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*Beyond Nuclear aims to educate and activate the public about the connections between nuclear power and nuclear weapons and the need to abolish both to safeguard our future. Beyond Nuclear advocates for an energy future that is sustainable, benign and democratic.*

June 27, 2019

Dear U.S. Senator,

**Two proposed bills (S. 1234, “The Nuclear Waste Administration Act,” and S.\_\_\_\_, “The Nuclear Waste Policy Amendments Act of 2019”), aiming to dump radioactive waste on Nevada, New Mexico, and/or Texas, are outrageous, and must be blocked. The proposed Yucca Mountain permanent repository in NV, as well as the consolidated interim storage facilities (CISFs) targeted at TX and/or NM, would launch Mobile Chernobyl shipments, through nearly all states, many major cities, and the vast majority (75% or more) of U.S. congressional districts, for decades on end. (Please see the attached poster, showing truck, train, and barge routes across the U.S., bound for Yucca Mountain, NV.) We urge you to oppose both bills.**

Re: the May 1, 2019 U.S. Senate Environment and Public Works Committee, “Hearing on Cleaning Up Communities: Ensuring Safe Storage and Disposal of Spent Nuclear Fuel, as stated in our letter for the record (posted online at < <http://www.beyondnuclear.org/radioactive-waste-whatsnew/2019/6/18/beyond-nuclear-letter-for-the-record-of-the-hearing.html>>), on behalf of our tens of thousands of members and supporters across the country, including in your state, **we oppose S.\_\_\_\_, “The Nuclear Waste Policy Amendments Act of 2019” (similar, or even identical to, H.R. 2699, the “Nuclear Waste Policy Amendments Act of 2019,” in the U.S. House).** We likewise objected to last session’s similar, to identical, H.R. 3053. This dangerously bad bill advocates for the scientifically unsuitable Yucca dump, which is neither consent-based, nor environmentally just. Nor is it even legal, given Western Shoshone Indian title to land and water, per the “peace and friendship” Treaty of Ruby Valley of 1863, signed by the U.S. government. This treaty is the highest law of the land, equal in stature to the U.S. Constitution itself. In opposing the Yucca dump, we join with well over a thousand environmental and environmental justice organizations, representing every state, which have expressed similar opposition to the Yucca dump over the past 32 years, ever since the “Screw Nevada” bill of 1987.

**We also oppose S. 1234, “The Nuclear Waste Administration Act,” the subject of today’s Energy and Natural Resources “Full Committee Hearing to Examine Storage of Nuclear Waste.”** Following are some examples of our concerns, a far from exhaustive list.

**Re: Sec. 306(a), REPOSITORIES/SITING GUIDELINES** -- SEC. 112(a) of the Nuclear Waste Policy Act of 1982, as Amended, established the Site Suitability Guidelines for the proposed dump at Yucca. These included qualifying and disqualifying conditions. One disqualifying condition Yucca could not meet was fast flow of water through the site. So, in late 2001, Energy Secretary Spencer Abraham simply removed this impediment from the books, where it had been since 1984. This action, if the Yucca dump ever opens, would doom those downstream to catastrophic hazardous radioactivity releases into their drinking and irrigation water supply. Dr. Arjun Makhijani of Institute for Energy and Environmental Research dubbed such regulatory retreats at Yucca as “double standard standards.” That is, if Yucca can’t meet the standard, the standard is weakened, or removed entirely. There are numerous such major examples, with dire risks for health, safety, and the environment.

**Re: Sec. 306(b)(3)(B) SITE INVESTIGATIONS** – This section states the Nuclear Waste Administration “shall not perform any preliminary borings or excavations at the site unless necessary to determine the suitability of the site

and authorized by the landowner.” (emphasis added) As mentioned above, Yucca is owned by treaty rights by the Western Shoshone Indian Nation, and they have adamantly opposed the dump from the start.

**Re: PREFERENCE FOR CO-LOCATED REPOSITORY AND STORAGE FACILITY (as in Section 306(c)(2))**, how will host states/communities grant full, free, informed consent to a repository, if this is not communicated as a risk up front? The risks are made all the greater, given the short shrift given to geological, hydrological, etc. site suitability characterization for supposedly “temporary” or “interim” storage sites, that could later be targeted for permanent disposal repositories. Seismic and groundwater hazards at the targeted NM and TX CISFs are most significant.

**Re: Section 309(2)(b) TRANSPORTATION/CERTIFIED PACKAGES** [Quality Assurance, QA], please compare the revelations of numerous, major QA violations, made by Commonwealth Edison/Exelon Nuclear whistleblower Oscar Shirani, as well as NRC whistleblower Dr. Ross Landsman, vis-à-vis Holtec containers. Not only did NRC completely miss the widespread, serious QA violations itself, it also never supported Shirani, nor gave his allegations the time of day. Shirani was blacklisted from the U.S. nuclear power industry for the rest of his life. To the best of my knowledge, NRC and Holtec have never rectified these QA violations, even though Holtec containers are used at a growing number of U.S. nuclear power plants, would be used for high-risk shipping, and are the very basis of the NM CISF proposal. (See: <http://www.beyondnuclear.org/centralized-storage/2017/4/5/summary-of-oscar-shiranis-allegations-of-quality-assurance-v.html> )

**Re: Sec. 401, re: the WORKING CAPITAL FUND** – The George W. Bush administration should serve as a cautionary tale. It proposed spending billions of dollars per year from the Nuclear Waste Fund, at the scientifically unsuitable Yucca site. If that dump had been constructed and opened during those years, those countless billions of dollars of ratepayer funds would have been quickly wasted, and lost forever, but for Congress’s wise refusal to go along. Of course, certain nuclear power industry contractors would have absolutely loved such public largesse directed their way, even though it would have ended up wasted. Congressional appropriations oversight and power of the purse must be carefully applied to Nuclear Waste Fund and all related expenditures. After all, these very limited funds must provide for unending management, and even permanent disposal, for more than 80,000 metric tons of commercial irradiated nuclear fuel, which grows by another 2,200 metric tons each and every year America’s 97 reactors keep operating.

**Re: Sec. 509 REPEAL OF VOLUME LIMITATION** – If the 70,000 metric ton limit at the Yucca dump were to be removed, the scientifically unsuitable site would leak to the environment even faster, due to the perfect storm of thermal heat levels, underground water saturation, and corrosive rock chemistry. And given the greater quantity, the catastrophe resulting downstream from such hazardous radioactive releases would be even worse, as for the agricultural community of Amargosa Valley, NV, and the Timbisha Shoshone Indian Band in Death Valley National Park, CA.

Finally, re: “consent-based siting,” whether for a permanent dump at Yucca, or consolidated interim storage facilities as in NM and/or TX, how can members of this generation consent on behalf of all future generations? Allison Fisher of Public Citizen’s Energy Program asked this question at DOE’s Jan. 2016 “Consent-Based Siting Public Comment Kick Off Meeting” in Washington, DC, and it’s not yet been answered.

As an urgently needed alternative to both of these dangerously bad bills, the environmental movement has called, since 2002, for implementation of Hardened On-Site Storage (HOSS) of high-level radioactive waste (see attached *Principles for Safeguarding Nuclear Waste at Reactors*). If not on-site, then as near to the site of generation, as is safely possible. For example, San Onofre’s high-level radioactive wastes could be moved a few miles east, deeper into the heart of Camp Pendleton Marine Corps Base. This would remove the wastes from the earthquake fault line area, from the tsunami zone, away from rising seas – with the added bonus of thousands of U.S. Marines to help guard them. This, rather than ship San Onofre’s waste a thousand miles to the east, to NM and/or TX, for “interim storage,” from where they would someday (or some decade, or some century) have to be moved yet again – to where, we know not – instantly doubling transport risks, for no good reason. (See my attached letter to the editor, published in the *Los Angeles Times*.)

We also oppose both bills making legal the U.S. Department of Energy (DOE) taking title (ownership) of commercial irradiated nuclear fuel at a privately owned CISF, such as those currently targeted at NM by Holtec International/Eddy-Lea Energy Alliance, and at TX by Waste Control Specialists/Interim Storage Partners. Given “polluter pays” principles, and U.S. policy dating back many decades, the pre-permanent disposal (interim storage) costs associated with irradiated nuclear fuel belong (and should stay) with the electric utilities that have profited mightily from the generation of these forever deadly, highly radioactive wastes.

We also oppose the CISFs due to the environmental injustice, or radioactive racism, inherent in targeting a majority Hispanic region with the deadliest radioactive wastes in the U.S. There is also the pollution burden already borne by these communities, due to very intensive nuclear (“low-level” radioactive waste disposal, uranium enrichment, etc.) and fossil fuel (oil extraction, natural gas fracking, etc.) industrial activities in the Permian Basin.

But in addition, as NM Governor Michele Lujan Grisham wrote in a June 7 letter (attached) to Energy Secretary Perry, and Nuclear Regulatory Commission Chairman Svinicki, the lack of a permanent repository means that “consolidated interim” (as at Holtec’s proposed facility) risks becoming *de facto* permanent, surface storage. The U.S. Department of Energy itself warned in its Feb. 2002 Final Environmental Impact Statement for the Yucca Mountain dump, that high-level radioactive waste, abandoned at the surface of the land, given loss of institutional control, and inevitable degradation and failure of containers over long enough time periods, would result in catastrophic releases of hazardous radioactivity to the environment. This could happen on-site at reactors, but it could also happen away-from-reactor, as at CISFs. Due to such risks, the governor of NM has communicated clearly to decision makers that her state does not consent to taking on such risks. Secretary Perry’s statement in response to a question from U.S. Rep. Mike Simpson, at a House Budget Committee hearing in late March, that “interim” becoming permanent in west TX would be fine by him, and by west Texans, shows that Secretary Perry is not even familiar with his own department’s warnings about the high risks of containers failing in the future, causing catastrophic radioactivity releases downwind, downstream, up the food chain, and down the generations.

The NM State Lands Commissioner, Stephanie Garcia Richard, and U.S. Rep. Deb Haaland (NM-1<sup>st</sup>) have since joined the governor in expressing strong lack of consent in the state for the Holtec CISF.

Consent-based siting in TX is also dubious, given TX Governor Greg Abbott’s veto of “an ill-considered giveaway to a radioactive waste disposal facility.” As Gov. Abbott wrote in the attached proclamation, “Unfortunately, the bill author’s good idea about domestic violence has been dragged down by a bad idea about radioactive waste,” when WCS successfully attached its special interest rider to an unrelated piece of legislation. It is also reported that WCS’s lobbyists, while seeking to expand its national “low-level” radioactive waste dump, and simultaneously trying to end any revenue sharing with TX, also neglected to inform state legislators about the high-level radioactive waste CISF it is seeking to open in TX, just 39 miles across the state line from Holtec, NM.

Besides the lack of host state consent, another common theme of both these dangerously bad bills, that would rush open a permanent repository at Yucca Mountain, and/or CISFs in NM and/or TX, is the transportation risks.

Our country needs to avoid radioactive waste wrecks, both figurative – of policy – as well as literal, on our roads, rails, and waterways. We need to just say no to unwise irradiated nuclear fuel transport, storage, and disposal schemes, that have more to do with offloading nuclear utilities’ liabilities onto the public, than on protecting health, safety, and the environment. Transporting high-level radioactive waste by truck, train, and/or barge, through most states and the District of Columbia, scores of major cities, and the vast majority of U.S. congressional districts, would take unnecessary risks of Mobile Chernobyls, Floating Fukushimas, and Dirty Bombs on Wheels. **Please oppose S. 1234, “The Nuclear Waste Administration Act,” as well as S. \_\_\_\_\_, “The Nuclear Waste Policy Amendments Act of 2019.”** Thank you for considering our views. Please contact us with any questions.

Sincerely, Kevin Kamps, Radioactive Waste Specialist