

**Congress of the United States**  
**Washington, DC 20515**

March 18, 2010

The Hon. Steven Chu  
Secretary of Energy  
U.S. Department of Energy  
1000 Independence Avenue, SW  
Washington, DC 20585-0002

Dear Mr. Secretary:

The Department of Energy has given notice that it intends to reprogram \$115 million out of the Office of Civilian Radioactive Waste Management and that it will discontinue, with prejudice, licensing of the high-level waste geologic repository at Yucca Mountain. We consider the Department's actions contrary to the clear intent of Congress and regard your proposal as prematurely and unwisely removing deep geologic disposal from the options to be considered by the Blue Ribbon Commission on nuclear waste disposal, funded in the FY 2010 Energy and Water Appropriations Act, P.L. 111-85.

The proposed reprogramming also would appear to violate the Nuclear Waste Policy Act (NWPA), as amended in 1987, which requires the Department of Energy to assure the expeditious preparation and construction of the Yucca Mountain site. In addition to violating federal law, the proposed action appears to violate agreements made by the Department with a number of states, and seems even more inadvisable because of pending lawsuits filed in two states, Washington and South Carolina, challenging the Department's authority to circumvent the NWPA.

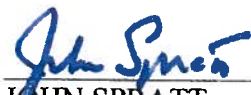
Furthermore, the proposed reprogramming would exacerbate the significant costs to the U.S. government for failing to meet its legal responsibilities for nuclear waste removal. For 25 years, nuclear utilities have paid fees to the government totaling more than \$16 billion for waste disposal services that they have not yet received. These firms continue to pay about \$750 million annually for this purpose. Since 1998, utilities have filed at least 72 claims for breach of contract against the Department for its failure to meet these obligations. To date, courts have awarded more than \$1 billion in damage awards and settlements, including \$565 million that the government already has paid. Estimates for potential liability owed by the government range from the Department's 2008 estimate of more than \$12 billion to an industry estimate of \$50 billion. On top of this amount, the Department of Justice has spent more than \$150 million on litigation-related expenses.

You recently testified before House and Senate Committees, and stated that you do not believe the Yucca Mountain site is environmentally sound. Whether this is your personal opinion or a scientific judgment, it does not seem right to recommend removing an option that has been considered scientifically sound and technically viable since it was designated by Congress in 1987, prior to the organization of the Blue Ribbon Commission. The proposed reprogramming of funds

supporting the licensing process is predicated upon your decision to withdraw the NRC license application with prejudice, which clearly contradicts the Nuclear Waste Policy Act, and implies that further proceedings before the NRC would be de novo.

Leaving aside the technical and political considerations that surround the Yucca Mountain issue, we are writing at this time to urge you to withdraw the reprogramming request in recognition of Congressional intent as well as the serious legal implications of an action that would also render useless billions of previously appropriated funds.

Yours sincerely,



JOHN SPRATT  
Member of Congress



NORM DICKS  
Member of Congress



JAMES F. CLYBURN  
Member of Congress



DOC HASTINGS  
Member of Congress



JAY INSLEE  
Member of Congress