

ONE HUNDRED THIRTEENTH CONGRESS  
**Congress of the United States**  
**House of Representatives**

COMMITTEE ON ENERGY AND COMMERCE

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April 25, 2013

The Honorable Gene L. Dodaro  
Comptroller General  
U.S. Government Accountability Office  
441 G Street, NW  
Washington, D.C. 20548

Dear Mr. Dodaro:

Congress has long recognized the Federal government's obligations to manage and dispose of used nuclear fuel safely. The national policy to meet these obligations was established in the Nuclear Waste Policy Act of 1982, as amended. However, the resulting statutorily prescribed path for the ultimate disposal of used nuclear fuel stored at 75 sites in 33 States around the nation has been blocked in recent years -- despite the billions of dollars spent and considerable progress achieved over the past 20 years towards the successful siting, scientific characterization, and licensing of a repository at Yucca Mountain, Nevada.

Because the Federal government has the responsibility for providing permanent disposal of spent nuclear fuel and defense related high-level waste, the Nuclear Waste Policy Act authorized the Department of Energy (DOE) to contract with commercial nuclear reactor operators to take custody of their spent nuclear fuel for disposal at the repository beginning in January 1998. With DOE's failure to work on Yucca Mountain, as required by the Act, the delays in taking custody, let alone achieving permanent disposal, have been extended significantly at a tremendous cost to taxpayers.

DOE now is 15 years behind schedule in taking custody of commercial used nuclear fuel. As a result, utilities have been storing the used fuel on the sites where it was generated. Utilities have filed lawsuits seeking to recover from the Federal government the costs incurred. In its fiscal year 2012 Agency Financial Report, DOE reported that utilities had filed 78 lawsuits seeking to recover the costs of storing the used fuel and that the Department of Treasury's judgment fund had paid about \$2.6 billion in claims. DOE estimates that further claims -- *i.e.*, taxpayer liability -- will amount to about \$19.7 billion through 2020, which is the date DOE *had* determined Yucca Mountain could begin disposal operations when it filed its license application in 2008. That 2020 timeline is no longer viable with DOE's decision in 2010 to walk away from

Yucca Mountain. At this point in time, the program has been delayed an estimated eight years, with each year of delay increasing taxpayer liability for DOE's failure to take custody of the used fuel.

In January 2013, despite its legal obligations for developing Yucca Mountain, DOE issued a new strategy for managing and disposing of used nuclear fuel which proposes developing and operating:

- a pilot interim storage facility by 2021 with an initial focus on accepting used nuclear fuel from shut-down reactor sites;
- a larger interim storage facility to be available by 2025 that will have sufficient capacity to provide flexibility in the waste management system and allow for acceptance of enough used nuclear fuel to reduce expected government liabilities; and,
- a geologic repository by 2048.

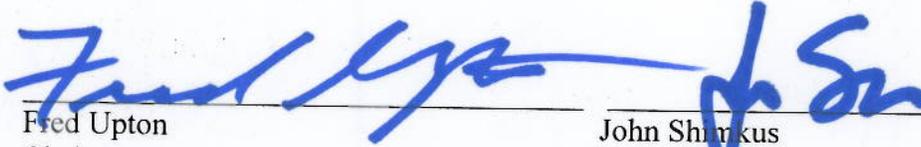
The time frames for DOE's new strategy differ significantly from those the Government Accountability Office (GAO) developed with the help of numerous experts and which were updated and included in a 2012 GAO report prepared for the Energy and Commerce Committee (GAO-12-797). Specifically, based on work modeling various storage and disposal scenarios for used nuclear fuel, GAO reported that it could take about (1) 15 years to open a repository at Yucca Mountain, (2) 20 years to open two centralized interim storage facilities, and (3) 40 years to open a permanent disposal facility.

In light of this interest in interim storage, we seek to understand DOE's assumptions supporting its pursuit of interim storage, and the implications of its proposals, should they be pursued, on DOE's legal obligations, taxpayer liabilities, and established nuclear waste policy. To assist us in this inquiry, we ask that the GAO:

1. Evaluate two to three possible scenarios, perhaps comparing the time frames of GAO's projections to DOE's proposed strategy, to gain a better understanding of DOE's assumptions and their reasonableness, as well as the challenges facing DOE should it carry out its most recent strategy; and,
2. Examine the possible effects that DOE's proposed strategy could have on the Federal government's liabilities, particularly whether it makes economic sense to develop an interim facility first—allowing DOE to begin taking custody of used nuclear fuel before a geologic repository is operational—instead of developing a permanent disposal facility as soon as possible.

Thank you for your prompt attention to this request. Please contact Peter Spencer and Annie Caputo of the Committee staff at (202) 225-2927 on the specifics of your study.

Sincerely,



Fred Upton  
Chairman

John Shimkus  
Chairman

Subcommittee on Environment and the Economy

cc: The Honorable Henry A. Waxman, Ranking Member

The Honorable Paul Tonko, Ranking Member  
Subcommittee on Environment and the Economy