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July 8, 2011

Letter sent by facsimile

The Honorable Rodney Frelinghuysen  
Chairman  
House Appropriations Subcommittee Energy and Water Development  
United States House of Representatives  
Washington, D.C. 20515

The Honorable Peter Visclosky  
Ranking Member  
House Appropriations Subcommittee Energy and Water Development  
United States House of Representatives  
Washington, D.C. 20515

Dear Chairman Frelinghuysen and Ranking Member Visclosky:

In the face of the Department of Energy's (DOE) continued actions to zero out funding for the nuclear waste repository at Yucca Mountain in its fiscal year (FY) 2012 budget request, the members of the Nuclear Waste Strategy Coalition (NWSC) laud your commitment to reinstate \$25 million from the Nuclear Waste Fund (NWF) for the nuclear waste disposal program (Program). We also appreciate the language contained in the bill that none of the funds made available may be used to conduct closure of adjudicatory functions and other related activities with the Yucca Mountain geologic repository. Further, we are pleased you endorse the concept that the spent nuclear fuel currently stranded at decommissioned sites will be the first fuel to be removed from these sites.

The NWSC also lauds the \$10 million appropriations from the NWF to the Nuclear Regulatory Commission (NRC) for the continued review of the Yucca Mountain project, and direction that the NRC Chairman may not terminate any projects without the approval of a majority vote of the NRC Commissioners.

The July 1, 2011, U.S. Court of Appeals for the District Circuit decision stated that although the NRC has suspended the Atomic Safety License Board review of the license application, the 1982 Nuclear Waste Policy Act, as amended (NWPAA), requires the NRC to comply with its statutory mandate to resume the review of the Yucca Mountain license application.

The Program that includes the review of the license application is self-sustained through the NWF, funded by the rate payers from 41 states, estimated to be paying more than \$770 million annually through their electric bills. With interest credits, the Fund earns annually more than \$1.1 billion. The nation's rate payers have already invested \$15 billion for the scientific research and technology studies carried out at the Yucca Mountain site, and have paid more than \$37 billion, including interest, into the NWF, with nothing in return. These same rate payers will now be funding indefinite on-site storage facilities that are scattered throughout this nation.

The DOE's failure to fulfill its statutory and contractual obligations and Congress' failure to carry out its mandate under the NWPAA, is burdening U.S. tax payers with additional liabilities currently estimated as high as \$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 from the Judgment Fund. This amount does not include the more than \$190 million in litigation expenses the Department of Justice is incurring to defend these cases. Moreover, these estimates do not include the additional \$500 million to \$1 billion a year in damages if spent nuclear fuel and high-level radioactive waste is still stranded indefinitely at commercial nuclear plant sites.

Again, we commend you for appropriating funds to ensure Yucca Mountain is maintained as a potential permanent repository for spent nuclear fuel and high-level radioactive waste, and that the value produced through investment in research, engineering and regulatory oversight is preserved. We also urge your continued leadership in fulfilling the obligations set forth in the NWPA. Every day that passes represents a continued taking from millions of rate payer's payments into the NWF, and a growing financial obligation on our citizens.

The NWSC is a diverse and an ad hoc group of state utility regulators, state attorneys general, electric utilities and associate members representing 45 member organizations in 32 states. The primary focus by the NWSC is to ensure that DOE and Congress carry out the principles outlined in the 1982 Nuclear Waste Policy Act, as amended – protect ratepayer payments made into the NWF; ensure that the nuclear waste disposal program is appropriately funded on an annual basis; and the removal of spent nuclear fuel and high-level radioactive waste currently stranded at 121 commercial, defense and decommissioned sites in 39 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 Honorable John Boehner, The Speaker of the House of Representatives.  
The Honorable Steven Chu, Secretary of Energy.  
United States Senate.  
Governors with stranded SNF and HLRW in their state.  
The House Appropriations Committee.  
The House Energy and Commerce Committee.  
The Honorable Darrell Issa, Chairman, House Oversight and Government Reform Committee.  
The Honorable Peter Lyons, Assistance Secretary for Nuclear Energy, Department of Energy.  
Mr. David Zabransky, Acting Principal Director, DOE/OCRWM.