



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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October 28, 2011

Mr. Timothy A. Frazier
Designated Federal Officer
Blue Ribbon Commission on America's Nuclear Future
United States Department of Energy
1000 Independence Ave. SW
Washington, D.C. 20585

Re: Washington State Department of Ecology Comments on “*Blue Ribbon Commission on America’s Nuclear Future - Draft Report to the Secretary of Energy,*” July 29, 2011

Dear Mr. Frazier:

The Washington State Department of Ecology (Ecology) commends the Blue Ribbon Commission (BRC) and their staff for their detailed review, investigation and strategy development. We commend the transparent and inclusive way the BRC conducted its business. The disposition of spent fuel and high-level radioactive waste (HLW) is truly a national issue of significant priority, and we appreciate the BRC's service and dedication to the mission.

Areas of agreement on the BRC's report include:

- Ecology agrees with the BRC that a deep geologic repository is necessary for disposal even if re-use of materials becomes commonplace. (“Prompt efforts to develop, as expeditiously as possible, one or more permanent deep geological facilities for the safe disposal of spent fuel and high-level nuclear waste.”)
- Ecology agrees with the BRC that equally urgent efforts must be made concurrently for interim storage, disposal and transportation.

Washington State Department of Ecology Comments:

1. There is only one legal process in place for developing a geologic repository, and that is provided by the Nuclear Waste Policy Act (NWPA). Under the NWPA, only Congress has the authority take Yucca Mountain off the table. The convening of a Blue Ribbon Commission to examine alternatives to Yucca Mountain and recommend possible amendments to the NWPA cannot substitute for a process already provided by law. Legally, Yucca Mountain is still the location for the deep geologic repository.

2. Ecology understands the BRC's new approach to the siting of deep geologic disposal based on a consent-based process with federal, state, tribal and local rights. However, we do not think it is commensurate with the urgency of the situation for defense-related waste.
 - We note the distressing irony of state consent on issues related to this waste in that Washington State is the host to 60 percent of the defense-related HLW and 98 percent of the defense-related spent fuel, yet was never consulted or given a choice to be the storage site to this disproportionate volume of the nation's worst legacy defense waste.
 - In our case, the disaster is not impending – it is occurring now, and will likely grow worse until all the waste is retrieved from the tanks and immobilized in glass. The evidence for this is the one-million gallons of HLW already leaked from storage tanks, resulting in groundwater concentrations up to 100 times the drinking water standards from HLW-related contamination. This is our reality in the Northwest. The harm has already begun and has the potential to put this region and its citizens at risk for thousands of years to come.

3. We would like the BRC to include in their Recommendations a guarantee and prioritization of immobilization of the nation's defense HLW. This prioritization would assure funding for urgently needed treatment and immobilization of HLW. This prioritization is essential to restoring goodwill, and would help clear the way to develop future consensus siting for a geologic repository.

It is vital that the vitrification of Hanford's 56-million gallons of HLW be completed as soon as possible. If we, as a nation, fail in this regard, the end result will be:

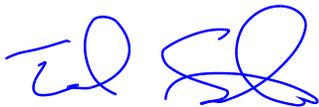
- 50 to 80 square miles of groundwater contaminated with HLW significantly above acceptable health risk levels.
 - Miles of contaminated Columbia River shoreline. (The Columbia is the third-largest river in the United States.)
 - The potential to affect over 1 million downstream users of the Columbia River.
 - Hundreds of acres of Washington State land contaminated with HLW.
4. Given the urgency of a national deep geologic repository; the need for more than one repository; the legal obligation mandating Yucca Mountain; and the science, extensive evaluation and resources invested in the Yucca location, Ecology would like the BRC to include in their Recommendations:
 - Yucca Mountain should complete the licensing review process and, if determined scientifically sound, initiate the operations and facility startup, in parallel with a consensus siting process for a second repository location.

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5. If a consent-based approach is pursued in parallel for a second repository beyond Yucca Mountain, we ask that the BRC include in Recommendation 1 language that identifies new, comprehensive regulatory authority of states in regard to the future repository. Impacted states will need direct decision authority over proposed repository activities. This state authority should be in the form of court-enforceable agreements or expansion of the Atomic Energy Act or the Nuclear Waste Policy Act to include state regulatory authority over HLW disposal.
6. Regarding Recommendation 2, which proposes a single-purpose organization to manage the transportation, storage and disposal of nuclear wastes, we suggest a change to the Recommendation stating that the United States Department of Energy HLW and spent fuel waste should be considered separately. This would allow this legacy defense waste to be dispositioned sooner, reduce risk to human health and the environment associated with those storage sites, and save tax dollars by reducing the long-term burden.
7. Regarding Recommendation 5, we propose that the BRC link court-enforceable penalties to measurable deadlines in the development of deep geologic repositories and the removal of wastes from interim storage, particularly those defacto interim storage facilities like Hanford, the Idaho National Laboratory and the Savannah River Site.

Thank you for your kind consideration of our input.

Sincerely,



Ted Sturdevant
Director

cc: Jane Hedges, Ecology - Manager, Nuclear Waste Program - Richland