

FRED UPTON, MICHIGAN
CHAIRMAN

HENRY A. WAXMAN, CALIFORNIA
RANKING MEMBER

ONE HUNDRED TWELFTH CONGRESS
Congress of the United States
House of Representatives
COMMITTEE ON ENERGY AND COMMERCE
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June 8, 2011

The Honorable Henry A. Waxman
Ranking Member
Committee on Energy and Commerce
2322A Rayburn House Office Building
Washington, D.C. 20515

The Honorable Gene Green
Ranking Member
Subcommittee on Oversight and Investigations
2322A Rayburn House Office Building
Washington, D.C. 20515

Dear Henry and Gene:

Thank you for your June 1, 2011, letter regarding our investigation into the licensing process for the Yucca Mountain nuclear waste repository (the "Yucca Investigation"). It is our understanding that there have been times in the past when interviews by the oversight staff have not been jointly conducted by Majority and Minority staff. This Yucca Investigation represents the first serious effort to determine the facts surrounding the decision-making process regarding the U.S. Department of Energy's ("DOE's") termination of the licensing process for Yucca Mountain. We strongly believe the Investigation is of the utmost importance to America's energy and national security.

We do recognize, however, that opponents of nuclear energy would vastly prefer that the Committee not make any inquiry at all with respect to Yucca Mountain. We understand that some will try to obstruct our Investigation and – in the long run – attempt to prevent the use of Yucca Mountain as a long-term repository for nuclear waste.

Because of our commitment to the integrity of this and other investigations, we have granted significant access to Minority staff. For example, we have regularly included the Minority in staff briefings and interviews, and we have provided copies of documents produced

in the course of investigations – even for those investigations in which the Minority declined to participate in the initial inquiry.

Indeed, it was precisely because of our transparent process in the Yucca Investigation, and our production of all documents for the Minority, that Mr. Waxman was able to divulge the identity of a potential whistleblower during our May 4, 2011, hearing with the Commissioners of the Nuclear Regulatory Commission (NRC). As we expressed at the time, we believe that prematurely revealing the identity of a potential witness and the contents of confidential internal emails could constitute obstruction of this investigation and have a chilling effect on prospective witnesses. The decision to reveal this confidential information over our strong objections is of great concern to us, as it could likely affect the willingness of sources to come forward with information relevant to the Committee's investigation.

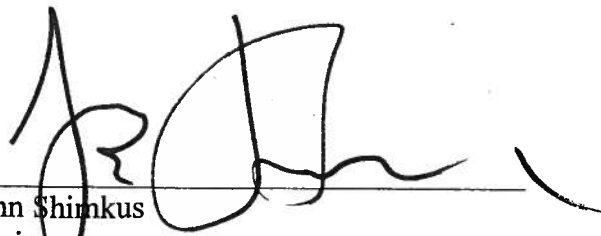
Nevertheless, Majority staff has engaged your staff in discussions on issues with respect to the Investigation in good faith since then, and will continue to do so.

We understand that your preference is to impose a double standard: (1) we will be required to provide advance notice of any and all interviews and discussions with interested parties but (2) you and your staff will be free to engage in discussions, interview, interrogate, and/or exchange political insights with interested parties (including, but certainly not limited to, the Obama Administration and the Democratic appointees to the NRC and their staffs) outside of our presence. Surely you realize the unacceptable inequity of such an arrangement. However, we are certainly open to discussing the parameters of an equitable agreement.

Sincerely,



Fred Upton
Chairman



John Shinkus
Chairman
Subcommittee on Oversight and Investigations