

**Statement of Peter B. Lyons
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Before the

**Committee on Energy and Commerce
Subcommittee on Environment and the Economy
U.S. House of Representatives**

**“The Department of Energy’s Role in Managing Civilian Radioactive Waste”
June 1, 2011**

Chairman Shimkus, Ranking Member Green and Members of the Committee, thank you for the opportunity to testify on DOE’s role in radioactive waste management, and in particular the April 2011 U.S. Government Accountability Office (GAO) document entitled “Commercial Nuclear Waste: Report on the Effects of Termination of the Yucca Mountain Repository Program and Lessons Learned” (GAO-11-229).

As you know, I provided the Department of Energy’s March 30, 2011, response to the GAO report. My response indicates areas of both agreement and disagreement with the report’s conclusions. My response is included in full in Appendix IV of the final report so I will not go through it in detail here.

I grew up in Nevada and regularly visited my parents there for decades. While an employee for the Los Alamos National Laboratory (LANL), my assignments often required me to work and even live for long periods at the Nevada Test Site. I visited the Yucca Mountain area many times during those years, long before there was a tunnel. When I was the Deputy Associate Director for Energy and Environment at LANL, all LANL work on Yucca Mountain and reprocessing of used fuel reported through my office. I visited Yucca Mountain to review some of LANL’s early exploratory excavations. More recently, I visited the tunnel complex several times while working for Senator Pete Domenici and as a Commissioner of the Nuclear Regulatory Commission.

I have devoted my 42 years of public service to the Nation’s needs for and uses of nuclear technologies. I am convinced that nuclear energy will continue to be a part of our nation’s clean energy portfolio going forward, and the President has stated his commitment to nuclear power as part of a broad energy portfolio. An acceptable solution to the Nation’s management of used nuclear fuel and high level defense waste is a key component of the ability of nuclear power to play the role that the Nation requires. I continue to believe that we can solve these problems, and we must move forward in order to do so.

In a letter to the Blue Ribbon Commission on America’s Nuclear Energy Future, Secretary Chu emphasized that a successful management strategy for used fuel must be founded on strong technical criteria and on equally strong public acceptance. As he stated in that letter, “It is time to move beyond the 25 year old stalemate over Yucca Mountain — especially since technology

has advanced significantly during that time, giving us better options both in terms of science and public acceptance.”

The GAO has noted “overcoming social and political opposition is crucial,” which parallels statements by Secretary Chu. It is clear that we can do better. For example, there are successful repository programs in Switzerland, Finland, Sweden, and France, where public involvement and consultation are heavily emphasized. Our own experience with the Waste Isolation Pilot Plant in New Mexico illustrates our success with achieving social and political acceptance for a permanent waste repository and stands in stark contrast to the Yucca Mountain Project.

Let me turn to two interrelated statements made in the GAO Report with which the Department has very serious concerns. *First*, GAO presumes that the Yucca Mountain repository would have opened on a date certain; and, *second*, GAO presumes that any alternative would take longer than the Yucca Mountain repository to implement. The GAO report uses 2020 for operations as a firm date and then expresses concern that the Department did not provide GAO with a more precise date. Yet the Department has consistently stated that the 2020 date was subject to a number of contingencies over which the Department has no control.

As a consequence, there was always considerable uncertainty about when or whether the Yucca Mountain repository would open. Among other things, Congress would have had to pass new legislation permanently withdrawing the land for the repository; NRC would have had to issue both a construction authorization and a license to receive and possess for the repository after completion of contested adjudicatory proceedings; a 300 mile railroad would have had to have been constructed and a number of permits issued by the State of Nevada would have had to have been obtained. All these would have faced persistent opposition and challenges from the State of Nevada and others. In shutting down the Yucca Mountain Project, DOE is committed to pursuing better, more workable, alternatives. In fact, as the GAO report notes, “if a more widely accepted alternative is identified, it carries the potential for avoiding costly delays experienced by the Yucca Mountain repository program,” which is precisely the point that Secretary Chu has emphasized.

Thus, the Department disagrees with the GAO statement that: “the proposed termination of Yucca Mountain, which had been planned to be opened in 2020, will likely prolong storage at reactor sites, which would increase on-site storage costs.” There is absolutely no basis to assume that the termination of Yucca Mountain will prolong this process. There may be other alternatives that could be put in place sooner than Yucca Mountain might have opened.

The Department does concur with the following GAO statement: “[T]erminating the Yucca Mountain repository program could bring benefits, primarily the opportunity for the Department of Energy to seek new approaches to nuclear waste management that could be more widely accepted, particularly since Yucca Mountain had little support from the State of Nevada.” This is precisely the key point that Secretary Chu has made on numerous occasions.

To that end, Secretary Chu established the Blue Ribbon Commission (BRC) on America’s Nuclear Future to conduct a comprehensive review of policies for managing the back end of the nuclear fuel cycle. The BRC will provide advice and make recommendations on issues,

including alternatives for the storage, processing, and disposal of used nuclear fuel and nuclear waste. The BRC's interim report is due in July of this year, and its final report is due by January 2012. The Administration will evaluate the findings and recommendations of the BRC as it determines the best path forward.

Before closing, I want to highlight another statement in the GAO report to which the Department takes exception, namely that: "[A] final impact of terminating Yucca Mountain is that communities may be even less willing to host spent nuclear fuel repositories or other storage sites in the future due to further erosion of DOE's credibility." Quite to the contrary, a new start to this program, emphasizing Secretary Chu's recognition of the importance of public acceptance, can lead to tremendous enhancement of the credibility of the Department's approach. I note that the Department's leadership of the Waste Isolation Pilot Program in New Mexico enjoys strong support from the local community and is a strong endorsement of the Department's ability to develop and maintain strong public support.

In conclusion, the Department is acting responsibly in terminating the Yucca Mountain Project. We can and should do better here in the United States than the Yucca Mountain Project. Working together, the Administration and Congress can seize this opportunity to craft a new option with a far higher certainty of success. I look forward to the chance to put a successful used nuclear fuel management program into practice that will well serve future generations and enable them to enjoy the benefits of clean, safe nuclear power.