

February 27, 2012

Secretary Steven Chu
U.S. Department of Energy
1000 Independence Ave., SW
Washington, DC 20585

RE: Recommendations of the Blue Ribbon Commission on America's Nuclear Future

Dear Secretary Chu:

I am writing on behalf of the New England Council (the "Council"), the nation's oldest regional business organization, about the recommendations contained in the final report submitted to you by the Blue Ribbon Commission on America's Nuclear Future (the "BRC") on January 26, 2012. As you know, the Administration created the 15-member commission in January of 2010 to review federal policy on spent nuclear fuel management and disposal and to make recommendations for a new plan to address these issues. The BRC has officially endorsed several used-fuel management initiatives that the Council also supports and believe will reform and re-energize the country's high-level radioactive waste program.

Background

As you know, there are 104 commercial nuclear power reactors currently operating in the United States, providing close to 20 percent of our nation's electricity. The industry generates more than 2,000 metric tons of spent nuclear fuel annually. Almost all of the existing 65,000 metric tons of spent fuel is stored at the reactor sites where it was generated - about three-quarters of it in shielded concrete pools and the remainder in above ground dry casks. This inventory includes

some 3,000 metric tons of “stranded” spent fuel, or fuel in storage from 15 nuclear power reactors in 10 states where such reactors have been shut down and are no longer operating.¹

The generation of nuclear power in New England has a decades-long history. While several New England states currently house active commercial reactors, our region is also home to shutdown commercial plants located in Rowe, Massachusetts; Wiscasset, Maine; and Haddam Neck, Connecticut. Until the mid 1990’s, these sites provided New England residents with safe, reliable, and affordable power. Now, like the other shuttered reactors around the nation, they house the spent nuclear material the federal government was required to take possession of under federal law.

Thirty years ago, Congress began addressing management of the nation’s growing stockpile of nuclear waste by directing the Department of Energy (“DOE”) to develop a system to collect and provide for the safe and final disposal of spent nuclear fuel and high-level radioactive waste. The Nuclear Waste Policy Act of 1982, as amended (“NWPA”) required DOE to take title to, collect and dispose of spent nuclear fuel in a permanent geologic repository, or an interim storage facility before such permanent disposal, in exchange for payments by the providers into a statutorily established Nuclear Waste Fund (“NWF”). These payments consist of a tenth of a cent per kilowatt hour fee paid by the ratepayers who benefited from the electricity generated by nuclear power. Through the NWPA, Congress directed the federal disposal process to begin no later than January 31, 1998. The DOE failed to begin collecting and disposing of this spent nuclear fuel by the statutory deadline, forcing nuclear utilities to spend hundreds of millions of dollars on temporary storage for this spent nuclear fuel that the federal government was contractually and statutorily obligated to remove.²

The NWF was established for the sole purpose of covering the cost of disposing of civilian nuclear waste and ensuring that the waste program would not have to compete with other funding priorities. In contrast, costs for disposing of defense nuclear wastes are paid by taxpayers through appropriations from the Treasury. The process does not work as intended. A series of Executive Branch and Congressional actions has made annual fee revenues, approximately \$750 million

¹ Used fuel is stored at decommissioned reactors in New York, California, Illinois, Wisconsin, Colorado, Maine, Oregon, Connecticut, Massachusetts, and Michigan

² U.S. nuclear power plants spend hundreds of millions of dollars a year to store radioactive SNF at the bottom of 40-foot deep pools or in “dry casks” located outside of the facility. Steve Hargreaves, “Nuclear Waste: Coming to a Town Near You?” CNNMoney.com, November 4, 2009.

per year, and the unspent \$27 billion balance in the NWF effectively inaccessible to the waste program. Instead, the waste program must compete for federal funding each year and is therefore subject to exactly the budget constraints and uncertainties that the NWF was created to avoid.

BRC Recommendations

After two years of holding regional public meetings and more formal hearings, conducting site visits, and reviewing comments submitted in response to a draft report, the BRC issued its final report on January 26, 2012, explaining in its cover letter that it:

endeavored to [do is] recommend a sound waste management approach that can lead to the resolution of the current impasse; an approach that neither includes nor excludes Yucca Mountain as an option for a repository and can and should be applied regardless of what site or sites are ultimately chosen to serve as the permanent disposal facility for America's spent nuclear fuel and other high-level nuclear wastes.

The report contains eight recommendations for legislative and administrative action to develop a "new" strategy to manage nuclear waste:

1. A new, consent-based approach to siting future nuclear waste management facilities;
2. A new organization dedicated solely to implementing the waste management program and empowered with the authority and resources to succeed;
3. Access to the funds nuclear utility ratepayers are providing for the purpose of nuclear waste management;
4. Prompt efforts to develop one or more geologic disposal facilities;
5. Prompt efforts to develop one or more consolidated storage facilities;
6. Prompt efforts to prepare for the eventual large-scale transport of spent nuclear fuel and high-level waste to consolidated storage and disposal facilities when such facilities become available;
7. Support for continued U.S. innovation in nuclear energy technology and for workforce development; and
8. Active U.S. leadership in international efforts to address safety, waste management, non-proliferation, and security concerns.

These recommendations will take time to implement, given that some in particular require legislative action to amend the NWPA and other relevant laws. Nevertheless, the BRC noted that "prompt action can and should be taken in several areas, without waiting for legislative action."

For example, DOE can proceed with the development of a consolidated storage facility to begin moving decades-old reactor fuel, particularly fuel from reactors that have been closed. The Council agrees with the BRC's eight recommendations, with three of those, in particular, deserving immediate attention.

1. Creating a New Organization to Implement the Waste Management Program

The DOE and its predecessor agencies have had primary responsibility for implementing our country's nuclear waste policy for more than 50 years. This has not occurred. Because of this and additional reasons, the BRC concluded that a new, single-purpose organization is necessary to site, license, build, and operate facilities for the safe consolidated storage and final disposal of spent fuel and high-level nuclear waste at a reasonable cost and within a reasonable timeframe. The new organization would also be responsible for the transport of waste and spent fuel to or between storage and disposal facilities, and for undertaking applied research, development, and demonstration activities directly relevant to its waste management mission.

The BRC recommended a federally chartered corporation directed by a board nominated by the President, confirmed by the Senate, and selected to represent a range of expertise and perspectives, although any number of organizational structures would also suffice. Independent scientific and technical oversight of the nuclear waste management program is essential and should continue to be provided for out of nuclear waste fee payments. In addition, the presence of clearly independent, competent regulators is essential. The BRC recommended the United States Environmental Protection Agency in establishing standards and the Nuclear Regulatory Commission ("NRC") in licensing and regulating waste management facilities be preserved but that steps be taken to ensure ongoing cooperation and coordination between these agencies.

2. Access to Utility Waste Disposal Fees for their Intended Purpose

The Administration should offer to amend DOE's standard contract with nuclear utilities so that utilities remit only the portion of the annual fee that is appropriated for waste management each year and place the rest in a trust account, held by a qualified third-party institution, to be available when needed. At the same time, the Office of Management and Budget should work with the Congressional budget committees and the Congressional Budget Office to change the budgetary treatment of annual fee receipts so that these receipts can directly offset appropriations for the waste program. For the longer term, legislation is needed to transfer the unspent balance in the Fund to the new waste management organization so that it can carry out its civilian nuclear waste obligations independent of annual appropriations (but with Congressional oversight)—similar to

the budgeting authority now given to the Tennessee Valley Authority and Bonneville Power Administration.

3. Prompt Efforts to Develop One or More Consolidated Storage Facilities

Developing consolidated storage capacity would allow the federal government to begin the orderly transfer of spent fuel from reactor sites to safe and secure centralized facilities independent of the schedule for operating a permanent repository. The arguments in favor of consolidated storage are strongest for “stranded” spent fuel from shutdown plant sites. Stranded fuel should be first in line for transfer to a consolidated facility so that these plant sites can be completely decommissioned and put to other beneficial uses. Looking beyond the issue of today’s stranded fuel, the availability of consolidated storage will provide valuable flexibility in the nuclear waste management system that could achieve meaningful cost savings for both ratepayers and taxpayers when a significant number of plants are shut down in the future, can provide emergency back-up storage in the event that spent fuel needs to be moved quickly from a reactor site, and would provide an excellent platform for ongoing research and development to better understand how the storage systems currently in use at both commercial and DOE sites perform over time.

For consolidated storage to be of greatest value to the waste management system, the current rigid legislative restriction that prevents a storage facility developed under the NWPA from operating significantly earlier than a repository should be eliminated. At the same time, efforts to develop consolidated storage must not hamper efforts to move forward with the development of disposal capacity. To allay the concerns of states and communities that a consolidated storage facility might become a *de facto* disposal site, a program to establish consolidated storage must be accompanied by a parallel disposal program that is effective, focused, and making discernible progress in the eyes of key stakeholders and the public. Progress on both fronts is needed and must be sought without further delay.

The Council has long supported the creation of a permanent nuclear waste repository, and has indicated on numerous occasions its support for the completion of such a site at Yucca Mountain in Nevada as the most sensible disposal location for such waste. Nevertheless, the Council understands the need for and supports the concept of an interim storage facility for spent nuclear fuel, so long as priority is given to the spent nuclear fuel that has been collected and is currently being held at decommissioned reactor sites, as recommended.

Conclusion

The debate over spent nuclear fuel storage has been a dominant topic among policy makers for more than two decades, and there is concern that such discussions could go on for two more decades unless policy makers can come to an agreement on how this nation deals with such waste. Meanwhile, storage costs borne by ratepayers will continue to mount until the government meets its legal responsibility regarding spent nuclear fuel. It is the Council's hope that BRC's report will spark a new commitment to resolve longstanding issues on how best to deal with this nation's nuclear waste.

It is our hope that DOE begins to implement these recommendations as soon as possible, as time is of the essence.

If you have any questions, please do not hesitate to contact me.

Very truly yours,

David J. O'Donnell

David J. O'Donnell
Vice-President of Public Policy