



## WESTERN GOVERNORS' ASSOCIATION

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May 24, 2010

The Honorable Steven Chu  
Secretary of Energy  
U.S. Department of Energy  
1000 Independence Avenue, SW  
Washington, D.C. 20585

Dear Secretary Chu:

Western Governors are aware of the formation of the Blue Ribbon Commission on America's Nuclear Future, and we strongly recommend you provide for state government participation during the period of its deliberations. Although the 15-member Commission is impressively credentialed, it does not include representatives from state government. Western states have worked with the Department of Energy over the past 25 years on issues related to Yucca Mountain, the Waste Isolation Pilot Plant, Hanford, Idaho National Laboratory, the Nevada Test Site, and the proposed Private Fuel Storage central storage facility. Given that experience, Western states are arguably the best source of insight into the intergovernmental and local consideration of policy choices for the safe and effective transportation, storage and disposal of spent nuclear fuel (SNF) and high-level waste (HLW). If the Commission will also consider management of low-level waste (LLW), Western states again provide expertise through the work of the Interstate Compacts on Low-Level Radioactive Waste Management.

The Western Governors' Association and the affiliated Western Interstate Energy Board's High-Level Waste Committee have coordinated Western state participation in DOE's SNF/HLW program for 25 years, including the following:

- WGA negotiated with DOE an agreement and transportation policies and procedures that are the cornerstone of the highly successful transportation program for transuranic waste shipments to WIPP. The stringent protocols have produced a stellar safety record for over 8,500 shipments with no release of radioactive materials;
- WGA adopted policy resolutions that address siting processes for interim storage of SNF, and interactions between federal and state governments on many aspects of SNF/HLW management;
- WIEB's HLW committee includes several members with more than 20 years experience working with DOE on SNF/HLW transportation and related issues; and

- The HLW committee has reviewed and commented on many relevant federal agency reports, including NRC's revision to its "Waste Confidence" rule, NRCs' proposed plutonium packaging regulations, DOE's Global Energy Partnership Programmatic Environmental Impact Statement, and the DOE Office of Civilian Radioactive Waste Management's National Transportation Plan.

We note that Section 12 of the Commission's Charter allows for the establishment of subcommittees to "undertake fact-finding and analysis on specific topics and to provide appropriate information and recommendations to the Commission." Accordingly, we recommend that DOE establish and fund a subcommittee to the Commission consisting of gubernatorial appointees to establish a state and role in a reformulated program for managing the nation's spent nuclear fuel and high-level nuclear waste. U.S. Territories should also be included in the discussion should they be impacted by any of the deliberations of the Commission.

We strongly urge state participation in these important deliberations for three key reasons:

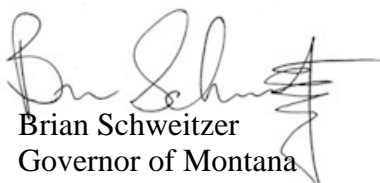
1. The Commission's success will depend on its appreciation of the institutional, intergovernmental, siting, and transportation implications of SNF/HLW management. Such considerations must be "built-into" a reformulated program for the management of the nation's SNF and HLW. After 25 years experience with the institutional dimensions of nuclear waste policy, Western states provide invaluable insight and expertise on such issues.
2. As DOE and the Commission develop policies and recommendations for a long-term nuclear waste management solution, they must also consider short- and medium-term issues, many with important implications for Western states. These include:
  - The disposition of high-level defense waste, especially given DOE's Settlement Agreements with Washington, Idaho and other states;
  - A plan for Class B, Class C, and Greater-Than-Class C Low-level Wastes. (Yucca Mountain was considered as a disposal option for Greater-Than-Class C waste.)
  - A plan for clearing and reusing 8 to 10 shutdown nuclear plant sites;
  - Major legal/financial issues indirectly affecting Western states regarding the disposition of the nuclear waste fund, and breach of contract costs;
  - Resistance to extended onsite storage in states whose nuclear plants have shut down and/or have limited or problematic onsite storage, including potential legal action to force removal of waste;
  - The implications of extended onsite storage for subsequent cask handling and transport; and

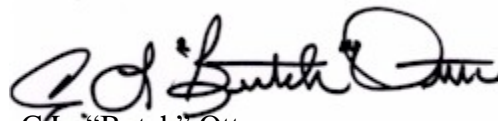
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- Resistance to added mission scope in states that already host waste repositories with agreed-to waste-class limitations.
3. States should have a full opportunity to participate in the reformulation of the nation's policies for managing SNF and HLW. Although intended to benefit the nation as a whole, policies for SNF/HLW management are distinctive in their highly disparate effects among states. To neglect the states' role in this process could undermine the effectiveness and public acceptability of any Commission recommendations. Western states are prepared to:
- Attend and participate in Commission and related meetings, e.g., Nuclear Waste Technical Review Board, and report back to states;
  - Identify and articulate state issues of concern;
  - Review and consider issues among states and with DOE, NRC and the Commission, including such topics as federal-state interactions in SNF/HLW management, siting policies and processes (permanent disposal, interim storage and other facilities), federal-state roles as co-regulators in SNF/HLW management, and consultative federal-state transportation system design;
  - Develop state recommendations and/or positions that may occur on a regional or other basis, e.g., among states with settlement agreements with the federal government;
  - Participate on a subcommittee on nuclear waste transportation to ensure that the lessons learned from past successful federal nuclear waste transportation programs and state/federal cooperation for shipments are considered; and
  - Propose appropriate state roles or actions to implement the reformulated national policy.

We look forward to working with you and the Commission. Please have your staff contact Pam Inmann, WGA's Executive Director at 303-623-9378 or by e-mail at [pinmann@westgov.org](mailto:pinmann@westgov.org) regarding future coordination efforts.

Sincerely,

  
Brian Schweitzer  
Governor of Montana  
Chairman

  
C.L. "Butch" Otter  
Governor of Idaho  
Vice Chairman

cc: Lee Hamilton, Co-chair Blue Ribbon Commission on America's Nuclear Future  
Brent Scowcroft, Co-chair Blue Ribbon Commission on America's Nuclear Future  
Tim Frazier, U.S. Department of Energy Designated Federal Official to the Blue Ribbon Commission on America's Nuclear Future