

**STATEMENT OF
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AND
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BLUE RIBBON COMMISSION ON AMERICA'S NUCLEAR FUTURE
BEFORE THE
COMMITTEE ON ENERGY AND NATURAL RESOURCES
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Introduction

Chairman Bingaman, Ranking Member Murkowski, distinguished members of the Committee, it is a pleasure to appear before you today to discuss S. 3469, the Nuclear Waste Administration Act of 2012.

Before we begin, I would like to pass along Co-Chairman Hamilton's sincerest regrets for not being here with us today. As you may know, Mrs. Hamilton died in a tragic accident last month and Congressman Hamilton is home in Indiana tending to family affairs. It was a great privilege to serve alongside him as co-chairman of the Blue Ribbon Commission and we extend him our deepest sympathies. I am pleased that Dick Meserve is available to join me this morning.

We were also most pleased to receive the invitation to testify today because we believe our nation simply must craft a sustainable solution to the nuclear waste management issue. The legislation that Senator Bingaman has introduced is an outstanding beginning to what we recognize could be an extended legislative process. We are also pleased to be here because it gives us a chance to publicly thank Chairman Bingaman for his service to the nation as he prepares to retire at the end of this session. Thank you, Senator Bingaman, for all you've done to help craft sensible energy policy for the United States. Your leadership on the nuclear waste issue and on energy issues in general will be sorely missed. Thank you for allowing us the opportunity to testify before you today.

BRC Report Overview

As you know, the Blue Ribbon Commission on which we served was formed by the Secretary of Energy at the direction of the President. Our charge was to conduct a comprehensive review of policies for managing the back end of the nuclear fuel cycle and to recommend a new strategy.

We delivered our final report to the Secretary in January of this year, and made eight key recommendations:

1. A new, consent-based approach to siting future nuclear waste management facilities.
2. A new organization dedicated solely to implementing the waste management program and empowered with the authority and resources to succeed.
3. Access to the funds nuclear utility ratepayers are providing for the purpose of nuclear waste management.
4. Prompt efforts to develop one or more geologic disposal facilities.
5. Prompt efforts to develop one or more consolidated storage facilities.
6. Prompt efforts to prepare for the eventual large-scale transport of spent nuclear fuel and high-level waste to consolidated storage and disposal facilities when such facilities become available.
7. Support for advances in nuclear energy technology and for workforce development; and
8. Active U.S. leadership in international efforts to address safety, non-proliferation, and security concerns.

Your Committee was fully briefed on the recommendations of our Commission when Co-Chairman Hamilton and I testified in February of this year, so I will not go into detail about the individual recommendations. Rather, let me just remind the Committee that our Commission viewed these eight recommendations as an integrated set, and that they would be most effective if implemented as a complete package.

Views on S. 3469

We are pleased to see that Senator Bingaman's draft legislation incorporates many of the changes to existing law that will be required to implement our Commission's recommendations. In particular, S. 3469 would implement the Commission's recommendations to authorize a consent-based process for nuclear waste facility siting, to be conducted by an entity removed from the Department of Energy, with access to Nuclear Waste Fee payments and the balance of the Nuclear Waste Fund. The bill's provisions requiring development of generic radiation

protection standards for repositories and a mission plan for the Nuclear Waste Administration are also consistent with the Commission's recommendations.

While S. 3469 generally mirrors the Commission's recommendations, there are a few areas of difference that we believe are worth highlighting and exploring. In particular:

1. The Commission recommended the establishment of a congressionally chartered corporation to carry out the waste program. The draft legislation proposes instead to create a Nuclear Waste Administration, an agency of the federal government, to carry out this role. While both approaches would assure appropriate focus, we recommended a federally chartered corporation in order to assure the necessary management stability for the long-term task of advancing the waste program and to provide a degree of isolation from short-term political pressures. In particular, a new waste management organization will need the leadership of a strong chief executive with exceptional management, political, and technical skills and experience and tenure that extends longer than the political cycle – objectives that might be more easily achieved through a corporation than a federal agency. We urge the Committee to reconsider this aspect of the legislation.
2. The proposed legislation places limits on the amount of spent fuel that can be accepted for consolidated storage prior to congressional ratification of a consent agreement for a repository. We understand that this provision reflects a concern that any consolidated storage facility could become a de facto disposal facility, which is why existing law prohibits the construction of a storage facility before construction authorization has been issued for a first repository. The Blue Ribbon Commission concluded that “the current rigid legislative restriction ... should be eliminated,” but also emphasized that “the challenge of establishing positive linkages such that progress on storage does not undermine, but rather supports progress on repository development remains an important one.” Our review did not lead us to recommend any specific linkages because we concluded that the volume of fuel to be accepted in consolidated storage could be one of the many elements of the negotiation between the nuclear waste management organization and potential host governments. We appreciate that the bill allows consolidated storage to begin at a scale sufficient to provide for acceptance of all of the spent fuel from shutdown reactors, as we recommended, and that full scale storage could begin considerably earlier than is possible under current law. However, we encourage the Committee to give careful consideration to alternative approaches for ensuring that a storage facility is a complement to a repository. We suggest that there may be benefits in allowing the

linkage provisions to be the subject of negotiations between the waste management organization and potential storage facility hosts, subject to final approval by Congress.

3. And finally, although the Nuclear Waste Oversight Board called for in Section 205 is generally consistent with our Commission's recommendation for independent oversight of the waste management organization, we believe its membership should be expanded. The oversight board as set forth in Section 205 would only include members from the federal government, presumably subject to regular turnover on a political cycle. We believe that broader representation and further assurance of stability would be appropriate. To achieve this end, we encourage the Committee to consider adding representatives from outside of government, as called for in our Commission's recommendations. Non-governmental members could come from organizations contributing to the Nuclear Waste Fund, state public utility commissions, the environmental non-governmental organization community, representatives of workers involved in the construction or operation of radioactive waste management facilities, and others. This supplementation of the board's membership would reinforce the federal commitment to a consent-based process.

While we think these three differences between S. 3469 and our Commission's recommendations are important and are worthy of further consideration, we do not in any way want to imply dissatisfaction with the efforts of the Committee. Chairman Bingaman, Ranking Member Murkowski and other Senators, particularly Senators Feinstein and Alexander, have shown great leadership in their willingness to engage in serious bipartisan discussions about the future of nuclear waste management in the United States. In a year presenting many demands on the Congress, we commend your attention to the problem of charting a new course for addressing nuclear waste.

Concerns about Lack of Administration Action

I am unable to provide you with any insights as to the views of the Administration to our report because the Administration has not yet released an implementation plan in response to our recommendations. That plan was due at the end of July, so we cannot say for certain whether the Administration will demonstrate the same level of seriousness that is reflected in your draft legislation. Our Commission report was issued in January, and despite initial positive signals from the Administration, we have seen little in the way of concrete action. We are particularly disappointed to have received no formal reply to a December 2011 letter we sent the White House in which we urged action to provide assured access to utility waste disposal fees.

In our letter and in our report we recommended several near-term actions that could be taken by the administration in cooperation with key committees in Congress and the Congressional Budget Office to give greater access to the nuclear waste fees going forward, while waiting for legislation – such as S. 3469 – that would provide a comprehensive fix to the funding of the program. Failure to fix the funding problem could undermine key recommendations of the Commission. For example, the parallel storage and disposal programs we recommend could be in competition for limited funds instead of being mutually supportive, and a consent-based siting process that provides assurances to host communities that a storage facility or repository will be a positive asset could be undermined if access to a source of funding for promised benefits is not assured.

Our Commission believed that fixing the funding problem is vital. We believe that steps towards implementation of near-term proposals that do not have to wait for comprehensive legislative action would be a clear and unmistakable signal that the Administration and Congress are willing to take the difficult yet necessary measures to put our nation's nuclear waste management program back on track and enable its success.

Conclusion

In conclusion, and as we said to this Committee in February, the national interest demands that our nuclear waste program be fixed. Complacency with a failed nuclear waste management system is not an option and the need for a new strategy is urgent. We believe the bill that Senator Bingaman has prepared represents a very useful starting point for an important discussion.

Thank you for having us here today. We appreciate the opportunity to share our views on S. 3469 and we look forward to your questions.