

June 13, 2019

Chairman Paul Tonko  
Subcommittee on Environment and  
Climate Change  
House Committee on Energy &  
Commerce  
2125 Rayburn House Office Building  
Washington, DC 20515

Ranking Member John Shimkus  
Subcommittee on Environment and  
Climate Change  
House Committee on Energy &  
Commerce  
2322 Rayburn House Office Building  
Washington, DC 20515

Dear Chairman Tonko and Ranking Member Shimkus:

Thank you for holding a hearing today on spent nuclear fuel. I am Arlen Orchard, CEO of the Sacramento Municipal Utility District (SMUD), which is a member of the Decommissioning Plant Coalition (DPC).<sup>i</sup>

By way of background, SMUD's Rancho Seco Nuclear Generating Station ceased commercial operation in 1989, decommissioning planning began in 1991, and commodity removal began in 1997. In October 2009 the Nuclear Regulatory Commission (NRC) released the majority of the site for unrestricted public use, and on August 31, 2018 the NRC terminated the Part 50 license. This leaves the approximately 14 acres of land licensed under 10 CFR Part 72 as SMUD's Rancho Seco Independent Spent Fuel Storage Installation (ISFSI), excluding approximately 11 acres of land that holds an Independent Spent Fuel Storage Installation (ISFSI) that contains 22 dual-purpose systems licensed for the dry storage and transportation of used nuclear fuel and Greater-Than-Class-C (GTCC) waste ultimately destined for disposal by the Department of Energy (DOE).

As is the case with other contract holders<sup>ii</sup> SMUD has litigated a partial breach of contract claim against DOE, seeking to recover the costs incurred in our management of this material, which the Department was required to begin accepting in 1998. To date, SMUD has won judgments in the U.S. Court of Claims of more than \$100 million, covering costs through June 2015. These monies have been paid out of a permanent appropriations account in the Treasury called the Judgment Fund.

From the outset, one of the chief goals of the DPC has been to hasten the day when the federal government will meet its contractual obligations to remove the used fuel and GTCC material stranded on our various sites. As the Nuclear Waste Policy Act (NWPA), as amended in 1987, was already 14 years old when the DPC formed, we supported the Yucca Mountain project and worked with Congress in urging DOE to prepare a sound license application, address the transportation infrastructure requirements necessary to support a phased-in shipping campaign, and otherwise take steps necessary to prepare for the movement of this material from our sites on a priority basis.

As I suspect is the case with other contract holders, we watched with concern the development of political opposition to the Yucca Mountain project in the State of Nevada and our concerns were realized when the Obama Administration determined that the project was no longer viable and began to close down the licensing effort beginning in 2009. Ten years later, we regret the political impasse over Yucca has kept spent nuclear fuel at Rancho Seco and other similar sites across the country.

SMUD and the DPC have supported the establishment of a voluntary, incentive-based siting program that would lead to the licensing of a consolidated interim storage (CIS) facility and a pilot program to remove the material from our sites on a priority basis. This pilot would demonstrate the ability of the federal government to plan and execute their responsibilities for used fuel and GTCC waste acceptance and transportation under the Standard Contract, relieve the taxpayer of the obligation to continue paying Judgment Fund damages and allow these sites to be freed for other useful purposes. We believe this intermediary path is a viable alternative to the status quo.

SMUD appreciated the efforts the Chairman and Ranking Member of this Subcommittee have made to address the siting of a permanent repository for spent nuclear fuel at Yucca or elsewhere. While we hope that the impasse can ultimately be resolved, we believe this committee should act to advance an interim storage option. We are particularly grateful for the efforts of Rep. Doris Matsui. Her bill – the STORE Nuclear Fuel Act – would make progress by:

- Allowing the Department of Energy (DOE) or a private entity to develop consolidated interim storage (CIS) locations through a consent-based process; and
- Permitting DOE to take title of SNF to transfer the material from their present locations to the CIS locations.

Mr. Chairman and Members of the Subcommittee, as you examine possible legislative options to address our current policy failure, and there really is no other word to describe the current situation, we urge you to include provisions that would support the establishment of a CIS program, one that can be accomplished with reasonable support from the Nuclear Waste Fund without any impact upon the repository program.

We believe that the inclusion of Consolidated Interim Storage will restore the confidence of our local communities in the federal government's will to meet its obligations and promises.

We believe that establishing a Consolidated Interim Storage program will address increasing regulatory costs at our sites as the material remains on site for longer

periods than anyone ever imagined.

We believe that a successful Consolidated Interim Storage program will enable our communities to repurpose the multiple sites that are currently restricted by safety and security requirements.

We applaud your steadfast interest in a vibrant repository program, and we urge you to strongly consider Rep. Matsui's STORE Nuclear Fuel Act.

Thank you for the opportunity to provide this written testimony. SMUD and the DPC are always prepared to assist the committee as it considers this critical issue.

Sincerely,

Arlen Orchard  
CEO  
Sacramento Municipal Utility District

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<sup>i</sup> The DPC was established in 2001 out of the recognition that the overwhelming attention of the regulator, the industry and policy makers would be focused on the operating fleet and provides a forum for the identification of federal policy and regulatory issues of unique or special concern to decommissioning civilian nuclear facilities. Since its inception, plants that have been represented in the work of the DPC include: Big Rock, Connecticut Yankee, Crystal River, Duane Arnold, Humboldt Bay, Kewaunee, LaCrosse, Maine Yankee, Pilgrim, Rancho Seco , San Onofre, Vermont Yankee, Yankee Rowe and Zion.

<sup>ii</sup> In the Nuclear Waste Policy Act of 1982 (NWPA), the owners of civilian nuclear power reactors were required to enter into contracts with the DOE and pay a fee, based on the amount of electricity generated at those reactors. Those fees have been deposited into the Nuclear Waste Fund, invested in interest bearing accounts and are to be made available for the siting, construction and operation of facilities described in the Act. In return, the DOE was obligated to begin accepting used fuel at each reactor, based generally on the concept of the oldest fuel first, in 1998. The NWPA and the Standard Contract developed pursuant to the Act (found at 10 CFR 961) allows the DOE to accord priority to any used fuel or GTCC waste "removed from a civilian nuclear power reactor that has reached the end of its useful life or has been shut down permanently for whatever reason."