

MAINE STATE LEGISLATURE

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State Nuclear Safety Inspector Office
Maine CDC – DHHS

November 2011 Monthly Report to the Legislature

Executive Summary

As part of the State's long standing oversight of Maine Yankee's nuclear activities, legislation was enacted in the second regular session of the 123rd 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.

The report covers activities at the storage facility, including the State's on-going environmental radiation surveillance and the post decommissioning groundwater monitoring program, the national debate over the licensing and construction of a geologic repository for the disposal of spent nuclear fuel at Yucca Mountain in Nevada. The report's highlights assist readers to focus on the significant activities that took place during the month, both locally and nationally.

LOCAL:

- On two separate occasions Central Maine Power performed maintenance on the Maine Yankee 345 kV switchyard to improve the reliability of their transmission system. Both maintenance activities resulted in a temporary loss of power. The first lasted thirty minutes with the second lasting about a second. The emergency diesel did start on the first occasion, but the second event was so short the diesel never started. In both instances all systems functioned as expected.
- The State Inspector notified the Department of Environment Protection (DEP) that he had completed his review of Maine Yankee's responses to the State's five pages of comments on Maine Yankee's fifth and final groundwater report. The State Inspector recommended closure for all the radiation tasks associated with the post decommissioning groundwater radiation monitoring agreement between Maine Yankee and the DEP.

The national highlights primarily focused on Nuclear Regulatory Commission activities as noted below and included:

National:

- The Nuclear Regulatory Commission held a technical exchange and conference to discuss technical and regulatory issues associated with spent fuel storage and transportation.
- The U.S. Court of Appeals granted petitioners from the states of South Carolina and Washington, Aiken County in South Carolina, Nye County in Nevada, the three business leaders from the Tri-City area near the Hanford site in Washington, and the National Association of Regulatory Utility Commissioners an expedited review of the Nuclear Regulatory Commission's cessation of the Yucca Mountain licensing proceedings.
- The Blue Ribbon Commission on America's Nuclear Future announced the formation of an Ad Hoc Subcommittee on Co-mingling of Defense and Commercial Waste, which will focus on whether the 1985

decision to co-mingle the waste streams for disposal was still appropriate given the changes within the last 26 years.

- The Inspector General for the Department of Energy issued a Special Report: "Management Challenges at the Department of Energy". The report concluded that due to the termination of the Yucca Mountain Project and the uncertainty it created for disposing of spent commercial nuclear waste and high-level defense waste, nuclear waste disposal is now considered a significant management challenge.
- Senator Kirk from Illinois along with thirty other Senators, including Senators Snowe and Collins, sent a letter to the Senate's and House's Subcommittees on Energy and Water Development encouraging support for the House's Appropriations Bill funding \$45 million for the continuation of the Yucca Mountain licensing proceedings.
- The Nuclear Regulatory Commission upheld their Atomic Safety and Licensing Board Orders over the Commission Staff's objections for all the parties involved in the Yucca Mountain licensing proceedings to submit their document collections to the Secretary of the Commission for preservation.

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 123rd 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 and by clicking on the nuclear safety link in the left hand margin.

Commencing with the January 2010 report the glossary and the historical perspective addendum are no longer included in the report. Instead, this information is available at the Radiation Control Program's website noted above. In some situations the footnotes may include some basic information and may redirect the reviewer to the website.

Independent Spent Fuel Storage Installation (ISFSI)

During November the general status of the ISFSI was normal, with no instances of spurious alarms due to environmental conditions.

There were no fire- or security-related impairments. However, there were twenty-five security events logged for the month with twenty-three on transient camera issues due to environmental conditions. The other two events were related to radio issues as indicated by the two condition reports¹ below.

1st CR: Issued to track open items from the annual emergency drill held on October 27th.

2nd CR: Documented that the visitor access list was not properly updated during one of the shift turnovers.

3rd CR: Issued to address intermittent transmission problems with one of the base radios.

4th and 5th CRs: Were written to track open items from a routine external Quality Assurance Surveillance of the non-security related programs at the site, such as radiation protection, industrial safety, fire protection, emergency preparedness, etc.

6th CR: Issued to address additional intermittent transmission problems with one of the base radios that involved a separate channel compared to the first instance.

Other ISFSI Related Activities

1. On 11/7 and 11/14 Central Maine Power performed maintenance on the 345 kV switchyard at the Maine Yankee site. Both maintenance activities resulted in a temporary loss of power. The first lasted thirty minutes with the second lasting about a second. The emergency diesel did start on the first occasion, but the second event was so short the diesel never started. In both instances all systems functioned as expected.

¹ 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.

2. On 11/22-23 no additional measures were instituted for the snowstorm as its impact on the coast was much less than what was experienced away from the coast.

Environmental

There is no information to report this month.

Groundwater Monitoring Program

On November 30th the State Inspector notified the Department of Environment Protection (DEP) that he had completed his review of Maine Yankee's responses to the State's five pages of comments on Maine Yankee's fifth and final groundwater report. The State Inspector recommended closure for all the radiation tasks associated with the post decommissioning groundwater radiation monitoring agreement between Maine Yankee and the DEP.

Other Newsworthy Items

1. On November 1st the Nuclear Regulatory Commission (NRC) held a technical exchange to discuss technical issues on two topics related to spent nuclear fuel. The first dealt with the interfaces between storage and transportation casks. The NRC presented their views on such topics as nuclear criticality safety, high burn-up, (a measure of how much energy is extracted from the nuclear fuel), and retrievability of the cask contents. The nuclear industry presented their perspectives on the same issues. The second topic focused on seismic issues for dry storage casks with industry updates on existing technical issues, such as computer codes and how the dry casks stored at the North Anna nuclear power plant performed during the August 2011 Virginia earthquake. A copy of the agenda is attached.
2. On November 2nd the Nuclear Waste Strategy Coalition (NWSC) held its first bi-monthly conference call to update its membership on Congressional Fiscal Year 2012 appropriation efforts and hearings on the Blue Ribbon Commission's draft report, the NWSC comments on the Blue Ribbon Commission's draft recommendations, and the status of the two lawsuits pending before the U. S. Court of Appeals for the DC Circuit on the withdrawal of the Yucca Mountain license application and the Nuclear Waste Fund fees. The NWSC is an ad hoc group of state utility regulators, state attorneys general, electric utilities and associate members representing 45 stakeholders in 32 states, committed to ensuring that the Department of Energy and Congress carry out the principles outlined in the Nuclear Waste Policy Act, as amended.
3. On November 2nd-3rd the Nuclear Regulatory Commission (NRC) held its annual Spent Fuel Storage and Transportation Regulatory Conference. The two day Conference concentrated on regulatory issues such as licensing improvements, rules and guidance updates, improvements to storage programs, inspection improvement activities, and regulatory challenges in the transportation of radioactive materials used in radiography, fresh fuel, waste, and medical facilities. A copy of the agenda is attached.
4. On November 3rd the Blue Ribbon Commission (BRC) on America's Nuclear Future sent a letter to the members of the Joint Select Committee on Deficit Reduction urging the Committee to consider as part of their deficit deliberations to maintain the original purpose of the Nuclear Waste Fund to ensure revenues are available to fund the nation's nuclear waste management program and not divert funds to the Treasury. The BRC recommended in their July 29th draft recommendations report that

the utilities pay only a portion of the current fee that is commensurate with what Congress appropriated for waste management each year with the remainder placed in a trust for future needs. A copy of the letter is attached.

5. On November 4th the U.S. Court of Appeals for the District of Columbia issued an Order granting the petitioners' (the states of South Carolina and Washington, Aiken County in South Carolina, Nye County in Nevada, the three business leaders from the Tri-City area near the Hanford site in Washington, and the National Association of Regulatory Utility Commissioners) motion to expedite the review of the Department of Energy's and the Nuclear Regulatory Commission's dismantling of the Yucca Mountain Project and license application proceedings. Besides establishing the expedited briefing schedule, the Order also granted the State of Nevada the right to intervene. A copy of the Order is attached.
6. On November 7th the Department of Energy's Designated Federal Officer assigned to the Blue Ribbon Commission sent a letter to the Blue Ribbon Commission (BRC) authorizing the BRC to form an Ad Hoc Committee to review and recommend to the Commission whether defense high-level radioactive waste should be co-mingled with commercial spent nuclear fuel. A copy of the letter is attached.
7. On November 9th the Blue Ribbon Commission (BRC) responded to the South Carolina's Congressional delegation's October 27th letter to the BRC. The BRC letter reaffirmed that they were not a siting Commission and will not recommend specific disposal locations or discuss the merits of the shuttered Yucca Mountain Project. A copy of the letter is attached.
8. On November 9th the Blue Ribbon Commission announced the formation of an Ad Hoc Subcommittee on Co-mingling of Defense and Commercial Waste. The Subcommittee was established in response to a series of BRC public meetings seeking stakeholder input to the Commission's July 29th draft report. The Subcommittee's review will focus on whether the 1985 decision to co-mingle the wastes for disposal was still appropriate given the changes within the last 26 years. A copy of the news release is attached.
9. On November 10th the Inspector General for the Department of Energy (DOE) issued a Special Report: "Management Challenges at the Department of Energy". The Office of Inspector General yearly issues a report on the most significant challenges facing the Department. This year the report stated "Additionally, due to the decision to terminate the Yucca Mountain Project and the remaining uncertainty as to the path forward for disposing of spent commercial nuclear waste and high-level defense waste, we now consider Nuclear Waste Disposal to be a significant management challenge." The report went on to list other challenges such as cyber security, energy supply, clean-up of multiple nuclear weapons sites and cutting costs at the DOE's national laboratories.
10. On November 12th the Savannah River Site Community Reuse Organization ran an advertisement in the Aiken Standard identifying the need for Yucca Mountain. The timing of the ad coincided with the Republican presidential debate in South Carolina. The ad illustrated the federal government's current nuclear waste storage policy and the extent and magnitude of the issue. A copy of the ad is attached.
11. On November 16th the Nuclear Waste Strategy Coalition (NWSC) held its second bi-monthly conference call to update its membership on the same topics covered in its first conference call on November 2nd. The discussions concentrated on the Senate's continuing resolution deliberations on whether to fund the Yucca Mountain Project. The granting of an expedited review by the U.S. Court of Appeals was viewed as a positive step in resolving the Yucca Mountain impasse. There was some

discussion about Congress possibly extending the Blue Ribbon Commission's work beyond its final report due date of January 29, 2012.

12. On November 17th the Blue Ribbon Commission (BRC) published in the Federal Register that it will hold its last public meeting prior to issuing its final report in January 2012. The purpose of the meeting will be for the Co-Chairs for the three Subcommittees (Reactor and Fuel Cycle Technology, Transportation and Storage, and Disposal) to review with the full Commission their proposed revisions to their draft recommendations as a result of public comments on the full Commission's July 29th draft report. In addition, the newly formed Ad Hoc Subcommittee on the co-mingling of defense and commercial nuclear wastes will present their findings of their investigation.

13. On November 18th Senator Mark Kirk of Illinois avoided an appropriation showdown over Yucca Mountain with Senate Majority Leader Harry Reid from Nevada when he and thirty other Senators signed a letter that was sent to the Chairs of the Senate's and House's Subcommittees on Energy and Water Development encouraging bipartisan support for the House's Appropriations of \$45 million from the Nuclear Waste Fund for the continuation of the Yucca Mountain licensing proceedings. \$25 million was earmarked for the Department of Energy with the Nuclear Regulatory Commission receiving the remainder. Maine's Senators Snowe and Collins were both signatories to Senator's Kirk letter. Copies of the press release and letter are attached.

14. On November 29th the Nuclear Regulatory Commission (NRC) issued an Order denying the NRC Staff's requests to reverse two previous Atomic Safety and Licensing Board (ASLB) Orders issued on April 11th and June 9th that had directed the parties involved in the Yucca Mountain licensing application proceedings to submit their Yucca Mountain document collections to the Secretary of the NRC for preservation. The Staff had opposed both Orders since it imposed significant financial burdens without addressing budgetary and administrative issues. The Commission noted that the NRC Staff's documents were available through the NRC's public document system and all the other parties, including the Department of Energy which possessed 98.8% of the Yucca Mountain documents, complied with the ASLB's Orders. Therefore, the Commission upheld the Board's original Orders and denied the Staff's requests.

15. On November 30th the Nuclear Waste Strategy Coalition (NWSC) held its third bi-monthly conference call and updated its membership on the same topics covered in its previous bi-monthly conference calls this month. The discussions also centered on Senator Mark Kirk's letter garnering support from 30 other Senators over the Yucca Mountain Project, the upcoming briefings at the U.S. Court of Appeals over Yucca Mountain and the Nuclear Waste Fund fee, and the December 2nd Blue Ribbon Commission meeting to finalize the three Subcommittees draft recommendations based on recent public input.

2011 SFST TECHNICAL EXCHANGE AGENDA

November 1, 2011, 8:30 a.m. – 4:45 p.m. (Eastern Daylight Time)

Executive Boulevard Building, Room 1-B-13/B-15

- 7:30 a.m. – 8:30 a.m. Check-in (Security) and Registration
- 8:30 a.m. – 8:45 a.m. Welcome and Opening Remarks*
Doug Weaver, Deputy Division Director, NRC/SFST
- 8:45 a.m. – 9:00 a.m. Morning Break to convene into technical panel sessions
- 9:00 a.m. – 12:00 p.m. Concurrent Morning Technical Sessions

<p align="center">Interfaces Between Storage and Transportation Casks**</p> <p align="center">Moderator: Meraj Rahimi, Branch Chief, NRC/SFST</p> <p align="center">Room EBB-1-B-13</p>	<p align="center">Seismic Issues for Dry Cask Storage Systems and Industry Update on Existing Technical Issues***</p> <p align="center">Moderator: David Pstrak, Branch Chief, NRC/SFST</p> <p align="center">Room EBB-1-B-15</p>
<p>Panel Discussion on High Burnup Fuel</p> <p>Purpose: This session will include discussions on alternatives for addressing criticality safety requirements for high burnup fuel transportation.</p> <p>NRC's View on Cladding Material Properties – Bob Einziger</p> <p>Industry's View on Cladding – Albert Machiels, EPRI</p> <p>NRC's View on Moderator Exclusion – John Vera</p> <p>Industry's View on Moderator Exclusion – Charles Pennington, NAC; and Dana K. Morton, INL</p> <p>NRC's View on Reconfiguration – David Tang and Zhian Li</p> <p>Industry's View on Reconfiguration – Albert Machiels, EPRI</p>	<p>Panel Discussion on Stack – Up Analysis</p> <p>Purpose: Discuss methodologies for conducting analysis of the free-standing stackup configuration during vertical dry cask spent fuel loading operations.</p> <p>NRC's View on Stack-Up Analysis – Gordon Bjorkman</p> <p>Industry's View on Stack-Up Analysis – Chuck Bullard, Holtec; Bruce Henley, Luminant; and Michael Yaksh, NAC</p>

12:00 p.m. – 1:00 p.m. Lunch

1:00 p.m. – 3:45 p.m. Concurrent Afternoon Technical Sessions

<p>Interfaces Between Storage and Transportation Casks</p> <p>Moderator: Meraj Rahimi, Branch Chief, NRC/SFST</p> <p>Room EBB-1-B-13</p>	<p>Seismic Issues for Dry Cask Storage Systems and Industry Update on Existing Technical Issues</p> <p>Moderator: David Pstrak, Branch Chief, NRC/SFST</p> <p>Room EBB-1-B-15</p>
<p>Panel Discussion on Part 71/72 Interface</p> <p>Purpose: This session will focus on the retrievability requirements (by assembly/canister), casks/contents integrity after a period of storage and the use of a common criticality safety method for satisfying requirements both under 10 CFR 71 and 72.</p> <p>NRC's View on Retrievability – Earl Easton</p> <p>Industry's View on Retrievability – Adam Levin, Exelon Corporation</p> <p>NRC's View on Acceptance Testing and Aging Management – Bob Einziger</p> <p>Industry's View on Acceptance Testing and Aging Management – Jim Connell, Maine Yankee</p> <p>NRC's View on Burnup Credit vs. Boron Credit – Drew Barto</p> <p>Industry's View on Burnup Credit vs. Boron Credit – Prakash Narayanan, Transnuclear</p>	<p>Panel Discussion on the Status of the North Anna Nuclear Power Plant Earthquake Event and ISFSIs</p> <p>Purpose: Provide a status update of the North Anna Earthquake Event and discuss the performance of the ISFSIs at the North Anna Power Station during the earthquake that took place on Tuesday, August 23, 2011.</p> <p>NMSS/SFST's View on the North Anna Earthquake Event – Bob Tripathi and Gordon Bjorkman</p> <p>Panel Discussion on Industry's Update on Regulatory Issues Resolution Protocol (RIRP) Activities</p> <p>Purpose: To receive an update from industry on the two pilot RIRP activities:</p> <ul style="list-style-type: none">- Marine Corrosion: Keith Waldrop, EPRI- Top Nozzle: Brian Gutherman, Gutherman Technical Services

3:45 p.m. – 4:00 p.m. Break to reconvene in room EBB-1B-13/15

4:00 p.m. – 4:30 p.m. Stakeholder questions and feedback

4:30 p.m. – 4:45 p.m. Closing Remarks

Final Agenda
2011 SFST Regulatory Conference
Conference Theme: "Openness"

The SFST Regulatory Conference is an annual forum to discuss NRC regulatory issues involving spent fuel storage, and the transportation of radioactive material. The Conference provides an opportunity to share with interested stakeholders our regulatory perspectives and initiatives on pertinent licensing, inspection, and regulatory challenges. The forum also provides an opportunity for stakeholders to share experiences and provide insights on improving regulatory oversight in spent fuel storage and transportation. The NRC has objectives of improving openness, regulatory effectiveness, and predictability, while ensuring public health and safety in the storage of spent nuclear fuel and transportation of radioactive material. It is a goal of this conference to achieve these objectives through constructive dialogue with our stakeholders. This year, the conference will come after a separate Technical Exchange Meeting on Spent Nuclear Fuel (November 1, 2011), to discuss in-depth, technical topics related to the storage and transportation of spent nuclear fuel.

Day 1 – Wednesday, November 2, 2011

7:30 - 8:15 AM – Conference Check-in

8:15 - 8:30 AM – Welcome and Introduction – Cathy Haney, Director Office of Nuclear Material Safety and Safeguards, NRC

8:30 - 9:00 AM – Keynote Speaker (NRC Chairman Gregory Jaczko)

9:15 - 11:15 AM – Panel 1: Licensing Program Improvements (Mike Waters – Session Chair)

This session will focus on near term initiatives regarding license program improvements.

Session Introduction – Rod McCollum, Nuclear Energy Institute

1. *Overview of Near-Term Licensing Improvements* – Kristina Banovac, NRC
2. *Improving Scope of Review and Fee Estimation for License Reviews* – Jennifer Davis, NRC
3. *Stakeholder Views on NRC Fee Estimation* – Stefan Anton, Holtec International
4. *Experience with OI-14 Acceptance Reviews and Requests for Additional Information* – Jennie Rankin, NRC
5. *Industry views on RAIs and Acceptance Reviews* – Wren Fowler, NAC International

11:15 AM - 12:45 PM – Lunch
12:45 - 2:30 PM – Panel 2: Rules and Guidance Updates (Kimberly Hardin – Session Chair) This session will focus on recent and future changes in NRC rules, guidance, and procedures regarding spent fuel storage and transportation regulation. *Overview of Recent and Future Rule and Guidance Changes* – Dan Huang/Matt Gordon, NRC

1. *Frequently Asked Questions for Cask Certificate Renewals* – John Goshen, NRC
2. *Certificate of Compliance Renewals* – Tammy Morin, Holtec International
3. *Highlight of Draft ISG-26A "Radiation Protection"* – Michel Call, NRC
4. *Industry Views on Part 50/72 Interface* – Terry Sides, Southern Nuclear

2:45 - 4:30 PM – Panel 3: Improvements to Storage Regulatory Programs Related to Change Authority under 10 CFR 72.48 and Standardized Technical Specifications (Jennifer Davis – Session Chair)

This session will focus on improvements to regulatory programs related to 10 CFR 72.48 change authority during operations and implementation of standardized technical specifications during licensing. The NRC views these as two important areas with opportunities for improvement, given the past 20 years of licensing and operational experience to draw upon. These two areas have also been identified by some stakeholders as areas in which regulatory predictability and consistency could be improved.

1. *NRC Program Improvements to 72.48 Inspection Reviews – Ray Wharton, NRC*
2. *72.48 Guidance Update – Zita Martin, Tennessee Valley Authority*
3. *NRC considerations for Updating Technical Specification and CoC Guidance – Bernard White, NRC*
4. *Industry viewpoints on Standard Technical Specifications – Brian Gutherman, Gutherman Technical Services*

4:45 - 5:15 PM – Summary Discussion of Panels (Facilitated by Steve Ruffin)

Day 2 – Thursday, November 3, 2011

7:30 - 7:45 AM – Welcome Remarks – Vonna Ordaz, Director, Division of Spent Fuel Storage and Transportation

7:45 - 9:30 AM – Panel 4: Generic Issues Management (Eric Benner – Session Chair)

This session will focus on how to best manage generic issues in licensing and inspection.

1. *SFST Development of Processes for Generic Issue Management* – Norma Garcia-Santos, NRC/SFST
2. *Impact of Generic Issues on Individual Licensees* - Suzanne Leblang, Entergy
3. *Lessons learned from RIRP pilots* – Sara DePaula, NRC
4. *Industry Developed Generic Issue Resolution Programs* – Marc Nichol, NEI

10:00 - 11:30 AM – Panel 5: Inspection Improvement Activities (Eric Benner – Session Chair)

This session will share status of the recently performed improvement evaluation discussed at the July 27, 2011, workshop. The workshop meeting notice is located at ADAMS Accession No. ML11157A117 accessible from the NRC Web site at <http://www.nrc.gov/NRC/ADAMS/index.html>.

1. *Task Force Efforts and Recommendations* – Tom Matula, NRC/NMSS
2. *Regional Experiences and Challenges* – Christine Lipa, NRC Region III
3. *Exelon Experience and Observations with Regulatory Oversight / Inspections of Dry Cask Storage Implementation and Operations* – Ray Termini, Exelon
4. *Industry Experiences and Challenges* – Stefan Anton, Holtec International

11:30 AM - 1:00 PM – Lunch

1:00 - 3:30 PM – Panel 6: Non-Spent Fuel Transportation Challenges (Michele Sampson – Session Chair)

This session will focus on regulatory challenges in the radiography, fresh fuel, waste, and medical isotope transportation arena. The radioactive materials transportation program represents a broad spectrum of stakeholders and regulatory challenges, whose issues may be unique from those specific to spent nuclear fuel storage and transportation.

A panel of industry experts will discuss their experience, challenges, and lessons learned from recent transportation licensing actions:

- Michael Valenzano – AREVA
- Peter Vescovi – Transport Logistics International
- Mark Whittaker – Energy Solutions
- Kate Roughan – QSA Global
- Troy Hedger – Alpha Omega Services
- Bill Brown – JL Shepherd & Associates

4:00 - 4:45 – Summary Discussion of Panels and Future Conference Discussions (Facilitated by Bernard White)

4:45 - 5:00 PM – Closing Remarks – Doug Weaver, Deputy Director, Division of Spent Fuel Storage and Transportation

BLUE RIBBON COMMISSION ON AMERICA'S NUCLEAR FUTURE

November 3, 2011

U.S. Rep. Jeb Hensarling, Co-Chair
Joint Select Committee
on Deficit Reduction

U.S. Sen. Patty Murray, Co-Chair
Joint Select Committee
on Deficit Reduction

U.S. Sen. Max Baucus
U.S. Rep. Dave Camp
U.S. Sen. John Kerry
U.S. Sen. Rob Portman
U.S. Rep. Fred Upton

U.S. Rep. Xavier Becerra
U.S. Rep. James Clyburn
U.S. Sen. Jon Kyl
U.S. Sen. Pat Toomey
U.S. Rep. Chris Van Hollen

Dear Co-Chairs and Members of the Joint Select Committee:

The Blue Ribbon Commission on America's Nuclear Future was established by the Secretary of Energy at the direction of the President to review policies for managing the back end of the nuclear fuel cycle and recommend a new strategy. We are pleased to be serving as Co-Chairmen of the Commission, and we are writing to you to highlight an important action we believe should be reflected in your Committee's baseline budget projections as you craft a bipartisan plan for reducing the national budget deficit.

In our draft report to the Secretary, issued in July of this year, the Commission recommends several actions that should be taken to get the waste management program back on track. High on our draft list of recommendations are actions that can and should be taken in the near-term to provide assured access to utility waste disposal fees for their intended purpose.

Funds for the disposal of spent nuclear fuel from commercial power reactors are collected regularly through the assessment of a nuclear waste fee on nuclear-generated electricity as a *quid pro quo* payment in exchange for the federal government's contractual commitment to begin accepting commercial spent fuel for disposal beginning by January 31, 1998. These fee payments, which total approximately \$750 million per year, go to the government's Nuclear Waste Fund, which was established for the sole purpose of covering the cost of disposing of civilian nuclear waste and ensuring that the waste program would not have to compete with other funding priorities.

As we have learned through our investigation, the Nuclear Waste Fund does not work as intended. A series of Executive Branch and Congressional actions has made annual fee revenues and the unspent \$26 billion balance in the Fund effectively inaccessible to the nuclear waste management program. Instead, the waste program must compete for

federal funding each year and is therefore subject to exactly the budget constraints and uncertainties that the Fund was created to avoid. This situation must be remedied to allow the program to succeed.

In the meantime, with the federal government having failed to meet its contractual obligation to begin receiving spent fuel beginning in 1998, nuclear utilities have successfully sued the government for failure to perform and are receiving damage payments from the federal Judgment Fund. The government estimates its liability will grow to \$16 billion by 2020 and will rise by about \$500 million per year thereafter until it begins accepting spent fuel for disposal.

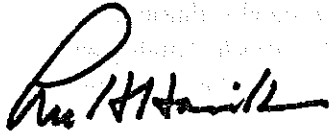
We have recommended that the Administration offer to amend the standard nuclear waste contract with nuclear utilities, which it is authorized to do under current law, so that utilities remit only the portion of the annual nuclear waste fee that is appropriated for waste management each year. The rest of the funding would be placed in a trust account, held by a qualified third-party institution, to be available when needed. At the same time, we have recommended that the Office of Management and Budget work with the Congressional budget committees and the Congressional Budget Office to change the budgetary treatment of annual fee receipts so that these receipts can directly offset appropriations for the waste program. These actions are urgent because they enable key subsequent actions the Commission recommends. Therefore, we have urged the Administration to act promptly to implement these changes (preferably in Fiscal Year 2013).

We respectfully request that the Select Committee reflect these proposed actions in its federal revenue projections. We recognize that our recommendations, if adopted, would mean the nuclear waste fee receipts could no longer be counted against the federal budget deficit and that the result will be a negative impact of approximately \$750 million on annual budget calculations. However, it is clear that the federal government is contractually bound to use these funds to provide for ultimate disposal of spent nuclear fuel. In our view, a failure to correct the funding problem does the federal budget no favors in a context where taxpayers remain liable for mounting damages, compensated through the Judgment Fund, for the federal government's continued inability to deliver on its waste management obligations.

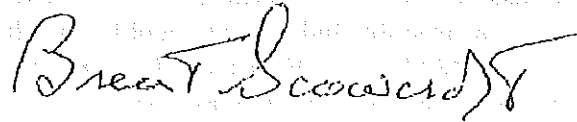
Our draft proposal was prepared in consultation with former Office of Management and Budget and Congressional budget staff, and enjoys the support of both the National Association of Regulatory Utility Commissioners, representing the ratepayers, and the Nuclear Energy Institute, representing the nuclear utilities. We should note that the federal government's failure to deliver on its statutory obligations with respect to commercial spent fuel disposal has prompted both of these organizations and others to pursue legal action against the government aimed at suspending entirely the collection of fees until such time as a new waste management plan for the country has been finalized.

We believe our recommended actions are essential to the future success of the nuclear waste management program and we urge you to reflect our recommendations in your deficit reduction plans.

With best regards,



Lee H. Hamilton
Co-Chairman



Brent Scowcroft
Co-Chairman

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 11-1271

September Term 2011

NRC-NWPA

Filed On: November 4, 2011

In re: Aiken County, et al.,

Petitioners

BEFORE: Garland, Brown, and Kavanaugh, Circuit Judges

ORDER

Upon consideration of the petition for a writ of mandamus, the notice of decision, the response thereto and motion to expedite, the response to the motion to expedite, the reply, the second notice of decision, and the State of Nevada's motion for leave to intervene, it is

ORDERED that the State of Nevada's motion for leave to intervene be granted.
It is

FURTHER ORDERED that the motion to expedite be granted. The following briefing schedule shall apply:

Brief for Petitioners (not to exceed 14,000 words)	December 5, 2011
Brief for Amicus Curiae Nuclear Energy Institute (not to exceed 7,000 words)	December 12, 2011
Brief for Respondents (not to exceed 14,000 words)	January 11, 2012
Brief for Intervenor State of Nevada (not to exceed 8,750 words)	January 18, 2012
Reply Brief (not to exceed 7,000 words)	January 30, 2012
Deferred Appendix	February 6, 2012
Final Briefs	February 13, 2012

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 11-1271

September Term 2011

The Clerk is directed to schedule this case for oral argument on the first appropriate date following the completion of briefing.

The court reminds the parties that

In cases involving direct review in this court of administrative actions, the brief of the appellant or petitioner must set forth the basis for the claim of standing. . . . When the appellant's or petitioner's standing is not apparent from the administrative record, the brief must include arguments and evidence establishing the claim of standing.

See D.C. Cir. Rule 28(a)(7).

Parties are strongly encouraged to hand deliver the paper copies of their briefs to the Clerk's office on the date due. Filing by mail may delay the processing of the brief. Additionally, counsel are reminded that if filing by mail, they must use a class of mail that is at least as expeditious as first-class mail. See Fed. R. App. P. 25(a). All briefs and appendices must contain the date that the case is scheduled for oral argument at the top of the cover. See D.C. Cir. Rule 28(a)(8).

Per Curiam

FOR THE COURT:
Mark J. Langer, Clerk

By: /s/
Amy Yacisin
Deputy Clerk



Department of Energy

Washington, DC 20585

November 7, 2011

The Honorable Lee Hamilton, Director
The Center on Congress at Indiana University
1315 E. Tenth Street
Suite 320
Bloomington, Indiana 47405

General Brent Scowcroft, President
The Scowcroft Group
900 17th Street, N.W.
Suite 500
Washington, D.C. 20006

Gentlemen:

In accordance with the charter of the Blue Ribbon Commission on America's Nuclear Future and as the Secretary's designee, I approve your request to establish an ad hoc subcommittee to review and make a recommendation to the Commission regarding the co-mingling of defense and commercial waste.

This letter also serves to appoint Dr. Allison Macfarlane as the chair of the subcommittee and the membership of the subcommittee as identified in your letter to me dated October 31, 2011.

Please feel free to contact me if you have any questions or comments. I can be reached at (202) 586-4508.

Sincerely,

Timothy A. Frazier
Designated Federal Officer
Blue Ribbon Commission on America's
Nuclear Future

cc: John Kotek, Commission Staff Director



BLUE RIBBON COMMISSION ON AMERICA'S NUCLEAR FUTURE

November 9, 2011

Senator Lindsey Graham
290 Russell Senate Office Building
Washington, DC 20510

Representative Joe Wilson
2229 Rayburn House Office Building
Washington, DC 20515

Representative Tim Scott
1117 Longworth House Office Building
Washington, DC 20515

Representative Jeff Duncan
116 Cannon House Office Building
Washington, DC 20515

Representative Trey Gowdy
1237 Longworth House Office Building
Washington, DC 20515

Representative Mick Mulvaney
1004 Longworth House Office Building
Washington, DC 20515

Representative James Clyburn
2135 Rayburn House Office Building
Washington, DC 20515

Dear Members of the South Carolina Congressional Delegation:

Thank you all for your letter of October 27th. We appreciate hearing your views on the Yucca Mountain project, the safety benefits of deep geologic disposal, and the importance of retaining the H Canyon facility at the Department of Energy's Savannah River Site.

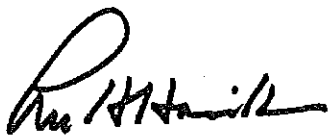
In our draft report, the Commission finds that deep geologic disposal is an essential component of a comprehensive nuclear waste management system. Your comments about the suitability of Yucca Mountain to serve as a deep geologic disposal site echo those we have heard from people across the country who believe the United States should not abandon the investment it has made in developing Yucca Mountain as a proposed nuclear waste repository. As we have listened to testimony and public comment, we have been constantly reminded of the serious lack of trust that exists today in the federal government's ability to meet its waste cleanup obligations. The decision to withdraw the license application for the proposed Yucca Mountain repository has only increased this deficit of trust. Unfortunately, the longer our country fails to solve the nuclear waste problem, the greater the trust deficit becomes – with the U.S. government continuing to fail in its legal and moral obligation to take spent nuclear fuel and defense high level waste while the future of nuclear power as an option for electrical generation in this country is seriously jeopardized.

In a February 11, 2011 letter to the Commission, the Secretary of Energy states that "it is time to move beyond the 25 year old stalemate over Yucca Mountain" and "look for a better solution – one that is not only scientifically sound but that can also achieve a greater level of public acceptance than would have been possible at Yucca Mountain." The Secretary's view has been supported by many witnesses before our Commission who believe Congress acted unfairly when it decided in 1987 to force the repository project on an unwilling host state.

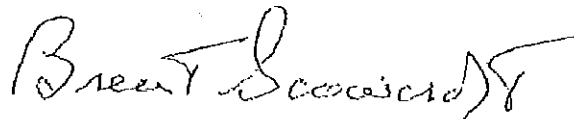
Feelings certainly run deep on both sides of the Yucca Mountain debate. The Secretary has made it clear that we are not a siting commission. We have been directed not to recommend specific locations for any component or facility of the U.S. nuclear waste management system. We will therefore not issue any findings on the merits of Yucca Mountain or any other site as a repository. Furthermore, we will not defend or oppose the Administration's actions regarding Yucca Mountain. What we will do is recommend a sound waste management approach that can lead to the resolution of the stalemate regardless of what site or sites are ultimately chosen for permanent disposal of America's spent nuclear fuel and other high-level nuclear wastes.

We will give your views our fullest consideration as we complete our review and submit our final recommendations to the Secretary of Energy in January of next year. Our Commission will present to the Secretary a set of recommendations that will put the U.S. government on a path to meet its nuclear waste management obligations to the people of South Carolina and the nation.

With best regards,



Lee Hamilton
Co-Chairman



Brent Scowcroft
Co-Chairman



BLUE RIBBON COMMISSION ON AMERICA'S NUCLEAR FUTURE



BLUE RIBBON COMMISSION ON AMERICA'S NUCLEAR FUTURE ANNOUNCES AD-HOC SUBCOMMITTEE ON CO-MINGLING OF DEFENSE AND COMMERCIAL WASTE

In response to comments from a series of regional public meetings intended to gather feedback on the draft report, the Blue Ribbon Commission has formed an ad hoc subcommittee to investigate the issue of co-mingling of defense and commercial wastes. Specifically, the ad hoc subcommittee would review and make a recommendation to the Commission on the issue of whether the 1985 Presidential decision to co-mingle defense and commercial wastes for disposal should be revisited in light of changes that have occurred over the past 26 years. This subcommittee will be focused intently upon the facts and factors that have changed since the initial evaluation, and will present its recommendations for deliberation at a public meeting of the full Commission to be held on December 2, 2011.

The subcommittee is chaired by Dr. Allison Macfarlane, and the members include Mr. Mark Ayers, Senator Pete Domenici, Dr. Richard Meserve, Dr. Ernie Moniz, Dr. Per Peterson and Dr. Phil Sharp.

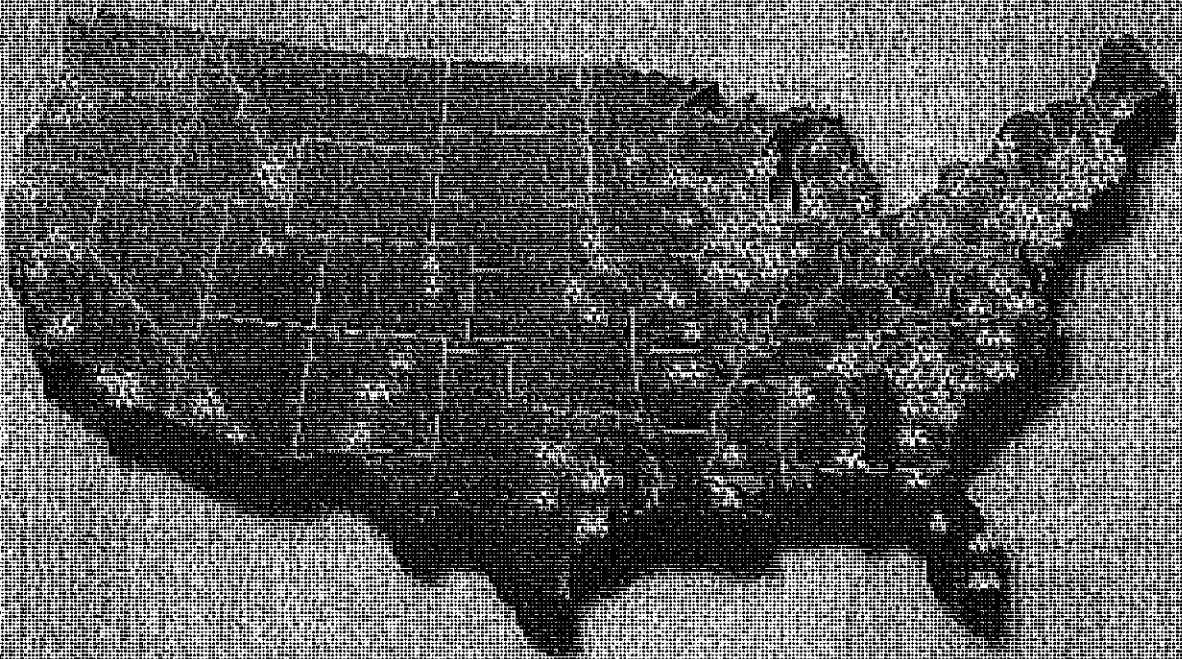
Letter - Request for Approval to Establish and Populate an Ad Hoc Subcommittee on Co-Mingling Of Defense and Commercial Waste

(http://brc.gov/sites/default/files/correspondence/dfo_brc_ad_hoc_subcommittee_lr_103111.pdf)

Letter - Approval of Request to Establish and Populate an Ad Hoc Subcommittee on the Co-Mingling of Defense and Commercial Waste

(http://brc.gov/sites/default/files/correspondence/2011_11_07_09_14_06.pdf)

THE NEXT YUCCA MOUNTAIN?



**121 nuclear waste storage sites
in 39 states for over a 100 years!**

The Clinton Administration's proposed nuclear energy program, a \$10 billion program, will be completed in 27 years and will provide a final storage site for the nuclear waste from the proposed nuclear power plants. The Clinton Administration's proposed nuclear energy program will provide a final storage site for the nuclear waste from the proposed nuclear power plants. The Clinton Administration's proposed nuclear energy program will provide a final storage site for the nuclear waste from the proposed nuclear power plants.

**Ask your senators, Members of Congress and Candidates
where they stand on nuclear energy and Yucca Mountain.**

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Kirk Leads Letter to Fund Yucca Mountain Nuclear Storage Facility

Funding would end block on Yucca as permanent repository of nuclear waste

Friday, Nov 18

0 Likes 32

WASHINGTON - In anticipation of the conference committee which will work out differences among the respective versions of the House and Senate-passed Energy and Water Appropriations bills, United States Senator Mark Kirk (R-IL) today sent a letter to the Chairmen and Ranking Members of the Senate and House subcommittees urging them to support the bipartisan, House-passed language which funds the storage of nuclear waste inside Nevada's Yucca Mountain. A continuation of the Yucca Mountain project would be an important step in finding a safe, permanent storage facility for our country's nuclear waste and critically important for the State of Illinois.

Illinois has 11 nuclear power plants, more than any other state in the nation. Currently, the spent fuel is stored in dry casks and pools near urban areas and sources of drinking water. At the Zion Nuclear Station, 1,100 tons of waste is stored just yards away from Lake Michigan, the source of drinking water to millions of people. Contamination of Lake Michigan would be devastating to the Great Lakes region.

The situation is similar across the country, with over 65,000 metric tons of nuclear waste stored in 75 temporary locations that threaten cities, suburbs and critical ecosystems essential to the drinking water for millions of Americans. American taxpayers have already invested nearly \$15 billion on Yucca Mountain. This letter supports years of science, bipartisan support and billions of dollars to protect American's water, health and national security.

The text of Sen. Kirk's letter is below.

November 18, 2011

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

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

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

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

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

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

Sincerely,

Mark Kirk	Susan Collins
James Inhofe	John Thune
Mike Crapo	Marco Rubio
Charles Grassley	Jon Kyl
John Boozman	John Hoeven
Jeff Sessions	Kay Bailey Hutchison
Lisa Murkowski	Pat Roberts
Roy Blunt	Mike Johanns
David Vitter	Ronald Johnson
John Barrasso	Jim DeMint
Daniel Coats	Johnny Isakson
Richard Lugar	Olympia Snowe
Michael Enzi	John Cornyn
Lindsey Graham	Bob Corker
Tom Coburn	Saxby Chambliss
James Risch	

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