



AMERICA'S NUCLEAR SOLUTION

June 12, 2017

Honorable John Shimkus
Chairman, Environment Subcommittee
U.S. House of Representatives

Honorable Paul Tonko
Ranking Member, Environment Subcommittee
U.S. House of Representatives

Dear Chairman Shimkus and Ranking Member Tonko:

As the Environment Subcommittee considers next steps in relation to the Discussion Draft cited as the Nuclear Waste Policy Amendments Act of 2017, we wanted to share our thoughts on certain policy issues raised therein, specifically provisions contained in Title I related to the development of one or more monitored retrievable storage facilities.

At the outset, we would like to express our appreciation to the Subcommittee for its dedication to the oversight of the Nation's program for the management and disposal of spent nuclear fuel (SNF) and high-level nuclear waste (HLW). As taxpayers, we share your concern that the federal government has been found in partial default of its obligations to contract holders under the Nuclear Waste Policy Act of 1982, as amended, resulting in the payment of taxpayer funds from the permanent appropriations account known as the Judgment Fund of over \$6.1 billion to date. According to the latest audit report of the Nuclear Waste Fund published by the Department of Energy's Inspector General (OAI-FS-17-04), the Department has estimated that additional payments of almost \$25 billion will be assessed against all taxpayers – assuming the Department is in the position to begin fulfilling its obligations by 2023; this amount will increase by approximately \$500 million for every year in which the Department is delayed in fulfilling its legal mandate.

It was in reaction to these mounting liabilities and the recommendations of the Blue Ribbon Commission on America's Nuclear Future that we initiated efforts to license an Independent Spent Fuel Storage Installation (ISFSI) that could serve as a interim consolidated storage facility for SNF at our existing facilities in Andrews County, Texas. We did so with the understanding (confirmed by testimony of former DOE Secretary Moniz) that the Department of Energy retained certain authorities that could be further clarified by Congress, enabling the Department

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to take title to contract holder SNF and ship that material to a licensed ISFSI pending the development of a geologic repository, either at Yucca Mountain or elsewhere. We believed then, and continue to hold the view, that a consolidated interim storage facility can serve multiple purposes in coordination with a repository disposal facility, including most importantly, the removal of SNF at permanently shutdown reactors and the extinguishment of taxpayer funded liabilities.

As you know, on April 18 of this year we asked the Nuclear Regulatory Commission (NRC) to temporarily suspend further review of our license application until the completion of our sale to the parent company of EnergySolutions. That request has been granted by the agency. Assuming EnergySolutions proceeds with the application after the anticipated sale is completed later this summer, we expect the NRC could resume its environmental and safety reviews on our docketed application, with a timeline for the completion of those reviews and the estimated issuance of a license by the fall of 2020.

That timeline would be jeopardized, however, by provisions of the Discussion Draft that prohibit the Secretary of Energy from entering into a cooperative agreement for the storage of SNF until such time as there is a final decision approving or disapproving the issuance of a construction authorization for a repository. As the analysis recently completed by the Government Accountability Office suggests (GAO-17-340), it is unlikely that a final decision – up or down – on the Yucca Mountain application will be achieved by the fall of 2020, putting further progress in the licensing of an ISFSI that could achieve benefits sooner in reducing government liabilities at risk. In that scenario further investment in spent fuel management until licensing action on Yucca Mountain is also at risk.

We would welcome the opportunity to discuss these matters further as the legislative process designed to put the Nation's SNF management program on sound footing continue.

Sincerely,

A handwritten signature in blue ink, appearing to read "Rod Baltzer".

Rod Baltzer,
President & CEO

Cc: Chairman Greg Walden
Ranking Member Frank Pallone
Members, Subcommittee on Environment