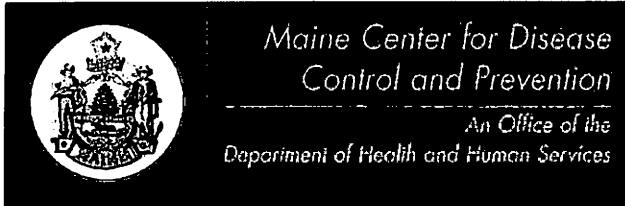


# MAINE STATE LEGISLATURE

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John E. Baldacci, Governor

Brenda M. Harvey, Commissioner

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Maine Center for Disease Control and Prevention  
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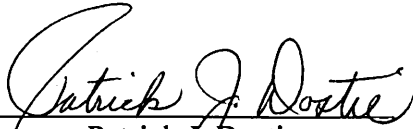
March 23, 2010

To: Honorable Ms. Elizabeth Mitchell, President of the Senate  
Honorable Ms. Hannah Pingree, Speaker of the House

Subject: State Nuclear Safety Inspector Office's February 2010 Monthly Report to the Maine Legislature

Legislation was enacted in the second regular session of the 123<sup>rd</sup> and signed by Governor John Baldacci requiring that the State Nuclear Safety Inspector prepare a monthly report on the oversight activities performed at the Maine Yankee Independent Spent Fuel Storage Installation facility located in Wiscasset, Maine.

Enclosed please find the Inspector's February 2010 monthly activities report. This year the reports will not feature the glossary and the historical addendum. However, both the glossary and the addendum will be available on the Radiation Control Program's website at <http://www.maineradiationcontrol.org> under the nuclear safety link. For facilitating the connectivity and impact of some of the newsworthy items an editorial section is being contemplated. Should you have questions about its content, please feel free to contact me at 207-287-6721, or e-mail me at [pat.dostie@maine.gov](mailto:pat.dostie@maine.gov).

  
Patrick J. Dostie  
State Nuclear Safety Inspector

Enclosure

cc:  
Mr. E. William Brach, U.S. Nuclear Regulatory Commission  
Ms. Nancy McNamara, U.S. Nuclear Regulatory Commission, Region I  
Mr. James Connell, Site Vice President, Maine Yankee  
Ms. Brenda Harvey, Commissioner, Department of Health and Human Services  
Mr. Geoff Green, Deputy Commissioner, Department of Health and Human Services  
Ms. Lucky Hollander, Director of Legislative Relations, Department of Health and Human Services  
Dr. Dora Mills, Director, Maine Center for Disease Control and Prevention  
Mr. Patrick Ende, Senior Policy Advisor, Governor's Office  
Mr. David Littell, Commissioner, Department of Environmental Protection  
Mr. Richard Davies, Maine Public Advocate  
Ms. Janet Joyeux, Assistant to the Commissioner, Department of Public Safety  
Ms. Nancy Beardsley, Director, Division of Environmental Health  
Mr. Jay Hyland, PE, Manager, Radiation Control Program

*Caring..Responsive..Well-Managed..We are DHHS.*

# State Nuclear Safety Inspector Office

## February 2010 Monthly Report to the Legislature

### Introduction

As part of the Department of Health and Human Services' responsibility under Title 22, Maine Revised Statutes Annotated (MRSA) §666 (2), as enacted under Public Law, Chapter 539 in the second regular session of the 123<sup>rd</sup> Legislature, the foregoing is the monthly report from the State Nuclear Safety Inspector.

The State Inspector's individual activities for the past month are highlighted under certain broad categories, as illustrated below. Since some activities are periodic and on-going, there may be some months when very little will be reported under that category. It is recommended for reviewers to examine previous reports to ensure connectivity with the information presented as it would be cumbersome to continuously repeat prior information in every report. Past reports are available from the Radiation Control Program's web site at the following link: [www.maineradiationcontrol.org](http://www.maineradiationcontrol.org) and clicking on the nuclear safety link in the left hand margin.

Commencing with this month's report the glossary and the historical perspective addendum will no longer be included in the report. Instead, this information will be available at the Radiation Control Program's website noted above. In some situations the footnotes may include some basic information and will redirect the reviewer to the website.

### Independent Spent Fuel Storage Installation (ISFSI)

During February the general status of the ISFSI was normal, except for the site loss power on February 28<sup>th</sup> for 33 minutes due to some down power lines. All systems operated as designed. The diesel started and powered all systems as designed. On the very brief power outage that occurred on February 15<sup>th</sup>, the diesel did not start as the interruption was too short to trigger it. The three system alarms actuated by the brief interruption were checked, acknowledged and returned to service.

There were three instances of spurious alarms due to environmental conditions. All alarms were investigated and no further actions were warranted.

There were three fire-related impairments in February. All impairments were associated with Department of Energy (DOE) personnel reviewing Maine Yankee's cost records as part of its litigation discovery. The litigation is part of the Yankee companies', (Maine Yankee, Connecticut Yankee and Yankee Rowe), lawsuit against the DOE for breaching its contract with the utilities. With DOE not taking the spent fuel in 1998, the utilities were compelled to construct and operate ISFSI's at their respective sites. The on-going litigation seeks damages for the construction and operating costs incurred until all the spent fuel is removed. The federal government's on-going discovery is currently at Connecticut Yankee and will then proceed to Yankee Rowe.

There was one security-related impairment in February. A security piece of equipment was degraded and compensatory measures were instituted until the equipment was functional and all areas were returned to normal status. The affected area was cleared in about 10 minutes.

There were seven security events logged. One SEL was logged for the security related impairment on February 26<sup>th</sup>. The remaining six SELs were associated with transient camera issues due to temporary environmental conditions.

There were nine condition reports<sup>1</sup> (CRs) for the month of February. The first CR was written on February 1<sup>st</sup> and addressed routing of paperwork for review and filing. The second CR was written on February 2<sup>nd</sup> to track lessons learned from a repair project. A third CR was generated on February 9<sup>th</sup> to track training that was not performed according to the published schedule. Two CR's were written on February 10<sup>th</sup>. The fourth CR was to track the completion of the ISFSI Emergency Plan review. The fifth CR was written to document hydraulic actuator problems with the gate. A sixth CR was written on February 11<sup>th</sup> on a fire door which did not fully close on its own. A seventh CR was written on February 16<sup>th</sup> for an incorrect form being used. An eighth CR was written on February 24<sup>th</sup> to track training activities. A ninth CR was written on February 25<sup>th</sup> to document a crack in a backup battery.

### *Other ISFSI Related Activities*

On February 28<sup>th</sup> Maine Yankee made an operations notification to the Nuclear Regulatory Commission on a suspicious person/vehicle driving up to the gatehouse at the site. The person was taking pictures of the wild turkeys on-site. The person was escorted from the site by the Wiscasset Police.

### Environmental

With the closure of the State's air sampling unit at the old Bailey Farm House at Maine Yankee on December 30, 2009, the 24 hour surveillance of the site ceased after 39 years. The remaining surveillance program of the Maine Yankee site is the quarterly fresh and salt water and seaweed sampling, and the quarterly thermoluminescent dosimeters (TLD)<sup>2</sup> around the ISFSI and Bailey Cove. A review of the monitoring program is slated for late spring to evaluate what final monitoring will remain for the Maine Yankee site.

### Maine Yankee Decommissioning

At present, there are eleven confirmatory reports that are essentially complete. Due to the extensive delays in on-going commitments and emerging issues, the confirmatory summary report is expected to be partially drafted in March.

### Groundwater Monitoring Program

On February 4<sup>th</sup> Maine Yankee as part of its Groundwater Monitoring Agreement submitted to the Department of Environmental Protection (DEP) its annual cost summary for the monitoring program expenses for 2009. The summary indicated that \$60,462.31 was expended for last year. Since the inception of the program a total of \$375,641.93 has been expended. According to the Agreement the groundwater monitoring program has a \$500,000 spending limit.

On February 9<sup>th</sup> the DEP raised a concern with Maine Yankee as to whether there were sufficient funds remaining to complete the monitoring program in light of the \$500,000 cap imposed by the Agreement.

On February 10<sup>th</sup> the State Nuclear Safety Inspector (SNSI) completed his review of the invoices and noted that a tally of the expenditures resulted in a slightly lower value, approximately \$1,068 less, than what was initially reported.

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<sup>1</sup> A condition report is a report that promptly alerts management to potential conditions that may be adverse to quality or safety. For more information, refer to the glossary on the Radiation Program's website.

<sup>2</sup> Thermoluminescent Dosimeters (TLD) are very small, passive radiation monitors requiring laboratory analysis. For a further explanation, refer to the glossary on the Radiation Program's website.

On February 12<sup>th</sup> the SNSI provided his comments on the September groundwater results that were received on January 4<sup>th</sup>. The comments were limited as they acknowledged the mutual understandings reached during the January 28<sup>th</sup> meeting between Maine Yankee and the State.

On February 22<sup>nd</sup> Maine Yankee responded to the DEP expressing their concerns for the remaining costs for the monitoring program. Their assessment indicated a potential overrun of \$32,000. That same day DEP scheduled a meeting with Maine Yankee and DHHS representatives to discuss efforts to control monitoring costs.

On February 25<sup>th</sup> the DEP and DHHS met to discuss Maine Yankee's response on monitoring costs. The SNSI was tasked to develop a comparison between the State's anticipated monitoring program costs and Maine Yankee's reported cost. On February 26<sup>th</sup> the SNSI provided his cost comparison to DEP.

On February 26<sup>th</sup> the SNSI provided a list of wells to Maine Yankee that the State would be requesting split samples for the June sampling round as per its quality assurance oversight of the groundwater monitoring program. The State will independently analyze those samples at its Health and Environmental Testing Laboratory.

### Other Newsworthy Items

1. On February 1<sup>st</sup> the Department of Energy (DOE) filed a 3 page motion before the Nuclear Regulatory Commission's Atomic Safety and Licensing Board to stay the proceeding on its license application to construct a geologic repository at Yucca Mountain. A copy of the DOE motion without the attachments is attached to the end of the report.
2. On February 1<sup>st</sup> the Department of Energy issued its FY 2011 Congressional Budget Request, DOE/CF-0046. Page 44 of the document illustrates the Department's zeroing out of all civilian and defense related nuclear waste disposal. A copy of that information is attached to the end of the report.
3. On February 1<sup>st</sup> the Office of the Governor's Nevada Agency for Nuclear Projects' issued a news release indicating that their 23 year struggle to prevent a geologic disposal site for the nation's nuclear stockpile at Yucca Mountain is nearing the end.
4. On February 2<sup>nd</sup> Senate Majority Leader Harry Reid requested the Government Accountability Office (GAO) to begin discussions with the State of Nevada and federal agencies on exploring alternative uses for Yucca Mountain. Senator Reid's alternatives focused on national security and clean energy efforts, such as "the development and testing of renewable energy technology, training grounds for the military, arms control activities, a lab for underground experiments or a hide away for the government in case of an emergency". A copy of Senator Reid's letter to the GAO is attached to the end of the report.
5. On February 2<sup>nd</sup> the Nuclear Waste Strategy Coalition (NWSC) held its first bi-monthly conference call to discuss the Department of Energy's (DOE) FY 2011 Budget, the Blue Ribbon Commission, and the DOE's withdrawal of the Yucca Mountain repository license and motion to stay all proceedings for 30 days.
6. On February 2<sup>nd</sup> the Georgia Public Service Commission issued a news release stating it "unanimously passed a motion calling for Georgia ratepayers to stop paying monies into the Yucca Mountain Nuclear Waste Fund....and called for the return of all Georgia ratepayers' monies paid in since the fund's inception in 1982." The motion did not mention escrowing funds or any intent to initiate a lawsuit. A copy of the news release is attached to the end of the report.
7. On February 3<sup>rd</sup> Representatives Hall from Texas and Broun from Georgia wrote a letter to Energy Secretary Chu expressing their concerns over the Secretary's unwillingness to respond to their queries from

their May 7, 2009 letter. Copies of their letter along with their original May 7<sup>th</sup> letter and Secretary Chu's June 1<sup>st</sup> response are attached to the end of the report.

8. On February 4<sup>th</sup> the Department of Energy (DOE) submitted its responses to the Nuclear Regulatory Commission's Atomic Safety and Licensing Board's questions posed at the January 27<sup>th</sup> Case Management Conference held in Las Vegas on the Yucca Mountain Project. The DOE provided information on its 3.65 million documents with 34 million electronic image files that it has in its licensing support collection for Yucca Mountain. The submittal also included the DOE's FY 2011 Congressional Budget Request for nuclear energy and defense and civilian nuclear waste disposal.
9. On February 7<sup>th</sup> the Las Vegas Sun reported that the restoration of Yucca Mountain will offer unprecedented challenges to desert ecologists as there never has been a desert reclamation of this size and scope. The Department of Energy has been working on a Reclamation Implementation Plan for more than 17 years. Even though re-contouring and planting areas will likely hasten the recovery time, it is estimated that it will take at least 30 years before the land starts to look like it did before the DOE started drilling. Returning the entire ecosystem to its original state could take even longer as desert soils and vegetation are fragile, and once severely disturbed, can take anywhere from several decades to millennia to recover. Without massive reclamation efforts, it can take at least 100 years for a plant community to begin to recover.
10. On February 8<sup>th</sup> the Department of Energy (DOE) sent a letter to Nevada's State Engineer requesting that their 116 applications for groundwater usage to construct the 316 mile Caliente rail line to Yucca Mountain be withdrawn. A copy of the letter is attached at the end of the report.
11. On February 9<sup>th</sup> Senator Barbara Boxer of California, chairwoman of the Senate Environment and Public Works Committee, posed a question she received from Senator Harry Reid at the hearing for three new nominees to be members of the Nuclear Regulatory Commission (NRC). Senator Boxer asked each nominee, "If confirmed, would you second guess the Department of Energy's decision to withdraw the license application for Yucca Mountain from the NRC's review?" All three nominees responded "No". The nominees, if confirmed, would fill the three vacancies on the NRC.
12. On February 9<sup>th</sup> the Nuclear Waste Strategy Coalition (NWSC) sent a letter to the Chairmen and Ranking Members of the Senate and House Appropriations Committee pointing out eight ramifications of the Administration's FY 2011 Budget Request and the withdrawal of the Yucca Mountain license application. The letter states the Department of Energy's (DOE) intent to continue collecting fees even though a substantial reserve of \$22 billion exists in the Nuclear Waste Fund to continue any DOE activities. A copy of the letter is attached at the end of the report.
13. On February 11<sup>th</sup> Governor Mark Stanford requested South Carolina's Attorney General to pursue all legal options to prod the Administration and Congress to complete Yucca Mountain. In a similar letter to South Carolina's Senior Senator, Lindsey Graham, Governor Stanford urged Senator Graham to push "the Obama Administration and Congress to complete the permanent repository that Congress taxed our citizens to build." Since both letters are virtually identical, only a copy of the letter to Senator Graham is attached at the end of the report.
14. On February 12<sup>th</sup> the Sustainable Fuel Cycle Task Force sent a letter to Energy Secretary Chu expressing their concerns over "the potential loss of significant scientific information being caused by the rapid and unplanned termination of the Yucca Mountain program." The Task Force raised concerns over the shutting down of scientific facilities and the storage of thousands of physical samples. The Task Force advocated for the "preservation of this knowledge and associated physical records" as extremely important for future

waste management activities and assisting future repository development. A copy of their letter is attached to the end of the report.

15. On February 16<sup>th</sup> South Carolina Governor Mark Stanford issued a news release protesting the termination of Yucca Mountain and is seeking legal options to force the project forward. Governor Stanford also urged the “Obama Administration and Congress to keep the Yucca Mountain Commitment”. The press release also included a list of five general facts about the Yucca Mountain Project.
16. On February 16<sup>th</sup> the Nuclear Regulatory Commission’s Atomic Safety and Licensing Board issued an order granting the stay of proceeding on the Yucca Mountain license application. The panel of three judges noted that none of the parties that are taking part in the license hearings opposed the Department of Energy’s motion to stay the proceedings. A copy of the two page order is attached at the end of the report.
17. On February 17<sup>th</sup> the National Association of Regulatory Utility Commissioners (NARUC) adopted a resolution requesting Energy Secretary Chu not to withdraw the Yucca Mountain license application, to forge ahead on a central interim storage site for used nuclear fuel and to suspend fees to the Nuclear Waste Fund until there is a revised program or that Yucca Mountain is restarted. A copy of their resolution is attached at the end of the report.
18. On February 17<sup>th</sup> the Nuclear Waste Strategy Coalition (NWSC) held its second bi-monthly conference call to apprise its membership on developments relative to the Department of Energy’s (DOE) license application, escrowing fees to the Nuclear Waste Fund, litigation and intervention in DOE’s motion to withdraw the license application on the Yucca Mountain proceedings before the Nuclear Regulatory Commission. The NWSC is an ad hoc group of state utility regulators, state attorneys general, electric utilities and associate members representing 47 stakeholders in 31 states, committed to reforming and adequately funding the U.S. civilian high-level nuclear waste transportation, storage, and disposal program.
19. On February 17<sup>th</sup> the South Carolina state senate unanimously signed a bill that would require the state’s electric utilities to put funds earmarked for a national repository into a state fund until a federal site begins operating. The following day the state’s utilities warned that it could lose federal nuclear power operating permits. The utilities’ concerns prompted a slowdown from senators who expected to send their bill to the House by that weekend.
20. On February 17<sup>th</sup> the Chief Financial Officer of the Department of Energy (DOE) sent letters to Representative Peter Visclosky and Senator Byron Dorgan, both Chairs of their respective Chamber’s Subcommittee on Energy and Water Development. The purpose of the letters was to notify the respective Chambers of the reprogramming of \$115 million of the \$196.8 million approved for FY 2010. Since no funds are allocated in FY 2011 budget for bringing the Yucca Mountain to an orderly close, the DOE intends to affect the closure by reprogramming the DOE’s FY 2010 appropriated funds. Since both letters are identical, only a copy of Representative Visclosky is attached to the end of the report.
21. On February 19<sup>th</sup> an expert from the European Commission’s Joint Research Center in Belgium presented the European Union’s long term management strategy for the disposal of used nuclear fuel and high level waste at the Advancing Science, Serving Society’s annual meeting held in San Diego. The presentation covered several European countries’ activities and focused on Finland’s and Sweden’s advance work on deep geologic disposal technology and their expectations that repositories will be built by 2020.
22. On February 19<sup>th</sup> Governor Mark Stanford wrote to Governor Baldacci requesting his help “in pushing the Obama Administration and Congress to complete the permanent repository that Congress taxed our citizens to build.” Governor Stanford also advocated “returning funds drawn from the states for this (*Yucca Mountain*) project”. A copy of Governor Stanford’s letter is attached to the end of the report.

23. On February 19<sup>th</sup> Aiken County in South Carolina filed a 60 page petition with the U.S. Circuit Court of Appeals for the District of Columbia seeking declaratory and injunctive relief from the Department of Energy and Secretary Energy Chu, the Nuclear Regulatory Commission (NRC) and its Chairman, Gregory Jaczko, and the NRC Atomic Safety and Licensing Board and the three judges, Thomas Moore, Paul Ryerson, and Richard Wardwell, on the Construction Authorization Board overseeing the DOE's license application on Yucca Mountain.
24. On February 19<sup>th</sup> the Department of Energy (DOE) filed a status report on its archiving plan with the Atomic Safety and Licensing Board's Construction Authorization Board (CAB). The DOE response was in reply to the CAB's January 27<sup>th</sup> Case Management Conference request. The DOE had filed on February 4<sup>th</sup> its initial response to the request and stated within that filing it would provide a status report on its archiving plan. The status report relates how it will maintain its licensing support network website until a final order terminating the Yucca Mountain proceedings and how it will work with National Archives and Records Administration to receive its documents once the license application proceedings are terminated.
25. On February 24<sup>th</sup> South Carolina's Attorney General Henry McMaster issued a news release indicating that the State will weigh in on the Yucca Mountain licensing proceedings by filing "a petition to intervene with the Nuclear Regulatory Commission....and will take additional legal action in the Fourth Circuit Court of Appeals."
26. On February 25<sup>th</sup> three local business leaders from the Tri-City area near the Hanford Reservation in Washington State filed a 29 page lawsuit with the U.S. Circuit of Court Appeals of the District of Columbia against President Barack Obama, Secretary Energy Chu and the Department of Energy (DOE) to stop the Administration from abandoning the Yucca Mountain Project. The State of Washington is in the process of cleaning up the waste from the nation's nuclear weapons program at the Hanford complex. As part of a legally binding agreement between the State and the federal government, the waste from the clean-up was designated to go to Yucca Mountain.
27. On February 25<sup>th</sup> the Energy Communities Alliance sent a letter to Secretary Energy Chu expressing their concerns on the "risks and impacts of leaving the waste in place". The letter also expressed frustration with the Department of Energy's (DOE) lack of communications and unwillingness to address these issues. The Alliance called on the DOE to evaluate the safety and environmental impact of indefinite storage and to provide funds to local governments to acquire independent expertise "to analyze the impacts and monitor the storage of high-level waste and spent fuel". A copy of their letter is attached at the end of the report.
28. On February 26<sup>th</sup> Representative John Kline from Minnesota sent a letter to the Co-Chairs of the Blue Ribbon Commission (BRC) on America's Nuclear Future congratulating them on their appointments and to express his concerns over the Administration's defunding of the Yucca Mountain Project and the potential billions in liability that taxpayers will face. He urged the BRC to "not take the Yucca Mountain Nuclear Waste Repository off the table as a viable storage site for radioactive waste management." A copy of his letter is attached at the end of the report.
29. On February 26<sup>th</sup> the State of South Carolina filed a 48 page petition to intervene in the Nuclear Regulatory Commission's (NRC) Atomic Safety and Licensing Board's ruling on the anticipated Department of Energy's motion to withdraw, with prejudice, its license application to construct a nuclear waste repository at Yucca Mountain in Nevada. The "with prejudice" is significant in that, if the NRC approves the ruling, the Yucca Mountain license application could never be re-filed once it is dismissed.



30. On February 26<sup>th</sup> the State of South Carolina filed an 81 page lawsuit with the U.S. Court of Appeals, Fourth Circuit, against President Barack Obama, Energy Secretary Steven Chu, the Nuclear Regulatory Commission (NRC) and its Chairman, Gregory Jaczko, and the NRC's Atomic Safety and Licensing Board and the Board's three judges involved in the Yucca Mountain proceedings, Thomas Moore, Paul Ryerson, and Richard Wardwell. The petition seeks to stop the Administration from abandoning the Yucca Mountain Project. The State of South Carolina is home of the defense site, the Savannah River Site, which is undergoing clean-up activities with the waste headed for Yucca Mountain as part of a legally binding agreement between the State and the federal government.

**UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION**

**BEFORE THE ATOMIC SAFETY AND LICENSING BOARD**

**Before Administrative Judges:  
Thomas S. Moore, Chairman  
Paul S. Ryerson  
Richard E. Wardwell**

In the Matter of	)	Docket No. 63-001
U.S. DEPARTMENT OF ENERGY	)	ASLBP No. 09-892-HLW-CAB04
(High-Level Waste Repository)	)	February 1, 2010

**U.S. DEPARTMENT OF ENERGY'S MOTION TO  
STAY THE PROCEEDING**

Today, the President announced the Administration's budget for fiscal year 2011. In that budget, the President directed that the Department of Energy "discontinue its application to the U.S. Nuclear Regulatory Commission for a license to construct a high-level waste geologic repository at Yucca Mountain in 2010 . . . ." *Budget of the U.S. Government, Fiscal Year 2011*, Appendix at 437 (available at <http://www.whitehouse.gov/omb/budget/fy2011/assets/doe.pdf>); *see id., Terminations, Reductions, and Savings* at 62 (available at <http://www.whitehouse.gov/omb/budget/fy2011/assets/trs.pdf>) (Attached). Moreover, the budget specifies that "all funding for development of the Yucca Mountain facility will be eliminated" for fiscal year 2011. *Id.*

In accord with these determinations, DOE has advised the undersigned counsel that DOE intends to withdraw the pending application with prejudice and to submit a separate Motion, pursuant to 10 C.F.R. § 2.107(a), within the next 30 days, to determine the terms and conditions,

if any, of that withdrawal. To avoid the unnecessary expenditure of resources by the Board, the NRC Staff, and all other parties to this proceeding, DOE hereby requests that the Board stay proceedings (with one exception discussed below) in this matter through the disposition by the Board of any DOE motion under Section 2.107 filed within the next 30-days. *See Duke Energy Corp.* (Catawba Nuclear Station, Units 1 and 2), unpublished Commission Order (Jan. 30, 2004) and *Yankee Atomic Elec. Co.* (Yankee Nuclear Power Station), 1966 WL 627, 640 (N.R.C.) (Oct. 2, 1996) (Commission granting “housekeeping” stay to accommodate time for future Staff filings and parties’ responsive filings); *see generally Nat’l Audubon Soc’y, Inc. v. Watt*, 678 F.2d 299, 307 (D.C. Cir. 1982) (discussing parties’ agreement “to a stay of the proceedings ‘to conserve judicial resources’ . . . [T]he need for a stay was premised, in large part, on a new policy toward federal water projects adopted by an incoming Administration”).

The one exception that DOE proposes to this stay of proceedings would apply to DOE’s submission addressing the Board’s questions at the January 27, 2010 Case Management Conference, as well as the other parties’ written responses to that filing. DOE intends to adhere to its commitment to make that filing. That document, and other parties’ responses, may provide information relevant to the winding up of this proceeding.<sup>1</sup>

Finally, DOE notes that Answers to this Motion are due in 10 days, but depositions are scheduled to begin approximately two weeks from today, and the electronic indexes associated with derivative discovery for those depositions under 10 C.F.R. § 2.1019 are due next week. In order to preserve the resources of the parties, DOE requests that the Board issue as soon as possible an interim Order suspending discovery pending its resolution of this Motion.

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<sup>1</sup> In accordance with this Board’s Order of December 22, 2009, that parties “not [] take any actions at this time that would prevent or hinder their ability to archive LSN documentary material in a readily accessible format,” DOE will preserve and maintain its LSN collection pending further instruction.

DOE counsel has made a sincere attempt to confer with counsel for the other parties prior to filing this Motion, per 10 C.F.R. § 2.323(b), including holding a telephone conference to which counsel for each party was invited. As a result of that consultation, the following parties concur with this Motion: State of Nevada, State of California, Nuclear Energy Institute, Clark County, Nye County, Inyo County, and Eureka County.

The following parties take no position as of the time of this filing: the NRC Staff, JTS, NCAC, and the “Four Counties” (*i.e.*, Nevada Counties of Mineral, Lander, Churchill, and Esmeralda).

White Pine County opposes the Motion.

Respectfully submitted,

*Signed (electronically) by Donald J. Silverman*

Donald J. Silverman

Alex S. Polonsky

Counsel for the U.S. Department of Energy

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Scott Blake Harris

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U.S. Department of Energy

Office of the General Counsel

1000 Independence Avenue, SW

Washington, DC 20585

Dated in Washington, DC  
this 1st day of February

# Department of Energy FY 2011 Congressional Budget Request



## Budget Highlights

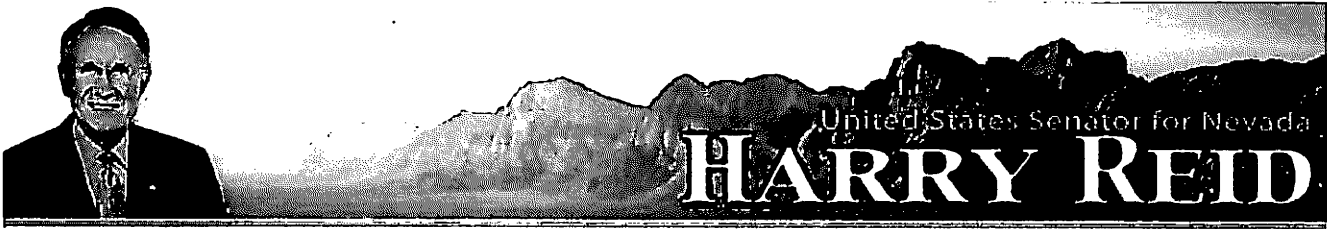
## Civilian Radioactive Waste Management

	(dollars in thousands)					
	FY 2009 Current Approp.	FY 2009 Current Recovery	FY 2010 Current Approp.	FY 2011 Congressional Request	FY 2011 vs. FY 2010	
					\$	%
Defense Nuclear Waste Disposal						
Defense Nuclear Waste Disposal	143,000	0	98,400	0	-98,400	-100.0%
Nuclear Waste Disposal						
Repository Program	74,983	0	28,400	0	-28,400	-100.0%
Program Direction	68,552	0	70,000	0	-70,000	-100.0%
Congressionally Directed Projects	1,855	0	0	0	—	—
<i>Subtotal, Nuclear Waste Disposal</i>	<i>145,390</i>	<i>0</i>	<i>98,400</i>	<i>0</i>	<i>-98,400</i>	<i>-100.0%</i>
<b>Total, Civilian Radioactive Waste Management</b>	<b>288,390</b>	<b>0</b>	<b>196,800</b>	<b>0</b>	<b>-196,800</b>	<b>-100.0%</b>

The President identified the Yucca Mountain Project in the Terminations and Reductions section of the FY 2010 budget request submitted to Congress in May 2009. Since that time, the Department of Energy has been evaluating a range of options for bringing the project to an orderly close. In FY 2010, the Department of Energy will withdraw from consideration by the Nuclear Regulatory Commission the license application for construction of a geologic repository at Yucca Mountain, Nevada, in accordance with applicable regulatory requirements.

Remaining funding available from the FY 2010 Nuclear Waste Disposal and Defense Nuclear Waste Disposal appropriations will be dedicated to project closeout. The Office of Civilian Radioactive Waste Management will prepare the Yucca Mountain site for stewardship and remediation. The Department will work closely with state and federal agencies to develop and implement a remediation plan for the site that adheres to all applicable statutes and regulations. The Office of Environmental Management will support remediation planning for the Yucca Mountain repository site.

Per the Office of Nuclear Energy's FY 2011 budget request, that organization will develop and execute a research and development program that will address critical scientific and technical issues associated with the long-term management of used nuclear fuel. The Office of Nuclear Energy will support the work of the Blue Ribbon Commission and the development of an integrated approach to waste management options.



## Newsroom

### *Letter to Comptroller General suggests potential uses related to national security and clean energy*

*February 2, 2010*

**Washington, DC** – Nevada Senator Harry Reid today sent a letter to Gene Dodaro, the Comptroller General of the United States, regarding potential future uses of the Yucca Mountain project site and related facilities. In the letter, Reid asks that the Government Accountability Office (GAO) consult with the state of Nevada and relevant federal agencies about how the site could be used for activities unrelated to storing nuclear waste, including:

- National security activities, including armed services readiness, intelligence gathering, and defense technology testing and demonstration;
- Renewable energy technology development, testing, and demonstration;
- Arms control, verification, weapons detection, and other nonproliferation-related activities;
- Science and/or engineering laboratory for sensitive work requiring either underground or remote experimentation, or;
- Facility for government continuity-of-operations activities.

"Now that forward progress on making Yucca Mountain the dumpsite for the nation's nuclear waste has ended, we now need to keep this from being a total loss to the taxpayers and find a responsible way to use the Yucca facility," Reid said. "Given the site's location at the Nevada Test Site and Nevada's vast clean energy resources, I believe we should begin by looking at alternative uses focused on our national security and clean energy efforts."

A copy of Reid's letter is included below.

February 2, 2010

The Honorable Gene Dodaro  
Acting Comptroller General of the United States  
U.S. Government Accountability Office  
441 G Street, NW  
Washington, DC 20548

Dear General Dodaro:

As you may know, in the President's Fiscal Year 2011 Budget Request he provided zero funding for the Yucca Mountain nuclear waste repository and announced that the license application to construct the repository will be withdrawn in Fiscal Year 2010. Furthermore, Energy Secretary Steven Chu recently announced the creation of the Blue Ribbon Commission on America's Nuclear Future, which will produce a report of final recommendations on alternative solutions to managing the nation's nuclear waste within 24 months.

I have spent many years working to stop this ill-conceived project, which threatened the health and safety of Nevadans, the vitality of southern Nevada's economy, and our environment. I am proud that my efforts and the efforts of other Nevada leaders have paid off and Nevadans will no longer have to fear becoming the nation's nuclear waste dump. At the same time, I believe that Yucca Mountain and the surrounding land may have unique characteristics and existing infrastructure that justify close consideration of potential alternative uses for the site other than for nuclear waste storage. Therefore, I request that the Government Accountability Office (GAO) prepare a report outlining options for potential uses of the Yucca Mountain project site, project facilities, and the land surrounding the site.

In preparing this report, GAO should consult with the State of Nevada and an array of federal agencies, including the: National Nuclear Security Administration; Department of Energy; Department of Defense – including the relevant services; Intelligence Community; State Department; Department of the Interior; National Science Foundation; and any other party that might be interested in possible future uses of the Yucca Mountain project site.

Specifically, GAO should consider how the Yucca Mountain project site and related facilities and land could be used:

1. for national security activities, including armed services readiness, intelligence gathering, and defense technology testing and demonstration;
2. for renewable energy technology development, testing, and demonstration;
3. for arms control, verification, weapons detection, and other nonproliferation-related activities;
4. as a science and/or engineering laboratory for sensitive work requiring either underground or remote experimentation; and
5. as a facility for federal government continuity-of-operations activities.

Additionally, I request that GAO consider the legal steps that might be necessary for Congress or the Administration to take in order to pursue new activities at the Yucca Mountain project site that do not involve storing spent nuclear fuel or nuclear waste.

If you have any questions regarding this request, please do not hesitate to contact me or have your staff contact Alex McDonough of my staff at (202) 224-1052.

Sincerely,

Harry Reid  
United States Senator

# # #

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Senator Harry Reid for Nevada | [reid.senate.gov](http://reid.senate.gov)





**Contact: Bill Edge**  
Phone: 404-656-2316  
[www.psc.state.ga.us](http://www.psc.state.ga.us)

## Georgia Public Service Commission

244 Washington St S.W.  
Atlanta, Georgia 30334  
Phone: 404-656-4501  
Toll free: 1-800-282-5813  
Fax: 404-656-2341

**For Immediate Release**

**3-10**

### News Release

#### *PSC Calls for End to Georgia Ratepayers Payments to the Nuclear Waste Fund; Urges Return of Payments Used for the Yucca Mountain Project*

Atlanta, February 2, 2010 — The Georgia Public Service Commission (Commission) today unanimously passed a motion calling for Georgia ratepayers to stop paying monies into the Yucca Mountain Nuclear Waste Fund which is being used to develop Yucca Mountain as a repository for permanent disposal of the nuclear waste. Additionally, the Commission called for the return of all Georgia ratepayers' monies paid in since the fund's inception in 1982. Commissioner Robert B. Baker, Jr., who proposed the motion, said "It is long past time that Georgia ratepayers stop contributing to the fund."

Commissioners noted that Georgia ratepayers have paid over \$1.1 billion into the Nuclear Waste Fund since 1982 yet the Obama Administration has now proposed to eliminate all funding for the Yucca Mountain Nuclear Waste Repository in the federal Fiscal Year 2011 Budget. The Department of Energy also plans to withdraw the facility's license application at the Nuclear Regulatory Commission.

Commissioner Doug Everett said, "Since the current administration is no longer supporting any funding for Yucca Mountain, we cannot support any additional Georgia ratepayers' funds going into the fund and Georgians should get their money back." The Commission will also send a representative to Washington next week to take part in a Nuclear Waste Disposal Policy meeting.

The federal government is legally required under the 1982 Nuclear Waste Policy Act to take spent nuclear fuel from nuclear plant operators and is financially obligated to repay expenses associated with onsite nuclear waste storage.

You can find the Commission on the web at <http://www.psc.state.ga.us>.

###

U.S. HOUSE OF REPRESENTATIVES  
COMMITTEE ON SCIENCE AND TECHNOLOGY

SUITE 2320 RAYBURN HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515-6301  
(202) 225-6375  
TTY: (202) 226-4410  
<http://science.house.gov>

February 3, 2010

The Honorable Steven Chu  
Secretary  
Department of Energy  
1000 Independence Avenue, S.W.  
Washington, DC 20585

Dear Secretary Chu:

We write to you once again to seek further explanation and documentation regarding the Administration's decision to abandon the development of the Yucca Mountain site as a nuclear waste repository. Despite a nearly \$10 billion investment, clear congressional direction and legal obligation, and robust scientific study and oversight, the Administration continues to take unexplained actions that could ultimately sacrifice the project.

In May 2009, we wrote you to reconcile your statements in support for "restarting" nuclear power with Administration actions that risk materially delaying the expansion of nuclear energy in the United States.<sup>1</sup> On June 1, 2009 you responded with a brief letter noting your plan to establish a blue ribbon commission on nuclear waste storage but failing to address any of the issues or questions that we raised.<sup>2</sup>

Follow up discussion between Committee staff and Department staff confirmed that you consider this letter to be responsive and that the Department does not possess documents related to the decision or our inquiry. If this is indeed true, we find it alarming that your Department made an important decision that could have significant adverse consequences for the nation and the American taxpayer without conducting a comprehensive analysis.

The recent announcement of the Blue Ribbon Commission raises more questions than it answers, as you have declined to comment on the nature of the commission's charter.<sup>3</sup>

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<sup>1</sup> Letter from Reps. Ralph Hall, Joe Barton, Paul Broun, and Greg Walden to Secretary Chu, May 7, 2009 (copy attached).

<sup>2</sup> Letter from Secretary Chu to Reps. Ralph Hall, Joe Barton, Paul Broun, and Greg Walden, June 1, 2009 (copy attached).

<sup>3</sup> Peter Behr, "The Administration puts its own stamp on a possible nuclear revival," ClimateWire, Energy and Environment Publishing, February 2, 2020.

The Honorable Stephen Chu  
Page two  
February 3, 2009

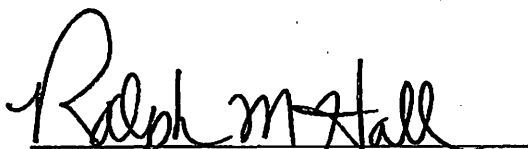
According to the Department's own timeline, the commission won't even issue recommendations until near the end of the Administration's term. This process and timeline highlights the highly illogical nature of terminating the only existing option before assessing potential alternative options, and suggests that political decisions have overridden the need for a systematic and scientific review of all options. Further, the decision to withdraw the Department's Nuclear Regulatory Commission's license application for Yucca Mountain and its concurrent budget proposal to cancel funding for the Office of Civilian Radioactive Waste Management (OCRWM) raises important questions about the legality of these actions with respect to the Nuclear Waste Policy Act (NWPA) of 1982.

While I was pleased to hear that the Administration chose to increase the Department's contribution to the loan guarantee program, the uncertainty surrounding the Blue Ribbon Commission, combined with the Administration's growing record of mixed signals on other aspects of nuclear energy, raises serious questions about the credibility of the Administration's rhetorical support of this nuclear energy. As Secretary of Energy, you have an opportunity to set the record straight and work with Congress to ensure the resurgence of the only energy source capable of providing significant quantities of affordable, safe, carbon-free electricity.

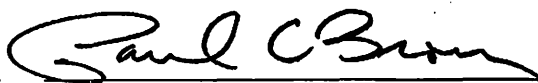
Accordingly, we ask that you provide all documents responsive to our May 7, 2009 letter, as well as respond to the questions we posed at that time. Additionally, please provide an explanation for, and all documents (see attachment) related to, the establishment of the blue ribbon commission on nuclear waste storage. Last, please explain how the administration proposal to cancel funding for OCRWM is consistent with its statutory obligation to provide for radioactive waste storage under the NWPA. Please provide your response by February 16, 2010.

If you or your staff have any questions or needs additional information, please contact either Mr. Tom Hammond or Mr. Dan Byers with the Science and Technology Committee minority staff at (202) 225-6371.

Sincerely,



REP. RALPH HALL  
Ranking Member  
Committee on Science and Technology



REP. PAUL BROUN, M.D.  
Ranking Member  
Subcommittee on Investigations  
and Oversight  
Committee on Science and Technology

**Enclosures**

**cc: The Honorable Bart Gordon, Chairman  
Committee on Science and Technology**

**The Honorable Brad Miller, Chairman  
Subcommittee on Investigations and Oversight  
Committee on Science and Technology**

**Congress of the United States**  
**House of Representatives**  
**Washington, D.C. 20515**

May 7, 2009

The Honorable Steven Chu  
Secretary  
Department of Energy  
1000 Independence Avenue, S.W.  
Washington, D.C. 20585

Dear Secretary Chu:

On April 22, 2009, you testified before the House Committee on Energy and Commerce in connection with its legislative hearings on the American Clean Energy and Security Act of 2009. During your testimony, you stated that the Administration would support a nuclear title in the climate legislation and that the Administration believes that nuclear power has to be "restarted" and must be part of the future energy mix in this country.

Yet you and the Administration are on record as seeking to abandon construction of a deep-underground repository for the nation's nuclear waste at Yucca Mountain, Nevada. This repository, designated by statute to be located at the Yucca Mountain site and to be the nation's first permanent nuclear waste repository, is essential for the revitalization and expansion of nuclear power in the United States. And after over 25 years of scientific and technical study and Congressional review, there are no other alternative sites provided for under the law.

According to your press spokesperson, you believe "nuclear waste storage at Yucca Mountain is not an option, period." At a House Science and Technology Committee hearing in March, you stated that "conditions changed" with regard to Yucca Mountain and that DOE independently is seeking a blue-ribbon panel to take a "fresh look" at nuclear waste and disposal. And your opposition has been reinforced by the Administration's just released FY 2010 Budget, which states that all Department of Energy (DOE) funding for Yucca Mountain development "has been eliminated," except to allow DOE to respond to the Nuclear Regulatory Commission's (NRC) technical questions related to its current review of the DOE Yucca Mountain license application.

Turning away from Yucca Mountain may have significant adverse consequences for the nation and the American taxpayer. For example, the Federal government's total potential liability from delays in accepting used fuel and nuclear waste could be significantly higher than the past estimates of \$11 billion if Yucca Mountain is no longer an option. The Administration's position that Yucca Mountain is not an option also raises significant regulatory and legal issues that may not only adversely affect the licensing and development of new nuclear plants, but also

may impact existing operating nuclear plants. The position also raises significant issues for the U.S. Navy and DOE sites, including for the Hanford, Savannah River, Idaho and other DOE sites where spent nuclear fuel and/or high-level radioactive waste is currently being stored pending permanent disposal.

We write to reconcile your testimony in support of "restarting" nuclear power in connection with clean energy policy with the Administration's actions that risk materially delaying the expansion of nuclear energy in this nation. In light of current climate policy debates, it is critical that we understand the Administration's actual plans in this regard. We would appreciate your providing responses to the following:

1. What is the scientific or technical basis, if any, for your decision that the proposed Yucca Mountain repository is "not an option"?
2. How does your decision comport with the Department of Energy's (DOE) statutory obligations under the Nuclear Waste Policy Act of 1982, as amended?
3. Under what legal authority would a blue ribbon panel re-evaluate options for nuclear waste disposal be established?
4. With regard to the proposed blue ribbon panel:
  - a. How would the panel be established?
  - b. What would be the process for appointing persons to serve on the panel?
  - c. What would be the composition of the panel?
  - d. What would be the scope of its review?
5. Prior to your public statements that Yucca Mountain repository is "not an option," was any analysis performed of the potential taxpayer liabilities associated with such a decision?
6. Please provide all documents relating to any legal, technical, or scientific analyses that formed the basis for your decision to re-evaluate nuclear waste disposal alternatives to the proposed Yucca Mountain repository, including, but not limited to, evaluations and recommendations that led you to determine that Yucca Mountain was "not an option."
7. What was the process for making your decision that Yucca Mountain repository is "not an option"? Please describe and identify when and with whom you consulted, including, but not limited to, a description and identification of attendees at any public meetings, any Administration meetings, and any consultations with States affected by the decision.
8. In reaching your determination that the Yucca Mountain repository is no longer an option, did you consult with or receive any briefings from the Nuclear Waste Technical Review Board, DOE laboratory directors or personnel, or any DOE scientists or technical personnel who performed work on the Yucca Mountain project? Please describe when

and with whom you consulted, including, but not limited to, a description and identification of attendees at any meetings.

9. Have you shared your rationale for determining that the Yucca Mountain repository is "not an option" with the Nuclear Waste Technical Review Board or the Nuclear Regulatory Commission?
10. Have you or your staff prepared any analyses of the potential impact that failing to pursue the Yucca Mountain repository may have on the construction of new nuclear plants, which are essential to providing clean and reliable energy in the future? If so, please provide any such analyses.
11. How do you believe the Administration's decision to scale back the Yucca Mountain project will affect DOE's responsibility to develop, construct, and operate repositories for disposal of spent nuclear fuel and high-level radioactive waste under the Nuclear Waste Policy Act of 1982, the Nuclear Waste Policy Amendments Act of 1987, and the Energy Policy Act of 1992?
12. If a repository at Yucca Mountain is not pursued, what does the Administration propose to do with the billions of dollars that have been collected from ratepayers for the Nuclear Waste Fund?

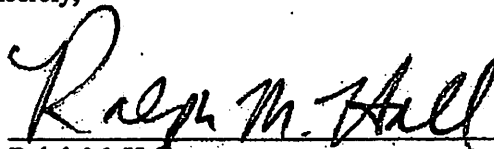
Please provide the written responses and documents requested by no later than two weeks from the date of this letter. We would respectfully request, if the Department withholds any documents or information in response to this letter, that a Vaughan Index or log of the withheld items be attached to the response. The index should list the applicable question number, a description of the withheld item (including date of the item), the nature of the privilege or legal basis for the withholding, and a legal citation for the withholding claim.

Should you have any questions please contact Mr. Peter Spencer of the Minority Energy and Commerce Committee staff at (202) 225-3641, and Ms. Elizabeth Chapel or Mr. Tom Hammond of the Minority Science and Technology Committee staff at (202) 225-6371.

Sincerely,



Joe Barton  
Ranking Member  
Committee on Energy and Commerce



Ralph M. Hall  
Ranking Member  
Committee on Science and Technology

Letter to the Honorable Steven Chu

Page 4



Greg Walden  
Ranking Member  
Subcommittee on Oversight  
and Investigations  
Committee on Energy and Commerce



Paul C. Broun  
Ranking Member  
Subcommittee on Investigations  
and Oversight  
Committee on Science and Technology

Enclosure

cc: The Honorable Henry Waxman, Chairman  
Committee on Energy and Commerce

The Honorable Bart Stupak, Chairman  
Subcommittee on Oversight and Investigations  
Committee on Energy and Commerce

The Honorable Bart Gordon, Chairman  
Committee on Science and Technology

The Honorable Brad Miller, Chairman  
Subcommittee on Investigations and Oversight  
Committee on Science and Technology





## The Secretary of Energy

Washington, D.C. 20585

June 1, 2009

The Honorable Ralph M. Hall  
Ranking Member  
Committee on Science and Technology  
U.S. House of Representatives  
Washington, DC 20515

Dear Congressman Hall:

Thank you for your May 7, 2009, letter regarding Yucca Mountain.

As you note in your letter, the Administration is committed to pursuing alternatives to Yucca Mountain. However, we remain committed to meeting our obligations for managing and ultimately disposing of spent nuclear fuel and high-level radioactive waste.

Your letter raises a range of complex questions about Yucca Mountain and the Administration's plans to develop alternatives. I believe that we need to proceed with the development of alternatives in a deliberate and thorough fashion that takes into account these complexities – which include technical, safety, legal, economic and other factors.

To that end, the Administration intends to convene a "blue-ribbon" panel of experts to evaluate alternative approaches for meeting the Federal responsibility to manage and ultimately dispose of spent nuclear fuel and high-level radioactive waste from both commercial and defense activities. This panel will provide the opportunity for a full public dialogue on how best to address this challenging issue and will provide recommendations that may form the basis for working with Congress to revise the statutory framework for managing and disposing of spent nuclear fuel and high-level radioactive waste.

As we begin to restart the nuclear industry in the United States, the time is right to reexamine our options and plans for managing the back end of the fuel cycle. Options for storage, recycling, and geologic disposal of spent nuclear fuel and high-level radioactive waste all deserve careful consideration, with an eye towards development of an updated management framework. The Administration looks forward to ongoing dialogue with members of Congress, interested stakeholders, and others as we review options for alternatives to Yucca Mountain in the months ahead.

If you have any questions, please contact me or Ms. Betty A. Nolan, Senior Advisor, Office of Congressional and Intergovernmental Affairs, at (202) 586-5450.

Sincerely,

A handwritten signature in black ink, appearing to read "Steven Chu".

Steven Chu



Printed with soy ink on recycled paper

## ATTACHMENT

1. The term "records" is to be construed in the broadest sense and shall mean any written or graphic material, however produced or reproduced, of any kind or description, consisting of the original and any non-identical copy (whether different from the original because of notes made on or attached to such copy or otherwise) and drafts and both sides thereof, whether printed or recorded electronically or magnetically or stored in any type of data bank, including, but not limited to, the following: correspondence, memoranda, records, summaries of personal conversations or interviews, minutes or records of meetings or conferences, opinions or reports of consultants, projections, statistical statements, drafts, contracts, agreements, purchase orders, invoices, confirmations, telegraphs, telexes, agendas, books, notes, pamphlets, periodicals, reports, studies, evaluations, opinions, logs, diaries, desk calendars, appointment books, tape recordings, video recordings, e-mails, voice mails, computer tapes, or other computer stored matter, magnetic tapes, microfilm, microfiche, punch cards, all other records kept by electronic, photographic, or mechanical means, charts, photographs, notebooks, drawings, plans, inter-office communications, intra-office and intra-departmental communications, transcripts, checks and canceled checks, bank statements, ledgers, books, records or statements of accounts, and papers and things similar to any of the foregoing, however denominated.
2. The terms "relating," "relate," or "regarding" as to any given subject means anything that constitutes, contains, embodies, identifies, deals with, or is in any manner whatsoever pertinent to that subject, including but not limited to records concerning the preparation of other records.



**Department of Energy**  
Office of Civilian Radioactive Waste Management  
1551 Hillshire Drive  
Las Vegas, NV 89134-6321

QA: N/A

**FEB 08 2010**

Mr. Tracy Taylor, State Engineer  
Division of Water Resources  
Department of Conservation and  
Natural Resources  
State of Nevada  
901 South Stewart Street, Suite 2002  
Carson City, NV 89701-5249

2010 FEB -9 12:10:58

**Subject: Withdrawal of Water Applications 77798 through 77913**

Dear Mr. Taylor:

This letter responds to your letters November 10, 2009 and January 14, 2010 regarding the Department's intent to pursue the 116 applications to appropriate groundwater that were filed on January 20, 2009. In light of recent developments, the U.S. Department of Energy does not intend to pursue the 116 subject applications and requests that these applications be withdrawn.

If you have any questions, please contact me at (702) 794-1454.

Sincerely,

Ned B. Larson  
Federal Project Director  
Nevada Rail Line Project

Executive Committee Officers:

David Wright, Chairman  
Commissioner, SC Public Service Commission

Renze Hoeksema, Vice Chairman  
Director of Federal Affairs, DTE Energy

David Boyd, Membership  
Chairman, MN Public Utilities Commission

Robert Capstick, Finance  
Director of Government Affairs, Yankee Atomic/Connecticut Yankee



February 9, 2010

Letter sent by facsimile

The Honorable Daniel Inouye  
Chairman  
Senate Appropriations Committee  
United States Senate  
Washington, D.C. 20510

The Honorable Thad Cochran  
Ranking Member  
Senate Appropriations Committee  
United States Senate  
Washington, D.C. 20510

The Honorable David Obey  
Chairman  
House Appropriations Committee  
United States House of Representatives  
Washington, D.C. 20515

The Honorable Jerry Lewis  
Ranking Member  
House Appropriations Committee  
United States House of Representatives  
Washington, D.C. 20515

Dear Chairmen Inouye and Obey and Ranking Members Cochran and Lewis:

The Obama Administration's recent actions to zero out funding for the nuclear waste repository at Yucca Mountain, and withdraw the Department of Energy (DOE) license application, disregards Congress' mandate under the 1982 Nuclear Waste Policy Act, as amended, (NWPA); a policy overwhelmingly reaffirmed by Congress in 2002. Such action is imprudent and will cost the nation's electric ratepayers even more money given the Administration has no "Plan B," except to strand spent nuclear fuel and high level radioactive waste at 121 commercial and defense sites in 39 states for an indefinite period.

The nuclear waste disposal program (Program) is self-sustained through the Nuclear Waste Fund (NWF), funded by the rate payers from 41 states who pay more than \$760 million annually through their electric bills. We would urge that you take immediate action to restore funding in the DOE's FY 2011 budget, and compel the Secretary of Energy to immediately carry out its mission as mandated by the NWPA.

DOE has stated it have every intent to keep collecting these NWF fees, and has rejected requests by state utility regulators and local utility companies to voluntarily suspend the collection of fees. The nation's ratepayers have already invested \$10 billion in a national repository, and paid more than \$33 billion, including interest, into the NWF, with nothing in return. To add insult to injury, these same rate payers will now be funding additional on-site storage facilities.

In addition, DOE's failure to fulfill its statutory and contractual obligations to carry out the NWPA, is burdening U.S. tax payers with additional liabilities currently estimated as high \$50 billion. Seventy-one breach-of-contract claims have been filed against the DOE since 1998, already resulting in more than \$1.2 billion in damages awards. This amount does not include the \$150 million in litigation expenses incurred by the Department of Justice to defend these cases.

Failing to allow the license application to proceed through a process at the Nuclear Regulatory Commission (NRC) that will determine the technical and environmental soundness of the Yucca Mountain facility ignores the statutory requirements set forth by Congress in the NWPA. It ensures that the DOE and the NRC will not learn any lessons from

licensing a nuclear waste storage facility that can be applied in the future, and casts serious doubt on this nation's ability to meet its energy and environmental goals.

The Administration's decision is also disrupting the DOE clean-up program in Hanford, Washington and the Savannah River Site in South Carolina, as well as agreements with states that currently store defense material. The continued delay of the removal of defense waste could adversely impact two legally-binding agreements – the Batt and Tri-Party Agreements.

We urge that you hold DOE accountable to explain how their recent action is consistent with the goals of the NWPA and previous commitments they've made to your Committees. The members of the NWSC strongly urge you to keep the Program funded to maintain the license application progress during the technical and scientific review by the NRC.

We are an ad hoc group of state utility regulators, state attorneys general, electric utilities and associate members representing 46 member organizations in 26 states.

Respectfully yours,



David Wright  
Commissioner, South Carolina Public Service Commission, and  
Chairman, Nuclear Waste Strategy Coalition

- C: The President of the United States.
- The Secretary of Energy.
- Members of the House and Senate Appropriations Committees.
- Members of the House and Senate Armed Services Committees.
- Members of Congress that represents 41 states whose ratepayers pay into the NWF.
- Governors with stranded material in their state.
- Mr. David Zabransky, Acting Principal Director, DOE/OCRWM.



**State of South Carolina**  
**Office of the Governor**

**MARK SANFORD**  
GOVERNOR

POST OFFICE BOX 12267  
COLUMBIA 29211

February 11, 2010

The Honorable Lindsey O. Graham  
United States Senate  
SR-290 Russell Senate Office Building  
Washington, D.C. 20510-4003

Dear Lindsey,

Last week the Obama Administration announced its decision to abandon the 23-year bipartisan project establishing Yucca Mountain as the nation's primary permanent nuclear waste storage site. My administration would submit that this decision is spectacularly misguided, and breaks a promise made to South Carolina and other states nearly three decades ago. By any account, it is a blatantly political move completely contrary to the soaring rhetoric of the Obama campaign, and it represents nothing more than what many would see as a Chicago-style political payoff. To detractors, this political capitulation comes as no surprise as the site of Obama's reversal is Nevada – home to Senate Majority Leader Harry Reid. To supporters who had hoped for a change from politics as usual out of Washington, it is a real disappointment. We believe the decision will have dangerous consequences in our state and we would ask you to pursue every avenue possible to keep us on the path of a permanent nuclear waste storage site.

When Congress passed the Nuclear Waste Policy Act in 1982, it set the stage for a safe and suitable *permanent* nuclear waste repository. In 1987, Congress designated Yucca Mountain as the only option for a long-term storage site and this was reaffirmed in 2002. Even though the Department of Energy was to begin taking waste as early as 1998, nothing has ever changed about Yucca Mountain being the permanent site. The Obama Administration's decision violates the letter of the law by extending the length of time South Carolina will be forced to store nuclear waste.

South Carolina currently stores roughly 4,000 metric tons of nuclear waste – ranking behind only Illinois and Pennsylvania. I believe, and the numbers support this fact, that South Carolina has done more than its part in storing nuclear waste for the country over years. With four additional nuclear reactors proposed in South Carolina, storage of spent nuclear fuel will likely increase considerably with no path out in sight given the Administration's decision.

The Honorable Lindsey O. Graham

Page 2

February 11, 2010

Since 1982, the nuclear power industry, through ratepayers living in this and other states, has paid roughly \$7 billion into this nuclear waste fund. South Carolinians alone have contributed more than \$1.2 billion into the fund. Meanwhile, the total spent for the preparation and construction of a permanent storage site at Yucca Mountain has been more than \$10 billion. The result of the Obama Administration's decision will be that taxpayers will get nothing – literally nothing – in return. Adding insult to injury, at this point the federal government refuses to return these payments to help utilities offset the mounting costs for their supposedly temporary storage of nuclear waste. If the Obama Administration is not willing to step back from their wantonly political decision on Yucca Mountain, or return funds drawn from states like ours for this project, then we may be forced to explore other options here in South Carolina.


The Department of Energy already faces \$1.5 billion in court judgments and legal expenses resulting from failure to meet obligations. Allowing this dangerous decision to stand will only up the ante when it comes to taxpayers' cost because they are footing the bill on both ends of the equation, resulting in added costs of as much as \$500 million annually just to defend and settle ongoing lawsuits.

Nuclear waste is stored at over 120 locations across the country, with 160 million Americans living within 75 miles of one of these sites. Specifically, we are concerned with the long-term storage of large amounts of nuclear waste at the Savannah River Site given it lies in a geologically unstable fault zone, and with this comes the potential harm to the Savannah River watershed and millions of people. The presence of so many storage facilities throughout the United States also presents a potential national security threat because each storage site could be a target for terrorism. Yucca Mountain would help alleviate many of these concerns by consolidating nuclear waste storage in a single, secure location.

I believe the Administration's decision to shutter the Yucca Mountain project will have long-term, negative effects on our state and nation. At the very minimum, any alternative must meet the same timeline as the Yucca Mountain path was to follow. We believe the best solution still lies in finishing the job that has been underway for the past 23 years. We would ask for your efforts in pushing the Obama Administration and Congress to complete the permanent repository that Congress taxed our citizens to build.

We look forward to working with you on this issue. If you have any questions, please do not hesitate to contact me.

Sincerely,



Mark Sanford

MS/jl



# Sustainable Fuel Cycle TASK FORCE

[www.sustainablefuelcycle.com](http://www.sustainablefuelcycle.com)

## Sustainable Fuel Cycle Task Force Science Panel

February 12, 2010

The Honorable Dr. Steven Chu, Ph.D.  
Secretary  
United States Department of Energy  
1000 Independence Avenue, SW  
Washington, DC 20585

Dear Secretary Chu:

We are writing to you as concerned scientists about the potential loss of significant scientific information being caused by the rapid and unplanned termination of the Yucca Mountain program.

Although we do not believe the program should be terminated, we recognize the reality of the Administration's actions and are appealing to you, as a fellow scientist, to prevent the destruction of valuable scientific knowledge that has been gained with billions of dollars of U.S. taxpayer and ratepayer expenditures over the last 30 years.

We understand that as Yucca Mountain staff is now being terminated or reassigned and Yucca Mountain facilities are being shutdown, important scientific libraries, experiments, and samples are being abandoned and likely to be thrown away as trash in the near future. Although some may not consider these materials as "federal records", which are required to be maintained, such materials do have considerable relevance to the scientific community and are important national and international resources. Examples of such information are the library of references at the DOE Las Vegas Yucca Mountain facility and the thousands of physical scientific samples that are stored in the Yucca Mountain Sample Management Facility or National Laboratories. The long-term corrosion samples, for example, contain decades of information that is essentially irreplaceable. While many of the library materials are copies of items that can, with diligent search, be found elsewhere, having this collection available at a central library would be of great value, particularly to the Blue Ribbon Commission.

Preservation of this knowledge and associated physical records are extremely important for future waste management activities, whatever they may be. All of the more than 30 countries currently dealing with the issue of high level nuclear waste have opted for geologic isolation. Scientific information developed at considerable cost in the Yucca Mountain program should be preserved to assist in future repository development, wherever that may be.





# Sustainable Fuel Cycle TASK FORCE

www.sustainablefuelcycle.com

The Honorable Dr. Steven Chu, Ph.D.  
Secretary of Energy  
February 12, 2010  
Page Two

We believe that it would be prudent to transfer assets such as the Yucca Mountain working library to another DOE Office (e.g. the Office of Science or Nuclear Energy), the Blue Ribbon Commission or the Nuclear Waste Technical Review Board.

It would be most unfortunate for the Administration to give the appearance of being complicit in destroying a library and other important scientific information, contrary to the principles of the President's March 9, 2009, memorandum on scientific integrity because of apparent political expediency. We urge your prompt action on this important matter.

Yours sincerely,

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.

For the  
Sustainable Fuel Cycle Task Force Science Panel

Cc: Dr. John P. Holdren, Ph.D.  
Director, Office of Science and Technology, The White House

The Honorable Daniel B. Poneman  
Deputy Secretary of Energy, U.S. Department of Energy

The Honorable Dr. Kristina M. Johnson, Ph.D.  
Under Secretary, U.S. Department of Energy

The Honorable, Dr. Steven E. Koonin, Ph.D.  
Under Secretary of Science, U.S. Department of Energy

The Honorable Daniel K. Inouye  
Chairman, U.S. Senate Appropriations Committee



# **Sustainable Fuel Cycle TASK FORCE**

[www.sustainablefuelcycle.com](http://www.sustainablefuelcycle.com)

The Honorable Dr. Steven Chu, Ph.D.  
Secretary of Energy  
February 12, 2010  
Page Three

The Honorable Thad Cochran  
Vice Chairman, U.S. Senate Appropriations Committee

The Honorable David R. Obey  
Chairman, U.S. House of Representatives, Committee on Appropriations

The Honorable Henry A. Waxman  
Chairman, Committee on Energy and Commerce, U.S. House of Representatives

The Honorable Joe Barton  
Ranking Member, Committee on Energy and Commerce, U.S. House of Representatives

The Honorable Jeff Bingaman  
Chairman, U.S. Senate Energy and Natural Resources Committee

The Honorable Lisa Murkowski  
Ranking Member, U.S. Senate Energy and Natural Resources Committee

Dr. B. John Garrick, Ph.D.  
Chairman, Nuclear Waste Technical Review Board

Dr. Richard A. Meserve, Ph.D.  
Chairman, Nuclear and Radiation Studies Board, National Academy of Sciences  
&  
President, Carnegie Institution for Science

Lee H. Hamilton  
Co-Chairman, Blue Ribbon Commission on America's Nuclear Future

General Brent Scowcroft  
Co-Chair, Blue Ribbon Commission on America's Nuclear Future

Neile L. Miller  
Director, Office of Budget, U.S. Department of Energy

David K. Zabransky  
Chief Operating Officer, U.S. Department of Energy

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION  
ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges:

Thomas S. Moore, Chairman  
Paul S. Ryerson  
Richard E. Wardwell

In the Matter of

U.S. DEPARTMENT OF ENERGY

(High Level Waste Repository)

Docket No. 63-001-HLW

ASLBP No. 09-892-HLW-CAB04

February 16, 2010

ORDER  
(Granting Stay of Proceeding)

On February 1, 2010, the Department of Energy (DOE) moved for an interim suspension of discovery as well as a stay of most aspects of this construction authorization proceeding through the disposition of a further motion (which DOE stated that it will file within the next 30 days) seeking to withdraw its license application. DOE clarified that it was not requesting to stay DOE's submission addressing the Board's questions at the January 27, 2010 Case Management Conference, as well as the other parties' written responses to that filing.<sup>1</sup> On February 2, 2010, the Board granted DOE's unopposed request for an interim suspension of discovery, pending disposition of DOE's motion to stay.<sup>2</sup>

DOE's motion to stay is supported by nearly all parties.<sup>3</sup> No party or interested governmental participant has filed a timely opposition. Therefore, to avoid potentially unnecessary expenditure of resources, but with the exception noted below, the Board grants

<sup>1</sup> U.S. Department of Energy's Motion to Stay the Proceeding (Feb. 1, 2010) at 2 [hereinafter DOE Motion].

<sup>2</sup> CAB Order (Granting Interim Suspension of Discovery) (Feb. 2, 2010) (unpublished).

<sup>3</sup> DOE Motion at 3; White Pine County Notice of Non Opposition to DOE's Motion to Stay (Feb. 1, 2010); NRC Staff Response to U.S. Department of Energy Motion to Stay the Proceeding (Feb. 2, 2010).

DOE's motion to stay the proceeding until the Board resolves DOE's expected motion to withdraw its license application. The grant of this stay shall not in any way affect the Board's future actions regarding the preservation and archiving of the Licensing Support Network document collections of the parties and interested governmental participants. The Board expects to set a schedule for further filings in that regard after DOE submits a status report on its archiving plan, as promised no later than February 19, 2010.<sup>4</sup>

It is so ORDERED.

FOR THE ATOMIC SAFETY  
AND LICENSING BOARD

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Thomas S. Moore, Chairman  
ADMINISTRATIVE JUDGE

Rockville, Maryland  
February 16, 2010

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<sup>4</sup> The Department of Energy's Answers to the Board's Questions at the January 27, 2010 Case Management Conference (Feb. 4, 2010) at 4.

***Resolution on National Policy for Management and Disposal of Spent Fuel from Commercial Nuclear Power Plants***

**WHEREAS**, The Nuclear Waste Policy Act (NWPA) of 1982 sets national policy that the federal government is responsible for safe, permanent disposal of all government and commercial high-level radioactive waste, including spent nuclear fuel, in a geologic repository beginning in 1998; *and*

**WHEREAS**, Those who have benefitted from nuclear-generated electricity—reactor owners and ratepayers—under the NWPA were to pay for the commercial share of disposal costs through fees paid to the Nuclear Waste Fund; *and*

**WHEREAS**, Reactor owners and ratepayers made fee payments since 1983 totaling over \$16 billion to the Fund, which earned another \$13.5 billion in interest, to more than meet the needs of the repository development program, which encountered numerous managerial, financial, legal and political difficulties resulting in failure to meet the 1998 date set in statute and contracts with the reactor owners; *and*

**WHEREAS**, When the Department of Energy, as disposal program manager, failed to begin waste acceptance in 1998, the reactor owners sued for partial breach of contract for which the Federal Court of Appeals found the government liable; *and*

**WHEREAS**, DOE and the Justice Department estimate the liability for court-awarded damages and settlements could be as much as \$12.3 billion—if the waste were to be accepted for disposal by 2020; *and*

**WHEREAS**, The Obama Administration declared its intent to terminate the Yucca Mountain repository development program and instead has appointed the Blue Ribbon Commission on America's Nuclear Future to evaluate alternative disposal strategies and recommend a new direction that does not involve Yucca Mountain; *and*

**WHEREAS**, NARUC believes current law regarding Yucca Mountain development must be followed, however the Association must prepare itself for the possibility that the Administration may succeed in canceling the repository project; *now, therefore be it*

**RESOLVED**, That the Board of Directors of the National Association of Regulatory Utility Commissioners, convened at its 2010 Winter Committee Meetings in Washington, D.C., expresses its disappointment at having the federal government take 25 years and expend over \$10 billion on Yucca Mountain as the repository site only to have the repository project be proposed to be cancelled before the Nuclear Regulatory Commission made a safety and technical decision on the license application submitted in 2008; *and be it further*

**RESOLVED**, That NARUC call upon the Secretary of Energy not to withdraw the Yucca Mountain license application from the review process underway at the NRC; *and be it further*

**RESOLVED**, That NARUC and State utility commissions as stakeholders in the disposal policy on behalf of ratepayers—who continue to bear the ultimate cost of the fee payments to the Fund—should play an active role in representing their views to the Blue Ribbon Commission, drawing upon the multiple NARUC nuclear waste policy resolutions adopted over the past 25 years; *and be it further*

**RESOLVED**, That NARUC convey to the Commission that any alternative that leaves the spent nuclear fuel at present storage sites indefinitely, whether managed by the owners or by the government, is inconsistent with the NWPA findings of 1982 and would break faith with the communities which host those reactors with the understanding that the spent fuel would be removed by the government; *and be it further*

**RESOLVED**, That the Commission should seek to determine if there is something about a geological repository generally or Yucca Mountain specifically that makes either a poor choice, suggesting a search should begin for a new repository site; *and be it further*

**RESOLVED**, That if a new repository program is to be recommended, then a new, more transparent site selection process should be considered, a new organization might be better suited for managing it and a reformed financing means be established that more reliably supports the new disposal strategy instead of subsidizing unrelated government activities; *and be it further*

**RESOLVED**, That NARUC pro-actively inform the Commission, DOE and the Congress that there are benefits in taking an initial near-term action to provide government or industry-run central interim storage of used nuclear fuel from the nine shutdown reactor sites, since it seems that whatever new disposal or reprocessing strategy is pursued, it will be unlikely to be in operation for another twenty or more years; *and be it further*

**RESOLVED**, That the federal government and owners of spent nuclear fuel should be encouraged to simplify and make equitable settlements over the ongoing litigation that provides payment for past expenses that the owners should not have to have incurred had DOE provided the “disposal services” agreed in the Standard Contracts; and to develop a regime for forecasting future payments without court-ordered judgments including suspension of Nuclear Waste Fund fee payments unless and until a revised program is agreed upon or the Yucca Mountain Project is fully restarted.

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*Sponsored by the Committees on Electricity and Energy Resources and the Environment  
Adopted by the NARUC Board of Directors February 17, 2010*



**Department of Energy**  
Washington, DC 20585

FEB 17 2010

The Honorable Peter J. Visclosky  
Chairman, Subcommittee on Energy  
and Water Development  
Committee on Appropriations  
United States House of Representatives  
Washington, DC 20515

Dear Mr. Chairman:

This letter is to notify you of the Department of Energy's (DOE) use of reprogramming authority, as provided in the Conference Report accompanying the Energy and Water Development and Related Agencies Appropriations Act, 2010 (Pub. L. No. 111-85). This authority is being exercised by DOE to reprogram a total of approximately \$115,000,000 within the Office of Civilian Radioactive Waste Management. Within this, approximately \$85,000,000 will be programmed within the Repository Program control point and approximately \$30,000,000 within the Program Direction control point for Yucca Mountain Project and program office termination activities within the Nuclear Waste Disposal and Defense Nuclear Waste Disposal appropriations.

As stated in the President's Budget for Fiscal Year (FY) 2010, the Administration has determined that Yucca Mountain is not a workable option for the long-term management of used nuclear fuel and that we can develop a better solution to this challenge. As a result, we do not believe it would be prudent to continue to spend tens of millions of dollars on the license application. Accordingly, the Department will discontinue its application to the U.S. Nuclear Regulatory Commission (NRC) for a license to construct a high-level waste geologic repository at Yucca Mountain. On Monday, February 1, 2010, the Department filed a motion with the NRC to stay all proceedings for 30 days. During this time, we will withdraw the application pursuant to NRC rules.

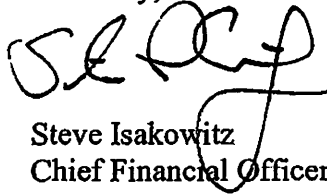
The Department intends to dedicate the remaining funds available in FY 2010 to bring the Yucca Mountain Project to an orderly close. Closeout activities include workforce transition actions for Federal and national laboratory employees; payoff and closure of the management and operating contractor's defined benefit pension plan; cancellation of contracts, including issuance of Worker Adjustment and Retraining Notification (WARN) Act notices for certain contractor employees; cancellation of leases for office space when vacated; preparation of the repository site for surveillance and maintenance pending remediation; and archiving of project and program documents and scientific material so that the lessons learned during this process are not lost. The Department intends to complete these activities by the end of FY 2010.



We continue to evaluate the scope, timing, and sequence of closeout actions based on ending licensing activities with the NRC. The Department is committed to keeping the Committees informed of our plans to make use of FY 2010 funds for closeout and termination activities.

Thank you for your continuing support of DOE's programs. If you have any questions, please have your staff contact Ms. Tara Hicks, Office of External Coordination, at (202) 586-7487.

Sincerely,

A handwritten signature in black ink, appearing to read 'SE Isakowitz', with a large flourish at the end.

Steve Isakowitz  
Chief Financial Officer

Enclosures

cc: The Honorable Rodney P. Frelinghuysen  
Ranking Member





State of South Carolina  
Office of the Governor

MARK SANFORD  
GOVERNOR

POST OFFICE BOX 12267  
COLUMBIA 29211

Gov  
Karin  
John K

February 19, 2010

The Honorable John Baldacci  
State of Maine  
One State House Station  
Augusta, Maine 04333

Dear John,

In President Obama's FY 2011 Budget, he formally announced a decision to abandon the 23-year bipartisan project establishing Yucca Mountain as the nation's primary permanent nuclear waste storage site. This decision threatens to leave nuclear waste at both commercial and U.S. Department of Energy (DOE) facilities across the nation rather than a single, secure permanent repository. Also, this decision is spectacularly misguided and breaks a promise to our respective citizens made nearly three decades ago. Whether with Reagan, Bush, Clinton, or Bush, this bipartisan accord has stood through Republican and Democratic administrations alike.

Today, our states are storing tens of thousands of metric tons of nuclear waste in temporary sites – sites not suitable for long-term storage – and the Obama Administration's decision violates the letter of the law by extending the length of time our states are forced to store this nuclear waste. What's worse is that this decision was not made on new scientific discoveries, but rather, largely on political grounds. The Administration could not provide *any* reason for shutting down Yucca Mountain, other than saying Yucca is "no longer suitable."

This decision will have dangerous consequences for our states, and I am asking your respective state to join us in pushing back against this decision.

When Congress passed the Nuclear Waste Policy Act in 1982, it set the stage for a safe and suitable *permanent* nuclear waste repository. In 1987, Congress designated Yucca Mountain as the only option for a long-term storage site, and Congress reaffirmed its decision in 2002. Even though legal challenges have prevented the DOE from taking waste, Congress remains committed to using Yucca Mountain as the permanent site. In fact, last July, the House of Representatives voted 388-30 not to defund the Yucca Mountain project in the FY 2010 federal budget.

Since 1982, our states' taxpayers have paid roughly *\$30 billion* into the nuclear waste fund. Meanwhile, the total spent for the preparation and construction of a permanent storage site at Yucca Mountain has been more than \$10 billion. The result of the Obama Administration's decision will be that taxpayers will get nothing – literally nothing – in return. Adding insult to injury, at this point the federal government refuses to return these payments to help utilities offset the mounting costs for their supposedly temporary storage of nuclear waste.

The Honorable John Baldacci

Page 2

February 19, 2010

Further, due to the DOE's failure to meet its obligations, our taxpayers are on the hook for \$1.5 billion in court judgments. Allowing this dangerous decision to stand will only up the ante when it comes to taxpayers' cost because they are footing the bill on both ends of the equation, resulting in added costs of as much as \$500 million annually just to defend and settle ongoing lawsuits.

But the Yucca Mountain decision is more than an affront to our states' taxpayers and the Congress – it is a severe safety and national security issue. Due to delays in opening Yucca Mountain (which was supposed to begin accepting waste in 1998), nuclear waste is stored at over 120 locations across the country, with 160 million Americans living within 75 miles of one of these sites. The presence of so many storage facilities throughout the United States presents a potential national security threat because each storage site could be a target for terrorism. Yucca Mountain would help alleviate many of these concerns by consolidating nuclear waste storage in a single, secure location.

Additionally, the Administration has recently expressed support for expanding loans to spur the construction of new nuclear reactors. This support for building new nuclear reactors should be applauded, but it is short-sighted if that support comes with ceasing construction of a long-term nuclear storage facility. The Administration has established a bipartisan Commission to study the issue and make recommendations *two years* from now. With all due respect, the Commission will be led by former members of Congress, not scientific experts. Not to mention, Washington is already littered with studies and recommendations put forth by Commissions that have gone no further than the printing press.

The Administration's decision to shutter the Yucca Mountain project will have long-term, negative effects on our states and the nation as a whole. Given the express commitment, over nearly three decades, by Congress to storing nuclear waste at Yucca Mountain, the best solution still lies in finishing the job there. We ask for your assistance in pushing the Obama Administration and Congress to complete the permanent repository that Congress taxed our citizens to build.

If the Obama Administration is not willing to step back from their overtly political decision on Yucca Mountain, or return funds drawn from the states for this project, then I think states will be forced to collectively explore other options – and I believe that given the history of 27 years of bipartisan accord this would be most unfortunate.

We look forward to working with you on this issue. If you have any questions, please do not hesitate to contact me.

Sincerely,



Mark Sanford

MS/jl

## **ENERGY COMMUNITIES ALLIANCE**

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February 25, 2010

The Honorable Steven Chu  
Secretary, U.S. Department of Energy  
1000 Independence Avenue  
Washington, DC 20585

**Subject: Department of Energy Must Address High-Level Waste and Spent Fuel Issues with Local Communities in Light of Recent Decision to Abandon Yucca Mountain**

Dear Secretary Chu:

In December, Energy Communities Alliance (ECA), the organization of local communities adjacent to and impacted by DOE facilities, wrote to you and expressed concern about DOE's plans to abandon Yucca Mountain as a geological depository for high-level waste and spent fuel. In that letter ECA asked that DOE: 1) Engage local communities and governments on high-level waste and spent fuel decisions; and 2) Analyze the impact of DOE's decision to leave defense high-level waste and spent fuel in communities.

On February 2, 2010, DOE filed a request to suspend the Yucca Mountain license application and announced plans to withdraw it completely within a month. Some leaders have suggested that sites, including ECA member communities that currently host high-level waste and spent fuel, may become long-term storage sites. To date, ECA member communities and local governments have received little information from DOE on your plans to address the safe, long-term storage, and ultimate disposition of high-level waste and spent fuel in our communities. ECA communities and local governments are concerned about the risks and impacts of leaving the waste in place, and are frustrated by the lack of communication that has come from DOE on the issue. ECA believes that DOE should clarify its position on high-level waste and spent fuel and open a formal dialogue with our members to discuss questions including:

- What is DOE's plan to address high-level waste and spent fuel?
- How long will it take DOE to address high-level waste and spent fuel in communities?
- What is the environmental impact of the decision to abandon the NRC's license review for Yucca Mountain to determine if it is safe and the right place to dispose of high-level waste and spent fuel?

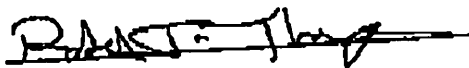
- What is the risk to communities of keeping waste at the sites indefinitely?
- Will DOE propose that an independent agency regulate DOE defense high-level waste and spent fuel to ensure protection of human health and the environment?

A central tenet of environmental health and safety is to communicate with the communities that are most impacted by the decision. In the past, DOE has engaged individual communities when decisions regarding health and safety arise in that community. In this instance, DOE's silence and unwillingness to address these issues only raises concerns.

In order to address the potential risk to communities, ECA believes **DOE should begin to analyze the safety and the impact on the environment in communities forced to store high-level waste and spent fuel as a result of the decision to terminate Yucca Mountain. DOE should provide local governments with funds to acquire third party technical assistance to analyze the impacts and monitor the storage of high-level waste and spent fuel in our communities.** As we stated in our December letter, ECA is very knowledgeable on these defense high-level waste and spent fuel issues and has worked with communities, DOE, Congress and industry - most recently on discussions of reprocessing and interim storage. ECA hopes to work with you to find a sustainable path forward that is both environmentally sound and in the taxpayers' best interest. We believe a formal meeting between local community representatives and DOE is a critical first step in finding a solution for the disposal of high-level waste and spent fuel.

If you have any questions, please contact me or Seth Kirshenberg, Executive Director, at Energy Communities Alliance at 202-828-2494.

Sincerely,



Robert Thompson, Chair  
Energy Communities Alliance,  
Council Member, Richland, WA

cc: Energy Communities Alliance Board of Directors  
Deputy Secretary Daniel Poneman, DOE  
Administrator Thomas D'Agostino, National Nuclear Security Administration  
Assistant Secretary Inés Triay, DOE-EM  
Dr. David Miller, Office of Nuclear Energy, DOE  
Senator Byron Dorgan, Chair, Senate Committee on Appropriations Subcommittee on Energy and Water Development  
Senator Robert Bennett, Ranking Member, Senate Committee on Appropriations Subcommittee on Energy and Water Development  
Senator Jeff Bingaman, Chair, Senate Committee on Energy and Natural Resources

Senator Lisa Murkowski, Ranking Member, Senate Committee on Energy and Natural Resources

Senator Carl Levin, Chair, Senate Armed Services Committee

Senator John McCain, Ranking Member, Senate Armed Services Committee

Senator Patty Murray

Senator Maria Cantwell

Senator Mike Crapo

Senator James Risch

Senator Lindsey Graham

Senator Jim DeMint

Senator Harry Reid

Senator John Ensign

Representative Peter Visclosky, Chair, House Committee on Appropriations  
Subcommittee on Energy and Water Development

Representative Rodney P. Frelinghuysen, Ranking Member, House Committee on  
Appropriations Subcommittee on Energy and Water Development

Representative Henry Waxman, Chair, House Committee on Energy and Commerce

Representative Joe Barton, Ranking Member, House Committee on Energy and  
Commerce

Representative Ike Skelton, Chair, House Armed Services Committee

Representative Howard McKeon, Ranking Member, House Armed Services Committee

Representative Doc Hastings

Representative Norm Dicks

Representative Mike Simpson

Representative James Clyburn

Representative Adam Smith

Representative Shelly Berkley

Representative Dean Heller

Representative Dina Titus

National Governors Association

National Conference of State Legislatures

National Association of Attorneys General

State and Tribal Government Working Group

Environmental Council of the States

**JOHN KLINE**  
2<sup>ND</sup> DISTRICT, MINNESOTA

COMMITTEE ON EDUCATION AND LABOR  
SENIOR REPUBLICAN

COMMITTEE ON ARMED SERVICES



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KLINE.HOUSE.GOV

UNITED STATES  
HOUSE OF REPRESENTATIVES

February 26, 2010

The Honorable Lee Hamilton  
LtGen Brent Scowcroft, USAF (Ret.)  
Blue Ribbon Commission on America's Nuclear Future  
U.S. Department of Energy  
1000 Independence Avenue SW  
Washington, DC 20585-1000

Dear Congressman Hamilton and Lieutenant General Scowcroft:

Congratulations on your recent appointment to the Department of Energy Blue Ribbon Commission on America's Nuclear Future. As you may know, the Prairie Island Indian Community, near Red Wing, Minnesota, which is located in my Congressional District, is the site of one of two nuclear generating plants in the State of Minnesota. I am very concerned about the issue of nuclear waste storage as it pertains to my Congressional District and the future of nuclear energy in our country.

During this year's State of the Union Address, I was pleased to hear President Obama state before Congress and the American people that we need invest and build a new generation of safe, clean nuclear power plants in this country. I also appreciate Secretary Chu's commitment to develop a safe long-term solution to managing the nation's nuclear waste.

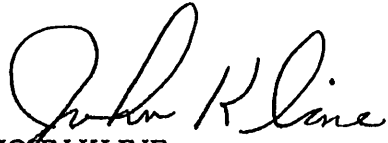
While I welcome these recent developments, I am troubled that the President's Fiscal Year 2011 budget terminates the application of the Yucca Mountain Nuclear Waste Repository to the Nuclear Regulatory Commission (NRC). According to the Administration, they have "determined that Yucca Mountain, Nevada, is not a workable option for a nuclear waste repository." The budget cuts all funding for development of the facility, transportation access, and additional engineering. It is important to note that Yucca Mountain is still by law the nation's solution for spent nuclear fuel, and the President's budget raises questions about how the license can be pulled without exposing the U.S. Government to potentially billions of dollars in liability payments. Under the Department of Energy's contract with utilities, the government was supposed to start taking spent fuel from power plants by 1998 (which is currently being stored at sites across the country). This decision to scrap Yucca Mountain as a solution for spent fuel increases uncertainty for industry and jeopardizes the future of nuclear power in the U.S. Yucca is the only permanent storage option already approved by Congress.

While I appreciate the formation of the Blue Ribbon Commission on America's Nuclear Future to review and make recommendations on issues for the storage, processing, and disposal of spent nuclear fuel and waste, I respectfully request that you do not take the Yucca Mountain Nuclear Waste Repository off the table as a viable storage site for radioactive waste management.

Communities like Prairie Island and the City of Red Wing, in my Congressional District and throughout the country, need to have the ability to remove nuclear waste from its premises for the safety and security of its residents.

Thank you for your attention to this critical matter. I look forward to hearing from you.

Sincerely,

  
JOHN KLINE  
Member of Congress

cc: Secretary of Energy Steven Chu