

**Opening Statement of the Honorable John Shimkus
Subcommittee on Environment and the Economy
Hearing on “Oversight of DOE’s Strategy for the Management and Disposal of Used
Nuclear Fuel and High-Level Radioactive Waste”**

July 31, 2013

(As Prepared for Delivery)

Today we review the Department of Energy’s Strategy for the Management and Disposal of Used Nuclear Fuel and High-level Radioactive Waste. We are pleased to have Secretary Moniz with us and look forward to hearing his testimony.

In 2008, after decades of research, DOE filed an 8,700-page license application at the Nuclear Regulatory Commission for permission to construct a repository at Yucca Mountain. In 2009, the administration unilaterally decided to cancel the Yucca Mountain program and sought to withdraw the license application. The NRC, which is mandated under the Nuclear Waste Policy Act to review the license, denied DOE’s request but not before the then-NRC Chairman directed the staff to cease its review – an affair this committee investigated at length. The matter of whether the NRC should resume its review, of course, has now been pending for quite some time before the DC Circuit Court of Appeals.

Three weeks ago, 335 House members – including more than half our Democrats - voted to preserve funding for the NRC’s Yucca Mountain license review in the energy and water appropriations bill. This vote showed a remarkable bi-partisan agreement that the NRC should continue its work as the independent safety regulator and issue a decision on whether or not Yucca Mountain would be a safe repository. After over 30 years and \$15 billion dollars, the American people deserve to know the NRC’s independent, objective conclusion.

In light of all this work, DOE’s new waste strategy very much represents the administration’s effort to start from scratch as if the Nuclear Waste Policy Act doesn’t exist or at least as if most of it doesn’t exist.

At the end of June, I sent a letter to the agency asking basic questions about the legal authority and funding for the actions DOE is currently undertaking. At this time, I’d like to ask that my letter together with DOE’s response and attachment be included in the hearing record. DOE’s response cited a few convenient sections of the Nuclear Waste Policy Act as providing the authority for the Department to conduct certain work.

But the agency did not cite Section 302(d) regarding the use of the Nuclear Waste Fund which states:

“No amount may be expended by the Secretary under this subtitle for the construction or expansion of any facility unless such construction or expansion is expressly authorized by this or subsequent legislation. The Secretary hereby is authorized to construct one repository and one test and evaluation facility.”

Which is, of course, Yucca Mountain.

DOE estimates the cost of starting over to be \$5.6 billion dollars for just the first ten years. At the end of those ten years, DOE projects to have only a pilot facility operating with a repository not expected to be operational until 2048 – ladies and gentlemen, that’s 65 years after Congress first passed the Nuclear Waste Policy Act and after the reactors we have operating today have likely closed.

DOE’s Strategy would require legislation but Secretary Moniz indicated in our hearing last month that the Administration does not intend to propose legislation. DOE is in this situation because the White House decided NOT to follow the law that Congress has already passed.

With this Strategy, DOE expects to simply write-off \$15 billion dollars in favor of a pilot facility that might, or might not, get sited after this Administration ends. I firmly believe the public deserves to know the truth about Yucca Mountain, and our children and grandchildren deserve a permanent solution not just the hope of a temporary fix.

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