under consideration. It is far from certain that any offered site will be subject to any such conflict. However, if there is a conflict, it should be resolved prior to a compliance agreement goes into effect.

2. Should the bill establish a linkage between progress on development of a repository and progress on development of a storage facility? If so, is the linkage proposed in section 306 of the bill appropriate, too strong, or too loose? If a linkage is needed, should it be determined as part of the negotiations between the state and federal governments and included in the consent agreement rather than in the bill?

   Response
   No, the bill should not establish linkage. States and local communities are perfectly capable of determining the type of linkage, if any, they require to safeguard their interests. Any other approach would be unnecessarily prescriptive and therefore counter to the concept of consent-based siting.

   Linkage provisions, if any, should be mutually agreed among the parties and included in the consent agreement.

Moreover, the linkage discussed in Section 306 would be based on subjective evaluations made by political appointees in the executive branch. The Blue Ribbon Commission noted past detrimental effects of political intervention in the used fuel management program. From that perspective, the proposed linkage provisions in Section 306 run counter to the concern about excessive political influence on the program.

3. Should the bill establish separate storage and disposal programs with clearly defined requirements for each, with any linkage negotiated in the consent agreement between the federal and non-federal parties, to allow the two program to run on separate, but parallel tracks, as proposed in the alternative section 305 (which would replace section 304(b)-(g) of the draft bill)?

   Response
   The storage and disposal programs should be separate with linkages, if any, defined in consent agreements. On a related note, Congress should establish overall mission goals but resist the temptation to prescribe specific program requirements up front. Requirements should be established in consent agreements and by the used fuel management authority.

4. To what extent should the siting and consensus approval process for spent fuel storage facilities differ from that for the repository? Should the Administrator be required to conduct sufficient site-specific research (referred to as "characterization" in the bill) on candidate storage sites to determine if they are suitable for storing nuclear waste or only on candidate repository sites to determine if they are suitable for geologic disposal of nuclear waste? Should the Administrator be required to hold public hearings both before and after site characterization (as required by current law in the case of the Yucca Mountain site) or only before site characterization?

   Response
   Geologic repositories and spent fuel storage facilities have different technical requirements and different public health and safety regulations. Those differences will dictate some differences in the siting processes. These differences do not require different "consensus approval" processes in the enabling federal legislation. As a side note, the term "consensus approval process" is not defined but it is taken to mean mutual consent among local, state and federal governments.

   Clearly the used fuel management authority must, at some point, conduct site-specific investigations to determine if a candidate storage site can meet Nuclear Regulatory Commission (NRC) licensing requirements for an independent spent fuel storage installation. The extent of such investigations will depend on the characteristics of the specific sites being considered and the extent to which those sites have already been characterized.

   Duke Energy encourages the used fuel management authority to work with the affected entities to conduct timely public meetings and other interactions with the communities that may host storage and/or disposal facilities. With that intent and philosophy established, Duke Energy does not consider it necessary for legislation to dictate specific times or frequencies for public interactions. It should be noted that there will be

extensive public interactions conducted as part of NRC licensing and NEPA activities, should a site progress to the licensing stage.

5. Should the siting process in section 304 of the draft bill be streamlined? If so, how?

Response

Yes, the siting process should be streamlined. There are two key considerations in siting a facility using a consent-based process. Those considerations are: (1) can the facility meet the applicable public health and safety regulatory requirements, and (2) do the local and state governments (and affected Indian nations, if any) consent to hosting the facility? Everything else should be removed from the legislation. In particular, section 304 should not invoke the requirements of section 112(a) of the Nuclear Waste Policy Act. Those requirements are largely subjective and unnecessary, for the reasons discussed above.

6. Should the new entity be governed by a single administrator or by a board of directors?

(a) If by a single administrator, should the administrator serve for a fixed term? If so, how long should the term of service be? Should the legislation prescribe qualifications for the administrator? If so, what should be the selection criteria?

(b) If by a board of directors, how many people should comprise the board and how should they be selected?

Response

This is not an "either/or" question. The new entity should be run by a chief executive officer (CEO) who answers to a board of directors, with a majority of board members from public utility commissions or utilities (both of whom have a vested interest in program efficiency and success). This corporate-style governance, consistent with the Blue Ribbon Commission final report and most other recommendations for management reform, will avoid many of the problems that plagued the Department of Energy's Office of Civilian Radioactive Waste Management. With this perspective in mind, Duke Energy does not believe the independent federal agency approach proposed in the discussion draft offers the best opportunity for program success.

The CEO should not have a fixed term. He or she should serve at the pleasure of the board. Removal of the CEO should be rapid if he or she is not providing the leadership required to achieve used fuel and high-level waste management program goals. Provided the CEO is selected by a qualified board, there is no need to prescribe qualifications in legislation. The board will select a person with appropriate skills and experience managing major nuclear energy enterprises. However, if the independent federal agency approach were to be followed with a political appointee for the administrator, it would be important to specify qualification criteria in legislation. Those criteria should include (i) executive management experience with large, complex organizations or businesses and (ii) experience working in the commercial nuclear sector regulated by the Nuclear Regulatory Commission.

Duke Energy suggests a board of directors comprised of nine members, which is two less than the recommendation of the Blue Ribbon Commission. Nine members should

provide for a variety of perspectives without being so large as to pose problems getting sufficient members through a Senate confirmation process. More important than the size of the board is the makeup – the experience and qualification of the members. Duke Energy concurs with the Blue Ribbon Commission recommendation that the board members be nominated by the President and confirmed by the Senate. This would be done on a staggered basis, for terms of at least five years, thereby maximizing the probability that the board would function with a full or nearly full membership. The most important aspect of the board is that a majority of the members must be chosen from organizations that have a vested financial interest in program success – i.e., utilities that operate nuclear power plants and public utility commissions that represent ratepayers contributing to the Nuclear Waste Fund. To facilitate the selection process, the Nuclear Energy Institute (on behalf of the utilities) and the National Association of Regulatory Utility Commissioners (on behalf of the public utility commissions) should suggest qualified candidates to the President, along with other stakeholder organizations.

7. The Blue Ribbon Commission recommended establishment of both a board of directors for management oversight (whose "primary role ... is not to represent all stakeholder views, but rather to carry out fiduciary responsibilities for management oversight") and "a larger and more widely representative stakeholder advisory committee." The draft bill responds to these recommendations, first, by establishing a Nuclear Waste Oversight Board of senior federal officials and, second, by authorizing the Administrator to establish advisory committees. Should the Oversight Board and advisory committee be combined into a single body to perform both management oversight and stakeholder representation functions? Should the focus and membership of any advisory committees be established in the legislation or left to the Administrator?

<u>Response</u>

The best chance of a setting up a successful management organization would be afforded by using a corporate governance style, not reverting back to the traditional government agency model that struggled for nearly three decades to implement the Nuclear Waste Policy Act.

The board of directors should be focused on ensuring the CEO and his or her organization accomplish the program mission efficiently and in a timely manner, with an overriding commitment to ensuring public health and safety. Advisory boards typically have a different function – specifically, to ensure that diverse viewpoints are heard and factored appropriately into management decisions, and to facilitate communications among the management entity and interested parties. It is important to separate the two governance and advisory functions; otherwise, the management entity will not be able to function efficiently and effectively.

The discussion draft legislation proposed a Nuclear Waste Oversight Board that will not, unfortunately, provide effective oversight of the management entity. The senior government officials serving on the Nuclear Waste Oversight Board will not necessarily have the experience and skills required to provide effective oversight of the used fuel and high level waste management organization. For example, it is likely that none of the Nuclear Waste Oversight Board members will possess direct experience managing a major nuclear enterprise under the regulatory authority of the Nuclear Regulatory Commission. Moreover, all three individuals who would serve on the Nuclear Waste Oversight Board hold positions of significant responsibility within the executive branch; in

practice, they would have little time to devote to the collateral duty of effective and intrusive oversight of the used fuel and high-level radioactive waste management entity.

8. Dr. Meserve testified in 2012 that representatives of stakeholders and public utility commissioners should be added to the Nuclear Waste Oversight Board. Would these additions make the Board better able to carry out its fiduciary oversight mission effectively?

Response

Yes. It is essential that those organizations with a vested interest in program success be involved in the management and oversight of the program.

January X, 2012

Commissioner Gregory B. Jaczko, Chairman
Commissioner George Apostolakis
Commissioner William D. Magwood, IV
Commissioner William C. Ostendorff
Commissioner Kristine L. Svinicki
United States Nuclear Regulatory Commission
11555 Rockville Pike
Rockville, MD 20852

Dear Commissioners,

The aging nuclear power plant fleet in the United States has operated relatively safely and provides some 20% our nation's power needs. Yet, the Fukushima power plant disaster in March, 2011 – triggered by the devastating earthquake and resulting tsunami – highlighted continued nuclear power plant vulnerabilities worldwide, including among the U.S. fleet of 104 operating reactors in 31 states.

As members of the National Caucus of Environmental Legislators (NCEL), we are concerned about the safety of these plants and urge your agency to resolve safety issues at U.S. nuclear power plants as expeditiously as possible. We understand that the NRC formed a task force to extract lessons from the recent tragedy at Fukushima and that the Commission authorized its staff to proceed on the implementation of recommendations made by the task force.

We trust that the NRC will proceed to the full and successful implementation of these safety upgrades without undue delays. Our constituents expect the agency – which has sole authority on nuclear power safety matters – to give its prompt attention to these identified vulnerabilities, such as ensuring sufficient electrical power for critical emergency equipment.

During the Fukushima crisis, there was considerable concern about the fuel stored in the spent fuel pools. Helicopters dropped water from above and fire trucks with water cannons shot water from below to re-fill the spent fuel pools to prevent damage to the fuel stored within them. There were no remaining barriers to protect the local communities from radioactive materials released from this fuel had it experienced significant damage.

Nuclear safety experts tell us that the spent fuel pools at U.S. nuclear plants generally contain more fuel than was stored in Fukushima's spent fuel pools. Consequently, our nuclear plants are more vulnerable. We understand that dry cask storage is an available and safer way of storing spent fuel. In fact, the fuel assemblies stored in dry casks at Fukushima survived the earthquake, tsunami, and extended power outage challenges unscathed. Likewise, the risk at U.S. nuclear plants would be lessened by transferring fuel into dry casks as soon as possible following the

five-year cooling period after which fuel can be removed from reactor cores. To better protect our communities, we urge the NRC to require plant owners to make such transfers.

In addition to implementing the Fukushima task force recommendations and requiring accelerated transfer of radioactive fuel to safer dry cask storage, we urge the NRC to extend the scope of regulations to include the prevention and mitigation of non-design basis severe accidents. Recent natural disasters here in the United States, including flooding, earthquakes and hurricanes remind us that such threats are very real and pose a real risk to citizens.

Similarly, we are concerned that current emergency planning requirements are inadequate. In the United States, emergency planning for a nuclear reactor accident is limited to a 10 mile radius around the reactor. Yet, the US government advised Americans within 50 miles of Fukushima to evacuate - an appropriate decision given the high radiation levels found well beyond 10 miles from the plant. As such, in the United States, the NRC should replace the current arbitrary 10 mile planning zone and require emergency plans for each reactor site based on a science-based assessment of the populations at risk.

A delegation of NCEL members would welcome the opportunity to further discuss these and related nuclear safety issues with you and your staff, which can be coordinated through NCEL's Executive Director, JR Tolbert who can be reached at jrtolbert@ncel.net or (202) 744-1006. Thank you in advance for your prompt attention to this matter. We look forward to hearing from you at your earliest convenience.

Sincerely,

Rep. Karen May
Chairperson, Environment & Energy Committee
Illinois General Assembly

MARVIN S. FERTEL
President and Chief Executive Officer

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NUCLEAR ENERGY INSTITUTE

May 24, 2013

The Honorable Ron Wyden
Chairman
Committee on Energy and Natural Resources
United States Senate
304 Dirksen Senate Building
Washington, D.C. 20510

The Honorable Lisa Murkowski
Ranking Member
Committee on Energy and Natural Resources
United States Senate
304 Dirksen Senate Building
Washington, D.C. 20510

The Honorable Dianne Feinstein
Chairman
Subcommittee on Energy and Water Development
Committee on Appropriations
United States Senate
184 Dirksen Senate Building
Washington, D.C. 20510

The Honorable Lamar Alexander
Ranking Member
Subcommittee on Energy and Water Development
Committee on Appropriations
United States Senate
184 Dirksen Senate Building
Washington, D.C. 20510

Dear Senators Wyden, Murkowski, Feinstein and Alexander:

The Nuclear Energy Institute,[1] on behalf of the nuclear energy industry, is pleased to provide comments on the discussion draft of the Nuclear Waste Administration Act of 2013 and the associated documents that were released on April 25.

Despite current law, the Nuclear Waste Policy Act, and the thoughtful recommendations of the Blue Ribbon Commission (BRC) on America's Nuclear Future, the federal government lacks a sustainable high-level waste management program for commercial used nuclear fuel and defense-related materials. We appreciate your efforts to remedy this situation and reform the federal government's program. The current situation continues to place undue burden upon stakeholders, many of whom had the expectation that their used nuclear fuel would begin leaving their sites in 1998 for ultimate disposal in the Yucca Mountain repository.

[1] The Nuclear Energy Institute (NEI) is the organization responsible for establishing unified industry policy on matters affecting the nuclear energy industry, including the regulatory aspects of generic operational and technical issues. NEI's members include all entities licensed to operate commercial nuclear power plants in the United States, nuclear plant designers, major architect/engineering firms, fuel cycle facilities, nuclear materials licensees, and other organizations and entities involved in the nuclear energy industry.

After the Administration suspended the Yucca Mountain program, stakeholders waited while the bipartisan BRC developed its recommendations, and again while the Administration developed its strategy. Now is the time for Congress to exercise its leadership and reshape the federal government's high-level waste management program. The industry fully supports the resumption of the Yucca Mountain licensing process, but this alone is not sufficient to create a sustainable, integrated program. A multi-pronged strategy, which includes the following elements, is necessary:

- A new management and disposal organization outside of the Department of Energy (DOE).
- Access to the Nuclear Waste Fund and annual fees for their intended purpose.
- Completion of the Yucca Mountain repository license review.
- A consolidated storage facility for used nuclear fuel and DOE's high-level radioactive waste in a willing host community and state. Used fuel from decommissioned commercial reactor sites without an operating reactor should have priority when shipping commercial used fuel to the storage facility.
- Research, development and demonstration on improved or advanced fuel-cycle technologies to close the nuclear fuel cycle.
- NRC's promulgation of a temporary storage rule and an eventual legislative determination of waste confidence supported by a sustainable federal program founded on the elements above.

The industry is pleased that the discussion draft incorporates many, but not all, of the elements identified above.

Attachment 1 provides our responses to the questions posed in the discussion draft as well as specific comments on various sections in the draft. The responses and comments were informed by our initial thinking on legislative principles for nuclear waste management reform. These principles, which address all aspects of an integrated used nuclear fuel program including RD&D, are included in Attachment 2 for your consideration.

The success of future high-level waste management efforts, including the Yucca Mountain project, will depend heavily on the management organization. For this reason, we support the creation of a new management and disposal organization outside of DOE. This organization must have a clearly defined mission and be empowered with the authority and resources to succeed. Congress and the Administration should retain an oversight authority, but this role should be carefully structured to enhance the efficient, apolitical operation of the new management organization with minimal burden.

Rather than the single Administrator, as proposed in the discussion draft, the industry recommends that the new management and disposal organization be governed by a board of directors with a chief executive officer (CEO) hired by the board. The industry believes that this structure will achieve greater separation from the presidential election cycles than has been the case with the Department of Energy's program. It is imperative that the CEO not be subjected to the political uncertainties associated with presidential

appointments so that he or she can focus entirely on performing the task at hand with the requisite attention to nuclear safety and security that is expected from all employees of a nuclear industrial organization.

Ensured access to the Nuclear Waste Fund and the Nuclear Waste Fees will be essential to providing the new management and disposal organization with the financial stability and independence necessary for success. Payments into the Nuclear Waste Fund were made by the nuclear power generators for the sole purpose of covering the cost of the eventual disposal of their used nuclear fuel. The discussion draft recognizes this and the need to ensure access to the funds and makes substantial progress in this area by transferring future Nuclear Waste Fee payments directly to the new management entity. The industry, though, believes that the corpus of the Nuclear Waste Fund, in addition to the Nuclear Waste Fees, should be made available to the new management and disposal organization for its intended purpose without being subject to appropriations. This, however, could be accomplished with transfers over a reasonable schedule defined within the legislation.

The industry is committed to the establishment of a program that will begin to reduce the liability for the taxpayers. The BRC reported that the damage awards from the taxpayer-funded Judgment Fund will total $20.8 billion dollars if the federal government begins accepting used fuel in 2020, based on a DOE estimate. Further, the BRC estimated that the damage awards associated with the DOE's breach may increase by as much as $500 million for each year after 2020 that DOE does not begin to accept used fuel. Given the absence of any federal program, it has become virtually impossible for the DOE to begin to meet its obligation to move used fuel before 2020. The goal of all involved should be to reduce this liability as quickly as possible. The legislation that accomplishes this goal, however, should not include a mandatory requirement that the industry and the government settle all claims as a precedent for the new management and disposal organization taking title to and transporting used nuclear fuel from our reactor sites. Additional information on this topic is provided in Attachment 1.

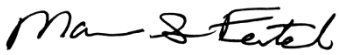
Industry is advocating that efforts to develop a geologic repository and efforts to develop a storage facility proceed simultaneously, not sequentially. But the industry believes that states, affected local communities and/or tribes should determine what linkage, if any, between repository and storage programs is necessary as they negotiate a consent agreement. The industry does not believe that it is necessary to establish multiple additional criteria that, in essence, are intended to "protect" the state, affected local community and/or tribe from being forced to host an unwanted facility. The additional criteria provided in the discussion draft (e.g., unduly burdening a state) are unnecessary if the consent-based process is followed. An effective consent-based process not only will permit the state, affected local community and/or tribe to protect their financial interests, but also makes those entities responsible for agreeing to the terms of any consent agreement in which they may enter.

Lastly, the discussion draft does not attempt to address the fact that states, affected local communities and/or tribes may not be knowledgeable about the implications, benefits and challenges associated with

hosting either a consolidated storage facility or a second repository when the new management and disposal organization begins the process of siting facilities. The new management entity must be prepared to support states, affected local communities and/or tribes in efforts to educate themselves and develop sufficient support to identify potential sites for further consideration in the ongoing consent-based process.

The nuclear industry is committed to the development of a sustainable, integrated high-level waste program and the discussion draft of the Nuclear Waste Administration Act of 2013 is a significant step forward in this effort. We welcome the opportunity to work with Congress and the Administration on this and other legislative proposals. Please do not hesitate to contact me or Everett Redmond of my staff, elr@nei.org, 202.739.8122, if we can be of further assistance or answer any questions.

Sincerely,



Marvin S. Fertel

Attachments:

(1) Responses to Questions on the Nuclear Waste Administration Act of 2013 Discussion Draft, with Additional Comments
(2) Legislative Principles for Nuclear Waste Management Reform

Nuclear Energy Institute Responses to Questions on the Nuclear Waste Administration Act of 2013 Discussion Draft, with Additional Comments

Question 1: Considerations for locating storage facility sites

Should the Administrator take into account, when considering candidate storage facility sites, the extent to which a storage facility would: (a) unduly burden a State in which significant volumes of defense wastes are stored or transuranic wastes are disposed of; or (b) conflict with a compliance agreement requiring the removal of nuclear waste from a site or a statutory prohibition on the storage or disposal of nuclear waste at a site? Alternatively, should the State and other non-federal parties seeking to site a candidate storage facility be allowed to determine whether they are unduly burdened? Should the final consent agreement, which would be sent to Congress for ratification, contain an authorizing provision to amend any conflicting compliance agreement or statutory prohibition?

There are two primary considerations when siting a facility. One is whether the state, affected local community and/or tribe are willing to permit the facility to be developed and the second is whether the features of the site will permit it to meet safety and security requirements and obtain Nuclear Regulatory Commission (NRC) approval. It is not necessary to establish multiple additional criteria that, in essence, are intended to "protect" the state, affected local community and/or tribe from being forced to host an unwanted facility. The additional criteria provided in the proposed legislation (e.g., unduly burdening a state) are unnecessary if the consensus process is followed. An effective consensus process allows the state, affected local community and/or tribe to protect their financial interests, and makes those entities responsible for agreeing to the terms of any consent agreement into which they may enter. If, during the siting process, it becomes apparent that the new consent agreement would conflict with other agreements or statutory prohibitions, those conflicts should be addressed in a manner that is agreed to by the parties.

Question 2: Linkage between storage and repository

Should the bill establish a linkage between progress on development of a repository and progress on development of a storage facility? If so, is the linkage proposed in section 306 of the bill appropriate, too strong, or too loose? If a linkage is needed, should it be determined as part of the negotiations between the State and federal governments and included in the consent agreement rather than in the bill?

The industry has advocated that efforts to develop a geologic repository and efforts to develop a storage facility must proceed simultaneously, not sequentially. This principle is well stated in Section 306(a) of the discussion draft. But the industry believes that states, affected local communities and/or tribes should determine what linkage, if any, is necessary as they negotiate a consent agreement. Rigid legislative restrictions established at the federal level have the potential to limit the rights of a state, affected local community and/or tribe and hamper negotiations during the consent-based siting process.

The linkage as currently proposed would require the Administrator of the new agency and the Oversight Board to certify that "substantial progress" is being made toward siting, constructing and operating a repository to justify continued development or operation of a storage facility. This requirement should be removed.

Rather that prescribing a linkage approach in the bill, it should be addressed in the consent agreement in a manner agreed to by all parties. Section 304(f) of the current bill already provides the flexibility for the parties to address linkage. The language states that a consent agreement "shall contain the terms and conditions on which each State, local government, and Indian tribe consents to host the repository or storage facility." The bill states further that these terms and conditions may include "operational limitations or requirements" and "an enforceable deadline for removing nuclear waste from the storage facility" in the case of a storage facility. This is as far as federal legislation should go on the matter of linkage.

Question 3: Separate process for storage facility siting – Alternative Section 305

Should the bill establish separate storage and disposal programs with clearly defined requirements for each, with any linkage negotiated in the consent agreement between the federal and non-federal parties, to allow the two programs to run on separate, but parallel tracks, as proposed in the alternative section 305 (which would replace section 304(b)-(g) of the draft bill)?

A geologic repository program and a consolidated storage program must be pursued simultaneously. The industry continues to support the completion of the Yucca Mountain licensing process while concurrently pursuing a consolidated storage program and possibly a search for a second repository location. The significant difference in the complexity of disposal and storage facilities, the structure of the regulatory regime, and the level of funding necessary will naturally result in separate programs with different lengths of time to perform site characterization, development of the necessary applications, licensing, and construction. Despite these differences, the bill does not necessarily need to establish separate requirements and processes by which sites are identified and selected for hosting storage facilities and a repository. Rather, the bill should define a simple structure that is applicable to both consolidated storage and a repository while maximizing the flexibility of the new management entity, the state, affected local communities and/or tribes to define specific requirements for each program as they wish.

None of the siting processes outlined in the discussion draft or alternative language attempt to address the fact that states, affected local communities and/or tribes may not be knowledgeable about the implications, benefits, and challenges associated with hosting either a consolidated storage facility or a second repository. The new management entity must be prepared to support states, affected local communities and/or tribes in efforts to educate themselves and develop sufficient support to identify potential sites for further consideration in the siting process.

The following basic requirements could be specified in legislation recognizing that the timeframes associated with fulfilling these requirements will be substantially longer for a repository program than for a consolidated storage program. The specifics of program implementation should be left to the new management entity, states, affected local communities and/or tribes.

- Separate general guidelines for siting consolidated storage facilities and a second repository must be issued based on the regulatory requirements. The response to Question 4 provides additional information on the current regulatory regime for storage facilities and repositories.
- Financial and technical assistance must be provided to states, affected local communities and/or tribes, or other organizations interested in considering hosting consolidated storage facilities or a second repository.
- Potential sites, with consent of the state, affected local community and/or tribe, must be identified for site characterization. A consultation and cooperative agreement for site characterization should be developed if desired by one or more of the parties involved.
- Sites must be characterized to determine if they are likely to be acceptable for hosting an NRC-licensed, consolidated storage facility or a second repository.
- One or more sites (preferably) must be selected and a consent agreement with the state, affected local community and/or tribe must be developed. The consent agreement must be binding on all parties.

With regard to the specific language proposed in Section 304 of the draft bill, the exception stated in Section 304(b)(2)(B) is appropriate. As discussed in the response to Question 1, the additional factors defined in Section 304(b)(2)(C) should be removed. NEI also recommends that the Section 304(d)(2) preference for co-locating a repository and storage facility be reviewed. We believe that the timelines for determining if a site is suitable for hosting a repository will be considerably longer than for a storage facility. As a result, we question whether attempting to comply with this preference may create unforeseen challenges in siting a facility.

With regard to the specific language in the alternative proposal, it should be stated explicitly that the consent agreement for the consolidated storage facility is binding on all parties as it is for the repository in Section 306(e)(5). In addition, NEI questions why a program plan for consolidated storage would be required to be submitted to Congress, per Section 305(b)(5), but would not be required for a repository. NEI suggests that the program plan requirements for a storage facility and a repository be reconciled.

Question 4: Separate Process for Storage Facility Siting – General streamlining for storage only

To what extent should the siting and consensus approval process for spent fuel storage facilities differ from that for the repository? Should the Administrator be required to conduct sufficient site-specific research (referred to as "characterization" in the bill) on candidate storage sites to determine if they are suitable for storing nuclear waste or only on candidate repository sites to determine if they are suitable for geologic disposal of nuclear waste? Should the Administrator be required to hold public hearings both before and after site characterization (as required by current law in the case of the Yucca Mountain site) or only before site characterization?

Existing federal regulations specify that sites that are considered for either a consolidated storage facility or a repository must be characterized sufficiently to support a license application to the NRC in accordance with the appropriate safety and environmental protection requirements. The NRC regulations for a consolidated storage facility, 10 CFR Part 72, are well known and numerous facilities have been licensed in accordance with these regulations.

If the search for a second repository other than Yucca Mountain is undertaken, it will be necessary for the NRC to develop new generic repository regulations before a potential site could be characterized. The existing generic regulation, 10 CFR Part 60, is considered by many to be inadequate and the regulation used in the Yucca Mountain review, 10 CFR Part 63, was specific to Yucca Mountain and therefore not directly applicable to other repository locations. In addition to the NRC, the Environmental Protection Agency (EPA) will also need to develop new regulations for a generic repository. NEI's legislative principles, attached, address both Yucca Mountain and the need for updated regulations.

Because of the relative simplicity of a consolidated storage facility compared to a repository, the length of time to characterize a site for storage will be significantly shorter than for a second repository. Regardless, the consent-based siting process for a consolidated storage facility can be conceptually the same as the process used to site a second repository in a willing host state, affected local community and/or tribe as discussed in the response to Question 3.

Public hearings, as opposed to public meetings, are typically part of an adjudicatory process addressing compliance with safety requirements and environmental impacts as part of a regulatory licensing process. Public hearing requirements in advance of NRC's making a license determination are currently well established in federal regulations, and do not need to be addressed separately in statute. It is appropriate for the new management entity to hold local public meetings for the purpose of gathering public comments regarding the different project phases for either a spent fuel storage or disposal facility. The number and frequency of such meetings should be left to the state, affected local community and/or tribe, and new management entity to determine.

Question 5: Complexity of repository and storage facility siting processes

Should the siting process in section 304 of the draft bill be streamlined? If so, how?

Please see the response to Question 3. It also addresses this question.

Question 6: Governance of the Nuclear Waste Administration – Administrator vs. Board of Directors

Should the new entity be governed by a single administrator or by a board of directors?

(a) If by a single administrator, should the administrator serve for a fixed term? If so, how long should the term of service be? Should the legislation prescribe qualifications for the administrator? If so, what should be the selection criteria?

(b) If by a board of directors, how many people should comprise the board and how should they be selected?

The new management entity should be governed by a board of directors with a chief executive officer (CEO) hired by the board. The industry believes that this structure will achieve greater separation from the presidential election cycles than has been the case with the Department of Energy as the program manager. The instability that can be created as a result of the political appointment process is well illustrated by the now-defunct Office of Civilian Radioactive Waste Management (OCRWM). This office, whose director was appointed by the President and confirmed by the Senate, never realized stable long-term leadership because of the turnover of directors associated with changes at the White House. From 1983 to 2010, OCWRM had six appointed and confirmed directors and nine acting directors. The incumbent director was replaced with every new administration. For this reason, the new management entity should be governed by a board of directors rather than a single administrator appointed by the President. An entity with a board structure and a CEO, hired by the board, enhances management and political stability more than a single administrator structure. As General Brent Scowcroft and Dr. Richard Meserve noted in their testimony to the Senate Energy and Natural Resources Committee in September 2012, "a new waste management organization will need the leadership of a strong chief executive with exceptional management, political, and technical skills and experience and tenure that extends longer than the political cycle."

The industry recommends that the board be composed of no more than 9 members and that those members be appointed by the President with the advice and consent of the Senate. Board members should be appointed for a minimum of 7-year staggered terms to ensure political stability and continuity. This follows the logic of other board structures, like the Federal Reserve Board. According to the Federal Reserve website, "the lengthy terms [14 years for board members] and staggered appointments are intended to contribute to the insulation of the Board—and the Federal Reserve System as a whole—from day-to-day political pressures to which it might otherwise be subject."

Further, to address the potential for delays in replacement of directors, a board quorum should be defined as simply more than one-half of the standing directors.

Selection of board members for the new entity should include representation from stakeholders both inside and outside of government. The board should include at least three members from entities that contribute or have contributed to the Nuclear Waste Fund. Another two members of the board should be appointed from state public utility commissions or representatives thereof. NEI recommends that to be eligible for appointment to the board, an individual must be a citizen of the United States and have management, financial, technical or other appropriate expertise.

Regarding selection of a CEO, the CEO must have, at a minimum, senior executive management experience in large complex organizations with expertise in the nuclear industry and strong financial management skills. It is imperative that the day-to-day operation of the new management entity be shielded from political pressures and that the senior leadership within the new management entity be held accountable for their actions. The organizational structure of the new management entity must facilitate the removal of a CEO or other senior managers who are ineffective or not performing their duties. Therefore, the chief executive in the organization should not be appointed by the President but rather hired by the board.

Question 7: Governance of the Nuclear Waste Administration – Role of advisory committees

The Blue Ribbon Commission recommended establishment of both a board of directors for management oversight (whose "primary role … is not to represent all stakeholder views, but rather to carry out fiduciary responsibilities for management oversight") and "a larger and more widely representative stakeholder advisory committee." The draft bill responds to these recommendations, first, by establishing a Nuclear Waste Oversight Board of senior federal officials and, second, by authorizing the Administrator to establish advisory committees. Should the Oversight Board and advisory committee be combined into a single body to perform both management oversight and stakeholder representation functions? Should the focus and membership of any advisory committees be established in the legislation or left to the Administrator?

The industry believes that the new management entity must have effective oversight and governance but that this should be achieved primarily through a board of directors, not the oversight board outlined in the discussion draft. The oversight board as structured in the discussion draft is unnecessary, duplicative and possibly susceptible to "day-to-day political pressure." The industry believes that Congress and the Administration have a vital role in ensuring proper oversight and the long-term success and of a new management entity as outlined in the attached legislative principles.

The BRC's recommendation for the establishment of a stakeholder advisory committee, in addition to a board of directors, deserves serious consideration. However, the industry would prefer that

establishment of such an advisory committee be the responsibility of the new management entity in consultation with the state, affected local community and/or tribe. If a stakeholder advisory committee is to be legislated, NEI recommends that the Nuclear Waste Technical Review Board (NWTRB) be restructured to serve this function rather than creating a second advisory committee in addition to the NWTRB. This committee should serve in an advisory capacity to the board of directors of the new management entity, for the CEO should be receiving his or her sole direction from the board.

Question 8: Governance of the Nuclear Waste Administration – Membership of the Oversight Board

Dr. Meserve testified in 2012 that representatives of stakeholders and public utility commissioners should be added to the Nuclear Waste Oversight Board. Would these additions make the Board better able to carry out its fiduciary oversight mission effectively?

The oversight board, as currently structured, will not be shielded from political pressure and members will likely be replaced with each new Administration. As discussed in the response to Question 6, the industry believes that the new management entity should be governed not by an oversight board, but rather by a board of directors that includes representation from public utility commissioners and entities that contribute or have contributed to the Nuclear Waste Fund. Industry and public utility commission members are key financial stakeholders and have valuable perspectives to provide, including technical expertise and business acumen. Inclusion of these perspectives would bolster public confidence in the new governance structure. By not including these key stakeholders, the governance structure does not include those that have a vested interest in the success of the used nuclear fuel management program.

* * *

Additional Comments on the Discussion Draft

General Comments

- The phrase "above-ground" is used throughout the discussion draft as a modifier for storage facilities. This modifier should be removed because it is overly restrictive and could be interpreted as prohibiting the use of in-ground dry cask storage systems or in-ground spent fuel pools.
- The new management entity should be instructed explicitly to make all reasonable efforts to accept commercial used fuel that is loaded in dry storage containers that can be transported without repackaging.
- The new management entity should be authorized explicitly to accept Greater-Than-Class C waste.
- The Nuclear Regulatory Commission and the Environmental Protection Agency must develop new generic repository regulations before a search for a second repository can occur.

Section 103(4)

The definition of "affected unit of general local government" should be reviewed with the recognition that the federal government will likely obtain jurisdiction over the site at some point during the program. In the case of the Yucca Mountain, the federal government already has jurisdiction over the site.

Section 103(16)

The word "and" should be replaced by "or" after "fuel" in the definition of a "nuclear waste."

Section 103(18)

The word "and" should be replaced by "or" after "repository" in the definition of a "nuclear waste facility."

Section 103(22)

As stated in the attached legislative principles, the industry supports prioritizing commercial used fuel from decommissioned nuclear power reactors located on a site without an operating reactor ahead of other commercial used nuclear fuel. The industry's position is slightly more restrictive than the definition specified in the discussion draft by limiting priority to a subset of the decommissioned reactors, those that are not co-located with an operating reactor.

Section 103(30)

This section includes the phrase "pending the disposal of the spent nuclear fuel in a repository." This is overly restrictive compared to the definition of "storage" in Section 103(29) and could prohibit the disposal of high-level waste from future recycling if the United States so chooses. The industry

believes that options for the future recycling of material should be maintained, as described in the attached legislative principles. Therefore it is suggested that the phrase be modified to read "pending the disposal of the nuclear waste in a repository" consistent with Section 103(29).

Section 201(a)

This subsection refers to the establishment of an "independent agency." In order for the new Nuclear Waste Administration to be recognized as an executive agency, it needs to fit one of the categories in 5 U.S.C. §§ 101-105, "executive department," "government corporation," or "independent establishment." There is no such legal entity known as "independent agency."

Sections 202(a) and 202(b)

As discussed in the answers to the specific questions, the industry believes that the new management entity should be governed not by a single Administrator, but rather by a board of directors appointed by the President with the advice and consent of the Senate and with a chief executive officer hired by the board.

Section 203(a)(3)

The chief executive of the new management entity should have the authority to determine the appropriate number of senior managers and/or assistant administrators. This should not be specified in legislation.

Section 203(b)(3)

The linkage to Section 161d of the Atomic Energy Act will unduly limit the ability of the Administrator to hire and compensate qualified individuals and would create a mismatch in CEO compensation relative to the management/employees. Therefore, it is suggested (consistent with legislative principles attached) that this subsection be modified to be similar to the Tennessee Valley Authority legislation which authorizes the TVA CEO to appoint such managers, assistant managers, officers, employees, attorneys, and agents as necessary and without regard to the provisions of the civil service laws applicable to officers and employees of the United States.

Section 304(a)(1)

The industry recommends that states and tribes be mentioned in this subsection since they may also be parties to the consent agreement.

Section 304(a)(3)

The industry supports the implementation of a flexible process for siting new facilities. Legislating flexibility in the manner specified in this subsection, however, could challenge the ability of the new management entity and a state, affected local community and/or tribe, to reach a binding consent agreement. Therefore, it is recommended that this subsection be removed.

Section 304(b)(2)(C)(iii)

As discussed in the response to the specific questions, the additional criteria in this subsection are inappropriate and should be removed.

Section 304(c)(4)(A)

It is suggested that the phrase "including a safety case that provides the basis for confidence in the safety of the proposed nuclear waste facility at the proposed site" be removed. The demonstration of the safety of the facility will be accomplished through the licensing process. The siting process should only determine if a site is likely to be licensable with the NRC. Further, a "safety case" is not defined within the U.S. regulatory structure.

Section 304(c)(4)(C),(D), and (E)

NEI believes that in a consent-based process, a site should be determined to be suitable for characterization based on its own merits without a comparison to other sites being considered or to sites that were considered historically. In addition, neither a description of the process nor an assessment of the regional and local impacts should be used to determine if a site is suitable for characterization. Therefore, it is suggested that these subsections be removed.

Section 304(d)(3)

It is suggested that "public hearing" be changed to "public meeting" in this subsection. Public hearings are typically part of an adjudicatory process associated with a formal licensing proceeding. The public interactions referred to in this section are more accurately described as public meetings rather than public hearings.

Section 304(d)(4)

This subsection should be modified to recognize that different consultation and cooperation agreements may be desirable between the different parties.

Section 304(e)(2)(A)(ii)

This subsection should be clarified to identify which EPA regulations are applicable to storage facilities and which are applicable to a repository.

Section 304(f)

It is appropriate that a consent agreement include financial compensation and incentives. However, other than Congressional ratification, the consent agreement, as described in the discussion draft, does not have input from stakeholders that contribute to the Nuclear Waste Fund or represent the ratepayers. Those stakeholders also do not have the right to approve any agreement. The board structure, as suggested by NEI, would provide the needed stakeholder input during the development of the consent agreement.

Section 306

As discussed in the response to the questions, the industry recommends removing this section on the linkage between storage and disposal.

Section 307(d)

It is suggested that this section be modified by removing the phrases "by contract holders" and "if such nuclear waste were generated by a contract holder." These phrases are unnecessary given the language in Section 302 of the Nuclear Waste Policy Act (NWPA).

Section 308(c)

This subsection addresses notification prior to transportation and is unnecessary because the NRC regulations address notification. All shipments should be conducted in accordance with then-existing laws and regulations.

Section 308(d)

Section 180(c) of the NWPA addresses technical assistance for transportation. The new subsection should be reconciled with Section 180(c) of the NWPA.

Section 401(b)

The creation of the Working Capital Fund is a good first step in establishing financial stability that is necessary for the new management entity to succeed. The industry, however, believes that the new management entity must also have full access to the Nuclear Waste Fund without relying on appropriations as outlined in the attached legislative principles.

To enhance the Working Capital Fund further, the legislation should specify that future, one-time fee payments under the NWPA shall be paid into the Working Capital Fund. Consideration should also be given to depositing the interest paid on the Nuclear Waste Fund directly into the Working Capital Fund rather than back into the Nuclear Waste Fund.

Section 401(c)(1)

Experience with the development of the Yucca Mountain project has demonstrated that the annual appropriations process can be used to circumvent the requirements of the Nuclear Waste Policy Act. Therefore, the Working Capital Fund should be available to the new management entity without reliance on the annual appropriations process and without fiscal year limitation. To ensure this occurs, the phrase "to the extent limited in annual authorization or appropriations Acts" should be replaced with "without fiscal year limitation."

Section 401(e)

The industry supports the inclusion of this subsection that would suspend waste fee payments if a disposal or storage facility is not open by the end of 2025. It is suggested that the language be modified to address the conditions under which the waste fee payments would be restarted.

Section 402(a)

As outlined in the attached legislative principles, the industry supports the ability of Congress to disallow adjustments to the Waste Fee. Therefore, industry recommends that this section be modified accordingly.

Section 403(1)

The reference to the Nuclear Waste Fund in this subsection appears to be incorrect and should probably be changed to the Working Capital Fund.

Section 406(b)

This subsection should be removed. It contains two provisions that would result in a Congressionally-imposed modification of the Standard Contract for the Disposal of Spent Nuclear Fuel and High-Level Radioactive Waste and the contract rights of the utilities who are parties to the Standard Contract. The consequence of such a provision under Supreme Court case law, including the landmark decision in *United States v. Winstar*, would be to create further breach of contract claims by the utilities against the government.

Section 406(b)(1) would establish a "condition precedent" before the Administrator of the new Nuclear Waste Administration could take title to and store a utility's spent fuel. The condition precedent would be that the Justice Department settle all the utility's breach of contract claims under the Standard Contract. (Although this "condition precedent" applies only to storage and not to disposal, as discussed below, this limitation does not cure the problems with this provision.) Section 406(b)(2) provides that "the Administrator and contract holders shall modify" their Standard Contracts "in accordance with the settlement under" Sec. 406(b)(1).

The effect of these provisions would be that the government could deny a utility's right under the Standard Contract for DOE to take its spent fuel unless the utility agreed to accept a settlement of its breach of contract claims on whatever terms the government wanted to impose. This would effectively deprive the utilities of their contractual rights, under which the government is supposed to take their spent fuel in exchange for millions of dollars in Nuclear Waste Fees paid to the government.

As established by decisions of the U.S. Court of Appeals for the Federal Circuit, the DOE has breached the Standard Contracts of all nuclear utilities by failing to begin accepting the utilities' spent fuel beginning January 31, 1998. *Maine Yankee Atomic Power Co. v. United States*, 225 F.3d 1336, 1342 (Fed. Cir. 2000) ("The breach involved all the utilities that had signed the contract – the

entire nuclear electric industry."); *Northern States Power Co. v. United States*, 224 F.3d 1361 (Fed. Cir. 2000). As a result, all the nuclear utilities have the right to sue (and have sued) the United States to recover the damages they have incurred as a result of that contract breach. Some utilities have recovered judgments through litigation; others have settled their breach of contract claims and are being reimbursed for the costs of the government's breach; still others are continuing to litigate these claims. Because the government's breach is only a partial (rather than a total) breach of its contractual obligation, the government's obligation to take the utilities' spent fuel continues, as does the government's responsibility for damages.

If section 406(b) becomes law and obligates each utility to settle its breach of contract claims as a condition to the Nuclear Waste Administration taking any of that utility's spent fuel for storage, the Congress would be interfering with a contract between the government and a private party. Although the precondition is only to settle the utility's breach of contract claims, the fact that the "Justice Department, in consultation with the Administrator" would have an unfettered right to insist on a settlement on its terms, effectively deprives the utility of deciding to pursue litigation or to settle on terms that it finds acceptable. Because the proposed legislation includes no criteria for the terms of the required settlement, the government would have the absolute right to refuse to accept the utility's spent fuel under the Standard Contract until the utility agreed to the government's settlement terms, regardless of what they might be.

If the terms of settlement the government seeks to impose are not acceptable to a utility, the utility either will be forced to accept unpalatable terms in order to have its spent fuel taken by DOE or will have to give up its right to have the Nuclear Waste Administration accept its spent fuel in accordance with the Standard Contract. In either case, Congress will be interfering with a contract between the utility and the government. Under well-established Supreme Court precedent, Congressional action can have the effect of breaching a contract. In the circumstances described above, the government will have breached the Standard Contract and will be liable for damages. See, for example, *United States v. Winstar*, 518 US 839 (1996); *Mobile Oil Exploration & Producing Southeast, Inc. v. United States*, 530 US 604, 620 (2000) ("[T]he fact that [the government's] repudiation [of the contract] rested upon the enactment of a new statute makes no significant difference."); *Franconia Assocs. v. United States*, 536 US 129, 147-148 (2002) ("We comprehend no reason why an Act of Congress may not constitute a repudiation of a contract to which the United States is a party. Congress may renounce the Government's contractual duties…").

As noted above, the condition precedent would apply to the Nuclear Waste Administration's obligation to accept spent fuel for storage, but not for disposal. Limiting the condition precedent to acceptance for storage (and excluding disposal) would not alleviate the government from liability for forcing utilities into unpalatable settlements. The obligation imposed by section 302(a)(5)(B) of the NWPA to dispose of the utilities' spent fuel beginning by 1998 is not tied to permanent disposal. The DOE unsuccessfully tried to make this argument in the lawsuit which established DOE's 1998 obligation. *Indiana Michigan Power Co. v. DOE*, 88 F.3d 1272, 1276 (D.C. Cir. 1996) ("DOE's duty under subsection (B) [of NWPA sec. 302(a)(5)] to dispose of the SNF is conditioned on the payment

of fees by the owner and is triggered, at the latest, by the arrival of January 31, 1998. *Nowhere, however, does the statute indicate that the obligation established in subsection (B) is somehow tied to the commencement of repository operations referred to in subsection (A) [of NWPA sec. 302(a)(5)]".)*

Similarly, DOE's performance under the Standard Contract is not linked to permanent disposal. Article II of the Standard Contract states that DOE will provide its services "after commencement of **facility** operations, not later than January 31, 1998" (emphasis added). Article I in turn specifically defines "DOE facility" to include not only a permanent repository, but also storage facilities, i.e., "such other facility[ies] to which spent nuclear fuel and/or high-level radioactive waste may be shipped by DOE prior to its transportation to a disposal facility."

Section 406(d)

This subsection prohibits the Administrator from entering into a contract that obligates the Administrator to perform by a date that is before a repository or storage facility is licensed. The description in the section-by-section summary, however, incorrectly describes this subsection by stating that it "[p]rohibits the Administrator from entering into new waste disposal contracts before licensing a repository or storage facility." If the legislation had been written consistent with the description, it would prohibit the licensing of new reactors with the NRC (because a contract must be in place prior to issuance of a license) until a repository or storage facility is licensed. NEI suggests changing the section-by-section summary to accurately reflect the bill language.

Section 504(b)

The industry believes that a pilot facility could be operational by 2021 and supports the inclusion of target dates for the opening of facilities.

Section 504(c)

The mission plan should be required to be provided to contract holders for their comments in addition to the other stakeholders listed in this subsection.

Section 509

The title of this section should be modified to more accurately read "Repeal of Mass Limitation."

NUCLEAR ENERGY INSTITUTE

Legislative Principles for Nuclear Waste Management Reform

The Nuclear Energy Institute is advocating for legislative reform to create a sustainable, integrated program for federal government management of the Department of Energy's (DOE) high-level radioactive waste and commercial used nuclear fuel. NEI is committed to working with both houses of Congress and the Administration on proposed legislation that addresses the federal government's high-level radioactive waste management responsibilities.

The industry supports an integrated used nuclear fuel management strategy, which consists of six basic elements.

- A new management and disposal organization dedicated solely to executing a high-level radioactive waste program and empowered with the authority and resources to succeed.
- Access to the annual collections and corpus of the Nuclear Waste Fund for their intended purpose, without reliance on the annual appropriations process but with appropriate Congressional oversight.
- Completion of the Yucca Mountain repository license review. Nuclear electric consumers deserve to know whether Yucca Mountain is a safe site for the permanent disposal of high-level waste, as billions of dollars and years of independent scientific research suggest.
- A consolidated storage facility for used nuclear fuel and DOE high-level radioactive waste in a willing host community and state while making substantial progress toward developing the Yucca Mountain site and/or a second geologic repository. A consolidated storage facility would enable the DOE or a new management entity to move used nuclear fuel from decommissioned plants and operating plants long before a repository or recycling facilities begin operating. Used fuel from decommissioned commercial reactor sites without an operating reactor should have priority when shipping commercial used fuel to the storage facility.
- Research, development and demonstration on improved or advanced fuel cycle technologies to close the nuclear fuel cycle, thereby potentially reducing the volume, heat and toxicity of byproducts placed in a repository, recognizing that a geologic repository will be required for all fuel cycles. All funds for this RD&D must come from DOE's budget and not the Nuclear Waste Fund. In addition to RD&D, the Nuclear Regulatory Commission (NRC) should develop a regulatory framework for the licensing of recycling facilities.
- Supporting NRC's promulgation of a temporary storage rule and an eventual legislative determination of waste confidence supported by a sustainable federal program founded on the elements above.

The following legislative principles address these program elements and will guide the industry's ongoing engagement in the legislative process.

New Management Entity

Structure

A new self-sustaining federal management organization, hereafter referred to as the Management and Disposal Organization (MDO), should be established to discharge the responsibilities of the federal government to manage and dispose of used nuclear fuel and DOE high-level waste.

The MDO should be configured to ensure programmatic effectiveness and its financial and political independence.

- The MDO should be independent of all government agencies and departments.
- The MDO should be advised by a bipartisan Board of Directors composed of no more than 9 members.
  - Board members should be appointed by the President with the advice and consent of the Senate.
  - Board members should be appointed for a minimum of 7-year staggered terms.
  - At least three members of the Board should be appointed from entities that contribute or have contributed to the Nuclear Waste Fund.
  - At least two members of the Board should be appointed from state public utility commissions or representatives thereof.
  - To be eligible to be appointed to the Board, an individual must be a citizen of the United States and have management, financial, technical or other appropriate expertise.
  - A quorum for the Board should be defined as simply more than one-half of the standing directors.
  - The Board should approve the annual budget for the MDO.
- The MDO should have a CEO, who is hired by the Board.
  - The CEO must have, at a minimum, senior executive management experience in large complex organizations with expertise in the nuclear industry and strong financial management skills.
- The CEO, in consultation with the Board, should have the authority to appoint and terminate officers, lawyers, and other employees as necessary to carry out the duties of the MDO without regard to civil service laws applicable to employees of the U.S. government.

  - The MDO's authority to hire and set compensation for officers and employees should be exempt from the provisions of Title 5 of the U.S. Code.
  - The CEO, in consultation with the Board, should be responsible for establishing the duties and compensation for officers and employees of the MDO.
  - Compensation for leadership and employees of the MDO should be comparable with industry peers to enable the MDO to recruit and retain officers and employees with demonstrated leadership, management and technical abilities.

- The Board should be established and operating within 180 days of enactment.
  - The specific DOE responsibilities that will be transferred to the MDO should be defined, and DOE should be instructed to transfer all appropriate materials and infrastructure to the MDO efficiently.

Authority

The MDO should be given authority to implement the elements of an integrated used nuclear fuel management program – transportation, consolidated storage, recycling if warranted, and disposal – efficiently and cost-effectively.

The MDO should have additional authority to:

- acquire private land and facilities, to enter into leases, and to administer contracts necessary for the efficient execution of its used nuclear fuel management responsibilities;
- negotiate legally binding agreements with states, affected local communities and/or tribes interested in hosting consolidated storage and/or disposal facilities;
- issue bonds;
- enter into new spent fuel disposal contracts consistent with the provisions in section 302(a) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(a)) and 10 CFR Part 961 for a commercial nuclear power reactor to be licensed by the NRC and to amend (with the agreement of the contract holder) existing contracts;
- propose an adjustment to the Nuclear Waste Fee to ensure full cost recovery. The proposal should be presented to Congress and deemed effective after a period of 90 days of continuous session have elapsed following the receipt of such transmittal unless during such 90-day period a law is enacted disapproving the proposed adjustment. No adjustment of the fee should become effective until 24 months after the 90-day period.

The MDO should not be subject to the following antitrust legislation: (1) the Sherman Act (15 U.S.C. 1 et seq.); (2) the Clayton Act (15 U.S.C. 12 et seq.); or (3) section 73 or 74 of the Wilson Tariff Act (15 U.S.C. 8, 9).

The MDO should be exempt from taxation in any manner or form by any state, county or other entity of local government, including state, county, or local sales tax. The MDO should be authorized to make payments in lieu of taxes.

Operations

- The MDO should maintain an office in the District of Columbia; and for purposes of venue in civil actions, should be considered a resident of the District of Columbia. The MDO may establish other offices in other locations as deemed appropriate by the Board.
- The MDO should be required to obtain Board approval if it seeks to engage in recycling. The Board decision should be based on the availability of readily deployable technologies and financial benefits to the disposal program.
- The NRC should have regulatory oversight authority over all MDO nuclear storage, disposal and recycling facilities.
- The MDO should be instructed explicitly to make all reasonable efforts to accept commercial used nuclear fuel that is loaded in dry storage containers that can be transported without repackaging.
- The new management entity should be authorized explicitly to accept Greater-Than-Class C waste.
- The MDO should conduct transportation activities in accordance with then-existing laws and regulations.
- The MDO should conduct non-generic research, development, and demonstration in direct support of the licensing and operation of consolidated storage and disposal facilities with the approval of the Board.
- The MDO should have full access to the Nuclear Waste Fee payments and the Nuclear Waste Fund without being subject to annual appropriations for activities related to the management of commercial used nuclear fuel.
- The MDO should review annually the amount of the Nuclear Waste Fee payments to evaluate whether collection of the Fee, together with the corpus of the Nuclear Waste Fund and interest, will provide sufficient revenues to offset the costs of the waste management program. Results of this evaluation should be presented to Congress and entities that pay into the Nuclear Waste Fund. The results should also be made available to the public.

Accountability

- Performance milestones should be established by the Board, in consultation with the CEO, and reports on the progress on those milestones should be presented to Congress annually.

- The MDO should be required to maintain transparent controls on administrative spending to promote accountability and ensure public confidence.
- The MDO should be required to have an independent audit conducted biennially with results presented to Congress and entities that pay into the Nuclear Waste Fund. The results should also be made available to the public.

Nuclear Waste Fund Reform

The MDO must have access to long-term and stable funding and be held accountable to the ratepayers and Congress for using these monies for actions that directly support the ability of the government to meets its statutory and contractual obligations.

Access to the corpus of the Nuclear Waste Fund and future fee payments will be essential to funding an integrated storage and disposal program.

- The MDO should be given access to the full balance of the Nuclear Waste Fund, including interest. Transfer of such funds to the MDO should be on a reasonable schedule defined in the enacting legislation and not subject to annual appropriations.
- Fees paid into the Nuclear Waste Fund, including future one-time fee payments under the NWPA, after the date of enactment should be made available to the MDO within 30 days of payment to the Treasury. Such fees should not be subject to annual appropriations.
- Interest earned on the balance of the Nuclear Waste Fund should be made available to the MDO without being subject to appropriations.
- Funds collected or escrowed for the purpose of used nuclear fuel management should receive the same tax treatment as payments to the Nuclear Waste Fund.

Government Liabilities

The full cost of the estimated liability payments to be made by the federal government from the U.S. taxpayer-funded Judgment Fund should be included in all future U.S. government budget estimates.

Payments for damages arising from DOE's failures to begin to take title of used nuclear fuel by 1998 should only be paid from the Judgment Fund; no payments for DOE's partial breach of contract should be made from the Nuclear Waste Fund.

Utilities should not be required to waive their right to recover damages or required to reach a settlement with the federal government as a condition of future action on the part of the MDO.

Yucca Mountain

The Yucca Mountain licensing process should be completed.

- The DOE or MDO should attempt to negotiate an agreement with the state of Nevada and the host counties to address state and local issues and provide benefits to the state and host counties.
- Permanent land withdrawal, necessary before construction can begin, should be legislated.

The Nuclear Waste Policy Act should be amended to remove the 70,000 metric ton limit on heavy metal in spent nuclear fuel to be emplaced at Yucca Mountain. Any limit on the amount of used nuclear fuel emplaced in a repository should be based on public health and safety considerations.

The Nuclear Regulatory Commission should be instructed to consider the application to receive and possess, or any other application after the construction authorization is approved, using expedited procedures and to issue a final decision on whether to grant permission to receive and possess, or on any other application, within one year of submission of the application. The NRC should be permitted to extend that deadline by no more than six months.

Geologic Disposal

- Geologic disposal is an essential element of a sustainable, integrated used nuclear fuel management program.
- Development of consolidated storage and disposal facilities should be pursued in parallel without limitation. Achievement of milestones associated with one facility should not be a pre-requisite for continued development of other facilities.
- The target date for the opening of Yucca Mountain or an alternative geologic repository should be no later than 20 years after a consolidated storage site is opened.
- The NRC and EPA should be instructed to develop new regulations for a generic repository within 36 months of enactment.
- Notwithstanding any further advancement of the Yucca Mountain repository project, the MDO should be authorized to site a second repository in a willing host community and state using a consent-based siting process.

Consolidated Storage

- The Nuclear Waste Fees and the Nuclear Waste Fund should be used for the development and operation of a consolidated storage facility.
- The DOE or MDO should be authorized to design, construct and operate a consolidated storage facility for commercial used nuclear fuel and DOE high-level radioactive waste.

- For commercial used nuclear fuel shipments to the consolidated storage facility, priority should be given to the decommissioned commercial reactor sites that no longer have an operating reactor.
- The MDO should be authorized to site consolidated storage facilities in a willing host community and state using a consent-based siting process. The MDO, the state, and relevant localities or tribes should enter into a binding agreement to host the consolidated facility. The agreement should be presented to Congress and deemed effective after a period of 90 days of continuous session have elapsed following the receipt of such transmittal unless during such 90-day period a law is enacted disapproving the proposed agreement.
- Any agreement with a state, affected community and/or tribe may include restrictions on the capacity of the subject consolidated storage facility, the duration of operation of that facility, and the relationship of operation of that facility to the operation of a repository.
- The limitations imposed on a monitored retrievable storage facility under section 141(g) of that Nuclear Waste Policy Act (42 U.S.C. 10161(g)) should not apply to a consolidated storage facility developed by the MDO or DOE.
- The NRC should be instructed to issue a final decision approving or disapproving a license for a consolidated storage facility no later than two years after the date of the submission of such application. The NRC should be permitted to extend that deadline by no more than one year.

Commingling of DOE High-level Radioactive Waste (HLW) and Commercial Used Nuclear Fuel

The MDO should be required to provide for the permanent disposal of both commercial used nuclear fuel and DOE high-level radioactive waste (HLW).

- The MDO should address disposal pathways for both DOE HLW and commercial used nuclear fuel simultaneously, not sequentially.
- The MDO should have the authority to determine whether DOE HLW should be stored and disposed of in common or separate facilities.
- The MDO must receive payment for the storage and disposal of DOE HLW from appropriated or other funds, but in no case should such payment for storage and disposal of HLW be taken from the Nuclear Waste Fund or Nuclear Waste Fees paid by contract holders.

DOE responsibilities that should remain with DOE after the MDO becomes operational

DOE should be instructed to maintain a comprehensive research and development program to evaluate the aging characteristics of existing used nuclear fuel storage systems over extended time periods.

- DOE may choose to contract with the MDO to manage and carry out this program, however, because the need for extended storage is a direct result of the Department's failure to meet its obligation to begin removing used nuclear fuel from reactor sites beginning in 1998. All funding for this program must come from the Department's budget and not the Nuclear Waste Fund.

DOE should be instructed to maintain a comprehensive research, development and demonstration program for improved or advanced fuel cycles in close coordination with industry.

- All funds for this program must come from the Department's budget and not the Nuclear Waste Fund.
- The NRC should be instructed to develop a regulatory framework for the licensing of recycling facilities.

Waste Confidence

The environmental impacts of used nuclear fuel storage for the period between NRC license termination and removal for disposal should be exempted from NRC consideration (under NEPA) in connection with the development, construction, and operation of, or any permit, license, license amendment, or siting approval for, a civilian nuclear power reactor or any facility for the treatment or storage of spent nuclear fuel or high-level radioactive waste based on a legislative determination of reasonable assurance that:

- safe disposal of high-level radioactive waste and spent nuclear fuel in a mined geologic repository is technically feasible and one or more mined geologic repositories for commercial high-level radioactive waste and spent nuclear fuel will be available when needed; and
- high-level radioactive waste and spent nuclear fuel generated in reactors licensed by the NRC is and will continue to be managed and stored in a safe manner without significant environmental impact until sufficient repository capacity is available to assure the safe disposal of such high-level radioactive waste and spent nuclear fuel.

May 2013

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UNITED STATES NUCLEAR
INFRASTRUCTURE COUNCIL
1317 F Street NW Suite 350 Washington, DC 20004
Tel: 202.332-8155 www.nuclearinfrastructure.org

May 24, 2013

The Honorable Dianne Feinstein
United States Senate
Washington, DC 20510

The Honorable Lamar Alexander
United States Senate
Washington, DC 20510

The Honorable Ron Wyden
United States Senate
Washington, DC 20510

The Honorable Lisa Murkowski
United States Senate
Washington, DC 20510

TRANSMITTAL VIA ELECTRONIC MAIL: Nwaste_feedback@energy.senate.gov

Dear Senators Feinstein, Alexander, Wyden, and Murkowski:

The United States Nuclear Infrastructure Council –the leading U.S. think tank advocate for new nuclear energy representing more than fifty companies from every segment of the nuclear fuel cycle—appreciates the opportunity to comment on the *Discussion Draft of Comprehensive Nuclear Waste Legislation* released on April 23, 2013. Please note that while these views represent the consensus of the Council, they do not necessarily reflect the views of specific members.

The Council greatly appreciates your leadership in moving the discussion forward on this vital National issue, and in requesting input on the draft from stakeholders and the public. We are offering comments on certain aspects of the discussion draft language the Council believes should be modified, if the country is to deal responsibly and effectively with managing used fuel and high-level waste.

The attached comments are grouped into three sections: (1) general comments on the discussion draft; (2) responses to specific questions in your Request for Comment; and (3) specific issues not listed in the Request for Comment but which the Council believes must be addressed if legislative reform is to be effective.

We would welcome the opportunity to brief your staff more fully on these important issues. If we can provide any further information or assistance in this matter, please have your staff contact David Blee, NIC Executive Director, at 202-332-8155.

Again, we thank you for your leadership, and for the opportunity to comment.

Sincerely,

Eric Knox, Chairman
United States Nuclear Infrastructure Council

David Blee, Executive Director
United States Nuclear Infrastructure Council

Dorothy R. Davidson, Co-Chair
Back-End Fuel Cycle Working Group
United States Nuclear Infrastructure Council

Edward Davis, Co-Chair
Back-End Fuel Cycle Working Group
United States Nuclear Infrastructure Council

United States Nuclear Infrastructure Council (NIC)
Comments on Discussion Draft of Comprehensive Nuclear Waste Legislation
Released by Sens. Alexander, Feinstein, Murkowski and Wyden

May 24, 2013

I. General Comments:

1. Section 101(5) of the discussion draft, "Findings," states that "in 2009, the Secretary found the Yucca Mountain site to be unworkable and abandoned efforts to construct a repository." While the statement is accurate in the strictest sense, this 19-word summary of what happened to the Yucca Mountain Project and DOE's Office of Civilian Radioactive Waste Management (OCRWM) gives short shrift to this controversial issue, the current Administration's actions, and the years-long litigation that has ensued. It should be noted for the record that neither then-Secretary Steven Chu, nor the Government's own attorneys before the Atomic Safety Licensing Board, ever provided a scientific or technical rationale for withdrawing the license application for the Yucca Mountain repository.

   The Council believes the licensing process for the proposed Yucca Mountain repository should resume immediately. We note a petition to mandate licensing restart is currently before the United States Court of Appeals for the D.C. Circuit. Any legislation to modify the NWPA should ensure that sufficient funding is made available to complete the Yucca Mountain licensing process, and that appropriate compensation and incentives be provided for characterizing other storage or disposal sites, to encourage and foster consent from potential host jurisdictions. Pursuing more than one site and one solution would provide redundancy to the waste management and disposal system, and would be consistent with the nuclear safety culture.

2. The effort to reform the Nation's nuclear waste management program is to be commended, and NIC appreciates the leadership from the Senators in moving the discussion forward. However, the Council has some general concerns with the draft as written. These include:

   - Transferring nuclear waste management responsibility from one federal agency to another newly-created one is <u>not</u> the kind of organizational reform urged by the Blue Ribbon Commission on America's Nuclear Future (BRC) or other experts who have examined this problem. The proposed Nuclear Waste Administration would have many of the same structural and organizational weaknesses as the current DOE program—and potentially some new ones, such as an oversight board comprised of federal managers who may not have nuclear waste management expertise (*e.g.*, senior officers of the Office of Management and Budget and the Corps of Engineers). The BRC recommended a "Fedcorp" approach with a board of directors with the powers and fiduciary responsibilities of a corporate board.

     NIC believes a federally-chartered corporation (of which there are many different types and examples) needs strong, sustained leadership; appropriate Congressional oversight; a board of directors with experience in relevant fields; and regulatory and technical input from independent bodies. A more independent management structure

than currently proposed is needed. Any new management structure must be poised for success and empowered to make decisions free from political interference.

- Hosting and consent agreements as proposed in the discussion draft are too prescriptive and will be difficult to implement (*e.g.,* modifying the storage-disposal linkage, with annual determinations as to whether progress is being made).

  The BRC believed, and the Council agrees, that consent-based siting would necessarily involve a high degree of flexibility in negotiating hosting and consent agreements. The discussion draft is highly prescriptive and intrusive in specifying potential terms and conditions, and the process by which they may be approved. Potential State, Tribal and local parties to a hosting consent agreement should be free to negotiate, with the managing entity, terms and conditions most suitable for their circumstances, subject to a one-time ratification by Congress if needed.

  Over the past year, the Council has sponsored several meetings between its industry members and a number of states and communities around the country that are very interested in exploring the possibility of hosting a storage or disposal facility. The interest is there, and it is serious. Any comprehensive legislation on nuclear waste reform must provide a clear process for States and Tribes to express their interest in potentially becoming a host, and to receive funds to initiate site characterization activities. But they should also be free to determine, for themselves, what kinds of incentives and conditions would best suit their specific needs. This is the essence of the "consent-based" process envisioned by the BRC. Potential hosts, not Congress or other branches of the Federal government, should define the terms of any agreement.

- The discussion draft contains a requirement to settle lawsuits on government terms in order for nuclear power plant operators to obtain the performance that is required by used fuel disposal contracts, and for which the operators have paid billions of dollars.

  NIC understands this longstanding litigation could be a hindrance when attempting to implement a new waste management approach, but dictating settlement terms (when settlements are occurring even now) with coercive requirements from Congress is unlikely to be helpful. Settlement of current claims should not be part of comprehensive waste management reform legislation. The surest way to settle the claims is to provide a successful means for terms of the contracts to be fulfilled.

II. Comments on Specific Questions for Which Input Was Sought:

Question 1: *Should the Administrator take into account, when considering candidate storage facility sites, the extent to which a storage facility would: (a) unduly burden a State in which significant volumes of defenses* (sic) *wastes are stored or transuranic wastes are disposed of; or (b) conflict with a compliance agreement requiring the removal of nuclear waste from a site or a statutory prohibition on the storage or disposal of nuclear waste at a site? Alternatively, should the State and other non-federal parties seeking to site a candidate storage facility be allowed to determine whether they are unduly burdened? Should the final consent agreement, which would be sent to Congress for ratification, contain an authorizing provision to amend any conflicting compliance agreement or statutory prohibition?*

Response: The Administrator should not be required to make subjective determinations such as whether any State or Tribe is "unduly burdened;" every State and Tribe is fully capable of deciding that issue (and taking appropriate action if they deem it necessary).

Question 2: *Should the bill establish a linkage between progress on development of a repository and progress on development of a storage facility? If so, is the linkage proposed in section 306 of the bill appropriate, too strong, or too loose? If a linkage is needed, should it be determined as part of the negotiations between the state and federal governments and included in the consent agreement rather than in the bill?*

Response: The current linkage (which prevented development of a storage facility instead of addressing the *de facto* storage issue) would be removed under the proposed language, but replaced with a highly unwieldy alternative. The Administrator and oversight board would be required to certify—every twelve months—whether "substantial progress" (a highly subjective term) is being made on a repository, and to cease shipments to storage if it is not. This means that every annual determination (the basis of which would almost certainly be litigated by intervenors) could halt the program, and thereby thwart the very "substantial progress" being sought. The proposed certification process would operate to make the linkage *more* restrictive, not less. The Council recommends any bill forego a linkage altogether, and that any such linkage be negotiated as part of a consent agreement for hosting a storage facility *if the host community wants it*. If a community is unlikely to agree to host storage absent actual progress on ultimate disposal, this process as written will not add any significant confidence. An enforceable agreement (perhaps including a damages clause, such as a $10,000/day penalty for missed deadlines) might.

Question 3: *Should the bill establish separate storage and disposal programs with clearly defined requirements for each, with any linkage negotiated in the consent agreement between the federal and non-federal parties, to allow the two program* (sic) *to run on separate, but parallel tracks, as proposed in the alternative section 305 (which would replace section 304(b)-(g) of the draft bill)?*

Response: See above—linkages, if any, should be negotiated among the parties to the agreement.

Question 4: *To what extent should the siting and consensus approval process for spent fuel storage facilities differ from that for the repository? Should the Administrator be required to conduct sufficient site-specific research (referred to as "characterization" in the bill) on candidate storage sites to determine if they are suitable for storing nuclear waste or only on candidate repository sites to determine if they are suitable for geologic disposal of nuclear waste? Should the Administrator be required to hold public hearings both before and after site characterization (as required by current law in the case of the Yucca Mountain site) or only before site characterization?*

Response: There is some inconsistency between the different storage and repository siting sections (this may just be a drafting issue). For example, the pilot storage process is directed to begin in 180 days, and the repository siting process is not. They should both commence immediately. The discussion draft states that repository siting is specifically to be based on "sound science," and the language on siting a storage facility does not include this requirement. Both processes must be based on sound science and on regulatory compliance. The Council recommends the siting procedure be the same for siting any facility, except where technical or regulatory requirements clearly dictate a different approach is needed (*e.g.,* performance of a geologic system over millennia should not be a criterion for a storage facility).

Public hearings (and other stakeholder involvement activities) are essential to any program that needs to earn public confidence. Such interactions need to take place before and after every significant decision point.

Question 5: *Should the siting process in section 304 of the draft bill be streamlined? If so, how?*

Response: The siting process could be streamlined greatly by putting potentially interested host States and Tribes in charge of making siting determinations and recommendations (with financial and technical support), and overseeing site characterization activities. The managing entity's role should be limited to entering into agreements, following applicable licensing and siting laws, and performing the work. Putting the federal government in the "driver's seat" in making siting decisions has created much of the difficulty we currently face today.

Question 6: *Should the new entity be governed by a single administrator or by a board of directors?*

(a) If by a single administrator, should the administrator serve for a fixed term? If so, how long should the term of service be? Should the legislation prescribe qualifications for the administrator? If so, what should be the selection criteria?

(b) If by a board of directors, how many people should comprise the board and how should they be selected?

Response: The new entity should be managed by a highly-qualified chief executive, accountable to a board of directors, as envisioned by the BRC in its proposal for a "Fedcorp" structure. The Administrator (or chief executive if another structure is chosen) should not serve a fixed term but serve at the pleasure of the board of directors, as CEOs typically do.

Question 7: *The Blue Ribbon Commission recommended establishment of both a board of directors for management oversight (whose "primary role ... is not to represent all*

stakeholder views, but rather to carry out fiduciary responsibilities for management oversight") and "a larger and more widely representative stakeholder advisory committee." The draft bill responds to these recommendations, first, by establishing a Nuclear Waste Oversight Board of senior federal officials and, second, by authorizing the Administrator to establish advisory committees. Should the Oversight Board and advisory committee be combined into a single body to perform both management oversight and stakeholder representation functions? Should the focus and membership of any advisory committees be established in the legislation or left to the Administrator?

Response: A board of directors with actual fiduciary responsibilities (as opposed to an "Oversight Board" however constituted) would provide needed management direction, and a continued Nuclear Waste Technical Review Board (provided for in Section 508) would provide all the technical and scientific oversight required. Additional advisory committees might be helpful to address issues on an *ad hoc* basis, but cannot substitute for a board of directors having actual management authority.

Question 8: *Dr.* [Richard A.] *Meserve testified in 2012 that representatives of stakeholders and public utility commissioners should be added to the Nuclear Waste Oversight Board. Would these additions make the Board better able to carry out its fiduciary oversight mission effectively?*

Response: As Section 205 currently reads, the Nuclear Waste Oversight Board would appear to have *no* fiduciary responsibilities, other than the very generalized ones vested in any federal official. The Oversight Board would provide advice, and conduct periodic assessments, but has no real power in the sense that a corporate board of directors would. This is a key problem with the proposed approach.

III. Comments on Issues Not Identified in the Request for Specific Input:

- Section 103(28), “Definitions,” defines spent fuel as "fuel that has been withdrawn from a nuclear reactor following irradiation, the constituent elements of which have not been separated by reprocessing." Section 103(30) defines a storage facility as "a facility for the storage of nuclear waste from multiple contract holders or the Secretary pending the disposal of the spent nuclear fuel in a repository."

  The Council believes that while attention should be paid to defense waste, and commercial spent fuel already generated, the language should not be interpreted to include only existing material with all constituent elements intact. This would limit or eliminate potential additional options for re-use of material that exists under the law today. It is important not to undermine industry's integrated used fuel management strategy that views future re-use of this material as an important option to retain.

- Section 201, “Nuclear Waste Administration,” would have the NWA be an independent agency of the federal government. The Administrator would serve a six-year term, subject to reappointment by the President (with Senatorial confirmation). The bill also provides for a General Counsel, CFO, and up to 3 Assistant Administrators. Such subordinate officers would be career appointees under the standard civil service regulations.

  The Council questions whether the Administrator and his or her subordinate officers (or anyone else performing this mission) should be afforded civil service protections. A corporate structure with senior executives, serving at the pleasure of the board of directors, and all employees hired on an “at-will” basis (either from existing federal posts or from the commercial sector) would greatly advance personal accountability and incentivize performance.

- Section 205, “Nuclear Waste Oversight Board,” would establish a Board to oversee implementation of the Act, and would consist of executives from OMB, the Corps of Engineers, and DOE. Section 206 specifies an Inspector General to be appointed by the Administrator.

  The Council is concerned that the designated oversight board members would likely be political appointees, may lack expertise in nuclear waste management, have no actual managerial authority, and would not represent waste generators or ratepayers. As stated earlier, the Council recommends a “Fedcorp” approach like that recommended by the BRC and other experts be adopted. This entity would be managed by a board of directors consisting of experienced, multidisciplinary, private-sector professionals with direct relevant expertise and a stake in a successful waste management outcome. The Council further questions why the entity needs its own Inspector General. An NRC licensee would have ample Commission oversight for safety and compliance issues, and a properly constituted board of directors would handle management issues.

- Section 305, “Pilot Project:” Senator Feinstein proposes an alternative pilot approach for shutdown spent fuel storage and a new Section 305.

  The Council believes the terms and procedures specified in both drafts for siting a facility and negotiating agreements are too prescriptive. Subject to compliance with applicable law, the parties should be free to negotiate such terms and conditions as they deem appropriate. It is impossible to know *a priori* what issues will arise and how the parties might resolve them, and Congress should not inject itself, using such prescriptive terms, into those negotiations before they can even begin to take place.

- Section 307, “Defense Waste:”

  NIC believes the language should specify that “defense waste” in this context includes only Government-owned spent fuel and high-level waste. Read broadly, the language could include transuranic or low-level waste as well. The definition section’s reference back to the NWPA definition does not appear to address this.

- Section 308, “Transportation:” the discussion draft includes language expanding grants to States and Tribes, and the uses to which those funds can be put.

  NIC finds this change to current law laudable, and it is responsive to repeated requests from State and Tribes to provide more flexibility under the current statute, NWPA Section 180(c).

  However, another transportation issue identified by the BRC (discussed at page 83 in their final report) is not addressed in the discussion draft. The Commission heard testimony that “DOE’s plans to use its own self-regulating authority sharply undercut credibility in the proposed transportation program.” The BRC recommended any entity performing this work be regulated just as a private company performing the same work, to “assure regulatory clarity and transparency.” The Council believes that language to that effect would greatly enhance any new entity’s credibility.

- Section 402, “Nuclear Waste Fund,” does not appear to address how the existing balance of the Nuclear Waste Fund plus interest (commonly referred to as the “Corpus”) will be allocated and spent when those funds are needed for construction of one or more facilities. These funds have been accruing since 1982, amount to more than $30 billion, and derive from ratepayer fees, not tax revenues. If aggressive new build continues to languish, and reactors from the existing fleet are decommissioned, the receipts from ratepayers will decrease over time making the Corpus of the Fund much more critical to funding disposal efforts in future decades.

  The Council believes these funds, or perhaps bonds backed by the Corpus, should be made available to the new entity when needed. A comprehensive waste bill that addresses this issue (which is an item of critical interest to many constituencies including utilities and public utility commissions) would gain widespread support.

- The discussion draft is silent on the status of the defense nuclear waste fund and any future defense-related obligations of that fund. This should be specifically addressed.

- The draft is also silent as to disposition of Greater than Class-C waste, acceptance of which is also a Federal responsibility, and which is accumulated at shutdown sites awaiting disposition. The discussion draft should address disposition of GTCC waste.

Naval Reactors' Comments on Discussion Draft Nuclear Waste Administration Act of 2013

Section 308

Issue: A number of rate settlement agreements are either in place or are being negotiated between the Department of Energy and Class 1 railroads which settle long-standing litigation over charges for spent nuclear fuel shipments. These agreements set rates for future shipments including those which were previously intended to be made to Yucca Mountain.

Comment: The legislation should explicitly state in Section 308 that settlement agreements which exist between the Secretary and major railroads regarding shipping of spent nuclear fuel and waste shall remain in effect and applicable to shipments arranged by the Administrator.

Issue: Due to national security considerations, advanced notifications for shipments of spent nuclear fuel removed from Navy ships and prototype reactors are not made because of the quantity of highly enriched uranium.

Comment: An exemption for national security shipments should be included in Section 308 (c). The Code of Federal Regulations may be cited (49 CFR 173.7(b)) for this exemption. Outreach and education of affected parties along shipping routes is currently done to ensure emergency responders and State officials understand Navy spent fuel shipping practices and are able to respond to incidents if needed. It is expected that these outreach efforts would continue.

Issue: Naval Reactors has a developed process and infrastructure for shipping naval spent nuclear fuel removed from Navy ships and submarines to Idaho for examination and storage. The shipping plan for Yucca Mountain would have used the same infrastructure to ship Navy canisters to Yucca Mountain where DOE would then take possession for subsequent disposal. As drafted, Section 308 of the bill makes the Waste Administration responsible for the shipping.

Comment: Naval Reactors already has the infrastructure and procedures for shipping naval spent nuclear fuel. Naval Reactors does not believe it makes sense for the Waste Administration to duplicate this infrastructure and propose that Section 308 be modified to provide the flexibility for Naval Reactors to ship its spent fuel to the receiving facility.

We would be happy to provide additional information in support of any of the above comments.

Contact:
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SNAKE RIVER ALLIANCE

IDAHO'S NUCLEAR WATCHDOG & CLEAN ENERGY ADVOCATE

April 24, 2013

To: Members of the Senate Energy and Natural Resources Committee

From: Snake River Alliance

Re: Discussion Draft of Nuclear Waste Administration Act of 2013

The Snake River Alliance has served as Idaho's grassroots nuclear watchdog since 1979. We thank the authors of the Nuclear Waste Administration Act of 2013 for the opportunity to comment on a draft of the legislation on behalf of our dues-paying members.

The Idaho National Laboratory (INL) was established in 1949 on the upstream end of the Snake River Aquifer, the sole source of drinking water for 300,000 people and the lifeblood of southern Idaho. Since the early 1950s, the Idaho National Laboratory has served as an "interim" storage site for spent nuclear fuel from the Naval Nuclear Propulsion Program, commercial nuclear power reactors, and domestic and foreign research reactors. Naval and research reactor fuel continues to be shipped to INL for storage. In addition, INL was one of the three Department of Energy sites that reprocessed spent fuel for the US nuclear weapons program, and both dried and liquid high-level waste (HLW) remain at the Site in above-ground bins and buried tanks. The high-level waste and spent nuclear fuel in Idaho will almost certainly remain here for decades. Reprocessing waste caused severe harm to the Snake River Aquifer and was one of the primary drivers for INL's placement on the Superfund list in 1989. Cleanup of the Site will cost billions of dollars; it will extend well into the 21st century.

In 1974 the Atomic Energy Commission published a draft environmental impact statement on storing spent fuel from commercial nuclear power reactors at the Hanford Reservation, Nevada Test Site, or the National Reactor Testing Station (NRTS), as the INL was then known. The governor of Idaho named a Blue Ribbon Study Commission to review the proposal. The Commission held six public hearings around the state, whose population was less than 800,000 at the time. It concluded by declining to support commercial spent fuel storage at the NRTS. As an alternative, it suggested that SNF remain where it was until it could go directly to a permanent repository.

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In 1995, after years of litigation in federal district court, the State of Idaho signed a settlement agreement with the Department of Energy and the nuclear navy that prohibits shipments of commercial spent fuel to Idaho. Idaho voters approved the agreement by referendum in 1996.

Idaho's experiences with both nuclear pollution and nuclear waste storage inform our comments here. Rather than offer a section by section critique of the draft legislation section, we will focus on some general principles and a few of the provisions of the draft bill we fear would do grave harm and when taken together would doom to failure any nuclear waste management program based on this legislation.

The focus of US efforts to solve its nuclear waste problem must be on safe interim storage of spent fuel and high-level waste and then permanent isolation from the biosphere. We strongly oppose consolidating spent fuel or high-level waste. Instead, nuclear waste should be stored as safely as possible as close to its point of generation as possible. Spent fuel should be moved to hardened on-site storage (HOSS) promptly to relieve storage pools that are currently too crowded and to provide augmented protection in case of terrorist attacks or natural disasters. Safe storage and deliberate progress toward a more permanent solution are the imperatives. Relieving nuclear utilities of the *political* burden of storing fuel irradiated in their own reactors is not.

Much has been made of the proposal to consolidate spent fuel from shutdown reactor sites. But current storage at those sites or nearby sites already controlled by the current owner does not present significant environmental risk, particularly if the fuel is moved to HOSS. And the proposal does have a slippery slope, like so much about nuclear waste. The Blue Ribbon Commission on America's Nuclear Future (BRC) wrote, "Assuming a 60-year operating life, on average, for current plants, the number of shutdown sites could reach 30 by 2035 and 70 by 2050."

Commercial spent fuel should not be sent to the Idaho National Laboratory (where it is banned) or any other Department of Energy weapons site. All sites in the DOE weapons complex will remain contaminated until the end of time. The country has a moral obligation and has made legal commitments to remediate those sites to the extent possible, and adding more nuclear waste storage will compromise cleanup efforts.

The Snake River Alliance served on a diverse panel invited by the BRC to address the question of removing the requirement that defense and non-defense waste be co-mingled in a repository. All participants agreed that the co-mingling requirement should stand, primarily because to remove it would not ease progress toward final disposal.

Establishing one or more consolidated spent fuel storage sites lays the groundwork for other problems as well. The US industrialized reprocessing in the 1940s. Now, more than half a century later, reprocessing has made *no* meaningful contribution to this country's efforts to produce electricity or to manage nuclear waste. It is not a technology favored by entities whose job is to keep the lights on, even by those which do so with nuclear reactors. Nonetheless, it is no secret that reprocessing is very attractive to nuclear proponents and corporations that supply nuclear goods and services to utilities. To those corporations, particularly, reprocessing is what one high-ranking DOE official has called a "gigantic industrial opportunity." They are the backbone for consolidated storage support, since spent fuel is the feedstock for reprocessing. We are already hearing "recycling" sales pitches in Idaho and we understand they are taking place elsewhere, too. This country must not resume reprocessing. It is a dirty, dangerous,

proliferating, and expensive undertaking that does not meet any national goal. The final costs of any reprocessing plant would inevitably be borne by the country as a whole.

The draft Nuclear Waste Administration Act of 2013 does not have the coherent sequence or reasonable timeline of decisions and actions that could lead to an effective nuclear waste management regime. From a strictly bureaucratic perspective, the Nuclear Waste Administration itself will take time to establish, as will the development of its "mission plan." A vital basis for a sound program is for the Environmental Protection Agency to establish generic standards for a repository that are both technically sound and publicly accepted. Then the Nuclear Regulatory Commission must promulgate licensing regulations. Those two steps alone will take time and resources, and Congress must be willing to spend the necessary time and resources. Those two steps must be complete before credible siting guidelines can be developed and site selection can begin. They will most certainly take longer than the year allowed for. We have spent the past 30 years witnessing the costs of shortchanging the scientific analyses and meaningful stakeholder participation that are integral to a successful nuclear waste management program. Furthermore, the timeline for site characterization, selection, etc., is not adequate, and the current draft does not allow sufficient time for an iterative, robust consent process. Overall, the lack of time for careful deliberation could lead to the conclusion that the legislation's goal is to provide a quick solution to the nuclear industry's public relations problem rather than to provide the foundation for a long-term solution.

A key element of the Nuclear Waste Policy Act of 1982 is its clear linkage between storage and disposal. That linkage is the only assurance that "interim" storage will not become de facto permanent and that a repository will be built. What linkage there is in the current draft legislation is nearly meaningless and is absent altogether from the alternative Section 305. The call for "parallel" efforts to site an interim consolidated spent fuel storage facility and a permanent repository is immediately undermined by allowing for the siting, construction, and operation of storage facilities if the Nuclear Waste Administrator judges his own agency's progress toward a repository as "substantial" (not "parallel") when measured by his own agency's mission plan, which the agency has written and can revise as needed. It's hard to imagine a bureaucracy willingly suspending a current mission because of a failure to meet a longer term commitment. The inevitable result of the proposed legislation would be that very substantial quantities of spent fuel would have been moved to an "interim" facility before any evaluation was made and the spent fuel would stay at the "interim" facility. That is a very clear picture of de facto permanent disposal.

The consent-based process for siting nuclear waste management facilities has been much ballyhooed since the BRC recommendations. What seems to be missing is the notion that the consent must be *informed,* which is a far cry from the sales pitches targeted sites are already hearing. Empty, grandiose promises about "gigantic industrial opportunities" are not helpful. Instead, what is needed is accurate, timely, easily available information that addresses issues and concerns stakeholders actually have. The Nuclear Waste Administration must provide funding – and time – for stakeholders to benefit from independent analyses.

After some stirring opening remarks about consent in Section 304, the actual version of consent that appears in this draft is inadequate. First, volunteers are sought based on "guidelines," not fully development standards and licensing requirements. This solicitation is to occur as soon as practicable a year after the establishment of the Nuclear Waste Administration. Volunteering entities can be tribal governments or the governor or duly authorized official of the state in which the site is located. There is

not a single sitting governor among the 50 states who was elected to volunteer his or her state for nuclear waste storage. Furthermore, it is unclear if any state has an official "duly authorized" to volunteer for radioactive waste storage, particularly since states are prohibited from regulating radioactive material under the Atomic Energy Act. The affected unit of local government might well be a single rural county and must not make a decision that would have such profound impacts on its neighbors. There is no mention of public or community consent, which is a far stronger basis for stable, longterm consent. The timeline itself guarantees that states and tribes will not even have time to establish their own decisionmaking processes, let alone implement them. And it certainly does not allow for a range of processes. A key provision of any siting strategy must be that states and tribes can exercise *binding* non-consent in order to establish that "no means no." Volunteering to host a nuclear waste management facility is very serious, and there must be ample provision for reevaluation and reconsideration that includes off-ramps or opt outs at a number of junctures in the decisionmaking process. At each of these junctures, informed consent must be expressed by all affected parties. The National Environmental Policy Act must certainly be employed.

Once again, on behalf of our dues paying members, we thank you for this opportunity to comment on the Nuclear Waste Administration Act of 2013. We cannot support it as currently drafted because it proposes courses actions we have already learned will hobble efforts to establish an effective nuclear waste management regime and almost certainly lead to consequences the authors do not intend.

Response to Proposed Centralized Interim Storage Legislation-- May 24, 2013

Proposed Legislation Insufficient: While the proposed legislation is designed to implement the findings of the Blue Ribbon Commission, it does not provide for sufficiently safe methods of either short or long term storage of spent nuclear fuel.

Limit Spent Fuel Transportation: Spent fuel, when sufficiently cooled, should be stored in dry casks—preferably "hardened" models—at existing nuclear plants. This approach would avoid the need to build additional Interim Spent Fuel Storage Installations (ISFSI's). It also would save unnecessary transportation costs and reduce radiation exposure risks to the general population during highway, railroad and barge transit. These risks could be significant because even undamaged transport casks do not have enough shielding to prevent gamma and x-ray radiation from escaping through the walls. Thus occupants in adjacent cars, for example, could receive unwanted exposures under normal traffic conditions. And under accident conditions, exposures from these largely untested casks could be higher and more widespread.

On Site Spent Fuel Storage in Dry Casks: As recommended by Dr. Arjun Makhijani (http://ieer.org), the Federal Government should purchase land adjacent to reactor sites to accommodate dry cask storage of spent fuel—again, preferably in "hardened" models. Currently the Federal Government is paying very large fines to utilities due to the Federal Government's failure to accept spent fuel by 1998. Once spent fuel comes under federal control, the government no longer would be required to pay these fines. This alternative also would work to minimize Illinois's chances or receiving an even greater proportion than we already have of the nation's spent fuel. As detailed in an Oak Ridge National Laboratory report,

"As a totally separate analysis, the consolidated ISFSI site in Illinois is the single optimized2 site for an ISFSI solution when only SNF at orphaned reactors is considered relative to siting a consolidated ISFSI." (p. xviii, ORNL/TM-2012-237)

In addition, General Electric Company still operates its Morris Independent Spent Nuclear Fuel Storage Facility in Grundy County, Illinois. It is the nation's only "away from reactor" spent fuel pool licensed by the NRC.

Locate Geological Spent Fuel Storage Repository Based on Scientific Criteria: Immediate efforts should begin to identify a final repository for spent fuel rather than any plan to increase the number of ISFSI's. Criteria for the choice of a permanent site should be based on rigidly defined scientific principles. The method described in the proposed legislation relies heavily on a consent-based approach that may not lead to the safest long-term solution. While local consent is important, that consent should be based on scientific knowledge rather an improperly perceived opportunity to obtain money, jobs and other incentives.

Phase Out Nuclear Power: The proposal to create more ISFSI's will benefit only the utilities at the expense of the public. The horrific experiences at Three Mile Island, Chernobyl and Fukushima should provide all the documentation necessary for this country to rapidly phase out the generation of electricity by nuclear power.

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To: U.S. Senate Committee on Energy and Natural Resources

The American Nuclear Society (ANS) appreciates the opportunity to comment on the draft Nuclear Waste Administration Act (NWAA). The ANS is a not-for-profit, international, scientific, and educational organization with nearly 12,000 members worldwide. The core purpose of ANS is to promote awareness and understanding of the application of nuclear science and technology. As an organization, it has published a number of position statements regarding the issue of spent fuel and radioactive waste.

We applaud your efforts to re-invigorate the dialogue to address this nation's high-level waste and spent nuclear fuel disposal policy. But we must also express our concern that lack of action by the Congress and the Administration in addressing the Nuclear Waste Policy Act (NWPA) of 1982 et seq. sets a poor precedent for any future legislation on this matter. The NWAA could be a step forward in fulfilling the federal government's responsibilities but it must be done within the context of the NWPA, rather than replace it.

A new nuclear waste management organization is critical for both the continued viability of the nuclear power industry in the United States as well as the credibility of the United States as a global leader in nuclear trade and non-proliferation. While we do not believe the governance structure proposed in the NWAA is the appropriate model, we strongly encourage the committee to continue their efforts to establish and ultimately charter an organization that will address our nation's nuclear waste.

Respectfully submitted,

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Considerations for locating storage facility sites

1. *Should the Administrator take into account, when considering candidate storage facility sites, the extent to which a storage facility would: (a) unduly burden a State in which significant volumes of defenses wastes are stored or transuranic wastes are disposed of; or (b) conflict with a compliance agreement requiring the removal of nuclear waste from a site or a statutory prohibition on the storage or disposal of nuclear waste at a site? Alternatively, should the State and other non-federal parties seeking to site a candidate storage facility be allowed to determine whether they are unduly burdened? Should the final consent agreement, which would be sent to Congress for ratification, contain an authorizing provision to amend any conflicting compliance agreement or statutory prohibition?*

As responsibility for managing used fuel and high level waste lies at the federal level, it follows that assessment of candidate site suitability for characterization likewise be a federal responsibility. Suitability in this context must be transparently evaluated according to standards and science-based criteria. However, the subjective concept of "burden", undue or due, cannot be quantified in such criteria. Should a site be determined scientifically suitable by the federal government, the questions of burden or compliance agreements, along with other less quantifiable factors, must be assessed by and negotiated with State and other non-federal entities.

In other countries where a consent-based siting approach has been used, siting potential was determined before asking consent and decisions by the national government and substantial incentive packages were required for success. In addition, the only consenting communities were those where nuclear installations were already present. Lessons learned from our international nuclear colleagues must be incorporated into the U.S. process.

Lessons learned from the Nuclear Waste Policy Act (NWPA) of 1982 and the Waste Isolation Pilot Plant (WIPP) show that transparency, regulatory oversight, and adherence to a scientifically established plan to assure the safety and security of the new facilities would be the only viable option for moving forward. The WIPP began operations only after decades of regulatory battles as well as large amounts of incentives to the local community. Over the course of 20 years under the NWPA, the goals and designs for developing NWMFs changed almost as frequently as the political situation. Had the NWPA been planned to be more adaptive to changes in the public and political climate, the delays associated with Yucca Mountain (as well as the elimination of potential secondary repository sites) may never have occurred.

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Relevant ANS documents

- **American Nuclear Society (ANS) Comments in Response to The Blue Ribbon Commission on America's Nuclear Future Draft Report to the Secretary of Energy (September 2011)**
- **Position statement: Licensing of Yucca Mountain as a Geological Repository for Radioactive Wastes (ANS-80-2009)**

Linkage between storage and repository

2. *Should the bill establish a linkage between progress on development of a repository and progress on development of a storage facility? If so, is the linkage proposed in section 306 of the bill appropriate, too strong, or too loose? If a linkage is needed, should it be determined as part of the negotiations between the state and federal governments and included in the consent agreement rather than in the bill?*

It is the position of ANS that the interim storage must be inextricably aligned with strategies and options for eventual long-term disposal. Whether or not the United States decides to develop recycling technology, some amount of material will be required to be disposed in a geologic repository. Accordingly, the ANS supports a siting process that creates a dependency between proposed interim storage facilities and long-term geologic storage facilities. From a scientific and logistics point of view, back-end fuel cycle facilities would ideally be co-located in order to reduce transportation requirements as well as reduce overall costs. Ultimately, the consent agreement is a negotiated contract and co-located facilities and systems are clearly incentives for any siting and hosting process.

Relevant ANS documents

- **Position statement: Interim Storage of Used or Spent Nuclear Fuel (ANS-76-2008)**
- **Position statement: Nuclear Fuel Recycling* (ANS-45-2007)**
- **Position statement: The Safety of Transporting Radioactive Materials* (ANS-18-2002)**
- **American Nuclear Society (ANS) Comments in Response to The Blue Ribbon Commission on America's Nuclear Future Draft Report to the Secretary of Energy (September 2011)**

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Separate process for storage facility siting

3. *Should the bill establish separate storage and disposal programs with clearly defined requirements for each, with any linkage negotiated in the consent agreement between the federal and non-federal parties, to allow the two programs to run on separate, but parallel tracks, as proposed in the alternative section 305 (which would replace section 304(b)-(g) of the draft bill)?*

No. See comments per question number 2.

4. *To what extent should the siting and consensus approval process for spent fuel storage facilities differ from that for the repository? Should the Administrator be required to conduct sufficient site-specific research (referred to as "characterization" in the bill) on candidate storage sites to determine if they are suitable for storing nuclear waste or only on candidate repository sites to determine if they are suitable for geologic disposal of nuclear waste? Should the Administrator be required to hold public hearings both before and after site characterization (as required by current law in the case of the Yucca Mountain site) or only before site characterization?*

ANS supports a transparent, phased, adaptive, and standards and science-based approach to selecting new storage and repository facilities. As such, the first step is to establish the criteria and then to characterize the site to determine if the criteria are met. Criteria for storage facilities and repositories will not be the same, as the functions of the facilities are not the same. Therefore, characterization of candidate storage sites should be performed according to the relevant criteria.

The question of public hearings before and/or after characterization should be left to the Administrator's discretion, thereby allowing adaptation of the process to changes in the public and political climate. A lack of flexibility in the NWPA contributed to the many delays associated with characterization of, and license application for, a repository at Yucca Mountain.

<u>Relevant ANS documents</u>

- **Position statement: Interim Storage of Used or Spent Nuclear Fuel (ANS-76-2008)**
- **Position statement: Risk-Informed and Performance-Based Regulations for Nuclear Power Plants* (ANS-46-2004), which is also**

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applicable to waste facilities

- **American Nuclear Society (ANS) Comments in Response to The Blue Ribbon Commission on America's Nuclear Future Draft Report to the Secretary of Energy (September 2011)**

Complexity of repository and storage facility siting processes

5. *Should the siting process in section 304 of the draft bill be streamlined? If so, how?*

Yes. An overly prescriptive process and structure for a hosting agreement may discourage some states and communities. ANS would point to the lessons learned from the DOE Waste Isolation Pilot Plant. While there was no hosting agreement the WIPP Land Withdrawal Act contained a negotiated set of state and local benefits. This occurred prior to operations but after the site had been characterized and the full extent of operations and potential impacts were understood. Qualifying a site is a technical decision and must be conducted by the NRC in compliance with EPA requirements.

Governance of the Nuclear Waste Administration

6. *Should the new entity be governed by a single administrator or by a board of directors?*
    a. *If by a single administrator, should the administrator serve for a fixed term? If so, how long should the term of service be? Should the legislation prescribe qualifications for the administrator? If so, what should be the selection criteria?*
    b. *If by a board of directors, how many people should comprise the board and how should they be selected?*

The American Nuclear Society has previously urged Congress and the Executive branch to consider the creation of an independent entity to oversee management of the current and expected stockpile of U.S. used nuclear fuel. Such an entity would possess the following characteristics:

1. access to nuclear waste fees, not subject to annual congressional appropriations;
2. governance that promotes long-range planning and continuity of leadership;
3. authority to provide consolidated interim storage, nuclear fuel recycling, and geologic disposal consistent with laws, policies, and regulations;
4. authority to support U.S. national security and nonproliferation objectives on a full-cost reimbursement basis;

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5. fully subject to U.S. Nuclear Regulatory Commission and U.S. Environmental Protection Agency regulations.

The governance structure proposed by the NWAA would not address these needs. Rather the NWAA would create a political structure to oversee an operational entity and we suggest that this would be little different from the current Department of Energy governance. The ANS sees two viable alternatives to the proposed design.

A standalone corporation must be established with a governing board from both political and stakeholder organizations which must include representation from the nuclear utilities and their public utility regulatory commissions. Each stakeholder organization must be able to nominate qualified individuals to represent their interests. The President would select the Chairman from the Board members. In lieu of a standalone Administrator, the Corporation should have a Chief Executive hired by, and reporting, to the Board.

An alternative option for the formulation of the new waste management organization would be to follow the models of other nations where public-private corporations have been established with a consortium of nuclear utilities to manage radioactive wastes and spent fuel.

Relevant ANS documents

- **Position statement: Creation of an Independent Entity to Manage U.S. Used Nuclear Fuel (ANS-22-2009)**
- **American Nuclear Society (ANS) Comments in Response to The Blue Ribbon Commission on America's Nuclear Future Draft Report to the Secretary of Energy (September 2011)**

7. *The Blue Ribbon Commission recommended establishment of both a board of directors for management oversight whose "primary role ... is not to represent all stakeholder views, but rather to carry out fiduciary responsibilities for management oversight" and "a larger and more widely representative stakeholder advisory committee." The draft bill responds to these recommendations, first, by establishing a Nuclear Waste Oversight Board of senior federal officials and, second, by authorizing the Administrator to establish advisory committees. Should the Oversight Board and advisory committee be combined into a single body to perform both management oversight and stakeholder representation functions? Should the focus and membership of any advisory committees be established in the legislation or left to the Administrator?*

The current failure by Congress and the Administration to implement the NWPA demonstrates that oversight restricted to government officials will lead to

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politicization of the new organization. Government oversight can be provided through representation on the Board of Directors and through periodic financial and performance reviews of the corporation conducted by the government. Advisory committees are appropriate but must have an appropriate charter and position in the reporting structure so that their views have influence. As an example, the Advisory Committee on Reactor Safeguards is a statutory technical body reporting to the Nuclear Regulatory Commission. Their findings have significant influence on Commission decisions as well as the nuclear industry as a whole both domestically and internationally. We believe that the Board of Directors should have a statutory technical advisory committee and that the Chief Executive may establish advisory committees as appropriate in the conduct and operation of the enterprise.

Relevant ANS documents

- **Position statement: Creation of an Independent Entity to Manage U.S. Used Nuclear Fuel (ANS-22-2009)**
- **American Nuclear Society (ANS) Comments in Response to The Blue Ribbon Commission on America's Nuclear Future Draft Report to the Secretary of Energy (September 2011)**

8. Dr. Meserve testified in 2012 that representatives of stakeholders and public utility commissioners should be added to the Nuclear Waste Oversight Board. Would these additions make the Board better able to carry out its fiduciary oversight mission effectively?

Yes. Please see comments for questions 6 and 7

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May 24, 2013

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Re: Nuclear Waste Administration Act of 2013 Discussion Draft

Dear Chairman Wyden, Senator Murkowski, Chairman Feinstein and Senator Alexander:

The National Conference of State Legislatures (NCSL) applauds your continued efforts to develop bipartisan legislation needed to establish a program to manage the nation's spent nuclear fuel and high level radioactive waste with the release of a discussion draft of the Nuclear Waste Administration Act of 2013 (NWAA).

NCSL has long been on record in support of efforts by both Congress and the administration to address the fundamental questions necessary for developing a solution to address spent nuclear fuel storage and high level radioactive waste management. NCSL urges Congress to move expeditiously to review and act on legislation that builds on the recommendations for a new national radioactive waste management strategy made in Jan. 2012 by the Blue Ribbon Commission on America's Nuclear Future (BRC) and in the Department of Energy's Jan. 11, 2013 report, "Strategy for the Management and Disposal of Used Nuclear Fuel and High-Level Radioactive Waste."

Consent Based Siting

NCSL recognizes the need to develop repository and storage facility siting processes that are efficient and effective in order to enable a constructive environment for these efforts. However, efforts to streamline this process do not necessitate overlooking the role of state legislatures in the process. In order to ensure that such a decision accurately reflects appropriate levels of state consensus, state legislators, and not just a state's governor, must be consulted regularly. Ensuring

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such consultation respects the traditional role of state legislatures in the appropriation of funds and performing programming oversight.

There are a number of legislative options for ensuring the consultation process can integrate all aspects of state government and assure state legislative input. One option to consider would be to add "presiding officer of each legislative chamber" to all references to the "Governor or duly authorized official of the state" when mentioned with regards to site selection, study and siting for both the repository and storage facility processes. This would make it consistent with the Nuclear Waste Policy Act of 1982 section 117, which clearly states that the Department of Energy "shall consult and cooperate with the Governor and legislature of such State." NCSL strongly urges this committee, as it moves forward to develop a program for the long-term treatment and disposal of high-level radioactive waste, to ensure adherence to this requirement.

Nuclear Waste Administration
NCSL supports the creation of a public-private partnership to manage the back end of the nuclear cycle, as was recommended by the final report of the BRC, rather than establishment of a new federal agency. Additionally, in response to the questions put forth by the senators, NCSL would note that given the importance placed on state, local, and tribal consultation in the draft, the senators should consider adding such representation to the Oversight Board and other advisory committees, as discussed in Section 205. In order to not overburden the board structures, the appointments could be made through the national organizations representing state, local and tribal elected officials such as NCSL.

Interim Storage Linkages
NCSL supports federal action to develop consolidated interim storage facilities to temporarily house high level radioactive waste inventories until a permanent repository is operational. With respect to the senators' questions pertaining to establishing a linkage between progress on development of a repository and progress on development of a storage facility, NCSL neither supports nor opposes such a linkage. However, NCSL does believe that consolidated interim storage facilities should be licensed for a specific, limited period of time not to exceed 25 years.

Working Capital Fund
NCSL supports your efforts to direct annual funding within the Nuclear Waste Administration Working Capital Fund and the Nuclear Waste Fund for their intended purpose of managing radioactive wastes and ensure that they not be subject to non-related federal discretionary spending. These funds should be isolated for developing permanent disposal, consolidated interim storage facilities and for the use of financing mechanisms and incentives to voluntary host communities.

Nuclear Waste Transportation
NCSL supports the draft's language that provides for advanced notification to states through which transportation of spent nuclear fuel and high level radioactive waste will take place. NCSL also supports efforts to provide assistance from the administrator of the Nuclear Waste Administration to states to train public safety officials, acquire safety response equipment and other safety programs related to the transportation of nuclear waste. Additionally, state, local and tribal governments should be involved in a meaningful manner with regard to development and implementation of transportation quality assurance measures including radiation emissions standards, cask designs, support facilities, and transportation equipment.

NCSL has an extensive history of working on issues related to nuclear waste management and welcomes the opportunity to work with Congress to continue to move the conversation forward. Please feel free to contact NCSL staff Ben Husch (202-624-7779 or ben.husch@ncsl.org) or Tamra Spielvogel (202-624-8690 or tamra.spielvogel@ncsl.org) for more information.

Sincerely,

Representative John McCoy, Washington
Co-Chair, NCSL Environment Committee

Senator Ross Tolleson, Georgia
Co-Chair, NCSL Environment Committee

Representative Jim Gooch Jr., Kentucky
Co-Chair, NCSL Energy, Transportation and Agriculture Committee

Senator John C. Watkins, Virginia
Co-Chair, NCSL Energy, Transportation and Agriculture Committee

Attached: NCSL Radioactive Waste Management Policy Directive

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May 20, 2013

U.S.Senate Committee on Energy and Natural Resources
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Subject: Nye County Comments on the Draft Nuclear Waste Administration Act of 2013

To: U.S. Senate Committee on Energy and Natural Resources

The Board of County Commissioners for Nye County, Nevada, is pleased to submit comments on the discussion draft version of the Nuclear Waste Administration Act of 2013. Nye County is home to Yucca Mountain, the site designated for the high level nuclear waste repository by the Nuclear Waste Policy Act (NWPA), as amended. As such, Nye County has been the designated site county for the nuclear waste repository for over 10 years. The County, since inception of the NWPA, developed and continues to develop scientific, technical and policy expertise. We appreciate the willingness of the Committee to accept our comments.

We are grateful for the fact that the four lead Senators understand the need to solve the nation's nuclear waste problem. It is a fairness issue to our children and grandchildren; this generation needs to take care of the nuclear waste we have generated. It is our hope that the Senate will join with many in the House of Representatives who have already expressed their intention to seek solutions other than breaking the clear mandates in the NWPA. We know they share our concern when the executive branch of the federal government ignores existing laws and over 30 years of work on Yucca Mountain because they are deemed "politically unworkable".

Having said that, we do not believe the Nuclear Waste Administration Act of 2013 will accomplish the stated goals of resolving nuclear waste issues. It fails to address the most cost effective and timely option for solving the Nation's nuclear waste problem: allowing the NRC licensing process for the Yucca Mountain repository to continue to completion. Even if Yucca Mountain is never built, we need to let the experts at the NRC determine if the repository can be built and operated safely. This does not require the Senate to take sides on the debate over Yucca Mountain, but rather simply allow the decision to be made on technical merit rather than politics. While the Nuclear Waste Administration Act of 2013 purports to implement the recommendations of the Blue Ribbon Commission (BRC), we note that the BRC believed the Nation required two repositories and took no position on Yucca Mountain based upon direction from the Secretary of Energy.

In addition, after 31 years of experience, we do not believe that without significant incentives any state will "consent" to accept a permanent repository. Any option will need 30 to 50 years to study, license and build. We believe that every state will have a significant "not in my backyard" contingent and that over time "consent" will be withdrawn unless there are significant benefits available. The State of Nevada, including some of the politicians that now are vocal opponents to Yucca Mountain, initially supported it. The BRC recommendation for *"consent based siting"* that includes *"...a flexible and substantial incentive program"* is especially difficult to implement in the real world. The Nuclear Waste Policy Act process that designated Yucca Mountain was skillfully crafted and succeeded over the objections of the State of Nevada because of carefully negotiated provisions designed to give the host state an opportunity to object, but not exercise an outright veto. It is unlikely that any new consent based process will ever succeed unless it includes significant defined incentives and an option for the federal government to overrule the state.

We believe the federal government's authority and overall responsibility for resolving the nuclear waste problem is the only option that can overcome opposition and finally establish a site for a permanent repository. Without it, we believe this country will find itself in exactly the same situation as it is now in 20 or 30 years, having wasted tens of billions of additional dollars and hundreds of thousands of personnel hours. As a result, we continue to support the Nuclear Waste Policy Act. The NWPA is the law of the land, having never been repealed. We believe the NWPA was a carefully crafted piece of legislation that balanced the interests of an objecting state while preserving federal oversight and control.

Rather than write new legislation, we recommend amendments to the NWPA that:

1. Takes the trust fund off budget and allows access to these funds without the need for annual appropriations. The Nuclear Waste Administration Act of 2013 has provisions to do this which we support.

2. Provides specific, significant incentives and a process to negotiate these with the state and local governments. The consent based model contemplates that the successful locality will receive a benefits and incentives package, but is vague in the value of incentives that may be available. We ask that the Senate join the House of Representatives to provide a bold mitigation, benefits and incentives package. This package should be valued in the hundreds of millions of dollars per year for at least 60 years and not ending before repository closure. Assuming the repository can be safely built, operated and maintained after closure, such benefits could include federal land transfers, transportation improvements and a significant monetary payment to the state and local entities to address education and other mitigation needs.

3. Establishes a non-DOE organization. We agree with the need to remove the management of the program from DOE. We do not believe the new structure in the Nuclear Waste Administration Act of 2013 goes far enough to insulate the new entity from political pressures. We recommend that the Fed Corp have a more independent board with industry, local and state representation. Industry and electric ratepayers who generate the waste and pay the fees established by Congress must be involved since they are the stakeholders who have the strongest need to resolve the waste problem.

4. Removes the Nuclear Waste Policy Act prohibition against developing an interim storage facility in the same state as a repository. As amended, the Nuclear Waste Policy Act (Sec. 145(g)); prohibits the development of such a facility in Nevada. Originally, this prohibition applied to any state approved for site characterization (old Sec; 141(g)). This change recognizes the intent of the draft bill at Sec.304(d)(2).

We hope you find our suggestions helpful. We look forward to the opportunity to work with the Committee and the Congress to advance geologic disposal. Our point of contact for staff to staff interactions is: Mr. Darrell Lacy, Director, Nye County Nuclear Waste Repository Project Office, phone: (775) 727-3490, email: llacy@co.nye.nv.us. We stand ready to assist you in any way we can.

Sincerely,

Andrew "Butch" Borasky, Chairman
Nye County Board of County Commissioners

CC: Nye County Board of County Commissioners
Nye County Manager
Nye County NWRPO
NV State Senator Goicoechea
NV State Assemblyman Oscarson
Yucca Mountain Affected Units of Local Government (AULGs)
Robert Halstead/Nevada Nuclear Projects Office

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May 23, 2013

To: U.S. Senate Committee on Energy and Natural Resources
The Honorable Ron Wyden
The Honorable Lisa Murkowski
From: Catherine Thomasson, MD, Executive Director, Physicians for Social Responsibility

Comments on draft of "Nuclear Waste Administration Act of 2013"

Physicians for Social Responsibility (PSR), a national organization representing over 40,000 members and activists, has noted with interest that the discussion draft bill entitled, "Nuclear Waste Administration Act of 2013" was published with an invitation for public comment. PSR welcomes this opportunity to participate in the early development of this important legislation.

In this response, we first offer some general comments about the threat this bill attempts to address and the draft bill itself, and then address the specific discussion questions the Energy and Natural Resources Committee has posed.

In general, PSR's perspective leads us to state our opposition to the plans for Consolidated Interim Storage (CIS), as detailed below, and ask that you amend the bill to protect public health from the unsafe conditions of the over-burdened and unprotected spent fuel pools by requiring dry cask storage on site for waste that has cooled adequately. We believe that these casks should be further protected by bunkers or other forms of "Hardened On-Site Storage" (HOSS).

The Threat

It is admirable that the committee is attempting to address what is one of modern society's gravest dangers – the challenge of successfully keeping extremely long-lived radioactive materials from damaging human health and our environment.

High-level nuclear waste is almost unimaginably poisonous. Take for example cesium-137, with a half-life of 30 years, which makes up the largest fraction of long-lived radionuclides residing in spent nuclear fuel. One gram of radioactive cesium-137 (about half the size of a dime) contains 88 Curies of radioactivity. 104 Curies of radioactive cesium-137, spread evenly over one square mile of land, will make it uninhabitable for more than a century. There are 1090 square miles of land surrounding the destroyed Chernobyl reactor that Ukraine classifies as an uninhabitable radioactive "exclusion" zone, because radioactive fallout left more than 104 Curies of cesium-137 per square mile on the land that makes up the zone.

It is with that in mind that PSR is gravely concerned with the conditions under which the spent fuel is housed and protected and ultimately transported for permanent storage. As an example of one spent fuel pool, the numbers were calculated for the Callaway nuclear power plant in Missouri. There are approximately 108 million Curies of long-lived radioactive cesium-137 stored within Callaway's spent fuel pool. Half of one percent of the Cesium-137 in Callaway's spent fuel could make thousands of square miles of Missouri uninhabitable for a century. Most commercial US nuclear power plants hold a similar amount of cesium-137 in their on-site spent fuel ponds, which are not located inside primary containment.

Cancer is not the only concern, as cesium-137 becomes ubiquitous in seriously contaminated environments. The radiation can be absorbed across the skin, and cesium can also be inhaled and ingested and taken up by our tissues leading to direct radiation impact in our bodies. Human autopsies in Belarus have demonstrated that cesium-137 bio-accumulates in the endocrine tissues and other vital organs.[1] Due to high rate of growth, the developing child is at highest risk to exposure to and ingestion of radionuclides such as cesium-137. Radioactive cesium can cause death, birth defects, heart disease, cataracts and many other health issues**.**

Much has been studied and recorded about the dangers of the radionuclides present in high-level nuclear waste and we hope that this small reminder will help all of us remember how important it is that we treat the storage of this extremely dangerous and long-lived material with the gravity it deserves. When it comes to disposal of this deadly material, political expediency will not do.

General Observations on the Draft Bill

We note that the structure of the draft bill follows closely the proposed legislative changes included on page viii of the full report of the Blue Ribbon Commission on America's Nuclear Future (BRC) to the Secretary of Energy of January 2012. The draft bill seems to be designed to avoid the current stalemate in implementing the Nuclear Waste Policy Act of 1982. In this sense, the draft bill appears to implement the BRC's recommendations, with Centralized Interim Storage (CIS) as its cornerstone.

We note that the consent-based selection of a permanent nuclear waste disposal site was included in the NWPA 1982 but failed for a variety of reasons. Some of these reasons are addressed in the draft bill, including plans for creating true partnerships with all governing entities and stakeholders at potential sites, and an ongoing process that leaves room for flexibility and mutual development of criteria and responsibilities. This could eventually lead to statutory strength in the final siting agreements for both permanent and interim storage locations.

[1] Bandazhevsky, Yuri (2003). "Chronic Cs-137 incorporation in children's organs". Swiss Med Wkly:133:488-490.

As this bill acknowledges, Congress must pass the final necessary siting statutes. Nevertheless, the timeline written into the bill suggests it may still be decades before significant commercial nuclear high-level waste will be placed into permanent repositories. This raises for us the grave concern that safer on site storage requirements are not addressed.

Centralized Interim Storage (CIS) is an *a priori* component of the entire scope of the draft legislation but is inadequate to address public health concerns of accidents or attacks on spent fuel pools as well as the health implications of transporting waste without permanent repositories identified.

PSR's perspective leads us to state our opposition to the plans for CIS, as detailed below, and ask that you amend the bill to protect public health from the unsafe conditions of the over-burdened and unprotected spent fuel pools by requiring dry cask storage on site for waste that has cooled adequately. We believe that these casks should be further protected by bunkers or other forms of "Hardened On-Site Storage" (HOSS).

HOSS circumvents the siting challenges of CIS by being "on-site," with the current security protections already in place, with the exception of a small number of sites which merit limited change of location (please refer to the March 2010 document, Principles for Safeguarding Nuclear Waste at Reactor Sites).[2] On-site storage is the most expedient plan with a much safer outcome that can begin immediately; and, as transportation costs, additional site assessments, and public involvement will not be necessary for storage at nuclear reactor sites that have already been licensed, it is the most economically sound plan as well.

From a procedural standpoint, we wish to present a set of our own points of discussion, meant to probe the practicality of the draft legislation.

Please let us know your response to these points:

1. *Public health threat of spent nuclear fuel pools.* Spent nuclear fuel pools, especially those which are over-full, are at grave risk in the case of station blackout to maintain their water-cooling systems. Such a circumstance could lead to fire and dispersion of catastrophic radiological contamination of land, air and water. This threat is a clear and present danger that needs a more rapid response than the draft bill, which relies only on the development of CIS.

CIS falls short for the following reasons:

   a. According to its own legislative timeline, CIS *fails the timeliness test*. Even if the 2025 benchmark date is met (not the norm for nuclear waste management) that's 12 years away, and even so would just begin the first of many *thousands* of shipments over the crumbling U.S. road, rail, and water infrastructure.

[2] www.psr.org/nuclear-bailout/resources/principles-for-safeguarding.html

b. Requiring thousands of shipments *adds additional transportation risk* to the public health as accident and/or attack are possible with such a wide-scale program of transportation that will need to be repeated for a permanent site.

2. CIS is inherently problematic because it *could become a de facto permanent storage site* without the adequate safeguards that are required of a permanent repository. Our recommendation, if CIS is needed at all, is to make sure there is a strong linkage of CIS siting to the development of permanent repositories. However, requiring a linkage ties the potentially more rapid solution of CIS (12 years) to a process of siting a permanent repository that is immensely prone to delay if history is any guide.

3. CIS' suggested safety and security *benefits are minimal*. With CIS, only a small number of closed reactors will eventually be cleared of spent nuclear fuel and the country would still have 100 or more operating reactors with active spent fuel pools. Any operating reactor will always have fuel cooling in its pools for at least five years before any potential relocation. So the whole notion that there is a safety benefit from taking the transportation risks to achieve a *consolidated* storage system, for the foreseeable future, is not a significant reduction in the number of waste sites.

4. Hardened On-Site Storage - HOSS - *is the preferred option*, moving only that fuel which is now located in particularly dangerous locations or orphaned sites. This secures the fuel without risk of transport and protects it from the inherent dangers of water-cooled storage or from terrorist attack. The technology exists at a relatively reasonable price, and it could be achieved in an expeditious manner. HOSS is successfully being used in Germany and Japan, so this proposal is field-tested.[3].

To summarize, CIS, if implemented, will take a relatively long time (in a best case scenario, the waste would only *start* to move in 2025); it will only slightly reduce the number of waste sites, while needlessly threatening public health from transportation of highly radioactive nuclear waste. Instead of CIS, we need HOSS, which is available today and can be done rapidly.

Having expressed our fundamental opposition to the sole solution of the Centralized Interim Storage proposal, PSR offers the following answers to the questions posed by the Committee.

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Nuclear Waste Questions Posed by the Committee

Considerations for locating storage facility sites

[3] Fissilematerials.org/blog/2011/06/managing_nuclear_spent_fu.html

1. **Should the Administrator take into account, when considering candidate storage facility sites, the extent to which a storage facility would:**
   (a) unduly burden a state in which significant volumes of defense wastes are stored or transuranic wastes are disposed of?

   Response:
   The nature of defense wastes, in general, would include high-level waste from reprocessing. Reprocessing waste streams produced high-level waste (HLW) that is often in liquid form that includes complex toxic and corrosive chemicals in addition to radioactive materials. Common sense suggests that commercial HLW consisting of spent nuclear fuel (SNF) still in solid pellets or contained in rods, which are secured in assemblies, is inherently simpler to handle and store. It would seem that defense HLW should be considered category by category with all the attendant complexities of maintaining negotiations in true partnership and transparency that is so highly valued by the BRC. An additional problem may be national security issues given the nature of certain defense waste when transparency is desired. The very nature of storage and disposal sites for defense liquid HLW should require special handing and special options for a hosting state hence these should be considered two very different processes and treated as such.

   (b) conflict with a compliance agreement requiring the removal of nuclear waste from a site or a statutory prohibition on the storage or disposal of nuclear waste at a site? Alternatively, should the State and other non-federal parties seeking to site a candidate storage facility be allowed to determine whether they are unduly burdened? Should the final consent agreement, which would be sent to Congress for ratification, contain an authorizing provision to amend any conflicting compliance agreement or statutory prohibition?

   Response:
   Certainly, the voluntary negotiation process, openness, and flexibility envisioned by the draft bill and the BRC recommendations would mandate that the Administrator faithfully take into account credible state declarations of undue burden. This courtesy and voice must be respected for any entity that is considering being a site host. Finally, in order to honor the aspirations of openness, transparency, and full partnership, final consent agreements sent to Congress should be provisional upon amending conflicting compliance agreements or statutory prohibitions.

Linkage between storage and repository

2. **Should the bill establish a linkage between progress on development of a repository and progress on development of a storage facility? If so, is the linkage proposed in section 306 of the bill appropriate, too strong, or too loose? If a linkage is needed, should it be**

determined as part of the negotiations between the state and federal governments and included in the consent agreement rather than in the bill?

Response:

PSR feels that CIS by its nature will reduce the chances of developing a permanent repository and storage. If CIS remains in the bill, we urge that there be a strong, clear linkage between identifying, developing, and bringing on line a permanent site to the creation of a CIS site or sites. After all, the ultimate goal of all this work is permanent, safe disposal of HLW in the most efficient way at the least expense. Linkage is a key tool of the draft bill to keep work on track toward the ultimate goal and must not be removed. The best scenario for a candidate repository site would be that it receives HLW directly from the HLW's origin, thus avoiding the need for transport of the same waste twice through an interim storage site.

Further comments on various aspects of linkage:

False dichotomy

PSR observes that the linkage discussion, as proposed in the BRC recommendations and the draft bill, between storage and repository does not include any provision to address concerns with the current and projected state of spent nuclear fuel (SNF) in wet storage. The accumulated volume of SNF currently fills existing cooling pools in some cases markedly over maximum capacity recommended, and additional SNF produced over the next 30 years will only add to this problem. Even in the most aggressive scenarios, it is likely that transport of SNF will not be in full flow within even 20 years but that the flow will still likely remain well under the accumulation rate of SNF at reactor sites.

Require linkage to dry cask storage

PSR urges that a key first element of the linkage chain become the accelerated transfer of older SNF to dry cask storage, especially in dry casks amenable to eventual shipment. Therefore, PSR recommends linking progress in movement of SNF from wet pools to dry cask to be, at least, a simultaneous activity that must significantly progress along with identification of consent-based interim centralized storage and permanent disposal sites. In many ways this should be the easiest and quickest process that will make real measurable headway in safety, and reduce the potential for an accident that indefinitely contaminates large areas of the country.

Hardened On-Site Storage concepts

The BRC addressed Hardened On-Site Storage (HOSS). To date, neither cooling pools nor dry casks have been subjected to terrorist attacks in the U.S but the recent event in Sweden shows how vulnerable they could be. Events over the years since 2001, notably the Fukushima Daiichi disaster, show the vulnerability of cooling pools, from even short term station blackout, to those coupled with simultaneous

natural disaster events or systems failure, including electrical fires. While earthquake combined with tsunami triggered the Fukushima nuclear disaster, reactors throughout the U.S. are subject to other severe natural events that could cause prolonged station blackouts at multiple reactor nuclear plants in the U.S. Of note: the dry casks at the Fukushima Daiichi plant survived the earthquake and tsunami unscathed.

In light of new experience and lessons learned since 2001, the terrorist paradigm that was used to judge the efficacy of HOSS must be revisited. It has long been a position of PSR and other expert critics (see Alvarez, Macfarlane, Von Hippel, et al[4]), that the most pressing initial step, is to reduce the danger posed by SNF in cooling pools filled to twice design capacity by transferring it into dry casks for temporary storage at reactor sites and surrounded by hardened bunkers or other protections.

Double transportation

PSR recommends scenarios that avoid transportation of HLW twice. The draft bill, could, depending upon the number of new interim sites authorized, add to the number of sites where HLW is kept. The number of sites would not decrease until commercial or defense sites are finally closed and fully decommissioned. Risks and costs of transportation are doubled by transporting twice. Also, consideration should be given to the time and cost of recertifying transport casks that may have been in interim storage, if they have exceeded their initial licensing certification time period. Considering past performance of nuclear waste, it is likely that transport casks will typically have to be recertified and, in some cases, waste transferred to new casks. Considering the time value of money, the cost of double transportation of HLW would likely be more than double the cost of a single transport to the disposal site.

Reprocessing scenarios

In addition, PSR finds interim storage to be problematic in that the existence of HLW in interim storage may embolden and enable various parties that are proponents of SNF reprocessing. Common sense suggests that if reprocessing ever became economical, it should not be allowed unless reprocessing waste streams can go directly to an existing permanent repository. While this may be beyond the scope of the draft bill, the BRC clearly indicated that reprocessing was not now, or in the foreseeable future, feasible for the U.S.

3. Separate process for storage facility siting (first question)
Should the bill establish separate storage and disposal programs with clearly defined requirements for each, with any linkage negotiated in the consent agreement between the federal and non-federal parties, to allow the two program to run on separate, but

[4] https://www.princeton.edu/sgs/publications/sgs/pdf/11_1Alvarez.pdf

parallel tracks, as proposed in the alternative section 305 (which would replace section 304(b)-(g) of the draft bill)?

Response:

As stated above under Question 2 and repeated here:

> *After all, the ultimate goal of all this work is permanent, safe disposal of HLW in the most efficient way at the least expense. Linkage is a key tool of the draft bill to keep work on track to the ultimate goal and must not be removed. The best scenario for a candidate repository site would be that it receives HLW directly from the HLW's origin, thus avoiding the need for transport of the same waste twice through an interim storage site.*

4. **Separate process for storage facility siting (second question, three parts)**

4. *First part*: **To what extent should the siting and consensus approval process for spent fuel storage facilities differ from that for the repository?**

Response:

The basic process of openness, true partnership, transparency, public hearings with consensus building, and negotiated agreement that becomes statutory should remain in the draft bill. In special cases a given host who may agree, statutorily, to be a site for interim storage should have the option to similarly negotiate either in parallel or subsequently to be evaluated to also host a separate repository. Also a potential host should be able to negotiate only to be a repository site through the same process that is sealed statutorily in the end.

4. *Second part*: **Should the Administrator be required to conduct sufficient site-specific research (referred to as "characterization" in the bill) on candidate storage sites to determine if they are suitable for storing nuclear waste or only on candidate repository sites to determine if they are suitable for geologic disposal of nuclear waste?**

Response:

All sites, whether temporary or permanent, should be characterized for their suitability for storing such dangerous long-lived wastes.

4. *Third part*: **Should the Administrator be required to hold public hearings both before and after site characterization (as required by current law in the case of the Yucca Mountain site) or only before site characterization?**

Response:

Since these agreements are expected to become statutory, in the spirit of cooperation, partnership, and transparency, public hearings should be held both

before and after characterization. The harder task is to convince interested parties that the process is participatory, step-by-step, and non-coerced. The second hearing allows more open consideration of the scientific information and data established for the given site.

Complexity of repository and storage facility siting processes

5. Should the siting process in section 304 of the draft bill be streamlined? If so, how?

Response:

Siting is an extremely complex, time-consuming process that can easily be derailed. The BRC considered the experience of Sweden, Finland, France, and Spain – as these countries have made better progress over the last 30 years than has the U.S. PSR bases its opinion on the performance of the NWPA 1982 and simultaneous experience in other developed countries and concludes that there will be no easy fast path and that the recommendations of the BRC, as incorporated largely in the draft bill, should not be weakened.

6. Should the new entity be governed by a single administrator or by a board of directors?

Response:

What is meant here depends on the definition of "board of directors." Commonly, a board of directors sets policy in addition to providing fiduciary oversight. The draft bill establishes an Oversight Board that does not appear to be empowered to set policy, as the draft bill would set the policy *a priori*. If the framers of the draft bill meant that "board of directors" and "Oversight Board" are one and the same, then PSR favors the structure set out in the draft bill. *(See the PSR response to Question 7, below)*

(a) *Part 1*: **If by a single administrator, should the administrator serve for a fixed term?**

Response:

PSR favors a single Administrator of the new Nuclear Waste Administration as envisioned by the draft bill endowed with a variety of decision-making powers to fulfill the mandates of the draft bill. A degree of Administrative independence is required to withstand the influences of Congress, the President, a variety of other governmental agencies, and commercial interests that could derail implementation of the NWWA.

(a) *Part 2*: **If so, how long should the term of service be?**

Response:

The draft bill suggests a term of six years for the Administrator, which seems reasonable but there needs to be a process for evaluation.

(a) *Part 3*: **Should the legislation prescribe qualifications for the administrator? If so, what should be the selection criteria?**

Response:

PSR favors including general selection criteria. These might include:

- a sound background in the science behind nuclear HLW including relevant geology, physics, and the biological effects of exposure to radioactive materials
- good knowledge of the history of nuclear HLW management law and policy
- no conflict of interest with the commercial nuclear industry
- significant bipartisan experience working in government and/or as a high level advisor in areas relevant to nuclear HLW

(b) If by a board of directors, how many people should comprise the board and how should they be selected?

Response:

PSR favors the structure as envisioned in the draft bill, which does not describe a governing board of directors or commission.

7. **The Blue Ribbon Commission recommended establishment of both a board of directors for management oversight (whose "primary role ... is not to represent all stakeholder views, but rather to carry out fiduciary responsibilities for management oversight") and "a larger and more widely representative stakeholder advisory committee." The draft bill responds to these recommendations, first, by establishing a Nuclear Waste Oversight Board of senior federal officials and, second, by authorizing the Administrator to establish advisory committees.**

Question 7 *part 1*: ***Should the Oversight Board and advisory committee be combined into a single body to perform both management oversight and stakeholder representation functions?***

Response:

PSR does not recommend combining the Oversight Board with an advisory body. By definition an advisory board should not be empowered to take actions such as might be taken by a board of directors. PSR does recommend adding two members to the Oversight Board. PSR recommends adding a Deputy from the Congressional Budget Office to provide legislative branch balance to the member from Office of Management of the Budget. With the goal of increasing expertise regarding the biological and environmental aspects of high-level waste decision-making, PSR

suggests a Deputy Director from the Environmental Protection Agency be added to the Oversight Board. Having a member representing the EPA on the Oversight Board would send a strong signal to all parties of the essential importance of both human and environmental health that is recognized by the framers of the draft bill. Addition of two members to the Oversight Board would leave an optimal odd number to avoid tie votes in matters where the Oversight Board must vote on decisions or recommendations.

Question 7 part 2: **Should the focus and membership of any advisory committees be established in the legislation or left to the Administrator?**

Response:

PSR recognizes the value of advisory committees, especially in the complex issue of finding permanent solutions to nuclear HLW management. General instructions in the draft bill as to advisory committee composition should be to establish a wide breadth of input from a variety of expert sources.

8. Dr. Meserve testified in 2012 that representatives of stakeholders and public utility commissioners should be added to the Nuclear Waste Oversight Board. Would these additions make the Board better able to carry out its fiduciary oversight mission effectively?

Response:

ONE representative of public utility commissioners should be one of many stakeholders mentioned in the BRC final report who would be a good candidate for the oversight committee. We would hope that OMB and CBO representation on the Oversight Board would assure robust fiduciary oversight and the EPA member as listed above to bring to bear the economic cost of not protecting the public's health should also be a part of the oversight committee. Likewise members representing community watchdogs should be a component as well.

Submitter's Name/Affiliation: SRS Community Reuse Organization (SRSCRO)
Contact: Rick McLeod, Executive Director
Email: rick.mcleod@srscro.org
Phone: 803-508-7402

The SRS Community Reuse Organization (SRSCRO) is a non-profit organization representing a five-county region in Georgia and South Carolina. The stated mission of the SRSCRO is to: "…facilitate economic development opportunities associated with Savannah River Site technology, capabilities and missions and to serve as an informed, unified community voice for the five-county, two-state region… when it comes to new missions and matters related to economic development and job creation associated with the Savannah River Site."

We are a 501(C) (3) private non-profit organization charged with developing and implementing a comprehensive strategy to diversify the economy in our region. This region is defined as a five-county region of South Carolina and Georgia, including Aiken, Allendale and Barnwell counties in South Carolina and Richmond (Augusta) and Columbia counties in Georgia. Our Board is made up of community, business, education and local government leaders. We are unique because we have a regional focus in two separate states and have 11 Board members from each state.

The challenge of properly disposing of nuclear waste touches every man, woman and child in America. It speaks to public safety, to energy independence, to technology and innovation, to global competitiveness and economic leadership and to the political will to do what is right – what must be done for the good of our communities today and of future generations tomorrow.

With the obvious need for new comprehensive federal legislation, involving community leaders in the development of such legislation provides an important opportunity for meaningful local input. Indeed, one of the most critical elements of new legislation will be the "consent-based" process, and the "consent" aspect must clearly be drafted to include the consent of affected local communities and regional and state levels stakeholders. It must be recognized that the terms "community" and "affected community" are very broad and that every "community" has strata with varying degrees of interest, impact and stake in outcome of the process.

The Blue Ribbon Commission recognized that compensation and incentives that are generous and allowed to develop organically among the interested parties can very positively impact the willingness of a community and state to volunteer to host a consolidated storage and/or disposal facility. Successful siting efforts in Finland and Sweden support this approach. The stakeholders in the local municipalities – working with the waste management authority – were able to craft meaningful incentive and compensation packages that helped create broad-based support.

To that end, any proposed federal legislation needs to include general guidelines for compensation and incentives for a host community that sites, constructs, and operates a consolidated storage facility while also allowing for maximum flexibility so that details could be guided by the host communities. It cannot be overemphasized that creating meaningful compensation and other incentives will be the difference between success and failure of a consent-based process.

Enforceable agreements with both governmental authorities, as well as any third-party contractors, will be vital to community consent to hosting a consolidated storage facility. In the context of the nuclear utilities' litigation against DOE for its failure to perform its SNF "take away" obligations under the NWPA, the issue of contract enforceability has been paramount. The utilities' efforts to hold

DOE accountable for breach of the "Standard Contract," as well as for breach of other efforts to advance the Yucca Mountain project, have met stiff resistance from the federal government. This unfortunate history must be overcome in order to instill confidence in a consent-based consolidated storage program. Issues of legal enforceability must be addressed as part of any new comprehensive enabling legislation.

Critical to involvement of the community is the need to provide a significant amount of reliable information with the intent and purpose of helping the community to understand the risks and benefits of the plan. The community must then decide if the risk/reward ratio is acceptable.

Question 1: Considerations for locating storage facility sites
Submitter's Name/Affiliation: SRS Community Reuse Organization (SRSCRO)

Should the Administrator take into account, when considering candidate storage facility sites, the extent to which a storage facility would: (a) unduly burden a State in which significant volumes of defenses wastes are stored or transuranic wastes are disposed of; or (b) conflict with a compliance agreement requiring the removal of nuclear waste from a site or a statutory prohibition on the storage or disposal of nuclear waste at a site? Alternatively, should the State and other non-federal parties seeking to site a candidate storage facility be allowed to determine whether they are unduly burdened? Should the final consent agreement, which would be sent to Congress for ratification, contain an authorizing provision to amend any conflicting compliance agreement or statutory prohibition?

We do **NOT** believe communities currently storing spent fuel around the country should be required to do so indefinitely without their expressed consent. First, removal of commercial spent fuel, and subsequent disposal, was – and is – a legal obligation of the Department of Energy – one that has important implications in health and safety, the economics of nuclear power as an energy source and national security. DOE has not lived up to its obligations in this regard and, by default, has designated utilities and local communities across the nation as interim storage sites.

Secondly, consent by local communities is an essential element of long-term success in storage of commercial spent fuel and high-level defense waste. Because of the stalemate that currently exists in progress toward a permanent solution, the matter of consent by local communities where nuclear waste currently resides has taken on added importance.
Keys to this "two-way street" assurance concerning consent of the public is education and engagement with DOE, congressional delegations and the industry **AS EARLY AS POSSIBLE** in the decision-making process.

A good consent-based siting process should not be prescriptively defined, but permitted to develop organically among the interested parties. Regardless of the specific process for developing consent, success will be measured by an agreement among the interested parties that is legally enforceable. During the process, the parties involved must negotiate in good faith and be open to creative solutions to address issues that arise, including oversight, incentives and compensation.

Congress and the new management entity or DOE must be willing to let communities and states reach their own conclusions about whether or not it is a burden to host a new facility and to let them identify the framework and restrictions under which they wish to operate.

Commercial spent fuel and high-level defense waste should be treated differently based on their unique characteristics and requirements for safe storage and retrieval. Specific, separate solutions are needed for disposition of high-level defense waste. The waste is different. The quantity is different. The number of locations affected is different. The potential for future use is different. The legal and financial implications for the government are different.

In addition, in considering Consolidated Interim Storage, it is important to point out a couple of significant points:

1) In recent discussions, Consolidated Interim Storage has only applied to commercial spent fuel. It is promising to see that Sec 307 of the discussion draft allows the Secretary to arrange for the storage of defense HLW alongside commercial spent fuel in the storage facilities pending disposal. While many debate the disposal of commercial spent fuel as a "states rights" issue, the disposal of high-level defense waste can only be regarded as a national issue. The high-level defense waste is our nation's waste, and it needs a national solution.

2) The storage of commercial spent fuel either separately or consolidated can be conducted safely. Safety is not the concern. However, we remain concerned about the definition of "interim" which, in discussing nuclear waste, can mean anything from ten years to 500 years or more. "Interim" must be clearly and legally defined before communities such as ours can agree to host Consolidated Interim Storage. In the absence of such clear definition, we are in danger of becoming a *"de facto*" permanent repository for nuclear waste which would be unacceptable.

Question 2: Linkage between storage and repository
Submitter's Name/Affiliation: SRS Community Reuse Organization (SRSCRO)

Should the bill establish a linkage between progress on development of a repository and progress on development of a storage facility? If so, is the linkage proposed in section 306 of the bill appropriate, too strong, or too loose? If a linkage is needed, should it be determined as part of the negotiations between the state and federal governments and included in the consent agreement rather than in the bill?

As stated in our testimony to the House Science, Space & Technology Subcommittee on October 27, 2011, our five-county region in South Carolina and Georgia does not support any interim storage or consolidated storage scenario unless a permanent solution is pursued at the same time. This means measurable progress toward a permanent repository for commercial spent fuel and high-level defense waste and/or a program to reprocess or recycle commercial used nuclear fuel.

It is our view that the appropriate linkage is best left to the host communities and states to negotiate with the waste management authority the conditions under which the storage could move forward. These conditions must be accompanied by ongoing health and safety monitoring, proper regulatory oversight at both the local and state level and a legally binding commitment to a final disposition plan. All such considerations must be vetted in the local community in conjunction with State officials before any type of Consolidated Interim Storage can be considered.

Local governments working along-side organizations like ours are the formal voice and institutional authority speaking on a community's behalf and pursuing community interests with federal and state governments. They also are uniquely positioned to negotiate economic benefits on behalf of the impacted community. It is imperative that any economic benefits reside at the local community level first, not merely directed from the State level down. We must keep in mind that this is where the waste will ultimately reside, whether that is interim or long-term.

Question 3: Separate process for storage facility siting – Alternative Section 305
Submitter's Name/Affiliation: SRS Community Reuse Organization (SRSCRO)

Should the bill establish separate storage and disposal programs with clearly defined requirements for each, with any linkage negotiated in the consent agreement between the federal and non-federal parties, to allow the two program to run on separate, but parallel tracks, as proposed in the alternative section 305 (which would replace section 304(b)-(g) of the draft bill)?

Yes. There has been a substantial loss of trust in and credibility of the Federal Government regarding the relationship between the storage and disposal of nuclear wastes. The Federal Government has broken faith with our community and with others across the country that trusted implicitly in the Department of Energy's commitment to complete Yucca Mountain as the nation's legislated nuclear waste repository.

The Federal Government has reneged on its promise to provide a permanent repository for defense nuclear waste and for commercial spent fuel from nuclear power plants. As a region, we have counted on this promise and on the government's assurances that our site and others would not become a long-term storage site for nuclear waste.

We relied even more heavily on this promise once the choice of Yucca Mountain became the law of the land through the Nuclear Waste Policy Act.

Today, the Savannah River Site has approximately 3,500 canisters of stabilized legacy defense high-level waste from the Cold War stored on-site, and another 3,000 to 4,000 canisters will be generated in the process of stabilizing the remaining liquid radioactive waste now stored in aging tank farms at SRS. This stabilized high-level waste must be disposed in a federal repository, but until a federal repository is available, it will have to be stored at SRS.

In addition, Savannah River Site is the receipt and storage site for aluminum-clad research reactor spent fuel from decommissioned research reactors worldwide. Based on approved operational plans, SRS will reprocess this fuel in H Canyon to recover the enriched uranium for use as fuel in nuclear reactors pending budget approvals by Congress. The high-level waste resulting from reprocessing the fuel will be stabilized along with other high-level waste at SRS and stored until a repository is available.

Savannah River Site was also selected by DOE to provide interim storage for surplus non-pit plutonium in the United States. The plutonium originally located at Rocky Flats, Hanford, Los Alamos and several weapons research laboratories will be consolidated at SRS. Approximately 60 percent of the plutonium by weight is scheduled to be converted to commercial reactor fuel in the Mixed Oxide Fuel Fabrication Facility (MOX).

However, DOE planned to dispose of the remaining 40 percent in the federal repository by dissolving in H Canyon, incorporating plutonium into borosilicate glass in the Defense Waste

Processing Facility with existing high-level liquid waste and storing it in the Glass Waste Storage Buildings at SRS until a repository is available.

If there is no repository, the costs for monitoring materials stored at SRS will continue for a longer period of time and will increase as years go by. In addition, SRS will be forced to build additional canister storage buildings to accommodate material that should be going to the repository. There are currently two canister storage buildings at SRS, and a third is being designed with more to follow. These facilities only have a design life of approximately 50-years. A study on the consequences of long-term storage (100+ years) has yet to be conducted and therefore, their suitability for long-term storage is unknown.

While we recognize that DOE, the Nuclear Regulatory Commission and the nuclear utilities are diligent in ensuring that these materials are stored securely, and we have no concerns about the ability to store these materials safely in the near term, the impacts of long-term interim storage, including continued safety, have not been adequately evaluated. This represents an additional cost required for community support.

Because of past history, it will be difficult for DOE or a Federal agency to negotiate a storage agreement without enforceable linkages to permanent disposal.

Question 4: Separate process for storage facility siting – General streamlining for storage only
Submitter's Name/Affiliation: SRS Community Reuse Organization (SRSCRO)

To what extent should the siting and consensus approval process for spent fuel storage facilities differ from that for the repository? Should the Administrator be required to conduct sufficient site-specific research (referred to as "characterization" in the bill) on candidate storage sites to determine if they are suitable for storing nuclear waste or only on candidate repository sites to determine if they are suitable for geologic disposal of nuclear waste? Should the Administrator be required to hold public hearings both before and after site characterization (as required by current law in the case of the Yucca Mountain site) or only before site characterization?

For starters, to develop local consensus, potential host communities must become educated on nuclear issues and then educate their citizens. Outreach and education can include sponsoring meetings for the community at-large with site managers, contractors or utilities; creating public information centers; building websites and producing written materials that outline the pros and cons of the proposed initiative and introducing social media initiatives such as Facebook to promote dialog.

Local communities and governments must help ensure there is a defined public participation process and appropriate government services and funding for key activities, including oversight, infrastructure development, workforce development and emergency training and preparedness.

The public participation process needs to be locally focused. Outside stakeholders (those not living in the community), while having the right to express an opinion, must not be allowed to dictate or confuse the consensus process or decision. Many times their more vocal views are heard by DOE, congressional delegations, and the press above the voice of the local community.

Question 5: Complexity of repository and storage facility siting processes
Submitter's Name/Affiliation: SRS Community Reuse Organization (SRSCRO)

Should the siting process in section 304 of the draft bill be streamlined? If so, how?

Yes it should be streamlined. But more importantly, the process must be a consent-based, transparent and science-based approach. Any legislation must allow science and engineering – not politics -- to establish the most appropriate site.

If a science-based approach were followed with transparency, we would be completing the Yucca Mountain project today. Instead, the Administration's chose the lack of scientific integrity, openness, and transparency in its decision to halt work on Yucca Mountain and in its determination to terminate the project.

Question 6: Governance of the Nuclear Waste Administration – Administrator vs. Board of Directors
Submitter's Name/Affiliation: SRS Community Reuse Organization (SRSCRO)

Should the new entity be governed by a single administrator or by a board of directors?

(a) If by a single administrator, should the administrator serve for a fixed term? If so, how long should the term of service be? Should the legislation prescribe qualifications for the administrator? If so, what should be the selection criteria?

(b) If by a board of directors, how many people should comprise the board and how should they be selected?

We have changed our view and position in regard to the type of management entity responsible for siting, building, and operating nuclear waste repositories and storage facilities, fulfilling waste disposal contracts with utilities and collecting the nuclear waste fees. We are no longer in favor of DOE continuing in its role or the creation of a new federal agency. Rather than create new bureaucracy, we need solutions.

We believe legislation is needed to create a federally-chartered "independent corporation" to assume the current responsibilities of the DOE as defined in the Nuclear Waste Policy Act of 1982 (as amended). This new "independent corporation" should be focused on the single task of managing the back-end of the nuclear fuel cycle and this single focused mission is needed for a variety of reasons. Those reasons are to: 1) provide stability and longer-term leadership on the nuclear waste issues; 2) focus on a single subject – the back-end of the fuel cycle; and 3) establish credibility and trust that have long been absent with DOE. The Blue Ribbon Commission also believed that this could best be accomplished by establishing an independent entity and not an agency of the federal government.

For the nuclear waste management program in the United States to effectively move forward, this new "independent corporation" needs to be insulated from politics and the changing control of the White House and Congress. To be effective, it must also have an assured source of funding that is not subject to the complex and politically-driven Congressional appropriations process. Without both independence and assured availability of funds, the waste management program going forward can expect the same results as today.

This new "independent corporation" would have an independent (ideally 7 person) board to which a CEO would report. Board members would be appointed by the President, who would also designate the Chair of the Board. The Board members and the Chair of the Board would be subject to Senate confirmation. Ideally, the Board would have 2 members who would be representative of the potential host communities and states.

Question 7: Governance of the Nuclear Waste Administration – Role of advisory committees
Submitter's Name/Affiliation: SRS Community Reuse Organization (SRSCRO)

The Blue Ribbon Commission recommended establishment of both a board of directors for management oversight (whose "primary role ... is not to represent all stakeholder views, but rather to carry out fiduciary responsibilities for management oversight") and "a larger and more widely representative stakeholder advisory committee." The draft bill responds to these recommendations, first, by establishing a Nuclear Waste Oversight Board of senior federal officials and, second, by authorizing the Administrator to establish advisory committees. Should the Oversight Board and advisory committee be combined into a single body to perform both management oversight and stakeholder representation functions? Should the focus and membership of any advisory committees be established in the legislation or left to the Administrator?

If a new "independent corporation" is established as specified in Question #6, the responsibilities of the Oversight Board and advisory committee could be combined. This could be accomplished by having two of the Board members designated from the communities, who are familiar with nuclear waste management issues.

Board terms would be 5 years and staggered. Board members could be reappointed for an additional term of 5 years. The Board would appoint the Chief Executive Officer (CEO), who would not be subject to Senate confirmation and would serve at the pleasure of the Board. The new "independent corporation" should NOT be subject to a Federal advisory board.

Question 8: Governance of the Nuclear Waste Administration – Membership of the Oversight Board
Submitter's Name/Affiliation: SRS Community Reuse Organization (SRSCRO)

Dr. Meserve testified in 2012 that representatives of stakeholders and public utility commissioners should be added to the Nuclear Waste Oversight Board. Would these additions make the Board better able to carry out its fiduciary oversight mission effectively?

It is essential that communities have a defined oversight role, particularly with respect to safety, security, and emergency response training.

Local communities and governments also can play an important role in working with states and private companies to ensure that local values, concerns and priorities are understood and taken into account in any proposed project and that appropriate incentives and benefits result. Some of these include:

- Infrastructure improvements, including highways, railroads, water ways, airports or other public projects;
- Environmental improvements, including the cleanup of existing air, water or waste problems;
- Public school assistance programs
- Higher education programs
- Health care programs
- Proposed co-location of other federal projects or existing federal expansions
- General economic development programs
- Transfer of ownership of federal properties
- Tax subsidy or property value protection programs
- Public recreation improvement projects
- Direct financial assistance
- Local employment or product purchasing agreements
- Any other type of assurance, equity or assistance desired

A basic and fundamentally important principle of this program is that a host jurisdiction has the opportunity – and the responsibility – to define the benefits and conditions appropriate to its particular and unique needs.

May 25, 2013

MEMORANDUM

From: **Robert Alvarez, Senior Scholar, Institute for Policy Studies**

Subject: **Review and comments of the U.S. Senate Energy Draft legislation to amend the Nuclear Waste Policy Act**

Conclusions

Nuclear reactors in this country are no longer just about generating electricity. More and more, these facilities are becoming major radioactive waste management operations involving some of the largest concentrations of artificial radioactivity in the country. Unfortunately, reactor operators and their regulator, the Nuclear Regulatory Commission (NRC), are motivated more by economics than the growing necessity of more secure and safe radioactive waste storage. The economics of an aging U.S. reactor fleet, in this marketplace of abundant and cheap natural gas, weigh heavily on merchant operators that have no captive rate base to recover growing expenses.

Concurrently, the disposition of most of the nation's defense high-level radioactive wastes (HLW) at U.S. Department of Energy's Hanford site remains uncertain, while more than 60 percent of its HLW tanks have experienced leakage.

The draft legislation does not address these problems, in terms of (a) the long time periods that spent nuclear fuel will remain at reactor sites, even under the most optimistic assumptions, (b) reducing the hazards of high-density spent fuel pool storage, (c) mandating a containment strategy and its implementation for defense high-level radioactive wastes at the Energy Department's Hanford site; and (c) mitigating economic impacts at communities where on-site spent nuclear inventories at closed reactors will remain until removed.

Overall the draft tracks the recommendations of President Obama's Blue Ribbon Commission on America's Nuclear Future (BRC) issued last year; and the Energy Department's January 2013 strategic plan to implement the BRC's recommendations.

Major elements of the DOE's strategic plan include:

- Establishment of a pilot interim storage facility by 2021 for spent nuclear fuel from closed reactors. Currently, there are 17 closed commercial power reactors with spent fuel stored onsite.[1] Announcements were recently made to close two more reactors in Wisconsin and Florida. By the 2021 there may be additional closed reactors.
- Establishment of a larger interim storage spent nuclear fuel storage facility by the year 2025. The option of expanding the pilot interim storage facility is not ruled out; and
- To make a permanent geologic repository for permanent disposal available by 2048.

[1] Nuclear Energy Institute, Spent Fuel Status December 31, 2011.

A pilot consolidated SNF storage site would likely involve approximately 5,000 metric tons of SNF from 17 reactors and a failed reprocessing plant in Illinois.[2] If this quantity of commercial spent power reactor fuel is sent by rail to a pilot facility it would result in an estimated 280 to 500 rail shipments.[3] Upgrading long-distance rail lines to accommodate transport of several 100+ ton transport casks at a time remains an unresolved issue. If sent by truck, this could result in approximately 2,500 shipments.[4] If a pilot storage facility were expanded to accommodate 20,000 metric tons of spent fuel this could result in as many as 2,000 shipments by rail or 10,000 shipments by truck.[5]

The draft bill does not deal with the issue of high-density spent fuel pools, operating reactors, or the likelihood of long onsite spent fuel storage times, even under the most optimistic assumptions regarding the opening of consolidated storage and disposal sites. The timelines for consolidated storage, much less, a geological repository, contain strong elements of speculation. In effect, the bill does not address the failed default policy of onsite SNF storage at operating reactors, based on a fundamentally flawed premise of timely removal and disposal offsite

Adding uncertainty is the matter of safe transport of high burnup spent fuel[6], generated for the past 20 years. In 2012, experts at the National Academy of Sciences raised concerns stating, "the technical basis for the spent fuel currently being discharged (high utilization, burnup fuels) is not well established… the NRC has not yet granted a license for the transport of the higher burnup fuels that are now commonly discharged from reactors. In addition, spent fuel that may have degraded after extended storage may present new obstacles to safe transport."[7]

Nor does the draft explicitly address the prospects of reactor closures with prolonged SAFSTOR timelines, where SNF could remain in wet storage for decades. Nearly all U.S. reactors utilize high-density storage in pools originally intended to hold spent fuel for 3-5 years and will run out of wet storage space by 2015. The draft bill provides no incentives to reduce spent fuel pool densities and to expand inherently safer onsite dry cask storage. The Electric Power Research Institute estimates that it would cost approximately $3.5 billion to thin out the pools at all U.S. reactors.

Last year the Federal Court of Appeals the Court for the District of Columbia struck down the Nuclear Regulatory Commission's Waste Confidence Rule allowing for high density pool storage. According to the court:"We conclude that the Commission's EA [Environmental

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[2] Ibid.

[3] International Panel on Fissile Materials, Managing Spent Fuel from Nuclear Power Reactors, Experience and Lessons from Around the World, September 2011, p. 128.

[4] Ibid.

[5] Ibid.

[6] Since the early 1990s, the Nuclear Regulatory Commission (NRC) has permitted reactor operators to increase burnup by increasing fuel enrichment to 4.8 weight percent of uranium-235. This allows a fuel assembly to remain as long as six years in the reactor core and for shutdowns for refueling to be extended from one to two years. It also results in a much larger generation of high-heat fission products (i.e. Cs-137 and Sr -90) and impacts fuel cladding.

[7] National Academy of Engineering, Managing Nuclear Waste, Summer 2012, pp 21, 31.. http://www.nae.edu/File.aspx?id=60739

Assessment] and resulting FONSI [Finding of No Significant Impact] are not supported by substantial evidence on the record because the Commission failed to properly examine the risk of leaks in a forward-looking fashion and failed to examine the potential consequences of pool fires.”.

The draft bill retains the existing definition of high-level radioactive waste in the 1982 Act. In 2005, Congress authorized DOE to deviate from this definition and to self-regulate onsite disposal of HLW at the Savannah River Site and the Idaho National Engineering Laboratory. Because of opposition by the Pacific Northwest Congressional delegation, the Hanford site was excluded. The draft also addresses concerns of states with DOE sites storing defense high-level wastes by requiring their removal under existing compliance agreements.

The bill attempts to jump-start the site selection process by requiring the new Nuclear Waste Authority to establish a mission statement and storage and disposal guidelines within a year of enactment.

The consent process involves the governor, local government and/or Indian tribe. It is a double-tier consent process, which explicitly supports preference for co-location of a consolidated storage with disposal. Funds from user fees, now placed in Working Capital Fund can be used for compensation to host communities, economic development and other sweeteners.

The bottom line is that this draft does not address the likely prospects that spent nuclear fuel and defense HLW will remain at the generating sites for decades to come. A safe containment strategy for defense HLW, particularly at the Hanford site (with 60% of its aged 177 tanks experiencing leaks), should be mandated in the proposed legislation.

Finally, the bill does not address the impacts of reactor closures on the economies of communities and states left stranded with spent nuclear fuel for an indefinite period. At the minimum, states and communities hosting closed reactors should be provided with funds from the user fees collected under the NWPA for safer dry onsite storage and “payment in lieu of taxes,” until the wastes are removed.

SPECIFICSOF THE DRAFT LEGISLATION

The draft bill:

- Establishes a new Nuclear Waste Administration (NWA) that is responsible for establishing centralized storage and a permanent disposal site for defense high-level Wastes (HLW) and commercial SNF, as well as their transport. The Nuclear Regulatory Commission retains its authority to license storage and disposal. The NWA must submit a "mission Plan" no later than 1 year after enactment for comment by the Congress, the Oversight Board, the NRC the Nuclear Waste Technical Review Board, the States, Affected Indian tribes and "such other interested persons as the Administrator considers appropriate." The NWA is also required within 1 year to issue general guidelines for the consideration of candidate sites for storage and disposal. "As soon as practicable after the guidelines are issued The Administrator shall evaluate potential candidate sites, subject to approval by the governor of the host state, the local government of the candidate site or an affected Indian tribe. There are to be subsequent public hearings and formal cooperative agreements for site characterization with the above named.

- Supports a preference for the co-location of a consolidated storage and repository site. A final determination is made by the Administrator in accordance with EPA radiation protection standards and NRC licensing standards. There are to be public hearings before a final determination is made. The terms and conditions of such agreements involve: (a) financial compensation; (b) economic development assistance; (C) regulatory oversight authority; and (d) an enforceable deadline for removing nuclear waste from a storage facility.

- Establishes a Nuclear Waste Oversight Board to "oversee and administration of this Act and protect the public interest in the implementation of this Act." The board is made up of 2nd tier officials from OMB, the Corps of Engineers, and the DOE. The Board performs oversight over the management, expenditure and schedule of the NWA in meeting its obligations. It has no regulatory powers but makes recommendations to the President and the Congress.

- Establishes a Working Capital Fund derived from user fees under the NWPA and additional appropriated funds necessary for storage and disposal of defense HLW.

- Repeals the 70,000 MTU volume limit set for Yucca Mt. under the 1987 amendments to the Act.

- Allows for the same judicial review as in the existing law -- giving the US Court of Appeals In Washington D.C. and the Supreme Court jurisdiction. Judicial review extends to NEPA, failure of the NWA or the NRC to make any decision or action under the proposed law. Actions must be brought within 180 days.

- Eliminates the legislative veto under the existing law.

- De-links storage from disposal under the concept of "parallel programs." The Administrator of the NWA has to certify to Congress that sufficient progress is being made towards establishing a permanent disposal site. If the Administrator or the Nuclear Waste Oversight Board determines that insufficient progress is being made to establish a permanent disposal site, then shipments of wastes other than "emergency" shipments will be suspended.

- Does not address the use of NWPA funding for on-site dry storage of operating reactors. Funds collected under the NWPA cannot be used until a centralized storage and /or sites are chosen. Establishment of a pilot central SNF storage site for "Priority" waste are those at decommissioned reactors -- similar to that outlined in DOE's January 2013 Strategic Plan following up on the BRC recommendations.

- Accords the rights of Indian tribes the same level of recognition as in the current law, with the Interior Secretary deciding "affected tribe" status.

- Defines "priority waste" as "spent nuclear fuel removed from a civilian nuclear power reactor that has been permanently shut down." This offers a glimmer of hope that the NWPA funds can be used for onsite dry storage in order to avoid a multi-decade SAFSTOR wet storage scenario. However, the draft defines "storage facility" to mean " a facility for the storage of nuclear waste from multiple contract holders [centralized storage] or the Secretary pending the disposal of spent nuclear fuel in a repository." This needs further clarification.

- Maintains the same definition of HLW as in the 1982 act, which does not permit the DOE to "move the goal posts" for disposal of HLW on the Hanford site. Unfortunately, this is not the case for SRS and INL, which are subject to Section 3161 of the 2005 Defense Authorization Act, which gives DOE regulatory authority over disposal of HLW at those sites.

- Leaves the issue of who pays for onsite dry storage of operating reactors up to the reactor operator and/or the resolution of the pending lawsuits against DOE for failing to meet the Jan 1998 deadline in the 1987 amendments to the NWPA the government cannot title to the waste until a settlement is reached. For those settlements already reached, this may mean that the government can assume title. This section needs clarification.

- Does not address the issue of regional equity that ensures that less populated states that do not receive the benefits of nuclear-generated electricity are not targeted. This issue is probably looked upon as a "poison pill," guaranteed to outrage eastern states. The regional equity provisions in the original 1982 Act is what led to a public uproar in eastern states that prompted Congress to pick Yucca Mt. in 1987, while removing all other candidate sites from consideration.

- Requires DOE to remove defense HLW from a site is there is a compliance agreement in place to do so. Defense HLW can be stored as a centralized facility along with SNF, through a MOU between the Administrator of the New Agency and the DOE. 'emergency delivery" of HLW to a storage site includes defense HLW.

- Allows co-mingling of disposal of defense HLW and Commercial SNF, subject to a formal agreement between DOE and the NWA. . If one or more separate permanent disposal sites are required for defense HLW the Administrator, with the concurrence of the President can proceed to end co-mingling disposal of the two wastes. The DOE has to enter into a MOU with the Administrator of the new organization to provide the funds necessary for storage and disposal of defense HLW.

- Allows for technical cooperation and financial assistance to foreign governments, including nuclear weapons states, seeking storage and disposal.
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Ideas into Action for Peace, Justice, & the Environment

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May 24, 2013

MEMORANDUM

From: **Robert Alvarez, Senior Scholar, Institute for Policy Studies**

Subject: Review and comments of the U.S. Senate Energy Draft legislation to amend the Nuclear Waste Policy Act

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- To make a permanent geologic repository for permanent disposal available by 2048.

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[2] Ibid.
[3] International Panel on Fissile Materials, Managing Spent Fuel from Nuclear Power Reactors, Experience and Lessons from Around the World, September 2011, p. 128.

accommodate transport of several 100+ ton transport casks at a time remains an unresolved issue. If sent by truck, this could result in approximately 2,500 shipments.[4] If a pilot storage facility were expanded to accommodate 20,000 metric tons of spent fuel this could result in as many as 2,000 shipments by rail or 10,000 shipments by truck.[5]

The draft bill does not deal with the issue of high-density spent fuel pools, operating reactors, or the likelihood of long onsite spent fuel storage times, even under the most optimistic assumptions regarding the opening of consolidated storage and disposal sites. The timelines for consolidated storage, much less, a geological repository, contain strong elements of speculation. In effect, the bill does not address the failed default policy of onsite SNF storage at operating reactors, based on a fundamentally flawed premise of timely removal and disposal offsite

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Nor does the draft explicitly address the prospects of reactor closures with prolonged SAFSTOR timelines, where SNF could remain in wet storage for decades. Nearly all U.S. reactors utilize high-density storage in pools originally intended to hold spent fuel for 3-5 years and will run out of wet storage space by 2015. The draft bill provides no incentives to reduce spent fuel pool densities and to expand inherently safer onsite dry cask storage. The Electric Power Research Institute estimates that it would cost approximately $3.5 billion to thin out the pools at all U.S. reactors.

Last year the Federal Court of Appeals the Court for the District of Columbia struck down the Nuclear Regulatory Commission's Waste Confidence Rule allowing for high density pool storage. According to the court:"We conclude that the Commission's EA [Environmental Assessment] and resulting FONSI [Finding of No Significant Impact] are not supported by substantial evidence on the record because the Commission failed to properly examine the risk of leaks in a forward-looking fashion and failed to examine the potential consequences of pool fires.".

The draft bill retains the existing definition of high-level radioactive waste in the 1982 Act. In 2005, Congress authorized DOE to deviate from this definition and to self-regulate onsite

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[4] Ibid.

[5] Ibid.

[6] Since the early 1990s, the Nuclear Regulatory Commission (NRC) has permitted reactor operators to increase burnup by increasing fuel enrichment to 4.8 weight percent of uranium-235. This allows a fuel assembly to remain as long as six years in the reactor core and for shutdowns for refueling to be extended from one to two years. It also results in a much larger generation of high-heat fission products (i.e. Cs-137 and Sr -90) and impacts fuel cladding.

[7] National Academy of Engineering, Managing Nuclear Waste, Summer 2012, pp 21, 31.. http://www.nae.edu/File.aspx?id=60739

disposal of HLW at the Savannah River Site and the Idaho National Engineering Laboratory. Because of opposition by the Pacific Northwest Congressional delegation, the Hanford site was excluded. The draft also addresses concerns of states with DOE sites storing defense high-level wastes by requiring their removal under existing compliance agreements.

The bill attempts to jump-start the site selection process by requiring the new Nuclear Waste Authority to establish a mission statement and storage and disposal guidelines within a year of enactment.

The consent process involves the governor, local government and/or Indian tribe. It is a double-tier consent process, which explicitly supports preference for co-location of a consolidated storage with disposal. Funds from user fees, now placed in Working Capital Fund can be used for compensation to host communities, economic development and other sweeteners.

The bottom line is that this draft does not address the likely prospects that spent nuclear fuel and defense HLW will remain at the generating sites for decades to come. A safe containment strategy for defense HLW, particularly at the Hanford site (with 60% of its aged 177 tanks experiencing leaks), should be mandated in the proposed legislation.

Finally, the bill does not address the impacts of reactor closures on the economies of communities and states left stranded with spent nuclear fuel for an indefinite period. At the minimum, states and communities hosting closed reactors should be provided with funds from the user fees collected under the NWPA for safer dry onsite storage and “payment in lieu of taxes,” until the wastes are removed.

SPECIFICS

The draft bill:

- Establishes a new Nuclear Waste Administration (NWA) that is responsible for establishing centralized storage and a permanent disposal site for defense high-level Wastes (HLW) and commercial SNF, as well as their transport. The Nuclear Regulatory Commission retains its authority to license storage and disposal. The NWA must submit a "mission Plan" no later than 1 year after enactment for comment by the Congress, the Oversight Board, the NRC the Nuclear Waste Technical Review Board, the States, Affected Indian tribes and "such other interested persons as the Administrator considers appropriate." The NWA is also required within 1 year to issue general guidelines for the consideration of candidate sites for storage and disposal. "As soon as practicable after the guidelines are issued The Administrator shall evaluate potential candidate sites, subject to approval by the governor of the host state, the local government of the candidate site or an affected Indian tribe. There are to be subsequent public hearings and formal cooperative agreements for site characterization with the above named.

- Supports a preference for the co-location of a consolidated storage and repository site. A final determination is made by the Administrator in accordance with EPA radiation protection standards and NRC licensing standards. There are to be public hearings before

a final determination is made. The terms and conditions of such agreements involve: (a) financial compensation; (b) economic development assistance; (C) regulatory oversight authority; and (d) an enforceable deadline for removing nuclear waste from a storage facility.

- Establishes a Nuclear Waste Oversight Board to "oversee and administration of this Act and protect the public interest in the implementation of this Act." The board is made up of 2nd tier officials from OMB, the Corps of Engineers, and the DOE. The Board performs oversight over the management, expenditure and schedule of the NWA in meeting its obligations. It has no regulatory powers but makes recommendations to the President and the Congress.

- Establishes a Working Capital Fund derived from user fees under the NWPA and additional appropriated funds necessary for storage and disposal of defense HLW.

- Repeals the 70,000 MTU volume limit set for Yucca Mt. under the 1987 amendments to the Act.

- Allows for the same judicial review as in the existing law -- giving the US Court of Appeals In Washington D.C. and the Supreme Court jurisdiction. Judicial review extends to NEPA, failure of the NWA or the NRC to make any decision or action under the proposed law. Actions must be brought within 180 days.

- Eliminates the legislative veto under the existing law.

- De-links storage from disposal under the concept of "parallel programs." The Administrator of the NWA has to certify to Congress that sufficient progress is being made towards establishing a permanent disposal site. If the Administrator or the Nuclear Waste Oversight Board determines that insufficient progress is being made to establish a permanent disposal site, then shipments of wastes other than "emergency" shipments will be suspended.

- Does not address the use of NWPA funding for on-site dry storage of <u>operating</u> reactors. Funds collected under the NWPA cannot be used until a centralized storage and /or sites are chosen. Establishment of a pilot central SNF storage site for "Priority" waste are those at decommissioned reactors -- similar to that outlined in DOE's January 2013 Strategic Plan following up on the BRC recommendations.

- Accords the rights of Indian tribes the same level of recognition as in the current law, with the Interior Secretary deciding "affected tribe" status.

- Defines "priority waste" as "spent nuclear fuel removed from a civilian nuclear power reactor that has been permanently shut down." This offers a glimmer of hope that the NWPA funds can be used for onsite dry storage in order to avoid a multi-decade

SAFSTOR wet storage scenario. However, the draft defines "storage facility" to mean " a facility for the storage of nuclear waste from multiple contract holders [centralized storage] or the Secretary pending the disposal of spent nuclear fuel in a repository." This needs further clarification.

- Maintains the same definition of HLW as in the 1982 act, which does not permit the DOE to "move the goal posts" for disposal of HLW on the Hanford site. Unfortunately, this is not the case for SRS and INL, which are subject to Section 3161 of the 2005 Defense Authorization Act, which gives DOE regulatory authority over disposal of HLW at those sites.

- Leaves the issue of who pays for onsite dry storage of operating reactors up to the reactor operator and/or the resolution of the pending lawsuits against DOE for failing to meet the Jan 1998 deadline in the 1987 amendments to the NWPA the government cannot title to the waste until a settlement is reached. For those settlements already reached, this may mean that the government can assume title. This section needs clarification.

- Does not address the issue of regional equity that ensures that less populated states that do not receive the benefits of nuclear-generated electricity are not targeted. This issue is probably looked upon as a "poison pill," guaranteed to outrage eastern states. The regional equity provisions in the original 1982 Act is what led to a public uproar in eastern states that prompted Congress to pick Yucca Mt. in 1987, while removing all other candidate sites from consideration.

- Requires DOE to remove defense HLW from a site is there is a compliance agreement in place to do so. Defense HLW can be stored as a centralized facility along with SNF, through a MOU between the Administrator of the New Agency and the DOE. 'emergency delivery" of HLW to a storage site includes defense HLW.

- Allows co-mingling of disposal of defense HLW and Commercial SNF, subject to a formal agreement between DOE and the NWA. . If one or more separate permanent disposal sites are required for defense HLW the Administrator, with the concurrence of the President can proceed to end co-mingling disposal of the two wastes. The DOE has to enter into a MOU with the Administrator of the new organization to provide the funds necessary for storage and disposal of defense HLW.

- Allows for technical cooperation and financial assistance to foreign governments, including nuclear weapons states, seeking storage and disposal.

- Establishes a Nuclear Waste Oversight Board to "oversee and administration of this Act and protect the public interest in the implementation of this Act." The board is made up of 2nd tier officials from OMB, the Corps of Engineers, and the DOE. The Board performs oversight over the management, expenditure and schedule of the NWA in meeting its obligations. It has no regulatory powers but makes recommendations to the President and the Congress.

Submitter's Name/Affiliation: James M. Maddox, Chairman, Eddy-Lea Energy Alliance, LLC
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Eddy Lea Energy Alliance, LLC
Comments on draft Nuclear Waste Administration Act of 2013
May 24, 2013

This response is submitted by the Eddy Lea Energy Alliance, LLC (ELEA), a consortium which includes the Cities of Hobbs and Carlsbad and the Counties of Eddy and Lea in southern New Mexico. ELEA has purchased 1000 acres of land halfway between Carlsbad and Hobbs for potential use as a consolidated storage site for nuclear waste. The site was studied as a part of the US Department of Energy (DOE) Global Nuclear Energy Partnership siting review in 2006. Two of our members are host to the DOE Waste Isolation Pilot Plant which was frequently cited in the Blue Ribbon Commission (BRC) report as an excellent example for future waste management programs to emulate. Two other members are host to the most modern uranium enrichment plant in the US. On the strength of this experience, we offer our comments on the draft Nuclear Waste Administration Act.

ELEA is vitally interested in seeing progress on sensible disposition of nuclear waste and we applaud the Senators for their efforts in this regard. We look forward to working with the members of Congress to expedite passage of this important legislation. The draft bill is an encouraging start and we offer our comments in the context of constructive improvements. We urge the Senate to move quickly to begin the consent-based siting process recommended by the BRC and to make the necessary changes to the NWPA that will allow this process to proceed.

General comments: ELEA believes that in order to be successful, there must be greater independence for the Nuclear Waste Administration, as far removed from political interference as is possible, while still carrying out the US Government's mandated responsibility for this program. The fiduciary responsibility for managing the Nuclear Waste Fund, including corpus, interest, and future receipts, must be shifted to an independent agency with full access to the entire fund and not just a Working Capital Fund.

The draft bill retains too much decision-making at the federal level. In general, the consent-based siting process recommended by the BRC shifts ultimate decision making responsibility for siting and site approval to the states and local communities. Therefore, the responsibility and power sharing between the state and the federal government should lean in favor of the states as much as possible. The relationships, responsibilities, and commitments between a host state and the federal government should be included in the consent agreement (host agreement) between the two parties.

Finally, we believe there is a serious oversight in the draft bill in that it provides no authorization for the federal government to support local and state stakeholder education which will be vital for a consent-based process to be meaningful.

Question 1-- James M Maddox—Eddy Lea Energy Alliance

Should the Administrator take into account, when considering candidate storage facility sites, the extent to which a storage facility would: (a) unduly burden a State in which significant volumes of defenses wastes are stored or transuranic wastes are disposed of; or (b) conflict with a compliance agreement requiring the removal of nuclear waste from a site or a statutory prohibition on the storage or disposal of nuclear waste at a site? Alternatively, should the State and other non-federal parties seeking to site a candidate storage facility be allowed to determine whether they are unduly burdened? Should the final consent agreement, which would be sent to Congress for ratification, contain an authorizing provision to amend any conflicting compliance agreement or statutory prohibition?

> NO: We believe the Consent-based siting process which was recommended by the President's BRC and cited as the basis of this draft legislation shifts the primary decision-making responsibility on siting away from the federal government and to the states. Therefore, the decision on whether a state may be unduly burdened should rest solely on the state. This response applies to the decision on modifications or amendments to state consent agreements or statutory provisions as well.

Question 2—James M Maddox—Eddy Lea Energy Alliance

Should the bill establish a linkage between progress on development of a repository and progress on development of a storage facility? If so, is the linkage proposed in section 306 of the bill appropriate, too strong, or too loose?

NO: This is a Host State issue and the host State is capable to negotiate in the consent agreement (Host Agreement) whatever it deems necessary. It is critical that the agreement be in the form of a legally binding contract between the Host and Administrator.

If a linkage is needed, should it be determined as part of the negotiations between the state and federal governments and included in the consent agreement rather than in the bill?

YES

Question 3—James M Maddox—Eddy Lea Energy Alliance

Should the bill establish separate storage and disposal programs with clearly defined requirements for each, with any linkage negotiated in the consent agreement between the federal and non-federal parties, to allow the two program to run on separate, but parallel tracks, as proposed in the alternative section 305 (which would replace section 304(b)-(g) of the draft bill)?

> YES: We prefer the two track program proposed in the alternative SEC 305 language with linkage defined in the consent agreement between the federal and non-federal parties. We also prefer the addition in SEC 305 of the non-federal development alternative. We strongly encourage the Senate to adopt this language.

Question 4—James M Maddox—Eddy Lea Energy Alliance

To what extent should the siting and consensus approval process for spent fuel storage facilities differ from that for the repository? Should the Administrator be required to conduct sufficient site-specific research (referred to as "characterization" in the bill) on candidate storage sites to determine if they are suitable for storing nuclear waste or only on candidate repository sites to determine if they are suitable for geologic disposal of nuclear waste? Should the Administrator be required to hold public hearings both before and after site characterization (as required by current law in the case of the Yucca Mountain site) or only before site characterization?

ANSWER: The approval process for storage and repository sites should be similar in structure, but differ greatly in detail. The Administrator should publish a set if minimum criteria for siting a storage facility and a repository. The minimum criteria for a storage site could include things like flood potential, proximity to population centers, and generally stable geology. The minimum criteria for a repository would be much more stringent and include things like subsurface geology, volcanic and seismic history, and proximity to population centers. These minimum conditions should be met by any candidate site which receives funding for detailed characterization, including the receipt of funding for beginning the consensus based approval process. There should be one round of public hearings, that one at the conclusion of the detailed characterization process.

Question 5—James M Maddox—Eddy Lea Energy Alliance

Should the siting process in section 304 of the draft bill be streamlined? If so, how?

ANSWER: Use the process proposed in the alternative language proposed by Senators Alexander and Feinstein in SEC 305.

Question 6—James M Maddox—Eddy Lea Energy Alliance

Should the new entity be governed by a single administrator or by a board of directors?

(a) If by a single administrator, should the administrator serve for a fixed term? If so, how long should the term of service be? Should the legislation prescribe qualifications for the administrator? If so, what should be the selection criteria?

(b) If by a board of directors, how many people should comprise the board and how should they be selected?

BOARD: The new entity should be governed by a board with as much independence from political interference as possible. To do otherwise will only repeat the failed policies of the past. The Board chooses the Administrator and other top officers. The Board is appointed by the President and confirmed by the Senate on a rotating basis like the process used now for NRC commissioners. The Board would be made up of nine (9) members who serve staggered seven year terms. The members should be selected based on the following criteria:

- Three members from entities that have contributed to the Nuclear Waste Fund
- One member who has served on a Public Utility Commission
- One member selected from a list prepared by a Host State Governor
- One member selected from a list prepared by the local or regional host community
- One member selected from a list prepared by Governors of states storing DOE HLW
- One member with nuclear waste management experience
- One member at large

Question 7—James M Maddox—Eddy Lea Energy Alliance

The Blue Ribbon Commission recommended establishment of both a board of directors for management oversight (whose "primary role ... is not to represent all stakeholder views, but rather to carry out fiduciary responsibilities for management oversight") and "a larger and more widely representative stakeholder advisory committee." The draft bill responds to these recommendations, first, by establishing a Nuclear Waste Oversight Board of senior federal officials and, second, by authorizing the Administrator to establish advisory committees. Should the Oversight Board and advisory committee be combined into a single body to perform both management oversight and stakeholder representation functions? Should the focus and membership of any advisory committees be established in the legislation or left to the Administrator?

Please submit your response HERE. (no page limit)

ANSWER: The Blue Ribbon Commission had the right idea. However, the current draft legislation is not faithful to the recommendations of the BRC in that it lacks independence from the political interference. We strongly recommend that the Nuclear Waste Administration be structured as a public-private entity such as a Federal Corporation, with the responsibility of managing the disposition of nuclear waste and reuse of materials which are not, or may not be considered waste in the future. And, equally important, the Nuclear Waste Administration should be fiduciary responsibility for carrying out this mission, including total access to the Nuclear Waste Fund, including the corpus, interest, and future receipts.

Question 8—James M Maddox—Eddy Lea Energy Alliance

Dr. Meserve testified in 2012 that representatives of stakeholders and public utility commissioners should be added to the Nuclear Waste Oversight Board. Would these additions make the Board better able to carry out its fiduciary oversight mission effectively?

Please submit your response HERE. (no page limit)

ANSWER: Yes

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Executive Summary

The Nuclear Waste Administration Act of 2013, Discussion Draft, clearly outlines a more practical approach to the implementation of the Nuclear Waste Program. I support the Blue Ribbon Commissions efforts to implement a consent based process to consolidate storage and the repository. I strongly suggest that the new Nuclear Waste Administration looks to the "lessons Learned", at Yucca Mountain and relies heavily on technology transfer from former contractors including Fluor Corporation. A summary of my responses, to your questions, follows:

1. Location of the repository and storage facility:
   a) The Administrator or Board of Directors should rely on the scientists and engineers to identify the burden and compliance issues of each proposed state.
   b) The Administrator or Board of Directors should seek approval of the proposed state and mandate into law.
2. Linkage of repository to storage facility:
   a) The linkage should be established by the bill
   b) The site selection should be negotiated between the state and federal government, via a Final Consent Decree.
3. The bill should establish one program with separate construction schedules. Both facilities should be designed to Licensing criteria. The Mission Plan should identify the schedule for both efforts.
4. The siting and consensus approval processes will be the same for the repository and the storage facility.
5. The siting process can be streamlined by utilizing past data and "lessons learned" at Yucca Mountain.
6. The Nuclear Waste Administration should be governed by a Board of Directors. It should include approximately 16 members, of applicable disciplines. The Chairman should be appointed by the President. The Board of Directors should also include a Deputy Chairman and Legal/Regulatory advisor.
7. The Nuclear Oversight Committee and the Stakeholders Advisory Committee should be kept separate. The focus of the Committees should be identified by the Board of Directors or "Administrator".
8. Representation of the Stakeholders in the Oversight Committee should be limited. Stakeholders should remain as "advisors", not "decision makers".

Thank you for the opportunity to comment on this legislation. I am confident that the efforts of the current administration to develop carbon free energy and to safely dispose of nuclear waste, coupled with the past efforts by hundreds of engineers/scientists, will result in a successful nuclear waste program

Please feel free to contact me at (949) 491-3622, if you have any questions or comments. I am also very interested in any staff opportunities you may have, for the future Board of Directors and/or Oversight Committees, required to implement this legislation.

Best Regards, Sally A. Russell
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Question 1: Considerations for locating storage facility sites
Submitter's Name/Affiliation: Sally A. Russell, Russell Business Enterprises, former Project Manager for Fluor assigned to the Repository Program and Yucca Mountain

Should the Administrator take into account, when considering candidate storage facility sites, the extent to which a storage facility would: (a) unduly burden a State in which significant volumes of defenses wastes are stored or transuranic wastes are disposed of; or (b) conflict with a compliance agreement requiring the removal of nuclear waste from a site or a statutory prohibition on the storage or disposal of nuclear waste at a site? Alternatively, should the State and other non-federal parties seeking to site a candidate storage facility be allowed to determine whether they are unduly burdened? Should the final consent agreement, which would be sent to Congress for ratification, contain an authorizing provision to amend any conflicting compliance agreement or statutory prohibition?

Absolutely, the Administrator should rely on the scientists and engineers to identify the burden and compliance issues pertaining to that State. That is the purpose of the Environmental Impact Statement and Site Characterization Plan. We should also look to the lessons learned at Yucca Mountain and determine if the presence of a Nuclear Waste facility is also politically favorable to that state.

We spent millions, if not billions of dollars on Yucca Mountain, to avoid such a conflict and we still have not constructed a facility to safely receive and dispose of Nuclear Waste. We clearly ignored the signs that Yucca Mountain would not be accepted by Nevada, in the late eighties. The political/public opposition should have been resolved before moving forward with the License Application. I believe if the public had been educated properly, Yucca Mountain could have overcome the safety/design issues.

I am confident that the Blue Ribbon Commission is on the right track but we must first seek the approval of the State and then mandate the site selection into law, via a Final Consent Decree.

Question 3: Separate process for storage facility siting – Alternative Section 305
Submitter's Name/Affiliation: Sally A. Russell, Russell Business Enterprises, former Fluor Project Manager assigned to the Repository Program and Yucca Mountain

Should the bill establish separate storage and disposal programs with clearly defined requirements for each, with any linkage negotiated in the consent agreement between the federal and non-federal parties, to allow the two program to run on separate, but parallel tracks, as proposed in the alternative section 305 (which would replace section 304(b)-(g) of the draft bill)?

No. The bill should establish one program with two separate schedules. The Repository and the Monitored Retrievable Storage facility were originally sited and designed in parallel and to the same licensing criteria. The repository and storage facilities will also be designed to the same licensing criteria.

The storage facility schedule will be on a very fast track once the EIS and SCP have been completed. It is more practical to keep them on separate schedules but parallel tracks.

The Mission Plan is the time to identify the schedule or path forward for the Pilot Plant, Non-Priority, and Permanent Waste Disposal Facilities.

Question 5: Complexity of repository and storage facility siting processes
Submitter's Name/Affiliation: Sally A. Russell, Russell Business Enterprises, former Project Manager assigned to the Repository Program and Yucca Mountain

Should the siting process in section 304 of the draft bill be streamlined? If so, how?

Yes, look to the Site Characterization Plan (SCP) prepared by Fluor Corporation in the 1980's. The Project Manager Jim Clark, Deputy Project Manager, Bill Griffin and I, a Project Manager, oversaw the SCP for all potential US sites. I was the Project Manager responsible for overseeing the technical input and preparation of the SCP. Fluor also prepared over 90 engineering study reports in support of the SCP, the Conceptual Design Report, The Advanced Conceptual Design Report and the Monitored Retrievable Storage Facility for Yucca Mountain. Bill Griffin and I were responsible for overseeing the preparation and review of all documents by DOE, NRC, the stakeholders and all participating subcontractors.

I suggest the program utilize existing empirical data instead of re-creating it. Focus on stream lining all review processes and limit the amount of meetings required of the document review process. Reduce travel by utilizing remote/on-line meetings.

Expanding the waste disposal scenario is an excellent idea, but Congress needs to find a compromise. I strongly suggest that Congress revisit the falsely perceived safety concerns of Yucca Mountain and WIPP sites, for "near term" permanent geological disposal.

Question 2: Linkage between storage and repository

Submitter's Name/Affiliation: Sally A. Russell, Russell Business Enterprises, former Project Manager for Fluor assigned to the Repository Program and Yucca Mountain

Should the bill establish a linkage between progress on development of a repository and progress on development of a storage facility? If so, is the linkage proposed in section 306 of the bill appropriate, too strong, or too loose? If a linkage is needed, should it be determined as part of the negotiations between the state and federal governments and included in the consent agreement rather than in the bill?

Yes, the bill should establish a linkage between the repository and the storage facility. The bill should stipulate that the repository and storage facility be designed to licensing criteria and selected in parallel. The site selection should be based solely on the Environmental Impact Statement and Site Characterization Plan. The site selection should be negotiated between the state and federal governments and mandated into law, via a Final Consent Decree.

Question 4: Separate process for storage facility siting – General streamlining for storage only
Submitter's Name/Affiliation: Sally A. Russell, Russell Business Enterprises, former Project Manager assigned to the Repository Program and Yucca Mountain

To what extent should the siting and consensus approval process for spent fuel storage facilities differ from that for the repository? Should the Administrator be required to conduct sufficient site-specific research (referred to as "characterization" in the bill) on candidate storage sites to determine if they are suitable for storing nuclear waste or only on candidate repository sites to determine if they are suitable for geologic disposal of nuclear waste? Should the Administrator be required to hold public hearings both before and after site characterization (as required by current law in the case of the Yucca Mountain site) or only before site characterization?

No, the siting and consensus approval processes, should virtually be the same. All sites should be characterized and/or subjected to an Environmental Assessment and/or Environmental Impact Statement (EA/EIS). Although, the environmental/safety concerns differ, the time required to prepare an EIS/Design Report/License Application will be the same. Due to the amount of time that has transpired, the Site Characterization Plan (SCP) and EIS for previous proposed sites, will need to be revised/updated, but not re-created. New sites will require an EIS and SCP. The License Application will require environmental, safety and design input, prior to approval for both facilities. The actual construction is where the storage facility can be stream-lined.

Yes, the Administrator should hold public hearings before and after the Environmental Impact Report to inform the public of potential impacts but "not" for site characterization. I may be biased, but I found these meetings only agitated the public. For example, while in Deaf Smith Texas, an environmental coalition group burned DOE in effigy at the meeting hall. This is not a good forum to educate the public about the Nuclear Waste Program. The local politicians need to find a more efficient way to educate their constituents and seek public approval.

Question 6: Governance of the Nuclear Waste Administration – Administrator vs. Board of Directors

Submitter's Name/Affiliation: Sally A. Russell, Russell Business Enterprises, former Fluor Project Manager for the Repository Program and Yucca Mountain

Should the new entity be governed by a single administrator or by a board of directors?

(a) If by a single administrator, should the administrator serve for a fixed term? If so, how long should the term of service be? Should the legislation prescribe qualifications for the administrator? If so, what should be the selection criteria?

(b) If by a board of directors, how many people should comprise the board and how should they be selected?

The Nuclear Waste Administration should be governed by a Board of Directors, comprised of representatives from Congress, NRC, EPA, DOE, and DOT. It should also include former and/or current experts directly involved with the siting/environmental impact, design/engineering, construction, licensing/regulatory, quality assurance and transportation issues pertaining to the Nuclear Waste Repository.

The committee should consist of 16 members, including an appointed Chairman, Deputy Chairman and Legal advisor. The Chairman should have extensive practical and technical knowledge of the Nuclear Waste Program and the capacity to effectively facilitate all decision making processes. The Chairman should have a demonstrated ability to negotiate/resolve conflicts, between the scientific community and stakeholders.

Question 7: Governance of the Nuclear Waste Administration – Role of advisory committees

Submitter's Name/Affiliation: Sally A. Russell, Russell Business Enterprises, former Project Manager for Fluor assigned to the Repository Program and Yucca Mountain

The Blue Ribbon Commission recommended establishment of both a board of directors for management oversight (whose "primary role ... is not to represent all stakeholder views, but rather to carry out fiduciary responsibilities for management oversight") and "a larger and more widely representative stakeholder advisory committee." The draft bill responds to these recommendations, first, by establishing a Nuclear Waste Oversight Board of senior federal officials and, second, by authorizing the Administrator to establish advisory committees. Should the Oversight Board and advisory committee be combined into a single body to perform both management oversight and stakeholder representation functions? Should the focus and membership of any advisory committees be established in the legislation or left to the Administrator?

No, to be truly effective, the Nuclear Oversight Committee and stakeholder advisory committee's should be kept separate. Future legislation should rely on lessons learned at Yucca Mountain and clearly define the stakeholders roles and participation in the decision making process.

The decision of where and how to construct a nuclear repository should be left to the engineers and scientists. As a Project Manager overseeing the Site Characterization Process, Conceptual Design and participant in the License Application, I found the participation of stakeholders, although necessary, often times, counter-productive. The focus of the membership of the advisory committees should be left to the "Administrator"

Question 8: Governance of the Nuclear Waste Administration – Membership of the Oversight Board

Submitter's Name/Affiliation: Sally A. Russell, Russell Business Enterprises, former Fluor Project Manager assigned to the Repository Program and Yucca Mountain

Dr. Meserve testified in 2012 that representatives of stakeholders and public utility commissioners should be added to the Nuclear Waste Oversight Board. Would these additions make the Board better able to carry out its fiduciary oversight mission effectively?

I believe "limited" representation by the stakeholders and public utility commissioners is important. Unfortunately, the more players you involve, the longer all review processes become. The goal of the NWOB should be to streamline the Nuclear Waste Program, not delay it. I suggest that the stakeholders and public utility commissioners are utilized as advisors, not as decision makers.

Question 1: Considerations for locating storage facility sites
Submitter's Name/Affiliation: (Insert your name/association here)

Instructions:

Go to View [Header and Footer] and fill in Name/Affiliation.

Save document as Question1 and add your last name and affiliation (ex. Question1_Smith_OrganizationA)

Scroll down to page 2 of this document to see Question 1, and begin your response on that page.

Should the Administrator take into account, when considering candidate storage facility sites, the extent to which a storage facility would: (a) unduly burden a State in which significant volumes of defenses wastes are stored or transuranic wastes are disposed of; or (b) conflict with a compliance agreement requiring the removal of nuclear waste from a site or a statutory prohibition on the storage or disposal of nuclear waste at a site? Alternatively, should the State and other non-federal parties seeking to site a candidate storage facility be allowed to determine whether they are unduly burdened? Should the final consent agreement, which would be sent to Congress for ratification, contain an authorizing provision to amend any conflicting compliance agreement or statutory prohibition?

Section 304 paragraph (a)(1) specifies affected that communities decide whether and on what terms a facility is acceptable. Faithfully implemented, this would seem to resolve the "unduly burdened" issue. If included, the "unduly burdened" provision would seem to allow the Administrator to toss out a proposed site accepted by a community but unilaterally judged "unduly burdened" by the Administrator.

Question 2: Linkage between storage and repository
Submitter's Name/Affiliation: (Insert your name/association here)

Union of Concerned Scientists Response

Should the bill establish a linkage between progress on development of a repository and progress on development of a storage facility? If so, is the linkage proposed in section 306 of the bill appropriate, too strong, or too loose? If a linkage is needed, should it be determined as part of the negotiations between the state and federal governments and included in the consent agreement rather than in the bill?

UCS Response - The criteria in the bill is that "the Administrator is making substantial progress towards siting, constructing, and operating a repository," but the bill does not specify what constitutes "substantial progress." We would like to see stronger linkage than this, such as requiring that the site for a repository must be chosen.

Question 4: Separate process for storage facility siting – General streamlining for storage only
Submitter's Name/Affiliation: (Insert your name/association here)

Robert Cowin/Union of Concerned Scientists

To what extent should the siting and consensus approval process for spent fuel storage facilities differ from that for the repository? Should the Administrator be required to conduct sufficient site-specific research (referred to as "characterization" in the bill) on candidate storage sites to determine if they are suitable for storing nuclear waste or only on candidate repository sites to determine if they are suitable for geologic disposal of nuclear waste? Should the Administrator be required to hold public hearings both before and after site characterization (as required by current law in the case of the Yucca Mountain site) or only before site characterization?

UCS response: Section 304 paragraph (a)(1) specifies affected communities to decide whether and on what terms a facility is acceptable. The process employed to reach this consensus should be the same for all facilities sited under this law.

To: Senate Energy & Natural Resources Committee

From: Union of Concerned Scientists (UCS)

Re: Comments and Feedback on Draft Federal Nuclear Waste Legislation

Date: May 24, 2013

Contact:

Robert Cowin
Senior Washington Representative for Clean Energy
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The Union of Concerned Scientists applauds Senator Wyden, Senator Murkowski, Senator Feinstein and Senator Alexander and their staff for their diligence and hard work in tackling the decades-old challenge of how to safely manage and dispose of the nation's high-level nuclear waste. Please find below our organization's initial comments and feedback on the draft bill, including:

- General Comments – Imperative to Address Near-Term Storage/Thin Out Crowded Spent Fuel Pools
- Proposed Changes to Discussion Draft
- UCS Responses to Certain Questions Posed

Waste Bill Must Address Near-Term On-Site Management and Risks from Over Crowded Pools

The draft Nuclear Waste Administration Act of 2013 largely follows the recommendations of the Blue Ribbon Commission (BRC). The BRC limited its recommendations for nuclear waste management to after the point at which nuclear waste leaves the reactor sites. However, the government's charge to the BRC was broader than that, and its recommendations should have addressed the issue of onsite storage of spent fuel.

In particular, the BRC charter[1] called for "the Commission to conduct a comprehensive review of policies for managing the back end of the nuclear fuel cycle;" the "back end" of the fuel cycle includes onsite storage after spent fuel is removed from the reactor core. The BRC charter also states explicitly that in considering waste management the Commission should consider "Options for safe storage of used nuclear fuel while final disposition pathways are selected and deployed." The pathways currently being considered include offsite consolidated interim storage,

[1] BRC report, Appendix A.

and the Commission should have recommended measures to assure safe storage of the waste at reactor sites until these or other pathways are realized.

While the BRC did not address onsite waste, Congress should not make a similar oversight. Indeed, Congress has an obligation to step in and address this important gap in the BRC recommendations. The failure of federal waste policy is directly responsible for the problem of the buildup of waste at reactor sites. Successful lawsuits by utilities against the government clearly demonstrate federal responsibility for onsite waste issues that result from its failure to take title to the waste and move it to a repository. As a result, Congress must address the onsite waste problem as part of any comprehensive approach to this problem.

The draft Nuclear Waste Administration Act itself makes clear that this issue should be addressed in the legislation since it states in establishing the Waste Administration that one of its purposes is “to protect the public health and safety and the environment” as it works toward discharging the responsibility of the federal government to provide for the permanent disposal of nuclear waste (Sec. 203).

If the legislation only addresses the issues of consolidated interim storage and permanent disposal it will do little or nothing to increase public safety in the near term. Congress must address the risk to public health and safety from the way nuclear plant owners currently manage radioactive waste: the dense-packing of spent fuel in cooling pools. Nearly three-quarters of today’s 70,000 metric tons of spent fuel is currently sitting in overcrowded pools that were not originally designed to handle such a high volume.

Congress must address this issue now. Since interim sites for nuclear waste will not become a reality for many years, and potentially decades, the nuclear waste will continue to be stored at reactor sites for the foreseeable future, and in the meantime Congress must take steps to improve the safety of onsite waste storage. Congress must require nuclear plant owners to reduce the amount of spent fuel in the pools by transferring a large percentage of it to dry casks. Storage in dry casks improves the safety and security of the waste compared to storage in pools while it is waiting to be moved offsite to interim or permanent storage.

UCS Proposed Changes to Discussion Draft

Insert red text in Table of Contents (page 2 of draft text):

TITLE III—FUNCTIONS

Sec. 301. Transfer of functions.
Sec. 302. Transfer of contracts.
Sec. 303. Nuclear waste facilities.
Sec. 304. Siting nuclear waste facilities.
Sec. 305. Licensing nuclear waste facilities.
Sec. 306. Linkage between storage and disposal.
Sec. 307. Defense waste.
Sec. 308. Transportation.
Sec. 309. Storage awaiting transportation.

Insert red text in Section 102 (starting with page 4, line 16 of discussion draft**):**

SEC. 102. PURPOSES.

The purposes of this Act are—

(1) to establish a new nuclear waste management organization;

(2) to transfer to the new organization the functions of the Secretary relating to the siting, licensing, construction, and operation of nuclear waste management facilities;

(3) to establish a new consensual process for the siting of nuclear waste management facilities;

(4) to provide for centralized storage of nuclear waste pending completion of a repository;

(5) to improve the safety of nuclear waste storage pending completion of centralized storage and a repository; and

(6) to ensure that—

(A) the generators and owners of nuclear waste pay the full cost of the program; and

(B) funds collected for the program are used for that purpose.

Add to Sec. 103. Definitions

-this is language from Sen. Reid's 2007 bill S. 784

''(_) CONTRACTOR.—The term 'contractor' means a person who holds a contract and is licensed by the Commission to possess spent nuclear power reactor fuel.

''(_) SPENT NUCLEAR FUEL DRY CASK.—The term 'spent nuclear fuel dry cask' means the container (and all the components and systems associated with the container)—

''(A) in which spent nuclear fuel is stored and naturally cooled at an independent spent fuel storage installation that is licensed by the Commission and located at the power reactor site; and

''(B) with a design that is approved by the Commission by license or rule.

''(_) SPENT NUCLEAR FUEL POOL.—The term 'spent nuclear fuel pool' means a water-filled container on a nuclear power reactor site in which spent nuclear fuel rods are stored.

Add to Title IV Sec. 401: (page 41 of draft)

(f) Use of Fund for Storage Awaiting Transportation.— The Working Capital Fund may be used to compensate contractors for the additional costs of storage imposed by the delay in the availability of a nuclear waste facility, including the construction of a second concrete storage pad for spent nuclear fuel dry casks.

OPTION 1: AMEND ATOMIC ENERGY ACT TO REQUIRE NRC RULEMAKING

Add new Sec. 309 at the end of Title III after Sec. 308 on Transportation (after line 21on page 39 of draft):

-(b) and (c) are modified versions of Rep. Markey's 2011 bill H.R.1242

SEC. 309. STORAGE AWAITING TRANSPORTATION.

(a) To improve the safety of nuclear waste storage pending completion of centralized storage and a repository as specified in Sec. 102, and prepare nuclear waste for transportation, spent nuclear fuel awaiting transportation to a nuclear waste facility shall be stored at the site of a contractor in certified dry casks as specified by an amendment to the Atomic Energy Act of 1954 (42 U.S.C. 2201 et seq.).

(b) AMENDMENT—Chapter 14 of the Atomic Energy Act of 1954 (42 U.S.C. 2201 et seq.) is amended by adding at the end the following new section:

'Sec. 170J. Revision of Spent Nuclear Fuel Rod Storage Regulations-

'a. Not later than 90 days after the date of enactment of this bill, the Commission shall initiate a rulemaking proceeding, including notice and opportunity for public comment, to be completed not later than 18 months after such date of enactment, to revise its regulations to require that each utilization facility licensed under this Act:

'(1) move spent nuclear fuel rods from spent nuclear fuel pools to certified dry casks at an independent spent fuel storage installation that is licensed by the Commission and located at the power reactor site in accordance with this section.

'(2) not later than 10 years after the date of enactment of this section, complete the transfer of all qualified spent nuclear fuel rods stored in spent nuclear fuel pools to be placed in certified dry casks.

'(3) for spent nuclear fuel rods in spent nuclear fuel pools after 10 years from the date of enactment of this section, move spent nuclear fuel rods from spent nuclear fuel pools to certified dry casks within one year of the nuclear fuel rods being qualified to be placed in certified dry casks.

'(4) configure spent nuclear fuel rods in spent nuclear fuel pools in a manner that would minimize the chance of a fire in the event of the loss of the water in the spent nuclear fuel pool.

'b. The revision of regulations under this section shall provide for appropriate requirements for periodic verification of compliance with the regulations issued under this section.

'c. The Commission shall not issue an approval for any construction permit, operating license, license extension, design certification, combined license, design approval, or manufacturing license until the revisions of regulations under this section take effect.'.

(c) CONFORMING AMENDMENT—The table of contents of the Atomic Energy Act of 1954 is amended by inserting after the item relating to section 170I the following new item:

'Sec. 170J. Revision of spent nuclear fuel rod storage regulations.'.

OPTION 2: AMEND NUCLEAR WASTE POLICY ACT (DOES NOT REQUIRE NRC RULEMAKING)

Add new Sec. 309 at the end of Title III after Sec. 308 on Transportation (after line 21on page 39 of draft):

-(b) and (c) are modified versions of Sen. Reid's 2007 bill S. 784

SEC. 309. STORAGE AWAITING TRANSPORTATION.

(a) To improve the safety of nuclear waste storage pending completion of centralized storage and a repository as specified in Sec. 102, and prepare nuclear waste for transportation, spent nuclear fuel awaiting transportation to a nuclear waste facility shall be stored at the site of a contractor in certified dry casks as specified by an amendment to Title I of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10121 et seq.)

(b) AMENDMENT— Title I of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10121 et seq.) is amended by adding at the end the following:

''Subtitle I—Dry Cask Storage of Spent Nuclear Fuel

''SEC. 185. DRY CASK STORAGE OF SPENT NUCLEAR FUEL.

''(a) TRANSFER OF SPENT NUCLEAR FUEL.—

‘‘(1) IN GENERAL.—A contractor shall transfer spent nuclear fuel from spent nuclear fuel pools to spent nuclear fuel dry casks at an independent spent fuel storage installation that is licensed by the Commission and located at the power reactor site in accordance with this section.

‘‘(2) SPENT NUCLEAR FUEL STORED AS OF DATE OF ENACTMENT.—Not later than 10 years after the date of enactment of this section, a contractor shall complete the transfer of all qualified spent nuclear fuel rods from spent nuclear fuel pools into certified dry casks.

‘‘(3) SPENT NUCLEAR FUEL STORED AFTER DATE OF ENACTMENT.—For spent nuclear fuel rods in spent nuclear fuel pools after 10 years from the date of enactment of this section, a contractor shall move spent nuclear fuel rods from spent nuclear fuel pools to certified dry casks within one year of the nuclear fuel rods being qualified to be placed in the certified dry casks.

“(4) SPENT FUEL CONFIGURATION.—A contractor shall configure spent nuclear fuel rods in spent nuclear fuel pools in a manner that would minimize the chance of a fire in the event of the loss of the water in the spent nuclear fuel pool.

‘‘(5) INADEQUATE AVAILABILITY.—If dry casks suitable for the particular fuel are not available to complete a transfer under paragraph (2) or (3) on reasonable terms and conditions, the contractor may apply to the Commission to extend the deadline for the transfer to be completed.

‘‘(6) COMMISSION LICENSING.—

‘‘(A) IN GENERAL.—The transfer under paragraph (2) or (3) shall be to spent nuclear fuel dry casks generally licensed by the Commission.

‘‘(B) GENERALLY LICENSED SPENT NUCLEAR FUEL DRY CASKS UNAVAILABLE.—If generally licensed spent nuclear fuel dry casks described in subparagraph (A) are not available, the deadlines established in paragraphs (2) and (3) may be met by the good faith filing of an application to the Commission for a specific independent spent fuel storage installation license.

‘‘(C) EXPEDITED REVIEW.—The Commission shall expedite the review and decision of the Commission on an application received under subparagraph (B) in

a manner that is consistent with public health and safety, common defense and security, and the right of an interested person to a hearing under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.).

(b) CONFORMING AMENDMENT—The table of contents of the Nuclear Waste Policy Act of 1982 is amended by inserting after the item relating to section Title I Subtitle H the following new item:

‘‘Subtitle I—Dry Cask Storage of Spent Nuclear Fuel

‘‘SEC. 185. DRY CASK STORAGE OF SPENT NUCLEAR FUEL”.

UCS Response to Questions 1, 2 and 4

Question 1: Considerations for locating storage facility sites

Should the Administrator take into account, when considering candidate storage facility sites, the extent to which a storage facility would: (a) unduly burden a State in which significant volumes of defenses wastes are stored or transuranic wastes are disposed of; or (b) conflict with a compliance agreement requiring the removal of nuclear waste from a site or a statutory prohibition on the storage or disposal of nuclear waste at a site? Alternatively, should the State and other non-federal parties seeking to site a candidate storage facility be allowed to determine whether they are unduly burdened? Should the final consent agreement, which would be sent to Congress for ratification, contain an authorizing provision to amend any conflicting compliance agreement or statutory prohibition?

UCS response: Section 304 paragraph (a)(1) specifies affected that communities decide whether and on what terms a facility is acceptable. Faithfully implemented, this would seem to resolve the "unduly burdened" issue. If included, the "unduly burdened" provision would seem to allow the Administrator to toss out a proposed site accepted by a community but unilaterally judged "unduly burdened" by the Administrator.

Question 2: Linkage between storage and repository

Should the bill establish a linkage between progress on development of a repository and progress on development of a storage facility? If so, is the linkage proposed in section 306 of the bill appropriate, too strong, or too loose? If a linkage is needed, should it be determined as part of the negotiations between the state and federal governments and included in the consent agreement rather than in the bill?

UCS response: The criteria in the bill is that "the Administrator is making substantial progress towards siting, constructing, and operating a repository," but the bill does not specify what constitutes "substantial progress." We would like to see stronger linkage than this, such as requiring that the site for a repository must be chosen.

Question 4: Separate process for storage facility siting – General streamlining for storage only

To what extent should the siting and consensus approval process for spent fuel storage facilities differ from that for the repository? Should the Administrator be required to conduct sufficient site-specific research (referred to as "characterization" in the bill) on candidate storage sites to determine if they are suitable for storing nuclear waste or only on candidate repository sites to determine if they are suitable for geologic disposal of nuclear waste? Should the Administrator be required to hold public hearings both before

and after site characterization (as required by current law in the case of the Yucca Mountain site) or only before site characterization?

UCS response: Section 304 paragraph (a)(1) specifies affected communities to decide whether and on what terms a facility is acceptable. The process employed to reach this consensus should be the same for all facilities sited under this law.

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May 24, 2013

TO: Senate Energy and Natural Resources Committee

FROM: Don Hancock, Nuclear Waste Safety Program Director

RE: Discussion Draft of Nuclear Waste Administration Act of 2013

Southwest Research and Information Center (SRIC), based in Albuquerque, New Mexico, is a nonprofit organization established in 1971. SRIC is a multi-cultural organization working to promote the health of people and communities, protect natural resources, ensure citizen participation, and secure environmental and social justice now and for future generations. SRIC has been involved in policy, technical, regulatory, legal, and public education matters regarding the Waste Isolation Pilot Plant (WIPP) throughout its existence. SRIC has also been involved in various issues related to commercial spent nuclear fuel (SNF), especially during the 1980s regarding Department of Energy (DOE) efforts to establish first and second-round repository and Monitored Retrievable Storage (MRS) sites. On three occasions, SRIC made invited presentations to the Blue Ribbon Commission. On March 24, 2010, SRIC also submitted "A Perspective on U.S. Nuclear Waste Policies for the Last 40 Years," which is available at: http://www.sric.org/nuclear/docs/Perspective%20-%20%20Blue%20Ribbon%20Commission%20final.pdf

SRIC appreciates that the four senators have provided the discussion draft so that SRIC and other groups and individuals interested in and affected by high-level nuclear waste (HLW) and SNF are able to comment before the Nuclear Waste Administration Act is introduced. Given the more than 30 years of failed nuclear waste policy, an open and inclusive legislative process is essential if comprehensive nuclear waste legislation is to be enacted and successfully implemented. SRIC will continue to be actively involved.

1. Lessons Learned about SNF and HLW during the past 40 years

The 2010 "Perspective" concluded with seven lessons learned. Those lessons continue to be valid three years later. Those lessons are:

1. There is no national consensus about the future role of nuclear energy. But how much waste will be generated is an essential aspect of determining how many repositories are needed.

2. What health and safety standards should apply to any repository have not been determined.

3. There are major technical problems with each of the more than 20 potential repository sites that have been identified by DOE.

4. There is substantial public opposition to every proposed repository or MRS site.

5. No state has volunteered to host a repository or MRS site.

6. SNF will continue to stay at reactor sites and HLW will remain at DOE sites for decades.

7. Perceived political decisions by Presidents, Congress, and the DOE have heightened public opposition to waste programs, while failing to create operating sites. That history engenders much mistrust, which will take time, substantially improved public participation, and better performance to overcome.

SRIC believes that the Nuclear Waste Administration Act or any other nuclear waste legislation must address those lessons, or there will be another 40 years of no progress on establishing safe repositories. Following are policies that should be pursued and policies that will perpetuate past failures. While there are some provisions of the discussion draft that SRIC supports, there are numerous provisions that SRIC believes will doom the proposed program's success, even if it were enacted. Finally, SRIC will respond to the 8 questions posed.

2. Policies that should be supported

A. SRIC supports interim storage of high-level waste and spent nuclear fuel as close to the point of generation as possible, as safely as possible. For the HLW at DOE sites at Hanford, Washington; Savannah River Site, South Carolina; and Idaho National Lab (INL), Idaho, SRIC supports improved storage of HLW now and solidification of those wastes as soon as possible. SRIC recognizes that HLW and SNF will continue to be stored at DOE sites for decades.

For commercial SNF, SRIC supports Hardened On-Site Storage (HOSS) to reduce the amount and density of irradiated fuel in storage pools, increase the amount of SNF in dry storage, and improve the safeguards to reduce the impacts of natural or human events. SRIC and hundreds of groups from all 50 states support the "Principles for Safeguarding Nuclear Waste at Reactors," which is attached. The Nuclear Regulatory Commission (NRC) should be required to establish HOSS standards by rulemaking for licensed reactors.

B. SRIC supports scientifically sound, publicly accepted environmental protection standards before any SNF disposal site selection activities begin. The Environmental Protection Agency (EPA) should engage in a rulemaking process to establish new disposal standards. The existing regulations - 40 CFR 191 (for WIPP) or 40 CFR 197 (for Yucca Mountain) - are not generic standards needed before a new siting process begins. EPA must receive additional, adequate funding from Congress to conduct a rulemaking to establish new standards.

C. SRIC supports independent state and federal regulation of SNF storage and disposal facilities. Independent regulation is essential for technically sound nuclear waste facilities, public confidence that the sites are are well managed and there is stringent oversight, and to ensure effective public participation and accountability. The Atomic Energy Act must be amended to allow for regulation of radionuclides by states and other federal agencies. As previously noted, NRC should issue standards for HOSS facilities for commercial SNF. The Resource Conservation and Recovery Act should be amended to include radionuclides.

D. SRIC supports an early and substantive role of tribes, states, and the public in decisionmaking. SNF and HLW will remain very dangerous to many generations, and history clearly indicates that tribes, states, and the public will engage in multiple ways in the decisionmaking. Moreover, the "affected public" is not just people in the "host" community, but includes people near other nuclear facilities and in other states.

E. SRIC supports WIPP carrying out only its existing mission. That mission is to demonstrate that the federal government and its contractors, at the cost of billions of dollars, can: (1) safely operate WIPP to meet the "start clean, stay clean" standard for up to 175,564 cubic meters of defense transuranic (TRU) waste; (2) safely transport TRU waste through more than 20 states without serious accidents or release of radioactive or hazardous contaminants; (3) meet commitments to clean up TRU waste at dozens of DOE nuclear weapons sites; and (4) safely close, decontaminate, and decommission the WIPP site by 2030 or earlier. After 14 years of operations, less than half of the legal limit is emplaced. Moreover, WIPP is failing in its mission of disposing of up to 7,079 cubic meters of remote-handled waste. There is remaining capacity for only about half of that amount, meaning that some RH waste will be left at Hanford, INL, and Oak Ridge, Tennessee.

F. SRIC supports limiting future nuclear waste generation, including no new nuclear weapons and a phased closure of commercial nuclear power plants. New nuclear weapons are contrary to United States Nonproliferation Treaty obligations. New nuclear weapons would also create more plutonium-contaminated waste for which a new TRU waste repository would be needed. As long as the amount of commercial SNF continues to increase, storage capacity must continue to expand in tandem, and the final amount of SNF requiring disposal is unknown. Without a determination of the amount of HLW and SNF to be disposed, the number and size of repositories cannot be known. SRIC supports a sustainable energy policy that focuses on increased energy efficiency and clean renewable energy technologies.

3. Policies that should be opposed

A. SRIC opposes consolidated spent nuclear fuel storage facilities. Consolidated commercial SNF storage facilities are inconsistent with the principle of safe storage as close as possible to the generation site. Consolidated storage requires nuclear waste transportation, which is costly and endangers millions of people along shipping routes. Consolidated storage is not disposal, but it would almost certainly become de facto disposal, as repositories would be more difficult to site. Consolidated storage does not "solve" SNF storage at reactors, because operating reactors will continue to generate more waste that requires onsite storage. Consolidated storage likely

would increase worker exposure at the power plants and would certainly increase worker exposures during transportation and at the consolidated storage site(s). Consolidated storage when proposed by DOE in the 1980s in Tennessee was rejected, including by then Governor Lamar Alexander. Consolidated storage promoted by several nuclear utilities on the Mescalero Apache Reservation in New Mexico in the 1990s was rejected. Consolidated storage by Private Fuel Storage on Skull Valley Goshute land in Utah was licensed by the Nuclear Regulatory Commission (NRC) on February 21, 2006, but could never operate because of strong opposition and the license has now been terminated. Those repeated failures at consolidated SNF storage sites further show that such facilities should not be included in the legislation. SRIC also is aware that consolidated SNF storage is seen by some as a way to promote reprocessing.

B. SRIC opposes reprocessing. Reprocessing for nuclear weapons accounts for much of the contamination at DOE sites, and the HLW from reprocessing remains an immediate and long-term health and environmental threat. Commercial reprocessing at West Valley, New York, also was an environmental and economic disaster that remains a burden on New York and federal taxpayers. It is clear that fissile materials should not be separated from spent fuel. Reprocessing also is uneconomic. That fact is demonstrated by the lack of any commercial reprocessing in the U.S. since the failure of West Valley. Even though reprocessing has been legal in the U.S. for more than 30 years, no private entities have been willing to fund it.

C. SRIC opposes Yucca Mountain, which is a technically flawed, politically chosen site. As the State of Nevada, tribal, and non-governmental organizations have shown, Yucca Mountain has many technical flaws, including seismic and volcanic issues and rapid groundwater flow, which preclude the site from meeting adequate disposal standards. In 1987, Congress inappropriately selected Yucca Mountain as the sole repository site, a clearly political, not technical, decision.

D. SRIC opposes expanding the mission of the Waste Isolation Pilot Plant (WIPP) to include disposal of commercial waste or high-level waste. Since 1979, federal laws have limited WIPP to handling defense transuranic waste. It would do great damage to the credibility of laws and agreements covering any future nuclear waste storage or disposal sites if the WIPP mission were changed. Moreover, WIPP is technically precluded from accepting such waste because of various deficiencies, including that it is surrounded by many oil and gas wells and that bedded salt is rapidly deformed by thermally hot waste. Until March 2013, DOE policy was to send all Hanford HLW in tanks to the Waste Treatment Plant; the reversal of that policy and to now propose that HLW from 20 tanks at Hanford be sent to WIPP is wrong and unworkable. SRIC and other groups have strongly opposed that proposal (see attached letter). Moreover, current DOE plans to expand WIPP to Greater-Than-Class C (GTCC) Waste and for elemental mercury storage should be stopped. Those expansions are contrary to long-established legal limits, are unnecessary as GTCC waste can be stored onsite for decades until HLW/SNF repositories are available and mercury could be stored at commercial sites, and are inconsistent with the principle that DOE should not have authority over commercial waste and that a Nuclear Waste Administration should be established. Continued DOE promotion of new missions for WIPP should be stopped, as any nuclear waste legislation should ensure that WIPP's mission will not change.

4. Features of draft bill that SRIC can support

A. Terminate the past 30 years of DOE's authority related to consolidated SNF storage and disposal. The draft bill would require DOE to continue management of its HLW, but not give it authority over commercial SNF. DOE's efforts to site consolidated storage and disposal sites have failed to result in any operating facilities and have instead engendered public distrust and opposition to the nuclear waste program. It should be clear that the existing laws and DOE's implementation would continue to fail.

B. Ensure that generators and owners of nuclear waste pay the full cost of storage and disposal and that funds collected are used for those purposes. Just as federal taxpayers must pay the full cost of handling and disposing of HLW from nuclear weapons production, so too nuclear utility ratepayers should pay the costs for commercial SNF on-site storage and disposal. Taxpayer and ratepayer funds should be used only for those purposes. This mandate includes the use of the Nuclear Waste Fund for HOSS facilities.

C. Mandate disposal of high-level defense waste in a licensed repository. Consistent with past and current federal law, all high-level defense waste should be disposed in licensed repositories.

D. Require nuclear waste be transported in certified packages, with prior notification and technical and financial assistance to states and tribes. Transportation of large amounts of commercial SNF has not occurred in this country, should not occur until there are one or more repositories, and is appropriately perceived as threatening millions of people along shipping routes. Therefore, new shipping containers will be required, and they should all meet strict licensing requirements, including full-scale testing. All shipments should be subject to prior notification to affected states and tribes, which should receive technical and financial assistance to ensure the safest transportation. Developing a safe transportation system will take decades, but it also will be decades before shipments to repositories will begin.

E. Provide for the settlement of litigation and establish new contracts with utilities prior to the federal government taking title to nuclear waste. DOE did not meet the unrealistic January 31, 1998, deadline established in the Nuclear Waste Policy Act to begin disposal of HLW and SNF. Similar dates should not be included in new legislation. As part of a new program, it is essential that litigation related to current contracts be settled so that federal taxpayers know what the prior costs are before any new program is initiated.

5. Features of draft bill that SRIC opposes

A. The legislation should not include consolidated SNF storage facilities. HOSS facilities should be required. The numerous provisions related to consolidated SNF storage should be eliminated from the bill. Efforts by both DOE and private entities to establish such facilities have failed. Such facilities are inappropriate for many reasons, not the least of which is that they would likely become de facto disposal facilities. To better address legitimate safety concerns about current on-site storage, including potential for catastrophic failures from densely packed SNF pools, any nuclear waste legislation should require HOSS facilities as soon as possible for commercial SNF.

B. The provisions should be eliminated that provide for schedule-driven identification of eligible disposal sites before new technically sound, publicly accepted standards are established by EPA and associated licensing regulations are then promulgated by the NRC. Another lesson that should have been learned from the experience of the past 40 years is that adequate time and resources *must* be devoted to establish technically sound, publicly accepted standards. Such standards must be in place before credible scientific site selection can begin. The DOE and congressional practice of first selecting sites and then trying to tailor standards to fit them must cease. Deadlines such as having standards or general guidelines for the consideration of candidate sites issued within one year of enactment are not consistent with using the best available science and ensuring opportunities for meaningful stakeholder participation – both of which are stated goals of the draft legislation. Furthermore, it will most certainly take longer than one year to get the new Nuclear Waste Administration working, hire staff, set-up advisory committees, etc. Laying a foundation that builds widespread confidence in the ability of the new organization to do its job well cannot be done swiftly, lest it be done poorly and create new technical and credibility problems like those that have persisted for the past 40 years.

C. The decision to comingle defense and commercial waste in the same repositories should not be reconsidered. There is no technical basis to have separate defense and commercial HLW/SNF repositories; the long-lived hazard of the wastes require the same environmental protection requirements. The decision of April 30, 1985 by President Reagan, pursuant to provisions of the Nuclear Waste Policy Act, should be preserved.

D. Provisions related to consent must be substantially changed and strengthened, including 1) allowance for states and tribes to establish their own decision-making processes, 2) full National Environmental Policy Act (NEPA) compliance, 3) binding "non consent," and 4) public "informed consent." In our representative democracy, the public has in the past and will continue to insist on playing a major role in decisions about nuclear waste. That is a key lesson from the experiences of the past 40 years. The minimal public hearing provisions are grossly insufficient and would likely not play in a meaningful role in decisionmaking.

Although the draft legislation uses the rhetoric of "consensus" and "voluntary siting," it does not establish a structure or process to ensure that either can be implemented. Section 304(f) specifies that a state governor, local governmental authority, and/or Tribal government provide consent for a facility. There is nothing explicit about community/public consent, which is essential because elected officials will come and go during the many years needed to site, design, build, and operate a repository. Trying to prescribe how states and tribes will participate and consent is inappropriate and shows a lack of understanding of existing processes in some states, including referenda, or other measures that the public might require. NEPA is a proven process for providing essential technical analysis and public participation for decisions, particularly ones that include an explicit consent process. Legislation should clearly indicate that states and tribes can exercise binding "non-consent" in order to establish that "no means no" and to stop expenditures that will not lead to a repository. Conditions, mechanisms, and deadlines for re-evaluation and reconsideration (opt out) should be allowed at all stages.

There must be a requirement for *informed* consent. Interested and affected parties must have a say in determining what information is needed and the ability to use the Freedom of Information Act and other methods to get information; be provided information that contains the data needed for effective decision making; obtain that information in a timely and easy manner; and comprehend and act on what they access. Informed consent means having access to needed information over many years, so legislation also should require that adequate funding be provided so the public can obtain independent technical analysis.

6. Responses to the 8 questions posed

A. Considerations for locating storage facility sites

1. Should the Administrator take into account, when considering candidate storage facility sites, the extent to which a storage facility would: (a) unduly burden a State in which significant volumes of defenses wastes are stored or transuranic wastes are disposed of; or (b) conflict with a compliance agreement requiring the removal of nuclear waste from a site or a statutory prohibition on the storage or disposal of nuclear waste at a site? Alternatively, should the State and other non-federal parties seeking to site a candidate storage facility be allowed to determine whether they are unduly burdened? Should the final consent agreement, which would be sent to Congress for ratification, contain an authorizing provision to amend any conflicting compliance agreement or statutory prohibition?

SRIC Response – SRIC opposes the proposed spent fuel storage facilities and urges that those provisions be eliminated from the bill. Instead, the bill should require HOSS facilities at commercial nuclear power plants.

Regarding (a) and (b), the DOE nuclear weapons and waste sites should not be considered for additional waste storage. The nation has moral and legal commitments to clean up those sites, and adding additional waste will delay and compromise necessary cleanup missions. Consistent with the principle that storage of HLW and SNF be as close to the point of generation as possible, as safely as possible, SRIC recognizes that storage at DOE sites will continue until repositories are operating. SRIC also supports stringent compliance agreements so that storage is as safe as possible.

SRIC also believes that Native American lands should be excluded from consideration on environmental justice grounds and because the nation has not fully complied with treaty obligations.

Locating consolidated storage at existing nuclear power plant(s) has not been tried in the U.S. While SRIC does not support consolidated storage, if it is necessary for some waste, including that at shutdown reactors, the appropriate alternative sites would be at operating reactors, perhaps in regional storage facilities to reduce transportation and minimize the impacts at any one reactor site. Operating reactors have some level of consent. Operating reactors have the greatest incentive to ensure safe storage as any releases could shut down the reactor. The Nuclear Waste Fund could fund such limited storage, consistent with HOSS principles.

Section 304(a)(1) appears to require the Administrator to select sites for characterization, even if they are not suitable. Such a requirement should not be included in any nuclear waste legislation.

Linkage between storage and repository

2. Should the bill establish a linkage between progress on development of a repository and progress on development of a storage facility? If so, is the linkage proposed in section 306 of the bill appropriate, too strong, or too loose? If a linkage is needed, should it be determined as part of the negotiations between the state and federal governments and included in the consent agreement rather than in the bill?

SRIC Response – SRIC opposes the proposed spent fuel storage facilities and urges that those provisions be eliminated from the bill. Instead, the bill should require HOSS facilities at commercial nuclear power plants. Section 306 is unnecessary if there is HOSS rather than consolidated spent fuel storage.

Should Congress ignore the opposition of SRIC and many other organizations and individuals to consolidated spent fuel storage, linkage would be necessary. The provisions of the discussion draft are too loose. The strongest linkage – requiring commercial SNF to be removed from a consolidated storage site if a repository does not operate – would not prevent de facto permanent storage since the host state or tribe could not force consolidated storage on another location. SRIC opposes any legislation that would increase the number of sites storing SNF or HLW.

Separate process for storage facility siting

3. Should the bill establish separate storage and disposal programs with clearly defined requirements for each, with any linkage negotiated in the consent agreement between the federal and non-federal parties, to allow the two program to run on separate, but parallel tracks, as proposed in the alternative section 305 (which would replace section 304(b)-(g) of the draft bill)?

SRIC Response – SRIC opposes the proposed spent fuel storage facilities and urges that those provisions be eliminated from the bill. Instead, the bill should require HOSS facilities at commercial nuclear power plants.

SRIC strongly opposes the two separate spent fuel storage programs in the alternative section 305 and urges that they not be included in any legislation.

4. To what extent should the siting and consensus approval process for spent fuel storage facilities differ from that for the repository? Should the Administrator be required to conduct sufficient site-specific research (referred to as "characterization" in the bill) on candidate storage sites to determine if they are suitable for storing nuclear waste or only on candidate repository sites to determine if they are suitable for geologic disposal of nuclear waste? Should the Administrator be required to hold public hearings both before and after site characterization (as required by current law in the case of the Yucca Mountain site) or only before site characterization?

SRIC Response – SRIC opposes the proposed spent fuel storage facilities and urges that those provisions be eliminated from the bill. Instead, the bill should require HOSS facilities at commercial nuclear power plants.

SRIC supports holding public hearings (and full compliance with NEPA) and other measures that the public, states, and tribes may require, before and after site characterization for disposal facilities.

Complexity of repository and storage facility siting processes

5. Should the siting process in section 304 of the draft bill be streamlined? If so, how?

SRIC Response – SRIC opposes the proposed spent fuel storage facilities and urges that those provisions in Section 304 be eliminated from the bill. Instead, the bill should require HOSS facilities at commercial nuclear power plants. Regulations for HOSS facilities should be established by rulemaking, with robust public participation requirements.

SRIC supports a repository process that begins with EPA rulemaking to establish generic environmental protection standards for disposal facilities. After the EPA rules are finalized, NRC should conduct a rulemaking to establish new licensing regulations. Once the new EPA and NRC regulations are in place, potential disposal sites that are likely to meet the regulations should be identified with full participation of states, tribes, and the public. Anything less dooms the process to failure.

Governance of the Nuclear Waste Administration

6. Should the new entity be governed by a single administrator or by a board of directors?

(a) If by a single administrator, should the administrator serve for a fixed term? If so, how long should the term of service be? Should the legislation prescribe qualifications for the administrator? If so, what should be the selection criteria?

(b) If by a board of directors, how many people should comprise the board and how should they be selected?

SRIC Response – SRIC believes that a board of directors that includes both oversight and representational directors would be more successful than the single administrator model. A board of 7 to 11 could be large enough for diversity of expertise, backgrounds, and representation. The board could be composed of people selected by the House, Senate, and President.

7. The Blue Ribbon Commission recommended establishment of both a board of directors for management oversight (whose "primary role ... is not to represent all stakeholder views, but rather to carry out fiduciary responsibilities for management oversight") and "a larger and more widely representative stakeholder advisory committee." The draft bill responds to these recommendations, first, by establishing a Nuclear Waste Oversight Board of senior federal officials and, second, by authorizing the Administrator to establish advisory committees. Should the Oversight Board and advisory committee be combined into a single body to perform both management oversight and stakeholder representation functions? Should the focus and

membership of any advisory committees be established in the legislation or left to the Administrator?

SRIC Response – SRIC believes that a diverse, broadly representative board and the Technical Review Board (Section 508) could provide the necessary oversight and representation. Advisory committees could be formed to handle specific issues of concern to the staff and board.

SRIC generally supports strong state, tribal, and public oversight and adequate funding so that they can provide or withhold "informed consent." Such oversight lessens the need for funding other advisory committees.

8. Dr. Meserve testified in 2012 that representatives of stakeholders and public utility commissioners should be added to the Nuclear Waste Oversight Board. Would these additions make the Board better able to carry out its fiduciary oversight mission effectively?

SRIC Response – Yes. However, the alternative board of directors structure discussed above would be more workable and focussed, since the principals of the Oversight Board have other primary responsibilities.

March 24, 2010

Principles for Safeguarding Nuclear Waste at Reactors

The following principles are based on the urgent need to protect the public from the threats posed by the current vulnerable storage of commercial irradiated fuel. The United States does not currently have a national policy for the permanent storage of high-level nuclear waste. The Obama administration has determined that the Yucca Mountain site, which has been mired in bad science and mismanagement, is not an option for geologic storage of nuclear waste. Unfortunately, reprocessing proponents have used this opportunity to promote reprocessing as the solution for managing our nuclear waste. Contrary to their claims, however, reprocessing is extremely expensive, highly polluting, and a proliferation threat, and will actually complicate the management of irradiated fuel. Nor will reprocessing obviate the need for, or "save space" in, a geologic repository.
The United States has a unique opportunity to re-evaluate our nuclear waste management plan. We can make wise decisions about safeguarding radioactive waste or go down the risky, costly, and proliferation prone path towards reprocessing.

The undersigned organizations' support for improving the protection of radioactive waste stored at reactor sites is a matter of security and is in no way an indication that we support nuclear power and the generation of more nuclear waste.

- **Require a low-density, open-frame layout for fuel pools:** Fuel pools were originally designed for temporary storage of a limited number of irradiated fuel assemblies in a low density, open frame configuration. As the amount of waste generated has increased beyond the designed capacity, the pools have been reorganized so that the concentration of fuel in the pools is nearly the same as that in operating reactor cores. If water is lost from a densely packed pool as the result of an attack or an accident, cooling by ambient air would likely be insufficient to prevent a fire, resulting in the release of large quantities of radioactivity to the environment. A low density, open-frame arrangement within fuel pools could allow enough air circulation to keep the fuel from catching fire. In order to achieve and maintain this arrangement within the pools, irradiated fuel must be transferred from the pools to dry storage within five years of being discharged from the reactor.

- **Establish hardened on-site storage (HOSS):** Irradiated fuel must be stored as safely as possible as close to the site of generation as possible. Waste moved from fuel pools must be safeguarded in hardened, on-site storage (HOSS) facilities. Transporting waste to interim away-from-reactor storage should not be done unless the reactor site is unsuitable for a HOSS facility and the move increases the safety and security of the waste. HOSS facilities must not be regarded as a permanent waste solution, and thus should not be constructed deep underground. The waste must be retrievable, and real-time radiation and heat monitoring at the HOSS facility must be implemented for early detection of radiation releases and overheating. The overall objective of HOSS should be that the amount of releases projected in even severe attacks should be low enough that the storage system would be unattractive as a terrorist target. Design criteria that would correspond to the overall objective must include: Resistance to severe attacks, such as a direct hit by high-explosive or deeply penetrating weapons and munitions or a direct hit by a large aircraft loaded with fuel or a small aircraft loaded with fuel and/or explosives, without major releases. Placement of individual canisters that makes detection difficult from outside the site boundary.

- **Protect fuel pools:** Irradiated fuel must be kept in pools for several years before it can be stored in a dry facility. The pools must be protected to withstand an attack by air, land, or water from a force at least equal in size and coordination to the 9/11 attacks. The security improvements must be approved by a panel of experts independent of the nuclear industry and the Nuclear Regulatory Commission.

- **Require periodic review of HOSS facilities and fuel pools:** An annual report consisting of the review of each HOSS facility and fuel pool should be prepared with meaningful participation from public stakeholders, regulators, and utility managers at each site. The report must be made publicly available and may include recommendations for actions to be taken.

- **Dedicate funding to local and state governments to independently monitor the sites:** Funding for monitoring the HOSS facilities at each site must be provided to affected local and state governments. The affected public must have the right to fully participate.

- **Prohibit reprocessing:** The reprocessing of irradiated fuel has not solved the nuclear waste problem in any country, and actually exacerbates it by creating numerous additional waste streams that must be managed. In addition to being expensive and polluting, reprocessing also increases nuclear weapons proliferation threats.

National

Leonor Tomero, Center for Arms Control and Non-Proliferation

John Issacs, Council for a Liveable World

Kevin Kamps, Beyond Nuclear

Lynn Thorp, Clean Water Action

Erich Pica, Friends of the Earth

Michele Boyd, Physicians for Social Responsibility

Jim Riccio, Greenpeace

Diane Kreiger, Nuclear Peace Age Foundation

Kevin Martin, Peace Action

Tyson Slocum, Public Citizen

Susan Gordon, Alliance for Nuclear Accountability

Arjun Makhijani, Institute for Energy and Environmental Research

Ken Bossong, SUN Day Campaign

Michael Mariotte, Nuclear Information and Resource Service

Anna Aurilio, Environment America

Winona La Duke, Honor the Earth

Dan Becker, Safe Climate Campaign

Dave Hamilton, Sierra Club

Geoffrey Fettus, Natural Resources Defense Council

Ed Lyman, Union of Concerned Scientists

Susan Shaer, Women's Action for New Directions (WAND)

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Stacy Fritz, No Nukes North

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Tom Moss, North Alabama Peace Network

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Jack and Felice Cohen-Joppa, Nuclear Resister

Patricia Birnie, GE Stockholder's Alliance

Russell Lowes, SafeEnergyAnalyst.org

Barbara Warren, Arizona Physicians for Social Responsibility

California

Rochelle Becker, Alliance for Nuclear Responsibility CA

David Hartsough, PEACEWORKERS

Jane Williams, California Communities Against Toxics

Roland Valentine, Desert Citizens Against Pollution

Mary Beth Brangan, Ecological Options Network (EON)

Betty Winholz, SAVE THE PARK

Jacqueline Cabasso, Western States Legal Foundation

Molly Johnson, Grandmothers for Peace-San Luis Obispo County Chapter

Linda Seeley, Terra Foundation

Jane Swanson, San Luis Obispo Mothers For Peace Action Committee

Marylia Kelley, Tri-Valley CARES

Michael Welch, Redwood Alliance

Enid Schreibman, Center for Safe Energy

Jennifer Olarana Viereck, Healing Ourselves and Mother Earth

Dan Hirsch, Committee to Bridge the Gap

Pamela Meidell, Atomic Mirror

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Bob Kinsey, Colorado Coalition for the Prevention of Nuclear War

Sharyn Cunningham, Colorado Citizens Against Toxic Waste, Inc.

Judith Mohling, Rocky Mountain Peace and Justice Center

Connecticut

Nancy Burton, Connecticut Coalition Against Millstone

Judi Friedman, People's Action for Clean Energy

Sal Mangiagli, Connecticut Citizens Action Network, Haddam Chapter

Washington, DC

Louis Clark, Government Accountability Project

Delaware

Alan Muller, Green Delaware

Florida

Bob Krasowski, Florida Alliance for A Clean Environment, The Zero Waste Collier County Group

Georgia

Tom Ferguson, Foundatoin for A Global Community

Bobbie Paul, Georgia WAND

Glenn Carroll, Nuclear Watch South

Bob Darby, Food Not Bombs, Atlanta

Hawaii

Henry Curtis, Life of the Land

Iowa

Maureen McCue, PSR Iowa

Idaho

Beatrice Brailsford, Snake River Alliance

Chuck Broscious, Environmental Defense Institute

Illinois

Dave Kraft, Nuclear Energy Information Service

Carolyn Treadway, No New Nukes

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Grant Smith, Citizens Action Coalition of Indiana

John Blair, ValleyWatch, Inc.

Kansas

Dave Pack, Kansas City Peaceworks

Anne Suellentrop, Kansas City PSR

Kentucky

Mary Davis, Earth Island Institute

Louisiana

Nathalie Walker, Advocates for Environmental Human Rights

Massachusetts

Debbie Grinell, C-10 Research and Education Foundation

Deb Katz, Citizens Awareness Network

Mary Lampert, Pilgrim Watch

Maryland

Dagmar Fabian, Crabshell Alliance

Johanna Neumann, Maryland PIRG

Max Obuszewski, Baltimore Nonviolence Center

Lucy Duff, Peace and Justice Coalition-Prince George's County

Maine

William S. Linnell, Cheaper, Safer Power

Bruce Gagnon, Global Network Against Weapons & Nuclear Power in Space

Michigan

Keith Gunter, Citizens Resistance at Fermi Two

Michael Keegan, Coalition for a Nuclear Free Great Lakes

Georgia Donovan, Izaak Walton League-Dwight Lydell Chapter

Terry Miller, Lone Tree Council

Patricia Gillis, Voices for Earth Justice

Alice Hirt, Don't Waste Michigan

Nancy Seubert, IHM Justice, Peace, and Sustainability Office

Lynn Howard Ehrle, International Science Oversight Board-Organic Consumers Association

Kay Cumbow, Citizens for Alternatives to Chemical Contamination

Ronald and Joyce Mason, Swords Into Plowshares Peace Center and Gallery

David Gard, Michigan Environmental Council

Steve Senesi, Kalamazoo Non-Violent Opponents of War

Minnesota

Danene Provencher, West Metro Global Warming Action Group, Inc.

Glady Schmitz, Mankato Area Environmentalists

George Crocker, North American Water Office

Bruce Drew, Prairie Island Coalition

Missouri

Mark Haim, Missourians for Safe Energy

Kat Logan Smith, Missouri Coalition on the Environment

Mississippi

Louie Miller, Mississippi Sierra Club

Montana

Florence Chessin, Missoula Women for Peace, a branch of Women's International League for Peace and Freedom

North Carolina

Lewis Patrie, Western North Carolina Physicians for Social Responsibility

E.M.T O'Nan, Protect All Children's Environment

Avram Friedman, The Canary Coalition

Jim Warren, North Carolina Waste Awareness and Reduction Network

Janet Marsh, Blue Ridge Environmental Defense League

North Dakota

Kandi L. Mossett, Indigenous Environmental Network

Jodie L. White, The Environmental Awareness Committee, Save Our Sacred Earth Campaign

Nebraska

Buffalo Bruce, Western Nebraska Resources Council

Tim Rinne, Nebraskans for Peace

New Hampshire

Will Hopkins, New Hampshire Peace Action

New Jersey

Paula Gotsch, Grandmothers, Mother and More for Energy Safety

Norm Cohen, Coalition for Peace and Justice-UNPLUG Salem Campaign

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Mervyn Tilden, Sovereign Dine' Foundation

Janet Greenwald, Citizens for Alternatives to Radioactive Dumping

Joni Arends, Concerned Citizens for Nuclear Safety

Scott Kovac, Nuclear Watch of New Mexico

Greg Mello, Los Alamos Study Group

Don Hancock, Southwest Research and Information Center

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Judy Treichel, Nevada Nuclear Waste Taskforce

Jim Haber, Nevada Desert Experience

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Anne Rabe, Center for Health, Environment, and Justice

James Rauch, For a Clean Tonawanda Site (FACTS)

Barbara Warren, Citizen's Environmental Coalition

Phillip Musegaas, Riverkeeper NY

Tim Judson, Central New York Citizens Awareness Network

Ohio

Chris Trepal, Earth Day Coalition

Terry Lodge, Toledo Coalition for Safe Energy

Sharon Cowdrey, Miamisburg Environmental Safety and Health Network

Oklahoma

Marilyn McCulloch, The Carrie Dickerson Foundation

Oregon

Dona Hippert, Oregon Toxics Alliance

Charles K. Johnson, Center for Energy Research

Nina Bell, Northwest Environmental Advocates

Kelly Campbell, Oregon Physicians for Social Responsibility

Gerry Pollet, Heart of America Northwest

Pennsylvania

David Hughes, Citizen Power

Katherine Dodge, Northwest Pennsylvania, Audobon Society

Gene Stilp, Taxpayers and Ratepayers United

Ernest Fuller, Concerned Citizens for SNEC Safety

Patricia Harner, Philadelphia Physicians for Social Responsibility

Dr. Lewis Cuthbert, Alliance for a Clean Environment

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Sheila Dormandy, Clean Water Action Rhode Island

South Carolina

Susan Corbett, South Carolina Sierra Club

Dr. Finian Taylor, Hilton Head for Peace

South Dakota

Deb McIntyre, South Dakota Peace and Justice Center

Charmaine White Face, Defenders of the Black Hills

Tennessee

Donald B. Clark, Network for Economic and Environmental Responsibility, United Church of Christ

Rev. Charles Lord, Caney Fork Headwaters Association

Rev. Douglas B. Hunt, Interfaith Power & Light

Ralph Hutchinson, Oak Ridge Environmental Peace Alliance

Rev. Walter Stark, Cumberland Countians for Peace and Justice

Ann Harris, We the People, Inc.

Texas

Eliza Brown, SEED Coalition

Mavis Belisle, JustPeace

Gary Stuard, Interfaith Environmental Alliance

Craig Tounet, Austin Physicians for Social Responsibility

Jill Johnston, Southwest Workers Union

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Margene Bullcreek, Ohngo Guadedah Devia Awareness

Vanessa Pierce, HEAL Utah

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Scott Sklar, The Stella Group, Inc.

Elena Day, People's Alliance for Clean Energy

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Clay Turnbull, New England Coalition on Nuclear Pollution

Chris Williams, Vermont Citizens Awareness Network

Margaret Harrington Tamulonis, Women's International League for Peace

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Judy Miner, Wisconsin Network for Peace and Justice

West Virginia

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NRDC
THE EARTH'S BEST DEFENSE

Hanford Challenge

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March 26, 2013

Secretary Steven Chu
Office of the Secretary
Department of Energy
1000 Independence Ave SW
Washington DC 20585
The.Secretary@hq.doe.gov

RE: Proposal to Ship Hanford High-Level Radioactive Waste to New Mexico

Dear Secretary Chu,

We write to you regarding the Department of Energy's (DOE) News Release and subsequent publication in the Federal Register on March 11, 2013 of DOE's "preferred alternative" to retrieve, treat, package, characterize and certify certain Hanford tank wastes for disposal at the Waste Isolation Pilot Plant (WIPP) in Carlsbad, New Mexico.[1] As detailed below, DOE's proposed course of action would fail to resolve or meaningfully address potential threats to the Columbia River from leaking high-level radioactive waste (HLW) tanks at Hanford. The waste proposed for treatment and transfer to WIPP is too small a fraction of the total inventory of Hanford tank waste to make the investment worthwhile and the proposal does not prioritize the leaking single-shell tanks. Further, DOE's "preferred alternative" would likely have a disastrous impact on both efforts to arrive at a national nuclear waste strategy and associated progress at the WIPP facility from legal, technical and institutional perspectives.

With such caution in mind, we urge you to ensure DOE complies with the law and retracts the preferred alternative of attempting to ship high-level radioactive waste to New Mexico. It is costly, unwise and illegal to ship Hanford tank waste to WIPP. DOE should move as quickly as practicable to build new tanks to empty the actively leaking high-level radioactive waste tanks and have tank capacity for eventual feed to the Waste Treatment Plant. We would be happy to meet with your successor in the coming weeks to discuss these and other matters. We further detail these matters below.

Background

As national and regional groups that have worked on the nuclear weapons complex cleanup for decades, we share DOE's concerns about protecting human health, the environment, and of course, the Columbia River and its central role as the lifeblood of the Pacific Northwest. We also share concerns about achieving an effective high-level waste program inclusive of state, tribal and public

[1] EIS-0391: Notice of Preferred Alternative, 78 Fed. Reg. 15358, (March 11, 2013). Notice available at: http://energy.gov/nepa/downloads/eis-0391-notice-preferred-alternative.

interests that ultimately arrives at long-term geologic disposal solution for defense-generated HLW and commercial spent nuclear fuel.

As you know, Hanford's tanks are leaking HLW with an underground flow pathway toward the Columbia River. An estimated one million gallons of contamination have already leaked from the tanks, and an undetermined quantity has entered the groundwater adjacent to the river. The Washington State Department of Ecology has declared, "out of these 149 SSTs, 67 have been declared as known or assumed leakers that have released more than one million gallons of waste to the soil and groundwater. The released tank waste is now moving toward, but has not reached, the Columbia River."[2] Six single-shell tanks and one double-shell tank are now confirmed to be actively leaking, and 14 others may be leaking, according to DOE.[3] Such leaks will only serve to drive existing contamination closer to the Columbia River. This is an urgent problem, and we applaud the State of Washington and the Department of Energy for their renewed commitment to address this crisis.

While we share concerns for a meaningful and effective high-level waste disposal program, the position of the NRDC, Hanford Challenge and Southwest Research and Development Center is that DOE's "preferred alternative" to retrieve, treat, package, characterize and certify certain Hanford tank wastes for disposal at WIPP in New Mexico is both unlawful and fraught with several technical problems that make it evident any such plan does not meaningfully solve the urgent situation in Washington.

The Hanford EIS and the subject of shipping HLW to New Mexico

Prior to the close of the public comment period on the Draft Tank Closure & Waste Management EIS (TC &WM EIS), DOE issued a statement in the Federal Register (74 FR 67189) that indicated it was no longer considering sending Hanford tank waste to WIPP, declaring the intention that these wastes would be retrieved and treated at the Waste Treatment Plant (WTP) being constructed at Hanford.[4] For this reason, the State of Washington Department of Ecology (Ecology) and many members of the public did not comment on sending tank waste to WIPP during the public comment period, and no public meeting was held in New Mexico. However DOE changed its position in the Final TC & WM EIS and included the preferred alternative of sending portions of tank waste to WIPP.

In its Forward to the Final TC & WM EIS, Ecology elaborated on some of its concerns over DOE's current approach to the potential mixed TRU tank waste:

> Ecology has legal and technical concerns with any tank waste being classified as mixed TRU waste at this time. DOE must provide peer-reviewed data and a strong, defensible, technically and legally detailed justification for the designation of any tank waste as mixed TRU waste, rather than as HLW. DOE must also complete the WIPP certification process and assure Ecology that there is a viable disposal pathway

[2] http://www.ecy.wa.gov/programs/nwp/tank_waste_storage.htm

[3] "The U.S. Department of Energy and its contractor are evaluating 14 other single-shell tanks that appeared to have lost liquid, according to state regulators and others who attended a DOE briefing in Oregon Monday." http://www.oregonlive.com/environment/index.ssf/2013/03/more_tanks_could_be_leaking_at.html#incart_river_default

[4] "DOE is now expressing its preference that no Hanford tank wastes would be shipped to WIPP." 74 Federal Register 67189, (December 18, 2009).

> (i.e., permit approval from the State of New Mexico and the U.S. Environmental Protection Agency) before Ecology will modify the Hanford Sitewide Permit to allow tank waste to be treated as mixed TRU waste. Further, Ecology is concerned with the cost benefit viability of an approach that sends a relatively minor amount of tank waste to WIPP, given the cost it would take to secure the disposal path, and to construct and operate the drying facility for the TRU tank waste.[5]

A treatment facility to retrieve, process and package Hanford tank waste for shipment to WIPP would be expensive, and time-consuming. Without substantially more information, we are unclear how any such plan could comply with current law. We are unaware of blueprints or plans for such a drying facility, and certainly there is no existing facility at Hanford that could accomplish that mission.

DOE named 20 tanks with high level waste that DOE would seek to reclassify as TRU in the Final TC &WM EIS,[6] but an earlier review by the Washington State Department of Ecology put the number of tanks that might qualify under the legal definition of TRU at only eight tanks.[7] DOE's current presentations further the intention to classify 11 tanks as Contact Handled TRU (CH-TRU) and send this waste, totaling around 280,000 gallons to WIPP.[8] However, no policy, cost or legal analysis on the topic has been completed and therefore there is no credible basis at this time for DOE's preferred alternative of sending Hanford tank waste to WIPP.

The Legal Bar Against Reclassifying HLW

There is a contentious legal history on the subject of treatment and disposal of HLW, particularly with respect to "reclassifying" HLW and disposing of it in a manner not consistent with the Nuclear Waste Policy Act, 42 U.S.C. § 10101, *et seq*. DOE's efforts to reserve to itself unfettered authority to reclassify HLW over the last 15 years have precipitated litigation by NRDC and other environmental groups, and the direct objection of several states. *See, NRDC v. Abraham*, 271 F.Supp. 2d 1260 (D. Idaho 2003), rvsd' on ripeness grounds, *NRDC v. Abraham*, 388 F.3d 701 (9th Cir. 2004) (collectively the "HLW Decisions"). *See also*, Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005, Pub. L. No. 108-375, § 3116, 118 Stat. 1811, 2162-64 (2004). We will not review that entire history here, but make a few relevant points.

First, all the waste in the tanks is currently HLW.[9] However, we note that DOE is not barred from removing high-level radioactive waste (HLW) from the tanks and treating that waste for disposal. Nor do the HLW decisions bar DOE from separating some portion of that waste into a stream that meets low-level radioactive waste (LLW) standards and disposing of that portion of the waste outside

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[5] Washington State Department of Ecology Forward, Final TC & WM EIS, DOE/EIS-0391, December 2012.
[6] Final TC & WM EIS, DOE/EIS-0391, December 2012, p. 2-26 sec. 2.2.2.2.5.
[7] Conversation between Tom Carpenter, Hanford Challenge, and Department of Ecology staffer, March 16, 2013.
[8] USDOE ORP Presentation by Kevin Smith to the Oregon Hanford Cleanup Board, March 4, 2013.
[9] "<u>It is undisputed</u> that the waste stored at Hanford, INEEL, and Savannah River is highly radioactive and the result of reprocessing. No solids have yet been extracted from the liquid waste at those sites and treated to reduce fission products. Thus, the waste at issue in this case falls within NWPA's definition of HLW." *NRDC v. Abraham*, 271 F.Supp.2d 1260, 1265 (D.Idaho 2003) (emphasis added).

of a geologic repository in a properly licensed disposal site. Such a process, however, is not what DOE has proposed.

Second, Section 3116 of the 2005 National Defense Authorization Act, the Bush Administration's response to the original Idaho Federal District Court HLW Decision, was a significant change to the entire structure and purpose of the NWPA, not a "clarification."[10] That law, which allows DOE to reclassify HLW as "Waste Incidental to Reprocessing" subject to certain criteria, has application in South Carolina and Idaho. Section 3116 does not have application in Washington or Oregon. *See*, Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005, Pub. L. No. 108-375, § 3116, 118 Stat. 1811, 2162-64 (2004). Further, the "waste incidental to reprocessing" concept codified in Section 3116 does not set cleanup standards of "99 percent," "most of the radioactivity," or an "inch and half of waste at the bottom of the tank." The Natural Resources Defense Council and Hanford Challenge voiced repeatedly in comments Hanford Draft TC &WM EIS that this concept should be dropped from consideration in final and preferred alternatives for the Hanford Draft TC & WM EIS.

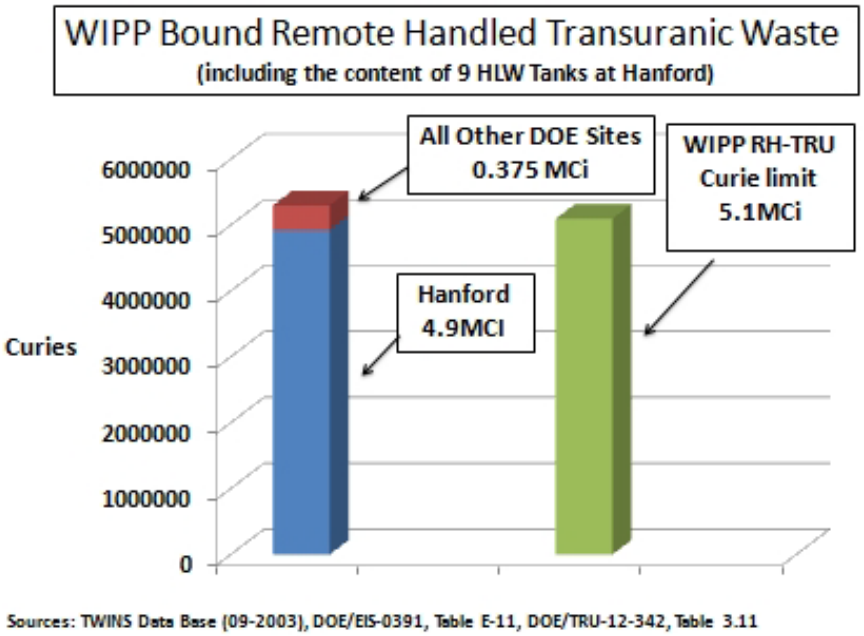
In short, under the current NWPA, the Environmental Protection Agency (EPA) and the Nuclear Regulatory Commission (NRC) regulate the geologic disposal of HLW – and decide what is (and what is not) HLW. At the Hanford Reservation, DOE may not unilaterally decide that HLW has been transformed into "waste incidental to reprocessing" or "TRU waste" for disposal at WIPP. If the concepts embodied in Section 3116 are in any way adopted or used via the Hanford Final TC & WM EIS and subsequent preferred alternatives, DOE will be in direct contravention of the NWPA.

Further Data and Analysis of Hanford HLW Tanks Needed

Along with ensuring you are clear on the status of HLW law, we would like you to consider the characteristics of the wastes in the 20 Hanford tanks named as candidates for disposal at WIPP. An analysis of Hanford's TWINS database reveals that the radioactivity content of these 20 Hanford tanks named in the EIS come close to almost entirely filling the radioactivity limits for the WIPP facility. Specifically, for remote-handled Transuranic Waste (RH-TRU), the curie content in the Hanford tanks is 4.9 million curies. WIPP's RH-TRU limit for such waste is 5.1 million curies.[11]

[10] NRDC and dozens of environmental and public interest groups stood with Washington, Oregon, New York, and New Mexico and objected to the concepts embodied in Section 3116. Only the states of South Carolina and Idaho – who sided with the other states throughout the litigation until March 2004 in objecting to DOE's assertion of "waste incidental to reprocessing" authority –submitted to DOE's cleanup budget-threatening tactics and supported the legislative change. Via Section 3116, DOE obtained an exemption from the NWPA and the ability to reclassify HLW as "incidental waste" without any congressional or state oversight. No such similar path forward exists at the Hanford site.

[11] http://www.wipp.energy.gov/library/seis/DOE_EIS-0026-SA-08.pdf



Apparently, DOE has no plans to remove radionuclides from these wastes, and instead relies on a plan to simply remove and dry the tank waste according to Appendix E of the Final TC &WM EIS. However, in order to stay under the curie limit for WIPP, either the current law will have to change to substantially increase the curie limits for the RH-TRU, or DOE will have to decontaminate the sludge (10-20% of the volume containing ~95% of the Sr) and the Cs in the salts (80-80% of the volume containing ~90% of the Cs.). This will likely involve the use of sludge washing. Once these contaminants are removed, we have no information where DOE intends to dispose of these toxic radionuclides.

The Situation at the Hanford Tank Farms

We concur with DOE and the State of Washington that there is practically little if any capacity to receive more high level wastes in the current underground waste tanks at the Hanford Tank Farms. And specifically there is diminishing capacity left in the existing double-shell tanks (DST), according to Hanford's System Plan, relied upon in the 2013 Hanford Lifecycle Scope, Schedule and Costs Report. The System Plan identifies that, after the C Farm tank waste campaign is completed and waste is retrieved from the AX Farm Single-Shell-Tanks (SSTs) and from some of the A Farm SSTs by 2020, there will be only 0.9 million gallons of Double-Shell-Tank (DST) capacity left.[12]

However, these estimates consider neither the need to empty and take AY-102 out of commission nor the amount of waste in actively leaking tanks. The recently identified DST leaker, AY-102, has 800,000 gallons of waste that will need to be removed from that tank alone. The lack of integrity of

[12] River Protection Project System Plan, ORP-11242 Revision 6, p.5-10. October 2011. Available at www.hanford.gov/files.cfm/ORP-11242_REV_6_-_[1110050954].pdf.

tank AY-102 calls into question the assumption that the current DSTs will last long enough to see the waste treatment mission through.

There is at least a significant question about how many, if any, of the Hanford tanks identified as TRU-waste candidates, would actually qualify as such. Even giving DOE the benefit of the doubt that some portion of this waste could be removed, treated, and disposed of as TRU, which as we describe above is not a lawful act, assuming all 20 of the tanks qualify as TRU, it still amounts to only 3.1 million gallons, or around 5.6 percent of the total waste volume in the tanks. It is not worth the time and money to build a TRU treatment facility at Hanford for such a small amount of waste. Second, even if the waste was suitable for WIPP, the timing does not negate the need for immediate action to build new tanks, empty leaking tanks and get the Waste Treatment Plant on track. We cannot let the false solution of unlawfully shipping some insignificant fraction of HLW to WIPP distract us from real and immediate needs.

What We Recommend at Hanford

The only sure way to relieve the crisis at Hanford is to build new waste tanks, as soon as possible. Indeed, this conclusion has been reached by the Governors of both Washington[13] and Oregon,[14] and by the Hanford Advisory Board,[15] a 32-member council of diverse Hanford stakeholder seats that operates by consensus. This has been a contentious political point for years, as investing in new tanks was feared to take attention (and funding) away from the much needed Waste Treatment Plant and would become a default "solution." However, with the integrity of current tanks in such question and the delays at the WTP, new DSTs need to be on the table. The technology is mature, there are no questions about the legality or technical feasibility of such a plan, and given the trade-offs in costs between building a (risky) TRU-treatment facility and tanks, the choice is clear. Additionally, new double-shell tanks are needed to help staging for Waste Treatment Plant operation.

Washington law requires that any tank containing hazardous materials that is reported as starting to leak must be pumped below the point of the leak within 24 hours, or as soon as practicable.[16] It is of paramount importance that no new leakage be tolerated, and those tanks that are reported to be actively leaking must be remediated as soon as possible. This requires that waste in those tanks be moved to double-shell tanks that have not leaked (i.e., not AY-102) and have enough room to accommodate the waste.

Furthermore, the System Plan assumes that RH-TRU waste will be treated at the WTP together with HLW.[17] Regardless of what DOE may intend to someday ship to WIPP, new tanks are needed immediately at Hanford to prevent more waste from entering the ground and water systems and to

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[13] Governor Jay Inslee wants more tanks at Hanford, Feb. 1, 2013, *Tri-City Herald*, http://www.tri-cityherald.com/2013/02/01/2258268/governor-jay-inslee-wants-more.html
[14] John Kitzhaber calls for more tanks to hold Hanford's high-level radioactive waste, Jan. 30, 2013, *Oregonian,* http://www.oregonlive.com/environment/index.ssf/2013/01/kitzhaber_calls_for_-more_tanks.html
[15] Hanford Advisory Board Advice, Nov. 2, 2012, http://www.hanford.gov/files.cfm/HABAdv_263.pdf
[16] Washington Admin. Code 173-303-640.
[17] 2013 Hanford Lifecycle Scope, Schedule and Costs Report, DOE/RL-2012-13, Rev. O. December 2012. Available at http://www.hanford.gov/files.cfm/DOE-RL-2012-13_FINAL__REV.0_.pdf.

ensure that the transfer of waste to the Waste Treatment Plant is efficient and safe once operational. Furthermore, DOE must act to put the Waste Treatment Plant on track with an independent assessment and realistic plan for how to address the cost-overruns, delays, and most importantly the design and quality assurance problems plaguing the WTP.

Institutional Implications of Such a "Preferred Alternative"

The DOE's relationship with several states, including licensing issues, and the coherency of the entire nuclear weapons complex cleanup will be called into question if DOE proceeds with this preferred alternative. Specifically, the WIPP Land Withdrawal Act (LWA, PL 102-579, Section 12, 106 Stat. 4791 (1992)) bans transportation to or disposal of HLW or commercially generated spent nuclear fuel at WIPP. *See* Section 12 of the LWA. The ban reflected the position of New Mexico officials and the congressional delegation, as well as public opinion. The legislative history illustrates Congressional recognition that Hanford tank wastes are HLW and included in the ban.

Further, DOE's WIPP environmental impact statements have at no point included any Hanford HLW (or any other HLW from any other site, for that matter) in possible WIPP inventory. Therefore, transportation or emplacement of any Hanford tank waste at WIPP requires congressional action to amend the LWA, as well as substantial and new NEPA analyses.

Finally, such a preferred alternative contradicts the national nuclear waste strategy proposed by President Obama's Blue Ribbon Commission on America's Nuclear Future and DOE's January 2013 proposal to emphasize the importance of consent in future nuclear waste storage and disposal programs.[18] Indeed, an effort to enact the ideas of the BRC into legislation was proposed at the end of the previous Congress by former Energy & Natural Resources Chairman Jeff Bingaman (NM). New iterations modeled on Senator Bingaman's template are currently being developed in this Congress. In the context of WIPP, the consent given was clearly under the stipulation that no HLW or spent nuclear fuel would be transported or disposed there. Not abiding by the longstanding limitations included in the state's consent would not only undermine DOE's credibility and Congressional action for New Mexico, but also set an extraordinary precedent, rendering it unthinkable that any other state would rely on DOE's assurance that the agency would abide by conditions or limitations that are integral to state consent.

And as a practical matter, WIPP is not designed for and does not have the capabilities to handle HLW. Indeed, WIPP is not succeeding in its remote-handled (RH) waste disposal mission, as it has available space for only about half of the RH waste that is allowed by the LWA and the Consultation and Cooperation Agreement. DOE's focus regarding WIPP should be on assuring that the facility is fulfilling its mission, not on adding additional activities for which the site is not suited.

This is a matter of significant concern and, we note, some measure of complexity. Representatives from each signatory group will be in Washington, D.C. from April 15-19, 2013 and request to meet

[18] Department of Energy, Strategy for the Management and Disposal of Used Nuclear Fuel and High-Level Radioactive Waste, January 2013. Available at: http://energy.gov/sites/prod/files/Strategy%20for%20the%20Management%20and%20Disposal%20of%20Used%20Nuclear%20Fuel%20and%20High%20Level%20Radioactive%20Waste.pdf

with your successor and staff to discuss these matters. Thank for your consideration and we look forward to hearing from you.

Sincerely,

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May 24, 2013

To: **Senate Energy and Natural Resources Committee**
Nwaste_feedback@energy.senate.gov

Re: **Comments on "Discussion Draft of Nuclear Waste Administration Act of 2013"**

From: **Friends of the Earth**
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Support of On-Site Dry Cask Storage at Reactor Sites and
Opposition to Consolidated Spent Fuel Storage Facilities and Reprocessing

Friends of the Earth (FOE) appreciates this opportunity to comment on the discussion draft as presented by Senators Wyden, Murkowski, Feinstein and Alexander. FOE is an international environmental network with office in 74 countries, representing two million supporters. In the US, we have offices in Washington, DC, Berkeley, California and Columbia, South Carolina and we have members in all 50 states and the District of Columbia.

Staff in our office in Columbia, SC work on U.S. Department of Energy (DOE) issues, with a focus on the Savannah River Site (SRS) in South Carolina, and was invited to give a formal presentation before the Blue Ribbon Commission on America's Nuclear Future. FOE submitted various oral and written comments documents to the BRC. Staff have also made comments on numerous occasions to the Savannah River Site Citizens Advisory Board (SRS CAB), a federal advisory committee, against consolidated spent fuel storage and reprocessing at SRS. Public opposition to spent fuel storage at SRS is growing.

Additionally, staff has expertise in policies on reprocessing of spent fuel in both the U.S. and other countries and was involved during the decision-making process concerning the Allied

General Nuclear Fuel Services (AGNS) failed reprocessing plant proposal at Barnwell, South Carolina. We were also involved in the failed and misguided process under the George W. Bush administration to locate commercial reprocessing facilities under the Global Nuclear Energy Partnership (GNEP).

Given concerns about cost, increased radiation exposure due to increased handling, increased transport risks, the real threat that a temporary storage site will become a permanent dump and the risk that spent fuel stored at a consolidated site would become feed for a reprocessing plant, <u>FOE strongly opposes consolidation of spent fuel and the reprocessing of that fuel</u>.

Friends of the Earth supports legislation which addresses:

- Removal of spent fuel from cooling pools as quickly as possible, with placement in on-site dry cask storage; priority should be given to pools at GE Mark I and II reactors and highest density pools;
- Storage of spent fuel on site or as close to the generation site as possible until a final repository is available; we thus oppose the "consolidation" of spent fuel at one or more sites; if an emergency dictates removal of spent fuel from a closed reactor site it could be taken to an already licensed site which already has spent fuel in storage (no need to create additional spent fuel sites);
- Storage and disposal of spent fuel without reprocessing; thus no need to spend $15-25 billion on construction of a reprocessing plant.
- "Consent" required from many levels of government and civic organizations from areas around a targeted site, including on the state-wide level, with numerous meetings and hearings, including a full Environmental Impact Statement (EIS) process;
- Further research into methods of safe storage and disposal of spent fuel, including surface disposition in the event that a geologic repository proves technically or scientifically unjustifiable;
- Disposal of both commercial spent fuel and DOE high-level waste (HLW) in a licensed repository;
- Development of scientifically sound technical criteria for siting any facilities before any siting moves forward – siting must not be tied to arbitrary schedules lest failure be built in from the start;
- No targeting of DOE sites - Hanford, Idaho National Lab, Savannah River Site - which already hold large volumes of high-level waste awaiting promised removal;

- Use of the Waste Isolation Pilot Plant (WIPP) only for transuranic waste, as stipulated in the Land Withdrawal Act, with no commercial spent fuel or DOE HLW allowed to be disposed of in WIPP;
- Termination of the pursuit of Yucca Mountain as a HLW repository as the facility was chosen for political reasons and is technically flawed and has not been demonstrated to be licensable under federal regulations;
- Restrictions on use of Nuclear Waste Fund for development of any consolidated storage facilities – funds must only be used for final disposal facilities or packaging for final disposal, which could include on-site dry storage;
- Respect for states which have already legally given "non-consent" to long-term storage of high-level waste.

Response to Questions Posed on the Discussion Draft of Nuclear Waste Administration Act of 2013

Considerations for locating storage facility sites

1. Should the Administrator take into account, when considering candidate storage facility sites, the extent to which a storage facility would: (a) unduly burden a State in which significant volumes of defenses wastes are stored or transuranic wastes are disposed of; or (b) conflict with a compliance agreement requiring the removal of nuclear waste from a site or a statutory prohibition on the storage or disposal of nuclear waste at a site? Alternatively, should the State and other non-federal parties seeking to site a candidate storage facility be allowed to determine whether they are unduly burdened? Should the final consent agreement, which would be sent to Congress for ratification, contain an authorizing provision to amend any conflicting compliance agreement or statutory prohibition?

Answer: Friends of the Earth does not support consolidated spent fuel storage sites and believes that such facilities must be eliminated from any legislation. Companies that generate nuclear waste must be responsible for it until such time as there is a final disposal facility.

States hosting DOE nuclear facilities, especially when there are federal facility agreements on clean-up and waste removal milestones, must not be burdened with any additional nuclear waste and thus must be eliminated for consideration. The federal government must not be allowed to have any authority to override agreements that states have entered into with DOE and the Environmental Protection Agency.

States must be allowed to have a final say on any facility siting and be allowed to implement laws and regulation and enter into agreements which will give states control. Penalties to the federal government must be severe and enforceable.

In the case of states with DOE sites containing HLW - DOE spent fuel and high level waste from materials production and separation – stated policies have been for DOE to remove such waste and that is the expectation. There should thus be no consideration for bringing an additional waste burden into such sites. Even placing such DOE sites on the table for consideration will sour relations between the public and states and DOE and any new spent fuel management agency.

DOE facilities such as the Savannah River Site, Idaho National Lab and Hanford already hold large quantities of high-level nuclear waste and the focus at those sites must remain on clean-up, as expected by the neighboring communities and states. Nothing should distract from that mission aimed at reducing on-site waste. If any DOE site is considered for spent fuel storage, this will trigger not only legal challenges for failure to remove existing waste but will prompt new site-wide EISs which would review all waste management activities on the site, complicating any such proposals.

Friends of the Earth supports dry cask storage of DOE spent fuel, including spent research reactor fuel at the Savannah River Site. Any legislation must address the need to get DOE fuel promptly into dry casks and that it must not be reprocessed, as is the goal of special interests at SRS.

Friends of the Earth believes that on-site dry cask storage of spent fuel at nuclear power plants will eliminate any assumed need for consolidation of spent fuel. Spent fuel at closed facilities is at no risk if proper security is put in place. If an environmental or health emergency dictates, movement of spent fuel at a closed site to a nearby site with an active license by the Nuclear Regulatory Commission may be considered. The nuclear industry should be solicited to obtain their views on shipment of a limited amount of spent fuel to an already licensed site.

Linkage between storage and repository

2. Should the bill establish a linkage between progress on development of a repository and progress on development of a storage facility? If so, is the linkage proposed in section 306 of the bill appropriate, too strong, or too loose? If a linkage is needed, should it be determined as part of the negotiations between the state and federal governments and included in the consent agreement rather than in the bill?

Answer: No siting of any form of storage should go forward until a geologic facility has been chosen, via consent and licensing, and construction of it is well underway. Consolidation of fuel at any site without a geologic facility being sited will set up the possibility that a temporary storage facility will become permanent. The term "substantial progress" toward a geologic facility when a consolidated facility is sited does not instill confidence.

Legislation must include language that reprocessing of any consolidated fuel will not take place and will be excluded by statute. As special interests near the Savannah River Site - the private entity SRS Community Reuse Organization - and EnergySolutions have already indicated a linkage between consolidated storage and commercial spent fuel reprocessing, the legislation must not include any such linkage and must explicitly exclude reprocessing. (The cover page of the SRS CRO report on spent fuel storage and reprocessing, with URL for the report, and the EnergySolutions January 10, 2013 memo to the NRC on the storage-reprocessing link are included in attachments to these comments.)

The goal of siting of a pilot spent fuel storage site by 2021 is unnecessary and unrealistic and may indicate that proper siting parameters and "consent" will not be secured.

The legislation must take into account that long-term on-site storage of spent fuel may be necessary given the possibility that "consent" may not be secured for any type of facility.

Separate process for storage facility siting

3. Should the bill establish separate storage and disposal programs with clearly defined requirements for each, with any linkage negotiated in the consent agreement between the federal and non-federal parties, to allow the two program to run on separate, but parallel tracks, as proposed in the alternative section 305 (which would replace section 304(b)-(g) of the draft bill)?

Answer: Friends of the Earth does not support the separation of programs of storage and disposal. Separation of these programs could result in temporary storage becoming long-term disposal or final disposal. Separate disposal programs even if there was some form of legal agreement in place could be a way to set up temporary sites as becoming de facto permanent sites.

Terms such as "interim" and "temporary" for consolidated storage may be so vague as to imply long-term or permanent storage and will thus be viewed with skepticism. The length of "interim" storage must be defined as this could be hundreds of years, which is essentially permanent.

There should be a linkage between storage and prevention of reprocessing. Special interests are eyeing consolidated storage as a foot in the door for reprocessing and reprocessing must thus must be disallowed by law. If any contractor makes a bid for a consolidated storage site, any link to reprocessing – as has been revealed at the Savannah River Site by the SRS Community Reuse Organization – must be investigated.

4. To what extent should the siting and consensus approval process for spent fuel storage facilities differ from that for the repository? Should the Administrator be required to conduct sufficient site-specific research (referred to as "characterization" in the bill) on candidate storage sites to determine if they are suitable for storing nuclear waste or only on candidate repository sites to determine if they are suitable for geologic disposal of nuclear waste? Should the Administrator be required to hold public hearings both before and after site characterization (as required by current law in the case of the Yucca Mountain site) or only before site characterization?

Answer: As a consolidated storage facility could become a long-term de facto storage facility, the siting requirements must be similar for that of a geologic facility. A full geologic review would be necessary and siting criteria must be well-defined before any consideration for storage takes place. Hearings and meetings must be held in communities around any proposed facility as well as on the state level. If a facility being targeted is near a state border both states must be involved.

Hearings must be held under the National Environmental Policy Act (NEPA) as part of a full Environmental Impact Statement EIS). Hearings and meetings also must be held by regulatory bodies such as state legislators, state regulatory agencies and pertinent federal advisory boards (such as DOE's Site Specific Advisory Boards).

A full technical review of dry casks containers, with periodic updates, must be required under any legislation.

Complexity of repository and storage facility siting processes

5. Should the siting process in section 304 of the draft bill be streamlined? If so, how?

Answer: Section 304 is flawed from the very start. The term "affected communities" is used and this will be interpreted by some special interests to mean only a single local political jurisdiction that may be controlled by those special interests. The term "affected communities"

must be expanded to mean the entire state, or two states if a targeted facility is near a state border.

States must be allowed to pass laws and regulatory guidelines on any storage facilities and enter into agreement with whatever entity may operate such a facility.

Friends of the Earth supports new regulations by the Environmental Protection Agency (EPA) for environmental protection and radiation discharge standards for any storage or disposal facilities. Such EPA regulations will need to go through a rulemaking process as will Nuclear Regulatory Commission regulations. The facilities must be licensed by the NRC, which means they will be open to legal interventions.

The language in section 304 which states that "the Administrator shall issue general guidelines for the consideration of candidate sites" may be in conflict with applicable laws and regulations and certainly is not a standard which supports science- and consent-based regulations.

Underground geology must be considered for a consolidated site as such a site may be subject to leakage or attack, resulting in radioactive discharge into the ground.

The section does not adequately address steps to "minimize the impacts of transportation and handling of nuclear waste." This will be achieved via on-site storage and not by additional transport and handing to a consolidate site. Increased handling will result in increased worker exposure and transport to a consolidated facility and then to a disposal facility will magnify risks to the public and environment as well as increasing costs.

A "compliance agreement requiring the removal of nuclear waste from a site" must clearly state that reprocessing will not take place as reprocessing would result in a host of hard-to-manage waste streams and aerial and liquid discharge, which would result in waste being left on site, especially if storage is at a DOE facility which is already contaminated.

This section is particularly ominous as it appears to hand over siting to the "administrator" and a governor and a "governing body of the affected unit of general local government." Such decision-making makes a mockery of consent. A state will not be held hostage to a governor and a single local political entity, which could be a tiny jurisdiction controlled by special interests and those seeking to profit from spent fuel management. This will be vigorously opposed.

Far too much power is placed in the hands of an administration in choosing sites to be considered and the environmental standards. Handing such power to a single person will be opposed.

Concerning any "consent agreement," it is clear that citizens of a state or region will not allow a single political entity or a governor to make decisions on siting of a facility or enter into bad

agreements. This approach is flawed and appears to be designed to subjugate the will of the people to those of special interests.

Non-consent for high-level waste storage has been "given" in several states, including Idaho and New Mexico, and a process of non-consent must be included. Entities must have the right to make a proposal that takes a site out of consideration and those proposing a site must not have more rights than those proposing that a site not be considered.

Near the DOE's Savannah River Site (SRS), rumored to be a target for consolidated spent fuel storage, a consensus is being developed against use of SRS for receipt of any new high-level waste. At a May 20-21, 2103 meeting of the federal SRS Citizens Advisory Board (SRS CAB), eight organizations and a number of individuals spoke out in favor of a CAB recommendation against use of SRS for consolidated storage or reprocessing. Voices in support of the spent fuel mission were few. (see draft CAB recommendation and news articles attached)

A newly formed group in Aiken, SC - *Don't Waste Aiken* - (https://www.facebook.com/DontWasteAiken) – has set the tone in the community near SRS against spent fuel storage and reprocessing. Opposition in Aiken is building as the terms of non-consent are being defined via action on the ground. Congress should pay close attention to the lessons being taught by the way the non-consent process is being solidified in Aiken and state-wide in South Carolina.

Governance of the Nuclear Waste Administration

6. Should the new entity be governed by a single administrator or by a board of directors?

(a) If by a single administrator, should the administrator serve for a fixed term? If so, how long should the term of service be? Should the legislation prescribe qualifications for the administrator? If so, what should be the selection criteria?

(b) If by a board of directors, how many people should comprise the board and how should they be selected?

Answer: The "administrator" as being proposed has far too much power and would be subject to control by special interests wishing to site facilities where there may be no "community" (state-wide) consent. Such an "administrator" must not have had any ties to the for-profit nuclear industry or any kind. The public must have legal checks on the power of any administrator, including removal from office.

7. The Blue Ribbon Commission recommended establishment of both a board of directors for management oversight (whose "primary role ... is not to represent all stakeholder views, but rather to carry out fiduciary responsibilities for management

oversight") and "a larger and more widely representative stakeholder advisory committee." The draft bill responds to these recommendations, first, by establishing a Nuclear Waste Oversight Board of senior federal officials and, second, by authorizing the Administrator to establish advisory committees. Should the Oversight Board and advisory committee be combined into a single body to perform both management oversight and stakeholder representation functions? Should the focus and membership of any advisory committees be established in the legislation or left to the Administrator?

Answer: There is no justification for a Nuclear Waste Oversight Board to be made up of "senior federal officials" who might not represent the public interest of varied stakeholders. Likewise, the power to appointment "advisory committees" resting in the hands of a single administrator is unacceptable. If such power would be misapplied the entire process could be undermined and even scuttled due to politics and bias entering into play. National, state and local public interest groups must have key roles in any panels or boards.

8. Dr. Meserve testified in 2012 that representatives of stakeholders and public utility commissioners should be added to the Nuclear Waste Oversight Board. Would these additions make the Board better able to carry out its fiduciary oversight mission effectively?

Answer: Public interest organizations on the national, state and local levels, including environmental organizations, must have a formal role in all aspects of dealing with management of spent nuclear fuel. Public interest groups were not on the Blue Ribbon Commission, which undermined the credibility of that body and has tainted its recommendations as not being reflective of the nation-wide community. If this mistake is repeated, the work of any decision-making bodies will be severely undermined and open to challenge.

Thank you for considering these comments and for paying close attention to the way the "non-consent" process is being developed and implemented near the Savannah River Site.

Submitted by:

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Attachments Comments on Discussion Draft of Nuclear Waste Administration Act of 2013

1. Draft recommendation by Savannah River Site Citizens Advisory Board (SRS CAB) against bringing spent fuel to the Savannah River Site (SRS) for storage or reprocessing, to be voted on soon - also at: **http://tinyurl.com/bnu629u**

2. Two news articles of May 21, 2013 – from Aiken (SC) Standard and Augusta (GA) Chronicle on meeting to discuss CAB recommendation against spent fuel storage at SRS – in public comment periods, the vast majority of groups and individuals spoke against giving consent to any consolidated storage facility

3. Memo by EnergySolutions, dated January 10, 2013, to the Nuclear Regulatory Commission – affirming the connection between consolidated spent fuel storage and reprocessing

4. Memo by AREVA, dated October 23, 2012, to the NRC stating that the company wants to apply for a license for a reprocessing plant in 2019 – totally unrealistic and not in conformity to US policy on spent fuel management

5. Cover page of an April 2013 report by a Savannah River Site special interest group which reveals the group thinks that consolidated spent fuel storage are linked – a warning to the community about intentions of those pushing consolidated spent fuel storage at SRS

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4/23/2013

Savannah River Site

Citizens Advisory Board

DRAFT Recommendation

Savannah River Site's Citizens Advisory Board position on using SRS for interim Storage of Used Nuclear Fuel

Background

In 1945 the nuclear age began with the first manmade nuclear explosion at White Sands, New Mexico late in Second World War. By 1958 the technology had progressed from the bomb to power generation with the first commercial nuclear power plant opening in Shippingport, PA.

The Savannah River Site began operations in 1952 and has continued until today successfully pursuing various missions including heavy water production, plutonium/uranium separation and the production of isotopes required for the space exploration program. Current missions include encapsulating spent reactor fuel and other wastes in glass canisters for eventual disposal in a deep geologic repository and a new mission to convert plutonium from fuel for nuclear bombs to fuel for commercial nuclear reactors in the Mixed Oxide (MOX) program. In 1981, an environmental remediation program was begun to clean-up the environmental contamination of the site created by earlier missions. The clean-up mission included safely decontaminating and decommissioning unneeded equipment and processing the contents in to a safe state a safe state for disposal in a repository.

By the 80's it was recognized that the safe disposal of nuclear wastes from commercial and defense sources was a national priority. The Nuclear Waste Policy Act (NWPA) of 1982, created a timetable for the creation of a permanent underground repository. The permanent repository was slated to begin receiving commercial and defense wastes by the middle of the next decade. The responsibility to site, construct and operate the repository was given to the Department of Energy (DOE). A fee was imposed on nuclear power generators to support the creation and operation of the repository.

The NWPA called for the DOE's to make recommendations for two deep geologic repositories to congress by 1987. In 1987 the act was revised to require the DOE to consider only Yucca Mountain as the site for the repository. In 2002 President Bush named Yucca Mountain the site for the repository and by 2004 all legal channels for overturning the decision had been exhausted. Work to license the site was begun

In 2010 President Obama ordered work on the licensing process for Yucca Mountain to stop and all funding for licensing was withdrawn. No scientific or safety reasons were given. The decision was described by the General Accounting Office (GAO) as a political decision.

President Obama created the Blue Ribbon Commission on America's Nuclear Future (BRC). The BRC has issued its report that included among its recommendations:

a. The United States should proceed promptly to develop one or more consolidated storage facilities as part of an integrated, comprehensive plan for safely managing the back end of the nuclear fuel cycle. An effective integrated plan must also provide for the siting and development of one or more disposal facilities.

b. Ensure that all near-term forms of storage meet high standards of safety and security for the multi-decade-long time periods that they are likely to be in use, active research should continue on issues such as degradation phenomena, vulnerability to sabotage and terrorism, full – scale cask testing, and other matters.

c. The processes used to develop and implement all aspects of the spent fuel and waste management system should be science - based, consent - based, transparent, phased, and adaptive. They should also include a properly designed and substantial incentive program

d. The United States should undertake an integrated nuclear waste management program that leads to the timely development of one or more permanent deep geological facilities for the safe disposal of spent fuel and high - level nuclear waste

The nation now finds itself in a situation where the Blue Ribbon Committee is recommending that the nation proceed promptly to commence consolidated interim storage designed for multi-decade use. The program to develop a permanent, deep geologic disposal facility is only to be developed on a "timely" basis. The current proposed date for a repository opening is 2048.

The need to have a deep geologic repository was identified in 1982 and the initial target date to begin accepting wastes was 1995. At the time president Obama took office, the opening date for the repository had already been delayed until 2022. No progress on developing a repository has been made for an additional four years. This is despite the laws passed by congress to have a deep geologic repository opened much earlier. This delay of more than two decades is not unprecedented for projects managed by the Department of Energy.

The Salt Waste Processing facility currently under construction at SRS was approved in 2001 with an initial completion date of 2009. Recently the completion date was moved from 2015 to 2018 and this date is in question. This delay is despite an enforceable agreement with the State of South Carolina that requires the facility to be completed by 2015. The Mixed Oxide Fabrication Facility was approved in 1999 with a completion date of 2007. Current projected completion date is 2018 and this date is questionable. In addition to being well behind schedule, these projects are billions of dollars over the original cost estimates.

There is no reason to believe that a repository that is superior to Yucca Mountain will ever be identified. In addition the $13 billion dollars already spent to build the Yucca Mountain facility will be totally lost If a different site is selected. The next proposed repository (if there ever is one) will cost many times the amount already spent. With the current national debt and budget

deficit, it is unlikely that the required funding will be available. Finally it is reasonable to assume, based on the DOE's track record there is no commitment to a date now 35 years in the future and even congressional mandates and enforceable agreements with the states will not force DOE to meet their commitments.

The Savannah River Site Specific Advisory Board would like to make clear that:

a. They are not opposed to commercial nuclear power generation.
b. They are not concerned that the DOE would initiate a program that anticipated the unsafe storage of nuclear waste at SRS

The CAB would like to go on record saying that is opposed to the use of the SRS site or any portion of the site for the storage of commercial nuclear wastes. The reasons for the CAB's opposition are:

1. The belief that no site for a long term geologic site superior to Yucca Mountain exists and any alternative site will be technically inferior.
2. The reopening of the repository selection process and as a consequence creation of interim storage sites will be a very costly endeavor in a time when the nation does not have the financial resources.
3. The completion of a new repository is generations away and there is no reason to believe the current 2048 date proposed will be adhered to.
4. Future generations of South Carolinians and Georgians will not be well served by having the Savannah River Site become an interim storage site for commercial nuclear waste for what will be an undetermined length of time.

Recommendation

The Savannah River Citizens Advisory Board recommends:

1. The Department of Energy should not consider the Savannah River Site as a potential location for Commercial Power Plant Spent nuclear waste.

DRAFT Recommendation
Not Yet Adopted
Sponsored by the Waste Management Committee

Tuesday, May 21, 2013
METRO
The Augusta Chronicle

Georgia

SAVANNAH RIVER SITE

Group considers opposing storage

By Rob Pavey
Staff Writer

Savannah River Site's Citizens Advisory Board is considering a draft recommendation opposing any future use of the site for storing spent nuclear fuel.

"The CAB would like to go on record saying that it is opposed to the use of SRS or any portion of the site for the storage of commercial nuclear wastes," said the draft, shared Monday by the board's waste management committee.

The draft is only at the discussion stage. A full vote on the position would be scheduled this summer.

Though there is no formal plan to bring spent commercial reactor fuel to the site, the demise of the government's Yucca Mountain project in Nevada left the nation without options for the 75,000 tons of radioactive spent fuel accumulating at commercial nuclear plants.

A blue-ribbon committee formed to explore alternatives suggested "consolidated, interim storage" of the dangerous material until a better solution can be found.

The committee did not make site recommendations, but officials say it would be difficult to explore those options without considering SRS, which has nuclear waste experience and infrastructure, and a location in the South, which has many commercial nuclear plants.

In March, consultants hired by the SRS Community Reuse Organization – an economic development consortium – unveiled a $200,000 study that concluded the site's H Canyon processing facilities and long history of nuclear involvement make it a suitable site for such storage.

Though the project would bring money and jobs, it would require broad community support to be successful, the study said.

The draft recommendation notes that the advisory board is not opposed to commercial nuclear power generation but fears that a new effort to create a permanent repository "is generations away" and could leave material stranded indefinitely in South Carolina.

Representatives from Friends of the Earth, the South Carolina Chapter of the Sierra Club and other groups have said they will oppose any plan to import spent fuel into the state.

"It is clear that there is a growing momentum in South Carolina against giving consent to a consolidated storage facility for highly radioactive spent fuel at SRS or any other site," said Tom Clements, the Southeastern nuclear campaign coordinator with Friends of the Earth.

Reach Rob Pavey at (706) 868-1222, ext. 119, or rob.pavey@augustachronicle.com.

Aiken (SC) Standard

SRS recommendation postponed

Citizens Advisory Board presents draft advising DOE not to accept spent nuclear material, decides to wait until later date to formally consider approving the proposal

BY MICHAEL ULMER
mulmer@aikenstandard.com

The possible storage of spent nuclear fuel at Savannah River Site was left on the table Monday by the SRS Citizens Advisory Board, a group designed to offer advice to the Department of Energy, which owns SRS.

Board members presented a draft recommendation advising DOE not to accept the nuclear material, but decided to wait until a later date to formally consider approving the proposal.

The choice to defer to a later meeting was met with controversy by board members and those in attendance at Monday's session.

Rose Hayes offered the recommendation to the board, explaining that she believed Waste Management Committee Chairman Ed Burke requested a decision take place during Monday's meeting or another session set for today.

Burke was not in attendance on Monday, but was scheduled to present a draft recommendation during the board's meeting.

However, fellow board member Don Bridges indicated that Burke wanted to delay consideration of the proposal in order to examine every angle.

Terry Spears, a DOE representative, agreed with Bridges, noting it was best to bring the proposal forward at a future meeting.

He said it was his understanding that the proposal was brought forward Monday only for discussion and not for a vote.

After discussion, the board decided it will likely take up the issue during a meeting in September or October.

More than a dozen community residents and representatives from nonprofit organizations such as the Sierra Club and the Conservation Voters of South Carolina offered support for the board's recommendation to DOE.

Hayes said she hoped the board would eventually decide to recommend that DOE not consider using SRS as a storage site for spent nuclear waste.

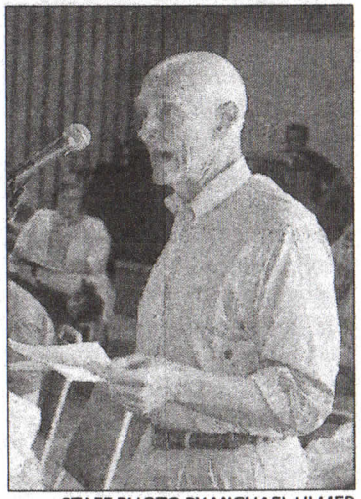
She noted that SRS has been viewed by policy makers as a potential replacement for Yucca Mountain, an idea she believes should be scrapped.

Yucca Mountain, located in Nevada, was to be a repository for spent nuclear fuel and other radioactive waste until President Barack Obama stopped funding in 2010.

According to Patrick McGuire, a representative of DOE, spent nuclear fuel is fuel that has been removed from a reactor. Currently, SRS has a large inventory of research reactor spent nuclear fuel, McGuire said, but no commercial material such as that discussed during Monday's meeting.

In light of the decision to cease funding for Yucca Mountain, Obama created the Blue Ribbon Commission on America's Nuclear Future, which recommended the nation find a suitable storage facility for multi-decade use.

The commission's proposed date to open a repository is 2048, according to the draft recommendation presented during Monday's meeting.



STAFF PHOTO BY MICHAEL ULMER

Wilkins Byrd, an Aiken resident, was one of several community members on Monday voicing support to deny spent nuclear fuel storage at SRS.

• **Michael Ulmer** covers the county government beat for the *Aiken Standard* and has been with the newspaper since March 2013. He is a native of North Augusta and majored in political science at the University of South Carolina.

ENERGYSOLUTIONS
We're part of the solution

EnergySolutions' Statement to the Nuclear Regulatory Commission on Reprocessing and the Disposition of Used Nuclear Fuel

EnergySolutions has the experience and capabilities to handle, store, reprocess and dispose of used nuclear fuel (UNF). We are very keen to continue to take an active part in the Blue Ribbon Commission's (BRC) recommended path forward, including the setting up of one or more Consolidated Storage Facilities for UNF in the USA, and also the pursuit of UNF reprocessing.

We are currently contracted with DOE to carry out several studies related to the BRC recommendations, including producing design concepts for one or two CSFs, and the development of standardized transportation, aging and disposal canisters for UNF. We strongly support the setting up of one or more CSFs in the USA and the progressive movement of UNF from the shutdown and operating reactor sites to these CSFs. Our CSF design concepts study first looked at UNF transportation issues from both shutdown and operational sites, the need for repackaging some UNF prior to transport, the difficulties with transport access to certain shutdown sites, the lead time to acquire suitable cask and railroad cars, and the licensing requirements for all equipment and transport methods. It went on to identify, cost and compare 6 options, covering one or two CSFs, differing UNF receipt rates, UNF pickup orders, operational start dates and geological repository operational dates. These scenarios were illustrative only at this stage but the model we developed enables all possible options to be compared and provides the basis for production of a full conceptual design.

EnergySolutions supports the reprocessing of UNF in the USA because it (i) minimizes the volume of high level waste (HLW) that ultimately will require geologic disposal, (ii) provides a vitrified HL Waste form that is more robust than irradiated nuclear fuel assemblies that were not originally designed for long term storage, and (iii) enables the removal from the HLW of long-lived heat emitting transuranics such as americium so that these can be separately destroyed. During the Global Nuclear Energy Partnership (GNEP) period we produced a conceptual design, technology roadmap and business plan for a UNF reprocessing facility capable of reprocessing 1500 MT of UNF per year and future expansion up to 3000 MT/year. During that period we actively engaged with the NRC on its gap analysis of the regulatory framework for analyzing a reprocessing facility. We support the continuation of that process and ultimately a rulemaking for the creation of a Part 7X. At the end of the GNEP period our conceptual design provided all that was required for an immediate move into the detailed design process.

We believe there are significant synergies between a CSF and a reprocessing facility. Each requires a receipt facility and temporary storage for the UNF, a hot cell or pool facility for the removal of UNF from canisters so that it can be reprocessed or re-packaged for repository storage, and an R&D facility. Establishing a CSF and a reprocessing plant on the same site would allow economies to be realized by the common use of these facilities. Such a combined site would also potentially be more attractive than a standalone CSF to a prospective host community because of the much larger range of high quality jobs that it would offer. This could help the identification of volunteer communities for such a site, as recommended by the BRC. EnergySolutions is actively engaged with potential host communities for a CSF and we believe that the CSF will ultimately be tied to a Reprocessing Plant, an R&D facility and, potentially also the Geologic Repository.

Chris Phillips
January 10, 2013

From: BADER Sven (AREVA)
To: Faraz, Yawar
Cc: Guttmann, Jack; Matula, Thomas; DAVIDSON Dorothy (AREVA); JONES David (AREVA); MURRAY Paul (AREVA); SALAS Pedro (AREVA); LEVIN Alan (AREVA); LUCAS Matthieu (AREVA); BAILLY Frederic (AREVA); PRUD HOMME Pascal (AREVA)
Subject: RE: Request for input for Commission paper on reprocessing
Date: Tuesday, October 23, 2012 5:32:25 PM

Yawar,
You may publicly release the below text.

Sven

NRC:
As you may have heard, an AREVA-led team recently was selected by the Eddy Lea Energy Alliance (ELEA) as their commercial partner to begin developing the concept of a Used Nuclear Fuel (UNF) Consolidated Storage Facility (CSF) in southeastern New Mexico. AREVA has spoken to other communities that may come forward in the future to offer hosting a CSF, but what our agreement with ELEA ultimately indicates is AREVA's belief that consolidated interim storage of UNF (as recommend by the Blue Ribbon Commission on America's Nuclear Future) will be an important first step in moving towards a resolution of issues associated with the back-end of the nuclear fuel cycle in the U.S. However, a CSF by itself does not accomplish an end goal (e.g., Waste Confidence). If a CSF were combined with recycling and ultimately with a repository, then there is an assurance to any State and local community willing to "consent" to host a CSF that the CSF will not become a de facto repository for UNF. So why does AREVA include recycling in this scheme? Because AREVA sees many common elements between a CSF and a recycling facility (e.g., a receipt facility for UNF, a temporary storage location for UNF, and potentially dry and/or wet UNF transfer areas and an R&D facility) and AREVA believes that a recycling facility would also provide multiple benefits to a repository (e.g., providing a stable waste form ready for disposal in most media and reducing the ultimate volume of waste requiring disposal). Furthermore, AREVA believes (unless Yucca Mountain is restarted) that the horizon for a repository in the U.S. (based on historical evidence) is likely much further out than that for a recycling facility. Hence a recycling facility could incentivize the nearer term movement towards a back-end solution through the added benefits of providing a local community willing to host such a facility significant economic development and job creation (well beyond those associated with just a CSF), while waiting for the siting studies, selection process, licensing process, and design and building processes of a repository to mature. These are only a few reasons why AREVA supports recycling and we would welcome the opportunity to share others with you.

AREVA's plan is to submit a license application for a recycling facility in 2019. To meet this date, AREVA will require rulemaking for a recycling/reprocessing facility to be completed in the 2017 to early 2018 timeframe. AREVA remains committed to supporting the NRC recycling rulemaking activities, which we believe have shown significant progress over the last year (with the release of the draft Regulatory Basis, the responding SRM from the Commissioners, and the recent release of the ETR). AREVA understands the constraints the NRC is under (considering budget limitations and

issues associated with Waste Confidence and lessons learned from Fukushima), but we believe the progress shown to date, even with the limited resources available to the Staff, does show meaningful progress towards a final rule and AREVA supports the NRC's continued effort towards completing this rulemaking activity.

Please do not hesitate to contact me for further elaboration on this matter or, if you would like, AREVA could meet with you to discuss this topic further. We hope that the NRC continues its effort on this rulemaking activity and thank you for your continued progress on this activity.

Sincerely,
Sven

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DICKSTEINSHAPIROLLP

Report by a special interest organization and not supported by the community - in support of consolidate storage and reprocessing at the DOE's Savannah River Site

http://www.srscro.org/wp-content/uploads/2013/03/FINAL-Comprehensive-Fuel-Cycle-Research-Study-02-19-2013.pdf

Comprehensive Fuel Cycle Research Study

Presented to the Savannah River Site Community Reuse Organization

February 2013

The content of this Study reflects the independent views of Dickstein Shapiro LLP, based on information available from a variety of sources. The Study is not intended to reflect the views of the Savannah River Site Community Reuse Organization.

May 24, 2013

To: **Senate Energy and Natural Resources Committee**
Nwaste_feedback@energy.senate.gov

Re: **Comments on "Discussion Draft of Nuclear Waste Administration Act of 2013"**

From: **Friends of the Earth**
Tom Clements
1112 Florence Street
Columbia, South Carolina 29201
tel. 803-834-3084, tomclements329@cs.com

Support of On-Site Dry Cask Storage at Reactor Sites and
Opposition to Consolidated Spent Fuel Storage Facilities and Reprocessing

Friends of the Earth (FOE) appreciates this opportunity to comment on the discussion draft as presented by Senators Wyden, Murkowski, Feinstein and Alexander. FOE is an international environmental network with office in 74 countries, representing two million supporters. In the US, we have offices in Washington, DC, Berkeley, California and Columbia, South Carolina and we have members in all 50 states and the District of Columbia.

Staff in our office in Columbia, SC work on U.S. Department of Energy (DOE) issues, with a focus on the Savannah River Site (SRS) in South Carolina, and was invited to give a formal presentation before the Blue Ribbon Commission on America's Nuclear Future. FOE submitted various oral and written comments documents to the BRC. Staff have also made comments on numerous occasions to the Savannah River Site Citizens Advisory Board (SRS CAB), a federal advisory committee, against consolidated spent fuel storage and reprocessing at SRS. Public opposition to spent fuel storage at SRS is growing.

Additionally, staff has expertise in policies on reprocessing of spent fuel in both the U.S. and other countries and was involved during the decision-making process concerning the Allied

General Nuclear Fuel Services (AGNS) failed reprocessing plant proposal at Barnwell, South Carolina. We were also involved in the failed and misguided process under the George W. Bush administration to locate commercial reprocessing facilities under the Global Nuclear Energy Partnership (GNEP).

Given concerns about cost, increased radiation exposure due to increased handling, increased transport risks, the real threat that a temporary storage site will become a permanent dump and the risk that spent fuel stored at a consolidated site would become feed for a reprocessing plant, <u>FOE strongly opposes consolidation of spent fuel and the reprocessing of that fuel</u>.

Friends of the Earth supports legislation which addresses:

- Removal of spent fuel from cooling pools as quickly as possible, with placement in on-site dry cask storage; priority should be given to pools at GE Mark I and II reactors and highest density pools;
- Storage of spent fuel on site or as close to the generation site as possible until a final repository is available; we thus oppose the "consolidation" of spent fuel at one or more sites; if an emergency dictates removal of spent fuel from a closed reactor site it could be taken to an already licensed site which already has spent fuel in storage (no need to create additional spent fuel sites);
- Storage and disposal of spent fuel without reprocessing; thus no need to spend $15-25 billion on construction of a reprocessing plant.
- "Consent" required from many levels of government and civic organizations from areas around a targeted site, including on the state-wide level, with numerous meetings and hearings, including a full Environmental Impact Statement (EIS) process;
- Further research into methods of safe storage and disposal of spent fuel, including surface disposition in the event that a geologic repository proves technically or scientifically unjustifiable;
- Disposal of both commercial spent fuel and DOE high-level waste (HLW) in a licensed repository;
- Development of scientifically sound technical criteria for siting any facilities before any siting moves forward – siting must not be tied to arbitrary schedules lest failure be built in from the start;
- No targeting of DOE sites - Hanford, Idaho National Lab, Savannah River Site - which already hold large volumes of high-level waste awaiting promised removal;

- Use of the Waste Isolation Pilot Plant (WIPP) only for transuranic waste, as stipulated in the Land Withdrawal Act, with no commercial spent fuel or DOE HLW allowed to be disposed of in WIPP;
- Termination of the pursuit of Yucca Mountain as a HLW repository as the facility was chosen for political reasons and is technically flawed and has not been demonstrated to be licensable under federal regulations;
- Restrictions on use of Nuclear Waste Fund for development of any consolidated storage facilities – funds must only be used for final disposal facilities or packaging for final disposal, which could include on-site dry storage;
- Respect for states which have already legally given "non-consent" to long-term storage of high-level waste.

Response to Questions Posed on the Discussion Draft of Nuclear Waste Administration Act of 2013

Considerations for locating storage facility sites

1. Should the Administrator take into account, when considering candidate storage facility sites, the extent to which a storage facility would: (a) unduly burden a State in which significant volumes of defenses wastes are stored or transuranic wastes are disposed of; or (b) conflict with a compliance agreement requiring the removal of nuclear waste from a site or a statutory prohibition on the storage or disposal of nuclear waste at a site? Alternatively, should the State and other non-federal parties seeking to site a candidate storage facility be allowed to determine whether they are unduly burdened? Should the final consent agreement, which would be sent to Congress for ratification, contain an authorizing provision to amend any conflicting compliance agreement or statutory prohibition?

Answer: Friends of the Earth does not support consolidated spent fuel storage sites and believes that such facilities must be eliminated from any legislation. Companies that generate nuclear waste must be responsible for it until such time as there is a final disposal facility.

States hosting DOE nuclear facilities, especially when there are federal facility agreements on clean-up and waste removal milestones, must not be burdened with any additional nuclear waste and thus must be eliminated for consideration. The federal government must not be allowed to have any authority to override agreements that states have entered into with DOE and the Environmental Protection Agency.

States must be allowed to have a final say on any facility siting and be allowed to implement laws and regulation and enter into agreements which will give states control. Penalties to the federal government must be severe and enforceable.

In the case of states with DOE sites containing HLW - DOE spent fuel and high level waste from materials production and separation – stated policies have been for DOE to remove such waste and that is the expectation. There should thus be no consideration for bringing an additional waste burden into such sites. Even placing such DOE sites on the table for consideration will sour relations between the public and states and DOE and any new spent fuel management agency.

DOE facilities such as the Savannah River Site, Idaho National Lab and Hanford already hold large quantities of high-level nuclear waste and the focus at those sites must remain on clean-up, as expected by the neighboring communities and states. Nothing should distract from that mission aimed at reducing on-site waste. If any DOE site is considered for spent fuel storage, this will trigger not only legal challenges for failure to remove existing waste but will prompt new site-wide EISs which would review all waste management activities on the site, complicating any such proposals.

Friends of the Earth supports dry cask storage of DOE spent fuel, including spent research reactor fuel at the Savannah River Site. Any legislation must address the need to get DOE fuel promptly into dry casks and that it must not be reprocessed, as is the goal of special interests at SRS.

Friends of the Earth believes that on-site dry cask storage of spent fuel at nuclear power plants will eliminate any assumed need for consolidation of spent fuel. Spent fuel at closed facilities is at no risk if proper security is put in place. If an environmental or health emergency dictates, movement of spent fuel at a closed site to a nearby site with an active license by the Nuclear Regulatory Commission may be considered. The nuclear industry should be solicited to obtain their views on shipment of a limited amount of spent fuel to an already licensed site.

Linkage between storage and repository

2. Should the bill establish a linkage between progress on development of a repository and progress on development of a storage facility? If so, is the linkage proposed in section 306 of the bill appropriate, too strong, or too loose? If a linkage is needed, should it be determined as part of the negotiations between the state and federal governments and included in the consent agreement rather than in the bill?

Answer: No siting of any form of storage should go forward until a geologic facility has been chosen, via consent and licensing, and construction of it is well underway. Consolidation of fuel at any site without a geologic facility being sited will set up the possibility that a temporary storage facility will become permanent. The term "substantial progress" toward a geologic facility when a consolidated facility is sited does not instill confidence.

Legislation must include language that reprocessing of any consolidated fuel will not take place and will be excluded by statute. As special interests near the Savannah River Site - the private entity SRS Community Reuse Organization - and EnergySolutions have already indicated a linkage between consolidated storage and commercial spent fuel reprocessing, the legislation must not include any such linkage and must explicitly exclude reprocessing.

The goal of siting of a pilot spent fuel storage site by 2021 is unnecessary and unrealistic and may indicate that proper siting parameters and "consent" will not be secured.

The legislation must take into account that long-term on-site storage of spent fuel may be necessary given the possibility that "consent" may not be secured for any type of facility.

Separate process for storage facility siting

3. Should the bill establish separate storage and disposal programs with clearly defined requirements for each, with any linkage negotiated in the consent agreement between the federal and non-federal parties, to allow the two program to run on separate, but parallel tracks, as proposed in the alternative section 305 (which would replace section 304(b)-(g) of the draft bill)?

Answer: Friends of the Earth does not support the separation of programs of storage and disposal. Separation of these programs could result in temporary storage becoming long-term disposal or final disposal. Separate disposal programs even if there was some form of legal agreement in place could be a way to set up temporary sites as becoming de facto permanent sites.

Terms such as "interim" and "temporary" for consolidated storage may be so vague as to imply long-term or permanent storage and will thus be viewed with skepticism. The length of "interim" storage must be defined as this could be hundreds of years, which is essentially permanent.

There should be a linkage between storage and prevention of reprocessing. Special interests are eyeing consolidated storage as a foot in the door for reprocessing and reprocessing must

thus must be disallowed by law. If any contractor makes a bid for a consolidated storage site, any link to reprocessing – as has been revealed at the Savannah River Site by the SRS Community Reuse Organization – must be investigated.

4. To what extent should the siting and consensus approval process for spent fuel storage facilities differ from that for the repository? Should the Administrator be required to conduct sufficient site-specific research (referred to as "characterization" in the bill) on candidate storage sites to determine if they are suitable for storing nuclear waste or only on candidate repository sites to determine if they are suitable for geologic disposal of nuclear waste? Should the Administrator be required to hold public hearings both before and after site characterization (as required by current law in the case of the Yucca Mountain site) or only before site characterization?

Answer: As a consolidated storage facility could become a long-term de facto storage facility, the siting requirements must be similar for that of a geologic facility. A full geologic review would be necessary and siting criteria must be well-defined before any consideration for storage takes place. Hearings and meetings must be held in communities around any proposed facility as well as on the state level. If a facility being targeted is near a state border both states must be involved.

Hearings must be held under the National Environmental Policy Act (NEPA) as part of a full Environmental Impact Statement EIS). Hearings and meetings also must be held by regulatory bodies such as state legislators, state regulatory agencies and pertinent federal advisory boards (such as DOE's Site Specific Advisory Boards).

A full technical review of dry casks containers, with periodic updates, must be required under any legislation.

Complexity of repository and storage facility siting processes

5. Should the siting process in section 304 of the draft bill be streamlined? If so, how?

Answer: Section 304 is flawed from the very start. The term "affected communities" is used and this will be interpreted by some special interests to mean only a single local political jurisdiction that may be controlled by those special interests. The term "affected communities" must be expanded to mean the entire state, or two states if a targeted facility is near a state border.

States must be allowed to pass laws and regulatory guidelines on any storage facilities and enter into agreement with whatever entity may operate such a facility.

Friends of the Earth supports new regulations by the Environmental Protection Agency (EPA) for environmental protection and radiation discharge standards for any storage or disposal facilities. Such EPA regulations will need to go through a rulemaking process as will Nuclear Regulatory Commission regulations. The facilities must be licensed by the NRC, which means they will be open to legal interventions.

The language in section 304 which states that "the Administrator shall issue general guidelines for the consideration of candidate sites" may be in conflict with applicable laws and regulations and certainly is not a standard which supports science- and consent-based regulations.

Underground geology must be considered for a consolidated site as such a site may be subject to leakage or attack, resulting in radioactive discharge into the ground.

The section does not adequately address steps to "minimize the impacts of transportation and handling of nuclear waste." This will be achieved via on-site storage and not by additional transport and handing to a consolidate site. Increased handling will result in increased worker exposure and transport to a consolidated facility and then to a disposal facility will magnify risks to the public and environment as well as increasing costs.

A "compliance agreement requiring the removal of nuclear waste from a site" must clearly state that reprocessing will not take place as reprocessing would result in a host of hard-to-manage waste streams and aerial and liquid discharge, which would result in waste being left on site, especially if storage is at a DOE facility which is already contaminated.

This section is particularly ominous as it appears to hand over siting to the "administrator" and a governor and a "governing body of the affected unit of general local government." Such decision-making makes a mockery of consent. A state will not be held hostage to a governor and a single local political entity, which could be a tiny jurisdiction controlled by special interests and those seeking to profit from spent fuel management. This will be vigorously opposed.

Far too much power is placed in the hands of an administration in choosing sites to be considered and the environmental standards. Handing such power to a single person will be opposed.

Concerning any "consent agreement," it is clear that citizens of a state or region will not allow a single political entity or a governor to make decisions on siting of a facility or enter into bad agreements. This approach is flawed and appears to be designed to subjugate the will of the people to those of special interests.

Non-consent for high-level waste storage has been "given" in several states, including Idaho and New Mexico, and a process of non-consent must be included. Entities must have the right to make a proposal that takes a site out of consideration and those proposing a site must not have more rights than those proposing that a site not be considered.

Near the DOE's Savannah River Site (SRS), rumored to be a target for consolidated spent fuel storage, a consensus is being developed against use of SRS for receipt of any new high-level waste. At a May 20-21, 2103 meeting of the federal SRS Citizens Advisory Board (SRS CAB), eight organizations and a number of individuals spoke out in favor of a CAB recommendation against use of SRS for consolidated storage or reprocessing. Voices in support of the spent fuel mission were few.

A newly formed group in Aiken, SC - *Don't Waste Aiken* - (https://www.facebook.com/DontWasteAiken) – has set the tone in the community near SRS against spent fuel storage and reprocessing. Opposition in Aiken is building as the terms of non-consent are being defined via action on the ground. Congress should pay close attention to the lessons being taught by the way the non-consent process is being solidified in Aiken and state-wide in South Carolina.

Governance of the Nuclear Waste Administration

6. Should the new entity be governed by a single administrator or by a board of directors?

(a) If by a single administrator, should the administrator serve for a fixed term? If so, how long should the term of service be? Should the legislation prescribe qualifications for the administrator? If so, what should be the selection criteria?

(b) If by a board of directors, how many people should comprise the board and how should they be selected?

Answer: The "administrator" as being proposed has far too much power and would be subject to control by special interests wishing to site facilities where there may be no "community" (state-wide) consent. Such an "administrator" must not have had any ties to the for-profit nuclear industry or any kind. The public must have legal checks on the power of any administrator, including removal from office.

7. The Blue Ribbon Commission recommended establishment of both a board of directors for management oversight (whose "primary role ... is not to represent all stakeholder views, but rather to carry out fiduciary responsibilities for management oversight") and "a larger and more widely representative stakeholder advisory committee." The draft bill responds to these recommendations, first, by establishing a Nuclear Waste Oversight Board of senior federal officials and, second,

by authorizing the Administrator to establish advisory committees. Should the Oversight Board and advisory committee be combined into a single body to perform both management oversight and stakeholder representation functions? Should the focus and membership of any advisory committees be established in the legislation or left to the Administrator?

Answer: There is no justification for a Nuclear Waste Oversight Board to be made up of "senior federal officials" who might not represent the public interest of varied stakeholders. Likewise, the power to appointment "advisory committees" resting in the hands of a single administrator is unacceptable. If such power would be misapplied the entire process could be undermined and even scuttled due to politics and bias entering into play. National, state and local public interest groups must have key roles in any panels or boards.

8. Dr. Meserve testified in 2012 that representatives of stakeholders and public utility commissioners should be added to the Nuclear Waste Oversight Board. Would these additions make the Board better able to carry out its fiduciary oversight mission effectively?

Answer: Public interest organizations on the national, state and local levels, including environmental organizations, must have a formal role in all aspects of dealing with management of spent nuclear fuel. Public interest groups were not on the Blue Ribbon Commission, which undermined the credibility of that body and has tainted its recommendations as not being reflective of the nation-wide community. If this mistake is repeated, the work of any decision-making bodies will be severely undermined and open to challenge.

Thank you for considering these comments and for paying close attention to the way the "non-consent" process is being developed and implemented near the Savannah River Site.

Submitted by:

Tom Clements
Southeastern Nuclear Campaign Coordinator
Friends of the Earth
1112 Florence Street
Columbia, South Carolina
tel. 803-834-3084
tomclements329@cs.com

From: melissa miller <califpoppy55@yahoo.com>

Sent: Tuesday, June 04, 2013 3:36 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

Moving lethal high-level radioactive waste to a consolidated interim site would not fix any problems at all, and is simply unacceptable. No one charged with protection of public health, safety and security should mandate moving deadly radioactive waste repeatedly. While the waste will have to be moved at some point, it should first make only the short move from the current fuel pools at reactors to dry containers at the same reactor site. Other movement must be only from that site to a permanent location for permanent isolation. A consolidated interim storage site would increase the risks of accidents and security problems while guaranteeing increased exposure to ionizing radiation along public-use highways, rails and waterways--even without an accident.

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I ask you to focus on public health, environmental protection and equity for the future rather than the narrow interests of the nuclear power industry - which would be the only beneficiary of such a thoughtless program. The best way to limit the scope of the radioactive waste problem is, of course, to phase out the use of nuclear power and replace it with clean energy sources. But for the waste that exists now, Hardened On-Site Storage and renewed work on finding a permanent solution is imperative.

Thank you for your consideration.

melissa miller

1621 detroit ave

#21

concord, CA 94520

From: Klaus Steinbrecher <kps@ksteinbrecher.com>

Sent: Tuesday, June 04, 2013 9:36 AM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

Klaus Steinbrecher

P.O. Box 517

P.O. Box 517

Angel Fire, NM 87710

From: Chuck Donegan <chucknet@optonline.net>

Sent: Monday, June 03, 2013 8:51 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

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Please scrap your "discussion draft" and start over.

Sincerely,

Chuck Donegan

231 N. Evergreen Dr.

Selden, NY 11784

From: Sergio Padilla <sergio.dc.pp@gmail.com>

Sent: Monday, June 03, 2013 4:14 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

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Please scrap your "discussion draft" and start over.

Sincerely,

Sergio Padilla

Central park 1 block S.

Somoto, ot 00505

From: Richard Lazzara <shankar@shankar-gallery.com>

Sent: Monday, June 03, 2013 12:30 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

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Please scrap your "discussion draft" and start over.

Sincerely,

Richard Lazzara

1840 Violet Avenue

Boulder, CO 80304

From: Bonnifer Ballard [mailto:bballard@ans.org]

Sent: Friday, May 24, 2013 1:02 PM

To: feedback, nwaste (Energy)

Subject: Nuclear Waste Administration Act of 2013 Feedback

SENT ON BEHALF OF DR. MICHAEL CORRADINI, PRESIDENT, AMERICAN NUCLEAR SOCIETY

To: U.S. Senate Committee on Energy and Natural Resources

The American Nuclear Society (ANS) appreciates the opportunity to comment on the draft Nuclear Waste Administration Act (NWAA). The ANS is a not-for-profit, international, scientific, and educational organization with nearly 12,000 members worldwide. The core purpose of ANS is to promote awareness and understanding of the application of nuclear science and technology. As an organization, it has published a number of position statements regarding the issue of spent fuel and radioactive waste.

We applaud your efforts to re-invigorate the dialogue to address this nation's high-level waste and spent nuclear fuel disposal policy. But we must also express our concern that lack of action by the Congress and the Administration in addressing the Nuclear Waste Policy Act (NWPA) of 1982 et seq. sets a poor precedent for any future legislation on this matter. The NWAA could be a step forward in fulfilling the federal government's responsibilities but it must be done within the context of the NWPA, rather than replace it.

A new nuclear waste management organization is critical for both the continued viability of the nuclear power industry in the United States as well as the credibility of the United States as a global leader in nuclear trade and non-proliferation. While we do not believe the governance structure proposed in the NWAA is the appropriate model, we strongly encourage the committee to continue their efforts to establish and ultimately charter an organization that will address our nation's nuclear waste.

Respectfully submitted,

Dr. Michael Corradini, President

American Nuclear Society

708-579-8202

president@ans.org <mailto:president@ans.org> or

corradini@engr.wisc.edu <mailto:corradini@engr.wisc.edu>

Bonnifer Ballard, MLD

Director, Communications and Outreach

Director, Center for Nuclear Science

& Technology Information

American Nuclear Society

ph 708.579.8230

cell 708.927.2416

bballard@ans.org <mailto:bballard@ans.org>

From: Schaefer, Jame <jame.schaefer@marquette.edu>

Sent: Monday, June 03, 2013 9:59 AM

To: feedback, nwaste (Energy)

Subject:Nuclear Waste Management Bill 2013

I just discovered that the comment period on this legislation has passed, despite the fact that I wrote earlier asking about it. I realize that I am not a constituent of Senator Wyden or any of the other media-identified co-sponsors of the nuclear waste management bill that Senator Wyden aims to put together, but I am interested in legislation pertaining to the disposition of commercial spent fuel. I worked on this issue as a non-government organization leader, appointee of two governors of the State of Wisconsin to its Radioactive Waste Review Board which I chaired when Senator Udall was advancing federal legislation through Congress in 1981, participated on behalf of the State in the DOE's Crystalline Rock Repository Project, and am addressing this issue as an academic researcher and ethicist. I would like to keep abreast of any bill that is drafted and have an opportunity to provide comments based on my extensive experience with this issue particularly from an ethics perspective grounded in prudent decision-making and intergenerational justice.

Thus, please place my e-mail on your list to receive any reports resulting from the comments Senator Wyden's office received on the eight questions asked via http://www.energy.senate.gov/public/index.cfm/nuclear-waste-bill-feedback <http://www.energy.senate.gov/public/index.cfm/nuclear-waste-bill-feedback> and any legislation that is drafted. If you prefer that I proceed through one or both Wisconsin senators, please tell me. I hope, however, that Senator Wyden's office is open to communicating with me directly.

Contacting me via e-mail is the best way to reach and inform me of any progress that is made.

JS

- - - - -

Jame Schaefer, Ph.D.

Associate Professor of Systematic Theology and Ethics

Director, Interdisciplinary Minor in Environmental Ethics

Marquette University

115 Coughlin Hall

Milwaukee WI 53202

414-288-3742 (fax-5548)

www.inee.mu.edu

www.marquette.edu/theology/interfacing

www.marquette.edu/theology/schaefer.shtml

- - - - -

From: Carolyn Friedman <chiroangel@aol.com>

Sent: Monday, June 03, 2013 9:42 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

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Please scrap your "discussion draft" and start over.

Sincerely,

Carolyn Friedman

P.O. Box 17

P.O. Box 17

Willow, NY 12495

From: Stephen Gabor <717tolstoy@gmail.com>

Sent: Sunday, June 02, 2013 4:05 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

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Please scrap your "discussion draft" and start over.

Sincerely,

Stephen Gabor

10301 Lake Avenue, #525

Cleveland, OH 44102

From: Nancy Cantalupo <cantalun@law.georgetown.edu>

Sent: Sunday, June 02, 2013 3:21 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

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Thank you for your consideration.

Nancy Cantalupo

4508 Fourth Rd N

Arlington, VA 22203

From: Shari Katz <Shari.katz@att.net>

Sent: Sunday, June 02, 2013 2:54 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

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Thank you for your consideration.

Shari Katz

729 megan court

westmont, IL 60550

From: Kimberly Wiley <kwiley16@hotmail.com>

Sent: Sunday, June 02, 2013 10:44 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

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Please scrap your "discussion draft" and start over.

Sincerely,

Kimberly Wiley

72 Chimney Hill Rd

72 Chimney Hill Rd

Rochester, NY 14612

From: Gudrun Dennis <dennige@ufl.edu>

Sent: Sunday, June 02, 2013 9:47 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

Gudrun Dennis

5912 NW 26th Street

Gainesville, FL 32653

From: Diana Brunswig-Bosso <dianabb@att.net>

Sent: Saturday, June 01, 2013 8:49 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

Diana Brunswig-Bosso

2838 Rosewood Dr

Arnold, MO 63010

From: Rick Harlan <ricksongrick@gmail.com>

Sent: Saturday, June 01, 2013 3:37 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

NO. We will not accept "interim" storage of high-level radioactive waste; we will not accept our roads and railways burdened with thousands of casks of lethal nuclear waste moving to a "temporary" unsuitable location for the convenience of the nuclear power industry.

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

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Please scrap your "discussion draft" and start over.

Sincerely,

Rick Harlan

206 271 8871

Seattle, WA 98112

From: John Herron <jmherron@webtv.net>

Sent: Friday, May 31, 2013 11:38 PM

To: feedback, nwaste (Energy)

Subject:(SENDER VALIDATION FAILED --- May not have originated from apparent sender) Radwaste discussion draft is unacceptable

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Sincerely,

John Herron

PO box 34201

Charlotte, NC 28234

From: chris morrow <freedomnow2000@gmail.com>

Sent: Friday, May 31, 2013 8:45 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

Moving lethal high-level radioactive waste to a consolidated interim site would not fix any problems at all, and is simply unacceptable. No one charged with protection of public health, safety and security should mandate moving deadly radioactive waste repeatedly. While the waste will have to be moved at some point, it should first make only the short move from the current fuel pools at reactors to dry containers at the same reactor site. Other movement must be only from that site to a permanent location for permanent isolation. A consolidated interim storage site would increase the risks of accidents and security problems while guaranteeing increased exposure to ionizing radiation along public-use highways, rails and waterways--even without an accident.

Further, the de-linking of an interim site from progress on a permanent solution found in both the discussion draft and even more objectionably in the Feinstein/Alexander alternative would serve only to delay permanent isolation of the waste from the environment and make it more likely that a temporary and unsuitable site would become a de facto permanent nuclear waste dump. No state or community should or would accept such an outcome - yet this proposed legislation would virtually ensure that.

I ask you to focus on public health, environmental protection and equity for the future rather than the narrow interests of the nuclear power industry - which would be the only beneficiary of such a thoughtless program. The best way to limit the scope of the radioactive waste problem is, of course, to phase out the use of nuclear power and replace it with clean energy sources. But for the waste that exists now, Hardened On-Site Storage and renewed work on finding a permanent solution is imperative.

Thank you for your consideration.

chris morrow

13739 santa rosa

manassas, VA 20112

From: Art Coates <art.in.vt@gmail.com>

Sent: Friday, May 31, 2013 5:43 PM

To: feedback, nwaste (Energy)

Subject:Comments on the Nuclear Waste Administration Act of 2013

Dear people,

The promise of nuclear power plants producing “electricity too cheap to meter” has become a nightmare of our worst fears.

The true cost of nuclear power is becoming evident in our attempts to clean up after disasters such as Chernobyl, Three Mile Island, and Fukushima. It is also becoming clear that dealing with the “waste” products of nuclear power plants is unmanageable for the systems currently in place. The Nuclear Waste Policy Act of 1982 was an attempt to address the accumulating waste products that have a half-life well beyond that of any government or known civilization, and yet it has failed to provide any suitable solution to rendering the waste harmless or environmentally inert.

The Nuclear Waste Administration Act of 2013, in its attempts to address the failure of the Nuclear Waste Policy Act of 1982, essentially proposes that the nuclear waste be spread out until a means of containment is developed. One of the proposed methods of dealing with such waste is Hardened On-Site Storage (HOSS). Until such time as On-Site-Decontamination is possible, this assures the least likelihood of the spreading out of already existing pollution. Spreading pollution out does not reduce pollution; it only makes it more difficult to isolate and remediate.

We cannot continue to ”beat around the bush” in dealing with these waste products. Given that 1 tablespoon of plutonium is considered maximum safe bodily burden for 700,000 people, and that there are tons of it stored in one location alone, and, that it will be as deadly in 10,000 years as it is today, we have a responsibility to future generations to see that there can even be future generations. These

radioactive waste products do not “go away” if we cover them with dirt, even several thousand feet of dirt – we only just can’t see it anymore – it is still there, deadly as ever.

We need to develop methods of rendering these wastes harmless or environmentally inert for a length of time equal to their natural decay – anything else is ignoring the problem and hoping it will simply go away. It is also failing to meet our responsibilities to our own and other civilizations. We also need to stop producing even one ounce more of them, yesterday. Our planet really is very small and we are damaging its life sustaining abilities more and more every day. Out negligence to deal with our energy production will be our death knell if we do not act soon and act decisively.

In hope of constructive solutions to the problems we face,

Art Coates

1296 Rt. 121 East

Grafton, VT 05146

From: DENNIS R. NELSON, Energy-Environmental Researcher <dennisnelson987@yahoo.com>

Sent: Friday, May 31, 2013 11:36 AM

To: feedback, nwaste (Energy)

Subject:NO 'MOBILE CHERNOBYLS' OR 'FUKUSHIMA HIGHWAYS': RADWASTE DISCUSSION DRAFT IS UNACCEPTABLE!"

CONSOLIDATED "INTERIM" STORAGE AND RELATED MASSIVE RADIOACTIVE WASTE TRANSPORTATION ARE ABSOLUTELY UNACCEPTABLE!! I am one of the original, modern environmental/energy ("nuclear-free") activists ever since around the first "EARTH DAY" (Wed., April 22, 1970), more than 43 years ago. I have a Bachelor of Science (B.S.) Degree in Biology and Environmental Studies from Dana College, Blair, NE. Currently, I am the Vice President of the Chicago-based Nuclear Energy Information Service (NEIS), "Illinois' Nuclear Watchdog Group" for more than 31 years now. Thank you for focusing on the radioactive waste problem--a problem that has been over 70 years in the making! This should be of the UTMOST PRIORITY! While our country's high-level radioactive waste program is INDISPUTABLY BROKEN, the U.S. Senate Energy Committee's "discussion draft" legislation would ONLY EXACERBATE THE PROBLEMS WITH IT.

Moving lethal high-level radioactive waste to a consolidated "interim" site would NOT fix any problems at all, and is SIMPLY UNACCEPTABLE. No one charged with protection of public health, safety, and security should mandate moving deadly radioactive waste repeatedly. While the radwaste will have to be moved at some point, it should first make only the short move from the current spent ("irradiated") fuel pools at reactors to "hardened on-site storage (HOSS)" at the same reactor site. Other movement must be only from that site to a permanent location for permanent isolation. A consolidated "interim" storage site would INCREASE THE RISKS of accidents and security problems while guaranteeing

INCREASED EXPOSURE to doses of ionizing radiation along public-use highways, railways, and waterways--even without an accident.

Furthermore, the "de-linking" of an interim site from progress on a permanent solution found in the discussion draft, and also even more objectionably in the Feinstein/Alexander alternative, would serve ONLY TO DELAY PERMANENT ISOLATION of the radwaste from the ecosphere, and make it more likely that a temporary and unsuitable site would become a de facto permanent radioactive waste site. While NO state or community should or would accept such an outcome, this proposed legislation would VIRTUALLY ENSURE THAT.

I ask you to focus on public health, environmental protection, and equity for the future rather than the narrow interests of the nuclear power industry--which would be the only beneficiary of such a thoughtless program. The BEST WAY of limiting the scope of our radioactive waste problem is, of course, to STOP THE PRODUCTION OF ADDITIONAL HIGH-LEVEL RADIOACTIVE WASTE BY RAPIDLY PHASING OUT THE USE OF COMMERCIAL NUCLEAR POWER; AND REPLACING IT WITH THE "INHERENTLY CLEANER/SAFER," TECHNICALLY/ECONOMICALLY FEASIBLE "'CARBON-FREE/NUCLEAR-FREE' ENERGY PATHWAY" (efficiency, co-generation, and renewables). However, for the radwaste which already exists, "Hardened On-Site Storage," along with the renewed work on finding a truly workable and permanent solution, are IMPERATIVE.

IN CONCLUSION, IT IS BACK TO THE "DRAWING BOARD"-- PLEASE SCRAP YOUR "DISCUSSION DRAFT," AND START OVER!!

Sincerely yours,

DENNIS R. NELSON, Energy-Environmental Researcher

3022 South Archer Avenue, #302

#302

Chicago, IL 60608

From: Christopher LaForge <gosolar@cheqnet.net>

Sent: Thursday, May 30, 2013 6:45 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

Moving lethal high-level radioactive waste to a consolidated interim site would not fix any problems at all, and is simply unacceptable. No one charged with protection of public health, safety and security

should mandate moving deadly radioactive waste repeatedly. While the waste will have to be moved at some point, it should first make only the short move from the current fuel pools at reactors to dry containers at the same reactor site. Other movement must be only from that site to a permanent location for permanent isolation. A consolidated interim storage site would increase the risks of accidents and security problems while guaranteeing increased exposure to ionizing radiation along public-use highways, rails and waterways--even without an accident.

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Please scrap your "discussion draft" and start over.

Sincerely,

Christopher LaForge

77480 Evergreen Rd. Ste. 1

77480 Evergreen Road, Ste. 1

Port Wing, WI 54865

From: Christopher LaForge <gosolar@cheqnet.net>

Sent: Thursday, May 30, 2013 6:45 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

Christopher LaForge

77480 Evergreen Rd. Ste. 1

77480 Evergreen Road, Ste. 1

Port Wing, WI 54865

From: Sandy McComb <sandy0110@frontier.com>

Sent: Thursday, May 30, 2013 3:26 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

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Please scrap your "discussion draft" and start over.

Sincerely,

Sandy McComb

04933 Cecilia Dr. Apt. 501

South Haven, MI 49090

From: Lorella Sturbini <lorella.sturbini@gmail.com>

Sent: Thursday, May 30, 2013 10:46 AM

To: feedback, nwaste (Energy)

Subject:Legal Representative

We require your assistant in collection matter, please let us know if you can handle the case we shall forward you the detail so you can run a conflict check.

Yours Sincerely,

Lorella Sturbini : Resp. Ufficio

F.lli Pani di Pani Rosauro & C. s.n.c.

20085 Locate Triulzi (MI) - ITALY

Via Europa 19/21

Tel.r.a. 02/907.304.23 - 02/907.802.88

Fax. 02/907.91.06

http://www.eleur.it/home_ita.htm

Email: lorella.sturbini@gmail.com

From: Natalie Hanson <nhanson48@comcast.net>

Sent: Thursday, May 30, 2013 6:12 AM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

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Thank you for your consideration.

Natalie Hanson

1815 Briarwood Dr.

Lansing, MI 48917

From: Natalie Hanson <nhanson48@comcast.net>

Sent: Thursday, May 30, 2013 5:45 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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I strongly urge you to scrap your "discussion draft" and start over.

Sincerely,

Natalie Hanson

1815 Briarwood Dr.

Lansing, MI 48917

From: Art Hanson <ahanson47@comcast.net>

Sent: Thursday, May 30, 2013 2:03 AM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

Art Hanson

1815 Briarwood Dr.

Lansing, MI 48917

From: Art Hanson <ahanson47@comcast.net>

Sent: Thursday, May 30, 2013 12:01 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

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Sincerely,

Art Hanson

1815 Briarwood Dr.

Lansing, MI 48917

From: Patrick Dolan <pdolan8248@aol.com>

Sent: Wednesday, May 29, 2013 10:10 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

Patrick Dolan

619 N. Russel

Mount Prospect, IL 60056

From: Stacy Moranville <tlsawyer@csolutions.net>

Sent: Wednesday, May 29, 2013 10:00 PM

To: feedback, nwaste (Energy)

Subject:(SENDER VALIDATION FAILED --- May not have originated from apparent sender) Scrap Consolidated Interim Storage Proposal

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

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Thank you for your consideration.

Stacy Moranville

1134 E. 5700 S.

1134 E. 5700 S.

Ogden, UT 84405

From: Joe Newman <wind_ginny@yahoo.com>

Sent: Wednesday, May 29, 2013 6:52 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

Joe Newman

Box 833

Box 833 Bozeman

Bozeman, MT 59771

From: frederick tuck <tuck_saxman@earthlink.net>

Sent: Wednesday, May 29, 2013 3:06 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

frederick tuck

po box 748

stanardsville, VA 22973

From: Susan Hito Shapiro <theqb03@yahoo.com>

Sent: Wednesday, May 29, 2013 2:12 PM

To: feedback, nwaste (Energy)

Subject:Horrible Ordeal.....Susan Hito Shapiro

I really hope you get this fast. I could not inform anyone about my trip, because it was impromptu. I had to be in Manila, Philippines for a program. The program was successful, but my journey has turned sour. I misplaced my wallet and cell phone on my way back to the hotel i lodge in after i went for sight seeing. The wallet contained all the valuables things i have. Now, my passport is in custody of the hotel management pending when i make payment.

I am sorry if i am inconveniencing you, but i have only very few people to run to now. i will be indeed very grateful if i can get a loan of $2,750 from you. this will enable me sort our hotel bills and get my sorry self back home. I will really appreciate whatever you can afford in assisting me with. I promise to refund it in full as soon as I return. let me know if you can be of any assistance. Please, let me know soonest. Thanks so much..

Susan Hito Shapiro

(845) 294-6879 office

(845) 596-7653 cell

From: Linda Safley <safleyl@gmail.com>

Sent: Wednesday, May 29, 2013 12:50 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

Linda Safley

917 st. dunstans rd.

917 ST. DUNSTANS RD.

Baltimore, MD 21212

From: Katherine Myskowski <kmyskowski@yahoo.com>

Sent: Tuesday, May 28, 2013 8:33 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

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Thank you for your consideration.

Katherine Myskowski

1155C Arnold Dr # 271

#271

martinez, CA 94553

From: john strauss <john.strauss@yale.edu>

Sent: Tuesday, May 28, 2013 8:26 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration

john strauss

50 Burton St

50 Burton St

New Haven, CT 06515

From: William Carman <carmanw3@tx.rr.com>

Sent: Tuesday, May 28, 2013 7:50 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

William Carman

3121 Ripplewood Drive

3121 Ripplewood Drive

Garland, TX 75044

From: Joseph and Diane Williams <dwilliams3880@aol.com>

Sent: Tuesday, May 28, 2013 7:33 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

Joseph and Diane Williams

3880 Stikes Drive SE

3880 Stikes Drive, S.E.

Lacey, WA 98503

From: cheryl erb <canne826@hotmail.com>

Sent: Tuesday, May 28, 2013 3:08 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

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Please scrap your "discussion draft" and start over.

Sincerely,

cheryl erb

1068 park ave NE

1930 stewart st.

salem, OR 97301

From: Anne Salzer <iplayflute@comcast.net>

Sent: Tuesday, May 28, 2013 2:58 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

Anne Salzer

13 Holly Lane

13 Holly Lane

Greenland, NH 03840

From: JIM HEAD <jimheadjr@hotmail.com>

Sent: Tuesday, May 28, 2013 2:22 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

JIM HEAD

15307 NORTHGATE

APT#102

OAK PARK, MI 48237

From: Khalil, Nora F CIV SEA 08 NR <nora.khalil@navy.mil>

Sent: Tuesday, May 28, 2013 2:18 PM

To: feedback, nwaste (Energy)

Subject:Comment from Naval Reactors

Attachments: NR Comment on Discussion Draft Nuclear Waste Administration Act of 2013.docx

To Whom It May Concern,

Attached please find Naval Reactors' comments for consideration in the Nuclear Waste Administration Act of 2013. The attached document was initially sent on Friday, May 24, but due to what appears to be a technical problem, I do not believe it was received in your office. Thank you for your consideration. Please do not hesitate to contact me if I can provide additional information.

Very Respectfully,

Nora Khalil

Naval Reactors

(202) 781-6061

From: George Allerton <gcolby1@rocketmail.com>

Sent: Tuesday, May 28, 2013 2:18 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable!!!

"Interim" storage does not benefit the public; rather it is a long-time nuclear industry goal. The utilities are liable for radioactive waste when it's on their property; when it's moved outside their gates, we taxpayers are liable. That's the real reason the industry wants this non-solution to the waste problem.

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

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Please scrap your "discussion draft" and start over.

Sincerely,

George Allerton

Venice, CA 90291

From: Katriina Adair <kadair@utah.gov>

Sent: Tuesday, May 28, 2013 11:55 AM

To: feedback, nwaste (Energy)

Subject:Governor Herbert's Letter Regarding Nuclear Waste Admin. Act 2013

Attachments: Gov Herbert Nuclear Waste Admin Act Letter.pdf

Dear Mr. Binkley, Mr. Devore, Mr. Nelson, and Mr. Cleary:

Attached is a PDF copy of Utah Governor Herbert's letter to Senators Wyden, Murkowski, Feinstein, and Alexander regarding the Nuclear Waste Administration Act 2013. The original copies of this letter were sent to the senators by FedEx on Friday, May 24, 2013. Please forward this letter to appropriate staff members.

Thank you for your assistance. Should you have any questions regarding this matter, please feel free to contact me.

Sincerely,

Katriina Adair

--

Katriina Adair

Correspondence Coordinator

State of Utah

Office of the Governor

Utah State Capitol, Suite 200

Salt Lake City, Utah 84114-2220

Office 801-538-1514

Fax 801-538-1344

E-mail kadair@utah.gov

From: Elisabeth Fiekowsky <lisny1@hotmail.com>

Sent: Tuesday, May 28, 2013 11:37 AM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

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Thank you for your consideration.

Elisabeth Fiekowsky

PO Box 2476

PO Box 2476

Sebastopol, CA 95473

From: anne hammond <wieb007@hotmail.com>

Sent: Tuesday, May 28, 2013 11:19 AM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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The plants in existancenow are not safe. Most in NE Ohio have NEVER met the regs. If the "waste' MATERIAL goes, so does NE Ohio. There is no way to evacuate the population. You are playing Russian roulette with the aged plants. There is NO SAFE way of disposal. Please consider much less costly clean, safe renewables.

Thank you for your consideration.

anne hammond

5091 neptune dr

5091 Neptune Drive

solon, OH 44139

From: Susan Chandler <studio8@infionline.net>

Sent: Tuesday, May 28, 2013 11:13 AM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

Susan Chandler

3008 N 25th St

Ft Pierce, FL 34946

From: Paul Hoekstra <paulhoek99@gmail.com>

Sent: Tuesday, May 28, 2013 9:03 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

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Please scrap your "discussion draft" and start over.

Sincerely,

Paul Hoekstra

1021 Arlington Blvd. #1210

1021 Arlington Blvd., #1210

ARLINGTON, VA 22209

From: Nikki Wojtalik <nwojtalik@hotmail.com>

Sent: Tuesday, May 28, 2013 7:55 AM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

Nikki Wojtalik

3723 Green Oak Ct.

Parkville, MD 21234

From: Gail Jackson <billgail.hi@gmail.com>

Sent: Tuesday, May 28, 2013 4:51 AM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

Gail Jackson

68-1907 Lina Poepoe St

Waikoloa, HI 96738

From: David Kennedy <dkanomaly@yahoo.com>

Sent: Tuesday, May 28, 2013 12:49 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

David Kennedy

1714 W Indianola Ave

Phoenix, AZ 85015

From: Helen Goldenberg <HelenGolde@aol.com>

Sent: Monday, May 27, 2013 10:50 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

Moving lethal high-level radioactive waste to a consolidated interim site would not fix any problems at all, and is simply unacceptable. No one charged with protection of public health, safety and security should mandate moving deadly radioactive waste repeatedly. While the waste will have to be moved at some point, it should first make only the short move from the current fuel pools at reactors to dry containers at the same reactor site. Other movement must be only from that site to a permanent location for permanent isolation. A consolidated interim storage site would increase the risks of accidents and security problems while guaranteeing increased exposure to ionizing radiation along public-use highways, rails and waterways--even without an accident.

Further, the de-linking of an interim site from progress on a permanent solution found in both the discussion draft and even more objectionably in the Feinstein/Alexander alternative would serve only to delay permanent isolation of the waste from the environment and make it more likely that a temporary and unsuitable site would become a de facto permanent nuclear waste dump. No state or community should or would accept such an outcome - yet this proposed legislation would virtually ensure that.

I ask you to focus on public health, environmental protection and equity for the future rather than the narrow interests of the nuclear power industry - which would be the only beneficiary of such a thoughtless program. The best way to limit the scope of the radioactive waste problem is, of course, to phase out the use of nuclear power and replace it with clean energy sources. But for the waste that exists now, Hardened On-Site Storage and renewed work on finding a permanent solution is imperative.

Thank you for your consideration.

Helen Goldenberg

7739 Southampton Terr Apt G 107

Apt G 107

Tamarac, FL 33321

From: Duncan Porter <duporter@vt.edu>

Sent: Monday, May 27, 2013 10:38 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

As a Scientist I know that moving lethal high-level radioactive waste to a consolidated interim site would not fix any problems at all, and is simply unacceptable. No one charged with protection of public health, safety and security should mandate moving deadly radioactive waste repeatedly. While the waste will have to be moved at some point, it should first make only the short move from the current fuel pools at reactors to dry containers at the same reactor site. Other movement must be only from that site to a permanent location for permanent isolation. A consolidated interim storage site would increase the risks of accidents and security problems while guaranteeing increased exposure to ionizing radiation along public-use highways, rails and waterways--even without an accident.

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Thank you for your consideration.

Duncan Porter

1002 E. Roanoke St.

1002 E. Roanoke St.

Blacksburg, VA 24060

From: Lee Beaty <leebeaty@visi.com>

Sent: Monday, May 27, 2013 9:43 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

Lee Beaty

2801 42nd Ave. So.

Minneapolis, MN 55406

From: Natalie Houghton <tallyho4617@hotmail.com>

Sent: Monday, May 27, 2013 9:16 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

Natalie Houghton

Woods Trl

Prescott, AZ 86305

From: Judith and Joseph Misale <jmisale@cableone.net>

Sent: Monday, May 27, 2013 9:02 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

Judith and Joseph Misale

22210 Cloud Trail

22210 Cloud Trail

Kirksville, MO 63501

From: Peter Reynolds <p.j.reynolds@earthlink.net>

Sent: Monday, May 27, 2013 8:57 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

Peter Reynolds

1024 Edinborough Dr

Durham, NC 27703

From: CARMEN SANCHEZ SADEK <csssadek@gte.net>

Sent: Monday, May 27, 2013 8:15 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

CARMEN SANCHEZ SADEK

3113 Malcolm Avenue

Los Angeles, CA 90034

From: Barbara Ulman <bzbu@sti.net>

Sent: Monday, May 27, 2013 6:21 PM

To: feedback, nwaste (Energy)

Subject:(SENDER VALIDATION FAILED --- May not have originated from apparent sender) Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

Barbara Ulman

43988 Trabuco Rd

43988 Trabuco Rd

Coarsegold, CA 93614

From: Lynn Wilsey <wilseyl@ameriteach.com>

Sent: Monday, May 27, 2013 3:13 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

Lynn Wilsey

5809 S Walden Ct

Centennial, CO 80015

From: Elizabeth Mitchell <rebj@telus.net>

Sent: Monday, May 27, 2013 2:32 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

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Please scrap your "discussion draft" and start over.

Sincerely,

Elizabeth Mitchell

10703 95 Ave

Morinville, AB T8R 1E3

From: Joyce H. Browning <jbrowning@npgcable.com>

Sent: Monday, May 27, 2013 2:28 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Sincerely,

Joyce H. Browning

5 West Cottage Ave

Flagstaff, AZ 86001

From: Gerson and Debbie Lesser <gtl1@nyu.edu>

Sent: Monday, May 27, 2013 1:19 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Sincerely,

Gerson and Debbie Lesser

5800 Arlington Ave.

Bronx, NY 10471

From: Carol McGeehan <cmcgeeha@davenport.edu>

Sent: Monday, May 27, 2013 11:36 AM

To: feedback, nwaste (Energy)

Subject:(SENDER VALIDATION FAILED --- May not have originated from apparent sender) Radwaste discussion draft is unacceptable

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Sincerely,

Carol McGeehan

568 West 31st

Holland, MI 49423

From: James Sullivan <midknight6@lycos.com>

Sent: Monday, May 27, 2013 10:19 AM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

James Sullivan

5509 W Higgins Ave

5509 W HIGGINS AVE

Chicago, IL 60630

From: Carla Elchesen <vettech1203@yahoo.com>

Sent: Monday, May 27, 2013 10:07 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Sincerely,

Carla Elchesen

51 McKinley Avenue

51 McKinley Avenue

Valhalla, NY 10595

From: Jennifer Ho <J.H.Simplerway@gmail.com>

Sent: Monday, May 27, 2013 6:14 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Sincerely,

Jennifer Ho

198 Hoku St., Hilo HI

Hilo, HI 96720

From: Ellyn Sutton <ellynsutton@att.net>

Sent: Monday, May 27, 2013 1:42 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Sincerely,

Ellyn Sutton

P.O. Box 940884

Simi Valley, CA 93094

From: Liana Wong <sakura_bear71@hotmail.com>

Sent: Monday, May 27, 2013 12:57 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

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Please scrap your "discussion draft" and start over.

Sincerely,

Liana Wong

1086 Vista Grande

Millbrae, CA 94030

From: nancy corr <nancyellencorr@hotmail.com>

Sent: Monday, May 27, 2013 12:46 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

nancy corr

23025 17th ave so

23025 17th ave so, des moines, wa. 98198

des moines, WA 98198

From: Thea Spaeth <thea@laplaza.org>

Sent: Monday, May 27, 2013 12:35 AM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

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Thank you for your consideration.

Thea Spaeth

hcr 65 box 86

HCR 65 Box 86

ojo sarco, NM 87521

From: Sarah Eisenberg <sarahsnbrg@yahoo.com>

Sent: Monday, May 27, 2013 12:31 AM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

Sarah Eisenberg

5301 N. Lake St.

5301 N. Lake St.

McHenry, IL 60050

From: Margaret Lorenz <heymali@fastmail.fm>

Sent: Sunday, May 26, 2013 11:49 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

Margaret Lorenz

1321 Bitter Creek Rd

Duncan, AZ 85534

From: Kirk Ramble <karamble@comcast.net>

Sent: Sunday, May 26, 2013 11:42 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

Kirk Ramble

458 Penna. Ave.

458 Penna. Ave.

York, PA 17404

From: Joanne L Schwart <jschwart@alum.rpi.edu>

Sent: Sunday, May 26, 2013 11:31 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

Joanne L Schwart

1104 6th Avenue Watervliet

Watervliet, NY 12189

From: Teresa Cowley <h2b0a@yahoo.com>

Sent: Sunday, May 26, 2013 11:21 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

Teresa Cowley

612 West Ella

Kingsville, TX 78363

From: Linda Nedderman-Eaton <lindanedd2001@yahoo.com>

Sent: Sunday, May 26, 2013 11:20 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

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Thank you for your consideration.

Linda Nedderman-Eaton

50 Argyle St.

50 Argyle St.

Cranston, RI 02920

From: Ellyn Sutton <ellynsutton@att.net>

Sent: Sunday, May 26, 2013 10:51 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

Ellyn Sutton

P.O. Box 940884

Simi Valley, CA 93094

From: Star Womanspirit <starwomanspirit@gmail.com>

Sent: Sunday, May 26, 2013 10:25 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Sincerely,

Star Womanspirit

408 Elmhurst Lane

Portsmouth, VA 24091

From: Helen Kinlan <pbjhak@gmail.com>

Sent: Sunday, May 26, 2013 9:50 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

Helen Kinlan

1117 Trotting Horse Lane

Great Falls, VA 22066

From: Angie Barkley <angie.barkley@gmail.com>

Sent: Sunday, May 26, 2013 9:06 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Sincerely,

Angie Barkley

1546 Comox St.

Vancouver, BC V6G 1P2

From: Barbara Harrington <bjharrington@greynun.org>

Sent: Sunday, May 26, 2013 8:16 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Sincerely,

Barbara Harrington

1750 Quarry Road

1750 Quarry Road

Yardley, PA 19067

From: kay ward <kartichoke@aol.com>

Sent: Sunday, May 26, 2013 7:42 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

kay ward

p o box 1409

santa monica, CA 90406

From: Ginny Schneider <ginnyschneider@hotmail.com>

Sent: Sunday, May 26, 2013 7:27 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

Ginny Schneider

25 Park St

25 Park St

Henniker, NH 03242

From: Gloria Foster <glofost@gmail.com>

Sent: Sunday, May 26, 2013 7:12 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Sincerely,

Gloria Foster

3906 Chatham Lane

Canandaigua, NY 14424

From: Carolyn Rhazi <whysir01@hotmail.com>

Sent: Sunday, May 26, 2013 5:06 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

Moving lethal high-level radioactive waste to a consolidated interim site would not fix any problems at all, and is simply unacceptable. No one charged with protection of public health, safety and security should mandate moving deadly radioactive waste repeatedly. While the waste will have to be moved at some point, it should first make only the short move from the current fuel pools at reactors to dry containers at the same reactor site. Other movement must be only from that site to a permanent location for permanent isolation. A consolidated interim storage site would increase the risks of accidents and security problems while guaranteeing increased exposure to ionizing radiation along public-use highways, rails and waterways--even without an accident.

Further, the de-linking of an interim site from progress on a permanent solution found in both the discussion draft and even more objectionably in the Feinstein/Alexander alternative would serve only to delay permanent isolation of the waste from the environment and make it more likely that a temporary and unsuitable site would become a de facto permanent nuclear waste dump. No state or community should or would accept such an outcome - yet this proposed legislation would virtually ensure that.

I ask you to focus on public health, environmental protection and equity for the future rather than the narrow interests of the nuclear power industry - which would be the only beneficiary of such a thoughtless program. The best way to limit the scope of the radioactive waste problem is, of course, to phase out the use of nuclear power and replace it with clean energy sources. But for the waste that exists now, Hardened On-Site Storage and renewed work on finding a permanent solution is imperative.

Thank you for your consideration.

Carolyn Rhazi

26901 Soria Circle

Mission Viejo, CA 92691

From: Janet Martucci <auntigen58@aol.com>

Sent: Sunday, May 26, 2013 5:04 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

Janet Martucci

2891 Northview Dr

Roanoke, VA 24015

From: Crystal Conklin <eidhlyn@hotmail.com>

Sent: Sunday, May 26, 2013 4:56 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

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Please scrap your "discussion draft" and start over.

Sincerely,

Crystal Conklin

5902 W Royal Palm

#82

Glendale, AZ 85302

From: Brian Smith <curien1000@hotmail.com>

Sent: Sunday, May 26, 2013 4:23 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Sincerely,

Brian Smith

724 E. Culton St.

Warrensburg, MO 64093

From: Helen jo Williams <Jowms@tampabay.rr.com>

Sent: Sunday, May 26, 2013 3:07 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

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Thank you for your consideration.

Helen jo Williams

1337 Perico pointe circle

I have no street 2 or 3

Bradenton, FL 34209

From: Thomas Maginniss <BoboboFan@gmail.com>

Sent: Sunday, May 26, 2013 1:25 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

Thomas Maginniss

14178 Warrenton Rd.

Goldvein, VA 22720

From: Helen jo Williams <Jowms@tampabay.rr.com>

Sent: Sunday, May 26, 2013 12:42 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

Helen jo Williams

1337 Perico pointe circle

I have no street 2 or 3

Bradenton, FL 34209

From: Don Bianchi <biaprop@bresnan.net>

Sent: Sunday, May 26, 2013 9:42 AM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

Don Bianchi

707 Minnesota St. # BBelgrade

Belgrade, MT 59714

From: Paul Moss <paul@themailpath.com>

Sent: Sunday, May 26, 2013 9:07 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

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Please scrap your "discussion draft" and start over.

Sincerely,

Paul Moss

1849 Whitaker St.

White Bear Lake, MN 55110

From: Jim Oxyer <kylthrfaerie@insightbb.com>

Sent: Sunday, May 26, 2013 7:24 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

Jim Oxyer

1210 S Brook St Unit 1

1210 s Brook St Unit 1

Louisville, KY 40203

From: Gina McDaniel <nutsywb13@gmail.com>

Sent: Sunday, May 26, 2013 7:20 AM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

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Thank you for your consideration.

Gina McDaniel

5348 Anchor Ct

Fairfax, VA 22032

From: George Stadnik <gstadnik@hotmail.com>

Sent: Sunday, May 26, 2013 6:28 AM

To: feedback, nwaste (Energy)

Subject:Radioactive waste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

George Stadnik

24-66 44 Street

Queens

Astoria, NY 11103

From: Maxine McKenzie-Materowski <maxine@optonline.net>

Sent: Sunday, May 26, 2013 2:25 AM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

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Thank you for your consideration.

Maxine McKenzie-Materowski

5762 Okeechobee Blvd., 404

Same

WPB, FL 33417

From: Marie Russell-Barker <russell.464@gmail.com>

Sent: Sunday, May 26, 2013 12:14 AM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

Marie Russell-Barker

4941 W. Jackson Blvd.

4941 W. Jackson Blvd.

Chicago, IL 60644

From: Brian Smith <curien1000@hotmail.com>

Sent: Saturday, May 25, 2013 11:43 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Sincerely,

Brian Smith

724 E. Culton St.

Warrensburg, MO 64093

From: Anthony Tsang Yee <newsyfoils@aol.com>

Sent: Saturday, May 25, 2013 11:14 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Better yet fund the development of nuclear reactors that can turn this waste into energy and leave about 2% final waste.

MIT and one other University has already started research into this alternative. Now would be the time to finalize the development and bring these new class of reactors on line to help solve the problem.

Thank you for your consideration.

Anthony Tsang Yee

332

Leonia, NJ 07605

From: Lawrence Jacksina <9bitte@embarqmail.com>

Sent: Saturday, May 25, 2013 10:42 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Temporary storage for permanent radioactive waste is pretty dumb. I'd even say stupid.

Thank you for your consideration.

Lawrence Jacksina

1238 Timbebranch Ct.

Charlottesville, VA 22902

From: Patricia Brooks <pbrooks37@comcast.net>

Sent: Saturday, May 25, 2013 10:41 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

Moving lethal high-level radioactive waste to a consolidated interim site would not fix any problems at all, and is simply unacceptable. No one charged with protection of public health, safety and security should mandate moving deadly radioactive waste repeatedly. While the waste will have to be moved at some point, it should first make only the short move from the current fuel pools at reactors to dry containers at the same reactor site. Other movement must be only from that site to a permanent location for permanent isolation. A consolidated interim storage site would increase the risks of accidents and security problems while guaranteeing increased exposure to ionizing radiation along public-use highways, rails and waterways--even without an accident.

Further, the de-linking of an interim site from progress on a permanent solution found in both the discussion draft and even more objectionably in the Feinstein/Alexander alternative would serve only to delay permanent isolation of the waste from the environment and make it more likely that a temporary and unsuitable site would become a de facto permanent nuclear waste dump. No state or community should or would accept such an outcome - yet this proposed legislation would virtually ensure that.

I ask you to focus on public health, environmental protection and equity for the future rather than the narrow interests of the nuclear power industry - which would be the only beneficiary of such a thoughtless program. The best way to limit the scope of the radioactive waste problem is, of course, to phase out the use of nuclear power and replace it with clean energy sources. But for the waste that exists now, Hardened On-Site Storage and renewed work on finding a permanent solution is imperative.

Thank you for your consideration.

Patricia Brooks

2042Ward Street

Berkeley, CA 94703

From: Brian Smith <curien1000@hotmail.com>

Sent: Saturday, May 25, 2013 9:42 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

Brian Smith

702 Warrior Pass

Warrenton, MO 63383

From: Joan Budd <Joanbudd@hotmail.com>

Sent: Saturday, May 25, 2013 7:47 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

Joan Budd

48-6 Foxwood Dr

48-6 Foxwood Drive

Pleasantville, NY 10570

From: Beverly Thompson <bevthompson1545@gmail.com>

Sent: Saturday, May 25, 2013 7:46 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

Beverly Thompson

PO Box 104

Craigsville, VA 24430

From: judith hazelton <pheralicious@yahoo.com>

Sent: Saturday, May 25, 2013 7:14 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

judith hazelton

1617 us rt 7

1617 US Rt 7 S

bennington, VT 05201

From: Bettina Stokes <hestokes@msn.com>

Sent: Saturday, May 25, 2013 5:41 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

Bettina Stokes

12125 SE 13th St

12456 S.E. 26th Pl

Bellevue, WA 98005

From: Robert Alvarez <kitbob@erols.com>

Sent: Saturday, May 25, 2013 3:50 PM

To: feedback, nwaste (Energy)

Subject:revised comments

Attachments: May 25 comments on NWPA discussion draft BA.pdf

Greetings --

Attached are my slightly edited comments.

Regards,

Bob Alvarez

Senior Scholar

Institute fr Policy Studies

From: rosemary rehm <naveeno@sbcglobal.net>

Sent: Saturday, May 25, 2013 3:02 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

rosemary rehm

217 center street

san rafael, CA 94901

From: Jay Levy <jjl27@juno.com>

Sent: Saturday, May 25, 2013 2:34 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

As chair of Takoma Park, Maryland's Nuclear Free Zone Committe,I am pleased to learn of your concern about on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

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phase out the use of nuclear power and replace it with clean energy sources. But for the waste that exists now, Hardened On-Site Storage and renewed work on finding a permanent solution is imperative.

Please scrap your "discussion draft" and start over.

Sincerely, Jay J. Levy

Jay Levy

7431Baltimore Ave

7431 Baltimore Ave

Takoma Park, MD 20912

From: Michael Neil <mneil@du.edu>

Sent: Saturday, May 25, 2013 2:24 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

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Please scrap your "discussion draft" and start over.

Sincerely,

Michael Neil

2551 S. High St.

2551 S. High St.

Denver, CO 80210

From: Jean Naples <jnaples@jhsph.edu>

Sent: Saturday, May 25, 2013 2:07 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

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Please scrap your "discussion draft" and start over.

Sincerely,

Jean Naples

9 Benson Street

9 Benson Street, West Haverstraw, New York

West Haverstraw, NY 10993

From: Michael Marquardt <mrmarquar@msn.com>

Sent: Saturday, May 25, 2013 1:24 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

Nuclear power is a crazed idea because of the waste issue...and, of course, there is the example of recent events in Japan. I don't think it is possible to safely store the waste, but until this issue is dealt with satisfactorily, I will never support nuclear energy!

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

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Thank you for your consideration.

Michael Marquardt

580 Reeder Mesa Rd

Whitewater, CO 81527

From: Jean Naples <jnaples@jhsph.edu>

Sent: Saturday, May 25, 2013 1:15 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

Jean Naples

9 Benson Street

9 Benson Street, West Haverstraw, New York 10993

West Haverstraw, NY 10993

From: Les Wilson <lesliew158@aol.com>

Sent: Saturday, May 25, 2013 12:52 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

Les Wilson

196 East Pearl Street

Torrington, CT 06790

From: Lareta Finger <lfinger@messiah.edu>

Sent: Saturday, May 25, 2013 12:40 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

Lareta Finger

3146 Flint Avenue

Harrisonburg, VA 22801

From: Rex Sanders <rexwsanders@gmail.com>

Sent: Saturday, May 25, 2013 12:24 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

Rex Sanders

1700 Magnolia Place

2628 Boykin Place

Phenix City, AL 36867

From: Robert Lincoln <guess7808@yahoo.com>

Sent: Saturday, May 25, 2013 12:08 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

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Please scrap your "discussion draft" and start over.

Sincerely,

Robert Lincoln

194 columbian ave.

194 columbian ave.

Rutland, VT 05701

From: John True <jtrue57@yahoo.com>

Sent: Saturday, May 25, 2013 11:58 AM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

John True

285 Jefferson Drive

Palmyra, VA 22963

From: Allan Yorkowitz <allanyork618@gmail.com>

Sent: Saturday, May 25, 2013 11:50 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

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Please scrap your "discussion draft" and start over.

Sincerely,

Allan Yorkowitz

49 Albemarle Rd

49 Albemarle Rd.

Colonia, NJ 07067

From: Duane Baker <DBaker007@aol.com>

Sent: Saturday, May 25, 2013 11:36 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Sincerely,

Duane Baker

4677 Houston Pond Drive

Powell, OH 43065

From: Sidney Goodman <goodmans1@asme.org>

Sent: Saturday, May 25, 2013 11:17 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Sincerely,

Sidney Goodman

158 Grandview Lane

Mahwah, NJ 07430

From: Frances Smith <frances.smith@frontier.com>

Sent: Saturday, May 25, 2013 11:10 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

Frances Smith

Dansville, NY 14437

From: Donna Seymour <onthego@northnet.org>

Sent: Saturday, May 25, 2013 10:44 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

Donna Seymour

8 Cedar Street

Potsdam, NY 13676

From: Nancy Sossner <nsossner@hotmail.com>

Sent: Saturday, May 25, 2013 5:45 AM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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phase out the use of nuclear power and replace it with clean energy sources. But for the waste that exists now, Hardened On-Site Storage and renewed work on finding a permanent solution is imperative.

Thank you for your consideration.

Nancy Sossner

2185 S. Finley #1606

#1606

Lombard, IL 60148

From: Sally Moore <sallymoore81@hotmail.com>

Sent: Saturday, May 25, 2013 4:58 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

Sally Moore

15/321 Beaconsfield Parade

St Kilda, ot 3182

From: Jelica Roland <jroland@email.t-com.hr>

Sent: Saturday, May 25, 2013 3:37 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

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Please scrap your "discussion draft" and start over.

Sincerely,

Jelica Roland

Sv. Martin 64

Buzet, ot 52420

From: Laurens Perry <lovingness37@gmail.com>

Sent: Saturday, May 25, 2013 2:15 AM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

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Thank you for your consideration.

Laurens Perry

Bridge Creek Rd. #34

Myers Flat, CA 95554

From: Paul Cameron <paulcameron1942@hotmail.com>

Sent: Saturday, May 25, 2013 2:04 AM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

Paul Cameron

3009 Furneaux Ln

3009 Furneaux Ln.

Carrollton, TX 75007

From: Nathan Judy <nathanejudy@lavabit.com>

Sent: Saturday, May 25, 2013 1:57 AM

To: feedback, nwaste (Energy)

Subject:(SENDER VALIDATION FAILED --- May not have originated from apparent sender) Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

Nathan Judy

2 W. 70th St.

Kansas City, MO 64113

From: TERRY GONSER <MRTEELEYGO@YAHOO.COM>

Sent: Saturday, May 25, 2013 1:56 AM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

TERRY GONSER

614 110TH sT S

8001 s hosmer c107

TACOMA, WA 98444

From: HANNAH FREED <girlinterrupted@mail2world.com>

Sent: Saturday, May 25, 2013 1:41 AM

To: feedback, nwaste (Energy)

Subject:(SENDER VALIDATION FAILED --- May not have originated from apparent sender) Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

HANNAH FREED

145 S. Holliston, Apt E

Pasadena, CA 91106

From: Ellyn Sutton <ellynsutton@hotmail.com>

Sent: Saturday, May 25, 2013 1:27 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Sincerely,

Ellyn Sutton

P.O. Box 18754

Spokane, WA 99228

From: Anna Thurman <akthurman@hotmail.com>

Sent: Saturday, May 25, 2013 1:27 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Sincerely,

Anna Thurman

870 Anson Street

Simi Valley, CA 93065

From: Katrin Rosinski <dancingqueen312000@yahoo.com>

Sent: Saturday, May 25, 2013 12:51 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Sincerely,

Katrin Rosinski

30710 Normal

Roseville, MI 48066

From: Jody Harlan <hwinc@cox.net>

Sent: Saturday, May 25, 2013 12:35 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Further, the de-linking of an interim site from progress on a permanent solution found in both the discussion draft and even more objectionably in the Feinstein/Alexander alternative would serve only to delay permanent isolation of the waste from the environment and make it more likely that a temporary and unsuitable site would become a de facto permanent nuclear waste dump. No state or community should or would accept such an outcome--yet this proposed legislation would virtually ensure that.

I ask you to focus on public health, environmental protection and equity for the future rather than the narrow interests of the nuclear power industry--which would be the only beneficiary of such a thoughtless program. The best way to limit the scope of the radioactive waste problem is, of course, to phase out the use of nuclear power and replace it with clean energy sources. But for the waste that exists now, Hardened On-Site Storage and renewed work on finding a permanent solution is imperative.

Please scrap your "discussion draft" and start over.

Sincerely,

Jody Harlan

426 Poplar Ave

Yukon, OK 73099

From: L Steele <wentwest@peoplepc.com>

Sent: Saturday, May 25, 2013 12:16 AM

To: feedback, nwaste (Energy)

Subject:NO CONSOLIDATED INTERIM NUCLEAR WASTE STORAGE!

Thank you for focusing on the radioactive waste problem.

It should be of utmost priority.

The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

Moving lethal high-level radioactive waste to a consolidated interim site would not fix any problems at all, and is simply unacceptable.

No one charged with protection of public health, safety and security should mandate moving deadly radioactive waste repeatedly.

While the waste will have to be moved at some point, it should first make only the short move from the current fuel pools at reactors to dry containers at the same reactor site.

Other movement must be only from that site to a permanent location for permanent isolation.

A consolidated interim storage site would increase the risks of accidents and security problems while guaranteeing increased exposure to ionizing radiation along public-use highways, rails and waterways--even without an accident.

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The best way to limit the scope of the radioactive waste problem is, of course, to phase out the use of nuclear power and replace it with clean energy sources.

But for the waste that exists now, Hardened On-Site Storage and renewed work on finding a permanent solution is imperative.

Seriously, this stuff is poison.

Put it away for good.

L Steele

PO Box 1133

Olathe, CO 81425

From: LInda Edwards <lizcarmine@yahoo.com>

Sent: Saturday, May 25, 2013 12:11 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

LInda Edwards

1975 SE Crystal Lake Dr. Unit 154

Corvallis, OR 97333

From: Renate Brown <gocoffee@yahoo.com>

Sent: Friday, May 24, 2013 11:45 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

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Thank you for your consideration.

Renate Brown

1407 Napoleon Ave. #B

2132 Marengo St.

New Orleans, LA 70115

From: Peter Broderson <Peterbroderson@hotmail.com>

Sent: Friday, May 24, 2013 11:28 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

Peter Broderson

3865 Imaginary Rd.

3865 Imaginary Td TLH FL.

Tallahassee, FL 32309

From: Wendy Tanowitz <green-girl@comcast.net>

Sent: Friday, May 24, 2013 11:20 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Sincerely,

Wendy Tanowitz

3218 41st Way NW

Olympia, WA 98502

From: Alec Valentine <acvalenti@yahoo.com>

Sent: Friday, May 24, 2013 11:04 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

Alec Valentine

216 W. Virginia Dr.

Clinton, MS 39056

From: Martha Desrosiers <trapezemom@yahoo.com>

Sent: Friday, May 24, 2013 10:57 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

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Thank you for your consideration.

Martha Desrosiers

11878 Breton Ct.

Reston, VA 20191

From: lani baker <waterripple1@aol.com>

Sent: Friday, May 24, 2013 10:44 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

lani baker

14707 shongaska rd

omaha n tee

omaha, NE 68112

From: Patricia Poggi <Poggisworld@aol.com>

Sent: Friday, May 24, 2013 10:37 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Sincerely,

Patricia Poggi

1744 s humboldt st

Denver, CO 80210

From: erin yarrobino <bggr34@aol.com>

Sent: Friday, May 24, 2013 10:32 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

erin yarrobino

84-23 109 AVE

84-23 109 ave

OZONE PARK, NY 11417

From: Roberta Dees <rdees@peregrine.net>

Sent: Friday, May 24, 2013 10:32 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Sincerely,

Roberta Dees

15627 Thomas Road

15627 Thomas Road

Charlotte, NC 28278

From: Kenneth Gibson <kennethtgibson@gmail.com>

Sent: Friday, May 24, 2013 10:28 PM

To: feedback, nwaste (Energy)

Subject:Radioactive nuclear waste discussion draft is unacceptable

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

Moving lethal, high-level radioactive waste to a consolidated interim site would not fix any problems at all, and is simply unacceptable. No one charged with protection of public health, safety and security should mandate moving deadly radioactive waste repeatedly. While the waste will have to be moved at some point, it should first make only the short move from the current fuel pools at reactors to dry containers at the same reactor site or a relatively nearby, more secure site. Any selected "local" site should be relatively safe from earthquake, tsunami or source of flooding. Other movement must be only from that site to a permanent location for permanent isolation. A consolidated interim storage site would increase the risks of accidents and security problems while guaranteeing increased exposure to ionizing radiation along public-use highways, rails and waterways--even without an accident. Moreover, the risk of an unplanned event will be heightened during any shipment of the waste material.

It is unlikely that any well-informed community or state would willingly welcome all the nuclear waste and spent fuel utilities have created. Nor should one. In fact, it is important that the "beneficiaries" of nuclear power understand and suffer the consequences. Separating these dangerous wastes from the waste creators establishes a moral hazard that must be avoided. Perpetuating the myth of some future when a "remote-from-everyone" site will provide perpetual and safe storage of these wastes is simply an invitation to keep creating them. It must be realized that the world does not need nuclear power (with the possible exception of Admiral Rickover's navy). Windpower, PV, CPV, CSP, geothermal and other solar thermal technologies combined with hydropower and hydrostorage planning can replace all nuclear and carbon fuel energy sources. We should be focused on making this transition over the next 40 to 60 years. Social subsidies that disguise the true cost of the nuclear fuel cycle simply delay this critical process. Don't sweep nuclear fuel risks under the rug. Don't create a supervisory structure for these environmental hazards that excludes the EPA.

I ask you to focus on public health, environmental protection and equity for the future rather than the narrow interests of the nuclear power industry--which would be the only beneficiary of such a thoughtless program. The best way to limit the scope of the radioactive waste problem is to phase out the use of nuclear power and replace it with clean energy sources. But for the waste that exists now, Hardened On-Site Storage and renewed work on finding better solutions is imperative.

Please scrap your "discussion draft" and start over. Your responsibility to the people, and our children - al the world's children is over-riding. America must provide leadership, now!

Sincerely,

Kenneth Gibson

5090 Kearney Avenue

Oakland, CA 94602

From: Janice Dlugosz <gjjak52@comcast.net>

Sent: Friday, May 24, 2013 9:38 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Sincerely,

Janice Dlugosz

409 Compass Ave

Beachwood, NJ 08722

From: ERIN YARROBINO <bggr34@aol.com>

Sent: Friday, May 24, 2013 9:34 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

ERIN YARROBINO

84-23 109 ave

p.o. box 267

ozone park, NY 11417

From: Tom Neill <tneill64@yahoo.com>

Sent: Friday, May 24, 2013 9:02 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

Tom Neill

52nd St

Virginia Beach, VA 23451

From: Michael Swanson <swanson71258@hotmail.com>

Sent: Friday, May 24, 2013 8:11 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

Michael Swanson

1121 W. Clay St.

Lancaster, PA 17603

From: nancy Kelley-Gillard <ndgillard@ne.rr.com>

Sent: Friday, May 24, 2013 7:48 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

nancy Kelley-Gillard

72 Reservoir St.

Keene, NH 03431

From: Nick Melander <eldon_seer@hotmail.com>

Sent: Friday, May 24, 2013 7:39 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

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Thank you for your consideration.

Nick Melander

1497 South 300 East

Salt Lake City, UT 84115

From: Val Leonardi <Valleonardi@hotmail.com>

Sent: Friday, May 24, 2013 7:32 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

Val Leonardi

3053 kenwood

3053 kenwood

Toledo, OH 43606

From: Lisa Sood <lisa_sood@hotmail.com>

Sent: Friday, May 24, 2013 7:32 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Sincerely,

Lisa Sood

Oaklands Avenue

Watford, ot WD19 4LQ

From: Josh Maresca <joshmaresca@yahoo.com>

Sent: Friday, May 24, 2013 7:05 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

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Thank you for your consideration.

Josh Maresca

7612 Melody Drive

Rohnert Park, CA 94928

From: Kevin Kamps <kevin@beyondnuclear.org>

Sent: Friday, May 24, 2013 7:02 PM

To: feedback, nwaste (Energy)

Subject:Completed executive summary for Kevin Kamps, Beyond Nuclear

Attachments: Executive_Summary_Kevin_Kamps_Beyond_Nuclear-1.doc

I requested an extension past the 5 PM deadline so that I could boil down my responses to your Questions #2 to 8, as well as my Additional Thoughts, into the Executive Summary form you requested.

So, if this is allowable, please delete the blank Executive Summary form I previously submitted with the rest of my responses, and additional thoughts, and kindly replacement it with the attached, completed Executive Summary.

Thanks.

--

Kevin Kamps

Radioactive Waste Watchdog

Beyond Nuclear

6930 Carroll Avenue, Suite 400

Takoma Park, Maryland 20912

Office: (301) 270-2209 ext. 1

Cell: (240) 462-3216

Fax: (301) 270-4000

kevin@beyondnuclear.org

www.beyondnuclear.org

Beyond Nuclear aims to educate and activate the public about the connections between nuclear power and nuclear weapons and the need to abandon both to safeguard our future. Beyond Nuclear advocates for an energy future that is sustainable, benign and democratic.

From: John Bromer <jbromer@optonline.net>

Sent: Friday, May 24, 2013 6:49 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

John Bromer

325 Silver Hill Rd

325 Silver Hill Rd. Easton, CT 06612

Easton, CT 06612

From: Pamela Clark <pamelyns@yahoo.com>

Sent: Friday, May 24, 2013 6:31 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

Pamela Clark

1521 N Argonne Rd

Ste C 238

Spokane Valley, WA 99212

From: Pamela Hosler <pamhosler@hotmail.com>

Sent: Friday, May 24, 2013 6:14 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

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I think it is entirely likely that any interim storage area would become permanent, even though it would not be a suitable site for permanent. It is about impossible to find a permanent storage area, which is why we should discontinue nuclear and be investing in renewables.

I ask you to focus on public health, environmental protection and equity for the future rather than the narrow interests of the nuclear power industry - which would be the only beneficiary of such a thoughtless program. The best way to limit the scope of the radioactive waste problem is, of course, to

phase out the use of nuclear power and replace it with clean energy sources. But for the waste that exists now, Hardened On-Site Storage and renewed work on finding a permanent solution is imperative.

Thank you for your consideration.

Pamela Hosler

6571 Arsenal St

6571 Arsenal St

St Louis, MO 63139

From: Stuart Oskamp <stuart.oskamp@cgu.edu>

Sent: Friday, May 24, 2013 6:14 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

Stuart Oskamp

891 W. Bonita Ave.

Claremont, CA 91711

From: cindy sims <cllattanzio@tx.rr.com>

Sent: Friday, May 24, 2013 6:11 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Sincerely,

cindy sims

7335 edgerton

dallas, TX 75231

From: Lisa Ganuelas <LisaGanuelas@ctuir.org>

Sent: Friday, May 24, 2013 6:00 PM

To: feedback, nwaste (Energy)

Subject:Nuclear Waste Administration Act of 2013 - Comments from the Confederated Tribes of the Umatilla Indian Reservation

Attachments: Question1_Minthorn_CTUIR Umatilla FINAL.doc; Question2_Minthorn_CTUIR Umatilla FINAL.doc; Question3_Minthorn_CTUIR Umatilla FINAL.doc; Question4_Minthorn_CTUIR Umatilla FINAL.doc; Question5_Minthorn_CTUIR Umatilla FINAL.docx; Question6_Minthorn_CTUIR Umatilla FINAL.doc; Question7_Minthorn_CTUIR Umatilla FINAL.doc; Question8_Minthorn_CTUIR Umatilla FINAL.doc

Attached, please find out comments to the 8 questions from Nuclear Waste Bill Feedback link.

I apologize they are an hour late but we are 3 hours ahead.

Let me know if you are able to accept these comments.

Thank you.

Lisa Ganuelas, Legislative Coordinator

Confederated Tribes of the Umatilla Indian Reservation

46411 Timine Way

Pendleton, Oregon 97801

Direct Line & Fax: 541-429-7392

E-mail: lisaganuelas@ctuir.org

The opinions expressed by the author are his or her own and are not necessarily those of the Confederated Tribes of the Umatilla Indian Reservation. The information, contents and attachments in this email are Confidential and Private. --

From: Duane Welsch <duannewelsch@gmail.com>

Sent: Friday, May 24, 2013 5:57 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

Duane Welsch

619 Alden Road

619 Alden Road

Claremont, CA 91711

From: Phil Mahowald <pmahowald@piic.org>

Sent: Friday, May 24, 2013 5:49 PM

To: feedback, nwaste (Energy)

Subject:Comments on Nuclear Waste Administration Act of 2013

Attachments: doc20130524154311.pdf

Greetings:

Attached please find the Prairie Island Indian Community's comments on the draft Nuclear Waste Administration Act of 2013. Please feel free to contact me if you have any questions or need any additional information.

Sincerely,

Philip R. Mahowald

General Counsel

Prairie Island Indian Community

5636 Sturgeon Lake Road

Welch, MN 55089

Direct: (651) 267-4006

The information contained in this email message is privileged and confidential information intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please immediately notify us by telephone at 800-554-5473, ext. 4136 or by email to legal@piic.org. Thank you.

--

From: Taigen Leighton <taigen108@gmail.com>

Sent: Friday, May 24, 2013 5:42 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

We currently have no safe or reliable regulatory system to monitor nuclear waste, and the consolidation of this waste will create many more problems and threats to our safety and national security due to the dangers of transport, the waste's consolidation as a potential target, and the increased peril of serious catastrophic nuclear "accidents." This is not a solution but a further delay and endangerment.

Moving lethal high-level radioactive waste to a consolidated interim site would not fix any problems at all, and is simply unacceptable. No one charged with protection of public health, safety and security

should mandate moving deadly radioactive waste repeatedly. While the waste will have to be moved at some point, it should first make only the short move from the current fuel pools at reactors to dry containers at the same reactor site. Other movement must be only from that site to a permanent location for permanent isolation. A consolidated interim storage site would increase the risks of accidents and security problems while guaranteeing increased exposure to ionizing radiation along public-use highways, rails and waterways--even without an accident.

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Please scrap your "discussion draft" and start over.

Sincerely,

Taigen Leighton

4845 N.Talman Ave.

Chicago, IL 60625

From: Lynn Camhi <camhi@stare.com>

Sent: Friday, May 24, 2013 5:39 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

Lynn Camhi

95 Marshall Ave.

Petaluma, CA 94952

From: Shani Young <myoungbusiness@gmail.com>

Sent: Friday, May 24, 2013 5:33 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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I ask you to focus on public health, environmental protection and equity for the future rather than the narrow interests of the nuclear power industry--which would be the only beneficiary of such a thoughtless program. The best way to limit the scope of the radioactive waste problem is, of course, to phase out the use of nuclear power and replace it with clean energy sources. But for the waste that exists now, Hardened On-Site Storage and renewed work on finding a permanent solution is imperative.

Please scrap your "discussion draft" and start over.

Sincerely,

Shani Young

Carmichael, CA 95608

From: Dorri Raskin <bunnyraskin@yahoo.com>

Sent: Friday, May 24, 2013 5:23 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

Moving lethal high-level radioactive waste to a consolidated interim site would not fix any problems at all, and is simply unacceptable. No one charged with protection of public health, safety and security should mandate moving deadly radioactive waste repeatedly. While the waste will have to be moved at some point, it should first make only the short move from the current fuel pools at reactors to dry containers at the same reactor site. Other movement must be only from that site to a permanent location for permanent isolation. A consolidated interim storage site would increase the risks of accidents and security problems while guaranteeing increased exposure to ionizing radiation along public-use highways, rails and waterways--even without an accident.

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Please scrap your "discussion draft" and start over.

Sincerely,

Dorri Raskin

18350 Los Alimos st

Northridge, CA 91326

From: Marilyn Shineflug <mshineflug@earthlink.net>

Sent: Friday, May 24, 2013 4:55 PM

To: feedback, nwaste (Energy)

Subject:Comments on Draft Legislation re Interim Spent Fuel Storage Installation, Etc.

Attachments: Nuclear-Response to Proposed Centralized Interim Storage(final) 5-24-13[1].docx

TO: Senate Energy and Commerce Committee

RE: Comments on Draft Legislation re New Interim Spent Fuel Storage Installations, Nuclear Waste Transport, Geological Repositories, Etc.

Both below and attached, you will find my comments for the official record regarding the proposed legislation.

Marilyn Shineflug

125 Wimbledon Court

Lake Bluff, IL 60044

Response to Proposed Centralized Interim Storage Legislation-- May 24, 2013

Proposed Legislation Insufficient: While the proposed legislation is designed to implement the findings of the Blue Ribbon Commission, it does not provide for sufficiently safe methods of either short or long term storage of spent nuclear fuel.

Limit Spent Fuel Transportation: Spent fuel, when sufficiently cooled, should be stored in dry casks—preferably “hardened” models—at existing nuclear plants. This approach would avoid the need to build

additional Interim Spent Fuel Storage Installations (ISFSI's). It also would save unnecessary transportation costs and reduce radiation exposure risks to the general population during highway, railroad and barge transit. These risks could be significant because even undamaged transport casks do not have enough shielding to prevent gamma and x-ray radiation from escaping through the walls. Thus occupants in adjacent cars, for example, could receive unwanted exposures under normal traffic conditions. And under accident conditions, exposures from these largely untested casks could be higher and more widespread.

On Site Spent Fuel Storage in Dry Casks: As recommended by Dr. Arjun Makhijani (http://ieer.org), the Federal Government should purchase land adjacent to reactor sites to accommodate dry cask storage of spent fuel—again, preferably in "hardened" models. Currently the Federal Government is paying very large fines to utilities due to the Federal Government's failure to accept spent fuel by 1998. Once spent fuel comes under federal control, the government no longer would be required to pay these fines. This alternative also would work to minimize Illinois's chances or receiving an even greater proportion than we already have of the nation's spent fuel. As detailed in an Oak Ridge National Laboratory report,

"As a totally separate analysis, the consolidated ISFSI site in Illinois is the single optimized2 site for an ISFSI solution when only SNF at orphaned reactors is considered relative to siting a consolidated ISFSI." (p. xviii, ORNL/TM-2012-237)

In addition, General Electric Company still operates its Morris Independent Spent Nuclear Fuel Storage Facility in Grundy County, Illinois. It is the nation's only "away from reactor" spent fuel pool licensed by the NRC.

Locate Geological Spent Fuel Storage Repository Based on Scientific Criteria: Immediate efforts should begin to identify a final repository for spent fuel rather than any plan to increase the number of ISFSI's. Criteria for the choice of a permanent site should be based on rigidly defined scientific principles. The method described in the proposed legislation relies heavily on a consent-based approach that may not lead to the safest long-term solution. While local consent is important, that consent should be based on scientific knowledge rather an improperly perceived opportunity to obtain money, jobs and other incentives.

Phase Out Nuclear Power: The proposal to create more ISFSI's will benefit only the utilities at the expense of the public. The horrific experiences at Three Mile Island, Chernobyl and Fukushima should provide all the documentation necessary for this country to rapidly phase out the generation of electricity by nuclear power.

Marilyn Shineflug

Lake Bluff, IL 60044

From: David Kraft <neis@neis.org>

Sent: Friday, May 24, 2013 5:21 PM

To: feedback, nwaste (Energy)

Subject:Question 2_Kraft_Nuclear Energy Information Service

Attachments: Question2_KRAFT_NUCLEARENERGYINFORMATIONSERVICE.doc

Question 2: Linkage between storage and repository

Submitter's Name/Affiliation: David A. Kraft, Nuclear Energy Information Service (NEIS)

Should the bill establish a linkage between progress on development of a repository and progress on development of a storage facility? If so, is the linkage proposed in section 306 of the bill appropriate, too strong, or too loose? If a linkage is needed, should it be determined as part of the negotiations between the state and federal governments and included in the consent agreement rather than in the bill?

The only "storage" of HLRW that should be permitted is that utilizing hardened onsite storage, at the facility sites. There should be no "centralized interim storage facilities" (CIS) of any kind.

If the government is foolhardy enough to approve the use of CIS, then YES, there should be strict linkage between progress on the development of a permanent deep-geological disposal repository and development and use of a CIS.

"Substantial progress" is not defined sufficiently; it must be defined the same way for both the Administrator and the Oversight Board to make a meaningful report to the President and the Congress.

These items should be spelled out in the Legislation, not part of the later negotiations.

CONTACT:

NEIS

neis@neis.org

(773)342-7650

--

David A. Kraft, Director

NEIS

3411 W. Diversey #16

Chicago, IL 60647

(773)342-7650

neis@neis.org

www.neis.org

SKYPE address: davekhamburg

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From: Beatrice Brailsford <bbrailsford@snakeriveralliance.org>

Sent: Friday, May 24, 2013 5:20 PM

To: feedback, nwaste (Energy)

Subject:comments on draft Nuclear Waste Administration Act

Attachments: nuclear waste administration act comments 2.pdf

Please accept these comments on behalf of the dues-paying members of the Snake River Alliance in Idaho.

Best,

Beatrice Brailsford

Snake River Alliance

Box 425

Pocatello, ID 83204

208/233-7212

bbrailsford@snakeriveralliance.org

From: Seth Tuler <sptuler@seri-us.org>

Sent: Friday, May 24, 2013 5:13 PM

To: feedback, nwaste (Energy)

Subject:Comments on discussion draft of Nuclear Waste Administration Act of 2013

Attachments: Comments on Draft legislation 24May.pdf

Dear Senate Energy and Natural Resources Committee,

Please find attached comments about the discussion draft of the Nuclear Waste Administration Act.

Thank you for the opportunity to comment on the draft, and we hope that you find our comments useful.

Seth Tuler,

with

Judith Bradbury

Rob Goble

Roger Kasperson

James Short, Jr.

Kristin Sharader-Frechette

Thomas Webler

Seth Tuler

Research Fellow

Social and Environmental Research Institute, Inc.

278 Main Street, Suite 404

Greenfield, MA 01301

Phone: 413-387-9320

Web page: www.seri-us.org

From: Leslie Larsen <leslielarsen@earthlink.net>

Sent: Friday, May 24, 2013 5:05 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

Moving lethal high-level radioactive waste to a consolidated interim site would not fix any problems at all, and is simply unacceptable. No one charged with protection of public health, safety and security should mandate moving deadly radioactive waste repeatedly. While the waste will have to be moved at some point, it should first make only the short move from the current fuel pools at reactors to dry

containers at the same reactor site. Other movement must be only from that site to a permanent location for permanent isolation. A consolidated interim storage site would increase the risks of accidents and security problems while guaranteeing increased exposure to ionizing radiation along public-use highways, rails and waterways--even without an accident.

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I ask you to focus on public health, environmental protection and equity for the future rather than the narrow interests of the nuclear power industry--which would be the only beneficiary of such a thoughtless program. The best way to limit the scope of the radioactive waste problem is, of course, to phase out the use of nuclear power and replace it with clean energy sources. But for the waste that exists now, Hardened On-Site Storage and renewed work on finding a permanent solution is imperative.

Please scrap your "discussion draft" and start over.

Sincerely,

Leslie Larsen

PO Box 638

Anahola, HI 96703

From: Ruth Pullen <rsp2048@earthlink.net>

Sent: Friday, May 24, 2013 4:24 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program has been unsuitable for decades, but the Senate Energy Committee's "discussion draft" legislation is not a solution.

Moving lethal high-level radioactive waste to a consolidated interim site is unacceptable. No one charged with protection of public health, safety and security should mandate moving deadly radioactive waste repeatedly. While the waste will have to be moved at some point, it should first make only the short move from the current fuel pools at reactors to dry containers at the same reactor site. Any other movement should be to a final storage location that provides permanent isolation. A consolidated interim storage site would increase the risks of accidents and security problems while guaranteeing

increased exposure to ionizing radiation along public-use highways, rails and waterways--even without an accident.

Further, the de-linking of an interim site from progress on a permanent solution found in both the discussion draft and even more objectionably in the Feinstein/Alexander alternative would serve only to delay permanent isolation of the waste from the environment and make it more likely that a temporary and unsuitable site would become a de facto permanent nuclear waste dump with all the incumbent safety issues. No state or community should or would accept such an outcome--yet this proposed legislation would virtually ensure that.

I ask you to focus on public health, environmental protection and equity for the future rather than the narrow interests of the nuclear power industry--which would be the only beneficiary of such a thoughtless program. Taxpayer funds should be directed towards a permanent solution. The best way to limit the scope of the radioactive waste problem is, of course, to phase out the use of nuclear power and replace it with clean energy sources. No more waste should be generated until a viable final storage solution has been found. For the waste that exists now, Hardened On-Site Storage and renewed work on finding a permanent solution is imperative.

Please scrap your "discussion draft" and start over. Please work towards a final storage location- the only true solution.

Thank you,

Ruth Pullen

P.O. Box 720415

Byram, MS 39272

From: Megan Ronk <Megan.Ronk@commerce.idaho.gov>

Sent: Friday, May 24, 2013 5:00 PM

To: feedback, nwaste (Energy)

Subject:Comments to Senate nuclear waste legislation

Attachments: Idaho Leadership in Nuclear Energy Commission Comments.pdf

To Whom It May Concern:

Attached are official comments from Idaho Leadership in Nuclear Energy Commission Chairman Jeffery Sayer in response to the Senate nuclear waste legislation. Please let me know if you need any additional information.

Megan Ronk | Chief Communications & Government Affairs Officer

Idaho Commerce

700 W State Street, Boise, Idaho 83702

Office: 208.334.2470

<http://commerce.idaho.gov/> Cell: 208.590.0308

megan.ronk@commerce.idaho.gov <mailto:firstname.lastname@commerce.idaho.gov>

From: Nancy Bizup <Nbizup@yahoo.com>

Sent: Friday, May 24, 2013 4:58 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

Moving lethal high-level radioactive waste to a consolidated interim site would not fix any problems at all, and is simply unacceptable. No one charged with protection of public health, safety and security should mandate moving deadly radioactive waste repeatedly. While the waste will have to be moved at some point, it should first make only the short move from the current fuel pools at reactors to dry containers at the same reactor site. Other movement must be only from that site to a permanent location for permanent isolation. A consolidated interim storage site would increase the risks of accidents and security problems while guaranteeing increased exposure to ionizing radiation along public-use highways, rails and waterways--even without an accident.

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I ask you to focus on public health, environmental protection and equity for the future rather than the narrow interests of the nuclear power industry--which would be the only beneficiary of such a thoughtless program. The best way to limit the scope of the radioactive waste problem is, of course, to phase out the use of nuclear power and replace it with clean energy sources. But for the waste that exists now, Hardened On-Site Storage and renewed work on finding a permanent solution is imperative.

Please scrap your "discussion draft" and start over.

Sincerely,

Nancy Bizup

1331 Lamb Ct.

Downers Grove, IL 60516

From: Kevin Kamps <kevin@beyondnuclear.org>

Sent: Friday, May 24, 2013 4:55 PM

To: feedback, nwaste (Energy)

Subject:Responses to your questions, plus additional thoughts, re: High-Level Radioactive Waste Centralized Interim Storage discussion draft bill

Attachments: Executive_Summary_Kevin_Kamps_Beyond_Nuclear-1.doc; Question2_Kevin_Kamps_Beyond_Nuclear.doc; Question3_Kevin_Kamps_Beyond_Nuclear.doc; Question4_Kevin_Kamps_Beyond_Nuclear.doc; Question5_Kevin_Kamps_Beyond_Nuclear.doc; Question6_Kevin_Kamps_Beyond_Nuclear.doc; Question7_Kevin_Kamps_Beyond_Nuclear.doc; Question8_Kevin_Kamps_Beyond_Nuclear.doc; Additional_Thoughts_Kevin_Kamps_Beyond_Nuclear.docx

Please find attached. Thank you.

Please note, I have not had time to boil down my responses to Questions #2 to 8, plus my additional thoughts, into the one page long executive summary you asked for. If you can grant me an extension beyond today's 5 PM Eastern, I could do that. As for now, a blank executive summary is attached, as a placeholder. My apologies for this. Please see my more detailed responses to Questions #2 to 8, plus my additional thoughts, all attached. Thanks.

Sincerely,

Kevin Kamps, Beyond Nuclear

--

Kevin Kamps

Radioactive Waste Watchdog

Beyond Nuclear

6930 Carroll Avenue, Suite 400

Takoma Park, Maryland 20912

Office: (301) 270-2209 ext. 1

Cell: (240) 462-3216

Fax: (301) 270-4000

kevin@beyondnuclear.org

www.beyondnuclear.org

Beyond Nuclear aims to educate and activate the public about the connections between nuclear power and nuclear weapons and the need to abandon both to safeguard our future. Beyond Nuclear advocates for an energy future that is sustainable, benign and democratic.

From: Stewart, Richard <stewartr@exchange.law.nyu.edu>

Sent: Friday, May 24, 2013 4:53 PM

To: feedback, nwaste (Energy)

Subject:Comments on draft Nuclear Waste Administration Act of 2013

Attachments: Comments of Richard B. Stewart et al -- Nuclear Waste Adminsitration Bill..docx

Please find enclosed comments by myself and other university-based academics affiliated with CRESP (Consortium for Risk Evaluation with Stakeholder Communication) on the draft bills of the Nuclear Waste Administration Act of 2013.

Richard B. Stewart

John Sexton Professor of Law

Director, Guarini Center on Environmental and Land Use Law

New York University School of Law

40 Washington Sq. South

New York, NY 10012

646-306-1397

From: Stephanie Stuckey <fancyfish42@yahoo.com>

Sent: Friday, May 24, 2013 4:51 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken.

There are too many dangerous radwaste sites all over america threatening waterways and on fault lines. So many of them are not in proper containers and were illegally stored to begin with. Some here in St. Louis, MO are in unlined burial sites beside the Missouri River. This area is a fault line, a flood plain, and just above the source for city drinking water. Clean up now, not after a devastating disaster! Please hurry to find the answer and move these away from water at the least.

Do not delay permanent isolation of the waste from the environment! Please, no temporary and unsuitable sites.

I ask you to focus on public health, environmental protection and equity for the future rather than the narrow interests of the nuclear power industry. The best way to limit the scope of the radioactive waste problem is, of course, to phase out the use of nuclear power and replace it with clean energy sources. But for the waste that exists now, finding a permanent solution is imperative.

Sincerely,

Stephanie Stuckey

12445 CR 5320

Rolla, MO 65401

From: David Kraft <neis@neis.org>

Sent: Friday, May 24, 2013 4:49 PM

To: feedback, nwaste (Energy)

Subject:Comments on Draft Legislation on High-Level Radioactive Waste

Attachments: CIS Comments from NEIS 5-24-13.docx

Please accept the following comments, below and attached, into the official record on this issue.

Thank you for your consideration.

--Dave Kraft, Director--

May 24, 2013

TO: Senate Energy and Commerce Committee

RE: Comments on Draft legislation “to manage nuclear waste…[etc.].”

NEIS is an environmental safe-energy and anti-nuclear organization based in Chicago, Illinois. NEIS was one of over 100 organization nationwide which has co-signed a letter sent to this Committee in opposition to the proposed Draft Legislation; and is one of the over 200 organizations which in 2002 helped develop and promote the Principles for Safeguarding Nuclear Waste at Reactors referenced in that letter, dated May 24, 2013.

We wish to register the following additional comments regarding the draft legislation to manage high-level radioactive waste (HLRW):

WHAT WE FAVOR AND RECOMMEND:

· Until the design, construction and operation of the permanent, deep-geological HLRW disposal repository has occurred, HLRW should remain onsite at reactors or wherever it is in "hardened onsite storage" (HOSS), utilizing the best available, field tested and certified dry-cask technology

· Wet-storage HLRW fuel pools should utilize HOSS dry-casks to remove as much HLRW as can be safely offloaded from the wet-pools, and as soon as possible.

· Transportation of HLRW should a.) be minimized at all costs; b.) occur only to move HLRW to a final HLRW disposal repository, or to the nearest safe operational HOSS facility in cases of extreme emergency demonstrating immanent potential for adverse environmental, health and public safety effects; c.) occur using only casks the design of which has been certified after having undergone destructive field testing to demonstrate their integrity to transport HLRW.

· Creation of a process whereby the Federal Government will purchase (or if necessary, obtain through eminent domain) land onsite at reactors for the temporary storage of HLRW using HOSS, satisfying the Federal Government's 1998 obligation to take both title AND possession of HLRW.

· Use of a reasonable portion of funds collected (but not the entire amount) via the nuclear waste surcharge for implementing HOSS and acquisition of sufficient land at reactor and other HLRW sites.

· Future minimization of HLRW production.

· The disposal of all HLRW generated from new reactors not yet licensed or operating will be the responsibility of the reactor owners/operators, not the Federal Government. All generators will be required to meet the existing federal standards, laws and regulations for HLRW waste storage, transportation and disposal of all such future wastes.

· A fully transparent, meaningfully participatory and open public process for the selection and siting of all future HLRW sites; creation of an "interveners fund" for use by members of the public to obtain expert witnesses that they could not otherwise afford during any siting process.

· To improve the impartiality of the process, and avoid repeating the conflicts of interest inherent in the previous process, all federal appointee candidates in the current legislation shall be professionally qualified for the tasks relating to their appointment, and shall not for 5 years prior to appointment have

received direct or indirect funding, employment or support from any entity of the nuclear industry (utilities, trade groups, etc.) , nor have been an employee of the Nuclear Regulatory Commission or the Department of Energy.

WHAT WE OPPOSE AND OBJECT TO:

· Creation of new, additional radioactively contaminated sites and waste dumps nationwide through the implementation of "centralized interim storage" (CIS).

· Any transportation of HLRW prior to the completion of a permanent deep-geologic HLRW disposal facility, except under extraordinary emergency circumstances, as described above.

· Currently over-packed wet-pools, dry-casks as currently deployed without HOSS; use of any dry-casks the design of which has not undergone destructive testing as validation of their integrity.

· Use of First Nations lands for HLRW facilities.

· The Government's total disregard for and failure to include waste minimization as a primary principle of HLRW management moving forward.

· The potential for the (ab)use of "incentivization" to seduce, entice and bribe low-income, impoverished communities to become potential "volunteer" sites to host HLRW facilities.

· Any kind of HLRW reprocessing.

· Use of any exiting DOE HLRW storage or processing sites; WIPP in New Mexico; or Yucca Mt. Nevada as candidate sites for future HLRW disposal facilities.

We thank you for your consideration of these positions. We welcome your questions, comments and opportunity for clarification.

David A. Kraft

Director

--

David A. Kraft, Director

NEIS

3411 W. Diversey #16

Chicago, IL 60647

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neis@neis.org

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SKYPE address: davekhamburg

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From: Ken Woolard <wooly10@hotmail.com>

Sent: Friday, May 24, 2013 4:42 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

Moving lethal high-level radioactive waste to a consolidated interim site would not fix any problems at all, and is simply unacceptable. No one charged with protection of public health, safety and security should mandate moving deadly radioactive waste repeatedly. While the waste will have to be moved at some point, it should first make only the short move from the current fuel pools at reactors to dry containers at the same reactor site. Other movement must be only from that site to a permanent location for permanent isolation. A consolidated interim storage site would increase the risks of accidents and security problems while guaranteeing increased exposure to ionizing radiation along public-use highways, rails and waterways--even without an accident.

Further, the de-linking of an interim site from progress on a permanent solution found in both the discussion draft and even more objectionably in the Feinstein/Alexander alternative would serve only to delay permanent isolation of the waste from the environment and make it more likely that a temporary and unsuitable site would become a de facto permanent nuclear waste dump. No state or community should or would accept such an outcome--yet this proposed legislation would virtually ensure that.

I ask you to focus on public health, environmental protection and equity for the future rather than the narrow interests of the nuclear power industry--which would be the only beneficiary of such a thoughtless program. The best way to limit the scope of the radioactive waste problem is, of course, to phase out the use of nuclear power and replace it with clean energy sources. But for the waste that exists now, Hardened On-Site Storage and renewed work on finding a permanent solution is imperative.

Please scrap your "discussion draft" and start over.

Sincerely,

Ken Woolard

2817 Grandview Dr. W. # 7

University PL, WA 98466

From: Tekla Vines <teffer01@yahoo.com>

Sent: Friday, May 24, 2013 4:39 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

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Please scrap your "discussion draft" and start over.

Sincerely,

Tekla Vines

8974 N. Arrington Dr.

Tucson, AZ 85742

From: Alex Thrower <throwergroup@verizon.net>

Sent: Friday, May 24, 2013 4:29 PM

To: feedback, nwaste (Energy)

Subject:Comments from the Nuclear Infrastructure Council

Attachments: NIC Comments on Comprehensive Nuclear Waste Management Reform (Final) 5-24-13.docx

Dear Sir or Madam:

By request of the Senate Committee on Energy and Natural Resources, the United States Nuclear Infrastructure Council (NIC) is pleased to submit the attached comments on the Discussion Draft of Comprehensive Nuclear Waste Legislation.

Thank you for the opportunity to comment.

Alex W. Thrower, Senior Fellow

U.S. Nuclear Infrastructure Council

1317 F Street, NW, Suite 350

Washington, DC 20004

202-489-9020 (cell)

throwergroup@verizon.net

From: Katrina McMurrian <katrina@thenwsc.org>

Sent: Friday, May 24, 2013 4:28 PM

To: feedback, nwaste (Energy)

Subject:NWSC Comments re Discussion Draft of NWA Act of 2013

Attachments: Transmittal_Letter_Wright_NWSC.pdf; Executive_Summary_Wright_NWSC.doc; Question1_Wright_NWSC.doc; Question2_Wright_NWSC.doc; Question3_Wright_NWSC.doc; Question4_Wright_NWSC.doc; Question5_Wright_NWSC.doc; Question6_Wright_NWSC.doc; Question7_Wright_NWSC.doc; Question8_Wright_NWSC.doc

The following attachments comprise the Nuclear Waste Strategy Coalition (NWSC)'s comments on the "Nuclear Waste Administration Act of 2013" Discussion Draft.

- Transmittal_Letter_Wright_NWSC
- Executive_Summary_Wright_NWSC
- Question1_Wright_NWSC
- Question2_Wright_NWSC
- Question3_Wright_NWSC
- Question4_Wright_NWSC
- Question5_Wright_NWSC
- Question6_Wright_NWSC
- Question7_Wright_NWSC
- Question8_Wright_NWSC

Thank you for this opportunity,

Katrina J. McMurrian

Executive Director

Nuclear Waste Strategy Coalition (NWSC)

337.656.8518 office

888.526.6883 fax

katrina@theNWSC.org <mailto:katrina@theNWSC.org>

www.theNWSC.org <http://www.thenwsc.org/>

www.Twitter.com/NWSCoalition <http://www.Twitter.com/NWSCoalition>

From: LZeller <lzeller@bredl.org>

Sent: Friday, May 24, 2013 4:25 PM

To: feedback, nwaste (Energy)

Subject:Nuclear Waste Administration Act of 2013

Attachments: BREDL comments on NPAA to Senate Energy & Natural Resources Committee.pdf

Senate Energy and Natural Resources Committee

The Honorable Ron Wyden

The Honorable Lisa Murkowski

304 Dirksen Senate Building

Washington, DC 20510

Nwaste_feedback@energy.senate.gov

Re: Nuclear Waste Administration Act of 2013

Dear Senators Wyden and Murkowski:

Please find attached comments of the Blue Ridge Environmental Defense League on the legislation under discussion.

Sincerely,

Louis A, Zeller, Executive Director

Blue Ridge Environmental Defense League

PO Box 88

Glendale Springs, NC 28629

BREDL@skybest.com <mailto:BREDL@skybest.com>

(336) 982-2691 office

(336) 977-0852 cell

http://www.BREDL.org

Founded in 1984, BREDL has chapters in Alabama, Tennessee, Georgia, South Carolina, North Carolina , Virginia and Maryland.

From: epotter505@gmail.com on behalf of Earl Potter <epotter@swcp.com>

Sent: Friday, May 24, 2013 4:26 PM

To: feedback, nwaste (Energy)

Subject:Comments on NWAA

Attachments: Executive_Summary_Earl Potter_Consultant to BRC.doc; Question1_Earl Potter_Consultant to BRC.doc; Question2_Earl Potter_Consultant to BRC.doc; Question3_Earl Potter_Consultant to BRC.doc; Question4_Earl Potter_Consultant to BRC.doc; Question5_Earl

Potter_Consultant to BRC.doc; Question6_Earl Potter_Consultant to BRC.doc; Question7_Earl Potter_Consultant to BRC.doc; Question8_Earl Potter_Consultant to BRC.doc

Earl Potter's comments are attached

--

~~~~~~~~~~~~~~~~~

Earl Potter

epotter@swcp.com

1000 Cordova Place, Ste 43

Santa Fe, NM 87505

505-660-5182 Cell

505-466-5404 Fax

From: Betty Ford <bfordx2@verizon.net>

Sent: Friday, May 24, 2013 4:23 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

Moving lethal high-level radioactive waste to a consolidated interim site would not fix any problems at all, and is simply unacceptable. No one charged with protection of public health, safety and security should mandate moving deadly radioactive waste repeatedly. While the waste will have to be moved at some point, it should first make only the short move from the current fuel pools at reactors to dry containers at the same reactor site. Other movement must be only from that site to a permanent location for permanent isolation. A consolidated interim storage site would increase the risks of accidents and security problems while guaranteeing increased exposure to ionizing radiation along public-use highways, rails and waterways--even without an accident.

Further, the de-linking of an interim site from progress on a permanent solution found in both the discussion draft and even more objectionably in the Feinstein/Alexander alternative would serve only to delay permanent isolation of the waste from the environment and make it more likely that a temporary and unsuitable site would become a de facto permanent nuclear waste dump. No state or community should or would accept such an outcome - yet this proposed legislation would virtually ensure that.
~~~~~~~~~~~~~~~~~

I ask you to focus on public health, environmental protection and equity for the future rather than the narrow interests of the nuclear power industry - which would be the only beneficiary of such a thoughtless program. The best way to limit the scope of the radioactive waste problem is, of course, to phase out the use of nuclear power and replace it with clean energy sources. But for the waste that exists now, Hardened On-Site Storage and renewed work on finding a permanent solution is imperative.

Thank you for your consideration.

Betty Ford

12603 Dawnridge Ct.

Midlothian, VA 23114

From: Lavinson, Melissa A. <Melissa.Lavinson@pge-corp.com>

Sent: Friday, May 24, 2013 4:23 PM

To: feedback, nwaste (Energy)

Subject:Comments of PG&E Corporation

Attachments: EXECUTIVE_SUMMARY_MELISSA_LAVINSON_PG&E.doc

Attached, please find comments from PG&E Corporation. We look forward to working with you going forward to advance this important legislation.

Regards,

Melissa Lavinson

From: Holly Cohen <barryholly@aol.com>

Sent: Friday, May 24, 2013 4:22 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

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Thank you for your consideration.

Holly Cohen

408 Sheffield Court

Brewster, NY 10509

From: Marilyn Shineflug <mshineflug@earthlink.net>

Sent: Friday, May 24, 2013 4:22 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

Proposed Legislation Insufficient: While the proposed legislation is designed to implement the findings of the Blue Ribbon Commission, it does not provide for sufficiently safe methods of either short or long term storage of spent nuclear fuel. And under no circumstances should

Limit Spent Fuel Transportation: Spent fuel, when sufficiently cooled, should be stored in dry casks—preferably “hardened” models—at existing nuclear plants. This approach would avoid the need to build additional Interim Spent Fuel Storage Installations (ISFSI’s). It also would save unnecessary transportation costs and reduce radiation exposure risks to the general population during highway, railroad and barge transit. These risks could be significant because even undamaged transport casks do not have enough shielding to prevent gamma and x-ray radiation from escaping through the walls. Thus occupants in adjacent cars, for example, could receive unwanted exposures under normal traffic conditions. And under accident conditions, exposures from these largely untested casks could be higher and more widespread.

On Site Spent Fuel Storage in Dry Casks: As recommended by Dr. Arjun Makhijani (http://ieer.org), the Federal Government should purchase land adjacent to reactor sites to accommodate dry cask storage of spent fuel—again, preferably in "hardened" models. Currently the Federal Government is paying very large fines to utilities due to the Federal Government's failure to accept spent fuel by 1998. Once spent fuel comes under federal control, the government no longer would be required to pay these fines. This alternative also would work to minimize Illinois's chances or receiving an even greater proportion than we already have of the nation's spent fuel. As detailed in an Oak Ridge National Laboratory report,

"As a totally separate analysis, the consolidated ISFSI site in Illinois is the single optimized2 site for an ISFSI solution when only SNF at orphaned reactors is considered relative to siting a consolidated ISFSI." (p. xviii, ORNL/TM-2012-237)

In addition, General Electric Company still operates its Morris Independent Spent Nuclear Fuel Storage Facility in Grundy County, Illinois. It is the nation's only "away from reactor" spent fuel pool licensed by the NRC.

Locate Geological Spent Fuel Storage Repository Based on Scientific Criteria: Immediate efforts should begin to identify a final repository for spent fuel rather than any plan to increase the number of ISFSI's. Criteria for the choice of a permanent site should be based on rigidly defined scientific principles. The method described in the proposed legislation relies heavily on a consent-based approach that may not lead to the safest long-term solution. While local consent is important, that consent should be based on scientific knowledge rather an improperly perceived opportunity to obtain money, jobs and other incentives.

Phase Out Nuclear Power: The proposal to create more ISFSI's will benefit only the utilities at the expense of the public. The horrific experiences at Three Mile Island, Chernobyl and Fukushima should provide all the documentation necessary for this country to rapidly phase out the generation of electricity by nuclear power.

Sincerely,

Marilyn Shineflug

125 Wimbledon ct.

Lake Bluff, IL 60044

From: katherine.freeradical@gmail.com on behalf of katherine fuchs <kfuchs@ananuclear.org>

Sent: Friday, May 24, 2013 4:06 PM

To: feedback, nwaste (Energy)

Subject:Comments on discussion copy of Senate nuclear waste bill

Attachments: principles-for-safeguarding.pdf; 13 05 24 ANA Energy Natl Resources Comments.pdf

Hello,

Attached are comments related to the discussion draft of your nuclear waste bill, as well as a copy of the Principles for Safeguarding Nuclear Waste at Reactors which is supported by over 100 organizations around the country. We have answered your eight questions and provided some additional comments related to the discussion draft. Our members across the country appreciate this opportunity to share our ideas about this important bill.

Thank you,

Katherine M. Fuchs

Program Director

Alliance for Nuclear Accountability

ph: 202-544-0217 x 2503 <tel:202-544-0217%20x%202503>

fx: 202-544-6143

www.ananuclear.org

Celebrate our 25th anniversary! bit.ly/25ana

From: Elizabeth K. Nevitt <enevitt@morganmeguire.com>

Sent: Friday, May 24, 2013 4:05 PM

To: feedback, nwaste (Energy)

Subject:Energy Northwest Comments on Nuclear Waste Administration Act

Attachments: Comments on Nuclear Waste Administration Act - Energy Northwest - ME Reddemann 5-24-13.pdf

Importance: High

Hello all,

Please see the attached comments from Mark Reddemann, CEO of Energy Northwest. Please let us know if you have any questions. Thank you for the opportunity to comment.

Elizabeth Kelsey Nevitt

Senior Associate

Morgan Meguire LLC

1225 I Street NW, Suite 1150

Washington, D.C. 20005

Office: 202-661-6180

Fax: 202-661-6182

Cell: 202-656-3775

www.morganmeguire.com <http://www.morganmeguire.com>

From: John Nichols <nikos27@earthlink.net>

Sent: Friday, May 24, 2013 3:40 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

Please scrap your "discussion draft" re the radioactive waste issue and start over. We need hardened on-site storage.

A consolidated interim storage site would increase the risks of accidents and security problems while guaranteeing increased exposure to ionizing radiation along public-use highways, rails and waterways--even without an accident.

Further, the de-linking of an interim site from progress on a permanent solution found in both the discussion draft and even more objectionably in the Feinstein/Alexander alternative would serve only to delay permanent isolation of the waste from the environment and make it more likely that a temporary and unsuitable site would become a de facto permanent nuclear waste dump. No state or community should or would accept such an outcome--yet this proposed legislation would virtually ensure that.

I ask you to focus on public health, environmental protection and equity for the future rather than the narrow interests of the nuclear power industry--which would be the only beneficiary of such a thoughtless program. The best way to limit the scope of the radioactive waste problem is, of course, to phase out the use of nuclear power and replace it with clean energy sources. But for the waste that exists now, Hardened On-Site Storage and renewed work on finding a permanent solution is imperative.

Sincerely,

John Nichols

P.O. Box 96

East Orleans, MA 02643

From: Susan Shapiro <goshengreenfarms@aol.com>

Sent: Friday, May 24, 2013 3:36 PM

To: feedback, nwaste (Energy)

Subject:Comments re: Nuclear Waster

Attachments: doc-NUCLEAR_RESPONSE.pdf

Please find attached my comments RE: Nuclear Waste Bill to Implement the Blue Ribbon Commission's Recommendations Section-by-Section Summary of Discussion Draft April 2013

Susan H. Shapiro, Esq.

PHASE

21 Perlman Drive

Spring Valley, NY 10924

(845) 371-2100

From: o Santerre <rpswindspirit@gmail.com>

Sent: Friday, May 24, 2013 3:32 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

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Please scrap your "discussion draft" and start over.

Sincerely,

o Santerre

10 Canaan Rd.

New Paltz, NY 12561

From: Catherine Thomasson <CThomasson@psr.org>

Sent: Friday, May 24, 2013 3:16 PM

To: feedback, nwaste (Energy)

Subject:Comments on Draft Waste Bill 2013

Attachments: PSR Comments on Draft Waste Bill 2013 and Questions from Energy Environment Committee.pdf

Dear committee:

Thank you for the opportunity to submit comments on the Draft Waste Bill 2013. We are submitting these on behalf of our over 40,000 members and activists across the country.

We'll be interested in your response.

Catherine Thomasson, MD

Executive Director

Physicians for Social Responsibility

Work: 202.587.5240

Cell: 503-819-1170

1111 14th St NW #700

Washington, DC 20005

From: Patricia Alessandrini <alessandrini.p@gmail.com>

Sent: Friday, May 24, 2013 3:17 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

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Please scrap your "discussion draft" and start over.

Sincerely,

Patricia Alessandrini

593 Beverly Road

593 Beverly Road

Teaneck, NJ 07666

From: Gudrun Dennis <dennige@ufl.edu>

Sent: Friday, May 24, 2013 3:14 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

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Please scrap your "discussion draft" and start over.

Sincerely,

Gudrun Dennis

5912 NW 26th Street

Gainesville, FL 32653

From: Sean Meyer <SMeyer@ucsusa.org>

Sent: Friday, May 24, 2013 3:05 PM

To: feedback, nwaste (Energy)

Subject:Union of Concerned Scientists - Comments/Feedback on Draft Nuclear Waste Bill

Attachments: Question4_UnionofConcernedScientists.doc; Question1 - Union of Concerned Scientists.doc; Question2_Union of Concerned Scientists.doc; UCS response to draft Waste Bill 5-24-13_FINAL.docx

To: Senate Energy & Natural Resources Committee

From: Union of Concerned Scientists (UCS)

Re: Initial Comments/Feedback on Draft Federal Nuclear Waste Legislation

Date: May 24, 2013

Contact:

Robert Cowin

Senior Washington Representative for Clean Energy

Union of Concerned Scientists

1825 K Street NW, Suite 800

Washington DC 20006-1232

rcowin@ucsusa.org

Direct: 202-331-5657

Fax: 202-223-6162

The Union of Concerned Scientists applauds Senator Wyden, Senator Murkowski, Senator Feinstein and Senator Alexander and their staff for their diligence and hard work in tackling the decades-old challenge of how to safely manage and dispose of the nation's high-level nuclear waste. Please find below (and attached) our organization's initial comments and feedback on the draft bill, including:

- General Comments – Imperative to Address Near-Term Storage and Thin Out Crowded Spent Fuel Pools

- Proposed Changes to Discussion Draft

- UCS Responses to Certain Questions Posed – below as text and attached per instructions

Waste Bill Must Address Near-Term On-Site Management and Risks from Over Crowded Pools

The draft Nuclear Waste Administration Act of 2013 largely follows the recommendations of the Blue Ribbon Commission (BRC). The BRC limited its recommendations for nuclear waste management to after the point at which nuclear waste leaves the reactor sites. However, the government's charge to the BRC

was broader than that, and its recommendations should have addressed the issue of onsite storage of spent fuel.

In particular, the BRC charter[1] called for “the Commission to conduct a comprehensive review of policies for managing the back end of the nuclear fuel cycle;” the “back end” of the fuel cycle includes onsite storage after spent fuel is removed from the reactor core. The BRC charter also states explicitly that in considering waste management the Commission should consider “Options for safe storage of used nuclear fuel while final disposition pathways are selected and deployed.” The pathways currently being considered include offsite consolidated interim storage, and the Commission should have recommended measures to assure safe storage of the waste at reactor sites until these or other pathways are realized.

While the BRC did not address onsite waste, Congress should not make a similar oversight. Indeed, Congress has an obligation to step in and address this important gap in the BRC recommendations. The failure of federal waste policy is directly responsible for the problem of the buildup of waste at reactor sites. Successful lawsuits by utilities against the government clearly demonstrate federal responsibility for onsite waste issues that result from its failure to take title to the waste and move it to a repository. As a result, Congress must address the onsite waste problem as part of any comprehensive approach to this problem

The draft Nuclear Waste Administration Act itself makes clear that this issue should be addressed in the legislation since it states in establishing the Waste Administration that one of its purposes is “to protect the public health and safety and the environment” as it works toward discharging the responsibility of the federal government to provide for the permanent disposal of nuclear waste (Sec. 203).

If the legislation only addresses the issues of consolidated interim storage and permanent disposal it will do little or nothing to increase public safety in the near term. Congress must address the risk to public health and safety from the way nuclear plant owners currently manage radioactive waste: the dense-packing of spent fuel in cooling pools. Nearly three-quarters of today’s 70,000 metric tons of spent fuel is currently sitting in overcrowded pools that were not originally designed to handle such a high volume.

Congress must address this issue now. Since interim sites for nuclear waste will not become a reality for many years, and potentially decades, the nuclear waste will continue to be stored at reactor sites for the foreseeable future, and in the meantime Congress must take steps to improve the safety of onsite waste storage. Congress must require nuclear plant owners to reduce the amount of spent fuel in the pools by transferring a large percentage of it to dry casks. Storage in dry casks improves the safety and security of the waste compared to storage in pools while it is waiting to be moved offsite to interim or permanent storage.

UCS Proposed Changes to Discussion Draft

Insert red text in Table of Contents (page 2 of draft text):

TITLE III—FUNCTIONS

Sec. 301. Transfer of functions.

Sec. 302. Transfer of contracts.

Sec. 303. Nuclear waste facilities.

Sec. 304. Siting nuclear waste facilities.

Sec. 305. Licensing nuclear waste facilities.

Sec. 306. Linkage between storage and disposal.

Sec. 307. Defense waste.

Sec. 308. Transportation.

Sec. 309. Storage awaiting transportation.

Insert red text in Section 102 (starting with page 4, line 16 of discussion draft):

SEC. 102. PURPOSES.

The purposes of this Act are—

(1) to establish a new nuclear waste management organization;

(2) to transfer to the new organization the functions of the Secretary relating to the siting, licensing, construction, and operation of nuclear waste management facilities;

(3) to establish a new consensual process for the siting of nuclear waste management facilities;

(4) to provide for centralized storage of nuclear waste pending completion of a repository;

(5) to improve the safety of nuclear waste storage

pending completion of centralized storage and a repository;

and

(6) to ensure that—

(A) the generators and owners of nuclear

waste pay the full cost of the program; and

(B) funds collected for the program are

used for that purpose.

Add to Sec. 103. Definitions

-this is language from Sen. Reid's 2007 bill S. 784 <http://www.gpo.gov/fdsys/pkg/BILLS-110s784is/pdf/BILLS-110s784is.pdf>

''(_) CONTRACTOR.—The term 'contractor' means a person who holds a contract and is licensed by the Commission to possess spent nuclear power reactor fuel.

''(_) SPENT NUCLEAR FUEL DRY CASK.—The term 'spent nuclear fuel dry cask' means the container (and all the components and systems associated with the container)—

''(A) in which spent nuclear fuel is stored and naturally cooled at an independent spent fuel storage installation that is licensed by the Commission and located at the power reactor site; and

''(B) with a design that is approved by the Commission by license or rule.

''(_) SPENT NUCLEAR FUEL POOL.—The term 'spent nuclear fuel pool' means a water-filled container on a nuclear power reactor site in which spent nuclear fuel rods are stored.

Add to Title IV Sec. 401: (page 41 of draft)

(f) Use of Fund for Storage Awaiting Transportation.— The Working Capital Fund may be used to compensate contractors for the additional costs of storage imposed by the delay in the availability of a nuclear waste facility, including the construction of a second concrete storage pad for spent nuclear fuel dry casks.

OPTION 1: AMEND ATOMIC ENERGY ACT TO REQUIRE NRC RULEMAKING

Add new Sec. 309 at the end of Title III after Sec. 308 on Transportation (after line 21on page 39 of draft):

-(b) and (c) are modified versions of Rep. Markey's 2011 bill H.R.1242 <http://www.opencongress.org/bill/112-h1242/show>

SEC. 309. STORAGE AWAITING TRANSPORTATION.

(a) To improve the safety of nuclear waste storage pending completion of centralized storage and a repository as specified in Sec. 102, and prepare nuclear waste for transportation, spent nuclear fuel awaiting transportation to a nuclear waste facility shall be stored at the site of a contractor in certified dry casks as specified by an amendment to the Atomic Energy Act of 1954 (42 U.S.C. 2201 et seq.).

(b) Amendment—Chapter 14 of the Atomic Energy Act of 1954 (42 U.S.C. 2201 et seq.) is amended by adding at the end the following new section:

‘Sec. 170J. Revision of Spent Nuclear Fuel Rod Storage Regulations-

‘a. Not later than 90 days after the date of enactment of this bill, the Commission shall initiate a rulemaking proceeding, including notice and opportunity for public comment, to be completed not later than 18 months after such date of enactment, to revise its regulations to require that each utilization facility licensed under this Act:

‘(1) move spent nuclear fuel rods from spent nuclear fuel pools to certified dry casks at an independent spent fuel storage installation that is licensed by the Commission and located at the power reactor site in accordance with this section.

‘(2) not later than 10 years after the date of enactment of this section, complete the transfer of all qualified spent nuclear fuel rods stored in spent nuclear fuel pools to be placed in certified dry casks.

‘(3) for spent nuclear fuel rods in spent nuclear fuel pools after 10 years from the date of enactment of this section, move spent nuclear fuel rods from spent nuclear fuel pools to certified dry casks within one year of the nuclear fuel rods being qualified to be placed in certified dry casks.

‘(4) configure spent nuclear fuel rods in spent nuclear fuel pools in a manner that would minimize the chance of a fire in the event of the loss of the water in the spent nuclear fuel pool.

‘b. The revision of regulations under this section shall provide for appropriate requirements for periodic verification of compliance with the regulations issued under this section.

‘c. The Commission shall not issue an approval for any construction permit, operating license, license extension, design certification, combined license, design approval, or manufacturing license until the revisions of regulations under this section take effect.’.

(c) Conforming Amendment—The table of contents of the Atomic Energy Act of 1954 is amended by inserting after the item relating to section 170I the following new item:

‘Sec. 170J. Revision of spent nuclear fuel rod storage regulations.’.

OPTION 2: AMEND NUCLEAR WASTE POLICY ACT (DOES NOT REQUIRE NRC RULEMAKING)

Add new Sec. 309 at the end of Title III after Sec. 308 on Transportation (after line 21on page 39 of draft):

-(b) and (c) are modified versions of Sen. Reid's 2007 bill S. 784 <http://www.gpo.gov/fdsys/pkg/BILLS-110s784is/pdf/BILLS-110s784is.pdf>

SEC. 309. STORAGE AWAITING TRANSPORTATION.

(a) To improve the safety of nuclear waste storage pending completion of centralized storage and a repository as specified in Sec. 102, and prepare nuclear waste for transportation, spent nuclear fuel awaiting transportation to a nuclear waste facility shall be stored at the site of a contractor in certified dry casks as specified by an amendment to Title I of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10121 et seq.)

(b) Amendment— Title I of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10121 et seq.) is amended by adding at the end the following:

''Subtitle I—Dry Cask Storage of Spent Nuclear Fuel

''SEC. 185. DRY CASK STORAGE OF SPENT NUCLEAR FUEL.

''(a) TRANSFER OF SPENT NUCLEAR FUEL.—

''(1) IN GENERAL.—A contractor shall transfer spent nuclear fuel from spent nuclear fuel pools to spent nuclear fuel dry casks at an independent spent fuel storage installation that is licensed by the Commission and located at the power reactor site in accordance with this section.

''(2) SPENT NUCLEAR FUEL STORED AS OF DATE OF ENACTMENT.— Not later than 10 years after the date of enactment of this section, a contractor shall complete the transfer of all qualified spent nuclear fuel rods from spent nuclear fuel pools into certified dry casks.

''(3) SPENT NUCLEAR FUEL STORED AFTER DATE OF ENACTMENT.— For spent nuclear fuel rods in spent nuclear fuel pools after 10 years from the date of enactment of this section, a contractor shall move spent nuclear fuel rods from spent nuclear fuel pools to certified dry casks within one year of the nuclear fuel rods being qualified to be placed in the certified dry casks.

"(4) SPENT FUEL CONFIGURATION.—A contractor shall configure spent nuclear fuel rods in spent nuclear fuel pools in a manner that would minimize the chance of a fire in the event of the loss of the water in the spent nuclear fuel pool.

''(5) INADEQUATE AVAILABILITY.—If dry casks suitable for the particular fuel are not available to complete a transfer under paragraph (2) or (3) on reasonable terms and conditions, the contractor may apply to the Commission to extend the deadline for the transfer to be completed.

''(6) COMMISSION LICENSING.—

''(A) IN GENERAL.—The transfer under paragraph (2) or (3) shall be to spent nuclear fuel dry casks generally licensed by the Commission.

‘‘(B) GENERALLY LICENSED SPENT NUCLEAR FUEL DRY CASKS UNAVAILABLE.—If generally licensed spent nuclear fuel dry casks described in subparagraph (A) are not available, the deadlines established in paragraphs

(2) and (3) may be met by the good faith filing of an application to the Commission for a specific independent spent fuel storage installation license.

‘‘(C) EXPEDITED REVIEW.—The Commission shall expedite the review and decision of the Commission on an application received under subparagraph (B) in a manner that is consistent with public health and safety, common defense and security, and the right of an interested person to a hearing under the Atomic

Energy Act of 1954 (42 U.S.C. 2011 et seq.).

(b) Conforming Amendment—The table of contents of the Nuclear Waste Policy Act of 1982 is amended by inserting after the item relating to section Title I Subtitle H the following new item:

‘‘Subtitle I—Dry Cask Storage of Spent Nuclear Fuel

‘‘SEC. 185. DRY CASK STORAGE OF SPENT NUCLEAR FUEL”.

UCS Response to Questions One, Two & Four

Question 1: Considerations for locating storage facility sites

Should the Administrator take into account, when considering candidate storage facility sites, the extent to which a storage facility would: (a) unduly burden a State in which significant volumes of defenses wastes are stored or transuranic wastes are disposed of; or (b) conflict with a compliance agreement requiring the removal of nuclear waste from a site or a statutory prohibition on the storage or disposal of nuclear waste at a site? Alternatively, should the State and other non-federal parties seeking to site a candidate storage facility be allowed to determine whether they are unduly burdened? Should the final consent agreement, which would be sent to Congress for ratification, contain an authorizing provision to amend any conflicting compliance agreement or statutory prohibition?

UCS response: Section 304 paragraph (a)(1) specifies affected that communities decide whether and on what terms a facility is acceptable. Faithfully implemented, this would seem to resolve the “unduly burdened” issue. If included, the “unduly burdened” provision would seem to allow the Administrator to toss out a proposed site accepted by a community but unilaterally judged “unduly burdened” by the Administrator.

Question 2: Linkage between storage and repository

Should the bill establish a linkage between progress on development of a repository and progress on development of a storage facility? If so, is the linkage proposed in section 306 of the bill appropriate, too strong, or too loose? If a linkage is needed, should it be determined as part of the negotiations between the state and federal governments and included in the consent agreement rather than in the bill?

UCS response: The criteria in the bill is that "the Administrator is making substantial progress towards siting, constructing, and operating a repository," but the bill does not specify what constitutes "substantial progress." We would like to see stronger linkage than this, such as requiring that the site for a repository must be chosen.

Question 4: Separate process for storage facility siting – General streamlining for storage only

To what extent should the siting and consensus approval process for spent fuel storage facilities differ from that for the repository? Should the Administrator be required to conduct sufficient site-specific research (referred to as "characterization" in the bill) on candidate storage sites to determine if they are suitable for storing nuclear waste or only on candidate repository sites to determine if they are suitable for geologic disposal of nuclear waste? Should the Administrator be required to hold public hearings both before and after site characterization (as required by current law in the case of the Yucca Mountain site) or only before site characterization?

UCS response: Section 304 paragraph (a)(1) specifies affected communities to decide whether and on what terms a facility is acceptable. The process employed to reach this consensus should be the same for all facilities sited under this law. _____

[1] BRC report, Appendix A.

From: Kara Colton <Kara.Colton@energyca.org>

Sent: Friday, May 24, 2013 2:59 PM

To: feedback, nwaste (Energy)

Subject:Nuclear Waste Bill Feedback from the Energy Communities Alliance

Attachments: For Distribution - ECA Comments on Discussion Draft of Nuclear Waste Legislation 513.docx

The Energy Communities Alliance (ECA) greatly appreciates the efforts made by Senators Wyden, Murkowski, Feinstein, and Alexander, to propose draft comprehensive nuclear waste management legislation and to make nuclear waste management a priority.

Founded in 1992, ECA members are the sender and receiver sites for nuclear waste, sites that currently produce or formerly produced defense nuclear waste, sites that store and process defense nuclear waste, and the sites that may potentially host a future interim storage facility, reprocessing facility or

geologic repository. Our members have jointly prepared the attached comments and recommendations on the Senate Committee's questions.

ECA looks forward to providing any assistance we can as your work continues.

Sincerely,

Kara

Kara Colton

Director of Nuclear Energy Programs

Energy Communities Alliance

1101 Connecticut Ave, NW

Washington, D.C. 20036

Office: (202) 828-2439

Cell: (703) 864-3520

kara.colton@energyca.org <mailto:kara.colton@energyca.org>

http://www.energyca.org/ <http://www.energyca.org/>

From: evan.f.young@gmail.com on behalf of fionnlaech@gmail.com

Sent: Friday, May 24, 2013 2:54 PM

To: feedback, nwaste (Energy)

Subject:Comment on Nuclear Waste Administration Act of 2013

To the U.S. Senate Committee on Energy and Natural Resources

I hope that many comments on this bill be wise recommendations from people who understand the matters at hand. I personally am not familiar with the intimate details so I will attempt to keep my comments brief. If you listen to just one thing I have to say it would be this:

I am tired of us avoiding responsibility.

All of us take advantage of opportunities afforded by nuclear power. We build beautiful lives based on electricity generated by these facilities and it is the rankest hypocrisy to criticize the means but not the ends. For too long I have heard people, I am sad to say many of my fellow environmentalists are often the worst offenders here, engage in "not-in-my-backyard"ism. They argue that nuclear waste is dangerous and that they didn't sign up for nuclear power in the first place so they shouldn't have to take responsibility for it. While I stand with them in saying that it is dangerous, and I sympathize with those

who have campaigned against nuclear power for years, I part ways with them when they say that they shouldn't have to take responsibility for it. They often say, to boil things down, that the nuclear waste should go “somewhere else” or “away.” Well, I passed my high school geography class... and I've read my World Atlas from cover to cover... and I can't seem to find “Away" on any map. Saying that nuclear waste should “go somewhere else” carries the hidden aside, “somewhere we don't care about.” What kind of message are we sending our children-yet-to be that there are places among these amber waves of grain that we don't need to care about?

Instead of different potential nuclear material sites playing a farcical game of political “musical chairs” to try and avoid the “hot” potato we should all stand tall and say “I take responsibility for the future.” The buck needs to stop with us.

I'll add my voice: my name is Evan Young and I take responsibility for nuclear waste.

If that means some other programs need to be strategically cut to free up funding for this, do it.

If that means working with me to put nuclear material in my backyard, do it.

If that means my taxes need to go up to deal with this, do it.

I'm tired of this dysfunction, I'm sure you must be tired of this too, and you know what? I think our great-grandchildren would be tired of it too.

Let's get to work.

Yours sincerely,

Evan Young

fionnlaech@gmail.com

From: Telson, Michael <Mike.Telson@ga.com>

Sent: Friday, May 24, 2013 2:48 PM

To: feedback, nwaste (Energy)

Subject:Comments submitted by General Atomics for the Record

Attachments: Executive_Summary_John Parmentola_General Atomics.docx

Importance: High

Thank you for the opportunity to comment on your legislation.

From: Nancy Braus <nancykbraus@yahoo.com>

Sent: Friday, May 24, 2013 2:44 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

Moving lethal high-level radioactive waste to a consolidated interim site would not fix any problems at all, and is simply unacceptable. No one charged with protection of public health, safety and security should mandate moving deadly radioactive waste repeatedly. While the waste will have to be moved at some point, it should first make only the short move from the current fuel pools at reactors to dry containers at the same reactor site. Other movement must be only from that site to a permanent location for permanent isolation. A consolidated interim storage site would increase the risks of accidents and security problems while guaranteeing increased exposure to ionizing radiation along public-use highways, rails and waterways--even without an accident.

Further, the de-linking of an interim site from progress on a permanent solution found in both the discussion draft and even more objectionably in the Feinstein/Alexander alternative would serve only to delay permanent isolation of the waste from the environment and make it more likely that a temporary and unsuitable site would become a de facto permanent nuclear waste dump. No state or community should or would accept such an outcome--yet this proposed legislation would virtually ensure that.

I ask you to focus on public health, environmental protection and equity for the future rather than the narrow interests of the nuclear power industry--which would be the only beneficiary of such a thoughtless program. The best way to limit the scope of the radioactive waste problem is, of course, to phase out the use of nuclear power and replace it with clean energy sources. But for the waste that exists now, Hardened On-Site Storage and renewed work on finding a permanent solution is imperative.

This is urgent in my state, Vermont, as the spent fuel pool is very overloaded. The pool,is in a precarious location, and we need to get the waste into hardened casks as soon as possible, not allow it to travel through the heavily populated Northeast on the way to a temporary storage site.

Please scrap your "discussion draft" and start over.

Sincerely,

Nancy Braus.

Nancy Braus

679 West Hill Road

Putney, VT 05346

From: David Kanter <kanter.david@comcast.net>

Sent: Friday, May 24, 2013 2:41 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

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Please scrap your "discussion draft" and start over.

Sincerely,

David Kanter

Bittersweet Dr

14489 Bittersweet Dr

Hughesville, MD 20637

From: Larry Flick <lflick@thefgagroup.com>

Sent: Friday, May 24, 2013 2:39 PM

To: feedback, nwaste (Energy)

Subject:Muons Inc. -- Attached comment letter on, and draft amendments to, the Nuclear Waste Administration Act of 2013.

Attachments: Comments by Muons Inc. on the Nuclear Waste Administration Act of 2013.pdf

Dear Senate Energy Committee:

On behalf of Muons Inc. I am submitting the attached comment letter on, and draft amendments to, the Nuclear Waste Administration Act of 2013.

Larry Flick

Chairman, The FGA Group LLC

202-828-1080 (office)

202-409-2044 (cell)

www.thefgagroup.com

From: nelson french <whtmtncc@cableone.net>

Sent: Friday, May 24, 2013 2:38 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

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Please scrap your "discussion draft" and start over.

Sincerely,

nelson french

829 pne creek dr.

lakeside, AZ 85929

From: Kenneth Slining <alitom430@frontiernet.net>

Sent: Friday, May 24, 2013 2:38 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

Moving lethal high-level radioactive waste to a consolidated interim site would not fix any problems at all, and is simply unacceptable. No one charged with protection of public health, safety and security should mandate moving deadly radioactive waste repeatedly. While the waste will have to be moved at some point, it should first make only the short move from the current fuel pools at reactors to dry containers at the same reactor site. Other movement must be only from that site to a permanent location for permanent isolation. A consolidated interim storage site would increase the risks of accidents and security problems while guaranteeing increased exposure to ionizing radiation along public-use highways, rails and waterways--even without an accident.

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Thank you for your consideration.

Kenneth Slining

507 Panorama Trail

Rochester, NY 14625

From: Carol Joan Patterson <joanie.patterson@yahoo.com>

Sent: Friday, May 24, 2013 2:37 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

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Please scrap your "discussion draft" and start over.

Sincerely,

Carol Joan Patterson

1421 CR 323

Eureka Springs, AR 72632

From: Barbara Cowan <barbarac337@gmail.com>

Sent: Friday, May 24, 2013 2:35 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

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Thank you for your consideration.

Barbara Cowan

5 Roberts Road #3

Cambridge, MA 02138

From: Michael Callahan <mike_callahan@govstrat.com>

Sent: Friday, May 24, 2013 2:27 PM

To: feedback, nwaste (Energy)

Subject:Comments on the draft Nuclear Waste Administration Act of 2013 - DPC

Attachments: DPCComments05-24-13.pdf

Attached are comments on subject draft Act offered by the Decommissioning Plant Coalition (DPC).

We appreciate the opportunity to comment and we will be pleased to assist further.

Michael S. Callahan

Governmental Strategies Inc (on behalf of the Decommissioning Plant Coalition)

712 North Carolina Ave., S.E.

Washington, D.C., 20003

202-546-4258 (o)

301-526-7606 (c)

From: holly juch <holly.juch@gmail.com>

Sent: Friday, May 24, 2013 2:23 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

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Please scrap your "discussion draft" and start over.

Sincerely,

holly juch

carmichael, CA 95608

From: Meyers, LaVern <LMeyers@oakridgetn.gov>

Sent: Friday, May 24, 2013 2:19 PM

To: feedback, nwaste (Energy)

Subject:COMMENTS ON DISCUSSION DRAFT OF THE NUCLEAR WASTE ADMINISTRATION ACT OF 2013

Attachments: DOC085.PDF

Attached are “Comments on the Discussion Draft of the Nuclear Waste Administration Act of 2013” from Mark S. Watson, City Manager, Oak Ridge, Tennessee.

LaVern H. Meyers

City Manager’s Office

City of Oak Ridge

(865) 425-3550

Electronic communications with officials and employees of the City are subject to Tennessee's Public Records Act.

From: Bonnifer Ballard <bballard@ans.org>

Sent: Friday, May 24, 2013 1:02 PM

To: feedback, nwaste (Energy)

Subject:Nuclear Waste Administration Act of 2013 Feedback

Attachments: NWAA Response 052413.pdf

SENT ON BEHALF OF DR. MICHAEL CORRADINI, PRESIDENT, AMERICAN NUCLEAR SOCIETY

To: U.S. Senate Committee on Energy and Natural Resources

The American Nuclear Society (ANS) appreciates the opportunity to comment on the draft Nuclear Waste Administration Act (NWAA). The ANS is a not-for-profit, international, scientific, and educational organization with nearly 12,000 members worldwide. The core purpose of ANS is to promote awareness and understanding of the application of nuclear science and technology. As an organization, it has published a number of position statements regarding the issue of spent fuel and radioactive waste.

We applaud your efforts to re-invigorate the dialogue to address this nation's high-level waste and spent nuclear fuel disposal policy. But we must also express our concern that lack of action by the Congress and the Administration in addressing the Nuclear Waste Policy Act (NWPA) of 1982 et seq. sets a poor precedent for any future legislation on this matter. The NWAA could be a step forward in fulfilling the federal government's responsibilities but it must be done within the context of the NWPA, rather than replace it.

A new nuclear waste management organization is critical for both the continued viability of the nuclear power industry in the United States as well as the credibility of the United States as a global leader in nuclear trade and non-proliferation. While we do not believe the governance structure proposed in the NWAA is the appropriate model, we strongly encourage the committee to continue their efforts to establish and ultimately charter an organization that will address our nation's nuclear waste.

Respectfully submitted,

Dr. Michael Corradini, President

American Nuclear Society

708-579-8202

president@ans.org <mailto:president@ans.org> or

corradini@engr.wisc.edu <mailto:corradini@engr.wisc.edu>

Bonnifer Ballard, MLD

Director, Communications and Outreach

Director, Center for Nuclear Science

& Technology Information

American Nuclear Society

ph 708.579.8230

cell 708.927.2416

bballard@ans.org <mailto:bballard@ans.org>

From: Lawrence Turk, RN <butch@wildrockies.org>

Sent: Friday, May 24, 2013 2:16 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

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I ask you to focus on public health, environmental protection and equity for the future rather than the narrow interests of the nuclear power industry--which would be the only beneficiary of such a thoughtless program. The best way to limit the scope of the radioactive waste problem is, of course, to phase out the use of nuclear power and replace it with clean energy sources. But for the waste that exists now, Hardened On-Site Storage and renewed work on finding a permanent solution is imperative.

Please scrap your "discussion draft" and start over.

Sincerely,

Lawrence Turk, RN

POB 203

none

Hendersonville, NC 28793

From: gail.snyder@comcast.net

Sent: Friday, May 24, 2013 2:09 PM

To: feedback, nwaste (Energy)

Subject:Comment on Draft Bill of the Nuclear Waste Administration Act of 2013

Comment on Draft Bill of the Nuclear Waste Administration Act of 2013

Dear Senators,

As a resident of Illinois I live in the state with the most operating nuclear reactors and the most stored nuclear waste from reactors of any state in the country. A solution to the nuclear waste storage problem is important to the health and safety of my family and friends as well as the environment in which we all live. While I would like nothing more than for all of the high level radioactive waste to disappear into a safe resting place I do not believe a permanent repository will be found that can so perfectly contain the nation's accumulation of over seventy years of nuclear waste from nuclear weapons and the nuclear energy industry. Nuclear nations around the world have sought and have not found the perfect resting place for the byproducts of the atomic age and our country has tried, invested and failed in Yucca Mountain as a permanent repository.

It is hard to believe that after the fiasco of Yucca Mountain a new attempt to consolidate high level radioactive waste into a few sites around the country hoping that a permanent repository is eventually identified afterward is the preferred course of action of this draft bill. A permanent repository will not be found, no perfect location exists and people do not want the areas they live in to become the nuclear waste dump of the nation. Sites chosen for Consolidated Interim Storage will become the de facto permanent nuclear waste repositories of the country or the future nuclear fuel reprocessing sites for the country. Neither of which are preferable options as a default from a long term permanent solution to the nuclear waste problem.

It is unacceptable that "The [draft] bill authorizes the Administrator to begin siting consolidated storage facilities immediately, and does not set waste volumes restrictions on storage" and that in the event that a permanent repository site is not located "waste shipments to the storage facility would cease [but emergency shipments would continue]" and that "waste already in storage would remain there." In this scenario the current problems and risks are expanded to new sites not reduced.

Imagine if we had immediately moved nuclear waste to Centralized Interim Storage (CIS) sites in 1987 when congress designated Yucca Mountain. We would have moved nuclear waste all around the country to CIS locations and it would still be sitting there after 25 years because Yucca Mountain has been cancelled. What if damage had occurred along the transportation routes or if the CIS site was contaminated? In this type of scenario, which is a possibility with this draft bill, we would have made more nuclear waste sites in the country and put more people at risk.

A permanent geologic repository should be located first if it is truly believed that such a location can be found and agreed upon. Why wait? Find it now! While the search is on for a repository all existing waste should be put into Hardened On-Site Storage at the location it currently exists with the U.S. government either through the DOE or the proposed new federal agency taking full title of the waste while leaving it on-site. The idea that the U.S. government could "take title" of the waste while leaving it on-site was originally proposed in 1999 by then Energy Secretary Bill Richardson. His idea was incorporated into a bill, S. 1287, put forward by then Senator Frank Murkowski. It is my understanding that "taking title" was removed from the bill because some states believed that it would encourage the federal government to leave the waste on-site and discourage them from finding a permanent repository. For the last 13 years what those states were concerned would happen has happened, the waste is still in their states and no repository exists. No repository will exist in the future either and the waste will stay where it is, hopefully in Hardened On-Site Storage (HOSS), or it will be re-located in CIS facilities. We should just face the facts now as we should have done 14 years ago and secure the waste on-site, stop making more waste and further develop renewable energy.

In the case of starting to use HOSS right now, if a repository is not found all the waste will have been secured and no transportation accidents will have occurred. While the waste is put into HOSS nuclear power facilities can continue to operate as the majority of their spent fuel will be removed from their spent fuel pools. If a repository is not found the current locations for nuclear waste will become the federal nuclear waste repositories. Current nuclear facilities have security and staff trained for nuclear emergencies. Local government and County emergency management have taken into consideration problems with the nuclear facility. Public awareness around the nuclear facilities exists, emergency sirens are in place and those closest to the facility have received instructions on what to do during an emergency and have hopefully stored potassium iodide and planned to shelter in place if necessary or planned on how best to evacuate. Transporting waste to new Centralized Interim Storage sites removes community awareness to the potential risk during an accident or terrorist attack. During the transport of nuclear waste only specific individuals will be aware of its presence in the area. No siren system will be in place, people in the area will be unaware of what they should do and will not have the supplies on hand to protect themselves. Additionally all the safety protocols just mentioned will have to be implemented at any new CIS sites.

The idea of removing waste from a state encourages that state to continue producing more nuclear waste that another state will have to carry the burden of and that is not equitable to the people put at risk in the state where a Centralized Interim Storage site is located or the states the nuclear wast has to be transported through. If a state wants the jobs, profit, taxes and energy of nuclear waste let them bare the full burden of keeping the waste in their own state. I say this knowing full well that my State of

Illinois will have to bare a large burden from its own nuclear legacy. If a state does not want to increase their amount of nuclear waste in storage then they can choose to use alternative sources of energy and shut down the nuclear facilities in their states. Although they will always have the legacy of waste created in their state.

A siting study by Oak Ridge National Laboratory for the DOE to evaluate possible routes and locations for future nuclear related facilities illustrates that Illinois is a highly likely destination for the CIS as proposed in this draft bill. Without a permanent repository being identified first Illinois will become a nuclear waste repository for the nation or the region. Furthermore the potential for reprocessing nuclear waste once it is consolidated on-site could turn a CIS site in Illinois into a nuclear reprocessing facility. I would not wish such a fate on any state and certainly not on the one I live in. No level or radiation exposure is without risk. As a resident of Illinois I do not want my state to accept high level radioactive waste from other states. I do not want high level radioactive waste shipped in and out of reprocessing facilities and I do not want to be put at risk from accidents or even regular releases of radiation into the air and water that government agencies like the EPA and NRC deem acceptable.

There is no discussion of nuclear reprocessing in this draft bill even though a plan to implement nuclear reprocessing would look very much like the CIS plan as it is laid out in this draft bill, especially with no repository site being identified, agreed upon, invested in and worked on first. If the plan for high level nuclear waste were to change from a repository to reprocessing all the waste would be conveniently located in just a few CIS sites to begin reprocessing. If this is part of the consideration for creating CIS then it should be openly discussed as part of the plan and the government's plans for reprocessing should be transparent and not hidden by only acknowledging the steps it takes to get there.

It is disappointing to read statements by members of the sponsors of this draft bill that appear to support the continued production of highly radioactive nuclear waste rather than admit there are no great solutions to the problem at hand. The people of our nation are at great risk. We need to stop making more nuclear waste. If the sponsor's concern that we have "fuel rods…stored on-site at dozens of commercial nuclear facilities around the country, including areas that are at risk of earthquakes, floods and other natural disasters." Wouldn't such a site be a bad location for a nuclear reactor to continue operating? Why is there only a call to remove the older spent fuel at such sites and not a call to shut down the reactor itself? Even if CIS is implemented such a reactor would never have a completely empty spent fuel pool which would continue to be at risk along with the reactor itself.

While the draft bill promotes a "consent-based process for siting nuclear waste facilities" the idea of "consent" does not provide comfort as the terms of such consent can include "financial compensation and incentives" as well as "economic development assistance". Is it the intention that the process for site location is to find the most financially desperate community to take on the burden of the nation's nuclear waste? Shouldn't the site for the nation's high level radioactive waste storage be the safest geological location and furthest from large populations or will such facilities just go to the most economically depressed areas of the country?

“The guidelines for storage facilities shall not require the Administrator to consider underground geophysical conditions that the Administrator determines do not apply to above-ground storage.” In the possible scenario that a permanent geological repository is not identified or is not identified for a very long time then the underground geophysical conditions of a site become more important and should be considered.

Not only do people have to be concerned about the possibility of CIS sites storing waste from the nuclear power industry but they also have to be worried about having nuclear defense waste stored in those CIS sites as well. If both sources of waste are relocated or stored indefinitely together and it is later determined that the waste should be moved to another location how will funds to move it a second time be allocated to ensure funds are not commingled? Additionally this draft bill allows for the creation of more sites solely for defense waste. While the government was obligated to find a solution to storing waste from the nuclear power industry shouldn’t the U.S. government already have been safely storing the waste it produced? To be clear the nuclear waste from the defense industry does not have an ownership problem. It is already owned by the U.S. government and already exists on federal property. So why is nuclear defense waste now a problem that has to be resolved along with the nuclear power industry’s waste? The mishandling of the waste the U.S. government made, owns and has possession of on its own land does not inspire any confidence that moving waste around to new CIS locations will resolve any nuclear waste problems in the long-term.

Thank you for your consideration,

Gail Snyder

15535 W. Thornwood Lane

Homer Glen, IL 60491

From: Michael Mariotte <nirsnet@nirs.org>

Sent: Friday, May 24, 2013 2:06 PM

To: feedback, nwaste (Energy)

Subject:Comments on discussion draft of radioactive waste legislation

Attachments: Group sign-on Comment Wyden.pdf

Senate Energy Committee:

Pasted in below and attached for your convenience in pdf format are comments from 103 national, regional and local organizations on the discussion draft of radioactive waste legislation. We appreciate the opportunity to comment on this draft and hope this kind of interaction with the public will continue.

Thank you,

Michael Mariotte

Executive Director

Nuclear Information and Resource Service

Comment from Groups to the Senate Energy Committee on Discussion Draft of Nuclear Waste Administration Act of 2013

May 24, 2013: Many organizations signing here have made additional comments to the Committee on this matter; we submit these comments as one voice to emphasize these points.

Comments:

The first objective of any strategy to manage our country's stockpile of nuclear waste must be safe and secure storage and minimizing the number of times radioactive waste is handled and transported. The proposal to move nuclear waste to one or more consolidated waste storage facilities does not meet this objective. In addition the proposal does not address broader storage and disposal issues. Adopting a plan to move waste around the country without linkage to permanent disposal would be inequitable.

We oppose the inclusion of consolidated "interim" waste storage in the Nuclear Waste Administration Act of 2013.

Transportation risks and hazards are compounded

Consolidation would multiply the distances high-level waste is shipped, and escalate the risks of public and worker exposure and severe accidents (accident rate is directly tied to shipment miles). It would also further stress and potentially damage irradiated nuclear fuel, making future handling, transport, and long term isolation from the environment much more difficult.

Multiple transportation campaigns are more complex than some reports make them out to be:

• the National Academy of Sciences report "Going the Distance," often cited for concluding that transport is "safe," expressly stated that security concerns were significant, but this was not included in the report nor its conclusion;

• many conclusions are based on transport of other nuclear materials, such as nuclear warheads, "low-level" waste and uranium fuel that has not been used in a reactor; none of these materials are comparable in size, thermal mass, ambient gamma dose or attractiveness to would-be terrorists;

• to date, containers for irradiated fuel have never been physically tested--particularly those currently in use at reactor sites--for accident conditions;

• even routine transport will result in ionizing radiation exposure to the general population; the current regulations do not reflect many new findings about radiation impact that underscore, once again, that such exposure must be minimized, not multiplied for corporate convenience.

Transfer of backlog waste to dry containers at the site where it was generated, and storage for the "interim" period at that site, will reduce two enormous risk factors: over-full fuel pools and unnecessary

transport of the waste. Security and safety at the existing sites would be greatly increased by the hardening of the dry storage containers. Hardened On-site Storage or HOSS is a set of principles developed by communities currently impacted by on-site waste storage and are posted in complete form here: http://www.nirs.org/radwaste/policy/hossprinciples3232010.pdf <http://www.nirs.org/radwaste/policy/hossprinciples3232010.pdf>

Does not resolve existing vulnerability of nuclear waste storage

Our groups agree that reducing the inventory of irradiated fuel stored in liquid pools at reactor sites must be a top priority. Mandating consolidated storage does not ensure a prompt removal of waste from pools at all sites. If reactor owners are allowed to await the formation of a new federal agency, the production of new containers on a federal schedule, and the arrival of their turn in the traditional waste "queue" or some other new sequence, it could be decades before some older waste is removed from fuel pools.

A bill which mandates hardened dry storage of all waste approved by the regulator for dry storage would accomplish the goal of rapidly reducing fuel pool inventories. In our view, the failure of the U.S. Nuclear Regulatory Commission (NRC) to mandate hardened on-site dry storage at reactor sites expressly on the basis of its own assessment of harm[i] that would result from a fuel pool accident or attack should have been corrected through Congressional action long ago; the Fukushima Daiichi events merely underscore this.[ii]

Consolidated storage sites could become de facto permanent

The primary purpose of moving the waste to a temporary site is to satisfy the grave legislative blunder ratified by the Nuclear Waste Policy Act of 1982: that the federal government not only would take possession of commercial nuclear waste, but that it would begin accepting waste for disposal in 1998.

Because the federal government is 15 years late taking ownership of the waste, it is pushing a strategy that prioritizes the resolution of financial liabilities rather than ensuring safety and security. Moving irradiated nuclear fuel and other high level wastes to a consolidated site could de-incentivize and adversely impact progress of the nation’s efforts toward a viable permanent solution. The draft legislation’s overtures toward decoupling the relationship between storage and permanent disposal further exacerbate this issue.

Our view is simple: there must be no transportation of spent nuclear fuel or high level waste until it is heading to a permanent site. The discussion of consolidated storage without the linkage provided in the existing Nuclear Waste Policy Act is not credible as "temporary" and the provisions offered by the Committee do not rise to the level of that term.

Does not reduce the number of contaminated sites

True consolidation of waste is not possible as long as nuclear utilities continue to generate waste. As long as nuclear power plants continue to operate, nuclear waste will be at reactors, as the waste must be cooled in pools on-site at least five years before being moved to either on-site dry storage or an off-

site storage facility. This fact, combined with the decades it would take to establish any new site, and decades to ship the existing backlog of waste is a key reason that dry storage on-site should be put in HOSS (hardened on-site storage) now, no matter what.

In fact, the 1996 report by the Nuclear Waste Technical Review Board entitled "Disposal and Storage of Spent Nuclear Fuel -- Finding the Right Balance" stated that the most geographically equitable approach to storage is to leave the spent fuel at reactors near the communities that have benefited from the power generated.

Consolidating the storage of irradiated fuel is integral to reprocessing

Consolidation would increase the probability of reprocessing, resulting in massive separation of plutonium with no way to ensure that it would not be diverted, officially or unofficially, for use in weapons of mass destruction. Our groups strongly oppose reprocessing. It is expensive and polluting, and weakens the global non-proliferation regime. It is not a viable waste management strategy, as reflected in the Blue Ribbon Commission report, because it does not significantly reduce the radioactivity of the waste that must be stored in a repository. In fact, there has been no resolution for the millions of gallons of toxic waste generated by spent fuel reprocessed in the United States decades ago.

Does not honor the "polluter pay" principles established in the Nuclear Waste Policy Act of 1982

Exemption of waste generators from continued financial participation in responsibility for any waste generated prior to its emplacement in a bona fide location for permanent isolation from our environment is a striking change from the existing statute and should be addressed directly in this legislation. There are a number of options and our groups would, in general, support a funding equation that mandates transfer from pools to hardened on-site storage rapidly. However, there remains an issue as to whether and to what extent waste generators should have a financial role in expediting a safer waste management regime.

Sincerely,

Michael Mariotte

Executive Director

Nuclear Information and Resource Service

Takoma Park, MD

Allison Fisher

Public Citizen

Washington, DC

John Coequyt

Sierra Club

Washington, DC

Lynn Thorp

Clean Water Action

Washington, DC

Jim Riccio

Greenpeace

Washington, DC

Catherine Thomasson, MD

Executive Director

Physicians for Social Responsibility

Washington, DC

Kevin Kamps

Beyond Nuclear

Takoma Park, MD

Ken Bossong

Executive Director

SUN DAY Campaign

Takoma Park, MD

Stephen Brittle

Don’t Waste Arizona

Phoenix, AZ

Jack & Felice Cohen-Joppa, editors

The Nuclear Resister

Tucson, AZ

Russell Lowes

www.SafeEnergyAnalyst.org <http://www.SafeEnergyAnalyst.org>

Tucson, AZ

Jane Swanson

San Luis Obispo Mothers for Peace

San Luis Obispo, CA

Gary Headrick

San Clemente Green

San Clemente, CA

Linda Seeley

Terra Foundation

San Luis Obispo, CA

Robert M. Gould, MD

President

San Francisco-Bay Area Chapter

Physicians for Social Responsibility

San Francisco, CA

Lillian Light

President

Environmental Priorities Network

Manhattan Beach, CA

Enid Schreibman

Center For Safe Energy

Berkeley, CA

Marylia Kelley

Executive Director,

Tri-Valley CAREs

Livermore, CA

Barbara George

Women's Energy Matters

Berkeley, CA

Andrew Christie

Santa Lucia Sierra Club

San Luis Obispo, CA

Libbe HaLevy

Nuclear Hotseat Podcast

Los Angeles, CA

Carol Jahnkow

Director Emerita/Special Projects Coordinator

Peace Resource Center of San Diego

San Diego, CA

Martha Sullivan, Organizer

Coalition to Decommission San Onofre

San Diego, CA

Aletha, Co-Founder

Free Soil Party USA

Los Angeles, CA

Pam Nelson

Sierra Club, Santa Margarita Group

Temecula, CA

Donna Charpied

Executive Director

Desert Protection Society

Desert Center, CA

Carolyn S. Scarr

Program Coordinator

Ecumenical Peace Institute/CALC

Berkeley, CA

Cara L. Campbell

Ecology Party of Florida

Ft. Lauderdale, FL

Nancy O'Byrne

Coordinator

Pax Christi Florida

St. Augustine, FL

Steve Showen

Co-Chair

Green Party of Florida

Michael Canney

Co-chair

Alachua County Green Party (FL)

Lynn Ringenberg, M.D.

President, Physicians for Social Responsibility/Florida

Professor emeritus USF College of Medicine

Tampa, FL

Glenn Carroll

Nuclear Watch South

Atlanta, GA

Becky Rafter

Executive Director

Georgia Women's Action for New Directions

Atlanta, GA

Mike Carberry

Green State Solutions

Iowa City, IA

Dave Kraft

Executive Director

Nuclear Energy Information Service

Chicago, IL

Maureen Headington, President

Stand Up/Save Lives Campaign

Burr Ridge, IL

Kerwin Olson

Executive Director

Citizens Action Coalition of Indiana

Indianapolis, IN

Kamala Platt

Meadowlark Center

Newton, KS

Bruce K. Gagnon

Coordinator

Global Network Against Weapons & Nuclear Power in Space

Brunswick, ME

Denise Dreher

Coordinator

Pax Christi Maine

Biddeford, ME

Dr. Cindy Parker

Chesapeake Physicians for Social Responsibility

Baltimore, MD

Gwen DuBois

Crabshell Alliance

Baltimore, MD

Patricia Birnie

Chair

GE Stockholders' Alliance

Sandy Spring, MD

Deb Katz

Citizens Awareness Network

Shelburne Falls, MA

Mary Lampert, Director

Pilgrim Watch

Duxbury, MA

Kathryn Barnes

Don't Waste Michigan

Sherwood, MI

Michael J. Keegan

Coalition for a Nuclear Free Great Lakes

Monroe, MI

Laura Dewey

Coordinator

Detroit Women’s International League for Peace and Freedom

Detroit, MI

Alice Hirt

Don't Waste Michigan

Holland, MI

Lea Foushee

George Crocker

North American Water Office

Lake Elmo, MN

Gladys Schmitz, SSND

Mankato Area Environmentalists

Mankato, MN

Mark Haim, Chair

Missourians for Safe Energy

Columbia, MO

Ed Smith

Safe Energy Director

Missouri Coalition for the Environment

St. Louis, MO

Joan Brannigan

President

St. Louis Branch of Women's International League for Peace & Freedom

St. Louis, MO

Buffalo Bruce,

Staff Ecologist

Western Nebraska Resources Council

Chadron, NE

Judy Treichel

Nevada Nuclear Waste Task Force

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Doug Bogen

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Seacoast Anti-Pollution League

Exeter, NH

Paula Gotsch

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Normandy Beach, NJ

Joni Arends

Executive Director

Concerned Citizens for Nuclear Safety

Santa Fe, NM

Sister Rose Marie Cecchini, MM

Office of Life, Peace, Justice & Creation Stewardship

Catholic Charities of Gallup Diocese

Gallup, NM

Barbara Warren,

Executive Director

Citizens' Environmental Coalition

Albany, NY

Manna Jo Greene

Environmental Director

Hudson River Sloop Clearwater, Inc.

Beacon, NY

Priscilla Star

Executive Director

Coalition Against Nukes

Montauk, NY

Conrad Miller MD

Physicians For Life

Watermill, NY

Louis A. Zeller

Executive Director

Blue Ridge Environmental Defense League

Glendale Springs, NC

Hope Taylor, MSPH

Executive Director for Clean Water for North Carolina

Asheville, NC

Julius Kerr

Neighborhood Environment Watch (NEW)

NC Chapter of Blue Ridge Environmental Defense League (BREDL)

Graham, NC

Mary Olson

NIRS Southeast

Asheville, NC

Terry Clark, M.D.

Chairperson,

Western North Carolina Chapter

Physicians for Social Responsibility

Asheville, NC

Ellen Thomas

Proposition One Campaign

Tryon, NC

Christine Borello, President

Concerned Citizens of Lake Twp./Uniontown IEL Superfund Site, Ohio

Uniontown, OH

Jessie Pauline Collins

Citizens Resistance at Fermi 2

Gore, OK

Barbara Geary

Chair

Citizens Action for Safe Energy

Tulsa, OK

Marilyn McCulloch

The Carrie Dickerson Foundation

Tulsa, OK

Nina Bell, J.D.

Executive Director

Northwest Environmental Advocates

Portland, OR

Charles K. Johnson

Director, Joint Task Force on Nuclear Power

Oregon and Washington Physicians for Social Responsibility

Portland, OR and Seattle, WA

Jill Mackie

Women's International League for Peace & Freedom

Ashland, Oregon Branch

Ashland, OR

Katharine Dodge

Education Chair

Northeast Pa. Audubon Society

Honesdale, PA

Ernest Fuller

Concerned Citizens for SNEC Safety

Six Mile Run, PA

Eric Epstein

Three Mile Island Alert

Harrisburg, PA

Liberty Goodwin

Toxics Information Project (TIP)

Providence, RI

Finian Taylor

Hilton Head for Peace

Hilton Head, SC

Cynthia Weehler

Energía Mía

San Antonio, TX

Karen Hadden

Sustainable Energy & Economic Development (SEED) Coalition

Austin, TX

Tom "Smitty" Smith

Public Citizen

Austin, TX

Robert Singleton

Citizens Organized to Defend Austin

Austin, TX

Jerry Stein

Coordinator

The Peace Farm

Amarillo, TX

Susan Dancer

South Texas Association for Responsible Energy

Blessing, TX

Matagorda County Coalition for Nuclear Industry Accountability

Bay City, TX

Chris Masey

Director

Austin Physicians for Social Responsibility

Austin, TX

Matt Pacenza

Policy Director

HEAL Utah

Salt Lake City, UT

Scott Sklar

The Stella Group, Ltd.

Arlington, VA

Edward “Ned” Childs

New England Coalition on Nuclear Pollution

Brattleboro, VT

Chris Williams

Vermont Citizens Action Network

Hancock, VT

Jennifer Olaranna Viereck

HOME: Healing Ourselves & Mother Earth

N. Bennington, VT

Tom Carpenter

Executive Director

Hanford Challenge

Seattle, WA

Gerry Pollet, JD

Executive Director,

Heart of America Northwest

Seattle, WA

Steven G. Gilbert, PhD, DABT

INND (Institute of Neurotoxicology & Neurological Disorders)

Seattle, WA

Pam Kleiss

Executive Director

Physicians for Social Responsibility Wisconsin

Madison, WI

Bonnie Urfer and John LaForge

Co-directors

Nukewatch

Luck, WI

Marcia Halligan

Kickapoo Peace Circle

Viroqua, WI

_____

i See NUREG-1738, Technical Study of Spent Fuel Pool Accident Risk at Decommissioning Nuclear Power Plants 2001, and also analysis done by NRC staff and published in the Federal Register as a proposed rulemaking on October 30, 1997; FRVol62#210, pages 58690-58694.

[ii] Robert Alvarez, May 2011. Spent Fuel Pools in the US: Reducing the Deadly Risks of Storage. Institute for Policy Studies, report can be downloaded here: http://www.ips-

dc.org/reports/spent_nuclear_fuel_pools_in_the_us_reducing_the_deadly_risks_of_storage <http://www.ips-dc.org/reports/spent_nuclear_fuel_pools_in_the_us_reducing_the_deadly_risks_of_storage>

From: Gail Snyder <gail.snyder@comcast.net>

Sent: Friday, May 24, 2013 2:06 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

Comment on Draft Bill of the Nuclear Waste Administration Act of 2013

Dear Senators,

As a resident of Illinois I live in the state with the most operating nuclear reactors and the most stored nuclear waste from reactors of any state in the country. A solution to the nuclear waste storage problem is important to the health and safety of my family and friends as well as the environment in which we all live. While I would like nothing more than for all of the high level radioactive waste to disappear into a safe resting place I do not believe a permanent repository will be found that can so perfectly contain the nation's accumulation of over seventy years of nuclear waste from nuclear weapons and the nuclear energy industry. Nuclear nations around the world have sought and have not found the perfect resting place for the byproducts of the atomic age and our country has tried, invested and failed in Yucca Mountain as a permanent repository.

It is hard to believe that after the fiasco of Yucca Mountain a new attempt to consolidate high level radioactive waste into a few sites around the country hoping that a permanent repository is eventually identified afterward is the preferred course of action of this draft bill. A permanent repository will not be found, no perfect location exists and people do not want the areas they live in to become the nuclear waste dump of the nation. Sites chosen for Consolidated Interim Storage will become the de facto permanent nuclear waste repositories of the country or the future nuclear fuel reprocessing sites for the country. Neither of which are preferable options as a default from a long term permanent solution to the nuclear waste problem.

It is unacceptable that "The [draft] bill authorizes the Administrator to begin siting consolidated storage facilities immediately, and does not set waste volumes restrictions on storage" and that in the event that a permanent repository site is not located "waste shipments to the storage facility would cease [but emergency shipments would continue]" and that "waste already in storage would remain there." In this scenario the current problems and risks are expanded to new sites not reduced.

Imagine if we had immediately moved nuclear waste to Centralized Interim Storage (CIS) sites in 1987 when congress designated Yucca Mountain. We would have moved nuclear waste all around the country to CIS locations and it would still be sitting there after 25 years because Yucca Mountain has been cancelled. What if damage had occurred along the transportation routes or if the CIS site was

contaminated? In this type of scenario, which is a possibility with this draft bill, we would have made more nuclear waste sites in the country and put more people at risk.

A permanent geologic repository should be located first if it is truly believed that such a location can be found and agreed upon. Why wait? Find it now! While the search is on for a repository all existing waste should be put into Hardened On-Site Storage at the location it currently exists with the U.S. government either through the DOE or the proposed new federal agency taking full title of the waste while leaving it on-site. The idea that the U.S. government could "take title" of the waste while leaving it on-site was originally proposed in 1999 by then Energy Secretary Bill Richardson. His idea was incorporated into a bill, S. 1287, put forward by then Senator Frank Murkowski. It is my understanding that "taking title" was removed from the bill because some states believed that it would encourage the federal government to leave the waste on-site and discourage them from finding a permanent repository. For the last 13 years what those states were concerned would happen has happened, the waste is still in their states and no repository exists. No repository will exist in the future either and the waste will stay where it is, hopefully in Hardened On-Site Storage (HOSS), or it will be re-located in CIS facilities. We should just face the facts now as we should have done 14 years ago and secure the waste on-site, stop making more waste and further develop renewable energy.

In the case of starting to use HOSS right now, if a repository is not found all the waste will have been secured and no transportation accidents will have occurred. While the waste is put into HOSS nuclear power facilities can continue to operate as the majority of their spent fuel will be removed from their spent fuel pools. If a repository is not found the current locations for nuclear waste will become the federal nuclear waste repositories. Current nuclear facilities have security and staff trained for nuclear emergencies. Local government and County emergency management have taken into consideration problems with the nuclear facility. Public awareness around the nuclear facilities exists, emergency sirens are in place and those closest to the facility have received instructions on what to do during an emergency and have hopefully stored potassium iodide and planned to shelter in place if necessary or planned on how best to evacuate. Transporting waste to new Centralized Interim Storage sites removes community awareness to the potential risk during an accident or terrorist attack. During the transport of nuclear waste only specific individuals will be aware of its presence in the area. No siren system will be in place, people in the area will be unaware of what they should do and will not have the supplies on hand to protect themselves. Additionally all the safety protocols just mentioned will have to be implemented at any new CIS sites.

The idea of removing waste from a state encourages that state to continue producing more nuclear waste that another state will have to carry the burden of and that is not equitable to the people put at risk in the state where a Centralized Interim Storage site is located or the states the nuclear wast has to be transported through. If a state wants the jobs, profit, taxes and energy of nuclear waste let them bare the full burden of keeping the waste in their own state. I say this knowing full well that my State of Illinois will have to bare a large burden from its own nuclear legacy. If a state does not want to increase their amount of nuclear waste in storage then they can choose to use alternative sources of energy and shut down the nuclear facilities in their states. Although they will always have the legacy of waste created in their state.

A siting study by Oak Ridge National Laboratory for the DOE to evaluate possible routes and locations for future nuclear related facilities illustrates that Illinois is a highly likely destination for the CIS as proposed in this draft bill. Without a permanent repository being identified first Illinois will become a nuclear waste repository for the nation or the region. Furthermore the potential for reprocessing nuclear waste once it is consolidated on-site could turn a CIS site in Illinois into a nuclear reprocessing facility. I would not wish such a fate on any state and certainly not on the one I live in. No level or radiation exposure is without risk. As a resident of Illinois I do not want my state to accept high level radioactive waste from other states. I do not want high level radioactive waste shipped in and out of reprocessing facilities and I do not want to be put at risk from accidents or even regular releases of radiation into the air and water that government agencies like the EPA and NRC deem acceptable.

There is no discussion of nuclear reprocessing in this draft bill even though a plan to implement nuclear reprocessing would look very much like the CIS plan as it is laid out in this draft bill, especially with no repository site being identified, agreed upon, invested in and worked on first. If the plan for high level nuclear waste were to change from a repository to reprocessing all the waste would be conveniently located in just a few CIS sites to begin reprocessing. If this is part of the consideration for creating CIS then it should be openly discussed as part of the plan and the government's plans for reprocessing should be transparent and not hidden by only acknowledging the steps it takes to get there.

It is disappointing to read statements by members of the sponsors of this draft bill that appear to support the continued production of highly radioactive nuclear waste rather than admit there are no great solutions to the problem at hand. The people of our nation are at great risk. We need to stop making more nuclear waste. If the sponsor's concern that we have "fuel rods…stored on-site at dozens of commercial nuclear facilities around the country, including areas that are at risk of earthquakes, floods and other natural disasters." Wouldn't such a site be a bad location for a nuclear reactor to continue operating? Why is there only a call to remove the older spent fuel at such sites and not a call to shut down the reactor itself? Even if CIS is implemented such a reactor would never have a completely empty spent fuel pool which would continue to be at risk along with the reactor itself.

While the draft bill promotes a "consent-based process for siting nuclear waste facilities" the idea of "consent" does not provide comfort as the terms of such consent can include "financial compensation and incentives" as well as "economic development assistance". Is it the intention that the process for site location is to find the most financially desperate community to take on the burden of the nation's nuclear waste? Shouldn't the site for the nation's high level radioactive waste storage be the safest geological location and furthest from large populations or will such facilities just go to the most economically depressed areas of the country?

"The guidelines for storage facilities shall not require the Administrator to consider underground geophysical conditions that the Administrator determines do not apply to above-ground storage." In the possible scenario that a permanent geological repository is not identified or is not identified for a very long time then the underground geophysical conditions of a site become more important and should be considered.

Not only do people have to be concerned about the possibility of CIS sites storing waste from the nuclear power industry but they also have to be worried about having nuclear defense waste stored in those CIS sites as well. If both sources of waste are relocated or stored indefinitely together and it is later determined that the waste should be moved to another location how will funds to move it a second time be allocated to ensure funds are not commingled? Additionally this draft bill allows for the creation of more sites solely for defense waste. While the government was obligated to find a solution to storing waste from the nuclear power industry shouldn't the U.S. government already have been safely storing the waste it produced? To be clear the nuclear waste from the defense industry does not have an ownership problem. It is already owned by the U.S. government and already exists on federal property. So why is nuclear defense waste now a problem that has to be resolved along with the nuclear power industry's waste? The mishandling of the waste the U.S. government made, owns and has possession of on its own land does not inspire any confidence that moving waste around to new CIS locations will resolve any nuclear waste problems in the long-term.

Thank you for your consideration,

Gail Snyder

15535 W. Thornwood Lane

Homer Glen, IL 60491

Gail Snyder

15535 W. Thornwood Lane

Homer Glen, IL 60491

From: Charlotte Trolinger <ctrolinger@imt.net>

Sent: Friday, May 24, 2013 2:04 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

Thank you for focusing on the radioactive waste problem. It is of utmost priority! The nation's high-level radioactive waste program is indisputably broken. However the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

Moving lethal high-level radioactive waste to a consolidated interim site would not fix any problems at all, and is simply unacceptable. No one charged with protection of public health, safety and security should mandate moving deadly radioactive waste repeatedly. While the waste will have to be moved at some point, it should first make only the short move from the current fuel pools at reactors to dry containers at the same reactor site. Other movement must be only from that site to a permanent location for permanent isolation. A consolidated interim storage site would increase the risks of

accidents and security problems while guaranteeing increased exposure to ionizing radiation along public-use highways, rails and waterways--even without an accident.

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Please scrap the "discussion draft" and start over.

Sincerely,

Charlotte Trolinger

92 Browns Gulch, Boulder, MT 59632

Boulder, MT 59632

From: REDMOND, Everett <elr@nei.org>

Sent: Friday, May 24, 2013 2:04 PM

To: feedback, nwaste (Energy)

Subject: Nuclear Energy Institute comments on Nuclear Waste Administration Act of 2013 discussion draft

Attachments: NEI Responses and Comments on Nuclear Waste Administration Act of 2013.pdf

The Nuclear Energy Institute is pleased to provide the attached comments on the Nuclear Waste Administration Act of 2013 discussion draft.

Sincerely

Everett

Everett Redmond II, Ph.D.

Senior Director

Nonproliferation and Fuel Cycle Policy

Nuclear Energy Institute

1201 F St. N.W., Suite 1100

Washington, DC 20004

www.nei.org <http://www.nei.org/>

P: 202-739-8122

F: 202-533-0222

M: 202-361-1876

E: elr@nei.org <mailto:elr@nei.org>

T: @N_E_I

<http://www.nei.org>

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Sent through mail.messaging.microsoft.com

From: Janet Latham <janetalma@gmail.com>

Sent: Friday, May 24, 2013 2:01 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

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Please scrap your "discussion draft" and start over.

Sincerely,

Janet Latham

51 Village Court

Berlin, MA 01503

From: tomclements329@cs.com

Sent: Friday, May 24, 2013 2:00 PM

To: feedback, nwaste (Energy)

Subject:comments on nuclear waste legislation, Friends of the Earth, May 24, 2013

Attachments: Wyden_comment_5.24.2013_x.pdf

To: Senate Energy & Water Committee

Re: Friends of the Earth comments "Discussion Draft of Nuclear Waste Administration Act of 2013"

I have sent my comments as an attachment to an earlier message but due to the size of the attachment wanted to make sure you get them - they can be seen here:

http://tinyurl.com/pkub5ne

The comments, without attachments, are also attached.

The comments contain answers to the eight questions and includes this preface on our general positions on spent fuel management and reprocessing:

Given concerns about cost, increased radiation exposure due to increased handling, increased transport risks, the real threat that a temporary storage site will become a permanent dump and the risk that spent fuel stored at a consolidated site would become feed for a reprocessing plant, FOE strongly opposes consolidation of spent fuel and the reprocessing of that fuel.

Friends of the Earth supports legislation which addresses:

· - Removal of spent fuel from cooling pools as quickly as possible, with placement in on-site dry cask storage; priority should be given to pools at GE Mark I and II reactors and highest density pools;

· - Storage of spent fuel on site or as close to the generation site as possible until a final repository is available; we thus oppose the "consolidation" of spent fuel at one or more sites; if an emergency dictates removal of spent fuel from a closed reactor site it could be taken to an already licensed site which already has spent fuel in storage (no need to create additional spent fuel sites);

· - Storage and disposal of spent fuel without reprocessing; thus no need to spend $15-25 billion on construction of a reprocessing plant.

· "Consent" required from many levels of government and civic organizations from areas around a targeted site, including on the state-wide level, with numerous meetings and hearings, including a full Environmental Impact Statement (EIS) process;

· - Further research into methods of safe storage and disposal of spent fuel, including surface disposition in the event that a geologic repository proves technically or scientifically unjustifiable;

· - Disposal of both commercial spent fuel and DOE high-level waste (HLW) in a licensed repository;

· - Development of scientifically sound technical criteria for siting any facilities before any siting moves forward – siting must not be tied to arbitrary schedules lest failure be built in from the start;

· - No targeting of DOE sites - Hanford, Idaho National Lab, Savannah River Site - which already hold large volumes of high-level waste awaiting promised removal;

· - Use of the Waste Isolation Pilot Plant (WIPP) only for transuranic waste, as stipulated in the Land Withdrawal Act, with no commercial spent fuel or DOE HLW allowed to be disposed of in WIPP;

· - Termination of the pursuit of Yucca Mountain as a HLW repository as the facility was chosen for political reasons and is technically flawed and has not been demonstrated to be licensable under federal regulations;

· - Restrictions on use of Nuclear Waste Fund for development of any consolidated storage facilities – funds must only be used for final disposal facilities or packaging for final disposal, which could include on-site dry storage;

· - Respect for states which have already legally given “non-consent” to long-term storage of high-level waste.

Please add me to any email list that you create on the matter of nuclear waste legislation.

Tom Clements

Southeastern Nuclear Campaign Coordinator

Friends of the Earth

1112 Florence Street

Columbia, SC 29201

tel. 803-834-3084

tomclements329@cs.com

From: Tim Lank <timlank@timlank.com>

Sent: Friday, May 24, 2013 1:54 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

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Thank you for your consideration.

Tim Lank

6346 Meriwether Lane

6346 Meriwether Lane

Springfield, VA 22153

From: dan kelly <digdummy@comcast.net>

Sent: Friday, May 24, 2013 1:38 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

dan kelly

3725 36th loop

3725 36th loop

olympia, WA 98502

From: Chris Jenkins <jeep7.cj@gmail.com>

Sent: Friday, May 24, 2013 1:37 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Sincerely,

Chris Jenkins

3305 Bader Ave.

Cleveland, OH 44109

From: Brennan, Paul (AGO) <Paul.B.Brennan@MassMail.State.MA.US>

Sent: Friday, May 24, 2013 1:31 PM

To: feedback, nwaste (Energy)

Subject:Nuclear Waste Administration Act of 2013 Request for Feedback

Attachments: 5 24 13 Letter - Support for the Nuclear Waste Administration Act of 2013.pdf

On behalf of Massachusetts Attorney General Martha Coakley and Massachusetts Senate President Therese Murray, please find attached comments and suggestions on the draft Nuclear Waste Administration Act of 2013 as requested by Senators Wyden, Alexander, Feinstein, and Murkowski. Thank you for the opportunity to participate in this process.

Paul Brennan, III

****

Paul Brennan, III

Senior Policy Advisor, AAG

Policy & Government Division

Office of Massachusetts Attorney General Martha Coakley

617-963-2086 (office)

617-512-1630 (bb)

617-727-6016 (fax)

Paul.B.Brennan@state.ma.us

From: Robert Alvarez <kitbob@erols.com>

Sent: Friday, May 24, 2013 1:28 PM

To: feedback, nwaste (Energy)

Subject:Comments regarding the discussion draft to amend the Nuclear Waste Policy Act

Attachments: Robert Alvarez comments on draft amendments to the NWPA 05-24-2013.pdf

Greetings --

Attached are me comments regarding proposed draft amendments to the

Nuclear Waste Policy Act.

Regards,

Bob AlvarezFrom: lou villa <LOUVILLA@YMAIL.COM>

Sent: Friday, May 24, 2013 1:27 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

lou villa

29235 miller rd

v.c, CA 92082

From: tomclements329@cs.com

Sent: Friday, May 24, 2013 1:24 PM

To: feedback, nwaste (Energy)

Subject:comments on draft nuclear legislation - from Friends of the Earth, May 24, 2012

Attachments: FOE_comments_on_Wyden_draft_spent_fuel_legislation_May_24_2013001.pdf

To: Senate Energy & Water Committee

Attached are the comments of Friends of the Earth on the

“Discussion Draft of Nuclear Waste Administration Act of 2013”

The comments contain answers to the eight questions and includes this preface on our general positions on spent fuel management and reprocessing:

Given concerns about cost, increased radiation exposure due to increased handling, increased transport risks, the real threat that a temporary storage site will become a permanent dump and the risk that spent fuel stored at a consolidated site would become feed for a reprocessing plant, FOE strongly opposes consolidation of spent fuel and the reprocessing of that fuel.

Friends of the Earth supports legislation which addresses:

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· "Consent" required from many levels of government and civic organizations from areas around a targeted site, including on the state-wide level, with numerous meetings and hearings, including a full Environmental Impact Statement (EIS) process;

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Please add me to any email list that you create on the matter of nuclear waste legislation.

Tom Clements

Southeastern Nuclear Campaign Coordinator

Friends of the Earth

1112 Florence Street

Columbia, SC 29201

tel. 803-834-3084

tomclements329@cs.com

From: jhamilton@spentfuel.org

Sent: Friday, May 24, 2013 1:22 PM

To: feedback, nwaste (Energy)

Subject:Comments from the National Spent Fuel Collaborative

Attachments: Question8_HAMILTON_NATIONAL_SPENT_FUEL_COLLABORATIVE.doc; Executive_Summary_HAMILTON_NATIONAL SPENT FUEL COLLABORATIVE.doc; Question4_HAMILTON_NATIONAL_SPENT_FUEL_COLLABORATIVE.doc; Question5_HAMILTON_NATIONAL_SPENT_FUEL_COLLABORATIVE.doc

Attached please find our comments on the Nuclear Waste Administration Act of 2013.

We appreciate the opportunity to comment and look forward to participating in this important process.

Regards,

-Jim Hamilton

Jim A. Hamilton

Founder and President

The National Spent Fuel Collaborative

Consent-Based Nuclear Waste Management Solutions

Washington, DC & Boston, MA

802.345.7044 l jhamilton@spentfuel.org

www.spentfuel.org

From: Keith Fabing <keithfabing@gmail.com>

Sent: Friday, May 24, 2013 1:16 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

Keith Fabing

4816 S. Alaska Street

Seattle, WA 98118

From: marcia@accentsaway.com

Sent: Friday, May 24, 2013 1:07 PM

To: feedback, nwaste (Energy)

Subject:consolidated interim storage

Please protect us! Rushing into Mobile Chernobyl shipments, and playing a radioactive waste shell game on the roads, rails, and waterways, makes no sense and takes unnecessary risks. We need Hardened On-Site Storage (HOSS) instead, as a common sense interim alternative.

Marcia Hoodwin, M.A.

Certified Speech-Language Pathologist

Telephone: 941-921-9533

marcia@accentsaway.com

http://www.accentsaway.com <http://www.accentsaway.com/>

From: Don Hancock <sricdon@earthlink.net>

Sent: Friday, May 24, 2013 12:58 PM

To: feedback, nwaste (Energy)

Subject:Comments on Discussion Draft

Attachments: SRIC Comments 052413complete.pdf

Attached are the complete comments and attachments from Southwest

Research and Information Center.

We will also submit our responses to each of the 8 questions using the

template.

Thank you for your consideration.

Don Hancock

Southwest Research and Information Center

PO Box 4524

Albuquerque, NM 87196-4524

505-262-1862

From: northworks@mindspring.com

Sent: Friday, May 24, 2013 12:56 PM

To: feedback, nwaste (Energy)

Subject:Comments of D. Warner North, as a pivate citizen

Submitter's Name/Affiliation: D. Warner North – Personal Comments

Contact: D. Warner North

Email: northworks@mindspring.com

Phone: 650 281 2923

May 24, 2013

Subject: D. Warner North Comments on the Draft Nuclear Waste Administration Act of 2013

To: U.S. Senate Committee on Energy and Natural Resources

General Comments

As a former Presidential appointee to the initial membership of the Nuclear Waste Technical Review Board (NWTRB) in 1989, a member of the National Academies Board on Radioactive Waste Management from 1995 to 1999, and chair of the committee that produced the National Research Council report, Disposition of High-Level Waste and Spent Nuclear Fuel: The Continuing Societal and Technical Challenges (National Academy Press, 2001), I am pleased to provide comments on the draft Nuclear Waste Administration Act of 2013.

I greatly appreciate the effort that the four Senators have made to move forward to address this important area. I strongly believe the nation needs to make immediate progress on the management of its legacy of nuclear waste. Continued inaction is bad, because it presents the appearance that the nuclear waste problem is insoluble. As noted in the 2001 National Research Council report, by a committee I had the honor to chair, the deficiency is not in the available science, but in the political leadership needed to achieve consensus on moving forward. In the aftermath of the report from the Blue Ribbon Committee on America's Nuclear Future (BRC), on which I testified to a House Subcommittee in 2012, I welcome the efforts of the four Senators to invite dialogue and move the process forward, from the current impasse on Yucca Mountain and the past failures to site interim storage facilities, toward activity to seek consensus that will allow these needed facilities to be constructed and used to manage nuclear waste.

I have separately provided general comments together with my colleagues from the Sustainable Fuel Cycle Task Force Science Panel. I will not repeat the general comments from our collective submission in this individual submission. I have made a series of comments below, many motivated by the eight specific questions. My responses to your eight specific questions in the attachment are given in an attachment, and separately, on the requested templates, question by question.

Specific Comments:

1. NWPA First Repository: Yucca Mountain

The Bill should acknowledge explicitly that the Yucca Mountain site has been designated, under existing law, as the sole candidate for the nation's first repository. The current Administration's position that a repository at Yucca Mountain is "unworkable" has not been supported by scientific evidence. The

current Administration's failure to bring the licensing process to completion will not be consistent with law until Congress changes existing law.

Inconsistencies between requirements in law and Congressional budgetary appropriations are, however, not uncommon. The licensing process for the proposed Yucca Mountain repository should be completed, and that completion may require both Houses of Congress to appropriate a small amount of additional money for the purpose. With the information from the completed process of evaluating DOE's license application, the public will be informed about the results of the extensive technical investigation of the Yucca Mountain site and the Nuclear Regulatory Commission (NRC) review of its long-term safety. Such completion is greatly preferable to ending Yucca Mountain based on the "unworkable" characterization by an Administration official who has been highly acclaimed for his prior achievements as a scientist. Leaving the situation unresolved creates public confusion on whether the basis for not continuing toward repository development at Yucca Mountain is motivated by science, or by politics. With the license application evaluation by NRC completed and made public, the Executive Branch and Congress can then make an informed and reasoned choice to continue toward repository development at Yucca Mountain, or not.

2. NWPA Second Repository: Try Out Consensus Siting

The issue of Yucca Mountain should be resolved on its safety and political/policy merits. Such resolution may not be possible until well after the next Presidential election. The current impasse on Yucca Mountain should not cause the nation to delay moving forward promptly, as recommended in the BRC Report, with an effort to have a consensus-sited second geologic repository. The country should have two repositories, as envisioned in the original 1982 Nuclear Waste Policy Act (NWPA), for many reasons, e.g. diversity, redundancy, overall system robustness, timing and regional equities. It is possible that the second repository could become the first to operate if development of a repository at Yucca Mountain does not go forward.

Consensus siting has been endorsed by the BRC, in the National Research Council report of 2001 that I had the honor to chair, and by many leaders in the policy and scientific research communities. But positive experiences in a few countries (i.e., Finland, Sweden) should not be taken as strong evidence that such consensus can be readily achieved. Past experiences in countries with strong regional area governments, such as the United States, Germany, and Canada, have not been encouraging. Apparent consensus has disintegrated under pressures from regional government - federal government conflicts and competition for votes between political parties and between candidates.

The cost to try consensus siting, however, is low, and if achieved, it will provide great benefit by resolving an impediment to nuclear power that has persisted for more than a half-century.

In my opinion, the consensus siting effort should focus on achieving agreement with the residents and local communities near the site, as opposed to the government of the host state. Disapproval from a majority of voters in the host state, such as through the election of individuals who oppose a nuclear waste facility, to service in the Senate and/or as Governor, should not negate a facility site that meets applicable regulatory standards and is judged acceptable by a large majority of voters in all nearby

communities. Working out an appropriate balance between state and local interests poses the largest challenge in consensus siting negotiations.

3. Interim Storage facility: Try Out Consensus Siting

The federal waste management system needs an interim storage facility to address the growing shutdown-reactor-stranded nuclear fuel problem. Previous efforts to establish such a facility have failed. The siting process should be re-started, consistent with the approach in the BRC's Report, independent of the future of Yucca Mountain as a repository site. An interim storage facility will bring great improvement over the present, in the federal system's timely responsiveness to meet its overdue obligations to accept waste, and in the overall nuclear waste system technical performance. This improvement will occur both with and without a Yucca Mountain repository.

4. Management Reform: New Organization

Transferring nuclear waste management responsibility from one federal agency to another newly-created one is not the kind of organizational reform urged by the BRC. It still contains the same weaknesses of political interference, excessive top management turnover every election, civil service rules, and excessive external baggage. I endorse the BRC recommendation of a federally chartered entity, rather than management by DOE or another federal agency.

5. Hosting Agreements

Hosting and consent agreements restrictions, as proposed in the Bill discussion draft, are too prescriptive and will be difficult to implement. Negotiation to reach agreement with the host state and host local government entities is the proper way to work out details, rather than in a-priori statutory language created in the abstract, independent of a host.

6. Single Administrator versus Board

I support a federally chartered organization, reporting to a Board of Directors, who are appointed based on their credentials and past experience, and holding them responsible for implementing the objectives of managing spent fuel and high-level nuclear waste, as set forth in federal law.

I favor nine members, selected with diverse experience and backgrounds, as follows:

- Two member from entities that have contributed to the Nuclear Waste Fund
- One member who has served on a Public Utility Commission or equivalent
- One member selected from a list prepared by a Host State Governor
- One member selected from a list prepared by the local or regional host community
- One member with Naval Reactors experience
- One member with nuclear waste management experience

- One member selected from a major environmental organization.

- One scientist recommended by the National Academy of Sciences on the basis of international expertise in repository site selection and evaluation.

- Active membership in one political party should not be excessive. No more than six members should be active members of the same political party.

I will describe what I mean by the qualification "active" on membership in a political party. Many members of the scientific community who have served as federal government appointees, and I am one of them, do not consider ourselves "active" members of a political party, although we are members of a political party. I have never sought elected office or an appointment made by the President or a Governor. But I have served as an appointee of the President and as an appointee of the Governor of California, and on committees and boards of state and federal agencies where the appointment came at a lower level. In all these cases I believe I was appointed for my scientific expertise, and my political affiliation was either not considered or was a minor consideration.

Belonging to a party enables voting in primary elections, and making modest contributions to, or endorsement of, candidates in elections does not constitute being "active," in my use of this term with regard to party membership. Holding office in a political party organization, being a candidate of a party, or spending extensive time on political campaigns is what I consider to be "active" membership. Such political activity goes well beyond the usual role of a citizen in exercising the rights both to affiliate with a political party, and to support candidates and vote for them, not necessarily consistently with that citizen's party affiliation.

During my service on the NWTRB I was unaware of the political party affiliations of most of my colleagues. We were all scientists nominated by the National Academies and appointed by President Reagan. Many of us were reappointed by President George H.W. Bush. We had excellent teamwork among us, and there was never a time in my experience where political party affiliation motivated how we would carry out our work.

It is my sincere hope that political affiliation would have at most a minor impact on decision making by the Board of Directors of a replacement entity to the Department of Energy for managing the nation's nuclear waste program. Collectively these Directors need to accomplish progress on a highly challenging task for the nation. Political partisanship on this Board of Directors should be avoided.

7. Oversight: Management and Advice to Management, Versus Oversight by Outside Groups such as the NWTRB

The Bill should make very clear distinction between supervisory roles and advisory roles. The Board of Directors of the implementing organization should be responsible for its management. The Board of Directors should be enabled by law to seek advice and set up advisory bodies to inform their decision making.

Oversight from outside the organization helps citizens and the leadership of our nation to learn how well the organization is performing. I believe ongoing peer review and advice from an outside body of highly qualified scientists and engineers will be very beneficial for all parties, including the top management of the Implementing Organization, Congress, the Executive Branch, the host state and communities near the storage and repository facilities, and the public. Widespread fear of the long–term risks from nuclear waste has resulted from the perceived political impasse in the United States (and other countries) in siting a repository, and by events such as the Chernobyl melt-down and the tsunami-induced disaster at Fukushimi-Daiichi in Japan, in which large releases of radioactive material into the environment have caused evacuation of large land areas, which will last for decades to centuries.

In my judgment, The Nuclear Waste Technical Review Board (NWTRB) established by law in 1987 has been a highly successful innovation in the federal government, over its 24 year history since it began its activities in 1989. I am very proud of my service as one of the initial members. NWTRB has produced at least two reports a year to Congress and the Secretary of Energy, and these reports have been consistently of high quality. Although the membership has changed over time NWTRB has over its history avoided political controversy. Its members have included many of our nation's most knowledgeable and experienced scientists and engineers. NWTRB's reports are extensively cited in the BRC report. These reports cover a myriad of specific issues selected by NWTRB for its investigation.

NWTRB has held many public meetings in Nevada, which allowed public dialogue near the proposed Yucca Mountain site among the scientists and concerned citizens and representatives of federal, state and local government organizations. NWTRB has also held public meetings in many other locations, and Board Members have visited the nuclear waste programs in many other countries. These public meetings and foreign trips have enabled a great deal of useful dialogue among a wide range of interested parties and highly knowledgeable specialists. Learning from such dialogue, and having the freedom to express opinions critical of DOE's program management, are reasons for the high quality of the NWTRB reports.

In my judgment, much of the success of NWTRB resulted came from the details of the enabling legislation in the 1987 Amendments to the Nuclear Waste Policy Act. In particular, members of NWTRB are scientists and engineers nominated by the National Academies. They serve part time, so they are able to maintain other professional activities rather than being forced to give these activities up for the term of their federal service. As a result, top scientists and engineers accepted appointments to the Board. Many of these people would have declined appointment if that appointment required them to leave an academic position or, in my case and that of the initial NWTRB chair, a consulting practice. The number of the technical staff is limited in size, so the sort of bloat into bureaucracy that has happened with some other federal oversight agencies has been avoided at NWTRB. The full-time technical staff for NWTRB have been carefully selected, highly motivated, and very helpful to the Board Members, during my term of service, and, to the best of my knowledge, over the time period since.

I urge that in the Bill, the continued existence and oversight role of the NWTRB be affirmed.

8. Additions to Board

See my comments above in # 6 regarding diversity in the Board of Directors. I favor Board Members having experience from service on public utility commissions and other applicable areas, but not concurrent service. The members of the Board of Directors should view their job as accomplishing the goals of the federally chartered Implementing Organization, and not of any other organization. In Question 7 I endorsed continuance of the Nuclear Waste Technical Review Board. The NWTRB activities should not be managed by the Implementing Organization under its Board of Directors, but should be independent and funded directly by Congressional appropriation, as at present.

I appreciate the opportunity to offer the above comments and specific answers to your questions below. I would be pleased to assist with further details if desired.

D. Warner North, Ph.D.

1715 Taylor Street

San Francisco, CA 94133

Former Member, Nuclear Waste Technical Review Board, 1989-1994

National Associate, National Research Council, National Academies

Past President, Society for Risk Analysis

?

Attachment: D. Warner North Responses to Draft Senate Bill Committee Questions

Considerations for locating storage facility sites

1. Should the Administrator take into account, when considering candidate storage facility sites, the extent to which a storage facility would: (a) unduly burden a State in which significant volumes of defenses wastes are stored or transuranic wastes are disposed of;

No. Congress should leave that detail to the Host State and Host Community (or Communities) to work out in a Consent Agreement with the Implementing Organization.

or (b) conflict with a compliance agreement requiring the removal of nuclear waste from a site or a statutory prohibition on the storage or disposal of nuclear waste at a site?

No. Congress should leave that detail to the Host State and Host Communities to work out in a Consent Agreement with the Implementing Organization. It is expected that any Consent Agreement will have legally enforceable conditions within it that the hosts consider necessary and appropriate.

Alternatively, should the State and other non-federal parties seeking to site a candidate storage facility be allowed to determine whether they are unduly burdened?

Yes.

Should the final consent agreement, which would be sent to Congress for ratification, contain an authorizing provision to amend any conflicting compliance agreement or statutory prohibition?

No. When the Host State and Host Communities reach a binding consensus hosting agreement, Congress should concur via an appropriate mechanism. This can be through Appropriations or Budgetary language, or whatever mechanism Congress deems appropriate.

?

Linkage between storage and repository

2. Should the bill establish a linkage between progress on development of a repository and progress on development of a storage facility?

The bill should not establish a hard linkage. What is appropriate linkage is primarily a Host State – Host Communities issue, and the Hosts should be capable of negotiating into the Consent Agreement whatever they deem necessary to be willing to host. The Consent Agreement can be made meaningful and sustainable if it is in the form of a legally binding contract between the Hosts and Implementing Organization.

The bill should however, clearly state that geologic disposal is the ultimate national goal and that interim storage alone is not a solution. Interim storage is an important management tool. The national program must have a parallel timely ultimate geologic disposal program along with an interim storage program. It is expected that any Host State Consent Agreement will address the linkage specifics, and those specifics will become a legally binding linkage when any Host Agreement is ratified. A meaningfully progressing geologic repository program will be a central concern for the Hosts for a storage facility. I believe it is counterproductive to impose as part of federal legislation a specific linkage, independent of a specific host negotiation.

If so, is the linkage proposed in section 306 of the bill appropriate, too strong, or too loose?

Neither. It should not be a Congressional matter at this point. However , Congress will review and basically approve whatever agreement is presented, after the Hosts and Implementing Organization come to an agreement, which will be presented to Congress. Congress can then endorse that agreement via legislation.

If a linkage is needed, should it be determined as part of the negotiations between the state and federal governments and included in the consent agreement rather than in the bill?

Yes.

?

Separate process for storage facility siting

3. Should the bill establish separate storage and disposal programs with clearly defined requirements for each, with any linkage negotiated in the consent agreement between the federal and non-federal parties, to allow the two program to run on separate, but parallel tracks, as proposed in the alternative section 305 (which would replace section 304(b)-(g) of the draft bill)?

Congress should authorize three projects: A First Repository (which is legally Yucca Mountain or somewhere else if Congress changes the 1982 Nuclear Waste Policy Act), a Second repository, which can be sited using the consensus process and third, a consensus-sited Interim Storage Facility. There should be no a-priori linkages. Let the Hosts work that to their satisfaction, subject to Congressional review and approval.

4. To what extent should the siting and consensus approval process for spent fuel storage facilities differ from that for the repository?

The first repository is based on the NWPA process, which led to the license application by DOE and its (not yet completed) review by NRC, for Yucca Mountain. The Second repository and Interim Storage Facility can be the consensus-based siting process.

Should the Administrator be required to conduct sufficient site-specific research (referred to as "characterization" in the bill) on candidate storage sites to determine if they are suitable for storing nuclear waste or only on candidate repository sites to determine if they are suitable for geologic disposal of nuclear waste?

For simplicity, keep the site "characterization" process the same for both interim storage facilities and repository. Of course, site characterization for interim storage is relatively simple, whereas a repository is complex. The principles are the same, but the level of detail and time scale will be very different.

The Administrator be required to hold public hearings both before and after site characterization (as required by current law in the case of the Yucca Mountain site) or only before site characterization?

Public hearings are readily accomplished and do not require either a lot of time or a lot of money. They are an excellent means of accomplishing dialogue and mutual learning between the Implementing Organization and the public, especially the Host Communities and their near neighbors. Do public hearings both before and after site characterization. ?

Complexity of repository and storage facility siting processes

5. Should the siting process in section 304 of the draft bill be streamlined?

Yes.

If so, how?

There are only two requirements: a Host Agreement with the Host State and Host Community and the site meeting the EPA & NRC environmental protection and public health and safety regulatory requirements to be able to get a license. There needs to be continuing outside monitoring & oversight,

which will be discussed in my responses to Questions 6,7,& 8. The guidance is to keep the details of how to meet these two requirements simple, to avoid unnecessary lawsuits and complications.

Governance of the Nuclear Waste Administration

6. Should the new entity be governed by a single administrator or by a board of directors?

Board of Directors

(a) If by a single administrator, should the administrator serve for a fixed term? If so, how long should the term of service be? Should the legislation prescribe qualifications for the administrator? If so, what should be the selection criteria?

(b) If by a board of directors, how many people should comprise the board and how should they be selected?

The Board of Directors (BOD) is the primary ruling body. The BOD can establish a chief executive officer (CEO) position who will have day-to-day management responsibility, but the Board establishes management policies and hires (and, if needed, fires) the CEO. It is much better to have the responsibility for hiring and managing a single administrator lie with a well-qualified, diverse, and committed BOD, rather than with Congress or the President.

There should be nine Board members that serve staggered long (e.g., seven year) terms, who are appointed by the President and confirmed by the Senate on a rotating, phased basis, like the Nuclear Regulatory Commission. There should be no more than six active members of the same political party.

Board members should be selected based on the following criteria:

- Three members from entities that have contributed to the Nuclear Waste Fund
- One member who has served on a Public Utility Commission or equivalent
- One member selected from a list prepared by a Host State Governor
- One member selected from a list prepared by the local or regional host community
- One member with Naval Reactors experience
- One member with nuclear waste management experience
- One member at large.

7. The Blue Ribbon Commission recommended establishment of both a board of directors for management oversight (whose “primary role ... is not to represent all stakeholder views, but rather to carry out fiduciary responsibilities for management oversight”) and “a larger and more widely representative stakeholder advisory committee.” The draft bill responds to these recommendations, first, by establishing a Nuclear Waste Oversight Board of senior federal officials and, second, by

authorizing the Administrator to establish advisory committees. Should the Oversight Board and advisory committee be combined into a single body to perform both management oversight and stakeholder representation functions?

Give the top management an overall task established in law, and then hold them to it. Extra layers of oversight should be minimized in the legislation. The bill should make very clear distinction between supervisory roles and advisory roles, and who manages the advisors. Let those given management responsibility manage, including getting the advice they wish to obtain. But hold them accountable by having oversight from outside, provided by well qualified experts who do not have conflicting roles and responsibilities. Stakeholders and senior federal officials can be expected to pursue their own agendas, which may be in conflict with the goals of the Implementing Organization (Nuclear Waste Administration, or whatever name may be chosen), as established though the consensus-based siting Agreements with the Host State(s), local government agencies, and federal law.

The Board of Directors (BOD) recommended in my response to Question 6 has extensive and diverse experience. Its members should have direct responsibility for the program and be the only direct authority over the program. The BOD may establish a single chief executive officer (CEO), who reports to the BOD. The BOD and CEO can establish advisory panels and boards as they see fit. The activities of the Implementing Organization have direct strong independent external oversight by the EPA/NRC for public health and safety and for environmental protection. The Implementing Organization also operates under Host state laws and the consensus Host Agreements. The Implementing Organization has Congressional oversight through the Board Member confirmation process and the potential for Congress to change the law, which should be a last resort if the Implementing Organization appears to be failing to reach its goals. There should be ongoing budgetary oversight. The Implementing organization should have an independent Inspector General function and independent financial audits (like the Nuclear Waste Fund audit).

The Nuclear Waste Technical Review Board (NWTRB) should be continued. This existing federal entity will be much better in providing effective technical oversight of the federal nuclear waste program than a Nuclear Waste Oversight Board that includes senior federal officials and stakeholder representatives.

Should the focus and membership of any advisory committees be established in the legislation or left to the Administrator?

Such details should not be in the legislation. The Board of Directors of the Implementing Organization can establish what they want for advisory committees that report to them. Outside review should come from NWTRB, with its members nominated by the National Academies, and no control of its budget by the implementing organization.

8. Dr. Meserve testified in 2012 that representatives of stakeholders and public utility commissioners should be added to the Nuclear Waste Oversight Board. Would these additions make the Board better able to carry out its fiduciary oversight mission effectively?

See my responses to Questions 6 and 7. At least one Board Member should have past Public Utility Commission or equivalent experience, but not a concurrent post with such an organization. Board Members should have the experience to understand the fiduciary responsibilities under law of the implementing organization.

Placing fiduciary oversight or technical oversight with a Nuclear Waste Oversight Board is not appropriate. The proposed Nuclear Waste Oversight Board is a poor idea. Its existence reduces the authority and responsibility of the Board of Directors, with a likely result of conflict, confusion, and political controversy. The Board of Directors should manage and be held fully responsible for any fiduciary or technical deficiencies in the activities of the implementing organization. Ongoing outside technical oversight should be provided by the NWTRB, with NWTRB reports issued at least twice each year. Outside budgetary review and investigation on fiduciary issues, as needed, should be carried out by independent organizations qualified to do these financial oversight activities, such as the federal General Accountability Office (GAO), or a suitably qualified audit agency.

From: Donna Riley <Donnamriley@yahoo.com>

Sent: Friday, May 24, 2013 12:54 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

Moving lethal high-level radioactive waste to a consolidated interim site would not fix any problems at all, and is simply unacceptable. No one charged with protection of public health, safety and security should mandate moving deadly radioactive waste repeatedly. While the waste will have to be moved at some point, it should first make only the short move from the current fuel pools at reactors to dry containers at the same reactor site. Other movement must be only from that site to a permanent location for permanent isolation. A consolidated interim storage site would increase the risks of accidents and security problems while guaranteeing increased exposure to ionizing radiation along public-use highways, rails and waterways--even without an accident.

Further, the de-linking of an interim site from progress on a permanent solution found in both the discussion draft and even more objectionably in the Feinstein/Alexander alternative would serve only to delay permanent isolation of the waste from the environment and make it more likely that a temporary and unsuitable site would become a de facto permanent nuclear waste dump. No state or community should or would accept such an outcome--yet this proposed legislation would virtually ensure that.

I ask you to focus on public health, environmental protection and equity for the future rather than the narrow interests of the nuclear power industry--which would be the only beneficiary of such a thoughtless program. The best way to limit the scope of the radioactive waste problem is, of course, to

phase out the use of nuclear power and replace it with clean energy sources. But for the waste that exists now, Hardened On-Site Storage and renewed work on finding a permanent solution is imperative.

Sincerely,

Donna Riley

155 Prospect St

Northampton, MA 01060

From: Frazier, Timothy <FrazierT@dicksteinshapiro.com>

Sent: Friday, May 24, 2013 12:53 PM

To: feedback, nwaste (Energy)

Subject:Comments on Discussion Draft from Dickstein Shapiro LLP

Attachments: Dickstein Shapiro LLP Comments on the Discussion Draft Nuclear Waste Administration Act of 2013.pdf

Please see the attached comments signed by the Hon. J. Dennis Hastert, former Speaker of the U.S. House of Representatives.

Thank you

Timothy A. Frazier

Senior Advisor

DICKSTEINSHAPIRO LLP

1825 Eye Street NW | Washington, DC 20006

Tel (202) 420-4420| Fax (202) 379-9011

fraziert@dicksteinshapiro.com <mailto:fraziert@dicksteinshapiro.com>

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Dickstein Shapiro LLP

www.DicksteinShapiro.com <http://www.DicksteinShapiro.com>

_____

From: Peter Beatty <pbeatty1948@peoplepc.com>

Sent: Friday, May 24, 2013 12:51 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

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Thank you for your consideration.

Peter Beatty

2063 Begonia ST

2063 Begonia

Casper, WY 82604

From: Michael Comini <michaelcomini@yahoo.com>

Sent: Friday, May 24, 2013 12:50 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

Michael Comini

825 ashland ave

South bend, IN 46616

From: Idrea Ramaci <idrearamaci@yahoo.com>

Sent: Friday, May 24, 2013 12:49 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

Idrea Ramaci

Burlingham Rd

Pine Bush

Pine Bush, NY 12566

From: Eileen McCabe <leenaree@xmission.com>

Sent: Friday, May 24, 2013 12:47 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

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Please scrap your "discussion draft" and start over.

Sincerely,

Eileen McCabe

3375 W 7800 S

#722

West Jordan, UT 84088

From: Esther Allman <palinc2@aol.com>

Sent: Friday, May 24, 2013 12:45 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

Esther Allman

984 North Butternut

984 North Butternut

Frankfort, IL 60423

From: dr. constance Buck <drbuck99@gmail.com>

Sent: Friday, May 24, 2013 12:37 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

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Please scrap your "discussion draft" and start over.

Sincerely,

dr. constance Buck

21 ABANICO RD

SANTA FE, NM 87508

From: Robert Price <pricetesc@earthlink.net>

Sent: Friday, May 24, 2013 12:34 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

Moving lethal high-level radioactive waste to a consolidated interim site would not fix any problems at all, and is simply unacceptable. No one charged with protection of public health, safety and security should mandate moving deadly radioactive waste repeatedly. While the waste will have to be moved at some point, it should first make only the short move from the current fuel pools at reactors to dry containers at the same reactor site. Other movement must be only from that site to a permanent location for permanent isolation. A consolidated interim storage site would increase the risks of accidents and security problems while guaranteeing increased exposure to ionizing radiation along public-use highways, rails and waterways--even without an accident.

Further, the de-linking of an interim site from progress on a permanent solution found in both the discussion draft and even more objectionably in the Feinstein/Alexander alternative would serve only to delay permanent isolation of the waste from the environment and make it more likely that a temporary and unsuitable site would become a de facto permanent nuclear waste dump. No state or community should or would accept such an outcome--yet this proposed legislation would virtually ensure that.

I ask you to focus on public health, environmental protection and equity for the future rather than the narrow interests of the nuclear power industry--which would be the only beneficiary of such a thoughtless program. The best way to limit the scope of the radioactive waste problem is, of course, to phase out the use of nuclear power and replace it with clean energy sources. But for the waste that exists now, Hardened On-Site Storage and renewed work on finding a permanent solution is imperative.

Please scrap your "discussion draft" and start over.

Sincerely,

Robert Price

8538 N Syracuse St

Portland, OR 97203

From: R Sangdahl <rsangdahl@cox.net>

Sent: Friday, May 24, 2013 12:32 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

Discontinuing the use radioactive energy will solve the resulting waste problem. It will no longer be necessary to focus on the radioactive waste problem.

This action should be of utmost priority.

The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

Stop moving lethal high-level radioactive waste to a consolidated interim sites. This action cannot fix any problems at all, and is simply unacceptable.

No one charged with protection of public health, safety and security should mandate moving deadly radioactive waste repeatedly.

The present waste should move from the current fuel pools at the reactors to dry containers at the same reactor site. This should be a permanent location for permanent isolation of the present remaining waste as there will no longer be any further waste to be concerned about, you can spend the rest of your lives tending to this present waste and that will be your and your family's future lives work.

A consolidated interim storage site would increase the risks of accidents and security problems while guaranteeing increased exposure to ionizing radiation along public-use highways, rails and waterways--even without an accident.

This idea is insane!

Further, the de-linking of an interim site from progress on a permanent solution found in both the discussion draft and even more objectionably in the Feinstein/Alexander alternative would serve only to delay permanent isolation of the waste from the environment and make it more likely that a temporary and unsuitable site would become a de facto permanent nuclear waste dump.

No state or community should or would accept such an outcome! Yet, this proposed legislation would virtually ensure that. Are you all insane?

I ask you to focus on safe clean alternative energy sources, you all know what they are, don't continue this insanity any longer. Alternative energy sources are safe and good for public health, environmental protection and equity for the future rather than the narrow interests of the nuclear power industry, the only beneficiary of such a thoughtless program.

The best way to limit the scope of the radioactive waste problem is, of course, to stop the use of nuclear power and replace it with clean energy sources. As for the waste that exists now, Hardened On-Site Storage and life-time guardians of that site and renewed work on finding a permanent solution for the present waste without continuing to accumulkate more is imperative.

Please scrap your "discussion draft" and start over.

Sincerely,

R Sangdahl

Essen Ave

Essen Ave

Parma, OH 44129

From: Spencer, Jack <Jack.Spencer@heritage.org>

Sent: Friday, May 24, 2013 12:22 PM

To: feedback, nwaste (Energy)

Subject:Jack Spencer, Senior Research Fellow, Nuclear Energy, The Heritage Foundation

Attachments: Spencer exec summ.doc; Spencer comments on Nuclear Waste Administration Act of 2013.docx

_____

Jack Spencer

Senior Research Fellow, Nuclear Energy

The Heritage Foundation

214 Massachusetts Avenue, NE

Washington, DC 20002

202-608-6193

heritage.org <http://heritage.org/>

From: Carol Kurz <carolkurz@comcast.net>

Sent: Friday, May 24, 2013 12:20 PM

To: feedback, nwaste (Energy)

Subject:Nuclear Waste Questions for Nuclear Waste Bill Feedback

Dear Committee Members,

Here are my responses to a questions 1, and 4.

You may use my name, but please do not share my personal identifying information on your website.

Thank you,

Carol Kurz

NEIS Board Member

2025 Sherman Avenue, #306

Evanston, IL 60201

carolkurz@comcast.net

847-220-3540

From: Carlton Salvagin <salvagin02@frontiernet.net>

Sent: Friday, May 24, 2013 12:08 PM

To: feedback, nwaste (Energy)

Subject:Nuclear Wastes Interim Storage Proposal

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

Moving lethal high-level radioactive waste to a consolidated interim site would not fix any problems at all, and is simply unacceptable. No one charged with protection of public health, safety and security should mandate moving radioactive waste repeatedly. While the waste will have to be moved at some point, it should first make only the short move from the current fuel pools at reactors to dry containers at the same reactor site. Other movement must be only from that site to a permanent location for permanent isolation. A consolidated interim storage site would increase the risks of accidents and security problems while guaranteeing increased exposure to ionizing radiation along public-use highways, rails and waterways--even without an accident.

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I ask you to focus on public health, environmental protection and equity for the future rather than the narrow interests of the nuclear power industry - which would be the only beneficiary of such a thoughtless program. The best way to limit the scope of the radioactive waste problem is, of course, to phase out the use of nuclear power and replace it with clean energy sources. But for the waste that exists now, Hardened On-Site Storage and renewed work on finding a permanent solution is imperative.

Thank you for your consideration.

Carlton Salvagin

1104 Co. Rt. 7

1104 County Route 7

Hannibal, NY 13074

From: Pamela Richard <treetep@peacemail.com>

Sent: Friday, May 24, 2013 12:07 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

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Please scrap your "discussion draft" and start over.

Sincerely,

Pamela Richard

61 Summerhill Ct.

Danville, CA 94526

From: Elaine Prevallet <elaineprev@yahoo.com>

Sent: Friday, May 24, 2013 11:59 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

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Please scrap your "discussion draft" and start over.

Sincerely,

Elaine Prevallet

515 Nerinx Rd.

Nerinx, KY 40049

From: Laura Hall <LHall@bipartisanadvocacy.org>

Sent: Friday, May 24, 2013 11:55 AM

To: feedback, nwaste (Energy)

Subject:BPC Comments on Nuclear Waste Act of 2013

Attachments: Executive_Summary_BIPARTISAN_POLICY_CENTER.pdf; Full_Comments_BIPARTISAN_POLICY_CENTER.pdf; Question1_BIPARTISAN_POLICY_CENTER.pdf; Question2_BIPARTISAN_POLICY_CENTER.pdf; Question3_BIPARTISAN_POLICY_CENTER.pdf; Question4_BIPARTISAN_POLICY_CENTER.pdf; Question5_BIPARTISAN_POLICY_CENTER.pdf; Question6_BIPARTISAN_POLICY_CENTER.pdf; Question7_BIPARTISAN_POLICY_CENTER.pdf; Question8_BIPARTISAN_POLICY_CENTER.pdf

Sens. Wyden, Murkowski, Feinstein, and Alexander,

Attached please find comments on the Nuclear Waste Act of 2013 from Sen. Pete Domenici and Dr. Warren “Pete” Miller, co-chairs of the nuclear initiative at the Bipartisan Policy Center. In addition to our comments, we have also attached an executive summary of our submission and answers to several of the requested questions.

Please feel free to be in touch if you have any questions or need additional information from us. Thank you for the opportunity to comment on this pending legislation and we look forward to working with you and your staffs as this moves through the Senate.

LAURA HALL

Senior Legislative Assistant

BIPARTISAN POLICY CENTER

ADVOCACY NETWORK

From: Carla Haim <norma.haim@verizon.net>

Sent: Friday, May 24, 2013 11:47 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

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Please scrap your "discussion draft" and start over.

Sincerely,

Carla Haim

2706 Irvington Ave.

San Bernardino, CA 92407

From: Amy Burgess <a.burgess33@yahoo.com>

Sent: Friday, May 24, 2013 11:47 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

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Please scrap your "discussion draft" and start over.

Sincerely,

Amy Burgess

8145Capt. Mary Miller Dr.

Shreveport, LA 71115

From: Egan Green <ekgreen@radford.edu>

Sent: Friday, May 24, 2013 11:42 AM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

Moving lethal high-level radioactive waste to a consolidated interim site would not fix any problems at all, and is simply unacceptable. No one charged with protection of public health, safety and security should mandate moving deadly radioactive waste repeatedly. While the waste will have to be moved at some point, it should first make only the short move from the current fuel pools at reactors to dry containers at the same reactor site. Other movement must be only from that site to a permanent location for permanent isolation. A consolidated interim storage site would increase the risks of accidents and security problems while guaranteeing increased exposure to ionizing radiation along public-use highways, rails and waterways--even without an accident.

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Thank you for your consideration.

Egan Green

2875 Raleigh Circle

Shawsville, VA 24162

From: James Freeberg <jfreeberg0@aol.com>

Sent: Friday, May 24, 2013 11:42 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

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Please scrap your "discussion draft" and start over.

Sincerely,

James Freeberg

POB 938

POB 938

Ashland, OR 97520

From: Ben Husch <ben.husch@ncsl.org>

Sent: Friday, May 24, 2013 11:40 AM

To: feedback, nwaste (Energy)

Subject:Comments on the Nuclear Waste Administration Act of 2013 Discussion Draft

Attachments: NWAA_2013.pdf

Dear Chairman Wyden, Senator Murkowski, Chairman Feinstein and Senator Alexander,

Attached please find comments from the National Conference of State Legislatures (NCSL) pertaining to the discussion draft of the Nuclear Waste Administration Act of 2013. Our comments are also posted online at www.ncsl.org/default.aspx?tabid=26273

We look forward to discussing these issues as the bill moves forward. Should you or your staff have any questions please do not hesitate to contact myself or my colleague Tamra Spielvogel <mailto:tamra.spielvogel@ncsl.org> (202-624-8690). Thank you and have a great holiday weekend.

-Ben Husch

Ben Husch

Committee Director, Energy, Transportation and Agriculture Committee

National Conference of State Legislatures

444 North Capitol St., NW Suite 515

Washington, DC 20001

202-624-7779

<http://www.ncsl.org/summit>

From: Kyle Marksteiner <kmarksteiner@yahoo.com>

Sent: Friday, May 24, 2013 11:28 AM

To: feedback, nwaste (Energy)

Subject:Re: Feedback

hello- can I please confirm that our document was received and is viewable?

From: Kyle Marksteiner <kmarksteiner@yahoo.com>

To: "Nwaste_feedback@energy.senate.gov" <Nwaste_feedback@energy.senate.gov>

Sent: Wednesday, May 22, 2013 2:59 PM

Subject: Feedback

Good afternoon: I'm submitting these on behalf of John Heaton, chair of the Carlsbad Mayor's Nuclear Task Force, and on behalf of the task force as an advisory body. Please let me know if anything is in error, but please contact Mr. Heaton directly if you have any questions.

Thank you,

Kyle Marksteiner

From: Doug Sander <doug.sander@okstate.edu>

Sent: Friday, May 24, 2013 11:20 AM

To: feedback, nwaste (Energy)

Subject:Discussion draft on radioactive waste must be rewritten

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

Moving lethal high-level radioactive waste to a consolidated interim site would not fix any problems at all, and is simply unacceptable. No one charged with protection of public health, safety and security should mandate moving deadly radioactive waste repeatedly. While the waste will have to be moved at some point, it should first make only the short move from the current fuel pools at reactors to dry containers at the same reactor site. Other movement must be only from that site to a permanent location for permanent isolation. A consolidated interim storage site would increase the risks of accidents and security problems while guaranteeing increased exposure to ionizing radiation along public-use highways, rails and waterways--even without an accident.

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and unsuitable site would become a de facto permanent nuclear waste dump. No state or community should or would accept such an outcome--yet this proposed legislation would virtually ensure that.

I ask you to focus on public health, environmental protection and equity for the future rather than the narrow interests of the nuclear power industry--which would be the only beneficiary of such a thoughtless program. The best way to limit the scope of the radioactive waste problem is, of course, to phase out the use of nuclear power and replace it with clean energy sources. But for the waste that exists now, Hardened On-Site Storage and renewed work on finding a permanent solution is imperative.

Please scrap your "discussion draft" and start over.

Sincerely,

Doug Sander

1806 N Husband, #202

Stillwater, OK 74075

From: Jean Harper <jbh22@comcast.net>

Sent: Friday, May 24, 2013 11:20 AM

To: feedback, nwaste (Energy)

Subject:RADIOACTIVE WASTE

PLEASE RECONSIDER THE DRAFT AS IT STANDS NOW. THIS AFFFECTS OUR FUTURE MORE THAN ANYTHING. WITH NO HEALTH THERE IS NO USE FOR ANYTHING ELSE.

WE HAVE ALWAYS BEEN PROUD OF SENATOR FEINSTEIN'S STRONG WISDOM. ACTION FOR THE LONG TERM TAKES THE STRENGTH WE HAVE SEEN THAT HAS GOTTEN THE JOB DONE BEFORE. Our FUTURE DEPENDS ON WHAT IS DONE NOW. Radioactive Waste should be of utmost priority. The Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

No one charged with protection of public health, safety and security should mandate moving deadly radioactive waste repeatedly. While the waste will have to be moved at some point, it should first make only the short move from the current fuel pools at reactors to dry containers at the same reactor site. Other movement must be only from that site to a permanent location for permanent isolation. A consolidated interim storage site would increase the risks of accidents and security problems while guaranteeing increased exposure to ionizing radiation along public-use highways, rails and waterways--even without an accident.

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Please scrap your "discussion draft" and start over.

Sincerely,

Jean Harper

12 Don Court

12 Don Court

Redwood City, CA 94062

From: H. Patterson <mettanatman@hotmail.com>

Sent: Friday, May 24, 2013 11:12 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

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Please scrap your "discussion draft" and start over.

Sincerely,

H. Patterson

High Springs, FL 32643

From: Christopher LaForge <gosolar@cheqnet.net>

Sent: Friday, May 24, 2013 11:00 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

Christopher LaForge

77480 Evergreen Rd. Ste. 1

77480 Evergreen Road, Ste. 1

Port Wing, WI 54865

From: Helen Findley <hcfindley@gmail.com>

Sent: Friday, May 24, 2013 10:56 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

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Please scrap your "discussion draft" and start over.

Sincerely,

Helen Findley

6225 Mineral Point Road

#1206

Madison, WI 53705

From: Kimberly Locke <chefkimberly@hotmail.com>

Sent: Friday, May 24, 2013 10:53 AM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

Moving lethal high-level radioactive waste to a consolidated interim site would not fix any problems at all, and is simply unacceptable. No one charged with protection of public health, safety and security should mandate moving deadly radioactive waste repeatedly. While the waste will have to be moved at some point, it should first make only the short move from the current fuel pools at reactors to dry containers at the same reactor site. Other movement must be only from that site to a permanent location for permanent isolation. A consolidated interim storage site would increase the risks of accidents and security problems while guaranteeing increased exposure to ionizing radiation along public-use highways, rails and waterways--even without an accident.

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I ask you to focus on public health, environmental protection and equity for the future rather than the narrow interests of the nuclear power industry - which would be the only beneficiary of such a thoughtless program. The best way to limit the scope of the radioactive waste problem is, of course, to phase out the use of nuclear power and replace it with clean energy sources. But for the waste that exists now, Hardened On-Site Storage and renewed work on finding a permanent solution is imperative.

Thank you for your consideration.

Kimberly Locke

11707 Fence Post Trail

Austin, TX 78750

From: Rosellen McFarland <RosellenMc@aol.com>

Sent: Friday, May 24, 2013 10:51 AM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

Rosellen McFarland

4117 David Rd.

4117 David Rd.

Painted Post, NY 14870

From: F. Hamilton <favplagget@aol.com>

Sent: Friday, May 24, 2013 10:50 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

F. Hamilton

P.O. Box 1735

Las Vegas, NM 87701

From: Marv Lewis <marvlewis@juno.com>

Sent: Friday, May 24, 2013 10:47 AM

To: feedback, nwaste (Energy); nukenet@energyjustice.net; babsjewell@yahoo.com; smirnowb@ix.netcom.com; josephoconnor666@comcast.net; johnsrud@uplink.net; Rulemaking.Comments@nrc.gov; rogerh@energy-net.org; phyllis.criswell@gmail.com; kevin@beyondnuclear.org; marvlewis@juno.com

Subject:Fw: N waste Act of 2013 comments on discxussion draft.

---------- Forwarded Message ----------

From: "Marv Lewis" <marvlewis@juno.com>

To: nwaste_feedback@energy.senate.gov

Subject: N waste Act of 2013 comments on discxussion draft.

Date: Fri, 24 May 2013 14:23:12 GMT

Dear Senate Energy Committee,

Please accept my comments on the draft for discussion of the 2013 N waste Act. I am unfamiliar with this form of comment and hope that I shall be clear and concise. Please contact me for any reason at 215 676 1291 or marvlewis@juno.com which may be copied to public access.

Your depth of knowledge and obvious efforts impress me greatly and should be lauded. You have put a lot of effort in parsing out a bill which shows merit in all it touches. I see a problem in that the present bill ignores much of the problems that the NRC and industry ignore:

1. The totality of radiation that must be addressed over time,

2. the need for First responders to be adequately trained and equipped,

3. resources to be available for an accident or incident in a timely fashion,

4. the lack of understanding of the term, Probable Risk Analysis, PRA,

5. the inability to admit to lack of knowledge.

The above list is not comprehensive, but I shall limit my comments to the above list at this time.

1. The totality of radiation.

Although everything radiates, nuclear waste radiates much more strongly and dangerously than living entities can handle and live. The present practice in the industry and the NRC is to place any radiation into the category of naturally occurring radiation where said radiation has entered the 'background' over one year ago. If the radiation entered the air, ground or water in 2013, that radiation is considered 'background' in 2014. This means that much of the nuclear fuel cycle and radioactive waste is considered naturally occurring background. When radiation from background was small, the error was trivial and ignored.

The background is no longer small. When I was a child, the background was reported as 60 millirem per year. The EPA has recently put out PAGs allowing 600+ millirems per year. The NRC uses background of 360 millirem per year.

This background may be dangerous to all living things. When the Earth formed, life could not exist due to the radiation doe present then. The radiation decayed and life flourished. We are going back to the time when radiation was dangerous to all living things.

I respectfully suggest that the totality of radiation dosages from all radioactive sources be considered before more leeway is granted to the licensees to further endanger all life on this Earth.

"I'll be philosophical. Until about two billion years ago, it was impossible to

have any life on earth; that is, there was so much radiation on earth you couldn't have

any life: fish or anything. Gradually, about two billion years ago, the amount of

radiation on this planet and probably in the entire system reduced and made it possible

for some form of life to begin...Now when we go back to using nuclear power, we are

creating something which nature tried to destroy to make life possible... Every time you

produce radiation, you produce something that has a certain half-life, in some cases for

billions of years. I think the human race is going to wreck itself, and it is important

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you an answer to your question." Admiral Hyman Rickover

2. The need for first responders to be trained and equipped.

I am sure that the Committee members believe that they understand this concept well. I am sure that they protect their constituents adequately. My town has a mayor that browns out fire houses. We have fire houses, but those fire houses may not have firemen there in. Understanding the need and fulfilling the need are two different things in Philadelphia. I hope this committee addresses the difference between enacting law and enforcing law.

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Unhappily some resources will have to be available in seconds as happened before the tsunami in Fukushima and many other nuclear incidents.

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The NRC uses a lot of math to define PRA. The NRC ignores the reality that many nuclear reactors operating long enough will have major accidents no matter what the regulations require!

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In 1979 this commenter was an intervenor, pro se, in the TMI#1 Restart Hearings. I won a contention on Filters. I did not have the resources to continue and make sure the licensee did as promised on hardening filters. I did not have the resources to get the industry to harden filters. If I had, the devastation at Fukushima might have been alleviated.

The Agency still has not admitted that the filters needed hardening as evidenced by refusing tho reopen the TMI#1 Restart Hearings and by voting not to upgrade filters on Mark 1 and II reactors. q. e. d.

Respectfully submitted,

Marvin I. Lewis, R. P. E. (Retired)

From: claire Chang <clairech@gmail.com>

Sent: Friday, May 24, 2013 10:47 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

claire Chang

4 grove st

gill, MA 01354

From: Paul Pallazola <ppallazola@hotmail.com>

Sent: Friday, May 24, 2013 10:34 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Sincerely,

Paul Pallazola

28 Dearborn Ave

Beverly, MA 01915

From: Vivian Schatz <vivianschatz@earthlink.net>

Sent: Friday, May 24, 2013 10:27 AM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

Vivian Schatz

6907 Sherman St.

Philadelphia, PA 19119

From: Marv Lewis <marvlewis@juno.com>

Sent: Friday, May 24, 2013 10:23 AM

To: feedback, nwaste (Energy)

Subject:N waste Act of 2013 comments on discxussion draft.

Dear Senate Energy Committee,

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Respectfully submitted,

Marvin I. Lewis, R. P. E. (Retired)

From: Andrew Cohen <rivnrev@earthlink.net>

Sent: Friday, May 24, 2013 10:18 AM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

Andrew Cohen

95 North Evergreen

95 North Evergreen

Memphis, TN 38104

From: Vivian Johnston <sbanktb@msn.com>

Sent: Friday, May 24, 2013 10:14 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

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Please scrap your "discussion draft" and start over.

Sincerely,

Vivian Johnston

1683 South Bank Rd

1683 South Bank Rd

Oakville, WA 98568

From: David Agnew <gogreens@comcast.net>

Sent: Friday, May 24, 2013 10:12 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

We have waited 7 decades for a solution to the problem of nuclear waste disposal. Taxpayers' money has not only paid to develop nuclear energy, but it has been wasted on waste storage plans. Meanwhile, the industry has continued to profit off the creation of these, the most deadly toxins known to man. The continued generation of radwaste is unwise, immoral, and terrible thing to do to future generations - and it should be stopped immediately.

Moving lethal high-level radioactive waste to a consolidated interim site would not fix any problems at all, and is simply unacceptable. No one charged with protection of public health, safety and security should mandate moving deadly radioactive waste repeatedly. While the waste will have to be moved at some point, it should first make only the short move from the current fuel pools at reactors to dry containers at the same reactor site. Other movement must be only from that site to a permanent location for permanent isolation. A consolidated interim storage site would increase the risks of accidents and security problems while guaranteeing increased exposure to ionizing radiation along public-use highways, rails and waterways--even without an accident.

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Sincerely,

David Agnew

18 Marthas Lane

Harwich, MA 02645

From: joan Sax <jsax@me.com>

Sent: Friday, May 24, 2013 10:07 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

joan Sax

PO Box 185Randolph Center, VT 05061

From: Nancy Rice <rice@innevi.com>

Sent: Friday, May 24, 2013 9:52 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over. The draft you presently propose is unconscionable. I wonder if you are fully aware of the dangers of high level nuclear waste to the human body.

Sincerely,

Nancy Rice

South Randolph Rd.

Randolph, VT 05061

From: Erid Finlayson <wooderich@yahoo.com>

Sent: Friday, May 24, 2013 9:41 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

Erid Finlayson

4678A Almond Dr

Templeton, CA 93465

From: John Linakis <JLinakis@yahoo.com>

Sent: Friday, May 24, 2013 9:33 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

John Linakis

310 West 72nd Street

New YUork, NY 10023

From: Jean Owen <owenwj@sbcglobal.net>

Sent: Friday, May 24, 2013 9:29 AM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

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Thank you for your consideration.

Jean Owen

1420 Raymond St

Joliet, IL 60431

From: Mona Mehdy <mcmehdy@gmail.com>

Sent: Friday, May 24, 2013 9:28 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

Thank you for focusing on the radioactive waste problem. I am a professional biologist who is well aware of the cellular effects of radiation and teach about these hazards in my university clases. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

Moving lethal high-level radioactive waste to a consolidated interim site would not fix any problems at all, and is simply unacceptable. No one charged with protection of public health, safety and security should mandate moving deadly radioactive waste repeatedly. While the waste will have to be moved at some point, it should first make only the short move from the current fuel pools at reactors to dry containers at the same reactor site. Other movement must be only from that site to a permanent location for permanent isolation. A consolidated interim storage site would increase the risks of accidents and security problems while guaranteeing increased exposure to ionizing radiation along public-use highways, rails and waterways--even without an accident.

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Please scrap your "discussion draft" and start over.

Sincerely,

Mona Mehdy

5004 Smokey Mountain Drive

Austin, TX 78727

From: Marv Lewis <marvlewis@juno.com>

Sent: Friday, May 24, 2013 9:26 AM

To: feedback, nwaste (Energy)

Subject:testing to see if this is address

I am testing to see if this is address to send comments to on draft nwaste bill.marv

From: Anita Minton <anitaminton@aol.com>

Sent: Friday, May 24, 2013 9:26 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

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Please scrap your "discussion draft" and start over.

Sincerely,

Anita Minton

P.O.Box 434

12150 Hwy 9

Guffey, CO 80820

From: Jim Sylva <jasylva@northrim.net>

Sent: Friday, May 24, 2013 9:20 AM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

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Thank you for your consideration.

Jim Sylva

P.O. Box 115

Hansen, ID 83334

From: Joan Roche <rochelinks@verizon.net>

Sent: Friday, May 24, 2013 9:19 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

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Please scrap your "discussion draft" and start over.

Sincerely,

Joan Roche

36 Newburgh Rd

Patterson, NY 12563

From: Marvin Lewis <marvlewis@juno.com>

Sent: Friday, May 24, 2013 9:04 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

Marvin Lewis

3133 Fairfield St.

Philadelphia, PA 19136

From: mark lopes <lopes_mark@hotmail.com>

Sent: Friday, May 24, 2013 9:01 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

mark lopes

16 clark ave

rutherford, NJ 07070

From: barbara apt <aptj@optonline.net>

Sent: Friday, May 24, 2013 9:00 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

barbara apt

10 phyllis place

randolph, NJ 07869

From: Patricia Marida <marida@wideopenwest.com>

Sent: Friday, May 24, 2013 8:53 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Sincerely,

Patricia Marida

1710 Dorsetshire Rd.

Columbus, OH 43229

From: Teresa Wilson <teresafwilson1@gmail.com>

Sent: Friday, May 24, 2013 8:52 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Sincerely,

Teresa Wilson

544 Bradford ct

Claremont, CA 91711

From: Toby Klein <tobylk03@gmail.com>

Sent: Friday, May 24, 2013 8:16 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

Toby Klein

325 Thorne Road

Sullivan, ME 04664

From: Fettus, Geoffrey <gfettus@nrdc.org>

Sent: Friday, May 24, 2013 8:15 AM

To: feedback, nwaste (Energy)

Subject:NRDC Response to Nuclear Waste Questions

Attachments: NRDC Response to Nuclear Waste Questions 24 May 2013.pdf; NRDC Testimony Senate E&NR Hearing 12 Sept 2012.pdf; 2013 03 27 NRDC et al Letter to Chu re HLW to WIPP FINAL.pdf

To Senate Energy Staff:

Please find enclosed NRDC's Response to the Nuclear Waste Questions posed by Chairman Wyden, Ranking Member Murkowski, and Senators Alexander and Feinstein. There are also two attachments to our response this day, referenced in the document.

If you have any questions or difficulties with the attachments, please don't hesitate to contact me or our program assistant, Ms. Corinne Hanson.

Thanks very much,

Geoff Fettus

Geoffrey H. Fettus

Senior Attorney

Natural Resources Defense Council

1152 15th St. NW, Suite 300

Washington, D.C. 20005

(202) 289-2371

gfettus@nrdc.org

From: Toby Klein <tobylk03@gmail.com>

Sent: Friday, May 24, 2013 7:53 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Sincerely,

Toby Klein

325 Thorne Road

Sullivan, ME 04664

From: EDMONDS Robert (AREVA) <Robert.Edmonds@areva.com>

Sent: Friday, May 24, 2013 7:42 AM

To: feedback, nwaste (Energy)

Subject:Comments from Eddy Lea Energy Alliance

Attachments: EXECUTIVE SUMMARY_James M Maddox_Eddy Lea Energy Alliance.docx; Question 8_James M Maddox_Eddy Lea Energy Alliance.docx; Question 7_James M Maddox_Eddy Lea Energy Alliance.docx; Question 6_James M Maddox_Eddy Lea Energy Alliance.docx; Question 5_James M Maddox_Eddy Lea Energy Alliance.docx; Question 4_James M Maddox_Eddy Lea Energy Alliance.docx; Question 3_James M Maddox_Eddy Lea Energy Alliance.docx; Question 2_James M Maddox_Eddy Lea Energy Alliance.docx; Question 1_James M Maddox_Eddy Lea Energy Alliance.docx

To Members of the Senate Committee Energy Staff:

I am filing these comments on behalf of James M Maddox, Chairman of the Eddy Lea Energy Alliance, LLC, Hobbs, New Mexico. Note that I also attempted to file the comments on the web site, but I am not sure they were accepted. Please contact me if there are any questions about this submission.

Best regards,

Robert F. Edmonds, Jr., PE

Director, Business Development

AREVA Federal Services, LLC

7207 IBM Drive, CLT-1D

Charlotte, NC 28262

Office Phone: (704) 805-2080

Cell Phone: (704) 756-0481

Fax: (704) 805-2370

E-mail: robert.edmonds@areva.com <mailto:robert.edmonds@areva.com>

From: Ken & Ethel Kipen <kenfires2@gmail.com>

Sent: Friday, May 24, 2013 7:37 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

Ken & Ethel Kipen

Ashfield, MA 01330

From: Michelle Buerger <stargirl_46@hotmail.com>

Sent: Friday, May 24, 2013 6:23 AM

To: feedback, nwaste (Energy)

Subject:Please Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

Michelle Buerger

50 Schroeder Ct. #104

Madison, WI 53711

From: mark swanson <bandmaster@comcast.net>

Sent: Friday, May 24, 2013 5:59 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

mark swanson

1555 gleaner hall ct

ann arbor, MS 48105

From: Michael Wollman <mwollman@calpoly.edu>

Sent: Friday, May 24, 2013 5:31 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

Michael Wollman

217 Westmont Avenue

217 WESTMONT AVENUE

San Luis Obispo, CA 93405

From: kathleen bovello <JRC20815@AOL.com>

Sent: Friday, May 24, 2013 5:27 AM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

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Thank you for your consideration.

kathleen bovello

4515 willard ave

chevy chase, MD 20815

From: Andreas Wittenstein <andreas@bitjazz.com>

Sent: Friday, May 24, 2013 4:59 AM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

Andreas Wittenstein

P.O. Box 570

Woodacre, CA 94973

From: V.E. Perkins <veperkins@gmail.com>

Sent: Friday, May 24, 2013 4:25 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

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Please scrap your "discussion draft" and start over.

Sincerely,

V.E. Perkins

11151 E Grant Road

Franktown, CO 80116, US

Franktown, CO 80116

From: V.E. Perkins <veperkins@gmail.com>

Sent: Friday, May 24, 2013 4:24 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is absolutely unacceptable

I have followed the problem of radioactive waste disposal for many years. The problems are twofold: technical and political. A primary reason why the political problem has not been solved relates to the fact that in our governmental system, states have the right to refuse a permanent geological repository on their territory. This problem can never be solved unless Congress changes the law in the national interest, which, in my view, Congress has not the guts to do. In over sixty years of trying, only the WIPP site has been constructed, opened and filled. Meanwhile as we continue to operate civilian nuclear reactors, more waste constantly accumulates and the Dept. of Energy is constantly being berated by the utilities for not keeping its promise to remove these spent, but hot, fuel rods from the reactor sites. The prospect of

transporting radioactive wastes across the nation on highways or rails is absolutely unacceptable even if we had been able to complete and open Yucca Mountain and could enjoy the prospect of putting them into a permanent depository. The idea of transporting these wastes to INTERIM sites is sheer madness, as this kind of program will be subject to terrorist attack, to accident, and to continuing radioactive emissions all along whatever routes will be designated.

I think there are only three solutions: the best solution would be to systematically shut down all civilian nuclear reactors, so as to stop creating more radioactive waste. Even if that were done, it would not eliminate the need for a permanent repository, which will only be done if Congress passes the necessary legislation in the national interest so that a large

underpopulated, arid state CANNOT refuse to accept

a repository. In the interim, the hot fuel rods should all be put into hardened, dry cask storage, and the casks should, if possible, be stored underground at the reactor site. When the reactor is decommissioned, the entire area must be made into a sacrifice zone, and permanent warnings posted for all future generations of the dangers of entering or using that area.

The fact is that our generation is responsible for the most heinous and long-lasting evil in the roughly six thousand year recorded history of humankind. No generation of human beings is entitled to create, for its own limited reasons and purposes, materials that will pose a hazard to all future generations for more than 250,000 years. The Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems we have now and create new problems that we do not foresee, just as Oppenheimer and the physicists did not foresee the terrible problems that

this form of energy would create for the entire human race and for our home planet. Because we are arrogant,

we have clung to the belief that we would find a technical solution to the rad waste problem. We have not and will not. We cannot even clean up the leaking tanks of high-level waste at Hanford because we no longer know what was put into those tanks. It is imperative that we give up on the notion that nuclear energy and nuclear weapons can be controlled by fallible human beings. The whole enterprise must be

shut down as rapidly as possible before our entire planet has been made uninhabitable. The dire situation at Fukushima-Daiichi No. 4 should tell us that this

form of energy generation must be ABANDONED.

Moving lethal high-level radioactive waste to a consolidated interim site would not fix any problems at all, and is simply unacceptable. No one charged with protection of public health, safety and security should mandate moving deadly radioactive waste repeatedly. While the waste will have to be moved at some point, it should first make only the short move from the current fuel pools at reactors to dry containers at the same reactor site. Other movement must be only from that site to a permanent location for permanent GEOLOGIC isolation. A consolidated interim storage site would increase the risks of accidents and security problems while guaranteeing increased exposure to ionizing radiation along public-use highways, rails and waterways--even without an accident.

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Please scrap your "discussion draft" and start over.

Sincerely,

V. E. Perkins, Ph.D., 11151 E. Grant Rd., Franktown CO 80116-9221. 303-841-4059

V.E. Perkins

11151 E Grant Road

Franktown, CO 80116, US

Franktown, CO 80116

From: Debbie Currie <peace4rplanet@yahoo.com>

Sent: Friday, May 24, 2013 3:40 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

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Sincerely,

Debbie Currie

533 Church Street, #156

Nashville, TN 37219

From: B. Geary <thinkcivic@gmail.com>

Sent: Friday, May 24, 2013 3:38 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would, ALAS, only exacerbate the problems.

The 'interim storage' plan, something that helps only the nuclear power industry, is a plan to put radioactive waste in virtually EVERYONE'S backyard because of extensive, long-distance transport by highway, rail and barge.

It is an utterly unacceptable plan. A better plan to deal with high-level radioactive waste is one that starts with phasing out the use of nuclear power and continues with the use of HOSS for waste already generated.

Moving lethal high-level radioactive waste to a consolidated interim site would not fix any problems at all, and is simply unacceptable. No one charged with protection of public health, safety and security should mandate moving deadly radioactive waste repeatedly. While the waste will have to be moved at some point, it should first make only the short move from the current fuel pools at reactors to dry containers at the SAME REACTOR SITE.. Other movement must be only from that site to a permanent location for permanent isolation. A consolidated interim storage site would increase the risks of accidents and security problems while guaranteeing increased exposure to ionizing radiation along public-use highways, rails and waterways--even without an accident.

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Please scrap your "discussion draft" and start over.

Yours truly,

B. Geary

2545 S. Birmingham Pl.

13743 W. 64th Dr.,

Tulsa, OK 74114

From: Mary Camele <m_e_camele@yahoo.com>

Sent: Friday, May 24, 2013 3:21 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Sincerely,

Mary Camele

550 E. Loveland Ave.

Loveland, OH 45140

From: Lenora Layne <angellayne2@sbcglobal.net>

Sent: Friday, May 24, 2013 2:30 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Sincerely,

Lenora Layne

961 Worden Road

961 Worden Road

Wickliffe, OH 44092

From: Sakura Vesely <Jellybelly_11@hotmail.com>

Sent: Friday, May 24, 2013 2:21 AM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

Sakura Vesely

4432 Actriz Place

Martinez, CA 94553

From: Joan Maas <devonamaas@aol.com>

Sent: Friday, May 24, 2013 2:10 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Sincerely,

Joan Maas

1919 N. Summit Ave.

1919 N. Summit Ave.

Milwaukee, WI 53202

From: David Bonnell <dlbonnell@sbcglobal.net>

Sent: Friday, May 24, 2013 1:52 AM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

David Bonnell

3562 Ridgebriar

Dallas, TX 75234

From: BB Nibbom <bbnibbom@aol.com>

Sent: Friday, May 24, 2013 1:43 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

BB Nibbom

Del Mar, CA 92014

From: Stuart R. Shaw <stubonshaw@comcast.net>

Sent: Friday, May 24, 2013 1:41 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

Stuart R. Shaw

2559 Ojai Ct. NW

N/A

Salem, OR 97304

From: Ron Avila <ronavila@hotmail.com>

Sent: Friday, May 24, 2013 1:22 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

Ron Avila

2027 Mission #411

San Francisco, CA 94110

From: Timothy Giddens <tihkal@gmail.com>

Sent: Friday, May 24, 2013 1:21 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Sincerely,

Timothy Giddens

418 W Lynwood Ave

APT 2

San Antonio, TX 78212

From: Megan Krout <elaira_sedda86@yahoo.com>

Sent: Friday, May 24, 2013 1:19 AM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

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Thank you for your consideration.

Megan Krout

5108 N 23rd RD

Arlington

Arlington, VA 22207

From: Laurence Skirvin <laurenceskirvin@yahoo.com>

Sent: Friday, May 24, 2013 1:08 AM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

Laurence Skirvin

1507 syble drive

1507 Syble Drive

villa rica, GA 30180

From: William Maurer <wmmaurer@comcast.net>

Sent: Friday, May 24, 2013 1:05 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

William Maurer

140 Gifford St

Falmouth, MA 02540

From: Eddie Griffiths <eddiegriffiths@comcast.net>

Sent: Friday, May 24, 2013 12:58 AM

To: feedback, nwaste (Energy)

Subject:Mobil Chernoble

DOE & Sen Ron Wyden:

I am horrified at the prospect of hundreds of thousands of tons of highly radioactive waste traversing our highways, rails, and waterways en route to some unknown temporary repository only to be transported yet again at such time a permanent site has been designated. This is an insane scenario fraught with manifold possibilities for billion dollars accidents and/or sabotage. It must be emphasized that these privately operated nuclear facilities long ago shielded themselves totally from ANY LIABILITY even in instances of malfeasance, fraud, or incompetence--which is sadly all too often. 100% of the costs of cleanup, decontamination, evacuation, and remediation fall upon the taxpayers.....We're not amused.

It remains that hardened on-site storage is the SOLE known option. It is IMPERATIVE that option be mandated throughout the industry, with great haste, and utilizing the most viable technologies available to us. Is cost a factor? Of course, but due diligence now just might preclude the unthinkable down the road.

Thank you for your consideration of my views,

Eddie Griffiths

Seattle, Wa 98103From: Laurie LaGoe <lal8607@Yahoo.com>

Sent: Friday, May 24, 2013 12:56 AM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

Laurie LaGoe

8607 Village Way

Unit A

Alexandria, VA 22309

From: Andrew Butz <Anbunz@yahoo.com>

Sent: Friday, May 24, 2013 12:52 AM

To: feedback, nwaste (Energy)

Subject:No on Consolidated Interim Storage Proposal

Thank you for focusing on the radioactive waste problem. It should be a top priority. Our high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

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Thank you for your consideration.

Andrew Butz

3735 SE 9th

Portland, OR 97202

From: william albin <wlamgr@gmail.com>

Sent: Friday, May 24, 2013 12:48 AM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

william albin

965 amber loop

grass valley, CA 95945

From: Amy myrrh <amykristine@msn.com>

Sent: Friday, May 24, 2013 12:40 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

Amy myrrh

4917 Ridgeline Lane

Fair Oaks, CA 95628

From: Dana Silvernale <dsilver@greens.org>

Sent: Friday, May 24, 2013 12:38 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Sincerely,

Dana Silvernale

PO Box 1373

Blue Lake, CA 95525

From: Lila Flagler <lilaflagler@aol.com>

Sent: Friday, May 24, 2013 12:37 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Sincerely,

Lila Flagler

6737 E. Camino Principal, #C

6737 E. Camino Principal, #C

Tucson, AZ 85715

From: Mary Blom <ehfarms@aol.com>

Sent: Friday, May 24, 2013 12:20 AM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

Mary Blom

4401 Burnside Road

n/a

Sebastopol, CA 95472

From: Odile Hugonot Haber <odilehh@gmail.com>

Sent: Friday, May 24, 2013 12:11 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

Odile Hugonot Haber

531 Third Street

Ann Arbor, MI 48103

From: LInda Edwards <lizcarmine@yahoo.com>

Sent: Thursday, May 23, 2013 11:41 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Sincerely,

Linda Edwards

LInda Edwards

1975 SE Crystal Lake Dr. Unit 154

Corvallis, OR 97333

From: Ruth Danielson <ruth@msmarketintel.com>

Sent: Thursday, May 23, 2013 11:30 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Sincerely,

Ruth Danielson

Pismo Beach, CA 93449

From: Thomas Matsuda <matsudat@yahoo.com>

Sent: Thursday, May 23, 2013 11:24 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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I ask you to focus on public health, environmental protection and equity for the future rather than the narrow interests of the nuclear power industry--which would be the only beneficiary of such a thoughtless program. The best way to limit the scope of the radioactive waste problem is, of course, to phase out the use of nuclear power and replace it with clean energy sources. But for the waste that exists now, Hardened On-Site Storage and renewed work on finding a permanent solution is imperative.

Please scrap your "discussion draft" and start over.

Sincerely,

Thomas Matsuda

655 Roaring Brook Rd

655 Roaring Brook Rd

Conway, MA 01341

From: Glen Bays <baysglen@yahoo.com>

Sent: Thursday, May 23, 2013 11:21 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

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I ask you to focus on public health, environmental protection and equity for the future rather than the interests of the nuclear power industry. To limit the scope of the radioactive waste problem, phase out the use of nuclear power and replace it with clean energy sources. For the waste that exists now, Hardened On-Site Storage and renewed work on finding a permanent solution is imperative.

Sincerely,

Glen Bays

1510 E. Virginia Ave.

1510 E. Virginia Ave

Stillwater, OK 74075

From: Theresa Ann Panica <Tpanica@ymail.com>

Sent: Thursday, May 23, 2013 11:16 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Sincerely,

Theresa Ann Panica

Levittown, NY 11756

From: Elizabeth Allen <lizallen28@gmail.com>

Sent: Thursday, May 23, 2013 11:13 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

Elizabeth Allen

4 Kenwood St., Asheville, NC 28806

Asheville, NC 28806

From: ann cockrell <amorrcoc@msn.com>

Sent: Thursday, May 23, 2013 11:10 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

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Thank you for your consideration.

ann cockrell

106 River Oak Drive

Ingram, TX, TX 78025

From: Randi Perkins <randi.perkins@charter.net>

Sent: Thursday, May 23, 2013 11:06 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

Randi Perkins

10009 Old Morro Rd East

Atascadero, CA 93422

From: Judith Blackburn <blackburn.judith@gmail.com>

Sent: Thursday, May 23, 2013 11:01 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Sincerely,

Judith Blackburn

3724 Oakwood Dr.

3724 Oakwood Dr.

Longmont, CO 80503

From: LynMarie Berntson <rlbernt@earthlink.net>

Sent: Thursday, May 23, 2013 11:00 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Sincerely,

LynMarie Berntson

6697 Boyd Ave

6697 Boyd Ave

Eden Prairie, MN 55346

From: Mobi Warren <mobiwarren@gmail.com>

Sent: Thursday, May 23, 2013 10:51 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Sincerely,

Mobi Warren

1826 Poppy Peak

San Antonio, TX 78232

From: Doug & Carol Wingeier <dcwing@att.net>

Sent: Thursday, May 23, 2013 10:45 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

Doug & Carol Wingeier

266 Merrimon Ave.

Asheville, NC 28745

From: Mark Salamon <marksalamon@aol.com>

Sent: Thursday, May 23, 2013 10:40 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

Mark Salamon

851 VIEWRIDGE DRIVE

SW

SAN MATEO, CA 94403

From: Don't Waste Aiken Aiken SC <yodar@gforcecable.com>

Sent: Thursday, May 23, 2013 10:38 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

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Sincerely,

Don't Waste Aiken Aiken SC

Po Box 85

Aiken, SC 29801

From: Ken Kukovich <inthewind2@gmail.com>

Sent: Thursday, May 23, 2013 10:30 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Sincerely,

Ken Kukovich

3901 N. 13th st

Arlington, VA 22201

From: Tim Durnell <tdurnell@centurytel.net>

Sent: Thursday, May 23, 2013 10:18 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

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Thank you for your consideration.

Tim Durnell

3087 Daisy Mine Rd.

Rice, WA 99167

From: Tom Weoblewski <twroblewsk@aol.com>

Sent: Thursday, May 23, 2013 10:17 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your considerationTom Weoblewski

17 Fairway Deive

same

Manorville, NY 11949

From: Bonnie Bluestein <bonniegailblue@gmail.com>

Sent: Thursday, May 23, 2013 9:58 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

Thank you for focusing on the radioactive waste problem. Safety issues should be of utmost priority. After giving the issue consideration, I am not convinced that anyone knows how to safely manage radioactive waste. Until we can collectively (as citizens, scientists, health professionals, legislators, industrialists, engineers, industry employees, environmentalists, etc.) figure out unequivocally what to do with the waste, we should not be moving it around on our highways, over aging infrastructure, through our communities at risk of harm to the public.

I urge you to continue to study, consult and plan at length before issuing any legislation unless it is a bill to study, consult and develop a plan that will assure the safety of current and future generations. I encourage you to consider studying hardened on-site storage.

Moving lethal high-level radioactive waste to a consolidated interim site would not fix any problems at all, and is simply unacceptable. No one charged with protection of public health, safety and security should mandate moving deadly radioactive waste repeatedly. While the waste will have to be moved at some point, it should first make only the short move from the current fuel pools at reactors to dry containers at the same reactor site. Other movement must be only from that site to a permanent location for permanent isolation. A consolidated interim storage site would increase the risks of accidents and security problems while guaranteeing increased exposure to ionizing radiation along public-use highways, rails and waterways--even without an accident.

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Finally, as a citizen of Illinois, I strongly oppose any additional radioactive waste storage in my city, state or any passage of waste through Illinois.

Please scrap your "discussion draft" and start over.

Should you have any questions, please contact me.

Sincerely,

Bonnie Bluestein, M.A.

Concerned citizen and public health professional

Member NEIS

bonniegailblue@gmail.com

Bonnie Bluestein

1932 N. Damen Ave.

Chicago, IL 60647

From: Rose Marie Leather <fleurecerise@aol.com>

Sent: Thursday, May 23, 2013 9:51 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Sincerely,

Rose Marie Leather

2239 E. Montecito Avenue

Phoenix, AZ 85016

From: Claire Garden <clairenova@juno.com>

Sent: Thursday, May 23, 2013 9:51 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

Claire Garden

1404 Gary

Columbia, MO 65203

From: jay tran <om_66@hotmail.com>

Sent: Thursday, May 23, 2013 9:42 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

jay tran

229 ST JOHNS PL

st johns pl

BKLYN, NY 11217

From: marion Bernstein <bemarion@earthlink.net>

Sent: Thursday, May 23, 2013 9:40 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Sincerely,

marion Bernstein

110 West 96 St. #7D

110 west 96 st. #7d

New York, NY 10025

From: Bruce Pringle <pringb@comcast.net>

Sent: Thursday, May 23, 2013 9:27 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

Bruce Pringle

17037 12th PL SW

17037 12th Pl SW

Normandy Park, WA 98166

From: Sally A. Russell <russellbusinessenterprises@yahoo.com>

Sent: Thursday, May 23, 2013 9:25 PM

To: feedback, nwaste (Energy)

Subject:Nuclear Waste Administration Act of 2013, Discussion Draft Review

Attachments: Russell, Executive Summary, 5-23.doc; Russell, Question #1,5-23.doc; Russell,Question #2-5-23.doc; Russell, Question #3,5-23.doc; Russell,Question #4,5-23.doc; Russell, Question #5,5-23.doc; Russell,Question #6-53.doc; Russell,Question #7-5-23.doc; Russell,Question #8-5-23.doc

To whom it may concern:

Attached for your review and consideration are my responses to your questions, regarding the Nuclear Waste

Administration Act of 2013, Discussion Draft. Please do not hesitate to call me at (949) 491-3622, if you have any questions. Best Regards, Sally A. Russell

Sally A. Russell

President/Owner/Operator

Russell Business Enterprises

18586 Paseo Pizarro

Irvine, CA 92603

cell: (949) 491-3622

russellbusinessenterprises@yahoo.com

http://www.linkedin.com/pub/sally-a-russell/14/aba/885

"Proven ability to capture emerging markets and to successfully execute multimillion dollar energy

and environmental EPC contracts".

From: Craig Thompson <Playboeehsdp@yahoo.com>

Sent: Thursday, May 23, 2013 9:21 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

Craig Thompson

111 E. 14th Street #301

Sioux Falls, SD 57104

From: Kathryn Burzinski, M.D. <emilylobospirit@gmail.com>

Sent: Thursday, May 23, 2013 9:21 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Sincerely,

Kathryn Burzinski, M.D.

PO Box 2042

Middletown, NY 10940

From: Keith Bergstresser <keith.bergstresser@gmail.com>

Sent: Thursday, May 23, 2013 9:11 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

Keith Bergstresser

2259 Double Eagle Ct

Reston, VA 20191

From: Don Consul <donconsul@aol.com>

Sent: Thursday, May 23, 2013 9:01 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

Don Consul

255 Mountain Mary Rd.

255 Mountain Mary Rd.

Boyertown, PA 19512

From: Chuck Donegan <chucknet@optonline.net>

Sent: Thursday, May 23, 2013 9:00 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

Chuck Donegan

231 N. Evergreen Dr.

Selden, NY 11784

From: cecilep@sonic.net

Sent: Thursday, May 23, 2013 8:55 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

CA 94704

From: Joan Lang <jlang@csjoseph.org>

Sent: Thursday, May 23, 2013 8:48 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

Joan Lang

3430 Rocky River Dr

Cleveland, OH 44111

From: tom campbell <guacfund@bigplanet.com>

Sent: Thursday, May 23, 2013 8:34 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Sincerely,

tom campbell

417 > Maria Ave

Po Box 699

Hermosa Becah, CA 90254

From: Lorne Beatty <lbeatty@blue-chip.us>

Sent: Thursday, May 23, 2013 8:26 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

Lorne Beatty

573 N. Maxfield RoadBrighton

573 N. Maxfield Road

Brighton, MI 48114

From: Paul Netusil <pdpnet@aol.com>

Sent: Thursday, May 23, 2013 8:23 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

Paul Netusil

9 Lachmund Court

Old Tappan, NJ 07675

From: Angyl Wisemessenger <childofafed@hotmail.com>

Sent: Thursday, May 23, 2013 8:10 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

Angyl Wisemessenger

PO Box 152427

Arlington, TX 76015

From: jon gordon <jongordonmusic1@gmail.com>

Sent: Thursday, May 23, 2013 8:09 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Sincerely,

jon gordon

351 marine ave apt F9

bklyn, NY 11209

From: Barry Lerner <bazikr@gmail.com>

Sent: Thursday, May 23, 2013 8:02 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

Barry Lerner

1311 N. Ode St. #635

Arlington, VA 22209

From: Betty Brooks <bttyb981@q.com>

Sent: Thursday, May 23, 2013 7:55 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

Betty Brooks

123 2nd Ave So.

PO Box 981

Hailey, ID 83333

From: pat turney <pturney@email.com>

Sent: Thursday, May 23, 2013 7:55 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

pat turney

4106 Amyx Court

Hayward, CA 94542

From: Beverly Findlay <Blfkaneko@yahoo.com>

Sent: Thursday, May 23, 2013 7:52 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Sincerely,

Beverly Findlay

19495 Mountainview Lane

Huntington Beach, CA 92648

From: Leslie Burpo <lburpo@aol.com>

Sent: Thursday, May 23, 2013 7:51 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Sincerely,

Leslie Burpo

P.O. Box 5468

Eugene, OR 97405

From: Monica Maye <monicamaye@optonline.net>

Sent: Thursday, May 23, 2013 7:50 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Sincerely,

Monica Maye

46 Hirsch Road

Stamford, CT 06905

From: michael boshears <a2mixer@aol.com>

Sent: Thursday, May 23, 2013 7:49 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Sincerely,

michael boshears

p.o. box 3684

crestline, CA 92325

From: Ralph Hyde <hyde02@att.net>

Sent: Thursday, May 23, 2013 7:48 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

Ralph Hyde

3140 Woodmeade Lane

Lakeland, TN 38002

From: Michael Rotcher <michaelrotcher@hotmail.com>

Sent: Thursday, May 23, 2013 7:47 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Sincerely,

Michael Rotcher

24542 Tarazona

Mission Viejo, CA 92692

From: pat turney <pturney@email.com>

Sent: Thursday, May 23, 2013 7:40 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

pat turney

4106 Amyx Ct

Hayward, CA 94542

From: Bekki Shining Bearheart <healing@frognet.net>

Sent: Thursday, May 23, 2013 7:40 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Sincerely,

Bekki Shining Bearheart

6560 State Route 356

6560 State Route 356

New Marshfield, OH 45766

From: George Price <gsp@chamisa.net>

Sent: Thursday, May 23, 2013 7:38 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Sincerely,

George Price

15B Vuelta Chamisa

Santa Fe, NM 87506

From: Steven Rafone <seconds1971@hotmail.com>

Sent: Thursday, May 23, 2013 7:34 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Sincerely,

Steven Rafone

po box 949

Floyd, VA 24091

From: Debbie Peters <dp2@earthlink.net>

Sent: Thursday, May 23, 2013 7:08 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Sincerely,

Debbie Peters

5800 Arlington Ave.

5800 Arlington Avenue

Bronx, NY 10471

From: Mark Edgren <edgrenx4@comcast.net>

Sent: Thursday, May 23, 2013 7:32 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

Mark Edgren

900 Cragmont Avenue

Berkeley, CA 94708-0

From: Gail McGlone <grmcglone@snail-mail.net>

Sent: Thursday, May 23, 2013 7:17 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Sincerely,

Gail McGlone

3510 Dellefield St

New Port Richey, FL 34655

From: jennifer schutt <jennavt2001@yahoo.com>

Sent: Thursday, May 23, 2013 7:16 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Sincerely,

jennifer schutt

11528 Sunder Ct.

11528 Sunder Ct.

reston, VA 20190

From: Mark Salamon <marksalamon@aol.com>

Sent: Thursday, May 23, 2013 7:13 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

Mark Salamon

851 Viewridge Drive

18 SHORE DRIVE

San Mateo, CA 94403

From: Leslie Gold <goldoftheforest@yahoo.com>

Sent: Thursday, May 23, 2013 7:09 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

Please realize that ANY nuclear waste is toxic...neither you nor I would ever ingest it voluntarily. To not properly address safety concerns is akin to sentencing all your constituents to death.

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

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Thank you for your consideration.

Leslie Gold

103 Bowery

NY, NY 10002

From: Barbara Schwartz <sunsunnyday222@comcast.net>

Sent: Thursday, May 23, 2013 6:58 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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If nothing better can be done to protect us and our roads and communities, please do nothing until a good, permanent solution can be found. The best thing that can be done is to stop using nuclear energy, and shut down all the reactors. Nuclear energy is costly in terms of building, maintaining and insuring, in terms of our health, and in terms of our environment. I always hope continuing with nuclear energy isn't about making fuel for bombs. I don't understand why we don't use more alternative clean energy. Thank you.

Please scrap your "discussion draft" and start over.

Sincerely,

Barbara Schwartz

398 Alameda Pkwy

Arnold, MD 21012

From: JOHN LaFORGE <jmichaellaforge@yahoo.com>

Sent: Thursday, May 23, 2013 6:57 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

JOHN LaFORGE

Round Lake Rd

740 ROUND LAKE ROAD

LUCK, WI 54853

From: michael boshears <a2mixer@aol.com>

Sent: Thursday, May 23, 2013 6:54 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Sincerely,

michael boshears

p.o. box 3684

crestline, CA 92325

From: Garrett Quinlivan <garrett.quinlivan@Gmail.com>

Sent: Thursday, May 23, 2013 6:32 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

Garrett Quinlivan

528 NW 28 Ave.

Gainesville, FL 32609

From: Dennis Simpson <simpson.dennis@gmail.com>

Sent: Thursday, May 23, 2013 6:29 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

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Thank you for your consideration.

Dennis Simpson

16000 Bent Tree Forest Circle

Apt 1031

Dallas, TX 75248

From: Patrick O'Meara <pat_omeara@hotmail.com>

Sent: Thursday, May 23, 2013 6:26 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

The atomic age should be ended, period. There is no safe way to store the waist from these plants and the plants themselves are a severe danger for our country and the world in the future. The waist leaks and the plants brake down. Keep it up and Earth will look like Mars.

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

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Thank you for your consideration.

Patrick O'Meara

1573 Carroll St

Street Address 2

Clearwater, FL 33755

From: Emmett Murphy <ejmurphy@amherst.edu>

Sent: Thursday, May 23, 2013 6:26 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

Emmett Murphy

730 S. Osprey Ave

Apt 503

Sarasiota, FL 34236

From: Krista Mahoney <kristamahoney@comcast.net>

Sent: Thursday, May 23, 2013 6:20 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Sincerely,

Krista Mahoney

5600 Morena way

Sac., CA 95820

From: Erik Roth <erik.roth@earthlink.net>

Sent: Thursday, May 23, 2013 6:15 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Sincerely,

Erik Roth

225 W. 15th St. #412

Minneapolis, MN 55403

From: Leona Bochantin <lbochantin88@yahoo.com>

Sent: Thursday, May 23, 2013 6:04 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

Leona Bochantin

6 Ridgemont Circle Dr

6

St Louis, MO 63129

From: Maria Mangold <salhunter@earthlink.net>

Sent: Thursday, May 23, 2013 5:55 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

Maria Mangold

501 Via Casitas #624

501 Via Casitas, Apt. 624

Greenbrae, CA 94904

From: Melva Mills <melva.mills@dts.ca.gov>

Sent: Thursday, May 23, 2013 5:55 PM

To: feedback, nwaste (Energy)

Subject:(SENDER VALIDATION FAILED --- May not have originated from apparent sender) Radwaste discussion draft is unacceptable

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Sincerely,

Melva Mills

2539 27th St

Sacramento, CA 95818

From: Daniel Giesy <dpgiesy@netscape.net>

Sent: Thursday, May 23, 2013 5:54 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

Daniel Giesy

4411 Colonial Avenue

Norfolk, VA 23508

From: Mark Alexander <anonymooseguy@gmail.com>

Sent: Thursday, May 23, 2013 5:46 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

Mark Alexander

6424 Sugar Maple Ct

6424 Sugar Maple Ct

Fredericksburg, VA 22407

From: jean keller <jebkeller@gmail.com>

Sent: Thursday, May 23, 2013 5:40 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

jean keller

106 Shady Oak

Terre Haute, IN 47802

From: jon gordon <jongordonmusic1@gmail.com>

Sent: Thursday, May 23, 2013 5:31 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

jon gordon

351 marine ave apt F9

bklyn, NY 11209

From: Droothy Stratman-Lucey <dlucey@shrinenet.org>

Sent: Thursday, May 23, 2013 5:29 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

Droothy Stratman-Lucey

7455 Maple Avenue

7455 maple avenue

St. Louis, MO 63143

From: Quentin Fischer <fischerq@yahoo.com>

Sent: Thursday, May 23, 2013 5:27 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

Quentin Fischer

2514 Sharmar Rd.

Roanoke, VA 24018

From: Jon Anderholm <xunbio@hotmail.com>

Sent: Thursday, May 23, 2013 5:27 PM

To: feedback, nwaste (Energy)

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Sincerely,

Jon Anderholm

1600 Niestrath

Cazadero, CA 95421

From: Lake Barrett <Lake@Lbarrett.com>

Sent: Thursday, May 23, 2013 5:22 PM

To: feedback, nwaste (Energy)

Subject:Lake Barrett Personal Comments on DraftNuclear Waste Bill

Attachments: Executive_Summary_Barrett_Personal Comments.doc; Question 1_Barrett_Personal.doc; Question2_Barrett_Personal.doc; Question3_Barrett_Personal.doc; Question4_Barrett_Personal.doc; Question 5_Barrett_Personal.doc; Question6_Barrett_Personal.doc; Question7_Barrett_Personal.doc; Question 8_Barrett_Personal.doc

Senate Staff,

Please find attached my templates for submittal of comments on the Draft Nuclear Waste Bill.

Thank you,

Lake Barrett

Former DOE OCRWM Deputy/Acting Political Director 1993 to 2002

1278 Tuscany Blvd

Venice, FL 34292

941-445-4873

From: Quentin Fischer <fischerq@yahoo.com>

Sent: Thursday, May 23, 2013 5:21 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

Quentin Fischer

2514 Sharmar Rd.

Roanoke, VA 24018

From: Marshall Sorkin <ms22eco@yahoo.com>

Sent: Thursday, May 23, 2013 5:16 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

Marshall Sorkin

2920 W. Sherwin Ave.

Chicago, IL 60645

From: jon anderholm <xunbio@hotmail.com>

Sent: Thursday, May 23, 2013 5:13 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

jon anderholm

1600 Niestrath Rd.

Cazadero, AR 95421

From: Pamela Greenlaw <pmlgrnlw@yahoo.com>

Sent: Thursday, May 23, 2013 5:05 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

Pamela Greenlaw

1001 Wotan Rd

Columbia, SC 29229

From: KATHARINE GREEN <KATHARINECGREEN@COMCAST.NET>

Sent: Thursday, May 23, 2013 5:03 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

KATHARINE GREEN

15550 via vega

SAN LORENZO, CA 94589

From: KATHARINE GREEN <KATHARINECGREEN@COMCAST.NET>

Sent: Thursday, May 23, 2013 5:03 PM

To: feedback, nwaste (Energy)

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15550 via vega

SAN LORENZO, CA 94589

From: Terri Vidal <terri_vidal@sbcglobal.net>

Sent: Thursday, May 23, 2013 5:03 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

Terri Vidal

2101 Sharon Street

2101 Sharon

Pasadena, TX 77502

From: Dan Fullerton <dan.fmpc@mail.com>

Sent: Thursday, May 23, 2013 4:59 PM

To: feedback, nwaste (Energy)

Subject:(SENDER VALIDATION FAILED --- May not have originated from apparent sender) Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

Dan Fullerton

70 Spring Pond Drive

Ossining, NY 10562

From: Cody Dolnick <woland92107@yahoo.com>

Sent: Thursday, May 23, 2013 4:54 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

Cody Dolnick

PO Box 942

4852 Santa Cruz Ave. #5

Joshua Tree, CA 92252

From: Leah Karpen <lrkarpen@bellsouth.net>

Sent: Thursday, May 23, 2013 4:54 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Sincerely,

Leah Karpen

400 Charlotte St.

Asheville, NC 28801

From: James Brunkow <jbrunkow@pmug.org>

Sent: Thursday, May 23, 2013 4:51 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Sincerely,

James Brunkow

4267 NE Ainsworth St.

PORTLAND, OR 97218

From: Susan Fasten <smfasten@aol.com>

Sent: Thursday, May 23, 2013 4:47 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

Susan Fasten

72 Linden St.

72 Linden St. Wellesley, MA

Wellesley, MA 02482

From: Nancy Nelson <humanchange@yahoo.com>

Sent: Thursday, May 23, 2013 4:29 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

Shortcuts are long cuts. We should not be leaving nuclear storage problems to future generations to solve because of our own foolishness in having nuclear waste.

Moving lethal high-level radioactive waste to a consolidated interim site would not fix any problems at all, and is shortsighted.

The waste needs to be only moved from the current fuel pools at reactors to dry containers at the same reactor site. Other movement must be only from that site to a permanent location for permanent isolation.

Stop taking a band-aid approach and safeguard the public instead of risking accidents aalong public-use highways, rails and waterways.

The quick fix approach sabbotages finding a permanent isolation site.

Stop listening to the nuclear power industry as you can't solve the problem they caused by spreading the problem around far and wide.

The best goal is to immediately start to phase out the use of nuclear power and replace it with wind and solar. Plus, educate the public to be post-consumers, to simplify their lifestyles so that they use less and less energy. Profitability to the nuclear industry and energy giants has left the world a lot of nuclear trash. We should all stop trashing the planet.

Please scrap your "discussion draft" and start over. Put it in the trash.

Sincerely,

Nancy Nelson

Ashland, OR 95720

From: Lynn Ringenberg, MD <ring@tampabay.rr.com>

Sent: Thursday, May 23, 2013 4:26 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

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Further, the de-linking of an interim site from progress on a permanent solution found in both the discussion draft and even more objectionably in the Feinstein/Alexander alternative would serve only to delay permanent isolation of the waste from the environment and make it more likely that a temporary and unsuitable site would become a de facto permanent nuclear waste dump. No state or community should or would accept such an outcome--yet this proposed legislation would virtually ensure that.

I ask you to focus on public health, environmental protection and equity for the future rather than the narrow interests of the nuclear power industry--which would be the only beneficiary of such a thoughtless program. The best way to limit the scope of the radioactive waste problem is, of course, to phase out the use of nuclear power and replace it with clean energy sources. But for the waste that exists now, Hardened On-Site Storage and renewed work on finding a permanent solution is imperative.

Please scrap your "discussion draft" and start over.

Sincerely,

Lynn Ringenberg, MD

3006 W Waverly Avenue

3006 W Waverly Ave, Tampa 33629

Tampa, FL 33629

From: Evan Beattie <ebeattie33@yahoo.com>

Sent: Thursday, May 23, 2013 4:24 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Sincerely,

Evan Beattie

2 Tyler Ct

Irvine, CA 92602

From: jill mackie <jmackie@mind.net>

Sent: Thursday, May 23, 2013 4:20 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Sincerely,

jill mackie

941 Mt. meadows Circle

Ashland, OR 97520

From: Blaine Blackthorne <koldpurple@yahoo.com>

Sent: Thursday, May 23, 2013 4:11 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

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Thank you for your consideration.

Blaine Blackthorne

103 Brickyard Rd.

Galax, VA 24333

From: Elsa Russell Lichtenberg <phl.els.lichtenberg@gmail.com>

Sent: Thursday, May 23, 2013 4:08 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

Elsa Russell Lichtenberg

26 Kendal Drive

Kennett Square, PA 19348

From: Janet Dunkelberger <dunkelberger@juno.com>

Sent: Thursday, May 23, 2013 4:06 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

Janet Dunkelberger

801 S 25th ST

801 S 25th St

Arlington, VA 22202

From: Joan Taylor <alloday@gmail.com>

Sent: Thursday, May 23, 2013 4:04 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

Joan Taylor

1586 Dwelle Rd.

Old Joe, AR 72658

From: Mitchell Maricque <mmaricque@yahoo.com>

Sent: Thursday, May 23, 2013 3:55 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

Mitchell Maricque

1029 N Jackson Street, #1308

Apt. 1308

Milwaukee, WI 53202

From: Sylvia Barnard <sbarnard@albany.edu>

Sent: Thursday, May 23, 2013 3:52 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

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Thank you for your consideration.

Sylvia Barnard

84 Willett St

84 willett St

Albany, NY 12210

From: Pamela VourosCallahan <pamelazoe@hotmail.com>

Sent: Thursday, May 23, 2013 3:49 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

Pamela VourosCallahan

11761 Adams Road

11761 Adams Road

Granger, IN 46530

From: Irene Bachelder <iebachelder@gmail.com>

Sent: Thursday, May 23, 2013 3:42 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Sincerely,

Irene Bachelder

P.O. Box 125, 8880 Brown Ave.

8880 Brown Ave.

Kenwood, CA 95452

From: Johanna Cummings <jhcummings@frontiernet.net>

Sent: Thursday, May 23, 2013 3:42 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Sincerely,

Johanna Cummings

88 Hickory Street

Rochester, NY 14620

From: Hannele Salava <hannele.salava@gmail.com>

Sent: Thursday, May 23, 2013 3:33 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Sincerely,

Hannele Salava

Junailijankuja 10 c 51

Helsinki, ot 00520

From: Claire Bee <blennerland@yahoo.com>

Sent: Thursday, May 23, 2013 3:30 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Sincerely,

Claire Bee

1028 Lyrtle

NY, NY 10081

From: Alice Dugar <adugar@ndec.org>

Sent: Thursday, May 23, 2013 3:28 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

Alice Dugar

6800 Chestnut Rd.

none

Independence, OH 44131

From: Ulle Koiv <ukoiv@aol.com>

Sent: Thursday, May 23, 2013 3:27 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

Ulle Koiv

144 West 17th Street

#5RE

New York, NY 10011

From: Megan Roemer <sistermeg@hotmail.com>

Sent: Thursday, May 23, 2013 3:15 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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phase out the use of nuclear power and replace it with clean energy sources. But for the waste that exists now, Hardened On-Site Storage and renewed work on finding a permanent solution is imperative.

Please scrap your "discussion draft" and start over.

Sincerely,

Megan Roemer

2602 6th St.

Boulder, CO 80306

From: chuck mccune <mccune@prizm.org>

Sent: Thursday, May 23, 2013 3:13 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Sincerely,

chuck mccune

po box 12302

albuquerque, NM 87195

From: Misti Stout <geminancer11@gmail.com>

Sent: Thursday, May 23, 2013 3:13 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

Misti Stout

609 suhtai ct

Virginia Beach, VA 23451

From: Catherine Rodriguez <herekittiekittie@comcast.net>

Sent: Thursday, May 23, 2013 3:12 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

Catherine Rodriguez

4370 Via Del Villetti Drive

TI DR

Venice, FL 34293

From: cheri holden <cherileeglenn@gmail.com>

Sent: Thursday, May 23, 2013 3:12 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Sincerely,

cheri holden

20 lupoyoma

lakeport, CA 95453

From: sherri irving <sherrirving@hotmail.com>

Sent: Thursday, May 23, 2013 3:10 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

sherri irving

3181 colchester brook lane

fairfax, VA 22031

From: sherri irving <sherrirving@hotmail.com>

Sent: Thursday, May 23, 2013 3:10 PM

To: feedback, nwaste (Energy)

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Thank you for your consideration.

sherri irving

3181 colchester brook lane

fairfax, VA 22031

From: larry lindbloom <amscum@att.net>

Sent: Thursday, May 23, 2013 3:08 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

larry lindbloom

1951 47th st. #145

san diego, CA 92102

From: Kirk Miller <kirkmiller3@juno.com>

Sent: Thursday, May 23, 2013 3:00 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

Kirk Miller

517 Cap Rock Drive

Richardson, TX 75080

From: Patricia Freiberg <freiberp@hotmail.com>

Sent: Thursday, May 23, 2013 2:58 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Sincerely,

Patricia Freiberg

Vancouver, WA 98662

From: Kathy Levine <klevine5@optonline.net>

Sent: Thursday, May 23, 2013 2:53 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Sincerely,

Kathy Levine

1408 Ditmas Ave.

1408 Ditmas Ave.

Brooklyn, NY 11226

From: Shelton Dominici <scdominici@msn.com>

Sent: Thursday, May 23, 2013 2:52 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

Shelton Dominici

1136 Valmire Drive

**

Chesapeake, VA 23320

From: Christopher Heuman <chrisheuman@yahoo.com>

Sent: Thursday, May 23, 2013 2:51 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

Christopher Heuman

1091 Pattee Ave

Elburn, IL 60119

From: Celeste Howard <celeste@pacifier.com>

Sent: Thursday, May 23, 2013 2:50 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft needs rethinking

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken.

Yesterday I heard extended talks at Portland State University by Tom Carpenter, director of Hanford Challenge, and Walt Tamosaitis, former Research & Technology Manager at Hanford about the reasons for continued delay in converting the 56 million gallons of liquid radwaste now in Hanford tanks into permanent dry vitrified storage. It must be clear to everyone who hears the facts that any expectation of final Hanford "clean-up" within the next decade or so is delusional.

Therefore, we desperately need new, comprehensive legislation on radioactive waste policy. The waste now in reactor storage pools cannot be allowed to continue accumulating as it is now. But after hearing what I heard yesterday, I must agree with the NIRS that the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

Moving lethal high-level radioactive waste to a consolidated interim site would not fix any problems at all, and is simply unacceptable. No one charged with protection of public health, safety and security should mandate moving deadly radioactive waste repeatedly. While the waste will have to be moved at some point, it should first make only the short move from the current fuel pools at reactors to dry containers at the same reactor site.

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Sincerely,

Celeste Howard

6525 NE Deer Run Street

6525 NE Deer Run St, Hillsboro 97124

Hillsboro, OR 97124

From: Lauryn Slotnick <Halli620@aol.com>

Sent: Thursday, May 23, 2013 2:46 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

Lauryn Slotnick

66th Ave.

Douglaston, NY 11362

From: Karlene Gentile <karlene.gentile@gmail.com>

Sent: Thursday, May 23, 2013 2:44 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

Karlene Gentile

120 Point Comfort Road

Mary Esther, FL 32569

From: Mindy Miller <mindymiller18@gmail.com>

Sent: Thursday, May 23, 2013 2:43 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Sincerely,

Mindy Miller

1130 SE 73rd Ave

Portland, OR 97215

From: Jeanne Thatcher <chicocreek@sunset.net>

Sent: Thursday, May 23, 2013 2:43 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

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Thank you for your consideration.

Jeanne Thatcher

P.O. Box 3204

300 Legion Avenue

Chico, CA 95927

From: lorraine foster <lorraine@spiretech.com>

Sent: Thursday, May 23, 2013 2:33 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

lorraine foster

8205 se 9th ave

portland, OR 97202

From: liz arizona <flagstaffliz@gmail.com>

Sent: Thursday, May 23, 2013 2:29 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

liz arizona

citrus way

phx, AZ 85015

From: Jake Jacobs <konajake@yahoo.com>

Sent: Thursday, May 23, 2013 2:24 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

Jake Jacobs

73-1165 Ahulani St.

Kailua-Kona, HI 96740

From: Tom Caprio <Tom@conroyroofing.com>

Sent: Thursday, May 23, 2013 2:21 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.NUCLEAR RADIATION IS IN EVERY LIVING THING ON EARTH NOW THANKS TO THE NUCLEAR INDUSTRY AND THE POLITICIANS THEY OWN. NUCLEAR RADIATION = CANCER. CHERNOBYL IS RESPONSIBLE FOR UNTOLD NUMBER OF CANCER AROUND THE WORLD. FOR HUNDREDS OF THOUSANDS OF YEARS IT WILL CONTINUE TO CAUSE CANCER AND KILL. CHERNOBYL HEARTS.COM

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Please scrap your "discussion draft" and start over.

Sincerely,

Tom Caprio

10 Spruce rd

P.O. Box 913 Naples,FL 34106

Halifax, MA 02338

From: Margaret Nagel <formargaretn@earthlink.net>

Sent: Thursday, May 23, 2013 2:17 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

For obvious reasons,safeguarding public health should be a main concern of any responsible government. Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

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Please scrap your "discussion draft" and start over.

Sincerely,

Margaret Nagel

631 Hinman Ave.

Apt 1A

Evanston, IL 60202

From: F A <LAMBFLORENCE07@AOL.COM>

Sent: Thursday, May 23, 2013 2:10 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

F A

V R

CONNOLLY SPRINGS, NC 28612

From: Nancy Matela <nmaela@pacifier.com>

Sent: Thursday, May 23, 2013 2:07 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

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Please scrap your "discussion draft" and start over.

Sincerely,

Nancy Matela

Portland, OR 97214

From: Rick McLeod <rick.mcleod@srscro.org>

Sent: Thursday, May 23, 2013 2:07 PM

To: feedback, nwaste (Energy)

Subject:NWAA 2013 Feedback

Attachments: Executive_Summary_ &_Querstion_Response_SRSCRO_NWAA_2013.pdf

Attached please find our response to the request for feedback to the proposed Nuclear Waste Administration Act of 2013.

Thanks,

Rick McLeod

Executive Director

SRSCRO

P. O. Box 696

Aiken, SC 29802

803-508-7402

803-645-1976 (cell)

From: Robert Clark <bclark@iserv.net>

Sent: Thursday, May 23, 2013 2:04 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

Robert Clark

1153 W Glenlord Rd Lot 68

1153 W Glenlord Rd Lot 68

Saint Joseph, MI 49085

From: Patricia Rosenthal <johnpatr@sbcglobal.net>

Sent: Thursday, May 23, 2013 2:04 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

Patricia Rosenthal

#504

100 Newbury Court

Concord, MA 01742

From: Edmund Good <thor720@verizon.net>

Sent: Thursday, May 23, 2013 2:02 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

Edmund Good

640 Sandra Avenue

Harrisburg, PA 17109

From: julie moyer <jewelzinthelotus@gmail.com>

Sent: Thursday, May 23, 2013 2:01 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

julie moyer

2520 filbert st.

oakland, CA 94607

From: Shay Ader-Steinhauser <shylna@comcast.net>

Sent: Thursday, May 23, 2013 2:00 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

Shay Ader-Steinhauser

965 South 4th Avenue

Kankakee, IL 60901

From: frank depinto <fdepinto@hotmail.com>

Sent: Thursday, May 23, 2013 1:53 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Sincerely,

frank depinto

box 6194

chattanooga, TN 37401

From: Harvey Arkin <alohaxtc@hawaii.rr.com>

Sent: Thursday, May 23, 2013 1:51 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

Harvey Arkin

3349 Anoai Pl

Honolulu, HI 96822

From: Robert Simpson <rjsimpson944@hotmail.com>

Sent: Thursday, May 23, 2013 1:51 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

Robert Simpson

6299 Calkins Road

Flint, MI 48532

From: Dr. Todd Walker <twalker22@wi.rr.com>

Sent: Thursday, May 23, 2013 1:48 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

Dr. Todd Walker

517 Rawson Ct.

South Milwaukee, WI 53172

From: susan peirce <speirce@prodigy.net>

Sent: Thursday, May 23, 2013 1:42 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

susan peirce

143 Eagle Feather Way

Lyons, CO 80540

From: SC Whiteside <swhiteside@radford.edu>

Sent: Thursday, May 23, 2013 1:41 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

SC Whiteside

6209 Schooler Hill Dr #12

Radford, VA 24141

From: amy cohen <amy_lencohen@hotmail.com>

Sent: Thursday, May 23, 2013 1:32 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

amy cohen

4 bixby ct

northampton, MA 01060

From: Mark M Giese <m.mk@att.net>

Sent: Thursday, May 23, 2013 1:32 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

Mark M Giese

1520 Bryn Mawr Ave

--

Racine, WI 53403

From: Lorraine Kirk <howclear@earthlink.net>

Sent: Thursday, May 23, 2013 1:26 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

Lorraine Kirk

1934 Lazy Z Rd

Address Line 2

Nederland, CO 80466

From: John Vinson <kazumtv@centurylink.net>

Sent: Thursday, May 23, 2013 1:22 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

John Vinson

3700 14th Ave SE, #154

Olympia, WA 98501

From: Michelle Krysztopik <michelleKry@hotmail.com>

Sent: Thursday, May 23, 2013 1:21 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

Michelle Krysztopik

11811 Blythewood

San Antonio, TX 78249

From: Dennis Nester <theroyprocess@cox.net>

Sent: Thursday, May 23, 2013 1:17 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

THE ROY PROCESS FOR THE TRANSMUTATION AND NEUTRALIZATION OF RADIO ACTIVE WASTE

Please join this campaign: http://www.change.org/petitions/united-states-senator-harry-reid-amend-the-nuclear-waste-policy-act?share_id=OQwAwNKSwf&utm_campaign=mailto_link&utm_medium=email&utm_source=share_petition

There is a viable, cost effective alternative to the federal policy of burying nuclear waste. First, there must be a Congressional Bill passed to allow transmutation, or backwards engineering nuclear waste to a non-radioactive element. In addition to eliminating nuclear waste, the decay heat can turn the steam electric generators at each nuclear power plant to produce electricity.

The Roy Process website - New website under construction

http://web.archive.org/web/20110430022218/http://members.cox.net/theroyprocess/

No Time To Waste: E.I.S. - The Roy Process

for Neutralizing Nuclear Waste - About 18 min.

http://www.youtube.com/watch?v=XnGHSnDXLgQ&feature=youtu.be

United States Senator Harry Reid: Amend the Nuclear Waste Policy Act

www.change.org

Dennis Nester

4510 E. Willow Ave.

Phoenix, AZ 85032

From: Patricia Alessandrini <alessandrini.p@gmail.com>

Sent: Thursday, May 23, 2013 1:14 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

Patricia Alessandrini

593 Beverly Road

593 Beverly Road

Teaneck, NJ 07666

From: Ann Marie Knotek <a.m.knotek@gmail.com>

Sent: Thursday, May 23, 2013 1:11 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

Ann Marie Knotek

3305 Bader Ave.

Cleveland, OH 44109

From: Craig Cook <craigecook@hotmail.com>

Sent: Thursday, May 23, 2013 1:08 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

Craig Cook

129 Sequoia Circle

129 Sequoia Circle

Santa Rosa, CA 95401

From: Courtney Courtney <courtneycourtney108@gmail.com>

Sent: Thursday, May 23, 2013 1:07 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

Courtney Courtney

1 Durham Rd

Woodside, CA 94062

From: Darlene St. Martin <stmartin79@comcast.net>

Sent: Thursday, May 23, 2013 1:05 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Sincerely,

Darlene St. Martin

506 N Laventure Road

NA

Mount Vernon, WA 98273

From: Belle McMaster <bmcmast@emory.edu>

Sent: Thursday, May 23, 2013 1:02 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Sincerely,

Belle McMaster

4 Downshire Lane

Decatur, GA 30033

From: Ellen Rosser <ellen.rosser@gmail.com>

Sent: Thursday, May 23, 2013 1:00 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Sincerely,

Ellen Rosser

P.O. Box 275

Point Arena, CA 05468

From: RITA RABINOWITZ <RITAANDBORIS@VERISON.NET>

Sent: Thursday, May 23, 2013 12:56 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

RITA RABINOWITZ

35 cumberland ave.

GREAT NECK, NY 11020

From: Mary Benson <sparklesaddiction@gmail.com>

Sent: Thursday, May 23, 2013 12:55 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

Mary Benson

701 E Lassen Ave Unit 116

Chico, CA 95973

From: Shirley H. Townsend <Stownsend34@aol.com>

Sent: Thursday, May 23, 2013 12:52 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

Shirley H. Townsend

34 Biltmore Drive

Rochester,, NY 14617

From: Bruce Linton <Newbruce2001@gmail.com>

Sent: Thursday, May 23, 2013 12:47 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

Bruce Linton

1525 Beech Street

Wilmington, DE 19805

From: Barry Smith <barrysmith796@gmail.com>

Sent: Thursday, May 23, 2013 12:47 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

Barry Smith

796 East 19th Street

Brooklyn, NY 11230

From: bob hughes <bobhughes7@hotmail.com>

Sent: Thursday, May 23, 2013 12:44 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

bob hughes

131 shivertown rd

new paltz, new york

new paltz, NY 12561

From: Kathleen Logan Smith <katmce@gmail.com>

Sent: Thursday, May 23, 2013 12:44 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Sincerely,

Kathleen Logan Smith

4046-a Miami St.

St. Louis, MO 63116

From: Bonnie Mc Cune <mccunesfla@aol.com>

Sent: Thursday, May 23, 2013 12:42 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

Bonnie Mc Cune

5631 SW 78th St, #3

3

Miami, FL 33143

From: Gary Scholton <gryshltn@gmail.com>

Sent: Thursday, May 23, 2013 12:40 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

Gary Scholton

69 Rosetta Circle

69 Rosetta Circle

Durango, CO 81301

From: Deanna Polk RN,PHN,MSHS <deanna_polk@yahoo.com>

Sent: Thursday, May 23, 2013 12:36 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Sincerely,

Deanna Polk RN,PHN,MSHS

San Diego, CA 92107

From: Donald Foley <dlfoleynba10@att.net>

Sent: Thursday, May 23, 2013 12:31 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

Donald Foley

3505 Carrico Manor Lane

3505 Carrico Manor Lane

Florissant, MO 63034

From: John Barkhausen <jsb@madriver.com>

Sent: Thursday, May 23, 2013 12:30 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

John Barkhausen

72 Lois Lane

72 Lois Lane

Warren, VT 05674

From: John Barkhausen <jsb@madriver.com>

Sent: Thursday, May 23, 2013 12:29 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Sincerely,

John Barkhausen

72 Lois Lane

72 Lois Lane

Warren, VT 05674

From: Erin Edwards <erinedwards@hughes.net>

Sent: Thursday, May 23, 2013 12:28 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

Erin Edwards

1857 County Rte 10

Ancram, NY 12502

From: Beatrice Kozak <bealucky@msn.com>

Sent: Thursday, May 23, 2013 12:25 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

Beatrice Kozak

142 East 27th Street

na

New York, NY 10016

From: eva csejtey <ecsejtey@yahoo.com>

Sent: Thursday, May 23, 2013 12:20 PM

To: feedback, nwaste (Energy)

Subject:Radwaste is unacceptable

Thank you for focusing on the radioactive waste and it's disposal before another disaster occurs. I believe that the world should stop the use of nuclear power and who better to lead the way than the US.

Power that creates radioactive waste that can not ensure protection of public health, safety and security should not be produced. Movement of deadly radioactive waste is not acceptable means of disposal. Today's action should be to discontinue nuclear energy!

While in the transformation process, shorten the distance from the current fuel pools at reactors to dry containers at the same reactor site. Other movement must be only from that site to a permanent location for permanent isolation. A consolidated interim storage site would increase the risks of accidents and security problems while guaranteeing increased exposure to ionizing radiation along public-use highways, rails and waterways--even without an accident.

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I ask you to focus on public health, environmental protection and equity for the future rather than the narrow interests of the nuclear power industry-- to profit from energy sources that are disasters waiting to occur. The immediate focus should be on clean energy sources.

Please scrap your "discussion draft" and remember the people who you serve.

Sincerely,

Eva Csejtey

eva csejtey

359

browns rd, CT 06268

From: JC Dufresne <jcdufresne@satx.rr.com>

Sent: Thursday, May 23, 2013 12:19 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

JC Dufresne

141 Lindy Hills

Cibolo, TX 78108

From: John Denton <jodoolna@msn.com>

Sent: Thursday, May 23, 2013 12:13 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

John Denton

3685 Duke St

Springfield, OR 97478

From: Deborah Reilly <reilly.deborah1@gmail.com>

Sent: Thursday, May 23, 2013 12:11 PM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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I ask you to focus on public health, environmental protection and equity for the future rather than the narrow interests of the nuclear power industry - which would be the only beneficiary of such a thoughtless program. The best way to limit the scope of the radioactive waste problem is, of course, to phase out the use of nuclear power and replace it with clean energy sources. But for the waste that exists now, Hardened On-Site Storage and renewed work on finding a permanent solution is imperative.

Thank you for your consideration.

Deborah Reilly

PO Box 365

Vashon, WA 98070

From: Steve Rypka <mail1@greendream.biz>

Sent: Thursday, May 23, 2013 12:03 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

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Please scrap your "discussion draft" and start over.

Sincerely,

Steve Rypka

2194 Clearwater Lake Dr.

Henderson, NV 89044

From: Geraldine Donigan <sojourner255@yahoo.com>

Sent: Thursday, May 23, 2013 12:03 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

Geraldine Donigan

5622 University Ave. #8

5622 University Ave. #8

San Diego, CA 92105

From: Mona Mehdy <mcmehdy@gmail.com>

Sent: Thursday, May 23, 2013 12:02 PM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

I am a professional biologist who teaches about radiation effecs on cells and who has read numerous studies of the lethal and sublethal impacts of radiation on health of humans, animals and plants and the environment generally. Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

Moving lethal high-level radioactive waste to a consolidated interim site would not fix any problems at all, and is simply unacceptable. No one charged with protection of public health, safety and security should mandate moving deadly radioactive waste repeatedly. While the waste will have to be moved at some point, it should first make only the short move from the current fuel pools at reactors to dry containers at the same reactor site. Other movement must be only from that site to a permanent location for permanent isolation. A consolidated interim storage site would increase the risks of accidents and security problems while guaranteeing increased exposure to ionizing radiation along public-use highways, rails and waterways--even without an accident.

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Please scrap your "discussion draft" and start over.

Sincerely,

Mona Mehdy

5004 Smokey Mountain Drive

Austin, TX 78727

From: Susan Selbin <sselbin@hotmail.com>

Sent: Thursday, May 23, 2013 11:59 AM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

As a New Mexico resident, I'm particularly concerned about nuclear waste storage.

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

Moving lethal high-level radioactive waste to a consolidated interim site would not fix any problems at all, and is simply unacceptable. No one charged with protection of public health, safety and security should mandate moving deadly radioactive waste repeatedly. While the waste will have to be moved at some point, it should first make only the short move from the current fuel pools at reactors to dry containers at the same reactor site. Other movement must be only from that site to a permanent location for permanent isolation. A consolidated interim storage site would increase the risks of accidents and security problems while guaranteeing increased exposure to ionizing radiation along public-use highways, rails and waterways--even without an accident.

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Thank you for your consideration.

Susan Selbin

2431 Northwest Cir NW

Albuquerque, NM 87104

From: Marian Naranjo <mariann2@windstream.net>

Sent: Thursday, May 23, 2013 11:59 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

Marian Naranjo

Rt 5 Box 474

Espanola, NM 87532

From: William Blair <wblair4318@aol.com>

Sent: Thursday, May 23, 2013 11:55 AM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

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Thank you for your consideration.

William Blair

11561 W Colony St

Boise

Boise, ID 83709

From: Linda Green <lindamgreen927@gmail.com>

Sent: Thursday, May 23, 2013 11:53 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

Please do not allow nuclear waste to be transported across country, which will make it much more vulnerable to accident or nuclear attack. We need hardened onsite storage HOSS at nuclear plants, which can be done much more quickly and is much safer. HOSS will also keep the nuclear plants responsible for the waste they produce instead of making the public responsible for it.

Nuclear waste is extremely poisonous and can devastate hundreds of thousands of miles if not contained. Don't put the US population at more risk by moving nuclear waste around.

Sincerely,

Linda Green

206 Anderson

206 Anderson Ave.

Columbia, MO 65203

From: Rand Fazar <thehelpzar@yahoo.com>

Sent: Thursday, May 23, 2013 11:53 AM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

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Thank you for your consideration.

Rand Fazar

3538 Princeton Cir NE

Roanoke, VA 24012

From: Sunday Waldon <sewmqt@aol.com>

Sent: Thursday, May 23, 2013 11:51 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

Moving lethal high-level radioactive waste cross-country, emitting radioactivity it goes is a foolish idea. Sites of "temporary" storage have been packed with amounts of waste that would be dangerous in event of a leak or attack Why would I expect that any new plans an agency make would come out any safer?

De-linking of an interim site from progress on a permanent solution found in both the discussion draft and even more objectionably in the Feinstein/Alexander alternative would serve only to delay permanent isolation of the waste from the environment and make it more likely that a temporary and unsuitable site would become a de facto permanent nuclear waste dump. No state or community should or would accept such an outcome--yet this proposed legislation would virtually ensure that.

I insist that you focus on public health, environmental protection and equity for the future rather than the narrow interests of the nuclear power industry.

The best way to limit the scope of the radioactive waste problem is, of course, to phase out the use of nuclear power and replace it with clean energy sources. The deep-pocketed, short-sighted, profit-oriented nuclear industry appears to control you, as it appears to control the NRC, putting at the risk millions of citizens who would be exposed by transportation of the waste as well as any significant defect in storage or reactors. "Small" exposures are cumulative, as anyone who knows the most elemental fact about radioactivity is aware.

For the waste that exists now, Hardened On-Site Storage and renewed work on finding a permanent solution is imperative.

You must scrap your foolish, unsafe, "discussion draft" and start over.

Very sincerely,

Sunday Waldon

Sunday Waldon

PO Box 158

PO Box 158

marquette, MI 49855

From: Philip Frey <Rightbrain80@hotmail.com>

Sent: Thursday, May 23, 2013 11:45 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

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Please scrap your "discussion draft" and start over.

Sincerely,

Philip Frey

62 Crikki Lane

62 Crikki Lane

Nanuet, NY 10954

From: Adam Barnes <adbarnes@vt.edu>

Sent: Thursday, May 23, 2013 11:41 AM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

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Thank you for your consideration.

Adam Barnes

1801 Honeysuckle Drive

Blacksburg, VA 24060

From: Richard W. Weiskopf <RichardW6@twcny.rr.com>

Sent: Thursday, May 23, 2013 11:40 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over. No interim storage. Nuclear plants should be phased out. The remaining radioactive waste should be put in a permanent waste site, after the plants are finally phased out. Nuclear power is not a clean source of energy or a sustainable one and is dangerous.

Sincerely,

Richard W. Weiskopf

5031 Onondaga Road

Syracuse, NY 13215

From: Florencio Lozano Jr. <jrloz742@q.com>

Sent: Thursday, May 23, 2013 11:40 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Sincerely,

Florencio Lozano Jr.

P.O. Box 124

902 Convent St.

Chamberino, NM 88027

From: Sharon McCarthy <sharacara@comcast.net>

Sent: Thursday, May 23, 2013 11:39 AM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

Sharon McCarthy

78 Marina Blvd.

San Rafael, CA 94901

From: Mary Jane Schutzius <mjschutz@prodigy.net>

Sent: Thursday, May 23, 2013 11:38 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

Mary Jane Schutzius

3150 Newgate

Florissant, MO 63033

From: Jan Modjeski <jangenem@sccoast.net>

Sent: Thursday, May 23, 2013 11:29 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Sincerely,

Jan Modjeski

4315A Lotus Court

4315A Lotus Court

Murrells Inlewt, SC 29576

From: Jean Boston <jeanboston@gmail.com>

Sent: Thursday, May 23, 2013 11:28 AM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

Jean Boston

913 Locust Lane

Charlottesville, VA 22901

From: Robert Berry <r.berry10@yahoo.com>

Sent: Thursday, May 23, 2013 11:25 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

Robert Berry

41 Mill St. # 213

Marion, MA 02738

From: Ed Kohout <ed@edkohout.com>

Sent: Thursday, May 23, 2013 11:21 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

Ed Kohout

Anza, CA 92539

From: Kendall Cramer <kendallannec@yahoo.com>

Sent: Thursday, May 23, 2013 11:17 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

Kendall Cramer

PO Box 1981

po box 1981

Asheville, NC 28802

From: Darrel Bruck Jr. <dwb70@aol.com>

Sent: Thursday, May 23, 2013 11:16 AM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

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Thank you for your consideration.

Darrel Bruck Jr.

2943 Chippewa Dr.

Bourbonnais, IL 60914

From: Paul Meyer <pdmeyer2@gmail.com>

Sent: Thursday, May 23, 2013 11:16 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

Paul Meyer

7845 Terrace Drive

El Cerrito, CA 94803

From: Darlene Jakusz <jdjakusz@wi-net.com>

Sent: Thursday, May 23, 2013 11:12 AM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

Darlene Jakusz

8380 Ambrose Lane

Amherst Jct., WI 54407

From: Jeffrey Brown <jlbnj1@gmail.com>

Sent: Thursday, May 23, 2013 11:11 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

As someone who lives within 20 miles of the Oyster Creek Nuclear Generating Station, I want to thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

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Please scrap your "discussion draft" and start over.

Sincerely,

Jeffrey Brown

22 Mary Ann Dr

Brick, NJ 08723

From: Vera Cousiins <vcousins1@iowatelecom.net>

Sent: Thursday, May 23, 2013 11:11 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

Vera Cousiins

903 16th Ave.

903 16th Ave.

Grinnell, IA 50112

From: Marjorie Witting <margewitting@gmail.com>

Sent: Thursday, May 23, 2013 11:10 AM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

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Thank you for your consideration.

Marjorie Witting

7116Fort Hunt Rd. #387

Alexandria, VA 22307

From: Kendall Cramer <kendallannec@yahoo.com>

Sent: Thursday, May 23, 2013 11:09 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

Kendall Cramer

PO Box 1981

po box 1981

Asheville, NC 28802

From: Shay T <So_im_just_me@live.com>

Sent: Thursday, May 23, 2013 11:09 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Sincerely,

Shay T

57849 200th st

mankato, MN 56001

From: Joyce Rouse <joyce@earthmama.org>

Sent: Thursday, May 23, 2013 11:09 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Sincerely,

Joyce Rouse

809 Cloverdale Lane

809 Cloverdale Lane

I, VA 24348

From: Ruth Stambaugh <deemare@juno.com>

Sent: Thursday, May 23, 2013 11:07 AM

To: feedback, nwaste (Energy)

Subject:Consolidated Interim Storage Proposal

Please read the following form letter and let it speak for me. Thank you. Ruth Stambaugh

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

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Thank you for your consideration.

Ruth Stambaugh

93 Bird Creek Estate Rd

93 Bird Creek Estate Rd

Black Mountain, NC 28711

From: ivan dodson <dodson@me.com>

Sent: Thursday, May 23, 2013 11:06 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

ENERGY WITH RADIO ACTIVE WASTE WAS YOUR GREAT IDEA BCK IN THE 50's!!!! NOW THE BIG WHITE ELEPHANT MUST BE DELT WITH IN A BIG $$$ WAY... WHO PAYS?? THE BILLION DOLLAR PROFITABLE CORP (tax sheltered General Electric for example) or the PEOPLE?

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Please scrap your "discussion draft" and start over.

Sincerely,

ivan dodson

20938 Castle Rock Rd.

20938 castle rock rd Laguna beach ca

Laguna Beach, CA 92651

From: Kristi Collins <collins.kristi@gmail.com>

Sent: Thursday, May 23, 2013 11:06 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Sincerely,

Kristi Collins

1500 Allegheny Dr.

Arlington, TX 76012

From: mark novotny <mnovotny17@hotmail.com>

Sent: Thursday, May 23, 2013 11:03 AM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

mark novotny

5413 6th ave

countryside

countryside, IL 60525

From: Herb Mayfield <mayfielddrafting@lvnworth.com>

Sent: Thursday, May 23, 2013 11:03 AM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

Moving lethal high-level radioactive waste to a consolidated interim site would not fix any problems at all, and is simply unacceptable. No one charged with protection of public health, safety and security should mandate moving deadly radioactive waste repeatedly. While the waste will have to be moved at some point, it should first make only the short move from the current fuel pools at reactors to dry containers at the same reactor site. Other movement must be only from that site to a permanent location for permanent isolation. A consolidated interim storage site would increase the risks of accidents and security problems while guaranteeing increased exposure to ionizing radiation along public-use highways, rails and waterways--even without an accident.

Further, the de-linking of an interim site from progress on a permanent solution found in both the discussion draft and even more objectionably in the Feinstein/Alexander alternative would serve only to delay permanent isolation of the waste from the environment and make it more likely that a temporary and unsuitable site would become a de facto permanent nuclear waste dump. No state or community should or would accept such an outcome - yet this proposed legislation would virtually ensure that.

I ask you to focus on public health, environmental protection and equity for the future rather than the narrow interests of the nuclear power industry - which would be the only beneficiary of such a thoughtless program. The best way to limit the scope of the radioactive waste problem is, of course, to phase out the use of nuclear power and replace it with clean energy sources. But for the waste that exists now, Hardened On-Site Storage and renewed work on finding a permanent solution is imperative.

Thank you for your consideration.

Herb Mayfield

901 Metropolitan Avenue

Metropolitan Avenue

Leavenworth, KS 66048

From: Anthony Messina, Jr. <messinatony@me.com>

Sent: Thursday, May 23, 2013 11:03 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

Anthony Messina, Jr.

1 Springview Ct.

East patchogue, NY 11772

From: Martha Sullivan <marthasullivan@mac.com>

Sent: Thursday, May 23, 2013 11:01 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

Martha Sullivan

2354 Carmel Valley Rd

Del Mar, CA 92014

From: Julio Rodriguez-Luis <jrluis@uwm.edu>

Sent: Thursday, May 23, 2013 11:00 AM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

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Thank you for your consideration.

Julio Rodriguez-Luis

9350 w. Bay Harbor Dr. apt. 2B

9350 west bay harbor drive apt 2b

Bay Harbor Islands, FL 33154

From: Judy Kulp <Judek08@comcast.net>

Sent: Thursday, May 23, 2013 10:59 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" exacerbates the problems.

No one can afford nuclear power and it's just another way Big Energy writes off their tax dollars. We all know it kills, causes cancer and is so financially Expensive. Hello? Anybody in there? Are your brains gone? Give up this BS! Unless you Senators are even more obtuse than you appear, people are busy but it doesn't mean they don't know that lobbyists are rendering you not only useless, but voiceless.

Moving lethal high-level radioactive waste to a consolidated interim site would not fix any problems at all. shut all the reactors down, which would stop them from adding more fuel to the pools, as it were. then deal with the residual spent radioactive waste. While the waste will have to be moved at some point, it should first make only the short move from the current fuel pools at reactors to dry containers at the same reactor site. Other movement must be only from that site to a permanent location for permanent isolation. A consolidated interim storage site would increase the risks of accidents and security problems while guaranteeing increased exposure to ionizing radiation along public-use highways, rails and waterways--even without an accident.

Sell your stocks, close them down before we have our own Fukushimas. You're all going to be out of jobs anyway so have the cojones to speak up!

I ask you to focus on public health, environmental protection and equity for the future rather than the narrow interests of the nuclear power industry--which would be the only beneficiary of such a thoughtless program. The best way to limit the scope of the radioactive waste problem is, of course, to phase out the use of nuclear power and replace it with clean energy sources.

Sincerely,

Judy Kulp

503 Rosehill

503 Rosehill Pkwy.,

Cape May, NJ 08204

From: henry schwartzman <unhotmail@yahoo.com>

Sent: Thursday, May 23, 2013 10:59 AM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

henry schwartzman

32 e. first st.

2

corning, NY 14839

From: Barbara Kidney <bask999@yahoo.com>

Sent: Thursday, May 23, 2013 10:59 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

Barbara Kidney

Lake Shore Drive

Pine Bush, NY 12566

From: Sandra Joos <joosgalefamily@comcast.net>

Sent: Thursday, May 23, 2013 10:57 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

Sandra Joos

4259 SW Patrick Pl

none

Portland, OR 97239

From: Edmond Marroni <mmarroni1@hotmail.com>

Sent: Thursday, May 23, 2013 10:55 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

Edmond Marroni

2205 Corbett Ave.

None

Norfolk, VA 23518

From: Laura Shapiro <nikitaricochet@yahoo.com>

Sent: Thursday, May 23, 2013 10:50 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

Laura Shapiro

95 wiedy lane

95 weidy lane

shokan, NY 12481

From: Martin Melkonian <ecomzm@hofstra.edu>

Sent: Thursday, May 23, 2013 10:48 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

Martin Melkonian

763 Goodrich St.

763 Goodrich St.Uniondale,N.Y.

Uniondale, NY 11553

From: Shay T <So_im_just_me@live.com>

Sent: Thursday, May 23, 2013 10:47 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Sincerely,

Shay T

57849 200th st

mankato, MN 56001

From: Corey E. Olsen <ceolsen@execpc.com>

Sent: Thursday, May 23, 2013 10:45 AM

To: feedback, nwaste (Energy)

Subject:(SENDER VALIDATION FAILED --- May not have originated from apparent sender) Scrap Consolidated Interim Storage Proposal

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the USA Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

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Thank you for your consideration.

Corey E. Olsen

CEO Pipe Organs/Golden Ponds Farm

W334S724 Cushing Park Rd.

Delafield, WI 53018

From: J. M. Henrietta <jmh9k@virginia.edu>

Sent: Thursday, May 23, 2013 10:40 AM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

J. M. Henrietta

103 Summit St.

103 Summit St.

Charlottesville, VA 22901

From: cecelia Samp <csamp@triton.edu>

Sent: Thursday, May 23, 2013 10:35 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

cecelia Samp

4265 Emerson Ave.

Schiller Park, IL 60176

From: Margaret Meeker <cmm74@suddenlink.net>

Sent: Thursday, May 23, 2013 10:31 AM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

Margaret Meeker

4-115 The Fields

Williamstown, WV 26187

From: Henry Schwartzman <unhotmail@yahoo.com>

Sent: Thursday, May 23, 2013 10:31 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Sincerely,

Henry Schwartzman

32 E. First St.

32 E. First St.

Corning, NY 14830

From: David Lees <grobone@comcast.net>

Sent: Thursday, May 23, 2013 10:23 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

Moving lethal high-level radioactive waste to a consolidated interim site would not fix any problems at all, and is simply unacceptable. No one charged with protection of public health, safety and security should mandate moving deadly radioactive waste repeatedly. While the waste will have to be moved at some point, it should first make only the short move from the current fuel pools at reactors to dry containers at the same reactor site. Other movement must be only from that site to a permanent location for permanent isolation. A consolidated interim storage site would increase the risks of

accidents and security problems while guaranteeing increased exposure to ionizing radiation along public-use highways, rails and waterways--even without an accident.

Further, the de-linking of an interim site from progress on a permanent solution found in both the discussion draft and even more objectionably in the Feinstein/Alexander alternative would serve only to delay permanent isolation of the waste from the environment and make it more likely that a temporary and unsuitable site would become a de facto permanent nuclear waste dump. No state or community should or would accept such an outcome--yet this proposed legislation would virtually ensure that.

I ask you to focus on public health, environmental protection and equity for the future rather than the narrow interests of the nuclear power industry--which would be the only beneficiary of such a thoughtless program. The best way to limit the scope of the radioactive waste problem is, of course, to phase out the use of nuclear power and replace it with clean energy sources. But for the waste that exists now, Hardened On-Site Storage and renewed work on finding a permanent solution is imperative.

Please scrap your "discussion draft" and start over.

Sincerely,

David Lees

41 Topsfield Rd.

Ipswich, MA 01938

From: Katherine Senter <kitsenter@yahoo.com>

Sent: Thursday, May 23, 2013 10:21 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Sincerely,

Katherine Senter

43 Fontainebleau Dr.

43 Fontainebleau Dr.

New Orleans, LA 70125

From: john scahill <johnpatrickscahill@yahoo.com>

Sent: Thursday, May 23, 2013 10:19 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Sincerely,

john scahill

po box 10740

2024 sarah st

pittsburgh, PA 15203

From: Irena Franchi <bluabirdo@hotmail.com>

Sent: Thursday, May 23, 2013 10:13 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Sincerely,

Irena Franchi

301 174 St 2206

Sunny Isle Beac, FL 33160

From: Mary Cochran <maryacochran@gmail.com>

Sent: Thursday, May 23, 2013 10:11 AM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

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Thank you for your consideration.

Mary Cochran

Po Box 147

329 Laurel Woods RD

Landenberg, PA 19350

From: Maryjane Wheat <wheat.mj@gmail.com>

Sent: Thursday, May 23, 2013 10:11 AM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

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phase out the use of nuclear power and replace it with clean energy sources. But for the waste that exists now, Hardened On-Site Storage and renewed work on finding a permanent solution is imperative.

Thank you for your consideration.

Maryjane Wheat

408 Christopher's Ct

Waleska, GA 30183

From: Ariel Elan <Blessings77@rocketmail.com>

Sent: Thursday, May 23, 2013 10:04 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

Thank you for focusing on the radioactive waste problem, and for inviting public comment on your current proposal. I am opposed to the expansion and to the continuation of energy production via nuclear means in this country and around the world.

Regarding the radioactive waste that currently exists, and that will continue to be produced until all operating nuclear reactors are phased out, Hardened On-Site Storage is the most viable solution for the protection of public health and safety. This includes our environmental safety! Current weather events in this country and across the globe should surely convince your members that environmental health is one and the same as the health of each individual citizen, each individual human body.

The nation's existing high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

No one charged with protection of public health, safety and security should mandate moving deadly radioactive waste repeatedly. While the waste will have to be moved at some point, it should first make only the short move from the current fuel pools at reactors to dry containers at the same reactor site. Subsequent movement of rad-waste must be ONLY from each reactor site to a permanent location = still to be determined = for permanent isolation.

A consolidated interim storage site would increase the risks of accidents, terrorism, and vandalism = while GUARANTEEING increased exposure to ionizing radiation along public-use highways, rails and waterways. SOME radioactive emmissions have been proven to occur under these circumstances, even without a catastrophic accident.

As someone who suffers each and every day from a hugely DIMINISHED capacity to live, to do simple tasks, and to enjoy life = due to the way chemical and hormonal triggers from our environment have impacted my body = I can personally testify that every individual is already bearing too high a body burden of challenging substances that have been released into our environment. No one can predict

when the scale will tip, and the combination of 83,000 chemical substances humans did not evolve to tolerate, plus pollution of all types, INCLUDING increased radiation above background levels, will "cross the line" inside an individual's body =- consigning that person to a life of pain and incapacity.

Further, the de-linking of an interim rad-waste site from progress on a permanent solution = found in both the discussion draft and even more objectionably in the Feinstein/Alexander alternative = would serve only to delay permanent isolation of the waste from the environment. Once again, as the nuclear-power industry has attempted so many times in the past, a temporary and unsuitable site would become a de facto permanent nuclear-waste dump. No state or community should or would accept such an outcome--yet this proposed legislation would virtually ensure that.

I ask you to focus on public health, environmental protection and equity for the future rather than the narrow interests of the nuclear power industry--which would be the only beneficiary of the shortsighted program currently proposed. The best way to limit the scope of the radioactive waste problem is, of course, to phase out the use of nuclear power and replace it with clean energy sources. But for the waste that exists now, Hardened On-Site Storage and renewed work on finding a permanent solution is imperative.

Please scrap your "discussion draft" and start over.

Sincerely,

Ariel S. Elan

P.O. Box 351

Montague, MA 01351

Ariel Elan

P.O. Box 351

Montague, MA 01351

From: Jack Ray <jack.ray.ii@verizon.net>

Sent: Thursday, May 23, 2013 9:59 AM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

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Thank you for your consideration.

Jack Ray

219 West Edgewater Way

Newark, DE 19702

From: Betsy Farmer <ubiquitary2007@aol.com>

Sent: Thursday, May 23, 2013 9:58 AM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

Betsy Farmer

32 Indian Valley Dr

3003 Moss Valley Place

Cherokee, NC 28719

From: Elaine Heathcaot <heathcoatel@aol.com>

Sent: Thursday, May 23, 2013 9:58 AM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

Elaine Heathcaot

32 Indian Valley Dr

Cherokee, NC 28719

From: John Mammoser <jjm4714@sbcglobal.net>

Sent: Thursday, May 23, 2013 9:58 AM

To: feedback, nwaste (Energy)

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Thank you for your consideration.

John Mammoser

4714 N. Keystone

Chicago, IL 60630

From: Susan Armistead <susan_armistead@msn.com>

Sent: Thursday, May 23, 2013 9:58 AM

To: feedback, nwaste (Energy)

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Thank you for your consideration.

Susan Armistead

15 North Dr

15 North Dr

Key Largo, FL 33037

From: Florence Kelly <flokell@comcast.net>

Sent: Thursday, May 23, 2013 9:56 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Sincerely,

Florence Kelly

139 Ellsworth St.

San Francisco, CA 94110

From: Melissa Judge <mjudge@tampabay.rr.com>

Sent: Thursday, May 23, 2013 9:56 AM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

Melissa Judge

1711 W Aileen St

Tampa, FL 33607

From: Patrick OKiersey <patrickmok1@hotmail.com>

Sent: Thursday, May 23, 2013 9:51 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Sincerely,

Patrick OKiersey

Honokaa,, HI 96727

From: Francis Probst <fapofm@hotmail.com>

Sent: Thursday, May 23, 2013 9:50 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

Francis Probst

17699 E. 1000th Ave.

Effingham, IL 62401

From: Kimberly Medeiros <kimberly@admin.umass.edu>

Sent: Thursday, May 23, 2013 9:48 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

Kimberly Medeiros

337 Pelham Road

Apt. 5

Amherst, MA 01002

From: Byron Davis <byron.davis@utah.edu>

Sent: Thursday, May 23, 2013 9:47 AM

To: feedback, nwaste (Energy)

Subject: Radwaste discussion draft is unacceptable

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Sincerely,

Byron Davis

2035 Cresthill Dr.

Salt Lake City, UT 84117

From: d.a. roy <GREAGIRL@YAHOO.COM>

Sent: Thursday, May 23, 2013 9:47 AM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

d.a. roy

po box 3533

PO Box 630475

HOUSTON, TX 77253

From: Lee Witkowski <ljwitt@comcast.net>

Sent: Thursday, May 23, 2013 9:46 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

Lee Witkowski

1359 State St.

Illinois

Lemont, IL 60439

From: JL Charrier <sjcharrier@gmail.com>

Sent: Thursday, May 23, 2013 9:38 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Sincerely,

JL Charrier

1910 Heritage Dr

Wayzata, MN 55391

From: Steven F. and Mary C. Jennings <sfjennings@yahoo.com>

Sent: Thursday, May 23, 2013 9:38 AM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

Steven F. and Mary C. Jennings

11340 Rivercrest Drive

Little Rock, AR 72212

From: Jeanette Sherbondy <jsherbondy2@washcoll.edu>

Sent: Thursday, May 23, 2013 9:36 AM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

Jeanette Sherbondy

116 School Road

116 School Road

Chestertown, MD 21620

From: Denise Wilson <coloradotwin@gmail.com>

Sent: Thursday, May 23, 2013 9:34 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

Denise Wilson

3 Bluff Rd

3 Bluff Rd., Williamsburg, CO 81226

Williamsburg, CO 81226

From: Mary Hunter <UU4Justice@aol.com>

Sent: Thursday, May 23, 2013 9:32 AM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

Mary Hunter

8815 Kelso Ln

Chattanooga, TN 37421

From: adene katzenmeyer <adene@cot.net>

Sent: Thursday, May 23, 2013 9:25 AM

To: feedback, nwaste (Energy)

Subject:(SENDER VALIDATION FAILED --- May not have originated from apparent sender) Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

adene katzenmeyer

5016 solus place

Weed

weed, CA 96094

From: Ron Farnsworth <r2farns2@yahoo.com>

Sent: Thursday, May 23, 2013 9:16 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable COMMON SENSE!

After all these years there is still no solution to radwaste, none. And the EPA has declared that even the low level waste will be tozix for 1 million + years. Even Yucca Mt. can't hild it all anymore, and still no solution.

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Please scrap your "discussion draft" and start over.

Sincerely,

Ron Farnsworth

18 Brown Rd

18 Brown Rd

Shirley, MA 01464

From: Debora Winn <debbe08@att.net>

Sent: Thursday, May 23, 2013 9:12 AM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

Debora Winn

23265 Caminito Andreta

debbe08@att.net

Laguna Hills, CA 92653

From: Ronald Rockwell <etr@frontiernet.net>

Sent: Thursday, May 23, 2013 9:12 AM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

Ronald Rockwell

606 List Ave

606 list ave

Rochester, NY 14617

From: Ronald Rockwell <etr@frontiernet.net>

Sent: Thursday, May 23, 2013 9:12 AM

To: feedback, nwaste (Energy)

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Thank you for your consideration.

Ronald Rockwell

606 List Ave

606 list ave

Rochester, NY 14617

From: Susan Strasser <sustras@starpower.net>

Sent: Thursday, May 23, 2013 9:10 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

Susan Strasser

7309 Willow Ave.

Takoma Park, MD 20912

From: Donald Wilson <djw22@verizon.net>

Sent: Thursday, May 23, 2013 9:02 AM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

Donald Wilson

1217 PRINCETON AVE

Philadelphia, PA 19111

From: Susan Pelakh <magratgar1ick@yahoo.com>

Sent: Thursday, May 23, 2013 9:01 AM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Temporary storage is a stopgap measure that will lead to a more horrific disaster than Japan's disaster. The majority of Japan's radiation came from the cracked storage tanks of nuclear waste on site, not the reactor. If we have an area of mass storage for nuclear waste it would be when not if a catastrophic disaster would occur.

Thank you for your consideration.

Susan Pelakh

41 9th Terrace

Cocoa Beach, FL 32931

From: Alicia Batt <al8icia906@gmail.com>

Sent: Thursday, May 23, 2013 8:48 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

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Please scrap your "discussion draft" and start over.

Sincerely,

Alicia Batt

11350 Robinson Drive

Coon Rapids, MN 55433

From: Dan Karney <dankarney124@gmail.com>

Sent: Thursday, May 23, 2013 8:45 AM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

Dan Karney

424 Lynetree Drive

424 Lynetree Drive

West Chester, PA 19380

From: Joy Perry <jperry4736@sbcglobal.net>

Sent: Thursday, May 23, 2013 8:39 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Sincerely,

Joy Perry

7046 Fairdale Ave.

Dallas, TX 75227

From: Kris Pagenkopf <kris_pagenkopf@hotmail.com>

Sent: Thursday, May 23, 2013 8:34 AM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

Kris Pagenkopf

7625 SW 7th Place

7625 SW 7th Place

Gainesville, FL 32607

From: Mary E. Ford <fordbetty@juno.com>

Sent: Thursday, May 23, 2013 8:31 AM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

Mary E. Ford

23 Moonraker Road

Ocean Pines, MD 21811

From: Michael Balsai <vze3vhpv@verizon.net>

Sent: Thursday, May 23, 2013 8:29 AM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

Michael Balsai

350 E. Willow Grove Ave., # 607

Philadelphia, PA 19118

From: Nancy Bizup <Nbizup@yahoo.com>

Sent: Thursday, May 23, 2013 8:28 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

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Please scrap your "discussion draft" and start over.

Sincerely,

Nancy Bizup

1331 Lamb Ct.

Downers Grove, IL 60516

From: Jamie Tomek <jtomek@nemonet.com>

Sent: Thursday, May 23, 2013 8:28 AM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

Jamie Tomek

215 S Cuivre

Bowling Green, MO 63334

From: Mary Stephenson <ms102@comcast.net>

Sent: Thursday, May 23, 2013 8:28 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Sincerely,

Mary Stephenson

217 Pelagic Lane

217 Pelagic Lane

Solomons, MD 20688

From: Bruce Barry <Bkbarry@suffolk.lib.ny.us>

Sent: Thursday, May 23, 2013 8:26 AM

To: feedback, nwaste (Energy)

Subject:(SENDER VALIDATION FAILED --- May not have originated from apparent sender) Scrap Consolidated Interim Storage Proposal

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

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Thank you for your consideration.

Bruce Barry

20 Black Locust Ave

EAsr Setauket, NY 11733

From: Barry Greenhill <barrygreenhill@comcast.net>

Sent: Thursday, May 23, 2013 8:21 AM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

Barry Greenhill

11309 Myrte Lane

Reston, VA 20191

From: Vicki Johnson <vjohnson@kc.rr.com>

Sent: Thursday, May 23, 2013 8:19 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Sincerely,

Vicki Johnson

10735 Spruce Ave.

Kansas City, MO 64137

From: Judith Burke <jiob@sbcglobal.net>

Sent: Thursday, May 23, 2013 8:18 AM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

Judith Burke

21 Stone Ridge Lane

Branford, CT 06405

From: Debbie Koundry <ddonofrio@snet.net>

Sent: Thursday, May 23, 2013 8:18 AM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

Debbie Koundry

7 Seaside Court

#3

Milford, CT 06460

From: Gabriel Beam <gabeb22@hotmail.com>

Sent: Thursday, May 23, 2013 8:17 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Sincerely,

Gabriel Beam

10408 Cranbrook Hills Pl. Apt. k

Hunt Valley, MD 21128

From: Marshall Goldberg <mrgassociates@earthlink.net>

Sent: Thursday, May 23, 2013 8:17 AM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

Marshall Goldberg

17935 Starduster Drive

Nevada City, CA 95959

From: Tom Hougham <annntom@hotmail.com>

Sent: Thursday, May 23, 2013 8:15 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

Tom Hougham

4001 W Hougham Rd

Trafalgar, IN 46181

From: Barbara Capron <bcapron17@gmail.com>

Sent: Thursday, May 23, 2013 8:15 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Sincerely,

Barbara Capron

58 Hampton Mdws

Hampton, NH 03842

From: Ken Gale <nuffsaid@riseup.net>

Sent: Thursday, May 23, 2013 8:12 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Sincerely,

Ken Gale

220 E. 85th St.

New York, NY 10028

From: Daniel Torres <danny.tech.world@gmail.com>

Sent: Thursday, May 23, 2013 8:08 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

Daniel Torres

1436 W Olive Ave

Fullerton, CA 92833

From: Terry Erskine <terryerskine3@yahoo.com>

Sent: Thursday, May 23, 2013 8:06 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Sincerely,

Terry Erskine

co. hwy. 6

northville, NY 12134

From: jimmy wray <keywestwoodworks@gmail.com>

Sent: Thursday, May 23, 2013 8:03 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Sincerely,

jimmy wray

6810 Front Street

key West, FL 33040

From: Chris Casper <casper4427@gmail.com>

Sent: Thursday, May 23, 2013 7:57 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Sincerely,

Chris Casper

3802 Drumlin Ln.

Madison, WI 53719

From: Tom Pollak <tom@tealcity.com>

Sent: Thursday, May 23, 2013 7:54 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Sincerely,

Tom Pollak

54 maple street

Bristol, VT 05443

From: Michael Gutleber <michaeljgut@gmail.com>

Sent: Thursday, May 23, 2013 7:52 AM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

Michael Gutleber

13055 118th st

South Ozone Park, NY 11420

From: marilyn beal <alladd@westmass.com>

Sent: Thursday, May 23, 2013 7:51 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

marilyn beal

266 shelburne line rd.

colrain, MA 01340

From: Patricia Victour <patvic1405@windstream.net>

Sent: Thursday, May 23, 2013 7:50 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Sincerely,

Patricia Victour

1405 Santa Clara Drive

1405 Santa Clara Drive

Espanola, NM 87532

From: Margaret Fry <margaretf@nashuacapetown.co.za>

Sent: Thursday, May 23, 2013 7:48 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Sincerely,

Margaret Fry

28 lions Way

Zoo Park

Cape Town, ot 7570

From: Leslie Rabinowitz <spunkybinky@hotmail.com>

Sent: Thursday, May 23, 2013 7:46 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Sincerely,

Leslie Rabinowitz

35 Cumberland Ave

35 cumberland ave great neck ny 11020

Great Neck, NY 11020

From: Barry Greenhill <barrygreenhill@comcast.net>

Sent: Thursday, May 23, 2013 7:45 AM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

Barry Greenhill

11309 Myrte Lane

Reston, VA 20191

From: Yoyi Steele <yoyi@uwalumni.com>

Sent: Thursday, May 23, 2013 7:43 AM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

Yoyi Steele

203 Williamsburg Way Ct

Fitchburg, WI 53719

From: Janice Hallman <jrhallman2@gmail.com>

Sent: Thursday, May 23, 2013 7:43 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Sincerely,

Janice Hallman

5355 Anderlie Lane

St. Paul, MN 55110

From: Daniel Doran, Ph.D. <be_well@emailplus.org>

Sent: Thursday, May 23, 2013 7:36 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Sincerely,

Daniel Doran, Ph.D.

600 W. 3 1/2 Mile

Cultivating Wholeness Center

Sault Ste. Marie, MI 49783

From: Vic Burton <cvburton@swbell.net>

Sent: Thursday, May 23, 2013 7:34 AM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

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Thank you for your consideration.

Vic Burton

5837 Grand Ave.

5837 Grand Ave

Kansas City, MO 64113

From: Catherine Carpenter <divasperson@comcast.net>

Sent: Thursday, May 23, 2013 7:30 AM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

Catherine Carpenter

6 Newell Terrace

6 Newell Ter

Cambridge, MA 02140

From: Lou Bernieri <lbernieri@andover.edu>

Sent: Thursday, May 23, 2013 7:28 AM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

Lou Bernieri

16 Abbot Street

16 abbot street

Andover, MA 01810

From: Ray and Barbara Stevens <stvns@greenbelt.com>

Sent: Thursday, May 23, 2013 7:22 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

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Please scrap your "discussion draft" and start over.

Sincerely,

Ray and Barbara Stevens

46 a Ridge Road

Greenbelt, MD 20770

From: Mike Seyfried <mseyfriedjr@msn.com>

Sent: Thursday, May 23, 2013 7:21 AM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

Mike Seyfried

701 California Ave

Unit A

Boulder City, NV 89005

From: Joel Maguire <seriugam@yahoo.com>

Sent: Thursday, May 23, 2013 7:07 AM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

Joel Maguire

PO Box 204

0243 Bay Avenue

Prudence Island, RI 02872

From: Mallika Henry <mallikahenry@mac.com>

Sent: Thursday, May 23, 2013 7:06 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

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Please scrap your "discussion draft" and start over.

Sincerely,

Mallika Henry

18 Broad St.

Cambridge, NY 12816

From: Marie-Louise Jackson-Miller <marieljm1961@yahoo.com>

Sent: Thursday, May 23, 2013 6:54 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

Marie-Louise Jackson-Miller

63 Gay Street

Quincy, MA 02169

From: patricia english <penglish@embarqmail.com>

Sent: Thursday, May 23, 2013 6:54 AM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

patricia english

6149 weaver road

hamptonville, NC 27020

From: Annie McCombs <amccombs269@netscape.net>

Sent: Thursday, May 23, 2013 6:54 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Sincerely,

Annie McCombs

P. O. Box 50269

P. O. Box 50269 - Kalamazoo, MI

Kalamazoo, MI 49005

From: Mary Calvert <mary14@cox.net>

Sent: Thursday, May 23, 2013 6:54 AM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

Mary Calvert

3853 Edinburgh Dr.

Virginia Beach, VA 23452

From: Donna Schall <donnaschall@earthlink.net>

Sent: Thursday, May 23, 2013 6:54 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Sincerely,

Donna Schall

1956 Maple Rd.

Stow, OH 44224

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Sent: Thursday, May 23, 2013 6:54 AM

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Sincerely,

Donna Schall

1956 Maple Rd.

Stow, OH 44224

From: Mike Rudnick <mic.rudnick@gmail.com>

Sent: Thursday, May 23, 2013 6:46 AM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

Thank you for focusing on the radioactive waste problem -- it's long overdue. This should be a priority.

Our high-level radioactive waste program is broken, but the Senate Energy Committee's "discussion draft" legislation would make our problems worse.

A consolidated interim site will not help and is unacceptable.

No one charged with protection of public health, safety and security should mandate moving deadly radioactive waste repeatedly. While the waste will have to be moved at some point, it should first make only the short move from the current fuel pools at reactors to dry containers at the same reactor site. Other movement must be only from that site to a permanent location for permanent isolation. A consolidated interim storage site would increase the risks of accidents and security problems while guaranteeing increased exposure to ionizing radiation along public-use highways, rails and waterways--even without an accident.

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Thank you for your consideration.

Mike Rudnick

14534-4512

Pittsford, NY 14534

From: David Carter <dave@hebes.eclipse.co.uk>

Sent: Thursday, May 23, 2013 6:43 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

David Carter

Colleyhole Farm

Ipstones

Stoke-on-Trent, ot st10 2js

From: Lucy Howard <lhoward_21034@yahoo.com>

Sent: Thursday, May 23, 2013 6:43 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Sincerely,

Lucy Howard

2400 Castleton Rd

Darlington, MD 21034

From: Todd Johnston <todd_johnston@dme.net>

Sent: Thursday, May 23, 2013 6:34 AM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

Todd Johnston

645 Markwood Dr

645 Markwood Dr.

Oxford, MI 48370

From: Scott Burger <scottburger@me.com>

Sent: Thursday, May 23, 2013 6:32 AM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

Thank you for focusing on the radioactive waste problem. It should be of utmost priority. The nation's high-level radioactive waste program is indisputably broken, but the Senate Energy Committee's "discussion draft" legislation would only exacerbate the problems.

Moving lethal high-level radioactive waste to a consolidated interim site would not fix any problems at all, and is simply unacceptable. No one charged with protection of public health, safety and security should mandate moving deadly radioactive waste repeatedly. While the waste will have to be moved at some point, it should first make only the short move from the current fuel pools at reactors to dry containers at the same reactor site. Other movement must be only from that site to a permanent location for permanent isolation. A consolidated interim storage site would increase the risks of accidents and security problems while guaranteeing increased exposure to ionizing radiation along public-use highways, rails and waterways--even without an accident.

Further, the de-linking of an interim site from progress on a permanent solution found in both the discussion draft and even more objectionably in the Feinstein/Alexander alternative would serve only to delay permanent isolation of the waste from the environment and make it more likely that a temporary and unsuitable site would become a de facto permanent nuclear waste dump. No state or community should or would accept such an outcome - yet this proposed legislation would virtually ensure that.

I ask you to focus on public health, environmental protection and equity for the future rather than the narrow interests of the nuclear power industry - which would be the only beneficiary of such a thoughtless program. The best way to limit the scope of the radioactive waste problem is, of course, to phase out the use of nuclear power and replace it with clean energy sources. But for the waste that exists now, Hardened On-Site Storage and renewed work on finding a permanent solution is imperative.

Thank you for your consideration.

Scott Burger

612 S. Laurel St.

Richmond, VA 23220

From: Tanya Kasim <tan.kasim@gmail.com>

Sent: Thursday, May 23, 2013 6:26 AM

To: feedback, nwaste (Energy)

Subject:Scrap Consolidated Interim Storage Proposal

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Thank you for your consideration.

Tanya Kasim

P.O. Box 273

P.O. Box 273

Mahes, ot 19154

From: Rebecca Casstevens <rebecca.casstevens@gmail.com>

Sent: Thursday, May 23, 2013 6:26 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Please scrap your "discussion draft" and start over.

Sincerely,

Rebecca Casstevens

22 Winding Way

Binghamton, NY 13905

From: Thomas Windberg <tjwindberg@hotmail.com>

Sent: Thursday, May 23, 2013 6:22 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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Sincerely,

Thomas Windberg

2416 Pace Bend Rd S

Spicewood, TX 78669

From: Martha Izzo <marthalovesoso@gmail.com>

Sent: Thursday, May 23, 2013 6:19 AM

To: feedback, nwaste (Energy)

Subject:Radwaste discussion draft is unacceptable

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