



**TESTIMONY
ON BEHALF OF THE ENERGY COMMUNITIES ALLIANCE**

OF

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AIKEN COUNTY, SOUTH CAROLINA
CHAIRMAN, ENERGY COMMUNITIES ALLIANCE**

**BEFORE THE
SUBCOMMITTEE ON ENVIRONMENT AND THE ECONOMY
HOUSE ENERGY AND COMMERCE COMMITTEE
UNITED STATES HOUSE OF REPRESENTATIVES**

REGARDING

UPDATE ON LOW-LEVEL RADIOACTIVE WASTE DISPOSAL ISSUES

OCTOBER 28, 2015

Chairman Shimkus, Ranking Member Tonko, and Members of the subcommittee, I thank you for inviting me to testify today and ensuring that the local community perspective is represented in discussions of how best to manage and dispose of the nation's nuclear waste.

I am Chuck Smith, Council Member of Aiken County, South Carolina, board member of the Savannah River Site Community Reuse Organization, and Chairman of the Energy Communities Alliance (ECA), the only national organization of local, elected and appointed officials in communities adjacent to U.S. Department of Energy (DOE) defense facilities. Our communities have long played a key role supporting the country's national security efforts, hosting these facilities with the understanding that the waste would ultimately be disposed of in a safe and timely manner.

As you are well aware, the development of a geologic repository has not proceeded as planned and the Waste Isolation Pilot Plant (WIPP) is currently not receiving waste. Therefore, there are waste streams in our communities that still have no clear disposal path. This means our communities remain *de facto* nuclear waste storage sites. We do not believe this is the kind of policymaking Congress intends.

ECA urges Congress to consider feasible alternatives to move waste out of our communities safely, beginning with classifying waste based on its composition, not just by where it originated. This

will allow the country to move forward, properly, safely, and scientifically to dispose of radioactive waste and save taxpayers millions of dollars. It just makes sense.

ECA understands that nuclear waste disposition presents many challenges – often more political than technical. So while ECA supports proceeding with the Yucca Mountain licensing application and opening WIPP as soon as possible, we also support pursuing other options in parallel, like changing how waste is classified. Doing so may allow us to overcome stalemates, build momentum, and implement a comprehensive strategy that will get waste moving out of our communities as safely and expeditiously as possible.

ECA believes these alternatives can potentially identify new, feasible disposal paths for low-level waste, Greater-Than-Class C (“GTCC”) waste, defense transuranic waste (TRU) and even high-level waste (HLW) that continues to accumulate. This will be crucial as DOE moves forward with cleanup activities in our communities, as more nuclear reactors are being decommissioned, and in order to build support for new low-carbon nuclear development and new nuclear technologies like small-modular reactors.

ECA recommends revising how radioactive waste is classified in the U.S. Our radioactive waste classification system currently relies primarily on “point of origin” rather than “composition” – the specific

hazards posed by its disposal. This approach has many deficiencies. For example, it is inconsistent: low-level waste is defined by exclusion whereas high-level waste is defined by its source. It also can be vague, as is the case in defining high-level waste. The existing definition for HLW states that waste must “contain fission products in sufficient concentrations”, but that does not adequately address the current state of defense-HLW, some of which could technically qualify as TRU waste if based only on its radioactive material content.

Only the U.S. classifies nuclear waste this way. The International Atomic Energy Agency (IAEA) recommends the more risk-based system wherein waste is classified by the “intrinsic qualities of the material.”

ECA believes that changing the way we (the United States) classify waste could provide additional, safe, publicly acceptable disposal paths for waste, leading to lower federal and taxpayer costs for storage and less risk to human health and the environment. ECA recommends that NRC and DOE work together to consider this option, and suggest that this change could be implemented immediately by Congress through legislation that clarifies waste definitions.

In fact, ECA recently established a multi-community task force and we have drafted proposed language for Congressional consideration. (Attachment A).

ECA recommends that full consideration and support be given to communities and States interested in providing alternative storage and disposal options as part of a consent-based process.

For GTCC waste, disposal in a geologic repository is the only method currently approved by the NRC. Given the absence of a geologic repository, today GTCC and GTCC-like waste – which includes waste from DOE’s cleanup program – has no disposal path. As the Savannah River Site Community Reuse Organization (SRSCRO), specifically noted in a letter to DOE, that waste is considered “orphaned” and they do not support the selection of Savannah River Site as a potential candidate for its disposal under the scope of the draft Environment Impact Statement. As a Board Member of the SRSCRO, we follow the communities’ guiding principle: no waste or excess materials shall be brought into South Carolina unless an approved and funded pathway exists for processing and shipment to either a “customer” or out of state waste disposal facility. Similarly, at the Hanford site in Washington State, local communities told DOE when the draft EIS was released that acceptance of additional wastes from offsite would greatly increase and compound impacts already identified at the site.

In Nevada mixed-LLW from across the DOE complex is disposed of at Area 5 of the Nevada National Security Site (NNSS). If a GTCC

facility were co-located with or adjacent to existing DOE facilities, there is the potential for conflict between the current disposal activities, which involve only DOE-generated waste subject to State of Nevada review, and disposal of GTCC waste in a facility that must be licensed by the NRC and subject to NRC inspection.

The NNSS, itself, is under the control of the National Nuclear Security Agency (NNSA), on land withdrawn from public access under rights of way from the Bureau of Land Management (BLM). Nye County notes there is much uncertainty, and there needs to be further consideration of the operational, land use, and licensing issues if the site is selected for disposal of GTCC waste.

Nye County *does* support the inclusion of Yucca Mountain as an alternative for disposal of GTCC waste. However, this is complicated by the fact in DOE's Draft GTCC EIS, the alternative for disposal of GTCC waste in a geologic repository at Yucca Mountain was taken off the table prior to resolution of the regulatory and legal issues raised since the administration arbitrarily determined that Yucca Mountain was "not a workable option" and suspended its licensing activities with the NRC.

With Congressional action, waste definitions can be clarified and GTCC and GTCC-like waste, including re-classified TRU waste, could also potentially be disposed of in WIPP near Carlsbad, New Mexico, a

community that is knowledgeable on these issues and supportive of cleanup efforts. In fact, GTCC and GTCC-like waste is essentially the same as Remote-Handled Transuranic waste (RH-TRU) from the defense sector, which is presently being disposed of at WIPP. If DOE and NRC determine this alternative is safe, secure and reliable; if legislation is passed to allow WIPP to accept the commercial waste as well as the defense waste it already takes; if the necessary regulatory changes are made and resources are provided for outreach and education in the community and State to ensure they understand the potential risks and benefits and approve; WIPP could take appropriately classified transuranic waste as well as the small amount of commercial GTTC waste. This could even result in more room for HLW and spent nuclear fuel in Yucca Mountain or any other geologic repository, which remains essential to a comprehensive nuclear waste management strategy. As you all are well aware, due to legislatively directed volume restrictions, Yucca Mountain is considered “full” before it even opens.

We should also mention efforts by the State of Texas to license a disposal cell for Greater-Than-Class-C (GTTC), Greater-Than-Class-C-like, or transuranic waste. Waste Control Specialists has a proven track-record for safe disposal of low-level waste in Texas, they work closely with the surrounding communities, and they are interested in taking the waste.

ECA looks forward to reviewing the “Final” GTCC EIS when it is released by DOE. DOE’s failure to previously identify a preferred alternative denied local communities input on the process. As impacted communities, we stress that **DOE must give the public an opportunity to formally comment on its preferred alternative and demonstrate its commitment to a “consent-based process” in regards to the storage and disposal of all waste types**, even if this means that the Department will have to delay the recommendation to Congress and any Record of Decision while they take public input into account.

In closing, ECA greatly appreciates the opportunity to appear before you today. We agree that nuclear waste management is a priority and we strongly encourage Congress, DOE and the NRC to recognize the potential advantages to considering multiple options, pursuing them in parallel, and moving this waste out of our communities. Continued failure is not an option. Not addressing address nuclear waste disposal increases the risks to our communities and limits future economic development opportunities. It also threatens our nation’s energy security, impacts the economics of nuclear power as a viable energy resource under an “all of the above” energy strategy, and prevents the already limited available funds from being utilized as effectively as possible.

There *are* options. The Federal government needs to give serious consideration to all safe alternatives for disposal of these waste forms

from both the federal government and commercial generators. ECA's local government members call upon the Committee to support efforts to clarify ambiguous waste definitions and exercise the legislative powers necessary to set the United States back on a risk and "consent-based" path forward with nuclear waste disposal.