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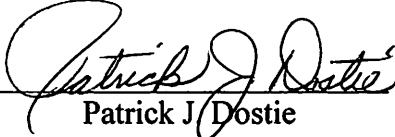
February 12, 2010

To: Honorable Ms. Elizabeth Mitchell, President of the Senate
Honorable Ms. Hannah Pingree, Speaker of the House

Subject: State Nuclear Safety Inspector Office's January 2010 Monthly Report to the Maine Legislature

Legislation was enacted in the second regular session of the 123rd and signed by Governor John Baldacci requiring that the State Nuclear Safety Inspector prepare a monthly report on the oversight activities performed at the Maine Yankee Independent Spent Fuel Storage Installation facility located in Wiscasset, Maine.

Enclosed please find the Inspector's January 2010 monthly activities report. This year the reports will not feature the glossary and the historical addendum. However, both the glossary and the addendum will be available on the Radiation Control Program's website at <http://www.maineradiationcontrol.org> under the nuclear safety link. For facilitating the connectivity and impact of some of the newsworthy items an editorial section is being contemplated. Should you have questions about its content, please feel free to contact me at 207-287-6721, or e-mail me at pat.dostie@maine.gov.


Patrick J. Dostie
State Nuclear Safety Inspector

Enclosure

cc:
Mr. E. William Brach, U.S. Nuclear Regulatory Commission
Ms. Nancy McNamara, U.S. Nuclear Regulatory Commission, Region I
Mr. James Connell, Site Vice President, Maine Yankee
Ms. Brenda Harvey, Commissioner, Department of Health and Human Services
Mr. Geoff Green, Deputy Commissioner, Department of Health and Human Services
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Mr. Patrick Ende, Senior Policy Advisor, Governor's Office
Mr. David Littell, Commissioner, Department of Environmental Protection
Mr. Richard Davies, Maine Public Advocate
Ms. Janet Joyeux, Assistant to the Commissioner, Department of Public Safety
Ms. Nancy Beardsley, Director, Division of Environmental Health
Mr. Jay Hyland, PE, Manager, Radiation Control Program

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State Nuclear Safety Inspector Office

January 2010 Monthly Report to the Legislature

Introduction

As part of the Department of Health and Human Services' responsibility under Title 22, Maine Revised Statutes Annotated (MRSA) §666 (2), as enacted under Public Law, Chapter 539 in the second regular session of the 123rd Legislature, the foregoing is the monthly report from the State Nuclear Safety Inspector.

The State Inspector's individual activities for the past month are highlighted under certain broad categories, as illustrated below. Since some activities are periodic and on-going, there may be some months when very little will be reported under that category. It is recommended for reviewers to examine previous reports to ensure connectivity with the information presented as it would be cumbersome to continuously repeat prior information in every report. Past reports are available from the Radiation Control Program's web site at the following link: www.maineradiationcontrol.org and clicking on the nuclear safety link in the left hand margin.

Commencing with this month's report the glossary and the historical perspective addendum will no longer be included in the report. Instead, this information will be available at the Radiation Control Program's website noted above. In some situations the footnotes may include some basic information and will redirect the reviewer to the website.

Independent Spent Fuel Storage Installation (ISFSI)

During January the general status of the ISFSI was normal, except for January 2nd / 3rd, and January 19th /20th when additional measures were put in place for the snowstorms. There was one instance of a spurious alarm due to an environmental condition. The alarm was investigated and no further action was warranted. There were no fire related impairments.

There were two security related impairments in January. One was environmentally related and the other was due to a piece of equipment being out of service. There were 36 security events logged, nine for the winter storm on January 2nd/3rd and four for the snowstorm on January 20th. The remaining 23 were associated with transient camera issues due to temporary environmental conditions.

There were 16 condition reports¹ (CRs) for the month of January. The first CR was written on January 2nd due to damage to a John Deere tractor tire. The tire exhibited dry rot and was replaced. The second CR was written on January 3rd for the snow plow rig. A lifting bracket was worn through. The lifting bracket assembly was replaced. Two CR's were written on January 4th. The third CR involved concrete blocking being used as a jack stand. The blocks were replaced with a jack stand. The fourth CR was from a spill of hydraulic oil that was blown out through the shoot of a large snowblower. The spill was reported to the Department of Environmental Protection (DEP) and the State Nuclear Safety Inspector (SNSI) was notified of the incident. Four gallons were deposited on the snow. The oil did not reach the dirt. All of the affected snow was placed inside a lined container. The affected snow was removed from the site on January 6th. The clean-up was inspected by DEP and they were satisfied with the timeliness and thoroughness of the response. A fifth CR was written on January 6th to track the closure of open items associated with a training program review.

¹ A condition report is a report that quickly alerts management to potential conditions that may be adverse to quality or safety. The report is generally initiated by a worker at the ISFSI facility. The report prompts management to activate a process to identify causal factors and document corrective and preventative measures stemming from the initial report.

A sixth CR was written on January 7th for using an outdated procedure. A seventh CR was written on January 7^h for a fire barrier that was not fully sealed. The barrier was immediately sealed. An eighth CR was written on January 11th for the improper storage of flammable liquid. The liquid was immediately stored in the flammable locker. A ninth CR was written on January 12th on the de-energizing of the State's radiation monitor. As part of the preparations to disconnect the power to the State's environmental air sampler, the electrical breaker powering the State's pole mounted radiation monitor was de-energized. When the power lines for the air sampler were disconnected the next day it was noted that the radiation monitor's breaker was open. The breaker was closed repowering the monitor. The loss of power lasted less than a day.

A tenth CR was written on January 14th because not all open CR's were readily available to shift personnel. An eleventh CR was written of January 18th to document the failure of a non security camera. A twelfth CR was written on January 18th for equipment being out of service. Since this CR is security related, the information is not available for public disclosure. A thirteenth CR was written on January 19th to track open items associated with a review of the preventative maintenance program. A fourteenth CR was written on January 21st to document a loose bolt found on a bottom inlet screen of one fuel storage cask. The loose bolt was a result of improper tightening during the painting maintenance conducted last fall. The bolt was properly tighten A fifteenth CR was written to document grease dripping from the skid-steer. The unit had just returned from the dealer and had been over greased. The unit was cleaned and all the grease was contained. A sixteenth CR was written on January 25th to address the daily paperwork review missing the appropriate review initials.

Other ISFSI Related Activities

On January 12th the quarterly oversight group met to discuss the annual reports to the legislature's Joint Standing Committee on Utilities and Energy due in February. A January 25th deadline was imposed for the other oversight agencies to provide their reports for inclusion into the overall report to the Joint Standing committee. The SNSI briefed the group as to his past quarterly activities as well as to his current and upcoming activities and commitments.

On January 15th Maine Yankee submitted an exemption request from the Nuclear Regulatory Commission's (NRC) regulations. When the designers of Maine Yankee's spent fuel storage casks received their fifth amendment to their certificate in January 2009, it compelled Maine Yankee to perform a detailed evaluation to determine if their 60 spent fuel canisters met the new standard. The assessment identified 59 canisters in compliance, but one was not. The lone canister did not meet the 600 hours limit for a filled canister to remain in a transfer cask, but it did meet the original requirements of unlimited time when it was moved to the ISFSI pad. Weather conditions and Technical Specifications on temperature limitations at the time prevented the transfer. The SNSI is gathering background information for the State's review of the request and will notify the NRC of the State's position.

Environmental

On January 6th the State Nuclear Safety Inspector performed his quarterly field replacement of the thermoluminescent dosimeters (TLDs)² monitoring the ISFSI and Bailey Cove. On January 26th the State received the results from the fourth quarter TLDs' field replacement of the ISFSI and Bailey Cove. The results from the quarterly change out continued to illustrate, but not as pronounced as it was during the third quarter, the three distinct exposure levels: elevated, slightly elevated and normal. The two consistent high stations, G and K,

² Thermoluminescent Dosimeters (TLD) are very small, passive radiation monitors requiring laboratory analysis. For a further explanation, refer to the glossary on the Radiation Program's website.

averaged 30.6 milliRoentgens³ (mR) due to their proximity to the storage casks. The moderately high group stations E, F, J, and L, averaged 27.1 mR. Stations E and F are close to the storage casks, while stations J and L have exhibited slightly higher readings in the past. However, this quarter station C was not slightly elevated, but rather trended well with its northerly counterparts, stations, A, B and D. The remaining stations, A, B, C, D, H, I, and M, averaged 24 mR. The control TLDs that are stored at the State's Radiation Control Program in Augusta averaged about 28.6 mR. In comparison the normal expected quarterly background radiation levels on the coast of Maine would range from 13 to 25 mR.

The Bailey Cove TLDs averaged 23.9 mR and ranged from 20 to 28 mR, which is comparable to the normally expected background radiation levels. As observed with the ISFSI TLDs, the Bailey Cove TLDs also had some higher values with the lower values due to their proximity to the water's edge.

The reason for the decreased radiation values for all the TLDs was due to the frozen ground and some snow cover conditions. It is normal for the values to decrease during the fall months when the ground is frozen and covered with snow as it impedes the out gassing of the Radon gas from the soils.

For informational purposes Figure 1 at the end of the report illustrates the locations of the State's 13 TLD locations in the vicinity of the ISFSI. The State's locations are identified by letters with the two highest locations being stations G and K.

Maine Yankee Decommissioning

At present, there are eleven confirmatory reports that are essentially complete. Due to the extensive delays in on-going commitments and emerging issues, the confirmatory summary report is expected to be drafted in February and finalized in March.

Groundwater Monitoring Program

On January 28th the Department of Environmental Protection (DEP) and the Radiation Control Program met with Maine Yankee to discuss recurrent issues raised by the SNSI relative to Maine Yankee's third annual groundwater report. Each radiological issue raised was discussed and a mutual agreement was reached for the disposition of each item. At that meeting it was noted that two special groundwater data packages were missing from the third and fourth annual groundwater reports. The data packages were follow-up analyses to demonstrate the non-existence of Americium-241, a radioactive element that is heavier than uranium. Both reports were furnished electronically to the State later that day.

The last two sampling events for the groundwater monitoring program will take place in March and June.

Other Newsworthy Items

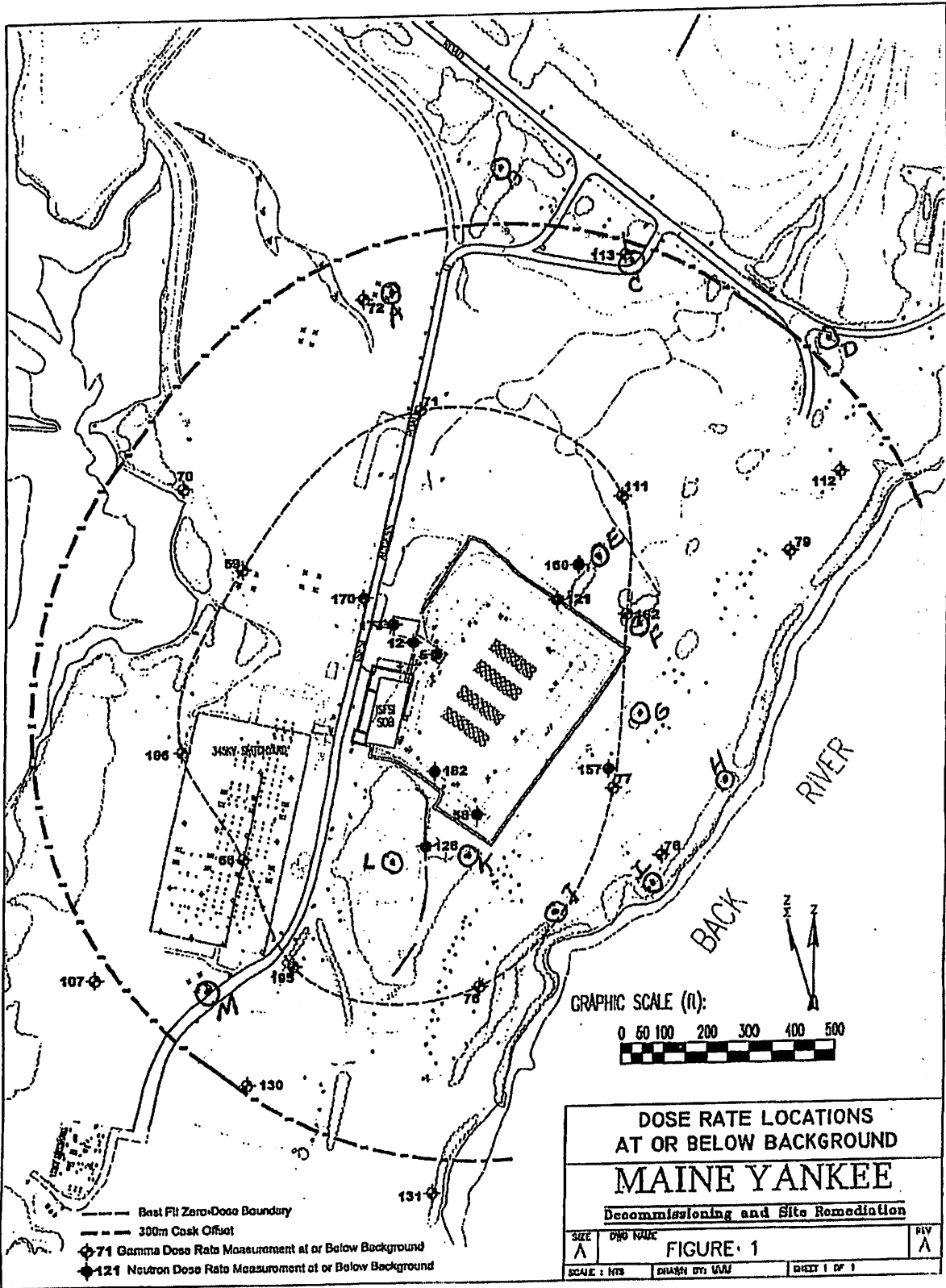
1. On January 8th the Minnesota House of Representatives introduced a bill, H.F. No. 2440, requiring fees paid by Minnesota ratepayers for nuclear power generation be redirected from the Department of Energy's Nuclear Waste Fund for the construction and operation of a geologic repository for spent nuclear fuel to their Commissioner of homeland security and emergency management. A copy of the bill is attached.

³ A milliRoentgen (mR) is a measurement of radiation. For a further explanation, refer to the glossary on the Radiation Program's website.

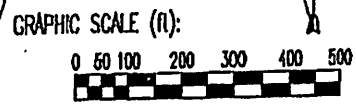
2. On January 11th the Nuclear Regulatory Commission published its memorandum and order on how the logistics of the oral arguments on the Department of Energy's license application to construct a repository at Yucca Mountain will proceed at the hearings scheduled for January 26th and 27th in Las Vegas.
3. On January 12th the U.S. Court of Appeals for the Federal Circuit ruled that the Department of Energy (DOE) can no longer claim that the lack of a federal repository or storage facility constitutes an "unavoidable delay" in failing to meet its statutory obligations to remove used nuclear fuel from commercial nuclear power plant sites. The ruling paves the way for utilities to receive compensation for costs incurred for spent fuel storage at their reactor sites. 71 breach of contract claims have been filed by utilities against DOE since 1998. By the end of 2008 \$1.2 billion in damages has been awarded with \$400 million of it being paid out. With the impending closure of Yucca Mountain it is estimated that the spent fuel storage liabilities for taxpayers will amount to \$12.3 billion by the year 2020 and continue to grow at a rate of \$0.5 billion for each year of delay beyond that.
4. On January 13th The Energy Daily reported on Secretary Energy Chu's protest of the White House's Office of Management and Budget (OMB) Director Peter Orszag's refusal to allocate \$46 million to close down the Yucca Mountain Project and to archive the millions of scientific documents spanning nearly 40 years of research on the project. A copy of the article is attached.
5. On January 13th the Nuclear Waste Strategy Coalition held a conference call to discuss the ramifications between the Energy Secretary Chu request and White House's OMB Director Peter Orszag's funding refusal for Yucca Mountain. The concern is that if the funding is zeroed out as proposed by OMB, then the Department of Energy (DOE) would be compelled to use some of its scarce FY2010 funding to close out Yucca Mountain. Further discussion centered on when the DOE may withdraw their license application before the Nuclear Regulatory Commission (NRC), speculation as to when the proposed Blue Ribbon Commission would be announced, and the status of the NRC's technical report on the license application due this April.
6. On January 14th the Nuclear Regulatory Commission (NRC) issued a press release on the convening of their Construction Authorization Board on January 26th and 27th in Las Vegas to hear oral arguments on several legal issues raised by Nevada and the Nuclear Energy Institute. The proceedings were webcast and available for review up to 90 days after the proceedings. A copy of the NRC press release is attached.
7. On January 26th and 27th the Nuclear regulatory Commission's Construction Authorization Board heard oral arguments in Las Vegas on the Department of Energy's (DOE) proposed high level waste repository at Yucca Mountain in Nevada. The hearings provide a legal basis for determining which of the contentions allowed by the Board have scientific merit. On the first day of hearings the Board heard 11 legal challenges to the license application. Two of the 11 challenges dealt with Nevada's contentions on the concept of installing 11,000 titanium drip shields to protect the emplaced storage canisters. On the second day of hearings the judge's panel expressed concerns over how defunding of the Yucca Mountain Project could jeopardize the preservation of decades of scientific inquiry and 80 million pages of supporting documents. The panel requested that the DOE deliver to the Board by February 4th what it plans to do with the millions of documents and research reports. It is estimated that DOE has generated 99% of all the millions of pages associated with the license application. Transcripts of the proceedings can be obtained from the following link: http://ehd.nrc.gov/EHD_Proceeding/home.asp.
8. On January 27th the Nuclear Waste Strategy Coalition held a follow-up conference call to discuss the implications of the proposed FY 2011 budget to defund Yucca Mountain Project, the pending announcement of the Department of Energy's Blue Ribbon Commission that will evaluate how best to manage our nation's nuclear waste, and the status of the DOE's license application in light of the

general, electric utilities and associate members representing 47 stakeholders in 31 states, committed to reforming and adequately funding the U.S. civilian high-level nuclear waste transportation, storage, and disposal program.

9. On January 29th the Department of Energy (DOE) issued a press release announcing the formation of the long awaited Blue Ribbon Commission (BRC) that will be given two years to develop recommendations for managing the nation's nuclear waste stockpile with a preliminary report due in 18 months. The press release lists the members of the Commission. In an interview with former Representative Hamilton, co-chair of the BRC, Hamilton stated the Commission will not be including Yucca Mountain as part of its review of alternatives to nuclear waste management. A copy of the DOE press release is attached along with President Obama's directive to form and guide the Commission.
10. On January 29th the Sustainable Fuel Cycle Task Force issued a press release on the formation of the Department of Energy's (DOE) announcement of the Blue Ribbon Commission. The Task Force urged the Commission to include Yucca Mountain as part of its deliberation and stated that Congress should oppose the defunding of Yucca Mountain and restore funding for the Nuclear Regulatory Commission's review of DOE's license application. A copy of their release is attached to the report.



- - - Best Fit Zero-Dose Boundary
 - - - 300m Cask Offset
 ◆ 71 Gamma Dose Rate Measurement at or Below Background
 ◆ 121 Neutron Dose Rate Measurement at or Below Background



DOSE RATE LOCATIONS AT OR BELOW BACKGROUND		
MAINE YANKEE		
Decommissioning and Site Remediation		
SIZE A	DWG NAME FIGURE 1	REV A
SCALE: 1/8" = 1'-0"	DRAWN BY: WJM	SHEET 1 OF 1



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KEY: ~~stricken~~ = removed, old language. underscored = added, new language.

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H.F. No. 2440, as introduced - 86th Legislative Session (2009-2010) Posted on Jan 08, 2010

1.1 A bill for an act
 1.2 relating to nuclear waste; creating the Minnesota Nuclear Waste Storage
 1.3 Commission; requiring fees paid by Minnesota ratepayers for permanent storage
 1.4 of high-level radioactive waste to be remitted to the commissioner of homeland
 1.5 security and emergency management; modifying nuclear waste escrow account;
 1.6 appropriating money; amending Laws 1997, chapter 201, section 1; proposing
 1.7 coding for new law in Minnesota Statutes, chapter 116C.
 1.8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.9 Section 1. [116C.7781] DEFINITIONS.

1.10 For the purposes of sections 116C.7781 to 116C.7783:

1.11 (1) "high-level radioactive waste" has the meaning given in section 116C.71,
 1.12 subdivision 2f;

1.13 (2) "commission" means the Minnesota Nuclear Waste Storage Commission; and

1.14 (3) "host community" means the Prairie Island Indian Community in Minnesota, the
 1.15 city of Red Wing, or the city of Monticello.

1.16 EFFECTIVE DATE. This section is effective the day following final enactment.

1.17 Sec. 2. [116C.7783] MINNESOTA NUCLEAR WASTE STORAGE
 1.18 COMMISSION.

1.19 Subdivision 1. Establishment. (a) The Minnesota Nuclear Waste Storage
 1.20 Commission is established under the Office of Emergency Preparedness, Response and
 1.21 Recovery in the Department of Health to carry out the duties specified in subdivision 2.

1.22 (b) The commission consists of ten members:

1.23 (1) the commissioner of homeland security and emergency management, or the
 1.24 commissioner's designee;

2.1 (2) the commissioner of commerce, or the commissioner's designee;

2.2 (3) the commissioner of the Pollution Control Agency, or the commissioner's
 2.3 designee;

2.4 (4) the commissioner of natural resources, or the commissioner's designee;

2.5 (5) the director of the Office of Emergency Preparedness, Response and Recovery in
 2.6 the Department of Health, or the director's designee;

2.7 (6) one representative each from the cities of Monticello and Red Wing, appointed
 2.8 by their respective mayors;

2.9 (7) one representative from the Prairie Island Indian Community, appointed by

- 2.10 the community's tribal council;
- 2.11 (8) one representative who is not a legislator, appointed by the speaker of the
- 2.12 house; and
- 2.13 (9) one representative who is not a legislator, appointed by the president of the senate.
- 2.14 (c) The commission shall elect two co-chairs from among its members, at least one
- 2.15 of whom must be a representative from a host community.
- 2.16 (d) Members of the commission shall serve a term of four years and may be
- 2.17 reappointed for any successive number of terms.
- 2.18 (e) The Department of Health shall provide the commission with office space and
- 2.19 staff and administrative services.
- 2.20 Subd. 2. Duties. (a) The commission shall develop a strategy for long-term storage
- 2.21 of high-level radioactive waste from nuclear generating plants operating in Minnesota.
- 2.22 The commission shall, by January 15, 2012, and every three years thereafter, prepare a
- 2.23 storage plan that addresses, at a minimum, the following issues:
- 2.24 (1) management and security of high-level radioactive waste storage;
- 2.25 (2) continuous monitoring of the performance of the storage casks and facility;
- 2.26 (3) continuous monitoring of the environment surrounding the storage facility,
- 2.27 including air, surface water, groundwater, soil, and vegetation;
- 2.28 (4) monitoring the health of residents of nearby communities;
- 2.29 (5) maintenance and periodic replacement of casks, as recommended by the federal
- 2.30 Nuclear Regulatory Commission and industry standards; and
- 2.31 (6) identification of any additional technologies or equipment that reduce the
- 2.32 toxicity or volume of stored high-level radioactive waste or that contribute to its safe and
- 2.33 efficient handling.
- 2.34 (b) The commission may fund programs, projects, studies, and plans that address,
- 2.35 at a minimum, the long-term high-level radioactive waste storage issues specified in
- 3.1 paragraph (a) and may purchase and install equipment to monitor the environmental
- 3.2 impacts of storage.
- 3.3 (c) The commission shall recognize the special risks, responsibilities, and financial
- 3.4 burdens imposed by the presence of high-level radioactive waste storage facilities on host
- 3.5 communities and shall ensure that host communities are adequately funded to provide
- 3.6 public safety and other necessary services, including fire and police protection, emergency
- 3.7 medical response, and other emergency operations, so long as high-level radioactive
- 3.8 waste is stored at those facilities.
- 3.9 (d) The commission shall annually transfer 75 percent of the amount it receives from
- 3.10 the nuclear waste escrow account established in section 3 in equal proportion to the host
- 3.11 communities for the services specified in paragraph (c), unless the host communities agree
- 3.12 to an alternative allocation. The funds transferred to the host communities are:
- 3.13 (1) to supplement, not substitute for, funds available under section 12.14 or remitted
- 3.14 as local tax payments by a person owning a nuclear generating plant; and
- 3.15 (2) not to be considered in calculating utility valuation transition aid under section
- 3.16 477A.16.
- 3.17 Subd. 3. Staff. The commission may hire staff and contract with consultants to
- 3.18 carry out the duties specified in subdivision 2.
- 3.19 Subd. 4. Expiration. This section expires when the federal government removes all

- 3.20 high-level radioactive waste stored in Minnesota for transport and disposal in a permanent
- 3.21 storage facility.
- 3.22 **EFFECTIVE DATE.**This section is effective the day following final enactment.

3.23 Sec. 3. Laws 1997, chapter 201, section 1, is amended to read:

3.24 Section 1. **NUCLEAR WASTE ESCROW ACCOUNT.**

3.25 Subdivision 1. Remittance of proceeds. (a) Beginning July 1, ~~1997~~ 2010, the
 3.26 public utilities commission ~~may~~ shall direct persons in Minnesota that are generating or
 3.27 holding title to high-level radioactive waste or spent nuclear fuel and that are subject to
 3.28 the fee specified under United States Code, title 42, section 10222, to remit the proceeds
 3.29 of that fee to the commissioner of ~~public service~~ homeland security and emergency
 3.30 management. The commissioner shall place all revenues collected from this fee into an
 3.31 interest-bearing escrow the account established in subdivision 2, subject to paragraph (b).
 3.32 The commissioner shall release the funds in the escrow account to the secretary of the
 3.33 federal Department of Energy upon a showing by the secretary that a federal repository
 3.34 for the long-term storage and permanent disposal of spent nuclear fuel and high-level
 3.35 radioactive waste is operating and currently accepting such materials.

4.1 This section is intended to enable the state of Minnesota to adopt or implement
 4.2 any appropriate relief granted by a court of competent jurisdiction for the United States
 4.3 Department of Energy breach of its obligations to dispose of commercial spent nuclear
 4.4 fuel not later than January 31, 1998.

4.5 (b) A person remitting the proceeds of the fee described in paragraph (a) to the
 4.6 commissioner of homeland security and emergency management shall continue doing so
 4.7 until all nuclear generating plants located in this state that are owned by the person cease
 4.8 to generate electricity from nuclear fuel or until federal action releases the person that
 4.9 owns a nuclear power plant from financial obligations under United States Code, title
 4.10 42, section 10222, whichever occurs first.

4.11 Subd. 2. Creation of account; appropriations. (a) The nuclear waste escrow
 4.12 account is created and shall be administered according to this subdivision. The
 4.13 commissioner of homeland security and emergency management must deposit proceeds
 4.14 from the fee specified in subdivision 1 in the account. Any interest earned on the account
 4.15 must be credited to the account. Money from other sources may be credited to the account.
 4.16 Money deposited in the account that is not appropriated does not cancel to the general
 4.17 fund, but remains in the account.

4.18 (b) Until June 30, 2034, 50 percent of the money in the account is annually
 4.19 appropriated to the commissioner of homeland security and emergency management for
 4.20 transfer to the Minnesota Nuclear Waste Storage Commission.

4.21 (c) Fifty percent of the annual revenues deposited in the account must remain in the
 4.22 account and may not be appropriated until the nuclear generating plants that produced the
 4.23 waste have been fully decommissioned.

4.24 (d) If high-level radioactive waste continues to be stored in Minnesota after
 4.25 the nuclear generating plant that generated it begins decommissioning, any unspent
 4.26 decommissioning revenues accrued for the purpose of maintaining, cooling, or storing
 4.27 high-level radioactive waste must be transferred to the Minnesota Nuclear Waste Storage
 4.28 Commission.

4.29 **EFFECTIVE DATE.** This section is effective the day following final enactment.

4.30 Sec. 4. **REVISOR'S INSTRUCTION.**

4.31 The revisor shall codify Laws 1997, chapter 201, section 1, as Minnesota Statutes,

4.32 section 116C.7782.

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THE ENERGY DAILY

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FERC Audit Spurs Texas Grid Monitor Split From ERCOT

BY GEORGE LOBSENZ

The Texas Regional Entity, the grid reliability watchdog for Texas' electricity system, has agreed to legally separate from the Electric Reliability Council of Texas Inc.—the state's grid operator—after a revealing federal audit raised concerns about real or perceived conflicts of interest in the organizations' close relationship and evidence that the watchdog was not effectively overseeing the grid operator's compliance with national reliability standards.

The conflict of interest and operational concerns were laid out in an unusual audit report done by the Federal Energy Regulatory Commission's enforcement office and released by the commission Friday.

In releasing the audit report, FERC said it would allow the Texas Regional Entity, or Texas RE, to continue as the regional watchdog for the North American Electricity Reliability Corp. (NERC)—which enforces mandatory national reliability standards—as long as Texas RE

(Continued on p. 4)

Chu Protests OMB Refusal To Provide Yucca Closure Funds

BY JEFF BEATTIE

In a decision protested by Energy Secretary Steven Chu, the White House budget office recently rejected DOE's request for \$46 million to terminate the Yucca Mountain nuclear repository project in fiscal 2011, a decision that if finalized might anger Hill appropriators by forcing DOE to divert fiscal 2010 Yucca funding for that purpose, *The Energy Daily* has learned.

DOE documents obtained by *The Energy Daily* show that OMB proposed to cut \$61 million from DOE's fiscal 2011 budget request of \$224 million for nuclear fuel cycle research—including all of the \$46 million DOE wanted for its Office of Civilian Radioactive Waste Management to wind down the Yucca project.

And in a December 22 letter from Chu to White Office of Management and Budget (OMB) Director Peter Orszag, the secretary expressed "deep concerns" about OMB's cutbacks on Yucca Mountain and the department's nuclear fuel cycle research and development program.

In the letter, Chu proposed a "settlement" with OMB under

(Continued on p. 3)

House Climate Bill Eases Impacts On Vulnerable Manufacturers—EPA

In an upbeat analysis of the competitiveness impacts

BY CHRIS HOLLY

of House-approved climate change legislation on U.S. manufacturers, the Environmental Protection Agency last month said that at an allowance price of \$20 per metric ton, production costs for key vulnerable industries would increase by modest amounts, but these increases would be largely or completely offset by allowance allocations the bill would provide.

The report, commissioned by five Senate Democrats and quietly placed on EPA's Web site December 2, examines average cost impacts of the greenhouse

gas emissions cap-and-trading program proposed by the bill (H.R. 2454) on each of five broad energy-intensive, trade-exposed (EITE) industrial sectors: chemicals, plastic and rubber; pulp and paper; non-metallic minerals; iron and steel; and non-ferrous metals.

EPA elected to model a \$20 per ton allowance price because that price is representative of the near- to medium-term allowance prices projected by various studies, including separate economic analyses conducted by the Congressional Budget Office and the Energy Informa-

tion Administration.

In modeling impacts on industry, EPA's report considered scenarios with and without two key provisions of H.R. 2454 that the agency said could reduce competitiveness impacts and emissions "leakage": The allocation of allowances to electric utility local distribution companies (LDC) and allowance rebates to EITE industries.

While the LDC allocations would have the effect of softening electricity rate increases resulting from the carbon cap, the rebates would ameliorate the amplified impact of higher energy prices on EITE industries, EPA said.

The modeling found that at an allow-

(Continued on p. 2)



Chu Protests Refusal To Provide Closure Funds... (Continued from p. 1)

which the White House would allocate \$25 million to close the Yucca project as part of a \$43 million boost to the budget for fuel cycle research, which would then total \$206 million.

Chu also suggested that money be shifted out of Yucca's normal programmatic home—the Office of Civilian Radioactive Waste Management (OCRWM)—and into the Office of Nuclear Energy Research & Development, and that the Yucca closure money also was needed to proceed with DOE's plan to establish a blue-ribbon panel that is supposed to provide recommendations on nuclear waste disposal alternatives to Yucca.

"The re-allocated \$43 million would provide a settlement figure (\$206 million) that that is still \$18 million below our original target request for both programs," Chu told Orszag in the letter.

"Of the \$43 million, \$25 million is needed to carry out activities that will be transferred to [the nuclear energy R&D program] from OCRWM, including the wrap-up of the Yucca Mountain project, as well as providing input to and preparing to implement the recommendations of the blue-ribbon commission for used fuel waste storage and disposal, retaining critical knowledge and data," Chu said.

"Of the \$25 million, \$5 million is needed in the program direction account for the retention of selected OCRWM contract management and technical staff to continue to execute the legal and research oversight activities that can only be performed by the staff that has been performing these activities over the past several years."

The back-and-forth between DOE and OMB over the fiscal 2011 Yucca budget highlights the difficulty the administration is having in handling the politically sensitive project, which President Obama has declared unsuitable as a solution to the nation's nuclear waste problem.

While Chu has steadily echoed Obama's position that Yucca is not an option, DOE has also asked for tens of millions of dollars to archive project documents and retain knowledge developed through the billions of dollars worth of research conducted at Yucca over the last 20 years.

By contrast, pro-Yucca sources say, OMB appears determined to zero out the Yucca budget so as to halt all DOE work on the project as soon as possible.

Pro-Yucca sources speculate that if DOE gets no money for Yucca in fiscal 2011, DOE might be forced to use funds from its limited Yucca 2010 budget to close the project. That might irk congressional appropriators who want DOE to use some of that money to advance a license application for Yucca that is pending before the Nuclear Regulatory Commission.

"This is a bait and switch" said one angry pro-Yucca source Tuesday. OMB is showing "a clear intent to take money from the fiscal 2010 [funding for closing Yucca] in contradiction of what they requested and what they told Congress they were going to use it for.

"This is tantamount to terminating the license application due to lack of funds, and will likely result in mandamus lawsuits requiring specific performance," the source continued.

DOE officials had no immediate comment Tuesday on the Yucca funding debate between DOE and OMB.

The White House's apparent insistence on eliminating Yucca money as soon as possible could reinforce perceptions among many energy industry officials that Obama's decision to

close Yucca was based less on science than politics—namely a promise made to Senate Majority Leader Harry Reid (D-Nev.) when Obama was running for president and needed the support of Reid and Nevada voters, both of whom strongly oppose Yucca.

Now, with Reid facing a tough election and trailing in polls tracking his 2010 re-election chances in Nevada this fall, the White House may be determined to zero out Yucca to boost Reid's candidacy and allow him to claim he killed the project, some industry officials believe.

However, Chu has contended that the administration has decided to close Yucca because the understanding of waste management and geology has advanced significantly since the Nevada site was selected in the 1980s. In place of Yucca, Chu has pledged to name a blue-ribbon panel to evaluate new nuclear waste policies for the nation.

However, the administration appears to be having trouble on that front, too, as month after month has passed with no announcements about the commission.

The Energy Daily reported in December that former Indiana Rep. Lee Hamilton (D), the White House's choice to co-chair the commission with former National Security Advisor Brent Scowcroft, was having serious reservations about whether to accept the job, after having first indicated an interest.

Sources said Hamilton might have been worried that the commission would not have a free hand to evaluate policy options, given that the administration has made up its mind about the Yucca repository.

Another Yucca-related problem for DOE is how long it should continue work on the massive Yucca license application that the Bush administration submitted to NRC in 2008.

Chu said repeatedly over the last year that DOE would continue answering NRC's questions about the application to learn more about NRC's criteria for an underground repository generally.

But in an October internal DOE memo, reported by *The Energy Daily* November 9, DOE said it planned to terminate "all license defense activities" in December 2009.

It is unclear whether DOE has since changed its mind in that regard, however. DOE submitted a substantial legal filing defending the license application to a panel of NRC judges in mid-December.

Sources speculate that DOE may be hesitant to entirely halt work on Yucca before it has identified a clear alternative, or at least named the blue-ribbon panel on alternative strategies.

Yanking the Yucca license application might pose legal problems for DOE because utilities or state regulators might consider suing DOE either for violating federal law requiring DOE to move forward on Yucca; they also might sue over DOE continuing to collect ratepayer surcharges meant to be used in developing a national repository.

More generally, nuclear industry officials and pro-nuclear lawmakers have said DOE's cancellation of Yucca is a poor idea given the nation's need for a nuclear waste disposal option and the billions of dollars spent on the repository since the early 1980s.

The decision "amounts to reckless abandonment and raises questions regarding DOE compliance's with laws governing the use of public funds," the pro-Yucca source said Tuesday.



NRC NEWS

U.S. NUCLEAR REGULATORY COMMISSION

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NRC'S YUCCA MOUNTAIN BOARD TO HOLD ORAL ARGUMENTS IN LAS VEGAS JANUARY 26-27

The Nuclear Regulatory Commission's Construction Authorization Board will convene Jan. 26-27 in Las Vegas, Nev., to hear oral arguments on a number of legal issues and to hold a case management conference concerning documents filed in the adjudicatory proceeding over the Department of Energy's license application for a high-level radioactive waste repository at Yucca Mountain.

Oral arguments on Jan. 26 and, if necessary, Jan. 27 will concern several legal issues raised by the state of Nevada and the Nuclear Energy Institute. These issues center on DOE's specific requirements to project environmental conditions at Yucca Mountain thousands of years in the future and the extent of several design conditions required by NRC regulations.

The case management conference on Jan. 27 will address concerns raised last month by the NRC's administrator of the Licensing Support Network, an online database of documents supporting the license application, the NRC's review, and the various challenges filed in the hearing. The administrator expressed concern about the availability of DOE's thousands of documents on the network should the department decide to withdraw the license application.

Proceedings will be held at the NRC's Las Vegas Hearing Facility, Pacific Enterprise Plaza, Building 1, 3250 Pepper Lane in Las Vegas, beginning at 9:00 a.m. Pacific Time each day. Proceedings will be Webcast at these addresses:

- January 26: <http://www.visualwebcaster.com/event.asp?id=65080>
- January 27: <http://www.visualwebcaster.com/event.asp?id=65081>

Media wishing to cover the pre-hearing sessions are strongly encouraged to register in advance with NRC's Office of Public Affairs in Rockville, Maryland, by calling (301) 415-8200. Pre-registration is essential for television media, as space inside the hearing room is limited. Photographers (video or still) will not be permitted to move around the hearing room while the board is in session. Board judges will not grant interviews. No interviews of other participants

shall be permitted inside the hearing facility. Two brochures on the Las Vegas Hearing Facility – one for media and one for the general public – will be available on the NRC's Web site at this address: <http://www.nrc.gov/reading-rm/doc-collections/fact-sheets/>.

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NOTE: Anyone wishing to take photos or use a camera to record any portion of a NRC meeting should contact the Office of Public Affairs beforehand.

News releases are available through a free *listserv* subscription at the following Web address: <http://www.nrc.gov/public-involve/listserver.html>. The NRC homepage at www.nrc.gov also offers a SUBSCRIBE link. E-mail notifications are sent to subscribers when news releases are posted to NRC's Web site.



U.S. DEPARTMENT OF **ENERGY**

News Media Contact(s):
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For Immediate Release
January 29, 2010

Secretary Chu Announces Blue Ribbon Commission on America's Nuclear Future

The Commission, led by Lee Hamilton and Brent Scowcroft, will provide recommendations on managing used fuel and nuclear waste

Washington, D.C. – As part of the Obama Administration's commitment to restarting America's nuclear industry, U.S. Secretary of Energy Steven Chu today announced the formation of a Blue Ribbon Commission on America's Nuclear Future to provide recommendations for developing a safe, long-term solution to managing the Nation's used nuclear fuel and nuclear waste. The Commission is being co-chaired by former Congressman Lee Hamilton and former National Security Advisor Brent Scowcroft.

In light of the Administration's decision not to proceed with the Yucca Mountain nuclear waste repository, President Obama has directed Secretary Chu to establish the Commission to conduct a comprehensive review of policies for managing the back end of the nuclear fuel cycle. The Commission will provide advice and make recommendations on issues including alternatives for the storage, processing, and disposal of civilian and defense spent nuclear fuel and nuclear waste.

"Nuclear energy provides clean, safe, reliable power and has an important role to play as we build a low-carbon future. The Administration is committed to promoting nuclear power in the United States and developing a safe, long-term solution for the management of used nuclear fuel and nuclear waste. The work of the Blue Ribbon Commission will be invaluable to this process. I want to thank Congressman Hamilton and General Scowcroft for leading the Commission and I look forward to receiving their recommendations," said Secretary Chu.

"As the world moves to tackle climate change and diversify our national energy portfolio, nuclear energy will play a vital role," said Carol Browner, Assistant to the President for Energy and Climate Change. "Today, the Obama Administration has taken an important step. With the creation of the Blue Ribbon Commission, we are bringing together leading experts from around the country to ensure a safe and sustainable nuclear energy future."

"Finding an acceptable long-term solution to our used nuclear fuel and nuclear waste storage needs is vital to the economic, environmental and security interests of the United States," said Congressman Hamilton. "This will be a thorough, comprehensive review based on the best available science. I'm looking forward to working with the many distinguished experts on this panel to achieve a consensus on the best path forward."

"As the United States responds to climate change and moves forward with a long overdue expansion of nuclear energy, we also need to work together to find a responsible, long-term strategy to deal with the leftover fuel and nuclear waste," said General Scowcroft. "I'm pleased to be part of that effort along with Congressman Hamilton and such an impressive group of scientific and industry experts."

The Commission is made up of 15 members who have a range of expertise and experience in nuclear issues, including scientists, industry representatives, and respected former elected officials. The Commission's co-chairs have a record of tackling tough challenges in a thoughtful, comprehensive manner and building consensus among an array of interests.

The Commission will produce an interim report within 18 months and a final report within 24 months.

The members of the Blue Ribbon Commission are:

- **Lee Hamilton, Co-Chair**

Lee Hamilton represented Indiana's 9th congressional district from January 1965-January 1999. During his time in Congress, Hamilton served as the ranking member of the House Committee on Foreign Affairs, and chaired the Permanent Select Committee on Intelligence. He is currently president and director of the Woodrow Wilson International Center for Scholars, and director of The Center on Congress at Indiana University.

He is a member of the President's Intelligence Advisory Board and the President's Homeland Security Advisory Council. Previously, Hamilton served as Vice Chairman of the National Commission on Terrorist Attacks Upon the United States (the 9/11 Commission).

- **Brent Scowcroft, Co-Chair**

Brent Scowcroft is President of The Scowcroft Group, an international business advisory firm. He has served as the National Security Advisor to both Presidents Gerald Ford and George H.W. Bush. From 1982 to 1989, he was Vice Chairman of Kissinger Associates, Inc., an international consulting firm.

Scowcroft served in the military for 29 years, and concluded at the rank of Lieutenant General following service as the Deputy National Security Advisor. Out of uniform, he continued in a public policy capacity by serving on the President's Advisory Committee on Arms Control, the Commission on Strategic Forces, and the President's Special Review Board, also known as the Tower Commission.

- **Mark Ayers, President, Building and Construction Trades Department, AFL-CIO**
- **Vicky Bailey, Former Commissioner, Federal Energy Regulatory Commission; Former IN PUC Commissioner; Former Department of Energy Assistant Secretary for Policy and International Affairs**
- **Albert Carnesale, Chancellor Emeritus and Professor, UCLA**
- **Pete V. Domenici, Senior Fellow, Bipartisan Policy Center; former U.S. Senator (R-NM)**
- **Susan Eisenhower, President, Eisenhower Group, Inc.**
- **Chuck Hagel, Former U.S. Senator (R-NE)**
- **Jonathan Lash, President, World Resources Institute**
- **Allison Macfarlane, Associate Professor of Environmental Science and Policy, George Mason University**
- **Richard A. Meserve, President, Carnegie Institution for Science, and former Chairman, U.S. Nuclear Regulatory Commission**
- **Ernie Moniz, Professor of Physics and Cecil & Ida Green Distinguished Professor, Massachusetts Institute of Technology**
- **Per Peterson, Professor and Chair, Department of Nuclear Engineering, University of California - Berkeley**
- **John Rowe, Chairman and Chief Executive Officer, Exelon Corporation**
- **Phil Sharp, President, Resources for the Future**

[Presidential Memorandum on the Blue Ribbon Commission \(pdf - 10k\)](#)

THE WHITE HOUSE
Office of the Press Secretary

For Immediate Release

January 29, 2010

January 29, 2010

MEMORANDUM FOR THE SECRETARY OF ENERGY

SUBJECT: Blue Ribbon Commission on America's Nuclear Future

Expanding our Nation's capacity to generate clean nuclear energy is crucial to our ability to combat climate change, enhance energy security, and increase economic prosperity. My Administration is undertaking substantial steps to expand the safe, secure, and responsible use of nuclear energy. These efforts are critical to accomplishing many of my Administration's most significant goals.

An important part of a sound, comprehensive, and long-term domestic nuclear energy strategy is a well-considered policy for managing used nuclear fuel and other aspects of the back end of the nuclear fuel cycle. Yet the Nation's approach, developed more than 20 years ago, to managing materials derived from nuclear activities, including nuclear fuel and nuclear waste, has not proven effective. Fortunately, over the past two decades scientists and engineers in our country and abroad have learned a great deal about effective strategies for managing nuclear material. My Administration is committed to using this advanced knowledge to meet the Government's obligation to dispose of our Nation's used nuclear material.

Accordingly, I request that you establish a Blue Ribbon Commission on America's Nuclear Future (Commission) and appoint its members. Those members should include recognized representatives and experts from a range of disciplines and with a range of perspectives, and may include participation of appropriate Federal officials. The Commission's business should be conducted in an open and transparent manner.

The Commission should conduct a comprehensive review of policies for managing the back end of the nuclear fuel cycle, including all alternatives for the storage, processing, and disposal of civilian and defense used nuclear fuel and nuclear waste. This review should include an evaluation of advanced fuel cycle technologies that would optimize energy recovery, resource utilization, and the minimization of materials derived from nuclear activities in a manner consistent with U.S. nonproliferation goals.

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In performing its functions, the Commission should consider a broad range of technological and policy alternatives, and should analyze the scientific, environmental, budgetary, economic, financial, and management issues, among others, surrounding each alternative it considers. Where appropriate, the Commission may also identify potential statutory changes.

The Commission should provide an interim report to you within 18 months of the date of this memorandum, and that report should be made available for public comment. The Commission should provide a final report to you within 24 months of the date of this memorandum. The Department of Energy shall provide funding and administrative support for the Commission, as you determine appropriate, so that it can complete its functions within these time periods. Additionally, all executive departments and agencies shall provide such information and assistance to the Commission as you or the Commission may request for purposes of carrying out the Commission's functions, to the extent permitted by law. Nothing in this memorandum shall be construed to require the disclosure of classified, proprietary, law enforcement sensitive, or other information protected under governing law. This memorandum shall be implemented consistent with applicable law and subject to the availability of appropriations. This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

You are hereby authorized and directed to publish this memorandum in the *Federal Register*.

BARACK OBAMA

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Sustainable Fuel Cycle TASK FORCE

www.sustainablefuelcycle.com

Sustainable Fuel Cycle Task Force (SFCTF) Statement on White House Announcement on the Establishment of America's Nuclear Future Commission

January 29, 2010

In response to today's announcement by Secretary Chu's regarding the establishment of the Blue Ribbon Commission on America's Nuclear Future, the Sustainable Fuel Cycle Task Force (SFCTF) makes the following statement:

We welcome the long overdue focus and serious deliberation on charting a path forward for the Nation's nuclear spent fuel and high-level waste management strategy. We look forward to a positive dialog with the Commission and our Task Force Science Panel.

This is matter of growing concern for -- not only the future of nuclear energy in the United States -- but to the 121 communities hosting nuclear fuel and defense waste sites in 39 states as well as electricity consumers that have invested over \$30 billion into the nuclear waste fund.

It is our hope that a full and fair assessment of the Yucca Mountain project will be one of the starting points for the Commission and that Yucca Mountain will be included as an alternative in this assessment consistent with Congressional directives to this end.

We urge Congressional authorizers and appropriators -- and representatives of affected communities -- to proactively engage with the Commission, given the high stakes and Congress's stewardship responsibilities under the Nuclear Waste Policy Act, which remains the operative strategy until a new consensus can be reached.

To this end, we also hope that Congress will resist actions to defund the Yucca Mountain project or cease licensing defense for the ongoing NRC license application review, notwithstanding the Administration's announced intent to end the program by the end of FY2010.

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