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4 OVERSIGHT OF DOE'S STRATEGY FOR THE MANAGEMENT AND DISPOSAL

5 OF USED NUCLEAR FUEL AND HIGH-LEVEL RADIOACTIVE WASTE

6 WEDNESDAY, JULY 31, 2013

7 House of Representatives

8 Subcommittee on Environment and the Economy

9 Committee on Energy and Commerce

10 Washington, D.C.

11 The Subcommittee met, pursuant to call, at 2:04 p.m., in

12 Room 2123 of the Rayburn House Office Building, Hon. John

13 Shimkus [Chairman of the Subcommittee] presiding.

14 Members present: Representatives Shimkus, Hall,

15 Whitfield, Murphy, Latta, Harper, McKinley, Bilirakis,

16 Johnson, Barton, Upton (ex officio), Tonko, Green, Capps,

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17 McNerney, Dingell, Barrow, Matsui, and Waxman (ex officio).

18 Staff present: Nick Abraham, Legislative Clerk; Gary

19 Andres, Staff Director; Charlotte Baker, Press Secretary;

20 David Bell, Staff Assistant; Sean Bonyun, Communications

21 Director; Allison Busbee, Policy Coordinator, Energy & Power;

22 Annie Caputo, Professional Staff Member; David McCarthy,

23 Chief Counsel, Environment & Economy; Brandon Mooney,

24 Professional Staff Member; Chris Sarley, Policy Coordinator,

25 Environment & Economy; Peter Spencer, Professional Staff

26 Member, Oversight; Tom Wilbur, Digital Media Advisor; Jeff

27 Baran, Democratic Senior Counsel; Alison Cassady, Democratic

28 Senior Professional Staff Member; and Caitlin Haberman,

29 Democratic Policy Analyst.

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|  
30           Mr. {Shimkus.} I would like to call this hearing to  
31 order. I want to thank the Secretary for coming. I would  
32 like to recognize myself for the 5-minute opening statement.

33           Today, we review the ``Department of Energy's Strategy  
34 for the Management and Disposal of Used Nuclear Fuel and  
35 High-level Radioactive Waste.'' We are pleased to have  
36 Secretary Moniz with us, looking forward to hearing his  
37 testimony.

38           In 2008, after decades of research, DOE filed an 8,700-  
39 page license application at the Nuclear Regulatory Commission  
40 for permission to construct a repository at Yucca Mountain.  
41 In 2009, the Administration unilaterally decided to cancel  
42 the Yucca Mountain program and sought to withdraw the license  
43 application. The NRC, which is mandated under the Nuclear  
44 Waste Policy Act to review the license, denied DOE's request  
45 but not before the then-NRC chairman directed the staff to  
46 cease its review, an affair this committee investigated at  
47 length. The matter of whether the NRC should resume its  
48 review, of course, has now been pending for quite some time  
49 before the D.C. Circuit Court of Appeals.

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50           Three weeks ago, 335 Members of the House, including  
51 more than half my Democrats, voted to preserve funding for  
52 the NRC's Yucca Mountain license review in the Energy and  
53 Water appropriations bill. This vote showed a remarkable  
54 bipartisan agreement that the NRC should continue its work as  
55 an independent safety regulator and issue a decision on  
56 whether or not Yucca Mountain would be a safe repository.  
57 After over 30 years and \$15 billion, the American people  
58 deserve to know the NRC's independent, objective conclusion.

59           And, Mr. Secretary, I would also just add that  
60 regardless of what the results are, this scientific research  
61 at the conclusion would be helpful for any reason, any future  
62 repository. The research developed on Yucca Mountain and  
63 finalizing the scientific research would be helpful as we  
64 move in other directions if we were to do that. So it is  
65 very important to finish the scientific report.

66           In light of all this, DOE's new waste strategy very much  
67 represents the Administration's effort to start from scratch  
68 as if the Nuclear Waste Policy Act doesn't exist or at least  
69 as if most of it doesn't exist.

70           At the end of June, I sent a letter to the agency asking

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71 basic questions about the legal authority and funding for the  
72 actions DOE is currently undertaking. At this time, I would  
73 like to ask that my letter, together with DOE's response and  
74 attachment, be included in the hearing record.

75 Without objection, so ordered.

76 [The information follows:]

77 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

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|

78           Mr. {Shimkus.} DOE's response cited a few convenient  
79 sections of the Nuclear Waste Policy Act as providing the  
80 authority for the Department to conduct certain work. But,  
81 and I want to underscore this, the agency did not cite  
82 Section 302(d) regarding the use of the Nuclear Waste Fund  
83 which states: ``No amount may be expended by the Secretary  
84 under this subtitle for the construction or expansion of any  
85 facility unless such construction or expansion is expressly  
86 authorized by this or subsequent legislation. The Secretary  
87 hereby is authorized to construct one repository and one test  
88 and evaluation facility,'' which, of course, with the law is  
89 Yucca Mountain.

90           DOE estimates the cost of starting over to be \$5.6  
91 billion for just the first 10 years. At the end of those 10  
92 years, DOE projects to have only a pilot facility operating  
93 with a repository not expected to be operational until 2048.  
94 Ladies and gentlemen, that is 65 years after Congress first  
95 passed the Nuclear Waste Policy Act and after the reactors we  
96 have operating today have most likely closed.

97           DOE's Strategy would require legislation but Secretary

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98 Moniz indicated in our hearing last month that the  
99 Administration does not intend to propose legislation. DOE  
100 is in this situation because the White House decided not to  
101 follow the law that Congress has already passed. With this  
102 Strategy, DOE expects to simply write off \$15 billion in  
103 favor of a pilot facility that might or may not get sited  
104 after this Administration ends. I firmly believe the public  
105 deserves to know the truth about Yucca Mountain. We all need  
106 to know about all the money that has been spent and the  
107 science behind it not just for ourselves but for our children  
108 and our grandchildren. We deserve a permanent solution, not  
109 just the hope of a temporary fix.

110 [The prepared statement of Mr. Shimkus follows:]

111 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

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|  
112           Mr. {Shimkus.} And with this, I would like to yield now  
113 to my colleague, Mr. Tonko, the ranking member of the  
114 subcommittee, for 5 minutes.

115           Mr. {Tonko.} Thank you, Mr. Chair. And welcome,  
116 Secretary Moniz. Thank you for appearing before this  
117 subcommittee on a very important topic this afternoon.

118           For decades, nuclear power plants have provided  
119 electricity through the fleet of reactors located across our  
120 country. Over the same period, we have generated substantial  
121 amounts of waste that have yet to be secured in a long-term  
122 storage facility. We have debated this issue. We have  
123 funded research and development. We have passed laws  
124 designating a storage facility and have held numerous  
125 oversight hearings over the years. There have been reports  
126 by the National Academy of Sciences, the Government  
127 Accountability Office, industry and nongovernmental groups,  
128 and then most recently, as we all know, the President's Blue  
129 Ribbon Commission. But we still have not solved the nuclear  
130 waste problem.

131           We have a long-term storage facility and yet we do not.



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132 We do not have interim storage facilities or a policy of  
133 establishing them, and yet we do. I don't know what else you  
134 would call the storage facilities at each power plant site  
135 around the country. They are now de facto interim storage  
136 facilities. If nuclear power is going to continue to play a  
137 significant role in delivering baseload electrical power, we  
138 need a resolution to this situation. It will not be easy and  
139 it will be most likely expensive. But the alternative is  
140 also expensive and provides less safety, less security than a  
141 functioning, ordered process for dealing with spent fuel.

142 I realize that many people feel this resolution is to  
143 complete the process to open Yucca Mountain. Well, the Yucca  
144 Mountain facility is not open at this time and it does not  
145 appear it will be open in the near future. In the meantime,  
146 spent fuel continues to accumulate and penalty fees continue  
147 to accrue. It appears to me that it is worth examining  
148 alternatives to current law and the current situation.  
149 Partisan bickering will not solve this situation and strictly  
150 adhering to past or current positions will not solve this  
151 problem either. The Administration's strategy, based on the  
152 work done by the Blue Ribbon Commission in 2012, also has its

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153 challenges and its unknowns.

154       If we are to pursue a system that includes both interim  
155 and long-term storage of waste, how do we proceed? How many  
156 interim sites will be needed? How much waste can or should  
157 be stored there? And what time period qualifies as interim?  
158 Where will they be located? How do we ensure the  
159 transportation to these sites is done and done safely? Are  
160 there States and localities willing to host repositories,  
161 either interim or permanent? What are the costs and can we  
162 access the necessary funds to the fund established to deal  
163 with this problem?

164       I do not expect to hear definitive answers to all of  
165 these questions here this afternoon. Today's hearing does,  
166 however, give us an opportunity to examine all options for  
167 moving forward. In any case, it appears congressional action  
168 is needed, and I am willing to work with my colleagues to  
169 address this issue. I do not see much future for nuclear  
170 power if we do not find a way to deal with this issue.

171       Again, Mr. Secretary, I thank you for being here this  
172 afternoon and I thank you, Chairman Shimkus, for holding this  
173 very important hearing.

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174           With that, I yield back.

175           [The prepared statement of Mr. Tonko follows:]

176   \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

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177           Mr. {Shimkus.} The gentleman yields back his time.

178           The chair now recognizes the chairman of the full

179 committee, Mr. Upton, for 5 minutes.

180           The {Chairman.} Thank you, Mr. Chairman, for holding  
181 this hearing and certainly for your leadership on the issue.  
182 And, Secretary Moniz, we certainly appreciate you being here  
183 as well this afternoon.

184           During your tenure as Secretary, you and I will work  
185 together on a wide array of issues, and I certainly  
186 appreciate the time that we have spent since you have been  
187 Secretary and look forward down the road as well. I  
188 appreciate that dialogue on a number of issues. But  
189 certainly the nuclear waste disposal is a great concern for  
190 me and one that I sank my teeth into early on when I came  
191 onto this committee and myself and Mr. Towns, with Mr.  
192 Dingell's help, we were able to broker a pretty good deal  
193 back in the '90s.

194           You know, the Nuclear Waste Policy Act is the law on the  
195 subject, and as Chairman Shimkus stated, that means Yucca  
196 Mountain. Shutting down the repository program, the

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197 Administration did not elaborate on a technical or safety  
198 concern, merely that it was ``unworkable.'' This was  
199 followed by the former Nuclear Regulatory Commission  
200 chairman, who unilaterally ceased the staff's review of the  
201 license application one month--one month--before a key safety  
202 evaluation report was to be publicly released with the  
203 agency's conclusion about the safety of Yucca.

204       Electricity consumers pay for the disposal of civilian  
205 spent nuclear fuel and taxpayers pay for disposal of nuclear  
206 waste from the Atomic Energy Defense program. In Michigan,  
207 our consumers alone have paid nearly \$600 million into the  
208 fund. Fifteen billion was invested in this repository  
209 program and got us within just a month of knowing whether we  
210 have a scientifically safe and sound location. And after  
211 spending that 15 billion, the public certainly should have  
212 the right to know what the NRC concluded. Instead, the  
213 strategy unfortunately abandoned that investment, expecting  
214 consumers and taxpayers to foot the bill for another 5.6  
215 billion for the first 10 years to start really back at square  
216 one.

217       By the end of this fiscal year, DOE will have spent

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218 nearly \$80 million in support of that strategy. And I  
219 realize that is is the result of an omnibus appropriation for  
220 fiscal year 2012 and a continuing resolution for '13 and I  
221 strongly support the efforts of the House Appropriations  
222 Committee to correct this situation.

223       The House Energy and Water appropriation bill did  
224 clarify that the Nuclear Waste Fund is only to be used for  
225 its intended purpose: Yucca Mountain. The bill also  
226 eliminated the burden currently shouldered by the taxpayer  
227 for the Administration's decision to start over.

228       So questions also have arisen about whether the Nuclear  
229 Waste Fund would be adequate under DOE's new approach. GAO  
230 doesn't believe it is. Previous cost estimates indicated the  
231 fund would be adequate to finish building and operating  
232 Yucca, but GAO questions whether the fund would be adequate  
233 to cover the costs of pursuing an alternate repository, in  
234 addition to two interim storage facilities and multiple  
235 transportation campaigns.

236       The Administration touts its strategy as saving taxpayer  
237 money by mitigating DOE liability for failure to accept and  
238 dispose of spent fuel, and we have asked the GAO to analyze

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239 that. Last August, a year ago, GAO said that Yucca could be  
240 completed faster than a new effort to build interim storage,  
241 thus making Yucca the best option for mitigating taxpayer  
242 liability.

243 I certainly remain committed to ensuring that consumers  
244 get the repository that they have paid for and that the costs  
245 to the taxpayers are minimized. And right now, it seems as  
246 though Yucca does remain the clear answer to both of those  
247 problems. And it is the law.

248 So, Mr. Secretary, I look forward to our continued  
249 dialogue in the weeks and months ahead to solve a long-term  
250 nuclear waste disposal issue.

251 I yield back my time.

252 [The prepared statement of Mr. Upton follows:]

253 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

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|  
254           Mr. {Shimkus.} The gentleman yields back his time. The  
255 chair now recognizes the ranking member of the full  
256 committee, Mr. Waxman, for 5 minutes.

257           Mr. {Waxman.} Mr. Chairman, in 1982 Congress passed the  
258 Nuclear Waste Policy Act. The Act sought to establish a fair  
259 and science-based process for selecting two repository sites  
260 for spent nuclear fuel and high-level radioactive waste.  
261 Under this approach, no one State or locality would bear the  
262 entire burden of the Nation's nuclear waste.

263           In the years that followed, the Department of Energy  
264 began evaluating a number of potential repository sites.  
265 Then, just 5 years later, in 1987, Congress made the decision  
266 to designate Yucca Mountain in Nevada as the sole site to be  
267 considered for a permanent geologic repository. There was no  
268 plan B. This decision was widely viewed as political and  
269 provoked strong opposition in Nevada. Ever since Congress  
270 decided to short-circuit the site selection process, the  
271 State of Nevada and a majority of its citizens have opposed  
272 the Yucca Mountain project.

273           In 2002, President Bush recommended the Yucca Mountain



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274 site to Congress. Using the State veto procedures set forth  
275 in the Nuclear Waste Policy Act, Nevada then filed an  
276 official Notice of Disapproval of the site. Congress  
277 proceeded to override Nevada's veto by enacting a resolution  
278 that was reported by this committee. Twenty-five years after  
279 the 1987 amendments to the Nuclear Waste Policy Act, it is  
280 clear that this Washington-knows-best approach has not  
281 worked. The Department of Energy has terminated its Yucca  
282 Mountain activities.

283 President Obama wisely sought a new approach. He  
284 directed Secretary Chu to charter a Blue Ribbon Commission to  
285 perform a comprehensive review of U.S. policies for managing  
286 nuclear waste and to recommend a new strategy. Last year, we  
287 heard testimony from the co-chairs of the Blue Ribbon  
288 Commission on the recommendations that resulted from their 2-  
289 year effort. Since then, the Department of Energy has  
290 released a strategy for implementing many of those  
291 recommendations.

292 The Commission recommendations and the DOE's strategy  
293 deserve our serious consideration. They raise a number of  
294 important policy questions such as whether a new organization

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295 should be established to address the nuclear waste problem,  
296 how nuclear waste fees should be used, and whether one or  
297 more centralized storage facilities should be developed in  
298 addition to one or more geologic repositories.

299         These are policy questions that require a legislative  
300 response. Answering these questions requires an open mind  
301 and a willingness to move past a narrow obsession with Yucca  
302 Mountain. The Senate appears to be moving forward. Four  
303 Senators recently introduced bipartisan nuclear waste  
304 legislation. The bill may not have the final answer to every  
305 question, but it represents a genuine effort to get past  
306 ideology and begin grappling with these tough issues. We  
307 should seek a similar constructive approach in the House. If  
308 we pound the same old drumbeat on Yucca Mountain, all we will  
309 get is more gridlock, which serves no one well.

310         Secretary Moniz, you do us a great service by appearing  
311 before us today before this subcommittee. It is unusual to  
312 have a Department Secretary testify before this subcommittee.  
313 We have had Cabinet officials who testify before the full  
314 committee. It is a testament to your commitment on this  
315 issue.

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316           You were on that Blue Ribbon Commission and are a true  
317 expert on nuclear waste disposal. We should all listen very  
318 carefully to what you have to tell us today.

319           Thank you, Mr. Chairman, and look forward to the  
320 testimony of the Secretary.

321           [The prepared statement of Mr. Waxman follows:]

322           \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

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|  
323           Mr. {Shimkus.} And I thank my colleague. The gentleman  
324 yields back his time.

325           And I just want to reiterate I agree with the ranking  
326 member that we do appreciate you coming here. We know it is  
327 extraordinary for a Secretary to come to a lowly  
328 subcommittee, but we are pleased to have you.

329           And with that, I would like to recognize you for 5  
330 minutes for your opening statement.

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|  
331 ^STATEMENT OF ERNEST MONIZ, SECRETARY, U.S. DEPARTMENT OF  
332 ENERGY

333 } Secretary {Moniz.} Thank you, Mr. Chairman, but I will  
334 start by disputing your characterization as lowly. I think  
335 and actually I would say, as you both have said, it may be a  
336 bit unusual but I really appreciate the chance to come here  
337 and to start a dialogue on this important issue. As you  
338 know, I have been working on this issue, thinking about this  
339 issue for a long time, and I come here in a sense of  
340 hopefully we can pragmatically find a path forward.

341 So, Chairman Shimkus and Upton and Ranking Members Tonko  
342 and Waxman, members of the committee, thank you again for  
343 inviting me here to discuss nuclear waste issues and the  
344 activities at the Administration is ongoing to meet the  
345 challenge of managing and disposing of used nuclear fuel and  
346 high-level radioactive waste.

347 As was stated in January of this year, the  
348 Administration, Department of Energy released its strategy  
349 for the management and disposal of used nuclear fuel and

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350 high-level radioactive waste based on the recommendations of  
351 the Blue Ribbon Commission on which, again, I did have the  
352 pleasure of serving under the leadership of Lee Hamilton and  
353 Brent Scowcroft.

354       The Administration clearly embraces the principles of  
355 the Commission's core recommendations, supports the goal of  
356 establishing a new, workable, long-term solution for nuclear  
357 waste management. I would also like to observe, as was  
358 noted, that a bipartisan group of Senators has introduced a  
359 bill adopting the principles of the Blue Ribbon Commission.  
360 I testified before that Senate Energy Committee yesterday and  
361 was encouraged by the progress they had made towards  
362 addressing the most complex of issues. And I appear today  
363 before this committee to reinforce that the Administration is  
364 ready and willing to engage with both Chambers of Congress to  
365 move forward.

366       Any workable solution for the final disposition of used  
367 fuel and nuclear waste must be based not only on sound  
368 science but also on achieving public acceptance at the local,  
369 state, and tribal levels. When this Administration took  
370 office, the timeline for opening Yucca Mountain had already

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371 been pushed back by 2 decades, stalled by public protest and  
372 legal opposition with no end in sight. It was clear the  
373 stalemate couldn't continue indefinitely.

374       Rather than continuing to spend billions of dollars more  
375 on a project that faces such strong opposition, the  
376 Administration believes a pathway similar to that the Blue  
377 Ribbon Commission laid out, a consent-based solution for the  
378 long-term management of our used fuel and nuclear waste is  
379 one that meets the country's national energy security needs,  
380 has the potential to gain the necessary public acceptance,  
381 and can scale to accommodate the increased needs for future  
382 that includes expanding nuclear power and deployment.

383       The strategy lays out plans to implement with the  
384 appropriate authorizations from Congress--and we do need  
385 those authorizations--a long-term program that begins  
386 operations of a pilot interim storage facility, advances  
387 toward the siting and licensing of a larger interim storage  
388 facility, and makes demonstrable progress of the siting and  
389 characterization of repository sites to facilitate the  
390 availability of one or more geological repositories.

391       Certainly, consolidated storage is a critical component

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392 of an overall used fuel and waste management system and  
393 offers a number of benefits such as offering an opportunity  
394 to remove fuel from shutdown reactors, meeting waste  
395 acceptance obligations of the Federal Government sooner, and  
396 reducing the government's liabilities caused by delayed waste  
397 acceptance.

398       No matter how many facilities or what specific form they  
399 take, we believe a consent-based approach to siting is  
400 critical to success. The Administration supports working  
401 with Congress to develop a consent-based process that is  
402 transparent, adaptive, and technically sound, as recommended  
403 by the Commission. The Commission emphasized that  
404 flexibility, patience, responsiveness, and a heavy emphasis  
405 on consultation and cooperation will all be necessary in the  
406 siting process and in all aspects of implementation.

407       The strategy also highlights the need for a new waste  
408 management and disposal organization to provide the  
409 stability, focus, and credibility to build public trust and  
410 confidence. Again, there are multiple models that exist  
411 along a continuum from a government program to federal  
412 corporations. But whatever form the new entity takes,



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413 organizational stability and appropriate level of autonomy,  
414 leadership continuity, oversight and accountability, and  
415 public credibility are all critical attributes for future  
416 success.

417 Finally, the Department has also initiated the Blue  
418 Ribbon Commission recommended revisiting of the decision to  
419 co-mingle commercial used fuel and defense waste.

420 So we are facing a unique opportunity to address the  
421 needs of the back end of the nuclear fuel cycle by setting it  
422 on a sustainable path and providing the flexibility needed to  
423 engage potential host communities and anticipated  
424 advancements in technology. We need to move forward with  
425 tangible progress toward used fuel acceptance initially from  
426 closed reactor sites and providing more certainty for the  
427 nuclear industry. This process is critical to assure the  
428 benefits of nuclear power are available to current and future  
429 generations.

430 And I will be happy to answer any questions that you  
431 have, Mr. Chairman. Thank you.

432 [The prepared statement of Secretary Moniz follows:]

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433 \*\*\*\*\* INSERT 1 \*\*\*\*\*

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|  
434           Mr. {Shimkus.} Thank you, Mr. Secretary. Now, I would  
435 like to recognize myself for 5 minutes for the first round of  
436 questions.

437           Mr. Secretary, DOE's strategy is built on the premise  
438 that States will volunteer to host interim storage or a  
439 repository facility. Your testimony mentions reports that  
440 ``a number of communities are exploring the possibility of  
441 hosting a consolidated storage facility.'' So the question  
442 is what States have indicated interest in hosting a facility?

443           Secretary {Moniz.} First, I want to clarify, Mr.  
444 Chairman, that of course at this stage we are not engaging in  
445 any kind of negotiations or anything of that type. However,  
446 there have been a number of public reports, and in fact, one  
447 county has in fact passed a resolution expressing interest.  
448 Based also upon the experiences in Europe, we believe there  
449 are reasons for optimism that that can happen.

450           Mr. {Shimkus.} So we don't have States that are showing  
451 interest right now nor do we have Governors or U.S. Senators  
452 who are making a pitch for their State to be considered?

453           Secretary {Moniz.} Well, it is certainly premature for

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454 any so-called pitch because right now we don't even have the  
455 authorities to move forward.

456 Mr. {Shimkus.} Well, no, it is not unlikely with the  
457 Blue Ribbon Commission and with the statements by this  
458 Administration for States to have come forward and tried to  
459 organize their own political support with the Governor's  
460 office and their sitting Senators to be making this pitch  
461 that we would consider it. I mean there is nothing in law  
462 that says they can't start trying to mobilize public support  
463 in their State for following up on this proposal, is there?

464 Secretary {Moniz.} Well, no. And again, as I have  
465 said, there have been certainly reports in the media--

466 Mr. {Shimkus.} But you can't tell us of any States  
467 which have done that initial work other than this one county  
468 in some State?

469 Secretary {Moniz.} Well, one county that is in Texas, I  
470 mean, it was in public. A public resolution was passed.  
471 Recently, there were media reports which I have not attempted  
472 in any way to confirm, but there were statements made in  
473 Mississippi. There have been a number of statements made.  
474 But again, until we have the authorities, can put out a

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475 request for proposals, then I think frankly our position to  
476 provide some technical support for developing the information  
477 for potential communities I think would be premature frankly.

478       Mr. {Shimkus.} Well, it seems to me that a majority of  
479 these siting efforts and up with local community supporting a  
480 facility, maybe this county, and state-level officials  
481 opposing it. In fact, if I remember, the history of Yucca  
482 Mountain was the State General Assembly passed a resolution  
483 in support of the initial siting of Yucca Mountain.

484       We also have, you know, Nye County v. Nevada, Private  
485 Fuel Storage v. Utah, and your written testimony mentions  
486 consent-based areas that might be successful, i.e., Sweden  
487 and Finland, but you fail to mention England, a consent-based  
488 approach that the Commission touted, and what happened to  
489 that consent-based approach?

490       Secretary {Moniz.} These are tortuous paths so--

491       Mr. {Shimkus.} So it was not successful as an--

492       Secretary {Moniz.} Yes, we will--

493       Mr. {Shimkus.} So, I mean, my point is what makes you  
494 believe that another consent-based approach somewhere in this  
495 country is not going to end up 30 years later and \$15 billion

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496 in the hole just like we have right now at Yucca Mountain?

497 Secretary {Moniz.} Well, look, we all know all of these  
498 issues around nuclear waste take time. One example that, you  
499 know, it is not a high-level waste repository but--

500 Mr. {Shimkus.} Which is a lot different than what we  
501 are talking about.

502 Secretary {Moniz.} But in WIPP with the transuranic  
503 facility we did have a similar situation with the State and  
504 now we have a very successful--

505 Mr. {Shimkus.} But I have personal knowledge of a U.S.  
506 Senator who fought against that as the Attorney General who  
507 is now a sitting U.S. Senator from that State. So--

508 Secretary {Moniz.} Yes.

509 Mr. {Shimkus.} --we better be careful. I think this  
510 illusion that this consent-based approach is going to be  
511 panacea I am not sure is supported by the facts.

512 Another thing that the Blue Ribbon Commission that you  
513 are also promoting is that incentives are a key to success.  
514 And the estimated cost of this effort from the beginning is  
515 5.6 billion over 10 years. Why not offer this money to  
516 Nevada?

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517           Secretary {Moniz.} Again, the recommendation is around  
518 a consent-based approach. Any State and community can come  
519 forward.

520           Mr. {Shimkus.} Part of the problem with the State of  
521 Nevada is they say show me the money. We don't believe you  
522 will follow through and there are not going to be any  
523 additional benefits. Wouldn't \$5.6 billion to a State that  
524 has a struggling economy, they could rebuild its roads, bring  
525 in rail lines, and probably continue to do what we have and  
526 the Department of Energy has done with UNLV, continue to  
527 support their advanced nuclear energy technology, don't you  
528 think that would be a good lure?

529           Secretary {Moniz.} Again, we are advocating a consent-  
530 based approach. Any State can come forward, and we do  
531 believe that research, materials testing, characterization  
532 facilities are an important part of the storage program and  
533 it presumably would be part of a possible ``incentive''  
534 program.

535           Mr. {Shimkus.} Thank you, Mr. Secretary. And I yield  
536 to Mr. Tonko for 5 minutes for questions.

537           Mr. {Tonko.} Thank you, Mr. Chair.

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538           For the last few decades, the nuclear waste problem has  
539   been intractable. I think the Blue Ribbon Commission  
540   recommendations and the Department of Energy strategy  
541   document are helping to strike up conversation about where we  
542   go from here. Congress has an important role to play in  
543   finding solutions along with the Departments and the  
544   Commission.

545           Secretary Moniz, the Blue Ribbon Commission recommended  
546   a consent-based siting process for one or more centralized  
547   interim storage facilities and one or more permanent  
548   repositories. My understanding is that under current law the  
549   only repository site that can legally be considered is Yucca  
550   Mountain, and interim centralized storage is not an option in  
551   the absence of Yucca. Is that correct?

552           Secretary {Moniz.} I believe that is a correct reading  
553   of the--

554           Mr. {Tonko.} So legislation would be necessary to  
555   establish a new siting process that ensures a project has the  
556   consent of the state and local governments?

557           Secretary {Moniz.} Yes, sir. In fact, the Blue Ribbon  
558   Commission noted that almost all of the major steps required



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559 new statutory authorities.

560 Mr. {Tonko.} Okay. Thank you. The Blue Ribbon  
561 Commission recommended that a new organization be created to  
562 manage and dispose of the Nation's nuclear waste. That is  
563 contemplated in the DOE's strategy, too. Would congressional  
564 action be needed to establish an independent agency and  
565 transfer the necessary functions and resources to that  
566 agency?

567 Secretary {Moniz.} Yes, sir. It would be.

568 Mr. {Tonko.} There are also tricky funding and  
569 appropriations issues that need to be addressed to make sure  
570 that the funds put aside for constructing a repository or  
571 storage facility can actually be used for that purpose.  
572 Congress would need to address those issues through  
573 legislation, I believe. Is that correct?

574 Secretary {Moniz.} Yes, sir. And again, if I may  
575 comment, we emphasized in the Commission and it is also true  
576 in the Administration's strategy, that is what is most  
577 important is that whatever form the organization takes, it  
578 has the proper authorities. Key among those is a proper  
579 access to the funds.

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580           Mr. {Tonko.} Thank you. And it sounds to me like DOE  
581 has taken an important step in developing a strategy that you  
582 can't solve this problem alone, can you?

583           Secretary {Moniz.} Correct, sir.

584           Mr. {Tonko.} So there is a bipartisan effort in the  
585 Senate to develop legislation to begin addressing these very  
586 tough issues. We haven't seen any effort on the House side,  
587 though. House Republicans seem unwilling to move past their  
588 fixation on Yucca Mountain. So my question would be while  
589 the Republicans seem to be waiting for a resolution to a  
590 pending lawsuit seeking to require the Nuclear Regulatory  
591 Commission to continue its work on its withdrawn DOE license  
592 application for Yucca, but a court opinion can't fix the  
593 funding problems or establish a new organization to handle  
594 the waste or and the staunch opposition to Yucca in Nevada,  
595 can it?

596           Secretary {Moniz.} That is correct. And I would just  
597 add that, again, our view is that quite independent of the  
598 court decision, we should have these parallel tracks, the  
599 storage and repository development, and for that we will need  
600 the new authorities.

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601           Mr. {Tonko.} Mr. Secretary, what message would you  
602 share with members of the Subcommittee and the broader  
603 Committee who remain focused exclusively on Yucca Mountain?

604           Secretary {Moniz.} Well, again, our view is that we  
605 have obviously been having this stalemate over Yucca  
606 Mountain. There is a very good chance this may continue for  
607 some time. There are many steps needed. Even if the court  
608 were to rule for the NRC to proceed, there are still other  
609 actions of Congress, many actions in the State, et cetera.  
610 And again, our main message is that it will work out one way  
611 or the other but let's move together on taking some practical  
612 steps that require new authorities that will move the ball  
613 forward, provide more confidence to industry, and start  
614 getting the government accepting waste in the earliest  
615 possible time.

616           Mr. {Tonko.} What is the perceived timeline here if we  
617 are to move forward and with the ultimate goal of having a  
618 new repository available? Is there a certain given timeline  
619 that you can imagine would be required at a minimum?

620           Secretary {Moniz.} Well, again, the Administration  
621 strategy noted that we feel that we can certainly move if we

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622 have authority, let's say, this year, then we can move on the  
623 first interim storage site within a decade. That would allow  
624 us, for example, to move fuel away from the closed reactor  
625 sites, which would be, I think, an important step, but that a  
626 repository is likely to take decades to actually get  
627 functioning.

628 Mr. {Tonko.} Thank you. Thank you, Mr. Secretary.  
629 And, Mr. Chair, I yield back.

630 Mr. {Shimkus.} I thank my colleague. I would just  
631 remind him of the vote on the Floor, 335 voting for Yucca,  
632 118 Democrat, so it is just not a Republican fixation.

633 Now, I would like to yield to the chairman of the full  
634 committee, Mr. Upton, for 5 minutes.

635 The {Chairman.} Well, thank you, Mr. Chairman.

636 And, again, I really appreciate, Mr. Secretary, you  
637 being here and sharing your comments. This is such an  
638 important issue for the country and you are right, we don't  
639 want gridlock on this. I would note it has been bipartisan  
640 in terms of trying to move a path forward for a couple of  
641 decades actually. And certainly your willingness to engage  
642 and to move the ball forward is very much appreciated.

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643           And as Mr. Shimkus just said, and the votes we have had  
644   the last couple of years, not only this year but last year,  
645   the votes--326 to 81, 335 to 81, 337 to 87--is a pretty clear  
646   indication that the House at least has a very strong  
647   bipartisan majority towards trying to get this issue  
648   resolved. I would note that Mr. Dingell and myself wrote an  
649   op-ed piece about a month ago or so again urging the court to  
650   try and help resolve this and allow the NRC to move forward.

651           But let me go back. When you testified before our  
652   committee in June, Chairman Shimkus asked if you were aware  
653   of any technical or scientific issues that would prevent  
654   Yucca from being a safe repository, and you responded at that  
655   time, ``this is an NRC decision ultimately to be taken.''  
656   And I certainly agree. And the public debate would clearly  
657   benefit from the NRC completing the independent assessment of  
658   Yucca.

659           Fortunately, we know that both the NRC and DOE do have  
660   the funds to support the completion of the NRC's safety  
661   evaluation report. However, we are all waiting for that D.C.  
662   Circuit Court of Appeals--maybe it will be coming this  
663   afternoon; who knows--which seems to be taking an inordinate

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664 amount of time compared to a number of other cases that they  
665 have had.

666 One of the issues that concerns me is what the ultimate  
667 cost of DOE's new strategy would be to the consumers and the  
668 taxpayers. We know that in '09, the Fee Adequacy Assessment  
669 showed that the fee was adequate to fund Yucca Mountain.  
670 However, I am going to quote from DOE's Secretarial  
671 Determination of the adequacy of the Nuclear Waste Fund fees  
672 in January of this year before you are there. It said, ``the  
673 consent-based approach to facility siting set forth in the  
674 strategy makes it impossible to assign meaningful  
675 probabilities to any geologic medium, and by extension, any  
676 cost estimate.'' Those were their words. So do you know  
677 whether the Nuclear Waste Fund today will be adequate to pay  
678 for all the facilities contained in the DOE strategy?

679 Secretary {Moniz.} Mr. Chairman, certainly my  
680 understanding of the revised analysis that was done in  
681 response to the court, it looked at--I may get this not  
682 quite--I think it was something like 42 different scenarios  
683 into the future and found that with continuation of the one-  
684 mill-per-kilowatt-hour fee, that kind of rested kind of in

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685 the middle of the various scenarios. And so the argument was  
686 that at this stage the one-mill-per-kilowatt-hour fee would  
687 seem to be an appropriate place to go but there is  
688 considerable uncertainty of the lifetime costs depending upon  
689 which of those scenarios ends up being followed.

690 The {Chairman.} Do you know whether the Nuclear Waste  
691 Fund could absorb the \$9 billion write-off for abandoning  
692 Yucca?

693 Secretary {Moniz.} Well, if one looks at the ensemble  
694 of the scenarios in that Fee Adequacy Reassessment, the  
695 uncertainties of the spread was much, much larger than the  
696 amount that you have said. So that would again be in the  
697 uncertainties that we have today to be realized only over  
698 decades.

699 The {Chairman.} Yes. So for us in Michigan, that 1/10-  
700 of-a-mill fee has meant \$600 million in essence collected  
701 from Michigan ratepayers. And so if you know Michigan at  
702 all, we have got one plant no longer operating, the Big Rock  
703 plant. I have two in my district, two facilities that are  
704 currently operating, and they have both run out of room so  
705 they are doing dry storage. I know Mr. Dingell has got a

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706 facility in his district as well.

707       So ultimately, we really do need this to be resolved and  
708 get on a glide path that can assure that there will be one  
709 safe place, at least one safe place for the high-level  
710 nuclear waste. And I appreciate your willingness to work  
711 with us and with our committee to ultimately get this thing  
712 done.

713       Secretary {Moniz.} If I may comment, I think the  
714 situations that you have described are exactly what motivated  
715 the Blue Ribbon Commission discussions that we feel, and the  
716 Administration has agreed with this, that moving to an  
717 initial kind of fast track pilot interim storage facility  
718 could handle the fuel from those shutdown reactors, and that  
719 would allow, you know, restoration of that site to other  
720 activities.

721       And of course we know that a substantial fraction of  
722 plants are running out of space and that is where the  
723 consolidated storage site--the issue is fuel acceptance. I  
724 mean that is the key issue for the plants. And this would  
725 allow us to start to move the fuel and both alleviate the  
726 issues at the plants and lower the liabilities for the



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727 government by beginning to move the fuel. So that is why I  
728 mean, again, we think that a parallel track of the storage  
729 and repository or repositories will give us the flexibility  
730 and the adaptability to start moving and except fuel in the  
731 next decade.

732 The {Chairman.} I yield back.

733 Mr. {Shimkus.} The chairman's time is expired.

734 The chair now recognizes the ranking member, Mr. Waxman,  
735 for 5 minutes.

736 Mr. {Waxman.} Thank you, Mr. Chairman.

737 Secretary Moniz, I thank you again for being here today  
738 to discuss the Administration's strategy for managing the  
739 country's nuclear waste.

740 Over the last 2 years, this not lowly but very important  
741 subcommittee has heard testimony from a number of witnesses  
742 on the nuclear waste issue, including testimony from the  
743 State of Nevada about why many Nevadans oppose Yucca Mountain  
744 nuclear waste depository. Martin Malsch, testifying on  
745 behalf of the State of Nevada, told the Committee  
746 ``opposition to the Yucca Mountain project in Nevada was not  
747 always a given.'' But Congress and federal agencies took

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748 several actions that destroyed the State's trust in the  
749 process and locked in opposition.

750 I would like to ask you a few questions about how to  
751 move beyond the Yucca Mountain stalemate and learn from our  
752 mistakes in Nevada. In your testimony you say, ``any  
753 workable solution for the final disposition of used fuel and  
754 nuclear waste must be based not only on sound science and  
755 also on achieving public acceptance at the local, state, and  
756 tribal levels.'' Let's start with sound science you say is  
757 necessary. What are the key scientific questions that need  
758 to be answered to satisfy concerns about the safety of  
759 nuclear waste disposal?

760 Secretary {Moniz.} Well, there are a number of  
761 scientific questions. Ultimately, it comes down to  
762 understanding the form of the waste package, its interaction  
763 with the host environment, and the potential for having some  
764 elements go into the environment and propagate over long  
765 periods of time. That is what is a very detailed analysis  
766 looking at both geology, hydrology, and the materials issues  
767 around integrity of the package.

768 Mr. {Waxman.} The State of Nevada and Clark County

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769 raised particular concerns about how EPA and other federal  
770 agencies set safety standards for Yucca Mountain alleging  
771 that these standards were tailored to make sure Yucca met  
772 them. The State of Nevada told our committee that these  
773 changes ``utterly destroy the credibility of the program.''  
774 How should EPA and other federal agencies approach the  
775 regulatory process to ensure that any safety standards are  
776 both sufficient and credible with concerned stakeholders?

777 Secretary {Moniz.} Well, again, if I go back to the  
778 Blue Ribbon Commission recommendations, the Commission  
779 emphasized that what really needs to be set first are kind of  
780 generic safety standards before one starts tailoring to an  
781 individual site. So again, we think that the way that the  
782 Yucca Mountain decision was made, A) raises this problem, as  
783 you have referred to many times, in terms of it was not a  
784 consent-based process and that in itself created conditions.  
785 It also had the effects of highly restricting what the  
786 Department could do over many years in terms of exploring  
787 different geologies and it basically did not have this  
788 approach, as I mentioned, where one such generic safety  
789 standards that one then applies to various characterized

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790 local sites.

791 Mr. {Waxman.} So it could apply to a number of multiple  
792 sites?

793 Secretary {Moniz.} Yes.

794 Mr. {Waxman.} Having updated generic standards will  
795 also support the efficient consideration as you look at--

796 Secretary {Moniz.} Yes. And then that would inform the  
797 regulatory process. And as we have all said, particularly  
798 when you look also, you know, the Nuclear Waste Policy Act  
799 also had a cap of 70,000 tons and we know very well that even  
800 if there were no nuclear reactors built, we would be way, way  
801 past that amount. We have to look at the questions of other  
802 repositories, certainly be prepared for that possibility.

803 Mr. {Waxman.} Now, no project will ever enjoy universal  
804 support so how do you envision defining consent? In the case  
805 of Nevada, the Yucca Mountain project enjoys some local  
806 support but faces strong opposition from the State and key  
807 counties. What can the Federal Government do to win support  
808 of a whole State that is wary of hosting a repository or  
809 interim storage facility even if the facility enjoys local  
810 support?

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811           Secretary {Moniz.} Well, again, we believe or at least  
812 I should say I believe that ultimately it is a very iterative  
813 process based upon, as I said in my testimony, continuous  
814 open cooperation and consultation at all levels. As we said  
815 earlier, and I think it is an example again--I will concede  
816 to the chairman's point that clearly the WIPP facility in New  
817 Mexico is a transuranic waste facility, not high-level waste,  
818 but the fact is that was a case where it took many, many  
819 years. There was litigation involved to win the confidence  
820 and trust all along the chain of responsibility. And now, as  
821 a result, well, I think we are into now our second decade of  
822 a highly successful operation there.

823           Mr. {Waxman.} So for the Congress, the take-home  
824 message should be that we tackle this problem by ensuring the  
825 federal agencies or any new organization that has the  
826 authority it needs to implement a consent-based process that  
827 is transparent and rooted in science. With that--

828           Secretary {Moniz.} That ultimately is the overarching,  
829 most important recommendation of the Commission.

830           Mr. {Waxman.} Thank you. Thank you, Mr. Chairman.

831           Mr. {Shimkus.} The gentleman's time is expired.

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832           The chair now recognizes the chairman emeritus, Mr.

833   Barton, for 5 minutes.

834           Mr. {Barton.} Thank you, Mr. Chairman.

835           You know we are having another hearing on high-level  
836   nuclear waste when members of the audience are already  
837   asleep.

838           Mr. {Shimkus.} Wake up.

839           Mr. {Barton.} I am not going to name names but his  
840   initials are D. G.

841           But, Mr. Secretary, thank you for being here. And when  
842   I was a young man, some members of the audience have heard me  
843   tell the story, but it was my job to brief the then-Secretary  
844   of Energy on a proposed piece of legislation at the  
845   Department of Energy that came to be known as the Nuclear  
846   Waste Policy Act of 1982. And they felt that if an Aggie  
847   engineer could explain a bill to an oral surgeon, that we  
848   ought to be able to get it through the Congress. And we did,  
849   and who would have dreamed that in 2013 we would have the  
850   current Secretary of Energy debating yet again another way to  
851   find a path forward on the storage of high-level nuclear  
852   waste?

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853           My good friend from Illinois, the subcommittee chairman,  
854 asked you a question about what States might compete if we  
855 adopted your consent-based approach or the Department's  
856 consent-based approach? I would postulate that my State of  
857 Texas might actually offer to compete. The county in West  
858 Texas, Loving County, has already passed a resolution at the  
859 county level and has been engaged in Austin with the Governor  
860 and the Texas legislature. While it is never a given,  
861 certainly I think the State of Texas might adopt an approach  
862 where, on a local option basis, a county or an entity could  
863 compete for an interim storage facility.

864           I also know that at Yucca Mountain, we have spent \$15  
865 billion and I think the subcommittee and the full committee  
866 chairman are absolutely correct in trying to get value for  
867 the taxpayer dollars and the ratepayer dollars that have been  
868 spent on that facility.

869           Again, I would ask as a question if we were to adopt  
870 through legislation, as you have at least suggested we might,  
871 a dual-track approach of an interim storage facility while we  
872 are waiting to license a permanent repository, that would not  
873 preclude Yucca Mountain being chosen as either the interim

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874 facility and/or possibly the permanent repository. Is that  
875 not correct?

876 Secretary {Moniz.} Yes, I would agree. We view these  
877 as two linked but independent pathways.

878 Mr. {Barton.} Okay. And I believe I am correct, too,  
879 that under current law Yucca Mountain has been legally  
880 empowered to be an interim facility for storage. Is that not  
881 correct?

882 Secretary {Moniz.} I would have to clarify that, Mr.  
883 Chairman Emeritus.

884 Mr. {Barton.} Well, I think I am correct.

885 Secretary {Moniz.} Okay. Well, I will take, you know--

886 Mr. {Barton.} I think lots of things, not all of them  
887 are correct, so maybe I am wrong on that. But I believe--

888 Secretary {Moniz.} When you were a practicing engineer  
889 and I was a practicing scientist, we were always correct.

890 Mr. {Barton.} Yes. You have talked in your testimony  
891 about a pending court case, and I think it is fair to say  
892 that the majority of the Committee is very frustrated that  
893 the court should have ruled, has yet to rule. Do you have  
894 any indication of when we might get a ruling on the legality



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895 of what the Obama Administration did in shutting down the  
896 Yucca facility?

897 Secretary {Moniz.} No, sir. I have no insight  
898 whatsoever to as when a ruling would come, but I assure the  
899 Committee, and as the Administration has spoken, that  
900 whatever the ruling is, we will act appropriately and help to  
901 carry it out.

902 Mr. {Barton.} Well, Mr. Chairman, I want to say in  
903 closing that I am a strong supporter of Yucca. In your  
904 absence, I went to the Floor a week before last and opposed  
905 several amendments against Yucca. So I am pro-Yucca. But I  
906 don't want to have to serve as long as John Dingell has  
907 already served to finally find an answer to the high-level  
908 waste issue. And if we can adopt some sort of a dual  
909 approach were we push forward on licensing Yucca as a final  
910 repository while also letting States compete on an interim  
911 storage basis, I for one on the majority side would be  
912 supportive of that approach with the appropriate safeguard  
913 and caveats about the money and the effort that has already  
914 been spent at Yucca Mountain.

915 So I thank the Secretary and his department for their

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916 efforts, and I hope that since we, this morning, passed an  
917 SGR fix that nobody thought could happen, this could be two  
918 in a row if we can pass a high-level waste bill out of this  
919 committee. That would be a tremendous accomplishment on your  
920 watch and Mr. Upton's watch and Mr. Tonko's and Mr. Waxman's  
921 watch. And with that, I yield back.

922 Mr. {Shimkus.} The gentleman yields back his time.

923 And I can assure my colleague that as long as Yucca  
924 Mountain is still in the mix, we can move forward. But I  
925 have no indication that the Administration wants to move  
926 forward on Yucca Mountain.

927 So now, I recognize the gentleman from Michigan, Mr.  
928 Dingell, for 5 minutes.

929 Mr. {Dingell.} Mr. Chairman, thank you for your  
930 courtesy, and I commend you for having this hearing.

931 Welcome, Mr. Secretary, to the committee. I note here  
932 in 2006 you wrote an article supporting Yucca Mountain. In  
933 2011 you wrote another article saying there needs to be an  
934 alternative. So to assist the committee with our judgments  
935 here, you now believe that Yucca Mountain is no longer an  
936 option as a permanent repository? Please answer yes or no.

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937           Secretary {Moniz.}   Congressman Dingell, with all due  
938   respect, it is a little bit more than yes or no. I would  
939   note that the article you referred to actually it is an op-  
940   ed, I think, in 2006, did say that DOE had to take a fresh  
941   look at assessing the suitability of Yucca Mountain, and it  
942   was not a complete--

943           Mr. {Dingell.}   What does that mean, Mr. Secretary?  
944   That you think it is still a viable thing--

945           Secretary {Moniz.}   Well, again, we--

946           Mr. {Dingell.}   --or that it is not?

947           Secretary {Moniz.}   The view is that it needs both  
948   science and public acceptance. The latter is not there and  
949   we are not seeing an end to the stalemate.

950           Mr. {Dingell.}   With all respect, Mr. Secretary, you  
951   have taken both sides of this issue. We have shot about \$12  
952   billion as near as I can figure, maybe 13 now, and the hole  
953   is still there and people are digging and doing things but  
954   nothing is happening. And we don't have any idea of when we  
955   are going to complete this problem or anything else.

956           Now, Mr. Secretary, would you please provide additional  
957   information for the record regarding the viability of Yucca

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958 Mountain as a permanent repository? And I will let you come  
959 up with whatever it is you feel you should like to say on  
960 that particular matter.

961 Secretary {Moniz.} Yes, sir. We will.

962 Mr. {Dingell.} Now, Mr. Secretary, do you have any  
963 plans to reinitiate DOE's license application to the NRC for  
964 review and final decision on Yucca Mountain? Yes or no?

965 Secretary {Moniz.} No, but again if the court  
966 reinstates the NRC licensing process, then we will support it  
967 as needed, assuming we have the funds to do so.

968 Mr. {Dingell.} Now, Mr. Secretary, the Blue Ribbon  
969 Commission of which you were a member was not allowed to  
970 examine Yucca Mountain is a part of its study. Do you  
971 believe that doing a similar study again but including Yucca  
972 Mountain would be useful to the Administration is a  
973 determinant of a path forward regarding nuclear waste  
974 storage? Please answer yes or no.

975 Secretary {Moniz.} No, sir, I don't think that would be  
976 useful at this time. A commission like the Blue Ribbon  
977 Commission was very important to address the generic, non-  
978 site-specific issues, as we discussed. For example, one of

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979 the problems is the need to get generic safety criteria

980 before one starts moving into the consent--

981 Mr. {Dingell.} So is the answer, Mr. Secretary, yes or

982 no?

983 Secretary {Moniz.} It was no. It was no, yes.

984 Mr. {Dingell.} Yes or no?

985 Secretary {Moniz.} It was a no, yes.

986 Mr. {Dingell.} Okay. Now, Mr. Secretary, most of BRC's

987 recommendation is a consent-based approach where localities

988 across the country could volunteer to be the site of a new

989 repository. Under the best case scenario where all the units

990 of government from local to state to federal agree that there

991 is a site that meets the needs of a repository of this kind,

992 how long approximately would it take to create such a

993 repository and how much would it cost?

994 Secretary {Moniz.} Well, I think the estimate based

995 upon the Fee Adequacy Assessment were approximately \$3

996 billion for preselection, site evaluation for a repository,

997 and approximately 8 to 9 for site characterization and

998 licensing. So altogether in the 10 billion, \$11 billion

999 range.

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1000           Mr. {Dingell.}   Would you submit for the record your  
1001 further comments on both of those two matters--

1002           Secretary {Moniz.}   Yes, we would be pleased--

1003           Mr. {Dingell.}   --how long and how much?

1004           Secretary {Moniz.}   We would be pleased to.

1005           Mr. {Dingell.}   Now, Mr. Secretary, the BRC report  
1006 recommends, ``access to the funds nuclear utility ratepayers  
1007 are providing for the purpose of nuclear waste management,''  
1008 and you propose nonlegislative as well as legislative changes  
1009 to achieve this goal. Can access to the funds be gained  
1010 through nonlegislative means? Yes or no?

1011           Secretary {Moniz.}   I would say yes and no. We strongly  
1012 feel that legislation really is the appropriate way to go. I  
1013 think the principle Administration's proposal and really the  
1014 Commission's is somehow we need to have the funds and the  
1015 expenditures either mandatory or discretionary but in a way  
1016 that does not have these funds competing with the other  
1017 government priorities.

1018           Mr. {Dingell.}   Would you submit further comments for  
1019 the record?

1020           Now, Mr. Secretary, would nonlegislative proposals

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1021 recommend ways in which we could protect funds being  
1022 deposited into the Nuclear Waste Fund? As you know, we have  
1023 dissipated large sums of money. Can you answer yes or no to  
1024 that, please?

1025 Secretary {Moniz.} Again, we feel legislation is the  
1026 appropriate route.

1027 Mr. {Shimkus.} The gentleman's--

1028 Mr. {Dingell.} Mr. Secretary, in the 2011 article I  
1029 mentioned earlier, you note that you were a strong supporter  
1030 of nuclear energy developing new nuclear technologies and  
1031 investing in other energy technologies. Based on recent  
1032 appropriations and the recently passed Energy and Water  
1033 appropriations from the House, do you believe that your  
1034 department now has the resources to invest in these new  
1035 technologies to prevent, as you put it, ``America being less  
1036 competitive in the global technology market?'' Please answer  
1037 yes or no.

1038 Secretary {Moniz.} Well, if the President's request is  
1039 respected, then the Nuclear Energy Office has a very good  
1040 plan in place to both support advanced reactor technology and  
1041 the technology development for waste disposal. I would add

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1042 to that, of course, beyond the appropriated amounts, the  
1043 Department has made the conditional loan guarantee of \$8  
1044 billion roughly to build ``first-mover'' new nuclear plants,  
1045 which is a critical issue for the future of nuclear power in  
1046 this country.

1047 Mr. {Shimkus.} The gentleman's time is expired.

1048 Mr. {Dingell.} Mr. Chair, I am over my time and I thank  
1049 you, Mr. Chairman.

1050 Mr. {Shimkus.} The chair now recognizes the gentleman  
1051 from Texas, Mr. Hall, for 5 minutes.

1052 Mr. {Hall.} Thank you, Mr. Chairman.

1053 And, Mr. Secretary, I thank you for being here.

1054 Sometimes it is not good to have been here before like you  
1055 have, the questions that you get put to you, but I will  
1056 remember you on my Section 999. You were very knowledgeable  
1057 on that. That is still up and you remember it was when you  
1058 had energy at a certain level but we couldn't get it to the  
1059 top of the water and we traded for technology from  
1060 universities and others and paid them with the energy that we  
1061 did get to the top of the water. So we didn't get it if they  
1062 didn't get it to the top. They got it to the top and it is



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1063 working and they are still trying to kill 999. I hope you  
1064 will remember your position on that.

1065 Secretary {Moniz.} I remember your efforts very, very  
1066 well leading that charge and I would say that as a fact I  
1067 think the result has been some excellent, excellent research.

1068 Mr. {Hall.} It is still working.

1069 Secretary {Moniz.} Especially on the environmental  
1070 footprint of unconventional oil and gas production.

1071 Mr. {Hall.} Yes, and thank you. And it is a pleasure  
1072 to see you. I have a copy of a DOE presentation here from  
1073 late June that indicates the size for the ``larger interim  
1074 storage facility,'' the one slated to be open in 2025 and the  
1075 DOE strategy is 70,000 metric tons. Is that right? That is  
1076 your--

1077 Secretary {Moniz.} Yes, sir. And that would be  
1078 preceded by the pilot plant.

1079 Mr. {Hall.} That is the entire inventory of what the  
1080 nuclear industry is currently storing and the statutory size  
1081 of Yucca Mountain, right?

1082 Secretary {Moniz.} Um-hum.

1083 Mr. {Hall.} Mr. Secretary, how hard is the

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1084 Administration going to answer or how are they going to make  
1085 people believe when you say that that facility is going to be  
1086 temporary?

1087 Secretary {Moniz.} Well, I think this is, again, the  
1088 so-called linkage issue and we think it is very important--

1089 Mr. {Hall.} Right.

1090 Secretary {Moniz.} --that the action on the storage  
1091 side is accompanied in parallel by adequate expenditures to  
1092 establish one or more repositories.

1093 Mr. {Hall.} How will DOE overcome concerns that a lot  
1094 of people are going to have on the part of communities that  
1095 an interim site could become a de facto permanent site if no  
1096 other community could be found to host a permanent disposal  
1097 facility area?

1098 Secretary {Moniz.} You know, again, as I have said, I  
1099 think this is going to be a long discussion, and we also  
1100 noted that there should be flexibility into the system so  
1101 that the individual communities and States who are stepping  
1102 forward as potential hosts can negotiate the linkages that  
1103 they feel are appropriate to lend them confidence.

1104 Mr. {Hall.} Well, the presentation--I don't know where

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1105 it is there but I think we have seen it somewhere--estimates  
1106 transporting the spent fuel to this larger interim storage  
1107 facility at a rate of 3,000 tons a year, and that means that  
1108 it would take over 23 years just to transport the spent fuel  
1109 to the site. By the time the 70,000 tons was all  
1110 transported, it would be 2048. That is a hard figure for me  
1111 to think about being here and being sure that it happens just  
1112 that way.

1113       Secretary {Moniz.} Yes, well, it is a major logistical  
1114 challenge and I think no matter what repository, what storage  
1115 sites one has, it is a major transportation campaign. I also  
1116 served on a National Academy committee several years ago  
1117 looking at transportation and a couple of things of note  
1118 perhaps. One is that we felt that for the large campaign, a  
1119 heavy reliance on trains would be a good thing. That is a  
1120 big planning project. Secondly, we also noted that the  
1121 number of used fuel movements in Europe already is  
1122 approximately equal to all the movements we would need for  
1123 70,000 tons, and that has been handled in a pretty safe way.

1124       Mr. {Hall.} But 2048 is the projected date for opening  
1125 a repository under DOE's strategy.

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1126 Secretary {Moniz.} It is approximate.

1127 Mr. {Hall.} Okay. Well, let me ask you, does that  
1128 really make sense?

1129 Secretary {Moniz.} Well, I think, you know--

1130 Mr. {Hall.} I think you have been around a long time  
1131 and you are very knowledgeable.

1132 Secretary {Moniz.} To be honest, the Department has had  
1133 an issue of perhaps too often providing optimistic dates for  
1134 big projects and maybe to be a little more conservative is a  
1135 good idea.

1136 Mr. {Hall.} It is going to be hard to explain how they  
1137 are going to spend 23 years transporting just to turn around  
1138 and ship it all again. Is that going to cause some problems?

1139 Secretary {Moniz.} Well, of course, we are in no way  
1140 precluding the possibility of--

1141 Mr. {Hall.} DOE estimated--

1142 Mr. {Shimkus.} The gentleman's time is expired.

1143 Mr. {Hall.} DOE estimated the transportation costs for  
1144 70,000 metric tons to go to Yucca at 19 billion. I am  
1145 anxious to watch what the analyzation is going to be on that.  
1146 And my time really is up.

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1147           Mr. {Shimkus.} The gentleman's time is expired. I  
1148 would remind him that if everything would have gone upon  
1149 plan, Yucca would have been open in 1998. Had the  
1150 Administration not pulled the plug when it did, we would be  
1151 under construction right now.

1152           The chair now recognizes the gentleman from Texas, Mr.  
1153 Green, for 5 minutes.

1154           Mr. {Green.} Thank you, Mr. Chairman, for holding the  
1155 hearing. I want to thank Secretary Moniz for joining us.

1156           The Subcommittee examined the issue of nuclear waste  
1157 storage in numerous hearings for the past several years. In  
1158 2011 as ranking member of the subcommittee, I had the  
1159 opportunity to visit Yucca Mountain with Chairman Shimkus,  
1160 and I supported the use of Yucca Mountain in the past and  
1161 still believe it is a terrible waste of taxpayer dollars to  
1162 have this \$12 billion facility sitting unused in the desert,  
1163 although in all honesty, we are not going to sell that desert  
1164 land for condos. And so I assume it will stay in our federal  
1165 land inventory. So maybe someday we have this hole  
1166 underground, it can be used for long-term nuclear storage.

1167           The termination of the project, though, has postponed

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1168 our Nation's efforts and delayed efforts to permanently  
1169 dispose of used nuclear fuel. It is now envisioned it will  
1170 be storing these materials and dry casks for decades, not  
1171 much longer than the original intended purpose. What is DOE  
1172 doing to support the long-term storage of used nuclear fuel  
1173 in these dry cask storage systems? And I will go forward  
1174 after that. Is there any program at DOE to be able to deal  
1175 with the amount of nuclear waste we are seeing?

1176 Secretary {Moniz.} Yes, sir. There is work going on  
1177 and also historically we have seen collaboration with EPRI in  
1178 terms of looking at the dry cask storage longevity and a  
1179 particular focus right now is on the materials issues and  
1180 really whether we can confidently expect century-scale  
1181 storage.

1182 Mr. {Green.} Between the 1980s and 2010 when Yucca  
1183 Mountain was terminated, the Nation had invested billions of  
1184 dollars in a scientific study at that site. The scope of  
1185 this work spanned our entire national lab complex and many of  
1186 our leading universities, a number of other respected  
1187 institutions. What is the understanding and result of this  
1188 study and what did we learn? How can we best apply the

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1189 results of this work before going forward so that our  
1190 investment is not wasted? You know, we know that at least  
1191 politically in the foreseeable future, Yucca Mountain is not  
1192 available, but we still need to plan for long-term storage,  
1193 and I think that is what the Blue Ribbon Commission said.

1194       Secretary {Moniz.} Well, may I answer? Oh, yes. So,  
1195 for example, I would pick out a couple of areas. One, it  
1196 would be that I think the methodology was developed for  
1197 developing large-scale reservoir and, if you like, a water  
1198 basin modeling technique that one will need in any geology to  
1199 go forward.

1200       Another, I would say, is understanding how the form of  
1201 waste package interacts with the environment. So I think the  
1202 methodology for how one does characterization and waste  
1203 package geochemistry interactions has been advanced.

1204       Mr. {Green.} So we have learned something from the  
1205 effort. And, as you know, and you served on it--and thank  
1206 you for your service--the Blue Ribbon Commission recommended  
1207 a consent-based approach to repository siting. With respect  
1208 to Yucca Mountain project, there appears to be a division of  
1209 the opinion. And having been out there, and I think we met

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1210 with about every county official from around that area who  
1211 very much supported it. Obviously, the State of Nevada and  
1212 Clark County doesn't. And that may have been different back  
1213 years ago when it was selected.

1214           How can we keep from having something, because these  
1215 things take so long, getting permission? And there may be  
1216 consent but a decade later all of a sudden the political will  
1217 is not there. And, you know, I know there is a proposal for  
1218 Pecos of Texas and New Mexico. There may be other locations  
1219 but, you know, if we make a decision and the political will  
1220 then changes, which is what seemed to happen out in Yucca  
1221 Mountain, how did the Blue Ribbon Commission address that  
1222 issue if we are going to look for consent now and expect that  
1223 contract to last for decades?

1224           Secretary {Moniz.} Well, I think the Commission  
1225 recognized that--well, first of all, again let me repeat that  
1226 in the case, again, of a transuranic repository in New  
1227 Mexico, little bit different animal, but that case where  
1228 again it took an evolution of the community/state  
1229 interaction. Secondly, the Commission recognized that each  
1230 of these negotiations will be somewhat different, but in a



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1231 generic sense, recommended a process that would have various  
1232 steps and commitments to continue, which kind of ratcheted up  
1233 at each step of the negotiation.

1234 Mr. {Green.} I know I am almost out of time and I won't  
1235 have time for all my questions, Mr. Chairman. I know of no  
1236 country in the world that has long-term storage but our  
1237 country is producing a lot of it and I would think it would  
1238 be redundant to create a separate agency. I think we might  
1239 need to fix the one we have so we don't add that bureaucratic  
1240 delay in to getting forward with it.

1241 But I thank you for the time.

1242 Mr. {Shimkus.} The gentleman's time is expired.

1243 The chair now recognizes the gentleman from Mississippi,  
1244 Mr. Harper, for 5 minutes.

1245 Mr. {Harper.} Thank you, Mr. Chairman.

1246 And, Mr. Secretary, thank you for taking your time to  
1247 come visit with us on what is a very important and long-going  
1248 issue.

1249 In 1980, Congress passed the Low-Level Waste Policy Act  
1250 providing a framework for States to voluntarily join compacts  
1251 and then work within the compact to site a low-level waste

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1252 disposal facility. While this merely addressed low-level  
1253 waste, it provides relevant experience about a consent-based  
1254 process for nuclear waste disposal. After the Act was passed  
1255 in 1980, it wasn't until 1985 that Congress approved the  
1256 compacts and then it was 1990 before a disposal facility  
1257 opened in Utah but only for Class A waste, the lowest class  
1258 of low-level waste.

1259 Congress didn't approve the Texas/Vermont compact until  
1260 1988, 18 years after the Act passed, and the disposal  
1261 facility in Texas didn't open until 2011 after a 7-year  
1262 licensing process. To date, 33 years after Congress passed  
1263 the 1980 Act, 34 States still remain without access to low-  
1264 level waste Classes B and C disposal.

1265 So my question is in light of the limited success and  
1266 lengthy process for consent-based siting for low-level waste,  
1267 what gives you confidence that DOE will find an interim  
1268 storage site for used nuclear fuel and have them operating 8  
1269 years from now?

1270 Secretary {Moniz.} Well, first, I would note that,  
1271 first of all, there is some success, and again I go back to  
1272 the WIPP example in New Mexico which is for transuranic

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1273 waste. And again, it took a long time. This goes back to  
1274 Mr. Hall's question. We prefer to be conservative and set  
1275 2048 because these things take time. And I think we just  
1276 have to start on that path. I personally remain optimistic  
1277 that we will have communities coming forward and then provide  
1278 technical assistance so that they can be certain that they  
1279 have the technology base to move forward.

1280 Mr. {Harper.} Well, given your role on the Blue Ribbon  
1281 Commission, are you familiar with the private fuel storage  
1282 project in Utah which is the only interim storage facility  
1283 ever licensed?

1284 Secretary {Moniz.} Am I familiar with it?

1285 Mr. {Harper.} Are you familiar with that?

1286 Secretary {Moniz.} Yes. Yes. Um-hum.

1287 Mr. {Harper.} Do you know how long the NRC took to  
1288 issue that license?

1289 Secretary {Moniz.} No, I do not, sir.

1290 Mr. {Harper.} Okay. If I told you 8 years, would that  
1291 surprise you?

1292 Secretary {Moniz.} No.

1293 Mr. {Harper.} Okay. All right. Do you know the status

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1294 of that license now?

1295 Secretary {Moniz.} No, I do not.

1296 Mr. {Harper.} Okay. It is my understanding the  
1297 consortium asked to the NRC to terminate the license late  
1298 last year.

1299 Secretary {Moniz.} I see. Um-hum.

1300 Mr. {Harper.} So I think PFS is an example of how a  
1301 local community, in this case the Goshute Indians, initially  
1302 supported a project but state officials opposed it, just like  
1303 the situation with Yucca Mountain. It is also an example of  
1304 how licensing such a project is not as expedient as sometimes  
1305 the DOE strategy suggests.

1306 So, you know, what we have here is a very serious issue.  
1307 It is something that we have dealt with for now decades. I  
1308 don't believe that the formation of a new federal agency to  
1309 oversee management of nuclear waste is the answer. I believe  
1310 that that would just create additional delays. So I would  
1311 hope that we could continue to work on this issue and I  
1312 certainly want to thank you for your time today to come share  
1313 this with us.

1314 And with that, I yield back.

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1315           Mr. {Shimkus.} If the gentleman would yield.

1316           Mr. {Harper.} Yes, I will yield to the chair.

1317           Mr. {Shimkus.} And I would just highlight we did this  
1318 when the Blue Ribbon Commission testified before us, and  
1319 there is a map of Nevada. We talk about local interests.  
1320 Two points of this is that all of the counties minus Clark  
1321 have resolutions on record supporting Yucca Mountain. And  
1322 then we talk about local issues and you use even in your  
1323 testimony Finland and Sweden. A land base of that siting  
1324 proposal which you would call local, do you know what would  
1325 be local for Yucca Mountain? Who would be considered the  
1326 local landowners? It would be the Federal Government. That  
1327 is how far away and expansive the federal property as Yucca.  
1328 Who is local would be us. We are the local interest of  
1329 concern, and if we are not, the local communities that all  
1330 have gone on resolutions in support of Yucca, they are on  
1331 record.

1332           So, you know, I am kind of getting tired of this bashing  
1333 of Nevadans that they are all one side when there is a strong  
1334 vocal group of Nevadans who want this, hence going back to  
1335 the \$5.6 billion that I think you should put on the table to

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1336 help convince maybe the other folks from Nevada.

1337 So with that, I would like to recognize my colleague  
1338 from California, Mrs. Capps, for 5 minutes.

1339 Mrs. {Capps.} Thank you, Mr. Chairman for it and thank  
1340 you, Secretary, for being here today and participating.

1341 And, as you know, like it or not, nuclear waste is a  
1342 reality. Part of that reality is that nuclear waste is going  
1343 to be around for a long, long time, far beyond the lifetimes  
1344 of our children and our grandchildren. But as the creators  
1345 of this waste, I believe that we have a responsibility to put  
1346 in place a long-term plan to store it safely. And in the  
1347 absence of such a plan, however, spent nuclear fuel will  
1348 continue to be stored for the foreseeable future onsite right  
1349 at nuclear power plants like Diablo Canyon, which is in my  
1350 Congressional District.

1351 I have been pleased to see more spent fuel being moved  
1352 out of high density pools and into dry cask storage at Diablo  
1353 Canyon and also across the country. These casks are more  
1354 stable and safer, but they are not a permanent solution for  
1355 spent fuel storage in my opinion. Do you agree?

1356 Secretary {Moniz.} Yes. As I said--

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1357           Mrs. {Capps.} They are not a permanent--

1358           Secretary {Moniz.} --century-scale looks to be the kind  
1359 of scale.

1360           Mrs. {Capps.} Pardon?

1361           Secretary {Moniz.} We think the dry cask storage for  
1362 the order of one century--

1363           Mrs. {Capps.} One century they will work but not a  
1364 permanent--I mean we can't--

1365           Secretary {Moniz.} Not a millennium.

1366           Mrs. {Capps.} Not a millennium?

1367           Secretary {Moniz.} Right.

1368           Mrs. {Capps.} As we all know, implementing a permanent  
1369 storage solution has proven to be quite difficult. I commend  
1370 the Administration for moving the ball forward with the Blue  
1371 Ribbon Commission report and the strategy released earlier  
1372 this year, but given the serious challenges that still lie  
1373 ahead, my constituents and I remain concerned that Diablo  
1374 Canyon could become a de facto long-term storage site. It  
1375 has already been over 30 years since Congress first directed  
1376 the Department of Energy to remove and store spent nuclear  
1377 fuel from power plants. So, Mr. Secretary, what happens if

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1378 it takes another 30 years or even longer to implement a  
1379 permanent storage plan? Does DOE have a contingency plan to  
1380 handle long-term onsite storage of spent nuclear fuel?

1381 Secretary {Moniz.} Well, first, I think the general  
1382 technical judgment is that continued onsite storage moving in  
1383 from pools to dry casks is a reasonably safe approach but it  
1384 is not a system that we want at all. And that is exactly why  
1385 we feel that the strategy put out following the Commission's  
1386 recommendations to aggressively pursue the parallel paths of  
1387 consolidated storage and repositories is the right one and it  
1388 gives flexibility, adaptability, and it won't be immediate.  
1389 We think we have a chance to start moving some fuel in about  
1390 10 years but only if we start now.

1391 Mrs. {Capps.} Right. So I will just move ahead. One  
1392 of the most important elements of the Blue Ribbon Commission  
1393 report and the DOE strategy is the consent-based approach for  
1394 locating the permanent storage facility. Engaging local  
1395 communities in this process is critical, especially for the  
1396 consolidated facility, but it is also crucial to engage with  
1397 the communities where the fuel is currently being stored and  
1398 could be traveling through. I am very concerned about the



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1399 transportation. Once a permanent site is found, how do we  
1400 move this, you know, spent fuel safely? This is a top  
1401 priority for my constituents in San Luis Obispo. They have  
1402 serious concerns about the risks involved in moving the spent  
1403 fuel safely through their communities and they want their  
1404 voices heard in this process. So to what extent is DOE  
1405 engaging with communities where there is this storage now  
1406 occurring and so many constituents who are worried about how  
1407 that transporting is going to happen through their  
1408 communities?

1409 Secretary {Moniz.} So the Department has recently done  
1410 a number of transportation studies, and again, I refer to the  
1411 National Academy report of--6 or 7 years ago I was a member  
1412 of that group as well. Again, I think two points, maybe one  
1413 to reiterate is that the amount of fuel movement called for  
1414 for all of the fuel we have today is very comparable to what  
1415 Europe has already done with a very, very good safety record.  
1416 However, clearly, we have to A) do it very well, but B) the  
1417 report emphasized strongly the same thing as you have  
1418 emphasized, the need to early on work with the communities  
1419 along transit pathways, instruct in emergency response kinds

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1420 of activities, communicate, know what is happening. That is  
1421 very, very important.

1422 So I think as soon as we understand that we are moving  
1423 towards a system to begin moving that fuel, we need to get  
1424 very aggressive in that community outreach.

1425 Mrs. {Capps.} Well, I appreciate knowing that. I share  
1426 your concerns about it and I yield back.

1427 Mr. {Shimkus.} The gentlelady's time is expired. And  
1428 on her point, though, that I think in testimony yesterday the  
1429 Secretary said Plan B is to leave on site. That was  
1430 testimony yesterday. Is the Plan B right now--

1431 Secretary {Moniz.} Well, as I--

1432 Mr. {Shimkus.} --if all else fails--

1433 Secretary {Moniz.} When I said it, it is the ground  
1434 truth. If we can't move it--

1435 Mr. {Shimkus.} Well, I am just trying to lay out the  
1436 facts as was testified yesterday that Plan B would be to keep  
1437 onsite.

1438 Mrs. {Capps.} Is it permanent? Are you--

1439 Mr. {Shimkus.} That is their Plan B.

1440 Secretary {Moniz.} If I may clarify, what I said again

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1441 the ground truth is if we can't move it, it stays where it  
1442 is. It is a totality. That is why we have to have the  
1443 ability to move it.

1444 Mr. {Shimkus.} Just trying to get some transparency  
1445 here, Mr. Secretary.

1446 Secretary {Moniz.} For that, we need the authorities  
1447 from Congress.

1448 Mr. {Shimkus.} The chair now recognizes the gentleman  
1449 from Ohio, Mr. Johnson, for 5 minutes.

1450 Mr. {Johnson.} Thank you, Mr. Chairman. And, Mr.  
1451 Secretary, it is good to talk with you again. Thank you for  
1452 being here with us today.

1453 Most of DOE's current nuclear waste management  
1454 activities rely on taxpayer funding appropriated in 2012 and  
1455 under the Continuing Resolution for 2013. This means that  
1456 the taxpayer is currently funding the costs of DOE's effort  
1457 to start over, breaking the historic possibility that the  
1458 beneficiaries of the electricity, the consumers, pay the  
1459 costs of disposal. For how long and for what cost does the  
1460 Administration support continuing the policy of having the  
1461 taxpayer foot the bill?

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1462           Secretary {Moniz.} Well, sir, I think, first of all,  
1463 let me refer to the letter to Mr. Shimkus that he had read  
1464 into the record looking at all of the activities and the  
1465 authorities, et cetera. This, by the way, has been reviewed  
1466 by our general counsel and by the Department of Justice to  
1467 make sure all the authorities were proper in terms of what  
1468 was used for appropriated funds and what was used by waste  
1469 fund.

1470           But I think, as you referred it, to the 2012  
1471 Consolidated Appropriations Act, there was explicit language  
1472 to look at fuel management and disposal activities. In my  
1473 view, those are very generic activities. Frankly, those are  
1474 some of the activities that the Department was proscribed  
1475 from doing by the 1987 action, and my view, to be honest,  
1476 very mistakenly, that this research on the back end of the  
1477 fuel cycle was always important and it is very important that  
1478 we continue to do it now.

1479           Mr. {Johnson.} Okay. Changing subjects a little bit,  
1480 there have been inaccurate statements how Yucca Mountain can  
1481 only hold 70,000 metric tons, so even if we build Yucca, we  
1482 will still need more than one repository. I would like to

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1483 clarify for the record that is a statutory not a scientific  
1484 limit.

1485 Secretary {Moniz.} Um-hum.

1486 Mr. {Johnson.} In the Yucca Mountain EIS, DOE analyzed,  
1487 ``the total project did inventory of commercial spent nuclear  
1488 fuel and high-level radioactive waste plus the inventories of  
1489 commercial greater than Class C waste and DOE special  
1490 performance assessment required waste.'' In DOE's 2008  
1491 report to Congress on the need for a second repository, DOE  
1492 referenced studies of repository designs three times the area  
1493 of the design used to accommodate the 70,000 metric tons and  
1494 an independent study that concluded Yucca Mountain could  
1495 accommodate from 4 to 9 times the statutory limit. Mr.  
1496 Chairman, I would like to insert DOE's 2008 report to the  
1497 hearing record.

1498 Mr. {Shimkus.} Is there objection? Hearing none, so  
1499 ordered.

1500 [The information follows:]

1501 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

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1502           Mr. {Johnson.} Mr. Chairman, DOE's July 22 response to  
1503 Chairman Shimkus, I think, as you indicated, indicates that  
1504 ongoing transportation activities are authorized under  
1505 Section 180 of the Nuclear Waste Policy Act and eligible to  
1506 be paid for from the Nuclear Waste Fund. However, Section  
1507 302 of the Nuclear Waste Policy Act regarding use of the  
1508 Nuclear Waste Fund stipulates no amount may be expended by  
1509 the Secretary under this subtitle for the construction or  
1510 expansion of any facility unless such construction or  
1511 expansion is expressly authorized by this or subsequent  
1512 legislation. The Secretary is hereby authorized to construct  
1513 one repository and one test-and-evaluation facility, which of  
1514 course, as we know, is Yucca Mountain. So my question is how  
1515 does the Department justify Nuclear Waste Fund expenditures  
1516 on transportation for destinations other than Yucca Mountain?

1517           Secretary {Moniz.} Well, sir, first of all, I am not a  
1518 lawyer and I think I may have to get back to you for the  
1519 recommendation.

1520           Mr. {Johnson.} Neither am I so--

1521           Secretary {Moniz.} Okay. We talk the same language.

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1522 Mr. {Johnson.} We do.

1523 Secretary {Moniz.} But I think again all of the entries  
1524 in those three tables that was sent were reviewed by general  
1525 counsel at DOE. Secondly, I would note that it was my  
1526 understanding those transportation studies were very generic.  
1527 They would be applicable anywhere, and they certainly are not  
1528 applied to the construction or expansion of any facility. So  
1529 I can check on that with the lawyers but that would be my  
1530 first reaction.

1531 Mr. {Johnson.} Yes, I would ask you to go back and  
1532 check, Mr. Secretary--

1533 Secretary {Moniz.} Okay.

1534 Mr. {Johnson.} --because as I understand Section 302,  
1535 it seems pretty emphatic and pretty specific what the shalls  
1536 and the shall nots pertain to.

1537 Secretary {Moniz.} Okay.

1538 Mr. {Johnson.} Okay. With that, Mr. Chairman, I yield  
1539 back.

1540 Mr. {Shimkus.} The gentleman yields back the time.

1541 The chair now recognizes the gentleman from California,  
1542 Mr. McNerney, for 5 minutes.

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1543           Mr. {McNerney.} Thank you, Mr. Chairman.

1544           Mr. Secretary, first, I want to thank you for bringing  
1545 your technical expertise and your human communication skills  
1546 to this difficult problem.

1547           My first question would be do you believe in your  
1548 opinion that the technology exists for safe transportation  
1549 and long-term storage of high-level nuclear waste?

1550           Secretary {Moniz.} In the National Academy study that I  
1551 referred to earlier certainly concluded that one has to  
1552 execute but, yes, that it could be safe.

1553           Mr. {McNerney.} So what you have said is that we need  
1554 both the science and we need the public acceptance for a  
1555 local--so clearly, in Yucca Mountain, the public acceptance  
1556 part of this has failed. Would you be a critic and tell me  
1557 what you think went wrong in that process in getting that  
1558 project to be acceptable in Nevada at Yucca Mountain?

1559           Secretary {Moniz.} Well, I am neither a lawyer nor a  
1560 psychologist but I think, as was said earlier, I think the  
1561 very prescriptive nature and frankly the change of process  
1562 that led to the singling out of Yucca Mountain I think just  
1563 inherently raised some opposition.



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1564           Mr. {McNerney.} Do you think that that can be repaired,  
1565 the damage that was done?

1566           Secretary {Moniz.} Well, we feel that consent-based  
1567 process has a very good chance of being successful with the  
1568 time taken to communicate, cooperate, and assistant technical  
1569 analysis.

1570           Mr. {McNerney.} But at the very least, the Department  
1571 has learned from that experience and probably won't make  
1572 those same mistakes again?

1573           Secretary {Moniz.} I think we have all learned a hard  
1574 lesson, yes.

1575           Mr. {McNerney.} Thank you. I have another question.  
1576 Do you believe that high-level waste has enough potential  
1577 future value to design repositories that the waste could be  
1578 retrieved in the future if appropriate?

1579           Secretary {Moniz.} Well, if I may just kind of make  
1580 sure we have our definitions in the same line, we are using  
1581 high-level waste generally to apply to things like the  
1582 defense waste where the things like plutonium have already  
1583 been removed so they do not have energy value. But in the  
1584 spent fuel or used fuel, as it is sometimes called from the

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1585 commercial power reactors, they still contain plutonium,  
1586 which certainly could be used for power production here and  
1587 that is what is done in France, for example. I want to make  
1588 very clear I am not advocating that, but technically, that is  
1589 correct.

1590         Retrievability, however, independent of that, is  
1591 probably something that will be important for public  
1592 acceptance, at least over some time period.

1593         Mr. {McNerney.} Well, if you look at what is happening  
1594 at the NIF program in Livermore, in order to use the NIF as a  
1595 gateway to hybrid fusion reaction or commercial reactor, they  
1596 would use spent fuel and use neutrons created in little  
1597 fusion explosions to accelerate a heat-driven process. Do  
1598 you know what I am talking about?

1599         Secretary {Moniz.} Yes, there are many--

1600         Mr. {McNerney.} There are values in this material.

1601         Secretary {Moniz.} Yes, there are many alternatives.  
1602 You are referring to a process called spallation typically--

1603         Mr. {McNerney.} I didn't know the word.

1604         Secretary {Moniz.} --to make--well, to make neutrons  
1605 and that you then do something else with. There is fusion,

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1606 there is conventional fusion, there is inertial-confined  
1607 fusion. These are all, shall we say, well into the future as  
1608 possible energy sources but they are being researched.

1609 Another thing I just maybe mention is that there is a  
1610 concept that is interesting potentially which one uses fusion  
1611 for the purpose of making neutrons that then makes more  
1612 nuclear fuel--

1613 Mr. {McNerney.} Right.

1614 Secretary {Moniz.} --using depleted fuel, and I think  
1615 that is the thing that you are probably referring to.

1616 Mr. {McNerney.} So the other question I have has to do  
1617 with the concern about comingling of military versus civilian  
1618 nuclear waste. What is the issue there? I don't understand  
1619 why that is a concern or an issue.

1620 Secretary {Moniz.} Oh, well, in the 1980s that decision  
1621 was made to combine them. That wasn't made in the context of  
1622 the 1998 date, and so it was viewed that the defense programs  
1623 could then be relieved of the need to independently develop a  
1624 repository. Well, now, it is a different world. 1998 is  
1625 past as far as I can recall. Also, since then, we have  
1626 developed specific agreements with States like Idaho, for

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1627 example, in terms of removal of not only spent fuel but of  
1628 high-level waste.

1629           And so the Blue Ribbon Commission was not saying that  
1630 technically one could not combine them but it does note that  
1631 there are very different issues, different agreements. Also,  
1632 the high-level waste for the defense waste so-called, as I  
1633 said earlier, does not have energy value. Number two, it has  
1634 different packaging. Number three, it typically was very low  
1635 burn-up fuel. So it is typically much cooler than commercial  
1636 waste and so, there is no judgment made, but we are going to  
1637 reopen that, relook at the decision, and see if it would make  
1638 more sense to keep them separate or keep them on the same  
1639 track.

1640           Mr. {McNerney.} Thank you.

1641           Mr. {Shimkus.} The gentleman's time is expired. I  
1642 would ask him to talk to me about Hanford on background. We  
1643 can talk about it.

1644           The chair now recognizes the gentleman from Ohio, Mr.  
1645 Latta, for 5 minutes.

1646           Mr. {Latta.} Thank you very much, Mr. Chairman. And,  
1647 Mr. Secretary, again thank you very much for being with us

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1648 this afternoon.

1649           And if I could go back to Chairman Shimkus' June 28  
1650 letter that he had written to the Department of Energy, the  
1651 chairman raised questions about the legal authority under  
1652 which DOE is conducting the various nuclear waste activities.  
1653 It looks to me that DOE is picking and choosing which laws  
1654 are convenient to follow. In the nuclear fuel storage and  
1655 transportation section of DOE's response, I noticed that DOE  
1656 sites the Nuclear Waste Policy Act Monitored Retrieval  
1657 Storage, the MRS, provisions as the authority for pursuing  
1658 interim storage activities. However, DOE's 2008 report to  
1659 Congress on the demonstration of the interim storage of spent  
1660 nuclear fuel from decommissioned nuclear power reactor sites  
1661 state, ``in Section 141 of the NWPA authorized the Department  
1662 to site, construct, and operate a Monitored Retrievable  
1663 Storage, MRS, facility but restricted the ability of the  
1664 Department to pursue this option by linking any activity  
1665 under the section to milestones tied to progress in the  
1666 development of the Yucca Mountain repository.''

1667           I guess the question I have is, given that the DOE has  
1668 shut down the Yucca mountain program, how can DOE justify its

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1669 activities on interim storage under the MRS provision? It is  
1670 kind of a long question.

1671 Secretary {Moniz.} Well, again, sir, ultimately I am  
1672 relying on the judgment of our general counsel in the  
1673 Department of Justice and the spelling out the authorities  
1674 that were in there. And I am also happy to respond more  
1675 fully upon further research there. But again, in my view,  
1676 the issues of researching for the whole back end of the fuel  
1677 cycle, no matter what we pursue in terms of storage and  
1678 repository program, we need to do that work that frankly was  
1679 suspended for so long because of the 1987 decision. But I  
1680 will get a response--

1681 Mr. {Latta.} If I could ask if you could respond to the  
1682 Committee in writing on that, I would greatly appreciate it--

1683 Secretary {Moniz.} Yes.

1684 Mr. {Latta.} --because I think it is very important  
1685 point out there that needs to be--

1686 Secretary {Moniz.} I would be happy to.

1687 Mr. {Latta.} --considered and responded to.

1688 Now, if I could follow up on another point in regard to  
1689 the chairman's letter, DOE also indicated that the used fuel

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1690 research and development activities are authorized under the  
1691 Atomic Energy Act of 1954. And it is clear, however, that in  
1692 the Nuclear Waste Policy Act and amendments enacted into the  
1693 1987 law, Congress directed DOE not to conduct further  
1694 repository research on sites other than Yucca Mountain.

1695         In its decision in the United States v. Estate of  
1696 Romani, the United States Supreme Court stated, ``a specific  
1697 policy embodied in a later statute should control our  
1698 construction of the earlier statute even though it has not  
1699 been expressly amended.'' And then the question I have then,  
1700 Mr. Secretary, is how do you and the DOE justify ignoring the  
1701 sections of the Nuclear Waste Policy Act while claiming to  
1702 follow the others and then falling back to the Atomic Energy  
1703 Act which so clearly has been superseded by the Nuclear Waste  
1704 Policy Act?

1705         Secretary {Moniz.} Again, sir, I will include that in  
1706 the detailed response because I am just not the person--

1707         Mr. {Latta.} Well, and again, you know, in reading your  
1708 testimony, you know, I think it is very important because  
1709 especially as we have known that we are looking at about \$15  
1710 billion have been spent at Yucca and, you know, I think if I

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1711 remember right in your testimony, we are talking that it is  
1712 looking like maybe another \$19 billion is going to have to be  
1713 expended because of having to find other places to deposit  
1714 the nuclear waste. So if I am reading that correctly, is  
1715 that 15 billion and then another 19 billion on top of that?

1716 Secretary {Moniz.} Certainly north of 10, that is for  
1717 sure.

1718 Mr. {Latta.} So we are talking \$34 billion out there  
1719 that is going to be expended when we already had a site  
1720 Yucca, is that correct?

1721 Secretary {Moniz.} Well, again, going back to the waste  
1722 fee adequacy analysis, it is consistent that a mill per  
1723 kilowatt hour would cover all of these costs. So it is  
1724 essentially nuclear power, you know, pay-as-you-go. And I  
1725 think the exact cost will become sharper only as the future  
1726 trajectory becomes more clear. But the one mill per kilowatt  
1727 hour in the revised assessment is certainly consistent with  
1728 covering the costs.

1729 Mr. {Latta.} Mr. Chairman, if I could ask for  
1730 indulgence to ask one more question?

1731 Mr. {Shimkus.} It depends on how long.



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1732 Mr. {Latta.} Short.

1733 Mr. {Shimkus.} I have got colleagues who would like to  
1734 ask--

1735 Mr. {Latta.} When you say when it becomes sharper in  
1736 looking at that, could I just ask what your definition of  
1737 sharper when it comes to--you said when those numbers become  
1738 sharper?

1739 Secretary {Moniz.} First of all, the trajectory of  
1740 nuclear power, which clearly is an unknown today, will it  
1741 grow substantially? Will it not? Are we going to have  
1742 multiple repositories? Are going to have multiple storage  
1743 sites and repositories at the same time? I think those are  
1744 all the issues that that will have to be resolved to get the  
1745 full lifecycle cost understood.

1746 Mr. {Shimkus.} The gentleman's time is expired. The  
1747 chair now recognizes--

1748 Mr. {Latta.} I yield back. Thank you very much.

1749 Mr. {Shimkus.} --the gentleman from Georgia. Your time  
1750 is expired, no time to yield back.

1751 The chair recognizes the gentleman from Georgia, Mr.  
1752 Barrow, for 5 minutes.

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1753           Mr. {Barrow.} Thank you, Mr. Chairman.

1754           Mr. Secretary, thank you for joining us today. And I  
1755 can't help but feel like you have been put in an incredibly  
1756 difficult position. You didn't really get us here but it is  
1757 good to have a friend in nuclear in your position even though  
1758 you have got an impossible set of circumstances to deal with.  
1759 I just want to ask you, explain it so an old county  
1760 commissioner can understand it. What is it going to take,  
1761 what is going to have to happen, and who is going to have to  
1762 do what before we decide whether to go forward with Yucca or  
1763 not?

1764           Secretary {Moniz.} Well, I think the initial issue will  
1765 be the results of the current litigation with the NRC.

1766           Mr. {Barrow.} That has got to be decided.

1767           Secretary {Moniz.} That has to be decided and, as we  
1768 have said, we will--

1769           Mr. {Barrow.} And you need some legislative authority  
1770 to do anything different than what is being litigated in the  
1771 lawsuit right now.

1772           Secretary {Moniz.} Again, we feel we should be pursuing  
1773 these dual tracks in any event and that will require new

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1774 authorities. Should the licensing go forward, the evaluation  
1775 go forward at the NRC, again, a caution that there are still  
1776 many, many other steps that need to be taken by the Congress  
1777 and the State to move that project forward.

1778 Mr. {Barrow.} So what should those steps look like to  
1779 mark what should we be doing?

1780 Secretary {Moniz.} Well, the first thing that I am  
1781 really asking for and the Administration asks for us to have  
1782 the authorities to move forward on this parallel track.

1783 Mr. {Barrow.} Here is a concern I have got with that  
1784 because I am representing a whole lot of taxpayers who gave  
1785 their consent to this overall structure when they have been  
1786 paying their utility bills and paying into a fund that was  
1787 supposed to get them something. I remember it was the  
1788 generators who gave their consent to this process when they  
1789 gave their political assent to the laws that impose this  
1790 burden on them and they also entered into these contracts.  
1791 When they turn all this ratepayer money over to you all, they  
1792 were supposed to get something in return.

1793 Now, my point is you talk about this is a pay-as-you-go  
1794 system. We have been going pretty far down the road and we

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1795 haven't gotten anywhere yet. So one question I would ask  
1796 along those lines what do we do to reimburse those folks who  
1797 paid a sum if we decide to abandon Yucca? What do we do to  
1798 the ratepayers and the generators that extracted the money  
1799 for that solution? What is going to happen to those  
1800 ratepayers? How are they going to be made whole if we decide  
1801 to go in another direction?

1802 Secretary {Moniz.} The one mill per kilowatt hour is to  
1803 remove fuel from those sites, put it into federal control  
1804 where then the Federal Government has the responsibility--

1805 Mr. {Barrow.} That is for money that hasn't been  
1806 collected yet.

1807 Secretary {Moniz.} But I am saying--

1808 Mr. {Barrow.} What about the money that has already  
1809 been collected?

1810 Secretary {Moniz.} And, yes, sure, but the--

1811 Mr. {Barrow.} You say sure, but. It is--

1812 Secretary {Moniz.} Each kilowatt hour will ultimately  
1813 bear a cost which is currently best estimate of one mill to  
1814 manage disposal. There is no backing away from the federal  
1815 commitment to manage that process.

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1816           Mr. {Barrow.} My question what about the stranded asset  
1817 of the investment that ratepayers have paid for years now if  
1818 it is determined that that asset is going to be upended? How  
1819 about covering their loss?

1820           Secretary {Moniz.} The Federal Government, the  
1821 Administration remains committed to moving that fuel as soon  
1822 as possible. That is why we believe that this dual track  
1823 strategy is the fastest way--

1824           Mr. {Barrow.} But if you move it to someplace other  
1825 than what has been bought and paid for, you are going to add  
1826 the cost of this other repository system, either this  
1827 intermediate and permanent or this new permanent. My point  
1828 is how do we compensate the folks who have paid for the  
1829 facility that we are going to be walking away from if that is  
1830 what we decide to do?

1831           Secretary {Moniz.} The estimate remains that the one  
1832 mill per kilowatt hour is a very credible expectation for the  
1833 cost of getting that fuel accepted and moved.

1834           Mr. {Barrow.} That is future revenues for future  
1835 projects. I am talking about what you want to do about the  
1836 issue--

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1837           Secretary {Moniz.} All the way from the beginning, the  
1838 current waste fund with its nearly \$30 billion sitting in  
1839 there--

1840           Mr. {Barrow.} How about money that has been collected  
1841 that hasn't been spent yet? What are we going to do about  
1842 that?

1843           Secretary {Moniz.} Well, I mean currently it is  
1844 collecting interest and it is sitting there to be deployed.  
1845 In fact, then the request for legislation would be to  
1846 determine how a new waste organization has access to whatever  
1847 combination of discretionary and mandatory funds required.  
1848 But that \$30 billion or almost \$30 billion is there for this  
1849 purpose.

1850           Mr. {Barrow.} Well, I can speak for every county  
1851 commissioner and city councilman who has got any zoning  
1852 authority anywhere in the country that there is a problem  
1853 here that I recognize a mile away, and again, you didn't  
1854 invent this problem, but if you have got to zone a socially  
1855 necessary use into an area that has got some controversy or  
1856 some undesirable effects, you are going to have some problems  
1857 with folks who don't want it in their backyard.

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1858           And the problem with a consent-based basis that we are  
1859 talking about here, one challenge that I see just as an old  
1860 county commissioner is you have got folks who have got  
1861 different ideas about what their backyard is. You might have  
1862 a local government, the local community that is just dying to  
1863 get the jobs and the infrastructure and the opportunities.  
1864 You have got a state government that doesn't want it in their  
1865 backyard. Or you might have a state government that wants it  
1866 but a local government that doesn't want it in their  
1867 backyard. Or you might have the state and local government  
1868 on the same page and you have got some interest group  
1869 somewhere that says it regards the whole country is their  
1870 backyard or the planet as their backyard.

1871           So I don't want us to be looking to something that has  
1872 never been found and it won't be found. I don't want to be  
1873 looking for a unicorn in this picture. Thank you for your--

1874           Mr. {Shimkus.} I thank my colleague from Georgia and I  
1875 would like to yield 5 minutes to the gentleman from  
1876 Pennsylvania, Mr. Murphy, for 5 minutes.

1877           Mr. {Murphy.} Mr. Secretary, great to see you again,  
1878 and thanks for coming to Pittsburgh this week.

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1879           Secretary {Moniz.} Thank you.

1880           Mr. {Murphy.} One of the comments that was made in that  
1881 roundtable you had was an energy company leader said it was  
1882 important to have regulations that were science-based and  
1883 enforced consistently so that they could predict our future.  
1884 I worry about a consent-based approach because I am not  
1885 always sure that it is based in science. I believe that pure  
1886 science is best done without politics, and unfortunately,  
1887 politics is often done without science.

1888           And we had some hearings prior to today where we learned  
1889 the story of what happened when a new director of NRC came  
1890 in, basically shut down the facility, got rid of employees,  
1891 disposed of records, and sent us back in time. And it  
1892 concerns me that that was politically driven and not  
1893 scientifically driven.

1894           Now, help us, as I appreciate your commitment to wanting  
1895 to move forward in this, but in March, Nye County,  
1896 California, last year they notified DOE of their consent to  
1897 have repository Yucca Mountain. DOE responded saying that  
1898 Nevada doesn't consent. And, Mr. Secretary, your testimony  
1899 refers to reports that a number of communities are exploring



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1900 the possibility of hosting a consolidated storage facility  
1901 and NRC staff has indicated four industries have expressed  
1902 some level of interest. Has DOE or the representatives met  
1903 with these entities? Can you give me a yes or no on that?

1904 Secretary {Moniz.} No, we are not and we don't have the  
1905 authorities to begin any kind of a negotiation with these  
1906 communities.

1907 Mr. {Murphy.} So isn't it fair that DOE meet with  
1908 representatives from Nye County, Pennsylvania, or somewhere  
1909 else if you are going to use a consent-based approach?

1910 Secretary {Moniz.} Oh, I am sorry. I believe some  
1911 other officials have met with people from Nye County--

1912 Mr. {Murphy.} But people within DOE are not?

1913 Secretary {Moniz.} I am sorry?

1914 Mr. {Murphy.} But people from DOE are not meeting with  
1915 folks in these other communities?

1916 Secretary {Moniz.} No, no, again, it is my  
1917 understanding--I can clarify this later. It is my  
1918 understanding that certainly some members of the Nuclear  
1919 Energy Office have had discussions but nothing that I would  
1920 call certainly a negotiation. We have no authorities to do

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1921 that.

1922 Mr. {Murphy.} Well, regarding the interested entities,  
1923 these four that were mentioned, have the Senators and  
1924 Governors in the States where they are located endorsed  
1925 hosting a consolidated interim storage facility?

1926 Secretary {Moniz.} No, sir, as far as my knowledge  
1927 goes. But earlier, as Mr. Barton said, there is an example  
1928 where a county in Texas has a public resolution--

1929 Mr. {Murphy.} Sure.

1930 Secretary {Moniz.} --of interest and he said are  
1931 engaged in discussions with the Governor and the state  
1932 legislature. So that is an example where it is beginning and  
1933 that is all--I think until we have a process in place--

1934 Mr. {Murphy.} Well, let me ask about this process.  
1935 Have you done any analysis on the adequacy of the Nuclear  
1936 Waste Fund to pay for both interim storage and final disposal  
1937 facilities assuming the fund could be used for both purposes?

1938 Secretary {Moniz.} Again, the waste adequacy assessment  
1939 looks at multiple scenarios and finds that there is a very,  
1940 very wide range of lifecycle costs. The one mill per  
1941 kilowatt hour--

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1942           Mr. {Murphy.} But my point is are you using the Nuclear  
1943 Waste Fund to pay for interim and final disposal facilities?

1944           Secretary {Moniz.} That is again something that will  
1945 have to be decided in Congress.

1946           Mr. {Murphy.} But is that something you would support?

1947           Secretary {Moniz.} The Blue Ribbon Commission supported  
1948 it.

1949           Mr. {Murphy.} Okay. And most of DOE's current nuclear  
1950 waste management activities rely on taxpayer-funded  
1951 appropriations in 2012 and under the Continuing Resolution  
1952 2013. This means that taxpayers are currently funding the  
1953 costs of DOE's efforts to start over, breaking the historic  
1954 possibility that the beneficiaries of electricity, the  
1955 consumers, pay the cost of disposal. So for how long and for  
1956 what cost does the Administration support continuing the  
1957 policy of having the taxpayers foot the bill? Is that part  
1958 of your discussion?

1959           Secretary {Moniz.} Again, that is a very important part  
1960 of Congress' discussion in terms of how it has chosen to do  
1961 appropriations, discretionary appropriations or waste fund  
1962 allocations.

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1963           Mr. {Murphy.} Sure. Well, in that context, though, our  
1964 concern is we have already spent 15 billion that we  
1965 appropriated and then someone, for consent reasons or  
1966 political reasons, decided to pull the plug on that. So our  
1967 concern is if we put more money into this, we want to know  
1968 there is a commitment from you and the Department of Energy  
1969 to move forward.

1970           I was impressed with the article you wrote in Foreign  
1971 Affairs 2011 where you talk about the importance of nuclear  
1972 power and you also acknowledge the sensitivity you have to  
1973 the government paying billions of dollars in damages to  
1974 energy companies and that the uncertainty of cost is a big  
1975 problem with building more nuclear power plants. So in this  
1976 context, you see the uncertainty of cost remains if we are  
1977 ambiguous of where we are moving forward. So your commitment  
1978 to move forward is so important.

1979           You mentioned the Blue Ribbon Commission with regard to  
1980 moving forward, and you also said that we are in a stalemate  
1981 and we have to be moving the ball forward. You said that  
1982 today. So help this committee understand or build confidence  
1983 in DOE's commitment to move forward on using Yucca Mountain

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1984 as a permanent storage facility or, and what you have also  
1985 talked about, a temporary one made for the next 100 years.  
1986 There is land out there to do that as well. Are you  
1987 committed to continue to move forward personally on this? Is  
1988 the Department? Or are we going to see more holdups in this  
1989 process?

1990 Secretary {Moniz.} Certainly I am committed. In fact,  
1991 that is why I am here today. The Administration is  
1992 committed. The Department is committed. Of course, there is  
1993 this recommendation about a new organization to be formed,  
1994 and if that is done, then presumably a lot of those  
1995 responsibilities would move to this new organization. But I  
1996 think the point is the Administration and the government must  
1997 be committed to executing this responsibility.

1998 Mr. {Murphy.} Well, we have been committed to a plan so  
1999 far and it is frustrating to have the rug pulled out from  
2000 under us. Thank you.

2001 Mr. {Shimkus.} The gentleman's time is expired.

2002 The chair now recognizes the gentlelady from California,  
2003 Ms. Matsui, for 5 minutes.

2004 Ms. {Matsui.} Thank you, Mr. Chairman, and thank you

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2005 for holding a hearing on this important issue. And thank  
2006 you, Mr. Secretary, for joining us once again. I commend  
2007 your work with the Blue Ribbon Commission and I appreciate  
2008 the Department of Energy's continued work on this matter.

2009 The Administration's strategy for the management and  
2010 disposal of used nuclear fuel and high-level radioactive  
2011 waste makes significant contributions to this debate and I  
2012 look forward to continuing this open dialogue with you on how  
2013 best to address the safe deposit of our country's nuclear  
2014 waste.

2015 My district of Sacramento, the Sacramento Municipal  
2016 Utility District, otherwise known as SMUD, owns a  
2017 decommissioned Rancho Seco nuclear power plant so I have an  
2018 interest in issues with spent fuel management posed by  
2019 permanently shutdown reactors for some time. I was heartened  
2020 to see that the Administration's strategy includes a pilot  
2021 interim storage facility with an initial focus on moving fuel  
2022 from shutdown reactors. Shutdown reactors represent a unique  
2023 component in overall nuclear waste policy. As is the case  
2024 with SMUD, removal of the spent fuel is many times the last  
2025 major hurdle in the way of putting the land to a more

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2026   beneficial use.

2027           The Blue Ribbon Commission and the Administration both  
2028   advocate that it should be a priority to move spent fuel from  
2029   sites with permanently shutdown reactors and without an  
2030   operating nuclear generating Station. Do you agree that  
2031   spent fuel from these sites should be prioritized?

2032           Secretary {Moniz.} That is certainly the  
2033   Administration's strategy's position.

2034           Ms. {Matsui.} I strongly support a pilot interim  
2035   storage facility that removes all spent fuel from permanently  
2036   shutdown sites. It seems to me that a successful pilot  
2037   project could help repair public confidence in the  
2038   government's ability to manage the Nation's public waste.

2039           Secretary {Moniz.} Yes.

2040           Ms. {Matsui.} And what other benefits would a pilot  
2041   project achieve?

2042           Secretary {Moniz.} Well, again, first and foremost, it  
2043   would of course remove the fuel from those sites. I think it  
2044   would have, as you have indicated, an enormous impact on  
2045   saying that there is this commitment to accepting fuel by the  
2046   Federal Government. We are accepting fuel. We are moving

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2047 fuel. We are moving it safely and I think that would really  
2048 add a big jolt of confidence to getting this whole program  
2049 moving, not talking about it, but moving, moving fuel. That  
2050 is the issue.

2051 Ms. {Matsui.} Now, in your testimony, you mentioned  
2052 that DOE would conduct an analysis of initial used field  
2053 shipments from shutdown reactors sites. Can you elaborate on  
2054 what specific aspects this analysis will consider?

2055 Secretary {Moniz.} Well, I think the analysis at this  
2056 stage, it has to be quite generic because of course what the  
2057 geography would be of such a pilot facility will determine  
2058 specific travel routes, et cetera, but I would say--and this  
2059 is now my own personal speculation if you would like--I think  
2060 for a first pilot facility in terms of modal issues, we  
2061 probably will be talking, you know, trucking of casks on the  
2062 highway. As the Academy report many years ago suggested,  
2063 once we get into a very, very large-scale transportation of  
2064 thousands of tons per year, then using trains as a major mode  
2065 will be important.

2066 Ms. {Matsui.} So it is my understanding that the  
2067 Federal Government has been transporting this nuclear waste



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2068 and spent nuclear fuel in this country for some time now?

2069 Secretary {Moniz.} Um-hum.

2070 Ms. {Matsui.} That is right?

2071 Secretary {Moniz.} Yes, we have had thousands of  
2072 shipments.

2073 Ms. {Matsui.} Yes. So can you tell us about that  
2074 record and whether you are satisfied with the level of safety  
2075 that has been achieved?

2076 Secretary {Moniz.} Certainly my understanding is that  
2077 there has been a very, very safe record, and as I said, the  
2078 similar record in Europe where more than 10 times as many  
2079 movements have occurred has also been very good, at least  
2080 that was the case a few years ago when I was on that Academy  
2081 committee. To be honest, I haven't looked personally in the  
2082 last 5 or 6 years.

2083 Ms. {Matsui.} Okay. Well, I believe moving spent  
2084 nuclear fuel from decommissioned sites first should be a  
2085 priority and that a pilot interim storage facility is a  
2086 necessary step in the right direction in the overall  
2087 management of our Nation's nuclear waste. And I do look  
2088 forward to working with you, Mr. Secretary, and my colleagues

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2089 on this committee to make real progress in this area. And I  
2090 thank you very much--

2091 Mr. {Shimkus.} Can I have your last 35 seconds?

2092 Ms. {Matsui.} Yes, you may.

2093 Mr. {Shimkus.} Mr. Secretary, what is a crystalline  
2094 formation, cutting the rock?

2095 Secretary {Moniz.} Granite, for example.

2096 Mr. {Shimkus.} And wasn't that exempted under the '87  
2097 amendments to the Nuclear Waste Policy Act?

2098 Secretary {Moniz.} As I recall, I believe that--

2099 Mr. {Shimkus.} And there are 25 States that have this  
2100 formation?

2101 Secretary {Moniz.} I don't--

2102 Mr. {Shimkus.} So if we go to obviously a second  
2103 repository, those sites, based upon your testimony, or those  
2104 States would still be then open and accessible for granite  
2105 formations during high-level nuclear waste? Wouldn't that be  
2106 correct?

2107 Secretary {Moniz.} Well, I think again that would be--

2108 Mr. {Shimkus.} States like Washington, Massachusetts,  
2109 New Hampshire, Vermont, New York, Connecticut, Delaware,

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2110 Maryland, and Virginia all could be considered--

2111 Secretary {Moniz.} I mean, again, as has been  
2112 demonstrated internationally, there is a wide range of  
2113 geologies that can be suitable for a repository.

2114 Mr. {Shimkus.} Thank you, Mr. Secretary.

2115 I now recognize the gentleman from West Virginia, Mr.  
2116 McKinley, for 5 minutes.

2117 Mr. {McKinley.} Thank you, Mr. Chairman. And, Mr.  
2118 Secretary, thank you for going to Morgantown to visit the--

2119 Secretary {Moniz.} It was fun.

2120 Mr. {McKinley.} --National Energy Technology  
2121 Laboratory.

2122 I wasn't here in Congress in '08 or '09. I didn't come  
2123 until '11 so I am trying to get up to speed with all of this  
2124 debate that is taking place, but I do have a fact-finding  
2125 from the Nuclear Energy Institute that indicates that in 2008  
2126 there were some 3,000 scientists across five laboratories and  
2127 various major universities were involved in filing this  
2128 application with the DOE for the permit. And then within a  
2129 year's time, that permit was reversed. The application was  
2130 reversed. Mr. Secretary, other than an election being taken

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2131 place during that period of time, what happened? Was there a  
2132 change in science or technology that DOE hadn't taken into  
2133 consideration or was this decision to cancel the application  
2134 merely political?

2135 Secretary {Moniz.} Well, in a similar vein, of course I  
2136 was not here as well. However, I would note that, as we have  
2137 stressed, that there are two essential conditions in our  
2138 view. I mean one is good science and number two is consent.

2139 Mr. {McKinley.} Well, Mr. Secretary, what I am saying  
2140 is what science changed between '08 and '09?

2141 Secretary {Moniz.} And there are two issues, science  
2142 and consent, and the Administration felt that on the consent  
2143 basis this was simply not a workable project.

2144 Mr. {McKinley.} Was consent part of the law in '08?

2145 Secretary {Moniz.} It is a question of the ground  
2146 truth, and the reality is the project moving forward? Does  
2147 the project have the ability to capture all of the permits  
2148 that it needs, which includes state permits? And so the  
2149 project was deemed and declared not workable.

2150 Mr. {McKinley.} Engineers or contractors, it feels  
2151 political. It doesn't feel like it has anything to do with

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2152 science or technology. So the question you were asked  
2153 several times now, the gentleman from Georgia was asking it;  
2154 I heard Chairman Upton from Michigan raise the same question  
2155 and using his numbers because I don't know what they are for  
2156 West Virginia, but when he said Michigan again has taken away  
2157 from the taxpayers and businesses, everyone using the power,  
2158 they have extracted \$600 million from the residents of  
2159 Michigan to pay for this facility. What have they gotten for  
2160 that \$600 million?

2161 Secretary {Moniz.} Well, first of all, the question--  
2162 Mr. {McKinley.} And I heard your answer, well, the  
2163 amount that is being extracted is fair. It will pay for the  
2164 facility, but that is not the question they we are asking.  
2165 What did we get for it? If we wind up ultimately abandoning  
2166 the facility, what did they get for \$600 million in Michigan?

2167 Secretary {Moniz.} The one mill per kilowatt hour has  
2168 been paid in the rate base for all nuclear utilities for the  
2169 Federal Government commitment to accept the fuel and move it  
2170 from those sites. That commitment remains.

2171 Mr. {McKinley.} But they have spent 600 million and it  
2172 hasn't happened yet, so what happens with the amount of money

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2173 that has already been expended? Are we going to refund it to  
2174 the individuals if we abandon and go to a different site?

2175 Secretary {Moniz.} As I think--

2176 Mr. {McKinley.} Because I believe you are trying to  
2177 answer--if I can put words into your mouth--that whenever the  
2178 site is determined, that mill per kilowatt hour will be  
2179 adequate to be able to facilitate this, but that is not the  
2180 question. The question is what happens to the \$600 million  
2181 in Michigan that has already been expended? They don't have  
2182 anything. There is nothing to show for it.

2183 Secretary {Moniz.} Again, the one mill per kilowatt  
2184 hour is not to buy a facility. It is to buy a service. The  
2185 service, as far as the utility concerned, is spent fuel  
2186 removal. The failure to begin removing that fuel on February  
2187 1, 1998, has led to the payment of damages. Those damages  
2188 are currently projected to go north of \$20 billion back to  
2189 the utilities because the service is not being provided. The  
2190 service will be provided. That remains the commitment. And  
2191 the funds in the meantime are, as I said earlier, accruing  
2192 interest. In fact, I think in the current waste fund--I  
2193 maybe not quite right on this--but I think something like \$6

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2194 billion of it is interest that has accrued over the time. So  
2195 it is a service being purchased. There was a decision a long  
2196 time ago by this Congress in terms of how nuclear waste  
2197 disposal would be paid for. The commitment remains. It is  
2198 no different.

2199 Mr. {McKinley.} In closing, I know my time is almost  
2200 up. Are you telling me that if this decision goes in our  
2201 favor or it goes in the favor of Yucca Mountain, all of the  
2202 investment we have made, will the President uphold that or is  
2203 this going to be another DOMA, Immigration, and the Employer  
2204 Mandate? Will he enforce this or would he waive this--

2205 Secretary {Moniz.} We have made very clear we follow  
2206 the law. If the court directs--

2207 Mr. {McKinley.} He hasn't followed the law. That is  
2208 the problem. He hasn't followed the law in other--

2209 Secretary {Moniz.} The law will be determined by this  
2210 court decision that we are all awaiting, and if it directs  
2211 the NRC to pick up the license, we will do our job to support  
2212 that, given appropriations. It will be up to the funds to be  
2213 supplied from discretionary or mandatory by this body and  
2214 there will be many other conditions that have to be met,

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2215 including by the government, land withdrawals, there will be  
2216 state permits, many, many issues. And again the judgment  
2217 remains. When we put all of this together, it doesn't seem  
2218 very workable.

2219 Mr. {McKinley.} Mr. Chairman, I apologize for running  
2220 over.

2221 Mr. {Shimkus.} No, you did fine. Thank you. The  
2222 gentleman yields back his time.

2223 And, Secretary, you have been great. We have got one  
2224 more member here who is actually the chairman of the Energy  
2225 and Air Quality Committee, so he does have part of the big  
2226 nuclear portfolio up here and I am glad that he stayed  
2227 around. And I would like to recognize him for 5 minutes.

2228 Secretary {Moniz.} I am aware of his portfolio.

2229 Mr. {Whitfield.} Well, thank you, Chairman Shimkus.

2230 Mr. Secretary, we appreciate your being with us today  
2231 and I just have to say honestly that I don't envy you trying  
2232 to defend the Administration on this issue.

2233 I was reading the testimony and it said the  
2234 Administration supports working with Congress to develop the  
2235 consent-based process that is transparent, adoptive, and



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2236 technically sound. And it is my argument that we already  
2237 have the law on the books, the Nuclear Waste Policy Act,  
2238 1982, 1987. Democrats and Republicans made the decision to  
2239 do it. And now this Administration in 2009 made the decision  
2240 to pull the plug after the Department of Energy had submitted  
2241 its application in 2008 at the NRC.

2242 And then Mr. Jaczko, who--so in my view, Harry Reid,  
2243 President Barack Obama, and the chairman of the Nuclear  
2244 Regulatory Commission basically made the decision they don't  
2245 care what the Congress thinks, they don't care what the  
2246 American people think, they are not going to abide by the  
2247 Nuclear Waste Policy Act. And, as a result, we have spent--I  
2248 have heard different figures--Mr. Barton said around 15  
2249 billion, 13 billion, 14 billion for Yucca Mountain and no one  
2250 talked about the judgments against the Federal Government as  
2251 a result of the lawsuits because the Federal Government had  
2252 breached its contract because it didn't have the ability to  
2253 take possession of the waste, so that is another 12 or \$13  
2254 billion. And then the President decides, well, okay, we are  
2255 going to pull the plug but we will establish a Blue Ribbon  
2256 Commission and now you all are asking for 1.3 billion and

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2257 pay-as-you-go another 5.6 billion over 10 years.

2258           And, you know, maybe I am biased but when I go to the  
2259 Rotary Club and I talk about this kind of waste, it is really  
2260 upsetting to people when you talk about a \$16 trillion  
2261 federal debt that is growing every day and this judgment is  
2262 growing every day. And so you really do wonder what is the  
2263 President thinking about? We have a federal law that has not  
2264 been invalidated. The only reason we are now waiting for a  
2265 decision of the courts is because the Administration didn't  
2266 act, so a lawsuit was filed. And so here we are. And I mean  
2267 I have great admiration for you and your intellectual ability  
2268 and your understanding of the issue, but I tell you, I think  
2269 that Barack Obama is flat wrong on this issue and that the  
2270 American people are going to suffer.

2271           Now, maybe that is my opening statement and I would be  
2272 happy to give you an opportunity to respond if you want to.  
2273 I am certainly not frustrated in any way but if you would  
2274 like to respond, fine. If you--

2275           Secretary {Moniz.} Well, again, it would just be  
2276 repetitive that Secretary Chu felt that the project would be  
2277 unworkable and that is again based on the issue of public

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2278 acceptance, which we consider to be equally important as the  
2279 scientific criteria. So, again, as I said earlier, when the  
2280 judgment is made in the litigation with the NRC, I think we  
2281 will have a path forward there, whichever it is. But, again,  
2282 I think I have come here today especially to try to, you  
2283 know, present my perspective. It is the one of the Blue  
2284 Ribbon Commission that we need to pursue these two tracks in  
2285 any event. It will be our fastest approach to move fuel, to  
2286 accept fuel, and we believe that is needed no matter what the  
2287 repository pathway is. And I hope that we can work together  
2288 to move the ball.

2289 Mr. {Whitfield.} And I would just say that, I mean, the  
2290 President is out there every day talking about all-of-the-  
2291 above and the nuclear energy is really being stagnant right  
2292 now because of this waste issue. And if he is genuinely  
2293 concerned about carbon emission, he should get off the dime  
2294 and take some action to expedite this waste issue, taking  
2295 care of this waste issue or we are going to have a pretty  
2296 stagnant nuclear energy in the U.S. in my view.

2297 Secretary {Moniz.} If I may respond to that, I think  
2298 the Administration's actions are very consistent on nuclear

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2299 power with the all-of-the-above strategy. The fact is after  
2300 many years of talk, this Administration moved out with the  
2301 conditional \$8 billion loan guarantee for first-mover nuclear  
2302 plant construction in Georgia, AP 1000s. This Administration  
2303 launched the program and already decided on one license for a  
2304 new small modular reactor to be constructed, and the  
2305 Administration feels that it is putting forward in fact the  
2306 proposal for the most effective way to address waste  
2307 management in a consent-based approach. So I think the  
2308 ground truth, the ground facts speak for themselves.

2309 Mr. {Whitfield.} Well, Mr. Secretary, I may make one  
2310 final comment. Every day the President, when he talks about  
2311 energy, he talks about all-of-the-above and yet America is  
2312 the only country in the world where you cannot build a new  
2313 coal-power plant. So I don't see how he can say all-of-the-  
2314 above.

2315 Secretary {Moniz.} Well, I would like to respond to  
2316 that as well in a similar vein. I think, first of all, of  
2317 course, the President has stated and I have stated and  
2318 thousands and thousands of scientists have stated that it  
2319 would be imprudent not to start addressing the greenhouse gas

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2320 emission issue. So that is kind of a given in the  
2321 Administration's position. Now, given that, what does all-  
2322 of-the-above mean? What it means in this case is--and I am  
2323 going to go back and say there was a lot of talking the talk  
2324 for many years. This Administration put \$6 billion on the  
2325 table for clean coal projects, eight major sequestration  
2326 projects, one has started, two will start next year, five are  
2327 in construction. ARPA-E has invested in more than 20  
2328 projects for novel capture technologies. So if we are going  
2329 to establish carbon capture utilization--and I might add six  
2330 of those eight projects have enhanced oil recovery as part of  
2331 it. If we are going to establish the competitiveness of all  
2332 of our resources in a low-carbon world, this is exactly what  
2333 we need to do and the President moved out on these programs.

2334 Mr. {Whitfield.} Well, if I may make one final comment,  
2335 I do hope that you ought to consider things other than just  
2336 carbon capture and sequestration because there are a lot of  
2337 other technologies out there that can be just as beneficial.

2338 Secretary {Moniz.} Well, in fact, if I may add--I am  
2339 sorry, Mr. Chairman, one last thing--

2340 Mr. {Shimkus.} You have been very kind on all this time

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2341 we have given, so of course you can continue.

2342 Secretary {Moniz.} So another example of this case was  
2343 a week after the President's climate plan announcement in  
2344 Georgetown, our department put out a draft solicitation for  
2345 an \$8 billion loan guarantee program for advanced fossil  
2346 technologies across the board. We are waiting for input in  
2347 September but we said, as examples, it could be dry fracking.  
2348 It could be new carbon utilization technologies. It could be  
2349 advanced fossil combined heat and power. So we are putting  
2350 out the programs to establish fossil fuels as part of the  
2351 low-carbon future.

2352 Mr. {Shimkus.} And reclaiming my time. And I want to  
2353 thank the Secretary for your time. And it was good for some  
2354 of my nuclear friends to hear some fossil fuel stuff, so that  
2355 is why I definitely am all-of-the-above in my Congressional  
2356 District, so it was probably good for them to hear some of  
2357 that.

2358 In conclusion, again, I would like to thank you. You  
2359 spent a wonderful amount of time in a subcommittee setting,  
2360 which it is fairly unique in this process. I want to thank  
2361 my Members on both sides who participated in today's hearing,

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2362 and I want to remind Members that they have 10 business days  
2363 to submit questions for the record, and I ask you, Mr.  
2364 Secretary, to respond to those as promptly as you can.

2365 Secretary {Moniz.} Yes.

2366 Mr. {Shimkus.} And with that, the hearing is now  
2367 adjourned.

2368 Secretary {Moniz.} Thank you, Mr. Chairman. Thank you,  
2369 Mr. Tonko.

2370 [Whereupon, at 4:15 p.m., the Subcommittee was  
2371 adjourned.]