



Sustainable Fuel Cycle

TASK FORCE

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Sustainable Fuel Cycle Task Force Science Panel

May 26, 2011

The Honorable Lee H. Hamilton
Co-Chairman
Blue Ribbon Commission on America's Nuclear Future
U.S. Department of Energy
C/O Mr. Timothy A. Frazier
1000 Independence Ave., SW
Washington, DC 20585-1290

The Honorable Brent Scowcroft
Co-Chairman
Blue Ribbon Commission on America's Nuclear Future
U.S. Department of Energy
C/O Mr. Timothy A. Frazier
1000 Independence Ave., SW
Washington, DC 20585-1290

Dear Co-Chairman Hamilton and Co-Chairman Scowcroft:

As requested by Chairmen Scowcroft and Hamilton, the Sustainable Fuel Cycle Task Force Science Panel is pleased to make the following comments on the discussion and draft recommendations presented at the Commission's May 13, 2011, meeting.

The May 13th BRC meeting discussion seemed to conclude that it would take at least 20 years or more to develop and site a new repository, a conclusion with which we concur. The BRC discussion implied that a new Interim storage site would also take nearly twenty years to develop and a recent GAO report also stated the same time frame. We believe that these long time delays are inconsistent with the national need to meet the commercial disposal obligation and legal agreements with states to address the removal of legacy defense wastes. Therefore, we recommend that the BRC evaluate the alternative of Yucca Mountain as an approach to meet the nation's timely need.

As a minimum, the Yucca Mountain licensing process should be allowed to go forward. DOE, or a replacement organization, could look for other sites during this licensing period, and then a national judgment can be made if an alternative repository site is more desirable, but at least there could be a rational comparison of the best paths forward at that time. Therefore, we strongly recommend that the BRC add this option to your interim report. As this is an urgent matter of national importance, we should be seeking to preserve options while we simultaneously seek potentially better options.

The subcommittee draft recommendations put a lot of emphasis on support from local communities and the Disposal Subcommittee specifically recommended a "consent based" siting approach. We support consensus, - however there are situations that must be addressed. There is local support for a nuclear waste facility that has received careful scientific review to assure compliance with safety regulations, in Nye (please see attached resolution) and other rural Nevada counties, as has been the case in Finland, Sweden, the local community in Carlsbad, New Mexico near the WIPP facility, and the local community in Tooele, Utah near the licensed Private Fuel Storage Facility. It is state-level government, and elected officials at the state level, that have demonstrated continued opposition to a facility within their state. This obstructionism has occurred in many states beside Nevada since the passage of the 1982 NWPA.



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Although local consensus is important, we recommend that the BRC further clarify how the nation should address the critical aspect of state obstructionism as the dialog at the May 13th meeting did not seem to conclude any clear path forward other than oblique references to the successes in Nordic countries. We note that there are no state governments in those countries, so that although we applaud their progress, they are not models for the most critical issue confronting the United States of America in establishing needed facilities for high-level nuclear waste and spent nuclear fuel.

We note that the 1982 NWSA siting process allowed for a state disapproval and the site was disapproved unless both Houses of Congress overrode the Presidential site selection. This process was developed, after years of policy discussion, as a fair approach to balance state rights and national needs. This process worked at Yucca Mountain until recent political developments, so we recommend that the BRC try to see if a better approach can be created. Such an alternative approach has to be realistic and workable such that it can be compared to the existing NWSA approach.

If a better approach can be developed, we would endorse its codification into federal law; however the desire for an unattainable utopian undefined policy solution should not supplant the existing law.

We believe that dealing with state level objections is the critical issue for the nation and that your interim report should focus on trying to develop a better way of addressing this delicate issue and compare it to what is already delineated in the 1982 NWSA. Unless there is a demonstrably better legal approach developed, we recommend the BRC honestly state that the NWSA process, which is the lawful basis in the country now, be endorsed as the best available path forward.

Avoiding this critical State objection matter, and alluding that some magical non-existent better alternative exists, is a disservice to the country and a discredit the Commission. We look forward to the BRC honestly and forthrightly addressing the state acceptance issue in your interim report in July.

Sincerely,
Science Panel

Charles Fairhurst, Ph.D.

D. Warner North Ph.D.

Ruth Weiner, Ph.D.

Isaac Winograd, Ph.D.

Wendell Weart, Ph.D.

Eugene H. Roseboom Jr., Ph.D.

1 **NYE COUNTY RESOLUTION NO. 2011-21**

2
3 A RESOLUTION OF THE NYE COUNTY BOARD OF COMMISSIONERS RESOLUTION
4 SUPPORTING COMPLETION OF THE NUCLEAR REGULATORY COMMISSION'S REVIEW OF
5 THE YUCCA MOUNTAIN LICENSE APPLICATION

6 WHEREAS, the Nuclear Waste Policy Act of 1982, as amended, ("Act") selected Yucca
7 Mountain, located in Nye County as the only site to be characterized as the nation's first high-level
8 radioactive waste repository; and

9 WHEREAS, Congress in July 2002, in accordance with provisions of the
10 Act, as amended, overrode Nevada's notice of disapproval; and

11 WHEREAS, Yucca Mountain was designated to be the site for development of a permanent
12 repository for United States spent nuclear fuel and defense high level radioactive waste; and

13 WHEREAS, the U.S. Department of Energy ("USDOE"), in accordance with the Act, submitted
14 a License Application (LA) to the Nuclear Regulatory Commission (NRC); and

15 WHEREAS, that LA, in accordance with NRC regulations, was accepted for review by the NRC;
16 and

17 WHEREAS, the USDOE has since requested withdrawal of its submission of the LA "with
18 prejudice"; and

19 WHEREAS, the request for withdrawal has been denied by the Atomic Safety and Licensing
20 Board (ASLB) and challenged in Federal Court; and

21 WHEREAS, the Commissioners of the NRC have not issued a final ruling on their review of the
22 ASLB decision that USDOE does not have the legal authority to withdraw the Yucca Mountain license
23 application; and

24 WHEREAS, the nation needs to move forward on the established NWPA strategy that provides
25 for the permanent storage of spent nuclear fuel and high level waste; and,

WHEREAS, the Nye County Board of Commissioners (Board) recognizes that further delays in
the development of a permanent geologic repository will result in significant public expenditures and
potentially jeopardizes the future expansion of nuclear power production and energy independence; and

1 WHEREAS, the Board is convinced that until such time as the NRC completes its review of the
2 LA, Nye County, the State of Nevada and the nation will be denied a scientific and technical
3 determination of the potential of the Yucca Mountain repository to be built and operated safely and
4 successfully; and

5 WHEREAS, Nye County adopted Resolutions 2002-7, 2002-22 and 2004-25 defining the
6 County's involvement as the site county for the nation's geologic repository for spent nuclear fuel and
7 defense high level waste,


8 NOW THEREFORE, it hereby is resolved as follows:


- 9
- 10 1. The Yucca Mountain licensing proceedings should be restarted and the NRC should
11 complete a thorough and detailed review of the License Application; and
 - 12 2. If upon completion of the license application review by the NRC staff and the licensing
13 proceeding before the ASLB, the conclusion is that the Yucca Mountain repository can
14 be constructed and operated safely, Nye County reaffirms our prior resolutions and
15 supports such construction and operation consistent with these prior resolutions ; and

16 APPROVED this 15th day of March, 2011.

17
18 NYE COUNTY BOARD OF
19 COUNTY COMMISSIONERS:

ATTEST:

20 
21 _____
22 Gary Hollis, Chairman

20 
21 _____
22 Sandra "Sam" L. Merlino, Nye County Clerk
23 And Ex-Officio Clerk of the Board

24 ///

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