

**Clean Water Action * League of Conservation Voters
Natural Resources Defense Council * Sierra Club * Union of Concerned Scientists**

The Honorable Mitch McConnell
Majority Leader
United States Senate
Washington, DC 20510

The Honorable Nancy Pelosi
Speaker
U.S. House of Representatives
Washington, DC 20515

The Honorable Charles E. Schumer
Minority Leader
United States Senate
Washington, DC 20510

The Honorable Kevin McCarthy
Minority Leader
U.S. House of Representatives
Washington, DC 20515

Dec. 11, 2019

Dear Majority Leader McConnell, Minority Leader Schumer, Speaker Pelosi, Minority Leader McCarthy,

Seven years ago, the bipartisan *Blue Ribbon Commission for America's Nuclear Future* (BRC) set out a phased, careful approach to developing both nuclear waste repositories and temporary storage sites, with the process for each strongly linked to ensure storage sites could not become *de facto* repositories. Unfortunately, provisions in both chambers' Energy and Water Appropriations Acts (H.R. 2740 and S. 2470) have departed from this wise counsel and prioritized consolidated interim storage (CIS) at the expense of a meaningful and workable, consent based, repository program. We ask that these sections be omitted from any final bill.

If Congress attempts to develop the two potential CIS sites in Texas and New Mexico before it has in place a comprehensive reworking of national nuclear waste laws that is scientifically and publicly acceptable, we expect only continued failure and contentious litigation that ensures the nation's waste remains exactly where it sits today – in spent fuel pools or in dry storage at operating and decommissioning reactors. Both New Mexico and Texas have made their explicit objections to becoming the *de facto* storage sites for the nation's nuclear waste.

Consolidated storage has already failed in Utah, where Private Fuel Storage is licensed but will never receive waste. And previously, the Nuclear Waste Negotiator tried unsuccessfully to find storage sites. As waste remains where it is, more attention should be paid to improved on-site storage, which is a better use of funding than the CIS sites.

The two provisions regarding CIS differ significantly and each have specific flaws. In the Senate bill, Sec. 306 would create a pilot program to *"license, construct, and operate 1 or more Federal consolidated storage facilities to provide interim storage as needed for spent nuclear fuel and high-level radioactive nuclear fuel located on sites without an operating nuclear reactor."*

While this section includes a nod to needed consent, it is still disconnected from the repository program. Taking this kind of expedient, short term action, as noted by former Chairman

Bingaman and many others, will almost surely result in the creation of a *de facto*, and above-ground, permanent resting place for the nation's spent fuel. This is the precise opposite of what is called for by law and what has been a national consensus for decades. An authorization provision with this drastic of a change in existing authority has no place in an appropriations bill.

The House provision found on pg. 101 of H. Rept. 116-83 would provide \$25 million for interim storage facilities, including *"the initiation of a robust consolidated interim storage program."* This language does not contain a requirement for affirmative consent from the states, tribes, and communities where this waste would be stored. And, like the Senate provision, fails to protect against any potential interim site becoming a *de facto* permanent repository. This approach repeats the mistakes of the process yet again, placing the burden on states that, as noted above, have already indicated they will not consent to receiving waste.

Congress should discard this approach and embrace the development of a science-based and consent-based repository program that acknowledges the significant institutional challenges facing spent fuel storage and disposal. Instead of pressing forward with more plans sure to invite rancor, Congress must create a transparent, equitable process incorporating strong public health standards that are insulated from efforts to weaken those same standards when expedient to license a facility. Such a process can conclude with the licensing and operation of a suitable repository site (or sites) that can be effectively regulated under long effective environmental laws.

Advancing interim storage in an appropriations bill solves none of these problems and will have lasting, problematic consequences for our nuclear waste program and likely derail any chance for the meaningful reforms and efforts to find an ultimate solution for nuclear waste. Again, we respectfully request that both of these provisions be omitted from any final bill.

Sincerely,

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