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October 31, 2014

The Honorable Peter B. Lyons
Assistant Secretary for Nuclear Energy
Office of Nuclear Energy
U.S. Department of Energy
1000 Independence Avenue, SW
Washington, DC 20585

RE: Assessment of Disposal Options for DOE-Managed High-Level Radioactive Waste and Spent Nuclear Fuel

Dear Assistant Secretary Lyons:

The Nuclear Waste Strategy Coalition (NWSC) writes to relay serious concerns with the Department of Energy's (DOE) recently released "Assessment of Disposal Options for DOE-Managed High-Level Radioactive Waste and Spent Nuclear Fuel" (October 2014). We note with disappointment that DOE requested no stakeholder input on the report. However, we find it necessary to go on record regarding the serious implications of the assessment's recommendations on the federal government's commitment to meet statutory and contractual obligations to timely remove spent nuclear fuel (SNF) from commercial nuclear power plant sites across this country.

The DOE assessment recommended "...that the DOE begin implementation of a phased, adaptive, and consent-based strategy with development of a separate mined repository for some DOE-managed HLW and cooler DOE-managed SNF, potentially including some portion of the inventory of naval SNF." In other words, while DOE works to dispose of its own used nuclear fuel and high-level radioactive waste in an unknown location, used nuclear fuel from commercial nuclear power plants will remain in storage at those plants indefinitely. This is despite the fact that federal law requires such commercially-generated waste – along with the DOE-managed waste – be permanently disposed in a repository at Yucca Mountain, Nevada, provided such a facility meets public health and safety standards.

On an encouraging note, the Nuclear Regulatory Commission staff recently determined that a Yucca Mountain repository, on which the country has already spent more than \$10 billion, would be capable of adequately isolating commercial used nuclear fuel and DOE waste for at least one million years in accordance with federal safety regulations. Consistent with the law, DOE should put its efforts into licensing and developing a viable repository at Yucca Mountain, not issuing reports and changing the direction of its current non-existent disposal program. While it is unquestionably important to dispose safely of all of the country's nuclear waste, including the material at DOE sites, there is no need for commercial used nuclear fuel to take a back seat. DOE was supposed to start picking up used fuel from commercial reactors in 1998, and they have yet to move a single fuel assembly. Electricity customers across the nation have paid tens of billions of dollars to the federal government for used fuel disposal and gotten nothing in return. The problem with the DOE program is not a need to prioritize waste disposal; it is a need to get on with waste disposal.

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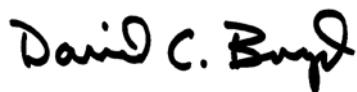
With respect to the often-referenced “phased, adaptive, and consent-based approach recommended by the Blue Ribbon Commission and endorsed in the Administration’s Strategy,” we note that the Blue Ribbon Commission (BRC) did not ultimately make a recommendation with respect to whether or not to continue the nation’s longstanding policy regarding commingling of commercial and defense waste for permanent disposal. However, the BRC did stress the importance of core values and principles for a successful waste management program to include fairness, transparency, and informed participation.

Along those lines, we must express our disappointment that DOE made no effort to get input from key stakeholders such as utility commissions, nuclear power plant operators, and numerous other public and private sector entities before embarking on this major policy shift. Frankly, this is precisely the style of operation that has contributed to the public mistrust of the federal government on nuclear waste management issues – a condition that was thoroughly documented by the BRC in its report. While DOE may have been under no strict legal obligation to seek public comment before issuance of a “technical report” recommending major policy shifts concerning nuclear waste management, there appears to have been no good reason to forego such a step.

We encourage DOE to request the necessary funds from Congress to facilitate timely completion of the Yucca Mountain license review, a review that is required by law and that will, at a minimum, inform other repository efforts in the event it is ultimately found to be scientifically unsuitable. In addition, we urge DOE to move forward on numerous other actual recommendations by the BRC, including consolidated storage that would allow for removal of “stranded fuel” from shutdown reactor sites. Such actions will go a long way toward giving our members, other stakeholders, and the public the assurance that the federal government will make good on its obligation. Let us devote our resources to a real repository that can handle all types of spent fuel and waste rather than compiling reports about undefined, unsited repositories and untried, unproven approaches that cannot handle all types of materials needing disposal.

We look forward to an opportunity to discuss these and other issues with you further.

Sincerely,



David C. Boyd

Chairman, Nuclear Waste Strategy Coalition

Commissioner, Minnesota Public Utilities Commission

cc: The Hon. Mary Landrieu, Chair, Senate Energy & Natural Resources Committee
The Hon. Lisa Murkowski, Ranking Member, Senate Energy & Natural Resources Committee
The Hon. Dianne Feinstein, Chair, Senate Energy & Water Development Appropriations Subcommittee
The Hon. Lamar Alexander, Ranking Member, Senate Energy & Water Development Appropriations Subcommittee
The Hon. Fred Upton, Chairman, House Energy & Commerce Committee
The Hon. Henry Waxman, Ranking Member, House Energy & Commerce Committee
The Hon. Mike Simpson, Chairman, House Energy & Water Development Appropriations Subcommittee
The Hon. Marcy Kaptur, Ranking Member, House Energy & Water Development Appropriations Subcommittee
Ms. Mary Louise Wagner, Senior Policy Advisor, Office of the Secretary, U.S. Department of Energy

*The **Nuclear Waste Strategy Coalition** is an ad hoc organization representing the collective interests of member state utility regulators, consumer advocates, tribal governments, local governments, nuclear-generating utilities, utilities with shutdown reactors, and other public and private sector experts on nuclear waste policy matters. NWSC’s primary focus is to protect ratepayer payments into the Nuclear Waste Fund and to support the removal and ultimate disposal of spent nuclear fuel and high-level radioactive waste currently stranded at sites across the country.*