



**TESTIMONY  
ON BEHALF OF ENERGY COMMUNITIES ALLIANCE**

**SUBMITTED TO THE  
COMMITTEE ON  
ENERGY AND NATURAL RESOURCES COMMITTEE  
UNITED STATES SENATE  
ON**

**S. 3469**

**A BILL TO ESTABLISH A NEW ORGANIZATION TO MANAGE  
NUCLEAR WASTE, PROVIDE A CONSENSUAL PROCESS FOR SITING  
NUCLEAR WASTE FACILITIES, ENSURE ADEQUATE FUNDING FOR  
MANAGING NUCLEAR WASTE, AND FOR OTHER PURPOSES**

September 12, 2012

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**ON S. 3469, A BILL TO ESTABLISH A NEW ORGANIZATION TO MANAGE  
NUCLEAR WASTE, PROVIDE A CONSENSUAL PROCESS FOR SITING NUCLEAR  
WASTE FACILITIES, ENSURE ADEQUATE FUNDING FOR MANAGING NUCLEAR  
WASTE, AND FOR OTHER PURPOSES**

Chairman Bingaman, Ranking Member Murkowski and Members of the Committee, we thank you for accepting our written testimony on S.3469, a bill to establish a new organization to manage nuclear waste, provide a consensual process for siting nuclear waste facilities, ensure adequate funding for managing nuclear waste, and for other purposes. We would also like to thank the sponsor of this bill: Senator Jeff Bingaman (D-NM). The Energy Communities Alliance (ECA) is the association of local governments that are adjacent to or impacted by Department of Energy (DOE) nuclear activities. Our members are either neighbors or hosts of DOE and National Nuclear Security Administration (NNSA) sites that currently produce or formerly produced defense nuclear waste, sites that store and process defense nuclear waste, and the sites that may potentially host a future interim storage facility, reprocessing facility or geologic repository.

Founded in 1992, ECA is the only association to bring together and provide a central voice for local elected and appointed officials on DOE issues. Our sites are the sender and receiver sites for nuclear waste, and potential hosts for nuclear waste interim storage, recycling and disposal facilities. We believe that local governments have a critical role to play in any waste discussion, and we have stated this position many times in our testimony before the Blue Ribbon Commission on America's Nuclear Future (BRC). We applaud the efforts of this legislation to ensure that local governments are involved in waste decisions from the beginning.

Our communities are most interested in the disposal of defense waste currently stored at many of our sites. As you consider this legislation, we ask you to take into account the impact these decisions will have on our communities. We would like to offer the following recommendations and comments on S.3469:

- **Congress and the Administration Need to Re-Engage Communities on HLW Issues**

- **ECA Supports the Inclusion of Local Governments in the Decision-Making Process**
- **The Siting Process Must Allow Affected Communities to Decide Whether, and on What Terms, the Affected Communities Will Host a Nuclear Waste Facility**
- **Use a Phased, Adaptive Approach to the Sequence of Waste Disposition – Move Defense Waste First.**
- **The Impacts of Transportation on Local Governments and Communities Need to Be Addressed**
- **ECA Can Support a New Organization to Manage Nuclear Waste**

Many of our members currently call for Yucca Mountain licensing to be restarted. However, our organization also supports the Chairman's initiative to develop legislation to continue to move forward to create a High-Level Waste (HLW) Policy that can be implemented in the current political environment.

Our members have jointly prepared the testimony we submit to you today.

### **Congress and the Administration Need to Re-Engage Communities on HLW Issues**

ECA communities have been home to federally-owned and operated nuclear facilities for over half a century. ECA believes that any legislation must require that DOE, or any new entity responsible for nuclear waste management, engage these communities in a meaningful dialogue and take into account the impact on the states, tribes and local governments.

Many of the local communities ECA represents currently store high-level nuclear waste were, but were never intended to become permanent waste storage sites. These same communities have operated in good faith based on federal law, as codified in the NWPA, that the defense waste would ultimately be disposed of in a geologic repository. As hosts of DOE sites where this defense high-level waste has been produced and stored, our communities have unique health and safety concerns as well as resource needs.

Several local governments have identified that, if certain conditions are met, the local community may be willing to accept a HLW disposal mission. Congress and the Administration should begin to re-engage with these communities, and begin the process of assisting these

communities and states to study the scientific data to determine if their communities are suitable for such a mission.

ECA's high-level waste policy is attached as Appendix A. In addition, we have attached "Recommendations for The Blue Ribbon Commission On America's Nuclear Future To Involve Local Communities" as Appendix B. Further, additional ECA positions and meeting summaries can be found at [www.energyca.org](http://www.energyca.org).

### **ECA Supports the Inclusion of Local Governments in the Decision-Making Process**

ECA supports the inclusion of local governments in the decision-making process outlined in S.3469. We appreciate that the legislation takes into account the impact that storing, transporting and disposing of nuclear waste has and will have for communities at the local level.

We agree with the language included in the Sec. 304. Siting Nuclear Waste Facilities:

*"In siting nuclear waste facilities under this Act, the Administration shall employ a process that (1) allows affected communities to decide whether, and on what terms, the affected communities will host a nuclear waste facility; (2) is open to the public and allows interested persons to be heard in a meaningful way; (3) is flexible and allows decisions to be reviewed and modified in response to new information or new technical, social, or political developments; and (4) is based on sound science and meets public health, safety, and environmental standards."*

ECA, local elected officials, and many other impacted parties often highlight how important these four provisions are in successfully siting nuclear waste facilities. Most significantly to ECA, this legislation demonstrates an understanding that local communities face unique health and safety decisions as hosts of storage and disposal sites – and that *they* should be allowed to determine what is necessary to address their unique needs and concerns – an issue of paramount importance to ensure long-lasting support and concurrence.

ECA also recognizes that states and local governments must work together meaningfully as early as possible in the process in order to avoid the pitfalls of the past, maximize positive outcomes and successfully site nuclear waste facilities.

We also support the language included in the legislation requiring public hearings in the vicinity of the site and at least one other location within the state where the site is located. Local governments want the public to be informed of any proposed site characterization and have the opportunity to provide comments and recommendations to the federal government.

Finally, in regards to a consent agreement for making a final determination of site suitability, ECA agrees with the terms and conditions outlined in S.3469:

The terms and conditions of the consent agreement “shall promote the economic and social well-being of the people living in the vicinity of the repository or storage facility; and (B) may include-

- (i) financial compensation and incentives;
- (ii) economic development assistance;
- (iii) operational limitations or requirements;
- (iv) regulatory oversight authority; and
- (v) in the case of a storage facility, an enforceable deadline for removing nuclear waste from the storage facility.

ECA believes local governments are uniquely positioned to negotiate these benefits on behalf of the impacted community. A community volunteering to host a nuclear waste facility should be prepared to identify what it needs and wants as a potential host.

### **The Siting Process Must Allow Affected Communities to Decide Whether, and on What Terms, the Affected Communities Will Host a Nuclear Waste Facility**

ECA supports the process described in S.3469 for siting nuclear waste facilities. Local governments of affected communities must be engaged early and actively in any siting process for any new nuclear facility. Meaningful involvement is critical at *all* steps in the process – developing the vision, refining the goals and priorities, and providing input when conflicts arise. Increased coordination and cooperation with the federal government will ensure that local governments and potential host communities better understand the federal government’s

approach, and it will keep local communities informed so they can understand priorities, concerns and goals.

S.3469 states that preference will be given to sites determined to be suitable for co-location of a storage facility and repository. ECA would also note that special consideration should be given to sites that are determined to be suitable for co-location of a storage facility and a facility for recycling (or reprocessing) used fuel. We understand that recycling will not eliminate the need for a geologic repository, but it may allow what we currently consider “waste” to be a new energy resource. Further, several communities have already identified that they would be unlikely to accept the mission without a recycling or other similar mission.

### **Use a Phased, Adaptive Approach to the Sequence of Waste Disposition – Move Defense Waste First.**

As the local government hosts of the vast majority of defense-related high-level waste and spent nuclear fuel in the country, we recommend that this Nation’s defense-related high-level waste — especially material that is never intended to be retrieved — be given priority over, and “fast-tracked” ahead of, commercial waste and moved out of our states and into a repository as soon as possible.

Our Nation has approximately 2,460 metric tons of heavy metal (MTHM) high-level waste (approximately 2,150 MTHM defense and 310 MTHM non-defense) consolidated and stored mainly at the Hanford site in Washington, the Idaho National Laboratory in Idaho, and at the Savannah River Site in South Carolina — the latter alone has about 4,000 canisters of vitrified high-level waste glass logs ready for disposal. This legacy defense waste differs from commercial spent nuclear fuel in a number of ways:

1. It is older and has been awaiting permanent disposal longer.
2. It has different radioactive properties.
3. Much of the defense high-level waste is being vitrified and cannot be retrieved for recycling or reprocessing. It is currently being “packaged” to Yucca Mountain standards and stored in “temporary” buildings.

4. It has only one disposition path: a geologic repository.
5. Maintaining the status quo pending a decision regarding commercial waste increases the risk to human health and the environment. At Hanford, one million gallons of high-level waste have already leaked from storage tanks.
6. Maintaining the status quo is compromising other DOE missions at the affected sites. For example, further delays will violate legal commitments DOE has with states. Missing milestones, failing to meet deadlines or failing to honor agreements will adversely affect DOE's Office of Environmental Management's cleanup program.
7. There is a smaller volume of defense legacy high-level waste than of spent nuclear fuel.
8. Funding for management of legacy waste comes from a different source than funding for management of commercial waste.

In addition, unlike spent nuclear fuel, defense high-level waste and storage of defense high-level waste is not regulated by a third party (the Nuclear Regulatory Commission regulates private spent nuclear fuel). Defense high-level radioactive waste is self-regulated by DOE. Defense high-level waste was created primarily to support the defense of our country and not for private energy production and in some cases has been shipped from one defense site to another for "temporary" storage pursuant to agreements with states. Finally, defense high-level waste is being treated to address United States international treaty obligations in some cases.

In the future the defense waste and commercial waste can be comingled in a repository once the commercial waste can move forward.

ECA recommends that the Committee consider establishing a pilot program first (consistent with National Academy of Sciences' recommendations for adaptive staging) and the defense waste transitioned as part of the program. Doing so has several clear advantages. First, there is a smaller, more manageable scope of work where disposition may be achieved in a more timely manner. Second, demonstrating that the legacy waste can be successfully dispositioned can provide valuable lessons as the shift to commercial waste disposition occurs. Finally, and perhaps most importantly, public trust and confidence in the federal government will increase as

the federal government demonstrates an ability to safely manage and dispose of nuclear waste and to keep its commitment to American taxpayers.

### **The Impacts of Transportation on Local Governments and Communities Need to Be Addressed**

S.3469 outlines how States and Indian tribes will be provided with financial and technical assistance if plans are made to transport nuclear waste through their jurisdictions. Local governments in affected communities along transportation routes should be included among these groups as they, too, are responsible for public education and ensuring the safety of their citizens. Local governments provide services such as police and fire protection, water and wastewater treatment and public health services. Training, equipment, and transportation safety programs for public safety officials and other emergency responders at the local level is extremely important and will help ensure consistency among all affected parties as waste moves across the country.

### **Energy Communities Alliance Can Support a New Organization to Manage Nuclear Waste**

As elected officials at the local level, ECA members have the responsibility to protect the health, safety, quality of life and economic future of their citizens and the communities adjacent to DOE and NNSA sites where nuclear waste waits for final disposition in a repository.

As ECA previously testified before the BRC, our members could support the creation of a new organization dedicated solely to implementing the nuclear waste management program, provided it has clear legislative authority, appropriate autonomy, appropriate oversight mechanisms, and access to required funding. Our members are still evaluating options for the structure of a new nuclear waste organization. ECA is encouraged that a primary purpose of the Nuclear Waste Administration will be “to protect the public health and safety and the environment” as it assumes the responsibility of the federal government to manage and dispose of nuclear waste.

There is concern, however, about the timeline for creating this new entity given that in 1982, it took four years to begin substantive implementation of the NWPA. It will also take time to create a new regulatory structure. Increased delay means continued or even increased risks to our communities currently hosting “de facto” HLW storage sites with nuclear waste remaining



beyond the timeframe originally committed to by the federal government. ECA recommends that the Committee consider empowering the Nuclear Waste Administration to allocate funds from a defense appropriations account to help ensure that local communities hosting sites with stranded defense-related HLW can address their unique health and safety concerns until a final disposition plan is implemented.

ECA agrees that the Nuclear Waste Administration and the Nuclear Waste Oversight Board should have access to funds in the NWPA independent of the annual appropriations process. ECA believes the funds should be used as originally intended and outlined in Section 302 of the NWPA in 1982.

## **Conclusion**

ECA appreciates the opportunity to provide testimony to you on S.3469, and we appreciated this Committee's work to address nuclear waste management now and begin to implement the recommendations made by the BRC. ECA supports the Chairman's efforts to make nuclear waste management a priority. ECA looks forward to providing any assistance we can as your work continues.

ECA also thanks the Chairman for his long-term leadership in the Nuclear Energy and Nuclear Waste Cleanup and Disposition Area. His actions have made each of our communities and our country a better and safer place to live.

More information about Energy Communities Alliance can be found at [www.energyca.org](http://www.energyca.org).

## **APPENDIX A**

### ***Energy Communities Alliance Position Paper Yucca Mountain and the Future of Geologic Disposal of High Level Waste in the U.S. December 2011***

Key Definitions:<sup>1</sup>

**High-level Waste (HLW)** results from the reprocessing of spent nuclear fuel. It includes liquid waste produced directly during reprocessing of spent fuel to recover usable plutonium and uranium. It also includes solid material derived from liquid wastes that contain fission products in sufficient concentrations.

**Spent nuclear fuel (SNF)** comes from commercial nuclear power plants, domestic research reactors, nuclear-powered U.S. naval warships, DOE-run research and defense reactors, reactor design testing, and energy and medical research. In the U.S., nuclear fuel, once used in a nuclear power reactor tends to be referred to as “spent” nuclear fuel rather than used nuclear fuel (UNF). This is because the U.S. employs a once-through fuel cycle and does not recycle the fuel from spent fuel rods to recover the remaining energy potential.

#### **Background:**

On March 3, 2010, the U.S. Department of Energy (DOE) filed a motion with the U.S. Nuclear Regulatory Commission (NRC) to withdraw its license application for a nuclear waste repository at Yucca Mountain. The petition followed the release of the Obama administration’s proposed FY 2011 budget that zeroed out funding for the Yucca Mountain Project, closed the DOE’s Office of Civilian Radioactive Waste Management, and gave responsibility for used/spent nuclear fuel management and disposition to the DOE’s Office of Nuclear Energy.

In addition, Energy Secretary Chu was directed by President Obama to appoint members to the newly established Blue Ribbon Commission on America’s Nuclear Future (BRC). The BRC was charged with developing recommendations for a safe, long-term solution to managing the

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<sup>1</sup> Greenberg, Michael R.; West, Bernadette M.; Lowrie, Karen W.; Mayer, Henry J. The Reporter’s Handbook on Nuclear Materials, Energy, and Waste Management. Nashville: Vanderbilt University Press, 2009.

Nation's used nuclear fuel and nuclear waste. The Commission specifically advised on issues including alternatives for the storage, processing, and disposal of civilian SNF and defense nuclear waste. It is not, however, a siting commission.

The BRC submitted its final report to the Secretary of Energy in January 2012.

The Yucca Mountain project is uncertain. The NRC has yet to rule on its own Atomic Safety and Licensing Board (ASLB) finding that DOE does not have the authority to withdraw the license application. However, the NRC has moved forward with plans to close the license review for Yucca Mountain.

For now, the federal government continues to fail to meet its obligation under the Nuclear Waste Policy Act to take responsibility for the disposal of SNF produced at the nation's nuclear power plants; nor HLW resulting from reprocessing SNF at federal facilities to obtain plutonium for the manufacture of nuclear weapons. Because of lawsuits filed against DOE by electric utilities, the federal government has settled millions in claims related to its failure to take possession of commercial SNF by 1998. In addition, the federal government has failed to keep agreements with state governments to take possession and dispose of the waste.

Billions of taxpayer and ratepayer dollars have been spent on the Yucca project. Despite recent actions by the Administration, current law still requires that a geologic repository be built at Yucca Mountain for the permanent disposal of HLW and SNF.

## **ECA POLICY POSITIONS**

ECA communities that host DOE sites where HLW and SNF have been produced and are being stored have unique health, safety and environmental concerns and needs. They have a key role to play in the discussion and evaluation of alternatives for future high-level waste disposition.

ECA communities urge the following with respect to the disposal of nuclear waste:

- 1. Trust Is Paramount** – One of the great challenges in regard to new nuclear policy and facility development is trust. As stakeholders have testified in front of the BRC, trust in DOE's ability to manage HLW and develop coherent policies and confidence in the NRC's

independence in licensing a repository has eroded over time. Without trust, public acceptance will be hard to win.

ECA communities want to engage DOE and other federal agencies at the outset of any HLW policy development. ECA communities can help present the local values, concerns and priorities that should be considered as new policies are planned. ECA can also be an honest broker, creating a forum for States, Tribes and other key stakeholders to have a definitive role in the process that will help rebuild trust with DOE and the NRC.

- 2. Recommendations on the Role of Local Governments** – ECA members believe it is critical for local governments and communities to be part of the discussion of future nuclear policy decisions. Their engagement is critical at all steps in the process – beginning with the development of the vision, refining the goals and priorities, and providing input when conflicts arise.

The key issues for communities include:

- *Being engaged early and actively* in any siting process for any new nuclear facilities or geologic repository.
- *Ensuring communities have oversight* with a clearly defined, funded and recognized role in the licensing, construction and operation of any facility (this includes transportation and emergency response issues).
- *Highlighting the impact of new nuclear power development* on interim storage of used fuel and potential recycling of used fuel disposition from the community perspective.
- *Understanding the federal government's approach* through communication and collaboration with federal officials. Local governments and potential host communities should be informed to the point that they can help their own constituents or related stakeholders recognize the federal government's priorities, goals, and concerns.

- 3. Consider Longer Timeline for Final SNF/UNF Disposition** - ECA accepts the notion that the need to address commercial SNF/UNF is less pressing -- especially in light of NRC's recent revision of its waste confidence rule. The revision expresses confidence that used nuclear fuel can be safely stored for at least 60 years beyond the operating license of a reactor – either on site or at a central storage facility – before it needs to be moved to a repository. In addition, the revised rule says the NRC has confidence that repository space will be available “when necessary” (a clear statement of the need for a geological repository for ultimate disposition of the waste).

It is important to note, however, that if nuclear power is to contribute fully to the nation's clean energy portfolio and help meet carbon reduction targets with public support, the question of what to do with commercial used nuclear fuel must be addressed.

- 4. One or More Geologic Repositories Are Necessary** – ECA supports geologic disposal pursuant to the Nuclear Waste Policy Act (NWPA). Much of the HLW and SNF across the DOE complex must be removed from sites such as Idaho National Laboratory, Hanford, and the Savannah River Site under stated commitments and/or binding legal agreements.

In addition, DOE owns or generates low-level radioactive waste (LLRW) and non-defense-generated transuranic (TRU) waste that have similar characteristics to Greater-Than-Class C Low-Level Radioactive Waste (GTCC). These waste streams do not currently have a disposition path, but the preferred disposal alternative (as examined in DOE's Draft Environmental Impact Statement for the Disposal of GTCC Low-Level Radioactive Waste and GTCC-Like Waste) could likely be a geologic repository such as the one originally planned at Yucca Mountain or at the Waste Isolation Pilot Plant (WIPP) in New Mexico.

Without a geologic repository, these wastes could remain orphaned in communities that never planned to be permanent or long-term storage sites. A final geologic repository - whether at Yucca Mountain, WIPP, or elsewhere - is essential to the final disposition of HLW and integral to the success of DOE's Environmental Cleanup programs regardless of issues with commercial spent fuel.

- 5. Yucca Mountain Should Be Considered Along with Other Alternatives** – ECA believes the BRC should have the opportunity to review all alternatives and make their recommendations concerning the federal government’s responsibility to manage and ultimately dispose of high-level radioactive waste. Many lessons have been learned by the technical work performed at the Yucca Mountain site. The license application should proceed based on technical merit. The decision to cancel the project should acknowledge the ripple effects such action will create and should not be based on politics.

*Yucca Mountain Alternatives* – If alternative proposals to Yucca Mountain – such as at WIPP, are advanced, DOE should engage local governments as its first line of communication. ECA’s membership includes the Yucca Mountain host community, Nye County, Nevada, and other Nevada communities, such as Esmeralda County and Lincoln County, who are directly impacted by transportation routes. Our membership also includes communities that may be interested in hosting a repository for HLW, GTCC waste, and/or used fuel.

- 6. The Nuclear Waste Fund Should Be Used for What It was Originally Intended** – As it was originally created as part of the NWPA in 1982.
- 7. Funding Should Exist for Communities with Defense-Related HLW Waste if Yucca Is Abandoned** - ECA respectfully requests that the Secretary cease any further action to terminate the Yucca Mountain license application with the NRC and allow for the full and fair NRC licensing process as authorized by the NWPA and approved by Congress. Too much of the obligated defense facility cleanup funds and activities are dependent upon the site to abandon it as at least one of the options being considered. For example, if the Yucca Mountain Project is terminated, waste from DOE vitrification programs at the Defense Waste Processing Facility, Waste Treatment Plant, and West Valley Demonstration Project may no longer meet any Waste Acceptance Criteria. The vitrification products from these sites were all designed specifically to meet Yucca Mountain Waste Acceptance Criteria, so this waste could be orphaned in place for years.

ECA believes DOE should consider providing funding (Department of Defense through defense authorizations) for communities that may end up hosting sites with “stranded”

defense-related HLW. This will help ensure they can address their unique health and safety concerns and needs until a final disposition plan is determined.

- 8. Existing Law Must Be Modified for A Path Forward Other than Yucca Mountain** – The NWPA establishes timelines and responsibilities for developing the Nation’s permanent waste disposition path. In 1987, it was amended, directing DOE to study only Yucca Mountain. The law also prohibits DOE from conducting site-specific activities at a second site unless authorized by Congress. In addition, the NWPA prevents the siting of interim storage facilities until the NRC licenses the construction of the permanent repository - which currently means the geologic repository planned at Yucca Mountain.

Termination of the Yucca Mountain geologic repository program is a major federal action that lacks not only National Environmental Policy Act (NEPA) documentation, but also opportunities for public involvement. Congress will need to take action that modifies the NWPA before the executive branch of government can make what many view as a unilateral decision without scientific or technical justification.

*Legislation to Site and Study Alternatives* - Modified or new legislation will be required to permit the study of permanent disposition alternatives and sites. For example, the local government and community of Carlsbad, NM, have expressed interest in expanding the mission at WIPP to include HLW and/or Greater-than-Class-C disposition if the Yucca Mountain project is terminated. However, for that to happen the 16 miles withdrawn per the Land Withdrawal Act would need to be established as a HLW repository and the HLW prohibition would need to be removed, as would the defense-only pedigree and the limit of 176,000 cubic meters. In addition, if the potential facilities are to be conjoined with WIPP to take advantage of existing infrastructure, the technical and regulatory bases for WIPP permits could be called into question, as the other wastes require an NRC license.

- 9. There Is a Potential for Reprocessing** - Most ECA members support and are interested in exploring recycling used fuel (or reprocessing) as part of an integrated approach to permanent waste disposition. In this way, recycling may allow what was once considered “waste” to be a new energy resource. While reprocessing will not eliminate the need for a geologic repository – in fact, a repository will still be required as it will not eliminate the

waste stream - reusing used nuclear fuel can potentially reduce the volume, thermal output, and/or radiotoxicity of waste requiring geologic disposal.

When DOE last introduced an initiative to study the potential development of nuclear recycling facilities, over half of the 11 siting grant recipients included ECA communities – the potential hosts as well as the constituents most directly impacted by any new recycling policy or facility.

- Environmental Impacts - Recycling does present some concerns for ECA members, including among others, the environmental impacts of creating increased amounts of Greater-than-Class C and low-level waste streams associated with reprocessing. Presently, neither has clear, final disposition paths.
- Proliferation Concerns - Proliferation is an issue often raised when discussing reprocessing. ECA communities support small modular reactors and other advanced nuclear technologies being developed to be proliferation-resistant and to recycle spent fuel without creating a separate plutonium stream.

ECA members want to continue to work with DOE on the potential benefits and drawbacks related to recycling. They are also uniquely positioned to help address the needs of a community volunteering to host a new nuclear facility. More specifically, ECA can help outline incentives for a host community that may include funding for oversight, workforce development and/or training.

**10. Interim Storage Should Be Considered as Part of an Integrated Approach to Ultimate Disposal** – ECA believes interim storage, if pursued, must exist alongside a permanent solution and not instead of it. ECA supports the option of pursuing interim storage provided economic incentives, health and safety monitoring, oversight and a legally binding commitment to a final disposition plan are provided to communities who agree to host such facilities.

ECA also wants the term “interim” to be legally defined. Policy makers currently use it loosely and have never actually associated it with a fixed timeframe (10, 50, 100, 500 or more years). Until “interim” is defined by law, potential host communities will continue to



have significant concerns that, in the absence of a long-term waste management strategy, interim storage sites will become de facto permanent repositories. The federal government must demonstrate a commitment to storage, especially given the failure of three past federal efforts to site interim storage facilities.

ECA notes that the interim storage alternatives do not necessarily have support from our communities without consideration of reprocessing or recycling used nuclear fuel. In fact, ECA members are more likely to have an interest in hosting an interim storage site if a recycling facility is also sited nearby.

## **APPENDIX B**

### **RECOMMENDATIONS FOR THE BLUE RIBBON COMMISSION ON AMERICA'S NUCLEAR FUTURE TO INVOLVE LOCAL COMMUNITIES**

Community engagement is critical at all steps in the process — beginning with the development of the vision, refining the goals and priorities, and at all times where conflicts arise. An overriding principle is not divorcing process (such as holding meetings) from substance (engaging in a discussion of technical and political issues). For the federal government, the question of community involvement is whether more members of the public accept and support the process. For local governments and other community members, the question is whether they obtain what they want at the site. For both, the question is prioritization — as not all issues are equally weighted. When process gets in the way of discussion a tension will arise. Hence, the parties must continue to understand that the process must lead to consultation, coordination and communication.

The Commission should recommend that any policy development regarding the back-end of the nuclear fuel cycle should include the following:

**Recommendation #1: Collaboration -- The Federal government must be required to collaborate (and not merely hold public meetings) with local governments, community members, state and federal agencies, when developing storage or recycling options.**

**Recommendation #2: The law must be clear — The law defines the process and the opportunity to engage and participate in the process.**

**Recommendation #3: Identify Goals -- Congress and DOE must identify clear milestones, which must be communicated to and understood by all parties. Clear milestones also permit Congress to annually fund the project.**

1. Establishing expectations among the parties;
2. Providing a vision for Congress to fund; and

3. Focusing the parties on the scope of work necessary to accomplish the mission.

**Recommendation #4: Education Is Essential — The parties must take the time to educate each other on the technical and policy issues underlying the project and to commit staff resources. Discussions that need to take place throughout the process must also include the question of technical risk and perceptions of risk, recognizing perceptions of risks posed do not always align with the technical risk.**

- Hold regular technical meetings;
- Provide pre-decisional drafts of documents to the community;
- Provide local governments and other members of the community with broad access to federal site personnel;
- Hold regular meetings between the federal facilities manager and community members; and
- Educate new parties as they become involved.

Education by each party involved in the project of other parties must occur regularly. The community must not only be educated by federal and state agencies and contractors, but the community must educate federal and state agencies and contractors so that they understand the goals and needs of the community and the history of the community.

Decisions, even technical ones, are influenced by several factors (including risk) and are not solely technically based. For that reason, the federal government and the regulators also must be educated about the perceptions among local governments and others within the neighboring community regarding risk (which generally vary from community to community and even within communities), because such perceptions may not be consistent with technical risks.

**Recommendation #5: Resources Ensure Parties Can Participate — The federal government and Congress must provide local communities with the financial resources necessary to organize and retain the staffing resources they need.**

Without federal funding, local governments and community organizations will struggle to secure the funds necessary to actively engage on site issues. Without the means to partner effectively, the project will not succeed or be understood – and likely will not be supported by a community. The funds are used for education and to hire technical experts that work for the local community – not DOE, the contractor, the private company or the regulators – so the technical information is actually confirmed and conveyed by a third party technical expert and community issues are addressed.

**Recommendation #6: Understand Community Values — To properly collaborate, the parties must work to understand the values of the community, and must work to incorporate such values into the planning process.**

**Recommendation #7: Economic Incentives Must Be Included in Law -- The economic incentives to any community or communities accepting the mission of serving as a high-level nuclear waste repository of any type must be clearly identified in legislation.**

**Recommendation #8: Local Presence Facilitates the Project — The federal entity charged with implementing the project must have a local presence and must address problems resulting from staff turnover that negatively affect long-term projects and public involvement efforts.** The proximity of decision makers to the site and the neighboring community is vital to ensuring a healthy dialogue in order to gain and keep trust. DOE should not rely on its contractors for this role.

**Recommendation #9: The Parties Must Build a Working Relationship — All parties must take the necessary steps to develop and maintain trust, accountability and openness.** The Cold War demanded an umbrella of secrecy over the activities of DOE, resulting in the decision-making framework of “decide, announce and defend.” Partnerships, which are based on trust, accountability and openness, require a fundamentally different paradigm. DOE largely has moved away from its historic posture, but where the decision-making process is not open – like with the current decision on Yucca Mountain -- community trust will be difficult to maintain.

Trust and accountability flow from the program mission and vision — without an agreement on the goals for the program and a vision for where to go, trust and accountability are difficult to

achieve. At current DOE sites, there are various ways DOE and the regulators have built trust and accountability.

Openness can be summarized by the following principles that should be embraced by officials at the local, state and federal levels:

1. Abide by the principle of “no surprises”;
2. Be honest (provide accurate information);
3. Provide regular information and brief your counterparts;
4. Identify, for all parties, any real or potential impediments to success;
5. Be available, which could mean talking with or meeting with your counterparts in the local community on a daily or weekly basis;
6. Share bad news in a timely manner;
7. Work off-line, as not all discussions should take place in public;
8. Respect the parties enough to say when you do not agree; and
9. Search for ways to increase dialogue and openness on an ongoing basis.