



THE COMMITTEE ON ENERGY AND COMMERCE

INTERNAL MEMORANDUM

January 30, 2012

MEMORANDUM

To: Subcommittee on Environment and the Economy

From: Committee Staff

Subject: Hearing Entitled “Recommendations of the Blue Ribbon Commission on America’s Nuclear Future”

On Wednesday, February 1, 2012, at 9:30 a.m. in room 2322 of the Rayburn House Office Building, the Subcommittee on Environment and the Economy will hold a hearing entitled “Recommendations of the Blue Ribbon Commission on America’s Nuclear Future.” The hearing will review the findings and recommendations of the Blue Ribbon Commission in its January 2012 Report to the Secretary of Energy and will focus on the future of America’s nuclear waste management program.

I. Witnesses

Panel I:

The Honorable Lee H. Hamilton, Co-Chair
Blue Ribbon Commission on America’s Nuclear Future
Director
The Center on Congress at The Indiana University
Former Member, U.S. House of Representatives (D-IN)

Lt. Gen. Brent Scowcroft (Ret.), Co-Chair
Blue Ribbon Commission on America’s Nuclear Future
President, Scowcroft Group
Former National Security Advisor to Presidents Gerald Ford and George H.W. Bush

Panel II:

Mr. Lake H. Barrett, President
L. Barrett Consulting
Former Deputy Director, Office of Civilian Radioactive Waste Management
U.S. Department of Energy

Dr. D. Warner North, President
NorthWorks, Inc.
Former member, U.S. Nuclear Waste Technical Review Board

Mr. Martin G. Malsch, Partner
Egan, Fitzpatrick, Malsch & Lawrence

Mr. Edwin Lyman, Senior Staff Scientist
Union of Concerned Scientists

Mr. Thomas A. Schatz, President
Citizens Against Government Waste

Mr. David A. Wright, Chairman of the Board and President
National Association of Regulatory Utility Commissioners

II. Background

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) requires DOE to take title to, remove, and transport spent nuclear fuel from commercial reactor sites to a permanent geologic repository or an interim storage facility before permanent disposal. NWPA also directs defense-related high-level waste and spent fuel to the same repository. Development of the repository would be paid for by the Nuclear Waste Fund (NWF), which is funded by ratepayers of nuclear-generated electricity.

In 1987, after DOE had conducted studies of nine potential repository sites located throughout the United States, Congress amended the NWPA and selected the Yucca Mountain site in Nye County, Nevada. In 2002, following extensive evaluation of the site by DOE and its national laboratories, the Secretary of Energy determined Yucca Mountain was suitable for repository development and recommended the President approve the site for development. Under the NWPA, Nevada submitted a notice of disapproval. Congress overrode the objection, and Congress passed and the President signed Public Law 107-200, which approved Yucca Mountain as the site for the repository.

On June 3, 2008, after additional scientific and engineering studies on development and design, DOE submitted a license application to the Nuclear Regulatory Commission (NRC) seeking construction authorization for the repository at Yucca Mountain. NRC docketed the license application in September 2008 and was directed, pursuant to the NWPA, to conduct its review within four years. The NRC then commenced a two-pronged review of the application: (1) a technical licensing review by the NRC staff to assess the technical merits of the repository design and to formulate a position on whether the proposed repository is safe and will protect the public and the environment and (2) adjudicatory hearings by the NRC's Construction Authorization Board to consider technical and legal challenges to the application. (Both those processes are presently suspended.)

In March 2010, asserting that the Secretary of Energy “has decided that a geologic repository at Yucca Mountain is not a workable option for long-term disposition” of nuclear waste, DOE filed a motion with the NRC’s Construction Authorization Board to withdraw the license application. On June 29, 2010, the Board denied the DOE motion to withdraw the application.

Following President Obama’s decision to halt work on an independent technical evaluation of the repository at Yucca Mountain, the Blue Ribbon Commission on America’s Nuclear Future (“BRC” or “Commission”) was assembled by the Secretary of Energy at the request of President Obama to conduct a comprehensive review of the back end of the nuclear fuel cycle and to recommend a strategy for better managing the nuclear waste issue. (A copy of the [charter](#) and the [final report](#) is available at [brc.gov](#).)

Notably, in light of the Administration’s decisions regarding the Yucca Mountain Program, the BRC was not set up to identify a site for the repository, either the Yucca Mountain site established in NWPA or some other site. After two years of study, fact-finding, regional public meetings, formal hearings, site visits, and a draft report on which the Commission sought public comment, the BRC provided a final report to the Secretary of Energy on January 26, 2012. The BRC Co-Chairmen explained to the Secretary of Energy in their cover letter:

“You directed that the Commission was not to serve as a siting body. Accordingly, we have not evaluated Yucca Mountain or any other location as a potential site for the storage of spent nuclear fuel or disposal of high level waste, nor have we taken a position on the Administration’s request to withdraw the Yucca Mountain license application. What we have 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.

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- 7) Support for continued U.S. innovation in nuclear energy technology and for workforce development.
- 8) Active U.S. leadership in international efforts to address safety, waste management, non-proliferation, and security concerns.

I. Issues

Issues to be examined at the hearing may include:

- The financial impacts of delays on current repository development; and,
- Nuclear Waste Policy Act suggestions.

II. Staff Contacts

If you have any questions regarding this hearing, please contact Dave McCarthy (dave.mccarthy@mail.house.gov) or Peter Spencer (peter.spencer@mail.house.gov) of the Majority Committee staff at (202) 225-2927.